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May10, 2016

Barbara Barhydt  
Development Review Manager  
City of Portland  
389 Congress Street  
Portland, ME 04101

RE: Carroll Block - Zoning Map Amendment Application

Dear Barbara:

This letter accompanies the Zoning Map Amendment Application for the property of Carroll Block, LLC located at 136 Commercial Street / 9 Portland Pier (CBL 030-H-004-001 & 030-H-011-001), which we discussed at our March 14, 2016 pre-application meeting with you and other City Planning & Urban Development staff. We appreciate your assistance in moving forward with the Planning Board and City Council to seek approval of the Application.

The Carroll Block is a five-storey multi-tenant commercial building located at the northeasterly corner of the Waterfront Central Zone and the Non-Marine Use Overlay Zone, at the southwesterly intersection of Commercial Street and Portland Pier. The Business-3 Zone is located immediately across Commercial Street and immediately across Portland Pier, with the zoning district line in the center of each roadway. The owner proposes to shift the zoning line between the current WCZ / NMUOZ district and the adjacent B-3 Zone district, so that the Carroll Block parcel would be in the B-3 Zone.

Under current WCZ / NMUOZ zoning, use of the 4<sup>th</sup> and 5<sup>th</sup> floors of the Carroll Block for anything other than storage is effectively prohibited. The Carroll Block's five floors have been occupied by non-marine commercial retail and office uses for the last century or more. Occupancy of its 4<sup>th</sup> and 5<sup>th</sup> floors for commercial uses is thus lawfully nonconforming. The intent of the proposed Zoning Map change is to eliminate that non-conformity and treat the Carroll Block identically to the immediate neighboring structures in the B-3 Zone.

The Carroll Block appears to be the only building within the WCZ / NMUOZ district grandfathered regarding use of its 4<sup>th</sup> and 5<sup>th</sup> floors. We have been unable to determine why the Carroll Block was originally included in the WCZ / NMUOZ district. The nearest adjacent building is the Thomas Block at 100 Commercial Street, of similar height to the Carroll Block and separated only by the width of Portland Pier. But the Thomas Block is in the B-3 Zone and does not suffer any restrictions against the use of its uppermost floors.

In short, the inclusion of the Carroll Block in the WCZ / NMUOZ district was an historical anomaly. When Portland instituted its current waterfront zoning, the Carroll Block did not contain any of the marine-related uses that the WCZ / NMUOZ zoning was designed to protect. Nor was the Carroll Block a candidate for high-rise residential development incompatible with continued marine use of the waterfront, which WCZ / NMUOZ zoning was intended to prohibit. Rather, the WCZ / NMUOZ zoning was apparently intended to focus upon controlling the redevelopment of the many parking lots and generally smaller-scale buildings along the water side of Commercial Street to the southwest of the Carroll Block. Only recently has the import of this zoning anomaly become apparent to the owner.

Carroll Block, LLC has just obtained Historical Preservation Board approvals for adding dormers to the front and back of the building, and is making substantial capital improvements in accordance with those approvals. Moving the B-3 Zone line approximately 68 feet to the southwest to incorporate the Carroll Block will eliminate existing non-conformities and allow a broader range of permitted commercial uses, including office, retail and residential uses of the two upper floors. This would provide the opportunity for a greater return on the owner's investment and increase the property's value.

Enclosed with Application is a recent survey entitled "Standard Boundary Survey Plan with Zone Change" prepared for Carroll Block, LLC by BH2M. The plan shows the abutting properties and metes and bounds of the proposed shift in the B-3 Zone boundary. The proposed change of the Zoning Map will have no effect upon the zoning of any other property. The proposed change simply moves a portion of the southwesterly boundary of the current B-3 Zone to follow the property lines of Carroll Block, LLC's property. The harborside depth of the proposed extension of the B-3 Zone is actually less than the existing harborside depth of the B-3 Zone for the Thomas Block on the other side of Portland Pier.

The proposed change of the Zoning Map will have no adverse effect upon adjacent property owners in either the WCZ / NMUOZ or B-3 Zone. It will not affect the historic character of the neighborhood. The scale, height and footprint of the building will remain unchanged and subject to regulation by the Historic Preservation Board. Nor will the Zoning Map change have any adverse effect upon any maritime uses in the WCZ / NMUOZ district. It will not displace any marine uses. It will not allow for any uses incompatible with marine uses along the waterfront. Rather, to the extent the B-3 Zone does allow a broader range of permitted uses, including potential residential uses, the proposed change will provide the opportunity for additional compatible economic activity, including the potential for non-workday residential occupancy that is critical to the diversity of the waterfront economy.

Please let us know if there is any additional information that would be helpful to the prompt consideration of the Application. Carroll Block, LLC will coordinate its required neighborhood meeting with City staff. Our hope is that the zone change can be implemented within a few monthss, so that plans for the redevelopment of the upper floors of the Carroll Block can proceed apace.

Yours truly,



Richard N. Bryant

cc: Carroll Block, LLC



Jeff Levine, AICP, Director  
Planning & Urban Development Department

**Electronic Signature and Fee Payment Confirmation**

Notice: Your electronic signature is considered a legal signature per state law.

By digitally signing the attached document(s), you are signifying your understanding this is a legal document and your electronic signature is considered a **legal signature** per Maine state law. You are also signifying your intent on paying your fees by the opportunities below.

I, the undersigned, intend and acknowledge that no Site Plan or Historic Preservation Applications can be reviewed until payment of appropriate application fees are **paid in full** to the Inspections Office, City of Portland Maine by method noted below:

- Within 24-48 hours, once my complete application and corresponding paperwork has been electronically delivered, I intend to **call the Inspections Office** at 207-874-8703 and speak to an administrative representative and provide a credit/debit card over the phone.
- Within 24-48 hours, once my application and corresponding paperwork has been electronically delivered, I intend to **call the Inspections Office** at 207-874-8703 and speak to an administrative representative and provide a credit/debit card over the phone.
- I intend to deliver a payment method through the U.S. Postal Service mail once my application paperwork has been electronically delivered.

\_\_\_\_\_  
Applicant Signature:

5/10/16  
\_\_\_\_\_  
Date:

\_\_\_\_\_  
I have provided digital copies and sent them on:  
5/10/16

\_\_\_\_\_  
Date:

NOTE: All electronic paperwork must be delivered to [buildinginspections@portlandmaine.gov](mailto:buildinginspections@portlandmaine.gov) or by physical means i.e. a thumb drive or CD to the Inspections Office, City Hall, 3<sup>rd</sup> Floor, Room 315.



# Zoning Map/ Text Amendment/ Contract or Conditional Rezoning Application Portland, Maine

Planning and Urban Development Department  
Planning Division

Portland's Planning and Urban Development Department coordinates the review of requests for zoning map amendments, zoning text amendments and contract or conditional re-zoning. The Division also coordinates site plan, subdivision and other applications under the City's Land Use Code. Attached is the application form for a Zone Change.

Portland's development review process and requirements are outlined in the Land Use Code (Chapter 14) which is available on our website:

Land Use Code: <http://me-portland.civicplus.com/DocumentCenter/Home/View/1080>

Design Manual: <http://me-portland.civicplus.com/DocumentCenter/View/2355>

Technical Manual: <http://me-portland.civicplus.com/DocumentCenter/View/2356>

Planning Division  
Fourth Floor, City Hall  
389 Congress Street  
(207) 874-8719

Office Hours  
Monday thru Friday  
8:00 a.m. – 4:30 p.m.

PROJECT NAME Carroll Block Zoning Map Change

PROPOSED DEVELOPMENT ADDRESS

136 Commercial Street & 9 Portland Pier

PROJECT DESCRIPTION:

Amend Zoning Map to shift grandfathered 5-story commercial property in WCZ / NMOUZ  
into adjacent B-3 Zone to eliminate nonconformity of 4th & 5th floor uses.

030-H-004-001

CHART/BLOCK/LOT: 030-H-011-001

CONTACT INFORMATION:

Applicant – must be owner, Lessee or Buyer Name: Carroll Block, LLC Business Name, if applicable: Address: PO Box 7626 City/State: Portland, ME Zip Code: 04112	Applicant Contact Information Work# Home# Cell # 329-7281 Fax# e-mail: scott@scottalindsay.com
Owner – (if different from Applicant) Name: Address: City/State: Zip Code:	Owner Contact Information Work# Home# Cell # Fax# e-mail:
Agent/ Representative Name: Address: City/State: Zip Code:	Agent/ Representative Contact information Work# Cell # e-mail:
Billing Information Name: Carroll Block, LLC Address: PO Box 7626 City/State: Portland, ME Zip Code: 04112	Billing Information Work# Cell # 329-7281 Fax# e-mail: scott@scottalindsay.com

<b>Engineer</b> Name: Address: City/State:                      Zip Code:	<b>Engineer Contact Information</b> Work # Cell #                      Fax# e-mail:
<b>Surveyor</b> Name: Robert C. Libby, Jr. Address: BH2M, 28 State Street City/State: Gorham, ME      Zip Code: 04038	<b>Surveyor Contact Information</b> Work# 839-2771 Cell #                      Fax# 839-8250 e-mail: rlibby@bh2m.com
<b>Architect</b> Name: Address: City/State:                      Zip Code:	<b>Architect Contact Information</b> Work # Cell #                      Fax# e-mail:
<b>Attorney</b> Name: Richard N. Bryant Address: Van Meer & Belanger, 215 Commercial St. City/State: Portland, ME      Zip Code: 04101	<b>Attorney Contact Information</b> Work# 871-7505 Cell # 233-6734      Fax# 871-7505 e-mail: rbryant@vblawfirm.com

Right, Title, or Interest: Please identify the status of the applicant's right, title, or interest in the subject property:

Carroll Block, LLC is the fee owner of the property per attached deed at CCRD Book 26441,

Page 123.

Provide documentary evidence, attached to this application, of applicant's right, title, or interest in the subject property.  
(For example, a deed, option or contract to purchase or lease the subject property.)

Vicinity Map: Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use.  
(Applicant may utilize the City Zoning Map or Parcel Map as a source.)

Existing Use: Describe the existing use of the subject property:

Multi-tenant commercial retail and office uses on five floors, lawfully nonconforming as to  
fourth and fifth floor occupancy.

Current Zoning Designation(s): Waterfront Central Zone / Non-Marine Use Overlay Zone

Proposed Use of Property: Please describe the proposed use of the subject property. If construction or development is proposed, please describe any changes to the physical condition of the property.

See attached correspondence.

Site Plan: On a separate sheet, please provide a site plan of the property showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1" = 10' to 1' = 50'.) Contract and conditional rezoning applications may require additional site plans and written material that address physical development and operation of the property to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood.

**APPLICATION FEES**

Check all reviews that apply. (Payment may be made by Credit Card, Cash or Check payable to the City of Portland.)

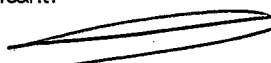
<p>Zoning Map Amendment <input checked="" type="checkbox"/> \$2,000.00 (from <u>WCZ</u> zone to <u>B-3</u> zone)</p> <p>Zoning Text Amendment ___ \$2,000.00 (to Section 14-___)</p> <p>Combination Zoning Text Amendment and Zoning Map Amendment ___ \$3,000.00</p> <p>Conditional or Contract Zone ___ \$3,000.00 (A conditional or contract rezoning map be requested by an applicant in cases where limitations, conditions, or special assurances related to the physical development and operation of the property are needed to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood. Please refer to Division 1.5, Sections 14-60 to 62.)</p>	<p>The City invoices separately for the following:</p> <ul style="list-style-type: none"><li>• Notices (\$.75 each)</li><li>• Legal Ad (% of total Ad)</li><li>• Planning Review (\$40.00 hour)</li><li>• Legal Review (\$75.00 hour)</li><li>•</li></ul> <p>Third party review fees are assessed separately. Any outside reviews or analysis requested from the Applicant as part of the development review, are the responsibility of the Applicant and are separate from any application or invoice fees.</p>
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**APPLICATION SUBMISSION:**

1. All site plans and written application materials must be submitted electronically on a CD or thumb drive with each plan and each document submitted as separate files. Naming conventions for the individual files can be found on the Electronic Plan and Document Submittal page of the City's website at <http://me-portland.civicplus.com/764/Electronic-Plan-and-Document-Submittal>
  
2. The submission shall include the following materials:
  - a. One (1) paper set of the zoning amendment application, concept plan and written narrative.
  - b. Contract and conditional rezoning applications must include site plans and written material that address physical development and operation of the property to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations and compatible with the surrounding neighborhood.

**APPLICANT SIGNATURE**

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

Signature of Applicant:  Scott A. Lindsay, Manager	Date: 5/10/16
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