

33-K-8

2005-0263

341. Cumberland Ave.

The Earl  
Archetype

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

2005-0263  
Application I. D. Number  
  
12/2/2005  
Application Date  
  
The Earl  
Project Name/Description

**Archetype**  
Applicant  
48 Union Wharf, Portland, ME 04101  
Applicant's Mailing Address

Consultant/Agent  
Applicant Ph: (207) 772-6022    Applicant Fax: (207) 772-4056  
Applicant or Agent Daytime Telephone, Fax

341 - 341 Cumberland Ave, Portland, Maine  
Address of Proposed Site  
033 K008001  
Assessor's Reference: Chart-Block-Lot

Proposed Development (check all that apply):  New Building     Building Addition     Change Of Use     Residential     Office     Retail  
 Manufacturing     Warehouse/Distribution     Parking Lot     Other (specify) \_\_\_\_\_

3,437 s.f.    **B3**  
Proposed Building square Feet or # of Units    Acreage of Site    Zoning

**Check Review Required:**

- Site Plan (major/minor)       Subdivision # of lots 7       PAD Review       14-403 Streets Review
- Flood Hazard       Shoreland       Historic Preservation       DEP Local Certification
- Zoning Conditional Use (ZBA/PB)       Zoning Variance       Other \_\_\_\_\_

Fees Paid:    Site Pla    \$1,075.00    Subdivision    Engineer Review    Date 12/5/2005

**Planning Approval Status:**

Reviewer \_\_\_\_\_

- Approved       Approved w/Conditions See Attached       Denied

Approval Date \_\_\_\_\_    Approval Expiration \_\_\_\_\_    Extension to \_\_\_\_\_     Additional Sheets Attached

OK to Issue Building Permit    \_\_\_\_\_    \_\_\_\_\_  
signature    date

**Performance Guarantee**     Required\*     Not Required

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

- Performance Guarantee Accepted    \_\_\_\_\_    \_\_\_\_\_    \_\_\_\_\_  
date    amount    expiration date
- Inspection Fee Paid    \_\_\_\_\_    \_\_\_\_\_  
date    amount
- Building Permit Issue    \_\_\_\_\_  
date
- Performance Guarantee Reduced    \_\_\_\_\_    \_\_\_\_\_  
date    remaining balance    signature
- Temporary Certificate of Occupancy    \_\_\_\_\_     Conditions (See Attached)    \_\_\_\_\_  
date    expiration date
- Final Inspection    \_\_\_\_\_    \_\_\_\_\_  
date    signature
- Certificate Of Occupancy    \_\_\_\_\_  
date
- Performance Guarantee Released    \_\_\_\_\_    \_\_\_\_\_  
date    signature
- Defect Guarantee Submitted    \_\_\_\_\_    \_\_\_\_\_    \_\_\_\_\_  
submitted date    amount    expiration date
- Defect Guarantee Released    \_\_\_\_\_    \_\_\_\_\_  
date    signature



**CITY OF PORTLAND**

February 28, 2002

Mr. Paul Schumann  
CommTel  
39 Forest Avenue  
Portland, ME 04101

RE: CommTel, 380 Cumberland Avenue  
(ID# 20010138, CBL#37-B-1)

Dear Mr. Schumann:

I would like to thank you for speaking briefly with me this morning concerning the construction schedule for the property located at 380 Cumberland Avenue and the anticipated completion of the end of March. At our meeting on January 30<sup>th</sup>, the planning staff and CommTel agreed that the following activities would occur at 380 Cumberland Avenue in order to return the property to a safe and useable condition:

1. The retaining walls currently under construction will be completed.
2. A four-foot high fence on top of the retaining wall (as included in the original plans) will be erected.
3. All required areas of the site will be backfilled.
4. The construction fence will be removed and the sidewalk will be repaired.
5. The site will be prepared for final paving, loam and seeding and landscaping.
6. The site will be paved, loamed and seeded and the required landscaping next to the retaining wall will be planted when weather permits (spring).

The city is concerned at this time about the lack of progress that has occurred in completing these activities. We have received numerous complaints from residents in the vicinity of 380 Cumberland Avenue concerning the continued closure of the sidewalk, now in excess of six months. It is imperative that CommTel complete the construction of the retaining walls, repair the sidewalk and remove the construction fence as soon as possible. The city requests that, at a minimum, the work necessary to reopen the sidewalk occur prior to March 15, 2002.

If the sidewalk is not reopened as of March 18<sup>th</sup>, the city will begin enforcement action to facilitate its opening. Please call me if you have any questions regarding this request.

O:\PLAN\DEVREVW\CUMBERLAND380\SCHUMANN2-28-2002.DOC

Sincerely,



Jonathan Spence

Planner

756-8083

cc: Alex Jaegerman, Planning Director  
Sarah Hopkins, Development Review Services Manager  
✓ Jay Reynolds, Development Review Coordinator  
Kathi Earley, Department of Public Works  
Todd Merkle, Department of Public Works  
Michael Nugent, Inspections Services Manager

Einhorn  
Yaffee  
Prescott



ARCHITECTURE &  
ENGINEERING, P.C.

# FAX Transmittal

Date: 7/12

037-B-001  
Site plan 2001-0138

To: BRYAN NICOLE MARK FITZGERAUD

At: TSC COMMTEL ST

From: KURT LAMAR

Project No.:  
5501001.00

Fax Phone:  
(781) 235-3804 (207) 828-9199 (617) 348-2801

Number of pages (including cover):  
5

**Special Instructions:**

Should you have any difficulty receiving our FAX Transmittal  
Please call: (617) 305-9800 or FAX #(617) 305-9888

BRYAN/NICOLE/MARK -

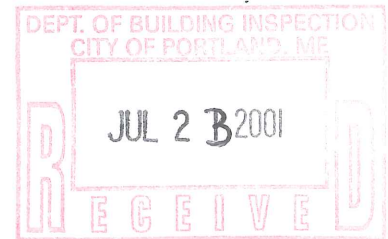
ATTACHED IS THE LIGHT FIXTURE WE WILL USE  
ON THE SITE.

WE HAVE A 20' POLE IN THE PARKING LOT  
AND A 14' POLE NEXT TO THE GENERATORS.  
THE FIXTURE BY THE LOADING DOCK WILL  
BE WALL MOUNTED.

IF ANY QUESTIONS PLEASE CALL

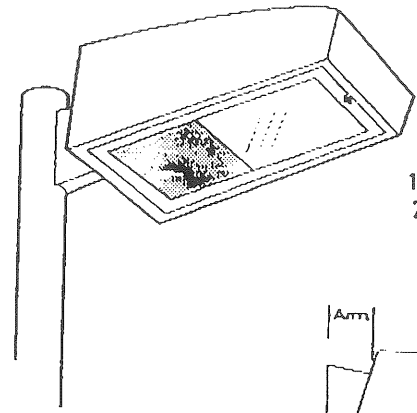
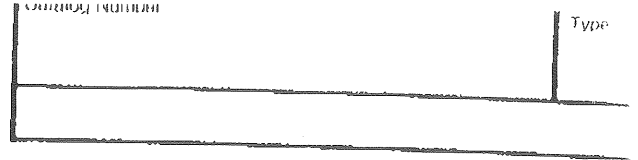
TX-

KURT



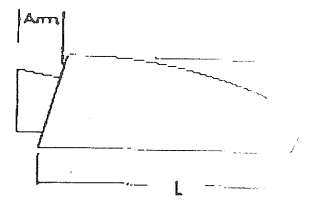
## FEATURES

- HOUSING** — Rugged, .064" minimum thickness, sheet aluminum housing, continuous welded seam for weathertight integrity. Standard finish is dark bronze (DOB) polyester powder. Other architectural colors available.
- LENS FRAME** — Extruded and welded aluminum frame secured with a tool-less, quick-release fastener. Integrally-designed, extruded silicone gasket snaps into door frame, providing a weatherproof seal between housing and frame.
- LENS** — Impact-resistant, tempered glass with silkscreened power door shield.
- MOUNTING** — Cast, 4" aluminum arm for pole or wall mounting. Shipped in fixture carton. Optional mountings available.
- OPTICS** — Anodized segmented reflectors for superior uniformity and control, which allows the flexibility to mix distributions without compromising the overall lighting job. Reflectors attach with tool-less fasteners and are rotatable and interchangeable. Three cutoff distributions available: Type II (roadway), Type III (asymmetric), Type IV (forward throw).
- ELECTRICAL SYSTEM** — High-reactance, high power factor ballast mounted on a unitized and removable power tray secured with tool-less latch for 100W. Constant-wattage autotransformer, high power factor ballast mounted on a unitized and removable power tray secured with tool-less latch for 150-400W. Positive locking disconnect plugs (primary and secondary). Ballast is copper wound and 100% factory tested.
- SOCKET** — Porcelain, horizontally-oriented, mogul-base socket with copper alloy, nickel-plated screw shell and center contact. UL listed 1500W, 600V.
- LISTING** — UL listed for wet locations. Listed and labeled to comply with Canadian Standards (see Options). IP65 rated (optional).



Area Light  
**BV**

METAL HAZARD  
100W, 150W, 175W,  
250W, 320W, 350W,  
30' to 45' Mounting



### Specifications

EPA: 1.6 ft<sup>2</sup> (.15m<sup>2</sup>) (includes arm)  
Length: 27-1/2 (69.8)  
Width: 18-1/20 (45.8)  
Depth: 9-3/8 (24.0)  
Arm Length: 4 (10.2)  
Weight: 44 lbs (19.8 kg)

All dimensions are inches (centimeters) unless otherwise specified

Mounting Option	Drilling
Template <sup>3</sup>	
SPBxx, RPBxx	5
SPBTxx, RPBTxx	5
WSPB04	6
WSPBT04	6

## ORDERING INFORMATION

Choose the boldface catalog nomenclature that best suits your needs and write it on the appropriate line. Order accessories as separate catalog numbers (shipped separately).

Example: **BVZ 400M R2 120 SPB04 SF**

### BVZ 400M

Series	Voltage	Mounting <sup>3</sup>	Options
BVZ 100M	120	SPB04 <sup>4</sup> Square pole (4" arm) (standard)	<b>Shipped installed in fixture</b> <b>SF</b> Single fuse (120, 277, 347V, n/a TB) <b>DF</b> Double fuse (208, 240, 480V, n/a TB) <b>CSA</b> Listed and labeled to comply with Canadian Standards <b>ORS</b> Quartz restrrike system (100W maximum, 120V only, lamp not included) <b>EC</b> Emergency circuit <b>PER</b> NEMA twist-lock receptacle only (no photocontrol) <b>PS</b> Performa-Seal™ (IP65 rated) <b>CR</b> Corrosion-resistant finish <b>SCWA</b> Super SCWA Pulse Start Ballast (TB std) <b>LLRPSL</b> Low Loss Reactor Pulse Start Ballast (277V only) <b>Shipped Separately<sup>5</sup></b> <b>PE1</b> NEMA twist-lock PE (120, 208, 240V) <b>PE3</b> NEMA twist-lock PE (347V) <b>PE4</b> NEMA twist-lock PE (480V) <b>PE7</b> NEMA twist-lock PE (277V) <b>BVZHS</b> House side shield (R2, R3 only) <b>BVZVG</b> Vandal guard <b>SC</b> Shorting cap for PER option
BVZ 150M <sup>6</sup>	208	RPB04 <sup>4</sup> Round pole (4" arm)	
BVZ 175M	240	SPB12 Square pole (12" arm)	
BVZ 200M <sup>6</sup>	277	RPB12 Round pole (12" arm)	
BVZ 250M <sup>6</sup>	347	SPBT04 <sup>4</sup> Square pole w/10° tilt (4" arm) <sup>7</sup>	
BVZ 320M <sup>6</sup>	480	RPBT04 <sup>4</sup> Round pole w/10° tilt (4" arm) <sup>7</sup>	
BVZ 350M <sup>6</sup>	TB <sup>2</sup>	SPBT12 Square pole w/10° tilt (12" arm) <sup>7</sup>	
BVZ 400M <sup>6,8</sup>		RPBT12 Round pole w/10° tilt (12" arm) <sup>7</sup>	
		WSPB04 Wall bracket (4" arm)	
		WSPBT04 Wall bracket (w/10° tilt, 4" arm) <sup>7</sup>	
		L/ARM When ordering BVKMA or BVKMAT	
		<b>OPTIONAL MOUNTING</b> (shipped separately) <b>BVKMA</b> Mast arm adapter <b>BVKMAT</b> Mast arm adapter (10° tilt) <sup>7</sup>	
<b>Distribution</b>			<b>Architectural Colors</b> (powder finish) <sup>6</sup> <b>Standard Colors</b> DOB Dark bronze (standard) DWH White DBL Black <b>Classic Colors</b> DMB Medium bronze DNA Natural aluminum DSS Sandstone DGC Charcoal DTG Tennis green DBR Bright red DSB Steel blue

### NOTES:

- Must use ED-28 reduced jacket lamp.
- Optional multi-tap ballast (120, 208, 240, 277V). (120, 277, 347V in Canada).
- For arm mounting, refer to technical data section in the Outdoor binder for drilling template.
- The SPB12, RPB12, SPBT12, and RPBT12 must be used when two or more luminaires are oriented on a 90° drilling pattern.
- May be ordered as an accessory.
- Other architectural colors available; see Architectural Colors brochure form no. 794.3.
- Photometrics are for no tilt; must be accounted for when using this option in application software.
- May be ordered with SCWA or LLRPSL.
- Must be used with SCWA or LLRPSL option.

Order as separate catalog numbers. Use with fixtures suitable for round pole mounting

Tenon O.D.	One	Two@180°	Two@90°	Three@120°	Three@90°	Four@90°
2-3/8"	T20-190	T20-280	T20-290	T20-320	T20-390	T20-490
2-7/8"	T25-190	T25-280	T25-290	T25-320	T25-390	T25-490
4"	T35-190	T35-280	T35-290	T35-320	T35-390	T35-490

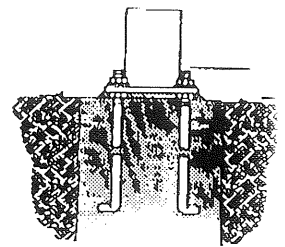
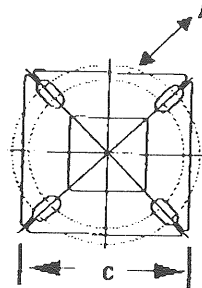
## FEATURES

- SHAFT** — Weldable-grade, hot-rolled, commercial-quality carbon steel tubing with a minimum yield of 55,000 psi (11-gauge), 50,000 psi (7-gauge). Uniform wall thickness of .125" or .188". Shafts are one-piece with a longitudinal electric resistance weld. Uniformly square in cross-section with flat sides, small corner radii and excellent torsion. Available shaft widths are 4", 5" and 6".
- ANCHOR BASE** — Fabricated from hot-rolled carbon steel plate that meets or exceeds a minimum yield strength of 36,000 psi. The anchor base is provided with slotted holes.
- HANDHOLE** — A rectangular reinforced handhole rim having nominal dimensions of 3" x 5" for all shafts. Included is a steel cover with attachment screws.
- GROUNDING** — A nut holder located immediately inside the handhole rim is provided with a 1/2" - 13 UNC ground bolt and nut.
- ANCHOR BOLTS** — Top 12" galvanized per ASTM A-153. Made of 3/4" or 1" diameter steel rod having a minimum yield strength of 55,000 psi.
- HARDWARE** — Fasteners are high-strength galvanized zinc-plated or stainless steel.
- TOP CAP** — Weatherproof, high-strength plastic cap provided with all drill-mount poles.
- FINISHES** — Dark bronze (DDB) polyester powder standard. Other architectural colors available.
- BASE COVER** — Automotive-grade ABS plastic full-cover finished to match pole.

Anchor Base P

# SS

SQUARE STRAIGHT S  
10' to 39' Mou



## ORDERING INFORMATION

Choose the boldface catalog nomenclature that best suits your needs and write it in the appropriate blank.

Example: **SSS 30 5G DM19 D**

SSS		Shaft type		Nominal mounting height		Nominal shaft base size/wall thickness		Mounting <sup>1</sup>		Options	
		SSS		10 - 39 feet (See back page.)		(See back page.)		<b>Tenon Mounting</b> PT Open top T20 2-3/8" O.D. (2" NPS) T25 2-7/8" O.D. (2-1/2" NPS) T30 <sup>2</sup> 3-1/2" O.D. (3" NPS) T35 <sup>2</sup> 4" O.D. (3-1/2" NPS)		<b>Architectural Colors</b> (powder finish) <b>Standard Colors</b> DDB Dark bronze DWH White DBL Black <b>Classic Colors</b> DMB Medium bronze DNA Natural aluminum DSS Sandstone DGC Charcoal gray DTG Tennis green DBR Bright red DSB Steel blue	
Shaft Base Size	Bolt Circle A	Bolt Projection B	Base Square C	Anchor Bolt Description	Warehouse Anchor Bolt Description	Template Number	<b>Drill Mounting</b> DM19x <sup>3</sup> 1 at 90° DM28x <sup>3</sup> 2 at 180° DM28 PL <sup>3</sup> 2 at 180° with one side plugged DM29x <sup>3</sup> 2 at 90° DM39x <sup>3</sup> 3 at 90° DM49x <sup>3</sup> 4 at 90°		GALV Galvanized finish		
4" C	8-1/2"	2-3/4"-4"	8"	ABSSS-4C	AB18-0	PJ50004					
4" G	8-1/2"	2-3/4"-4"	8"	ABSSS-4G	AB30-0	PJ50004					
5"	10"-12"	3-3/8"-4"	11"	ABSSS-5	AB36-0	PJ50010					
6"	11"-13"	3-3/8"-4"	12-1/2"	ABSSS-6	AB36-0	PJ50011					

**NOTES:**

- When ordering tenon mounting and drill mounting for the same pole, follow this example: DM28/T20.
- 3-1/2" and 4" tenons available on 5" and 6" shafts only.
- The drilling template to be used for a particular luminaire depends on the luminaire that is used.

Replace "x" with	Drilling Template Reference Number	Drilling for Luminaire Series
1	1	ORCG1, OROG1
2	2	KRES1
3	3	KRE1, KRES2, KSES1, ORCG2, ORDG2
4	4	KRE2, KSES2, ORC1, ORC2, ORD1, ORD2
Blank	5	All other Lithonia Area luminaires

Refer to Technical Data Section of Outdoor Binder for Drilling Templates.

- Additional architectural colors available; see paint brochure.

**IMPORTANT:**

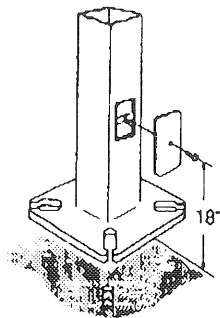
- Do not erect poles without having fixtures installed.
- Factory-supplied templates must be used when setting anchor bolts. Lithonia will not accept claim for incorrect anchorage placement due to failure to use factory template.
- If poles are stored outside, all protective wrapping must be removed immediately to prevent finish damage.
- Lithonia is not responsible for the foundation design.

# SSS Square Straight Steel Poles

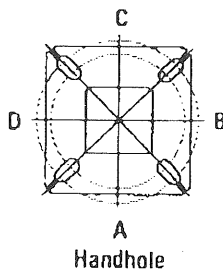
## TECHNICAL INFORMATION

Catalog Number	Nominal mounting height (feet)	Pole Shaft Size (in x in x ft)	Wall Thickness (inches)	Gauge	EPA (ft <sup>2</sup> ) with 1.3 gust						Bolt Circle (inches)	Bolt Size (in. x in. x in.)	Approximate ship weight (pounds)
					80 mph	Max. weight	90 mph	Max. weight	100 mph	Max. weight			
SSS 10 4C	10	4.0 x 10.0	0.125	11	30.6	765	23.8	595	18.9	473	8--9	3/4 x 18 x 3	75
SSS 12 4C	12	4.0 x 12.0	0.125	11	24.4	610	18.8	470	14.8	370	8--9	3/4 x 18 x 3	90
SSS 14 4C	14	4.0 x 14.0	0.125	11	19.9	498	15.1	378	11.7	293	8--9	3/4 x 18 x 3	100
SSS 16 4C	16	4.0 x 16.0	0.125	11	15.9	398	11.8	295	8.9	223	8--9	3/4 x 18 x 3	115
SSS 18 4C	16	4.0 x 18.0	0.125	11	12.6	315	9.2	230	8.7	188	8--9	3/4 x 18 x 3	125
SSS 20 4C	20	4.0 x 20.0	0.125	11	9.6	240	6.7	167	4.5	150	8--9	3/4 x 18 x 3	140
SSS 20 4G	20	4.0 x 20.0	0.188	7	16.5	415	12.25	310	9.3	240	8--9	3/4 x 30 x 3	198
SSS 20 5C	20	5.0 x 20.0	0.125	11	17.7	443	12.7	343	9.4	235	10--12	1 x 36 x 4	185
SSS 20 5G	20	5.0 x 20.0	0.188	7	28.1	703	21.4	535	16.2	405	10--12	1 x 36 x 4	265
SSS 25 4C	25	4.0 x 25.0	0.125	11	4.8	150	2.6	100	1.0	50	8--9	3/4 x 18 x 3	170
SSS 25 4G	25	4.0 x 25.0	0.188	7	10.8	270	7.7	188	5.4	135	8--9	3/4 x 30 x 3	245
SSS 25 5C	25	5.0 x 25.0	0.125	11	9.8	245	6.3	157	3.7	150	10--12	1 x 36 x 4	225
SSS 25 5G	25	5.0 x 25.0	0.188	7	18.0	350	12.6	350	9.0	250	10--12	1 x 36 x 4	320
SSS 30 4G	30	4.0 x 30.0	0.188	7	6.4	160	4.0	100	2.3	58	8--9	3/4 x 30 x 3	295
SSS 30 5C	30	5.0 x 30.0	0.125	11	4.7	150	2.0	50	--	--	10--12	1 x 36 x 4	265
SSS 30 5G	30	5.0 x 30.0	0.188	7	10.7	267	6.7	167	3.9	100	10--12	1 x 36 x 4	380
SSS 30 6G	30	6.0 x 30.0	0.188	7	15.7	392	10.2	257	6.4	160	11--13	1 x 36 x 4	520
SSS 35 5G	35	5.0 x 35.0	0.188	7	5.9	150	2.5	100	--	--	10--12	1 x 36 x 4	440
SSS 35 6G	35	6.0 x 35.0	0.188	7	9.5	237	5.0	150	1.8	50	11--13	1 x 36 x 4	540
SSS 39 6G	39	6.0 x 39.0	0.188	7	5.1	128	1.3	33	--	--	11--13	1 x 36 x 4	605

### BASE DETAIL



### HANDHOLE ORIENTATION<sup>1</sup>



### POLE OPTIONS

SUFFIX	DESCRIPTION
FDL <sup>1</sup>	Festoon Outlet – less electrical
FGL <sup>1</sup>	Festoon GFI Outlet – less electrical
H1-1BS <sup>1</sup>	Horizontal Arm Bracket – 1 fixture
VD	Vibration Damper
L/AB	Less Anchor Bolts
HH <sup>1,2</sup>	Extra Handhole
HHC	Handhole Cover

#### NOTES:

- Specify location and orientation when ordering (specify orientation from handhole and height in feet above base).
- Combination of tenon-top and drill mount requires extra handhole.

#### IMPORTANT:

- These specifications are intended for general purposes only. Lithonia reserves the right to change material or design, without prior notice, in a continuing effort to upgrade its products.
- Installation requires grout to be packed under base to ensure full contact with foundation.





39 Forest Avenue  
Portland, ME 04101

Phone 800.917.7517  
Fax 207.828.9199

[www.commtel.net](http://www.commtel.net)

February 1, 2002

**VIA Facsimile and First Class Mail**

Mr. Jonathan Spence  
Planner  
City of Portland  
389 Congress Street  
Portland, Maine 04101

Re: Commtel, 380 Cumberland Avenue  
(ID# 20010138, CBL #37-B-1)

Dear Mr. Spence:

Commtel is in receipt of your letter dated January 30, 2002 regarding the aforementioned site. Commtel accepts the proposed reduction in the performance guarantee to \$28,500 and requests immediate disbursement to Commtel (Attn: William Ralph) of \$31,850. Please advise Commtel when it can expect the release of its funds.

As discussed at our meeting last week, Commtel may be transferring its obligations to complete the site work at 380 Cumberland Avenue to the owner of that property, Peter Macomber. While Commtel does not think that such a change will affect the work to be done on the site as detailed in your letter, Commtel may need to discuss how to handle the remaining funds in the performance guarantee should that event occur. Commtel will advise you how we would like to proceed once it has settled with Mr. Macomber.

We are providing a copy of this letter and your letter dated January 30, 2002 to Mr. Tom Hunter of Key Bank for their information.

Thank you for working with Commtel in this matter,

Sincerely,

William Ralph  
Chief Financial Officer  
[Wralph@Commtel.net](mailto:Wralph@Commtel.net)  
(207) 377-9215

cc: Mr. Tom Hunter  
c/o Key Bank (Escrow Agent)  
27 Main Street  
Winthrop, Maine 04364

Planning &amp; Urban Development

Alexander Jaegerman  
Planning Director**CITY OF PORTLAND**

January 30, 2002

Mr. Scott W. Roberts  
CommTel  
39 Forest Avenue  
Portland, ME 04101RE: CommTel, 380 Cumberland Avenue  
(ID# 20010138, CBL#37-B-1)

Dear Mr. Roberts:

I would like to thank you and other members of your team for taking the time to meet with Jay Reynolds and myself concerning the property located at 380 Cumberland Avenue. It is unfortunate that the project as planned will not be going forward at this time. I would like to take this opportunity to summarize the conclusions reached at that meeting and how the City anticipates the scheduling of the projects closeout. The following activities will occur at 380 Cumberland Avenue to return the property to a safe and useable condition:

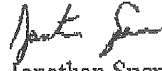
1. The retaining walls currently under construction will be completed.
2. A four-foot high fence on top of the retaining wall (as included in the original plans) will be erected.
3. All required areas of the site will be backfilled.
4. The construction fence will be removed and the sidewalk will be repaired.
5. The site will be prepared for final paving, loam and seeding and landscaping.
6. The site will be paved, loamed and seeded and the required landscaping next to the retaining wall will be planted when weather permits (spring).

Jay Reynolds has revised the cost estimate form that is included with this memo. Upon your acceptance, a request to have the performance guarantee reduced will be made on your behalf. A further reduction can occur when items 1-5 above have been completed.

O:\PLANNING\BYR\B\WCUMBERLAND\380\ROBERTS\1-30-01.DOC

Please call me if you have any questions regarding this memo or the performance guarantee process.

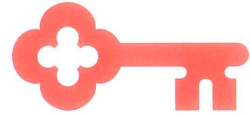
Sincerely,



Jonathan Spence  
Planner  
756-8083

cc: Alex Jaegerman, Planning Director  
Sarah Hopkins, Development Review Services Manager  
Jay Reynolds, Development Review Coordinator

Dupl. Orig



Winthrop KeyCenter

KeyBank  
107 Main Street  
Winthrop, ME 04364

380 CUMBERLAND - COMMTEL  
PERFORMANCE GUARANTEE  
ESCROW ACCOUNT  
Account #: 190065009655

Tel: 207 377-2202  
Fax: 207 377-2203

July 30, 2001

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

**Re: Application of CommTel Internet (the "Developer") for 380 Cumberland, Portland, Maine**

KeyBank hereby certifies to the City of Portland (the "City") that KeyBank will hold the sum of \$60,350 (sixty thousand three hundred and fifty dollars) in an interest bearing account established with the Bank. This account shall be in the name of the Developer on behalf of the City of Portland and shall represent the estimated cost of installing site improvements as depicted on the 380 Cumberland plan, approved on June 26, 2001 as required under Portland Code of Ordinances Chapter 14 §§499, 499.5, 525 and Chapter 25 §§46 through 65. It is intended to satisfy the Developer's obligation, under Portland Code of Ordinances Chapter 14 §§501, 502 and 525, to post a performance guarantee for the above referenced development.

KeyBank will hold these funds as escrow agent for the benefit of the City subject to the following:

The City, through its Director of Planning and Urban Development and in his sole discretion, may draw against this Escrow Account by presentation of a draft in the event that:

1. the Developer has failed to satisfactorily complete by June 25, 2003 the work on the improvements contained within the 380 Cumberland approval, dated June 26, 2001; or
2. the Developer has failed to deliver to the City a deed containing the metes and bounds description of any streets, easements or other improvements required to be deeded to the City; or
3. the developer has failed to post the ten percent (10% Defect Guarantee required by Portland Code of Ordinances Chapter 14 §§501 and 525); or
4. the developer has failed to notify the City for inspections in conjunction with the installation of improvements noted in paragraph one.

It is a condition of the Escrow that it is deemed to be automatically extended without amendment for period(s) of one year each from the current expiration date hereof, or any future expiration

date, unless within sixty (60) days prior to any expiration, KeyBank notifies the City by certified mail (restricted delivery to Duane Kline, Director of Finance, City of Portland, 389 Congress Street, Portland, Maine 04101) that KeyBank elects not to consider this Escrow renewed for any such additional period.

After all underground work has been completed and inspected to the satisfaction of the Department of Public Works and Planning, including but not limited to sanitary sewers, storm drains, catch basins, manholes, electrical conduits, and other required improvements constructed chiefly below grade, the City of Portland Director of Planning and Urban Developments or Director of Finance as provided in Chapter 14 §501 of the Portland Code of Ordinances, may authorize KeyBank, by written certification, to reduce the available amount of the escrowed money by a specified amount.

All costs associated with establishing, maintaining and disbursing funds from the Escrow Account shall be borne by CommTel.

This Escrow Account expires on:

1. June 25, 2003 or ninety days following KeyBank's written notice of its expiration as detailed above; or
2. KeyBank's receipt of written notification from the City of Portland that said work contained within 380 Cumberland approval and as required by Portland Code of Ordinances Chapter 14 §§499, 499.5, 525 and Chapter 25 §§46 through 65 has been completed in accordance with the City of Portland's specifications and KeyBank Escrow No. 190065009655 may be cancelled.

Very truly yours,

KeyBank By: Thomas Hunter Date: \_\_\_\_\_  
Its Duly Authorized Agent

Seen and Agreed to:

CommTel By: William L. Kline Date: \_\_\_\_\_  
CFD

Reviewed pursuant to Portland Code of Ordinances, Chapter 14 §§501, 525:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Director of Planning and Urban Development

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Director of Finance

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Corporation Counsel

*Jonathan  
see corrections*

380 Cumberland  
Performance Guarantee  
Escrow Account

July 25, 2001

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

**Re: Application of CommTel Internet (the "Developer") for 380 Cumberland, Portland, Maine**

KeyBank hereby certifies to the City of Portland (the "City") that KeyBank will hold the sum of \$60,350 (sixty thousand three hundred and fifty dollars) in an interest bearing account established with the Bank. This account shall be in the name of the City of Portland and shall represent the estimated cost of installing site improvements as depicted on the 380 Cumberland plan, approved on June 26, 2001 as required under Portland Code of Ordinances Chapter 14 §§499, 499.5, 525 and Chapter 25 §§46 through 65. It is intended to satisfy the Developer's obligation, under Portland Code of Ordinances Chapter 14 §§501, 502 and 525, to post a performance guarantee for the above referenced development.

KeyBank will hold these funds as escrow agent for the benefit of the City subject to the following:

The City, through its Director of Planning and Urban Development and in his sole discretion, may draw against this Escrow Account by presentation of a draft in the event that:

1. the Developer has failed to satisfactorily complete by August 1, 2003 the work on the improvements contained within the 380 Cumberland approval, dated June 26, 2003; or
2. the Developer has failed to deliver to the City a deed containing the metes and bounds description of any streets, easements or other improvements required to be deeded to the City; or
3. the developer has failed to post the ten percent (10% Defect Guarantee required by Portland Code of Ordinances Chapter 14 §§501 and 525; or
4. the developer has failed to notify the City for inspections in conjunction with the installation of improvements noted in paragraph one.



It is a condition of the Escrow that it is deemed to be automatically extended without amendment for period(s) of one year each from the current expiration date hereof, or any future expiration date, unless within sixty (60) days prior to any expiration, KeyBank notifies the City by certified

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After all underground work has been completed and inspected to the satisfaction of the Department of Public Works and Planning, including but not limited to sanitary sewers, storm drains, catch basins, manholes, electrical conduits, and other required improvements constructed chiefly below grade, the City of Portland Director of Planning and Urban Developments or Director of Finance as provided in Chapter 14 §501 of the Portland Code of Ordinances, may authorize KeyBank, by written certification, to reduce the available amount of the escrowed money by a specified amount.

All costs associated with establishing, maintaining and disbursing funds from the Escrow Account ~~sale by bond~~ by CommTel.

*shall be borne*

This Escrow Account expires on:

1. June 25, 2003 or ninety days following KeyBank's written notice of its expiration as detailed above; or
2. KeyBank's receipt of written notification from the City of Portland that said work contained within 380 Cumberland approval and as required by Portland Code of Ordinances Chapter 14 §§499, 499.5, 525 and Chapter 25 §§46 through 65 has been completed in accordance with the City of Portland's specifications and KeyBank Escrow No. \_\_\_\_\_ may be cancelled.

Very truly yours,

KeyBank By: \_\_\_\_\_ Date: \_\_\_\_\_  
Its Duly Authorized Agent

Seen and Agreed to:

CommTel By: \_\_\_\_\_ Date: \_\_\_\_\_

Reviewed pursuant to Portland Code of Ordinances, Chapter 14 §§501, 525:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Director of Planning and Urban Development

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Director of Finance

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Corporation Counsel

Department of Planning & Development  
Lee D. Urban, Director



CITY OF PORTLAND

Division Directors  
Mark B. Adelson  
Housing & Neighborhood Services

Alexander Q. Jaegerman, AICP  
Planning

John N. Lufkin  
Economic Development

**TO:** Duane Kline, Finance Department  
**FROM:** Alexander Jaegerman, Planning Division Director  
**DATE:** May 10, 2002  
**SUBJECT:** Request for Reduction in Performance Guarantee  
CommTel: 380 Cumberland Avenue  
ID# (2001-0138) Lead CBL# (037-B-001)

A request by CommTel Internet has been made for a reduction of Escrow Account #190065009655 for 380 Cumberland Avenue.

Original Sum	\$60,350.00
First Reduction	\$31,850.00
<b>Reduction Amount</b>	<b>\$17,465.00</b>
Remaining Sum	\$11,035.00

This is the second reduction for the project.

Approved:

  
Alexander Jaegerman  
Planning Division Director

cc: ✓ Sarah Hopkins, Development Review Services Manager  
Jonathan Spence, Planner  
Jay Reynolds, Development Review Coordinator  
Todd Merkle, Public Works  
Code Enforcement

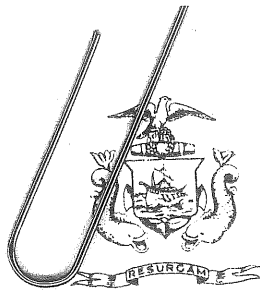
Jay-  
No more  
reductions  
until  
landscaping  
is OK...  
5

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Finance Department

Duane G. Kline  
Director



**CITY OF PORTLAND**

May 17, 2002

Thomas Hunter, Jr.  
Key Bank  
107 Main Street  
Winthrop, ME 04364

Re: Performance Guarantee for CommTel Internet, 380 Cumberland Avenue  
Account #190065009655

Dear Mr. Hunter:

This is to inform you that I am authorizing a reduction in the above-named escrow account by the amount of \$17,465 plus accrued interest, which should leave a balance of \$11,035 remaining.

If you require any further information, please let me know.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Kline", is written over the word "Sincerely,".

Duane G. Kline  
Finance Director

DGK.jlb

pc: Jay Reynolds, Development Review Coordinator

Department of Planning & Development  
Lee D. Urban, Director



**CITY OF PORTLAND**

Division Directors  
Mark B. Adelson  
Housing & Neighborhood Services

Alexander Q. Jaegerman, AICP  
Planning

John N. Lufkin  
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First Reduction	\$31,850.00
<b>Reduction Amount</b>	<b>\$17,465.00</b>
Remaining Sum	\$11,035.00

This is the second reduction for the project.

Approved:

  
Alexander Jaegerman  
Planning Division Director

cc: Sarah Hopkins, Development Review Services Manager  
Jonathan Spence, Planner  
✓ Jay Reynolds, Development Review Coordinator  
Todd Merkle, Public Works  
Code Enforcement

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Department of Planning & Development  
Lee D. Urban, Director



CITY OF PORTLAND

Division Directors  
Mark B. Adelson  
Housing & Neighborhood Services

Alexander Q. Jaegerman, AICP  
Planning

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**TO:** Duane Kline, Finance Department  
**FROM:** Alexander Jaegerman, Planning Division Director  
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Commтел: 380 Cumberland Avenue  
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First Reduction	\$31,850.00
<b>Reduction Amount</b>	<b>\$17,465.00</b>
Remaining Sum	\$11,035.00

This is the second reduction for the project.

Approved:

  
Alexander Jaegerman  
Planning Division Director

cc: Sarah Hopkins, Development Review Services Manager  
✓ Jonathan Spence, Planner  
Jay Reynolds, Development Review Coordinator  
Todd Merkle, Public Works  
Code Enforcement

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**CITY OF PORTLAND**

February 28, 2002

Mr. Paul Schumann  
CommTel  
39 Forest Avenue  
Portland, ME 04101

RE: CommTel, 380 Cumberland Avenue  
(ID# 20010138, CBL#37-B-1)

Dear Mr. Schumann:

I would like to thank you for speaking briefly with me this morning concerning the construction schedule for the property located at 380 Cumberland Avenue and the anticipated completion of the end of March. At our meeting on January 30<sup>th</sup>, the planning staff and CommTel agreed that the following activities would occur at 380 Cumberland Avenue in order to return the property to a safe and useable condition:

1. The retaining walls currently under construction will be completed.
2. A four-foot high fence on top of the retaining wall (as included in the original plans) will be erected.
3. All required areas of the site will be backfilled.
4. The construction fence will be removed and the sidewalk will be repaired.
5. The site will be prepared for final paving, loam and seeding and landscaping.
6. The site will be paved, loamed and seeded and the required landscaping next to the retaining wall will be planted when weather permits (spring).

The city is concerned at this time about the lack of progress that has occurred in completing these activities. We have received numerous complaints from residents in the vicinity of 380 Cumberland Avenue concerning the continued closure of the sidewalk, now in excess of six months. It is imperative that CommTel complete the construction of the retaining walls, repair the sidewalk and remove the construction fence as soon as possible. The city requests that, at a minimum, the work necessary to reopen the sidewalk occur prior to March 15, 2002.

If the sidewalk is not reopened as of March 18<sup>th</sup>, the city will begin enforcement action to facilitate its opening. Please call me if you have any questions regarding this request.

O:\PLAN\DEVREVW\CUMBERLAND380\SCHUMANN2-28-2002.DOC

Sincerely,



Jonathan Spence

Planner

756-8083

cc: Alex Jaegerman, Planning Director  
Sarah Hopkins, Development Review Services Manager  
Jay Reynolds, Development Review Coordinator  
Kathi Earley, Department of Public Works  
Todd Merkle, Department of Public Works  
Michael Nugent, Inspections Services Manager



# STRUCTURETONE

General Contractors  
Construction Managers

711 Atlantic Avenue  
Boston, MA 02111-2809  
Tel: 617-348-2800  
Fax: 617-348-2801

Date: 7/3/01

No. of pages: 4  
(including cover sheet)

TO: Name: Bryan Baldwin

Company: Staubach

Fax Number: 781-235-3804

FROM: Name: Michael

Company: StructureTone

Fax Number: 617-348-2801

COMMENTS: Cost Estimate of Impacts - Performance  
Guarantee

For Budgetary Purposes only

If there are any problems with this transmittal, please call me @ 617-348-2800

Austin, TX  
Boston, MA  
Dallas, TX  
Denver, CO

Dublin, IRE  
Ft. Lauderdale, FL  
Ft. Worth, TX  
Greenwich, CT

Houston, TX  
London, UK  
Lyndhurst, NJ  
Miami, FL

New York, NY  
San Juan, PR  
Washington, DC



\* 6. SITE LIGHTING

7. EROSION CONTROL

- \* Silt Fence
- Check Dams
- Ripe Inlet/Outlet Protection
- Level Lip Spreader
- Slope Stabilization
- Geotextile
- \* Hay Bale Barriers
- Catch Basin Inlet Protection

200 LF 5' 1000'

200 LF 5' 1000'

8. RECREATION AND OPEN SPACE AMENITIES

M.P.C.S 250 4750

\* 9. LANDSCAPING (Attach breakdown of plant materials, quantities, and unit costs)

10. MISCELLANEOUS

TOTAL: \$ 17,600.00 # 42,750.00

GRAND TOTAL: \$ 17,600.00 # 42,750.00

INSPECTION FEE (to be filled out by the City)

\$60,350 TOTAL

	<u>PUBLIC</u>	<u>PRIVATE</u>	<u>TOTAL</u>
A: 2.0% of totals:	_____	_____	_____
or			
B: Alternative Assessment:	_____	_____	_____
Assessed by:	_____	_____	_____
	(name)	(name)	



**From:** Jay Reynolds  
**To:** Jonathan Spence  
**Date:** Wed, Jan 23, 2002 3:02 PM  
**Subject:** comtel meeting

I just remembered that i have taken Monday off, so i will be unable to attend the comtel meeting.

The Items pertaining to sitework, as discussed previously on site on oct. 25, 2001 with mike corolli are:

General construction debris/material cleanup.  
 Pave the disturbed areas  
 backfill, and Loam/seed sideslopes and other disturbed areas.

Sidewalk restoration- public works.  
 Reset fence to property line once sidewalk is restored-public wks.

You may want to invite Mike Nugent, or a rep. from inspections to address any foundation/rebar/electrical conduit issues they may have.

sorry.  
 Jay

**CC:** Sarah Hopkins



1-30-02

- ① hold Brick S.W. \$2,000
- ② hold % of artwork \$  
 (backfill) 50'x70'x5' = 650 cy @ 30 cy = \$19,500.00  
 (Pave) = \$3,000.00
- ③ hold erosion control (loam+seed) = \$2,000.00
- ④ hold L.S. (for \$50) = \$2,000.00

5-10-02 Retention #2  
 Hold 10% = \$6,035.00  
 Hold Pavemat = \$3,000.00  
 Hold L.S. = \$2,000.00  
 \$11,035.00  
 Release \$17,465.00

hold \$28,500.00  
 Release \$31,850.00



Slope Stabilization	_____	_____	_____	_____	_____	_____
Geotextile	_____	_____	_____	_____	_____	_____
Hay Bale Barriers	_____	_____	_____	_____	_____	<u>\$1,000.00</u>
Catch Basin Inlet Protection	_____	_____	_____	_____	_____	_____
8. RECREATION AND OPEN SPACE AMENITIES	_____	_____	_____	_____	_____	_____
9. LANDSCAPING (Attach breakdown of plant materials, quantities, and unit costs)	_____	_____	_____	<u>8</u>	<u>250</u>	<u>\$2,000.00</u>
10. MISCELLANEOUS	_____	_____	_____	_____	_____	_____
TOTAL:	_____	_____	<u>\$2,000.00</u>	_____	_____	<u>\$26,500.00</u>
GRAND TOTAL:	_____	_____	_____	_____	_____	<u>\$28,500.00 (to remain)</u>

**Approve reduction of \$31,850.00**

CAVANAUGH  
TOCCI  
ASSOCIATES, INCORPORATED

327 F BOSTON POST ROAD, SUDBURY, MA 01776-3027 TEL: (978) 443-7871 FAX: (978) 443-7873 e-MAIL: cta@cavtoci.com

*SENIOR PRINCIPALS*

WILLIAM J. CAVANAUGH, FASA  
GREGORY C. TOCCI, PE, FASA, PRESIDENT

*PRINCIPALS*

DOUGLAS H. BELL, INCE  
LINCOLN B. BERRY, ASA  
TIMOTHY J. FOULKES, INCE, Bd. Cert.  
K. ANTHONY HOOVER, INCE, Bd. Cert.

*SENIOR AND STAFF CONSULTANTS*

ALEX U. CASE  
MARC G. COTÉ  
BRION G. KONING  
MATTHEW J. MOORE  
PATRICK E. MURPHY  
ERIC L. REUTER

*MARKETING MANAGER*

PATRICIA A. CASASANTO

*ASSOCIATED CONSULTANTS*

NICHOLAS BROWSE, SMPTE  
RICHARD G. CANN, PE  
DAVID H. KAYE, FASA, FAES  
THOMAS N. STEIN

*ADMINISTRATOR*

DONNA L. RAFUS

May 21, 2001

Kurt Lamar  
Einhorn Yaffee Prescott  
24 School Street  
Boston, MA 02108

Fax: 617-305-9888

Subject: Comtel, Portland, ME -  
Evaluation of Outdoor Noise of Roof-Mounted Condensers and Ground-  
Mounted Generators

Dear Kurt,

This report summarizes the results of our studies in connection with the subject project.

Our goal is to satisfy the Portland, ME Noise Code Criteria, which may be summarized as requiring that noise from this equipment not exceed 55 dBA between 9:00pm and 7:00am (and not exceed 60 dBA between 7:00 am and 9:00pm) as would be measured at the property line of an adjacent lot.

**Condensers**

Our studies of the rooftop condensing unit included the following:

- Sound data supplied by the manufacturer for the condensers.
- Corrections for the frequency spectrum, based on (American Society of Heating, Refrigeration, and Air Conditioning Engineers) ASHRAE methodology.
- Progress prints, provided to us by your office, showing the proposed locations of these condensers on the roof.
- Calculations of sound propagation to the boundary of the existing easement, shown on a site plan provided to us by your office.
- Our understanding that a visual barrier will be erected along this parapet facing Lots 14 and 15 (Note that this is the closest boundary lot shown on our drawings).
- Adjustments for directivity of sound toward the ground at the nearest lot boundary.



Our calculations indicate that noise from these condensers could accumulate between 53 and 55 dBA at the lot boundary. Therefore, noise from these units will conform with the Portland, ME Noise Code.

### **Generators**

We have been provided with information from Silex, which clearly indicates that their design for the acoustic building, which will house the generators, will attenuate generator noise down to 55 dBA at the nearest boundary. The information indicates that this acoustical building will include the following:

- Air intake duct silencers.
- Air discharge duct silencers.
- Acoustic wall panels.
- Acoustically insulated door.
- Radiator transition box.
- Weather hood.
- Thermal insulation blanket.
- Exhaust accessories.

We understand that a report from Silex Systems will be forwarded to your office, verifying that the acoustic building and its associated noise control devices will satisfy the Portland, ME Noise Code Criteria.

### **Summary**

In summary, our calculations of rooftop condenser noise indicate that the Portland Noise Code Criteria will not be violated by our rooftop equipment design. Also, the manufacturer of the acoustic building for the generators will verify that the sound from the generators will also not violate the Portland, ME Noise Code.

Please do not hesitate to contact us if we may be of additional assistance.

Sincerely,

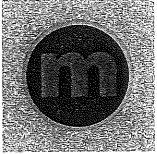
*CAVANAUGH TOCCI ASSOCIATES, INC.*



K. Anthony Hoover

kah/pac/01209





**macomber**<sup>INC</sup>  
380 Cumberland Ave  
Portland  
Maine 04101

30 May 2001

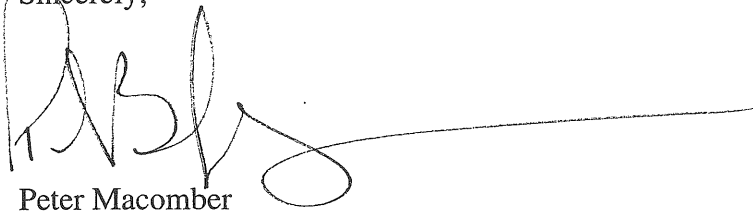
Ms. Tammy Munson  
City of Portland, Maine  
Planning & Urban Development  
389 Congress Street  
Portland, ME 04101

Dear Ms. Munson:

I am the owner of the property located at 380 Cumberland Avenue in Portland and have recently signed a lease with CommTel for the entire first floor of the building as well as a portion of the second floor. I have reviewed the preliminary plans for the renovations that CommTel plans for the building. This letter is to verify that I am in agreement with the plans and that CommTel and/or their agents may seek any approvals or permits necessary for those plans.

If you have any questions concerning this matter, please give me a call at 207-772-1208.

Sincerely,



Peter Macomber

BK 11472 PG 059

34090

EXHIBIT D

QUITCLAIM DEED WITHOUT COVENANT

*0.20 x 3*

MAINE REAL ESTATE TAX PAD

KNOW ALL BY THESE PRESENTS, that NEW ENGLAND TELEPHONE & TELEGRAPH COMPANY, a New York corporation having a place of business in Portland, Maine in consideration of One Dollar (\$1.00) and other good and valuable consideration paid by PETER MACOMBER, whose mailing address is 100 Oak Street, Portland, Maine 04101, the receipt whereof it does hereby acknowledge, does hereby remise, release, bargain, sell and convey, and forever quit-claim unto the said PETER MACOMBER and his heirs and assigns forever, the following land and buildings more particularly described as follows:

*✓*  
*11631*  
*114*

A certain lot or parcel of land and improvements situated thereon situated in Portland, Cumberland County, Maine, as more particularly described on Exhibit A attached hereto and by this reference incorporated herein.

TO HAVE AND TO HOLD the same, together with all the privileges and appurtenances thereunto belonging, to the said PETER MACOMBER, his heirs and assigns forever.

IN WITNESS WHEREOF, the said New England Telephone & Telegraph Company has caused this instrument to be executed by name of corporate officer, its duly authorized, this 27<sup>th</sup> day of May, 1984.

WITNESS:

NEW ENGLAND TELEPHONE &  
TELEGRAPH COMPANY, a New York  
corporation



By: [Signature]  
Title: Director of Real Estate, Director of  
Printed Name: KAREN D. KAHAN

STATE OF MAINE  
COUNTY OF CUMBERLAND, ss.

On May 27, 1994, personally appeared the above-named KAREN D. KAHAN  
as Director of Real Estate of said corporation, and  
acknowledged the foregoing to be her free act and deed in her said capacity  
and the free act and deed of said corporation.

Before me,



~~Notary Public~~  
Maine Attorney-at-Law  
Printed Name: Daniel C. Kahan

YR: 28027-1.00



**EXHIBIT A  
DESCRIPTION OF LAND TO BE CONVEYED BY  
NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY**

A certain lot or parcel of land located on the southerly side of Cumberland Avenue, in the City of Portland, Cumberland County, Maine, bounded and described as follows:

BEGINNING at the intersection of the southerly side of Cumberland Avenue with the westerly side of Casco Street;

THENCE, S 23-51-00 E, along the westerly side of said Casco Street, 200.46 feet to a drill hole marking the intersection of the westerly side of said Casco Street with the northerly side of Shepley Street;

THENCE, S 88-30-30 W, along the northerly side of said Shepley Street, 102.30 feet to an iron pipe set at the southeasterly corner of land now or formerly of Eric R. Knudsen and Kimberlee Knudsen Wing, as described in Book 3897, Page 108 of the Cumberland County Registry of Deeds;

THENCE, N 28-37-00 W, along the easterly line of said Knudsen and Wing, 55.22 feet to an iron pipe set;

THENCE, S 65-41-00 W, along the northerly line of said Knudsen and Wing and along the northerly line of land now or formerly of Crandall Toothaker, as described in Book 10206, Page 98, 136.85 feet to an iron pipe set;

THENCE, S 30-20-00 E, along the westerly line of said Toothaker, 15.42 feet to an iron pipe set;

THENCE, S 59-47-34 W, through land of the Grantor, 54.00 feet to an iron pipe set on the easterly side of Oak Street;

THENCE, N 30-20-00 W, along the easterly side of said Oak Street, 139.76 feet to the intersection of the easterly side of said Oak Street with the southerly side of said Cumberland Avenue,

THENCE, N 65-41-00 E, along the southerly side of said Cumberland Avenue, 320.53 feet to the point of beginning.

ABOVE described lot contains 47,273 square feet.

TOGETHER with an easement across a certain strip of land seven feet in width adjoining the northerly line of said Toothaker and the northerly line of said Knudsen and Wing, said strip being comprised of two adjoining parcels which are bounded and described as follows:

A. Beginning at an iron pipe set at the northeasterly corner of said Knudsen and Wing;

Thence, S 65-41-00 W, along the northerly line of said Knudsen and Wing, 76.64 feet to the westerly line of said Knudsen and Wing;

Thence, S 30-31-30 E, along the westerly line of said Knudsen and Wing, 7.04 feet to a point;

Thence, N 65-41-00 E, through land of said Knudsen and Wing, 76.16 feet to a point on the easterly line of said Knudsen and Wing;

Thence, N 26-27-00 W, along the easterly line of said Knudsen and wing, 7.01 feet to the point of beginning.

B. Beginning at an a iron pipe set at the northwest corner of land of said Toothaker;

Thence, S 30-20-00 E, along the westerly line of said Toothaker, 7.04 feet to a point;

Thence, N 65-41-00 E, through land of said Toothaker, 60.26 feet to a point on the easterly line of said Toothaker;

Thence, N 30-31-30 W, along the easterly line of said Toothaker, 7.04 feet to a point;

Thence, S 65-41-00 W, along the northerly line of said Toothaker, 60.26 feet to the point of beginning.

EXCEPTING AND RESERVING to the Grantor, for the purpose of ingress and egress, for both pedestrian and vehicular traffic, two separate Permanent Construction Activity Easements located on the southerly side of said Cumberland Avenue, bounded and described as follows:

1. Beginning at a point on the southerly side of Cumberland Avenue, lying on a course of S 65-41-00 W, 78.06 feet from the intersection of the southerly side of said Cumberland Avenue with the Westerly side of said Casco Street;

Thence, S 24-19-00 E, through parcel of land above described, 22.25 feet to a point;

Thence, S 65-41-00 W, through parcel of land first described, 55.00 feet to the face of the existing New England Telephone and Telegraph Company building;

Thence, N 24-21-39 W, along the face of said existing building, 22.25 feet to the southerly side of said Cumberland Avenue;

Thence, N 65-41-00 E, along the southerly side of said Cumberland Avenue, 55.02 feet to the point of beginning.

EX 114 / 210000

2. Beginning at the intersection of the southerly side of said Cumberland Avenue with the easterly side of said Oak Street;

Thence, N 65-41-00 E, along the southerly side of said Cumberland Avenue, 43.70 feet to the face of the existing New England Telephone and Telegraph Company building;

Thence, S 24-21-39 E, along the face of said existing building, 16.00 feet to a point;

Thence, S 65-41-00 W, through parcel of land first described, 42.02 feet to the easterly side of said Oak Street;

Thence, N 30-30-00 W, along the easterly side of said Oak Street, 16.09 feet to the point of beginning.

Such activity will be scheduled in advance with the Grantee such that it will not impede access to the building, and Grantor will repair any damage caused by such activity.

ALSO EXCEPTING AND RESERVING to the Grantor, a right of way for pedestrian traffic from the northerly line of land to be retained by the Grantor to Oak Street.

ALSO EXCEPTING AND RESERVING to the Grantor, an interior cable vault easement, 12 feet in width, over the cable vault area located in the basement of said existing New England Telephone and Telegraph Co. building.

BEARINGS are based on Grantor's record deed and being magnetic 1915.

ALL iron pipes set are 5/8" rebar capped "McDONALD" P.L.S. 2080."

BEING a portion of the premises conveyed to the Grantor by the City of Portland by deed dated June 10, 1974, recorded in said Registry of Deeds in Book 3556, Page 258.

FURTHER reference is made to plan entitled "Land to be conveyed, Located on Cumberland Avenue, Casco Street, Shepley Street, and Oak Street, Portland, Maine." prepared for New England Telephone and Telegraph Company by T.F. McDonald Land Surveying, 60. Portland, Maine, dated January 1993.

RECEIVED  
REGISTERED REGISTRY OF DEEDS

54 JUN -7 PM 2:30

CUMBERLAND COUNTY

John B O'Brien



STAUBACH

June 4, 2001

*via Overnight Delivery*

Ms. Tammy Munson  
**CITY OF PORTLAND**  
Planning & Urban Development  
389 Congress Street  
Portland, ME 04101

Re: CommTel, 380 Cumberland Avenue, Portland, Maine  
Site Review Application

Dear Ms. Munson,

On behalf of our client CommTel, we respectfully submit this Site Review Application for proposed construction and interior tenant improvements to the above referenced property. Included please find a copy of the property deed and ten (10) sets of supporting documentation as required per Section 14-525 of the City of Portland, Maine Zoning Ordinance.

Please call us should you have any questions or require further information.

Sincerely,

THE STAUBACH COMPANY

Bryan Taylor Baldwin  
Director – Design & Construction Consulting

Enclosures

cc: Paul Schumann (CommTel)  
Nicole Boutet (CommTel)  
Kurt Lamar (EYP)  
Jack Lufkin (City of Portland)  
File - C:\d&c\projects\commtel\regulatory\munson1.doc

**Site Review Pre-Application**  
**Multi-Family/Attached Single Family Dwellings/Two-Family Dwelling**  
**or Commercial Structures and Additions Thereto**

In the interest of processing your application in the quickest possible manner, please complete the Information below for Site Plan Review  
**NOTE\*\*If you or the property owner owes real estate or personal property taxes or user charges on ANY PROPERTY within the City, payment arrangements must be made before permits of any kind are accepted.**

COMMTEL PROPERTIES, LLC  
 Applicant

6/1/01  
 Application Date

30 FOREST AVENUE, PORTLAND, ME 04101  
 Applicant's Mailing Address

SITING & TENANT IMPROVEMENTS  
 Project Name/Description

THE STAUBACH COMPANY  
 Consultant/Agent

380 CUMBERLAND AVENUE  
 Address Of Proposed Site

BRYAN TAYLOR BARDWIN / 781-235-5101 / 781-235-3804  
 Applicant/Agent Daytime telephone and FAX

CHART 037 / BLOCK B / LOT 001  
 Assessor's Reference, Chart#, Block, Lot#

Proposed Development (Check all that apply)  New Building  Building Addition  Change of Use  Residential  Office  Retail

Manufacturing  Warehouse/Distribution  Parking Lot  Other(Specify) BUSINESS SERVICES

30,188 GASTING + 860 ADDITIONAL SF.  
 Proposed Building Square Footage and/or # of Units


1.08  
 Acreage of Site

B-3  
 Zoning

Major Site Plan \_\_\_\_\_ Minor Site Plan

- You must Include the following with you application:
- 1) A Copy of Your Deed or Purchase and Sale Agreement
  - 2) 10 sets of Site Plan packages containing the information found in the attached sample plans and checklist.
- (Section 14-522 of the Zoning Ordinance outlines the process, copies are available for review at the counter, photocopies are \$ 0.25 per page)

I hereby certify that I am the Owner of record of the named property, or that the proposed work is authorized by the owner of record 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 an approval for the proposed project or use described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this approval at any reasonable hour to enforce the provisions of the codes applicable to this approval.

Signature of applicant: 	<u>BRYAN TAYLOR BARDWIN</u>	Date: <u>6/4/01</u>
---	-----------------------------	---------------------

Site Review Fee: Major \$500.00 Minor 400.00

This application is for site review ONLY, a Building Permit application and associated fees will be required prior to construction.

## 1.0 Introduction

CommTel has executed a lease for approximately 16,100 rentable square feet of space at 380 Cumberland Avenue to create a managed network services facility commonly referred to as a "data center". Built in 1973 for New England Telephone as a telecommunications switching facility, the existing building is a two story concrete structure sited on a 1.08 acre lot with thirty-seven (37) parking.

Sprint currently leases a portion of the second floor for use as a telecommunications switching facility with no permanent employees in the building. Worldcom currently leases a portion of the second floor for use as a telecommunications switching facility with some support office space. Worldcom has approximately three (3) permanent employees working in the building. The building owner Peter Macomber currently occupies the ground floor operating a photography studio. His business employs approximately ten (10) permanent employees and will be vacating the premises on August 1, 2001. CommTel will occupy the entire ground floor and a portion of the second floor. Only two (2) security guards will occupy CommTel's space on a permanent basis. Approximately five (5) employees may be working in the building during normal business hours, but they will have permanent offices in CommTel's facility located at 39 Forest Avenue. The anticipated permanent building occupancy will be reduced from fifteen (15) to seven (5).

The following comprises a summary scope of work to prepare the space for its intended use. In general the work includes: demolition of all existing non-structural architectural materials and finishes, demolition of a portion of existing MEP equipment, construction of a new loading dock and canopy, construction of a single story addition of approximately 860 gross square feet, new architectural finishes, new MEP equipment, new security system, tele/data wiring and equipment, and all code required upgrades to the leased premises including full ADA compliance.

## 2.0 Drawings and Exhibits

The following drawings are submitted in support of this application:

<u>Dwg. #</u>	<u>Title</u>	<u>Date</u>
Exhibit A	Standard Boundary Survey	1/26/93
C101	Site Plan of Existing Conditions	5/9/01
C102	Site Plan of Proposed Conditions	6/1/01
C103	Landscaping & Erosion Control Plan	6/1/01
AD101	Existing Ground Floor Plan	5/9/01
A101	Proposed Ground Floor Plan	6/1/01
A102	Proposed Second Floor Plan	6/1/01
A103	Roof Plan	6/1/01
A201	Building Elevations	6/1/01
Exhibit B	Letter from Cavanaugh & Tocci	5/21/01
Exhibit C	Letter from Building Owner	5/30/01
Exhibit D	Property Deed	5/27/94

## 3.0 Request for Determination

Per section 14-523 of the Zoning Ordinance, the proposed project fails to qualify for exemption from Site Review under the following paragraphs.

New mechanical equipment will be placed on the roof as shown on drawing A103, centrally located to minimize potential view from grade.

Two (2) emergency generators are proposed to be located on concrete pads south of the existing parking lot as shown on drawing C102. A concrete retaining wall is proposed to create a level area approximately five (5) feet above the parking lot, nestled against the existing exposed ledge on the southeast portion of the site. The generators with integral fuel storage tanks will be contained within custom fabricated acoustical enclosures, essentially large metal boxes with louvers for air intake and exhaust. Two (2) pad-mounted electrical transformers are proposed to be located adjacent to Casco Street as shown on drawing C102. The generator enclosures and transformers will be surrounded by a chain link fence with visual screen inserts for security. Additional planting will supplement existing planting to minimize the visual impact of the proposed equipment as shown on drawing C102.

5.0 External Effects

Per section 14-221.1 of the Zoning Ordinance, the level of sound emanating from the site may not exceed fifty-five (55) decibels on the A scale during the hours of 9:00 pm and 7:00 am as the most stringent requirements. Two (2) 1,500 kW diesel-fired electrical generators are proposed to be located on grade as shown on drawing C102. Air-cooled HVAC condensers will be placed on the roof as shown on drawing A103. Please refer to Exhibit B for a description of the acoustical impact of the equipment and proposed mitigation measures.

Per section 14-221.1 of the Zoning Ordinance, smoke shall not be emitted at a density in excess of twenty percent (20%) opacity level as classified in Method 9 (Visible Emissions) of the Opacity Evaluation System of the U. S. Environmental Protection Agency. Application for a permit to install and operate the two (2) generators will be submitted to the Maine Department of Environmental Protection by June 15, 2001.

6.0 Area Calculations

	Existing	Proposed
Ground Floor	15,704 square feet	16,564 square feet
Second Floor	14,484 square feet	14,484 square feet
Total Floor Area	30,188 square feet	31,048 square feet
Total Site Area	47, 273 square feet	

7.0 Schedule Milestones

Activity	Start	Finish
Site Plan Review	6/4/01	7/6/01
DEP Approval for Generators	6/15/01	7/27/01
Fuel Storage Permit	6/11/01	6/22/01
State Fire Marshall Approval	6/11/01	6/22/01

Handwritten notes: Mark Coe 287-2437, Steve Dickson 624-8734

Demolition Permit	7/6/01	7/13/01
Building Permit	7/6/01	7/19/01
Construction	8/1/01	11/20/01

This application is the initial permitting activity for this project.

## 7.0 Site Plan Checklist

The following table corresponds to the site plan checklist, providing comments or directing the reviewer to specific documents or narratives found elsewhere within this application.

Item	Comment
1-5	Refer to the Standard Boundary Survey
6	Refer to drawing C101
6-30	Refer to drawing C102
31	Existing surface mounted high intensity discharge (HID) light fixtures facing the parking lot and at the loading dock to remain.
32	Refer to drawing C102
33-34	Refer to previous sections of this application
35	No residential use provided
36	The total land area of the site is 1.08 acres
37	Refer to section 6.0 of this application
38	Construction Activity Easements 1 and 2, and the Interior Cable Vault Easement are shown on the Standard Boundary Survey. The applicant and property owner anticipate granting an easement to Central Maine Power for the placement of two (2) pad-mounted transformers as shown on drawing C102.
39	Solid waste is currently and will continue to be collected in a dumpster located on site adjacent the intersection of Cumberland Avenue and Oak Street as shown on drawing C102. The dumpster is emptied weekly.
40	No significant additional water usage or sewage discharge is anticipated.
41	There is no evidence of any existing drainage or topography problems. New sitework will not create any drainage or topography problems.



- 42 Refer to section 7.0 of this application
- 43-45 Refer to section 7.0 of this application
- 46 Not applicable
- 47 The applicant intends to self-finance this project. The estimated construction cost is approximately \$9.3 million.

S:\dccc\projects\commtel\regulatory\siteplan.doc (6/1/01)

Paragraph	Comment
4b	The building addition of 860 sf > 500 sf maximum allowable
4e	The existing thirty-seven (37) parking spaces shall be reduced by four (4)

Per section 14-522 of the Zoning Ordinance, the applicant requests a determination that the proposed project meets the qualifications of a “minor development” under the following paragraphs.

Paragraph	Comment
1-3	Not applicable
4	The building addition of 860 sf < 10,000 maximum allowable
5	Not applicable
6	Building is located within the B-3 zone and is currently used as a photography studio as a permitted use under section 14-217 2o. Business Services. The proposed use of qualifies as a permitted use under the same section and paragraph. Refer to the existing ground floor and second floor plans, and drawings A101 and A102.
7-16	Not applicable

4.0 Proposed Scope of Work

The applicant intends to demolish the existing interior construction on the ground floor as shown on drawing AD101 supporting the current use as a photography studio. New interior construction will support returning the leased premises to a large computer room controlled environment similar to the building’s original use and that of the existing other two (2) tenants.

The proposed new interior construction as shown on drawing A101 consists of non-structural partitions defining the following spaces: lobby, security office, toilet rooms, janitor’s closet, breakroom, storage rooms, work rooms, mechanical rooms, electrical rooms, and the main computer equipment room.

A small single-story addition to the east elevation of the building is proposed to house electrical equipment as shown on drawing C102. The proposed exterior material is ribbed pre-cast concrete panels to match the existing exterior construction as shown on drawing A201. A pair of access doors are provided solely for the use of the fire department and Central Maine Power. Employee ingress will continue from the existing main building entrance.

A new loading dock and canopy are proposed at the rear entry of the ground floor as shown on drawings C102 and A101. The canopy materials will be a light steel structure as shown on drawing A201. The single bay loading dock will allow for occasional delivery of computer equipment, and will accommodate on-site parking of a full size tractor trailer.

JN: 2185  
 Project Description: Portland PM Reoccupancy  
 Project Location: Portland, Maine  
 Date: February 6, 2009

Gorrill-Palmer Consulting Engineers, Inc.  
 P.O. Box 1237  
 15 Shaker Road  
 Gray, Maine 04039

**General Office Building  
 Land Use Code (LUC) 710**

Employees 51,580

**Trip Ends Based on Fitted Curve Equation**

Time Period	ITE Trip Rate	Trip Ends	Number of Studies	Directional Split *		Directional Distribution		R <sup>2</sup>
				IN	OUT	IN	OUT	
Weekday	$\ln(T) = 0.77 \ln(X) + 3.65$	801	78	50%	50%	401	400	0.80
AM Peak Hour	$\ln(T) = 0.80 \ln(X) + 1.55$	110	217	90%	10%	99	11	0.83
PM Peak Hour	$T = 1.12(X) + 78.81$	137	235	15%	85%	21	116	0.82
Saturday	$T = 2.14(X) + 18.47$	129	17	50%	50%	65	64	0.66
Peak Hour of Generator	$\ln(T) = 0.81 \ln(X) - 0.12$	22	10	55%	45%	12	10	0.59

\* Percentages rounded to nearest 5%

**Trip Ends Based on Average Rate**

Time Period	ITE Trip Rate	Trip Ends	Number of Studies	Directional Split *		Directional Distribution		R <sup>2</sup>
				IN	OUT	IN	OUT	
Weekday	$T = 11.01(X)$	568	78	50%	50%	284	284	---
AM Peak Hour	$T = 1.55(X)$	80	217	90%	10%	72	8	---
PM Peak Hour	$T = 1.49(X)$	77	235	15%	85%	12	65	---
Saturday	$T = 2.37(X)$	122	17	50%	50%	61	61	---
Saturday Peak Hour of Gen.	$T = 0.41(X)$	21	10	50%	50%	11	10	---

\* Percentages rounded to nearest 5%

PM Peak Hour:  $T = 1.49/1.55$  (AM Peak) 106 15% 85% | 16 90 0.82

JN: 2185  
 Project Description: Portland PM Reoccupancy  
 Project Location: Portland, Maine  
 Date: February 6, 2009

Gorrill-Palmer Consulting Engineers, Inc.  
 P.O. Box 1237  
 15 Shaker Road  
 Gray, Maine 04039

**Fast-Food Restaurant without Drive-Through Window  
 Land Use Code (LUC) 933**

Gross Floor Area (ft<sup>2</sup>): 1,535

Based on Average Rate

Time Period	ITE Trip Rate	# of Sources	Trip Ends	Directional Split *		Directional Distribution		R <sup>2</sup>
				IN	OUT	IN	OUT	
Weekday	T = 716.00 (X)	1	1099	50%	50%	550	549	N/A
Peak Hour of Adjacent Street Traffic 7-9AM	T = 43.87 (X)	2	67	60%	40%	40	27	N/A
Peak Hour of Adjacent Street Traffic 4-6PM	T = 26.15 (X)	4	40	50%	50%	20	20	N/A
AM Peak Hour of Generator	T = 63.50 (X)	2	97	50%	50%	49	48	N/A
PM Peak Hour of Generator	T = 52.40 (X)	5	80	50%	50%	40	40	N/A
Saturday	T = 696.00 (X)	1	1068	50%	50%	534	534	N/A
Saturday Peak Hour	T = 54.55 (X)	1	84	50%	50%	42	42	N/A

\* Percentages rounded to nearest 5%

JN: 2185  
 Project Description: Portland PM Reoccupancy  
 Project Location: Portland, Maine  
 Date: February 10, 2009

Gorrill-Palmer Consulting Engineers, Inc.  
 P.O. Box 1237  
 15 Shaker Road  
 Gray, Maine 04039

**High Turnover (Sit Down) Restaurant  
 Land Use Code (LUC) 932**

Gross Floor Area (ft<sup>2</sup>): 53,115

Time Period	ITE Trip Rate (Average Rate)	# of Sources	Trip Ends	Directional Split		Directional Distribution		R <sup>2</sup>
				IN	OUT	IN	OUT	
Weekday	T = 127.15 (X)	14	6754	50%	50%	3377	3377	N/A
AM Peak Adjacent Street	T = 11.52 (X)	18	612	50%	50%	306	306	N/A
PM Peak Adjacent Street	T = 11.15 (X)	46	592	60%	40%	355	237	N/A
AM Peak of Generator	T = 13.53 (X)	21	719	50%	50%	360	359	N/A
PM Peak of Generator	T = 18.49 (X)	31	982	55%	45%	540	442	N/A
Saturday	T = 158.37 (X)	2	8412	50%	50%	4206	4206	N/A
Saturday Peak Hour of Gen.	T = 14.07 (X)	8	747	65%	35%	486	261	N/A

JN: 2185  
 Project Description: Portland PM Reoccupancy  
 Project Location: Portland, Maine  
 Date: February 10, 2009

Gorill-Palmer Consulting Engineers, Inc.  
 P.O. Box 1237  
 15 Shaker Road  
 Gray, Maine 04039

**Specialty Retail Center  
 Land Use Code (LUC) 814**

Gross Floor Area (ft<sup>2</sup>): 53,115

**Average Rate**

Time Period	ITE Trip Rate	Trip Ends	Number of Studies	Directional Split *		Directional Distribution		R <sup>2</sup>
				IN	OUT	IN	OUT	
Weekday	T = 44.32 (X)	2354	4	50%	50%	1177	1177	—
Peak Hour of Adjacent Street Traffic 7-9 AM**	—	—	—	—	—	—	—	—
Peak Hour of Adjacent Street Traffic 4-6 PM	T = 2.71 (X)	144	5	45%	55%	65	79	—
AM Peak Hour of Generator	T = 6.84 (X)	363	4	50%	50%	182	181	—
PM Peak Hour of Generator	T = 5.02 (X)	267	3	55%	45%	147	120	—
Saturday	T = 42.04 (X)	2233	3	50%	50%	1117	1116	—
Saturday Peak Hour of Gen.***	—	—	—	—	—	—	—	—

AM Peak of Adjacent Street 7-9 AM\*\*\* T = 0.268 (PM Peak Hour) 39  
 Saturday Peak Hour\*\*\* T = 1.311 (PM Peak Hour) 189

\* Percentages rounded to nearest 5%

\*\*Based on ratio of AM/PM traffic for LUC 820, Shopping Center  
 \*\*\*Saturday Peak Hour comes from a ratio of PM to Saturday trip rates from LUC 820 - Shopping Center

**Fitted Curve Equation**

Time Period	ITE Trip Rate	Trip Ends	Number of Studies	Directional Split *		Directional Distribution		R <sup>2</sup>
				IN	OUT	IN	OUT	
Weekday	T = 42.78 (X) + 37.66	2310	4	50%	50%	1155	1155	0.69
Peak Hour of Adjacent Street Traffic 7-9 AM	—	—	—	—	—	—	—	—
Peak Hour of Adjacent Street Traffic 4-6 PM	T = 2.40 (X) + 21.48	149	5	45%	55%	67	82	0.98
AM Peak Hour of Generator	T = 4.91 (X) + 115.59	376	4	50%	50%	188	188	0.90
PM Peak Hour of Generator	—	—	—	—	—	—	—	—
Saturday	—	—	—	—	—	—	—	—
Saturday Peak Hour of Gen.	—	—	—	—	—	—	—	—

\* Percentages rounded to nearest 5%  
 (—) Not Given

AM Peak of Adjacent Street 7-9 AM\*\*\* T = 0.268 (PM Peak Hour) 40  
 Saturday Peak Hour\*\*\* T = 1.311 (PM Peak Hour) 195

\*\*Based on ratio of AM/PM traffic for LUC 820, Shopping Center  
 \*\*\*Saturday Peak Hour comes from a ratio of PM to Saturday trip rates from LUC 820 - Shopping Center

Recorded 6/4/08 @ 9:09  
Book 26103, Page 335

6  
A-12

COPY

## EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT dated as of June 2, 2008 is by and between **GRE CONGRESS CANAL LLC**, a Delaware limited liability company ("GRE Congress"), with a mailing address of c/o Guggenheim Real Estate LLC, 4 Copley Place, Boston, Massachusetts 02116, and **ATLANTIC NATIONAL HOLDINGS, LLC**, a Delaware limited liability company ("Atlantic"), with a mailing address c/o 50 Portland Pier, Suite 400, Portland, Maine 04101. Unless expressly provided otherwise herein, the terms "GRE Congress" and "Atlantic" are intended to include the parties and their respective heirs, successors and assigns.

### RECITALS

A. GRE Congress owns certain parcels of land in the City of Portland, County of Cumberland, State of Maine (the "GRE Congress Land"), which GRE Congress acquired by deed from October Corporation dated August 24, 2006, and recorded in the Cumberland County Registry of Deeds in Book 24299, Page 51.

B. Atlantic owns a certain parcel of land in said City of Portland (the "Public Market Parcel"), which Atlantic acquired by deed from Canal Congress LLC of near even date herewith and to be recorded in the Cumberland County Registry of Deeds. The Public Market Parcel is adjacent to a certain portion of the GRE Congress Land that is situated on the northeasterly side of Preble Street and the northwesterly side of Congress Street and is known, and referred to herein, as "465 Congress Street".

C. Atlantic owns a certain pedestrian bridge (the "Skywalk") connecting the Public Market Parcel and a certain portion of the GRE Congress Land that is situated on the northerly side of Cumberland Avenue and is known as the "Garage Parcel", which Skywalk extends over Cumberland Avenue, a public street. The Skywalk was constructed and is maintained pursuant to a Lease by and between the City of Portland, as Lessor, and August Corporation, as Lessee, dated February 27, 1998, a memorandum of which Lease is recorded in said Registry in Book 13712, Page 165 (the "Skywalk Lease"). The Skywalk Lease was assigned to GRE Congress by mesne assignments as evidenced by instruments recorded in said Registry in Book 15254, Page 66, Book 15259, Page 300, Book 16520, Page 1, and Book 24299, Page 62. Immediately prior to the delivery of this Easement Agreement, the Skywalk and the Skywalk

Lease has been assigned from GRE Congress to Atlantic by Bill of Sale and by Assignment and Assumption of Lease, both dated on or about this date and recorded herewith.

D. GRE Congress and Atlantic desire to set forth their agreement as to certain easements with respect to the Skywalk, access and maintenance of driveways and curbs, and the restrictions and terms and conditions with respect thereto.

NOW, THEREFORE, in consideration of the mutual promises of the parties contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Skywalk Support Easement.

(a) GRE Congress hereby grants to Atlantic an easement for construction, maintenance, repair, replacement, support and removal of the Skywalk in substantially the now-existing location and configuration on the southerly wall of the garage building on the Garage Parcel (the "Skywalk Easement"); provided, however, this easement does not include access to the interior of such garage building except to the extent reasonably required for such construction, maintenance, repair, replacement or removal, or for inspections of the Skywalk Bridge. Atlantic hereby agrees that GRE Congress may establish from time to time rules and regulations regarding access to the garage.

(b) Atlantic covenants and agrees, at its sole cost and expense, to maintain the Skywalk in good and structurally sound condition and repair and in full compliance with all applicable laws, ordinances, and regulations, including without limitation all equipment necessary to support the Skywalk in the now-existing location and configuration, to comply with all maintenance obligations set forth in the Skywalk Lease, and to maintain liability insurance policies covering the Skywalk in such amounts and coverage as is reasonably prudent and customarily maintained for similar structures (collectively, the "Maintenance Obligations"). If Atlantic fails to perform the Maintenance Obligations, and such failure continues after GRE Congress affords Atlantic written notice of such failure, and Atlantic either elects not to perform the Maintenance Obligations or fails to perform the Maintenance Obligations within a reasonable amount of time, GRE Congress shall have the right and easement, but not the obligation to perform, at its option, any or all of the Maintenance Obligations. Atlantic shall reimburse GRE Congress upon demand for all costs incurred by GRE Congress for such performance of any or all of the Maintenance Obligations, which costs shall accrue interest from the date of expenditure until paid at the annualized rate of 12%. If such costs and expenses are not paid upon demand, Atlantic agrees to pay all costs of collection, including attorneys' fees and costs.

(c) Atlantic hereby covenants and agrees that if the Skywalk ceases to be used as access to the Public Market Parcel for a period of 12 consecutive months, GRE Congress shall have the right, at any time thereafter, to terminate the Skywalk Easement by giving written notice to Atlantic of such termination indicating the period of non-use (the "Skywalk Non-Use Termination Notice"). If Atlantic disagrees with GRE Congress as to the use of the Skywalk during such 12-month period, it shall provide GRE Congress with written objection to such



termination and evidence of such use of the Skywalk for access within 30 days of receipt of the Skywalk Non-Use Termination Notice. If Atlantic fails to provide written objection and such evidence within such 30-day period, the non-use shall be conclusively established and GRE Congress may thereafter file an instrument of termination in the Cumberland County Registry of Deeds, whereupon the Skywalk Easement shall terminate. If Atlantic timely provided written objection and such evidence of use, the dispute shall be referred to mediation and if such mediation is unsuccessful, to arbitration in the City of Portland pursuant to the rules of the American Arbitration Association then in effect.

(d) Atlantic hereby covenants and agrees that if it fails to perform the Maintenance Obligations and GRE Congress, in its sole discretion, determines that such failure interferes with the operation of the garage or presents a safety issue, then GRE Congress shall have the power to suspend Atlantic's use of the Skywalk Easement by giving written notice to Atlantic of such suspension (the "Maintenance Suspension Notice"), and such suspension will continue until such time as Atlantic is in compliance with its obligations, as evidenced by a certificate addressed to GRE Congress by a Maine licensed engineer (the "Engineer's Certificate"), in form and substance reasonably satisfactory to GRE Congress, certifying that the Maintenance Obligations have been completed and that the Skywalk is structurally sound and in good condition and repair. If such Engineer's Certificate is not delivered to GRE Congress within eighteen (18) months after the Maintenance Suspension Notice, GRE Congress shall have the right at any time thereafter to terminate the Skywalk Easement by giving written notice to Atlantic and by filing an instrument of termination in the Cumberland County Registry of Deeds, whereupon the Skywalk Easement shall terminate. Anything to the contrary herein notwithstanding, if GRE Congress determines in its sole, but reasonable judgment, that the failure to comply with the Maintenance Obligations presents an imminent safety issue, GRE Congress shall have the right, at any time after the Maintenance Suspension Notice has been given, and without further notice, to undertake such repair or maintenance as GRE Congress reasonably determines is appropriate in order to rectify such safety condition and to prevent its reoccurrence or any other reasonably foreseeable safety issue. All costs and expenses incurred by GRE Congress in investigating and undertaking such repair and maintenance shall be due and payable upon demand, which costs shall accrue interest from the date of expenditure until paid at the annualized rate of 12%. Atlantic's use of the Skywalk Easement shall remain suspended until such costs and accrued interest are paid in full. If such costs and expenses are not paid upon demand, Atlantic agrees to pay all costs of collection, including attorneys' fees and costs.

(e) If the Skywalk Easement is terminated pursuant to any subsection of this Section 1, Atlantic, at its sole cost and expense, shall promptly cause the Skywalk to be removed, the wall in the garage on the Garage Parcel to be reconstructed where the entrance to the Skywalk had been, and to repair and restore any damage to the garage or the Garage Parcel caused by such removal. If such removal is not commenced within thirty (30) days after termination of the Skywalk Easement, or if once commenced is not pursued diligently, including the restoration obligations described above, GRE Congress shall have the right, at any time after ten (10) days prior notice to Atlantic, except no notice is necessary if GRE Congress reasonably determines that an imminent safety issues exists, to undertake and complete such removal and restoration obligations described in this subsection (e). All costs and expenses incurred by GRE Congress in

undertaking such removal and restoration shall be due and payable upon demand, which costs shall accrue interest from the date of expenditure until paid at the annualized rate of 12%. If such costs and expenses are not paid upon demand, Atlantic agrees to pay all costs of collection, including attorneys' fees and costs.

(f) Atlantic shall have the right to lease up to 280 unreserved monthly parking spaces at market rents in the garage situated on the Garage Parcel (the "Preble Street Garage") for so long as the Preble Street Garage shall be operated as a public garage. Atlantic shall provide GRE Congress with written notice that it requires any of said spaces and GRE Congress will provide Atlantic with such spaces, but only as they become available; provided however, for a period of two years from June 3, 2008, GRE Congress shall be required to provide said spaces regardless of availability upon ninety (90) days prior written notice. Atlantic shall have the right to relinquish all or any portion of such 280 parking spaces by giving written notice of relinquishment to GRE Congress; provided, however, that any parking spaces so relinquished shall be irrevocable, absent written consent of GRE Congress. Any spaces so relinquished by Atlantic shall permanently reduce the 280 monthly parking spaces allotted hereby, unless otherwise agreed in writing by GRE Congress. The use of such spaces shall be at Atlantic's sole risk and upon the terms and conditions of use established from time to time by GRE Congress then in effect for monthly parkers. In the event that Atlantic defaults in the payment of rent or any part thereof, this right to lease shall permanently terminate. Notwithstanding anything to the contrary herein, GRE Congress is not obligated to continuously operate a public parking garage on the Garage Parcel, and GRE Congress may elect, at its sole and absolute discretion, to cease operating a public parking garage on the Garage Parcel at any time for any reason or for no reason. Atlantic's rights under this subsection (f) shall automatically expire on the date on which GRE Congress ceases to operate a public parking garage on all or substantially all of the Garage Parcel. Upon the termination of parking rights under this subsection (f), the parties agree to execute a "Notice of Termination," in recordable form, memorializing the termination of such rights. Atlantic hereby acknowledges and agrees that, notwithstanding anything to the contrary contained in this Agreement, GRE Congress shall have the right, in its sole and absolute discretion, to determine from time to time the days and hours of operation for the Preble Street Garage. Atlantic further acknowledges and agrees that GRE Congress shall have the right, at its sole and absolute discretion, to set and adjust such monthly parking fee from time to time. The parties hereto acknowledge and agree that, from time to time, on a temporary basis, (i) the Preble Street Garage may be partially or wholly closed or (ii) the use of the Preble Street Garage may be restricted or limited, as a result of or in connection with repairs, renovations and/or restorations thereto. Supplementing the foregoing, Atlantic acknowledges and agrees further that the inability of Atlantic, its guests and invitees to use all or any portion of the parking spaces during the period of such repairs, renovations and/or restorations shall not constitute a breach or default by GRE Congress of the provisions of this section, and GRE Congress shall have no liability to Atlantic, or its successors or assigns, as a result of such temporary closure or restriction.

2. **Driveway and Curb Easement.** Atlantic hereby grants to GRE Congress an easement over a 12 foot wide strip of land on the Public Market Parcel, which strip is located along and contiguous to the northerly sideline of the Common Boundary of the Public Market Parcel and 465 Congress Street, as generally depicted on Exhibit "A" hereto (the "Common

Boundary" being the line shown on said Exhibit A as "S58° 20' 30" W 122.35'"), for ingress and egress by pedestrians and vehicles, construction, maintenance, repair, replacement, and paving of the driveway and curbing and exterior lighting, light posts and utilities. Atlantic hereby agrees that GRE Congress may establish from time to time rules and regulations regarding use of the driveway for access and for security. GRE Congress hereby agrees to maintain the driveway, curbing and lighting in good condition and repair and in full compliance with all applicable laws, ordinances, and regulations; provided, however, Atlantic hereby agrees to share equally with GRE Congress the cost of such maintenance.

3. Access Easement.

(a) GRE Congress hereby grants to Atlantic an easement over a 30 foot strip of land on 465 Congress Street, which strip is located along and contiguous to the southerly sideline of the Common Boundary of the Public Market Parcel and 465 Congress Street, as generally depicted on Exhibit "A" hereto, for ingress only by service and emergency vehicles (the "Access Easement") from Preble Street to the Public Market Parcel over a portion of the existing semi-circle driveway extending northeasterly from Preble Street, to the extent that such driveway lies within such 30-foot strip. Atlantic hereby agrees that GRE Congress may establish from time to time reasonable rules and regulations regarding access and security, including without limitation the right to establish the traffic pattern as one-way or two-way. Such access shall be limited to maintenance, service and emergency vehicles, and shall not include the right to park. GRE Congress expressly reserves to itself and its successors and assigns the exclusive right to park in the parking spaces shown on Exhibit A. Such easement shall also include ingress by maintenance and construction vehicles on a temporary basis from time to time; provided, however, that as a precondition to the use of the Access Easement by construction vehicles, or permitted vehicles for any use other than service, emergency or routine maintenance, the owner of such vehicles shall first provide to GRE Congress evidence of liability insurance in an amount of not less than \$1,000,000, or such greater amount as GRE Congress shall reasonably determine from time to time, which liability insurance shall expressly name GRE Congress as an additional insured. GRE Congress hereby agrees to maintain the driveway in good condition and repair and in full compliance with all applicable laws, ordinances, and regulations; provided, however, Atlantic hereby agrees to share equally with GRE Congress the cost of such maintenance. Atlantic acknowledges and agrees that the access permitted under this easement is one-way only, such that permitted vehicles may enter from Preble Street, but may not exit onto Preble Street.

(b) GRE Congress shall have the right to relocate the Access Easement from time to time, at the expense of GRE Congress, so long as such relocated Access Easement provides substantially similar access to the Public Market Parcel.

(c) Atlantic hereby covenants and agrees that if the Access Easement ceases to be used as access to the Public Market Parcel for a period of 12 consecutive months, GRE Congress shall have the right, at any time thereafter, to terminate the Access Easement by giving written notice to Atlantic of such termination indicating the period of non-use (the "Access Non-Use Termination Notice"). If Atlantic disagrees with GRE Congress as to the use of the Access Easement during such 12-month period, it shall provide GRE Congress with written objection to

such termination and evidence of such use of the Access Easement for access within 30 days of receipt of the Access Non-Use Termination Notice. If Atlantic fails to provide written objection and such evidence within such 30-day period, the non-use shall be conclusively established and GRE Congress may thereafter file an instrument of termination in the Cumberland County Registry of Deeds, whereupon the Access Easement shall terminate. If Atlantic timely provided written objection and such evidence of use, the dispute shall be referred to mediation and if such mediation is unsuccessful, to arbitration in the City of Portland pursuant to the rules of the American Arbitration Association then in effect.

4. **Notices.** Any and all notices, requests, demands or other communications hereunder shall be deemed to have been duly given if in writing and if transmitted by hand delivery with receipt therefor, by facsimile delivery (with confirmation of receipt and follow up by hard copy or by other means permitted hereby), by overnight courier, or by registered or certified mail, return receipt requested, first class postage prepaid addressed as follows:

If intended for GRE Congress, to:

GRE Congress Canal LLC  
Four Copley Place  
Boston, MA 02116  
Fax No.: (617) 536-5455

If intended for Atlantic, to:

Atlantic National Holdings LLC  
c/o 50 Portland Pier, Suite 400  
Portland, Maine 04101  
Fax No.:

Each party shall have the right to change the address or fax number for which its future notices are to be sent by giving notice to the other party at the address specified above (or any subsequent address for which notice is given as provided herein). Any notice shall be effective upon the earlier of actual receipt or, in the case of notice by certified mail, on the third (3rd) business day after the posting of the same in the United States Postal Service.

5. **General Provisions.**

(a) **Recording.** This Easement Agreement shall be recorded in the Cumberland County Registry of Deeds. Except as provided herein, the rights and easements granted and obligations created by this Easement Agreement are perpetual, shall run with the land, and are and shall be binding upon the parties, their heirs, successors and assigns. Any amendment hereto must be in writing, executed by the parties or their successors and assigns and must be duly recorded in the Registry to be effective.

(b) **Invalidity.** The invalidity or unenforceability of any term or provision of this Easement Agreement by the application of such term or provision to any person or circumstance shall not impair or affect the remainder of this Easement Agreement, and its application to other persons and circumstances and the remaining terms and provisions hereof shall not be invalidated but shall remain in full force and effect.

(c) **Construction.** The following provisions shall apply to any construction, maintenance or other work authorized by the terms of this Easement Agreement.

(i) Once commenced, the work shall be diligently prosecuted to completion, and shall be mechanics lien-free upon completion.

(ii) All work shall be performed in a good and workmanlike manner, shall minimize any inconvenience to the operations conducted by the owner of the burdened property, and shall comply with all applicable laws, ordinances, and regulations.

(iii) If, as a result of any work, any part of the impacted property is altered or disturbed (other than any area to be permanently altered as a result of such work to the extent such alterations are permitted hereunder) the disturbed area shall be promptly restored to as near its original condition as possible.

(iv) All work shall be started only after reasonable advance notice to the landowner, shall be performed at reasonable times and shall be done in a manner so as to minimize disruption to the use and operation of the impacted property, including the performance of work off season or off hours, if appropriate.

(v) The party performing the work shall indemnify, defend and hold harmless the landowner on whose property work is being performed from any loss or damage to persons or property, and from any expenses associated with any claims arising from any such loss or damage which related to the performance of the work, including without limitation reasonable attorney's fees and costs.

(d) **Breach.** In the event of breach or threatened breach of this Easement Agreement, any party hereto shall be entitled to institute proceedings (at law or in equity) for full and adequate relief, and/or compensation from the consequences of said breach or threatened breach. Such remedies shall include without limitation the right to specific performance and injunctive relief.

(e) **Release and Indemnity.** GRE Congress hereby releases and indemnifies Atlantic, its mortgagees, successors and assigns, from any and all claims, liability, damages, demands, costs, expenses (including without limitation reasonable attorney's fees and costs), liens, judgments or award incurred for suffered by Atlantic, arising out of GRE Congress' exercise of its rights hereunder, excepting claims arising from Atlantic's gross negligence. Atlantic hereby releases and indemnifies GRE Congress, its mortgagees, successors and assigns, from any and all claims, liability, damages, demands, costs, expenses (including without limitation reasonable

A-12.7

attorney's fees and costs), liens, judgments or award incurred for suffered by GRE Congress, arising out of Atlantic's exercise of its rights hereunder, excepting claims arising from GRE Congress' gross negligence. Nothing in this Easement Agreement shall be construed to preclude either party from pursuing any remedy against a third party.

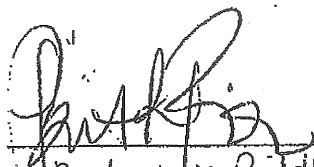
(f) *Interpretation.* The easements, restrictions, terms, provisions and agreements provided for herein are each appurtenant to, and are each being created for the benefit or burden of, the GRE Congress Land and the Public Market Land, and the respective owners thereof and their successors, heirs, assigns, contractors and invitees.

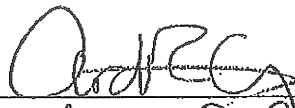
*[Remainder of Page Intentionally Left Blank]*

IN WITNESS WHEREOF, this Easement Agreement has been executed by duly authorized representatives of the parties to be effective as of the date set forth in the first paragraph hereof, and Jackson National Life Insurance Company, holder of certain loan documents granted by GRE Congress Canal LLC, in the attached Joinder, Consent and Subordination joins in this Easement Agreement for the sole purpose of consenting to the Easement Agreement and subordinating the lien of such loan documents to the Easement Agreement.

WITNESS:

GRE CONGRESS CANAL LLC,  
a Delaware limited liability company  
By: Guggenheim Plus Leveraged LLC,  
a Delaware limited liability company

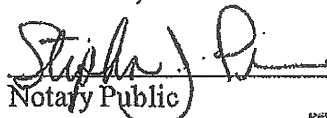
  
\_\_\_\_\_  
Bridget K. Riddle

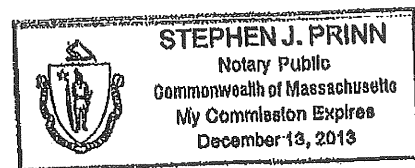
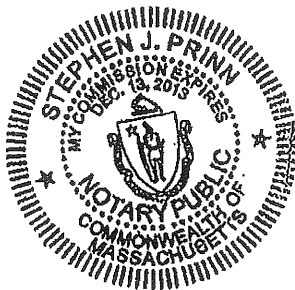
By:   
\_\_\_\_\_  
Name: Andrew R. Gabelson  
Its: Authorized Signatory

COMMONWEALTH OF MASSACHUSETTS  
COUNTY OF Suffolk, ss.

On June 2, 2008, personally appeared the above-named Andrew R. Gabelson  
Authorized Signatory of said Guggenheim Plus Leveraged LLC, sole member of said GRE  
CONGRESS CANAL LLC, in his/her said capacity and acknowledged the foregoing instrument  
to be his/her free act and deed and the free act and deed of said GRE Congress Canal LLC.

Before me,

  
\_\_\_\_\_  
Notary Public  
Printed Name:



WITNESS:

Atlantic National Holdings, LLC, a Delaware limited liability company

T. S. Hanson

By: T. W. Colpitts  
Name: Todd W. Colpitts  
Its: sr. V.P. / Manager

STATE OF MAINE  
COUNTY OF Cumberland, ss.

On June 3, 2008, personally appeared the above-named Todd W. Colpitts  
Manager of said Atlantic National Holdings LLC, in his/~~her~~ said capacity and  
acknowledged the foregoing instrument to be his/~~her~~ free act and deed and the free act and deed  
of said Atlantic National Holdings LLC.

Before me,  
T. S. Hanson  
Notary Public Attorney  
Printed Name: Tom S. Hanson



**Bartlett Design**  
**LIGHTING & ELECTRICAL ENGINEERING**  
942 WASHINGTON STREET BATH, MAINE 04530  
TEL (207) 443-5447 FAX (207) 443-5560  
e-mail: bartdes@blazenetme.net

March 11, 2009

Mr. Eric Giles, Planner  
*City of Portland Planning Division*  
389 Congress Street  
Portland, Maine 04101

RE: PowerPay Office Fitup  
080053

Dear Mr. Giles:

I have been informed by Steve Weatherhead, who is the project architect with *Winton Scott Architects*, that there have been a number of questions raised regarding the site lighting submission for the PowerPay project. Specifically, I understand that there are concerns with the up-light component of the proposed lighting fixtures, as well as with the resulting illuminance levels from the new perimeter lighting.

The proposed site lighting solution includes three elements. Listed below you will find a brief description of these design elements.

1. Removal of Existing Perimeter Down-Lights  
There are a total of forty-seven (47) existing wall mounted down-lights around the perimeter of the building that will be removed as part of the renovations, and not be replaced. These lights utilize 100-watt halogen lamps that each have a lumen rating of 1900 lumens.



2. Replacement of Existing Perimeter Up-Lights  
There are a total of twenty-nine (29) existing wall mounted up-lights around the perimeter of the building, twenty (20) of which will be removed and replaced with new lighting fixtures, and nine (9) of which will be removed and not be replaced. The existing up-lights utilize 100-watt halogen lamps that each has a lumen rating of 1900 lumens. The proposed replacement luminaires utilize 50-watt metal halide lamps which have an initial lumen rating of 3450 lumens each. The lighting distribution of these luminaires provides 90% of the light emitted in a downward direction and about 10% of the light in an upward direction. We feel that the proposed solution meets the intent of the City of Portland ordinance lighting standards for two reasons:



- a. It should be understood that the upward component of the proposed replacement luminaires is directed, not into the open sky, but rather, the up-light component will be totally cut off by the roof overhang above which projects four feet out from the building façade.
- b. The existing building perimeter lighting produces a total of about 44,080 lumens of up-light (80% luminaire efficiency). The proposed S1 lights would reduce the total up-light component to 3,117 lumens, or less than 1% of that which was approved for the original building.

Mr. Eric Giles  
March 11, 2009  
Page 2

3. Reuse of Existing Entrance Canopy Down-Lights

There are a total of seven (7) existing recessed canopy down-lights at the Preble Street entrance, and a total of six (6) existing recessed canopy down-lights at the Elm Street entrance. These down-lights, which were approved in the building's site plan application to the city in 1997, utilize PAR38, 90 watt halogen lamps. The existing canopy lighting at each location also includes twin lamp sockets, each with two PAR16, 60-watt halogen lamps (six twin lamp sockets at the Preble Street canopy, and four twin lamp sockets at the Elm Street canopy). The proposed lighting design calls for the reuse of some of the existing recessed down-lights, and the removal of all of the existing twin lamp sockets. The illumination calculation plan that was originally submitted for this current renovation project was prepared with 90-watt lamps in all of the recessed down-lights. The illuminance calculation results for the original design indicate relatively high illuminance levels immediately under each canopy. Attached you will find a revised lighting calculation plan that reflects the use of PAR38, 45-watt halogen lamps in three of the recessed down-lights at the Preble street canopy (four recessed down-lights will be removed). At the Elm Street canopy, four of the existing recessed down-lights will be retrofit with PAR38, 45-watt lamps (four recessed down-lights will be removed at this canopy). The maximum illuminance below the two entrance canopies has been reduced to 4.4 footcandles.

EXISTING CANOPY DOWN-LIGHTS



I hope that this information answers any questions that you might have regarding the site lighting for the PowerPay project. Please feel free to call if you require any additional information.

Sincerely,

*Lawrence E. Bartlett*

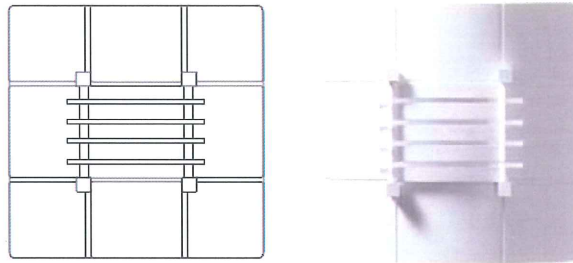
Lawrence E. Bartlett, PE  
LEB/vmb

A-13.2

**Bartlett Design**  
**LIGHTING & ELECTRICAL ENGINEERING**  
942 WASHINGTON STREET BATH, MAINE 04530  
TEL (207) 443-5447 FAX (207) 443-5560  
e-mail: bartdes@blazenetme.net

PROJECT: PowerPay Office Fitup  
DATE: March 11, 2009

**PROPOSED TYPE S1 WALL LIGHT**



**Manufacturer:** Architectural Area Lighting  
**Model #:** ES2-2/50MH/BLK/LAG  
**Lamp:** 50 Watt Metal Halide  
**Dimensions:** 14" Square by 10.5" Projection

**Luminaire Zonal Lumen Summary**

Zone	Lumens	% Lamp	% Fixture
0-30	311.33	9	18
0-40	543.09	16	32
0-60	1117.44	32	66
0-90	1543.23	45	91
90-120	17.45	1	1
90-150	83.62	2	5
90-180	155.87	5	9
0-180	1688.09	49	100



TYPICAL LIGHT  
TO BE REPLACED

TYPICAL LIGHT  
TO BE REMOVED

Uplight or Downlight / Uplight and Downlight

FIXTURE 1	LAMP 2	BALLAST 2	COLOR 3	OPTIONS 4	FASCIA 5	OPTIONS 5
--------------	-----------	--------------	------------	--------------	-------------	--------------

1 Fixture

2 Ballast

3 Color

ES1  
Uplight or Downlight HID

- ES1-2 type 2 distribution
- ES1-3 type 3 distribution
- ES1-4 type 4 distribution
- ES1-W column lighter - narrow beam distribution

ES2  
Uplight and Downlight HID

- ES2-2 type 2 distribution 90% primary - 10% secondary light distribution
- ES2-3 type 3 distribution 90% primary - 10% secondary light distribution
- ES2-4 type 4 distribution 90% primary - 10% secondary light distribution

50MH  
50 watt metal halide multitap ballast, 120/277 volt.

70MH  
70 watt metal halide multitap ballast, 120/208/240/277 volt.

70MHT6  
70 watt metal halide 120/277 volt, bi-pin socket for T6 lamp.

100MH  
100 watt metal halide multitap ballast, 120/208/240/277 volt.

150MH  
150 watt metal halide multitap ballast, 120/208/240/277 volt.

150MHT6  
150 watt metal halide 120/277 volt, bi-pin socket for T6 lamp.

175MH  
175 watt metal halide multitap ballast, 120/208/240/277 volt.

50HPS  
50 watt high pressure sodium multitap ballast, 120/277 volt.

70HPS  
70 watt high pressure sodium multi-tap ballast, 120/208/240/277 volt.

100HPS  
100 watt high pressure sodium multi-tap ballast, 120/208/240/277 volt.

150HPS  
150 watt high pressure sodium multi-tap ballast, 120/208/240/277 volt.

Lamps not included. Unless noted, use ED-17 lamps.  
All ballasts prewired for 277 volts.

WHT white

BLK black

MTB matte black

DGN dark green

DBZ dark bronze

WRZ weathered bronze

BRM metallic bronze

VGR verde green

CRT corten

MAL matte aluminum

MDG medium grey

ATG antique green

LGY light warm gray

CUSTOM COLOR

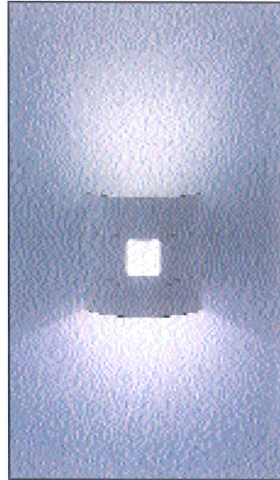
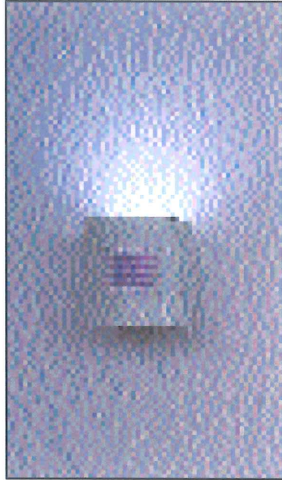
RAL COLOR:

SOLD TO	PO #	JOB NAME
/	/	/

Approvals

Architectural Area Lighting

Uplight or Downlight / Uplight and Downlight



All eSconce fixtures can be configured as an uplight, downlight and uplight/downlight. Both are wet location listed in either the up or down position to accommodate changes in the field during construction.

Fascia panels are available in painted aluminum, copper and stainless steel.



## Architectural Area Lighting

14249 Artesia Blvd / La Mirada, CA 90638  
714.994.2700 / fax 714.994.0522 / [www.aal.net](http://www.aal.net)  
Ref: eS1\_2.pdf Design patents, Copyright 2005.

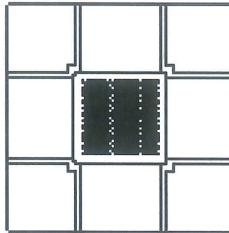
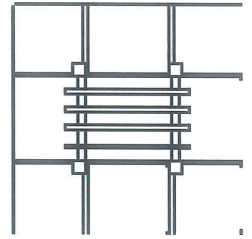
Uplight or Downlight / Uplight and Downlight

4 Options

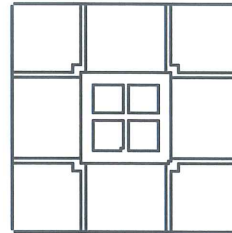
- QRS**  
Quartz restrrike controller and socket for a T-4 mini-cand halogen lamp maximum 150 watt, HID only.
- QL**  
Socket for a T-4 mini-cand halogen lamp. Must be field wired to a separate 120 volt circuit. Maximum 150 watt, HID only.
- PC12**  
120 volt swivel type photocell. Factory wired.
- PC27**  
208/240/277 volt swivel type photocell. Factory wired at 277 volt.
- SCB**  
Surface conduit box. 1/2" NPT inlets on each side. Gasketed front cover for wire access. Standard finish is white.
- LDL**  
Lightly diffused glass lens to conceal the reflector and decrease visual brightness.
- 347**  
120/240/347 volt ballast for HID lamp/ballast except the 50 MH and 50 HPS watt ballast.
- GFH**  
Gel filter holder to add color to the luminous front lens. The holder can be field installed. Filter size is 9.5"/240mm x 2"/50mm. A template of the filter size and shape is provided. The filters are not supplied or installed by AAL. Standard high temperature gel filters are available from Lee Filters (Burbank CA), ROSCO (Stanford CT) or others.
- BBU**  
Battery backup for ES3 only. Mounted inside the fixture with a test switch and light. Provides approx 23% of the (one) lamp lumen output for up to ninety minutes (specify voltage).

5 Fascia Options

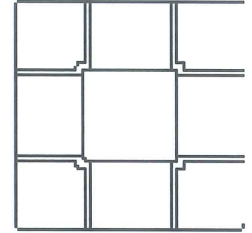
**LAG** Luminous Acrylic Ribs - Edge lit acrylic grill assembly fits over the front lens. Can be combined with the gel filter holder option (GFH) to add color to the edges of the acrylic ribs.



**SMP**  
*Perforated*

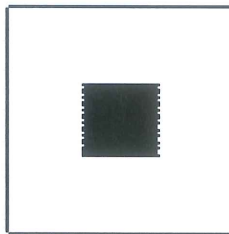


**SM4**  
*4 Squares*

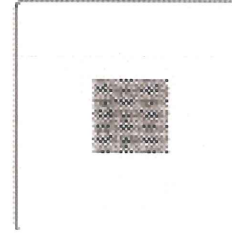


**SMB**  
*Blank cover*

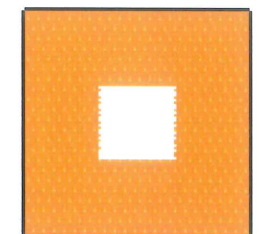
Small Center Panel - Painted the same color as the fixture. All fascia panels are permanently attached to the die cast front door with no exposed fasteners.



**FPP**  
*Painted finish*

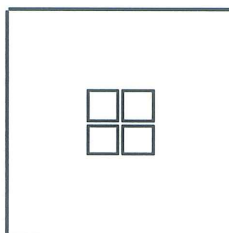


**FPS**  
*Brushed stainless steel*

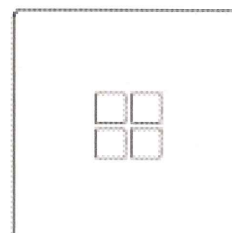


**FPC**  
*Natural copper*

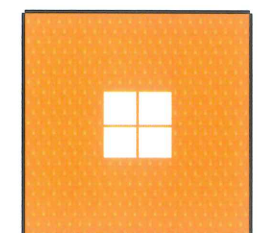
Full fascia panel overlay perforated center - The stainless steel fascia panels have a #4 brushed finish with a horizontal grain direction. The copper fascia panels are cleaned and finished with a protective water based coating to prevent fingerprint marks during installation. The copper will age and patina over time.



**F4P**  
*Painted finish*



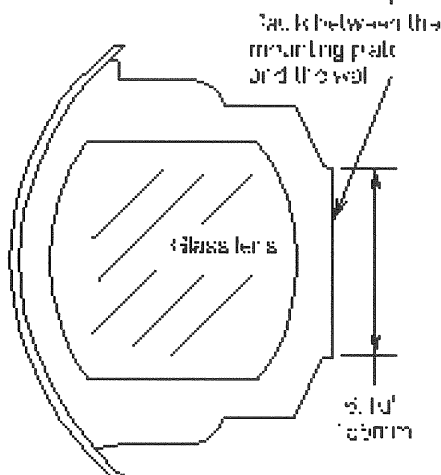
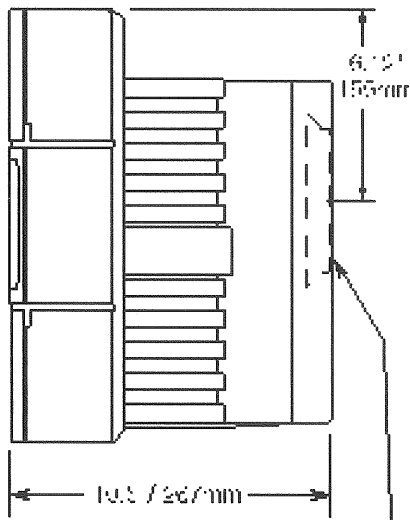
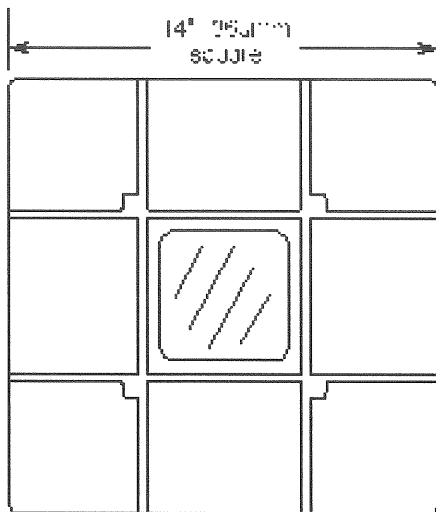
**F4S**  
*Brushed stainless steel*



**F4C**  
*Natural copper*

Full fascia panel overlay four squares - The stainless steel fascia panels have a #4 brushed finish with a horizontal grain direction. The copper fascia panels are cleaned and finished with a protective water based coating to prevent fingerprint marks during installation. The copper will age and patina over time.

Architectural Area Lighting



## Specifications

### HOUSING

The fixture housing is one piece die cast aluminum. The front door is die cast aluminum, hinged and secured with a self tensioning latch for relamping and internal access. The front glass element is etched, tempered glass. The front lens is internally illuminated when the fixture is energized. The main lens for the reflector is molded tempered glass with a crowned shape to shed water when the fixture is oriented as an uplight. The secondary lens for uplight (or downlight) is a molded, prismatic glass refractor lens to evenly illuminate the wall.

The front door is sealed with a memory retentive, molded silicone gasket. The rear electrical access has a molded silicone plug to completely seal the fixture from insects or dirt emanating from the electrical box or conduit.

All internal and external hardware is stainless steel.

### OPTICAL ASSEMBLY

The reflector module is composed of faceted, semi specular anodized aluminum panels rigidly attached in an aluminum module finished in high reflectance white. The reflector module is easily removed by loosening four screws and lifting it out. The ES2, HID uplight + downlight version includes a second reflector assembly attached to the door which directs the light energy to the refractor lens used for the secondary light output. The ES3-CFX, compact fluorescent uplight + downlight version has a second reflector assembly used to direct light through the refractor lens.

### ELECTRICAL

The ballast is mounted on a prewired module with a quick disconnect plug and removed by loosening two captive screws. HID ballasts are high power factor, rated for -30°F starting. Sockets are medium base, pulse rated porcelain. Compact fluorescent sockets for a 42 watt lamp are 4 pin, GX24q-4, with an electronic ballast, -5°F starting. Ballasts are multi-tap, wired at the factory for 277 volts.

### FINISH

Fixture finish consists of a five stage pretreatment regimen with a polymer primer sealer, oven dry off and top coated with a thermoset super TGIC polyester powder coat finish. The finish shall meet the AAMA 605.2 performance specification which includes passing a 3000 hour salt spray test for corrosion resistance.

### INSTALLATION

To install the fixture, the die cast wall plate is secured to a octagonal j-box and wired to the power circuit. The fixture is plugged into a quick disconnect and then hooked onto the wall plate. Two captive screws are then tightened to secure the fixture to the wall plate.

### CERTIFICATION

The fixture is listed with ETL for outdoor, wet location use, in both an up and down orientation, UL1598 and Canadian CSA Std. C22.2 No.250. IP=65

### WARRANTY

Fixture is warranted for three years. Ballast components carry the ballast manufacturer's limited warranty.

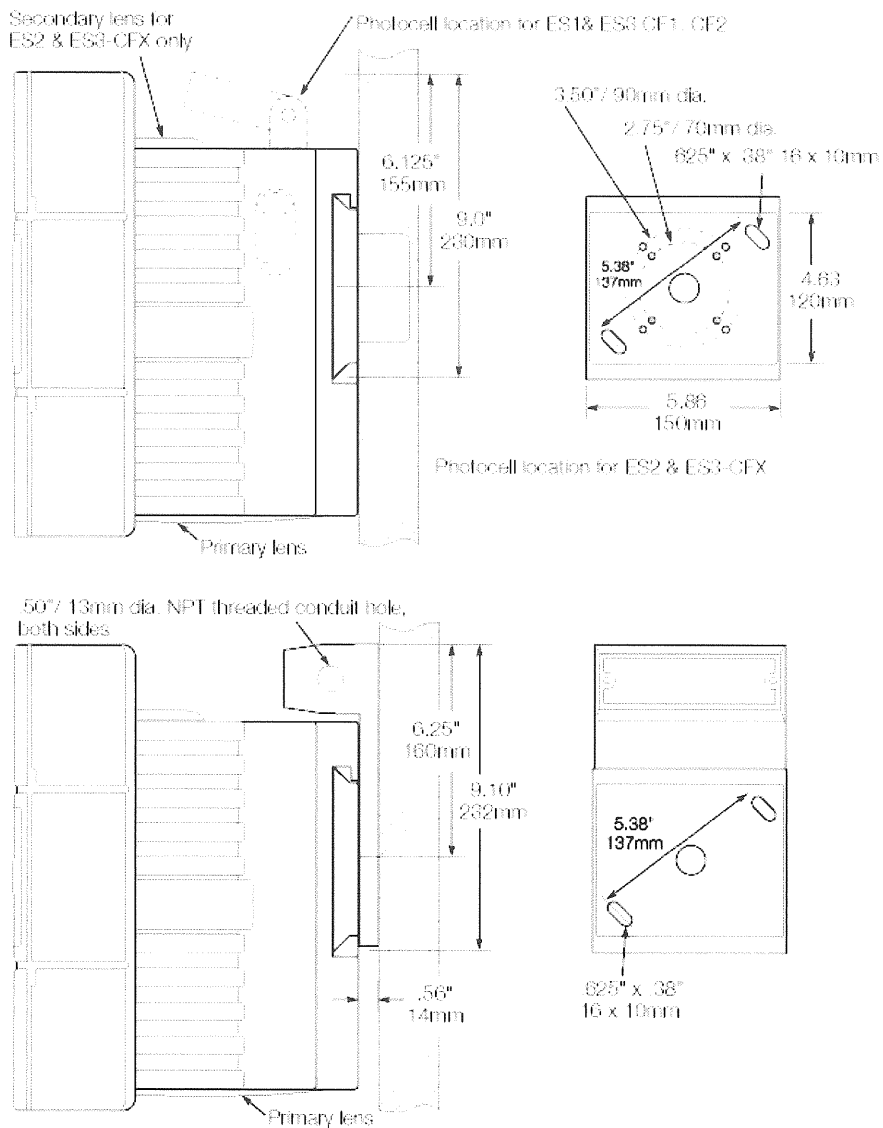
## Architectural Area Lighting



Uplight or Downlight / Uplight and Downlight

Installation

1. Attach the back plate to a standard junction box or the surface with the appropriate fasteners.
  2. Caulk between the back plate and wall with a recommended caulk or sealant.
  3. Wire the supplied quick disconnect to the electric power leads. All eSconce fixtures are factory wired for 277 volts. For other voltages, use an available capped lead(s) for the desired voltage. Attach the new lead to the disconnect plug on the fixture and cap the 277 volt lead from the ballast.
  4. Plug together the fixture and power lead disconnects.
  5. Hang the fixture onto the mounting plate. Fixture can be oriented with the primary lens up or down.
  6. Tighten the two captive, 3/8-16 hex (allen) head bolts to secure the fixture to the mounting plate.
- For mounting the optional Surface Conduit Box - SCB:**
1. Attach the SCB to the wall prior to installing the fixture. A gasketed cover is included. The SCB is finished in white as standard.



Architectural Area Lighting

**From:** Eric Pflugradt <ejpmse@maine.rr.com>  
**Subject:** [Fwd: Fwd: Powerpay - Sewer Capacity Requirement]  
**Date:** March 4, 2009 11:05:46 AM EST  
**To:** FJB@portlandmaine.gov  
**Cc:** Steve Weatherhead <sweatherhead@wintonscott.com>

Mr.Brancely,

I estimate the new sewage generation to be 345 Gallons per hour, or 2,760 gallons per 8 hour weekday (8 am to 5 pm, Monday-Friday), and about 1/100th of that on nights and weekends.

This is based on an office building occupancy of 230 people with only one full shift and a skeleton crew on otherwise.

If you need for information than this, please send me your requirements.

Eric Pflugradt, CPD  
Plumbing and Fire Protection Designer  
**MECHANICAL SYSTEMS ENGINEERS, INC.**  
Royal River Center, Unit #10  
10 Forest Falls Drive, Yarmouth, Maine 04096  
Tel. (207) 846-1441 \* Fax. (207) 846-1443  
Voice mail Ext. 208  
[ejpmse@maine.rr.com](mailto:ejpmse@maine.rr.com)

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

**Subject:**Fwd: Powerpay - Sewer Capacity Requirement

**Date:**Tue, 3 Mar 2009 15:46:40 -0500

**From:**Steve Weatherhead <[sweatherhead@wintonscott.com](mailto:sweatherhead@wintonscott.com)>

**To:**Eric Pflugradt <[ejpmse@maine.rr.com](mailto:ejpmse@maine.rr.com)>

**References:**<[s9ad4ea8.050@smtp.portlandmaine.gov](mailto:s9ad4ea8.050@smtp.portlandmaine.gov)>

Hi Eric,

The message below is from the Planning Department regarding the sewer capacity issue. Can you contact Frank and Dave to find out what info they specifically need to assess capacity?

Thanks,  
Steve

Begin forwarded message:

**From:** "Eric Giles" <[EGILES@portlandmaine.gov](mailto:EGILES@portlandmaine.gov)>  
**Date:** March 3, 2009 3:36:59 PM EST  
**To:** <[sweatherhead@wintonscott.com](mailto:sweatherhead@wintonscott.com)>  
**Cc:** "Barbara Barhydt" <[BAB@portlandmaine.gov](mailto:BAB@portlandmaine.gov)>, "David Margolis-Pineo" <[DMP@portlandmaine.gov](mailto:DMP@portlandmaine.gov)>, "Frank Brancely" <[FJB@portlandmaine.gov](mailto:FJB@portlandmaine.gov)>  
**Subject:** Powerpay - Sewer Capacity Requirement





617-591-9995  
203-654-9175  
Katie Johnson  
St. Patrick's  
Church

Karen@chartweb.com





## I. INTRODUCTION

This is a report to the City of Portland Planning Board regarding a request for major site plan approval by Portland Public Market, LLC. This proposal will change the use of an existing commercial building to a mixed use building with an office and cafe. The site plan is proposed on a parcel with 47,647 sq. ft. The total floor area is being increased from 33,333 to 46,451, sq. ft. with the addition of a second level for more office space and the enclosure of the Cumberland and Preble entrance for a conference area. The applicant is proposing to retain the entrances on upper Preble Street and on Elm Street and a small café is proposed on the first floor off the Preble Street entry. A change of use of 10,000 square or more requires major site plan review under Portland's Site Plan Ordinance. The property is located in a B-3 Downtown Business zone.

The Planning Board has not conducted a workshop on this application and the applicant held a neighborhood meeting on March 17, 2009. Please reference **Attachment A15**.

**Applicant:** Portland Public Market, LLC  
**Technical Assistance:** Steve Weatherhead, Winton Scott Architects

### A. Public Notice:

184 notices were mailed announcing this Public Hearing and the legal ad appeared in the Portland Press Herald March 16 and 17, 2009. As of the writing of this report no public comment has been received.

### B. Site Location:

#### 320 Cumberland Ave



Figure #1

170 85 0 170 Feet

The main building entrances front onto Preble St. and at the intersection of Cumberland Ave and





















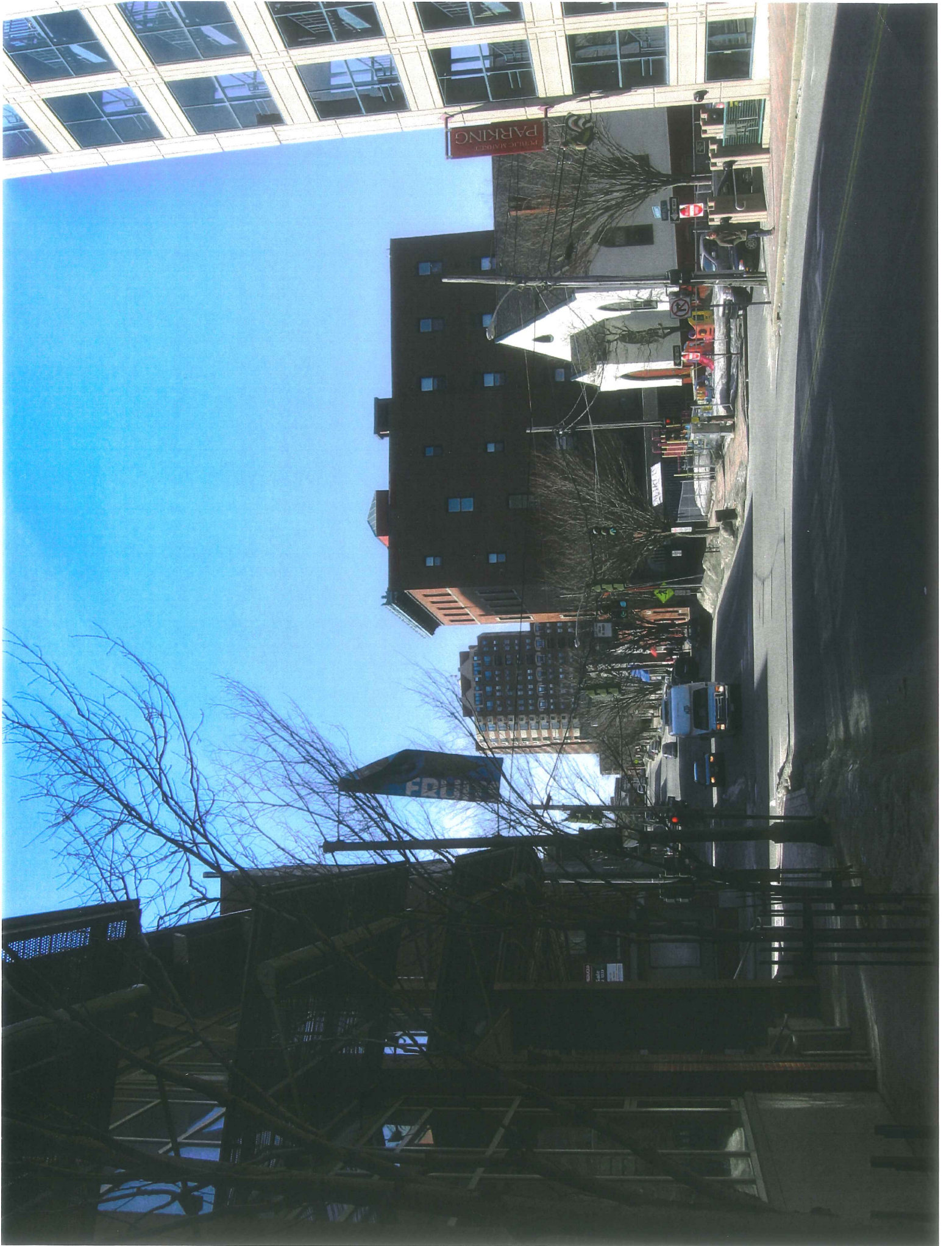
NO PARKING ANY TIME

PUBLIC MARKET PARKING

1-800-PROGRESSIVE  
1-866-MA

PORTLAND







PUBLIC MARKET  
PARKING

PORTLAND PUBLIC MARKET

ONE WAY



PUBLIC MARKET  
**PARKING**

MAINE BANK & TRUST

CUMBERLAND AV

TURNING  
TRAFFIC  
YIELD TO  
PEDESTRIANS

No Left Turn

PORTLAND PUBLIC MARKET



**CITY OF PORTLAND**

January 30, 2002

Mr. Scott W. Roberts  
CommTel  
39 Forest Avenue  
Portland, ME 04101

RE: CommTel, 380 Cumberland Avenue  
(ID# 20010138, CBL#37-B-1)

Dear Mr. Roberts:

I would like to thank you and other members of your team for taking the time to meet with Jay Reynolds and myself concerning the property located at 380 Cumberland Avenue. It is unfortunate that the project as planned will not be going forward at this time. I would like to take this opportunity to summarize the conclusions reached at that meeting and how the City anticipates the scheduling of the projects closeout. The following activities will occur at 380 Cumberland Avenue to return the property to a safe and useable condition:

1. The retaining walls currently under construction will be completed.
2. A four-foot high fence on top of the retaining wall (as included in the original plans) will be erected.
3. All required areas of the site will be backfilled.
4. The construction fence will be removed and the sidewalk will be repaired.
5. The site will be prepared for final paving, loam and seeding and landscaping.
6. The site will be paved, loamed and seeded and the required landscaping next to the retaining wall will be planted when weather permits (spring).

Jay Reynolds has revised the cost estimate form that is included with this memo. Upon your acceptance, a request to have the performance guarantee reduced will be made on your behalf. A further reduction can occur when items 1-5 above have been completed.

O:\PLAN\DEVREVW\CUMBERLAND380\ROBERTS1-30-01.DOC

Please call me if you have any questions regarding this memo or the performance guarantee process.

Sincerely,



Jonathan Spence  
Planner  
756-8083

cc: Alex Jaegerman, Planning Director  
Sarah Hopkins, Development Review Services Manager  
Jay Reynolds, Development Review Coordinator



Slope Stabilization	_____	_____	_____	_____	_____	_____
Geotextile	_____	_____	_____	_____	_____	_____
Hay Bale Barriers	_____	_____	_____	_____	_____	<u>\$1,000.00</u>
Catch Basin Inlet Protection	_____	_____	_____	_____	_____	_____
8. RECREATION AND OPEN SPACE AMENITIES	_____	_____	_____	_____	_____	_____
9. LANDSCAPING (Attach breakdown of plant materials, quantities, and unit costs)	_____	_____	_____	<u>8</u>	<u>250</u>	<u>\$2,000.00</u>
10. MISCELLANEOUS	_____	_____	_____	_____	_____	_____
TOTAL:	_____	_____	<u>\$2,000.00</u>	_____	_____	<u>\$26,500.00</u>
GRAND TOTAL:	_____	_____	_____	_____	_____	<u>\$28,500.00 (to remain)</u>

Approve reduction of \$31,850.00

Planning & Urban Development



Alexander Jaegerman  
Planning Director

## CITY OF PORTLAND

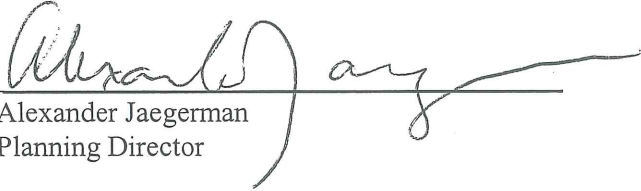
**TO:** Duane Kline, Finance Department  
**FROM:** Alexander Jaegerman, Planning Director  
**DATE:** February 4, 2002  
**SUBJECT:** Request for Reduction in Performance Guarantee  
CommTel: 380 Cumberland Avenue  
ID# (2001-0138) Lead CBL# (037-B-001)

A request by CommTel Internet has been made for a reduction of Escrow Account #190065009655 for 380 Cumberland Avenue.

Original Sum	\$60,350.00
<b><u>Reduction Amount</u></b>	<b><u>\$31,850.00</u></b>
Remaining Sum	\$28,500.00

This is the first reduction for the project.

Approved:

  
Alexander Jaegerman  
Planning Director

cc: ✓ Sarah Hopkins, Development Review Services Manager  
Jonathan Spence, Planner  
Jay Reynolds, Development Review Coordinator  
Todd Merkle, Public Works  
Code Enforcement

O:\PLAN\CORRESP\DRC\PERFORM\COMMTTEL1.DOC



55 William Street  
Suite 120  
Wellesley, MA 02481



Phone: 781-235-5101  
Fax: 781-235-3804

# Fax-

To: JONATHAN SPENCE From: Bryan Baldwin

Fax: \_\_\_\_\_ Date: 7/18/01

Phone: \_\_\_\_\_ Pages: (including cover sheet) 7

Re: COMMITTEE Cc: \_\_\_\_\_

- Urgent     For review     Please Comment     Please Reply     Please Recycle

**Comments:**

Jonathan,

I UNDERSTAND FROM BILL PORTER OF COMMITTEE, THAT YOU REQUIRE THE ENCLOSED COST INFORMATION TO DETERMINE THE PERFORMANCE AND DEFECT GUARANTEES. UNFORTUNATELY, ~~THE~~ THERE IS NO MENTION IN THE APPLICATION MATERIALS THAT THIS IS AN ITERATIVE PROCESS, HENCE A LITTLE CONFUSION ON OUR PART.

PLEASE LET US KNOW AS SOON AS POSSIBLE YOUR DETERMINATION.

THANKS,



# STAUBACH

July 6, 2001

*via Hand Delivery*

Ms. Tammy Munson  
CITY OF PORTLAND  
Planning & Urban Development  
389 Congress Street  
Portland, ME 04101

Re: CommTel, 380 Cumberland Avenue, Portland, Maine  
Site Plan Approval Requirements

Dear Tammy,

Enclosed please find the following in satisfaction of the site plan approval per the attached letter dated June 26, 2001 from the Portland Planning Authority:

1. Letter of Credit in the amount of Sixty Thousand Three Hundred Fifty and 00/100 (\$60,350.00) for the Performance Guarantee
2. Letter of Credit in the amount of Six Thousand Thirty Five and 00/100 (\$6,035.00) for the Defect Guarantee
3. Check in the amount of One Thousand Two Hundred Seven and 00/100 (\$1,207.00) for the Planning Authority inspection fee

Please call us should you have any questions or require further information.

Sincerely,

THE STAUBACH COMPANY

Bryan Taylor Baldwin  
Director - Design & Construction Consulting

Attachment  
Enclosures

cc: Nicole Boutet (CommTel)

File - C:\d&c\projects\commtel\regulatory\tammy2.doc

55 William Street, Suite 120  
The Wellesley Office Park  
Wellesley, MA 02481  
(781) 235-5101 Fax (781) 235-3804  
<http://www.staubach.com>

The Staubach Company  
provides global coverage through  
DTZ Staubach Tie Leung.

Planning & Urban Development

Joseph E. Gray Jr.  
Director



### CITY OF PORTLAND

June 26, 2001

Mr. Brian Baldwin  
The Staubach Company  
55 William Street  
The Wellesley Office Park  
Wellesley, MA 02481

RE: ComTel, 380 Cumberland Avenue  
(ID# 20010138, CBL#37-B-1)

Dear Mr. Baldwin:

On June 26, 2001 the Portland Planning Authority granted minor site plan approval with the following condition for the renovation and additions to the existing structure located at 380 Cumberland Avenue.

Condition: That the applicant submits catalog cuts for all pole and wall mounted fixtures and a photometric plan in compliance with the City of Portland's lighting standards

The approval is based on the submitted site plan. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval.

Please note the following provisions and requirements for all site plan approvals:

1. The site plan approval will be deemed to have expired unless work in the development has commenced within one (1) year of the approval or within a time period agreed upon in writing by the City and the applicant. A one-year extension may be granted by this department if requested by the applicant in writing prior to the expiration date of the site plan.
2. A performance guarantee in a form acceptable to the City of Portland and an inspection fee equal to 2.0% of the performance guarantee will have to be posted before beginning any site construction or issuance of a building permit.
3. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
4. Prior to construction, a pre-construction meeting shall be held at the project site with the contractor, development review coordinator, Public Work's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City


representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.

5. If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8322. (Only excavators licensed by the City of Portland are eligible.)

The Development Review Coordinator must be notified five (5) working days prior to date required for final site inspection. The Development Review Coordinator can be reached at the Planning Department at 874-8632. Please make allowances for completion of site plan requirements determined to be incomplete or defective during the inspection. This is essential as all site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If there are any questions, please contact the Planning Staff.

Sincerely,

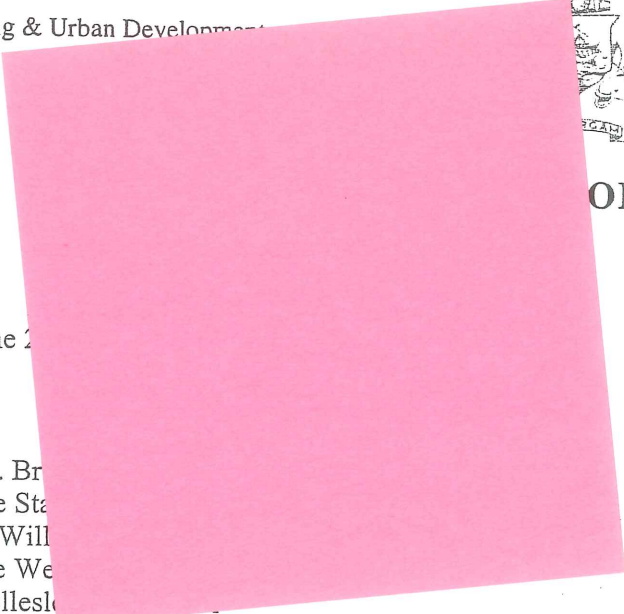
  
Alexander Jaegerman  
Chief Planner

cc: Jonathan Spence, Planner  
P. Samuel Hoffses, Chief of Building Inspections  
Marge Schmuckal, Zoning Administrator  
Tony Lombardo, Project Engineer  
Jay Reynolds, Development Review Coordinator  
William Bray, Deputy Director/City Traffic Engineer  
Nancy Knauber, Associate Engineer  
Jeff Tarling, City Arborist  
Penny Littell, Associate Corporation Counsel  
Lt. Gaylen McDougall, Fire Prevention  
Inspections Department  
Lee Urban, Director of Economic Development  
Don Hall, Appraiser, Assessor's Office  
Susan Doughty, Assessor's Office  
Approval Letter File



Joseph E. Gray Jr.  
Director

PORTLAND



June 2

Mr. Br  
The Sta  
55 Will  
The We  
Wellesl

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(ID# 20010138, CBL#37-B-1)

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# City of Portland Planning Department

389 Congress Street, 4th Floor  
Portland, ME 04101  
(207)874-8721 or (207)874-8719  
Fax: (207)756-8258

## FAX TRANSMISSION COVER SHEET

Date:

7-2-01

To:

Brian Baldwin

Company:

The Staubach Company

Fax #:

6 781-235-3804

From:

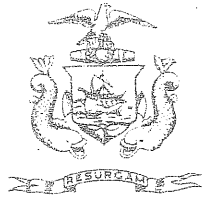
Jonathan Spence

RE:

390 Cumberland

Sorry you have not received the approval  
letter and information on letters of credit  
and cost estimates. Here is the letter and  
the cost estimate form

YOU SHOULD RECEIVE 5 PAGE(S),  
INCLUDING THIS COVER SHEET.  
IF YOU DO NOT RECEIVE ALL THE PAGES,  
PLEASE CALL (207)874-8721 OR (207)874-8719.



## CITY OF PORTLAND

June 26, 2001

Mr. Brian Baldwin  
The Staubach Company  
55 William Street  
The Wellesley Office Park  
Wellesley, MA 02481

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(ID# 20010138, CBL#37-B-1)

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If there are any questions, please contact the Planning Staff.

Sincerely,

  
Alexander Jaegerman  
Chief Planner

cc: Jonathan Spence, Planner  
P. Samuel Hoffses, Chief of Building Inspections  
Marge Schmuckal, Zoning Administrator  
Tony Lombardo, Project Engineer  
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Penny Littell, Associate Corporation Counsel  
Lt. Gaylen McDougall, Fire Prevention  
Inspections Department  
Lee Urban, Director of Economic Development  
Don Hall, Appraiser, Assessor's Office  
Susan Doughty, Assessor's Office  
Approval Letter File



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

2001-0138

Application I. D. Number

6/7/01

Application Date

380 Cumberland Ave.

Project Name/Description

Macomber Peter

Applicant

380 Cumberland Ave, Portland, ME 04101

Applicant's Mailing Address

The Staubach Company

Consultant/Agent

Agent Ph: (781)235-5101 Agent Fax: (781) 235-3804

Applicant or Agent Daytime Telephone, Fax

380 - 380 Cumberland Ave, Portland, Maine

Address of Proposed Site

037 B001001

Assessor's Reference: Chart-Block-Lot

Proposed Development (check all that apply):  New Building  Building Addition  Change Of Use  Residential  Office  Retail  
 Manufacturing  Warehouse/Distribution  Parking Lot  Other (specify) **Business services**

adding 860 sq.ft. 1.08 B3

Proposed Building square Feet or # of Units Acreage of Site Zoning

**Check Review Required:**

- |   |  |  |  |
|---|--|--|--|
| <input checked="" type="checkbox"/> Site Plan (major/minor) | <input type="checkbox"/> Subdivision # of lots _____ | <input type="checkbox"/> PAD Review            | <input type="checkbox"/> 14-403 Streets Review   |
| <input type="checkbox"/> Flood Hazard                       | <input type="checkbox"/> Shoreland                   | <input type="checkbox"/> Historic Preservation | <input type="checkbox"/> DEP Local Certification |
| <input type="checkbox"/> Zoning Conditional Use (ZBA/PB)    | <input type="checkbox"/> Zoning Variance             |  | <input type="checkbox"/> Other _____             |

Fees Paid: Site Plan \$400.00 Subdivision \_\_\_\_\_ Engineer Review \_\_\_\_\_ Date 6/7/01

**Planning Approval Status:**

Reviewer \_\_\_\_\_

- Approved  Approved w/Conditions See Attached  Denied

Approval Date \_\_\_\_\_ Approval Expiration \_\_\_\_\_ Extension to \_\_\_\_\_  Additional Sheets Attached

OK to Issue Building Permit \_\_\_\_\_ signature \_\_\_\_\_ date \_\_\_\_\_

Performance Guarantee  Required\*  Not Required

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

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

Archetype, P.A.  
48 Union Wharf  
Portland, ME 04101  
(207) 772-6022  
(207) 772-4056 (Fax)

**TRANSMITTAL**

**DATE:** August 11, 2006

**FROM:** Barry Yudaken

**TO:** Jean Fraser  
City of Portland  
Planning Division  
389 Congress Street  
Portland, ME 04101

**RE:** The Earl – 341 Cumberland Ave.

---

**ATTACHED:**

2 REVISED Plat Plan's - One on mylar, one on bond.  
For City Planning Board signatures, please sign both copies.

Check for \$2,800 for Residential Tree Program

Call with any questions and when they are available for pick up to be recorded at the Registry of Deeds.

mylar in box at back  
right of desk

**CITY OF PORTLAND, MAINE**  
**PLANNING BOARD**

---

Kevin Beal, Chair  
Michael Patterson, Vice Chair  
John Anton  
Lee Lowry III  
Shalom Odokara  
David Silk  
Janice E. Tevanian

February 13, 2006

David Lloyd, Archetype PA  
48 Union Wharf  
Portland ME 04101

RE: 341 Cumberland Avenue (The Earl)  
Application ID Number: 2005-0263  
Chart 33, Block K, Lot 8

Dear Mr. Lloyd,

On February 7, 2006 the Portland Planning Board voted 6-0 (Anton absent) to approve the proposal to subdivide the first floor of "The Earl" apartment building into seven (7) one-bedroom units. The approval was granted for the project by the following motions:

On the basis of plans and materials submitted by the applicant and on the basis of information contained in Planning Report #11-06 relevant to standards for subdivision and site plan regulations, and other findings as follows:

1. That the plan is in conformance with the subdivision standards of the land use code.

Conditions of Approval:

- i. The final recording subdivision plat will be completed to the satisfaction of the Associate Corporation Counsel and include a listing of any conditions imposed by the Planning Board, and will be submitted for the Planning Board's Signature.
- ii. That the developer contribute \$2800 towards the City's Residential Tree Program to cover the cost of purchasing and installation of two (2) trees per unit in the vicinity of the project. The landscaping contribution shall be provided prior to issuance of a building permit.
- iii. That the applicant will develop an alternative solid waste management and disposal plan, to conform with technical standards and not be visible from the public street, which shall be approved by the Planning Authority; and that the applicant present for review by City staff demonstration of sufficient right, title and interest to the land required for the solid waste management/disposal facility.
- iv. That the applicant shall, prior to issuance of a building permit, present a plan that demonstrates compliance with life safety codes, including NFPA 101, Chapter 30, to be approved by the appropriate City staff.

2. That the plan is in conformance with the site plan standards of the land use code.

Conditions of Approval

- i. That the applicant shall meet the appropriate life safety codes, including NFPA 101, Chapter 30, to be approved by the appropriate City staff.
- ii. That the four windows facing onto Cumberland Avenue be maintained as attractive 'active windows'.
- iii. That the applicant show the existing chain link fence at the rear of the building on the site plan.

The approval is based on the submitted site plan and the findings related to site plan and subdivision review standards as contained in Planning Report #11-06, which is attached.

Please note the following provisions and requirements for all site plan approvals:

1. Where submission drawings are available in electronic form, the applicant shall submit any available electronic Autocad files (\*.dwg), release 14 or greater, with seven (7) sets of the final plans.
2. A performance guarantee covering the site improvements as well as an inspection fee payment of 2.0% of the guarantee amount and 7 final sets of plans must be submitted to and approved by the Planning Division and Public Works prior to the release of the building permit. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval.
3. The site plan approval will be deemed to have expired unless work in the development has commenced within one (1) year of the approval or within a time period agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the expiration date.
4. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
5. Prior to construction, a pre-construction meeting shall be held at the project site with the contractor, development review coordinator, Public Work's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
6. If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)

The Development Review Coordinator must be notified five (5) working days prior to date required for final site inspection. The Development Review Coordinator can be reached at the Planning Division at 874-8632. Please make allowances for completion of site plan requirements determined to be incomplete or defective during the inspection. This is essential as all site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If there are any questions, please contact Jean Fraser at 874-8728 or [jf@portlandmaine.gov](mailto:jf@portlandmaine.gov).

Sincerely,



Kevin Beal, Chair  
Portland Planning Board

cc: Lee D. Urban, Planning and Development Department Director  
Alexander Jaegerman, Planning Division Director  
Sarah Hopkins, Development Review Services Manager  
Jean Fraser, Planner  
Jay Reynolds, Development Review Coordinator  
Marge Schmuckal, Zoning Administrator  
Mike Nugent, Director of Inspections  
Inspections Division  
Michael Bobinsky, Public Works Director  
Traffic Division  
Eric Labelle, City Engineer  
Jeff Tarling, City Arborist  
Penny Littell, Associate Corporation Counsel  
Greg Cass, Fire Prevention  
Assessor's Office  
Approval Letter File  
Earl Associates, LLC (fao Tom Watson), c/o Port Property Management  
104 Grant Street, Portland ME 04101

Attachments:

Planning Board Report #11-06

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Kevin Beal, Chair  
Portland Planning Board

cc: Lee D. Urban, Planning and Development Department Director  
Alexander Jaegerman, Planning Division Director  
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104 Grant Street, Portland ME 04101

Attachments:

Planning Board Report #11-06

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# CITY OF PORTLAND, MAINE

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## PLANNING BOARD

Kevin Beal, Chair  
Michael Patterson, Vice Chair  
John Anton  
Lee Lowry III  
Shalom Odokara  
David Silk  
Janice E. Tevanian

February 13, 2006

David Lloyd, Archetype PA  
48 Union Wharf  
Portland ME 04101

RE: 341 Cumberland Avenue (The Earl)  
Application ID Number: 2005-0263  
Chart 33, Block K, Lot 8

Dear Mr. Lloyd,

On February 7, 2006 the Portland Planning Board voted 6-0 (Anton absent) to approve the proposal to subdivide the first floor of "The Earl" apartment building into seven (7) one-bedroom units. The approval was granted for the project by the following motions:

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- iv. That the applicant shall, prior to issuance of a building permit, present a plan that demonstrates compliance with life safety codes, including NFPA 101, Chapter 30, to be approved by the appropriate City staff.





- C. The Fire Department has commented that all building construction must comply with NFPA 101, Chapter 30, with a plan outlining compliance required.
- D. The dumpster in the alley that runs along the Teen Center should not be visible from the public street and some form of attractive enclosure is required. The alley area and proposals for screening the dumpster should be shown on the plan.
- E. While noting that the other side of the front lobby (with two large windows onto the sidewalk) is outside the scope of your work, we would want to ensure that the external parts of these windows are treated to match those for the new “apartment 1” on the other side of the lobby, and to ensure that these windows are ‘active windows’. Please pass this point on to the applicant.
- F. Regarding the public meeting, please be advised that noticing will need to include all those within 500 feet of the site, and we will provide labels for the invitations.

Sincerely,

Jean Fraser  
Planner

Cc Alex Jaegerman – Planning Division Director  
Marge Schmuckal - Zoning Administrator  
Mike Nugent - Director of Inspections  
Greg Cass - Fire Department  
Sarah Hopkins – Development Review Manager  
Carrie Marsh – Urban Designer  
Jennifer Dorr – Office Manager



# PORTLAND MAINE

Planning Division  
Jean Fraser, Planner

1.25.06.

TO: Mike Nugent

Re: 341 Cumberland Ave ("The Earl")

I understand you met w/ David Lloyd re code issues and they have omitted the lower level unit as a result.

What I don't fully understand is how these can be described as one-bed units when at least 4 of the units have 1 window.

Anyway, this is going straight to a PB Hearing on Feb 7<sup>th</sup> and I'd be grateful for your confirmation that these units meet code + are therefore feasible as shown

Thanks Jan

MODE = MEMORY TRANSMISSION

START=JAN-17 12:39

END=JAN-17 12:44

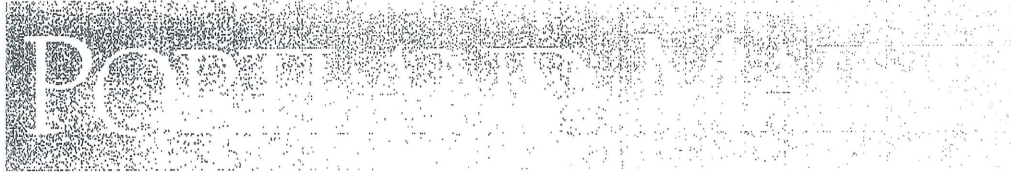
FILE NO.=925

STN NO.	COMM.	ABBR NO.	STATION NAME/TEL NO.	PAGES	DURATION
001	634		2077724056	000/002	00:00:00

*tried to fax -  
emailed 17.1.06  
instead.*

-CITY OF PORTLAND -

\*\*\*\*\* -PLANNING DEPT. - \*\*\*\*\* 2077568258- \*\*\*\*\*



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

**Planning and Development Department**  
Lee D. Urban, Director

**Planning Division**  
Alexander Jaegerman, Director

January 17th, 2006

David Lloyd  
Archetype, PA  
48 Union Wharf  
Portland, ME. 04101

Dear Mr. Lloyd,

**Re: Minor Site Plan Review (Subdivision): 341 Cumberland Avenue (The Earl)  
2005-0263**

I am writing to confirm the receipt and registration of the Minor Site Plan Application submitted on behalf of Earl Associates LLC for the subdivision of the first floor into seven one-bedroom units.

Given that the alterations to the outside of the building will be minor in nature we are currently prepared to take this project directly to a Public Hearing, provided that the proposals meet City standards and a neighborhood meeting is held at least one week prior to the Hearing. The Planning Board Hearing is provisionally scheduled for February 7<sup>th</sup>, 2006.

Thank you for the further information received by e-mail and letter and I have a few additional comments:

- A. The proposals are generally acceptable in terms of the B3 Zoning for the site. I understand from you that the proposals shown in Plan A-1 have been discussed with Mike Nugent and that there are no Code issues. In your letter of December 2, 2005 you describe the new units as "one-bedroom units" although this is not clear on the submitted Plan A-1.
- B. Proposals in this Zone must meet Urban Design Guidelines and in this instance, where the entire rear elevation of the building is visible from Portland Street, I suggest that the lower rear wall should be repainted along with upgrading of the lower door/door opening in the rear elevation. Also please confirm that the reinstatement of the wall around the new glazing, where there is currently a door at first floor level, will be brick to match the existing brick. Both of these can be indicated on Plan A-2, which I understand you will be revising in any case to reflect the decision not to create a new unit at the lower level.

**From:** Jean Fraser  
**To:** Lloyd, David  
**Date:** 1/17/2006 1:52:16 PM  
**Subject:** 342 Cumberland (The Earl)

Hi David,

Tried to fax you the attached letter but for some reason it wouldn't go through.

So I attach the text version as theres not a lot of time to get a pubic meeting organized as you need to notice 7 days before the meeting and have the meeting 7 days before the Hearing (Feb 7th provisional date with no workshop).

The noticing needs to go to those within 500 feet of the site and we will provide the labels (but a new list is needed; the original noticing needs to be widened).

Let me know if you need a fax (eg signed) copy of the letter; the hard copy is in the mail.

Jean Fraser  
Planning

874 8728

**CITY OF PORTLAND, MAINE**

Planning and Development Department  
Planning Division

389 Congress Street, Portland, Maine 04101  
(207) 874-8719 Fax (207) 756-8258

Note for file 12.29.05

341 Cumberland

The Earl.

772-6022

Spoke to David Cloud to get  
clarification of proposals

- 1) New windows on back ; none on side
- 2) Not sure re dumpster in alley - he would check.
- 3) Apts - size - hab area need to add the  
magazine figure to 'apt' figure.
- 4) Existing first floor probably was  
never apartments - most recently  
used as gymnasium / dance studio.
- 5) Other side of lobby - has not been in +  
does not know use or intention
- 6) Owner has asked for a "Managers" apt at  
back on "basement" level which opens out  
onto Maria's parking lot - probably 600 sq ft  
and he will send in plan for this.

JA.



MAINE

Planning D  
Jean Fraser,

0.06

340

Mo

con  
David Lloyd

—

rent

DL

deed

of prop. and

for building

Issue of dumpster not all  
on applicants land -  
problem re enclosure  
JF felt stress imp's to  
wall.

DL sending letter +  
revised plans  
early next week  
JF

**From:** Jean Fraser  
**To:** Lloyd, David  
**Date:** 1/18/2006 10:25:19 AM  
**Subject:** RE: 342 Cumberland (The Earl)

Thanks-

As this is going direct to the Hearing we need to make sure everything is tied up and all the plans consistent etc so that everything can be in the packet for the Board. So I need everything by the first of February please.

At the moment information has come in in a series of bitty e-mails and you might want to consider putting all the updated info that explains the proposals (including below) into one letter with any responses to my letter so that it appears as simple as it is!!!

Jean

>>> "David Lloyd" <lloyd@archetypepa.com> 1/18/2006 10:17:13 AM >>>

Jean

I will be following up on all your concerns within a few days. I do want to make you aware that I made a mistake in calling out the existing number of units in the building presently. We said there were 41. There are actually 22 existing units total, which consist of 17 one bedroom, 3 two bedroom and 2 studio apartments. We will be adding 7 one bed rooms to this.

David

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

From: Jean Fraser [mailto:[JF@portlandmaine.gov](mailto:JF@portlandmaine.gov)]  
Sent: Tuesday, January 17, 2006 1:52 PM  
To: [lloyd@archetypepa.com](mailto:lloyd@archetypepa.com)  
Subject: 342 Cumberland (The Earl)

Hi David,

Tried to fax you the attached letter but for some reason it wouldn't go through.

So I attach the text version as theres not a lot of time to get a public meeting organized as you need to notice 7 days before the meeting and have the meeting 7 days before the Hearing (Feb 7th provisional date with no workshop).

The noticing needs to go to those within 500 feet of the site and we will provide the labels (but a new list is needed; the original noticing needs to be widened).

Let me know if you need a fax (eg signed) copy of the letter; the hard copy is in the mail.

Jean Fraser  
Planning

874 8728



**From:** Jean Fraser  
**To:** Littell , Penny; Schmuckal, Marge  
**Date:** 12/30/2005 2:00:06 PM  
**Subject:** 341 Cumberland Ave (2005-0263)

Marge and Penny

Just to highlight an item for next weeks Review meeting - which may require a separate meeting because its being handled by ARCHTYPE (David Lloyd).

It is a subdivision review for the creation of 7 apts (rental) on the first floor of a 5 story brick apartment complex called "The Earl" on Cumberland Ave between Maria's restaurant and Preble Teen ...

Its zoned B3; the first floor is currently vacant and I am told was last used as a gymnasium/dance studio. A caretakers apartment is proposed for the basement level at the back facing onto the parking lot for Maria's.

Four of the seven proposed apartments are under 400 sq ft but have a mezzanine level within them (reached by spiral stair) that adds another 100+ sq ft

New windows are proposed on the rear elevation only.

There is no outside space (it abuts the sidewalk at the front; abuts other buildngs on the two sides and abuts a parking lot at the back) except an 'owner unknown' passageway to a rear door to the building with a dumpster located near the door.

On-street parking in the area is limited tho' I have not analyzed this yet.

I don't even know where to begin on this...

Jean  
Planner  
X8728

**From:** Jean Fraser  
**To:** Lloyd, David  
**Date:** 1/9/2006 4:46:18 PM  
**Subject:** RE: 341 Cumberland Ave The Earl

Hi David,

As I indicated in my e-mail, the Planning board would not want to approve a scheme that was not feasible from a code point of view and we often ask Inspections to look at schemes with that in mind.

I understand (and I am simply passing on the comments of those who do deal with codes) that on other schemes of this nature there has been a code requirement for a window opening at the mezzanine level and also the point we discussed by 'phone of the windows opening (at ground floor level) onto the parking lot.

As far as i know, the fact that there were previous window openings in a particular position does not confer acceptability in terms of current codes or planning ordinances- its possible that they may have been blocked up in order to meet code requirements.

I believe you said you had spoken with Mike Nugent and if Mike says he has looked at the current plans and window proposals (including the caretakers pad) and confirms he has reviewed the code issues with you and is happy, that is fine.

Jean (Fraser)  
Planning  
874 8728

>>> "David Lloyd" <lloyd@archetypepa.com> 1/9/2006 4:26:41 PM >>>  
Jean

Please call if you like or we can meet. Please understand that I am asking for units to be added to the interior of the building. I am not adding any new openings ,only replacing the existing deteriorated windows or boarded up openings as need be. I sent you photos of the rear of the building in response to your previous questions We do not plan any work on Cumberland Ave.

I do not understand your concern as to windows in the mezzanine area, this area has no effect on windows and there is no code problem here. Is the planning board now reviewing IBC?

David Lloyd

Architect

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

From: Jean Fraser [mailto:[JF@portlandmaine.gov](mailto:JF@portlandmaine.gov)]  
Sent: Monday, January 09, 2006 3:15 PM  
To: [lloyd@archetypepa.com](mailto:lloyd@archetypepa.com)  
Subject: Re: 341 Cumberland Ave The Earl

Thanks for this; also to confirm that I received the information regarding the deeds for the passageway and your plans for the rear elevation.

I will write formally but would mention three observations at this stage:

1. My colleagues believe that the plans, as currently submitted, may not meet code requirements re windows onto the mezzanines and onto the parking lot- any code issues that may lead to revisions really need to be resolved now if there are any.
2. I am not quite sure why you are concentrating on the Cumberland Ave frontage/view when the rear view is as prominent and in desperate need of improvement. The view of the parking lot, rear of the "The Earl" (with dumpster) and the back of the Teen Center is unfortunate and I think improvements are needed to that back alley such as boundary treatment and enclosure of the dumpster (and decent lower door).
3. All the windows in the Cumberland Ave frontage should be improved and match - therefore whatever you are doing to the left side needs to be done to the right side even though that is apparently outside your area of work.

Will be in touch.

Jean (Fraser)  
Planning  
874 8728

>>> "David Lloyd" <[lloyd@archetypepa.com](mailto:lloyd@archetypepa.com)> 1/3/2006 3:46:52 PM >>>  
Jean

I response to your questions on the above mentioned project . I have the following information:

1 All windows will be in existing openings. I will send you a rear elevation and revised floor plan showing all windows.

2:All trash in the building goes into Totes in the rear of the building and is taken away by private collection

3: The passageway at the rear of the building has been used historically and is presently being used . I will have the owners Lawyer send you a copy of the deed

4: The owner wishes to add one more unit to be located in the lower level. This will bring our count to eight units requested.

Please call with any other concerns.

David Lloyd

David Lloyd  
Archetype, P.A.  
48 Union Wharf  
Portland, ME 04101  
Phone: (207) 772-6022  
Fax: (207) 772-4056  
[lloyd@archetypepa.com](mailto:lloyd@archetypepa.com)  
<http://www.archetype-architects.com> <<http://www.archetype-architects.com/>>

**From:** Jean Fraser  
**To:** Lloyd, David  
**Date:** 1/9/2006 3:14:35 PM  
**Subject:** Re: 341 Cumberland Ave The Earl

Thanks for this; also to confirm that I received the information regarding the deeds for the passageway and your plans for the rear elevation.

I will write formally but would mention three observations at this stage:

1. My colleagues believe that the plans, as currently submitted, may not meet code requirements re windows onto the mezzanines and onto the parking lot- any code issues that may lead to revisions really need to be resolved now if there are any.
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Jean (Fraser)  
Planning  
874 8728

>>> "David Lloyd" <lloyd@archetypepa.com> 1/3/2006 3:46:52 PM >>>  
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David Lloyd  
Archetype, P.A.  
48 Union Wharf  
Portland, ME 04101  
Phone: (207) 772-6022  
Fax: (207) 772-4056  
[lloyd@archetypepa.com](mailto:lloyd@archetypepa.com)  
<http://www.archetype-architects.com> <<http://www.archetype-architects.com/>>

**From:** "David Lloyd" <lloyd@archetypepa.com>  
**To:** "'Fraser Jean'" <jf@portlandmaine.gov>  
**Date:** 1/13/2006 10:04:04 AM  
**Subject:** 341 Cumberland Ave

Jean

Please note the following.

1: The owner has decided to go with units the seven units submitted and not add an eighth unit.

2: I had a meeting with Mike Nugent today . We do not have any code issues with the current plans. Replacing the windows on the rear is not a problem or removing plywood and putting in new windows. I should mention that putting windows in the lower level where openings were bricked up would have required some creative code work. But as the owner has decided not to add this unit it is not a concern now.

I hope this answers your concerns . Please call with any questions.

David

David Lloyd  
Archetype, P.A.  
48 Union Wharf  
Portland, ME 04101  
Phone: (207) 772-6022  
Fax: (207) 772-4056  
lloyd@archetypepa.com  
<http://www.archetype-architects.com> <<http://www.archetype-architects.com/>>



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

**Planning and Development Department**  
Lee D. Urban, Director

**Planning Division**  
Alexander Jaegerman, Director  
David Lloyd  
Archetype, PA  
48 Union Wharf  
Portland, ME. 04101

January 17th, 2006

Dear Mr. Lloyd,

**Re: Minor Site Plan Review (Subdivision): 341 Cumberland Avenue (The Earl)  
2005-0263**

I am writing to confirm the receipt and registration of the Minor Site Plan Application submitted on behalf of Earl Associates LLC for the subdivision of the first floor into seven one-bedroom units.

Given that the alterations to the outside of the building will be minor in nature we are currently prepared to take this project directly to a Public Hearing, provided that the proposals meet City standards and a neighborhood meeting is held at least one week prior to the Hearing. The Planning Board Hearing is provisionally scheduled for February 7<sup>th</sup>, 2006.

Thank you for the further information received by e-mail and letter and I have a few additional comments:

- A. The proposals are generally acceptable in terms of the B3 Zoning for the site. I understand from you that the proposals shown in Plan A-1 have been discussed with Mike Nugent and that there are no Code issues. In your letter of December 2, 2005 you describe the new units as "one-bedroom units" although this is not clear on the submitted Plan A-1.
- B. Proposals in this Zone must meet Urban Design Guidelines and in this instance, where the entire rear elevation of the building is visible from Portland Street, I suggest that the lower rear wall should be repainted along with upgrading of the lower door/door opening in the rear elevation. Also please confirm that the reinstatement of the wall around the new glazing, where there is currently a door at first floor level, will be brick to match the existing brick. Both of these can be indicated on Plan A-2, which I understand you will be revising in any case to reflect the decision not to create a new unit at the lower level.



- C. The Fire Department has commented that all building construction must comply with NFPA 101, Chapter 30, with a plan outlining compliance required.
- D. The dumpster in the alley that runs along the Teen Center should not be visible from the public street and some form of attractive enclosure is required. The alley area and proposals for screening the dumpster should be shown on the plan.
- E. While noting that the other side of the front lobby (with two large windows onto the sidewalk) is outside the scope of your work, we would want to ensure that the external parts of these windows are treated to match those for the new “apartment 1” on the other side of the lobby, and to ensure that these windows are ‘active windows’. Please pass this point on to the applicant.
- F. Regarding the public meeting, please be advised that noticing will need to include all those within 500 feet of the site, and we will provide labels for the invitations.

Sincerely,



Jean Fraser  
Planner

Cc Alex Jaegerman – Planning Division Director  
Marge Schmuckal - Zoning Administrator  
Mike Nugent - Director of Inspections  
Greg Cass - Fire Department  
Sarah Hopkins – Development Review Manager  
Carrie Marsh – Urban Designer  
Jennifer Dorr – Office Manager

**CC:** "Tom Watson" <tom@portpropmgt.com>

Conditions of Approval

not yet met -

needs to be followed up.

February 13, 2006

David Lloyd, Archetype PA  
48 Union Wharf  
Portland ME 04101

RE: 341 Cumberland Avenue (The Earl) ← Appl #  
Chart 33, Block K, Lot 8

Dear Mr. Lloyd,

On February 7, 2006 the Portland Planning Board voted 6-0 (Anton absent) to approve the proposal to subdivide the first floor of "The Earl" apartment building into seven (7) one-bedroom units. The approval was granted for the project by the following motions:

On the basis of plans and materials submitted by the applicant and on the basis of information contained in Planning Report #11-06 relevant to standards for subdivision and site plan regulations, and other findings as follows:

1. That the plan is in conformance with the subdivision standards of the land use code.

Conditions of Approval:

- i. The final recording subdivision plat will be completed to the satisfaction of the Associate Corporation Counsel and include a listing of any conditions imposed by the Planning Board, and will be submitted for the Planning Board's Signature.
- ii. That the developer contribute \$2800 towards the City's Residential Tree Program to cover the cost of purchasing and installation of two (2) trees per unit in the vicinity of the project. The landscaping contribution shall be provided prior to issuance of a building permit.
- iii. That the applicant will develop an alternative solid waste management and disposal plan, to conform with technical standards and not be visible from the public street, which shall be approved by the Planning Authority; and that the applicant present for review by City staff demonstration of sufficient right, title and interest to the land required for the solid waste management/disposal facility.
- iv. That the applicant shall, prior to issuance of a building permit, present a plan that demonstrates compliance with life safety codes, to be approved by the appropriate City staff.

incl NFPA 101, Chap 30

2. That the plan is in conformance with the site plan standards of the land use code.

Conditions of Approval

*and NFPA 101 chap 30*

- i. That the applicant shall meet the appropriate life safety codes, to be approved by the appropriate City staff.
- ii. That the four windows facing onto Cumberland Avenue be maintained as attractive 'active windows'.
- iii. That the applicant show the existing chain link fence at the rear of the building on the site plan.

The approval is based on the submitted site plan and the findings related to site plan and subdivision review standards as contained in Planning Report #11-06, which is attached.

Please note the following provisions and requirements for all site plan approvals:

1. Where submission drawings are available in electronic form, the applicant shall submit any available electronic Autocad files (\*.dwg), release 14 or greater, with seven (7) sets of the final plans.
2. A performance guarantee covering the site improvements as well as an inspection fee payment of 2.0% of the guarantee amount and 7 final sets of plans must be submitted to and approved by the Planning Division and Public Works prior to the release of the building permit. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval.
3. The site plan approval will be deemed to have expired unless work in the development has commenced within one (1) year of the approval or within a time period agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the expiration date.
4. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
5. Prior to construction, a pre-construction meeting shall be held at the project site with the contractor, development review coordinator, Public Work's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
6. If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)

The Development Review Coordinator must be notified five (5) working days prior to date required for final site inspection. The Development Review Coordinator can be reached at the Planning Division at 874-8632. Please make allowances for completion of site plan requirements determined to be incomplete or defective during the inspection. This is essential as all site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If there are any questions, please contact Jean Fraser at 874-8728 or [jf@portlandmaine.gov](mailto:jf@portlandmaine.gov).

Sincerely,

Kevin Beal, Chair  
Portland Planning Board

cc: Lee D. Urban, Planning and Development Department Director  
Alexander Jaegerman, Planning Division Director  
Sarah Hopkins, Development Review Services Manager  
Jean Fraser, Planner  
Jay Reynolds, Development Review Coordinator  
Marge Schmuckal, Zoning Administrator  
Mike Nugent, Director of Inspections  
Inspections Division  
Michael Bobinsky, Public Works Director  
Traffic Division  
Eric Labelle, City Engineer  
Jeff Tarling, City Arborist  
Penny Littell, Associate Corporation Counsel  
Greg Cass, Fire Prevention  
Assessor's Office  
Approval Letter File  
Earl Associates, LLC (fao Tom Watson), c/o Port Property Management  
104 Grant Street, Portland ME 04101

Attachments:

Planning Board Report #11-06

# CITY OF PORTLAND, MAINE

---

## PLANNING BOARD

Kevin Beal, Chair  
Michael Patterson, Vice Chair  
John Anton  
Lee Lowry III  
Shalom Odokara  
David Silk  
Janice E. Tevanian

### PUBLIC HEARING AGENDA

Tuesday evening, February 7th, 2006, 7:30 p.m., Room 209, 2<sup>nd</sup> floor, City Hall, 389 Congress Street, Portland, Maine.

1. ROLL CALL AND DECLARATION OF QUORUM
2. COMMUNICATIONS AND REPORTS
3. ANNOUNCEMENT OF DECISIONS AT THE PREVIOUS MEETING HELD ON JANUARY 24TH, 2006.

#### Unfinished Business

- i. Graves Hill Site Plan/Subdivision; Vicinity of 802 Ocean Avenue; Doyle Enterprises, Applicant.

The Portland Planning Board voted unanimously 6-0 (Anton absent) to table this item to February 28<sup>th</sup> at 7:30 p.m.

#### Item not on Agenda

- ii. 1039 Riverside Street Findings of Fact

The Portland Planning Board voted unanimously 5-0 (Silk and Anton absent) to approve Planning Board Finds of Fact and Conclusions of Law for 1039 Riverside Street LLC., Applicant subject to confirmation of expansion areas for units 4 and 9.

#### New Business

- iii. Carriage Lane Amendment to Subdivision Plan; Vicinity of Broadway and Third Streets; Bono Inc., d/b/a Broadway Development, Inc., Applicant.

The Portland Planning Board voted 6-0 (Anton absent) to approve this item subject to 1 condition of approval.

- iv. 4 Apartments; Vicinity of 73 Oak Street; Tom Moulton, Applicant.

The Portland Planning Board voted unanimously 6-0 (Anton absent) to approve this item subject to 3 conditions of approval.

- v. Chestnut Street Lofts Subdivision Amendment; Vicinity of 266 Cumberland Avenue; Chestnut Street Lofts, LLC., Applicant.

The Portland Planning Board voted 5-0 (Silk abstained; Anton absent) to approve the subdivision subject to 6 conditions of approval; voted 5-0 (Silk abstained; Anton absent) to grant three waivers and voted 5-0 (Silk abstained; Anton absent) to approve the site plan subject to 6 conditions of approval.

#### 4. NEW BUSINESS

- i. USM Campus Overlay Zone; Vicinity of Falmouth & Bedford Streets and Brighton & Forest Avenues; USM, Applicant.

The Portland Planning Board will hold a public hearing to consider a proposal by the University of Southern Maine to amend the City's zoning map to create a new University Campus Overlay Zone

- ii. R-7 Zoning Amendment; Vicinity of 121 Sheridan Street; Greg Shinberg, Applicant.

The Portland Planning Board will hold a public hearing to consider a proposal by Sheridan Street, LLC to rezone property located at 121 and 135 Sheridan Street. The applicant proposes to rezone the properties from R-6 to R-7 as shown on the map below. The rezoning would allow for twenty-four (24) residential units with 38 parking spaces.

- iii. The Earl Apartments; Vicinity of 341 Cumberland Avenue; Earl Apartments, LLC., Applicant.

The Portland Planning Board will hold a public hearing to consider a plan by Earl Associates, LLC. The applicant is proposing to convert the first floor of "The Earl" apartment building at 341 Cumberland Avenue to 7 one-bedroom units. The first floor of the building is presently not being used. Zoning for the site is B3.

- iv. Office Expansion; Vicinity of 41 Hutchins Drive; CADCAM Associates and Peggy and Eric Cianchette, Applicants.

The Portland Planning Board will hold a public hearing to consider a plan by CADCAM Associates and Peggy and Eric Cianchette for a building addition to the Woodard and Curran office building located at 41 Hutchins Drive. The proposed building addition will be a 3 story, 22,680 sq. ft. structure for office use with associated parking areas.

#### 5. ADJOURNMENT

NOTE: It is possible that the Board will not reach all of the items prior to adjournment. Any items not reached will be rescheduled to appear on the subsequent agenda with items appearing early on the agenda as unfinished business.



from TAPE

341 Cumberland

- i)
- iii) That the applicant will develop an alternative <sup>disposal</sup> solid waste management plan ~~set aside~~ <sup>for review and approval</sup> ~~or provide staff w/ adequate illus of use or other permission to utilize the pass for dumpst~~ <sup>along w/ approx type of non-fixed screening or buffer (for notes)</sup>
- iv. That the applicant shall, prior to issuance of a building permit, present a plan that demonstrates compliance w/ life safety codes, to be approved by <sup>the approp.</sup> city staff.

- 2) i) applicant shall meet the <sup>approp.</sup> life + safety ~~codes~~ <sup>codes to be approved by</sup> city staff <sup>approp.</sup>
- ii) windows (as ex.)
- iii) site plan show <sup>existing chain link</sup> fence

labelling on final subdiv plan after notes

add to iii

and that the applicant present for review of staff <sup>demonstration</sup> sufficient right, title and interest to the land req'd for solid waste man. facility.

\* not visible thru public way

Notes from Feb 7<sup>th</sup> Hearing

341

Windows - office for rent (9x18) -

Can't put windows in IBC code - proplines too close to bldg.

Not sure how solve code issue  
Secondary window / negotiator  
w/ another owner  
w/in structure

Dumpster - not sure re screening

Duke ? re property - not all on his property

Dumpster - don't have right for dumpster  
so need another condition  
in addition to

KB - notes pref to dumpster

JT - concerns re code

KB - our Board concerned re life  
- justified, a condition

LL - uncl. info re area being excluded  
was unaccounted for.

No public present to make c.

IS :

alt's w plan  
unless permissions  
obtained.

- jersey barriers not on land;
- could put trash in bldg but provide
- replacing notes
- floating screen.

• dumpster  
part on prop  
part on passageway

- no licence or interest
- no evidence right of title

**CITY OF PORTLAND, MAINE**

Planning and Development Department

Planning Division

389 Congress Street, Portland, Maine 04101

(207) 874-8719 Fax (207) 756-8258

341 Cumberland Ave

known at THE EARL.

Meet to hearing

① Proposed subdivision of 1st floor in an existing 5-story apartment block - into 7 units.

② Elevation onto Cumberland Avenue not altered

③ Rear elevation of building improved at 1st floor level as 3 existing openings are improved

④ <sup>Suggested</sup> Conditions address Key issues:

a. Rear passageway with exposed dumpster - City standards require enclosure and <sup>B3</sup> zoning ordinance requires not be visible. Although appreciate problem of fixed enclosure, some solution needed

b. Suggesting 2 trees per unit be required as per subdivision requirements

c. Some concern that 2 of the 4 large windows facing Cumberland will be left to non-maintenance ...

# Neighborhood Meeting Certification

341 Cumberland Avenue – The Earl

I, David Lloyd hereby certify that a neighborhood meeting was held on January 31, 2006 at Archetype 48 Union Wharf at 5:30 pm.

I also certify that on January 18, 2006, invitations were mailed to all addresses on the mailing list provided by the Planning Division, including property owners within 500 feet of the proposed development and the residents on the “interested parties” list

Signed,

\_\_\_\_\_

\_\_\_\_\_ (date)

Attached to this certification are

1. Copy of the invitation sent
2. Sign-in sheet
3. Meeting minutes

**MOTIONS FOR THE BOARD TO CONSIDER – Revised January 24, 2006**  
**73 OAK STREET**

On the basis of plans and materials submitted by the applicant and on the basis of information contained in Planning Report #7-06 relevant to standards for subdivision regulations, and other findings as follows:

1. That the plan is in conformance with the subdivision standards of the land use code.

Potential condition of approval:

- i. That the developer contribute \$1,600 towards the City's Residential Tree Program to cover the cost of purchasing and installation of two (2) trees per unit in the vicinity of the project. The landscaping contribution shall be provided prior to issuance of a building permit.

# SIGN UP SHEET

341 Cumberland Avenue Neighborhood Meeting

January 31, 2006 @ 5:30 pm

Name	Address
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# SIGN UP SHEET

341 Cumberland Avenue Neighborhood Meeting

January 31, 2006 @ 5:30 pm

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# SIGN UP SHEET

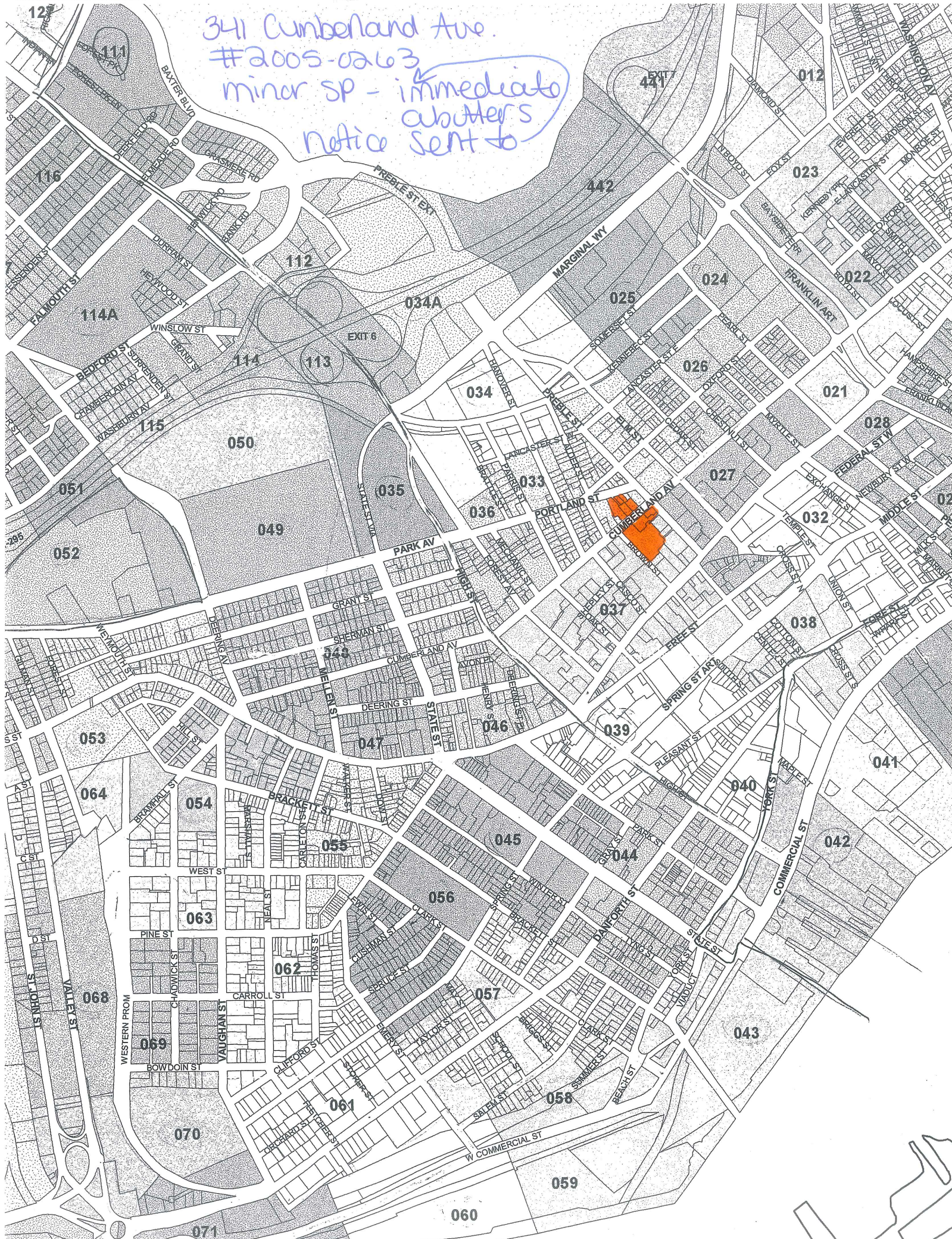
341 Cumberland Avenue Neighborhood Meeting

January 31, 2006 @ 5:30 pm

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341 Cumberland Ave.  
#2005-0263  
minor SP - immediate  
notice sent to  
submitters



**A R C H E T Y P E**

---

January 18, 2005

Dear Neighbor:

Please join us for a neighborhood meeting to discuss our plans for an existing Twenty two (22) unit rental apartment building located at 341 Cumberland Avenue. There is presently space on the first floor of this building that is not being used. Our intention is to convert this space to seven one-bedroom units.

Meeting Location: Archetype, 48 Union Wharf, Portland, ME

Meeting Date: January 31, 2006

Meeting Time: 5:30 p.m.

If you have any questions, please call David Lloyd, Archetype, P.A. (207) 772-6022.

Sincerely,



David Lloyd

**Note:**

Under Section 14-32(C) of the City Code of Ordinances, an applicant for a major development, subdivision of over five lots/units, or zone change is required to hold a neighborhood meeting at least seven days prior to the Planning Board public hearing on the proposal.

The City code requires that property owners within 500 feet of the proposed development and residents on an "interested parties list" be invited to participate in a neighborhood meeting. A sign-in sheet will be circulated and minutes of the meeting will be taken. Both the sign-in sheet and minutes will be submitted to the Planning Board.

**From:** Jean Fraser  
**To:** Lloyd, David  
**Date:** 2/1/2006 12:05:44 PM  
**Subject:** 341 cumberland (The Earl)

David,

Just got the photographs and they are great.

Just got the certification re the neighborhood meeting but you haven't signed the certificate!!!!

Re the issue of the dumpster and the passageway- I think this will be overtaken/resolved by the subdivision requirement for the provision of 2 street trees per unit; I just clarified the requirement at a meeting and it can be met by a financial contribution.

Jean

*Archetype, P.A.  
48 Union Wharf  
Portland, ME 04101  
(207) 772-6022  
(207) 772-4056 (Fax)*

***TRANSMITTAL***

***DATE:*** February 1, 2006

***FROM:*** David Lloyd

***TO:*** Jean Fraser  
City of Portland  
Planning Division  
389 Congress Street  
Portland, ME 04101

***RE:*** The Earl – 341 Cumberland Ave.

---

***ATTACHED:***

Seven (7) Copies, 11x17 photos of 341 Cumberland Ave, rear of the building

*Archetype, P.A.  
48 Union Wharf  
Portland, ME 04101  
(207) 772-6022  
(207) 772-4056 (Fax)*

***TRANSMITTAL***

***DATE:*** February 1, 2006

***FROM:*** David Lloyd

***TO:*** Jean Fraser  
City of Portland  
Planning Division  
389 Congress Street  
Portland, ME 04101

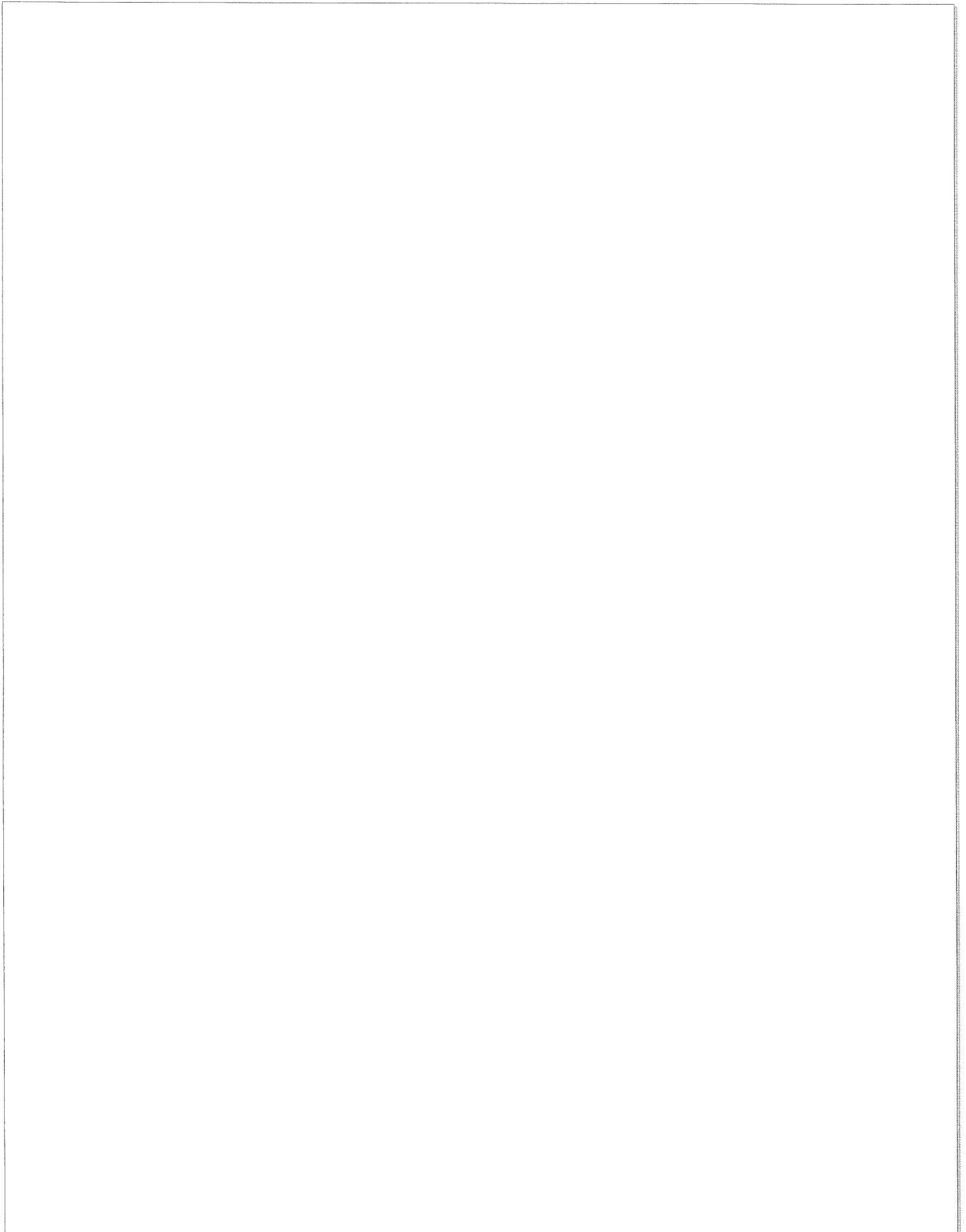
***RE:*** The Earl – 341 Cumberland Ave.

---

***ATTACHED:***

Neighborhood Meeting Certificate  
Meeting Minutes  
Copy of Invitation sent  
Sign in Sheet

Plat Plan for your review



**DRAFT**

*for Alex.*

**341 CUMBERLAND AVENUE ("THE EARL")  
SUBDIVISION AND MINOR SITE PLAN REVIEW  
EARL ASSOCIATES LLC, APPLICANT**

*from  
Jean Fraser  
Jan 31, 2006*

*for clearance please  
by every Thursday  
at latest no  
attachments could be done...*

Submitted to:

Portland Planning Board  
Portland, Maine  
February 7, 2006 Public Hearing

Prepared by:

Jean Fraser, Planner  
February 3, 2006

## I. INTRODUCTION

Earl Associates LLC have requested a Subdivision and Minor Site Plan Review of their proposal for creating 7 one bedroom units within the existing first floor of the 5-story apartment building known as "The Earl", located at 341 Cumberland Avenue adjacent to the Teen Center.

The first floor of the building is currently unused and thought to have previously been used as a dance studio/gymnasium. On the other four floors there are a total of 22 existing units comprising 17 one bedroom units, 3 two-bedroom units and 2 studio apartments.

The existing apartment building is a fine red brick building with a grand front entrance and four first floor windows with splayed lintels with center keystones facing onto Cumberland Avenue. The rear of the building is visible from Preble Street and Portland Street but presents a rather bleak elevation rising from the parking lot of Maria's restaurant. There is no external space as part of the building parcel, though it does benefit from the use of a passageway leading from the lower rear of the building to Portland Street.

This proposal would normally be an administrative review, but the conversion of the first floor is technically a subdivision which requires Planning Board approval. Given the minor nature of the development, Staff suggest it does not need a Workshop meeting and have brought the proposal directly to a Hearing. A Neighborhood Meeting was held January 31, 2006, which was noticed to property owners within 500 feet (see Attachment I) and attended by \_\_\_\_\_ [awaited- mtg is Tues 1.31.06}. (Attachment N).

Notices for the Hearing have also been sent to property owners within 500 feet and appeared in the *Portland Press Herald* on \_\_\_ and \_\_\_\_\_.

## II. ZONING

The property is located within a B3 business zone, which does not have a minimum land area per dwelling unit and does not require parking to be provided for any change of use (see e-mail from Marge Schmuckal of 12.30.2005 in Attachment D).

## III. SUMMARY OF FINDINGS

Zoning:	B3
Parcel Size:	8446 square feet
Parking Spaces:	None
Building Floor Area:	3369 square feet (part of existing first floor)
Building Height:	5 story (existing)
Uses:	7 One bedroom residential units

## IV. PROPOSED DEVELOPMENT

Earl Associates LLC are proposing to divide most of the first floor of the property into seven one-bedroom units, one of 548 square feet and six which have a mezzanine level 'bed room' within a



single large room that ranges from 455 square feet to 673 square feet total floor area (see letter from David Lloyd dated 12.2.2005 in Attachment B, as updated by e-mail of 1.18.2006 in Attachment I, and illustrated in Sheet A-1 -Plan in Attachment P). One of the units will be created from the area behind the large and decorative front windows (facing onto Cumberland Avenue) to the left of the front entrance, with the area behind the windows to the right of the lobby excluded from the proposals. The applicant has confirmed (David Lloyd letter of 1.24.2006- Attachment K) that the windows on Cumberland Avenue will not be changed.

The proposals will not involve the addition of new window openings to any elevation. Three existing openings at the first floor level on the rear elevation will be fitted with two reinstatement windows and a glass door with French railing. The lower level of the rear elevation (see photo in Sheet A-2, Attachment Q) is a combination of concrete, brick and block infill and will be repainted.

The property benefits from a shared right-of-way over a passageway leading from the basement level at the back, running alongside the rear entrance to the Teen Center to Portland Street, separated from Maria's parking lot by a row of jersey barriers. A dumpster (garbage tote) serving the property is located in this passageway near the back of the building, and is rolled to the street for collection by a private garbage collector (see fax from Tom Watson re the ROW and use of the passageway, Attachment F). There are no proposals to alter the existing passageway nor to alter the dumpster's exposed position. There is no existing or proposed parking on site.

#### V. STAFF REVIEW

The proposed development has been reviewed by staff for conformance with the relevant review standards of the subdivision and site plan ordinances. Staff comments are included in this report.

#### VI. SUBDIVISION REVIEW

##### Subdivision Recording Plat

The Associate Corporation Counsel, Penny Littell, has advised that the subdivision plat for this proposal may comprise the layout plan with a signature line for the Planning Board, and that the plat should include the definition of the subdivision together with planning notes and requirements. (Attachment L)

Once the Board has confirmed what conditions (if any) it wishes to impose, these will be included on the plat. The subdivision plat is required as a condition of approval.

1. Water and Air Pollution

The project will not result in undue water or air pollution, as it is not in a flood plain and does not involve new construction.

2/3. Water

The applicant has not provided a 'Capacity to Serve' letter but in view of the fact the proposed units are entirely within an unused floor of an existing apartment building this has not been pursued.

- 4. Soil Erosion  
The proposal will not cause unreasonable soil erosion as it is entirely within an existing building.
- 5. Traffic  
**Parking**  
There are no zoning requirements in respect of parking. The building takes up all of the site parcel so there is no scope for parking on site. The area is served by on street and garage parking nearby. A Commercial loading parking bay is immediately outside the property on Cumberland Avenue.
- 6/7. Sanitary Sewer/Soils/Stormwater  
The proposal is minor in nature and anticipated to be served by the existing services which serve the building.
- 8. Solid Waste Disposal  
The disposal of waste is by private contractor, as outlined in the fax from Tom Watson of 1.4.2006 (Attachment F).

- 9. Scenic Beauty  
The proposal does not have any undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or significant wildlife habitat or rare or irreplaceable natural areas. It is not located with an Historic District nor near a Historic Landmark.

The existing building, with its attractive windows and entrance way onto Cumberland Avenue, contributes significantly to local urban townscape. The applicant has confirmed that the windows on Cumberland Avenue will not be changed (Attachment K) and this will preserve the quality of the front elevation. Furthermore, no additional window openings are proposed to any elevation which will preserve the integrity and proportions of the original building.

The proposals improve the rear elevation of the building itself, though do not address the rather unattractive rear aspect which includes the dumpster, some chain link fencing and the jersey barriers along the passageway. Technical Standards regarding the provision of street trees so not apply as they relate to single family subdivision

- 10. Comprehensive Plan  
The creation of 7 new units of housing is supported by the Comprehensive Plan policy ("A New Vision for Bayside", April 2000 and "Housing: Sustaining Portland's Future" November 2002) which encourages the provision of more housing in the city, especially where the housing can be located near to businesses, services, and public transit.
- 11. Financial Capability  
The applicant has provided a letter confirming financial capability from William Schad, Vice President of Banknorth (1.23.2006, Attachment K(a)).

Q  
↓  
we have

been  
collected

ask Tell Party  
for email memo,

\$ 400 per  
unit for 2  
trees/unit

12./13. Groundwater/Flood Hazard/Shoreland/Wetlands

The proposal is entirely within the envelope of an existing building and an existing paved area adjacent to the building, and therefore does not adversely affect the quality/quantity of groundwater, is not in a flood prone area and has no effect on wetlands or waterways.

Conformity with Code

Staff requested clarification of the proposal in view of the applicant's description of the proposals as "one bedroom units". Some of the units have only one window at the lower level so the only bed 'room' appears to be a mezzanine area accessed by a single spiral stairway with no window at that level. Code requires that sleeping areas have two means of egress or have a sprinkler system installed.

The architects for the proposals have had discussions with Mike Nugent, the City Director of Inspections, and it appears that there are a couple of possible solutions to ensure the proposal conforms with relevant Code provisions without necessitating further external alterations (eg new windows) (see e-mail from David Lloyd of 1.30.06 Attachment M).

**VII. SITE PLAN REVIEW**

1/2. Traffic

See VI Subdivision review, paragraph 5. Traffic.

3./4. Bulk, Location, Health, Safety Air/Height of Proposed Buildings

The proposal does not include the construction of any new buildings and there are no known health or safety problems with the existing building.

5. Sewers, Stormdrains, Water

Refer to VI Subdivision Review, paragraphs 1, 2, 3, 6, and 7.

6./7. Landscaping and Existing Vegetation

The proposal does not include any landscaping and as this is a not a single-family subdivision the standard which requires 2 street trees per unit does not apply. Scope for tree planting near the sidewalk is limited by the need to provide vehicle access at this point.

However, the City's Technical Standards regarding screening of accessory site elements requires that "all trash containers, bottled gas tanks, storage sheds, utility meters or other similar items or accessory structures to be located and suitably screened by planting or fencing so as not to be clearly visible from the street or abutting properties." (Section VI, 8AI) Staff requested enclosure of the dumpster in a letter of 1.17.2006 (Attachment H).

The applicant considers that it is not possible to enclose the dumpster because it is located in a right-of-way (the passageway) at the rear of the building and requests a waiver for this requirement (see letter from David Lloyd dated 1.24.2006 Attachment K).

Although the rear elevation is being improved (see VI Subdivision Review Paragraph 9)

the dumpster remains an unattractive feature set in what is already a large paved area crossed by a row of concrete 'jersey' barriers. Staff considers that if a fixed enclosure of the dumpster is not possible and waived by the Planning Board, then some form of attractive and appropriate concealing feature should be provided in substitution.

8. Soils and Drainage  
Refer to VI Subdivision Review, paragraphs 4.
9. Exterior Lighting  
There are no proposals for exterior lighting.
9. Fire  
The Fire Department has commented (Greg Cass, Urban Insight 12.12.2005 Attachment C) that all building construction must comply with NFPA 101, Chapter 30, with a plan outlining compliance required.
10. City Infrastructure  
No details have been submitted as the building is currently served by all utilities.

#### Development located in the B-3 Zone Requirements

The proposal is within the B-3 zone and therefore must also meet other standards described in the Downtown Urban Design Guideline (Ordinance 14-526 (A) (16)). It has already been noted that the proposals contribute to the relationship with the pedestrian environment (first 35 feet) by retaining the important features on the front elevation to Cumberland Avenue.

At the suggestion of the Urban Designer, Carrie Marsh, the applicant was requested (letter from Jean Fraser dated 1.17.2006 Attachment H and letter from David Lloyd dated 1.24.2006 Attachment K) to ensure not only that the window framing detail onto Cumberland Avenue would be retained and that all four would match, but also that the windows in the area excluded from the subdivision would remain "active windows" with something appropriate and interesting within the glazed area. This latter point has not been addressed and is suggested as a condition.

The relationship to the pedestrian environment at the rear of the property may not be as important as it is set back from the sidewalk, though it is widely visible. The applicant proposes works to improve the windows at the first floor, but has requested a waiver for the enclosure of the dumpster.

The City's Zoning Ordinance for B3 (14-221) requires that "(d) *Exterior Storage*: There shall be no exterior storage, with the exception of receptacles for solid waste disposal which are not visible from a public street. Such receptacles shall be shown on the approved site plan."

As indicated in paragraph 6/7 above, a waiver of the City's Technical Standards for a fixed *enclosure* of the dumpster could be supported. However, the Zoning Ordinance requires that the dumpster *not be visible* from the public street. Therefore the applicant should arrange, if necessary in conjunction with those sharing the right-of-way, some means of concealing the dumpster- which could be integrated with upgrading of the vicinity (ie through landscaping or attractive fencing).

### VIII. MOTIONS FOR THE BOARD TO CONSIDER

On the basis of plans and materials submitted by the applicant and on the basis of information contained in Planning Report # \_\_-06 relevant to standards for subdivision and site plan regulations, and other findings as follows:

1. That the plan is in conformance with the subdivision standards of the land use code.

Potential Conditions of Approval:

- i. The final recording subdivision plat will be prepared to the satisfaction of the Associate Corporation Counsel and include an accurate description of the subdivision and listing any conditions imposed by the Planning Board, and will submitted for the Planning Board's Signature.

2. That the plan is in conformance with the site plan standards of the land use code.

Potential Conditions of Approval

- i. That the four windows facing onto Cumberland Avenue be maintained as attractive 'active windows' .

3. That the Planning Board waives the Technical Standard (Section VI, 8AI) which requires in relation to subdivisions "all trash containers, bottled gas tanks, storage sheds, utility meters or other similar items or accessory structures to be located and suitably screened by planting or fencing so as not to be clearly visible from the street or abutting properties" due to the location of the dumpster and the difficulty of fully enclosing it with a fixed structure. The waiver is subject to further investigation and submission of some method of concealing the dumpster from the public street in order to meet the B3 Zoning Ordinance.

#### Attachments:

- A. Submitted application, including photograph of front of "The Earl" facing Cumberland Avenue
- B. David Lloyd, Archetype PA, letter dated December 2, 2005.
- C. Greg Cass, Urban Insight 12.12.2005
- D. Marge Schmuckal, Zoning Administrator, e-mail dated December 30, 2005
- E. David Lloyd, e-mail dated January 3, 2006
- F. Tom Watson, Fax dated January 4, 2006
- G. Dan Goyette, Woodard & curran, DRC memo dated January 17, 2006
- H. Jean Fraser, letter dated January 17, 2006
- I. David Lloyd, letter to neighbors January 18, 2006
- J. David Lloyd, e-mail of January 18, 2006 updating December 2, 2005 letter
- K. David Lloyd, Archetype PA, letter dated January 24, 2006
  - a. William R. Schad, Vice President, Banknorth letter dated January 23, 2006
  - b. Title and Ownership of the main building
- L. Penny Littell, Associate Corporation Counsel, e-mail dated January 30, 2006
- M. David Lloyd, e-mail dated January 30, 2006
- N. Certificate of Neighborhood Meeting (attendance/minutes) [awaited]
- O. Boundary Survey from Owen Haskell Inc (1997)
- P. Sheet A-1, Plan
- Q. Sheet A-2 Rear Elevation

O:\PLAN\DEVREVW\Cumberland341\PBH 341 Cumberland Feb 7th06 draft.doc

not  
attached  
as  
mtg  
is  
tonight

*Archetype, P.A.  
48 Union Wharf  
Portland, ME 04101  
(207) 772-6022  
(207) 772-4056 (Fax)*

***TRANSMITTAL***

***DATE:*** January 4, 2006

***FROM:*** David Lloyd

***TO:*** Jean Fraser  
City of Portland  
Planning Division  
389 Congress Street  
Portland, ME 04101

***RE:*** The Earl – 341 Cumberland Ave.

---

***ATTACHED:***

A2– Elevations 1/2/06

A1– Plan Oct. 05

As Requested

**341 CUMBERLAND AVENUE (“THE EARL”)  
SUBDIVISION AND MINOR SITE PLAN REVIEW  
EARL ASSOCIATES LLC, APPLICANT**

Submitted to:

Portland Planning Board  
Portland, Maine  
February 7, 2006 Public Hearing

Prepared by:

Jean Fraser, Planner  
February 3, 2006

## I. INTRODUCTION

Earl Associates LLC have requested a Subdivision and Minor Site Plan Review of their proposal for creating 7 one bedroom units within the existing first floor of the 5-story apartment building known as “The Earl”, located at 341 Cumberland Avenue adjacent to the Teen Center.

The first floor of the building is currently unused and thought to have previously been used as a dance studio/gymnasium. On the other four floors there are a total of 22 existing units comprising 17 one bedroom units, 3 two-bedroom units and 2 studio apartments.

The existing apartment building is a fine red brick building with a grand front entrance and four first floor windows with splayed lintels with center keystones facing onto Cumberland Avenue. The rear of the building is visible from Preble Street and Portland Street but presents a rather bleak elevation rising from the parking lot of Maria’s restaurant. There is no external space as part of the building parcel, though it does benefit from the use of a passageway leading from the lower rear of the building to Portland Street.

This proposal would normally be an administrative review, but the conversion of the first floor is technically a subdivision which requires Planning Board approval. Given the minor nature of the development, Staff suggest it does not need a Workshop meeting and have brought the proposal directly to a Hearing. A Neighborhood Meeting was held January 31, 2006; it was noticed to property owners within 500 feet and attended by two residents (Attachment M). No representations have been made directly to Planning staff.

Notices for the Hearing have also been sent to 166 property owners within 500 feet and appeared in the *Portland Press Herald* on January 30, 2006.

## II. ZONING

The property is located within a B3 business zone, which does not have a minimum land area per dwelling unit and does not require parking to be provided for any change of use (see e-mail from Marge Schmuckal of 12.30.2005 in Attachment D).

## III. SUMMARY OF FINDINGS

Zoning:	B3
Parcel Size:	8446 square feet
Parking Spaces:	None
Building Floor Area:	3369 square feet (part of existing first floor)
Building Height:	5 story (existing)
Uses:	7 One bedroom residential units

## IV. PROPOSED DEVELOPMENT

Earl Associates LLC are proposing to divide most of the first floor of the property into seven one-bedroom units, one of 548 square feet and six which have a mezzanine level ‘bed room’ within a



single large room that ranges from 455 square feet to 673 square feet total floor area (see letter from David Lloyd dated 12.2.2005 in Attachment B, as updated by e-mail of 1.18.2006 in Attachment I, and illustrated in Sheet A-1 -Plan in Attachment Q). One of the units will be created from the area behind the large and decorative front windows (facing onto Cumberland Avenue) to the left of the front entrance, with the area behind the windows to the right of the lobby excluded from the proposals. The applicant has confirmed (David Lloyd letter of 1.24.2006- Attachment J) that the windows on Cumberland Avenue will not be changed.

The proposals will not involve the addition of new window openings to any elevation. Three existing openings at the first floor level on the rear elevation will be fitted with two reinstatement windows and a glass door with French railing. The lower level of the rear elevation (see photo in Sheet A-2, Attachment R) is a combination of concrete, brick and block infill and will be repainted.

The property benefits from a shared right-of-way over a passageway leading from the basement level at the back, running alongside the rear entrance to the Preble Street Teen Center to Portland Street, separated from Maria's parking lot by a row of jersey barriers. A dumpster (garbage tote) serving the property is located in this passageway near the back of the building, and is rolled to the street for collection by a private garbage collector (see fax from Tom Watson re the ROW and use of the passageway, Attachment F). There are no proposals to alter the existing passageway nor to alter the dumpster's exposed position. There is no existing or proposed parking on site.

#### V. STAFF REVIEW

The proposed development has been reviewed by staff for conformance with the relevant review standards of the subdivision and site plan ordinances. Staff comments are included in this report.

#### VI. SUBDIVISION REVIEW

##### Subdivision Recording Plat

The Associate Corporation Counsel, Penny Littell, has advised that the subdivision plat for this proposal may comprise the layout plan with a signature line for the Planning Board, and that the plat should include the definition of the subdivision together with planning notes and requirements. (Attachment L). The applicant has submitted a proposed Subdivision Plat and this is attached (Attachment P).

Once the Board has confirmed what conditions (if any) it wishes to impose, these will also be included on the plat.

1. Water and Air Pollution  
The project will not result in undue water or air pollution, as it is not in a flood plain and does not involve new construction.
- 2/3. Water  
The applicant has not provided a 'Capacity to Serve' letter but in view of the fact the

proposed units are entirely within an unused floor of an existing apartment building this has not been pursued.

4. Soil Erosion

The proposal will not cause unreasonable soil erosion as it is entirely within an existing building.

5. Traffic

**Parking**

There are no zoning requirements in respect of parking. The building takes up all of the site parcel so there is no scope for parking on site. The area is served by on street and garage parking nearby. A Commercial loading parking bay is immediately outside the property on Cumberland Avenue.

6/7. Sanitary Sewer/Soils/Stormwater

The proposal is minor in nature and anticipated to be served by the existing services which serve the building.

8. Solid Waste Disposal

The disposal of waste is by private contractor, as outlined in the fax from Tom Watson of 1.4.2006 (Attachment F).

9. Scenic Beauty

The proposal does not have any undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or significant wildlife habitat or rare or irreplaceable natural areas. It is not located within a Historic District nor near a Historic Landmark.

The existing building, with its attractive windows and entrance way onto Cumberland Avenue, contributes significantly to local urban townscape. The applicant has confirmed that the windows on Cumberland Avenue will not be changed (Attachment J) and this will preserve the quality of the front elevation. Furthermore, no additional window openings are proposed to any elevation which will preserve the integrity and proportions of the original building.

The proposals improve the rear elevation of the building itself. However, they do not address the rather unattractive rear aspect which includes the dumpster, some chain link fencing and the jersey barriers along the passageway (see Photograph from Portland Street in Attachment S provided by the applicant).

The City's Technical Standards regarding the provision of street trees has been applied in this type of subdivision to require two street trees per unit. Jeff Tarling, the City Arborist, recommends that this should be required in relation to the proposal (Attachment N). A potential condition would be to require a financial contribution of \$2800 to the City's Residential Tree Program for the provision of 14 trees to be planted in the vicinity of the proposed project.

10. Comprehensive Plan  
The creation of 7 new units of housing is supported by the Comprehensive Plan policy ("A New Vision for Bayside", April 2000 and "Housing: Sustaining Portland's Future" November 2002) which encourages the provision of more housing in the city, especially where the housing can be located near to businesses, services, and public transit.
11. Financial Capability  
The applicant has provided a letter confirming financial capability from William Schad , Vice President of Banknorth (1.23.2006, Attachment J(a)).
- 12./13. Groundwater/Flood Hazard/Shoreland/Wetlands  
The proposal is entirely within the envelope of an existing building and an existing paved area adjacent to the building, and therefore does not adversely affect the quality/quantity of groundwater, is not in a flood prone area and has no effect on wetlands or waterways.

Conformity with Code

Staff requested clarification of the proposal in view of the applicant's description of the proposals as "one bedroom units". Some of the units have only one window at the lower level so the only bed 'room' appears to be a mezzanine area accessed by a single spiral stairway with no window at that level. Code requires that sleeping areas have two means of egress or have a sprinkler system installed.

The architects for the proposals have had discussions with Mike Nugent, the City Director of Inspections, and it appears that there are a couple of possible solutions to ensure the proposal conforms with relevant Code provisions without necessitating further external alterations (eg new windows) (see e-mail from David Lloyd of 1.30.06 Attachment L).

**VII. SITE PLAN REVIEW**

- 1/2. Traffic  
See VI Subdivision Review, paragraph 5. Traffic.
- 3./4. Bulk, Location, Health, Safety Air/Height of Proposed Buildings  
The proposal does not include the construction of any new buildings and there are no known health or safety problems with the existing building.
5. Sewers, Stormdrains, Water  
Refer to VI Subdivision Review, paragraphs 1, 2, 3, 6, and 7.
- 6./7. Landscaping and Existing Vegetation  
The proposal does not include any landscaping.

However, the City's Technical Standards regarding screening of accessory site elements requires that "all trash containers, bottled gas tanks, storage sheds, utility meters or other similar items or accessory structures to be located and suitably screened by planting or

fencing so as not to be clearly visible from the street of abutting properties.”( Section VI, 8AI) Staff requested enclosure of the dumpster in a letter of 1.17.2006 (Attachment H).

The applicant considers that it is not possible to enclose the dumpster because it is located in a right-of-way (the passageway) at the rear of the building and requests a waiver for this requirement (see letter from David Lloyd dated 1.24.2006 Attachment J).

Although the rear elevation is being improved (see VI Subdivision Review Paragraph 9) the dumpster remains an unattractive feature set in what is already a large paved area crossed by a row of concrete ‘jersey’ barriers (see Photograph in Attachment S). If a fixed enclosure of the dumpster is not possible and waived by the Planning Board, then it is suggested that some form of attractive and appropriate screening feature should be provided in substitution. This may require the agreement of other landowners or parties to the right of way over the passage. This requirement is recommended in addition to the required 14 street trees mentioned under Section VII Subdivision Review Paragraph 9).

8. Soils and Drainage  
Refer to VI Subdivision Review, paragraph 4.
9. Exterior Lighting  
There are no proposals for exterior lighting.
9. Fire  
The Fire Department has commented (Greg Cass, Urban Insight 12.12.2005 Attachment C) that all building construction must comply with NFPA 101, Chapter 30, with a plan outlining compliance required.
10. City Infrastructure  
No details have been submitted as the building is currently served by all utilities.

#### Development located in the B-3 Zone Requirements

The proposal is within the B-3 zone and therefore must also meet other standards described in the Downtown Urban Design Guideline (Ordinance 14-526 (A) (16)). It has already been noted that the proposals contribute to the relationship with the pedestrian environment (first 35 feet) by retaining the important features on the front elevation to Cumberland Avenue.

There is some concern that the large windows facing Cumberland Avenue in the area excluded from the subdivision may not be “active windows”; this issue was raised (letter from Jean Fraser dated 1.17.2006 Attachment H). The response from David Lloyd dated 1.24.2006 (Attachment K) confirms that the windows “will not be changed” but further clarification is needed as to how these windows, including the glazed area, will present an attractive ‘face’ to the sidewalk and street.

The relationship to the pedestrian environment at the rear of the property may not be as important as it is set back from the sidewalk, though it is widely visible. The applicant proposes works to improve the windows at the first floor, but has requested a waiver for the enclosure of the dumpster.

The City's Zoning Ordinance for B3 (14-221) requires that "(d) *Exterior Storage*: There shall be no exterior storage, with the exception of receptacles for solid waste disposal which are not visible from a public street. Such receptacles shall be shown on the approved site plan."

As indicated in paragraph 6/7 above, a waiver of the City's Technical Standards for a fixed *enclosure* of the dumpster could be supported. However, the Zoning Ordinance requires that the dumpster *not be visible* from the public street and reinforces the recommendation that the applicant should arrange, if necessary in conjunction with those sharing the right-of-way, some means of concealing the dumpster- which could be integrated with upgrading of the vicinity (ie through tree planting, landscaping or attractive fencing). This is a separate issue from the provision of the 14 street trees required under the Subdivision Review.

Neighborhood Meeting held on January 31, 2006

Two persons attended the Neighborhood Meeting, Steve Hirshon and Ron Spinella- both local residents. Some concerns appear to have been raised concerning parking and the location of the meeting. Both neighbors said that trees designated to be paid for by the developer should be placed in the Bayside neighborhood.

As a result of the Subdivision Review paragraph 9 a total of 14 street trees or equivalent financial contribution is proposed to be required in the vicinity of the proposed project. The need for better screening of the dumpster/rear elevation of the property and improvement of the passageway and its boundary to Maria's parking lot has also been identified in this report.

**VIII. MOTIONS FOR THE BOARD TO CONSIDER**

On the basis of plans and materials submitted by the applicant and on the basis of information contained in Planning Report #11-06 relevant to standards for subdivision and site plan regulations, and other findings as follows:

1. That the plan is in conformance with the subdivision standards of the land use code.

Potential Conditions of Approval:

- i. The final recording subdivision plat will be completed to the satisfaction of the Associate Corporation Counsel and include a listing of any conditions imposed by the Planning Board, and will be submitted for the Planning Board's Signature.
  - ii. That the developer contribute \$2800 towards the City's Residential Tree Program to cover the cost of purchasing and installation of two (2) trees per unit in the vicinity of the project. The landscaping contribution shall be provided prior to issuance of a building permit.
2. That the plan is in conformance with the site plan standards of the land use code.

Potential Conditions of Approval

- i. That the four windows facing onto Cumberland Avenue be maintained as attractive 'active windows'.
3. That the Planning Board waives the Technical Standard (Section VI, 8AI) which requires in relation to subdivisions "all trash containers, bottled gas tanks, storage sheds, utility meters or other similar items or accessory structures to be located and suitably screened by planting or fencing so as not to be clearly visible from the street or abutting properties" due to the location of the dumpster and the difficulty of fully enclosing it with a fixed structure. The waiver is subject to further investigation and submission of some method of concealing the dumpster from the public street in order to meet the B3 Zoning Ordinance.

Attachments:

- A. Submitted application, including photograph of front of "The Earl" facing Cumberland Avenue
- B. David Lloyd, Archetype PA, letter dated December 2, 2005.
- C. Greg Cass, Urban Insight 12.12.2005
- D. Marge Schmuckal, Zoning Administrator, e-mail dated December 30, 2005
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- F. Tom Watson, Fax dated January 4, 2006
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  - b. Title and Ownership of the main building
- K. Penny Littell, Associate Corporation Counsel, e-mail dated January 30, 2006
- L. David Lloyd, e-mail dated January 30, 2006
- M. Certificate of Neighborhood Meeting held January 31, 2006
- N. Jeff Tarling, City Arborist, e-mail of January 31, 2006
- O. Boundary Survey from Owen Haskell Inc (1997)
- P. Proposed Plat Plan
- Q. Sheet A-1, Plan
- R. Sheet A-2 Rear Elevation
- S. Photograph of rear elevation, passageway, dumpster and vicinity (from Portland Street)



## City of Portland Site Plan Application

If you or the property owner owes real estate taxes, personal property taxes or user charges on any property within the City, payment arrangements must be made before permit applications can be received by the Inspections Division.

<b>Address of Proposed Development:</b> 341 Cumberland Avenue		<b>Zone:</b> B-3
<b>Total Square Footage of Proposed Structure:</b> 3,437		<b>Square Footage of Lot:</b> 5,446
<b>Tax Assessor's Chart, Block &amp; Lot:</b> Chart# 33      Block# K      Lot# 8	<b>Property owner's mailing address:</b> Earl Associates, LLC C/O Port Property Management 104 Grant Street Portland, ME 04101	<b>Telephone #:</b> (207) 771-2883
<b>Consultant/Agent, mailing address, phone # &amp; contact person:</b> David Lloyd Archetype, PA 48 Union Wharf Portland, ME 04101	<b>Applicant's name, mailing address, telephone #/Fax#/Pager#:</b> David Lloyd-Archetype, PA 48 Union Wharf Portland, ME 04101 (207) 772-6022 Fax (207) 772-4056	<b>Project name:</b> The Earl

**Fee For Service Deposit (all applications)**       (\$200.00)

**Proposed Development (check all that apply)**  
 New Building     Building Addition     Change of Use     Residential     Office     Retail  
 Manufacturing     Warehouse/Distribution     Parking lot  
 Subdivision (\$500.00) + amount of lots 7 (\$25.00 per lot) \$ 175.00 + major site plan fee if applicable  
 Site Location of Development (\$3,000.00)  
     (except for residential projects which shall be \$200.00 per lot \_\_\_\_\_ )  
 Traffic Movement (\$1,000.00)     Storm water Quality (\$250.00)  
 Section 14-403 Review (\$400.00 + \$25.00 per lot)  
 Other \_\_\_\_\_

**Major Development (more than 10,000 sq. ft.)**  
 Under 50,000 sq. ft. (\$500.00)  
 50,000 - 100,000 sq. ft. (\$1,000.00)  
 Parking Lots over 100 spaces (\$1,000.00)  
 100,000 - 200,000 sq. ft. (\$2,000.00)  
 200,000 - 300,000 sq. ft. (\$3,000.00)  
 Over 300,000 sq. ft. (\$5,000.00)  
 After-the-fact Review (\$1,000.00 + applicable application fee)

**Minor Site Plan Review**  
 Less than 10,000 sq. ft. (\$400.00)  
 After-the-fact Review (\$1,000.00 + applicable application fee)

**Plan Amendments**  
 Planning Staff Review (\$250.00)  
 Planning Board Review (\$500.00)

~ Please see next page ~

**Who billing will be sent to: (Company, Contact Person, Address, Phone #)**

Tom Watson  
Earl Associates, LLC  
C/O Port Property Management  
104 Grant Street  
Portland, ME 04101  
(207) 771-2883

Submittals shall include (9) separate **folded** packets of the following:

- a. copy of application
- b. cover letter stating the nature of the project
- c. site plan containing the information found in the attached sample plans checklist
- d. 1 set of 11 x 17 plans

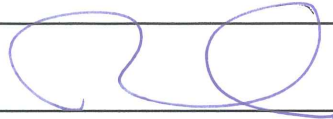
Amendment to Plans: **Amendment applications should include 6 separate packets of the above (a, b, & c)**

ALL PLANS MUST BE FOLDED NEATLY AND IN PACKET FORM

Section 14-522 of the Zoning Ordinance outlines the process which is available on our web site: [portlandmaine.gov](http://portlandmaine.gov)

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 Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Signature of applicant:



Date:

12/2/05

**This application is for site review ONLY; a building Permit application and associated fees will be required prior to construction.**





341 Cumberland Ave.

**A R C H E T E C T Y P E**

---

December 2, 2005

Alex Jaegerman  
City of Portland  
389 Congress Street  
Portland, ME 04101

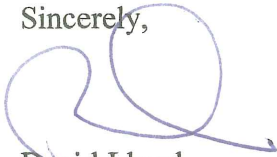
**RE: 341 Cumberland Avenue – The Earl**

Dear Alex,

This is an existing forty one (41) unit rental apartment building. The unit count is twenty two (22) two bedroom apartments, seventeen (17) one bedroom apartments and two (2) studio apartments. There is presently space on the first floor of this building that is not being used. Our intention is to convert this space to seven one-bedroom units.

Please call with any questions or concerns.

Sincerely,

A handwritten signature in blue ink, appearing to read "David Lloyd", with a large, stylized flourish extending to the right.

David Lloyd  
Architect

Application ID Number: 2005-0263

Delete Review Save C

Department: Fire

Status Approved with Conditions

Reviewer Cptn Greg Cass

Comments: [Empty text box]

Approval Date 12/12/2005

Expiration Date 12/12/2006

Extension Date [Empty text box]

OK to Issue Permit Name [Empty] Date [Empty] Date 2 [Empty]

Conditions Section: Add New Condition From Default List Add New Condition Delete Condition

All building construction to comply with NFPA 101, Chapter 30. Plan outlining compliance required.

Create Date: 12/12/2005 By cassg Update Date: 12/12/2005 By cassg

Attachment D.

**From:** Marge Schmuckal  
**To:** Jean Fraser; Penny Littell  
**Date:** 12/30/2005 2:13:40 PM  
**Subject:** Re: 341 Cumberland Ave (2005-0263)

Well there is good zoning news for this one. The property is located within a B-3 business zone, which does not have a minimum land area per dwelling unit and does not require to show parking for any change of uses. So, I believe zoning can be OK. This would require a subdivision review because three and more residential units are being created.

I hope this helps you.  
Marge

>>> Jean Fraser 12/30/2005 2:00:06 PM >>>  
Marge and Penny

Just to highlight an item for next weeks Review meeting - which may require a separate meeting because its being handled by ARCHTYPE (David Lloyd).

It is a subdivision review for the creation of 7 apts (rental) on the first floor of a 5 story brick apartment complex called "The Earl" on Cumberland Ave between Maria's restaurant and Preble Teen ...

Its zoned B3; the first floor is currently vacant and I am told was last used as a gymnasium/dance studio. A caretakers apartment is proposed for the basement level at the back facing onto the parking lot for Maria's.

Four of the seven proposed apartments are under 400 sq ft but have a mezzanine level within them (reached by spiral stair) that adds another 100+ sq ft

New windows are proposed on the rear elevation only.

There is no outside space (it abuts the sidewalk at the front; abuts other buildings on the two sides and abuts a parking lot at the back) except an 'owner unknown' passageway to a rear door to the building with a dumpster located near the door.

On-street parking in the area is limited tho' I have not analyzed this yet.

I don't even know where to begin on this...

Jean  
Planner  
X8728

Attachment E

**From:** "David Lloyd" <lloyd@archetypepa.com>  
**To:** "Fraser Jean" <jf@portlandmaine.gov>  
**Date:** 1/3/2006 3:48:27 PM  
**Subject:** 341 Cumberland Ave The Earl

Jean

I response to your questions on the above mentioned project . I have the following information:

1 All windows will be in existing openings. I will send you a rear elevation and revised floor plan showing all windows.

2:All trash in the building goes into Totes in the rear of the building and is taken away by private collection

3: The passageway at the rear of the building has been used historically and is presently being used . I will have the owners Lawyer send you a copy of the deed

4: The owner wishes to add one more unit to be located in the lower level. This will bring our count to eight units requested.

*/superseded.*

Please call with any other concerns.

David Lloyd

David Lloyd  
Archetype, P.A.  
48 Union Wharf  
Portland, ME 04101  
Phone: (207) 772-6022  
Fax: (207) 772-4056  
lloyd@archetypepa.com  
<http://www.archetype-architects.com> <<http://www.archetype-architects.com/>>

104 Grant Street, Portland, ME 04101  
 Telephone #: (207) 775-5673  
 Fax #: (207) 761-8048

**Port Property  
 Management**

# Fax

To: David Lloyd	From: Tom Watson
Fax: 772-4056	Pages: 2 + cover
Phone: 772-6022	Date: 1-4-2006
Re: The Earl R.O.W.	CC:

**Urgent      For Review      Please Comment      Please Reply      Return A.S.A.P.**

David: Attached is a copy of the deed, wherein the right of way is described. There are 3 properties that border the R.O.W. - us, the Teen Center (formerly the Box Company), and Marie's (the Italian restaurant) parking lot only. In short, we + the Teen Center use the right of way. We use it to roll our garbage totes down to the street for the private garbage collector - and I believe the Teen Center uses their side door there for deliveries etc. It's not a busy space. Pretty slow.

Tom.

BK | 759 | PG | 98

## SCHEDULE A

## To Deed from Wadsworth Corporation to Earl Apartments LLC

Two certain lots or parcels of land, with the buildings and improvements thereon, both situated in the City of Portland, County of Cumberland and State of Maine, more particularly bounded and described as follows:

Parcel 1 (341 Cumberland Avenue/The Earl Apartments):

The following described real estate, with the buildings thereon, situated in said City of Portland on the northwesterly side of Cumberland Avenue and bounded and described as follows:

Beginning at the easterly corner of land now or formerly of S. B. Bedlow on said Cumberland Avenue; thence running northwesterly by a fence on line between said Bedlow land and the land being described; one hundred (100) feet, more or less, to a fence on the rear line of this lot; thence by said last mentioned fence and the continuation of said course fifty-six (56) feet, more or less, to land of J. R. Sweet; thence by a fence on line of said Sweet land southeasterly ninety-eight and one-half (98.5) feet, more or less, to said Cumberland Avenue; thence by said Avenue southwesterly fifty-six and one-half (56.5) feet, more or less, to the point of beginning; together with a right of way sixteen (16) feet in width leading from the rear of the above described lot to Portland Street.

Excepting, however, from the above described real estate, a certain small triangular shaped lot or parcel of land, part of the lot above described and in the rear thereof, and bounded and described as follows:

Beginning at the southeasterly corner of the lot of land conveyed by Elijah Kellogg to Charles Staples on May 10, 1830 by deed recorded in the Cumberland County Registry of Deeds in Book 122, Page 397, said lot being now or lately owned by Dorothy S. Hillman; and said point being at the northerly face of the brick building on the land above described; thence westerly by the southerly line of land of said Hillman thirty and sixteen hundredths (30.16) feet, more or less, to a stake at the southwest corner of said Hillman lot; thence southerly in a prolongation of the westerly line of said Hillman lot one and seventy-four hundredths (1.74) feet, more or less, to the northerly face of the brick building on the land above described; thence easterly by the northerly face of the brick building on the land above described thirty and one-tenth (30.1) feet, more or less, to the point of beginning.

Together with a right of way in common with others in that certain passageway being more particularly bounded and described as follows:

Beginning at a point on the southerly sideline of Portland Street at the northeasterly corner of land conveyed to Casco Paper Box Realty Associates by Maine Air

R-y ht of Way.

BK 1759 | PG 199

Conditioning Company by Deed recorded in Cumberland County Registry of Deeds in Book 4402, Page 235;

Thence S 26° 44' 00" E along said land of Casco Paper Box Realty Associates 87.31 feet to a point in the northerly boundary of the above described premises;

Thence N 86° 12' 50" E along said northerly boundary 13.03 feet to land now or formerly of William J. Dowd;

Thence N 26° 44' 00" W along said Dowd land 85.88 feet to a point on the said sideline of Portland Street;

Thence N 88° 15' 00" W along said sideline of Portland Street 13.65 feet to the point of beginning.

4 Boundary lines of right of way

Parcel 1 is otherwise more particularly bounded and described as follows:

A certain lot or parcel of land situated on the northwesterly side of Cumberland Avenue in the City of Portland, County of Cumberland and State of Maine, bounded and described as follows:

Beginning at a point on the northwesterly sideline of Cumberland Avenue at the southwesterly corner of land conveyed to Madeline A. Napolitano by Anthony J. Napolitano by deed recorded in the Cumberland County Registry of deeds in Book 11868, Page 239, said point being on the easterly face of the building located on the premises herein described, and distant 122.70 feet as measured along said street line from a City Monument at or near its intersection with Preble Street;

Thence S 67° 22' 30" W along said sideline of Cumberland Avenue 56.20 feet to the southeasterly corner of land now or formerly of Casco Paper Box Realty Associates, said point being on the easterly face of the building located on land of said Realty Associates;

Thence N 25° 53' 30" W along said Realty Associates land by the easterly face of the building thereon, 101.63 feet to the corner of the building;

Thence N 71° 24' 40" E along said Realty Associates land by the southerly face of the building thereon, 12.37 feet to the corner of the building;

Thence N 86° 12' 50" E across the terminus of a 12 foot wide passageway leading to Portland Street, 13.03 feet to a point on the westerly boundary of land now or formerly of William J. Dowd;

Thence S 26° 44' 00" E along said Dowd land 1.74 feet to a point on the northerly face of the building located on the premises herein described;





CORPORATE OFFICES: Maine, Massachusetts,  
New Hampshire, Connecticut, Florida  
*Operational offices throughout the U.S.*

**MEMORANDUM**

**05-263**

**TO:** Jean Fraser, City of Portland Planner  
**FROM:** Dan Goyette, PE – Development Review Coordinator, Woodard & Curran, Inc.  
**DATE:** January 17, 2006  
**RE:** The Earl

---

Woodard & Curran has reviewed the Minor Site Plan submission for the proposed project at 341 Cumberland Avenue, the Earl. The project involves the construction of 7 one unit apartments in an existing first floor space.

**Documents Reviewed**

- City of Portland Development Review Application for The Earl, dated December 2, 2005.

**Comments**

At this time we have no comments with regards to this project.

DRG  
203848.

cc: File



# PORTLAND MAINE

Strengthening a Remarkable City, Building a Community for Life <sup>file copy</sup> [www.portlandmaine.gov](http://www.portlandmaine.gov)

Attachment H

Planning and Development Department  
Lee D. Urban, Director

Planning Division  
Alexander Jaegerman, Director  
David Lloyd  
Archetype, PA  
48 Union Wharf  
Portland, ME. 04101

January 17th, 2006

Dear Mr. Lloyd,

**Re: Minor Site Plan Review (Subdivision): 341 Cumberland Avenue (The Earl)  
2005-0263**

I am writing to confirm the receipt and registration of the Minor Site Plan Application submitted on behalf of Earl Associates LLC for the subdivision of the first floor into seven one-bedroom units.

Given that the alterations to the outside of the building will be minor in nature we are currently prepared to take this project directly to a Public Hearing, provided that the proposals meet City standards and a neighborhood meeting is held at least one week prior to the Hearing. The Planning Board Hearing is provisionally scheduled for February 7<sup>th</sup>, 2006.

Thank you for the further information received by e-mail and letter and I have a few additional comments:

- A. The proposals are generally acceptable in terms of the B3 Zoning for the site. I understand from you that the proposals shown in Plan A-1 have been discussed with Mike Nugent and that there are no Code issues. In your letter of December 2, 2005 you describe the new units as "one-bedroom units" although this is not clear on the submitted Plan A-1.
- B. Proposals in this Zone must meet Urban Design Guidelines and in this instance, where the entire rear elevation of the building is visible from Portland Street, I suggest that the lower rear wall should be repainted along with upgrading of the lower door/door opening in the rear elevation. Also please confirm that the reinstatement of the wall around the new glazing, where there is currently a door at first floor level, will be brick to match the existing brick. Both of these can be indicated on Plan A-2, which I understand you will be revising in any case to reflect the decision not to create a new unit at the lower level.

- C. The Fire Department has commented that all building construction must comply with NFPA 101, Chapter 30, with a plan outlining compliance required.
- D. The dumpster in the alley that runs along the Teen Center should not be visible from the public street and some form of attractive enclosure is required. The alley area and proposals for screening the dumpster should be shown on the plan.
- E. While noting that the other side of the front lobby (with two large windows onto the sidewalk) is outside the scope of your work, we would want to ensure that the external parts of these windows are treated to match those for the new "apartment 1" on the other side of the lobby, and to ensure that these windows are 'active windows'. Please pass this point on to the applicant.
- F. Regarding the public meeting, please be advised that noticing will need to include all those within 500 feet of the site, and we will provide labels for the invitations.

Sincerely,



Jean Fraser  
Planner

cc { Alex Jaegerman - Planning Division Director  
Marge Schmuckal - Zoning Administrator  
Mike Nugent - Director of Inspections  
Greg Cass - Fire Department  
Sarah Hopkins - Development Review Manager  
Carrie Marsh - Urban Designer  
Jennifer Dorr - Office Manager

all sent

Attachment I.

**From:** "David Lloyd" <lloyd@archetypepa.com>  
**To:** "'Jean Fraser'" <JF@portlandmaine.gov>  
**Date:** 1/18/2006 10:18:04 AM  
**Subject:** RE: 342 Cumberland (The Earl)

Jean

I will be following up on all your concerns within a few days. I do want to make you aware that I made a mistake in calling out the existing number of units in the building presently. We said there were 41. There are actually 22 existing units total, which consist of 17 one bedroom, 3 two bedroom and 2 studio apartments. We will be adding 7 one bed rooms to this.

David

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

From: Jean Fraser [mailto:JF@portlandmaine.gov]  
Sent: Tuesday, January 17, 2006 1:52 PM  
To: lloyd@archetypepa.com  
Subject: 342 Cumberland (The Earl)

Hi David,

Tried to fax you the attached letter but for some reason it wouldn't go through.

So I attach the text version as theres not a lot of time to get a public meeting organized as you need to notice 7 days before the meeting and have the meeting 7 days before the Hearing (Feb 7th provisional date with no workshop).

The noticing needs to go to those within 500 feet of the site and we will provide the labels (but a new list is needed; the original noticing needs to be widened).

Let me know if you need a fax (eg signed) copy of the letter; the hard copy is in the mail.

Jean Fraser  
Planning

874 8728

**CC:** "'Susan McEwen'" <smcewen@maine.rr.com>

**A R C H E T Y P E**

---

January 24, 2006

Jean Fraser  
City of Portland  
389 Congress Street  
Portland, ME 04101

**RE: 341 Cumberland Avenue – The Earl – 2005-0263**

Dear Ms. Fraser,

In response to your letter of January 17, 2006, I have the following:

- A. All proposed seven (7) units are one bedroom units.
  - 1. We have noted on the rear elevations to paint the existing lower level. This includes existing concrete, brick and block infill. The owner does not wish to replace the existing metal door. We will however paint this and the adjoining block. Please understand that this is a service door. This is a new door offering the tenants and the building owner the security they need in this neighborhood.
  - 2. We have redesigned the infill at existing door at first floor and replaced it with a glass door with a french railing. See revised rear elevation.
- B. All new construction will comply with NFPA 101, Chapter 30. We will submit Fire Code compliance review during application for Building Permit.
- C. The dumpster does not sit on the owner's property. It is located on the "Passageway"; therefore we do not feel that we can build an enclosure around this. We respectfully ask for a waiver on this requirement. We will present photos of this condition for the Planning Board to review.
- D. The windows on Cumberland Avenue will not be changed.
- E. Neighborhood meeting notices were sent out on January 19, 2006. The meeting will be held on January 31, 2006.

Please call with any questions.

Sincerely,



David Lloyd  
Architect

Enclosures: A1, A2, Deed & Letter of Financial Capability

CC: Tom Watson - Port Property Management

FROM :Port Property Management  
01/23/2006 14:19 FAX 2077618660

FAX NO. :2077618048  
TD BANKNORTH. N.A.

Jan. 24 2006 08:56AM P2  
002/002



Maine

One Portland Square  
P.O. Box 9540  
Portland, ME 04112-9540  
F: 207 761-8660  
207 761-8500 Toll Free: 800 462-3666  
TDBanknorth.com

January 23, 2006

Planning Board  
City of Portland  
Portland, ME 04101

Re: Earl Apartments, LLC / Thomas Watson

To whom it concerns:

TD Banknorth has shared a banking relationship with Tom Watson, principal owner of Earl Apartments, LLC, for nearly ten years. In my opinion, he maintains the financial capacity to complete his planned improvements to the real estate located at 341 Cumberland Ave.

If you require additional information, please call me directly at 761-8612.

Sincerely,

*William R. Schad*  
William R. Schad  
Vice President

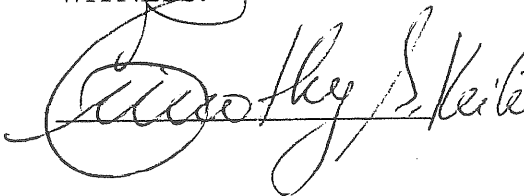
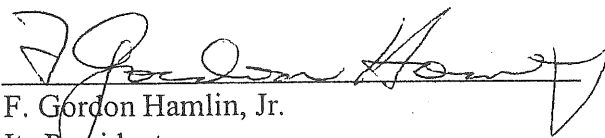
**Quitclaim Deed**  
(With Covenant)

**WADSWORTH CORPORATION**, a Maine corporation with a mailing address in care of Fishman Properties, 48 Congress Street, Portland, ME 04101, for good and valuable consideration paid, does hereby GRANT and CONVEY unto **EARL APARTMENTS, LLC**, a Maine limited liability company with a mailing address of 104 Grant Street, Portland, Maine 04104, with QUITCLAIM COVENANT, two certain lots or parcels of land, with any and all buildings and improvements thereon and all appurtenances thereto, situated at and near 28-34 Preble Street, and at and near 341 Cumberland Avenue, respectively, both in the City of Portland, County of Cumberland and State of Maine, all as more particularly described in Schedule A attached hereto and incorporated herein by this reference.

IN WITNESS WHEREOF, Wadsworth Corporation has caused this instrument to be executed by F. Gordon Hamlin, Jr. its duly authorized President, this 25<sup>th</sup> day of April, 2002.

WITNESS:

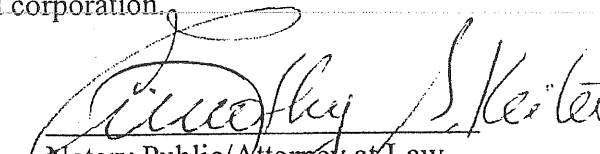
WADSWORTH CORPORATION

 By:   
F. Gordon Hamlin, Jr.  
Its President

STATE OF MAINE  
COUNTY OF CUMBERLAND, ss

April 25, 2002

Personally appeared before me F. Gordon Hamlin, Jr., President of Wadsworth Corporation as aforesaid, and acknowledged the foregoing to be his free act and deed in said capacity, and the free act and deed of said corporation.

  
Notary Public/Attorney at Law  
Print name: Timothy S. Keiter  
My commission expires: N/A

**WARRANTY DEED**  
(Maine Statutory Short Form)

KNOW ALL PERSONS BY THESE PRESENTS, that **The Metro Group**, a Maine general partnership, with a place of business in Portland, County of Cumberland, and State of Maine, for consideration paid, grants to **Metropolitan Apartments, LLC**, a Maine limited liability company, of Pownal, Maine whose mailing address is: c/o Thomas Watson, 429 Elmwood Road, Pownal, ME 04069, with **WARRANTY COVENANTS**, the real property in the City of Portland, County of Cumberland, State of Maine, described as follows:

A certain lot or parcel of land, together with the buildings thereon, situated on the Northerly side of Congress Street, in Portland, in the County of Cumberland and State of Maine, being the premises formerly known as the Farrington Block, now known as the Metropolitan Building, bounded and described as follows:

Beginning at a point on said Northerly side of Congress Street at the division line established in an agreement between William Chadwick (a former owner of the property under description) and the First Parish Church, dated July 31, 1826, by deed recorded in the Cumberland County Registry of Deeds, in Book 107, Page 4, said line being forty (40) feet six (6) inches Westerly of and parallel to the Westerly line of said Church as indicated by its granite underpinnings;

and running thence from said line Westerly by said Congress Street ninety-nine and eighty-eight hundredths (99.88) feet to land formerly owned by Mary J.E. Clapp, deceased, on which the so-called Clapp Memorial Building now or formerly stands;

thence Northwesterly by said Clapp land on a course determined by an included angle on the land under description of  $89^{\circ}18'$  for a distance of eighty-two and one-half ( $82 \frac{1}{2}$ ) feet to a small angle;

thence continuing Northwesterly by said Clapp land on a course determined by an included angle of  $177^{\circ}47'$  for a distance of fifty-one and twenty-four hundredths (51.24) feet to land now or formerly of the City of Portland (Portland High School lot);

thence Northeasterly by said City of Portland land ninety-seven and twenty-four hundredths (97.24) feet, more or less, to the Westerly line of land now or formerly of the First Parish Church as above defined;

thence southeasterly by said Church land one hundred thirty-three and sixty-eight hundredths (133.68) feet to the place of beginning.

Subject to the conditions set forth in a certain agreement dated November, 1922, recorded in the Cumberland County Registry of Deeds in Book 1222, Page 32, between the Estate of Mary J.E. Clapp and Farrington H. Whipple, et als, which agreement relates to the dividing line between said Clapp premises and the property

MAINE REAL ESTATE TAX PAID




under description, provides that, the buildings on said adjoining premises may abut upon each other, and that the brick face on the fronts of said buildings where they face on Congress Street shall be on the same line and equally distant from the Northerly line of said street; said agreement providing further that if for any reason said buildings, or either of them, are destroyed, the building or buildings which are erected to take their place shall conform to said agreement unless either party thereto in writing objects.

Meaning and intending to convey, and hereby conveying, the same premises conveyed to the Grantor herein by deed of Metropolitan Corporation dated September 16, 1986, and recorded at Book 7377, Page 154 Cumberland County Registry of Deeds.

IN WITNESS WHEREOF, it, the said **The Metro Group**, has caused this instrument to be signed and sealed in its partnership name by Frank Read, M.D., its Managing General Partner, thereunto duly authorized, on May 15, 2000.

WITNESS:

The Metro Group

By:   
Frank Read, M.D.,  
Its Managing General Partner




STATE OF MAINE  
COUNTY OF CUMBERLAND, ss.

May 15, 2000

Then personally appeared the above named Frank Read, M.D., Managing General Partner of said The Metro Group, as aforesaid, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said The Metro Group.

Before me,

  
Notary Public  
Print Name: James R. Lemieux  
My Commission Expires: \_\_\_\_\_

RECEIVED  
RECORDED REGISTRY OF DEEDS  
2000 MAY 16 AM 10:38  
CUMBERLAND COUNTY

## SCHEDULE A

### To Deed from Wadsworth Corporation to Earl Apartments LLC

Two certain lots or parcels of land, with the buildings and improvements thereon, both situated in the City of Portland, County of Cumberland and State of Maine, more particularly bounded and described as follows:

#### Parcel 1 (341 Cumberland Avenue/The Earl Apartments):

The following described real estate, with the buildings thereon, situated in said City of Portland on the northwesterly side of Cumberland Avenue and bounded and described as follows:

Beginning at the easterly corner of land now or formerly of S. B. Bedlow on said Cumberland Avenue; thence running northwesterly by a fence on line between said Bedlow land and the land being described; one hundred (100) feet, more or less, to a fence on the rear line of this lot; thence by said last mentioned fence and the continuation of said course fifty-six (56) feet, more or less, to land of J. R. Swett; thence by a fence on line of said Swett land southeasterly ninety-eight and one-half (98.5) feet, more or less, to said Cumberland Avenue; thence by said Avenue southwesterly fifty-six and one-half (56.5) feet, more or less, to the point of beginning; together with a right of way sixteen (16) feet in width leading from the rear of the above described lot to Portland Street.

Excepting, however, from the above described real estate, a certain small triangular shaped lot or parcel of land, part of the lot above described and in the rear thereof, and bounded and described as follows:

Beginning at the southeasterly corner of the lot of land conveyed by Elijah Kellogg to Charles Staples on May 10, 1830 by deed recorded in the Cumberland County Registry of Deeds in Book 122, Page 397, said lot being now or lately owned by Dorothy S. Hillman; and said point being at the northerly face of the brick building on the land above described; thence westerly by the southerly line of land of said Hillman thirty and sixteen hundredths (30.16) feet, more or less, to a stake at the southwest corner of said Hillman lot; thence southerly in a prolongation of the westerly line of said Hillman lot one and seventy-four hundredths (1.74) feet, more or less, to the northerly face of the brick building on the land above described; thence easterly by the northerly face of the brick building on the land above described thirty and one-tenth (30.1) feet, more or less, to the point of beginning.

Together with a right of way in common with others in that certain passageway being more particularly bounded and described as follows:

Beginning at a point on the southerly sideline of Portland Street at the northeasterly corner of land conveyed to Casco Paper Box Realty Associates by Maine Air

Conditioning Company by Deed recorded in Cumberland County Registry of Deeds in Book 4402, Page 235;

Thence S 26° 44' 00" E along said land of Casco Paper Box Realty Associates 87.31 feet to a point in the northerly boundary of the above described premises;

Thence N 86° 12' 50" E along said northerly boundary 13.03 feet to land now or formerly of William J. Dowd;

Thence N 26° 44' 00" W along said Dowd land 85.88 feet to a point on the said sideline of Portland Street;

Thence N 88° 15' 00" W along said sideline of Portland Street 13.65 feet to the point of beginning.

Parcel 1 is otherwise more particularly bounded and described as follows:

A certain lot or parcel of land situated on the northwesterly side of Cumberland Avenue in the City of Portland, County of Cumberland and State of Maine, bounded and described as follows:

Beginning at a point on the northwesterly sideline of Cumberland Avenue at the southwesterly corner of land conveyed to Madeline A. Napolitano by Anthony J. Napolitano by deed recorded in the Cumberland County Registry of deeds in Book 11868, Page 239, said point being on the easterly face of the building located on the premises herein described, and distant 122,70 feet as measured along said street line from a City Monument at or near its intersection with Preble Street;

Thence S 67° 22' 30" W along said sideline of Cumberland Avenue 56.20 feet to the southeasterly corner of land now or formerly of Casco Paper Box Realty Associates, said point being on the easterly face of the building located on land of said Realty Associates;

Thence N 25° 53' 30" W along said Realty Associates land by the easterly face of the building thereon, 101.63 feet to the corner of the building;

Thence N 71° 24' 40" E along said Realty Associates land by the southerly face of the building thereon, 12.37 feet to the corner of the building;

Thence N 86° 12' 50" E across the terminus of a 12 foot wide passageway leading to Portland Street, 13.03 feet to a point on the westerly boundary of land now or formerly of William J. Dowd;

Thence S 26° 44' 00" E along said Dowd land 1.74 feet to a point on the northerly face of the building located on the premises herein described;

Thence N 67° 31' 30" E along said Dowd land by said northerly face of the building, 30.34 feet to the northeast corner of said building;

Thence S 26° 27' 05" E along said Dowd land and said Napolitano land 94.81 feet to the point of beginning.

Together with a right of way in common with others in that certain passageway being more particularly bounded and described as follows:

Beginning at a point on the southerly sideline of Portland Street at the northeasterly corner of land conveyed to Casco Paper Box Realty Associates by Maine Air Conditioning Company by Deed recorded in Cumberland County Registry of Deeds in Book 4402, Page 235;

Thence S 26° 44' 00" E along said land of Casco Paper Box Realty Associates 87.31 feet to a point in the northerly boundary of the above described premises;

Thence N 86° 12' 50" E along said northerly boundary 13.03 feet to land now or formerly of William J. Dowd;

Thence N 26° 44' 00" W along said Dowd land 85.88 feet to a point on the said sideline of Portland Street;

Thence N 88° 15' 00" W along said sideline of Portland Street 13.65 feet to the point of beginning.

Parcel 2 (28-34 Preble Street):

The premises known as The Wadsworth, situated on the Southwesterly side of Preble Street in the City of Portland, County of Cumberland and State of Maine, further described as follows:

Beginning on the Southwesterly sideline of Preble Street at the Northeasterly corner of the Firestone building, being the premises conveyed by Portland Savings Bank to Harry Potter by deed dated December 29, 1921, and recorded at the Cumberland County Registry of Deeds in Book 1091, Page 295; thence Southwesterly at right angles or approximately at right angles with said sideline of Preble Street and by the face of the Northwesterly wall of said Firestone Building eighty-four (84) feet, more or less, to the face of the rear wall of The Wadsworth; thence Northwesterly at right angles or approximately at right angles by the face of said rear wall one hundred two (102) feet, more or less, to the face of the Northwesterly wall of The Wadsworth; thence Northeasterly at right angles or approximately at right angles by the face of said Northwesterly wall eighty-four (84) feet, more or less, to the Southwesterly sideline of Preble Street, thence Southeasterly by Preble Street one hundred two (102) feet, more or less, to the point of beginning.

Together with a right of way in common with others in the passageway now existing along the Northwesterly side of the Wadsworth, and a right to light and air in the area or court in rear of The Wadsworth with the right to maintain fire escapes projecting into said area and to maintain the fire escape now attached to The Wadsworth, the Firestone building and Keith's Theater Building except that neither the Keith's Theater Building nor The Wadsworth shall be under any obligation to allow said fire escape to be attached to it; but so long as maintained each of said buildings shall bear its proportional part of the expense of maintenance; together with and subject to the other rights reserved for The Wadsworth and granted to the Firestone Building by the deed from the Portland Savings Bank to Harry Potter dated December 29, 1921, and recorded in the Cumberland County Registry of Deeds in Book 1091, Page 295.

Subject, nevertheless, to the right of Keith's Theater to maintain the large chimney in rear of The Wadsworth, now used by it, attached to or supported by the southwest wall of The Wadsworth and projecting above the roof of The Wadsworth, with the right in The Wadsworth to continue any use of said chimney now enjoyed by said building but without obligation on the part of Keith's Theater to maintain said chimney for the sole use of The Wadsworth, and subject also to the right of Keith's Theater to maintain the sewer from the said theatre building to Preble Street as now existing, and also to other existing easements, if any, provided that the cost of maintenance, if used jointly or in common shall be borne equally by The Wadsworth and Keith's Theatre Building.

Parcel 2 is otherwise more particularly bounded and described as follows:

Beginning at the easterly corner of the "Wadsworth" Building at the northerly corner of the "Firestone" Building being the same premises conveyed by Portland Savings Bank to Harry Potter by Deed dated December 29, 1921 and recorded in the Cumberland County Registry of Deeds in Book 1091, Page 295;

Thence S 62° 16' 40" W by the face of the northwesterly wall of said Firestone Building and the face of the southeasterly wall of said Wadsworth Building a distance of 83.94 feet to the face of the rear wall of the Wadsworth Building;

Thence N 28° 12' 05" W by the face of said rear wall a distance of 103.13 feet to the face of the northwesterly wall of said Wadsworth Building;

Thence N 62° 23' 28" E by the face of the northwesterly wall and along the southeasterly sideline of a 10 foot wide passageway a distance of 85.05 feet to the northerly corner of the said Wadsworth Building a distance of 0.35 feet northeasterly of the southwesterly sideline of Preble Street;

Thence S 27° 35' 21" E by the face of the front wall a distance of 102.96 feet to the point of beginning 0.34 feet northeasterly of said southwesterly sideline of Preble Street.

Meaning and intending to describe a parcel of land a portion of which is overlapped by Preble Street 0.35 feet at the northerly end and 0.34 feet on the southerly end of the last described line.

Together with a right of way in common with others in the passageway now existing along the northwesterly side of the Wadsworth, bounded and described as follows:

Beginning at the westerly corner of the "Wadsworth" Building

Thence N 28° 12' 05" W 10 feet to a point;

Thence N 62° 23' 28" E along a line parallel with and 10 feet distant from the northwesterly building face of the "Wadsworth" Building a distance of 84.81 feet to the southwesterly sideline of Preble Street;

Thence S 27° 35' 21" E by and along Preble Street 10 feet to a point at the northwesterly building face of said "Wadsworth" Building;

Thence S 62° 23' 28" E by and along said building face 85.05 feet to the point of beginning.

Also together with a right to light and air in the area or court in rear of The Wadsworth, with the right to maintain fire escapes projecting into said area and to maintain the fire escape now attached to The Wadsworth, the Firestone Building, so-called, and the Keith's Theater Building except that neither the Keith's Theater Building nor The Wadsworth shall be under any obligation to allow said fire escape to be attached to it; but so long as maintained each of said buildings shall bear its proportional part of the expense of maintenance; together with and subject to the other rights reserved for The Wadsworth and granted to the Firestone Building in a deed from the Portland Savings Bank to Harry Potter dated December 29, 1921, and recorded in the Cumberland County Registry of Deeds in Book 1091, Page 295.

Subject, nevertheless, to the right of Keith's Theater to maintain the large chimney in rear of The Wadsworth, now used by it, attached to or supported by the southwest wall of The Wadsworth and projecting above the roof of The Wadsworth, with the right in The Wadsworth to continue any use of said chimney now enjoyed by said building but without obligation on the part of Keith's Theater to maintain said chimney for the sole use of The Wadsworth, and subject also to the right of Keith's Theater to maintain the sewer from the said theatre building to Preble Street as now existing, and also to other existing easements, if any, provided that the cost of maintenance, if used jointly or in common shall be borne equally by The Wadsworth and Keith's Theatre Building.

The above parcels of land are conveyed subject to a certain Multifamily Mortgage, Assignment of Rents and Security Agreement from Wadsworth Corporation to KeyCorp Real Estate Capital Markets, Inc., dated July 24, 1997, and recorded in the Cumberland

County Registry of Deeds in Book 13212, Page 272, and also subject to a certain Assignment of Leases and Rents given by Wadsworth Corporation to KeyCorp Real Estate Capital Markets, Inc., dated July 24, 1997, and recorded in the Cumberland County Registry of Deeds in Book 13212, Page 262, and also subject to a UCC-1 Financing Statement, recorded in said Registry of Deeds in Book 13213, Page 315, as said instruments have been assigned to Citicorp RE, Inc., by instrument recorded in said Registry of Deeds in Book 13213, Page 326, and subsequently assigned to Lasalle National Bank/ ABN AMRO Bank N.V. (as trustee for the registered holders of Mortgage Capital Funding, Inc., Multifamily/Commercial Mortgage Pass-Through Certificates, Series 1997-MC2), by instrument dated November 25, 1997, and recorded in said Registry of Deeds in Book 13471, Page 219.

The above described Parcel 2 is also conveyed subject to the easements, rights, terms, conditions and provisions contained in a certain Easement dated August 9, 2001, by and between Wadsworth Corporation and Pennesseewasee, LLC, recorded in said Registry of Deeds in Book 16736, Page 276.

*Attachment K.*

**From:** Penny Littell  
**To:** Jean Fraser  
**Date:** 1/30/2006 9:01:21 AM  
**Subject:** Re: Hearing Report on 341 Cumberland

Jean: 1) have you discussed the fire requirements with Captain Cass of the fire dept. He is at 8405.

2) the layout plan should have a signature line for the PB to sign. It will constitute the subdivision plat. Included on it should be the state definition of subdivision, as well as any other Planning notes you might want to require re the adjacent passageway and the dumpster location. This could be in a separate circle of block on the plat.



Attachment L.

**From:** "David Lloyd" <lloyd@archetypepa.com>  
**To:** "Fraser Jean" <jf@portlandmaine.gov>, "Mike Nugent" <mjn@portlandmaine.gov>  
**Date:** 1/30/2006 11:25:44 AM  
**Subject:** 341 Cumberland Street

Jean

I met with Mike Nugent .We have established two solutions to the mezzanine egress concern. We will either sprinkle the building or we will provide a second means of egress from each mezzanine. We will determine which approach works at a future date. Neither solution will change the exterior of the building.

David

David Lloyd  
Archetype, P.A.  
48 Union Wharf  
Portland, ME 04101  
Phone: (207) 772-6022  
Fax: (207) 772-4056  
lloyd@archetypepa.com  
<http://www.archetype-architects.com> <<http://www.archetype-architects.com/>>

**CC:** "Tom Watson" <tom@portpropmgt.com>

Attachment M.

## Neighborhood Meeting Certification

341 Cumberland Avenue - The Earl

I, David Lloyd hereby certify that a neighborhood meeting was held on January 31, 2006 at Archetype 48 Union Wharf at 5:30 pm.

I also certify that on January 18, 2006, invitations were mailed to all addresses on the mailing list provided by the Planning Division, including property owners within 500 feet of the proposed development and the residents on the "interested parties" list

Signed,



David Lloyd

February 1, 2006 (date)

Attached to this certification are

1. Copy of the invitation sent
2. Sign-in sheet
3. Meeting minutes

# SIGN UP SHEET

341 Cumberland Avenue Neighborhood Meeting

January 31, 2006 @ 5:30 pm

	Name	Address
1	Steve Hirschman	18 Hanover St
2	RON SPINELLA	377 Cumberland Ave.
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January 18, 2006

Dear Neighbor:

Please join us for a neighborhood meeting to discuss our plans for an existing Twenty two (22) unit rental apartment building located at 341 Cumberland Avenue. There is presently space on the first floor of this building that is not being used. Our intention is to convert this space to seven one-bedroom units.

Meeting Location: Archetype, 48 Union Wharf, Portland, ME

Meeting Date: January 31, 2006

Meeting Time: 5:30 p.m.

If you have any questions, please call David Lloyd, Archetype, P.A. (207) 772-6022.

Sincerely,

David Lloyd

**Note:**

Under Section 14-32(C) of the City Code of Ordinances, an applicant for a major development, subdivision of over five lots/units, or zone change is required to hold a neighborhood meeting at least seven days prior to the Planning Board public hearing on the proposal.

The City code requires that property owners within 500 feet of the proposed development and residents on an "interested parties list" be invited to participate in a neighborhood meeting. A sign-in sheet will be circulated and minutes of the meeting will be taken. Both the sign-in sheet and minutes will be submitted to the Planning Board.

**NEIGHBORHOOD MEETING**  
**341 Cumberland Avenue – The Earl**  
**January 31, 2006**

Present:	David Lloyd	Archetype, P.A.
	Steve Hishon	18 Hanover Street
	Ron Spinella	377 Cumberland Ave.
	Tom Watson	Building Owner

---

The following items were discussed:

1. Architect presented to the neighbors a overall view of the building and how the units were being incorporated into the existing building.
2. Ron Spinella said he was glad to see that there were apartments like this going into the neighborhood and saw it as a positive measure.
3. Ron asked what the price range was to the Owner. The Owner said he has not fully decided yet but probably in the \$600 - \$700 dollar range, including hot water and heat.
4. Steve Hirshon questioned that the meeting was held at the Architects office versus in the bayside neighborhood. The architect was not aware that the meeting had to be held in the neighborhood. The architect said he would be glad to hold the meeting in the neighborhood, but felt that this location wouldn't be a problem.
5. Ron Spinella asked if there was parking required in the area. The answer was that parking was not required and one seemed to express that this was a problem.
6. Tom Watson said that he hoped to eventually have a property manager at the site to keep the area clean, as he has problems with some trash in the side walks. Everyone agreed that this could be a positive thing.
7. Discussion was had in regards to the donation to the tree fund. All neighbors said that he trees designated to be paid for by the developer should be placed in the bayside neighborhood.

**\*\*END OF NOTES\*\***

Elm St.

**C. Existing Land Use:**

The building is currently vacant with no active use or tenant. The building was the site of the former Portland Public Market.

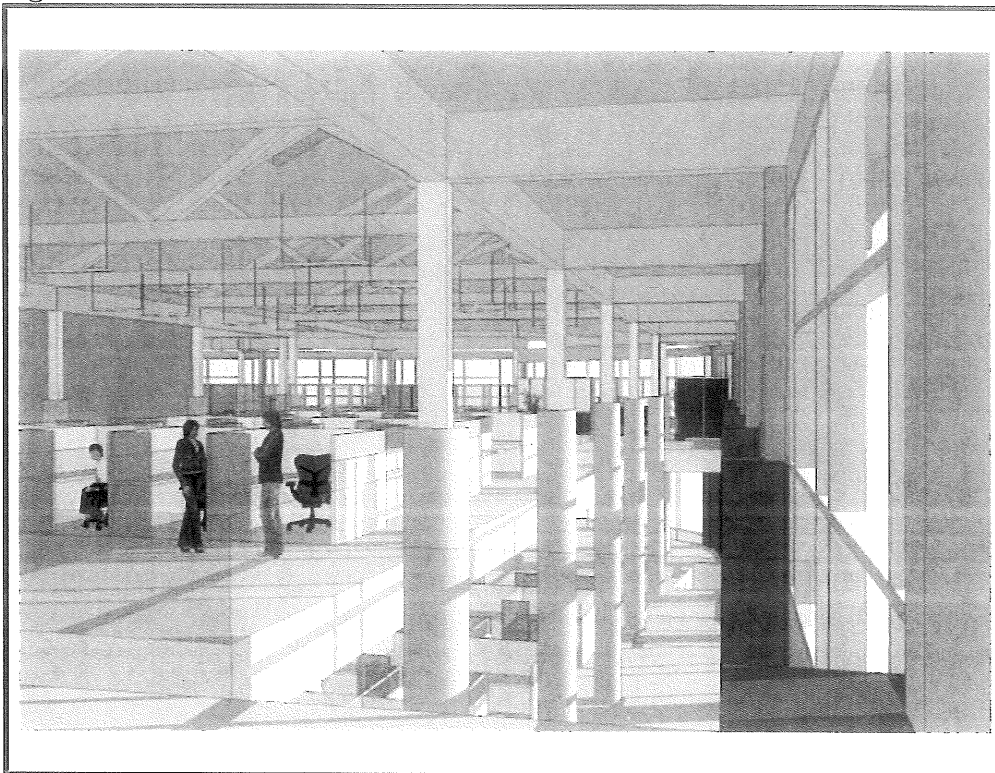
**II. PROJECT DATA**

<b>Zone</b>	B-3 Downtown Commercial
<b>Parcel Size</b>	46,647 sq. ft.
<b>Parking Spaces</b>	<i>Required:</i> N/A – Change of Use <i>Existing:</i> 280
<b>Bicycle Parking</b>	<i>Required:</i> N/A – Change of Use <i>Proposed:</i> none
<b>Building Floor Area</b>	<i>Existing:</i> 33,333 sq. ft. <i>Proposed:</i> 46,451 sq. ft.
<b>Building Height</b>	<i>Maximum:</i> 65 ft. <i>Existing:</i> 39 ft.
<b>Adjacent Zoning and Land Uses</b>	<i>North:</i> B-3, Commercial – Parking garage <i>South:</i> B-3, Commercial/Office <i>East:</i> B-3, Financial/Institution Use – Portland Public Library <i>West:</i> B-3, Office/Commercial

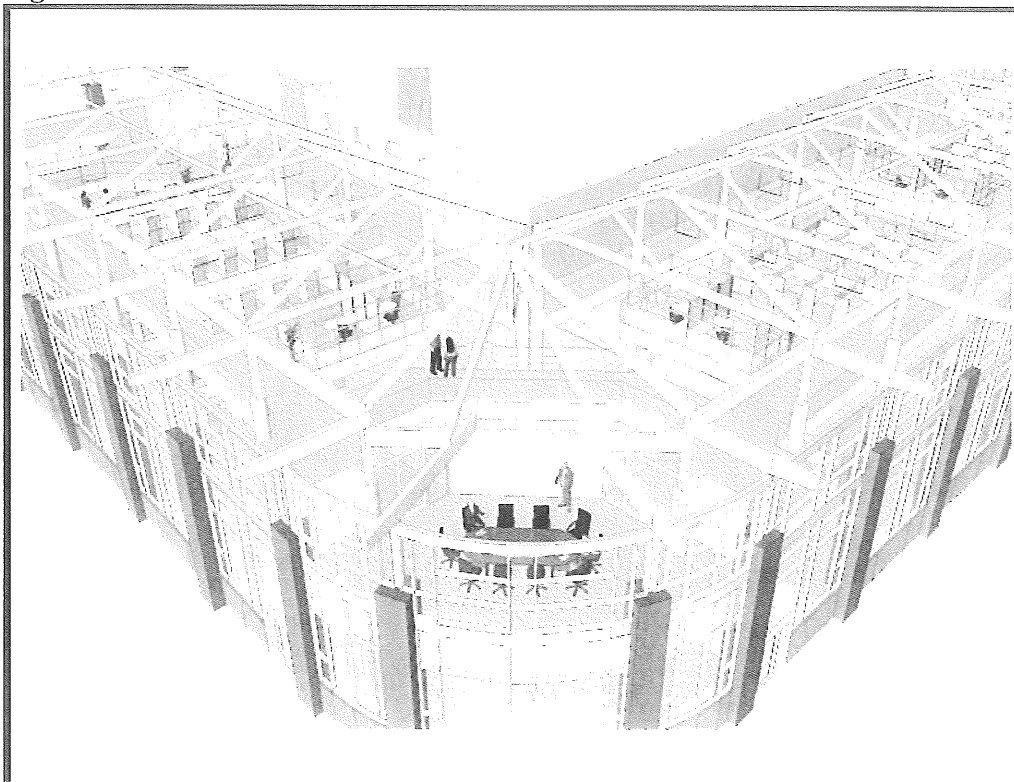
**III. PROPOSED DEVELOPMENT**

The site plan application includes interior and exterior rehabilitation modifications to the existing building. The applicant’s renovation plans include the addition of a second floor to increase the usable square footage of the building from 33,333 sq. ft. to 46,451 sq. ft. (**Figure 2 and 3**). The applicant is proposing to close the Cumberland/Preble entry and enclose the area for a conference room. The net increase in floor area for the conference area is 904 sq. ft. The applicant also states, the project is attempting to receive LEED Gold Certification.

**Figure 2: Renovated Interior #1**



**Figure 3: Renovated Interior #2**



#### **IV. STAFF REVIEW**

The proposed development has been reviewed by staff for conformance with the zoning regulations and review standards of the site plan ordinance. Agency comments are included in the relevant sections of this report.

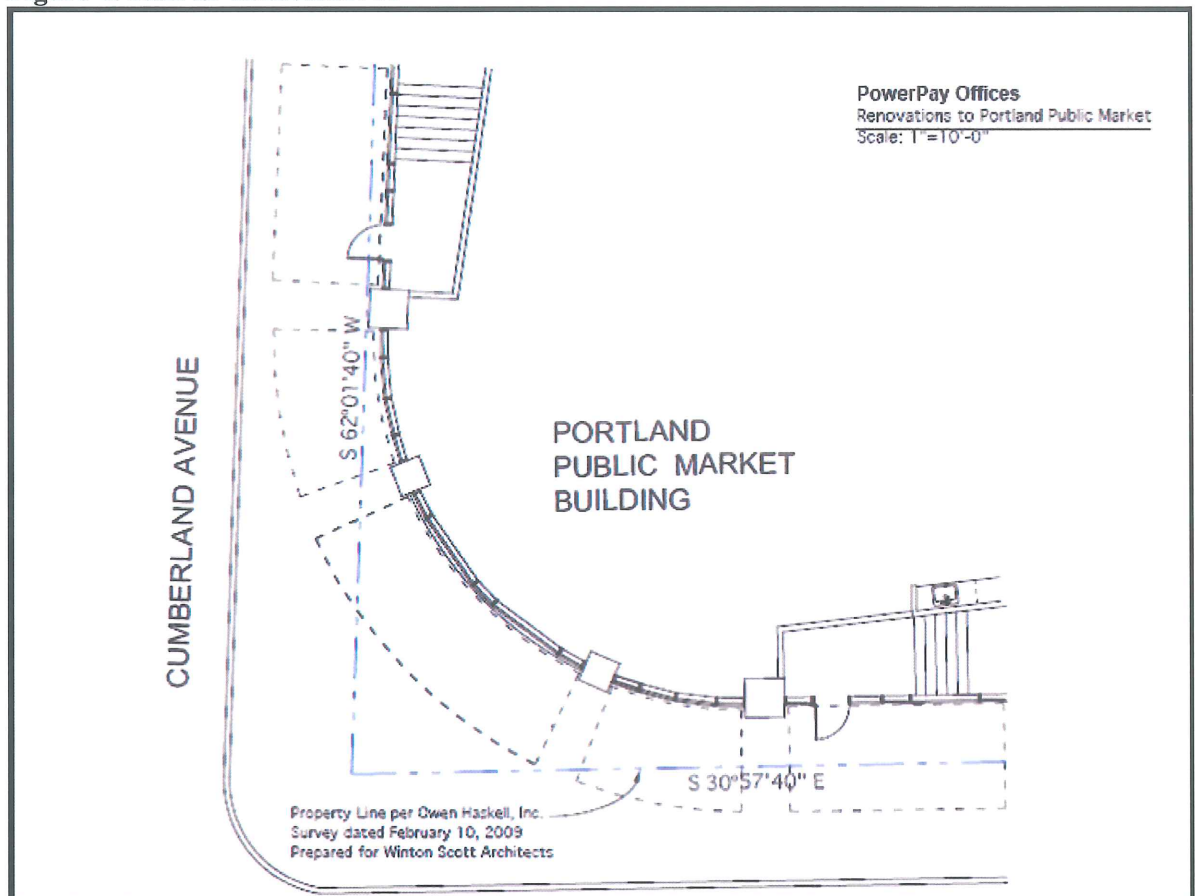
## A. ZONING

The project site is located in a B-3 Downtown Commercial zoning district. The site is located outside of the B-3 Pedestrian Activity District, but it is within the PAD encouragement area. The site plan has been reviewed by the Zoning Administrator for compliance with Chapter 14 Land Use, Article III Zoning of the City of Portland Code of Ordinances.

1. Marge Schmuckal has found the proposed office use and café are permitted uses in the PAD encouragement area.
2. The Zoning Administrator commented, "There is also a small amount of build-out on the first floor (about 904 square feet) which appears to encroach on City land."

The applicant will be removing the front entry steps of the built-out portion at the intersection of Cumberland Ave. and Preble St (**Figure 4**). The removal of the existing entrance at the intersection of Cumberland Ave. and Preble St. will create a 'flush' wall that does not encroach onto the public Right of Way.

**Figure 4:** Exterior Renovation #1



3. The site plan is compliant with the purpose, permitted uses, dimensional requirements, and external effects listed under Chapter 14 Land Use, Article III Zoning, Division 12 B-3 Downtown Business Zone, § 14-216--14-221.1 of the City of Portland Code of Ordinances.

## B. SITE PLAN REVIEW

The proposed site plan has been reviewed by staff for conformance with the applicable review criteria under Section 14-526 Standards within Article V of the Site Plan Ordinance.



## 1. Effects on Public Health, Safety, and Environment

### a. Effects on Traffic and Safety (14-526 (a)(1)(2))

- i. *Traffic Access and Circulation:* Vehicular access is provided from Elm St., Cumberland Ave., and Preble St. Access to the rear of the building is provided from a curb cut on Elm St. Pedestrian access will be provided from an entrance at the Cumberland Ave. and Elm St. intersection and Preble St. Employees will be able to access the building from the rear through existing entrances. Employees will also access the building from an elevated pedestrian bridge over Cumberland Ave. extending from the building to an adjacent parking garage.
- ii. *Traffic Trip Generation:* The Vehicular Trip Generation data submitted on behalf of the applicant by Gorrill-Palmer Consulting Engineers, concludes the proposed use will generate 120 vehicular trips in the AM peak hour and 112 trips in the PM peak hour. The traffic generation during peak hours for this use is a reduction of 10 and 35 peak hour vehicle trips in comparison to the previous use of the site (**Attachment A10 and A11**).

Tom Errico, Consulting Traffic Engineer to the Department of Public Services, has found the proposed project will not require a Traffic Movement Permit due to the fact the new use will be less than the previous use (**Attachment 3**).

- iii. *Parking:* Under Section 14-221(b) *Off-street parking and loading* of the Portland Code of Ordinances, no off-street parking is required for changes of use. The traffic volume generated by the proposed office use will utilize an adjacent parking garage north of Cumberland Ave. where the applicant has an easement agreement to lease up to 280 monthly parking spaces at market rents (**Attachment A12**). Employees will be able to park at the garage and enter the building via a “Skywalk” which extends over Cumberland Ave.

Bicycle parking is not required due to the exemption from providing off-street parking. However, the applicant will install new bike racks on the rear entry of the building to accommodate up to 21 bikes. Also, existing bike racks are located on the Elm St. and Preble St. sides of the building.

### b. Natural Resources Impact (14-526 (a)(8)(11)(20)(21))

- i. *Soil Erosion and Sediment Control:* As the site is previously developed no disturbance will occur that requires an Erosion and Sedimentation Control Plan.
- ii. *Stormwater Management:* Dan Goyette, P.E., Consulting Engineer to the Department of Public Services has found the project to be exempt from the Ch. 500 Stormwater Management Regulations.
- iii. *Wetlands:* No wetlands exist on the site.
- iv. *Groundwater Quantity and Quality:* The site is not located in an area of shallow groundwater.
- v. *Wildlife and Fisheries Habitats:* The site is not located in an area of wildlife and fisheries habitat.
- vi. *Unusual Natural Areas:* The site does not have any unusual natural areas.

### c. Public Facilities Impact (14-526 (a)(5)(10))

- i. *Emergency Services:* The property is located in the vicinity of the Central Station Fire Department which has operating fire engines with rescue tools and medical A.L.S.

life-saving equipment.

- ii. *Water and Sewer Capacity:* As of the writing of this report no water and sewer capacity letters have been submitted from the Public Services Department or Portland Water District. The applicant has submitted sewage calculations to Frank Brancely of the Department of Public Services (**Attachment 14**).
- iii. *Storm Drains:* No additional stormwater runoff will occur from the proposed change of use. Stormwater runoff is conveyed to existing publicly maintained facilities.
- iv. *Solid Waste:* Solid waste will be stored in two new dumpsters located at the rear entry of the building (**Attachment B2**).
- v. *Schools:* The proposed use will not impact existing schools.

## 2. Impact on Neighboring Properties

### a. Proposed Building Bulk, Location or Height (14-526 (a)(3)(4))

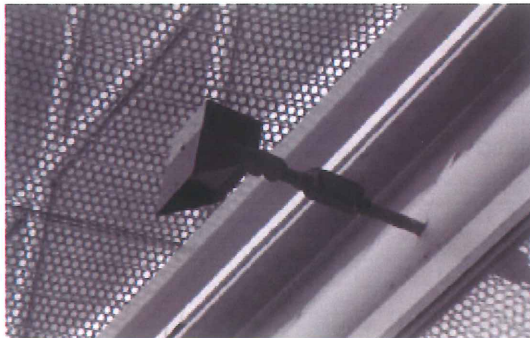
*Impact on Adjacent Property:* The proposed office use is compatible with the site and will not result in any diminution in the value or utility of adjacent neighboring structures. Due to the fact no significant change to the bulk, location and height of the existing building is proposed, the building will remain consistent with the existing buildings and not result in any substantial increased wind impact, reduction in light and air, and any significant snow loading on any neighboring structure.

### b. Exterior Lighting (14-526 (a)(9))

*Impact on Adjacent Property:* The applicant's proposed photometrics plan includes the replacement and removal of existing light fixtures on the exterior of the building. A total of 47 wall mounted down-lights around the perimeter of the building will be removed and 20 wall mounted up-lights will be replaced (**Figures 5 and 6**).

**Figure 5:** *Down-light to be Removed*

EXISTING DOWN-LIGHT TO BE REMOVED



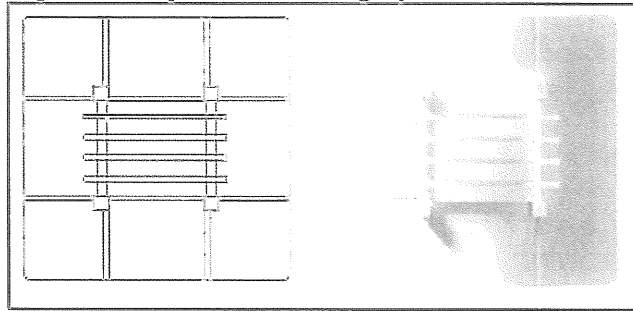
**Figure 6:** *Up-Light to be Replaced*



EXISTING UP-LIGHT TO BE REPLACED

The applicant proposes to install black metal halide lamps that emit light upward and downward (**Figure 7**).

Figure 7: Proposed exterior light fixture



Section XV: Site Lighting Standards of the Portland Technical and Design Standards and Guidelines states, “...no direct light shall be directed at or above the horizontal plane.”

The applicant states, “...the upward component of the proposed replacement luminaries is directed, not into the open sky, but rather, the up-light component will be totally cut off by the roof overhang above which projects four feet out from the building façade.”

The applicant is requesting a waiver to the lighting standards which may be granted by the Planning Board.

### 3. Design Review

- a. Landscaping, Existing Vegetation, and Open Space (14-526 (a)(6)(7))  
*Landscaping and Existing Vegetation:* Existing street trees are located along the sidewalks on Elm St., Cumberland Ave., and Prescott St. The applicant is not providing any new landscaping facilities.
- b. Historic Resources (14-526 (a)(18))  
The site is not located in the Historic District and is not a designated Historic Landmark.
- c. View Corridors (14-526 (a)(19))  
The site plan is not mapped or located within a view corridor as defined by the View Corridor Protection Plan and therefore, does not substantially obstruct those public views to landmarks and natural features from those locations.
- d. Signage (14-526 (a)(22))  
The applicant has not submitted any proposed signage drawings which are subject to a sign permit.

### 4. Other Requirements

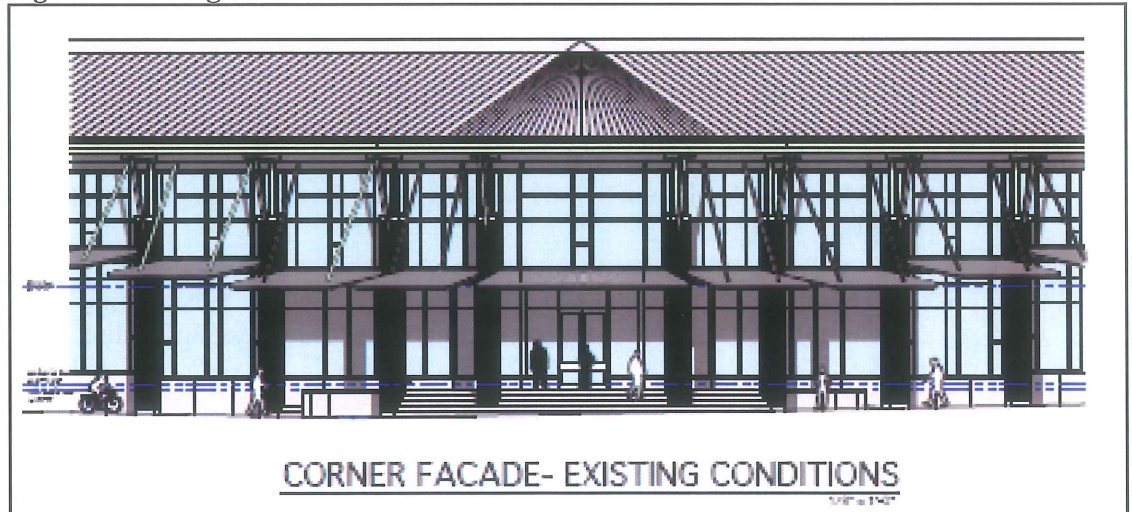
- a. B-3 Design Standards (14-526 (a)(16))  
Development located within the B-3 zone is required to comply with design standards evaluating the relationship of a proposed building to the pedestrian environment and surrounding existing development. These guidelines also evaluate a proposed building’s roof-top appurtenances, shadow and wind impact, setback from existing structures, and building top. Adequacy in meeting these standards is evaluated on the basis of descriptions and illustrations in the Downtown Urban Design Guidelines.

While the project proposes a significant exterior renovation to the entrance on the corner of Preble St. and Cumberland Ave. the building will remain largely unchanged. The following review evaluates the applicable criteria of the B-3 Design Standards.

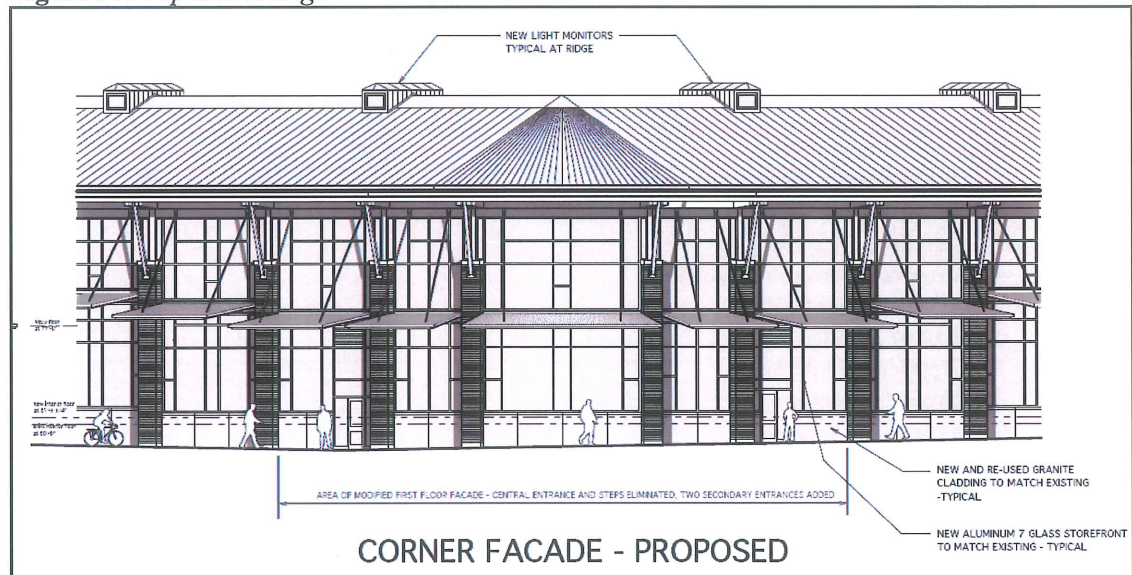
- i. *Relationship to the pedestrian environment:* The exterior design of the building in conjunction with the existing public infrastructure creates a context that contributes

positively to a pedestrian-friendly public realm. The façade incorporates a transparent building design characterized by a repeated rhythm of solid red brick pillars and slightly recessed glass windows. Although the site plan will eliminate the entrance on the corner of the Cumberland Ave. and Preble St. (Figure 8 and 9), the building will continue to provide clearly defined handicap accessible pedestrian connections from the street to ground level entrances at Preble St. and at the corner of Cumberland Ave and Elm St.

**Figure 8:** Existing Entrance at Cumberland Ave. and Preble St.



**Figure 9:** Proposed Design



A special feature of the building is the elevated pedestrian bridge over Cumberland Ave. which connects to the adjacent parking garage. The bridge will safely accommodate the movement of future office employees from the garage to the building.

- ii. *Pedestrian Activities District (PAD)*: According to the Pedestrian Activities District Overlay Zone Map, the site is not located in the PAD Overlay Zone.
- iii. *PAD Encouragement Area*: The building and surrounding streetscape will continue to encourage maximum pedestrian use of the area. The site plan will incorporate a café on the Preble St. portion of the building which will be open to the public and accommodate outdoor seating. The proposed glass enclosure of the Preble and

Cumberland entrance for a conference area, while retaining the other two building entries, is acceptable under the PAD encouragement provisions.

- iv. *Sidewalk areas and open space:* The existing sidewalks are in compliance with the Department of Public Services standards with brick surface and granite curbing. Street trees and public lighting fixtures enhance the pedestrian environment and night time safety.
- v. *Relationship to existing development:* The existing building will continue to be a landmark building in relation to surrounding development on the block.

## V. MOTIONS FOR THE BOARD TO CONSIDER

On the basis of plans and materials submitted by the applicant and on the basis of information contained in Planning Report #14-09 relevant to standards for site plan regulations, and other findings as follows:

- 4  
sharon  
5-0-1
- 2  
Jance  
Leah's  
Patterson  
the seat
1. The Planning Board (waives/does not waive) Section XV: Site Lighting Standards of the Portland Technical and Design Standards and Guidelines to allow for up-lighting fixtures.
  2. The Planning Board finds that the plan (is/is not) in conformance with the site plan standards of the City of Portland Land Use Code. *subject to following conditions of approval*

4  
sharon  
5-0-1

2  
Jance  
Leah's  
Patterson  
the seat

### Attachments:

#### Planning Dept. Correspondence

1. Planning Board Approval Letter 2/24/97
2. Marge Schmuckal, Zoning Administrator 1/30/09
3. Tom Errico, Consulting Traffic Engineer 3/16/09

#### A. Applicant's Submittal

1. Steve Weatherhead Letter 3/9/09
2. Steve Weatherhead Cover Letter 2/19/09
3. Application 2/19/09
4. Project Description/Location
5. Written Statements
6. List of Abutters
7. Applicant Experience
8. Project Directory
9. Financial Capacity
10. Gorrill-Palmer Consulting Engineers 3/9/09
11. Gorrill-Palmer Consulting Engineers 2/12/09
12. Easement Agreement (Copy) 6/4/08
13. Larry Bartlett, P.E. Letter 3/11/09
14. Eric Pflugradt, CPD Letter 3/4/09
15. Neighborhood Meeting Certification 3/17/09

#### B. Plan Set

1. Survey
2. Site Plan L1.1
3. First Floor Plan A1.1
4. Second Floor Plan A1.2
5. Existing Corner Elevations A3.1
6. Proposed Corner Elevations A3.2
7. Building Elevations A3.3
8. Building Elevations A3.4
9. Photometrics Plan PH1.1

CITY OF PORTLAND, MAINE  
PLANNING BOARD

A4.1

Cyrus Y. Hagge, Chair  
John H. Carroll, Vice Chair  
Kenneth M. Cole III  
Jaimey Caron  
Kevin McQuinn  
Deborah Krichels  
Erin Rodriguez

February 24, 1997

Douglas Carr  
Perkins, Thompson, Hinkley & Keddy  
Box 426  
One Canal Plaza  
Portland, ME 04112

RE: Portland Public Market

Dear Mr. Carr:

On February 11, 1997 the Portland Planning Board voted unanimously (5-0; McQuinn, Krichels absent) to approve the site plan for the Portland Public Market. The approval was granted for the project with the following conditions:

- i. That the applicant proceed to the City Council (and other appropriate authorities) for approval of all necessary leases, licenses, deeds, and approvals.
- ii. That the site plan shall be revised to delineate the improvements which will be installed as part of the project and those that will be installed by the City of Portland at a later date.
- iii. That the applicant submit final plans for the proposed retaining wall for staff review and approval.
- iv. That the applicant will submit for review and approval by the City Traffic Engineer a finalized plan for the Preble Street mid-block crosswalk and its associated lighting.
- v. That the applicant submit for staff review and approval a final signage plan for the market.
- vi. That if the applicant proposes to operate an outdoor sidewalk market on Preble Street, such an operation shall be reviewed and approved by the Planning Board.

Also, the Planning Board voted on the following site plan revisions:

1. The Planning Board voted 4-1 (Carroll; McQuinn, Krichels absent) to approve the skywalk and landscaping revisions to the previously approved Public Market Garage site plan.

2. The Planning Board voted 5-0 (McQuinn, Krichels absent) to approve the service driveway entrance revision to the previously approved Maine Bank and Trust drive-through site plan.

The approval is based on the submitted site plan and the findings related to site plan review standards as contained in Planning Report #5 -96, which is attached.

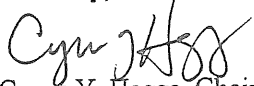
Please note the following provisions and requirements for all site plan approvals:

1. A performance guarantee covering the site improvements as well as an inspection fee payment of 1.7% of the guarantee amount and 7 final sets of plans must be submitted to and approved by the Planning Division and Public Works prior to the release of the building permit. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval.
2. The site plan approval will be deemed to have expired unless work in the development has commenced within one (1) year of the approval or within a time period agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the expiration date.
3. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
4. Prior to construction, a preconstruction meeting shall be held at the project site with the contractor, development review coordinator, Public Work's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the preconstruction meeting.
5. If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)

The Development Review Coordinator (874-8300 ext. 8722) must be notified five (5) working days prior to date required for final site inspection. Please make allowances for completion of site plan requirements determined to be incomplete or defective during the inspection. This is essential as all site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If there are any questions, please contact the Planning Staff.

Sincerely,

  
Cyrus Y. Hagge, Chair  
Portland Planning Board

- 1.1
2. The Planning Board voted 5-0 (McQuinn, Krichels absent) to approve the service driveway entrance revision to the previously approved Maine Bank and Trust drive-through site plan.

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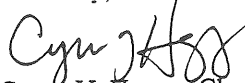
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Sincerely,

  
Cyrus Y. Hagge, Chair  
Portland Planning Board



Att. 2

**MEMORANDUM**

**To:** FILE  
**From:** Marge Schmuckal **Dept:** Zoning  
**Subject:** Application ID: 2009-0014  
**Date:** 2/26/2009

This property is located within the B-3 Business Zone with a Pedestrian Encouragement District along Preble Street. The B-3 Zone allows office uses. Change of uses within the B-3 Zone (14-221(b)) do not require any parking to be shown. This project also is proposing to increase floor area for the second floor of about 19,782 square feet. There is also a small amount of build-out on the first floor (about 904 square feet) which appears to encroach on City land.

It has been reported that with the alterations, there will be 53,115 square foot of total floor area. If parking standards had to be met for this use on all of the floor area, there would be a requirement of 133 parking spaces. Submitted information (lease) shows that this property has 280 parking spaces allotted to it within the attached parking garage.

It is my understanding that the project will also remove some existing hoods, thereby eliminating noise concerns. I would like to ask the applicant as to whether any new HVACs (or up-grading of the existing ones) would be needed for the increase in the number of workers.

All other B-3 Zone requirements appear to be met at this time.

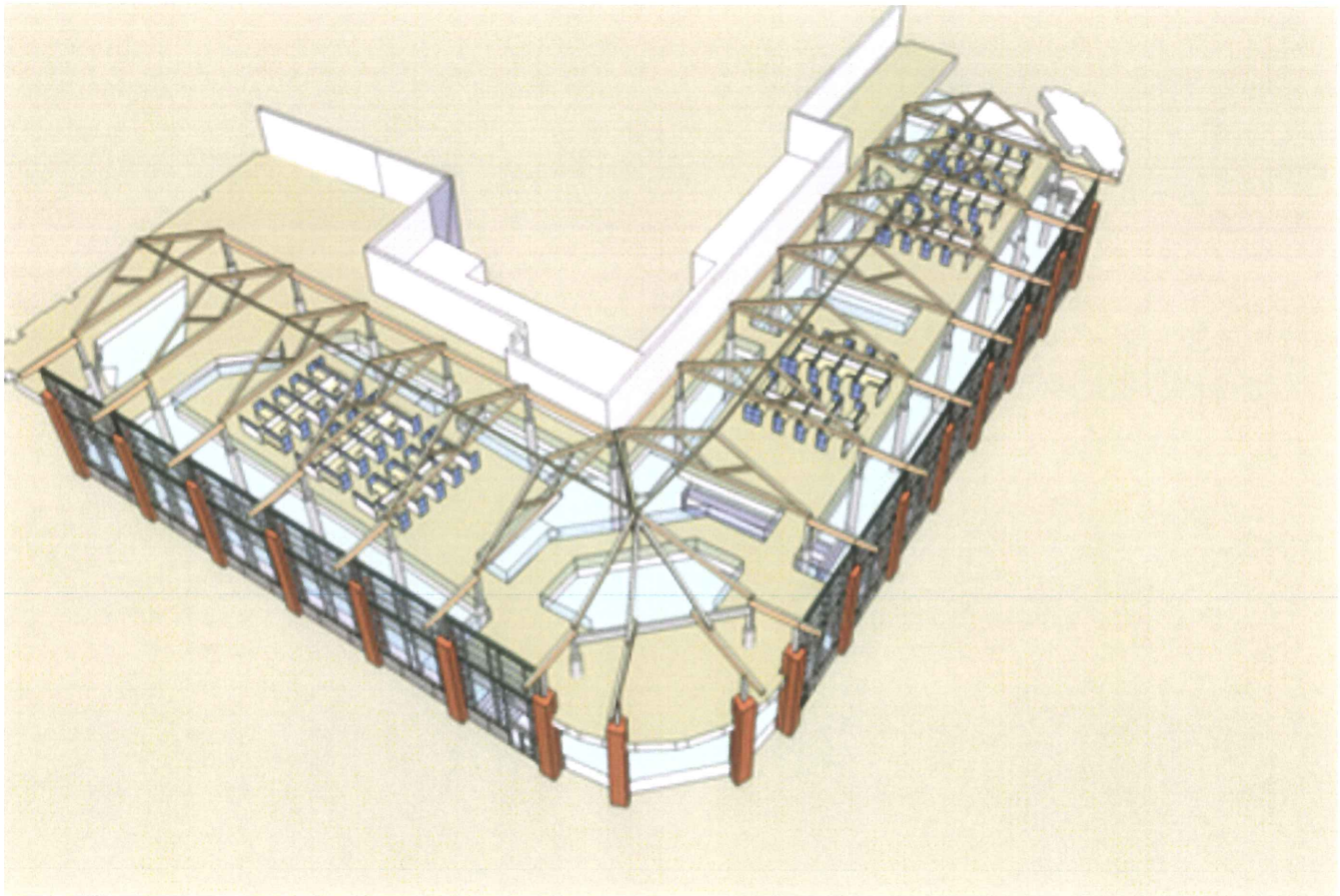
Marge Schmuckal  
Zoning Administrator

# **Applicant's Submittal**

Att. A-1

**POWERPAY OFFICES**  
Renovations to the Former  
Portland Public Market

320 Cumberland Ave  
Portland, Maine



**Planning Board Review Submission**  
February 18, 2009

Submitted by:

Winton Scott Architects  
5 Milk Street  
Portland, ME 04101

For:

Portland Public Market, LLC  
290 Fore Street, Suite 301  
Portland, ME 04101

A-1.1

**Winton Scott Architects, PA**

5 milk street portland, me 04101 t. 207.774.4811 f.207.774.3083 www.wintonscott.com

March 9, 2009

Mr. Eric Giles, AICP  
Planner  
City of Portland  
Dept. of Planning and Urban Development  
389 Congress Street  
Portland, ME 04101

Dear Eric,

I am writing to inform you that I have discovered an error in the Planning Board submission package for PowerPay regarding building square footages. The total square footage of the proposed renovated building was listed in the original application as being 53,115 S.F. After rechecking the area calculations that were done, I have determined that this number is incorrect. The correct total square footage is 46,451 Square Feet.

Also, due to layout revisions to the interior, the total population of the building has increased to 236. As these changes may have an impact on the traffic and parking analysis completed by Gorrill Palmer, I have asked them to re-evaluate their calculations based on the new numbers and identify any resulting adjustments.

If you have any questions regarding these changes or need any additional information, please do not hesitate to contact me.

Regards,



Steve Weatherhead, Associate  
Winton Scott Architects

A-2

**Winton Scott Architects, PA**

5 milk street portland, me 04101 t. 207.774.4811 f.207.774.3083 www.wintonscott.com

February 19, 2009

Ms. Barbara Barhydt  
City of Portland Planning Authority  
4<sup>th</sup> Floor, City Hall  
389 Congress Street  
Portland, ME 04101

RE: Renovations to the Former Portland Public Market

Dear Barbara:

Enclosed please find a completed Development Review Application and supporting materials for the above referenced project.

As you know from our recent conversations, this project proposes a change of use for the Portland Public Market building to convert it into a mixed use primarily consisting of office space with a small public café at the end of the building closest to Congress Street. The project also proposes to increase the overall square footage of the building from 33,333 s.f. to 53,115 s.f. through the addition of a second floor.

Proposed changes to the exterior of the building include reconfiguring the entrance on the corner of Cumberland Ave. and Preble Street, the addition of natural light monitors along the ridge of the roof, the addition of new windows on the sides of the building facing the service driveway, and revised exterior lighting. No changes to the site development are proposed in terms of layout, grading, site utilities, curb cuts, etc. All required parking will be accommodated in the adjacent parking garage as discussed in the traffic/parking summary.

The new owners are excited to be undertaking this project and they are keenly aware of the unique character of this building and the open public nature of its previous use. They are sensitive to this and are committed to a renovation approach that maintains a public access component and preserves the openness of the interior space and its visual impact to the street. Even though adding a second level is a necessity to meet space needs, over a third of the floor area is committed to open atrium spaces and partitioning is kept to a minimum in the main market space. Also, the majority of the new second floor is set back from the primary glass facades on Cumberland Ave and Preble St. to maintain full height open space behind the glass and avoid a closed, partitioned effect that would occur if perimeter offices were placed up against the glass.

The owners are also committed to undertaking the renovations with a focus on sustainability and energy efficiency. They have contracted with a green design consultant with the intent of achieving LEED Gold certification for the renovation – making it the first office building in Maine to be so designated.

It is my understanding that the Planning Department has considered the nature of this proposal and plans to bring it directly to Public Hearing without workshops. We have outlined an aggressive schedule for construction to bring the new facilities on line before the end of the year and we are hopeful of getting on the Planning Board's agenda for March or early April.

We are happy to meet with you and other members of the staff prior to the public hearing to review the project in detail and address any comments you may have. Please free to call me if you have any questions about this submission package or need any additional information.

Sincerely,

A handwritten signature in black ink that reads "Stephen Weatherhead". The signature is written in a cursive, slightly slanted style.

Stephen Weatherhead, Associate  
Winton Scott Architects



**Major Development (more than 10,000 sq. ft.)**

- Under 50,000 sq. ft. (\$500.00)
- 50,000 - 100,000 sq. ft. (\$1,000.00)
- Parking Lots over 100 spaces (\$1,000.00)
- 100,000 - 200,000 sq. ft. (\$2,000.00)
- 200,000 - 300,000 sq. ft. (\$3,000.00)
- Over 300,000 sq. ft. (\$5,000.00)
- After-the-fact Review (\$1,000.00 + applicable application fee)

**Minor Site Plan Review**

- Less than 10,000 sq. ft. (\$400.00)
- After-the-fact Review (\$1,000.00 + applicable application fee)

**Plan Amendments**

- Planning Staff Review (\$250.00)
- Planning Board Review (\$500.00)

**Billing Address: (name, address and contact information)**

Portland Public Market, LLC  
 Attn: Stephen Goodrich  
 280 Fore Street, Suite 301  
 Portland, ME 04101


Submittals shall include seven (7) folded packets containing of the following materials:

- A. Copy of the application.
- B. Cover letter stating the nature of the project.
- C. Written Submittal (Sec. 14-525 2. (c), including evidence of right, title and interest.
- D. A standard boundary survey prepared by a registered land surveyor at a scale not less than one inch to 100 feet.
- E. Plans and maps based upon the boundary survey and containing the information found in the attached sample plan checklist.
- E. Copy of the checklist completed for the proposal listing the material contained in the submitted application.
- F. In addition to the seven (7) sets of documents listed above, one (1) set of the site plans reduced to 11 x 17 must be submitted.

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: [www.portlandmaine.gov](http://www.portlandmaine.gov) Copies of the ordinances may be purchased through the Planning Division.

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 site review only; a Performance Guarantee, Inspection Fee, Building Permit Application and associated fees will be required prior to construction.**

<b>Signature of Applicant:</b> 	<b>Date:</b> February 19, 2009
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## Site Plan Checklist Portland, Maine

Department of Planning and Development, Planning Division and Planning Board

Renovations to Portland Public Market,  
320 Cumberland Avenue

**Project Name, Address of Project**

**Application Number**

The form is to be completed by the Applicant or Designated Representative:

Check Submitted	Site Plan Item	Required Information	Section 14-525 (b,c)
●	(1)	Standard boundary survey (stamped by a registered surveyor, at a scale of not less than 1 inch to 100 feet and including:	1
●	(2)	Name and address of applicant and name of proposed development	a
●	(3)	Scale and north points	b
●	(4)	Boundaries of the site	c
●	(5)	Total land area of site	d
N/A	(6)	Topography - existing and proposed (2 feet intervals or less)	e
●	(7)	Plans based on the boundary survey including:	2
N/A	(8)	Existing soil conditions	a
N/A	(9)	Location of water courses, wetlands, marshes, rock outcroppings and wooded areas	b
●	(10)	Location, ground floor area and grade elevations of building and other structures existing and proposed, elevation drawings of exterior facades, and materials to be used	c
●	(11)	Approx location of buildings or other structures on parcels abutting the site and a zoning summary of applicable dimensional standards (example page 9 of packet)	d
●	(12)	Location of on-site waste receptacles	e
N/A	(13)	Public utilities	e
N/A	(14)	Water and sewer mains	e
N/A	(15)	Culverts, drains, existing and proposed, showing size and directions of flows	e
●	(16)	Location and dimensions, and ownership of easements, public or private rights-of-way, both existing and proposed	f
●	(17)	Location and dimensions of on-site pedestrian and vehicular access ways	g
●	(18)	Parking areas	g
●	(19)	Loading facilities	g
●	(20)	Design of ingress and egress of vehicles to and from the site onto public streets	g
●	(21)	Curb and sidewalks	g
●	(22)	Landscape plan showing:	h
●	(23)	Location of existing vegetation and proposed vegetation	h
N/A	(24)	Type of vegetation	h
N/A	(25)	Quantity of plantings	h
N/A	(26)	Size of proposed landscaping	h
N/A	(27)	Existing areas to be preserved	h
N/A	(28)	Preservation measures to be employed	h
N/A	(29)	Details of planting and preservation specifications	h
N/A	(30)	Location and dimensions of all fencing and screening	i
●	(31)	Location and intensity of outdoor lighting system	j
N/A	(32)	Location of fire hydrants, existing and proposed (refer to Fire Department checklist)	k
●	(33)	Written statements to include:	c
●	(34)	Description of proposed uses to be located on site	cl
N/A	(35)	Quantity and type of residential, if any	cl
●	(36)	Total land area of the site	c2
●	(37)	Total floor area, total disturbed area and ground coverage of each proposed Building and structure	c2
●	(38)	General summary of existing and proposed easements or other burdens	c3
●	(39)	Type, quantity and method of handling solid waste disposal	c4
N/A	(40)	Applicant's evaluation or evidence of availability of off-site public facilities, including sewer, water and streets	c5
N/A	(41)	Description of existing surface drainage and a proposed stormwater management plan or description of measures to control surface runoff.	c6



A-4

**PORTLAND PUBLIC MARKET, LLC**  
280 Fore Street, Suite 301  
Portland, ME 04101

February 10, 2009

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

**RE: Renovations to Portland Public Market- Planning Board Submission**

Dear Barbara,

This letter authorizes Steve Weatherhead of Winton Scott Architects to act as agent on behalf of Portland Public Market, LLC in the submission of any and all application materials and public meetings as they relate to the Renovations to Portland Public Market.

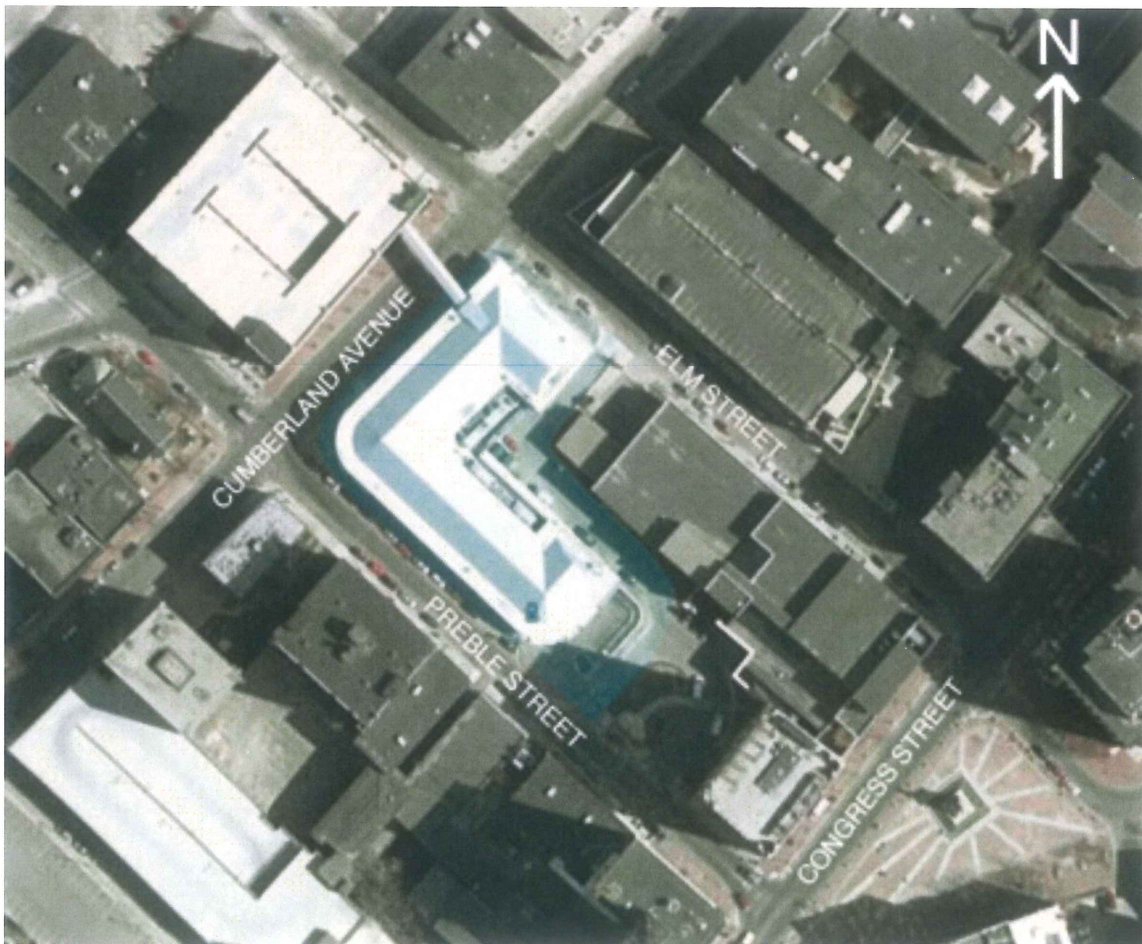
Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Goodrich", with a long horizontal flourish extending to the right.

Stephen Goodrich  
Member/ Manager, Portland Public Market, LLC

**PROJECT LOCATION MAP**

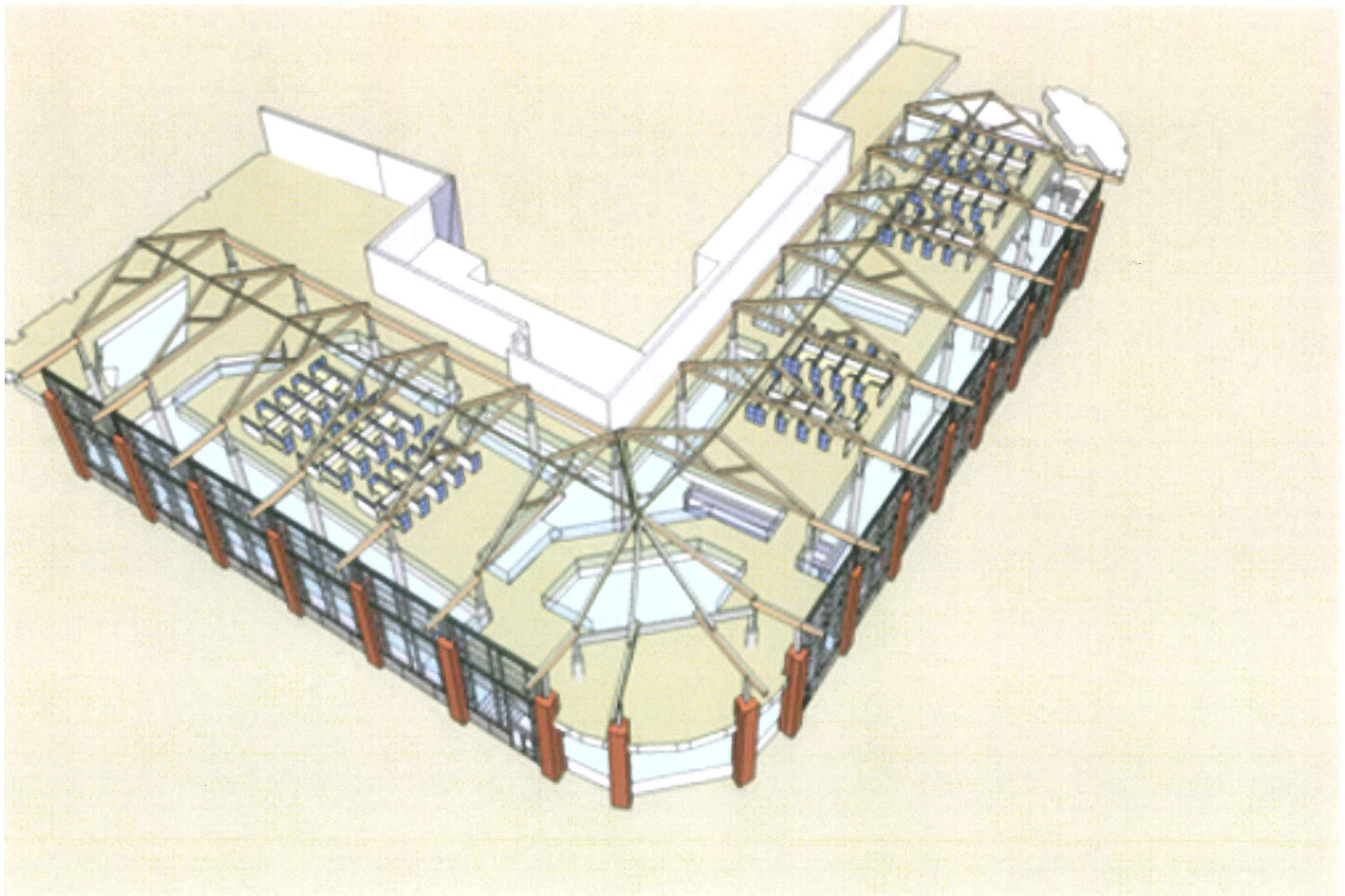
The project is the site of the former Portland Public Market Building located at 320 Cumberland Avenue. The Site is bound by Cumberland Ave, Preble Street and Elm Street.



## PROJECT DESCRIPTION

This project proposes to convert the former Portland Public Market Building into a mixed use building consisting primarily of offices for PowerPay, a Portland based financial services company and a public café. Renovation plans include the addition of a new second floor and modifications to the corner entrance facing Cumberland Avenue and Preble Street that will increase the total usable square footage of the building from 33,333 s.f. to 53,115 s.f. Other exterior modifications to the building include the addition of new light monitors along the ridge of the roof, new windows located on the service drive side of the building, and new building mounted exterior lighting to replace existing components. The site itself remains unchanged from its current layout with the exception of adding bicycle racks for 21 bikes located under a covered area at the back of the building.

The interior renovations have been designed with the intent of preserving the visual character of the existing structure. The majority of the office space utilizes open work stations to minimize the use of full height partitions. Over 1/3 of the new second floor area is dedicated to open atrium areas and the majority of the floor is set back from the main glass facades on Cumberland Ave and Preble Street. The intent is to avoid the typical office layout where walled offices are organized along the exterior walls. By allowing the two story glass walls to remain undivided and open, the distribution of daylight is unhindered throughout the building and the original sense of large open interior space perceivable from the street is maintained.



The three public entrances of the original building pose a design challenge as an office use does not generally need multiple public entrances. Because it is expected that the majority of employees and visitors will be using the parking garage and entering through the sky bridge , and because of the location of the existing elevator, it was determined that the entrance at the corner of Elm St. and Cumberland Ave. is the best main public entrance for the office space. At the other end of the building closest to Congress Street, it was decided to locate the new proposed public café because the original building was set up for a café at this location and because of the adjacent outdoor seating area that could be used by café patrons. So the existing upper Preble Street entrance will remain unchanged. The entrance will lead to a secure lobby from which visitors can enter the office space or the café. Café seating will flow into the lobby area and exhibition materials will be incorporated to provide historical information about the former market.

The entrance at the corner of Cumberland and Preble is currently configured as a large covered porch area with steps leading up to an entrance vestibule. It is proposed that this area be reconfigured to eliminate the covered entrance porch and steps by moving the enclosing glass walls at the first level outward to match the glass line of the upper level existing glass. A large, open employee lounge is planned for this area along with two flanking secondary entrances from the street . While the new configuration will be taking what was arguably the main entrance for the market and changing it into a secondary entrance, we believe that this can be achieved without detriment because of the repetitive , articulated nature of the existing facades. There are no special features designating existing entrances except for the fact that they are recessed. The articulation of the facades, complete with brick piers, awnings and full height glass is consistent around the entire street face of the building creating a pleasing but generic “wrapper” that could conceivably accommodate an entrance at any location.

On the following pages are a photo of the corner entrance as it currently exists and a PhotoShop modified picture showing the affect of the proposed modifications (roughly depicted). Also, there are 1/8" = 1'-0" rendered elevations in the included set of 24x36 drawings.

A-4.4



EXISTING ENTRANCE AT THE CORNER OF CUMBERLAND AVE. AND PREBLE ST.

A-4.5



PROPOSED ENTRANCE AT THE CORNER OF CUMBERLAND AVE. AND PREBLE ST.



**Site Plan Review – Section 14-525C  
Written Statements**

**1. Description of Proposed Use:**

This project involves renovations to the former Portland Public Market building located at 320 Cumberland Avenue. The renovations will change the use from a retail market to a mixed use composed primarily of office space (Business Use) for approximately 230 people as well as a small public cafe. Renovations include the addition of a second floor and a reconfiguration of the corner entrance at Preble and Cumberland which combined will increase the total building net usable square footage from 33,333 S.F. to 53,115 S.F. The café will occupy approximately 1,535 S.F. and the balance of the building will be office use.

Exterior modifications to the existing building will include reconfiguration of the entrance at the corner of Preble Street and Cumberland Ave, as indicated above which will convert 904 S.F. of existing covered porch area into interior space. New skylights and windows on the back side of the building are also proposed and exterior building mounted lighting will be modified in accordance with the site lighting documents included in this submission. There are no other additions or exterior modifications proposed for the building or site

**2. Lot Size and Coverage:**

The existing lot size is 47,647 S.F. (1.0938 Acres). There are no changes to the existing site development proposed for this project. Percentages of impervious areas, etc. are unchanged from current configurations.

**3. Summary of Easements:**

See the Site Survey for delineation of existing easements on the site. No changes are proposed to the existing site development and there will therefore be no impacts to existing easements.

**4. Solid Waste:**

Solid waste generated by the construction process including demolition of partitions and equipment will be sorted for recycling and disposed of at a licensed waste disposal facility. Once the building is occupied, there will be an active recycling program in place with the remaining waste being placed in a dumpster located in back of the building and serviced by a private waste hauler. Access will be provided by the existing vehicle service drive. See Site Layout Plan.

**5. Evidence of Off-Site Facilities:**

The renovated building will make use of existing utility services already in place and serving the existing building.

**6. Stormwater Management Plan:**

When the original building was designed in 1997, a stormwater plan was completed and approved as part of the permitting process that was undertaken at that time. As no changes to the existing site plan are proposed, a new Stormwater Management Plan is not required.

**7. Construction Plan:**

Interior demolition is expected to start in March, 2009 with a start of construction immediately following Planning Board Approval and securing of the Building Permit from the City. Construction is projected to take approximately 8 months to complete with occupancy before the end of 2009.

**8. Other Permits:**

City of Portland Building Permit  
State Fire Marshal Construction Permit

An initial design review meeting has taken place with both the Portland Fire Department and the State Fire Marshal's office to review life safety code and A.D.A. accessibility requirements for the project.

**9. Financial & Technical Ability:**

See the following attachments which demonstrate the qualifications of the developer and project team:

Section 6- A listing of other development projects undertaken by the applicant

Section 7- Project Team Directory : Lists the qualified professionals who have been retained to prepare all necessary plans and documentation.

Section 9- A description of the financial capacity of the applicant

**10. Right, Title, and Interest:**

The Site survey identifies the Owner of the property as Portland Public Market, LLC Formerly 25 Preble Street, LLC, 113 Foreside Road, Falmouth, Maine – C.C.R.D. Book 26434 Page 247 Also included in Section 8 of this submission package are copies of legal documents identifying Stephen Goodrich as the manager of 25 Preble Street, LLC , and describing the legal name change of the LLC from 25 Preble Street, LLC to Portland Public Market, LLC.

**11. Natural Resources:**

The existing site is fully developed in a highly urban area of Bayside in the City of Portland. No natural resources exist on or in the immediate vicinity of the site.

**12. Digital Files:**

Included with this submission

**13: Recyclable Material:**

Construction and selective demolition will generate significant quantities of recyclable materials. The contractor will administer an on site waste management system during construction that will sort construction/demo materials such as metals, wood, cardboard, gypsum, etc. and then transport them to recycling facilities. Recyclable materials generated by the future occupants (mostly paper/cardboard) will be collected at recycling stations located throughout the building that will then be removed weekly and transferred to storage bins in the receiving room. A private hauler will be contracted to with to transport the material to a licensed recycling facility.

## LIST OF ABUTTERS

1. Maine Bank & Trust Building  
465 Congress Street  
  
Owner Address: GRE Congress Canal, LLC  
One Canal Plaza 5<sup>th</sup> Floor  
Portland, ME 04101  
  
Book / Page #: 24299 / 051  
  
Parcel Id #: 027 A015001
  
2. Portland Public Library  
5 Monument Way  
  
Owner Address: City of Portland  
389 Congress Street  
Portland, ME 04101  
  
Book / Page #: -  
  
Parcel Id #: 027 A012001
  
3. Cumberland Avenue Parking Garage  
315 Cumberland Avenue  
Portland, ME 04101  
  
Owner Address: GRE Congress Canal, LLC  
One Canal Plaza 5<sup>th</sup> Floor  
Portland, ME 04101  
  
Book / Page #: 24299 / 051  
  
Parcel Id #: 033 M004001

### **Financial Capacity to Complete the Project:**

In addition to PowerPay's financial resources, we will be assembling a financing package that will include a commercial loan, significant subsidy through the use of the federal New Markets Tax Credit program, and a possible TIF from the City of Portland.

We are working with several local banks who have expressed interest in being the commercial lender for this project and have focused our discussions in this regard with one bank in particular that has issued a preliminary loan Term Sheet.

The banks are attracted to the merits of this project, its financial stability given the PowerPay occupancy and lease, and the Community Reinvestment Act (CRA) credits that they will receive. They also recognize the significance of being associated with the project's compelling job creation and workforce development commitments, its positive economic development and community stabilization enhancements, and its substantial environmental sustainability achievements.

CEI Capital Management, LLC (CCML) has agreed to provide the necessary New Markets Tax Credit allocation that could provide around \$2.9 million in upfront capital subsidy to the redevelopment project.

The City's Community Development Committee is scheduled to consider the TIF request at its February 25, 2009 meeting and, if it receives a positive recommendation from the CDC, the City Council could consider and approve a TIF for the project at its March 16, 2009 meeting.

March 9, 2009

Stephen Goodrich, CEO  
PowerPay  
280 Fore Street  
Portland, Maine 04101

RE: Trip Generation and Parking Assessment: Update  
Former Public Market Building  
Portland, Maine

Dear Mr. Goodrich:

Based on recent correspondence with Steve Weatherhead, it is the understanding of Gorrill-Palmer Consulting Engineers, Inc. that the anticipated square footages associated with the reuse of the Portland Public Market building are somewhat lower than initially anticipated; 46,451 square feet versus the previously-referenced 53,115 square feet; our office has assumed that the coffee shop will remain at 1,535 square feet, while the office area would be 44,916 square feet. As the City has parking requirements based on square footage, this will reduce the City parking demand. However, as the total number of employees is currently proposed at 236 for the office component, the total number of spaces recommended by our office has increased slightly.

***Parking Demand Based on City Ordinance***

***Unadjusted Parking Demand***

The City of Portland has the following parking requirements for office and restaurants in its Ordinance, based upon the location being sited in the B-3 Zone:

Office: 1 space per 400 square feet/2.50 spaces per 1,000 square feet  
Restaurant: 1 space per 150 square feet/6.67 spaces per 1,000 square feet

Based on the Ordinance, the unadjusted parking demand would be:

Office: 113 spaces  
Restaurant: 11 spaces  
Total: 124 spaces

***Adjusted (Shared) Parking Demand***

The City of Portland allows for the use of shared parking calculations in its Ordinance. Our office referenced the Institute of Transportation Engineers publication *Parking Generation*, 3<sup>rd</sup> Edition for Land Use Code 701, Office Building and Land Use Code 934 Fast-Food Restaurant with Drive-

A-10.1

Gorrill-Palmer Consulting Engineers, Inc.

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Mr. Steve Goodrich  
March 9, 2009  
Page 2 of 2

Through Window (the closest available land use in this publication) to determine the peak parking demand based on hourly occupancy data. Based on this information, the peak parking demand occurs at 2:00 PM, when the office is at full occupancy and the coffee shop would be at 75 percent occupancy. This results in the following adjusted parking demand:

Office:	113 spaces
<u>Restaurant:</u>	<u>9 spaces</u>
Total:	122 spaces

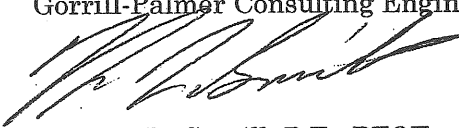
***Parking Demand Based on Employees***

As discussed above, the City is only anticipated to require a total of 122 spaces for the reuse of the Public Market. However, parking demand is ultimately based on the number of employees anticipated to use the office space and work at the coffee shop. As we summarized in our February 12, 2009 letter, basing total supply on a demand of 0.75 spaces per office employee and five additional spaces for the coffee shop, for a total of 182 spaces, would provide adequate employee parking while reducing the total spaces from the existing easement. This is a net increase in two spaces from the prior letter, although depending on the number of employees working at any one time at the coffee shop, this total may be conservative.

Please contact our office with any questions regarding this letter.

Sincerely,

Gorrill-Palmer Consulting Engineers, Inc.



Thomas L. Gorrill, P.E., PTOE  
President

Copy: Steve Weatherhead

February 12, 2009

Stephen Goodrich, CEO  
PowerPay  
280 Fore Street  
Portland, Maine 04101

RE: Trip Generation and Parking Assessment  
Former Public Market Building  
Portland, Maine

Dear Mr. Goodrich:

As requested by Tom Errico, the City of Portland's Transportation Review Engineer, Gorrill-Palmer Consulting Engineers Inc. has completed a trip generation and parking demand assessment for the proposed re-use of the former Portland Public Market Building.

### **Project Understanding**

Based on our conversations with you and the project architect, it is our understanding that the reoccupancy plan consists of updating the former Public Market facility for a workforce of approximately 230 people in a single shift, or 51,580 square feet out of the total 53,115 square feet total. The remaining 1,535 square feet are to be leased as a coffee/sandwich shop. It is our understanding that currently there is an easement that runs with the property that gives the owner the right to lease up to 280 parking spaces in the adjacent garage at market rate.

### **Vehicular Trip Generation**

#### ***Previous Use***

The original trip generation was completed for the site by Eaton Traffic Engineering. Based on conversations with Mr. Eaton, as well as our understanding of the previous project, our office completed the trip generation for the site based on the use of an average of two Land Use Codes (LUC) from the Institute of Transportation Engineers publication *Trip Generation*, 8<sup>th</sup> Edition; namely, LUC 814, Specialty Retail and LUC 932, High Turnover (Sit-Down) Restaurant. Based on that data, the original site would have generated the following levels of trip generation:

AM Peak Hour:	326 Trip Ends
PM Peak Hour:	368 Trip Ends



Mr. Steve Goodrich  
February 12, 2009  
Page 2 of 5

However, the discussions with Mr. Eaton also indicated that the local capture rate, i.e. rate of local, non-vehicular trips, was projected in the order of 60 percent. In other words, the vehicular trip generation, or the non-local trips to the site, was approximately 40 percent, which is about the same level of primary trips anticipated for either specialty retail or a high-turnover restaurant based on published ITE data.

Therefore, the total *vehicular* trip generation anticipated for the previous use of the site is anticipated to be the following:

AM Peak Hour: 130 Trip Ends  
PM Peak Hour: 147 Trip Ends

*Proposed Uses*

The former market facility is anticipated to be composed of 51,580 square feet of office space and 1,535 square feet of coffee/sandwich shop space.

*Office Use*

Our office completed the anticipated trip generation for the facility utilizing *Trip Generation, 8<sup>th</sup> Edition* (the most recent edition available), based on Land Code 710, Office Building. Utilizing the ITE data, the office component is forecast to generate the following:

AM Peak Hour: 110 Trip Ends  
PM Peak Hour: 106 Trip Ends

*Coffee/Sandwich Shop*

Our office referenced the ITE data for Land Use Code 933, Fast-Food Restaurant without Drive-Through Window. Based on that information, the facility would be expected to generate 67 trip ends in the peak hour between 7-9 AM and 40 trip ends in the peak hour between 4-6 PM. However, as the ITE data is based on suburban information, it does not account for the significant component of walk-in traffic for a coffee shop in a downtown location, particularly when integrated into an office building.

To determine the expected *vehicular* trip generation for this site, our office referenced the trip composition component of a Dunkin' Donuts study completed for several facilities in Maine in 2005. Based on this information, the likely vehicular trip generation for this store would be from primary trips, as it is unlikely for pass-by vehicles, for example, to drive into a parking garage, cross a skywalk, and enter a building, get coffee, and have a parking ticket validated. As primary trips composed fifteen percent of the total trip generation, our office anticipates that the total vehicular trip generation for this site would be approximately fifteen percent of the total activity, which results in the following trips:

AM Peak Hour: 10 Trip Ends  
PM Peak Hour: 6 Trip Ends

Mr. Steve Goodrich  
February 12, 2009  
Page 3 of 5

***Total Vehicular Trip Generation***

Based on the calculations above, our office forecasts the following levels of vehicular trip generation for the entire site:

AM Peak Hour: 120 Trip Ends  
PM Peak Hour: 112 Trip Ends

***Comparison to Previous Site***

The change in peak hour vehicular traffic when compared to the previous use is calculated as the following:

AM Peak Hour: -10 Trip Ends  
PM Peak Hour: -35 Trip Ends

As can be seen above, the net change in trip generation results in somewhat lower volumes of traffic associated with the proposed site.

***Trip Composition***

Based on the trip composition for office, and our trip generation assumptions for the coffee/sandwich shop, our office anticipates that all vehicular trip generation associated with this redevelopment will be primary in nature.

**Vehicular Parking Demand**

***Parking Demand Based on City Ordinance***

***Unadjusted Parking Demand***

The City of Portland has the following parking requirements for office and restaurants in its Ordinance, based upon the location being sited in the B-3 Zone:

Office: 1 space per 400 square feet/2.50 spaces per 1,000 square feet  
Restaurant: 1 space per 150 square feet/6.67 spaces per 1,000 square feet

Based on the Ordinance, the unadjusted parking demand would be:

Office: 129 spaces  
Restaurant: 11 spaces  
Total: 140 spaces

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*Adjusted (Shared) Parking Demand*

The City of Portland allows for the use of shared parking calculations in its Ordinance. Our office referenced the Institute of Transportation Engineers publication *Parking Generation*, 3<sup>rd</sup> Edition for Land Use Code 701, Office Building and Land Use Code 934 Fast-Food Restaurant with Drive-Through Window (the closest available land use in this publication) to determine the peak parking demand based on hourly occupancy data. Based on this information, the peak parking demand occurs at 2:00 PM, when the office is at full occupancy and the coffee shop would be at 75 percent occupancy. This results in the following adjusted parking demand:

Office:	129 spaces
Restaurant:	<u>9 spaces</u>
Total:	138 spaces

*Parking Demand Based on Employees*

The office space is anticipated to have 234 people, and Gorrill-Palmer anticipates no more than five employees at any time at the coffee/sandwich shop. If all employees arrived in their own vehicles, this would result in a total demand of 239 spaces. It has been our experience with projects in downtown Portland that parking demand is significantly less than one space per employee; the actual demand has been closer to 0.67 spaces per employee. This is due to the relatively high rates of walking, biking, transit, and car share use for downtown employees. Our office would recommend providing 0.75 spaces per employee, which for the 234+5 employees would be a total of 179 spaces, or, rounded up, 180 spaces. This should provide sufficient parking for the proposed project, will result in a reduction of 100 spaces over the current easement and is well above the requirements set forth in the Ordinance.

There are a number of measures to potentially further reduce parking demand such as ridesharing, bicycling, walking and transit. Our office would encourage use of these alternative measures and can provide guidance in encouraging such measures if desired.

**Bicycle Parking Demand**

The City of Portland, in addition to vehicular parking requirements, also has bicycle parking requirements, located in Section 14-526 (a) (2), which require the provision of two bicycle spaces per ten vehicular spaces up to 100 spaces, plus one bicycle space per twenty vehicular parking spaces over 100 parking spaces. In the case of this site, based on the City's vehicular parking requirement of 140 spaces, this would be a total of 24 bicycle spaces. Although this is an existing building, the City will likely require the provision of bicycle spaces, as this is considered a change in use. We would anticipate that the courtyard on the southeast side of the facility could be utilized for this purpose, and recommend that you examine this issue prior to submittal.

The provision of additional facilities, such as locker room and shower space, may further encourage the use of bicycles as a commuter option.

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Please contact our office with any questions regarding this letter.

Sincerely,

Gorrill-Palmer Consulting Engineers, Inc.



Thomas L. Gorrill, P.E., PTOE  
President

Copy: Steve Weatherhead