

CITY OF PORTLAND, MAINE

PLANNING BOARD

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

August 3, 2015

Briggs Street Property, LLC
Attention: Nicholas Burnett
55 Salem Street, Apt. #B
Portland, ME 04102

Pinkham and Greer
Attention: Tom Greer
28 Vannah Avenue
Portland, ME 04103

Project Name: Three Unit Apartment Building
Project ID: 2015-097 CBL: 057 J031001
Address: 5 Briggs Street
Applicant: Briggs Street Property, LLC
Planner: Shukria Wiar

Dear Mr. Burnett:

On July 28, 2015, the Planning Board considered a Level III Site Plan and Subdivision application for the construction of a three-unit residential building on a 4,366 square feet "urban infill" site at 5 Brigg Street in the West End. The Planning Board reviewed the proposal for conformance with the standards of the Subdivision Ordinance and Site Plan Ordinance. The project will also be reviewed against the *R-6 Small Infill Development Design Principles & Standards* (Appendix 7 of the Design Manual) 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 Planning Board voted unanimously (7-0) to approve the application with the following conditions as presented below.

SUBDIVISION REVIEW

The Planning Board voted unanimously (7-0) that the plan is in conformance with the subdivision standards of the Land Use Code, subject to the following conditions of approval:

1. The Applicant shall note on the subdivision plat that any future proposed increases in impervious area on the site shall be considered cumulative to the current proposed increase of 982 square feet, and requirements for stormwater management shall be required at that time.
2. The final boundary survey, subdivision plat, and site plans shall be stamped by a registered professional land surveyor and registered engineer.
3. 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.

SITE PLAN REVIEW

The Planning Board voted unanimously (7-0) that the plan is in conformance with the site plan standards of the Land Use Code, subject to the following conditions of approval:

1. The applicant shall submit confirmation of ability to serve letters for water and sewer from Portland Water District and Department of Public Service, respectively, to the Planning Division prior to the issuance of a building permit.
2. All exterior site lighting including lighting of building entrances shall be cutoff with no light emitted above the horizontal plane or spilled onto adjacent properties or streets. Illumination levels shall be adequate but not excessive for the safety, comfort and convenience of occupants and user of the site and shall conform to all applicable standards of Section 12 of the Technical Manual. The external lighting specification shall be submitted for review and approval by the Planning authority prior to the issuance of a building permit.
3. The proposed specifications for the mechanical equipment shall be reviewed and approved by the Planning Authority and Acting Zoning Administrator prior to the issuance of a building permit.
4. The applicant shall work with staff to revise the cornice and fenestration pattern on the building to better reflect neighborhood context while also addressing neighborhood concerns for privacy.

The approval is based on the submitted plans and the findings related to site plan and subdivision review standards as contained in Planning Report for application 2015-097 which is attached.

STANDARD CONDITIONS OF APPROVAL

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

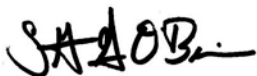
1. **Subdivision Recording Plat** A revised recording plat listing all conditions of subdivision approval must be submitted for review and signature prior to the issuance of a performance guarantee. The performance guarantee must be issued prior to the release of the recording plat for recording at the 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

Sincerely,



Stuart O'Brien, Chair
Portland Planning Board

Attachments:

1. Planning Board Report
2. Sample Stormwater Maintenance Agreement
3. Performance Guarantee Packet

Electronic Distribution:

cc: Jeff Levine, AICP, Director of Planning and Urban Development
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
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



PLANNING BOARD REPORT PORTLAND, MAINE

Briggs Street Subdivision: Three Units Apartments
5 Briggs Street
Level III Subdivision and Site Plan Review
2015-097
Briggs Street Property, Applicant

Submitted to: Portland Planning Board: Public Hearing Date: July 28, 2015	Prepared by: Shukria Wiar, Planner Date: July 24, 2015
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I. INTRODUCTION

Nickolas Burnett on behalf of Briggs Street Property, LLC has submitted a Level III Site Plan and Subdivision application for the construction of a three-unit residential building on a 4,366 square feet “urban infill” site at 5 Brigg Street in the West End. The site is currently vacant. The site face Briggs Street and access to the site is behind an existing two-family building at 55 Salem Street. It is surrounded by single and multifamily houses. The site is in the Residential R-6 zone.

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 *R-6 Small Infill Development Design Principles & Standards* (Appendix 7 of the Design Manual) 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 sixty-nine (169) notices were sent to area residents within 500 feet of the site and the interested party list. A notice also appeared in the July 20th and 21st editions of the *Portland Press Herald*.

Applicant Name	Briggs Street Property, LLC
Consultants	
Engineer	Tom Greer of Pinkham and Greer
Surveyor	Mark Carpenter of Nadeau Land Surveys
Architect	John Whipple of Whipple Callendar Architects

Project Review

<i>Review</i>	<i>Applicable Standards</i>
Site Plan	14-526
Subdivision	14-491
Design Manual	R-6 Small Infill Development Design Principles & Standards (Appendix 7 of the Design Manual) 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)

II. PROJECT DATA

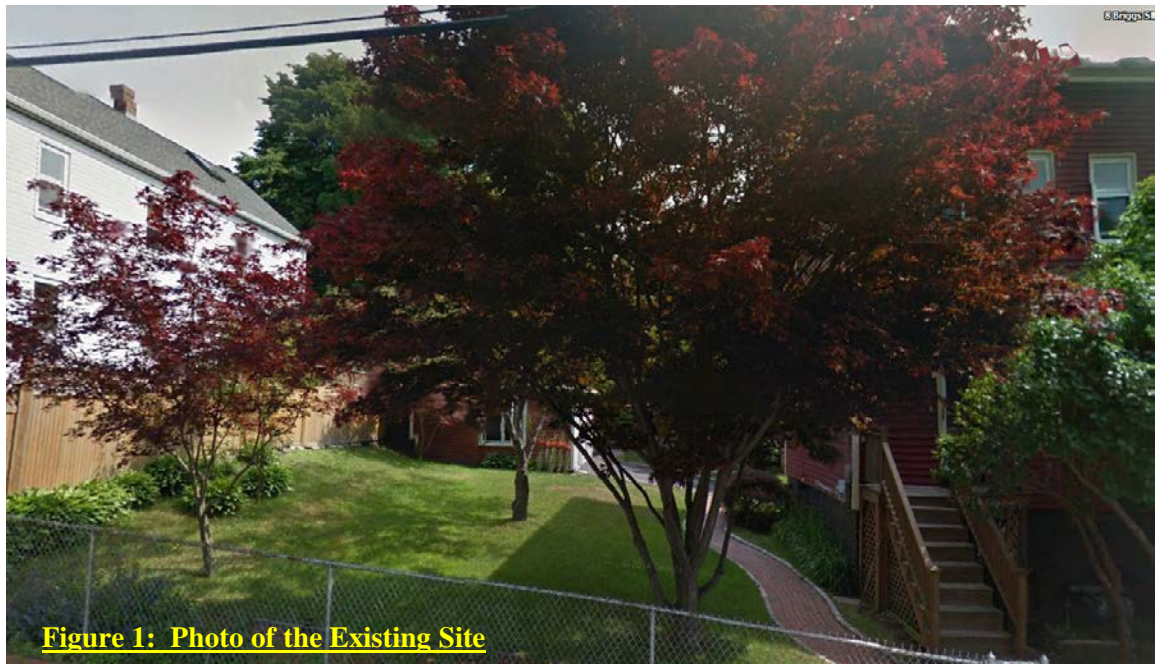
Existing Zoning	R-6 Residential
Tax Map	CBL: 057 J029 and 031
Existing Use	Vacant Lot

Proposed Use	Apartments for Rental
Parcel Size	4,366 SF
Number of Units to be Demolished	None- An existing garage will be razed on the property.
Number of Affordable Units	The proposed units will be market rate.
Proposed Bedroom Mix	Three two-bedroom apartments
Building Footprint	1,409 SF
Building Floor Area	4,251 SF
Impervious Surface Area	1,409 SF
Parking Spaces	3 spaces
Bicycle Parking Spaces	2 spaces
Estimated Cost of Project	\$ 550,000

III. EXISTING CONDITIONS

Currently the parcel is vacant and surrounded by single-family and multifamily homes. The existing site is developed with lawn, patio, and a garage.

The site has an existing garage that serves the home at 55 Salem Street and is mostly open space. The property does not have a curb cut on Briggs Street. There are paved areas that include the driveway from Salem Street and walkways.



Brigg Street is a one-way street, with on-street parking on the east side of the street that stretches from Danforth Street to Salem 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 apartment building with each unit having living space and two bedrooms. The building will be three stories high with a building height of 35 feet and 1,409 SF footprint. At three stories high, the scale of this apartment building will be in balance the residential uses of the street and neighborhood.

The new R-6 text amendments do not require parking spaces for the first three units. However, the applicant is proposing three parking spaces. The building will have two parking spaces under the building and one at the

garage on the abutting lot at 55 Salem Street. Vehicle access is proposed from Salem Street via an existing 10 foot wide drive. This driveway will be shared by this property and the property at 55 Salem Street. The parking area is not visible from the street since it is tucked-away in in the building and away from any public streets. Two bicycle parking spaces are also proposed as part of this project. A fence is prosed that surrounds the property. A designated area for snow storage is located adjacent to the proposed building.

The building is not proposed at the sidewalk but the building will have a walkway and steps that will lead to the front façade. These features articulate the main façade of the building.



Figure 2: View of the Proposed Building from Briggs Street



Figure 3: View of the Proposed Building from Briggs St

**Figure 4: Elevation
View of Building from**



V. PUBLIC COMMENT

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

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 Briggs Street Property, LLC. The applicant has provided a copy of a deed of sale, recorded at the Cumberland County Registry of Deeds (Book 46240 Page 151), which demonstrates their right, title and interest in the property.

b. The estimated cost of the development is \$550,000. The applicant has submitted a letter from Morgan Stanley, dated July 22, 2015, as demonstration of their financial and technical capacity to complete the proposed development.

VII. ZONING ASSESSMENT

The proposed three unit apartment building is a permitted use in the Residential R-6 zone. Under the R-6 zone all of the dimensional requirements are being met. For off street parking, Division 20 requires no parking for the first three units and one parking space per unit for residential uses after the first three in the R-6 zone. Even though parking is not required, the applicant is proposing three parking spaces as shown on the site plan.

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. As writing of this report, there are no waivers requested.

B. SUBDIVISION (Section 14-497)

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

1. Will Not Result in Undue Water and Air Pollution (Section 14-497 (a) 1), and Will Not Result in Undue Soil Erosion (Section 14-497 (a) 4)

David Senus, P.E. with Woodard and Curran Engineering, has reviewed the erosion and sediment control plan and is satisfied with the proposed plans. Confirmation of ability to serve from PWD for water should be forwarded to the Planning Authority upon receipt.

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

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

A potential condition of approval:

Confirmation of ability to serve letters for 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)

Briggs Street is a one-way street, with on-street parking on the east side, which stretches from Danforth Street to Salem Street. The site will be accessed by an existing shared driveway and curb cut on Salem Street. Tom Errico, P.E. Ty Lin reviewed the proposal's details including the access, parking, and vehicle circulation (Attachment 1). Mr. Errico finds the project to be acceptable.

The proposed project is not anticipated to cause unreasonable traffic congestion. 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.

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

The estimated cost of the development is \$550,000. The applicant has submitted a letter from Morgan Stanley, dated July 22, 2015, 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.

c. Sidewalks

The applicant is proposing to install new brick sidewalk along their frontage on Briggs Street. This site is in the brick district.

d. Public Transit Access

The public transit requirements do not apply to this project.

e. Parking

There are three parking spaces and these are located in inside the building property and away from the street.

f. Bicycle Parking

The proposals include 2 bicycle parking spaces at the rear of the building, which meets the ordinance standard of 2 bicycle spaces per 5 vehicle spaces.

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 applicant is proposing three street trees on Briggs Street, in front of the building and is meeting the street tree requirement. The site will have landscaping along the front of the building as well as on the side (which faces Salem Street) of the property.

c. Water Quality, Storm Water Management and Erosion Control

Currently the stormwater runoff from the site drains across the site, across the existing lot at the

corner of Briggs and Salem Streets to the City's combined sewer system through a catch basin at that corner. The proposed flows will follow the same pattern. In this area, there is no separated stormdrain system.

According to 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 Maine DEP Chapter 500 Stormwater Management Rules, including conformance with the Basic, General, and Flooding Standards. Given the size of the proposed development and the de minimis increase in impervious area (less than 1,000 sq ft), no formal stormwater management plan submittal will be required. The Applicant should note that any future proposed increases in impervious area on the site may be considered cumulative to the current proposed increase of 982 square feet, and requirements for stormwater management may be required at that time.

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 recess lights at the entrance way and along the balcony of each unit. Wall mounted lighting will also be provided for the area by the entrance and parking garage.

c. Availability and Adequate Capacity of Public Utilities

The project will be served by the existing utility services located in Briggs Street. The Applicant has contacted the Portland Water District and the City Department of Public Services requesting ability to serve letters for water and sewer demand, and awaits responses. Confirmation of ability to serve letters for 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 either side of the building, 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 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 recess lighting under the front door canopy and at the balconies. A lighting and photometric plan has not been submitted for review. According to the applicant, any proposed lighting will meet the City's Technical 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.

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

On Tuesday, July 21, a design review according to the *City of Portland Design Manual* Standards was performed for the proposed new construction of a three-family dwelling at 5 Briggs 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 *R-6 Small Infill Development Design Principles & Standards* (Appendix 7 of the Design Manual) and also the *Two-family, Special Needs Independent Living Units, Multiple-family, Lodging Houses, Bed and Breakfasts, and Emergency Shelters* (Section I of the Design Manual).

Design Review Criteria:

The project was reviewed with the *R-6 Alternative Design Review* which has the following criteria:

- a. Proposed design is consistent with all of the Principle Statements
- b. The majority of the Standards within each Principle are met
- c. The guiding principle for new construction under the alternative design review is to be compatible with the surrounding buildings in a two-block radius in terms of size, scale, materials, and siting, as well as the general character of the established neighborhood, thus Standards A-1 through A-3 shall be met.
- d. The design plan is prepared by an architect registered in the State of Maine.

The project must also meet the design standards of the *Two-family, Special Needs Independent Living Units, Multiple-family, Lodging Houses, Bed and Breakfasts, and Emergency Shelters*.

Findings of the Design Review:

The proposed design **passes** all of the criteria of the *R-6 Alternate Design Review*.

The proposed design **passes** all of the *Multi-family design standards*.

Comments for the specific standards are provided in Attachment 4.

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

Subdivision Plat

On the basis of the application, plans, reports, and other information submitted by the applicant, findings and recommendations contained in Planning Board Report for application 2015-097 relevant to the Subdivision Ordinance, and other regulations, as well as the Planning Board deliberations and the testimony presented at the Planning Board hearings, the Planning Board finds the following:

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

1. The Applicant shall note on the subdivision plat that any future proposed increases in impervious area on the site shall be considered cumulative to the current proposed increase of 982 square feet, and requirements for stormwater management shall be required at that time.
2. The final boundary survey, subdivision plat, and site plans shall be stamped by a registered professional land surveyor and registered engineer.
3. 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 2015-097 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 confirmation of ability to serve letters for water and sewer from Portland Water District and Department of Public Service, respectively, to the Planning Division prior to the issuance of a building permit.
2. All exterior site lighting including lighting of building entrances shall be cutoff with no light emitted above the horizontal plane or spilled onto adjacent properties or streets. Illumination levels shall be adequate but not excessive for the safety, comfort and convenience of occupants and user of the site and shall conform to all applicable standards of Section 12 of the Technical Manual. The external lighting specification shall be submitted for review and approval by the Planning authority prior to the issuance of a building permit.
3. 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.

4. The proposed specifications for the mechanical equipment shall be reviewed and approved by the Planning Authority and Acting Zoning Administrator prior to the issuance of a building permit.

ATTACHMENTS:

Staff Review Comments and Background Information

1. Traffic Engineering Review (Tom Errico, T Y Lin), comments dated 07.14.2015
2. Department of Public Services Review, David Margolis-Pineo, dated 07.07.2015
3. Civic Engineer Review, David Senus, dated 07.06.2015 and 07.17.2015
4. Urban Designer Review, Caitlin Cameron, dated 07.21.2015
5. Fire Department Review, Capt. Keith Gautreau, dated 07.09.2015

Applicant's Submittal

- A. Application Cover
- B. Level III Application updated 6-1-14_201506010838120054(2)-signed
- C. 1.1 Table of Contents
- D. 1.2 Development Review Application
- E. Project Description
- F. Project Summary
- G. Right Title and Interest
- H. Lesniewski deed
- I. Adams Deed
- J. 3.3 Determination Letter
- K. Compliance
- L. 4.1 Zoning Summary
- M. Financial and Technical Capacity
- N. 5.3 HVAC
- O. Utility Capacity
- P. 7.1 PWD capacity0001
- Q. 7.2 Unutil capacity0001
- R. Stormwater Management
- S. Solid Waste
- T. Construction Management Plan
- U. 10.0 Construction Management Plan
- V. Drawings
- W. A0.1 Construction Management Plan
- X. C_Drainage Analysis D1.0
- Y. C_Housekeeping Report
- Z. C_Stormwater Maintenance Agreement
- AA. C_SW I&MF
- BB. C_SW Narrative

- CC. C_Treatment Calculation
- DD. Notification Map (500 feet) 7-1-15
- EE. Response Letter from Pinkham and Greer, dated 07.14.2015
- FF. Financial Capacity Letter

Plans

- Plan1 A-0 TITLE SHEET
- Plan2 Boundary Survey
- Plan3 Subdivision Recording Plat
- Plan4 Site Plan
- Plan5 Existing Conditions and Demolition Plans
- Plan6 Grading and Utilities Plans
- Plan7 Erosion Control and Landscaping Plans
- Plan8 Details
- Plan9 Details
- Plan10 Details
- Plan11 Renderings
- Plan12 A-1 B'MT AND FIRST PLANS
- Plan13 A-2 2ND AND 3RD PLANS
- Plan14 A-3 ELEVATIONS
- Plan15 A-4 SECTIONS
- Plan16 A-5 DETAILS
- Plan17 S0.0 Structural Notes
- Plan18 S1.0 Foundation Plan
- Plan19 S1.1 First and Second Floor Framing Plan
- Plan20 S2.1 Typ. Concrete Details and Sections
- Plan21 S3.1 Drawing Details

**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 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 record a copy of this Agreement in the Cumberland County Registry of Deeds within thirty (30) days of final execution of this Agreement. The Owner further agrees to provide a copy of this Agreement to any 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 lienied 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 lienied 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

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

Planning & Urban Development Department

Jeff Levine, AICP, Director

Planning Division

Alexander Jaegerman, FAICP, Director

Performance Guarantee and Infrastructure Financial Contribution Packet

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

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

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

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

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

Attachments

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

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

Date: _____

Name of Project: _____

Address/Location: _____

Application ID #: _____

Developer: _____

Form of Performance Guarantee: _____

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

TO BE FILLED OUT BY THE APPLICANT:

<u>Item</u>	PUBLIC			PRIVATE		
	<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)

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

SAMPLE FORM

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

[Date]

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

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

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

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

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

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

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

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

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

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

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

_____ stating that:

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

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

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

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

Date: _____

By: _____

[Name]

[Title]

Its Duly Authorized Agent

SAMPLE FORM

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

[Date]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Date: _____

By: _____

[Name]

[Title]

Its Duly Authorized Agent

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

By: _____

**PERFORMANCE GUARANTEE
with the City of Portland**

Developer's Tax Identification Number: _____

Developer's Name and Mailing Address: _____

City Account Number: _____

Application ID #: _____

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

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

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

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

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

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

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

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

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

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

Seen and Agreed to:

By: _____
[Applicant]

Date: _____

By: _____
****Planning Division Director

Date: _____

By: _____
Development Review Coordinator

Date: _____

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

Distribution

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

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

Amount \$

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

Project Code: _____

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

Project Name:

Application ID #:

Project Location:

Project Description:

Funds intended for:

Applicant's Name:

Applicant's Address:

Expiration:

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

Funds shall be permanently retained by the City.

Other (describe in detail) _____

Form of Contribution:

Escrow Account

Cash Contribution

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

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

Date of Form:

Planner:

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

Electronic Distribution to:

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