

Timeline for 1 Joy Place
INSPECTIONS

Date:	COMMENT	RESULT
12/31/14	Follow up for part of the building fell over per e-mail. Nathan Kimble, (207) 650-2487 complainant.	
10/20/14	Structural integrity checks	Failed
09/30/14	Follow up for part of the building fell over per e-mail. Nathan Kimble, (207)650-2487 complainant.	Re-Inspect 30 Days
	NOV sent: Second Notice - Complaint	
09/11/14	NOV sent: Notice of Violation - Complaint	
08/29/14	Follow up for part of the building fell over per e-mail Nathan Kimble, (207)650-2487 complainant.	Re-Inspect 30 Days
06/16/14	Follow up on status of building. Legal sending a letter	Violations Corrected
04/30/14	Follow up on status of building. Legal sending a letter	Re-Inspect 45 Days
12/24/13	NOV sent: Second Notice - Complaint	
12/23/13	Follow up on status of building	Violations Exist
07/09/13	Meet Owner on Site for a walkthrough of the property.	Violations Exist
07/03/13	Part of the building fell over per e-mail. Nathan Kimble, (207)650-2487 complainant.	Red 10+ Violations
11/01/07	NOV sent: Posting Notice - Complaint	

Brad Saucier - Fwd: Re: Joy Place

From: Paul Fagone
To: Saucier, Brad
Date: 12/16/2014 11:06 AM
Subject: Fwd: Re: Joy Place

1 Joy Place

Chuck Fagone
Code Enforcement & Inspections
City of Portland
389 Congress Street
Portland, Maine 04101
Office: 874-8789
>>> Brad Saucier 12/16/2014 10:50 AM >>>
What address is this?

Brad Saucier
Administrative Assistant
Inspections Division
City of Portland
(207) 874-8703

NOTE: If this is a response or communication as a result of a permit request please REPLY ALL or respond to buildinginspections@portlandmaine.gov

>>> Jonathan Rioux 12/16/2014 9:23 AM >>>
Chuck,

Tammy asked me to follow through w/ this matter.

Please work with Brad and package up, all our notes, letters, photo's etc. and I'll take it from here, thanks for following through on this.

Jonathan Rioux
Deputy Director of Inspections

City of Portland
Planning and Urban Development Department
Inspection Services Division

389 Congress St. Rm 315
Portland, ME 04101
Office: 207.874.8701
Support Staff: 207.874.8703
jrioux@portlandmaine.gov

<http://www.portlandmaine.gov/planning/buildinsp.asp>

>>> Jeff Levine 12/16/2014 9:04 AM >>>

Thanks Chuck.

Tammy and Jon, let's discuss next steps. I know the developer who has an option on the parcel, not sure if he can help but maybe he has some leverage.

>>> Paul Fagone 12/16/2014 7:37 AM >>>

I've sent violation notices and did speak to Rich about this property (and a few others) and he accompanied me on an inspection of the property. I feel at this point, I've done all I can do and legal needs to move forward with action on this and the others. I know there was some talk about a developer purchasing the property, but the structure is certainly an issue.

Chuck

Chuck Fagone
Code Enforcement & Inspections
City of Portland
389 Congress Street
Portland, Maine 04101
Office: 874-8789

>>> Tammy Munson 12/15/2014 10:34 AM >>>

Jon and Chuck, can you follow up on this please?

Chuck, this is 2 person.

>>> Michael Bobinsky 12/14/2014 4:54 PM >>>

Hi Ethan. Thank you for your email and report of a safety concern about the abandon building at Joy Place. I will share your request with Building Inspections staff. Based on your description, it is possible Code Enforcement staff may already be working with the current property owner on cleaning up the property, securing it and reducing exposures. Jeff Levine is the Department Director over the Building and Code Enforcement and Tammy Munson is the Building Inspections Division Manager. I will alert both based on this report. They can offer what steps may be underway. I am including both in this email response.

Thank you again Ethan for the report and I can certainly work with Jeff and Tammy if necessary on any assistance that may be deemed needed here.

Michael J. Bobinsky
Director of Public Services
City of Portland
55 Portland Street
Portland, Maine 04101

(207) 874-8801 >>> "Ethan Strimling" <estrimling@learningworks.me> 12/8/2014 1:06 PM >>>
Mike,

Hope you're well. Do you know who I speak with about an abandoned building needing to be boarded up? The building at Joy Place off Brackett is pretty open and some of my students have been going in there. Any chance the landlord could be contacted to seal it up a little better? Or could the city do it, as you did with the building next to us back in the day?

Thanks and let me know what I need to do.

Ethan

Ethan Strimling

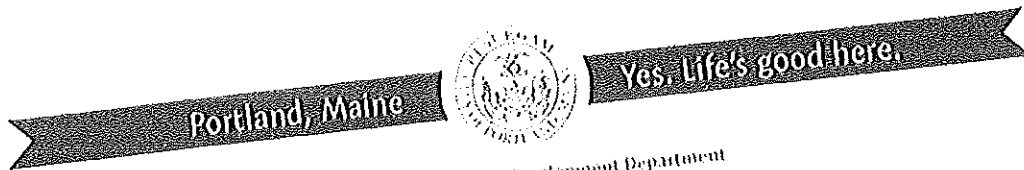
CEO LearningWorks

181 Brackett Street

Portland, ME 04102

207-775-0105 ext. 111

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



Planning & Urban Development Department

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 Council. 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

Dear Marge:

B-1 zone 045-E-048 & 049

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-conforming 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 | 369 Congress Street | Portland, Maine 04101 | Room 115 | (202) 874-8486

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Current Owner Information:

<p>Services</p> <p>Applications</p> <p>Doing Business</p> <p>Hops</p> <p>Tax Refd</p> <p>Tax Refd</p> <p>Q & A</p>	<p>CBL 045 E049001</p> <p>Land Use Type THREE FAMILY</p> <p>Verify legal use with Inspections Division</p> <p>Property Location 1 JOY PL</p> <p>Owner Information BRESSETTE ALBERT PO BOX 345 PORTLAND ME 04112</p> <p>Book and Page</p> <p>Legal Description 45-E-49 JOY PLACE CALLED #2</p> <p>4354 SF</p> <p>Acres 0.1</p>
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Current Assessed Valuation:

<p>Home city services >></p> <p>Home facts and links >></p>	<p>TAX ACCT NO. 7042 OWNER OF RECORD AS OF APRIL 2013</p> <p>LAND VALUE \$149,100.00 BRESSETTE ALBERT</p> <p>BUILDING VALUE \$10,900.00 PO BOX 345</p> <p>NET TAXABLE - REAL ESTATE \$160,000.00 PORTLAND ME 04112</p> <p>TAX AMOUNT \$3,105.60</p>
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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

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

[New Search!](#)

Assessor's Office | 309 Congress Street | Portland, Maine 04101 | Room 115 | (207) 874-8486

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- [Tax Roll](#)
- [Q & A](#)

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Best viewed at 800x600, with Internet Explorer

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-4B
 R BRACKETT ST 173

Acres 1537 SF
 0.0353

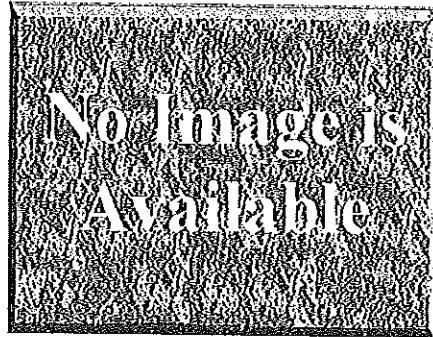
1537
 4352

 5891.4 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.



[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
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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 area 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

*USE NOT
D. M. ...*

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.

City of Portland
Code of Ordinances
Sec. 14-161

Land Use
Chapter 14
Rev. 8-15-13

*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;

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Ord. No. 279-09/10, 6-6-11; Ord. No. 33-11/12, 1-18-12; Ord. No. 162-12/13, 4-1-13)

*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

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— the 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 NO 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?

Respectfully

Todd M. Alexander

Todd M. Alexander

only the BARN

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 ^{work} 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: BRESETTE 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
Bill to: BRESETTE ALBERT
 PO BOX 345
 PORTLAND, ME 04112

Application No: 0000-1910
Invoice Date: 05/12/2014
Invoice No: 45048
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?

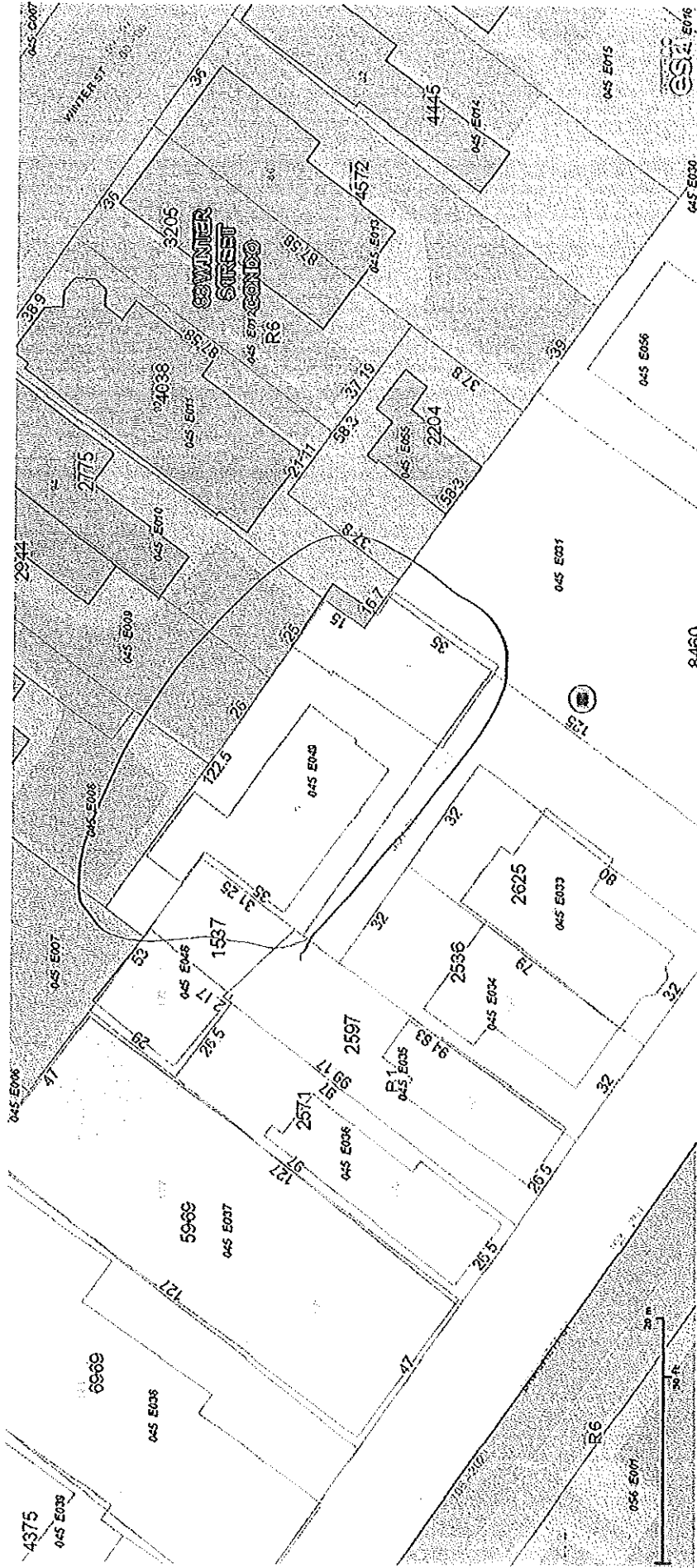
Thanks again for all your help.
Todd

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

Respectfully,

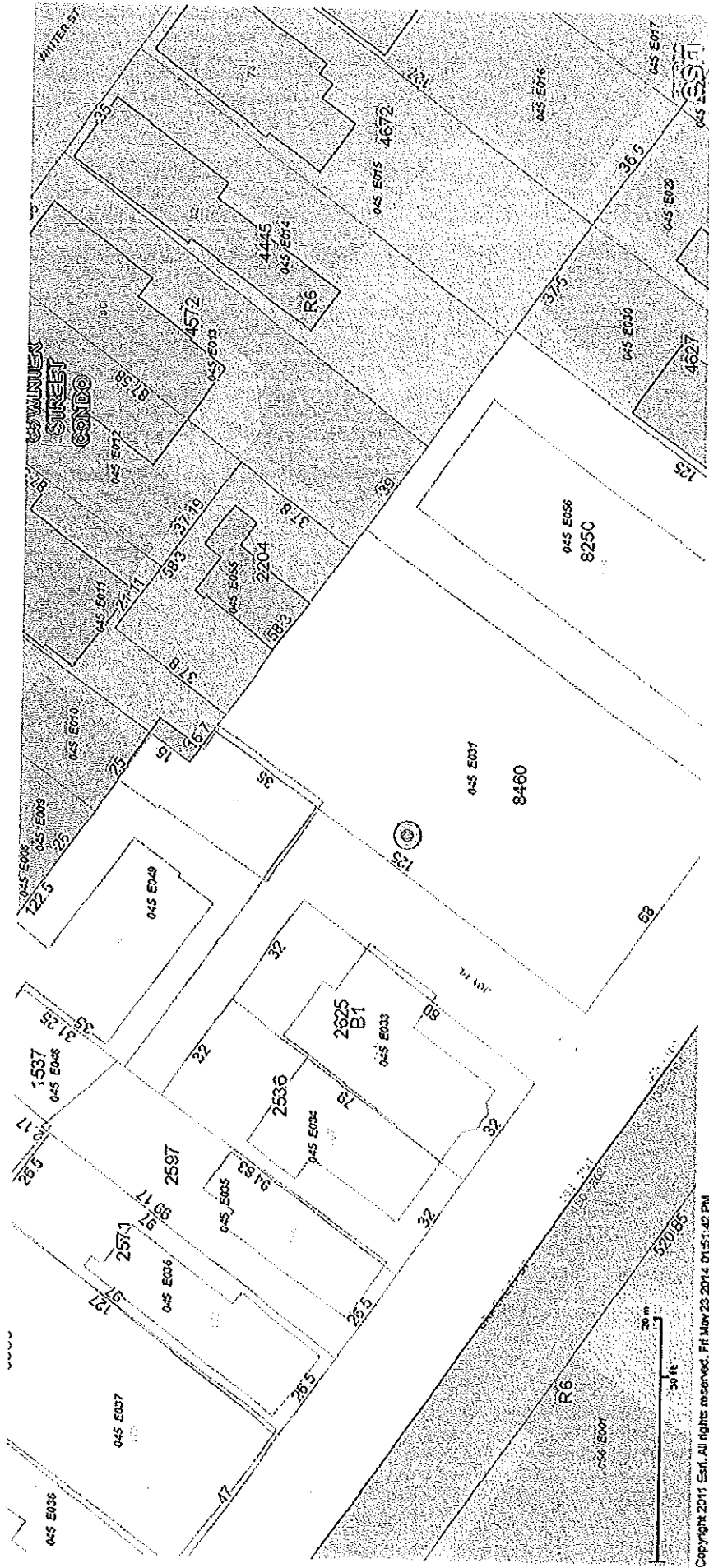
Todd M. Alexander

1 Joy Place

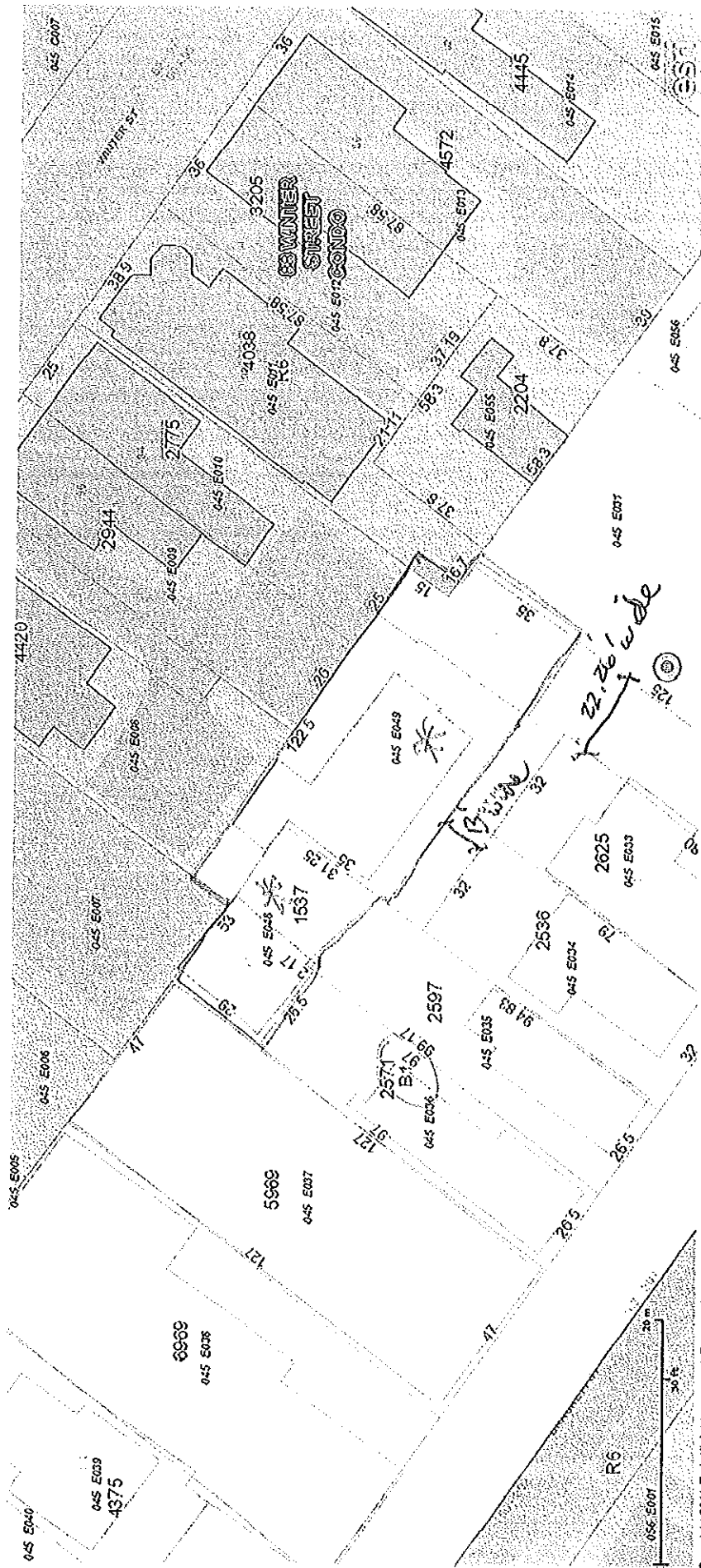


Copyright 2011 Esri. All rights reserved. Fri May 23 2014 01:53:07 PM.

1 Joy Place



Joy Place



Copyright 2011 Esri. All rights reserved. Thu Jun 5 2014 11:07:35 AM.

CITY OF PORTLAND
DEPARTMENT OF PLANNING & URBAN DEVELOPMENT

389 Congress Street
 Portland, Maine 04101

Inspection Violations

Owner/Manager BRESETTE ALBERT		Inspector Jon Rioux	Inspection Date 10/31/2007
Location 1 Joy Pl	CBL 045 E049001	Status Posting Notice	Inspection Type Housing-Inspection

Code	Int/Ext	Floor	Unit No.	Area	Compliance Date
------	---------	-------	----------	------	-----------------

1)

Violation:

Notes: Sec. 6 124. Property to be secured if not improved.

If the owner or operator of any property which has been condemned as unfit for habitation does not proceed to make the necessary corrections to bring the property into compliance with the provisions of this article, such owner or operator shall proceed to make the property safe and secure so that no danger to life or property or fire hazard shall exist.

2) 6-109/5.1

Violation: Found.,cellars, exterior walls, roofs.

Notes: (a) Foundations, basements, cellars, exterior walls, roofs. Every foundation, basement, cellar, exterior wall and roof shall be substantially weathertight, watertight and vermin proof; shall be structurally sound and in good repair; and shall be safe for the intended use as well as capable of supporting whatever load normal use may cause to be placed thereon. Every exterior wall or portion thereof shall be painted or stained. Water from roofs shall be so drained and conveyed therefrom as not to cause repeatedly wet floors, walls or ceilings, or hazard to adjacent buildings or the occupants thereof.

3) 6-109/5.2

Violation: Interior floors, walls, ceilings,doors.

Notes: (b) interior floors, walls, ceilings and doors. Every floor, wall, ceiling and door shall be in a structurally sound condition and shall be substantially vermin proof.

4) 6-109/5.3

Violation: Exterior windows, doors and skylights.

Notes: (c) Exterior windows, doors and skylights. Every window or door, including basement or cellar door and hatchway, and skylight shall be substantially weathertight, watertight and vermin proof, and shall be kept secured to prevent ingress of people and animals.

5) 6-120.1 thru 5

Violation: Posted against occupancy.

Notes: (a) Properties which are either damaged, decayed, dilapidated, unsanitary, unsafe, or vermin infested in such a manner as to create a serious hazard to the health, safety, and general welfare of the occupants or the public;

6) 105.1

Interior

Various locations

Violation: Building w/o Permit

Notes: Building and or demolishing without benefit of a permit.

Comments: Main building was posted-against-occupancy, two adjacent structure, garage (left) & barn (right) were deemed un-safe. JGR.

Form # P 04

DISPLAY THIS CARD ON PRINCIPAL FRONTAGE OF WORK
CITY OF PORTLAND

BUILDING DEPARTMENT

PERMIT

Permit Number: 100209

PERMIT ISSUED

MAR - 8 2010

City of Portland

Please Read Application And Notes, if Any, Attached

This is to certify that BRESETTE ALBERT / Scott B. Albert

has permission to Remove building/ barn

AT 1 JOY PL

City of Portland 045 E049001

provided that the person or persons, firm or corporation accepting this permit shall comply with all of the provisions of the Statutes of Maine and of the Ordinances of the City of Portland regulating the construction, maintenance and use of buildings and structures, and of the application on file in this department.

Apply to Public Works for street line and grade if nature of work requires such information.

Notification of inspection must be given and written permission procured before this building or part thereof is lathed or otherwise dressed-in. 24 HOUR NOTICE IS REQUIRED.

A certificate of occupancy must be procured by owner before this building or part thereof is occupied.

OTHER REQUIRED APPROVALS

Fire Dept. _____

Health Dept. _____

Appeal Board _____

Other _____

Department Name

James Burke 3/8/10
Director - Building & Inspection Services

PENALTY FOR REMOVING THIS CARD

City of Portland, Maine - Building or Use Permit Application
 389 Congress Street, 04101 Tel: (207) 874-8703, Fax: (207) 874-8716

Permit No: 10-0209	Issue Date:	CBL: 045 E049001
-----------------------	-------------	---------------------

Location of Construction: 1 JOY PL	Owner Name: BRESETTE ALBERT	Owner Address: 2 CAMPBELL RD	Phone:
Business Name:	Contractor Name: Scott Bressette	Contractor Address: 260 Allen Ave Portland	Phone: 2076156203
Lessee/Buyer's Name	Phone:	Permit Type: Demolitions - Building	Zone: R-6

Past Use: Barn	Proposed Use: Vacant Land - Remove building/ barn	Permit Fee: \$40.00	Cost of Work: \$2,000.00	CEO District: 2
		FIRE DEPT: <input type="checkbox"/> Approved <input type="checkbox"/> Denied	INSPECTION: Use Group: <u>U</u> Type: <u>SB</u> <i>Demolition Only</i>	

Proposed Project Description: Remove building/ barn	Signature:	Signature: <i>JMB 3/8/10</i>
PEDESTRIAN ACTIVITIES DISTRICT (P.A.D.)		
Action: <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/Conditions <input type="checkbox"/> Denied		
Signature:	Date:	

Permit Taken By: Idobson	Date Applied For: 03/08/2010	Zoning Approval
-----------------------------	---------------------------------	------------------------

1. This permit application does not preclude the Applicant(s) from meeting applicable State and Federal Rules. 2. Building permits do not include plumbing, septic or electrical work. 3. Building permits are void if work is not started within six (6) months of the date of issuance. False information may invalidate a building permit and stop all work..	Special Zone or Reviews <input type="checkbox"/> Shoreland <input type="checkbox"/> Wetland <input type="checkbox"/> Flood Zone <input type="checkbox"/> Subdivision <input type="checkbox"/> Site Plan <i>of w/conditions</i> Maj <input type="checkbox"/> Minor <input type="checkbox"/> MM <input type="checkbox"/> Date: <i>JMB 3/8/10</i>	Zoning Appeal <input type="checkbox"/> Variance <input type="checkbox"/> Miscellaneous <input type="checkbox"/> Conditional Use <input type="checkbox"/> Interpretation <input type="checkbox"/> Approved <input type="checkbox"/> Denied Date:	Historic Preservation <input type="checkbox"/> Not in District or Landmark <input type="checkbox"/> Does Not Require Review <input checked="" type="checkbox"/> Requires Review <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/Conditions <input type="checkbox"/> Denied Date: <i>per DA JMB</i>
--	--	---	--

PERMIT ISSUED
 MAR - 8 2010
 City of Portland

CERTIFICATION

I hereby certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in the application is issued, I certify that the code official's authorized representative shall have the authority to enter all areas covered by such permit at any reasonable hour to enforce the provision of the code(s) applicable to such permit.

SIGNATURE OF APPLICANT	ADDRESS	DATE	PHONE
RESPONSIBLE PERSON IN CHARGE OF WORK, TITLE		DATE	PHONE



Demolition of a Structure Permit Application

If you or the property owner owes real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

Location/Address of Construction: 1 JOY PLACE		
Total Square Footage of Proposed Structure		Square Footage of Lot: 4,354
Tax Assessor's Chart, Block & Lot: Chart# 45 Block# E Lot# 49	Owner: Al Bresette	Telephone: 653-5064
Lessee/Buyer's Name (If Applicable): N/A	Applicant name, address & telephone: Scott Bresette 260 Allen Ave Portland, ME 615-6203	Cost Of Work: \$ 5,000 10,000 Fee: \$ _____
Current legal use: (i.e. garage, warehouse) <u>Storage Vacant</u> If vacant, what was the previous use? <u>Storage</u> How long has it been vacant? <u>4 years</u> Project description: Remove Buildg/Barn		
Contractor's name, address & telephone: _____		
Who should we contact when the permit is ready: <u>Scott Bresette</u> Mailing address: <u>260 Allen Ave Portland, ME</u> Telephone: <u>615-6203</u>		

RECEIVED
MAR - 8 2010
Dept. of Building Inspections
City of Portland, Maine

Please submit all of the information outlined in the Demolition call list. Failure to do so will result in the automatic denial of your permit.

In order to be sure the City fully understands the full scope of the project, the Planning and Development Department may request additional information prior to the issuance of a permit. For further information or to download copies of this form and other applications visit the Inspections Division on-line at www.portlandmaine.gov, or stop by the Inspections Division office, room 315 City Hall or call 874-8703.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Signature of applicant: Scott Bresette	Date: 3/6/10
---	---------------------

This is not a permit; you may not commence ANY work until the permit is issued.



Demolition Call List & Requirements

Site Address: 7 Joy Place

Owner: Al Bresette

Structure Type: Barn

Contractor: Scott Bresette

Utility Approvals	Number	Contact Name/Date
<input checked="" type="checkbox"/> Central Maine Power	1-800-750-4000	<u>Diane # 120170</u>
<input checked="" type="checkbox"/> Northern Utilities	797-8002 ext 6241	<u>mark Allen 3/4/10</u>
<input checked="" type="checkbox"/> Portland Water District	761-8310	<u>Dana c/s 3/4/10 523-5290</u>
<input checked="" type="checkbox"/> Dig Safe	1-888-344-7233	<u>tue march 9th @ 3:5pm 20101005043</u>

After calling Dig Safe, you must wait 72 business hours before digging can begin.

<input checked="" type="checkbox"/> DPW/ Traffic Division (L. Cote)	874-8891	<u>Lucy cote 3/5/10</u>
<input checked="" type="checkbox"/> DPW/ Sealed Drain Permit (C. Merritt)	874-8822	<u>carol Merritt 3/5/10</u>
<input checked="" type="checkbox"/> Historic Preservation	874-8726	
<input checked="" type="checkbox"/> Fire Dispatcher	874-8576	<u>kurt elkovich 3/4/10</u>
<input checked="" type="checkbox"/> DEP - Environmental (Augusta)	287-2651	<u>Sandy moody 3/9/10</u>

Additional Requirements

- 1) Written notice to adjoining owners
- 2) A photo of the structure(s) to be demolished
- 3) A plot plan or site plan of the property
- 4) ~~Certification from an asbestos abatement company~~

All construction and demolition debris generated in Portland must be delivered to Riverside Recycling Facility at 910 Riverside Street. Source separated salvage materials placed in specifically designated containers are exempt from this provision. For more information contact Troy Moon @ 874-8467.

U.S. EPA Region 1 - No Phone call required. Just mail copy of State notification to:

Demo / Reno Clerk
US EPA Region I (SEA)
JFK Federal Building
Boston, MA 02203

I have contacted all of the necessary companies/departments as indicated above and attached all required documentation.

Signed: Scott Bresette

Date: 3-5-10

For more information or to download this form and other permit applications visit the Inspections Division on our website at www.portlandmaine.gov



ASBESTOS BUILDING DEMOLITION NOTIFICATION
MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION
 Lead & Asbestos Hazard Prevention Program
 17 State House Station, Augusta Maine 04333



Maine law requires the filing of the ASBESTOS BUILDING DEMOLITION NOTIFICATION with the Department prior to demolition of any building except a single-family home.

Building owners are required to provide this notification of the demolition of a building to the DEP at least 5 working days prior to the demolition. This notification is not required before the demolition of a single-family residence or related structure (e.g., garage, shed, barn). It is also not required if previous notification of the demolition has been provided to the DEP as part of an asbestos abatement project notification. *Demolition* means the tearing down or intentional burning of a building or part of a building.

Prior to demolition, building owners must determine if there is any asbestos-containing material(s) (ACM) in the building. An "asbestos inspection" by a DEP-licensed Asbestos Consultant is required for all buildings except single-family homes and residential buildings with 2-4 units built after 1980. In lieu of an asbestos inspection, pre-1981 residential buildings with 2-4 units can be surveyed to identify possible ACM by someone knowledgeable about ACM, such as a code enforcement officer or building inspector. If materials that may contain asbestos are found, then you can either assume they are ACM or hire a DEP-licensed Asbestos Consultant to test the materials.

Whenever more than 3 square feet or 3 linear feet of ACM is identified, the ACM must be abated in accordance with the *Maine Asbestos Management Regulations* by a DEP-licensed Asbestos Abatement Contractor. This includes materials presumed to be ACM. Check www.maine.gov for a listing of asbestos contractors.

Prior to issuing a local demolition permit, the DEP requests that municipalities have applicants for municipal demolition permits complete this form and fax it to the DEP at 207-287-7826. Municipalities should not issue local demolition permits if the required asbestos inspection or survey has not been performed and identified ACM removed.

Were regulated asbestos-containing building materials found? yes no

property address: <i>1 Joy Place Portland, ME 04102</i>	building description: <input type="checkbox"/> pre-1981 residential with 2-4 units <input type="checkbox"/> post-1980 residential with 2-4 units <input checked="" type="checkbox"/> other.
asbestos survey/inspection performed by (name & address)	asbestos abatement contractor
telephone	telephone
property owner: (name & address) <i>Al Bresette</i>	demolition contractor: (name & address)
telephone	telephone
demolition start date.	demolition end date: <i>June -01- 2010</i>

This demolition notification does not take the place of the Asbestos Project Notification if applicable

I CERTIFY THAT THE ABOVE INFORMATION IS CORRECT

<i>Al Bresette</i>	<i>owner</i>	<i>[Signature]</i>
Print Name: Owner/Agent	Title	Signature
<i>653-5064</i>	<i>N/A</i>	<i>3-6-10</i>
Telephone #	Fax #	Date

What is asbestos?

Asbestos is a general term for several kinds of natural mineral fibers that have been used to strengthen and fireproof materials for nearly 4,000 years. The fibers are recovered from asbestos ore mined primarily in Canada, Russia, and South Africa. In addition to being good insulators, asbestos fibers are strong, flexible, fireproof, and very resistant to chemical attack.

What products contain asbestos?

Asbestos is found in a wide variety of products. It has been used to manufacture nearly 3,500 products such as pipe insulation, boiler covering, sprayed-on acoustical plaster, vinyl floor products, rigid siding, cement pipe, gaskets, paints, paper, textiles, and friction materials like disc brakes. Buildings constructed before 1980 are very likely to contain some asbestos products.

Is asbestos a health or environmental problem?

The presence of asbestos in such a wide variety of consumer products means that most Americans have been exposed, over time, to this mineral to one degree or another.

For the vast majority of Americans who have never worked with asbestos, the exposure received in their lifetime should have no significant health effects. However, for those exposed to large amounts of asbestos for significant periods of time, there may be serious health consequences.

Prolonged high exposure to asbestos fibers has been shown to cause asbestosis (lung scarring), lung cancer, mesothelioma, and several internal cancers such as cancers of the stomach and larynx. People who have been exposed to asbestos who also smoke have a much greater chance of disease than nonsmokers.

Is all asbestos potentially dangerous?

Asbestos products are potentially dangerous if they release asbestos fibers to the air where the fibers can enter the body through the lungs.

Friable asbestos, such as pipe and boiler covering and spray-on insulation, is the asbestos of primary concern. It easily releases asbestos fibers into the air when crushed, handled or disturbed. Asbestos that is in good condition or in a form that does not easily release fibers is much less of a hazard. This means that well-maintained asbestos or asbestos tightly bound into materials like vinyl or cement is much less likely to release asbestos fibers.

What are the laws regarding asbestos?

In Maine, the asbestos regulations apply to any work that impacts greater than 3 square feet or 3 linear feet of asbestos. The Maine "Asbestos Management Regulations" require that the Department be notified prior to removal or repair of asbestos that companies performing inspection, monitoring, design, training, asbestos analysis or abatement be licensed with the Department, and that certain work practices be followed to protect employees and the public. Also, individuals working for the licensed companies must be trained and certified with the Department.

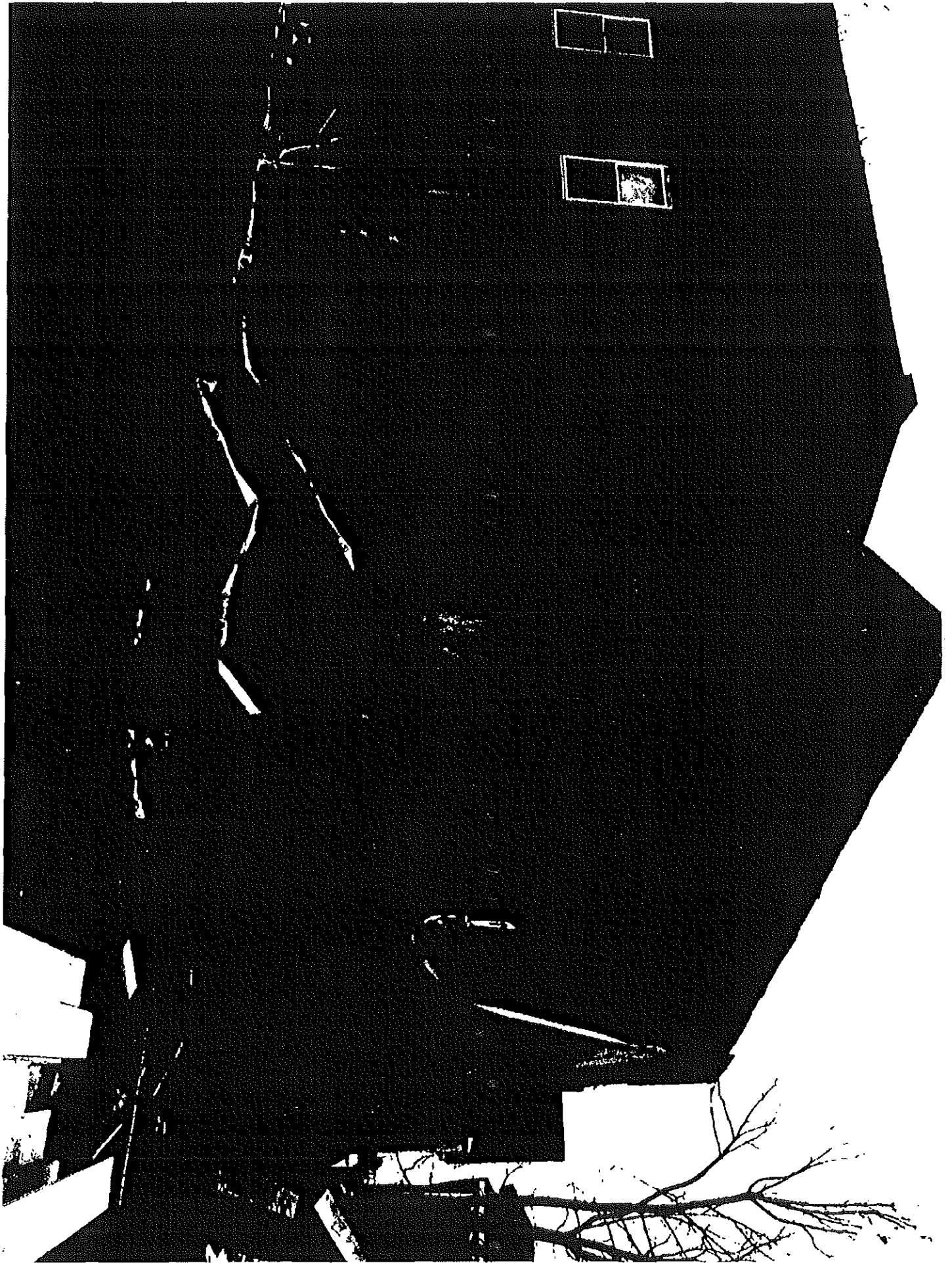
Engineering controls, such as polyethylene "containments", negative pressure ventilation, and wet methods, are basic requirements in the asbestos regulations of both the Maine DEP and the U.S. Occupational Safety and Health Administration (OSHA). Engineering controls minimize the potential for asbestos fiber release in and out of the asbestos work area. The importance of utilizing proper engineering controls on an asbestos project can not be overemphasized.

Maximum allowable employee exposures are regulated by OSHA and personal protective equipment (suits, respirators, etc.) and hygiene standards are prescribed. Protective equipment is to be used only in conjunction with engineering controls and not as a "stand-alone" defense against inhalation of asbestos fibers.

Who regulates asbestos?

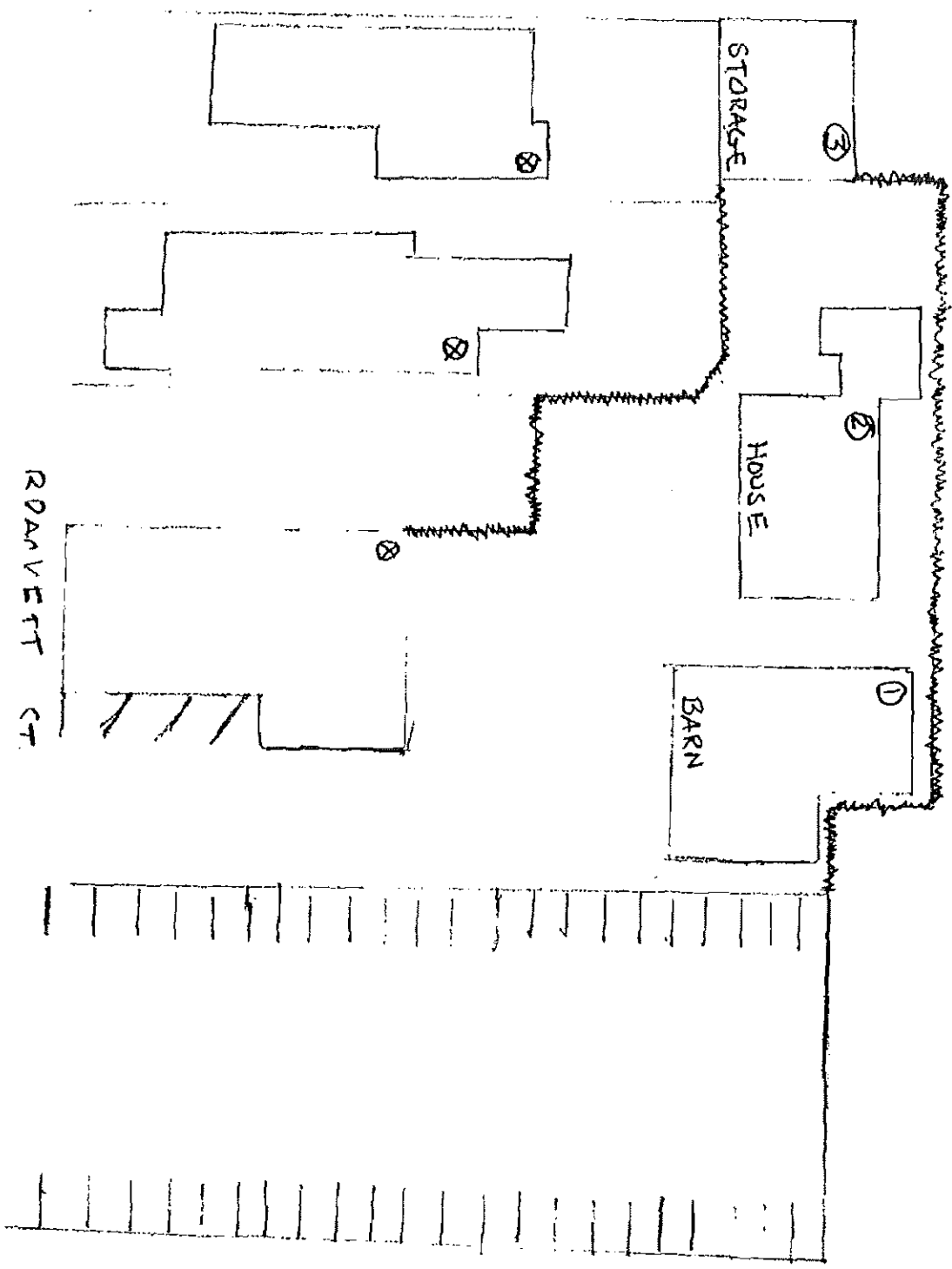
Several state and federal agencies regulate asbestos in Maine including:

- Maine Department of Environmental Protection (DEP): Primary asbestos contact in Maine. Responsibilities include regulating licensing, notification, training, storage, transportation, disposal and work practices for removal, inspection, design, monitoring, and analysis of asbestos. Telephone number: 287-2651.



PLAN

PT. N 57



- 1 = Building for tear down
- 2 = House
- 3 = Storage
- ⊗ =
- ~~~~~ = Fence

ROAD CT

Albert Bresette

1Joy Place

Portland, Me

March 4, 2010

Dear Neighbor,

My name is Albert Bresette. I am the owner of 1 Joy Place and I am writing this letter to inform you of the deconstruction and removal of the old fire barn at this address. As some of you may know I have been in the process of restoring this barn because it is part of our Historical Society. Due to the severe storm we had last week the barn has blown over and is now too dangerous to fix. It saddens me to see it go because it has a lot of history for my family and the city of Portland but the danger and liability it poses is far greater than the reconstruction. My sincere apology if this has inconvenienced you in any way. Thank you for your support.

Sincerely,

Albert Bresette

City of Portland, Maine - Building or Use Permit Application
 389 Congress Street, 04101 Tel: (207) 874-8703, Fax: (207) 874-8716

Permit No: 09-1309	Issue Date:	CBL: 045 E049001
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Location of Construction: 1 Joy Pl	Owner Name: Bresette Albert	Owner Address: 2 Campbell Rd	Phone: 207-647-3396
Business Name:	Contractor Name: Ed Somers Woodworking	Contractor Address: PO Box 192 N. Bridgeton	Phone: 2074151344
Lessee/Buyer's Name	Phone:	Permit Type: Alterations - Multi Family	Zone:

Past Use: Multi Family with barn	Proposed Use: Repair and replace existing barn structure as required by Historic Preservation.	Permit Fee: \$320.00	Cost of Work: \$30,000.00	CEO District: 2
		FIRE DEPT: <input type="checkbox"/> Approved <input type="checkbox"/> Denied	INSPECTION: Use Group: Type	

Proposed Project Description: Repair and replace existing barn structure as required by Historic Preservation.	Signature:	Signature:
PEDESTRIAN ACTIVITIES DISTRICT (P.A.D.)		
Action <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/Condition <input type="checkbox"/> Denied		
Signature:	Date:	

Permit Taken By: gg	Date Applied For: 11/16/2009	Zoning Approval	
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1. This permit application does not preclude the Applicant(s) from meeting applicable State and Federal Rules. 2. Building permits do not include plumbing, septic or electrical work. 3. Building permits are void if work is not started within six (6) months of the date of issuance. False information may invalidate a building permit and stop all work..	Special Zone or Reviews <input type="checkbox"/> Shoreland <input type="checkbox"/> Wetland <input type="checkbox"/> Flood Zone <input type="checkbox"/> Subdivision <input type="checkbox"/> Site Plan Maj <input type="checkbox"/> Mino <input type="checkbox"/> MM <input type="checkbox"/>	Zoning Appeal <input type="checkbox"/> Variance <input type="checkbox"/> Miscellaneous <input type="checkbox"/> Conditional Us <input type="checkbox"/> Interpretatio <input type="checkbox"/> Approved <input type="checkbox"/> Denied	Historic Preservation <input type="checkbox"/> Not in District or Landma <input type="checkbox"/> Does Not Require Revie <input type="checkbox"/> Requires Review <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/Condition <input type="checkbox"/> Denied
	Date:	Date:	Date:

CERTIFICATION

I hereby certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in the application is issued, I certify that the code official's authorized representative shall have the authority to enter all areas covered by such permit at any reasonable hour to enforce the provision of the code(s) applicable to such permit.

SIGNATURE OF APPLICAN	ADDRESS	DATE	PHO
RESPONSIBLE PERSON IN CHARGE OF WORK, TIT		DATE	PHO

Location of Construction: 1 Joy Pl	Owner Name: Bresette Albert	Owner Address: 2 Campbell Rd	Phone: 207-647-3396
Business Name:	Contractor Name: Ed Somers Woodworking	Contractor Address: PO Box 192 N. Bridgeton	Phone: 2074151344
Lessee/Buyer's Name	Phone:	Permit Type: Alterations - Multi Family	Zone:

Dept: Historic	Status: Approved with Conditions	Reviewer: Scott Hanson	Approval Date: 11/23/2009
Note:			Ok to Issue: <input checked="" type="checkbox"/>
1) Barn facade is to be restored based upon the 1924 tax photo with all elements matching those in the photo as closely as possible. New windows and doors are to match those shown in photo (windows in second floor doors do not need to be replicated if not desired). Side and rear walls may be left with weather-tight shiplap siding and window openings in these walls may be boarded over. Eventually, these walls should receive clapboard siding and windows should be restored to the openings.			
Dept: Zoning	Status: Approved with Conditions	Reviewer: Ann Machado	Approval Date: 11/19/2009
Note:			Ok to Issue: <input checked="" type="checkbox"/>
1) This permit is being issued with the condition that all the work will take place within the existing footprint.			
2) This property shall remain a three family dwelling. Any change of use shall require a separate permit application for review and approval.			
3) This permit is being approved on the basis of plans submitted. Any deviations shall require a separate approval before starting that work.			
Dept: Building	Status: Approved with Conditions	Reviewer: Tammy Munson	Approval Date: 11/24/2009
Note:			Ok to Issue: <input checked="" type="checkbox"/>
1) Upon completion of the work, a licensed structural engineer is required to review the structural stability of the building. A certification report stating the building is structurally sound shall be submitted to the City of Portland. If structural deficiencies are found, those deficiencies must be addressed. Additional reviews and permits will be required.			
Comments: 11/17/2009-gg: Goes to zoning , then Tammy as requested by Scott Hansen. Plase call Scott when ready. /gg			

CERTIFICATION

I hereby certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in the application is issued, I certify that the code official's authorized representative shall have the authority to enter all areas covered by such permit at any reasonable hour to enforce the provision of the code(s) applicable to such permit.

SIGNATURE OF APPLICAN

ADDRESS

DATE

PHO

RESPONSIBLE PERSON IN CHARGE OF WORK, TIT

DATE

PHO

Strengthening a Remarkable City
Building a Community for Life

PORTLAND MAINE

Inspections Division

389 Congress Street, RM 315
Portland, Maine 04101-3609

Bresette Albert
P.O. Box 345
Portland, Maine 04112

PRESORTED
FIRST CLASS



UNITED STATES POSTAGE
PRIMEV BOWSER
0.2 TM
0004222549
MAILED FROM ZIP CODE 04101
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DEC 26 2013

NIXIE

015 FEB 10 2014
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RETURN TO SENDER
ATTEMPTED - NOT KNOWN
UNABLE TO FORWARD

BC: 04101357190

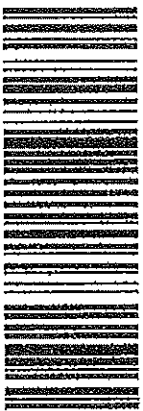
*3084-02184-27-06

~~04101357190~~

*Strengthening a Remarkable City
Building a Community for Life*
**PORTLAND
MAINE**

Inspections Division
389 Congress Street, RM 315
Portland, Maine 04101-3509

CERTIFIED MAIL



7013 1090 0002 1737 6601

UNCLAIMED

Bresette Albert
P.O. Box 345
Portland, Maine 04112

0411280545 2203



1000



0-4112

U.S. POSTAGE
PORTLAND, ME
DEC 26 13
\$6.11
00030543-18

0411280545 2203

NOTICE 12-27
OFFICE 1-2
1-12

DO NOT WRITE IN THESE SPACES. THESE SPACES ARE RESERVED FOR THE POST OFFICE. IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT THE POST OFFICE AT 1-800-375-8749.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

**Bresette Albert
P.O. Box 345
Portland, Maine 04112**

045 E049

2. Article Number

(Transfer from service label)

7013 1090 0002 1737 6601

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

- A. Signature Agent
 Addressee
- B. Received by (Printed Name) C. Date of Delivery
- D. Is delivery address different from item 1? Yes
If YES, enter delivery address below. No

3. Service Type

- Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes



Planning & Urban Development Department

Director of Planning and Urban Development
Jeff Levine

Inspection Services, Director
Tammy M. Munson

December 24, 2013

BRESETTE ALBERT
PO BOX 345
PORTLAND, ME 04112

CBL: 045 E049001
Located at: 1 JOY PL

Certified Mail 7013 1090 0002 1737 6601

Dear Mr. Bresette,

SECOND NOTICE OF VIOLATION

An evaluation of the above-referenced property on **12/24/2013** revealed that the structure still remains non-compliant with the Housing Code of the City of Portland.

The building is considered structurally unsafe. Please update this office with a plan of action prior to **January 24, 2013**.

This is a **SECOND** notice of violation pursuant to Section 6-118 of the Code.

Failure to comply will result in this office referring the matter to the City of Portland Corporation Counsel for legal action and possible civil penalties, as provided for in Section 1-15 of the Code and in Title 30-A M.R.S.A ss 4452.

Please feel free to contact me if you wish to discuss this matter further or have any questions.

Sincerely,

Chuck Fagone
Code Enforcement Officer
(207) 874-8789



PORTLAND MAINE

Strengthening a Remarkable City, Building a Community for Life • www.portlandmaine.gov

Lee Urban - Director of Planning and Development
Jeanie Bourke - Inspection Division Services Director

November 2, 2007

BRESETTE ALBERT
PO BOX 345
PORTLAND, ME 04112

CBL: 045 E049001
Located at 1 JOY PL

Certified Mail 70070710000135801116

POSTING NOTICE: NOTICE TO VACATE

Dear Albert Bresette:

An evaluation of the above-referenced property on the 31st day of October, 2007 revealed that all three (3) structures fail to comply with § 6-120. (a), and § 6-109.5 (a), (b), and (c) of the Housing Code of the City of Portland.

During a scheduled appointment with fire prevention officials Mr. Bresette denied entry for inspection stating the interior occupied portions of the main building were "un-safe" and that we would "have a large list of violations if we entered".

Attached is a list of the violations.

Based on that list, agreement from the property owner, and pursuant to § 6-120. (c) of the Housing Code, this office declares the dwelling units and two (2) outbuildings unfit for human habitation. This notice serves as a Stop-Work-Order, all un-permitted demolition work must cease immediately.

A re-inspection of the premises will occur on the 29th day of November, 2007, at which time the dwelling units and two (2) outbuilding must be: (1) weather-proof and watertight, (2) vacated and secured from vandalism, (3) verified structurally sound by a licensed structural engineer, or submit the appropriate materials for acceptance of a demolition and or building renovation permit from this office.

Failure to comply will result in this office referring the matter to the City of Portland Corporation Counsel for legal action and possible civil penalties, as provided for in § 1-15 of the Code in Title 30-A of M.R.S.A § 4452.

This constitutes an appealable decision pursuant to § 6-127 of the Code. Please feel free to contact me at 207-874-8702 if you have any questions or would like to discuss this matter further.

Sincerely,

Jon Rioux,
Code Enforcement Officer
CC: Gregg Cass, Captain & Michael Shutts, Deputy Chief

Room 315 - 389 Congress Street - Portland, Maine 04101 (207) 874-8715 - Fax: 874-8716 - TTY: 874-8936



Planning & Urban Development Department

Jeff Levine, AICP, Director
Marge Schmuckal, Zoning Administrator

June 25, 2014

Todd M. Alexander

RE REVISED: 1 & 2 Joy Place - #45-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) that uses permitted in the residential zone abutting the lot (in question) is permitted. The abutting residential zone is an R-6 residential zone. Residential uses are allowed in the R-6 zone. The dimensional requirements for this property is explained under 14-165 which states that "Residential uses in on-peninsula locations, as defined in section 14-47, and nonresidential uses in the B-1 and B-1b zone shall meet the following minimum requirements:"

Residential uses have non minimum lot size

Maximum front yard: either 10 feet or apply exception – No minimum setback listed

Minimum Rear yard: this lot abuts a residential zone therefore a twenty (20) foot rear yard is required

Side yard: No setback required for principal and accessory structures (not abutting residential zone or 1st floor residential use.

The minimum street frontage is fifty (50) feet (with exceptions)

Minimum lot width: - none

Maximum structure height: on-peninsula: forty-five (45) feet

Maximum impervious surface ratio: ninety (90) percent

Floor area: for a single tenant building there shall be no greater than 5,000 square feet on the 1st floor

For a multi-tenant building there shall be no greater than 10,000 square feet on the 1st floor

Minimum lot area per dwelling unit: on-peninsula a minimum of 435 square feet of land area per dwelling unit.

According to Assessor's records, these properties were built in 1840 & 1900 and are legally nonconforming for space and bulk requirements of the B-1 zone. The use is conforming to the B-1 (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



Planning & Urban Development Department

Jeff Levine, AICP, Director

Marge Schmuckal, Zoning Administrator

determined that the Ordinance allowance to rebuild would also relate to 14-403, minimum street requirements. The nonconforming rebuild without a change of use or footprint enlargement or enlargement of the building envelope would not trigger conformance with 14-403 to be met.

Generally, any enlargement of the existing structures would need to meet current B-1 zone requirements. The Ordinance does not allow the expansion of any nonconformity such as footprint or volume.

You are correct that the property owner must first show right title and interest in Joy Place for it to be included in the calculations determining lot size. Because I have not been provided such information, I cannot allow Joy Place to be considered to be part of the land area calculations at this time. 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. Please also note that the removed barn was not in residential use. The right to rebuild under the nonconforming rights section of the Ordinance would apply for an accessory building and not for a change of use. That building would have rights to be rebuilt in the same footprint based upon its use and date of demolition.

I am not aware that there are any conditions with regard to the property which would deem the property ineligible for consideration for an R-7 zone change. Please be aware that I have no authorities on the approval or disapproval for an R-7 overlay zone change. This area was recently changed from R-6 to B-1 through the Planning Division. 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 the applicable B-1 zone requirements. There are many factors in making a determination of this sort that would encompass the legal departments, 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 conforming 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 cursive script that reads "Marge Schmuckal".

Marge Schmuckal
Zoning Administrator

Marge Schmuckal - RE: Copy of determination letter attached

From: Todd Alexander <TAlexander@RenewalHousing.com>
To: Todd Alexander <TAlexander@RenewalHousing.com>, Marge Schmuckal <MES@por...>
Date: 6/23/2014 11:21 AM
Subject: RE: Copy of determination letter attached

Good Morning, Marge: I'm just checking in on the status of these follow up questions on Joy Place and whether you've had a chance to get to my zoning determination request for the Tate Street lots. Best, Todd

From: Todd Alexander
Sent: Wednesday, June 11, 2014 2:10 PM
To: 'Marge Schmuckal'
Subject: RE: Copy of determination letter attached

Hi Marge: I have two clarifying questions for you in response to your letter regarding Joy Place:

Section 14-165 reads: **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:

The section then goes on to describe the minimum lot size, street frontage and setbacks. The language in the second sentence suggests that the applicable space and bulk requirements for Joy Place would not be those under the R6 zone, but rather those described in 14-165. Do you agree? If so, how does that impact your initial letter and, specifically, can you confirm what the applicable setbacks would be in the event of an enlargement of an existing structure. →

The foundation and basement of the barn that once occupied the easterly end of the site has been maintained. Can that structure be rebuilt and used for residential purposes?

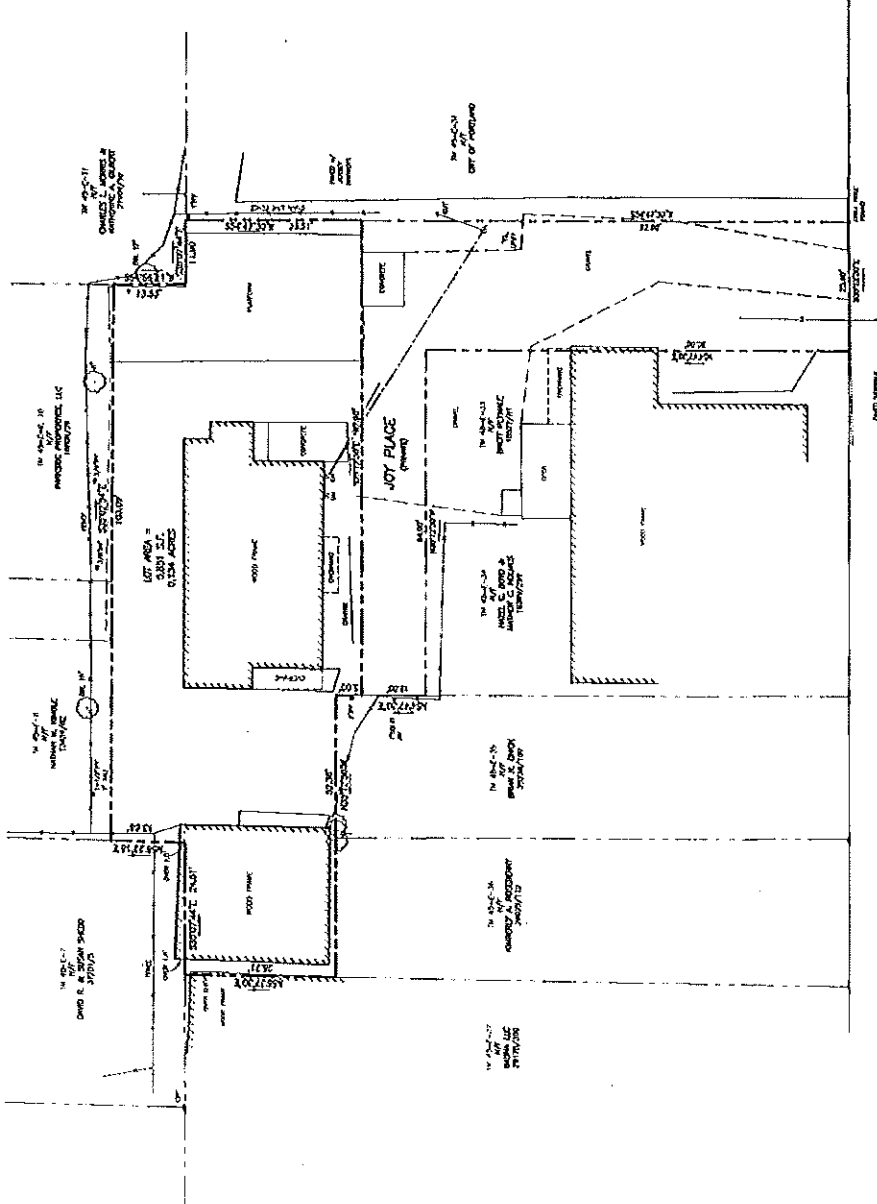
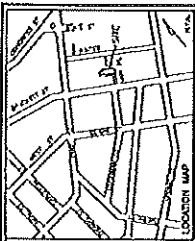
I've provided a copy of a recently completed boundary survey to assist with your review of these questions and help evaluate the redevelopment options for the property.

As always, thanks for your help. Todd

From: Marge Schmuckal [<mailto:MES@portlandmaine.gov>]
Sent: Thursday, June 05, 2014 3:52 PM
To: Todd Alexander
Subject: Copy of determination letter attached

Please find attached copy. Do you want the original sent some where?
I hope this helps you,
Marge

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.



BOUNDARY SURVEY
 AT
 1. 27 PLACE, PORTLAND, MAINE
 2. ALEXANDER TOOD
 3. CARROLL STREET, PORTLAND, MAINE
OPEN HASKELL, INC.

LEGEND
 1. CENTER LINE OF HIGHWAY OR RAILROAD
 2. CENTER LINE OF WATERWAY
 3. CENTER LINE OF STREET
 4. PROPERTY LINE
 5. EASEMENT
 6. ENCROACHMENT
 7. POLE LINE
 8. UNDEVELOPED AREA
 9. CONCRETE WALK
 10. EASEMENT
 11. POLE LINE
 12. POLE LINE

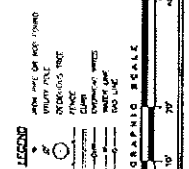
JURISDICTION
 1. CITY OF PORTLAND
 2. CITY OF PORTLAND
 3. CITY OF PORTLAND

NOTES
 1. ALL DIMENSIONS ARE IN FEET AND INCHES.
 2. ALL DIMENSIONS ARE TO THE CENTER LINE OF THE ROAD OR RAILROAD.
 3. ALL DIMENSIONS ARE TO THE CENTER LINE OF THE STREET.
 4. ALL DIMENSIONS ARE TO THE CENTER LINE OF THE LOT.

ADJUSTMENTS
 1. ADJUSTMENT OF 1.0000 FEET
 2. ADJUSTMENT OF 0.0000 FEET
 3. ADJUSTMENT OF 0.0000 FEET
 4. ADJUSTMENT OF 0.0000 FEET

DATE
 1. 12/12/10
 2. 12/12/10
 3. 12/12/10
 4. 12/12/10

SCALE
 1. 1" = 20' HORIZONTAL
 2. 1" = 40' VERTICAL



DATE	12/12/10
PROJECT NO.	10000000
DRAWN BY	J. HASKELL
CHECKED BY	J. HASKELL
SCALE	1" = 20' HORIZONTAL 1" = 40' VERTICAL

Portland, Maine



Yes. Life's good here.

Planning & Urban Development Department

-----Director of Planning and Urban Development
Jeff Levine

Inspection Services, Director
Tammy M. Munson

September 11, 2014

BRESETTE ALBERT
PO BOX 345
PORTLAND, ME 04112

CBL: 045 E049001
Located at: 1 JOY PL

Certified Mail 7012 0470 0002 1928 5778

Dear Mr. Bresette,

An evaluation of the above-referenced property on 08/29/2014 shows that the structure fails to comply with Chapter 6, Article V, of the Code of Ordinances of the City of Portland, The Housing Code. Attached is a list of the violations.

This is a notice of violation pursuant to Section 6-118 of the Code. All referenced violations shall be corrected within 30 days of the date of this notice. A re-inspection of the premises will occur On 10/20/2014 at which time compliance will be required. Failure to comply will result in this office referring the matter to the City of Portland Corporation Counsel for legal action and possible civil penalties, as provided for in Section 1-15 of the Code.

This constitutes an appealable decision pursuant to Section 6-127 of the Code.

Please feel free to contact me if you wish to discuss the matter or have any questions.

Please be advised that the Portland City Council has amended the Building regulations to include a \$150.00 re-inspection fee. This violation will automatically cause a re-inspection at no charge. If there are any subsequent inspections, however, the \$150.00 fee will be assessed for each inspection.

Sincerely,

A handwritten signature in black ink, appearing to read "Chuck Fagone".

Chuck Fagone
Code Enforcement Officer
(207) 874-8789

Strengthening a Remarkable City,
Building a Community for Life

**PORTLAND
MAINE**

Inspection Services Division
389 Congress Street, RM 315
Portland, Maine 04101-3509

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REQUESTED**

7012 0470 8882 1928 5778



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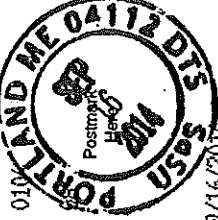
Inspections



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FOR OFFICIAL USE



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Restricted Delivery Fee (Endorsement Required)		\$0.00
Total Postage & Fees	\$	\$6.49

09/16/2014

Sent to

BRESETE ALBERT

Street, Apt. No.,
or PO Box No.

PO BOX 345

City, State, ZIP+4

PORTLAND ME 04112

PS Form 3800, August 2006

See Reverse for Instructions

7012 0470 8882 1928 5778









OWIZE

ts Place



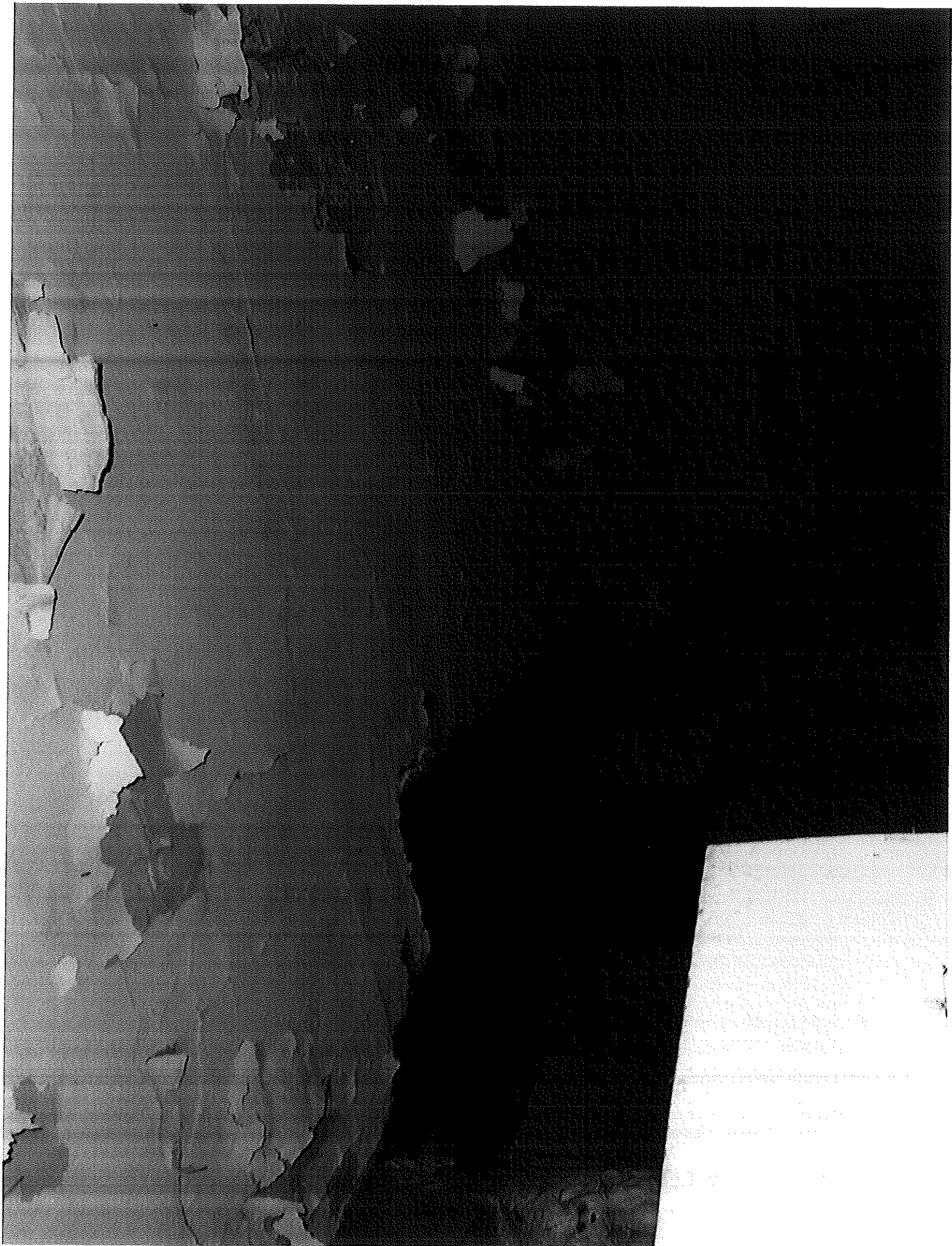




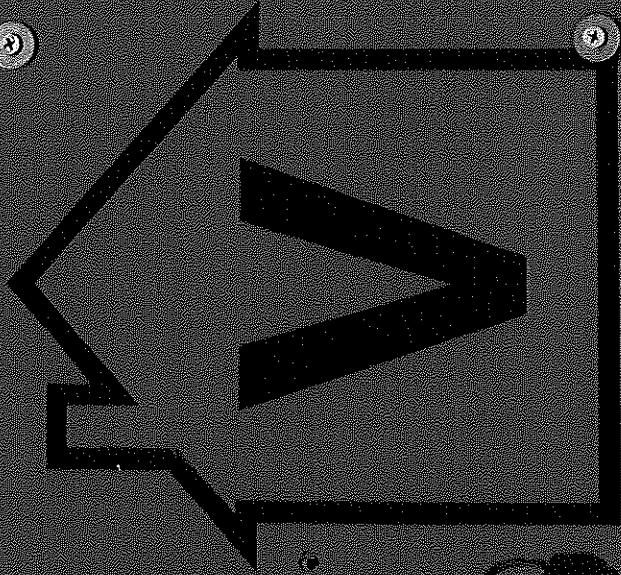


W. Noyes & Sons
COMMERCIAL DIVISION
(207) 775-5876
PALM BEACH
775-5876

W. Noyes & Sons
COMMERCIAL DIVISION
(207) 775-5876



**Please
Return To
Portland
Fire Dept.
874-8400**

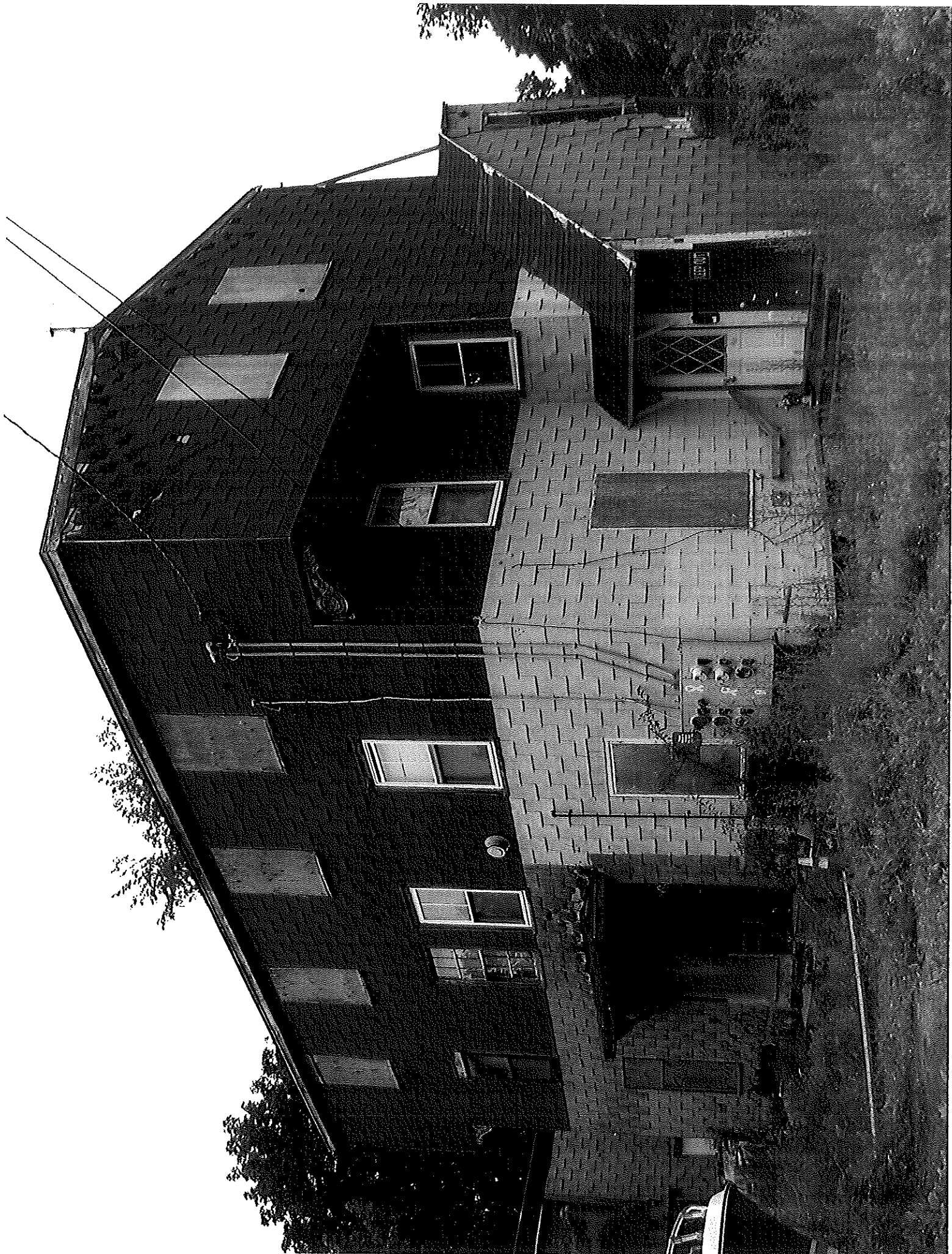




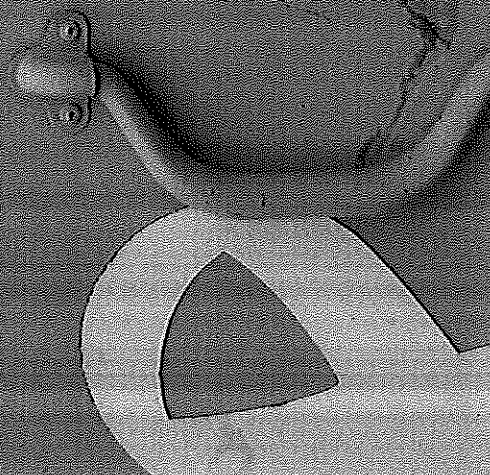
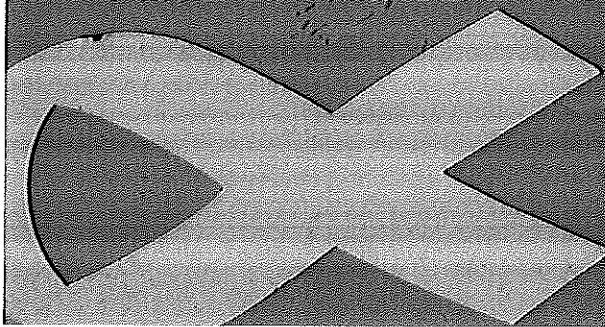
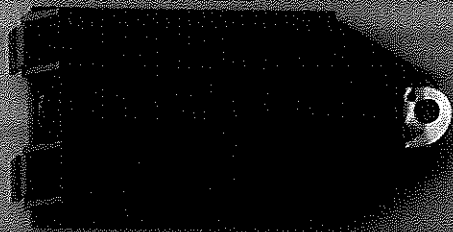
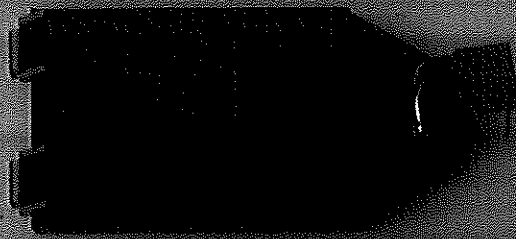


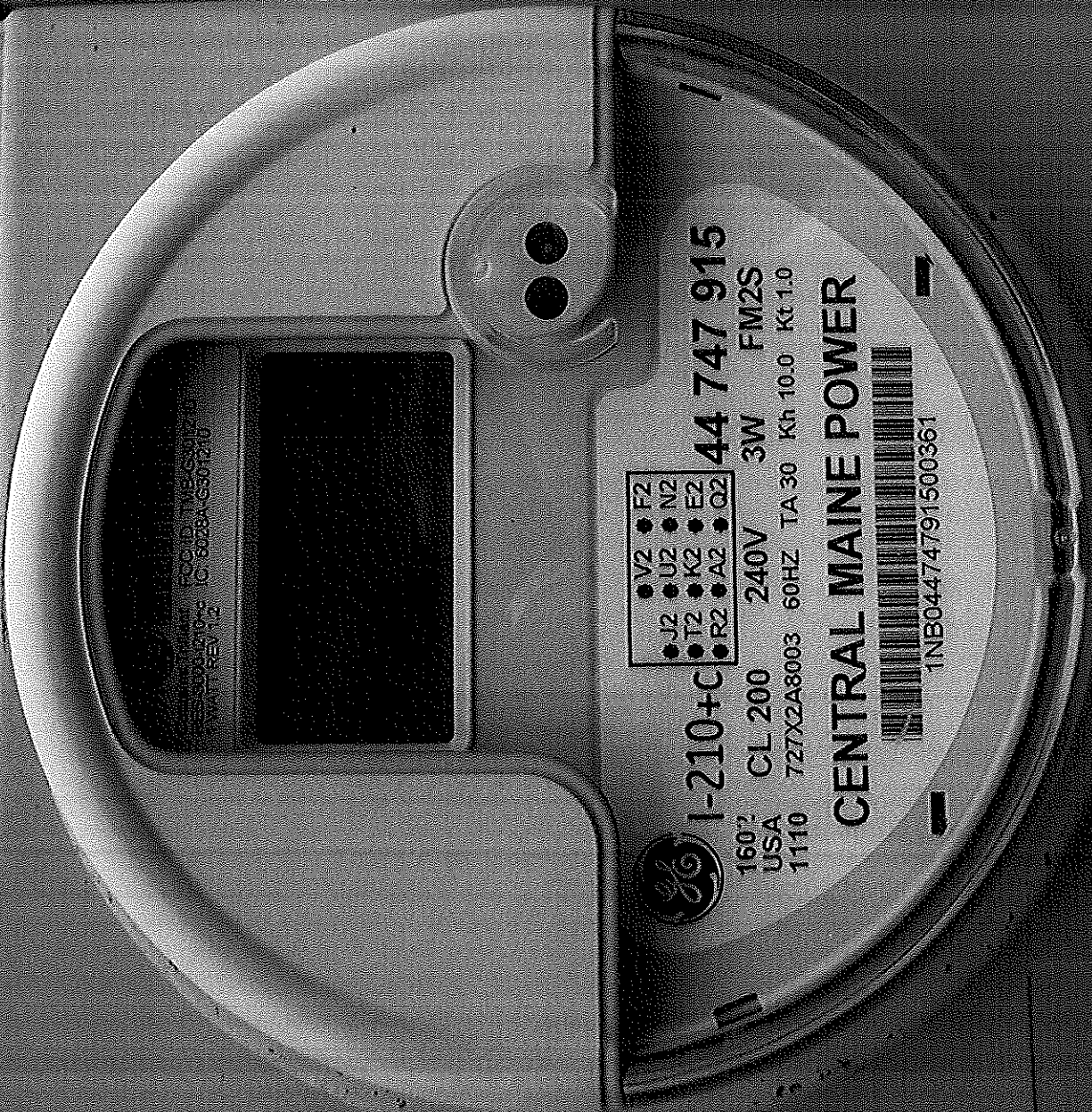
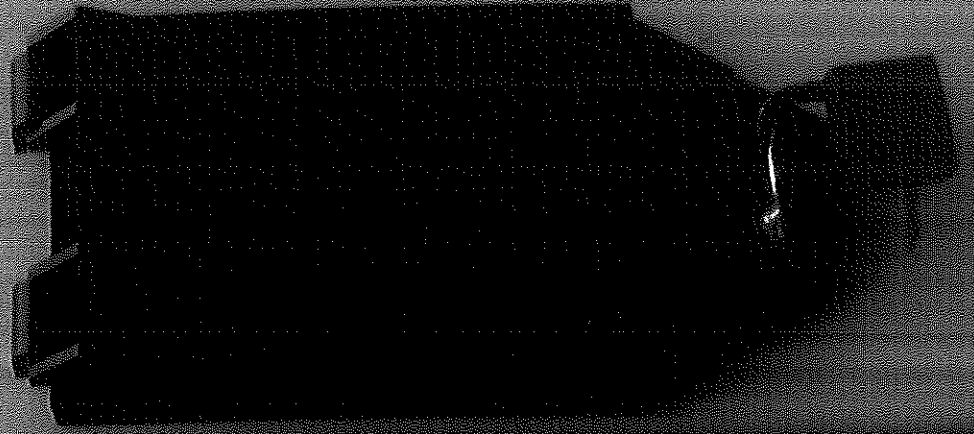












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I-210+C 44 747 915



1607 CL 200 240V 3W FM2S
USA 727X2A8003 60HZ TA 30 Kh 10.0 Kt 1.0
1110

CENTRAL MAINE POWER



1NB04474791500361



36222
P CO.



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- R2 • A2 • Q2

44 747 917

I-210+C 240V 3W FM2S

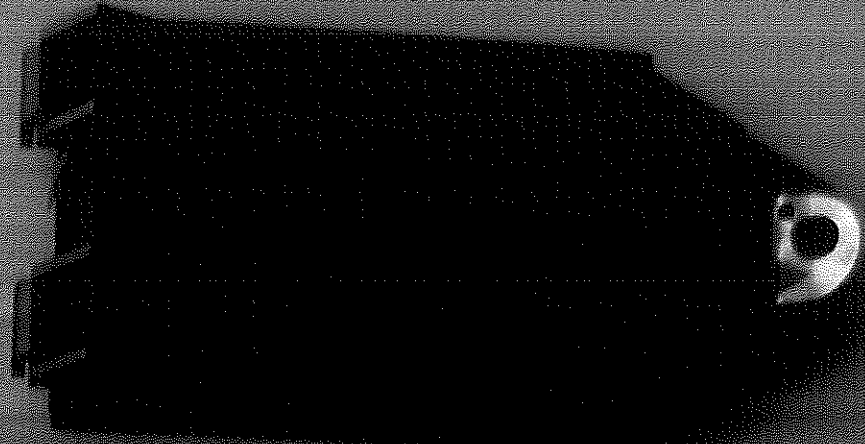
1602 CL 200 727X2A8003 60HZ TA 30 Kh 10.0 Ki 1.0



CENTRAL MAINE POWER



1NB04474791700361



GE
FCC ID: TMB5581
IC: 6028A-6507210
REV 1.2

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- J2 • U2 • N2
- T2 • K2 • E2
- R2 • A2 • Q2

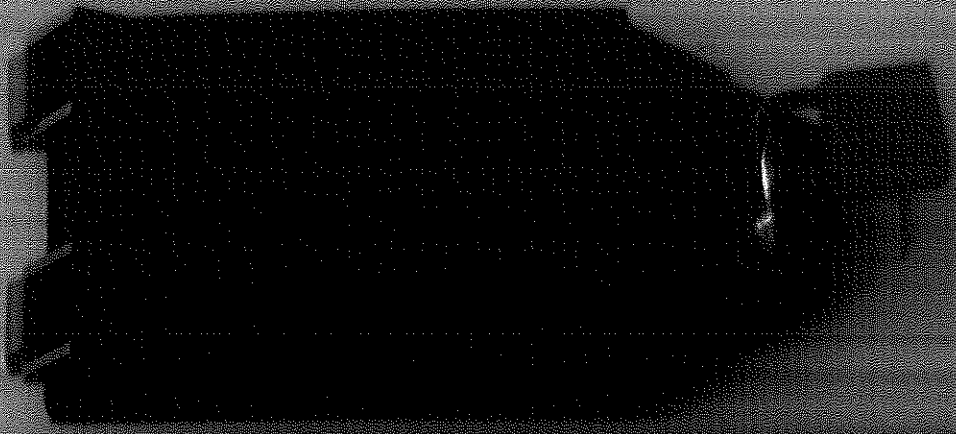
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CL 200
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60HZ
TA 30
Kt 10.0
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240V
3W
FM2S
44 747 915



CENTRAL MAINE POWER



1NB04474791500361



Model 1111111111
FCC ID: TMB-G301210
IC: 6023A-G301210
REV 1.2

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CENTRAL MAINE POWER



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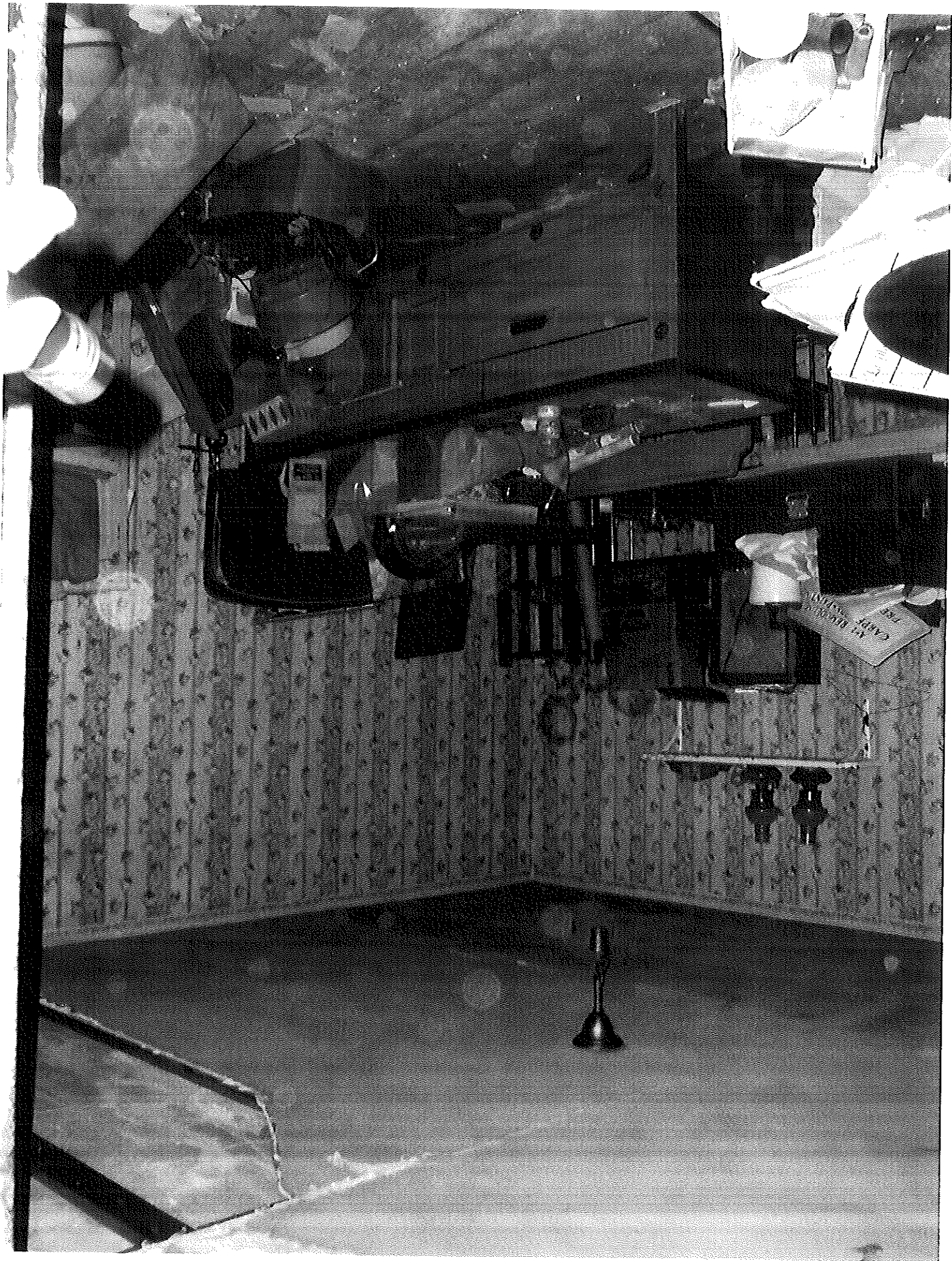


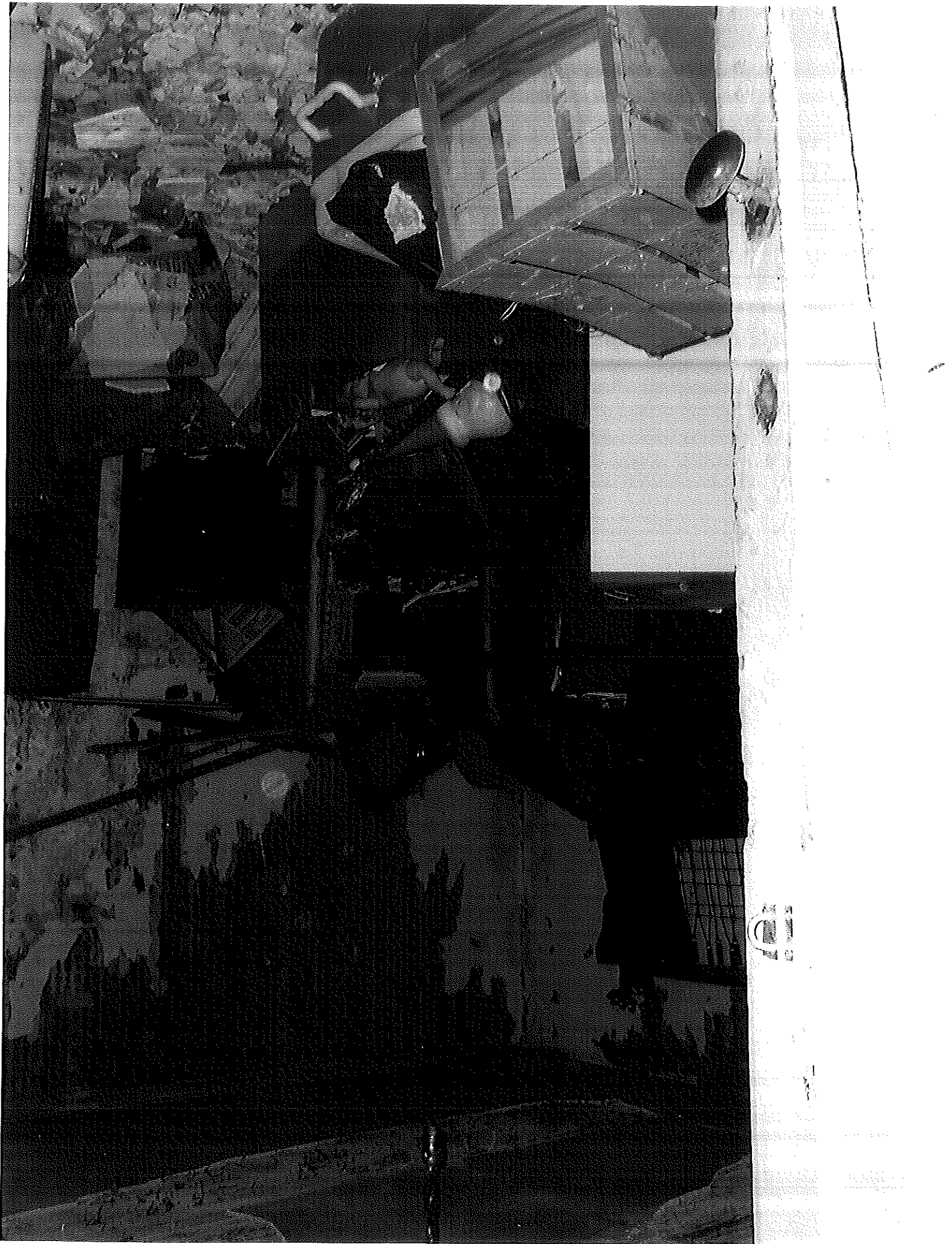












CITY OF PORTLAND
DEPARTMENT OF PLANNING & URBAN DEVELOPMENT

389 Congress Street
Portland, Maine 04101

Inspection Violations

Owner/Manager BRESETTE ALBERT		Inspector Chuck Fagone	Inspection Date 8/29/2014
Location 1 JOY PL	CBL 045 E049001	Status Re-Inspect 30 Days	Inspection Type Complaint-Inspection

Code	Int/Ext	Floor	Unit No.	Area	Compliance Date
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1) 6-124. Through Out

Violation: PROPERTY TO BE SECURED IF NOT IMPROVED

Notes: If the owner or operator of any property which has been condemned as unfit for habitation does not proceed to make the necessary corrections to bring the property into compliance with the provisions of this article, such owner or operator shall proceed to make the property safe and secure so that no danger to life or property or fire hazard exist.

Comments:

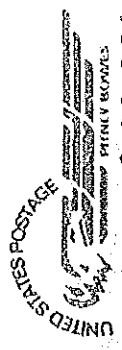
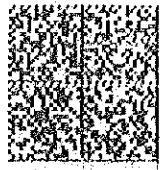
Per inspection, building is partially collapsing (rear wall) and is unsafe and a public hazard. Please contact this office immediately to discuss a plan of action.

Strengthening a Remarkable City,
Building a Community for Life

PORTLAND MAINE

Inspection Services Division
389 Congress Street, RM 315
Portland, Maine 04101-3509

PRESORTED
FIRST CLASS



02 1M
000422549 SEP 15 2014
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MAILED FROM ZIP CODE 04101

NIXIE 015 FE 1009 0005/29/14

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ATTEMPTED - NOT KNOWN
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BC: 04101357100 *3084-02652-15-44

10/15/14 10:15 AM

Portland, Maine



Yes. Life's good here.

Planning & Urban Development Department

Director of Planning and Urban Development
Jeff Levine

Inspection Services, Director
Tammy M. Munson

September 30, 2014

BRESETTE ALBERT
PO BOX 345
PORTLAND, ME 04112

CBL: 045 E049001
Located at: 1 JOY PL

Certified Mail 7010 3090 0002 3273 7606

Dear Mr. Bresette,

SECOND NOTICE OF VIOLATION

An evaluation of the above-referenced property on 09/30/2014 revealed that the structure remains non-compliant with the Housing Code of the City of Portland.

Attached is a list of the violations.

This is a SECOND notice of violation pursuant to Section 6-118 of the Code. All referenced violations shall be corrected. A re-inspection will occur on 10/30/2014, at which time compliance will be required.

Failure to comply will result in this office referring the matter to the City of Portland Corporation Counsel for legal action and possible civil penalties, as provided for in Section 1-15 of the Code and in Title 30-A M.R.S.A ss 4452.

Please feel free to contact me if you wish to discuss this matter further or have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Chuck Fagone".

Chuck Fagone
Code Enforcement Officer
(207) 874-8789

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

Inspection Violations

Owner/Manager BRESETTE ALBERT		Inspector Chuck Fagone		Inspection Date 8/29/2014	
Location 1 JOY PL		CBL 045 E049001		Status Re-Inspect 30 Days	
				Inspection Type Complaint-Inspection	

Code	Int/Ext	Floor	Unit No.	Area	Compliance Date
------	---------	-------	----------	------	-----------------

1) 6-124. Through Out

Violation: PROPERTY TO BE SECURED IF NOT IMPROVED

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Comments:

Per inspection, building is partially collapsing (rear wall) and is unsafe and a public hazard. Please contact this office immediately to discuss a plan of action.

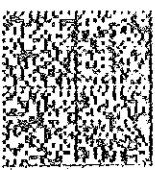


Portland, Maine

Yes. Life's good here.

Planning & Urban Development
Inspection Division
389 Congress Street, Room 315
Portland, Maine 04101-3509

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MAILED FROM ZIP CODE 04101



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FIRST CLASS

\$ 00.381

TIME 00 0000 0000000000

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UNABLE TO FORWARD

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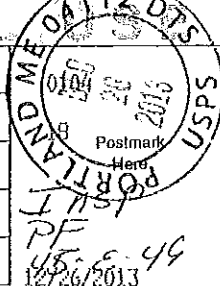
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PORTLAND ME 04112

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Return Receipt Fee (Endorsement Required)		\$2.55
Restricted Delivery Fee (Endorsement Required)		\$0.00
Total Postage & Fees	\$	\$6.11



Sent To: Bresette Albert
 Street, Apt. No.,
 or PO Box No. P.O. Box 345
 City, State, ZIP+4 Portland, ME 04112

PS Form 3800, August 2006 See Reverse for Instructions

7013 1090 0002 1737 6601

Portland, Maine



Yes. Life's good here.

Planning & Urban Development Department

Director of Planning and Urban Development
Jeff Levine

Inspection Services, Director
Tammy M. Munson

September 30, 2014

BRESETTE ALBERT
PO BOX 345
PORTLAND, ME 04112

CBL: 045 E049001
Located at: 1 JOY PL

Certified Mail 7010 3090 0002 3273 7606

Dear Mr. Bresette,

SECOND NOTICE OF VIOLATION

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Attached is a list of the violations.

This is a **SECOND** notice of violation pursuant to Section 6-118 of the Code. All referenced violations shall be corrected. A re-inspection will occur on **10/30/2014**, at which time compliance will be required.

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Sincerely,

A handwritten signature in black ink, appearing to read "Chuck Fagone".

Chuck Fagone
Code Enforcement Officer
(207) 874-8789

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

Inspection Violations

Owner/Manager BRESETTE ALBERT		Inspector Chuck Fagone	Inspection Date 8/29/2014
Location 1 JOY PL	CBL 045 E049001	Status Re-Inspect 30 Days	Inspection Type Complaint-Inspection

Code	Int/Ext	Floor	Unit No.	Area	Compliance Date
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1) 6-124. Through Out

Violation: PROPERTY TO BE SECURED IF NOT IMPROVED

Notes: If the owner or operator of any property which has been condemned as unfit for habitation does not proceed to make the necessary corrections to bring the property into compliance with the provisions of this article, such owner or operator shall proceed to make the property safe and secure so that no danger to life or property or fire hazard exist.

Comments:

Per inspection, building is partially collapsing (rear wall) and is unsafe and a public hazard. Please contact this office immediately to discuss a plan of action.

CERTIFIED MAIL™



7010 3090 0002 3273 7606

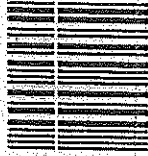
Planning & Urban Development
Inspection Division

389 Congress Street, Room 310
Portland, Maine 04101-3509



Portland, Maine

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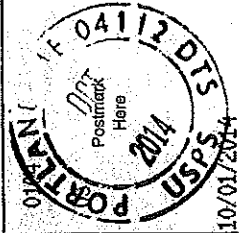
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- Do not

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Certified Fee		\$3.30
Return Receipt Fee (Endorsement Required)		\$2.70
Restricted Delivery Fee (Endorsement Required)		\$0.00
Total Postage & Fees	\$	\$6.49



Sent To **BASETTE ALBERT**
 Street, Apt. No.;
 or PO Box No. **PO Box 315**
 City, State, ZIP+4 **PORTLAND ME 04112**

PS Form 3800, August 2006 See Reverse for Instructions

7010 3090 0002 3273 7606



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.



Planning & Urban Development Department

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 authorities 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,

Marge Schmuckal
Zoning Administrator



Planning & Urban Development Department

Director of Planning and Urban Development
Jeff LevineInspection Services, Director
Tammy M. Munson

September 11, 2014

BRESETTE ALBERT
PO BOX 345
PORTLAND, ME 04112CBL: 045 E049001
Located at: 1 JOY PL

Certified Mail 7012 0470 0002 1928 5778

Dear Mr. Bresette,

An evaluation of the above-referenced property on 08/29/2014 shows that the structure fails to comply with Chapter 6, Article V. of the Code of Ordinances of the City of Portland, The Housing Code. Attached is a list of the violations.

This is a notice of violation pursuant to Section 6-118 of the Code. All referenced violations shall be corrected within **30 days** of the date of this notice. A re-inspection of the premises will occur On **10/20/2014** at which time compliance will be required. Failure to comply will result in this office referring the matter to the City of Portland Corporation Counsel for legal action and possible civil penalties, as provided for in Section 1-15 of the Code.

This constitutes an appealable decision pursuant to Section 6-127 of the Code.

Please feel free to contact me if you wish to discuss the matter or have any questions.

Please be advised that the Portland City Council has amended the Building regulations to include a \$150.00 re-inspection fee. This violation will automatically cause a re-inspection at no charge. If there are any subsequent inspections, however, the \$150.00 fee will be assessed for each inspection.

Sincerely,

A handwritten signature in black ink, appearing to read "Chuck Fagone".

Chuck Fagone
Code Enforcement Officer
(207) 874-8789

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