

**32-E-10**

**#2013-245**

**46 Market Street**

**Studios**

**Market Milk Partners, LLC.**





## PLANNING BOARD REPORT PORTLAND, MAINE

Studios at 46 Market Street  
46 Market Street  
Level III Site Plan and Subdivision Review  
2013-245  
Market Milk Partners, LLC, Applicant

Submitted to: Portland Planning Board Public Hearing Date: November 26, 2013 Planning Board Report Number: #55-13	Prepared by: Nell Donaldson, Planner Date: November 20, 2013 CBLs: 32-E-10001
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### I. INTRODUCTION

Market Milk Partners, LLC has submitted Level III site and subdivision plans for the residential redevelopment of an existing building at 46 Market Street in the Old Port. The existing structure currently contains first floor retail, second floor office, and third floor residential space. The proposal includes a change of use involving the interior buildout of three residential apartment units on the second floor and the addition of one apartment unit on the fourth floor, bringing the total number of residential units in the building to five. At this time, the proposal does not include any site work.

The Planning Board did not hold a workshop on this proposal. Instead, the applicant has elected to submit final plans and proceed directly to public hearing.

A total of 221 notices were sent to property owners within 500 feet of the site and a legal ad ran on November 18 and 19, 2013.

**Applicant:** Tom Watson, Market Milk Partners, LLC

**Consultants:** Mark Mueller Architects; Owen Haskell, Inc.

### II. REQUIRED REVIEWS

<i>Waiver Requests</i>	<i>Applicable Standards</i>
Street Trees – 5 trees required (1/unit), 0 provided, contribution of \$1,000 requested	<i>Site Plan Standard and waiver (Section 14-526(b)2.b(iii))</i>
<i>Review</i>	<i>Applicable Standards</i>
Site Plan	<i>Section 14-526</i>
Subdivision (creation of 3 or more dwelling units)	<i>Section 14-497</i>

### III. PROJECT DATA

Existing Zoning	B-3
Existing Use	Mixed (retail, office, residential)
Proposed Use	Mixed (retail, office, residential)
Proposed Development Program	Addition of four residential units
Parcel Size	2,065 SF

	<i>Existing</i>	<i>Proposed</i>	<i>Net Change</i>
Building Footprint	2,065 SF	2,065 SF	0 SF
Building Floor Area	8,136 SF	8,136 SF	0 SF
Impervious Surface Area	2,065 SF	2,065 SF	0 SF
Parking Spaces (on site)	0	0	0
Bicycle Parking Spaces	0	0	0
Estimated Cost of Project	\$250,000		



Figures 1 and 2: 46 Market Street today (top); the site at Market and Milk Streets in the Old Port (bottom)

**IV. EXISTING CONDITIONS**

The site at 46 Market Street is currently built, occupied by a turn-of-the-century brick mixed-use building characteristic of the Old Port. The ground floor on the Market Street façade features large storefront windows; the upper floors are punctuated by a typical residential window pattern. Doorways are found at the northeast and southwest corners of the building, on both the Market and the Milk Street frontages; however, these doors provide access solely to the first floor and basement of the building. Access to the second and third floors is provided via an enclosed, upper story walkway from the adjacent building at 31 Exchange Street. The exterior door leading to this walkway can be found on Exchange Street. Currently, the first floor of the building is unoccupied retail space, the second floor contains three office units, and the third floor is occupied by one large residential unit. There is also a basement with leasable space.

The project lies in the B-3 zone and also in the heart of the Old Port Historic District.

**V. PROPOSED DEVELOPMENT**

The residential buildout at 46 Market Street, as proposed, consists of four additional residential apartment units, designed as studios, and would bring the total number of units in the building to five. The existing office space on the second floor would be converted to residential space, and the existing third floor unit would be split into

two. Access to all of these units would be provided via the existing elevated walkway from 31 Exchange. No exterior work is currently proposed.

**VI. PUBLIC COMMENT**

The Planning Division received one request for information about the project, but received no written or verbal comments.

**VII. RIGHT, TITLE, & INTEREST**

The applicant’s submittal includes a deed demonstrating rights to the property (*Attachment X*). The applicant also submitted copies of a 1993 “agreement” between the adjacent property owner at 31 Exchange Street and the then



Figures 3 and 4: The “strip” area between the buildings at 46 Market and 31 Exchange Streets, including the walkway providing access to 46 Market

current owner of 46 Market (*Attachment X*). This agreement was recorded when the Exchange Street property owner, who originally owned both buildings, sold 46 Market Street as an outparcel. This agreement notes that the two buildings are “connected at certain points and are served by common utilities and access corridors, among other things,” and ultimately grants 46 Market Street an access easement “over the entrance, stairway, corridors, and walkways” in 31 Exchange. The agreement also conveys to 46 Market the rights to construct and repair utilities, heating and ventilation equipment, restrooms, and drainage systems in the joined area, known as “the strip.” This area is pictured in Figures 3 & 4.

**VIII. FINANCIAL & TECHNICAL CAPACITY**

The estimated cost of the development is \$250,000. The applicant has provided a letter from Bangor Savings Bank indicating their intent to finance the project at 46 Market Street (*Attachment X*).

**IX. ZONING ANALYSIS**

Marge Schmuckal, Zoning Administrator, has provided comments conditionally approving the project from a zoning perspective. She writes,

*This project is proposing to add 4 more dwelling units to be located on the 2nd and 3rd floors. Since there is one approve[d] residential unit currently, the total of dwelling units will be five. Three dwelling units will be on the 2nd floor and two dwelling units will be on the 3rd floor.*

*The property is located in the B-3 Downtown Business zone which allows residential dwelling units as a permitted use. There are no requirements for land area per dwelling unit in the B-3 zone. There is also an exemption for showing required parking in the B-3 zone for any change of use. This property is also within a Historic District that exempts the necessity of showing parking for the new uses.*

*Separate building permits are required for the change of use, along with separate permits for new HVAC and additional air cooled water chillers on the roof. Such units shall meet the maximum allowance for noise levels for the B-3 zone. At the time of permit application, the unit's decibel levels must be submitted for analysis.*

**X. SITE PLAN SUBMISSION REQUIREMENTS (Section 14-527) and SUBDIVISION PLAT AND RECORDING PLAT REQUIREMENTS (Section 14-496)**

The applicant has submitted application materials in accordance with the site plan and subdivision requirements of the city’s land use ordinance. Where these materials are insufficient or incomplete, they have been discussed below. It should be noted that the submittal of a revised subdivision plat meeting the city’s plat requirements is included as a condition of approval. Prior to signing, the applicant will need to modify the draft plat to include waivers and conditions of approval as decided by the Planning Board. The revised plat will also need to clearly depict all

areas subject to easements.

**XI. SUBDIVISION REVIEW (14-497(a). Review Criteria; 14-198. Technical and Design Standards; & 14-499. Required Improvements)**

The proposed development has been reviewed by staff for conformance with the relevant review standards of the City of Portland’s subdivision ordinance. The findings of that review are discussed below.

**1. Water, Air Pollution**

As noted above, no new construction is proposed as part of this project. No detrimental water or air quality impacts are anticipated.

**2 & 3. Adequacy of Water Supply**

The applicant has not provided a letter from the Portland Water District confirming the district’s ability to serve the proposed project. This has been included as a condition of approval.

**4. Soil Erosion**

As previously discussed, the site is currently built out. As such, no soil erosion is anticipated.

**5. Impacts on Existing or Proposed Highways and Public Roads**

The project would result in four additional residential units on site. All of these are designed as studios. The project is not expected to generate significant traffic volumes or have a major impact on existing or proposed highways and public roads.

**6. Sanitary Sewer/Stormwater**

The applicant has submitted a wastewater capacity application to the Department of Public Services requesting confirmation of adequate sewer capacity (*Attachment X*). A letter from DPS confirming sewer capacity has been included as a condition of approval.

Since the site is currently built out and no site work is proposed, there are no new impervious surfaces anticipated. As such, no stormwater impacts are expected from the project.

**7. Solid Waste**

The applicant has stated in their application that “existing solid waste is removed from the building by the tenants” and that “no on site waste receptacles exist or are proposed” (*Attachment X*). Notes regarding the temporary storage of solid waste will be required on the revised subdivision plat.

(DPS PDP)

**8. Scenic Beauty**

Again, since all the proposed work is interior, the proposal is not deemed to have an adverse impact on the scenic beauty of the area.

**9. Comprehensive Plan**

In the creation of more housing units on the peninsula, the project is deemed compatible with Comprehensive Plan goals and policies, including the vision for the community’s future, which envisions an “adequate supply of quality housing for all,” “proximity of commercial uses near residences,” and “high-density areas on the peninsula.”

**10. Financial and Technical Capacity**

As noted above, the applicant has submitted a letter from Bangor Savings Bank indicating the intent to finance the project.

**11. Wetland Impacts**

There are no anticipated impacts to wetlands.

**12. Groundwater Impacts**

There are no anticipated impacts to groundwater supplies.

**13. Flood-Prone Area**

The project is not located in a flood-prone area.

**Technical and Design Standards and Required Improvements**

The already constructed building meets applicable requirements contained in the subdivision ordinance. It should be noted that underground electric already exists to the site.

**XII. SITE PLAN REVIEW**

The proposed development has been reviewed by staff for conformance with the relevant review standards of the City of Portland’s site plan ordinance. A summary of this review is included below.

**1. Transportation Standards**

**a. Impact on Surrounding Street Systems**

As noted above, the proposal is not expected to generate a change in traffic volumes to the site or thus have any significant impact on the surrounding street system.

**b. Access and Circulation**

There is no existing or proposed vehicular access to the site. Pedestrian access, as described above, would remain unchanged, with walkup access to the third and fourth floors via 31 Exchange Street. A fire escape exists at the northwest corner of the building, with access via a shared landing.

There is an existing ramp at the corner of Market and Milk Streets that fails to meet the city’s current technical standards. Of this ramp, David Margolis-Pineo, of the city’s Department of Public Services, writes,

*The applicant is requested to re-build the sidewalk ramp at the corner of Milk and Market Streets installing a detectable warning panel for the historic district per Figure I-7A on page 40 of the City’s Technical Manual. The applicant is also request to install a short section of flush granite curb in conjunction with this ramp. The City may have a piece of granite curbing stored on outer Congress St which may be used at no cost to the applicant except to pick up and transport. The applicant is requested to use the Pinehall Pathway Pavers bricks when rebuilding this ramp.*

Likewise, there are portions of the existing brick sidewalk north of this ramp on Market Street which require small renovations. Mr. Margolis-Pineo writes,

*There are two potential tripping areas in the Market St. sidewalk adjacent to sidewalk ramp. One next to the building corner and the other around the catchbasin headstone. The applicant is requested to remove the brick as necessary in these two areas and reconstruct as necessary to eliminate these tripping hazards. Again, the City may have bricks at the outer Congress Street storage area which will match the existing brick. The applicant is welcome to use these brick as necessary to facilitate these repairs.*

**c. Public Transit Access**

The proposed development is not located along a public transit route. As such, no provisions for transit access are required.

**d. Parking**

Division 20 of the land use ordinance requires one parking space/unit for residential development located on the peninsula (Section 14-332(a)3). However, Division 20 also includes exceptions under specific circumstances, including changes of use in the B-3 zone (Section 14-332.1(e)) and developments in historic districts (Section 14-332.2(d)). As such, the project is exempt.

*Handwritten note:*  
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 well -

No bike parking is proposed. Per Section 14-526(a)4.b, two bicycle parking spaces are required for every five dwelling units. A requirement for bike parking has been included as a condition of approval.

- e. *Transportation Demand Management*  
A transportation demand management plan is not required.

**2. Environmental Quality Standards**

- a. *Preservation of Significant Natural Features*  
There are no known significant natural features on the site.

- b. *Landscaping and Landscape Preservation*  
The site is currently unlandscaped and no landscaping is proposed. The city’s site plan standards include a requirement that multi-family residential developments provide one street tree/unit (Section 14-526(b)2.b(iii)). Per this requirement, five street trees are required on the site’s street frontages. The applicant has requested a waiver on the grounds that there are existing site constraints, namely relatively narrow sidewalks. The waiver criteria for street trees under 14-526 state,

*Where the applicant can demonstrate that site constraints prevent the planting of required street trees in the City right of way, the Reviewing Authority may permit the planting of street trees in the front yard, within 10 feet of the property line... If planting street trees is neither feasible in the City right of way nor within the site, the applicant shall contribute to the Cost of Portland Tree Fund an amount proportionate to the cost of required street trees.*

Due to site constraints, staff recommends a waiver of the street tree standard and a contribution to the tree fund in the amount of \$1,000.

*Jeff Darling suggest? DPS - sidewalks too narrow -*

- c. *Water Quality/Storm Water Management/Erosion Control*  
Since the site is currently built out, no changes in stormwater flows or impervious surfaces are anticipated. No stormwater treatment or mitigation is required.

**3. Public Infrastructure and Community Safety Standards**

- a. *Consistency with Related Master Plans*  
As noted above, the project is generally consistent with related master plans.

- b. *Public Safety and Fire Prevention*  
The rear of the building, which abuts “the strip,” currently poses health and safety concerns. The applicant possesses some rights to this area, as noted above, and has indicated that the fire escape will be rebuilt, the basement stair will be rebuilt, and much of the mechanical equipment affixed to the side of the building will be removed from this area.

*gap between the two buildings, referred to as*

The applicant has provided a brief NFPA code analysis for review by the Fire Prevention Bureau (Attachment C). The building will be fully sprinkled. However, as of now, internal fire code issues remain. Captain Chris Pirone of the city’s Fire Prevention Bureau has indicated that an independent review by a certified Fire Protection Engineer will be required for building permit purposes. In addition, Captain Pirone has indicated that addressing for 911 purposes remains unresolved. These items have been included as conditions of approval.

*to be met prior to the issuance of building permit*

- c. *Availability and Capacity of Public Utilities*  
As noted above, the applicant has not provided evidence of water or sewer capacity.

*conditions of approval -*

**4. Site Design Standards**

- a. *Massing, Ventilation, and Wind Impact*
- b. *Shadows*



c. *Snow and Ice Loading*

As the exterior of the building is not proposed to change, there are no anticipated changes in impacts in terms of massing, wind or shadows, or snow and ice loading.

d. *View Corridors*

The site is not located on a recognized view corridor.

e. *Historic Resources*

While this site is located in the Old Port Historic District, no exterior building work is being proposed as part of the project. As such, no Historic Preservation review is required.

f. *Exterior Lighting*

No new exterior lighting is proposed.

g. *Noise and Vibration*

The applicant has not provided information on the noise and vibration of HVAC and mechanical equipment, which are slated to be roof-mounted. Submission of this information to the Zoning Administrator for review and approval is proposed as a condition of approval.

h. *Signage and Wayfinding*

There is no proposed signage or wayfinding.

i. *Zoning-Related Design Standards*

Again, as the site is currently built out, the city's B-3 Design Guidelines do not apply.

**X. STAFF RECOMMENDATION**

Subject to the proposed motions and conditions of approval listed below, Planning Division staff recommends that the Planning Board approve the proposed change of use and subdivision at 46 Market Street.

**XI. PROPOSED MOTIONS**

**A. WAIVERS**

On the basis of the application, plans, reports and other information submitted by the applicant; findings and recommendations contained in Planning Board Report # 55-13 for application 2013-245 relevant to Portland's Technical and Design Standards and other regulations; and the testimony presented at the Planning Board hearing:

1. The Planning Board **waives/does not waive** the Site Plan Standard (*Section 14-526(b)2.b(iii)*) regarding street trees due to site constraints. The applicant shall contribute \$1,000 for five street trees to Portland's tree fund.

**B. SUBDIVISION**

On the basis of the application, plans, reports and other information submitted by the applicant; findings and recommendations contained in Planning Board Report #55-13 for application 2013-245 relevant to the subdivision regulations; and the testimony presented at the Planning Board hearing, the Planning Board finds that the plan **is/is not** in conformance with the subdivision standards of the land use code, subject to the following conditions of approval, which must be met prior to the release of recording plat, unless otherwise stated:

1. The subdivision plat shall be revised to include:
  - a. Notes defining the location and terms of solid waste disposal;
  - b. Notes identifying areas subject to easements;
  - c. Sidewalk and ramp reconstruction as required by the city's Department of Public Services;
  - d. The installation of two bike parking spaces; and
  - e. Relevant waivers and conditions.

for review and approval by the Planning Authority, Department of Public Services, and Corporation Counsel.

*Site Plan*

**C. DEVELOPMENT REVIEW**

On the basis of the application, plans, reports and other information submitted by the applicant; findings and recommendations contained in Planning Board Report #55-13 for application 2013-245 relevant to the site plan regulations; and the testimony presented at the Planning Board hearing, the Planning Board finds that the plan **is/is not** in conformance with the site plan standards of the land use code, subject to the following conditions of approval that must be met prior to the issuance of a building permit, unless otherwise stated:

- 1. The applicant shall submit HVAC system specifications meeting applicable standards for the Zoning Administrator’s review and approval;
- 2. The applicant shall provide evidence of water and sewer capacity from the Portland Water District and the city’s Department of Public Services respectively, for review and approval by the Planning Authority; and
- 3. The applicant shall provide plans, stamped by a licensed engineer and including details, depicting:
  - a. The reconstruction of the ramp at Milk and Market Streets to include a standard detectable warning panel and flush granite curb,
  - b. The reconstruction of areas of sidewalk on Market Street to eliminate tripping hazards, and
  - c. The installation of two bike parking spaces
 For review and approval by the city’s Department of Public Services; *and Planning Board Authority*
- 4. The applicant shall provide evidence of addressing and life safety plans meeting the standards of the city’s Fire Prevention Bureau, for review by that department and the Planning Authority.

*own to issuance of the building permit for this equipment.*

**XIV. ATTACHMENTS**

**PLANNING BOARD REPORT ATTACHMENTS**

- 1. Zoning Administrator Review
- 2. Department of Public Services review (memo from David Margolis-Pineo, 9/18/13)

**APPLICANT’S SUBMITTALS**

- A. Cover Letter (from Will Conway, Sebago Technics, 9/3/13)
- B. Cover Letter (from Will Conway, Sebago Technics, 9/17/13)
- C. Building Code summaries
- D. Capacity to Serve letters & PWD correspondence
- E. Construction Management Plan
- F. Neighborhood Meeting material
- G. Stormwater Management Plan
- H. Summary of waiver requests
- I. Lighting cut sheets & photometric plan

**C. PLANS**

- Plan 1 Cover Sheet
- Plan 2 Boundary and Topographic Survey
- Plan 3 Demolition Plan
- Plan 4 Subdivision Plat

CITY OF PORTLAND, MAINE  
PLANNING BOARD

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Carol Morrisette, Chair  
Stuart O'Brien, Vice Chair  
Timothy Dean  
Bill Hall  
David Silk  
Sean Dundon  
Elizabeth Boepple

December 18, 2013

Tom Watson  
Market Milk Partners, LLC  
104 Grant Street  
Portland, ME 04101

Matt Provencal  
Mark Mueller Architects  
100 Commercial Street, Suite 205  
Portland, ME 04101

Project Name: Studios at 46 Market Street  
Address: 46 Market Street  
Applicant: Market Milk Partners, LLC

Project ID: 2013-245  
CBL: 32-E-10001  
Planner: Nell Donaldson

Dear Mr. Watson:

On November 26, 2013, the Planning Board considered your subdivision and Level III site plan application for the proposed Studios at 46 Market Street. The Planning Board reviewed the proposal for conformance with the subdivision and site plan standards of the city's land use code and voted to approve the application with the waivers and conditions presented below:

**WAIVERS**

The Planning Board voted (6-0, O'Brien absent) to grant the following waiver:

1. A waiver of the site plan standard (Section 14-526(b)2.b(iii)) and Technical Manual *Section 4.6.1* regarding street trees due to site constraints. The applicant shall contribute \$1,000 for five street trees to Portland's tree fund.

**SUBDIVISION**

The Planning Board voted (6-0, O'Brien absent) that the proposed plans are in conformance with the subdivision standards of the city's land use code, subject to the following condition of approval, which must be met prior to the signing of the subdivision plat:

1. The subdivision plat shall be revised to include:
  - a. notes defining the location and terms of solid waste disposal;
  - b. notes identifying areas subject to agreements with the property owner at 31 Exchange Street;
  - c. notes regarding unit sizes;
  - d. sidewalk and ramp reconstruction as required by the city's Department of Public Services; and

e. relevant waivers and conditions,  
and be finalized to the satisfaction of the Planning Authority, Department of Public Services, and Corporation Counsel.

#### **SITE PLAN REVIEW**

The Planning Board voted (6-0, O'Brien absent) that the plan is in conformance with the site plan standards of the land use code, subject to the following conditions of approval that must be met prior to the issuance of a building permit, unless otherwise stated:

1. The applicant shall provide evidence of water and sewer capacity from the Portland Water District and the city's Department of Public Services respectively, for review and approval by the Planning Authority;
2. The applicant shall provide plans, stamped by a licensed engineer and including details, depicting:
  - a. the reconstruction of the ramp at Milk and Market Streets to include a standard detectable warning panel and flush granite curb, and
  - b. the reconstruction of areas of sidewalk on Market Street to eliminate tripping hazards for review and approval by the city's Department of Public Services and Planning Authority;
3. The applicant shall provide plans prepared by a certified fire protection engineer addressing the life safety standards of the city's Fire Prevention Bureau, including provisions for addressing for 911 purposes, for review and approval by the Fire Prevention Bureau and the Planning Authority; and
4. The applicant shall submit HVAC system specifications meeting applicable standards for the Zoning Administrator's review and approval prior to the issuance of a HVAC/Heating/Cooling permit.

The approval is based on the submitted plans and findings related to subdivision and site plan review standards as contained in the Planning Board Report for application 2013-245, which is attached.

#### **STANDARD CONDITIONS OF APPROVAL**

Please note the following standard conditions of approval and requirements for all approved subdivision and site plans:

1. **Subdivision Recording Plat** A revised recording plat listing all conditions of subdivision approval must be submitted for review and signature prior to the issuance of a performance guarantee. The performance guarantee must be issued prior to the release of the recording plat for recording at the Cumberland County Registry of Deeds.
2. **Subdivision Waivers** Pursuant to 30-A MRSA section 4406(B)(1), any waiver must be specified on the subdivision plan or outlined in a notice and the plan or notice must be

recorded in the Cumberland County Registry of Deeds within 90 days of the final subdivision approval).

3. **Develop Site According to Plan** The site shall be developed and maintained as depicted on the site plan and in the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or the Planning Authority pursuant to the terms of Chapter 14, Land Use, of the Portland City Code.
4. **Separate Building Permits Are Required** This approval does not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.
5. **Site Plan Expiration** The site plan approval will be deemed to have expired unless work has commenced within one (1) year of the approval or within a time period up to three (3) years from the approval date as agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the one (1) year expiration date.
6. **Subdivision Plan Expiration** The subdivision approval is valid for up to three years from the date of Planning Board approval.
7. **Performance Guarantee and Inspection Fees** A performance guarantee covering the site improvements, an inspection fee payment of 2.0% of the guarantee amount, and seven (7) final sets of plans plus one final digital copy must be submitted to and approved by the Planning Division and Public Services Department prior to the release of a subdivision plat for recording at the Cumberland County of Deeds, and prior to the release of a building permit, street opening permit or certificate of occupancy for site plans. If you need to make any modifications to the approved plans, you must submit a revised site plan application for staff review and approval.
8. **Defect Guarantee** A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
9. **Preconstruction Meeting** Prior to the release of a building permit or site construction, a pre-construction meeting shall be held at the project site. This meeting will be held with the contractor, Development Review Coordinator, Public Service's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the Development Review Coordinator will confirm that the contractor is working from the approved site plan. 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 pre-construction meeting.

10. **Department of Public Services Permits** 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.)
11. **As-Built Final Plans** Final sets of as-built plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (\*.dwg), release AutoCAD 2005 or greater.
12. **Mylar Copies** Mylar copies of the as-built drawings for the public streets and other public infrastructure in the subdivision must be submitted to the Public Services Dept. prior to the issuance of a certificate of occupancy.

The Development Review Coordinator must be notified five (5) working days prior to the date required for final site inspection. The Development Review Coordinator can be reached at the Planning Division at 874-8632. All site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy.

If there are any questions, please contact Nell Donaldson at (207) 874-8723.

Sincerely,



Carol Morissette, Chair  
Portland Planning Board

**Attachments:**

1. Planning Board Report

**Electronic Distribution:**

cc: Jeff Levine, Director of Planning and Urban Development  
Alexander Jaegerman, Planning Division Director  
Barbara Barhydt, Development Review Services Manager  
Philip DiPiero, Development Review Coordinator, Planning  
Marge Schmuckal, Zoning Administrator, Inspections Division  
Tammy Munson, Inspection Division Director  
Lannie Dobson, Administration, Inspections Division  
Gayle Guertin, Administration, Inspections Division  
Michael Bobinsky, Public Services Director  
Katherine Earley, Engineering Services Manager, Public Services  
Bill Clark, Project Engineer, Public Services  
David Margolis-Pineo, Deputy City Engineer, Public Services  
Doug Roncarati, Stormwater Coordinator, Public Services  
Greg Vining, Associate Engineer, Public Services  
Michelle Sweeney, Associate Engineer  
John Low, Associate Engineer, Public Services  
Matt Doughty, Field Inspection Coordinator, Public Services  
Mike Farmer, Project Engineer, Public Services  
Jane Ward, Administration, Public Services  
Jeff Tarling, City Arborist, Public Services  
Captain Chris Pirone, Fire Department

City of Portland  
 Development Review Application  
 Planning Division Transmittal Form

**Application Number:** 2013-245                      **Application Date:** 10/30/2013  
**CBL:** 032 E010001                      **Application Type:** Level III Site Plan Under 50,000 sq f  
**Project Name:** Studio Apartments  
**Address:** 46 MARKET ST  
**Project Description:** Addition of 3 residential units on the 2nd Floor and 1 residential unit on the 3rd floor.  
**Zoning:** B3

**Other Required Reviews:**

<input type="checkbox"/> Traffic Movement	<input type="checkbox"/> 14-403 Streets	<input type="checkbox"/> Housing Replacement
<input type="checkbox"/> Storm Water	# Units _____	<input type="checkbox"/> Historic Preservation
<input type="checkbox"/> Subdivision	<input type="checkbox"/> Flood Plain	<input type="checkbox"/> Other:
# Lots _____	<input type="checkbox"/> Shoreland	
<input type="checkbox"/> Site Location	<input type="checkbox"/> Design Review	
# Unit _____		

**Distribution List:**

<b>Planner</b>	Barbara Barhydt	<b>Parking</b>	John Peverada
<b>Zoning</b>	Marge Schmuckal	<b>Design Review</b>	Alex Jaegerman
<b>Traffic Engineer</b>	Tom Errico	<b>Corporation Counsel</b>	Danielle West-Chuhta
<b>Civil Engineer</b>	David Sensus	<b>Sanitary Sewer</b>	John Emerson
<b>Fire Department</b>	Chris Pirone	<b>Inspections</b>	Tammy Munson
<b>City Arborist</b>	Jeff Tarling	<b>Historic Preservation</b>	Deb Andrews
<b>Engineering</b>	David Margolis-Pineo	<b>DRC Coordinator</b>	Phil DiPierro
		<b>Outside Agency</b>	

**Comments needed by 11/6/2013**





**CITY OF PORTLAND**  
**DEPARTMENT OF PLANNING & URBAN DEVELOPMENT**  
389 Congress Street  
Portland, Maine 04101

**INVOICE FOR FEES**

<b>Application No:</b> 2013-245	<b>Applicant:</b> Port Property Management
<b>Project Name:</b> Studio Apartments	<b>Location:</b> 46 MARKET ST
<b>CBL:</b> 032 E010001	<b>Development Type:</b> Level III Site Plan Under 50,000 sq ft
<b>Invoice Date:</b> 10/30/2013	

<b>Previous Balance</b>	-	<b>Payment Received</b>	+	<b>Current Fees</b>	-	<b>Current Payment</b>	=	<b>Total Due</b>	<b>Payment Due Date</b>
\$0.00		\$0.00		\$500.00		\$500.00		\$0.00	On Receipt

**Previous Balance** **\$0.00**

Fee Description	Qty	Fee/Deposit Charge
Level III Site Plan Under 50,000 sq ft	1	\$500.00
		\$500.00
<b>Total Current Fees:</b>	+	<b>\$500.00</b>
<b>Total Current Payments:</b>	-	<b>\$500.00</b>
<b>Amount Due Now:</b>		<b>\$0.00</b>

**CBL** 032 E010001  
**Bill to:** Port Property Management  
104 Grant Street  
Portland, ME 04101

**Application No:** 2013245  
**Invoice Date:** 10/30/2013  
**Invoice No:** 43198  
**Total Amt Due:** \$0.00  
**Payment Amount:**



PROJECT NAME: Studios at 46 Market Street



PROPOSED DEVELOPMENT ADDRESS:

46 Market Street



PROJECT DESCRIPTION:

Application for the addition of 3 residential units at the 2nd floor (current use is office), and the addition of 1 residential unit at the 3rd floor (current use is residential - 1 unit). This application is for a final plan review.

CHART/BLOCK/LOT: 032/ E010/ 001

~~PRELIMINARY PLAN~~ \_\_\_\_\_ (date)  
**FINAL PLAN** \_\_\_\_\_ (date)

CONTACT INFORMATION:

<b>Applicant – must be owner, Lessee or Buyer</b> Name: <b>Tom Watson - Market Milk Partners, LLC.</b> Business Name, if applicable: <b>Port Property Management</b> Address: <b>104 Grant Street</b> City/State : <b>Portland, Maine</b> Zip Code: <b>04101</b>	<b>Applicant Contact Information</b> Work # <b>207.771.2883</b> Home# <b>N/A</b> Cell # <b>207.252.0358</b> Fax# e-mail: <b>tom@portpropmgt.com</b>
<b>Owner – (if different from Applicant)</b> Name: <b>Same</b> Address: City/State : Zip Code:	<b>Owner Contact Information</b> Work # <b>Same</b> Home# Cell # Fax# e-mail:
<b>Agent/ Representative</b> Name: <b>Mark Mueller Architects</b> Address: <b>100 Commercial Street - Suite 205</b> City/State : <b>Portland, Maine</b> Zip Code: <b>04101</b>	<b>Agent/Representative Contact information</b> Work # <b>207.774.9057</b> Cell # <b>N/A</b> e-mail: <b>matt@muellerarchitects.com</b>
<b>Billing Information</b> Name: <b>All invoices to owner</b> Address: City/State : Zip Code:	<b>Billing Information</b> Work # <b>All invoices to owner</b> Cell # Fax# e-mail:



<b>Engineer</b> Name: N/A Address: City/State :                      Zip Code:	<b>Engineer Contact Information</b> Work # -- Cell # --                      Fax# e-mail: --
<b>Surveyor</b> Name: N/A Address: City/State :                      Zip Code:	<b>Surveyor Contact Information</b> Work # -- Cell # --                      Fax# e-mail: --
<b>Architect Mark Mueller Architects</b> Name: <b>Matt Provencal</b> Address: <b>100 Commercial Street - Suite 205</b> City/State : <b>Portland, Maine</b> Zip Code: <b>04101</b>	<b>Architect Contact Information</b> Work # <b>207.774.9057</b> Cell # <b>N/A</b> Fax# e-mail: <b>matt@muellerarchitects.com</b>
<b>Attorney Leete &amp; Lemieux</b> Name: <b>William Lette</b> Address: <b>95 Exchange Street</b> City/State <b>Portland, Maine</b> Zip Code: <b>04101</b>	<b>Attorney Contact Information</b> Work # <b>207.879.9440</b> Cell # --                      Fax# e-mail: <b>wlette@leelem.com</b>

**APPLICATION FEES:**

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

<b>Level III Development (check applicable reviews)</b> <input checked="" type="checkbox"/> Less than 50,000 sq. ft. (\$500.00) <input type="checkbox"/> 50,000 - 100,000 sq. ft. (\$1,000) <input type="checkbox"/> 100,000 – 200,000 sq. ft. (\$2,000) <input type="checkbox"/> 200,000 – 300,000 sq. ft. (\$3,000) <input type="checkbox"/> over \$300,00 sq. ft. (\$5,000) <input type="checkbox"/> Parking lots over 11 spaces (\$1,000) <input type="checkbox"/> After-the-fact Review (\$1,000.00 plus applicable application fee)  <b>Plan Amendments (check applicable reviews)</b> <input type="checkbox"/> Planning Staff Review (\$250) <input type="checkbox"/> Planning Board Review (\$500)  The City invoices separately for the following: <ul style="list-style-type: none"> <li>• Notices (\$.75 each)</li> <li>• Legal Ad (% of total Ad)</li> <li>• Planning Review (\$40.00 hour)</li> <li>• Legal Review (\$75.00 hour)</li> </ul> Third party review fees are assessed separately. Any outside reviews or analysis requested from the Applicant as part of the development review, are the responsibility of the Applicant and are separate from any application or invoice fees.	<b>Other Reviews (check applicable reviews)</b> <input type="checkbox"/> Traffic Movement (\$1,000) <input type="checkbox"/> Stormwater Quality (\$250) <input type="checkbox"/> Subdivisions (\$500 + \$25/lot) # of Lots ___ x \$25/lot = ____ <input type="checkbox"/> Site Location (\$3,000, except for residential projects which shall be \$200/lot) # of Lots ___ x \$200/lot = ____ <input type="checkbox"/> Other _____ <input checked="" type="checkbox"/> Change of Use <input type="checkbox"/> Flood Plain <input type="checkbox"/> Shoreland <input type="checkbox"/> Design Review <input type="checkbox"/> Housing Replacement <input type="checkbox"/> Historic Preservation
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**APPLICATION SUBMISSION:**

1. All site plans and written application materials must be submitted electronically on a CD or DVD with each plan submitted as separate files, with individual file names (see submittal requirements document attached).
2. In addition, one (1) paper set of the plans (full size), one (1) paper set of plans (11 x 17), paper copy of written materials, and the application fee must be submitted to the Planning Division Office to start the review process.

The application must be complete, including but not limited to the contact information, project data, application checklists, wastewater capacity, plan for fire department review, and applicant signature. The submissions shall include one (1) paper packet with folded plans containing the following materials:

1. One (1) full size site plans that must be folded.
2. One (1) copy of all written materials or as follows, unless otherwise noted:
  - a. Application form that is completed and signed.
  - b. Cover letter stating the nature of the project.
  - c. All Written Submittals (Sec. 14-525 2. (c), including evidence of right, title and interest.
3. A stamped standard boundary survey prepared by a registered land surveyor at a scale not less than one inch to 50 feet.
4. Plans and maps based upon the boundary survey and containing the information found in the attached sample plan checklist.
5. One (1) set of plans reduced to 11 x 17.


**Refer to the application checklist for a detailed list of submission requirements.**

Portland's development review process and requirements are outlined in the Land Use Code (Chapter 14), which includes the Subdivision Ordinance (Section 14-491) and the Site Plan Ordinance (Section 14-521). Portland's Land Use Code is on the City's web site <http://www.portlandmaine.gov/citycode/chapter014.pdf>

**APPLICANT SIGNATURE:**

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

**This application is for a Level II Site Plan review. It is not a permit to begin construction. An approved site plan, a Performance Guarantee, Inspection Fee, Building Permit, and associated fees will be required prior to construction. Other Federal, State or local permits may be required prior to construction, which are the responsibility of the applicant to obtain.**

Signature of Applicant: <b>Matt Provencal, Assoc. AIA</b> <b>Mark Mueller Architects</b>	Date: <b>October 29, 2013</b> 
--	--









M A R K  
M U E L L E R  
A R C H I T E C T S

City of Portland Planning Division  
City Hall – Fourth Floor  
389 Congress Street  
Portland, Maine 04101

RE: 46 Market Street – Change of use & increase in dwelling units

Dear City of Portland Planning,

On behalf of Tom Watson of Market Milk Partners, LLC & Port Property Management; we'd like to formally submit the following application for a Level III Final Site Plan Development Review for 46 Market Street. The work shall include the change of use at the second floor to three (3) residential dwelling units & for the addition of one (1) dwelling unit at the third floor.

The proposed work will meet all applicable city and state code requirements including NFPA, IBC, IECC & MUBEC.

In conjunction with this application, we are currently working with the Portland Fire Department & Building Codes Department on building life safety and code remediation along with the Historic Preservation Office for façade repair for the overall master building plan.

If you have any questions about this application, please contact me at your earliest convenience.

Sincerely,

Matt Provencal, Assoc. AIA  
Architectural Designer  
Mark Mueller Architects





M A R K  
M U E L L E R  
A R C H I T E C T S

City of Portland Planning Division  
City Hall – Fourth Floor  
389 Congress Street  
Portland, Maine 04101

RE: 46 Market Street – Change of use & increase in dwelling units

As required per the Level III application, please find below the general written narrative required therein.

- Description of project:
  - The area of work is limited to the second & third floors, interior work only. A change of use is required at the second floor from three (3) office units into three (3) residential units. Work at the third floor will include the addition of one (1) 3rd floor residential unit to the existing one (1) residential unit.
- Project's specific compliance with applicable Zoning requirements:
  - This project is located in a B-3 Downtown Business Zone. Multifamily dwellings are a permitted use within this zone. Increasing the number of dwelling units as part of this project will help to enhance & encourage housing opportunity downtown for Portland's diverse residential population.
- Construction Management Plan:
  - The property owner is in the proper financial and technical position to complete this project within a timely and professional manner. All work will be performed by licensed and insured contractors during normal business hours while adhering to standard construction practices.
- Project's consistency with related city master plans:
  - This project remains consistent with the City of Portland's Maser Plan, which specific to this project is to encourage increased housing opportunity downtown for a diverse residential population; preserve and capitalize on the unique character and historic fabric of downtown through the encouragement of reuse of significant existing structures;
- Evidence of utility capacity to serve:





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ARCHITECTS

- Given the existing uses within the second (office) & third (residential) floors, no utility work is proposed as part of this application; all existing utilities will remain.
- Summary of solid waste generation and proposed management of solid waste:
  - Existing solid waste is removed from the building by the tenants, no on site waste receptacles exist or are proposed; the existing solid waste management system will remain.
- Code summary referencing NFPA 1 and all Fire Department technical standards:
  - The proposed uses are apartment, both per the NFPA 101 (2009) and IBC (2009).
  - Each floor area is 2,065 SF, with a total building area of 8,136 SF.
  - The building is 3 stories at +/- 49'-6".
  - The type of construction is Type III (200) per NFPA 101 and Type 3B – per IBC.
  - The building is protected throughout with a sprinkler system installed per NFPA 13; the life safety system is to be upgraded to meet NFPA 72 and the City of Portland requirements.
  - Fire hydrants are located at the south corner of Market Street & Milk Street and at the south side of 5th Street across from Milk Street; infrastructure is in place.
  - Water main is located at Exchange Street & 10th Street.
  - Access to the building is via the sidewalk on Exchange Street.
  - All work shall be in accordance with applicable City of Portland Design Manual.
- Assessment of design standards applicable to the project:
  - No exterior signage is proposed.
  - Screening HVAC, mechanical, and other equipment are part of this proposal and will be proposed at a later date of construction.
  - The proposed design meets with the Historic Preservation Commission's standards, Section 14-526 of the Land Use Chapter & City of Portland Design Manual.
- Manufacturer's verification that all proposed HVAC and manufacturing equipment meets applicable state and federal emissions requirements:
  - The proposed ductless HVAC system by Multi Aqua will be Energy Star certified and meet federal & state emissions requirements.
- Location, dimensions and materials of all existing and proposed driveways, vehicle and pedestrian access ways, and bicycle access ways, with corresponding curb lines:

*Handwritten notes on a yellow sticky note:*

- ~~studio apt? (add docs?)~~
- redo curb ramps
- redo Market SW - 20ft?
- ~~Utilities - where? off?~~
- onsite waste? Explain plan
- screening HVAC, mechanical, back
- where? on roof.
- 120+ screens
- Plat
- Lo FIRE !! LIFE SAFETY (add to plan)





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A R C H I T E C T S

- Shown on the included survey, a concrete ADA accessible ramp exists at the corner of Market Street & Milk Street.
- Please see the included survey for location, sizes and materials of all other access ways.

This concludes the written narrative.





## PROJECT DATA

The following information is required where applicable, in order to complete the application.

<b>Total Area of Site</b>	2,065 sq. ft. (.0474 ac.)
<b>Proposed Total Disturbed Area of the Site</b>	0 sq. ft.
If the proposed disturbance is greater than one acre, then the applicant shall apply for a Maine Construction General Permit (MCGP) with DEP and a Stormwater Management Permit, Chapter 500, with the City of Portland	
<b>Impervious Surface Area</b>	
Impervious Area (Total Existing)	2,065 sq. ft.
Impervious Area (Total Proposed)	2,065 sq. ft.
<b>Building Ground Floor Area and Total Floor Area</b>	
Building Footprint (Total Existing)	2,065 sq. ft.
Building Footprint (Total Proposed)	2,065 sq. ft.
Building Floor Area (Total Existing)	4 Stories - 8,136 sq. ft.
Building Floor Area (Total Proposed)	4 Stories - 8,136 sq. ft.
<b>Zoning</b>	
Existing	2nd Flr: Office / 3rd Flr: Residential
Proposed, if applicable	2nd Flr: Residential / 3rd Flr: Residential
<b>Land Use</b>	
Existing	Mixed (1st: Assembly/ 2nd: Office/ 3rd: Res.)
Proposed	Mixed (1st: Assembly/ 2nd: Res./ 3rd: Res.)
<b>Residential, if applicable</b>	
# of Residential Units (Total Existing)	1 Unit
# of Residential Units (Total Proposed)	Add 4 Units - 5 Units Total
# of Lots (Total Proposed)	1 Lot Existing, no additional lots proposed
# of Affordable Housing Units (Total Proposed)	0 Affordable Units
<b>Proposed Bedroom Mix</b>	
# of Efficiency Units (Total Proposed)	0 Proposed
# of One-Bedroom Units (Total Proposed)	5 Proposed
# of Two-Bedroom Units (Total Proposed)	0 Proposed
# of Three-Bedroom Units (Total Proposed)	0 Proposed
<b>Parking Spaces</b>	
# of Parking Spaces (Total Existing)	0 Spaces Existing
# of Parking Spaces (Total Proposed)	0 Spaces Proposed
# of Handicapped Spaces (Total Proposed)	0 Spaces Proposed
<b>Bicycle Parking Spaces</b>	
# of Bicycle Spaces (Total Existing)	0 Spaces Existing
# of Bicycle Spaces (Total Proposed)	0 Spaces Proposed
<b>Estimated Cost of Project</b>	\$250,000.00



**—PRELIMINARY PLAN (Optional)- Level III Site Plan**

Applicant Checklist	Planner Checklist	# of Copies	<b>GENERAL WRITTEN SUBMISSIONS CHECKLIST</b>
		1	Completed Application form
		1	Application fees
		1	Written description of project
		1	Evidence of right, title and interest
		1	Evidence of state and/or federal approvals, if applicable
		1	Written assessment of proposed project's compliance with applicable zoning requirements
		1	Summary of existing and/or proposed easement, covenants, public or private rights-of-way, or other burdens on the site
		1	Written requests for waivers from site plan or technical standards, if applicable.
		1	Evidence of financial and technical capacity
		1	Traffic Analysis (may be preliminary, in nature, during the preliminary plan phase)
Applicant Checklist	Planner Checklist	# of Copies	<b>SITE PLAN SUBMISSIONS CHECKLIST</b>
		1	Boundary Survey meeting the requirements of Section 13 of the City of Portland's Technical Manual
		1	<b>Preliminary Site Plan including the following: (information provided may be preliminary in nature during preliminary plan phase)</b>
			Proposed grading and contours;
			Existing structures with distances from property line;
			Proposed site layout and dimensions for all proposed structures (including piers, docks or wharves in Shoreland Zone), paved areas, and pedestrian and vehicle access ways;
			Preliminary design of proposed stormwater management system in accordance with Section 5 of the Technical Manual (note that Portland has a separate applicability section);
			Preliminary infrastructure improvements;
			Preliminary Landscape Plan in accordance with Section 4 of the Technical Manual;
			Location of significant natural features (including wetlands, ponds, watercourses, floodplains, significant wildlife habitats and fisheries or other important natural features) located on the site as defined in Section 14-526 (b) (1);
			Proposed buffers and preservation measures for significant natural features, as defined in Section 14-526 (b) (1);
			Location , dimensions and ownership of easements, public or private rights of way, both existing and proposed;
			Exterior building elevations.



## FINAL PLAN - Level III Site Plan

Applicant Checklist	Planner Checklist	# of Copies	GENERAL WRITTEN SUBMISSIONS CHECKLIST (* If applicant chooses to submit a Preliminary Plan, then the * items were submitted for that phase and only updates are required)
✓	✓	1	* Completed Application form
✓	✓	1	* Application fees
✓	✓	1	* Written description of project
✓	✓	1	* Evidence of right, title and interest
N/A		1	* Evidence of state and/or federal permits
✓		1	* Written assessment of proposed project's specific compliance with applicable Zoning requirements
✓		1	* Summary of existing and/or proposed easements, covenants, public or private rights-of-way, or other burdens on the site
✓	✓	1	* Evidence of financial and technical capacity
✓	✓	1	Construction Management Plan
N/A		1	A traffic study and other applicable transportation plans in accordance with Section 1 of the technical Manual, where applicable.
N/A		1	Written summary of significant natural features located on the site (Section 14-526 (b) (a))
N/A		1	Stormwater management plan and stormwater calculations
✓	✓	1	Written summary of project's consistency with related city master plans
✓	0	1	Evidence of utility capacity to serve
✓	✓	1	Written summary of solid waste generation and proposed management of solid waste
✓	✓	1	A code summary referencing NFPA 1 and all Fire Department technical standards
✓		1	Where applicable, an assessment of the development's consistency with any applicable design standards contained in Section 14-526 and in City of Portland Design Manual
✓	0	1	Manufacturer's verification that all proposed HVAC and manufacturing equipment meets applicable state and federal emissions requirements.



Applicant Checklist	Planner Checklist	# of Copies	<b>SITE PLAN SUBMISSIONS CHECKLIST</b> (* If applicant chooses to submit a Preliminary Plan, then the * items were submitted for that phase and only updates are required)
✓	✓	1	* Boundary Survey meeting the requirements of Section 13 of the City of Portland's Technical Manual
✓		1	<b>Final Site Plans including the following:</b>
✓	✓		Existing and proposed structures, as applicable, and distance from property line (including location of proposed piers, docks or wharves if in Shoreland Zone);
✓	✓		Existing and proposed structures on parcels abutting site;
✓	✓		All streets and intersections adjacent to the site and any proposed geometric modifications to those streets or intersections;
✓	✓		Location, dimensions and materials of all existing and proposed driveways, vehicle and pedestrian access ways, and bicycle access ways, with corresponding curb lines;
N/A			Engineered construction specifications and cross-sectional drawings for all proposed driveways, paved areas, sidewalks;
N/A			Location and dimensions of all proposed loading areas including turning templates for applicable design delivery vehicles;
N/A			Existing and proposed public transit infrastructure with applicable dimensions and engineering specifications;
N/A			Location of existing and proposed vehicle and bicycle parking spaces with applicable dimensional and engineering information;
N/A			Location of all snow storage areas and/or a snow removal plan;
N/A			A traffic control plan as detailed in Section 1 of the Technical Manual;
N/A			Proposed buffers and preservation measures for significant natural features, where applicable, as defined in Section 14-526(b)(1);
N/A			Location and proposed alteration to any watercourse;
N/A			A delineation of wetlands boundaries prepared by a qualified professional as detailed in Section 8 of the Technical Manual;
N/A			Proposed buffers and preservation measures for wetlands;
N/A			Existing soil conditions and location of test pits and test borings;
N/A			Existing vegetation to be preserved, proposed site landscaping, screening and proposed street trees, as applicable;
N/A			A stormwater management and drainage plan, in accordance with Section 5 of the Technical Manual;
N/A			Grading plan;
N/A			Ground water protection measures;
N/A			Existing and proposed sewer mains and connections;

- Continued on next page -





N/A

✓		Location of all existing and proposed fire hydrants and a life safety plan in accordance with Section 3 of the Technical Manual;
N/A		Location, sizing, and directional flows of all existing and proposed utilities within the project site and on all abutting streets;
N/A		Location and dimensions of off-premises public or publicly accessible infrastructure immediately adjacent to the site;
N/A		Location and size of all on site solid waste receptacles, including on site storage containers for recyclable materials for any commercial or industrial property;
✓		Plans showing the location, ground floor area, floor plans and grade elevations for all buildings;
N/A		A shadow analysis as described in Section 11 of the Technical Manual, if applicable;
✓		A note on the plan identifying the Historic Preservation designation and a copy of the Application for Certificate of Appropriateness, if applicable, as specified in Section Article IX, the Historic Preservation Ordinance;
✓		Location and dimensions of all existing and proposed HVAC and mechanical equipment and all proposed screening, where applicable;
N/A		An exterior lighting plan in accordance with Section 12 of the Technical Manual;
N/A		A signage plan showing the location, dimensions, height and setback of all existing and proposed signs;
✓		Location, dimensions and ownership of easements, public or private rights of way, both existing and proposed.



**QUITCLAIM DEED WITH COVENANT**  
(Maine Statutory Short Form)

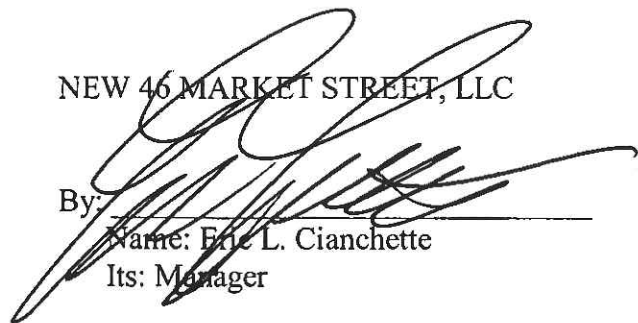
KNOW ALL BY THESE PRESENTS, that **NEW 46 MARKET STREET, LLC** ("Grantor"), a limited liability company organized and existing under the laws of the State of Maine, with a mailing address of 42 Market Street, Portland, Maine, for consideration paid, GRANTS to **MARKET MILK PARTNERS, LLC** ("Grantee"), a limited liability company organized and existing under the laws of the State of Maine with a mailing address of 104 Grant Street, Portland, Maine, with QUITCLAIM COVENANT, the property located at 46 Market Street, Portland, County of Cumberland and State of Maine, which is more particularly described in Exhibit A attached hereto and made a part hereof.

WITNESS my hand and seal this 25<sup>th</sup> day of July, 2013.

SIGNED, SEALED AND DELIVERED  
IN THE PRESENCE OF

NEW 46 MARKET STREET, LLC

  
\_\_\_\_\_  
Witness

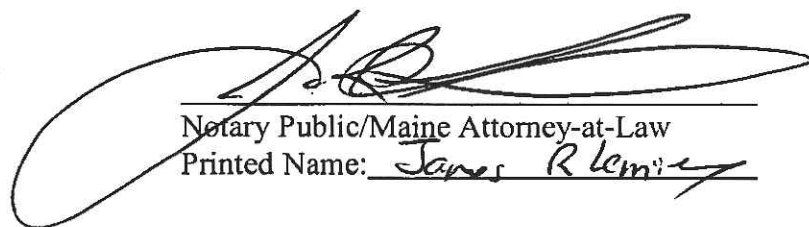
By:   
\_\_\_\_\_  
Name: Eric L. Cianchette  
Its: Manager

STATE OF MAINE  
County of Cumberland, SS.

July 25, 2013

Then personally appeared the above-named Eric L. Cianchette, as Manager of New 46 Market Street, LLC and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of New 46 Market Street, LLC.

Before me,

  
\_\_\_\_\_  
Notary Public/Maine Attorney-at-Law  
Printed Name: James R Lemieux

JAMES R. LEMIEUX #2755  
Attorney at Law, State of Maine  
(authorized to take acknowledgements pursuant to 4 M.R.S.A. 1056)

MAINE REAL ESTATE TAX PAID



**Exhibit A**

A certain lot or parcel of land, with the buildings thereon, situated at the corner of Market and Milk Streets in the City of Portland, County of Cumberland and State of Maine, being bounded and described as follows:

BEGINNING at the intersection of the northerly line of said Milk Street and the westerly sideline of Market Street, being the corner of the granite plinth of the building on the premises herein described;

Thence, by the northerly line of said Milk Street and by said building line on a course of S 53° 22' 36" W a distance of 41.08 feet to the outside face of the steel plate on the granite plinth of the said building, and land now or formerly of Ruth S. Baker et al.;

Thence, by said land now or formerly of Ruth S. Baker et al on a course of N 37° 53' 08" W a distance of 53.24 feet to a point in the center of a brick party wall, said point being 0.50 feet southwesterly from the southwesterly face of the brick building on the premises herein described;

Thence, along the center of said brick party wall on a course of N 51° 28' 17" E a distance of 0.50 feet to the face of said brick building, and thence continuing on same course along the center of said brick party wall an additional 35.09 feet to the westerly sideline of said Market Street, being on the face of said brick building on the premises herein described;

Thence, by the westerly sideline of said Market Street and along the brick face of said building on a course of S 43° 37' 06" E a distance of 54.82 feet to the point of beginning.

The above-described courses are on the Maine State Grid System West Zone.

Together with and subject to any easements and other appurtenances appertaining to the premises, including but not limited to, Agreement dated September 16, 1993, and recorded in the Cumberland County Registry of Deeds in Book 10959, Page 222.

T:\Watson\46 Market Street\Quitclaim Deed 46 Market Street - Market Milk Partners.wpd

Received  
Recorded Register of Deeds  
Jul 26, 2013 11:57:40A  
Cumberland County  
Pamela E. Lovley



AGREEMENT

This Agreement is made as of this 16<sup>th</sup> day of Sept, 1993 by and between RUTH S. BAKER and JOSEPH D. CASALE, both of Portland, d/b/a B&C Limited, a Maine general partnership with a place of business in Portland, Maine ("Seller") and Thomas Tiberii of Old Orchard Beach, Maine ("Buyer").

WHEREAS, Seller has this day conveyed the premises at 46 Market Street, Portland, Maine, described in Exhibit A attached hereto and made a part hereof (the "Granted Premises") to Buyer, which Granted Premises are a portion of the premises conveyed to Seller by deed dated October 17, 1992, and recorded in the Cumberland County Registry of Deeds in Book 10382, Page 176; and

WHEREAS, Seller has retained title to the remainder of the premises described in such deed recorded in said Registry of Deeds in Book 10382, Page 176 (the "Retained Premises"); and

WHEREAS, the building on the Granted Premises (the "Granted Building") and the building on the Retained Premises (the "Retained Building") are connected at certain points and are served by certain common utilities and access corridors, among other things; and

WHEREAS, the parties desire to provide for the common use of portions of the Retained Premises and the Granted Premises.

NOW, THEREFORE, for consideration given, Seller and Buyer hereby agree as follows:

1. Any and each wall of the Retained Building and the Granted Building which is located on the boundary line between the Retained Premises and the Granted Premises and/or which connects the two buildings shall be deemed a party wall, and, subject to the rights, easements and obligations set forth in this Agreement, the general rules of law applicable to party walls shall be applicable in this instance. Without limitation, the cost of reasonable repair and maintenance of any party wall shall be shared equally, unless one party makes no use of the wall in question, in which case the party using such wall shall be responsible for the full cost.

2. Seller and Buyer hereby grant to each other for the benefit of the Granted Premises and the Retained Premises, respectively, (i) the perpetual right and easement to utilize, repair, maintain, relay, replace and remove such utility pipes and mains, cables and wires with all necessary fixtures and appurtenances as may presently exist and which presently serve the Granted Premises or the Retained Premises, respectively, (ii) the perpetual right and easement to utilize, repair, maintain,





replace and remove such heating and air conditioning units, vents and related appurtenances as may presently exist and which may presently serve the Granted Premises or the Retained Premises, respectively, including but not limited to, the furnaces presently located on the third floor of the Granted Building; (iii) the perpetual right and easement to use, maintain, repair and replace the fire escape or escapes presently serving the Retained Premises and/or the Granted Premises; and (iv) if construction, reconstruction, repair, shifting, settlement or other movement of any portion of the Granted Building or the Retained Building results in an inadvertent encroachment on the Retained Premises or the Granted Premises, a valid easement during the period of the encroachment for the encroachment and the maintenance thereof.

3. Seller hereby grants to Buyer for the benefit of the Granted Premises as reasonably necessary in connection with the maintenance and use of the Granted Premises without undue interference of the reasonable use and maintenance of the Retained Premises, the perpetual right and easement (i) to construct, install, lay, relay, repair, maintain, replace and remove utility pipes and mains, cables and wires with all necessary fixtures and appurtenances; (ii) to construct, install, lay, relay, repair, maintain, replace and remove heating and air conditioning units, vents and related appurtenances; (iii) to maintain, repair, renovate and improve two restrooms in the basement of the Retained Building as they presently exist for exclusive use by Buyer and/or his tenants and by patrons, customers, guests and invitees of Buyer or tenants of Buyer; (iv) for the maintenance of the overhang of eaves, windowsills and related appurtenances of and to the Granted Building, and for the drainage of water from such eaves, windowsills, and related appurtenances; and (v) for access on foot and with requisite equipment (a) for the above-described purposes; (b) for the maintenance, repair, renovation and rebuilding of the Granted Building; and (c) for emergency access to and from the Granted Building; all at any and all times, upon, over, under or along a certain portion of the Retained Premises approximately 9.25 feet in width (the "strip") running southerly between land now or formerly of Old Port Properties Limited Partnership described in deed recorded in the Cumberland County Registry of Deeds in Book 6696, Page 172 and the northerly sideline of Milk Street and being adjacent to the westerly boundary of the Granted Premises and the easterly face of the Retained Building, all as shown on the plan attached hereto as Exhibit B.

4. Seller hereby grants to Buyer for the benefit of the Granted Premises, the perpetual right and easement for access to and from the second and third floors of the Granted Building upon and over the entrance, stairway, corridors and walkways located in the Retained Building and presently serving the second and third floors of the Granted Building.



5. Seller and Buyer hereby acknowledge and agree that, if Buyer shall be denied a second access to and from the Granted Building for emergency purposes, that Buyer shall have emergency access over the strip and shall be entitled, at his own cost and expense, to remove such impediments to access and/or install such exits and related appurtenances, including, but not limited to, fire escapes, as may be reasonably necessary to ensure such access.

6. Seller and Buyer hereby acknowledge and agree that (i) Seller shall be responsible for the cost of exercising the rights and easements granted herein which benefit only the Retained Premises; (ii) Buyer shall be responsible for the cost of exercising the rights and easements granted herein which benefit only the Granted Premises; and (iii) Seller and Buyer shall share equally the cost of exercising the rights and easements granted herein which benefit both the Granted Premises and the Retained Premises.

7. Seller and Buyer hereby covenant and agree that each shall indemnify and hold the other harmless from and against all cost, expense and liability arising out of the exercise of the rights, easements and obligations hereunder by Seller and Buyer, respectively, and by each of their tenants, patrons, customers, guests and invitees.

8. Seller and Buyer hereby acknowledge and agree that if any of the rights and easements granted herein shall in the future cease to be necessary for the continued use and enjoyment of the Retained Premises or the Granted Premises, the party holding such rights and easements shall promptly execute and deliver in recordable form the release of such rights and easements as are no longer necessary.

*Roff*  
9. Seller and Buyer hereby grant to each other a reciprocal right of first refusal as follows: If Seller receives a bona fide offer to purchase the Retained Premises, or any part thereof, which Seller desires to accept, Seller shall deliver to Buyer a photocopy of the executed written offer and Buyer shall have seventy-two hours from the receipt of the photocopy of the written offer to notify Seller by certified mail, postage prepaid, of his agreement to purchase the Retained Premises on the same or similar terms as the bona fide written offer. If Buyer receives a bona fide written offer to purchase the Granted Premises, or any part thereof, which Buyer desires to accept, Buyer shall deliver to Seller a photocopy of the executed written offer and Seller shall have seventy-two hours from the receipt of the photocopy of the written offer to notify Buyer by certified mail, postage prepaid, of its agreement to purchase the Granted Premises on the same or similar terms as the bona fide written offer. Conveyance by gift or devise to a husband, wife, child,



brother, sister, father or mother of any party and conveyances to an entity wholly owned by any party shall not be subject to the terms of this reciprocal right of first refusal. Further, this reciprocal right of first refusal shall not affect the option granted by Buyer to Ruth Baker and Joseph Casale d/b/a/ B & C Limited, a Maine general partnership, of even date herewith ("Option"). A transfer of either the Retained Premises or the Granted Premises, or a part thereof, pursuant to a sale in accordance with the terms hereof, or pursuant to the Option, or pursuant to the Mortgage from Buyer to Ruth Baker of even date herewith, shall free the interest so transferred from the operation of this reciprocal right of first refusal. If Seller or Buyer, as appropriate, fails to purchase the premises offered for sale under this reciprocal right of first refusal, the appropriate party shall execute such waiver of that party's right as may be reasonably acceptable to the other party.

10. Except as may be otherwise provided herein, all terms, conditions, easements, rights and obligations contained in this Agreement are appurtenant, running with the Retained Premises and the Granted Premises, and are binding upon the heirs, successors and assigns of Seller and Buyer.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed on the date first above-mentioned.

SIGNED, SEALED AND DELIVERED  
in the presence of:

Paul S. Zurek  
to buyer

Ruth S. Baker  
Ruth S. Baker

X Joseph D. Casale  
Joseph D. Casale

B&C Limited, Seller

By: X Joseph D. Casale  
Its Partner

By: Ruth Baker  
Its Partner

Thomas Tiberii  
Thomas Tiberii, Buyer

Paul S. Zurek  
to all



STATE OF MAINE  
Cumberland, SS

Apr. 16, 1993

Then personally appeared the above-named Ruth S. Baker and Joseph D. Casale, and acknowledged the foregoing instrument to be their free act and deed.

Before me,

Paul I. Balgoz  
Notary Public *Attorney-at-Law*  
Paul S. Bunker  
(printed name)

STATE OF MAINE  
Cumberland, SS

Apr. 16, 1992

Then personally appeared the above-named Thomas Tiberii and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Paul I. Balgoz  
Notary Public *Attorney-at-Law*  
Paul S. Bunker  
(printed name)





A certain lot or parcel of land with the building thereon situated at the corner of Market and Milk Streets in the City of Portland, County of Cumberland and State of Maine, being bounded and described as follows:

Beginning at the intersection of the northerly sideline of Milk Street and the westerly sideline of Market Street, being the corner of the granite plinth of the building on the premises herein described;

Thence, by the northerly line of said Milk Street and by said building line on a course of South  $53^{\circ} 22' 36''$  West a distance of forty-one and eight hundredths (41.08) feet to the outside face of the steel plate on the granite plinth of the said building, and land of Ruth S. Baker et al.;

Thence, by said land of Ruth S. Baker et al on a course of North  $37^{\circ} 53' 08''$  West a distance of fifty-three and twenty-four hundredths (53.24) feet to a point in the center of a brick party wall, said point being 0.50 feet southwesterly from the southwesterly face of the brick building on the premises herein described;

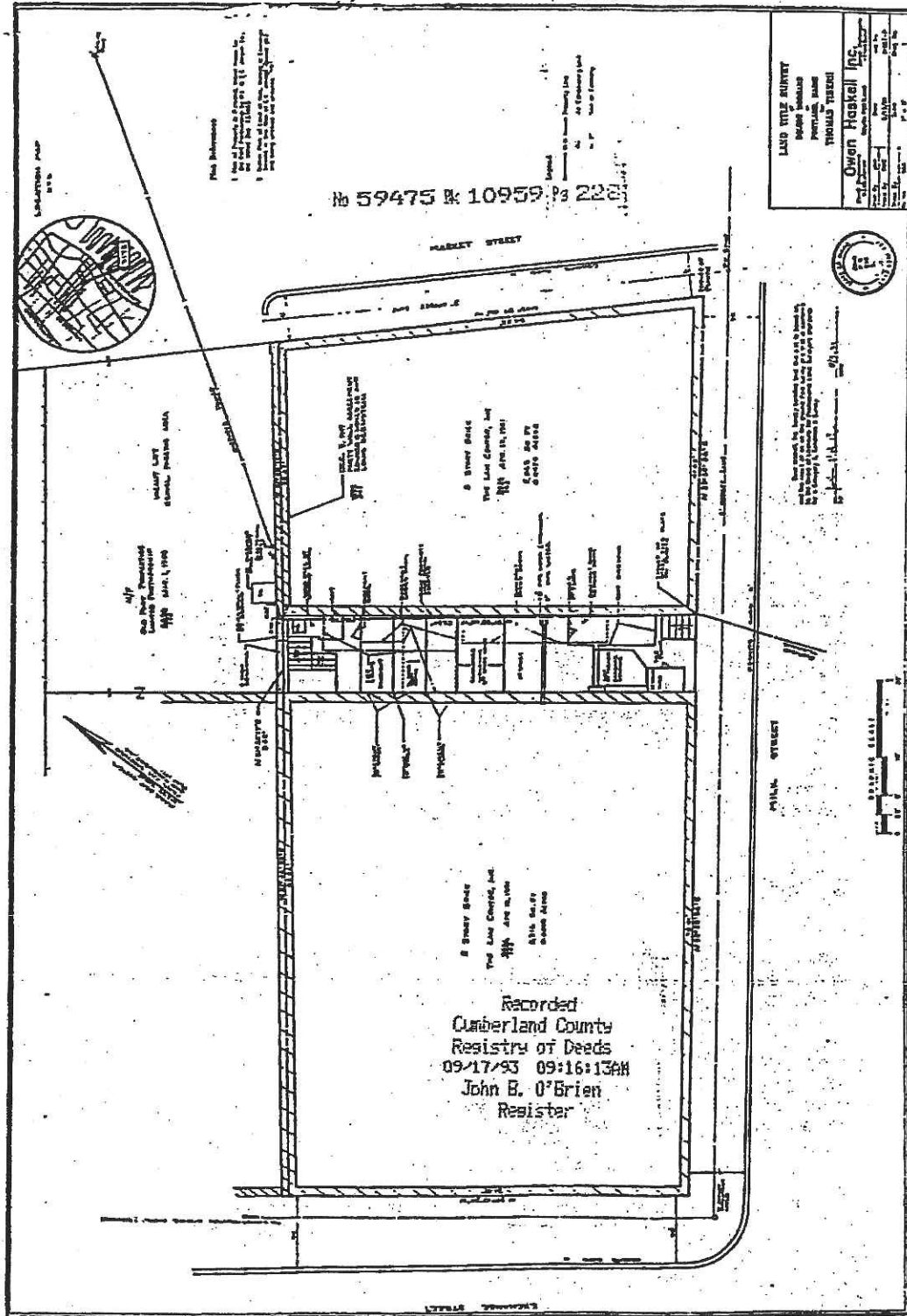
Thence, along the center of said brick party wall on a course of North  $51^{\circ} 28' 17''$  East a distance of five tenths (0.50) feet to the face of said brick building, and thence continuing on same course along the center of said brick party wall an additional thirty-five and nine hundredths (35.09) feet to the westerly sideline of said Market Street, being on the face of said brick building on the premises herein described;

Thence, by the westerly sideline of said Market Street and along the brick face of said building on a course of South  $43^{\circ} 37' 06''$  East a distance of fifty-four and eighty-two hundredths (54.82) feet to the point of beginning.

The above-described courses are on the Maine State Grid System West Zone.

The above-described premises contain 2,065 square feet.





# 59475 R 10959 P 222

**LAND TITLE SURVEY**  
 Owen Haskell Inc.  
 1000 ...  
 1000 ...  
 1000 ...



Recorded  
 Cumberland County  
 Registry of Deeds  
 09-17-93 09:16:13AM  
 John B. O'Brien  
 Register



**MARKET MILK PARTNERS, LLC  
LIMITED LIABILITY COMPANY AGREEMENT**

THIS LIMITED LIABILITY COMPANY AGREEMENT ("Agreement"), is entered into as of the 20<sup>th</sup> day of June, 2013, by and among Thomas E. Watson, an individual with an address of 94 Pine Street, Portland, Maine 04102 (the "Manager") and the parties listed on Schedule 1 attached hereto (collectively the "Members").

**WITNESSETH:**

**ARTICLE 1.**

**FORMATION, PURPOSES, DURATION**

Section 1.1 **Formation and Name.**

1.1.1 **Formation.** The Members have formed a Maine limited liability company pursuant to the provisions of 31 M.R.S.A. §1501, et seq the Maine Limited Liability Company Act (as the same may be amended from time to time, "Act") and this Agreement. In connection therewith, the Certificate (as defined below) has been filed, in accordance with the Act, with the Office of the Secretary of State for the State of Maine.

1.1.2 **Name/Maine Registered Office/Agent.** The name of the Company is "MARKET MILK PARTNERS, LLC". The registered office of the Company in the State of Maine shall be at c/o Port Property Management, Inc., having a principal place of business at 104 Grant Street, Portland, ME, 04101 or at such other location as may hereafter be designated by the Manager. The Manager shall have the right to change the identity of such registered agent in the Manager's reasonable discretion and upon notice to the Members.

1.1.3 **Certificate of Formation.** On June 20, 2013, a Certificate of Formation ("**Certificate**") for the Company was filed with the Maine Secretary of State. The Managers are duly authorized to execute, acknowledge, and/or verify such other documents and/or instruments as may be necessary and/or appropriate in order to establish the Company under the Act and/or to continue its existence in accordance with the provisions of the Act and/or to register, qualify to do business, and/or operate its business as a foreign limited liability company in any other state in which the Company conducts business.

Section 1.2 **Purpose and Powers.** The Company has been formed as a single purpose limited liability company to purchase and acquire the property consisting of a certain parcel of land and the building improvement located thereon which is more commonly identified as 46 Market Street, Portland, Maine (the "Property"), to own, mortgage, lease, operate, manage, improve and sell the Property, and to engage in any activities directly or indirectly related or incidental thereto. The Company shall possess and exercise all of the powers and privileges granted by the Act, together with any powers incidental thereto, so far as such powers or privileges are necessary or convenient to the conduct, promotion, or obtainment of the business,



# Bangor Savings Bank

City of Portland, Planning Division  
389 Congress Street, 4<sup>th</sup> Floor  
Portland, ME 04101

October 25, 2013

RE: Market Milk Partners, LLC / 46 Market Street, Portland, Maine

To Whom It May Concern:

Bangor Savings Bank has approved financing of the above referenced project, contingent on final permitting/approvals from the City. Market Milk Partners and Tom Watson demonstrate the financial wherewithal and industry expertise to successfully complete the proposed project.

Should you have any questions feel free to contact me at 207-944-1731.

Sincerely,



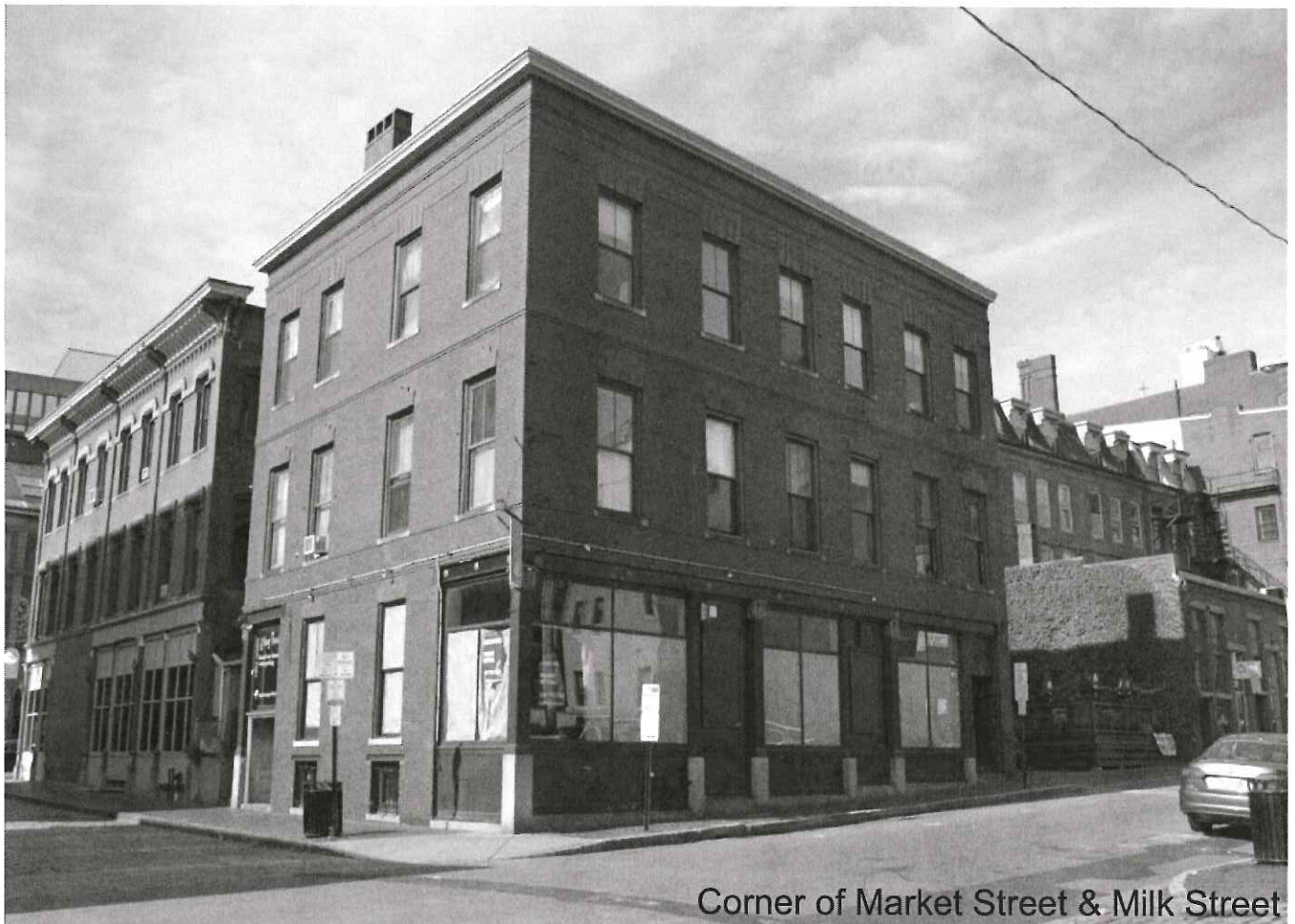
Joe Delano  
Vice President  
Bangor Savings Bank





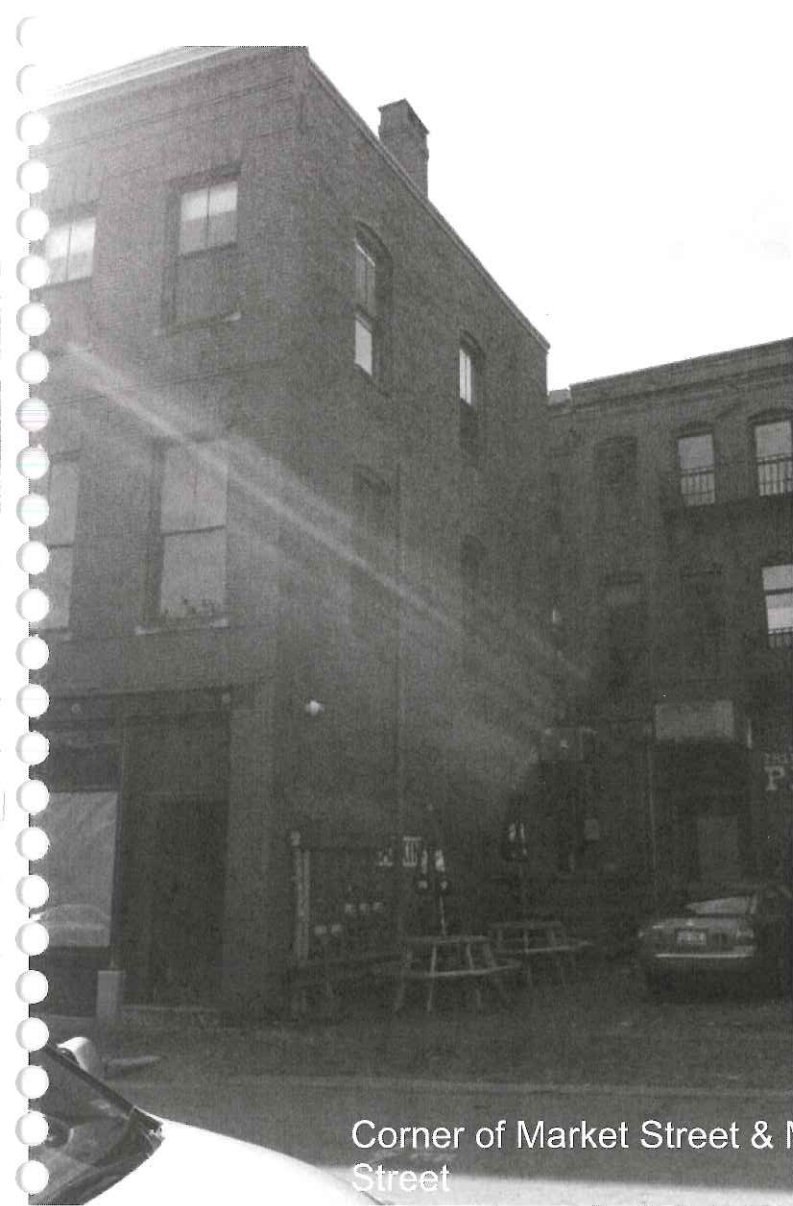


Corner of Market Street & Milk Street



Corner of Market Street & Milk Street





Corner of Market Street & Milk Street



South view from Market Street



Market Street Elevation





M A R K  
M U E L L E R  
A R C H I T E C T S

October 31, 2013

City of Portland Planning Division  
City Hall – Fourth Floor  
389 Congress Street  
Portland, Maine 04101

RE: 46 Market Street – Change of use & increase in dwelling units  
Waiver Request (Street Trees)

Dear City of Portland Planning,

On behalf of Tom Watson of Market Milk Partners, LLC & Port Property Management; we'd like to formally request a waiver from city ordinance Section 14-526(b)2.biii – Street Trees. This section allows a waiver to be granted by the following:

'Where the applicant can demonstrate that site constraints prevent the planting of required street trees in the City right of way, or within the first ten feet of the front set back; the Reviewing Authority may allow the applicant to contribute to the City of Portland Tree Fund an amount proportionate to the cost of required street trees'

The property as submitted has an all encompassing site with 100% lot building coverage; no front yard exists for the planting of street trees. Furthermore, the existing historic neighborhood includes brick side walks varying in width from six to seven feet, which significantly restrict the planting of such street trees while allowing adequate clearances for pedestrian access.

The applicant would like to contribute to the City of Portland Tree Fund as necessary in acceptance of this waiver and to satisfying the City of Portland Street Tree ordinance.

Sincerely,

Matt Provencal, Assoc. AIA  
Architectural Designer  
Mark Mueller Architects



# CITY OF PORTLAND WASTEWATER CAPACITY APPLICATION

Department of Public Services,  
55 Portland Street,  
Portland, Maine 04101-2991



Mr. Frank J. Brancely,  
Senior Engineering Technician,  
Phone #: (207) 874-8832,  
Fax #: (207) 874-8852,  
E-mail: fjb@portlandmaine.gov

Date: October 29, 2013

**1. Please, Submit Utility, Site, and Locus Plans.**

Site Address: 46 Market Street

Chart Block Lot Number: 032/ E010/ 001

Proposed Use: 2nd Flr: Residential / 3rd Flr: Residential

Previous Use: 2nd Flr: Office / 3rd Flr: Residential

Existing Sanitary Flows: 560 ± GPD

Existing Process Flows: \_\_\_\_\_ GPD

Description and location of City sewer that is to receive the proposed building sewer lateral.

Site Category	Commercial (see part 4 below)	<input type="checkbox"/>
	Industrial (complete part 5 below)	<input type="checkbox"/>
	Governmental	<input type="checkbox"/>
	Residential	<input checked="" type="checkbox"/>
	Other (specify)	<input type="checkbox"/>

*(Clearly, indicate the proposed connections, on the submitted plans)*

**2. Please, Submit Contact Information.**

City Planner's Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Owner/Developer Name: Tom Watson - Market Milk Partners, LLC. (dba Port Property Management)

Owner/Developer Address: 104 Grant Street, Portland, Maine 04101

Phone: 207.771.2883 Fax: 207.252.0358 (mobile) E-mail: tom@portpropmgt.com

Engineering Consultant Name: ALBERT FRICK ASSOC. (JAMES LOGAN)

Engineering Consultant Address: 95A COUNTY ROAD GORHAM, ME 04038

Phone: 839-5563 Fax: 839-5564 E-mail: james@albertfrick.com

*(Note: Consultants and Developers should allow +/- 15 days, for capacity status, prior to Planning Board Review)*

**3. Please, Submit Domestic Wastewater Design Flow Calculations.**

Estimated Domestic Wastewater Flow Generated: 600 ± GPD

Peaking Factor/ Peak Times: \_\_\_\_\_

Specify the source of design guidelines: (i.e.  "Handbook of Subsurface Wastewater Disposal in Maine,"  "Plumbers and Pipe Fitters Calculation Manual,"  Portland Water District Records,  Other (specify) \_\_\_\_\_

*(Note: Please submit calculations showing the derivation of your design flows, either on the following page, in the space provided, or attached, as a separate sheet)*





4. Please, Submit External Grease Interceptor Calculations.

N/A

Total Drainage Fixture Unit (DFU) Values: \_\_\_\_\_

Size of External Grease Interceptor: \_\_\_\_\_

Retention Time: \_\_\_\_\_

Peaking Factor/ Peak Times: \_\_\_\_\_

(Note: In determining your restaurant process water flows, and the size of your external grease interceptor, please use The Uniform Plumbing Code. Note: In determining the retention time, sixty (60) minutes is the minimum retention time. Note: Please submit detailed calculations showing the derivation of your restaurant process water design flows, and please submit detailed calculations showing the derivation of the size of your external grease interceptor, either in the space provided below, or attached, as a separate sheet)

5. Please, Submit Industrial Process Wastewater Flow Calculations

N/A

Estimated Industrial Process Wastewater Flows Generated: \_\_\_\_\_ GPD

Do you currently hold Federal or State discharge permits? Yes \_\_\_\_\_ No \_\_\_\_\_

Is the process wastewater termed categorical under CFR 40? Yes \_\_\_\_\_ No \_\_\_\_\_

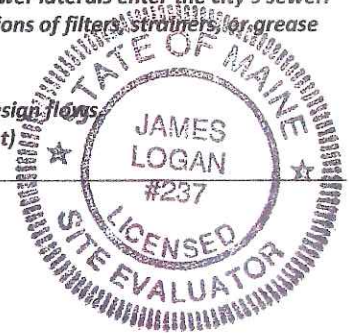
OSHA Standard Industrial Code (SIC): \_\_\_\_\_

<http://www.osha.gov/oshstats/sicser.html>

Peaking Factor/Peak Process Times: \_\_\_\_\_

(Note: On the submitted plans, please show where the building's domestic sanitary sewer laterals, as well as the building's industrial-commercial process wastewater sewer laterals exits the facility. Also, show where these building sewer laterals enter the city's sewer. Finally, show the location of the wet wells, control manholes, or other access points; and, the locations of filters, strainers, or grease traps)

(Note: Please submit detailed calculations showing the derivation of your design flows either in the space provided below, or attached, as a separate sheet)



Notes, Comments or Calculation

EXISTING USES:

SECOND FLOOR OFFICES 19 EMPLOYEES TOTAL  
w/bathrooms w/showers @ 20 GPD/Employee

$$19 \times 20 = 380 \text{ gpd}$$

THIRD FLOOR

(1) 2 BEDROOM UNIT (RESIDENTIAL) @ 180 gpd

$$380 + 180 = 560 \text{ gpd total existing use}$$

PROPOSED USE: SECOND FLOOR

3 RESIDENTIAL UNITS (1 BEDROOM EACH)

$$(\textcircled{a} 120 \text{ gpd/ea} = 3 \times 120 = 360 \text{ gpd})$$

THIRD FLOOR

2 RESIDENTIAL UNITS @ 1 BEDROOM EA,

$$2 \times 120 \text{ gpd} = 240 \text{ gpd}$$

$$360 + 240 = 600 \text{ gpd total estimate flow}$$



**Level III Site Plan & Subdivision Review**  
**Studios at 46 Market Street**  
**46 Market Street**  
**Market Milk Partners, LLC**

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Market Milk Partners, LLC has submitted plans for the redevelopment of an existing building at 46 Market Street in the Old Port. The existing structure, a turn-of-the-century brick mixed-use building characteristic of the Old Port, currently contains first floor retail, second floor office, and third floor residential space. The proposal involves a change of use - the existing office space on the second floor would be converted to residential space, and the existing third floor unit would be split into two, effectively eliminating all office space and bringing the total number of residential units in the building to five. At this time, the proposal does not include any site work.

Doorways are found at the northeast and southwest corners of the building, on both the Market and the Milk Street frontages; however, these doors provide access solely to the first floor and basement of the building. Access to the second and third floors is provided via an enclosed, upper story walkway from the adjacent building at 31 Exchange Street. The exterior door leading to this walkway can be found on Exchange Street.

The Planning Board did not hold a workshop on this proposal. Instead, the applicant has elected to submit final plans and proceed directly to public hearing. The project is subject to subdivision and site plan review.

City staff have reviewed the project and have generally found that it meets subdivision and site plan standards. That said, staff recommends that the board approve the project with several conditions of approval.

**SITE PLAN SUBMISSION REQUIREMENTS (Section 14-527) and SUBDIVISION PLAT AND RECORDING PLAT REQUIREMENTS (Section 14-496)**

Staff has recommended a condition of approval requesting a revised subdivision plat prior to signing, which is standard under subdivision review. It should be noted that the city's Department of Public Services and Corporation Counsel have reviewed the plat and generally found them acceptable with minor edits. City staff has identified several details which will be required on the revised plat, including additional details regarding solid waste storage and disposal, notes regarding unit sizes, and notes regarding areas subject to joint agreements with the adjacent property owner at 31 Exchange Street.

**XI. SUBDIVISION REVIEW (14-497(a). Review Criteria; 14-198. Technical and Design Standards; & 14-499. Required Improvements)**

***Adequacy of Water Supply***

The applicant has not provided a letter from the Portland Water District confirming the district's ability to serve the proposed project, nor has the applicant provided evidence of sewer capacity. These have been recommended as a condition of approval.

**XII. SITE PLAN REVIEW**

***Access and Circulation***

There is an existing ramp at the corner of Market and Milk Streets that fails to meet the city's current technical standards. David Margolis-Pineo, of the city's Department of Public Services, has requested that the applicant re-build this ramp, installing a detectable warning panel for the historic district per the City's Technical Manual. The applicant is also request to install a short section of flush granite curb in conjunction with this ramp.

Likewise, there are portions of the existing brick sidewalk north of this ramp on Market Street which require small renovations. Mr. Margolis-Pineo has also asked the applicant to repair these areas. Both of these improvements have been included as conditions of approval.

***Landscaping and Landscape Preservation***

The site is currently unlandscaped and no landscaping is proposed. The city's site plan standards include a requirement that multi-family residential developments provide one street tree/unit (*Section 14-526(b)2.b(iii)*).

Per this requirement, five street trees are required on the site's street frontages. The applicant has requested a waiver on the grounds that there are existing site constraints, namely relatively narrow sidewalks, and has asked to provide a contribution to the city's tree fund instead. A waiver of this kind is generally supported in cases of narrow sidewalks by the city's Department of Public Services.

***Public Infrastructure and Community Safety Standards***

The applicant has provided a brief NFPA code analysis for review by the Fire Prevention Bureau (*Attachment C*). The building will be fully sprinkled. However, as of now, internal fire code issues remain, given the complicated access to the second and third floors. Captain Chris Pirone of the city's Fire Prevention Bureau has indicated that an independent review by a certified Fire Protection Engineer will be required for building permit purposes. In addition, Captain Pirone has indicated that addressing for 911 remains unresolved. These items have been included as conditions of approval to be met prior to the issuance of a building permit.

***Noise and Vibration***

The applicant has not provided information on the noise and vibration of HVAC and mechanical equipment, which are slated to be roof-mounted. Submission of this information for the Zoning Administrator's review is proposed as a condition of approval.

**STAFF RECOMMENDATION**

Subject to the proposed motions and conditions of approval listed below, Planning Division staff recommends that the Planning Board approve the proposed subdivision and site plan for the Studios at 46 Market Street.

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11/26 - 46 MARKET.

BH, CM, JS,

MATT.

Fire protection Engineers on board. Mark Cummings  
↓ HP review

TD,  
EB,  
SD

TD - more defmt. on eqn.

JS - one hour consider all the way through 31?  
doors.

PB.

SD

JS get Deb to write letter of support re interior modifications  
for fire code

BH

1900

1900

1900

The population of the United States in 1900 was 76,212,367.

1900

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1900

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1900

## Helen Donaldson - Re: plat review

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**From:** Jennifer Thompson  
**To:** Helen Donaldson  
**Date:** 11/21/2013 9:06 AM  
**Subject:** Re: plat review

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I'm still learning about this process, Nell, so bear with me. Here are the things that occurred to me after going over Jean's memo and the ordinance:

Am I missing the number of units listed on the plan? If not, I think that should be included. This will probably happen in future iterations but if there is a private obligation to remove trash and snow, that should be specified on the plan. These plans are supposed to reference the condo docs and the book and page or with "to be recorded"

I assume other more minor details will be included at a later time but these are my initial thoughts. Because I'm still learning, please tell me if you think I'm out in left field with any of these.

>>> Helen Donaldson 11/18/2013 10:31 AM >>>  
Jen,

I'm attaching a draft recording plat for a 5 unit-residential building at Market and Milk Street. The building already exists - the subdivision will just apply to interior renovations they're doing to make the five units.

This will obviously change for recording purposes, but can you take a quick look and let me know if you see anything major missing or needed from a legal perspective?

Thanks!  
Nell





**Helen Donaldson - Re: plat review**

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**From:** William Clark  
**To:** Helen Donaldson  
**Date:** 11/14/2013 11:11 AM  
**Subject:** Re: plat review  
**CC:** David Margolis-Pineo

---

Hi Nell,

I plotted the plan and it looks good. They can't set property corners as the street/ROW line is at the faces of the buildings.

No big deal, but are they considering altering the vaults along Milk Street? They pertain to the 31 Exchange Street building.

Thanks,

Bill

>>> Helen Donaldson November 14, 2013 8:56 AM >>>  
Bill,

I'm attaching a draft recording plat for a 5 unit-residential building at Market and Milk Street. The building already exists - the subdivision will just apply to interior renovations they're doing to make the five units.

Could you take a look and let me know what's amiss (by early next week, if at all possible)?

Thanks!  
Nell





## PLANNING BOARD REPORT PORTLAND, MAINE

Studios at 46 Market Street  
46 Market Street  
Level III Site Plan and Subdivision Review  
2013-245  
Market Milk Partners, LLC, Applicant

Submitted to: Portland Planning Board Public Hearing Date: November 26, 2013 Planning Board Report Number: #55-13	Prepared by: Nell Donaldson, Planner Date: November 21, 2013 CBLs: 32-E-10001
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### I. INTRODUCTION

Market Milk Partners, LLC has submitted plans for the redevelopment of an existing building at 46 Market Street in the Old Port for Level III site plan and subdivision review. The existing structure currently contains first floor retail, second floor office, and third floor residential space. The proposal involves a change of use including the interior buildout of three residential apartment units on the second floor and the addition of one apartment unit on the fourth floor, effectively eliminating all office space and bringing the total number of residential units in the building to five. At this time, the proposal does not include any site work.

The Planning Board did not hold a workshop on this proposal. Instead, the applicant has elected to submit final plans and proceed directly to public hearing.

A total of 221 notices were sent to property owners within 500 feet of the site and a legal ad ran on November 18 and 19, 2013.

**Applicant:** Tom Watson, Market Milk Partners, LLC  
**Consultants:** Mark Mueller Architects; Owen Haskell, Inc.

### II. REQUIRED REVIEWS

<i>Waiver Requests</i>	<i>Applicable Standards</i>
Street Trees – 5 trees required (1/unit), 0 provided, contribution of \$1,000 requested	<i>Site Plan Standard and waiver (Section 14-526(b)2.b(iii))</i>
<i>Review</i>	<i>Applicable Standards</i>
Site Plan	<i>Section 14-526</i>
Subdivision (creation of 3 or more dwelling units)	<i>Section 14-497</i>

### III. PROJECT DATA

Existing Zoning	B-3
Existing Use	Mixed (retail, office, residential)
Proposed Use	Mixed (retail, residential)
Proposed Development Program	Addition of four residential units
Parcel Size	2,065 SF

	<i>Existing</i>	<i>Proposed</i>	<i>Net Change</i>
Building Footprint	2,065 SF	2,065 SF	0 SF
Building Floor Area	8,136 SF	8,136 SF	0 SF
Impervious Surface Area	2,065 SF	2,065 SF	0 SF
Parking Spaces (on site)	0	0	0
Bicycle Parking Spaces	0	0	0
Estimated Cost of Project	\$250,000		



Figures 1 and 2: 46 Market Street today (top); the site at Market and Milk Streets in the Old Port (bottom)

**IV. EXISTING CONDITIONS**

The site at 46 Market Street is currently built, occupied by a turn-of-the-century brick mixed-use building characteristic of the Old Port. The ground floor on the Market Street façade features large storefront windows; the upper floors are punctuated by a typical office or residential window pattern. Doorways are found at the northeast and southwest corners of the building, on both the Market and the Milk Street frontages; however, these doors provide access solely to the first floor and basement of the building. Access to the second and third floors is provided via an enclosed, upper story walkway from the adjacent building at 31 Exchange Street. The exterior door leading to this walkway can be found on Exchange Street. Currently, the first floor of 46 Market Street is unoccupied retail space, the second floor contains three office units, and the third floor is occupied by one large residential unit. There is also a basement with leasable space.

The project lies in the B-3 zone and also in the heart of the Old Port Historic District.

**V. PROPOSED DEVELOPMENT**

The residential redevelopment at 46 Market Street, as proposed, consists of four additional residential apartment units, designed as studios, and would bring the total number of units in the building to five. The existing office space on the second floor would be converted to residential space, and

the existing third floor unit would be split into two. Access to all of these units would be provided via the existing elevated walkway from 31 Exchange. No exterior work is currently proposed.

**VI. PUBLIC COMMENT**

The Planning Division received one request for information about the project, but received no written or verbal comments.

**VII. RIGHT, TITLE, & INTEREST**

The applicant’s submittal includes a deed demonstrating rights to the property (*Attachment C*). The applicant also submitted copies of a 1993 “agreement” between the adjacent property owner at 31 Exchange Street and the then



Figures 3 and 4: The “strip” area between the buildings at 46 Market and 31 Exchange Streets, including the second & third floor walkways providing access to 46 Market

current owner of 46 Market (*Attachment D*). This agreement was recorded when the Exchange Street property owner, who originally owned both buildings, sold 46 Market Street as an outparcel. This agreement notes that the two buildings are “connected at certain points and are served by common utilities and access corridors, among other things,” and ultimately grants 46 Market Street an access easement “over the entrance, stairway, corridors, and walkways” in 31 Exchange. The agreement also conveys to 46 Market the rights to construct and repair utilities, heating and ventilation equipment, restrooms, and drainage systems in the joined area, known as “the strip.” This area is pictured in *Figures 3 & 4*.

**VIII. FINANCIAL & TECHNICAL CAPACITY**

The estimated cost of the development is \$250,000. The applicant has provided a letter from Bangor Savings Bank indicating their intent to finance the project at 46 Market Street (*Attachment F*).

**IX. ZONING ANALYSIS**

Marge Schmuckal, Zoning Administrator, has provided comments conditionally approving the project from a zoning perspective. She writes,

*This project is proposing to add 4 more dwelling units to be located on the 2nd and 3rd floors. Since there is one approve[d] residential unit currently, the total of dwelling units will be five. Three dwelling units will be on the 2nd floor and two dwelling units will be on the 3rd floor.*

*The property is located in the B-3 Downtown Business zone which allows residential dwelling units as a permitted use. There are no requirements for land area per dwelling unit in the B-3 zone. There is also an exemption for showing required parking in the B-3 zone for any change of use. This property is also within a Historic District that exempts the necessity of showing parking for the new uses.*

*Separate building permits are required for the change of use, along with separate permits for new HVAC and additional air cooled water chillers on the roof. Such units shall meet the maximum allowance for noise levels for the B-3 zone. At the time of permit application, the unit's decibel levels must be submitted for analysis.*

**X. SITE PLAN SUBMISSION REQUIREMENTS (Section 14-527) and SUBDIVISION PLAT AND RECORDING PLAT REQUIREMENTS (Section 14-496)**

The applicant has submitted application materials in accordance with the site plan and subdivision requirements of the city’s land use ordinance. Where these materials are insufficient or incomplete, they have been discussed below. It should be noted that the submittal of a revised subdivision plat meeting the city’s plat requirements is included as a condition of approval. Prior to signing, the applicant will need to modify

the draft plat to include waivers and conditions of approval as decided by the Planning Board. The revised plat will also need to clearly depict all areas subject to agreements with the adjacent property owner.

**XI. SUBDIVISION REVIEW (14-497(a). Review Criteria; 14-198. Technical and Design Standards; & 14-499. Required Improvements)**

The proposed development has been reviewed by staff for conformance with the relevant review standards of the City of Portland's subdivision ordinance. The findings of that review are discussed below.

**1. Water, Air Pollution**

As noted above, no new construction is proposed as part of this project. No detrimental water or air quality impacts are anticipated.

**2 & 3. Adequacy of Water Supply**

The applicant has not provided a letter from the Portland Water District confirming the district's ability to serve the proposed project. This has been included as a condition of approval.

**4. Soil Erosion**

As previously discussed, the site is currently built out. As such, no soil erosion is anticipated.

**5. Impacts on Existing or Proposed Highways and Public Roads**

The project would result in four additional residential units on site. All of these are designed as studios. The project is not expected to generate significant traffic volumes or have a major impact on existing or proposed highways and public roads.

**6. Sanitary Sewer/Stormwater**

The applicant has submitted a wastewater capacity application to the Department of Public Services requesting confirmation of adequate sewer capacity (*Attachment J*). A letter from DPS confirming sewer capacity has been included as a condition of approval.

Since the site is currently built out and no site work is proposed, there are no new impervious surfaces anticipated. As such, no stormwater impacts are expected from the project.

**7. Solid Waste**

The applicant has stated in their application that "existing solid waste is removed from the building by the tenants" and that "no on site waste receptacles exist or are proposed" (*Attachment A*). Additional details regarding solid waste storage and disposal have been requested from the applicant and will be required on the revised subdivision plat.

**8. Scenic Beauty**

Again, since all the proposed work is interior, the proposal is not deemed to have an adverse impact on the scenic beauty of the area.

**9. Comprehensive Plan**

In the creation of more housing units on the peninsula, the project is deemed compatible with Comprehensive Plan goals and policies, including the vision for the community's future, which envisions an "adequate supply of quality housing for all," "proximity of commercial uses near residences," and "high-density areas on the peninsula."

**10. Financial and Technical Capacity**

As noted above, the applicant has submitted a letter from Bangor Savings Bank indicating the intent to finance the project.

**11. Wetland Impacts**

There are no anticipated impacts to wetlands.

**12. Groundwater Impacts**

There are no anticipated impacts to groundwater supplies.

**13. Flood-Prone Area**

The project is not located in a flood-prone area.

**Technical and Design Standards and Required Improvements**

The already constructed building meets applicable requirements contained in the subdivision ordinance. It should be noted that underground electric already exists to the site.

**XII. SITE PLAN REVIEW**

The proposed development has been reviewed by staff for conformance with the relevant review standards of the City of Portland's site plan ordinance. A summary of this review is included below.

**1. Transportation Standards****a. Impact on Surrounding Street Systems**

As noted above, the proposal is not expected to generate a change in traffic volumes to the site or thus have any significant impact on the surrounding street system.

**b. Access and Circulation**

There is no existing or proposed vehicular access to the site. Pedestrian access, as described above, would remain unchanged, with walkup entry to the second and third floors via 31 Exchange Street. A fire escape exists at the northwest corner of the building, with access via a shared landing.

There is an existing ramp at the corner of Market and Milk Streets that fails to meet the city's current technical standards. Of this ramp, David Margolis-Pineo, of the city's Department of Public Services, writes,

*The applicant is requested to re-build the sidewalk ramp at the corner of Milk and Market Streets installing a detectable warning panel for the historic district per Figure I-7A on page 40 of the City's Technical Manual. The applicant is also request to install a short section of flush granite curb in conjunction with this ramp. The City may have a piece of granite curbing stored on outer Congress St which may be used at no cost to the applicant except to pick up and transport. The applicant is requested to use the Pinehall Pathway Pavers bricks when rebuilding this ramp.*

Likewise, there are portions of the existing brick sidewalk north of this ramp on Market Street which require small renovations. Mr. Margolis-Pineo writes,

*There are two potential tripping areas in the Market St. sidewalk adjacent to sidewalk ramp. One next to the building corner and the other around the catchbasin headstone. The applicant is requested to remove the brick as necessary in these two areas and reconstruct as necessary to eliminate these tripping hazards. Again, the City may have bricks at the outer Congress Street storage area which will match the existing brick. The applicant is welcome to use these brick as necessary to facilitate these repairs.*

**c. Public Transit Access**

The proposed development is not located along a public transit route, nor is it of sufficient size to trigger the city's site plan standard regarding public transit access. As such, no provisions for transit access are required.

**d. Parking**

Division 20 of the land use ordinance requires one parking space/unit for residential development located on the peninsula (*Section 14-332(a)3*). However, Division 20 also includes exceptions under specific circumstances, including changes of use in the B-3 zone (*Section 14-332.1(e)*). As such, the project is

exempt from off-street parking requirements. Thus, the project is also exempt from the bicycle parking standards of the site plan ordinance.

- e. *Transportation Demand Management*  
A transportation demand management plan is not required.

## 2. *Environmental Quality Standards*

### a. *Preservation of Significant Natural Features*

There are no known significant natural features on the site.

### b. *Landscaping and Landscape Preservation*

The site is currently unlandscaped and no landscaping is proposed. The city's site plan standards include a requirement that multi-family residential developments provide one street tree/unit (*Section 14-526(b)2.b(iii)*). Per this requirement, five street trees are required on the site's street frontages. The applicant has requested a waiver on the grounds that there are existing site constraints, namely relatively narrow sidewalks. The waiver criteria for street trees under 14-526 state,

*Where the applicant can demonstrate that site constraints prevent the planting of required street trees in the City right of way, the Reviewing Authority may permit the planting of street trees in the front yard, within 10 feet of the property line... If planting street trees is neither feasible in the City right of way nor within the site, the applicant shall contribute to the City of Portland Tree Fund an amount proportionate to the cost of required street trees.*

Due to site constraints, staff recommends a waiver of the street tree standard and a contribution to the tree fund in the amount of \$1,000. A waiver of this kind is generally supported in cases of narrow sidewalks by the city's Department of Public Services.

### c. *Water Quality/Storm Water Management/Erosion Control*

Since the site is currently built out, no changes in stormwater flows or impervious surfaces are anticipated. No stormwater treatment or mitigation is required.

## 3. *Public Infrastructure and Community Safety Standards*

### a. *Consistency with Related Master Plans*

As noted above, the project is generally consistent with related master plans.

### b. *Public Safety and Fire Prevention*

The rear of the building, which abuts the gap between 46 Market and 31 Exchange Streets, referred to by agreement as "the strip," currently poses health and safety concerns. The applicant possesses some rights to this area, as noted above, and has indicated that the fire escape will be rebuilt, the basement stair will be rebuilt, and much of the mechanical equipment affixed to the side of the building will be removed from this area.

The applicant has provided a brief NFPA code analysis for review by the Fire Prevention Bureau (*Attachment C*). The building will be fully sprinkled. However, as of now, internal fire code issues remain. Captain Chris Pirone of the city's Fire Prevention Bureau has indicated that an independent review by a certified Fire Protection Engineer will be required for building permit purposes. In addition, Captain Pirone has indicated that addressing for 911 remains unresolved. These items have been included as conditions of approval to be met prior to the issuance of a building permit.

### c. *Availability and Capacity of Public Utilities*

As noted above, the applicant has not provided evidence of water or sewer capacity. This has been included as a condition of approval.



**4. Site Design Standards**

- a. *Massing, Ventilation, and Wind Impact*
- b. *Shadows*
- c. *Snow and Ice Loading*

As the exterior of the building is not proposed to change, there are no anticipated changes in impacts in terms of massing, wind or shadows, or snow and ice loading.

- d. *View Corridors*

The site is not located on a recognized view corridor.

- e. *Historic Resources*

While this site is located in the Old Port Historic District, no exterior building work is being proposed as part of the project. As such, no Historic Preservation review is required.

- f. *Exterior Lighting*

No new exterior lighting is proposed.

- g. *Noise and Vibration*

The applicant has not provided information on the noise and vibration of HVAC and mechanical equipment, which are slated to be roof-mounted. Submission of this information for the Zoning Administrator’s review is proposed as a condition of approval.

- h. *Signage and Wayfinding*

There is no proposed signage or wayfinding.

- i. *Zoning-Related Design Standards*

Again, as the site is currently built out, the city’s B-3 Design Guidelines do not apply.

**XIII. STAFF RECOMMENDATION**

Subject to the proposed motions and conditions of approval listed below, Planning Division staff recommends that the Planning Board approve the proposed subdivision and site plan for the Studios at 46 Market Street.

**XIV. PROPOSED MOTIONS**

**A. WAIVERS**

On the basis of the application, plans, reports and other information submitted by the applicant; findings and recommendations contained in Planning Board Report # 55-13 for application 2013-245 relevant to Portland’s Technical and Design Standards and other regulations; and the testimony presented at the Planning Board hearing:

- 1. The Planning Board **waives/does not waive** the Site Plan Standard (*Section 14-526(b)2.b(iii)*) regarding street trees due to site constraints. The applicant shall contribute \$1,000 for five street trees to Portland’s tree fund. 6-0

**B. SUBDIVISION**

On the basis of the application, plans, reports and other information submitted by the applicant; findings and recommendations contained in Planning Board Report #55-13 for application 2013-245 relevant to the subdivision regulations; and the testimony presented at the Planning Board hearing, the Planning Board finds that the plan **is/is not** in conformance with the subdivision standards of the land use code, subject to the following condition of approval, which must be met prior to the signing of the plat:

- 1. The subdivision plat shall be revised to include: 6-0
  - a. notes defining the location and terms of solid waste disposal;
  - b. notes identifying areas subject to agreements with the property owner at 31 Exchange Street;
  - c. notes regarding unit sizes;

- d. sidewalk and ramp reconstruction as required by the city’s Department of Public Services; and
  - e. relevant waivers and conditions,
- and be finalized to the satisfaction of the Planning Authority, Department of Public Services, and Corporation Counsel.

**C. SITE PLAN REVIEW**

On the basis of the application, plans, reports and other information submitted by the applicant; findings and recommendations contained in Planning Board Report #55-13 for application 2013-245 relevant to the site plan regulations; and the testimony presented at the Planning Board hearing, the Planning Board finds that the plan **is/is not** in conformance with the site plan standards of the land use code, subject to the following conditions of approval that must be met prior to the issuance of a building permit, unless otherwise stated:

6-0

- 1. The applicant shall provide evidence of water and sewer capacity from the Portland Water District and the city’s Department of Public Services respectively, for review and approval by the Planning Authority;
- 2. The applicant shall provide plans, stamped by a licensed engineer and including details, depicting:
  - a. the reconstruction of the ramp at Milk and Market Streets to include a standard detectable warning panel and flush granite curb, and
  - b. the reconstruction of areas of sidewalk on Market Street to eliminate tripping hazards for review and approval by the city’s Department of Public Services and Planning Authority;
- 3. The applicant shall provide addressing and life safety plans meeting the standards of the city’s Fire Prevention Bureau, for review and approval by that department and the Planning Authority; and
- 4. The applicant shall submit HVAC system specifications meeting applicable standards for the Zoning Administrator’s review and approval prior to the issuance of a HVAC/Heating/Cooling permit.

*prepared by CPE ... SEE INDEX*

**XV. ATTACHMENTS**

**PLANNING BOARD REPORT ATTACHMENTS**

- 1. Zoning Administrator review (memo from Marge Schmuckal, 11/12/13)
- 2. Department of Public Services review (memo from David Margolis-Pineo, 11/18/13)

**APPLICANT’S SUBMITTALS**

- A. Cover Letter (from Matt Provencal, Mark Mueller Architects)
- B. Application
- C. Quitclaim Deed with Covenant
- D. Agreement Between 31 Exchange and 46 Market Streets
- E. Market Milk Partners, LLC Agreement
- F. Letter of Financial Capacity (from Bangor Savings Bank, 10/25/13)
- G. Photos of Existing Site
- H. PWD Infrastructure Map
- I. Waiver Request Letter (from Matt Provencal, Mark Mueller Architects, 10/31/13)
- J. Wastewater Capacity Letter

**C. PLANS**

- Plan 1 Land Title Survey
- Plan 2 Draft Recording Plat
- Plan 3 Proposed Floor Plans
- Plan 4 Proposed Elevations
- Plan 5 Existing Floor Plans
- Plan 6 Existing Elevations

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**MEMORANDUM**

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**To:** FILE  
**From:** Nell Donaldson  
**Subject:** Application ID: 2013-245  
**Date:** 11/19/2013

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**Comments Submitted by: David Margolis-Pineo/Public Services on 11/18/2013**

November 18, 2013

**Memo To:** Nell Donaldson  
Barbara Barhydt  
**From:** David Margolis-Pineo  
**Re:** 46 Market Street

1. The applicant is requested to re-build the sidewalk ramp at the corner of Milk and Market Streets installing a detectable warning panel for the historic district per Figure I-7A on page 40 of the City's Technical Manual. The applicant is also request to install a short section of flush granite curb in conjunction with this ramp. The City may have a piece of granite curbing stored on outer Congress St which may be used at no cost to the applicant except to pick up and transport. The applicant is requested to use the Pinehall Pathway Pavers bricks when rebuilding this ramp.

2. There are two potential tripping areas in the Market St. sidewalk adjacent to sidewalk ramp. One next to the building corner and the other around the catchbasin headstone. The applicant is requested to remove the brick as necessary in these two areas and reconstruct as necessary to eliminate these tripping hazards. Again, the City may have bricks at the outer Congress Street storage area which will match the existing brick. The applicant is welcome to use these brick as necessary to facilitate these repairs.

Thank you.

We have no further comments.

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**MEMORANDUM**

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**To:** FILE  
**From:** Nell Donaldson  
**Subject:** Application ID: 2013-245  
**Date:** 11/19/2013

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**Comments Submitted by: Marge Schmuckal/Zoning on 11/12/2013**

This project is proposing to add 4 more dwelling units to be located on the 2nd and 3rd floors. Since there is one approved residential unit currently, the total of dwelling units will be five. Three dwelling units will be on the 2nd floor and two dwelling units will be on the 3rd floor.

The property is located in the B-3 Downtown Business zone which allows residential dwelling units as a permitted use. There are no requirements for land area per dwelling unit in the B-3 zone. There is also an exemption for showing required parking in the B-3 zone for any change of use. This property is also within a Historic District that exempts the necessity of showing parking for the new uses.

Separate building permits are required for the change of use, along with separate permits for new HVAC and additional air cooled water chillers on the roof. Such units shall meet the maximum allowance for noise levels for the B-3 zone. At the time of permit application, the unit's decibel levels must be submitted for analysis.

Marge Schmuckal  
Zoning Administrator  
City of Portland

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**MEMORANDUM**

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**To:** FILE  
**From:** Nell Donaldson  
**Subject:** Application ID: 2013-241  
**Date:** 11/18/2013

Att. 6

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**Comments Submitted by: David Senus/Civil Engineering on 11/11/2013**

Woodard & Curran has reviewed the Preliminary Level III Site Plan Application for the development located at 152-156 Sheridan Street in Portland, Maine. The project will involve constructing a new five unit apartment complex consisting of a 4,512 Square-foot pier supported structure.

**Documents Provided By Applicant**

- Preliminary Level III Site Plan Application and attachments, prepared by FST Engineers, on behalf of New Day Farm, LLC, dated October 22, 2013.
- Engineering Plans, Sheets C-1.0, C-1.1, C-2.1, C-3.0, C-4.0, C-7.0, C-7.1, and C-7.2, dated October 23, 2013, prepared by FST Engineers, on behalf of New Day Farm, LLC.

**Comments**

1)The application is preliminary. As such, additional documents will need to be submitted for the final application, including a stormwater management plan (as noted below), letters from utilities confirming capacity to serve the proposed development, and a Construction Management Plan. Woodard & Curran will perform a review of the Final Application upon receipt of those documents.

2)In accordance with Section 5 of the City of Portland Technical Manual, a Level III development project is required to submit a stormwater management plan pursuant to the regulations of Maine DEP Chapter 500 Stormwater Management Rules, including conformance with the Basic, General, and Flooding Standards:

a)Basic Standard: A plan and notes should be provided to address erosion and sediment control requirements, inspection and maintenance requirements, and good housekeeping practices in general accordance with Appendix A, B, & C of MaineDEP Chapter 500.

b)General Standard: The proposed roof-area is considered new impervious area. Any clearing that occurs as part of the construction would be considered new developed area. As part of the final application, the applicant will be required to submit a stormwater management plan identifying a stormwater treatment method for the site. The stormwater treatment system shall be sized in accordance with the General Standards to manage runoff from the new impervious and developed areas of the site; or an equivalent, adjacent area. The infiltration practice proposed on the Preliminary submittal may be acceptable, but engineering calculations showing conformance with the General Standards should be provided with future submittals.

c)Flooding Standard: As part of the final application, the applicant will be required to submit documentation demonstrating compliance with the Flooding Standard. A waiver from the Flooding Standard may be granted if the Applicant can demonstrate that the increase in runoff resulting from the project can be adequately managed and have no adverse effect on public or private infrastructure.

3)The Stormwater Management Plan should include a stormwater inspection and maintenance plan developed in accordance with and in reference to MaineDEP Chapter 500 guidelines and Chapter 32 of the City of Portland Code of Ordinances.

4)The Applicant proposes to infiltrate stormwater via roof drain leaders discharging into a crushed stone layer installed beneath the building footprint. The Applicant has noted that Summit Geoengineering Services has conducted a preliminary geotechnical investigation of the project site. The final submittal should include calculations for this infiltration concept, along with a review by the geotechnical engineer to ensure that the proposal will not have adverse impact on the building foundation or slope stability.

5)The pipe trench detail should conform with Detail II-12 of the City of Portland Technical Standards for work within the City Right-of-Way.

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**MEMORANDUM**

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**To:** FILE  
**From:** Nell Donaldson  
**Subject:** Application ID: 2013-241  
**Date:** 11/19/2013

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Att. 7

**11/19/2013**

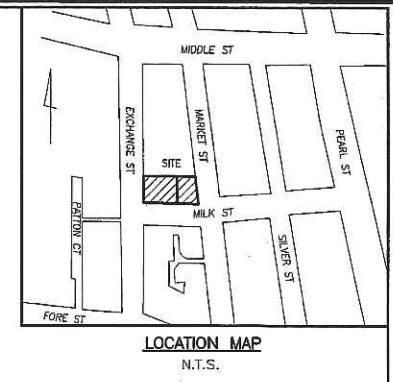
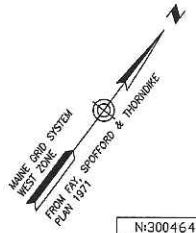
Nell I have reviewed the project from a traffic access and circulation perspective and I find it to be acceptable with the following detailed comments:

- \* The interior garage parking aisle is approximately 23 feet wide and is slightly less than City dimensional standards. I support a waiver for the proposed condition. In my professional opinion site vehicles will be able to maneuver on site without backing into Sheridan Street.
- \* Parking space width dimensions are slightly narrower than City standards (8.5 feet vs. 9.0 feet). I support a waiver for the proposed condition.
- \* I find the driveway design to be acceptable.

If you have any questions, please contact me.

Best regards,

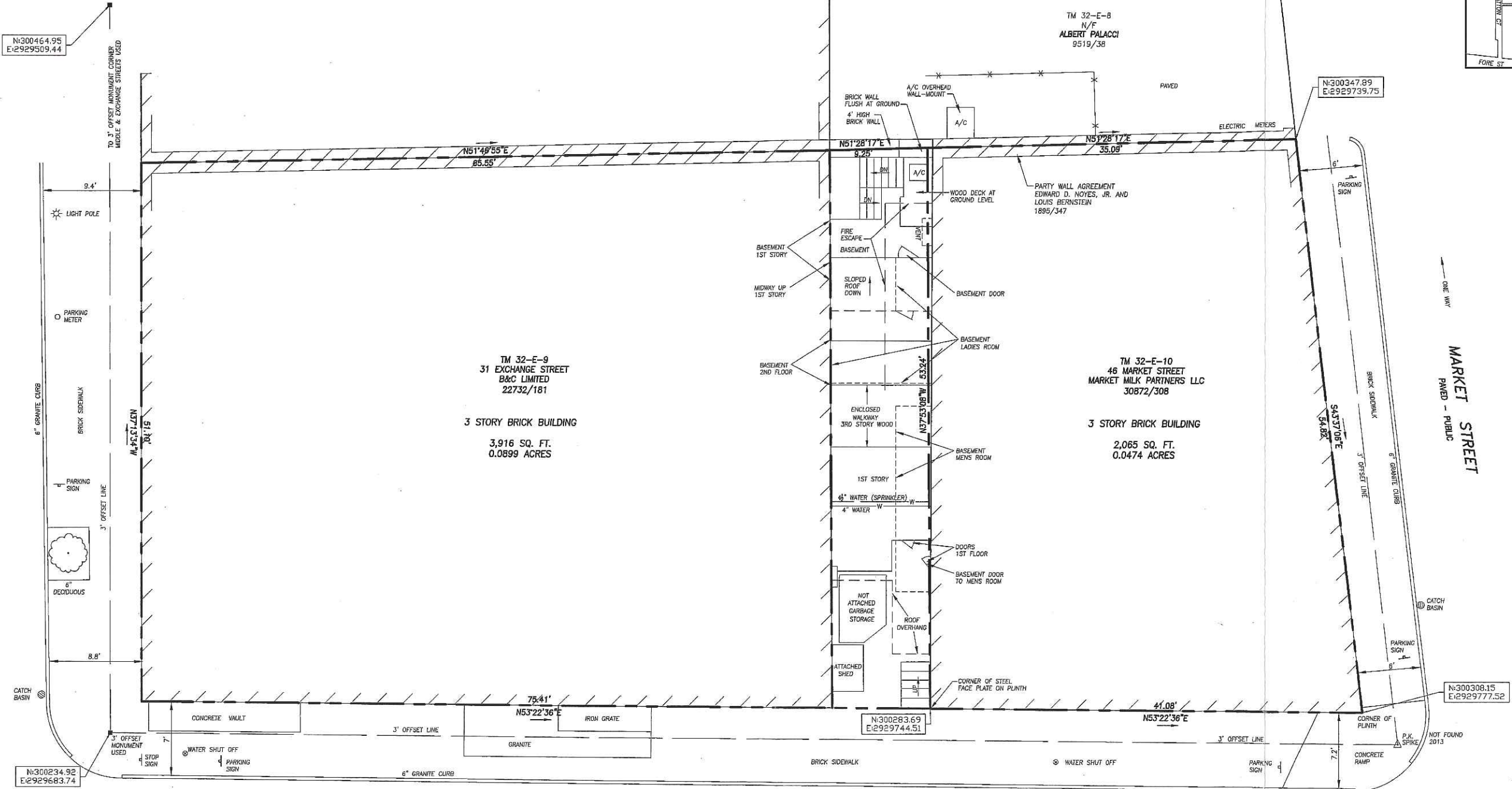
Thomas A. Errico, PE  
Senior Associate  
Traffic Engineering Director  
[T.Y. Lin International]T.Y. Lin International  
12 Northbrook Drive  
Falmouth, ME 04105



EXCHANGE STREET  
PAVED - PUBLIC

MARKET STREET  
PAVED - PUBLIC

MILK STREET  
COBBLESTONES - PUBLIC



**PLAN REFERENCES**

1. LAND TITLE SURVEY OF SQUIRE MORGANS IN PORTLAND, MAINE FOR THOMAS TIBERII, JUNE 13, 1981 BY OWEN HASKELL, INC.
2. PLAN OF PROPERTY IN PORTLAND, MAINE MADE FOR OLD PORT PARTNERSHIP BY H.I. & E.C. JORDAN CO., INC. DATED DEC. 13, 1983.
3. SKETCH PLAN OF LAND AT MILK, MARKET & EXCHANGE STREETS IN THE FILES OF E.C. JORDAN LABELED #83 AND BEING UNTITLED AND UNDATED.

**NOTES**

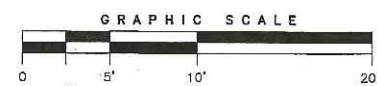
1. OWNER OF RECORD: MARKET MILK PARTNERS, LLC  
CCRD 30872/308
2. COORDINATES LISTED ARE MAINE STATE PLANE COORDINATES WEST ZONE NAD1983. BASED ON DPW ENGINEERING CONTROL PROVIDED BY DPW ENGINEERING DEPARTMENT.

**CERTIFICATE**

OWEN HASKELL, INC. CERTIFIES THAT THIS PLAN IS BASED ON, AND THE RESULT OF, AN ON THE GROUND FIELD SURVEY AND THAT TO THE BEST OF OUR KNOWLEDGE, INFORMATION AND BELIEF, IT CONFORMS TO THE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS CURRENT STANDARDS OF PRACTICE.

8/9/91  
DATE  
10-29-13  
RE-INSPECTED

ORIGINALLY SIGNED  
JOHN P.R. CYR  
*Ellen C. Brewer*  
ELLEN C. BREWER, PLS 2367



UPDATED OCTOBER 25, 2013 FOR THOMAS WATSON C/O MARK MUELLER ARCHITECTS

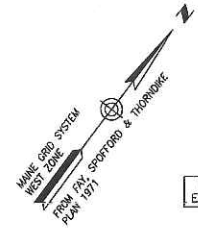
**LAND TITLE SURVEY**  
OF  
SQUIRE MORGANS  
IN  
PORTLAND, MAINE  
FOR  
THOMAS TIBERII

**OWEN HASKELL, INC.**  
390 U.S. ROUTE ONE, FALMOUTH, ME 04105 (207) 774-0424  
PROFESSIONAL LAND SURVEYORS

Drwn By	OHI	Date	2013-10-29
Trace By	JLW	Date	6/13/91
Check By	JWS	Scale	1" = 5'
Book No.	FILE	Drwg. No.	1







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TM 32-E-8  
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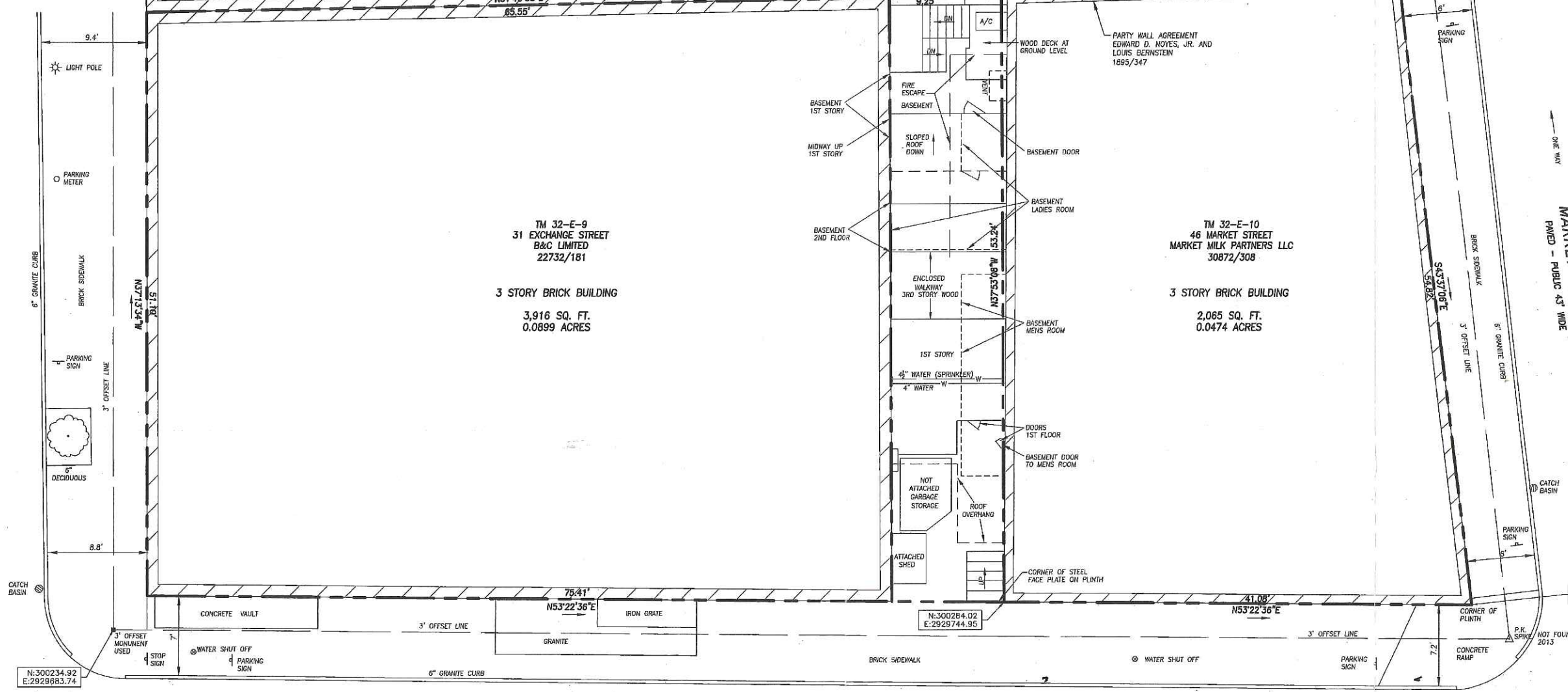
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31 EXCHANGE STREET  
B&C LIMITED  
22732/181

3 STORY BRICK BUILDING  
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0.0899 ACRES

TM 32-E-10  
46 MARKET STREET  
MARKET MILK PARTNERS LLC  
30872/308

3 STORY BRICK BUILDING  
2,065 SQ. FT.  
0.0474 ACRES

**MILK STREET**  
COBBLESTONES - PUBLIC 45' WIDE



APPROVED BY THE  
CITY OF PORTLAND PLANNING BOARD

DATE \_\_\_\_\_

**PLAN REFERENCES**

1. LAND TITLE SURVEY OF SQUIRE MORGAN'S IN PORTLAND, MAINE FOR THOMAS TIBERI, JUNE 13, 1981 BY OWEN HASKELL, INC.
2. PLAN OF PROPERTY IN PORTLAND, MAINE MADE FOR OLD PORT PARTNERSHIP BY H.I. & E.C. JORDAN CO., INC. DATED DEC. 13, 1983.
3. SKETCH PLAN OF LAND AT MILK, MARKET & EXCHANGE STREETS IN THE FILES OF E.C. JORDAN LABELED #83 AND BEING UNTITLED AND UNDATED.

**NOTES**

1. OWNER OF RECORD: MARKET MILK PARTNERS, LLC  
CGRD 30872/308
2. COORDINATES LISTED ARE MAINE STATE PLANE COORDINATES WEST ZONE NAD1983, BASED ON DPW ENGINEERING CONTROL PROVIDED BY DPW ENGINEERING DEPARTMENT: MONUMENT AT THE SOUTHWEST CORNER OF EXCHANGE AND MIDDLE N 300445.73, E 2929464.94 PK NAIL, NORTHEAST CORNER OF UNION AND MIDDLE N 300288.00, E 2929081.42.
3. BEARINGS ARE BASED ON 1971 FAY SPOFFORD & THORNDIKE PLAN.

**CERTIFICATE**

OWEN HASKELL, INC. CERTIFIES THAT THIS PLAN IS BASED ON, AND THE RESULT OF AN ON THE GROUND FIELD SURVEY AND THAT TO THE BEST OF OUR KNOWLEDGE, INFORMATION AND BELIEF, IT CONFORMS TO THE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS CURRENT STANDARDS OF PRACTICE.

8/9/91  
DATE \_\_\_\_\_  
ORIGINALLY SIGNED BY  
JOHN P.R. CYR  
RE-INSPECTED \_\_\_\_\_  
ELLEN C. BREWER, PLS 2367

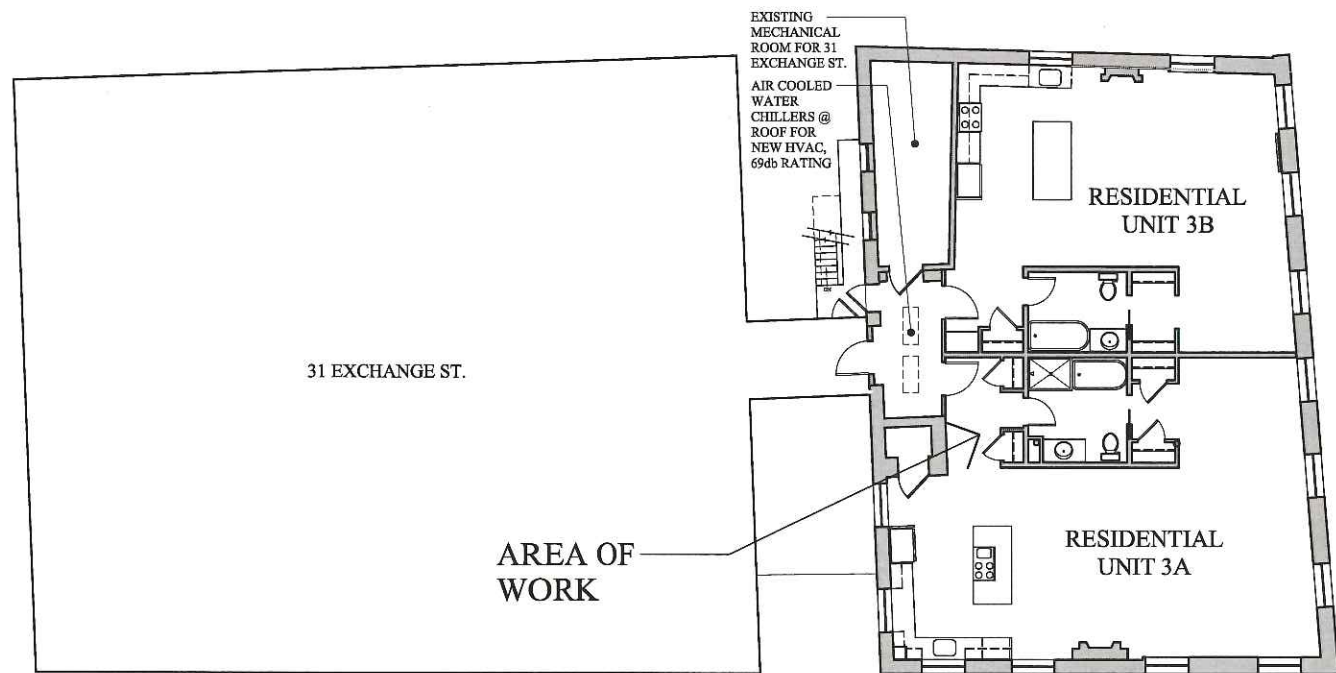
**RECORDING PLAT**  
OF  
46 MARKET STREET  
PORTLAND, MAINE  
MADE FOR OWNER OF RECORD  
**MARKET MILK PARTNERS, LLC**  
104 GRANT STREET, PORTLAND, MAINE

**OWEN HASKELL, INC.**  
390 U.S. ROUTE ONE, FALMOUTH, ME 04105 (207) 774-0424  
PROFESSIONAL LAND SURVEYORS

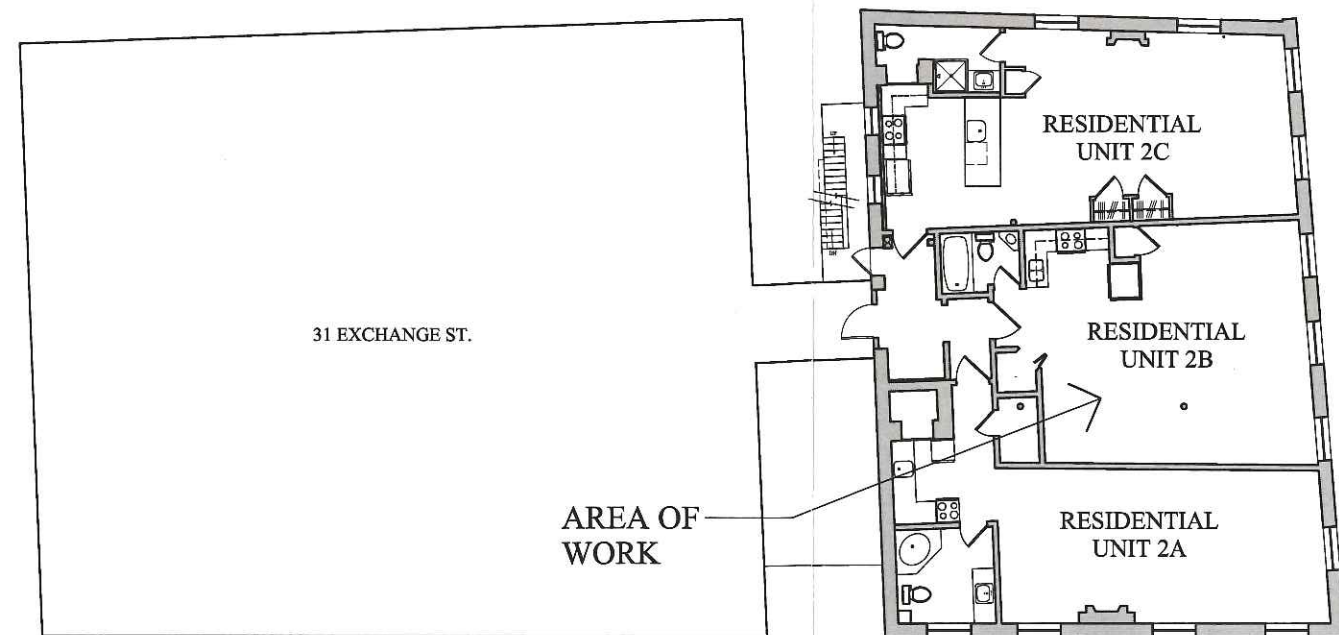
Drawn By	OHI	Date	NOVEMBER 1, 2013	Job No.	2013-188P
Trace By	JLW	Scale	1" = 5'	Drwg. No.	1
Check By	JWS				
Book No.	FILE				



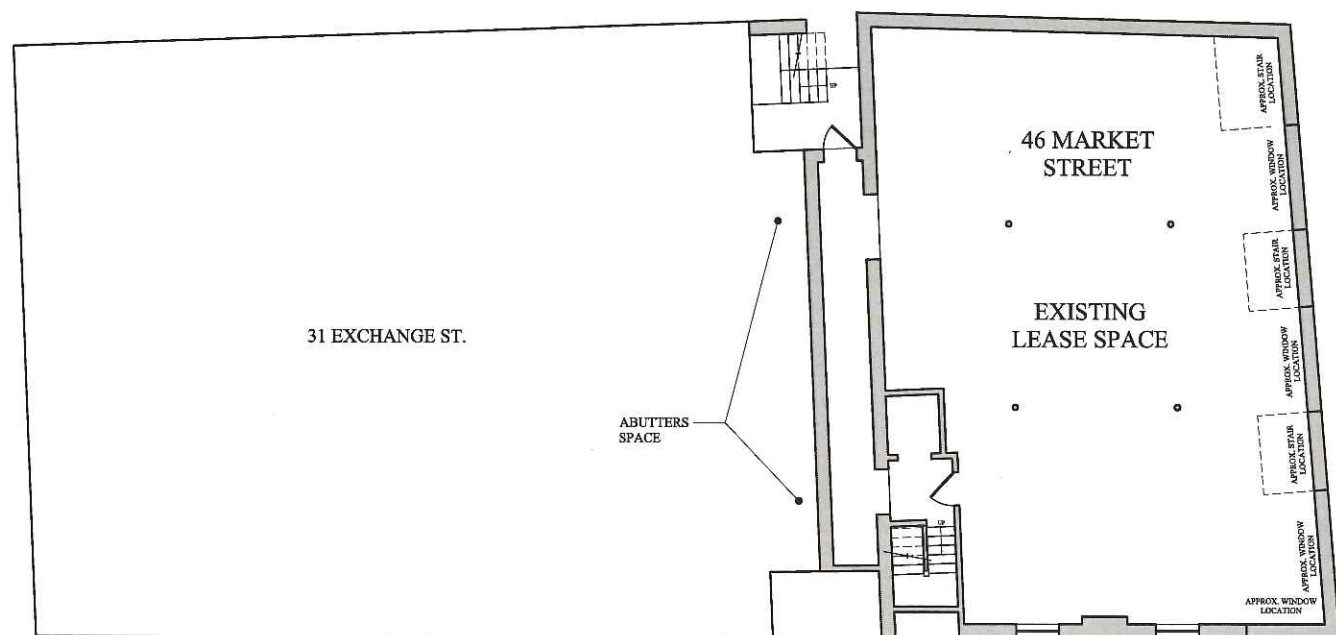




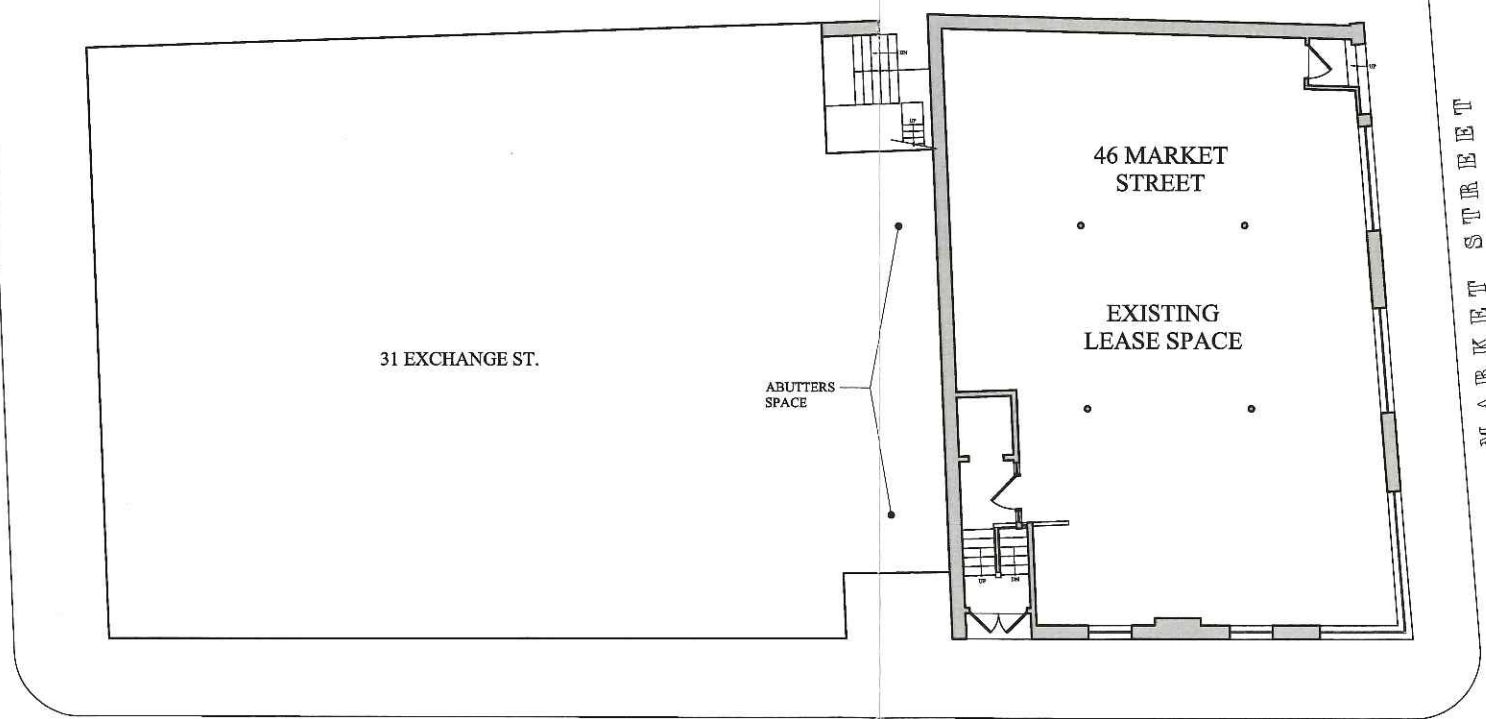
**PROPOSED 3RD FLOOR PLAN**  
SCALE: 1/8" = 1'-0"



**PROPOSED 2ND FLOOR PLAN**  
SCALE: 1/8" = 1'-0"



**PROPOSED LOWER LEVEL PLAN**  
SCALE: 1/8" = 1'-0"



**PROPOSED MAIN LEVEL PLAN**  
SCALE: 1/8" = 1'-0"

FOR:  
**Port Property**  
MANAGEMENT

**EXISTING FLOOR USES:**  
LOWER LEVEL: UN-OCCUPIED  
MAIN LEVEL: UN-OCCUPIED  
2ND FLOOR: OFFICE - 3 UNITS  
3RD FLOOR: RESIDENTIAL - 1 UNIT

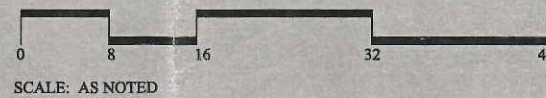
**PROPOSED FLOOR USES:**  
LOWER LEVEL: UN-OCCUPIED (NO WORK)  
MAIN LEVEL: UN-OCCUPIED (NO WORK)  
2ND FLOOR: RESIDENTIAL - 3 UNITS (CHANGE OF USE)  
3RD FLOOR: RESIDENTIAL - 2 UNITS (ADD 1 RES. UNIT)

**EXISTING FLOOR AREAS:**  
LOWER LEVEL: 2,065 SF (UN-OCCUPIED)  
MAIN LEVEL: 2,065 SF (UN-OCCUPIED)  
2ND FLOOR: 2,065 SF (OFFICE)  
3RD FLOOR: 2,065 SF (RESIDENTIAL)

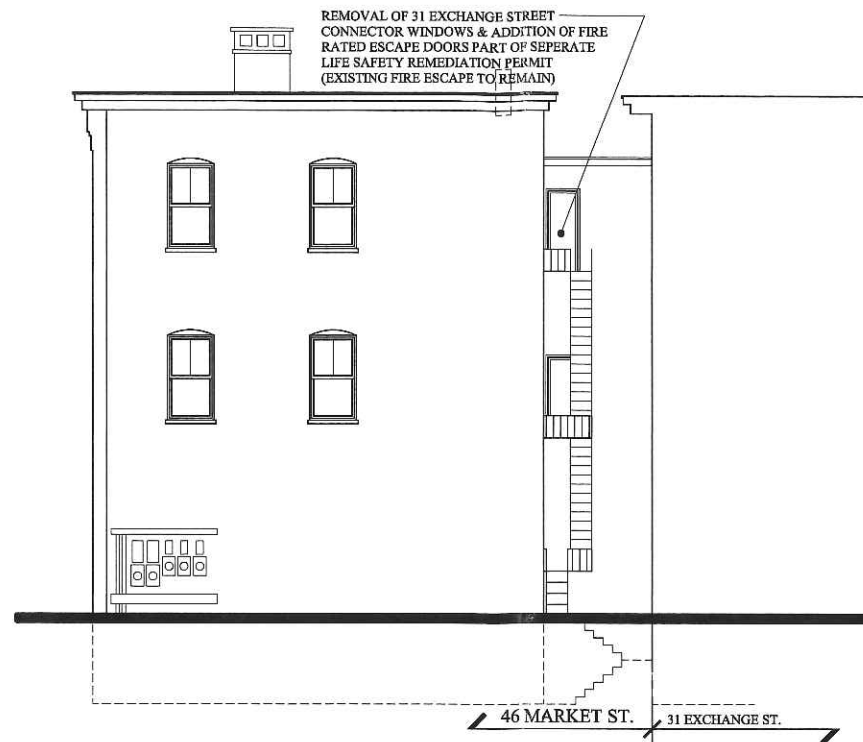
**PROPOSED FLOOR AREAS:**  
LOWER LEVEL: 2,065 SF (UN-OCCUPIED)  
MAIN LEVEL: 2,065 SF (UN-OCCUPIED)  
2ND FLOOR: 2,065 SF (RESIDENTIAL)  
3RD FLOOR: 2,065 SF (RESIDENTIAL)

**PROJECT DATA:**  
ZONE: B-3  
BUILDING USE: MIXED

**PROJECT NOTES:**  
AREA OF WORK AT THE 2ND & 3RD FLOOR SHALL INCLUDE:  
1. THE CONVERSION OF OFFICES TO (3) RESIDENTIAL LIVING UNITS.  
2. THE ADDITION OF ONE (1) 3RD FLOOR RESIDENTIAL UNIT.  
3. FLOOR PLANS ARE SUBJECT TO MINOR REVISIONS FOR FINAL BUILDING PERMITTING.  
4. NO WORK PROPOSED AT THE LOWER AND MAIN LEVELS AS PART OF THIS SUBMISSION.







**PROPOSED SIDE ELEVATION**

SCALE: 1/8" = 1'-0"



**PROPOSED MILK ST. ELEVATION**

SCALE: 1/8" = 1'-0"



**PROPOSED MARKET ST. ELEVATION**

SCALE: 1/8" = 1'-0"

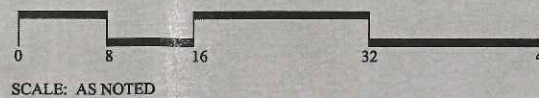
NOTE:  
NO WORK AT EXTERIOR FACADE OF MARKET & MILK STREETS. HISTORIC REHABILITATION IN FUTURE & PART OF SEPERATE PERMIT WITH THE HISTORIC PRESERVATION DEPARTMENT

FOR:  
**Port Property**  
MANAGEMENT



MARK  
MUELLER  
ARCHITECTS

PORTLAND PLANNING BOARD

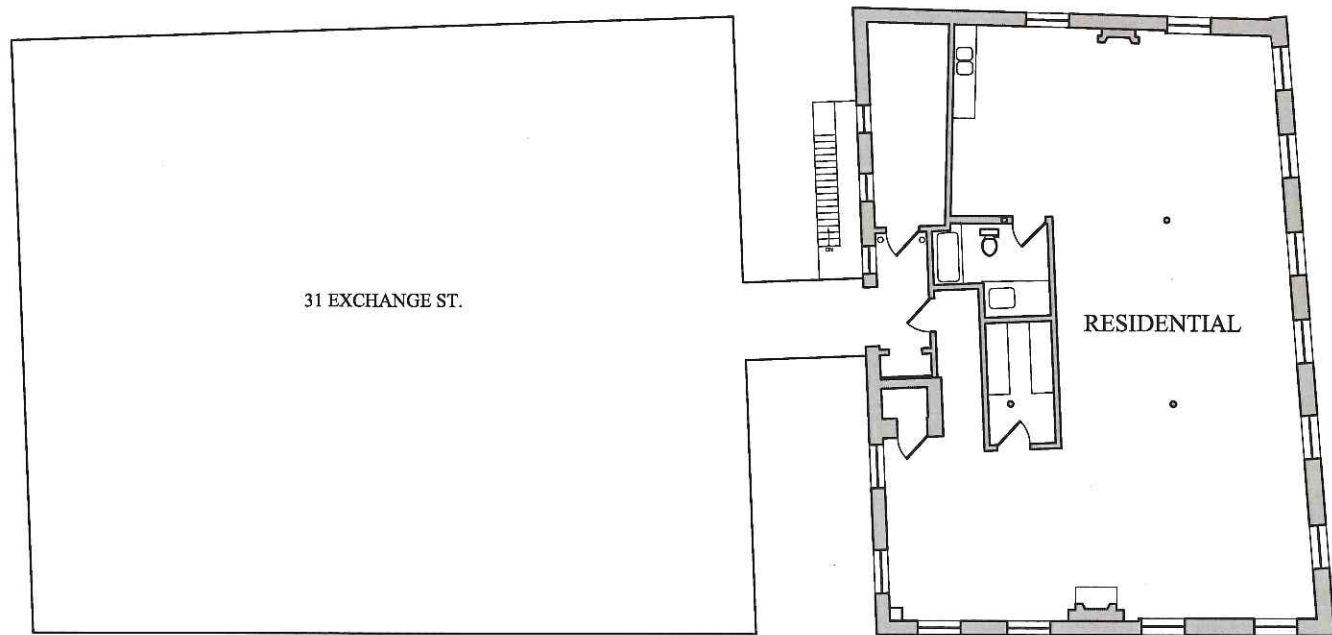


A-2

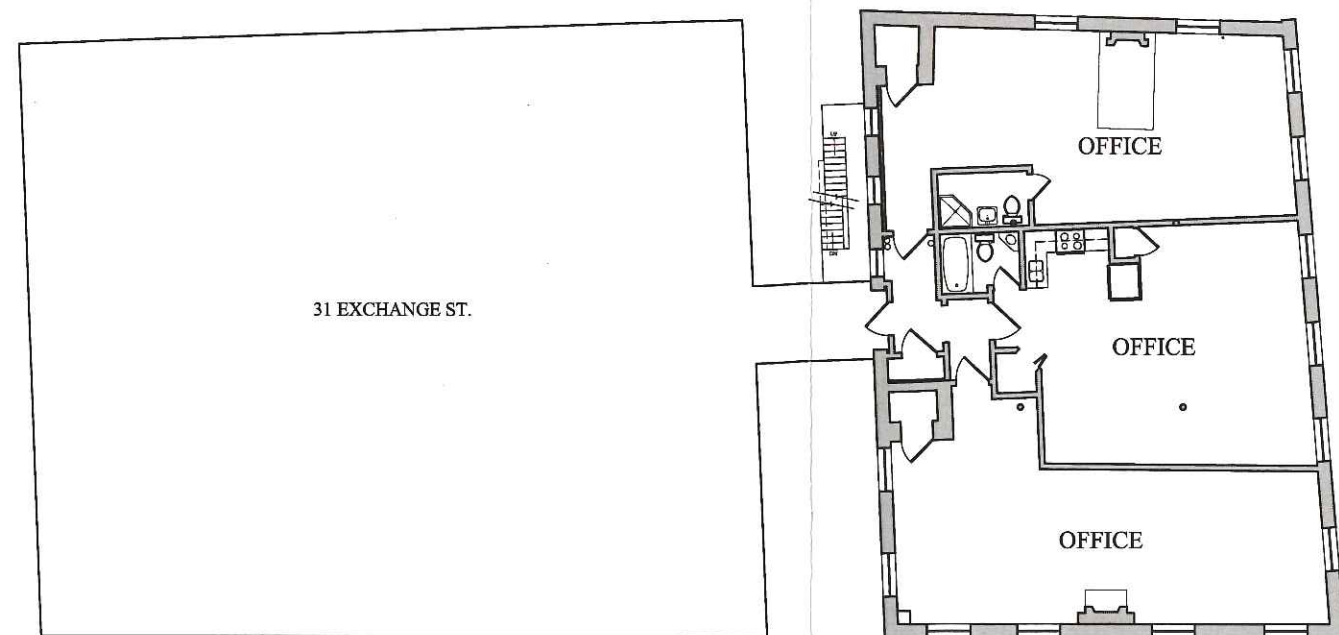
NOVEMBER 12, 2013

46 MARKET STREET

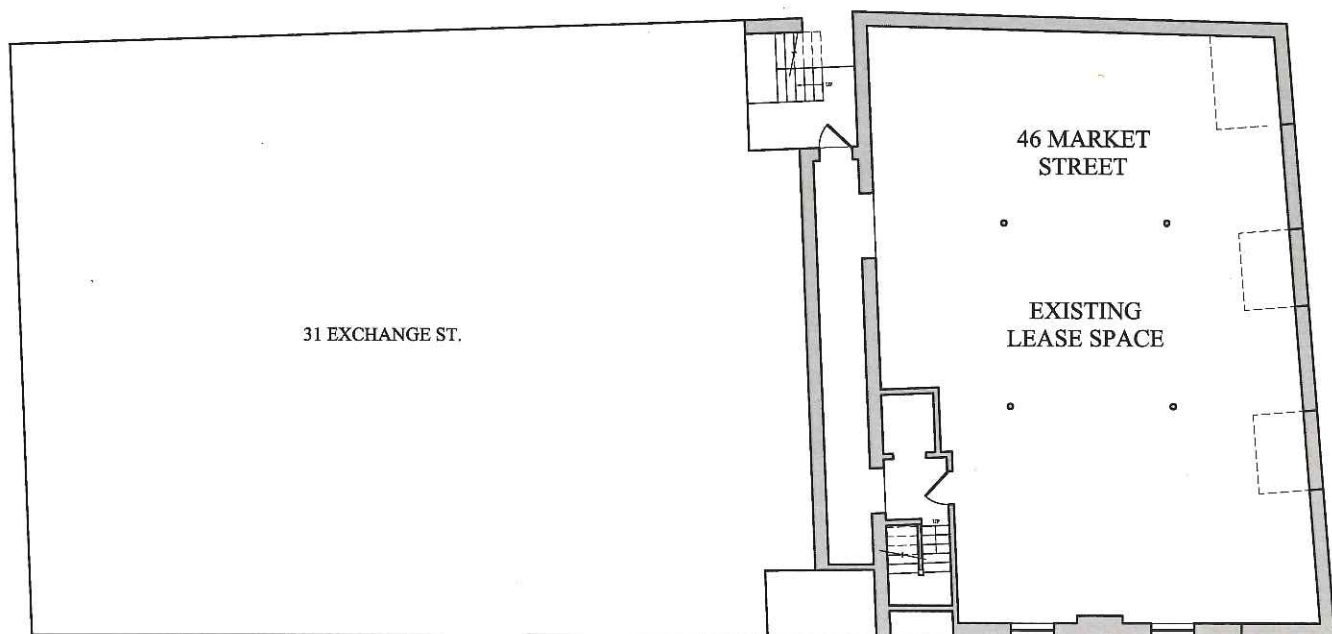




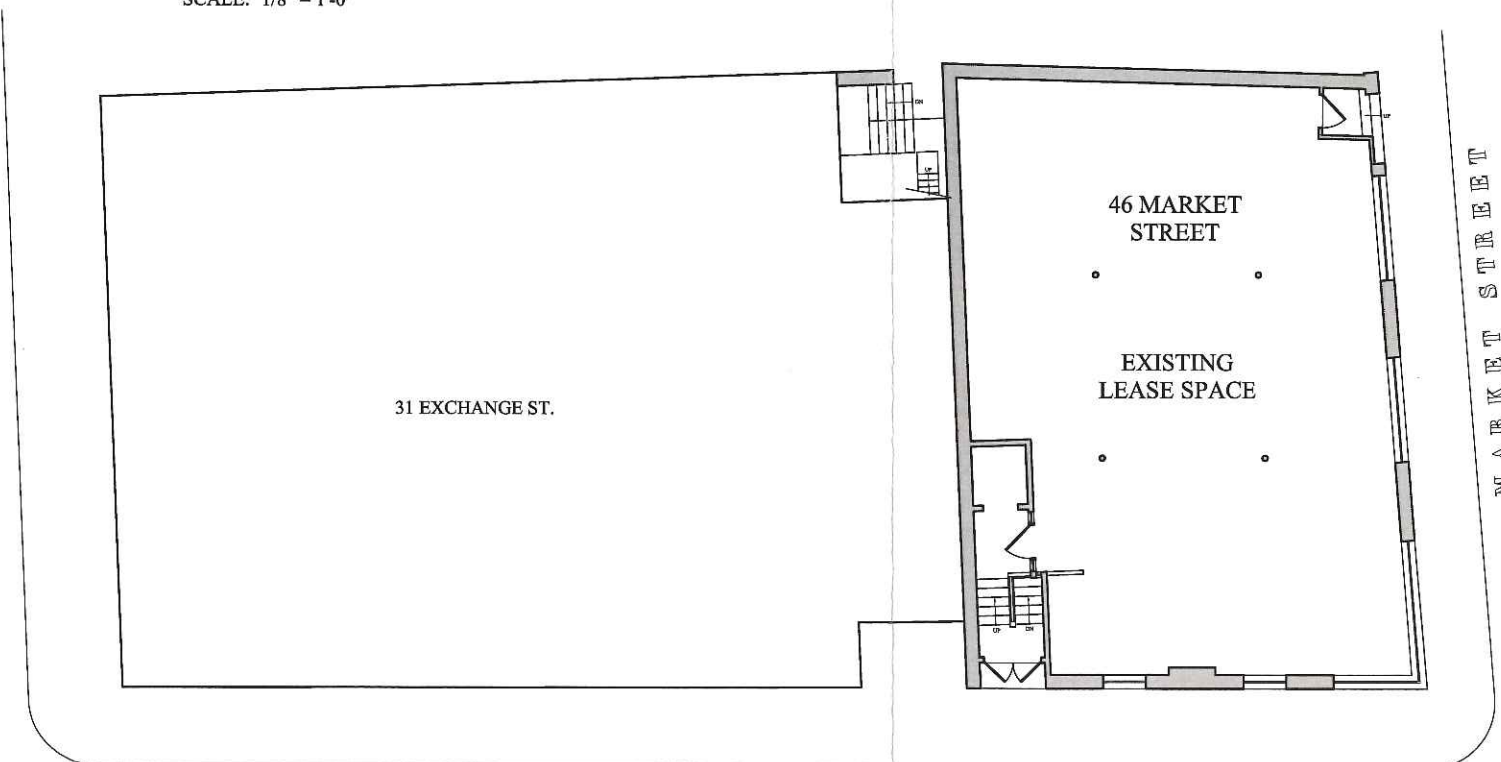
**EXISTING 3RD FLOOR PLAN**  
SCALE: 1/8" = 1'-0"



**EXISTING 2ND FLOOR PLAN**  
SCALE: 1/8" = 1'-0"



**EXISTING LOWER LEVEL PLAN**  
SCALE: 1/8" = 1'-0"



**EXISTING MAIN LEVEL PLAN**  
SCALE: 1/8" = 1'-0"

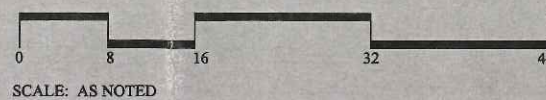
FOR:

**PortProperty**  
MANAGEMENT



MARK  
MUELLER  
ARCHITECTS

PORTLAND PLANNING BOARD



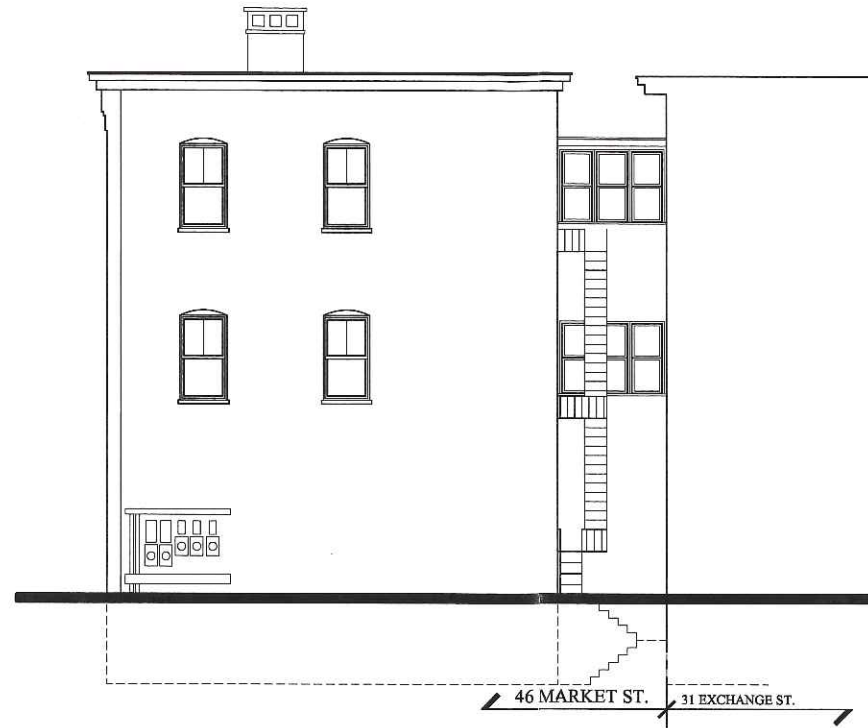
EC-1

NOVEMBER 12, 2013

46 MARKET STREET







**EXISTING SIDE ELEVATION**  
SCALE: 1/8" = 1'-0"



**EXISTING MILK ST. ELEVATION**  
SCALE: 1/8" = 1'-0"



**EXISTING MARKET ST. ELEVATION**  
SCALE: 1/8" = 1'-0"

NOTE:  
NO WORK AT EXTERIOR FACADE OF MARKET & MILK STREETS. HISTORIC REHABILITATION IN FUTURE & PART OF SEPERATE PERMIT WITH THE HISTORIC PRESERVATION DEPARTMENT

FOR:  
**Port Property**  
MANAGEMENT



MARK  
MUELLER  
ARCHITECTS

PORTLAND PLANNING BOARD

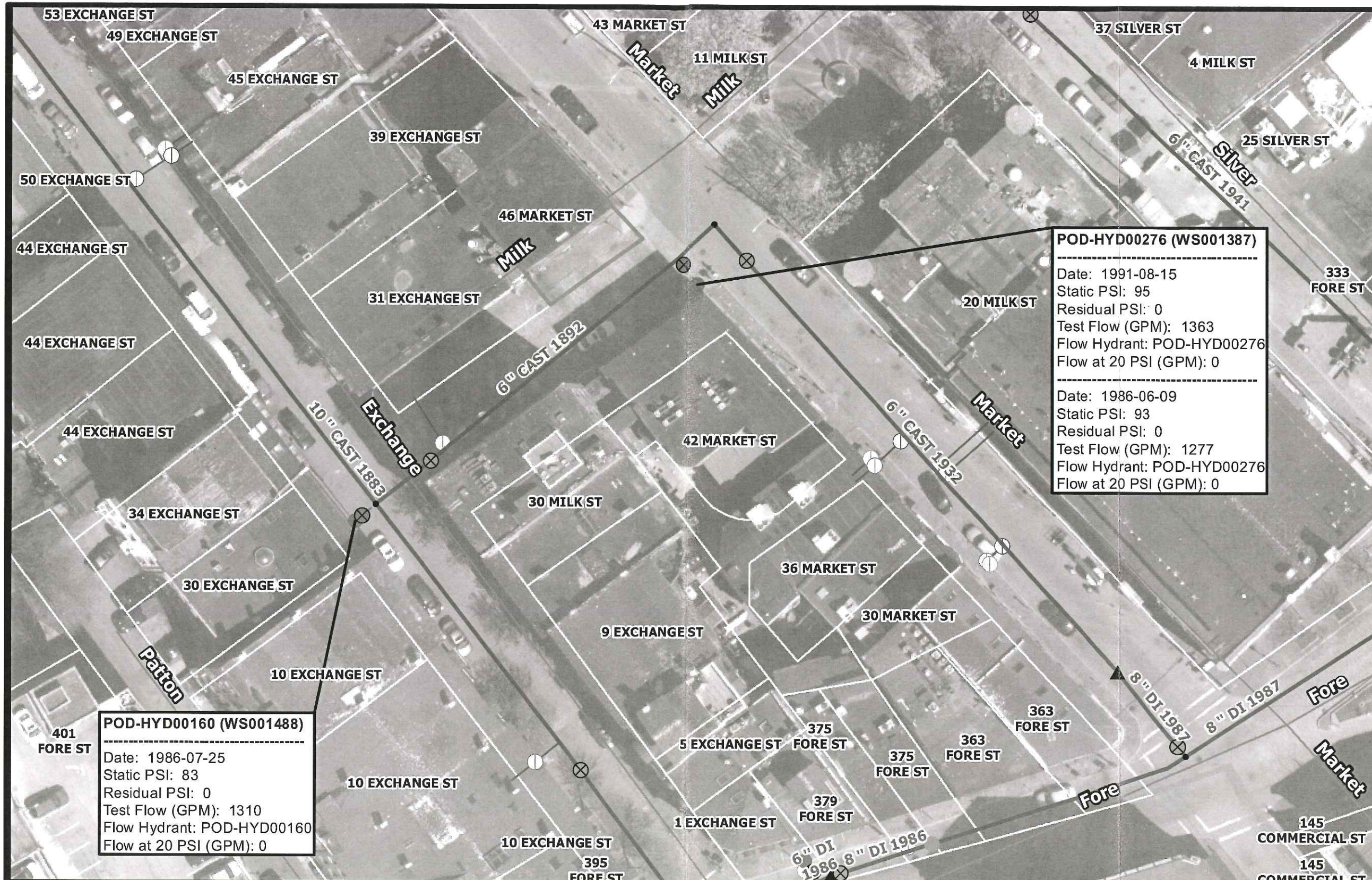


EC-2

NOVEMBER 12, 2013

46 MARKET STREET





**POD-HYD00276 (WS001387)**

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Date: 1991-08-15  
 Static PSI: 95  
 Residual PSI: 0  
 Test Flow (GPM): 1363  
 Flow Hydrant: POD-HYD00276  
 Flow at 20 PSI (GPM): 0

-----

Date: 1986-06-09  
 Static PSI: 93  
 Residual PSI: 0  
 Test Flow (GPM): 1277  
 Flow Hydrant: POD-HYD00276  
 Flow at 20 PSI (GPM): 0

**POD-HYD00160 (WS001488)**

-----

Date: 1986-07-25  
 Static PSI: 83  
 Residual PSI: 0  
 Test Flow (GPM): 1310  
 Flow Hydrant: POD-HYD00160  
 Flow at 20 PSI (GPM): 0

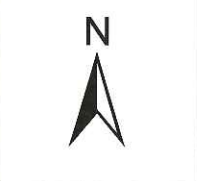
**46 Market Street**

**Portland**



**Legend**

● Air Valve	● Connection	⊕ Combined Service	● Manhole
⊙ Blow Off	● Attribute Change	⊕ Domestic Service	● CSO
⊙ By Pass	▲ Reducer	⊕ Fire Service	→ Gravity
⊗ Distribution	● Hydrant	⊕ Private Hydrants	→ Force
⊗ Transmission	⊗ Hydrant Control	⊕ Meter Pits	



**Disclaimer:** This map is suitable for preliminary study and analysis and is based on PWD record information. PWD is not liable for any damages whatsoever resulting from inaccurate data or from errors made in the location and marking of its infrastructure.

Drawn By: BSJ

**Infrastructure Map**

Scale: As Noted

Date: October 28, 2013

