

PLANNING BOARD REPORT PORTLAND, MAINE



New Yard at Canal Landing
Boatyard and Boat Repair Facility
40 West Commercial Street

Amendment to
Level III Site Plan, Conditional Use, Shoreland Zone, Flood Plain, Site Location of Development
New Yard, LLC, Applicant

Submitted to: Portland Planning Board: Public Hearing Date: October 22 2013 Project # 2013-224 Amending # 2012-575 & # 2013-201 CBL: 59-A-1,2,3,4,5,6,7,8,9,10,11,12	Prepared by: Bill Needelman, Senior Planner Date: August 17,2013 Planning Board Report Number: #45-13
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I. Introduction

At the request of New Yard, LLC, represented by Steve Bushey, FST Engineers, the Planning Board is requested to hold a Public Hearing to review amendments to an approved site plan for a boat and ship repair and maintenance facility in the vicinity of 40 West Commercial Street.

This is the second amendment proposed for the New Yard Plan. In December 2012, the “New Yard at Canal Landing” was originally approved by the Planning Board for approximately 42,000 square feet of building space for a boat repair and storage facility with re-grading of up to 7 acres of the site. In August of 2013, the Planning Board approved a phasing plan for the facility to allow limited improvements to move forward while the developer negotiated potential changes to the subject parcel associated with the easterly abutting uses at the International Marine Terminal.

The August 2013 approval allowed a first phase of development limited to brush clearing, concrete crushing, removal of derelict pilings and wharf structure, limited re-grading, and construction of a boat ramp and associated floats.

The subject amendment proposes to move the primary buildings and boat service activities to the westerly portion of the site, while making minimal changes to the site in the area of the originally approved buildings. Access would remain from the easterly gate locate at adjacent to the IMT and would follow the pathway established with the August amendment.

The subject amendment includes review for Level III Site Plan, Conditional Use in the WPDZ, Shoreland Zoning, Flood Plain Management, and an amendment to a Site Location of Development permit issued under delegated authority from the Maine Department of Environmental Protection.

Notice of this Public Hearing was mailed to 132 neighbors and interested parties and was advertised in the October 14 and 15, 2013 editions of the Portland Press Herald. The required Neighborhood Meeting was conducted as part of the original approval.

II. Project Status and Current Proposal

The applicant is requesting an amendment to the approved phased plan to reduce the overall site impact and to allow development activities to transition from the easterly to the westerly portions of the site.

Approval Status: Originally, the applicant was approved for a “Phase 1” including two boat ramps, a travel lift basin, floating docks, buildings totaling over 42,000 square feet of industrial space, significant fill and grading, stormwater improvements, utility work, lighting, and landscaping. The majority of activity approved concentrated toward the easterly portion of the site. For the Board’s information, the applicant also showed a “Phase 2” full build out scenario, which showed additional development and buildings on the westerly portion of the site. The approved December 2012 plan is provided as Attachment P1. The future master plan, showing planned development on both the easterly and westerly portions of the site, is provided as Attachment P2.

The August 2013 amendment kept the December 2012 approvals intact, while allowing a “Phase 1A” to proceed. Phase 1A was limited to minimal site improvements including installation of the westerly boat ramp to the Fore River, construction of associated floats, and regarded areas for boat storage and service. The extent of the Phase 1A improvements is shown in red hash marks on Attachment P1. The applicant has proceeded with the Phase 1A improvements and construction is on-going.

Waivers and Conditions of Approval:

The previous approval included various waivers and conditions of approval. The waivers are summarized in a table below.

The original approval also included several conditions of approval. Staff has provided a copy of the previous approval letter for the Board’s reference. While most of the previous conditions of approval were satisfied prior to beginning of construction, several conditions of approval from December 2012 have been brought forward into this review for the Board’s Consideration.

Waiver Summary: As part of the December 2012 approval, the application was granted the following waivers, which are assumed to remain in effect unless specifically amended or rescinded by the Board.

Waiver	Code Reference	Comment
Sidewalks and Granite Curbing:	Site Plan Standard 14-526(a)(2)c.1 (and 14-448 and 14-449, by reference)	<i>Sidewalk waiver was granted based on sidewalk criteria 1 (safe route across the street, and criteria 6 (loss of significant features of greater value). Curbing waiver was granted based on criteria 4 (loss of significant site features of a greater public value,) and criteria 5 (runoff from the development site or within the street does not require curbing for stormwater management.)</i>
Site Lighting	Tech Standards Sec. XV. 5.4.A, Uniformity and 4.B, Illumination Levels.	<i>Waiver granted due to allow dark areas on the site not meeting minimum illumination levels. No lighting plan is currently provided. Staff recommends a condition of approval for submission of a lighting plan for staff review and approval.</i>
Landscaping:	Tech Standards Sec. IV. 5.4.5 Tree Species and Size standards.)	<i>Waivers granted to allow a naturalized replanting program consistent with the site's Shoreland Zone context. Current proposal relies on preservation of existing vegetation for landscaping. Staff recommends a condition of approval for submission of a landscaping plan for staff review and approval.</i>
Flooding	Tech Standards Sec.V E, Flooding	<i>Waiver granted due to the capacity of the receiving body (the Fore River)</i>

Waiver	Code Reference	Comment
Soil Infiltration Testing	Tech Standards, Sec. V, Appendix D.4.(a)	<i>Waiver granted based on known conditions on the site and controlled materials to be installed with construction.</i>
Bicycle Parking	Site Plan Standard 14-526 a (4) b.	<i>Partial waiver granted based on an “industrial use located in an outlying area (waiver criteria)</i>
Driveway width	Tech Standards, sec 1.7.1.4.	<i>Standard cites 36 feet maximum: Waiver for 48 feet+/-granted based on large truck and trailer turning movements. August 2013 phasing approval retained the existing narrower drive entry, not requiring a waiver. A monitoring condition was approved, which is recommended to carry forward with the subject approval.</i>

Requested Amendments: The amended plan moves the two primary buildings (retaining their approximate size,) eliminates 1 boat ramp and the travel lift basin, and significantly reduces the extent of berthing floats. The amended site plan is referred to as Phase 1B (sheet C-2.1) in the applicant’s material and labeled Attachment P8.

II. Project Data

Phase 1A Only

Total Site Acreage: 22.5 acres
Total Proposed Disturbed area: 100,000 sq ft +/-
Zone: Waterfront Port Development Zone
Existing Uses: Mostly Vacant. Propane distribution and rail sidings
Proposed Use: Boat repair, storage,
Continued propane distribution

Predevelopment Impervious Area: 287,704 sq ft
Post-development Impervious Area: 255,598 sq ft
Percentage Impervious Area, total: 26%

Proposed Building Footprint: 41,617 sq ft
 Existing Total Building Floor Area: 0 sq ft
 Proposed Total Building Floor Area: 41,617 sq ft

Required Vehicle Parking: 21
 Proposed Vehicle Parking: As needed in yard area
 Required Bicycle Parking: 8
 Proposed Bicycle Parking: 0 Waiver requested

III. Right, Title and Interest

The applicant previously provided a deed for land formally owned by the Portland Terminal Company (Pan Am) in Attachment D and an option agreement for a 50 year lease for the former gasworks properties.

IV. Site Description

The subject site is an aggregate of waterfront parcels located adjacent to the Casco Bay Bridge along the dredged channel of the Fore River. Totaling over 22.5 acres, the site contains active rail lines and has a long history of industrial, marine, and rail development. Along with the lone remaining rail siding, the only remaining active use of the site is a propane distribution facility located on 3.96 acres in the interior of the site. The propane facility is proposed to remain in its existing condition for Phase 1a.

The subject site is the combination of a former coal gasification plant site with portions of an historic rail yard. With the exception of the propane facility, the land is vacant and the rail yard portions of the site have recently re-vegetated with volunteer birch, poplar, oak and pine.

The gas plant use has left portions of the site contaminated with coal tars and the site is partially subject to a Maine DEP “VRAP” remediation agreement

The Fore River shoreline is characterized by derelict piers and stone bulkheads. To the east, the former gas plant site has been stabilized by recent riprap installed as part of the VRAP. There are some areas of erosion located between the former gas and rail properties. This erosion is assumed to be problematic with potential coal tar contaminants entering the river. Redevelopment of the site provides an opportunity to stabilize this area of concern and much of the shoreline bulkhead has been restored with recent activity associated with Phase 1A construction.

The site has +/-1500 feet of frontage along West Commercial Street. While the northerly side of West Commercial Street, along Nova Seafood, the Graybar building and the “Star Match” complex, have curb and sidewalk, none exist along the subject parcel. The applicants were approved for a waiver of curb and sidewalk with the previous review.

The Beach Street entrance/exit from the Casco Bay Bridge intersects West Commercial Street across from the center of the site at the location an existing driveway for the propane facility. The Beach Street ramp intersection is currently being evaluated for a traffic signal and the City is seeking funds for such a project.

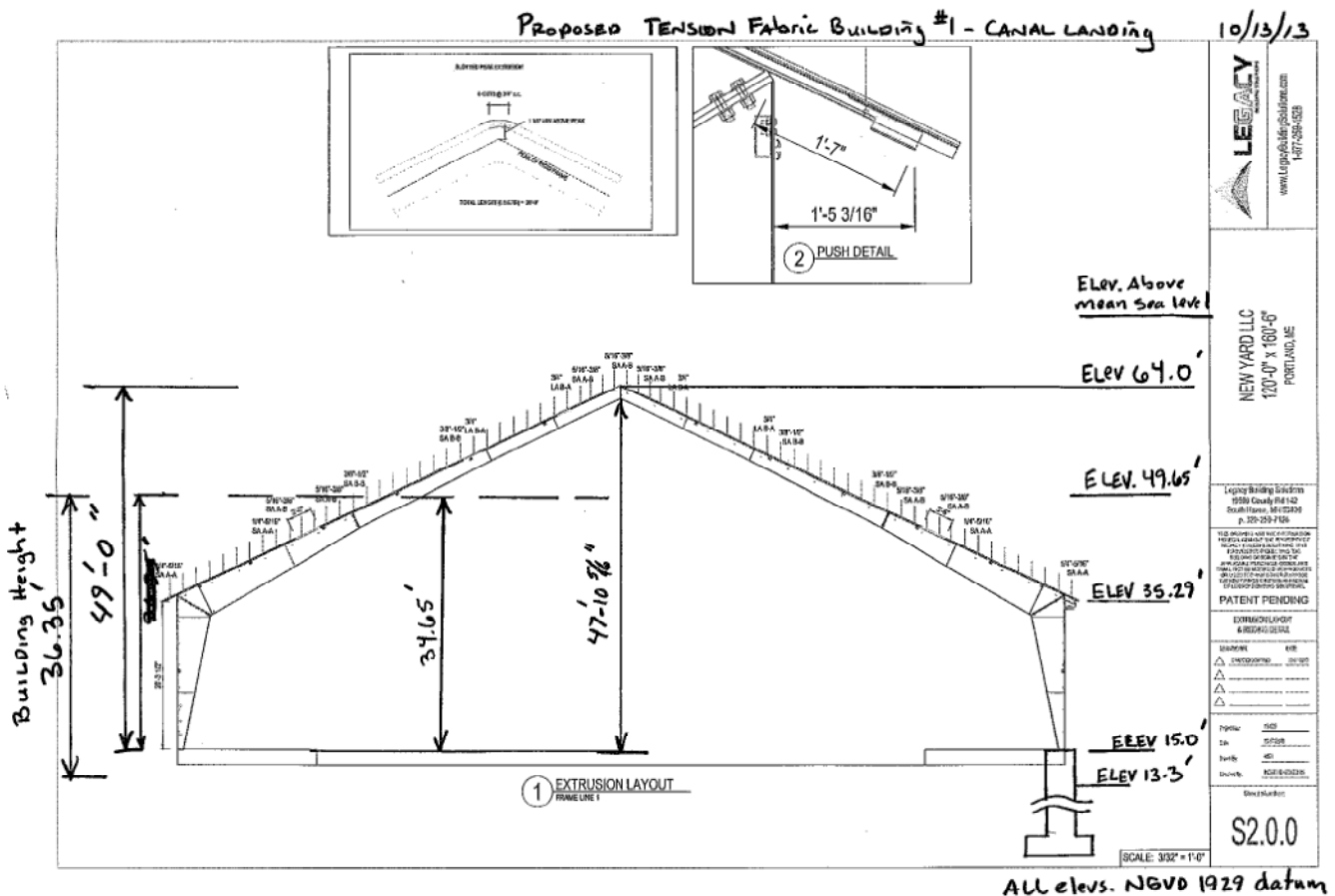
An additional vehicle entrance existed to the site adjacent to the IMT. This entrance is a shared access roadway serving the subject parcel and a MDOT maintenance building for the Casco Bay Bridge.

V. Proposed Development

The applicant's submission includes a detailed description of Phase 1B in Attachment A of this report.

The proposed improvements included with the requested amendment are shown on Attachment P8 (Sheet C-2.1).

Landside improvements in Phase 1a are largely limited to grading portions of the site for use, and placement of two buildings. The first building anticipated is a 160'x120' frame and fabric structure, the section drawing of which is shown below.



Marine improvements are reduced to the single boat ramp and supporting floating docks approved with Phase 1A. The marine improvements are consistent with approvals issued by the Portland Harbor Commission.

The proposed development includes use of the access drive located at the far easterly boundary of the site. This drive currently serves a MDOT bridge building located near to the water. The subject parcel retains access rights to this drive.

Utility work includes new electric service (by one of two options proposed – either from a new pole located south of the existing rail lines with a transition to underground service to the building and marine operations area; or, from an extension of existing underground service in the gasworks site. New water lines for an expanded fire hydrant network are also proposed.

No sewer lines are proposed and portapotty service is assumed.

The applicant is not proposing to install any new landscaping with Phase 1b, but will adhere to the previously approved tree preservation plan.

VI. Staff Review:

The application and supporting documents have been reviewed by City staff from the Departments of Planning and Urban Development, Fire Safety, and Public Services. The plans have also been reviewed by consulting engineers for civil engineering and traffic.

a. Zoning Review: WPDZ, Shoreland, Flood Plain

i. Waterfront Port Development Zone

Use: The project is located in a WPD Zone. The proposed boat repair yard uses are permitted uses in this zone. In the December 2012 approval boat storage and sales (yacht brokerage) were both approved as conditional uses in the WPDZ.

No Adverse Impact on Marine Use: The WPDZ includes a provision for protecting access function of water dependent uses in the form of “Sec. 14-318.5. No adverse impact on marine uses.” The No Adverse impact provision could be construed to apply to the boat storage use as this use does not necessarily require direct water access (though water access may be a component through launching and hauling.) While applicability of the provision could be argued, no portion of the proposed development appears to create an adverse impact as described in the Sec. 14-318.5 and quoted below:

Sec. 14-318.5

- (a) *The proposed nonwater-dependent use will displace an existing water-dependent use;*
- (b) *The proposed use will reduce existing commercial vessel berthing space;*
- (b) *The proposed nonwater-dependent use, structure or activities, including but not limited to access, circulation, parking, dumpsters, exterior storage or loading facilities, and other structures, will unreasonably interfere with the activities and operation of existing water-dependent uses or significantly impede access to vessel berthing or other access to the water by water-dependent uses; or*
- (d) *The siting of a proposed nonwater-dependent use will substantially reduce or inhibit existing public access to marine or tidal waters.*

Dimensional Requirements:

The proposed development meets all provisions of the WPDZ dimensional requirements.

Parking:

Parking within the WPDZ is at 1 space per 1000 square feet of building (+/-42 spaces required.) The applicant indicates that parking for +/-50 employees will be provided . While a formalized parking area is not identified, it is assumed that employees and clients using the site will find more than adequate parking to fill both the zoning requirements and functional needs of the use. This condition was approved by the Board with the December 2012 review.

ii. Shoreland Zone:

At the time of the previous approval on this project, the project met with all Tree Clearance restrictions that apply to development in the shoreland portions of the site. Subsequent to the December 2012 approval, new legislation passed that allows a greater degree of tree clearance on working waterfront property. Currently, the WPDZ is exempt from Shoreland tree clearance standards under local ordinance and the recent legislation allows the City to apply this exemption. The current proposal preserves trees and existing shrub vegetation between the proposed buildings and the rail line. Staff recommends augmenting the preservation plan with additional plantings at the shore line and the site perimeter (see landscaping discussion, below.)

In addition to the tree clearance standards, the Planning Board found that the original plan met the applicable shoreland zone standards and the proposed amended plan is anticipated to have fewer impacts than the previously approved plan.

iii. Flood Plain Management:

The subject parcel is partially located in a regulated Flood Plain. The FEMA, Flood Insurance Rate Maps show portions of the property within the flood zone A2 with a base flood elevation of 10’.



The proposed Phase 1B plan does not place buildings within the identified Flood Plain and meets applicable management standards, as previously approved.

iv. Vehicle Loading, Division 21: NA

v. Signage:

Separate permits are required for any new signage prior to installation.

b. Conditional Use Review for Boat Storage and Yacht Brokerage in the WPDZ

As noted above, the proposal is subject to a conditional use review for boat storage and a yacht brokerage in the WPDZ. Conditional Uses in the WPDZ are subject to the following provisions:

Sec. 14-320. Conditional uses.

...such uses will not impede or preclude existing or potential water-dependent development on other lots, will allow for adequate right-of-way access to the water, are compatible with marine uses, and are physically adaptable or relocatable to make way for future development for water-dependent uses, and meet any additional standards set forth below:

While the proposed development's two buildings are considered permanent, they are designed and intended to serve the permitted uses of boat repair and maintenance in addition to the conditional use of boat storage. Given the intended uses, the "adaptable" provision of the standard appears to be met.

All conditional uses are subject to the provisions of Section 14-474, Conditional Use:

Standards. Upon a showing that a proposed use is a conditional use under this article, a conditional use permit shall be granted unless the board determines 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 area; and*
- c. Such impact differs substantially from the impact which would normally occur from such a use in that zone.*

Staff recommends that the proposal is in conformance with the above standards.

c. Site Plan Review.

Attachment 2 of this report includes the full text of the December 2012 Planning Board Report, which provides a description and analysis of all applicable review standards. This report will concentrate on standards impacted by the proposed phasing request.

Site Plan Standards Review, Sec. 14-526

The site plan standards language is summarized below in *italics*, with planning staff comment and analysis in regular font.

(a) *Transportation Standards*

Primary access to the site is provided through the existing easterly entrance drive located adjacent to the IMT.

Consulting Traffic Engineer, Tom Errico, and the City Transportation Systems Engineer, Jeremiah Bartlett, have reviewed the existing condition and anticipate that Phase 1a should function adequately and safely. There are some concerns that the existing 16 foot wide gate could create a queuing issue if large truck traffic is larger than anticipated and recommend a monitoring condition as follows:

Regarding the Phase 1A proposal for use of the existing easterly entrance adjacent to the IMT, the City will monitor the entrance for safety and may require modifications to the gate and entrance design if safety issues become evident.

(b) *Environmental Quality Standards*

1. and 2. *Preservation of Significant Natural Features:*

As noted above in Shoreland, the applicant proposes to retain vegetation along the rail line, but otherwise proposes to clear the site. The approved 2012 landscape plan is provided as Attachment 3.1. Staff recommends a condition of approval that requires submission of a revised landscaping plan that includes additional plantings at the shoreline and the site perimeter.

3. *Water Quality, Stormwater Management and Erosion Control:*

As with the original approval, stormwater management is primarily proposed to utilize a gravel surface that is designed to hold and treat stormwater prior to exiting the site to the Fore River. Given the industrial history of the site, its flat grades, and well-drained soils, the limited construction activity proposed is not anticipated to cause stormwater quality issues in the Fore River. Stormwater volumes should in fact be reduced with the Phase 1B activity as the applicant proposes to reduce the existing impervious surface by +/-32,000 sq ft compared to the December 2012 approval

The erosion and sedimentation controls approved in December 2012 are still in effect and will need to be adhered to through construction of all phases of development.

Reviewing Engineer, Dave Senus, PE, Woodard and Curran, suggests the following:

- 1) Per FST's response to comments letter dated 10/15/2013, the Applicant is proposing a manmade pervious surface ("Boatyard Surface") for much of the improved area of the site to meet the General Standards. The amended plans do not indicate the type of surface proposed for the improved traveled-way, and no details were provided with the amended application to depict the construction requirements for this surface. Also, the entry driveway is noted to be gravel, which is not considered a pervious treated surface, please clarify.
- 2) The original application noted that the project was subject to the requirements of the Maine Construction General Permit. The Applicant should verify that they have submitted a Notice of Intent to Comply with the Maine Construction General Permit to the Maine DEP.

Mr. Senus recommends a condition of approval directing compliance with the above comments and further that the previously submitted Stormwater Inspection and Maintenance Manual still applies to the amended site.

(c) *Public Infrastructure and Community Safety Standards.*

1. *Consistency with City Master Plans:*

The proposal appears consistent with applicable approved master plans. Note: The City is applying for funds to engage in a West Commercial Street planning process to determine the appropriate design to accommodate multiple modes of transport consistent with both land-side mixed use and water-side marine development along the corridor.

2. *Public Safety and Fire Prevention:*

(a) *Natural surveillance that promotes visibility of public spaces and areas.*

All of the principle open spaces on the development are visible with clear lines of site from multiple vantage points and/or buildings with windows.

(b) *Access control that promotes authorized and/or appropriate access to the site.*

The site appears to sufficient access control through fencing, entry gates, and its location on the water.

(c) *Territorial reinforcement that promotes a sense of ownership and responsibility through environmental design.*

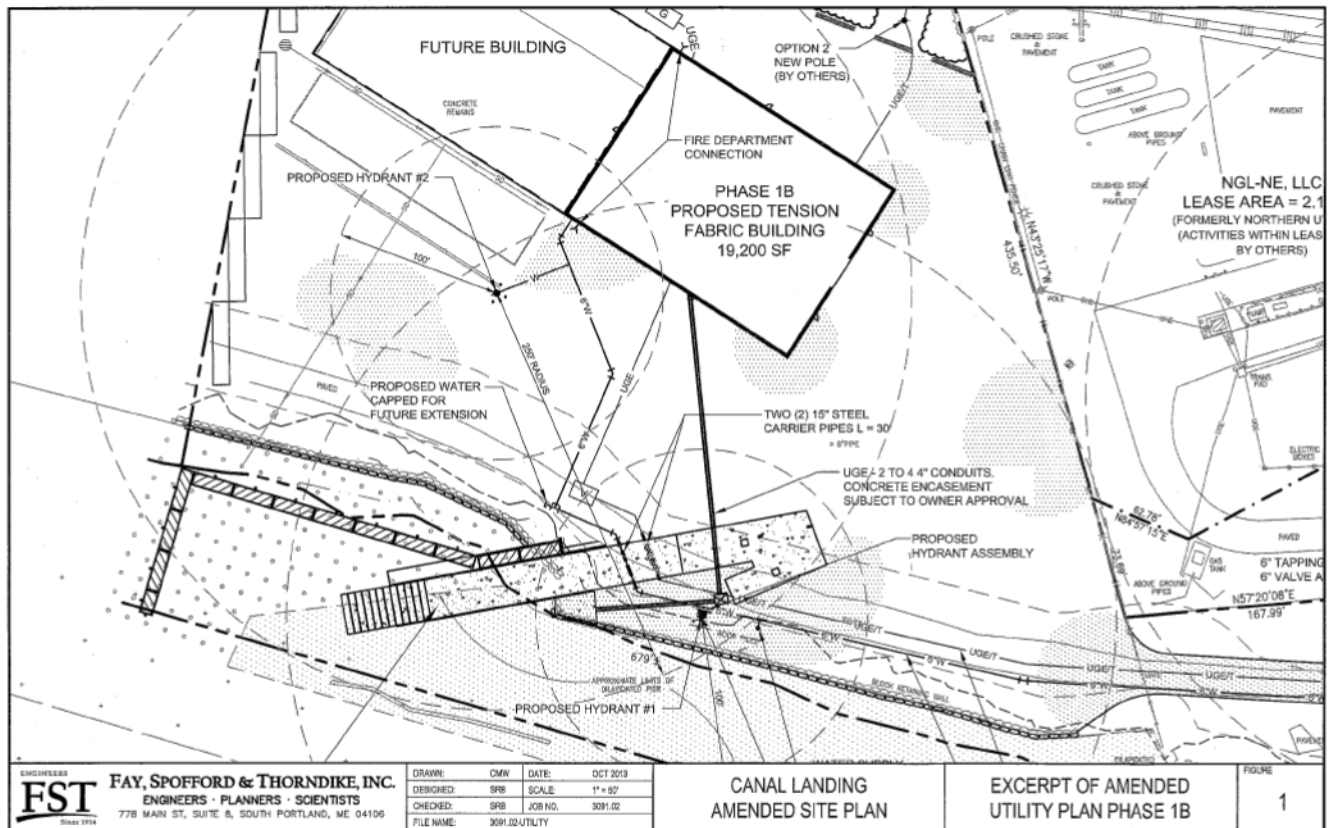
The use and maintenance of the facility as designed should sufficiently reinforce the site's identity as an active boat yard.

- (d) Provide adequate emergency vehicle access to the site in accordance with City standards for street widths and turning radii, as described in Section 1 of the Technical Manual.

The applicant provided a revised fire access and circulation plan. Fire Safety reviewer, Captain Chris Pirone has not had opportunity to review the plan and a condition of approval is suggest that modifications to this plan may be needed pending further review.

With the proposed amendments, this plan will need to be updated and a condition of approval is suggested. The intent of the fire safety plan is to identify emergency access routes and their adequacy for supporting fire suppression equipment.

- (e) Be consistent with City public safety standards, Section 3 of the City of Portland Technical Manual, including but not limited to availability and adequacy of water supply and proximity of fire hydrants to structures.



The site is currently served by two fire hydrants on West Commercial Street and an additional hydrant in the interior of the site. The proposed utility plan, Attachment P10, (excerpted above) shows additional hydrant locations within blue buffer circles.

Portland Water District has provided a letter indicating adequate capacity to serve the fire suppression needs of the proposal.

3. *Availability and Adequate Capacity of Public Utilities:*

The site is served by all public utilities and a letter of water capacity was previously provided.

(d) *Site Design Standards*

1. *Massing, Ventilation and Wind Impact: NA*

2. *Shadows: NA*

3. *Snow and Ice Loading: NA*

4. *View corridors: NA*

5. *Historic Resources:*

With the limited amount of subsurface construction proposed, potential on-site historic and archeological resources will not be significantly impacted by the proposed amendment. The 19th century seawall is currently being restored in conjunction with the proposed marine improvements. The location of a 19th century glass works is known to exist on site and the applicant should document any evidence of its disturbance with the limited utility work proposed. A condition of approval is recommended.

6. *Exterior Lighting:*

No exterior lighting is proposed in Phase 1B. A condition of approval is suggested that requires submission of a lighting plan prior to installation.

7. *Noise and Vibration:*

Based on the current Portland Yacht Services activities, exterior noise levels are anticipated to be within zoning requirements for sound levels.

8. *Signage and Wayfinding:*

Signage plans have not been provided, but will be reviewed and approved with the building permit applications for the site. No signage may be installed without such approval.

9. *Zoning Related Design Standards NA*

VIII. Staff Recommendation:

The applicants have demonstrated adherence to the applicable standards and Planning Staff recommends that the Planning Board approve the amended plan for the New Yard at Canal Landing, subject to the conditions provided below in the suggested motions.

IX. Recommended Motions:

b. Conditional Use in the Waterfront Port Development Zone:

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 # **2013-224** relevant to the Conditional Use Standards of the Waterfront Port Development Zone for *boat storage, marine products sales,* and Section 14-474 of Land Use Code and other regulations, and the testimony presented at the Planning Board hearing, the Planning Board finds that the plan (**is/is not**) in conformance with conditional use standards of the land use code.

c. Site Plan:

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 # **2013-224** relevant to the Site Plan Ordinance, Shoreland Zone, Flood Plain Management, Site Location of Development, and other regulations, and the testimony presented at the Planning Board hearing, the Planning Board finds that the plan (**is/is not**) in conformance with applicable standards of the land use code, subject to the following conditions of approval:

Conditions of Approval

- i. *MDOT Shared Entrance: Regarding the proposal for use of the existing easterly entrance adjacent to the IMT, the City will monitor the entrance for safety and may require modifications to the gate and entrance design if safety issues become evident.*
- ii. *Fire Safety and Emergency Access: Prior to issuance of a building permit, the revised fire access and circulation plan, as may be amended, shall receive review and approval from City Fire Safety review staff.*

- iii. Landscaping: *Prior to issuance of a building permit, that applicant shall submit for staff review and approval a revised landscaping plan that includes additional plantings at the shoreline and the site perimeter.*
- iv. Stormwater:
 - a. *Prior to issuance of a building permit, the applicant shall submit for staff review and approval information regarding the type of surface and construction details proposed for the improved traveled-way;*
 - b. *The Applicant shall verify that they have submitted a Notice of Intent to Comply with the Maine Construction General Permit to the Maine DEP; and,*
 - c. *The previously submitted Stormwater Inspection and Maintenance Manual still applies to the amended site.*
- v. Previous Conditions of Approval: *For development approved on December 18, 2012, all conditions of approval not previously addressed remain in effect as described in Attachment 1 of this report.*
- vi. Archeological Resources: *If evidence of 19th century glass works, known to exist on the subject site, is discovered during subsurface utility work, the applicant shall contact the Planning Authority and make reasonable efforts document any resources discovered.*
- vii. Exterior Lighting: *Prior to issuance of a building permit, that applicant shall submit for staff review and approval a revised exterior lighting plan.*

Attachments

- 1. Approval Letter from December 18, 2012 Public Hearing
- 2. Planning Board Report #53-12, December 14, 2012
- 3.1 Previously approved Landscape Plan (showing tree preservation)

Applicant's Submission Packet

- A. Application narrative and Project Information, September 23, 2013
- B. Building Height and Flood Hazard permit information, October 13, 2013
- C. Response to Staff Comments, October 15, 2013

Plans

- Plan 1 Previously Approved Plan (December 18, 2012, Amended, August 2013)
- Plan 2 Future Phase Master Plan, December 2012
- Plan 3 to 13 Current Plan Set

AH. 1.1

CITY OF PORTLAND, MAINE
PLANNING BOARD

Carol Morrissette, Chair
Stuart O'Brien, Vice Chair
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Joe Lewis
David Silk
Patrick Venne

January 25, 2013

Applicant:
Mr. Phineas Sprague, Jr.
New Yard, LLC
58 Fore Street
Portland, Maine 04101

Agent:
Steve Bushey, PE
Deluca Hoffman Associates
778 Maine Street
South Portland, Maine 04106

Project Name: New Yard at Canal Landing
Project ID: #2012-575
Address: 40 West Commercial Street
CBL: 59-A-1,2,3,4,5,6,7,8,9,10,11,12
Applicant: New yard, LLC
Planner: Bill Needelman, Senior Planner

Dear Mr. Sprague:

On December 18, 2012, the Planning Board considered New Yard at Canal Landing for approval of a 22 acre boat repair and service yard located at 40 West Commercial Street and the Fore River. The Planning Board reviewed the proposal for conformance with the standards of the Conditional Use Review, Shoreland Zoning Regulations, Flood Plain Management, and the Site Plan Ordinance, including Site Development of Location Act. The Planning Board voted 7-0 to approve the application with the following waiver(s) and condition(s) as presented below.

a. 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 # **2012-575** relevant to the Portland's Land Use Code and Technical and Design Standards and other regulations, and the testimony presented at the Planning Board hearing:

1. The Planning Board finds that two or more criteria for sidewalk waiver, as provided under Sec.14 –506 (b), **are** met, namely that: A safe alternative-walking route is reasonably available by way of a sidewalk on the other side of the street, and construction of the sidewalk will result in loss of significant features of greater value (truck circulation); and therefore **waives** the requirement for sidewalks along the southerly sideline of West Commercial Street.
2. The Planning Board finds that two or more criteria for granite curbing waiver, as provided under Sec.14 –506 (b), **are** met, namely that: construction of the curbing will result in loss of significant features of greater value (truck circulation); and that curbing is not necessary for stormwater management; and therefore **waives** the requirement for granite curbing along the southerly sideline of West Commercial Street.
3. The Planning Board **waives** the Technical Standard for flooding as provided Technical Manual III. 4. E.(2) Waiver of the flooding standard due to direct discharge into the ocean, a great pond, or major river segment.
4. The Planning Board **waives** the Technical Standard for Landscaping, Sec. IV. 5.4.5, for tree species and size to allow a naturalized replanting program consistent with the site’s Shoreland Zone context.
5. The Planning Board **waives** the Technical Standard for site lighting Sec. XII. 2., illumination levels and uniformity levels.
6. The Planning Board **waives** the Technical Standard for Soil Infiltration Testing, Sec. V, Appendix D.4.(a) based on known conditions on the site and controlled materials to be installed with construction.
7. The Planning Board **partially waives** the requirement for Bicycle Parking, Site Plan Standard 14-526 a (4) b., based on an industrial use located in an outlying area.

The Planning Board stipulates that half (4) of the required 8 bicycle parking spaces are provided.
8. The Planning Board **waives** the Technical Standard for driveway width, Sec I.7.1.4., 36 foot maximum width. 48 feet is allowed due to large truck and trailer turning movements.

b. Conditional Use in the Waterfront Port Development Zone:

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 # 2012-575 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, the Planning Board finds that the plan is in conformance with conditional use standards of the land use code.

c. Site Plan:

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 # 2012-575 relevant to the Site Plan Ordinance, standards for Site Location of Development, Shoreland Zone, Flood Plain Management, and other regulations, and the testimony presented at the Planning Board hearing, the Planning Board finds that the plan is in conformance with applicable standards of the land use code, subject to the following conditions of approval:

Conditions of Approval

- i. MDOT Shared Entrance: that prior to issuance of a building permit, the applicant provides for review and approval an easement between MDOT and New Yard for construction and use of a shared entry way.*
- ii. Beach Street Intersection Contributions: that prior to issuance of a building permit, the applicant contributes \$5000 for Beach Street intersection improvements, including but not limited to pedestrian crossing and signalization.*
- iii. Combined Sewer Overflow Easement: that prior to issuance of a building permit, the applicant provides a 30 foot wide easement to the City for the combined sewer overflow line crossing the property from West Commercial Street to the Fore River as shown on the Deluca Hoffaman Site Development Plan, C-2.1, revision 4, dated 12-5-12.*
- iv. Other Agency Reviews: that any modifications to City approved plans to meet outside agency requirements must be identified and submitted to the Planning Authority for final review prior to issuance of a building permit. Outside agency permits include, NRPA wetland alternation permits, Maine DEP VRAP approvals, and Portland Harbor Commission approvals.*
- v. Rail Demolition: that prior to demolition of existing rail infrastructure, the applicant either provides evidence of rail abandonment or a legal opinion for the review and approval of Corporation Counsel that such abandonment is not required.*
- vi. Flood Plain Management: that prior to issuance of a building permit, the final site plan is revised to include a note requiring that structures on lots in the development*

be constructed in accordance with Portland City Code, section 14-450.8, Flood Plain Management.

- vii. Stormwater Management: that prior to issuance of a building permit, the applicant provides for review and approval a revised grading and drainage plan and supporting material consistent with consulting stormwater engineer, Dave Senus' review memo dated December 14, 2012, included as Attachment 4 of Planning Report #53-12.*
- viii. Fire Safety and Emergency Access: that prior to issuance of a building permit, the applicant submit a revised site plan for review and approval in compliance with the December 12, 2012 fire code analysis memo from Fire Risk Management, Inc. (Attachment U of Planning Report #53-12) The revised site plan will show emergency access routes to be kept clear of stored and trailered vessels, vehicle parking and snow storage.*
- ix. Utility Capacity: that prior to issuance of a building permit, that electrical, gas, and sewer capacity letters are provided to the Planning Authority.*
- x. Fencing: that the chain link fencing fronting West Commercial Street is provided with a black vinyl coating.*

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.
9. **Storm Water Management:** That the developer /contractor /subcontractor must comply with conditions of the construction stormwater management plan and sediment & erosion control plan based on City standards and state guidelines; that 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 Storm Water Management, which specifies the annual inspections and reporting requirements; and that 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 and signed prior to the issuance of a Certificate of Occupancy with a copy to the Department of Public Services.

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 Bill Needelman, Senior Planner at (207) 874-8722 or email at wbn@portlandmaine.gov.

Sincerely,



Carol Morrissette, Chair
Portland Planning Board

Attachments:

1. Dave Senus, Woodard and Curran, storm water review memo dated December 14, 2012, included as Attachment 4 of Planning Report #53-12.
2. Planning Board Report #53-12
3. City Code: Chapter 32
4. Performance Guarantee Packet

Electronic Distribution:

cc: Jeff Levine, AICP, Director of Planning and Urban Development
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Bill Needelman, Senior Planner
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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
Thomas Errico, P.E., TY Lin Associates
David Senus, P.E., Woodard and Curran
Rick Blackburn, Assessor's Department
Approval Letter File

X¹
2.1

PLANNING BOARD REPORT PORTLAND, MAINE



New Yard at Canal Landing
Boatyard and Boat Repair Facility
40 West Commercial Street

Level III Site Plan, Conditional Use, Shoreland Zone, Flood Plain,
and Site Location of Development Reviews

New Yard, LLC, Applicant

Submitted to: Portland Planning Board: Public Hearing Date: December 18, 2012 Project #2012-575 CBL: 59-A-1,2,3,4,5,6,7,8,9,10,11,12	Prepared by: Bill Needelman, Senior Planner Date: December 14, 2012 Planning Board Report Number: #53-12
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I. Introduction

At the request of New Yard, LLC, represented by Steve Bushey, Deluca Hoffman Associates, the Planning Board is requested to hold a Public Hearing to review the proposed site plan for a boat and ship repair and maintenance facility in the vicinity of 40 West Commercial Street. A boat sales area is also proposed.

The proposal is for approximately 42,000 square feet of building space for the repair facility and re-grading of up to 7 acres of the site for boat storage and circulation.

The Planning Board held an introductory workshop on the proposal based on a preliminary application on September 11, 2010 and the applicant has provided an updated set of material as the basis for this Public Hearing. The revised material shows an expansion of interior building space from +/-20,000 square feet to +/-42,000 square feet with the addition of a 22,000 square foot "operations building." Other changes reflect city staff and Planning Board comments, changes to the water-side floats and docks, greater detail and engineering specificity, and responses to written review comments.

This hearing was advertised in the December 6 and 7, 2012 editions of the Portland Press Herald and was noticed by mail to 132 neighboring property owners and interested parties.

City staff has reviewed the application and written materials and the staff's analysis is provided below.

X.2
2.2

Applicable Reviews

The project is considered a Level III Site Plan subject to review under the Waterfront Port Development Zone, Shoreland, Flood Plain, and Conditional Use (marine retail and boat storage in the WPDZ) standards of the land use code. The project is also reviewed under delegated local authority for a Site Location of Development permit. The subject review is limited to the first phase of development and additional reviews may be required for later phases.

The applicant is requesting waivers from the following provisions of the Land Use Code and Technical Standards

Waiver	Code Reference	Comment
Sidewalks and Granite Curbing:	Site Plan Standard 14-526(a)(2)c.1 (and 14-448 and 14-449, by reference)	<i>Sidewalk waiver is recommended by staff based on sidewalk criteria 1 (safe route across the street, and criteria 6 (loss of significant features of greater value). Curbing waiver is recommended based on criteria 4 (loss of significant site features of a greater public value,) and criteria 5 (runoff from the development site or within the street does not require curbing for stormwater management.)</i>
Site Lighting	Tech Standards Sec. XV. 5.4.A, Uniformity and 4.B, Illumination Levels.	<i>Waiver requested due to proposed dark areas on the site not meeting minimum illumination levels.</i>
Landscaping:	Tech Standards Sec. IV. 5.4.5 Tree Species and Size standards.)	<i>Waivers requested to allow a naturalized replanting program consistent with the site's Shoreland Zone context. Note: Other landscaping waivers are requested that staff has determined are not required by code.</i>
Flooding	Tech Standards Sec. V E, Flooding	<i>Waiver requested due to the capacity of the receiving body (the Fore River)</i>

Waiver	Code Reference	Comment
Soil Infiltration Testing	Tech Standards, Sec. V, Appendix D.4.(a)	<i>Based on known conditions on the site and controlled materials to be installed with construction.</i>
Bicycle Parking	Site Plan Standard 14-526 a (4) b.	<i>Based on an "industrial use located in an outlying area (waiver criteria)</i> <i>Note: Note staff recommends a partial waiver of this standard to half (4 spaces) of the zoning requirement</i>
Motorcycle and Scooter Parking	Site Plan Standard 14-526 a (4) c.	<i>Industrial yard layout will allow two wheeled parking throughout the site.</i> <i>Note: Staff recommends that based on the availability of parking generally on the site, that this waiver is not needed.</i>
Driveway width	Tech Standards, sec 1.7.1.4.	<i>Standard cites 36 feet maximum: 48 feet +/- requested. Waiver supported by the Consulting Transportation Engineer due to large truck and trailer turning movements.</i>

II. Project Data

Total Site Acreage: 22.5 acres
 Total Proposed Disturbed area: 318,950 sq ft
 Zone: Waterfront Port Development Zone
 Existing Uses: Mostly Vacant. Propane distribution and rail sidings
 Proposed Use: Boat repair, storage, sales
 Continued propane distribution

Predevelopment Impervious Area: 287,704 sq ft
 Post-development Impervious Area: 255,598 sq ft
 Percentage Impervious Area, total: 26%

Proposed Building Footprint: 720 sq ft Brokerage Building
 19,200 sq ft Storage and Repair tension fabric shed
22,417 sq ft Operations Building

Existing Total Building Floor Area: 0 sq ft
 Proposed Total Building Floor Area: 42,337 sq ft

Required Vehicle Parking: 42
 Proposed Vehicle Parking: As needed, see staff review page 5 and page 8
 Required Bicycle Parking: 8
 Proposed Bicycle Parking: 0 Spaces (waiver of City Ordinance requested)

III. Right, Title and Interest

The applicant has included a purchase and sale agreement documents for the subject parcels. The former gas plant parcels are subject to an option agreement for a 50 year lease to the applicant. Right title and interest documents are included in Attachment Q (with the schedules and exhibits omitted due to size.)

IV. Site Description

The subject site is an aggregate of waterfront parcels located adjacent to the Casco Bay Bridge along the dredged channel of the Fore River. Totaling over 22 acres, the site contains active rail lines and has a long history of industrial, marine, and rail development. Along with the lone remaining rail siding, the only remaining active use of the site is a propane distribution facility located on 3.96 acres in the interior of the site. The propane facility is proposed to remain on a somewhat reduced lot.

The subject site is the combination of a former coal gasification plant site with portions of an historic rail yard. With the exception of the propane facility, the land is vacant and the rail yard portions of the site have recently re-vegetated with volunteer birch, poplar, oak and pine.

The gas plant use has left portions of the site contaminated with coal tars and the site is partially subject to a Maine DEP "VRAP" remediation agreement.

The Fore River shoreline is characterized by derelict piers and stone bulkheads. To the east, the former gas plant site has been stabilized by recent riprap installed as part of the VRAP. There are some areas of erosion located between the former gas and rail properties. This erosion is assumed to be problematic with potential coal tar contaminants entering the river. Redevelopment of the site provides an opportunity to stabilize this area of concern.

The site has +/-1500 feet of frontage along West Commercial Street. While the northerly side of West Commercial Street, along Nova Seafood, the Graybar building and the "Star Match" complex, have curb and sidewalk, none exist along the subject parcel. The

applicants are requesting a waiver of curb and sidewalk, as was granted to the adjacent IMT complex by the Planning Board in 2011.

The Beach Street entrance/exit from the Casco Bay Bridge intersects West Commercial Street across from the center of the site at the location an existing driveway for the propane facility. The Beach Street ramp intersection is currently being evaluated for a traffic signal and the City is seeking funds for such a project.

The applicant's submission includes a detailed description of the property in Attachment F of this report.

V. Proposed Development

The material provided is separated into long-term master plan and phase 1 plans for permitting.

Phase 1 includes two boat ramps, a "travel lift" mobile crane with an excavated basin (for launching and hauling boats), a 19,000 square foot maintenance building, a 22,000 square foot operations building, a 720 square foot yacht brokerage shed, and extensive dockage along the Fore River. Adjacent to the shoreline, the plans also call for the location of a floating dry dock with landside access and supporting infrastructure.

Master Plan documents are shown on Plan 4 and described on Attachment C.2. Phase 1 elements are shown on Plan 2 and described on Attachment F and I of the applicant's submission. Attachment I additionally shows images and renderings describing buildings and equipment proposed.

Rail Line Removal and New Rail Corridor Created:

The applicant is proposing to remove existing rail lines from portions of the site east of the propane distribution facility. The revised plans, while continuing to show demolition of the tracks, have included a new 25 foot wide corridor located near West Commercial Street. This corridor is proposed to be a location for future rail if such service is extended to the adjacent IMT facility. Staff has asked the applicant to explore whether there is any formal abandonment procedure needed to remove the tracks east of the gas yard. A condition of approval is suggested *that the applicant either provide evidence of rail abandonment or a legal opinion for the review and approval of Corporation Counsel that such abandonment is not required.*

Shared Access with MDOT:

The proposed development includes a new access drive located at the far easterly boundary of the site located near to an abutting roadway accessing a MDOT bridge building located near to the water. The development includes a shared access drive for both properties and a boundary line adjustment providing MDOT with an additional 60 foot wide strip of land lying between the subject property and the adjacent IMT. A

condition of approval is suggested *that the applicant provide evidence of an access easement over the shared MDOT drive entrance.*

VI. Staff Review:

The application and supporting documents have been reviewed by City staff from the Departments of Planning and Urban Development, Fire Safety, Public Services, Parking and the Corporation Counsel's Office. The plans have also been reviewed by consulting engineers for civil engineering and traffic.

Notes on Boatyard Uses, Generally:

Boatyards are dynamic industrial spaces that typically exhibit a great deal of flexibility depending on the number and type of vessels currently being served. The applicants are requesting a site plan design that facilitates this flexibility.

While most site plans depend on specific areas being identified and designed for specific uses (such as parking lots for vehicle parking,) boat yards tend to defy such prescriptions. Vessels may remain stationary for extended periods of time or may move daily. Likewise, the size of vessels may vary from 8 foot dinghies to 100+ foot yachts and schooners.

The design approach requested shows general areas for distinct activities, but does not show parking lots or even clearly defined routes for circulation. This approach presents challenges to a typical site plan review; specifically regarding parking, pedestrian circulation, emergency access, and snow storage. Given the unique use and the large size of the site, the City review staff and consulting engineers support the approach taken. On a smaller site, it would probably be prudent to identify the specific location of parking to ensure that adequate supply is provided. On the subject site, there is sufficient land area to accommodate the 42 required parking spaces and employees and visitors will park in and among the boats. Pedestrians, almost all of which will be employees, will walk in available areas depending on the location of vessels at that time. Casual visitors and service customers will access the brokerage area and the operations building located at the north of the site and near the primary entrance. In short, people will park and walk, and the operators will store snow in areas that are free of boats.

What is needed and as yet not shown on the submitted plans are the areas where vessels, vehicles, and stored snow will be excluded to ensure necessary and safe access for emergency vehicles. Staff suggests that these issues are best addressed in an emergency access plan that ensures that safety equipment is provided open locations and routes, as needed. The Safety Plan should include a wayfinding plan and signage schedule directing operators, employees, and visitors away from emergency access routes and toward appropriate areas.

a. Zoning Review: WPDZ, Shoreland, Flood Plain

i. Waterfront Port Development Zone

The site is zoned Waterfront Port Development, which is the most restrictive of the City's waterfront zones. Uses in the WPDZ are mostly restricted to marine industry with limited options for non-marine uses.

Use: The project is located in a WPD Zone. The proposed boat repair yard uses are permitted uses in this zone. The yacht brokerage and boat storage uses are both conditional uses.

No Adverse Impact on Marine Use: The WPDZ includes a provision for protecting access function of water dependent uses in the form of "Sec. 14-318.5. No adverse impact on marine uses." The No Adverse impact provision could be construed to apply to the boat sales and storage uses as these uses do not necessarily require direct water access (though water access may be a component of both through launching and hauling.) While applicability the provision of could be argued, no portion of the proposed development appears to create an adverse impact as described in the Sec. 14-318.5 and quoted below:

Sec. 14-318.5

- (a) The proposed nonwater-dependent use will displace an existing water-dependent use;*
- (b) The proposed use will reduce existing commercial vessel berthing space;*
- (b) The proposed nonwater-dependent use, structure or activities, including but not limited to access, circulation, parking, dumpsters, exterior storage or loading facilities, and other structures, will unreasonably interfere with the activities and operation of existing water-dependent uses or significantly impede access to vessel berthing or other access to the water by water-dependent uses; or*
- (d) The siting of a proposed nonwater-dependent use will substantially reduce or inhibit existing public access to marine or tidal waters.*

Dimensional Requirements:

The proposed development meets all provisions of the WPDZ dimensional requirements. The height requirements allow for 45 foot buildings that also may be no more than 65 feet above sea level. The section drawing in Plan 11 of the applicant's submittals shows compliance with this restriction.

Parking:

42 parking spaces are required for this development. While a formalized parking area is not identified, as noted above, the expectation is that employees and clients using the site will find more than adequate parking to fill both the zoning requirements and functional needs of the site.

ii. Shoreland Zone:

At the time of the previous workshop on this project, the extent to which Shoreland Zone Tree Clearance restrictions apply to marine development in the shoreland portions of the site were subject to an on-going conversation with Maine DEP. City Code exempts industrial and waterfront zones from the tree clearance provisions, while Maine State statute requires more stringent preservation. The applicants have worked with the staff at MeDEP to resolve this issue as it relates to the redevelopment of a rail yard with significant environmental contamination issues. The resolution proposed and approved by MeDEP, with the agreement of the City Zoning Administrator and the City Arborist, is to combine tree removal as needed with replacement with native species. The landscape plan, Plan 13 shows the latest result of the tree preservation/replacement discussion, based on MeDEP's agreement. The MeDEP agreement letter is included in Attachment 2.1.

In addition to the tree clearance standards, the Planning Board is asked to find on the following standards. Staff recommends that based on the discussions provided in the site plan review section of this report that the Shoreland Zoning standards have been met.

The Planning Board or planning authority shall approve a site plan located within a shoreland zone if it finds that the following standards, in addition to the standards set forth in section 14-526, are met:

- 1. The proposal will maintain safe and healthful conditions;*
- 2. The proposal will not result in water pollution, erosion, or sedimentation to surface waters;*
- 3. The proposal will adequately provide for the*

disposal of all wastewater;

4. *The proposal will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;*
5. *The proposal will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;*
6. *The proposal will protect archaeological and historic resources;*
7. *The proposal will not adversely affect existing commercial fishing or maritime activities;*
8. *The proposal will avoid problems associated with flood plain development and use; and*
9. *The proposal is in conformance with the standards set forth in this section.*

iii. Flood Plain Management:

The subject parcel is partially located in a regulated Flood Plain. The FEMA, Flood Insurance Rate Maps show portions of the property within the flood zone A2 with a base

flood elevation of 10’.



Portland’s Flood Plain Management ordinance requires buildings within “A” flood zones have finished floors more than 2 feet above the base flood elevations. The proposed development is showing a minimum of elevation 13 for finished floors and is compliance with this provision

Any structure within the A2 area will need to comply with filling out floodplain applications and certificates of elevation as a requirement of Building Permitting. Based on the Site Plan review of the subject project, the following Flood Plan development standards have been met:

1. *All such proposals are consistent with the need to minimize flood damage.*
2. *All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.*
3. *Adequate drainage is provided so as to reduce exposure to flood hazards.*
4. *All proposals include base flood elevations, flood boundaries and, in a ravine flood plain, floodway*

data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.

5. *Any proposed development plan must include a condition of plan approval requiring that structures on lots in the development be constructed in accordance with section 14-450.8 of this division. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or planning authority as part of the approval process.*

A condition of approval addressing Standard 5 above is included in the suggested motions.

iv. Vehicle Loading, Division 21: NA

v. Signage:

Separate permits are required for any new signage prior to installation.

b. Conditional Use Review for Marine Retail and Boat Storage in the WPDZ

As noted above, the proposal is subject to a conditional use review for boat storage and marine product sales in the WPDZ. Conditional Uses in the WPDZ are subject to the following provisions:

Sec. 14-320. Conditional uses.

...such uses will not impede or preclude existing or potential water-dependent development on other lots, will allow for adequate right-of-way access to the water, are compatible with marine uses, and are physically adaptable or relocatable to make way for future development for water-dependent uses, and meet any additional standards set forth below:

Of the proposed development's three buildings, the marine operations building is the most permanent, but as it will primarily be dedicated to the permitted use of boat repair and maintenance, these provisions do not apply. (Note a small portion of the Operations Building shows a retail area, as is typically found as an accessory to boat repair uses. Boat storage may occur in the tension fabric building, and this structure is designed to be relocatable. The brokerage shed is only 720 square feet and is located approximately 500 feet from the water and does not appear to be in conflict with this standard.

All conditional uses are subject to the provisions of Section 14-474, Conditional Use:

Standards. Upon a showing that a proposed use is a conditional use under this article, a conditional use permit shall be granted unless the board determines 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 area; and*
- c. Such impact differs substantially from the impact which would normally occur from such a use in that zone.*

Staff recommends that the proposal is in conformance with the above standards.

c. Site Plan Review.

The applicant has provided adequate information for the review under site plan for the three proposed buildings and associated site improvements.

Site Plan Standards Review, Sec. 14-526

The site plan standards language is summarized below in *italics*, with planning staff comment and analysis in regular font.

(a) Transportation Standards

Primary access to the site is provided through the easterly entrance drive located on the expanded MDOT parcel. As noted in the introduction to the Staff Review, the site plan is somewhat vague as to dedicated internal routing. Given the generously sized site and the variable use of the site, the development review staff supports the flexible proposal, subject to the emergency access suggestions described below.

Consulting Traffic Engineer, Tom Errico, provided the following review comments:

- I have reviewed the traffic analysis prepared by Gorrill-Palmer Consulting Engineers, Inc. and concur that the project will not significantly impact traffic conditions in the area.
- GPCEI has reviewed sight distance for the proposed driveway and has determined that adequate sight distance will be provided.

- The proposed driveway width exceeds City standards and therefore a waiver from the City's technical standards is required. I support a waiver given the type of vehicles entering and exiting the site.
- The site plan indicates that the proposed driveway will partially be located on abutting property. It appears an easement may be required.
- Documentation from MaineDOT should be provided noting that the provision of the share driveway configuration is acceptable.
- The applicant should conduct a sidewalk waiver analysis for the provision of a sidewalk along the property frontage on Commercial Street for consideration by the Planning Board. The City will be conducting a future planning study for West Commercial Street and that effort will identify transportation facility recommendations, including whether sidewalks are appropriate for both sides of the street. I would suggest that the following conditions of approval be considered:
 - If a sidewalk waiver is granted, no action is required by the applicant.
 - If criteria for a sidewalk waiver are not met, the applicant should make a monetary contribution equal to constructing a sidewalk along the property frontage. If the future planning study concludes that sidewalks on the south side of Commercial Street are not necessary, the contribution shall be returned to the applicant. If sidewalks are deemed appropriate, the funds shall be used to construct the subject sidewalk.
 - The City is currently in the process of seeking funds for the installation of a traffic signal at the Commercial Street/Beach Street intersection. Provision of a pedestrian crossing on Commercial Street between the Beach Street ramp and the project site was not included in the grant application. It is my recommendation that the applicant contribute \$5,000.00 towards the future installation of pedestrian signal equipment (e.g. pedestal posts, pedestrian signal heads, push buttons) and facilities (e.g. paint, signs, sidewalk ramps, etc.) that will allow for a safe crossing. This crossing is necessary regardless of the installation of a sidewalk on Commercial Street. I would add that during field investigations of the study area, installation of an uncontrolled crosswalk in the vicinity of the proposed Phase I driveway is not recommended given high vehicle speeds and volumes (without significant infrastructure treatment).

Individual Transportation Standards are addressed below.

1. Impact on Surrounding Street Systems:

The project is anticipated to generate 11-12 trips in the peak hour and is not anticipated to negatively impact traffic on West Commercial Street.

2. Access and Circulation:

a. Site Access and Circulation.

- (i) The development shall provide safe and reasonable access and internal circulation for the entire site for all users of the site.*

Circulation

Pedestrians: As noted above, pedestrians are expected to safely

use the interior of the site provided reasonable caution is employed as would be anticipated in any industrial environment.

Pedestrian access to the street system is problematic given the high speeds and lack of sidewalks on West Commercial Street. These issues are given further consideration in the sidewalk waiver request discussion below.

Vehicles

As noted above, the site's circulation appears to meet applicable standards, subject to providing adequate definition for emergency vehicle access.

(ii) Points of access and egress shall be located to avoid conflicts with existing turning movements and traffic flows.

Access and egress to the site is located in the area with the best site lines and is supported by Mr. Errico's comments above.

(iii) Drive up features

NA

b. Loading and Servicing.

The entire site is designed to facilitate loading and servicing.

c. Sidewalks.

(i) All proposed developments shall provide sidewalks along all frontages in accordance with Sections 14-498 and 14-499 of the City Code.

The applicants are requesting a waiver of this sidewalk and granite curbing requirements for the entire site frontage. This waiver request is addressed above in Mr. Errico's comment as well as with the applicant's submittal in Attachment A.7. City Staff and the consulting engineers have held lengthy discussions on the sidewalk waiver request and ultimately recommend that the Board grant the waiver. Under most circumstances, leaving a site isolated from the city sidewalk network would be unsupportable; but in this instance several complicating conditions exist:

- There will be very limited pedestrian use generated by the development.
- If a sidewalk were constructed, such a segment would be isolated for the foreseeable future due to rail right of way in

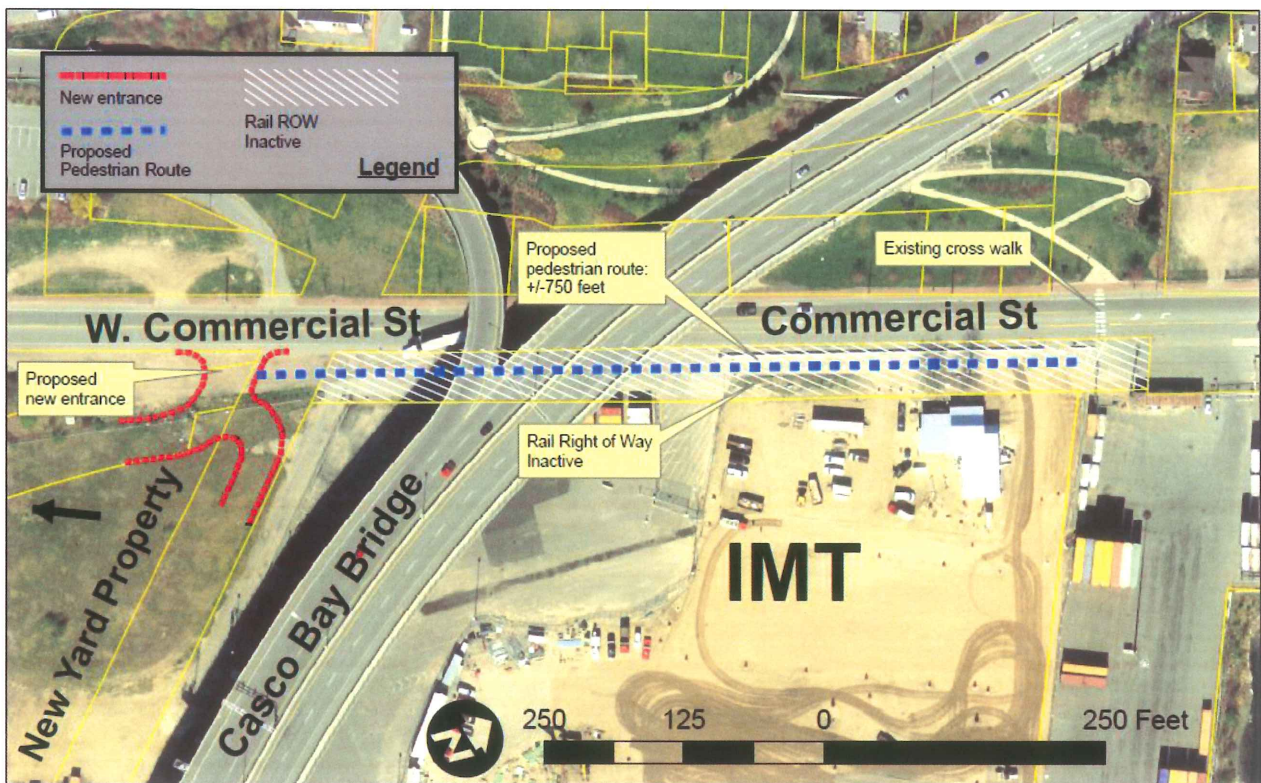
West Commercial Street under the Casco Bay Bridge, the recent waiver of sidewalk for the IMT to the east, and the lack of pedestrian destinations to the west.

Sidewalk construction on West Commercial Street is further complicated by the industrial context of the area and the need for heavy vehicle use of the soft shoulder. Working waterfronts require truck staging areas and with the gentrification of the Central Waterfront, West Commercial Street has become increasingly important as a truck staging area. Within recent years, trucks waiting to load and unload on the piers of the Central Waterfront traditionally staged in Commercial Street at the head of the piers. Increased congestion in the street and transition to other uses on the piers have combined to make in-street staging problematic (many of these trucks are bait trucks and the majority of the congestion occurs in the warmer months.) In response to changes in Commercial Street, West Commercial Street' southerly sideline has increasingly become the de facto truck staging area for many Central Waterfront marine businesses. At this time without a long-term plan for West Commercial Street, it is unclear if there is room for both sidewalk (which would need to be curbed) and truck staging and circulation.

There is a sidewalk on the north side of West Commercial Street and there are plans to extend a multi-use path along the entire length of the northerly right of way from Harborview Park to the Fore River Parkway. Given the industrial context of the site and the planned improvements to signalize the Beach Street intersection, both the DPS and Planning staff recommend waiving sidewalks for the site and asking the applicant to contribute toward pedestrian improvements at the planned traffic signal.

As an interim, the applicant proposes that pedestrians who choose to access the site by foot can use the inactive rail line that runs from the subject site, in front of the IMT, to a mid-block crosswalk located near the easterly end of the IMT boundary with Deake's Wharf. While not ideal, this would appear to be the only reasonably safe access to the existing sidewalk network – with or without a sidewalk on the subject site.

Staff has provided a map of the interim pedestrian route below.



The entire Portland Peninsula is located in a brick material district for sidewalk construction and granite curbing would be required as room for a planted esplanade is not available. Department of Public Services estimates that a new brick sidewalk would cost +/- \$135,000 and granite curbing could add +/- \$50,000 to \$60,000.

Based on the above discussion, staff recommends waiving both sidewalk and curbing. Sidewalk waivers criteria are provided below. Two criteria must be met to waive for each sidewalk and granite curbing.

Sidewalk Waiver Criteria

1. *There is no reasonable expectation for pedestrian usage coming from, going to and traversing the site.*
2. *There is no sidewalk in existence or expected within 1000 feet and the construction of sidewalks does not contribute to the development of a pedestrian oriented infrastructure.*

3. *A safe alternative-walking route is reasonably and safely available, for example, by way of a sidewalk on the other side of the street that is lightly traveled.*
4. *The reconstruction of the street is specifically identified and approved in the first or second year of the current Capital Improvement Program or has been funded through an earlier CIP or through other sources.*
5. *The street has been constructed or reconstructed without sidewalks within the last 24 months.*
6. *Strict adherence to the sidewalk requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.*

Criteria 3 is clearly met with the existing sidewalk located on the northerly side of West Commercial Street. Of the remaining criteria, staff supports use of Criteria 6. The open and curb-free sideline of West Commercial Street is suited to its industrial use and the introduction of curbed sidewalk could have significant and negative impact on marine uses on a range of working piers and wharfs located along Portland's waterfront. Criteria 2 could also be applied, if considered for only the south side of West Commercial Street.

Note on Future Phases: With the anticipated future study and evaluation of West Commercial Street, Staff's recommendation for waiver of Phase 1 sidewalk requirements should not be considered a determinative precedent for future phases of development. The applicant's master plan shows a significant marine retail facility and increased employment on the site overall. Furthermore, the future West Commercial Street is intended to provide the policy and design direction for the street and should inform future infrastructure decision making. Any future phase of development should conduct an independent analysis of the needs for and current policies for pedestrian accommodations at the time of application.

Curbing Waiver Criteria

1. *The cost to construct the curbing, including any applicable street opening fees, is in excess of 5% of the overall project cost.*

2. The reconstruction of the street is specifically identified and approved in the first or second year of the current Capital Improvement Program or has been funded through an earlier CIP or through other sources.
3. The street has been rehabilitated without curbing in the last 60 months.
4. Strict adherence to the curb requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.
5. Runoff from the development site or within the street does not require curbing for stormwater management.

Staff recommends waiving the requirement for granite curbing based on criteria 3, as per the sidewalk discussion above; and criteria 5, as recommended by the Department of Public Services.

(iii) Continuous internal walkways shall be provided between existing or planned public sidewalks adjacent to the site, transit stops and street crossings and primary building entrances on the site.

See the sidewalk waiver discussion, above.

3. *Public Transit Access:*
See 2.iii, above.

4. *Parking:*

- a. *Location and Required Number of Vehicle Parking Spaces:*

- (i) Off-street parking*

As noted above, adequate parking meeting the zoning requirement is anticipated to be provided in open areas of the site not used for boat storage or service. Parking location restrictions should be included in an emergency access plan. See below.

Parking Supply and Demand:

- (ii) Where a parking study is required, the City encourages Transportation Demand Management (TDM) strategies to*

be employed.

NA

- (iii) *Developments proposing to exceed minimum parking requirements by 10% or more must demonstrate through a parking analysis that the amount of parking is appropriate for the proposed use of the site.*

NA

- (iv) *Parking spaces and aisles shall meet applicable dimensional standards as detailed in Section 1 of the Technical Manual.*

The parking dimensional standards applicable to the proposed program.

- (v) *Parking lots, except for temporary lots to be used for less than one year, shall be constructed of a permanent and durable hard surface that is not subject to ponding or erosion.*

The compacted crushed stone surface is designed to meet the above standard.

b. Location and Required Number of Bicycle Parking Spaces:

A waiver is requested for bicycle parking. As with vehicle parking, it is anticipated that any bicyclists accessing the site will have ample opportunity to find informal parking within the industrial structures or in the boatyard. Staff recommends a partial waiver, with a requirement for 2 bike hitch posts or loops with capacity for 4 bikes (half the zoning requirement.)

c. Motorcycle and Scooter Parking.

A waiver is requested for motorcycle and parking. As with the vehicle parking discussion above, staff does not believe that a waiver is needed.

d. Snow Storage.

Given the size of the site and the low level of exterior activity during the winter months, snow storage is not anticipated to be a problem on or off site. The applicant will be subject to MeDEP regulations if they intend to deposit snow in the Fore River and no

snow storage will be allowed on emergency access routes.

5. *Transportation Demand Management (TDM):* NA

(b) *Environmental Quality Standards*

1. *Preservation of Significant Natural Features:*

a. *Significant natural features by incorporating them into site design. Significant natural features shall be defined as:*

(i) *Populations of trees and plants listed on the Official List of Endangered and Threatened Plants in Maine, published by the Maine Natural Areas Program. NA*

(ii) *Habitat for species appearing on the official state of federal list of endangered or threatened animal species; NA*

(iii) *High and moderate value waterfowl and wading bird habitat including nesting and feeding areas, as defined by the Department of Inland Fisheries and Wildlife; NA*

(iv) *Aquifers NA*

(v) *Waterbodies See Stormwater Management*

2. *Landscaping and Landscape Preservation:*

The proposed landscape plan is included in Plan 13.

a. *Landscape Preservation*

The applicant has determined, with the agreement of the Zoning Administrator, that the project has met the requirements for tree preservation in the Shore Land Zone. See the MeDEP letter in Attachment 2.1.

b. *Site Landscaping.*

Where zoning set backs are not required for development in the WPDZ, the landscaping requirements for buffer areas do not apply. The plan shows naturalized clumps of native vegetation concentrated around areas where trees and shrubs are to be retained. The West Commercial Street sideline, the easterly boundary with MDOT and the south east shoreline receive the majority of treatment with broad areas of the site interior left

open as one would anticipate with a boatyard use. There is a screened dumpster located on the northerly side of the primary buildings separated from West Commercial Street by +/-200 feet. With the street-side plantings and the anticipated boats in the yard, it is unlikely that the dumpster will have any visual impact from West Commercial Street.

Street Trees: The Technical Standards require street trees along all street frontages with a spacing of 30-45 feet on center. With +/-1500 feet of frontage and assuming a 45 foot spacing, the project requires 33 street trees. The proposal shows planting and/or preservation of 21 tree located along West Commercial Street east of the propane yard entry and two large clumps of preserved trees located west of the propane yard entry. The City Arborist recommends approval of the plan as designed and the number of trees appears to meet the Technical Standard.

A waiver from the Technical Standards for tree species and size is requested to achieve the naturalized design proposed. The City Arborist supports the proposed design.

3. *Water Quality, Stormwater Management and Erosion Control:*

The subject parcels are relatively flat and grade generally south from West Commercial Street to the Fore River. The grade and soils appear to allow sufficient infiltration to avoid ponding and the site does not show evidence of channelized flow nor impacts to off-site properties. In the existing condition, there is no subsurface stormwater collection, but the site is crossed by a 24 inch municipal combined sewer overflow pipe that outlets into the river +/- 500 feet westerly from the Casco Bay Bridge.

The Stormwater and Erosion Control sections of the applicant's submission (Attachments J and O) describe the applicant's approach to managing stormwater and protecting the Fore River from pollutants and sedimentation. Board members should note that the industrial history of the site (with its coal tar contamination) and the proposed boat yard use both require an individualized approach for stormwater management.

The site's soils contamination, which is and will continue to be subject to MeDEP oversight through the VRAP program, requires containment and stabilization of the site, especially at the shoreline. While the former gasworks portions of the site have been previously stabilized, access to the former rail yard parcels has been limited and the subject project will be the first opportunity to correct an on-going problem with erosion on at the boundary between the abutting parcels. This project's proposal to aggregate abutting properties and provide a unified erosion control plan will address a long-standing contamination concern for the Fore River and Portland Harbor. VRAP constraints additionally may limit the extent and location of some excavation and use of otherwise predictable stormwater management practices. While the applicant's proposal, as may be

modified by review comments described below, appears to be a prudent and functional means to meet Site Plan and Site Location of Development standards, all surface, subsurface, and shoreline improvements to the site will require review and approval by the MeDEP and the VRAP program. Modifications to the proposed design may be necessary to meet DEP requirements. Likewise, wetlands alteration permits by the Army Corps of Engineers and the MeDEP may also lead to alterations of the proposed design. A condition of approval is suggested *that any modifications to City approved plans to meet outside agency requirements must be identified and submitted to the Planning Authority for final review prior to issuance of a building permit.*

The site's location along the Fore River obviates the need for stormwater volume controls, as the receiving body will not be negatively impacted by increased water volume or rate of discharge. The applicants have requested a waiver of the Technical Standards for Stormwater Flooding, as is typical for coastal shoreline projects. The stormwater quality standards, therefore, are the primary design concern.

The boat yard use additionally presents unique challenges to site design. Crushed stone, underlain by a compacted gravel layer, is the applicant's preferred surface treatment for the re-graded portions of the site - approximately 6 acres (total impervious area minus the building footprints.) Crushed stone is proposed as an affordable, durable surface that will additionally provide for a reasonable degree of stormwater storage and infiltration resulting in quality treatment. The applicants additionally propose infiltration swales along the easterly property boundary and along the easterly portions of the shoreline. Staff and consulting engineers agree that this approach has merit and is generally supportive. As noted below, consulting engineer, Dave Senus, PE, has concerns that over time the retention and infiltration capacity of the crushed stone will diminish and that additional use of the infiltration swales, particularly along the shoreline, is merited to meet stormwater treatment standards over time as the crushed stone is compacted and displaced by use of the site. As of the writing of this report, Mr. Senus provided a revised review memo that addresses these issues and the suggested motions include a condition of approval stating *that prior to issuance of a building permit, the applicant provides for review and approval a revised grading and drainage plan and supporting material consistent with consulting stormwater engineer, Dave Senus' review memo dated December 14, 2012, included as Attachment 4 of Planning Report #53-12.*

Note: As noted above, the site is crossed by a 24 inch combined sewer overflow pipe outletting into the Fore River. The City Department of Public Services is requesting a drainage and maintenance easement to allow servicing of this public facility. The applicants have shown such an

easement on their revised utilities plan, Plan 7, and a condition of approval for receipt of the easement is suggested in the motions.

(c) *Public Infrastructure and Community Safety Standards.*

1. *Consistency with City Master Plans:*

- a. The proposal appears consistent with applicable approved master plans. Note: The City is applying for funds to engage in a West Commercial Street planning process to determine the appropriate design to accommodate multiple modes of transport consistent with both landside mixed use and water-side marine development along the corridor.

2. *Public Safety and Fire Prevention:*

- (a) *Natural surveillance that promotes visibility of public spaces and areas.*

All of the principle open spaces on the development are visible with clear lines of site from multiple vantage points and/or buildings with windows.

- (b) *Access control that promotes authorized and/or appropriate access to the site.*

The site appears to sufficient access control through fencing, entry gates, and its location on the water.

- (c) *Territorial reinforcement that promotes a sense of ownership and responsibility through environmental design.*

The use and maintenance of the facility as designed should sufficiently reinforce the site's identity as an active boat yard.

- (d) *Provide adequate emergency vehicle access to the site in accordance with City standards for street widths and turning radii, as described in Section 1 of the Technical Manual.*

Captain Chris Pirone has indicated his approval of the project design as submitted for access of emergency vehicles from West Commercial Street, but additional definition is required for clear emergency routing. Additional discussion on this point is continued below.

- (e) *Be consistent with City public safety standards, Section 3 of the City of Portland Technical Manual, including but not limited to*

availability and adequacy of water supply and proximity of fire hydrants to structures.

The site is currently served by a fire hydrant on West Commercial Street and the utility plan, attached Plan 7, shows an additional hydrant proposed for the interior of the site. All of the buildings are proposed to be fitted with sprinkler systems and the Portland Water District has provided a letter indicating adequate capacity to serve the fire suppression needs of the proposal.

Fire Safety Officer, Captain Chris Pirone has requested that the applicant conduct a fire code analysis of the project and the applicant provided a memo from Fire Risk Management, Inc. as of the writing of this report. The memo reports the recommendations of a licensed fire safety engineer and Captain Pirone has agreed with the findings of the memo. In addition to the building's fire code issues, which will be addressed during the building permit review, the major site issues involve the location of hydrants, clear access routes for emergency vehicles, and treatment of the floating wharfs and marine operations areas. The applicant's fire safety memo is included as Attachment U of this Report. Captain Pirone recommends a condition of approval *that prior to a building permit, the applicant submit a revised site plan for review and approval in compliance with the December 12, 2012 fire code analysis memo from Fire Risk Management, Inc. The revised site plan will show emergency access routes to be kept clear of stored and trailered vessels, vehicle parking and snow storage.*

3. *Availability and Adequate Capacity of Public Utilities:*

The site is served by all public utilities and a letter of water capacity has been provided. A condition of approval is suggested *that prior to issuance of a building permit, that electrical, gas, and sewer capacity letters are provided to the Planning Authority.*

(d) *Site Design Standards*

1. *Massing, Ventilation and Wind Impact: NA*
2. *Shadows: NA*

3. *Snow and Ice Loading:* NA
4. *View corridors:* NA
5. *Historic Resources:*
 - a. *Developments affecting designated landmarks or within designated historic districts or historic landscape districts:* NA
 - c. *Preservation and/or Documentation of Archaeological Resources.*

Where the site was the origination/termination of the Cumberland and Oxford Canal, the subject property has significant historic interest; however, more recent grading and development has obliterated surficial evidence of the canal structure. Likewise, as noted in the Maine State Historic Preservation Commission letter, the site of the former Portland Glass Works is a significant resource, though its location appears to be sited westerly from the proposed phase one buildings. The proposed construction is not anticipated to disturb any evidence of the original canal structure or remains of either of these resources. The Site Plan standards additionally list historic rail beds as a specific resource for preservation and/or documentation. Given the fact that the rail and gasworks uses of the site resulted in a dense web of rail beds constructed and modified over 150 years, this standard is both applicable and nearly impossible to fully address. Numerous period maps and images of the site exist, which show the evolving network of rail sidings on and around the site, serve to document the rail history of the subject property and should serve to address this standard. Planning staff will provided at least one 1882 example to the Planning Board as an example.

6. *Exterior Lighting:*

The applicant's lighting plan is provided as Plan 14 with the fixture specifications provided as Attachment M. A waiver of the illumination levels and uniformity standards is requested as Plan 14 shows areas of the site that are not lighted to the minimum requirement. With these darker areas, the uniformity standard cannot be met while still keeping adequate light levels around the buildings and the marine operations areas.

The light fixtures requested are all compliant full cut off fixtures that are either building mounted or installed on 30 foot tall poles (the standard maximum height.) Lighting levels shown in the areas intended to be lit are all compliant with the site lighting standards of the Technical Manual and Staff supports the waiver request for illumination levels and uniformity.

7. *Noise and Vibration:*

Mechanical equipment will be reviewed with building permits. Based on the current Portland Yacht Services activities, exterior noise levels are anticipated to be within zoning requirements for sound levels.

8. *Signage and Wayfinding:*

Signage plans have not been provided, but will be reviewed and approved with the building permit applications for the site. No signage may be installed without such approval.

9. *Zoning Related Design Standards NA*

VIII. Staff Recommendation:

The applicants have demonstrated adherence to the applicable standards and Planning Staff recommends that the Planning Board approve the New Yard at Canal Landing, subject to the conditions provided below in the suggested motions.

IX. Recommended Motions:

a. 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 # 2012-575 relevant to the Portland's Land Use Code and Technical and Design Standards and other regulations, and the testimony presented at the Planning Board hearing:

1. The Planning Board finds that two or more criteria for sidewalk waiver, as provided under Sec.14 –506 (b), **(are/are not)** met, namely that: A safe alternative-walking route is reasonably available by way of a sidewalk on the other side of the street, and construction of the sidewalk will result in loss of significant features of greater value (truck circulation); and therefore **(waives/does not waive)** the requirement for sidewalks along the southerly sideline of West Commercial Street.
2. The Planning Board finds that two or more criteria for granite curbing waiver, as provided under Sec.14 –506 (b), **(are/are not)** met, namely that: construction of the curbing will result in loss of significant features of greater value (truck circulation); and that curbing is not necessary for stormwater management; and therefore **(waives/does not waive)** the requirement for granite curbing along the southerly sideline of West Commercial Street.
3. The Planning Board **(waives/does not waive)** the Technical Standard for flooding as provided Technical Manual III. 4. E.(2) Waiver of the flooding standard due to direct

discharge into the ocean, a great pond, or major river segment.

4. The Planning Board (**waives/does not waive**) the Technical Standard for Landscaping, Sec. IV. 5.4.5, for tree species and size to allow a naturalized replanting program consistent with the site's Shoreland Zone context.
5. The Planning Board (**waives/does not waive**) the Technical Standard for site lighting Sec. XII. 2., illumination levels and uniformity levels.
6. The Planning Board (**waives/does not waive**) the Technical Standard for Soil Infiltration Testing, Sec. V, Appendix D.4.(a) based on known conditions on the site and controlled materials to be installed with construction.
7. The Planning Board (**waives/does not waive**) the requirement for Bicycle Parking, Site Plan Standard 14-526 a (4) b., based on an industrial use located in an outlying area.

Staff recommends a partial waiver requiring half (4) of the required 8 bicycle parking spaces.

8. The Planning Board (**waives/does not waive**) the Technical Standard for driveway width, Sec I.7.1.4. , 36 foot maximum width. 48 feet is requested due to large truck and trailer turning movements.

b. Conditional Use in the Waterfront Port Development Zone:

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 # 2012-575 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, the Planning Board finds that the plan (**is/is not**) in conformance with conditional use standards of the land use code.

c. Site Plan:

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 # 2012-575 relevant to the Site Plan Ordinance, standards for Site Location of Development, Shoreland Zone, Flood Plain Management, and other regulations, and the testimony presented at the Planning Board hearing, the Planning Board finds that the plan (**is/is not**) in conformance with applicable standards of the land use code, subject to the following conditions of approval:

Conditions of Approval

- i. MDOT Shared Entrance: that prior to issuance of a building permit, the applicant provides for review and approval an easement from MDOT to New Yard for construction and use of a shared entry way.
- ii. Beach Street Intersection Contributions: that prior to issuance of a building permit, the applicant contributes \$5000 for Beach Street intersection improvements, including but not limited to pedestrian crossing and signalization.
- iii. Combined Sewer Overflow Easement: that prior to issuance of a building permit, the applicant provides a 30 foot wide easement to the City for the combined sewer overflow line crossing the property from West Commercial Street to the Fore River as shown on the Deluca Hoffaman Site Development Plan, C-2.1, revision 4, dated 12-5-12.
- iv. Other Agency Reviews: that any modifications to City approved plans to meet outside agency requirements must be identified and submitted to the Planning Authority for final review prior to issuance of a building permit. Outside agency permits include, NRPA wetland alternation permits, Maine DEP VRAP approvals, and Portland Harbor Commission approvals.
- v. Rail Demolition: that prior to demolition of existing rail infrastructure, the applicant either provides evidence of rail abandonment or a legal opinion for the review and approval of Corporation Counsel that such abandonment is not required.
- vi. Flood Plain Management: that prior to issuance of a building permit, the final site plan is revised to include a note requiring that structures on lots in the development be constructed in accordance with Portland City Code, section 14-450.8, Flood Plain Management.
- vii. Stormwater Management: that prior to issuance of a building permit, the applicant provides for review and approval a revised grading and drainage plan and supporting material consistent with consulting stormwater engineer, Dave Senus' review memo dated December 14, 2012, included as Attachment 4 of Planning Report #53-12.
- viii. Fire Safety and Emergency Access: that prior to issuance of a building permit, the applicant submit a revised site plan for review and approval in compliance with the December 12, 2012 fire code analysis memo from Fire Risk Management, Inc. (Attachment U of Planning Report #53-12) The revised site plan will show emergency access routes to be kept clear of stored and trailered vessels, vehicle parking and snow storage.
- ix. Utility Capacity: that prior to issuance of a building permit, that electrical, gas, and sewer capacity letters are provided to the Planning Authority.

Attachments - Omitted for Planning Board Report # 45-13

1. Public Comment
2. DEP Correspondence
3. 1882 City Atlas Excerpts, Rail Alignments
4. Consulting Stormwater Engineer, Dave Senus' review memo dated December 14, 2012

Applicant's Submission Packet

- A. Response to City review comments, Dec. 6, 2012
- B. Cover Letter and Application (B1- Site Plan, B2-Conditional Use)
- C. Neighborhood Meeting Material
- D. MeDEP Check List
- E. Table of Contents (applicant's submittal)
- F. Proposed Development Description
- G. Site Photos
- H. Context Maps
- I. Building Renderings and Images
- J. Stormwater Material
- K. Utility Capacity Letters
- L. Traffic Analysis
- M. Lighting Fixtures
- N. Solid Waste
- O. Erosion Control
- P. Technical Capacity
- Q. Right, Title and Interest (Schedules and exhibits omitted due to size, available upon request)
- R. Financial Capacity
- S. Site Plan Standards Review Narrative
- T. State Agency Contact
- U. Fire Safety Report Memo, Fire Risk Management, Inc., December 12, 2012

Plans

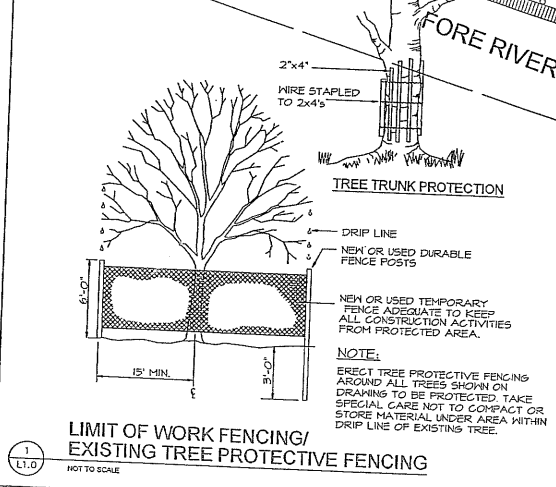
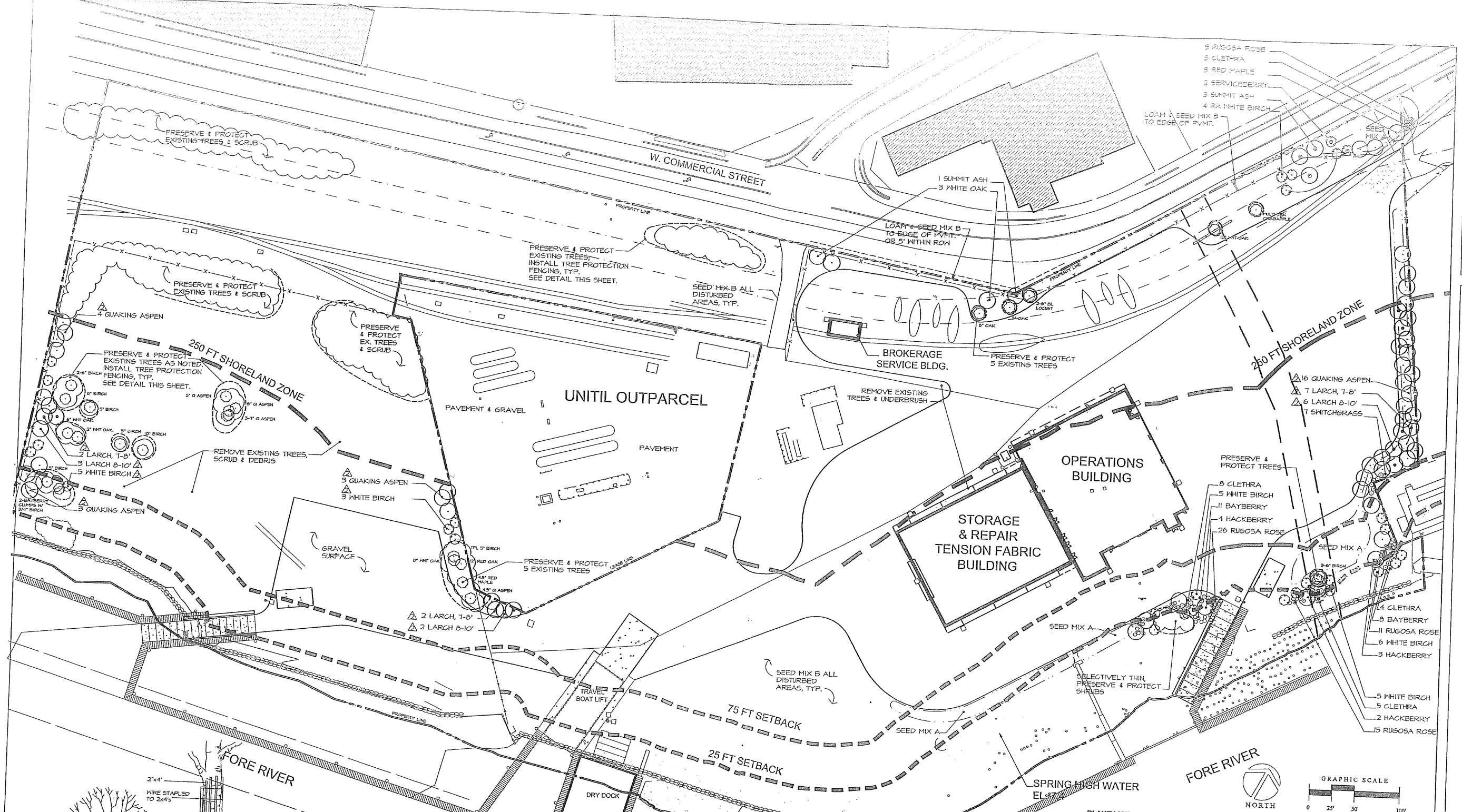
- | | |
|---------|---|
| Plan 1 | Cover Page, Notes, and Legend |
| Plan 2 | Survey and Existing Conditions |
| Plan 3 | Demolition |
| Plan 4 | Conceptual Master Plan, Long-term Build Out |
| Plan 5 | Site Plan, Phase 1 (current permitting) |
| Plan 6 | Grading and Drainage, Phase 1 |
| Plan 7 | Utilities |
| Plan 8 | Erosion and Sedimentation Control |
| Plan 9 | Details |
| Plan 10 | Stormwater Strategy Section |
| Plan 11 | Building Height Section |
| Plan 12 | Building Sections and Floor Plans |
| Plan 13 | Landscaping |



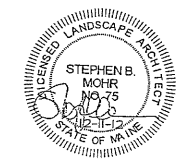
18 Pleasant Street, Portland, Maine 04101
 ph: 1.207.871.0003
 fax: 1.207.871.1419

Att. 3.1

CANAL LANDING
 West Commercial Street
 Portland, Maine



PLANT LIST	Botanical Name	Common Name	Size	Notes
3	<i>Acer rubrum 'Red Sunset'</i>	Red Sunset Maple	2.5-3' cal; B&B	
2	<i>Amelanchier grandifolia</i>	Serviceberry	8-10' ht; B&B	
4	<i>Betula papyrifera 'Renaissance Reflection'</i>	Renaissance Reflection White Birch	2.5-3' cal; B&B	single trunk
16	<i>Betula papyrifera</i>	White Birch	10-12' ht; B&B	multi-trunked
8	<i>Betula papyrifera</i>	White Birch	8-12' ht	two 1.5' cal. min. trunk
9	<i>Celtis occidentalis</i>	Common Hackberry	2.5-3' cal; B&B	
4	<i>Fraxinus pennsylvanica 'Summit'</i>	Summit Ash	2.5-3' cal; B&B	
11	<i>Larix laricina</i>	Larch or Tamarack	2.5-3' cal; B&B	Alt: 'Palmore'
11	<i>Larix laricina</i>	Larch or Tamarack	7.5' ht; B&B cont.	
23	<i>Populus tremuloides</i>	Quaking Aspen	8-10' ht; 2.2-2.5' cal; B&B	
3	<i>Quercus alba</i>	White Oak	2.2-2.5' cal; B&B	
			2.5-3' cal; B&B	
Shrubs and Ornamental Grasses				
20	<i>Clethra alnifolia</i>	Sweetshrub or Clethra	24-30" ht; 3 gal	5' oc
19	<i>Myrica pensylvanica</i>	Northern Bayberry	24-30" ht; 3-5 gal	4' oc
7	<i>Panicum virgatum 'Dallas Blues'</i>	Dallas Blues Switchgrass	bulk; 3 gal	5' oc Alt: 'Heavy Metal'
57	<i>Rosa rugosa</i>	Rugosa Rose, pink	24-30" ht; 3 gal	4' oc
Miscellaneous				
	Mulch, shredded			
	Seed Mix A - Consolation Mix (mix of grasses, wildflowers, legumes) @ 1 lb/1000 sf (e.g., Bluestem, Rye, Switchgrass, Aster, Goldenrod, Milkweed)		cy, 3' depth	
	Seed Mix B - Cottage Mix @ 7 lbs/1000 sf (65% Tall Fescue, 30% Creeping Red Fescue, 20% Perennial Ryegrass, 15% Annual Ryegrass)			



PHASE I LANDSCAPE PLAN		
No.	Date	Revision
1	10-29-12	Site Plan Subm to City
2	12-3-12	2 Bldgs & lg. gravel
3	12-11-12	add trees in 250' SZ

Job # 799
 Date: 10-16-2012
 Scale: 1" = 50'-0"
 Drawn: SEB
 Checked: SM

RESUBMITTED FOR PERMITTING 12-11-2012

L1.0