**PLANNING BOARD REPORT**

**PORTLAND, MAINE**

New Yard at Canal Landing

40 West Commercial Street

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

Project #2012-575

CBL: 59-A-1,2,3,4,5,6,7,8,9,10,11,12

New Yard, LLC, Applicant

Planning Board Report #53-12

**Meeting Date:**  December 18, 2012

**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 5 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 XXXX and XXXXX, 2012 editions of the Portland Press Herald and was noticed by mail to 132 neighboring property owners and interested parties.

**II. Required 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.

**III. 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 extent to which Shore Land Zone Tree Clearance restrictions apply to marine development in the shoreland portions of the site is subject to an on-going conversation with Maine DEP.

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.

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 Grayland 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 B of this memo.

**IV. Proposed Development**

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

Phase 1 is before the Board for approval, pending final application submission.

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, an office trailer, a small yacht brokerage shed, and extensive dockage along the Fore River.

Master Plan documents are shown on Plan 2 and described on Attachment C.2.

Phase 1 elements are shown on Plan 2 and described on Attachment C.1.

Attachment G additionally shows images and renderings describing buildings and equipment proposed.

**V. Development Considerations**

Attachments D and H of the applicant’s submittal include a narratives describing the project’s relationship to the applicable development standards of the Land Use Ordinance.

As noted above, the Board is asked to review the application as a preliminary submission in advance of a more detailed and complete final submission in the future. The workshop is an opportunity to become familiar with the direction of the project, to identify significant issues, and to provide direction to the applicants in advance of their final submission.

**Preliminary Planning Staff Comments (provided to the applicant on August 28, 2012):**

* Right title and interest to use West Commercial Street right of way must be secured prior to approval of occupation of city land.
* Adherence with State Shoreland tree clearance standards will need to be confirmed by the Maine DEP prior to construction – either through demonstration of tree preservation or written confirmation from DEP that the yard construction is allowed as shown.
* Rail removal: Is there any formal abandonment procedure needed to remove the tracks east of the gas yard?
* Shore stabilization and VRAP: Will final submission for site grading incorporate remediation measures? Some degree of fill is assumed.
* Will filling and grading with structural material be needed in phase one for the entire yard to ensure adequate surface for the travel lift?
* Will all boat maintenance areas, including the washdown pads, be provided with contaminant containment and stormwater quality controls?
* The proposed office trailer is located over the CSO. Confirm approval with DPS.
* There is no parking or circulation control for employee and visitor vehicles and pedestrians. Please address with final submission.
* The use of Jersey barriers will require landscape buffering toward West Commercial Street. If a more decorative barrier treatment along West Commercial Street is proposed, fewer landscaping efforts will be required. As this is a yacht brokerage, visually permeable treatments would seem appropriate as visibility of the boats would appear to be beneficial.
* Coordinate with the City Traffic consulting engineer over location, design and signage for primary customer and employee vehicle entrance.
* Internal and external fencing location needs more clarity.
* Use of the Boat Ramps: Will day use launching of recreational vessels be offered as a service for stored boats in the yard?

In addition to the comments and questions above, material related to utilities, stormwater, landscaping, lighting and traffic will be needed for final review with the Planning Board.

**Sec. 14-526. Site plan standards.**

 *Requirements for approval.* The Planning Board or Planning Authority shall not approve a site plan application unless the development proposal meets the following criteria:

(a) *Transportation Standards*

1. *Impact on Surrounding Street Systems:*

The provisions for vehicular loading and unloading and parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets and ways; and the incremental volume of traffic will not create or aggravate any significant hazard to safety at or to and including intersections in any direction where traffic could be expected to be impacted; and will not cause traffic congestion on any street which reduces the level of service below Level "D" as described in the 1985 Highway Capacity Manual published by the Transportation Research Board of the National Research Council, a copy of which manual is on file with the public works authority, or substantially increase congestion on any street which is already at a level of service below Level "D";

 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 and shall comply with the standards set forth in Sections 1 of the Technical Manual.

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

(iii)Where drive up features such as gasoline pumps, vacuum cleaners and menu/order boards are permitted, they shall not extend nearer than twenty five (25) feet to the street line. The site must have stacking capacity for vehicles waiting to use these service features without impeding on-site vehicular circulation or creating hazards to vehicular circulation on adjoining streets.

b. Loading and Servicing.

(i) All developments served by delivery or other service vehicles shall provide a clear route and travel way geometric design that permits safe turning and backing for the maximum vehicle length that would service the development and does not impede site access, vehicle circulation, pedestrian movements or parking.

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, installed to City specifications as described in Section 1 of the Technical Manual. An applicant may request a waiver from curb and sidewalk installation requirements if they meet applicable waiver criteria listed in Section 14-506 (b) of the City Code.

(ii) Where sidewalks already exist but are in substandard condition, they shall be repaired or replaced in conformance with Chapter 25 of the City Code and Section 1 of the Technical Manual.

(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.

3. *Public Transit Access:*

a. For any residential development consisting of twenty (20) or more dwelling units or commercial or institutional development of at least 20,000 square feet gross floor area, a transit facility shall be constructed where the following criteria are met:

(i) The development is proposed along an existing public transit route on a local principal or minor arterial roadway, as shown in the Federal Street Classification Map provided in Section 1 of the Technical Manual.

(ii) The nearest existing transit shelter and/or bus pullout on the route is ¼ mile(1,320 feet) or more away from the closest primary building on the site, 1measured along rights-of-way.

b. Transit facilities shall consist of a transit shelter and a transit pullout bay.

c. Transit facilities shall be connected to the public sidewalk system.

d. Waiver: All or some of this standard may be waived if the Reviewing Authority determines one or more of the following:

(i) That some or all of the required improvements cannot reasonably be made due to site constraints and/or insufficient right of way width; or

(ii) That the development is not anticipated to generate public transit usage due to particular characteristics or proposed use of the development.

4. *Parking:*

a. Location and Required Number of Vehicle Parking Spaces:

(i) Off-street parking shall meet the applicable zoning requirements, except the Planning Board shall determine the parking requirement, based upon the applicant’s parking study and a recommendation from the City Transportation Engineer, for new structures, building additions and changes of use with a total floor area of 50,000 sf or more and for projects, regardless of size, in the B-6, B-7 and USM Overlay zone.

(ii) Where a parking study is required, the City encourages Transportation Demand Management (TDM) strategies to be employed.

(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.

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

(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.

b. Location and Required Number of Bicycle Parking Spaces:

(i) The site plan shall provide secure bicycle parking in conformance with Section 1 of the Technical Manual and shall meet the following requirements:

(a) *Residential structures*. Two (2) bicycle parking spaces for every five (5) dwelling units shall be required.

(b) *Non-residential structures.* Two (2) bicycle parking spaces for every ten (10) vehicle parking spaces for the first one hundred (100) required vehicle parking spaces, plus one (1) bicycle parking space for every twenty (20) required motor vehicle parking space over one hundred (100) required vehicle parking spaces.

(c) Development with zero (0) to ten (10) required vehicle parking spaces shall provide at least two (2) bicycle parking spaces.

(ii) *Waiver:* The reviewing authority may reduce the required number of bicycle parking spaces **if** it is determined, based on evidence submitted by the applicant, that the proposed development is expected to generate reduced demand for bicycle parking due to characteristics or uses such as elderly or disabled persons housing or industrial uses located in outlying areas.

c. *Motorcycle and Scooter Parking*.

(i) The site plan sha**ll** accommodate access and parking for two-wheeled motorized vehicles such as motorcycles and scooters.

d. *Snow Storage.*

(i) The site plan shall include areas for snow storage or shall include an acceptable snow removal plan.

(ii) Snow storage areas may not encroach on areas designated to meet minimum parking requirements or on pedestrian walkways and shall not be located where they would adversely impact the functionality of bioretention or other stormwater management systems. Landscaping in designated snow storage areas shall be such that it can withstand the snow pile.

5. *Transportation Demand Management (TDM):*

a. The following types of development shall design and implement a Transportation Demand Management (TDM) plan:

(i) All Level III development in the B7 zone;

(ii) All commercial or institutional uses of 50,000 sf or more total floor area;

(iii) All commercial or institutional uses designed to accommodate 100 or more employees and, for educational institutions, 100 or more students.

b. The TDM Plan shall establish trip reduction targets and shall employ a combination of the following elements to achieve these targets:

(i) Public transit incentives;

(ii) Parking cash-out;

(iii)Car sharing;

(iv) Car and van pooling incentives;

(v) Guaranteed ride home programs;

(vi) Other such strategies that reduce single occupancy vehicle trips to and from the development.

c. The development shall comply with the City of Portland TDM standards as described in Section 1 of the Technical Manual.

 (b) *Environmental Quality Standards*

1. *Preservation of Significant Natural Features:*

a. The site plan shall preserve and protect 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.

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

(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;

(iv) Aquifers on islands in Casco Bay, as identified in the City of Portland Island Groundwater Management Study and/or by the Maine Geological Survey;

(v) Waterbodies including wetlands, watercourses, significant vernal pools and floodplains. These features may also be regulated by Division 26, Shoreland Regulations, Division 26.5, Flood Plain Management Regulations and Division 26.7, Stream Protection Ordinance of the City Code, along with Sections 5 and 8 of the Technical Manual or other State regulations.

b. Where areas set aside for preservation are part of a larger existing habitat block extending beyond the boundaries of the site, the contiguity of these features shall be preserved, where possible.

c. Waiver: Where complete preservation of significant natural features substantially compromises development of the site otherwise permitted by zoning, the Reviewing Authority may reduce the requirement to accommodate development provided that the applicant demonstrates compliance with applicable state and federal regulations and implements preservation measures to the extent practicable.

2. *Landscaping and Landscape Preservation:*

a. *Landscape Preservation.*

(i) Site development shall be designed to incorporate, and limit disturbance to or removal of existing trees, as specified below. Preserved trees may be counted towards site landscaping requirements.

(ii) All development subject to zoning setbacks shall preserve a minimum of 30% of existing trees ten (10) inches DBH or greater within the required setback area unless trees are non-native invasive species, as identified in Section 4 of the Technical Manual, or are deemed unsalvageable by the Portland City Arborist or their designee.

(iii)Protection during Construction: The site plan shall include adequate measures to protect vegetation to be preserved from construction impacts, in accordance with the tree preservation standards listed in Section 4 of the Technical Manual.

(iv) Waiver: Where the applicant can demonstrate that preservation of existing vegetation would compromise development of the site, the Reviewing Authority may permit the substitution of replacement landscaping in other areas of the site, and/or a financial contribution to the City of Portland Tree Fund for an amount proportionate to the cost of trees removed, as described below:

(a) For each tree required to be preserved that is removed and is greater than 16” in caliper DBH, two (2) replacement trees of a species identified on the City of Portland Recommended Tree List shall be planted on the site as detailed in Section 4 of the Technical Manual).

(b) For each tree required to be preserved that is removed and is between ten (10) and sixteen (16) inch DBH, one (1) replacement tree of a species identified on the City of Portland Recommended Tree List shall be planted on the site as detailed in Section 4 of the Technical Manual).

(c) Where the planting of replacement trees on the site is not feasible, the applicant shall contribute an amount proportionate to the cost of required replacement trees to the City of Portland Tree Fund, as detailed in Section 4 of the Technical Manual.

(v) In addition to the provisions of this section, all development within the Shoreland Zone shall meet the requirements of Division 26, Shoreland Regulations.

b. *Site Landscaping.*

(i) Landscaped Buffers:

(a) *Screening.* Loading and servicing areas, dumpsters, storage areas and utility structures, except for renewable energy systems, shall be screened from view from public sidewalks, streets and adjacent properties by dense evergreen landscaping, fencing, masonry wall building walls, or a combination thereof.

(b) *Understory Plantings.* All development subject to required zoning setbacks shall include a minimum of six (6) shrubs per forty five (45) linear feet of all frontages as measured along the property line. A shrub shall be defined as one shrub, one ornamental grass, and/or 3 perennials. Required shrubs may be installed anywhere on the site, including a green roof, if proposed, and may be planted in any arrangement. Existing vegetation to be preserved on the site may be counted towards this requirement as detailed in Section 4 of the Technical Manual.

(c) *Industrial and Commercial Zones.* For non-residential development proposed in an industrial or commercial zone subject to required zoning setbacks and abutting a residential zone, an evergreen, densely landscaped buffer of not less than ten (10) ft wide and six (6) ft tall is required along the side abutting theresidential zone. Where site constraints prevent such a buffer from being established, the width of the landscaped buffer may be reduced but shall include architectural quality fencing of not less than six (6) ft tall and a mix of evergreen and deciduous trees spaced no further than twenty (20) ft apart along the abutting the residential zone.

(d) *Buffer from Surrounding Development.* All residential development shall provide and/or preserve evergreen vegetated buffers where necessary to buffer the development from detrimental impacts of existing surrounding development.

(ii) *Parking Lot Landscaping:*

(a) Developments with five (5) or more parking spaces shall include at least two (2) trees (or one (1) tree and three (3) shrubs) per five (5) parking spaces planted in landscaped islands to screen shade and break up parking. Trees and shrubs in parking lots may be in informal groups, straight rows, or concentrated in clusters as detailed in Section 4 of the Technical Manual.

(b) Landscaped islands shall be distributed so that uninterrupted pavement does not exceed forty (40) parking spaces.

(c) Landscaped islands shall be curbed and a minimum of eight (8) feet in width, not including curbing. The incorporation of bioretention into landscaped islands is strongly encouraged.

(d) Vehicle display lots shall be subject to the parking lot landscaping standards of  **this section.**

(e) Waiver: Where site constraints prevent implementation of all or a portion of required parking lot landscaping, as determined by the Reviewing Authority, the requirements may be all or partially waived and the applicant shall contribute an amount proportionate to the cost of required parking lot trees to the City of Portland Tree Fund.

(iii)*Street Trees:*

(a) All development shall include street trees in numbers and locations as specified in Section 4 of the Technical Manual. Street trees shall be planted in the right of way, as specified in Section 4 of the Technical Manual. Street trees shall be of a species identified on the City of Portland Recommended Tree List, unless otherwise approved by the Portland City Arborist or his/her designee.

(b) Waiver. Where the applicant can demonstrate that site constraints prevent the planting of required street trees in the City right of way, the Reviewing Authority may permit the planting of street trees in the front yard, within ten feet of the property line. Existing preserved healthy trees that are six (6) inches or more in caliper and are on the site within ten (10) feet of the property line may be counted towards this requirement. If planting street trees is neither feasible in the City right of way nor within the site, the applicant shall contribute to the City of Portland Tree Fund an amount proportionate to the cost of required street trees.

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

a. All development must demonstrate that the proposed site improvements are designed to minimize the amount of stormwater leaving the site. This must include consideration of the design and location of improvements to minimize the total area of impervious surface on the site and stormwater management techniques to minimize both the volume and rate of runoff from the lot. The stormwater management plan must demonstrate the following:

(i) Any stormwater draining onto or across the lot in its pre-improvement state will not be impeded or re-directed so as to create ponding on, or flooding of, adjacent lots;

(ii) Any increase in volume or rate of stormwater draining from the lot onto an adjacent lot following the improvement can be handled on the adjacent lot without creating ponding, flooding or other drainage problems and that the owner of the lot being improved has the legal right to increase the flow of stormwater onto the adjacent lot;

(iii)Any increase in volume or rate of stormwater draining from the lot onto City property following the improvement can be handled without creating ponding, flooding or other drainage problems and that the owner of the lot being improved has the legal right to increase the flow of stormwater onto the City’s property; and

(iv) Any increase in volume or rate of stormwater draining from the lot into the City’s separate storm sewer system can be accommodated in the system without creating downstream problems or exceeding the capacity of the storm sewer system.

b. All development, except Level I minor residential development, shall comply with the standards of Section 5 of the Technical Manual including basic, general and flooding standards, as applicable, to prevent and control the release of pollutants to waterbodies, watercourses, wetlands and groundwater, and reduce adverse impacts associated with increases or changes in flow, soil erosion and sedimentation.

c. All development, except Level I minor residential development, that are located within the watershed of an Urban Impaired Stream shall comply with the Urban Impaired Stream standards pursuant to Maine DEP Chapter 500 Stormwater Management Rules, as described in Section 5 of the Technical Manual.

d. Level I: minor residential development shall comply with basic erosion control standards, as described in Section 6 of the City of Portland Technical Manual.

e. Development shall not pose a risk of groundwater contamination either during or post-construction, as described in Sections 5 and 9 of the Technical Manual.

f. Development shall provide for adequate and sanitary disposal of sewage as described in Section 2 of the Technical Manual.

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

1. *Consistency with City Master Plans:*

a. All developments shall be designed so as to be consistent with City Council approved master plans and facilities plans and with off-premises infrastructure, including but not limited to sewer and stormwater, streets, trails, pedestrian and bicycle network, environmental management or other public facilities (see Section 15 of the Technical Manual).

b. The site plan shall include suitable easements, rights and improvements to connect or continue off-premises public infrastructure as may be required by the reviewing authority.

2. *Public Safety and Fire Prevention:*

a. The development shall incorporate the following public safety principles for Crime Prevention through Environmental Design (CPTED) into site design to enhance the security of public and private spaces and to reduce the potential for crime:

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

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

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

b. 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.

c. 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.

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

a. The development shall not overburden sanitary sewers and storm drains, water lines, or other public infrastructure and utilities. Development shall provide adequate utility capacity and distribution network on-site and in connection to surrounding locations and facilities.

b. Electrical service shall be underground unless otherwise specified for industrial uses, or if it is determined to be unfeasible due to extreme cost, the need to retrofit properties not owned by the applicant or complexity of revising existing overhead facilities.

c. Installation of new or upgrades to existing sanitary sewers, storm drains, water lines or other utilities shall meet the provisions outlined in Section 2 and Section 9 of the Technical Manual.

d. All development within 200 feet of a public sanitary collection and treatment system shall connect sanitary sewer lines into the nearest available public sewer. If a public sanitary collection and treatment system is not available, a private wastewater system may be used according to the requirements of Chapter 24 of the City Code and Section 2 of the Technical Manual.

e. All sanitary sewer and stormwater utilities proposed as part of the development shall be designed to City standards as specified in Section 2 and Section 4, Chapter 500 Stormwater Management Standards, of the Technical Manual.

f. All residential development of 20 units or more, commercial development and industrial development shall provide for the temporary storage and timely removal of all trash and recyclable materials including, at a minimum, paper, corrugated cardboard, plastics and metals. Storage containers for recyclable materials shall be separated from trash containers. All exterior storage of trash and recyclables shall be screened from view from public sidewalks, streets and adjacent properties.

4. Reserved.

(d) *Site Design Standards*

1. *Massing, Ventilation and Wind Impact:*

a. The bulk, location or height of proposed buildings and structures shall not result in health or safety problems from a reduction in ventilation to abutting structures or changes to the existing wind climate that would result in unsafe wind conditions for users of the site and/or adjacent public spaces.

b. The bulk, location or height of proposed buildings and structure shall minimize, to the extent feasible, any substantial diminution in the value or utility to neighboring structures under different ownership and not subject to a legal servitude in favor of the site being developed.

c. Development shall locate all HVAC venting mechanisms to direct exhaust away from public spaces and residential properties directly adjacent to the site.

2. *Shadows:*

a. All development outside the B3, B5, B6 and B7 zones shall be designed to avoid and/or mitigate the adverse impacts of shadows cast by new structures or building additions from falling on publicly accessible open space where such shadowing would adversely affects the viability of its use and/or the viability of existing vegetation. Examples of publicly accessible open spaces that may require direct sunlight for a portion of the day to maintain the viability of existing vegetation and/or use(s) include but shall not be limited to sitting or sunning areas, community gardens, grass sports fields, landscaped areas, children’s play areas). For submittal requirements and additional information, please refer to Section 11 of the Technical Manual.

3. *Snow and Ice Loading:*

a. The development shall be designed to prevent significant amounts of accumulated snow and ice from loading or falling onto adjacent properties or public ways.

4. *View corridors:*

a. The massing, location and height of development shall not substantially obstruct public views corridors identified in the Downtown Vision View Corridor Protection Plan, as provided in the City of Portland Design Manual, Appendix 1.

5. *Historic Resources:*

a. Developments affecting designated landmarks or within designated historic districts or historic landscape districts: Any proposed development required to obtain a certificate of appropriateness under article IX (historic preservation) of the land use code shall be exempt from the following design standards, as described in the Design Manual:

(i) Section (b) of the Design Manual (development in B-3 zone), except for (b) (1) e.2. (increasing setback beyond street build-to line), (b) (1)f. (shadow impact on open space), (b)(1)h. (wind impacts), and (b)(1)g. (setbacks from existing structures);

(ii) Section (c) of the Design Manual (development in B-5 and B-5b zones), except for (c)a. (shared infrastructure) and (c)d. (parking lot location);

(iii)Section (k) of the Design Manual (small residential lot development in R-6 zone);

(iv) Section (e) of the Design Manual (University of Southern Maine);

(v) Section (f) of the Design Manual (development in B-7 zone), except for (f)(1)a. (transportation demand management);

(vi) Section (g) of the Design Manual (development in Eastern Waterfront zone).

b. Development adjacent to designated landmarks, historic districts or historic landscape districts: when any part of a proposed development is within one hundred (100) feet of any designated landmark, historic district or historic landscape district, such development shall be generally compatible with the major character-defining elements of the landmark or portion of the district in the immediate vicinity of the proposed development. Character-defining elements of landmarks and historic districts are identified in the historic resources inventory and respective historic district designation reports For the purposes of this provision, “compatible” design shall be defined as design which respects the established building patterns and visual characteristics that exist in a given setting and, at the same time, is a distinct product of its own time. To aid the planning board in its deliberations, historic preservation staff shall provide a written analysis of the proposed development’s immediate context, identifying the major character-defining elements and any established building patterns that characterize the context.

c. Preservation and/or Documentation of Archaeological Resources. Where a state or local archaeological resource is known to exist or is discovered on the site, the developer shall inform the City and State and shall protect and/or document such resources.

(i) Protection shall include leaving archaeological resources untouched beneath a new development through adaptation of foundation design or architectural layout.

(ii) Where the applicant can demonstrate that complete protection is not feasible, the applicant shall excavate and document archeological resources. Such measures shall be conducted in consultation with the City Historic Preservation Program and Maine Historic Preservation Commission. For resources of state significance, excavation and documentation shall be conducted by a qualified professional, in coordination with Maine Historic Preservation Commission. Local archeological resources may or may not be recognized by the Maine Historic Preservation Commission as significant and shall include the following:

(a) Original seawall structure located landward of Commercial Street.

(b) Inactive historic family cemetery plots.

(c) Historic railroad beds including but not limited to the Portland-Lewiston interurban railroad.

(d) Original structure and/or landforms

 associated with the Cumberland and Oxford Canal.

(e) Buried portions of colonial and post-colonial period structures or built features located on the Portland Peninsula predating the Great Fire of 1866.

(f) Pre-colonial occupation sites identified by shell middens or other evidence.

(g) Sites listed or eligible for listing on the National Register of Historic Places.

(iii)Waiver Criteria: In order to preserve archeological resources, the Planning Authority may wave standards listed in the City of Portland Technical Manual where necessary if it is determined that such a waiver would not jeopardize the health, safety or welfare of the development’s occupants, the public, or the natural environment.

6. *Exterior Lighting:*

a. *Site Lighting.*

(i) All exterior site lighting, including lighting of building entrances, shall be full cutoff with no light emitted above the horizontal plane or spilled onto adjacent properties and streets. Illumination levels shall be adequate but not excessive for the safety, comfort and convenience of occupants and users of the site, and shall confirm to applicable standards of Section 12 of the Technical Manual.

(ii) For major or minor site plans within or abutting a residential use or zone where light from the proposed development may adversely impact adjacent residential properties, exterior lighting shall employ house-side shielding.

b. *Architectural and Specialty Lighting*.

(i) Architectural and specialty lighting, but not up-lighting, of such features as architectural details, monuments, public art or other site features shall be designed to illuminate specific details or attributes only and shall meet the standards of Section 12 of the Technical Manual.

(ii) Up-lighting by any method is prohibited except for public buildings and parklands, clock towers and steeples, landscape features, designated historic landmarks, flags of state, federal or national jurisdictions, and public art. Such light fixtures, brackets, conduits and all other components shall be designed by a lighting professional and shall be scaled and placed to minimize their visibility and installed in accordance with the standards contained in Section 12 of the Technical Manual.

c. *Street Lighting.*

(i) Municipal street lighting shall be adequate for the safety and comfort of pedestrians and motorists and, where applicable, shall conform to specific lighting district requirements, as specified in Section 10 of the Technical Manual.

7. *Noise and Vibration:*

Projected noise levels for all developments shall meet applicable zoning requirements.

a. *HVAC and Mechanical Equipment.*

(i) All heating, ventilation and air conditioning equipment (HVAC), air handling units (AHU), emergency generators, and similar equipment shall meet applicable state and federal emissions requirements and shall comply with the following:

(a) Be located to the interior of the site, away from abutting residential properties;

(b) Be screened from view from any public street and from adjacent sites by structure walls, evergreen landscaping, fencing, masonry wall or a combination thereof.

(ii) In addition to the requirements listed above, emergency generators shall not be activated for more than one hour per week for routine maintenance and testing. Noise levels shall not exceed City standards except in designated emergencies or for emergency generator testing. Emergency generator testing is permitted only between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday.

8. *Signage and Wayfinding:*

a. All signage shall meet applicable requirements of Division 22 of the City Code, in addition to provisions listed below:

(i) Historic Preservation: Any new sign or change in appearance of an existing sign located on a designated Historic Landmark or in a Historic District or Historic Landscape District shall be subject to the standards of Article IX and shall require a Certificate of Appropriateness. If there is a conflict between the standards of Article IX and of Division 22 or other provisions of the City Code, the stricter standards shall apply.

(ii) Commercial Signage and Directional Traffic Signage: The size, scale, proportions, design, materials, placement and source and intensity of illumination of all permanent or freestanding building signs shall be designed to complement the subject building and its immediate context, as follows:

(a) Signage shall not conceal architectural features such as window sills, lintels or cornices from view.

(b) Signs shall be designed and sized to fit the scale and proportions of the building and the feature or area of the building to which it is affixed.

(c) Freestanding signs shall not adversely affect visibility at intersections or access drives.

(d) Sign lighting shall be downwardly directed, internally illuminated and/or shielded to avoid glare and light spillover towards the sky.

(e) Signs shall not be affixed to rooftop mechanicals, mechanical penthouses or other rooftop appurtenances unless those appurtenances have been screened and integrated into the architecture of the development.

(iii)On-site directional traffic signage may be provided to enable users to safely and easily navigate into, around and out of the site. Directional signage shall not adversely affect visibility at intersections on or off the site.

(iv) Waiver Criteria: An applicant for site plan review that was either denied for failure to comply with the requirements of or is seeking a waiver as part of their site plan application from Section 14-369.5 shall meet the following standards for approval:

(a) Signs shall meet the requirements of Section 14-526 (e) 2. - Signage and Wayfinding;

(b) The size, scale, proportions, design, materials, placement, quantity and source and intensity of illumination of any approved signage shall be designed to complement and enhance the architectural attributes of the building(s) to which they are attached or to which they are visually related. In addition, such signs shall be appropriate to the scale and character of the neighborhood in which it is located and shall be designed to suit the conditions from which it will be viewed, especially in relation to the distance, travel speed, and mode of travel of the viewing public;

(c) The signage shall either be of special design merit or shall respond to unique circumstances or characteristics associated with the subject property;

(d) The provisions of this subsection shall be limited to commercial uses in business or industrial zones, industrial uses or institutional uses.

9. *Zoning Related Design Standards:*

a. Development of certain types and/or proposed in certain zones, as specified below, are subject to design standards in addition to the provisions of Section 14-526 (a) in order to ensure designs that contribute to and enhance the goals and policies for specific districts of the City. The City of Portland Design Standards is listed in the City of Portland Design Manual, which is included by reference. If the development is located in a historic district or associated with a historic landmark, City of Portland Historic Preservation standards shall supersede:

(i) B3, B5, B5-b, B7 Zones, and B6 and EWPZ Waterfront Zones: Development in the B3, B5, B5-b, B7 business zones and in the EWPZ waterfront zone shall be designed to support the development of dense, mixed-use neighborhoods with attractive, safe and convenient street level pedestrian environments as demonstrated by compliance with all applicable design standards listed in the Design Manual.

(ii) RP Zone: Development in the RP Residential Professional zone where there is a discernable architectural style or character to existing structures in the immediate vicinity in which the development is proposed shall not be incongruous to that established style or character as demonstrated by compliance with all applicable design standards listed in the Design Manual.

(iii)B1, B1-b, B2, B2-b Zones: Development in the B1, B1-b, B2 and B2-b business zones shall provide an established street wall with entrances and public portions of the building oriented to and directly accessible from the public sidewalk and shall be designed and scaled to be compatible with surrounding residential and commercial development as demonstrated by compliance with all applicable design standards listed in the Design Manual.

(iv) USM Overlay Zone: Development in the University of Southern Maine (USM) Overlay Zone shall be designed to support a cohesive campus environment while integrating with and respecting the residential character of surrounding neighborhoods as demonstrated by compliance with all applicable design standards listed in the Design Manual.

(v) Residential Developments: Residential developments, as listed below, shall integrate with and respect the character of surrounding residential development in terms of architectural form, landscaping and open space, façade materials, roof pitch, massing and height as demonstrated by compliance with all applicable design standards as listed in the Design Manual.

(vi) Residential Development in the following districts:

(a) Planned Residential Unit Developments (PRUDS) in the R3, R5 and R5a residential zones;

(b) Multiple family and multiplex developments in the R5 zone;

(c) Small residential lot development of single family homes in the R5 zone;

(d) Multiple family and multiplex development in the R6 zone on lots of 10,000 square feet or less.

(vii)Residential Development of the following types:

(a) Manufactured housing parks;

(b) Two-family and multiple family housing not already specified in (a) above;

(c) Special needs independent living units;

(d) Lodging houses;

(e) Bed and breakfasts;

(f) Emergency shelters.

10. *Reserved.*

 (e) *Conditions*

1. Notwithstanding the provisions of subsections (a)through (d) of this section, the Planning Authority or Planning Board may impose any condition upon its approval of any site plan: (1) to minimize or abate any adverse impact of the proposed development on the value or utility of other private property, or on public property or facilities, to the extent feasible; or (2) to bring the development into compliance with the requirements of subsections (a) through (d); or (3) to minimize any other adverse environmental effects of the proposed development. Such conditions may include, but are not limited to, enclosing of equipment or operations, imposing limitations upon the hours of operation, or requiring the employment of specific design technologies, modes of operation, or traffic patterns, and may also include the construction of, or financial contribution to the construction of, on‑ or off‑premises public facilities including, without limitation, streets and sewers impacted by the development. All such conditions shall be consistent with the purposes set forth in section 14‑521.

(Ord. No. 277-09/10, 7-19-10)

**Attachments**

**1 Public Comment**

**Applicant’s Submission Packet**

A Cover Letter and Application

B Existing Conditions and Narratives

C Proposed Development Description

D Zoning Compliance Narrative

E Site Photos

F Vicinity and Context maps

G Building Drawings and Images

H Financial and Technical Capacity

I Right, Title and Interest (Omitted due to size, available upon request)

J Site Plan Standards Review Narrative

K State Agency Contact

**Plans**

Plan 1 Cover Page, Notes, Survey and Existing Conditions

Plan 2 Master Plan, Long-term Build Out

Plan 3 Site Plan, Phase 1 (current permitting)

Plan 4 Grading and Drainage, Phase 1

Barbara Barhydt **ATT 1**
Development Review Services Manager
Planning Division
389 Congress Street 4th Floor
Portland, ME 04101
(207) 874-8699
Fax: (207) 756-8256
bab@portlandmaine.gov>>> Lary Shaffer <shaffer@midmaine.com> Saturday, September 01, 2012 8:42 AM >>>

Dear Ms. Barhydt,

I am a resident of Scarborough and I have great interest in seeing Portland and Greater Portland developed in ways that protect the environment while providing opportunities for all residents. I was delighted to read in the Press Herald of the plans by Mr. Sprague to extend and increase his boat yard activities. If I understand the description of the land correctly, it is the former Portland Terminal Company rail yard area beyond the Casco Bay Bridge from the business center of Commercial Street. This seems to be a fine example of location-specific job creation and I hope that this development is able to proceed.

I am writing to ask if it is possible for at least one railroad right-of-way to remain across that land to the adjacent container terminal. I do not think that it would be a busy rail corridor. However, it seems to me to be very shortsighted to permanently block the railroad access to the container terminal. On a recent trip in southern states, I saw container trains that were probably a hundred cars long. As I understand it, containers on railroads offer great flexibility in shipping because the cars do not have to be cut out of trains and left. The containers can be picked off trains by cranes and various other means and, if necessary, delivered locally by trucks. This saves a considerable amount of railroad time and makes shipping by rail competitive. I do not know why Pan Am does not already work with the container terminal.

It is completely possible that a rail spur through the property would also benefit the boatyard operations by permitting large items to arrive there by rail. I would be very surprised if that had not already been considered by Mr Sprague.

The establishment of a permanent rail right-of way across that land my not be within the responsibilities of the planning board. I do hope, however, that in the interest of future prosperity and wise use of natural resources it will be considered by whomsoever is in charge of deciding these matters.

Yours sincerely,

Lary Shaffer

Lary Shaffer

Scarborough Marsh Fine Furniture

Scarborough Maine