



Memorandum

Department of Planning and Urban Development

Planning Division

To: Chair Hall and Members of the Portland Planning Board

From: Jean Fraser, Planner

Date: Prepared: January 8, 2010
PB Workshop: January 12, 2010

Re: **Petition for Street Discontinuance - portion of Oak Street
(between Spring Street and Pleasant Street);
Lafayette Portland, LLC., Applicant**

I. INTRODUCTION

Lafayette Portland LLC has petitioned, through Perkins Thompson Attorneys & Counselors at Law, "to have that portion of Oak Street lying between Spring Street and Pleasant Street discontinued by the City of Portland without retention of a public easement." ([Attachment A](#)). Lafayette Portland LLC /Lafayette Hotels recently purchased the Holiday Inn by the Bay and the adjacent Spring Street garage so that this portion of Oak Street lies between their two parcels.

This request is made in accordance with Title 23 M.R.S. A Section 3026 (1). Under this section the City's maintenance obligation is terminated, but a public easement remains unless the order authorizing the discontinuance specifically states otherwise. The public easement includes an easement for public utility facilities necessary to provide service, and legal access by the public, both pedestrian and vehicular. The City's Associate Corporation Counsel has provided a detailed analysis of the legal issues and options to the City under the State law ([Attachment 3](#)).

The applicant has specifically requested that the City discontinue this street WITHOUT retention of the public easement ie all public access rights would be terminated along with all public utility easements and the City's maintenance obligation.

The petition has been accompanied by a Street Discontinuance Application and the Planning Board has jurisdiction (14-30 (n)) "To hear, review and offer its recommendations to the City council on petitions for street vacations and discontinuances".

II. BACKGROUND

This portion of Oak Street is currently an accepted public street with a sidewalk and public parking on the north east side; it "dead ends" near Spring Street with a set of steps leading from Oak Street up to the higher level of Spring Street (see Survey in [Attachment F](#)). To the south west is the Holiday Inn By the Bay and to the north east is the Spring Street parking garage; the garage has recently been acquired by Lafayette Portland LLC (applicant) who also own the Holiday Inn by the Bay.

It is understood that in the short term the new owners wish to connect the lower level of the Holiday Inn (parking) with the adjacent parking garage, so that the garage can be used for overflow parking (see narrative in Attachments C and F and the Plan in Attachment E. They wish to establish this covered vehicular connection across Oak Street (to include a new elevator and stair connection) and consider that this would not be compatible with public vehicular access/parking and pedestrian use, particularly since that section of Oak Street also provides servicing and emergency access to their business.

The applicant sought the support of the Community Development Committee at its meeting of November 18, 2009. The CDC Report and supporting information from the Economic Development Director and the applicant (Attachment 4) alludes to "development opportunities" that may be opened up by the discontinuance of Oak Street. The Community Development Committee recommended approval to the street discontinuance. It should be noted that this was based on the information presented about the functioning and future integration of these two parcels and was prior to receiving the objections from Christian MilNeil and Nan Cummings (Attachments 5a and 5b).

This portion of Oak Street forms a key pedestrian connection between the "port side" of the City and the Congress Street area. This is because Oak Street is the only N/S link from Pleasant Street to Free Street between High Street and Center Street- it forms the only link across two 1/4 mile long blocks (see Street Pattern in Attachment 2) (South Street does not connect across the block). If the pedestrian use of this part of Oak Street is terminated (as requested by the applicant) it would result in long detours for pedestrians.

The discontinuance would also result in termination of all public utilities in this portion of Oak Street. The petition includes letters addressed to all of the utility operators asking for their comments. The Portland Water District has a 6 inch water main in this portion of Oak Street which they are willing to have terminated at Pleasant Street so it would be abandoned and become the responsibility of the private owner (Attachment A.13 and Attachment D.4). Time Warner and CMP have confirmed they have no objections (Attachment D); comments from Fairpoint and Unitil Northern have not been received as of the date of this Memo. The DPS comments are included below and do not raise any objections. The Planning Board Hearing would need to be scheduled after the receipt of all utility comments.

III. LEGAL ANALYSIS

The City's Associate Corporation Counsel has provided an analysis of Maine law regarding discontinuances, specifically addressing the question of to what extent a public easement (that usually remains after a road is discontinued) can be limited (Attachment 3).

IV. PUBLIC COMMENT

Attachment 5 includes the two comments (Christian MilNeil and Nan Cummings) that were addressed to the CDC which arrived after the CDC decision was taken. Four further comments have been received as a result of noticing this petition: from the owner of Baxter building on Oak Street (Fore River Company - Attachment 5c), a resident of Pleasant Street (Attachment 5d), the Children's Museum & Theatre of Maine (Attachment 5e) and Mohr Seredin Landscape Architects (Attachment 5f) who are based on Pleasant Street.

All of these comments object to the loss of this important pedestrian link which facilitates pedestrian access between parts of the City (see Street Pattern in [Attachment 2](#)). One comment refers to the view down this portion of Oak Street; that view would not be affected by if the street were to be discontinued and is not included in the View Corridor Protection Plan adopted by the City Council in 1981. Two comments raise concerns regarding the loss of the 10 on street un-metered parking spaces.

IV. STAFF REVIEW

TRAFFIC COMMENTS

Tom Errico, the City Traffic Engineering Reviewer, has reviewed the proposed petition for street discontinuance (with the City NOT retaining the public easement) and confirmed that ([Attachment 1](#)):

“ Oak Street in the area of review plays a very important role in providing reasonable pedestrian circulation and accessibility within downtown. Without this connection, pedestrian travel becomes very circuitous between the Pleasant Street neighborhood and downtown. The City has recognized this important pedestrian connection by providing a crosswalk and median opening on Spring Street to improve accessibility to and from the Congress Street Arts District.”

The applicant's attorney has indicated in the letter to the CDC ([Attachment 4](#)) and in an e-mail to staff ([Attachments C and E](#)) that pedestrian use of the street would interfere with deliveries and emergency access to the Inn by the Bay. On this question Mr Errico comments:

“ Lastly I would note that under current conditions the subject section of Oak Street functions similarly to other urban street sections where pedestrians on sidewalks must compete with on-street parked vehicles and vehicle maneuvers into and out of driveways. In my opinion the street operates safely for pedestrians.”

The Fire Department has commented that from their viewpoint this portion of Oak Street is not required for emergency access.

PARKING COMMENTS

The proposed street discontinuance (without the public easement retained) would result in the loss of 10 un-metered parking spaces on one side of this section of Oak Street. The City's Parking Manager comments:

John Peverada 12/23/2009

“I have no objection to the proposed discontinuance of the portion of Oak St. between Pleasant St. & Spring St.

After checking the license plate numbers of the vehicles parked there it appeared that only one was registered in Portland, indicating that the parking is not being utilized by residents of the neighborhood. More importantly since the garage and hotel are now under the same ownership it makes sense to have the street discontinued, to facilitate the operations of the businesses and lessen the on street activity.”

On 1.8.2010 John Peverada further commented (in reviewing the concerns raised in the public comments) that:

“These 10 on street spaces on Oak St. between the hotel and garage are unrestricted, meaning there is no time limit, and for the most part the vehicles park there all day without turning over. The on street parking is intended to be turnover parking. However in this neighborhood on most days there is ample turnover parking, just look at the parking meters on Spring St. opposite the Spring St Garage. There are also over 150 monthly parking spaces available in the Spring St. Garage, another 150 spaces available in the Gateway Garage, and many in the Inn By The Bay Garage, which should be utilized by employees of the neighboring businesses.”

PUBLIC SERVICES DEPARTMENT COMMENTS
Deputy City Engineer, David Margolis-Pineo

January 7, 2010

“The Department of Public Services offers the following comments.

1. Oak Street is a significant cut through for pedestrian traffic from Pleasant Street and the surrounding neighborhood to Spring Street. Eliminating access from Oak Street would require pedestrians to go to either High Street or Center Street. As a result, this Department feels strongly that pedestrian access should be maintained on this section of Oak Street. The applicant should be responsible to keep the pedestrian access, including the sidewalk and stairs up to Spring Street clear and safe (during all seasons) for pedestrian passage.
2. If it should be decided that the City should discontinue Oak Street, Holiday Inn should also be expected to maintain all sewer infrastructure within the discontinued portion of Oak Street including the same sewers extending to the sewer mains in Pleasant and Spring Street.
3. It appears that the retaining wall constructed during the building of Spring Street was placed outside the Spring Street R-O-W. This Department feels strongly that if this portion of Oak Street is discontinued that the applicant should be responsible for the maintenance and structural stability of this retaining wall.”

SUMMARY

The applicant has petitioned that the City discontinue this portion of Oak Street WITHOUT retention of the public easement ie all public access rights would be terminated along with the all public utility easements. The City’s maintenance obligation would also be terminated. Taking each of these in turn:

Termination of public access rights

The termination of vehicular access would reduce vehicular congestion related to parking which may facilitate the operations of the hotel and reduce congestion for pedestrians. There are no staff objections to the loss of parking, though its loss is a concern raised in two public comments (Attachments 5e and 5f).

The loss of the pedestrian access has more serious adverse impacts, as noted by both staff and six members of the public (Attachment 5), and staff recommends that if the discontinuance is recommended for approval that the City should at least retain the pedestrian easement. The analysis from the City's Associate Corporation Counsel confirms that this would be possible within the framework of Maine law (Attachment 3).

In the short term the hotel's design for creating a covered vehicular link could incorporate suitable safety warnings to both drivers and pedestrians as this situation is not very different to any drive access crossing a sidewalk. The question of retaining/incorporating a pedestrian route along this portion of Oak Street within any future development of these two parcels could be considered at the time of Site Plan review so that the scope for alternative pedestrian accommodations could be taken into account.

Termination of public utilities

Based on responses to date, the applicant would be able to reach accommodations that would allow for the street discontinuance. Two utilities have not yet commented.

Termination of City's maintenance obligation

The Department of Public Services would need to determine in greater detail what form of maintenance agreements and easements would be required to secure public safety and long term integrity of the infrastructure if the discontinuance were to be approved without the City retaining the public easement. Based on the current information, these would need to include:

- Maintenance agreement whereby Lafayette Portland LLC would be responsible for maintenance of the pedestrian route eg the sidewalk and steps up to Spring Street;
- Maintenance agreement whereby Lafayette Portland LLC would be responsible for maintenance of all sewer infrastructure;
- Maintenance agreement whereby Lafayette Portland LLC would be responsible for maintenance and structural stability of the retaining wall along Spring Street currently within the Oak Street ROW.

V. NEXT STEPS

Subject to the agreement of the Board, the petition would be scheduled for a Planning Board Public Hearing once all of the utilities have responded. For the Hearing draft easements and order language would be prepared to reflect the Planning Board views in respect of the public easement and maintenance issues.

The Planning Board Public Hearing would take a decision on a recommendation to be forwarded to the City Council, who would make the final decision on this petition.

The petition for street discontinuance does not require a Neighborhood Meeting.

Attachments: (next page)

Attachments:

Planning Board Report Attachments

1. Traffic Engineering Review comments dated December 29, 2009
2. Aerial of Street Pattern in vicinity of Portion of Oak Street proposed for Street Discontinuance (prepared by staff)
3. Legal Department Comments dated January 5, 2010
4. Portland Community Development Committee Meeting November 18, 2009: Agenda, Staff Report and Extract from Minutes as pertaining to Discontinuance of a portion of Oak Street
5. Public Comments
 - a. Christian MilNeil 11.24.2009
 - b. Nan Cummings (Portland Trails) 11.25.2009
 - c. Peter Quesada, Fore River Company 1.6.2010
 - d. Ron Foley, 37 Pleasant Street 1.7.2010
 - e. Chris Sullivan, Children's Museum & Theatre of Maine 1.7.2010
 - f. Stephen Mohr, Mohr & Seredin Landscape Architects, 18 Pleasant St. 1.8.2010

Applicant's Submittal

- A. Petition letter from Perkins Thompson Attorneys (including letters to utilities) dated December 7, 2009
- B. Street Discontinuance Application and attachments dated December 7, 2009
- C. E-mail from Jim Katsiaficus, Perkins Thompson clarification of why the discontinuance is sought, dated December 30, 2009
- D. Perkins Thompson letter updating utility comments, dated January 4, 2010
- E. E-mail from Jim Jim Katsiaficus, Perkins Thompson re submitted survey and plan (in Attachments F and G) dated January 6, 2010
- F. Survey
- G. Plan of garage linkage for Holiday Inn by the Bay

*Staff Comment**Attachment 1.*

From: Thomas Errico <Thomas.Errico@tylin.com>
To: Jean Fraser <JF@portlandmaine.gov>
Date: 12/29/2009 4:39:39 PM
Subject: Oak Street Discontinuance

Jean -- I have reviewed the information supporting the request for discontinuance of Oak Street and have conducted a field review of the area and in my professional opinion Oak Street in the area of review plays a very important role in providing reasonable pedestrian circulation and accessibility within downtown. Without this connection, pedestrian travel becomes very circuitous between the Pleasant Street neighborhood and downtown. The City has recognized this important pedestrian connection by providing a crosswalk and median opening on Spring Street to improve accessibility to and from the Congress Street Arts District. Lastly I would note that under current conditions the subject section of Oak Street functions similarly to other urban street sections where pedestrians on sidewalks must compete with on-street parked vehicles and vehicle maneuvers into and out of driveways. In my opinion the street operates safely for pedestrians.

If you have any questions or comments, please contact me.

Best regards,

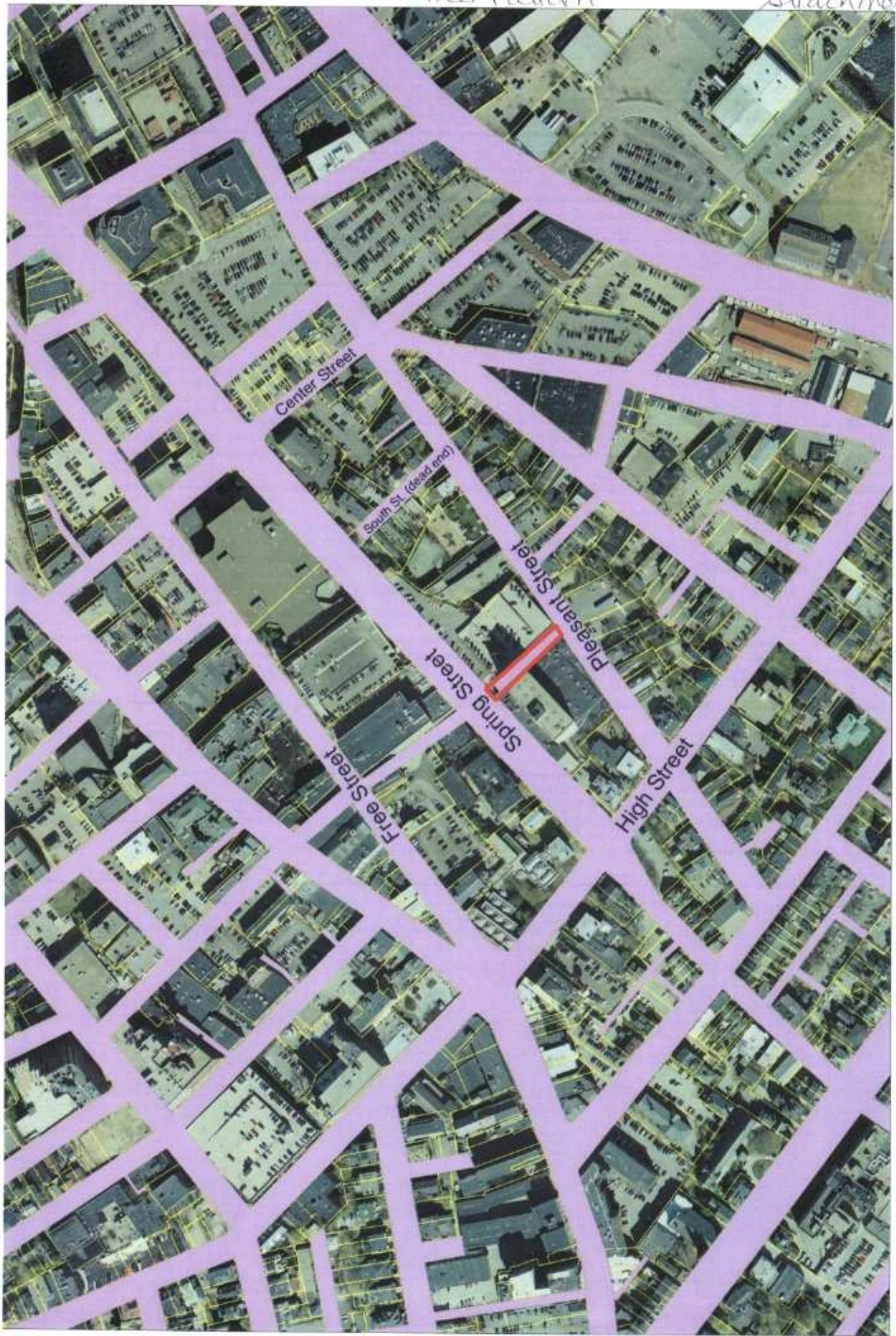
Thomas A. Errico, P.E.

T.Y. Lin International

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Falmouth, ME 04105

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207.781.4753 (Fax)
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CC: Katherine Earley <KAS@portlandmaine.gov>, David Margolis-Pineo <DMP@portlandmaine.gov>



— Portion of Oak Street proposed for Street Discontinuance

Prepared by Dept. PUD based on GIS Workgroup Data Jan 2010

Memo

To: City of Portland Planning Board
From: Danielle P. West-Chuhta, Associate Corporation Counsel
Date: January 5, 2010
Re: Oak Street Discontinuance

I have been asked to provide the Board with an analysis of Maine law regarding discontinuances and to specifically address to what extent a public easement (that usually remains after a road is discontinued) can be limited.

Title 23 M.R.S. § 3026 lays out the process for discontinuing roads. This section provides, in part, as follows:

A municipality may terminate in whole or in part any interests held by it for highway purposes. A municipality may discontinue a town way or public easement after the municipal officers have given best practicable notice to all abutting property owners and the municipal planning board or office and have filed an order of discontinuance with the municipal clerk that specifies the location of the way, the names of the abutting property owners and the amount of damages, if any, determined by the municipal officers to be paid to each abutter.

Upon approval of the discontinuance order of the legislative body, and unless otherwise stated in the order, a public easement shall, in the case of town ways, be retained and all remaining interests of the municipality shall pass to the abutting property owners to the center of the way. For purposes of this section the words "public easement" shall include, without limitation, an easement for public utility facilities necessary to provide service.

23 M.R.S. § 3026(1).

As a result of the process outlined in the aforementioned section, the City's maintenance obligation is terminated and a public easement¹ remains (including a utility

¹ Under Maine law a public easement is defined as "an easement held by a municipality for purposes of public access to land or water not otherwise connected to a public way, and includes all rights enjoyed by the public with respect to private ways created by statute prior to the effective date of this Act. Private ways created pursuant to sections 3001 and 3004 prior to the effective date of this Act are public easements." 23 M.R.S. §3021(2).

easement), unless the City Council Order authorizing the discontinuance specifically rejects retention of such an easement.

It is my understanding that the applicant would like the portion of Oak Street to be discontinued and no public easement retained. The City, however, would at least like to retain a pedestrian public easement (as opposed to vehicular) over the area in question. It is my opinion that such a limitation on use could be accomplished within the confines of section 3026 as long as appropriate limiting language was included in the City Council's discontinuance Order.²

² The City Council order could read as follows:

ORDERED, that, pursuant to 23 M.R.S.A. § 3026, having given best practicable notice to all abutting land owners and to the City of Portland Planning Office, a portion of Oak Street, as described on Attachment 1, be and hereby is discontinued as a city street or town way, the City reserving a public utility easement to include, but not be limited to, sanitary, stormwater, gas lines, electrical and water communications, as described in Attachment 2.

BE IT FURTHER ORDERED, that a public easement for pedestrians only is retained in the portion of Oak Street described on Attachment 1; and

BE IT FURTHER ORDERED, no damages are to be paid in connection with this Order to Discontinue.

**CITY OF
PORTLAND, MAINE
NOTICE OF
MEETING**

COMMUNITY DEVELOPMENT COMMITTEE

DATE: November 18, 2009 (Wednesday)
TIME: 5:00-6:30 p.m.
LOCATION: Room 209, Second Floor
Portland City Hall

① Mtg docs
② Minutes of
decision

AGENDA

1. Review and accept Minutes of previous meeting held on September 30, 2009.
2. Review and recommendation to City Council on entering into a lease with the Ready Seafood for space at the Maine State Pier

Note: Pursuant to 1 M.R.S.A. 405(6)(C) and 5 M.R.S.A. 13119—A, the Committee may go into executive session to review and discuss the terms of the Lease Agreement.

3. Review and recommendation regarding the discontinuance of a portion of Oak Street
4. Executive Session Item: Pursuant to 1 M.R.S.A. 405(6)(C) and 5 M.R.S.A. 13119—A, the Committee will go into executive session to review and discuss sale negotiations related to City-owned property on Riverside Street.
5. Review and recommendation to the City Council on proposed amendments to the Rules for Disposition of Tax-Acquired Property
6. Adjourn

Councilor Cheryl Leeman
Chair

**Memorandum
Economic Development Division**



To: Chair and Members of the Community Development Committee

From: Greg Mitchell, Economic Development Director

Date: November 16, 2009

Re: Request for Discontinuance of a Portion of Oak Street

I. SUMMARY OF ISSUE

Lafayette Hotels and Lafayette Portland, LLC recently purchased the Holiday Inn by the Bay. After that purchase, it then acquired the neighboring Spring Street Garage. The link between the two structures is what officially remains a City street – a portion of Oak Street between Spring and Pleasant Streets.

II. REASON FOR SUBMISSION

Jim Katsiaficas of Perkins Thompson submitted a letter of October 22, 2009 to the Community Development Committee requesting its consideration of the discontinuance of Oak Street, between Spring and Pleasant Street.

III. INTENDED RESULT

According to Mr. Katsiaficas, the Holiday Inn by the Bay owners have maintained this portion of Oak Street at its own expense and is used primarily for the delivery of supplies and for emergency access to the Holiday Inn. The new owners would like to officially have this discontinued for a number of reasons, including future redevelopment possibilities for this parcel that are presently unavailable.

IV. FINANCIAL IMPACT

There is no financial impact known at this time for the discontinuance of this portion of Oak Street.

Community Development Committee
November 16, 2009
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V. STAFF ANALYSIS AND RECOMMENDATION

This is being presented to the CDC for its review and recommendation on proceeding further with this request. It is recognized that the Planning Board will need to evaluate this request and provide a recommendation to the City Council.

Att. 44

PERKINS THOMPSON
ATTORNEYS & COUNSELORS AT LAW

ESTABLISHED 1871

ONE CANAL PLAZA
PO BOX 426
PORTLAND ME 04112
TEL 207.774.2635
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www.perkinsthompson.com

October 22, 2009

Community Development Committee
Portland City Hall
389 Congress Street
Portland, ME 04101

Re: Discontinuance of Portion of Oak Street

Dear Chair Leeman and Councilors Mavodones and Skolnik:

I am writing on behalf of Lafayette Hotels and Lafayette Portland, LLC, which this Firm represents. Earlier this year, Lafayette Hotels purchased the Holiday Inn By the Bay on Spring Street. After that purchase, it also acquired the neighboring Spring Street Parking Garage; this garage previously had been owned by the owners of the 110 Free Street property (and formerly was owned by Anthem/Blue Cross of Maine).

As a result, for the first time since construction of the Inn By the Bay in 1973, both the Holiday Inn and the adjoining parking garage are in common ownership. This presents opportunities for linking the two structures. However, the two structures are separated by what officially remains a City street -- a portion of Oak Street between Spring and Pleasant Streets. For many years, the City has not maintained this portion of Oak Street, and Inn By the Bay has maintained this portion at its own expense. This portion of Oak Street primarily is used for delivery of supplies and for emergency access to the Inn By the Bay. Pedestrians do walk along the street, and the public does park vehicles along one side of the street, interfering with truck and emergency access (and often blocking the Oak Street entrance and exit gate to the Spring Street Garage).

Inn By the Bay Director of Operations Gus Tillman recalls that the City once had offered to discontinue this portion of Oak Street. However, at that time, the properties on either side of the street had different owners -- Harper Hotels on one side and Blue Cross of Maine on the other -- and for some unknown reason, nothing resulted from that offer.

Because the adjoining properties now are in common ownership, because this portion of Oak Street no longer connects City streets, because the City of Portland presumably wants to be freed of its legal obligation to maintain this portion safe and convenient for travelers by motor vehicles (as required by State law, 23 M.R.S.A. § 3651 *et seq.*), because of the safety issue that parked cars present to truck travel and emergency access to the hotel and because discontinuance of this portion of Oak Street would allow future redevelopment possibilities for this parcel that at present are unavailable,

- DOUGLAS S. CARR
- PHILIP C. HUNT
- JOHN S. LITTON
- PEGGY L. POEHRLE
- MELISSA HANLEY MURPHY
- JOHN A. ORLANDO
- JOHN A. HOBSON
- JAMES N. KATSIVAKAS
- THOMAS F. BENDIS
- J. GORDON SCANNELL, JR.
- FRED W. BOFFA
- PAUL P. SNOW
- WILLIAM J. SHELS
- DAVID B. MCCONNELL
- PAUL D. PETROPAOLU
- MORT OREAL JACOBSEN
- MANDY J. CRESWELL
- JENNIFER H. FRICKS
- DAVID H. HARRISON
- CHRISTOPHER H. DAVIS
- ANTHONY J. MANHART
- STEPHANIE A. WILLIAMS
- PETER J. McDONELL
- KEITH J. DUNLAP
- SARA N. MORRIS
- OF COUNSEL
- THOMAS SOULTEN
- OWEN W. WELLS
- ANDREW A. CADDI
- MARLENE C. BAY

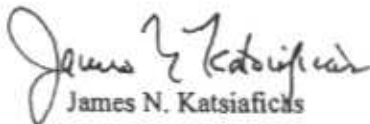
Community Development Committee
October 22, 2009
Page 2

we look forward to discussing the discontinuance of this portion of Oak Street with the Community Development Committee, and also with the Transportation Committee, if a joint committee meeting could be scheduled.

Enclosed please find a copy of a plan depicting the Inn By the Bay and the Spring Street Garage, Oak Street and a proposal to provide access across Oak Street between the two garages. This connection between the two buildings and the proposed elevator on the Spring Street Garage are concepts that Lafayette Hotels would pursue if the City discontinues this portion of Oak Street. We note under that the State road discontinuance statute, 23 M.R.S.A. § 3026, a public easement is automatically retained unless the municipality specifically states that it is not retaining a public easement. Such a public easement allows public access and all rights enjoyed by the public, which would include vehicular access. However, public rights of vehicular access over this portion of Oak Street are inconsistent with the current use of this way for deliveries and emergency access to the Inn By the Bay and with the proposed access between these two adjoining buildings, and are no longer needed by the public because the connection between Spring and Pleasant Streets no longer exists. As it is now, the existing public right of vehicular access and parking along this section of Oak Street presents safety issues by hampering the hotel's ability to use this way for hotel access for supplies and for emergency access. Therefore, we would ask that the discontinuance of this portion of Oak Street be without public easement.

We look forward to discussing this matter with the Community Development Committee at its October 28, 2009 meeting.

Sincerely,



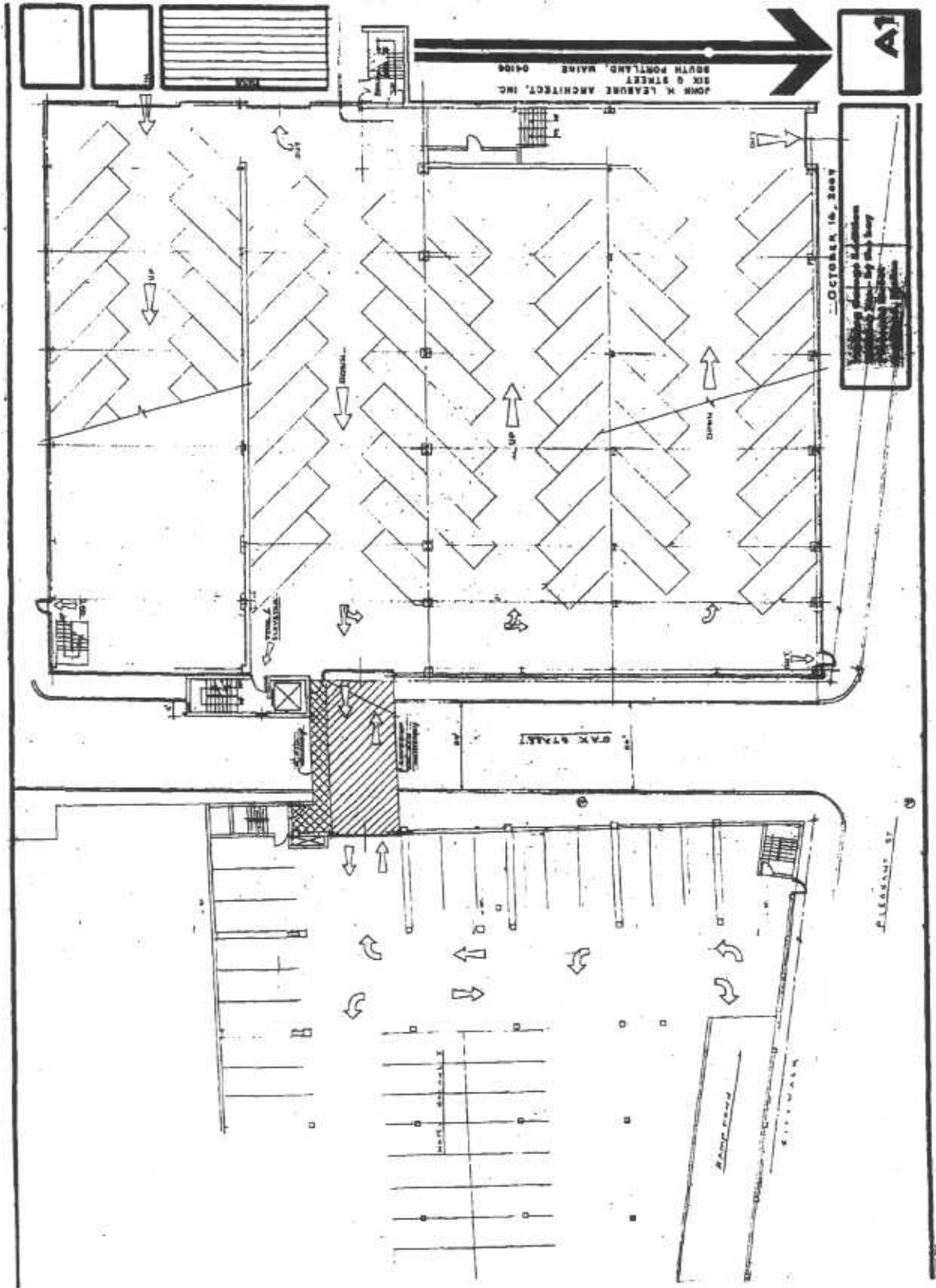
James N. Katsiaficas

JNK:pal

Enclosure

cc: Gary C. Wood, Corporation Counsel
Mary E. Costigan, Associate Corporation Counsel
Richard Knowland, Senior Planner
Greg A. Mitchell, Director, Economic Development Division
Lori Paulette, Economic Development Division
John Peverada, Parking Control Manager
William B. Clark, Jr., Project Engineer, Public Services
Gus Tillman, Director of Operations, Lafayette Hotels
John H. Leasure, Architect

Att 4.6





AA. 4.57
-extract re item 3 Oak St Discon-
tinuance

MINUTES

COMMUNITY DEVELOPMENT COMMITTEE

NOVEMBER 18, 2009

A meeting of the Portland City Council's Community Development Committee (CDC) was held on Wednesday, November 18, 2009, at 5:00 p.m. in Room 24, basement conference room at Portland City Hall. Present from the CDC was its Chair Councilor Cheryl Leeman and member Councilor Nicholas Mavodones; member Councilor Dan Skolnik could not be present. Present from the City staff were Associate Corporation Counsels Mary Costigan and Ann Freeman, Assistant City Manager Pat Finnigan, Business Development Representative Nelle Hanig, Public Buildings Director Bob Leeman, Economic Development Director Greg Mitchell, and Senior Executive Assistant Lori Paulette.

Item #1: Review and accept Minutes of previous meeting held on September 30, 2009.

On motion made and seconded, the Committee voted unanimously to accept the Minutes as published.

Item #2: Review and recommendation to City Council on entering into a lease with the Ready Seafood for space at the Maine State Pier

Note: Pursuant to 1 M.R.S.A. 405(6)(C) and 5 M.R.S.A. 13119—A, the Committee may go into executive session to review and discuss the terms of the Lease Agreement.

Mr. Mitchell said that for review is a commercial leasing opportunity for the Portland Ocean Terminal at the Maine State Pier with Ready Seafood. He then asked Nelle Hanig to describe the site plan on display.

Councilor Mavodones agreed, noting that this was clearly a water-dependent use on the Pier and congratulated the Ready Brothers and their "Catch a Piece of Maine" program.

Mr. Mitchell noted that because of the termination provision, the Committee could either forward this directly to the City Manager for execution or to the City Council to authorize the City Manager to enter into the lease.

On motion made and seconded, the Committee then voted unanimously to forward the lease in substantially the form as presented to the City Council with a recommendation that it authorize the City Manager to execute same.

Item #3: Review and recommendation regarding the discontinuance of a portion of Oak Street.

Mr. Mitchell said that this being brought to the Committee for its consideration and reaction.

James Katsiaticas, legal counsel at Perkins Thompson for Lafayette Hotels, said that Lafayette Hotels purchased the Holiday Inn by the Bay in May 2009, and then purchased the Anthem parking garage shortly thereafter. So, for the first time, one entity owns both parcels, which is separated by a City street – Oak Street, although it is not a functioning City Street. There is the opportunity, with the discontinuance of that portion of Oak Street between Spring and Pleasant Streets, for improved safety and operations for both the Hotel and the Garage. Safety issues include pedestrians and bikes using this portion of Oak Street, together with tractor trailers make deliveries to the Hotel. He noted that cars park there, but they are employees of the Hotel so that these vehicles can be moved quickly for all emergencies.

Mr. Katsiaficas said that plans include improving event parking for both the Hotel and overflow for Civic Center events. The Hotel, with added parking, is now planning larger events.

Regarding that portion of Oak Street, Mr. Katsiaficas said that the City has not maintained it; the hotel has. In a discontinuance, the City could maintain an easement, but the Hotel would request the discontinuance with no easement. It is not passable as a City street. The City would be relieved of any obligation for the street.

Councilor Mavodones said that with the discontinuance, would there be any pedestrian access, and Mr. Katsiaficas said that there would not. Plans include constructing an elevator in that area.

Chair Leeman asked if there was any public comment.

Stephen Scharf asked if there were any public utilities under the street and, if so, would they be moved. Other than that, he had no issues with the discontinuance.

Mr. Katsiaficas there are some utilities and they would need to be provided with easements – electrical and telephone.

Chair Leeman asked if there was any further public comment. There being none, the public comment session was closed.

Councilor Mavodones asked if, procedurally, this goes to the Planning Board, and Mr. Mitchell said that it would need Planning Board review as there is a legal process with street discontinuances, but it would ultimately end with the Council. This Committee could provide a recommendation to the Council to authorize the discontinuance pending Planning Board review and approval.

Chair Leeman said that this discontinuance would make the two properties function better.

Councilor Mavodones made a motion to move this street discontinuance forward through the Planning Board and City Council with a recommendation that it be approved. This motion was then seconded and passed unanimously.

Chair Leeman then noted that the Committee would take Item #5 out of order at this time.

Item #5: Review and recommendation to the City Council on proposed amendments to the Rules for Disposition of Tax-Acquired Property

Lori Paulette said that as the staff supported Tax-Acquired Property Committee (TAPC) was reformulating, she and Ann Freeman met to go over the Rules as they were adopted by the City Council on October 18, 1999. In order for TAPC to move forward, it was decided that after ten years, the Rules needed to be updated and made clearer as to the steps to be taken in the disposition of tax-acquired property.

Ms. Paulette indicated that the Land Bank Commission has reviewed the amended rules, as has the Housing Committee. The Land Bank Commission had two suggested additional amendments. The first regards the time given for review and recommendation to TAPC of those properties it wants to retain in the Land Bank be either February 28 of each year or within 60 days of receipt of the new tax-acquired property listing. This listing is generated at the end of December each year by the Treasury office.

The second regards Land Bank Commission being part of the Department wide survey as noted in IV(1)(B).

The Housing Committee's concern regarded those properties that could be in a business zone but have residential uses allowed. The Housing Committee would want a review of that property, as well as the CDC.

Public comment

Att. 5 a.1

From: Christian MilNeil [mailto:c.neal.milneil@gmail.com]
Sent: Tuesday, November 24, 2009 1:57 PM
To: Cheryl Leeman; Nick Mavodones; dss@portlandmaine.gov
Cc: portland-bikeped-comm@yahoogroups.com; Bill Needelman;
GAM@portlandmaine.gov; Hilary Frenkel; jaime parker; Nan Cumming;
jbeitzer@portlandmaine.com

Subject: Oak Street's value as a pedestrian connection

Dear CDC Councilors,

Scanning your recent meeting's agenda, I noticed that the new owners of the Holiday Inn are petitioning the City to vacate Oak Street between Pleasant and Spring Streets, in between the Holiday Inn and the adjacent parking garage.

I'd personally like to register my disapproval of the proposal as it currently stands. Oak St. may not connect for motor vehicles but it's an important pedestrian connection between the Arts District and the neighborhood around lower Danforth Street and Gorham's Corner. The new workforce housing building that opened this summer, for instance, was sited based on its proximity to jobs and services in the Old Port and along Congress Street.

Right now, a pedestrian starting at the corner of Danforth and Maple Streets (home to the above-mentioned workforce housing building, as well as a large cluster of office businesses) can currently reach Marcy's Diner or LL Bean via an easy quarter-mile walk via the Oak Street stairs - roughly a 5-minute trip.

But eliminating Oak Street would leave an extremely long (0.25 miles) stretch of Spring and Danforth Streets with no public connections to the adjacent block. It would almost double the walking distance between Free Street and Maple Street, to 0.45 miles. Psychologically the distance will feel even longer, since the new trip would require a long out-of-direction detour and a longer uphill climb. Invariably this will lead to fewer walking trips, more parking and congestion problems during Civic Center events (due to the fact that Danforth Street's parking lots would effectively be cut-off and underutilized), and less foot traffic for the neighborhood businesses on either side.

That being said, the current state of Oak Street between Spring and Pleasant Streets has a lot of room for improvement. It feels unsafe, especially after dark, and it's uninviting to walkers, especially from the Spring Street entrance. The City should negotiate a "win win" compromise that preserves 24-hour pedestrian access, potentially via an inviting and well-designed sally port, while granting development rights above to the hotel's owners. The negotiated pedestrian access way through the unbuilt MaineHealth office building in Bayside might provide a good example of a possible solution - there, too, there was a desire to connect a garage with its building, while preserving public pedestrian access in between.

For the time being, with no concrete proposal from the hotel's owners, vacating Oak Street would only undermine the center city's walkability and economic development prospects, with no clear public benefit. Instead, the city should maintain its rights to the street, but express a willingness to work with the owners to find a mutually-beneficial solution.

Cheers,
-Christian

>>> "Nan Cumming" <nan@trails.org> 11/25/2009 12:39:39 PM >>>

Hi everyone,

I need to second Christian's thoughts here. I use Oak Street to access Congress Street from Commercial Street all the time. Yes, the stretch between Pleasant and Spring is somewhat unwelcoming, but I use it anyway because it's a necessity. Getting around the Civic Center is difficult enough (especially with South St. a dead end), I can't imagine a good reason for blocking pedestrian access in this area even further.

I urge you to reject merely vacating the street. I was part of the team that developed the pedestrian access facility in the Maine Health building that Christian mentions. Although the development did not go through, we were able to agree upon a sound design. If the City decides to pursue alternatives with Lafayette Hotels, I would be happy to share what I learned through that process.

My best,

Nan

Nan Cumming
Executive Director
Portland Trails
305 Commercial Street
Portland, ME 04101
phone: 207 775-2411
fax: 207 871-1184
www.trails.org
nan@trails.org

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Sent: Tuesday, November 24, 2009 1:57 PM
To: Cheryl Leeman; Nick Mavodones; dss@portlandmaine.gov
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Cheers,
-Christian

The Vigorous North:

A field guide to the wilderness areas of American cities.

<http://www.vigorousnorth.com>

No virus found in this incoming message.

Checked by AVG - www.avg.com

Version: 8.5.425 / Virus Database: 270.14.73/2513 - Release Date: 11/24/09
07:46:00

Fore River Company 5 Milk Street P.O. Box 7525 Portland, ME 04112 (207) 772-6404

January 6, 2010

Jean Fraser
Portland Planning Department
Portland City Hall
389 Congress Street
Portland, Me 04101

Re: Oak Street discontinuance application

Dear Jean,

Thank you for the notice relating to the application filed to discontinue Oak Street between Spring and Pleasant Streets. We own and manage the 90,000 square foot building at 562 Congress Street, which occupies the west side of Oak Street between Congress and Free Streets.

Oak Street is a very important pedestrian connection between Spring and Pleasant Street—without it, the south side of Spring Street would be perhaps the longest barrier without pedestrian access in the City. We are adamantly opposed to removing this important public pedestrian corridor between upper Free Street and the Pleasant Street neighborhood.

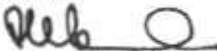
The City has recently convened a group to study alterations to the Franklin Arterial to minimize the obstacle it presents. It is not at all inconceivable that at some point in the future, the City will want to study alteration of Spring Street to minimize the ill-conceived barrier which it forms. If Spring Street is re-designed in the future, the City should have the ability to re-open Oak Street as a cross street. A discontinuance now would eliminate that alternative for the future residents of Portland.

Oak Street is an important view corridor to the harbor from the spine of the City. The City's existing policy of preserving existing view corridors and encouraging creation of new ones should not be frustrated in this instance by the contemplated discontinuance.

For the benefit of present and future residents of Portland,

1. please preserve the existing pedestrian route between Free and Congress Streets and the Pleasant Street neighborhood,
2. please preserve the ability of future residents to reconnect Spring Street to lower Oak Street, and
3. please preserve the existing view corridor.

Sincerely,



Peter W. Quesada

Attachment 5 d

From: <rfoley8@maine.rr.com>
To: <JF@portlandmaine.gov>
Date: 1/7/2010 2:06:58 PM
Subject: Oak Street

Ronald Foley
37 Pleasant St
Unit #4
Portland, Maine 04101
207-272-3552
Rfoley8@maine.rr.com

January 6, 2010

Jean Fraser
389 Congress St
Portland, Maine 94101

Dear Jean,

I would like to express my opposition to the proposed discontinuance of Oak Street between Spring and Pleasant Streets. I use that section of Oak Street on a daily basis, and know that other area residents are doing the same. I believe that closing this section would create a hardship for those who would have difficulty walking the added distance up to High St or down to Center St. to access the locations that the existing pedestrian passage now provides. I urge your careful consideration on this matter.

Sincerely,

Ron Foley

Att. 5e

From: "Chris Sullivan" <chris@kitetails.org>
To: <JF@portlandmaine.gov>
Date: 1/7/2010 6:04:46 PM
Subject: Oak Street proposal

Jean, I'm sorry for not getting back to you I've been in the shop the last two days working on our new exhibit (opening Jan 21st). We share your staffs concern about loosing the pedestrian right of way. We are also wondering about the loss of the public parking spaces on the street. There is about 10 spaces for cars along the garage side that are available and would be lost. We are not certain if this will even have an impact on us, but we are concerned because with each land purchase around us we are finding less parking available.

Chris Sullivan
Director of Exhibits and Operations
Children's Museum & Theatre of Maine
142 Free Street
PO Box 4041
Portland, Maine 04101
T: 207-828-1234 x234
F: 207-828-5726
<<http://www.kitetails.org/>> www.kitetails.org



M O H R & S E R E D I N
Landscape Architects, Inc.

Ms. Jean Fraser, Planner
Planning Division, City of Portland
389 Congress Street
Portland Maine 04101

Re: Oak Street Discontinuance proposed by Lafayette Portland, LLC

Dear Jean,

Thank you for taking the time to review the proposal by Lafayette Portland LLC to discontinue Oak Street between Spring Street and Pleasant Street. It is our understanding that the applicant wants to eliminate the public way with no proposed public walkway or parking. As currently Proposed by the LLC there is no public easement that will connect Pleasant Street to Spring Street in the area between the parking garage and the Holiday Inn.

As you know, Mohr & Seredin has been located on Pleasant Street for the past 20 years and we are very familiar with pedestrian routes as well as parking patterns on Pleasant Street. The portion of Oak Street that is proposed to be discontinued carries a significant amount of walking traffic between our neighborhood and downtown. South Street has no pedestrian access, up to Spring Street and therefore the potential loss of Oak Street means that the neighborhood would have to gain access to downtown via Center Street or High Street. We believe this will result in a significant disruption of an established walking pattern and is similar in many ways to the disruption of established circulation caused by Franklin Arterial which the city is now planning to correct.

In addition to the disruption of the existing pedestrian walkway there will be a loss of unmetered on-street parking on Oak Street. Our office staff utilizes on-street parking on Oak Street and we know from our experience from the neighborhood that other businesses and residents use this portion of Oak Street because it is unmetered. While the loss of 5 or 6 public parking spaces may seem insignificant to the applicant, it will have a dramatic impact on the neighborhood and our business because there are very few unmetered parking spaces within a quarter mile of the section of Oak Street that is proposed to be discontinued.

We trust that the Planning Board will review the proposal and at a minimum require Lafayette Portland, LLC to maintain a pedestrian connection and ideally provide a similar amount of parking that will be lost if Oak Street is formally discontinued.

Sincerely,

Stephen Mohr, ASLA
Tatyanna Seredin, ASLA

C:\Documents and Settings\jfrayer\Desktop\Oak_Glenn.doc

Applicant's Submittal

PERKINS THOMPSON
ATTORNEYS & COUNSELORS AT LAW

ESTABLISHED 1871

ONE CANAL PLAZA
PO BOX 426
PORTLAND ME, 04112
TEL 207.774.2435
FAX 207.971.8026

www.perkinsthompson.com

December 7, 2009

Mr. Alexander Jaegerman
Planning Division Director
Portland City Hall
Department of Planning and Development
4th Floor
389 Congress Street
Portland, ME 04101

RECEIVED

DEC - 9 2009

City of Portland
Planning Division

Re: Petition for Discontinuance of Portion of Oak Street

Dear Mr. Jaegerman:

In accordance with 23 M.R.S.A. Section 3026(1), Lafayette Portland, LLC hereby petitions to have that portion of Oak Street, so called, lying between Spring Street and Pleasant Street, all within the City of Portland, as more fully described on the attached Exhibit A, "Notice of Proposed Street Discontinuance," discontinued by the City of Portland without retention of a public easement.

The street was accepted by the City of Portland on April 19, 1828 as described in Pages 145 - 146 of Book 1 of the City's street records.

I have enclosed a "Street Discontinuance Application," together with copies of letters sent to public utilities asking them to detail whatever interests they have in the portion of Oak Street to be discontinued. I also am enclosing, as Exhibit B hereto, a list of names and addresses of all abutting property owners and mortgagees, as well as the standard waiver and indemnification agreement provided by the City. In addition, enclosed is the \$2,000.00 fee that I understand is required to cover your administrative costs, along with a \$200.00 service deposit fee. Noticing of property owners and mortgagees and legal advertisements will be billed separately.

The Petitioner hereby requests that you take all further action necessary to complete discontinuing the above-described street, and that you inform me should it become necessary for me to provide you with any further information, or to take any further action. I understand that the matter will be brought before the Planning Board for workshop and public hearing, and that the Planning Board will make a recommendation to the City Council. Final action on the street discontinuance will be made by the City Council. The City's Community Development Committee reviewed this proposed

- DOUGLAS S. CARR
- PHILIP C. HUNT
- JOHN S. LITTON
- PEGGY L. MEEHAN
- MELISSA WINEY PEURIFOY
- JOHN A. ORALDO
- JOHN A. HOBSON
- JAMES N. KATSAVOS
- THOMAS P. BENOIT
- GORDON KANNELL JR.
- MARCO W. BOYKA
- HARVEY P. SNOW
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- WYTH J. DUNLAP
- SARAH N. MORRIS
- FREYA A. COHEN

OF COUNSEL

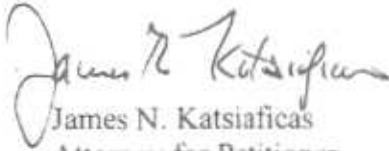
- THOMAS SCHULTZ
- OWEN W. WELLS
- ANDREW A. CASOT
- ELIANN C. RAY

Mr. Alexander Jaegerman
December 7, 2009
Page 2

del. A.2

discontinuance at its November 18, 2009 meeting and voted to recommend the discontinuance to the City Council.

Sincerely,



James N. Katsiaticas
Attorney for Petitioner
Lafayette Portland, LLC

w/enc.

cc: Gary C. Wood, Corporation Counsel
Mary E. Costigan, Associate Corporation Counsel
Richard Knowland, Senior Planner
Greg A. Mitchell, Director, Economic Development Division
John Peverada, Parking Control Manager
William B. Clark, Jr., Project Engineer, Public Services
Gus Tillman, Director of Operations, Lafayette Hotels
John H. Leasure, Architect

K:\Lafayette Hotels (13521)\Inn By the Bay (001)\Oak Street Discontinuance\2009-11-24 JNK to Jaegerman.doc

EXHIBIT A

NOTICE OF PROPOSED STREET DISCONTINUANCE

A petition has been filed with the municipal officers of the City of Portland proposing to discontinue without public easement the following portion of an accepted town way recorded in the City of Portland Street Records in Book 1, Pages 145-146.

List of way(s) to be vacated:

That portion of Oak Street, so-called, between Spring and Pleasant Streets, which is bounded southeasterly by Pleasant Street; northeasterly by a parcel shown on the City of Portland Tax Maps as Chart 39, Block F, Lot 1 (described in a deed from TC 110 Free Street, LLC to Lafayette Portland, LLC dated August 28, 2009 and recorded in the Cumberland County Registry of Deeds at Book 27225, Page 103); northwesterly by Spring Street; and southwesterly by a parcel shown on the City of Portland Tax Maps as Chart 39, Block E, Lot 10 (described in a deed from Harper Hotels, Inc. to Lafayette Portland, LLC dated May 8, 2009 and recorded in the Cumberland County Registry of Deeds at Book 26879, Page 263), which portion of Oak Street was laid out and accepted by the City of Portland on April 19, 1828.

If the municipal officers enter an order discontinuing this portion of the accepted way, any person aggrieved by the discontinuance may file an appeal by commencing an action in the Superior Court in Cumberland County in accordance with Maine Revised Statutes Title 23, Section 3029.

The City Council will hold a public hearing on the proposed discontinuance(s) on _____ at _____ p.m. in the City Council Chambers, City Hall, 389 Congress Street, Portland.

EXHIBIT B

NAMES AND ADDRESSES OF ABUTTERS TO PROPOSED DISCONTINUANCE

1. Lafayette Portland, LLC
c/o Gus Tillman
Holiday Inn By the Bay
88 Spring Street

Owner of Holiday Inn By the Bay, 88 Spring Street, Chart/Lot/Block #39-F-1

2. Lafayette Portland, LLC
c/o Gus Tillman
Holiday Inn By the Bay
88 Spring Street

Owner of 40 Spring Street Parking Garage, Chart/Lot/Block #39-E-10

DISCONTINUANCE WAIVER AND INDEMNIFICATION

WHEREAS, Lafayette Portland, LLC ("Petitioner") whose mailing address is c/o Gus Tillman, Holiday Inn By the Bay, 88 Spring Street, Portland, Maine 04101 has requested the City of Portland to discontinue, pursuant to 30 M.R.S.A. 3026 et seq., a certain portion of an accepted town way known as Oak Street more particularly described as follows:

That portion of Oak Street, so-called, between Spring and Pleasant Streets, which is bounded southeasterly by Pleasant Street; northeasterly by a parcel shown on the City of Portland Tax Maps as Chart 39, Block F, Lot 1 (described in a deed from TC 110 Free Street, LLC to Lafayette Portland, LLC dated August 28, 2009 and recorded in the Cumberland County Registry of Deeds at Book 27225, Page 103); northwesterly by Spring Street; and southwesterly by a parcel shown on the City of Portland Tax Maps as Chart 39, Block E, Lot 10 (described in a deed from Harper Hotels, Inc. to Lafayette Portland, LLC dated May 8, 2009 and recorded in the Cumberland County Registry of Deeds at Book 26879, Page 263), which portion of Oak Street was laid out and accepted by the City of Portland on April 19, 1828.

WHEREAS, the City of Portland as a condition precedent to any discontinuance of the accepted town way or portion thereof requires a waiver of any and all claims which the Petitioner may have against the City for such, and further, requires indemnification against any and all claims of any and all third persons arising out of or resulting from the discontinuance of said accepted town way or portion thereof;

NOW, THEREFORE, in consideration OF THE CITY discontinuing said accepted town way or portion thereof, the Petitioner for itself, its successors, heirs and assigns, agrees as follows:

1. The Petitioner hereby waives any and all claims for damages which it may now or hereafter have against the City arising out of or resulting from any discontinuance of said accepted town way or portion thereof by the City pursuant to 23 M.R.S.A. 3026 et seq.;
2. The Petitioner hereby agrees to defend, indemnify and hold harmless the City against any and all claims by any and all third persons against the City for damages arising out of or resulting from any discontinuance of said accepted town way or portion thereof by the City pursuant to 23 M.R.S.A. 3026 et seq.

Dated: Dec. 7, 2009


Petitioner's Signature

JAMES M. KATERFUS
Petitioner's Printed Name

ATTORNEY FOR PETITIONER
Petitioner's Title
LAFAYETTE BRAND, LLC

Att. A.7

PERKINS THOMPSON
ATTORNEYS & COUNSELORS AT LAW

ESTABLISHED 1871

ONE CANAL PLAZA
PO BOX 426
PORTLAND ME 04112
TEL 207 724 2635
FAX 207 871 8026

www.perkinsthompson.com

November 24, 2009

City of Portland
Dept. of Public Services
55 Portland Street
Portland, ME 04101

Dear Sir/Madam:

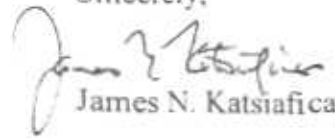
Please accept this letter as notice that Lafayette Portland, LLC seeks the discontinuance, without public easement, by the City of Portland of a portion of Oak Street between Spring and Pleasant Streets in Portland. A more specific description of the portion of Oak Street which Lafayette Portland, LLC seeks to have discontinued without public easement is as follows:

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A copy of a plan showing the portion to be discontinued is enclosed.

Please reply to this notice to let us know what, if any, interests your utility may have with regard to the proposed discontinuance of this portion of Oak Street and whether your utility objects to the proposed discontinuance. Thank you.

Sincerely,


James N. Katsiaficas

JNK:pal

- DOUGLASS LAWR
- PHILIP HUNT
- JOHN LUTON
- ROD J. PEGELE
- HEATHER MURPHY
- EMMA O'NEILL
- ELLEN HOBSON
- WESLEY KATSIAFICAS
- ROTHA BENOIT
- GORDON SCANNAL, JR.
- WILLIAM BOWEN
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- CHRISTOPHER H. DAVIS
- ANTHONY MANHART
- STEPHANIE WILLIAMS
- ALYSON MCGONNELL
- WILLIAM DUNLAP
- WALTER HODGE
- OF COUNSEL
- THOMAS SCHULLEN
- ANDREW WELLS
- ANDREW A. CADOT
- WALTER C. WAT

Att. A. 8

PERKINS THOMPSON
ATTORNEYS & COUNSELORS AT LAW

ESTABLISHED 1871

ONE CANAL PLAZA
PO BOX 426
PORTLAND ME 04112
TEL 207 774 2635
FAX 207 871 8026

www.perkinsthompson.com

November 24, 2009

FairPoint
PO Box 9511
Portsmouth, NH 03801-9511

Dear Sir/Madam:

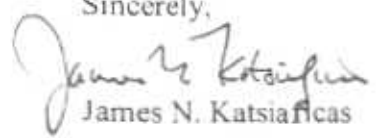
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- THOMAS H. HENRY
- GORDON ROYDEN LEE
- FRED W. BOWEN
- MARK F. SUDON
- WILLIAM SHELS
- DAVID B. McCONNELL
- PAUL PATRONAKIS
- HONORABLE JOSEPH
- RANDY J. CREWELL
- JENNIFER WELLS
- DAVID HARRISON
- CHRISTOPHER H. GARGE
- ANTHONY J. FRANKLIN
- STEPHANIE A. WILLIAMS
- PETER J. McCONNELL
- KEITH J. BURKE
- WALTER HERRON
- OF COUNSEL
- THOMAS SCHULTZ
- DAVID W. WELLS
- ANDREW A. LADD
- CLIFFORD C. GALE

Att. A. 9

PERKINS THOMPSON

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ONE CANAL PLAZA
PO BOX 476
PORTLAND ME 04112
TEL 207.774.2635
FAX 207.871.8026

www.perkinsthompson.com

November 24, 2009

Unitil Northern
1075 Forest Avenue
Portland, ME 04104

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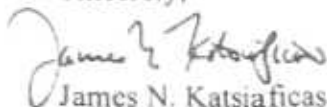
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- EDNA A. OWEN
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- GORDON W. GANNETT JR.
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- WILLIAM J. SHILL
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- HORACE H. JACOBSEN
- ANDREW J. CREWELL
- BRADLEY H. PEASE
- DAVID M. HARMON
- CHRISTOPHER M. GARGO
- ANTHONY J. STANWELL
- STEPHEN R. WILLIAMS
- ELITE M. DONNELLY
- KATHY L. DUNN
- SARA N. MORRIS
- OF COUNSEL
- THOMAS C. HAYTON
- GWYNETH WELLS
- HEATHER A. GARDNER
- WALTER C. RAY

Att. A. 10

PERKINS THOMPSON
ATTORNEYS & COUNSELORS AT LAW

ESTABLISHED 1871

ONE CANAL PLAZA
PO BOX 436
PORTLAND ME 04112
TEL 207.774.2635
FAX 207.871.8026

www.perkinsthompson.com

November 24, 2009

Central Maine Power
83 Edison Drive
Augusta, ME 04336

Dear Sir/Madam:

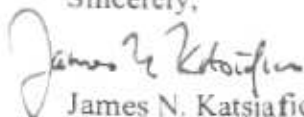
Please accept this letter as notice that Lafayette Portland, LLC seeks the discontinuance, without public easement, by the City of Portland of a portion of Oak Street between Spring and Pleasant Streets in Portland. A more specific description of the portion of Oak Street which Lafayette Portland, LLC seeks to have discontinued without public easement is as follows:

That portion of Oak Street, so-called, between Spring and Pleasant Streets, which is bounded southeasterly by Pleasant Street; northeasterly by a parcel shown on the City of Portland Tax Maps as Chart 39, Block F, Lot 1 (described in a deed from TC 110 Free Street, LLC to Lafayette Portland, LLC dated August 28, 2009 and recorded in the Cumberland County Registry of Deeds at Book 27225, Page 103); northwesterly by Spring Street; and southwesterly by a parcel shown on the City of Portland Tax Maps as Chart 39, Block E, Lot 10 (described in a deed from Harper Hotels, Inc. to Lafayette Portland, LLC dated May 8, 2009 and recorded in the Cumberland County Registry of Deeds at Book 26879, Page 263), which portion of Oak Street was laid out and accepted by the City of Portland on April 19, 1828.

A copy of a plan showing the portion to be discontinued is enclosed.

Please reply to this notice to let us know what, if any, interests your utility may have with regard to the proposed discontinuance of this portion of Oak Street and whether your utility objects to the proposed discontinuance. Thank you.

Sincerely,


James N. Katsiaficas

JNK:pal

- THOMAS G. BARR
- PHILIP B. HUNT
- JOHN C. LUTON
- WALTER L. MCGHEE
- MELISSA W. MURPHY
- JOHN A. DAVECO
- JOHN A. HANSON
- DEBRA L. KATSIAFICAS
- THOMAS F. REIDOT
- GORDON SCANNELL JR
- FRED W. BOSTER
- MARK P. SUDAN
- WILLIAM J. THIES
- DAVID B. MCDONNELL
- PAUL D. PETERSON
- JOHN D. WOODMAN
- KIMBERLY L. CORTWELL
- JENNIFER M. FREEL
- DAVID M. HARRISON
- CHRISTOPHER M. DANCE
- ANTHONY J. MARENGO
- STEPHEN A. WILLIAMS
- PETER J. MCDONELL
- KATHY J. GUNTER
- MARILYN MOYER
- OF COUNSEL
- THOMAS G. BARR
- DAVID W. WELLS
- MORRIS A. CROFT
- ELLEN M. C. BAY

Att. A. 11

PERKINS THOMPSON

ATTORNEYS & COUNSELORS AT LAW

ESTABLISHED 1871

ONE CANAL PLAZA
PO BOX 426
PORTLAND ME 04112
TEL 207 774 2635
FAX 207 871 8026

www.perkinsthompson.com

November 24, 2009

Time Warner Cable
118 Johnson Road
Portland, ME 04102

Dear Sir/Madam:

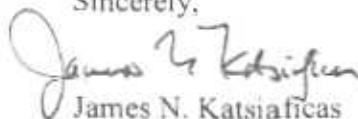
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Sincerely,


James N. Katsiaficas

JNK:pal

- RODGERS CARR
- PHILIP HUNT
- CHRIS LUTON
- JUSTICE PELHAM
- HELM HANLEY MURPHY
- CHINA CRAIG
- ERIN HOBBS
- APOLINA KATSIAFICAS
- MICHELLE KERRIGAN
- GORDON CAMPBELL
- FRED W. ROFF
- MARKER QUON
- WILLIAM SHELS
- DAVID S. MCCONNELL
- WILLIAM P. RETZLING
- HORACE W. JOHNSON
- WENDY J. OSWELL
- JENNIFER H. BRUCE
- DAVID H. WARDEN
- CHRISTOPHER M. DARGatz
- ANTHONY J. MANHART
- STEPHEN A. WILLIAMS
- PETER J. MCDONELL
- KATHY J. DUNLAP
- SARAH H. HORN

OF COUNSEL

- NORMAN SCHULTZ
- OWEN W. WELLS
- ANDREW A. CROFT
- LEAH M. CARR

Att. A. 12

PERKINS THOMPSON
ATTORNEYS & COUNSELORS AT LAW

ESTABLISHED 1877

ONE CANAL PLAZA
PO BOX 428
PORTLAND ME 04112
TEL 207 774 2635
FAX 207 871 8036

www.perkinsthompson.com

November 24, 2009

Norman Twaddel, Right-of-Way Agent
Portland Water District
225 Douglass Street
Portland, ME 04104-3553

Dear Mr. Twaddel:

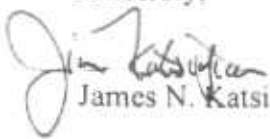
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Sincerely,


James N. Katsiaficas

JNK:pal

- DOUGLASS GARR
- WALTER GIBB
- JOHN S. LITTON
- ROBERT L. MCGHEE
- MICHAEL MARY MATH
- JOHN A. ORLANDO
- JOHN A. PIERSON
- ANDREW R. RATTANEN
- FRANCIS P. BENEY
- GORDON SCARFILLER
- HEIDI W. SCHIFF
- MARK P. SNOW
- WILLIAM SHILL
- DAVID S. MCNEIL
- PHILIP P. RICHMOND
- HOPKINS RICHMOND
- SANDY J. CRISWELL
- WALTER H. HANCOCK
- DAVID H. HARRIS
- CHRISTOPHER GAGE
- ANTHONY J. MARINAKI
- STEPHAN A. WILLIAMS
- WALTER J. MOONAN
- KATHY J. DUNLAP
- WALTER N. MORRIS
- OF COUNSEL
- TOMAS SCHULZ
- OWEN W. WELLS
- ANDREW A. CAO
- KENNETH C. RAY



Att. A.13
DEC 04 2009

Portland Water District
FROM SEBAGO LAKE TO CASCO BAY

December 2, 2009

Mr. James Katsiaficas
Perkins Thompson
One Canal Plaza
P. O. Box 426
Portland, Maine 04112

Re: Proposed Vacation of Oak Street Northerly of Pleasant Street

Dear Mr. Katsiaficas:

In response to your November 24, 2009 letter, the Portland Water District has a 6" water main within that portion of Oak Street between Pleasant Street and Spring Street that your client is proposing to vacate. I have attached a map showing our facilities in the area. We have researched our records and checked in the field and found that there are no active services off this water main in Oak Street. There are three old abandoned services that have been discontinued that probably served old buildings prior to the construction of the hotel and parking garage.

The District does not object to the vacation of that portion of the street provided that your client make the necessary arrangements to have this water main in Oak Street terminated at the main in Pleasant Street at his cost and to District specifications. This will include excavating and removing the existing 6"x6" tee in Pleasant Street and installing a new section of 6" pipe in its place. The existing 6" main in Oak Street may then be plugged and abandoned, but it should be noted that all infrastructure on private property will become the owner's responsibility after this street is vacated. The contact person at the District to arrange for this work would be Rico Spugnardi at 774-5961 ext. 3199.

If you have any questions or need anything further, do not hesitate to call me at 774-5961 ext. 3057.

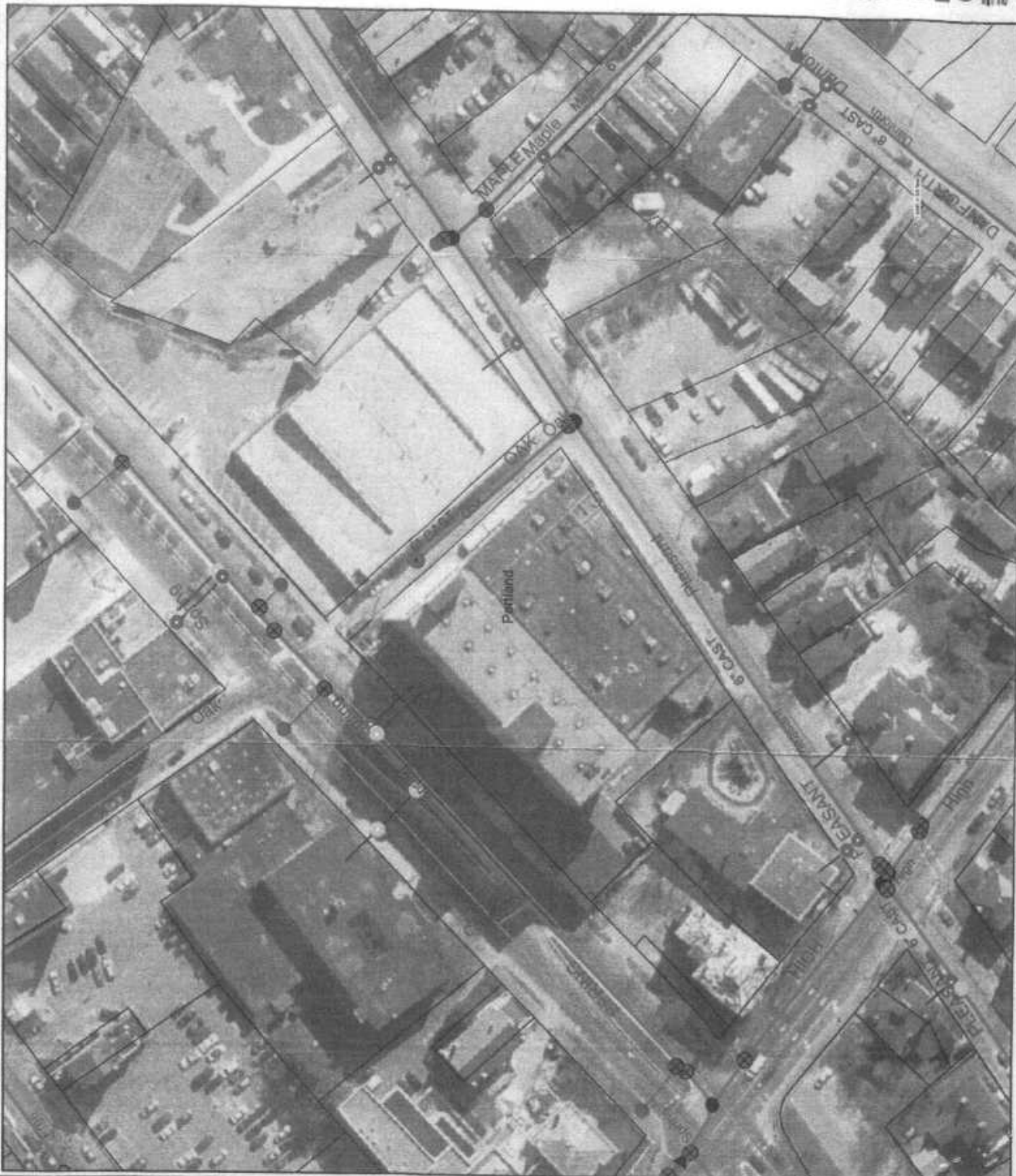
Sincerely yours,

PORTLAND WATER DISTRICT

Norman V. Twaddel
Right of Way Agent

Enclosure





Street Discontinuance Application
Department of Planning and Development
Portland Planning Board

1. **Applicant Information:**

Lafayette Portland, LLC
Name
c/o Gus Tillman
Address
Holiday Inn By the Bay
88 Spring Street
Portland, ME 04101
Phone _____ Fax _____

2. **Address of Street Discontinuance:**

Portion of Oak Street between Spring
Address
and Pleasant Streets
39-F-1
39-E-10
Assessor's Reference (Chart-Block-Lot)

3. **Property Owner:** Applicant Other

Lafayette Portland, LLC
Name
Address
Same
Phone _____ Fax _____

RECEIVED

DEC - 9 2009

City of Portland
Planning Division

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

- Fee for Service Deposit (\$200.00)
(Required for all applications in addition to the applicable application fee listed below)
- Street Discontinuance (\$2,000.00)
- Legal Advertisements Notices _____ percent of total bill
.75 cents each (receipt of application, workshop and public hearing)

Att. B.2.

NOTE: Legal notices placed in the newspaper for the public hearing meeting are required by State Statute and local ordinance. The cost of any and all Newspaper advertisements, legal advertisements and Planning Board notices will be billed directly to the applicant.

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

Dec 7, 2009

Date of Filing

James N. Katsiaticas

Signature of Applicant ✓

James N. Katsiaticas, Esq.
Attorney for Applicant,
Lafayette Portland, LLC

Attachment C

From: <jkatsiaficas@perkinsthompson.com>
To: <JF@portlandmaine.gov>
Date: 12/30/2009 4:29:40 PM
Subject: Oak Street Discontinuance Petition

Hi Jean:

I received your voice mail messages - thank you for letting me know the status of this matter.

I understand from those messages that this petition has been assigned to you as a City Planner and that the Portland Planning Board will hold a workshop meeting on Tuesday, Jan. 12 at 3 pm on this petition.

I also understand from your message that the City wants to retain a "public easement" and considers retention of a pedestrian link quite important. Please note that our Petition seeks a discontinuance of this portion of Oak Street without "public easement" because that term is a legal term of art which includes all legal access by the public, both pedestrian and vehicular. One reason that Inn by the Bay seeks the discontinuance is to allow for unencumbered access to its business by service and emergency vehicles along a way that is narrowed by parked cars and that the City has not maintained for years. Another reason that Inn by the Bay seeks the discontinuance is to be able to connect two buildings that were not previously able to be connected. Now that the hotel and the parking garage are under common ownership, this connection will enable vehicles to travel from one parking garage to the other, thus enhancing the use of the Inn by the Bay for larger functions and programs by taking advantage of the newly acquired additional parking. However, that vehicular travel connection is not compatible with pedestrian traffic. For that reason, the City, in the form of the Community Development Committee, heard our Petition and gave a favorable recommendation to our Petition for discontinuance without public easement.

Thank you, and I look forward to working with you on this Petition.

Jim

Katsiaficas

James N. Katsiaficas
Attorney
PERKINS|THOMPSON

Attachment D.1
COPY

PERKINS THOMPSON
ATTORNEYS & COUNSELORS AT LAW

ESTABLISHED 1821

ONE CANAL PLAZA
PO BOX 426
PORTLAND ME 04112
TEL 207 774 2635
FAX 207 871 8026

www.perkinsthompson.com

January 4, 2010

- DOUGLAS GARR
- JAMES HUNT
- CHRIS LITTON
- FRYD L. MOSEB
- MELISSA HANLEY MURPHY
- JOHN A. ORLANDO
- JOHN A. HOBSON
- JAMES N. KATSIAFICAS
- TIMOTHY P. SENOI
- GORDON SCANNELL JR.
- HEDWIG ROFF
- MARIE F. SHAW
- WILLIAM J. SHREVE
- DAVID P. MCNEILL
- PAUL D. DEBOMBE
- HOPE CRANFORD JOHNSON
- RANDY J. CRESWELL
- CHARLES H. HENRIK
- DAVID N. HARMON
- CHRISTOPHER M. GURGE
- ANTHONY J. MARSHART
- STEPHANEA J. WILLIAMS
- PETER J. MCNEILL
- KATHLEEN LAF
- WALTER HOPKIN
- JEREMY A. COHEN

Alexander Jaegerman
Planning Division Director
Portland City Hall
Department of Planning and Development
4th Floor
389 Congress Street
Portland, ME 04101

Re: Petition for Discontinuance of Portion of Oak Street/Utility Letters

Dear Alex:

Following up on the application of Lafayette Portland, LLC to Discontinue a Portion of Oak Street without public easement filed with your Office by letter of December 7, 2009, enclosed please find letters from several utilities regarding this petition. In particular, enclosed please find correspondence from Central Maine Power, Portland Water District and Time Warner Cable of Maine, all stating that they do not oppose or object to this petition for discontinuance. Portland Water District does have a water main in this portion of Oak Street which it seeks to have terminated, and we would accept this termination as a condition of approval.

Thank you for your assistance in this matter.

Sincerely,

James N. Katsiaficas
Attorney for Petitioner
Lafayette Portland, LLC

- OF COUNSEL
- THOMAS SCHULTEN
- OWEN W. WELLS
- ANDREW A. CADOT
- LEAH ANN C. SAWY

Enclosures

cc: Gary C. Wood, Corporation Counsel
Mary E. Costigan, Associate Corporation Counsel
Jean Fraser, Planner

AH. D. 2

Alexander Jaegerman
January 4, 2010
Page 2

Greg A. Mitchell, Director, Economic Development Division
John Peverada, Parking Control Manager
William B. Clark, Jr., Project Engineer, Public Services
Gus Tillman, Director of Operations, Lafayette Hotels
John H. Leasure, Architect
Melissa H. Murphy, Esq.

K:\Lafayette Hotels (13521)\Inn By the Bay (001)\Oak Street Discontinuance\2010-01-04 JNK to Jaegerman re utility letters.doc

A.H.D. 3 DEC 31 2009



Central Maine Power

December 22, 2009

James N. Katsiaficas
Perkins Thompson
One Canal Plaza
PO Box 426
Portland, ME 04112

Re: Oak Street Discontinuance

Dear Mr. Katsiaficas:

Please be advised that Central Maine Power Company has no objection to the proposed discontinuance of a portion of Oak Street, so-called, in the City of Portland, as described in the notice of discontinuance dated November 24, 2009.

Sincerely,

Alice Richards
Lead Analyst, Real Estate Services

cc: J. Purington

All rights reserved.

Real Estate Services | 83 Edison Drive, Augusta, ME 04336
tel (207) 623-3521

www.cmpco.com


An Energy East Company



RH. 0.4

DEC 02 2009

Portland Water District

FROM SERAGO LAKE TO CASCUM BAY

December 2, 2009

Mr. James Katsiaficas
Perkins Thompson
One Canal Plaza
P. O. Box 426
Portland, Maine 04112

Re: Proposed Vacation of Oak Street Northerly of Pleasant Street

Dear Mr. Katsiaficas:

In response to your November 24, 2009 letter, the Portland Water District has a 6" water main within that portion of Oak Street between Pleasant Street and Spring Street that your client is proposing to vacate. I have attached a map showing our facilities in the area. We have researched our records and checked in the field and found that there are no active services off this water main in Oak Street. There are three old abandoned services that have been discontinued that probably served old buildings prior to the construction of the hotel and parking garage.

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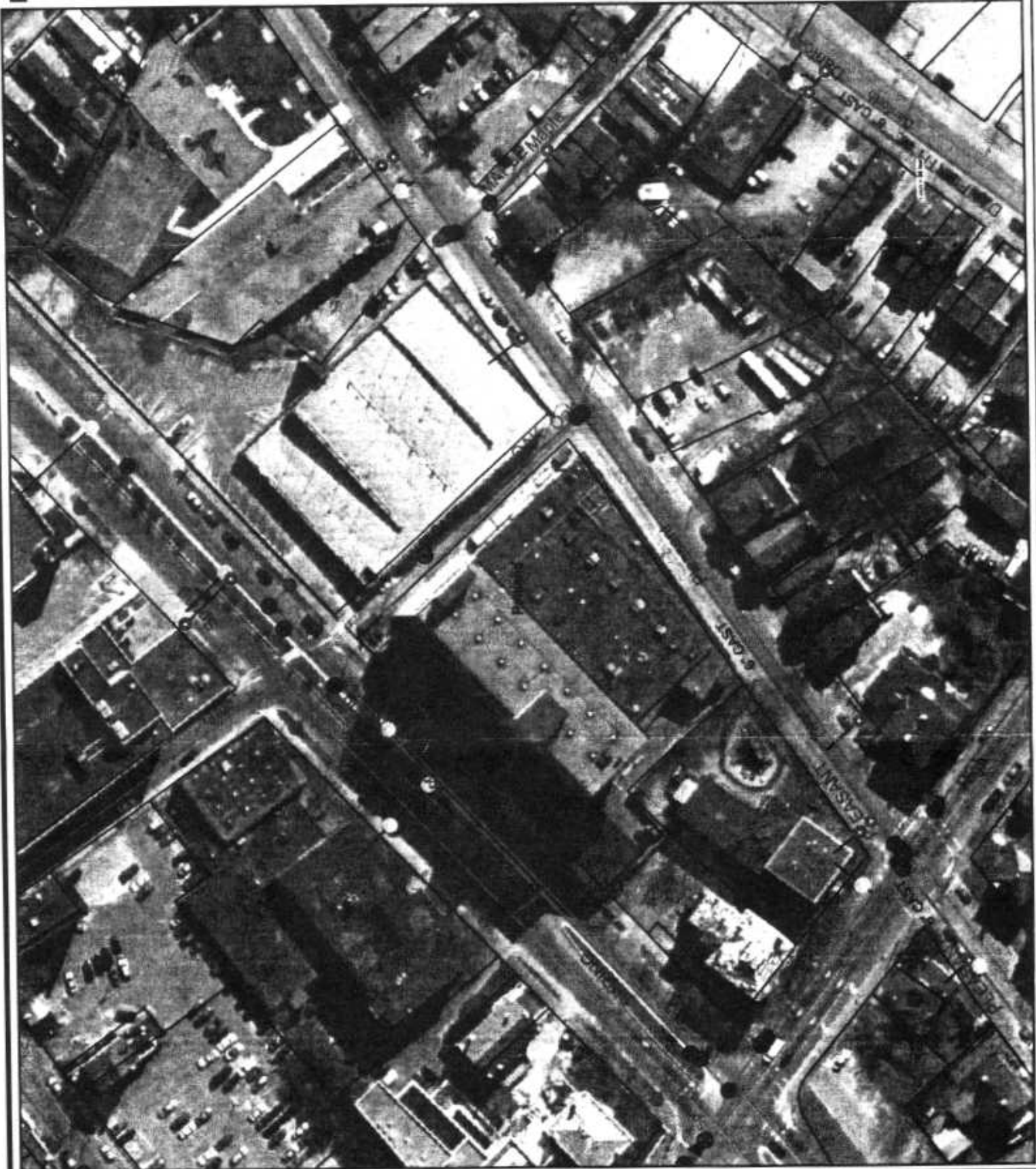
Sincerely yours,

PORTLAND WATER DISTRICT

Norman V. Twaddel
Right of Way Agent

Enclosure





DEC 10 2009

Att. D. Co



Dec 4, 2009

Dear Sir/Madam,

Time Warner Cable has no facilities and has no conflicts with discontinuance of that portion of OAK ST.

Sincerely

Mark Pelletier

Mark Pelletier

Mark Pelletier
Construction Projects Coordinator



118 Johnson Road
Portland, ME 04107-2402
Tel: 207-253-2402
Fax: 207-253-2200
mark.pelletier@twcable.com

Attachment E

From: <jkatsiaficas@perkinsthompson.com>
To: <JF@portlandmaine.gov>
Date: 1/6/2010 2:49:13 PM
Subject: RE: Oak St. discontinuance

Jean:

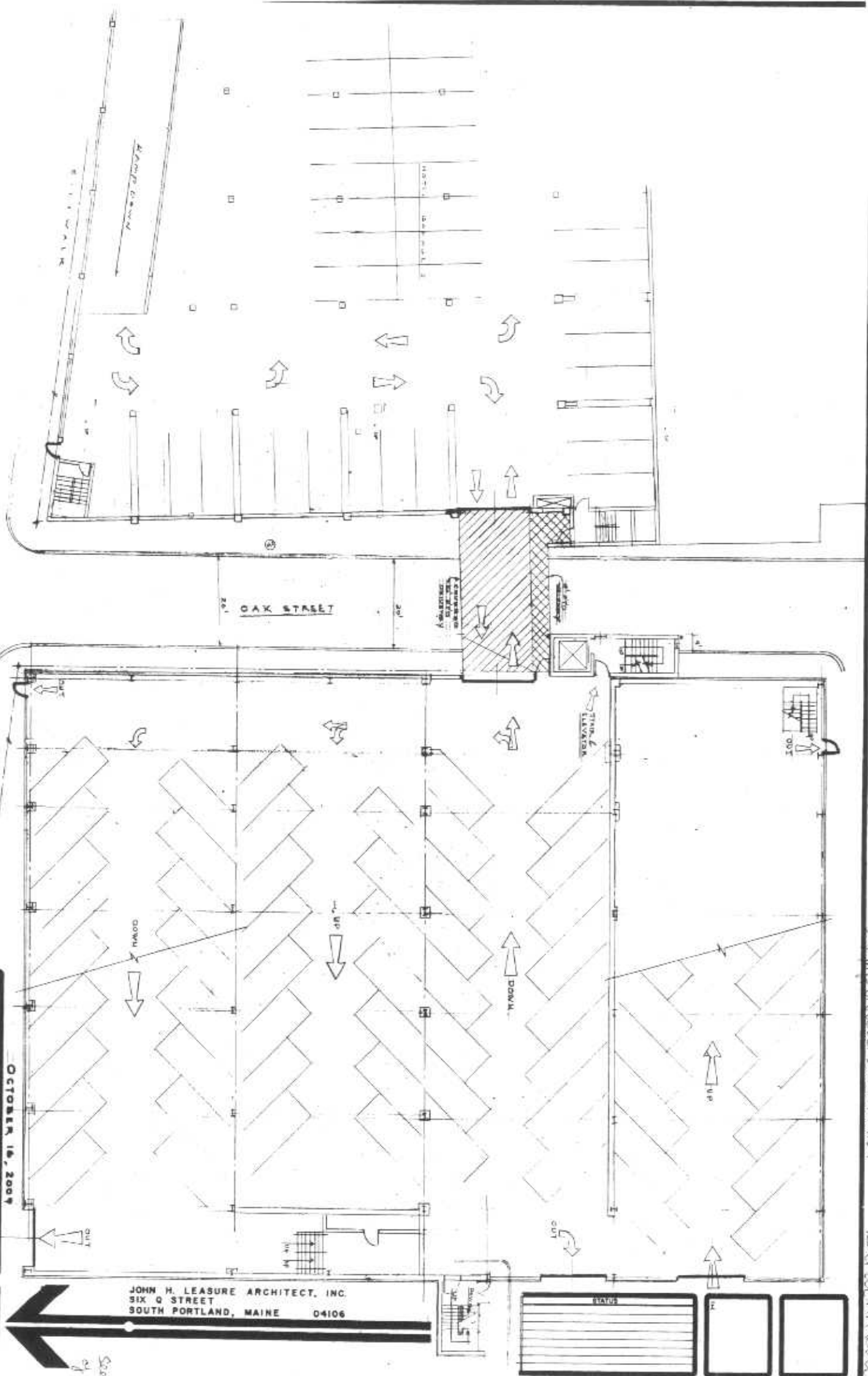
Thank you for your call and email. In follow up to our telephone conversation, attached please find a PDF of a survey prepared from the prior owners of the former Bamico parking garage. This survey was not prepared for the purpose of establishing ownership of the retaining wall and stairway, but at least depicts them.

I will have hand delivered to you later this afternoon twenty 11" x 14" copies of a plan that depicts the two short-term improvements that Inn by the Bay proposes if the petition is granted -- a covered crossing for automobiles between the two buildings, and an elevator and stairway structure for the former Bamico garage to allow parkers easier access to the Inn by the Bay. That plan was shown and distributed to the Community Development Committee.

Thank you.

Jim

CC: <gus@innbythebay.com>, <jleasure@maine.rr.com>



PILGRIM ST

OAK STREET

ELEVATOR SHAFT

TRASH ROOM

100

OCTOBER 16, 2009

Shipping damage Resolution
 The following items by ship boy
 are missing from the
 shipping manifest
 and should be replaced

JOHN H. LEASURE ARCHITECT, INC.
 SIX O STREET
 SOUTH PORTLAND, MAINE 04106



See JK e-mail
 of 1-6-2010



APPENDICES CONTINUED

ATTACHMENT

5