

Planning & Urban Development Department

*Jeff Levine, AICP, Director**Marge Schmuckal, Zoning Administrator*

June 5, 2014

Todd M. Alexander

RE: 1 & 2 Joy Place - #045-E-048 (also known as R 173 Brackett St) & 045-E-049

Dear Mr. Alexander,

I am in receipt of your request for a determination letter concerning the properties located at 1 & 2 Joy Place.

I am confirming that the properties are located in the B-1 zone with a Historic Overlay.

The Portland Public Services Department - Engineering division, has submitted information to me concerning the status of Joy Place. They state: "Joy Place is considered by the City of Portland DPS Engineering Archives to be a Private Way."

The B-1 zone states under uses (14-162) and under dimensional requirements (14-165) that the closest residential zone shall be used for meeting the allowable residential uses and the required space and bulk requirements. The abutting residential zone is the R-6 zone. The R-6 zone requires forty (40) foot of street frontage.

According to Assessor's record, these properties were built in 1840 & 1900 and are legally nonconforming for space and bulk requirements of the R-6 zone. The use is conforming to the R-6 zone. Division 23 "Nonconforming Use and Nonconforming Buildings" gives existing developed lots rights to be maintained, repaired, or reconstructed within two (2) years [section 14-382(a)]. I have determined that the Ordinance allowance to rebuild also would also relate to 14-403, minimum street requirements. The nonconforming rebuild would not trigger conformance with 14-403 to be met.

Generally, any enlargement of the existing structures would need to meet current R-6 zone requirements. The R-6 zone currently requires a minimum ten (10) foot front setback from the front property line. Section 14-139(a)4(a) goes on to allow reductions of the required front setback based on specified situations. Section 14-139(a)4(b) requires a twenty (20) foot rear setback for principal structures. Section 14-139(a)4(c) requires a side yard to be ten (10) feet for a structure up to three (3) stories and twelve (12) feet for four (4) stories and fifteen (15) feet for five (5) stories.

As stated above, currently the properties as one lot, and meet the land area per dwelling unit requirement. Please note that section 14-165 directs residential properties to use the nearest residential zone for dimensional requirement but for an exception, as noted in section 14-165(h), minimum lot area per dwelling unit. The above properties are located on-peninsula and allowed to use a minimum of four hundred and thirty-five (435) square feet of land area per dwelling unit.



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*Jeff Levine, AICP, Director**Marge Schmuckal, Zoning Administrator*

You are correct that the property owner must first show right title and interest to Joy Place for it to be included in the calculations determining right title and interest. Because I have not been provided such information, I cannot allow Joy Place to be considered at this time. It is premature to state otherwise. Please also note that our legal department would be confirming such submittals. I am somewhat concerned that this scenario may restrict some of your legal nonconforming rights with the changes that may be proposed.

I am not aware that there are any conditions with regard to the property which would deem the property ineligible for consideration for a R-7 zone change. Please be aware that I have no authority on the approval or disapproval for a R-7 overlay zone change. The process is through the planning staff and Planning Board and then ultimately to the City Counsel. Then, as Zoning Administrator, I would enforce the requirements of the passed zone.

At this time I cannot confirm that the existing width of the private way, Joy Place – believed to be 24 feet - would or would not restrict the property for a higher density residential use that otherwise meets applicable R-6 & B-1 zone requirements. There are many factors in making a determination of this sort that would encompass the legal department, public services, planning and fire department. It is not only a zoning determination. However, as stated previously, there are rights to maintain, repair, or reconstruct existing nonconforming buildings in kind. As soon as you have more information on development you may want to do on this property, we can discuss it further with all departments that need to be present.

If you have any questions regarding this matter, please feel free to contact me at (207) 874-8695.

Very truly yours,

A handwritten signature in black ink that reads "Marge Schmuckal".

Marge Schmuckal
Zoning Administrator

May 29th 2014

Marge Schmuckal
City of Portland
389 Congress Street
Portland, Maine 04101

5/29/14

in Historic

RE: ZONING DETERMINATION LETTER

B-Zone 045-E-048 & 049

Dear Marge:

I am submitting this letter to clarify certain zoning issues related to two parcels, which I have under contract to purchase. The parcels are known as #1 and #2 Joy Place and are identified in the city's tax assessor's database as: 45-E-48 and 45-E-49 (collectively, the "Property"). The zoning questions are related to my intended future use of the Property as a multifamily housing development and are as follows:

1. Please confirm that the Property is located in the B1 zone
2. Dimensional Requirements: The Portland Public Works Department and our title agent has confirmed that Joy Place is a private way. This appears to suggest that the Property is legal non-conforming with regards to the minimum required street frontage in a B1 zone, 50 feet. Please confirm the Property's legal, non-forming status and how that status impacts the Property's redevelopment potential with regards to;
 - Increasing the building footprint of the existing structures, including the foundation of the barn, the vacant residential building and the garage. If the building footprints can be enlarged or modified, please confirm the allowable front, side and rear yard setbacks for the Property.
 - Increasing the density of the residential units from its current legal status as a three-unit to the maximum allowable number of residential units under the B1 zone, one unit per every 435 square feet of lot area.
3. Provided that the Property owner is able to demonstrate, through a title policy and land surveyor, that it has fee simple ownership of the private way, Joy Place, please confirm that the lot area of the private way will be included in the calculation to determine the maximum allowable residential units on the Property.
4. Please confirm that there are no existing conditions with regards to the Property which would deem the Property ineligible for consideration for a R7 zone change.
5. Does the existing width of the private way, Joy Place—believed to be 24 feet—restrict the Property for a higher density residential use that otherwise meets applicable B1 zoning requirements?

Respectfully,

Todd M. Alexander

Marge Schmuckal - Joy Place Follow Up

under my review

From: Todd Alexander <TAlexander@RenewalHousing.com>
To: Jeff Levine <JLEVINE@portlandmaine.gov>, "aqj@portlandmaine.gov" <aqj@po...>
Date: 5/21/2014 11:10 AM
Subject: Joy Place Follow Up
CC: Carl Lakari <clakari@maine.rr.com>, "mes@portlandmaine.gov" <mes@portlan...>

Jeff:

Thanks for meeting with us yesterday to discuss options at Joy Place. In terms of next steps, we will continue to work with our surveyor and title agent to clarify the ownership status of the alley -- so, we know how that impacts the redevelopment of the parcels we have under contract. I will follow up with Marge for a revised zoning determination letter once we have that information.

You had mentioned that you could check with Mary Davis (?) that the school district is the owner of the parking lot on Brackett. Could you please let me know when this is confirmed.

Thanks again, and we will keep you apprised of our progress.

-Todd

Todd M. Alexander
Renewal Housing Associates, LLC | Leon N. Weiner & Associates, Inc.
p. 207 347-3018
c. 207 749-7257

Assessor's Office | 389 Congress Street | Portland, Maine 04101 | Room 115 | (202) 874-8486

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Current Owner Information:

Services

- [Applications](#)
- [Doing Business](#)
- [Maps](#)
- [Tax Relief](#)
- [Tax Roll](#)
- [Q & A](#)

CBL 045 E049001
Land Use Type THREE FAMILY
 Verify legal use with Inspections Division
Property Location 1 JOY PL
Owner Information BRESETTE ALBERT
 PO BOX 345
 PORTLAND ME 04112
Book and Page
Legal Description 45-E-49
 JOY PLACE CALLED #2
 4354 SF
Acres 0.1

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[browse facts and links a-z](#)

Current Assessed Valuation:

| | | |
|----------------------------------|--------------|-----------------------------------------|
| TAX ACCT NO. | 7042 | OWNER OF RECORD AS OF APRIL 2013 |
| LAND VALUE | \$149,100.00 | BRESETTE ALBERT |
| BUILDING VALUE | \$10,900.00 | PO BOX 345 |
| NET TAXABLE - REAL ESTATE | \$160,000.00 | PORTLAND ME 04112 |
| TAX AMOUNT | \$3,105.60 | |



Best viewed at 800x600, with Internet Explorer

Any information concerning tax payments should be directed to the Treasury office at 874-8490 or [e-mailed](#).

Building Information:

Building 1

| | |
|-----------------------------|-----------|
| Year Built | 1840 |
| Style/Structure Type | OLD STYLE |
| # Stories | 3 |
| # Units | 3 |
| Bedrooms | 11 |
| Full Baths | 4 |
| Total Rooms | 17 |
| Attic | NONE |
| Basement | FULL |
| Square Feet | 3528 |

[View Sketch](#) [View Map](#) [View Picture](#)

Sales Information:

| | | | |
|------------------|-----------------|--------------|------------------|
| Sale Date | Type | Price | Book/Page |
| 10/1/1997 | LAND + BUILDING | \$20,000.00 | 13359/103 |

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Assessor's Office | 389 Congress Street | Portland, Maine 04101 | Room 115 | (207) 874-8486

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Current Owner Information:

- Services**
- Applications
- Doing Business
- Maps
- Tax Relief
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- Q & A
- [browse city services a-z](#)
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CBL 045 E048001
Land Use Type GARAGES, SHEDS, AUX, ETC.
 Verify legal use with Inspections Division
Property Location 173 BRACKETT ST
Owner Information BRESETTE ALBERT
 PO BOX 345
 PORTLAND ME 04112
Book and Page
Legal Description 45-E-48
 R BRACKETT ST 173
 1537 SF
Acres 0.0353

1537
 4352
 58914 total

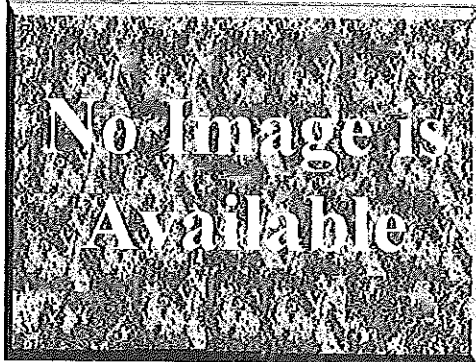
Current Assessed Valuation:

| | | |
|----------------------------------|-------------|-----------------------------------------|
| TAX ACCT NO. | 7040 | OWNER OF RECORD AS OF APRIL 2013 |
| LAND VALUE | \$9,200.00 | BRESETTE ALBERT |
| BUILDING VALUE | \$9,700.00 | PO BOX 345 |
| NET TAXABLE - REAL ESTATE | \$18,900.00 | PORTLAND ME 04112 |
| TAX AMOUNT | \$366.86 | |



Any information concerning tax payments should be directed to the Treasury office at 874-8490 or e-mailed.

Best viewed at 800x600, with Internet Explorer



[View Map](#)

Outbuildings/Yard Improvements:

| | |
|-------------------|-------------------|
| | Building 1 |
| Year Built | 1900 |
| Structure | FLAT BARN |
| Size | 25X29 |
| Units | 1 |
| Grade | C |
| Condition | P |

Sales Information:

| Sale Date | Type | Price | Book/Page |
|-----------|------|-------|-----------|
|-----------|------|-------|-----------|

during actual or simulated sexual intercourse or sexual acts as defined in 17-A M.R.S.A. § 251.

(Ord. No. 187-81, § 602.16A(2), 9-21-81; Ord. No. 356-82, 1-18-82)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 14-375. Adult business establishments permitted; special requirements.

(a) Notwithstanding any other provision of this article, adult business establishments shall be permitted only in the B-2 and B-3 zones, provided that such establishments, but for this division, would otherwise be permitted therein, and subject to the following special requirements:

1. Such establishment shall be at least one thousand (1,000) feet from any other adult business establishment, and at least five hundred (500) feet from any residential zone, as measured in a straight line, without regard to intervening structures or objects;
2. No sexually explicit materials, entertainment, or activity shall be visible from the exterior of the premises.

(b) Except as expressly provided herein, nothing in this division shall be construed to waive or otherwise affect any other provision of this article.

(Ord. No. 187-81, § 602.16A(3), 9-21-81; Ord. No. 356-82, 1-18-82; Ord. No. 54-85, 6-17-85; Ord. No. 164-97, § 11, 1-6-97)

Sec. 14-376. - Sec. 14-380. Reserved.

DIVISION 23. NONCONFORMING USE AND NONCONFORMING BUILDINGS

Sec. 14-381. Continuation.

Any lawful use of buildings, structures, premises or parts thereof, existing on June 5, 1957, and made nonconforming by the provisions of this article or any amendment thereto may be continued although such use does not conform with the provisions of this article or amendment thereto.

(Code 1968, § 602.17.A)

Sec. 14-382. Increase in nonconforming use of structure or alterations to nonconforming structures limited.

(a) A lawful nonconforming ~~non-residential~~ structure may be maintained, repaired, or reconstructed in kind within a one (1) year period or within a two (2) year period for a nonconforming residential structure, but no alterations, modifications or additions shall be made to it, except as provided in this division.

(b) A building whose use is wholly nonconforming shall not be altered so as to increase the cubical content or the degree of nonconformity.

(c) No alterations, modifications or additions shall be made so as to increase the cubical content or the degree of nonconforming use, nor shall a nonconforming use be extended to any other part of such building, unless such part was clearly arranged and designed for such nonconforming use prior to June 5, 1957, or such extension of a nonconforming use is solely for the purpose of bringing the use into compliance with health or safety codes, or to correct a condition that may not technically be in violation but which is determined by the board of appeals to constitute a health or safety problem. In either case, the expansion shall be limited to the minimum necessary to accomplish that purpose.

(d) Alteration, modification or addition may be made to a building which is lawfully nonconforming as to space and bulk or any dimensional requirement where the proposed changes in existing exterior walls and/or roofs would be within the space occupied by the existing shell of the building, and would not create any new nonconformity nor increase any existing nonconformity. This subsection shall not apply to buildings located within shoreland zones and existing on June 15, 1992, which are nonconforming only as to setbacks from wetlands, tributary streams or other water bodies, which shall be regulated in accordance with subsection (f) of this section. *

(e) Except as expressly provided herein, any alteration, modification or addition permitted under this section shall be in compliance with all other applicable sections of this chapter. Nothing within this section shall be construed to permit an increase in the number of nonconforming units in a building which is nonconforming as to the number of dwelling units or will become nonconforming as a result of such alteration, modification or addition.

(f) Expansions. A non-conforming structure may be added to

or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with the sections below.

Shoreland

1. After January 1, 1989, if any portion of a structure is less than the required setback from the normal high water line of a water body or tributary stream or the upland edge of a wetland that portion of the structure shall not be expanded, as measured in floor area or volume, by thirty (30%) percent or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of section 14-382, and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by thirty (30%) percent in floor area and volume since that date.
2. Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by building authority, basing its decision the criteria specified in subsection (3) below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with section (f) above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.
3. A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located, provided that the site of the relocation conforms to all setback requirements to the greatest practical extent as determined by the building authority, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of state law, the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system can be installed in compliance with state law, such rules, and all applicable sections of this Code. In no

event shall a structure be relocated in a manner that causes the structure to be more nonconforming. In determining whether the building relocation meets the setback requirements to the greatest practical extent, the building authority shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of septic system and other on-site soils suitable for septic systems, the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback are in order to relocate a structure, the building authority shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- a. Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than fifty (50%) percent of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- b. Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.
4. Buildings in existence on January 1, 1989, and located in shoreland zones may be expanded once during the lifetime of the structure up to twenty-five (25) feet toward a freshwater wetland or tributary stream, provided that a

minimum setback of forty (40) feet is maintained and that the existing floor area or volume is not increased by more than thirty (30%) percent, and shall not create any undue environmental impact or flood prone condition.

(Code 1968, § 602.17.B; Ord. No. 271-89, 2-22-89; Ord. No. 96-89, § 2, 9-18-89; Ord. No. 15-92, § 26, 6-15-92; Ord. No. 284-99, §1, 5-17-99, enacted as an emergency; Ord. No. 296-08/09, 6-15-09; Ord. No. 139-12/13, 2-4-13)

Sec. 14-383. Extension of nonconforming use of land prohibited.

A lawful nonconforming use existing on premises outside of a building shall not be extended to or allowed to occupy any part or parts of such premises outside of the building.

(Code 1968, § 602.17.C; Ord. No. 354-85, § 3, 1-7-85)

Sec. 14-384. Change of nonconforming use.

A lawful nonconforming use in a structure designed for a use permitted in the zone in which it is located shall not be changed to any use other than a use permitted in the zone in which the structure is located. When a nonconforming use in such a structure has been changed to a permitted use, it shall not thereafter be changed back to any non-permitted use. For purposes of this section, a use shall be deemed to have been so changed when an existing nonconforming use shall have been terminated and a permitted use shall have commenced and continued for a period of seven (7) days. Any change of use in violation of this division shall be deemed to be an abandonment of the lawfully existing nonconforming use. A lawful nonconforming use in a structure not designed for a use permitted in the zone in which it is located shall not be changed to any use other than a use permitted in the zone in which the use is located or to any use other than a nonconforming use of a more restricted zone, as set forth in the following schedule, provided that in no such case shall any structural alterations be made in any building except those required by law, ordinance or other regulations:

- (a) In a business zone, from any use permitted in an industrial zone to any use permitted in a business zone.
- (b) In a B-1 zone, from any use permitted in a B-3 zone to any use permitted in a B-2 zone.
- (c) In a residence zone, from any use permitted in a B-2 zone to any use permitted in a B-1 zone.

- (d) In a residence zone, from any use permitted in any other residence zone to any use permitted in a more restricted residence zone. For the purpose of this subsection, an R-6 zone shall be deemed the least restricted and an R-2 zone shall be deemed the most restricted, with the intervening zones restricted in order of zone number.
(Code 1968, § 602.17.D; Ord. No. 499-74, § 8, 8-19-74)

Sec. 14-385. Restoration or reconstruction within an existing footprint of damaged nonconforming structure.

A nonconforming structure damaged by fire, explosion, flood, riot, act of the public enemy, accident of any kind, decay or otherwise may be restored or rebuilt only where:

- (a) The restoration or reconstruction is of a building which is nonconforming only as to land area, setbacks or any other dimensional requirements; and
- (b) Where the restoration or reconstruction will occur entirely within the existing footprint and previous shell of the building and will not create a new nonconformity; and
- (c) Restoration or reconstruction occurs within one (1) year for a nonconforming non-residential structure, or two (2) years for a nonconforming residential structure, of the initial damage where such damage is sudden and accidental. Note that for buildings in Shoreland zones, state regulations may also govern and provide for a shorter period for restoration or reconstruction of nonconforming structures; and
- (d) Restoration or reconstruction necessitated by decay must be completed within one (1) year of the demolition of the building or the commencement of the restoration or reconstruction, whichever occurs first; and
- (e) Any reconstruction, under this provision, in the residential R-6 zone on a lot with 10,000 square feet or less, other than the exact restoration of a previously existing building on the site, shall comply with the applicable standards contained within the Planning and Development Design Manual; and

- (f) A nonconforming building located in the R-6 which is destroyed by fire, explosion, flood, riot, act of the enemy, or accident may be rebuilt under the small residential lot development provisions of the R-6 zone as if the lot were vacant as of January 1, 2005 and such reconstruction shall meet the setback requirements contained therein to the extent practicable; otherwise the building shall be reconstructed within the footprint of the previously existing building such that any nonconformity will not be enlarged.

For the purpose of this section, the footprint of a building is the perimeter of the foundation supporting a structure.

(Code 1968, § 602.17.E; Ord. No. 89-88, 7-19-88; Ord. No. 284-99, §2, 5-17-99, enacted as an emergency; Ord. No.254-05/06, 6-5-06; Ord. No. 61-07/08, 10-1-07; Ord. No. 240-09/10, 6-21-10; Ord. No. 139-12/13, 2-4-13)

*Editor's note—Ord. No. 89-88, adopted July 19, 1988, amended this section to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 89-88.

Sec. 14-386. Discontinuance of use of land for ninety days.

A nonconforming use of land where no buildings or only incidental or accessory buildings are employed together with such use shall not be changed to any other nonconforming use, and if such use is discontinued for a period of ninety (90) days, it shall not be reestablished.

(Code 1968, § 602.17.G)

Sec. 14-387. Discontinuance of use of property.

If a legally nonconforming non-residential use is discontinued for a period of twelve (12) months or if a legally nonconforming residential use is discontinued for a period of twenty-four (24) months, such discontinuance shall constitute an abandonment of the use and the property shall not thereafter be occupied or used except in conformity with the provisions of this article. In cases of foreclosure or similar situations involving a legally nonconforming residential structure, the Planning Authority shall be authorized to extend the aforementioned period up to an additional five (5) years provided that the extension is for good cause and the minimum length considered necessary to resume the

legally nonconforming use of the structure. A nonconforming use of land which is incidental or accessory to such nonconforming structure shall be considered as being discontinued at the same time as the nonconforming use of the structure. Note that for buildings in Shoreland zones, state regulations may also govern and provide for a shorter period of time for nonconforming properties. (Code 1968, § 602.17.F; Ord. No. 499-74, § 9, 8-19-74; Ord. No. 139-12/13, 2-4-13)

Sec. 14-388. Reserved.

*Editor's Note—Per Council Order 125-09/10 passed on January 4, 2010 Section 14-388 (Nonconformity as to the area of dwelling) was repealed in its entirety.

Sec. 14-389. Nonconformity as to off-street parking.

A building or structure which is nonconforming as to the requirements for off-street parking shall not be enlarged or altered to create additional dwelling units, or seats as in the case of places of public assembly, or floor area as in the case of industrial, business, manufacturing, institutional or recreational buildings, or accommodations as in the case of hotels, tourist homes and tourist courts, unless required off-street parking is provided for such addition or enlargement.
(Code 1968, § 602.17.I)

Sec. 14-390. Nonconformity as to off-street loading.

A building which is nonconforming as to the requirements for off-street loading shall not be enlarged or added to, unless off-street loading is provided sufficient to satisfy the requirements of this article for both the addition or enlargement and the original building or structure.
(Code 1968, § 602.17.J)

Sec. 14-391. Nonconformity as to number of dwelling units.

(a) Purpose. The purpose of this provision is to establish a process whereby certain dwellings which contain more dwelling units than the number permitted by the applicable provisions of the Land Use Code may be recognized as legal, nonconforming uses. This provision shall not apply to rooming units.

(b) Approval by Zoning Administrator.

printed off the web
6/5/14

*Editor's note--Ord. No. 292-88, adopted Apr. 4, 1988, with an effective date of July 1, 1988, repealed §§ 14-161--14-167 of Div. 9, B-1 Business Zone, of this article and enacted in lieu thereof similar new provisions as set out in §§ 14-161--14-167. Formerly, such sections derived from §§ 602.8.A--602.8.G of the city's 1968 Code and from Ord. No. 74-72, adopted Mar. 6, 1972, and Ord. No. 499-74, § 4, adopted Aug. 19, 1974.

Sec. 14-161. Purpose.

(a) *B-1 Neighborhood Business Zone*

The purpose of the B-1 neighborhood business zone is to provide limited areas for the location of small-scale commercial establishments intended to serve a local market. As a result, uses shall be complimentary, quiet and generally do not disturb the comfort and enjoyment of the adjoining neighborhood environment. Uses shall be designed for the pedestrian scale and will provide convenient access for nearby residents and workers to walk in to purchase goods and services. Buildings and uses shall be designed with attractive storefronts or similar features, with windows and doors convenient to a public sidewalk. Building additions are encouraged but not required to meet the maximum setbacks of 14-165(c)(3). This zone shall encourage mixed use buildings such as commercial first floor with residential uses above or combined retail/office uses in a multistory structure. The zone also provides the opportunity for mixed use and high residential density in on-peninsula locations.

Suitable locations for this zone may include street intersections and arterial streets with existing or proposed traditional neighborhood retail and service uses.

(b) *B-1b Neighborhood Business Zone*

The purpose of the B-1b neighborhood business zone is to provide appropriate opportunities for the establishment of small-scale ground floor commercial uses in existing buildings, serving a local market, while preserving residential uses and character above the ground floor of structures. The zone also provides the opportunity for mixed use and high residential density in on-peninsula locations. Building additions are encouraged but not required to meet the maximum setbacks of 14-165(c)(3).

Suitable locations for this zone may include street

intersections, arterial streets, and sites with existing or traditional neighborhood retail and service uses.

(Ord. No. 292-88, 4-4-88; Ord. No. 133-93, § 1, 11-15-93; Ord. No. 94-99, 11-15-99; Ord. No. 281-10/11, 7-18-11)

Sec. 14-162. Permitted uses.

(a) The following uses are permitted in the B-1 zone and on the ground floor level of buildings in the B-1b zone. For permitted uses in the upper stories of buildings in the B-1b zone, refer to subsection (5) below: in existence on November 15, 1993:

1. *Residential*

- a. Any residential use permitted in the residential zone abutting the lot is permitted. If there is no abutting residential zone, any residential use permitted in the nearest residential zone to the lot is permitted. In the case of two (2) or more abutting residential zones, any residential use permitted in the most restrictive such zone is permitted.
- b. In any structure with commercial use on the first floor, multifamily dwellings are permitted above the first floor.

2. *Business:* Business uses listed below are permitted, provided that such use which generates in excess of a ratio of 100 peak hour vehicle trips per 2000 sq.ft. of space, and generates in excess of 100 peak hour vehicle trips is prohibited. As set forth in the City of Portland Technical Manual, section I, the city traffic engineer shall require a traffic study when it calculates the proposed use will generate in excess of a total of 50 peak hour vehicle trips.

- a. Professional offices, as defined in section 14-47, but excluding veterinarians.
- b. Business services, as defined in section 14-47, but excluding beverage container redemption centers.
- c. Personal services, as defined in section 14-47.

- d. Offices of building tradesmen, provided there is no exterior storage of building materials.
 - e. Retail establishments, provided such do not include drive-through sales or services and do not operate between the hours of eleven (11) p.m. and six (6) a.m. and do not accept deliveries or services between the hours of ten (10) p.m. to seven (7) a.m.
 - f. Beverage dealers (as defined in 32 M.R.S.A. 1862) provided they meet the following requirements:
 - i. Maximum total floor area for beverage container redemptions, including the storage of spent beverage containers, shall be no greater than five hundred (500) sq. ft. or ten (10) percent of the total floor area of the facility, whichever is less;
 - ii. Beverage container redemption is an accessory use to a principal retail use that includes beverage sales. Local beverage container redemption centers as defined in 32 M.R.S.A. 1867, as may be amended, are not allowed as a principal use.
 - iii. Storage of all beverage containers shall be contained entirely within the building providing retail sales.
 - g. Studios for artists, photographers and craftspeople including but not limited to, painters, sculptors, dancers, graphic artists and musicians.
3. *Institutional:*
- a. Places of religious assembly;
 - b. Municipal offices;
 - c. Elementary, middle and secondary schools;
 - d. Nursery schools and kindergarten;

- e. Clinics of less than three thousand (3,000) square feet of total floor space.
4. Other:
- a. Lodging houses;
 - b. Utility substations, as defined in section 14-47, subject to the standards of article V (site plan), sections 14-522 and 14-523 notwithstanding;
 - c. Day care facilities or babysitting services;
 - d. Accessory uses as provided in section 14-404;
 - e. Bed and breakfast, subject to the standards of article V (site plan), sections 14-522 and 14-523 notwithstanding.
 - f. Hostels, provided the applicant submits a site plan and operations plan demonstrating compliance with the following conditions:
 - i. No more than twenty (20) overnight transient guests shall be permitted in the facility at any one time.
 - ii. All applicable provisions of Article V of this chapter shall be met.
 - iii. Parking shall be provided in compliance with Division 20 of this Article.
 - iv. No unaccompanied minors under the age of eighteen (18) shall be permitted in the facility.
 - v. The length of stay for transient guests shall not exceed fifteen (15) days out of any sixty-day period.
 - vi. The building shall meet the applicable occupant load requirements as defined by the International Building Code and the NFPA Life Safety Code, as such codes are amended or

adopted by the city.

- g. Neighborhood center.
5. Uses permitted above the ground floor level of buildings in the B-1b zone:
- a. Any residential use set forth in section 14-162(a);
 - b. Bed and breakfast, subject to the standards of article V (site plan), sections 14-522 and 14-523 notwithstanding.
 - c. Hostels, provided the applicant submits a site plan and operations plan demonstrating compliance with the following conditions:
 - i. No more than twenty (20) overnight transient guests shall be permitted in the facility at any one time.
 - ii. All applicable provisions of Article V of this chapter shall be met.
 - iii. Parking shall be provided in compliance with Division 20 of this Article.
 - iv. No unaccompanied minors under the age of eighteen (18) shall be permitted in the facility.
 - v. The length of stay for transient guests shall not exceed fifteen (15) days out of any sixty-day period.
 - vi. The building shall meet the applicable occupant load requirements as defined by the International Building Code and the NFPA Life Safety Code, as such codes are amended or adopted by the city.
6. Wind energy systems, as defined and allowed in Article X, Alternative Energy.
- (Ord. No. 292-88, 4-4-88; Ord. No. 133-93, § 2, 11-15-93; Ord. No. 125-97, § 5, 3-3-97; Ord. No. 94-99, 11-15-99; Ord. No.74-06/07, 12-4-06; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 278-09/10, 7-19-10, Ord. 10 10/11, 8-2-10;

***Editor's Note-** Pursuant to Ord. No. 74-06/07, enacted on 12-4-06 changes made in (2) *Business* are effective October 16, 2006.

Sec. 14-163. Conditional uses.

(a) The following uses are permitted in the B-1 zone and on the ground floor level of buildings in the B-1b zone, as provided in section 14-474 (conditional uses), if they meet the following requirements provided that such use which generates in excess of a ratio of 100 peak hour vehicle trips per 2000 sq. ft. of space, and generates in excess of 100 peak hour vehicle trips is prohibited. As set forth in the City of Portland Technical Manual, section I, the city traffic engineer shall require a traffic study when it calculates the proposed use will generate in excess of a total of 50 peak hour vehicle trips:

1. Restaurants, provided they meet the following requirements:
 - a. Maximum total floor area for use of the public shall be one thousand (1,000) square feet;
 - b. The hours of operation shall be limited to between 6:00 a.m. and 11:00 p.m. each day;
 - c. Food service and consumption are the primary function of the restaurant; and
 - d. There shall be no drive-through service.

(b) The following use shall be permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) and any special provisions, standards or requirements specified below:

1. Temporary wind anemometer towers, as defined in sec. 14-47, are permitted provided the following standards are met in addition to sec. 14-430:
 - a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a certificate of occupancy

for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and

- b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the board of appeals with the application; and
- c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
- d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
- e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
- f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
- g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
- h. A performance guarantee shall be required for the cost of removal of the tower, guy wires

and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

2. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(Ord. No. 292-88, 4-4-88; Ord. No. 133-93, § 3, 11-15-93; Ord. No. 94-99, 11-15-99; Ord. No. 74-06/07, 12-4-06; Ord. No. 29-09/10, 8-3-09, emergency passage; Ord. No. 278-09/10, 7-19-10; Ord. No. 33-11/12, 1-18-12)

***Editor's Note-** Pursuant to Ord. No. 74-06/07, enacted on 12-4-06 changes made in (2) *Business* are effective October 16, 2006.

Sec. 14-164. Prohibited uses.

Uses not enumerated in sections 14-162 and 14-163 as either permitted or conditional uses are prohibited.

(Ord. No. 292-88, 4-4-88)

Sec. 14-165. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, residential uses permitted under section 14-162(a) shall meet the requirements of such abutting or nearest residential zone except as noted in Sec. 14-165(h) (minimum lot area per dwelling unit). Residential uses in on-peninsula locations, as defined in Section 14-47, and nonresidential uses in the B-1 and B1-b zone shall meet the following minimum requirements:

(a) *Minimum lot size:*

1. School: Twenty thousand (20,000) square feet.
2. Places of religious assembly: Ten thousand (10,000) square feet.
3. All other nonresidential uses: None.
4. Residential uses: None.

(b) *Minimum street frontage:* Fifty (50) feet, except that if the average street frontages of all lots within two hundred (200) feet of the boundaries of the lot in

question on the same side of the street and within the B-1 or B-1b zone is less than fifty (50) feet, then the minimum street frontage for the lot in question may be reduced to the average frontage of such lots.

(c) *Yard dimensions:* (Yard dimensions are required setbacks for structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.)

1. *Maximum front yard:*

Principal or accessory structure: The maximum front yard setback shall either be: (i) ten feet; or (ii) in cases where the average depth of the front yards of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such average depth. A "developed lot" means a lot on which a principal structure has been erected.

Building additions are not required to meet this maximum setback.

2. *Rear yard:*

a. Principal structures: None, except where a rear yard abuts a residential zone or first floor residential use, a minimum of twenty (20) feet is required.

b. Accessory structures (detached): None, except where the rear yard abuts a residential zone or first floor residential use, a minimum of five (5) feet is required.

3. *Side yard:*

a. Principal and accessory structures: None, except that where a side yard abuts a residential zone or a first floor residential use, a minimum of ten (10) feet is required.

b. Accessory structures (detached): None, except

that where the side yard abuts a residential zone or a first floor residential use, a minimum of five (5) feet is required.

- c. Side yards on side streets (corner lot):
Principal or accessory structures: Ten (10) feet maximum setback, except that for any new construction on a lot abutting more than two streets, the maximum setback shall not apply beyond the two most major streets. (For purposes of this section, "major street" shall mean that street with the highest traffic volume and the greatest street width in comparison with the remaining streets). This maximum setback shall not apply to building additions.
- (d) *Minimum lot width:* None.
- (e) *Maximum structure height:*
 - 1. Off-peninsula locations, as defined in Section 14-47: Thirty-five (35) feet. Where the lot abuts an R-6 residential zone, the maximum height shall be the maximum permitted height in the R-6 residential zone.
 - 2. On-peninsula locations, as defined in Section 14-47: Forty-five (45) feet.
- (f) *Maximum impervious surface ratio:* Ninety (90) percent.
- (g) *Floor area:*
 - 1. The maximum first floor area of a single tenant building shall be no greater than five thousand (5,000) square feet.
 - 2. The maximum first floor area of a multi-tenant building shall be no greater than ten thousand (10,000) square feet.
- (h) *Minimum lot area per dwelling unit:*
 - 1. On-peninsula locations, as defined in Section 14-

47: Four hundred and thirty-five (435) square feet of land area per dwelling unit.

2. Off-peninsula locations, as defined in Section 14-47: Minimum lot area per dwelling unit requirements of the abutting or nearest residential zone shall apply. In the case of multi-family dwellings above the first floor: 1,000 square feet of land area per dwelling unit.

(Ord. No. 292-88, 4-4-88; Ord. No. 52-96, § 1, 7-15-96; Ord. No. 94-99, 11-15-99; Ord. No. 281-10/11, 7-18-11)

Sec. 14-166. Other requirements.

All nonresidential uses in B-1 and B-1b zones shall meet the requirements of division 25 (space and bulk regulations and exceptions) of this article in addition to the following requirements:

- (a) *Landscaping and screening:* The site shall be suitably landscaped for parking, surrounding uses and accessory site elements, including storage and solid waste receptacles where required by article IV (subdivisions) and article V (site plan).
- (b) *Curbs and sidewalks:* Curbs and sidewalks as specified in article VI of chapter 25.
- (c) *Off-street parking and loading:* Off-street parking and loading are required as provided in division 20 and division 21 of this article.
- (d) *Front yard parking:* There shall be no off street parking in the front yard between the street line and the required maximum setback line. Where an existing building setback exceeds the maximum front yard setback, a maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the street.
- (e) *Signs:* Signs shall be subject to the provisions of division 22 of this article.
- (f) *Exterior storage:* There shall be no exterior storage with the exception of fully enclosed containers or receptacles

for solid waste disposal. Such containers or receptacles shall be shown on the approved site plan. In no event shall vehicles, or truck trailers with or without wheels, be used for on-site storage. Truck load sales shall not be considered outside storage provided that such activity does not extend beyond three (3) consecutive days nor occur more frequently than three (3) times a calendar year.

- (g) *Storage of vehicles:* Storage of vehicles is subject to the provisions of section 14-335.
- (h) *Shoreland and flood plain management regulations:* If the lot is located in a shoreland zone or in a flood hazard zone, then the requirements of division 26 and/or division 26.5 apply.

(Ord. No. 292.88, 4-4-88; Ord. No. 94-99, 11-15-99)

Sec. 14-167. External effects.

Every use in a B-1 or B-1b zone shall be subject to the following requirements:

- (a) *Enclosed structure:* The use shall be operated within a completely enclosed structure, except for those specific open air activities licensed by the City, including but not limited to outdoor seating, sidewalk sales, etc.
- (b) *Noise:* The volume of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American Standards Association), generated shall not exceed fifty-five (55) decibels on the A scale, on impulse (less than one (1) second), at lot boundaries, excepting air raid sirens and similar warning devices.
- (c) *Vibration and heat:* Vibration inherently and recurrently generated and heat shall be imperceptible without instruments at lot boundaries.
- (d) *Glare, radiation or fumes:* Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.
- (e) *Smoke:* Smoke shall not be emitted at a density in excess

of twenty (20) percent opacity level as classified in Method 9 (Visible Emissions) of the Opacity Evaluation System of the U.S. Environmental Protection Agency.

- (f) *Materials or wastes:* No materials or wastes shall be deposited on any lot in such form or manner that they are clearly visible from neighbors' properties or may be transferred beyond the lot boundaries by natural causes or forces. All solid waste disposal, including materials which might cause fumes or dust, or constitute a fire hazard if stored out-of-doors, shall be only in fully enclosed containers or receptacles. Areas attracting large numbers of birds, rodents or insects are prohibited.

(Ord. No. 292-88, 4-4-88; Ord. No. 94-99, 11-15-99)

Sec. 14-168 - Sec. 14-180 Reserved.

DIVISION 10. B-2 AND B-2b COMMUNITY BUSINESS ZONES*

**Editor's note*—Ord. No. 293-88, adopted Apr. 4, 1988, with an effective date of July 1, 1988, repealed §§ 14-181-14-187 of Div. 10, B-2 Business Zone, of this article and enacted in lieu thereof similar new provisions as set out in §§ 14-181-14-187. Formerly, such sections derived from §§ 602.9.A-602.9.G of the city's 1968 Code and from Ord. No. 74-72, adopted Mar. 6, 1972; Ord. No. 499-74, § 4, adopted Aug. 19, 1974; Ord. No. 334-76, § 6, adopted July 7, 1976; and Ord. No. 274-77, adopted May 16, 1977.

Sec. 14-181. Purpose.

- (a) B-2 Community Business Zone

The purpose of the B-2 community business zone is:

1. To provide appropriate locations for the development and operation of community centers offering a mixture of commercial uses, housing and services serving the adjoining neighborhoods and the larger community.
2. The variety, sites and intensity of the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1 neighborhood business zone.
3. The B-2 zone will provide a broad range of goods

JOY PLACE

PRIVATE WAY

next to #165 Brackett St

May 23, 2014

This is to supplement the Portland DPS Engineering Archives Street Records in regards to Joy Place.

Joy Place is considered by the City of Portland DPS Engineering Archives to be a Private Way.

Joy Place has not been accepted by the City of Portland.

Joy Place is not listed on the City of Portland City Council Order #84 titled "Order Excepting Streets From Deemed Vacation", as passed on September 3, 1997 and recorded in the Cumberland County Registry of Deeds in Deed Book 13326, Page 19.

Joy Place is not plowed by the Department of Public Services.

William B. Clark, Jr. PLS #2100 Portland Public Services Department - Engineering Division

Marge Schmuckal - Re: Status of Joy Place

From: William Clark
To: Marge Schmuckal
Date: 5/23/2014 2:08 PM
Subject: Re: Status of Joy Place

Hi Marge,

Joy Place off Brackett St

Not Accepted
Not a continued Paper Street.
Not plowed by DPS.

I consider it Private and will map it as such.

Have a great weekend.

Bill

>>> Marge Schmuckal May 23, 2014 2:03 PM >>>

Hi Bill,

We have a developer who is interested in developing 1 Joy Place. It is a strange "street" that has a 90 degree angle in it and two different widths! What is the status of Joy Place and does the City maintain the street by picking up garbage and plowing?

Thank you,
Marge

Marge Schmuckal - Status of Joy Place

From: Marge Schmuckal
To: William Clark
Date: 5/23/2014 2:03 PM
Subject: Status of Joy Place

Hi Bill,

We have a developer who is interested in developing 1 Joy Place. It is a strange "street" that has a 90 degree angle in it and two different widths! What is the status of Joy Place and does the City maintain the street by picking up garbage and plowing?

Thank you,
Marge

Marge Schmuckal - RE: Joy Place Follow Up

From: Todd Alexander <TAlexander@RenewalHousing.com>
To: Jeff Levine <JLEVINE@portlandmaine.gov>, Alex Jaegerman <AQJ@portlandmai...>
Date: 5/22/2014 3:10 PM
Subject: RE: Joy Place Follow Up
CC: "lloyd@archetypepa.com" <lloyd@archetypepa.com>, Carl Lakari <clakari@ma...>

Jeff: Thank you. This is very helpful.

I should have title information on the parcels and alleyway tomorrow or Monday. The abstract work is being completed as we speak.

David Lloyd completed a quick massing analysis – and the maximum number of units allowed under the B1 zoning designation (32 units, if the lot areas of the Joy Place parcels and Brackett Street parcel are combined) could be built within the available building envelope on the Brackett St parcel. No zone changes or major variances required. The lot configuration is very good for the mix of market rate and affordable 'micro' units that we looking to development. We cannot complete a full parking analysis until the survey work is done, but the rough numbers suggest the development could result in a net increase of at least 10 – 12 spaces for the school district.

To keep everyone in the loop, I also wanted to let you know that my business partner, David Lakari, knows Mike Brennan and is trying to reach him to get his input/feedback on Joy Pl.

Thanks again,
Todd

From: Jeff Levine [mailto:JLEVINE@portlandmaine.gov]
Sent: Thursday, May 22, 2014 2:25 PM
To: Alex Jaegerman; Todd Alexander
Cc: lloyd@archetypepa.com; Carl Lakari; Marge Schmuckal
Subject: Re: Joy Place Follow Up

Todd- We have done some research on the parcel on Brackett St. It was in an initial screen of parcels for potential development but for various reasons didn't make the initial cut. It appears that the City owns it but it is under School Department control.

I have reached out to the School Department to see what their thoughts are on offering it for development. I will let you know what they say.

Jeff

>>> Todd Alexander <TAlexander@RenewalHousing.com> 5/21/2014 11:10 AM >>>
Jeff:

Thanks for meeting with us yesterday to discuss options at Joy Place. In terms of next steps, we will continue to work with our surveyor and title agent to clarify the ownership status of the alley – so, we know how that impacts the redevelopment of the parcels we have under contract. I will follow up with Marge for a revised zoning determination letter once we have that information.

You had mentioned that you could check with Mary Davis (?) that the school district is the owner of the parking lot on Brackett. Could you please let me know when this is confirmed.

Thanks again, and we will keep you apprised of our progress.

-Todd

Todd M. Alexander
Renewal Housing Associates, LLC | Leon N. Welner & Associates, Inc.
p. 207 347-3018
c. 207 749-7257

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

May 7th 2014

Marge Schmuckal
City of Portland
389 Congress Street
Portland, Maine 04101

5/12/14

RE: ZONING DETERMINATION LETTER

Dear Marge:

I am submitting this letter to clarify certain zoning issues related to two parcels, which I have under contract to purchase. The parcels are known as #1 and #2 Joy Place and are identified in the city's tax assessor's database as: 45-E-48 and 45-E-49 (collectively, the "Property"). The zoning questions are related to my intended future use of the Property as a multifamily housing development and are as follows:

- The Property appears to be located in a B1 zone. Please confirm. *yes B-1*
- Dimensional Requirements:

Street Frontage: The applicable minimum street frontage requirement for the Property appears to be 50 feet. Will the city consider Joy Place as the street that the Property fronts in applying this standard?

Front Yard Setback: The applicable maximum front yard setback for principal structures appears to be the lesser of a) 10 feet, or b) the average depth of the closest adjoining developed lots. The properties known as 165, 167, 169, 173 and 175 appear to be the closest developed lots. Please confirm my understanding of the lesser-of test for a Front Yard Setback in the B1 zone and the properties that the city will look to in applying this test.

Rear Yard Setback: The applicable rear yard setback for principal structures appears to be 20 feet—abutting properties are located in a residential zone. Please confirm.

Side Yard Setback: The applicable side yard setback for principal structures appears to be none – the property side yards abut non residential properties located in a B1 zone. Please confirm.

- Eligibility for R7 Compact Urban Residential Overlay Zone: Please confirm that there are no existing conditions with regards to the Property which would deem the Property ineligible for consideration for a R7 zone change. *- I am not responsible for zone changes*
- Street Width: Does the existing street width of Joy Place—believed to be 26 feet—restrict a future owner from redeveloping the Property for a higher density residential use that otherwise meets applicable B1 zoning requirements?
- Demolition: Has the City approved or issued a Demolition Permit for the existing structures on the Property? *↓ only the BARN*

Respectfully,

Todd M. Alexander

Todd M. Alexander

ZONING DETERMINATIONS

Effective Jan 3, 2002

There shall be a \$150.00 fee for the Request for a Zoning Determination for anything other than a single family residence.

You must provide a cover letter explaining the Request, with the street address of the property as well as the Chart/Block/Lot identification of the property. You should also include a sample of a formatted letter that you prefer for the response.

It will take a week to ^{working} 10 days to complete the determination for you.

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

RECEIPT OF FEES

| | |
|----------------------------------|-----------------------------------------------|
| Application No: 0000-1910 | Applicant: BRESSETTE ALBERT |
| Project Name: 1 JOY PL | Location: 1 JOY PL |
| CBL: 045 E049001 | Application Type: Determination Letter |
| Invoice Date: 05/12/2014 | |

| | | | | | | | | | | |
|-------------------------|---|-------------------------|---|---------------------|---|------------------------|---|------------------|--|-------------------------|
| Previous Balance | - | Payment Received | + | Current Fees | - | Current Payment | = | Total Due | | Payment Due Date |
| \$0.00 | | \$0.00 | | \$150.00 | | \$150.00 | | \$0.00 | | On Receipt |

Previous Balance **\$0.00**

| Fee Description | Qty | Fee/Deposit Charge |
|-----------------------|--------------------------------|--------------------|
| Zoning Determinations | 1 | \$150.00 |
| | | \$150.00 |
| | Total Current Fees: | + \$150.00 |
| | Total Current Payments: | - \$150.00 |
| | Amount Due Now: | \$0.00 |

| | |
|----------------------------------|---------------------------------------------------------------------------------------------|
| CBL 045 E049001 | Application No: 0000-1910 |
| Bill to: BRESSETTE ALBERT | Invoice Date: 05/12/2014 |
| PO BOX 345 | Invoice No: 45048 |
| PORTLAND, ME 04112 | Total Amt Due: \$0.00 |
| | Payment Amount: \$150.00 |

Make checks payable to the *City of Portland*, ATTN: Inspections, 3rd Floor, 389 Congress Street, Portland, ME 04101.
 Check the status of your permit or schedule an inspection on-line at <http://www.portlandmaine.gov/planning/permitstatus.asp>

Marge Schmuckal - RE: Joy Place

From: Todd Alexander <TAlexander@RenewalHousing.com>
To: Todd Alexander <TAlexander@RenewalHousing.com>, "mes@portlandmaine.gov" ...
Date: 5/12/2014 10:28 AM
Subject: RE: Joy Place
Attachments: zoning determination request.docx

Sorry...updated letter attached.

From: Todd Alexander
Sent: Monday, May 12, 2014 10:23 AM
To: 'mes@portlandmaine.gov'
Subject: Joy Place

Hi Marge:

I submitted a zoning determination letter for Joy Place (copy attached) on Friday. We are now under contract with a 30 day due diligence period. I forgot to include two other items in the letter that I hoping you can confirm:

- under a redevelop plan for the property, is there a requirement that the first floor be used for commercial/business uses?
- what is the maximum number of units allowed for these parcels under the B1 zone?

Thanks again for all your help.

Todd

Todd M. Alexander
Renewal Housing Associates, LLC | Leon N. Welner & Associates, Inc.
p. 207 347-3018
c. 207 749-7257

May 7th 2014

Marge Schmuckal
City of Portland
389 Congress Street
Portland, Maine 04101

RE: ZONING DETERMINATION LETTER

Dear Marge:

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- Dimensional Requirements:

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Front Yard Setback: The applicable maximum front yard setback for principal structures appears to be the lesser of a) 10 feet, or b) the average depth of the closest adjoining developed lots. The properties known as 165, 167, 169, 173 and 175 appear to be the closest developed lots. **Please confirm my understanding of the lesser-of test for a Front Yard Setback in the B1 zone and the properties that the city will look to in applying this test.**

Rear Yard Setback: The applicable rear yard setback for principal structures appears to be 20 feet—abutting properties are located in a residential zone. **Please confirm.**

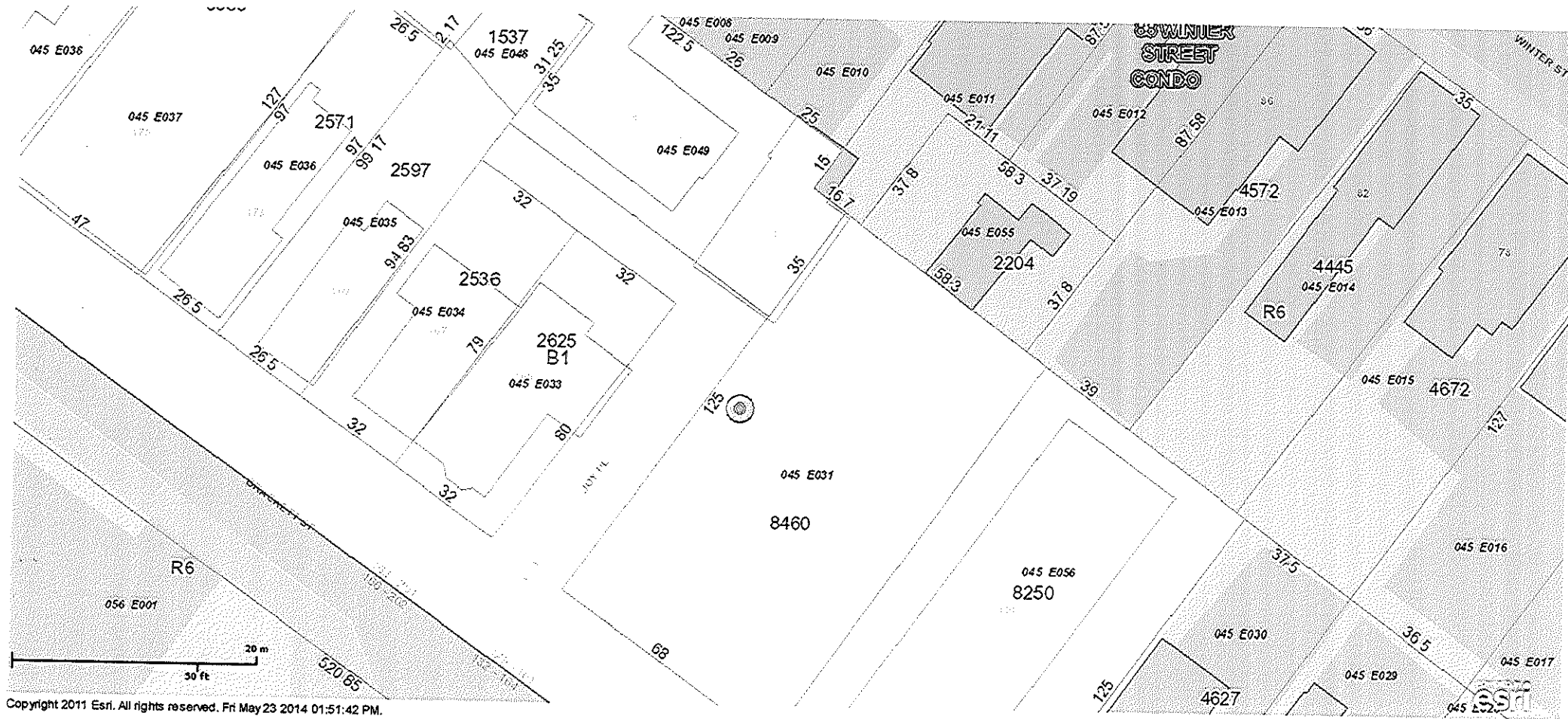
Side Yard Setback: The applicable side yard setback for principal structures appears to be none – the property side yards abut non residential properties located in a B1 zone. **Please confirm.**

- Eligibility for R7 Compact Urban Residential Overlay Zone: **Please confirm that there are no existing conditions with regards to the Property which would deem the Property ineligible for consideration for a R7 zone change.**
- Street Width: **Does the existing street width of Joy Place—believed to be 26 feet—restrict a future owner from redeveloping the Property for a higher density residential use that otherwise meets applicable B1 zoning requirements?**
- Demolition: **Has the City approved or issued a Demolition Permit for the existing structures on the Property?**
- What is the maximum number of residential units allowed for the Property under the existing B1 zone?
- Under a redevelopment plan, is a first floor commercial use required for the Property because of its location in a B1 zone?

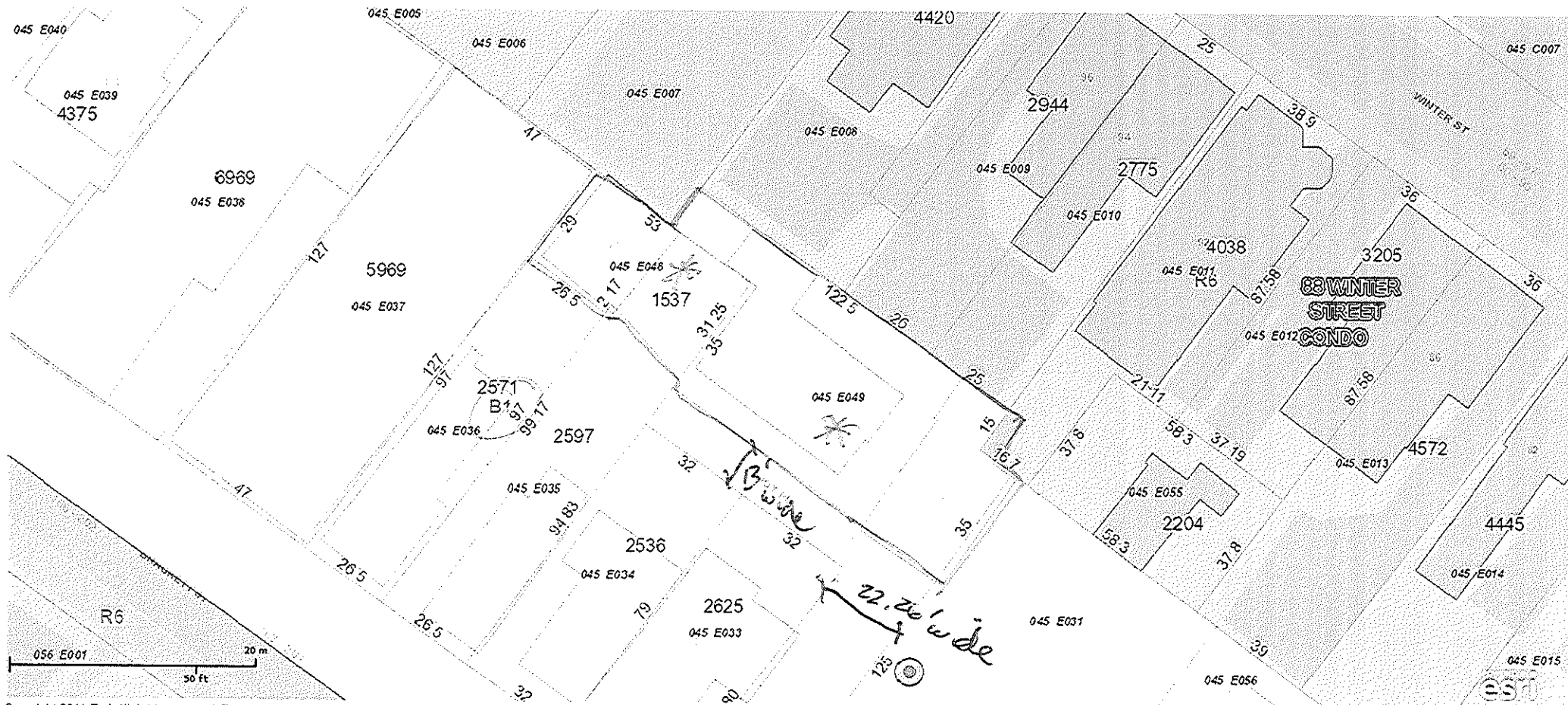
Respectfully,

Todd M. Alexander

1 Joy Place



Joy Place



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