

# CITY OF PORTLAND, MAINE

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## PLANNING BOARD

Elizabeth Boepple, Chair  
Sean Dundon, Vice Chair  
Bill Hall  
Carol Morrisette  
Jack Soley  
Dave Eaton

October 29, 2015

Jonathan Cully  
Redfern Properties, LLC  
PO Box 8816  
Portland, ME 04101

Acorn Engineering  
Attention: Will Savage  
158 Danforth Street  
Portland, ME 04102

Project Name:	Longfellow Apartments	Project ID:	2015-093
Address:	667 Congress Street	CBL:	046 C019 020
Applicant:	Redfern Properties, LLC		
Planner:	Shukria Wiar		

Dear Mr. Cully:

On October 27, 2015, the Planning Board considered a Level III site plan and subdivision application for the property at 667 Congress Street. Redfern Properties, LLC is working in partnership with MSD Properties, LLC and Joe's Super Variety to redevelop the property with an eight-story apartment building. The Planning Board reviewed the proposal for conformance with the standards of the Subdivision Ordinance and Site Plan Ordinance. The Planning Board voted unanimously 4-0 (Hall and Soley absent) to approve the application with the following waivers and conditions as presented below.

### WAIVERS

1. The Planning Board voted unanimously 4-0 (Hall and Soley absent) to waive Technical Design Standard Section 1.14 *Parking Lot and Parking Space Design* to allow 26 compact parking spaces, exceeding the required 20% compact spaces allowed.
2. The Planning Board (voted unanimously 4-0 (Hall and Soley absent) to waive Technical Design Standard Section 1.7.2.3 *Minimum Driveway Width (two-way)* to allow the driveway access to Avon Street to be 18 feet instead of the required minimum width of 20 feet for two-way ingress and egress.
3. The Planning Board finds that the applicant has demonstrated that site constraints prevent the planting of required street trees along Congress and Avon Streets and Vernon Place, thus the Planning Board voted unanimously 4-0 (Hall and Soley absent) to waive Section 14-526 (b) (2) (b) (iii) *Street Trees* to allow for a contribution of \$6,200 to the City's Street Tree Fund to be substituted for the provision of on-site street trees due to the applicant's improvements for granite tree wells and granite edging.

4. Sidewalk Waiver for Avon Street:

The Planning Board voted unanimously 4-0 (Hall and Soley absent) to waive with regard to Avon Street as specified in Zoning Ordinance, Section 14-498 (b) (8) (a and b), to allow no sidewalk on the side of the proposed building, subject to the condition that the applicant shall be responsible for providing a fully ADA compliant sidewalk on the opposite side of Avon Street meeting the City of Portland's material policy requirements. The final design of Avon Street shall require a final approval by the Department of Public Services as it relates to maintenance activities. The curbing shall be constructed as provided in article VI of chapter 25.

5. Sidewalk and Cubing for Vernon Place:

The Planning Board voted unanimously 4-0 (Hall and Soley absent) to waive with regard to Vernon Place as specified in Zoning Ordinance, Section 14-498 (b) (8) (a and b), which requires that sidewalks and curbing shall be constructed on each side of each street in accordance with article III of chapter 25 and curbs shall be constructed on each side of each street, to allow sidewalk and curbing to the garage opening on Vernon Place and no sidewalk beyond that point. The curbing shall be constructed as provided in article VI of chapter 25.

**SUBDIVISION REVIEW**

The Planning Board voted unanimously 4-0 (Hall and Soley absent) that the plan is in conformance with the subdivision standards of the land use code, subject to the following conditions:

1. The final boundary survey, subdivision plat, and site plans shall be stamped by a registered professional land surveyor and registered engineer;
2. The Subdivision Plat shall be finalized to the satisfaction of the Planning Authority, Department of Public Services and Corporation Counsel;
3. That the following shall be finalized to the satisfaction of the Corporation Counsel prior to the issuance of a Certificate of Occupancy:
  - a. Sidewalk Easement
  - b. Drainage Easement
  - c. Roadway Easement
  - d. Building Wall Anchor Irrevocable License
  - e. Stormwater management agreement
4. The recording plat shall be revised noting all waivers and conditions for review and approval by the Planning Authority prior to recording. All waivers shall be recorded within 90 days of the Planning Board approval.
5. The City Surveyor comments dated 10.21.2015, as stated below and marked up on the plat, shall be addressed prior to the issuance of a building permit:
  - a. Drainage easements. Need to define who will own and be responsible for them.
  - b. The existing 10-foot-wide Storm Drain Easement from Vernon Place to Avon Street will need to be discontinued by City Council as the City will not be responsible for a storm drain or sewer which runs under a building.

- c. Need to add note to subdivision plan that the City will not be responsible for the catch basin in Vernon Place and the storm drain which runs under the building.

#### **SITE PLAN REVIEW**

The Planning Board voted unanimously 4-0 (Hall and Soley absent) that the plan meets the parking requirements of the zoning ordinance with the provision of 81 on-site vehicle parking spaces; and that the plan **(is/is not)** in conformance with the site plan standards and all other applicable provisions of the land use code, and subject to the following conditions:

1. The Consultant Traffic Engineer comments dated 10.22.2015, as stated below, shall be submitted for review and approval prior to the issuance of a building permit:
  - a. Cross-section details of the streets be provided for Vernon Place and Avon Street
  - b. Final approval by DPS as it relates to the on-going city maintenance operations.
  - c. Cross-slope and grade details will be required for the ADA ramps being proposed on Congress Street.
  - d. Eliminate the crosswalk on Avon Street.
2. Traffic Demand Management Plan shall include a provision that strategies be adjusted, as necessary, to address parking demand conditions. As part of this requirement, the applicant shall conduct a parking survey, with methods approved by the City, at initial full occupancy and annually thereafter.
3. The Deputy City Engineer comments dated 10.22.2015, as stated below, shall be addressed prior to the issuance of a building permit:
  - a. Sewer evaluation: City crews have inspected a reach of sewer on Avon Street down stream of where the applicant wishes to connect their sanitary lateral. This sewer evaluation has not been received by Department of Public Services (DPS). DPS requests that if that reach of sewer is in need of replacement, the applicant shall be responsible to do so.
  - b. The applicant shall be required to install vertical granite curbing along the property line with a seven inch reveal on Avon Street.
  - c. There is concern that the existing sanitary sewer on Vernon Place, scheduled to be abandoned by the applicant, may still be active. The applicant is request to verify to the City's wastewater group satisfaction that is line is in fact 100% abandoned.
4. The City Arborist comments dated 10.22.2015, as stated below, shall be addressed prior to the issuance of a building permit:
  - a. The applicant shall create a more robust planting of green wall plants and a review of 'best plant' options to cover the wall.
5. The Consultant Stormwater Engineer comments, dated 10.21.2015, shall be addressed prior to the issuance of a building permit.
6. The ramps at the corner of Congress Street shall meet the Historic District detail Figure I-7A in the Technical Standards.
7. The bicycle hitch shall meet the Technical Standards in regard to mounting and color.

8. The developer/contractor/subcontractor must comply with conditions of the construction stormwater management plan and sediment and erosion control plan based on City standards and state guidelines. The owner/operator of the approved stormwater management system and all assigns shall comply with the conditions of Chapter 32 Stormwater including Article III, Post Construction Stormwater Management, which specifies the annual inspections and reporting requirements. A maintenance agreement for the stormwater drainage system, as attached, or in substantially the same form with any changes to be approved by Corporation Counsel, shall be submitted, signed, and recorded prior to the issuance of a building permit with a copy to the Department of Public Services.
9. That all HVAC systems and external mechanical equipment shall meet the maximum allowable noise requirements of the zone; each unit shall submit documentation of dBA output to confirm compliance of both the unit and the building in respect of rated noise levels and cumulative noise levels, to the satisfaction of the Zoning Administrator prior to the issuance of a Building Permit for that unit.
10. The applicant shall submit revised lighting and photometric plan for review and approval by the Planning Authority prior to the issuance of a building permit.

The approval is based on the submitted plans and the findings related to site plan and subdivision review standards as contained in Planning Report for application 2015-093 which is attached.

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

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

1. **Subdivision Recording Plat** A revised recording plat listing all conditions of subdivision approval must be submitted for review and signature prior to the issuance of a performance guarantee. The performance guarantee must be issued prior to the release of the recording plat for recording at the Cumberland County Registry of Deeds.
2. **Subdivision Waivers** Pursuant to 30-A MRSA section 4406(B)(1), any waiver must be specified on the subdivision plan or outlined in a notice and the plan or notice must be recorded in the Cumberland County Registry of Deeds within 90 days of the final subdivision approval).
3. **Develop Site According to Plan** The site shall be developed and maintained as depicted on the site plan and in the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or the Planning Authority pursuant to the terms of Chapter 14, Land Use, of the Portland City Code.
4. **Separate Building Permits Are Required** This approval does not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.
5. **Site Plan Expiration** The site plan approval will be deemed to have expired unless work has commenced within one (1) year of the approval or within a time period up to three (3) years from the approval date as agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the one (1) year expiration date.

6. **Subdivision Plan Expiration** The subdivision approval is valid for up to three years from the date of Planning Board approval.
7. **Performance Guarantee and Inspection Fees** A performance guarantee covering the site improvements as well as an inspection fee payment of 2.0% of the guarantee amount and seven (7) final sets of plans must be submitted to and approved by the Planning Division and Public Services Department prior to the release of a subdivision plat for recording at the Cumberland County of Deeds, and prior to the release of a building permit, street opening permit or certificate of occupancy for site plans. If you need to make any modifications to the approved plans, you must submit a revised site plan application for staff review and approval.
8. **Defect Guarantee** A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
9. **Preconstruction Meeting** Prior to the release of a building permit or site construction, a pre-construction meeting shall be held at the project site. This meeting will be held with the contractor, Development Review Coordinator, Public Service's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the Development Review Coordinator will confirm that the contractor is working from the approved site plan. The site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
10. **Department of Public Services Permits** If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)
11. **As-Built Final Plans** Final sets of as-built plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (\*.dwg), release AutoCAD 2005 or greater.
12. **Mylar Copies** Mylar copies of the as-built drawings for the public streets and other public infrastructure in the subdivision must be submitted to the Public Services Dept. prior to the issuance of a certificate of occupancy.

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

If there are any questions, please contact Shukria Wiar at 756-8083 or via [shukriaw@portlandmaine.gov](mailto:shukriaw@portlandmaine.gov)

Sincerely,



Elizabeth Boepple, Chair  
Portland Planning Board

**Attachments:**

1. Traffic Engineering Review (Tom Errico, T Y Lin), comments dated 10.22.2015
2. Department of Public Services Review, David Margolis-Pineo, dated 10.22.2015
3. Civic Engineer Review, David Senus, dated 10.21.2015
4. City Arborist, Jeff Tarling, dated 10.22.2015
5. City Surveyor, Bill Clark, dated 10.21.2015
- 5a. Mark up of Subdivision Plat
6. Planning Board Report
7. Sample Stormwater Maintenance Agreement
8. Performance Guarantee Packet

**Electronic Distribution:**

cc: Jeff Levine, AICP, Director of Planning and Urban Development  
Stuart O'Brien, Planning Division Director  
Barbara Barhydt, Development Review Services Manager  
Shukria, Planner  
Philip DiPierro, Development Review Coordinator, Planning  
Ann Machado, Zoning Administrator, Inspections Division  
Tammy Munson, Inspections Division Director  
Jonathan Rioux, Inspections Division Deputy Director  
Janie Bourke, Plan Reviewer/CEO, Inspections Division  
Brad Saucier, Administration, Inspections Division  
Katherine Earley, Engineering Services Manager, Public Services  
Bill Clark, Project Engineer, Public Services  
David Margolis-Pineo, Deputy City Engineer, Public Services  
Doug Roncarati, Stormwater Coordinator, Public Services  
Greg Vining, Associate Engineer, Public Services  
Michelle Sweeney, Associate Engineer  
John Low, Associate Engineer, Public Services  
Rhonda Zazzara, Field Inspection Coordinator, Public Services  
Mike Farmer, Project Engineer, Public Services  
Jane Ward, Administration, Public Services  
Jeff Tarling, City Arborist, Public Services  
Jeremiah Bartlett, Public Services  
Keith Gautreau, Fire Department  
Jennifer Thompson, Corporation Counsel  
Thomas Errico, P.E., T Y Lin Associates  
David Senus, P.E., Woodard and Curran  
Rick Blackburn, Assessor's Department  
Approval Letter File

**From:** Tom Errico <thomas.errico@tylin.com>  
**To:** Shukria Wiar <SHUKRIAW@portlandmaine.gov>  
**CC:** David Margolis-Pineo <DMP@portlandmaine.gov>, Katherine Earley <KAS@portlandmaine.gov>, Jeff Tarling <JST@portlandmaine.gov>, "JeremiahBartlett" <JBartlett@portlandmaine.gov>  
**Date:** 10/22/2015 11:17 AM  
**Subject:** 667 Congress Street - Final Traffic Comments

Shukria - The following is a status update on my September 23, 2015 comments and should be considered the Final Traffic Comments.

\* The parking layout on the first floor is extremely tight and the applicant needs to provide auto-turn templates for most parking spaces. Status: The applicant has provided the requested auto-turn analysis that illustrates a mid-sized vehicle can access and egress parking spaces. I find the layout to be acceptable but would note that drivers will have difficulty accessing parking spaces, particularly for larger vehicles. Final Status: I have no further comment.

\* The parking layout on the basement level appears less constrained, but some tight spaces are proposed where columns are complicating maneuvering and therefore requires an auto-turn analysis. Status: See prior comment. Final Status: I have no further comment.

\* The plans note that the sidewalk on Vernon Place will not have curbing. I will review this with DPS staff. Status: I continue to review design treatments for Vernon Place given its unique function. As noted below, the applicant shall complete the formal waiver process for curb and sidewalk. The City needs to be comfortable with the design and function of Vernon Place with the added project traffic (traffic volumes will increase substantially from current conditions). Specifically accommodating pedestrians safely, vehicle movements, DPS maintenance equipment and their ability to turn around safely, landscaping, drainage, and access/egress movements into and out of the garage and the driveways on the west side of the street. Final Status: The final design of Vernon Place is unique and requires final approval by DPS as it relates to maintenance activities. While the applicant did not submit formal waiver information, it is my professional opinion that the general cross-section design is acceptable, pending DPS review. I would suggest that a cross-section illustration be provided before final approval is granted.

\* The alignment of the sidewalk ramps on Congress Street will need to direct pedestrians to the appropriate path of travel from an ADA perspective. Adjustments will need to be incorporated. Status: The ramp at corner of the Avon Street is unacceptable and alignment for walking parallel to Congress Street shall be provided. I would also note that the ramp at Vernon Place may need to change following the final configuration of the street. Final Status: I have reviewed the plans and generally find them to be acceptable. Specific cross-slope and grade details will be required as part of final construction.

\* The applicant is requesting a waiver for driveway width. 18 feet is being proposed. My initial review indicates I would be supportive of a waiver given the characteristics of Vernon Place and Avon Street. Status: I have no further comment. Final Status: I have no further comment.

\* I have reviewed the traffic impact study prepared by Traffic Solutions and while I continue to review details, I generally find the conclusions to be acceptable. Status: I concur with the conclusions of the Traffic Impact Study that the project will not have a significant impact on traffic operations and safety in the vicinity of the project. I have no further comment. Final Status: I have no further comment.

\* The applicant has noted that an on-going parking study of similar developments is proceeding and the results of the parking study will be provided in the future. Status: The applicant has conducted a parking evaluation and is suggesting use of a parking generation rate of 0.58 parking spaces per residential unit. In my professional opinion the type of residential apartment (market rate versus low income or other) will influence parking demand of a project. The highest parking generation rate recorded was for the Island View Apartments (a market rate complex), where 0.70 parking spaces per unit were recorded. It is my suggestion that the applicant provide a parking analysis that is solely based on market rate apartments. Final Status: Requested information pending.

\* The applicant shall provide documentation on current users of the existing parking lot. Status: The applicant has noted that existing vehicles parking on the site are not conditioned to a site plan approval requirement. I have no further questions. Final Status: I have no further comment.

\* The width of the sidewalk along Avon Street abutting the property is noted as between 3 and 5 feet wide. I need to review specific

details regarding this sidewalk to ensure appropriate accessibility is provided.

Status: Given the narrow width of the street and sidewalk, I recommend that a fully shared street be considered (curbs to be removed or relocated to buildings on both sides of the street with special surface pavement treatment). This would allow for improved or desired emergency access, easier maintenance, and would allow for a multi-modal street that would provide for all users in a safe and calmed environment.

Final Status: Per City Ordinance the applicant is required to either provide a sidewalk along their property frontage along Avon Street or formally request a waiver from constructing a sidewalk following specific waiver criteria. Given the unique characteristics of Avon Street, and site limitations, I support a waiver for a sidewalk along their property frontage, with the assumption that an acceptable alternative route is provided on the opposite side of the street. Accordingly, the applicant shall be responsible for providing a fully ADA compliant sidewalk facility that meets City of Portland material policy requirements. The final design of Avon Street requires final approval by DPS as it relates to maintenance activities and I would suggest that a cross-section illustration be provided before final approval is granted.

\* The applicant shall formally request a waiver for a sidewalk along Vernon Place.

Status: The City has a defined Waiver criteria process that the applicant should comply with.

Final Status: See prior comment.

#### New Comments

\* The applicant has submitted a Transportation Demand Management Plan and I find it to be reasonable. It is my assumption that all the strategies noted in the report will be implemented.

Final Status: I would suggest that the TDM Plan include a provision that strategies be adjusted, as necessary, to address parking demand conditions. As part of this requirement, the applicant shall conduct a parking survey, with methods approved by the City, at initial full occupancy and annually thereafter.

\* I support a waiver from the City's Technical standards for parking stall size.

Final Status: I have no further comment.

\* The applicant should identify any parking circulation aisle waiver requirements.

Final Status: The applicant has noted that there are no specific waivers needed (the diagonal width noted does not require a waiver) and therefore I have no further comments.

\* The applicant should provide information on how the tandem parking spaces will be managed.

Final Status: The applicant notes that the TDM Coordinator will manage these spaces and I have no further comment.

\* The crosswalk on Avon Street should be eliminated.

Final Status: The plans shall be remove the raised crosswalk. With the introduction of a tall building and the "cannon" effect it will have on motorists, traffic calming devices are not required. I would further note that pedestrians will have a fully ADA compliant sidewalk for use and thus will be separated from vehicles.

\* The applicant should confirm that one handicapped parking space meets ADA or other required standards.

Final Status: The applicant has noted that the project fully complies and I have no further comment.

Please contact me if you have any questions.

Best regards,

Thomas A. Errico, PE  
Senior Associate  
Traffic Engineering Director  
[T.Y. Lin International]T.Y. Lin International  
12 Northbrook Drive  
Falmouth, ME 04105  
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**From:** David Margolis-Pineo  
**To:** Barbara Barhydt; Shukria Wiar  
**CC:** DEVELOPMENT REVIEW GROUP  
**Date:** 10/22/2015 2:22 PM  
**Subject:** Revised Review Comments for 667 Congress St

October 22, 2015

Memo To: Barbara Barhydt  
Shukria Wiar  
From: David Margolis-Pineo  
Re: 667 Congress Street Development Review Comments (2015-125)

The applicant has addressed this Department's comments. However, the following issue are still a concern.

1. There is one catchbasin which collects drainage on Vernon Place. The discharge from this City owned and maintained structure discharge through a pipe across the applicant's property in a 10' wide drainage easement. The building proposed by the applicant does not allow the City to maintain this utility. Therefore the applicant is requested to assume maintenance responsibilities for this drainage pipe and the City will relinquish the 10' wide drainage easement.
2. Sewer evaluation: City crews have inspected a reach of sewer on Avon Street down stream of where the applicant wishes to connect their sanitary lateral. That sewer evaluation has not been received. We would like to request that if that reach of sewer is in need of replacement, the applicant be responsible to do so.
3. Due to poor condition the applicant is requested to reconstruct the sidewalk on the East side of Avon St using the current required brick sidewalk material. To allow greater access for emergency vehicles, granite curbing with a two inch reveal is proposed. This Department does not support the applicant's request for a waiver.
4. Public Service Operations staff have concerns of building damage on Avon St during snow plowing. Therefore the applicant is requested to install vertical granite curbing along the property line with a seven inch reveal. It is also understood that there will be no projections from the building face into the Avon St right of way from the applicant's building.
5. There is concern that the existing sanitary sewer on Vernon Place, scheduled to be abandoned by the applicant, may still be active. The applicant is request to verify to the City's wastewater group satisfaction that is line is in fact 100% abandoned.
6. Street lighting on Avon St. Since Avon Street will become a 20' wide right of way with two – eight story building on each side, and it is proposed to remove two light poles with cobra head lighting, the applicant is requested submit a lighting detail and lamination report on light levels for the length of the applicant's property.

We have no further comments.

## MEMORANDUM



**TO:** Shukria Wiar, Planner  
**FROM:** David Senus, PE  
**DATE:** October 21, 2015  
**RE:** 667 Congress Street, Level III Site Plan Application

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Woodard & Curran has reviewed the response to comments submittal provided for the Level III Site Plan Application for the proposed mixed use development located at 667 Congress Street in Portland, Maine. The project involves the demolition of an existing variety store and surface parking lot and the construction of an eight story building for rental apartments, commercial space, and two levels of parking.

### **Documents Reviewed by Woodard & Curran**

- Engineering Plans, Sheets C-01, C-02, C-03, C-10, C-11, C-20, C-30, C-31, C-40, C-41, C-42, C-43, C-44, C-45, and C-50, REV dated October 13, 2015, prepared by Acorn Engineering, Inc., on behalf of Redfern Properties, LLC.
- Response to Comments Letter dated October 13, 2015 prepared by Acorn Engineering, Inc., on behalf of Redfern Properties, LLC.

### **Comments**

- 1) Sheet C30: A roof drain appears to connect into the floor drain system at a proposed cleanout. All roof drains should be connected into the separated storm drain system.
- 2) The Applicant has noted that the 8" vitrified clay sanitary sewer in Vernon Place that crosses the project property is inactive, and they propose to demolish this sewer or infill the sewer with flowable fill. Prior to infilling or demolishing the sewer, the Applicant should plug the invert out in the downstream manhole in Vernon Place with a water-tight plug, and monitor the manhole to determine if any flow is evident over the course of several days (including at least one rainfall event). The Applicant shall coordinate their monitoring of this system with DPS (David Margolis-Pineo and John Emerson). Abandonment of the sewer shall include demolishing the manholes in Vernon Place to at least 3' below grade, filling in any remaining open space with 3/4" crushed stone, and repairing the pavement section with City Standard compacted gravels and pavement lifts.
- 3) The proposed curb line abutting an existing curb inlet catch basin at the corner of Congress Street and Vernon Place is proposed to be realigned, with a tip-down proposed at the location of the existing catch basin. This catch basin and associated lateral should be demolished and replaced, with a new catch basin located along the curb line east of the existing location.

All previous review comments contained in memorandums from Woodard & Curran dated August 20<sup>th</sup> and September 18<sup>th</sup> have been adequately addressed.

**From:** Jeff Tarling  
**To:** Shukria Wiar  
**CC:** David Margolis-Pineo  
**Date:** 10/22/2015 1:02 PM  
**Subject:** 667 Congress Street

Hi Shukria -

The proposed 667 Congress Street project as designed with a 99.9% build-out of space between Vernon Place and Avon Street presents a minimal amount of available landscape space. The project does feature three 'street-trees' with granite planters along Congress Street which is our standard approach along the frontage. Due to narrow width of Vernon Place and Avon Street the project does propose 'Green Wall' treatment along Vernon Place and no treatment options along Avon due to restricted space. Green wall is also proposed for the Deering Street facing rear facade as well.

Due to the important function of the green wall in this project site recommendation / condition would include a closer look to create a more robust planting of green wall plants perhaps using four plants per section density vs two, and a review of 'best plant' options to cover the wall.

The large expanse of blank wall along Avon Street would benefit from a green wall treatment if at all possible. In conducting brief research it appears possible to have some types of this system with minimal 'ground' space. Recommendation would be to take a second look at possible options. Green wall use and successful green wall experiences in Portland is relatively new. They have potential if properly constructed and maintained to provide landscape buffer in a narrow, vertical space. Concerns include protecting plant root system from winter deicing salts which might be improved by placing plants in raised planters in the same fashion as the raised granite tree planters.

Contribution to the Portland 'Tree Fund' is recommended.

Jeff Tarling  
City Arborist

Green Wall Information:

<http://lin.ca/sites/default/files/attachments/Amos%20Tim,%20Sirrs%20Sue%20-%20Cold%20Climate%20Living%20Walls.pdf>

**From:** William Clark  
**To:** David Margolis-Pineo  
**CC:** Shukria Wiar  
**Date:** 10/21/2015 4:09 PM  
**Subject:** 667 Congress St Subdivision Plat survey review  
**Attachments:** Plat 2\_FirstFloor\_667 Congress\_10-13-15 survey review 10 21 2015.PDF

Attached is a scan of the review.

1. Minor drafting suggestions for legibility.
2. Granite Monuments OK to set at sideline corners at Congress Street as we will be able to access them.
3. Drainage easements. Need to define who will own and be responsible for them.
4. The existing 10 foot wide Storm Drain Easement from Vernon Place to Avon Street will need to be discontinued by City Council as we will not be responsible for a storm drain or sewer which runs under a building.
5. Need to add note to subdivision plan that the City will not be responsible for the catch basin in Vernon Place and the storm drain which runs under the building.

Thanks,

Bill

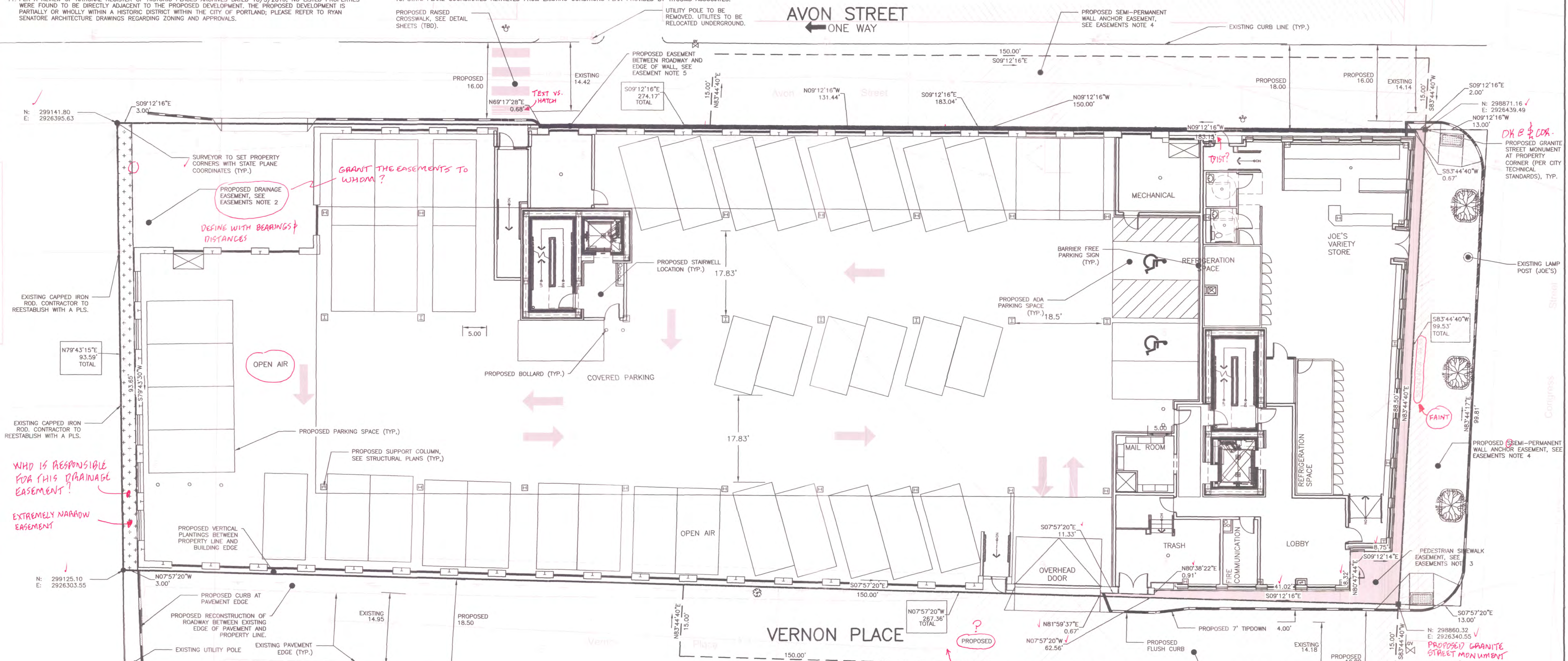
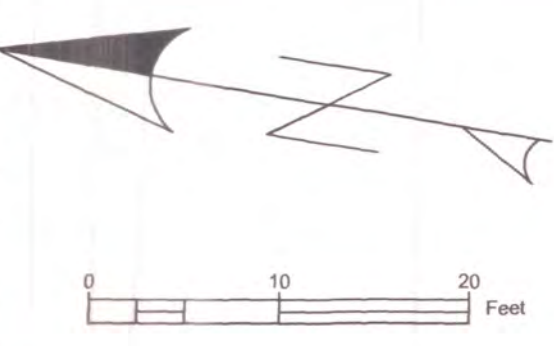


- GENERAL NOTES AND REFERENCES:**
- ZONING ANALYSIS COMPLETED BY RYAN SENATORE ARCHITECTURE.
  - FOR INFORMATION REGARDING PROPOSED UTILITY CHANGES, REFER TO UTILITY PLAN, SHEET C-20, MOST RECENT VERSION.
  - FOR INFORMATION REGARDING PROPOSED GRADING CHANGES, REFER TO GRADING PLAN, SHEET C-30 AND C-31, MOST RECENT VERSION.
  - TOTAL SITE AREA INCLUDES 0.60 ACRE. R.O.W. WIDTHS FOR AVON STREET AND VERNON PLACE ARE 22'-FEET. R.O.W. WIDTH FOR CONGRESS IS 66'-FEET PER EXISTING CONDITIONS PLAN. SEE EXISTING CONDITIONS PLAN PROVIDED BY TITCOMB ASSOCIATES INDICATING PROPERTY LINES ALONG CONGRESS STREET SIDE OF PROPERTY, DATED 4/6/15.
  - LIGHTING PLAN REFER TO THE PLAN DEVELOPED BY APEX LIGHTING SOLUTIONS, TITLED GARAGE LIGHTING PHOTOMETRIC CALCULATIONS, MOST RECENT VERSION.
  - SITE BOUNDARIES PER EXISTING CONDITIONS PLAN AND PROPERTY PINS TO BE SET BY TITCOMB ASSOCIATES.
  - PER CITY OF PORTLAND COUNCIL ORDER 274 ON 6/15/15 PASSED 8-0, THE PROPOSED SITE AT 667 CONGRESS STREET HAS BEEN RE-ZONED FROM R-6 TO B-3, AND MAXIMUM BUILDING HEIGHT INCREASED TO 85 FEET ON THE MAJORITY OF THE SITE; FOR THE REMAINDER OF THE SITE, 40 FEET FROM THE REAR PROPERTY LINE, MAINTAINS A MAXIMUM BUILDING HEIGHT OF 45 FEET.
  - UNIT TABULATION ON SHEET SP-1 BASED OFF DRAWINGS BY RYAN SENATORE ARCHITECTURE.
  - PLEASE SEE ARCHITECTURAL PLANS FOR FURTHER INFORMATION REGARDING FLOOR PLANS AND BUILDING HEIGHT.
  - THE SURROUNDING ZONES ARE AS FOLLOWS:
    - R-6 ZONE ON NORTH AND NORTHWEST WALLS OFF OF AVON STREET
    - B-3 ZONE ON THE SOUTH, SOUTHEAST, AND SOUTHWEST WALLS OFF OF CONGRESS STREET, AVON STREET, AND VERNON PLACE
  - PER A REVIEW OF NATIONAL REGISTER OF HISTORIC PLACES ARCHIVES DATED 10/5/2015, NO LISTED PROPERTIES WERE FOUND TO BE DIRECTLY ADJACENT TO THE PROPOSED DEVELOPMENT. THE PROPOSED DEVELOPMENT IS PARTIALLY OR WHOLLY WITHIN A HISTORIC DISTRICT WITHIN THE CITY OF PORTLAND; PLEASE REFER TO RYAN SENATORE ARCHITECTURE DRAWINGS REGARDING ZONING AND APPROVALS.

- SUBDIVISION PLAT NOTES:**
- LOCUS PARCEL IS SHOWN ON THE CITY OF PORTLAND ASSESSOR'S MAP 46 BLOCK C LOTS 19 AND 20, LISTED AS 667 CONGRESS STREET.
  - AREA OF LOCUS PARCEL, INCLUDING EASEMENT, IS 26,127 SQUARE FEET (0.60 ACRE)
  - LOCUS PARCEL NOT FOUND TO BE LOCATED WITHIN A FEMA FLOOD ZONE.
  - ALL BUILDING CORNER OFFSETS TO BOUNDARY LINES ARE FROM CORNERBOARDS AND NOT BUILDING FOUNDATION, UNLESS OTHERWISE NOTED.
  - VEHICLE ACCESS SHALL BE MAINTAINED AT ALL TIMES BY ADEQUATE SNOW REMOVAL IN ACCORDANCE WITH THE PROJECT SNOW STORAGE PLAN.
  - THIS SHEET IS THE SUBDIVISION PLAT FOR THE CREATION OF UP TO 139 DWELLING UNITS IN A NEW MIXED-USE BUILDING TO BE CONSTRUCTED ON THE SUBJECT PROPERTY. APPROVAL OF THIS PLAT DOES NOT CREATE ANY SUBDIVISION OF THE LAND ON THE SUBJECT PROPERTY.
  - THE SIGNATURES OF THE CITY OF PORTLAND PLANNING BOARD ON THIS SUBDIVISION PLAT CONSTITUTE SUBDIVISION APPROVAL FOR THE CREATION OF 139 RESIDENTIAL UNITS. THE NON-RESIDENTIAL UNITS ARE NOT SUBJECT TO SUBDIVISION REGULATION.
  - MAINTENANCE AND MANAGEMENT OF DRIVEWAYS, SIDEWALKS, STORMWATER DEVICES, SITE LIGHTING, TRASH REMOVAL, PRIVATE UTILITIES, AND SNOW REMOVAL SHALL BE THE RESPONSIBILITY OF THE OWNER.
  - THE OWNER SHALL BE RESPONSIBLE FOR COMPLYING WITH THE CONDITIONS OF CHAPTER 32 STORMWATER INCLUDING ARTICLE III, POST-CONSTRUCTION STORMWATER MANAGEMENT, WHICH SPECIFIES ANNUAL INSPECTIONS AND REPORTING REQUIREMENTS AT A MINIMUM IN ADDITION, THE OWNER SHALL BE RESPONSIBLE FOR COMPLYING WITH THE CONDITIONS OF THE SUBMITTED STORMWATER MANAGEMENT PLAN AND THE APPROVED PLANS, AND MEET CITY STANDARDS AND STATE GUIDELINES.
  - STATE PLANE COORDINATES RETRIEVED FROM EXISTING CONDITIONS PLAN PROVIDED BY TITCOMB ASSOCIATES.

**WAIVERS & CONDITIONS OF APPROVAL:**  
[TBD]

- PLAN REFERENCES:**
- PLAN OF PROPERTY AT PORTLAND MADE FOR SAINT STEPHEN CHURCH BY H.I. & E.C. JORDAN CIVIL ENGINEERS DATED JUNE, 1947.
  - CONDOMINIUM PLAN MADE FOR MARYELLEN SULLIVAN BY NORTHEAST CIVIL SOLUTIONS DATED OCTOBER 20, 2006 RECORDED IN PLAN BOOK 207, PAGE 390.
  - CONDOMINIUM PLAT DEERING HEIGHTS CONDOMINIUMS MADE FOR 24 DEERING STREET, LLC BY OWEN HASKELL, INC. RECORDED IN PLAN BOOK 215, PAGE 49.
  - RIGHT OF WAY PLANS PROVIDED BY THE CITY OF PORTLAND PUBLIC SERVICES ENGINEERING DEPARTMENT.
  - CITY OF PORTLAND, MAINE DEPARTMENT OF PUBLIC WORKS VERNON PLACE SURFACE WATER DRAIN DATED NOVEMBER 21, 1951, FILE NUMBER 638/14.
  - CITY OF PORTLAND, MAINE DEPARTMENT OF PUBLIC WORKS VERNON PLACE NEW SEWER (PRIVATE) DATED MARCH 11, 1934, FILE NUMBER 409/56.
  - EXISTING CONDITIONS SURVEY MADE FOR REDFERN PROPERTIES BY TITCOMB ASSOCIATES DATED APRIL 6, 2015.



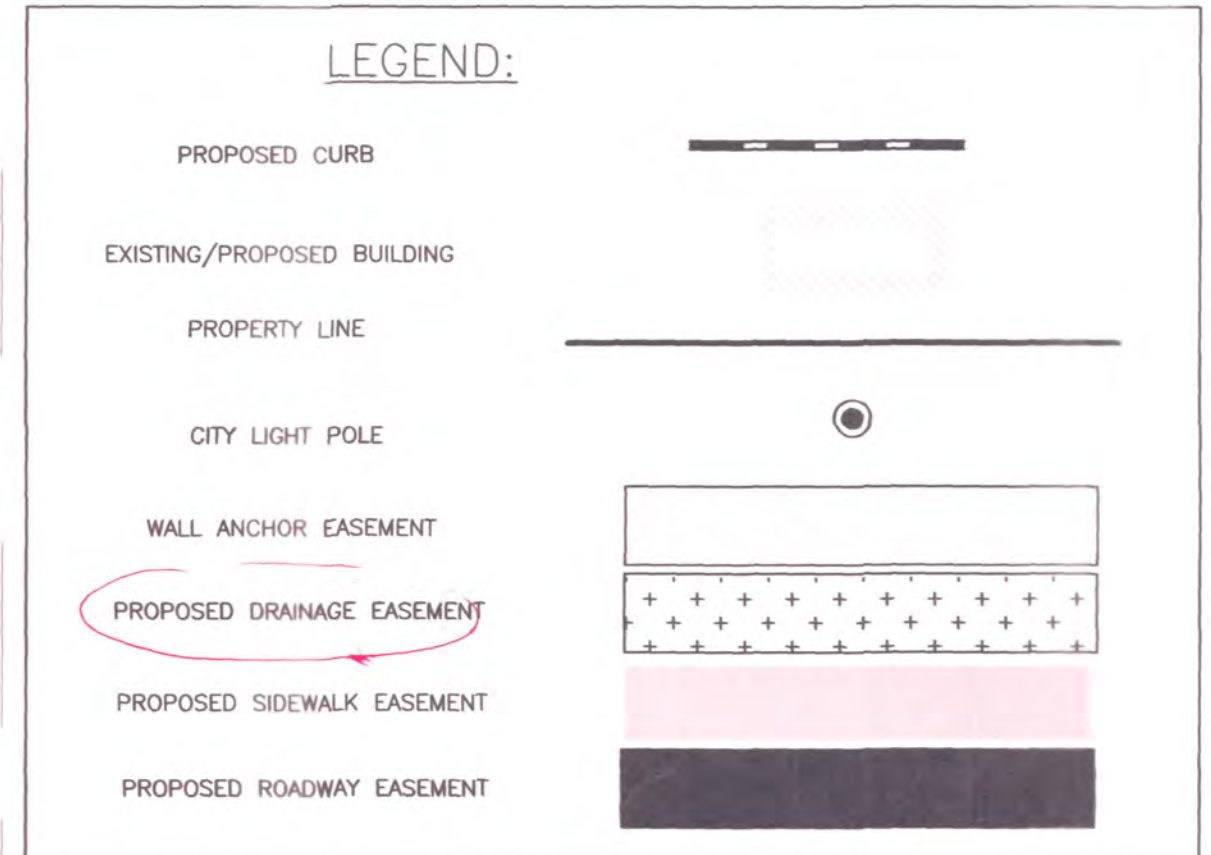
N: 299141.80  
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N: 299125.10  
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N: 298871.16  
E: 2926439.49

N: 298860.32  
E: 2926340.55

- SURVEYOR'S NOTES:**
- BOOK AND PAGE REFERENCES ARE TO THE CUMBERLAND COUNTY REGISTRY OF DEEDS.
  - BEARINGS ARE REFERENCED TO GRID NORTH, MAINE STATE PLANE COORDINATE SYSTEM, NAD83, WEST ZONE.
  - ELEVATIONS ARE BASED ON CITY OF PORTLAND DATUM.
  - UTILITY INFORMATION ON THIS PLAN IS APPROXIMATE, BASED ON LOCATION OF VISIBLE FEATURES AND INFORMATION CONTAINED ON PLANS AND DRAWINGS PROVIDED BY OTHERS. DIGSAFE AND/OR THE APPROPRIATE UTILITIES SHOULD BE CONTACTED PRIOR TO ANY CONSTRUCTION.
  - THE 10' SURFACE DRAIN SHOWN IS DESCRIBED IN AN ACCEPTANCE BY ORDER OF THE CITY COUNCIL PASSED NOVEMBER 5, 1951, CITY OF PORTLAND RECORDS, VOLUME 70, PAGE 508 AND DEPICTED ON PLAN REFERENCE 5 HEREIN. NO RECORDED DEED FOUND, PRESCRIPTIVE RIGHTS MAY EXIST.



- EASEMENTS:**
- THE FOLLOWING EXISTING EASEMENT SHALL BE DISCONTINUED WITH THE CONSTRUCTION OF THE PROJECT: OVERHEAD UTILITY EASEMENT CONVEYED BY JOSEPH L. DISCATO AND MARY J. DISCATO TO CENTRAL MAINE POWER COMPANY AND NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY RECORDED IN BOOK 3892, PAGE 160.
  - STORMWATER CONVEYANCE FROM VERNON PLACE TOWARDS AVON STREET HAS BEEN PROPOSED WITH THE DRAINAGE EASEMENT IN THE REAR OF THE PROJECT. PLEASE SEE EASEMENT RECORDED IN CCRD BOOK \_\_\_\_\_ PAGE \_\_\_\_\_.
  - PROPOSED EASEMENT SITE PLAN PROVIDES SIDEWALKS THAT ARE INCLUDED PARTIALLY IN THE CITY RIGHT-OF-WAY AND PARTIALLY WITHIN THE PROJECT PROPERTY. THESE LOCATIONS, SHOWN ON THE SUBDIVISION PLAT, ARE AN EASEMENT FOR PEDESTRIAN TRAVEL OVER PORTIONS OF THE SIDEWALK LOCATED ON THE SUBJECT PROPERTY TO BE RECORDED IN CCRD BOOK \_\_\_\_\_ PAGE \_\_\_\_\_.
  - PROPOSED SEMI-PERMANENT WALL ANCHOR EASEMENT: TO BE RECORDED IN CCRD BOOK \_\_\_\_\_ PAGE \_\_\_\_\_. WALL ANCHORS MAY BE REMOVED DURING FUTURE ROADWAY UTILITY WORK, ONCE 667 BASEMENT WALLS ARE COMPLETE, WALL ANCHORS ARE NO LONGER NECESSARY.
  - A PROPOSED EASEMENT FOR ROADWAY TRAVEL BETWEEN THE PROPERTY LINE AND THE BUILDING EDGE HAS BEEN LOCATED ON THE SUBJECT PROPERTY TO BE RECORDED IN CCRD BOOK \_\_\_\_\_ PAGE \_\_\_\_\_. PROPOSED AND EXISTING EASEMENTS AND LICENSES TO BE FINALIZED BY TITCOMB ASSOCIATES PRIOR TO RECORDING AT CCRD.

**RECORDING INFORMATION**  
STATE OF MAINE, CUMBERLAND COUNTY REGISTRY OF DEEDS

RECEIVED: \_\_\_\_\_  
RECORDED IN: \_\_\_\_\_  
ATTEST: \_\_\_\_\_ REGISTRAR

APPROVED: PORTLAND PLANNING BOARD

CHAIRPERSON: \_\_\_\_\_ DATE: \_\_\_\_\_

**OWNERS OF RECORD:**  
MSD PROPERTIES, LLC  
P.O. BOX 8816 PORTLAND, MAINE  
BOOK 30720, PAGE 250

**CERTIFICATION**  
This survey conforms to the current standards of practice set forth by the Maine State Board of Licensure for Land Surveyors.



REX J. CROTEAU, P.L.S. #2273

ISSUED FOR	BY
FINAL APPLICATION	WHS
DATE	9/15/15
REVISION	REV. DATE

**SUBDIVISION PLAT: FIRST FLOOR**  
**667 CONGRESS STREET REDEVELOPMENT**  
**REDFERN PROPERTIES, LLC.**  
P.O. BOX 8816 PORTLAND, MAINE, 04104

**ACORN ENGINEERING, INC.**  
158 DANFORTH STREET, PORTLAND MAINE 04102  
(207) 775-2655

FILE: 1060\_CONGRESS  
DATE: 9/15/15  
JN: 1060  
SCALE: 1"=10'  
DESIGNED BY: OJD  
DRAWN BY: OJD  
CHECKED BY: WHS



DRAWING NO.  
**SP-2**

SURVEY REVIEW 10/21/15





## PLANNING BOARD REPORT PORTLAND, MAINE

Longfellow Apartments  
667 Congress Street  
Subdivision and Level III Site Plan  
2015-093  
Redfern Properties, LLC, Applicant

Submitted to: Portland Planning Board Public Hearing Date: October 27 <sup>th</sup> , 2015	Prepared by: Shukria Wiar, Planner Date: October 23 <sup>rd</sup> , 2015
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### I. INTRODUCTION

On behalf of MSD Properties, LLC, Jonathan Cully of Redfern Properties has submitted a Level III site plan and subdivision application for the property at 667 Congress Street. Redfern Properties is working in partnership with MSD Properties, LLC and Joe's Super Variety to redevelop the property with an eight-story apartment building. The property is bordered by Congress Street, Avon Street, and Vernon Place within the Downtown Business Zone (B-3). The property was rezoned from B-3 and Residential R-6 zones to Downtown Business B-3 zone with accompanying height overlap map revisions. The City Council approved the zone change on June 15, 2015.

The proposed project will have a total of one hundred and thirty-nine (139) apartment units that will include thirty-four (34) efficiency units, ninety-seven (97) one-bedroom units, and eight (8) two-bedroom units. The proposed building will provide a total of eighty-one (81) parking spaces on the first two levels of the building; thirty-seven (37) of the spaces located in the basement level of the building and the remaining forty-four (44) spaces on the first floor of the building. Three of the 81 spaces will be reserved for Joe's Smoke Shop resulting in a total of 78 spaces reserved for tenants of the building. In addition, secured covered space in the garage is reserved for bicycle parking (for a total of 56 bicycles), a private share vehicle parking space for the use of the tenants, and three motorcycle parking spaces.

The property is approximately 25,740 square feet with 98 feet of frontage on Congress Street. The site also has frontages along Avon Street and Vernon Place. The property is within the Congress Street Historic District and abuts another historic district in the rear of the property, the Deering Street Historic District.

A notice of this public hearing was sent to 270 property owners within 500 feet and interested citizens, and appeared in the October 19<sup>th</sup> and October 20<sup>th</sup>, 2015, editions of the *Portland Press-Herald*. At the time of preparing this report the Planning Division had not received any written comments since the Planning Board workshop.

<b>Applicant Name</b>	Redfern Properties, LLC
<b>Consultants</b>	
<b>Agent Representative</b>	Jonathan Cully of Redfern Properties, LLC
<b>Engineer</b>	William Savage of Acorn Engineering
<b>Surveyor</b>	David Titcomb of Titcomb Associates
<b>Architect</b>	Ryan Senatore of Ryan Senatore Architecture

**REQUESTS FOR WAIVERS (staff evaluation within review under standards)**

Waiver Request	Applicable Standard
<p><i>Parking Lot and Parking Space Design – Technical Design Standard Section 1.14 to allow 18 feet for driveway width</i></p>	<p><i>Technical Design Standard Section 1.14. Parking Lot and Parking Space Design - Any parking lot with 10 or fewer spaces shall contain standard sized parking spaces. Parking lots with greater than 10 spaces may be comprised of up to 20% compact parking spaces.</i></p>
<p><i>Minimum Driveway Width (two-way) - Technical Design Standard Section 1.7.2.3 to allow the driveway access to a street be 18 feet instead of the required minimum width of 20 feet for two-way ingress and egress.</i></p>	<p><i>Technical Design Standard Section 1.7.2.3 Minimum Driveway Width (two-way)- Any site with driveway access to a street shall have a minimum width of 20 feet for two-way ingress and egress, with a preferred width of 24 feet.</i>                      City of Portland Technical Manual 5</p>
<p><i>Street tree Requirement – Sec. 14-526 2.b.iii. a</i>                      The street tree requirement is one tree per unit for a total of 136 trees ( x \$200= \$27, 200)</p>	<p><i>Sec. 14-526 2.b.iii (b) Waiver.</i> Where the applicant can demonstrate that site constraints prevent the planting of required street trees in the City right of way, the Reviewing Authority may permit the planting of street trees in the front yard, within ten feet of the property line. Existing preserved healthy trees that are six (6) inches or more in caliper and are on the site within ten (10) feet of the property line may be counted towards this requirement. If planting street trees is neither feasible in the City right of way nor within the site, the applicant shall contribute to the City of Portland Tree Fund an amount proportionate to the cost of required street trees.</p>
<p><i>Sidewalk and Curbing Waiver- S Sec. 25-96. Required for nonresidential, two-family or multi-family development; exceptions. Sidewalk waiver for Avon Street and sidewalk and curbing for Vernon Place.</i></p>	<p><i>Sec. 25-96. Required for nonresidential, two-family or multi-family development; exceptions.</i> Where a nonresidential, or two-family or multi-family development requiring site plan approval abuts any accepted street and a sidewalk with granite curbing satisfactory to the public works authority has not already been provided, a sidewalk constructed of bituminous concrete, portland cement concrete, brick or other paving material and granite curbing shall be provided along the entire street frontage of the lot. If either a sidewalk or curbing, but not both, shall exist at such location which is satisfactory to the public works authority, only a sidewalk or curbing, as the case may be, shall be provided. In either case, such sidewalk and curbing shall be constructed in accordance with the specifications and to the satisfaction of the public works authority at no cost to the city. In conjunction with major site plan review, the planning board, or with minor site plan review, the planning authority, may waive or modify the requirements contained herein upon a like finding and on the same terms and conditions as set forth in section 14-506(b) of this Code.</p>

**II. PROJECT DATA**

Existing Zoning	Downtown Business B3
Tax Map	CBL:
Existing Use	Retail; Surface parking
Proposed Use	Market-rate Apartments with Structured Parking



Parcel Size	25,740 SF
Number of Units to be Demolished	None
Number of Affordable Units	The proposed units will be market rate.
Proposed Bedroom Mix	34 efficiency units, 97 one-bedroom, 8 two-bedroom units
Building Footprint	23,968 SF
Building Floor Area	141,742 SF
Building Height	65' at all streets (street wall) and stepbacks to 85'
Impervious Surface Area	26,121 SF
Parking Spaces	81 spaces: 37 on basement level; 44 on first level
Bicycle Parking Spaces	56 spaces: 52 in garage and 4 along Congress Street
Estimated Cost of Project	\$20,000,000

**III. EXISTING CONDITIONS AND ZONING**

The north and north-west sides of the site about the Deering Street neighborhood, which is composed of single and multifamily homes within the Deering Street Historic District. The buildings to the east of this property are the Trelawney Building at 655 Congress Street and an apartment building at 645 Congress Street. Across the street is the George S. Hunt Block and Lafayette Building. All of these sites are within the Congress Street Historic District.

Currently, the site contains a two and half story building that houses Joe’s Variety Shop and a surface parking lot with sixty-three (63) parking spaces that generally are leased to abutting properties. Avon Street is a one way street that connects to Deering Street, whereas Vernon Place is a two-way, dead-end street. Both streets are public streets. There is one entry to the parking area via Vernon Street. There are three curb cut all of the curb cuts are blocked with guardrails.



*Figure 1- Existing Site from Congress Street*

The property is located within the Congress Street Historic District and abuts the Deering Street Historic District, and is generally characterized by medium- to large scale residential development of a historic nature. The properties directly across Congress Street are marked by residential multi-family development and commercial



*Figures 2 & 3: 1924 tax photos showing 665 Congress Street and 667 Congress Street.*

businesses. Joe’s Varsity Shop building is considered noncontributing to the Congress Street Historic District and therefore, can be demolished to make way for the redevelopment project.

Historic photographs of the subject parcels generally show residential and business development of the type characteristic of Congress Street today. A church, a lunch room, and general store occupied the proposed site at the time of the 1924 tax records. The St. Stephen’s Church was razed in 1965 and the property has been used as a surface parking since then.

**IV. PROPOSED DEVELOPMENT**

The applicant is proposing to construct an eight- story multifamily apartment building with two levels of parking underneath. Joe’s Varsity Shop will be occupying the front portion of the first floor along Congress Street. The basement and first level will house the parking spaces (37 on the basement level and 44 on first level for a total 81) for the building uses. The upper floors are proposed as rental apartments. Access to the site will be via two entrances: one off of Avon Street for the basement level and one off of Vernon Place for the first level.

The parcel currently contains a surface parking lot with spaces within 35’ of adjacent streets. Surface parking, whether existing or proposed, may not be located within 35’ of the street, which in this case includes Vernon and Avon.

These spaces, as proposed, are considered structured parking, in which case they are allowed.



*Figure 4: Aerial of the Proposed Site*



*Figure 5: Rendering of the Proposed Building, Congress Street*

In terms of design and building form, the site is located within the Congress Street Historic District. Thus, the project is subject for review under the Historic Preservation Ordinance and is exempt from the B-3 Design Guidelines.

The Historic Preservation Board held a workshop and a public hearing on this project and the development was granted a certificate of appropriateness from



the Board on September 2, 2015.

## V. PUBLIC COMMENT

As of the writing of this report, no public comments have been submitted.

A Neighborhood Meeting is required for this project and the applicant has confirmed that the neighborhood meeting was held on August 26, 2015, see Attachment 13.

## VI. RIGHT, TITLE AND INTEREST AND FINANCIAL/TECHNICAL CAPACITY

a. The owner of the property is MSD Properties, LLC. The applicant has provided a copy of a deed of sale personal representative, recorded at the Cumberland County Registry of Deeds (Book 32458 Page 30720), which demonstrates their right, title and interest in the property.

b. The estimated cost of the development is \$20,000,000. The applicant has submitted a letter from NBT Bank, dated August 27, 2015, as demonstration of their financial and technical capacity to complete the proposed development.

## VII. DEVELOPMENT REVIEW

### A. SITE PLAN SUBMISSION REQUIREMENTS (Section 14-527) and SUBDIVISION PLAT AND RECORDING PLAT REQUIREMENTS (Section 14-496)

The applicant has not submitted a recording plat. The final plat was reviewed by Bill Clark, City Surveyor, below are his comments:

1. Minor drafting suggestions for legibility.
2. Granite Monuments OK to set at sideline corners at Congress Street as we will be able to access them.
3. Drainage easements. Need to define who will own and be responsible for them.
4. The existing 10 foot wide Storm Drain Easement from Vernon Place to Avon Street will need to be discontinued by City Council as we will not be responsible for a storm drain or sewer which runs under a building.
5. Need to add note to subdivision plan that the City will not be responsible for the catch basin in Vernon Place and the storm drain which runs under the building.

The plat shall reflect any easements that relate to the subdivision plan.

### B. SUBDIVISION (Section 14-497)

The proposed development has been reviewed by staff for conformance with the relevant review standards of Portland's Subdivision Ordinance and applicable regulations. Staff comments are listed below.

1. Will Not Result in Undue Water and Air Pollution (Section 14-497 (a) 1), and Will Not Result in Undue Soil Erosion (Section 14-497 (a) 4)  
David Senus, P.E. with Woodard and Curran Engineering, has reviewed the erosion and sediment control plan and is satisfied with the proposed plans.
2. Sufficient Water Available (Section 14-497 (a) 2 and 3)  
The project will be served by the utility services located in Congress Street. Separate services are proposed for the commercial property and the residential units. Confirmation of ability to serve letter from PWD and DPS has been submitted.
3. Will Not Cause Unreasonable Traffic Congestion (Section 14-497 (a) 5)  
Tom Errico, P.E. Ty Lin reviewed the proposal's details including the access, parking, and vehicle circulation (Attachment 1). Mr. Errico finds the project to be acceptable. The proposed project is not

anticipated to cause unreasonable traffic congestion.

4. Will Provide for Adequate Sanitary Sewer and Stormwater Disposal (Section 14-497 (a) 6), and Will Not Cause an Unreasonable Burden on Municipal Solid Waste and Sewage (Section 14-497 (a) 7)

The development is anticipated to have 23,810 gallons per day of wastewater flow and DPS has confirmed that there is sufficient sewer capacity to serve the project.

5. Scenic Beauty, Natural, Historic, Habitat and other Resources (Section 14-497 (a) 8)

The proposal site is within an historic district and has received a certificate of appropriateness for the proposed building from the Historic Preservation Board. It is in an urban neighborhood surrounded by a variety of residential building types. The proposed building does not impact the natural beauty of the area or adversely affect any significant wildlife habitat, rare or irreplaceable natural areas, or any public access to the shoreline. The staff finds the proposal in conformance with this standard.

6. Comprehensive Plan (Section 14-497 (a) 9)

The applicant has submitted their analysis of the projects conformance with the Comprehensive Plan (refer to Attachment C). The staff has identified the following goals and policies which are relevant to the proposed housing development and finds the proposal in conformance with the Comprehensive Plan:

**Portland Housing Goal: Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of all Portland households, now and in the future.**

Policies

- Ensure the construction of a diverse mix of housing types that offers a continuum of options across all income levels, which are both renter and owner-occupied, including but not limited to the following:
  - ii. Housing units for decreasing household size, such as young professionals, empty nesters, single-parent households, and senior citizens.
- Encourage higher density housing for both rental and home ownership opportunities, particularly located near services, such as schools, businesses, institutions, employers, and public transportation.
- Increase Portland’s rental housing stock to maintain a reasonable balance between supply and demand yielding consumer choice, affordable rents, and reasonable return to landlords.
- Identify vacant land and redevelopment opportunities throughout the City to facilitate the construction of new housing.

**Portland Housing Goal: Maintain and enhance the livability of Portland’s neighborhoods as the City grows and evolves through careful land use regulations, design and public participation that respect neighborhood integrity.**

Policies

- Encourage innovative new housing development, which is designed to be compatible with the scale, character, and traditional development patterns of each individual residential neighborhood.
- Encourage new housing development in proximity to neighborhood assets such as open space, schools, community services and public transportation.
- Ensure the integrity and economic value of Portland’s neighborhoods.

7. Financial Capability (Section 14-497 (a) 10)

The estimated cost of the development is \$20,000,000. The applicant has submitted a letter from NBT Bank, dated August 27, 2015, as demonstration of their financial and technical capacity to complete the proposed development.

8. Easements

The applicant will provide the city with a pedestrian easement for those areas of the sidewalk that are within the development property bounds, as well as drainage and roadway easements. The construction of the building is proposed to use wall anchors to secure the basement walls during construction. The applicant will need a license for the wall anchors.

The utilities' easements for the neighborhood would also need to be on the subdivision plat.

**C. SITE PLAN STANDARDS** (Section 14-526)

The proposed development has been reviewed by staff for conformance with the relevant review standards of Portland's site plan ordinance and applicable regulations. Staff comments are listed below.

*1. Transportation Standards*

a. Impact on Surrounding Street Systems and Access and Circulation- see Subdivision, Paragraph VIII (B) (3), above.

b. Construction Management Plan

A construction management plan has been submitted by the applicant and the review by the Department of Public Services is pending. Any recommendations will be forwarded to the applicant.

c. Sidewalks

The sidewalk and ADA ramps along Congress Street will be rebuilt and replaced. As for the Avon Street, the applicant is not proposing to install a sidewalk along their frontage and thus, increase the width of the street from fourteen (14) feet to sixteen (16) feet to meet the Fire Department standard for access. On Vernon Place, the existing street does not include a sidewalk adjacent to the project. The applicant is proposing a shared vehicle and pedestrian space for Vernon Place. The shared space will be delineated by a stamped and flash pavement walkway from the main building entrance to on the Vernon Street first level garage entrance.

The City staff had recommended that Avon Street should be a shared street, similar to Foundry Lane. The revised site plan does not show this recommendation and the applicant is concerned with redesigning Avon Street along the Trelawney Building. The City staff has reviewed the plans and strongly recommends that there be a sidewalk on Avon Street. Avon Street does have a four foot existing concrete sidewalk on the opposite side that is in poor condition. There are overhead utilities and associated poles. According to the applicant, the utility poles will be removed, but confirmation of this is needed as there are three poles existing poles shown on the plans. . The City staff recommends that all the utility poles be removed, including the one closest to the Congress and Avon Streets intersection.



The applicant have submitted a waiver request for sidewalk and curbing for both Avon Street and Vernon Place. City staff would recommend the waiver for Avon Street with the assumption that an alternative safe route is provided for the pedestrians. Tom Errico, Consultant Traffic Engineer, has reviewed the revised site plans and offers the following recommendations in regard to the sidewalks and curbing on both the side streets:

*The width of the sidewalk along Avon Street abutting the property is noted as between 3 and 5 feet wide. I need to review specific details regarding this sidewalk to ensure appropriate accessibility is provided.*

***Status:** Given the narrow width of the street and sidewalk, I recommend that a fully shared street be considered (curbs to be removed or relocated to buildings on both sides of the street with special surface pavement treatment). This would allow for improved or desired emergency access, easier maintenance, and would allow for a multi-modal street that would provide for all users in a safe and calmed environment.*

***Final Status:** Per City Ordinance the applicant is required to either provide a sidewalk along their property frontage along Avon Street or formally request a waiver from constructing a sidewalk following specific waiver criteria. Given the unique characteristics of Avon Street, and site limitations, I support a waiver for a sidewalk along their property frontage, with the assumption that an acceptable alternative route is provided on the opposite side of the street. Accordingly, the applicant shall be responsible for providing a fully ADA compliant sidewalk facility that meets City of Portland material policy requirements. The final design of Avon Street requires final approval by DPS as it relates to maintenance activities and I would suggest that a cross-section illustration be provided before final approval is granted.*

*The crosswalk on Avon Street should be eliminated.*

***Final Status:** The plans shall be [revised to] remove the raised crosswalk. With the introduction of a tall building and the “cannon” effect it will have on motorists, traffic calming devices are not required. I would further note that pedestrians will have a fully ADA compliant sidewalk for use and thus will be separated from vehicles.*

*The plans note that the sidewalk on Vernon Place will not have curbing. I will review this with DPS staff.*

*Status: I continue to review design treatments for Vernon Place given its unique function. As noted below, the applicant shall complete the formal waiver process for curb and sidewalk. The City needs to be comfortable with the design and function of Vernon Place with the added project traffic (traffic volumes will increase substantially from current conditions). Specifically accommodating pedestrians safely, vehicle movements, DPS maintenance equipment and their ability to turn around safely, landscaping, drainage, and access/egress movements into and out of the garage and the driveways on the west side of the street.*

***Final Status: The final design of Vernon Place is unique and requires final approval by DPS as it relates to maintenance activities. While the applicant did not submit formal waiver information, it is my professional opinion that the general cross-section design is acceptable, pending DPS review. I would suggest that a cross-section illustration be provided before final approval is granted.***

*The applicant shall formally request a waiver for a sidewalk along Vernon Place.*

*Status: The City has a defined Waiver criteria process that the applicant should comply with.*

***Final Status: See prior comment.***

The following are Mr. Errico’s recommendations for the ADA ramps:

*The alignment of the sidewalk ramps on Congress Street will need to direct pedestrians to the appropriate path of travel from an ADA perspective. Adjustments will need to be incorporated.*

*Status: The ramp at corner of the Avon Street is unacceptable and alignment for walking parallel to Congress Street shall be provided. I would also note that the ramp at Vernon Place may need to change following the final configuration of the street.*

***Final Status: I have reviewed the plans and generally find them to be acceptable. Specific cross-slope and grade details will be required as part of final construction.***

*The applicant is requesting a waiver for driveway width. 18 feet is being proposed. My initial review indicates I would be supportive of a waiver given the characteristics of Vernon Place and Avon Street.*

***Status: I have no further comment.***

David Margolis-Pineo, Deputy City Engineer, reviewed the revised plans for Avon Street and offers the following recommendation:

*Due to poor condition the applicant is requested to reconstruct the sidewalk on the East side of Avon St using the current required brick sidewalk material. To allow greater access for emergency vehicles, granite curbing with a two inch reveal is proposed. This Department does not support the applicant’s request for a waiver. [To clarify DPS position (10.23.15), the department supports the waiver of a sidewalk alongside the proposed building subject to a condition that the Avon Street sidewalk on the opposite site of the street be reconstructed.]*

*Public Service Operations staff have concerns of building damage on Avon St during snow plowing. Therefore the applicant is requested to install vertical granite curbing along the*

*property line with a seven inch reveal. It is also understood that there will be no projections from the building face into the Avon St right of way from the applicant's building.*

d. Public Transit Access

The site is on METRO lines Route 1- Congress Street, Route 8- Peninsular Loop, and Routes 9A/9B- Crosstown Loop. The applicant will need to coordinate with METRO to determine if bus shelters or other bus stop amenities will be required.

e. Parking

It is understood that the applicant is using the site at present for parking for tenants from other properties and are on a monthly rental.

The proposed building design provides a total of 81 parking spaces; three of these spaces are reserved for Joe's Smoke Shop resulting in a total of 78 spaces reserved for tenants of the building. In addition, secured covered space is reserved for bicycle parking (total space for 52 bicycles), four exterior bicycle parking spaces along Congress Street, a private auto share service, and three motorcycle parking spaces.

Section 14-332.1 (k) – For residential development on the peninsula, including new construction, the parking requirement is one space per dwelling unit. This same section also states that:

*The planning board may establish a parking requirement that is less than the normally required number of spaces upon a finding of unique conditions that result in a lesser parking demand, such as housing for persons who cannot drive, housing that participates in a travel demand management program, availability of transit, or housing which includes permanent restrictions on automobile usage, and which is permanently restricted from utilizing resident on-street parking stickers.*

The applicant is proposing to provide a ride share car, per Zoning Ordinance (Section 14-332.1 (k) 2), which allows the parking spaces to be reduced by eight spaces. The applicant is proposing to locate the car-share space on-site. The City staff finds this acceptable.

The proposed development is for 139 residential units with 81 parking spaces, of which three are for Joe's Variety Store, as part of this project. Following is the breakdown of the parking that is required by zoning versus the reduced ratio that the applicant is requesting:

	1:1 Ratio (As required by Zoning)	.58 :1 Ratio (As requested by Applicant)
Parking spaces as required per zoning (minus the first three proposed units)	139	139 x .58 = 81
U-car share	8	8
<b>Total of Spaces Required</b>	<b>131</b>	<b>73</b>

The applicant is actually proposing a ratio of .56 because three of the proposed parking spaces are to be used by the variety store (78/139 spaces).

	.56:1 Ratio (Actual reduced ratio)
Parking spaces as required per zoning (minus the first three proposed units)	136 (139 minus the 3 for store) x .56 = 76
U-car share	8
<b>Total of Spaces Required</b>	<b>68</b>



The request for a reduced ratio is based on the data collected on projects on Portland’s Peninsula. It should be noted that the data is from either affordable housing or mixed affordable and market rate housing. This development is only market rate housing.

Tom Errico, Consultant Traffic Engineer, has reviewed the revised site plans and offers the following recommendations:

*I have reviewed the traffic impact study prepared by Traffic Solutions and while I continue to review details, I generally find the conclusions to be acceptable. Status: I concur with the conclusions of the Traffic Impact Study that the project will not have a significant impact on traffic operations and safety in the vicinity of the project. I have no further comment.*

**Final Status: I have no further comment.**

*The applicant has noted that an on-going parking study of similar developments is proceeding and the results of the parking study will be provided in the future. Status: The applicant has conducted a parking evaluation and is suggesting use of a parking generation rate of 0.58 parking spaces per residential unit. In my professional opinion the type of residential apartment (market rate versus low income or other) will influence parking demand of a project. The highest parking generation rate recorded was for the Island View Apartments (a market rate complex), where 0.70 parking spaces per unit were recorded. It is my suggestion that the applicant provide a parking analysis that is solely based on market rate apartments.*

**Final Status: Requested information pending.**

If the Board finds the proposed parking spaces does not meet parking requirement, the Board can request the applicant to pay fee- in-lieu. Section 14-345, Peninsula fee-in-lieu of Parking, states:

Any major or minor development subject to site plan review located in a non-residential zone on the Portland Peninsula shall either provide the required parking or pay a fee according to the provisions of (a) and (b) below.

(a) Provide the number of off-street parking spaces according to the provisions of section 14-332 (uses requiring off-street parking) and section 14-334 (offsite parking) of this division; or,

(b) Pay a fee-in-lieu of parking of not less than \$5,000.00 as adjusted annually per (c) below, per space not provided. Fees shall be deposited into the Sustainable Transportation Fund, as established in Section 14-346 of this division.

f. Bicycle Parking

The proposals include fifty-six (56) bicycle parking spaces in the garage of the building (52) and along Congress Street façade (4).

2. Environmental Quality Standards

a. Preservation of Significant Natural Features

There are no known significant natural features on the site.

b. Landscaping and Landscape Preservation

The site is being built out to the edge of the property; therefore there is little room for landscaping. The applicant is proposing a vegetated/ green screen walls on the side of the proposed building along the lower portion of Vernon Place and at the rear of the property. As part of the Site Plan standards, there are sections that address landscaping on site. Section Sec. 14-526(b) (2)(b)(i) states:

(b) *Understory Plantings*. All development subject to required zoning setbacks shall include a minimum of six (6) shrubs per forty five (45) linear feet of all frontages as measured along the property line. A shrub shall be defined as one shrub, one ornamental grass, and/or 3 perennials. Required shrubs may be installed anywhere on the site, including a green roof, if proposed, and may be planted in any arrangement. Existing vegetation to be preserved on the site may be counted towards this requirement as detailed in Section 4 of the Technical Manual.

(d) *Buffer from Surrounding Development*. All residential development shall provide and/or preserve evergreen vegetated buffers where necessary to buffer the development from detrimental impacts of existing surrounding development.

Since the applicant is proposing vegetated/ green walls where is feasible, the applicant has fulfilled the landscaping buffer requirement.

Jeff Traling, City Arborist, has reviewed the landscaping plan and would like to see green walls on Avon Street as well. Below is Mr. Tarling's completer recommendations:

*The proposed 667 Congress Street project as designed with a 99.9% build-out of space between Vernon Place and Avon Street presents a minimal amount of available landscape space. The project does feature three 'street-trees' with granite planters along Congress Street which is our standard approach along the frontage. Due to narrow width of Vernon Place and Avon Street the project does propose 'Green Wall' treatment along Vernon Place and no treatment options along Avon due to restricted space. Green wall is also proposed for the Deering Street facing rear facade as well.*

*Due to the important function of the green wall in this project site recommendation / condition would include a closer look to create a more robust planting of green wall plants perhaps using four plants per section density vs. two, and a review of 'best plant' options to cover the wall.*

*The large expanse of blank wall along Avon Street would benefit from a green wall treatment if at all possible. In conducting brief research it appears possible to have some types of this system with minimal 'ground' space. Recommendation would be to take a second look at possible options. Green wall use and successful green wall experiences in Portland is relatively new. They have potential if properly constructed and maintained to provide landscape buffer in a narrow, vertical space.*

*Concerns include protecting plant root system from winter deicing salts which might be improved by placing plants in raised planters in the same fashion as the raised granite tree planters.*

The applicant is also proposing three street trees on Congress Street, in front of the building. The City standards requires one street tree per unit, therefore with 139 units, a total of 139 street trees are required. Due to site restrictions, the remaining streets cannot be planted on the site. The applicant has asked for a waiver of this standard. The site plan standard for granting a waiver of the street tree requirement is presented below and it requires a financial contribution. The designated contribution is \$200 per tree to the City’s Tree Fund for the remaining trees, which in this case would for 136 trees and would be a total of \$27,200.00. See below for the specific language in Section 14-526 (b)(2) (b)(iii)b- Waiver-

Where the applicant can demonstrate that site constraints prevent the planting of required street trees in the City right of way, the Reviewing Authority may permit the planting of street trees in the front yard, within ten feet of the property line. Existing preserved healthy trees that are six (6) inches or more in caliper and are on the site within ten (10) feet of the property line may be counted towards this requirement. If planting street trees is neither feasible in the City right of way nor within the site, the applicant shall contribute to the City of Portland Tree Fund an amount proportionate to the cost of required street trees.

The applicant is requesting that the full contribution be waived, as the applicant is proposing to install granite planters for the Congress Street trees, and install a green wall along Vernon Place and along the rear of the building for a cost of \$96,000.00. Jeff Tarling has recommended that a green wall be installed along Avon Street as well, which the applicant had proposed and then was removed in order to widen Avon Street to a minimum width of 16 feet of pavement for emergency access. The applicant’s request and cost estimate is included in Attachment 25. The street tree waiver does not provide criteria for a complete waiver of the tree contribution, but the Board may consider this request or a partial reduction under the general waiver criteria excerpted below:

(f) *General Waiver*

1. Except for the requirements set forth in Section 14-526 (a)-(d) for which individual waiver criteria are provided, the Reviewing Authority if it finds that extraordinary conditions exist or that undue hardship may result from strict compliance with these regulations may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of the land development plan and the regulations of this article.

Mr. Tarling reviewed the applicant’s request and he states that “*Contribution to the Portland Tree Fund’ is recommended*”.

c. Water Quality, Storm Water Management and Erosion Control

There is currently a separation of the combined sewer and stormwater within Avon Street and close proximately to the site. The City of Portland has hired a contractor to perform a sewer

separation and roadway reconstruction project on Deering Street; the work is beginning at this time. As part of this work, a new, separated storm drain and sewer system will be installed in Avon Street, up to the location of the proposed storm drain connections for this project. According to the City's Consultant Engineer, David Senus, the proposed project "appears that the design is well coordinated with those plans; we encourage the Applicant and their engineering and construction team to work closely with the City DPS Office and their Contractor during the construction phase to ensure that the timing of this work and the associated pipe connections can be properly coordinated with the Deering Street work which will occur over the coming months".

The existing site area is a single paved and gravel parking area with an existing building. The current surface runoff from the site flows into two subcatchments ending in the existing catch basins located in the Northeast and Northwest corners of the property. The majority of runoff, about 96%, flows from the existing building, parking lot, to the newly proposed catchbasin and separated storm drain piping on Avon Street. The remaining runoff, about 4%, consists of flow from the west border along an overgrown gravel area to the catch basin at the end of Vernon Place.

The new development will have all stormwater flow, including snowmelt, from the first floor parking directed to the basement floor and then connected to the existing municipal system. The majority of the first floor parking will be covered by the proposed building while the perimeter parking will be open (no roof).

In accordance with Section 5 of the City of Portland Technical Manual, a Level III development project is required to submit a stormwater management plan pursuant to the regulations of MaineDEP Chapter 500 Stormwater Management Rules, including conformance with the Basic, General, and Flooding Standards.

Since the project will not result in an increase in impervious area and therefore will not need to meet the General or Flooding Standards. As such, the project is not required to include any specific stormwater management features for stormwater quality control or to control the rate or quantity of stormwater runoff from the site.

David Senus of Woodard and Curran has reviewed the preliminary project and had the following comments:

- *Sheet C30: A roof drain appears to connect into the floor drain system at a proposed cleanout. All roof drains should be connected into the separated storm drain system.*
- *The Applicant has noted that the 8" vitrified clay sanitary sewer in Vernon Place that crosses the project property is inactive, and they propose to demolish this sewer or infill the sewer with flowable fill. Prior to infilling or demolishing the sewer, the Applicant should plug the invert out in the downstream manhole in Vernon Place with a water-tight plug, and monitor the manhole to determine if any flow is evident over the course of several days (including at least one rainfall event). The Applicant shall coordinate their monitoring of this system with DPS (David Margolis-Pineo and John Emerson). Abandonment of the sewer shall include demolishing the manholes in Vernon Place to at least 3' below grade, filling in any remaining open space with 3/4" crushed stone, and repairing the pavement section with City Standard compacted gravels and pavement lifts.*
- *The proposed curb line abutting an existing curb inlet catch basin at the corner of Congress Street and Vernon Place is proposed to be realigned, with a tip-down proposed at the location of the existing catch basin. This catch basin and associated lateral should*

*be demolished and replaced, with a new catch basin located along the curb line east of the existing location.*

All previous review comments contained in memorandums from Woodard & Curran dated August 20<sup>th</sup> and September 18<sup>th</sup> have been adequately addressed.

Mr. Margolis- Pineo, Deputy City Engineer, has the following comments to offer:

- *There is one catchbasin which collects drainage on Vernon Place. The discharge from this City owned and maintained structure discharge through a pipe across the applicant’s property in a 10’ wide drainage easement. The building proposed by the applicant does not allow the City to maintain this utility. Therefore the applicant is requested to assume maintenance responsibilities for this drainage pipe and the City will relinquish the 10’ wide drainage easement.*
- *Sewer evaluation: City crews have inspected a reach of sewer on Avon Street down stream of where the applicant wishes to connect their sanitary lateral. That sewer evaluation has not been received. We would like to request that if that reach of sewer is in need of replacement, the applicant be responsible to do so.*
- *There is concern that the existing sanitary sewer on Vernon Place, scheduled to be abandoned by the applicant, may still be active. The applicant is request to verify to the City’s wastewater group satisfaction that is line is in fact 100% abandoned.*

3. *Public Infrastructure and Community Safety Standards*

a. Consistency with Master Plans

See Subdivision, Paragraph VIII (B)6 above.

b. Public Safety and Fire Prevention

The Crime Prevention through Environmental Design (CPTED) standards in the site plan ordinance address the principles of natural surveillance, access control and territorial reinforcement so that the design of developments enhance the security of public and private spaces and reduce the potential for crime. The main entry to the building is from Congress Street.

A lighting and photometric plan has been submitted on September 15, 2015. Since two cobra heads street lighting is proposed to be removed on Avon Street, the Board had concerns about lack of lighting on this street. In a meeting held on September 28<sup>th</sup>, 2015, the applicant indicated that they will increase the wall mounted fixtures on their building to help light the street. Revised lighting and photometric plans has not been submitted to reflect this change. The applicant will have to submit revised plans for review and approval by staff. Since the project is a historic district, the lighting fixtures were reviewed and approved by the Historic Preservation Board.

David Margolis-Pineo also is concerned with the street lighting and offers the comment below:

*Street lighting on Avon St: Since Avon Street will become a 20’ wide right of way with two – eight story building on each side, and it is proposed to remove two light poles with cobra head lighting, the applicant is requested submit a lighting detail and lamination report on light levels for the length of the applicant’s property.*

c. Availability and Adequate Capacity of Public Utilities

*Water/ Sanitary Sewer/ Natural Gas:*

The proposed project is anticipated to add a net water usage from the development of approximately 24,000 gallons per day (GPD). Separate services are proposed for the commercial property and the residential units. For the residential units, the developer has proposed a new 8-inch fire line service for the development that would tie into the existing water main in Congress Street with a redundant connection within Avon Street, as well as a four-inch domestic service in Congress Street. The developer is also proposing an individual one-inch service for the commercial property.

The development is anticipated to have 23,810 GPD of wastewater flow and Department of Public Services have submitted the ability to serve letter. Separate services are proposed for the commercial property and the residential units. For the residential units, the developer has proposed a new 8-inch sewer service for the development that would tie into the existing sewer within Avon Street. The developer is also proposing an individual six-inch service for the commercial property, including a 4-inch service for kitchen waste leading from an internal grease interceptor.

The developer plans to serve the proposed building with a gas service; the new service be established from the existing underground line within Vernon Place, and into the mechanical closet for the development.

*Electricity/ Telephone/ Cable TV:*

There are currently overhead wires crossing the proposed site that are anticipated to be removed as part of this project. The new service for electrical will be from the existing line within Congress Street, and into the existing CMP manhole within the Vernon Place corridor. Electric services currently existing within Vernon Place are anticipated to be redirected from the existing CMP manhole within the Vernon Place corridor, onto the utility poles adjacent to the project, and then reconnecting to each existing Vernon Place service.

As for the telephone and cable (communication), the new service will be from the existing services overhead within Vernon Place. All utilities lines shall be underground to the site.

*Waste Management:*

All residential development of will provide for the temporary storage and removal of all trash and recyclable materials. All storage of trash and recyclables containers are fully enclosed within the first floor of the development, and screened from the public view.

4. *Site Design Standards*

a. Snow and Ice Loading

The applicant is proposing on-site snow storage; the area for storage is to the east of the parking lot (Attachment 11).

b. View Corridors

This site is not within a Protected View Corridor as per the “View Corridor Protection Plan” approved by the Portland City Council in 2001.

c. Historic Resources

The site is within the Congress Street Historic District and has been reviewed and approved by Historic Preservation Board on September 2, 2015.

d. Exterior Lighting

Refer to Paragraph VII (C)3(b) above.

e. Noise and Vibration

All heating, ventilation and air conditioning equipment (HVAC), air handling units (AHU), emergency generators, and similar equipment will have to be shown on the plans and meet state and federal emissions requirements. These mechanical equipment should be located to the interior of the site, away from abutting residential properties and be screened from view from any public street and from adjacent sites by structure walls, evergreen landscaping, fencing, masonry wall or a combination thereof. This information will have to be submitted for review as part of the building permit.

f. Signage and Wayfinding

This standard does not apply to the proposal.

g. Zoning Related Design Standards

Since the property is located in the Congress Street Historic District, the Historic Preservation Board reviewed the design of the building. The Board has had one workshop and a public hearing on the item on September 2<sup>nd</sup>, 2015. The project was approved the Board.

**VIII. STAFF RECOMMENDATION**

Subject to the proposed motions and conditions of approval listed below, Planning Division staff recommends that the Planning Board approve the proposed development.

**IX. PROPOSED MOTIONS**

**WAIVERS**

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations, contained in the Planning Board Report for the proposed subdivision and site plan (application 2015-093), including but not limited to the report and the staff reviews relevant to Portland’s Technical and Design Standards and other regulations, as well as the Planning Board deliberations and the testimony presented at the Planning Board hearing.

1. The Planning Board (**waives/does not waive**) Technical Design Standard Section 1.14 *Parking Lot and Parking Space Design* to allow 26 compact parking spaces, exceeding the required 20% compact spaces allowed.
2. The Planning Board (**waives/does not waive**) Technical Design Standard Section 1.7.2.3 *Minimum Driveway Width (two-way)* to allow the driveway access to Avon Street to be 18 feet instead of the required minimum width of 20 feet for two-way ingress and egress.
3. The Planning Board (**finds/does not find**) that the applicant has demonstrated that site constraints prevent the planting of required street trees along Congress and Avon Streets and Vernon Place, thus the Planning Board (**waives/does not waive**) Section 14-526 (b) (2) (b) (iii) *Street Trees* [to allow for a contribution of \$27,200 to the City’s Street Tree Fund to be substituted for the provision of on-site street trees] OR [to waive a portion or all of the street tree contribution under the General Waiver criteria due to the applicant’s improvements for granite tree wells and installation of green walls.]
4. Sidewalk Waiver for Avon Street:  
 The Planning Board [**waives / does not waive**] with regard to Avon Street as specified in Zoning Ordinance, Section 14-498 (b) (8) (a and b), which requires that sidewalks and curbing shall be constructed on each side of each street in accordance with article III of chapter 25 and curbs shall be constructed on each side of each street, to allow no sidewalk on the side of the proposed building, subject to the condition that the applicant shall be responsible for providing a fully ADA compliant sidewalk on the opposite side of Avon Street

meeting the City of Portland's material policy requirements. The final design of Avon Street shall require a final approval by the Department of Public Services as it relates to maintenance activities. The curbing shall be constructed as provided in article VI of chapter 25.

5. Sidewalk and Cubing for Vernon Place:

The Planning Board [**waives / does not waive**] with regard to Vernon Place as specified in Zoning Ordinance, Section 14-498 (b) (8) (a and b), which requires that sidewalks and curbing shall be constructed on each side of each street in accordance with article III of chapter 25 and curbs shall be constructed on each side of each street, to allow sidewalk and curbing to the garage opening on Vernon Place and no sidewalk beyond that point. The curbing shall be constructed as provided in article VI of chapter 25.

**Subdivision Plat**

On the basis of the application, plans, reports, and other information submitted by the applicant, findings and recommendations contained in Planning Board Report for application 2015-093 relevant to the Subdivision Ordinance, and other regulations, as well as the Planning Board deliberations and the testimony presented at the Planning Board hearings, the Planning Board finds the following:

That the plan (**is/is not**) in conformance with the subdivision standards of the land use code, subject to the following conditions:

1. The final boundary survey, subdivision plat, and site plans shall be stamped by a registered professional land surveyor and registered engineer;
2. The Subdivision Plat shall be finalized to the satisfaction of the Planning Authority, Department of Public Services and Corporation Counsel;
3. That the following shall be finalized to the satisfaction of the Corporation Counsel prior to the issuance of a Certificate of Occupancy:
  - a. Sidewalk Easement
  - b. Drainage Easement
  - c. Roadway Easement
  - d. Building Wall Anchor Irrevocable License
  - e. Stormwater management agreement
4. The recording plat shall be revised noting all waivers and conditions for review and approval by the Planning Authority prior to recording. All waivers shall be recorded within 90 days of the Planning Board approval.
5. The City Surveyor comments dated 10.21.2015, as stated below and marked up on the plat, shall be addressed prior to the issuance of a building permit:
  - a. Drainage easements. Need to define who will own and be responsible for them.
  - b. The existing 10 foot wide Storm Drain Easement from Vernon Place to Avon Street will need to be discontinued by City Council as the City will not be responsible for a storm drain or sewer which runs under a building.
  - c. Need to add note to subdivision plan that the City will not be responsible for the catch basin in Vernon Place and the storm drain which runs under the building.

**Level III Site Plan**

On the basis of the application, plans, reports, and other information submitted by the applicant, findings and recommendations contained in Planning Board Report for application 2015-093 relevant to the Site



Plan Ordinance, and other regulations, as well as the Planning Board deliberations and the testimony presented at the Planning Board hearings, the Planning Board finds the following:

That the plan (**meets/does not meet**) the parking requirements of the zoning ordinance with the provision of 81 on-site vehicle parking spaces; and

That the plan (**is/is not**) in conformance with the site plan standards and all other applicable provisions of the land use code, and subject to the following conditions:

1. The Consultant Traffic Engineer comments dated 10.22.2015, as stated below, shall be submitted for review and approval prior to the issuance of a building permit:
  - a. Cross-section details of the streets be provided for Vernon Place and Avon Street
  - b. Final approval by DPS as it relates to the on-going city maintenance operations.
  - c. Cross-slope and grade details will be required for the ADA ramps being proposed on Congress Street.
  - d. Provide a parking analysis that is solely based on market rate apartments.
  - e. Eliminate the crosswalk on Avon Street.
2. Traffic Demand Management Plan shall include a provision that strategies be adjusted, as necessary, to address parking demand conditions. As part of this requirement, the applicant shall conduct a parking survey, with methods approved by the City, at initial full occupancy and annually thereafter.
3. The Deputy City Engineer comments dated 10.22.2015, as stated below, shall be addressed prior to the issuance of a building permit:
  - a. Sewer evaluation: City crews have inspected a reach of sewer on Avon Street down stream of where the applicant wishes to connect their sanitary lateral. This sewer evaluation has not been received by Department of Public Services (DPS). DPS requests that if that reach of sewer is in need of replacement, the applicant shall be responsible to do so.
  - b. The applicant shall be required to install vertical granite curbing along the property line with a seven inch reveal on Avon Street.
  - c. There is concern that the existing sanitary sewer on Vernon Place, scheduled to be abandoned by the applicant, may still be active. The applicant is request to verify to the City's wastewater group satisfaction that is line is in fact 100% abandoned.
4. The City Arborist comments dated 10.22.2015, as stated below, shall be addressed prior to the issuance of a building permit:
  - a. The applicant shall create a more robust planting of green wall plants and a review of 'best plant' options to cover the wall.
5. The Consultant Stormwater Engineer comments, dated 10.21.2015, shall be addressed prior to the issuance of a building permit.
6. The ramps at the corner of Congress Street shall meet the Historic District detail Figure I-7A in the Technical Standards.
7. The bicycle hitch shall meet the Technical Standards in regard to mounting and color.
8. The developer/contractor/subcontractor must comply with conditions of the construction stormwater management plan and sediment and erosion control plan based on City standards and state guidelines. The owner/operator of the approved stormwater management system and all

assigns shall comply with the conditions of Chapter 32 Stormwater including Article III, Post Construction Stormwater Management, which specifies the annual inspections and reporting requirements. A maintenance agreement for the stormwater drainage system, as attached, or in substantially the same form with any changes to be approved by Corporation Counsel, shall be submitted, signed, and recorded prior to the issuance of a building permit with a copy to the Department of Public Services.

9. That all HVAC systems and external mechanical equipment shall meet the maximum allowable noise requirements of the zone; each unit shall submit documentation of dBA output to confirm compliance of both the unit and the building in respect of rated noise levels and cumulative noise levels, to the satisfaction of the Zoning Administrator prior to the issuance of a Building Permit for that unit.

### **ATTACHMENTS:**

#### **Memo Attachments**

1. Traffic Engineering Review (Tom Errico, T Y Lin), comments dated 10.22.2015
2. Department of Public Services Review, David Margolis-Pineo, dated 10.22.2015
3. Civic Engineer Review, David Senus, dated 10.21.2015
4. Fire Department Review, Capt. Keith Gautreau, dated 09.29.2015
5. City Arborist, Jeff Tarling, dated 10.22.2015
6. City Surveyor, Bill Clark, dated 10.21.2015
  - 6a. Mark up of Subdivision Plat

#### **Public Comments**- No Public Comments

#### **Applicant's Submittal**

1. Cover Letter
2. Level III Application
3. Zoning Analysis
4. MSD Properties LLC Deed
5. Ability to Serve Request Response
6. Stormwater Report
7. Erosion Control Report
8. Waste Removal Letter
9. Waivers Request
10. Financial Capacity Letter NBT
11. Snow Storage Plan- 7.30.15
12. Traffic Memorandum Preliminary
  - a. Traffic Impact Study
13. Neighborhood Meeting Package
14. Fire Risk Management Memo- 09.11.15
15. Parking Assessment Study- 09.15.15
16. Construction Management Plan- 09.11.15
17. Site Logistic Narrative
18. Photometric Plan- 09.10.15
19. Exterior Wall Sconce
20. Congo\_Waivers- 09.15.15
21. TDM Report
22. Comments Response Letter- 10.13.15
23. Waivers- 10.13.15

- 24. Wall Anchor Email
  - a. Soil Nail Information
  - b. SOE - Layout
- 25. Applicant's Cost Estimate for Landscaping 10.22.15

**Plans**

- Plan1 C-01\_cover sheet & legend 10-13-15
- Plan2 C-02\_general notes 10-13-15
- Plan3 Existing conditions
- Plan4 C-10\_site plan\_basement\_10-13-15
- Plan5 C-11\_site plan\_first floor\_10-13-15
- Plan6 C-20\_utility plan\_10-13-15
- Plan7 C-30\_grading\_basement\_10-13-15
- Plan8 C-31\_grading\_first floor\_10-13-15
- Plan9 C-40\_site details 1\_10-13-15
- Plan10 C-41\_site details 2\_10-13-15
- Plan11 C-42\_utility details\_10-13-15
- Plan12 C-43\_drainage details 1\_10-13-15
- Plan13 C-44\_drainage details 2\_10-13-15|01 landscape\_9.15.15
- Plan14 C-45\_esc details\_10-13-15
- Plan15 C-50\_cross-section 1\_10.13.15
- Plan16 L-1\_landscape plan\_10-13-15

**STORMWATER DRAINAGE SYSTEM  
MAINTENANCE AGREEMENT**

**For SITE PLANS (THAT ARE NOT SUBDIVISIONS)**

**IN CONSIDERATION OF** the site plan approval granted by the Planning Board/Planning Authority of the City of Portland to the proposed \_\_\_\_\_ (*name of development and project number*), and the associated Grading, Drainage & Erosion Control Plan (*insert correct name of plan*) (Exhibit A) submitted by \_\_\_\_\_, prepared by \_\_\_\_\_ (*engineer/agent*) of \_\_\_\_\_ (address) dated \_\_\_\_\_, and pursuant to a condition thereof, \_\_\_\_\_ (*name of owner*) a Maine limited liability company with a principal place of business in Portland, Maine, and having a mailing address of \_\_\_\_\_, the owner of the subject premises, does hereby agree, for itself, its successors and assigns (the “Owner”), as follows:

Maintenance Agreement

That it, its successors and assigns, will, at its own cost and expense and at all times in perpetuity, maintain in good repair and in proper working order the \_\_\_\_\_ (*details of the system such as underdrained subsurface sand filter BMP system, rain gardens, storm drain pipes, underdrain pipes, catch basins*), (hereinafter collectively referred to as the “stormwater system”), as shown on the \_\_\_\_\_ Plan in Exhibit A and in strict compliance with the approved Stormwater Maintenance and Inspection Agreement (*insert correct name of document*) prepared for the Owner by \_\_\_\_\_ (copy attached at Exhibit B) and Chapter 32 of the Portland City Code.

Owner of the subject premises further agrees, at its own cost, to keep a Stormwater Maintenance Log. Such log shall be made available for inspection by the City of Portland upon reasonable notice and request.

Said agreement is for the benefit of the said City of Portland and all persons in lawful possession of said premises and abutters thereto; further, that the said City of Portland and said persons in lawful possession may enforce this Agreement by an action at law or in equity in any court of competent jurisdiction; further, that after giving the Owner written notice and a stated time to perform, the said City of Portland, by its authorized agents or representatives, may, but is not obligated to, enter upon said premises to maintain, repair, or replace said stormwater system in the event of any failure or neglect thereof, the cost and expense thereof to be reimbursed in full to the said City of Portland by the Owner upon written demand. Any funds owed to the City under this paragraph shall be secured by a lien on the property.

This Agreement shall also not be construed to allow any change or deviation from the requirements of the site plan most recently and formally approved by the Planning Board/Planning Authority of the City of Portland.

This agreement shall bind the undersigned only so long as it retains any interest in said premises, and shall run with the land and be binding upon the Owner's successors and assigns as their interests may from time to time appear.

The Owner agrees to record a copy of this Agreement in the Cumberland County Registry of Deeds within thirty (30) days of final execution of this Agreement. The Owner further agrees to provide a copy of this Agreement to any Condominium Association or management company, and to any successor or assign and to forward to the City an Addendum signed by any successor or assign in which the successor or assign states that the successor or assign has read the Agreement, agrees to all its terms and conditions and the successor or assign will obtain and forward to the City's Department of Public Services and Department of Planning and Urban Development a similar Addendum from any other successor or assign.

For the purpose of this agreement and release "Owner" is any person or entity who is a successor or assign and has a legal interest in part, or all, of the real estate and any building. The real estate shown by chart, block and lot number in the records on file in the City Assessor's office shall constitute "the property" that may be entered by the City and liened if the City is not paid all of its costs and charges following the mailing of a written demand for payment to the owner pursuant to the process and with the same force and effect as that established by 36 M.R.S.A. §§ 942 and 943 for real estate tax liens.

Any written notices or demands required by the agreement shall be complete on the date the notice is attached to one or more doors providing entry to any buildings and mailed by certified mail, return receipt requested or ordinary mail or both to the owner of record as shown on the tax roles on file in the City Assessor's Office.

If the property has more than one owner on the tax rolls, service shall be complete by mailing it to only the first listed owner. The failure to receive any written notice required by this agreement shall not prevent the City from entering the property and performing maintenance or repairs on the stormwater system, or any component thereof, or liening it or create a cause of action against the City.

Dated at Portland, Maine this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
(*name of company*)

\_\_\_\_\_  
(*representative of owner, name and title*)

STATE OF MAINE  
CUMBERLAND, ss.

Date: \_\_\_\_\_

Personally appeared the above-named \_\_\_\_\_ (*name and title*), and acknowledged the foregoing instrument to be his free act and deed in his said capacity.

Before me,

\_\_\_\_\_  
Notary Public/Attorney at Law

Print name: \_\_\_\_\_

Exhibit A: Approved Grading and Drainage Plan (*name of the plan showing the Stormwater System in detail*)

Exhibit B: Approved Stormwater Maintenance and Inspection Agreement



# PORTLAND MAINE

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

## **Planning & Urban Development Department**

Jeff Levine, AICP, Director

## **Planning Division**

Alexander Jaegerman, FAICP, Director

## **Performance Guarantee and Infrastructure Financial Contribution Packet**

The municipal code requires that all development falling under site plan and/or subdivision review in the City of Portland be subject to a performance guarantee for various required site improvements. The code further requires developers to pay a fee for the administrative costs associated with inspecting construction activity to ensure that it conforms with plans and specifications.

The performance guarantee covers major site improvements related to site plan and subdivision review, such as paving, roadway, utility connections, drainage, landscaping, lighting, etc. A detailed itemized cost estimate is required to be submitted, which upon review and approval by the City, determines the amount of the performance guarantee. The performance guarantee will usually be a letter of credit from a financial institution, although escrow accounts are acceptable. The form, terms, and conditions of the performance guarantee must be approved by the City through the Planning Division. The performance guarantee plus a check to the City of Portland in the amount of 2.0% of the performance guarantee or as assessed by the planning or public works engineer, must be submitted prior to the issuance of any building permit for affected development.

Administration of performance guarantee and defect bonds is through the Planning Division. Inspections for improvements within existing and proposed public right-of-ways are the responsibility of the Department of Public Services. Inspections for site improvements are the responsibility of the Development Review Coordinator in the Planning Division.

Performance Guarantees will not be released by the City until all required improvements are completed and approved by the City and a Defect Bond has been submitted to and approved by the City.

If an infrastructure financial contribution is required by the City as part of a development approval, please complete the contribution form and submit it along with the designated contribution to the Planning Division. Please make checks payable to the City of Portland.

### Attachments

1. Cost Estimate of Improvements Form
2. Performance Guarantee Letter of Credit Form (with private financial institution)
3. Performance Guarantee Escrow Account Form (with private financial institution)
4. Performance Guarantee Form with the City of Portland
5. Infrastructure Financial Contribution Form with the City of Portland

**SUBDIVISION/SITE DEVELOPMENT**  
**Cost Estimate of Improvements to be covered by Performance Guarantee**

Date: \_\_\_\_\_

Name of Project: \_\_\_\_\_

Address/Location: \_\_\_\_\_

Application ID #: \_\_\_\_\_

Developer: \_\_\_\_\_

Form of Performance Guarantee: \_\_\_\_\_

Type of Development: Subdivision \_\_\_\_\_ Site Plan (Level I, II or III) \_\_\_\_\_

**TO BE FILLED OUT BY THE APPLICANT:**

<u>Item</u>	<b>PUBLIC</b>			<b>PRIVATE</b>		
	<u>Quantity</u>	<u>Unit Cost</u>	<u>Subtotal</u>	<u>Quantity</u>	<u>Unit Cost</u>	<u>Subtotal</u>
1. STREET/SIDEWALK						
Road/Parking Areas	_____	_____	_____	_____	_____	_____
Curbing	_____	_____	_____	_____	_____	_____
Sidewalks	_____	_____	_____	_____	_____	_____
Esplanades	_____	_____	_____	_____	_____	_____
Monuments	_____	_____	_____	_____	_____	_____
Street Lighting	_____	_____	_____	_____	_____	_____
Street Opening Repairs	_____	_____	_____	_____	_____	_____
Other	_____	_____	_____	_____	_____	_____
2. EARTH WORK						
Cut	_____	_____	_____	_____	_____	_____
Fill	_____	_____	_____	_____	_____	_____
3. SANITARY SEWER						
Manholes	_____	_____	_____	_____	_____	_____
Piping	_____	_____	_____	_____	_____	_____
Connections	_____	_____	_____	_____	_____	_____
Main Line Piping	_____	_____	_____	_____	_____	_____
House Sewer Service Piping	_____	_____	_____	_____	_____	_____
Pump Stations	_____	_____	_____	_____	_____	_____
Other	_____	_____	_____	_____	_____	_____
4. WATER MAINS	_____	_____	_____	_____	_____	_____
5. STORM DRAINAGE						
Manholes	_____	_____	_____	_____	_____	_____
Catchbasins	_____	_____	_____	_____	_____	_____
Piping	_____	_____	_____	_____	_____	_____
Detention Basin	_____	_____	_____	_____	_____	_____
Stormwater Quality Units	_____	_____	_____	_____	_____	_____
Other	_____	_____	_____	_____	_____	_____



6. SITE LIGHTING	_____	_____	_____	_____	_____	_____	_____
7. EROSION CONTROL							
Silt Fence	_____	_____	_____	_____	_____	_____	_____
Check Dams	_____	_____	_____	_____	_____	_____	_____
Pipe Inlet/Outlet Protection	_____	_____	_____	_____	_____	_____	_____
Level Lip Spreader	_____	_____	_____	_____	_____	_____	_____
Slope Stabilization	_____	_____	_____	_____	_____	_____	_____
Geotextile	_____	_____	_____	_____	_____	_____	_____
Hay Bale Barriers	_____	_____	_____	_____	_____	_____	_____
Catch Basin Inlet Protection	_____	_____	_____	_____	_____	_____	_____
8. RECREATION AND OPEN SPACE AMENITIES	_____	_____	_____	_____	_____	_____	_____
9. LANDSCAPING (Attach breakdown of plant materials, quantities, and unit costs)	_____	_____	_____	_____	_____	_____	_____
10. MISCELLANEOUS	_____	_____	_____	_____	_____	_____	_____
TOTAL:	_____	_____	_____	_____	_____	_____	_____
GRAND TOTAL:	_____	_____	_____	_____	_____	_____	_____

**INSPECTION FEE (to be filled out by the City)**

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

**SAMPLE FORM**

**SITE PLAN/SUBDIVISION  
PERFORMANCE GUARANTEE  
LETTER OF CREDIT  
[ACCOUNT NUMBER]**

**[Date]**

Jeff Levine  
Director of Planning and Urban Development  
City of Portland  
389 Congress Street  
Portland, Maine 04101

Re: **[Insert: Name of Developer]**  
**[Insert: Address of Project, Portland, Maine]**  
**[Insert: Application ID #]**

**[Insert: Name of Bank]** hereby issues its Irrevocable Letter of Credit for the account of **[Insert: Name of Developer]**, (hereinafter referred to as “Developer”), held for the exclusive benefit of the City of Portland, in the aggregate amount of **[Insert: amount of original performance guarantee]**. These funds represent the estimated cost of installing site improvements as depicted on the **[Insert: subdivision and/ or site plan]**, approved on **[Insert: Date]** and as required under Portland Code of Ordinances Chapter 14 §§499, 499.5, 525 and Chapter 25 §§46 through 65.

This Letter of Credit is required under Portland Code of Ordinances Chapter 14 §§499, 499.5, 525 and Chapter 25 §46 through 65 and is intended to satisfy the Developer’s obligation, under Portland Code of Ordinances Chapter 14 §§501, 502 and 525, to post a performance guarantee for the above referenced development.

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on this Letter of Credit by presentation of a sight draft and the Letter of Credit and all amendments thereto, up to thirty (30) days before or sixty (60) days after its expiration, stating any one of the following:

1. the Developer has failed to satisfactorily complete the work on the improvements contained within the **[Insert: subdivision and/ or site plan]** approval, dated **[Insert date]**; or
2. the Developer has failed to deliver to the City a deed containing the metes and bounds description of any streets, easements or other improvements required to be deeded to the City; or

3. the Developer has failed to notify the City for inspections.

In the event of the Bank's dishonor of the City of Portland's sight draft, the Bank shall inform the City of Portland in writing of the reason or reasons thereof within three (3) business days of the dishonor.

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

This performance guarantee will automatically expire on [Insert date between April 16 and October 30 of the following year] ("Expiration Date") or on the date when the City determines that all improvements guaranteed by this Letter of Credit are satisfactorily completed, whichever is later. It is a condition of this Letter of Credit that it is deemed to be automatically extended without amendment for period(s) of one year each from the current Expiration Date hereof, or any future Expiration Date, unless within thirty (30) days prior to any expiration, the Bank notifies the City by certified mail (restricted delivery to Ellen Sanborn, Director of Finance, City of Portland, 389 Congress Street, Portland, Maine 04101) that the Bank elects not to consider this Letter of Credit renewed for any such additional period.

In the event of such notice, the City, in its sole discretion, may draw hereunder by presentation of a sight draft drawn on the Bank, accompanied by this Letter of Credit and all amendments thereto, and a statement purportedly signed by the Director of Planning and Urban Development, at Bank's offices located at

\_\_\_\_\_ stating that:

this drawing results from notification that the Bank has elected not to renew its Letter of Credit No. \_\_\_\_\_.

On its Expiration Date or on the date the City determines that all improvements guaranteed by this Letter of Credit are satisfactorily completed, this Performance Guarantee Letter of Credit shall be reduced by the City to ten (10) percent of its original amount and shall automatically convert to an Irrevocable Defect Letter of Credit. Written notice of such reduction shall be forwarded by the City to the Bank. The Defect Letter of Credit shall ensure the workmanship and durability of all materials used in the construction of the [Insert: subdivision and/ or site plan] approval, dated [Insert: Date] as required by City Code §14-501, 525 and shall automatically expire one (1) year from the date of its creation ("Termination Date").

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on the Defect Letter of Credit by presentation of a sight draft and this Letter of Credit and all amendments thereto, at Bank's offices located at \_\_\_\_\_, prior to the Termination Date, stating any one of the following:

1. the Developer has failed to complete any unfinished improvements; or
2. the Developer has failed to correct any defects in workmanship; or
3. the Developer has failed to use durable materials in the construction and installation of improvements contained within the **[Insert: subdivision and/ or site improvements ]**.

Date: \_\_\_\_\_

By: \_\_\_\_\_

**[Name]**

**[Title]**

Its Duly Authorized Agent

**SAMPLE FORM**

SITE PLAN/SUBDIVISION  
PERFORMANCE GUARANTEE  
ESCROW ACCOUNT  
[ACCOUNT NUMBER]

**[Date]**

Jeff Levine  
Director of Planning and Urban Development  
City of Portland  
389 Congress Street  
Portland, Maine 04101

Re: **[Insert: Name of Developer]**  
**[Insert: Address of Project, Portland, Maine]**  
**[Insert: Application ID #]**

**[Insert: Name of Bank]** hereby certifies to the City of Portland that **[Bank]** will hold the sum of **[Insert: amount of original performance guarantee]** in an interest bearing account established with the Bank. These funds shall be held for the exclusive benefit of the City of Portland and shall represent the estimated cost of installing site improvements as depicted on the **[Insert: subdivision and/or site plan]**, approved on **[Insert: date]** as required under Portland Code of Ordinances Chapter 14 §§499, 499.5, 525 and Chapter 25 §§46 through 65. It is intended to satisfy the Developer's obligation, under Portland Code of Ordinances Chapter 14 §§501, 502 and 525, to post a performance guarantee for the above referenced development. All costs associated with establishing, maintaining and disbursing funds from the Escrow Account shall be borne by **[Insert: Developer]**.

**[Bank]** will hold these funds as escrow agent for the benefit of the City subject to the following:

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

1. the Developer has failed to satisfactorily complete the work on the improvements contained within the **[Insert: subdivision and/ or site plan]** approval, dated **[Insert date]**; or
2. the Developer has failed to deliver to the City a deed containing the metes and bounds description of any streets, easements or other improvements required to be deeded to the City; or
3. the Developer has failed to notify the City for inspections.

In the event of the Bank's dishonor of the City of Portland's sight draft, the Bank shall inform the City of Portland in writing of the reason or reasons thereof within three (3) business days of the dishonor.

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

This performance guarantee will automatically expire on **[Insert date between April 16 and October 30 of the following year]** ("Expiration Date") or on the date when the City determines that all improvements guaranteed by this Letter of Credit are satisfactorily completed, whichever is later. It is a condition of this agreement that it is deemed to be automatically extended without amendment for period(s) of one year each from the current Expiration Date hereof, or any future Expiration Date, unless within thirty (30) days prior to any expiration, the Bank notifies the City by certified mail (restricted delivery to Ellen Sanborn, Director of Finance, City of Portland, 389 Congress Street, Portland, Maine 04101) that the Bank elects not to consider the Escrow Account renewed for any such additional period.

In the event of such notice, the City, in its sole discretion, may draw against the Escrow Account by presentation of a sight draft drawn on the Bank and a statement purportedly signed by the Director of Planning and Urban Development, at Bank's offices located at \_\_\_\_\_ stating that:

this drawing results from notification that the Bank has elected not to renew its Letter of Credit No. \_\_\_\_\_.

On its Expiration Date or on the date the City determines that all improvements guaranteed by this Escrow Account are satisfactorily completed, this Performance Guarantee shall be reduced by the City to ten (10) percent of its original amount and shall automatically convert to an Irrevocable Defect Guarantee. Written notice of such reduction shall be forwarded by the City to the Bank. The Defect Guarantee shall ensure the workmanship and durability of all materials used in the construction of the **[Insert: subdivision and/ or site plan]** approval, dated **[Insert: Date]** as required by City Code §14-501, 525 and shall automatically expire one (1) year from the date of its creation ("Termination Date").

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on the Defect Guarantee by presentation of a sight draft at Bank's offices located at \_\_\_\_\_, prior to the Termination Date, stating any one of the following:

1. the Developer has failed to complete any unfinished improvements; or
2. the Developer has failed to correct any defects in workmanship; or
3. the Developer has failed to use durable materials in the construction and installation of improvements contained within the **[Insert: subdivision and/ or site improvements ]**.

Date: \_\_\_\_\_

By: \_\_\_\_\_

**[Name]**

**[Title]**

Its Duly Authorized Agent

Seen and Agreed to: **[Applicant]**

By: \_\_\_\_\_

**PERFORMANCE GUARANTEE  
with the City of Portland**

Developer's Tax Identification Number: \_\_\_\_\_

Developer's Name and Mailing Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

City Account Number: \_\_\_\_\_

Application ID #: \_\_\_\_\_

Application of \_\_\_\_\_ [Applicant] for \_\_\_\_\_ [Insert street/Project Name] at \_\_\_\_\_ [Address], Portland, Maine.

The City of Portland (hereinafter the "City") will hold the sum of \$\_\_\_\_\_ [amount of performance guarantee] on behalf of \_\_\_\_\_ [Applicant] in a non-interest bearing account established with the City. This account shall represent the estimated cost of installing \_\_\_\_\_ [insert: subdivision and/ or site improvements (as applicable)] as depicted on the subdivision/site plan, approved on \_\_\_\_\_ [date] as required under Portland Code of Ordinances Chapter 14 §§499, 499.5, 525 and Chapter 25 §§46 through 65. It is intended to satisfy the Applicant's obligation, under Portland Code of Ordinances Chapter 14 §§501, 502 and 525, to post a performance guarantee for the above referenced development.

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

1. the Developer has failed to satisfactorily complete the work on the improvements contained within the \_\_\_\_\_ [insert: subdivision and/ or site improvements (as applicable)] approval, dated \_\_\_\_\_ [insert date]; or
2. the Developer has failed to deliver to the City a deed containing the metes and bounds description of any streets, easements or other improvements required to be deeded to the City; or
3. the Developer has failed to notify the City for inspections in conjunction with the installation of improvements noted in paragraph one.

The Director of Planning and Urban Development may draw on this Guarantee, at his/her option,



either thirty days prior to the expiration date contained herein, or s/he may draw against this escrow for a period not to exceed sixty (60) days after the expiration of this commitment; provided that the Applicant, or its representative, will give the City written notice, by certified mail (restricted delivery to Ellen Sanborn, Director of Finance, City of Portland, 389 Congress Street, Room 110, Portland, Maine) of the expiration of this escrow within sixty (60) days prior thereto.

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

This Guarantee will automatically expire on **[Insert date between April 16 and October 30 of the following year]** (“Expiration Date”) or on the date when the City determines that all improvements guaranteed by this Performance Guarantee are satisfactorily completed, whichever is later. At such time, this Guarantee shall be reduced by the City to ten (10) percent of its original amount and shall automatically convert to an Irrevocable Defect Guarantee. Written notice of such reduction and conversion shall be forwarded by the City to **[the applicant]**. The Defect Guarantee shall expire one (1) year from the date of its creation and shall ensure the workmanship and durability of all materials used in the construction of the **[Insert: Subdivision and/ or site plan]** approval, dated **[Insert: Date]** as required by City Code §14-501, 525.

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on the Defect Guarantee should any one of the following occur:

1. the Developer has failed to complete any unfinished improvements; or
2. the Developer has failed to correct any defects in workmanship;  
or
3. the Developer has failed to use durable materials in the construction and installation of improvements contained within the **[Insert: subdivision and/ or site improvements ]**.

Seen and Agreed to:

By: \_\_\_\_\_  
[Applicant]

Date: \_\_\_\_\_

By: \_\_\_\_\_  
\*\*\*\*Planning Division Director

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Development Review Coordinator

Date: \_\_\_\_\_

Attach **Letter of Approval and Estimated Cost of Improvements** to this form.

---

**Distribution**

1. This information will be completed by Planning Staff.
2. The account number can be obtained by calling Cathy Ricker, ext. 8665.
3. The Agreement will be executed with one original signed by the Developer.
4. The original signed Agreement will be scanned by the Planning Staff then forwarded to the Finance Office, together with a copy of the Cash Receipts Set.
5. \*\*\*\*Signature required if over \$50,000.00.

**Infrastructure Financial Contribution Form**  
**Planning and Urban Development Department - Planning Division**

**Amount \$**

**City Account Number:** 710-0000-236-98-00

**Project Code:** \_\_\_\_\_

(This number can be obtained by calling Cathy Ricker, x8665)

**Project Name:**

**Application ID #:**

**Project Location:**

**Project Description:**

**Funds intended for:**

**Applicant's Name:**

**Applicant's Address:**

**Expiration:**

If funds are not expended or encumbered for the intended purpose by \_\_\_\_\_, funds, or any balance of remaining funds, shall be returned to contributor within six months of said date.

Funds shall be permanently retained by the City.

Other (describe in detail) \_\_\_\_\_

**Form of Contribution:**

Escrow Account

Cash Contribution

**Interest Disbursement:** Interest on funds to be paid to contributor only if project is not commenced.

**Terms of Draw Down of Funds:** The City shall periodically draw down the funds via a payment requisition from Public Works, which form shall specify use of City Account # shown above.

**Date of Form:**

**Planner:**

-----

- Attach the approval letter, condition of approval or other documentation of the required contribution.
- One copy sent to the Applicant.

**Electronic Distribution to:**

Peggy Axelsen, Finance Department  
Catherine Baier, Public Services Department  
Barbara Barhydt, Planning Division  
Jeremiah Bartlett, Public Services Department  
Michael Bobinsky, Public Services Department  
Diane Butts, Finance Department  
Philip DiPierro, Planning Division  
Katherine Earley, Public Services Department  
Michael Farmer, Public Services Department  
Alex Jaegerman, Planning Division  
David Margolis Pineo, Public Services Department  
Matt Rancourt, Public Services Department  
Jeff Tarling, Public Services Department  
Planner for Project