

# CITY OF PORTLAND, MAINE

## PLANNING BOARD

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Stuart O'Brien, Chair  
Elizabeth Boepple, Vice Chair  
Sean Dundon  
Bill Hall  
Carol Morrisette  
Jack Soley  
David Eaton

April 28, 2015

May Street 7-9 LLC  
Attention: Alex Waters  
6 Pond Ridge Lane  
Norwalk, CT 06853

Kaplan Thompson  
Attention: Jesse Thompson  
424 Fore Street  
Portland, ME 04101

Project Name:	May Street Townhouses	Project ID:	2014-149
Address:	7-9 May Street	CBL:	057 C023 001
Applicant:	May Street 7-9, LLC		
Planner:	Shukria Wiar		

Dear Mr. Waters:

On March 24, 2015, the Planning Board considered a Level III Site Plan and Subdivision application for the construction of a three-unit residential building on a 4,898 square feet “urban infill” site at 7- 9 May Street in the West End. The Planning Board reviewed the proposal for conformance with the standards of the Subdivision Ordinance, Site Plan Ordinance, and Design Manual. The Planning Board voted 4-0 (O’Brien, Morrisette and Eaton absent) to approve the application with the following waivers and conditions as presented below.

### 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 townhouses site plan and subdivision (application 2014-149), 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 voted 4-0 (O’Brien, Morrisette and Eaton absent) to waive the Technical Manual Stormwater Section 5 (III) (4) E *Flooding Standard* on the basis that the applicant has demonstrated that several items such as adequate capacity within existing nearby infrastructure to convey runoff and the proposed rain gardens provide an appropriate means of stormwater management for the site while eliminating direct entry into the combined sewer system will not unreasonably increase the extent, frequency, or duration of flooding at downstream flow controls and conveyance structures or have an unreasonable adverse effect on protected natural resources.
2. The Planning Board voted 4-0 (O’Brien, Morrisette and Eaton absent) to waive Section 14-526 (b) (2) (b) (iii) *Street Trees* to allow for a contribution of \$200 to the City’s Street Tree Fund to be substituted for the provision on site of one of the required street trees.

## **DEVELOPMENT REVIEW**

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 2014-149 relevant to the Subdivision Ordinance, Site Plan Ordinance, and the Stormwater Management Standards, 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:

### **A. SUBDIVISION REVIEW**

The Planning Board voted 4-0 (O'Brien, Morrissette and Eaton absent) that the plan is in conformance with the subdivision standards of the Land Use Code, subject to the following conditions of approval:

1. That the final sidewalk easements to provide public access shall be reviewed and approved by Corporation Counsel prior to the issuance of certificate of occupancy; and
2. That 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.

### **B. SITE PLAN REVIEW**

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

1. That the applicant shall submit a revised plans/documents that address the March 4, 2015 Woodard and Curran Engineering Review comments for review and approval by the Planning Authority prior to the issuance of a building permit; and
2. That the applicant shall submit confirmation of ability to serve water and sewer letters from PWD and DPS to the Planning Division prior to the issuance of a building permit; and
3. That the construction management plan shall be revised to show the sidewalk closure detail plan during construction, which shall be reviewed and approved by the Planning Authority prior to the issuance of a building permit; and
4. That a City Traffic Schedule change shall be required by the applicant for the elimination of on-street parking at the proposed driveway location prior to the issuance of the certificate of occupancy; and
5. That a lighting and photometric plan shall be submitted for review and approval by the Planning Authority prior to the issuance of a building permit; and
6. That the applicant shall submit easements or temporary construction agreements for all work outside the boundaries of the site, if required, prior to the issuance of a building permit; and
7. That 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.

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 2014-149 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

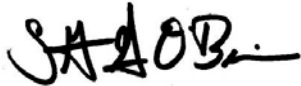
construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.

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,



Stuart O'Brien Chair  
Portland Planning Board

**Attachments:**

1. Civic Engineer Review, David Senus, dated March 4, 2015
2. Planning Board Report
3. Sample Stormwater Maintenance Agreement
4. 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  
Shukria Wiar, Planner  
Philip DiPierro, Development Review Coordinator, Planning  
Ann Machado, Acting Zoning Administrator, Inspections Division  
Tammy Munson, Inspections Division Director  
Jonathan Rioux, Inspections Division Deputy Director  
Jeanie Bourke, Plan Reviewer/CEO, Inspections Division  
Lannie Dobson, Administration, Inspections Division  
Brad Saucier, Administration, Inspections Division  
Michael Bobinsky, Public Services Director  
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  
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

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## MEMORANDUM

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**To:** FILE  
**From:** Shukria Wiar  
**Subject:** Application ID: 2014-149  
**Date:** 12/15/2014

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**Comments Submitted by: David Senus/Civil Engineering on 12/11/2014**

1) The application is preliminary. As such, additional documents will need to be submitted for the final application, including letters from utilities confirming capacity to serve the proposed development, a utility plan, detailed grading / drainage / erosion control plan, construction details, stormwater design calculations and a Construction Management Plan. Woodard & Curran will perform a review of the Final Application upon receipt of those documents.

2) 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. We offer the following comments:

a) Basic Standards: Plans, notes, and details should be provided to address erosion and sediment control requirements, inspection and maintenance requirements, and good housekeeping practices in general accordance with Appendix A, B, & C of MaineDEP Chapter 500.

b) General Standards: The project will result in an increase in impervious area of approximately 3,600 square feet. As such, the project is required to include specific stormwater management features for stormwater quality control. The Applicant proposes a rain garden to manage stormwater quality on the site. Additional design details and calculations should be provided with the future Final Site Plan submittal demonstrating compliance with the General Standards (refer to Chapter 7.2 of Volume III of the MaineDEP Stormwater BMP Manual for rain garden design requirements).

c) Flooding Standard: The project will result in an increase in impervious area of approximately 3,600 square feet. As such, the project is required to include specific stormwater management features to control the rate of stormwater runoff from the site. As part of the final Site Plan submittal, the Applicant should address whether the proposal will meet the flooding standard, or should request a waiver from the Flooding Standard accompanied by an engineering justification (i.e. –confirm adequate capacity to convey additional stormwater flow in drainage system, minor increase in flow, etc).

3) The Stormwater Management Plan should include a stormwater inspection and maintenance plan developed in accordance with and in reference to MaineDEP Chapter 500 guidelines and Chapter 32 of the City of Portland Code of Ordinances.

4) Final site plans must be stamped by a professional engineer (Section 14-527, sub-section (f) of the City of Portland Land Use Ordinance).

5) Per Section 13 of the City's Technical Manual, the Applicant is required to submit a Boundary Survey that has been Stamped by a Maine Licensed Professional Surveyor.

6) The final plan set should include construction details. Details for work within the City Right-of-Way should comply with the City of Portland Technical Manual.

7) The Applicant has noted that basic grading will be required to divert stormwater to the proposed rain garden; however, it does not appear that any proposed grading is shown at this time. Final plans should include proposed grading and drainage collection/conveyance systems (pipes, structures, etc).



## PLANNING BOARD REPORT PORTLAND, MAINE

Three Units Townhouses  
7-9 May Street  
Level III Subdivision and Site Plan Review  
2014-149  
May Street 7-9, LLC, Applicant

Submitted to: Portland Planning Board:  
Public Hearing Date: March 24, 2015

Prepared by: Shukria Wiar, Planner  
Date: March 20, 2015

### I. INTRODUCTION

Jesse Thompson of Kaplan Thompson Architects on behalf of May Street 7-9, LLC has submitted a Level III Site Plan and Subdivision application for the construction of a three-unit residential building on a 4,898 square feet “urban infill” site at 7- 9 May Street in the West End. The site is currently is vacant. The site is located behind the existing 7-unit condominium building at 247 Danforth Street. It is surrounded by multifamily houses.

The site is within two zones; majority of the site is in the B-1 zone and a small portion is in the Residential R-6 zone (approximately 11’ x 75’). The majority of the parcel is in the B-1 zone and the zone can extend 30 feet into the adjoining R-6 zone. So the B-1 zone regulations will apply for the review of this project.

This proposal is being reviewed as a final plan and subject to the Site Plan and Subdivision Ordinance of Land Use Code. The project will also be reviewed against the *B-1 and B-1b Neighborhood Business Zones Standards* and the *Two-Family, Special Needs Independent Living Units, Multiple-Family, Lodging Houses, Bed and Breakfasts, and Emergency Shelters Standards* (Sections (d) and (I), and Appendix 2 of the Design Manual).

One hundred and ninety-six (196) notices were sent to area residents within 500 feet of the site and the interested party list. A notice also appeared in the March 16th and 17<sup>th</sup> editions of the *Portland Press Herald*.

<b>Applicant Name</b>	May Street 7-9, LLC
<b>Consultants</b>	
<b>Agent Representative</b>	Jesse Thompson of Kaplan Thompson Architects
<b>Engineer</b>	John Mahoney of Random Consulting, Inc.
<b>Surveyor</b>	David L.J. Hughes of Livingston-Hughes
<b>Architect</b>	Jesse Thompson of Kaplan Thompson Architects

### Project Review

<i>Review</i>	<i>Applicable Standards</i>
Site Plan	14-526
Subdivision	14-491
Design Manual	B-1 and B-1b Neighborhood Business Zones Standards, and (i) Two-Family, Special Needs Independent Living Units, Multiple-Family, Lodging Houses, Bed And Breakfasts, And Emergency Shelters

**Requests for Waivers**

<i>Waiver Request</i>	<i>Applicable Standards</i>
<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 55 trees.</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>Flooding Standard - Section 5 (III) (4) E of the Technical Manual</i></p>	<p>Waiver of the flooding standard. A project is eligible for a waiver from the flooding standard as follows.                      (b) Insignificant increases in peak flow rates from a project site. When requesting a waiver for a project resulting in an insignificant increase in peak flow rates from a project site, the applicant shall demonstrate that insignificant increases in peak flow rates cannot be avoided by reasonable changes in project layout, density, and stormwater management design. The applicant shall also demonstrate that the proposed increases will not unreasonably increase the extent, frequency, or duration of flooding at downstream flow controls and conveyance structures or have an unreasonable adverse effect on protected natural resources. In making its determination to allow insignificant increases in peak flow rates, the department shall consider cumulative impacts. If additional information is required to make a determination concerning increased flow, the department may only consider an increase after the applicant agrees, pursuant to 38 M.R.S.A. §344-B(3)(B), that the review period may be extended as necessary by the department.</p>

**II. PROJECT DATA**

Existing Zoning	R-6 Residential, B-1 Neighborhood Business
Tax Map	CBL: 057 C023 001
Existing Use	Vacant Lot
Proposed Use	Townhouses for Rental
Parcel Size	4,898 SF
Number of Units to be Demolished	None
Number of Affordable Units	The proposed units will be market rate.
Residential Data	3 dwelling units
Proposed Bedroom Mix	Two-bedroom townhouses
Building Footprint	1,678 SF
Building Floor Area	3,356 SF
Impervious Surface Area	3,643 SF
Parking Spaces	3 spaces
Bicycle Parking Spaces	2 spaces
Estimated Cost of Project	\$ 450,000 (USSA Investment)

### III. EXISTING CONDITIONS

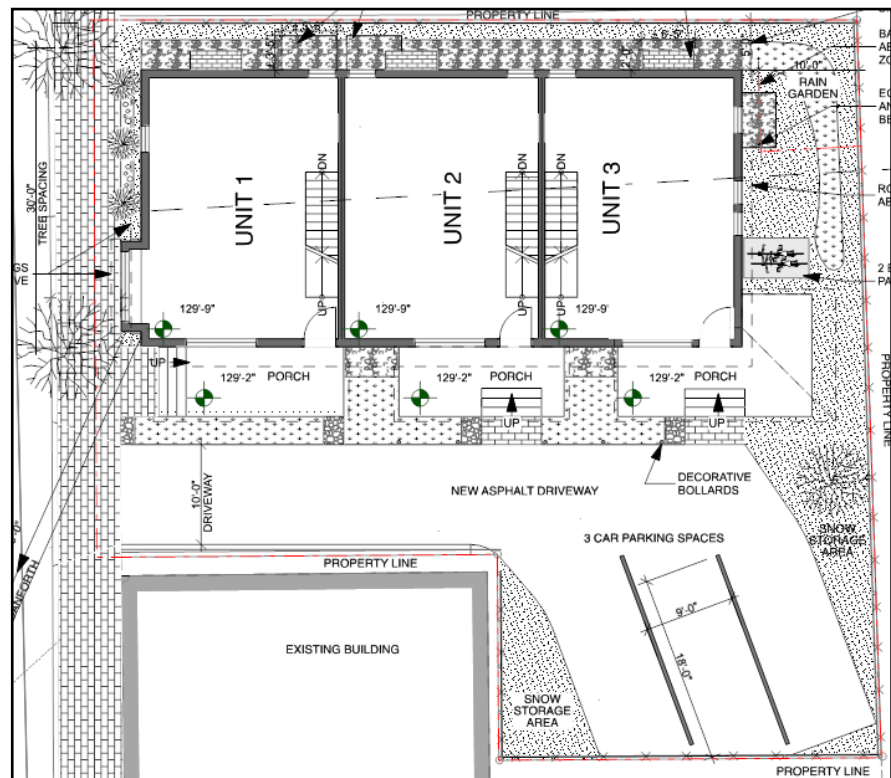
Currently the parcel is vacant and surrounded by single-family and multifamily homes. The site is primarily covered by gravel that has become vegetated over the years. The property does not have a curb cut and there are no paved areas. There are two on-street parking spaces in front of this parcel. May Street is a one-way street, with on-street parking on the east side of the street, that stretch from Spring Street to Danforth Street.



### IV. PROPOSED DEVELOPMENT

The proposal, including floor plans and elevations, are included in the final Plan set and have been revised to address staff concerns. The development project is proposed as new construction of a three-unit townhouse building with each unit having living space on the first floor and two bedrooms on the upper floors. The building will be two stories high. At two stories high, the scale of this townhouse will be in balance the residential uses of the street and neighborhood.

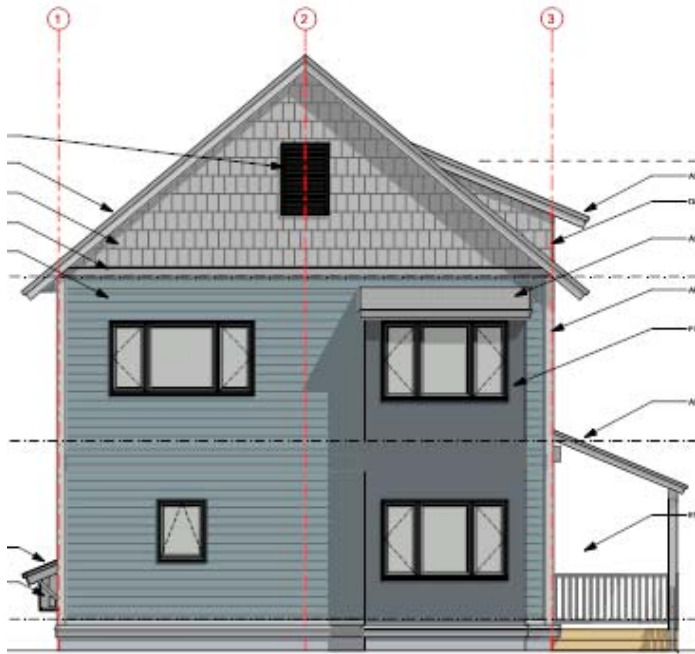
Vehicle access is proposed from May Street via a new 12 foot wide drive with five foot sidewalk alongside. Three parking spaces and two bicycle parking spaces are proposed on the site. The parking area is not visible from the street since it is tucked-away in a corner of the site. There will also be fence that surrounds the property which makes the parking area private and the headlights will not be disturbing abutting neighbors. A designated area for snow storage is located adjacent to parking spaces.





The site is slightly sloped, therefore very little additional grading is required. The stormwater from the roof and site will be diverted to the rain gardens located at the back of the property.

The building is proposed at the sidewalk with the townhouses and individual porches facing the parking area. The building will have a bay window at the front façade and a gabled roof with three separate dormers similar to other building along the street. These features articulate the main façade of the building.



**View of the Proposed Building from May Street**

**View of building from the Parking Area**



## **V. PUBLIC COMMENT**

As of the writing of this report, Barry Hoffman, one of the neighbors, visited the Planning Division office. Mr. Hoffman of 6-8 May Street, who also owns the gravel parking area north of the proposed site, expressed concerns about the construction phase. Mr. Hoffman also questioned noticing and had asked that the item be postponed so there is more time for review of the project.

The applicant did not hold a neighborhood meeting since the subdivision is for three units only; project developments that have five or greater units or lots are required to hold a neighborhood meeting.

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

a. The owner of the property is May Street 7-9 LLC. The applicant has provided a copy of a quitclaim deed, recorded at the Cumberland County Registry of Deeds (Book 31223 Page 127), which demonstrates their right, title and interest in the property.

b. The estimated cost of the development is \$450,000. The applicant has submitted a letter from USAA Investment, dated August 5, 2014, as demonstration of their financial and technical capacity to complete the proposed development.

## **VII. ZONING ASSESSMENT- ANN MACHADO- INTERIM ZONING ADMINISTRATOR**

The proposed project is to build a two-story three unit townhouse with each unit being two stories. The property is located predominantly in the B-1 Neighborhood Business Zone with about nineteen feet of the north end of the lot located in the R-6 Residential Zone. Section 14-51 allows the less restricted zone (B-1) to extend up to thirty feet into the more restrictive zone (R-6) since the B-1 zone has at least twenty feet of street frontage. Since the B-1 zone can extend thirty feet into the R-6 zone, as stated by Marge Schmuckal (former Zoning Administrator) in an email dated 8/21/2014, "Section 14-51 allows the B-1 zone to encompass the entire lot".

The proposed three unit townhouse is a permitted use in the B-1 zone since the lot abuts the R-6 zone which allows multi-family dwellings. Under the B-1 zone all of the dimensional requirements are being met. For off street parking, Division 20 requires one parking space per unit for residential uses on the peninsula. Three parking spaces are shown. Under external effects, section 14-167(b), the maximum noise requirement of 55 decibels at lot boundaries shall be maintained.

## **VIII. DEVELOPMENT REVIEW**

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

The applicant has submitted a recording plat. The plat will need to note the number of proposed units and associated parking on site. The final plat will need to be revised to reflect any waivers and conditions of approval that relate to the subdivision plan. Any waivers granted must be recorded at the Registry of Deeds within 90 days of a Planning Board decision.

### **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 offers his recommendations; please see Attachment 3 for the complete analysis.

A potential condition of approval:

*The applicant shall submit a revised plans/documents that address the March 4, 2015 Woodard and Curran Engineering Review comments for review and approval by the Planning Authority prior to the issuance of a building permit.*

2. Sufficient Water Available (Section 14-497 (a) 2 and 3)

The project will be served by the existing utility services located in May Street. The Applicant has contacted the Portland Water District and the City Department of Public Services requesting ability to serve water and sewer demand, and awaits response. Confirmation of ability to serve water and sewer from PWD and DPS should be forwarded to the Planning Authority upon receipt.

A potential condition of approval:

*Confirmation of ability to serve water and sewer from PWD and DPS shall be submitted to the Planning Division prior to the issuance of a building permit.*

3. Will Not Cause Unreasonable Traffic Congestion (Section 14-497 (a) 5)

May Street is a one-way street, with on-street parking on the east side, that stretch from Spring Street to Danforth Street. The size and placement of the building results in a narrow parking aisle leading to the three parking spaces located across from the building. The applicant is proposing the parking spaces to be diagonal. The site will be accessed by a new curb cut on May Street. The circulation for the site will consist of vehicles pulling in and backing out onto May Street. Tom Errico, P.E. Ty Lin reviewed this detail and notes that “that backing maneuvers onto May Street are deemed acceptable given low traffic volumes both entering and exiting the project site and on May Street”. Mr. Errico has also 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. The staff finds the proposed project is in conformance with this standard.

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)

Please refer to Paragraph VIII (B) 2, above.

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

The proposal site is not within an historic district. 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.

Volume 2 Implementation- Housing Initiatives:

3. New Senior Citizen Housing: A variety of housing opportunities are needed to assist Portland's senior citizens, including subsidized apartments.

(b) Update zoning to encourage neighborhood livability with higher density multi-family and innovative mixed use projects that are along major public transportation routes, near service areas, in redevelopment (underutilized) or infill area, locations near downtown and in business zones.

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

The estimated cost of the development is \$450,000. The applicant has submitted a letter from USAA Investment, dated August 5, 2014, as demonstration of their financial and technical capacity to complete the proposed development.

**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 for review. All the construction is proposed within the limits of the property lines. Tom Errico has reviewed the plan and notes that "the applicant will be required to provide a sidewalk closure detail plan during construction. Approval of the details will be required prior to construction".

A potential condition of approval:

*The construction management plan shall be revised to show the sidewalk closure detail plan during construction, which shall be reviewed and approved by the Planning Authority prior to the issuance of a building permit.*

c. Sidewalks

The applicant is proposing to install new brick sidewalk along their frontage. The driveway apron will also be in brick. This site is in the brick district. A portion of the public sidewalk crosses on private property. The City will need to work with the applicant to obtain public access easement where the sidewalk crosses onto private property.

d. Public Transit Access

The public transit requirements do not apply to this project.

e. Parking

There are three parking spaces to meet zoning requirements and these are located in the side of the property and away from the street. Due to the proposed, new curb cut to this property, there will be one on-street parking space that will be lost, which will require a City Traffic Schedule. Mr. Errico addresses this in his memo, Attachment 1:

*Lastly, I would note that a City Traffic Schedule change will be required in conjunction with the elimination of on-street parking at the proposed driveway location. The applicant would be asked to support that process, as necessary.*

A potential condition of approval:

*A City Traffic Schedule change shall be required by the applicant for the elimination of on-street parking at the proposed driveway location prior to the issuance of the certificate of occupancy.*

f. Bicycle Parking

The proposals include 2 bicycle parking spaces at the rear of the existing building, which meets the ordinance standard of 2 bicycle spaces per 5 vehicle spaces. Tom Errico has reviewed the proposed location of the bicycle racks and recommends that “the bicycle spaces currently proposed in the rear of the site be relocated to a more accessible location”.

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 will have landscaping along the front of the building as well as a rain garden along the back of the property. The applicant is proposing two street trees on May Street, in front of the building. The street tree requirement would be one tree per unit, or three street trees, in or near the ROW. The applicant is also proposing a third tree near the snow storage area, near the end of the driveway aisle and away from the street. The third tree in the back of the property will not qualify as a street tree. Therefore the applicant will need to contribute to the City’s Tree Fund for the one tree.

c. Water Quality, Storm Water Management and Erosion Control

Currently the stormwater runoff from the site drains to May Street and into the City’s combined sewer system through a catch basin at the corner of Danforth and May Streets. In this area, there is no separated stormdrain system. Instead of draining the stormwater in the City’s combined sewer system, the applicant is proposing to infiltrate, retain, and reduce the peak runoff rate that leaves the site. As part of this, four rain gardens are proposed on site, approximately 240 square feet. According to the applicant, about 90% of the runoff will flow into at least one rain garden and much of the runoff from the property will flow through multiple gardens before discharging into May Street.

Under 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. David Senus, P.E. with Woodard and Curran Engineering, has reviewed the drainage plan and stormwater report, and offers his recommendations; please see Attachment 3 for the complete analysis.

The applicant has requested a waiver from meeting Flooding Standards. Mr. Senus has reviewed the request and supports the waiver based on the following statement:

The Applicant has requested a waiver from meeting the Flooding Standard, and has identified several items in support of this waiver request, specifically: adequate capacity within existing nearby infrastructure to convey runoff, the proposed rain gardens provide an appropriate means of stormwater management for the site while eliminating direct entry into the combined sewer system, and the existing ground surface is primarily gravel in the existing condition. We agree with the Applicant’s analysis and we would support granting a waiver from the Flooding Standard for this project.

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 applicant has introduced bollard lights along the walkways of each unit. Overhead lighting may be required to provide lighting for the area by the entrance and parking spaces. This will be reviewed when a lighting plan is submitted.

c. Availability and Adequate Capacity of Public Utilities

The project will be served by the existing utility services located in May Street. The Applicant has contacted the Portland Water District and the City Department of Public Services requesting ability to serve water and sewer demand, and awaits response. Confirmation of ability to serve water and sewer from PWD and DPS should be forwarded to the Planning Authority upon receipt.

4. *Site Design Standards*

a. Snow and Ice Loading

The applicant is proposing on-site snow storage. The two areas for storage is around the either side of the parking area, see Site Plan (Attachment P5).

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 just outside the 100 foot setback of the West End historic district, therefore the project does not have to be reviewed by Historic Preservation.

d. Exterior Lighting

The proposal has noted bollard lighting at the three walkways to the townhouses (Plan P5). A lighting and photometric plan has not been submitted for review. Staff suggests a condition requiring a lighting and photometric plan that the lighting meets the Technical Standards. According to the applicant, the any proposed lighting will meet the City’s standards:

All exterior site lighting including lighting of building entrances will be cutoff with no light emitted above the horizontal plane or spilled onto adjacent properties or streets.

Illumination levels will be adequate but not excessive for the safety, comfort and convenience of occupants and user of the site and will conform to all applicable standards of Section 12 of the Technical Manual.

A potential condition of approval:

*A lighting and photometric plan shall be submitted for review and approval by the Planning Authority prior to the issuance of a building permit.*

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.

f. Signage and Wayfinding

This standard does not apply to the proposal.

g. Zoning Related Design Standards

A design review according to the *City of Portland Design Manual* Standards was performed for the resubmission of the proposed new construction of three townhouses at 7-9 May Street. The review was performed by Caitlin Cameron, Urban Designer, and Shukria Wiar, Planner, within the Planning Division of the Department of Planning & Urban Development. The project was reviewed against the *B-1 and B-1b Neighborhood Business Zones Standards and the Two-Family, Special Needs Independent Living Units, Multiple-Family, Lodging Houses, Bed and Breakfasts, and Emergency Shelters Standards* (Sections (d) and (I), and Appendix 2 of the Design Manual). The proposed project meets all applicable design standards; see Attachment 4 for the full review of the design standards.

## **IX. 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.

## **X. 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 townhouses site plan and subdivision (application 2014-149), 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 (**finds/does not find**) that the project satisfies the waiver criteria contained in the Technical Manual Stormwater Section 5 (III) (4) E *Flooding Standard* and (waives/ does not waive) the standards on the basis that the applicant has demonstrated that several items such as adequate capacity within existing nearby infrastructure to convey runoff and the proposed rain gardens provide an appropriate means of stormwater management for the site while eliminating direct entry into the combined sewer system will not unreasonably increase the extent, frequency, or duration of flooding at downstream flow controls and conveyance structures or have an unreasonable adverse effect on protected natural resources.



2. The Planning Board (finds/does not find) that the applicant has demonstrated that due to the site constraints preventing the planting of required street trees along May Street, thus the Planning Board (**waives/does not waive**) Section 14-526 (b) (2) (b) (iii) *Street Trees* to allow for a contribution of \$200 to the City's Street Tree Fund to be substituted for the provision on site of one of the required street trees.

### **Subdivision Plat**

On the basis of the application (2014-149), plans, reports, and other information submitted by the applicant, findings and recommendations contained in Planning Board Report for application 2014-149 relevant to the Subdivision Ordinance, the MaineDEP Chapter 500 Stormwater Management Standards relative to Stormwater Permits under delegated review, 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 sidewalk easements to provide public access shall be reviewed and approved by Corporation Counsel prior to the issuance of certificate of occupancy.
2. 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.

### **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 2014-149 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 (**is/is not**) in conformance with the site plan standards and all other applicable provisions of the land use code, subject to the following conditions:

1. The applicant shall submit a revised plans/documents that address the March 4, 2015 Woodard and Curran Engineering Review comments for review and approval by the Planning Authority prior to the issuance of a building permit.
2. The applicant shall submit confirmation of ability to serve water and sewer letters from PWD and DPS to the Planning Division prior to the issuance of a building permit.
3. The construction management plan shall be revised to show the sidewalk closure detail plan during construction, which shall be reviewed and approved by the Planning Authority prior to the issuance of a building permit.
4. A City Traffic Schedule change shall be required by the applicant for the elimination of on-street parking at the proposed driveway location prior to the issuance of the certificate of occupancy.
5. A lighting and photometric plan shall be submitted for review and approval by the Planning

Authority prior to the issuance of a building permit.

6. The applicant shall submit easements or temporary construction agreements for all work outside the boundaries of the site, if required, prior to the issuance of a building permit.
7. Storm Water Management Condition of Approval- 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.

**ATTACHMENTS:**

**Staff Review Comments and Background Information**

1. Traffic Engineering Review (Tom Errico, T Y Lin), comments dated March 6, 2015
2. Department of Public Services Review, David Margolis-Pineo, dated March 4, 2015
3. Civic Engineer Review, David Senus, dated March 4, 2015
4. Urban Designer Review, Caitlin Cameron, dated March 4, 2015
5. Zoning Specialist Review, Ann Machado, 11.07.2014 and December 2, 2014

**Public comments**

1. Barry Hoffman email to staff

**Applicant's Submittal**

- A. Cover Letter
- B. Application
- C. Project Description
- D. Response to Staff Comments
- E. Right, Title, or Interest
- F. Compliance with Applicable Zoning
- G. Financial Capacity and Technical Capacity
- H. Solid Waste
- I. Evidence of Utility Capacity to Serve
- J. Stormwater Management
- K. HVAC

**Plans**

**Civil Plans**

- Plan P1 Cover Sheet
- Plan P2 Boundary Survey
- Plan P3 Recording Plat
- Plan P4 Subdivision Plan

March 24<sup>th</sup>, 2015 Planning Board Hearing- 7-9 May St.

Level III-Subdivision and Site Plan Review

- Plan P5 Site Plan
- Plan P6 Drainage & Utility Plan
- Plan P7 Civil Details
- Plan P8 Erosion & Sedimentary Control Details and Notes
- Plan P9 Construction Management Plan

**Building Plans**

- Plan P10 Elevations
- Plan P11 Floor Plans

**STORMWATER DRAINAGE SYSTEM  
MAINTENANCE AGREEMENT**

**For SUBDIVISIONS**

**IN CONSIDERATION OF** the site plan and subdivision approval granted by the Planning Board of the City of Portland to the proposed \_\_\_\_\_ (name of developments and project number) shown on the Subdivision Plat (Exhibit A) recorded in Cumberland Registry of Deeds in Plan Book \_\_\_\_, Page \_\_\_\_ submitted by \_\_\_\_\_, and associated Grading, Drainage & Erosion Control Plan (*insert correct name of plan*) (Exhibit B) 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 referred to collectively referred to as the “stormwater system”), as shown on the \_\_\_\_\_Plan in Exhibit B and in strict compliance with the approved Stormwater Maintenance and Inspection Agreement (*insert correct name of document*) prepared for the Owner by \_\_\_\_\_ (copy attached in Exhibit C) 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 subdivision and/or site plan most recently and formally approved by the Planning Board 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 provide a copy of this Agreement 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: Subdivision Plat as recorded

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

Exhibit C: Approved Stormwater Maintenance and Inspection Agreement



# PORTLAND MAINE

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## **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.

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**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:**

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- 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