

# REVIEW

**Corporation Counsel**  
Gary C. Wood



**Associate Counsel**  
Charles A. Lane  
Elizabeth L. Boynton  
Donna M. Katsiaficas  
Penny Littell

**CITY OF PORTLAND**

September 28, 1999  
Via hand delivery

David J. Perkins, Esq.  
Perkins, Olson & Pratt  
30 Milk Street  
Portland, ME 04101

Dear Dave:

Thank you for returning to me the executed documents (Lease, Deed, Indemnifications, and Land Acceptance Waiver and Indemnification). I am waiting to receive from you the Proof of Insurance documentation (in the amount of one million dollars (\$1,000,000)) which forms an integral part of the Deed and the Lease.

In conjunction with the actual construction of Harborview Block, I understand that your client needs the City's agreement to place below grade foundation footing, drains, and four (4) thermal wells within the City right of way. To that end, I enclose a revocable license which would permit such construction. You will note that the City may only revoke this license should 1) the proposed building fail to be built by September 1, 2001; or 2) the building cease to exist on the site for more than a one year period. Please call me to discuss finalizing this document.

Finally, in retrieving the file relative to the Fore Street area, it has come to the City's attention that your client has never executed an easement in favor of the City for pedestrian use of the sidewalk adjacent to the existing Regency Hotel. I know you are familiar with this since you were involved in the original agreement surrounding this easement. I enclose the easement for execution by your client.

I look forward to finalizing these documents with you in the near future so that your client may proceed with its construction plans.

Sincerely,

Penny Littell  
Associate Corporation Counsel

Enclosure

cc: Gary Wood, Esq., Corporation Counsel  
Joseph Gray, Director of Planning and Urban Development  
Alan Holt, Planner

O:\WP\PENNY\LTRSPERKINS9.WPD

REVOCABLE LICENSE  
FOR  
PORTLAND REGENCY, INC.  
RE: 145 COMMERCIAL STREET

A revocable license is hereby granted to Portland Regency, Inc. to occupy portions of land owned by the City of Portland on Commercial Street, which property abuts the property of Portland Regency, Inc., located at 145 Commercial Street, for the purpose of the placement and maintenance of below grade foundation footings, foundations drains, and four (4) below grade thermal wells with pipes on the City property, all as shown on the attached plan entitled \_\_\_\_\_, dated \_\_\_\_\_, upon the following conditions:

1. Portland Regency Inc., its successors and assigns (hereinafter "Licensees") shall indemnify the City of Portland, its officers, agents and employees from any and all claims which arise out of its use, or the use of others, of the City's property in conjunction with activities related to the placement and maintenance of below grade foundations footings, foundation drains, and four (4) below grade thermal wells with pipes upon City property as shown on the attached plan.

2. Licensees shall procure and maintain liability insurance in an amount of not less than Four Hundred Thousand Dollars (\$400,000) combined single limit, covering claims for bodily injury, death and property damage and shall either name the City of Portland as an additional insured with respect to such coverage or shall obtain a contractual liability endorsement covering the obligations of Licensees under the terms of this license.

3. ~~This license is assignable to any owners of the building located at 145 Commercial Street.~~

4. This license may be revoked upon a six (6) months written notice by the City in the event that: 1) the building shown on the attached plan fails to be constructed in accordance with the attached plan or any amendments thereto; 2) the building as shown on the attached plan or any amendments thereto is destroyed, removed or otherwise thereafter ceases to exist on the site at 145 Commercial Street for a period of one year or more.

Corporation Counsel

Gary C. Wood,



CITY OF PORTLAND

Associate Counsel

Charles A. Lane  
Elizabeth L. Boynton  
Natalie L. Burns  
Donna M. Katsiaficas

January 29, 1996

Dennis Jud  
SMRT  
P.O. Box 618  
Portland, Maine 04104

RE: BWL, INC. SIDEWALK EASEMENT

Dear Dennis:

Enclosed please find an easement for the sidewalks in front of the Regency Hotel. I redrafted the prior easement to reflect that the area in front of the Hotel is not two private driveways, as was originally planned. If you will get this executed and return it to me, I will record it along with the footing and utility easements and send copies to you once the Registry returns them

Thanks for your help in this matter.

very truly yours,

A handwritten signature in cursive script that reads "Natalie".

Natalie L. Burns  
Associate Corporation Counsel

NLB:lab

EASEMENT DEED

KNOW ALL PERSONS BY THESE PRESENTS, that BWL, Inc., a Maine corporation located in Portland, Maine, hereby grants to the City of Portland, a body politic and corporate, its successors and assigns forever, for the benefit of the general public the perpetual right and easement, to be used exclusively for pedestrian traffic to enter upon two certain parcels of land in said City of Portland on either side of Milk Street extending from the easterly side of Market Street to the westerly side of Silver Street.

Together with the right to repair and maintain the pavement on said parcels of land and to keep the same clear of snow, ice or other impediments to the free and unobstructed use of said parcels as a public pedestrian thoroughfare; provided, however, that the grant of said right shall not be deemed to create any liability therefor in said City of Portland, nor to release said BWL, Inc. from any liability therefor nor to vary any liability therefor otherwise imposed by law.

TO HAVE AND TO HOLD the same, together with all the rights and privileges appurtenant thereto.

WITNESS my hand and seal this \_\_\_\_ day of January, 1996.

BWL, INC.

\_\_\_\_\_ By: \_\_\_\_\_

Print name:

Its:

State of Maine  
Cumberland, ss.

\_\_\_\_\_, 1996

Personally appeared the above named \_\_\_\_\_ in his/her  
capacity as \_\_\_\_\_ of BWL, Inc., and acknowledged the foregoing  
instrument to be his/her free act and deed and the free act and  
deed of BWL, Inc.

Before me,

\_\_\_\_\_  
Notary Public/Attorney-at-Law



**CITY OF PORTLAND**

21 September 1999

Mr. Lucas Anthony, Design Engineer,  
DeLuca-Hoffman Associates, Incorporated,  
778 Main Street, Suite 8,  
South Portland, Maine 04106.

**RE: Sanitary Sewer Capacity of the City Sewer System and The Portland Water District Sewage Treatment Facilities to Handle Anticipated Wastewater Flows, from the Proposed "HarborView Block," at 145 Commercial Street.**

Dear Mr. Anthony:

Both the existing eighteen inch diameter vitrified clay sanitary sewer pipe, in Market Street, and The Portland Water District sewage treatment facilities, located off Marginal Way, have adequate capacity to transport and treat the anticipated wastewater flows of 8,551 GPD, from your proposed retail/office building, to be located at 145 Commercial Street, City of Portland.

<b><u>Anticipated Wastewater Flows from the Proposed Retail/Office Building</u></b>	
Proposed 127 Office Workers @ 15 GPD/Worker	= 1,905 GPD
Proposed 13,600 S.F. Restaurant @50 GPD/100 S.F.	= 6,800 GPD
Less Former Bank @ 154GPD	= -154 GPD
<b>Total Proposed Increase in Wastewater Flows for this Project (See Above)</b>	<b>= 8,551GPD</b>

If I can be of further assistance, please call me at 874-8832.

Sincerely,  
CITY OF PORTLAND  
*Frank Brancely*  
Frank J. Brancely, BA, MA  
Senior Engineering Technician

FJB

- CC: ✓ Joseph E. Gray, Director, Department of Planning, & Urban Development, City of Portland  
 Alan Holt, AIA, Planner, Dept. of Planning, & Urban Development, City of Portland  
 Katherine A. Staples, PE, City Engineer, City of Portland  
 Bradley A. Roland, PE, Environmental Projects Engineer, City of Portland  
 Anthony W. Lombardo, PE, Project Engineer, City of Portland  
 Stephen K. Harris, Assistant Engineer, City of Portland  
 Desk File

ALAN

To: Chair John Carroll and the members of the Portland Planning Board  
From: Alan Holt, AIA; urban designer  
Date: 9/14/99  
RE: Addendum to Planning Board Report # 38-99

Corporation Council has advised me the Board should consider a motion on conformance to the Site Plan Standards, and separately, a motion on conformance to Historic Standards. Therefore, please substitute the suggested language below for the material contained on page 6 of P.B. Report #38-99.

## VI. Motions for the Board to Consider

On the basis of plans and materials submitted by the applicant and on the basis of information contained in this report relevant to standards for Site Plan and Historic Preservation ordinances, the Planning Board finds:

### 1. That the plan is in conformance with the Site Plan Standards of the Land Use Code.

#### Potential Conditions of Approval:

- a. that the applicant submit additional information related to storm water management, erosion controls, a plan for vehicular and pedestrian safety during construction, and an updated existing and proposed site plan. These submissions should follow the recommendations of the Dufrense-Henry letter of 9/7/99, and the submissions are to be reviewed and approved by the Planning Office and the acting Development Review Coordinator.
- b. that the applicant coordinate final selection of streetlights, streetscape furnishings and details with the Planning staff to coordinate with the City's plans for the Boothby Square renovation.

### 2. That the plan is in conformance with the Standards for Review of Construction of the Historic Preservation Ordinance, and that the Board approves a Certificate of Appropriateness for New Construction.

#### Potential Conditions of Approval:

- a. that the applicant have final architectural details and material selections be reviewed ~~and~~ <sup>For Recommendation</sup> ~~approved~~ by the Historic Preservation Committee. ~~for~~
- b. that the final design of the plaza in front of the Fore Street facade be reviewed and approved by the Historic Preservation Committee.
- c. that the applicant pursue investigations at the site of the seawall as recommended by the Historic Preservation Committee pursuant to 14-650(2).



DUPLICATE

GENERAL RECEIPT

# CITY OF PORTLAND, MAINE

DEPARTMENT Planning DATE 9/30/99

RECEIVED FROM Cianbro

ADDRESS Hunnewell Sq, PO Box 1000  
Pittsfield ME 04967

UNIT	ITEM	REVENUE CODE	DOLLAR AMOUNT
	Harborside Block		
	145 Comm'l St.		
	100# 109910100		
	Eng. fee		1041.95
<input type="checkbox"/> CASH <input checked="" type="checkbox"/> CHECK <input type="checkbox"/> OTHER		TOTAL	1041.95

RECEIVED BY J. Ocker # 298712

GBF INFORMATION SYSTEMS Box 878, Portland, ME 04104 (207) 774-1482 200747-8P  
Commercial Printing • Business Forms • Advertising Specialties • Labels

⑈ 298712⑈ ⑆ 126303007⑆ 519070000012⑈

**CIANBRO**  
THE CONSTRUCTORS  
HUNNEWELL SQUARE, P.O. BOX 1000  
PITTSFIELD, MAINE 04967-1000 (207) 487-3311

TO THE ORDER OF  
ONE THOUSAND & FORTY ONE DOLLARS & 95 CENTS

DATE  
09/23/1999

CHECK NO.  
298712

NET AMOUNT  
\$ \*\*\*\*1,041.95

KEY BANK NATIONAL ASSOCIATION  
PRICE: UT4H

*Thomas E. Stone*  
AUTHORIZED SIGNATURE

VOID AFTER 90 DAYS  
CIANBRO CORPORATION

**CITY OF PORTLAND, MAINE  
ENGINEERING REVIEW FORM**

Address of Proposed Site 145 COMMERCIAL ST. Date 9.24.99

Project Description HARBORVIEW BLOCK Job # 19990100

Applicant E.L.G. INC

Applicant's Mailing Address 42 MARKET STREET 04101

110  
DUFRESNE-HENRY INC  
**Site Review**  
(Planning Department)

**Right-of-Way Review**  
(Public Works Department)

Review Engineer: JEFFREY PREBLE

Review Engineer: T. LOMBARDO

Number of Estimated Hours: 15.5

Number of Estimated Hours: 9

Cost Per Hour: 46.90

Cost Per Hour: 35

Total Amount: 726.95

Total Amount: 315

An engineering fee has been assessed in the amount of 1041.<sup>95</sup> for the review of your project located at 145 COMMERCIAL

Please make check payable to the City of Portland. The check should be submitted along with this form to the Portland Planning Department, City of Portland, 4th Floor, 389 Congress Street, Portland, ME 04101. Attn: ALAN HOLT

<b>Office Use Only</b>	
Invoice Date: <u>9/24/99</u>	Received: <u>9/29/99</u> date
Planning Revenue Code: <u>1013610011.9-04</u>	
Public Works Revenue Code: <u>1013110011.9-PV</u>	

- cc: Applicant - white  
Planner - blue  
Engineer - green  
Public Works - yellow  
Financial Officer - pink  
Review/Inspection Fee File - golden

**PERKINS, OLSON & PRATT, P.A.**  
ATTORNEYS AT LAW

30 Milk Street  
P.O. Box 449  
Portland, Maine 04112-0449

(207) 871-7159  
FAX (207) 871-0521  
Email: dperkins@perkinspa.com

**FACSIMILE TRANSMITTAL SHEET**

**TO:**  
Penny Littell

**FAX NUMBER:**  
874-8497

**Number of Pages including cover:** 4

**MESSAGE:** Please review and call with any needed changes.

**FROM:** David J. Perkins, Esq.

**DATE:** October 14, 1999

*Ok - as  
written  
→  
Send to Canada*

If you are having difficulties receiving this facsimile transmission, please contact Noelle at 207-871-7159. Thank you.

**This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately at the above number and return the original message to us at the above address via the U.S. Postal Service. Thank you for your cooperation.**

**From:** Anthony Lombardo  
**To:** Alan Holt  
**Date:** Thu, Oct 7, 1999 2:40 PM  
**Subject:** 143 Commercial...Harbor View Block

Alan,

I've reviewed the response to my comments. Public Works is still firm in requesting the applicant make repairs to the storm drain system surrounding this development site as follows:

1. replacement of the existing brick catch basin, at the intersection of Market St. and Commercial St. and adjacent to the development site, with a new concrete type "E" catch basin.

We feel this is not an unrealistic request of the developer. Most development projects of this size are required, as conditions of approval, to make infrastructure repairs. Faced with limited capital improvement funding, the City can not make all of the necessary repairs on its own.





**CITY OF PORTLAND**

21 September 1999

Mr. Lucas Anthony, Design Engineer,  
DeLuca-Hoffman Associates, Incorporated,  
778 Main Street, Suite 8,  
South Portland, Maine 04106.

**RE: Sanitary Sewer Capacity of the City Sewer System and The Portland Water District Sewage Treatment Facilities to Handle Anticipated Wastewater Flows, from the Proposed "HarborView Block," at 145 Commercial Street.**

Dear Mr. Anthony:

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<b>Anticipated Wastewater Flows from the Proposed Retail/Office Building</b>	
Proposed 127 Office Workers @ 15 GPD/Worker	= 1,905 GPD
Proposed 13,600 S.F. Restaurant @50 GPD/100 S.F.	= 6,800 GPD
Less Former Bank @ 154GPD	= -154 GPD
<b>Total Proposed Increase in Wastewater Flows for this Project (See Above)</b>	<b>= 8,551GPD</b>

If I can be of further assistance, please call me at 874-8832.

Sincerely,  
CITY OF PORTLAND

*Frank Brancely*  
Frank J. Brancely, BA, MA  
Senior Engineering Technician

FJB

- CC: Joseph E. Gray, Director, Department of Planning, & Urban Development, City of Portland  
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 Stephen K. Harris, Assistant Engineer, City of Portland  
 Desk File

SECTION 02950

TREES, PLANTS, AND GROUND COVERS

PART 1 - GENERAL

1.1 SECTION INCLUDES

- A. Planting required for the Work is indicated on the Drawings and, in general, includes planting of trees and shrubs throughout the Work including furnishing all materials, equipment, and labor necessary for root protection, and tree guards where applicable.

1.2 QUALITY ASSURANCE

- A. Qualifications of Workmen: Provide at least one person who shall be present at all times during execution of this portion of the Work, thoroughly familiar with the type of materials being installed and the best methods of their installation, and direct all work performed under this Section.
- B. Standards:
  - 1. Plants and planting material shall meet or exceed the specifications of Federal and State laws requiring inspection for plant disease and insect control.
  - 2. Quality and size shall conform with the current edition of "Horticultural Standards" for number one grade nursery stock, as adopted by the American Association of Nurserymen.
  - 3. Plants shall be true to name and one of each bundle or lot shall be tagged with the name and size of the plants, in accordance with the standards of practice of the American Association of Nurserymen. Botanical names shall take precedence over common names.
  - 4. Substitutions:
    - a. In the event that trees, shrubs, or other plant material specified in the drawings are in the opinion of the Contractor, impossible or unreasonably difficult to obtain, the Contractor shall immediately notify the Owner's Representative to discuss appropriate substitutions in writing. No substitutions of plant material may be made without the prior written approval of the Owner's Representative.
    - b. Contractor shall notify the Owner's Representative in writing of any plant material that is inappropriate for the proposed site conditions in the opinion of the Contractor. Substitutions shall be processed as per paragraph 4a. above.

1.3 SUBMITTALS

- A. Materials List: Thirty days before any planting materials are delivered to the job site, submit to the Architect a complete list of plants and other items proposed to be installed:
  - 1. Include a complete data on source, size and quality.
  - 2. Demonstrate complete conformance with the requirements of this section.
  - 3. This shall in no way be construed as permitting substitution for specific items described in the Drawings or these Specifications, unless the substitution has been approved in advance by the Architect.
- B. Record Drawings: During the course of the installation, carefully record, in red line, changes made to the planting system layout during installation on a print of the planting Drawings.
- C. Certificates:
  - 1. Certificates required by law shall accompany shipments.
  - 2. Upon completion of the installation, deliver certificates to the Architect.
- D. Contractor shall submit sample of shredded bark mulch to be used for Architect approval prior to delivery to site.

1.4 PRODUCT HANDLING

- A. Delivery and Storage:

1. Deliver items to the site in their original containers with labels intact and legible at time of Architect's inspection.
  2. Immediately remove from the site plants which are not true to name and materials which do not comply with the provisions of this Section of these Specifications.
  3. Protect plant materials before, during and after installation and to protect the installed work and materials of other trades.
  4. Provide container grown or freshly dug plant materials. Plant materials which have been in cold storage or heeled-in may be rejected. Do not bend or bind-tie trees or shrubs in such manner as to damage bark, break branches or destroy natural shape. Provide protective covering during delivery.
- B. Replacements: In the event of damage or rejection, immediately make repairs and replacements necessary to the approval of the Architect, at no additional cost to the Owner.

## PART 2 - PRODUCTS

### 2.1 PLANTING SOIL

- A. Shall Be a Natural Fertile, Friable Natural Loam of The Following Types: Sandy loam, clay loam, loam, silt loam, sandy dry loam or other soil approved by Owner's representatives. Soil shall contain from 6 to 20 percent organic matter as determined by the Organic Carbon, 6A, Chemical Analysis Method. Topsoil shall be tested by a recognized laboratory for pH and soluble salts. A pH of between 5 and 7.5 is required and shall not contain soluble salts greater than 500 parts per million. It shall be obtained from naturally well-drained areas. It shall not contain toxic substances that may be harmful to plant growth. Topsoil shall be without admixture of subsoil and shall be cleaned and reasonably free from clay lumps, stones, stumps, roots, or similar substances over 1" in diameter, debris, or other objects which might be a hindrance to planting operations. Soil shall not be used for planting while in a frozen or muddy condition.

### 2.2 MANURE

- A. Well rotted, unleached, stable or cattle manure which is reasonably free of wood shavings, sawdust or other undesirable liter and contains no chemical or other ingredients harmful to plants.

### 2.3 COMMERCIAL FERTILIZER

- A. Complete fertilizer with minimum analysis of 10%N, 8%P, 4%K and shall conform to the applicable State fertilizer laws. ~~It shall be uniform in composition, dry and free flowing, and shall be delivered to the site in the original, unopened containers, each bearing the manufacturer's guaranteed analysis. Fertilizer that becomes caked or otherwise damaged, making it unsuitable for use, will not be accepted.~~

### 2.4 SOIL AMENDMENT

- A. Shall be peat; a domestic product consisting of partially decomposed vegetable matter of natural occurrence. It shall be brown, clean, low in content of mineral and woody material, mildly acid and granulated or shredded and fortified with organic nitrogen, or an equal commercial soil amendment approved in advance by Architect.

### 2.5 MOSS PEAT

- A. Brown; acid reaction about 4 to 5 pH; low in content of wood material and free of mineral matter harmful to plant life; water absorbing capacity, 1100 to 2000 percent; moisture content 30 percent natural, shredded or granulated.

### 2.6 WATER

- A. Contractor shall make, at his expense, whatever arrangements may be necessary to ensure an adequate supply of water to meet the needs of this contract. He shall also furnish necessary hose, equipment, attachments, and accessories for the adequate irrigation of lawns and planted areas as may be required to complete the work as specified.

2.7 BARK MULCH

- A. Shredded bark mulch shall be uniform in size, free of chunks and pieces of wood thicker than 1/4" or longer than 4" and approved by Architect. Mulch must be partially decomposed and of a consistent dark brown color.

2.8 TREE STAKES

- A. Unless otherwise indicated on the Drawings, tree stakes shall be Spruce or Fir, construction grade, rough-sawn, 2" x 2" x 8' long.

2.9 PLANT MATERIALS

- A. Plant materials shall be true to species and variety specified and shall be nursery grown in accordance with good horticultural practice under climatic conditions similar to those in the locality of the project for at least two years. They shall have been root-pruned within the last two years and shall be freshly dug. No heeled-in plants or plants from cold storage will be accepted.
- B. Unless specifically noted otherwise, plants shall be of specimen quality; exceptionally heavy; and symmetrical, so trained or favored in development and appearance as to be unquestionable and outstandingly superior in form, compactness and symmetry. They shall be sound; healthy; vigorous; well-branched and densely foliated when in leaf; free of disease; insects; eggs or larvae; and shall be free from physical damage or conditions that would prevent thriving growth.
- C. Plants shall not be pruned before delivery. Trees with multiple leaders, unless specified, will be rejected. Trees with a damaged or crooked leader, abrasion of bark, sunscalds, disfiguring knots, insect damage, or cuts of limbs over 3/4" in diameter, not completely calloused, will be rejected.
- D. Plants shall conform to measurements specified in the Plant Lists, except that plants larger than specified may be used if approved by the Architect. Use of such plants shall not increase the Contract price. If larger plants are approved, the root ball shall be increased in proportion to the size of the plant.
- E. Caliper measurement shall be taken on the trunk 6" above natural ground line for trees up to 4" in caliper and 12" above the natural ground line for trees over 4" in caliper. Height and spread dimensions specified refer to the main body of the plant and not from branch tip to tip. Plants shall be measured when branches are in their normal position. If a range of size is given, no plant shall be less than the minimum size, and not less than 50 percent of the plants shall be as large as the maximum size specified. Measurements specified are minimum size, acceptable after pruning where pruning is required. ~~Plants that meet measurements but do not possess a normal balance between height and spread shall be rejected.~~
- F. Plants shall be labeled with correct plant name and size. Labels shall be attached securely to all plants, bundles and containers of plant materials delivered with care that those attached directly to plants will not restrict growth.
- G. Substitutions of plant materials will not be permitted, unless authorized in writing by the Architect. If proof is submitted and substantiated in writing that any plant specified is not obtainable, a proposal will be considered for use of the nearest available size or similar variety with a corresponding adjustment of Contract price.

H. Type of Protection to Roots:

1. Balled and Burlapped Plants: Plants designated "B&B" in the Plant List shall be balled and burlapped. They shall be dug with firm, natural balls of earth of sufficient diameter and depth to encompass the fibrous and feeding root system necessary for full recovery of the plant. Balls shall be firmly wrapped with burlap or similar material and bound with twine, cord, or wire mesh. Where necessary to prevent breaking or cracking of the ball during the process of planting, the ball may be secured to a platform.
2. Bare-Root Plants: Plant designated "bare-root" in the Plant List shall be dug and the earth removed without injury to the fibrous root system necessary for the full recovery of the plant. Roots shall be covered with a thick coating of mud by puddling or wrapped in wet straw, moss, or other suitable packing material immediately after they are dug, for protection until delivered.



3. Protection After Delivery: The balls of "B&B" plants which cannot be planted immediately on delivery shall be covered with moist soil or mulch, or other protection from drying winds and sun. Bare-rooted plants shall be planted or heeled-in immediately upon delivery. Plants shall be watered as necessary until planted.

## 2.10 INSPECTIONS

- A. Certificates of inspection shall accompany invoices for plants as may be required by law for transportation. File certificates with the Architect prior to acceptance of the material. Inspection by Federal or State Governments at place of growth does not preclude rejection of plants at the work site.

## 2.11 SELECTION AND TAGGING

- A. Plants shall be subject to inspection and approval by the Architect at their place of growth and upon delivery for conformity to specification requirement. Such approval shall not impair the right of inspection and rejection during the progress of the work. A Contractor's representative shall be present at inspections.
- B. Written requests for inspection of plant material at their place of growth shall be submitted to the Architect at least 10 calendar days prior to digging. Written requests shall state the place of growth and quantity of plants to be inspected. The Architect may refuse inspection at this time if, in his judgement, a sufficient quantity of plants is not available for inspection.
- C. Plants identified as "selection specimen" shall be approved and tagged at their place of growth. For distant material, submit photographs for pre-inspection review.

## 2.12 PLANT LABELS

- A. Plant labels shall be durable, legible stating the correct plant name and size in weather-resistant ink or embossed process lettering.

## 2.13 GUYING, STAKING AND WRAPPING MATERIALS

- A. Ground anchors shall be castings, stamped steel, or deadmen of wood or other material approved by the Architect. Width across top span and length, exclusive of pin from top to arrowed tip, shall conform to the following list. Assemblies for anchors shall also conform to the following list:
  1. Tree Caliper: 2 - 5 inches
  2. Type: wire
  3. Capacity: 3 500 lbs
- B. Guying cable shall be five strand, 3/16" diameter galvanized steel cable. Turnbuckles shall be galvanized or dip-painted, having a 3" minimum lengthwise opening fitted with screw eyes. Eyebolts shall be galvanized, having a 1" opening fitted with screw length of 1". Hose shall be suitable lengths of two-ply, reinforced, black rubber hose, 3/4" in diameter.
- C. Stakes for supporting trees shall be 2 inches square or 2-1/2" round, by 8 feet sound wood, treated for one-half their length with creosote or equal.
- D. Wrapping material for tree trunks, shall be standard burlap, heavy crepe paper, or other suitable material, in strips 6 to 10 inches wide.

## 2.14 TREE PAINT

- A. Tree paint shall be "Cabot Tree Paint," or approved equal.

## 2.15 ANTI-DESICCANT

- A. Anti-desiccant shall be an emulsion that provides a protective film over plant surface, permeable enough to permit transpiration. It shall be delivered in containers of the manufacturer and mixed according to the manufacturer's directions ("Wiltpruf" manufactured by Nursery Specialty Products Inc., Stubbings Road, Groton Falls, New York, or approved equal.)

## 2.16 LANDSCAPING FABRIC

- A. For weed control use black polypropylene woven or non-woven fabric conforming to the following:
1. Weight 3 to 5 oz. per sq. yd.
  2. Thickness 25 to 40 mils.
  3. Water flow rate 25 gpm or greater

### PART 3 - EXECUTION

#### 3.1 SITE CONDITIONS

- A. Contractor must examine the subgrade, observe the conditions under which work is to be performed, and notify the Owner's Representative of unsatisfactory conditions. Do not proceed with the work until unsatisfactory conditions have been corrected in a manner acceptable to the Owner's Representative and the Contractor. Commencement of work by Contractor shall signify Contractor's acceptance of conditions as satisfactory.
- B. Determine location of underground utilities and perform work in a manner that will avoid possible damage. If necessary, call Dig-Safe at 1-800-225-4977 (in ME, NH, VT, RI) or 800-322-4844 (in MA). Hand excavate, as required, to minimize possibility of damage to underground utilities. Maintain grade stakes set by others unless removal is mutually agreed upon by all parties concerned.
- C. Owner's Representative shall be contacted in the event that rock, underground construction work, adverse drainage conditions, or other obstructions are encountered in any plant pit or excavation work as specified in this contract. Alternate locations may be selected by the Owner's Representative at no additional cost to the Owner provided that work has not been initiated. Additional charges incurred by concealed contingencies shall be set at a standard time and materials rate agreed upon by both parties prior to initiation of contract.
- D. Where locations cannot be changed, the obstruction shall be removed, or altered, subject to the Owner's Representative's written authorization, to a depth of not greater than 3 feet below grade, or no less than 6 inches below bottom of ball or roots when plant is properly set at the required grade. Contractor shall be paid extra as defined above.

#### 3.2 PLANTING TIME

- A. Planting Shall Be Done with the Following Dates: April 1st to November 15th
- B. Coordination with Lawns: Plant trees and shrubs after final grades are established and prior to planting of lawns, unless otherwise acceptable to the Owner's Representative. ~~If planting of trees and shrubs occurs after lawn work, protect lawn areas and promptly repair damage to lawns resulting from planting operations.~~

#### 3.3 EXCAVATION OF PLANTING AREAS

- A. Stake out the ground locations for plants and outlines of planting beds and obtain approval of the Landscape Architect before excavation is begun. A minimum of 30 percent of total planting must be staked before inspection will be made. Locations as shown on drawings are approximate. Final positioning of plant material shall be made under supervision of Landscape Architect.
- B. Excavate tree and shrub pits as shown on Drawings.
- C. Separate subgrade soils from the upper topsoil portions and remove immediately wherever encountered during planting operations.
- D. Notify the Architect in writing of soil or drainage conditions which the Contractor considers detrimental to growth of plant material. State condition and submit proposal in writing to the Architect for correcting condition.
- E. Test drainage of suspect plant beds and pits by filling with water twice in succession. Conditions permitting the retention of water in planting beds for more than 12 hours shall be brought to the attention of the Architect.

- F. No planting except ground cover and vines shall be placed closer than 2 feet to pavement or structures.

### 3.4 PLANTING OPERATIONS

- A. Digging and Handling of Plant Materials to be Relocated: Plants shall not be bound with wire or rope at any time so as to damage the bark or break branches. Plants shall be lifted and handled from the bottom of the ball only.

- B. Planting Trees and Shrubs:

1. Excavate pits in accordance with Typical Planting Details with vertical sides and scarify sides of pit to insure against glazing.
2. Protect plants from sun or drying winds. Plants that cannot be planted immediately on delivery shall be kept in the shade, well protected with soil, wet moss, or other acceptable material and shall be kept well watered. Plants shall not be bound with wire or rope at any time so as to damage the bark or break branches. Plants shall be lifted and handled from the bottom of the ball only.
3. Set plants at same relationship to finished grade as they bore to the ground from which they were dug. Set plant plumb and brace rigidly in position until prepared topsoil has been tamped solidly around ball and roots.
4. Cut and remove ropes, strings and wrappings from top 1/3 of ball after plant has been set. Leave balance of wrappings intact around ball. If wrapping is plastic, remove top 2/3.
5. Backfill plant pits with prepared planting soil. When plant pits have been backfilled approximately 2/3 full, water thoroughly, eliminating air pockets. After watering, install planting soil to top of pit and repeat watering.
6. Form shallow saucer around tree as indicated on the Drawings.
7. Finish grade planting areas to conform to grades on Drawings.
8. Mulch all pits and beds with a 4" layer of approved shredded bark mulch immediately after planting.
9. Immediately after planting, water plants thoroughly.

- C. Guying, Staking, Wrapping and Pruning:

1. Guying shall be completed immediately after planting. Drive ground anchors into ground by manual or machine method at approximately 45 degree angle to ground plane and distributed at 120 degree intervals around trunk of tree. Preload anchors after driving until anchor turns in the ground at 90 degree angle to line of driving force. Anchor assembly will rise 2 to 6 inches during pre-loading. Attach guying cables, turnbuckles and hose, and secure until tree is rigidly guyed. On all guys, 1/3 distance up from ground to trunk, secure white plastic flagging 1" wide x 18", tied securely.
  - a. Trees 3" in caliper or greater shall be guyed using the 120 degree, three-guy method, or as shown on the Drawings.
  - b. Trees less than 3" in caliper shall be staked using the 180 degree, two-stake method.
  - c. Maintain supports in place during entire guarantee period.
2. Wrap trunks of deciduous trees of 1-1/2" or more caliper with a spiral overlapping wrapping to minimum height of third branch. Wrap from bottom and tie-wrapping securely in place. Remove wrapping at end of guarantee period.
3. Prune plants only at time of planting and according to standard horticultural practice to preserve the natural character of the plant. Pruning to be done under supervision of the Project Architect. Pruning and trimming shall include the following:
  - a. Remove dead wood, suckers, and broken or badly bruised branches. Contractor shall not cut main leader of tree. Required shrub sizes are the sizes after pruning.
  - b. Use only clean sharp tools.
  - c. Paint cuts over 3/4" diameter, covering all exposed, living tissue.

### 3.5 MAINTENANCE OF TREES AND SHRUBS

- A. Maintenance shall begin immediately after each plant is planted and shall continue until acceptance of the project by the Owner after final inspection or 60 days, whichever is longer.
- B. Maintenance shall consist of pruning, watering, cultivating, weeding, mulching, tightening and repairing guys, resetting plants to proper grades or upright position, restoration of the planting saucer, and furnishing and applying such sprays or other items as are necessary to keep the planting free of insects and disease and in thriving condition.

- C. Planting areas and plants shall be protected against trespassing and damage for the duration of the maintenance period. If plants become damaged or injured, they shall be treated or replaced as directed by the Architect at no additional cost to the Owner.
- D. Provide equipment and means for proper application of water to those planted areas not equipped with an irrigation system.
- E. Restoration: Pavements, sodded and planted areas, structures and substructures not specifically provided for in the contract, disturbed by the Contractor during the execution of the work shall be restored by the Contractor, in a manner satisfactory to the Owner's Representative, to their original condition at no cost to the Owner.

### 3.6 INSPECTION

- A. In Addition to Normal Progress Inspection, Schedule and Conduct the Following Formal Inspections, Giving the Architect at Least 3 Working Days Prior Notice of Readiness for Inspection:
  1. Inspection of plants in containers prior to planting.
  2. Inspection of plant locations to verify compliance with the Drawings.
  3. Schedule the final inspection sufficiently in advance and in cooperation with the Architect so that the final inspection may be conducted within 24 hours after completion of planting.
  4. Provisional inspection will be at the end of the maintenance period, provided that previous deficiencies have been corrected.

### 3.7 PROVISIONAL ACCEPTANCE

- A. The Architect will inspect the work for provisional acceptance upon written request of the Contractor. The request shall be received at least 10 calendar days before the anticipated date of inspection.
  1. Acceptance of plant material by the Architect shall be for general conformance to specified size, character, and quality and shall not relieve the Contractor of responsibility for full conformance to the contract documents, including correct species.
  2. Upon completion and reinspection of repairs or renewals necessary in the judgement of the Architect, he will certify in writing to the Contractor as to the acceptance of the work.
  3. At the issuance of provisional acceptance, the Owner will take over maintenance of the planting, the guarantee of plant material shall remain the responsibility of the Contractor. The Contractor shall ascertain that the Owner properly waters and maintains planting during the one-year guarantee period. The Contractor shall make inspection of plant materials during this period at intervals of not over 30 days during growing season. Contractor shall report in writing to Owner's Representative any deficiencies as identified or change in maintenance as needed. Report within ten days after inspection. The Contractor shall furnish written instructions for maintenance of the plantings to the Owner at the time of provisional acceptance.
- B. Acceptance in Part: The work may be accepted in parts when it is deemed to be in the Owner's best interest to do so and when approval is given to the Contractor in writing to complete work in parts. Acceptance and use of such areas by the Owner shall not waive any other provisions of this Contract.

### 3.8 GUARANTEE PERIOD AND REPLACEMENTS

- A. The guarantee period for trees and shrubs shall begin at the date of Provisional Acceptance.
- B. Plant material shall be guaranteed by the Contractor for a period of one year from the date of Provisional Acceptance to be in good, healthy and flourishing condition.
- C. When work is accepted in parts, the guarantee periods extend from each of the partial acceptances to the terminal date of the last guarantee period. Thus, all guarantee periods terminate at one time.
- D. The Contractor shall replace, without cost to the Owner and as soon as possible, as weather conditions permit and within a specified planting period, dead plants and plants not in a vigorous thriving condition, as determined by the Architect during and at the end of the guarantee period. Plants shall be free of dead or dying branches and branch tips and shall bear foliage of a normal density, size and color. Replacements shall closely match adjacent specimens of the same species. Replacements shall be subject

to the requirements stated in this Specification. Replacements required because of vandalism or other causes beyond control of the Contractor are not part of the Contract.

- E. The guarantee of replacement plants shall extend for an additional period of one year from the date of their acceptance after replacement. In the event that a replacement plant is not acceptable during or at the end of the said extended guarantee period, the Owner may elect subsequent replacement or credit for each item.
- F. The Contractor shall make periodic inspection at no extra cost to the Owner during the guarantee period to determine what changes, if any, should be made to the Owner's maintenance program. Submit in writing to the Architect recommended changes.

### 3.9 CARE OF EXISTING TREES

- A. Upon completion of the work under this Section, existing trees within the work limits, unless indicated otherwise, shall be pruned and injuries repaired. The amount of pruning shall be limited to the minimum necessary to remove dead or injured twigs and branches and to compensate for the loss of roots as a result of construction operations. Roots greater than 2" shall be hand-cut to provide clean, concise, cutting and removal. Pruning shall be done in such a manner as not to change the natural habit or shape of the plant. Cuts shall be made flush, leaving no stubs. On cuts over 3/4" diameter and bruises or scars on the bark, the injured cambium shall be traced back to living tissue and removed; wounds shall be smoothed and shaped so as not to retain water, and the treated area shall be coated with an approved tree paint.

### 3.10 CLEAN-UP

- A. When of this work is done while buildings are occupied, pavements shall be kept clear, broom cleaned to prevent tracking dirt into buildings.
- B. After completion of planting operations, dispose of debris and excess material to the satisfaction of the Architect. Pavements shall be broomed and hosed clean.

### 3.11 FINAL INSPECTION AND ACCEPTANCE

- A. At the end of the guarantee period, the Architect will inspect guaranteed work for final acceptance upon written request of the Contractor. The request shall be received at least 10 calendar days before the anticipated date for final inspection.
- B. Upon completion and reinspection of repairs or renewals necessary in the judgement of the Architect at that time, the Architect will certify in writing to the Contractor as to the final acceptance of the Planting.

END OF SECTION

October 5, 1999

Mr. Alan Holt, AIA, Urban Designer  
City of Portland  
Planning and Urban Development  
389 Congress Street  
Portland, Maine 04101

**RE: Harbor View Block Performance Guarantee**

Dear Mr. Holt:

As requested we have reviewed the cost estimate prepared for the HarborView Block development project. The estimate appears to be in order except for a few items which are summarized below.

- The line item for granite curbing shows a unit price of \$25 per linear foot. Is this item based on an actual contractor's bid price? We have seen curbing prices slightly higher than this on past projects.
- The quantity private sanitary sewer piping shown on the most recent site plan appears to be approximately 120 feet. Only 20 feet has been carried in the estimate.
- The water service entrance piping costs are missing from the estimate.

Please note that the demolition, building excavation, backfill, and building construction costs are also not outlined on the form. The two plans dropped off at our office earlier today are not stamped by a Maine registered professional engineer. Stamped construction drawings need to be prepared for use in the field. Let us know if we can be of any further assistance.

Very truly yours,

**DUFRESNE-HENRY, INC.**



Jeffrey D. Preble, P.E.  
Senior Project Manager

C:\Projects\8160054\Project 'I' Harbor View Block\Holtltr3.wpd

# 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: 10/6/99  
To: ERNIE SELBERG  
Company: CIANBRO  
Fax #: 773-7617  
From: ALAN HOLT  
RE: COST ESTIMATES FOR PERFORMANCE GUARANTEE

- PLEASE RESUBMIT WITH ACCOUNTING OF  
THE ITEMS LISTED IN THE ATTACHMENTS.

YOU SHOULD RECEIVE 3 PAGE(S),  
INCLUDING THIS COVER SHEET.  
IF YOU DO NOT RECEIVE ALL THE PAGES,  
PLEASE CALL 207-874-8721 OR 207-874-8719.

MEMORANDUM

To: Alan Holt, Urban Planner  
From: Anthony Lombardo, P.E., Project Engineer  
Date: October 6, 1999  
Subject: 143 Commercial St. ....Harbor View Block. ....Performance Guarantee

The following comments were generated during Public Works Engineering review of proposed cost estimate submitted by Eric Cianchette:

2. Sanitary Sewer:

Applicant is proposing installation of new 6" diameter sanitary sewer service within the Market St. right of way, but has not accounted for this item in the cost estimate.

The proposed connection of the new sanitary sewer service into the existing vitrified clay sewer service also occurs within the Market St. right of way. This connection cost must be reflected in the cost estimate.

3. Storm Drainage:

The existing catch basins adjacent to the development site on both Market St. and Silver St. are in poor condition. Public Works is requesting the applicant install two (2) new concrete catch basins. This should be reflected in the cost estimate.

5. Erosion Control:

The applicant is providing no provisions for erosion and sediment control for the City's storm drain collection system that surrounds the development site. There are at least four (4) City catch basins that will be directly impacted by the construction activities associated with this project. This estimate should include some cost measures for erosion control within the public right of way.



REVOCABLE LICENSE  
FOR  
PORTLAND REGENCY, INC.  
RE: 145 COMMERCIAL STREET

A revocable license is hereby granted to Portland Regency, Inc. to occupy portions of land owned by the City of Portland on Commercial Street, which property abuts the property of Portland Regency, Inc., located at 145 Commercial Street, for the purpose of the placement and maintenance of below grade foundation footings, foundations drains, and four (4) below grade thermal wells with pipes on the City property, all as shown on the attached plan entitled \_\_\_\_\_, dated \_\_\_\_\_, upon the following conditions:

1. Portland Regency Inc., its successors and assigns (hereinafter "Licensees") shall indemnify the City of Portland, its officers, agents and employees from any and all claims which arise out of its use, or the use of others, of the City's property in conjunction with activities related to the placement and maintenance of below grade foundations footings, foundation drains, and four (4) below grade thermal wells with pipes upon City property as shown on the attached plan.

2. Licensees shall procure and maintain liability insurance in an amount of not less than Four Hundred Thousand Dollars (\$400,000) combined single limit, covering claims for bodily injury, death and property damage and shall either name the City of Portland as an additional insured with respect to such coverage or shall obtain a contractual liability endorsement covering the obligations of Licensees under the terms of this license.

~~3. This license is assignable to any owners of the building located at 145 Commercial Street.~~

4. This license may be revoked upon a six (6) months written notice by the City in the event that: 1) the building shown on the attached plan fails to be constructed in accordance with the attached plan or any amendments thereto; 2) the building as shown on the attached plan or any amendments thereto is destroyed, removed or otherwise thereafter ceases to exist on the site at 145 Commercial Street for a period of one year or more.

Corporation Counsel  
Gary C. Wood,



CITY OF PORTLAND

Associate Counsel  
Charles A. Lane  
Elizabeth L. Boynton  
Natalie L. Burns  
Donna M. Katsiaficas

January 29, 1996

Dennis Jud  
SMRT  
P.O. Box 618  
Portland, Maine 04104

RE: **BWL, INC. SIDEWALK EASEMENT**

Dear Dennis:

Enclosed please find an easement for the sidewalks in front of the Regency Hotel. I redrafted the prior easement to reflect that the area in front of the Hotel is not two private driveways, as was originally planned. If you will get this executed and return it to me, I will record it along with the footing and utility easements and send copies to you once the Registry returns them

Thanks for your help in this matter.

Very truly yours,

A handwritten signature in cursive script that reads "Natalie".

Natalie L. Burns  
Associate Corporation Counsel

NLB:lab

EASEMENT DEED

KNOW ALL PERSONS BY THESE PRESENTS, that BWL, Inc., a Maine corporation located in Portland, Maine, hereby grants to the City of Portland, a body politic and corporate, its successors and assigns forever, for the benefit of the general public the perpetual right and easement, to be used exclusively for pedestrian traffic to enter upon two certain parcels of land in said City of Portland on either side of Milk Street extending from the easterly side of Market Street to the westerly side of Silver Street.

Together with the right to repair and maintain the pavement on said parcels of land and to keep the same clear of snow, ice or other impediments to the free and unobstructed use of said parcels as a public pedestrian thoroughfare; provided, however, that the grant of said right shall not be deemed to create any liability therefor in said City of Portland, nor to release said BWL, Inc. from any liability therefor nor to vary any liability therefor otherwise imposed by law.

TO HAVE AND TO HOLD the same, together with all the rights and privileges appurtenant thereto.

WITNESS my hand and seal this \_\_\_\_ day of January, 1996.

BWL, INC.

By: \_\_\_\_\_

Print name:

Its:

State of Maine

Cumberland, ss.

\_\_\_\_\_, 1996

Personally appeared the above named \_\_\_\_\_ in his/her capacity as \_\_\_\_\_ of BWL, Inc., and acknowledged the foregoing instrument to be his/her free act and deed and the free act and deed of BWL, Inc.

Before me,

\_\_\_\_\_  
Notary Public/Attorney-at-Law

March 20, 2000

David J. Perkins, Esq.  
Perkins, Olson & Pratt, P.A.  
30 Milk Street  
P.O.Box 449  
Portland, Maine 04112-0449

Re: Misc.

Dear David:

I am trying to close my file relative to the Cianchette buildings in the Old Port. There are several documents still outstanding and I hope to hear from you regarding them. I will take them in chronological order.

First, the City has not received the easement promised to it when Cianchette developed the Regency. This easement is for the sidewalk adjacent to its building. I forwarded a copy of the easement to you previously but I have not received an executed copy in return. I again attach a copy of the easement to this correspondence. If you have any questions regarding this or if your client is hesitant to sign the document would you please let me know.

Next, the original Letter of Credit needs to be supplied to the City for the new building. You and I went back and forth on a number of drafts but the City never received the original.

Further, the City does not have a copy of the Assignment of Lease executed by your clients relative to the new building. We would appreciate receiving a copy of the same.

I appreciate your attention to these matters. Please feel free to contact me with any questions.

Sincerely,

Penny Littell

Enc.

**From:** Nancy Knauber  
**To:** Alan Holt , ALEX JAEGERMAN, Marge Schmuckal  
**Date:** Thu, Apr 13, 2000 1:52 PM  
**Subject:** Hoilday Inn - Public Way Question

Do any of you folks have the new design for the sidewalk at this location? (I was told it was approved last week.) I would like to get a copy of the design and a copy of any notes (if there are any).

Thanks

Also does anyone know if they've done all the paperwork they need to do in order to have the roof over hang the public way?

**CC:** ANTHONY LOMBARDO, Todd Merkle

**Key contacts for 145 Commercial Street  
HarborView Block  
E.L.C. Inc.**

Ernie Selberg, P.E.  
Senior Project Engineer  
Cianbro Company  
328 West Commercial Street  
04102  
773-5852  
773-7617 (fax)

Peggy Cianchette  
774-1000

Dave Perkins, Attorney  
871-7159

MEMORANDUM

To: Alan Holt, Urban Planner  
From: Anthony Lombardo, P.E., Project Engineer  
Date: October 6, 1999  
Subject: 143 Commercial St.....Harbor View Block....Performance Guarantee

The following comments were generated during Public Works Engineering review of proposed cost estimate submitted by Eric Cianchette:

2. Sanitary Sewer:

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3. Storm Drainage:

The existing catch basins adjacent to the development site on both Market St. and Silver St. are in poor condition. Public Works is requesting the applicant install two (2) new concrete catch basins. This should be reflected in the cost estimate.

5. Erosion Control:

The applicant is providing no provisions for erosion and sediment control for the City's storm drain collection system that surrounds the development site. There are at least four (4) City catch basins that will be directly impacted by the construction activities associated with this project. This estimate should include some cost measures for erosion control within the public right of way.



To: Legal Staff  
November 8, 1999  
Re: Pending Matters - Page 2

Harborview Block - Eric Cianchette: File No: 99-152

We are trying to finalize the following:

(1) Revocable License:

- We requested proof of insurance for Portland Regency, Inc. re the public way. We received proof of insurance from "E.L.C., Inc. et al." I am following up with David Perkins, Esq. re clarification.
- We need signatures of developer and Bob Ganley on the License.
- We are waiting for Exhibit B (Todd Merkle) and Exhibit C (Alan Holt).

(2) Executed Easement relative to pedestrian use of the sidewalk adjacent to the existing Regency Hotel. We have been waiting for this since 1996.

(3) Silver Street (see separate file). Silver Street is not well defined, legally, (i.e. metes and bounds are doubtful). In discussing this with Bill Scott, it was determined to vacate the street and lay it out in accordance with a new legal description. This description was created by Bob Farthing, but Bill has a few problems with it. Bill Scott will be discussing these issues with Farthing.

Hopefully, we could vacate and layout sometime over the winter when we deal with other streets (i.e. Buca Run, Hillcrest, Christy Lane, etc.)

Guildford Railroad Corridor: Files 97-204(1) and 97-204(2) - Portland Terminal Company

MDOT has a right of first refusal on this property. They have agreed to exercise that right and then sell the land to the City. MDOT has been trying to obtain access to this site (so that we may conduct an environmental assessment and survey via John Tewhey and the Brownfield project).

Guildford RR has not responded to MDOT's request to access the site.

We need to update our Purchase and Sale Agreement from MDOT to:

- (1) eliminate the 2nd sentence in paragraph 3;
- (2) add language allowing 21 days for due diligence in ¶6(a);

November 29, 1999

Ms. Cynthia Orcutt  
Orcutt Associates  
81 Bridge Street  
Yarmouth, ME 04096

re: HarborView Block, 145 Commercial Street

Dear Ms. Orcutt:

On September 14, 1999 the Portland Planning Board voted 5 - 1 to approve your Site Plan application. The Board found that the application met the standards of the Site Plan ordinance of the Land Use code.

The approval was granted for the project with the following condition(s):

a. that the applicant submit additional information related to storm water management, erosion controls, a plan for vehicular and pedestrian safety during construction, and an updated existing and proposed site plan. These submissions should follow the recommendations of the Dufrense-Henry letter of 9/7/99, and the submissions are to be reviewed and approved by the Planning Office and the acting Development Review Coordinator.

b. that the applicant coordinate final selection of streetlights, streetscape furnishings and details with the Planning staff to coordinate with the City's plans for the Boothby Square renovations.

The approval is based on the submitted site plan and the findings related to site plan review standards as contained in Planning Report #38-99, which is attached.

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

1. A performance guarantee covering the site improvements as well as an inspection fee payment of 1.7% of the guarantee amount and 7 final sets of plans must be submitted to and approved by the Planning Division and Public Works prior to the release of the building permit. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval.
2. The site plan approval will be deemed to have expired unless work in the development has commenced within one (1) year of the approval or within a time period agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the

expiration date.

3. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
4. Prior to construction, a preconstruction meeting shall be held at the project site with the contractor, development review coordinator, Public Work's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the preconstruction meeting.
5. If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)

The Acting Development Review Coordinator (874-8300) must be notified five (5) working days prior to date required for final site inspection. Please make allowances for completion of site plan requirements determined to be incomplete or defective during the inspection. This is essential as all site plan requirements must be completed and approved by the Acting Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If there are any questions, please contact 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  
Alan Holt, Urban Designer  
P. Samuel Hoffses, Building Inspector  
Marge Schmuckal, Zoning Administrator  
Tony Lombardo, Project Engineer  
Development Review Coordinator  
William Bray, Director of Public Works  
Jeff Tarling, City Arborist  
Penny Littell, Associate 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

To: Cynthia Orcutt, ASLA; Orcutt Associates  
From: Alan Holt, AIA; urban designer, City of Portland  
Date: 11/30/99  
RE: Site plan

I spoke with John yesterday to request that you meet with Sarah Marshall to coordinate a curb detail in your construction documents to match the design for Boothby Square. I also requested that, as a matter of routine, you submit three updated Site Plans for our files.

As I mentioned to John in our telephone conversation, we should get copies of updated Site Plans which contain the information requested as part of the Conditions of Approval that the Planning Board voted on - basically, that the updated Site Plan be stamped by a registered engineer.

I mentioned that the two Conditions of Approval - the other Condition being that you coordinate streetscape details with the City to correspond to the renovations of Boothby Square - were outlined in the approval letter from the Planning Board. When I went to find a copy of the approval letter to send to John, I discovered that the letter had not been prepared. To my chagrin, I also discovered that it was my job to prepare the letter. This project was my second development review project since coming to the City, so I was unaware of my oversight. Fortunately it's not a big deal since the approvals were entered in the record in the City's files, but ~~embarrassing nonetheless. Please accept my apologies for my ignorance. I've now prepared an~~ approval letter, which will get routinely signed and distributed. In the meantime, I've included a copy of the letter for your files.

Finally, I see in a letter dated 9/13/99 from your consulting engineer that a number of issues raised by the 9/7/99 Dufrense-Henry letter have been addressed in construction drawings other than the Site Plan. As a matter of record, we should also get three copies of the detail sheets which address Dufrense-Henry comments #1 & #2.

To recap, here's what I'm looking for:

1. That you work with Sarah Marshall to coordinate the curb detail that she's concerned about;
2. Three copies of the latest Site Plan, stamped by a registered engineer; and
3. Three copies of the details sheets which address sanitary sewer and water connections, sidewalk construction details, and provisions for erosion control.

Please call me if you have any questions regarding any of this. Thank you for your assistance.



## CITY OF PORTLAND

April 26, 2000

Eric and Peggy Cianchette  
42 Market Street  
Portland, Maine 04101

re: Harborview Block - Amendments to previously approved site plan

Dear Eric and Peggy:

On April 7, 2000 the Portland Planning Authority approved a series of revisions to your previously-approved site plan for the Harborview Block development. Approval was based on the finding that the revised site plan remains essentially consistent with the original plans and meets the standards of the Site Plan Ordinance of the Land Use Code. The requested revisions have been reviewed and approved by staff of the Planning, Public Works and Parks departments.

The approved items are as follows:

1. The elimination of two street trees on the Commercial Street sidewalk. The revised plan will show three street trees (two existing and one additional), equally spaced across the building frontage.
2. The elimination of street/sidewalk lights along all four abutting sidewalks (Commercial, Pearl, Silver & Fore Street). It is understood that the applicant will provide conduit for lights on all sidewalks. On Fore Street, the applicant shall provide both conduit and foundations for lights in the locations designated on the original site plan. The City will provide you with details for the foundation and final layout for the Fore Street lights.
3. The scope of work originally approved for the Silver Street sidewalk may be reduced, given the condition of the street itself and the likelihood that the Department of Public Works will be addressing the street in the future. The applicant should contact Public Works to work out an acceptable reduced scope of work.
4. A substitution of materials for the seatwall along the Fore Street frontage. The revised seatwall will be constructed in brick, with a granite cap. Please submit a revised elevation for the Fore Street seatwall.

4/3  
P. Cianchette  
informed P. office  
that seatwall  
would be const.  
as originally  
proposed.

O:\PLAN\DEVREV\COMME145\HARBAMD.DGA

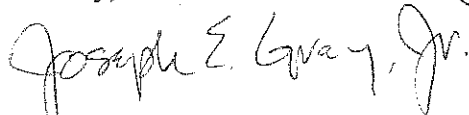
5. Substitution of approved tree grates with acceptable alternative. Substitute to be approved by City Arborist.
5. The elimination of the bike rack on the Fore Street sidewalk.

As you will recall, there had been discussion about the possibility of including your Fore Street sidewalk improvements in the Boothby Square redevelopment project, with the City assuming that cost. Upon close review of the Boothby Square budget, the Parks Department has concluded that it cannot undertake the sidewalk improvements along your building's frontage within the project's limited budget.

Also during the course of meetings with City staff, there was mention of a number of additional revisions to building details, including uplighting for the building roof and facades, etc. As all design changes or material substitutions are considered revisions to approved plans and must be reviewed and approved as such, we ask that you submit to the Planning Department applicable information on all changes made subsequent to Planning Board approval.

Should you have any questions regarding this letter, please call Alex Jaegerman or Deborah Andrews at the Planning Department.

Sincerely,



Joseph E. Gray, Jr.  
Director of Planning & Urban Development

cc: Alexander Jaegerman, Chief Planner  
Alan Holt, Urban Designer  
Deborah Andrews, Historic Preservation Program Manager  
~~Lee Urban, Economic Development Director~~  
Dana Souza, Director of Parks and Recreation  
Chris DiMatteo, Chief Landscape Architect  
P. Samuel Hoffses, Building Inspector  
Jeff Tarling, City Arborist  
William Bray, Director of Public Works  
Tony Lombardo, Project Engineer  
Penny Littell, Associate Corporation Counsel  
Inspection Department  
Approval Letter File

CITY OF PORTLAND OFFSITE IMPROVEMENTS COST ESTIMATE

DESCRIPTION	ENTRANCE				ALL OTHER STREETS				TOTAL
	QUANTITY	UNIT	UNIT COST	TOTAL COST	QUANTITY	UNIT	UNIT COST	TOTAL COST	
Brick & Sidewalks	478 SY		\$ 90.00	\$ 43,020.00	316 SY		\$ 90.00	\$ 28,440.00	\$ 71,460.00
Granite Curbs (Streets)	176 LF		\$ 29.00	\$ 5,104.00	248 LF		\$ 30.21	\$ 7,492.00	\$ 12,596.00
Landscaping Granite (Stairs)	8.1 TON		\$ 1,665.06	\$ 13,487.00	0 TON		\$ -	\$ -	\$ 13,487.00
Landscaping Granite (Seat Wall)	24.5 TON		\$ 1,379.59	\$ 33,800.00	0 TON		\$ -	\$ -	\$ 33,800.00
Landscaping Granite (Curt)	7.2 TON		\$ 1,475.00	\$ 10,620.00	0 TON		\$ -	\$ -	\$ 10,620.00
Landscaping Granite (Caps & Veneer)	20.8 TON		\$ 1,747.84	\$ 36,355.00	0 TON		\$ -	\$ -	\$ 36,355.00
Site Furniture (Bike Rack)	1 LS		\$ -	\$ -	1 LS		\$ 5,000.00	\$ 5,000.00	\$ 5,000.00
Street Lights	1 LS		\$ 14,000.00	\$ 14,000.00	1 LS		\$ 42,000.00	\$ 42,000.00	\$ 56,000.00
Landscaping/Freeses & Grates	1 LS		\$ 12,776.00	\$ 12,776.00	1 LS		\$ 9,725.00	\$ 9,725.00	\$ 22,501.00
Stework for Entrance incl J-Drains	1 LS		\$ 18,825.00	\$ 18,825.00	1 LS		\$ -	\$ -	\$ 18,825.00
Entrance Masonry	52 SF		\$ 12.00	\$ 624.00	0 SF		\$ -	\$ -	\$ 624.00
Entrance Concrete Work	10 CY		\$ 616.60	\$ 6,166.00	0 CY		\$ -	\$ -	\$ 6,166.00
Reset Cobblestones	0 SY		\$ -	\$ -	60 SY		\$ 100.00	\$ 6,000.00	\$ 6,000.00
Irrigation	1 LS		\$ 2,075.00	\$ 2,075.00	0 LS		\$ -	\$ -	\$ 2,075.00
Stair Lighting	1 LS		\$ 2,500.00	\$ 2,500.00	0 LS		\$ -	\$ -	\$ 2,500.00
Handrails	141 LF		\$ 40.00	\$ 5,640.00	0 LF		\$ -	\$ -	\$ 5,640.00
<b>Total Direct Cost:</b>				\$ 177,987.00				\$ 98,657.00	\$ 276,644.00
<b>Plus 8% CM Fee</b>				\$ 14,238.96				\$ 7,892.56	\$ 22,131.52
<b>Total Cost:</b>				\$ 192,225.96				\$ 106,549.56	\$ 298,775.52

**From:** Alex Jaegerman  
**To:** Todd Merkle  
**Date:** Thu, May 25, 2000 9:17 AM  
**Subject:** Re: Harbor View /Lights

Todd, I think we have a communication issue here. The developer is responsible for the bases and conduits. I spoke with Cynthia Orcutt about this on May 18 and I believe I faxed her the detail then. In any case, I faxed you the detail yesterday which shows the bases and conduit locations to be provided by the developer. The only thing missing was a dimension on the bolt pattern (12") which was on the drawing faxed to me by Larry Bartlett yesterday, which I faxed to you this morning. Please let me know if there is anything else you need, or if my understanding of the issue differs from yours or the developer.

>>> Todd Merkle 05/25 7:17 AM >>>

I still have no bolt patterns. If you are supplying the bases can you give us a delivery date on those and what about the delivery of the conduit? Please get back to me ASAP on these questions .  
Thanks

>>> Alex Jaegerman 05/12 11:40 AM >>>

I have asked our lighting consultant, Larry Bartlett, to provide this information as well as the conduit specifications. We decided to provide bases and conduit on Fore Street, and conduit only for future lighting on Silver, Market, and commercial. Larry Bartlett will provide the necessary specifications.

>>> Todd Merkle 05/12 8:21 AM >>>

I believe you are working on getting the light fixtures for the area by Boothby Square. I met with the contractor for Eric Cianchette and they are getting ready to start sidewalk construction on or about the 22nd of May. They are going to need locations of the light posts and size of bases and the bolt pattern for the bases on the following streets, Commercial, Silver, Market and Fore. They need to get these in the sidewalk prior to finishing them so they won't have to be dug up again once done.  
Can you get this info to me by the 18th if possible?  
Either way please get back to me so we can deal with it.  
Thanks!

**CC:** Alan Holt ; Deb Andrews ; Joe Gray ; Larry Bart...



**E.L.C. Inc.**  
 Harbor View Block - Boothby Square  
 06/13/2000

Description	ENTRANCE Fore Street - Boothby Square			All Other Streets			Grand Total
	Quantity	Unit	Total Cost	Quantity	Unit	Total Cost	
Brick & Sidewalks	178	SY	\$90.00	316	SY	\$90.00	\$44,460
Granite Curbs (Streets)	176	LF	\$29.00	248	LF	\$30.21	\$12,596
Landscaping Granite (Stairs)	8.1	TON	\$1,165.06				\$9,437
Landscaping Granite (Seal Wall)	25	TON	\$879.59				\$21,550
Landscaping Granite (Curb Planting Area)	7.2	TON	\$975.00				\$7,020
Landscaping Granite (Caps & Veneer)	20.8	TON	\$1,247.84				\$25,955
Streets Lighting (Conduit)	1	Lum Sum	\$3,575.00	1	Lum Sum	\$1,125	\$4,700
Landscaping / Trees and Grates	1	Lum Sum	\$12,776.00	1	Lum Sum	\$4,863	\$17,639
Sitework for Entrance (includes U-drains)	1	Lum Sum	\$18,825.00				\$18,825
Entrance Masonry	52	SF	\$12.00				\$624
Entrance Concrete Work	10	CY	\$616.60				\$6,166
Irrigation	1	Lum Sum	\$2,075.00				\$2,075
Stair Lighting	1	Lum Sum	\$2,500.00				\$2,500
Handrails	141	LF	\$40.00				\$5,640
Reset Cobblestones				60	SY	\$100.00	\$6,000
<b>Total Direct Cost</b>							<b>\$137,267</b>
<b>Contractors Fee</b>		3%					<b>\$10,981</b>
<b>Total Cost</b>							<b>\$148,248</b>

111  
 16,020  
 5,104  
 3,575  
 12,776  
37,475

**PBM1**

# 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 29, 1999

Ms. Cynthia Orcutt  
Orcutt Associates  
81 Bridge Street  
Yarmouth, ME 04096

RE: HarborView Block, 145 Commercial Street

Dear Ms. Orcutt:

On September 14, 1999 the Portland Planning Board voted 5 - 1 to approve your Site Plan application. The Board found that the application met the standards of the Site Plan ordinance of the Land Use code.

The approval was granted for the project with the following condition(s):

- a. that the applicant submit additional information related to storm water management, erosion controls, a plan for vehicular and pedestrian safety during construction, and an updated existing and proposed site plan. These submissions should follow the recommendations of the Dufrense-Henry letter of 9/7/99, and the submissions are to be reviewed and approved by the Planning Office and the acting Development Review Coordinator.
- b. ~~that the applicant coordinate final selection of streetlights, streetscape furnishings and details with~~ the Planning staff to coordinate with the City's plans for the Boothby Square renovations.

The approval is based on the submitted site plan and the findings related to site plan review standards as contained in Planning Report #38-99, which is attached.

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

1. A performance guarantee covering the site improvements as well as an inspection fee payment of 1.7% of the guarantee amount and 7 final sets of plans must be submitted to and approved by the Planning Division and Public Works prior to the release of the building permit. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval.
2. The site plan approval will be deemed to have expired unless work in the development has commenced within one (1) year of the approval or within a time period agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the expiration date.

3. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
4. Prior to construction, a preconstruction meeting shall be held at the project site with the contractor, development review coordinator, Public Work's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the preconstruction meeting.
5. If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)

The Acting Development Review Coordinator (874-8300) must be notified five (5) working days prior to date required for final site inspection. Please make allowances for completion of site plan requirements determined to be incomplete or defective during the inspection. This is essential as all site plan requirements must be completed and approved by the Acting Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If there are any questions, please contact 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  
Alan Holt, Urban Designer  
P. Samuel Hoffses, Building Inspector  
Marge Schmuckal, Zoning Administrator  
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William Bray, Director of Public Works  
Jeff Tarling, City Arborist  
Penny Littell, Associate 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

To: Chair John Carroll and the members of the Portland Planning Board  
From: Alan Holt, AIA; urban designer  
Date: 9/14/99  
RE: Addendum to Planning Board Report # 38-99

Corporation Council has advised me the Board should consider a motion on conformance to the Site Plan Standards, and separately, a motion on conformance to Historic Standards. Therefore, please substitute the suggested language below for the material contained on page 6 of P.B. Report #38-99.

## **VI. Motions for the Board to Consider**

On the basis of plans and materials submitted by the applicant and on the basis of information contained in this report relevant to standards for Site Plan and Historic Preservation ordinances, the Planning Board finds:

### **1. That the plan is in conformance with the Site Plan Standards of the Land Use Code.**

#### **Potential Conditions of Approval:**

- a. that the applicant submit additional information related to storm water management, erosion controls, a plan for vehicular and pedestrian safety during construction, and an updated existing and proposed site plan. These submissions should follow the recommendations of the Dufrense-Henry letter of 9/7/99, and the submissions are to be reviewed and approved by the Planning Office and the acting Development Review Coordinator.
- b. that the applicant coordinate final selection of streetlights, streetscape furnishings and details with the Planning staff to coordinate with the City's plans for the Boothby Square renovation.

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### **2. That the plan is in conformance with the Standards for Review of Construction of the Historic Preservation Ordinance, and that the Board approves a Certificate of Appropriateness for New Construction.**

#### **Potential Conditions of Approval:**

- a. that the applicant have final architectural details and material selections be reviewed and approved by the Historic Preservation Committee.
- b. that the final design of the plaza in front of the Fore Street facade be reviewed and approved by the Historic Preservation Committee.
- c. that the applicant pursue investigations at the site of the seawall as recommended by the Historic Preservation Committee pursuant to 14-650(2).

# CITY OF PORTLAND, MAINE

## PLANNING BOARD

---

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Deborah Krichels  
Erin Rodriguez  
Mark Malone

November 29, 1999

Ms. Cynthia Orcutt  
Orcutt Associates  
81 Bridge Street  
Yarmouth, ME 04096

RE: HarborView Block, 145 Commercial Street

Dear Ms. Orcutt:

On September 14, 1999 the Portland Planning Board voted 5 - 1 to approve your Site Plan application. The Board found that the application met the standards of the Site Plan ordinance of the Land Use code.

The approval was granted for the project with the following condition(s):

- a. that the applicant submit additional information related to storm water management, erosion controls, a plan for vehicular and pedestrian safety during construction, and an updated existing and proposed site plan. These submissions should follow the recommendations of the Dufrense-Henry letter of 9/7/99, and the submissions are to be reviewed and approved by the Planning Office and the acting Development Review Coordinator.
- ~~b. that the applicant coordinate final selection of streetlights, streetscape furnishings and details with the Planning staff to coordinate with the City's plans for the Boothby Square renovations.~~

The approval is based on the submitted site plan and the findings related to site plan review standards as contained in Planning Report #38-99, which is attached.

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

1. A performance guarantee covering the site improvements as well as an inspection fee payment of 1.7% of the guarantee amount and 7 final sets of plans must be submitted to and approved by the Planning Division and Public Works prior to the release of the building permit. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval.
2. The site plan approval will be deemed to have expired unless work in the development has commenced within one (1) year of the approval or within a time period agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the expiration date.

# CITY OF PORTLAND, MAINE

## PLANNING BOARD

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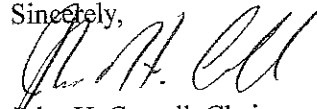
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3. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
4. Prior to construction, a preconstruction meeting shall be held at the project site with the contractor, development review coordinator, Public Works representative and owner to review the construction schedule and critical aspects of the site work. At that time, the site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the preconstruction meeting.
5. If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)

The Acting Development Review Coordinator (874-8300) must be notified five (5) working days prior to date required for final site inspection. Please make allowances for completion of site plan requirements determined to be incomplete or defective during the inspection. This is essential as all site plan requirements must be completed and approved by the Acting Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If there are any questions, please contact 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  
~~Alan Holt, Urban Designer~~  
P. Samuel Hoffses, Building Inspector  
Marge Schmuckal, Zoning Administrator  
Tony Lombardo, Project Engineer  
Development Review Coordinator  
William Bray, Director of Public Works  
Jeff Tarling, City Arborist  
Penny Littell, Associate 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



**PBR1**

**PLANNING REPORT #38-99**

**HARBORVIEW BLOCK  
145 COMMERCIAL STREET  
E.L.C. MANAGEMENT INC., APPLICANT**

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Submitted to:

Portland Planning Board  
Portland, Maine

September 14, 1999

## **I. Introduction**

ELC Management Inc. has proposed development of a new retail and office building at 145 Commercial Street. The proposed building would replace the existing branch bank and parking deck located on the city block bounded by Commercial, Fore, Silver and Market Streets. The proposed building would have frontage on all four streets. (see plans 1-8, 8/4/99; Attachment # 1) (also see Site Plan, revised 8/4/99; Attachment # 2)

The first level of the proposed building, which will be entered on grade from Commercial Street, would contain commercial space. The second level of the building is accessed from Fore Street. The second floor level is approximately five feet above the existing sidewalk grade along Fore Street and will be accessed by a ramp system as well as a monumental stair. The second level will contain financial services and support offices. A third level, which has primary access by an elevator from a lobby off Market Street, will be offices.

The proposal is in the B-3 zone and falls within the Pedestrian Activities District (PAD) overlay zone. Other requirements and standards that apply to this proposal include the Downtown Urban Design Guidelines [14-221(1)], and because of its location within the Waterfront Historic District, the standards for review of new construction under section 14-615.

The Portland Historic Preservation Committee reviewed the proposal for an Application of Appropriateness - New Construction. In the case of a site plan application, the H. P. Committee has recommendation authority only. The H. P. Committee held two workshop session with the applicant, on July 21, 1999 and on August 11, 1999, and a Public Hearing on August 18, 1999.

The Portland Planning Board held two workshop sessions on this proposal, on August 10, 1999 and on August 24, 1999. This Public Hearing will consider the application on the basis of compliance to the Site Plan Standards of the Land Use Code.

## **II. Summary Findings**

---

Zoning:	B-3 Downtown Business Zone
Districts:	Waterfront Historic District; PAD
Land Area:	15,876 sq. ft.
Proposed Uses:	Retail (13,500 sq. ft.) and Offices / Financial Services (21,500 sq. ft.)
Total floor area:	39,020 sq. ft.
Footprint area:	85.41%
Parking:	106 spaces required

### III. Site Plan Standards

1. Traffic/Circulation/Parking:

**Loading Bay:** The proposal indicates that there will be 13,500 SF of retail space. Section 14-351 states that if there is over 5,000 SF of retail space, one (1) loading bay is required (14' x 50'). The applicant contended that this requirement was not possible given the site conditions and other ordinance requirements; i.e., that the building fronts on four streets, and ordinance requires (B-3 standards, P.A.D. standards, and Urban Design Guidelines) the building meet the street with pedestrian friendly design. The Portland Board of Appeals voted 5-0 on September 2, 1999 to grant a Practical Difficulty Variance based on the plan and materials submitted at that meeting. (see Off-Site Loading Plan, 9/2/99; Attachment # 3) (also, see Schmuckal memo, 9/3/99; Attachment # 4) The plan indicates one on-street loading zone (14' x 50') on Market Street, one on-street loading zone (9' x 20') on Fore Street, and a dedicated loading area (9' x 18') in the diagonal parking area off Commercial Street.

**Off street Parking:** Staff have reviewed and verified the applicant's calculations for the number of required parking spaces. In this instance, the ordinance requires 51 spaces for the retail space and 55 spaces for the office space. The total requirement is 106 spaces. All of the parking spaces are provided off site at three lots that are controlled by the applicant. All three parking spaces are more than 100 feet from the site; parking requirements call for off-site parking to be within 100 feet of the project. The Portland Board of Appeals voted 5-0 on September 2, 1999 to grant relief from this requirements under a Miscellaneous Appeal. (see Attachment # 4)

**Traffic:** The applicant submitted a traffic and parking report by their consulting engineers, DeLuca Hoffman Associates (see Attachment # 5). The report concludes that the proposal will generate less than 100 trip ends during the morning and evening peak hours and would therefore not require a State traffic permit. Additionally, the three off site parking locations will serve to disperse the traffic and minimize traffic impact. The City Traffic Engineer has reviewed the submission and did not request a traffic study.

2. Burden to Utilities:

The applicant states that the Portland Water District indicated there is adequate pressure in the 12" line in Commercial Street to serve the project. The City Engineer requested that the applicant get documentation from PWD as well as a letter from Public Works regarding sewer capacity. This observation was also made by acting Development Review Engineer, Jeffrey Preble, P.E. of Dufresne-Henry. In a letter from 9/7/99, Mr. Preble notes that "confirmation of the City of Portland and the Portland Water District to serve the proposed project should become part of the site plan review." (see Attachment # 6)

3. Landscaping:

The Site Plan indicates continuous street trees along Fore and Commercial Streets. In a memo of 9/8/99 from the Cynthia Orcutt, principal with Orcutt Associates, the design firm representing the applicant, Ms. Orcutt states that the final tree species will be determined by Portland Arborist, Jeff Tarling. Likewise, final detail development of plantings will be coordinated with the City Arborist. Final selection of tree grates, tree guards, trash receptacles and street fixtures will be coordinated with the City as design development proceeds with Boothby Square.

Along Fore Street the trees are grouped in pairs of two, 25' on center. Trees will be set in 5' x 8' cobble planting beds. These choices were made in conjunction with the Park's Department Landscape Architect, Chris DiMatteo, and with Sarah Marshall, the City's design consultant for the Boothby Square renovation.

The applicant is developing raised planting beds along the Fore Street entry which will be filled with changing annual plants. The care of these flower beds will be the responsibility of the applicant.

4. Drainage:

The applicant asserts that the site plan does not create any significant soil and/or drainage problems. Mr. Preble recommends in his letter of 9/7/99 that key catch basins should be evaluated for capacity. (see Attachment # 6)

5. Lighting:

The site plan indicates two street lights on each of the four surrounding streets. Final selection of the lighting fixtures is to be coordinated with the City's designs for Boothby Square, the Old Port and Commercial Street. The building will have recessed soffit lights with emphasis on the three major entries to the building.

6. Fire Safety:

The building is fully accessible to emergency vehicles on all four sides. There are two existing hydrants located opposite the proposed building on Commercial Street at both Market and Silver Street intersections. The plan has been reviewed and approved on 8/3/99 by the Fire Department.

#### IV. **B-3 Dimensional Requirements**

1. Dimensional requirements:

The original submission did not meet minimum height requirement as established under section 14-220(8). The applicant responded by adding a third floor to the original submission in order to meet the minimum height requirement.

Section 14-220(3) requires new construction to be within five feet of the property line along street frontages. Staff, the Historic Preservation Committee, the Planning Board and the applicant had many discussions and reviewed many options to design the proposal to meet this requirement along the Fore Street facade. Due to a variety of constraints and concerns, the applicant concluded that the design could not be successfully resolved to meet this requirement. The applicant sought to obtain a relief from the Planning Board of the minimum build-to requirement under the provisions of section 14-526(16)b(2). However, Corporation Council determined that, as a result of a 1998 Maine Law Court case *Perkins v. Town of Ogunquit*, the Planning Board is without jurisdiction to grant such a waiver. Therefore, the applicant proposed to deed a section of land to the City, approximately 7'-6" in depth along the Fore Street property line. On 9/8/99, the Portland City Council accepted the 937 square feet of property, effectively moving the property line. Under this agreement, the proposal meets the setback requirement.

The proposal meets all other dimensional requirements.

## V. Additional B-3 Standards

Under section 14-221 two additional review criteria apply to this proposal: The Downtown Urban Design Guidelines [14-221(1)] and the historic resources standards of Article X [14-221(8)].

### 1. Urban Design Guidelines:

Regarding the Urban Design Guidelines, the staff, the Planning Board and the applicant entered into several discussions on the issue of the building setback on Fore Street. Those issues are a matter of record and will not be reviewed in this report. After considering a number of alternative design approaches, the applicant concluded that the most successful resolution of the Fore Street facade involved setting the building back from the street wall and incorporating an external ramp and stair system to enter the building. Through redesign, the setback from the street wall was modified from 18' in the original proposal to 12'-6" in the final design.

The applicant met with staff and the City consultant for Boothby Square with the goal of developing an entry on Fore Street which is complimentary to the civic space of Boothby Square. The resultant design is shown in the rendered plan and elevation dated 9/8/99, and explained in a narrative from Ms. Orcutt. (see Attachment # 7) As indicated in previous correspondence to the Board, the Urban Design Guidelines emphasize the importance of maintaining definition along a street wall to create a spatial container to urban open space. The plan establishes this line with streetscape elements: semi-round topped granite piers which flank the base of the stairs and the two ramps. A series of streetscape elements run parallel with the line of the street wall to add emphasis: the trees to the outboard of the line, and a granite seatwall and flowerbed, and a retaining wall adjacent to the ramp to the inboard. The applicant has submitted photo-reproductions taken from a scaled model to indicate these relationship. (see Attachment # 8)

The applicant has submitted plans which are consistent to the agreed to approach between staff, the Ms. Marshall, and the applicant's designer. The design is compatible in materials and details to plans for Boothby Square, complimenting the Square's design without copying it. Rather, the project's streetscape elements make reference to the details on the building's facade, reinforcing the concept of pulling layers off the building out toward the street.

### 2. Historic Resources:

The Portland Historic Preservation Committee voted in a Public Hearing on 9/18/99 to recommend to the Planning Board approval of a Certificate of Appropriateness for the project. The Committee attached four conditions to their recommendation. (see Attachment # 9) As indicated by a memo from Associate Corporation Counsel, the Committee's action is advisory to the Planning Board. (see Attachment # 10) The Board is free to include the Historic Preservation's conditions as part of their approval, or not. (see Attachment # 11)

## **VI. Motion for the Board to Consider**

On the basis of plans and materials submitted by the applicant and on the basis of information contained in this report relevant to standards for site plan, the Planning Board finds:

1. That the plan is in conformance with the site plan standards of the land use code.

### **Potential Conditions of Approval:**

- a. that the applicant submit additional information related to storm water management, erosion controls, a plan for vehicular and pedestrian safety during construction, and an updated existing and proposed site plan. These submissions should follow the recommendations of the Dufresne-Henry letter of 9/7/99, and the submissions are to be reviewed and approved by the Planning Office and the acting Development Review Coordinator.
- b. that the applicant coordinate final selection of streetlights, streetscape furnishings and details with the Planning staff to coordinate with the City's plans for the Boothby Square renovation.
- c. that the applicant have final architectural details and material selections be reviewed and approved by the Historic Preservation Committee.
- d. that the final design of the plaza in front of the Fore Street facade be reviewed and approved by the Historic Preservation Committee.
- e. that the applicant pursue investigations at the site of the seawall as recommended by the Historic Preservation Committee pursuant to 14-650(2).

---

### **Attachments:**

1. drawings 1 - 8 (11" x 17"), dated 8/4/99
2. Site Plan (30" x 42"), revised 8/4/99
3. Off-Site Loading Plan (11" x 17"), dated 9/2/99
4. Marge Schmuckal memo, 9/3/99
5. DeLuca-Hoffman Associates letter, dated 7/27/99
6. Dufresne-Henry, Inc. letter, dated 9/7/99
7. Cynthia Orcutt memo (9/8/99), and rendered plan and elevation (11" x 17"), dated 9/8/99
8. two photo-reproductions (9" x 11") of model
9. Susan Wroth memo, dated 8/19/99
10. Donna Katsiaticas memo, dated 9/8/99
11. Penny Littell memo, dated 9/7/99

# 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: 11/30/99

To: CYNTHIA DRUITT

Company: \_\_\_\_\_

Fax #: \_\_\_\_\_

From: ALAN HOLT

RE: YOU PROBABLY HAVE COPIES OF MOST

OF THIS STUFF.

CALL ME IF YOU HAVE QUESTIONS.

THANKS.

YOU SHOULD RECEIVE 9 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

To: Cynthia Orcutt, ASLA; Orcutt Associates  
From: Alan Holt, AIA; urban designer, City of Portland  
Date: 11/30/99  
RE: Site plan

I spoke with John yesterday to request that you meet with Sarah Marshall to coordinate a curb detail in your construction documents to match the design for Boothby Square. I also requested that, as a matter of routine, you submit three updated Site Plans for our files.

As I mentioned to John in our telephone conversation, we should get copies of updated Site Plans which contain the information requested as part of the Conditions of Approval that the Planning Board voted on - basically, that the updated Site Plan be stamped by a registered engineer.

I mentioned that the two Conditions of Approval - the other Condition being that you coordinate streetscape details with the City to correspond to the renovations of Boothby Square - were outlined in the approval letter from the Planning Board. When I went to find a copy of the approval letter to send to John, I discovered that the letter had not been prepared. To my chagrin, I also discovered that it was my job to prepare the letter. This project was my second development review project since coming to the City, so I was unaware of my oversight. Fortunately it's not a big deal since the approvals were entered in the record in the City's files, but embarrassing nonetheless. Please accept my apologies for my ignorance. I've now prepared an approval letter, which will get routinely signed and distributed. In the meantime, I've included a copy of the letter for your files.

Finally, I see in a letter dated 9/13/99 from your consulting engineer that a number of issues raised by the 9/7/99 Dufrense-Henry letter have been addressed in construction drawings other than the Site Plan. As a matter of record, we should also get three copies of the detail sheets which address Dufrense-Henry comments #1 & #2.

To recap, here's what I'm looking for:

1. That you work with Sarah Marshall to coordinate the curb detail that she's concerned about;
2. Three copies of the latest Site Plan, stamped by a registered engineer; and
3. Three copies of the details sheets which address sanitary sewer and water connections, sidewalk construction details, and provisions for erosion control.

Please call me if you have any questions regarding any of this. Thank you for your assistance.

# CITY OF PORTLAND, MAINE

## PLANNING BOARD

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John H. Carroll, Chair  
Jaimy Caron, Vice Chair  
Kenneth M. Cole III  
Cyrus Y. Hagge  
Deborah Krichels  
Erin Rodriguez  
Mark Malone

November 29, 1999

Ms. Cynthia Orcutt  
Orcutt Associates  
81 Bridge Street  
Yarmouth, ME 04096

RE: HarborView Block, 145 Commercial Street

Dear Ms. Orcutt:

On September 14, 1999 the Portland Planning Board voted 5 - 1 to approve your Site Plan application. The Board found that the application met the standards of the Site Plan ordinance of the Land Use code.

The approval was granted for the project with the following condition(s):

- a. that the applicant submit additional information related to storm water management, erosion controls, a plan for vehicular and pedestrian safety during construction, and an updated existing and proposed site plan. These submissions should follow the recommendations of the Dufrense-Henry letter of 9/7/99, and the submissions are to be reviewed and approved by the Planning Office and the acting Development Review Coordinator.
- ~~b. that the applicant coordinate final selection of streetlights, streetscape furnishings and details with the Planning staff to coordinate with the City's plans for the Boothby Square renovations.~~

The approval is based on the submitted site plan and the findings related to site plan review standards as contained in Planning Report #38-99, which is attached.

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

1. A performance guarantee covering the site improvements as well as an inspection fee payment of 1.7% of the guarantee amount and 7 final sets of plans must be submitted to and approved by the Planning Division and Public Works prior to the release of the building permit. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval.
2. The site plan approval will be deemed to have expired unless work in the development has commenced within one (1) year of the approval or within a time period agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the expiration date.

3. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
4. Prior to construction, a preconstruction meeting shall be held at the project site with the contractor, development review coordinator, Public Work's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the preconstruction meeting.
5. If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)

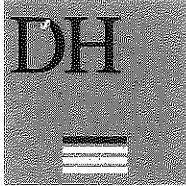
The Acting Development Review Coordinator (874-8300) must be notified five (5) working days prior to date required for final site inspection. Please make allowances for completion of site plan requirements determined to be incomplete or defective during the inspection. This is essential as all site plan requirements must be completed and approved by the Acting Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If there are any questions, please contact 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  
Alan Holt, Urban Designer  
P. Samuel Hoffses, Building Inspector  
Marge Schmuckal, Zoning Administrator  
Tony Lombardo, Project Engineer  
Development Review Coordinator  
William Bray, Director of Public Works  
Jeff Tarling, City Arborist  
Penny Littell, Associate 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



DeLUCA-HOFFMAN ASSOCIATES, INC.  
CONSULTING ENGINEERS

778 MAIN STREET  
SUITE 8  
SOUTH PORTLAND, MAINE 04106  
TEL. 207 775 1121  
FAX 207 879 0896

- ROADWAY DESIGN
- ENVIRONMENTAL ENGINEERING
- TRAFFIC STUDIES AND MANAGEMENT
- PERMITTING
- AIRPORT ENGINEERING
- SITE PLANNING
- CONSTRUCTION ADMINISTRATION

September 13, 1999

Mr. Alan Holt  
City of Portland  
Planning and Urban Development  
389 Congress Street  
Portland, ME 04101

**RE: Harbor View Block  
Response to Site Plan Review Letter of 9/7/99**

Dear Mr. Holt:

The following letter is in response to additional comments from Jeffrey Preble, P.E. of Dufrense-Henry, Inc. in regard to the above project. The letter from Mr. Preble dated 9/7/99 is attached to this letter.

Dufrense-Henry, Inc. Comment 1

*"Additional details have been provided on the plans except for tie-ins in existing utilities and sidewalk replacement/restoration. All tie-ins to utilities and sidewalk construction details shall follow Department of Public Works standards."*

DeLuca-Hoffman Associates, Inc. Response:

Details for sanitary sewer and water connections along with sidewalk construction details have been provided on the detail sheet. Provided details are in accordance with City of Portland standards.

Dufrense-Henry, Inc. Comment 2

*"Erosion control details and notes have been added to the plans. The locations for these erosion control structures are not shown, but are described in the DeLuca-Hoffman Associates letter of August 31, 1999. The construction drawings should follow the recommendations of the DeLuca-Hoffman letter."*

DeLuca-Hoffman Associates, Inc. Response:

Provisions for erosion control recommended by DeLuca-Hoffman Associates, Inc. will be added to the construction drawings.

Dufrense-Henry, Inc. Comment 3

*"DeLuca-Hoffman's assessment for storm water management at this site should be developed to evaluate the effects that the proposed improvements will have on existing CB4, CB5, and CB6 prior to discharge into the existing storm sewer on Commercial Street. Due to the rerouting of stormwater runoff in the postdevelopment conditions, existing CB6 should be evaluated to ensure that enough capacity exists in the structure and the outlet to the structure to convey stormwater runoff during large storm event and prevent surface ponding."*

DeLuca-Hoffman Associates, Inc. Response:

CB's 4 and 5 will see no significant increase in either tributary area or flow rate as shown in the table below. CB3 will see a decrease in both tributary area and flow rate. CB6 will see a small increase in both tributary area and flow rate, neither of which is considered significant in relation to the flow rates that would be observed in the main storm sewer in Commercial Street during any given precipitation event.

The outlet from CB6 is expected to only receive an additional 0.31 cfs during a 2 year storm event and only 0.49 cfs during a 25 year event.

Structure	Pre development Tributary Area (Acres)	Pre development 25 year flow rates (cfs)	Post development Tributary Area (Acres)	Post development 25 year flow rates (cfs)
CB3	0.381	2.25	0.280	1.59
CB4	0.062	0.37	0.062	0.37
CB5	0.057	0.34	0.060	0.34
CB6	0.230	1.36	0.328	1.85

In order to accurately determine the effects of the proposed development on the drainage structures in the general vicinity, a study of the entire Commercial Street storm sewer would need to be performed. This would require a hydraulic analysis of the entire storm sewer in Commercial Street, which receives storm water runoff from a large portion of downtown Portland. This would be a costly and we believe unnecessary study in relation to the nature of the changes that the applicant is proposing to the surrounding land uses. Currently the site is completely impervious, and as mentioned previously the proposed development will result in no new impervious area. Therefore it is not expected that the proposed development would have an adverse effect on the drainage of the surrounding area.

DeLuca-Hoffman Associates, Inc. has contacted the City of Portland in regard to records of the storm sewer in the vicinity of the block bounded by Fore, Silver, Commercial and Market streets. Personnel at the City of Portland vault could locate no records of the connections to the storm sewer in Commercial Street.

Due to the nature of the proposed improvements and the lack of usable information available DeLuca-Hoffman Associates, Inc. believes that a complete hydraulic analysis of the storm sewer is unnecessary and would be prohibitively costly.

Dufrense-Henry, Inc. Comment 4

*“The confirmation of the City of Portland and the Portland Water District to serve the proposed project should become part of the site plan review.”*

DeLuca-Hoffman Associates, Inc. Response:

The Portland Water District and City of Portland have been contacted in regard to their ability to serve this project. The Portland Water District has indicated its ability to serve the project, correspondence is included with this letter. The City of Portland has not yet responded as to the ability to provide sanitary sewer service at this time. The City’s response in regard to this matter will be forwarded to Mr. Alan Holt and included in the site plan review when it has been received by DeLuca-Hoffman Associates, Inc.

Dufrense-Henry, Inc. Comment 5

*“The results of Orcutt Associates appearances before the Board of Appeals to obtain a miscellaneous appeal to meet parking requirements and to obtain a practical difficulty appeal to eliminate the provision of a loading space should become part of the site plan review.”*

DeLuca-Hoffman Associates, Inc. Response:

The results of the appeals will be included in the site plan review.

Dufrense-Henry, Inc. Comment 6

*"Due to the "curb to curb" construction constraints detailed in the August 3, 1999 construction overview letter from Ernest J. Selberg Jr. of Cianbro Corporation, a vehicular and pedestrian maintenance of traffic plan should be submitted for review along with a listing of City emergency departments to be notified to ensure the safety of people and vehicles in the area."*

DeLuca-Hoffman Associates, Inc. Response:

The response from Mr. Selberg of the Cianbro Corporation will be included in the site plan review.

Dufrense-Henry, Inc. Comment 7

*"Updated construction drawings detailing the existing and proposed site, which have been stamped by a professional engineer licensed in the State of Maine, should become part of the site plan review."*

DeLuca-Hoffman Associates, Inc. Response:

Existing and proposed plans will be stamped by a professional engineer licensed in the State of Maine.

Sincerely,

DeLUCA-HOFFMAN ASSOCIATES, INC.



Michael J. DeLuca, P.E.  
Senior Vice President

MJD/ajm/JN1883/holt9-13

Attachments:

1. Copy of letter from Jeffrey D. Preble, Dufrense-Henry, Inc. to Alan Holt, City of Portland, dated September 7, 1999.
2. Detail Sheet
3. Copy of Letter from Portland Water District indicating ability to serve.

c: Cynthia Orcutt



22 Free Street, Portland, Maine 04101-3800 TEL: 207.776.3811 FAX: 207.776.6434 E-mail: dh@dufresne-henry.com

September 7, 1999

Mr. Alan Holt, AIA, Urban Designer  
City of Portland  
Planning and Urban Development  
389 Congress Street  
Portland, Maine 04101

RE: Harbor View Block Site Plan Review

Dear Mr. Holt:

Following our July 29, 1999 review letter to you, we received additional information on the proposed Harbor View Block Retail and Office Space on September 1, 1999 from DeLuca-Hoffman Associates, Inc. While these additional submittals address most of the comments, there are some items which require further development. Specifically these include:

- 1. Additional details have been provided on the plans except for tie-ins to existing utilities and sidewalk replacement/restoration. All tie-ins to utilities and sidewalk construction details shall follow Department of Public Works standards.
- 2. Erosion control details and notes have been added to the plans. The locations for these erosion control structures are not shown, but are described in the DeLuca-Hoffman Associates letter of August 31, 1999. The construction drawings should follow the recommendations of the DeLuca-Hoffman letter.
- 3. DeLuca-Hoffman's assessment for storm water management at this site should be developed to evaluate the effects that the proposed improvements will have on existing CB4, CB5, and CB6 prior to discharge into the existing storm sewer on Commercial Street. Due to the rerouting of stormwater runoff in the post-development conditions, existing CB6 should be evaluated to ensure that enough capacity exists in the structure and the outlet to the structure to convey stormwater runoff during large storm event and prevent surface ponding.
- 4. The confirmation of the City of Portland and the Portland Water District to serve the proposed project should become part of the site plan review.
- 5. The results of Orcutt Associates appearances before the Board of Appeals to obtain a miscellaneous appeal to meet parking requirements and to obtain:

Mr. Alan Holt  
September 7, 1999  
Page 2

a practical difficulty appeal to eliminate the provision of a loading space should become part of the site plan review.

Due to the "curb to curb" construction constraints detailed in the August 3, 1999 construction overview letter from Ernest G. Selberg Jr. of Cianbro Corporation, a vehicular and pedestrian maintenance of traffic plan should be submitted for review along with a listing of City emergency departments to be notified to ensure the safety of people and vehicles in the area.

Updated construction drawings detailing the existing and proposed site, which have been stamped by a professional engineer licensed in the State of Maine, should become part of the site plan review.

These last few items should be addressed prior to construction of the proposed improvements. As stated earlier, the proposed Harbor View Block Retail and Office Space work will need to be closely coordinated between the developers, Public Works, and City emergency departments.

We would be happy to discuss our comments further with you after you have had a chance to review this information. We will be available to do periodic site inspections if needed. Please call Tim Michaud or myself if you have any questions or require any additional information.

Very truly yours,

DUFRESNE-HENRY, INC.



Jeffrey D. Prable, P.E.  
Senior Project Manager

Enclosure

\\prbl\project\160034\Project 1 Harbor View Block\10\1102.wpd

DH





# Portland Water District

225 Douglass St. • P.O. Box 3553 • Portland, ME 04104-3553

(207) 774-5961  
FAX (207) 761-8307  
www.pwd.org

September 1, 1999

Lucas Anthony  
Deluca Hoffman Associates, Inc  
778 Main St Suite 8  
South Portland, Me 04106

Re: Harbor view Block- Portland

Dear Lucas

This letter is to confirm there should be an adequate supply of clean and healthful water to serve the needs of the proposed office/retail building on Fore St in Portland. Checking District records, I find there is a 12" water main on the short side of the street in Commercial St. as well as a long side 8" main in Fore St. There is also a 4" water main that runs part way up Market St. from commercial St. A map is enclosed indicating the water mains and hydrants in the general area of the site. A rough guess as to domestic size would be a 1 1/2" to 2" domestic with a 1" or 1 1/2" meter. The District no longer installs services, so an outside contractor would need to do the installations. The district would only charge for service application fee, \$ 25.00 per service, meter costs \$ 176.00 to \$ 356.00 and inspection time while services are being installed by others at \$ 35.00 per hour.

The current data from the nearest hydrant indicates there should be adequate capacity of water.

Commercial St @Silver St  
Hydrant # 52  
Static pressure = 102 PSI  
Flow = 1556GPM  
Last Tested = 8/14/92

You will notice by the enclosed map there are about a dozen hydrants within 500' of the site.

If the district can be of further assistance in this matter, please let us know.

Sincerely,  
Portland Water District

Jim Pandiscio  
Means Coordinator

1/28/2000

HARBOR VIEW BLOCK

DESCRIPTION	CTAE QTY AND BUDGET			TOTAL COST	REVISED QTY & BUDGET		
	QTY	UNIT	TOTAL COST		QTY	UNIT	TOTAL COST
DIV I GENERAL CONDITIONS:	40670	SF	\$ 284,690	1	LS	281,288	
<b>SUB TOTALS GEN.COND.</b>			<b>\$ 284,690</b>			<b>\$ 281,288</b>	
<b>DIV II SITEWORK:</b>							
STREET OCC. & PARKING FEES 4/1.	1	LS \$4K PBO	0	1	LS	0	
DEMOLITION - BLDG	1	LS	74000	1	LS	71343	
SITEWORK(EXC, FILLS, DISPOSALS	43300	SF	150000	43300	SF	150000	
SHEET WALL	1	LS	55000	1	LS	30000	
UTILITY ROUGH INS	4	EA	60000	4	EA	40000	
PILES	1500	LF	57000	1226	LF	59355	
PILE SOCKETS	55	EA	27500	0	EA	0	
BRICK SIDEWALKS & RAMPS	300	SY	9000	315	SY	23625 City??	
GRANITE CURBS	300	LF	7500	300	LF	12000 City??	
SITE FURNITURE(BIKE RACK, TR)	1	COMPASS	1000	1	ALLOW	5000	
STREET LIGHTS	0		0	0	EA	42000 City??	
LANDSCAPING/TREES & GRATES	1600	SF	32000	0	LS	9725	
<b>BLDG SITEWORK SUBTOTAL</b>			<b>473,000</b>			<b>443,048</b>	
<b>ENTRANCE:</b>							
DEMOLITION FORE ST.	1	LS	12000	1	LS	12000	
SITEWORK FOR ENT	1	LS	48871	3000	SF	20010	
BRICK SIDEWALKS & RAMPS	200	SY	6000	22	SY	16875	
ENTRANCE MASONRY	0	LS	0	0	LS	25000	
ENTRANCE CONCRETE WORK	0	CY	0	12	CY	51235	

*1/28/2000*  
*Blk*

DESCRIPTION	QTY	UNIT	TOTAL COST	QTY	UNIT	TOTAL COST
TREES & GRATES	0	EA	above	4	EA	7776
PLANTINGS			above	1	ALLOW	5000
GRANITE CURBS	150	LF	3750	150	LF	6000
STREET LIGHTS				2	EA	14000
HANDRAILS	0	LF	0	250	LF	10000
SITE GRANITE	0	LS	0	1	LS	37000
ENTRANCE SUBTOTAL			\$ 70,621			\$ 204,896
SUB TOTAL ALL SITEWORK:			\$ 543,621			\$ 647,944

DESCRIPTION	QTY	UNIT	TOTAL COST	QTY	UNIT	TOTAL COST
<b>DIV III CONCRETE:</b>						
FOOTINGS/PILE CAPS	150	CY	41250	150	CY	41250
GRADE BEAMS	60	CY	27000	65	CY	35750
FILL CONCRETE	0	CY	0	200	CY	48600
GRADE WALL-FORE ST.	55	CY	24750			
RET. WALL & FTG - FORE ST.				110	CY	74372
TIE BEAMS	55	CY	24750	55	CY	24750
MECHANICAL RM/ENTRANCES	0		0	50	CY	26417
SLAB ON GRADE	240	CY	36000	165	CY	31706
ELEVATOR PIT	6	CY	3000	6	CY	3000
ELEVATED SLABS	325	CY	48750	325	CY	60093
STAIRS & LANDINGS	0		0	5	CY	1983
WINTER HEAT & PROTECTION	565	CY	56500	325	CY	32500
FROST REMOVAL IN SPRING	12900	SF	12900	12900	SF	12900
SUB TOTAL CONCRETE:	885		\$ 274,900	1130		\$ 393,321

DESCRIPTION	QTY	UNIT	TOTAL COST	QTY	UNIT	TOTAL COST
<b>DIV IV MASONRY:</b>						
BRICK VENEER & GRANITE TRIM	1	LS	450000			450000
GRANITE TRIM	1	LS	110500			107457
CMU (ELEV, STAIR, MECH& TRASH	3840	SF	28800	1104	SF	8280

12-20-00  
 NOT COMPLETED

**PLANNING REPORT #38-99**

**HARBORVIEW BLOCK  
145 COMMERCIAL STREET  
E.L.C. MANAGEMENT INC., APPLICANT**

---

Submitted to:

Portland Planning Board  
Portland, Maine

September 14, 1999

## **I. Introduction**

ELC Management Inc. has proposed development of a new retail and office building at 145 Commercial Street. The proposed building would replace the existing branch bank and parking deck located on the city block bounded by Commercial, Fore, Silver and Market Streets. The proposed building would have frontage on all four streets. (see plans 1-8, 8/4/99; Attachment # 1) (also see Site Plan, revised 8/4/99; Attachment # 2)

The first level of the proposed building, which will be entered on grade from Commercial Street, would contain commercial space. The second level of the building is accessed from Fore Street. The second floor level is approximately five feet above the existing sidewalk grade along Fore Street and will be accessed by a ramp system as well as a monumental stair. The second level will contain financial services and support offices. A third level, which has primary access by an elevator from a lobby off Market Street, will be offices.

The proposal is in the B-3 zone and falls within the Pedestrian Activities District (PAD) overlay zone. Other requirements and standards that apply to this proposal include the Downtown Urban Design Guidelines [14-221(1)], and because of its location within the Waterfront Historic District, the standards for review of new construction under section 14-615.

The Portland Historic Preservation Committee reviewed the proposal for an Application of Appropriateness - New Construction. In the case of a site plan application, the H. P. Committee has recommendation authority only. The H. P. Committee held two workshop sessions with the applicant, on July 21, 1999 and on August 11, 1999, and a Public Hearing on August 18, 1999.

The Portland Planning Board held two workshop sessions on this proposal, on August 10, 1999 and on August 24, 1999. This Public Hearing will consider the application on the basis of compliance to the Site Plan Standards of the Land Use Code.

## **II. Summary Findings**

---

Zoning:	B-3 Downtown Business Zone
Districts:	Waterfront Historic District; PAD
Land Area:	15,876 sq. ft.
Proposed Uses:	Retail (13,500 sq. ft.) and Offices / Financial Services (21,500 sq. ft.)
Total floor area:	39,020 sq. ft.
Footprint area:	85.41%
Parking:	106 spaces required

### III. Site Plan Standards

1. Traffic/Circulation/Parking:

**Loading Bay:** The proposal indicates that there will be 13,500 SF of retail space. Section 14-351 states that if there is over 5,000 SF of retail space, one (1) loading bay is required (14' x 50'). The applicant contended that this requirement was not possible given the site conditions and other ordinance requirements; i.e., that the building fronts on four streets, and ordinance requires (B-3 standards, P.A.D. standards, and Urban Design Guidelines) the building meet the street with pedestrian friendly design. The Portland Board of Appeals voted 5-0 on September 2, 1999 to grant a Practical Difficulty Variance based on the plan and materials submitted at that meeting. (see Off-Site Loading Plan, 9/2/99; Attachment # 3) (also, see Schmuckal memo, 9/3/99; Attachment # 4) The plan indicates one on-street loading zone (14' x 50') on Market Street, one on-street loading zone (9' x 20') on Fore Street, and a dedicated loading area (9' x 18') in the diagonal parking area off Commercial Street.

**Off street Parking:** Staff have reviewed and verified the applicant's calculations for the number of required parking spaces. In this instance, the ordinance requires 51 spaces for the retail space and 55 spaces for the office space. The total requirement is 106 spaces. All of the parking spaces are provided off site at three lots that are controlled by the applicant. All three parking spaces are more than 100 feet from the site; parking requirements call for off-site parking to be within 100 feet of the project. The Portland Board of Appeals voted 5-0 on September 2, 1999 to grant relief from this requirements under a Miscellaneous Appeal. (see Attachment # 4)

**Traffic:** The applicant submitted a traffic and parking report by their consulting engineers, DeLuca Hoffman Associates (see Attachment # 5). The report concludes that the proposal will generate less than 100 trip ends during the morning and evening peak hours and would therefore not require a State traffic permit. Additionally, the three off site parking locations will serve to disperse the traffic and minimize traffic impact. The City Traffic Engineer has reviewed the submission and did not request a traffic study.

2. Burden to Utilities:

The applicant states that the Portland Water District indicated there is adequate pressure in the 12" line in Commercial Street to serve the project. The City Engineer requested that the applicant get documentation from PWD as well as a letter from Public Works regarding sewer capacity. This observation was also made by acting Development Review Engineer, Jeffrey Preble, P.E. of Dufresne-Henry. In a letter from 9/7/99, Mr. Preble notes that "confirmation of the City of Portland and the Portland Water District to serve the proposed project should become part of the site plan review." (see Attachment # 6)

3. Landscaping:

The Site Plan indicates continuous street trees along Fore and Commercial Streets. In a memo of 9/8/99 from the Cynthia Orcutt, principal with Orcutt Associates, the design firm representing the applicant, Ms. Orcutt states that the final tree species will be determined by Portland Arborist, Jeff Tarling. Likewise, final detail development of plantings will be coordinated with the City Arborist. Final selection of tree grates, tree guards, trash receptacles and street fixtures will be coordinated with the City as design development proceeds with Boothby Square.

Along Fore Street the trees are grouped in pairs of two, 25' on center. Trees will be set in 5' x 8' cobble planting beds. These choices were made in conjunction with the Park's Department Landscape Architect, Chris DiMatteo, and with Sarah Marshall, the City's design consultant for the Boothby Square renovation.

The applicant is developing raised planting beds along the Fore Street entry which will be filled with changing annual plants. The care of these flower beds will be the responsibility of the applicant.

4. Drainage:

The applicant asserts that the site plan does not create any significant soil and/or drainage problems. Mr. Preble recommends in his letter of 9/7/99 that key catch basins should be evaluated for capacity. (see Attachment # 6)

5. Lighting:

The site plan indicates two street lights on each of the four surrounding streets. Final selection of the lighting fixtures is to be coordinated with the City's designs for Boothby Square, the Old Port and Commercial Street. The building will have recessed soffit lights with emphasis on the three major entries to the building.

6. Fire Safety:

The building is fully accessible to emergency vehicles on all four sides. There are two existing hydrants located opposite the proposed building on Commercial Street at both Market and Silver Street intersections. The plan has been reviewed and approved on 8/3/99 by the Fire Department.

#### IV. **B-3 Dimensional Requirements**

1. Dimensional requirements:

The original submission did not meet minimum height requirement as established under section 14-220(8). The applicant responded by adding a third floor to the original submission in order to meet the minimum height requirement.

Section 14-220(3) requires new construction to be within five feet of the property line along street frontages. Staff, the Historic Preservation Committee, the Planning Board and the applicant had many discussions and reviewed many options to design the proposal to meet this requirement along the Fore Street facade. Due to a variety of constraints and concerns, the applicant concluded that the design could not be successfully resolved to meet this requirement. The applicant sought to obtain a relief from the Planning Board of the minimum build-to requirement under the provisions of section 14-526(16)b(2). However, Corporation Council determined that, as a result of a 1998 Maine Law Court case *Perkins v. Town of Ogunquit*, the Planning Board is without jurisdiction to grant such a waiver. Therefore, the applicant proposed to deed a section of land to the City, approximately 7'-6" in depth along the Fore Street property line. On 9/8/99, the Portland City Council accepted the 937 square feet of property, effectively moving the property line. Under this agreement, the proposal meets the setback requirement.

The proposal meets all other dimensional requirements.

## V. Additional B-3 Standards

Under section 14-221 two additional review criteria apply to this proposal: The Downtown Urban Design Guidelines [14-221(1)] and the historic resources standards of Article X [14-221(8)].

### 1. Urban Design Guidelines:

Regarding the Urban Design Guidelines, the staff, the Planning Board and the applicant entered into several discussions on the issue of the building setback on Fore Street. Those issues are a matter of record and will not be reviewed in this report. After considering a number of alternative design approaches, the applicant concluded that the most successful resolution of the Fore Street facade involved setting the building back from the street wall and incorporating an external ramp and stair system to enter the building. Through redesign, the setback from the street wall was modified from 18' in the original proposal to 12'-6" in the final design.

The applicant met with staff and the City consultant for Boothby Square with the goal of developing an entry on Fore Street which is complimentary to the civic space of Boothby Square. The resultant design is shown in the rendered plan and elevation dated 9/8/99, and explained in a narrative from Ms. Orcutt. (see Attachment # 7) As indicated in previous correspondence to the Board, the Urban Design Guidelines emphasize the importance of maintaining definition along a street wall to create a spatial container to urban open space. The plan establishes this line with streetscape elements: semi-round topped granite piers which flank the base of the stairs and the two ramps. A series of streetscape elements run parallel with the line of the street wall to add emphasis: the trees to the outboard of the line, and a granite seatwall and flowerbed, and a retaining wall adjacent to the ramp to the inboard. The applicant has submitted photo-reproductions taken from a scaled model to indicate these relationship. (see Attachment # 8)

The applicant has submitted plans which are consistent to the agreed to approach between staff, the Ms. Marshall, and the applicant's designer. The design is compatible in materials and details to plans for Boothby Square, complimenting the Square's design without copying it. Rather, the project's streetscape elements make reference to the details on the building's facade, reinforcing the concept of putting layers on the building out toward the street.

### 2. Historic Resources:

The Portland Historic Preservation Committee voted in a Public Hearing on 9/18/99 to recommend to the Planning Board approval of a Certificate of Appropriateness for the project. The Committee attached four conditions to their recommendation. (see Attachment # 9) As indicated by a memo from Associate Corporation Counsel, the Committee's action is advisory to the Planning Board. (see Attachment # 10) The Board is free to include the Historic Preservation's conditions as part of their approval, or not. (see Attachment # 11)



## **VI. Motion for the Board to Consider**

On the basis of plans and materials submitted by the applicant and on the basis of information contained in this report relevant to standards for site plan, the Planning Board finds:

1. That the plan is in conformance with the site plan standards of the land use code.

### **Potential Conditions of Approval:**

- a. that the applicant submit additional information related to storm water management, erosion controls, a plan for vehicular and pedestrian safety during construction, and an updated existing and proposed site plan. These submissions should follow the recommendations of the Dufresne-Henry letter of 9/7/99, and the submissions are to be reviewed and approved by the Planning Office and the acting Development Review Coordinator.
- b. that the applicant coordinate final selection of streetlights, streetscape furnishings and details with the Planning staff to coordinate with the City's plans for the Boothby Square renovation.
- c. that the applicant have final architectural details and material selections be reviewed and approved by the Historic Preservation Committee.
- d. that the final design of the plaza in front of the Fore Street facade be reviewed and approved by the Historic Preservation Committee.
- e. that the applicant pursue investigations at the site of the seawall as recommended by the Historic Preservation Committee pursuant to 14-650(2).

### **Attachments:**

1. drawings 1 - 8 (11" x 17"), dated 8/4/99
2. Site Plan (30" x 42"), revised 8/4/99
3. Off-Site Loading Plan (11" x 17"), dated 9/2/99
4. Marge Schmuckal memo, 9/3/99
5. DeLuca-Hoffman Associates letter, dated 7/27/99
6. Dufresne-Henry, Inc. letter, dated 9/7/99
7. Cynthia Orcutt memo (9/8/99), and rendered plan and elevation (11" x 17"), dated 9/8/99
8. two photo-reproductions (9" x 11") of model
9. Susan Wroth memo, dated 8/19/99
10. Donna Katsiaficas memo, dated 9/8/99
11. Penny Littell memo, dated 9/7/99