

CIANBRO

CORPORATION

THE CONSTRUCTORS

328 West Commercial Street
Portland, Maine 04102
August 3, 1999



Mr. John R. Orcutt
Orcutt Associates
81 Bridge Street
Yarmouth, ME 04096

RE: Harbor View Block – Construction Overview

Dear John:

As Construction Manager for the Harbor View Block Retail Development Project, Cianbro has reviewed the documents submitted to the planning board on July 28, 1999. This "down town" development is an exciting project for us and also brings it challenges since the building occupies the majority of the site. The following is a construction overview:

SAFETY

Cianbro's No. 1 priority and responsibility is to provide a safe work environment for our employees and we strive for 0 incidents. With over 1,500,000 work hours expended to date this year, we have a Lost Time Incident Rate of 0 and a Recordable Incident Rate of 3.44. We will maintain this same philosophy in the protection of pedestrian and vehicular traffic around the perimeter of the site. Cianbro will coordinate the continuation of the flow of pedestrian and vehicular traffic with the Portland Police and Public Works Department.

Prior to demolishing the existing building, a perimeter site fence will be installed outside of the curb line as noted on your drawing No. CO. Silver and Market streets have an additional sidewalk on the opposite side of the road that can be utilized by the public. Commercial and Fore street have sidewalks on the opposite side of the street however, we believe we can maintain pedestrian traffic through the use of solid barricades that will be positioned where hazards to pedestrian and vehicular traffic exist.

SEQUENCE OF CONSTRUCTION

As noted in the schedule attached with the submittal, demolition will begin around the last week of August and will have a duration of approximately 3-4 weeks. The concrete apron and sidewalk between Fore street and the existing parking structure will remain as long as practicable for crane and temporary field office access. It is anticipated that building construction will begin with site work around the last week of September followed by pile driving, foundations and steel erection. The completion of

the building shell is scheduled for June 1999 with up to four months of interior fit-up following the shell construction.

SITE ACCESS/STAGING

Gated access will be provided to the site at both Silver and Market streets for work south of the existing retaining wall. A gate will be required on the Fore street side for crane and field office access. If Commercial street power lines can be relocated below ground then a gate may be installed there as well.

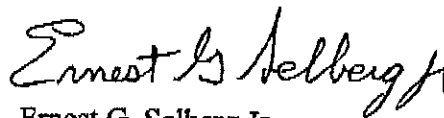
Through proper planning, materials will be coordinated to be off-loaded directly into the project site. Materials requiring staging will be staged at our Portland West Commercial Street Facility or small amounts may be stored at Eric Cianchette's existing parking lot off Fore street. It is anticipated that approximately six parking spaces would be temporarily eliminated. It is also anticipated that the majority of the work force will be transported from our facility or from other remote facilities, therefore eliminating the need for on street spaces for construction personnel.

Due to "curb to curb" construction, temporary blockage of streets will be required. This will occur mainly during the erection of structural steel that is scheduled for mid November through December of this year. The majority of steel can be erected without blocking traffic, however as we get to the bays closest to the streets, the crane will have to move further out. The two most likely locations for the crane to sit is on the Fore street side and the Commercial street side. The power lines will have to be installed below ground for the Commercial street location to work and only partial blockage would be required. On the Fore street location, the crane would sit between the existing retaining wall and would just protrude into the street. Barricades would be installed between the crane and traffic. Complete blockage would take place for the erection of the last bay. Other temporary blockage will take place, mainly on Market & Silver, for off-loading of steel and other sizable materials. Once again, Cianbro will coordinate all of the above with the Portland Police and Public Works Department.

We hope this overview helps clarify the construction process and look forward to refining these issues as the project moves forward. Please call me should you have any questions.

Very truly yours,

CIANBRO CORPORATION



Ernest G. Selberg Jr.
Project Manager

EGS/egs

c: Linc Denison, Regional, Job File

Architecture

Landscape Architecture

Interior Design

Planning

August 4, 1999

Mr. Alan Holt
Project Manager and Urban Designer
City of Portland
389 Congress Street
Portland, ME 04101

Dear Mr. Holt,

Enclosed are revisions to the Site Plan application for the Harborview Block in Portland, Maine. These revisions reflect changes in the design of the building, coordination of the site plan with the proposed Boothby Square design effort and response to the initial review comments forwarded by your office.

The following is a summary of the major revisions:

1. Decrease in the width of Fore Street.

The proposed Boothby Square design plan reduces the width of Fore Street to 15 feet in front of the proposed building. This causes the sidewalk in front of Harborview Block to increase in width.

After discussion with both Sarah Marshall, designer of the Boothby Square plan and Planning staff it was recommended that Fore Street be 17' in width. This slight increase over the original design will allow for the periodic stopping of service vehicles on Fore Street to service the Harborview Block.

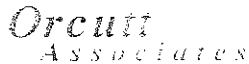
The revised plan illustrates Fore Street at a 17' width and moves Harborview Block closer to Fore Street than the July 28, 1999 Site Plan. All other relationships between the building and site design on Fore Street remain unchanged.

2. Historic Granite Steps

The proposed Boothby Square design plan calls for retaining the historic granite steps at the corner of Fore and Market Streets. These steps have been added to the Site Plan.

3. Loading Space on Commercial Street

The City's Parking Manager requested a loading/service space be provided for the building. The revised plan proposes designating one of the existing parking spaces off Commercial Street as a 15-minute loading only space. It would be possible to limit the time for loading to certain hours in order to provide vehicular parking at other times.



4. Relocation of existing tree

One of the existing trees (Summit Ash) on Commercial Street sits directly in front of the opening entrance to the building. This tree will be relocated in an adjacent planting spot and the entrance to the building will remain free of planting. If the Summit Ash does not survive transplanting, the applicant will replace the tree with a matching specimen.

5. Modification of Site Walls

The landscape area fronting the building facing Fore Street has been modified to include a surround of low granite curbing. This curbing will contain the landscape edge and provide a neat foreground to the building.

Also included in the package is documentation that addresses issues raised in staff review including the following:

Zoning Administrator Review

a. *Building Heights*

The building heights have been recalculated according to criteria outlined by Planning staff.

b. *PAD Overlay*

Floor plans are included in this submittal.

c. *Loading Bay*

See Item #3 above.

d. *Off Street Parking*

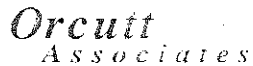
The applicant will submit a miscellaneous appeal for the off-street parking.

e. *Street wall build-to line*

The building heights have been recalculated according to the criteria outlined by Planning staff.

f. *Signage*

The applicant is requesting a condition of approval to return to the Planning Board with details on signage once tenants for the building have been finalized.



Dufresne-Henry, Inc. Review

- g. All sidewalks and curbing surrounding the building will be replaced during construction of this project. Please refer to the enclosed memorandum from Cianbro Construction, Inc., Construction Managers for the project, that outlines construction procedures for the development.
- h. Final engineering drawings for this development have not yet been submitted. These items will be addressed in the final engineering drawings.
- i. Underdrainage for the development has not been designed. Final engineering drawings will describe this system.
- j. Please refer to the Cianbro memorandum for construction storage and safety issues.
- k. Silt fencing will remain around the perimeter of the site, as indicated on the drawings, throughout construction. More detailed erosion control measures will be submitted.
- l. More detailed stormwater management will be addressed in the next submittal.
- m. See Item d above.
- n. See Item #3 above.
- o. A detail sheet for these items will be submitted.
- p. The final plans will be stamped by a Maine Registered Professional Engineer.

Orcutt
Associates

Urban Designer Review

- 1.a. A location for future public art has been identified on the Site Plan. A piece of public art is not part of this submission.
- 1.b. All street furnishings will be coordinated with final City choices for street furnishings in this area.
- 1.c. All four revised building elevations are part of this submission.
- 1.d. Buildings on adjacent parcels have been added to Site Plan.
- 1.e. Existing fire hydrants are located on the Site Plan.
- 2.a. The building height has changed substantially as a third floor has been added to the structure. See Item a above.
- 3.a. Final engineering drawings for this development have not yet been submitted. These items will be addressed in the final engineering drawings.

Parking Manager Review

Please refer to Items #1, #3, c. and d. above.

Please do not hesitate to contact me should you have any questions regarding the above issues.

Sincerely yours,



Cynthia Plank Orcutt, ASLA
Principal

CIANBRO

CORPORATION

THE CONSTRUCTORS

328 West Commercial Street
Portland, Maine 04102
August 3, 1999



Mr. John R. Orcutt
Orcutt Associates
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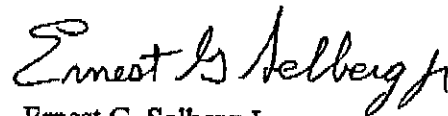
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Very truly yours,

CIANBRO CORPORATION



Ernest G. Selberg Jr.
Project Manager

EGS/cgs

c: Linc Denison, Regional, Job File

Zoning Division
Development
Marge Schmuckal
Zoning Administrator



Department of Urban

Joseph E. Gray, Jr.
Director

CITY OF PORTLAND

TO: Portland City Councilors and Robert Ganley, City Manager
FROM: Joseph Gray, Jr., Director of Planning & Urban Development
RE: Harborview Project - Commercial Street & Fore Street
DATE: August 6, 1999

In light of the recent publicity surrounding the new Harborview proposal, I thought it necessary to clarify issues and actions the City has taken.

The review of the first submitted proposal clearly did not meet the current ordinance language concerning minimum height requirements in the downtown B-3 zone. In an attempt to maintain the momentum of the project, a text amendment was proposed. Soon after, the City received a revised plan that significantly modified the proposal by adding an entire floor. This additional floor made the project work in terms of meeting the existing height requirements. There was no change in the way the zoning compliance was determined. Any immediate text changes are not required at this time.

Essentially this project was not treated any differently than any other project. Normally there are many discussions back and forth between the City and an applicant during the process of preparing an application for completeness before presenting it to the Planning Board. The City processes are based on a foundation of a public process such as the Planning Board reviews. Normally, the initial stages of preparing an application for review are not part of a structured public process, although any actions the City takes is open to review by the public. This particular project for whatever reason became overly public during these early stages of discussion. Our discussions with the architect and developer continue and will continue until the project has its final approvals.

During our discussions with the owner and developer, there were some valid comments and suggestions concerning how to interpret the height requirements. Our staff would like to take the time to continue this discussion and perhaps suggest changes of clarification to this section and get feedback from the Planning Board under a public process. So this may be an item that the Council sees in the future.

City of Portland

Memo

To: Alan Holt, Urban Designer
From: John Peverada, Parking Manager
Date: July 28, 1999
Re: Harborview Block



After reviewing the submittal for the proposed "Harborview Block", I am quite impressed with the project and believe that it will be a wonderful improvement and addition to that site. However, I do have a few comments concerning the letter of July 27, 1999 from Mr. Peter Hedrick, PE to Ms. Cynthia Orcutt regarding his Traffic and Parking Review. While I agree that the majority of the parking requirements for the retail spaces (excluding employees) will be satisfied by on street parking, existing garages, etc, I do not believe that the ordinance requirement of one parking space per 400 sq. ft. of office is sufficient. Therefore the developer should be required to provide over 100 off street parking spaces. Hopefully if necessary the Board of Appeals will approve the location of the parking spaces if they should be over 100' from the building.

The developers have identified a total of 320 parking spaces in three lots currently under their control of which 165 are needed for their other properties potentially leaving 155 spaces available for this project. I just think that the staff should verify that none of these spaces are already being counted for other projects. The fact that there is not a driveway servicing this building bothers me. This project will have approx. 13,500 sq. ft. of retail space. The ordinance requires one off street space of 14' x 50', for retail uses of 5 - 40,000 sq. ft. which may be somewhat excessive. Since the intent of that size space is to accommodate a tractor- trailer, truck and with the exception of moving vans we will see few of those at this site. However many retailers get very frustrated when it is difficult for them to get deliveries, or their customers have no place to park for a quick pick up. The best example of this is the shops at 2 Portland Square. Two of the retailers are constantly complaining that they receive parking tickets while parked in the No Parking Zone in front of their businesses (and they have a loading door at the rear of the building but they say it is inconvenient). Many times when vehicles are parked in a No Parking Zone traffic becomes congested and safety issues arise. To avoid future conflicts, and to attract and retain tenants I think that it would be prudent for the developer to provide an off street delivery area even if it ends up being an enclosed area only accessible via an overhead door.

Since Market and Silver streets are so narrow, there should be a five minute drop off zone at the Fore Street entrance which could be accommodated by a tear drop / indentation in the curbing. Finally, due to the size and scope of this project, I think that the developer should be required to insist that the contractor, sub-contractor and employees of the same park their vehicles off site and not tie up valuable on street spaces. During the construction of Merrill Auditorium similar language was added to the construction documents.

If you should have any questions or concerns about my comments, please do not hesitate to contact me. Once again I think that the proposed Harborview Block will be noticeable improvements to the site.

CC: Joe Gray, Director of Planning and Urban Development
Gloria Thomas, Department Head

From: Larry Ash
To: William Needleman
Date: Fri, Jul 30, 1999 9:58 AM
Subject: Harborview Block

Bill:

In the traffic report, Section 6, under parking, it says that the proposed development would eliminate all onsite parking and that " anticipated demand to be served by the other lots owned by the developer." I'm uncomfortable that more consideration is not being given to where and how many parking spaces will aid this development and not in turn raise issues on parking for the rest of the commercial area.

CC: Joe Gray , John Peverada

From: Marge Schmuckal
To: Alan Holt , ALEX JAEGERMAN, Joe Gray, PENNY L...
Date: Wed, Aug 4, 1999 2:44 PM
Subject: Harborview

I have reviewed the plans submitted. Let me qualify my review by saying that I had to depend completely on the non-scaled plans with the architect's dimensions added on them. They were reduced from the originals and the stated scale doesn't work on it. Enough said on that.

Using the current definition of building height (normally used with maximum height determinations) combined with the "liberal" reading of the existing minimum building height requirement of the B-3 zone, and using an allowance for average grade, the structure does meet the zoning requirement. They have done the work to get the structure to a credible compliance. The B-3 minimum height section can validly be construed much more severely without encompassing other sections of ordinances. However, for what it is worth, having a little more interpretation guidance in the zoning ordinance would be greatly appreciated. It will also make future interpretations more consistent after I get hit by a bus (using one of Joe's famous scenarios).

CC: MARK ADELSON

From: Marge Schmuckal
To: Alan Holt , ALEX JAEGERMAN, Joe Gray, PENNY L...
Date: Wed, Aug 4, 1999 4:36 PM
Subject: Off-street Loading - Harborview

I know that we have been zeroing in on the height issues, but the latest plans still do not resolve the off-street loading requirement. They are only proposing an on-street loading area on the Commercial Street side. Section 14-352 states, "Every part of such loading bay shall be located completely off the street". In essence we have a dichotomy in the ordinance. The B-3 zone requires a minimum setback to the street frontages and this building has frontage on all four sides. Then the off-street loading requires one loading bay to be 14x50 feet and completely off-street. There is no open space outside of the building to allow for this requirement. The only result is if the truck could actually back-in or drive-in to the building to get off the street. There is quite a bit of retail (13,500 sq. ft.) being provided here and this issue will be a reality to those tenants who want to get their product. I don't know whether a truck drive-in off the two minor streets could be considered. It seems wasteful to consider a drive-in off of the two major streets of Fore and Commercial. I have not talked to the architects yet. Do we need to huddle on this one?

CC: MARK ADELSON

To: Joe Gray
From: Alan Holt
Date: 9/5/99
RE: Design changes on the proposal at 145 Commercial Street

Below is a list of the significant design changes from the original application (July 9, '99 drawings) to the modified proposal (August 5, '99 drawings):

1. Originally the proposed building did not meet minimum height on two of the four streets. The current proposal meets minimum height on all four street.
 2. The bulk of the proposed building has grown. Originally the proposed building had a small third level mezzanine. The current proposal has a full third floor. The interior floor area of the original application was approximately 29,500 S.F. The current proposal is 39,000 S.F., an increase of about a third.
 3. Originally the massing of the building was modeled very closely on the massing of the armory building. In order to add the third floor level, the massing has been modified to a cruciform shape. This modification helps distinguish the new building from the armory.
 4. The original proposed building had a setback of about 18' from the predominant street wall along Fore Street. The current proposal is setback about 12' from the predominant street wall along Fore Street.
 5. Exterior details are evolving. Generally, the details are becoming simpler, sharper and more contemporary.
-



CITY OF PORTLAND

To: Orcutt Associates, Architects and Planners
From: Alan Holt, AIA; urban designer
Date: July 29, 1999
RE: Harborview Block proposal - 145 Commercial Street

The following remarks are very based on a very cursory review of the materials that you submitted yesterday. I have not heard from all City staff who weigh in on this review, and have not seen the updated plans and elevations which I anticipate you will be submitting later today. Nonetheless, here's a beginning checklist of items that were either unclear or appeared to be incomplete on this first go through:

- 1. Random comments regarding submitted drawings.**
 - a. (on Site Plan) "Public art mounted on granite wall." Applicant should note that all public art is to be reviewed by the Portland Public Art Committee. This review would not have to be accomplished before the Planning Board hearing, however.
 - b. (on Site Plan) On the various notes regarding installation of streetlights, streetscape amenities (trash receptacles, bicycles racks, etc.): The applicant should coordinate final choices to match the City's plans for the area. The applicant should note that the City is undertaking a review of streetlights in the Old Port this year. Likewise, street plantings, planters, etc. should be coordinated with the City's plans for reconstruction of the ~~Boothby Square Plaza.~~
 - c. (Elevation drawings) You have indicated that the submitted elevation drawings for Fore Street and Commercial Street are under redevelopment. Therefore, I am withholding comments until I see the current proposal. It is important that you submit elevations of all four street facades for a complete review.
 - d. Please indicate the approximate location of buildings or structures on adjacent parcels.
 - e. Please indicate locations of fire hydrants, existing and proposed, on the Site Plan.
- 2. Random comments regarding written submissions.**
 - a. Page 5: Listing of average building heights lists Commercial Street twice (once @ 43'-0", and again @ 38'-6"). I assume one of these heights belong to Silver Street, and there are not proposed elevations for Market or Silver Street to illustrate these claims. How are the heights figured for Market and Silver? Unless the building form has changed substantially, these side street heights seem unlikely.

3. Comments from Public Works representative.

a. In a cursory review by Public Works Engineer, Tony Lombardo, he indicated the following:

- Are the indicated drop inlets proposed or existing? Indicate size and flows of all existing and proposed.
- If the existing catch basins are brick, then they should be replaced according to the City of Portland Design and Technical Standards.
- Drawings should indicate a clear definition of what repairs / replacements are to be made to sidewalks and curbs.
- All utility connections should be indicated on the Site Plan drawing.
- Indicate plan to accommodate pedestrians and parking during construction.
- Indicates that the applicant be required to clean any sediment deposits in catch basins and drop inlets due to construction.
- Need to get letter from Public Works indicating sufficient capacity for sewers.
- Provide documentation regarding capacity of water services.

4. Parking

a. I have attached a memo from City Parking Manager, John Peverada.

cc: Joe Gray

Zoning Division
Development
Marge Schmuckal
Zoning Administrator



Department of Urban

Joseph E. Gray, Jr.
Director

CITY OF PORTLAND

TO: Alan Holt, Planner

FROM: Marge Schmuckal, Zoning Administrator

SUBJECT: Harborview Block - B-3 Zone - PAD overlay - Historic - Old Port Overlay - 29-S-1

DATE: July 29, 1999

Alan, I have reviewed the site plan submittal dated July 28, 1999. The following are areas of zoning concerns. I am aware that some of these areas are already being addressed by ordinance text changes.

A. Minimum Building Height - being addressed by text changes.

B. PAD overlay - It is understood that Commercial Street will be retail within the 40' depth from frontage. It is also stated that Fore Street will have financial services within the 40' depth from frontage.

REQUEST: As soon as possible I would request floor plans so that I can confirm that PAD requirements are being met.

C. Loading Bay - The proposal states that there will be 13,000 sq. ft. of retail space. Sec. 14-351 states that if there is over 5,000 sq. ft. of retail space is provided, 1 loading bay is required (14'x50'). Presently none is shown. The proposal suggests a variance appeal. The variance is usually done prior to Planning Board review. Please note that variances thru the Zoning Board of Appeals is a very difficult appeal.

D. OffStreet Parking - The proposal states that there will be 13,500 sq. ft. of retail space. The reduction for the first 2,000 sq. ft and for bulk storage results in 10,150 sq. ft results in a requirement of 51 required spaces for retail.

It is stated that there will be 22,000 sq. ft. of office space resulting in a requirement of 55 spaces. That is a total of 106 parking spaces required. None of the required parking is on site. All parking is to be provided more that 100 feet from the proposed development. Section 14-334 allows for a miscellaneous appeal thru the Board of Appeals if the provided parking is within a reasonable distance and ownership or leases or those spaces are provided. The proposal also suggests a miscellaneous appeal for joint use of spaces (sec. 14-343). These appeals do not have a severe test for approval such as the variance. Again, these appeals should be commenced as soon as possible to gain the necessary Zoning Board of approvals.

Note: IF any of the retail space is on a floor that could be considered a second floor, the parking requirements are changed from 1 per 200 sq. ft. to 1 per 700 sq. ft. I would be glad to review any floor plans to see if this alternative allowance could be utilized.

E. Street wall build-to line - Section 14-220 requirements are not presently met. I understand that there is an agreement for some City purchase of land to meet this requirement.

F. Signage Presently there is no submittal for proposed signage. It is the City's normal practice to review the proposed signage during it's site plan review stages. It is strongly urged to submitt those plans as soon as possible.

cc: Joseph Gray, Jr., Director of Planning & Urban Dev.
George Campbell, City Councilor

CITY OF PORTLAND, MAINE
HISTORIC PRESERVATION COMMITTEE

Susan Wroth, Chair
Edward Hobler, Vice Chair
Camillo Breggia
Robert Parker
Rick Romano
Steve Sewall
Cordelia Pitman

August 27, 1999

Earle G. Shettleworth, Jr., Director
Maine Historic Preservation Commission
55 Capitol Street
Station 65
Augusta, Maine 04333

Re: 145 Commercial St; proposed redevelopment of block bounded by Commercial, Silver,
Fore & Market Streets

Dear Mr. Shettleworth,

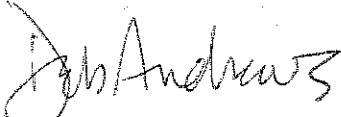
On August 18, 1999, Portland's Historic Preservation Committee voted to recommend to the Planning Board approval of a Certificate of Appropriateness for a new office/retail building on the block bounded by Commercial, Silver, Fore and Market Streets. The Committee's role in the project's review process is advisory only, as it is the Planning Board that has the ultimate authority to approve a Certificate of Appropriateness when the development meets the definition of a "major development" under the city's site plan ordinance.

In forwarding its recommendation to the Planning Board, the Committee included four proposed conditions of approval. A copy of the Committee's recommendation with proposed conditions is attached. Note that one of the four conditions stipulates that the developer seek a determination from the Maine Historic Preservation Commission as to the presence and significance of any archaeological resources under or adjacent to the project site. As staff to the Historic Preservation Committee, I wanted to call this recommended condition to the Commission's attention. Please bear in mind, however, that the Planning Board will be making the final decision whether to approve the Certificate of Appropriateness, including any conditions of approval. The Planning Board is expected to vote on the application on September 14.

Should the Planning Board ultimately approve the project and attach this condition to its approval, I would expect the developer or his architect, Orcutt Associates, to contact you shortly thereafter.

If you have any questions regarding this letter or the Historic Preservation Committee's action, please do not hesitate to call.

Sincerely,

A handwritten signature in black ink, appearing to read "Deborah G. Andrews". The signature is written in a cursive style with a large initial "D".

Deborah G. Andrews
Senior Planner

cc: Joseph E. Gray, Jr., Director, Planning & Urban Development
Alex Jaegerman, Chief Planner
Alan Holt, Urban Designer
John Carroll, Chairman, Portland Planning Board

CITY OF PORTLAND, MAINE
HISTORIC PRESERVATION COMMITTEE

Susan Wroth, Chair
Edward Hobler, Vice Chair
Camillo Breggia
Robert Parker
Rick Romano
Steve Sewall
Cordelia Pitman

To: Chairman Carroll and Members of the Planning Board

From: Susan Wroth, Chair, Historic Preservation Committee

Date: August 19, 1999

Subject: Proposed Construction of Retail/Office Building; 145 Commercial Street;
Eric Cianchette, Applicant

On August 18, 1999, the Historic Preservation Committee voted 6-1 (Breggia opposed) to recommend to the Planning Board approval of a Certificate of Appropriateness for the proposed office/retail building at 145 Commercial Street. The vote was based on the Committee's finding that the proposed development meets the Standards for Review of Construction (Sec. 14-651) of the historic preservation ordinance.

The Committee's recommendation was made subject to the following conditions:

- 1) That final architectural details and material selections be reviewed and approved by the Historic Preservation Committee.
- 2) ~~That the design of the proposed plaza immediately in front of the Fore Street facade~~ be further developed to better integrate with the plans for improvements to Boothby Square, in consultation with project consultant Sarah Marshall and the Planning and Parks Departments and that the final design for the plaza be reviewed and approved by the Historic Preservation Committee.
- 3) That the applicant, in conjunction with the Planning Board in the ongoing Site Plan and Historic Preservation review process, explore further the design possibilities to move the Fore Street facade, or portions thereof, forward to the prevailing streetwall.
- 4) In the event the original sea wall remains under or adjacent to the project site, every reasonable effort shall be made to protect and preserve this archeological resource. The applicant will seek a determination from the Maine Historic Preservation Commission as to the presence and significance of any archeological resources. (see Sec. 14-650, Standard #8)



MAINE HISTORIC PRESERVATION COMMISSION
55 CAPITOL STREET
65 STATE HOUSE STATION
AUGUSTA, MAINE
04333

ANGUS S. KING, JR.
GOVERNOR

EARLE G. SHETTLEWORTH, JR.
DIRECTOR

August 31, 1999

Deborah G. Andrews, Senior Planner
Planning Department
City of Portland
389 Congress Street
Portland, Maine 04101

Dear Deb:

Thank you for your letter of August 27, 1999, regarding the proposed redevelopment of 145 Commercial Street in Portland.

I appreciate your informing me of the Portland Historic Preservation Committee's interest in protecting and preserving any significant archaeological resources which may survive on the site bounded by Commercial, Silver, Fore, and Market Streets. Specifically, I am referring to Article 4 of the Committee's August 19th memo to the Portland Planning Board, in which a concern is raised about the original sea wall.

Anticipating that this may be a matter of interest to both the Planning Board and the applicant, I can state that the Commission does not have any specific information in its files about the sea wall at this site. Considering the changes which have occurred to the area during the past 366 years of settlement in Portland, I believe that the only way to understand the site and what it may contain would be to contract for the services of a professional historical archaeologist. Such an individual would research deeds, maps, and other documents relating to the site as well as perform below ground testing. I would recommend Dr. Kathleen Wheeler, 97 Morning Street, Portsmouth, New Hampshire 03801 (603/431-8397).



MAINE HISTORIC PRESERVATION COMMISSION

55 Capitol Street
State House Station 65
Augusta, Maine 04333



2

If I can be of further assistance, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "Earle". The signature is written in a cursive style.

Earle G. Shettleworth, Jr.
Director

cc: Joseph E. Gray, Jr., Director, Planning and Urban Development
Alex Jaegerman, Chief Planner
Alan Holt, Urban Designer
John Carroll, Chairman, Portland Planning Board

EGS/slm

To: Penny Littell
From: Alan Holt
Date: 9/7/99
RE: 145 Commercial Street proposal - State Historic Commission

You left me a voice message asking about the contact person at the State Preservation office. I have attached a letter from the Maine Historic Preservation Commission which outlines the steps that the applicant would take to investigate the significance of the seawall. Typically I would refer to the City's Historic Preservation Officer, Deb Andrews. However, she's in England for the next couple weeks, so here's my best understanding of the issue.

The Historic Preservation Committee included a condition in their recommendation to the Board to require an investigation of the significance of the seawall. As I understand it, the Board can include that condition, or not. Frankly, I do not see how pursuing this issue is necessary or beneficial to the City's interest. For one, the applicant is not proposing any work which would disturb the *possible* location of the seawall. More important, if the seawall were discovered between the proposed building and Fore street, this would only add weight to the applicant's case of hardship against building to the street wall. Getting the building to the street wall seems a lost cause, and I see no reason to require the applicant to go through trouble and expense in order that they have another reason to build what they are already proposing.

CITY OF PORTLAND, MAINE
M E M O R A N D U M

TO: Mayor Mavodones and Members of the City Council

FROM: Joseph E. Gray, Director of Planning & Urban Development

DATE: September 2, 1999

RE: Deed of Land to the City and Subsequent Lease Agreement

Deed.

The City Council is being asked to accept 937 square feet of property fronting on Fore Street in the Old Port. This property is situated across from the Armory Hotel, abutting Boothby Square on one side and a vacant area currently used for parking on the other (see attached map). The Portland Regency Inc. is proposing to donate this land to the City to accomplish two goals: to provide additional park space to Boothby Square, thereby enhancing the park setting in the Old Port; and to allow development of a 39,000 square foot office and retail building at 145 Commercial Street. The lot to be benefitted by this property transfer is currently not being put to its best use in the City. It is presently occupied by a parking area and a vacant one story cinder block building fronting on Commercial Street.

The proposal to deed the land to the City is coming at an opportune time since the City is currently undertaking a redesign of the Boothby Square Park. In accepting this land, the landscape architect will be able to integrate additional land into the park to the benefit of the City.

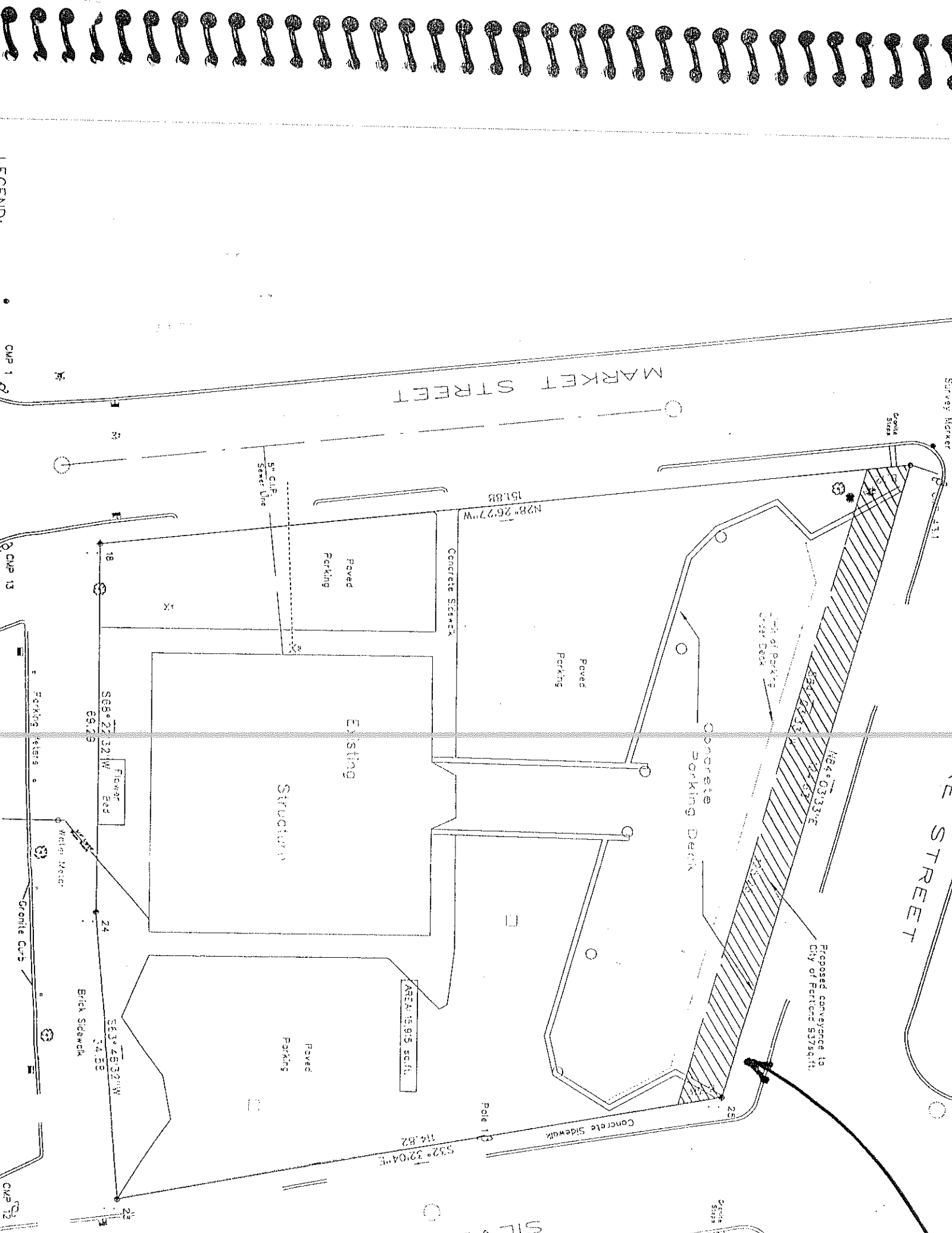
The second objective to be attained through deeding the land to the City would be to address a zoning requirement that any new building in this zone be built within five (5) feet of the street line. Originally, the Portland Regency, Inc. sought to obtain a "waiver" from the Planning Board of the minimum build-to requirement applicable in the B-3 zone. However, 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. As a result, and due to the practical difficulties inherent to the site: a grading scheme which poses tremendous difficulties in building an office and retail complex capable of providing in excess of 39,000 square feet in floor area; a market demand for large areas of contiguous floor area (without separation of floor levels); the requirement of aesthetic considerations pertinent to a building located in a historic district in the City and subject to the requirements of the Historic Preservation and the Urban Design Guidelines sections of the City's Land Use Code; requirements associated with the Pedestrian Access District (i.e. pedestrian friendly street facades meeting all requirements contained within the PAD portion of the Land Use Code), the proposal for this site would not meet the minimum setback requirement.

Given all of the requirements associated with developing this building in conformance with the multiple applicable sections of the Land Use Code, and in light of ongoing and extensive discussions between the developer and the various City Boards, the developer substantially modified and improved his original plans in order to meet the five (5) foot build-to requirement on three of the four streets on which it fronts. It also reduced the original setback on Fore Street from eighteen feet (18' 0") to twelve feet, 6 inches (12' 6"). Despite these modifications, in order to meet the five (5) foot build-to requirement on Fore Street and to satisfy the other demands of this site, it becomes necessary for the developer to diminish his frontage on Fore Street by seven feet, six inches (7' 6"). This may be accomplished by deeding this amount of land to the City.

From a practical perspective, the proposal before the City Council would allow a new building to be developed in the Old Port which would conform with the setback requirements demanded of it by Ordinance, and expanding the available park area open to, and benefitting, the public.

Lease.

The second issue to be addressed is the long-term lease to be authorized by the City Council, permitting access to and egress from the newly constructed building over the deeded property. This lease is similar to various other leases entered into between the City and private landowners. However, at page 2, ¶15(b), the lease specifically includes the provision that the public maintain access to this property as part of Boothby Square Park.



MARKET STREET

DORE STREET

SILVER

Proposed conveyance to City of Portland 53756 sq. ft.

Concrete Parking Deck

Paved Parking

Paved Parking

Existing Structure

Paved Parking

Concrete Sidewalk

Concrete Sidewalk

AREA 15,915 SQ. FT.

N28° 26' 27" W 151.88

N64° 03' 33" E 24.67

S81° 44' 33" E 24.67

S32° 32' 04" E 114.82

S88° 22' 32" W 68.29

S63° 48' 32" W 14.18

18

CMP 1

CMP 13

CMP 12

1 FGF NND:



22 Free Street . Portland, Maine 04101-3900 . Tel: 207.775.3211 . Fax: 207.775.6434 . E-mail: dhmaine@agate.net

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:

- 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.
- 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'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.
- 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.
- The results of Orcutt Associates appearances before the Board of Appeals to obtain a miscellaneous appeal to meet parking requirements and to obtain

Corporate Headquarters:
North Springfield, Vermont
www.d-hinc.com

Area Offices:
Boston, Massachusetts
Greenfield, Massachusetts
Westford, Massachusetts

Portland, Maine
Manchester, New Hampshire
Montpelier, Vermont
South Burlington, Vermont

Fort Charlotte, Florida
Naples, Florida
Sarasota, Florida

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. Preble, P.E.
Senior Project Manager

Enclosure

\\preble\projects\8160054\Project '1' Harbor View Block\Holt\tr2.wpd


Orcutt

Associates

25 Bridge Street
Yarmouth, ME 04096

Telephone 207 846 7702
Facsimile 207 846 5107

M e m o r a n d u m

Date: September 8, 1999
Project name/number: Harborview Block / OA 99035.00
Re: Modifications to the Site Plan Application
From: Cynthia Plank Orcutt 
To: Planning Board Members, Alan Holt

At the last Planning Board workshop, the Board expressed concern that the Harborview Block compliment the proposed improvements to Boothby Square. Although the final design for Boothby Square has not yet been developed, concept work was done in 1995 that indicated a direction for the final plan. Ms. Sarah Marshall of Terrance DeWan Associates developed this concept plan. The applicant's design representative met with Ms. Marshall, along with Mr. Alan Holt, Portland's Urban Designer, Mr. Dana Sousa, Director of Portland Parks and Recreation and Mr. Chris DeMateo, and Portland's Landscape Architect. The purpose of this meeting was to discuss the design of Harborview Block and how to best integrate this design with Boothby Square.

Enclosed are several documents that reflect refinements made to the Fore Street side of the proposed Harborview Block. The design refinements are summarized below:

1. Hold the Street Edge

There is a desire to establish the street edge, along Fore Street, with a strong design of streetscape elements. The edge of the Harborview Block facing Boothby Square is reinforced with both the edges of a granite capped seat wall and six raised end caps. As one approaches Harborview Block along Fore Street these end caps form a strong edge fronting on the street. The geometry of Fore Street is reinforced by this solid seat wall edge. The building façade sits back from this edge, following the same geometry.

2. Design Vocabulary

The general design of Boothby Square will be made of brick and granite utilizing very simple shapes and forms. This is not to be a fancy, ornately detailed Square. The Harborview Block should reflect this simplicity yet a mimic of the pyramidal and sloped face bollards proposed for Boothby Square would be inappropriate. The Harborview Block design is meant to establish a complimentary vocabulary, similar but different, and is found in both the building and sitework.

The design of the Harborview Block site walls and end caps is meant to reinforce this simple approach. Granite shapes, walls and end cap detailing are simple, direct forms. The end caps will be large granite forms, curved at the tops to echo the arched opening of the building. Granite will be a rough flame finish, not cut and polished.

3. Wall Articulation

There are two walls facing Boothby Square in front of the proposed building, a lower and an upper wall. The lower wall is a seat wall, the upper wall a sloped edging wall following the slope of the ramp beyond. The seat wall incorporates a small raised wall section, perpendicular to the street edge that mimics the mullion and window rhythm from the façade behind. This raised wall section also discourages skateboarders from defacing the seat wall.

The upper wall, which slopes alongside the ramps, will be entirely made of granite. The sloping nature of this wall makes the use of brick difficult, as shaving off the upper bricks would be required. This is difficult construction and is also unsightly.

The lower wall will be a granite capped brick faced seat wall. The wall elevation ranges in height from 16" to 22" as the sidewalk pitches downhill towards Exchange Street.

The end caps are completely granite and topped in the gentle curving top.

4. Tree Planting and Landscaping

The trees are grouped in pairs of two, 25' on center. The trees will be a large shade tree, such as a Red Oak. The final species will be determined by Portland's Arborist, Jeff Tarling.

The trees are to be set in a 5' by 8' cobble planting bed. The Boothby Square team, in conjunction with Portland's Arborist, Jeff Tarling, will develop the final details for this cobble planting area.

Other landscaping will be a small flowerbed behind the front seat wall. This planting area will be filled with changing annual plants.

5. Lighting and Trash Receptacles

The City will be developing appropriate lighting fixtures for the Old Port and Waterfront neighborhoods. The final lighting fixture for Harborview Block will be one of these fixtures.

The Harborview Block trash receptacle was submitted as part of the initial Site Plan application. This is the intended fixture, although the Boothby Square team may chose an alternate receptacle once final plans are developed. The final receptacle may be similar to the one proposed by the applicant.

6. Handicapped Ramps and Crosswalks

The appropriate locations for crosswalks were discussed and the locations for these are indicated on the attached plans. The Harborview Block will have lowered handicapped ramps at each corner, as indicated on the plans.

On September 2, 1999 the Portland Board of Appeals reviewed and accepted a request by the applicant for off-site loading spaces. Three such spaces were proposed on the streets surrounding the site; one on Commercial Street in an existing parking space, a large (14' x 50') area on Market Street and a third smaller quick stop delivery space on Fore Street. All three of these proposed spaces are indicated on the enclosed plan.

**HISTORIC PRESERVATION COMMITTEE
CITY OF PORTLAND, MAINE**

**PUBLIC HEARING
145 COMMERCIAL STREET**

TO: Chair Wroth and Members of the Historic Preservation Committee

FROM: Deborah Andrews, Senior Planner

DATE: August 13, 1999

RE: August 18, 1999 - New Business

Application For: Certificate of Appropriateness - New Construction

Address: 145 Commercial Street
(city block bounded by Commercial, Fore, Silver & Market Streets)

Applicant: Eric Cianchette
represented by John Orcutt, architect, Orcutt Associates
& Joe Malone, Malone Commercial Brokers

Background:

The applicant is requesting final review and approval of a proposed new retail/office building for the block bounded by Commercial, Market, Fore and Silver Streets. The public hearing and final deliberations follow two preliminary workshops on the project, which were held on July 21st and August 11th. As this project is subject to major site plan review, the Committee's role in this instance is to make a recommendation to the Planning Board with respect to the development's conformance with the standards of the Historic Preservation ordinance. In evaluating the proposal, the Committee and Planning Board will be guided by the ordinance's Standards for Review of Construction (Sec. 14-651.) The intent and application of these standards is discussed in further detail in the Historic Resources Design Manual, which is included by reference as part of the historic preservation ordinance. Chapter 5 of the Design Manual is enclosed for the Committee's reference.

The applicant has asked that final review be based on the proposal submitted for the Committee's August 11 meeting. No design revisions have been made since that workshop. As there have been no changes, Committee members are asked to consult the staff report and application materials submitted for that date. If you no longer have these materials, please contact staff as soon as possible.

Note that in forwarding its recommendation to the Planning Board, the Committee should articulate findings in support of its recommendation. As with any standard Committee decision, the Committee can recommend approval or denial of a Certificate of Appropriateness and, if the recommendation is positive, attach one or more conditions of approval to its recommendation. Corporation Counsel will attend Wednesday's public hearing to assist the Committee in recording and drafting its findings.

Attachments:

1. Excerpt from preservation ordinance - Sec. 15-651
2. Chapter 5 from Historic Resources Design Manual

**HISTORIC PRESERVATION COMMITTEE
CITY OF PORTLAND, MAINE**

**WORKSHOP
145 COMMERCIAL STREET**

TO: Chair Wroth and Members of the Historic Preservation Committee

FROM: Deborah Andrews, Senior Planner
Alan Holt, Urban Designer

DATE: August 6, 1999

RE: August 11, 1999 - Workshop

Application For: Certificate of Appropriateness - New Construction

Address: 145 Commercial Street
(city block bounded by Commercial, Fore, Silver & Market Streets)

Applicant: Eric Cianchette
represented by John Orcutt, architect, Orcutt Associates
& Joe Malone, Malone Commercial Brokers

Background:

On July 21st, John Orcutt presented preliminary plans for Harborview Block, a new retail/office building to replace the existing branch bank and parking deck located on the city block bordered by Commercial, Fore, Silver and Market Streets. Mr. Orcutt was representing his client, Eric Cianchette, in the matter. As the Committee will recall, it had been Mr. Cianchette's desire to have the new building patterned closely after that of the former armory building directly upland of the project site, which is also owned and operated by Mr. Cianchette.

During the Committee's discussion, a clear consensus developed that the proposal as presented could not be supported, as the design was clearly derivative, in both form and detail, of the former armory structure. The Committee noted that the armory was a signature, landmark structure in the Old Port which derived its unique building form from its original use. By creating a structure so closely patterned after the armory, the Committee expressed the view that the visual prominence and architectural significance of the armory would be diminished. While the ordinance standards encourage consideration of prevailing development patterns where they exist and recommend that new construction respond to the strong, unifying characteristics of the context, the Committee argued that the preliminary design responded to the exception, rather than the general rule of the building's Fore Street and Commercial Street contexts.

Other concerns raised during the first workshop included the issue of height and setback on Fore Street. The height of the preliminary design was considerably lower than that of the surrounding buildings; this was the case for both Fore Street and Commercial Street. Regarding the Fore Street setback, the

Committee noted that Fore Street exhibits a strong and consistent street wall, broken only at this site. The Committee also noted that the ordinance standards specifically address the issue of "walls of continuity" and encourage that new development follow this pattern where it is a definite and easily discernable urban design trait.

At the first workshop there was little discussion of architectural details or materials, as the primary purpose of the initial meeting was to address issues of building form, mass, scale and orientation. However, the Committee did note and commend the developer on his intention to use high quality materials consistent with those employed throughout the Old Port. The applicant and his architect were encouraged to rethink the initial design approach and develop a proposal which referred to, but did not mimic the building's historic context. They also encouraged that the design clearly read as a product of its own time.

Design Revisions

The design has changed substantially since the Committee's July 21st workshop in response to the Committee's comments and in consideration of other zoning and site plan requirements. Committee members are encouraged to compare the elevation drawings included in the July 21 staff report (attached) to the revised elevations.

The most significant changes has been to the building form, mass and height. While the armory form is still clearly evident in this design, the literal translation of that form has been altered with the introduction of gambrel-roofed transepts that face Silver and Market Streets. The transepts were introduced with the addition of a full third floor (the original proposal called only for a mezzanine level over the center of the second floor.) The overall form of the building is now likened to that of a cruciform. Note that both roofs are actually gambrels; the pure gambrel forms are obscured at the street edges by parapet walls echoing the armory form.

The overall height of the building has increased as well. While the height of the Commercial and Fore Street facades has changed only slightly (the top of the respective parapets is 1-2 feet higher than before), the height of the side wings has been increased with the replacement of the original-proposed open railings with a solid parapet wall. The most significant change has been on the Silver and Market Street sides, where the introduction of the transept substantially increases the height. The cumulative effect of these changes has been to add more mass to the building and to increase the apparent overall height of the structure. Regarding the increase in mass, the original proposal called for a 29,500 square foot building and the revised design accommodates 39,000 square feet of floor area. While the building is still lower than the prevailing heights on Fore and Commercial, the issue of scale is less pronounced.

A comparison of building elevations also reveals a number of other design changes. The architect's general direction has been to simplify or eliminate some of the original ornament and to push the design in a more neutral, contemporary direction. In the original design, for example, the parapet walls were "crenellated," with the attached pilasters extending slightly above the roof and capped with a decorative detail. This feature was drawn directly from the armory building. While the attached pilasters are still present, the clearly historicist cap detail has been eliminated. The decorative ocular window at the top of the building has also been eliminated. The fenestration pattern has been simplified and the window proportions changed to reflect the generally vertical proportions of windows throughout the Old Port.

Some elements, like the monumental arched entry on the Commercial and Fore Street facades, remain. While the project architect has experimented with other entry forms or simpler detailing for the arched opening, here the applicant desires to retain the more monumental form and more ornament. Note, for example, the keystone and the arch bases, which are executed in contrasting granite. The colored

rendering enclosed with this report also shows the introduction of granite caps at the top of the pilasters, below the corbeled cornice line. (This detail is not shown in the other elevation drawings.) It appears that some of these details are still under consideration.

Note that the Fore Street elevation is still set back from the sidewalk line, although the depth of the setback has been reduced from 18 feet to 12 feet. The design of this setback area has been revised to show a set of steps leading from the sidewalk line to the central entrance. The stairs are flanked by granite cheek walls that also come out to the sidewalk line. Revised plans also show the introduction of a low seatwall at the sidewalk line, behind which is are landscape beds. The configuration of the handicap walks have been revised as well; they now run mostly parallel to the building face and behind the planting beds.

Staff Comments

Overall, staff feels that significant positive progress has been made in the project's design direction. Height, bulk and mass have been added, and many of the building's architectural details have been revised so that the design is now more cogent and "of a piece". As the narrative in the Historic Resources Design Manual makes clear, a new building need not, and probably should not, conform to its neighbors in each and every category of compatibility, and that there is room for creative, judicious departure from the surrounding context. The challenge is to determine which of the prevailing development patterns or architectural characteristics need to be incorporated or addressed to achieve compatibility and where the new design can successfully depart in order to create a dynamic contemporary "tension" between it and its historic context. While the revised design is a significant improvement over the first in terms of achieving this balance, staff suggests that some aspects of the proposal might warrant further consideration.

Regarding the issue of the setback on Fore Street, the project consultants assert that by introducing these devices at the sidewalk line, the concerns regarding the building's setback are resolved or at least satisfactorily mitigated. They also assert that the setback and the added amenities complement and reinforce Boothby Square by creating an expanding pedestrian plaza. While these devices certainly do serve to mitigate the impact of the building's setback, the question remains whether they are sufficient to hold and reinforce the street wall which is one of the most consistent, compelling urban design characteristics of not only Fore Street, but the Old Port as a whole. Staff also suggests that the strength of Boothby Square as an urban plaza would be more effectively enhanced by containing it within a continuous street wall and that by widening the pedestrian space adjacent to it, the original design intent and power of Boothby Square is diluted. Indeed, the Urban Design Guidelines which apply in the Central Business District, are clear on this point: "A continuous street wall gives emphasis and meaning to open plazas and squares. Street walls assist in reinforcing the unique and irregular street patterns, maintaining the density of the urban fabric, and through contrast, enhancing the significance of open spaces." While the Historic Preservation Committee is charged with enforcing the standards of the preservation ordinance and is not bound by the Urban Design Guidelines, the intent behind both documents is clear and consistent.

Staff recognizes that there are practical difficulties presented by this site which make the setback issue more problematic. However, perhaps other design solutions for this area should be considered. If, as the applicant suggests, the floor plate of the building cannot be split, which would allow the Fore Street facade to come up to the sidewalk, perhaps an open arcade or colonnade could be considered which would hold the street edge and still allow the functional edge of the building to be set back. This is a device that was used effectively at the Portland Public Library and the Payson Wing of the Portland Museum of Art. The Committee might wish to explore other options to hold the street edge with Mr. Orcutt on Wednesday.

Some of the architectural details might be given further consideration as well. Significant progress has been made in eliminating or altering some of the more literal historic details exhibited in the first proposal. Perhaps other features, such as the arched entry with granite keystone and bases, might be simplified or revised to be better integrated with the new design direction.

The project consultants will bring material samples to the meeting on Wednesday.

Enclosed for the Committee's reference are review comments from landscape architect Sarah Marshall of Terrance DeWan & Associates. Sarah has been working with the City over the past few years to develop a treatment plan for Boothby Square. (The Boothby Square plan is still under development and will be presented to the Committee for formal review and approval at a later date.) Notwithstanding the fact that the plan has not yet been formally adopted, the design objectives and principles inherent in that plan should be taken into consideration during the course of this project's review, to the extent that it will impact the Square. Staff asked Ms. Marshall to review the plans and provide comments to best integrate the development with planned improvements to Boothby Square.

Attachments:

1. Colored rendering of Commercial Street facade
2. Site Plan showing proposed expanded pedestrian plaza, existing line of street wall
3. Written proposal with attachments
4. 7/21 staff report with attachments
5. Review comments of TJD & Associates

**HISTORIC PRESERVATION COMMITTEE
CITY OF PORTLAND, MAINE**

**WORKSHOP
217 COMMERCIAL STREET**

TO: Chair Wroth and Members of the Historic Preservation Committee

FROM: Deborah Andrews, Senior Planner
Alan Holt, Urban Designer

DATE: July 20, 1999

RE: July 21, 1999 - Workshop

Application For: Certificate of Appropriateness - New Construction

Address: 217 Commercial Street
(city block bounded by Commercial, Fore, Silver & Market Streets)

Applicant: Eric Cianchette
represented by John Orcutt, architect, Orcutt Associates
& Joe Malone, Malone Commercial Brokers

Background:

The applicant has requested a workshop to introduce plans for a new office building which will replace the existing branch bank and parking deck located on the city block bounded by Commercial, Fore, Silver and Market Streets. The existing structure, which is ranked as "non-contributing" in the Historic Resources Inventory, is scheduled to be demolished in the near future.

The applicant, Eric Cianchette, is owner of the Portland Regency directly upland of the project site. Although the new building will have no functional relationship to the hotel (it is intended to house commercial offices and retail), Mr. Cianchette desires to have the form of the new building patterned closely after that of the armory building.

Review Process:

Because the project is defined as a "major development" under the Land Use Code, it is the Planning Board that will make the final decision regarding its conformance with the standards of the historic preservation ordinance. The Committee will complete its own review of the project and then forward its recommendation to the Planning Board. In this instance, the Committee and the Planning Board will be evaluating the proposal under the ordinance's New Construction Standards, although the guiding principles expressed in the Standards for Review of Alterations shall also apply.

The Committee might be interested to know that as part of the site plan review, the project will need to satisfy additional design standards as well as those in the historic preservation ordinance. These come

into play because the project site is located in the B3 zone (Central Business District) and within the Pedestrian Activities overlay zone, which encourages pedestrian-oriented design and uses on the ground floor of downtown commercial buildings. The intent of these Urban Design Guidelines is entirely consistent with that of the preservation ordinance's design standards. Essentially, all of the applicable design standards suggest that new construction respond to and reinforce the prevailing development patterns that define a proposed development's context.

The Committee should also be aware that because of the pending lease agreement with a prospective lead tenant, the applicant is requesting an expedited review of the project. It is their hope that the necessary approvals will be in place by the middle of September. Factoring in both the Committee's and Planning Board's review schedules, this means that the Committee would probably need to make its recommendation by its August 18 meeting in order for this schedule to be met. The applicant has been advised that this review schedule is an ambitious one and that a substantial amount of progress will need to be made during and between scheduled meetings.

Project Description:

The proposed project, which has a building footprint of approximately 11,500 square feet, fills the block defined by Fore, Commercial, Silver and Market Streets. The proposed building will have frontage on all four streets. Note that the subject lot features a significant change in grade; this grade differential accommodates an additional story on the Commercial Street side of the building.

As proposed, the building will have on-grade entry from Commercial Street. On Fore Street, the entry will be approximately four feet (4') above the average sidewalk grade. The Commercial Street facade is located directly at the sidewalk line with no setback. On the Fore Street side, the applicant proposes setting the building back approximately eighteen feet (18') from the street edge with two accessible ramps leading up to the Fore Street entrance. As the enclosed schematic plans indicates, the exterior ramp system occupies approximately half of the setback space, with the remaining half devoted to plant beds and a fountain at the sidewalk level.

The schematic elevations that have been provided for Commercial and Fore Streets (elevations for the side streets have not yet been submitted) indicate that the building form is derived from the armory building. The rear facade of the armory building is located directly opposite the project site on Fore Street, across Boothby Square. The attached Commercial Street elevation shows the outline of the armory building behind the proposed facade; this drawing illustrates how closely the new building form is patterned after the armory building.

As viewed from Commercial Street, the building presents itself as a two-story structure with a centered third floor mezzanine level. The east and west ends of the facade will have a height of approximately twenty-four feet (24'). The center portion of the elevation varies from a height of approximately thirty feet (30') at the spring of the pitched roof form to approximately forty feet (40') at the top of the central flat roof.

As viewed from Fore Street, the building is a single story, with an additional second floor mezzanine level in the center. Here, the east and west ends of the facade will be approximately fourteen feet (14') high. The center portion of the elevation varies from a height of approximately twenty-five feet (25') at the spring of the pitched roof form to approximately thirty-five feet (35') at the top of the central flat roof.

Drawings indicate that the proposed exterior building materials are primarily brick with granite trim details.

Applicable Review Standards:

The ordinance's "Standards for Review of Construction" outline three major areas of consideration for determining compatibility of new construction. Within each broad compatibility category are listed several contributing factors. The factors to be evaluated in reviewing this proposal are as follows:

Scale and Form

- Height
- Width
- Proportion of principal facades
- Roof shapes
- Scale of the structure

Composition of Principal Facades

- Proportion of openings
- Rhythm of solids to voids in facades
- Rhythm of entrance porch and other projections
- Relationship of materials, texture and color
- Signs, canopies and awnings

Relationship to the street

- Walls of continuity
- Rhythm of spacing and structures on streets
- Directional expression of principal elevations

Note that Chapter 5 of the Historic Resources Design Manual, a copy of which is attached, provides an illustrated discussion of how each of these compatibility factors is applied. The Committee is encouraged to read this chapter carefully; note that this particular parcel is discussed in several sections of the chapter. The Committee is also encouraged to visit the development site and study the prevailing characteristics of both Commercial Street and Fore Street, and of Doubly Square. The design challenges presented by this parcel are immediately evident, as the of Commercial Street is distinct in several respects from that of Fore Street. Development should respond to both streetscapes.

Given the preliminary level of design development, staff suggests that the first workshop focus on the threshold issues of Scale and Form and Relationship to the Street, deferring to a future workshop a detailed review of architectural details and materials.

Staff Comments:

As the discussion on new construction in the Historic Resources Design Manual suggests:

"The challenge, simply put, is one of designing a building which is both distinct from and compatible with the buildings that surround it . . . A new building in a historic district need not follow the pattern set by its neighbors in each and every category of compatibility. It should, however, relate to a number of them. Each infill project will have a unique context of surrounding structures and sites with some strong, unifying characteristics and some that are more subtle and less obvious. There will usually be one or more definite and easily discernable traits ... that should serve as a basis for a design solution."

The Committee is asked to consider those strong, unifying characteristics which should be satisfactorily addressed in any design and to recognize where some departure in scale, form or detail is appropriate.

While it appears that the proposal satisfies several of the review criteria, staff highlights the following building characteristics as potential areas of concern:

1. Building Height:

As explained in the Project Description, the proposed building has varying heights along Commercial and Fore Streets, with significant portions of the building under twenty feet in height. In contrast, the majority of Commercial Street is defined by buildings of a consistent and higher height. To illustrate an example of this principal, the Historic Resources Design Manuel, citing the north side of Commercial Street, states, "This [north side of Commercial Street] is an example of a streetscape that shows a remarkable consistency in many of the characteristics listed above. Height is commonly four or five stories. While rooflines vary from flat to gable to gambrel, all display strong cornice lines and ridgelines parallel to the street." Additionally, the Historic Resources Design Manuel specifically cites this location as an example where the character of the area is diffused from a lack of height and street edge (see page 176).

On Fore Street, as with Commercial Street, the overall height of the surrounding buildings is fairly consistent, being three to four stories high. Staff questions this proposal's deviation from the prevailing building heights.

2. Building Form/Roof Shape

This is a fundamental issue. Rather than responding to the building forms and roof shapes which prevail in the area and contribute to the generally consistent architectural fabric of the Old Port, the proposed development directly mimics the form of what is a unique, signature building in the area. Indeed, one of the most unique characteristics of the armory is its overall form and roof shape, which clearly conveys the building's original and singular use. Staff raises the question whether the visual prominence and architecture significance of the armory is diminished by creating a direct copy of it.

3. Relationship to the Street - Building Setback

The proposal sets the Fore Street building elevation approximately eighteen feet (18') back from the prevailing building wall. The Historic Resources Design Manual places importance on maintaining "walls of continuity" along street edges, and cites the prevailing street wall as a defining characteristic of the Old Port. The Historic Resources Design Manual also emphasizes the importance of a solid street facade in creating spacial enclosure and a sense of place. This is especially important in a sensitive area like Boothby Square, a designated historic park which was designed in 1902 as a formal square. Early photos of Boothby Square (see attached) illustrate the strong sense of enclosure created by the continuous street wall.

The City began in 1995 to plan rehabilitations and improvements for Boothby Square with the following goals: elimination of obstacles to pedestrian flow; establishment of continuity among streetscape elements; and, enhancement of the Square's potential as a destination place and focal point. This study included a careful analysis of the prevailing patterns and opportunities for correcting some of the Square's current deficiencies. An underlying premise of this study is that any new development on this site would re-establish the traditional street wall. Staff questions how the proposed 18' setback which covers an area of approximately two-thousand square feet (2,000 S.F.), half of which is an accessible ramp to a building, might detract from the goals of the current plan. Indeed, as the attached historic photos shows, the strong sense of enclosure created by continuous street walls is the container which defines Boothby Square.

4. Visual Compatibility with Commercial Street

It might be argued that by emulating the armory building, the proposed design creates a visual dialogue with the earlier structure across Fore Street and therefore is compatible with its Boothby Square context. However, the form and scale of the armory has no precedent on or visual relationship with Commercial Street and there appears to be little rationale for such a design solution on this important streetscape.

5. Authenticity

A theme that appears in virtually every discussion on preservation principles as they apply to building additions and infill construction is that a clear differentiation be made between what is old and what is new, resulting in work that is "unequivocally a product of its own time." This principle also runs throughout Portland's preservation ordinance. As an example, Standard #3 of the Standards for Review of Alterations reads: "All sites, structures and objects shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged." A question for consideration is whether the proposed design solution is successful in this regard.

Attachments

1. Photos of project site
2. Proposed plans and elevations
3. Chapter 5; Historic Resources Design Manual
4. Excerpt from *Preservation Brief # 14*
5. Historic view of Boothby Square

August 9, 1999

Portland City Council and Planning Board
Portland City Hall
Portland, ME 04101

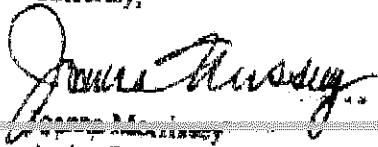
Dear Councilors and Board Members,

I am writing this letter on behalf of the Old Port Retail and Restaurant Association regarding the proposed building to replace the Key Bank "bunker building" on Commercial Street.

The current building has been a blight on the landscape, most particularly since it became vacant more than a year ago; and essentially stops foot traffic on Commercial Street at the Whip & Spoon. Mr. Cianchette's design for the replacement building seems to fit in very well with the character of the other buildings in the neighborhood, even more so now that he has complied with your ordinances. We believe that the architects and Mr. Cianchette carefully considered the design problems to be solved and solved them, with the neighborhood's best interest in mind.

We encourage the Council to approve the design and give the go ahead to this project which would eradicate one of the ugliest buildings on the waterfront and replace it with an attractive and most importantly, active venue.

Sincerely,



James M. Murray
Acting President
Old Port Retail and Restaurant Association

Building's style:

● The design plan for a new structure to replace at 'bunker' leads to a debate over what is architectural ly proper.

By MARK SHANAHAN

Staff Writer

Everyone agrees that the former Key Bank building on Commercial Street is ugly. The squat cement structure is often called "the bunker" and is listed on an inventory of buildings in Portland's historic Old Port as "non-contributing." Anything would be better, right?

Maybe not.

A plan to demolish the two-story brick-and-granite building is being criticized harshly by some historic preservationists and members of the city's planning staff.

The project is stirring a debate about architectural standards in Portland, and who decides what's appropriate and what isn't. Some complain that the tastes of a

few are dictating development, especially in the Old Port.

"These people have decided that their opinion is the only opinion," said Eric Cianchette, owner of the Regency Hotel and developer of the 25,000-square-foot building proposed for 145 Commercial St. "I don't think they're the only ones who should say what's right for Portland."

Cianchette's proposal, which the city's Historic Preservation Commission is reviewing, is to create a new building that looks remarkably like an old one — the armory on Market Street that was built in

1895 and became the Regency in 1986.

The new building, the first major construction downtown in more than a decade, would house retail space on the first floor and offices for Merrill Lynch on the second floor.

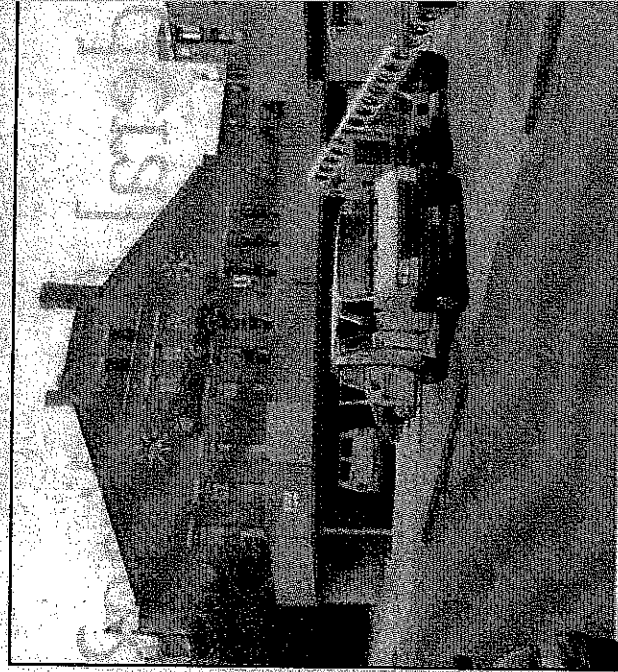
Cianchette, who bought the property two years ago for \$600,000, estimates the project will cost between \$3 million and \$4 million to complete and generate perhaps

Please see **BANK**

Back page this section

10A Portland Press Herald, Saturday, July 24, 1999

CONTINUED FROM PAGE ONE



The old Key Bank building on Commercial Street is often referred to as "the bunker."

BANK

Continued from Page 1A

\$25,000 a year in property taxes for the city.

"I'm not asking for any (tax breaks). I'm not asking for anything," Cianchette said, "just the right to build a building that I like, and that I think would be great for the city."

Cianchette, who is 49, owns 10 buildings in the Old Port, including the hotel, and is generally regarded as a careful and conscientious developer.

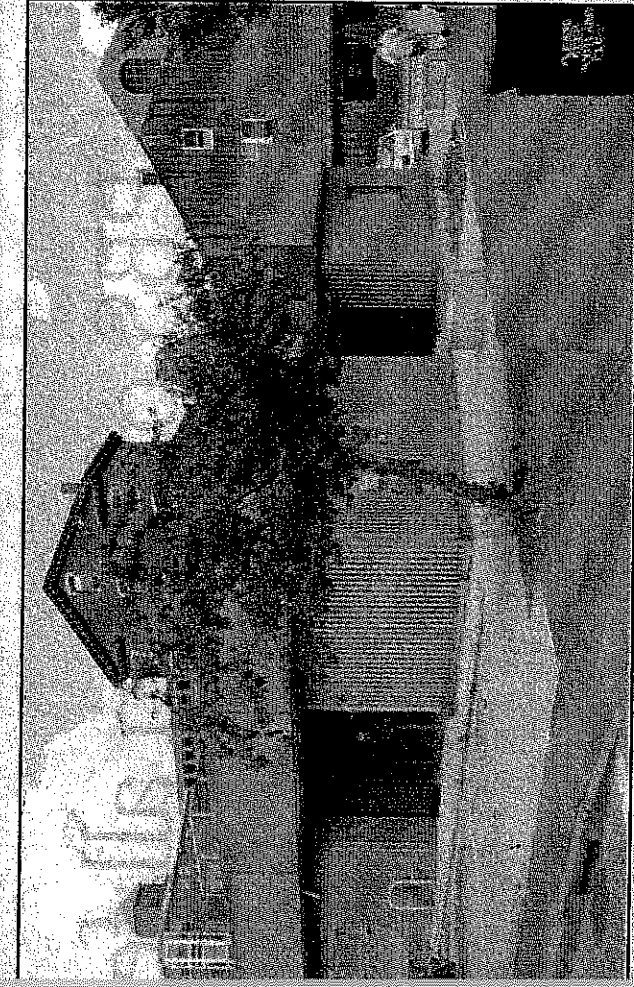
In this case, though, he is getting a cool reception from preservationists and planners, who say the size and design of his latest project are problematic.

Their primary objections are that the building is not tall enough, that its back entrance on Fore Street is set back too far, and that the building looks too much like the former armory.

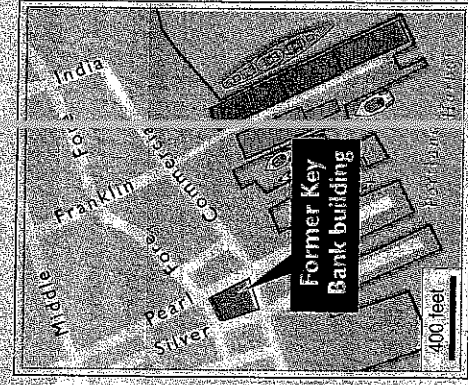
While these would be relatively minor issues for a project on Forest Avenue, the Old Port is another matter. Major new construction in the cobblestone district is held to the rigid standards laid out in Portland's Historic Resources Design Manual.

The document, which addresses issues such as a building's scale, composition and relationship to the street, identifies the sometimes esoteric qualities that make a district historic.

"This is not some little stew that a



Staff photo by John Poiriquin



Staff photo

bunch of woolly-headed liberals cooked up," said John Carroll, the Planning Board chairman. "There's real pedigree and research that went into these standards."

On the issue of design, for example, the manual frowns on new buildings that replicate what is around them.

"All structures should be recognized as products of their own time," the manual states. "All buildings that have no historical basis and which seek to create an earlier appearance shall be discouraged."

Because Cianchette's building mimics the style of the former armory, it's not considered sufficiently authentic. It also fails to meet requirements that new buildings in the historic district be 35 feet tall on all sides, and be built right to the edge of the sidewalk.

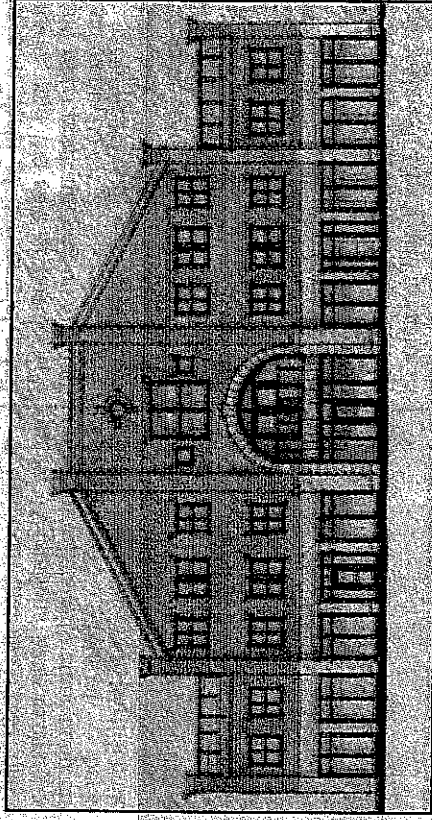
This is a sketch of the new building proposed for the site. The proposal has been criticized by some preservationists and city planners.

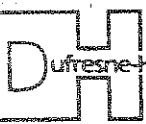
"This creates confusion," Carroll said of Cianchette's proposed design. "We want the public to see what's historic, and then to see something that's distinct in its time and place. Xeroxing to a different size is not the idea."

Some, though, believe that the planners are being inflexible. They like the building's design and say anything would be better than "the bunker."

"Start with what's down there now. Is he detracting from that or is he improving it?" said Ronald Ward, an attorney who is chairman of the Old Port Task Force, an association of business people. "(Cianchette) is not a torch-and-burn type of guy. This is a quality project by a guy with a great track record."

City Councilor George N. Campbell, not a pea-green leisure suit. This is a black tuxedo."





Dufresne-Henry, Inc.

22 Free Street

Portland, Maine 04101-3900

Tel.: 207 / 775 / 3211

Fax: 207 / 775 / 6434

In Account with:

ALEX JAEGERMAN
CITY OF PORTLAND
389 CONGRESS STREET
SUITE 400, PORTLAND CITY HALL
PORTLAND ME 04101

INVOICE NO.: 812141

SEQUENCE NO:

INVOICE DATE: August 20, 1999 19
WORK ORDER NO(S): 8160054

Services rendered for PORTLAND DEVELOPMENT PROJECT REVIEW
through the period ending August 7, 1999.

Description	Hours	Bill Rate	Item Amount
BREAKWATER SCHOOL SITE PLA	0.50	46.90	\$ 23.45
HARBORVIEW SITE PLAN REVIE	5.00	46.90	\$ 234.50
Total Professional Fees			\$ 257.95
Total Reimbursable Charges			0.30
Amount Due This Invoice			\$ 258.25

Summary:

Previously Invoiced \$	5,893.95
Current Invoice	258.25
Total Received	-5,893.95
Balance	\$ 258.25

Client Manager: JEFFREY D PREBLE, P.E.

PLEASE RETURN ONE COPY OF INVOICE WITH PAYMENT TO:

DUFRESNE-HENRY, INC.
Precision Park
No. Springfield, VT 05150-0029
Corporate Office

Service Charge: 1½% per month after 30 days

9.9.99

Council accepts Ciancette land offer

● Pending further approvals, a developer may proceed on a plan for a major Old Port building.

By DAVID CONNERTY-MARIN
Staff Writer

City councilors voted unanimously Wednesday to accept a gift that would allow construction of a major new building in the Old Port. They unanimously rejected another gift that would have led to a new sports arena for Bayside.

By accepting a 7½-by-130-foot strip of land on Fore Street from Eric Ciancette, the council made it possible for him to comply with a zoning requirement that buildings in the Old Port be built within 5 feet of the property line.

The proposed building, which still must be approved by the Planning Board, would be 12½ feet from Fore Street. On its three other sides — Market, Silver and Commercial streets — the building would comply. Ciancette's architect, Cynthia Orcutt of Orcutt Associates in Yarmouth, said it was almost impossible to design a building that met the 5-foot requirement along with the many other requirements for the Historic District, the Waterfront District, pedestrian activity guidelines, the Americans With Disabilities Act and others.

The city's zoning requirements aim to create an urban environment downtown, with buildings built right up to the street.

But Orcutt said the steep grade at the rear of the property is hard to work with. If the building is at street level on the Commercial Street side, then on Fore Street pedestrians would have to look up to windows that are at least 5 feet off the ground.

Please see COUNCIL
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COUNCIL

Continued from Page 1A

That hardly seems pedestrian-friendly, she said.

Opposition came only from Greater Portland Landmarks.

Executive Director Martha Deprez said she is pleased Ciancette plans to replace the former Key Bank building, an eyesore referred to as "The Bunker," but she believes a design could be found that would still satisfy the requirements of the city's zoning.

"Accepting this property effectively grants a waiver to the developer," she said. "We urge you to consider the same four standards the Planning Board would have to consider."

She said she doubts the project would meet those standards, which state such a waiver must enhance open space or the streetscape, increase publicly accessible space or provide other benefits.

Everett Perlman, a member of Landmarks, also spoke against the project.

But others spoke in favor, saying it was a vast improvement over "The Bunker," and that a little variety in the streetscape would be good.

Orcutt said the strip in front of the building, which would include stone steps, two ramps and a sitting wall,

would be designed to complement planned improvements for Boothby Square, along Fore Street between Pearl and Market streets.

As such, she argued, the larger setback would actually be better.

In the end, however, it was the process that was of more interest to councilors than the project itself. They were frustrated that they even had to vote on the matter, saying it was better for the Planning Board to deal with such matters.

However, the city's zoning combined with a recent state Supreme Court ruling in another town made it impossible for the Planning Board to grant a waiver to allow the setback.

"My concern as a policy-maker is that we even have to deal with this," said Councilor Cheryl Leeman. "Our process is a very cumbersome process. There has to be some latitude. Not every site could have been anticipated" by the zoning ordinances.

Ciancette's building, if approved by the Planning Board, will house retail space on the bottom floors and offices for Merrill Lynch on the upper floors. Ciancette also owns the Portland Regency hotel across Fore Street.

With rather little fanfare, councilors voted shortly after 11 p.m. to reject an offer from the Libra Foundation of six acres of land and about \$20 million to help build a sports arena in the Bayside neighborhood.

DRC1

SITE PLANS/SUBDIVISIONS
 PERFORMANCE GUARANTEE:
 LETTER OF CREDIT
 [Account # _____]

October 15, 1999

Joseph E. Gray Jr., Director
 Planning and Urban Development
 City of Portland
 389 Congress Street
 Portland, Maine 04101

RE: Harborview, 350 Fore Street, Portland, Maine

Pioneer Capital Corporation hereby issues its Irrevocable Letter of Credit for the account of The Portland Regency, Inc., as developer, hereinafter referred to as the Developer, in the name of the City of Portland in the aggregate amount of \$86,500.

The City, through its Director of Planning and Urban Development, may draw on this Letter of Credit by presentation of a sight draft and the original Letter of Credit and all amendments thereto, at Pioneer's offices located at Four City Center, Portland, Maine stating that:

1. the Developer has failed to complete by October 7, 2001, or by the expiration date of any temporary certificate of occupancy issued, whichever date comes first, at the Developer's expense, the work on the roads and other public improvements as set forth in the Schedule of Costs of Public Improvements attached hereto as Exhibit A; or
2. the Developer has failed to post the ten percent (10%) Defect Bond or Guarantee required by the Portland City Code sections 14-501 and 14-525; or
3. the Developer has failed to notify the City for inspections.

In the event of Pioneer's dishonor of the City of Portland's sight draft, Pioneer shall inform the City of Portland in writing of the reason or reasons therefor within three (3) working days of the dishonor.

After all underground work in the public right of way has been completed and inspected to the satisfaction of the Department of Public Works, including but not limited to sanitary sewers, storm drains, catch basins, manholes, electrical conduits, and other required

improvements constructed chiefly below grade, the City of Portland Director of Planning and Urban Development or the City of Portland Director of Finance as provided in section 14-501 of the Portland City Code may authorize Pioneer Capital Corp., by written certification, to reduce the available amount of this Letter of Credit by a specified amount.

It is a condition of this Letter of Credit that it is deemed to be automatically extended without amendment for period(s) of one year each from the current expiration date hereof, or any future expiration date, unless at least sixty (60) days prior to any expiration date, Pioneer Capital Corp. notifies the Director of Planning and Urban Development by registered mail at the above-listed address that Pioneer Capital Corp. elects not to consider this Letter of Credit renewed for any such additional period.

In the event of such notice, the City may draw hereunder by presentation of a sight draft drawn on Pioneer Capital Corp., accompanied by the original Letter of Credit and all amendments thereto, and a statement purportedly signed by the Director of Planning and Urban Development reading as follows:

This drawing results from the Developer's failure to timely complete to the satisfaction of the City the public improvements set forth in a certain Schedule of Costs of Public Improvements dated _____; or

This drawing results from the Developer's failure to post a ten percent (10%) Defect Guarantee or Bond as provided in Section 14-501 of the Portland City Code; or

This drawing results from the Developer's failure to notify the City for inspections.

This Letter of Credit will automatically expire upon the earlier of:

1. Pioneer Capital Corp.'s receipt of a written notification of the City of Portland that said work as outlined in a certain Schedule of Costs of Public Improvements dated _____ between the Developer and the City of Portland has been completed in accordance with the City of Portland specifications and Pioneer Capital Corp.'s Letter of Credit No. _____ may be cancelled; or

2. The expiration date of October 7, 2001, or any automatically extended date as specified herein.

Partial drawings are permitted.

We engage with you that drafts drawn under and in compliance with the terms of this credit will be duly honored if presented at our offices at Four City Center, Portland, Maine, on or before October 7, 2001, or any automatically extended date as specified herein.

Very truly yours,

PIONEER CAPITAL CORPORATION

By: _____
Print Name:
Its:

The City of Portland has accepted the providing of alternative security for the Developer's obligations to be performed pursuant to Section 14-501 and/or Section 14-525 of the Portland City Code.

DATED: _____, 1999

Joseph E. Gray Jr.
Its duly authorized Director of Planning and
Urban Development

SEEN AND AGREED TO:
[COMPANY]

DATED: _____, 1999

By: _____
Print Name:
Its:

Reviewed pursuant to Section 14-501 and/or Section 14-525. Portland City Code

DATED: _____, 1999

By: _____
Print Name:
Director of Finance

DATED: _____, 1999

By: _____
Print Name:
Corporation Counsel

SITE PLANS/SUBDIVISIONS
DEFECT BOND:
IRREVOCABLE LETTER OF CREDIT
(Account # 99-1008)

October 7, 1999

Joseph E. Gray Jr., Director
Planning and Urban Development
City of Portland
Portland, Maine 04101

RE: Harborview, 350 Fore Street, Portland, Maine

Pioneer Capital Corporation hereby issues its Irrevocable Letter of Credit for the account of the Portland Regency, Inc., as developer, hereinafter referred to as "The Developer," in favor of the City of Portland in the aggregate amount of \$86,500.00. The City of Portland may draw on the Letter of Credit by presentation of a sight draft in the event that the Developer, at the Developer's expense, fails to correct defects in the workmanship and durability of all materials used in the construction of the public improvements as set forth in the Schedule of Costs of Public Improvements, attached hereto as Exhibit A, for Harborview Project, 350 Fore Street, Portland, Maine.

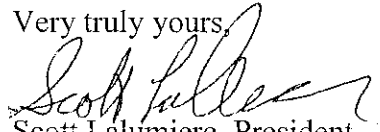
Drafts drawn upon this credit must be for this particular development and to correct any defect(s) as outlined above which was not corrected by the Developer on or before October 6, 2000. Drafts must be accompanied by a written statement that the Developer has failed to correct such defect(s) and shall be accompanied by itemized statements showing cost of work to be completed.

The City of Portland may draw on this Letter of Credit for a period not to exceed ninety (90) days after the expiration of this one-year commitment, provided that Pioneer Capital Corporation will give the City's Director of Planning and Urban Development written notice, by certified mail, of the expiration of this Letter of Credit at least ninety (90) days prior thereto; otherwise drafts drawn on Pioneer capital Corporation may be submitted by the City of Portland no later than ninety (90) days following written notice whenever given thereafter.

Pioneer Private Capital

Specializing in short-term commercial real estate financing and funding for operating companies.

We engage with you that drafts drawn under and in compliance with the terms of this credit will be duly honored. However, other than the payment of monies as authorized hereunder, Pioneer Capital Corporation shall not guarantee the performance of the Developer to the City of Portland.

Very truly yours,

Scott Lalumiere, President
Pioneer Capital Corporation

Seen and Agreed to:

By: _____
Print Name:
Its:

Date: _____, 1999

Approved pursuant to Sections 14-501 and 14-525 of the Portland City Code:

By: _____
Director of Planning & Urban Development

Date: _____, 1999

By: _____
Director of Finance

Date: _____, 1999

By: _____
Corporation Counsel

Date: _____, 1999

Department of Planning and Urban Development
SUBDIVISION/SITE DEVELOPMENT

COST ESTIMATE OF IMPROVEMENTS TO BE COVERED BY PERFORMANCE GUARANTEE

Date: September 28, 1999

Name of Project: HarborView Block

Address/Location: 143 Commercial Street

Developer: Eric L. Cianchette, 42 Market Street, Portland, ME 04101 (207) 774-1000

Form of Performance Guarantee: Letter of Credit

Type of Development: Commercial Subdivision: n/a Site Plan (**Major/Minor**)

TO BE FILLED OUT BY APPLICANT:

Item	PUBLIC			PRIVATE		
	Quantity	Unit Cost	Subtotal	Quantity	Unit Cost	Subtotal
1. STREET/SIDEWALK						
Road	<u>160 sy</u>	<u>\$40.00 sy</u>	<u>\$ 6,400.00</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
Granite Curbing	<u>400 lf</u>	<u>\$25.00 lf</u>	<u>\$10,000.00</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
Sidewalks	<u>400 sy</u>	<u>\$50.00 sy</u>	<u>\$20,000.00</u>	<u>80 lf</u>	<u>\$50.00</u>	<u>\$4,000.00</u>
Esplanades	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
Monuments	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
Street Lighting	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
Other	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
2. SANITARY SEWER						
Manholes	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>1</u>	<u>\$2,000.00 ea</u>	<u>\$2,000.00</u>
Piping	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>20</u>	<u>\$30.00 lf</u>	<u>\$600.00</u>
Connections	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>1</u>	<u>\$500.00 ea</u>	
Other	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
3. STORM DRAINAGE						
Manholes	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
Catchbasins	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
Piping	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>320</u>	<u>\$30.00 lf</u>	<u>\$9,600.00</u>
Detention Basin	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
Other	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>2 Connect.</u>	<u>\$500.00 ea</u>	<u>\$1,000.00</u>
4. SITE LIGHTING						
(This item to be included later after lights are designed by city)	<u>later</u>	<u>later</u>	<u>later</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
5. EROSION CONTROL						
	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>2 hay check</u>	<u>\$2,000.00 ea</u>	<u>\$4,000.00</u>
6. RECREATION AND OPEN SPACE AMENITIES						
	<u>4 TrashRec</u>	<u>\$750.00</u>	<u>\$3,000.00</u>	<u>1 Bike Rack</u>	<u>\$1,500.00</u>	<u>\$1,500.00</u>

<u>Item</u>	<u>Quantity</u>	<u>PUBLIC</u>		<u>PRIVATE</u>		
		<u>Unit Cost</u>	<u>Subtotal</u>	<u>Quantity</u>	<u>Unit Cost</u>	<u>Subtotal</u>
7. LANDSCAPING (Attach breakdown of plant materials, quantities and unit costs)	8 Trees	\$1,500.00	\$12,000.00	n/a	n/a	n/a
8. MISCELLANEOUS	8 Guards & 8 Grates	\$250.00 \$1,000.00	\$2,000.00 \$8,000.00	n/a	n/a	n/a
TOTAL:		\$61,400.00		\$22,700.00		
GRAND TOTAL:		\$84,100.00				

INSPECTION FEE (to be filled out by City)

	<u>PUBLIC</u>	<u>PRIVATE</u>	<u>TOTAL</u>
A: 1.7% of totals:	_____	_____	_____
<u>or</u>			
B: Alternative Assessment:	_____	_____	_____
Assessed by:	_____	_____	_____
	(name)	(name)	



In Account with:

ALEX JAEGERMAN
CITY OF PORTLAND
389 CONGRESS STREET
SUITE 400, PORTLAND CITY HALL
PORTLAND ME 04101

INVOICE NO.: **812196** SEQUENCE NO:
INVOICE DATE: **October 22, 1999** 21
WORK ORDER NO(S): **8160054**

Services rendered for PORTLAND DEVELOPMENT PROJECT REVIEW
through the period ending October 9, 1999.

Description	Hours	Bill Rate	Item Amount
HARBORVIEW SITE PLAN REVIE	3.00	46.90	\$ 140.70
Total Professional Fees			\$ 140.70
Total Reimbursable Charges			0.40
Amount Due This Invoice			\$ 141.10

Summary:

Previously Invoiced \$	6,644.95
Current Invoice	141.10
Total Received	-6,644.95
Balance	\$ 141.10

Client Manager: JEFFREY D PREBLE, P.E.

Sent to Debbie 11-5-99

PLEASE RETURN ONE COPY OF INVOICE WITH PAYMENT TO:

DUFRESNE-HENRY, INC.
Precision Park
No. Springfield, VT 05150-0029
Corporate Office

CIANBRO

CORPORATION

THE CONSTRUCTORS



October 6, 1999

Mr. Alan Holt, AIA
 Urban Designer/Cultural Liaison
 Planning & Urban Development
 City of Portland, ME
 389 Congress Street
 Portland, ME 04101

RE: Harbor View Block Retail Bid - Performance Guarantee Rcv 1

Dear Alan:

Attached is a revised copy of the Department and Urban Development's completed Cost Estimate for Improvements to be covered by Performance Guarantee.

Per your fax today, the following is a response to the reviews done by Anthony Lombardo, P.E. (City of Portland) and Jeffrey Preble, P.E. (Dufresne-Henry, Inc.):

Anthony Lombardo, P.E. (City of Portland)

2. Sanitary Sewer - From the drawing provided by DeLUCA-HOFFMAN ASSOC. INC., the existing 6" sewer connection will be made just onto private property and the connection cost is noted.

3. Storm Drainage - We do not intend to damage/disturb the noted catch basins and therefore assume that it is the City's responsibility to upgrade.

5. Erosion Control - The erosion control estimate for \$4,000.00 should be more than adequate however, we have separated public/private as follows:

Public:	460 lf of silt fence	@ \$5/ lf	=	\$2,300.00
Private:	3 ea Stabilized Construction Entrances	@ \$500.00/ea	=	\$1,500.00
	<u>2 ea Hay Checks</u>	@ \$100.00/ea	=	<u>\$ 200.00</u>
	Total			\$4,000.00

Jeffrey Preble, P.E.(Dufresne-Henry, Inc.)

1. Street/Sidewalk – We intend to remove, stage and re-use the existing granite curbing from each of the four streets and therefore believe that the \$25.00/lf figure is high.
2. Sanitary Sewer – We have increased the private sewer lineal footage from 20 to 100 adding \$2,400.00 to the estimate.

Other Misc. Items

Water – The Performance Guarantee Estimate form does not address the water and therefore we have not included.

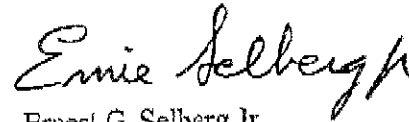
Demolition, building excavation, back fill and building construction costs - The Performance Guarantee Estimate form does not address these costs and therefore we have not included.

Stamped construction drawings – Site drawings will be stamped by DeLUCA-HOFFMAN ASSOC. INC.

Please call me at 773-5852 Ext 110 if you have any questions. We are hopeful to resolve this on Thursday October 7, 1999 so that we will be ready for a Monday October 11, 1999(City Holiday) start date.

Very truly yours,

CIANBRO CORPORATION



Ernest G. Selberg Jr.
Project Manager

C: Debbie Cooper/Corporate Job File, Deb Wilson, Eric Cianchette, Job File

CIANBRO

CORPORATION

THE CONSTRUCTORS

MEMO

TO: Alan Holt
FROM: Ernie Selberg
DATE: September 28, 1999
SUBJECT: Performance Guarantee Estimate

Attached please find a copy of the Department of Planning and Urban Development's completed Cost Estimate for Improvements to be covered by Performance Guarantee.

If you have any questions regarding this documentation, please let us know.



Facsimile

Area Office:
22 Free Street
Portland, ME 04101
(207) 775-3211

Fax: (207) 775-6434 E-Mail: dhmaine@agate.net

To: Allen Holt Fax Number: 756-8258

Company: Portland Planning Office

From: Jean Date: 9/27/99

Subject: Harborview Invoices

You should receive 3 page(s), including this cover sheet. If you do not receive all the pages, please call 207-775-3211.

Comments: Allen,

Have are the invoices you requested.
Number 19 is from August and #20
will be sent this week. If you
have any questions, please feel
free to call.

Jean

The information contained in this facsimile transmission is proprietary and confidential. It is intended for the use of the individual or entity named herein. If the recipient of this transmission is not the intended recipient, note that any dissemination, distribution, or copying of the information contained in this transmission is prohibited. If you have received this transmission in error, please notify us immediately.



Dufresne-Henry, Inc.

22 Free Street

Portland, Maine 04101-3900

Tel: 207 / 775 / 3211

Fax: 207 / 775 / 6434

In Account with:

ALEX JABGERMAN
 CITY OF PORTLAND
 389 CONGRESS STREET
 SUITE 400, PORTLAND CITY HALL
 PORTLAND ME 04101

INVOICE NO.:

812141

SEQUENCE NO:

INVOICE DATE:

August 20, 1999 19

WORK ORDER NO(S):

8160054

Services rendered for PORTLAND DEVELOPMENT PROJECT REVIEW
 through the period ending August 7, 1999.

Description	Hours	Bill Rate	Item Amount
BREAKWATER SCHOOL SITE PLA	0.50	46.90	\$ 23.45
HARBORVIEW SITE PLAN REVIE	5.00	46.90	\$ 234.50
Total Professional Fees			\$ 257.95
Total Reimbursable Charges			0.30
Amount Due This Invoice			\$ 258.25

Summary:

Previously Invoiced \$	5,893.95
Current Invoice	258.25
Total Received	-5,893.95
Balance	\$ 258.25

Client Manager: JEFFREY D PRBBLE, P.E.

PLEASE RETURN ONE COPY OF INVOICE WITH PAYMENT TO:

DUFRESNE-HENRY, INC.
 Precision Park
 No. Springfield, VT 05150-0029
 Corporate Office

Service Charge: 1 1/2% per month after 30 days



22 Free Street Portland, Maine 04101-3900 Tel.: 207 / 775 / 3211 Fax: 207 / 775 / 6434

In Account with:

ALEX JAEGERMAN
CITY OF PORTLAND
389 CONGRESS STREET
SUITE 400, PORTLAND CITY HALL
PORTLAND ME 04101

INVOICE NO.: 812165 SEQUENCE NO:

INVOICE DATE: September 24, 1999 20

WORK ORDER NO(S): 8160054

Services rendered for PORTLAND DEVELOPMENT PROJECT REVIEW
through the period ending September 11, 1999.

Description	Hours	Bill Rate	Item Amount
BREAKWATER SCHOOL SITE PLA	2.00	46.90	\$ 93.80
HARBORVIEW SITE PLAN REVIE	8.50	46.90	\$ 398.65
Total Professional Fees			\$ 492.45
Total Reimbursable Charges			0.30
Amount Due This Invoice			\$ 492.75

Summary:

Previously Invoiced \$	6,152.20
Current Invoice	492.75
Total Received	-5,893.95
Balance	\$ 751.00

Client Manager: JEFFREY D PREBLE, P.E.

PLEASE RETURN ONE COPY OF INVOICE WITH PAYMENT TO:

DUFRESNE-HENRY, INC.
Precision Park
No. Springfield, VT 05150-0029
Corporate Office

Service Charge: 1½% per month after 30 days



October 8, 1999

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

RE: Harbor ViewBlock Performance Guarantee

Dear Mr. Holt:

We have reviewed the October 6, 1999 letter from Ernie Selberg of the Cianboro Corporation and the associated revisions to the performance guarantee prepared for the HarborView Block development project. The changes made to the performance guarantee are acceptable and we have no further comments.

Please let us know if we can be of any further assistance on this project.

Very truly yours,

DUFRESNE-HENRY, INC.

A handwritten signature in blue ink, appearing to read 'Jeffrey D. Preble', is written over a horizontal line.

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

C:\Projects\8160054\Project 'I' Harbor View Block\Holtltr4.wpd



22 Free Street . Portland, Maine 04101-3900 . Tel: 207.775.3211 . Fax: 207.775.6434 . E-mail: dhmaine@agate.net

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.

A handwritten signature in black ink, appearing to read 'Jeffrey D. Preble'.

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

C:\Projects\8160054\Project '1' Harbor View Block\Holttr3.wpd

Corporate Headquarters:
North Springfield, Vermont
www.d-hinc.com

Area Offices:
Boston, Massachusetts
Greenfield, Massachusetts
Westford, Massachusetts

Portland, Maine
Manchester, New Hampshire
Montpelier, Vermont
South Burlington, Vermont

Port Charlotte, Florida
Naples, Florida
Sarasota, Florida



22 Free Street . Portland, Maine 04101-9900 . Tel: 207.775.3211 . Fax: 207.775.6434 . E-mail: dhmaine@agate.net

October 8, 1999

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

RE: Harbor ViewBlock Performance Guarantee

Dear Mr. Holt:

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Please let us know if we can be of any further assistance on this project.

Very truly yours,

DUFRESNE-HENRY, INC.

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

C:\Projects\8160054\Project T Harbor View Block\Holt\tr4.wpd

Corporate Headquarters:
North Springfield, Vermont
www.d-hinc.com

Area Offices:
Boston, Massachusetts
Greenfield, Massachusetts
Westford, Massachusetts

Portland, Maine
Manchester, New Hampshire
Montpelier, Vermont
South Burlington, Vermont

Port Charlotte, Florida
Naples, Florida
Sarasota, Florida

GA

Alan

Corporation Counsel
Gary C. Wood



CITY OF PORTLAND

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

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\LTRS\PERKINS9.WPD

From: Penny Littell
To: Donna Katsiaficas, Gary Wood, Lee Urban
Date: Tue, Apr 11, 2000 2:20 PM
Subject: Cianchette

Please see attached correspondence to Dave Perkins, attorney for Cianchette, in which I request documents etc. I have heard no response to this letter and suggest we finalize this matter before considering granting Cianchette \$ from the DPC.

In addition, in speaking with Planning, I understand there are a number of streets/sidewalks in the Old Port, adjacent to buidilngs currently under development, which could benefit from financial assistance from the City.

CC: ALEX JAEGERMAN

From: Aymie Hardesty
To: Alex Jaegerman , Donna Katsiaficas, Lee Urban, ...
Date: Wed, Apr 12, 2000 8:36 AM
Subject: Re: Fwd: Cianchette

This request has not even been reviewed by me. There are other City people involved that have indicated the Eric and Peggy that this grant may be available to them (and I think that Eric and Peggy feel it has been nearly pledged to them, but that's just the tone I get from discussions).

Any grant will be contingent upon receiving everything we need in other departments..... thanks for letting me know there are issues.

Also, just so everyone knows (because I had the same comments yesterday in my discussions with other departments), the Development Action Grant Funds are not for simple capital improvements. There are funds set aside by the City every year for those things. These funds are for projects that businesses are involved with as an enticement for economic development in the City (which is why they are situated in the Ecodevo budget). They are met to help defray costs for infrastructure improvements that are 1) required by the City and 2) part of an actual business development and improvement.

At any rate, if the two requests go through at this month's board meeting, there will only be about \$40,000 left in the pool.

Call me if anyone has any projects that might fit into this description and show public benefit. I would be happy to meet with potential applicants to give information.

>>> Donna Katsiaficas 04/11 2:23 PM >>>

Please see the attached Email. I would recommend having any grant contingent on receiving the items we have been trying to get for quite some time from Mr. Cianchette.

Department of Planning and Urban Development
 SUBDIVISION/SITE DEVELOPMENT

COST ESTIMATE OF IMPROVEMENTS TO BE COVERED BY PERFORMANCE GUARANTEE

Date: October 6, 1999 Rev. J

Name of Project: HarborView Block

Address/Location: 143 Commercial Street

Developer: Eric L. Cianchette, 42 Market Street, Portland, ME 04101 (207) 774-1000

Form of Performance Guarantee: Letter of Credit

Type of Development: Commercial Subdivision: n/a Site Plan (Major/Minor)

TO BE FILLED OUT BY APPLICANT:

Item	Quantity	PUBLIC		Quantity	PRIVATE	
		Unit Cost	Subtotal		Unit Cost	Subtotal
1. STREET/SIDEWALK						
Road	<u>160 sy</u>	<u>\$40.00 sy</u>	<u>\$ 6,400.00</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
Granite Curbing	<u>400 lf</u>	<u>\$25.00 lf</u>	<u>\$10,000.00</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
Sidewalks	<u>400 sy</u>	<u>\$50.00 sy</u>	<u>\$20,000.00</u>	<u>80 lf</u>	<u>\$50.00</u>	<u>\$4,000.00</u>
Esplanades	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
Monuments	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
Street Lighting	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
Other	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
2. SANITARY SEWER						
Manholes	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>1</u>	<u>\$2,000.00 ea</u>	<u>\$2,000.00</u>
Piping	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>100</u>	<u>\$30.00 lf</u>	<u>\$3,000.00R1</u>
Connections	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>1</u>	<u>\$500.00 ea</u>	<u></u>
Other	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
3. STORM DRAINAGE						
Manholes	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
Catchbasins	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
Piping	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>320</u>	<u>\$30.00 lf</u>	<u>\$9,600.00</u>
Detention Basin	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
Other	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>2 Connect.</u>	<u>\$500.00 ea</u>	<u>\$1,000.00</u>
4. SITE LIGHTING						
(This item to be included later after lights are designed by city)	<u>later</u>	<u>later</u>	<u>later</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
5. EROSION CONTROL						
	<u>1 ls</u>	<u>\$2,300.00/lis</u>	<u>\$2300.00</u>	<u>1 ls</u>	<u>\$1,700.00/lis</u>	<u>\$1,700.00</u>
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	8 Grates	\$1,000.00	\$8,000.00			
TOTAL:		\$63,700.00			\$22,800.00	
GRAND TOTAL:		\$86,500.00				

INSPECTION FEE (to be filled out by City)

	PUBLIC	PRIVATE	TOTAL
A: 1.7% of totals:	<u>1082.⁹⁰</u>	<u>387.⁶⁰</u>	<u>1469.⁰⁰</u>
or			
B: Alternative Assessment:	_____	_____	_____
Assessed by:	_____ (name)	_____ (name)	_____

CIANBRO CORPORATION

THE CONSTRUCTORS



October 6, 1999

Mr. Alan Holt, AIA
Urban Designer/Cultural Liaison
Planning & Urban Development
City of Portland, ME
389 Congress Street
Portland, ME 04101

RE: Harbor View Block Retail Bid - Performance Guarantee Rcv 1

Dear Alan:

Attached is a revised copy of the Department and Urban Development's completed Cost Estimate for Improvements to be covered by Performance Guarantee.

Per your fax today, the following is a response to the reviews done by Anthony Lombardo, P.E. (City of Portland) and Jeffrey Preble, P.E. (Dufresne-Henry, Inc.):

Anthony Lombardo, P.E. (City of Portland)

2. Sanitary Sewer - From the drawing provided by DeLUCA-HOFFMAN ASSOC. INC., the existing 6" sewer connection will be made just onto private property and the connection cost is noted.

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5. Erosion Control - The erosion control estimate for \$4,000.00 should be more than adequate however, we have separated public/private as follows:

Public:	460 lf of silt fence	@ \$5/ lf	=	\$2,300.00
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	Total			\$4,000.00

Jeffrey Preble, P.E.(Dufresne-Henry, Inc.)

1. Street/Sidewalk - We intend to remove, stage and re-use the existing granite curbing from each of the four streets and therefore believe that the \$25.00/lf figure is high.

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Other Misc. Items

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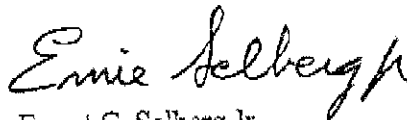
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Please call me at 773-5852 Ext 110 if you have any questions. We are hopeful to resolve this on Thursday October 7, 1999 so that we will be ready for a Monday October 11, 1999(City Holiday) start date.

Very truly yours,

CIANBRO CORPORATION



Ernest G. Selberg Jr.
Project Manager

C: Debbie Cooper/Corporate Job File, Deb Wilson, Eric Cianchette, Job File

PPC

Pioneer Private Capital

JUN 22 2000

SITE PLANS/SUBDIVISIONS
PERFORMANCE GUARANTEE:
LETTER OF CREDIT
[Account # _____]

October 15, 1999

Joseph E. Gray Jr., Director
Planning and Urban Development
City of Portland
389 Congress Street
Portland, Maine 04101

RE: Harborview, 350 Fore Street, Portland, Maine

Pioneer Capital Corporation hereby issues its Irrevocable Letter of Credit for the account of The Portland Regency, Inc., as developer, hereinafter referred to as the Developer, in the name of the City of Portland in the aggregate amount of \$86,500.

The City, through its Director of Planning and Urban Development, may draw on this Letter of Credit by presentation of a sight draft and the original Letter of Credit and all amendments thereto, at Pioneer's offices located at Four City Center, Portland, Maine stating that:

1. the Developer has failed to complete by October 7, 2001, or by the expiration date of any temporary certificate of occupancy issued, whichever date comes first, at the Developer's expense, the work on the roads and other public improvements as set forth in the Schedule of Costs of Public Improvements attached hereto as Exhibit A; or
2. the Developer has failed to post the ten percent (10%) Defect Bond or Guarantee required by the Portland City Code sections 14-501 and 14-525; or
3. the Developer has failed to notify the City for inspections.

In the event of Pioneer's dishonor of the City of Portland's sight draft, Pioneer shall inform the City of Portland in writing of the reason or reasons therefor within three (3) working days of the dishonor.

After all underground work in the public right of way has been completed and inspected to the satisfaction of the Department of Public Works, including but not limited to sanitary sewers, storm drains, catch basins, manholes, electrical conduits, and other required

Pioneer Private Capital

Specializing in short-term commercial real estate financing and funding for operating companies.

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improvements constructed chiefly below grade, the City of Portland Director of Planning and Urban Development or the City of Portland Director of Finance as provided in section 14-501 of the Portland City Code may authorize Pioneer Capital Corp., by written certification, to reduce the available amount of this Letter of Credit by a specified amount.

It is a condition of this Letter of Credit that it is deemed to be automatically extended without amendment for period(s) of one year each from the current expiration date hereof, or any future expiration date, unless at least sixty (60) days prior to any expiration date, Pioneer Capital Corp. notifies the Director of Planning and Urban Development by registered mail at the above-listed address that Pioneer Capital Corp. elects not to consider this Letter of Credit renewed for any such additional period.

In the event of such notice, the City may draw hereunder by presentation of a sight draft drawn on Pioneer Capital Corp., accompanied by the original Letter of Credit and all amendments thereto, and a statement purportedly signed by the Director of Planning and Urban Development reading as follows:

This drawing results from the Developer's failure to timely complete to the satisfaction of the City the public improvements set forth in a certain Schedule of Costs of Public Improvements dated 10/6/99; or

This drawing results from the Developer's failure to post a ten percent (10%) Defect Guarantee or Bond as provided in Section 14-501 of the Portland City Code; or

This drawing results from the Developer's failure to notify the City for inspections.

This Letter of Credit will automatically expire upon the earlier of:

1. Pioneer Capital Corp.'s receipt of a written notification of the City of Portland that said work as outlined in a certain Schedule of Costs of Public Improvements dated 10/6/99 between the Developer and the City of Portland has been completed in accordance with the City of Portland specifications and Pioneer Capital Corp.'s Letter of Credit No. _____ may be cancelled; or


2. The expiration date of October 7, 2001, or any automatically extended date as specified herein.

Partial drawings are permitted.

We engage with you that drafts drawn under and in compliance with the terms of this credit will be duly honored if presented at our offices at Four City Center, Portland, Maine, on or before October 7, 2001, or any automatically extended date as specified herein.

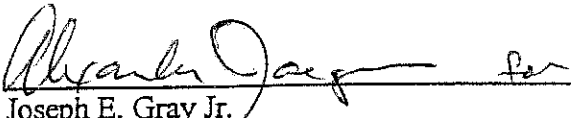
Very truly yours,

PIONEER CAPITAL CORPORATION

By: 
Print Name: Scott P. Lalumere
Its: President

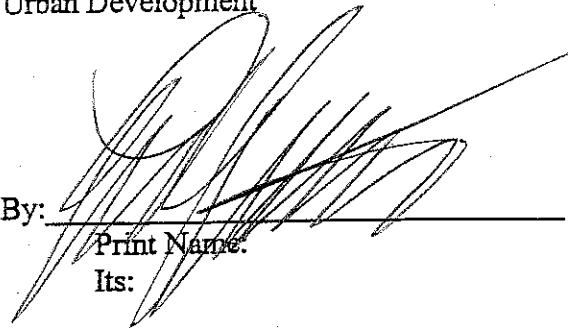
The City of Portland has accepted the providing of alternative security for the Developer's obligations to be performed pursuant to Section 14-501 and/or Section 14-525 of the Portland City Code.

DATED: 9/19, ²⁰⁰⁰~~1999~~


Joseph E. Gray Jr.
Its duly authorized Director of Planning and Urban Development

SEEN AND AGREED TO:
[COMPANY]

DATED: _____, 1999

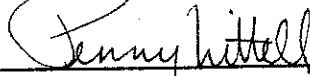
By: 
Print Name:
Its:

~~Reviewed pursuant to Section 14-501 and/or Section 14-525, Portland City Code~~

DATED: _____, 1999

By: _____
Print Name:
Director of Finance

DATED: 9-19-00, ~~1999~~

By: 
Print Name:
Corporation Counsel

Department of Planning and Urban Development
SUBDIVISION/SITE DEVELOPMENT

COST ESTIMATE OF IMPROVEMENTS TO BE COVERED BY PERFORMANCE GUARANTEE

Date: September 28, 1999

Name of Project: HarborView Block

Address/Location: 143 Commercial Street

Developer: Eric L. Cianchette, 42 Market Street, Portland, ME 04101 (207) 774-1000

Form of Performance Guarantee: Letter of Credit

Type of Development: Commercial Subdivision: n/a Site Plan (**Major**/Minor)

TO BE FILLED OUT BY APPLICANT:

Item	PUBLIC			PRIVATE		
	Quantity	Unit Cost	Subtotal	Quantity	Unit Cost	Subtotal
1. STREET/SIDEWALK						
Road	<u>160 sy</u>	<u>\$40.00 sy</u>	<u>\$ 6,400.00</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
Granite Curbing	<u>400 lf</u>	<u>\$25.00 lf</u> ✓	<u>\$10,000.00</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
Sidewalks	<u>400 sy</u>	<u>\$50.00 sy</u>	<u>\$20,000.00</u>	<u>80 lf</u>	<u>\$50.00</u>	<u>\$4,000.00</u>
Esplanades	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
Monuments	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
Street Lighting	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
Other	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
2. SANITARY SEWER						
Manholes	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>1</u>	<u>\$2,000.00 ea</u>	<u>\$2,000.00</u>
Piping	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>20</u> ↙	<u>\$30.00 lf</u>	<u>\$600.00</u>
Connections	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>1</u>	<u>\$500.00 ea</u>	
Other	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
3. STORM DRAINAGE						
Manholes	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
Catchbasins	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
Piping	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>320</u>	<u>\$30.00 lf</u>	<u>\$9,600.00</u>
Detention Basin	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
Other	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>2 Connect.</u>	<u>\$500.00 ea</u>	<u>\$1,000.00</u>
4. SITE LIGHTING						
(This item to be included later after lights are designed by city)	<u>later</u>	<u>later</u>	<u>later</u>	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>
5. EROSION CONTROL						
	<u>n/a</u>	<u>n/a</u>	<u>n/a</u>	<u>2 hay check</u>	<u>\$2,000.00 ea</u>	<u>\$4,000.00</u>
6. RECREATION AND OPEN SPACE AMENITIES						
	<u>4 TrashRec</u>	<u>\$750.00</u>	<u>\$3,000.00</u>	<u>1 Bike Rack</u>	<u>\$1,500.00</u>	<u>\$1,500.00</u>

