

31-L-38

1999-0156

230 Commercial St.

Building Addition

Proprietors of Union Wharf

added to Spreadsheet

**CITY OF PORTLAND, MAINE
DEVELOPMENT REVIEW APPLICATION
PLANNING DEPARTMENT PROCESSING FORM**

19990156

I. D. Number

Proprietors of Union Wharf

Applicant

36 Union Wharf Box 7467, Portland, ME 04112

Applicant's Mailing Address

Charles Poole

Consultant/Agent

772-8160 772-8471

Applicant or Agent Daytime Telephone, Fax

10/29/99

Application Date

Addition

Project Name/Description

230 Commercial St, Portland Maine 04101

Address of Proposed Site

031-L-038

Assessor's Reference: Chart-Block-Lot

Proposed Development (check all that apply):

Office Retail Manufacturing Warehouse/Distribution Parking Lot New Building Building Addition Change Of Use Residential Other (specify) **Comm. St. End**

1162 sf 4+ 1162 sf
Proposed Building square Feet or # of Units Acreage of Site Zoning

WC

Check Review Required:

Site Plan (major/minor) Subdivision # of lots PAD Review 14-403 Streets Review

Flood Hazard Shoreland Historic Preservation DEP Local Certification

Zoning Conditional Use (ZBA/PB) Zoning Variance Other

Fees Paid: Site Plan \$400.00 Subdivision Engineer Review Date: 10/29/99

Planning Approval Status:

Approved Approved w/Conditions See Attached Denied

Approval Date Approval Expiration Extension to Additional Sheets Attached

OK to Issue Building Permit signature date

Performance Guarantee Required* Not Required

* No building permit may be issued until a performance guarantee has been submitted as indicated below

<input type="checkbox"/> Performance Guarantee Accepted	_____	_____	_____
	date	amount	expiration date
<input type="checkbox"/> Inspection Fee Paid	_____	_____	
	date	amount	
<input type="checkbox"/> Building Permit Issued	_____		
	date		
<input type="checkbox"/> Performance Guarantee Reduced	_____	_____	_____
	date	remaining balance	signature
<input type="checkbox"/> Temporary Certificate of Occupancy	_____	<input type="checkbox"/> Conditions (See Attached)	
	date		
<input type="checkbox"/> Final Inspection	_____	_____	
	date	signature	
<input type="checkbox"/> Certificate Of Occupancy	_____		
	date		
<input type="checkbox"/> Performance Guarantee Released	_____	_____	
	date	signature	
<input type="checkbox"/> Defect Guarantee Submitted	_____	_____	_____
	submitted date	amount	expiration date

PROPRIETORS OF UNION WHARF

36 UNION WHARF — P.O. BOX 7467 DTS

PORTLAND, MAINE 04112

September 1, 2000

To: Bill Needleman

From: Charlie Poole

Re: Sapporo's addition @ 230 Commercial St.

Bill:

I am leaving off the revised site plan for the Sapporo addition. The size has remained the same and more detail has been shown on the site, especially on the Commercial St. side. Please call if you have any questions

The public hearing is 9/12/00. Does it start at 7:00PM?

Thanks.


Charlie Poole
Proprietors of Union Wharf

**City of Portland
Planning Department
Memorandum**

To: Joe Gray, City Manager
Date: June 25, 2001
From: William B. Needelman, Senior Planner
Re: Saporro Site Plan

Background:

On August 7, 2000, the City Council passed a zoning text change to allow expansions of permitted non-marine uses in buildings within 35 feet of Commercial Street. Under current zoning, buildings that existed prior to Jan. 1993 and that are located close to Commercial Street may house certain non-marine uses. The new language allows limited expansion of these uses. The text change came at the request of Charles Poole and the Proprietors of Union Wharf to allow a building addition to the Saporro Restaurant.

The new zoning language allows up to 2000 square feet of expanded non-marine use on the ground floor. If an expansion is to extend beyond the 35-foot line, only 1250 square feet may be more than 35 feet from Commercial Street.

Site Plan Review:

On September 9, 2000, the Planning Board approved the Saporro addition. The new building space occupies land behind the previously existing outside seating area adjacent to Commercial Street. The addition is 1162 square feet and straddles the 35-foot line. Since the text change allows 1250 feet of new use behind the 35-foot line, the addition is compliant with the dimensional requirements of the August 2000 zoning amendment.

Urban Design Guidelines:

One aspect of the Saporro expansion that may be subject to interpretation is adherence to the Urban Design Guidelines. Within the Performance Standards of the WCZ zone language, there is a requirement that new structures located within 35 feet of Commercial Street shall conform to the Downtown Urban Design Guidelines. A strict reading of the Guidelines would suggest that the building addition be constructed at the Commercial Street sidewalk as a means to strengthen the street wall.

When reviewing the site plan for conformance with the Land Use Code, Planning Staff encouraged the applicant to move the addition closer to the street, but the applicant did not want to lose the outside seating. While there are specific provisions for exempting a project from the build-to line, adherence to the Urban Design Guidelines was not specifically addressed during the Planning Board review of this project. (This issue came to light in a subsequent project, in which the reference to the Downtown Urban Design

Guidelines performance standard was uncovered in the course of review. As part of approval for this other Commercial Street project, the Planning Board approved a build-to line exemption along Commercial Street)

Inspection:

On June 22, 2001, Planning staff and the DRC inspected the addition for location and completion according to the approved site plan. The inspection revealed that the addition was sized and located as approved; however, there were elements of the landscaping plan that have not been installed. Planning staff will contact Mr. Poole and inform him of the need to complete the landscaping.

PLANNING BOARD REPORT #46-00

**SAPPORO RESTAURANT ADDITION
230 COMMERCIAL STREET, UNION WHARF
SITE PLAN AND CONDITIONAL USE APPEAL, WATERFRONT CENTRAL ZONE
PROPRIETORS OF UNION WHARF, APPLICANT**

Submitted to:

Portland Planning Board
Portland, Maine
September 12, 2000

I. INTRODUCTION

The Proprietors of Union Wharf have applied for conditional use appeal to expand the Sapporo Restaurant under Section 14-315(3). The property is zoned Waterfront Central.

As the Board will remember, the applicant has recently applied and received approval for a WCZ text change to allow this addition. As passed, the text change allows expansions of non-marine uses existing in buildings within 35 feet of Commercial Street as a conditional use. The use expansion may occupy a ground floor footprint of no more than 2000 Square Feet and will be reviewed under both conditional use and site plan codes.

No workshop was held for this project in light of the degree of scrutiny and Board involvement concerning the recent text change. The Planning Board made its recommendation on June 13, 2000, the City Council approved the text change with amendments on August 8, 2000, and the revised language went into effect on September 7, 2000.

II. FINDINGS

Zoning:	WCZ
Land Area:	+/- 5 acres for Union Wharf
Building Addition	1162 sq ft
Outside Seating Area	616 sq ft
Use expansion	1778 sq ft
Number of Parking Spaces:	170+ on union Wharf
Notice	426 area property owners were noticed

III. STAFF REVIEW

The proposal has been reviewed for compliance with the WCZ Zone, and Conditional Use Standards of the Land Use Code. The plan has been reviewed by the Inspections, Traffic, Fire, Public Works, and Planning Department.

IV. CONDITIONAL USE REVIEW

1. WCZ: 14-315

The following general standards apply for conditional uses in the WCZ

- a. *The proposed use shall be compatible with existing and potential marine uses in the vicinity.*

The proposed expansion will not interfere with existing or potential marine uses.

- b. *Access to the water*
The proposed use will not limit access to the water.
- c. *Conditional uses requiring 20 or more parking spaces.*

N/A

The proposal is also reviewed under 14-315(1) *Parking*, and 14-315(3), *Expansion of a non-water dependent, non-marine related use permitted under 14-314(5), Commercial uses in building existing on January 4, 1993 and located within 35 feet of the southerly edge of Commercial Street between Maine Wharf and the city fish pier.*

- a. **Parking**

Parking on the wharf presents a potential area of concern associated with any non-marine use on a pier. Union Wharf is notable in that the amount of parking existing on-site far exceeds the needs required by zoning formula. At over 5 acres, the pier is large and the existing parking inventory is over 170 spaces, not including an additional 52 spaces which are under the same ownership and adjacent to the subject property, but are currently fenced off. No existing parking will be displaced by the expansion, as the area is currently used by seasonal outside seating. By zoning formula, the expansion, including the outside seating area will require 6 spaces. The applicant has indicated that, while most of the parking spaces on site have daytime leases, the Sapporo customers have traditionally used the large parking area behind the subject building or parked on the street. Much of the lunch traffic is pedestrian.

The Board will need to find whether the parking for the expansion of non-marine use unduly displaces parking for existing or potential marine uses.

- b. **Expansion of a non-water dependent, non-marine related use permitted under 14-314(5)**

This provision of the conditional use section of the WCZ text was written to allow this specific project during the recent text change process. The expansion must be less than 2000 sq ft and meet the following provision:

- i. **The use may occupy the ground floor of newly created and contiguous building space of buildings located within 35 feet of**

the southerly sideline of Commercial Street; and/or

- ii. The use may occupy a ground floor area of no more than 1250 sq ft beyond 35 feet from the southerly sideline of Commercial Street;
- iii. The qualifying building must be greater than 500 sq ft as of the date of enactment; and,
- iv. The expansion of use shall be reviewed by the Planning Board under the Site Plan standards.

The area and location of the expansion comply with the dimensional requirements for expansions and the Sapporo building is over 500 sq ft. Please see the site plan review below.

2. The following standards apply for all conditional uses: Section 14-474(2)

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

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

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

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

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

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

V. SITE PLAN REVIEW

Due to its small size and location in a totally developed sited, this project will result in no changes to the traffic circulation, drainage patterns, or public or private utility infrastructure which currently exists on site.

1/2. Traffic

Access to the site will be from an existing curb cut on Commercial Street which serves the wharf and is located beside the existing market building. There is an abandoned curb cut directly in front of the proposed addition which currently serves no purpose. Staff encourages the applicant to provide a landscape or decorative fence buffer to discourage parking from in front of the addition. A suggested condition of approval is included in the motions. If the applicant wishes to use the area for parking, staff suggests bringing the building to the street, and parking in the rear.

Brick sidewalks exist along Commercial Street.

3/4. Building Impact

The proposed addition will not unduly impact adjacent structures or interfere with protected view corridors

5. Utility Capacity

The addition requires no additional utility connections and will result in only a modest increase in use over the current summer use, as there is already outside seating in the area of the addition footprint.

6. Landscaping

The site plan shows shrub planting around the addition and the seating area. As stated above, staff recommends additional plantings and/or a fence feature to define the seating area and to discourage parking in front of the building.

7. Drainage

No additional impervious surface will be added as result of this development and no drainage problems are apparent.

8. Lighting

No exterior lighting is proposed as part of this expansion. If the applicant wishes to install exterior lights, a lighting plan would be an amendment to this site plan.

9. Fire

City Fire Safety has approved this proposal.

10. Off Premises Infrastructure

The proposal is consistent with off premises infrastructure

11. Environmental Impact

None anticipated

12. Signs

No additional signage is shown or proposed

VI. MOTIONS FOR THE BOARD TO CONSIDER

On the basis of plans and materials submitted by the applicant and on the basis of information provided in Planning Board Report #46-00 relevant to standards for conditional use and site plan review, the Board finds:

- i. That the plan is not in conformance with the Conditional Use Standards for Waterfront Central Zone and Section 14-474 of the Land Use Code; and,

5-0 Hager / Krieder above

- ii. That the building additions meets the Site Plan Standards of the City Land Use Code;

Subject to the following Condition(s) of approval:

- a. That the applicant submit for planning staff review and approval a revised landscape plan showing a landscape buffer and/or fence feature which will define the exterior seating area and discourage parking in front of the addition

5-0 Hager / Krieder above

Attachments:

1. Applicant's Written Statement
2. Financial capacity letter
3. Subject Deed
4. Photo of subject building
5. Amended WCZ text
6. Union Wharf Survey with parking layout
7. Site Plan
8. Elevation drawings

AH 1.1

PROPRIETORS OF UNION WHARF

36 UNION WHARF — P.O. BOX 7467 DTS
PORTLAND, MAINE 04112

October 27, 1999

City of Portland Planning Dept.
389 Congress St.
Portland, Maine 04101

Re: Addition for 230 Commercial St., Portland, Maine

Dear Portland Planning Dept.:

The Proprietors of Union Wharf, 36 Union Wharf, are the sole owners of Union Wharf. 230 Commercial St. and the proposed \$100,000 addition will be on Union Wharf and abutted by property owned by The Proprietors of Union Wharf. There is a City of Portland sidewalk that abutts 230 Commercial St. on the Commercial St. side. The Proprietors of Union Wharf also owns the parcel of land and parking lot directly to the east and adjacent to 230 Commercial St.. Please see the attached site plan for Union Wharf.

As per the site plan application:

1. 230 Commercial St. is currently occupied by Sapporos Japanese Restaurant and the 1,162 sq. ft. addition will also be occupied by Sapporos.
2. Union Wharf is 5+ acres in area, the total ground covered by this addition is 27'11" x 41'10" or 1,162 sq. ft..
3. none
4. no additional
5. Existing building has all sewer, water and power connections made. There will be no new tie ins to utilities.
6. The existing surface water runs to catch basins.
7. Construction Plan: permitting, dig for the foundation, form & pour foundation, put up addition and finish off.
8. City of Portland building permit.
9. The Proprietors of Union Wharf has the financial capacity and will fund this project from

within the company.

10. Please see attached deed to Union Wharf dated 1793.

11. NA

Information on parking:

There is ample parking on Union Wharf to satisfy Sapporo's parking needs. In the evenings and on weekends the entire area behind the restaurant is available for customer parking. There are also a number of public parking lots with minutes of Union Wharf .

Project contact:

Mr. Charles A. Poole
Proprietors of Union Wharf
PO Box 7467
36 Union Wharf
Portland, Maine 04112

tel #, - 772-3796 fax #, 772-8471

Please call if you need further information.

Sincerely,



Charles A. Poole
Vice President

Private Client Group

PaineWebber Incorporated
One City Center, 7th Floor
P.O. Box 7350
Portland, ME 04112
207 774-1008
800 283-1008

Att 2

PaineWebber

October 29, 1999

City of Portland
Planning Department
389 Congress Street
Portland, ME 04101

Gentlemen,

PaineWebber maintains a brokerage account for the Proprietors of Union Wharf. The assets held in this account are more than sufficient to cover the anticipated costs to be incurred by the Proprietors.

Sincerely,



Henry L. Donovan
Senior Vice President

HLD/ld

QUITCLAIM DEED WITHOUT COVENANT
(Maine Statutory Short Form)

AH-14
3.1

00106

MAINE REAL ESTATE TAX PAID

KNOW ALL MEN BY THESE PRESENTS, that HARRIS REALTY ASSOCIATES, a Maine limited partnership having its place of business and mailing address at 385 Main Street, P.O. Box 2650, South Portland, Maine 04106 ("Grantor"), for consideration paid, RELEASES to PROPRIETORS OF UNION WHARF, a Maine corporation having its place of business and mailing address at 36 Union Wharf, P.O. Box 7467, DTS, Portland, Maine 04112 ("Grantee"), the real estate, with any buildings and improvements thereon, situated on the southerly side of Commercial Street in the City of Portland, County of Cumberland and State of Maine more particularly described in Schedule A attached hereto and made a part hereof.

IN WITNESS WHEREOF, HARRIS REALTY ASSOCIATES has caused this instrument to be executed by all of its General Partners, thereunto duly authorized, this 28th day of December, '1993.

WITNESS:

HARRIS REALTY ASSOCIATES

Vicki R. Todd

By: Mortier D. Harris, Jr.
Mortier D. Harris, Jr.
General Partner

Vicki R. Todd

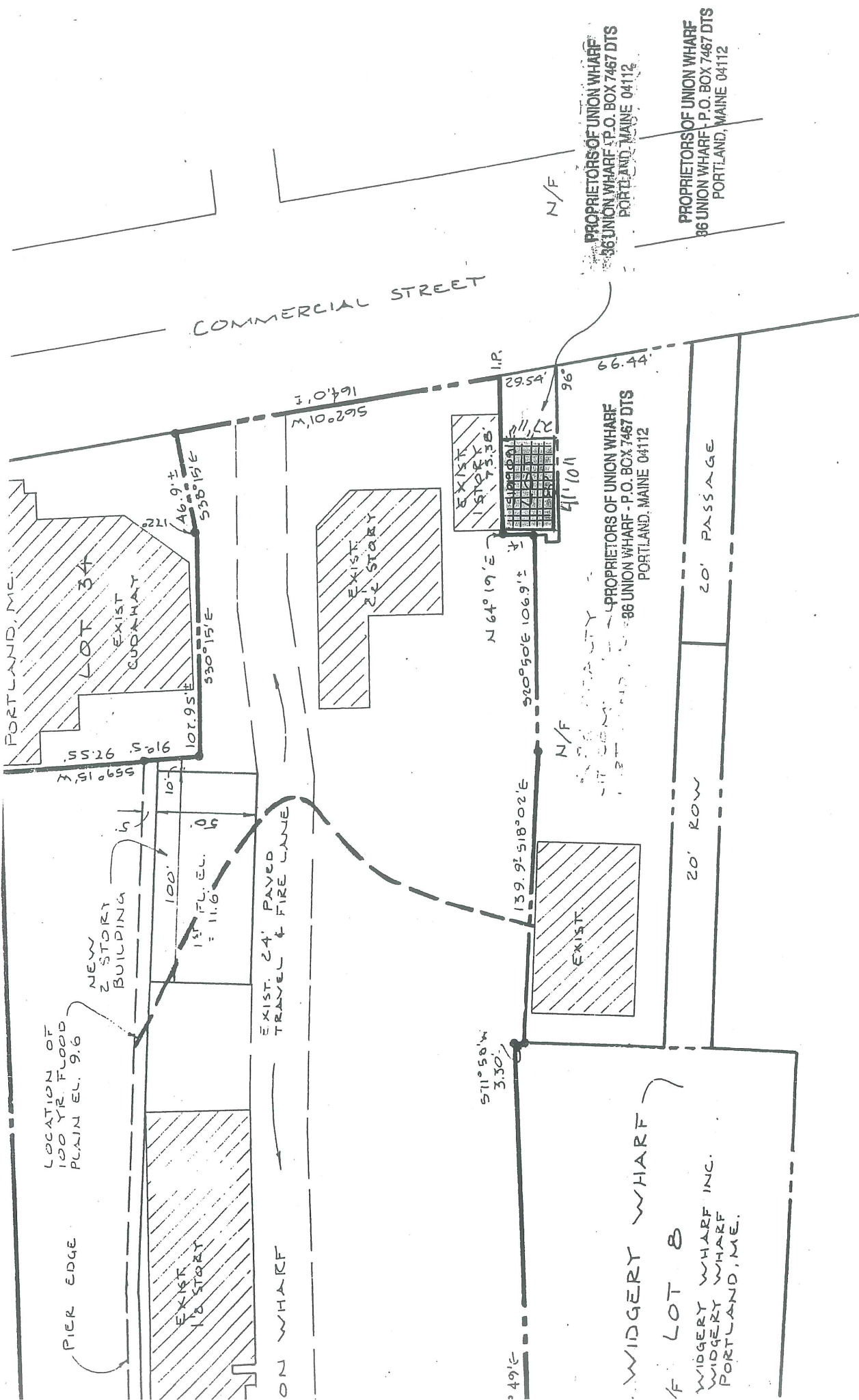
By: Ronnell F. Harris
Ronnell F. Harris
General Partner

Vicki R. Todd

By: Austin F. Harris
Austin F. Harris
General Partner

#4
Parcel next to
230 Commercial St.
SAPPORO REST.

Att 16
3.2



PROPRIETORS OF UNION WHARF
 86 UNION WHARF P.O. BOX 7467 DTS
 PORTLAND MAINE 04112

PROPRIETORS OF UNION WHARF
 86 UNION WHARF P.O. BOX 7467 DTS
 PORTLAND, MAINE 04112

WIDGERT WHARF
 LOT 8
 WIDGERT WHARF INC.
 WIDGERT WHARF
 PORTLAND, ME.

Att 4



A# 5.1

AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14, section 315 (Conditional Uses in Waterfront Central Zone)

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, MAINE
IN CITY COUNCIL ASSEMBLED AS FOLLOWS:

1. That Chapter 14 Article III, section 315 (Conditional Uses) be amended
as follows:

Sec. 14-315. Conditional uses.

The following uses shall be permitted as conditional uses in the waterfront central zone, provided that, notwithstanding section 14-471(3), section 14-474(a), or any other provision of this Code, the planning board shall be substituted for the board of appeals as the reviewing authority, and further provided that in addition to the provisions of section 14-474(c)(2), section 14-313.5, and any other conditions specified under the particular use below, they shall also meet the following conditions:

- a. The proposed use shall be compatible with existing and potential marine uses in the vicinity;
- b. The proposed use shall not impede access to the water by existing or potential marine uses; and
- c. For conditional uses that propose or require twenty (20) or more parking spaces, the proposed conditional use, when considered in conjunction with past, present and reasonably foreseeable future development, specifically including but not limited to development and uses occurring in this district in structures within thirty-five (35) feet of the southerly edge of Commercial Street, shall meet the standards of section 14-526(a)(1). For purposes of application of this standard only, in evaluating congestion, any private

o:\office\amend\wczcorrect
as passed by City Council
on 8/07/2000

AMENDED SUBSTITUTE ORDER 42
8/07/2000

way or access road serving as the primary means of land access to a pier or wharf shall be deemed to be included within the term "street" at the intersection of such private way or access road with Commercial Street.

(1) *Parking:* Notwithstanding sections 14-317(8), 14-331, 14-334 and article V of this chapter, no parking shall be allowed in this zone for conditional uses and uses permitted only above the ground floor level, unless the applicant can demonstrate that the number of parking spaces on-site exceeds the number of parking spaces required for marine uses that are required by section 14-314(1). The remainder of parking required for such uses shall be provided off-site and in other zones where parking is a permitted use.

(2) *Marine:*

a. Noncommercial vessel berthing of fifty (50) linear feet or greater per pier along the edges of piers existing on January 4, 1993, provided that:

1. Such use does not decrease the amount of, nor diminish the quality of, existing on-site berthing space, as measured along the pier, float or wharf edge, which could be used for commercial vessels in its current condition. In assessing the impact on quality of berthing space, the planning board shall consider the following: cost, access, maneuverability, depth for various-sized vessels, loading/unloading areas, lease terms, availability of utilities, parking and safety.

b. Fish by-products processing, provided that:

AA 5.3

AMENDED SUBSTITUTE ORDER 42
8/07/2000

1. Any fish by-products processing facility has a valid rendering facility license under chapter 12; and

2. The processing of other material wastes or by-products shall not be deemed a lawful accessory use under any other provision of this article.

c. Boat rack storage facilities, provided that:

1. Parking shall be provided for one hundred (100) percent of the demand generated by the use, and such parking shall be provided off-site, in another zone permitting such use.

(3) ~~(3)~~ Expansion of a non-water dependent, non-marine related use permitted under 14-314(5) (Commercial uses in buildings existing on January 4, 1993 and located within thirty-five feet of the southerly edge of Commercial Street between Maine Wharf and the city fish pier.) into contiguous and newly created building space of no more than 2000 sq. ft., total, shall be allowed only as follows:

(a) the use may occupy ~~an unlimited~~ ground floor area provided the contiguous and newly created building space in which the non-water dependent, non-marine related use is located within 35 feet of the southerly sideline of Commercial Street; and / or

AH 5.9

AMENDED SUBSTITUTE ORDER 42
8/07/2000

(b) the use may occupy a ground floor area of no more than 1250 square feet beyond 35 feet from the southerly sideline of Commercial Street; and

(c) as of [date of enactment], an existing building that qualifies for a non-water dependent, non-marine related use under 14-314 shall be no less than 500 square feet; and

(d) The expansion of the use shall be reviewed by the Planning Board under the Site Plan standards and shall otherwise meet the requirements of the Waterfront Central Zone and this Code.

AMENDED SUBSTITUTE ORDER 42
8/07/2000

AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14, section 315 (Conditional Uses in Waterfront Central Zone)

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:

1. That Chapter 14 Article III, section 315 (Conditional Uses) be amended as follows:

Sec. 14-315. Conditional uses.

The following uses shall be permitted as conditional uses in the waterfront central zone, provided that, notwithstanding section 14-471(3), section 14-474(a), or any other provision of this Code, the planning board shall be substituted for the board of appeals as the reviewing authority, and further provided that in addition to the provisions of section 14-474(c)(2), section 14-313.5, and any other conditions specified under the particular use below, they shall also meet the following conditions:

- a. The proposed use shall be compatible with existing and potential marine uses in the vicinity;
 - b. The proposed use shall not impede access to the water by existing or potential marine uses; and
 - c. For conditional uses that propose or require twenty (20) or more parking spaces, the proposed conditional use, when considered in conjunction with past, present and reasonably foreseeable future development, specifically including but not limited to development and uses occurring in this district in structures within thirty-five (35) feet of the southerly edge of Commercial Street, shall meet the standards of section 14-526(a)(1). For purposes of application of this standard only, in evaluating congestion, any private way or access road serving as the primary means of land access to a pier or wharf shall be deemed to be included within the term "street" at the intersection of such private way or access road with Commercial Street.
- (1) *Parking:* Notwithstanding sections 14-317(8), 14-331, 14-334 and article V of this chapter, no parking shall be allowed in this zone for conditional uses and uses

AMENDED SUBSTITUTE ORDER 42
8/07/2000

permitted only above the ground floor level, unless the applicant can demonstrate that the number of parking spaces on-site exceeds the number of parking spaces required for marine uses that are required by section 14-314(1). The remainder of parking required for such uses shall be provided off-site and in other zones where parking is a permitted use.

(2) *Marine:*

- a. Noncommercial vessel berthing of fifty (50) linear feet or greater per pier along the edges of piers existing on January 4, 1993, provided that:
 1. Such use does not decrease the amount of, nor diminish the quality of, existing on-site berthing space, as measured along the pier, float or wharf edge, which could be used for commercial vessels in its current condition. In assessing the impact on quality of berthing space, the planning board shall consider the following: cost, access, maneuverability, depth for various-sized vessels, loading/unloading areas, lease terms, availability of utilities, parking and safety.
- b. Fish by-products processing, provided that:
 1. Any fish by-products processing facility has a valid rendering facility license under chapter 12; and
 2. The processing of other material wastes or by-products shall not be deemed a lawful accessory use under any other provision of this article.
- c. Boat rack storage facilities, provided that:
 1. Parking shall be provided for one hundred (100) percent of the demand generated by the use, and such parking shall be provided off-site, in another zone permitting such use.

- (3) Expansion of a non-water dependent, non-marine related use permitted under 14-314(5) (Commercial uses in buildings existing on January 4, 1993 and located within thirty-five feet of the southerly edge of

AMENDED SUBSTITUTE ORDER 42**8/07/2000**

Commercial Street between Maine Wharf and the city fish pier.) into contiguous and newly created building space of no more than 2000 sq. ft., total, shall be allowed only as follows:

(a) the use may occupy ground floor area provided the within 35 feet of the southerly sideline of Commercial Street; and / or contiguous and newly created building space in which the non-water dependent, non-marine related use is located is situated

(b) the use may occupy a ground floor area of no more than 1250 square feet beyond 35 feet from the southerly sideline of Commercial Street; and

(c) as of August 7, 2000, an existing building that qualifies for a non-water dependent, non-marine related use under 14-314 shall be no less than 500 square feet; and

(d) The expansion of the use shall be reviewed by the Planning Board under the Site Plan standards and shall otherwise meet the requirements of the Waterfront Central Zone and this Code.

8411

THIS CHECK IS DELIVERED FOR PAYMENT ON THE FOLLOWING ACCOUNTS

DATE	AMOUNT
<i>Inspection</i>	
<i>fee for</i>	
<i>AD 30 Comm</i>	
TOTAL OF INVOICES	
LESS % DISCOUNT	
LESS	
TOTAL DEDUCTIONS	
AMOUNT OF CHECK	



PROPRIETORS OF UNION WHARF
36 UNION WHARF
P.O. BOX 7467 DTS
PORTLAND, ME 04112

DATE *9/21/00*

52-60
112

PAY TO THE ORDER OF

City of Portland
Three hundred & 00/100

\$ *300.00*

DOLLARS Security features included. Details on back.



Key Bank of Maine
Augusta, Maine 04330 01

Charles A. Pook

⑈008411⑈ + ⑈011200608⑈ 002⑈0392 2⑈

PROPRIETORS OF UNION WHARF

36 UNION WHARF — P.O. BOX 7467 DTS

PORTLAND, MAINE 04112

September 21, 2000

Mr. Bill Needleman
Planning Dept. City of Portland
389 Congress St.
Portland, Maine 04101

Dear Bill:

Attached are the following which should be the last phase of the 230 Commercial St. (Sapporo) addition project:

1. Check to the City of Portland for \$300.00 for inspection fee,
2. 7 revised copies of the 230 Commercial St. site plan which show the curb cut with large planters which will block any vehicle access to the front of the addition.

I have called Marge and left a message to be sure that this application for building permit has not been lost. I also asked her to call you if she had any questions.

Please call me if you need me and thank you for your assistance from the start to the finish of this project.

Sincerely,



Charles A. Poole
Vice President

CITY OF PORTLAND, MAINE

PLANNING BOARD

Jaimey Caron, Chair
Deborah Krichels, Vice Chair
Kenneth M. Cole III
Cyrus Y. Hagge
Erin Rodriguez
Mark Malone
Orlando E. Delogu

September 13, 2000

Proprietors of Union Wharf
Charles Poole, Wharfinger
41A Union Wharf
P.O. Box 7467 DTS
Portland, ME 04112

re: 230 Commercial Street, Sapporo Restaurant expansion.

Dear Mr. Poole:

On September 12, 2000 the Portland Planning Authority voted 5 to 0 (Krichels and Hagge absent) to approve the site plan application for an expansion of the Sapporo Restaurant facility at 230 Commercial Street.

The proposed site plan was found to be in conformance with the Conditional Use section of the Waterfront Central Zone and the Site Plan Ordinance of the Land Use Code and approval is subject to the following conditions:

1. That the applicant submit for planning staff review and approval a revised landscape plan showing a landscape buffer and/or fence feature which will define the exterior seating area and discourage parking in front of the addition.

The approval is based on the submitted plan and the findings related to site plan review standards as contained in Planning Board # 46-00, which is attached. Please note the following provisions and requirements for all site plan approvals:

1. A performance guarantee will be required for this project covering the costs of all site work and off-site improvements. Additionally, an inspection fee of 1.7% of the performance guarantee will be required.
2. The site plan approval will be deemed to have expired unless work in the development has commenced within one (1) year of the approval or within a time period agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the expiration date.
3. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.

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

The Development Review Coordinator (who is located at DeLuca Hoffman at 775-1121) must be notified five (5) working days prior to date required for final site inspection. Please make allowances for completion of site plan requirements determined to be incomplete or defective during the inspection. This is essential as all site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If there are any questions regarding the Board's actions, please contact the planning staff.

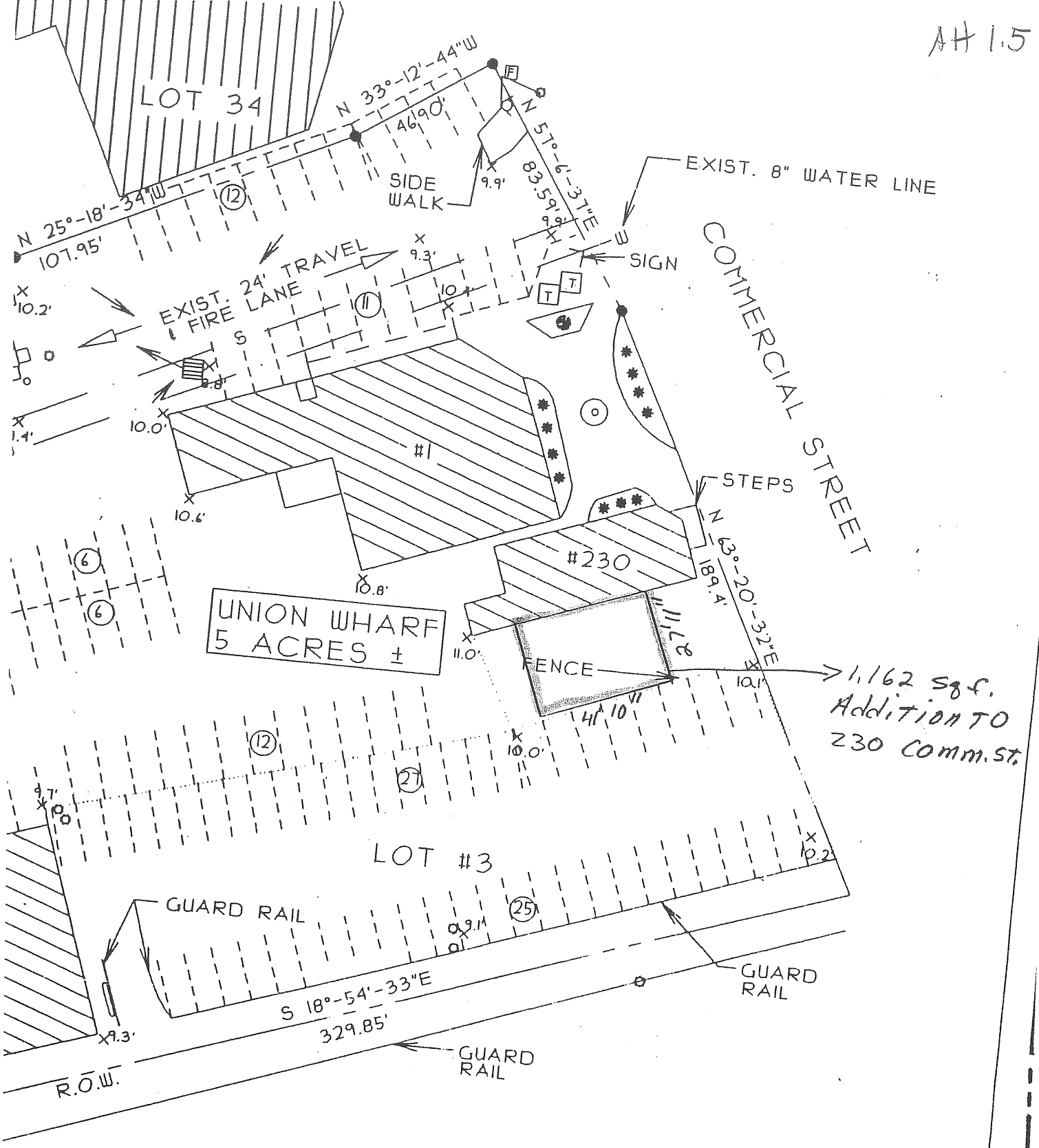
Sincerely,



Jaimey Caron, Chair
Portland Planning Board

enc.

cc: Joseph E. Gray, Jr., Director of Planning and Urban Development
Alexander Jaegerman, Chief Planner
✓ William B. Needelman, Planner
P. Samuel Hoffses, Building Inspector
Marge Schmuckal, Zoning Administrator
Tony Lombardo, Public Works Project Engineer
Development Review Coordinator
William Bray, Director of Public Works
Nancy Knauber, Associate Engineer
Jeff Tarling, City Arborist
Penny Littell, Corporation Counsel
Lt. Gaylen McDougall, Fire Prevention
Inspection Department
Lee Urban, Director of Economic Development
Don Hall, Appraiser, Assessor's Office
Susan Doughty, Assessor's Office
Approval Letter File



UNION WHARF
5 ACRES ±

1,162 sq. ft.
Addition to
230 Comm. St.

Proposed 41' 10" X 27' 11" Addition
230 Commercial St.

PROPRIETORS OF UNION WHARF
36 UNION WHARF - P.O. BOX 7467 DTS
PORTLAND, MAINE 04112

PLANNING REPORT #24-00

**TEXT CHANGE TO
WATERFRONT CENTRAL ZONE
PROPRIETORS OF UNION WHARF, APPLICANT
CHARLES POOLE, AGENT**

Submitted to:

Portland Planning Board
Portland, Maine

June 13, 2000

I. INTRODUCTION

A public hearing has been scheduled to consider a text change to the language of the Waterfront Central Zone proposed by the Proprietors of Union Wharf.

The purpose of the text change would be to allow the expansion of permitted non-marine uses as allowed under 14-314(5): uses in buildings located wholly or partially within 35 feet of the southerly sideline of Commercial Street. Currently, building additions are treated as new structures and therefore are subject to the restrictions of Permitted Uses 14-314 and Conditional Uses 14-315. In upper stories of new structures, non-marine uses are allowed as conditional or contract rezoning, while ground floors of new structure allow only permitted marine uses under 14-314. Essentially, any non-marine use as allowed under 14-314(5) may not expand or grow beyond the footprint which existed in January of 1993.

The Board has held two workshops on this proposal and the language has been significantly simplified through the process of review. Staff has included a query to the Board at the end of this report reflecting potential concerns in the proposed text language, as advertized. Planning Staff and Corporation Counsel have included suggested alternative language for the Board to consider.

391 notices were sent to area property owners

II. BACKGROUND

In October of 1999, on behalf of pier tenant Sapporo Restaurant at 230 Commercial Street, the Proprietors of Union Wharf submitted a minor site plan application to expand the existing permitted restaurant use by +/-1200 sq ft. Zoning Officer, Marge Schmuckal, found that building additions are new structures, and that the current language in the WCZ did not allow restaurant use. See Attachment 2. The existing restaurant, occupying a building partially within 35 feet of Commercial Street, is a permitted use; but any addition to the building currently would need to house marine related business. The applicant, recognizing that many pier owners may find themselves in similar situations, requests this text change as a means to provide for reasonable expansion of the existing permitted non-marine uses along Commercial Street.

Pier Vice President, Charles Poole, met with Planning staff, and interested waterfront activists, Anne Pringle and Barbara Vestal, to discuss parameters for the text change. The language submitted below results from an attempt by the applicant and the Planning staff to provide reasonable opportunities for pier owners to expand their permitted non-marine facilities while continuing to provide adequate protections for the marine uses which form the core and purpose of the waterfront central zone. The immediate result would be a 1,200 sq. ft. addition to Sapporo Restaurant.

III. LAND USE POLICY

Current Zoning:

Code 14-314(5) allows non-marine uses in the entirety of buildings located wholly or partially

within 35 feet of the southerly sideline of Commercial Street; conditioned that the buildings existed prior to January 4, 1993. See current WCZ language, Attachment 3. For buildings in existence prior to January 1993 and located more than 35 feet from Commercial Street, upper floor non-marine uses are permitted, providing that the total non-marine use dose not exceed 50% of total square footage of the structure. For new buildings, or buildings built after January 1993, non-marine uses are allowed for upper stories under City Code 14-315.3: Conditional or Contract rezoning.

As building additions are considered new structures, permitted non-marine uses existing in buildings located wholly or partially within 35 feet of Commercial Street may not expand by building addition. This amendment intends to allow these permitted uses to expand into limited building additions.

The intention and purpose of the WCZ zone recognizes that the rents provided by non-marine related uses help to maintain the marine related infrastructure located on the water side of the pier properties. The text change proposed intends that non-marine expansions will help to support the water dependent uses encouraged by the authors of this zone, while retaining all other requirements and limitations found in the WCZ language.

Parking:

Parking for proposed additions shall be not considered as a permitted accessory use on-site and shall be subject to the restrictions and limitations put forth in the conditional use provisions set forth in 14-315(1). These restrictions require that on-site parking for the proposed additions shall be permitted only if the number of spaces available on-site exceeds the number required for permitted marine related uses under 14-314(1). If the number of on-site parking spaces is not sufficient for marine related uses, parking for proposed additions will need to be provided off-site.

As additional non-marine space will require added parking, any site plan application for expansion of non-marine uses will also require a conditional use appeal for either off-site parking or for on-site parking within the WCZ.

IV. COMPREHENSIVE PLAN

Prior to 1992, the recent history of comprehensive planning for the waterfront had attempted to minimize non-marine uses from most of Portland's piers, while allowing public and visual access to the water. Residential and non-marine commercial encroachment into the waterfront core presented a threat to the viability of traditional fishing, shipping, and marine industry and the 1970's zoning was allowing an unsustainable amount of mixed use development on the wharfs. The 1983 Portland Waterfront Public Access Design Project Technical Report addressed the need to provide a connection between the water and the larger city, as well as the need for quality site and building planning as part of waterfront development. Protection for marine interests, including the successful 1987 citizen referendum and 1990 zoning amendments,

succeeded in stopping the loss of commercial berthing and industrial water access, but use restrictions left pier owners often unable to rent the non-marine oriented space on their properties.

In 1991, the City Council accepted an offer by the Waterfront Alliance to assist the City in a review of waterfront zoning. The focus of the Waterfront Alliance Recommendations report called for the retention and protection of water dependent and marine related activities, while allowing for a more diverse rental base for the upper stories and Commercial Street side of the piers. See Attachment 4. In 1993, City Council adopted new waterfront zoning utilizing the Waterfront Alliance Recommendations as the policy document supporting the amendments. The current Waterfront Central Zone was created during this process. Senior Planner Rick Knowland, the City Planner who managed this round of waterfront planning, stated that the best summation of the comprehensive planning intent for this area is found in the purpose section of the Waterfront Central Zone language, as adopted: Sec. 14-313. See Attachment 3.1.

The proposed text language submitted here attempts to keep within the intent of the WCZ by restricting the size and impacts of building additions. Non-marine additions would be a conditional use, and subject to Site Plan review. Accessory uses, such as parking, would be allowed on-site, only if they could be accommodated without impacting marine related uses. Commercial berthing would not be effected. The expansion of buildings along Commercial Street would provide incomes to pier owners needed to maintain and expand the water-side portions of their facilities. The Planning Board would have review authority over all non-marine expansions, regardless of size.

IV. SITE PLAN

Under the proposed language, any building expansion permitted under this amendment will require Planning Board review for both site plan and conditional use for parking.

Query for Board: As written, staff has identified two potential concerns in the proposed text language: (1) the use of "ground floor area" verses "net floor area" for expansions beyond 35 feet from Commercial Street; and, (2) concerning the need for conditional or contract rezoning for expansions of upper story non-marine uses. As proposed and advertized, the amendment allows for "ground floor" expansions of 1250 square feet beyond the 35 foot line and no mention is made regarding upper floor occupation. In the opinion of Corporation Counsel, expansions of non-marine uses of any size occupying upper stories of new structures requires conditional or contract rezoning. Staff asks the Board to clarify their intent regarding ground floor or multi-floor expansions.

- ▶ **If the Board wishes that upper floor expansions of any size should require rezoning, then the advertized language (Text A) contained in Attachment #6 should be the basis of the motion. Or:**

As an alternative, Staff has included amended language (Text B) that refers to expansions occupying "net floor area," deleting ground floor reference. Text B limits the total expansion of non-marine uses beyond 35 feet from Commercial Street to 1250 square feet, and allows for occupation of upper stories without rezoning. Staff offers this amended language recognizing that the current text proposal (Text A) encourages expansion on the pier deck and provides a regulatory disincentive to minimize the footprint

of non-marine expansions. Staff could anticipate a proposal for new stair tower or service core to be added to a building housing an existing permitted use. Under the Text A, the applicant would need to receive a conditional or contract rezoning for a second floor stair landing. Under Text B, the stair tower, or any addition, could expand to serve upper story floors (as long as the total expansion beyond the 35 foot line was less than 1250 square feet) without rezoning .

- ▶ **If the Board wishes that the net floor area beyond 35 from Commercial Street be limited to 1250 square feet, and resulting upper floor expansions would not require rezoning, then the amended language (Text B) contained in Attachment #7 should be the basis of the motion.**

Under either provision (Text A or B,) any upper story non-marine expansion, resulting from an expansion of greater than 1250 square feet beyond 35 from Commercial Street, would require conditional or contract rezoning.

V. MOTIONS FOR THE BOARD TO CONSIDER

On the basis of plans and materials submitted by the applicant, the policies of the comprehensive plan and the information provided in Planning Report # 24 -00, and/or other findings as follows:

The Board finds that:

1. The proposed zone change [is or is not] consistent with the policies of the comprehensive plan.

The Planning Board therefore [recommends or does not recommend] to the City Council approval for the proposed contract rezoning.

Attachments:

1. Applicant's written statement
2. Zoning memo
3. Current zoning
4. Excerpts from Waterfront Alliance recommendations
5. Photos
6. Advertized Language (Text A)
7. Suggested Amended Language (Text B)
8. Aerial photo

AH 1.1

PROPRIETORS OF UNION WHARF

36 UNION WHARF - P.O. BOX 7467 DTS

PORTLAND, MAINE 04112

December 14, 1999

Mr. Alex Jaegerman
City of Portland Planning Dept.
389 Congress St.
Portland, Maine 04101

Dear Alex:

Attached is our application for the text amendment change for Building #230 Commercial St., Sapporo Restaurant. Please call me when you want to discuss this further. I have tried you a couple of times by phone, but thought I would get this filled out and up to your office.

I did call Marge and she said to include the verbiage we have been kicking around at the 2 previous meetings. The following is what I wrote down:

Conditional use 14-315(3)

Building additions for uses permitted under 14-314(5) located wholly within 35' of Commercial St. and portions beyond 35' not to exceed 2500??? sq. ft. of total floor area (then something about 50% of size area??).

Then there was another line that reads:

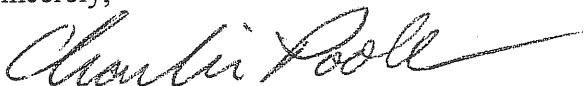
Beyond 35' should not exceed ??? # of sq. ft., 50% of total building addition floor area.

We did talk about setting size limits and in our case moving the addition closer to Commercial St..

Please call me when you need me or are ready to get into this text amendment change. You can reach me at 772-8160 and my fax is 772-8471.

Thanks for all of your help on this.

Sincerely,



Charles A. Poole
Vice President & Manager

6. Existing Use:

AH 1.2

Describe the existing use of the subject property: #230 COMMERCIAL ST. IS AND HAS BEEN THE HOME TO SAPPOROS RESTAURANT FOR THE PAST 5 YEARS. THEY SERVE JAPANESE & SUSHI STYLE FOOD.

7. Current Zoning Designation(s): WCZ - WATERFRONT CENTRAL ZONE

8. 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.

THERE WILL BE NO CHANGE OF USE TO THE PROPERTY. IT WILL CONTINUE TO MANAGED AND RUN BY THE SAPPORO PEOPLE. THE CHANGE TO THE PRØERTY WILL BE TO ADD A 27'11" X 41'10" ADDITION TO THE EAST SIDE OF THE BUILDING TO BE USED TO INCREASE THE SIZE OF THE DINING AREA AND TO ADD ANOTHER REST ROOM TO THE BUILDING. THE PROPRIETORS OF UNION WHARF OWN THE LAND TO THE EAST WHERE THE ADDITION WILL GO AND ALSO OWN THE NEXT PARCEL BEYOND FURTHER TO THE EAST. THE ADDITION WILL BE BUILT IN THE SAME MANNER AS THE ORIGINAL BUILDING, 1 STORY WITH A BRICK WALL.

9. Sketch Plan: On a separate sheet please provide a sketch plan of the property, showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1"=10' to 1"=100'.)

10. Proposed Zoning: Please check all that apply:

- A. Zoning Map Amendment, from _____ to _____
- B. Zoning Text Amendment to Section 14- 315 (3)

For Zoning Text Amendment, attach on a separate sheet the exact language being proposed, including existing relevant text, in which language to be deleted is depicted as crossed out (example), and language to be added is depicted with underline (example).

C. Conditional or Contract Zone

A conditional or contract rezoning may 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 and compatible with the surrounding neighborhood. (Please refer to Division 1.5, Sections 14-60 to 62)

Att 1.4

11. **Application Fee:** A fee for this application for a zoning amendment must be submitted, by check payable to the City of Portland in accordance with Section 14-54 of the Municipal Code (see below). The applicant also agrees to pay all costs of publication (or advertising) of the Public Hearing Notice as required for this application. Such amount will be billed to the applicant following the appearance of the advertisement.

	<u>1-25 Units</u>	<u>26-50 Units</u>	<u>51-75 Units</u>	<u>75 & Over</u>
Residential Zones	\$350.00	\$400.00	\$450.00	\$500.00
Nonresidential Zones	\$350.00	\$400.00	\$450.00	\$500.00
	0-15,000 sq. ft. or 0-5 acres (whichever is less)	15,000-30,000 sq. ft. or 6-10 acres (whichever is less)	30,000-45,000 sq. ft. or 10-15 acres (whichever is less)	45,000-60,000 sq. ft. or 15-20 acres (whichever is less)

- Legal Advertisements (one for workshop and one for public hearing) percent of total bill
- Notices (one for workshop and one for public hearing) 40 cents each
- Text Amendments \$300.00

\$ 300-80 Amount of Fee

12. **Signature:** The above information is true and accurate to the best of my knowledge.

12/14/99
Date of Filing

Charles A. Boole
Signature of Applicant *Vice Pres. & Manager*

Further Information:

Please contact the Planning Office for further information regarding the rezoning process. Applicants are encouraged to make an appointment to discuss their rezoning requests before filing the application.

Applicants are encouraged to include a letter or narrative to accompany the rezoning application which can provide additional background or context information, and describe the proposed rezoning and reasons for the request in a manner that best suits the situation.

In the event of withdrawal of the zoning amendment application by the applicant in writing prior to the submission of the advertisement copy to the newspaper to announce the public hearing, a refund of two-thirds of the amount of the zone change fee will be made to the applicant by the City of Portland.

Portland Planning Board
Portland, Maine

Effective: July 6, 1998

AH:Z

Zoning Division
Marge Schmuckal
Zoning Administrator



Department of Urban Development
Joseph E. Gray, Jr.
Director

CITY OF PORTLAND

TO: Bill Needleman, Planning Division

FROM: Marge Schmuckal, Zoning Administration

SUBJECT: 1162 sq.ft addition to existing restaurant at 230 Commercial Street - 031-L-038 - WCZ

DATE: November 3, 1999

I am in receipt of the application for Sapporo's Restaurant addition at 230 Commercial Street. This building is located in the WCZ Zone. The existing structure is conforming as to use. However, nowhere in the permitted uses of section 14-314 does it allow for a newly constructed addition to have the use of restaurant. Section 14-314(5) only allows a restaurant use in a structure that existed as of January 4, 1993. This is a new addition and was not in existence as of January 4, 1993. It is my interpretation that this use is not allowable in this zone.

Please note that the applicant may exercise their right of appeal for a use variance if they wish. This is a very difficult appeal to be granted by the Zoning Board of Appeals because of the criteria placed upon the decision making process. The applicant would have a 30 day window of opportunity from the date of this memo in which to appeal. The paperwork explaining the Board of Appeals application process is available in our office in room 315. Nadine Williamson or myself can supply that paperwork at any time.

cc: Mark Adelson, Housing & Neighborhood Services
Alex Jaegerman, Chief Planner
Joe Gray, Jr., Dir. of Planning & Urban Dev.
George Campbell, City Councilor
Charlie Lane, Corporation Counsel
Mr. Charles A. Poole, Proprietors of Union Wharf, PO Box 7467, Portland, ME 04112
file

DIVISION 18. WATERFRONT CENTRAL ZONE*

Sec. 14-313. Purpose.

The waterfront central zone was created to protect and nurture water-dependent and marine-related support uses so that they may grow and prosper in an environment and area dedicated to this purpose. The following priority of uses is recognized:

- (1) The first priority of this zone is to protect and nurture existing and potential water-dependent uses;
- (2) The second priority is to encourage other marine and marine-related support uses so long as they do not interfere with water-dependent uses, either directly by displacement or indirectly by placing incompatible demands on the zone's infrastructure;
- (3) Other specified uses are encouraged only if they do not interfere with and are not incompatible with first and second priority uses.

Other specified uses are beneficial to the waterfront economy because they provide the financial return to property owners necessary for the maintenance and improvement of the marine infrastructure. However, water-dependent and marine-related support uses by their nature have activities and operational needs that are unique to this area and are not shared by other commercial and industrial uses in the city. These first and second priority uses and related activities may result in noise, odor, dust, hours of operation, parking and traffic patterns and traffic control needs that are necessary for the convenient and successful conduct of such uses. Other uses may not be compatible with these types of effects. Other specified uses are permitted under certain circumstances in the waterfront central zone, provided that they do not significantly interfere with the activities and operation of water-dependent and marine-related support uses. Such uses must be, and are assumed to be, aware of the impacts associated with marine uses and therefore must accept and be tolerant of them. Other specified uses in the zone shall accommodate to those patterns and needs of the higher priority uses so long as those higher priority uses do not have a substantially adverse effect on public health and safety and the higher priority activities are conducted in accordance with sound practices or practices customary in the trade.

(Ord. No. 168-93, § 2, 1-4-93)

*Editor's note—Ord. No. 168-93, § 2, adopted Jan. 4, 1993, repealed former Divs. 18, 18.5 and 18.7, §§ 14-306—14-320.2, which pertained to waterfront zones, and enacted new provisions as Divs. 18, 18.5 and 18.7 to read as herein set out. Formerly, such provisions derived from Ord. No. 426-83, § 1, adopted Apr. 25, 1983; Ord. No. 427-83, § 1, adopted Apr. 25, 1983; Ord. No. 355-85, § 1, adopted Jan. 7, 1985; Ord. No. 438-86, § 1, adopted Apr. 7, 1986; Ord. No. 189-87, § 3, adopted Feb. 7, 1987; Ord. No. 174-87, §§ 1, 2, adopted Mar. 4, 1987; Ref. of May 5, 1987; Ord. No. 385-87, adopted Apr. 6, 1987; Ord. No. 36-89, §§ 1, 2, adopted June 28, 1989; and Ord. No. 15-92, §§ 22, 23, adopted June 15, 1992.

Sec. 14-313.5. No adverse impact on marine uses.

No use shall be permitted, approved or established in this zone if it will have an impermissible adverse impact on future marine development opportunities. A proposed development will have an impermissible adverse impact if it will result in any one (1) or more of the following:

- (1) The proposed nonwater-dependent use will displace an existing water-dependent use;
- (2) The proposed use will reduce existing commercial vessel berthing space;
- (3) The proposed nonwater-dependent use, structure or activities, including but not limited to access, circulation, parking, dumpsters, exterior storage or loading facilities, and other structures, will unreasonably interfere with the activities and operation of existing water-dependent uses or significantly impede access to vessel berthing or other access to the water by water-dependent uses; or
- (4) The siting of a proposed nonwater-dependent use will substantially reduce or inhibit existing public access to marine or tidal waters.

(Ord. No. 168-93, § 2, 1-4-93)

Sec. 14-314. Permitted uses.

Subject to a determination that the proposed use meets the standards of section 14-313.5 (no adverse impact on marine uses), the following uses are permitted in the waterfront central zone:

- (1) *Marine:*
 - a. Marine products, wholesaling, distribution and retailing;

LAND USE

§ 14-314

- b. Marine repair services and machine shops;
 - c. Tugboat, fireboat, pilot boat and similar services;
 - d. Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels;
 - e. Marine industrial welding and fabricating;
 - f. Shipbuilding and facilities for construction, maintenance and repair of vessels;
 - g. Commercial marine transport and excursion services, including ferries, captained charter services, sport fishing and water taxis;
 - h. Cargo handling facilities, including docking, loading and related storage;
 - i. Boat repair yards;
 - j. Boat storage facilities, excluding rack storage facilities;
 - k. Seafood processing;
 - l. Seafood packing and packaging;
 - m. Seafood loading and seafood distribution;
 - n. Fabrication, storage and repair of fishing equipment;
 - o. Ice-making services;
 - p. Facilities for marine construction and salvage;
 - q. Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices;
 - r. Fabrication of marine-related goods;
 - s. Fishing and commercial vessel berthing;
 - t. Noncommercial berthing of less than fifty (50) linear feet per pier;
 - u. Marine office, including but not limited to offices of owners of wharves or their agents, and naval architects, and seafood brokers;
 - v. Public landings;
 - w. Marine research, education, and laboratory facilities.
- (2) *Commercial uses above the ground floor level in buildings in existence on January 4, 1993:* Subject to sections 14-314(6)a. and 14-315(1), the following uses shall be permitted above the ground floor level, provided that the total floor area of the building used for all uses permitted only above the ground floor area does not exceed fifty (50) percent of the total floor area of the building:
- a. Professional, business, and general offices;
 - b. Business service establishments;
 - c. Cabinet and carpentry shops and accessory retail sales of only those products that are produced on the premises;
 - d. Intermodal transportation facilities;
 - e. Cold storage facilities.
- (3) *Industrial uses above the ground floor level of buildings in existence on January 4, 1993:* Subject to sections 14-314(6)a. and 14-315(1), the following uses shall be permitted above the ground floor level, provided that the total floor area of the building

used for all uses permitted only above the ground floor area does not exceed fifty (50) percent of the total floor area of the building:

- a. Warehousing and wholesaling;
 - b. Industrial uses which meet the performance standards of the I-2 zone.
- (4) *Public:* Subject to section 14-314(6)a. and 14-315(1), the following uses shall be permitted:
- a. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures, provided that such structures are located more than one hundred (100) feet from the water;
 - b. Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces, including without limitation pedestrian bicycle trails;
 - c. Municipal office uses located above the ground floor level, provided that the total floor area of the building used for all uses permitted only above the ground floor area does not exceed fifty (50) percent of the total floor area of the building unless approved pursuant to section 14-315. Other municipal uses which need to be located on the ground floor level because of operational necessity may be so located on city-owned property.
- (5) *Commercial uses in any area of a building existing on January 4, 1993, and located within thirty-five feet of the southerly edge of Commercial Street between Maine Wharf and the city fish pier:* Subject to section 14-314(6)a. and 14-315(1), the following uses shall be permitted:
- a. Professional, business, and general offices;
 - b. Retail and service establishments, including craft and specialty shops. Convenience stores with gas pumps shall not be permitted under this section;
 - c. Restaurants, provided that food service and consumption shall be the primary function of the restaurant;
 - d. Banking services;
 - e. Laundry and dry cleaning services;
 - f. Cabinet and carpentry shops and accessory retail sales of products produced on the premises;
 - g. Intermodal transportation facilities;
 - h. Cold storage facilities;
 - i. Museums and art galleries.
- (6) *Other:* Accessory uses:
- a. Notwithstanding sections 14-331, 14-334, 14-404 or any other provision of this Code, parking for uses other than those set forth in section 14-314(1) shall not be considered a permitted accessory use on-site and shall be subject to the provisions of section 14-315(1).
 - b. Except as provided in subsection a. above, accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses. Food

service establishments, newsstands and other similar retail and service support uses shall only be permitted as accessory uses if they are part of and located within the lot lines of a use set forth in section 14-314(1)a., g., or v.; that such uses do not exceed two thousand (2,000) square feet in total floor area of the building, or twenty-five (25) percent of the total floor area of the building, whichever is less, and that each individual use does not exceed one thousand (1,000) square feet in total floor area of the building; and further provided that such accessory uses provide goods or services that are supportive of the principal use and its clientele.

(Ord. No. 168-93, § 2, 1-4-93)

Sec. 14-315. Conditional uses.

The following uses shall be permitted as conditional uses in the waterfront central zone, provided that, notwithstanding section 14-471(3), section 14-474(a), or any other provision of this Code, the planning board shall be substituted for the board of appeals as the reviewing authority, and further provided that in addition to the provisions of section 14-474(c)(2), section 14-313.5, and any other conditions specified under the particular use below, they shall also meet the following conditions:

- a. The proposed use shall be compatible with existing and potential marine uses in the vicinity;
 - b. The proposed use shall not impede access to the water by existing or potential marine uses; and
 - c. For conditional uses that propose or require twenty (20) or more parking spaces, the proposed conditional use, when considered in conjunction with past, present and reasonably foreseeable future development, specifically including but not limited to development and uses occurring in this district in structures within thirty-five (35) feet of the southerly edge of Commercial Street, shall meet the standards of section 14-526(a)(1). For purposes of application of this standard only, in evaluating congestion, any private way or access road serving as the primary means of land access to a pier or wharf shall be deemed to be included within the term "street" at the intersection of such private way or access road with Commercial Street.
- (1) *Parking:* Notwithstanding sections 14-317(8), 14-331, 14-334 and article V of this chapter, no parking shall be allowed in this zone for conditional uses and uses permitted only above the ground floor level, unless the applicant can demonstrate that the number of parking spaces on-site exceeds the number of parking spaces required for marine uses that are required by section 14-314(1). The remainder of parking required for such uses shall be provided off-site and in other zones where parking is a permitted use.
- (2) *Marine:*
- a. Noncommercial vessel berthing of fifty (50) linear feet or greater per pier along the edges of piers existing on January 4, 1993, provided that:
 - 1. Such use does not decrease the amount of, nor diminish the quality of, existing on-site berthing space, as measured along the pier, float or wharf edge,

which could be used for commercial vessels in its current condition. In assessing the impact on quality of berthing space, the planning board shall consider the following: cost, access, maneuverability, depth for various-sized vessels, loading/unloading areas, lease terms, availability of utilities, parking and safety.

- b. Fish by-products processing, provided that:
 1. Any fish by-products processing facility has a valid rendering facility license under chapter 12; and
 2. The processing of other material wastes or by-products shall not be deemed a lawful accessory use under any other provision of this article.
- c. Boat rack storage facilities, provided that:
 1. Parking shall be provided for one hundred (100) percent of the demand generated by the use, and such parking shall be provided off-site, in another zone permitting such use.

(Ord. No. 168-93, § 2, 1-4-93)

Sec. 14-315.3. Contract or conditional rezoning.

Except as authorized in section 14-314(4), an applicant may only locate a nonmarine use in a structure which was not in existence on January 4, 1993, if a rezoning is approved pursuant to division 1.5 of this article. A conditional or contract rezoning shall only be approved if, after public hearing and opportunity for public comment, the reviewing body finds that the applicant has carried the burden of proof to show that the proposed development meets the standards of section 14-313.5 and all of the following standards:

- (1) Each proposed upper story nonmarine use is a use which would be permitted above the ground floor level in a structure existing on January 4, 1993, pursuant to section 14-314(2), (3) or (4).
- (2) The ground floor of the proposed structure consists entirely of one (1) or more marine uses as set forth in section 14-314.
- (3) The proposed development is consistent with the comprehensive plan and, without the proposed development, the site could not otherwise support an economically viable water-dependent use.
- (4) Any physical or legal impediments which preclude functional access from the site of the proposed development to the water's edge are not the result of action taken by the current owner, the applicant for rezoning, or any prior owner after January 4, 1993.
- (5) The project's public benefits outweigh its potential negative impacts, taking into consideration as public benefits protection of existing water-dependent uses, preservation of future water-dependent use development opportunities, contribution to the development of and/or on-going maintenance of the marine infrastructure for com-

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mercial vessels (either on-site or off-site) and visual and physical access to the waterfront for the general public.

- (6) The proposed development responds to any unique physical conditions and development opportunities along the shoreline.
 - (7) The proposed development does not significantly restrict air, light, or water views of other structures located in the vicinity, and does not create significant adverse local climatic effects such as increased winds, shadowing, or less efficient traffic, parking or circulation patterns.
 - (8) The proposed development is consistent with the Portland Waterfront Public Access Design Guidelines, a copy of which is on file in the department of planning and urban development.
 - (9) The proposed rezoning contains adequate provisions and/or conditions to ensure that the water-dependent use is not abandoned after the project is developed.
- (Ord. No. 168-93, § 2, 1-4-93)

Sec. 14-315.5. Prohibited uses.

Uses which are not enumerated in either section 14-314 or 14-315 as permitted or conditional uses are prohibited. Those uses that are prohibited shall include, without limitation:

- a. Residential uses (not in existence on May 5, 1987).
- b. Hotels, motels or boatels.
- c. Auditoriums, civic centers, convention centers or other meeting facilities.
- d. Drinking establishments.

(Ord. No. 168-93, § 2, 1-4-93)

Sec. 14-316. Dimensional requirements.

In addition to the provisions of article III, division 25, of this Code, lots in the waterfront central zone shall be subject to the following requirements:

- (1) *Minimum lot size:* None.
- (2) *Minimum frontage:* None.
- (3) *Minimum yard dimensions:*

Front setback: None.

Side setback: None.

Rear setback: None

Setback from pier line: Notwithstanding the above requirements, a minimum setback of five (5) feet from the edge of any pier, wharf or bulkhead shall be required for any structure. The setback area may be utilized for activities related to the principal uses

carried on in the structure, subject to the provisions of sections 14-313 and 14-314, but shall not be utilized for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).

(4) *Maximum lot coverage:* One hundred (100) percent.

(5) *Maximum building height:* Thirty-five (35) feet.

(Ord. No. 168-93, § 2, 1-4-93)

Sec. 14-317. Performance standards.

All uses in the waterfront central zone shall comply with the following standards:

- (1) *Outdoor storage of materials:* Outdoor storage of commodities and materials accessory to normal conduct of business, except pilings and/or cranes, shall be permitted to a maximum height of forty-five (45) feet, and such materials shall be entirely contained, including runoff contaminants and residual material, within a designated area within the lot boundaries.
- (2) *Noise:* The level of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American National Standards Institute, Inc.), inherently and recurrently generated within the waterfront central zone shall not exceed seventy-five (75) decibels on the A scale at the boundaries of any lot, except for sound from construction activities, sound from traffic on public streets, sound from temporary activities such as festivals, and sound created as a result of, or relating to, an emergency, including sound from emergency warning signal devices. In measuring sound levels under this section, sounds with a continuous duration of less than sixty (60) seconds shall be measured by the maximum reading on a sound level meter set to the A weighted scale and the fast meter response (L maxfast). Sounds with a continuous duration of sixty (60) seconds or more shall be measured on the basis of the energy average sound level over a period of sixty (60) seconds (LEQ₁).
- (3) *Vibration:* Vibration inherently and recurrently generated shall be imperceptible without instruments at lot boundaries. This shall not apply to vibration resulting from activities aboard a vessel or from railroad vehicle activities, or from activities on a pile supported pier.
- (4) *Federal and state environmental regulations:* All uses shall comply with federal and state environmental statutes and regulations regarding emissions into the air, except where provisions of this Code are more stringent.
- (5) *Discharges into harbor areas:* No discharge into harbor water areas shall be permitted, unless permitted by the Maine Department of Environmental Protection under a waste discharge license and as approved by the department of parks and public works in accordance with chapter 24, article III of this Code. All private sewage disposal or private wastewater treatment facilities shall comply with the provisions

AH3.9

of chapter 24, article II of this Code and federal and state environmental statutes and regulations regarding wastewater discharges.

- (6) *Storage of vehicles:* Storage of any unregistered automotive vehicle on the premises for more than sixty (60) days shall not be permitted.
- (7) *Landfill of docking and berthing areas:* Landfill of docking and berthing areas shall be governed by 38 M.R.S.A. Sections 471 through 478, and permitted only if the landfill does not reduce the amount of linear berthing areas or space, or berthing capacity. If approved, construction shall be undertaken using methods approved by the department of parks and public works and shall be accomplished in accordance with the provisions of division 25 of this article and in a manner so as to ensure that a stable and impermeable wall of acceptable materials will completely contain the fill material and will not permit any fill material to leach into docking areas or navigable waters.
- (8) *Off-street parking:* Except as provided in section 14-315 or as required pursuant to article V (site plan), off-street parking is required at fifty (50) percent of the required number of parking spaces for specified uses as otherwise provided in division 20 of this article.
- (9) *Off-street loading:* Off-street loading is required as provided in division 21 of this article.
- (10) *Shoreland and flood plain management regulations:* Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.
- (11) *Lighting:* All lighting on the site shall be shielded such that direct light sources shall not unreasonably interfere with vessels transiting the harbor nor have an unreasonable adverse impact on adjacent residential zones.
- (12) *Signs:* Signs shall be permitted as set forth in division 22 of this article.
- (13) *Storage of pollutants and oily wastes:* On-premises storage of pollutants and oily wastes shall not be permitted for more than forty-five (45) days.
- (14) *Compatibility of nonmarine uses with marine uses:* Nonmarine uses, structures and activities, including but not limited to access, circulation, parking, dumpsters, exterior storage and loading facilities or other structures shall neither unreasonably interfere with the existence or operation of marine uses nor significantly impede access to vessel berthing or other access to the water by existing or potential marine uses as set forth in section 14-314(1). Siting of a use not set forth in section 14-314(1) shall not substantially reduce or inhibit existing public access to marine or tidal waters.
- (15) *Construction of new structures located within thirty-five feet of the southerly edge of Commercial Street:* Construction of new structures located within thirty-five (35) feet of the southerly edge of Commercial Street shall conform to the guidelines set forth

in the Downtown Urban Design Guidelines, unless such structures are also located within one hundred (100) feet of the water. Such structures that are also located within one hundred (100) feet of the water shall conform to the extent practicable to the Downtown Urban Design Guidelines.

(Ord. No. 168-93, § 2, 1-4-93)

DIVISION 18.5. WATERFRONT PORT DEVELOPMENT ZONE*

Sec. 14-318. Purpose.

Transport of goods by water to and from Portland is an important component of both the local and regional economy. This commerce is dependent upon land with direct access to the dredged deep water channel of the Fore River.

Waterfront land with direct deep water access shall be restricted to uses which contribute to port activity. This zone exists, therefore, to ensure the continued viability of the Port of Portland. Uses in the port development zone, while governed by the same performance standards as other industrial zones, are limited to those uses which are dependent upon deep water and which contribute to port activity.

Nonmarine industrial activity may be allowed only on a temporary basis and only to the extent it will not preclude or impede any future water-dependent development.

(Ord. No. 168-93, § 2, 1-4-93)

Sec. 14-318.5. No adverse impact on marine uses.

No use shall be permitted, approved or established in this zone if it will have an impermissible adverse impact on future marine development opportunities. A proposed development will have an impermissible adverse impact if it will result in any one (1) or more of the following:

- (1) The proposed nonwater-dependent use will displace an existing water-dependent use;
- (2) The proposed use will reduce existing commercial vessel berthing space;
- (3) The proposed nonwater-dependent use, structure or activities, including but not limited to access, circulation, parking, dumpsters, exterior storage or loading facilities, and other structures, will unreasonably interfere with the activities and operation of existing water-dependent uses or significantly impede access to vessel berthing or other access to the water by water-dependent uses; or
- (4) The siting of a proposed nonwater-dependent use will substantially reduce or inhibit existing public access to marine or tidal waters.

(Ord. No. 168-93, § 2, 1-4-93)

*Note—See the editor's note to division 18 of this article.

Sec. 14-319. Permitted uses.

Subject to a determination that the proposed use meets the standards of section 14-318.5 (no adverse impact on marine uses), the following uses are permitted in the waterfront port development zone:

(1) *Marine:*

- a. Marine repair services and machine shops;
- b. Tugboat, fireboat, pilot boat and similar services;
- c. Harbor and marine supplies and services and ship supply such as fueling and bunkering of vessels;
- d. Shipbuilding and facilities for construction, maintenance and repair of vessels;
- e. Marine cargo handling facilities, including docking, loading and related storage;
- f. Boat repair yards;
- g. Facilities for marine construction and salvage;
- h. Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices.

(2) *Commercial:*

- a. Intermodal transportation facilities principally for vessels with regularly scheduled destination service or for railroad transportation service;
- b. Warehousing and storage of goods which are awaiting shipment via cargo carriers;
- c. Marine cargo container and chassis maintenance and repair.

(3) *Public:*

- a. Public uses including pedestrian and bicycle trails.

(4) *Other:*

- a. Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses. Food service establishments, newsstands and other similar retail and service support uses shall only be permitted as accessory uses if they are part of and located within the lot lines of a use set forth in section 14-319(1)c., f., or (2)a., if all such uses do not exceed two thousand (2,000) square feet in total floor area of the building or twenty-five (25) percent of the total floor area of the building, whichever is less, and if each individual use does not exceed one thousand (1,000) square feet in total floor area of the building; and further provided that such accessory uses provide goods or services that are supportive of the principal use and its clientele.

(Ord. No. 168-93, § 2, 1-4-93)

Sec. 14-320. Conditional uses.

The following uses shall be permitted as conditional uses in the waterfront port development zone, provided that, notwithstanding section 14-471(3), section 14-474(a), or any other

provision of this Code, the planning board shall be substituted for the board of appeals as the reviewing authority, and provided further that in addition to the provisions of section 14-474(c)(2) such uses will not impede or preclude existing or potential water-dependent development on other lots, will allow for adequate right-of-way access to the water, are compatible with marine uses, and are physically adaptable or relocatable to make way for future development for water-dependent uses, and meet any additional standards set forth below:

(1) *Marine:*

- a. Marine products, wholesaling and retailing;
- b. Boat storage facilities, excluding rack storage;
- c. Seafood processing;
- d. Seafood packing and packaging;
- e. Fabrication, storage and repair of fishing equipment;
- f. Ice-making services;
- g. Fabrication of marine-related goods;
- h. Fish by-products processing, provided that:
 - 1. Any fish by-product processing facility has a valid rendering facility license under chapter 12; and
 - 2. The processing of other material wastes or by-products shall not be deemed a lawful accessory use under any other provision of this article.

(2) *Commercial:*

- a. Off-street parking lots, excluding parking structures.

(3) *Industrial:*

- a. Storage of goods in existing structures;
- b. Facilities for combined marine and general construction;
- c. Industrial uses permitted in the I-2 zone, subject to the performance standards set forth in the I-2 zone.

(4) *Public:*

- a. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures, provided that such structures are located more than one hundred (100) feet from the water.

(Ord. No. 168-93, § 2, 1-4-93)

Sec. 14-320.1. Prohibited uses.

Uses which are not enumerated in either section 14-319 or 14-320 as permitted or conditional uses are prohibited. Those uses that are prohibited shall include, without limitation:

- a. Residential uses (not in existence on May 5, 1987).
- b. Hotels, motels or boatels.

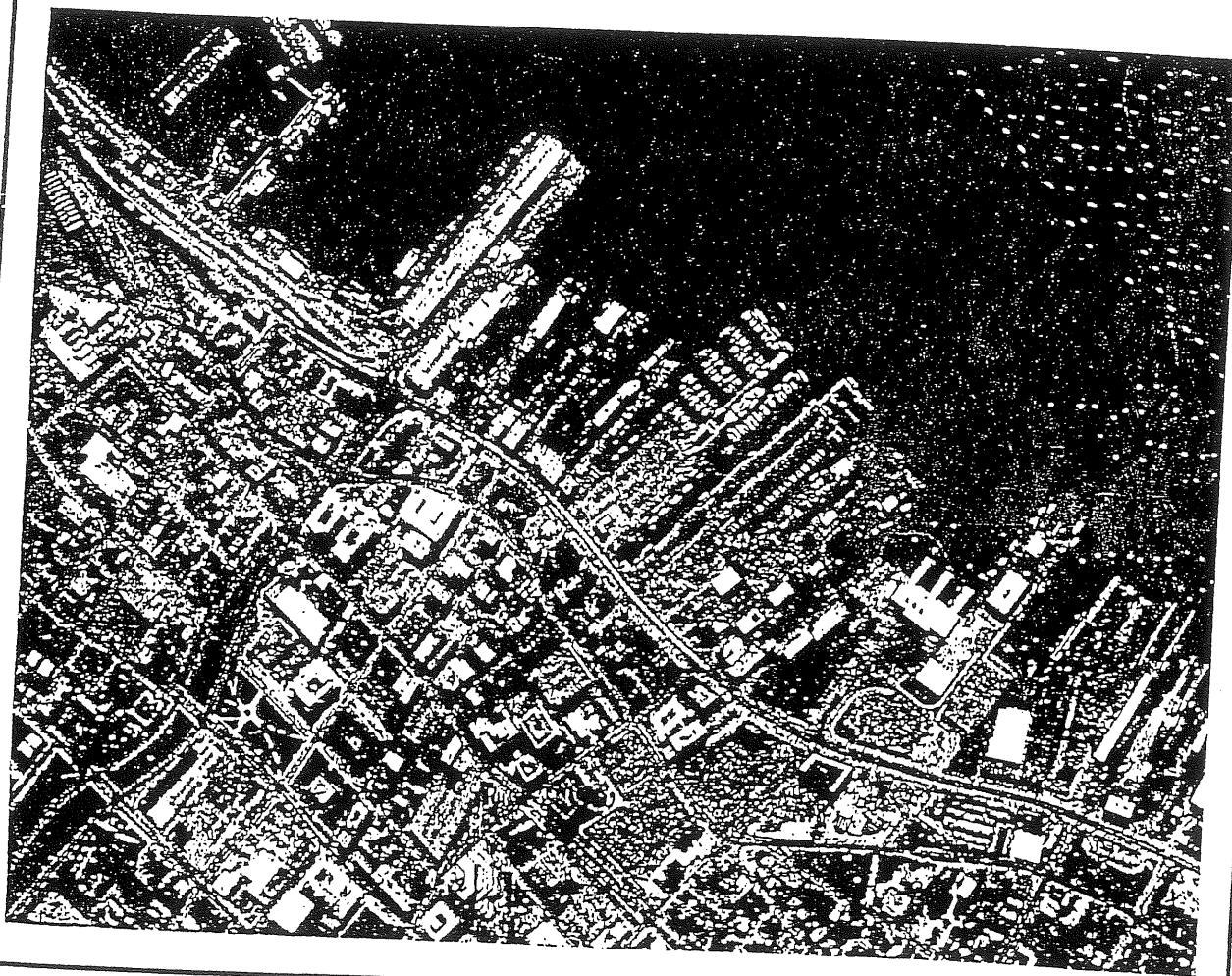
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Waterfront Alliance Recommendations

to the City of Portland

Prepared by the
Greater Portland Council of Governments

April 14, 1992



PREAMBLE

Our recommendations are based on the recognition that as a working waterfront, Portland Harbor should be a regional economic force that supports local economies through jobs and tax revenues.

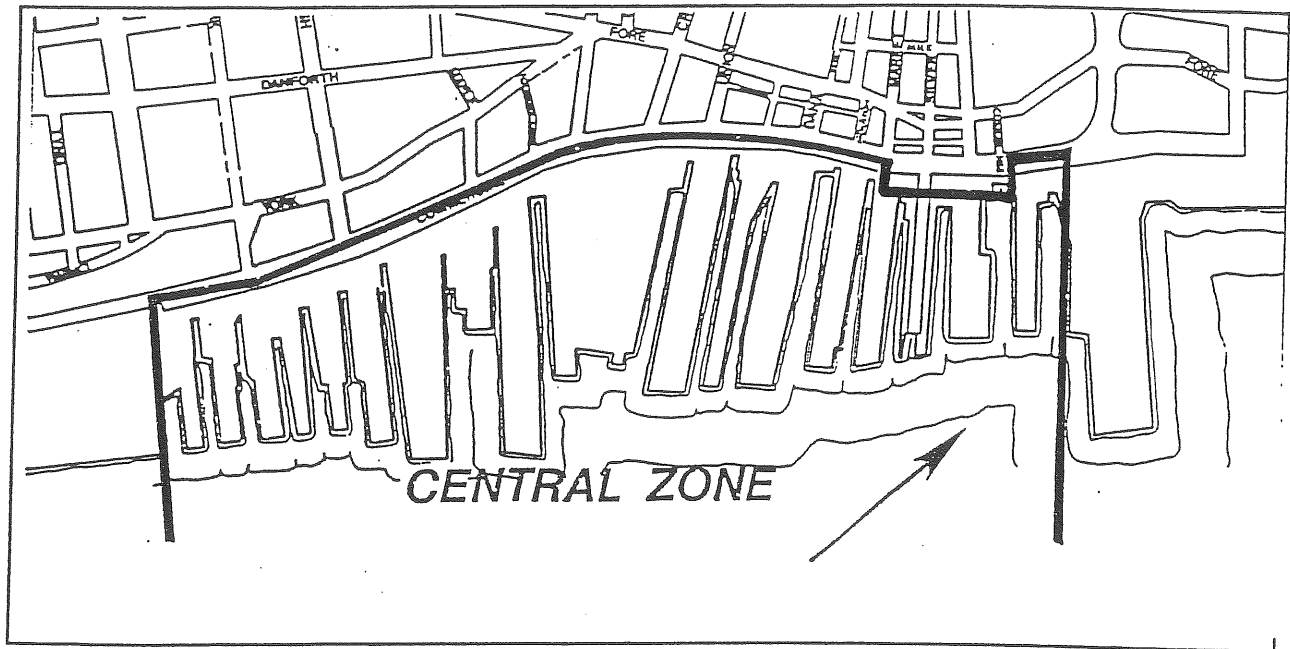
Water-dependent users are the lifeblood of Portland's waterfront and their interests must be protected above all others. We further recognize that diversity is the key to the economic stability of the working waterfront, the proper maintenance of its infrastructure and its long-term growth. Measures to promote diversity include zoning, as well as economic assistance and partnerships between private and public interests.

In order to maintain and expand the Port as a working waterfront for the enjoyment and economic benefit of all, the Waterfront Alliance recommends the following measures be taken:

1. Preserve the entire perimeter of the Harbor from Tukey's Bridge to the Veteran's Memorial Bridge for berthing.
2. Recognize that property with direct water access is limited and should be reserved exclusively for marine use.
3. Allow marine compatible use of other property that does not interfere in any way with the activities of water-dependent users.
4. Divide the waterfront into four zones that reflect the type of berthing or land use that each zone can accommodate.
5. The Alliance believes that the City should renew its commitment to promoting public access to the Port for the benefit and enjoyment of its citizens and continue to insure ecological safety through the promotion of environmentally sound practices.

THE CENTRAL ZONE

THE CENTRAL ZONE GEOGRAPHIC DESCRIPTION: The geography of the central zone is generally described as the area from the east side of the State Street Wharf to the Centerline between the Maine Wharf and the Casco Bay Island Terminal. The zone also includes the areas to the north of Commercial Street currently zoned as W1-W2 on City zoning maps.



USES NOT ALLOWED IN CENTRAL ZONE:

- New residential
- Hotels
- New large Retail Complex
- New Office Buildings
- Boatels
- Aquariums (see SUZ recommendations)
- Auditoriums (see SUZ recommendations)
- Civic Centers
- Non-marine Institutional

Generally, no large projects that create unreasonable demands on the zone's infrastructure and that interfere now or in the future with marine only and marine compatible support.

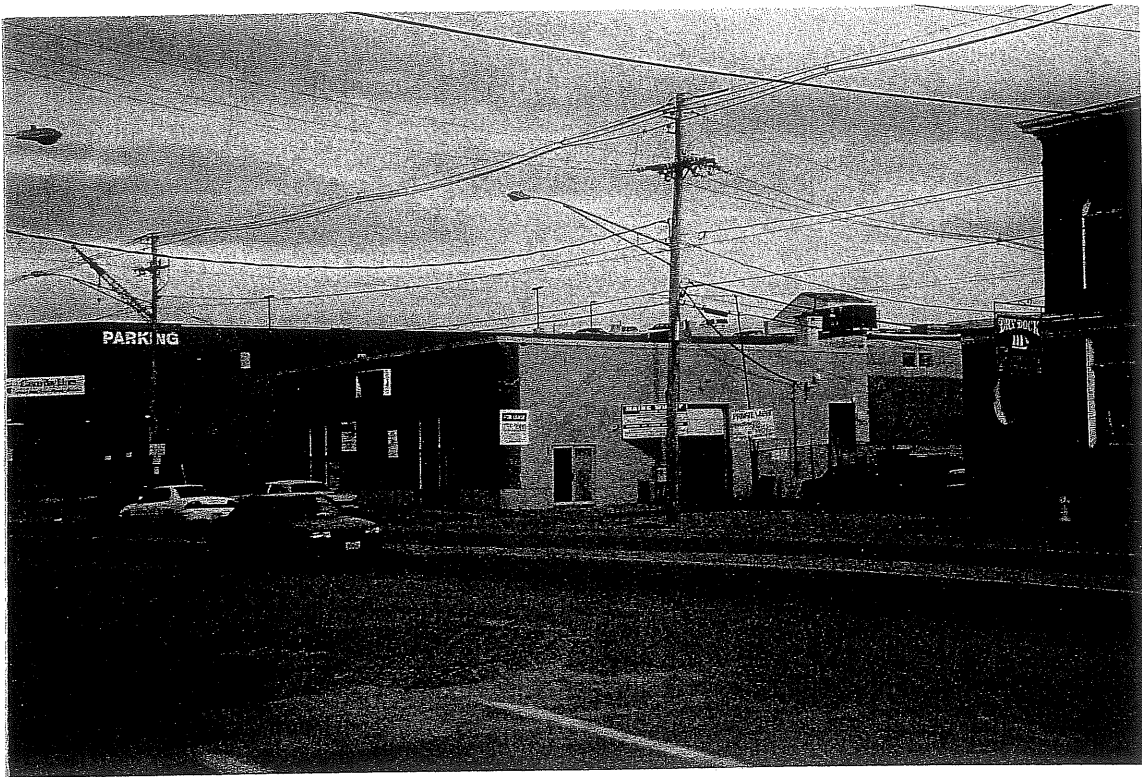
CENTRAL ZONE USES RECOMMENDED:

Generally any use not excluded that does not interfere now or in the future with marine dependent and marine dependent support business.

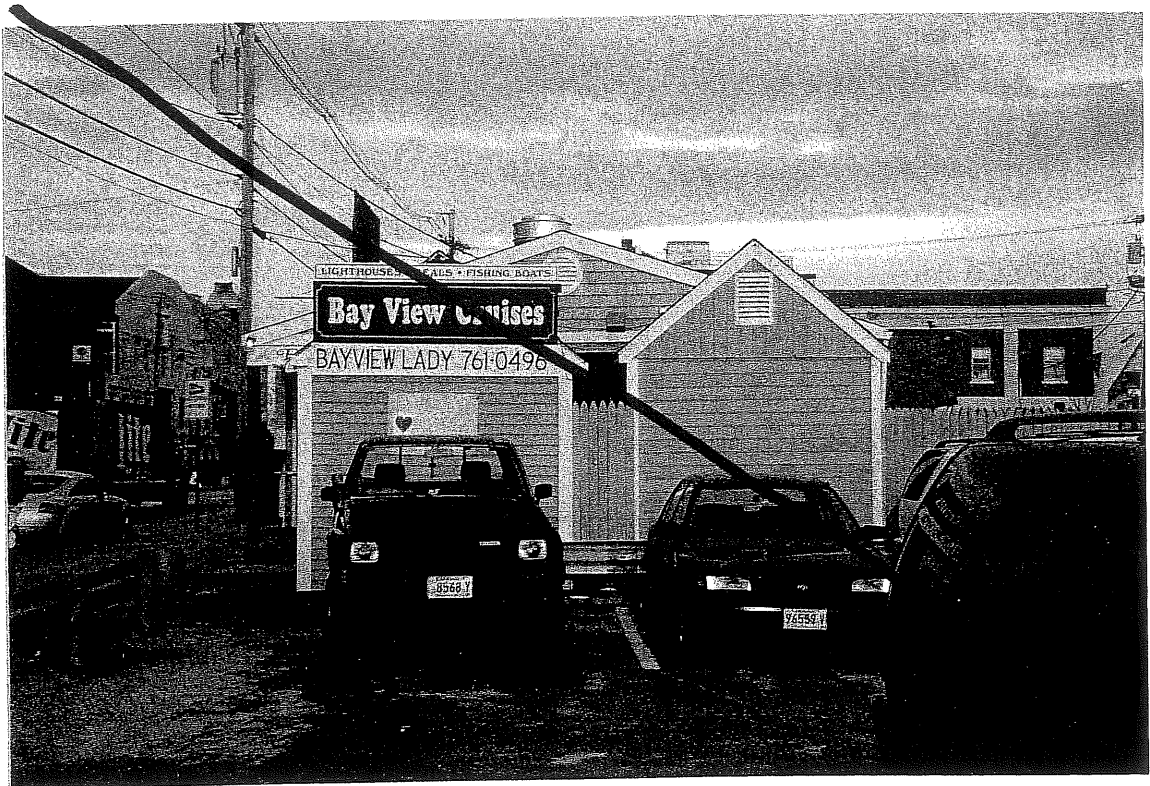
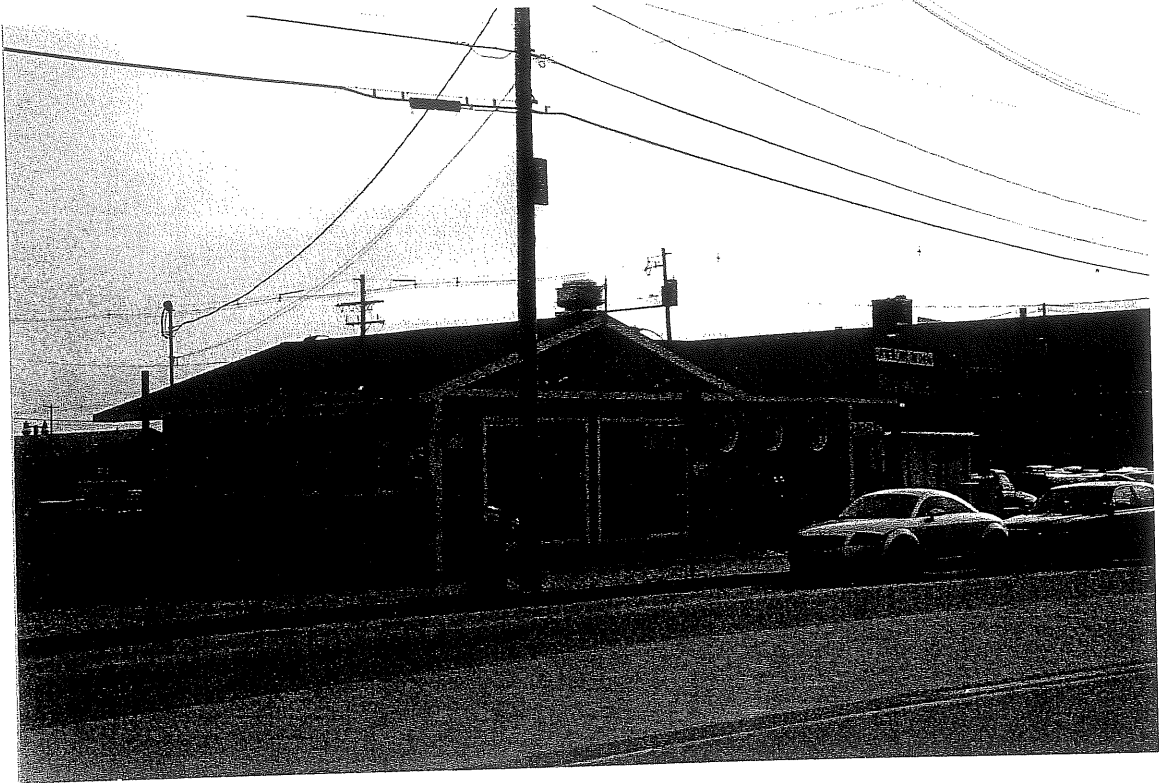
- Uses on the first floors of buildings with direct water access (berthing) and those within 100 feet of the direct water access must be marine only.
- Uses on floors other than the first floor may have water dependent, marine related, or marine compatible activities.
- After a mechanism for allowing such uses is developed, buildings beyond 100 feet of the direct water access may have water dependent, marine related or marine compatible uses on all floors (after a case by case review).
- Water Dependent - those uses requiring direct waterside or water access for berthing and space - are priority one.
- Marine Related Support Uses - those in support of but not interfering with water dependent - are priority two.
- Marine compatible - those uses that are not either water dependent, marine related support and do not interfere with or are not incompatible with the above - are encouraged.

The Waterfront Alliance recommends the development of Performance Standards or Contract Zone Concept to be applied to projects that must commit to an understanding of the needs of the marine dependent in noise, traffic control, odors, parking, traffic, TDM hours of business and so forth.

It is our feeling that the balance of the work needed to reach written zoning ordinance will be best accomplished by the Planning Department and City Council. It is the intent of the Alliance to be available to serve as requested by the City to complete this task. We request that the new ordinances be developed and enacted as soon as possible upon completion.

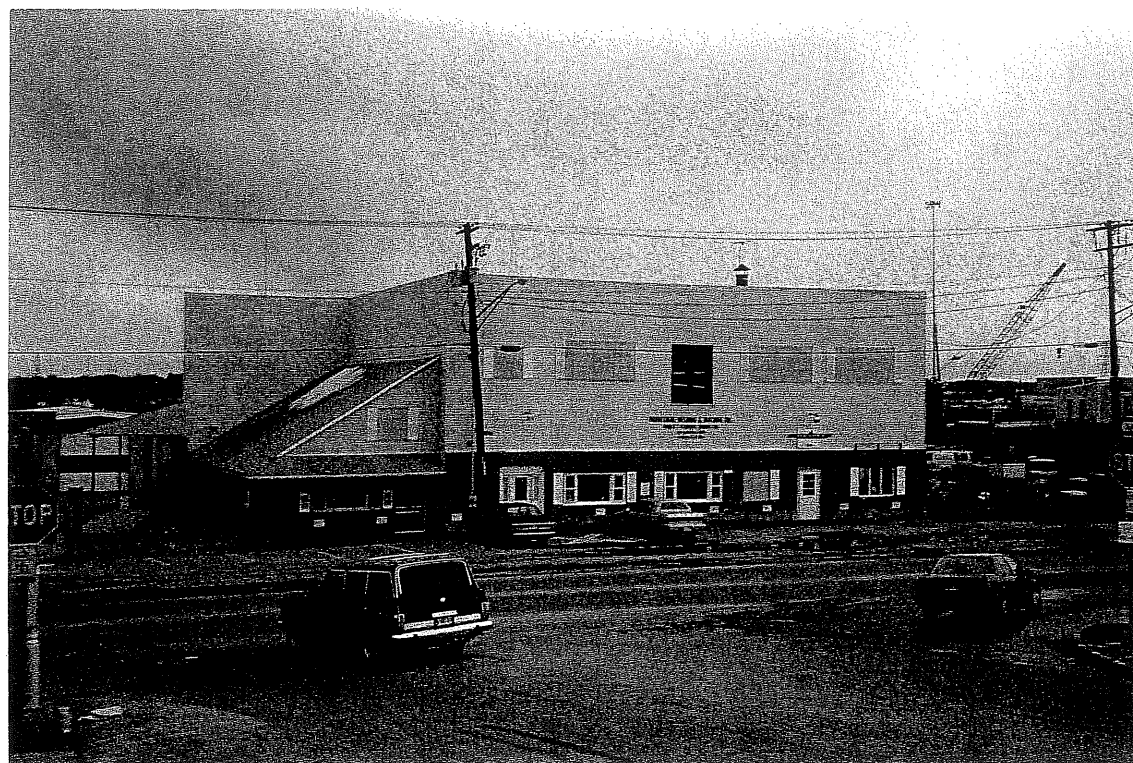
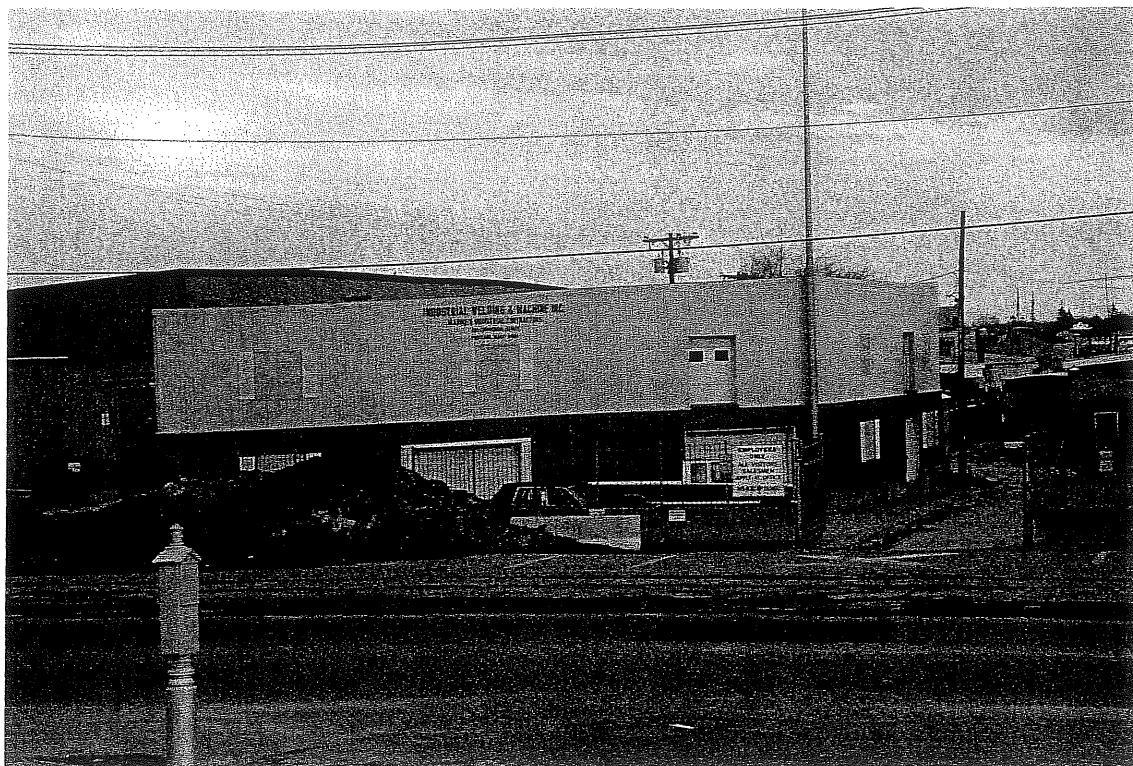


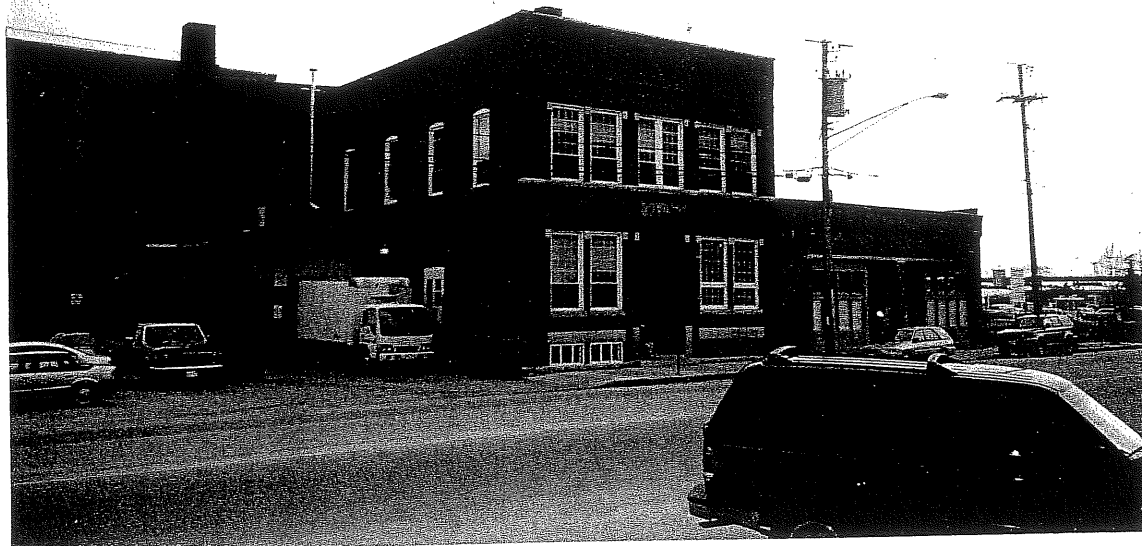
NOW EXEMPT



NOW EXEMPT







TEXT A

ATT 6.1

DRAFT 2AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14, section 315 (Conditional Uses in Waterfront Central Zone)

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, MAINE
IN CITY COUNCIL ASSEMBLED AS FOLLOWS:

1. That Chapter 14 Article III, section 315 (Conditional Uses) be amended
as follows:

Sec. 14-315. Conditional uses.

The following uses shall be permitted as conditional uses in the waterfront central zone, provided that, notwithstanding section 14-471(3), section 14-474(a), or any other provision of this Code, the planning board shall be substituted for the board of appeals as the reviewing authority, and further provided that in addition to the provisions of section 14-474(c)(2), section 14-313.5, and any other conditions specified under the particular use below, they shall also meet the following conditions:

- a. The proposed use shall be compatible with existing and potential marine uses in the vicinity;
- b. The proposed use shall not impede access to the water by existing or potential marine uses; and
- c. For conditional uses that propose or require twenty (20) or more parking spaces, the proposed conditional use, when considered in conjunction with past, present and reasonably foreseeable future development, specifically including but not limited to development and uses occurring in this district in structures within thirty-five (35) feet of the southerly edge of Commercial Street, shall meet the standards of section 14-526(a)(1). For purposes of application of this standard only, in evaluating congestion, any private way or access road serving as the primary means of land access to a pier or wharf shall be deemed to be included within the term "street" at the intersection

Att 6.2

of such private way or access road with Commercial Street.

- (1) *Parking:* Notwithstanding sections 14-317(8), 14-331, 14-334 and article V of this chapter, no parking shall be allowed in this zone for conditional uses and uses permitted only above the ground floor level, unless the applicant can demonstrate that the number of parking spaces on-site exceeds the number of parking spaces required for marine uses that are required by section 14-314(1). The remainder of parking required for such uses shall be provided off-site and in other zones where parking is a permitted use.
- (2) *Marine:*
 - a. Noncommercial vessel berthing of fifty (50) linear feet or greater per pier along the edges of piers existing on January 4, 1993, provided that:
 1. Such use does not decrease the amount of, nor diminish the quality of, existing on-site berthing space, as measured along the pier, float or wharf edge, which could be used for commercial vessels in its current condition. In assessing the impact on quality of berthing space, the planning board shall consider the following: cost, access, maneuverability, depth for various-sized vessels, loading/unloading areas, lease terms, availability of utilities, parking and safety.
 - b. Fish by-products processing, provided that:
 1. Any fish by-products processing facility has a valid rendering facility license under chapter 12; and
 2. The processing of other material wastes or by-products shall not be deemed a lawful accessory use under any other provision of this article.

Att 6.3

- c. Boat rack storage facilities, provided that:
1. Parking shall be provided for one hundred (100) percent of the demand generated by the use, and such parking shall be provided off-site, in another zone permitting such use.
- (3) *Expansion of a non-water dependent, non-marine related use permitted under 14-314(5) into contiguous and newly created building space shall be allowed only under the following conditions:*
- (a) the use may occupy a ground floor area of no more than 1250 square feet beyond 35 feet from the southerly sideline of Commercial Street; and
 - (b) as of [date of enactment], an existing building that qualifies for a non-water dependent, non-marine related use under 14-314 shall be no less than 500 square feet; and
 - (c) The expansion of the use shall be reviewed by the Planning Board under the Site Plan standards and shall otherwise meet the requirements of the Waterfront Central Zone and this Code.

DRAFT 3AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14, section 315 (Conditional Uses in Waterfront Central Zone)

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, MAINE
IN CITY COUNCIL ASSEMBLED AS FOLLOWS:

1. That Chapter 14 Article III, section 315 (Conditional Uses) be amended as follows:

Sec. 14-315. Conditional uses.

The following uses shall be permitted as conditional uses in the waterfront central zone, provided that, notwithstanding section 14-471(3), section 14-474(a), or any other provision of this Code, the planning board shall be substituted for the board of appeals as the reviewing authority, and further provided that in addition to the provisions of section 14-474(c)(2), section 14-313.5, and any other conditions specified under the particular use below, they shall also meet the following conditions:

- a. The proposed use shall be compatible with existing and potential marine uses in the vicinity;
 - b. The proposed use shall not impede access to the water by existing or potential marine uses; and
 - c. For conditional uses that propose or require twenty (20) or more parking spaces, the proposed conditional use, when considered in conjunction with past, present and reasonably foreseeable future development, specifically including but not limited to development and uses occurring in this district in structures within thirty-five (35) feet of the southerly edge of Commercial Street, shall meet the standards of section 14-526(a)(1). For purposes of application of this standard only, in evaluating congestion, any private way or access road serving as the primary means of land access to a pier or wharf shall be deemed to be included within the term "street" at the intersection of such private way or access road with Commercial Street.
- (1) *Parking:* Notwithstanding sections 14-317(8), 14-331, 14-334 and article V of this chapter, no parking shall be allowed in this zone for conditional uses and uses permitted only above the ground floor level, unless the applicant can demonstrate that the number of parking spaces on-site exceeds the number of parking spaces required for marine uses that are required by section 14-314(1). The remainder of parking required for such uses shall be provided off-site and in other zones where parking is a permitted use.

(2) *Marine:*

- a. Noncommercial vessel berthing of fifty (50) linear feet or greater per pier along the edges of piers existing on January 4, 1993, provided that:
 1. Such use does not decrease the amount of, nor diminish the quality of, existing on-site berthing space, as measured along the pier, float or wharf edge, which could be used for commercial vessels in its current condition. In assessing the impact on quality of berthing space, the planning board shall consider the following: cost, access, maneuverability, depth for various-sized vessels, loading/unloading areas, lease terms, availability of utilities, parking and safety.
- b. Fish by-products processing, provided that:
 1. Any fish by-products processing facility has a valid rendering facility license under chapter 12; and
 2. The processing of other material wastes or by-products shall not be deemed a lawful accessory use under any other provision of this article.
- c. Boat rack storage facilities, provided that:
 1. Parking shall be provided for one hundred (100) percent of the demand generated by the use, and such parking shall be provided off-site, in another zone permitting such use.

(3) *Expansion of a non-water dependent, non-marine related use permitted under 14-314(5) into contiguous and newly created building space shall be allowed only under the following conditions:*

(a) the use may occupy a net ground- floor area of no more than 1250 square feet beyond 35 feet from the southerly sideline of Commercial Street. Expansions into upper stories which do not qualify under this provision are subject to contract or conditional rezoning, 14-315.3; and

(b) as of [date of enactment], an existing building that qualifies for a non-water dependent, non-marine related use under 14-314 shall be no less than 500 square feet; and

(c) The expansion of the use shall be reviewed by the Planning Board under the Site Plan standards and shall otherwise meet the requirements of the Waterfront Central Zone and this Code.

Sec. 14-315.3. Contract or conditional rezoning.

Except as authorized in section 14-314(4) and 14-315(3), an applicant may only locate a nonmarine use in a structure which was not in existence on January 4, 1993, if a rezoning is approved pursuant to division 1.5 of this article. A conditional or contract rezoning shall only be approved if, after public hearing and opportunity for public comment, the reviewing body finds that the applicant has carried the burden of proof to show that the proposed development meets the standards of section 14-313.5 and all of the following standards:

- (1) Each proposed upper story nonmarine use is a use which would be permitted above the ground floor level in a structure existing on January 4, 1993, pursuant to section 14-314(2), (3) or (4).
- (2) The ground floor of the proposed structure consists entirely of one (1) or more marine uses as set forth in section 14-314.
- (3) The proposed development is consistent with the comprehensive plan and, without the proposed development, the site could not otherwise support an economically viable water-dependent use.
- (4) Any physical or legal impediments which preclude functional access from the site of the proposed development to the water's edge are not the result of action taken by the current owner, the applicant for rezoning, or any prior owner after January 4, 1993.
- (5) The project's public benefits outweigh its potential negative impacts, taking into consideration as public benefits protection of existing water-dependent uses, preservation of future water-dependent use development opportunities, contribution to the development of and/or on-going maintenance of the marine infrastructure for commercial vessels (either on-site or off-site) and visual and physical access to the waterfront for the general public.
- (6) The proposed development responds to any unique physical conditions and development opportunities along the shoreline.
- (7) The proposed development does not significantly restrict air, light, or water views of other structures located in the vicinity, and does not create significant adverse

LEGEND: (EXISTING FEATURES)

- PROPERTY CORNER
- ⊙ POWER POLE
- ⊙ FIRE HYDRANT
- ⊙ WATER SHUT OFF
- ▢ STORM DRAIN
- SEWER MAN HOLE
- BULKHEAD
- ⋯ FENCE
- ☎ TELEPHONE
- ☑ FIRE BOX
- ⊙ FLAG POLE
- x SPOT GRADES
- SMALL TREE
- * TREES AND SHRUBS
- ⊗ EXISTING PARKING
- TRAFFIC FLOW
- ↘ DRAINAGE ARROWS

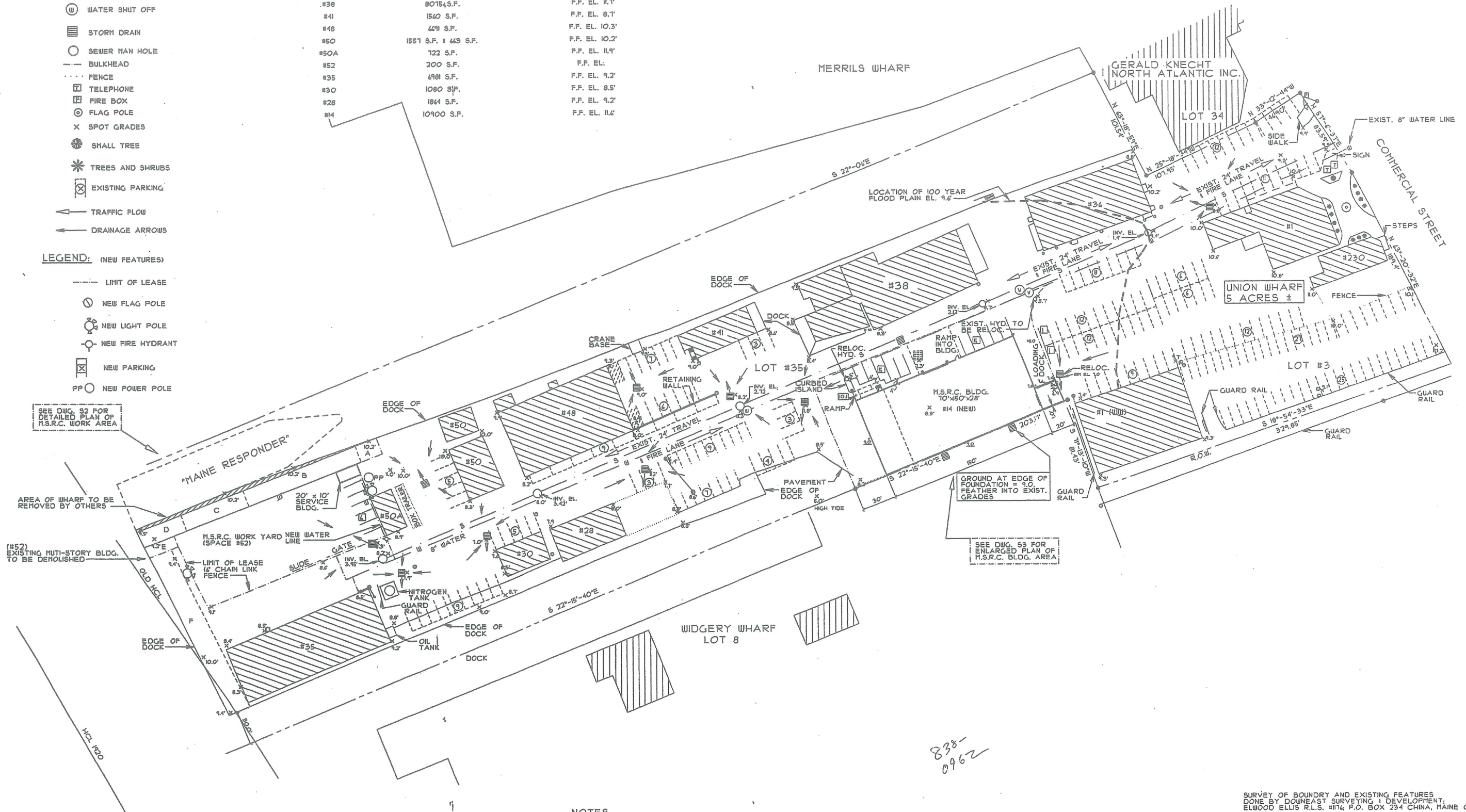
LEGEND: (NEW FEATURES)

- LIMIT OF LEASE
- ⊙ NEW FLAG POLE
- ⊙ NEW LIGHT POLE
- ⊙ NEW FIRE HYDRANT
- ⊗ NEW PARKING
- PP ○ NEW POWER POLE

BLDG. #	GROUND FLOOR AREA	GRADE ELEVATION
#1	4680 S.F.	F.F. EL. 11.3'
#230	1481 S.F.	F.F. EL. 11.9'
#36	5014 S.F.	F.F. EL. 11.2'
#38	8075 1/2 S.F.	F.F. EL. 11.7'
#41	1540 S.F.	F.F. EL. 8.7'
#48	4491 S.F.	F.F. EL. 10.3'
#50	1557 S.F. + 443 S.F.	F.F. EL. 10.2'
#50A	722 S.F.	F.F. EL. 11.9'
#52	200 S.F.	F.F. EL.
#35	4981 S.F.	F.F. EL. 9.2'
#30	1080 S.F.	F.F. EL. 8.5'
#28	1864 S.F.	F.F. EL. 9.2'
#14	10900 S.F.	F.F. EL. 11.6'

Att C

MAGNETIC
1925



SEE DWG. S2 FOR
DETAILED PLAN OF
M.S.R.C. WORK AREA

GROUND AT EDGE OF
FOUNDATION = 9.0'
FEATHER INTO EXIST.
GRADES

SEE DWG. S3 FOR
ENLARGED PLAN OF
M.S.R.C. BLDG. AREA

SCALE: 1" = 40'
20 0 40 100

NOTES:

COASTAL BASE FLOOD EL. = 9.6' PER FLOOD INSURANCE STUDY DATED JULY 11, 1986.
BENCH MARK: DATUM USGS FROM CUSTOM HOUSE B.M. #14.07.
FLOOD MAP NOTE (PLAN #9)
SOILS ARE MAN MADE BEING CRUSHED STONE ON CONSOLIDATED FILL.
LOT SHOWN ON MAP 31 LOTS 35 + 3 IN TAX ASSESSORS BOOK.
TOTAL WHARF REQUIRED PARKING 123 SPACES. PARKING PROVIDED 150 SPACES.

SURVEY OF BOUNDARY AND EXISTING FEATURES
DONE BY DOWNEAST SURVEYING & DEVELOPMENT,
ELWOOD ELLIS R.L.S. #174, P.O. BOX 234 CHINA, MAINE 04926

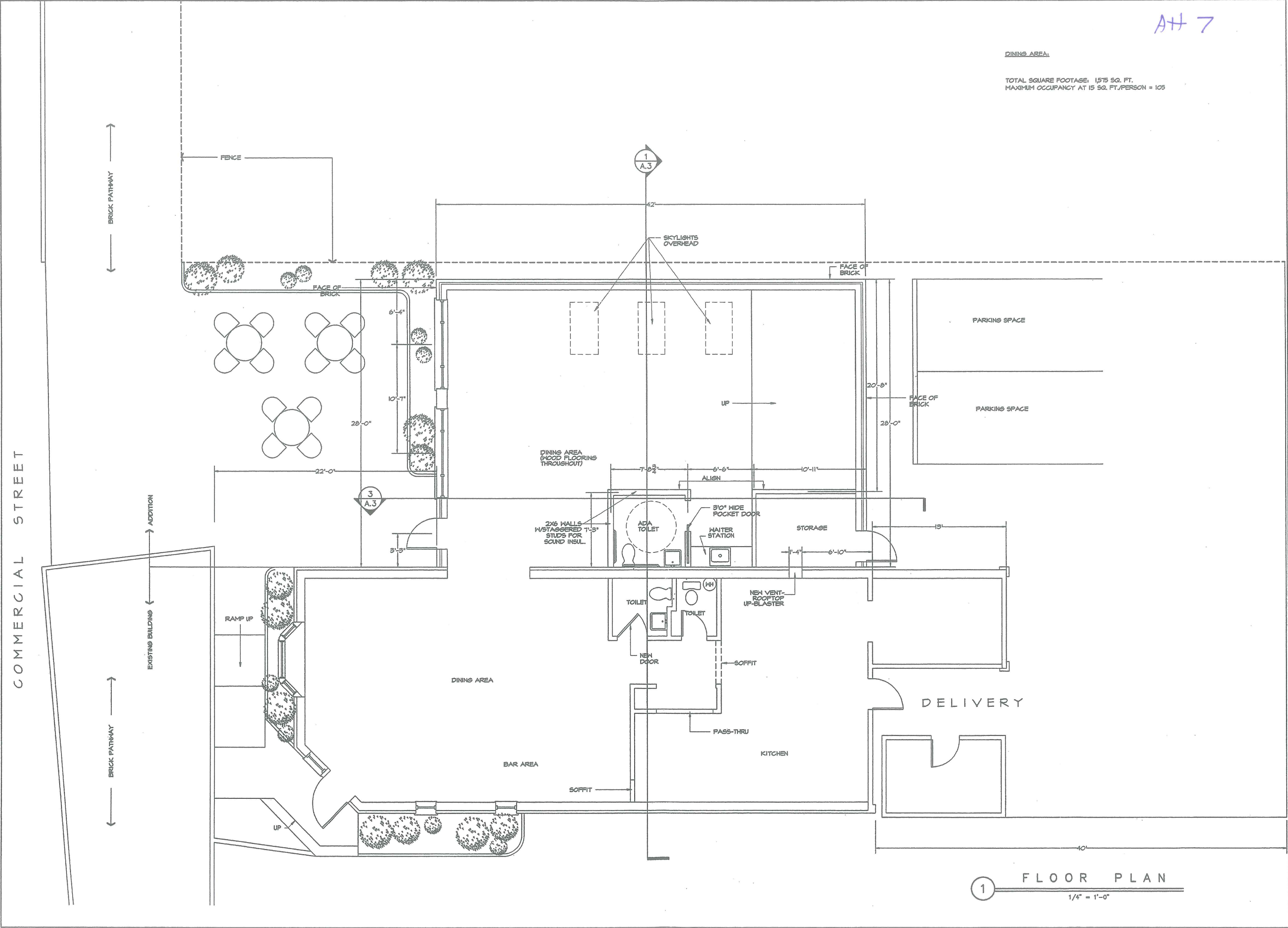
DATE	REVISION	EST. NO	Engineering Designs For	JOB NO.
		SIZE	PROPRIETORS of UNION WHARF	9403
		TYPE	36 UNION WHARF	ENGINEERING
		DRAWN BY	PORTLAND, MAINE	DWG. NO.
		APPROVED BY		SI
1-12-95	RECORD DRAWING	SCALE	SITE PLAN	OF
2-21-94	REV. BOUNDARY PER ELWOOD ELLIS	DATE	of	
			M.S.R.C. BUILDING & WORK AREA	
			DESIGN BUILDER	



A# 7

DINING AREA

TOTAL SQUARE FOOTAGE: 1575 SQ. FT.
MAXIMUM OCCUPANCY AT 15 SQ. FT./PERSON = 105



©William E. Whited, Inc.
ARCHITECT/ENGINEER
1321 WASHINGTON AVENUE, PORTLAND, MAINE 04103
TEL. (207) 878-4550 FAX (207) 878-4553

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NO.	REVISIONS

ADDITION TO THE
SAPPORO RESTAURANT
COMMERCIAL ST., PORTLAND, MAINE

FLOOR PLAN

PROJECT DRAWING

REGISTERED ARCHITECT
WILLIAM E. WHITED
No. 1077
STATE OF MAINE

REGISTERED PROFESSIONAL ENGINEER
WILLIAM E. WHITED
No. 1283
STATE OF MAINE

CONSTRUCTION FROM THIS DRAWING IS AUTHORIZED ONLY WHEN STAMPED BY RESPONSIBLE ARCHITECT OR ENGINEER

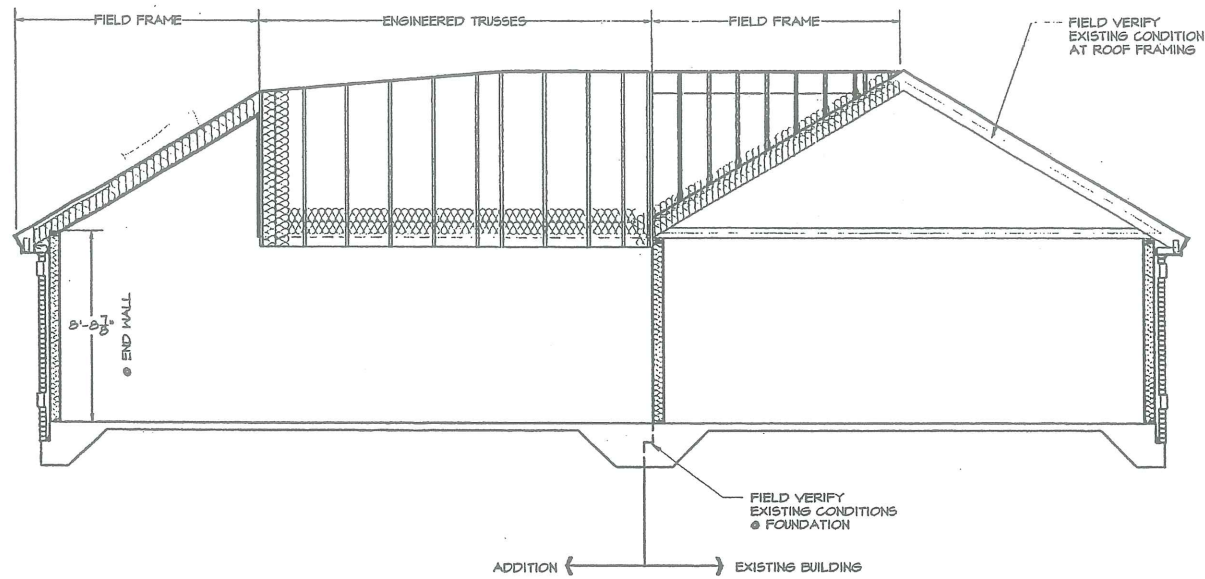
1 FLOOR PLAN
1/4" = 1'-0"

DATE 09.01.00
DWN JB OK'D WW

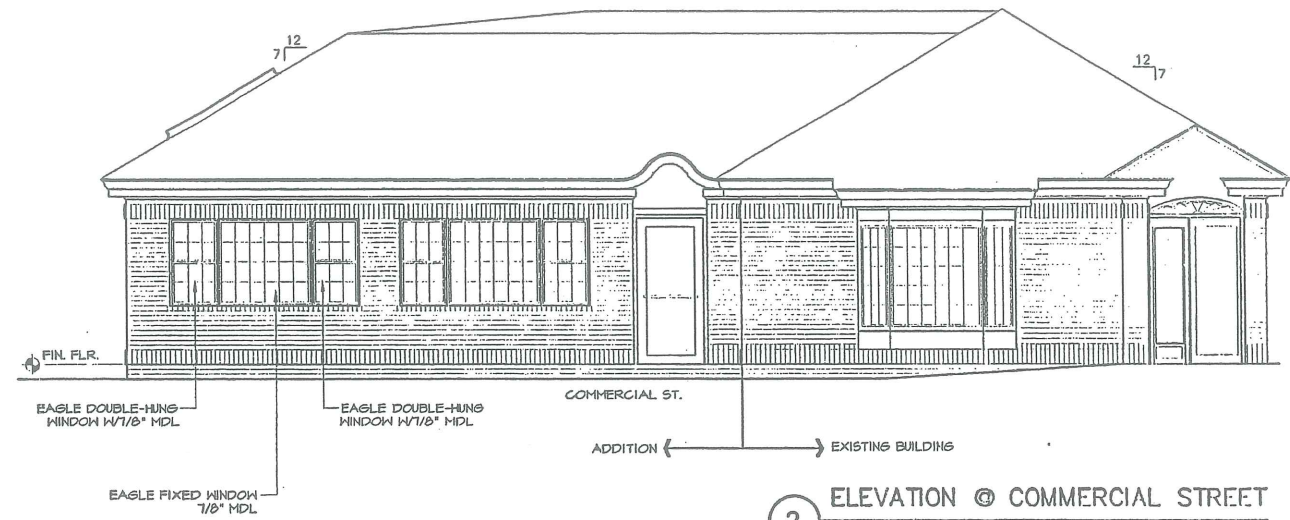
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SHEET REVISION NO. OF CAD FILE:

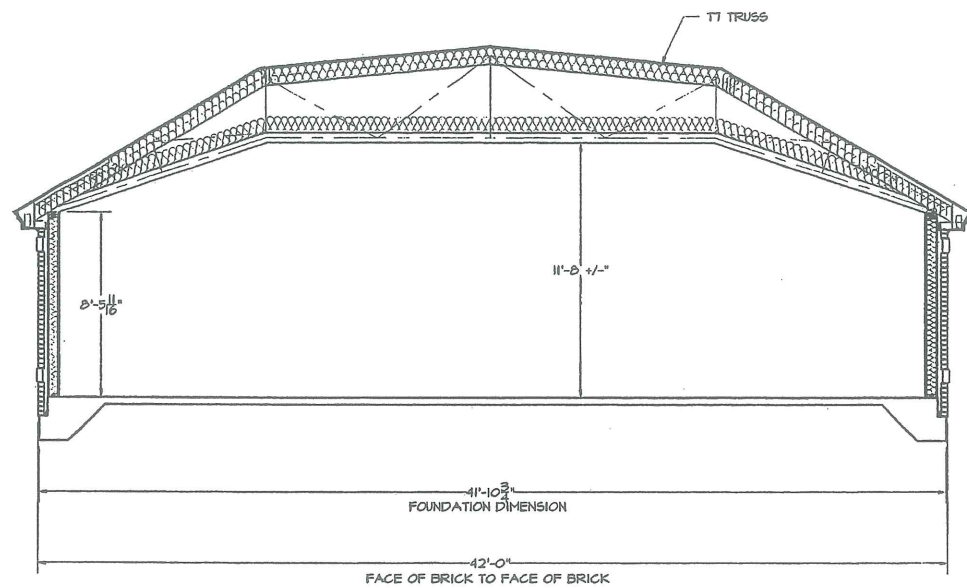
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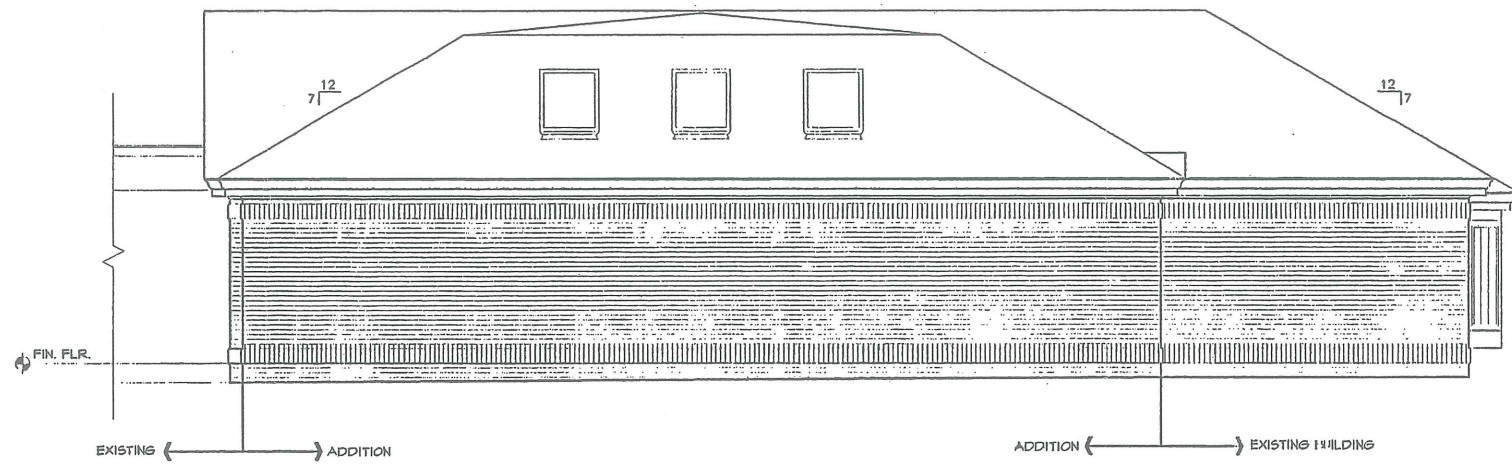
1 BUILDING SECTION
1/4" = 1'-0"



2 ELEVATION @ COMMERCIAL STREET
1/4" = 1'-0"



3 BUILDING SECTION
1/4" = 1'-0"



4 SIDE ELEVATION
1/4" = 1'-0"

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TEL. (207) 878-4530 FAX (207) 878-4533

REVISIONS

ADDITION TO THE
SAPPORO RESTAURANT
COMMERCIAL ST., PORTLAND, MAINE
PROJECT
DRAWING
EXTERIOR ELEVATIONS
BUILDING SECTIONS

REGISTERED ARCHITECT
WILLIAM E. WHITED
No 1077
OF MAINE
WILLIAM E. WHITED
No 2283
REGISTERED PROFESSIONAL ENGINEER

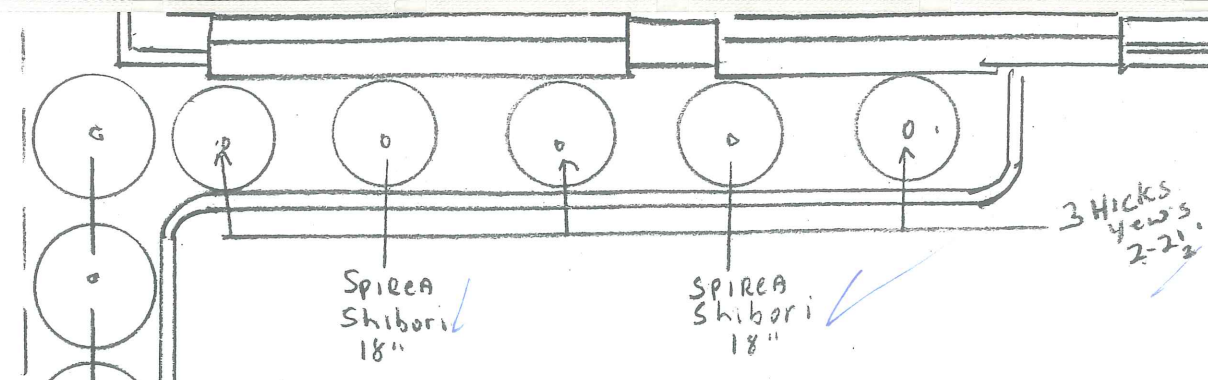
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DATE 10-22-99
DWN JB OK'D WW

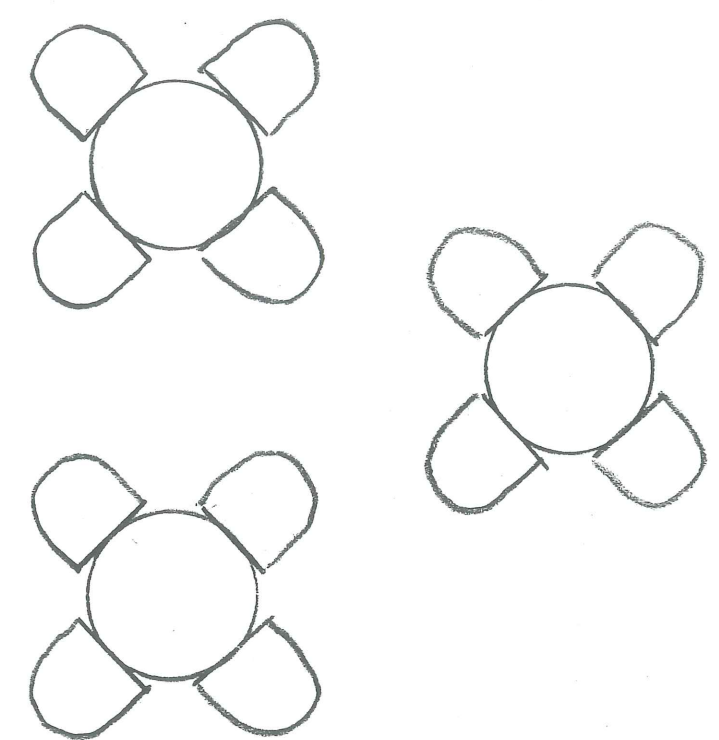
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SHEET OF
REVISION NO:
CAD FILE:

OT

6



3 Hicks
yew's
2-2 1/2

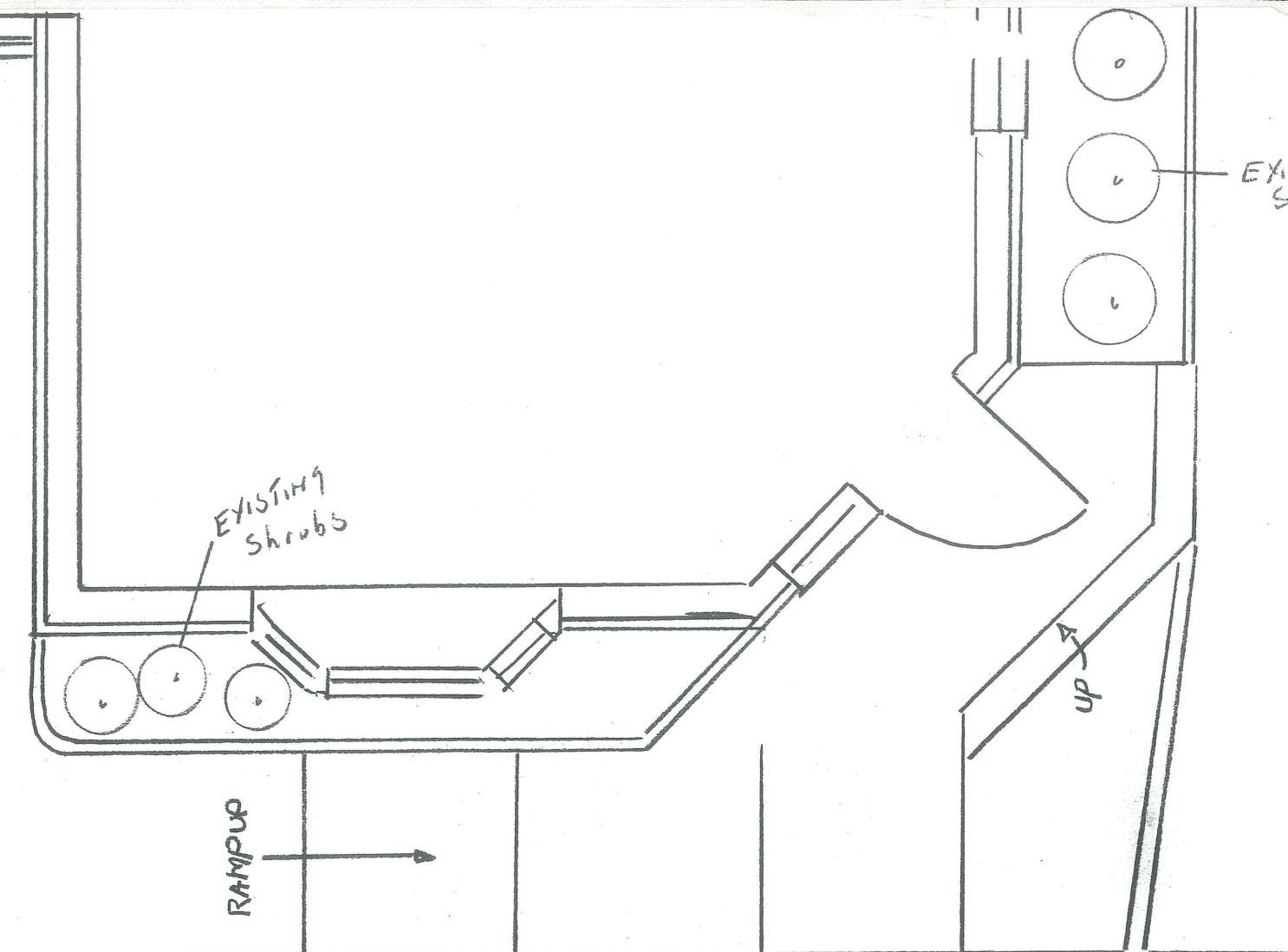


8
EMERALD GREEN
ARBOVITUS
4 1/5'



PLANTERS
WITH
4 HETZI COLUMNARIS
JUNIPER
3/4'
OR
KARL FORSTER
GRASS

3, only w/ curbs
Whiskey barrels, should be
concrete



PROPRIETORS OF UNION WHARF
36 UNION WHARF - P.O. BOX 7467 DTS
PORTLAND, MAINE 04112

230 Commercial St.
Portland, Me.
LANDSCAPING

ONE UNION W	
SCALE: 1/4" = 1'	APPROVED BY
DATE: 9-26-00	

AL LAPPIN Co. Inc.
PORTLAND, ME.

AH.8

WCZ

