



FAY, SPOFFORD &
THORNDIKE
778 Main Street, Suite 8
South Portland, ME 04106
Toll Free: 800.835.8666
Main: 207.775.1121
Fax: 207.879.0896
www.fstinc.com

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;
- 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 Unutil 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
- Installation of a temporary tension fabric structure that can be relocated. New Yard's objective is to install the fabric building within the existing 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 cleanup and the IMT expansion are more fully resolved.

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;

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- Pan Am will continue to use the tracks into the Energy East/NGL site; and
- Unutil will continue remediation activities on their lands, including box waste removal and granular fill placement.

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

- No significant earthmoving activities;
- 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

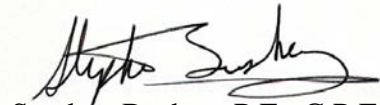
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the original approved development plans did not contemplate this phased approach to the work. However, this is now crucial, as New Yard needs to initiate limited site use based on their business needs and operations. Pending your review of these materials, 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. 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



Level III – Preliminary and Final Site Plans 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 Level II: Preliminary or Final Site Plan. Please note that Portland has delegated review from the State of Maine for reviews under the Site Location of Development Act, Chapter 500 Stormwater Permits, and Traffic Movement Permits.

Level III: Site Plan Development includes:

- New structures with a total floor area of 10,000 sq. ft. or more except in Industrial Zones.
- New structures with a total floor area of 20,000 sq. ft. or more in Industrial Zones.
- New temporary or permanent parking area(s) or paving of existing unpaved parking areas for more than 75 vehicles.
- Building addition(s) with a total floor area of 10,000 sq. ft. or more (cumulatively within a 3 year period) except in Industrial Zones.
- Building addition(s) with a total floor area of 20,000 sq. ft. or more in Industrial Zones.
- A change in the use of a total floor area of 20,000 sq. ft. or more in any existing building (cumulatively within a 3 year period).
- Multiple family development (3 or more dwelling units) or the addition of any additional dwelling unit if subject to subdivision review.
- Any new major or minor auto business in the B-2 or B-5 Zone, or the construction of any new major or minor auto business greater than 10,000 sq. ft. of building area in any other permitted zone.
- Correctional prerelease facilities.
- Park improvements: New structures greater than 10,000 sq. ft. and/or facilities encompassing 20,000 sq. ft. or more (excludes rehabilitation or replacement of existing facilities); new nighttime outdoor lighting of sports, athletic or recreation facilities not previously illuminated.
- Land disturbance of 3 acres or more (includes stripping, grading, grubbing, filling or excavation).

The 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>

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.

PROJECT NAME: Canal Landing New Yard Boat Maintenance Facility

PROPOSED DEVELOPMENT ADDRESS:

40 West Commercial Street, Portland, Maine 04101

PROJECT DESCRIPTION:

Phased redevelopment of former industrial site into a boat and ship repair and maintenance facility

and related mix-use activities. Current submission is for amended project phasing.

CHART/BLOCK/LOT: 59-A - 5,6,9,10 **PRELIMINARY PLAN** July 2012 (date)
59-A-1, 3, 4, 7, 8, 11, 12 **FINAL PLAN** _____ (date)

CONTACT INFORMATION:

Applicant – must be owner, Lessee or Buyer Name: New Yard, LLC Business Name, if applicable: Address: 58 Fore Street City/State : Portland, ME Zip Code: 04101	Applicant Contact Information Work # 207-774-1067 Home# Cell # Fax# 207-774-7035 e-mail: www.portlandyacht.com
Owner – (if different from Applicant) Name: Northern Utilities, Inc. d/b/a Unitil and New Yard, LLC Address: 6 Liberty Lane West/58 Fore Street City/State : Portland, ME Zip Code: 04101	Owner Contact Information Work # 603-773-6459 Home# Cell # Fax# e-mail:
Agent/ Representative Name: Stephen R. Bushey, P.E./FST, LLC Address: 778 Main Street, Suite 8 City/State : Portland, ME Zip Code: 04106	Agent/Representative Contact information Work # 207-775-1121 Cell # 207-756-9359 e-mail: sbushey@fstinc.com
Billing Information Name: c/o Portland Yacht Services Address: 58 Fore Street City/State : Portland, ME Zip Code: 04101	Billing Information Work # 207-774-1067 Cell # Fax# 207-774-7035 e-mail:

Engineer Name: FST, LLC Address: 778 Main Street, Suite 8 City/State :So. Portland, ME Zip Code: 04106	Engineer Contact Information Work # 207-775-1121 Cell # 207-756-9359 Fax# 207-879-0896 e-mail: sbushey@fstinc.com
Surveyor Name: Owen Haskell Inc. Address: 390 US Route 1, Unit 10 City/State : Falmouth, ME Zip Code: 04105	Surveyor Contact Information Work # 207-774-0424 Cell # Fax# 207-774-0511 e-mail: jswan@owenhaskell.com
Architect Name: TFH Architects Address: 80 Middle Street City/State : Portland, ME Zip Code: 04101	Architect Contact Information Work # 207-775-6141 Cell # Fax# 207-773-0194 e-mail:
Attorney Murray, Plumb and Murray Name: Peter Plumb, Esq. Address: 75 Pearl Street, Suite 300 City/State : Portland, ME Zip Code: 04101	Attorney Contact Information Work # 207-773-5651 Cell # Fax# 207-773-8023 e-mail: pplumb@mpmlaw.com

APPLICATION FEES:

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

Level III Development (check applicable reviews) <input type="checkbox"/> Less than 50,000 sq. ft. (\$500.00) <input type="checkbox"/> 50,000 - 100,000 sq. ft. (\$1,000) <input type="checkbox"/> 100,000 – 200,000 sq. ft. (\$2,000) <input type="checkbox"/> 200,000 – 300,000 sq. ft. (\$3,000) <input type="checkbox"/> over \$300,00 sq. ft. (\$5,000) <input type="checkbox"/> Parking lots over 11 spaces (\$1,000) <input type="checkbox"/> After-the-fact Review (\$1,000.00 plus applicable application fee) Plan Amendments (check applicable reviews) <input type="checkbox"/> Planning Staff Review (\$250) <input checked="" type="checkbox"/> Planning Board Review (\$500) The City invoices separately for the following: <ul style="list-style-type: none"> • Notices (\$.75 each) • Legal Ad (% of total Ad) • Planning Review (\$40.00 hour) • Legal Review (\$75.00 hour) Third party review fees are assessed separately. Any outside reviews or analysis requested from the Applicant as part of the development review, are the responsibility of the Applicant and are separate from any application or invoice fees.	Other Reviews (check applicable reviews) <input type="checkbox"/> Traffic Movement (\$1,000) <input type="checkbox"/> Stormwater Quality (\$250) <input type="checkbox"/> Subdivisions (\$500 + \$25/lot) # of Lots ___ x \$25/lot = _____ <input type="checkbox"/> Site Location (\$3,000, except for residential projects which shall be \$200/lot) # of Lots ___ x \$200/lot = _____ <input type="checkbox"/> Other _____ <input type="checkbox"/> Change of Use <input type="checkbox"/> Flood Plain <input type="checkbox"/> Shoreland <input type="checkbox"/> Design Review <input type="checkbox"/> Housing Replacement <input type="checkbox"/> Historic Preservation
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APPLICATION SUBMISSION:

1. All site plans and written application materials must be submitted electronically on a CD or DVD with each plan submitted as separate files, with individual file names (see submittal requirements document attached).
2. In addition, one (1) paper set of the plans (full size), one (1) paper set of plans (11 x 17), paper copy of written materials, and the application fee must be submitted to the Planning Division Office to start the review process.

The application must be complete, including but not limited to the contact information, project data, application checklists, wastewater capacity, plan for fire department review, and applicant signature. The submissions shall include one (1) paper packet with folded plans containing the following materials:

1. One (1) full size site plans that must be folded.
2. One (1) copy of all written materials or as follows, unless otherwise noted:
 - a. Application form that is completed and signed.
 - b. Cover letter stating the nature of the project.
 - c. All Written Submittals (Sec. 14-525 2. (c), including evidence of right, title and interest.
3. A stamped standard boundary survey prepared by a registered land surveyor at a scale not less than one inch to 50 feet.
4. Plans and maps based upon the boundary survey and containing the information found in the attached sample plan checklist.
5. One (1) set of plans reduced to 11 x 17.

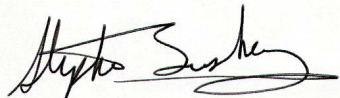
Refer to the application checklist for a detailed list of submission requirements.

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). Portland’s Land Use Code is on the City’s web site <http://www.portlandmaine.gov/citycode/chapter014.pdf>

APPLICANT SIGNATURE:

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 Level II Site Plan 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.

Signatur 	Date: August 16, 2013
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PROJECT DATA

The following information is required where applicable, in order to complete the application.

Total Area of Site	22.5 ac. sq. ft.
Proposed Total Disturbed Area of the Site	Phase 1A - 100,000 sq. ft.
If the proposed disturbance is greater than one acre, then the applicant shall apply for a Maine Construction General Permit (MCGP) with DEP and a Stormwater Management Permit, Chapter 500, with the City of Portland	
Impervious Surface Area	
Impervious Area (Total Existing)	287,704 sq. ft.
Impervious Area (Total Proposed)	255,598 sq. ft.
Building Ground Floor Area and Total Floor Area	
Building Footprint (Total Existing)	0 sq. ft.
Building Footprint (Total Proposed)	41,617 sq. ft.
Building Floor Area (Total Existing)	0 sq. ft.
Building Floor Area (Total Proposed)	41,617 sq. ft.
Zoning	
Existing	WPDZ
Proposed, if applicable	Same
Land Use	
Existing	LP Gas Distribution (to remain)
Proposed	Boat Maintenance Facility
Residential, If applicable	
	N/A
# of Residential Units (Total Existing)	
# of Residential Units (Total Proposed)	
# of Lots (Total Proposed)	
# of Affordable Housing Units (Total Proposed)	
Proposed Bedroom Mix	
	N/A
# of Efficiency Units (Total Proposed)	
# of One-Bedroom Units (Total Proposed)	
# of Two-Bedroom Units (Total Proposed)	
# of Three-Bedroom Units (Total Proposed)	
	0
Parking Spaces	
	Unspecified parking for up to 50 outside employees
# of Parking Spaces (Total Existing)	
# of Parking Spaces (Total Proposed)	
# of Handicapped Spaces (Total Proposed)	
Bicycle Parking Spaces	
# of Bicycle Spaces (Total Existing)	0
# of Bicycle Spaces (Total Proposed)	Waiver Requested
Estimated Cost of Project	
	\$1 - 2 Million

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

Date: 08-12-13

Name of Project: Canal Landing New Yard
 Address/Location: 40 West Commercial Street
 Application ID #: #2012-575
 Developer: New Yard, LLC

Form of Performance Guarantee: _____

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

TO BE FILLED OUT BY THE APPLICANT:

Item	PUBLIC			PRIVATE		
	Quantity	Unit Cost	Subtotal	Quantity	Unit Cost	Subtotal
1. STREET/SIDEWALK						
Road/Parking Areas	_____	_____	_____	1	LS	\$30,000
Curbing	_____	_____	_____	_____	_____	_____
Sidewalks	_____	_____	_____	_____	_____	_____
Esplanades	_____	_____	_____	_____	_____	_____
Monuments	_____	_____	_____	_____	_____	_____
Street Lighting	_____	_____	_____	_____	_____	_____
Street Opening Repairs	_____	_____	_____	_____	_____	_____
Other - Boat Ramp/Floats	_____	_____	_____	1	LS	\$165,000
2. EARTH WORK						
Cut	_____	_____	_____	_____	_____	_____
Fill	_____	_____	_____	3,000 CY	\$15/CY	\$6,000
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	_____	_____	_____	1,000 LF	\$3/LF	\$3,000
Check Dams	_____	_____	_____	_____	_____	_____
Pipe Inlet/Outlet Protection	_____	_____	_____	_____	_____	_____
Level Lip Spreader	_____	_____	_____	_____	_____	_____
Slope Stabilization	_____	_____	_____	550 CY	\$50/CY	\$27,500
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	_____	_____	_____	1	LS	\$20,000
TOTAL:	_____	_____	_____	\$251,500		
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)	