

29-P-3a

19 Commercial St.

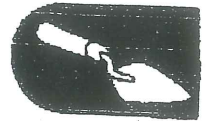
Drive Up teller kiosk

Five County Credit Union

A# 4.5



CONCENTRATED MORTAR COLORS

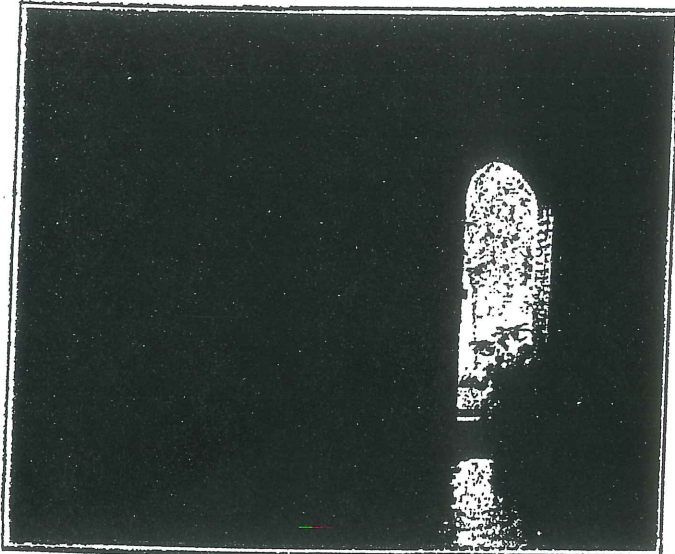


Concentrated Mortar Color "A" Series

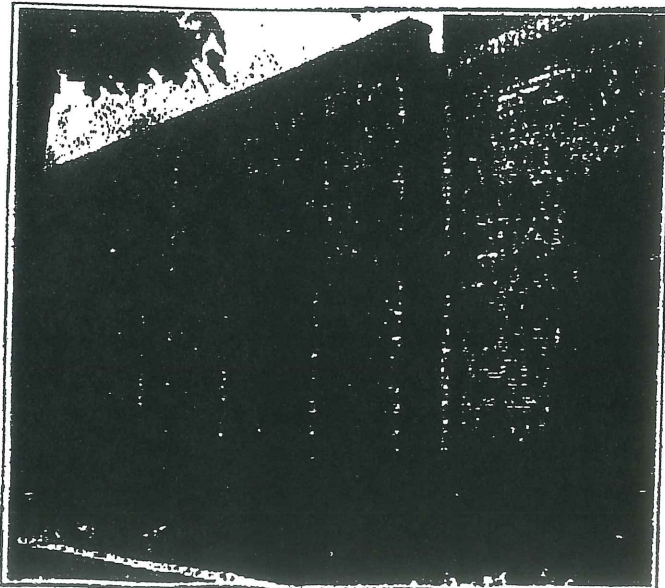
"A" Series colors are full-tone masonry colors of optimum intensity which are formulated to produce pleasing shades that complement or accentuate the wide range of colors found in brick, stone and colored concrete block.

"A" Series colors are shipped in proportioned packages which have been accurately pre-weighed and measured. Each individual package is designated as one "A" Series Color Unit.

The "A" Series mortar colors shown are achieved by the addition of one "A" Series Color Unit to one bag of prepared masonry cement or weight equivalent of portland and lime mortars. Shade variations can occur due to printing limitations, differences in local cements, sand, mix design and workmanship. (See Table No. 1 on back cover.)



Wilson Jones Architects, Inc., St. Louis, MO



"A" Series Color

10A	[Color swatch]
20A	[Color swatch]
22A	[Color swatch]
25A	[Color swatch]
30A	[Color swatch]
32A	[Color swatch]
33A	[Color swatch]
35A	[Color swatch]
37A	[Color swatch]
40A	[Color swatch]
41A	[Color swatch]
44A	[Color swatch]
45A	[Color swatch]
50A	[Color swatch]
70A	[Color swatch]
80A	[Color swatch]
85A	[Color swatch]
95A	[Color swatch]
92A	[Color swatch]
97A	[Color swatch]

The above "A" series colors represent shades obtained by using SGS Concentrated Mortar Colors with light gray masonry cement and light tan builder's sand

Att. 416

Technical Specification Data

BASIC USE: SGS Mortar Colors are pure mineral pigments designed to be used with all cementitious material whether it may be a Type N, S, M or O strength masonry cement or portland and lime mixtures. The pre-measured unit concept of SGS colors provides uniform color control with the flexibility of utilizing local masonry and/or portland and lime cements to achieve the proper strength and mix design for brick, block, stucco or stone unit construction. Since 18-20% of the visual surface of the average brick wall is mortar, the proper selection and use of an appropriate mortar color will dramatically enhance the visual impact and beauty of the masonry wall.

COMPOSITION AND MATERIALS: SGS colors are products of pure natural and/or synthetic iron oxides which are finely milled (95-99% minus 325 mesh) and blended under strict quality control procedures producing uniform and consistently strong tinting strength colors. Each SGS color exceeds the requirements set forth by ASTM C-979 "Pigments for integrally Colored Concrete." SGS colors are each inert, stable to atmospheric conditions, sunfast, weather resistant, alkali resistant, water insoluble, and free of fillers and extenders. All SGS colors comply with ASTM 978 for integrally colored mortar.

SPECIFICATION PROCEDURES: As detailed in Table No. 1, select the proper ASTM C-270 masonry mix design of Type N, S, M or O compressive strength for the masonry unit construction. Then, depending upon the masonry mix design, select the appropriate SGS color and specify the number of "A" Series Color Units to be added to the mortar mix.

PACKAGING: All SGS Concentrated Mortar Colors are packaged in sealed unit

bags, ranging from one pound to seven pounds. An "A" Series color case contains six unit bags. An "A" Series case of color can lay approximately 900 standard size brick using a 3/8" mortar joint.

COLOR RANGE: In addition to the SGS standard "A" Series colors shown, SGS Combination Series colors have been developed to expand the SGS color spectrum. This offers precise color tones that are needed to complement or accentuate the broad range of color shades found in brick, stone or colored block. The SGS Color Laboratory is also available to assist in custom color matching or developing special color tones to fit your color requirements.

MIXING PROCEDURES: Mortar shall be mixed in a power mixer for not less than five minutes or until a uniform color is obtained. Any change in proportioning the amount of color to cement and/or the type of cement or sand used can result in a variation of color tone in the finished work. Request SGS Spec-Data 4p Mortar and SMM-1-82 Data Sheets for complete mixing instructions.

AVAILABILITY: SGS colors are readily available from stocks carried by an extensive network of building material dealers throughout the United States and Canada. Our dealers are also backed by reliable 24 hour factory services in processing and shipment of orders, which in the combination of using locally available cements can further minimize shortages and costs. SGS has local sales representatives covering each state within the continental United States. For names of local dealers, distributors and sales representatives, contact Solomon Grind-Chem Service, Inc. direct at (217) 522-3122 or U.S. WATS 1-800-824-0261.

COST: Retail costs for SGS colors are established by stocking or distributing building material dealers only. Furthermore, the cost for colored masonry is determined by the color and color shade desired.

LIMIT OF WARRANTY & LIABILITY: Solomon Grind-Chem Service, Inc. warrants that their product conforms to the description and standards as stated on the product packaging (specific product literature). If properly mixed and applied, SGS warrants the concentrated mortar color to be uniform, limeproof and sunfast.

The exclusive remedy of the user or buyer and the limit of the liability of this company shall be the purchase price paid by the user or buyer for the quantity of the SGS product involved.

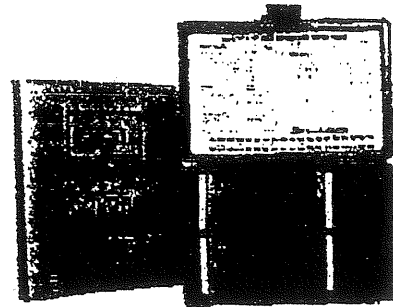
MASONRY CLEANING: In the event that cleaning is required to remove stains and efflorescence, the films may be removed by using an acid based detergent. Avoid using hydrochloric (muriatic) acid. Use a commercially prepared "proprietary cleaner" following the directions for the weakest solution recommended by the manufacturer. Request SGS Spec-Data 4p Mortar Data Sheet for complete cleaning instructions.

SAMPLES: Color pigment samples are available for constructing job mock-up panels. Contact your local SGS building materials dealer, or Solomon Grind-Chem Service, Inc. direct at (217) 522-3112 or U.S. WATS 1-800-824-0261.

SGS MORTAR COLOR KIT AND CATALOG: Samples of SGS standard mortar colors are available in convenient mortar color channels. Each channel is an actual representation of the SGS color units mixed with either prepared masonry cement or an equivalent portland and lime mix plus a tan builders sand and water. The shown SGS Mortar and Cement Color Binder contains complete specification and technical information covering the complete line of SGS Mortar and Cement Colors. Available on request.

TABLE NO. 1

ASTM SPECIFICATION FOR MORTAR: Unit Masonry C270 includes the following mortars:	Appropriate number of S-G-S Color units to be added with the mortar mix. "A" Series Color
PREPARED MASONRY CEMENTS (ASTM C91) Types N, S, or M One 70-80 lb. bag masonry cement (ASTM C91, Type 1), plus 3 cu. ft. sand (ASTM C144)	One "A" Unit
PORTLAND CEMENT-LIME MORTARS Type N (750 psi) One 94 lb. bag portland cement (ASTM C150), One 50 lb. bag hydrated lime (ASTM C207), plus six cubic ft. sand (ASTM C144)	Two "A" Units
TYPE S (1800 psi) Two 94 lb. bags portland cement (ASTM C150), One 50 lb. bag hydrated lime (ASTM C207), plus nine cubic ft. sand (ASTM C144) OR One 94 lb. bag portland cement (ASTM C150), Two 70 lb. bags masonry cement type 1 (ASTM C91), plus nine cubic ft. sand (ASTM C144)	Three "A" Units
TYPE M (2500 psi) Two 94 lb. bags portland cement (ASTM C150), 25 lbs. hydrated lime (ASTM C207), plus six cubic ft. sand (ASTM C144) OR One 94 lb. bag portland cement (ASTM C150), One 70 lb. bag type 1 masonry cement (ASTM C-91), plus six cubic ft. sand (ASTM C144)	Three "A" Units Two "A" Units
TYPE O (350 psi) One 94 lb. bag portland cement (ASTM C150), Two 50 lb. bags hydrated lime (ASTM C207), plus nine cubic ft. sand (ASTM C144)	Three "A" Units



Shipping Address:

Solomon Grind-Chem Service, Inc.
Old Waterworks Plant
Springfield, IL 62702

Mailing Address:

Solomon Grind-Chem Service, Inc.
P.O. Box 8288
Springfield, IL 62781
Phone (217) 522-3112 FAX (217) 522-3148
U.S. WATS 1-800-824-0261

HISTORIC PRESERVATION COMMITTEE
CITY OF PORTLAND, MAINE

PUBLIC HEARING
19 COMMERCIAL STREET

TO: Chair Wroth and Members of the Historic Preservation Committee
FROM: William B. Needelman, Planner
DATE: May 13, 1999
RE: May 19, 1999 - New Business

Application For: Certificate of Appropriateness - Exterior Alteration, Drive-Thru Signage

Address: 19 Commercial Street

Applicant: B. I. W. Five County Credit Union
represented by David Richard

Background:

The subject building is the Workingmen's Club building, a 1904 commercial building constructed of granite and brick in a classical motif.

The applicant proposes to install a drive-thru teller tube on the rear of the building. No additional paving will be required, but signage at Commercial Street, on the sides of the building, and an awning on the rear of the building are proposed. The building is highly visible, and all alterations are visible from public streets.

Signage:

Three free-standing signs are proposed, as well an application of the company logo to the sides of the building. The free-standing signs are aluminum panels on paired steel poles with lexan faces and vinyl graphics. The drive-thru/parking sign on Commercial Street will be 4 ft. tall with a 1 ft. 6 in. by 3 ft. display panel. The entrance sign (on Commercial Street) and the exit sign (at the rear of the property) will be 5 ft. tall, also with 1 ft. 6 in. by 3 ft. display panels. The color scheme is teal and white.

The signage applied to the building is proposed to be composed of individual aluminum plate letters and logo pieces, also in teal and white.

Awning:

A gable shaped canvas awning projecting approximately 4 ft. from the rear of the building is proposed to shelter the teller tube assembly. The bottom of the awning starts at the second floor window sill elevation and a window will be partially obscured as now positioned. "BIW" is applied or painted on the end of the awning.

ATT: J. L.

Remote Teller Tube:

The teller tube itself is less than 1 ft. by 1 ft. in cross section and projects up to the second story window. Protective pipe bollards are proposed along the entire rear of the building.

Attachments:

1. Project Description to the Zoning Board of Appeals
2. Photos
3. Signage Details
4. Building Elevations; to be supplied

6294

Att. 6.1

WARRANTY DEED

WILLIAM J. DOWD, of Westbrook, Maine, for valuable consideration, grants to APEX, INC., a Maine corporation with a principal place of business in Portland, Maine, and a mailing address of P. O. Box 9540, Portland, ME 04112, with Warranty Covenants, the following described real property situated in Portland, Cumberland County, Maine:

A certain lot or parcel of land situated in said Portland on Commercial Street, and being more particularly described on Exhibit A attached hereto and made a part hereof.

Meaning and intending to convey the same premises described in a deed from C. Alan Beagle, et al, to the Grantor dated February 12, 1987, and recorded in the Cumberland County Registry of Deeds in Book 7633, Page 308.

The purpose of this deed is to correct and clarify the description contained in the deed from William J. Dowd to Apex, Inc., dated April 22, 1991, recorded in said Registry of Deeds in Book 9532, Page 273.

Witness my hand this 31st day of July, 1991.

Mary E. Plumes
Witness

William J. Dowd
William J. Dowd

STATE OF MAINE
CUMBERLAND, SS.

July 31, 1991

Personally appeared the above named William J. Dowd and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Mary E. Plumes
Notary Public
MARY E. PLUMES
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES AUGUST 8, 1991
Printed Name of Notary

Instr 36294 Bk 9658 Pg 46

Att. 6.2

EXHIBIT A

A certain lot or parcel of land, with the buildings thereon, situated in the City of Portland, County of Cumberland and State of Maine, and bounded and described as follows: BEGINNING at a point on the northerly sideline of Commercial Street, which point is in the southeasterly corner of land now or formerly of Burnham and another and is about two hundred forty and twenty-five hundredths (240.25) feet westerly from the westerly sideline of India Street; thence running northerly by said land of Burnham and another ninety (90) feet, more or less, to the southerly sideline of a twenty (20) foot passageway extending from Franklin Street in the rear of the lot herein described; thence easterly by the southerly sideline of said passageway one hundred one (101) feet, more or less, to the westerly sideline of a passageway sixteen and one-half (16-1/2) feet wide extending back from Commercial Street; thence southerly by the westerly sideline of said passageway extending back from Commercial Street ninety-five (95) feet, more or less, to a point in the northerly sideline of said Commercial Street; thence westerly by the northerly sideline of Commercial Street one hundred one (101) feet, more or less, to the point of beginning.

Also, all our right, title and interest in and to said passageway running in the rear of said lot from Franklin Street and all our right, title and interest in and to said passageway running back from Commercial Street.

Recorded
Cumberland County
Registry of Deeds
07/31/91 01:48:36PM
Robert P. Titcomb
Register

AIT. 6.5



FIRST AMERICAN TITLE INSURANCE COMPANY
OWNERS POLICY SCHEDULE A

CASE NUMBER DATE OF POLICY TIME POLICY AMOUNT POLICY NUMBER
CL-2137 July 31, 1991 1:53 p.m. \$655,000.00 30009259

AUTOMATIC INFLATION CLAUSE This policy amount will automatically increase by 10% of the amount shown above on each of the first five anniversaries of the policy date with respect to residential policies.

1. NAME OF INSURED
Clay Cove Corporation

2. THE ESTATE OR INTEREST IN THE LAND DESCRIBED HEREIN AND WHICH IS COVERED BY THIS POLICY IS:
Fee Simple

3. THE ESTATE OR INTEREST REFERRED TO HEREIN IS AT DATE OF POLICY VESTED IN:
The Insured

4. THE LAND REFERRED TO IN THIS POLICY IS DESCRIBED AS FOLLOWS:
All that certain parcel of land described in Exhibit "A" attached hereto and made a part hereof.

Being the same premises conveyed to the insured herein by deed of Apex, Inc. dated July 31, 1991, and recorded in the Cumberland County Registry of Deeds in Book 9658, Page 47.

The land herein described is encumbered by the following mortgage and assignments, if any, and mortgages, if any, shown in schedule B hereof:

Mortgage and Security Agreement from Clay Cove Corporation to Peoples Heritage Savings Bank in the principal amount of \$598,500.00 dated July 31, 1991, and recorded in the Cumberland County Registry of Deeds on July 31, 1991, at 1:51 p.m. in Book 9658, Page 49, and Assignment of Leases and Rentals by Clay Cove Corporation to Peoples Heritage Savings Bank dated July 31, 1991, at 1:53 p.m., recorded in the Cumberland County Registry of Deeds in Book 9658, Page 69.

ISSUED AT: PORTLAND, MAINE

Authorized Agent or Officer

Cumberland Title Company
P.O. Box 4865 DTS
Portland, Maine 04112

THIS POLICY IS INVALID UNLESS THE COVER SHEET AND SCHEDULE B ARE ATTACHED.

3 : 1365 : 4111 DITL INVERBULMAN
7-06-1999 8:41AM FROM BIW S COUNTY C.U./P/ 1 207 774 1667 P.1

EXHIBIT A

A certain lot or parcel of land, with the buildings thereon, situated in the City of Portland, County of Cumberland and State of Maine, and bounded and described as follows: BEGINNING at a point on the northerly sideline of Commercial Street, which point is in the southeasterly corner of land now or formerly of Burnham and another and is about two hundred forty and twenty-five hundredths (240.25) feet westerly from the westerly sideline of India Street; thence running northerly by said land of Burnham and another ninety (90) feet, more or less, to the southerly sideline of a twenty (20) foot passageway extending from Franklin Street in the rear of the lot herein described; thence easterly by the southerly sideline of said passageway one hundred one (101) feet, more or less, to the westerly sideline of a passageway sixteen and one-half (16-1/2) feet wide extending back from Commercial Street; thence southerly by the westerly sideline of said passageway extending back from Commercial Street ninety-five (95) feet, more or less, to a point in the northerly sideline of said Commercial Street; thence westerly by the northerly sideline of Commercial Street one hundred one (101) feet, more or less, to the point of beginning.

The right in common to use the passageway running in the rear of said lot from Franklin Street and to use the passageway running back from Commercial Street.

Att. 6.5

FIRST AMERICAN TITLE INSURANCE COMPANY

OWNERS POLICY SCHEDULE B

CASE NUMBER
CL-2137

POLICY NUMBER
30009259

This policy does not insure against loss or damage due to the following:

NOTE: As used herein, recorded shall mean recorded in the Cumberland County Registry of Deeds.

1. The dower, curtesy, homestead, community property, or other statutory marital rights, if any, of the spouse of any individual insured.
2. Rights or claims of persons in possession and easements or claims of easements not shown by the public records, boundary-line disputes, overlaps, encroachments, title to filled lands (if any) and any matters not of record which would be disclosed by an accurate survey and inspection of the premises.
3. Any lien, or right to a lien, for services, labor or material, heretofore or hereafter furnished, imposed by law and not shown by the public records.
4. Taxes assessed which are not yet due and payable, and for subsequent years.
5. Any exception, reservation, restriction, easement or condition set forth in the attached Exhibit A.
6. Title to and rights of the public and others entitled thereto in and to those portions of the insured premises lying within the bounds of adjacent streets, roads and ways.
7. Rights of others in and to the use of appurtenant easements insured herein and terms and conditions relative to the use thereof.

NOTE: This policy affirmatively insures the right to use the two passageways adjoining the insured premises along the northeasterly and northwesterly bounds and running to Commercial and Franklin Streets respectively; however, this policy does not insure the underlying fee of said passageways.

MORTGAGE LOAN INSPECTION PLAN

DATE JAN. 23, 1987 PROJ. 87027
BOOK 6669 PAGE 116
COUNTY CUMBERLAND SCALE 1"=50'

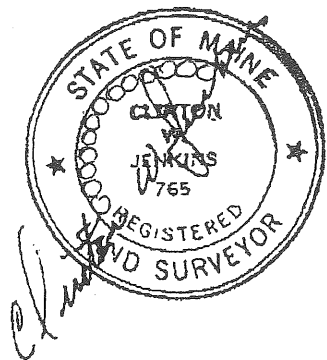
Att. 6.6

TO THE LENDING INSTITUTION AND ITS TITLE INSURER

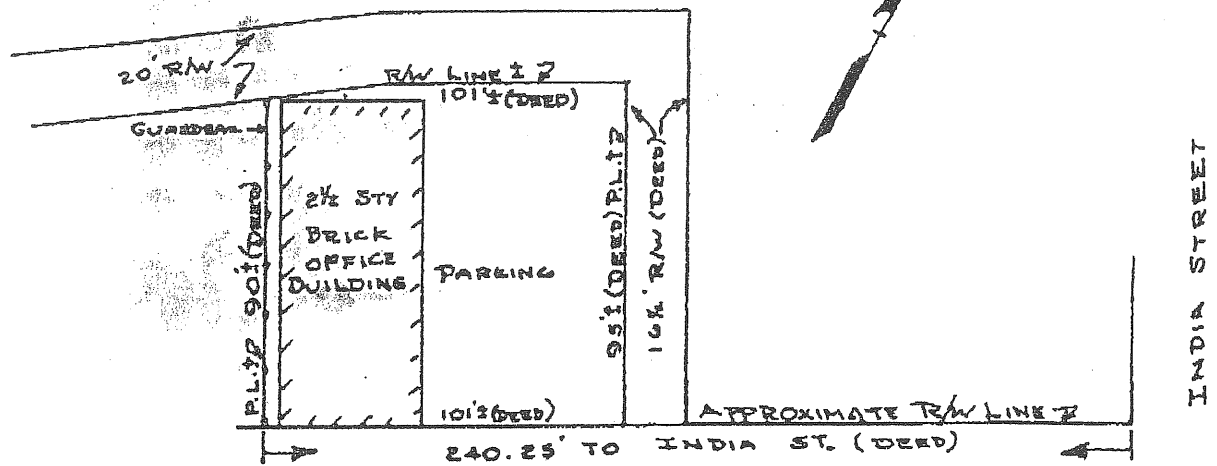
I HEREBY CERTIFY THAT THE LOCATION OF THE DWELLING SHOWN
THIS PLAN DOES ~~NOT~~ CONFORM WITH THE LOCAL ZONING LAWS
IN EFFECT AT THE TIME OF CONSTRUCTION. THE PROPERTY DOES
NOT FALL WITHIN A SPECIAL FLOOD HAZARD ZONE.

THIS PLAN WAS NOT MADE FROM AN INSTRUMENT SURVEY. THE
CERTIFICATIONS ARE FOR MORTGAGE PURPOSES ONLY. THIS PLAN
APPLIES ONLY TO CONDITIONS EXISTING AS OF THE DATE SHOWN
HEREON, AND DOES NOT SHOW ANY POSSIBLE CONFLICTS WITH
ADJUTING DEEDS. THIS PLAN IS NOT FOR RECORDING.

THIS IS NOT A LAND BOUNDARY SURVEY.



NOTE: NO MONUMENTATION FOUND.



COMMERCIAL STREET

NOTE: THIS PLAN IS COMPILED FROM DEED, TAX MAP AND FIELD MEASUREMENTS.
THE PROPERTY LINES, R/W LINES AND BUILDINGS AND THEIR RELATIONSHIP TO
EACH OTHER IS APPROXIMATE. IF MORE ACCURATE DETAIL IS REQUIRED
A CLASS "A" SURVEY IS RECOMMENDED.

PROPERTY OF FORD S. REICHE, CALAN BEAGLE AND MARTIN J. RIDGE.
LOCATED AT # 17 COMMERCIAL ST., PORTLAND, MAINE.

PURCHASER - WILLIAM J. DOWD.

Att. 7.1

CITY OF PORTLAND
PUBLIC WORKS DEPARTMENT
ENGINEERING SECTION

M E M O R A N D U M

TO: Marge Schmuckal, Zoning Administrator
FROM: Jon Giles, LSIT, GIS Coordinator
SUBJECT: Bradbury Court Street Status
DATE: September 17, 1998

Charlie Lane in Corporation Counsel asked me to communicate to you the results of my research into Bradbury Court's legal status as a City street. Please be advised that I am not providing a legal or surveyor's opinion on this street, but merely a summary of record information.

Records in the Department of Public Work's Archives Vault **show no indication that Bradbury Court has ever been accepted as a City street.** These same records do not show any previous vacations or discontinuances either. Bradbury Court appears to be an unaccepted, private way due to the lack of any information indicating otherwise.

The City of Portland has never inventoried which streets and/or ways are dedicated versus undedicated. The City's records typically deal only with issues of acceptances, discontinuances, vacations, name changes, and alterations to the right of way lines of accepted streets. As a result City records do not address the issue of whether Bradbury Court was ever dedicated. Please be aware that if further title research was to reveal that Bradbury Court was considered a dedicated way, that it may be subject to the statutory vacation described in 23 MSRA 3032 that occurred on September 29, 1997. Due to the appearance that Bradbury Court is private property, such title research would not be the responsibility of the City of Portland.

If you have any questions or concerns please feel free to contact me at 874-8842.

JAG/jag

Pc: James Robbins, PLS, Archivist
Charlie Lane, Corporation Counsel

Att. 7.2

INTEROFFICE MEMORANDUM

To: Alex Jaegerman, Chief Planner
CC: Jim Robbins, Public Works/Engineering
From: Marge Schmuckal, Zoning Administrator
Date: September 17, 1998
Subject: Status of Bradbury Court



Alex,

During your conditional use review for the drive-up teller at 19 Commercial Street, BIW Five County Credit Union, the status of Bradbury Court will most likely come up at some point. I have spoken with Jim Robbins from Public Works/Engineering who is the purveyor of the City's street vault information. He has informed me that Bradbury Court was never a City street or way. It is a private road. This is consistent with the deed and survey that David Richard has shown to me.

If the Planning Board needs any more information on this, I'm sure Jim Robbins or David Richard could supply it.

FROM THE DESK OF...

MARGE SCHMUCKAL
ZONING ADMINISTRATOR
CITY OF PORTLAND, MAINE
389 CONGRESS STREET - CITY HALL, ROOM 315
PORTLAND, MAINE 04101

(207) 874-8695
Fax: 874-8716

INSPECTION OF PREMISES

I HEREBY CERTIFY TO Classic Title Co.

5-9 Commercial Street
Portland, Maine

Job Number: 300-36
Inspection Date: 09-22-97

Scale: 1" = 30'

Simba Inc. and its Title Insurer

The monumentation is ~~not~~ in harmony with current deed description.

The building setbacks are ~~not~~ in conformity with town zoning requirements.

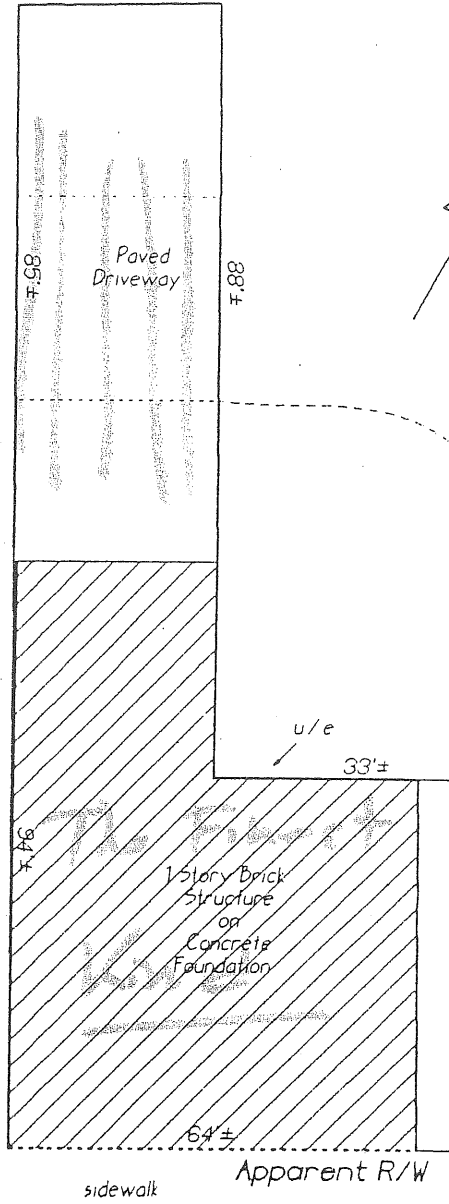
The dwelling does not ~~appear~~ fall within the special flood hazard zone as delineated by the Federal Emergency Management Agency.

The land does not ~~appear~~ fall within the special flood hazard zone as indicated on community-panel # 230051 0014 B.

111 - My Parking lot

BUYER: Salt of the Earth, Inc.
SELLER: Erasmo, Inc.

? of who pays for maintenance + plowing



[Handwritten signature]

Commercial Street
(bituminous)

To India Street

THIS PROPERTY IS SUBJECT TO ALL RIGHTS AND EASEMENTS OF RECORD. THOSE THAT ARE EVIDENT ARE SHOWN.

THIS PLAN MIGHT NOT REVEAL CONFLICTS WITH ABUTTING DEEDS.

BRUCE R. BOWMAN, INC.
P.O. Box 12 A
Cumberland, Maine 04021
Phone: (207) 829-3959
Fax: (207) 829-3522



PLAN BOOK _____ PAGE _____ LOT _____
DEED BOOK 10219 PAGE 185 COUNTY Cumberland

THIS PLAN IS NOT FOR RECORDING Drawn by: *JRM*

Banister Deed Disc.

SCHEDULE A

A certain lot or parcel of land, located in Portland, County of Cumberland and State of
more particularly bounded and described as follows, to wit:

Beginning at a point that is fifty-nine (59) feet, more or less, distant on a course South 61°
West from the intersection of the northerly sideline of Commercial Street and the
sideline of India Street, said beginning point being the center of a party wall of a
now existing; thence along the centerline of said party wall on a bearing approximately
28° 53' 32" West, to the exterior of the rear wall of said existing structure; thence along
terior surface of said wall in a generally southwesterly direction, a distance of 33 feet,
or less, to a perpendicular exterior wall of said structure; thence along the exterior surface
wall in a generally northwesterly direction to its terminus; thence on a course North 29°
West a distance of 85 feet, more or less, to a point on the rear line of the parcel conveyed
ba, Inc. to Erasmo, Inc. in a deed dated August 4, 1992 and recorded in the Cumberland
y Registry of Deeds in Book 10219, Page 185; thence along said rear line in a generally
westerly direction to a set iron pin marking the northwesterly corner of said parcel; thence
29° 01' 34" East, along the southwesterly line of said parcel, a distance of 85.27 feet to a
d spike; thence continuing along the southwesterly line of said parcel, South 28° 53' 32"
distance of 93.97 feet to a point on the northerly sideline of Commercial Street; thence
61° 23' 50" East, along the northerly sideline of Commercial Street, a distance of 63.75
more or less, to the point of beginning.

Subject to all easements of record.

Subject also to (i) the Declaration of Covenants, dated September 29, 1958, recorded in
Cumberland County Registry of Deeds in Book 2436, Page 12 and (ii) right and easement
with or referred to in the deed from Simba, Inc. to Erasmo, Inc., dated August 4, 1992 and
ded in the Cumberland County Registry of Deeds in Book 10219, Page 185

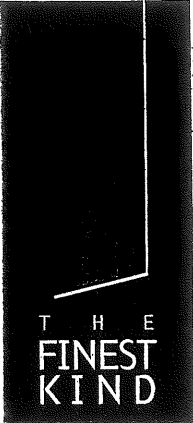
MEANING AND INTENDING to describe a portion of the premises conveyed by
ba, Inc. to Erasmo, Inc. by deed dated August 4, 1992 and recorded in the Cumberland
ty Registry of Deeds in Book 10219, Page 185.

ALSO granting all right, title and interest of the Grantor in and to the alleyway that abuts
premises described above and that leads to Commercial Street.

ALSO granting (i) a right of access over land being retained by Erasmo, Inc. to the
rior walls of the structure located on the premises described above for the purpose of
aintenance and repair of such walls and (ii) the right to construct, maintain and repair vents
ding from the area currently used by Grantee as its warehouse to the exterior of the northerly
ll of that area, with the right to attach reasonable hoods and other similar devices on the
rior wall of Grantee's building.

RESERVING to Erasmo, Inc., its successors or assigns, the right to build and renovate in

3 *



June 17, 1999

Mr. William Needleman
Planning Office, City of Portland
389 Congress Street
Portland, ME 04101

Dear Mr. Needleman:

Again I wish to summarize my objection for the drive-thru proposed by BIW Credit Union. It is dangerous for children and adults to step directly into the path of this drive-thru from the rear entrance of my retail store. To think otherwise is foolhardy.

I do not wish to loose my legal right of way from my parking lot to Commercial Street. See attached.

I do not have a legal right of way from my lot to India Street.

Sincerely,

Arthur Banister

AB/sk
Enclosure

9 Commercial Street
Portland, Maine 04101

207 772 2155 voice
207 772 5172 fax
800 640 5115 toll free

172 Pleasant Street
Brunswick, Maine 04011

207 725 5199 voice
207 725 5568 fax

Att. 11.1

NORMAN, HANSON & DETROY, LLC

ATTORNEYS AT LAW
415 CONGRESS STREET
P.O. BOX 4600
PORTLAND, MAINE 04112-4600

AREA CODE 207
775-7000
FAX
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ROBERT F. HANSON	JONATHAN W. BORGAN
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STEPHEN HEBBERT	DAVID P. VESEY
RODERICK R. ROVZAR	DANIEL L. CUMMINGS
THEODORE H. KIRCHNER	ALEXANDER F. MCCANN
MARK G. LAVOIE	RUSSELL B. HERGE, JR.
STEPHEN W. MORIARTY	ANNE M. CARNEY
JAMES D. FOLLOUIN	DAVID L. HEZLER, JR.
JOHN H. KING, JR.	THOMAS E. MARJERICOM
PAUL F. DRIBCOLL	ADRIAN P. KENDALL
WILLIAM O. LECAROS	EMILY A. BLOCH
MARK E. DUNLAP	ANNE H. JORDAN

June 30, 1999

VIA FACSIMILE 874-8497

Penny Littell, Esq.
City of Portland
389 Congress St.
Portland, ME 04101

Re: BIW Five County Credit Union

Dear Penny:

Pursuant to our fairly recent telephone conversation, I am sending you a copy of the actual easement deed upon which BIW Five County Credit Union is relying in connection with its application to the Planning Board. As you can see the deed is from 1853, and it appears that those rights were simply passed down through the years, including to BIW Five County Credit Union's landlord and current owner of the property.

Based on that easement language, BIW Five County Credit Union believes that is proposed use of the passage as a drive-through is within the scope of those easement rights.

My understanding is that this was all that the Planning Board was looking for on this score. If you have any questions, please feel free to give me a call.

Sincerely,



Daniel L. Cummings

DLC/dlc
Enclosure

cc: David Richard
Roderick R. Rovzar, Esq.

Elizabeth W. Miller
 Samuel Tyler
 C. D. Lawrence
 Robert T. Robinson
 Samuel Tyler
 Elizabeth Tyler
 James S. Robinson



State of Maine

Cumberland Co. July 18th 1853

Then personally appeared the above named Joseph W. Tyler, for himself, & as attorney for the parties of Samuel L. Tyler, Elizabeth Tyler, William W. Tyler, Samuel Tyler, Joseph E. Turner, William S. Turner, Henry Tyler, Samuel Tyler, C. D. Lawrence, Robert T. Robinson, & Samuel Tyler, & acknowledged the above instrument to be their several free acts & deed.

Before me, James S. M. Cobb
 Justice of the Peace

Commonwealth of Massachusetts

Suffolk Co. July 25th 1853

Then personally appeared the aforesaid Samuel W. Tyler, and acknowledged the foregoing instrument to be her free act and deed.

Before me, William S. Walker
 Const. for Maine



State of Maine

Cumberland Co. 25. July. 1853

Then personally appeared the above named Augustus P. Miller & Elizabeth W. Miller & acknowledged the above instrument to be their several acts & deed.

Before me, James S. M. Cobb, Justice of the Peace
 Recorded according to the original, Record Bk. 11, 1853 at
 11 h. 11th m. A. M.

Attest William C. Mitchell Registrar

And in consideration of the premises, the said Peter, Lawrence, Robinson & Tyler, do, in like manner, hereby grant, to them, the said heirs of Samuel Oyer, deceased, herein before severally named their heirs and assigns, the right of way in and over all that part of the above described twenty foot breadth of land, which lies "Godwardly" of the division line aforesaid, between the lands of the parties hereto.

It has and to hold to them, the said heirs of Samuel Oyer, their heirs and assigns, as a way in common with the said Peter, Lawrence, Robinson & Tyler, their heirs and assigns forever.

In witness whereof, the said parties hereinafter named, & Elizabeth P. wife of Henry Oyer, Harriet, wife of Ezekiel Oyer, Catherine P., wife of Joseph W. Oyer, Mary C., wife of Augustus A. Oyer, & Hannah M., wife of Samuel L. Oyer, & Elizabeth, both wife of Samuel Tyler, Sarah D., wife of said Lawrence, & Jane B. wife of said Robinson, in testimony of relinquishment of their several rights in their lands & parts thereof, respectively at their homes & seals this thirtieth day of July, in the year of our Lord, One thousand eight hundred & fifty three -

Witness, sealed & delivered in presence of, C. J. Blackford.

- Joseph W. Oyer
- Catherine P. Oyer
- Ezekiel Oyer
- William W. Oyer
- Samuel Oyer
- Harriet Oyer
- Mary C. Oyer
- Augustus A. Oyer
- Samuel L. Oyer
- Joseph E. Turner
- Hannah M. Turner
- Henry Oyer
- Elizabeth P. Oyer
- Harriet W. Oyer
- Augustus P. Miller



thence to a point in a line bisecting the angle formed by the connection of Thomas Street & Commercial Street, thirty feet distant North Westerly from said angle of connection, thence, by a line parallel to Commercial Street, & thirty feet distant therefrom, to the South West corner side line of lands purchased by the said Tyler & others from the National Marine Railway; thence by the same course to Franklin Street (below Pine Street).

Now in consideration of the premises, and of the mutual agreements of the parties hereto, the said heirs of Samuel Oyer, herein before severally named, do hereby grant to them, the said Tyler, Corvance, Robinson, & Tyler, their heirs & assigns, the right of way in and over all that part of the land of Oyer, the said heirs of Oyer are tenants in common of so much of the above described twenty feet in breadth of land as lies Easterly of the division line aforesaid between the parties hereto, and the said Joseph W. Oyer being the owner in severality of so much of the said half-acre way, as was set off in severality to the said Joseph W. Oyer on division of the estate of the said Samuel Oyer deceased, and the said Samuel Oyer, party hereto, being the owner in severality of so much of said half-acre way, as was set off to him in severality on division of the estate aforesaid; which division is recorded in the Probate Records and plan, as decreed by the Court of Probate on the first Tuesday of August, in the year of our Lord, One thousand eight hundred & fifty one, do hereby in like manner grant to them, the said Tyler, Corvance, Robinson & Tyler their heirs and assigns, the right of way in and over all that part of the said half-acre way of which they are so seized in severality aforesaid.

To have & to hold to them the said Tyler, Corvance, Robinson, and Tyler their heirs and assigns, as a way in common with the said heirs of Oyer, their heirs and assigns forever.

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This memorandum of Agreement
 of grant of was entered into this thirteenth day of July
 in the year of our Lord, One thousand eight hundred
 & fifty three, by & between Henry Dyer, Joseph W. Dyer,
 Augustus W. Dyer, Edmund E. Dyer, William W. Dyer,
 Samuel Dyer, Elizabeth W. Miller, Harriet W. Dyer,
 Almira W. Turner, all of Portland, in the County of
 Cumberland, State of Maine, & Ezekiel Dyer of Cape
 Elizabeth, in said County, heirs of the late Samuel
 Dyer, deceased, & Augustus P. Miller, husband of said
 Elizabeth W., & Joseph S. Turner, husband of said
 Almira W., & Samuel Tyler, Oliver P.
 Lawrence & Robert S. Robinson, all of said Portland, &
 Samuel Tyler of Brunswick, in the County of Oxford,
 & State aforesaid, parties on the other part,
 Witnesses - That, whereas the said parties
 are owners in & of adjacent parcels of land situate
 on the North side of Thomas Street & Commercial
 Street in said Portland, the division line between said
 adjacent lands of the said parties hereto being described
 in a deed of this date, executed & delivered by the
 said Tyler and others to the said heirs of Dyer
 herein named, & have agreed to establish and per-
 mitted passage way, through & over said adjacent
 lands, for the mutual accommodation of themselves
 their heirs & assigns, in the use & occupation of said
 adjacent lands, & have agreed to establish & open said
 passage way, of the breadth of twenty feet lying on
 the North West side of a line described as follows:
 Beginning on the West side of India Street, at
 the North Corner of the said Joseph W. Dyer's
 house lot, where he now lives, the said corner
 being about ninety two distant from Thomas
 Street; thence from said corner, by the North West
 side line of said house lot, & the North West side
 line of land set off to Elizabeth Dyer, widow of
 said Samuel Dyer, deceased; for her share, to the
 North West corner of the garden of the said Samuel
 Dyer, deceased; thence to a point in the division line
 aforesaid between said adjacent lands of the parties
 hereto twenty feet distant from Thomas Street.

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The following information, although presented informally, is an attempt to address some of the concerns that were raised at the last meeting. Our attorney, Daniel Cummings, along with a summary as to his findings in general will address issues dealing with Rights of easement.

Traffic Flow

There have been concerns raised over our intended use, potentially changing or disrupting the traffic flow.

It is our opinion that our proposed use would actually improve the traffic flow and also ensure that these areas are accessible and maintained as to their original purpose.

- These areas, as I have come to know them, are not being used in a manner consistent with proper traffic flow, as the planning board may perceive them to be. In reality, allowing sections of these areas to be used for parking by the abutters and their tenants has generally ignored the intended purpose. The right-of-way that is shared by Mr. Banister is continually blocked and impassible on a daily bases due to vehicles being allowed to park in the right-of-way using it as a parking area. This again, appears to be in direct conflict with the areas intended purpose and also with what is being asked of us.

We fully support what is being asked of us in regard to safety issues and concerns in this matter. We seem to be lacking, however, a basic understanding of the board's request based upon how these areas are being used in actuality.

Engineering Concerns

- It is our understanding that we have met all engineering requirements as prescribed in section 3 of the R-3 zoning code.
- The City Traffic Engineer, Larry Ash, has stated that he has no concerns with this proposal and has personally driven the proposed layout with no concerns.

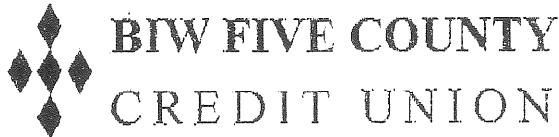
Ability to keep the area free of obstructions

This area represents a shared access for the abutters and therefore all those concerned have it in our best interest to keep this area free and clear from any type of obstruction that would prevent the ability to use these right of ways.

Existence of Loading Zone

There is no loading zone located in the right-of-way shared by Mr. Banister and our landlord, Mr. Steven McDuffie.

Att. 12.2



Bill Needleman
City Planning Department
City Hall
389 Congress St.
Portland, Me. 04102

October 04, 1999

Dear Bill,

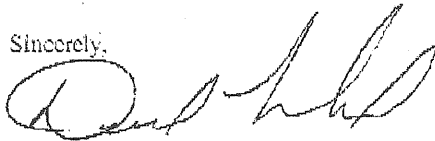
The following information presented is to address the concern, as expressed by the board, regarding our intended actions to keep the areas in question free of any obstructions.

It is the hope of BIW Five County Credit Union to join in the shared use of this area and to do so in a cooperative manner. Further more, we recognize, and respect, the fact that this is a *shared* area and as such, we hope that all who share in its use will respect this as well.

In the event that this area is blocked, however, we do intend to act in accordance with its original purpose, but to do so in a non-aggressive and non-confrontational manner. We feel that the best way to resolve a situation involving an obstruction is to first locate and contact the owner of the vehicle causing the obstruction and make them aware of the situation and ask them to move the vehicle as soon as possible. We do realize that towing a vehicle may be an option but intent to exercise that option only as a last resort when all other alternatives have been exhausted.

We would also like to state that we fully understand, and accept, that our proposal would put us in the unenviable position of ensuring that these areas are kept open for proper vehicle flow. This scenario in turn can, and has, created some concerns from certain abutters who see this as a loss to certain types of usage that they have become accustomed to that currently restrict and or outright block traffic flow. While we have no control over how these areas were used in the past, we strongly feel that our proposal, by the very nature of its existence, would only be an asset by ensuring a constant traffic flow and thereby helping to maintain their original purpose.

Sincerely,



David W. Richard
Branch Manager
BIW Five County Credit Union

Att. 13.1

NORMAN, HANSON & DETROY, LLC

ATTORNEYS AT LAW
415 CONGRESS STREET

P.O. BOX 4600
PORTLAND, MAINE 04112-4600

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THEODORE H. KIRCHNER
MARK G. LAVOIE
STEPHEN W. MORIARTY
JAMES D. POLIQUIN
JOHN H. KING, JR.
PAUL F. DRIBCOLL
WILLIAM O. LACASSE
MARK E. DUNLAP
ROBERT W. BOWER, JR.

JONATHAN W. BROGAN
CHRISTOPHER C. TAINTOR
DAVID P. VERY
DANIEL L. CUMMINGS
ALEXANDER F. MCCANN
RUSSELL B. PIERCE, JR.
ANNE M. GARNEY
DAVID L. HERZER, JR.
THOMAS S. MARJERISON
ADRIAN P. KENDALL
EMILY A. BLOCH
ANNE H. JORDAN
AARON K. BALTES

September 14, 1999

VIA FACSIMILE 874-8497

Penny Littell, Esq.
City of Portland
389 Congress Street
Portland, Maine 04101

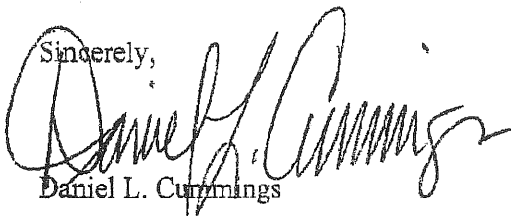
Re: BIW Five County Credit Union

Dear Penny:

I am enclosing a copy of a memorandum we recently prepared and sent to BIW Five County Credit Union. It addresses the 16.5' right-of-way that board members had questions about. As you will see from the memorandum, although the source deed itself was not located, evidence of it and the credit union's easement rights is strong, particularly so given the century plus of existence/usage.

With this memorandum (which is also being faxed to Bill Needleman per the request of my client), the credit union believes that it has addressed all of the board's questions and concerns. In addition, my understanding is that the credit union's application is, and has been, complete. If that is not the case, please let me know immediately, as the credit union wants to ensure that the record is complete.

At this point the credit union believes everything is in order and is hopeful that the board votes to approve its application at its meeting on September 28. I thank you for your attention to this matter.

Sincerely,

Daniel L. Cummings

DLC/tec
Enclosure

cc: David Richard (via fax 774-1667)
Bill Needleman (via fax 756-8258))

Att. 13.2

MEMORANDUM

TO: David Richard, BIW Five County Credit Union
FROM: Daniel Cummings
DATE: September 2, 1999
RE: Easement rights in leased property

BACKGROUND

As you know the City of Portland's Planning Board has requested the credit union to provide additional information concerning its easement rights associated with the leased property located at 19 Commercial Street in Portland (the "Property"). The two easements at issue are: (1) the 20 foot passageway running from Franklin Street along the northerly line of the Property, sometimes referred to as Bradbury Court ("Bradbury Court Easement"); and (2) the 16.5 foot passageway running from Commercial Street along the easterly line of the Property (the "Commercial Street Easement"). We previously gave the Board the source deed for the Bradbury Court Easement, which was contained in a deed from Tyler et als. and recorded in Book 282, Page 116 ("Bradbury Court Easement Deed").

As for the Commercial Street Easement, we have searched the records in the Cumberland County Registry of Deeds back to 1760 but have not been able to locate the source deed. It appears that the source deed is one from the Portland Marine Railway to

AH. 13.3

Lemuel Dyer, who owned the Property back in the 1850's (hereinafter the "Commercial Street Easement Deed").¹ Although Dyer likely would not have received the fee to the passageway in that deed, he would have received rights to use it, i.e., an easement.

EVIDENCE

Our conclusion is based on the following evidence contained in the registry of deeds.

1. EASEMENT AND PASSAGEWAY ARE REFERENCED
IN VARIOUS DEEDS IN 1853

The Commercial Street Easement Deed is actually referenced in three deeds given by Portland Marine Railway. The first one is dated June 10, 1853 and recorded in Book 246, Page 349, which conveys to a Samuel Tyler and Daniel Tyler a ½ interest in property lying between Fore and Commercial Streets, which abutted the Property to the west. A copy of that deed is attached as **Exhibit A**. The second and third deeds are ones to Oliver B. Dorrance and Robert Robinson, each of whom received a ¼ interest in the same property and are recorded in Book 246, Pages 465 and 348 respectively (hereinafter collectively the "Tyler Deeds"). Each of the Tyler Deeds reserves from the "conveyance to the heirs and assigns of Lemeul Dyer all the rights they have in and to the use and occupancy of *a passageway leading from the said Boothby house to Commercial Street* as it is described in a deed from the grantors herein to the said Lemeul Dyer [i.e., the Commercial Street Easement Deed]."

¹ Evidently, for whatever reasons the Commercial Street Easement Deed was never recorded.

2. PASSAGEWAY DEPICTED ON PLAN IN 1870

Subsequent to receipt of the Tyler Deeds, Tyler et al. gave Dyer et al. a deed recorded in Book 248, Page 183 (the "Dyer Deed"). A copy of the Dyer Deed is attached hereto as **Exhibit B**. The Dyer Deed describes a line,² and it then grants to Dyer et al. all property rights received in the Tyler Deeds that lay easterly of the described line.³

3. PASSAGEWAY REFERENCED IN MORTGAGE IN 1883

On June 6, 1883 the heirs of Lemeul Dyer granted a mortgage to Maine Savings Bank for \$6000.00 (recorded in Book 470, Page 192). This mortgage conveyed the homestead (but not the fee) of the Property, describing the homestead as lying adjacent to the passageway that is the subject of the Commercial Street Easement.

4. PASSAGEWAY REFERENCED IN DEEDS IN 1897

Augustus P. Fuller conveyed the Property along with the Commercial Street Easement to James Bradley Jr. on December 30, 1897. (A court judgment awarded this property back to Augusta P. Fuller's estate after he passed away). Also on December 30, 1897, both Mary C. Dyer and Elizabeth W. Smith conveyed their rights of dower to Fuller. These two deeds also make specific reference to both the Bradbury Court Easement and the Commercial Street Easement and include the same description as the most current deed.

² The line appears in a plan prepared by T.F. Chappell C.C.E. and recorded in the Cumberland County Registry of Deeds on December 5, 1870 in Book 3, Page 15 (the "Plan"). Attached hereto as **Exhibit C** is a sketch from of the Plan.

³ It appears that the Dyer Deed was executed to clear up confusion regarding boundary lines, etc. between the Tyler and Dyer properties as originally contained in the deeds to each party from the Portland Marine Railway.

Att. 13.5

CONCLUSION

Reference to the reservation of easement rights contained in the Tyler Deeds, in conjunction with evidence of its existence on maps and in various deeds pre-dating the 20th Century, and reference to both the Bradbury Court Easement and the Commercial Street Easement in each deed transferring title to the Property from the late 1890's forward, is strong evidence establishing rights in the Commercial Street Easement.⁴

Therefore, if it were necessary, we believe that rights to the Commercial Street Easement, or the fee itself, could be established in court.

⁴ In fact, it appears likely that the Dyer Deed granted the fee interest in the property over which the Commercial Street Easement runs.

246/ 30

EXHIBIT
A

KNOW ALL MEN BY THESE PRESENTS, THAT the
Portland and Maine Railway an incorporated company under the laws
of the State of Maine
in consideration of the sum of twelve thousand dollars
paid by Samuel Dyer of Portland in the County of Cumberland State
of Maine, Daniel Dyer of Brunswick in the County of York
the receipt whereof the said Railway do hereby acknowledge, do hereby give, grant, bargain, sell and
convey unto the said Samuel & Daniel, their

heirs and assigns forever, one half part in common undivided of in a certain lot or parcel of land situated
said Portland between Fore Street Commercial Street bounded beginning at a stake standing on the line
formerly owned or occupied by Parker Doley fifty six feet southeasterly from Fore Street; thence south
on the line of land formerly owned by Timothy Baeston deceased, about two hundred twenty feet until it reaches
a line drawn from a spike in the heart of the old Railway northwardly to a stake on the flats; thence
from said point of intersection northwardly on said last mentioned line about one hundred twenty six
feet to a stake on the flats; thence easterly on the line of land formerly owned by Bradbury about twenty six feet to land for-
merly owned by Samuel Dyer deceased; thence southerly by said Dyer's land about eighty two feet to a stake standing eight
feet from said Dyer's garden wall; thence northeasterly by said Dyer's land about thirty eight feet to a stake standing eight
feet from the northwest corner of said Dyer's garden wall; thence northwardly by the southerly side of a passage way on the line
Dyer's land to the line of the Midway Bradbury's land; thence easterly on said Bradbury's line twelve feet across said passage
to the southeast corner of said Bradbury's house; thence southerly on the line between said Dyer's land on the northeasterly side to a passage
way on the line of land on the southeasterly side to the before mentioned southeast corner of said Dyer's garden wall; thence southerly
said Dyer's land to Commercial Street, or what was formerly Thomas Street; thence westerly on Commercial Street to the easterly side line
of the lot of said Bradbury; thence northwardly by said easterly line of said Bradbury's land as the wall or other front is till it reaches
a line on the southerly side of a passage way leading from Fore Street on the Franklin Wharf by said Bradbury's land to cross the
line of said line of said passage way to Fore Street having said passage way twenty four feet half feet wide in front of said Bradbury's
house; thence southerly on the line of said passage way to a stake standing thirty feet from the northwesterly corner of Bradbury's house; thence southerly to the place began at
said stake on the southerly side of a passage way of thirty feet in width fifty six feet; thence easterly to the place began at
all other parts; all interest in this the last mentioned passage way, the same being used in common with the heirs and assigns of the said
part of the house of the other with Joshua J. Mills and other & their heirs from this arrangement to the heirs and assigns of the said
heirs, all thereof they have in the use of the passage way of a passage way leading from the said
line to Commercial Street, as it is described in a deed from the said Dyer to the said Samuel & Daniel

To have and to hold the aforesaid and bargained Premises, with all the privileges
and appurtenances thereof, to the said Samuel & Daniel, their
heirs and assigns, to their use and behoof forever.
And the said to covenant with the said Samuel & Daniel; their
heirs and assigns, that they are lawfully seized in fee of the premises; that they are free of all
incumbrances; that they have good right to sell and convey the same to the said
Samuel & Daniel
to hold as aforesaid; and that
they and heirs shall and will warrant and defend the same to the said
Samuel & Daniel, their heirs and assigns forever, against the lawful
claims and demands of all persons.

In Witness Whereof, the said Portland Maine Railway by the Directors thereof, their
duly authorized agents have hereunto set their hands and seals this supth day of June
of said year one thousand eight hundred and fifty three
Signed, sealed and Delivered
in presence of

William Gordon
1853 Personally appeared William Gordon &
Clydelet Cheate
CUMBERLAND, ss. June 10, 1853
Clydelet Cheate, in their capacity of Directors Agents of the Portland Maine Railway
and acknowledged the above instrument to be their free act and deed, of their own free will, the said
Portland Maine Railway before William Gordon Justice of the Peace.
Received June 10 1853 at 4 o'clock, P. M., and recorded from the
original. By Malcom Mitchell Register.

deed conv. 12 into the other 6 in conv.
to Oliver G. ... & Robert Robinson
246/348 Robinson '14
246/465 Robinson '14

248/183

KNOW ALL MEN BY THESE PRESENTS, THAT We

WTS, THAT I of Cumberland Sta

EXHIBIT

B

Samuel Tyler Oliver B. Dorrance and Robert J. Robinson all of Portland in the County of Cumberland in the State of Maine and Daniel Tyler of Doverfield in the County of Oxford & State aforesaid in consideration of the sum of one dollar paid by Henry Dyer Joseph M. Dyer Augustus A. Dyer Ansel S. Dyer Wm. W. Dyer Samuel Dyer Elizabeth W. Fuller Almira M. Turner & Harriet W. Dyer all of said Portland and Ezekiel Dyer of Cape Elizabeth in said County the receipt whereof is as heroby acknowledged do hereby give, grant, bargain, sell and convey unto the said Henry, Joseph, Augustus, Ansel, Wm. Samuel, Elizabeth, Almira Harriet & Ezekiel their heirs and assigns forever,

yeoman... bargain, sell

n Island situated of the town of Yarm... c. beginning at the... thence northwesterly... thence northeasterly... thence southeasterly... thence by the shore... thence half of the... use and the north... way thence reserved... wharfs as my... to

All that part of a parcel of land and lots situated near Blay Cove in said Portland conveyed by the Portland Marine Railway to us as tenants in common by several deeds dated June 6th 1853 which lies eastwardly of the line described as follows. Beginning on or near the north side line of Thames street at a red stake set against the front garden fence of the late Lemuel Dyer deceased and about seven feet distant westwardly from the south corner of the mansion house of the said Lemuel Dyer deceased thence in said stake northwesterly by a line parallel with the west side line of India street about 168 feet to the most west side line of the parcel of land conveyed to us as aforesaid by the said Portland Marine Railway

with all the privileges... they are free of all... to the said... aforesaid; and that... against the lawful

To have and to hold, the aforesaid and bargained premises, with all the privileges and appurtenances thereof to the said Grantees their heirs and assigns, to their use and behoof forever.

And We the said Samuel Tyler, Oliver B. Dorrance, Robert J. Robinson do hereby covenant with the said Grantees their heirs and assigns, that we are lawfully seized in fee of the premises; that they are free of all incumbrances; that we have good right to sell and convey the same to the said Grantees their heirs and assigns to hold as aforesaid; and that we will and our heirs shall and will warrant and defend the same to the said Grantees their heirs and assigns forever, against the lawful claims and demands of all persons.

Thanked Bottom... of her being... August... W. Bottom... and M. Bottom

In Witness whereof, we the said Grantees and Elizabeth wife of the said Samuel Tyler with the assistance of our friends and neighbors have hereunto set our hand and seals this thirteenth day of July 1853 the year of our Lord one thousand eight hundred and fifty three Samuel Tyler Oliver B. Dorrance Robert J. Robinson Daniel Tyler Elizabeth W. Fuller Almira M. Turner Harriet W. Dyer Ezekiel Dyer

BE ME, of the Court, d recorded from the Register.

and acknowledged the above instrument to be their free act and deed. BEFORE ME, James T. McCole Justice of the Peace, 1853 at 4 o'clock, 45 m. By William Mitchell Register.

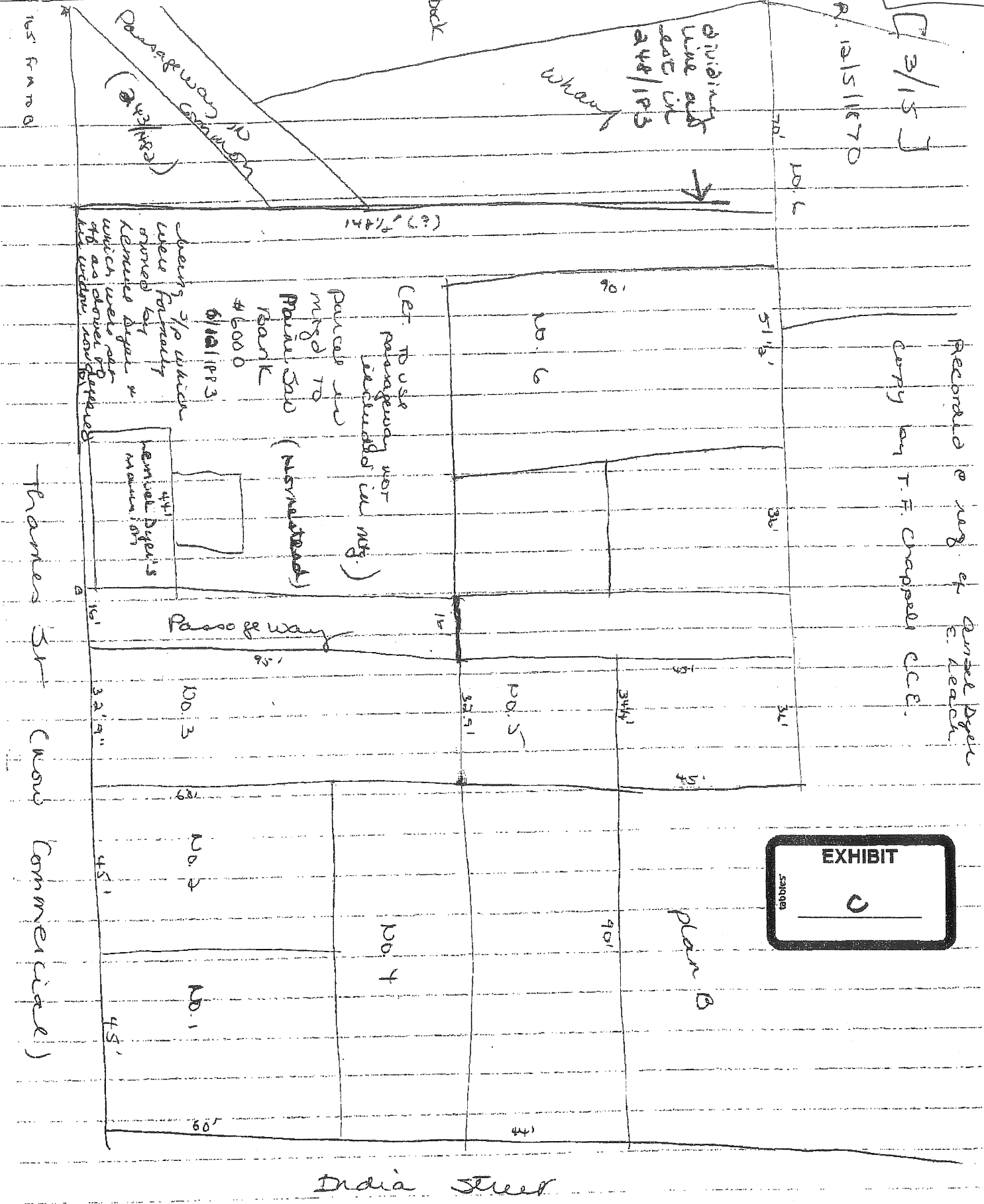


EXHIBIT
C

**BIW FIVE COUNTY
CREDIT UNION**

To Whom It May Concern:

At the recommendation of the board, I have met with Mr. Banister with the intent to reach a mutually agreeable understanding. Unfortunately, I regret to inform the planning board that we have not been able to do so. In my opinion, Mr. Banister is unwilling to reach an agreement over the proposed use of the shared right-of-way in question.

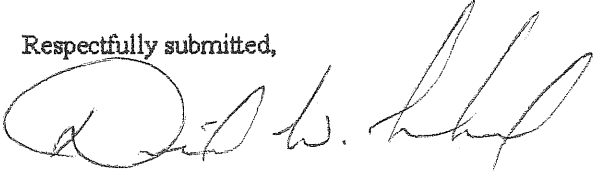
Mr. Banisters concerns are based on the premise that our intended use of this space would interrupt or potentially block his access to his parking area located directly behind his property. It should be noted that this parking area is presently inaccessible from the right-of-way. This is due to the existence of a guardrail and also daily parking allowed to exist within the right-of way by Mr. Banister.

Mr. Banister does contend, however, that if for any reason he loses his present access to his parking area, presently located on India St., his only access would then be by use of the right-of-way in question. With respect to Mr. Banister, his concerns are based on a possibility of loosing access from India St., although at this time no threat of that exists. Even under the scenario that he was to lose, for any reason, his present access form India St. then we still see no reason for his concerns based on the following scenario. The entrance to Mr. Banister's parking lot would be from Commercial St. along the shared right-of-way, following anticipated traffic flow, and exiting by way of Bradbury Court, again, following the anticipated traffic flow.

I have reviewed this scenario with Mr. Banister but unfortunately he strongly feels that his vehicles should exit back through the shared right-of way onto Commercial St.. This scenario, In our opinion, creates concern regarding proper vehicle flow and safety, especially when confined to such a narrow passageway.

I fully respect Mr. Banister's position; however, I feel his concerns are unsubstantiated.

Respectfully submitted,



David W. Richard
Branch Manager
BIW Five County Credit Union.



Mtg Notes

PLANNING BOARD REPORT #59-99

**BIW FIVE COUNTY CREDIT UNION, DRIVE-THRU TELLER
19 COMMERCIAL STREET
CONDITIONAL USE AND SITE PLAN REVIEW
DAVID RICHARD, APPLICANT**

Submitted to:

Portland Planning Board
Portland, Maine

November 9, 1999

FORWARD

This item was tabled from the October 12, 1999 Planning Board Meeting for clarification of traffic circulation issues within the private passage ways from Commercial Street and Franklin Street Arterial. In summary, the applicant is now proposing to retain two way traffic circulation along the majority of both private passage ways, except for a section of one-way circulation directly behind the credit union building. These issues are discussed in Section IV.1 of this report.

TRAFFIC

Additionally, the applicant's lawyer has produced an October 20 letter addressing some of the Board's concerns regarding the need for further clarification of the applicant's right, title and interest in the private passage ways from Franklin Street and Commercial Street. See Attachment 15. With the exception of the circulation issues and the October 20 legal letter, the submittals and issues have remained consistent from previous meetings.

Additional abutter information was distributed prior to the workshop. Staff has not had time to completely review this information.

I. INTRODUCTION

The BIW Five County Credit Union has requested conditional use and site plan approval for a Drive Thru teller unit on the rear of an existing building at 19 Commercial Street. The property is zoned B-3 and this development will be reviewed for conditional use under City Code 14-218(3). See Attachment 1. This project was approved with conditions for compliance under the Historic Preservation ordinance and the applicant has satisfied the conditions of their Historic Preservation approval.

information
marked
Project
Title
ROW

The site currently occupied by an existing 1904 neoclassical building, known as "The Workingmen's Club." The site is currently totally paved and is occupied by the Applicant.

The proposed drive-up teller is a pneumatic tube structure located on the rear of the building, covered by a fixed canopy, and protected by pipe bollards along the width of the structure. Signage is proposed along Commercial Street and at the rear of the property. See revised Site Plan, Attachment 2.

This hearing was advertised in the Portland Press Herald. No notices were sent to neighbors in the Commercial Street area as this item had been scheduled to a date certain at the previous meeting.

Abutter Concerns

The easterly abutter, Mr. Arthur Banister owner of the Finest Kind Stoves, has contacted staff to express his concerns that the proposed use would adversely effect his business and that the previously proposed one-way traffic from Commercial Street along the right-of-way would effectively have landlocked his parcel. In the present condition, it is impossible for traffic to access the Commercial Street right of way from Mr. Bannister's lot due to a guard rail blocking the entrance from the property. The Finest Kind property currently accesses India Street, but this is a temporary arrangement. The revised circulation plan calls for retention of two way traffic along the 16.5 foot right-of way, but Mr. Banister has continued to express his opposition to the proposed use, siting safety concerns.

See the material distributed prior to the workshop

Staff feels that these are private concerns between abettors concerning a private Right of Way. Corporation Council suggests a potential Condition of Approval which removes the City from these private disputes allowing the resolution of the review of this application and allow the abettors to resolve these issues between themselves. See Potential Conditions of Approval.

Previous Board Review

Before tabling this project on October 12, the Board requested further clarification on two specific concerns for this project:

1. Will this project function while retaining two way traffic flow along the private passage ways? and:
2. Provide more information regarding the disposition of abutters toward the proposed use of this facility.

The Applicant has provided an updated site plan with a revised traffic circulation pattern and striping plan, and a supporting letter from traffic engineer, Thomas Erico, in response to concern 1. See the Traffic section of the Site Plan Review below.

In response to Board concern 2., the applicant has produced a letter of support from the Auto Europe abutters and has indicated that BIW has been in contact with the Blake building abutters. See Auto Europe letter, Attachment 16. The Finest Kind abutters are still opposed to this project.

Additionally, the applicant's attorney, Daniel Cummings, has submitted a letter addressing easement rights and abutter concerns in response to Board comments from the previous meeting. See Attachment 15.

II. FINDINGS

Zoning:	B-3
Land Area:	+/- 0.21 acres
Number of Parking Spaces:	18 existing spaces

III. A. RIGHT OF WAY ISSUES

The use of a drive-up feature on a private right of way is contingent on the applicant's rights to use the right of way. Previous to the July 13 meeting planning staff asked the applicant to present a description of their legal rights as they pertain to this particular use. Daniel Cummings, attorney for the applicant produced a June 30 letter and a copy of an 1853 deed which intended to serve this purpose. See Attachment 11.

Corporation council scrutinized the language of the deed and found that the language described the location and uses for a right of way running from India Street to Franklin Street. This is the passage way commonly known as Bradbury Court. This deed gave no description for a right of way running from Commercial Street to Bradbury Court, the 16.5 foot right of way. As Mr Cumming's June 30 letter did not address this issue, he later produced a September 14 memo reflecting the results of a deed search on the 16.5 foot Commercial Street right-of-way. See Attachment 13.

For the previous meeting, the applicant produced a title insurance document which states that their "policy affirmatively insures the right to use the two passageways adjoining the insured premises along the northeasterly and northwesterly bounds and running to Commercial and Franklin Streets respectively; however, this policy does not insure the underlying fee of said passageways." See Attachment 6.

III. B. STAFF REVIEW

The proposal has been reviewed for compliance with the B-3 Zone, Site Plan Ordinance, Historic Preservation Ordinance, and Conditional Use Standards of the Land Use Code. The plan has been reviewed by the Inspections, Traffic, Fire, Public Works, and Planning Department.

IV. SITE PLAN REVIEW

1. Traffic/Circulation/Parking

Traffic circulation is the major concern with the project

The Applicant has produced an updated site plan with a revised traffic circulation pattern. Originally, one-way traffic was proposed from Commercial Street to Franklin Arterial. In the revised plan, one way traffic is restricted to the section of Bradbury Court directly behind the credit union building. Additional pavement arrows and signage are proposed to reflect the intended circulation pattern. The result of this traffic pattern would be to retain the present circulation, but would restrict the ability of vehicles to travel from the Franklin Arterial end of Bradbury Court to the Commercial Street right-of way. Parked cars would continue to be a concern, but would be most critical in the Commercial Street right-of way due to the constraints of the 16.5 foot width.

As before, drive-up traffic is proposed to travel along the private right of way which runs from Commercial Street along the easterly boundary at a width of 16.5 ft., turning westerly along the rear property line at a width of 20 ft., proceeding to a right turn only exit at Franklin Street Arterial. This right of way, Bradbury Court, is utilized for access for parking by the tenants of the subject parcel as well as tenants of adjoining Commercial Street and Franklin Street parcels. Currently, two way traffic exists on the right of way sections adjacent to the neighboring properties and informal parking exists along its length.

Larry Ash, City Traffic Engineer, has qualitatively assessed the site, and does not have any concerns with the impact of traffic on Commercial and Franklin Streets, nor does he believe that the proposed use would present a traffic hazard on the private right-of-ways. Speeds are at parking lot levels and sighting is sufficient for adequate driver anticipation. Mr. Ash produced a memo stating that for the proper function of the proposed use, one-way traffic would be needed for the section of Bradbury Court described above. See Larry Ash memo, Attachment 17. The applicant has revised the traffic pattern in accordance with the opinions of their Traffic Engineer, Thomas Erico. See Attachment 18.

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Mr. Ash has reviewed the Erico letter, and is in agreement, 4

Staff has not had opportunity to review the Tom ~~Erico~~ Gorvill letter, but the issues raised consist increased traffic in the 16 1/2' ROW

The proposal provides more than adequate stacking for the anticipated drive-up traffic.

2. Bulk, Location, Height of Building and Uses Thereof

With the exception of a canopy, the teller tube and signage, the building is to be unchanged from the present.

3. Utilities

Utility changes are not proposed.

4. Landscaping

As stated above, the site is entirely paved. No landscape improvements are proposed.

5. Drainage

Currently, drainage collects into catch basins near the rear of the property in the private right of way, and sheet flows on to Commercial Street. No changes are proposed in the drainage system and no problems in the present condition are apparent.

6. Lighting

No lighting changes have been submitted. Pole lights currently exist for the parking area.

7. Fire Safety

The site plan has been reviewed and approved by the Fire Department.

V. CONDITIONAL USE REVIEW

1. The standards which apply for review of a drive-up teller in the B-3 zone under 14-218(3) state that the features should not extend closer than 25 ft to the street, shall provide adequate stacking, and be in compliance with the applicable standards of the Urban Design Guidelines. The set-backs and vehicle stacking are shown to be compliant and the applicable standards from the Urban Design Guidelines are:

Section 9. Signage, Awnings, Canopies

General; Attitude of reversibility:

Reversibility was an issue raised by the Historic Preservation Committee, and the fastening of sign features was referred to planning staff for review as the applicant proceeds with contracting the work. The applicant has provided preliminary details of the methods of sign and awning fastening, as well as restoration concepts for the removal of existing sidewall signage. See signage elevations and Sign Solutions letter, Attachment 4.

During the Historic Preservation Hearing, the applicant indicated that the teller tube will perforate the brick wall with a 6 in. hole saw.

5.a. Canopies: "Should not obscure architecturally significant elements of the building."

The canopy at the rear of the building has been revised so that architecturally significant features are not obscured.

5.f. On-Site signage: On-site signage should be part of a whole coordinated system.

The proposed signage scheme presents a unified system of materials and colors which addresses this standard. See Attachment 4. The applicant has indicated that additional signage may be added to the canopy. Details for the newly added traffic control signage have not been submitted, but are intended to conform to Federal Highway Administration standards. See Traffic Letter, Attachment 18.

2. The following standards apply for all conditional uses:

Section 14-474(2)

i. There are unique or distinctive characteristics or effects associated with the proposed conditional use.

There are no known unique or distinctive characteristics associated with the proposed use.

ii. There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area; and

It does not appear that there will be any adverse impacts with the proposed project.

iii. Such impact differs substantially from the impact which would normally occur from such a use in that zone.

The impacts of this site are similar as those normally expected from such a use in this zone.

Suggested
VI. MOTIONS FOR THE BOARD TO CONSIDER

On the basis of plans and materials submitted by the applicant and on the basis of information provided in Planning Board Report #19-99, amended, relevant to standards for site plan and conditional use review, the Board finds:

i. That the plan is/is not in conformance with the Conditional Use Standards of the Land Use Code.

ii. That the plan is/is not in conformance with the Site Plan Standards of the Land Use Code.

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interview
6

Potential Conditions of Approval:

1. That in approving this application, the Planning Board is not deciding or in any way opining on the private rights of the applicant or the abutting land owners to the private passageways shown on the site plan.

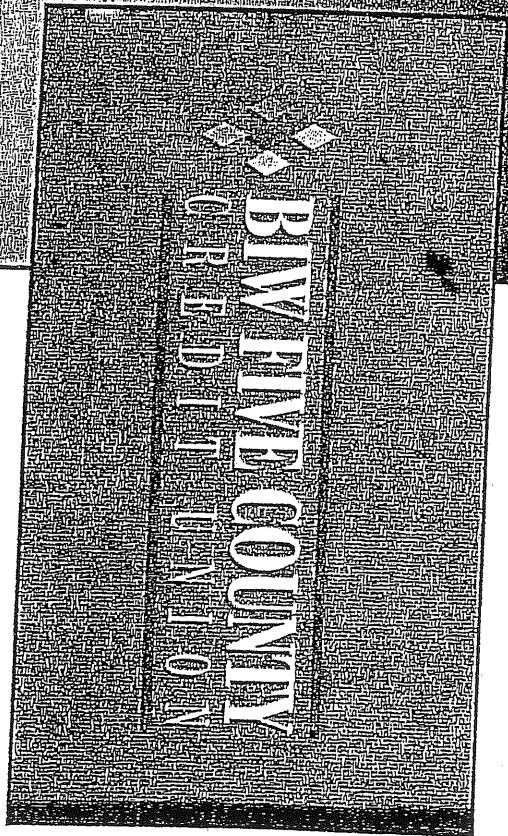
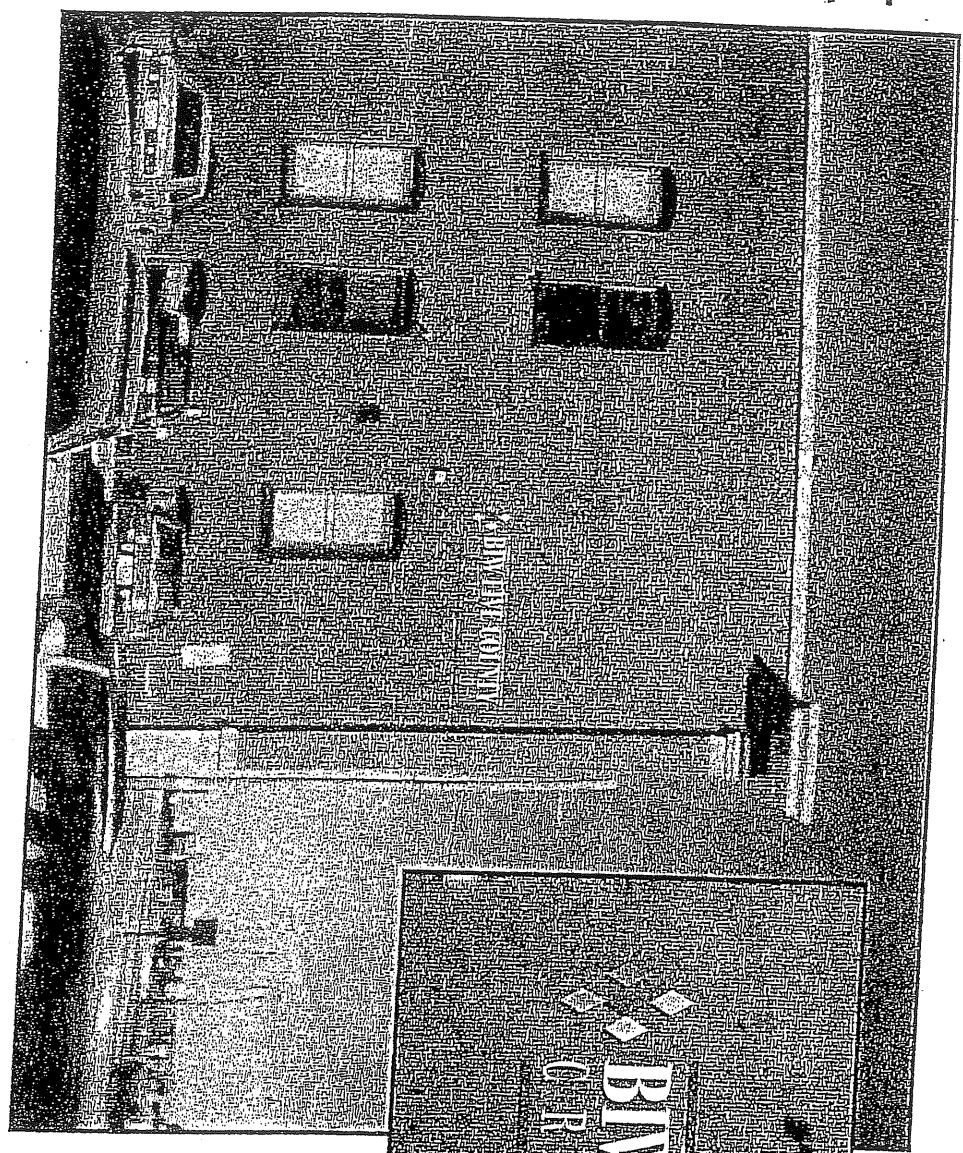
Attachments

1. City Code for Conditional Use in the R-3 Zone, 14-218(3)
2. Revised Site Plan
3. Elevations
4. Sign Elevations and Sign Solutions letter.
5. May 19, 1999 Memo to Historic Preservation Committee
6. Subject Deed and Title Information
7. Bradbury Court Memos
8. Bradbury Court Maps
9. Abutter's Title Information
10. Abutter's Letter
11. Letter from Applicant's Attorney (Bradbury Court) dated June 30th
12. Applicant's letter describing right of way use and maintenance of use
13. Letter from Applicant's Attorney (Commercial Street Right of Way) dated September 14th
14. Applicant's letter describing Negotiations with Arthur Banister
15. Letter from Applicant's Attorney dated October 20th
16. Auto Europe Letter
17. Memo from Larry Ash, Traffic Engineer
18. Traffic Letter

- ii. Evidence of market, advertising, or real estate brokerage efforts to attract permitted uses.
 - b. The approval of any conditional use under this section shall be for the specific tenant proposed for the conditional use approval and shall not run with the space to subsequent tenants. A conditional use approval shall expire at the end of each tenant's use, and a new approval shall be required for new tenants. If the term of a lease is five (5) years or less, the tenant may sublet the area either for the approved conditional use or for any use permitted by section 14-217(b)(1)a.
 - c. The planning board may impose reasonable conditions concerning the design, appearance, use and extent of use of the space along the street frontage to ensure maximum pedestrian compatibility and interest.
 - d. Notwithstanding the above, the planning board may authorize a reduction in the percentage of required ground floor pedestrian-oriented uses where the physical limitations of an existing building so require. Any such reduction shall be the least necessary to provide relief and shall include mitigating design factors.
- (2) Utility substations, such as water and sewage pumping stations and standpipes, electric power substations, transformer stations, and telephone electronic equipment enclosures and other similar structures, provided that such uses are suitably located, screened and landscaped so as to ensure compatibility with the surrounding neighborhood.
- (3) Drive-up banking services, provided that drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street line. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicular or pedestrian circulation on adjoining streets. Such uses shall also be in compliance with the applicable standards contained in the Downtown Urban Design Guidelines, a copy of which is on file in the department of planning and urban development. No other type of drive-up use shall be permitted.
- (4) Light industrial uses, subject to the following requirements:
- a. The use shall not include any use prohibited in the I-1 zone;
 - b. Glare, radiation, fumes or smoke shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries;
 - c. The floor area devoted to industrial use shall not exceed ten thousand (10,000) square feet; for a building in existence on March 11, 1991, the floor area shall not exceed ten thousand (10,000) square feet or fifty (50) percent of the total floor area, whichever is greater;
 - d. The use shall be operated within a completely enclosed structure;
 - e. No materials or wastes shall be deposited on any lot in such form or manner that they may be transferred beyond the lot boundaries by natural causes or forces. All

11.77-5.1

Att. # 4.1



1 Set of Individual Aluminum Letters

Faces: White, Teal

Materials: Aluminum Plate

Custom Paint Colors



REVISION:

APPROVED:

DATE: 3/2/99

SCALE:

DWG. NO. 1

DESIGNER: Steve Enima

CLIENT:

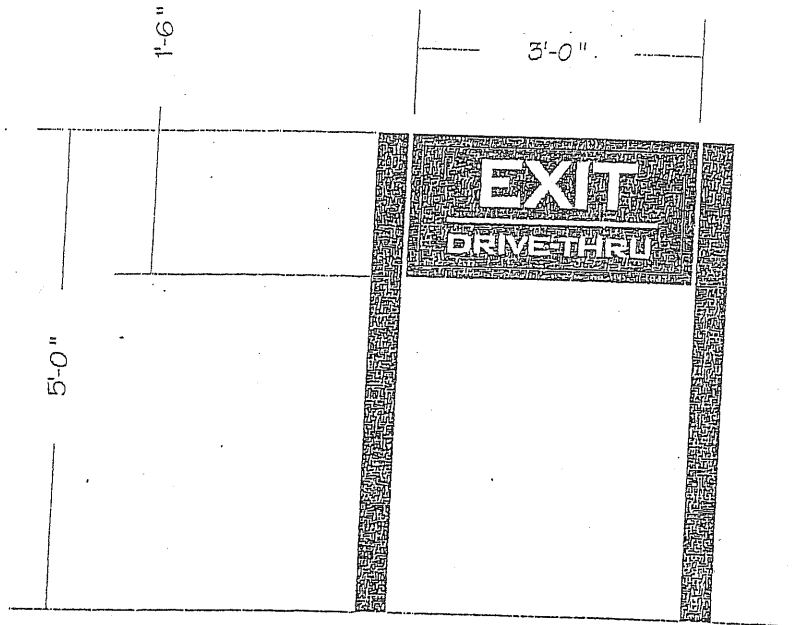
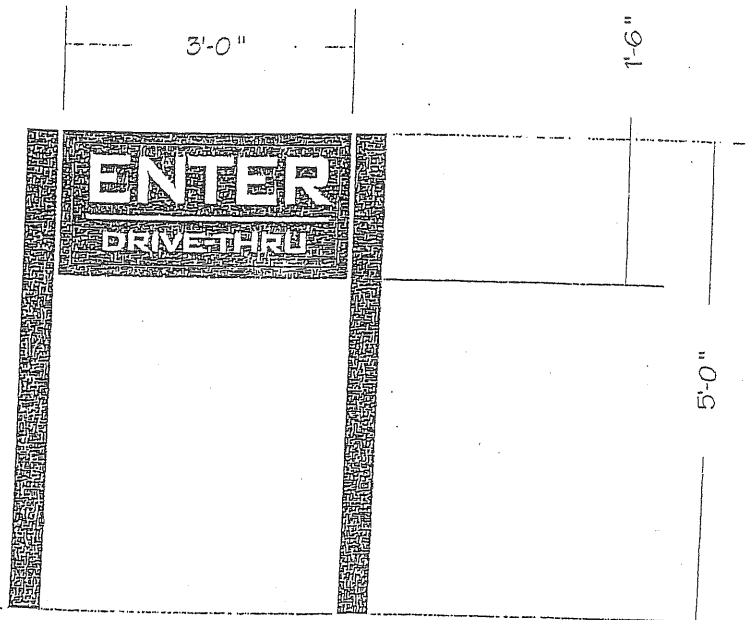
Biw Five County EGU

LOCATION:

Ipswich, ME

© Copyright 1999

Att: # 4.2



2 - D/F Internally Illuminated Directional Signs

Faces: Teal
Copy: White

Poles: Teal
Cabinet: Teal

Materials: Extruded Aluminum Cabinet
Lexan Faces w/ Vinyl Copy & Graphics
4" Steel Poles



DATE: 5/11/99

SCALE: 1/2" = 1'-0"

DWG NO.: 2

DESIGNER: Steve Emma

CLIENT: BIW Five County FCU

LOCATION: Topsham, ME

REVISION:

APPROVED:

~~Att. #4.3~~

Att. #4.3

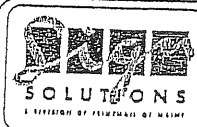


1 - S/F Freestanding Post & Panel Sign

Faces: Teal
Copy: White

Poles: Teal
Cabinet: Teal

Materials: Extruded Aluminum Cabinet
Lexan Faces w/ Vinyl Copy & Graphics
4" Steel Poles



REVISION:

APPROVED:

DATE 5/11/99	SCALE 1"=1'-0"
DWG NO. 3	DESIGNER Steve Emma
CLIENT B/W Five County FCU	
LOCATION Topsham, ME	

Att. 4.9



A DIVISION OF PRINTMAIL OF MAINE
May 24, 1999

David Richard
B I W Five County Credit Union
40A Commercial Street
Portland, Maine 04101-4702

Dear David,

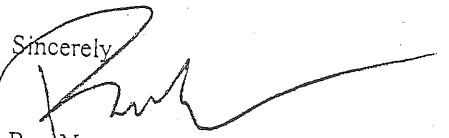
Thanks for being patient in regards to the issues on your proposed signage with the Historical Preservation Society. We certainly understand their concerns and have worked very hard to come up with a plan that would preserve the structural integrity of the building as well as the historical significance.

We have a product called SGS that mixes with mortar that can patch any existing holes in the face of the building. When existing signage is removed, this product can be color matched and any existing holes or breaks in the brick work could be patched. We buy the product from LaChance Brick in Gorham and they would be happy to loan us a color swatch book for correct color matching. I've enclosed a technical specifications data sheet on this product.

We have tried to locate an adhesive product to adhere the aluminum letters to the brick face but have not been successful. We did find a product that could work but the chemicals in the adhesive could potentially stain the brick. We feel that the best way to attach the aluminum letters safely while preserving the original brick would be to create a drilling pattern so the mounting studs in the letters would line up with the mortar lines. This method would keep the original brick from being drilled allowing for mortar touch up should the letters be removed. Mortar touch up or "pointing" is a common practice when dealing with preserving brick work.

We would be happy to hear any suggestions the Historical Preservation Society may have as they probably deal with these issues more than we do. We feel that our attention to detail and the respect we have for the property of our customers make us the sign company of choice.

We look forward to working with you on all your sign projects.

Sincerely

Ron Nevers

75 BISHOP ST.
PORTLAND, ME 04103
(207) 878-8000
1-800-347-6245
FAX (207) 878-7790

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A# 4.5



CONCENTRATED MORTAR COLORS

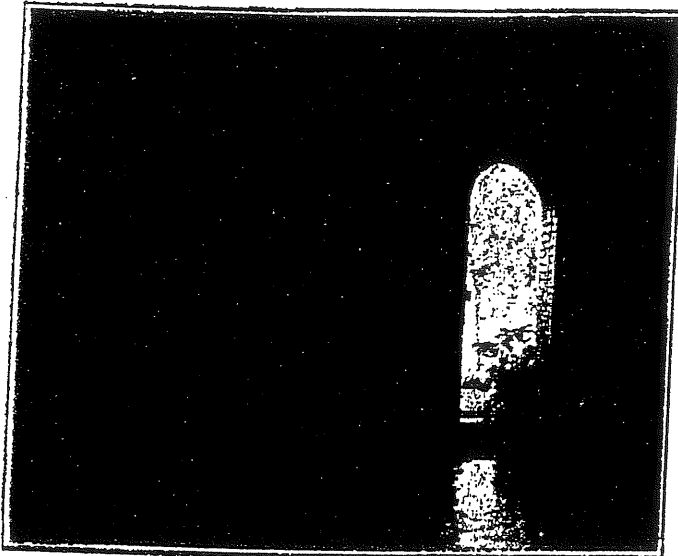


Concentrated Mortar Color "A" Series

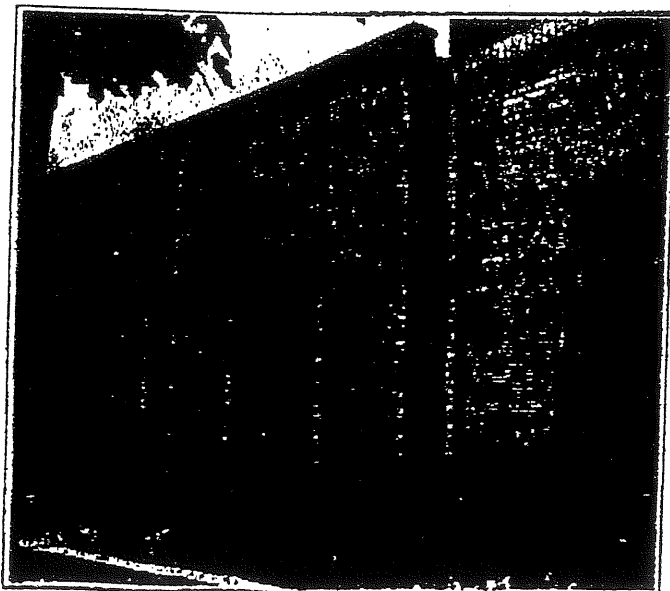
"A" Series colors are full-tone masonry colors of optimum intensity which are formulated to produce pleasing shades that complement or accentuate the wide range of colors found in brick, stone and colored concrete block.

"A" Series colors are shipped in proportioned packages which have been accurately pre-weighed and measured. Each individual package is designated as one "A" Series Color Unit.

The "A" Series mortar colors shown are achieved by the addition of one "A" Series Color Unit to one bag of prepared masonry cement or weight equivalent of portland and lime mortars. Shade variations can occur due to printing limitations, differences in local cements, sand, mix design and workmanship. (See Table No. 1 on back cover.)



Wilson Jones Architects, Inc., St. Louis, MO



"A" Series Color

10A	[Color swatch]
20A	[Color swatch]
22A	[Color swatch]
25A	[Color swatch]
30A	[Color swatch]
32A	[Color swatch]
33A	[Color swatch]
35A	[Color swatch]
37A	[Color swatch]
40A	[Color swatch]
41A	[Color swatch]
44A	[Color swatch]
45A	[Color swatch]
50A	[Color swatch]
70A	[Color swatch]
80A	[Color swatch]
85A	[Color swatch]
95A	[Color swatch]
92A	[Color swatch]
97A	[Color swatch]

The above "A" series colors represent shades obtained by using SGS Concentrated Mortar Colors with light gray masonry cement and light tan builder's sand

Att. 4.6

Technical Specification Data

BASIC USE: SGS Mortar Colors are pure mineral pigments designed to be used with all cementitious material whether it may be a Type N, S, M or O strength masonry cement or portland and lime mixtures. The pre-measured unit concept of SGS colors provides uniform color control with the flexibility of utilizing local masonry and/or portland and lime cements to achieve the proper strength and mix design for brick, block, stucco or stone unit construction. Since 18-20% of the visual surface of the average brick wall is mortar, the proper selection and use of an appropriate mortar color will dramatically enhance the visual impact and beauty of the masonry wall.

COMPOSITION AND MATERIALS: SGS colors are products of pure natural and/or synthetic iron oxides which are finely milled (95-99% minus 325 mesh) and blended under strict quality control procedures producing uniform and consistently strong tinting strength colors. Each SGS color exceeds the requirements set forth by ASTM C-979 "Pigments for integrally Colored Concrete." SGS colors are each inert, stable to atmospheric conditions, sunfast, weather resistant, alkali resistant, water insoluble, and free of fillers and extenders. All SGS colors comply with ASTM 979 for integrally colored mortar.

SPECIFICATION PROCEDURES: As detailed in Table No. 1, select the proper ASTM C-270 masonry mix design of Type N, S, M or O compressive strength for the masonry unit construction. Then, depending upon the masonry mix design, select the appropriate SGS color and specify the number of "A" Series Color Units to be added to the mortar mix.

PACKAGING: All SGS Concentrated Mortar Colors are packaged in sealed unit

bags, ranging from one pound to seven pounds. An "A" Series color case contains six unit bags. An "A" Series case of color can lay approximately 900 standard size brick using a 3/8" mortar joint.

COLOR RANGE: In addition to the SGS standard "A" Series colors shown, SGS Combination Series colors have been developed to expand the SGS color spectrum. This offers precise color tones that are needed to complement or accentuate the broad range of color shades found in brick, stone or colored block. The SGS Color Laboratory is also available to assist in custom color matching or developing special color tones to fit your color requirements.

MIXING PROCEDURES: Mortar shall be mixed in a power mixer for not less than five minutes or until a uniform color is obtained. Any change in proportioning the amount of color to cement and/or the type of cement or sand used can result in a variation of color tone in the finished work. Request SGS Spec-Data 4p Mortar and SMM-1-82 Data Sheets for complete mixing instructions.

AVAILABILITY: SGS colors are readily available from stocks carried by an extensive network of building material dealers throughout the United States and Canada. Our dealers are also backed by reliable 24 hour factory services in processing and shipment of orders, which in the combination of using locally available cements can further minimize shortages and costs. SGS has local sales representatives covering each state within the continental United States. For names of local dealers, distributors and sales representatives, contact Solomon Grind-Chem Service, Inc. direct at (217) 522-3122 or U.S. WATS 1-800-624-0261.

COST: Retail costs for SGS colors are established by stocking or distributing building material dealers only. Furthermore, the cost for colored masonry is determined by the color and color shade desired.

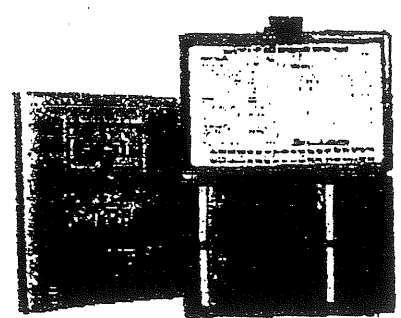
LIMIT OF WARRANTY & LIABILITY: Solomon Grind-Chem Service, Inc. warrants that their product conforms to the description and standards as stated on the product packaging (specific product literature). If properly mixed and applied, SGS warrants the concentrated mortar color to be uniform, limeproof and sunfast.

The exclusive remedy of the user or buyer and the limit of the liability of this company shall be the purchase price paid by the user or buyer for the quantity of the SGS product involved.

MASONRY CLEANING: In the event that cleaning is required to remove stains and efflorescence, the films may be removed by using an acid based detergent. Avoid using hydrochloric (muriatic) acid. Use a commercially prepared "proprietary cleaner" following the directions for the weakest solution recommended by the manufacturer. Request SGS Spec-Data 4p Mortar Data Sheet for complete cleaning instructions.

SAMPLES: Color pigment samples are available for constructing job mock-up panels. Contact your local SGS building materials dealer, or Solomon Grind-Chem Service, Inc. direct at (217) 522-3112 or U.S. WATS 1-800-624-0261.

SGS MORTAR COLOR KIT AND CATALOG: Samples of SGS standard mortar colors are available in convenient mortar color channels. Each channel is an actual representation of the SGS color units mixed with either prepared masonry cement or an equivalent portland and lime mix plus a tan builders sand and water. The shown SGS Mortar and Cement Color Binder contains complete specification and technical information covering the complete line of SGS Mortar and Cement Colors. Available on request.



Shipping Address:

Solomon Grind-Chem Service, Inc.
Old Waterworks Plant
Springfield, IL 62702

Mailing Address:

Solomon Grind-Chem Service, Inc.
P.O. Box 8288
Springfield, IL 62781
Phone (217) 522-3112 FAX (217) 522-3148
U.S. WATS 1-800-624-0261

TABLE NO. 1

ASTM SPECIFICATION FOR MORTAR: Unit Masonry C270 includes the following mortars:	Appropriate number of S-G-S Color units to be added with the mortar mix. "A" Series Color
PREPARED MASONRY CEMENTS (ASTM C91) Types N, S, or M One 70-80 lb. bag masonry cement (ASTM C91, Type 1), plus 3 cu. ft. sand (ASTM C144)	One "A" Unit
PORTLAND CEMENT-LIME MORTARS Type N (750 psi) One 94 lb. bag portland cement (ASTM C150). One 50 lb. bag hydrated lime (ASTM C207), plus six cubic ft. sand (ASTM C144)	Two "A" Units
TYPE S (1800 psi) Two 94 lb. bags portland cement (ASTM C150), One 50 lb. bag hydrated lime (ASTM C207), plus nine cubic ft. sand (ASTM C144) OR One 94 lb. bag portland cement (ASTM C150), Two 70 lb. bags masonry cement type 1 (ASTM C91), plus nine cubic ft. sand (ASTM C144)	Three "A" Units
TYPE M (2500 psi) Two 94 lb. bags portland cement (ASTM C150), 25 lbs. hydrated lime (ASTM C207), plus six cubic ft. sand (ASTM C144) OR One 94 lb. bag portland cement (ASTM C150), One 70 lb. bag type 1 masonry cement (ASTM C91), plus six cubic ft. sand (ASTM C144)	Three "A" Units
TYPE O (350 psi) One 94 lb. bag portland cement (ASTM C150), Two 50 lb. bags hydrated lime (ASTM C207), plus nine cubic ft. sand (ASTM C144)	Three "A" Units

HISTORIC PRESERVATION COMMITTEE
CITY OF PORTLAND, MAINE

PUBLIC HEARING
19 COMMERCIAL STREET

TO: Chair Wroth and Members of the Historic Preservation Committee
FROM: William B. Needelman, Planner
DATE: May 13, 1999
RE: May 19, 1999 - New Business

Application For: Certificate of Appropriateness - Exterior Alteration, Drive-Thru Signage

Address: 19 Commercial Street

Applicant: B. I. W. Five County Credit Union
represented by David Richard

Background:

The subject building is the Workingmen's Club building, a 1904 commercial building constructed of granite and brick in a classical motif.

The applicant proposes to install a drive-thru teller tube on the rear of the building. No additional paving will be required, but signage at Commercial Street, on the sides of the building, and an awning on the rear of the building are proposed. The building is highly visible, and all alterations are visible from public streets.

Signage:

Three free-standing signs are proposed, as well an application of the company logo to the sides of the building. The free-standing signs are aluminum panels on paired steel poles with lexan faces and vinyl graphics. The drive-thru/parking sign on Commercial Street will be 4 ft. tall with a 1 ft. 6 in. by 3 ft. display panel. The entrance sign (on Commercial Street) and the exit sign (at the rear of the property) will be 5 ft. tall, also with 1 ft. 6 in. by 3 ft. display panels. The color scheme is teal and white.

The signage applied to the building is proposed to be composed of individual aluminum plate letters and logo pieces, also in teal and white.

Awning:

A gable shaped canvas awning projecting approximately 4 ft. from the rear of the building is proposed to shelter the teller tube assembly. The bottom of the awning starts at the second floor window sill elevation and a window will be partially obscured as now positioned. "BIW" is applied or painted on the end of the awning.

Att. 5.2

Remote Teller Tube:

The teller tube itself is less than 1 ft. by 1 ft. in cross section and projects up to the second story window. Protective pipe bollards are proposed along the entire rear of the building.

Attachments:

1. Project Description to the Zoning Board of Appeals
2. Photos
3. Signage Details
4. Building Elevations; to be supplied

6294

Att. 6.1

WARRANTY DEED

WILLIAM J. DOWD, of Westbrook, Maine, for valuable consideration, grants to APEX, INC., a Maine corporation with a principal place of business in Portland, Maine, and a mailing address of P. O. Box 9540, Portland, ME 04112, with Warranty Covenants, the following described real property situated in Portland, Cumberland County, Maine:

A certain lot or parcel of land situated in said Portland on Commercial Street, and being more particularly described on Exhibit A attached hereto and made a part hereof.

Meaning and intending to convey the same premises described in a deed from C. Alan Beagle, et al, to the Grantor dated February 12, 1987, and recorded in the Cumberland County Registry of Deeds in Book 7633, Page 308.

The purpose of this deed is to correct and clarify the description contained in the deed from William J. Dowd to Apex, Inc., dated April 22, 1991, recorded in said Registry of Deeds in Book 9532, Page 273.

Witness my hand this 31st day of July, 1991.

Mary E. Plumes
Witness

William J. Dowd
William J. Dowd

STATE OF MAINE
CUMBERLAND, SS.

July 31, 1991

Personally appeared the above named William J. Dowd and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Mary E. Plumes
Notary Public
MARY E. PLUMES
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES AUGUST 6, 1991
Printed Name of Notary

Att. 6:2

EXHIBIT A

A certain lot or parcel of land, with the buildings thereon, situated in the City of Portland, County of Cumberland and State of Maine, and bounded and described as follows: BEGINNING at a point on the northerly sideline of Commercial Street, which point is in the southeasterly corner of land now or formerly of Burnham and another and is about two hundred forty and twenty-five hundredths (240.25) feet westerly from the westerly sideline of India Street; thence running northerly by said land of Burnham and another ninety (90) feet, more or less, to the southerly sideline of a twenty (20) foot passageway extending from Franklin Street in the rear of the lot herein described; thence easterly by the southerly sideline of said passageway one hundred one (101) feet, more or less, to the westerly sideline of a passageway sixteen and one-half (16-1/2) feet wide extending back from Commercial Street; thence southerly by the westerly sideline of said passageway extending back from Commercial Street ninety-five (95) feet, more or less, to a point in the northerly sideline of said Commercial Street; thence westerly by the northerly sideline of Commercial Street one hundred one (101) feet, more or less, to the point of beginning.

Also, all our right, title and interest in and to said passageway running in the rear of said lot from Franklin Street and all our right, title and interest in and to said passageway running back from Commercial Street.

Recorded
Cumberland County
Registry of Deeds
07/31/91 01:48:36PM
Robert P. Titcomb
Register

Att. 6.3



FIRST AMERICAN TITLE INSURANCE COMPANY
OWNERS POLICY SCHEDULE A

CASE NUMBER DATE OF POLICY TIME POLICY AMOUNT POLICY NUMBER
CL-2137 July 31, 1991 1:53 p.m. \$655,000.00 30009259

AUTOMATIC INFLATION CLAUSE This policy amount will automatically increase by 10% of the amount shown above on each of the first five anniversaries of the policy date with respect to residential policies.

1. NAME OF INSURED

Clay Cove Corporation

2. THE ESTATE OR INTEREST IN THE LAND DESCRIBED HEREIN AND WHICH IS COVERED BY THIS POLICY IS:

Fee Simple

3. THE ESTATE OR INTEREST REFERRED TO HEREIN IS AT DATE OF POLICY VESTED IN:

The Insured

4. THE LAND REFERRED TO IN THIS POLICY IS DESCRIBED AS FOLLOWS:

All that certain parcel of land described in Exhibit "A" attached hereto and made a part hereof.

Being the same premises conveyed to the insured herein by deed of Apex, Inc. dated July 31, 1991, and recorded in the Cumberland County Registry of Deeds in Book 9658, Page 47.

The land herein described is encumbered by the following mortgage and assignments, if any, and mortgages, if any, shown in schedule B hereof:

Mortgage and Security Agreement from Clay Cove Corporation to Peoples Heritage Savings Bank in the principal amount of \$598,500.00 dated July 31, 1991, and recorded in the Cumberland County Registry of Deeds on July 31, 1991, at 1:51 p.m. in Book 9658, Page 49, and Assignment of Leases and Rentals by Clay Cove Corporation to Peoples Heritage Savings Bank dated July 31, 1991, at 1:53 p.m., recorded in the Cumberland County Registry of Deeds in Book 9658, Page 69.

ISSUED AT: PORTLAND, MAINE

Cumberland Title Company
P.O. Box 4865 DTS
Portland, Maine 04112

Authorized Agent or Officer

THIS POLICY IS INVALID UNLESS THE COVER SHEET AND SCHEDULE B ARE ATTACHED.

7-06-1999 8:41AM FROM BIRW 5 COUNTY C.U./P/ 1 207 774 1667
PAGES: 3
MIRIAM BIRW 5 COUNTY C.U./P/ 1 207 774 1667

EXHIBIT A

A certain lot or parcel of land, with the buildings thereon, situated in the City of Portland, County of Cumberland and State of Maine, and bounded and described as follows: BEGINNING at a point on the northerly sideline of Commercial Street, which point is in the southeasterly corner of land now or formerly of Burnham and another and is about two hundred forty and twenty-five hundredths (240.25) feet westerly from the westerly sideline of India Street; thence running northerly by said land of Burnham and another ninety (90) feet, more or less, to the southerly sideline of a twenty (20) foot passageway extending from Franklin Street in the rear of the lot herein described; thence easterly by the southerly sideline of said passageway one hundred one (101) feet, more or less, to the westerly sideline of a passageway sixteen and one-half (16-1/2) feet wide extending back from Commercial Street; thence southerly by the westerly sideline of said passageway extending back from Commercial Street ninety-five (95) feet, more or less, to a point in the northerly sideline of said Commercial Street; thence westerly by the northerly sideline of Commercial Street one hundred one (101) feet, more or less, to the point of beginning.

The right in common to use the passageway running in the rear of said lot from Franklin Street and to use the passageway running back from Commercial Street.

FIRST AMERICAN TITLE INSURANCE COMPANY

OWNERS POLICY SCHEDULE B

CASE NUMBER
CL-2137

POLICY NUMBER
30009259

This policy does not insure against loss or damage due to the following:

NOTE: As used herein, recorded shall mean recorded in the Cumberland County Registry of Deeds.

1. The dower, curtesy, homestead, community property, or other statutory marital rights, if any, of the spouse of any individual insured.
2. Rights or claims of persons in possession and easements or claims of easements not shown by the public records, boundary-line disputes, overlaps, encroachments, title to filled lands (if any) and any matters not of record which would be disclosed by an accurate survey and inspection of the premises.
3. Any lien, or right to a lien, for services, labor or material, heretofore or hereafter furnished, imposed by law and not shown by the public records.
4. Taxes assessed which are not yet due and payable, and for subsequent years.
5. Any exception, reservation, restriction, easement or condition set forth in the attached Exhibit A.
6. Title to and rights of the public and others entitled thereto in and to those portions of the insured premises lying within the bounds of adjacent streets, roads and ways.
7. Rights of others in and to the use of appurtenant easements insured herein and terms and conditions relative to the use thereof.

NOTE: This policy affirmatively insures the right to use the two passageways adjoining the insured premises along the northeasterly and northwesterly bounds and running to Commercial and Franklin Streets respectively; however, this policy does not insure the underlying fee of said passageways.



MORTGAGE LOAN INSPECTION PLAN

DATE JAN. 23, 1987 PROJ. 87027
BOOK 6669 PAGE 116
COUNTY CUMBERLAND SCALE 1"=50'

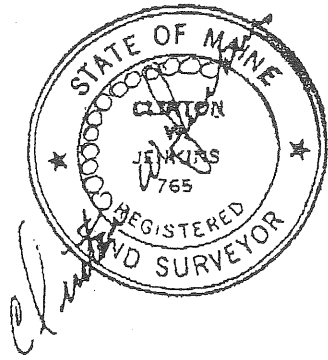
AH. 6.6

TO THE LENDING INSTITUTION AND ITS TITLE INSURER

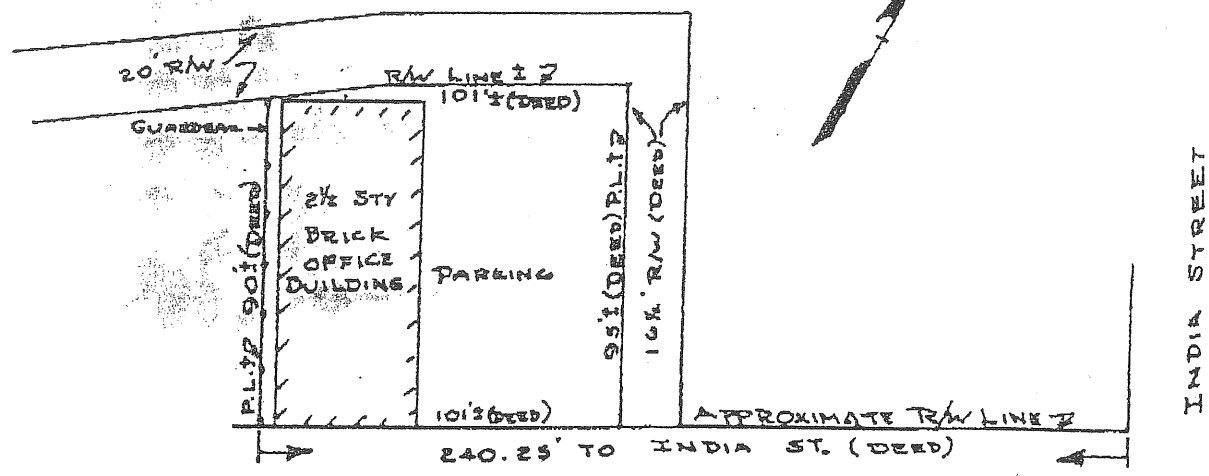
HEREBY CERTIFY THAT THE LOCATION OF THE DWELLING SHOWN
ON THIS PLAN DOES ~~NOT~~ CONFORM WITH THE LOCAL ZONING LAWS
IN EFFECT AT THE TIME OF CONSTRUCTION. THE PROPERTY DOES
NOT FALL WITHIN A SPECIAL FLOOD HAZARD ZONE.

THIS PLAN WAS NOT MADE FROM AN INSTRUMENT SURVEY. THE
CERTIFICATIONS ARE FOR MORTGAGE PURPOSES ONLY. THIS PLAN
APPLIES ONLY TO CONDITIONS EXISTING AS OF THE DATE SHOWN
HEREON, AND DOES NOT SHOW ANY POSSIBLE CONFLICTS WITH
SUTTING DEEDS. THIS PLAN IS NOT FOR RECORDING.

THIS IS NOT A LAND BOUNDARY SURVEY.



NOTE: NO MONUMENTATION FOUND.



COMMERCIAL STREET

NOTE: THIS PLAN IS COMPILED FROM DEED, TAX MAP AND FIELD MEASUREMENTS.
THE PROPERTY LINES, R/W LINES AND BUILDINGS AND THEIR RELATIONSHIP TO
EACH OTHER IS APPROXIMATE. IF MORE ACCURATE DETAIL IS REQUIRED
A CLASS "A" SURVEY IS RECOMMENDED.

PROPERTY OF FORD S. REICHE, C. ALAN BEAGLE AND MARTIN J. RIDGE.
LOCATED AT # 17 COMMERCIAL ST., PORTLAND, MAINE.

PURCHASER - WILLIAM J. DOWD.

AH. 7.1

CITY OF PORTLAND
PUBLIC WORKS DEPARTMENT
ENGINEERING SECTION

M E M O R A N D U M

TO: Marge Schmuckal, Zoning Administrator
FROM: Jon Giles, LSIT, GIS Coordinator
SUBJECT: Bradbury Court Street Status
DATE: September 17, 1998

Charlie Lane in Corporation Counsel asked me to communicate to you the results of my research into Bradbury Court's legal status as a City street. Please be advised that I am not providing a legal or surveyor's opinion on this street, but merely a summary of record information.

Records in the Department of Public Work's Archives Vault **show no indication that Bradbury Court has ever been accepted as a City street.** These same records do not show any previous vacations or discontinuances either. Bradbury Court appears to be an unaccepted, private way due to the lack of any information indicating otherwise.

The City of Portland has never inventoried which streets and/or ways are dedicated versus undedicated. The City's records typically deal only with issues of acceptances, discontinuances, vacations, name changes, and alterations to the right of way lines of accepted streets. As a result City records do not address the issue of whether Bradbury Court was ever dedicated. Please be aware that if further title research was to reveal that Bradbury Court was considered a dedicated way, that it may be subject to the statutory vacation described in 23 MSRA 3032 that occurred on September 29, 1997. Due to the appearance that Bradbury Court is private property, such title research would not be the responsibility of the City of Portland.

If you have any questions or concerns please feel free to contact me at 874-8842.

JAG/jag

Pc: James Robbins, PLS, Archivist
Charlie Lane, Corporation Counsel

INTEROFFICE MEMORANDUM

To: Alex Jaegerman, Chief Planner
CC: Jim Robbins, Public Works/Engineering
From: Marge Schmuckal, Zoning Administrator
Date: September 17, 1998
Subject: Status of Bradbury Court



Alex,

During your conditional use review for the drive-up teller at 19 Commercial Street, BIW Five County Credit Union, the status of Bradbury Court will most likely come up at some point. I have spoken with Jim Robbins from Public Works/Engineering who is the purveyor of the City's street vault information. He has informed me that Bradbury Court was never a City street or way. It is a private road. This is consistent with the deed and survey that David Richard has shown to me.

If the Planning Board needs any more information on this, I'm sure Jim Robbins or David Richard could supply it.

FROM THE DESK OF...

MARGE SCHMUCKAL
ZONING ADMINISTRATOR
CITY OF PORTLAND, MAINE
389 CONGRESS STREET - CITY HALL, ROOM 315
PORTLAND, MAINE 04101

(207) 874-8695
Fax: 874-8716

INSPECTION OF PREMISES

I HEREBY CERTIFY TO Classic Title Co.

Simba Inc. and its Title Insurer

The monumentation is in harmony with current deed description.

The building setbacks are in conformity with town zoning requirements.

The dwelling does not appear to fall within the special flood hazard zone as delineated by the Federal Emergency Management Agency.

The land does not appear to fall within the special flood hazard zone as indicated on community-panel # 230051 0014 B.

5-9 Commercial Street
Portland, Maine

Job Number: 300-36

Inspection Date: 09-22-97

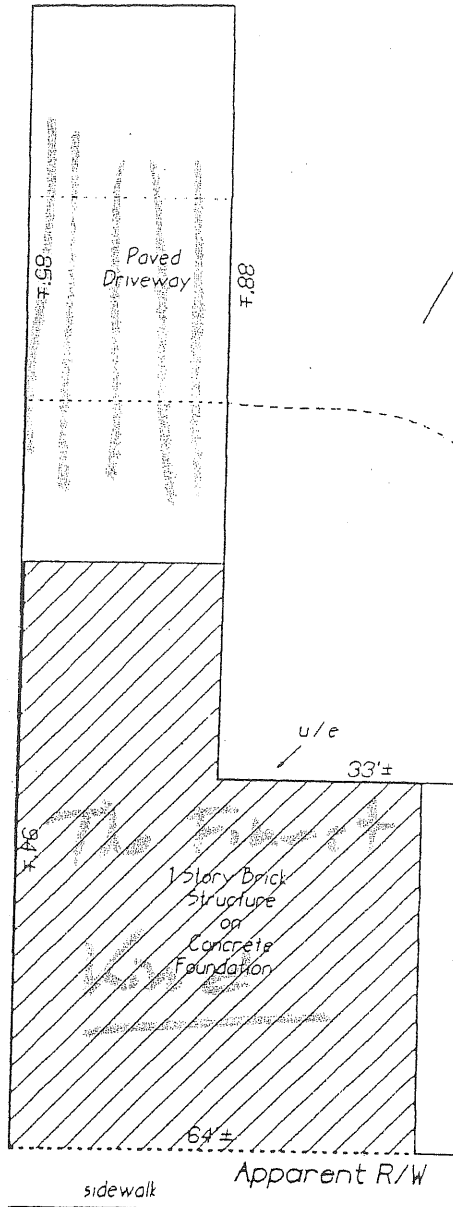
Scale: 1" = 30'

111 - My Parking lot

Att. 9.1

BUYER: Salt of the Earth, Inc.
SELLER: Erasmo, Inc.

? of who pays for maintenance + plowing



[Handwritten signature]

Commercial Street
(bituminous)

To India Street

THIS PROPERTY IS SUBJECT TO ALL RIGHTS AND EASEMENTS OF RECORD. THOSE THAT ARE EVIDENT ARE SHOWN. THIS PLAN MIGHT NOT REVEAL CONFLICTS WITH ABUTTING DEEDS.

BRUCE R. BOWMAN, INC.
P.O. Box 12 A
Cumberland, Maine 04021
Phone: (207) 829-3959
Fax: (207) 829-3522



PLAN BOOK _____ PAGE _____ LOT _____
DEED BOOK 10219 PAGE 185 COUNTY Cumberland

THIS PLAN IS NOT FOR RECORDING Drawn by: *JRM*

Banister Deed Disc.

Att. 9.2

SCHEDULE A

A certain lot or parcel of land, located in Portland, County of Cumberland and State of
more particularly bounded and described as follows, to wit:

Beginning at a point that is fifty-nine (59) feet, more or less, distant on a course South 61°
West from the intersection of the northerly sideline of Commercial Street and the
southerly sideline of India Street, said beginning point being the center of a party wall of a
structure now existing; thence along the centerline of said party wall on a bearing approximately
South 28° 53' 32" West, to the exterior of the rear wall of said existing structure; thence along
the exterior surface of said wall in a generally southwesterly direction, a distance of 33 feet,
more or less, to a perpendicular exterior wall of said structure; thence along the exterior surface
of said wall in a generally northwesterly direction to its terminus; thence on a course North 29°
01' 34" West a distance of 85 feet, more or less, to a point on the rear line of the parcel conveyed
by Simba, Inc. to Erasmo, Inc. in a deed dated August 4, 1992 and recorded in the Cumberland
County Registry of Deeds in Book 10219, Page 185; thence along said rear line in a generally
northwesterly direction to a set iron pin marking the northwesterly corner of said parcel; thence
along said pin in a generally southerly direction, a distance of 85.27 feet to a
point on the southerly sideline of said parcel, South 28° 53' 32"
West a distance of 93.97 feet to a point on the northerly sideline of Commercial Street; thence
along said sideline of Commercial Street, a distance of 63.75
feet, more or less, to the point of beginning.

Subject to all easements of record.

Subject also to (i) the Declaration of Covenants, dated September 29, 1958, recorded in
Cumberland County Registry of Deeds in Book 2436, Page 12 and (ii) right and easement
with or referred to in the deed from Simba, Inc. to Erasmo, Inc., dated August 4, 1992 and
recorded in the Cumberland County Registry of Deeds in Book 10219, Page 185.

MEANING AND INTENDING to describe a portion of the premises conveyed by
Simba, Inc. to Erasmo, Inc. by deed dated August 4, 1992 and recorded in the Cumberland
County Registry of Deeds in Book 10219, Page 185.

ALSO granting all right, title and interest of the Grantor in and to the alleyway that abuts
the premises described above and that leads to Commercial Street.

ALSO granting (i) a right of access over land being retained by Erasmo, Inc. to the
exterior walls of the structure located on the premises described above for the purpose of
maintenance and repair of such walls and (ii) the right to construct, maintain and repair vents
leading from the area currently used by Grantee as its warehouse to the exterior of the northerly
sideline of that area, with the right to attach reasonable hoods and other similar devices on the
exterior wall of Grantee's building.

RESERVING to Erasmo, Inc., its successors or assigns, the right to build and renovate in

3 *

AH. 10

T H E
FINEST
KIND

June 17, 1999

Mr. William Needleman
Planning Office, City of Portland
389 Congress Street
Portland, ME 04101

Dear Mr. Needleman:

Again I wish to summarize my objection for the drive-thru proposed by BIW Credit Union. It is dangerous for children and adults to step directly into the path of this drive-thru from the rear entrance of my retail store. To think otherwise is foolhardy.

I do not wish to loose my legal right of way from my parking lot to Commercial Street. See attached.

I do not have a legal right of way from my lot to India Street.

Sincerely,



Arthur Banister

Commercial Street
Portland, Maine 04101

7 772 2155 voice
7 772 5172 fax
1 640 5115 toll free

AB/sk
Enclosure

2 Pleasant Street
Buxton, Maine 04011

7 725 5199 voice
7 725 5568 fax

Att. 11.1

NORMAN, HANSON & DETROY, LLC

ATTORNEYS AT LAW
 415 CONGRESS STREET
 P.O. BOX 4800
 PORTLAND, MAINE 04112-4800

AREA CODE 207
 774-7000
 FAX
 775-0898

E-Mail
 dcumings@nhdlaw.com

Website
 www.nhdlaw.com

DAVID C. NORMAN
 ROBERT F. HANSON
 PETER J. DETROY
 STEPHEN HEBBERT
 RODERICK R. ROVZAR
 THEODORE H. KIRCHNER
 MARK O. LAVOIE
 STEPHEN W. MCMAHON
 JAMES D. FOLLOUIN
 JOHN H. HINE, JR.
 PAUL P. DRIBCOLL
 WILLIAM O. LACASSE
 MARK E. DUNLAP

ROBERT W. BOWER, JR.
 JONATHAN W. BORGAN
 CHRISTOPHER C. TANTON
 DAVID P. VEFFY
 DANIEL L. CUMMINGS
 ALEXANDER P. MCCANN
 RUSSELL B. BERGE, JR.
 ANNE M. SARKIS
 DAVID L. HEIZER, JR.
 THOMAS S. MAJERUSCH
 ADRIAN P. KENDALL
 EMILY A. BLONDI
 ANNE H. JORDAN

June 30, 1999

VIA FACSIMILE 874-8497

Penny Litell, Esq.
 City of Portland
 389 Congress St.
 Portland, ME 04101

Re: BIW Five County Credit Union

Dear Penny:

Pursuant to our fairly recent telephone conversation, I am sending you a copy of the actual easement deed upon which BIW Five County Credit Union is relying in connection with its application to the Planning Board. As you can see the deed is from 1853, and it appears that those rights were simply passed down through the years, including to BIW Five County Credit Union's landlord and current owner of the property.

Based on that easement language, BIW Five County Credit Union believes that is proposed use of the passage as a drive-through is within the scope of those easement rights.

My understanding is that this was all that the Planning Board was looking for on this score. If you have any questions, please feel free to give me a call.

Sincerely,



Daniel L. Cummings

DLC/dlc
 Enclosure

cc: David Richard
 Roderick R. Rovzar, Esq.

AH. 11.2

Elizabeth W. Miller
 Sarah Tyler
 C. D. Lawrence
 Robert T. Robinson
 Hannah Tyler
 Elizabeth Tyler
 Jane S. Robinson

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State of Maine

Cumberland Co. July 18th 1853

Then personally appeared the above named Joseph W. Tyler, for himself, & as attorney for the persons of Augustus W. Tyler, & Sarah L. Tyler, Elizabeth Tyler, William W. Tyler, Samuel Tyler, Joseph S. Turner, William S. Turner, Henry Tyler, Hannah Tyler, C. D. Lawrence, Robert T. Robinson, & Hannah Tyler, & acknowledged the above instrument to be their several free acts & deed.

Before me, James S. McCall,
 Justice of the Peace.

Commonwealth of Massachusetts

Suffolk Co. July 25th 1853

Then personally appeared the aforesaid Hannah W. Tyler, and acknowledged the foregoing instrument to be her free act and deed.

Before me, William S. Walker,
 Court for Maine.

65
66

State of Maine

Cumberland Co. 25 July 1853

Then personally appeared the above named Augustus P. Miller & Elizabeth W. Miller & acknowledged the above instrument to be their several acts & deed.

Before me, James S. McCall, Justice of the Peace.
 Received according to the original, Received Sept. 11, 1857 at
 11 h. 11th m. A. M.

Attest William S. Mitchell Register

Att. 11.3

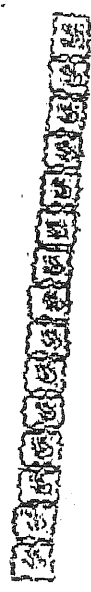
And in consideration of the promises, the said Tyler, Lawrence, Robinson, & Tyler, do in like manner, hereby grant, to them, the said heirs of Samuel Tyler, deceased, herein before severally named their heirs and assigns, the right of way in and over all that part of the above described twenty feet breadth of land, which lies "Continually of the division line" between the lands of the parties hereto.

We have and do hold, to them, the said heirs of Samuel Tyler, their heirs and assigns, as a way in common with the said Tyler, Lawrence, Robinson & Tyler, their heirs and assigns forever.

On which whereof, the said parties hereinafter named, & Elizabeth P. wife of Henry Tyler, Harriet, wife of Ezekiel Tyler, Catherine P. wife of Joseph W. Tyler, Mary E. wife of Augustus A. Tyler, & Hannah M. wife of Samuel L. Tyler, & Elizabeth wife of Samuel Tyler, Sarah G. wife of said Lawrence, & Jane B. wife of said Robinson, in testimony of relinquishment of their several rights of way in the premises, have hereunto respectively set their hands & seals this thirtieth day of July, in the year of our Lord, One thousand eight hundred & fifty three -

Witness, signed & delivered in presence of, C. J. Ketchikan

- Joseph W. Tyler
- Catherine P. Tyler
- Ezekiel Tyler
- William W. Tyler
- Samuel Tyler
- Harriet Tyler
- Mary E. Tyler
- Augustus A. Tyler
- Samuel L. Tyler
- Joseph E. Homer
- Hannah M. Homer
- Henry Tyler
- Elizabeth P. Tyler
- Harriet W. Tyler
- Augustus P. Miller



A.H. 11.4

thence to a point in a line bisecting the angle formed by the connection of Thomas Street & Commercial Street, thirty feet distant North Westwardly from said angle of connection; thence, by a line parallel to Commercial Street, & thirty feet distant therefrom, to the South West corner side line of lands purchased by the said Tyler & others from the Portland Marine Railway; thence by the same course to Franklin Street (below Pine Street).

Now in consideration of the premises, and of the mutual agreements of the parties hereto, the said heirs of Samuel Dyer, herein before severally named, do hereby grant to them, the said Tyler, Clarence, Robinson, & Tyler, their heirs & assigns, the right of way in and over all that part of which of they, the said heirs of Dyer are tenants in common of so much of the above described twenty feet in breadth of land as lies Eastwardly of the division line aforesaid between the parties hereto - and the said Joseph W. Dyer being the owner in severally of so much of the said highway way, as was set off in severally to the said Joseph W. Dyer on division of the estate of the said Samuel Dyer deceased, and the said Samuel Dyer, party hereto, being the owner in severally of so much of said highway way, as was set off to him in severally on division of the estate aforesaid; which division is recorded in the Probate Records and plans, as decreed by the Court of Probate on the first Tuesday of August, in the year of our Lord, One thousand eight hundred & fifty one, do hereby in like manner grant to them, the said Tyler, Clarence, Robinson & Tyler their heirs and assigns, the right of way in and over all that part of the said highway way of which they are so seized in severally aforesaid.

Do have & to hold to them, the said Tyler, Clarence, Robinson, and Tyler, their heirs and assigns, as a way in common with the said heirs of Dyer, their heirs and assigns forever.

AH. 11.5

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This memorandum of Agreement
of grant of way, entered into this thirteenth day of July
in the year of our Lord, One thousand, eight hundred
& fifty three, by J. Edwin Henry Dyer, Joseph W. Dyer,
Augustus W. Dyer, Edmund J. Dyer, William W. Dyer,
Samuel Dyer, Elizabeth W. Fuller, Harriet W. Dyer,
Almira est. Turner, all of Portland, in the County of
Cumberland, State of Maine, & Ezekiel Dyer of Cape
Elizabeth, in said County, heirs of the late Samuel
Dyer, deceased, & Benjamin P. Fuller, husband of said
Elizabeth W., & Joseph S. Turner, husband of said Almira
Turner on the one part, & Samuel Dyer, Oliver B.
Dunnaway & Robert S. Robinson, all of said Portland, &
Samuel Dyer of Brunswick, in the County of Oxford,
& State aforesaid, parties on the other part,

Witnesseth - That, whereas the said parties
are owners in & of adjacent parcels of land situate
on the North side of Thomas Street & Commercial
Street in said Portland, the division line between said
adjacent lands of the said parties hereto being described
in a deed of this date, executed & delivered by the
said Dyer and others to the said heirs of Dyer
hereto named, & have agreed to establish and pro-
vide passage way, through & over said adjacent
lands, for the mutual accommodation of themselves
their heirs & assigns, in the use & occupation of said
adjacent lands, & have agreed to establish & open said
passage way, of the breadth of twenty feet lying on
the North West side of a line described as follows:

Beginning on the West side of India Street, at
the North Corner of the said Joseph W. Dyer's
house lot, where he now lives, the said corner
being about ninety two, distant from Thomas
Street, thence from said corner, by the North West
side line of said house lot, & the North West side
line of land set off to Elizabeth Dyer, widow of
said Samuel Dyer, deceased; for her share, to the
North West corner of the garden of the said Samuel
Dyer, deceased; thence to a point in the division line
aforesaid between said adjacent lands of the parties
hereto twenty feet distant from Thomas Street;

f -
multi
nt.
B. ft.
square



The following information, although presented informally, is an attempt to address some of the concerns that were raised at the last meeting. Our attorney, Daniel Cummings, along with a summary as to his findings in general will address issues dealing with Rights of easement.

Traffic Flow

There have been concerns raised over our intended use, potentially changing or disrupting the traffic flow.

It is our opinion that our proposed use would actually improve the traffic flow and also ensure that these areas are accessible and maintained as to their original purpose.

- These areas, as I have come to know them, are not being used in a manner consistent with proper traffic flow, as the planning board may perceive them to be. In reality, allowing sections of these areas to be used for parking by the abutters and their tenants has generally ignored the intended purpose. The right-of-way that is shared by Mr. Banister is continually blocked and impassible on a daily bases due to vehicles being allowed to park in the right-of-way using it as a parking area. This again, appears to be in direct conflict with the areas intended purpose and also with what is being asked of us.

We fully support what is being asked of us in regard to safety issues and concerns in this matter. We seem to be lacking, however, a basic understanding of the board's request based upon how these areas are being used in actuality.

Engineering Concerns

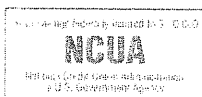
- It is our understanding that we have met all engineering requirements as prescribed in section 3 of the R-3 zoning code.
- The City Traffic Engineer, Larry Ash, has stated that he has no concerns with this proposal and has personally driven the proposed layout with no concerns.

Ability to keep the area free of obstructions

This area represents a shared access for the abutters and therefore all those concerned have it in our best interest to keep this area free and clear from any type of obstruction that would prevent the ability to use these right of ways.

Existence of Loading Zone

There is no loading zone located in the right-of-way shared by Mr. Banister and our landlord, Mr. Steven Mcduffie.



Att. 12.2



BIW FIVE COUNTY CREDIT UNION

Bill Needleman
City Planning Department
City Hall
389 Congress St.
Portland, Me. 04102

October 04, 1999

Dear Bill,

The following information presented is to address the concern, as expressed by the board, regarding our intended actions to keep the areas in question free of any obstructions.

It is the hope of BIW Five County Credit Union to join in the shared use of this area and to do so in a cooperative manner. Further more, we recognize, and respect, the fact that this is a *shared* area and as such, we hope that all who share in its use will respect this is as well.

In the event that this area is blocked, however, we do intend to act in accordance with its original purpose, but to do so in a non-aggressive and non-confrontational manner. We feel that the best way to resolve a situation involving an obstruction is to first locate and contact the owner of the vehicle causing the obstruction and make them aware of the situation and ask them to move the vehicle as soon as possible. We do realize that towing a vehicle may be an option but intent to exercise that option only as a last resort when all other alternatives have been exhausted.

We would also like to state that we fully understand, and accept, that our proposal would put us in the unenviable position of ensuring that these areas are kept open for proper vehicle flow. This scenario in turn can, and has, created some concerns from certain abutters who see this as a loss to certain types of usage that they have become accustomed to that currently restrict and or outright block traffic flow. While we have no control over how these areas were used in the past, we strongly feel that our proposal, by the very nature of its existence, would only be an asset by ensuring a constant traffic flow and thereby helping to maintain their original purpose.

Sincerely,

David W. Richard
Branch Manager
BIW Five County Credit Union

44.13.1

NORMAN, HANSON & DETROY, LLC

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RODERICK R. ROVZAR
THEODORE H. KIRCHNER
MARK G. LAVOIE
STEPHEN W. MORIARTY
JAMES D. POLIQUIN
JOHN H. KING, JR.
PAUL F. DRISCOLL
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ROBERT W. BOWER, JR.
JONATHAN W. BROGAN
CHRISTOPHER C. TAINOR
DAVID P. ZERY
DANIEL L. CUMMINGS
ALEXANDER F. MCCANN
RUSSELL B. PIERCE, JR.
ANNE M. CARNEY
DAVID L. HERZER, JR.
THOMAS S. MARJERISON
ADRIAN P. KENDALL
EMILY A. BLOCH
ANNE H. JORDAN
AARON K. BALTES

September 14, 1999

VIA FACSIMILE 874-8497

Penny Littell, Esq.
City of Portland
389 Congress Street
Portland, Maine 04101

Re: BIW Five County Credit Union

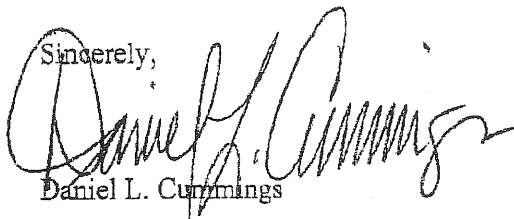
Dear Penny:

I am enclosing a copy of a memorandum we recently prepared and sent to BIW Five County Credit Union. It addresses the 16.5' right-of-way that board members had questions about. As you will see from the memorandum, although the source deed itself was not located, evidence of it and the credit union's easement rights is strong, particularly so given the century plus of existence/usage.

With this memorandum (which is also being faxed to Bill Needleman per the request of my client), the credit union believes that it has addressed all of the board's questions and concerns. In addition, my understanding is that the credit union's application is, and has been, complete. If that is not the case, please let me know immediately, as the credit union wants to ensure that the record is complete.

At this point the credit union believes everything is in order and is hopeful that the board votes to approve its application at its meeting on September 28. I thank you for your attention to this matter.

Sincerely,



Daniel L. Cummings

DLC/tec
Enclosure

cc: David Richard (via fax 774-1667)
Bill Needleman (via fax 756-8258))

MEMORANDUM

TO: David Richard, BIW Five County Credit Union

FROM: Daniel Cummings

DATE: September 2, 1999

RE: Easement rights in leased property

BACKGROUND

As you know the City of Portland's Planning Board has requested the credit union to provide additional information concerning its easement rights associated with the leased property located at 19 Commercial Street in Portland (the "Property"). The two easements at issue are: (1) the 20 foot passageway running from Franklin Street along the northerly line of the Property, sometimes referred to as Bradbury Court ("Bradbury Court Easement"); and (2) the 16.5 foot passageway running from Commercial Street along the easterly line of the Property (the "Commercial Street Easement"). We previously gave the Board the source deed for the Bradbury Court Easement, which was contained in a deed from Tyler et als. and recorded in Book 282, Page 116 ("Bradbury Court Easement Deed").

As for the Commercial Street Easement, we have searched the records in the Cumberland County Registry of Deeds back to 1760 but have not been able to locate the source deed. It appears that the source deed is one from the Portland Marine Railway to

Lemuel Dyer, who owned the Property back in the 1850's (hereinafter the "Commercial Street Easement Deed").¹ Although Dyer likely would not have received the fee to the passageway in that deed, he would have received rights to use it, i.e., an easement.

EVIDENCE

Our conclusion is based on the following evidence contained in the registry of deeds.

1. EASEMENT AND PASSAGEWAY ARE REFERENCED
IN VARIOUS DEEDS IN 1853

The Commercial Street Easement Deed is actually referenced in three deeds given by Portland Marine Railway. The first one is dated June 10, 1853 and recorded in Book 246, Page 349, which conveys to a Samuel Tyler and Daniel Tyler a ½ interest in property lying between Fore and Commercial Streets, which abutted the Property to the west. A copy of that deed is attached as **Exhibit A**. The second and third deeds are ones to Oliver B. Dorrance and Robert Robinson, each of whom received a ¼ interest in the same property and are recorded in Book 246, Pages 465 and 348 respectively (hereinafter collectively the "Tyler Deeds"). Each of the Tyler Deeds reserves from the "conveyance to the heirs and assigns of Lemeul Dyer all the rights they have in and to the use and occupancy of *a passageway leading from the said Boothby house to Commercial Street* as it is described in a deed from the grantors herein to the said Lemeul Dyer [i.e., the Commercial Street Easement Deed]."

¹ Evidently, for whatever reasons the Commercial Street Easement Deed was never recorded.

Att. 134

2. PASSAGEWAY DEPICTED ON PLAN IN 1870

Subsequent to receipt of the Tyler Deeds, Tyler et al. gave Dyer et al. a deed recorded in Book 248, Page 183 (the "Dyer Deed"). A copy of the Dyer Deed is attached hereto as **Exhibit B**. The Dyer Deed describes a line,² and it then grants to Dyer et al. all property rights received in the Tyler Deeds that lay easterly of the described line.³

3. PASSAGEWAY REFERENCED IN MORTGAGE IN 1883

On June 6, 1883 the heirs of Lemeul Dyer granted a mortgage to Maine Savings Bank for \$6000.00 (recorded in Book 470, Page 192). This mortgage conveyed the homestead (but not the fee) of the Property, describing the homestead as lying adjacent to the passageway that is the subject of the Commercial Street Easement.

4. PASSAGEWAY REFERENCED IN DEEDS IN 1897

Augustus P. Fuller conveyed the Property along with the Commercial Street Easement to James Bradley Jr. on December 30, 1897. (A court judgment awarded this property back to Augusta P. Fuller's estate after he passed away). Also on December 30, 1897, both Mary C. Dyer and Elizabeth W. Smith conveyed their rights of dower to Fuller. These two deeds also make specific reference to both the Bradbury Court Easement and the Commercial Street Easement and include the same description as the most current deed.

² The line appears in a plan prepared by T.F. Chappell C.C.E. and recorded in the Cumberland County Registry of Deeds on December 5, 1870 in Book 3, Page 15 (the "Plan"). Attached hereto as Exhibit C is a sketch from of the Plan.

³ It appears that the Dyer Deed was executed to clear up confusion regarding boundary lines, etc. between the Tyler and Dyer properties as originally contained in the deeds to each party from the Portland Marine Railway.

Att. 13.5

CONCLUSION

Reference to the reservation of easement rights contained in the Tyler Deeds, in conjunction with evidence of its existence on maps and in various deeds pre-dating the 20th Century, and reference to both the Bradbury Court Easement and the Commercial Street Easement in each deed transferring title to the Property from the late 1890's forward, is strong evidence establishing rights in the Commercial Street Easement.⁴

Therefore, if it were necessary, we believe that rights to the Commercial Street Easement, or the fee itself, could be established in court.

⁴ In fact, it appears likely that the Dyer Deed granted the fee interest in the property over which the Commercial Street Easement runs.

EXHIBIT
A.H. 13.6
A

246/ 32

KNOW ALL MEN BY THESE PRESENTS, THAT the
Portland and Maine Railway an incorporated company under the laws
of the State of Maine
in consideration of the sum of twelve thousand dollars
paid by Samuel Taylor of Portland in the County of Cumberland State
of Maine, Samuel Taylor of Brownfield in the County of York
the receipt whereof the said Railway do hereby acknowledge, do hereby give, grant, bargain, sell and
convey unto the said Samuel & Daniel their

heirs and assigns forever, one half part in common undivided of in a certain lot or parcel of land situated
said Portland between Fore Street & Commercial Street bounded beginning at a stake standing on the line of
formerly owned or occupied by Pastor Healy fifty six feet southeastly from Fore Street; thence south
on the line of land formerly owned by Timothy Weston deceased, about two hundred twenty feet until it reaches
a line drawn from a spike in the heart of the old Railway northwardly to a stake on the flats; thence
from said point of intersection northwardly on said last mentioned line about one hundred twenty six
feet to a stake on the flats; thence easterly on the line of land formerly owned by Bradbury about twenty six feet to land
owned by Samuel Taylor deceased, thence southerly by said Taylor's lands about eighty two feet to a stake standing eight
feet from said Taylor's garden wall; thence northwesterly by said Taylor's lands about thirty eight feet to a stake standing eight
feet from the northwest corner of said Taylor's garden wall; thence northwardly by the southerly side of a passage way on the line
of said Taylor's land to the line of the Madam Bradbury lands; thence easterly on said Bradbury's line two feet over said passage
to the southeast corner of said Bradbury's house; thence southerly on the line between said Taylor's lands on the northwesterly side to a passage
of the Bradbury mill on the southwesterly side to the before mentioned northeast corner of said Taylor's garden wall; thence southerly
to said mill & Commercial Street, or what was formerly Thames Street; thence westerly on Commercial Street to the easterly side
of the lot of George H. Gordon; thence northwesterly by said easterly line of said George H. Gordon lands as the wall or other fence is full in
a line on the northwesterly side of a passage way leading from Fore Street to the Small Street; by said George H. Gordon lands
the easterly line of said passage way to the Small Street; thence southerly on the line of land formerly owned by Samuel Taylor deceased, about
thirty three feet to a stake standing thirty feet from the northwesterly corner of John Mills house; thence southerly
on the southerly side of a passage way of thirty feet in width fifty six feet; thence southerly to the place began at Bradbury
all above said Bradbury mill on the last mentioned passage way, the same being used in common in all the above mentioned
parts of the house of the Bradbury mill on the last mentioned passage way, the same being used in common in all the above mentioned
lands, all through the land in the use & occupation of a passage way of a passage way leading from the said
line to Commercial Street, as it is described on a deed from the Bradbury house to the said Samuel Taylor

To have and to hold the aforesaid and bargained Premises, with all the privileges
and appurtenances thereof, to the said Samuel & Daniel, their
heirs and assigns, to their use and behoof forever.
And Samuel & Daniel, their
heirs and assigns, that they are lawfully seized in fee of the premises; that they are free of all
incumbrances that they have good right to sell and convey the same to the said
Samuel & Daniel to hold as aforesaid; and that
they and heirs shall and will warrant and defend the same to the said
Samuel & Daniel, their heirs and assigns forever, against the lawful
claims and demands of all persons.

In Witness Whereof, the said Portland Maine Railway by the Directors thereof, they
do hereby and they have persons affixed the seals of said Railway of the said Directors in bold
of said Directors
have hereunto set their hands and seals this supth day of June
the year of our Lord one thousand eight hundred and fifty three

Signed, sealed and delivered
in presence of
William Gordon
CUMBERLAND, ss. June 10 1853 Personally appeared William Gordon
Alphelt Gentry in their capacity of Directors of the Portland Maine Railway
and acknowledged the above instrument to be the free act and deed of them, the said
Portland Maine Railway before William Gordon Justice of its Court.
Received June 10 1853 at 4 o'clock in the P. M., and recorded from the
original. By William Mitchell Register.

deed conv. 12 into the other 6 in conv
to Oliver G. Double & Robert Robinson
246/348 Robinson '14
246/465 (Robinson) '14

248/183

WTS, THAT I
of Cumberland State

KNOW ALL MEN BY THESE PRESENTS, THAT We

Samuel Tyler, Oliver B. Dorrance and Robert J. Robinson
all of Portland in the County of Cumberland in the State of Maine
and Samuel Tyler of Brewerfield in the County of Oxford & State of Maine
in consideration of ~~the sum of one dollar~~
paid by Henry Dyer, Joseph W. Dyer, Augustus A. Dyer and L. Dyer
Wm. M. Dyer, Samuel Dyer, Elizabeth W. Fuller, Almira M. Turner & Harriet
W. Dyer all of said Portland and Ezekiel Dyer of Cape Elizabeth in said County
the receipt whereof is ~~to~~ hereby acknowledged do hereby give, grant, bargain, sell and
convey unto the said Henry, Joseph, Augustus, and L. Dyer, Wm. Samuel, Elizabeth, Almira
Harriet & Ezekiel their
heirs and assigns forever.

EXHIBIT
A# 13.7
B

an Island situated
of the town of Yarmouth
logies containing
c. beginning at the
nce northwesterly
thence northeasterly
g; thence southeasterly
heasterly to the
thence by the shore
thwest half of the
use and the north
way thence reserved
fs in common and
wharfs, as my
to

with all the privileges
to the said
as aforesaid; and that
d
r, against the lawful

Thank you
of the Register
request in
W. Cotton
ul M. Cotton

BE HE,
ce of the Deare.
d recorded from the
Register.

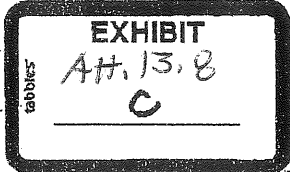
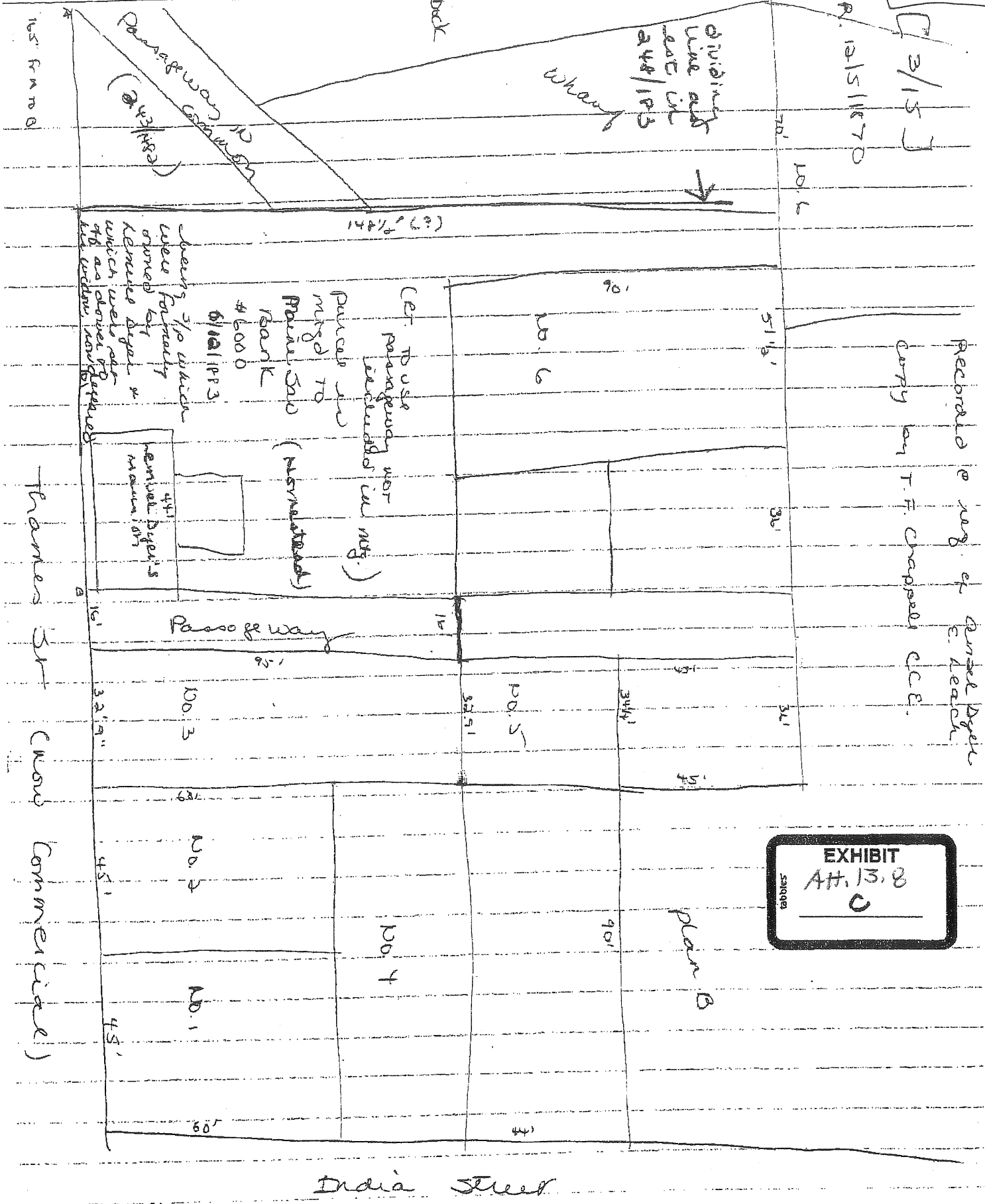
All that part of a parcel of land and
lots situated near Blay Cove in said Portland conveyed by the
Portland Marine Railway to us as tenants in common by
caval deeds dated June 6th 1853 which lies eastwardly of
line described as follows. Beginning on, or near the north
line of Thames street at a red stake set against the front
fence of the late Lemuel Dyer deceased and about
seven feet distant westwardly from the South corner of
Mansion house of the said Lemuel Dyer deceased thence
in said stake northwesterly by a line parallel with the
side line of India street about 108 feet to the most
side line of the parcel of land conveyed to us as
said by the said Portland Marine Railway

To have and to hold, the above granted and bargained premises, with all the privileges and
appurtenances ~~thereof~~ to the said Grantees their
heirs and assigns, to their use and behoof forever.
And we the said Samuel Tyler, Oliver B. Dorrance, Robert J. Robinson
do hereby covenant, warrant and defend the said Grantees their
heirs and assigns, that we are lawfully seized in fee of the premises; that they are free of all
incumbrances; that we have good right to sell and convey the same to the said Grantees their
heirs and assigns, to hold as aforesaid ~~to hold as aforesaid~~; and that
we will and our heirs shall and will warrant and defend the same to the said Grantees
their heirs and assigns forever, against the lawful
claims and demands of all persons.

In Witness whereof, we the said Grantors and Elizabeth wife of the said Samuel Tyler
with us wife of Oliver B. Dorrance and Jane S. wife of said Robert J. Robinson in testimony
of their several rights of annex to the premises
have personally set our hand and seals this ~~thirteenth~~ day of July
the year of our Lord one thousand eight hundred and fifty three
Signed, sealed and Delivered
in presence of
G. A. Stackpole, witness to S. T. O. B. + R. J. R. D. T. E. I. Daniel Tyler
+ S. G. D. Elizabeth Tyler
G. S. Northam
James S. Robinson

Samuel Tyler, Oliver B. Dorrance, Robert J. Robinson and Daniel Tyler
Personally appeared the above named
and acknowledged the above instrument to be their free act and deed. BEFORE ME,

Received Aug 16 1853 at 4 o'clock, 45 m.
original. By James T. McCall Justice of the Peace
W. M. and recorded from the
Register.





To Whom It May Concern:

At the recommendation of the board, I have met with Mr. Banister with the intent to reach a mutually agreeable understanding. Unfortunately, I regret to inform the planning board that we have not been able to do so. In my opinion, Mr. Banister is unwilling to reach an agreement over the proposed use of the shared right-of-way in question.

Mr. Banister's concerns are based on the premise that our intended use of this space would interrupt or potentially block his access to his parking area located directly behind his property. It should be noted that this parking area is presently inaccessible from the right-of-way. This is due to the existence of a guardrail and also daily parking allowed to exist within the right-of way by Mr. Banister.

Mr. Banister does contend, however, that if for any reason he loses his present access to his parking area, presently located on India St., his only access would then be by use of the right-of-way in question. With respect to Mr. Banister, his concerns are based on a possibility of losing access from India St., although at this time no threat of that exists. Even under the scenario that he was to lose, for any reason, his present access from India St. then we still see no reason for his concerns based on the following scenario. The entrance to Mr. Banister's parking lot would be from Commercial St. along the shared right-of-way, following anticipated traffic flow, and exiting by way of Bradbury Court, again, following the anticipated traffic flow.

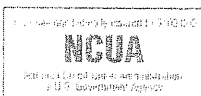
I have reviewed this scenario with Mr. Banister but unfortunately he strongly feels that his vehicles should exit back through the shared right-of way onto Commercial St.. This scenario, in our opinion, creates concern regarding proper vehicle flow and safety, especially when confined to such a narrow passageway.

I fully respect Mr. Banister's position; however, I feel his concerns are unsubstantiated.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "David W. Richard", is written over a large, faint circular stamp.

David W. Richard
Branch Manager
BIW Five County Credit Union.



765 Washington Street • P.O. Box 598 • Bath, Maine 04530 • (207) 443-3528

40A Commercial Street • Portland, Maine 04101 • (207) 773-8408

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AH 15.1

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DAVID L. HERZER, JR.
THOMAS S. MARJERISON
ADRIAN P. KENDALL
EMILY A. BLOCH
ANNE H. JORDAN
AARON K. BALTES

October 20, 1999

OCT 21 1999

Penny Littell, Esq.
City of Portland
389 Congress Street
Portland, ME 04101

Re: **BIW Five County Credit Union**

Dear Penny:

I wanted to address a couple of issues that surfaced at the Planning Board meeting on October 12, assuming you will pass this along to the Board members for their consideration.

The first issue involves Board member Erin Rodriguez's concerns that the City's ordinances put the Board in the untenable position of having to decide the scope of BIW Five County Credit Union's easement rights. Understandably, Mr. Rodriguez is uncomfortable with that role and believes that it should be beyond the scope of what the Board's role. I agree with that whole-heartedly. He also believes, however, that the Board is "stuck" with that role because the ordinance in effect mandates it. I respectfully disagree with that conclusion. Let me explain.

Section 14-524(c) of the City's ordinance requires that the Credit Union submit written statements containing, among other things, a "general summary of existing and proposed easements or other burdens now existing or to be placed upon the property," as contained in Subsection 14-524(c)(3), and "evidence of the applicant's title, right, or interest in the property, including without limitation deeds, leases, purchase options or any other documentation," as found in Subsection 14-524(c)(10).

I do not believe that that language mandates the conclusion that Mr. Rodriguez has reached, *i.e.*, that the Board must also make a legal ruling that the proposed use falls within the scope of the "applicant's title, right or interest in the property." I agree with your assessment that once such evidence is produced, which the Credit Union has

Penny Littell, Esq.
City of Portland
October 20, 1999
Page 2

produced, the fight over the scope of such rights falls on private parties. The Credit Union has always realized that any other party that can establish rights in the passageways would have the right to assert, in court if necessary, that the Credit Union's use is beyond the scope of its easement rights, even if the City approves the Credit Union's site plan. As you put it, the Credit Union would have to proceed "at its own risk."

I can appreciate Mr. Rodriguez's discomfort with the notion that the Board has to make a legal ruling on the scope of the Credit Union's easement rights. Again, the Credit Union believes that it has submitted sufficient evidence establishing that it has easement rights in the subject property. The Credit Union also believes that it has a strong legal argument that the scope of those easement rights are such to allow it to utilize the passageway as a drive-through teller unit. We believe that the Credit Union's position is supported by, among other cases, the case of *Guild v. Hinman*, 695 A.2d 1190 (Me. 1997). In that case, the Law Court stated that the "use of an easement 'may vary from time-to-time with what is necessary to constitute full enjoyment of the premises[.]' ... and an express easement may accommodate modern developments." *Id.* at 1192-93. As you know, the Law Court has stated that the "construction of language in an easement deed is a question of law that we independently review." *Fine Line, Inc. v. Blake*, 677 A.2d 1061, 1063 (Me. 1996). Thus, given the fact that the property is located in a commercial zone, and given modern uses, the Credit Union believes that it has a strong argument that the scope of its easement rights are sufficient to accommodate use for a drive-through teller window.

The second issue that I want to address is the position taken by Board member Cyrus Hagge. In essence, Mr. Hagge's position is that he refuses to approve any site plan that appears likely to engender litigation by other parties. Such a standard cannot be found anywhere in the City's ordinances and is wholly inappropriate. First, there is no evidence that litigation will necessarily flow from the Board's approval of the Credit Union's application. Mr. Hagge assumes that abutting property owners would institute litigation, most likely thinking that The Finest Kind Stove Shop would institute litigation based on its stated objection to the Credit Union's application. That may not necessarily be the case. In effect, Mr. Hagge is stating that, because there is a *possibility* that The Finest Kind will institute suit, he will not approve the Credit Union's application.¹

¹ Alternatively, he may be implicitly stating that he believes that the Credit Union's request goes beyond the scope of its rights and that he is going to take it upon himself to somehow protect what he sees as The Finest Kind's rights.

AH, 15.3

Penny Littell, Esq.
City of Portland
October 20, 1999
Page 3

It is important to remember, however, that Section 14-526(a)(1)-(26) of the City's ordinances contains the standards for site plan approval. The Credit Union strongly believes that it has met each of those standards for approval, and thus, it is entitled to have its project approved. Therefore, I respectfully direct Mr. Hagge to the standards contained in Section 14-526(a)(1)-(26) to govern his decision-making as to the approval of the Credit Union's application.

Sincerely,



Daniel L. Cummings

DLC:kls
cc: Mr. David Richard

We do not believe that any of those conclusions are true and, in any event, making those essentially legal rulings are beyond the Board's authority.



Att. 16

39 Commercial St., P.O. Box 7006 Portland, ME 04112
Reservations: 1-800-223-5555 Fax: 1-800-235-6321
www.autoeurope.com

To: City of Portland
From: Robert C. Hood
Auto Europe, LLC. VP Finance

11/03/99

RE: Drive-Through Proposal

We have been made aware that the present Drive-Through proposal as put forth by BIW Five County Credit Union would create a one-way traffic area limited to the section of Bradbury Court located directly behind the building at 19 Commercial Street. We further understand that this would, in turn, limit our access to that particular section of Bradbury Court. We do not see this proposal as a concern. Our vehicles exit by the way of either Franklin Street or through our own parking areas onto Commercial Street.

Best Regards,

A handwritten signature in black ink, appearing to read 'Robert C. Hood', written over a white background.

Robert C. Hood

Cc: David W. Richard
BIW Five County Credit Union

Att. 17

From: Larry Ash
To: William Needleman
Date: Wed, Oct 27, 1999 2:50 PM
Subject: BIW Driveup Window

Bill:

After reviewing the proposed driveup window, parking and access to/from Commercial St and Franklin Arterial I have the following recommendation.

There should be one-way traffic in advance of the driveup window beginning at the edge of the BIW building and the one-way should continue only so far as the end of the BIW building. I do not believe safety is compromised with this plan and parking may remain as it presently exists. How BIW wishes to make it known that this is one-way is their responsibility.

The lane off Commercial Street(16.5 ft wide) and east of the existing parking lot should be a two-way lane to facilitate access to the parking lot in the rear of the building should that lot become available in the future as well as facilitate access to the adjacent parking lot and access/egress to Commercial Street.

Should you have any questions please call.

WILBUR
SMITH
ASSOCIATES

Att. 18

ENGINEERS • ECONOMISTS • PLANNERS

107 INDIA STREET • PORTLAND, ME • 04101 • (207) 871-1785 • FAX (207) 871-5825

November 3, 1999

Mr. David Richard
BIW Five County Credit Union
19 Commercial Street
Portland, Maine 04101

Subject: Proposed Drive-Up Banking Service @ 19 Commercial Street

Dear Mr. Richard:

In response to your request I have reviewed traffic issues relative to the proposed Drive-Up Banking Window at the existing BIW Five County Credit Union at 19 Commercial Street in Portland. My review was based upon the site plan prepared by Royal Design-Builder dated March 15, 1999 and a brief field review of the project location.

In my professional opinion the proposed Bank Drive-Up facility can be implemented without negatively impacting traffic safety and circulation. It is recommended that traffic circulation be limited to one-way flow from the parking aisle east of the Credit Union to the westerly edge of the Credit Union Building. Designation of this roadway section as a one-way street will need to be provided with signs and pavement markings that conform to the Manual on Uniform Traffic Control Devices, Federal Highway Administration.

I hope the above is satisfactory. Please call me if you have any questions.

Sincerely,



WILBUR SMITH ASSOCIATES

Thomas A. Errico, P.E.

Senior Transportation Engineer

PLANNING BOARD REPORT #59-99

**BIW FIVE COUNTY CREDIT UNION, DRIVE-THRU TELLER
19 COMMERCIAL STREET
CONDITIONAL USE AND SITE PLAN REVIEW
DAVID RICHARD, APPLICANT**

Submitted to:

Portland Planning Board
Portland, Maine

November 9, 1999

FORWARD

This item was tabled from the October 12, 1999 Planning Board Meeting for clarification of traffic circulation issues within the private passage ways from Commercial Street and Franklin Street Arterial. In summary, the applicant is now proposing to retain two way traffic circulation along the majority of both private passage ways, except for a section of one-way circulation directly behind the credit union building. These issues are discussed in Section IV.1 of this report.

Additionally, the applicant's lawyer has produced an October 20 letter addressing some of the Board's concerns regarding the need for further clarification of the applicant's right, title and interest in the private passage ways from Franklin Street and Commercial Street. See Attachment 15. With the exception of the circulation issues and the October 21 legal letter, the submittals and issues have remained consistent from previous meetings.

I. INTRODUCTION

The BIW Five County Credit Union has requested conditional use and site plan approval for a Drive Thru teller unit on the rear of an existing building at 19 Commercial Street. The property is zoned B-3 and this development will be reviewed for conditional use under City Code 14-218(3). See Attachment 1. This project was approved with conditions for compliance under the Historic Preservation ordinance and the applicant has satisfied the conditions of their Historic Preservation approval.

The site currently occupied by an existing 1904 neoclassical building, known as "The Workingmen's Club." The site is currently totally paved and is occupied by the Applicant.

The proposed drive-up teller is a pneumatic tube structure located on the rear of the building, covered by a fixed canopy, and protected by pipe bollards along the width of the structure. Signage is proposed along Commercial Street and at the rear of the property. See revised Site Plan, Attachment 2.

This hearing was advertised in the Portland Press Herald. No notices were sent to neighbors in the Commercial Street area as this item had been scheduled to a date certain at the previous meeting.

Abutter Concerns

The easterly abutter, Mr. Arthur Banister owner of the Finest Kind Stoves, has contacted staff to express his concerns that the proposed use would adversely effect his business and that the previously proposed one-way traffic from Commercial Street along the right-of-way would effectively have landlocked his parcel. In the present condition, it is impossible for traffic to access the Commercial Street right of way from Mr. Bannister's lot due to a guard rail blocking the entrance from the property. The Finest Kind property currently accesses India Street, but this is a temporary arrangement. The revised circulation plan calls for retention of two way traffic along the 16.5 foot right-of way, but Mr. Banister has continued to express his opposition to the proposed use, citing safety concerns.

Corporation council scrutinized the language of the deed and found that the language described the location and uses for a right of way running from India Street to Franklin Street. This is the passage way commonly known as Bradbury Court. This deed gave no description for a right of way running from Commercial Street to Bradbury Court, the 16.5 foot right of way. As Mr Cumming's June 30 letter did not address this issue, he later produced a September 14 memo reflecting the results of a deed search on the 16.5 foot Commercial Street right-of-way. See Attachment 13.

For the previous meeting, the applicant produced a title insurance document which states that their "policy affirmatively insures the right to use the two passageways adjoining the insured premises along the northeasterly and northwesterly bounds and running to Commercial and Franklin Streets respectively; however, this policy does not insure the underlying fee of said passageways." See Attachment 6.

III. B. STAFF REVIEW

The proposal has been reviewed for compliance with the B-3 Zone, Site Plan Ordinance, Historic Preservation Ordinance, and Conditional Use Standards of the Land Use Code. The plan has been reviewed by the Inspections, Traffic, Fire, Public Works, and Planning Department.

IV. SITE PLAN REVIEW

1. Traffic/Circulation/Parking

The Applicant has produced an updated site plan with a revised traffic circulation pattern. Originally, one-way traffic was proposed from Commercial Street to Franklin Arterial. In the revised plan, one way traffic is restricted to the section of Bradbury Court directly behind the credit union building. Additional pavement arrows and signage are proposed to reflect the intended circulation pattern. The result of this traffic pattern would be to retain the present circulation, but would restrict the ability of vehicles to travel from the Franklin Arterial end of Bradbury Court to the Commercial Street right-of way. Parked cars would continue to be a concern, but would be most critical in the Commercial Street right-of way due to the constraints of the 16.5 foot width.

As before, drive-up traffic is proposed to travel along the private right of way which runs from Commercial Street along the easterly boundary at a width of 16.5 ft., turning westerly along the rear property line at a width of 20 ft., proceeding to a right turn only exit at Franklin Street Arterial. This right of way, Bradbury Court, is utilized for access for parking by the tenants of the subject parcel as well as tenants of adjoining Commercial Street and Franklin Street parcels. Currently, two way traffic exists on the right of way sections adjacent to the neighboring properties and informal parking exists along its length.

Larry Ash, City Traffic Engineer, has qualitatively assessed the site, and does not have any concerns with the impact of traffic on Commercial and Franklin Streets, nor does he believe that the proposed use would present a traffic hazard on the private right-of-ways. Speeds are at parking lot levels and sighting is sufficient for adequate driver anticipation. Mr. Ash produced a memo stating that for the proper function of the proposed use, one-way traffic would be needed for the section of Bradbury Court described above. See Larry Ash memo, Attachment 17. The applicant has revised the traffic pattern in accordance with the opinions of their Traffic Engineer, Thomas Erico. See Attachment 18.

The proposal provides more than adequate stacking for the anticipated drive-up traffic.

2. Bulk, Location, Height of Building and Uses Thereof

With the exception of a canopy, the teller tube and signage, the building is to be unchanged from the present.

3. Utilities

Utility changes are not proposed.

4. Landscaping

As stated above, the site is entirely paved. No landscape improvements are proposed.

5. Drainage

Currently, drainage collects into catch basins near the rear of the property in the private right of way, and sheet flows on to Commercial Street. No changes are proposed in the drainage system and no problems in the present condition are apparent.

6. Lighting

No lighting changes have been submitted. Pole lights currently exist for the parking area.

7. Fire Safety

The site plan has been reviewed and approved by the Fire Department.

V. CONDITIONAL USE REVIEW

1. The standards which apply for review of a drive-up teller in the B-3 zone under 14-218(3) state that the features should not extend closer than 25 ft to the street, shall provide adequate stacking, and be in compliance with the applicable standards of the Urban Design Guidelines. The set-backs and vehicle stacking are shown to be compliant and the applicable standards from the Urban Design Guidelines are:

Section 9. Signage, Awnings, Canopies

General; Attitude of reversibility:

Reversibility was an issue raised by the Historic Preservation Committee, and the fastening of sign features was referred to planning staff for review as the applicant proceeds with contracting the work. The applicant has provided preliminary details of the methods of sign and awning fastening, as well as restoration concepts for the removal of existing sidewall signage. See signage elevations and Sign Solutions letter, Attachment 4.

During the Historic Preservation Hearing, the applicant indicated that the teller tube will perforate the brick wall with a 6 in. hole saw.

5.a. Canopies: "Should not obscure architecturally significant elements of the building."

The canopy at the rear of the building has been revised so that architecturally significant features are not obscured.

5.f. On-Site signage: On-site signage should be part of a whole coordinated system.

The proposed signage scheme presents a unified system of materials and colors which addresses this standard. See Attachment 4. The applicant has indicated that additional signage may be added to the canopy. Details for the newly added traffic control signage have not been submitted, but are intended to conform to Federal Highway Administration standards. See Traffic Letter, Attachment 18.

2. The following standards apply for all conditional uses:

Section 14-474(2)

i. There are unique or distinctive characteristics or effects associated with the proposed conditional use.

There are no known unique or distinctive characteristics associated with the proposed use.

ii. There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area; and

It does not appear that there will be any adverse impacts with the proposed project.

iii. Such impact differs substantially from the impact which would normally occur from such a use in that zone.

The impacts of this site are similar as those normally expected from such a use in this zone.

VI. MOTIONS FOR THE BOARD TO CONSIDER

On the basis of plans and materials submitted by the applicant and on the basis of information provided in Planning Board Report #19-99, amended, relevant to standards for site plan and conditional use review, the Board finds:

i. That the plan is/is not in conformance with the Conditional Use Standards of the Land Use Code.

ii. That the plan is/is not in conformance with the Site Plan Standards of the Land Use Code.

Potential Conditions of Approval:

1. That in approving this application, the Planning Board is not deciding or in any way opining on the private rights of the applicant or the abutting land owners to the private passageways shown on the site plan.

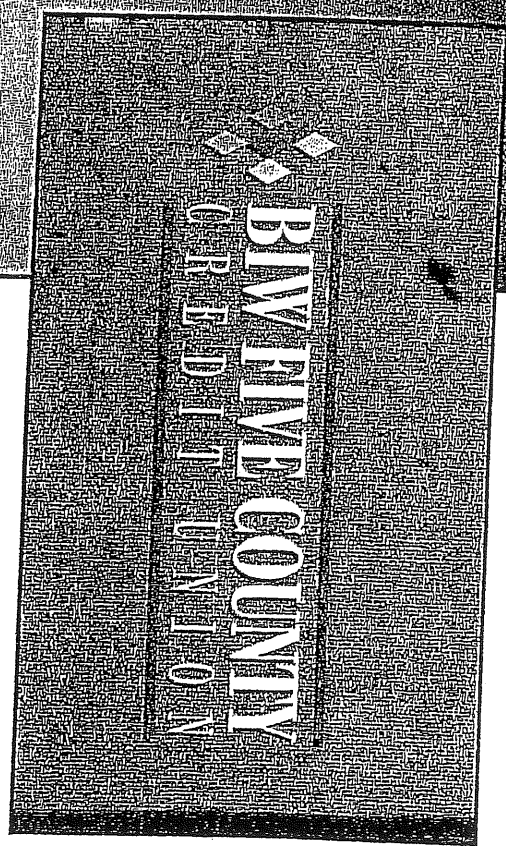
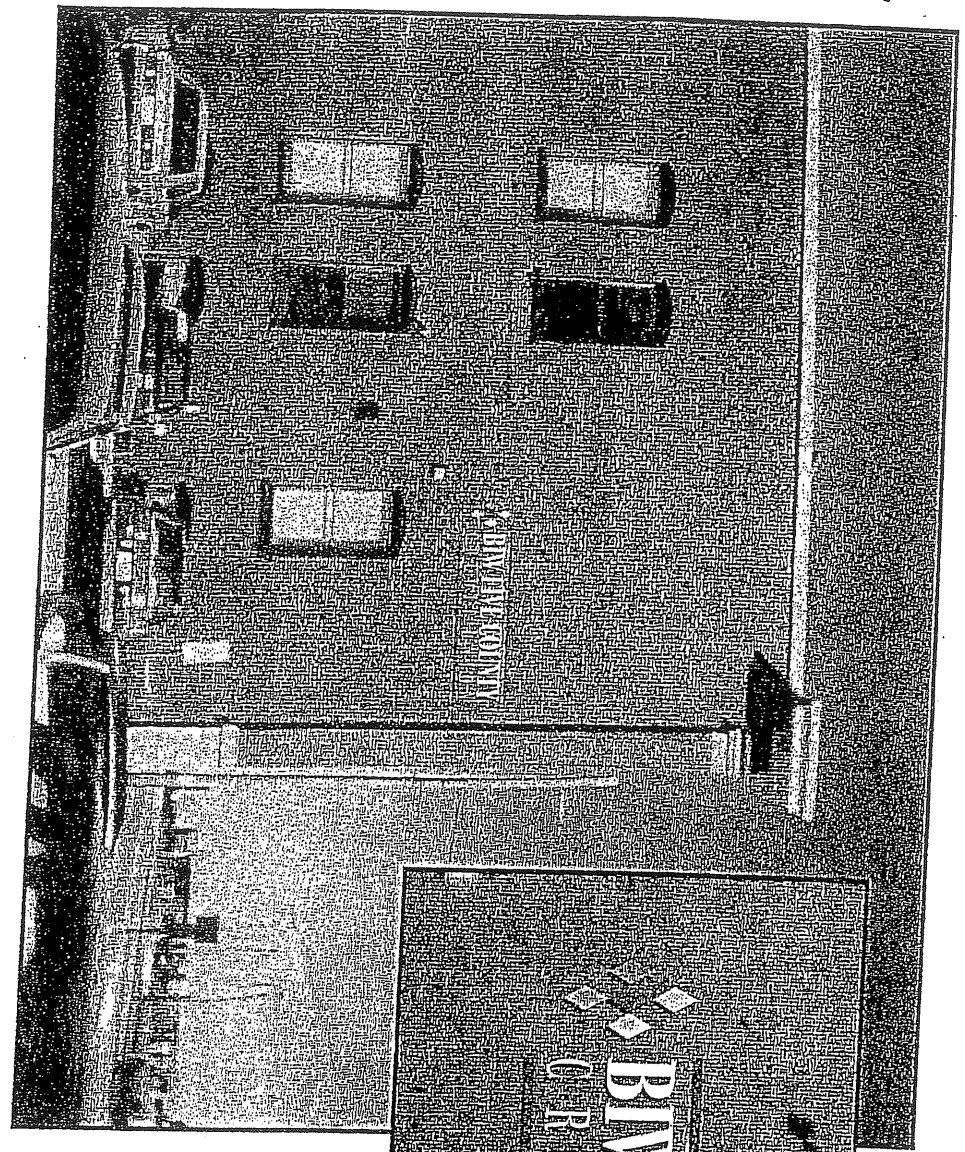
Attachments

1. City Code for Conditional Use in the R-3 Zone, 14-218(3)
2. Revised Site Plan
3. Elevations
4. Sign Elevations and Sign Solutions letter.
5. May 19, 1999 Memo to Historic Preservation Committee
6. Subject Deed and Title Information
7. Bradbury Court Memos
8. Bradbury Court Maps
9. Abutter's Title Information
10. Abutter's Letter
11. Letter from Applicant's Attorney (Bradbury Court) dated June 30th
12. Applicant's letter describing right of way use and maintenance of use
13. Letter from Applicant's Attorney (Commercial Street Right of Way) dated September 14th
14. Applicant's letter describing Negotiations with Arthur Banister
15. Letter from Applicant's Attorney dated October 20th
16. Auto Europe Letter
17. Memo from Larry Ash, Traffic Engineer
18. Traffic Letter

- ii. Evidence of market, advertising, or real estate brokerage efforts to attract permitted uses.
 - b. The approval of any conditional use under this section shall be for the specific tenant proposed for the conditional use approval and shall not run with the space to subsequent tenants. A conditional use approval shall expire at the end of each tenant's use, and a new approval shall be required for new tenants. If the term of a lease is five (5) years or less, the tenant may sublet the area either for the approved conditional use or for any use permitted by section 14-217(b)(1)a.
 - c. The planning board may impose reasonable conditions concerning the design, appearance, use and extent of use of the space along the street frontage to ensure maximum pedestrian compatibility and interest.
 - d. Notwithstanding the above, the planning board may authorize a reduction in the percentage of required ground floor pedestrian-oriented uses where the physical limitations of an existing building so require. Any such reduction shall be the least necessary to provide relief and shall include mitigating design factors.
- (2) Utility substations, such as water and sewage pumping stations and standpipes, electric power substations, transformer stations, and telephone electronic equipment enclosures and other similar structures, provided that such uses are suitably located, screened and landscaped so as to ensure compatibility with the surrounding neighborhood.
- (3) Drive-up banking services, provided that drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street line. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicular or pedestrian circulation on adjoining streets. Such uses shall also be in compliance with the applicable standards contained in the Downtown Urban Design Guidelines, a copy of which is on file in the department of planning and urban development. No other type of drive-up use shall be permitted.
- (4) Light industrial uses, subject to the following requirements:
- a. The use shall not include any use prohibited in the I-1 zone;
 - b. Glare, radiation, fumes or smoke shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries;
 - c. The floor area devoted to industrial use shall not exceed ten thousand (10,000) square feet; for a building in existence on March 11, 1991, the floor area shall not exceed ten thousand (10,000) square feet or fifty (50) percent of the total floor area, whichever is greater;
 - d. The use shall be operated within a completely enclosed structure;
 - e. No materials or wastes shall be deposited on any lot in such form or manner that they may be transferred beyond the lot boundaries by natural causes or forces. All

~~Att. # 3.1~~

Att. # 4.1



1 Set of Individual Aluminum Letters

Faces: White, Teal

Materials: Aluminum Plate

Custom Paint Colors



REVISION:

APPROVED:

DATE

3/2/99

SCALE

DWG NO

1

DESIGNER

Stacy Emma

CLIENT

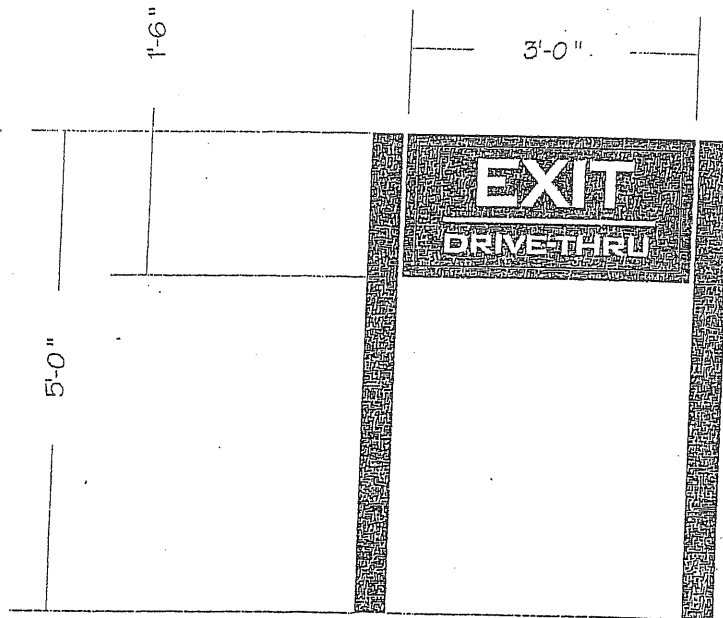
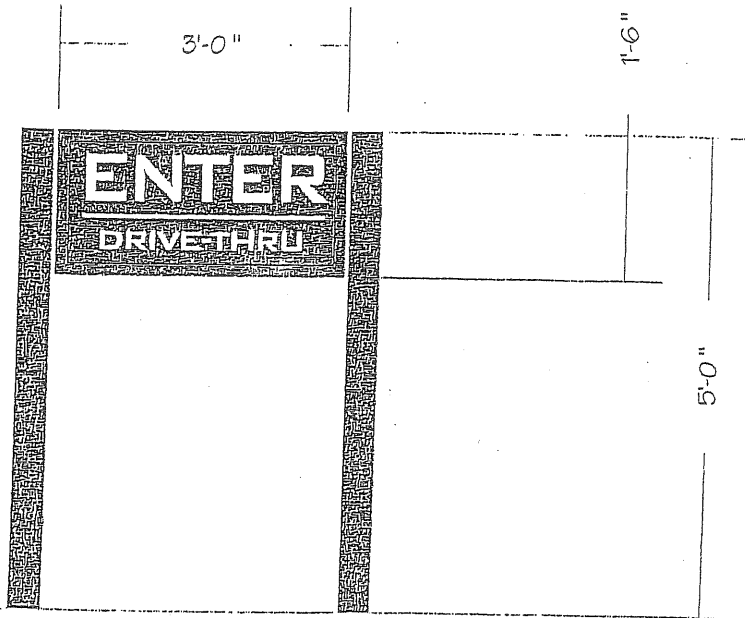
Bank Five County FCU

LOCATION

Jopsham, ME

© Copyright 1999

Att. # 4.2



2 - D/F Internally Illuminated Directional Signs

Faces: Teal
Copy: White

Poles: Teal
Cabinet: Teal

Materials: Extruded Aluminum Cabinet
Lexan Faces w/ Vinyl Copy & Graphics
4" Steel Poles



REVISION:

APPROVED:

DATE: 5/11/99

DWG NO.: 2

CLIENT: BIW Five County FCU

LOCATION: Topsham, ME

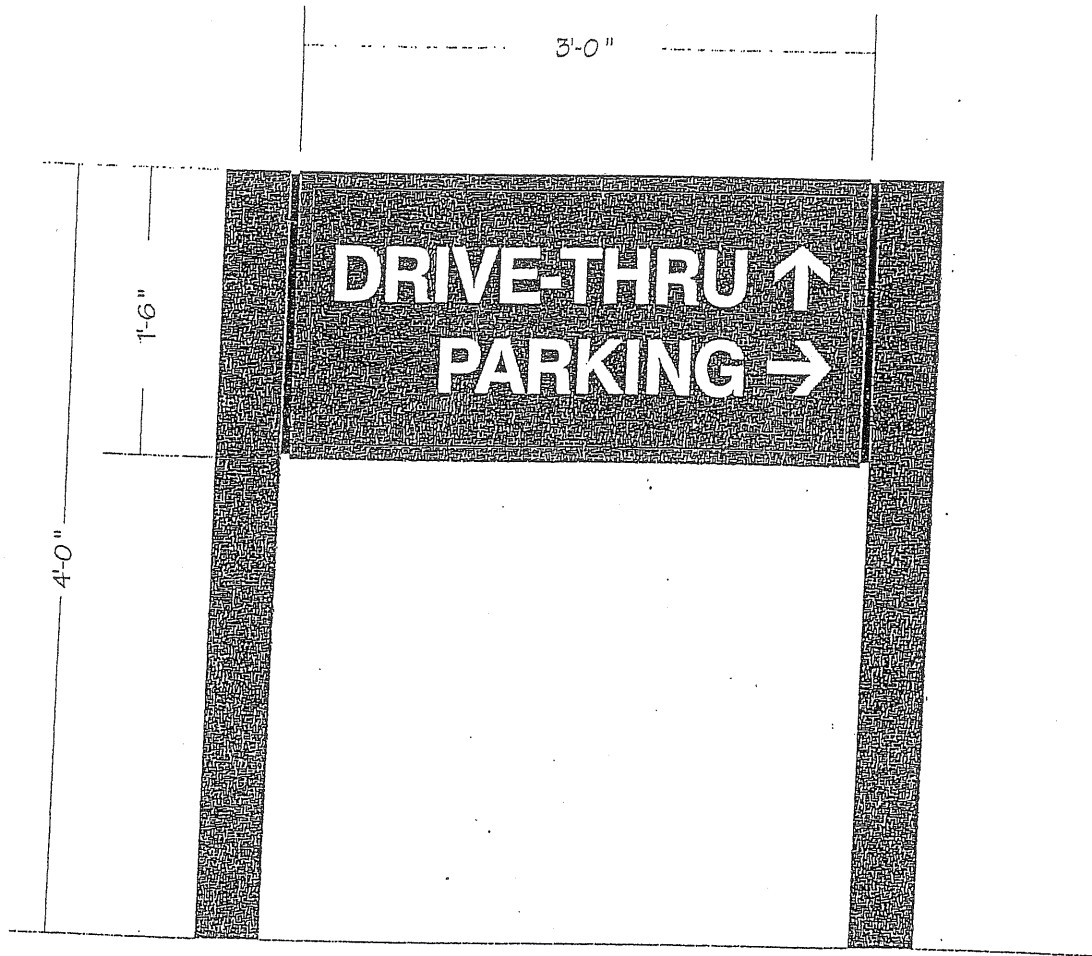
SCALE: 1/2" = 1'-0"

DESIGNER: Steve Emma

© Copyright 1999

~~Att. #4.3~~

Att. #4.3



1 - S/F Freestanding Post & Panel Sign

Faces: Teal
Copy: White

Poles: Teal
Cabinet: Teal

Materials: Extruded Aluminum Cabinet
Lexan Faces w/ Vinyl Copy & Graphics
4" Steel Poles



REVISION:

APPROVED:

DATE: 5/11/99

DWG NO: 3

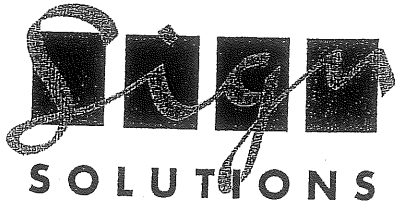
CLIENT: BIW Five County FCU

LOCATION: Topsham, ME

SCALE: 1"=1'-0"

DESIGNER: Steve Emma

Att. 4.9



A DIVISION OF PRINTMAIL OF MAINE

May 24, 1999

David Richard
B I W Five County Credit Union
40A Commercial Street
Portland, Maine 04101-4702

Dear David,

Thanks for being patient in regards to the issues on your proposed signage with the Historical Preservation Society. We certainly understand their concerns and have worked very hard to come up with a plan that would preserve the structural integrity of the building as well as the historical significance.

We have a product called SGS that mixes with mortar that can patch any existing holes in the face of the building. When existing signage is removed, this product can be color matched and any existing holes or breaks in the brick work could be patched. We buy the product from LaChance Brick in Gorham and they would be happy to loan us a color swatch book for correct color matching. I've enclosed a technical specifications data sheet on this product.

We have tried to locate an adhesive product to adhere the aluminum letters to the brick face but have not been successful. We did find a product that could work but the chemicals in the adhesive could potentially stain the brick. We feel that the best way to attach the aluminum letters safely while preserving the original brick would be to create

a drilling pattern so the mounting studs in the letters would line up with the mortar lines.

This method would keep the original brick from being drilled allowing for mortar touch up should the letters be removed. Mortar touch up or "pointing" is a common practice when dealing with preserving brick work.

We would be happy to hear any suggestions the Historical Preservation Society may have as they probably deal with these issues more than we do. We feel that our attention to detail and the respect we have for the property of our customers make us the sign company of choice.

We look forward to working with you on all your sign projects.

Sincerely

Ron Nevers

75 BISHOP ST.

PORTLAND, ME 04103

(207) 878-8000

1-800-347-6245

FAX (207) 878-7790

AH, 4.5



CONCENTRATED MORTAR COLORS

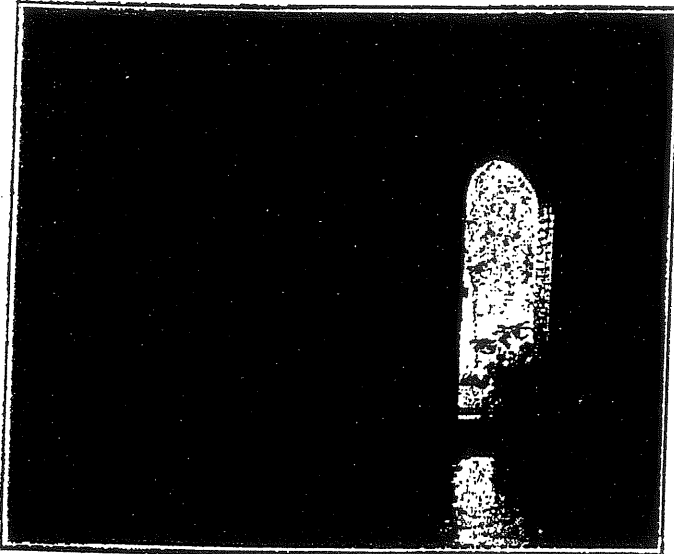


Concentrated Mortar Color "A" Series

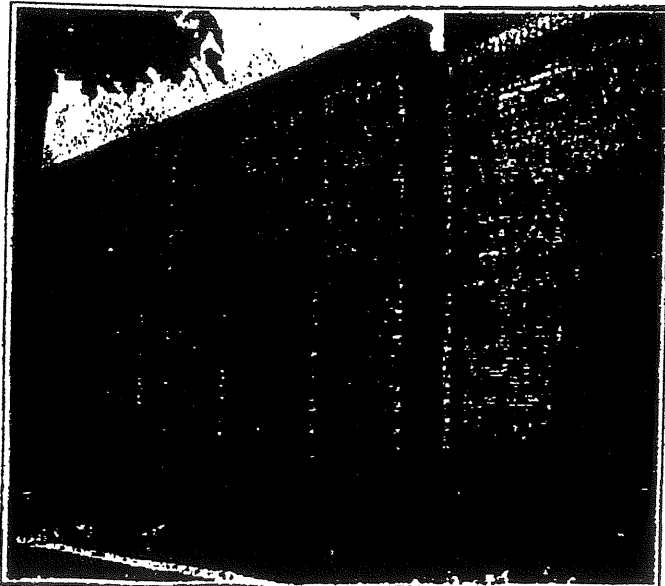
"A" Series colors are full-tone masonry colors of optimum intensity which are formulated to produce pleasing shades that complement or accentuate the wide range of colors found in brick, stone and colored concrete block.

"A" Series colors are shipped in proportioned packages which have been accurately pre-weighed and measured. Each individual package is designated as one "A" Series Color Unit.

The "A" Series mortar colors shown are achieved by the addition of one "A" Series Color Unit to one bag of prepared masonry cement or weight equivalent of portland and lime mortars. Shade variations can occur due to printing limitations, differences in local cements, sand, mix design and workmanship. (See Table No. 1 on back cover.)



Wilson Jones Architects, Inc., St. Louis, MO



"A" Series Color

10A	[Color swatch]
20A	[Color swatch]
22A	[Color swatch]
25A	[Color swatch]
30A	[Color swatch]
32A	[Color swatch]
33A	[Color swatch]
35A	[Color swatch]
37A	[Color swatch]
40A	[Color swatch]
41A	[Color swatch]
44A	[Color swatch]
45A	[Color swatch]
50A	[Color swatch]
70A	[Color swatch]
80A	[Color swatch]
85A	[Color swatch]
95A	[Color swatch]
92A	[Color swatch]
97A	[Color swatch]

The above "A" series colors represent shades obtained by using SGS Concentrated Mortar Colors with light gray masonry cement and light tan builder's sand.

Att. 416

Technical Specification Data

BASIC USE: SGS Mortar Colors are pure mineral pigments designed to be used with all cementitious material whether it may be a Type N, S, M or O strength masonry cement or portland and lime mixtures. The pre-measured unit concept of SGS colors provides uniform color control with the flexibility of utilizing local masonry and/or portland and lime cements to achieve the proper strength and mix design for brick, block, stucco or stone unit construction. Since 18-20% of the visual surface of the average brick wall is mortar, the proper selection and use of an appropriate mortar color will dramatically enhance the visual impact and beauty of the masonry wall.

COMPOSITION AND MATERIALS: SGS colors are products of pure natural and/or synthetic iron oxides which are finely milled (95-99% minus 325 mesh) and blended under strict quality control procedures producing uniform and consistently strong tinting strength colors. Each SGS color exceeds the requirements set forth by ASTM C-979 "Pigments for integrally Colored Concrete." SGS colors are each inert, stable to atmospheric conditions, sunfast, weather resistant, alkali resistant, water insoluble, and free of fillers and extenders. All SGS colors comply with ASTM 979 for integrally colored mortar.

SPECIFICATION PROCEDURES: As detailed in Table No. 1, select the proper ASTM C-270 masonry mix design of Type N, S, M or O compressive strength for the masonry unit construction. Then, depending upon the masonry mix design, select the appropriate SGS color and specify the number of "A" Series Color Units to be added to the mortar mix.

PACKAGING: All SGS Concentrated Mortar Colors are packaged in sealed unit

bags, ranging from one pound to seven pounds. An "A" Series color case contains six unit bags. An "A" Series case of color can lay approximately 900 standard size brick using a 3/8" mortar joint.

COLOR RANGE: In addition to the SGS standard "A" Series colors shown, SGS Combination Series colors have been developed to expand the SGS color spectrum. This offers precise color tones that are needed to complement or accentuate the broad range of color shades found in brick, stone or colored block. The SGS Color Laboratory is also available to assist in custom color matching or developing special color tones to fit your color requirements.

MIXING PROCEDURES: Mortar shall be mixed in a power mixer for not less than five minutes or until a uniform color is obtained. Any change in proportioning the amount of color to cement and/or the type of cement or sand used can result in a variation of color tone in the finished work. Request SGS Spec-Data 4p Mortar and SMM-1-82 Data Sheets for complete mixing instructions.

AVAILABILITY: SGS colors are readily available from stocks carried by an extensive network of building material dealers throughout the United States and Canada. Our dealers are also backed by reliable 24 hour factory services in processing and shipment of orders, which in the combination of using locally available cements can further minimize shortages and costs. SGS has local sales representatives covering each state within the continental United States. For names of local dealers, distributors and sales representatives, contact Solomon Grind-Chem Service, Inc. direct at (217) 522-3122 or U.S. WATS 1-800-624-0261.

COST: Retail costs for SGS colors are established by stocking or distributing building material dealers only. Furthermore, the cost for colored masonry is determined by the color and color shade desired.

LIMIT OF WARRANTY & LIABILITY: Solomon Grind-Chem Service, Inc. warrants that their product conforms to the description and standards as stated on the product packaging (specific product literature). If properly mixed and applied, SGS warrants the concentrated mortar color to be uniform, limeproof and sunfast.

The exclusive remedy of the user or buyer and the limit of the liability of this company shall be the purchase price paid by the user or buyer for the quantity of the SGS product involved.

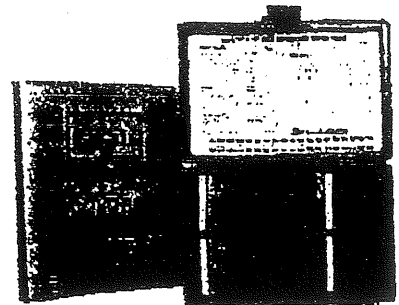
MASONRY CLEANING: In the event that cleaning is required to remove stains and efflorescence, the films may be removed by using an acid based detergent. Avoid using hydrochloric (muriatic) acid. Use a commercially prepared "proprietary cleaner" following the directions for the weakest solution recommended by the manufacturer. Request SGS Spec-Data 4p Mortar Data Sheet for complete cleaning instructions.

SAMPLES: Color pigment samples are available for constructing job mock-up panels. Contact your local SGS building materials dealer, or Solomon Grind-Chem Service, Inc. direct at (217) 522-3112 or U.S. WATS 1-800-624-0261.

SGS MORTAR COLOR KIT AND CATALOG: Samples of SGS standard mortar colors are available in convenient mortar color channels. Each channel is an actual representation of the SGS color units mixed with either prepared masonry cement or an equivalent portland and lime mix plus a tan builders sand and water. The shown SGS Mortar and Cement Color Binder contains complete specification and technical information covering the complete line of SGS Mortar and Cement Colors. Available on request.

TABLE NO. 1

ASTM SPECIFICATION FOR MORTAR: Unit Masonry C270 includes the following mortars:	Appropriate number of S-G-S Color units to be added with the mortar mix. "A" Series Color
PREPARED MASONRY CEMENTS (ASTM C91) Types N, S, or M One 70-80 lb. bag masonry cement (ASTM C91, Type 1), plus 3 cu. ft. sand (ASTM C144)	One "A" Unit
PORTLAND CEMENT—LIME MORTARS Type N (750 psi) One 94 lb. bag portland cement (ASTM C150). One 50 lb. bag hydrated lime (ASTM C207), plus six cubic ft. sand (ASTM C144)	Two "A" Units
TYPE S (1800 psi) Two 94 lb. bags portland cement (ASTM C150). One 50 lb. bag hydrated lime (ASTM C207), plus nine cubic ft. sand (ASTM C144) OR One 94 lb. bag portland cement (ASTM C150). Two 70 lb. bags masonry cement type 1 (ASTM C91), plus nine cubic ft. sand (ASTM C144)	Three "A" Units
TYPE M (2500 psi) Two 94 lb. bags portland cement (ASTM C150). 25 lbs. hydrated lime (ASTM C207), plus six cubic ft. sand (ASTM C144) OR One 94 lb. bag portland cement (ASTM C150). One 70 lb. bag type 1 masonry cement (ASTM C-91), plus six cubic ft. sand (ASTM C144)	Three "A" Units
TYPE O (350 psi) One 94 lb. bag portland cement (ASTM C150). Two 50 lb. bags hydrated lime (ASTM C207), plus nine cubic ft. sand (ASTM C144)	Two "A" Units
TYPE O (350 psi) One 94 lb. bag portland cement (ASTM C150). Two 50 lb. bags hydrated lime (ASTM C207), plus nine cubic ft. sand (ASTM C144)	Three "A" Units



Shipping Address:

Solomon Grind-Chem Service, Inc.
Old Waterworks Plant
Springfield, IL 62702

Mailing Address:

Solomon Grind-Chem Service, Inc.
P.O. Box 8288
Springfield, IL 62791
Phone (217) 522-3112 FAX (217) 522-3148
U.S. WATS 1-800-624-0261

HISTORIC PRESERVATION COMMITTEE
CITY OF PORTLAND, MAINE

PUBLIC HEARING
19 COMMERCIAL STREET

TO: Chair Wroth and Members of the Historic Preservation Committee
FROM: William B. Needelman, Planner
DATE: May 13, 1999
RE: May 19, 1999 - New Business

Application For: Certificate of Appropriateness - Exterior Alteration, Drive-Thru Signage

Address: 19 Commercial Street

Applicant: B. I. W. Five County Credit Union
represented by David Richard

Background:

The subject building is the Workingmen's Club building, a 1904 commercial building constructed of granite and brick in a classical motif.

The applicant proposes to install a drive-thru teller tube on the rear of the building. No additional paving will be required, but signage at Commercial Street, on the sides of the building, and an awning on the rear of the building are proposed. The building is highly visible, and all alterations are visible from public streets.

Signage:

Three free-standing signs are proposed, as well an application of the company logo to the sides of the building. The free-standing signs are aluminum panels on paired steel poles with lexan faces and vinyl graphics. The drive-thru/parking sign on Commercial Street will be 4 ft. tall with a 1 ft. 6 in. by 3 ft. display panel. The entrance sign (on Commercial Street) and the exit sign (at the rear of the property) will be 5 ft. tall, also with 1 ft. 6 in. by 3 ft. display panels. The color scheme is teal and white.

The signage applied to the building is proposed to be composed of individual aluminum plate letters and logo pieces, also in teal and white.

Awning:

A gable shaped canvas awning projecting approximately 4 ft. from the rear of the building is proposed to shelter the teller tube assembly. The bottom of the awning starts at the second floor window sill elevation and a window will be partially obscured as now positioned. "BIW" is applied or painted on the end of the awning.

Att. 5.2

Remote Teller Tube:

The teller tube itself is less than 1 ft. by 1 ft. in cross section and projects up to the second story window. Protective pipe bollards are proposed along the entire rear of the building.

Attachments:

1. Project Description to the Zoning Board of Appeals
2. Photos
3. Signage Details
4. Building Elevations; to be supplied

6294

Att. 6.1

WARRANTY DEED

WILLIAM J. DOWD, of Westbrook, Maine, for valuable consideration, grants to APEX, INC., a Maine corporation with a principal place of business in Portland, Maine, and a mailing address of P. O. Box 9540, Portland, ME 04112, with Warranty Covenants, the following described real property situated in Portland, Cumberland County, Maine:

A certain lot or parcel of land situated in said Portland on Commercial Street, and being more particularly described on Exhibit A attached hereto and made a part hereof.

Meaning and intending to convey the same premises described in a deed from C. Alan Beagle, et al, to the Grantor dated February 12, 1987, and recorded in the Cumberland County Registry of Deeds in Book 7633, Page 308.

The purpose of this deed is to correct and clarify the description contained in the deed from William J. Dowd to Apex, Inc., dated April 22, 1991, recorded in said Registry of Deeds in Book 9532, Page 273.

Witness my hand this 31st day of July, 1991.

Mary E. Plumes

Witness

William J. Dowd

William J. Dowd

STATE OF MAINE
CUMBERLAND, SS.

July 31, 1991

Personally appeared the above named William J. Dowd and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Mary E. Plumes

Notary Public
MARY E. PLUMES
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES AUGUST 8, 1991

Printed Name of Notary

Instr 36294 Bk 9658 Pg 46

Att. 6.2

EXHIBIT A

A certain lot or parcel of land, with the buildings thereon, situated in the City of Portland, County of Cumberland and State of Maine, and bounded and described as follows: BEGINNING at a point on the northerly sideline of Commercial Street, which point is in the southeasterly corner of land now or formerly of Burnham and another and is about two hundred forty and twenty-five hundredths (240.25) feet westerly from the westerly sideline of India Street; thence running northerly by said land of Burnham and another ninety (90) feet, more or less, to the southerly sideline of a twenty (20) foot passageway extending from Franklin Street in the rear of the lot herein described; thence easterly by the southerly sideline of said passageway one hundred one (101) feet, more or less, to the westerly sideline of a passageway sixteen and one-half (16-1/2) feet wide extending back from Commercial Street; thence southerly by the westerly sideline of said passageway extending back from Commercial Street ninety-five (95) feet, more or less, to a point in the northerly sideline of said Commercial Street; thence westerly by the northerly sideline of Commercial Street one hundred one (101) feet, more or less, to the point of beginning.

Also, all our right, title and interest in and to said passageway running in the rear of said lot from Franklin Street and all our right, title and interest in and to said passageway running back from Commercial Street.

Recorded
Cumberland County
Registry of Deeds
07/31/91 01:48:36PM
Robert P. Titcomb
Register

AH.6.3



FIRST AMERICAN TITLE INSURANCE COMPANY

OWNERS POLICY SCHEDULE A

CASE NUMBER	DATE OF POLICY	TIME	POLICY AMOUNT	POLICY NUMBER
CL-2137	July 31, 1991	1:53 p.m.	\$655,000.00	30009259

AUTOMATIC INFLATION CLAUSE This policy amount will automatically increase by 10% of the amount shown above on each of the first five anniversaries of the policy date with respect to residential policies.

1. NAME OF INSURED

Clay Cove Corporation

2. THE ESTATE OR INTEREST IN THE LAND DESCRIBED HEREIN AND WHICH IS COVERED BY THIS POLICY IS:

Fee Simple

3. THE ESTATE OR INTEREST REFERRED TO HEREIN IS AT DATE OF POLICY VESTED IN:

The Insured

4. THE LAND REFERRED TO IN THIS POLICY IS DESCRIBED AS FOLLOWS:

All that certain parcel of land described in Exhibit "A" attached hereto and made a part hereof.

Being the same premises conveyed to the insured herein by deed of Apex, Inc. dated July 31, 1991, and recorded in the Cumberland County Registry of Deeds in Book 9658, Page 47.

The land herein described is encumbered by the following mortgage and assignments, if any, and mortgages, if any, shown in schedule B hereof:

Mortgage and Security Agreement from Clay Cove Corporation to Peoples Heritage Savings Bank in the principal amount of \$598,500.00 dated July 31, 1991, and recorded in the Cumberland County Registry of Deeds on July 31, 1991, at 1:51 p.m. in Book 9658, Page 49, and Assignment of Leases and Rentals by Clay Cove Corporation to Peoples Heritage Savings Bank dated July 31, 1991, at 1:53 p.m., recorded in the Cumberland County Registry of Deeds in Book 9658, Page 69.

ISSUED AT: PORTLAND, MAINE

Cumberland Title Company
P.O. Box 4865 DTS
Portland, Maine 04112

Authorized Agent or Officer

THIS POLICY IS INVALID UNLESS THE COVER SHEET AND SCHEDULE B ARE ATTACHED.

7-06-1999 8:41AM FROM BIV S COUNTY C.U./P/ 1 207 774 1667
PAGES: 3
P.1

EXHIBIT A

A certain lot or parcel of land, with the buildings thereon, situated in the City of Portland, County of Cumberland and State of Maine, and bounded and described as follows: BEGINNING at a point on the northerly sideline of Commercial Street, which point is in the southeasterly corner of land now or formerly of Burnham and another and is about two hundred forty and twenty-five hundredths (240.25) feet westerly from the westerly sideline of India Street; thence running northerly by said land of Burnham and another ninety (90) feet, more or less, to the southerly sideline of a twenty (20) foot passageway extending from Franklin Street in the rear of the lot herein described; thence easterly by the southerly sideline of said passageway one hundred one (101) feet, more or less, to the westerly sideline of a passageway sixteen and one-half (16-1/2) feet wide extending back from Commercial Street; thence southerly by the westerly sideline of said passageway extending back from Commercial Street ninety-five (95) feet, more or less, to a point in the northerly sideline of said Commercial Street; thence westerly by the northerly sideline of Commercial Street one hundred one (101) feet, more or less, to the point of beginning.

The right in common to use the passageway running in the rear of said lot from Franklin Street and to use the passageway running back from Commercial Street.

Att. 6.5

FIRST AMERICAN TITLE INSURANCE COMPANY

OWNERS POLICY SCHEDULE B

CASE NUMBER
CL-2137

POLICY NUMBER
30009259

This policy does not insure against loss or damage due to the following:

NOTE: As used herein, recorded shall mean recorded in the Cumberland County Registry of Deeds.

1. The dower, curtesy, homestead, community property, or other statutory marital rights, if any, of the spouse of any individual insured.
2. Rights or claims of persons in possession and easements or claims of easements not shown by the public records, boundary-line disputes, overlaps, encroachments, title to filled lands (if any) and any matters not of record which would be disclosed by an accurate survey and inspection of the premises.
3. Any lien, or right to a lien, for services, labor or material, heretofore or hereafter furnished, imposed by law and not shown by the public records.
4. Taxes assessed which are not yet due and payable, and for subsequent years.
5. Any exception, reservation, restriction, easement or condition set forth in the attached Exhibit A.
6. Title to and rights of the public and others entitled thereto in and to those portions of the insured premises lying within the bounds of adjacent streets, roads and ways.
7. Rights of others in and to the use of appurtenant easements insured herein and terms and conditions relative to the use thereof.

NOTE: This policy affirmatively insures the right to use the two passageways adjoining the insured premises along the northeasterly and northwesterly bounds and running to Commercial and Franklin Streets respectively; however, this policy does not insure the underlying fee of said passageways.

MORTGAGE LOAN INSPECTION PLAN

DATE JAN. 23, 1987 PROJ. 87027
BOOK 6669 PAGE 116
COUNTY CUMBERLAND SCALE 1"=50'

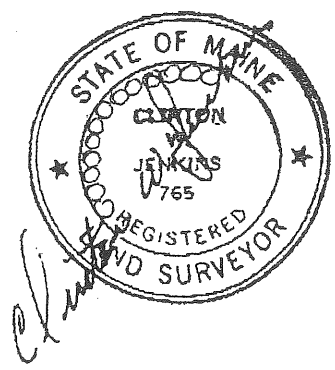
Att. 616

TO THE LENDING INSTITUTION AND ITS TITLE INSURER

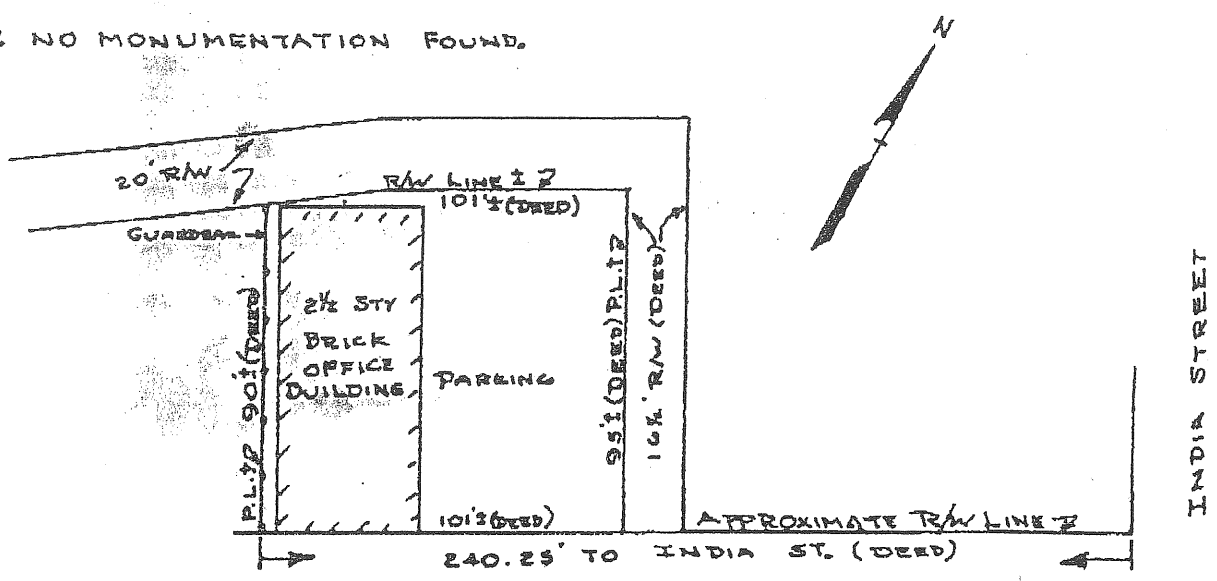
I HEREBY CERTIFY THAT THE LOCATION OF THE DWELLING SHOWN
THIS PLAN DOES ~~NOT~~ CONFORM WITH THE LOCAL ZONING LAWS
IN EFFECT AT THE TIME OF CONSTRUCTION. THE PROPERTY DOES
NOT FALL WITHIN A SPECIAL FLOOD HAZARD ZONE.

THIS PLAN WAS NOT MADE FROM AN INSTRUMENT SURVEY. THE
CERTIFICATIONS ARE FOR MORTGAGE PURPOSES ONLY. THIS PLAN
APPLIES ONLY TO CONDITIONS EXISTING AS OF THE DATE SHOWN
HEREON, AND DOES NOT SHOW ANY POSSIBLE CONFLICTS WITH
ADJUTING DEEDS. THIS PLAN IS NOT FOR RECORDING.

THIS IS NOT A LAND BOUNDARY SURVEY.



NOTE: NO MONUMENTATION FOUND.



COMMERCIAL STREET

NOTES: THIS PLAN IS COMPILED FROM DEED, TAX MAP AND FIELD MEASUREMENTS.
THE PROPERTY LINES, R/W LINES AND BUILDINGS AND THEIR RELATIONSHIP TO
EACH OTHER IS APPROXIMATE. IF MORE ACCURATE DETAIL IS REQUIRED
A CLASS "A" SURVEY IS RECOMMENDED.

PROPERTY OF FORD S. REICHE, C. ALAN BEAGLE AND MARTIN J. RIDGE.
LOCATED AT * 17 COMMERCIAL ST., PORTLAND, MAINE.

PURCHASER - WILLIAM J. DOWD.

AH. 7.1

CITY OF PORTLAND
PUBLIC WORKS DEPARTMENT
ENGINEERING SECTION

M E M O R A N D U M

TO: Marge Schmuckal, Zoning Administrator
FROM: Jon Giles, LSIT, GIS Coordinator
SUBJECT: Bradbury Court Street Status
DATE: September 17, 1998

Charlie Lane in Corporation Counsel asked me to communicate to you the results of my research into Bradbury Court's legal status as a City street. Please be advised that I am not providing a legal or surveyor's opinion on this street, but merely a summary of record information.

Records in the Department of Public Work's Archives Vault **show no indication that Bradbury Court has ever been accepted as a City street.** These same records do not show any previous vacations or discontinuances either. Bradbury Court appears to be an unaccepted, private way due to the lack of any information indicating otherwise.

The City of Portland has never inventoried which streets and/or ways are dedicated versus undedicated. The City's records typically deal only with issues of acceptances, discontinuances, vacations, name changes, and alterations to the right of way lines of accepted streets. As a result City records do not address the issue of whether Bradbury Court was ever dedicated. Please be aware that if further title research was to reveal that Bradbury Court was considered a dedicated way, that it may be subject to the statutory vacation described in 23 MSRA 3032 that occurred on September 29, 1997. Due to the appearance that Bradbury Court is private property, such title research would not be the responsibility of the City of Portland.

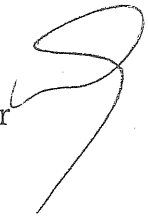
If you have any questions or concerns please feel free to contact me at 874-8842.

JAG/jag

Pc: James Robbins, PLS, Archivist
Charlie Lane, Corporation Counsel

INTEROFFICE MEMORANDUM

To: Alex Jaegerman, Chief Planner
CC: Jim Robbins, Public Works/Engineering
From: Marge Schmuckal, Zoning Administrator
Date: September 17, 1998
Subject: Status of Bradbury Court



Alex,

During your conditional use review for the drive-up teller at 19 Commercial Street, BIW Five County Credit Union, the status of Bradbury Court will most likely come up at some point. I have spoken with Jim Robbins from Public Works/Engineering who is the purveyor of the City's street vault information. He has informed me that Bradbury Court was never a City street or way. It is a private road. This is consistent with the deed and survey that David Richard has shown to me.

If the Planning Board needs any more information on this, I'm sure Jim Robbins or David Richard could supply it.

FROM THE DESK OF...

MARGE SCHMUCKAL
ZONING ADMINISTRATOR
CITY OF PORTLAND, MAINE
389 CONGRESS STREET - CITY HALL, ROOM 315
PORTLAND, MAINE 04101

(207) 874-8695
Fax: 874-8716

INSPECTION OF PREMISES

I HEREBY CERTIFY TO Classic Title Co.

5-9 Commercial Street
Portland, Maine

Job Number: 300-36
Inspection Date: 09-22-97
Scale: 1" = 30'

Simba Inc. and its Title Insurer

The monumentation is ~~not~~ in harmony with current deed description.

The building setbacks are ~~not~~ in conformity with town zoning requirements.

The dwelling does not ~~appear~~ to fall within the special flood hazard zone as delineated by the Federal Emergency Management Agency.

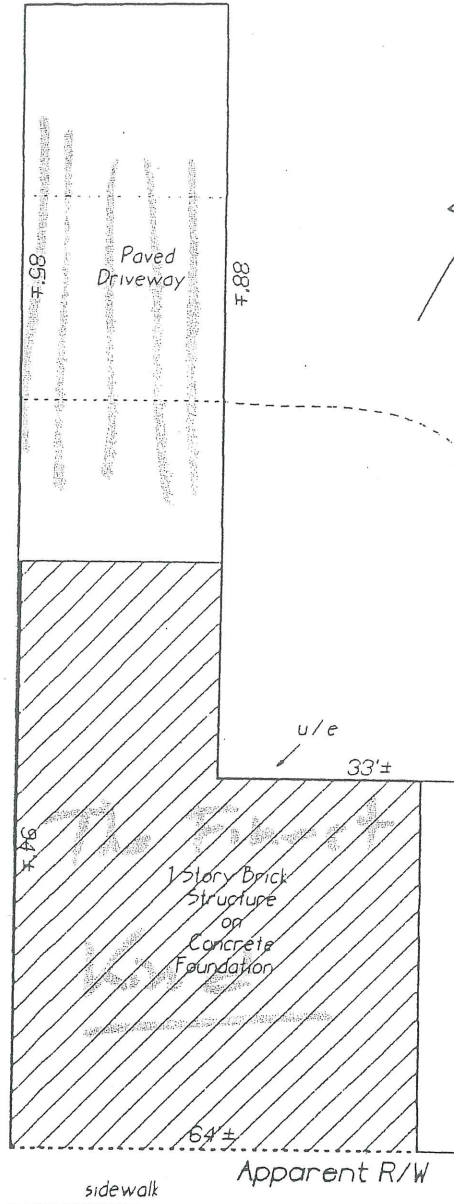
The land does not ~~appear~~ to fall within the special flood hazard zone as indicated on community-panel # 230051 0014 B.

111 - My Parking lot

Att. 9.1

BUYER: Salt of the Earth, Inc.
SELLER: Erasmo, Inc.

? of who pays for maintenance + plowing



Commercial Street
(bituminous)

To India Street

THIS PROPERTY IS SUBJECT TO ALL RIGHTS AND EASEMENTS OF RECORD. THOSE THAT ARE EVIDENT ARE SHOWN. THIS PLAN MIGHT NOT REVEAL CONFLICTS WITH ABUTTING DEEDS.

BRUCE R. BOWMAN, INC.
P.O. Box 12 A
Cumberland, Maine 04021
Phone: (207) 829-3959
Fax: (207) 829-3522



PLAN BOOK _____ PAGE _____ LOT _____
DEED BOOK 10219 PAGE 185 COUNTY Cumberland

THIS PLAN IS NOT FOR RECORDING Drawn by: JRM

Banister Deed Disc.

Att. 9.2

SCHEDULE A

A certain lot or parcel of land, located in Portland, County of Cumberland and State of
more particularly bounded and described as follows, to wit:

Beginning at a point that is fifty-nine (59) feet, more or less, distant on a course South 61°
West from the intersection of the northerly sideline of Commercial Street and the
southerly sideline of India Street, said beginning point being the center of a party wall of a
structure now existing; thence along the centerline of said party wall on a bearing approximately
South 28° 53' 32" West, to the exterior of the rear wall of said existing structure; thence along
the exterior surface of said wall in a generally southwesterly direction, a distance of 33 feet,
more or less, to a perpendicular exterior wall of said structure; thence along the exterior surface
of said wall in a generally northwesterly direction to its terminus; thence on a course North 29°
01' 34" West a distance of 85 feet, more or less, to a point on the rear line of the parcel conveyed
by Simba, Inc. to Erasmo, Inc. in a deed dated August 4, 1992 and recorded in the Cumberland
County Registry of Deeds in Book 10219, Page 185; thence along said rear line in a generally
northwesterly direction to a set iron pin marking the northwesterly corner of said parcel; thence
along the southwesterly line of said parcel, a distance of 85.27 feet to a
point on the southwesterly line of said parcel, South 28° 53' 32"
West a distance of 93.97 feet to a point on the northerly sideline of Commercial Street; thence
along the northerly sideline of Commercial Street, a distance of 63.75
feet, more or less, to the point of beginning.

Subject to all easements of record.

Subject also to (i) the Declaration of Covenants, dated September 29, 1988, recorded in
Cumberland County Registry of Deeds in Book 2436, Page 12 and (ii) right and easement
referred to in the deed from Simba, Inc. to Erasmo, Inc., dated August 4, 1992 and
recorded in the Cumberland County Registry of Deeds in Book 10219, Page 185.

MEANING AND INTENDING to describe a portion of the premises conveyed by
Simba, Inc. to Erasmo, Inc. by deed dated August 4, 1992 and recorded in the Cumberland
County Registry of Deeds in Book 10219, Page 185.

ALSO granting all right, title and interest of the Grantor in and to the alleyway that abuts
the premises described above and that leads to Commercial Street.

ALSO granting (i) a right of access over land being retained by Erasmo, Inc. to the
exterior walls of the structure located on the premises described above for the purpose of
maintenance and repair of such walls and (ii) the right to construct, maintain and repair vents
leading from the area currently used by Grantee as its warehouse to the exterior of the northerly
wall of that area, with the right to attach reasonable hoods and other similar devices on the
exterior wall of Grantee's building.

RESERVING to Erasmo, Inc., its successors or assigns, the right to build and renovate in

3 *

AH. 10

T H E
FINEST
KIND

June 17, 1999

Mr. William Needleman
Planning Office, City of Portland
389 Congress Street
Portland, ME 04101

Dear Mr. Needleman:

Again I wish to summarize my objection for the drive-thru proposed by BIW Credit Union. It is dangerous for children and adults to step directly into the path of this drive-thru from the rear entrance of my retail store. To think otherwise is foolhardy.

I do not wish to loose my legal right of way from my parking lot to Commercial Street. See attached.

I do not have a legal right of way from my lot to India Street.

Sincerely,



Arthur Banister

9 Commercial Street
Portland, Maine 04101

207 772 2155 voice
207 772 5172 fax
800 640 5115 toll free

172 Pleasant Street
Brunswick, Maine 04011

207 725 5199 voice
207 725 5568 fax

AB/sk
Enclosure

Att. 11.1

NORMAN, HANSON & DETROY, LLC

ATTORNEYS AT LAW
415 CONGRESS STREET
P.O. BOX 4800
PORTLAND, MAINE 04112-4800

AREA CODE 207
774-7000
FAX
775-0806
E-Mail
dcummings@nhdlaw.com

Website
www.nhdlaw.com

- DAVID G. NORMAN
- ROBERT F. HANSON
- PETER J. DETROY
- STEPHEN HEBBERT
- RODRIGUE R. ROVZAR
- THEODORE H. KIRCHNER
- MARK G. LAYBIE
- STEPHEN W. MCMASTY
- JAMES D. FOLIOUIN
- JOHN M. HING, JR.
- PAUL F. DRISCOLL
- WILLIAM D. LACASSE
- MARK E. DUNLAP
- ROBERT W. SCHWER, JR.
- JONATHAN W. BRIGAN
- CHRISTOPHER C. TANTON
- DAVID P. VESEY
- DANIEL L. CUMMINGS
- ALEXANDER F. MCCANN
- RUSSELL B. HERGE, JR.
- ANNE M. GARNEY
- DAVID L. HEIZER, JR.
- THOMAS S. MARLERSON
- ADRIAN P. KENDALL
- EMILY A. BLOOM
- ANNE H. JORDAN

June 30, 1999

VIA FACSIMILE 874-8497

Penny Linell, Esq.
City of Portland
389 Congress St.
Portland, ME 04101

Re: BIW Five County Credit Union

Dear Penny:

Pursuant to our fairly recent telephone conversation, I am sending you a copy of the actual easement deed upon which BIW Five County Credit Union is relying in connection with its application to the Planning Board. As you can see the deed is from 1853, and it appears that those rights were simply passed down through the years, including to BIW Five County Credit Union's landlord and current owner of the property.

Based on that easement language, BIW Five County Credit Union believes that is proposed use of the passage as a drive-through is within the scope of those easement rights.

My understanding is that this was all that the Planning Board was looking for on this score. If you have any questions, please feel free to give me a call.

Sincerely,



Daniel L. Cummings

DLC/dlc
Enclosure

cc: David Richard
Roderick R. Rovzar, Esq.

Att. 11.2

Elizabeth W. Miller
Saml. Tyler
C. D. Devance
Robert T. Robinson
Samuel Tyler
Elizabeth Tyler
James S. Robinson

1853
1853
1853
1853
1853
1853
1853
1853
1853
1853

State of Maine

Cumberland Co. July 18th 1853

Then personally appeared the above named Joseph W. Tyler, for himself, & as attorney for the parties of J. Tyler, & Samuel L. Tyler, Elizabeth Tyler, William W. Tyler, Samuel Tyler, Joseph E. Turner, William S. Turner, Henry Tyler, Samuel Tyler, C. D. Devance, Robert T. Robinson, & Samuel Tyler, & acknowledged the above instrument to be their several acts & deed.

Before me, James S. McCall, Justice of the Peace

Commonwealth of Massachusetts

Buffalo Co. July 22nd 1853

Then personally appeared the aforesaid Samuel W. Tyler, and acknowledged the foregoing instrument to be her free act and deed.

Before me, William S. Walker, Com. for Maine

1853

State of Maine

Cumberland Co. July 23rd 1853

Then personally appeared the above named Augustus P. Miller & Elizabeth W. Miller & acknowledged the above instrument to be their several acts & deed.

Before me, James S. McCall, Justice of the Peace - Received according to the original, Received Sept. 11th 1857 at 11 h. 11th m. of M.

Witness William S. Mitchell Registrar

Att. 11.3

And in consideration of the premises, the said Tyler, Lawrence, Robinson, & Tyler, do, in like manner, hereby grant, to them, the said heirs of Samuel Dyer, dec'd, herein before severally named their heirs and assigns, the right of way in and over all that part of the above described twenty foot breadth of land, which lies "Westwardly" of the division line of ground, between the lands of the parties hereto.

It is here covenanted to hold to them, the said heirs of Samuel Dyer, their heirs and assigns, as a way in common with the said Tyler, Lawrence, Robinson & Tyler, their heirs and assigns forever.

And witness whereof, the said parties hereinafore named, & Elizabeth P. wife of Henry Dyer, Harriet, wife of Ezekiel Dyer, Catherine P., wife of Joseph W. Dyer, Mary E., wife of Augustus A. Dyer, & Hannah M., wife of Samuel L. Dyer, & Elizabeth wife of Samuel Tyler, Sarah G. wife of said Lawrence, & Jane B. wife of said Robinson, in testimony of relinquishment of their several rights at their hands, & seals this thirteenth day of July, in the year of our Lord, One thousand eight hundred & fifty three -

Signed, sealed & delivered in presence of,
C. J. Blackford

- Joseph W. Dyer
- Catherine P. Dyer
- Ezekiel Dyer
- William W. Dyer
- Samuel Dyer
- Harriet Dyer
- Mary E. Dyer
- Augustus A. Dyer by his attorney
- Samuel L. Dyer by his attorney
- Joseph E. Homer
- Hannah M. Homer
- Henry Dyer
- Elizabeth P. Dyer
- Harriet W. Dyer
- Augustus V. Miller



A.H. 11.4

thence to a point in a line bisecting the angle formed by the connection of Thomas Street & Commercial Street, thirty feet distant North Westwardly from said angle of connection, thence, by a line parallel to Commercial Street, & thirty feet distant therefrom, to the South Westward side line of lands purchased by the said Tyler & others from the Montreal & Maine Railway; thence by the same course to Franklin Street (below Pine Street).

Now in consideration of the premises, and of the mutual agreements of the parties hereto, the said heirs of Samuel Oyer, herein before severally named, do hereby grant to them, the said Tyler, Cormier, Robinson, & Tyler, their heirs & assigns, the right of way in and over all that part, whereof they, the said heirs of Oyer are tenants in common of so much of the above described twenty feet in breadth of land as lies Eastwardly of the division line aforesaid between the parties hereto, and the said Joseph W. Oyer being the owner in severality of so much of the said highway, as was set off in severality to the said Joseph W. Oyer on division of the estate of the said Samuel Oyer, deceased, and the said Samuel Oyer, party hereto, being the owner in severality of so much of said highway, as was set off to him in severality on division of the estate aforesaid; which division is recorded in the Probate Records and plans, as decreed by the Court of Probate, on the first Tuesday of August, in the year of our Lord, One thousand eight hundred & fifty one, do hereby in like manner grant to them, the said Tyler, Cormier, Robinson & Tyler their heirs and assigns, the right of way in and over all that part of the said highway, of which they are so seized in severality aforesaid.

To have & to hold to them, the said Tyler, Cormier, Robinson, and Tyler, their heirs and assigns, as a way in common with the said heirs of Oyer, their heirs and assigns forever.

003/008

AH. 11.5

119

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city
office
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his day
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This memorandum of Agreement
 of grant of map, entered into this thirteenth day of July
 in the year of our Lord, One thousand eight hundred
 & fifty three, by & between Henry Tyler, Joseph W. Tyler,
 Augustus W. Tyler, Edmund S. Tyler, William W. Tyler,
 Linnaea Tyler, Elizabeth W. Fuller, Harriet W. Tyler,
 Almira W. Turner, all of Portland, in the County of
 Cumberland, State of Maine, & Ezekiel Tyler of Cape
 Elizabeth, in said County, heirs of the late Samuel
 Tyler, deceased, & Augustus P. Fuller, husband of said
 Elizabeth W., & Joseph S. Turner, husband of said Almira
 Turner & Robert S. Robinson, all of said Portland, &
 Samuel Tyler of Brunswick, in the County of Oxford,
 & State aforesaid, parties on the other part,
 "Witnesseth - That, whereas the said parties
 are owners in & of adjacent parcels of land situate
 on the north side of Thomas Street & Commercial
 Street in said Portland, the division line between said
 adjacent lands of the said parties hereto being described
 in a deed of this date, executed & delivered by the
 said Tyler and others to the said heirs of Tyler
 herein named, & have agreed to establish and per-
 mane forever any, through & over said adjacent
 lands, for the mutual accommodation of themselves
 their heirs & assigns, in the use & occupation of said
 adjacent lands, & have agreed to establish & open, over
 passage way, of the breadth of twenty feet lying on
 the North West side of a line described as follows:
 Beginning on the West side of India Street, at
 the North Corner of the said Joseph W. Tyler's
 home lot, where he now lives, the said corner
 being about ninety two distant from Thomas
 Street; thence from said corner, by the North West
 side line of said home lot, & the North West side
 line of land set off to Elizabeth Tyler, widow of
 said Samuel Tyler, deceased; for her share, to the
 North West corner of the garden of the said Samuel
 Tyler, deceased; thence to a point in the division line
 aforesaid between said adjacent lands of the parties
 hereto twenty feet distant from Thomas Street;

f -
m
nt.
Bft.
qnt.



The following information, although presented informally, is an attempt to address some of the concerns that were raised at the last meeting. Our attorney, Daniel Cummings, along with a summary as to his findings in general will address issues dealing with Rights of easement.

Traffic Flow

There have been concerns raised over our intended use, potentially changing or disrupting the traffic flow.

It is our opinion that our proposed use would actually improve the traffic flow and also ensure that these areas are accessible and maintained as to their original purpose.

- These areas, as I have come to know them, are not being used in a manner consistent with proper traffic flow, as the planning board may perceive them to be. In reality, allowing sections of these areas to be used for parking by the abutters and their tenants has generally ignored the intended purpose. The right-of-way that is shared by Mr. Banister is continually blocked and impassible on a daily bases due to vehicles being allowed to park in the right-of-way using it as a parking area. This again, appears to be in direct conflict with the areas intended purpose and also with what is being asked of us.

We fully support what is being asked of us in regard to safety issues and concerns in this matter. We seem to be lacking, however, a basic understanding of the board's request based upon how these areas are being used in actuality.

Engineering Concerns

- It is our understanding that we have met all engineering requirements as prescribed in section 3 of the R-3 zoning code.
- The City Traffic Engineer, Larry Ash, has stated that he has no concerns with this proposal and has personally driven the proposed layout with no concerns.

Ability to keep the area free of obstructions

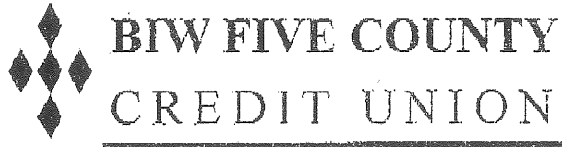
This area represents a shared access for the abutters and therefore all those concerned have it in our best interest to keep this area free and clear from any type of obstruction that would prevent the ability to use these right of ways.

Existence of Loading Zone

There is no loading zone located in the right-of-way shared by Mr. Banister and our landlord, Mr. Steven McDuffie.



Att. 12.2



Bill Needleman
City Planning Department
City Hall
389 Congress St.
Portland, Me. 04102

October 04, 1999

Dear Bill,

The following information presented is to address the concern, as expressed by the board, regarding our intended actions to keep the areas in question free of any obstructions.

It is the hope of BIW Five County Credit Union to join in the shared use of this area and to do so in a cooperative manner. Further more, we recognize, and respect, the fact that this is a *shared* area and as such, we hope that all who share in its use will respect this as well.

In the event that this area is blocked, however, we do intend to act in accordance with its original purpose, but to do so in a non-aggressive and non-confrontational manner. We feel that the best way to resolve a situation involving an obstruction is to first locate and contact the owner of the vehicle causing the obstruction and make them aware of the situation and ask them to move the vehicle as soon as possible. We do realize that towing a vehicle may be an option but intent to exercise that option only as a last resort when all other alternatives have been exhausted.

We would also like to state that we fully understand, and accept, that our proposal would put us in the unenviable position of ensuring that these areas are kept open for proper vehicle flow. This scenario in turn can, and has, created some concerns from certain abutters who see this as a loss to certain types of usage that they have become accustomed to that currently restrict and or outright block traffic flow. While we have no control over how these areas were used in the past, we strongly feel that our proposal, by the very nature of its existence, would only be an asset by ensuring a constant traffic flow and thereby helping to maintain their original purpose.

Sincerely,



David W. Richard
Branch Manager
BIW Five County Credit Union

Att. 13.1

NORMAN, HANSON & DETROY, LLC

ATTORNEYS AT LAW
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September 14, 1999

VIA FACSIMILE 874-8497

Penny Littell, Esq.
City of Portland
389 Congress Street
Portland, Maine 04101

Re: BIW Five County Credit Union

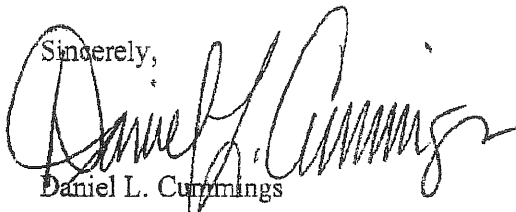
Dear Penny:

I am enclosing a copy of a memorandum we recently prepared and sent to BIW Five County Credit Union. It addresses the 16.5' right-of-way that board members had questions about. As you will see from the memorandum, although the source deed itself was not located, evidence of it and the credit union's easement rights is strong, particularly so given the century plus of existence/usage.

With this memorandum (which is also being faxed to Bill Needleman per the request of my client), the credit union believes that it has addressed all of the board's questions and concerns. In addition, my understanding is that the credit union's application is, and has been, complete. If that is not the case, please let me know immediately, as the credit union wants to ensure that the record is complete.

At this point the credit union believes everything is in order and is hopeful that the board votes to approve its application at its meeting on September 28. I thank you for your attention to this matter.

Sincerely,



Daniel L. Cummings

DLC/lec
Enclosure

cc: David Richard (via fax 774-1667)
Bill Needleman (via fax 756-8258))

Att. 13.2

MEMORANDUM

TO: David Richard, BIW Five County Credit Union
FROM: Daniel Cummings
DATE: September 2, 1999
RE: Easement rights in leased property

BACKGROUND

As you know the City of Portland's Planning Board has requested the credit union to provide additional information concerning its easement rights associated with the leased property located at 19 Commercial Street in Portland (the "Property"). The two easements at issue are: (1) the 20 foot passageway running from Franklin Street along the northerly line of the Property, sometimes referred to as Bradbury Court ("Bradbury Court Easement"); and (2) the 16.5 foot passageway running from Commercial Street along the easterly line of the Property (the "Commercial Street Easement"). We previously gave the Board the source deed for the Bradbury Court Easement, which was contained in a deed from Tyler et als. and recorded in Book 282, Page 116 ("Bradbury Court Easement Deed").

As for the Commercial Street Easement, we have searched the records in the Cumberland County Registry of Deeds back to 1760 but have not been able to locate the source deed. It appears that the source deed is one from the Portland Marine Railway to

AH. 13.3

Lemuel Dyer, who owned the Property back in the 1850's (hereinafter the "Commercial Street Easement Deed").¹ Although Dyer likely would not have received the fee to the passageway in that deed, he would have received rights to use it, i.e., an easement.

EVIDENCE

Our conclusion is based on the following evidence contained in the registry of deeds.

1. EASEMENT AND PASSAGEWAY ARE REFERENCED
IN VARIOUS DEEDS IN 1853

The Commercial Street Easement Deed is actually referenced in three deeds given by Portland Marine Railway. The first one is dated June 10, 1853 and recorded in Book 246, Page 349, which conveys to a Samuel Tyler and Daniel Tyler a ½ interest in property lying between Fore and Commercial Streets, which abutted the Property to the west. A copy of that deed is attached as **Exhibit A**. The second and third deeds are ones to Oliver B. Dorrance and Robert Robinson, each of whom received a ¼ interest in the same property and are recorded in Book 246, Pages 465 and 348 respectively (hereinafter collectively the "Tyler Deeds"). Each of the Tyler Deeds reserves from the "conveyance to the heirs and assigns of Lemeul Dyer all the rights they have in and to the use and occupancy of *a passageway leading from the said Boothby house to Commercial Street* as it is described in a deed from the grantors herein to the said Lemeul Dyer [i.e., the Commercial Street Easement Deed]."

¹ Evidently, for whatever reasons the Commercial Street Easement Deed was never recorded.

2. PASSAGEWAY DEPICTED ON PLAN IN 1870

Subsequent to receipt of the Tyler Deeds, Tyler et al. gave Dyer et al. a deed recorded in Book 248, Page 183 (the "Dyer Deed"). A copy of the Dyer Deed is attached hereto as **Exhibit B**. The Dyer Deed describes a line,² and it then grants to Dyer et al. all property rights received in the Tyler Deeds that lay easterly of the described line.³

3. PASSAGEWAY REFERENCED IN MORTGAGE IN 1883

On June 6, 1883 the heirs of Lemeul Dyer granted a mortgage to Maine Savings Bank for \$6000.00 (recorded in Book 470, Page 192). This mortgage conveyed the homestead (but not the fee) of the Property, describing the homestead as lying adjacent to the passageway that is the subject of the Commercial Street Easement.

4. PASSAGEWAY REFERENCED IN DEEDS IN 1897

Augustus P. Fuller conveyed the Property along with the Commercial Street Easement to James Bradley Jr. on December 30, 1897. (A court judgment awarded this property back to Augusta P. Fuller's estate after he passed away). Also on December 30, 1897, both Mary C. Dyer and Elizabeth W. Smith conveyed their rights of dower to Fuller. These two deeds also make specific reference to both the Bradbury Court Easement and the Commercial Street Easement and include the same description as the most current deed.

² The line appears in a plan prepared by T.F. Chappell C.C.E. and recorded in the Cumberland County Registry of Deeds on December 5, 1870 in Book 3, Page 15 (the "Plan"). Attached hereto as **Exhibit C** is a sketch from of the Plan.

³ It appears that the Dyer Deed was executed to clear up confusion regarding boundary lines, etc. between the Tyler and Dyer properties as originally contained in the deeds to each party from the Portland Marine Railway.

Att. 13.5

CONCLUSION

Reference to the reservation of easement rights contained in the Tyler Deeds, in conjunction with evidence of its existence on maps and in various deeds pre-dating the 20th Century, and reference to both the Bradbury Court Easement and the Commercial Street Easement in each deed transferring title to the Property from the late 1890's forward, is strong evidence establishing rights in the Commercial Street Easement.⁴

Therefore, if it were necessary, we believe that rights to the Commercial Street Easement, or the fee itself, could be established in court.

⁴ In fact, it appears likely that the Dyer Deed granted the fee interest in the property over which the Commercial Street Easement runs.

EXHIBIT
A# 13.6
A

KNOW ALL MEN BY THESE PRESENTS, THAT the
Portland Marine Railway, an incorporated company under the laws
of the State of Maine, in consideration of the sum of twelve thousand dollars
paid by Samuel Taylor of Portland in the County of Cumberland State
of Maine, Silas Taylor of Broomfield in the County of Oxford
the receipt whereof the said Portland do hereby acknowledge, do hereby give, grant, bargain, sell and
convey unto the said Samuel & Daniel, their

heirs and assigns forever, one half part in common undivided of in a certain lot or parcel of land situated
said Portland between Fore Street & Commercial Street bounded beginning at a stake standing on the line of
formerly owned or occupied by Pastor Haley fifty six feet southeasterly from Fore Street; thence south
on the line of land formerly owned by Timothy Washburn deceased, about two hundred seventy feet until it
a line drawn from a spike in the headstook of the old Railway northwardly to a stake on the flats; thence
from said point of intersection northwardly on said last mentioned line about one hundred seventy feet
to a stake on the flats; thence easterly on the line of land formerly owned by Bradbury about twenty six feet to land
owned by Samuel Dyer deceased; thence southerly by said Dyer's land about eighty two feet to a stake standing eight
feet from said Dyer's garden wall; thence northeasterly by said Dyer's land about thirty eight feet to a stake standing seven
feet from the southeast corner of said Dyer's garden wall; thence northwardly by the southerly side of a passage way on the line
Dyer's land to the line of the Midway Bradbury's land; thence easterly on said Bradbury's line two feet over said passage
to the southeast corner of said Bradbury's house; thence southerly on the line between said Dyer's land on the northeasterly side a passage
of timber in mill on the southerly side to the before mentioned southeast corner of said Dyer's garden wall; thence southerly
said Dyer's mill to Commercial Street, or what was formerly Thomas Street; thence westerly on Commercial Street to the westerly side
land on flat of Isaac Hardman; thence northwardly by said westerly line of said Standish's land, as the wall or other front is full in width
a line on the northerly side of a passage way leading from Fore Street on to Franklin Street by said Standish's house; thence
the westerly line of said passage way to Fore Street leaving said passage way twenty four feet half feet wide in front of said Standish's
house; thence northeasterly on Fore Street to a stake standing thirty feet from the northeasterly corner of said Standish's house; thence
easterly on the southerly side of a passage way of thirty feet in width fifty six feet; thence southerly to the place began at together
all above; thence southerly on the line of the last mentioned passage way, the same being used in common and as a passage way
from the house of the late Mr. John M. Taylor & others & thence southerly from this commencement to the top end of a passage way
leading from the house of the late Mr. Taylor & others on a deed from the Trustees hereof to the said Samuel Taylor
land to Commercial Street; and it is declared in a deed from the Trustees hereof to the said Samuel Taylor

To have and to hold the abovegranted and bargained Premises, with all the privileges
and appurtenances thereof, to the said Samuel & Daniel, their
heirs and assigns, to their use and behoof forever.

And the said do covenant with the said Samuel & Daniel; their
heirs and assigns, that they are lawfully seized in fee of the premises; that they are free of all
incumbrances; that they have good right to sell and convey the same to the said
Samuel & Daniel to hold as aforesaid; and that
they any heirs shall and will warrant and defend the same to the said
Samuel & Daniel, their heirs and assigns forever, against the lawful
claims and demands of all persons.

In Witness Whereof, the said Portland Marine Railway by the Directors thereof, their
duly authorized agents have hereunto set their hands and seals this fifth day of June
of said year one thousand eight hundred and fifty three

Signed, sealed and Delivered
in Presence of
William Gordon
Alphelt Gully

CUMBERLAND, ss June 10 1853 Personally appeared William Woodbury &
Alphelt Gully in their capacity of Directors & agents of the Portland Marine Railway
and acknowledged the above instrument to be their free act and deed of their own volition

Portland Marine Railway before William Gordon Justice of the Peace.
Received June 10 1853 at 4 o'clock P. M., and recorded from the
original By William C. Mitchell Register.

deed conr. 1/2 int. the other 1/2 in conr.
TO Oliver G. Donahue & Robert Robinson
246/348 Robinson '14
246/465 (CUMBERLAND) '14

248/183

WTS, THAT I of Cumberland State

EXHIBIT A.H. 13.7 B

KNOW ALL MEN BY THESE PRESENTS, THAT We

Samuel Dyer, Oliver B. Donance and Robert J. Robinson all of Portland in the County of Cumberland in the State of Maine and Daniel Tyler of Thomfield in the County of Oxford & State aforesaid in consideration of the sum of one dollar paid by Henry Dyer, Joseph M. Dyer, Augustus A. Dyer, Ansel L. Dyer, Wm. Dyer, Samuel Dyer, Elizabeth W. Fuller, Almira M. Turner & Harriet M. Dyer all of said Portland and Elizabeth Dyer of Cape Elizabeth in said County the receipt whereof is so hereby acknowledged do hereby give, grant, bargain, sell and convey unto the said Henry, Joseph, Augustus, Ansel, Wm. Samuel, Elizabeth, Almira Harriet & Elizabeth their heirs and assigns forever,

An Island situated of the town of Yarmouth containing... beginning at the... thence northwesterly... thence northeasterly... thence southeasterly... thence by the shore... thence half of the... use and the north... way thence reserved... wharfs as my...

All that part of a parcel of land and lots situated near Clay Cove in said Portland conveyed by the Portland Marine Railway to us as tenants in common by several deeds dated June 6th 1853 which lies eastwardly of the line described as follows. Beginning on or near the north side line of Thames street at a red stake set against the front corner fence of the late Lemuel Dyer deceased and about seven feet distant westwardly from the south corner of the mansion house of the said Lemuel Dyer deceased thence in said stake northwesterly by a line parallel with the west side line of India street about 168 feet to the most west side line of the parcel of land conveyed to us as tenants in common by the said Portland Marine Railway.

with all the privileges... they are free of all... to the said... aforesaid; and that... against the lawful

To have and to hold, the above granted and bargained premises, with all the privileges and appurtenances thereof to the said Grantees their heirs and assigns, to their use and behoof forever.

And we do covenant with the said Grantees, their heirs and assigns, that we are lawfully seized in fee of the premises; that they are free from all incumbrances; that we have good right to sell and convey the same to the said Grantees their heirs and assigns, to hold as aforesaid; and that we will and our heirs shall and will warrant and defend the same to the said Grantees their heirs and assigns forever, against the lawful claims and demands of all persons.

Thankful Bottom... of her being... August... W. Bottom... M. Bottom

In Witness whereof, we the said Grantees and Elizabeth wife of the said Samuel Dyer... day of July 1853... Signed, Sealed and Delivered in presence of... S. A. Stackpole, witness to S. J. O. B. + R. J. R. D. T. E. I. + S. G. D. E. S. Northam

BE ME, of the Peace, and recorded from the Register.

Personally appeared the above named and acknowledged the above instrument to be their free act and deed. BEFORE ME, James T. McCall Justice of the Peace, 1853 at 4 o'clock, 45 m. S. M., and recorded from the original By William Mitchell Register.



[3/15]

A. 12511670

Records on map of Daniel Dyer E. Leach
Copy by T.F. Chappell C.C.E.

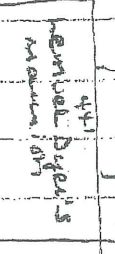
EXHIBIT
Att. 13.8
C

Plan B

India Street

Franklin St (now Commercial)

ET: To use passage way for intended use only.
Parcel and merged to Parcel 500 (residential)
#6000
01/21/1993
bearing 5/10 which were formerly owned by Kenneth Dyer & which were part of a donor to the widow now deceased



Passage way

Division line with lot 100.1/100.3
Wheat

Passage way to
Condominium
(242/1993)

165' front

Dock

70'
Dock

51' 6"

100.6

36'

16'

32' 9"

100.3

49'

100.2

100.1

45'

45'

60'

100.7

32' 9"

100.5

34'

5'

90'

44'

 **BIW FIVE COUNTY**
CREDIT UNION

To Whom It May Concern:

At the recommendation of the board, I have met with Mr. Banister with the intent to reach a mutually agreeable understanding. Unfortunately, I regret to inform the planning board that we have not been able to do so. In my opinion, Mr. Banister is unwilling to reach an agreement over the proposed use of the shared right-of-way in question.

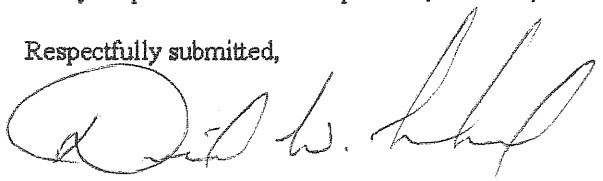
Mr. Banisters concerns are based on the premise that our intended use of this space would interrupt or potentially block his access to his parking area located directly behind his property. It should be noted that this parking area is presently inaccessible from the right-of-way. This is due to the existence of a guardrail and also daily parking allowed to exist within the right-of way by Mr. Banister.

Mr. Banister does contend, however, that if for any reason he loses his present access to his parking area, presently located on India St., his only access would then be by use of the right-of-way in question. With respect to Mr. Banister, his concerns are based on a possibility of loosing access from India St., although at this time no threat of that exists. Even under the scenario that he was to lose, for any reason, his present access form India St. then we still see no reason for his concerns based on the following scenario. The entrance to Mr. Banister's parking lot would be from Commercial St. along the shared right-of-way, following anticipated traffic flow, and exiting by way of Bradbury Court, again, following the anticipated traffic flow.

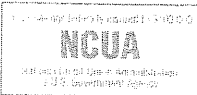
I have reviewed this scenario with Mr. Banister but unfortunately he strongly feels that his vehicles should exit back through the shared right-of way onto Commercial St.. This scenario, in our opinion, creates concern regarding proper vehicle flow and safety, especially when confined to such a narrow passageway.

I fully respect Mr. Banister's position; however, I feel his concerns are unsubstantiated.

Respectfully submitted,



David W. Richard
Branch Manager
BIW Five County Credit Union.



AH 15.1

NORMAN, HANSON & DETROY, LLC

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AARON K. BALTES

October 20, 1999

OCT 21 1999

Penny Littell, Esq.
City of Portland
389 Congress Street
Portland, ME 04101

Re: **BIW Five County Credit Union**

Dear Penny:

I wanted to address a couple of issues that surfaced at the Planning Board meeting on October 12, assuming you will pass this along to the Board members for their consideration.

The first issue involves Board member Erin Rodriguez's concerns that the City's ordinances put the Board in the untenable position of having to decide the scope of BIW Five County Credit Union's easement rights. Understandably, Mr. Rodriguez is uncomfortable with that role and believes that it should be beyond the scope of what the Board's role. I agree with that whole-heartedly. He also believes, however, that the Board is "stuck" with that role because the ordinance in effect mandates it. I respectfully disagree with that conclusion. Let me explain.

Section 14-524(c) of the City's ordinance requires that the Credit Union submit written statements containing, among other things, a "general summary of existing and proposed easements or other burdens now existing or to be placed upon the property," as contained in Subsection 14-524(c)(3), and "evidence of the applicant's title, right, or interest in the property, including without limitation deeds, leases, purchase options or any other documentation," as found in Subsection 14-524(c)(10).

I do not believe that that language mandates the conclusion that Mr. Rodriguez has reached, *i.e.*, that the Board must also make a legal ruling that the proposed use falls within the scope of the "applicant's title, right or interest in the property." I agree with your assessment that once such evidence is produced, which the Credit Union has

Penny Littell, Esq.
City of Portland
October 20, 1999
Page 2

produced, the fight over the scope of such rights falls on private parties. The Credit Union has always realized that any other party that can establish rights in the passageways would have the right to assert, in court if necessary, that the Credit Union's use is beyond the scope of its easement rights, even if the City approves the Credit Union's site plan. As you put it, the Credit Union would have to proceed "at its own risk."

I can appreciate Mr. Rodriguez's discomfort with the notion that the Board has to make a legal ruling on the scope of the Credit Union's easement rights. Again, the Credit Union believes that it has submitted sufficient evidence establishing that it has easement rights in the subject property. The Credit Union also believes that it has a strong legal argument that the scope of those easement rights are such to allow it to utilize the passageway as a drive-through teller unit. We believe that the Credit Union's position is supported by, among other cases, the case of *Guild v. Hinman*, 695 A.2d 1190 (Me. 1997). In that case, the Law Court stated that the "use of an easement 'may vary from time-to-time with what is necessary to constitute full enjoyment of the premises[,] ... and an express easement may accommodate modern developments.'" *Id.* at 1192-93. As you know, the Law Court has stated that the "construction of language in an easement deed is a question of law that we independently review." *Fine Line, Inc. v. Blake*, 677 A.2d 1061, 1063 (Me. 1996). Thus, given the fact that the property is located in a commercial zone, and given modern uses, the Credit Union believes that it has a strong argument that the scope of its easement rights are sufficient to accommodate use for a drive-through teller window.

The second issue that I want to address is the position taken by Board member Cyrus Hagge. In essence, Mr. Hagge's position is that he refuses to approve any site plan that appears likely to engender litigation by other parties. Such a standard cannot be found anywhere in the City's ordinances and is wholly inappropriate. First, there is no evidence that litigation will necessarily flow from the Board's approval of the Credit Union's application. Mr. Hagge assumes that abutting property owners would institute litigation, most likely thinking that The Finest Kind Stove Shop would institute litigation based on its stated objection to the Credit Union's application. That may not necessarily be the case. In effect, Mr. Hagge is stating that, because there is a *possibility* that The Finest Kind will institute suit, he will not approve the Credit Union's application.¹

¹ Alternatively, he may be implicitly stating that he believes that the Credit Union's request goes beyond the scope of its rights and that he is going to take it upon himself to somehow protect what he sees as The Finest Kind's rights.

Att. 15.3

Penny Littell, Esq.
City of Portland
October 20, 1999
Page 3

It is important to remember, however, that Section 14-526(a)(1)-(26) of the City's ordinances contains the standards for site plan approval. The Credit Union strongly believes that it has met each of those standards for approval, and thus, it is entitled to have its project approved. Therefore, I respectfully direct Mr. Hagge to the standards contained in Section 14-526(a)(1)-(26) to govern his decision-making as to the approval of the Credit Union's application.

Sincerely,



Daniel L. Cummings

DLC:kl

cc: Mr. David Richard

We do not believe that any of those conclusions are true and, in any event, making those essentially legal rulings are beyond the Board's authority.



Att. 16

39 Commercial St., P.O. Box 7006 Portland, ME 04112
Reservations: 1-800-223-5555 Fax: 1-800-235-6321
www.autoeurope.com

To: City of Portland
From: Robert C. Hood
Auto Europe, LLC. VP Finance

11/03/99

RE: Drive-Through Proposal

We have been made aware that the present Drive-Through proposal as put forth by BIW Five County Credit Union would create a one-way traffic area limited to the section of Bradbury Court located directly behind the building at 19 Commercial Street. We further understand that this would, in turn, limit our access to that particular section of Bradbury Court. We do not see this proposal as a concern. Our vehicles exit by the way of either Franklin Street or through our own parking areas onto Commercial Street.

Best Regards,

A handwritten signature in black ink, appearing to read "Robert C. Hood", written over a horizontal line.

Robert C. Hood

Cc: David W. Richard
BIW Five County Credit Union

Att. 17

From: Larry Ash
To: William Needleman
Date: Wed, Oct 27, 1999 2:50 PM
Subject: BIW Driveup Window

Bill:

After reviewing the proposed driveup window, parking and access to/from Commercial St and Franklin Arterial I have the following recommendation.

There should be one-way traffic in advance of the driveup window beginning at the edge of the BIW building and the one-way should continue only so far as the end of the BIW building. I do not believe safety is compromised with this plan and parking may remain as it presently exists. How BIW wishes to make it known that this is one-way is their responsibility.

The lane off Commercial Street(16.5 ft wide) and east of the existing parking lot should be a two-way lane to facilitate access to the parking lot in the rear of the building should that lot become available in the future as well as facilitate access to the adjacent parking lot and access/egress to Commercial Street.

Should you have any questions please call.

WILBUR
SMITH
ASSOCIATES

AH. 18

ENGINEERS • ECONOMISTS • PLANNERS

107 INDIA STREET • PORTLAND, ME • 04101 • (207) 871-1785 • FAX (207) 871-5825

November 3, 1999

Mr. David Richard
BIW Five County Credit Union
19 Commercial Street
Portland, Maine 04101

Subject: Proposed Drive-Up Banking Service @ 19 Commercial Street

Dear Mr. Richard:

In response to your request I have reviewed traffic issues relative to the proposed Drive-Up Banking Window at the existing BIW Five County Credit Union at 19 Commercial Street in Portland. My review was based upon the site plan prepared by Royal Design-Builder dated March 15, 1999 and a brief field review of the project location.

In my professional opinion the proposed Bank Drive-Up facility can be implemented without negatively impacting traffic safety and circulation. It is recommended that traffic circulation be limited to one-way flow from the parking aisle east of the Credit Union to the westerly edge of the Credit Union Building. Designation of this roadway section as a one-way street will need to be provided with signs and pavement markings that conform to the Manual on Uniform Traffic Control Devices, Federal Highway Administration.

I hope the above is satisfactory. Please call me if you have any questions.

Sincerely,



WILBUR SMITH ASSOCIATES

Thomas A. Errico, P.E.
Senior Transportation Engineer



39 Commercial St., P.O. Box 7006 Portland, ME 04112
Reservations: 1-800-223-5555 Fax: 1-800-235-6321
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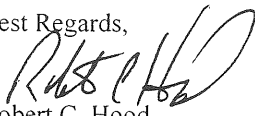
To: City of Portland
From: Robert C. Hood
Auto Europe, LLC. VP Finance

11/03/99

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Best Regards,


Robert C. Hood

Cc: David W. Richard
BIW Five County Credit Union



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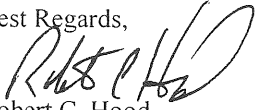
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Best Regards,


Robert C. Hood

Cc: David W. Richard
BIW Five County Credit Union



39 Commercial St., P.O. Box 7006 Portland, ME 04112
Reservations: 1-800-223-5555 Fax: 1-800-235-6321
www.autoeurope.com

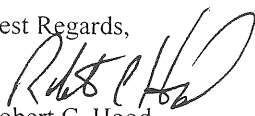
To: City of Portland
From: Robert C. Hood
Auto Europe, LLC. VP Finance

11/03/99

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Cc: David W. Richard
BIW Five County Credit Union



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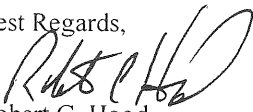
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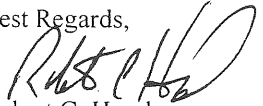
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WILBUR SMITH ASSOCIATES

ENGINEERS • ECONOMISTS • PLANNERS

107 INDIA STREET • PORTLAND, ME • 04101 • (207) 871-1785 • FAX (207) 871-5825

November 3, 1999

Mr. David Richard
BIW Five County Credit Union
19 Commercial Street
Portland, Maine 04101

Subject: Proposed Drive-Up Banking Service @ 19 Commercial Street

Dear Mr. Richard:

In response to your request I have reviewed traffic issues relative to the proposed Drive-Up Banking Window at the existing BIW Five County Credit Union at 19 Commercial Street in Portland. My review was based upon the site plan prepared by Royal Design-Builder dated March 15, 1999 and a brief field review of the project location.

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Thomas A. Errico, P.E.

Senior Transportation Engineer

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February 26, 1999

Mr. David Richard
BIW Five County Credit Union
40A Commercial Street
Portland, ME 04101

Re: 19 Commercial Street Lease Agreement

Dear Dave:

In follow-up to our prior telephone conversations, enclosed please find a modified Lease agreement depicting the agreed-upon changes between the parties to date. While I believe we are in agreement regarding most outstanding issues, I offer the following comments based on Rod Rovzar's notes and our subsequent discussions:

1. Memorandum recording of the Lease document is acceptable to Steve. Please copy us on any such recording.
2. Exhibit A shall serve as the plan for the demised premises.
- ✓ 3. Upon return receipt of this Lease document, please attach a copy of the full-sized rendering depicting the anticipated construction of the ATM drive-thru and night depository, including building additions and traffic patterns. We will attach it to the Lease as Exhibit #1 in keeping with the 3rd, 4th and 5th paragraphs outlined on page 4 of the Lease agreement. Please be sure to review these paragraphs as we have added language depicting the attachment of the plan and clarifying that the Landlord is perfectly content with your plans for these two additions as discussed to date, but that he cannot guarantee the City of Portland will permit the installation of a drive-thru at such time you make application with the City. (Also note that Steve will happily support and assist you with any application you file with the City regarding this project.)
4. Attached to the Lease as Exhibit #2 is an accounting of year-end 1998 operating expenses for the subject premises. Should BIW remain in this property beyond its initial five-year term, the Tenant shall be responsible for its pro rata share of annual increases in these expenses.

David Richard
February 26, 1999
Page 3

Finally, with regard to your request regarding additional rent abatement, please note that the Lease agreement already provides for a 2 1/2-month free rent period versus the two-month period you and I discussed the other day.

Should there be any further discussion required as it relates to "damage of premises" and Landlord obligations or the "purchase option," please ask Rod to give me a call directly and I am certain that we can reach a mutually acceptable understanding with regard to these matters.

Thank you and, as always, please call me with any questions.

Very truly yours,



DEBRA R. NAPOLITANO

DRN/kah
Enclosures

cc: Terry Hanson (via fax: 773-4914)
Roderick R. Rovzar, Esq. (via fax: 775-0806)

David
I know
the attached
please as we
just got it
Please call me.
(We're getting there)
Debbie

**Site Review Pre-Application
Multi-Family/Attached Single Family Dwellings/Two-Family Dwelling
or Commercial Structures and Additions Thereto**

In the interest of processing your application in the quickest possible manner, please complete the Information below for Site Plan Review

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

BIW FIVE COUNTY CREDIT UNION

MAY 4, 1999

Applicant
40 A COMMERCIAL ST., PORTLAND, ME

Application Date
BIW FIVE COUNTY C.U.

Applicant's Mailing Address
ROYAL DESIGN BUILDERS, INC.

Project Name/Description
19 COMMERCIAL ST.

Consultant/Agent
603 926 4533, FAX 603 926 5907

Address Of Proposed Site
Map 29, Block P, Lot 32

Applicant/Agent Daytime telephone and FAX

Assessor's Reference, Chart#, Block. Lot#

Proposed Development (Check all that apply) New Building Building Addition Change of Use Residential Office Retail
 Manufacturing Warehouse/Distribution Other(Specify) BRANCH BANKING OFFICE

EXISTING - 3600 SF.

APPROX. 21 ACRES

B-3

Proposed Building Square Footage and /or # of Units

Acreage of Site

Zoning

You must Include the following with you application:

- 1) A Copy of Your Deed or Purchase and Sale Agreement
- 2) 7 sets of Site Plan packages containing the information found in the attached sample plans and checklist.

(Section 14-522 of the Zoning Ordinance outlines the process, copies are available for review at the counter, photocopies are \$ 0.25 per page)

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

Signature of applicant: <u>David W. [Signature]</u>	Date: <u>MAY 4, 1999</u>
---	--------------------------

Site Review Fee: Major \$500.00 Minor 400.00

This application is for site review ONLY, a Building Permit application and associated fees will be required prior to construction.

CITY OF PORTLAND, MAINE

BOARD OF APPEALS



CONDITIONAL USE APPEAL APPLICATION

Applicant's name and address: BIW FIVE COUNTY CREDIT UNION

40A COMMERCIAL ST PORTLAND, ME (BRANCH) PO BOX 598 BATH, ME.

Applicant's interest in property (e.g., owner, purchaser, etc.):

POTENTIAL LEASEE

Owner's name and address (If different): STEVEN McDUFFIE

CLAY COVE INC. 52 WELLWOOD RD. PORTLAND, ME.

Address of property and Assessor's chart, block and lot number:

19 COMMERCIAL ST, PORTLAND, ME. MAP 29, BLOCK P, LOT 32

Zone: B-3

Present use: _____

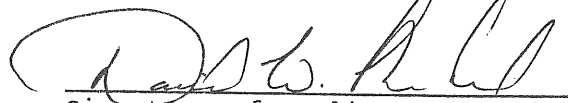
Type of conditional use proposed: Drive-up Banking Services

conditional use authorized by: Section 14- 218(3)

NOTE: If site plan approval is required, attached preliminary or final site plan.

The undersigned hereby makes application for a conditional use permit as above described, and certifies that all information herein supplied by his/her is true and correct to the best of his/her knowledge and belief.

Date: SEPTEMBER 17, 1998


Signature of Applicant

DAVID W. RICHARD



Dear Board of Appeals:

It is our request to establish a credit union drive through area located at 19 Commercial St. in the City of Portland, Maine. This would be utilizing an existing *Right of Way* as documented and shown on the accompanying documents.

Our understanding is that a drive up at this location would meet all necessary requirements of as stated in section 3 of the B-3 Zoning code. Stacking capacity offers an approximate total of over One Hundred (100) feet while the set back of the actual service window more than meets the Twenty Five (25) street set back. The vehicle path would follow the *Right of Way* by entering from Commercial St. and exiting onto Franklin St. At the service area itself, as demonstrated in the photograph, ample room is available for not only the transaction vehicle but also room for another vehicle to pass if required. It should also be noted that the Commercial Street area has had established drive up locations by both Key Bank at 172 Commercial St. and the former Casco Northern Bank located at 145 Commercial St.

In regard to alteration to the area, it is our intent to not add any structural element that would alter the area as it is known, the only exception would consist of a few small signs for the proper flow of drive up traffic. The service window would be operated through a tube system as a remote drive up, so that there would be no teller stationed at the drive up itself but rather located well within the building. The advantage to a remote drive up is that the changes to the building would be minor (This would be done by utilizing existing window areas, currently covered by wood, that are presently unused). The drive up service window would consist of an extending drawer to facilitate member transactions and a possible drive up ATM. The placement of a video camera would also be necessary for security purposes and to aid in the transaction itself. Our intent is to preserve the integrity of the area as it is now, creating a minimal impact both visually and architecturally.

On behalf of BIW Five County Credit Union, I thank you for taking this proposal into consideration. Some of this information is informal, due to time constraints, and may not meet your criteria. If so, I would be happy to provide any additional paperwork deemed necessary by the Board.

Sincerely,

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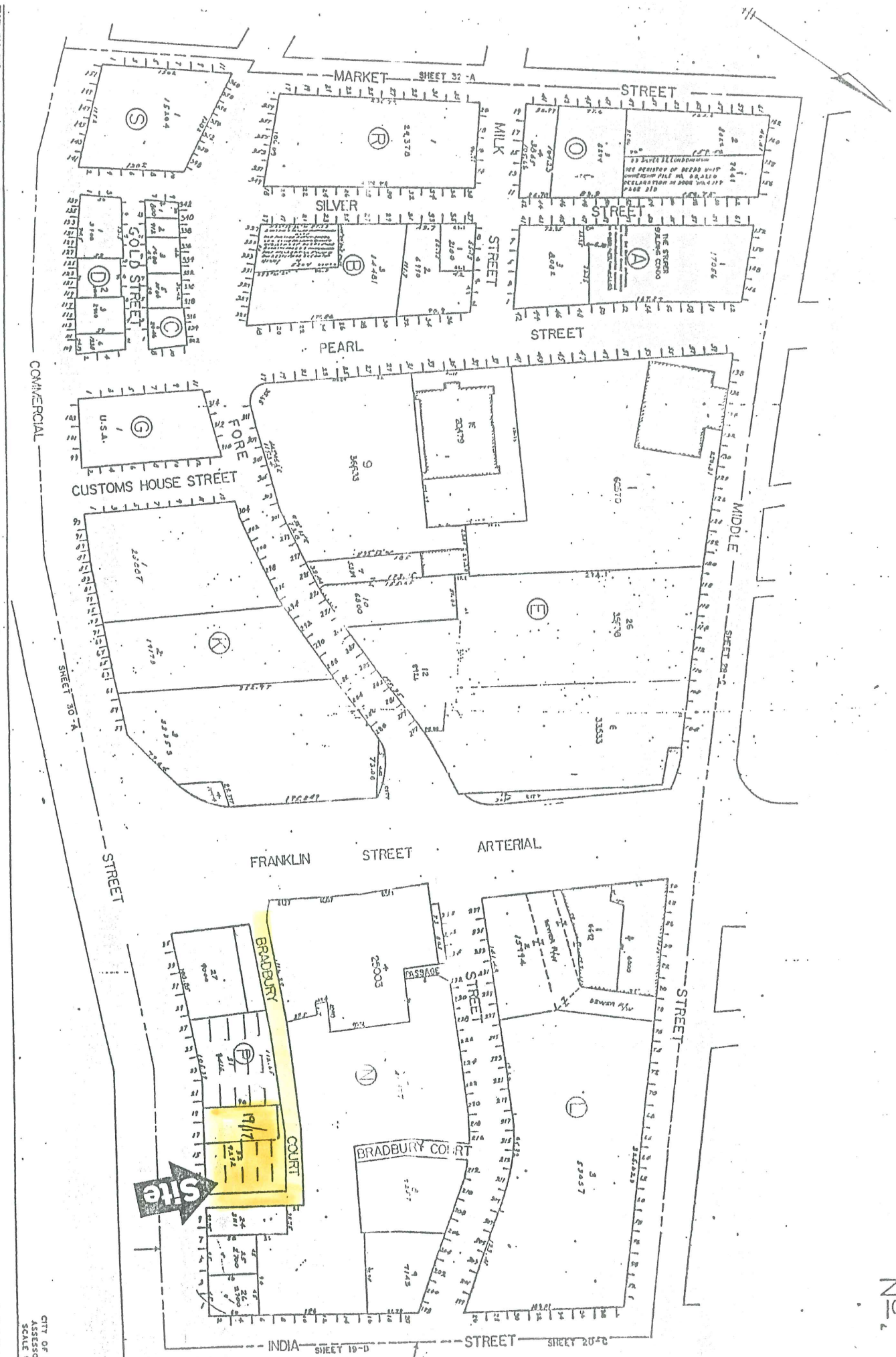
David W. Richard
Branch Manager
BIW Five County Credit Union

PS I will on vacation and away from work until October 5th, 1998. However, I can be reached through September 24th, 1998 at (503) 331-7116, please feel free to call if there are any questions or concerns.



765 Washington Street • P.O. Box 598 • Bath, Maine 04530 • (207) 443-3528
40A Commercial Street • Portland, Maine 04101 • (207) 773-8408

Serving
Androscoggin, Sagadahoc,
Kennebec, Cumberland
Lincoln Counties



CITY OF PORTLAND
 ASSESSORS P
 SCALE 1"=50'

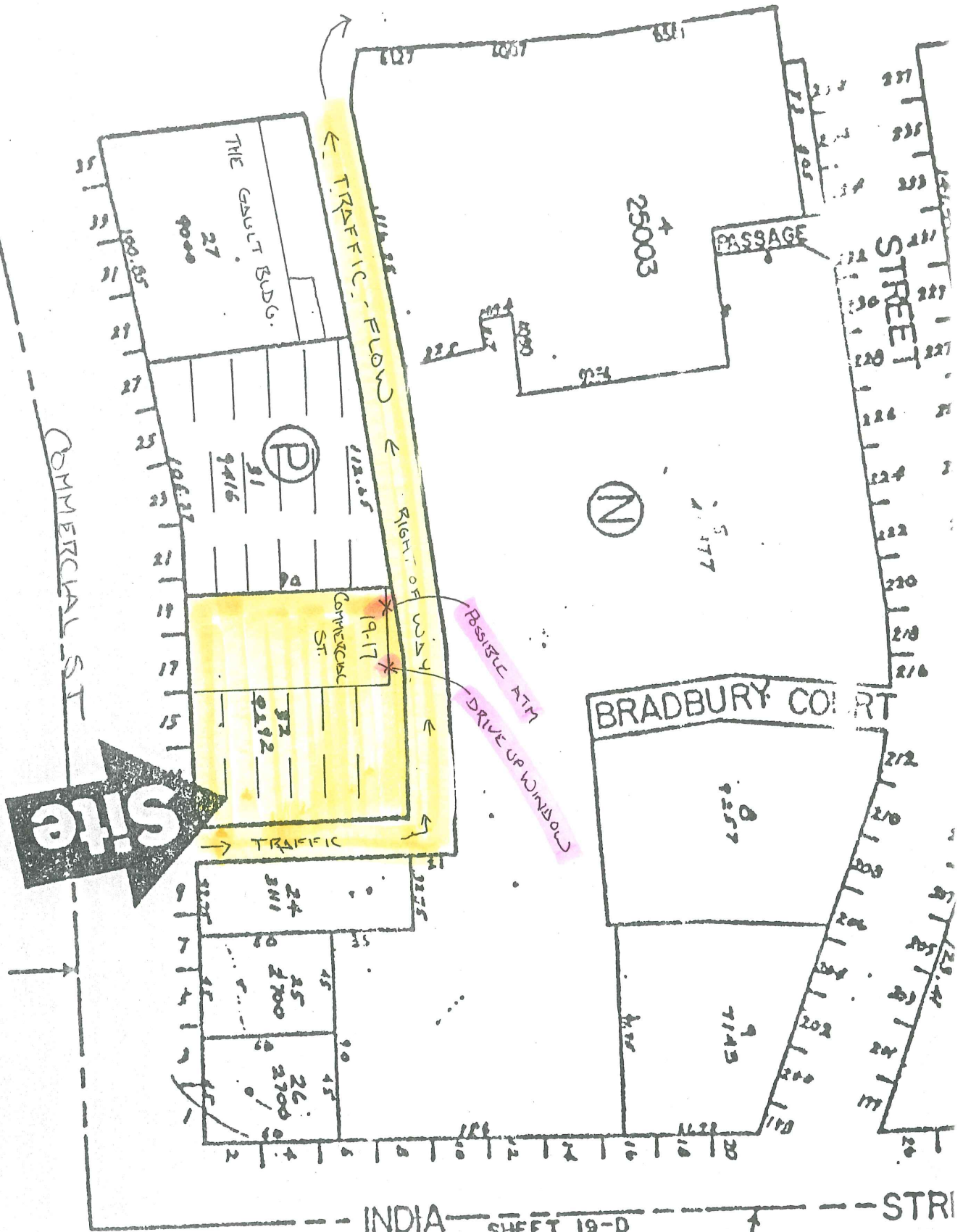
TAX MAP

STREET

FRANKLIN STREET

STREET

AR



Site

INDIA

SHEET 19-D

STRI

TAX MAP

THE BOULOS COMPANY

One Canal Plaza
Portland, ME 04101
(207) 772-1333
Fax: (207) 871-1288
E-Mail: info@boulos.com
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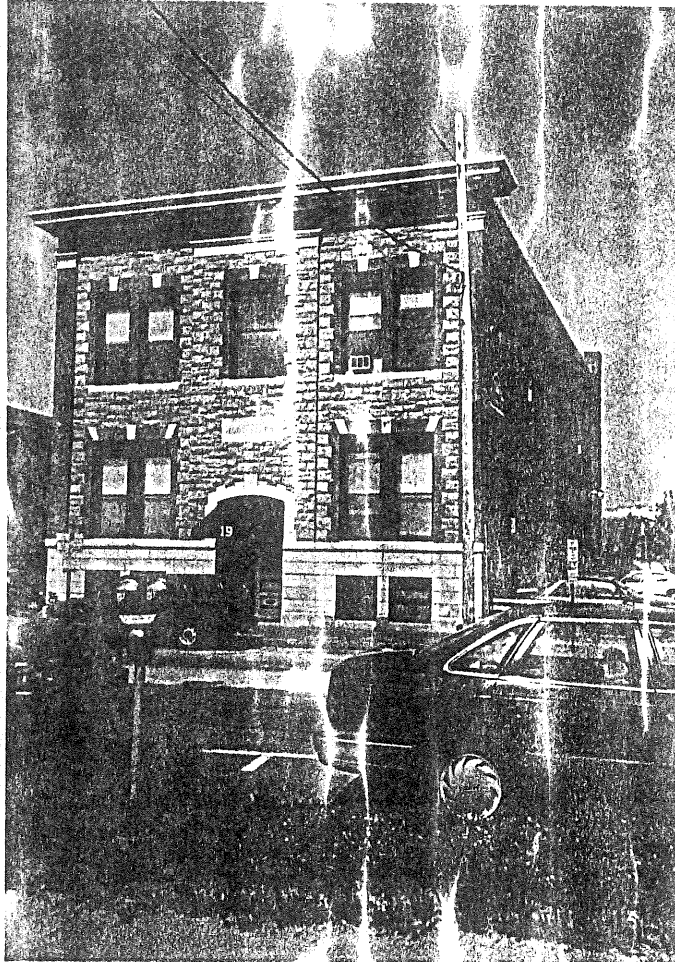


Individual Member



Individual Membership
Specialist,
Industrial and
Office Real Estate

FOR LEASE 1,619± S.F. OFFICE SPACE



19 COMMERCIAL STREET PORTLAND, MAINE

Information furnished is from sources deemed reliable, but no warranty is made as to the accuracy thereof. All information should be independently verified.

This Agency/Licensee represents the Seller's/Landlord's interest and, as such, has a fiduciary duty to disclose to the Seller/Landlord information which is material to the sale/lease, acquired from the Buyer/Tenant or any other source, except in cases of disclosed dual agency.

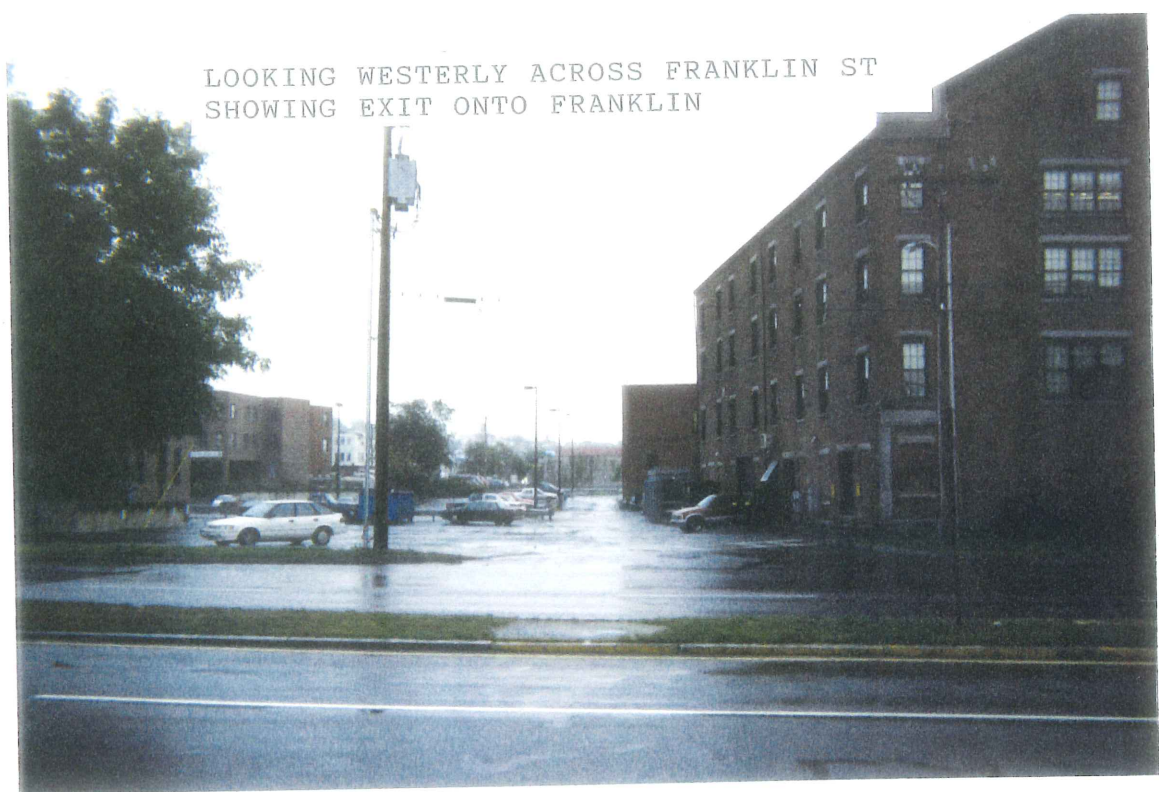
DRN/ady
Ver.II



DETAIL OF EXIT ONTO FRANKLIN ST.
SHOWING EXISTING CURB & CROSSWALK



LOOKING WESTERLY ACROSS FRANKLIN ST
SHOWING EXIT ONTO FRANKLIN



September 16, 1998

THE BOULOS COMPANY

One Canal Plaza
Portland, ME 04101
(207) 772-1333
Fax: (207) 871-1288
E-Mail: info@boulos.com
www.boulos.com



Individual Member



Individual Membership
Specialist,
Industrial and
Office Real Estate

Mr. David Richard
BIW Five County Credit Union
40A Commercial Street
Portland, ME 04101

VIA FACSIMILE
(207)774-1667

Re: 19 Commercial Street
Portland, Maine

Dear David:

As a follow up to our last conversation, this letter shall serve to confirm that BIW Five County Credit Union is working with The Boulos Company to lease potential office space at the above referenced location.

Should the City of Portland have any questions with regard to this matter, please have them contact me at (207)772-1333.

I look forward to speaking with them.

Very truly yours,


JEREMY M. ROY

JMR/ady

pc: Craig S. Young
Debra R. Napolitano



MORTGAGE LOAN INSPECTION PLAN

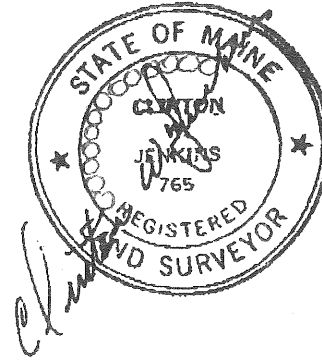
TO THE LENDING INSTITUTION AND ITS TITLE INSURER

I HEREBY CERTIFY THAT THE LOCATION OF THE DWELLING SHOWN ON THIS PLAN DOES CONFORM WITH THE LOCAL ZONING LAWS IN EFFECT AT THE TIME OF CONSTRUCTION. THE PROPERTY DOES NOT FALL WITHIN A SPECIAL FLOOD HAZARD ZONE.

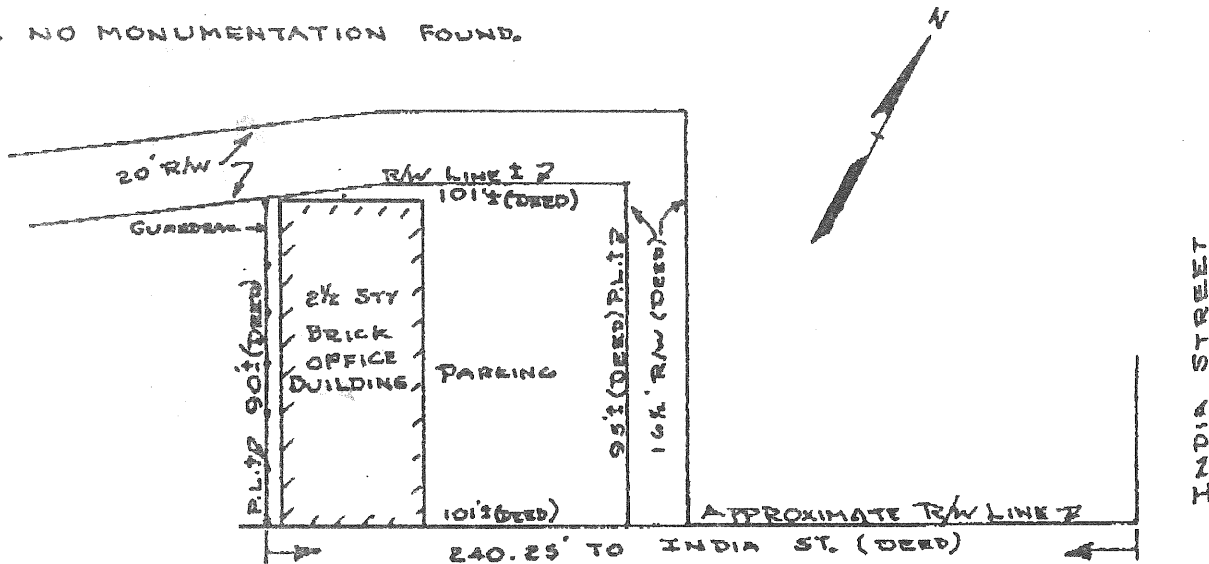
THIS PLAN WAS NOT MADE FROM AN INSTRUMENT SURVEY. THE CERTIFICATIONS ARE FOR MORTGAGE PURPOSES ONLY. THIS PLAN APPLIES ONLY TO CONDITIONS EXISTING AS OF THE DATE SHOWN HEREON, AND DOES NOT SHOW ANY POSSIBLE CONFLICTS WITH ADJUTING DEEDS. THIS PLAN IS NOT FOR RECORDING.

THIS IS NOT A LAND BOUNDARY SURVEY.

DATE JAN. 23, 1987 PROJ. 87027
BOOK 6669 PAGE 116
COUNTY CUMBERLAND SCALE 1"=50'



NOTE: NO MONUMENTATION FOUND.



COMMERCIAL STREET

NOTE: THIS PLAN IS COMPILED FROM DEED, TAX MAP AND FIELD MEASUREMENTS. THE PROPERTY LINES, R/W LINES AND BUILDINGS AND THEIR RELATIONSHIP TO EACH OTHER IS APPROXIMATE. IF MORE ACCURATE DETAIL IS REQUIRED A CLASS "A" SURVEY IS RECOMMENDED.

PROPERTY OF FORD S. REICHE, C. ALAN BEAGLE AND MARTIN J. RIDGE. LOCATED AT * 17 COMMERCIAL ST., PORTLAND, MAINE.

PURCHASER - WILLIAM J. DOWD.

36294

WARRANTY DEED

WILLIAM J. DOWD, of Westbrook, Maine, for valuable consideration, grants to APEX, INC., a Maine corporation with a principal place of business in Portland, Maine, and a mailing address of P. O. Box 9540, Portland, ME 04112, with Warranty Covenants, the following described real property situated in Portland, Cumberland County, Maine:

A certain lot or parcel of land situated in said Portland on Commercial Street, and being more particularly described on Exhibit A attached hereto and made a part hereof.

Meaning and intending to convey the same premises described in a deed from C. Alan Beagle, et al, to the Grantor dated February 12, 1987, and recorded in the Cumberland County Registry of Deeds in Book 7633, Page 308.

The purpose of this deed is to correct and clarify the description contained in the deed from William J. Dowd to Apex, Inc., dated April 22, 1991, recorded in said Registry of Deeds in Book 9532, Page 273.

Witness my hand this 31st day of July, 1991.

Mary E. Plumes
Witness

William J. Dowd
William J. Dowd

STATE OF MAINE
CUMBERLAND, SS.

July 31, 1991

Personally appeared the above named William J. Dowd and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Mary E. Plumes
Notary Public
MARY E. PLUMES
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES AUGUST 8, 1991
Printed Name of Notary

Instr 36294 Bk 9658 Pg 46

EXHIBIT A

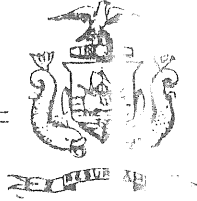
A certain lot or parcel of land, with the buildings thereon, situated in the City of Portland, County of Cumberland and State of Maine, and bounded and described as follows: BEGINNING at a point on the northerly sideline of Commercial Street, which point is in the southeasterly corner of land now or formerly of Burnham and another and is about two hundred forty and twenty-five hundredths (240.25) feet westerly from the westerly sideline of India Street; thence running northerly by said land of Burnham and another ninety (90) feet, more or less, to the southerly sideline of a twenty (20) foot passageway extending from Franklin Street in the rear of the lot herein described; thence easterly by the southerly sideline of said passageway one hundred one (101) feet, more or less, to the westerly sideline of a passageway sixteen and one-half (16-1/2) feet wide extending back from Commercial Street; thence southerly by the westerly sideline of said passageway extending back from Commercial Street ninety-five (95) feet, more or less, to a point in the northerly sideline of said Commercial Street; thence westerly by the northerly sideline of Commercial Street one hundred one (101) feet, more or less, to the point of beginning.

Also, all our right, title and interest in and to said passageway running in the rear of said lot from Franklin Street and all our right, title and interest in and to said passageway running back from Commercial Street.

Recorded
Cumberland County
Registry of Deeds
07/31/91 01:48:36PM
Robert P. Titcomb
Register

CITY OF PORTLAND, MAINE

BOARD OF APPEALS



TO APPLY FOR AN APPEAL YOU WILL NEED:

1. APPLICATION FEE OF \$50.00 PLUS \$25.00 TOWARDS A BUILDING PERMIT, IF NECESSARY. PLEASE NOTE THAT THE APPEAL APPLICATION FEE IS NON-REFUNDABLE.
2. ELEVEN (11) SEPARATE PACKETS OF THE FOLLOWING:***
 - (A) COPY OF THE APPEAL APPLICATION ✓
 - (B) A COVER LETTER ADDRESSED TO THE BOARD OF APPEALS STATING WHAT IT IS YOU WANT TO DO ✓
 - (C) A PLOT PLAN SHOWING THE SITE AND LOCATION OF ALL STRUCTURES, EXISTING AND PROPOSED, IN RELATION TO THE LOT LINES AND, IF APPLICABLE, INDICATE PARKING. LOT SIZE AND SETBACK DIMENSIONS MUST ALSO BE SHOWN. ✓
 - (D) A FLOOR PLAN, IF APPLICABLE, SHOWING DIMENSIONS, EXISTING AND PROPOSED ROOMS AND/OR STRUCTURES WITH DIMENSIONS NOT YET AVAILABLE
 - (E) PHOTOS OF PROPERTY ✓
 - (F) DEED, SALE AGREEMENT, LEASE OR INTENT TO LEASE ✓
3. OWNER, LESSEE, PROSPECTIVE PURCHASER OR LEGAL REPRESENTATIVE MUST SIGN THE APPLICATION. ✓
4. COPIES OF OTHER DOCUMENTS MAY BE REQUIRED. IF SO, YOU WILL BE NOTIFIED.

*****BE SURE YOU HAVE AN EXTRA PACKET FOR YOURSELF TO REFER TO AT THE MEETING**

YOU CAN APPLY FOR AN APPEAL/PERMIT AT CITY HALL, ROOM 315 MONDAY THROUGH FRIDAY BETWEEN 7:00 A.M. AND 4:00 P.M. IF YOU CHOOSE TO FILE ON THE DEADLINE DATE, PLEASE NOTE THAT APPLICATIONS ARE ACCEPTED ONLY UNTIL NOON ON THAT DAY.

May 4, 1999

Ms. Kandice Talbot, Planner
City of Portland
Planning & Urban Development
389 Congress Street
Portland, ME 04101

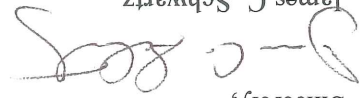
Re: BIW Five County Credit Union
19 Commercial Street
Conditional use application for a drive-up unit
Dear Ms. Talbot,

Enclosed is the application for site review. Also enclosed is additional information we are submitting in reference to your letter to the Credit Union dated September 29, 1998.

Clarification is necessary to explain this drive-up situation. There will not be a drive-up window or a drive-up ATM. We propose a tube system with a small kiosk unit set outside the building. A tube is extended from this kiosk unit into the building to conduct the banking transaction.

If you have any questions, please don't hesitate to contact me.

Sincerely,



James C. Schwartz
VP Operations

May 20, 1999

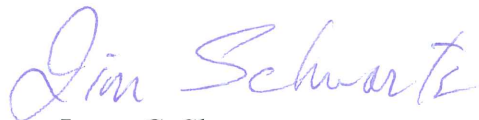
Mr. William Needleman, Planner
City of Portland
Planning & Urban Development
389 Congress Street
Portland, ME 04101

Dear Bill,

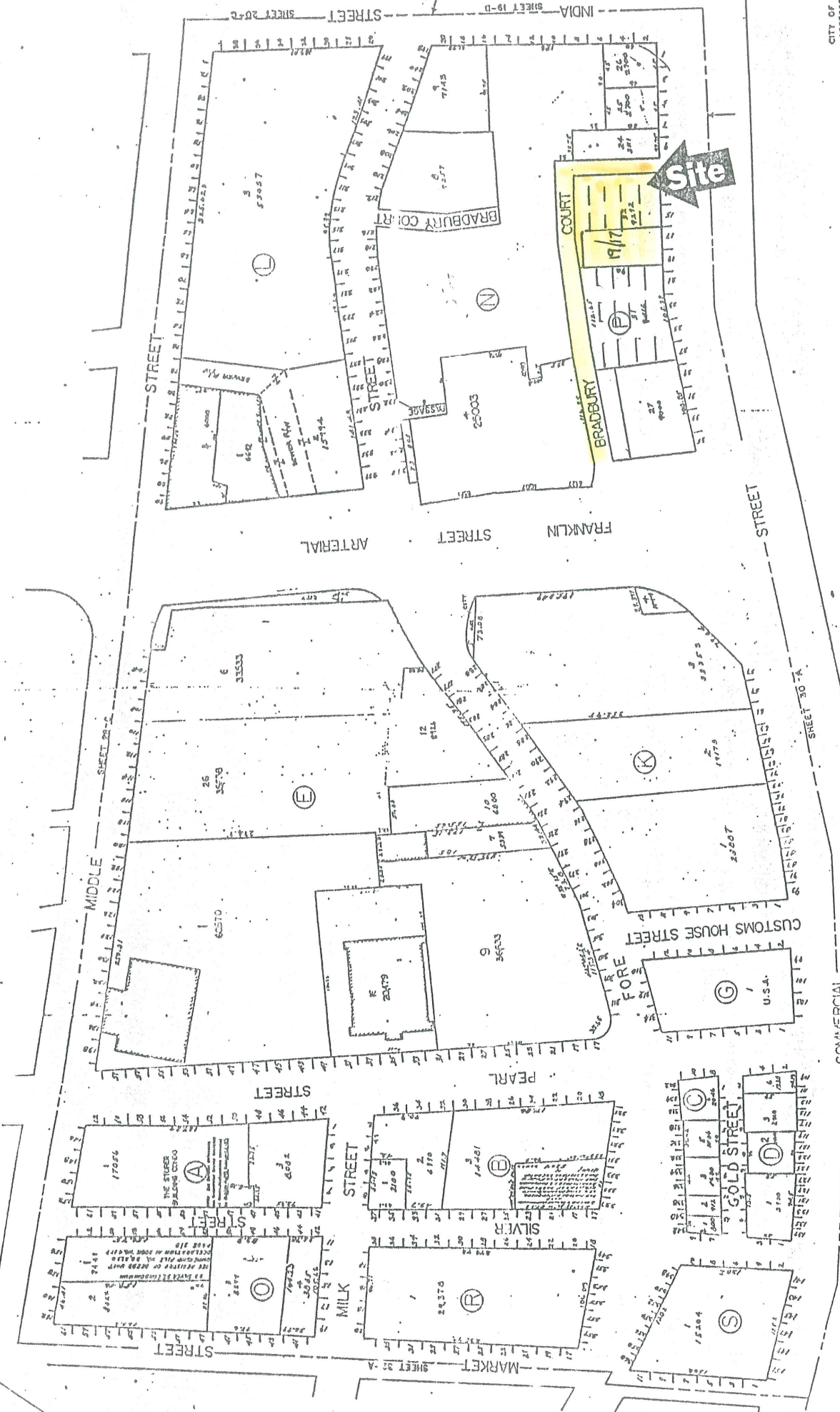
Enclosed are the copies we discussed for the BIW Five County Credit Union.

Please call me if you have any questions.

Sincerely,



James C. Schwartz



COMMERCIAL

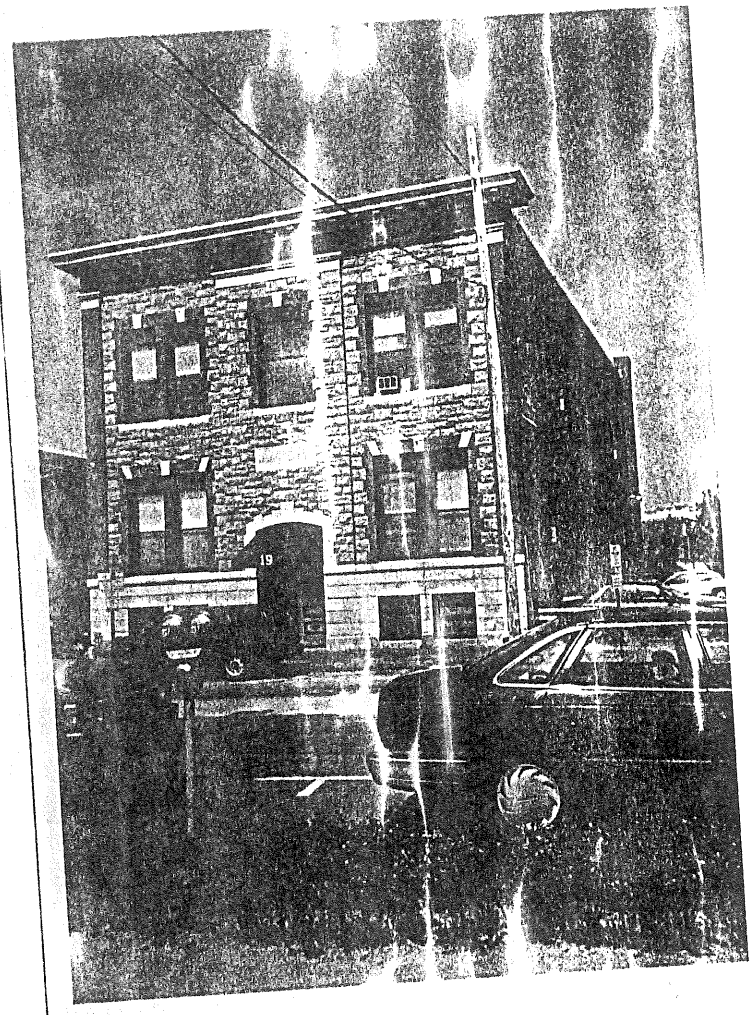
THE BOULOS COMPANY

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CCIM Individual Member

SIOR Individual Membership
Specialists,
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Office Real Estate

FOR LEASE
1,619± S.F. OFFICE SPACE



19 COMMERCIAL STREET
PORTLAND, MAINE

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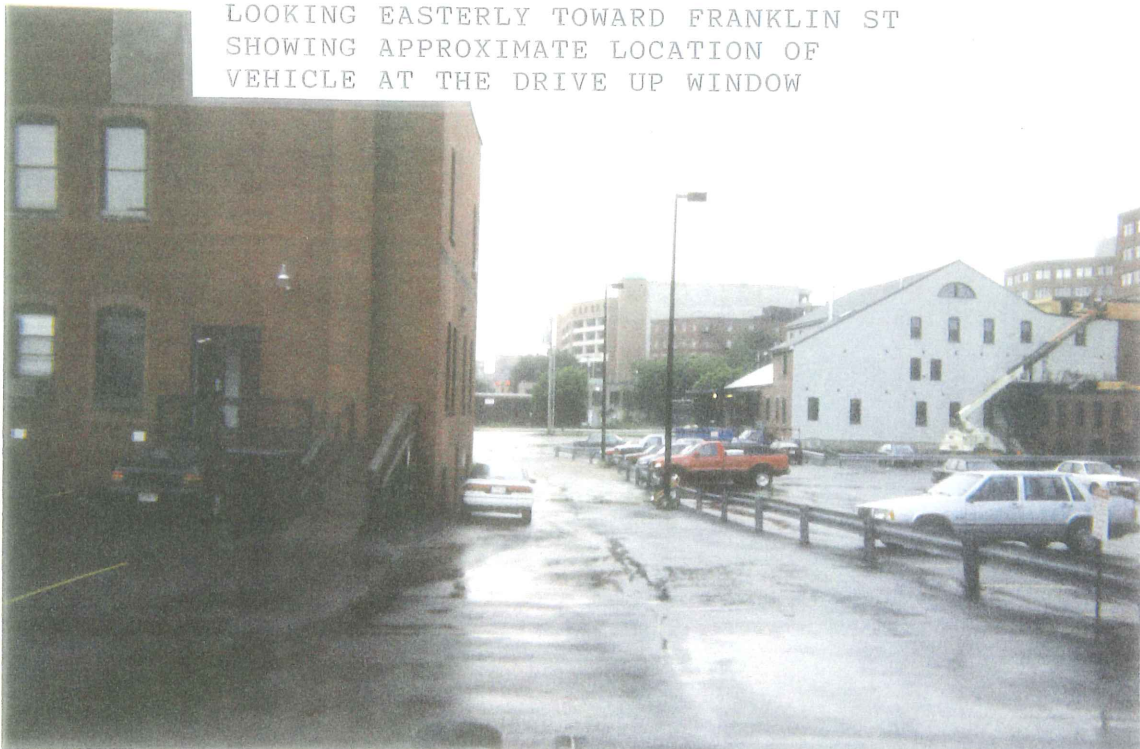
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DRN/ady
Ver.II

LOOKING NORTHERLY
SHOWING ENTRANCE FROM
COMMERCIAL ST.



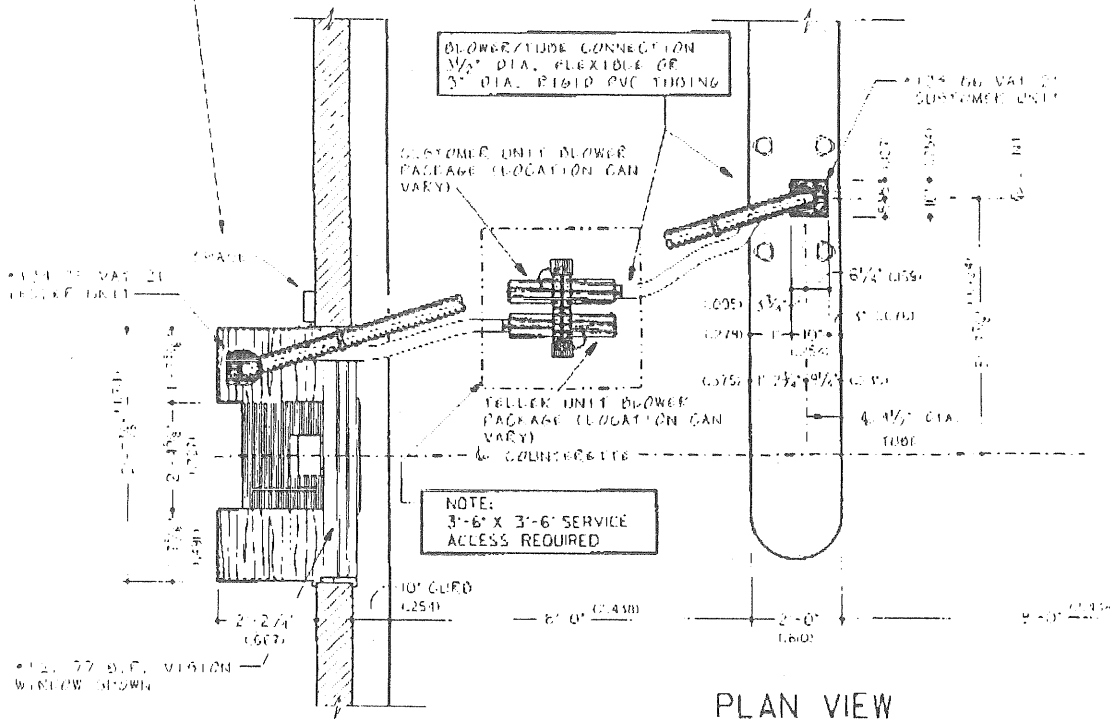
LOOKING EASTERLY TOWARD FRANKLIN ST
SHOWING APPROXIMATE LOCATION OF
VEHICLE AT THE DRIVE UP WINDOW



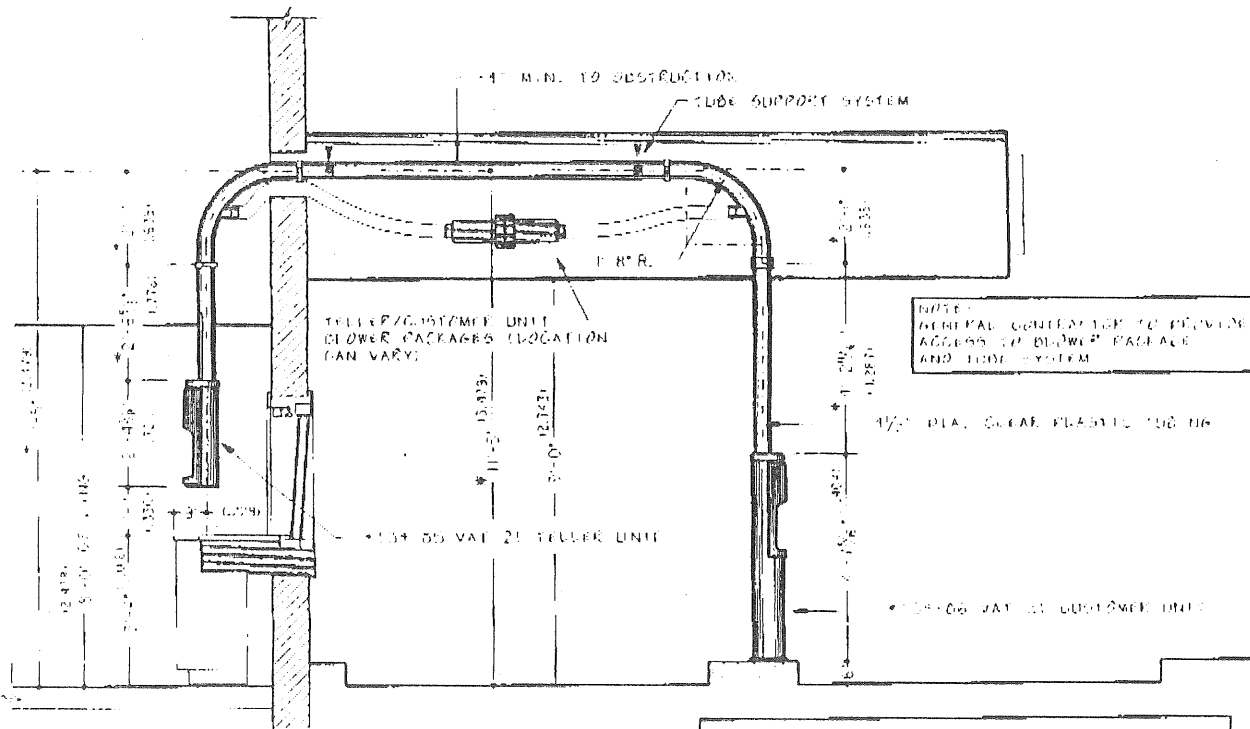
DIMENSIONS IN FEET-INCHES
(DIMENSIONS IN METRES)

THIRD ANGLE
PROJECTION

NOTE:
PHASE AND LOCATION AS REQUIRED FOR G.C. TO
WELD TO HOUSE AND INTERCONNECTING
CONNECTIONS TO G.C. ARE



PLAN VIEW



SECTION/ELEVATION

* ALL DIMENSIONS MARKED WITH AN ASTERISK
MAY VARY WITH ADDITIONAL CONSTRUCTION

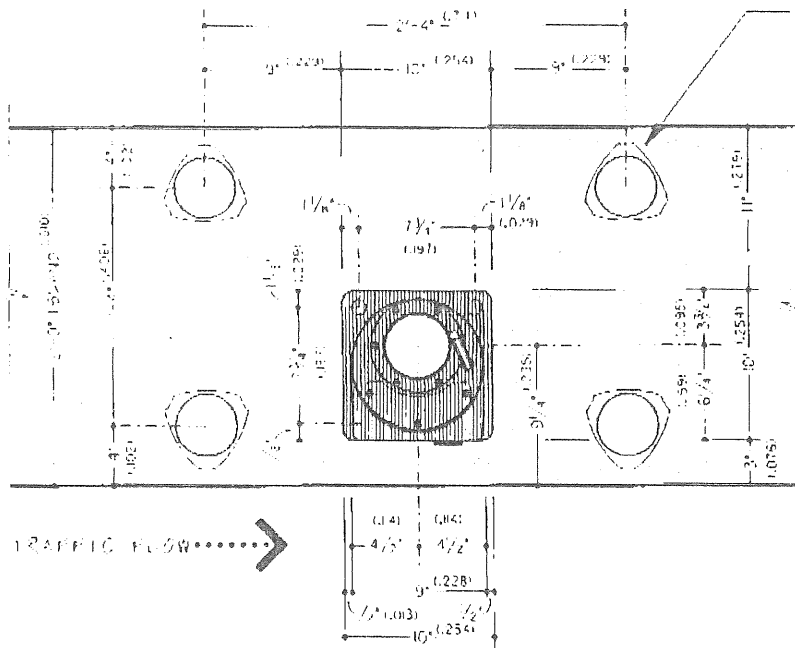
10641753

LITHO IN U.S.A. 0692*19

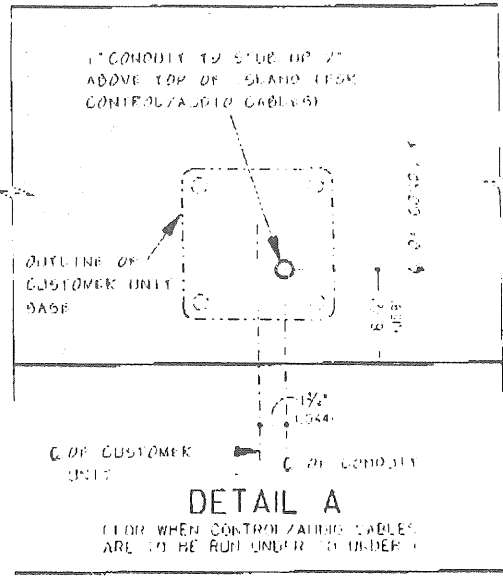
MANUFACTURED BY
DIEBOLD BANKING SYSTEMS

FILE NO. 17B-1753 REV. 2

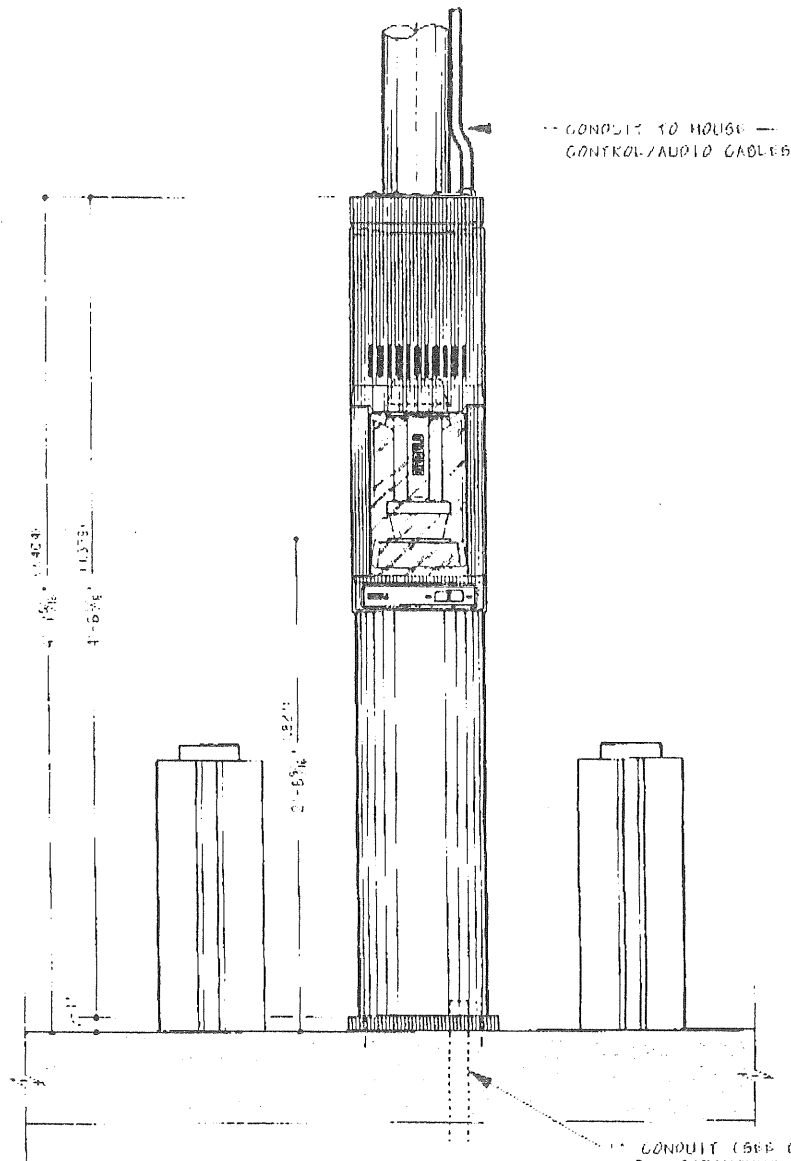
#134-86 CUSTOMER UNIT DETAILS



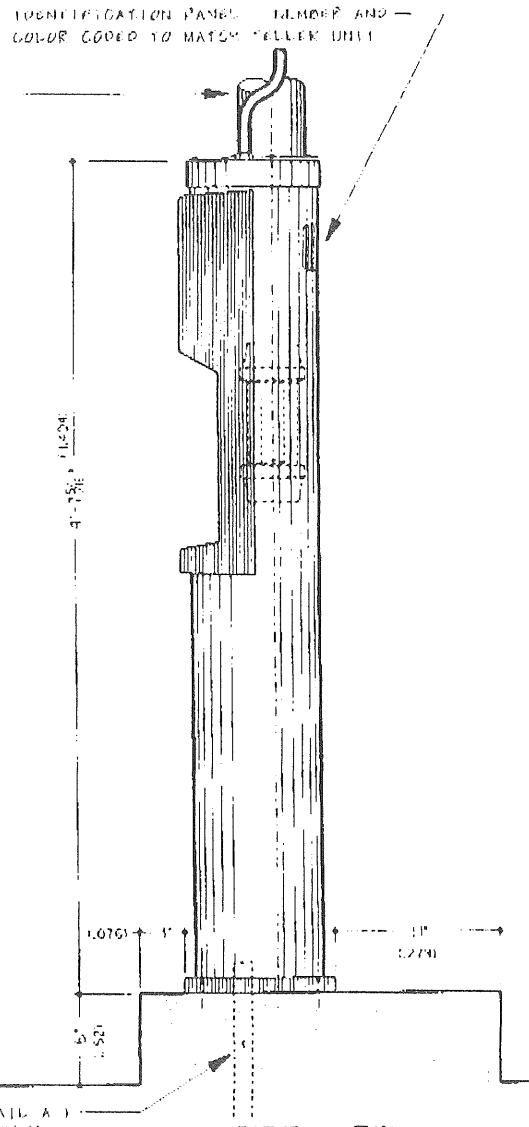
PLAN VIEW



DETAIL A



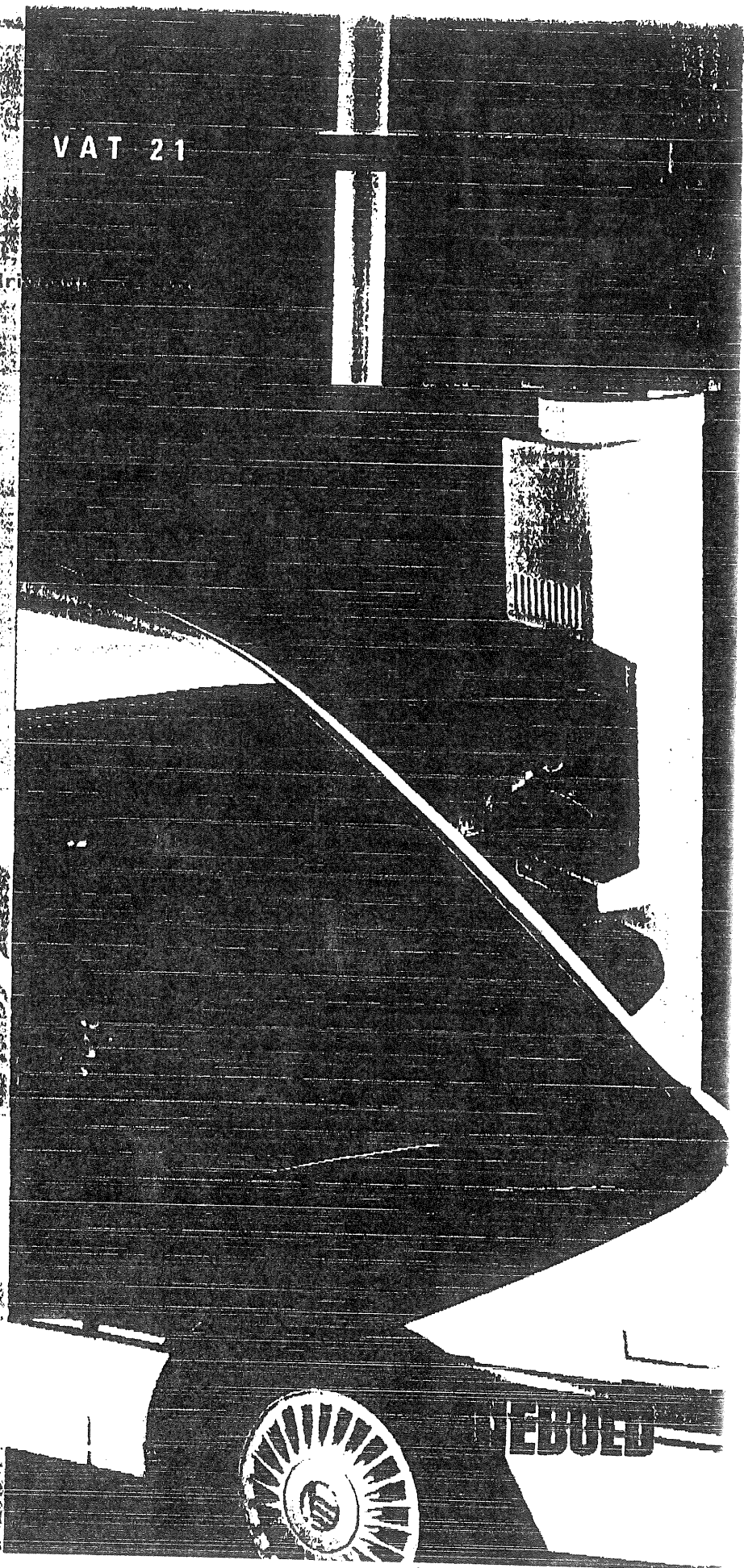
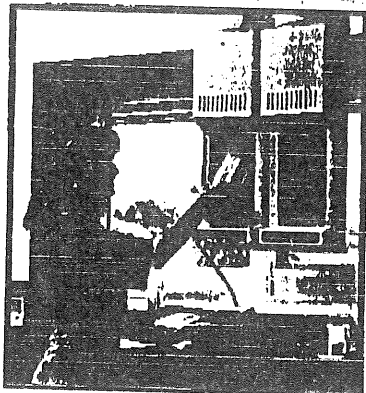
FRONT VIEW



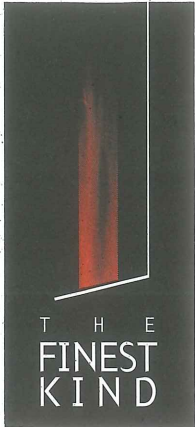
SIDE VIEW

VAT 21

Simplicity and reliability in a drive



RENOULT



November 9, 1999

To: Portland Planning Board

It is my opinion that this proposal has gone from bad to worse.

As I understand the proposal, the drive thru will initiate on Commercial Street entering a 16.5 ft. wide two way passageway along the side of a brick building for approximately 90 ft., taking a sharp 90° left turn which also will be an entrance/exit for a parking lot, traveling approximately 45 ft., still in the right lane, then abruptly turning into the left lane for approximately 30 ft. and again abruptly turning back to the right lane and continuing to Franklin Street.

It appears that people are so desperate to make this work that all logic is thrown to the wind.

At present the passageway is hardly used. The impact of drastically increasing the traffic raises significant safety issues from cars and trucks passing each other in a space of 16.5 ft. to abruptly changing lanes to face head on traffic.

Even Mr. David Richard, Branch Manager of the Credit Union, raises these safety issues in a letter (attachment 14 last paragraph of his proposal) when he states "I have reviewed this scenario with Mr. Banister but unfortunately he strongly feels that his vehicles should exit back through the shared right-of-way onto Commercial Street. This scenario, in our opinion, creates concern regarding proper vehicle flow and safety, especially when confined to such a narrow passageway."

Isn't it strange that BIW Credit Union is proposing two way traffic from Commercial Street, but agrees that it is unsafe? How can one approve this proposal when both parties raise safety issues?

Sincerely,


Art Banister

AB/sk

9 Commercial Street
Portland, Maine 04101
207 772 2155 voice
207 772 5172 fax
800 640 5115 toll free

172 Pleasant Street
Brunswick, Maine 04011
207 725 5199 voice
207 725 5568 fax

GP Gorrill-Palmer Consulting Engineers, Inc.
Traffic and Civil Engineering Services

PO Box 1237
31 Main St.
Gray, ME 04039

207-657-6910
FAX: 207-657-6912
E-Mail: gpcel@maine.rr.com

November 8, 1999

Mr. Art Banister
The Finest Kind
9 Commercial Street
Portland, Me 04101

Subject: BIW Five County Credit Union Drive-Thru

Dear Mr. Banister:

In response to your request, we have reviewed the potential traffic issues regarding the addition of a drive-up window to the BIW Five County Credit Union adjacent to your property at 9 Commercial Street. Our review was based upon information that you faxed to us including: the site plan, a letter dated November 3, 1999 from Wilbur Smith Associates (WSA), and an e-mail dated October 27, 1999 from Larry Ash, Portland City Traffic Engineer. We also conducted a brief site visit.

The Finest Kind building is adjacent to the 16.5 foot lane. It is our understanding from you that the lane width is 16.0 feet, however the site plan shows 16.5 feet and we have based our review on this width. You may wish to check your deed to verify this width. The Finest Kind has a parking lot behind the building with the lane being the only legal access to the parking lot. You are currently accessing the parking lot through the neighbors parking lot via India Street, but this may change at anytime, leaving the lane as the your only access. The Finest Kind has delivery vans that also would be using the lane.

The Finest Kind building is adjacent to the lane on one side and parking is located on the other side. The parking is separated from the lane with a chain that is suspended on pipe mounted in moveable granite blocks. There are also some obtrusions that stick out from the building approximately 6 inches. From our field visit and review of the site plan, we identified the following concerns with regard to use of the lane:

- ◆ The average width of today's passenger vehicles are approximately 7 feet (mirror to mirror), with some passenger vehicles being even wider. When two 7 foot passenger vehicles meet in the 16.5 foot lane they will only have approximately 6 inches of clearance on each side of their vehicle, with a foot in between the vehicles. While the lane is two way today, it is less of a concern since the traffic volume is low. With the addition of the drive-thru the volumes will increase significantly.
- ◆ When a vehicle is turning into the lane from Congress Street it will encroach into the opposing side of the lane. When a vehicle is exiting the lane and another vehicle is entering the lane there will be a potential conflict.

Gorrill-Palmer Consulting Engineers, Inc.

Mr. Art Banister
November 8, 1999
Page 2

- The Finest Kind has a building entrance adjacent to the lane and the door opens to the inside. The entrance is flush with the side of the building, therefore a vehicle will not be able to see the pedestrian until they have stepped into the lane.

We concur with both WSA and Larry Ash there should be one-way traffic adjacent to the north side of the bank at the proposed drive-up window and be appropriately marked.

We also concur with WSA and Larry Ash that the 16.5 foot lane should remain two way so that access can be made to the parking area behind your building at 9 Commercial Street. However we have concerns over the safety of the lane because increased level of traffic associated with the drive-thru, poor turning radii and potential pedestrian vehicular conflicts.

I will be happy to attend the planning board meeting on November 9, 1999 if you desire.

Sincerely,

Gorrill-Palmer Consulting Engineers, Inc.



Thomas L. Gorrill, P.E.
President

TLG/aw/JN99

OLAFSEN & BUTTERFIELD

Attorneys at Law

75 PEARL STREET

P.O. BOX 130

PORTLAND, MAINE 04112

Phone: (207) 761-4411 • Fax: (207) 761-4489 • E-mail: kolblaw@cybertours.com

KURT E. OLAFSEN

LOUIS B. BUTTERFIELD

November 8, 1999

VIA FAX (874-8497) AND U.S. MAIL

Penny Littell, Esq.
Corporation Counsel's Office
City of Portland
389 Congress Street
Portland, ME 04101

RE: BIW Five County Credit Union Conditional Use Application for Drive-Through Teller

Dear Ms. Littell:

I represent Salt of the Earth, Inc., which is owned by Art Bannister. Salt of the Earth owns the real property abutting the property which is the subject of the conditional use application and has rights in and to the passageways in question. Mr. Bannister participated in the prior meeting held by the Planning Board.

In a letter to you dated September 14, 1999, Dan Cummings addressed the legal basis for the alleged right of the BIW Five County Credit Union to use the passageway from Commercial Street to Bradbury Court. Mr. Cummings conceded that he could not locate any deed granting an easement over this passageway. He goes on to state, however, that he has evidence that such a deed existed at one time.

A review of the "evidence" cited by Dan Cummings does not reveal any legal basis for the credit union's claim that it has a valid right of way. Mere references to a passageway in deeds and a mortgage from the 1800s cannot establish a legal right to use this area. An express right of way must be granted by the property owner to the easement holder. According to Mr. Cummings, there is no express right of way recorded in the registry of deeds, and therefore it is reasonable to assume that none exists.

This issue is important because under the applicable City ordinance, the credit union must provide evidence of its legal right to use the passageway. The credit union has no such evidence. As a result, it has not met its burden and the application should be denied.

Penny Littell, Esq.
November 8, 1999
Page Two

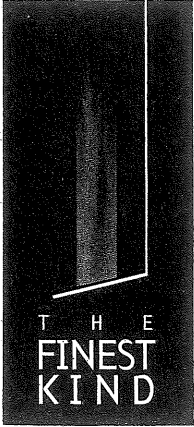
I understand that a meeting has been scheduled for tomorrow before the Planning Board. As a result, I would appreciate it if you would pass this letter along to the Board members for their consideration. If you have any questions, do not hesitate to give me a call.

Sincerely,

Kurt E. Olafsen

KEO/mfm

cc: Daniel Cummings, Esq.
Art Bannister



November 9, 1999

To: Portland Planning Board

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172 Pleasant Street
Brunswick, Maine 04011

207 725 5199 voice
207 725 5568 fax



Gorrill-Palmer Consulting Engineers, Inc.

Traffic and Civil Engineering Services

PO Box 1237
31 Main St.
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November 8, 1999

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Gorrill-Palmer Consulting Engineers, Inc.

Mr. Art Banister
November 8, 1999
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Gorrill-Palmer Consulting Engineers, Inc.



Thomas L. Gorrill, P.E.
President

TLG/aw/JN99

OLAFSEN & BUTTERFIELD

Attorneys at Law

75 PEARL STREET

P.O. BOX 130

PORTLAND, MAINE 04112

Phone: (207) 761-4411 • Fax: (207) 761-4489 • E-mail: kolblaw@cybertours.com

KURT E. OLAFSEN

LOUIS B. BUTTERFIELD

November 8, 1999

VIA FAX (874-8497) AND U.S. MAIL

Penny Littell, Esq.
Corporation Counsel's Office
City of Portland
389 Congress Street
Portland, ME 04101

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Dear Ms. Littell:

I represent Salt of the Earth, Inc., which is owned by Art Bannister. Salt of the Earth owns the real property abutting the property which is the subject of the conditional use application and has rights in and to the passageways in question. Mr. Bannister participated in the prior meeting held by the Planning Board.

In a letter to you dated September 14, 1999, Dan Cummings addressed the legal basis for the alleged right of the BIW Five County Credit Union to use the passageway from Commercial Street to Bradbury Court. Mr. Cummings conceded that he could not locate any deed granting an easement over this passageway. He goes on to state, however, that he has evidence that such a deed existed at one time.

A review of the "evidence" cited by Dan Cummings does not reveal any legal basis for the credit union's claim that it has a valid right of way. Mere references to a passageway in deeds and a mortgage from the 1800s cannot establish a legal right to use this area. An express right of way must be granted by the property owner to the easement holder. According to Mr. Cummings, there is no express right of way recorded in the registry of deeds, and therefore it is reasonable to assume that none exists.

This issue is important because under the applicable City ordinance, the credit union must provide evidence of its legal right to use the passageway. The credit union has no such evidence. As a result, it has not met its burden and the application should be denied.

Penny Littell, Esq.
November 8, 1999
Page Two

I understand that a meeting has been scheduled for tomorrow before the Planning Board. As a result, I would appreciate it if you would pass this letter along to the Board members for their consideration. If you have any questions, do not hesitate to give me a call.

Sincerely,

Kurt E. Olafsen

KEO/mfm

cc: Daniel Cummings, Esq.
Art Bannister

NORMAN, HANSON & DETROY, LLC

ATTORNEYS AT LAW
415 CONGRESS STREET
P.O. BOX 4600
PORTLAND, MAINE 04112-4600

AREA CODE 207
774-7000
FAX
775-0806

DAVID C. NORMAN
ROBERT F. HANSON
PETER J. DETROY
STEPHEN HESSERT
RODERICK R. ROVZAR
THEODORE H. KIRCHNER
MARK G. LAVOIE
STEPHEN W. MORIARTY
JAMES D. POLIQUIN
JOHN H. KING, JR.
PAUL F. DRISCOLL
WILLIAM O. LACASSE
MARK E. DUNLAP
ROBERT W. BOWER, JR.

JONATHAN W. BROGAN
CHRISTOPHER C. TAINTOR
DAVID P. VERY
DANIEL L. CUMMINGS
ALEXANDER F. McCANN
RUSSELL B. PIERCE, JR.
ANNE M. CARNEY
DAVID L. HERZER, JR.
THOMAS S. MARJERISON
ADRIAN P. KENDALL
EMILY A. BLOCH
ANNE H. JORDAN
AARON K. BALTES

E-Mail
dcummings@nhdlaw.com

Website
www.nhdlaw.com

October 20, 1999

OCT 21 1999

Penny Littell, Esq.
City of Portland
389 Congress Street
Portland, ME 04101

Re: **BIW Five County Credit Union**

Dear Penny:

I wanted to address a couple of issues that surfaced at the Planning Board meeting on October 12, assuming you will pass this along to the Board members for their consideration.

The first issue involves Board member Erin Rodriguez's concerns that the City's ordinances put the Board in the untenable position of having to decide the scope of BIW Five County Credit Union's easement rights. Understandably, Mr. Rodriguez is uncomfortable with that role and believes that it should be beyond the scope of what the Board's role. I agree with that whole-heartedly. He also believes, however, that the Board is "stuck" with that role because the ordinance in effect mandates it. I respectfully disagree with that conclusion. Let me explain.

Section 14-524(c) of the City's ordinance requires that the Credit Union submit written statements containing, among other things, a "general summary of existing and proposed easements or other burdens now existing or to be placed upon the property," as contained in Subsection 14-524(c)(3), and "evidence of the applicant's title, right, or interest in the property, including without limitation deeds, leases, purchase options or any other documentation," as found in Subsection 14-524(c)(10).

I do not believe that that language mandates the conclusion that Mr. Rodriguez has reached, *i.e.*, that the Board must also make a legal ruling that the proposed use falls within the scope of the "applicant's title, right or interest in the property." I agree with your assessment that once such evidence is produced, which the Credit Union has

produced, the fight over the scope of such rights falls on private parties. The Credit Union has always realized that any other party that can establish rights in the passageways would have the right to assert, in court if necessary, that the Credit Union's use is beyond the scope of its easement rights, even if the City approves the Credit Union's site plan. As you put it, the Credit Union would have to proceed "at its own risk."

I can appreciate Mr. Rodriguez's discomfort with the notion that the Board has to make a legal ruling on the scope of the Credit Union's easement rights. Again, the Credit Union believes that it has submitted sufficient evidence establishing that it has easement rights in the subject property. The Credit Union also believes that it has a strong legal argument that the scope of those easement rights are such to allow it to utilize the passageway as a drive-through teller unit. We believe that the Credit Union's position is supported by, among other cases, the case of *Guild v. Hinman*, 695 A.2d 1190 (Me. 1997). In that case, the Law Court stated that the "use of an easement 'may vary from time-to-time with what is necessary to constitute full enjoyment of the premises[,] ... and an express easement may accommodate modern developments.'" *Id.* at 1192-93. As you know, the Law Court has stated that the "construction of language in an easement deed is a question of law that we independently review." *Fine Line, Inc. v. Blake*, 677 A.2d 1061, 1063 (Me. 1996). Thus, given the fact that the property is located in a commercial zone, and given modern uses, the Credit Union believes that it has a strong argument that the scope of its easement rights are sufficient to accommodate use for a drive-through teller window.

The second issue that I want to address is the position taken by Board member Cyrus Hagge. In essence, Mr. Hagge's position is that he refuses to approve any site plan that appears likely to engender litigation by other parties. Such a standard cannot be found anywhere in the City's ordinances and is wholly inappropriate. First, there is no evidence that litigation will necessarily flow from the Board's approval of the Credit Union's application. Mr. Hagge assumes that abutting property owners would institute litigation, most likely thinking that The Finest Kind Stove Shop would institute litigation based on its stated objection to the Credit Union's application. That may not necessarily be the case. In effect, Mr. Hagge is stating that, because there is a *possibility* that The Finest Kind will institute suit, he will not approve the Credit Union's application.¹

¹ Alternatively, he may be implicitly stating that he believes that the Credit Union's request goes beyond the scope of its rights and that he is going to take it upon himself to somehow protect what he sees as The Finest Kind's rights.

Penny Littell, Esq.
City of Portland
October 20, 1999
Page 3

It is important to remember, however, that Section 14-526(a)(1)-(26) of the City's ordinances contains the standards for site plan approval. The Credit Union strongly believes that it has met each of those standards for approval, and thus, it is entitled to have its project approved. Therefore, I respectfully direct Mr. Hagge to the standards contained in Section 14-526(a)(1)-(26) to govern his decision-making as to the approval of the Credit Union's application.

Sincerely,



Daniel L. Cummings

DLC:kl

cc: Mr. David Richard

We do not believe that any of those conclusions are true and, in any event, making those essentially legal rulings are beyond the Board's authority.

City of Portland Planning Department

389 Congress Street, 4th Floor
Portland, ME 04101
207-874-8721 or 207-874-8719
Fax: 207-756-8258

FAX TRANSMISSION COVER SHEET

Date: 10/28/99
To: David Richard
Company: BIW 5 county credit
Fax #: 774-1667
From: Bill Needleman
RE: Larry Ash Memo

Please call if you have any
Questions

Bill

YOU SHOULD RECEIVE 2 PAGE(S),
INCLUDING THIS COVER SHEET.
IF YOU DO NOT RECEIVE ALL THE PAGES,
PLEASE CALL 207-874-8721 OR 207-874-8719.

City of Portland Planning Department

389 Congress Street, 4th Floor
Portland, ME 04101
207-874-8721 or 207-874-8719
Fax: 207-756-8258

FAX TRANSMISSION COVER SHEET

Date: 7/6/99
To: David Rickard
Company: BIW Credit
Fax #: 774 1667 Done
From: Bill N.
RE: Potential condition of
Approval for 7/13/99 mtg.

YOU SHOULD RECEIVE 2 PAGE(S),
INCLUDING THIS COVER SHEET.
IF YOU DO NOT RECEIVE ALL THE PAGES,
PLEASE CALL 207-874-8721 OR 207-874-8719.

7/6/99 DRAFT

RE: Potential Condition for Approval : BIW Five County Credit Union Drive -up Site Plan.

In Approving this application, the Planning Board is not deciding or in any way opining on the private rights of the applicant or the abutting land owners to the private rights of way and passage ways shown on the site plan.

David,

The above condition will appear on the ammended report to the Planning Board. Please call if you have any questions. Additionally, we will need more clarification on the 16.5 ft ROW from Commercial St.

Bill N.



CITY OF PORTLAND

September 29, 1998

David W. Richard
Branch Manager
BIW Five County Credit Union
40A Commercial Street
Portland, ME 04104

RE: Conditional Use Application for a Drive-Up Window

Dear Mr. Richard:

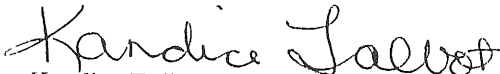
After review of the submittal for the drive-up window at 19 Commercial Street, the following comments will need to be addressed:

1. A site plan shall be submitted showing the following items:
 - the building on the site
 - the drive-up window lane
 - the bypass lane
 - stacking capacity
 - the drive-up window location and possible ATM location
 - proposed signage
2. Elevations of the building shall be submitted showing the location of the drive-up window and possible ATM location.
3. The submittal mentions a possible ATM. Would this be for vehicular traffic or pedestrian traffic?
4. How many vehicles are anticipated for the drive-up window? How many for possible ATM? How often? What is the stacking capacity?

At this time, the application is scheduled to go to the Planning Board on October 27th. If the site plan submission is complete, it may be able to go straight to a public hearing.

If you have any questions, please do not hesitate to contact me at 874-8901.

Sincerely,


Kandice Talbot
Planner

O:\PLANDEVREVIEW\COMMER19\LETTERS\RICHARD.WPD

CITY OF PORTLAND, MAINE

BOARD OF APPEALS



CONDITIONAL USE APPEAL APPLICATION

Applicant's name and address: BIW FIVE COUNTY CREDIT UNION

40A COMMERCIAL ST PORTLAND, ME (BRANCH) PO BOX 598 BATH, ME.

Applicant's interest in property (e.g., owner, purchaser, etc.):

POTENTIAL LEASEE

Owner's name and address (If different): STEVEN McDUFFIE

CLAY COVE INC. 52 WELLWOOD RD. PORTLAND, ME.

Address of property and Assessor's chart, block and lot number:

19 COMMERCIAL ST. PORTLAND, ME. MAP 29, BLOCK P, LOT 32

Zone: B-3

Present use: _____

Type of conditional use proposed: Drive-up Banking Services

Conditional use authorized by: section 14- 218(3)

NOTE: If site plan approval is required, attached preliminary or final site plan.

The undersigned hereby makes application for a conditional use permit as above described, and certifies that all information herein supplied by his/her is true and correct to the best of his/her knowledge and belief.

Date: SEPTEMBER 17, 1998

signature of Applicant

DAVID W. RICHARD



Dear Board of Appeals:

It is our request to establish a credit union drive through area located at 19 Commercial St. in the City of Portland, Maine. This would be utilizing an existing *Right of Way* as documented and shown on the accompanying documents.

Our understanding is that a drive up at this location would meet all necessary requirements of as stated in section 3 of the B-3 Zoning code. Stacking capacity offers an approximate total of over One Hundred (100) feet while the set back of the actual service window more than meets the Twenty Five (25) street set back. The vehicle path would follow the *Right of Way* by entering from Commercial St. and exiting onto Franklin St. At the service area itself, as demonstrated in the photograph, ample room is available for not only the transaction vehicle but also room for another vehicle to pass if required. It should also be noted that the Commercial Street area has had established drive up locations by both Key Bank at 172 Commercial St. and the former Casco Northern Bank located at 145 Commercial St.

In regard to alteration to the area, it is our intent to not add any structural element that would alter the area as it is known, the only exception would consist of a few small signs for the proper flow of drive up traffic. The service window would be operated through a tube system as a remote drive up, so that there would be no teller stationed at the drive up itself but rather located well within the building. The advantage to a remote drive up is that the changes to the building would be minor (This would be done by utilizing existing window areas, currently covered by wood, that are presently unused). The drive up service window would consist of an extending drawer to facilitate member transactions and a possible drive up ATM. The placement of a video camera would also be necessary for security purposes and to aid in the transaction itself. Our intent is to preserve the integrity of the area as it is now, creating a minimal impact both visually and architecturally.

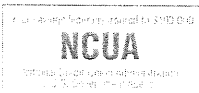
On behalf of BIW Five County Credit Union, I thank you for taking this proposal into consideration. Some of this information is informal, due to time constraints, and may not meet your criteria. If so, I would be happy to provide any additional paperwork deemed necessary by the Board.

Sincerely,

A handwritten signature in cursive script that reads "David W. Richard".

David W. Richard
Branch Manager
BIW Five County Credit Union

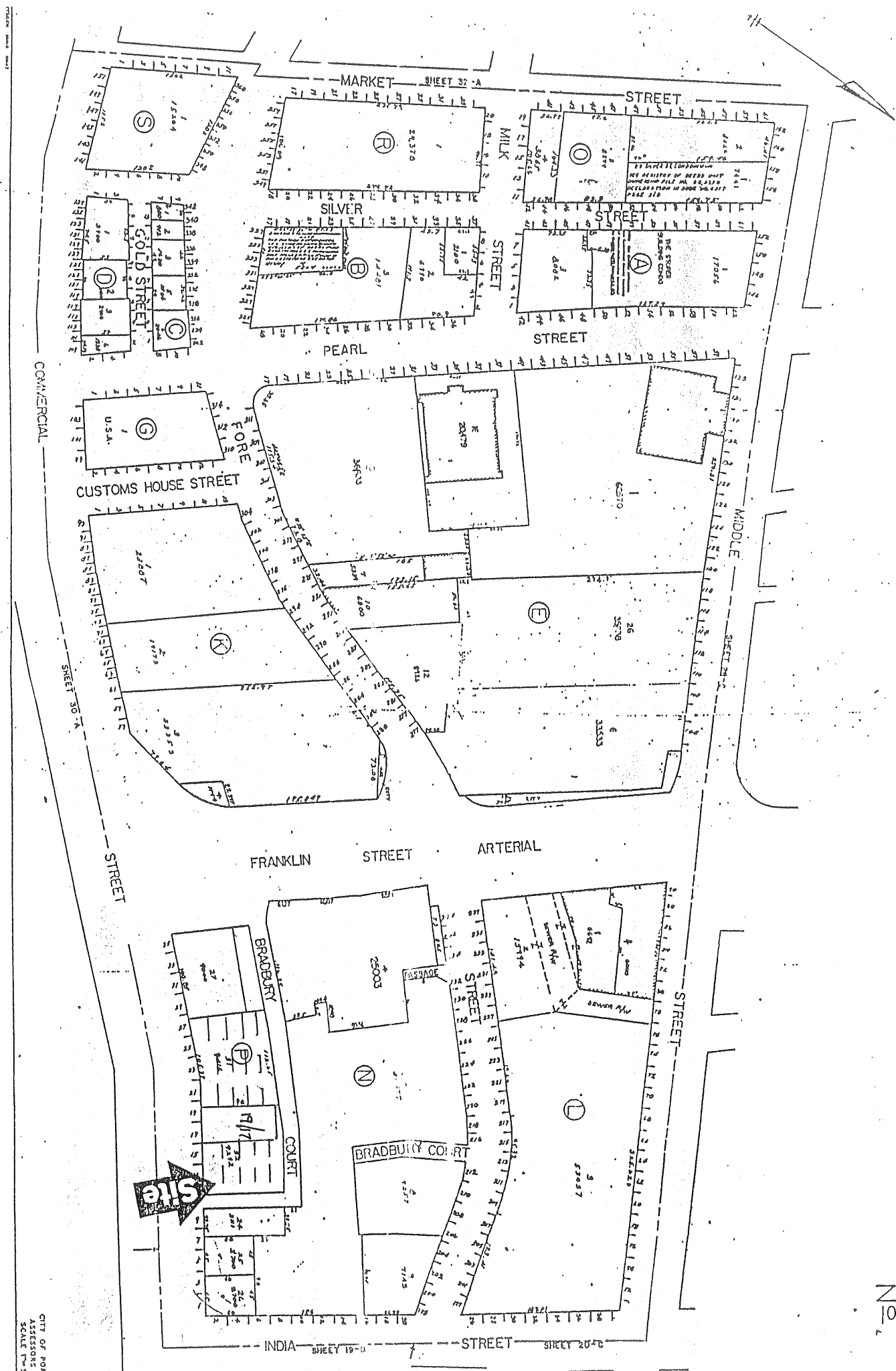
PS I will on vacation and away from work until October 5th, 1998. However, I can be reached through September 24th, 1998 at (503) 331-7116, please feel free to call if there are any questions or concerns.



765 Washington Street • P.O. Box 598 • Bath, Maine 04530 • (207) 443-3528

40A Commercial Street • Portland, Maine 04101 • (207) 773-8408

Serving
Androscoggin, Sagadahoc,
Kennebec, Cumberland
Lincoln Counties



CITY OF PORT
 ASSASSON P
 SCALE 1"=50'

TAX MAP

N 0 1

THE BOULOS COMPANY

One Canal Plaza
Portland, ME 04101
(207) 772-1333
Fax: (207) 871-1288
E-Mail: info@boulos.com
www.boulos.com

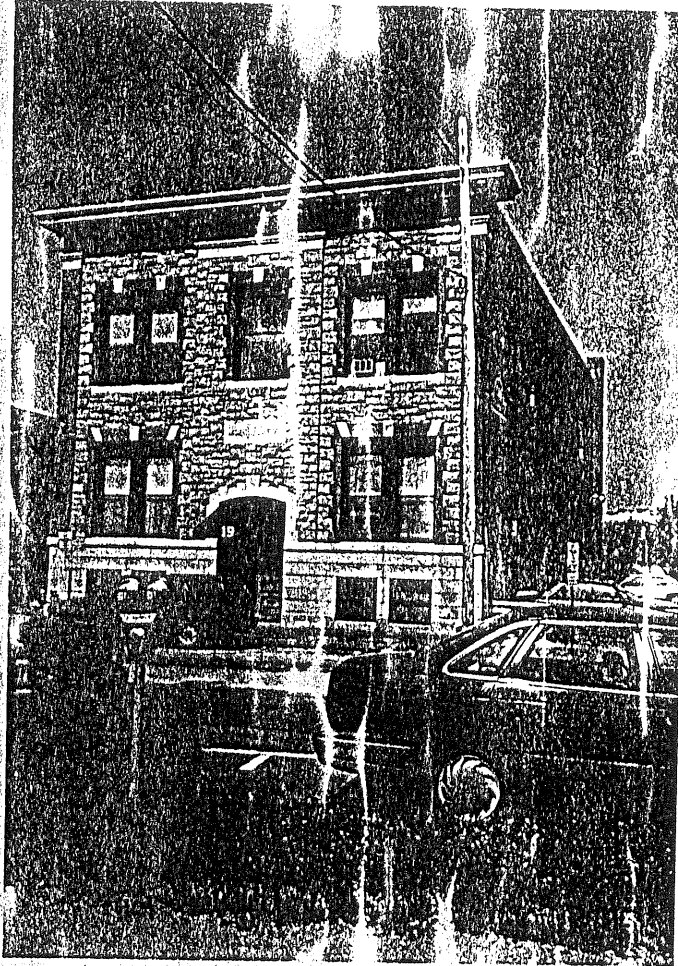


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19 COMMERCIAL STREET PORTLAND, MAINE

Information furnished is from sources deemed reliable, but no warranty is made as to the accuracy thereof. All information should be independently verified.

This Agency/Licensee represents the Seller's/Landlord's interest and, as such, has a fiduciary duty to disclose to the Seller/Landlord information which is material to the sale/lease, acquired from the Buyer/Tenant or any other source, except in cases of disclosed dual agency.

DRN/ady
Ver.II

MORTGAGE LOAN INSPECTION PLAN

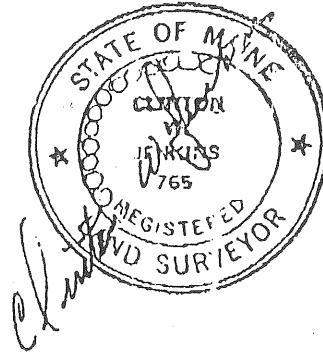
OF THE LENDING INSTITUTION AND ITS TITLE INSURER

HEREBY CERTIFY THAT THE LOCATION OF THE DWELLING SHOWN ON THIS PLAN ~~DOES~~ CONFORM WITH THE LOCAL ZONING LAWS IN EFFECT AT THE TIME OF CONSTRUCTION. THE PROPERTY DOES NOT FALL WITHIN A SPECIAL FLOOD HAZARD ZONE.

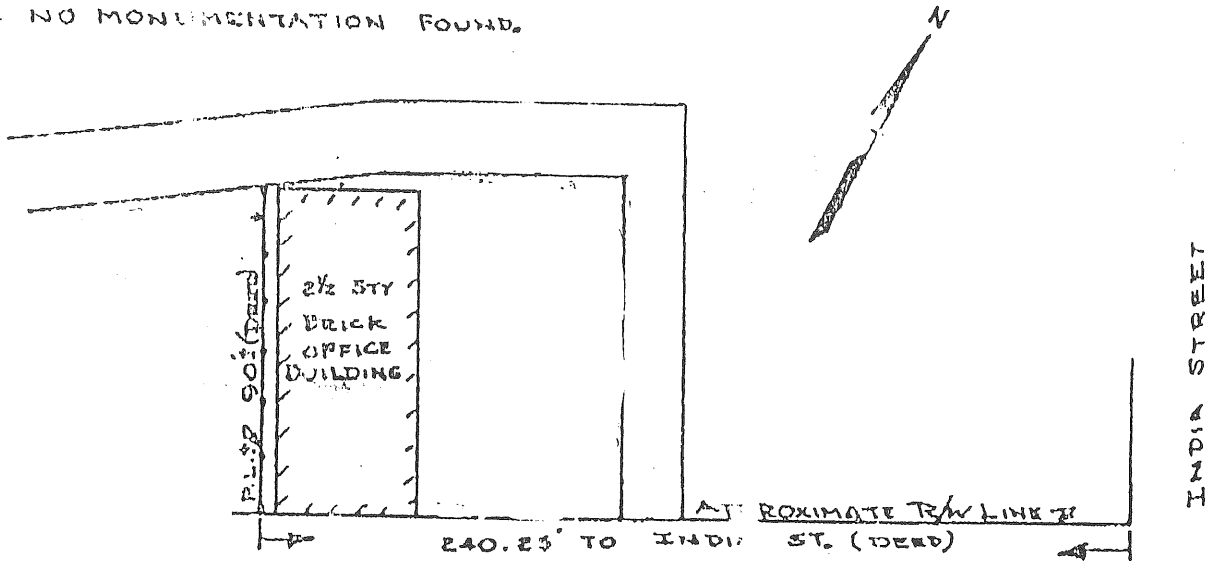
THIS PLAN WAS NOT MADE FROM AN INSTRUMENT SURVEY. THE CERTIFICATIONS ARE FOR MORTGAGE PURPOSES ONLY. THIS PLAN APPLIES ONLY TO CONDITIONS EXISTING AS OF THE DATE SHOWN HEREON. IT DOES NOT SHOW ANY POSSIBLE CONFLICTS WITH EXISTING DEEDS. THIS PLAN IS NOT FOR RECORDING.

THIS IS NOT A LAND BOUNDARY SURVEY.

DATE JAN. 23, 1987 PROJ. 87027
BOOK 6669 PAGE 116
COUNTY CUMBERLAND SCALE 1"=50'



NOTE: NO MONUMENTATION FOUND.



COMMERCIAL STREET

NOTE: THIS PLAN IS COMPILED FROM DEED, TAX MAP AND FIELD MEASUREMENTS. THE PROPERTY LINES, R/W LINES AND BUILDINGS AND THEIR RELATIONSHIP TO EACH OTHER IS APPROXIMATE. IF MORE ACCURATE DETAIL IS REQUIRED A CLASS "A" SURVEY IS RECOMMENDED.

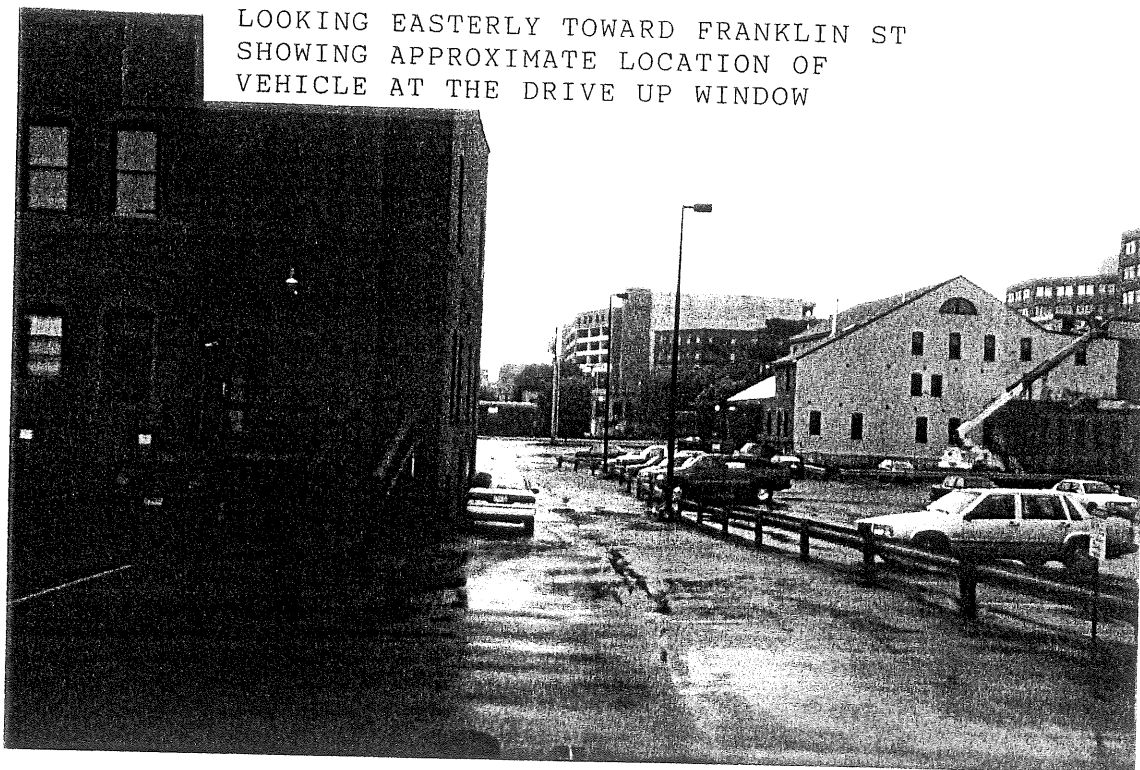
PROPERTY OF FORD S. REICHE, C. ALAN BEAGLE AND MARTIN J. RIDGE. LOCATED AT 17 COMMERCIAL ST., PORTLAND, MAINE.

PURCHASER: - WILLIAM J. DOWD.

LOOKING NORTHERLY
SHOWING ENTRANCE FROM
COMMERCIAL ST.



LOOKING EASTERLY TOWARD FRANKLIN ST
SHOWING APPROXIMATE LOCATION OF
VEHICLE AT THE DRIVE UP WINDOW



September 16, 1998

THE BOULOS COMPANY

One Canal Plaza
Portland, ME 04101
(207) 772-1333
Fax: (207) 871-1288
E-mail: info@boulos.com
www.boulos.com



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Mr. David Richard
BIW Five County Credit Union
40A Commercial Street
Portland, ME 04101

VIA FACSIMILE
(207)774-1667

Re: 19 Commercial Street
Portland, Maine

Dear David:

As a follow up to our last conversation, this letter shall serve to confirm that BIW Five County Credit Union is working with The Boulos Company to lease potential office space at the above referenced location.

Should the City of Portland have any questions with regard to this matter, please have them contact me at (207)772-1333.

I look forward to speaking with them.

Very truly yours,


JEREMY M. ROY

JMR/ady

pc: Craig S. Young
Debra R. Napolitano



MORTGAGE LOAN INSPECTION PLAN

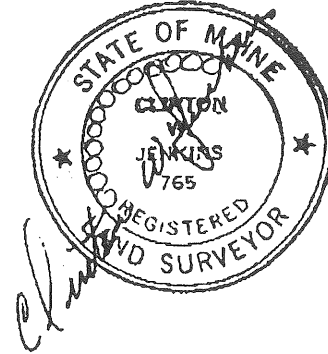
TO THE LENDING INSTITUTION AND ITS TITLE INSURER

I HEREBY CERTIFY THAT THE LOCATION OF THE DWELLING SHOWN
THIS PLAN DOES ~~NOT~~ CONFORM WITH THE LOCAL ZONING LAWS
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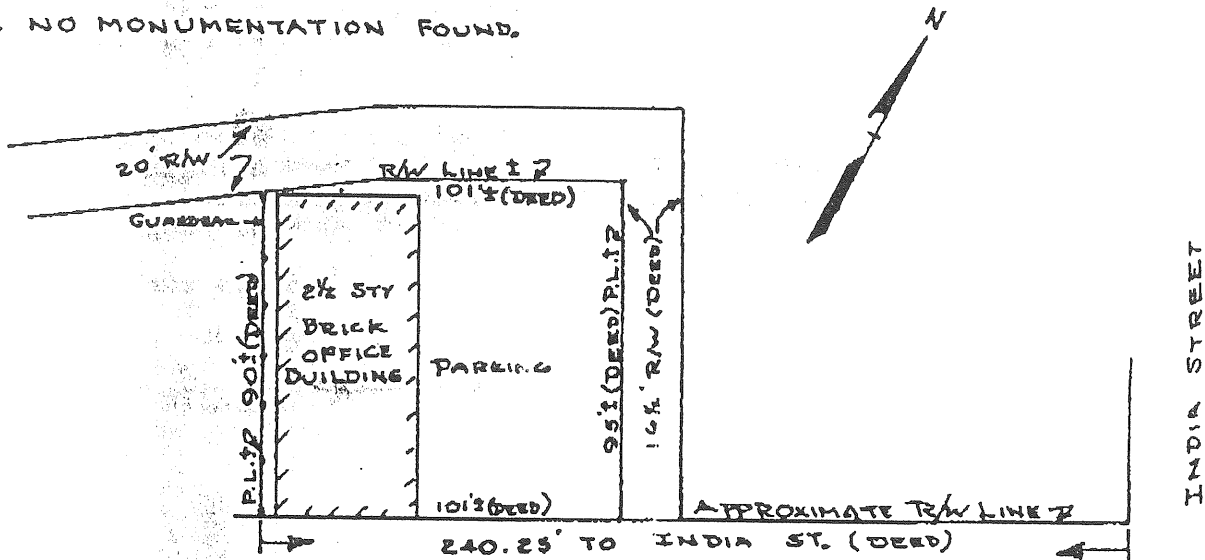
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A CLASS "A" SURVEY IS RECOMMENDED.

PROPERTY OF FORD S. REICHE, C. ALAN BEAGLE AND MARTIN J. RIDGE.
LOCATED AT " 17 COMMERCIAL ST., PORTLAND, MAINE.

PURCHASER - WILLIAM J. DOWD.

36294

WARRANTY DEED

WILLIAM J. DOWD, of Westbrook, Maine, for valuable consideration, grants to APEX, INC., a Maine corporation with a principal place of business in Portland, Maine, and a mailing address of P. O. Box 9540, Portland, ME 04112, with Warranty Covenants, the following described real property situated in Portland, Cumberland County, Maine:

A certain lot or parcel of land situated in said Portland on Commercial Street, and being more particularly described on Exhibit A attached hereto and made a part hereof.

Meaning and intending to convey the same premises described in a deed from C. Alan Beagle, et al, to the Grantor dated February 12, 1987, and recorded in the Cumberland County Registry of Deeds in Book 7633, Page 308.

The purpose of this deed is to correct and clarify the description contained in the deed from William J. Dowd to Apex, Inc., dated April 22, 1991, recorded in said Registry of Deeds in Book 9532, Page 273.

Witness my hand this 31st day of July, 1991.

Mary E. Plumes
Witness

William J. Dowd
William J. Dowd

STATE OF MAINE
CUMBERLAND, SS.

July 31, 1991

Personally appeared the above named William J. Dowd and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Mary E. Plumes
Notary Public
MARY E. PLUMES
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES AUGUST 8, 1991
Printed Name of Notary

Instr 36294 Bk 9658 Pg 46

EXHIBIT A

A certain lot or parcel of land, with the buildings thereon, situated in the City of Portland, County of Cumberland and State of Maine, and bounded and described as follows: BEGINNING at a point on the northerly sideline of Commercial Street, which point is in the southeasterly corner of land now or formerly of Burnham and another and is about two hundred forty and twenty-five hundredths (240.25) feet westerly from the westerly sideline of India Street; thence running northerly by said land of Burnham and another ninety (90) feet, more or less, to the southerly sideline of a twenty (20) foot passageway extending from Franklin Street in the rear of the lot herein described; thence easterly by the southerly sideline of said passageway one hundred one (101) feet, more or less, to the westerly sideline of a passageway sixteen and one-half (16-1/2) feet wide extending back from Commercial Street; thence southerly by the westerly sideline of said passageway extending back from Commercial Street ninety-five (95) feet, more or less, to a point in the northerly sideline of said Commercial Street; thence westerly by the northerly sideline of Commercial Street one hundred one (101) feet, more or less, to the point of beginning.

Also, all our right, title and interest in and to said passageway running in the rear of said lot from Franklin Street and all our right, title and interest in and to said passageway running back from Commercial Street.

Recorded
Cumberland County
Registry of Deeds
07/31/98 01:48:36PM
Robert P. Titcomb
Register

CITY OF PORTLAND, MAINE

BOARD OF APPEALS



TO APPLY FOR AN APPEAL YOU WILL NEED:

1. APPLICATION FEE OF \$50.00 PLUS \$25.00 TOWARDS A BUILDING PERMIT, IF NECESSARY. PLEASE NOTE THAT THE APPEAL APPLICATION FEE IS NON-REFUNDABLE.
2. ELEVEN (11) SEPARATE PACKETS OF THE FOLLOWING:***
 - (A) COPIES OF THE APPEAL APPLICATION ✓
 - (B) A COVER LETTER ADDRESSED TO THE BOARD OF APPEALS STATING WHAT IT IS YOU WANT TO DO ✓
 - (C) A PLOT PLAN SHOWING THE SITE AND LOCATION OF ALL STRUCTURES, EXISTING AND PROPOSED, IN RELATION TO THE LOT LINES AND, IF APPLICABLE, INDICATE PARKING. LOT SIZE AND SETBACK DIMENSIONS MUST ALSO BE SHOWN. ✓
 - (D) A FLOOR PLAN, IF APPLICABLE, SHOWING DIMENSIONS, EXISTING AND PROPOSED ROOMS AND/OR STRUCTURES WITH DIMENSIONS NOT YET AVAILABLE
 - (E) PHOTOS OF PROPERTY ✓
 - (F) DEED, SALE AGREEMENT, LEASE OR INTENT TO LEASE ✓
3. OWNER, LESSEE, PROSPECTIVE PURCHASER OR LEGAL REPRESENTATIVE MUST SIGN THE APPLICATION. ✓
4. COPIES OF OTHER DOCUMENTS MAY BE REQUIRED. IF SO, YOU WILL BE NOTIFIED.

*****BE SURE YOU HAVE AN EXTRA PACKET FOR YOURSELF TO REFER TO AT THE MEETING**

YOU CAN APPLY FOR AN APPEAL/PERMIT AT CITY HALL, ROOM 315 MONDAY THROUGH FRIDAY BETWEEN 7:00 A.M. AND 4:00 P.M. IF YOU CHOOSE TO FILE ON THE DEADLINE DATE, PLEASE NOTE THAT APPLICATIONS ARE ACCEPTED ONLY UNTIL NOON ON THAT DAY.

MORTGAGE LOAN INSPECTION PLAN

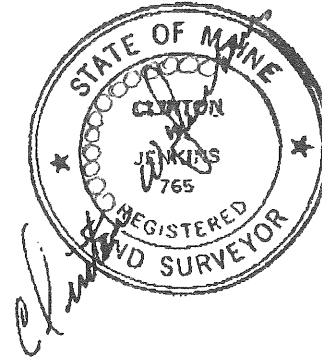
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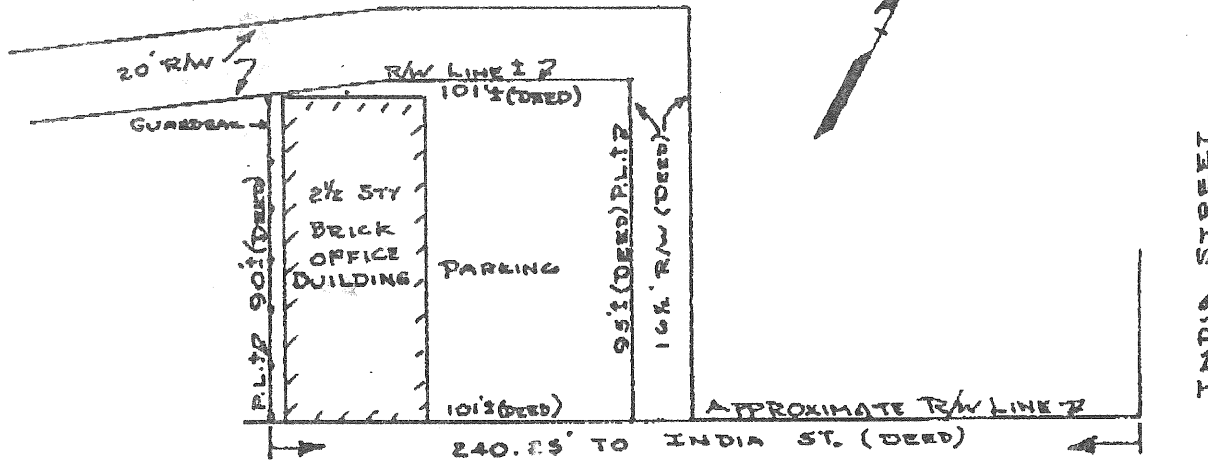
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BOARD OF APPEALS



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 - (D) A FLOOR PLAN, IF APPLICABLE, SHOWING DIMENSIONS, EXISTING AND PROPOSED ROOMS AND/OR STRUCTURES WITH DIMENSIONS NOT YET AVAILABLE
 - (E) PHOTOS OF PROPERTY ✓
 - (F) DEED, SALE AGREEMENT, LEASE OR INTENT TO LEASE ✓
3. OWNER, LESSEE, PROSPECTIVE PURCHASER OR LEGAL REPRESENTATIVE MUST SIGN THE APPLICATION. ✓
4. COPIES OF OTHER DOCUMENTS MAY BE REQUIRED. IF SO, YOU WILL BE NOTIFIED.

*****BE SURE YOU HAVE AN EXTRA PACKET FOR YOURSELF TO REFER TO AT THE MEETING**

YOU CAN APPLY FOR AN APPEAL/PERMIT AT CITY HALL, ROOM 315 MONDAY THROUGH FRIDAY BETWEEN 7:00 A.M. AND 4:00 P.M. IF YOU CHOOSE TO FILE ON THE DEADLINE DATE, PLEASE NOTE THAT APPLICATIONS ARE ACCEPTED ONLY UNTIL NOON ON THAT DAY.

CITY OF PORTLAND, MAINE

BOARD OF APPEALS



CONDITIONAL USE APPEAL APPLICATION

Applicant's name and address: BIW FIVE COUNTY CREDIT UNION

40A COMMERCIAL ST PORTLAND, ME (BRANCH) PO BOX 598 BATH, ME.

Applicant's interest in property (e.g., owner, purchaser, etc.):

POTENTIAL LEASEE

Owner's name and address (if different): STEVEN McDUFFIE

CLAY COVE INC. 52 WELLWOOD RD. PORTLAND, ME.

Address of property and Assessor's chart, block and lot number:

19 COMMERCIAL ST. PORTLAND, ME. MAP 29 , BLOCK P , LOT 32

Zone: B-3

Present use: _____

Type of conditional use proposed: Drive-up Banking Services

Conditional use authorized by: Section 14- 218(3)

NOTE: If site plan approval is required, attached preliminary or final site plan.

The undersigned hereby makes application for a conditional use permit as above described, and certifies that all information herein supplied by his/her is true and correct to the best of his/her knowledge and belief.

Date: SEPTEMBER 17, 1998

Signature of Applicant
DAVID W. RICHARD

September 16, 1998

THE BOULOS COMPANY

One Canal Plaza
Portland, ME 04101
(207) 772-1333
Fax: (207) 871-1288
E-Mail: info@boulos.com
www.boulos.com



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Individual Membership
Specialist,
Industrial and
Office Real Estate

Mr. David Richard
BIW Five County Credit Union
40A Commercial Street
Portland, ME 04101

VIA FACSIMILE
(207)774-1667

Re: 19 Commercial Street
Portland, Maine

Dear David:

As a follow up to our last conversation, this letter shall serve to confirm that BIW Five County Credit Union is working with The Boulos Company to lease potential office space at the above referenced location.

Should the City of Portland have any questions with regard to this matter, please have them contact me at (207)772-1333.

I look forward to speaking with them.

Very truly yours,


JEREMY M. ROY

JMR/ady

pc: Craig S. Young
Debra R. Napolitano



Dear Board of Appeals:

It is our request to establish a credit union drive through area located at 19 Commercial St. in the City of Portland, Maine. This would be utilizing an existing *Right of Way* as documented and shown on the accompanying documents.

Our understanding is that a drive up at this location would meet all necessary requirements of as stated in section 3 of the B-3 Zoning code. Stacking capacity offers an approximate total of over One Hundred (100) feet while the set back of the actual service window more than meets the Twenty Five (25) street set back. The vehicle path would follow the *Right of Way* by entering from Commercial St. and exiting onto Franklin St. At the service area itself, as demonstrated in the photograph, ample room is available for not only the transaction vehicle but also room for another vehicle to pass if required. It should also be noted that the Commercial Street area has had established drive up locations by both Key Bank at 172 Commercial St. and the former Casco Northern Bank located at 145 Commercial St.

In regard to alteration to the area, it is our intent to not add any structural element that would alter the area as it is known, the only exception would consist of a few small signs for the proper flow of drive up traffic. The service window would be operated through a tube system as a remote drive up, so that there would be no teller stationed at the drive up itself but rather located well within the building. The advantages to a remote drive up is that the changes to the building would be minor (This would be done by utilizing existing window areas, currently covered by wood, that are presently unused). The drive up service window would consist of an extending drawer to facilitate member transactions and a possible drive up ATM. The placement of a video camera would also be necessary for security purposes and to aid in the transaction itself. Our intent is to preserve the integrity of the area as it is now, creating a minimal impact both visually and architecturally.

On behalf of BIW Five County Credit Union, I thank you for taking this proposal into consideration. Some of this information is informal, due to time constraints, and may not meet your criteria. If so, I would be happy to provide any additional paperwork deemed necessary by the Board.

Sincerely,



David W. Richard

Branch Manager

BIW Five County Credit Union

PS I will on vacation and away from work until October 5th, 1998. However, I can be reached through September 24th, 1998 at (503) 331-7116, please feel free to call if there are any questions or concerns.





LOOKING WESTERLY ACROSS FRANKLIN ST
SHOWING EXIT ONTO FRANKLIN



DETAIL OF EXIT ONTO FRANKLIN ST.
SHOWING EXISTING CURB & CROSSWALK

From: Larry Ash
To: William Needleman
Date: Mon, Nov 8, 1999 7:57 AM
Subject: BIW Drive-up window

Bill:

I have received and reviewed Tom Errico's comments of this proposed development and have no problems with his recommendations.

CITY OF PORTLAND, MAINE

PLANNING BOARD

John H. Carroll, Chair
Jaimey Caron, Vice Chair
Kenneth M. Cole III
Cyrus Y. Hagge
Deborah Krichels
Erin Rodriguez
Mark Malone

November 18, 1999

Mr. David Richard, Branch Manager
BIW Five County Credit Union
19 Commercial Street
Portland, Maine 04104

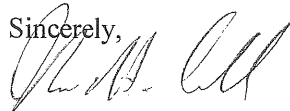
RE: Conditional Use and Site Plan Application

Dear Mr. Richard:

On November 9, 1999 the Portland Planning Board voted 6-0 (Malone absent) to deny your application to build a drive-up teller unit at 17-19 Commercial Street. The Board found that the application failed to meet the requirements of 14-525 c (5) of the Site Plan ordinance of the Land Use code requiring "Evidence of the applicant's right, title or interest in the property, ..."

If there are any questions, please contact the Planning Staff.

Sincerely,



John H. Carroll, Chair
Portland Planning Board

cc: Joseph E. Gray, Jr., Director of Planning and Urban Development
Alexander Jaegerman, Chief Planner
William B. Needelman, Planner
P. Samuel Hoffses, Building Inspector
Marge Schmuckal, Zoning Administrator
Development Review Coordinator
William Bray, Director of Public Works
Charles Lane, Corporation Counsel
Lt. Gaylen McDougall, Fire Prevention
Inspection Department
Lee Urban, Director of Economic Development
Don Hall, Appraiser, Assessor's Office
Susan Doughty, Assessor's Office
Approval Letter File

CITY OF PORTLAND, MAINE

BOARD OF APPEALS



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Applicant's name and address: BIW FIVE COUNTY CREDIT UNION

40A COMMERCIAL ST PORTLAND, ME (BRANCH) PO BOX 598 BATH, ME.

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Date: SEPTEMBER 17, 1998

Signature of Applicant

DAVID W. RICHARD



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Sincerely,

A handwritten signature in black ink, appearing to read "David W. Richard", written in a cursive style.

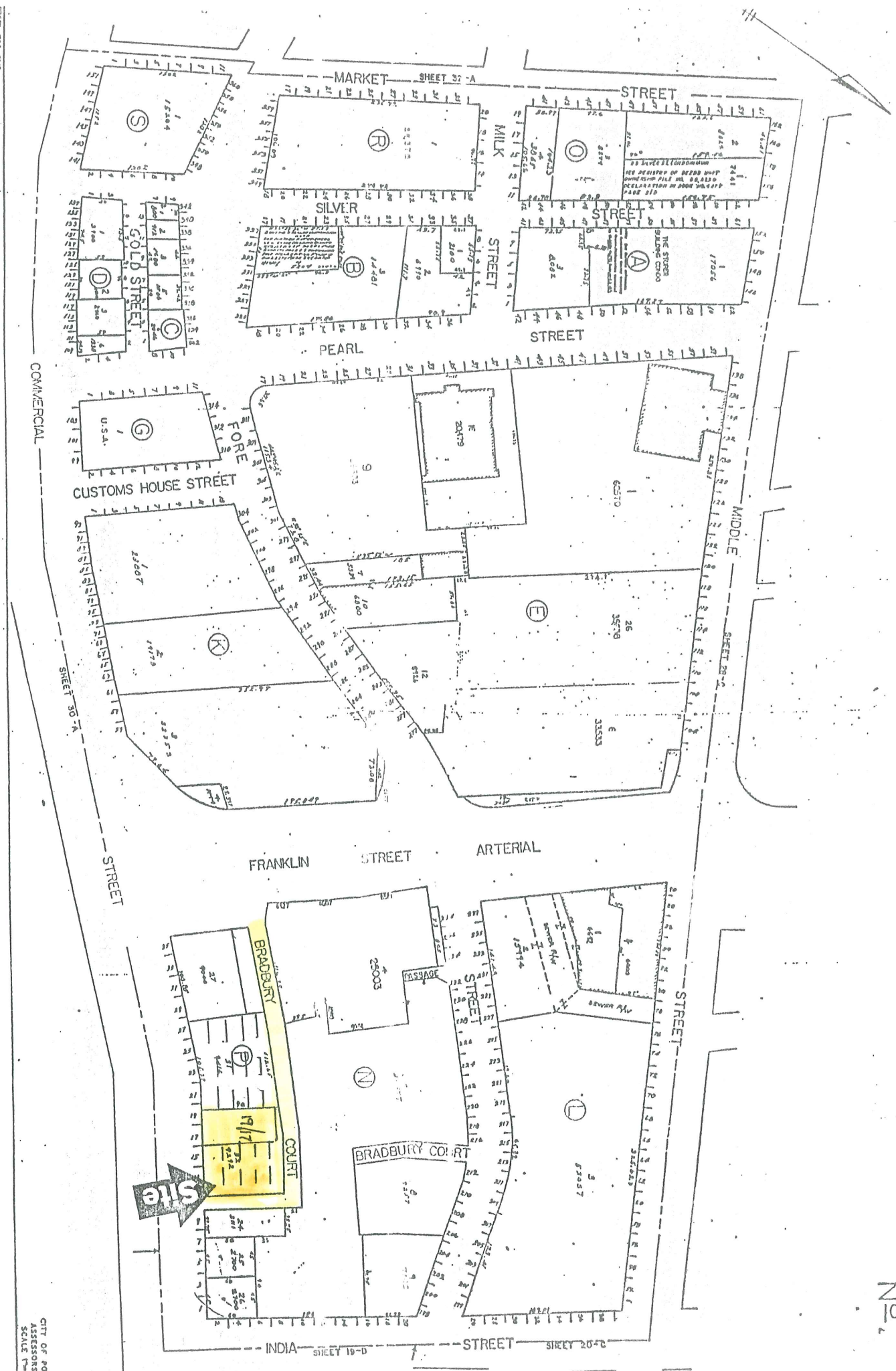
David W. Richard
Branch Manager
BIW Five County Credit Union

PS I will be on vacation and away from work until October 5th, 1998. However, I can be reached through September 24th, 1998 at (503) 331-7116, please feel free to call if there are any questions or concerns.



765 Washington Street • P.O. Box 598 • Bath, Maine 04530 • (207) 443-3528
40A Commercial Street • Portland, Maine 04101 • (207) 773-8408

Serving
Androscoggin, Sagadahoc,
Kennebec, Cumberland
Lincoln Counties



CITY OF PORT
ASSESSORS &
SCALE 1"=50'

TAX MAP

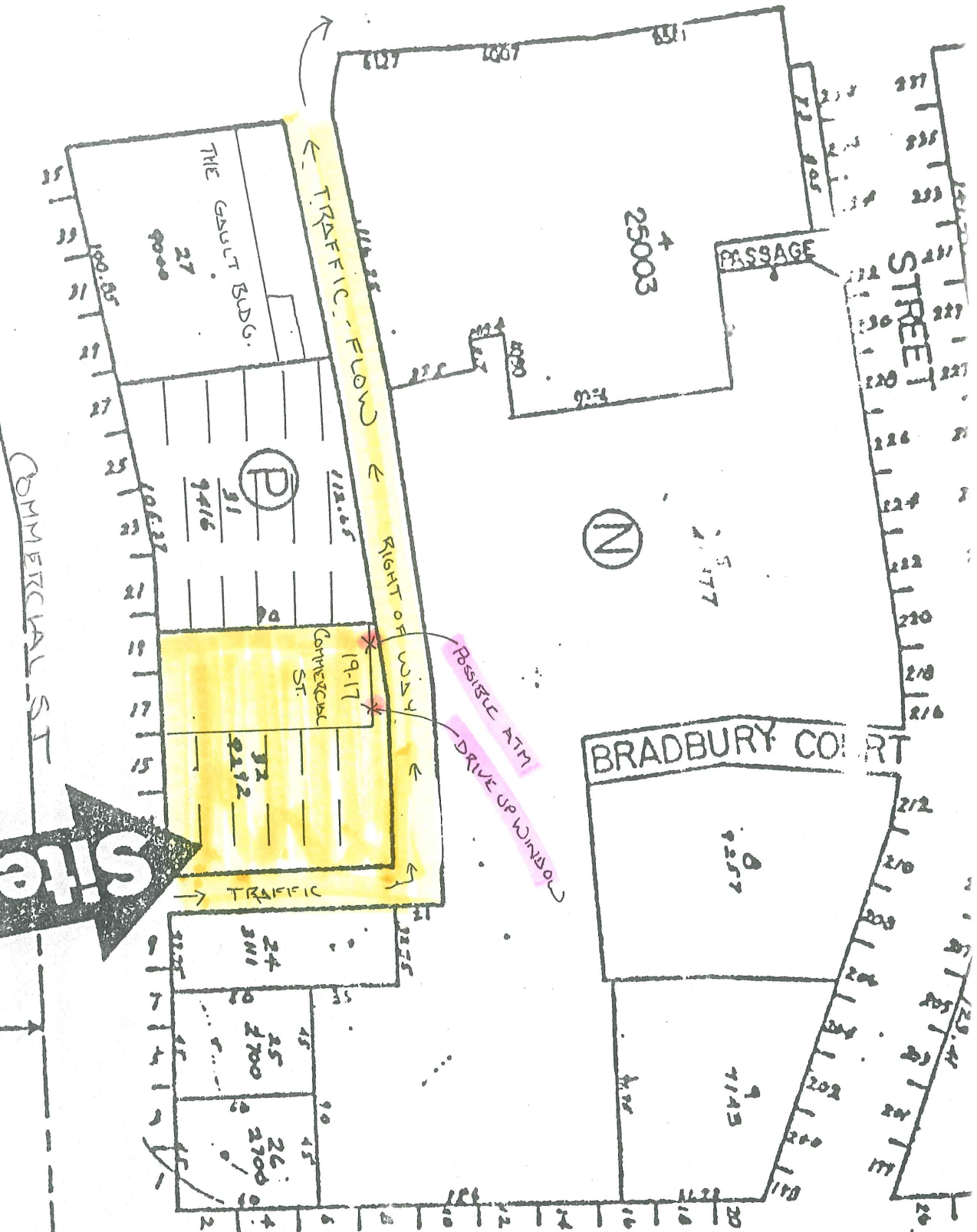
N 01

AR

STREET

FRANKLIN

STREET



Site

INDIA SHEET 19-D

STRI

TAX MAP

THE BOULOS COMPANY

One Canal Plaza
Portland, ME 04101
(207) 772-1333
Fax: (207) 871-1288
E-Mail: info@boulos.com
www.boulos.com



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Specialist,
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Office Real Estate

FOR LEASE 1,619± S.F. OFFICE SPACE



19 COMMERCIAL STREET PORTLAND, MAINE

Information furnished is from sources deemed reliable, but no warranty is made as to the accuracy thereof. All information should be independently verified.

This Agency/Licensee represents the Seller's/Landlord's interest and, as such, has a fiduciary duty to disclose to the Seller/Landlord information which is material to the sale/lease, acquired from the Buyer/Tenant or any other source, except in cases of disclosed dual agency.

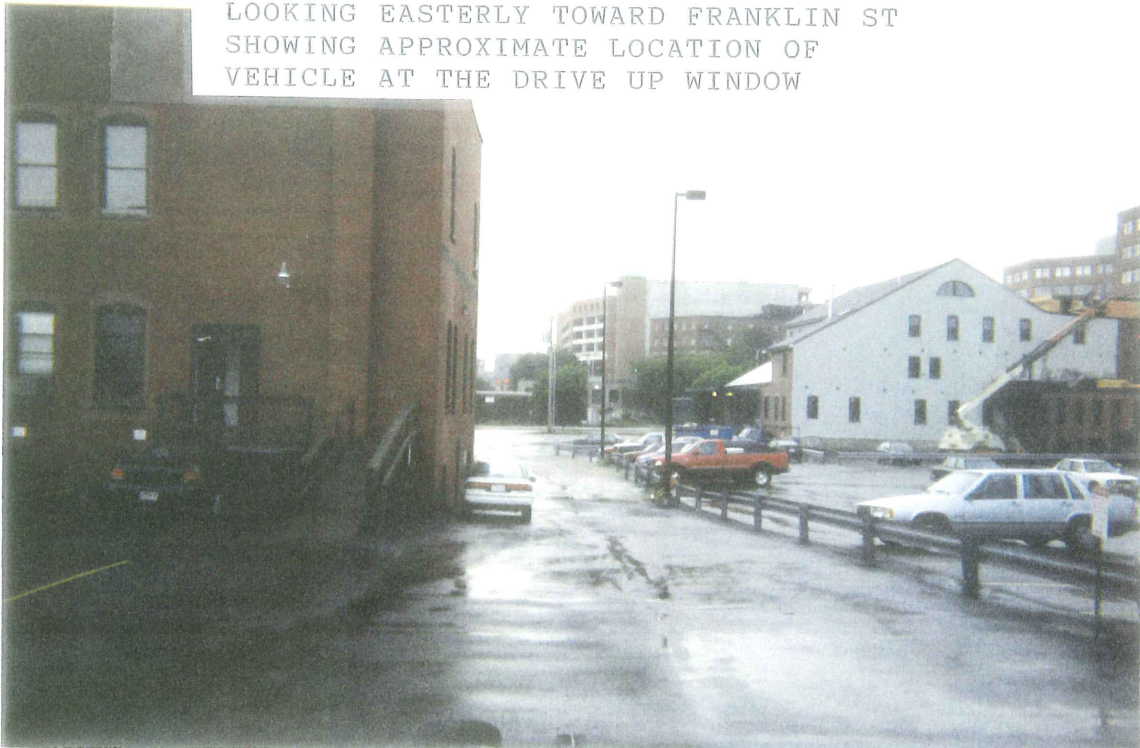
DRN/ady
Ver.II



LOOKING NORTHERLY
SHOWING ENTRANCE FROM
COMMERCIAL ST.



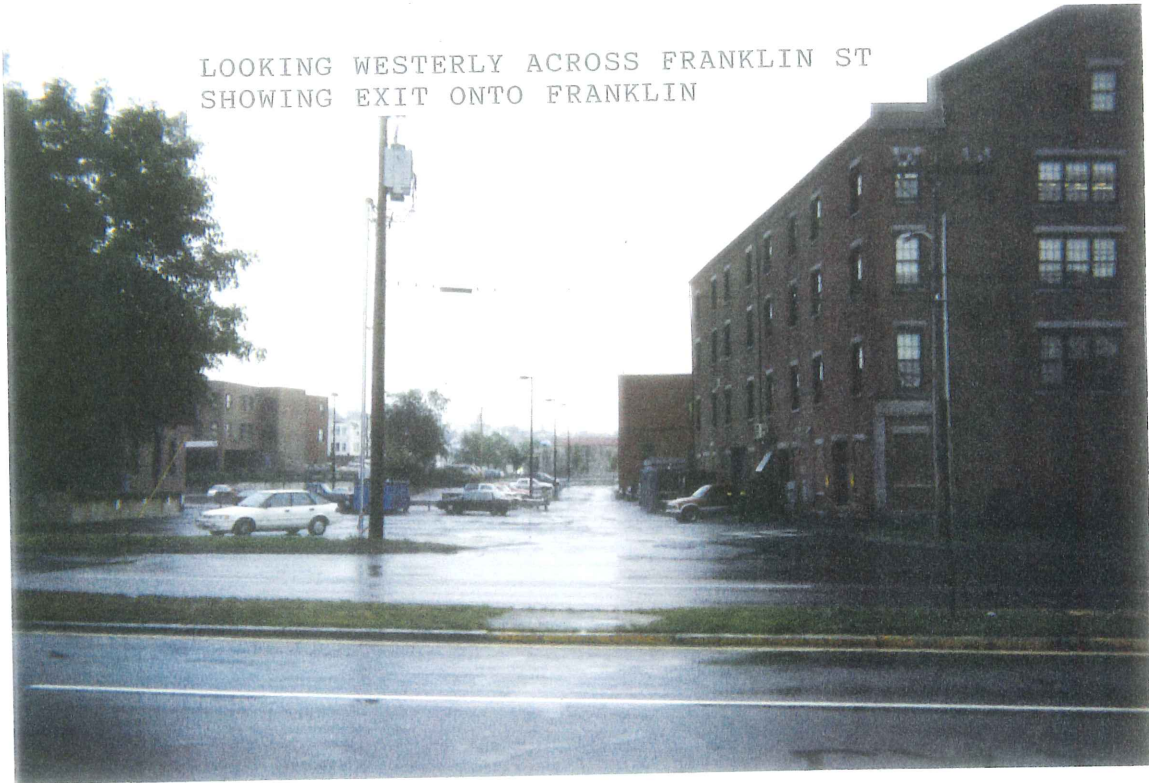
LOOKING EASTERLY TOWARD FRANKLIN ST
SHOWING APPROXIMATE LOCATION OF
VEHICLE AT THE DRIVE UP WINDOW



DETAIL OF EXIT ONTO FRANKLIN ST.
SHOWING EXISTING CURB & CROSSWALK



LOOKING WESTERLY ACROSS FRANKLIN ST
SHOWING EXIT ONTO FRANKLIN



September 16, 1998



One Canal Plaza
Portland, ME 04101
(207) 772-1333
Fax: (207) 871-1288
E-Mail: info@boulos.com
www.boulos.com



Individual Member



Individual Member
Specialist,
Industrial and
Office Real Estate

Mr. David Richard
BIW Five County Credit Union
40A Commercial Street
Portland, ME 04101

VIA FACSIMILE
(207)774-1667

Re: 19 Commercial Street
Portland, Maine

Dear David:

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Should the City of Portland have any questions with regard to this matter, please have them contact me at (207)772-1333.

I look forward to speaking with them.

Very truly yours,


JEREMY M. ROY

JMR/ady

pc: Craig S. Young
Debra R. Napolitano



36294

WARRANTY DEED

WILLIAM J. DOWD, of Westbrook, Maine, for valuable consideration, grants to APEX, INC., a Maine corporation with a principal place of business in Portland, Maine, and a mailing address of P. O. Box 9540, Portland, ME 04112, with Warranty Covenants, the following described real property situated in Portland, Cumberland County, Maine:

A certain lot or parcel of land situated in said Portland on Commercial Street, and being more particularly described on Exhibit A attached hereto and made a part hereof.

Meaning and intending to convey the same premises described in a deed from C. Alan Beagle, et al, to the Grantor dated February 12, 1987, and recorded in the Cumberland County Registry of Deeds in Book 7633, Page 308.

The purpose of this deed is to correct and clarify the description contained in the deed from William J. Dowd to Apex, Inc., dated April 22, 1991, recorded in said Registry of Deeds in Book 9532, Page 273.

Witness my hand this 31st day of July, 1991.

Mary E. Plumes
Witness

William J. Dowd
William J. Dowd

STATE OF MAINE
CUMBERLAND, SS.

July 31, 1991

Personally appeared the above named William J. Dowd and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Mary E. Plumes
Notary Public
MARY E. PLUMES
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES AUGUST 8, 1991
Printed Name of Notary

Instr 36294 Bk 9658 Pg 46

EXHIBIT A

A certain lot or parcel of land, with the buildings thereon, situated in the City of Portland, County of Cumberland and State of Maine, and bounded and described as follows: BEGINNING at a point on the northerly sideline of Commercial Street, which point is in the southeasterly corner of land now or formerly of Burnham and another and is about two hundred forty and twenty-five hundredths (240.25) feet westerly from the westerly sideline of India Street; thence running northerly by said land of Burnham and another ninety (90) feet, more or less, to the southerly sideline of a twenty (20) foot passageway extending from Franklin Street in the rear of the lot herein described; thence easterly by the southerly sideline of said passageway one hundred one (101) feet, more or less, to the westerly sideline of a passageway sixteen and one-half (16-1/2) feet wide extending back from Commercial Street; thence southerly by the westerly sideline of said passageway extending back from Commercial Street ninety-five (95) feet, more or less, to a point in the northerly sideline of said Commercial Street; thence westerly by the northerly sideline of Commercial Street one hundred one (101) feet, more or less, to the point of beginning.

Also, all our right, title and interest in and to said passageway running in the rear of said lot from Franklin Street and all our right, title and interest in and to said passageway running back from Commercial Street.

Recorded
Cumberland County
Registry of Deeds
07/31/98 01:48:36PM
Robert P. Titcomb
Register

CITY OF PORTLAND, MAINE

BOARD OF APPEALS



TO APPLY FOR AN APPEAL YOU WILL NEED:

1. APPLICATION FEE OF \$50.00 PLUS \$25.00 TOWARDS A BUILDING PERMIT, IF NECESSARY. PLEASE NOTE THAT THE APPEAL APPLICATION FEE IS NON-REFUNDABLE.
2. ELEVEN (11) SEPARATE PACKETS OF THE FOLLOWING:***
 - (A) COPY OF THE APPEAL APPLICATION ✓
 - (B) A COVER LETTER ADDRESSED TO THE BOARD OF APPEALS STATING WHAT IT IS YOU WANT TO DO ✓
 - (C) A PLOT PLAN SHOWING THE SITE AND LOCATION OF ALL STRUCTURES, EXISTING AND PROPOSED, IN RELATION TO THE LOT LINES AND, IF APPLICABLE, INDICATE PARKING. LOT SIZE AND SETBACK DIMENSIONS MUST ALSO BE SHOWN. ✓
 - (D) A FLOOR PLAN, IF APPLICABLE, SHOWING DIMENSIONS, EXISTING AND PROPOSED ROOMS AND/OR STRUCTURES WITH DIMENSIONS *NOT YET AVAILABLE*
 - (E) PHOTOS OF PROPERTY ✓
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*****BE SURE YOU HAVE AN EXTRA PACKET FOR YOURSELF TO REFER TO AT THE MEETING**

YOU CAN APPLY FOR AN APPEAL/PERMIT AT CITY HALL, ROOM 315 MONDAY THROUGH FRIDAY BETWEEN 7:00 A.M. AND 4:00 P.M. IF YOU CHOOSE TO FILE ON THE DEADLINE DATE, PLEASE NOTE THAT APPLICATIONS ARE ACCEPTED ONLY UNTIL NOON ON THAT DAY.

Att A

From: Bob Hood - Auto Europe <Bobh@autoeurope.com>
To: "William Needelman (E-mail)" <wbn@ci.portland.me.u...>
Date: Fri, Apr 18, 2003 3:35 PM
Subject: Five County Credit Union

Dear Mr. Needelman:

Allow me to introduce myself, I am Robert C. Hood, CFO of Auto Europe at 39 Commercial St. As an abutter to Five County Credit Union, I am opposing the proposed drive up facility.

The main reason for our opposition is that the proposed exit to Franklin Street will become another exit to Commercial Street no matter the amount of signage is used to direct people to Franklin Street.

Currently, we have an ongoing problem with the clients of Five County Credit Union using our parking lot for their business with F.C.C.U. The problem is tenfold since they put up an ATM virtually on our parking lot with overhead signage for Five County Credit Union, which of course gives people the impression that the parking lot is theirs.

Their clients continue to ignore the signs at our parking lot entrances and ignore us when we tell them not to park there that the parking lot is for the employees of Auto Europe. All of our parking spots are assigned to specific employees and of course they expect to be able to pull into their spot and go to work. Countless times, our employees find their spot taken by a Client of F.C.C.U., making them late for work with the accompanying chastisement from their manager.

We complained many times to the manager of F.C.C.U. and asked for his help in directing his clients to their parking lot. Nothing has come of this.

With the drive-up facility traffic directed to make a left hand turn onto Bradbury Court, the clients will make their own determination whether they should continue on to Franklin Street or make a left through the Auto Europe parking lot to get back on Commercial Street. This is totally unfair to us and a hazard to our employee's health and their personal property.

We already know that the clients of F.C.C.U. have no regard for the property rights of Auto Europe and we also know that F.C.C.U. has no way to stop this intrusion on our rights to a safe and quiet enjoyment of our property. We feel it's our duty to protect our rights and the safety of our employees by vigorously protesting this project.

Sincerely yours
Robert C. Hood
Auto Europe, LLC
39 Commercial Street
Portland, ME 04101
207-842-2040

CC: Imad Khalidi - Auto Europe <Imad@autoeurope.com>



FIVE COUNTY CREDIT UNION

AH 1.1

April 8, 2003

Dear Planning Board,

The following information is for an installation of a Remote Drive-Thru. This Drive-Thru would be located on our premises located at 19 Commercial St, Portland Maine. This proposal would also utilize an existing right-of-way, known as Bradbury Court, for the purposes of exiting only.

In a previous submission for a Drive-Thru facility, in the fall of 1999, our request was denied due to two factors; altering the traffic flow on the Bradbury Court Right-of Way by establishing the Drive-up window at the rear of our building and not finding sufficient evidence to prove rights of easement to utilize the passage way shared with an abutter. This passageway runs from Commercial Street to Bradbury Court. In our current proposal we have re-designed the Drive-Up to eliminate these areas of concern.

Patrons would access the Remote Drive-up Teller by entering from Commercial Street utilizing our current entry. The Drive-Up facility would be located at the end of our parking lot where patrons would stop shortly to conduct their transaction and then turn left onto Bradbury Court, an existing Right-of-Way, for the purposes of exiting. In the package, you will find our attorneys findings, from our previous proposal, regarding our rights regarding Bradbury court. Patrons would continue along Bradbury Court and exit turning right onto Franklin Street. It should be noted that this proposal would not be altering the current use of this Right-of-Way in any way. In fact, we find that the current use of our parking lot follows the same pattern of entering from Commercial Street and exiting by use of the right-of-way.

Respectfully submitted,

David W. Richard
Portland Branch Manager
Five County Credit Union

765 Washington St P.O. Box 598 Bath, Me. 04530 (207) 4433528
3 Hamilton Court Topsham, Me. 04086 (207) 7218647
19 Commercial St. Portland, Me. 04101 (207) 7738408
US Route 1 Falmouth, Me. 04105 (207) 7815300

www.fivecounty.com

Your savings federally insured to \$100,000
NCUA
National Credit Union Administration

Serving:
Androscoggin, Cumberland,
Kennebec, Lincoln,
Sagadahoc Counties!



CONDITIONAL USE APPLICATION
City of Portland, Maine
Department of Planning and Development
Portland Planning Board

1. Applicant Information:

FIVE COUNTY CREDIT UNION
Name

19 COMMERCIAL ST
Address

PORTLAND, ME 04101

207 773. 8408 207 774-1667
Phone Fax

2. Subject Property:

17-19 COMMERCIAL ST
Address

PORTLAND, ME 04101

MAP 29, BLOCK P, LOT 32
Assessor's Reference (Chart-Block-Lot)

3. Property Owner: Applicant Other

Name

STEVEN McDUFFIE / CLAY COVE CORP.
Address

230 ANDERSON ST
PORTLAND ME 04101

207 852-9300
Phone Fax

4. Right, Title, or Interest: Please identify the status of the applicant's right, title, or interest in the subject property:

SEE ATTACHED LEASE AGREEMENT

Provide documentary evidence, attached to this application, of applicant's right, title, or interest in the subject property. (For example, a deed, option or contract to purchase or lease the subject property.)

5. Vicinity Map: Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use. (Applicant may utilize the City Zoning Map or Parcel Map as a source.)

5. Zone: B-3

6. Existing Use:

Describe the existing use of the subject property:

CREDIT UNION

7. Current Zoning Designation(s): B3

8. Type of Conditional Use Proposed:

REMOTE DRIVE-THRU

9. **Sketch Plan:** On a separate sheet please provide a sketch plan of the property, showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1"=10' to 1"=100'.)

10. Conditional Use Authorized by: Section 14- _____

11. Standards - Criteria for Conditional Use Appeal

Upon a showing that a proposed use is a conditional use under this article, a conditional use permit shall be granted unless the Board determines that:

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

11. **Application Fee:** A fee for must be submitted by check payable to the City of Portland in accordance with Section 14-54 of the Municipal Code (see below). The applicant also agrees to pay all costs of publication (or advertising) of the Workshop and Public Hearing notices as required for this application. Such amount will be billed to the applicant following the appearance of the advertisement.

- Conditional Use (\$100.00)
- Legal Advertisements percent of total bill
- Notices 40 cents each
(workshop and public hearing)

Newspaper advertisements are required by State law and will be billed directly by the Newspaper.

12. **Signature:** The above information is true and accurate to the best of my knowledge.

4.8.03
Date of Filing

[Handwritten Signature]
Signature of Applicant

Further Information:

Please contact the Planning Office for further information regarding the conditional use process. Applicants are encouraged to make an appointment to discuss their conditional use before filing the application.

Applicants are encouraged to include a letter or narrative to accompany the conditional use application which can provide additional background or contextual information, and describe the proposed conditional use and reasons for the request in a manner that best suits the situation.

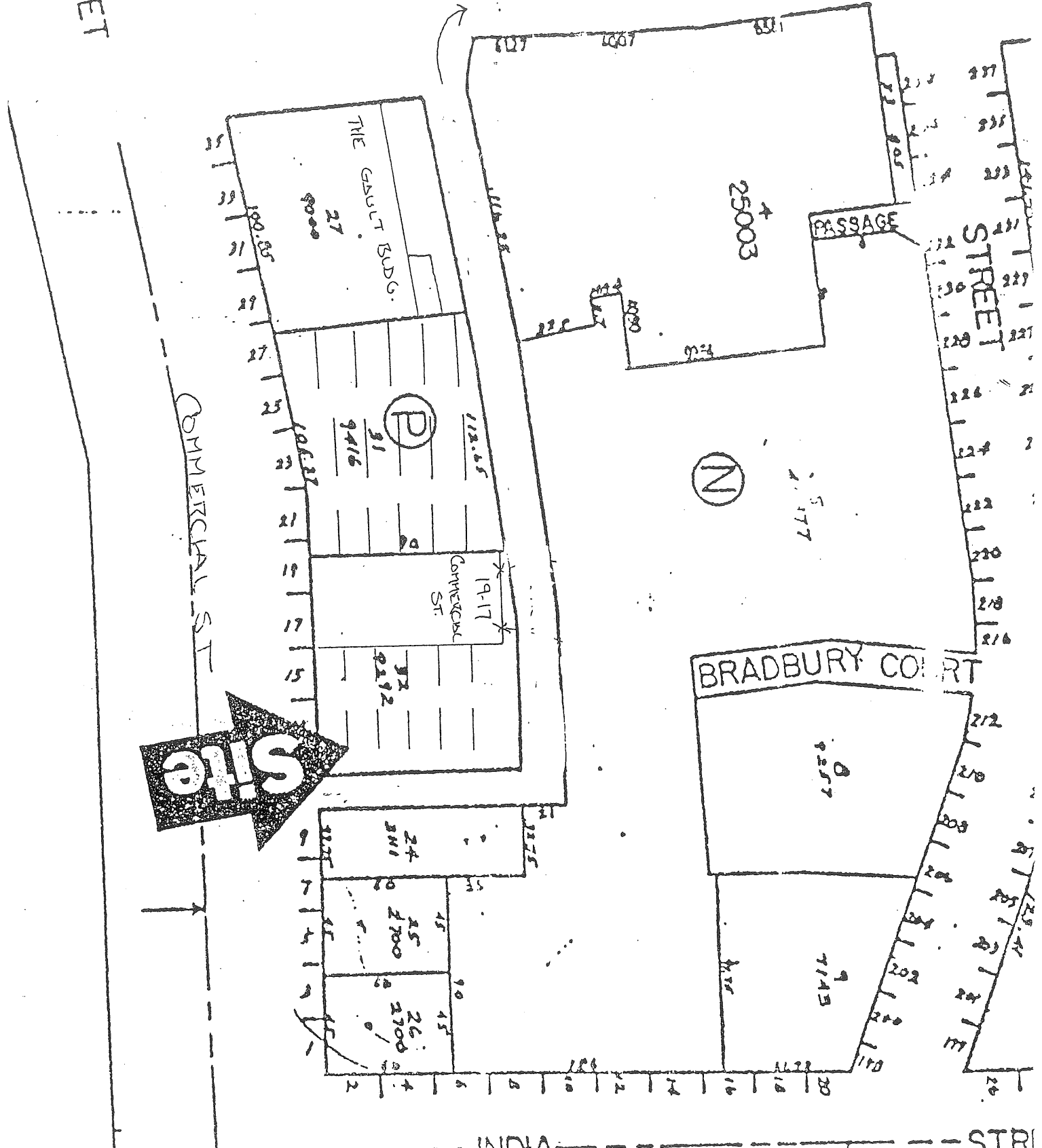
Portland Planning Board
Portland, Maine

Effective: July 6, 1998

STREET

FRANKLIN

STREET



Site

TILE GAULT BUDG.
27
90000

(P)

(N)

25003

BRADBURY COURT

INDIA

SHEET 19-D

STRI

TAX MAP

VAT 21



The Vacuum Air Tube (VAT) 21 overhead dual-blower pneumatic system provides dependable operation within a small square footprint.

Durable construction

The VAT 21 customer terminal and operator workstation are protected by a weather-resistant, low-maintenance epoxy finish. An efficient blower package and long-life electronic components ensure reliable trouble-free operation.

The system features PVC tubing with uniform connections that promote smooth operation to minimize carrier wear, extend the life of the blower system and eliminate the need for periodic realignment of connections.

Tested for reliability

During extensive testing, the VAT 21 unit completed a quarter of a million round-trip cycles without failure.

Adapts to new or existing sites

The small footprint of the VAT 21 customer terminal lets you install the system on virtually any new or existing drive-up island. The tubing with compact 20" (50.8 cm) radius bends and dual blowers are installed overhead, thus ensuring quiet operation and eliminating the need for excavation. The wiring can be installed overhead or underground.

Operator workstation

The operator workstation is available in two models for suspended or countertop installation for efficient transaction processing. It allows operators to power on, power off, close and lock the system from within the facility.

The CommMaster® system enables the operator to communicate with individual customers waiting in different lanes. Each VAT system is equipped with the CommMaster audio capability for two-way communication. An optional feature, CommMaster CCTV for VATs, adds video capability to the system. This feature is available in two configurations -- operator only or customer and operator.

Customer terminal

The customer terminal features familiar call and send buttons and end-opening carriers for efficiency and customer convenience. An optional base riser raises the terminal for convenient access from vans and trucks.

FEATURES

- Small 10" (25.4 cm) square footprint
- Overhead tubing with 20" (50.8 cm) radius bends and cast clamps for smooth operation
- Remote blowers for quiet operation
- Suspended or countertop operator terminal controls all system functions
- Familiar "send" and "call" buttons
- Durable end-opening carrier

OPTIONS

- Customer Terminal Base Riser 8" (20.32 cm) high
- CommMaster CCTV provides video capabilities for operator only or operator and customer

SPECIFICATIONS**CUSTOMER TERMINAL****Dimensions**

10" W x 10" D x 64" H
(25.4 cm x 25.4 cm x 162.56 cm)

Noise level

less than 68 dBA

Operating temperature:

-30°F to 13°F (-34°C to 54°C)

Relative humidity

15% to 100% non-condensing

OPERATOR WORKSTATION**Dimensions:**

9" W x 9.43" D x 28.375" H
(22.86 cm x 23.97 cm x 72.07 cm)

Noise level

less than 68 dBA

Operating temperature

-50°F to 100°F (10°C to 22.8°C)

Relative Humidity

15% to 80% non-condensing

TUBING

Standard 4.5" (11.43 cm) diameter tubing with 20" (50.8 cm) radius bends

PROPULSION DESIGN

Dual blowers installed overhead
Supports payloads of up to 6 lb. (2.72 kg)

POWER REQUIREMENTS

115 VAC, 60 Hz

1 AMP

220 VAC, 50 Hz with step down transformer

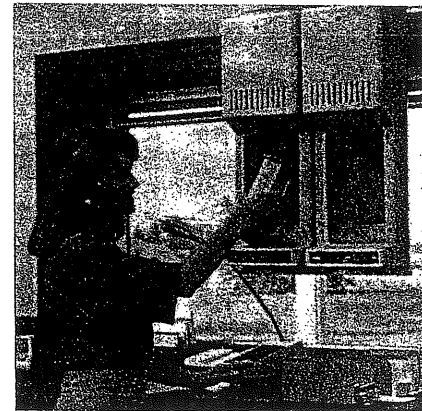
INSTALLATION FEATURES

PVC tubing and blowers installed overhead

Wiring may be installed overhead or underground in culvert or direct buried configuration

Listings and Approvals

- UL114 Office Appliance & Business Equipment
- UL291 Rain Test Specification
- C22 (CSA) No. 950

**DIEBOLD**

P.O. Box 3077 • Dept. 9-99-MC • North Canton, Ohio 444720-8077

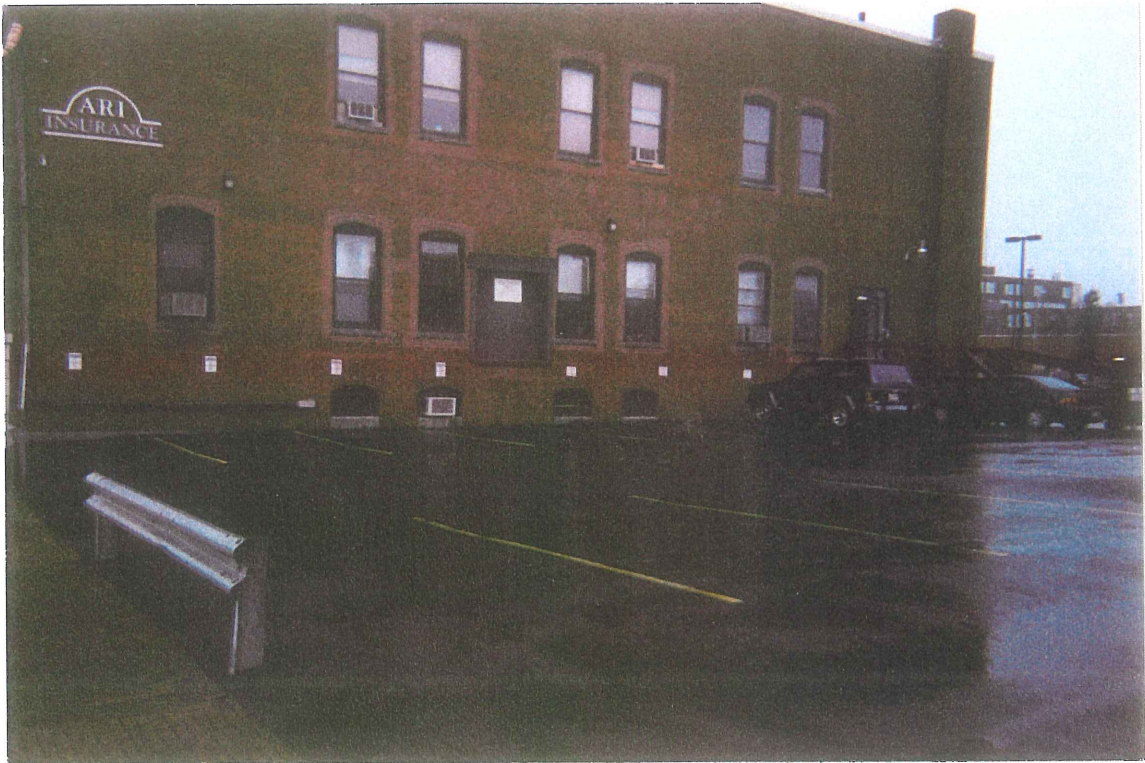
Call 1-800-999-3600 for more information or fax 330-490-6300.

Outside the U.S.A., call 330-490-5070 or fax 330-490-5041.

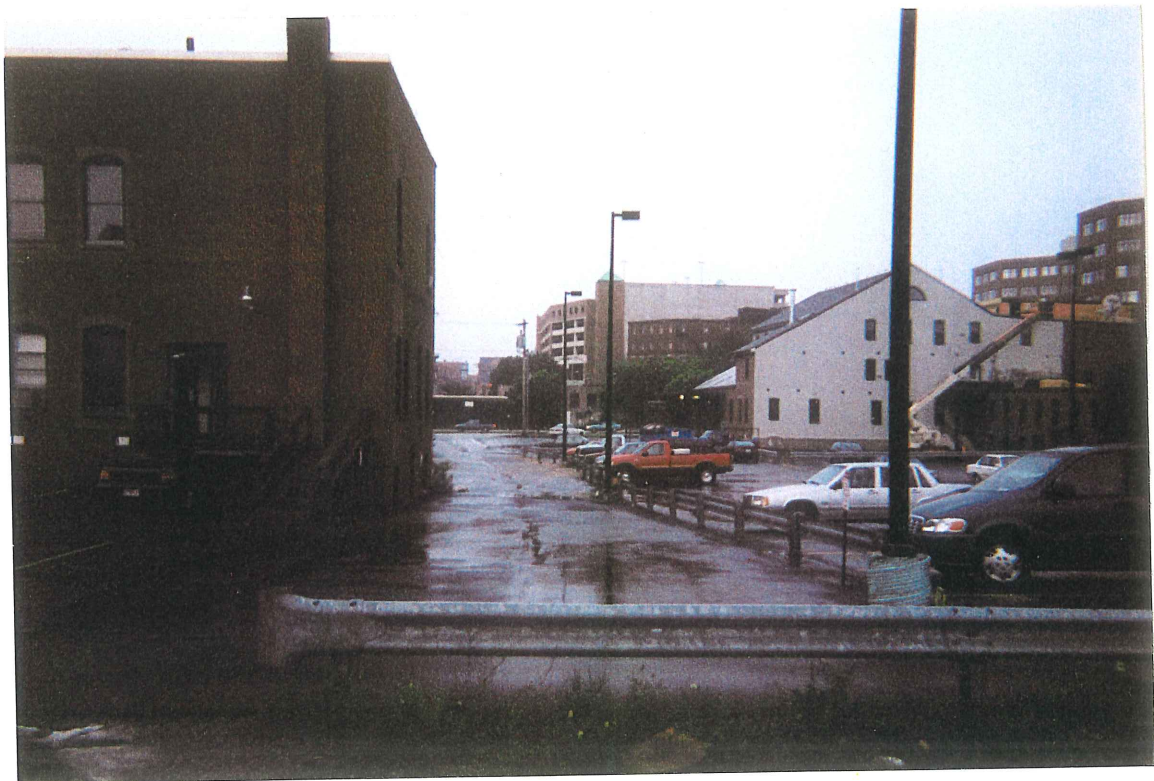
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Att 4.1



LOOKING NORTHWESTERLY AT PARKING LOT AND REAR OF BUILDING



LOOKING SOUTHWESTERLY ALONG BRADBURY COURT RIGHT-OF-WAY
SHOWING EXITING



LOOKING NORTHWESTERLY AT ENTRANCE ALONG COMMERCIAL STREET



LOOKING NORTHERLY SHOWING ENTRANCE FROM COMMERCIAL STREET



LOOKING SOUTHWESTERLY SHOWING EXIT UNTO FRANKLIN STREET
WITH EXISTING CURB CUTS



LOOKING EASTERLY ALONG BRADBURY COURT RIGHT-OF-WAY

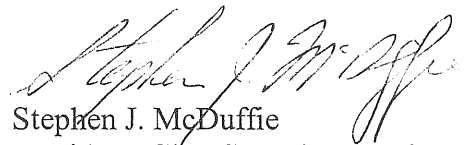
April 08, 2003

To Whom It May Concern,

I have reviewed the proposal from Five County Credit Union regarding the Remote Drive-Up location.

I have no concerns with the proposed layout at this time and endorse the concept as shown. It has been agreed that any loss of parking spaces will be deducted from the allotted spaces included in the rental agreement between Clove Corporation and Five County Credit Union.

Respectfully submitted,



Stephen J. McDuffie
President, Clay Cove Corporation
52 Wellwood Rd
Portland, Me. 04103

COPY

LEASE

This instrument is a lease between THE CLAY COVE CORPORATION, a corporation organized under the laws of the State of Maine (the "Landlord"), and BIW Five County Credit Union, (hereinafter referred to as "Tenant").

The parties to this instrument hereby agree with each other as follows:

ARTICLE I SUMMARY OF BASIC LEASE PROVISIONS

1.1 BASIC DATA.

Date of Lease:	Upon execution.
Date of Possession:	As soon as possible but no later than June 1, 1999 Tenant shall accept premises upon notification from Landlord that previous Tenant has vacated.
Landlord:	The Clay Cove Corporation
Present Mailing Address:	52 Wellwood Road Portland, Maine 04103
Tenant:	BIW Five County Credit Union
Present Mailing Address:	19 Commercial Street Portland, Maine
Premises:	Approximately 3162 rentable square feet located on the lower level of 19 Commercial Street, Portland, Maine.
Lease Term:	Five years (5) from date of commencement.
Renewal Option:	One (1) 5-year renewal option assuming a twelve (12) month written notice to Landlord of Tenant's intention to do so.

Handwritten initials

Rent:

The Tenant shall pay rent according to the schedule below. The rent shall include Tenant's pro-rata share of real estate taxes, insurance, water and sewer user charges, heat, snow removal, management fees, common area cleaning, and building maintenance. Tenant to pay its pro-rata share of increases over base year (2004) if it chooses to extend lease or renew as provided herein. The Tenant is also responsible for its electricity expenses for lights outlets, premises janitorial costs and trash removal.

Yr 1	\$2,950.00/mo	\$35,400.00
Yr 2	\$2,950.00/mo	\$35,400.00
Yr 3	\$3,245.00/mo	\$38,940.00
Yr 4	\$3,400.00/mo	\$40,800.00
Yr 5	\$3,575.00/mo	\$42,900.00

Option-Rate:

3% annual increases

Rent Commencement Date:

Ninety (90) days after possession. Landlord agrees that time is of the essence and that its failure to deliver the premises to Tenant for occupancy on June 1, 1999 shall cause damages to Tenant and its business for which the Landlord agrees to reduce Tenant's monthly rate by \$425.00 for each day that the premises shall not be available for full and unimpeded occupancy by Tenant following June 1, 1999, up to a total amount of one month's rent. Under no circumstances shall Landlord be liable for this penalty clause if occupancy date is delayed for reasons beyond the Landlord's control including, but not limited to: acts of God, strikes, destruction of premises, etc.

MSD

Permitted Use: General business office use for the conduct of Tenant's business for a credit union branch.

Security Deposit: Upon execution Tenant will deposit with the Landlord the sum of one month's rent \$2,950.00. This sum will represent the Security Deposit due under the lease. Said deposit will be returned to Tenant at the end of the lease term, provided the premises are left in good repair, "broom-clean," and provided Tenant has not been in default of lease. Interest will not be paid on said deposit.

First Option to Purchase: In the event Landlord decides to sell the real estate at 19 Commercial Street, Tenant shall be provided an opportunity to purchase the property first. Tenant shall be provided thirty (30) days to reach mutually acceptable sale terms with Seller.

1.2 EXHIBIT.

Exhibit A. Plan showing the Premises.

ARTICLE II
DESCRIPTION OF PREMISES AND APPURTENANT RIGHTS

2.1 LOCATION OF PREMISES.

The Landlord hereby leases to the Tenant, and the Tenant hereby accepts from the Landlord, the premises (the "Premises") shown on Exhibit A in the Landlord's building (the "Building") located on the land (the "Lot") at 17-19 Commercial Street, Portland, Maine.

2.2 APPURTENANT RIGHTS.

The Tenant shall have, as appurtenant to the Premises, the right and easement to use in common with others entitled thereto

Not

Att 5.5

(or exclusively, to the extent provided below): (a) common areas in the Building and on the Lot, including without limitation, sidewalks, loading facilities, entrances, and exits from public highways, lobbies, hallways, stairways, and such other facilities available to all tenants of the Building.

2.3 TENANT'S SIGNS.

The Landlord agrees to permit the Tenant, at Tenant's cost, to erect exterior signs, identifying the Tenant and the nature of Tenant's business, on or about the premises, subject to the following conditions. The Tenant shall submit a sketch of the proposed sign to the Landlord showing design, size, and proposed location for Landlord's approval which will not be unreasonably withheld. The Tenant's right to erect signs shall be subject to applicable provisions of the City of Portland's Code of Ordinances, including, but not limited to, its Land Use Ordinances and Historic Preservation Ordinance.

ARTICLE III TERM OF LEASE

3.1 COMMENCEMENT AND DATE.

The term of this lease shall be for the period specified in Section 1.1 as the Lease Term. The Commencement Date shall be upon execution.

3.2 PREPARATION OF THE PREMISES. (AS REQUIRED FROM LANDLORD)

The Landlord shall repair and secure the broken and non-functional windows in the space. Landlord also agrees to replace the bathroom sink and fixtures and the toilet seat in the bathroom. Otherwise, Tenant shall accept space on an "as is" "where is" basis and complete all other work at its sole expense. (Landlord shall provide a seventy-five (75) day free rent period in lieu of paint, carpet cleaning etc.)

(AS REQUIRED FROM TENANT)

Any and all modifications to the building by Tenant or Tenant's agent shall be submitted to the Landlord in writing for its approval prior to commencement of work, such approval shall not be unreasonably withheld or delayed. Tenant agrees that all work shall be completed in compliance with all of the City of Portland's Building Codes and Ordinances.

ATM/DRIVE THRU/INSTALLATION OF NIGHT DEPOSITORY:

Landlord shall permit Tenant to construct a drive-thru and/or ATM at buildings exterior, at Tenants sole expense, subject to

Mud

mutually agreeable design, location, etc. Tenant shall pay for all building modifications including, but not limited to, relocation or replacement of oil tanks or furnace should "drive thru" displace these items. Should space not be available to relocate these items than Tenant would bear the cost of a new gas heating systems as required to fit reduced available space. Should access for new ATM window result in the loss of existing parking spaces then Tenant shall sacrifice these spaces from its allotment or shall reimburse Landlord for replacement spaces in adjacent private lots. At such time Tenant shall also be permitted to extend lease and option period by an additional five years if it chooses to do so. (Any extension shall be under same terms and conditions of existing lease except that Tenant shall commence payment of its pro-rata share of increases over base year (2004).

Tenant shall be permitted to install a night depository at building's exterior subject to approval of plans for work by Landlord prior to construction. Such approval shall not be unreasonably withheld or delayed.

A plan depicting the location of the ATM/Drive and Night Depository, including building additions and traffic patterns is attached hereto as exhibit #1 as provided in the zoning paragraph below. Tentant shall be solely resonible for obtaining all permits necessary from the city in order to install/construct these items. While Landord shall cooperate with Tenant in working with the City the Landlord makes no representations or warranties as to the City's willingness to permit the work herein.

ZONING:

It is the responsibility of the Tenant to determine all zoning information and secure all necessary or required permits and approvals for its proposed use of the subject premises. The Landlord and The Boulos Company make no representations or

warranties as to the suitability of, or the ability to obtain regulatory approval for, the subject premises for the Tenant's intended use.

3.3 TENANT'S OCCUPANCY.

Neither Tenant's taking occupancy of the premises nor Landlord's substantially completing the improvements shall relieve Landlord of its obligation diligently to proceed to complete fully the improvements described above.

ARTICLE IV
RENT

Not

MORTGAGE LOAN INSPECTION PLAN

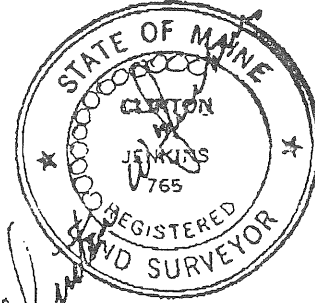
DATE JAN. 23, 1987 PROJ. 87027 **A# 3.7**
BOOK/ 6669 PAGE 116
COUNTY CUMBERLAND SCALE 1"=50'

TO THE LENDING INSTITUTION AND ITS TITLE INSURER

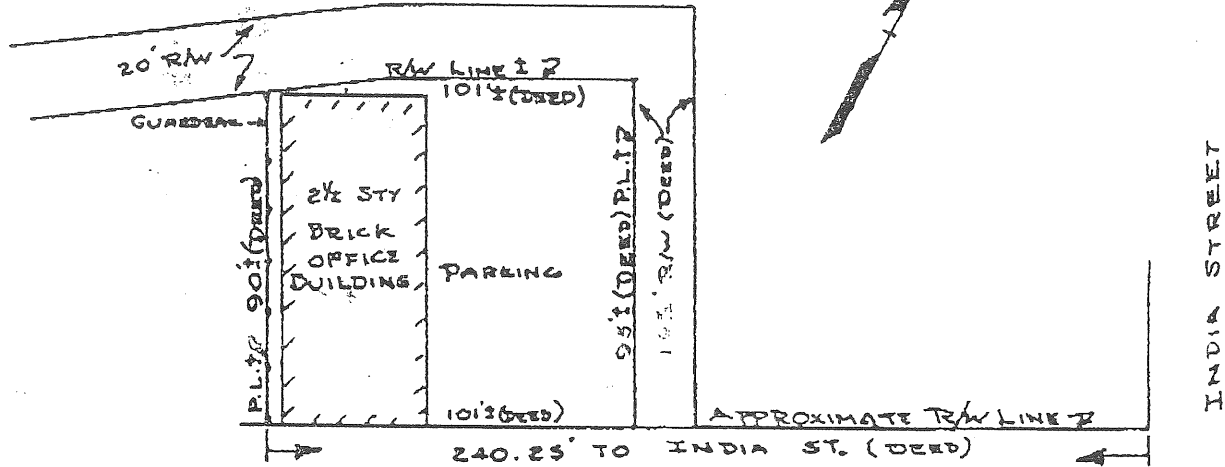
I HEREBY CERTIFY THAT THE LOCATION OF THE DWELLING SHOWN
THIS PLAN DOES ~~NOT~~ CONFORM WITH THE LOCAL ZONING LAWS
IN EFFECT AT THE TIME OF CONSTRUCTION. THE PROPERTY DOES
NOT FALL WITHIN A SPECIAL FLOOD HAZARD ZONE.

THIS PLAN WAS NOT MADE FROM AN INSTRUMENT SURVEY. THE
CERTIFICATIONS ARE FOR MORTGAGE PURPOSES ONLY. THIS PLAN
APPLIES ONLY TO CONDITIONS EXISTING AS OF THE DATE SHOWN
HEREON, AND DOES NOT SHOW ANY POSSIBLE CONFLICTS WITH
ADJUTING DEEDS. THIS PLAN IS NOT FOR RECORDING.

THIS IS NOT A LAND BOUNDARY SURVEY.



NOTE: NO MONUMENTATION FOUND.



COMMERCIAL STREET

NOTE: THIS PLAN IS COMPILED FROM DEED, TAX MAP AND FIELD MEASUREMENTS.
THE PROPERTY LINES, R/W LINES AND BUILDINGS AND THEIR RELATIONSHIP TO
EACH OTHER IS APPROXIMATE. IF MORE ACCURATE DETAIL IS REQUIRED
A CLASS "A" SURVEY IS RECOMMENDED.

PROPERTY OF FORD S. REICHE, C. ALAN BEAGLE AND MARTIN J. RIDGE.
LOCATED AT # 17 COMMERCIAL ST., PORTLAND, MAINE.

PURCHASER - WILLIAM J. DOWD.

6294

AH. 6.1 AH 5.7

WARRANTY DEED

WILLIAM J. DOWD, of Westbrook, Maine, for valuable consideration, grants to APEX, INC., a Maine corporation with a principal place of business in Portland, Maine, and a mailing address of P. O. Box 9540, Portland, ME 04112, with Warranty Covenants, the following described real property situated in Portland, Cumberland County, Maine:

A certain lot or parcel of land situated in said Portland on Commercial Street, and being more particularly described on Exhibit A attached hereto and made a part hereof.

Meaning and intending to convey the same premises described in a deed from C. Alan Beagle, et al, to the Grantor dated February 12, 1987, and recorded in the Cumberland County Registry of Deeds in Book 7633, Page 308.

The purpose of this deed is to correct and clarify the description contained in the deed from William J. Dowd to Apex, Inc., dated April 22, 1991, recorded in said Registry of Deeds in Book 9532, Page 273.

Witness my hand this 31st day of July, 1991.

Mary E. Plumes
Witness

William J. Dowd
William J. Dowd

STATE OF MAINE
CUMBERLAND, SS.

July 31, 1991

Personally appeared the above named William J. Dowd and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Mary E. Plumes
Notary Public
MARY E. PLUMES
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES AUGUST 6, 1991
Printed Name of Notary

Att 5.8

Att. 6.2

EXHIBIT A

A certain lot or parcel of land, with the buildings thereon, situated in the City of Portland, County of Cumberland and State of Maine, and bounded and described as follows: BEGINNING at a point on the northerly sideline of Commercial Street, which point is in the southeasterly corner of land now or formerly of Burnham and another and is about two hundred forty and twenty-five hundredths (240.25) feet westerly from the westerly sideline of India Street; thence running northerly by said land of Burnham and another ninety (90) feet, more or less, to the southerly sideline of a twenty (20) foot passageway extending from Franklin Street in the rear of the lot herein described; thence easterly by the southerly sideline of said passageway one hundred one (101) feet, more or less, to the westerly sideline of a passageway sixteen and one-half (16-1/2) feet wide extending back from Commercial Street; thence southerly by the westerly sideline of said passageway extending back from Commercial Street ninety-five (95) feet, more or less, to a point in the northerly sideline of said Commercial Street; thence westerly by the northerly sideline of Commercial Street one hundred one (101) feet, more or less, to the point of beginning.

Also, all our right, title and interest in and to said passageway running in the rear of said lot from Franklin Street and all our right, title and interest in and to said passageway running back from Commercial Street.

Recorded
 Cumberland County
 Registry of Deeds
 07/31/91 01:48:36PM
 Robert P. Titcomb
 Register

EXHIBIT A

A certain lot or parcel of land, with the buildings thereon, situated in the City of Portland, County of Cumberland and State of Maine, and bounded and described as follows: BEGINNING at a point on the northerly sideline of Commercial Street, which point is in the southeasterly corner of land now or formerly of Burnham and another and is about two hundred forty and twenty-five hundredths (240.25) feet westerly from the westerly sideline of India Street; thence running northerly by said land of Burnham and another ninety (90) feet, more or less, to the southerly sideline of a twenty (20) foot passageway extending from Franklin Street in the rear of the lot herein described; thence easterly by the southerly sideline of said passageway one hundred one (101) feet, more or less, to the westerly sideline of a passageway sixteen and one-half (16-1/2) feet wide extending back from Commercial Street; thence southerly by the westerly sideline of said passageway extending back from Commercial Street ninety-five (95) feet, more or less, to a point in the northerly sideline of said Commercial Street; thence westerly by the northerly sideline of Commercial Street one hundred one (101) feet, more or less, to the point of beginning.

The right in common to use the passageway running in the rear of said lot from Franklin Street and to use the passageway running back from Commercial Street.

AN. 6.3

AN 6.0
5.10



FIRST AMERICAN TITLE INSURANCE COMPANY
OWNERS POLICY SCHEDULE A

CASE NUMBER CL-2137 DATE OF POLICY July 31, 1991 TIME 1:53 p.m. POLICY AMOUNT \$655,000.00 POLICY NUMBER 30009259

AUTOMATIC INFLATION CLAUSE This policy amount will automatically increase by 10% of the amount shown above on each of the first five anniversaries of the policy date with respect to residential policies.

- 1. NAME OF INSURED
Clay Cove Corporation
- 2. THE ESTATE OR INTEREST IN THE LAND DESCRIBED HEREIN AND WHICH IS COVERED BY THIS POLICY IS:
Fee Simple
- 3. THE ESTATE OR INTEREST REFERRED TO HEREIN IS AT DATE OF POLICY VESTED IN:
The Insured
- 4. THE LAND REFERRED TO IN THIS POLICY IS DESCRIBED AS FOLLOWS:
All that certain parcel of land described in Exhibit "A" attached hereto and made a part hereof.
Being the same premises conveyed to the insured herein by deed of Apex, Inc. dated July 31, 1991, and recorded in the Cumberland County Registry of Deeds in Book 9658, Page 47.
The land herein described is encumbered by the following mortgage and assignments, if any, and mortgages, if any, shown in schedule B hereof:
Mortgage and Security Agreement from Clay Cove Corporation to Peoples Heritage Savings Bank in the principal amount of \$598,500.00 dated July 31, 1991, and recorded in the Cumberland County Registry of Deeds on July 31, 1991, at 1:51 p.m. in Book 9658, Page 49, and Assignment of Leases and Rentals by Clay Cove Corporation to Peoples Heritage Savings Bank dated July 31, 1991, at 1:53 p.m., recorded in the Cumberland County Registry of Deeds in Book 9658, Page 69.

ISSUED AT: PORTLAND, MAINE

Cumberland Title Company
P.O. Box 4865 DTS
Portland, Maine 04112

Authorized Agent or Officer

THIS POLICY IS INVALID UNLESS THE COVER SHEET AND SCHEDULE B ARE ATTACHED.

Att. 6.5
5.11

FIRST AMERICAN TITLE INSURANCE COMPANY

OWNERS POLICY SCHEDULE B

CASE NUMBER
CL-2137

POLICY NUMBER
30009259

This policy does not insure against loss or damage due to the following:

NOTE: As used herein, recorded shall mean recorded in the Cumberland County Registry of Deeds.

1. The dower, curtesy, homestead, community property, or other statutory marital rights, if any, of the spouse of any individual insured.
2. Rights or claims of persons in possession and easements or claims of easements not shown by the public records, boundary-line disputes, overlaps, encroachments, title to filled lands (if any) and any matters not of record which would be disclosed by an accurate survey and inspection of the premises.
3. Any lien, or right to a lien, for services, labor or material, heretofore or hereafter furnished, imposed by law and not shown by the public records.
4. Taxes assessed which are not yet due and payable, and for subsequent years.
5. Any exception, reservation, restriction, easement or condition set forth in the attached Exhibit A.
6. Title to and rights of the public and others entitled thereto in and to those portions of the insured premises lying within the bounds of adjacent streets, roads and ways.
7. Rights of others in and to the use of appurtenant easements insured herein and terms and conditions relative to the use thereof.

NOTE: This policy affirmatively insures the right to use the two passageways adjoining the insured premises along the northeasterly and northwesterly bounds and running to Commercial and Franklin Streets respectively; however, this policy does not insure the underlying fee of said passageways.

PUBLIC WORKS ENGINEERING REVIEW

TO: Sarah Hopkins, Planning Department

FROM: Anthony Lombardo, P.E., Project Engineer

DATE: April 11, 2003

(Excerpted from larger memo, WBN. 4-14-03)

Five County Credit Union – 17-19 Commercial Street Application Dated 4/8/03

This proposal does not represent any concerns or issues for Public Works Engineering. Therefore, we are granting approval of this project.

Review Fee: 1 hour * \$35/hr = \$35

AH 6.1

From: Larry Ash
To: William Needleman
Date: Thu, May 15, 2003 8:07 AM
Subject: Fwd: Re: Re: 17-19 Commercial

Bill: I have reviewed Tom Errico's assessment of this proposed drive-up operation. I am satisfied, based on his report, that vehicles will not queue onto Commercial Street. I am also in agreement with his recommendation as regards relocation the drive-up teller 10 feet toward Commercial Street. I believe that this Bank can operate safely and efficiently thus described.

>>> William Needleman 05/14 2:40 PM >>>
Please see attached. All comments welcome. Thanks, Bill