

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

---

Carol Morrisette, Chair  
Stuart O'Brien, Vice Chair  
Timothy Dean  
Bill Hall  
Joe Lewis  
David Silk  
Patrick Venne

August 17, 2012

Mr. Steven Crane  
Cumberland County Civic Center  
One Civic Center Square  
Portland, Maine 04101

Mr. Ray Bolduc  
WBRC Architects  
44 Central Street  
Bangor, Maine 04401

Project Name: Cumberland County Civic Center                      Project ID: #2012-505  
Address: One Civic Center Square                                      CBL: 38-D-15 and 39-C-3  
Applicant: Cumberland County Recreation Center (Attn. Steven Crane)  
Planner: Richard Knowland, Senior Planner

Dear Mr. Crane,

On August 14, 2012, the Planning Board voted 4-0 (O'Brien, Lewis and Venne absent) to reconsider a portion of the Cumberland County Civic Center site plan approval related to traffic circulation to ascertain the length of trucks and the turning diagrams based upon truck length.

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Planning Board Report for the original decision of the Planning Board and the reconsideration of application #2012-505 (Attachment 3) relevant to the Site Plan Ordinance and other regulations, and the testimony presented at the Planning Board hearings, the Planning Board voted 4-0 (O'Brien, Lewis and Venne absent) that the plan is in conformance with the site plan standards of the land use code, subject to the following conditions of approval:

1. That easements depicted on the site plan within City street rights-of-way shall be reviewed and approved by the City Council prior to February 15, 2013.

2. That the applicant shall submit a revised site plan addressing the review comments of Tom Errico (Traffic Review Consultant), memo dated July 19, 2012, for review and approval prior to February 15, 2013. The applicant shall provide flaggers for all truck movements at Center and Free Streets and at Free and Temple Streets. If, however, the applicant submits evidence to Thomas Errico, P.E. that the flaggers are not needed at Temple and Free Streets, then the requirement for flaggers can be released by the Planning Authority. 1
3. That the applicant and all assigns, must comply with the conditions of Chapter 32 Storm Water including Article III. Post-Construction Storm Water Management, which specifies the annual inspections and reporting requirements. The developer/contractor/subcontractor must comply with conditions of the construction storm water management plan and sediment and erosion control plan based on City of Portland standards and state guidelines.
4. That the applicant shall submit a revised site plan addressing the review comments of David Margolis-Pineo (Department of Public Services Engineer) memo dated July 19, 2012 for review and approval and submission of a letter from the City of Portland confirming sewer capacity for the project prior to issuance of a building permit.
5. That the applicant shall submit an implementation plan to the Planning Authority for the public art murals depicted along the Free Street façade of the Civic Center. The plan shall consist of such elements as implementation measures and management of the murals subject to the review and approval of the Planning Authority prior to the issuance of a certificate of occupancy.
6. That the applicant shall submit to the Planning Authority for review and approval, a signage master plan for all exterior signs including electronic message signs prior to the issuance of a certificate of occupancy.
7. The landscaping plan shall be subject to the review and approval of the City Arborist prior to February 15, 2013.
8. Upon completion of the Spring Street Free Street Area Streetscape Plan, the Planning Authority will review the Civic Center site plan to determine if further adjustments (if any) should be made to the streetscape improvements shown on the Civic Center site plan prior to February 15, 2013 unless extended by the Planning Authority.

The waivers granted for the Cumberland County Civic Center application at the July 24, 2012 meeting remain valid and the approval letter is included as Attachment 1.

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1 Condition amended at the reconsideration of the Civic Center site plan held on August 14, 2012.

## STANDARD CONDITIONS OF APPROVAL

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

1. **Develop Site According to Plan** The site shall be developed and maintained as depicted on the site plan and in the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or Planning Authority pursuant to the terms of Chapter 14, Land Use, of the Portland City Code.
2. **Separate Building Permits Are Required** This approval does not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.
3. **Site Plan Expiration** The site plan approval will be deemed to have expired unless work has commenced within one (1) year of the approval or within a time period up to three (3) years from the approval date as agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the one (1) year expiration date.
4. **Preconstruction Meeting** Prior to the release of a building permit or site construction, a pre-construction meeting shall be held at the project site. This meeting will be held with the contractor, Development Review Coordinator, Public Service's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the Development Review Coordinator will confirm that the contractor is working from the approved site plan. The site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
5. **Department of Public Services Permits** If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)
6. **As-Built Final Plans** Final sets of as-built plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (\*.dwg), release AutoCAD 2005 or greater.

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

If there are any questions, please contact Richard Knowland at (207) 874-8725.

Sincerely,



Carol Morrissette, Chair  
Portland Planning Board

Attachments:

1. July 24, 2012 Approval letter, dated August 2, 2012
2. Staff Review Memos of Tom Errico, David Senus and David Margolis-Pineo
3. Planning Board Report
4. Portland City Code: Chapter 32
5. Performance Guarantee Packet

**Electronic Distribution:**

cc: Jeff Levin, Director of Planning and Urban Development  
Alexander Jaegerman, Planning Division Director  
Barbara Barhydt, Development Review Services Manager  
Richard Knowland, Senior Planner  
Philip DiPierro, Development Review Coordinator, Planning  
Marge Schmuckal, Zoning Administrator, Inspections Division  
Tammy Munson, Inspection Division Director  
Lannie Dobson, Administration, Inspections Division  
Gayle Guertin, Administration, Inspections Division  
Michael Bobinsky, Public Services Director  
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Rhonda Zazzara, Field Inspection Coordinator, Public Services  
Mike Farmer, Project Engineer, Public Services  
Jane Ward, Administration, Public Services  
Jeff Tarling, City Arborist, Public Services  
Captain Chris Pirone, Fire Department  
Thomas Erriso, P.E., TY Lin Associates  
David Senus, P.E., Woodard and Curran  
Rick Blackburn, Assessor's Department  
Anita LaChance, Assistant City Manager  
John Kenny, WBRC Architects, 44 Central Street, Bangor, ME 04401  
Approval Letter File

Att. 1

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

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Carol Morrisette, Chair  
Stuart O'Brien, Vice Chair  
Timothy Dean  
Bill Hall  
Joe Lewis  
David Silk  
Patrick Venne

August 2, 2012

Mr. Steven Crane  
Cumberland County Civic Center  
One Civic Center Square  
Portland, Maine 04101

Mr. Ray Bolduc  
WBRC Architects  
44 Central Street  
Bangor, Maine 04401

Project Name: Cumberland County Civic Center      Project ID: #2012-505  
Address: One Civic Center Square      CBL: 38-D-15 and 39-C-3  
Applicant: Cumberland County Recreation Center (Attn. Steven Crane)  
Planner: Richard Knowland, Senior Planner

Dear Mr. Crane,

On July 24, 2012, the Planning Board considered the Cumberland County Civic Center renovation project. The Planning Board reviewed the proposal for conformance with the standards of the Site Plan Ordinance including the Downtown Urban Design Guidelines. The Planning Board voted 6 to 0 (O'Brien absent) to approve the application with the following waiver(s) and condition(s) as presented below:

**WAIVERS**

The Planning Board voted 6 to 0 (O'Brien absent) to waive the Technical Standard for Driveway Design: Maximum driveway width, Section 1.7.1.4 on Center Street to allow a driveway width of 80 feet.

The Planning Board voted 6 to 0 (O'Brien absent) to waive the Technical Standard for Street Trees, Section 4.6.3 on Free Street due to shading of the street, subject to the following condition:

1. That the applicant shall contribute to the City tree fund in an amount to be determined by the City Arborist.

The Planning Board voted 6 to 0 (O'Brien absent) to waive the 5 foot maximum building set back of Section 14-220 (c) pursuant to site plan standard 14-526 (d) (9).

#### **SITE PLAN REVIEW**

The Planning Board voted 6 to 0 (O'Brien absent) that the plan is in conformance with the site plan standards of the Land Use Code including the Downtown Urban Design Guidelines, subject to the following condition(s) of approval:

1. That easements depicted on the site plan within City street rights-of-way shall be reviewed and approved by the City Council prior to February 15, 2013.
2. That the applicant shall submit a revised site plan addressing the review comments of Tom Errico (Traffic Review Consultant), memo dated July 19, 2012, for review and approval prior to February 15, 2013.
3. That the applicant and all assigns, must comply with the conditions of Chapter 32 Storm Water including Article III. Post-Construction Storm Water Management, which specifies the annual inspections and reporting requirements.

The developer/contractor/subcontractor must comply with conditions of the construction storm water management plan and sediment and erosion control plan based on City of Portland standards and state guidelines.

3. That the applicant shall submit a revised site plan addressing the review comments of David Margolis-Pineo (Department of Public Services Engineer) memo dated July 19, 2012 for review and approval and submission of a letter from the City of Portland confirming sewer capacity for the project prior to issuance of a building permit.
4. That the applicant shall submit an implementation plan to the Planning Authority for the public art murals depicted along the Free Street façade of the Civic Center. The plan shall consist of such elements as implementation measures and management of the murals subject to the review and approval of the Planning Authority prior to the issuance of a certificate of occupancy.
5. That the applicant shall submit to the Planning Authority for review and approval, a signage master plan for all exterior signs including electronic message signs prior to the issuance of a certificate of occupancy.
6. The landscaping plan shall be subject to the review and approval of the City Arborist prior to February 15, 2013.

7. Upon completion of the Spring Street Free Street Area Streetscape Plan, the Planning Authority will review the Civic Center site plan to determine if further adjustments (if any) should be made to the streetscape improvements shown on the Civic Center site plan prior to February 15, 2013 unless extended by the Planning Authority.

The approval is based on the submitted plans and the findings related to site plan review standards as contained in the Planning Report for application [#2012-505] which is attached.

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

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

1. **Develop Site According to Plan** The site shall be developed and maintained as depicted on the site plan and in the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or Planning Authority pursuant to the terms of Chapter 14, Land Use, of the Portland City Code.
2. **Separate Building Permits Are Required** This approval does not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.
3. **Site Plan Expiration** The site plan approval will be deemed to have expired unless work has commenced within one (1) year of the approval or within a time period up to three (3) years from the approval date as agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the one (1) year expiration date.
4. **Preconstruction Meeting** Prior to the release of a building permit or site construction, a pre-construction meeting shall be held at the project site. This meeting will be held with the contractor, Development Review Coordinator, Public Service's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the Development Review Coordinator will confirm that the contractor is working from the approved site plan. The site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
5. **Department of Public Services Permits** If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)

6. **As-Built Final Plans** Final sets of as-built plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (\*.dwg), release AutoCAD 2005 or greater.

The Development Review Coordinator must be notified five (5) working days prior to the date required for final site inspection. The Development Review Coordinator can be reached at the Planning Division at 874-8632. All site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind. If there are any questions, please contact Richard Knowland at (207) 874-8725.

Sincerely,



Carol Morrissette, Chair  
Portland Planning Board

**Attachments:**

1. Staff Review Memos of Tom Errico, David Senus and David Margolis-Pineo
2. Planning Board Report
3. Portland City Code: Chapter 32
4. Performance Guarantee Packet

**Electronic Distribution:**

cc: Jeff Levine, Director of Planning and Urban Development  
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Bill Clark, Project Engineer, Public Services  
David Margolis-Pineo, Deputy City Engineer, Public Services  
Doug Roncarati, Stormwater Coordinator, Public Services  
Greg Vining, Associate Engineer, Public Services  
Michelle Sweeney, Associate Engineer  
John Low, Associate Engineer, Public Services  
Rhonda Zazzara, Field Inspection Coordinator, Public Services  
Mike Farmer, Project Engineer, Public Services  
Jane Ward, Administration, Public Services  
Jeff Tarling, City Arborist, Public Services  
Captain Chris Pirone, Fire Department  
Thomas Erriso, P.E., TY Lin Associates  
David Senus, P.E., Woodard and Curran  
Rick Blackburn, Assessor's Department  
Anita LaChance, Assistant City Manager  
John Kenny, WBRC Architects, 44 Central Street, Bangor, ME 04401  
Approval Letter File



**Rick Knowland - Cumberland County Civic Center**

A4.2

**From:** Tom Errico <thomas.errico@tylin.com>  
**To:** RWK@portlandmaine.gov  
**Date:** 7/19/2012 12:18 PM  
**Subject:** Cumberland County Civic Center  
**CC:** JBartlett@portlandmaine.gov; BHYMAN@portlandmaine.gov; JST@portlandmaine...

Rick – The following outlines a status report and represent my final comments.

- The attached graphic presents comments as it relates to pedestrian facility issues identified by DPS staff. I have provided additional comments as noted below:
  - The plans illustrate a painted crosswalk along Center Street in the vicinity of the Loading Dock area. I would suggest that a permanent material be considered.
  - June 29, 2012: The plans call for a concrete surface that should help delineate the pedestrian walk area from the loading area. The applicant should confirm that this is the case.
  - **Status – I find the details of the sidewalk in this area to be acceptable. I would note that the curb radii at the loading dock need to be flush with the sidewalk.**
  - The City standard for crosswalks at signalized or controlled intersections is parallel lines. The crosswalks at the Spring Street/Center Street intersection should reflect this standard.
  - June 29, 2012: The plans have been revised and I have no further comment.
  - **Status: The plans have been revised and I have no further comment.**
  - It should be noted that many of the curb-side street changes will require City Council action as it relates to on-street parking regulation changes. The applicant would be expected to support City staff in preparing materials for City Council action.
  - June 29, 2012: The applicant has committed to this activity and I have no further comment.
  - **Status: No comment.**
  - I would suggest that curb extensions be considered for crosswalks illustrated on the plan on Free Street and possibly Spring Street.
  - June 29, 2012: This comment is outstanding.
  - **Status: The plan now includes curb extensions and I find the plans to be acceptable. Final design details will need to be reviewed and approved. I would suggest that a condition be added that notes final plans shall be submitted to the DPS for review and approval.**
  - It should be noted that the crosswalks noted will be an agenda item at the upcoming City Crosswalk Committee meeting for their feedback and therefore is subject to change.
  - June 29, 2012: The Committee supported the preliminary comments as provided. I will request that the meeting notes be provided for documentation purposes.
  - **Status: No comment.**
- I concur with the conclusion of Gorrill-Palmer Consulting Engineers, Inc. that the proposed project will not be expected to create traffic problems and accordingly a traffic impact study is not suggested.
- June 29, 2012: No comment necessary.
- **Status: No comment.**

- The Center Street/Free Street intersection has significant pedestrian and vehicle activity and I would like to see if it warrants the consideration of four-way STOP control. Accordingly, an evaluation of this should be performed.
- June 29, 2012: The applicant is requested to conduct the warrant study to confirm the multi-way STOP condition. This action is outstanding.
- **Status: I would suggest that a condition of approval be included that notes the applicant shall conduct the STOP sign warrant study and if deemed appropriate, be responsible for all costs associated with installing the change.**
- The applicant should provide details on the Center Street typical section between Free Street and Spring Street. Based upon the plans provided, changes to pavement markings are being proposed. Details on travel and parking lane widths should be provided as well as what approach lane configurations are proposed at each abutting intersection. I would also note that a recommendation in the Congress Street Bus Priority Study was to reverse the direction of Center Street between Congress Street and Free Street, and lane configurations should be compatible with this change.
- June 29, 2012: The response does not adequately address this comment. The applicant should provide information on why the centerline is being shifted and what the specific cross-section details will be for the entire street curb-to-curb width.
- **Status: I would suggest that a condition of approval be included that requires the applicant to submit supporting documentation of the pavement marking change for review and approval.**
- Given excess traffic capacity along Spring Street, I would like to investigate the possibility of eliminating the 15 minute drop-off area and using the entire curb area for on-street parking opportunities. I will provide guidance in the future on this issue.
- June 29, 2012: This comment is no longer valid.
- **Status: No comment.**
- I have reviewed the turning template for truck maneuvers into the loading dock and find conditions to be acceptable for backing entry movements. The applicant should illustrate exiting truck maneuvers through the Center Street/Free Street intersection (the alignment of the loading dock will require movements towards Free Street only).
- June 29, 2012: Based upon my review of the video provided by the applicant, large trucks can make the turn from Center Street onto Free Street. This movement is very tight and requires flaggers and parking prohibitions on Center Street.
- **No comment.**
- The loading dock curb cut does not meet City standards for width and will require a formal waiver request. I support a waiver given site characteristics.
- June 29, 2012: I support a waiver from the City's Technical standards given site access/egress requirements.
- **Status: No comment.**
- A detailed maintenance of traffic plan should be provided in support of closing Center Street and impacts to Spring Street and Free Street during construction activities. Some initial comments are noted below:
  - Center Street must maintain a pedestrian connection at all times during construction, or provide a reasonable detour alternative.
  - Sidewalk closures must include details on a proposed detour route. These detours must be safe

and reasonably direct.

- Taking a lane of traffic on Spring Street seems reasonable from a traffic perspective. I would suggest that a temporary sidewalk be provided along the same frontage.
- Use of the parking lane on Free Street seems reasonable from a traffic perspective. Details on how pedestrians will be routed during this construction stage should be provided.
- June 29, 2012: City staff and the applicant's contractor met to discuss the above comments and it is my understanding that a revised construction plan will be provided for review and approval. Accordingly, this issue is outstanding.
- **Status: I generally find the construction plan to be acceptable with the exception that pedestrians at the Spring Street/Center Street intersection shall not be required to cross to the other side of the intersection. I would also note that final approval is contingent on a review of all traffic control elements including signs, barrels, cones, pavement markings, etc.**

If you have any questions, please contact me.

Best regards,

Thomas A. Errico, PE  
Senior Associate  
Traffic Engineering Director

**TYLIN**INTERNATIONAL

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Falmouth, ME 04105  
207.347.4354 direct  
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Visit us online at [www.tylin.com](http://www.tylin.com)

"One Vision, One Company"

Please consider the environment before printing.

## MEMORANDUM



**TO:** Rick Knowland, Planner  
**FROM:** David Senus, P.E. & Ashley Auger, E.I.T.  
**DATE:** July 19, 2012  
**RE:** Civic Center Renovation, Level III Final Site Plan Application

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Woodard & Curran has reviewed the Response to Comments on the Level III Final Site Plan Application for the Civic Center Renovations located at One Civic Center Square in Portland, Maine. The project consists of building renovations and associated site improvements to the existing Civic Center site.

### Documents Provided By Applicant

- Final Site Plan Narrative and attachments dated June 15, 2012, prepared by WBRC Architects & Engineers, on behalf of the Cumberland County Recreation Center.

### Comments

We suggest addition a condition of approval that states:

1. The applicant and all assigns, must comply with the conditions of Chapter 32 Storm Water including Article III. Post-Construction Storm Water Management, which specifies the annual inspections and reporting requirements. The developer/contractor/subcontractor must comply with conditions of the construction storm water management plan and sediment & erosion control plan based on City of Portland standards and state guidelines

June 7, 2012  
**June 28, 2012**  
**July 19, 2012**

TO: Rick Knowland  
Barbara Barhydt  
FROM: David Margolis-Pineo Dept. of Public Services  
RE: Review Comments: One Civic Center Square  
Cumberland County Civic Center

The Department of Public Services has the following comments on the above referenced project.

1. It is requested that the calculations and sizing for the proposed grease trap be submitted to this department (Stephen Harris 874-8843) for review and approval prior to installation.  
**No response to this comment. Add note to plans that Public Services approval required to design and sizing prior to installation.**  
**Sizing requirements are on grease trap detail on Sheet C502. This detail agrees with our Technical Manual standards. No further comment.**
2. The applicant is requesting to keep the sidewalk on Spring Street as concrete. The sidewalk material policy requires brick sidewalks along Spring St. The construction drawings indicate that this sidewalk will be removed and replaced with cast-in-place concrete. This is not allowed without consent of the City Council. The applicant will replace this walk area with brick or seek council approval to change the sidewalk material policy for this area.  
**No response required.**  
**The applicant is now proposing to install a brick sidewalk on Spring Street.**
3. The easement or license for the proposed canopy extending over the street right of way shall state that the canopy must be a minimum of eight feet above the sidewalk or ground.  
**Comment not addressed.**  
**The applicant has acknowledged that several license agreements are required for this project. No further action required.**
4. Please add note to the plans that all proposed sidewalk ADA handicap ramps and crosswalk layout and locations shall be approved prior to construction by Bruce Hyman (400-9243) Portland's Bike/Ped Coordinator.  
**I don't believe note has been added.**  
**Note 7 on Sheet CP 101 now has this note. Thank you**
5. Please add note to plans that all work within the street right of way will meet City of Portland Technical Manual standards.  
**I don't believe note has been added.**  
**Note 6 on Sheet CP 101 now has this note. Again, thank you**
6. Please add note to the plans that all proposed manholes design shall meet the requirements of Section II of the City's Technical Manual and that all proposed



manhole channel work design shall be review prior to construction and be approved after construction by John Emerson, Portland's Wastewater Coordinator (318-0239).

**I don't believe note has been added.**

**Again, I don't believe note has been added. Therefore it is understood that manhole construction shall meet City standards and the approval of John Emerson as mentioned above.**

- 7. All catchbasins discharging to the City's sewer system shall have 3' sumps. Catchbasin detail on sheet C-502 now shows 3' sump. Thank you**

Att. 3



**Memorandum  
Planning and Urban Development Department  
Planning Division**

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**To:** Carol Morrissette, Chair and Members of the Portland Planning Board

**From:** Barbara Barhydt, Development Review Services Manager

**Date:** August 10, 2012

**Re:** Request for Reconsideration of Cumberland County Civic Center

**Meeting Date:** August 14, 2012

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I. REQUEST FOR RECONSIDERATION

On August 7, 2012, T.R. Quesada of Fore River Company, submitted a letter to the Planning Board requesting reconsideration of the Planning Board's July 24, 2012 approval of the Cumberland County Civic Center site plan application. The letter is included as Attachment 1.

II. PLANNING BOARD RULES

The Rules of the Portland Planning Board (which are attached as Attachment 2) provides as follows with regard to requests for reconsideration:

Section 6. When a vote is completed it shall be in order for any member who voted in the majority, in the negative in a tie vote, or otherwise on the prevailing side, to move for reconsideration thereof at the same or at the next regular meeting but not afterwards; and when the motion for reconsideration is decided, that vote shall not be reconsidered. No motion to reconsider a vote completed at a previous meeting shall be in order for consideration at the next regular meeting unless an item to that effect is contained on the agenda for such regular meeting or unless four (4) members consent to such reconsideration.

Section 7. Any item finally acted upon and not thereafter reconsidered shall not again be considered for a period of one year succeeding the Board's final action on the original item if the Board determines it to be in the same or substantially the same form.

Section 8. In the event of a tie vote, the matter shall be tabled to the next meeting, where it shall be considered as unfinished business.

### III. ROBERTS RULES OF ORDER

Danielle West-Chuhta, Associate Corporation Counsel, reviewed Robert's Rules regarding Motions for Reconsideration and her comments are as follows:

Under Robert's Rules, if a Motion to Reconsider is taken up by the Planning Board, the question should be immediately stated before the entire Board and is debatable if the underlying decision is debatable (which it is in this case). See Roberts Rules of Order at p. 311. This debate can go into the merits of the question proposed to be reconsidered. See Roberts Rules of Order at p. 311. If the request for reconsideration is ultimately granted by the Board, the entire site plan application is back for review in exactly the same posture and with exactly the same record as it existed just before the Board's initial vote. See Roberts Rules of Order at p. 318. As part of this review, the Board (in its discretion) can decide to take only public comment from anyone (even though he/she already provided evidence/comments to the Board previously) or take public comment from only people who haven't commented on the matter. The Board could also chose to take evidence and testimony on the whole application or limit the evidence and testimony to the issues raised by the abutter in its motion for reconsideration. See Robert's Rules of Order at p. 318.

### IV. PROCEDURE

Based on the above, the Board can do as follows with regard to the request for reconsideration:

- Not take up or make a motion for reconsideration with regard to the Cumberland County Civic Center site plan application; or
- A member of the Board who voted in the majority on the Cumberland County Civic Center application could choose to make a motion to reconsider the Cumberland County Civic Center application, which would thereby place the matter in front of the Board for debate as to whether or not the motion for reconsideration should be granted. If the motion passes, the Board then needs to choose whether or not it wants to review the matter immediately or table it to a date certain.



---

Fore River Company 5 Milk Street P.O. Box 7525

Portland, ME 04112 (207) 772-6404

August 7, 2012

RECEIVED

Carol Morrissette, Chair  
Portland Planning Board  
Portland City Hall  
389 Congress Street  
Portland, ME 04101

AUG 7 2012

City of Portland  
Planning Division

Re: Request for Reconsideration; Cumberland County Civic Center; Site Plan Review

Dear Chair Morrissette:

I am writing on behalf of New GMN, Inc., Free Street Associates, LLC, and Southern Maine Properties Company to respectfully request that the Planning Board reconsider its July 24, 2012 approval of the Civic Center Site Plan application. New GMN, Inc. is owner of the property at 48 Free Street which is directly across Center Street from the Civic Center and its truck entrance. Free Street Associates, LLC (22 Free Street) and Southern Maine Properties Company (2 Free Street) are owners of properties on the proposed route of truck traffic on Free Street when exiting the Civic Center. I appeared at the Board's July 24 public hearing, identified myself as an owner of New GMN, Inc. and offered comments on the Site Plan Application. Since then, I have obtained new information which we believe is important for the Planning Board to consider.

Our request for reconsideration is based upon two issues: 1) the absence of information before the Board on either the truck turning pattern or on parking impacts that will be produced by the proposed reconfiguration of the loading dock area; and 2) the absence of information before the Board on the effects of the project on New GMN's property at the southeasterly corner of Center and Free which is within the historic district.

1. *Truck traffic patterns will unnecessarily tie up vehicular traffic and threaten vehicular and pedestrian safety on Center Street, Free Street and Temple Street, and will consume considerable on-street parking for an indeterminate period. The loading dock should be re-designed to avoid these problems.*

The Civic Center's proposed loading dock on Center Street has four bays that face "up-hill" at a 45 degree angle to Center Street. The single truck turning template diagram furnished to the Planning Board by the applicant shows that a 42.5' truck can (barely) drive up Center Street, across the Free Street intersection, and back into the uppermost truck bay.

As I pointed out at the Public Hearing, the Application does not show and makes no reference whatsoever to the following information that should have been a necessary component for the Planning Board to make a decision on the evidence:

- a) The Application states that 53' trucks will use the dock shown, but no turning diagram is provided to confirm that a 53' truck can make the required maneuver into the truck dock; the 42.5' truck turning pattern which was provided shows the truck all the way across the Free Street intersection, stopping exactly at the far curb. There appears to be no more space for a bigger truck to make the same maneuver.
- b) The Application states that trucks will turn right on Free Street, but no turning diagrams whatsoever are shown for trucks making the right turn onto Free Street—neither the 42.5' truck shown entering the dock, nor the 53' trucks also stated as contemplated.
- c) The application makes no reference whatsoever to the path of the trucks which will be required after they get onto Free Street (if they even can). Will they be able to make any of the
  - a. Right turn onto Cross Street and right onto Spring,
  - b. Right turn on Temple Street and right or left onto Spring, Fore or Commercial Streets, or
  - c. Left turn on Temple and right or left onto Congress?

How could the Planning Board make an informed decision on this matter without any evidence that the truck can make the contemplated maneuvers? The Planning staff referenced these concerns in its report to the Planning Board, but no response or additional factual information was provided. When I raised the issue at the Public Hearing, reference was made to a video (which at least one Planning Board member stated had not been viewed), showing a truck exiting the existing truck dock and making the turn onto Free Street. That video did not:

- a) show the prior attempts of the truck in the video to make the turn without success;
- b) show, because of the dark shadow, whether the truck intruded onto the SE corner sidewalk when turning the corner, or
- c) show whether a truck exiting the proposed (as opposed to current) truck dock, which is materially farther up Center Street, could make it in or out of that proposed dock.

What the video did nicely show was that any turn required a complete absence of parked cars, saw horses in the intersection, and flaggers on foot.

The one turning radius presented to the Planning Board, with a truck proceeding up Center Street and across the Center/Free Street intersection, then stopping to back down Center Street gives a hint of the adverse impact that will be caused by these 42.5' trucks and the bigger 53' trucks on leaving the truck bays (if they even can). As noted in the staff report, even the 42.5' truck's back and forth movement will tie up the Center/Free Street intersection and require flaggers to control vehicular traffic. According to the City, this intersection is busy with both vehicular and pedestrian traffic.

We have engaged professional assistance to prepare truck turning templates which show that directing 53' foot trucks up Center Street, right on Free Street and down Temple Street to Spring Street will cause more traffic tie ups beyond the immediate area of the truck dock, and will present significant safety dangers that should have been presented and considered. Our turning radius studies indicate that a 53' truck turning onto Free Street clips the curbing and the pedestrian sidewalk – and that is with the “perfect turn.” The situation is even worse when the truck makes the turn from Free Street and down Temple Street. A truck would seemingly be required to cross Temple Street into the entrance to the Temple Street garage and then faces on-coming traffic before making it back into the proper lane

and turning right onto Spring Street. This is highly dangerous to both pedestrian and vehicular traffic in this busy area. None of these very real problems were presented to the Planning Board, nor was any engineered study whatsoever presented on many of these required turns.

I asked at the Public Hearing how much on-street metered parking would be lost and for what period to allow the proposed trucks to circulate. No evidence was provided on this issue. The absence of the necessary truck turning radius diagrams made it impossible for the Planning Board to accurately assess the quantity of on street metered parking that will have to be prevented on Center and Free Streets (and possibly downstream). Without that information, the Planning Board was not equipped to make an informed decision as to the on street parking impact that would occur while the trucks are coming and going. The City has designated Free Street as a Pedestrian Overlay District or "PAD," within which ground floor shops are required to be marketed only to retail and other similar tenants which generate on-street activity. Loss of on-street parking for our buildings on Center and Free Streets will have a material adverse impact on our buildings (for both retail and office users) and will cut hard against the viability of the City's preferred PAD uses. Needless to say, we are disappointed that this issue was raised by me but not considered by the Planning Board due to lack of required information being provided by the Applicant.

Without any information provided to the Planning Board on the viability of making the Free Street turn and downstream turns, the Planning Board was in no position to make an informed decision on the extent of the impacts or the viability of alternatives which might mediate against those impacts. For instance, vehicular and pedestrian flow and safety would likely be greatly improved and impacts on City streets and businesses greatly reduced if the loading dock on Center Street were redesigned to face "down-hill" at a 45 degree angle to Center Street. While backing uphill would be more difficult than backing down-hill into the bays as would be the case under the Civic Center's proposal, after this initial maneuver, the truck maneuvers become much easier, would be on larger streets, and would more closely replicate current truck circulation in the downtown area. There would likely be fewer tie-ups of the intersection and no need for flaggers. This would seem to be an infinitely simpler and safer process than has been proposed and it will avoid the use of Free Street, a one way narrow corridor with parking on both sides that is not appropriate for "big rigs." Without adequate information presented to it, the Planning Board found itself in no position to even ask if a better, safer alternative was available.

We ask that the Planning Board reconsider the Application with the necessary facts relating to truck turning before it.

- 2. The Civic Center application should be referred to the Historic Preservation Program for a written analysis of the effect of the loading dock, i.e., Center Street, face of the new Civic Center on the historic district across Center Street.*

I expressed my concern about the impact of the redesign on our historic district building across Center Street. The Planning Board Report, dated July 20, 2012, discusses "historic resources" beginning at page 14. It mentions that land on the northerly side of Free Street and the easterly side of Center Street are in the historic district. The report analyzes the Free Street façade and the Spring Street façade (which does not even face an historic district). The report says nothing about the façade facing Center Street or about the historic district across Center Street where our property is located. There is

no discussion whatsoever of the impact of the substantially revised and expanded truck dock design on the immediately adjacent building and district which face this expanded dock. How could the Planning Board make an informed decision that the Applicant's proposal "shall be generally compatible with the major character-defining elements of the landmark or portion of the district in the immediate vicinity of the proposed development" if that compatibility issue was not anywhere addressed in the written or oral materials before the Planning Board?

New GMN was not pleased when the City decided to include its property in the historic district. It is particular troubling to us that after having been placed in the historic district, we are ignored, and are given none of the protections of that district when it comes to assessing the impacts on our property from an historic resources perspective.

I plan to attend the Planning Board's August 7, 2012 meeting and ask that I be allowed to address the Board on this request for reconsideration. Thank you.

Sincerely,

*J.R. Quesada*

cc: Planning Department  
Steve Crane @ the Civic Center

## **RULES OF THE PORTLAND PLANNING BOARD**

### **ARTICLE I. GENERAL PROVISION**

- Section 1. These rules are supplementary to the provisions of Chapter 14 of the Municipal Code as it relates to the procedures of the Planning Board and are adopted pursuant to the authority granted in Section 14-25(b) of said Code.
- Section 2. Roberts Rules of Order shall supplement these rules and shall control procedures not covered by these rules.

### **ARTICLE II. OFFICERS AND DUTIES**

- Section 1. The officers of the Board shall be the Chair and Vice Chair.
- Section 2. The Chair and Vice Chair shall be elected annually by the regular members at the last regular meeting in December.
- Section 3. The Chair shall appoint chairs and members for those committees as may be appropriate.

### **ARTICLE III. MEETINGS**

- Section 1. Regular meetings shall be held on the second and fourth Tuesdays of each month at 7:00 p.m. or as otherwise noticed, in City Hall or at such other location of which notice is given. Where a regular meeting day falls on a recognized holiday, the regular meeting shall be held on the following Tuesday.
- Section 2. Special meetings may be called by the Chair at its discretion or upon the request of the City Council or four or more members, provided that twenty-four hours notice is given each member.
- Section 3. Meetings of any committee of the Board shall be held at the call of the Board or the committee Chair or by agreement of at least two committee members.
- Section 4. The Chair, in consultation with the Director of Planning and Urban Development or the Chief Planner, shall set the agenda for workshops, public hearings, and other meetings.
- Section 5. The Board may, by a majority vote, specify a date for an agenda item.

## **ARTICLE IV. ORDER OF BUSINESS**

Section 1. All regular meetings of the Board shall proceed as follows:

- a. Roll call and declaration of quorum
- b. Reading and approval of minutes of the previous meeting
- c. Communications
- d. Unfinished business
- e. New business
- f. Adjournment.

## **ARTICLE V. NOTICE**

Notice shall be given in accordance with Section 14-32 of the Municipal Code; provided, however, that each city councilor and all those individuals or entities included on the most current neighborhood and citizen list maintained by the planning authority, shall also be given the notice afforded under Section 14-32 of the Municipal Code.

Notice of a pending application for subdivision or major site plan review or for a proposed rezoning, including any contract or conditional rezoning, shall be posted in a timely fashion on the City of Portland web page.

Notice of the planning board agenda shall be posted in a timely fashion on the City of Portland web page.

## **ARTICLE VI. CONDUCT OF PUBLIC WORKSHOPS AND HEARINGS**

### **A. PUBLIC WORKSHOPS**

A workshop meeting provides the opportunity for the Planning Board to determine whether an application is complete and ready for public hearing. It is not deliberative in nature but rather is a vehicle by which the Planning Board undertakes a preliminary review of an application, provides comment to the applicant on any items needed to complete an application, and schedules the matter for a public hearing.

Section 1. Order of Proceedings. The following order of proceedings shall govern all public workshops conducted by the Board:

- A. The Planning Director of his/her designee may summarize the application and proposal and may comment on any items to be submitted prior to sending the application to a public hearing.



- B. The applicant may present information to the Board explaining the nature of its application and to inquire of the Board as to any issues to be addressed in advance of or at the public hearing.
- C. Public Comment: Members of the public, or a duly authorized agent or attorney, may offer verbal comments or statements relevant to matters under discussion by the Planning Board. The duration of each speaker's remarks shall be limited at the discretion of the Chair. The Chair's decision to limit the comment time per project may be based on managing the agenda in order to address all items scheduled.

Members of the public also may submit written comment relative to the application either before or at a public workshop or public hearing and such written comment shall become part of the official Planning Board record.

- D. After the close of the public comment session, the Planning Board shall come to a consensus as to whether the application is/not complete and may/not be scheduled for public hearing. No public comment shall be allowed at this time.
- E.. After the close of the public comment session, the Planning Board may identify issues of concern regarding the application and shall come to a consensus on whether the application is sufficiently complete and ready to schedule for public hearing.

The Planning Board may comment or ask questions at any time.

## B. PUBLIC HEARINGS

A public hearing shall be held by the Planning Board pursuant to the City Ordinance and upon the submission of a complete application.

Section 1. Order of Proceedings The following order of proceedings shall govern all public hearings conducted by the Board:

- A. The Planning Director or his/her designee may summarize the application and proposal.
- B. The Planning Department staff shall give its report, commentary and recommendation, if any.
- C. The applicant shall present its opening statement and any testimony or other evidence.

- D. Other City departments, staffs, and officials may present reports, commentary, and recommendations.
- E. Public Comment. Members of the public may offer evidence or statements relevant to the project under consideration. Each speaker shall be limited to three (3) minutes. The Chair may, at its discretion, extend this period for an additional three (3) minutes. The Board may grant an initial or any further extensions upon a majority vote of those present and voting.
- F. After the close of the public comment period, answers shall be provided by the applicant or by staff as needed to questions raised during the public comment. The applicant shall be allowed to respond to public comment at this time.
- G. Response. Members of the public may respond to new issues raised by answers or information provided by the applicant or by staff. It shall be within the discretion of the Chair to determine whether a response is appropriate. In making this determination, the Chair shall decide whether the response constitutes facts or information that could not have been presented during the public comment period. The Board may override such a determination by the Chair by a majority vote.
- H. After the close of a public hearing and after responses to new issues have been completed, the Board shall commence its deliberations. No public comment shall be allowed during these deliberations, except as requested by the Board.

Cross-examination by the applicant and members of the public shall be conducted as directed by the Chair. The Planning Board may ask questions at any time.

Section 2. Rights of all persons. Any person may appear and testify at a public hearing, either in person or by duly authorized agent or attorney, as provided thereof and may submit documentary evidence; provided, however, that the Chair may exclude irrelevant material or unduly repetitious evidence, unless a majority of the Board votes to allow such material or evidence. Members of the public shall also have the right to examine evidence at the public hearing and reproduce any documents produced at the hearing at a later time to be arranged with staff at the expense of the person requesting the information.

Section 3. Rights of applicant. The applicant shall, in addition, have the following rights:



- a. to present witnesses and offer rebuttal evidence;
- b. to cross-examine all witnesses testifying in opposition to the applicant's position through the Chair, or, with permission of the Chair, directly; and
- c. to examine and reproduce any documents produced at the hearing.

Section 4. The rules of evidence shall not be strictly applied.

Section 5. Submission of Exhibits. Exhibits presented by an applicant or by a member of the public shall be numbered and become part of the record. The applicant or member of the public may provide a photograph or photocopy instead of an original model or document. Said photograph or photocopy shall be numbered and shall become part of the record.

Section 6. No new agenda items will be begun after 10:00 p.m. unless at least four members of the Board vote to suspend this rule. Any agenda items that have not begun before 10:00p.m. shall be automatically tabled to the next regularly scheduled meeting or to a date determined by the Board. Before 9:30 p.m. the Planning Board may, at the discretion of the Chair, temporarily suspend consideration of the agenda item currently under review in order to determine whether remaining agenda items will be reached before 10:00 p.m. The Board will at that time notify the proponents of those agenda items which will not be reached, that the items will be tabled until the next regularly scheduled meeting or a date determined by the Board. Any item tabled under the provisions of this rule shall be considered as unfinished business at the next regularly scheduled meeting or at the meeting date specified by the Board.

## **ARTICLE VII. DELIBERATIONS, VOTING, DECISIONS.**

Section 1. As to any matters not requiring a hearing, the Board may meet and deliberate at any properly called meeting, regardless of the presence of a quorum, or may continue consideration of such matter to any later meeting. However, no final action shall be taken on such a matter without a quorum being present.

Section 2. No member absent from a significant portion of a public hearing shall be qualified to vote upon the matter heard unless that member shall first certify for the record that she/he has reviewed the entire record of any such portion of the hearing during which she/he was absent and has fully informed her/himself of the essential facts and issues of the matter being heard so as to be able to cast an informed and independent vote.

- Section 3. Recommendations to the City Council shall include findings of fact and the reason or reasons for such recommendation and shall contain a separate statement setting forth the recommendation of the Board.
- Section 4. The Board will take no final or binding vote on any matter that is a final decision rather than merely a recommendation unless it shall first have stated its findings, reasons, and conclusions at a meeting open to the public. Where a vote on a matter results in a failure to approve, the Board shall immediately vote upon a motion to either table or deny the project. A motion to deny shall include the findings, reasons and conclusions of the Board supporting a denial.
- Section 5. Any one or more members of the Board may file minority or dissenting reports in support of any position concerning any matter brought before the Board.
- Section 6. When a vote is completed it shall be in order for any member who voted in the majority, in the negative in a tie vote, or otherwise on the prevailing side, to move for reconsideration thereof at the same or at the next regular meeting but not afterwards; and when the motion for reconsideration is decided, that vote shall not be reconsidered. No motion to reconsider a vote completed at a previous meeting shall be in order for consideration at the next regular meeting unless an item to that effect is contained on the agenda for such regular meeting or unless four (4) members consent to such reconsideration.
- Section 7. Any item finally acted upon and not thereafter reconsidered shall not again be considered for a period of one year succeeding the Board's final action on the original item if the Board determines it to be in the same or substantially the same form.
- Section 8. In the event of a tie vote, the matter shall be tabled to the next meeting, where it shall be considered as unfinished business.

#### **ARTICLE VIII. TIME LIMITS.**

- Section 1. In any case where these rules or any other statute, code or ordinance provides that the failure of the Board to act within a fixed period shall be deemed a grant or denial of an application, such failure shall, notwithstanding the absence of required findings and conclusions, be considered to be a decision of the Board rendered on the day following the expiration of such fixed period. Such a decision shall be appealable in the same manner as any

other decision but, on such appeal, shall be entitled to no presumption of correctness. Time limits for hearings and decisions shall be those set forth in State statutes and City ordinances.

**ARTICLE IX. AMENDMENT OF RULES.**

Section 1. These rules may be amended by an affirmative majority vote of the members of the Board.

Section 2. The proposed amendment must be presented in writing at a regular or special Board meeting preceding the meeting at which the vote is taken.