

2/6/12 - still in Corey Form meeting with Applicant → still revising The contract Draft 1/25/12

City of Portland
Development Review Application
Planning Division Transmittal form

Application Number: 2012-414 **Application Date:** 1/18/2012 12:00:00
CBL: 62-E-5 AM
Project Name: Conditional Zone Change
Address: 26-32 Thomas Street

Project Description:
Zoning:

Other Reviews Required:
Review Type: Level III Zone Change

Distribution List:

<input type="checkbox"/> Planner	Jean Fraser	<input type="checkbox"/> Parking	John Peverada
<input checked="" type="checkbox"/> Zoning	Marge Schmuckal	<input type="checkbox"/> Design Review	Alex Jaegerman
<input type="checkbox"/> Traffic Engineer	Tom Errico	<input type="checkbox"/> Corporation Counsel	Danielle West-Chuhta
<input type="checkbox"/> Civil Engineer	David Senus	<input type="checkbox"/> Sanitary Sewer	John Emerson
<input type="checkbox"/> Fire Department	Chris Pirone	<input type="checkbox"/> Inspections	Tammy Munson
<input type="checkbox"/> City Arborist	Jeff Tarling	<input type="checkbox"/> Historic Preservation	Deb Andrews
<input type="checkbox"/> Engineering	David Margolis-Pineo	<input type="checkbox"/> DRC Coordinator	Phil DiPierro
		<input type="checkbox"/> Outside Agency	

Comments needed by (7 days later): February 1, 2012



PORTLAND MAINE

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Greg Mitchell, Acting Director of Planning and Development
Marge Schmuckal, Zoning Administrator

Meeting Information

DATE: 1/5/12 ZONE: R-4 / Historic Overlay

LOCATION: 26-32 Thomas St, Williston Church

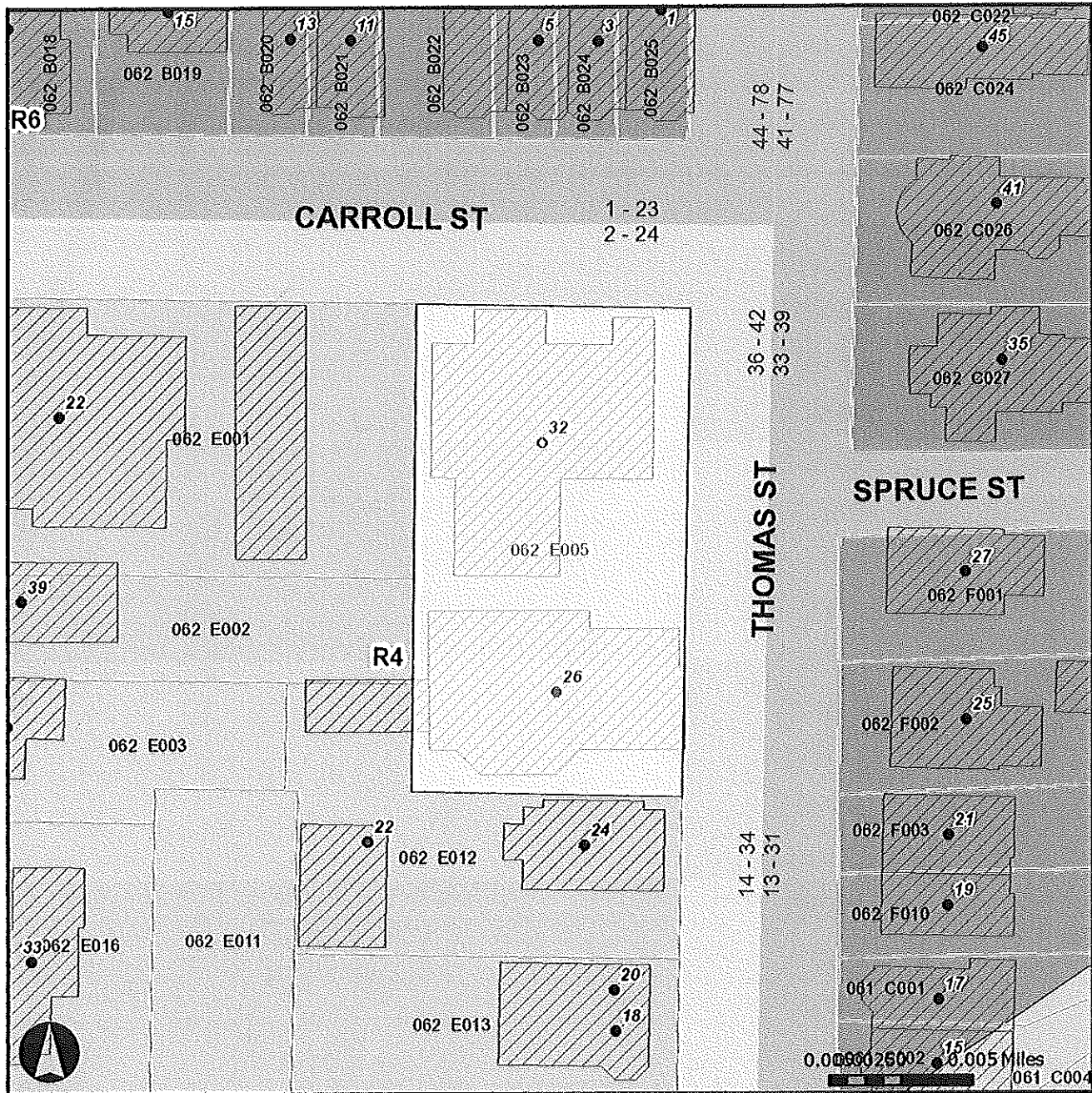
PEOPLE PRESENT: Frank Mansour, Matthew Winch - John Turk
Janine B - Deb A - Marge S, - Alex Jegerman

DISCUSSION: - Have set-up 2 companies here ^{in Portland} so far -
Bell Tower in dire condition - Windows need replacement - rotted timbers

WANTS A 2 level residence in the Bldg -
can hold 300-375 people - SMALL commercial enterprise - 1st floor of the parish house
Sanctuary repairs separate - to be restored. - roof needs urgent attention
constrained in available parking
12 groups using the Bldg now: AA - Dance Group - Yoga -
4,000\$ on each 1st & 2nd floor - 3rd floor less (~2,000\$)
offices - executive offices on 1st floor - staff center
1 residential unit. 2nd & 3rd floor - family based
musical practice facility in the Sanctuary - Ballet Group -
- Discussed Conditional/contract zoning process which is property
discussed text changes perhaps under "Community Specific" -
- exploring tax credits - photo document everything - "It's all" -
- Describe the parameter of all desired uses - crucial

Please note: this meeting is not an pre-approval of any ordinances. No project can be approved without going thru the appropriate reviews. This meeting is only to outline the City processes to go through based on the information given at this meeting. Any changes to that information may change the process requirements. Please check ordinances that are on-line for further information at www.portlandmaine.gov.

Map



Parcels	Stream Overlay Zone	Zoning (continued)	Zoning (continued)
<input type="checkbox"/> Parcel	<input checked="" type="checkbox"/> Stream_protection	<input type="checkbox"/> R2 Residential	<input type="checkbox"/> C25
<input type="checkbox"/> Interstate	Island Zoning	<input type="checkbox"/> R3 Residential	<input type="checkbox"/> C26
<input type="checkbox"/> Streets	<input type="checkbox"/> C43	<input type="checkbox"/> R4 Residential	<input type="checkbox"/> C27
Buildings	<input type="checkbox"/> I-B	<input type="checkbox"/> R5 Residential	<input type="checkbox"/> C28
<input checked="" type="checkbox"/> Building	<input type="checkbox"/> I-TS	<input type="checkbox"/> R6 Residential	<input type="checkbox"/> C29
<input checked="" type="checkbox"/> Out Building	<input type="checkbox"/> I-R1	<input type="checkbox"/> ROS Recreation Open	<input type="checkbox"/> C30
	<input type="checkbox"/> I-R2	Space	<input type="checkbox"/> C31

Assessor's Office | 369 Congress Street | Portland, Maine 04101 | Room 115 | (207) 874-8486

City Home Departments City Council E-Services Calendar Jobs

This page contains a detailed description of the Parcel ID you selected. Press the **New Search** button at the bottom of the screen to submit a new query.

Current Owner Information:

Services

Applications

Doing Business

Maps

Tax Relief

Tax Roll

Q & A

browse city services a-z

browse facts and links a-z

CBL 062 E005001
Land Use Type RELIGIOUS
Property Location 26 THOMAS ST
Owner Information WILLISTON CHURCH IN PORTLAND
 32 THOMAS ST
 PORTLAND ME 04102
Book and Page
Legal Description 62-E-5 THOMAS ST 26-28
 18000 SQ FT
Acres 0.413

Current Assessed Valuation:

TAX ACCT NO.	9942	OWNER OF RECORD AS OF APRIL 2011 WILLISTON CHURCH IN PORTLAND
LAND VALUE	\$225,000.00	32 THOMAS ST
BUILDING VALUE	\$1,713,300.00	PORTLAND ME 04102
RELIGIOUS INSTITUTIONS	(\$1,938,300.00)	
NET TAXABLE - REAL ESTATE	\$0.00	
TAX AMOUNT	\$0.00	

Any information concerning tax payments should be directed to the Treasury office at 874-8490 or [e-mailed](#).



BEST Viewed at 800x600, with Internet Explorer

Building Information:

Building 1
Year Built 1900
Style/Structure Type RELIGIOUS
Units 1
Building Num/Name 1 - CHURCH
Square Feet 30783
[View Sketch](#) [View Map](#) [View Picture](#)



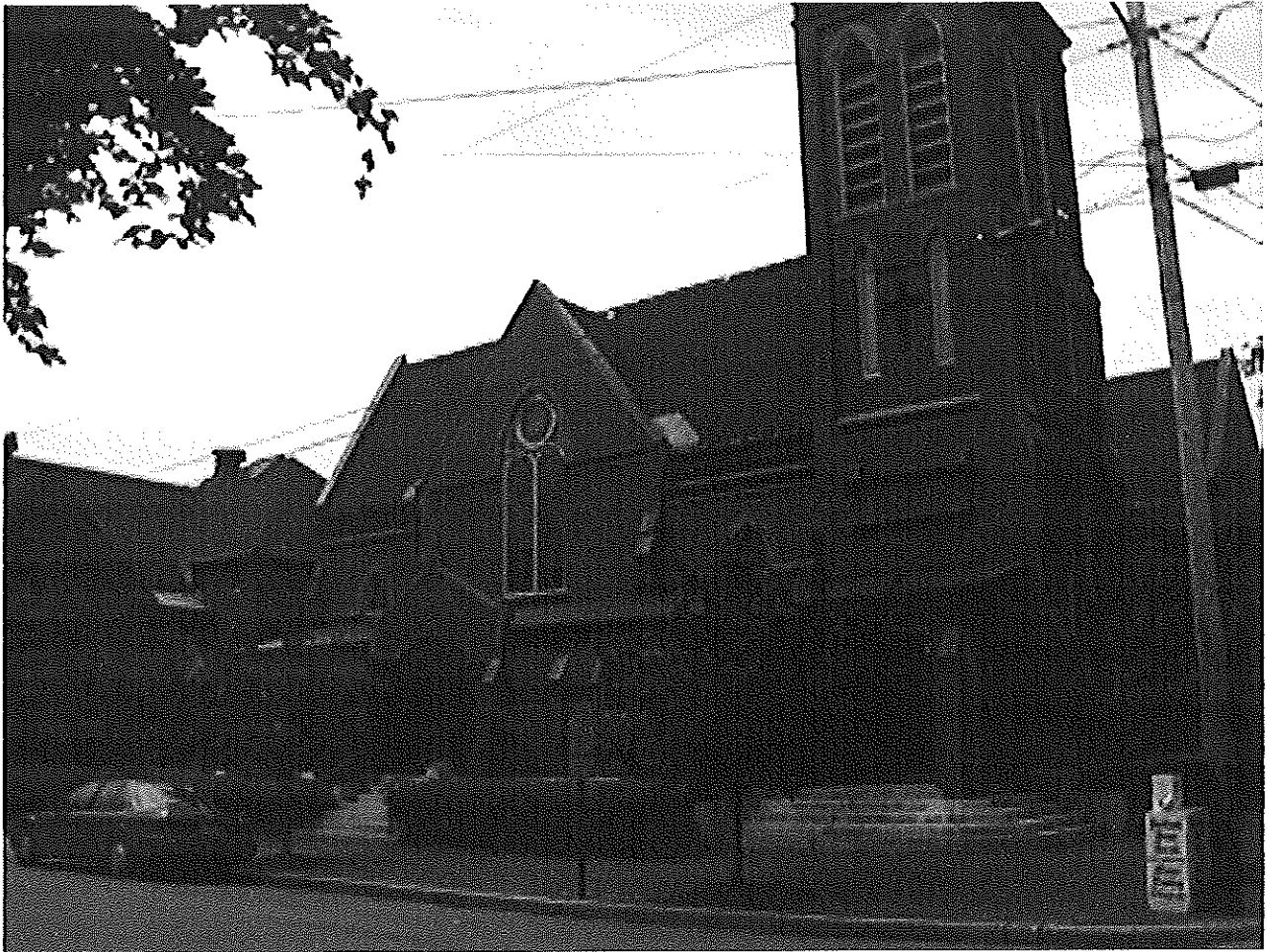
Exterior/Interior Information:

Building 1
Levels B1/B1
Size 4417
Use SCHOOL
Height 10
Heating HW/STEAM
A/C NONE

Building 1
Levels 01/01
Size 4417
Use SCHOOL
Height 10
Walls BRICK/STONE
Heating HW/STEAM
A/C NONE

Building 1
Levels 02/02
Size 4321
Use SCHOOL
Height 10
Walls BRICK/STONE
Heating HW/STEAM
A/C NONE

Building 1
Levels 03/03
Size 3240
Use SCHOOL
Height 10
Walls BRICK/STONE



Marge Schmuckal - Re: Williston West

From: Marge Schmuckal
To: Alex Jaegerman; Anne Pringle
Date: 12/19/2011 10:46 AM
Subject: Re: Williston West
CC: Barbara Barhydt; Deb Andrews

Anne,
About 2 months ago I had a request to look at the permitted use for this property. Our microfiche has information showing the approved use in the 70's. No one has applied for any changes of use since that time.

Basically this building is divided into two sides with a smaller connector in the middle. The church use is on the right hand side (abutting Carroll St) and the left hand side is the location of a child care center. There is an occupancy permit in the files that reflects those uses.

It is an R-4 zone with a Historic overlay.

I can let you know if and when we get any more requests or inquiries on this property.

I hope this helps you,

Marge Schmuckal

>>> Anne Pringle <oldmayor@maine.rr.com> 12/19/2011 10:17 AM >>>
Just making an informal inquiry - let's wait to see what their plans are. I'll let you know if I hear anything more detailed.

But it seems to be good news that the prospective buyers have deep pockets and a love for the buildings...

Anne

On 12/19/11 8:44 AM, Alex Jaegerman wrote:

Tricky questions. We'll need to consult w/ Marge Schmuckal. I'm considering this to be confidential information unless we have had any permits requested.

The current use as a church "Place of Assembly" is an institutional use. When Quimby wanted to use the house on the corner of Fletcher for an institute, that would have been difficult, requiring a change of use.

It might be possible for the new owners to retain a place of assembly use category for a community hall with residential, but if they convert the principal use to residential, then the extent of meetings might be more limited. It's possible that they could have multiple uses on the site.

alex.

>>> Anne Pringle <oldmayor@maine.rr.com> 12/16/2011 4:29 PM >>>

I have it on good authority that Williston West is being sold to two Australians who have a software business on Congress Street. They love the buildings, plan to live there, and run the business out of part of it (a "home occupation"?). They reportedly have lots of money, so the buildings will be in good hands. There is some talk of use for performances and meetings, which has been done in the past - only issue will be if a big increase in this use and if it is even permitted for a residential owner. Would it be, since the buildings would be residential vs church use and it doesn't make sense that performances would be considered accessory to a residential use...

Has anyone contacted the City?

Anne?

Marge Schmuckal - Fwd: Re: Williston West

From: Marge Schmuckal
To: Alex Jaegerman; Anne Pringle; Deb Andrews
Date: 12/20/2011 1:35 PM
Subject: Fwd: Re: Williston West

Anne,
the definition of a "Place of assembly: A building or portion of a building used as a community hall, private and fraternal organization or place of religious assembly. this definition shall not include buildings or fraternal organization or place of religious assembly where fifteen (15) or fewer people, not including the permanent residents of a single family dwelling, assemble."

The R-4 zone allows places of assembly under a conditional use appeal to the Planning Board.

Marge

>>> Anne Pringle <oldmayor@maine.rr.com> 12/20/2011 12:55 PM >>>
Confirmation!

What qualifies as a "place of assembly"? Does the owner have to be certain kind of entity?

Anne

----- Original Message -----

Subject:Re: Williston West
Date:Tue, 20 Dec 2011 12:53:09 -0500
From:Anne Pringle <oldmayor@maine.rr.com>
To:Patrick Costin <pcostin@canal5studio.com>

Thanks, Patrick. Sounds like a good outcome for all.

Can you send me his contact info, so we can add him to WPNA email list?

Also, any idea how often they plan to have the sanctuary used for performances and community gatherings?

Best wishes to you for the holidays, too!...

Anne

On 12/20/11 12:00 PM, Patrick Costin wrote:

Good morning Anne,
Williston West was sold this morning to an Australian, Frank Monsour. He intends to renovate the Church as his residence and make the Sanctuary available for public

performances and community gatherings.

He has significant experience in real estate development, including historic restoration.

His intention is to restore the church while preserving its historic character.

Williston West is pleased that we have sold the church to an individual with the resources and sensitivity to steward the building into the future.

Best wishes to you and your family for the holiday season.

CANAL5STUDIO

Patrick S. Costin, AIA, LEED AP

One Canal Plaza, Suite 888

Portland, Maine 04101

207.553.2115

canal5studio.com

Architecture / Planning / Interior Design

(COPY)



CITY OF PORTLAND, MAINE
Department of Building Inspection

Certificate of Occupancy

LOCATION #32 Thomas St.

Issued to Williston Church

Date of Issue October 12, 1970

This is to certify that the building, premises, or part thereof, at the above location, built—altered—changed as to use under Building Permit No. 70/642, has had final inspection, has been found to conform substantially to requirements of Zoning Ordinance and Building Code of the City, and is hereby approved for occupancy or use, limited or otherwise, as indicated below.

PORTION OF BUILDING OR PREMISES

Parish House Section

APPROVED OCCUPANCY

Church and Child Care
Development.

Limiting Conditions:

This certificate supersedes
certificate issued

Approved:

(Date)

Nelson F. Cartwright
Inspector

Inspector of Buildings

Notice: This certificate identifies lawful use of building or premises, and ought to be transferred from owner to owner when property changes hands. Copy will be furnished to owner or tenant for one dollar.

32 Thomas Street

Jan. 5, 1970

cc to: Bill Dow, Bramhall

Rev. S. George Novell
Williston Church
32 Thomas Street

Dear Rev. Novell:

Parish House Section

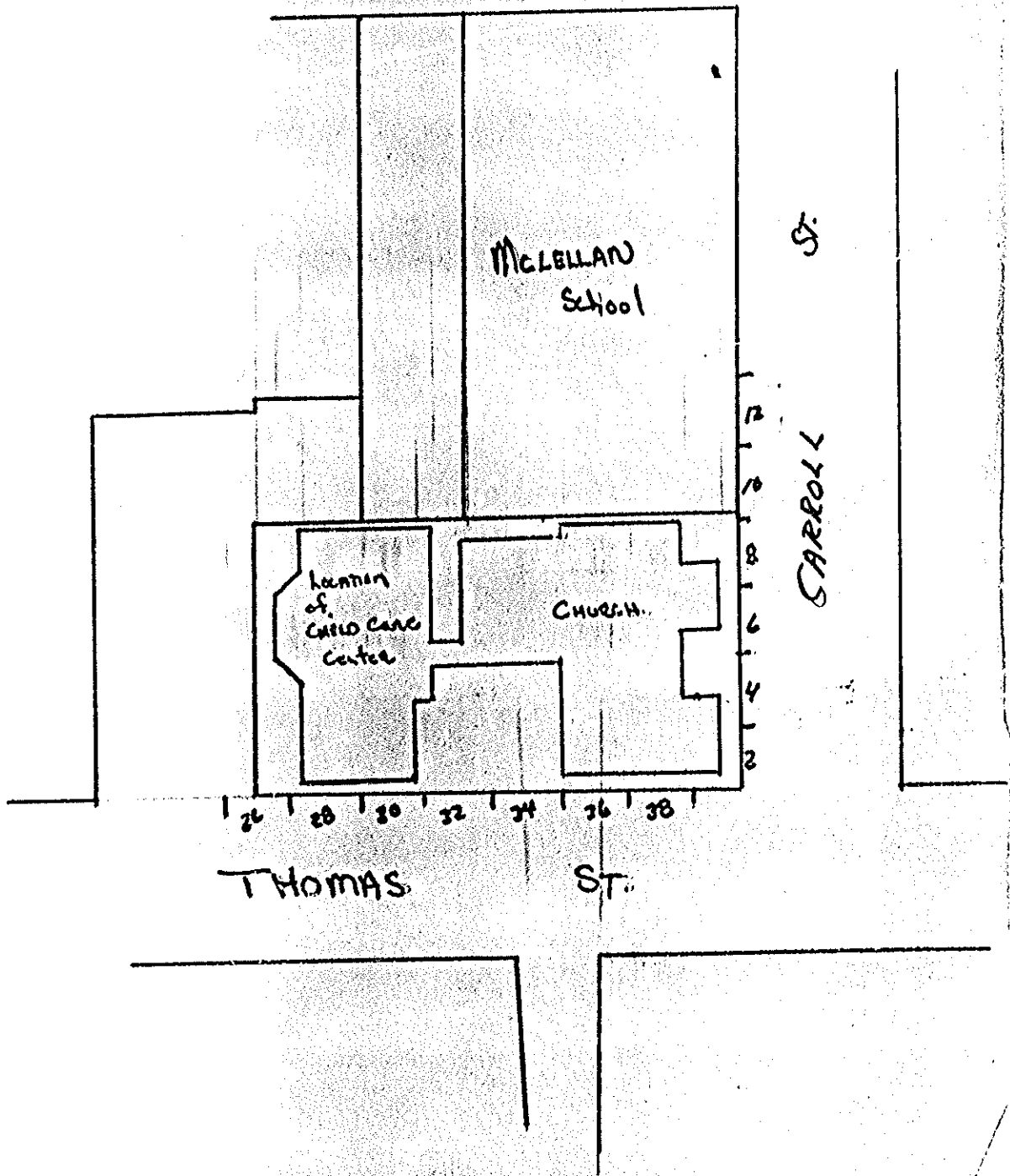
Your appeal for change of use for second floor of building from church to church and child care development program has been sustained on Dec. 31, 1969.

As per your application plans must be submitted now along with estimated cost and permit fee before we can issue the permit for same.

Very truly yours,

R. Lovell Brown
Director, Building Inspection Department

RLB:na



415.00 pd. 12-10-69
Granted 12/31/69
69/125

CITY OF PORTLAND, MAINE
IN THE BOARD OF APPEALS

CONDITIONAL USE APPEAL

Williston Church, owner of property at 28-38 Thomas Street
under the provisions of Section 24 of the Zoning Ordinance of the City of Portland,
hereby respectfully petitions the Board of Appeals to: change the use from a church
to a church and a child care development center on the second floor of the existing
church. This permit is presently not issuable because the proposed use is not
allowable in the R-4 Zone in which the property is located unless authorized by
the Board of Appeals under the provisions of Sec. 602.5a.4d of the Zoning Ordinance.

LEGAL BASIS OF APPEAL: Such permit may be granted only if the Board of Appeals
finds that such use of the premises will not adversely affect property in the
same zone or neighborhood and will not be contrary to the intent and purpose of
the Ordinance.

Williston Church
Rev. J. George Bouill
APPELLANT

DECISION

After public hearing held December 31, 1969, the Board of Appeals finds that
such use of the premises will not adversely affect property in the same zone or
neighborhood and will not be contrary to the intent and purpose of the Ordinance.

It is, therefore, determined that permit should be issued in this case.

Frank D. Hillery
Harry M. Smith
William J. King
BOARD OF APPEALS



APPLICATION FOR PERMIT

PERMIT ISSUED
642
JUN 16 1970
CITY of PORTLAND

Class of Building or Type of Structure Second Class
Portland, Maine
Date December 10, 1969
Application completed 6-10-70

To the INSPECTOR OF BUILDINGS, PORTLAND, MAINE

The undersigned hereby applies for a permit to erect alter repair demolish install the following building structure equipment in accordance with the Laws of the State of Maine, the Building Code and Zoning Ordinance of the City of Portland, plans and specifications, if any, submitted herewith and the following specifications:

Location 32 Thomas St. Within Fire Limits? _____ Dist. No. _____
 Owner's name and address Williston Church, 32 Thomas St. Telephone _____
 Lessee's name and address _____ Telephone _____
 Contractor's name and address Stonehenge Construction Co. 57 Wythburn Rd. Telephone 772-6830
 Architect _____ Specifications yes Plans yes No. of sheets 8
 Proposed use of building Church and Child Care Development No. families _____
 Last use Church No. families _____
 Material brick No. stories 2 1/2 Heat _____ Style of roof _____ Roofing _____
 Other buildings on same lot _____
 Estimated cost \$ 18,000 Fee \$ 54.00
 fee pd. 6-10-70

General Description of New Work

Parish House Section

TO CHANGE USE OF SECOND FLOOR OF BUILDING FROM CHURCH TO CHURCH AND CHILD CARE DEVELOPMENT PROGRAM, WITH ALTERATIONS AS PER PLANS.

This application is preliminary to get settled the question of zoning appeal. In event the appeal is sustained the applicant will furnish complete information, estimated cost and pay legal fee.

Sent to Fire Dept. 1/30/70
Rec'd from Fire Dept. 2/2/70

Appeal sustained 12/31/69

It is understood that this permit does not include installation of heating apparatus which is to be taken out separately by and in the name of the heating contractor. PERMIT TO BE ISSUED TO owners-c/o S. George Bovill, 32 Thomas St.

Details of New Work

Is any plumbing involved in this work? _____ Is any electrical work involved in this work? _____
 Is connection to be made to public sewer? _____ If not, what is proposed for sewage? _____
 Has septic tank notice been sent? _____ Form notice sent? _____
 Height average grade to top of plate _____ Height average grade to highest point of roof _____
 Size, front _____ depth _____ No. stories _____ solid or filled land? _____ earth or rock? _____
 Material of foundation _____ Thickness, top _____ bottom _____ cellar _____
 Kind of roof _____ Rise per foot _____ Roof covering _____
 No. of chimneys _____ Material of chimneys _____ of lining _____ Kind of heat _____ fuel _____
 Framing Lumber-Kind _____ Dressed or full size? _____ Corner posts _____ Sills _____
 Size Girder _____ Columns under girders _____ Size _____ Max on centers _____
 Studs (outside walls and carrying partitions) 2x4-16" O. C. Bridging in every floor and flat roof span over 8 feet.
 Joists and rafters: 1st floor _____, 2nd _____, 3rd _____, roof _____
 On centers: 1st floor _____, 2nd _____, 3rd _____, roof _____
 Maximum span: 1st floor _____, 2nd _____, 3rd _____, roof _____
 If one story building with masonry walls, thickness of walls? _____ height? _____

If a Garage

No. cars now accommodated on same lot _____, to be accommodated _____ number commercial cars to be accommodated _____
 Will automobile repairing be done other than minor repairs to cars habitually stored in the proposed building? _____

Miscellaneous

Will work require disturbing of any tree on a public street? no
 Will there be in charge of the above work a person competent to _____

APPROVED: _____
[Signature] 2-2-70

Inspection Services
Samuel P. Hoffses
Chief



CITY OF PORTLAND

Planning and Urban Development
Joseph E. Gray Jr.
Director

September 23, 1993

RE: Williston West Church

Reverend Eric Kelly
32 Thomas Street
Portland, Maine 04102

Dear Reverend Kelly,

This letter is in reference to the professional offices you operate at Williston West Church in Portland. It was my expectation that following the withdrawal of your Conditional Use application you would have eliminated the professional office uses. We recently received another complaint indicating those offices are still there. These offices have not received review and approval under the applicable codes and ordinances and may not be in compliance with the Land Use Code as well as health and safety codes. It is necessary that you apply for a permit within 15 days from date of this letter. Failure to do so will result in my referral of this matter to the City's Corporation Council for consideration of legal action.

Sincerely,


William D. Giroux
Zoning Administrator

/e1

cc: Joseph E. Gray, Jr., Director of Planning and Urban Development
P. Samuel Hoffses, Chief of Inspection Services
Harge Schmuckal, Asst. Chief of Inspection Services
Kathy Love, Code Enforcement Officer
LT. Gaylen McDougall, Fire Prevention Bureau

Marge Schmuckal - Williston West Issue

From: Alex Jaegerman
To: Greg Mitchell
Date: 1/5/2012 7:09 PM
Subject: Williston West Issue
CC: Barbara Barhydt; Marge Schmuckal

Greg:

Our meeting with Frank Monsour regarding Williston West went very well as far as scoping out a zoning amendment that would enable him to locate his corporate HQ on the first floor of parish house, his personal residence above, and continued community hall use of the sanctuary.

Mr. Monsour was distraught, however, when told that he could not establish his corporate office on an interim basis in two existing rooms that he has refurbished for that purpose in the front section of the parish hall. He had an expectation that since there are some business offices currently leasing space in the building, if those are eliminated, he could have an office there in the near term, while the zoning amendment is in process.

If there are nonconforming business uses, they are not grandfathered as far as we can tell. We would not be taking enforcement action as the uses transition, but we also cannot see our way clear to allow his corporate offices as an interim use, (unless somehow it becomes a home occupation).

He seemed very concerned about this and I said that no one in the room has the authority to grant an exception, and we do not see a mechanism for you as Director to grant an exception or otherwise allow this interim use. I said that Marge and I would discuss this with you, to alert you to this issue and to see if there is any other way to enable this. He is anxious to hear from us on the conversation. We should try to find a few minutes soon to get together on this.

Alex.

Marge Schmuckal - Re: Can u call me?

From: Marge Schmuckal
To: Penny St. Louis
Date: 11/2/2011 5:13 PM
Subject: Re: Can u call me?

*Penny Called me
653-6658*

Hi Penny,
I hope the weather is better for you now.

Williston church- In the microfiche there is a quick little sketch that shows this building to be two sides with a smaller connector. The church is on the right hand side (abutting Carroll St) and the left hand side is the location of a child care center. there is an occupancy permit from 1970 in the files. There has been no change of use since that time that is documented anywhere. So if the uses are other than that, then they are not legally approved uses.

I hope that helps you,
Marge

>>> Penny St. Louis 10/28/2011 3:39 PM >>>
653 6658



PORTLAND MAINE

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Greg Mitchell, Acting Director of Planning and Development
Marge Schmuckal, Zoning Administrator

Meeting Information

DATE: 1/22/12 ZONE: R-4 conditional contract

LOCATION: 32 Thomas St

PEOPLE PRESENT: Marge - Barbara - Jean - Danielle -

DISCUSSION: $\approx 45 \times 150$ - 2,250 - 3,000^{sq} for offices

Currently Community Hall is allowed
permitted uses vs conditional uses

Traffic & parking will be an issue - How well the parking
Be managed

Need floor plans -

neighborhood center? Def.

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PRELIMINARY DRAFT

CONDITIONAL ZONE AGREEMENT

**RE:
WILLISTON-WEST CHURCH**

AGREEMENT made this ____ day of _____, 2012 by 32 Thomas Street, LLC, 477 Congress St., Suite 601, Portland, Maine (“Developer”), and its successors and assigns.

W I T N E S S E T H

WHEREAS, the Developer owns real property located at 32 Thomas Street, consisting of the parcel shown on the City’s Tax Map 62, Block E, Lot 5, being more particularly described in a deed recorded in Cumberland County Registry of Deeds in Book 29217, Page 171 (collectively the “Property”); and

WHEREAS, the existing building located on the Property was formerly used as the Williston-West Church; and

WHEREAS, the Property, located within the West End Historic District, is currently zoned R-4 Residential; and

WHEREAS, the properties on the other sides of Thomas and Carroll Streets, directly across from the Property are zoned R-6 Residential; and

WHEREAS, the building located on the Property is an historic landmark and has two principal portions, the sanctuary and the parish house; and

WHEREAS, the building located on the Property is falling into a state of disrepair; and

WHEREAS, the Developer proposes and intends to renovate the parish house to provide for a family residence on the second and third floors, and a caretaker residence and office space on the first floor; and

WHEREAS, the Developer proposes and intends to renovate the sanctuary to provide space for use as a community hall; and

WHEREAS, the Developer intends to maintain the character of the structure and Property; and

WHEREAS, the existing zoning is R-4 which has dimensional requirements that the existing structure on the site does not meet; and

WHEREAS, the Developer has requested a rezoning of the Property in order to permit the proposed development of the Property; and

WHEREAS, the proposed uses of the Property are consistent with the existing and permitted uses in the neighborhood, which include a mix of residential, commercial and institutional uses; and

WHEREAS, the City's comprehensive plan provides that it is a goal of the City to preserve the Portland's architectural and historic heritage and to preserve and enhance the quality and vitality of neighborhoods within and adjacent to the Downtown; and

WHEREAS, the Planning Board, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however, to certain conditions contained in this Agreement; and

WHEREAS, the Portland City Council, pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Land Use Code (the "Code") §§ 14-60 to 14-62, after notice, hearing and due deliberation thereon, has determined that because of the unusual nature and unique location of the proposed development, and its minimal impact on and compatibility with the surrounding community, it is necessary and appropriate to recommend the rezoning of the Property as aforesaid, with the following conditions and restrictions set forth in this Agreement; and

WHEREAS, the Portland City Council has on _____, 2012 approved this Agreement in its entirety, by City Council Order No. _____, a true copy of which is attached hereto as Attachment 1 (the "Order");

NOW, THEREFORE, in consideration of the rezoning, the Developer covenants and agrees as follows:

1. Pursuant to the Order, the City shall amend the Zoning Map of the City of Portland, dated September, 2000 (as amended from time to time and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by § 14-49 of the Code) by adopting the map change amendment shown below to zone the property conditional R-4, subject to the conditions contained below.

[insert map]

If this Agreement is not recorded within sixty (60) days after the effective date of the City Council's approval of the Order, then the conditional rezoning shall become null and void and the zoning of the Property shall revert to the pre-existing R-4 zone.

2. Permitted uses:

- a. All uses allowed in the R-4 zone;
- b. Place of assembly/community hall;
- c. Professional offices, excluding veterinarians;

- d. Two-family dwellings;
- e. Multi-family dwellings; and
- f. Alteration or construction of a single-family detached dwelling to accommodate an accessory dwelling unit.

3. The underlying dimensional requirements of the R-4 zone shall apply and are modified as follows:

- a. Minimum Lot Size: 17,500 square feet
- b. Minimum Yard Dimensions:
 - 1. Front yard: 3 feet.
 - 2. Rear Yard: 3 feet.
 - 3. Side Yard: 4 feet
 - 4. Side Yard on Side Streets: 8 feet.
- c. Maximum Lot Coverage: 90%.
- d. Maximum Structure Height (Sanctuary): 37 feet.
- e. Maximum Structure Height (Parish House): 46 feet.
- f. Maximum Structure Height (Bell Tower): 70 feet.
- g. Maximum Floor Area for Places of Assembly: 6,000 sq. ft.

4. Each dwelling unit shall have no less than 600 square feet of floor area.

5. Professional offices shall be located on the first floor and shall occupy no more than 3,600 square feet of floor area.

6. The owner of the Property shall be responsible for ongoing maintenance of the Property, including snowplowing, salting, sanding, sweeping, lighting, trash pickup (at least weekly), mowing, etc.

7. The number of off-street parking spaces may not be decreased from that existing on or servicing the lot on March 15, 1999 except to the extent necessary to meet the requirements of the Americans with Disabilities Act.

8. The provisions of this Agreement are intended to replace and/or supersede the requirements of the underlying R-4 zone. As stated above, to the extent not otherwise altered herein, the zoning requirements for the R-4 zone shall otherwise apply to the Property.

9. In the event of a breach by the Developer or its successors or assigns of the zoning provisions contained herein (whether the Zoning Administrator, the Zoning

Board of Appeals or a court determines such breach), the Planning Board, after notice and hearing, may recommend to the City Council that the conditional zone and this Agreement be amended, or be rescinded, such rescission to result in the termination of this Agreement and a reversion of the Property to the R-6 zone requirements in place before the execution of this Agreement.

10. The above stated restrictions, provisions, and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit the Developer, any entity affiliated with the Developer that takes title to the Property, its successors and assigns, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the City of Portland, by and through its duly authorized representatives. The Developer shall file a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

11. This conditional rezoning shall become null and void and the Property shall revert to the existing R-4 zone in the event that the Developer fails to commence construction within ten (10) years from the date of the Council approval of this rezoning. This ten (10) year period shall be extended up to an additional one (1) year period if:

- a. The Developer has applied for all required approvals but has not received all required approvals within the aforementioned ten (10) year period; or
- b. Any other event beyond the control of the Developer has occurred which will delay the closing on some or all of the parcels and Developer has notified the City of such event.

If any required approval, including the Council's approval of this conditional rezoning, has been appealed, then this rezoning shall become null and void and shall revert if the Developer fails to commence construction within one (1) year from the final disposition of such appeal.

12. This conditional rezoning agreement shall be enforced pursuant to the land use enforcement provisions of state law including, but not limited to, 30-A MRSA § 4452 and the Portland City Code.

13. If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision and such determination shall not affect the validity of the remaining portions hereof.

14. Except as expressly modified herein, the development shall be governed by and comply with the provisions of the Portland City Code and any applicable amendments thereto or replacement thereof.

WITNESS: _____

32 THOMAS STREET, LLC

BY:

STATE OF MAINE
CUMBERLAND, ss.

_____, 2012

Personally appeared before me the above-named _____, in his/her capacity as _____ of 32 THOMAS STREET, LLC, and acknowledged the foregoing instrument to be his/her free act and deed in his/her said capacity and the free act and deed of said corporation.

Before me,

Notary Public/Attorney at Law

Printed 8/11/11

City of Portland
Code of Ordinances
Sec. 14-332

Land Use
Chapter 14
Rev. 7-6-11

- (1) parking space for each five (5) seats or for each one hundred (100) square feet, or major fraction thereof, of assemblage space if no fixed seats.
- (h) *Retail stores:* One (1) parking space for each two hundred (200) square feet of first floor area in excess of two thousand (2,000) square feet not used for bulk storage and one (1) parking space for each seven hundred (700) square feet, or major fraction thereof, for each floor above the first floor not used for bulk storage.
- (i) *Restaurants or establishments constructed and intended for the dispensing of food and drink as the principal activity:* One (1) parking space for each one hundred fifty (150) square feet, or major fraction thereof, of floor area not used for bulk storage or food preparation.
- (j) *Offices; professional and public buildings:* One (1) parking space for each four hundred (400) square feet, or major fraction thereof, of floor area exclusive of cellar not used for bulk storage.
- (k) Places of assembly (which includes private club and fraternal halls, places of religious assembly, and community halls): One (1) parking space for each one hundred and twenty-five (125) square feet, or major fraction thereof, of floor area used for assembly area not including bathrooms, bulk storage, stairways, closets or other non-assembly areas.
- (l) *For that part of every business, manufacturing, and industrial building not catering to retail trade and with floor area over three thousand (3,000) square feet:* One (1) parking space for each one thousand (1,000) square feet of floor area, or major fraction thereof.
- (m) Hostels: One (1) parking space for each eight (8) beds, or major fraction thereof. This requirement may be reduced to one (1) parking space for each twelve (12) beds if the site is within one quarter (1/4) mile of a public transit stop.
- (n) *Long-term, extended care and intermediate care facilities:* One (1) parking space for each five (5) beds, or major fraction thereof, plus one (1) parking space per

offices 1 space per 400^{sq}

or (b) manufactured skirting. If concrete or masonry block skirting is installed, either the exterior siding of the unit shall extend within one (1) foot of grade or decorative masonry siding shall be applied. If manufactured skirting material is installed, the color shall be identical to or compatible with the exterior siding of the unit.

3. Each unit shall have exterior siding that is residential in appearance, including but not limited to natural materials such as wood clapboards or shakes, or exterior materials which simulate wood. Clapboard or simulated clapboards shall have less than eight (8) inches of exposure, and sheet metal type siding shall not be permitted.
4. Each unit shall be provided with at least two (2) trees meeting the city's arboricultural specifications and which are clearly visible from the street line and are located so as to visually widen the narrow dimension or proportion of the unit.
5. Each unit shall have all fuel oil supply systems constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.
6. No unit shall be horizontally or vertically attached to any other unit or other structure, provided, however, that this provision shall not be deemed to prohibit building additions, such as porches, garages, room additions or solar greenhouses.

(Ord. No. 200-89, § 3, 12-18-89)

Sec. 14-97 - 14-100. Reserved.

DIVISION 5. R-4 RESIDENTIAL ZONE*

*Editor's note--Ord. No. 535-84, adopted May 7, 1984, repealed former Div. 5, §§ 14-101--14-104, and enacted a new Div. 6, §§ 14-101--14-106. The result of this action was that this Art. III contained no division designated 5. The editor has, therefore, in agreement with the city, retained the division designation 5. Formerly §§ 14-101--14-104 were derived from Code 1968, § 602.5.A--D; Ord. No.

Sec. 14-101. Purpose.

The purpose of the R-4 residential zone is:

- (a) To preserve the unique character of the Western Promenade area of the city by controlling residential conversions and by allowing the continued mix of single-family, two-family, and low-rise multifamily dwellings and other compatible development at medium densities.

(Ord. No. 535-84, 5-7-84)

Sec. 14-102. Permitted uses.

The following uses are permitted in the R-4 residential zone:

(a) *Residential:*

1. Single-family detached dwellings;
2. New construction of two-family dwellings;
3. Reserved;
4. Handicapped family unit, as defined in section 14-47 (definitions) of this article, for handicapped persons plus staff;
5. Single-family, multiple-component manufactured housing, as defined in section 14-47 (definitions) of this article, except in a National Register Historic District;
6. Single-family, single-component manufactured housing, as defined in section 14-47 (definitions) of this article, on individual lots under separate and distinct ownership, except in a National Register Historic District, provided that each unit meets the performance standards listed below:
 - a. More than half of the roof area of each unit shall be double pitched Class C rated shingled

roof with a minimum pitch of 3/12.

- b. Each unit shall be installed on a full foundation or a concrete frost wall in accordance with all applicable codes and regulations. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation or frost wall. In the case of a frost wall, vermin proof skirting shall be installed on all sides of the unit. The skirting may consist of either (a) concrete or masonry block or (b) manufactured skirting. If concrete or masonry block skirting is installed, either the exterior siding of the unit shall extend within one (1) foot of grade or decorative masonry siding shall be applied. If manufactured skirting material is installed, the color shall be identical to or compatible with the exterior siding of the unit.
- c. Each unit shall have exterior siding that is residential in appearance, including but not limited to natural materials such as wood clapboards or shakes, or exterior materials which simulate wood. Clapboards or simulated clapboards shall have less than eight (8) inches of exposure and sheet metal type siding shall not be permitted.
- d. Each unit shall have the long side of the unit parallel to the street line where the required street frontage is met.
- e. Each unit shall be provided with at least two (2) trees meeting the city's arboricultural specifications and which are clearly visible from the street line and are located so as to visually widen the narrow dimension or proportion of the unit.
- f. Each unit shall have all fuel oil supply systems constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.

- g. No unit shall be horizontally or vertically attached to any other unit or other structure, provided however, that this provision shall not be deemed to prohibit building additions, such as porches, garages, room additions or solar greenhouses.

(b) *Other:*

1. Cemeteries;
2. Parks, and other active and passive noncommercial recreation spaces;
3. Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article;
4. Home occupations subject to the provisions of section 14-410 (home occupation) of this article;
5. Municipal uses, excluding those specifically set forth in section 14-103 of this division.
6. Special needs independent living units, provided that a building housing special needs independent living units shall not house other types of residential or other permitted uses. The owner of a special needs independent living unit building shall file in the Cumberland County Registry of Deeds a statement under oath that the building is a special needs independent living unit building and that any future change of use to a permitted residential use shall require a change in use review by the City of Portland and a decrease in the number of units in the building in accordance with the Portland City Code, chapter 14. The owner shall file proof of such recording with the building inspections division prior to the issuance of any certificates of occupancy for the new uses.

(Ord. No. 535-84, 5-7-84; Ord. No. 264-84, § 1, 12-17-84; Ord. No. 67-87, § 2, 11-2-87; Ord. No. 82-88, § 1, 7-19-88; Ord. No. 86A-89, § 4, 8-21-89; Ord. No.

*Editor's note--Ord. No. 82-88, § 1, adopted July 19, 1988, amended § 14-102 by adding subsection (b)5 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 82-88.

Sec. 14-103. Conditional uses.

The following uses shall be permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) of this article and any special provisions, standards or requirements specified below:

(a) *Residential:*

1. Sheltered care group homes, as defined in section 14-47 of this article, for up to twelve (12) individuals, plus staff, and serving a primary population which is not handicapped persons, parolees, persons involved in correctional prerelease programs, or current illegal drug users, provided that:
 - a. A sheltered care group home shall not be located within five hundred (500) feet of another, as measured along street lines to the respective property lines;
 - b. There shall be no open outside stairways or fire escapes above the ground floor;
 - c. The facility shall make provision for adequate on-site staffing in accordance with applicable state licensing requirements. If a facility is not licensed by the state, there shall be a minimum of one (1) staff person for every ten (10) residents or fraction thereof.

The board of appeals may impose conditions upon a conditional use permit concerning the creation or operation of a sheltered care group home including but not limited to the following: site and building maintenance; lighting, fencing, and other

appropriate security measures; screening and buffering of parking areas; compatibility of any additions or alterations with the existing residential structure; compatibility of new structures with the architectural character of the surrounding area; and limitation on the duration of a sheltered care group home permit.

2. Alteration of an existing structure to accommodate one (1) or more dwelling units provided that:
 - a. No additional dwelling unit shall have less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic;
 - b. No open outside stairways or fire escapes above the ground floor shall be or have been constructed in the immediately preceding five (5) years;
 - c. The alteration will not result in a total cubic volume increase of more than ten (10) percent within the immediately preceding five (5) years;
 - d. A lower level dwelling unit shall have a minimum of one-half of its floor-to-ceiling height above the average adjoining ground level;
 - e. No existing dwelling unit shall be decreased to less than one thousand (1,000) square feet of floor area;
 - f. Three thousand (3,000) square feet of land area per dwelling unit shall be required;
 - g. The project shall be subject to article V (site plan) of this chapter for site plan review and approval.
 - h. Parking shall be provided as required in division 20 of this article.

3. Multiplex development with three (3) or more horizontally or vertically attached, or a series of such attached dwelling units and the construction of at least one (1) building, provided that:
 - a. No open outside stairways or fire escapes above the ground floor shall be constructed;
 - b. No habitable space in a dwelling unit shall be below grade, except basements that are a part of and below aboveground units.
 - c. Three thousand (3,000) square feet of land area per dwelling unit shall be required for the first three (3) dwelling units with a requirement of six thousand (6,000) square feet of land area per dwelling unit for additional dwelling units;
 - d. No dwelling unit shall have less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic;

The project shall be subject to article V (site plan) of this chapter for Planning Board site plan review and approval.

- (b) *Institutional*: Any of the following conditional uses provided that, notwithstanding section 14-474(a) (conditional uses) of this article or any other provision of this Code, the Planning Board shall be substituted for the board of appeals as the reviewing authority:

1. Elementary, middle, and secondary school (except as otherwise provided in section 14-276.10);
2. Places of assembly;

Such uses shall be subject to the following conditions and standards in addition to the provisions of section 14-474:

- a. In the case of expansion of existing such uses onto land other than the lot on which the

principal use is located, it shall be demonstrated that the proposed use cannot reasonably be accommodated on the existing site through more efficient utilization of land or buildings, and will not cause significant physical encroachment into established residential areas: and

- b. The proposed use will not cause significant displacement or conversion of residential uses existing as of June 1, 1983, or thereafter; and
- c. In the case of a use or use expansion which constitutes a combination of the above-listed uses with capacity for concurrent operations, the applicable minimum lot sizes shall be cumulative; and
- d. Article V (site plan) sections 14-522 and 14-523 notwithstanding, in the case of places of assembly the proposed use shall be subject to the requirements of article V (site plan) of this chapter; and
- e. Community halls:
 - i. The structure was in existence as of January 4, 2010;
 - ii. The structure was built for institutional or other non-residential uses;
 - iii. The structure is operated by, or operated subject to the control of, a not-for-profit entity in accordance with its not-for-profit purposes; and
 - iv. A parking management plan is submitted for review and approval by the planning board; and
- f. Private club or fraternal organizations: any such establishment serving alcoholic beverages or in possession of a license for serving

alcoholic beverages shall be located on a large lot, as specified in the minimum lot size provisions of this section.

(c) *Other:*

1. Off-street parking of passenger cars as provided in section 14-344 (board of appeals may authorize parking in certain residential zones) of this article;
2. Utility substations, including sewage and water pumping stations and standpipes, electric power substations, transformer stations, and telephone electronic equipment enclosures and other similar structures, provided that such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood;
3. Day care facilities or home babysitting services not permitted as a home occupation under section 14-410, and nursery schools and kindergartens, subject to the following conditions:
 - a. The facility shall be located in a structure in which there is one (1) or more occupied residential units or in an existing accessory structure, unless the facility is located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use or in a nonresidential structure accessory to the principal nonresidential use.
 - b. The maximum capacity shall be twelve (12) children for facilities located in residential or existing structures accessory thereto, unless the additional standards in subsection v. are met. There shall be no maximum limit on the number of children in a facility located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care use, home

babysitting use, nursery school, or kindergarten or in a nonresidential structure accessory thereto, provided that any such structure that serves more than twelve (12) children shall be subject to review under article V of this chapter.

- c. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.
- d. Solid waste shall be stored in covered containers. Such containers shall be screened on all four (4) sides.
- e. Day care facilities, nursery schools and kindergartens located either in structures that have been in residential use within the past five (5) years or in existing accessory structures and that serve between thirteen (13) and twenty-four (24) children shall meet the following additional standards:
 - i. The facility shall provide a minimum of seventy-five (75) square feet of outdoor play area per child;
 - ii. The play area shall be located in the side and rear yards only and shall not be located in front yards;
 - iii. Outside play areas shall be separated from abutting properties by a fence at least forty-eight (48) inches in height;
 - iv. A ten-foot wide landscaped buffer shall be required outside of the fenced play area, and shall be established in accordance with the landscaping standards of the City's Technical Standards and Guidelines;
 - v. The minimum lot size for a day care facility, home babysitting service,

nursery school, or kindergarten located in a residential or existing accessory structure and serving more than twelve (12) children shall be twenty thousand (20,000) square feet;

- vi. *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
 - vii. The maximum number of children in a day care facility, home babysitting service, nursery school, or kindergarten located in a residential or existing accessory structure shall be twenty-four (24); and
 - viii. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the residential appearance of the building.
4. Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:
- a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
 - b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and
 - c. Towers shall be set back from habitable

buildings by a distance equal to 1.1 times the tower height; and

- d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
- e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
- f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
- g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
- h. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

(Ord. No. 535-84, 5-7-84; Ord. No. 264-84, § 2, 12-17-84; Ord. No. 76-85, § 5, 7-1-85; Ord. No. 67-87, § 3, 11-2-87; Ord. No. 82-88, §§ 2, 3, 7-19-88; Ord. No.

City of Portland
Code of Ordinances
Sec. 14-103

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235-91, § 7, 2-4-91; Ord. No. 118-93, § 7, 10-18-93; Ord. No. 133-96, § 4, 11-18-96; Ord. No. 154-96, § 7, 12-16-96; Ord. No. 222-99, §4, 3-01-99; Ord. No. 29-09/10, 8-3-09 emergency passage; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 240-09/10, 6-21-10; Ord. No. 9 10/11, 8-2-10; Ord. No. 138-09/10, 1-20-10; Ord. No. 149-10/11, 3-7-11)

***Editor's note**--Ord. No. 82-88, §§ 2, 3, adopted July 19, 1988, amended this section by amending subsection 14-103(a) and by deleting subsection (b)3, municipal use. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 82-88.

Sec. 14-104. Prohibited uses.

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.
(Ord. No. 535-84, 5-7-84)

Sec. 14-105. Dimensional requirements.

In addition to the provisions of division 25 of this article (space and bulk regulations and exceptions), lots in the R-4 zone shall meet the following requirements:

(a) *Minimum lot size:*

1. Residential: Six thousand (6,000) square feet except as provided for lots of record in section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article.
2. Multiplex: Nine thousand (9,000) square feet.
3. School: Thirty thousand (30,000) square feet.
4. Places of assembly:

Large	30,000 sq. ft.
Medium	15,000 sq. ft.
Small	7,500 sq. ft.

5. Municipal use: Six thousand (6,000) square feet.
6. All other uses: Six thousand (6,000) square feet.

Provided that for uses specified in section 14-105(a)3

through 5 above, no minimum lot area shall be required in the following cases:

- a. Uses existing on June 1, 1983;
 - b. Expansion onto land abutting the lot on which the principal use is located;
 - c. Expansion onto land other than the lot on which the principal use is located to the extent that such expansion consists of the reuse of surface parking area or nonresidential structures existing and in nonresidential use as of June 1, 1983, provided that such reuse is contained within the lot of record of such structure or parking area as of June 1, 1983;
7. Expansion onto land other than the lot on which the principal use is located of no more than fifteen (15) percent of the total contiguous land area of the existing use, or one (1) acre, whichever is less, within any five-year period.
- (b) *Minimum lot area per dwelling unit:* Three thousand (3,000) square feet, except as provided for a multiplex. This requirement may be reduced by up to twenty (20) percent for a special needs independent living unit.
- (c) *Minimum street frontage:* Fifty (50) feet.
- (d) *Minimum yard dimensions:*

(Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.)

1. *Front yard:*

Principal or accessory structures: Twenty-five (25) feet.

A front yard need not exceed the average depth of front yards on either side of the lot. A lot of

record existing as of June 5, 1957, and less than one hundred (100) feet deep need not be deeper than twenty (20) percent of the depth of the lot.

2. *Rear yard:*

- a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Twenty-five (25) feet.
- b. Accessory detached structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.

Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.

3. *Side yard:*

- a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet:

<i>Height of Structure</i>	<i>Required Side Yard</i>
1 story	10 feet
1 1/2 stories	10 feet
2 stories	14 feet
2 1/2 stories	16 feet

The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than ten (10) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than ten (10) feet.

- b. Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.

4. *Side yard on side streets:*

Principal or accessory structures: Twenty (20) feet.

A side yard on a side street need not exceed the average depth of front setback directly abutting the lot.

(e) *Maximum lot coverage:* Thirty (30) percent of lot area.

(f) *Minimum width of lot:* Sixty (60) feet.

(g) *Maximum structure height:*

1. Principal structure: Thirty-five (35) feet.

2. Accessory detached structure: Eighteen (18) feet.

(h) *Maximum floor area for places of assembly on a collector or arterial road:*

Large	Not limited
Medium	4,500 sq. ft.
Small	2,250 sq. ft.

(i) *Maximum floor area for places of assembly not on a collector or arterial road:*

Large	4,500 sq. ft.
Medium	2,250 sq. ft.
Small	1,125 sq. ft.

(Ord. No. 535-84, 5-7-84; Ord. No. 82-88, § 4, 7-19-88; Ord. No. 235-91, § 9, 2-4-91; Ord. No. 33A-91, § 3, 4-17-91; Ord. No. 118-93, § 8, 10-18-93; Ord. No. 154-96, § 8, 12-16-96; Ord. No. 131-08/09, 12-15-08; Ord. No. 127-09/10, 1-4-10 emergency passage)

*Editor's note--Ord. No. 82-88, § 4, adopted July 19, 1988, amended § 14-105 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 82-88.

Marge Schmuckal - Re: Williston West Church

From: Marge Schmuckal
To: Anne Pringle
Date: 1/24/2012 10:52 AM
Subject: Re: Williston West Church
CC: Alex Jaegerman; Barbara Barhydt; Greg Mitchell

Anne,

I understand your concerns. However, I do not want to depend upon a web site for documented information. I will go by the site and take a look myself. Mr. Monsour is well aware of the regulations and that zoning does not allow his offices in the building at this time. That information was personally related to him. Of course if he decides to move forward without heeding zoning, that is another matter.

As I said, I will go by Thomas Street and take a look for myself in the next couple days.

thank you,
Marge

>>> Anne Pringle <oldmayor@maine.rr.com> 1/24/2012 10:16 AM >>>
Marge-

As you have probably heard, Thomas Street neighbors are getting very concerned about plans for the WW Church, based on information provided to one abutter by Sebastian Monsour.

In looking at the website of the Monsour's company, I see that they are already listing 32 Thomas Street as their corporate address: See this from Majella Global Technologies website:
<http://majellagt.com/contact.html>

At this point, this is illegal use. Would you please contact them immediately and make them clear on what is currently permitted in the structures?

Anne Pringle for
Western Promenade Neighborhood Association

Marge Schmuckal - Re: Thomas Street

From: Greg Mitchell
To: Schmuckal, Marge
Date: 1/26/2012 7:47 AM
Subject: Re: Thomas Street
CC: Andrews, Deb; Barhydt, Barbara; Fraser, Jean; Jaegerman, Alex; Munso...

Marge:

Thanks for the update. I will work with Tammy on the enforcement response.

Tammy, let's talk about this at tomorrow's 10am meeting.

Greg

Greg A. Mitchell, Acting Director
Planning and Urban Development Department
City of Portland
389 Congress Street
Portland, Maine 04101
Tel. 207.874.8945
Fax 207.756.8217

>>> Marge Schmuckal 1/25/2012 2:22 PM >>>

Hi Greg,

I followed up and made an inspection at 26-32 Thomas Street today. There were workmen doing some work on site. A large double door was being delivered to replace a previous door, similar to a door across the hall. There was a truck with Mass. license plates that delivered the door and other items from Architectural Millwork Services. I spoke with Peter Houser of Leddy Houser Associates concerning the work going on. There was also a contractor from Cunningham who had install a new alarm system. The alarm system requires a permit. We do not have any such permit on file. Peter Houser also shared that the owner (Mr Monsour) wanted to do some low voltage wiring for computers in the near future. It is my understanding that even that wiring requires a permit.

When I got back into the office, I discussed these matters with Tammy Munson for any further follow-up.

At this point I am asking guidance for next steps.

Marge

Marge Schmuckal - Thomas Street

From: Marge Schmuckal
To: Greg Mitchell
Date: 1/25/2012 2:22 PM
Subject: Thomas Street
CC: ALEX JAEGERMAN; Barbara Barhydt ; Chris Pirone; Danielle West-Chuht...

Hi Greg,

I followed up and made an inspection at 26-32 Thomas Street today. There were workmen doing some work on site. A large double door was being delivered to replace a previous door, similar to a door across the hall. There was a truck with Mass. license plates that delivered the door and other items from Architectural Millwork Services. I spoke with Peter Houser of Leddy Houser Associates concerning the work going on. There was also a contractor from Cunningham who had install a new alarm system. The alarm system requires a permit. We do not have any such permit on file. Peter Houser also shared that the owner (Mr Monsour) wanted to do some low voltage wiring for computers in the near future. It is my understanding that even that wiring requires a permit.

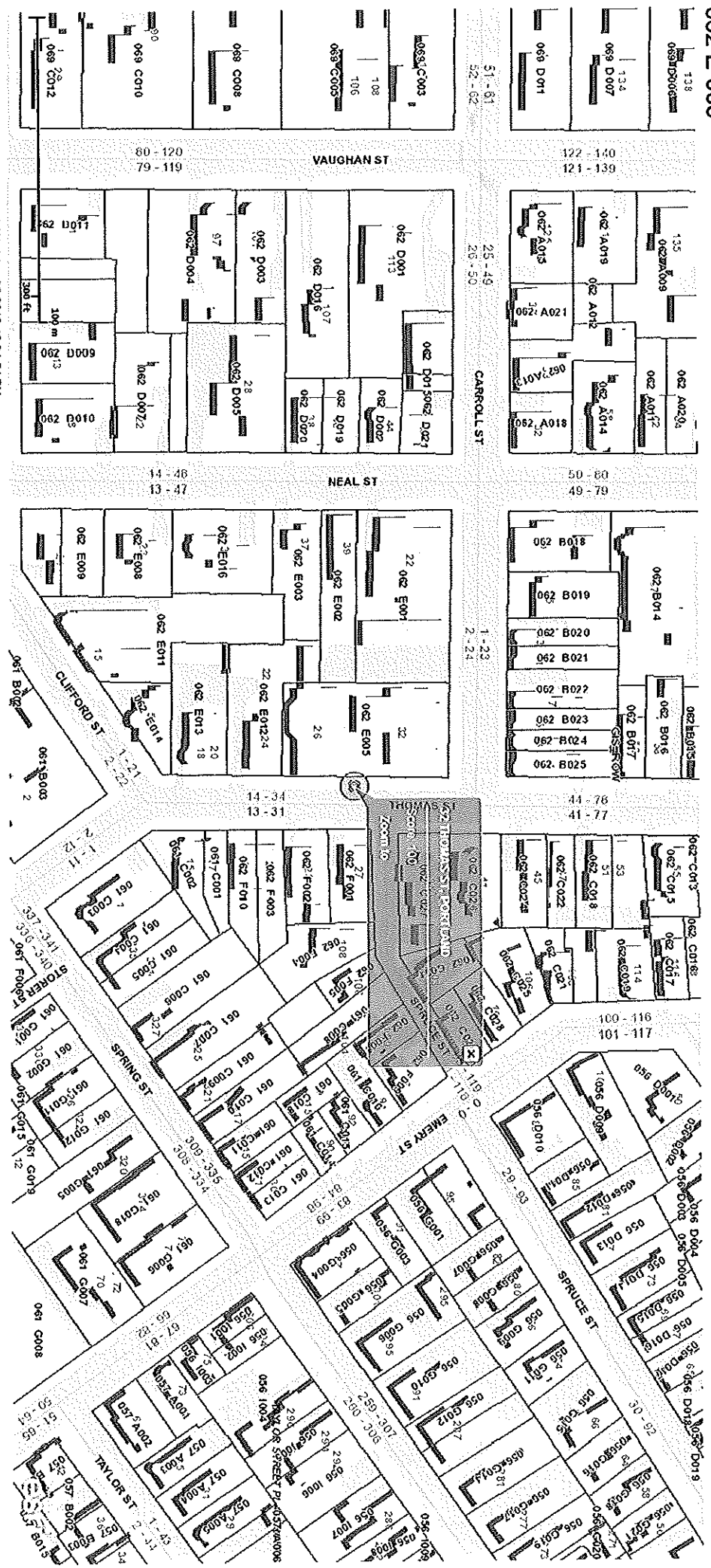
When I got back into the office, I discussed these matters with Tammy Munson for any further follow-up.

At this point I am asking guidance for next steps.

Marge

26-32 Thomas St

062-E-005



Copyright 2011 Esri. All rights reserved. Wed Jan 25 2012 12:34:54 PM.

1/25/12
130pm
low voltage system
Pete Hansen
Architectural Millwork
Sawed - Miss. Pine
new entry door to the space

Marge Schmuckal - 32 Thomas St Williston Church)

From: Jean Fraser
To: Barhydt, Barbara; Errico, Thomas; Schmuckal, Marge; West-Chuhta, Dani...
Date: 1/25/2012 2:18 PM
Subject: 32 Thomas St Williston Church)
CC: Andrews, Deb; Jaegerman, Alex; Peverada, John
Attachments: Vicinity 32 Thomas Street 2.jpg

To all reviewers:

Further to the discussion today at Dev Rev, I confirm that the submitted document and plan is in e-plan. We are expecting some additional information soon.

I attach an aerial photo with the zoning indicated- for information.

I understand that a neighborhood meeting is taking place on Wednesday of next week and some 300 neighbors have been invited.

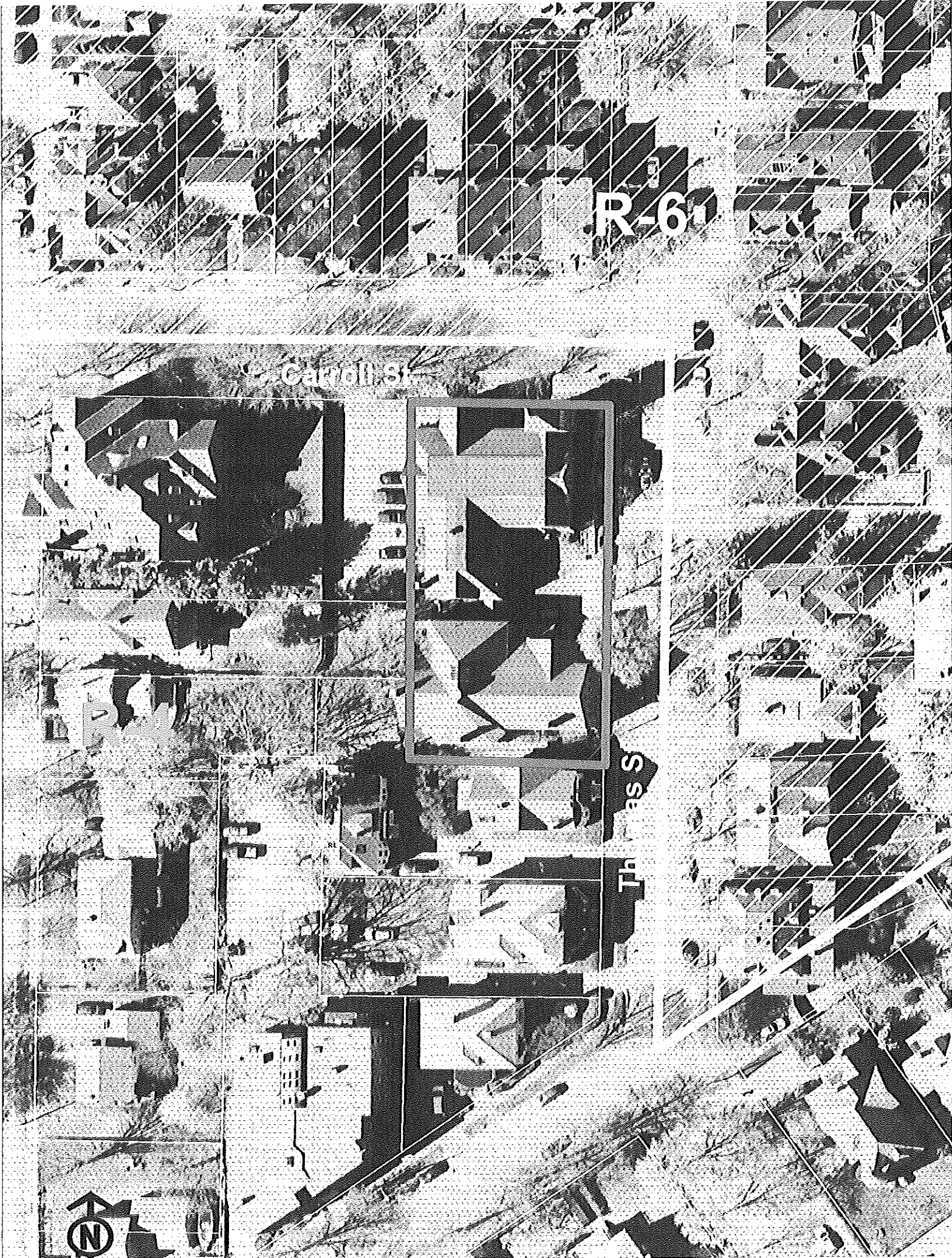
I have agreed with their agent to have a meeting with the applicant and reviewing staff soon after the neighborhood meeting to see where this is going and so I can ensure the PB workshop Report reflects all the issues/updates. I am aiming for thursday afternoon, Friday or Monday (for this meeting and will be in touch on Friday to get that organized.

thanks
Jean

R-61

Carroll St

Thomas St



Marge Schmuckal - Re: Thomas Street

From: Tammy Munson
To: Jeanie Bourke; Mitchell, Greg; Schmuckal, Marge
Date: 1/27/2012 2:03 PM
Subject: Re: Thomas Street
CC: Andrews, Deb; Barhydt, Barbara; Fraser, Jean; Jaegerman, Alex; Piron...

Greg, I spoke with Jeanie and explained our approach to this project. The work will be phased and we could issue various permits to keep them moving forward. I directed her to contact you if she has any questions.

>>> Greg Mitchell 1/26/2012 7:47 AM >>>
Marge:

Thanks for the update. I will work with Tammy on the enforcement response.

Tammy, let's talk about this at tomorrow's 10am meeting.

Greg

Greg A. Mitchell, Acting Director
Planning and Urban Development Department
City of Portland
389 Congress Street
Portland, Maine 04101
Tel. 207.874.8945
Fax 207.756.8217

>>> Marge Schmuckal 1/25/2012 2:22 PM >>>
Hi Greg,

I followed up and made an inspection at 26-32 Thomas Street today. There were workmen doing some work on site. A large double door was being delivered to replace a previous door, similar to a door across the hall. There was a truck with Mass. license plates that delivered the door and other items from Architectural Millwork Services. I spoke with Peter Houser of Leddy Houser Associates concerning the work going on. There was also a contractor from Cunningham who had install a new alarm system. The alarm system requires a permit. We do not have any such permit on file. Peter Houser also shared that the owner (Mr Monsour) wanted to do some low voltage wiring for computers in the near future. It is my understanding that even that wiring requires a permit.

When I got back into the office, I discussed these matters with Tammy Munson for any further follow-up.

At this point I am asking guidance for next steps.
Marge

received by e-mail 1/31/12

THE WESTERN PROMENADE NEIGHBORHOOD ASSOCIATION

WILLISTON WEST CHURCH - PROPOSED REZONING

As you may know, the new owners of Williston West are holding a neighborhood meeting on Wednesday, 2/1, at 7:00 in the sanctuary of the church to describe and hear reactions to their proposed rezoning and plans for the property. This is a preliminary informational meeting an applicant is required by law to hold. It will be followed by a formal City of Portland review process, which will start with a Planning Board workshop meeting on February 14, 2012 at 7:00 PM at City Hall. The Public will be able to speak at this workshop meeting.

Since there are so many new owners in the immediate neighborhood, WPNA thought some factual information might be helpful to you as you consider this request:

In order to protect its unique and historic residential character, the Western Prom neighborhood is the most restrictive zone in the city, designated R-4:

- No commercial uses are allowed.
- Offices for homeowner occupations (lawyer, doctor, designer, et.) are allowed, with provision for only one non-family employee on site.
- Additional dwelling units created within an existing structure must meet minimum sizes and lot size/per unit.

The buyer of Williston West is now petitioning the City to change the zoning to allow, in addition to the permitted uses in the R-4:

- 3,600 sq.ft. of general commercial office space;
- Place of assembly/community hall (currently allowed, but only if operated by a 501(c)(3) non-profit.
- "Alteration or construction of a single-family detached dwelling to accommodate an accessory dwelling unit"

This proposed will allow commercial uses in a neighborhood building for the first time in almost thirty years, since the zoning was changed in 1984 to exclude commercial uses.

Because Williston West is a designated historic structure, there will be no required provision for off-street parking in connection with any commercial proposed use.

The oldest neighborhood association in the city, the WPNA was formed in 1973, in response to a variety of conversion threats to historic structures. With concern, we are monitoring this application very closely and look forward to hearing your reaction to the proposed changes, which will affect you most directly, but also create a precedent for the neighborhood as a whole.

For more information, please contact:

Anne Pringle, oldmayor@maine.rr.com, 774-0437

Chuck Rimmel, cremmel@krz.com, 773-8623 (home), 775-1020 (office)

Marge Schmuckal - Re: Fwd: WillistonWest folo

From: Greg Mitchell
To: Bourke, Jeanie; Jaegerman, Alex; Munson, Tammy; Schmuckal, Marge
Date: 2/2/2012 12:48 PM
Subject: Re: Fwd: WillistonWest folo
CC: Clegg, Nicole

The property owner has been advised that any contractor on-site needs to obtain building permits. However, I am not aware of the status of active building permits for this property.

I am copying Jeanie Bourke, in Tammy's absence this week, to advise us regarding the active status of permits at this location.

Greg

Greg A. Mitchell, Acting Director
Planning and Urban Development Department
City of Portland
389 Congress Street
Portland, Maine 04101
Tel. 207.874.8945
Fax 207.756.8217

>>> Alex Jaegerman 2/2/2012 12:19 PM >>>

Where are we with their permits? Who shall respond to Casey's inquiry?

>>> Casey Conley <casey@portlanddailysun.me> 2/2/2012 12:12 PM >>>
Jean/Alex,

When I went by Williston West last month for an initial article, I noticed dozens of workers inside the parish house making renovations. Is there a building permit already out for the site for interior work?

Casey

--

Casey Conley
City Editor
The Portland Daily Sun
699.5815 (office)
232.1992 (mobile)
899.4963 (fax)



PORTLAND MAINE

Strengthening a Remarkable City, Building a Community for Life • www.portlandmaine.gov

Greg Mitchell, Acting Director of Planning and Development
Marge Schmuckal, Zoning Administrator

Discussed work going on -
Discussed postmonument
of the workshop of Feb 14th

Meeting Information

skype - video conference
Mary C. will take the next
stage at work
currently in R-4 The New
Draft

DATE: 2/6/12
ZONE: /
LOCATION: 32 Thomas St.

PEOPLE PRESENT: Alex - Barbara - Marge - Tom Erico - Mary C
Deb A - Matthew Winch - Jean F - John

DISCUSSION:

Needs an Event Management/Party plan

Last Wednesday night was their public meeting - 40 to 50 people
Arthur Cleaves working with the Company (was with Homeland Security)

DATA collection for disaster recovery & relief -> Majella business
Parish House is where most of the changes would be
There will be NO additions to the bldg on existing footprint or going out and
currently 4 employees @ Time & Temp. Bldg - proposing 14 employees max

- Discussed non-profit options for
John: NO condition ASSESSMENT yet - rotted floor boards - bells still there -
Valleys of roof are bad - stained glass bad in many
window commemorations

Repairs might be based on # of employees -
currently a curb space - could get 2 or 3 cars in there now - There are several
parking lots available off of Neal St - paving the courtyard would be difficult
conflicting parking policies in our ordinance - TMP needed
2 pieces to parking -> Parish house & Community Hall -
Tom E. is not too concerned with traffic management -> parking is the base thing
office hours are to be normal 8-5 weekdays - maybe 1 person watching computers

Please note: this meeting is not an pre-approval of any ordinances. No project can be approved without going thru the appropriate reviews. This meeting is only to outline the City processes to go through based on the information given at this meeting. Any changes to that information may change the process requirements. Please check ordinances that are on-line for further information at www.portlandmaine.gov.

Alex - City doesn't support an R-6 change -
Lot is 18,000^{sq ft} of Land Area (approx) - R-4 states 3,000^{sq ft} for 3 DU, then 6,000^{sq ft}/DU under conditional use

Room 315 - 389 Congress Street - Portland, Maine 04101 (207) 874-8695 - FAX: (207) 874-8716 - TTY: (207) 874-3936 - Not more meetings
minimize changing underlying zone - Don't change what is there more motions

for Monday's Meeting

Marge Schmuckal - Fwd: 32 Thomas Street

From: Jean Fraser
To: Andrews, Deb; Barhydt, Barbara; Errico, Thomas; Schmuckal, Marge; We...
Date: 2/2/2012 3:01 PM
Subject: Fwd: 32 Thomas Street
CC: Jaegerman, Alex
Attachments: A102 Williston 020112.pdf; A103 Williston 020112.pdf; A104 Williston 020112.pdf; A100 Williston 012912.pdf

For Monday's meeting- additional information as presented at the Neighborhood meeting last night (this will also be uploaded in e-plan).

I understand that they intend to redraft the CZA after they meet with us on Monday.

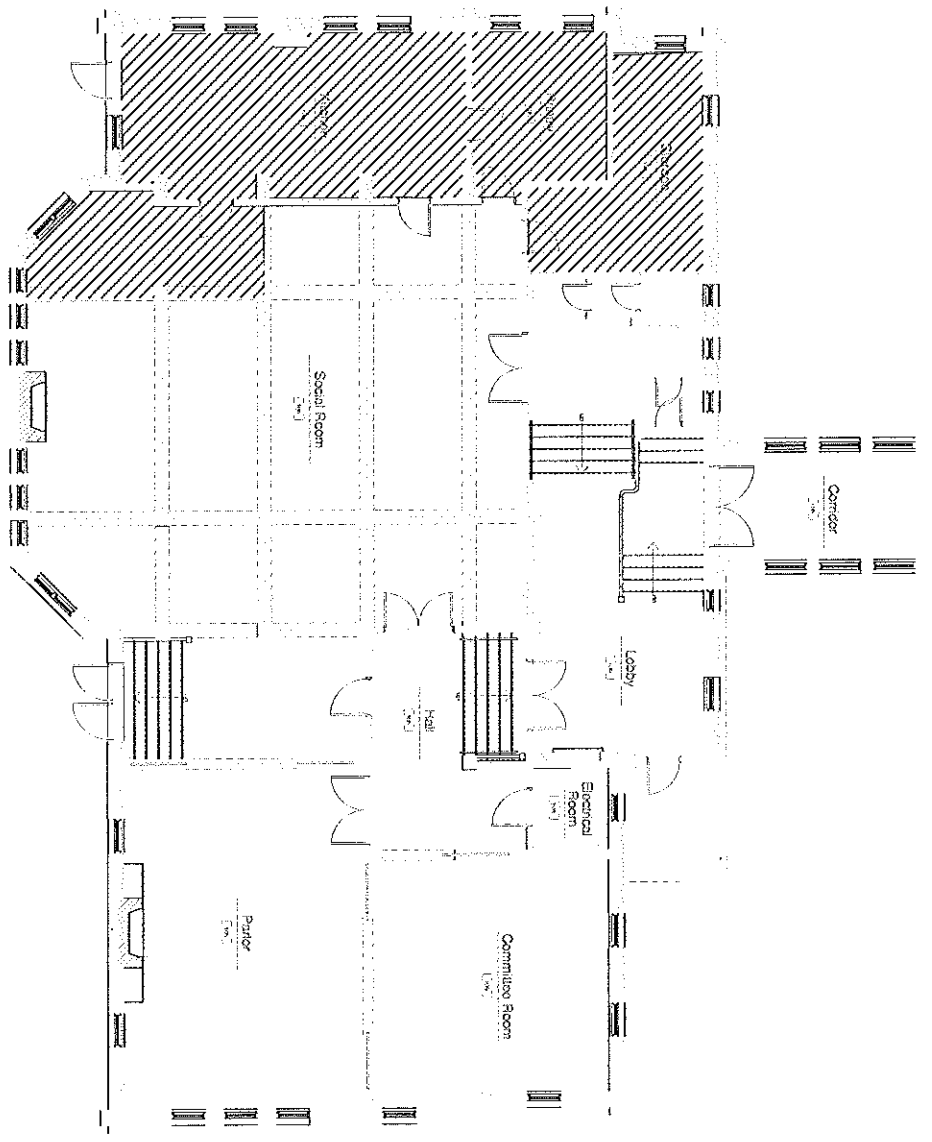
I also understand that the alternative approach (to revise the boundary of the R-6 zone to include this property) is still something they would like to explore further.

>>> "Matthew G. Winch" <matthewwinch@earthlink.net> 2/2/2012 2:42 PM >>>
Jean-

Attached is what we presented last night (minus the site survey and an enlarged COP Zoning Map).

Matthew G. Winch, Architect
Garrison Consulting
41 Edgewood Ave
Portland, ME 04103
(207) 450-0750
matthewwinch@earthlink.net

"every idea starts with a thought"



Williston West LLC
 32 Thomas Street LLC
 Williston, ND

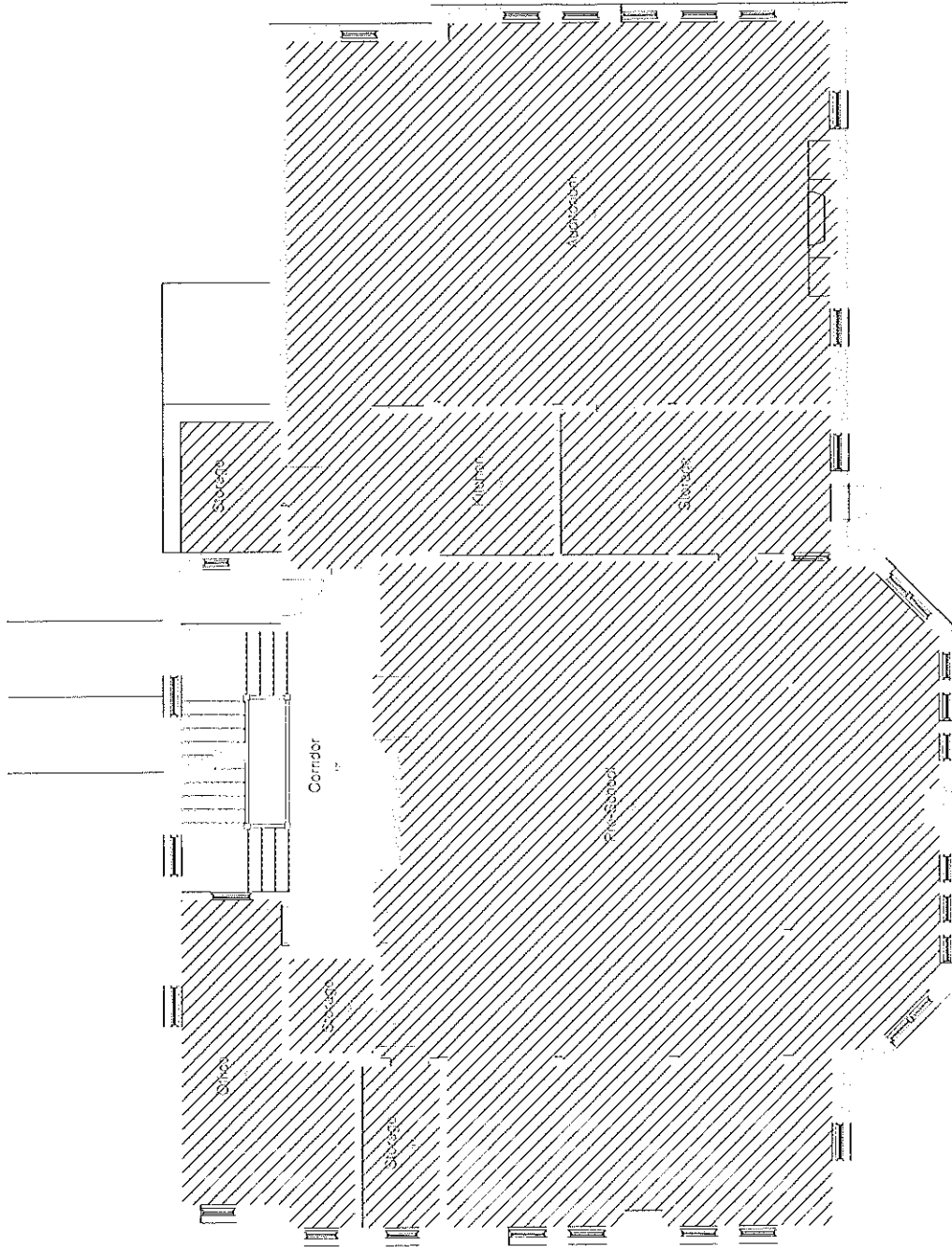
February 2, 2012
 148' x 148'
 1000-410
 Ground Floor
 Plan
 A102

Garage/Yard Rampage
 Approx 100-400 SF

Circulation
 Approx 1,000 SF

Business Use
 Approx 3,400 - 3,800 SF





Primary Residence
Approx 3,800 SF

Circulation
Approx. 400 SF

Business Use
Approx 0 SF

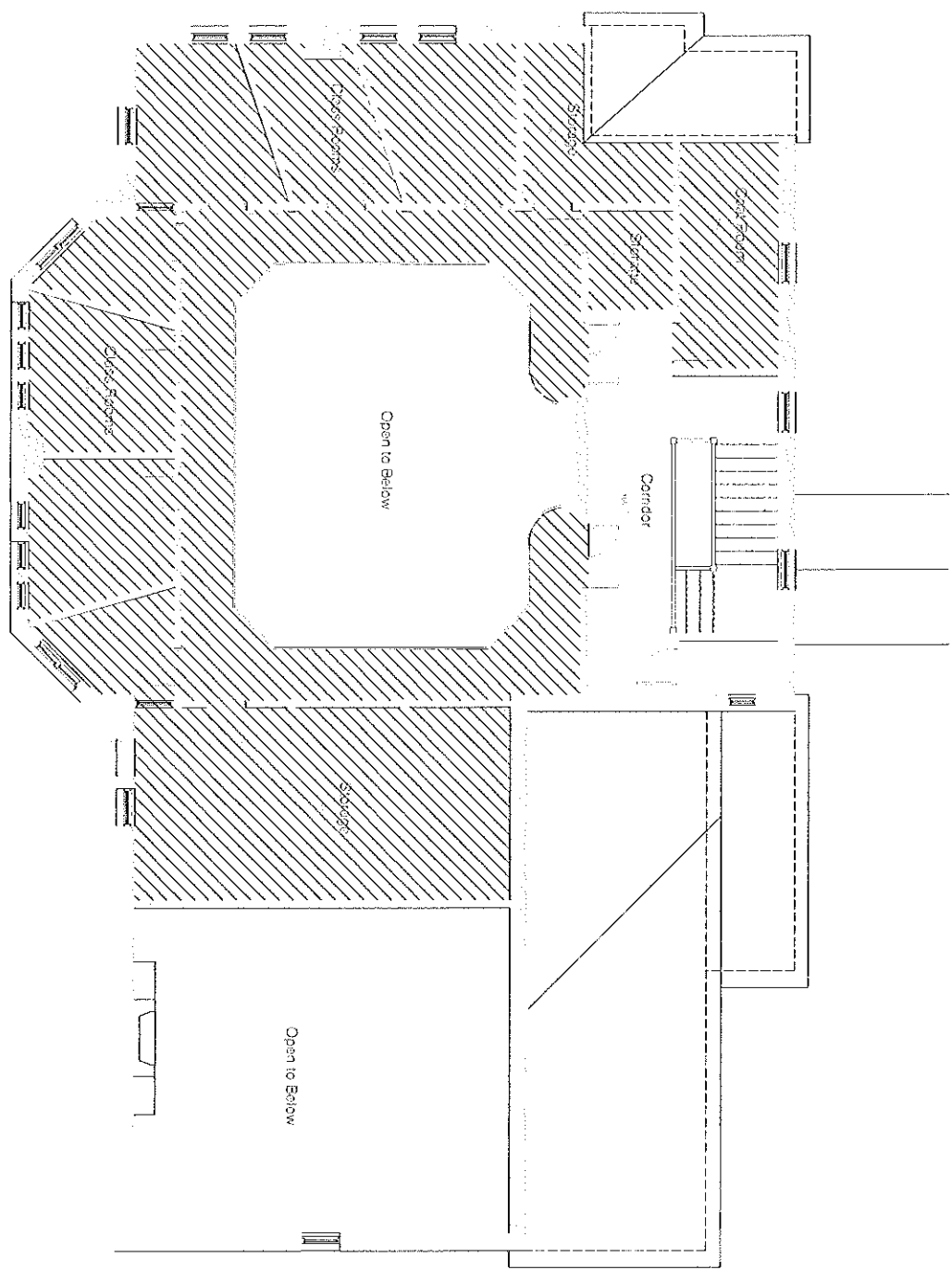
February 1, 2012
1/4" = 1'-0"
2011-088

Second Floor
Plan
A103


Williston West
32 Thomas Street
Portland, Maine


GARRISON
CONSULTANTS


4 Edgewood Ave.
Portland, ME 04102
Tel: 603.761.0000
www.garrisonconsultants.com



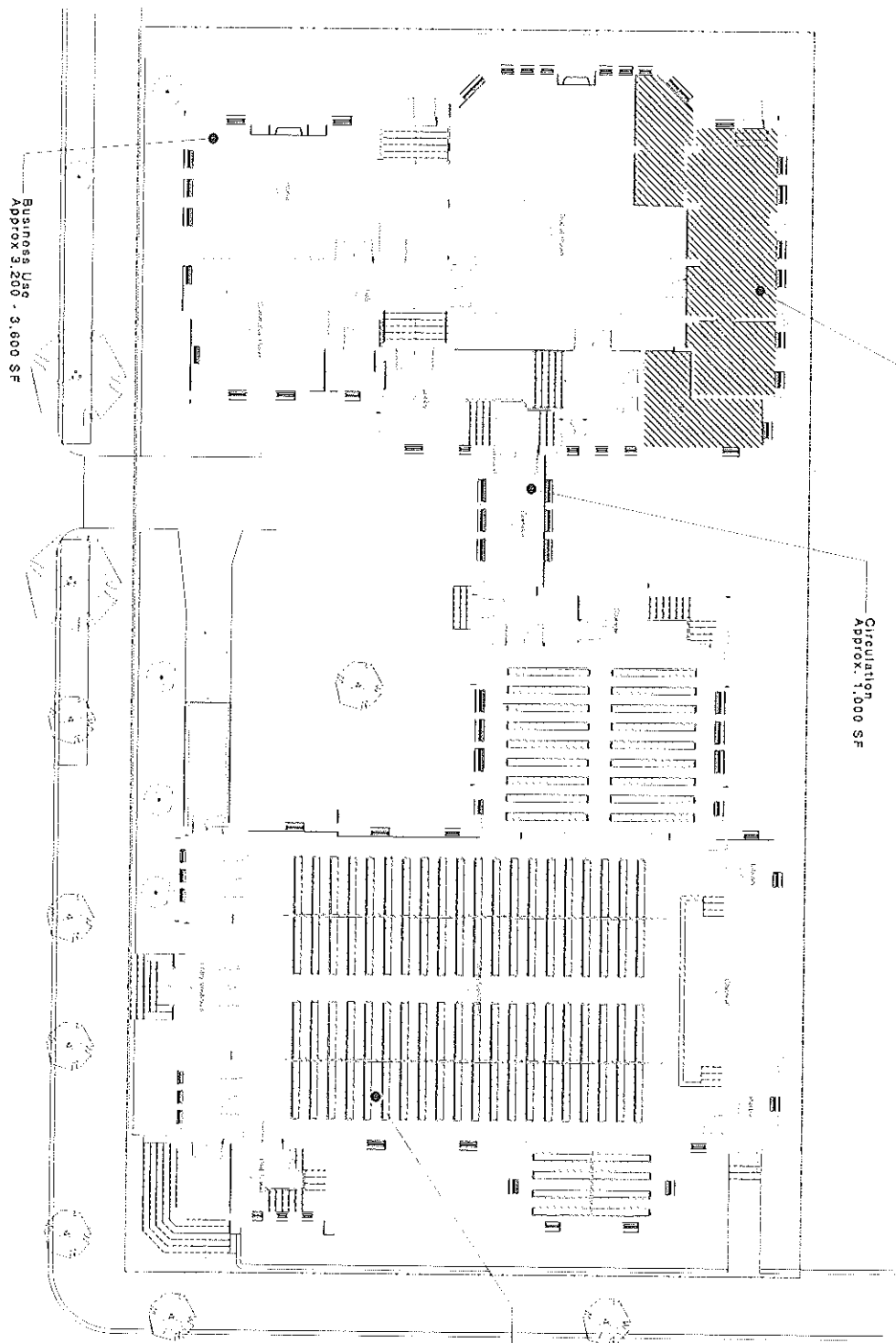
Williston West LLC
32 Thomas Street
Portland, Maine

 Primary Residence
Approx. 1,900 SF

 Circulation
Approx. 400 SF

 Business Use
Approx. 0 SF

Williston West
 32 Thomas Street LLC
 Portland, Maine



Caretaker Residence
 Approx 800-1,000 SF

Circulation
 Approx. 1,000 SF

Community Hall
 Approx 5,800 SF

Caretaker Residence
 Approx 800-800 SF

Circulation
 Approx. 1,000 SF

Community Hall
 Approx 5,800 SF

Business Use
 Approx 3,400 - 3,600 SF

Standard	R4 Residential	R6 Residential	Proposed Conditional Zone Agreement from applicant
Purpose	<p>To preserve the unique character of the Western Promenade area of the city by controlling residential conversions and by allowing the continued mix of single-family, two-family, and low-rise multifamily dwellings and other compatible development at medium densities.</p>	<p>(a) To set aside areas on the peninsula for housing characterized primarily by multifamily dwellings at a high density providing a wide range of housing for differing types of households; and to conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other nonresidential uses. (b) In cases of qualifying small, vacant, underutilized lots located in the urban residential and business zone, to encourage new housing development consistent with the compact lot development pattern typically found on the peninsula.</p>	<p>Proposed Conditional Zone Agreement from applicant</p>
Permitted uses (as relevant to this project)	<ul style="list-style-type: none"> - Single family homes - New construction 2-family dwellings - Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article; - Home occupations subject to the provisions of section 14-410 (home occupation) of this article; 	<ul style="list-style-type: none"> - Single and two-family dwellings - Multi-family dwellings; lodging houses; independent living units; - Hostels (10 guests) subject to conditions; - Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article; - Home occupations subject to the provisions of section 14-410 (home occupation) of this article; 	<p>All uses allowed in the R-4 zone: Place of Assembly/community hall; Professional offices, excluding veterinarians; Two family dwellings Multi-family dwellings Alteration or construction of a single-family detached dwelling to accommodate an accessory dwelling unit.</p>
Conditional uses (as relevant to this project)	<ul style="list-style-type: none"> - Sheltered care group homes - Alteration of an existing structure to accommodate one (1) or more dwelling units provided that: <ul style="list-style-type: none"> a. No additional dwelling unit shall have less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic; b. No open outside stairways or fire escapes above the ground floor shall be or have been constructed in the immediately preceding five (5) years; c. The alteration will not result in a total cubic volume increase of more than ten (10) percent within the immediately preceding five (5) years d. A lower level dwelling unit shall have a minimum of one-half of its floor-to-ceiling height above the average adjoining ground level; e. No existing dwelling unit shall be decreased to less than one thousand (1,000) square feet of floor area; f. Three thousand (3,000) square feet of land area per dwelling unit shall be required; g. The project shall be subject to article V (site plan) of this chapter for site plan review and approval. h. Parking shall be provided as required in division 20 of this article. - Multiplex development with three (3) or more horizontally or vertically attached, or a series of such attached dwelling 	<ul style="list-style-type: none"> - Sheltered care group homes; subject to conditions; - Long-term and extended care facilities; subject to conditions; - Intermediate care facilities; subject to conditions; - Places of assembly; subject to conditions; - College, university, trade school; subject to conditions; - Professional offices of a member of a recognized profession maintained for the conduct of that profession. Professional office uses exclude personal services, retail services, and veterinarians. <p>The illustrative examples that follow indicate the type of professional offices permitted: health care practitioner, attorney, social worker, engineer, architect, accountant, real estate agent, insurance agent.</p> <p>Professional office uses shall meet the following standards in addition to provisions of section 14-474, except that subsections a., b., c. and d. of this section 14-137(c)2 shall not apply to the use of any building not designed or constructed for residential use, which was not in actual use as a residence on April 18, 1984, or thereafter.</p> <p>a. A professional office shall not be located within five hundred (500) feet of another as measured along the street line to the respective property lines.</p>	

① draft

<p>Minimum lot size</p>	<p>Residential: Six thousand (6,000) square feet except as provided for lots of record in section 14-4-33 (lots of record and accessory structure setbacks for existing buildings) of this article.</p> <p>Multiple: Nine thousand (9,000) square feet</p> <p>Places of assembly (no min where in some cases eg if existed on June 1, 1983 or an expansion):</p> <table border="1" data-bbox="243 388 324 777"> <tr> <td>Large</td> <td>30,000 sq. ft.</td> </tr> <tr> <td>Medium</td> <td>15,000 sq. ft.</td> </tr> <tr> <td>Small</td> <td>7,500 sq. ft.</td> </tr> </table>	Large	30,000 sq. ft.	Medium	15,000 sq. ft.	Small	7,500 sq. ft.	<p>Residential: Forty-five hundred (4,500) square feet, except as provided for lots of record in section 14-4-33 (lots of record and accessory structure setbacks for existing buildings) of this article.</p> <p>Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres; Intermediate care facility: One (1) acre.</p> <p>Places of assembly:</p> <table border="1" data-bbox="194 903 276 1491"> <tr> <td>Large</td> <td>30,000 sq. ft.</td> </tr> <tr> <td>Medium</td> <td>15,000 sq. ft.</td> </tr> <tr> <td>Small</td> <td>7,500 sq. ft.</td> </tr> </table>	Large	30,000 sq. ft.	Medium	15,000 sq. ft.	Small	7,500 sq. ft.	<p>17,500 sq ft</p>
Large	30,000 sq. ft.														
Medium	15,000 sq. ft.														
Small	7,500 sq. ft.														
Large	30,000 sq. ft.														
Medium	15,000 sq. ft.														
Small	7,500 sq. ft.														
	<p>units and the construction of at least one (1) building, provided that</p> <ol style="list-style-type: none"> No open outside stairways or fire escapes above the ground floor shall be constructed; No habitable space in a dwelling unit shall be below grade, except basements that are a part of and below aboveground units. Three thousand (3,000) square feet of land area per dwelling unit shall be required for the first three (3) dwelling units with a requirement of six thousand (6,000) square feet of land area per dwelling unit for additional dwelling units; No dwelling unit shall have less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic; <p>- Elementary, middle and secondary schools;</p> <p>- Places of assembly subject to 14-4-74 and no loss of res uses and other conditions, including</p> <ol style="list-style-type: none"> Community halls: <ol style="list-style-type: none"> The structure was in existence as of January 4, 2010; The structure was built for institutional or other non-residential uses; The structure is operated by, or operated subject to the control of, a not-for-profit entity in accordance with its not-for-profit purposes; and A parking management plan is submitted for review and approval by the planning board; and <p>- Day care facilities or home babysitting services not permitted as a home occupation under section 14-4-10, and nursery schools and kindergartens, subject conditions.....;</p>	<ol style="list-style-type: none"> A building with one (1) or more professional offices shall have at least fifty (50) percent of the total floor area of the building devoted to residential uses. The total number of individuals working in a building of professional offices shall not exceed the equivalent of four (4) full-time employees. Any additions or exterior alterations shall be compatible with the architecture of the building and maintain the residential appearance of the building. Construction of a new building shall be compatible with the architectural character of the surrounding area. The scale and surface area of parking, driveways, and paved areas shall be arranged and landscaped to be compatible in size and scale with neighboring properties in the area and to properly screen vehicles from adjacent properties and streets. Off-street parking is required as provided in division 20 (off-street parking) of this article. <p>- Elementary, middle and secondary schools;</p> <p>- Places of assembly subject to 14-4-74 and no loss of res uses and other conditions, including</p> <ol style="list-style-type: none"> Community halls: <ol style="list-style-type: none"> The structure was in existence as of January 4, 2010; The structure was built for institutional or other non-residential uses; The structure is operated by, or operated subject to the control of, a not-for-profit entity in accordance with its not-for-profit purposes; and A parking management plan is submitted for review and approval by the planning board; and <p>- Nursery school and kindergarten.</p> <p>- Day care facilities or home babysitting services not permitted as a home occupation under section 14-4-10, and nursery schools and kindergartens, subject conditions.....;</p> <p>- Hostels (20 guests)</p>													

②

draft

Standard	R4 Residential	R6 Residential	Proposed Conditional Zone Agreement from applicant
Front yard setback	25 ft. A front yard need not exceed the average depth of front yards on either side of the lot. A lot of record existing as of June 5, 1957, and less than one hundred (100) feet deep need not be deeper than twenty (20) percent of the depth of the lot.	10 ft. A front yard need not exceed the average depth of front yards on either side of the lot. A lot of record existing as of June 5, 1957, and less than one hundred (100) feet deep need not be deeper than twenty (20) percent of the depth of the lot.	3 feet
Rear yard setback	a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Twenty-five (25) feet. b. Accessory detached structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.	a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Twenty (20) feet. b. Accessory detached structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.	3 feet
Side yard setback	a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: [10-16 ft depending on height of structure; 2 1/2 stories is highest and requires 16 feet] The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than ten (10) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than ten (10) feet. <i>Side yard on side streets:</i> Principal or accessory structures: Twenty (20) feet. A side yard on a side street need not exceed the average depth of front setback directly abutting the lot.	Principal or accessory structures with ground coverage greater than one hundred (100) square feet: [10-15 ft depending on height of structure; 5 stories is highest at 15 feet] The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than ten (10) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than ten (10) feet. <i>Side yard on side streets:</i> Principal or accessory structures: Ten (10) feet.	4 feet Side yard on side street: 8 feet
Maximum Lot Coverage	30 %	40% of lot area (20 or more dwellings); 50% if fewer than 20	90%
Minimum street frontage	Fifty (50) feet.	40 feet	Not mentioned
Minimum Lot Width	60 ft	40 ft	Not mentioned
Maximum Structure Height	35 ft	45 ft	37 feet for Sanctuary 46 feet for Parish House 70 feet for Bell Tower
Off street parking	Required as provided in division 20 (off-street parking) of this article. HP states:	1 space per 125 sf of assembly area or major fraction thereof	Number of off street spaces may not be decreased from that existing on or servicing the lot on march 15, 1999 except to the extent necessary to met the requirements of the Americans with Disabilities Act.

③

draft

Open Space Ratio		20%																									
Maximum Floor Area	<p>Maximum floor area for places of assembly on a collector or arterial road:</p> <table border="1"> <tr><td>Large</td><td>Not limited</td></tr> <tr><td>Medium</td><td>4,500 sq. ft.</td></tr> <tr><td>Small</td><td>2,250 sq. ft.</td></tr> </table> <p>Maximum floor area for places of assembly not on a collector or arterial road:</p> <table border="1"> <tr><td>Large</td><td>4,500 sq. ft.</td></tr> <tr><td>Medium</td><td>2,250 sq. ft.</td></tr> <tr><td>Small</td><td>1,125 sq. ft.</td></tr> </table>	Large	Not limited	Medium	4,500 sq. ft.	Small	2,250 sq. ft.	Large	4,500 sq. ft.	Medium	2,250 sq. ft.	Small	1,125 sq. ft.	<p>Maximum floor area for places of assembly on a collector or arterial road:</p> <table border="1"> <tr><td>Large</td><td>Not limited</td></tr> <tr><td>Medium</td><td>4,500 sq. ft.</td></tr> <tr><td>Small</td><td>2,250 sq. ft.</td></tr> </table> <p>Maximum floor area for places of assembly not on a collector or arterial road:</p> <table border="1"> <tr><td>Large</td><td>4,500 sq. ft.</td></tr> <tr><td>Medium</td><td>2,250 sq. ft.</td></tr> <tr><td>Small</td><td>1,125 sq. ft.</td></tr> </table>	Large	Not limited	Medium	4,500 sq. ft.	Small	2,250 sq. ft.	Large	4,500 sq. ft.	Medium	2,250 sq. ft.	Small	1,125 sq. ft.	<p>Places of assembly: 6000 sq ft Professional offices: 3,600 sq ft on first floor Each dwelling unit no less than 600 sq ft</p>
Large	Not limited																										
Medium	4,500 sq. ft.																										
Small	2,250 sq. ft.																										
Large	4,500 sq. ft.																										
Medium	2,250 sq. ft.																										
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Small	2,250 sq. ft.																										
Large	4,500 sq. ft.																										
Medium	2,250 sq. ft.																										
Small	1,125 sq. ft.																										
Minimum lot area per dwelling unit	<p>Minimum lot area per dwelling unit: Three thousand (3,000) square feet, except as provided for a multiplex. This requirement may be reduced by up to twenty (20) percent for a special needs independent living unit.</p>	<p>Minimum area per dwelling unit: One thousand (1,000) square feet per dwelling unit, and in the case of building additions and new construction, one thousand two hundred (1,200) square feet for each dwelling unit after the first three (3) units. This requirement may be reduced by up to twenty (20) percent for a special needs independent living unit, [others given for lodging houses and intermediate care facilities]</p>	<p>Not mentioned</p>																								
Street Frontage	50 feet	40 feet	Not mentioned																								

④

Draft

Marge Schmuckal - Re: Fwd: WillistonWest folo

From: Marge Schmuckal
To: Greg Mitchell; Jeanie Bourke
Date: 2/7/2012 9:09 AM
Subject: Re: Fwd: WillistonWest folo
CC: Tammy Munson

Hi Greg,

Jeanie was not at the meeting with the architects and lawyer. But before the meeting Jeanie & I spoke about the activities there. She related to me that I should advise them of the need for permits. Both the architects and the lawyer were surprised that I witnessed work going on there. So they were advised that permits were needed. I also handed out Brian LaFlamme's card in case there were any questions on the low voltage electrical work going on. I wasn't aware that Tammy contacted any one on this previously. The folks there said they would be following up. We probably should also be following up. I don't think we would want this to be an issue that the neighborhood latches on to.
Marge

>>> Greg Mitchell 2/7/2012 8:44 AM >>>
Jeanie:

When you have time, please update me regarding the outcome of yesterday's meeting. I want to make sure we are on top of this matter.

Thanks, Greg

Greg A. Mitchell, Acting Director
Planning and Urban Development Department
City of Portland
389 Congress Street
Portland, Maine 04101
Tel. 207.874.8945
Fax 207.756.8217

>>> Jeanie Bourke 2/3/2012 9:29 AM >>>
Will Do, I have spoken with Marge about what she found at her site visit, to get a handle on the kind of activity, and what types of permits are required.
Jeanie

>>> Greg Mitchell <gmitchell@portlandmaine.gov> (Greg Mitchell) 2/3/2012 8:06 AM >>>
Jeanie:

Jean Fraser has a meeting with the Williston Church development team on 9:30am Monday Feb 6th in the Planning Conference room. Please advise the Project development team of the need for permits for any construction activity at this location.

Marge Schmuckal - Re: Thomas Street

From: Alex Jaegerman
To: Jeanle Bourke; Tammy Munson
Date: 2/7/2012 5:25 PM
Subject: Re: Thomas Street
CC: Barbara Barhydt; Chris Pirone; Danielle West-Chuhta; Deb Andrews; Gr...

Jeannie, Tammy:

Please let us know if any building/electical permit applications are received for the Williston West Church at 32 Thomas St. According to Marge's email, they require electrical permits. Do you concur?

Jeanle indicated no permits as of last week. If we don't receive a permit application very soon, we will have to consider our enforcement options. I told the representatives yesterday to address this issue asap.

Alex.

>>> Marge Schmuckal 1/25/2012 2:22 PM >>>

Hi Greg,

I followed up and made an inspection at 26-32 Thomas Street today. There were workmen doing some work on site. A large double door was being delivered to replace a previous door, similar to a door across the hall. There was a truck with Mass. license plates that delivered the door and other items from Architectural Millwork Services. I spoke with Peter Houser of Leddy Houser Associates concerning the work going on. There was also a contractor from Cunningham who had install a new alarm system. The alarm system requires a permit. We do not have any such permit on file. Peter Houser also shared that the owner (Mr Monsour) wanted to do some low voltage wiring for computers in the near future. It is my understanding that even that wiring requires a permit.

When I got back into the office, I discussed these matters with Tammy Munson for any further follow-up.

At this point I am asking guidance for next steps.

Marge



General Building Permit Application

2-4

If you or the property owner owes real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

Location/Address of Construction: <u>32 Thomas St., Portland ME 04101</u>		
Total Square Footage of Proposed Structure/Area <u>420' Bell Tower / 18,000 Total Building</u>		Square Footage of Lot <u>.413 Acres</u>
Tax Assessor's Chart, Block & Lot Chart# <u>602</u> Block# <u>E</u> Lot# <u>5</u> <u>062 E005001</u>		Applicant ^{must be owner, Lessee or Buyer} Name <u>32 Thomas St. LLC</u> Address <u>477 Congress St, STE 601</u> City, State & Zip <u>Portland, ME 04101</u>
Lessee/DBA (If Applicable)		Telephone: <u>+617 3834-3344</u>
Owner (if different from Applicant) Name Address City, State & Zip		Cost Of Work: \$ <u>10,000.00</u> C of O Fee: \$ _____ Total Fee: \$ <u>110.00</u>
Current legal use (i.e. single family) <u>Religious Education</u> If vacant, what was the previous use? _____ Proposed Specific use: _____		
Is property part of a subdivision? <u>NO</u> If yes, please name _____ Project description: <u>Removal of existing and decaying Bell Tower floor landing framing and ship ladders for replacement with new landing + framing per attached structural design with intent to stabilize the interior masonry</u>		
Contractor's name: <u>Leddy Houser Associates</u>		
Address: <u>72 Ocean St. Ste 104</u>		
City, State & Zip: <u>South Portland, ME 04106</u>		
Who should we contact when the permit is ready: <u>office</u>		Telephone: <u>767 0903</u>
Mailing address: <u>Same</u>		

RECEIVED
FEB 24 2012

Please submit all of the information outlined on the applicable Checklist. Failure to do so will result in the automatic denial of your permit.

In order to be sure the City fully understands the full scope of the project, the Planning and Development Department may request additional information prior to the issuance of a permit. For further information or to download copies of this form and other applications visit the Inspections Division on-line at www.portlandmaine.gov, or stop by the Inspections Division office, room 315 City Hall or call 874-8703.

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

Signature: [Signature] Date: 2-21-2012

This is not a permit; you may not commence ANY work until the permit is issue

BERNSTEIN SHUR

COUNSELORS AT LAW

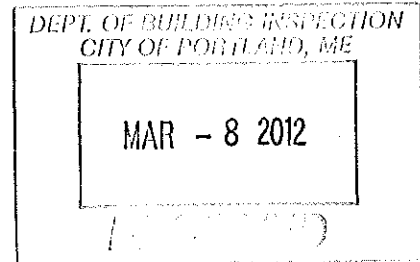
207-774-1200 main
207-774-1127 facsimile
bernsteinshur.com

100 Middle Street
PO Box 9729
Portland, ME 04104-5029

Mary E. Costigan
207 228-7147 direct
mcostigan@bernsteinshur.com

March 7, 2012

Portland Planning Board
389 Congress Street
Portland, ME 04101



RE: Conditional Rezoning of 32 Thomas Street

Dear Chair Morrissette and Members of the Planning Board:

Enclosed please find a revised application for the conditional rezoning of 32 Thomas Street, also known as Williston-West Church. The applicant, Dr. Frank Monsour of Brisbane Australia, is proposing a combination of residential, office and community uses for the church. As illustrated in the attached Proposal Timeline, Dr. Monsour, personally and through his project team, has consulted with City planning staff and the neighborhood and those discussions have resulted in the attached proposal, which has seen several revisions since its initial submission in January.

Williston-West Church has a long history in Portland. Built in 1877 by Francis Fassett, the sanctuary is listed in the National Register of Historic Places and is a designated local landmark. The parish house, built in 1904 by John Calvin Stevens, is also listed in the National Registry and is a contributing structure within the West End Historic District. For over 100 years, the church was a very active congregation. It is considered the birthplace of modern day youth ministry with the formation of the first Christian Endeavor Society in 1881 by Francis Edward Clark. Christian Endeavor is active today in over 50 countries. The spirit of community service was demonstrated through the various activities that occurred at the church over the years, from an active soup kitchen, to AA and other support groups, to adult religious education classes. Most recently, the church was used as a nursery school, a meeting place for several community organizations, a place for dance lessons and music recitals, as well as event space for various Waynflete activities.

In the summer of 2011, Williston-West Church merged with Immanuel Baptist Church and relocated to High Street. Dr. Frank Monsour, who has an affinity for historic buildings, purchased the church property in December of 2011. In addition to his surgical practice, Dr. Monsour is the Managing Director of Majella Global Technologies, a company specializing in mobile data collection and management, with offices in Brisbane, Australia

and Portland. Currently, the Portland office is located on Congress Street and Dr. Monsour would like to relocate the office to 32 Thomas Street. The relocation of the office will enable Dr. Monsour to finance the rehabilitation and preservation of Williston-West Church.

The proposed uses for the property include the creation of 2-3 dwelling units in the parish house. The Monsour family residence would be located on the second and third floors, with a possible separate unit for overnight guests, and a caretaker's residence would be located on the first floor. These proposed residential uses are permitted as a conditional use in the zone and are therefore not a part of the conditional rezoning application.

The sanctuary would be used as a Community Hall, which will be operated by a non-profit entity to be established by Dr. Monsour. Although this proposed use is also permitted in the R-4 as a conditional use, Dr. Monsour has agreed to certain limitations on the use of the sanctuary in response to neighborhood concerns. Those limitations include a maximum occupancy of 250, evening performances are limited to no more than 8 per month, events shall not continue past 12 midnight on weekends and 10:30 on weeknights, no more than 5 organizations can have long term agreements for use of the hall at any one time, noise levels are limited to 50-55 dB, and the operator of the hall may not obtain a liquor license.

The office space would be located on the first floor of the parish house, in a maximum of 2,800 sq. ft. of the floor area. The office uses would exclude personal services, retail services and veterinarians and would be subject to additional limitations, including a maximum of 14 full-time non-resident employees, an affiliation with the property owner, limited daily visitation by clients, customers or the general public, and one off-street parking space for each employee. Professional offices are not permitted in the R-4 zone and thus this proposed use is the focus of the conditional rezoning.

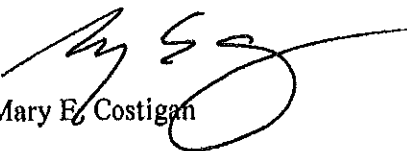
In exchange for the ability to relocate his office to his property in the R-4 zone, Dr. Monsour has committed to perform certain improvements to the building in accordance with a rehabilitation schedule. Dr. Monsour had proposed to install a new slate sanctuary roof with copper gutters and downspouts, rehabilitate the courtyard, and replace the parish house door, as phase one rehabilitation, to be followed by additional measures in future years. This proposal was based upon an assessment of the building that was not in the form a formal conditions assessment. Dr. Monsour has agreed to perform a conditions assessment on the building to determine what immediate, or phase one, measures are needed to be undertaken in order to shore up the building structure and envelope to extend its useful life. The assessment will be performed prior to the next planning board meeting and an appropriate schedule will be proposed to address immediate needs. Under the conditional rezoning agreement, as proposed, Dr. Monsour will be required to commence rehabilitation within six months of the date of enactment and complete the projects within 24 months from the date of enactment. The completion of any projects on the rehabilitation schedule that are not completed or under binding contract within six months from obtaining a certificate of occupancy for the office use, will be secured by a performance guarantee.

March 7, 2012
Page 3 of 3

In addition to those phase one items that will be included in the rehabilitation schedule and made a part of the conditional rezoning agreement, Dr. Monsour is committed to long term rehabilitation and preservation of the property. The proposed office use has sufficient limitations to significantly limit the impact from its use on the neighborhood. The allowance of this limited use will result in a tremendous benefit to the neighborhood and to the City in the rehabilitation and preservation of one of the City's important historic structures.

Thank you for considering our proposal. We look forward to working with the Planning Board during this review process and are happy to provide any additional information that may be needed.

Sincerely,



Mary E. Costigan

MEC/dlhf

PROPOSAL TIMELINE

1. **January 18, 2012**
 - Initial Submission of Conditional Rezoning Application.
2. **February 1, 2012**
 - Neighborhood meeting held at Williston-West Church.
3. **February 6, 2012**
 - Meeting held with Portland planning staff.
4. **February 14, 2012**
 - First scheduled planning board workshop, postponed to February 28th by applicant in response to neighborhood request for a meeting with Dr. Monsour and neighborhood representatives.
5. **February 17, 2012**
 - Submission of revised Conditional Rezoning application which was amended in response to neighborhood comments heard at the neighborhood meeting and during the time following the meeting from neighbors and city planning staff.
 - Amendments included the following:
 - Removal of residential uses, as they are permitted as conditional uses in the R-4.
 - Limiting professional office use as follows:
 - Excluding personal services and retail services
 - Restricting the floor area to 2,800 sq. ft.
 - Limiting the number of employees to a maximum of 14;
 - Requiring an affiliation between the building owner and office user; and
 - Requiring one off-street parking space for each employee.
 - Limiting the community hall use as follows:
 - Occupancy is limited to 250;
 - Limiting evening performances to 2 evenings per week and only on weekends or holidays;
 - Requiring events to end by 12:00 midnight;
 - Limiting to five, the number of organizations that can have long-term use agreements at any one time; and
 - Requiring submission of parking management plan.
 - Requiring renovation of the property in accordance with a renovation schedule.
 - Proposed schedule included sanctuary roof replacement with slate roof and copper gutters and downspouts, rehab of the courtyard, and replacement of parish house door to be completed by Dec. 31, 2013.
 - Failure to comply with the renovation schedule would result in reversion to R-4.
6. **February 17, 2012**
 - Meeting held at SMRT with neighborhood representatives and project team.
 - Attendees included Mary Costigan, Matthew Winch and Ed Herczig from the project team; Councilor David Marshall; and neighbors Constance Bloomfield, Anne Pringle, George Silverman, Charles Remmel, Sally Oldham, Vilean Taggersell, Paul Stevens, Carole Merrill, and Carol DeTine
 - Applicant, Frank Monsour, participated in the meeting from Australia via video Skype.

7. February 28, 2012

- Second scheduled planning board workshop, postponed to March 13th by applicant in response to neighborhood request for a second meeting with neighborhood representatives.

8. February 28, 2012

- Second meeting held at SMRT with neighborhood representatives and Dr. Monsour's project team.
- Attendees included Mary Costigan, Matthew Winch, John Turk, Jed Rathband and Ed Herczig from the project team; Councilor David Marshall; and neighbors Constance Bloomfield, John and Tish Whipple, Chris Cantwell, Anne Pringle, George Silverman, Sally Oldham, Paul Stevens, Carole Merrill, and Carol DeTine

9. March 5, 2012

- Meeting with Portland planning staff.

10. March 7, 2012

- Submission of newly revised Conditional Rezoning application, again amended in response to neighborhood comments heard since the 2/17 draft.
- Amendments include the following:
 - Community Hall was removed from the conditional rezoning, as Dr. Monsour's commitment to create a non-profit entity to operate the hall makes the use compliant with existing conditional use requirements in the R-4.
 - Limitations on the Community Hall use were maintained and amended as follows:
 - In response to comments that the restrictions were too limited, and would result in uses that have historically occurred on site to not be permitted, the number of evening events per month was increased to 8 and permitted to occur any night of the week;
 - Weeknight performances are required to end by 10:30 pm;
 - Noise levels limited to 55 dB during the hours of 7:00 am to 9:00 pm and 50 dB at all other hours, as measured from the property line; and
 - The operator of the Community Hall may not seek or obtain a liquor license for the Property.
 - Office use was changed from a permitted use to a conditional use, requiring planning board approval to demonstrate compliance with the limitations set forth in the 2/17 draft, in addition to the following:
 - The office use shall not generate frequent daily visitation by clients, customers or the general public.
 - The rehabilitation work must now commence within six months from the date of enactment.
 - The developer is required to complete or be under contract on all projects on the rehabilitation schedule within six months from the issuance of the certificate or occupancy, or else secure a performance guarantee for the work.
 - The renovation schedule, now rehabilitation schedule, has been put on hold to wait for the results of a conditions assessment to determine what immediate, or phase one, measures are needed to be undertaken in order to shore up the building structure and envelope to extend its useful life. The assessment will be performed prior to the next planning board meeting and an appropriate schedule will be proposed to address immediate needs.

CONDITIONAL ZONE AGREEMENT

RE:

WILLISTON-WEST CHURCH

AGREEMENT made this ____ day of _____, 2012 by 32 Thomas Street, LLC, 477 Congress St., Suite 601, Portland, Maine ("Developer"), and its successors and assigns.

WITNESSETH

WHEREAS, the Developer owns real property located at 32 Thomas Street, consisting of the parcel shown on the City's Tax Map 62, Block E, Lot 5, being more particularly described in a deed recorded in Cumberland County Registry of Deeds in Book 29217, Page 171 (collectively the "Property"); and

WHEREAS, the existing building complex located on the Property was formerly used as the Williston-West Church; and

WHEREAS, the Property, located within the West End Historic District, is currently zoned R-4 Residential; and

WHEREAS, the properties on the other sides of Thomas and Carroll Streets, directly across from the Property, are zoned R-6 Residential; and

WHEREAS, the building complex located on the Property is comprised of two principal portions, the sanctuary and the parish house; and

WHEREAS, the building complex is listed in the National Register of Historic Places, the sanctuary is a designated local landmark as defined by Article IX of the Portland City Code and the parish house is a contributing structure within the West End Historic District under Article IX; and

WHEREAS, the building complex located on the Property is falling into a state of disrepair; and

WHEREAS, historically appropriate and neighborhood compatible adaptive re-use of historic religious structures is often challenging, and reasonable use flexibility is justified to enable economically viable rehabilitation and productive use of such buildings for their long term preservation; and

WHEREAS, the City's comprehensive plan provides that it is a goal of the City to preserve Portland's architectural and historic heritage and to preserve and enhance the quality and vitality of neighborhoods within and adjacent to the Downtown; and

WHEREAS, the Developer proposes and intends to rehabilitate the parish house to provide for a family residence on the second and third floors, and a caretaker residence and office space on the first floor, as illustrated in Exhibit A attached hereto; and

WHEREAS, the Developer proposes and intends to rehabilitate and preserve the sanctuary and to use the building as a community hall for limited community uses; and

WHEREAS, the Developer intends to maintain the historic character of the structure and Property and will commit to a rehabilitation schedule of improvements to the building complex to address immediate needs to ensure the soundness and integrity of the building envelope and structural elements, and intends to perform additional improvements to the building complex to prolong its useful life and preserve the historic character, all with the goal of extending the useful life of the building complex for a time period approaching fifty (50) years or longer; and

WHEREAS, the existing zoning is R-4 which has dimensional requirements that the existing building complex does not meet, but is lawfully nonconforming; and

WHEREAS, the proposed use of the building complex by the owner/Developer includes an office component that is a necessary economic value and program element for the feasibility of the productive use of the building complex and the associated rehabilitation investments; and

WHEREAS, the Developer has requested a rezoning of the Property in order to permit the proposed development of the Property which is necessary to fund comprehensive rehabilitation of the historic structure; and

WHEREAS, the proposed uses of the Property are consistent with the existing and permitted uses in the neighborhood, which include a mix of residential, commercial and institutional uses; and

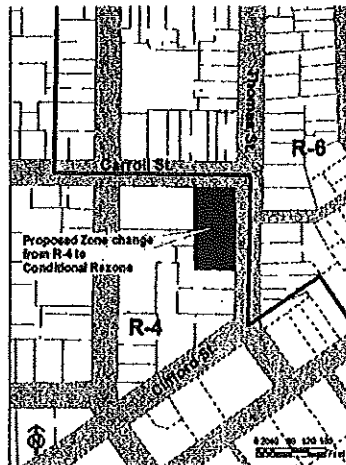
WHEREAS, the Planning Board, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however, to certain conditions contained in this AGREEMENT; and

WHEREAS, the Portland City Council, pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Land Use Code (the "Code") §§ 14-60 to 14-62, after notice, hearing and due deliberation thereon, has determined that because of the unusual nature and unique location of the proposed development, and its minimal impact on and compatibility with the surrounding community, it is necessary and appropriate to recommend the rezoning of the Property as aforesaid, with the following conditions and restrictions set forth in this AGREEMENT; and

WHEREAS, the Portland City Council has on _____, 2012 approved this Agreement in its entirety, by City Council Order No. _____, a true copy of which is attached hereto as Attachment 1 (the "Order");

NOW, THEREFORE, in consideration of the rezoning, the Developer covenants and agrees as follows:

1. Pursuant to the Order, the City shall amend the Zoning Map of the City of Portland, dated September, 2000 (as amended from time to time and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by § 14-49 of the Code) by adopting the map change amendment shown below to zone the property conditional R-4, subject to the conditions contained below.



Conditional Rezoning from R-4
32 Thomas Street
(Wilfaton West Church building complex)

If this Agreement is not recorded within sixty (60) days after the effective date of the City Council's approval of the Order, then the conditional rezoning shall become null and void and the zoning of the Property shall revert to the pre-existing R-4 zone.

2. Permitted uses: All uses allowed in the R-4 zone.

3. Conditional Uses: in addition to conditional uses allowed in the R-4 zone, the following conditional use is allowed subject to review by the Planning Board:

Professional offices, excluding personal services, retail services and veterinarians, subject to the following limitations:

- a. Professional offices shall be located on the first floor of the parish house and shall occupy no more than 2,800 square feet of floor area.
- b. The total number of individuals working in the professional offices shall not exceed the equivalent of fourteen (14) full-time non-resident employees.

- c. The business utilizing the office space shall be operated by a single tenant office user owned by or affiliated with the owner of the building complex.
 - d. The office use shall not generate frequent daily visitation by clients, customers, or the general public.
 - e. The owner or operator of the business shall secure and provide to its employees one (1) off street parking space for each nonresidential employee.
4. The underlying dimensional requirements of the R-4 zone shall apply and are modified as follows:
- a. Minimum Lot Size for place of assembly and professional office uses combined: 17,500 square feet.
 - b. Minimum Yard Dimensions:
 - 1. Front yard: 3 feet.
 - 2. Rear Yard: 3 feet.
 - 3. Side Yard: 4 feet
 - 4. Side Yard on Side Streets: 8 feet.
 - c. Maximum Lot Coverage: 90%.
 - d. Maximum Structure Height (Sanctuary): 37 feet.
 - e. Maximum Structure Height (Parish House): 46 feet.
 - f. Maximum Structure Height (Bell Tower): 70 feet.
 - g. Maximum Floor Area for Places of Assembly: 6,000 sq. ft.
 - h. Residential dwellings within the existing structures shall be governed by the provisions of Section 14-103(a)(2) of the underlying R-4 zone. Density calculations for residential use shall be based on the lot size of the parcel without land area deductions for other non-residential uses on the site.

5. The use of the sanctuary as a community hall shall be limited as follows:
- a. Occupancy of the sanctuary at any one time shall not exceed 250 people.
 - b. Evening performances at the sanctuary which begin after 6:00 pm shall be held no more than eight (8) days per month. Said limitation shall apply to performances before an audience only and not to rehearsals.
 - c. No events or rehearsals at the sanctuary shall continue past 10:30 on weeknights, and 12:00 midnight on Friday or Saturday evenings or on the eve of a nationally recognized holiday.
 - d. No more than five (5) organizations shall have long term agreements with the Property owner for regular use of the sanctuary at any one time.
 - e. All uses of the sanctuary shall be consistent with the definition of "community hall" as set forth in section 14-47 of the Portland Land Use Code.
 - f. Noise levels generated by music or other activities within the community hall shall be limited to the extent that sound levels shall not exceed 55 dB during the hours of 7:00 AM to 9:00 PM, and 50 dB at all other hours, as measured at the property line utilizing the methodology consistent with the sound measurement specifications of the IL zone.
 - g. The operator of the Community Hall shall not seek or obtain any class of liquor license for the building complex.
 - h. The above listed limitations shall not apply to private events held by the owner of the Property not open to the general public.

6. The Developer shall submit a parking management plan for the community hall during the site plan and conditional use process for review and approval by the Planning Board in a form substantially in accordance with Exhibit B attached hereto as a starting point subject to Planning Board and applicant modification during Site Plan and conditional use Review.

7. Subject to receiving all necessary regulatory approvals, the Developer shall rehabilitate the Property in accordance with the Rehabilitation Schedule, attached hereto as Exhibit C, in keeping with the standards of Article IX, Historic Preservation, of the Portland City Code and as shall be approved by the Historic Preservation Board under the terms of this Article. Such rehabilitation shall commence within six (6) months of [date of enactment] and shall be completed within 24 months of [date of enactment]. Any rehabilitation improvements required by this AGREEMENT not completed or under

binding contract within six months from the issuance of the certificate of occupancy for the office use shall be secured by a performance guarantee in the form of an escrow account, letter of credit, or equivalent surety approved by the Corporation Counsel of the City of Portland, in an amount equal to the estimated cost of completion of such improvements. Such performance guarantee shall be reduced by the City upon completion of improvement phases, but shall not be reduced to less than the estimated cost of any incomplete required improvements. In the event that the owner/developer fails to execute the required improvements by the time specified herein, unless granted an extension in writing from the Planning Authority of the time to complete for good cause and not to exceed an additional twelve (12) months, then the City of Portland or its designee shall have the right to utilize the proceeds of the performance guarantee to hire a competent contractor to complete such improvements. In such event, the owner/developer shall have the right to review and approve the work scope consistency with the required improvements of Exhibit C, the specifications and methods of such work items, and contractor qualifications. Such approval shall not be unreasonably withheld.

8. If any required approval, including the City Council's approval of this conditional rezoning, has been appealed or becomes the subject of litigation, then the required performance time frames contained in this AGREEMENT shall be measured from the final disposition of any such appeal or litigation. Failure, however, to commence the rehabilitation improvements or post the performance guarantee within the timeframes stipulated in this paragraph and/or paragraph 13 shall result in the reversion of the subject property to the underlying R-4 zone and this AGREEMENT shall be null and void.

9. The provisions of this AGREEMENT are intended to replace and/or supersede the associated provisions of the underlying R-4 zone. As stated above, to the extent not otherwise altered herein, the zoning requirements for the R-4 zone shall otherwise apply to the Property.

10. The owner of the Property shall be responsible for ongoing maintenance of the Property, including snowplowing, salting, sanding, sweeping, lighting, trash pickup (at least weekly), mowing, etc.

11. In the event of a breach by the Developer or its successors or assigns of the zoning provisions contained herein (whether the Zoning Administrator, the Zoning Board of Appeals or a court determines such breach), the Planning Board, after notice and hearing, may recommend to the City Council that the conditional zone and this Agreement be amended, or be rescinded, such rescission to result in the termination of this Agreement and a reversion of the Property to the R-4 zone requirements in place before the execution of this Agreement.

12. The above stated restrictions, provisions, and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit the Developer, any entity affiliated with the Developer that takes title to the Property, its successors and assigns, and any party in possession or occupancy of said Property or any part thereof,

and shall inure to the benefit of and be enforceable by the City of Portland, by and through its duly authorized representatives. The Developer shall file a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

13. The Planning Authority shall be notified of any potential and/or pending sale of the Property (which most likely will be evidenced by a Purchase & Sales Agreement or its equivalent), and prior to closing the sale of the Property shall meet with the buyer and verify that he/she/it has read, understood and agrees to be bound by the terms, conditions, limitations and provisions of this AGREEMENT, and said buyer shall so state in a signed affidavit to be kept on file with the Planning Authority.

14. This conditional rezoning agreement shall be enforced pursuant to the land use enforcement provisions of state law including, but not limited to, 30-A MRSA § 4452 and the Portland City Code.

15. If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision and such determination shall not affect the validity of the remaining portions hereof.

16. Except as expressly modified herein, the development shall be governed by and comply with the provisions of the Portland City Code and any applicable amendments thereto or replacement thereof.

WITNESS: _____

32 THOMAS STREET, LLC

BY:

STATE OF MAINE
CUMBERLAND, ss.

_____, 2012

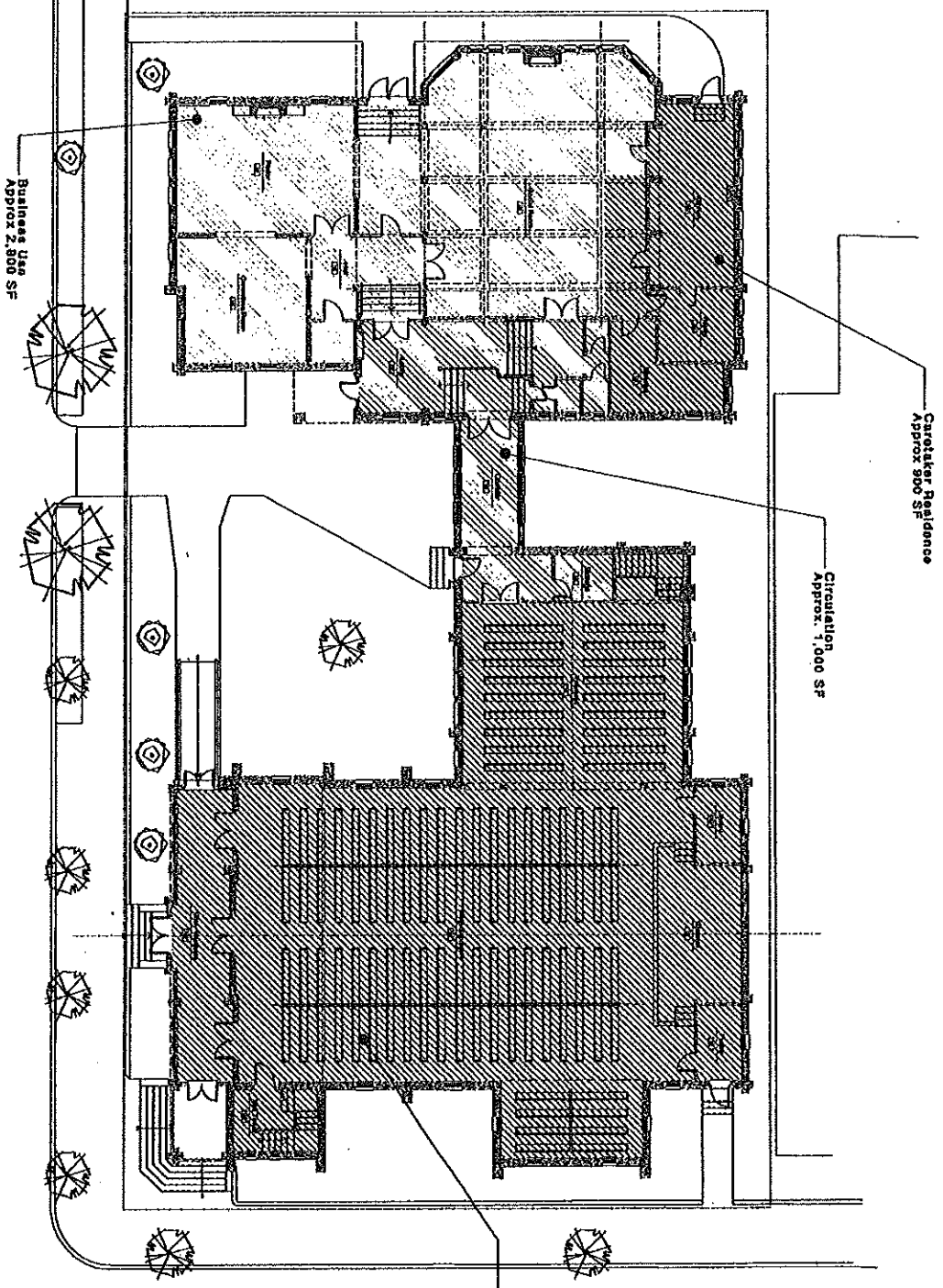
Personally appeared before me the above-named _____, in his/her capacity as _____ of 32 THOMAS STREET, LLC, and acknowledged the foregoing instrument to be his/her free act and deed in his/her said capacity and the free act and deed of said corporation.

Before me,

Notary Public/Attorney at Law

EXHIBIT A
FLOOR PLANS

Williston West LLC
 32 Thomas Street LLC







Caretaker Residence
 Approx 900 SF

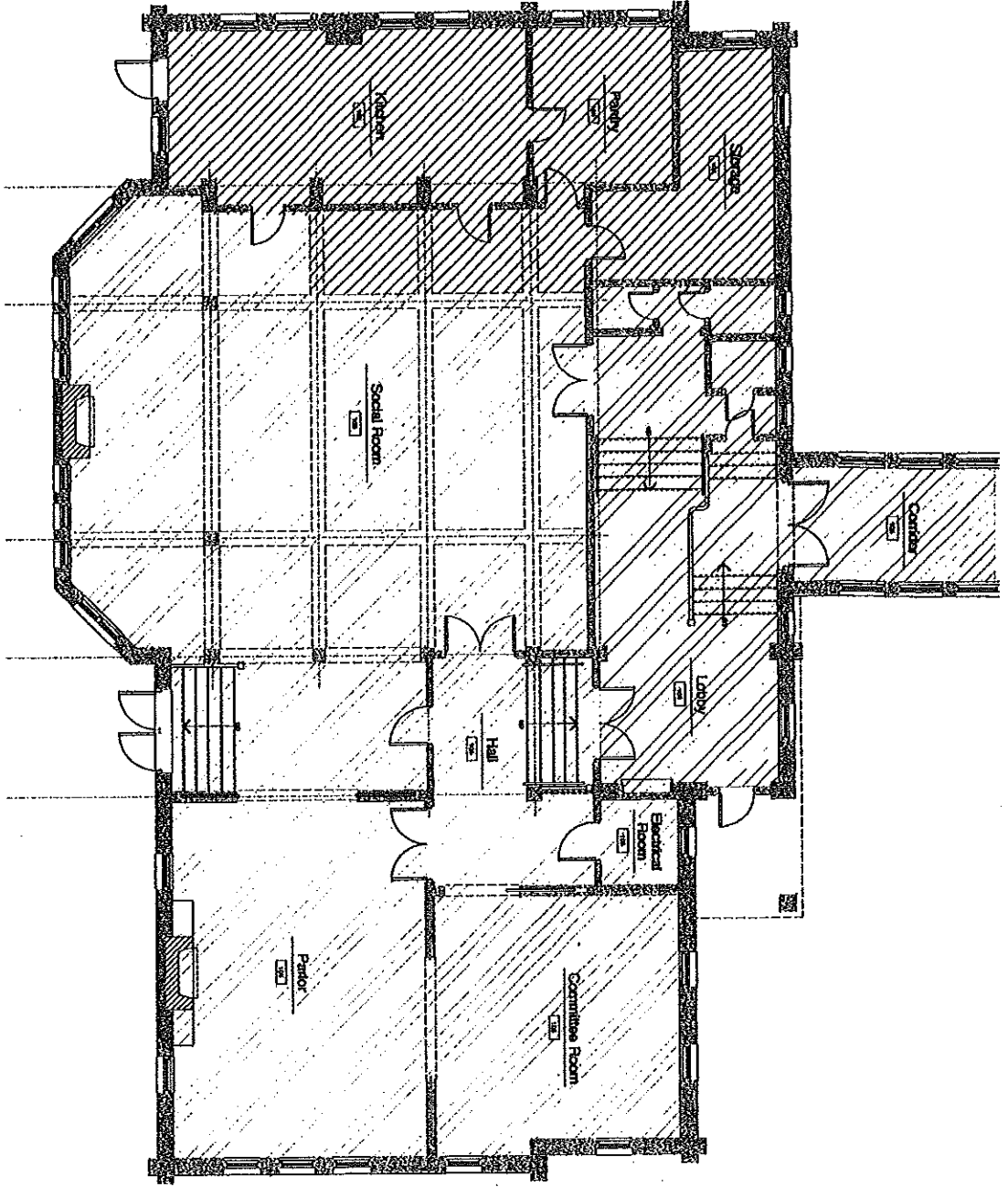
Circulation
 Approx 1,000 SF




Community Hall
 Approx 5,800 SF

Business Use
 Approx 2,800 SF

-  Caretaker Residence
Approx 900 SF
-  Circulation
Approx 1,000 SF
-  Community Hall
Approx 5,800 SF
-  Business Use
Approx 2,800 SF

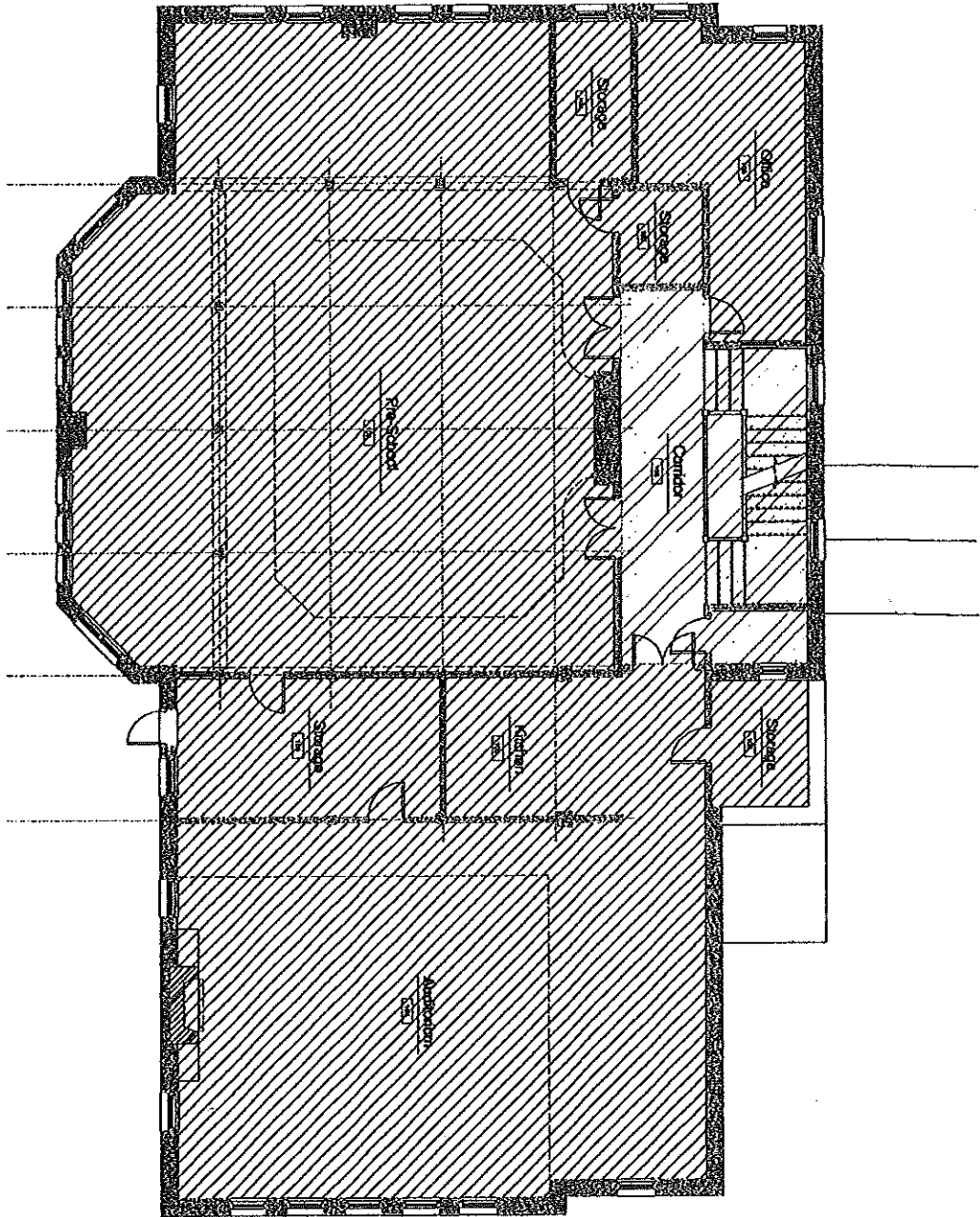
Williston West LLC
 32 Thomas Street
 Williston, ND






-  Caretaker Residence
Approx 900 SF
-  Circulation
Approx. 600 SF
-  Business Use
Approx 2,500 SF

DATE: February 18, 2012
 DRAWN BY: JAC
 CHECKED BY: JAC
 PROJECT: Parish House Ground Floor Plan
 SHEET NO: A102

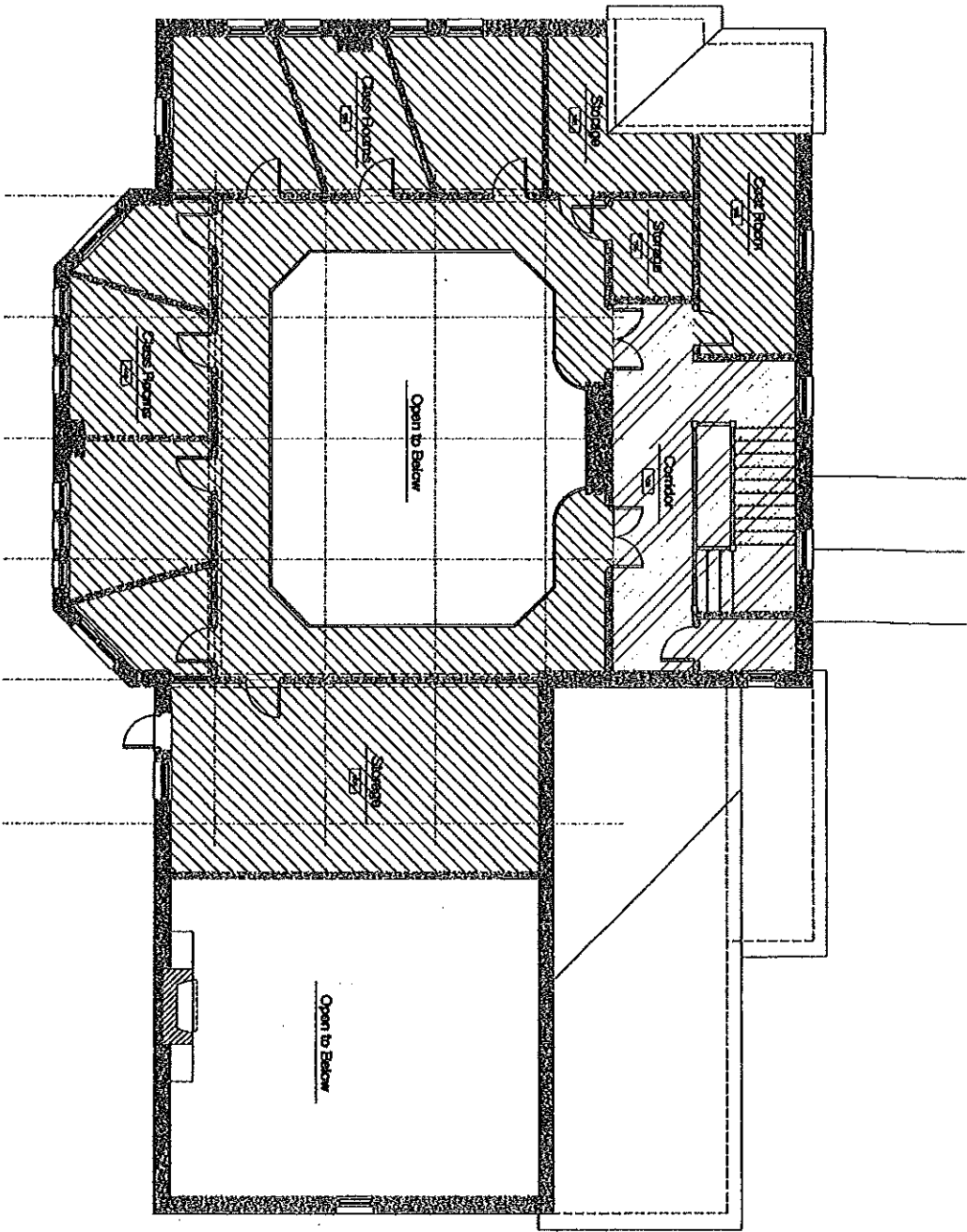
Williston West LLC
 32 Thomas Street LLC
 ...






 Primary Residence
 Approx. 5,500 SF
 Circulation
 Approx. 400 SF
 Business Use
 Approx. 9 SF

Parish House Second
 Floor Plan
 A103

Williston West LLC
 32 Thomas Street LLC
 32 Thomas Street
 Williston, Vermont



 Primary Residence
 Approx 1,300 SF
 Circulation
 Approx 400 SF
 Business Use
 Approx 0 SF

Date: February 16, 2012
 Project: Parish House Third Floor
 Plan: A104
 Scale: 1/4" = 1'-0"
 Drawing No: 2011-004
 Drawing Title: Parish House Third Floor A104

EXHIBIT B

32 THOMAS STREET PARKING MANAGEMENT PLAN

A. Introduction

32 Thomas St., LLC received approval by the City of Portland to operate a community hall in the building formerly used as a sanctuary by Williston-West Church. Said approval limits the community hall use as follows: (1) Occupancy of the sanctuary at any one time shall not exceed 250 people; (2) Evening performances at the sanctuary, which begin after 6:00 pm shall be held no more than eight (8) days per month. Said limitation shall apply to performances before an audience only and not to rehearsals; (3) No events at the sanctuary shall continue past 12:00 midnight on weekends and holidays and 10:30 on weekdays; (4) No more than five (5) organizations shall have long-term agreements with the Property owner for regular use of the sanctuary at any one time; (5) noise levels shall not exceed 55 dB during the hours of 7:00 am to 9:00 pm, and 50 dB at all other hours; (6) the operator of the community hall shall not seek or obtain a liquor license for the Property; and (8) All uses of the sanctuary shall be consistent with the definition of "community hall" as set forth in Section 14-47 of the Portland Land Use Code.

The uses envisioned at the community hall are uses that are consistent with prior uses by the church and uses consistent with the sanctuary space, such as neighborhood meetings, support meetings, choral rehearsal and performances, musical rehearsals and performances, weddings and other similar activities. The number and frequency of activities at the community hall are expected to be less than the level of activity generated by the church. Due to the historic nature of the property and the orientation of the buildings on the property, there is very limited parking available on site, all of which will be used by the residents of the parish house. Therefore, all parking related to the use of the community hall will occur off site, either on the street or in nearby parking lots. 32 Thomas St., LLC is committed to an informational, management and monitoring scheme that is aimed at limiting the impact of community hall parking on the neighborhood as much as possible.

B. Historic Use

Built in 1877, Williston-West Church has served as a resource for community uses, in addition to traditional church services, for many years. For example, support groups, such as Alcoholics Anonymous (AA) held their meetings at the church. AA met on Saturday mornings with a group of approximately 30 - 50 attendees, as well as on Sunday mornings, prior to service, with approximately 100 attendees.

Sunday religious services in the Sanctuary drew an average of 100 people per service, and two services were held each Sunday morning. A separate congregation leased space in the parish house for Sunday services that drew approximately 30 attendees. Most parishioners were from outside of the neighborhood and drove to church on Sundays.