

City of Portland, Maine – Building or Use Permit Application 389 Congress Street, 04101, Tel: (207) 874-8703, FAX: 874-8716

Location of Construction: 233 Western Promenade		Owner: Maine Medical Center		Phone:		Permit No:	
Owner Address:		Lessee/Buyer's Name:		Phone:		BusinessName:	
Contractor Name:		Address:		Phone:			
Past Use:		Proposed Use:		COST OF WORK: \$		PERMIT FEE: \$ 50.00	
				FIRE DEPT. <input type="checkbox"/> Approved <input type="checkbox"/> Denied		INSPECTION: Use Group: Type:	
				Signature:		Signature:	
Proposed Project Description: Interpretation Appeal				PEDESTRIAN ACTIVITIES DISTRICT (P.A.D.) Action: Approved <input type="checkbox"/> Approved with Conditions: <input type="checkbox"/> Denied <input type="checkbox"/> Signature: Date:			
Permit Taken By: Vicki Dover		Date Applied For: 3/10/98					

1. This permit application does not preclude the Applicant(s) from meeting applicable State and Federal rules.
2. Building permits do not include plumbing, septic or electrical work.
3. Building permits are void if work is not started within six (6) months of the date of issuance. False information may invalidate a building permit and stop all work..

Applied for via mail

APPEAL SUSTAINED *3/19/98*

CERTIFICATION

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

SIGNATURE OF APPLICANT ADDRESS: DATE: PHONE:

RESPONSIBLE PERSON IN CHARGE OF WORK, TITLE PHONE:

White-Permit Desk Green-Assessor's Canary-D.P.W. Pink-Public File Ivory Card-Inspector

Zone: R-4		CBL: 63-E-3	
Zoning Approval:			
Special Zone or Reviews:			
<input type="checkbox"/> Shoreland			
<input type="checkbox"/> Wetland			
<input type="checkbox"/> Flood Zone			
<input type="checkbox"/> Subdivision			
<input type="checkbox"/> Site Plan maj <input type="checkbox"/> minor <input type="checkbox"/> mm <input type="checkbox"/>			
Zoning Appeal			
<input type="checkbox"/> Variance			
<input type="checkbox"/> Miscellaneous			
<input type="checkbox"/> Conditional Use			
<input type="checkbox"/> Interpretation			
<input type="checkbox"/> Approved			
<input type="checkbox"/> Denied			
Historic Preservation			
<input type="checkbox"/> Not in District or Landmark			
<input type="checkbox"/> Does Not Require Review			
<input type="checkbox"/> Requires Review			
Action:			
<input type="checkbox"/> Approved			
<input type="checkbox"/> Approved with Conditions			
<input type="checkbox"/> Denied			
Date: _____			
CEO DISTRICT			<div style="border: 1px solid black; width: 40px; height: 40px; margin: 0 auto;"></div>

Zoning Division
Marge Schmuckal
Zoning Administrator



Department of Urban Development
Joseph E. Gray, Jr.
Director

CITY OF PORTLAND

Maine Medical Center
22 Bramhall
Portland, ME 04102
Att: Mike Swan

December 29, 1997

RE: 233 Western Promenade - Chisolm House - 63-E-3 - R-4 zone
112-120 West Street - Thomas House - 63-E-1

Dear Mike,

As we discussed recently by phone, I have reviewed the zoning and use status of the above location as was suggested by the Board of Appeals. The last use that was approved for this property was based on a letter from Reynold R. Welch, Associate Vice President, dated April 24, 1980. In that letter, the principal use was determined to be a school use with accessory rooming facilities. Two major actions have taken place since that permit and interpretation. First, the zoning uses have changed. A school use is no longer an allowable use. Secondly, Maine Med no longer teaches or has classes at that site. However, the rooming facilities still remain.

I have determined that the legal nonconformity of school use was discontinued for more than twelve months. I believe that the accessory use that was dependant upon the previous principal use was also lost at that time. I believe that the use has reverted back to the original use of single family, which is allowed in this zone.

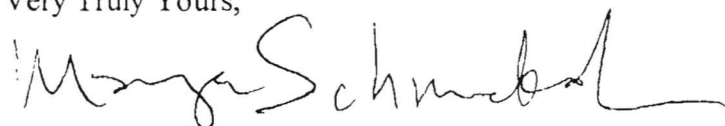
The Zoning Ordinance defines "Dwelling, one-family: A detached building used exclusively for occupancy by on (1) family." The Ordinance goes on to define "Family: Not more than sixteen (16) individuals living together in a dwelling unit as a single nonprofit housekeeping unit. A group occupying a hotel, fraternity house or sorority house shall not be considered as a family. The family may include necessary servants." Section 14-47.

It appears that you may be meeting the criteria for the definition of a single family. However, I will need specific information from you detailing how you meet the requirements of the above definitions. Floor layouts would also be helpful.

I am also awaiting information from you as to the office status that exists at your property located at 112-120 West Street (Thomas House). As was pointed out by the Board of Appeals and agreed by Maine Med, this present use is not allowable in the present zone and it is not grandfathered. You were supposed to inform me as to the time table of its relocation. As of yet, I have not received that information.

I expect a response from the Maine Medical Center concerning these two properties within 30 days or no later than January 30, 1998. If you have any questions regarding this matter, please do not hesitate to call me at 874-8695.

Very Truly Yours,

A handwritten signature in cursive script that reads "Marge Schmuckal". The signature is written in black ink and is positioned above the typed name.

Marge Schmuckal
Zoning Administrator

cc: Joseph Gray, Jr., Dir. Planning & Urban Dev.
Charlie Lane, Corporation Counsel
Ted Laliberty, Maine Med.
Christopher L. Vaniotis, Bernstein, Shur, Sawyer & Nelson, PO Box 9729, Portland, ME
Ruth G. Simonds & Gordon D. Simonds, 104 West Street, Portland, ME 04102

Zoning Division
Marge Schmuckal
Zoning Administrator



Department of Urban Development
Joseph E. Gray, Jr.
Director

CITY OF PORTLAND

Ruth G. Simonds & Gordon D. Simonds
104 West Street
Portland, ME 04102

January 30, 1998

RE: 233 Western Promenade - Chisolm House - 63-E-3 - R-4 zone
112-120 West Street - Thomas House - 63-E-1

Dear Mr. Simonds,

I am in receipt of your letter dated January 6, 1998. My previous letter dated December 29, 1997 had only one actual zoning determination in it. I had determined that the legal nonconformity of the school use at Chisolm House was discontinued for more than twelve months and that the accessory use of rooming facilities was also lost at that time, and that the use has reverted back to the original use of a single family. I have not determined whether the owners are meeting this use. That is why I requested information including floor plans as to what use is presently there. As of the initial composition of this letter, I have not received a response to my letter.

As you are aware of, I have not ignored any of the other illegal uses that have surfaced on Maine Medical Center's properties. The repair garage off Chadwick Street has long been resolved and I consider it to now be a dead issue. The print shop is now relocated from the garage behind Chisolm House. The storm this month delayed its relocation because CMP ceased all new hook-ups during their emergency storm repairs. I did not consider this to be a delaying tactic of Maine Medical Center. I will be confirming that relocation with a walk thru next week.

As I related to you above, I have not received a written response to my letter. However, I have received a Miscellaneous Appeal Application from Christopher L. Vaniotis, Attorney representing Maine Medical Center. I am attaching a copy of what they have submitted so far. I am expecting more information from them. Feel free to visit our office to view their application at any time during office hours.

Very Truly Yours,

Marge Schmuckal
Zoning Administrator

cc: Joseph Gray Jr. Dir. Planning & Urban Dev.
Charlie Lane, Corporation Counsel
Ted Laliberty, Maine Med.
Mike Swan, Maine Med.
Christopher L. Vaniotis, Bernstein, Shur, Sawyer & Nelson, PO Box 9729, Portland, ME
Robert Ganley, City Manager
City Counselors

100 Middle Street, P.O. Box 9729, Portland, Maine 04104-5029
207-774-1200 Fax 207-774-1127
Internet: mainelaw.com

Christopher L. Vaniotis

Internet: cvaniotis@mainelaw.com

January 27, 1998

VIA HAND DELIVERY

Marge Schmuckel, Zoning Administrator
City of Portland
389 Congress Street
Portland, ME 04101-3509

Re: Notice of Appeal, Maine Medical Center, 233 Western Promenade

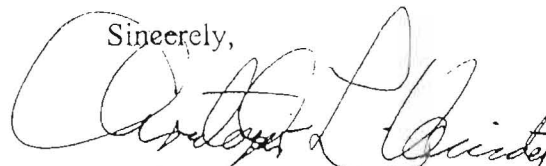
Dear Marge:

Enclosed please find a Notice of Appeal on behalf of Maine Medical-Center and our firm check in the amount of \$50.00 for the filing fee.

According to the meeting schedule for the Board of Appeals, this appeal would be in order for hearing on February 19th. However, because I am going to be out of town on that date, we request that the appeal be scheduled instead for the Board's March 5th meeting. The City's cooperation in that regard would be greatly appreciated.

Please let me know if you have any questions or need anything further.

Sincerely,



Christopher L. Vaniotis

CLV/mm

Enclosures

cc: Donald E. Quigley, Esq.
Charles Lane, Esq.

26978.5

CITY OF PORTLAND, MAINE
BOARD OF APPEALS

MISCELLANEOUS APPEAL APPLICATION

Applicant's name and address: Maine Medical Center
22 Bramhall Street, Portland, ME 04102

Applicant's interest in property (e.g., owner, purchaser, etc.):
Owner of Property

Owner's name and address (if different): _____

Address of property and Assessor's chart, block and lot number:
233 Western Promenade, Portland: No. 63, Blk E, Lot 3

Zone: R-4 Present Use: Housing for students training at Maine Medical Center
Past Use (if different): Same, plus some instruction on premises

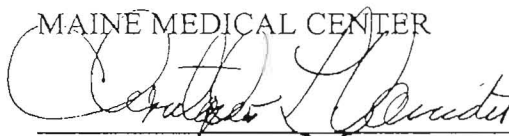
Appeal pertains to: Section 14-381 and 14-387

Basis for Appeal and relief requested: Maine Medical Center (MMC) appeals from the Zoning Administrator's December 29, 1997 determination that the legal nonconforming use of the Chisolm House property was discontinued for more than 12 months. Prior to ordinance changes which made the use nonconforming, the Chisolm House was used for both instructional purposes and student housing. While the instructional activity has been shifted to MMC's new facilities, the student housing use was never discontinued. It remains a component of MMC's teaching and education functions and remains within the scope of the lawful nonconforming use. MMC therefore requests that the ruling of the Zoning Administrator be reversed.

NOTE: If site plan approval is required, attach proposed or final site plan.

The undersigned hereby makes application for an appeal as above described, and certifies that all information herein supplied by him/her is true and correct to the best of his/her knowledge

Date: January 27, 1998

MAINE MEDICAL CENTER

By: Christopher L. Vaniotis,
Its Attorney