



# PORTLAND MAINE

*Strengthening a Remarkable City, Building a Community for Life • [www.portlandmaine.gov](http://www.portlandmaine.gov)*

*Penny St. Louis Littell- Director of Planning and Urban Development  
Marge Schmuckal, Zoning Administrator*

November 30, 2009

Bernstein Shur  
Monument Title Company  
Androscoggin Bank  
Bangor Savings Bank  
TD Bank, N.A.  
Norway Savings Bank

C/O Bernstein Shur  
100 Middle Street  
PO Box 9729  
Portland, Maine 04104-5029

Attn: Susan Osborne

RE: 401-421 Fore Street – 32-I-41 (the “Property”) – B-3 Zone with a PAD Overlay

Dear Ms. Osborne,

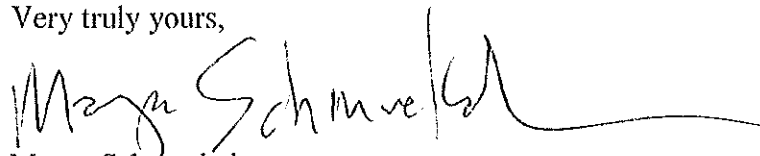
I am in receipt of your request for a determination letter concerning the Property.

The Property is located within the B-3 Downtown Business Zone. There is a Pedestrian Activities District (PAD) Overlay Zone along Fore Street which limits first floor uses in the Ordinance. To the best of my knowledge, the Property is in compliance with applicable zoning codes, regulations and related ordinances. I have enclosed several recent certificates of occupancy related to the Property.

Please note that this letter is not intended to address any issues related to subdivision reviews. The Assessor’s office usually attaches separate chart-block-lot (C-B-L) numbers to lots that are described separately. The individual C-B-Ls do not indicate approved property subdivisions. The Assessor’s offices are guided by State and City assessment regulations.

If you have any questions regarding this issue, please do not hesitate to contact me at (207) 874-8695.

Very truly yours,

A handwritten signature in black ink, appearing to read "Marge Schmuckal", followed by a long horizontal flourish.

Marge Schmuckal  
Zoning Administrator

Enclosures

Cc: file

**CITY OF PORTLAND, MAINE**  
**SITE PLAN REVIEW**  
 Processing Form

2506

City of Portland ( Consolidated Constr.)  
 Applicant 616 Congress St.  
 Mailing Address parking garage  
 Proposed Use of Site 0.96 acres /  
 Acreage of Site / Ground Floor Coverage

Date Mar. 12, 1980  
 Address of Proposed Site 401-425 ~~Union~~ St. cor. Patton Court  
 Site Identifier(s) from Assessors Maps 32--1- part of 40  
 Zoning of Proposed Site B-3

Site Location Review (DEP) Required: ( ) Yes ( ) No  
 Board of Appeals Action Required: ( ) Yes ( ) No  
 Planning Board Action Required: ( ) Yes ( ) No

Proposed Number of Floors 3  
 Total Floor Area 39,348 sq. ft.

Other Comments: \_\_\_\_\_  
 Date Dept. Review Due: \_\_\_\_\_

**BUILDING DEPARTMENT SITE PLAN REVIEW**  
 (Does not include review of construction plans)

- Use does NOT comply with Zoning Ordinance
  - Requires Board of Appeals Action
  - Requires Planning Board/City Council Action

Explanation \_\_\_\_\_

Use complies with Zoning Ordinance — Staff Review Below

Zoning:  
 SPACE & BULK,  
 as applicable

	DATE	ZONE LOCATION	INTERIOR OR CORNER LOT	TO-TO SETBACK AREA (SEC. 24)	USE	SEWAGE DISPOSAL	REAR YARDS	SIDE YARDS	FRONT YARDS	PROJECTIONS	HEIGHT	LOT AREA	BUILDING AREA	AREA PER FAMILY	WIDTH OF LOT	LOT FRONTAGE	OFF-STREET PARKING	LOADING BAYS	
COMPLIES	✓	✓			✓	✓	✓	✓	✓	✓							✓		
COMPLIES CONDITIONALLY																			CONDITIONS SPECIFIED BELOW
DOES NOT COMPLY																			REASONS SPECIFIED BELOW

REASONS: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*M. G. Ward* 3/2/80  
 SIGNATURE OF REVIEWING STAFF/DATE

CITY OF PORTLAND, MAINE  
Department of Building Inspection



# Certificate of Occupancy

LOCATION 401-425 Fore Street

Issued to City of Portland, Maine

Date of Issue Nov, 13, 1980

This is to certify that the building, premises, or part thereof, at the above location, built—altered—changed as to use under Building Permit No. 80/120, has had final inspection, has been found to conform substantially to requirements of Zoning Ordinance and Building Code of the City, and is hereby approved for occupancy or use, limited or otherwise, as indicated below.

PORTION OF BUILDING OR PREMISES

APPROVED OCCUPANCY

Parking Garage Only

Parking Garage

Limiting Conditions: Pending Fire Prevention Approval

This certificate supersedes  
certificate issued

Approved:

11-14-80 *M. Schmuckel*  
(Date) Inspector

*W. H. O.*  
Inspector of Buildings

Notice: This certificate identifies lawful use of building or premises, and ought to be transferred from owner to owner when property changes hands. Copy will be furnished to owner or lessee for one dollar.

912779

Permit # City of Portland BUILDING PERMIT APPLICATION Fee \$25. Zone Map # Lot#

Please fill out any part which applies to job. Proper plans must accompany form.

Owner: Michael K. Concannon Phone # 833-2597

Address: 150 Blackpoint Rd; Scarborough, ME 04074

LOCATION OF CONSTRUCTION 401 Fore St. (Fore St. Parking Garage)

Contractor: Sub: Phone #

Est. Construction Cost: Proposed Use: parking garage w retail

# of Existing Res. Units: Part Use: parking garage

Building Dimensions: L: W: Total Sq. Ft.

# Stories: # Bedrooms Lot Size: Conversion

Is Proposed Use: Seasonal Condominium Conversion

Explain Conversion: Change of Use - from parking garage to parking garage w retail

Foundations: 1. Type of Soil: 2. Set Backs - Front: 3. Footings Size: 4. Foundation Size: 5. Other:

Floor: 1. Sills Size: 2. Girder Size: 3. Lally Column Spacing: 4. Joist Size: 5. Bridg. log Type: 6. Floor Sheathing Type: 7. Other Material:

Roof: 1. Truss or Rafters Size: 2. Sheathing Type: 3. Roof Covering Type: 4. Insulation Type: 5. Ceiling Height:

Chimneys: Type: Number of Fire Places: Type of Heat: Electrical:

Plumbing: Service Entrance Size: Snake Detector Required: 1. Approved of soil test if required: 2. No. of Tubs or Showers: 3. No. of Flushes: 4. No. of Lavatories: 5. No. of Other Fixtures:

Swimming Pools: 1. Type: 2. Pool Size: 3. Must conform to National Electrical Code and State Law.

Exterior Walls: 1. Studding Size: 2. No. windows: 3. No. Doors: 4. Header Size: 5. Bracing: 6. Corner Posts Size: 7. Insulation Type: 8. Sheathing Type: 9. Siding Type: 10. Masonry Materials: 11. Metal Materials:

Interior Walls: 1. Studding Size: 2. Header Size: 3. Wall Covering Type: 4. Fire Wall if required: 5. Other Materials:

Permit Received By: Louise E. Chase

Signature of Applicant: Michael K. Concannon Date: May 23 1991

Signature of CEO: Michael K. Concannon Date:

Inspection Dates: White Tag - CEO

White-Tax Assessor: Yellow-GPCOG

Copyright: 1988

City of Portland

PERMIT ISSUED

City of Portland permit stamp with date 10-1-1991 and 'PERMIT ISSUED' stamp.

Form section for 'For Official Use Only' with fields for Date (5/28/91), Bag Code, and various approval checkboxes.

Form section for 'HISTORIC PRESERVATION' with checkboxes for various preservation requirements.

Form section for 'Plumbing' and 'Swimming Pools' with detailed checkboxes and fields for specifications.

Form section for 'Exterior Walls' and 'Interior Walls' with checkboxes and fields for material and construction details.

Form section for 'Permit Received By' and 'Signature of Applicant' with handwritten signatures and dates.



CITY OF PORTLAND, MAINE  
Department of Building Inspection

# Certificate of Occupancy

LOCATION 401-421 Fore St 03201-0401

Issued to City of Portland

Date of Issue 11 June 1998

This is to certify that the building, premises, or part thereof, at the above location, built — altered — changed as to use under Building Permit No. 980346, has had final inspection, has been found to conform substantially to requirements of Zoning Ordinance and Building Code of the City, and is hereby approved for occupancy or use, limited or otherwise, as indicated below.

PORTION OF BUILDING OR PREMISES

APPROVED OCCUPANCY

Entire

~~Entire~~  
Bath rooms

Limiting Conditions:

This certificate supersedes  
certificate issued

Approved:

6/12/98  
(Date)

*A. Proulx*  
Inspector

*G. Samuel Hoff*  
Inspector of Buildings

*[Handwritten initials]*

Notice: This certificate identifies lawful use of building or premises, and ought to be transferred from owner to owner when property changes hands. Copy will be furnished to owner or lessee for one dollar.

**From:** Danielle West -Chuhta  
**To:** Barhydt, Barbara; Schmuckal, Marge  
**Date:** 11/16/2009 3:58:04 PM  
**Subject:** Fwd: 401 Fore Street

marge/Barbara:

Could we meet to discuss this e-mail further. How about Monday 11/23 at 9:00am?

Thanks,

Danielle

>>> "Chris Vaniotis" <cvaniotis@bernsteinshur.com> 11/13/2009 5:19:25 PM >>>  
Marge and Barbara,

I am writing to follow up on our conversation at City Hall this morning concerning the property at 401 Fore Street, Assessor's Map 32, Block I, Lot 41. My client is planning to purchase that property and has asked me to confirm that subdivision approval is not required prior to the conveyance.

Lot 41 is part of the land shown as "Parcel III" on a subdivision plan approved by the Portland Planning Board on February 12, 1974. A copy of that subdivision plan is attached. On November 8, 1979, more than five years after the original subdivision approval, a portion of Parcel III was leased to the City of Portland under a ground sublease agreement among Plaza Realty Company, Canal National Bank and the City. A Memorandum of that ground lease is recorded in the Cumberland County Registry of Deeds in Book 4570, Page 44 (copy attached). The ground lease contains a metes and bounds description of the leased parcel, which corresponds to the depiction of Lot 41 on the City Assessor's Maps. Pursuant to that lease arrangement, the City built the parking garage which currently occupies Lot 41.

Since 1973, the state subdivision statute, formerly 30 M.R.S.A. § 4956 and now 30-A M.R.S.A. § 4401, has provided that a division of a tract or parcel of land by lease creates a lot. In this case, the lot created by the lease did not require subdivision review because more than five years had passed since approval of the original subdivision plan.

Therefore, Lot 41 became a separate lot on November 8, 1979, the date of the lease. Even though it is now in common ownership with the remainder of Parcel III on the original subdivision plan, the "division" occurred at the time of the lease, creating a lot of record which can continue to be conveyed without requiring further subdivision approval. See 30-A M.R.S.A. § 4401(4)(B).

I would very much appreciate it if you could confirm this analysis in writing. Time is of the essence because my client is attempting to finalize financing arrangements which depend on the ability to acquire Lot 41 as a separate lot, so please let me know immediately if you need anything further from me.

We also discussed this morning the possibility of creating a new lot with different boundaries from the

1979 leased lot, on the basis that more than five years has elapsed since any other divisions of the land shown on the 1974 subdivision plan. We need to do more research on that question and may get back to you to discuss it further. In the meantime, however, the most important matter to my client is the ability to acquire Lot 41 as a separate lot.

I look forward to hearing from you.

---

Chris Variotis

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IRS notice: Unless specifically indicated otherwise, any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (a) avoiding tax-related penalties under the Internal Revenue Code, or (b) promoting, marketing, or recommending to another party any transaction or matter addressed herein.



**From:** Danielle West -Chuhta  
**To:** Barhydt, Barbara; Schmuckal, Marge; Vaniotis, Chris  
**Date:** 11/24/2009 12:17:25 PM  
**Subject:** 401 Fore Street

Chris:

We have reviewed your materials and have concluded that subdivision approval is not required prior to the conveyance of the lot in question. This decision is based on the fact that additional approval was not necessary for the resubdivision under the 1979 statutes/ordinances, and the fact that the recorded ground lease specifies the metes and bounds of the lot in question.

Please note that my primary concern has been that the approved subdivision plan does not depict the lot in question. Can you suggest any way (within the confines of the Ordinance) to remedy this issue?

Thanks a lot for your time,

Danielle

Danielle P. West-Chuhta  
Associate Corporation Counsel  
City of Portland, Maine

>>> "Chris Vaniotis" <[cvaniotis@bernsteinshur.com](mailto:cvaniotis@bernsteinshur.com)> 11/23/2009 12:34:37 PM >>>  
Thanks Barbara,

Danielle,

If you think a telephone conversation would be helpful, I'm in the office all afternoon. You can reach me at 228-7205.

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Chris Vaniotis

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-----Original Message-----

From: Barbara Barhydt [<mailto:BAR@portlandmaine.gov>]  
Sent: Monday, November 23, 2009 12:32 PM  
To: Chris Vaniotis  
Cc: Danielle West -Chuhta; Marge Schmuckal  
Subject: RE: 401 Fore Street

Hi Chris:

We met this morning and Danielle will be responding to your questions in an e-mail. She wants to do some research before replying.

Thank you.

Barbara

Barbara Barhydt  
Development Review Services Manager  
Planning Division  
389 Congress Street 4th Floor  
Portland, ME 04101  
(207) 874-8699  
Fax: (207) 756-8256  
[bab@portlandmaine.gov](mailto:bab@portlandmaine.gov)

>>> "Chris Vaniotis" <[cvaniotis@bernsteinshur.com](mailto:cvaniotis@bernsteinshur.com)> Monday, November 23, 2009 12:18 PM >>>  
Thanks Barbara,

I am here all day today and would be pleased to hear from you--we have some due diligence deadlines coming up very soon.

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Chris Vaniotis

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-----Original Message-----

From: Barbara Barhydt [<mailto:BAR@portlandmaine.gov>]  
Sent: Tuesday, November 17, 2009 12:37 PM  
To: Chris Vaniotis; Marge Schmuckal  
Cc: Danielle West -Chuhla  
Subject: Re: 401 Fore Street

Hello Chris:

This is turning out to be a packed week for us. Marge, Danielle and I will meet Monday morning to discuss your analysis and we will get back to you with any questions or our conclusions after we meet.

Thank you.

Barbara

Barbara Barhydt  
Development Review Services Manager  
Planning Division

389 Congress Street 4th Floor  
Portland, ME 04101  
(207) 874-8699  
Fax: (207) 756-8256  
[bab@portlandmaine.gov](mailto:bab@portlandmaine.gov)

>>> "Chris Vaniotis" <[cvaniotis@bernsteinshur.com](mailto:cvaniotis@bernsteinshur.com)> Friday, November 13, 2009 5:19 PM >>>  
Marge and Barbara,

I am writing to follow up on our conversation at City Hall this morning concerning the property at 401 Fore Street, Assessor's Map 32, Block I, Lot 41. My client is planning to purchase that property and has asked me to confirm that subdivision approval is not required prior to the conveyance.

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Since 1973, the state subdivision statute, formerly 30 M.R.S.A. § 4956 and now 30-A M.R.S.A. § 4401, has provided that a division of a tract or parcel of land by lease creates a lot. In this case, the lot created by the lease did not require subdivision review because more than five years had passed since approval of the original subdivision plan.

Therefore, Lot 41 became a separate lot on November 8, 1979, the date of the lease. Even though it is now in common ownership with the remainder of Parcel III on the original subdivision plan, the "division" occurred at the time of the lease, creating a lot of record which can continue to be conveyed without requiring further subdivision approval. See 30-A M.R.S.A. § 4401(4)(B).

I would very much appreciate it if you could confirm this analysis in writing. Time is of the essence because my client is attempting to finalize financing arrangements which depend on the ability to acquire Lot 41 as a separate lot, so please let me know immediately if you need anything further from me.

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I look forward to hearing from you.

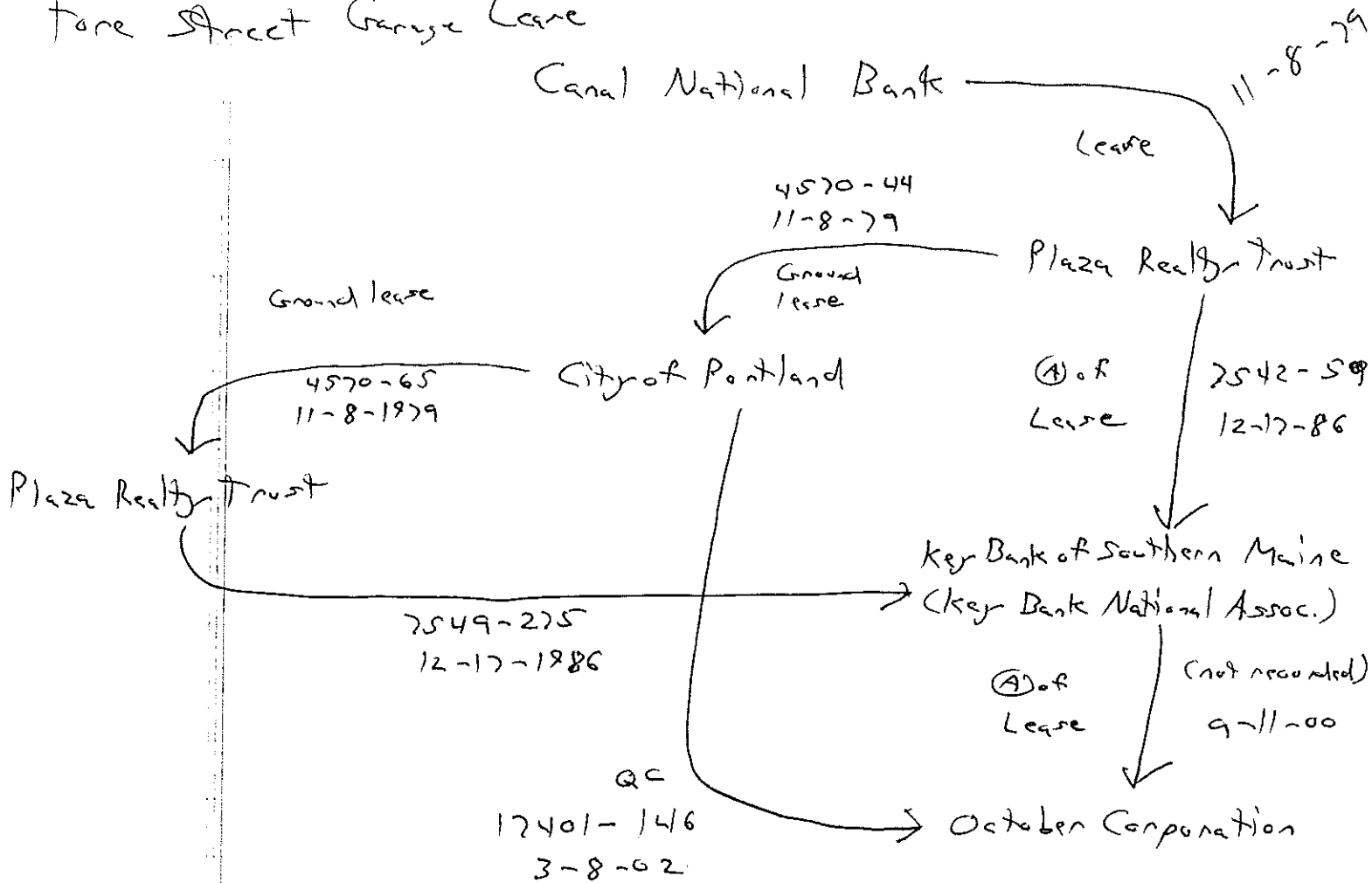
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Chris Vaniotis

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# Fore Street Garage Lease



To the DIRECTOR OF BUILDING & INSPECTION SERVICES, PORTLAND, MAINE

The undersigned hereby applies for a permit to erect, alter, repair, demolish, move or install the following building, structure, equipment or change use in accordance with the Laws of the State of Maine, the Portland B.O.C.A. Building Code and Zoning Ordinance of the City of Portland with plans and specifications, if any, submitted herewith and the following specifications:

LOCATION 401-425 Fore Street Fire District #1  #2   
 1. Owner's name and address City of Portland, Me. Telephone .....  
 2. Lessor's name and address Plaza Realty Co., Canal Plaza Telephone 773-6156  
 3. Contractor's name and address Consolidated Constr. & Bldg., Inc., 618 Congress St. Telephone 774-2626  
 4. Architect ..... Specifications ..... Plans ..... No. of sheets .....  
 Proposed use of building parking garage No. families .....  
 Last use ..... No. families .....  
 Material ..... No. stories ..... Heat ..... Style of roof ..... Roofing .....  
 Other buildings on same lot .....  
 Estimated contractual cost \$ 2,200,000 Fee \$ 9,901.00

FIELD INSPECTOR—Mr. .... GENERAL DESCRIPTION

This application is for: @ 775-5451  
 Dwelling ..... Ext. 234  
 Garage ..... To construct parking garage, 184.5' x 198 as per plans.  
 Masonry Bldg. ....  
 Metal Bldg. ....  
 Alterations .....  
 Demolitions .....  
 Change of Use .....  
 Other .....  
 Stamp of Special Conditions

NOTE TO APPLICANT: Separate permits are required by the installers and subcontractors of heating, plumbing, electrical and mechanicals.

PERMIT IS TO BE ISSUED TO 1  2  3  4

Other: .....

DETAILS OF NEW WORK

Is any plumbing involved in this work? yes Is any electrical work involved in this work? yes  
 Is connection to be made to public sewer? yes If not, what is proposed for sewage? .....  
 Has septic tank notice been sent? ..... Form notice sent? .....  
 Height average grade to top of plate 31' Height average grade to highest point of roof 42'  
 Size, front 184.5 depth 198 No. stories 3 solid or filled land? ..... earth or rock? .....  
 Material of foundation concrete Thickness, top 12 bottom ..... cellar .....  
 Kind of roof ..... Rise per foot ..... Roof covering .....  
 No. of chimneys none Material of chimneys ..... of lining ..... Kind of heat elec. fuel .....  
 Framing Lumber—Kind ..... Dressed or full size? ..... Corner posts ..... Sills .....  
 Size Girder ..... Columns under girders ..... Size ..... Max. on centers .....  
 Studs (outside walls and carrying partitions) 2x4-16" O. C. Bridging in every floor and flat roof span over 8 feet.  
 Joists and rafters: 1st floor ..... 2nd ..... 3rd ..... roof .....  
 On centers: 1st floor ..... 2nd ..... 3rd ..... roof .....  
 Maximum span: 1st floor ..... 2nd ..... 3rd ..... roof .....  
 If one story building with masonry walls, thickness of walls? ..... height? .....

IF A GARAGE

No. cars now accommodated on same lot ..... to be accommodated ..... number commercial cars to be accommodated .....  
 Will automobile repairing be done other than minor repairs to cars habitually stored in the proposed building? .....

APPROVALS BY: DATE

BUILDING INSPECTION—PLAN EXAMINER .....  
 ZONING: .....  
 BUILDING CODE St. James P. Collins  
 Fire Dept.: .....  
 Health Dept.: .....  
 Others: .....

MISCELLANEOUS

Will work require disturbing of any tree on a public street? yes  
 Will there be in charge of the above work a person competent to see that the State and City requirements pertaining thereto are observed? yes

Signature of Raymond D. Gauvin Phone # ..... same .....  
 Type Name of above Consolidated Constr. & Bldg., Inc. 1  2  3  4   
 Other .....  
 aul Address .....



# APPLICATION FOR PERMIT

## PERMIT ISSUED

B.O.C.A. USE GROUP ..... 00-120

MAR 17 1980

B.O.C.A. TYPE OF CONSTRUCTION .....

ZONING LOCATION B-3 PORTLAND, MAINE, March 10, 1980

CITY of PORTLAND

To the DIRECTOR OF BUILDING & INSPECTION SERVICES, PORTLAND, MAINE

The undersigned hereby applies for a permit to erect, alter, repair, demolish, move or install the following building, structure, equipment or change use in accordance with the Laws of the State of Maine, the Portland B.O.C.A. Building Code and Zoning Ordinance of the City of Portland with plans and specifications, if any, submitted herewith and the following specifications:

LOCATION 401-425 Fore Street Fire District #1  #2   
 City of Portland, Me. Telephone .....

1. Owner's name and address ... City of Portland, Me. Telephone ... 773-6156

2. Lessee's name and address ... Plaza Realty Co., Canal Plaza Telephone ... 773-6156

3. Contractor's name and address ... Consolidated Constr. & Blkrs., Inc. Telephone 774-2626

4. Architect ... 618 Congress St. Specifications ... Plans ... No. of sheets ...

Proposed use of building ... parking garage No. families ...

Last use ... No. families ...

Mutual ... No. stories ... Heat ... Style of roof ... Roofing ...

Other buildings on same lot ...

Estimated contractual cost \$ 2,200,000 Fee \$ ... 9,904.00

FIELD INSPECTOR—Mr. ....

### GENERAL DESCRIPTION

This application is for: @ 775-5451  
 Dwelling ..... Ext. 234  
 Garage .....  
 Masonry Bldg. ....  
 Metal Bldg. ....  
 Alterations .....  
 Demolitions .....  
 Change of Use .....  
 Other .....

To construct parking garage, 184.5' x 198 as per plans.

Stamp of Special Conditions

NOTE TO APPLICANT: Separate permits are required by the installers and subcontractors of heating, plumbing, electrical and mechanicals.

PERMIT IS TO BE ISSUED TO 1  2  3  4

### DETAILS OF NEW WORK

Is any plumbing involved in this work? yes Is any electrical work involved in this work? yes

Is connection to be made to public sewer? yes If not, what is proposed for sewage? .....

Has septic tank notice been sent? ..... Form notice sent? .....

Height average grade to top of plate ... 31' Height average grade to highest point of roof ... 42

Size, front ... 184.5 depth ... 198 No. stories ... 3 solid or filled land? ..... earth or rock? .....

Material of foundation concrete Thickness, top 12 bottom ..... cellar .....

Kind of roof ..... Rise per foot ..... Roof covering ..... Kind of heat elec fuel .....

No. of chimneys ..... none Material of chimneys ..... of lining ..... Corner posts ..... Sills .....

Framing Lumber—Kind ..... Dressed or full size? ..... Size ..... Max. on centers .....

Size Girder ..... Columns under girders ..... Studs (outside walls and carrying partitions) 2x4-16" O. C. Bridging in every floor and flat roof span over 8 feet.

Joists and rafters: 1st floor ..... 2nd ..... 3rd ..... roof .....

On centers: 1st floor ..... 2nd ..... 3rd ..... roof .....

Maximum span: 1st floor ..... 2nd ..... 3rd ..... roof .....

If one story building with masonry walls, thickness of walls? ..... height? .....

### IF A GARAGE

No. cars now accommodated on same lot ..... to be accommodated ..... number commercial cars to be accommodated ...

Will automobile repairing be done other than minor repairs to cars habitually stored in the proposed building? .....

APPROVALS BY:

DATE

MISCELLANEOUS

BUILDING INSPECTION—PLAN EXAMINER

Will work require disturbing of any tree on a public street? yes

ZONING:

BUILDING CODE P. P. P.

Will there be in charge of the above work a person competent to see that the State and City requirements pertaining thereto



CITY OF PORTLAND, MAINE  
Department of Building Inspection

# Certificate of Occupancy

Issued to **Scott Teas Associates**

LOCATION **401-425 Fore Street**

Date of Issue **Dec. 19, 1980**

This is to certify that the building, premises, or part thereof, at the above location, built—altered—changed as to use under Building Permit No. 80/641, has had final inspection, has been found to conform substantially to requirements of Zoning Ordinance and Building Code of the City, and is hereby approved for occupancy or use, limited or otherwise, as indicated below.

PORTION OF BUILDING OR PREMISES

APPROVED OCCUPANCY

Limiting Conditions: **3 Sections of main floor of parking garage**

**Movie theatres**

This certificate supersedes certificate issued

Approved:

(Date)

Inspector

Inspector of Buildings

Notice: This certificate identifies lawful use of building or premises and ought to be transferred from owner to owner when property changes hands. Copy will be furnished to owner or lessee for one dollar.





CITY OF PORTLAND, MAINE  
Department of Building Inspection

# Certificate of Occupancy

Issued to City of Portland, Maine  
LOCATION 401-425 Fore Street

Date of Issue Nov. 13, 1980

This is to certify that the building, premises, or part thereof, at the above location, built—altered—changed as to use under Building Permit No. 80/120, has had final inspection, has been found to conform substantially to requirements of Zoning Ordinance and Building Code of the City, and is hereby approved for PORTION OF BUILDING OR PREMISES

APPROVED OCCUPANCY

Limiting Conditions:  
Parking Garage Only  
Pending Fire Prevention Approval

This certificate supersedes  
certificate issued

Approved:

11-14-80 M. Schmuckler  
(Date) Inspector

*[Signature]*  
Inspector of Buildings

Notice: This certificate identifies lawful use of building or premises, and ought to be transferred from owner to owner when property changes hands. Copy will be furnished to owner or lessee for one dollar.

FIRST AMENDMENT TO FORE STREET PARKING GARAGE LEASE

AGREEMENT, made this            day of            , 1986, by and between the CITY OF PORTLAND, Maine (hereinafter referred to as "City") and PLAZA REALTY COMPANY (hereinafter referred to as "Tenant") being the same parties who signed a Lease dated November 8, 1979 pertaining to the Fore Street Parking Garage located in the City of Portland to which this Agreement is amendatory.

W I T N E S S E T H:

The parties agree that the Lease dated November 8, 1979 shall be amended as follows:

1. Tenants shall have the right to construct improvements for a street cafe substantially as shown on the attached Exhibit A, and to let the area shown in Exhibit A to any sub-tenant having a restaurant use on the premises for the purpose of operating a street cafe.
2. If the restaurant use in the garage is abandoned for more than six (6) consecutive months at any time, City may require Tenant to restore the area shown on Exhibit A to its prior condition as a part of the contiguous brick sidewalk. Tenant shall commence such restoration within thirty (30) days of written notice from the City so to do. Tenant shall complete such restoration within a reasonable period of time not to exceed thirty (30) days unless Tenant is delayed in or prevented from commencing or completing such work by a cause specified in Section 17 of the Agreement.
3. Tenant shall indemnify and hold the City harmless as provided in Section 10 of the Lease with respect to this area and with respect to all claims arising out of the construction or maintenance of the improvements or in any