



Jeff Levine, AICP
Director, Planning & Urban Development Department

March 21, 2016

J. Robert Connor
Skowhegan Plaza Limited Partnership
12 Brook Street
Wellesley, MA 02482

Re: Confirmation of Extension of the Level III Site Plan approval as Amended

Project Name: Reconstruction of Rite Aid Pharmacy
Project ID: #2013-248 (Site Plan); #2014-054 (Conditional Use)
CBL: 047-C019-001
Address: 709-713 Congress Street, Portland
Applicant: Robert Connor, Skowhegan Plaza Limited Partnership
Planner: Jean Fraser

Dear Mr. Connor:

Thank you for your letter dated March 8, 2016 requesting an extension of the March 24, 2015 Planning Board site plan approval and including amended plans that revise the proposals so that it does not include a pharmacy drive-through. As outlined in my letter of February 8, 2016, I am unable to extend the Site Plan approval that includes a drive through, as the B2b zoning was amended in July 2015 to prohibit drive-through uses in this circumstance. It is my understanding that your request is due to the fact that Rite Aid has delayed construction of the new pharmacy, and there is uncertainty created by the impending Walgreens acquisition of Rite Aid.

Under the provisions of Section 14-532 (c) *Expiration of site plan approval*, I am granting your request to extend your approval to March 24, 2017, subject to the submittal of final amended plans that show greater details for the parking lot circulation without the drive-through. Those final amended plans would only need to be submitted if any when you wish to move forward with issuance of a building permit. The extension of the Conditional Use is no longer relevant.

Please note that the ordinance limits extensions to the site plan approval to a maximum of three years from the initial approval date.

If you have any questions, please contact Jean Fraser, Planner, at 874-8728.

Sincerely,

Jeff Levine
Director of Planning and Urban Development

Attachments:

- Extension Request letter 3.8.2016
- Site Plan and Conditional Use Approval letter 3.24.2015
- Historic Preservation Board approval letter 1.13.2014

Electronic Distribution:

cc: Stuart G. O'Brien, City Planning Director
Barbara Barhydt, Development Review Services Manager
Deborah Andrews, Historic Preservation Program Manager
Jean Fraser, Planner
Philip DiPierro, Development Review Coordinator, Planning
Ann Machado, Zoning Administrator, Inspections Division
Tammy Munson, Inspections Division Director
Jonathan Rioux, Inspections Division Deputy Director
Jeanie 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., TY Lin Associates
David Sensus, P.E., Woodard and Curran
Rick Blackburn, Assessor's Department
Approval Letter File

SKOWHEGAN PLAZA LIMITED PARTNERSHIP

Real Estate Development and Investment

12 BROOK STREET

WELLESLEY, MASSACHUSETTS 02482-6601

TELEPHONE (781) 431-7060

FACSIMILE (781) 431-7073

March 8, 2016

Ms. Jean Fraser
City of Portland Planning Board
389 Congress Street
Portland, ME 04101

Re: Extension of Site Plan Approval for Property at 713 Congress Street, Portland

Dear Jean:

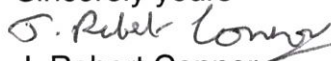
As a follow up to our various telephone conversations, we wish to request a one year extension of the Site Plan Approval for reconstructing the building at 713 Congress Street which is occupied by Rite Aid, but excluding any extension relating to a drive through.

As you are aware, Rite Aid has decided that it wants to delay construction of a new store on the property at 713 Congress Street. Our suspicion is that this relates to the purchase by Walgreens of the Rite Aid chain of pharmacies with a closing anticipated to occur late this year or early 2017. While we are not privy to what has been occurring within Rite Aid, the coming merger has certainly been affecting the construction of new stores.

We realize that the approval of a drive through cannot be extended and would therefore like for such use to be excluded from any extension. In connection with this, I am attaching the architectural plans A1.0, A2.0 and the site plan L12 in which all reference to a drive through has been eliminated. I realize that there are some engineering plans which were part of the approved package and may reference a drive through. Please could you mark these plans to note that a drive through has been eliminated. These engineering plans were not the final plans since the engineers still needed to make some corrections.

Thank you for your help on these matters.

Sincerely yours


J. Robert Connor

CITY OF PORTLAND, MAINE

PLANNING BOARD

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March 31st, 2015

Robert Connor
Skowhegan Plaza Limited Partnership
12 Brook Street
Wellesley, MA 02482

Mark Sengelmann
Alpha Architects
17 Chestnut Street
Portland, ME 04101

Project Name: Reconstruction of Rite Aid Pharmacy with Drive-through
Conditional Use and Level III Site Plan
Project #: #2014-054 (Conditional Use) and #2013-248 (Site Plan)
Address: 709-713 Congress Street, Portland CBL: 047-C019-001
Applicant: Robert Connor, Skowhegan Plaza Limited Partnership
Planner: Jean Fraser

Dear Mr. Connor:

On March 24th, 2015, the Planning Board considered the Conditional Use for a pharmacy drive-through and Level III Site Plan applications for reconstruction of the Rite Aid Pharmacy at 709-713 Congress Street. The project includes demolition of the existing store (7050 sq. ft.) and construction of a new store comprising 11,715 sq. ft. floor area on a site of 35,531 square feet. The Planning Board reviewed the proposal for conformance with the standards of the Conditional Use Review and Site Plan Ordinance, and approved the application with the following waivers and conditions as presented below.

A. 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 public hearing on March 24, 2015 for application #2014-054 (Conditional Use) and #2013-248 (Site Plan) (709-713 Congress Street), relevant to Portland's Technical and Design Standards and other regulations; and the testimony presented at the Planning Board hearing:

1. *Size of compact parking spaces*

The Planning Board finds, based upon the consulting traffic engineer's review (*Attachment 5*), that extraordinary conditions exist or undue hardship may result from strict compliance with the Technical Standard (*Section 1.14*) which specifies that compact parking spaces be 8 feet by 15 feet, that substantial justice and the public interest are secured with the variation in this standard, and that the variation is consistent with the intent of the ordinance. The Planning Board voted 4-0 (Eaton, Morrissette and O'Brien absent) to waive the Technical Standard (*Section 1.14*) to allow seven parking spaces to be 9 feet by 15 feet; and

2. *Waiver of light trespass*

The Planning Board finds, based upon the information contained in the submitted Lighting Plan (*Plan P7*) regarding light trespass in Deering Lane, that extraordinary conditions exist or undue hardship may result from strict compliance with the Technical Standard (*Section 12.2.5*) which specifies that the maximum illumination level at the property line shall not exceed 0.1 footcandle, that substantial justice and the public interest are secured with the variation in this standard, and that the variation is consistent with the intent of the ordinance. The Planning Board voted 4-0 (Eaton, Morrissette and O'Brien absent) to waive the Technical Standard (*Section 12.2.5*) to allow the illumination level to be 0.2 footcandle at one location outside of the property line.

B. CONDITIONAL USE

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 public hearing on March 24, 2015 for application #2014-054 (Conditional Use) and #2013-248 (Site Plan) (709-713 Congress Street), relevant to Portland's Conditional Use Standards and other regulations, and the testimony presented at the Planning Board hearing:

The Planning Board voted 4-0 (Eaton, Morrissette and O'Brien absent) that the proposed conditional use for a pharmacy drive-through associated with the new Rite Aid Pharmacy at 709-713 Congress Street in the B-2b zone does meet the standards of Section 14-474 and the standards of Section 14-183 for the B2b zone, subject to the following conditions:

- i. That the applicant shall submit the final construction details of the raised crosswalk (across the drive-through exit within the site), stamped by a Maine Registered Professional Engineer, for review and approval by the Planning Authority prior to the issuance of a building permit; and
- ii. That the hours of operation and servicing for the store and associated drive-through shall be limited as follows:
 - That the Drive-through opening hours are limited to: 8am to 9pm
 - That the store opening hours are limited to: 8am to 11pm
 - That small truck deliveries are limited to: 8am to 10pm
 - That large truck deliveries are limited to: once per week between 7am and 8am
 - That trash collection is limited to: Not prior to 7am and no later than 9pm.

C. 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 the public hearing on March 24, 2015 for application #2014-054 (Conditional Use) and #2013-248 (Site Plan) (709-713 Congress Street), relevant to the Site Plan Ordinance and other regulations and the testimony presented at the Planning Board hearing:

The Planning Board voted 4-0 (Eaton, Morrissette and O'Brien absent) that the plan is in conformance with the site plan standards of the land use code, subject to the following conditions:

- i. That the applicant, City Traffic Engineer and Planning Authority shall review and monitor the operation of the two way traffic in Deering Lane during construction, particularly the traffic exiting the Lane into Congress Street, and if deemed appropriate, parking spaces as needed shall be temporarily eliminated during the relevant construction period; and
- ii. The applicant shall be responsible for the installation of a ADA compliant crosswalk on Congress Street (relocating an existing crosswalk) at the location depicted on the site plan. This installation of the crosswalk shall include, but not be limited to, the installation of signs, pavement markings, ADA ramps, curbing and the relocation of the existing catch basin (to the west) located on the opposite side of Congress Street; and
- iii. The developer/contractor/subcontractor must comply with conditions of the submitted stormwater management plan and sediment and erosion control plan submitted and dated October 3, 2014 and revised March 5, 2015, and the inspection and maintenance manual dated October 3, 2014 and revised March 16, 2015, 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 shall be submitted, signed and recorded for the principal structures with a copy to the Planning Division and Department of Public Services prior to the issuance of a building permit; and

- iv. That the applicant shall conduct a boring or test pit, prior to the issuance of a building permit, at the location of the proposed infiltration system to confirm existing soil type and demonstrate to the Planning Authority that there will be sufficient separation from the bottom of the proposed infiltration system to groundwater or bedrock; and
- v. That the applicant has proposed 6-inch and 12-inch riser structures for access to the infiltration system and the applicant shall clarify whether these structures are intended to provide access for inspection and maintenance activities and shall provide several larger access structures (24" min) for inspection and maintenance activities, all to be shown on revised plans submitted for review and approval by the Planning Authority prior to the issuance of a building permit; and
- vi. That the applicant shall address the Department of Public Services comments dated 3.16.2015 (Att 4 to this report) and add the detail of the proposed bike racks to the civil plans, except that the proposed "Silva Cells" shall be noted on the plans as approved for installation in the ROW; the revised plans to be submitted for review and approval prior to the issuance of a building permit; and
- vii. That the applicant shall submit, for review and approval by the Planning Authority prior to the issuance of a building permit, a revised photometric plan for the rear parking lot area that shows the proposed lighting levels at this location meet the City's Technical Standards. Also that all lighting (both wall and pole mounted) shall be reduced to 50% or less overnight, and that if the overnight lighting adversely impacts residential neighbors that a further reduction in overnight lighting levels shall be implemented; and
- viii. That separate reviews and permits are required for new signs (freestanding and on the building), which shall be satisfactory to the Historic Preservation Program Manager; and for HVAC systems, which require submission of dBA levels to confirm compliance with the maximum sound limits of the B2b zone.

STANDARD CONDITIONS OF APPROVAL

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

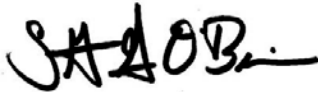
1. **Develop Site According to Plan** The site shall be developed and maintained as depicted on the site plan and in the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or the Planning Authority pursuant to the terms of Chapter 14, Land Use, of the Portland City Code.
2. **Separate Building Permits Are Required** This approval does not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.
3. **Site Plan Expiration** The site plan approval will be deemed to have expired unless work has commenced within one (1) year of the approval or within a time period up to three (3) years from the approval date as agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the one (1) year expiration date.
4. **Subdivision Plan Expiration** The subdivision approval is valid for up to three years from the date of Planning Board approval.
5. **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.

6. **Defect Guarantee** A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
7. **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.
8. **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.)
9. **As-Built Final Plans** Final sets of as-built plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (*.dwg), release AutoCAD 2005 or greater.

The Development Review Coordinator must be notified five (5) working days prior to 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 Jean Fraser at 874-8728 or via jf@portlandmaine.gov.

Sincerely,



Stuart O'Brien, Chair
Portland Planning Board

Attachments:

1. Department of Public Services comments dated 3.16.2015
2. Planning Board Report
3. City Code Chapter 32
4. Sample Stormwater Maintenance Agreement
5. Performance Guarantee Packet

Electronic Distribution:

Jeff Levine, AICP, Director of Planning and Urban Development
 Alexander Jaegerman, FAICP, Planning Division Director
 Barbara Barhydt, Development Review Services Manager
 Jean Fraser, Planner
 Philip DiPierro, Development Review Coordinator, Planning
 Ann Machado, Acting Zoning Administrator, Inspections Division
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 Jonathan Rioux, Inspections Division Deputy Director
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 Bill Clark, Project Engineer, Public Services
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 Jeff Tarling, City Arborist, Public Services
 Jeremiah Bartlett, Public Services
 David Petruccelli, Fire Department
 Craig Messinger, Fire Department
 Jennifer Thompson, Corporation Counsel
 Thomas Errico, P.E., TY Lin Associates
 David Senus, P.E., Woodard and Curran
 Rick Blackburn, Assessor's Department
 Approval Letter File

From: David Margolis-Pineo
To: Barbara Barhydt; Jean Fraser
CC: DEVELOPMENT REVIEW GROUP
Date: 3/16/2015 3:18 PM
Subject: Re: final comments on new Rite Aid

The following comments have also be placed in Urban Insight.

March 16, 2015

Memo To: Jean Fraser
Barbara Barhydt
From: David Margolis-Pineo
Re: 709 Congress St. – Rite Aid
Development Review Comments

The Department of Public Services has the following final comments.

1. The existing water lateral to be abandoned and capped at the main shall be removed from the road right of way. The existing sewer lateral to be abandoned at the main shall be either removed or grout filled.
2. The survey plan is required to be stamped by a Professional Surveyor.
3. The survey plan shows that the City's sidewalk has encroached the applicant's property. The applicant may choose to give the City a license for public access as the simplest way to handle this issue.
4. The proposed crosswalk shown on Congress St can't be constructed as proposed unless either the catchbasin or crosswalk is relocated. This issue needs to be resolved.
5. Please provide note for contractor that the shelf and channel area in DMH-A will need to be rebuilt to meet City of Portland standards or submit a detail for review and approval.
6. Note 11 on Sheet C-102 states that all work will meet DPW standards. The City would prefer to state, "All work within the street right of way shall meet City of Portland Technical Manual standards." By stating this it is understood that N-12 drainage pipe is not allowed within the road right of way. Chapter 2 of the Technical Manual states allowable pipe materials. The City would prefer the applicant to install DMH-1 and DMH-2 as well as the pipe in between on the applicant's property.
7. The sanitary lateral invert elevation as show requires an external drop connection. In lieu of an external drop, the applicant may wish to lower the lateral elevation so that no more than 24 inches vertical exist from the lateral invert in and invert out. Please indicate that the penetration will require a core drill and snap in boot and that the internal channel and shelf area will require reconstruction to City of Portland standards.
8. Please note that the City's Technical Manual states requirements for manhole castings as well as pavement repairs for utility trenches. The applicant may wish to make the potential contractor aware of these requirements.
9. The typical catchbasin detail for the City is a standard 4' diameter precast manhole with a three foot sump. A catchbasin detail was not evident in the plan set.
10. Please add not in reference to the retaining wall at the rear of the property which states:
"No information was found during this survey as to the ownership or maintenance responsibility of the concrete retaining wall located on the adjacent property along the northerly property line. The City of Portland Public Services Department Engineering Division has stated that ownership or maintenance responsibility is a private matter."

The Department of Public Services has no further comments.

CITY OF PORTLAND, MAINE

HISTORIC PRESERVATION BOARD

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John Turk
Bruce Wood
Susan Wroth

January 13, 2014

Robert Connor
Skowhegan Plaza Limited Partnership
12 Brook Street
Wellesley, MA 02482

Re: Rite Aid New Construction; 713 Congress Street

Dear Mr. Connor:

On January 8, 2014 the City of Portland's Historic Preservation Board voted 6-0 (Turk absent) to approve your application for a Certificate of Appropriateness for new construction at 713 Congress Street. The proposed building will replace the existing structure on site, which is a "non-contributing" building within the Congress Street Historic District. Approval was made on the basis of plans and specifications submitted on your behalf by architect Mark Sengeimann of Alpha Architects for the 1/8/14 public hearing

Approval was made subject to the following conditions:


- Project architect to revise details of the sidewalk planting bed and its enclosure for review and approval by the HP Board.
- Project architect to submit a revised color specification for the building's masonry base, to be reviewed and approved by the HP Board.
- Project architect to consider alternatives to the proposed use of frosted glass in the storefront window on Congress Street. Final proposal to be reviewed and approved by the HP Board.
- Location of building-mounted lights on west elevation to be coordinated with the design/organization of this elevation.
- As signage plans were not submitted in advance of the public hearing, signage to be subject to separate review and approval.

Note: The Historic Preservation Board encourages the applicant, project architect and Planning Board to give careful consideration to the impact of the proposed site treatment (particularly at the rear property line) on the abutting Deering Street Historic District.

Construction to be carried out as shown on the plans and specifications submitted for the 1/08/14 public hearing and/or as described above. Changes to the approved plans and specifications and any additional work that may be undertaken must be reviewed and approved by this office prior to construction, alteration, or demolition. If, during the course of completing the approved work, conditions are encountered which prevent completing the approved work, or which require additional or alternative work, you must apply for and receive a Certificate of Appropriateness or Non-Applicability PRIOR to undertaking additional or alternative work.

This Certificate is granted upon condition that the work authorized herein is commenced within twelve (12) months after the date of issuance. If the work authorized by this Certificate is not commenced within twelve (12) months after the date of issuance or if such work is suspended in significant part for a period of one year after the time the work is commenced, such Certificate shall expire and be of no further effect; provided that, for cause, one or more extensions of time for periods not exceeding ninety (90) days each may be allowed in writing by the Department.

Sincerely,

A handwritten signature in black ink, appearing to read "Deborah Andrews". The signature is written in a cursive, somewhat stylized font.

Deborah Andrews
Historic Preservation Program Manager

Cc: Mark Sengelmann, Alpha Architects
Rick Romano, Chair, Historic Preservation Board