

CITY OF PORTLAND, MAINE
PLANNING BOARD

Stuart O'Brien, Chair
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August 20, 2014

Mr. Phineas Sprague, Jr.
New Yard, LLC. – Canal Landing, LLC.
58 Fore Street
Portland, ME 04101

Mr. Steve Bushey
Fay, Spofford & Thorndike
778 Main Street, Suite 8
So. Portland, ME 04106

Project Name: Canal Landing/New Yard
Address: 100 West Commercial Street
Applicant: New Yard, LLC. – Canal Landing, LLC.
Project ID: #2014-123
CBL: 59-A-1
Planner: Rick Knowland, Senior Planner

Dear Mr. Sprague:

On August 12, 2014, the Planning Board considered a development proposal by New Yard, LLC./Canal Landing, LLC. to amend their previously approved site plan for a boat repair and service facility. The Planning Board reviewed the proposal for conformance with the standards of the Conditional Use Standards, Shoreland Zoning Regulations and Site Plan Ordinance. The Planning Board voted 5-0 (Boepple and Dean absent) on all of the motions to approve the application with the following waivers and conditions as presented below.

A. CONDITIONAL USE

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Planning Board Report for application #2014-123 relevant to the Conditional Use Standards of the Waterfront Port Development Zone for *marine product sales and boat storage*, and Section 14-474 of Land Use Code and other regulations, and the testimony presented at the Planning Board hearing that the plan is in conformance the conditional use standards of the land use code.

B. 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 application #2014-123 relevant to Portland's

Technical and Design Standards and other regulations, and the testimony presented at the Planning Board hearing:

1. The Planning Board finds that the applicant has demonstrated that existing trees on the site cannot be preserved on the site and the Board finds undue hardship may result from strict compliance with these regulations and that the public interest is secured with the variation. The Planning Board waives Section 4.3 (Preservation of Existing Vegetation) of the Technical Manual provided the applicant submits a revised landscaping plan for new vegetation for review and approval by the City Arborist.
2. All waivers granted as part of the Planning Board's December 18, 2012 decision for Canal Landing are retained for the amended application (#2014-123), except that the waiver of curbs and sidewalks along Commercial Street is rescinded, as the modified parcel is 5.03 acres and no longer has frontage along West Commercial Street.

C. SHORELAND ZONING

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 application #2014-123 relevant to Division 26, Shoreland Zone Regulations, of the Land Use Code, and the testimony presented at the Planning Board hearing the Planning Board finds the plan in conformance with the Shoreland Zone regulations.

D. SITE PLAN REVIEW

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 application #2014-123 relevant to the Site Plan Ordinance and other regulations, and the testimony presented at the Planning Board hearing the Planning Board finds 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 updated letters from Portland Water District (water), Central Maine Power (electricity), Unitil (gas) and City of Portland (sanitary waste) regarding their ability to serve the project.
2. Prior to the issuance of a building permit, a revised landscaping plan shall be submitted for review and approval by the City Arborist.
3. Prior to the issuance of a building permit a revised site plan shall be submitted for review and approval by David Senus (Development Review Engineer) reflecting the following revisions. The plans shall include details for work within the City ROW, including a City standard trench repair detail (Figure II-12). Applicant shall document that they have submitted a Notice of Intent to Comply with the Maine Construction General Permit to the Maine DEP.
4. That the development shall comply with the review comments of Tom Errico (Traffic Review Engineer) as follows. The approval assumes that access and egress for the project will be via the existing driveway near the Casco Bay Bridge during IMT construction. A construction management plan shall be provided that illustrates how access will occur during IMT construction. This approval does not include new driveways on West Commercial Street.

5. Prior to the issuance of a building permit the site plan shall be revised for review and approval by Chris Pirone (Fire Department) reflecting the 30 foot wide access around the site for Fire Department vehicles. Applicant shall also confirm the address of the property.
6. Prior to the issuance of a building permit an executed copy of an easement agreement with the Maine Central Railroad Company for the utility corridor serving the New Yard site shall be submitted for Corporation Counsel review and approval.
7. Prior to the issuance of a building permit applicant, applicant shall notify the Maine Historic Preservation Commission of the projected site excavation schedule in the event the Commission wishes to observe the excavation in the old glass works area or Oxford Cumberland Canal area. A copy of the notice to the Commission shall be forwarded to the Planning Office. If evidence of these sites are discovered during subsurface work, the applicant shall contact the Planning Authority and make reasonable efforts to document any resource discovered.
8. Prior to the issuance of a building permit, applicant shall submit a revised site plan providing a total of 5 bicycle spaces for Planning Staff review and approval. (Note: December 12, 2012 Planning Board review approved a waiver of one-half of the normal requirement. Size of building has increased so rather than 4 spaces, 5 spaces are required.

The approval is based on the submitted plans and the findings related to site plan, conditional use and shoreland review standards as contained in Planning Report for application #2014-123 which is attached.

STANDARD CONDITIONS OF APPROVAL

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

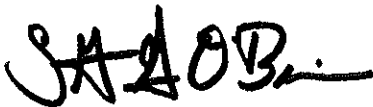
1. **Develop Site According to Plan** The site shall be developed and maintained as depicted on the site plan and in the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require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

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

The Development Review Coordinator must be notified five (5) working days prior to the 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 Rick Knowland, Senior Planner at (207) 874-8725.

Sincerely,



Stuart O'Brien, Chair
Portland Planning Board

Attachments:

1. Planning Board Report
2. City Code: Chapter 32
3. Sample Stormwater Maintenance Agreement
4. Performance Guarantee Packet

Electronic Distribution:

cc: Jeff Levine, AICP, Director of Planning and Urban Development
Alexander Jaegerman, FAICP, Planning Division Director
Barbara Barhydt, Development Review Services Manager
Rick Knowland, Senior Planner
Philip DiPierro, Development Review Coordinator, Planning
Marge Schmuckal, Zoning Administrator, Inspections Division
Tammy Munson, Inspection Division Director
Lannie Dobson, Administration, Inspections Division
Gayle Guertin, 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
Captain Chris Pirone, Fire Department
Danielle West-Chuhta, Corporation Counsel
Thomas Errico, P.E., TY Lin Associates
David Senus, P.E., Woodard and Curran
Rick Blackburn, Assessor's Department
Approval Letter File