



DeLUCA-HOFFMAN ASSOCIATES, INC.
CONSULTING ENGINEERS

778 MAIN STREET
SUITE 8
SOUTH PORTLAND, MAINE 04106
TEL. 207.775.1121
FAX 207.879.0896

- SITE PLANNING AND DESIGN
- ROADWAY DESIGN
- ENVIRONMENTAL ENGINEERING
- PERMITTING
- AIRPORT ENGINEERING
- CONSTRUCTION ADMINISTRATION

November 2, 2012

Mr. William Needelman, AICP
Senior Planner
Planning and Development Department
City of Portland, Maine
389 Congress Street
Portland, Maine 04101-3509

**Subject: Canal Landing New Yard – Phase 1
40 West Commercial Street
Conditional Use Application
Applicant: New Yard, LLC**

Dear Bill:

On behalf of New Yard, LLC, we are pleased to provide the accompanying Conditional Use application materials related to the proposed Canal Landing New Yard development off West Commercial Street. This submission package is intended to supplement the City's Final Submission Requirements as outlined in the Level III Application procedures. The full Site Plan application package was delivered to the City on October 31, 2012.

The proposed Canal Landing activities include uses that are identified as Conditional uses under the Waterfront Port Development zone and therefore the appropriate supporting information is contained within this letter submission. The project description is more fully presented in the Level III Site Plan application package. These uses include:

- 1) A Boat Brokerage yard including a small free standing building with office and display space (per Section 14-320.1.a);
- 2) Material storage includes temporary storage of piping by Unitil. Unitil currently stores pipe within the propane gas distribution facility operated by NGL and they are seeking to simply relocate their pipe storage within the limits of the proposed boat yard area for a limited period of time, as they complete numerous infrastructure improvement projects in the Portland area (per Section 14-320.3.c); and
- 3) A utility substation related to Unitil's need to upgrade their natural gas regulator station on the site (per Section 14-320.4). The development site currently contains high and low pressure transmission and distribution gas infrastructure for which Unitil will be seeking to upgrade in the near future. The exact timing for this work is currently unspecified, however, we would like to include in the current Conditional Use application, thereby leaving future details to these activities subject to Planning Authority administrative review only.

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The following additional information is provided in accordance with Section 14-474 of the ordinance.

Specifically, the Planning Authority may issue a Conditional Use Permit unless it is so determined that:

- a) *There are unique or distinctive characteristics or effects associated with the proposed conditional use;*
- b) *There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding areas;*
- c) *Such impact differs substantially from the impact which would normally occur from such a use in that zone.*

In support of the project, we offer the following statements addressing each of the aforementioned criteria:

- 1) The proposed project includes the development of a boat maintenance and repair facility that will include shorefront activities and ancillary development. The conditional land use activities include a boat brokerage business operating out of a freestanding building, some temporary material storage for natural gas utility pipe to be used by Unitil for projects in the Portland area, and a utility substation that Unitil may undertake related to their existing underground natural gas infrastructure within the site. None of these uses is considered unique or distinctive based on the past and present land uses in the area. The boat brokerage business clearly qualifies as a marine related product and is considered widely complimentary to the boat maintenance and repair uses contemplated by the applicant. The pipe storage activities already occur within the site area and will simply be relocated to a space that does not infringe on the Propane gas distribution activities. The natural gas regulator station is physically linked to the existing natural gas infrastructure on the site and is therefore unable to be located in an alternative location.
- 2) The proposed conditional land uses pose no threat to public health, safety, or welfare as they involve non-intrusive activities that are common within a waterfront and/or industrial setting. The proposed natural gas regulator station is expected to aid with Unitil's operation of their existing high and low pressure transmission and distribution systems on the site and is considered an upgrade of to their existing facilities. Overall, the redevelopment of the former heavy industrial site can reasonably be considered as an improvement and beautification of an underutilized waterfront property.
- 3) The proposed conditional uses will not result in substantially different impact than what may be expected normally from permitted uses in the zone. In general, the Portland waterfront contains various marine related sales services as well as the storage of industrial and marine related materials. The onsite storage of pipe currently occurs and will be performed in a manner that remains nonintrusive and low key. The regulator station will also be positioned in a manner that will allow for proper screening and security from the passing public and nearby land uses.

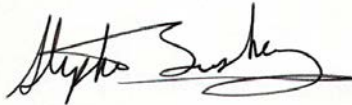
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On behalf of the Canal Landing New Yard Team, we look forward to your continued assistance on the project and we look forward to a December 2012 Public Hearing with the Planning Board. Please find one (1) hard copy of the Conditional Use application along with a diskette containing individual PDF files for all submitted plans. We trust that any remaining application fee balance can be determined and provided to this office so we may advise the applicant who will provide the application fee balance directly to your office.

If you have any questions regarding these materials please contact this office.

Sincerely,

DeLUCA-HOFFMAN ASSOCIATES, INC.



Stephen R. Bushey, P.E.
Senior Engineer

SRB/cmd

Attachments – As listed above

c: Phineas Sprague, Jr. – New Yard LLC
Bob Flight – New Yard LLC
Peter Plumb – Murray, Plumb, and Murray



Conditional Use Application Development Review Application Portland, Maine

Planning and Urban Development Department
Planning Division

Portland's Planning and Urban Development Department coordinates the development review process for site plan, subdivision and other applications under the City's Land Use Code. Attached is the application form for a Conditional Use Review. General information pertaining to the thresholds of review for site plans, public noticing procedures and the fee structure is contained in site plan applications and within the Developer's Packet.

(Please submit the Conditional Use Application in addition to an applicable site plan application.)

PROJECT NAME: Canal Landing

CHART/BLOCK/LOT: 59-A-5,6,9,10 / 59-A-2 / 59-A-1,3,4,7,8,11,12

RIGHT, TITLE OR INTEREST: (Please identify the status of the applicant's right, title, or interest in the subject property.)

See agreements in Site Plan Application.

(Please provide documentary evidence, attached to this application, of the applicant's right, title, or interest in the property. For Example – a deed, option or contract to purchase or least the subject property.)

VICINITY MAP: (Please attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use.) See Figure 1 in Site Plan Application

EXISTING USE: Describe the existing use of the subject property.

Existing gas distribution facility and vacant land

TYPE OF CONDITIONAL USE PROPOSED: Conditional uses include:

1) a boat brokerage yard includes small office building (marine products retail); 2) material storage (utility pipe storage related to gas co. operations - Low Impact Industrial Use); 3) utility substation for a natural gas regulator station.

SITE PLAN: Provide a site plan of the property, showing existing and proposed improvements, which meets the submission requirements of the applicable level of site plan review. See Site Plans

CONDITIONAL USE AUTHORIZED BY: SECTION 14- 320

Address any specific conditional use standards for the specific use contained in the zoning code in the written submission.

APPLICATION FEES:

Check all reviews that apply. (Payment may be made by Cash or Check payable to the City of Portland.)

<p>Conditional Use</p> <p><u> X </u> Conditional Use \$100</p> <hr/> <p>The City invoices separately for the following:</p> <ul style="list-style-type: none"> • Notices (\$.75 each) • Legal Ad (% of total Ad) • Planning Review (\$40.00 hour) • Legal Review (\$75.00 hour) <p>Third party review is assessed separately.</p>	
<p>Site Plan Application</p> <p>Please submit a separate application for the applicable site plan review. Fees and charges are listed within the site plan application</p>	<p>Site Plan Application submitted and Fees Paid (office use) _____</p>

APPLICATION SUBMISSION

All site plans and written application materials must be uploaded to a website for review. At the time of application, instructions for uploading the plans will be provided to the applicant. One paper set of the plans, written materials and application fee must be submitted to the Planning Division Office to start the review process.


The application for a conditional use review must contain the following items:

- a. Conditional Use Application form that is completed and signed.
- b. Cover letter stating the nature of the project.
- c. Evidence of right, title and interest.
- d. Written Submittals that address the conditional use standards of Section 14-474 and any applicable standards of review contained in the zoning code for the specific use.
- e. One set of the paper plans and maps based upon the boundary survey at a scale not less than one (1) inch to fifty (50) feet and containing the information required for the applicable level of site plan review. The plan requirements and submission requirements are listed in the Site Plan Ordinance (Section 14 -527) of the Land Use Code. Refer to the application checklist for a detailed list of submittal requirements.
- f. One set of the plans at 11X17.
- g. The conditional use application fee and all other applicable fees as determined on the site plan application.

Portland's development review process and requirements are outlined in the Land Use Code (Chapter 14), which includes the Subdivision Ordinance (Section 14-491) and the Site Plan Ordinance (Section 14-521) and the Conditional Use Standards (Section 14-474). Portland's Land Use Code is on the City's web site: www.portlandmaine.gov Copies of the ordinances may be purchased through the Planning Division.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Planning Authority and Code Enforcement's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

This application is for a Conditional Use review. It is not a permit to begin construction. An approved site plan, a Performance Guarantee, Inspection Fee, Building Permit, and associated fees will be required prior to construction. Other Federal, State or local permits may be required prior to construction, which are the responsibility of the applicant to obtain.

Signature of Applicant: 	Date: <i>November 1, 2012</i>
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The Portland Land Use Code (including Article V), the Technical Manual, and the Design Manual are available on the City's web site at <http://www.portlandmaine.gov/planning/default.asp> or copies may be purchased at the Planning Division Office.

Planning Division
Fourth Floor, City Hall
389 Congress Street
(207) 874-8721 or 874-8719

Office Hours
Monday thru Friday
8:00 a.m. – 4:30 p.m.