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August 16, 2013

Ms. Barbara Barhydt
Development Review Services Manager
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
Applicant: New Yard, LLC
Amended Site Plan Application**

Dear Barbara:

On behalf of New Yard, LLC (New Yard), we are pleased to provide the accompanying Amended Site Plan Application and related Performance Guarantee information. New Yard LLC is proposing an amended Phasing Plan that will allow them to move forward with a limited number of activities this summer/fall under the coverage of an abbreviated Performance Guarantee posting. We understand this requires Planning Board approval. You may recall per our February 15, 2013 Condition Compliance Letter #1 we previously addressed the Portland Planning Board's Conditions of Approval #4, 6 and 8. The applicant is now moving forward with a limited amount of site activities that will enable them to partially occupy the site. As you may know, New Yard completed the property closings with Unitil and Portland Terminal in late July. New Yard is now proposing to perform a narrow scope of activities within the next 4 to 6 weeks with the intent of occupying the site on a limited basis. They do not foresee executing the full Phase 1 development plan as approved at least until the spring/summer 2014. As you know, the West Commercial Street property is currently under consideration for expansion activities related to the International Marine Terminal (IMT). For this reason, New Yard does not want to commence the full Phase 1 development program, since there are uncertainties as to what may ultimately occur within the easterly portions of the New Yard development site. However, New Yard is also interested in immediate site use. This will include limited out of water vessel placement, and boat repair activities.

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New Yard proposes to complete the following Phase 1A activities in the upcoming weeks:

- Grassing cutting and general site cleanup;
- Select brush and tree removal with observance of the tree save plan originally approved;
- Removal of a portion of the abandoned rail tracks east of the NGL driveway and salvage of ballast stone;
- Removal and resetting of a chain link fence along the Commercial Street frontage. The fence is intended to provide improved security around the site and will simply place a fence line closer to the street line along much of the site frontage from the NGL driveway, east to the existing shared driveway with the MaineDOT;
- Processing of salvaged concrete that will be crushed and reinforcement removed for general use as inert site fill. This quantity of material is generally less than 3,000 CY;
- Placement of a small portable temporary construction trailer with power service;
- Pile removal and/or cutting at the mud line within most of the remnant pier limits across the site waterfront. The piles will likely be stockpiled on the site for future reuse, or disposed of if unsuitable for reuse;
- Ground stabilization and restoration to the existing shorefront granite revetment west of the Unitil frontage. Numerous granite blocks need to be reset along the top of the wall and ground area behind the wall that has been eroded due to ongoing water exposure will be repaired. The plan includes minor subgrade preparation behind the wall and the placement of geotextile material followed by the restoration of granular backfill to the top of wall grade;
- Installation of the westerly boat ramp and floats for vessel staging and extraction. This will include CIP or precast planks and slope stabilization in the vicinity of the ramp and pile reuse or replacement; and

In addition, the following will continue to occur:

- New Yard will continue to use the existing shared easterly entrance off Commercial Street for site access;
- Energy East/NGL will continue to operate the existing propane distribution facility and access drive opposite Beach Street;
- Pan Am will continue to use the tracks into the Energy East/NGL site; and
- Unitil will continue remediation activities on their lands, including box waste removal and granular fill placement.

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Work not currently contemplated until more definitive direction on the IMT expansion is determined includes the following Phase 1B activities:

- No significant earthmoving activities except for minor surface grading and leveling on the westerly end of the site;
- No permanent underground utilities will be installed;
- No permanent buildings including the Operations and Maintenance building or Yacht Sales building will be constructed;
- The permanent boat yard surface will not be placed until at least the summer 2014;
- The travel lift basin will not be constructed; and
- The easterly boat ramp will not be constructed.

New Yard is also interested in the realigned placement of a building on the property. New Yard's objective is to install a tension fabric or prefabricated metal building within or near the footprint of the existing concrete pad, located at the west side of the site. The concrete pad was formerly a clay storage site, thus it is hoped that the pad can be beneficially reused for these temporary conditions. New Yard does not desire to place the structure at the originally designed location until issues including Unutil's completion of VRAP clean up and the IMT expansion are more fully resolved. We understand that this amended building alignment requires additional staff and Planning Board review and we are currently preparing a supplemental application package for these plans. We expect to submit plans and supporting materials within the next few weeks as we seek Board approval in late September or early October for the building amendment. This issue will be covered under another amendment application.

The accompanying annotated plans illustrate the scope of work currently contemplated. Items to be completed this summer/fall are identified as Phase 1A activities, while work to be performed at a later time include the remaining approved elements now identified as Phase 1B.

On the basis of these phased activities, New Yard is seeking to post a Performance Guarantee for Phase 1A activities, reflective of a limited work scope, at least until such time that more definitive plans for the IMT expansion are developed. New Yard fully expects and agrees to post a more expansive Performance Guarantee for the remaining Phase 1B work not definitively scheduled, once the IMT expansion is more fully understood. The accompanying Draft Performance Guarantee form covers those items outlined above as the initial Phase 1A activities that New Yard is proposing to complete. We recognize the original conditions of approval include several items linked to the issuance of a building permit and it is New Yard's intent to satisfy these items in advance or part of any building permit submission. We also recognize that the original approved development plans did not contemplate this phased approach to the work. However, New Yard wishes to provide solutions to the opportunities of the IMT expansions. Consequently, this phased approach is now crucial, as New Yard needs to initiate limited site use


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based on their business needs and operations. Pending your review of these materials, New Yard will be initiating one or more site meetings with involved utilities, contractors and City representatives to discuss work scheduling, timelines and other construction administration over the next few weeks. We understand with this submission that the City may place this request on the Planning Board's August 27th meeting agenda. If successfully reviewed at that time, New Yard is prepared to submit the remaining Performance Guarantee materials to the Planning Authority on the next day in order to expedite commencement of project activity.

We appreciate the Planning Authority's consideration on these matters and look forward to commencement of the project. New Yard is anxious to move ahead but recognizes that it is essential to provide solutions for the IMT expansion and the rail extension into the IMT. If you have any questions or require any additional information, please contact our office.

Sincerely,

FAY, SPOFFORD & THORNDIKE, LLC



Stephen Bushey, P.E., C.P.E.S.C.
Senior Engineer

SRB/smk

Enclosures: Draft Performance Guarantee forms
Amended Site Plan Depicting Phasing

c: Bill Needelman, City Planning
Phin Sprague, New Yard LLC
Bob Flight, New Yard LLC
Peter Plumb, Murray, Plumb and Murray