



Planning & Urban Development Department

Jeff Levine, AICP, Director
Marge Schmuckal, Zoning Administrator

September 29, 2014

J. Casey McCormack, Esq.
c/o Jensen-Baird Gardner-Henry
Ten Free Street
P.O. Box 4510
Portland, Maine 04112-4510

RE: 223 Western Promenade – 063-E-005 (the "Property") – R-4 Zone with Historic Overlay

Dear Attorney McCormack,

I am in receipt of your request for a determination letter concerning the Property. The Property is located entirely within the R-4 Zone with a Historic Overlay Zone.

Our records indicate that on April 4, 2013 a Conditional Use appeal was granted to change the use of the Property from two dwelling units to four dwelling units. A copy of that appeal decision is attached. Subsequently, the owner applied for a permit to change the use from two dwelling units to three dwelling units (one less than approved by the Zoning Board of Appeals). Recently this office received another permit application to change the three residential dwelling units from rental units to three residential condominium dwelling units. That permit is still pending full approvals at this time.

To the best of my knowledge there are no pending or contemplated legal actions against the Property.

There are no current certificates of occupancy for the three dwelling condominium units because the work is not completed at this time and the permit application for such has not yet been issued.

If you have any further questions regarding this matter, please do not hesitate to contact me at (207) 874-8695.

Very truly yours,

A handwritten signature in black ink that reads "Marge Schmuckal".

Marge Schmuckal
Zoning Administrator
City of Portland, Maine

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

Attendance:
Erik Larsson
Gardy Smith
Sara Mappin
Bill Getz

R-4 Residential Zone Additional Dwelling Units

Conditional Use Appeal

DECISION

Date of public hearing: April 4, 2013

Name and address of applicant: Ford Reiche
100 Middle Road
Cumberland, ME

Location of property under appeal: 223 Western Promenade
Tax Map 063, Block E, Lot 5

For the Record:

Names and addresses of witnesses (proponents, opponents and others):

Ford Reiche, Buyer
John Turk, Architect

Exhibits admitted (e.g. renderings, reports, etc.):

Greater Portland Landmarks letter dated
March 28, 2013

Western Promenade Neighborhood Association
letter dated April 1, 2013

Findings of Fact and Conclusions of Law:

The applicant is seeking conditional use approval to add two dwelling units to the existing two-family building for a total of four dwelling units.

A. Conditional Use Standards pursuant to Portland City Code §14-103(a)(2):

1. No additional dwelling unit shall have fewer than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic.

Satisfied Not Satisfied

Reason and supporting facts:

There are no common ^{hallways or} corridors. Unit 1 is 3475 sq. ft. Unit 2 is 2400 sq. ft. Unit 3 is

2. No open outside stairways or fire escapes above the ground floor shall be or have been constructed in the immediately preceding five (5) years

Satisfied Not Satisfied

Reason and supporting facts:

There ~~are~~ ^{will be and are} no open outside stairways or fire escapes above the ground floor.

1500 sq. ft.
Unit 4 is 1300 sq. ft.

3. The alteration will not result in a total cubic volume increase of more than ten (10) percent within the immediately preceding five (5) years.

Satisfied Not Satisfied

Reason and supporting facts:

The cubic volume will be reduced by this alteration. Property has been vacant for almost 5 years.

4. A lower level dwelling unit shall have a minimum of one-half of its floor-to-ceiling height above the average adjoining ground level.

Satisfied Not Satisfied

All proposed units will have primary living space on ² first floor or above and

square footage calculation

Reason and supporting facts:

see previous page

5. No existing dwelling unit shall be decreased to fewer than one thousand (1,000) square feet of floor area.

Satisfied Not Satisfied

Reason and supporting facts:

Smallest unit is 1300 square feet per plans and testimony.

6. Three thousand (3,000) square feet of land area per dwelling unit shall be required.

Satisfied Not Satisfied

Reason and supporting facts:

Application reflects a total of 14,500 sq. feet, which is more than the 12,000 required.

7. 1. Parking shall be provided as follows: 1 off-street parking space per new unit (14-332(a)(2))

Satisfied Not Satisfied

Reason and supporting facts:

Each unit will have 1 off-street parking space. In any event, there is an exception in the ordinance for parking in this zone. with a new curb ^{shown on plans}

B. Conditional Use Standards pursuant to Portland City Code §14-474(c)(2):

1. There are unique or distinctive characteristics or effects associated with the proposed conditional use.

Yes No

ordinance for parking in this zone.

Reason and supporting facts:

Proposed use is compatible with existing residential neighborhood. Western Prom Neighborhood Association and

2. There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area.

Yes

No

Greater Portland Landmarks ~~are~~ have

Reason and supporting facts:

Per testimony and letters of support, ~~improvements with~~ project will improve vacant, derelict, ~~abandoned~~ ~~property~~ will bring

3. Such impact differs substantially from the impact which would normally occur from such a use in that zone.

Yes

No

provided letters of support. Proposed use is historically compatible.

Fit back into habitable condition.

Reason and supporting facts:

The use of property as 4-unit residential building will be similar to neighboring multi-unit uses per applicant-submitted photographs.

Conclusion: (check one)

Option 1: The Board finds that all of the standards (1 through 7) described in section A above have been satisfied and that not all of the conditions (1 through 3) described in section B above are present, and therefore GRANTS the application.

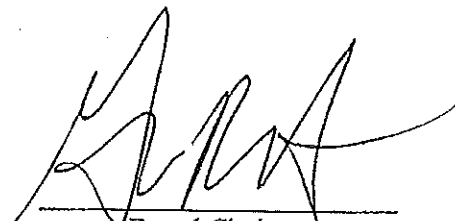
Option 2: The Board finds that all of the standards (1 through 7) described in section A above have been satisfied, and that while not all of the conditions (1 through 3) described in section B above are present, certain additional conditions must be imposed to minimize adverse effects on other property in the neighborhood, and therefore GRANTS the application SUBJECT TO THE FOLLOWING CONDITIONS:

4-0
Vote
in
favor
of
approval

____ Option 3: The Board finds that not all of the standards (1 through 7) described in section A above have been satisfied and/or that all of the conditions (1 through 3) described in section B above are present, and therefore DENIES the application.

Please note that, pursuant to Portland City Code 14-88(a)(2)(i), if approved the project shall be subject to article V (site plan) of this chapter for site plan review and approval.

Dated: 4.4.13



Board Chair

Assessor's Office | 389 Congress Street | Portland, Maine 04101 | Room 115 | (207) 874-8486

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Best viewed at 800x600, with Internet Explorer

CBL	063 E005001
Land Use Type	THREE FAMILY
Verify legal use with Inspections Division	
Property Location	223 WESTERN PROMENADE
Owner Information	223 WESTERN PROM LLC 100 MIDDLE RD CUMBERLAND CENTER ME 04021
Book and Page	30592/334
Legal Description	63-E-5 WESTERN PROMENADE 215-223 PINE ST 201-209 14500 SF
Acres	0.3329

Current Assessed Valuation:

TAX ACCT NO.	10160	OWNER OF RECORD AS OF APRIL 2014
LAND VALUE	\$322,500.00	223 WESTERN PROM LLC
BUILDING VALUE	\$733,500.00	100 MIDDLE RD
NET TAXABLE - REAL ESTATE	\$1,056,000.00	CUMBERLAND CENTER ME 04021
TAX AMOUNT	\$21,120.00	

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

Building Information:

Building 1	
Year Built	1908
Style/Structure Type	MANSION
# Stories	3
# Units	3
Bedrooms	7
Full Baths	5
Half Baths	1
Total Rooms	14
Attic	NONE
Basement	FULL
Square Feet	7541

[View Sketch](#) [View Map](#) [View Picture](#)

Outbuildings/Yard Improvements:

Building 1	
Year Built	1908
Structure	GARAGE-MAS
Size	26X32
Units	1
Grade	A
Condition	G

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

Gordon Smith-chair
Sara Moppin-secretary
William Getz
Mark Dower
Eric Larsson
April 8, 2013

Ford Reiche
100 Middle Road
Cumberland, ME 04021

RE: 223 Western Prom
CBL: 063 E005
ZONE: R-4

Dear Mr. Reiche,

At the April 4, 2013 meeting, the Zoning Board of Appeals voted 4-0 to grant your Conditional Use Appeal to add two dwelling units to the existing two family home. I am enclosing a copy of the Board's decision.

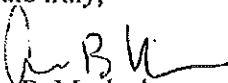
You will also find an invoice for the fees that are still owed for the processing fee, the legal ad and the notices for the appeal. Please submit your payment on receipt of this invoice. Your permit cannot be issued until your payment has been received.

Now that the conditional use appeal has been approved, you need to submit an application to change the use of the property from two residential units to four residential units. I have enclosed the Level I Minor Residential Site Plan application which serves as both a site plan and a building permit application. You have six months from the date of the hearing, April 4, 2013, referenced under section 14-474(f), to obtain the site plan/permit, or your Zoning Board approval will expire. If you have any questions about the site plan section of this application you can talk to Barbara Barhydt in the Planning Division. Her phone number is 874-8699 and her email is bab@portlandmaine.gov.

Appeals from decisions of the Board may be filed in Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

Should you have any questions please feel free to contact me at 207-874-8709.

Yours truly,


Ann B. Machado
Zoning Specialist



CITY OF PORTLAND, MAINE
Department of Building Inspection

Certificate of Occupancy

LOCATION ~~223 Western Promenade~~

Issued to Karl Norberg/Pamela Gleichman

Date of Issue September 9, 1993

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. 92-4104, 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

entire

APPROVED OCCUPANCY

two-family dwelling (one unit in carriage house)

Limiting Conditions:

This certificate supersedes certificate issued

Approved:

9/9/93 *Kalorue*
.....
(Date) *S/B* Inspector

[Signature]
.....
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 lessee for one dollar.

City of Portland, Maine - Building or Use Permit Application

389 Congress Street, 04101 Tel: (207) 874-8703, Fax: (207) 874-8716

Permit No: 2013-01639	Issue Date:	CBL: 063 E005001
--------------------------	-------------	---------------------

Location of Construction: 223 WESTERN PROMENADE	Owner Name: 223 WESTERN PROMENADE LLC C/O FORD REICHE	Owner Address: 100 MIDDLE ROAD CUMBERLAND ME 04021	Phone: (207) 740-6099
Business Name:	Contractor Name: WRIGHT RYAN CONSTRUCTION	Contractor Address: 10 DANFORTH STREET Portland ME 04101	Phone: (207) 773-3625
Lessee/Buyer's Name	Phone:	Permit Type: Change of Use - Commercial	Zone: R4
Past Use: 2 residential dwelling unit	Proposed Use: To change the use from two dwelling units to three dwelling units	Permit Fee: \$5,475.00	Cost of Work: \$538,000.00
Proposed Project Description: To change the use from two dwelling units to three dwelling units		INSPECTION:	
		PEDESTRIAN ACTIVITIES DISTRICT (P.A.D.) Action: <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/Conditions <input type="checkbox"/> Denied Signature: _____ Date: _____	
CEO District: 3			

Permit Taken By: bjs	Date Applied For: 07/30/2013	Zoning Approval	
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<ol style="list-style-type: none"> This permit application does not preclude the Applicant(s) from meeting applicable State and Federal Rules. Building permits do not include plumbing, septic or electrical work. 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.. 	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"/> Date: _____	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 Date: _____	Historic Preservation <input type="checkbox"/> Not in District or Landmark <input type="checkbox"/> Does Not Require Review <input type="checkbox"/> Requires Review <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/Conditions <input type="checkbox"/> Denied Date: _____
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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 provision of the code(s) applicable to such permit.

SIGNATURE OF APPLICANT _____ ADDRESS _____ DATE _____ PHONE _____

RESPONSIBLE PERSON IN CHARGE OF WORK, TITLE _____ DATE _____ PHONE _____

City of Portland, Maine - Building or Use Permit Application

389 Congress Street, 04101 Tel: (207) 874-8703, Fax: (207) 874-8716

Permit No: 2014-02141	Issue Date:	CBL: 063 E005001
--------------------------	-------------	---------------------

Location of Construction: 223 WESTERN PROMENADE	Owner Name: 223 WESTERN PROM LLC	Owner Address: 100 MIDDLE RD CUMBERLAND CENTER, ME 04021	Phone:
Business Name:			
Lessee/Buyer's Name	Phone:	Permit Type: Change of Ownership - Condo Conversi	Zone: R4
Past Use: 3 Residential Units	Proposed Use: 3 Residential Condominiums	Permit Fee: \$450.00	Cost of Work: \$0.00
		CEO District: 3	
Proposed Project Description: Convert 3 residential units to 3 residential condominiums		INSPECTION:	
		PEDESTRIAN ACTIVITIES DISTRICT (P.A.D.)	
		Action: <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/Conditions <input type="checkbox"/> Denied	
		Signature: _____ Date: _____	

Permit Taken By: Idobson	Date Applied For: 09/16/2014	Zoning Approval		
<p>1. This permit application does not preclude the Applicant(s) from meeting applicable State and Federal Rules.</p> <p>2. Building permits do not include plumbing, septic or electrical work.</p> <p>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..</p>	<p>Special Zone or Reviews</p> <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"/> Date: _____	<p>Zoning Appeal</p> <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 Date: _____	<p>Historic Preservation</p> <input type="checkbox"/> Not in District or Landmark <input type="checkbox"/> Does Not Require Review <input type="checkbox"/> Requires Review <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/Conditions <input type="checkbox"/> Denied Date: _____	

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 provision of the code(s) applicable to such permit.

SIGNATURE OF APPLICANT	ADDRESS	DATE	PHONE
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RESPONSIBLE PERSON IN CHARGE OF WORK, TITLE	DATE	PHONE
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Attorneys at Law

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(1918-2003)

YORK COUNTY
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KENNEBUNK, MAINE 04043
(207) 985-1676 (Phone)
(207) 985-4932 (Fax)

September 15, 2014

Ms. Marge Schmuckal
389 Congress St, Room 308
Portland, Maine 04101

RE: 223 Western Promenade Zoning Determination Letter

Dear Ms. Schmuckal:

In anticipation of a closing scheduled for September 30, 2014, we are requesting a zoning and code enforcement determination letter for the following property:

Property Address: 223 Western Promenade
Chart/Block/Lot: 63/E/5
Owner Name: 223 Western Prom, LLC

Pursuant to city policy, we have enclosed a check in the amount of \$150.00 made out to the City of Portland for the determination letter request.

Very truly yours,

J. Casey McCormack, Esq.

Assessor's Office | 389 Congress Street | Portland, Maine 04101 | Room 115 | (207) 874-8486

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Best viewed at 800x600, with Internet Explorer

CBL	063 E005001
Land Use Type	THREE FAMILY
Verify legal use with Inspections Division	
Property Location	223 WESTERN PROMENADE
Owner Information	223 WESTERN PROM LLC 100 MIDDLE RD CUMBERLAND CENTER ME 04021
Book and Page	30592/334
Legal Description	63-E-5 WESTERN PROMENADE 215-223 PINE ST 201-209 14500 SF
Acres	0.3329

Current Assessed Valuation:

TAX ACCT NO.	10160	OWNER OF RECORD AS OF APRIL 2014
LAND VALUE	\$322,500.00	223 WESTERN PROM LLC
BUILDING VALUE	\$733,500.00	100 MIDDLE RD
NET TAXABLE - REAL ESTATE	\$1,056,000.00	CUMBERLAND CENTER ME 04021
TAX AMOUNT	\$21,120.00	

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

Building Information:

Building 1

Year Built	1908
Style/Structure Type	MANSSION
# Stories	3
# Units	3
Bedrooms	7
Full Baths	5
Half Baths	1
Total Rooms	14
Attic	NONE
Basement	FULL
Square Feet	7541

[View Sketch](#) [View Map](#) [View Picture](#)

Outbuildings/Yard Improvements:

Building 1

Year Built	1908
Structure	GARAGE-MAS
Size	26X32
Units	1
Grade	A
Condition	G

Sales Information:

Marge Schmuckal - Re: ZDLR - 223 Western Promenade

From: Marge Schmuckal
To: Casey McCormack
Date: 9/22/2014 9:25 AM
Subject: Re: ZDLR - 223 Western Promenade

It takes 10 working days at a minimum for a determination letter.
Marge

>>> Casey McCormack <cmccormack@JBGH.com> 9/19/2014 4:43 PM >>>
Marge,

I hope this e-mail finds you well!

We submitted a zoning determination letter request on September 17, 2014. I know you hear this often – so I apologize in advance – but we have a closing scheduled for September 30, 2014, so I just wanted to highlight the time sensitivity.

I have attached the request in its entirety to this e-mail. If you need anything else, please just let me know.

Thanks!

Casey

J. Casey McCormack, Esq.

Jensen Baird Gardner & Henry
Ten Free Street | PO Box 4510
Portland, ME 04112-4510

Office: (207) 775-7271 x 5913 | Fax: (207) 775-7935

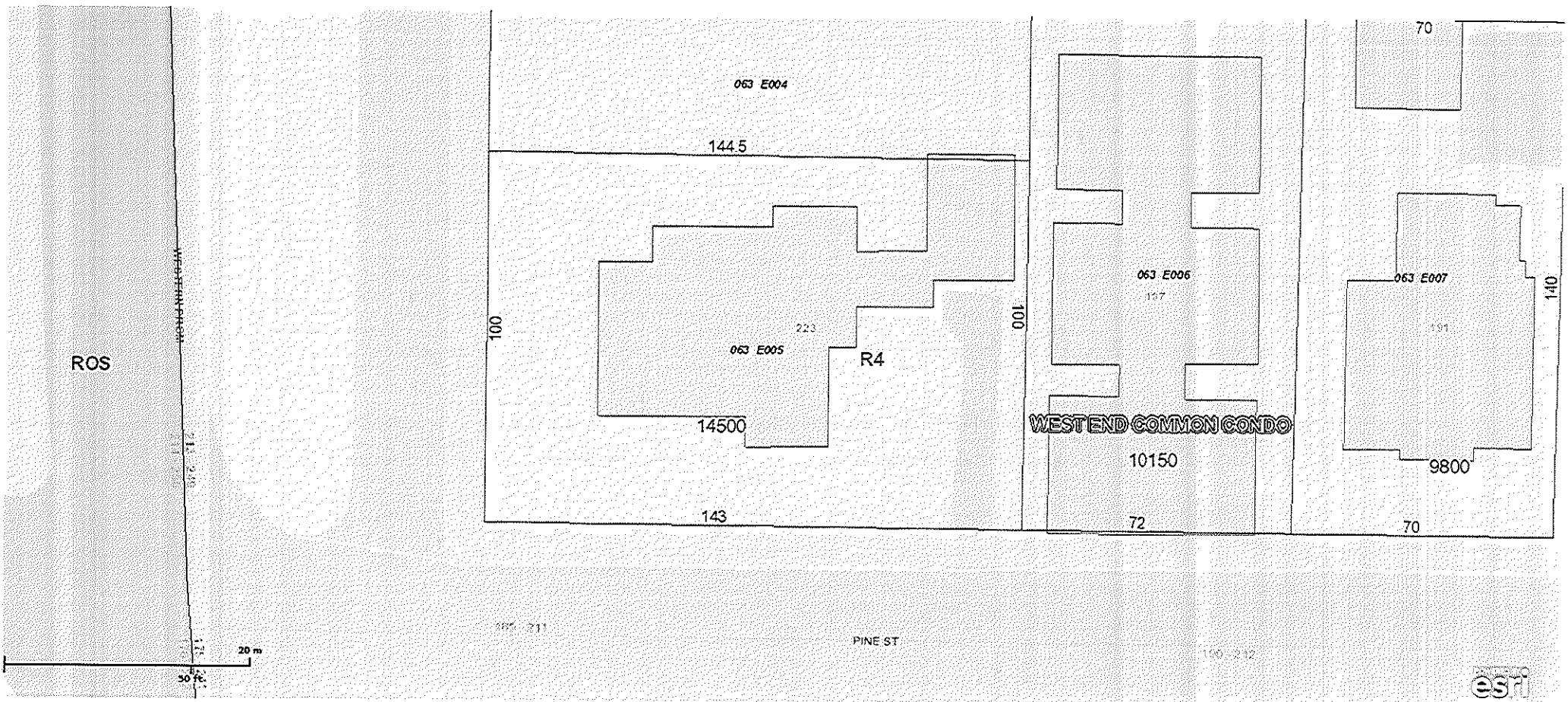
Direct: (207) 518-5913 | Toll Free: (800) 756-1166

cmccormack@JBGH.com | www.JBGH.com

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IRS Notice: United States Treasury Regulations require us to inform you that any tax advice contained in this communication and any attachment or enclosure is not intended or written by us to be used, and cannot be used, by any taxpayer for the purpose of avoiding tax penalties.

223 Western Prom



CITY OF PORTLAND
DEPARTMENT OF PLANNING & URBAN DEVELOPMENT
 389 Congress Street
 Portland, Maine 04101

INVOICE OF FEES

Application No: 0000-2045	Applicant:
Project Name: 223 WESTERN PROMENADE	Location: 223 WESTERN PROMENADE
CBL: 063 E005001	Application Type: Determination Letter
Invoice Date: 09/17/2014	

Previous Balance	-	Payment Received	+	Current Fees	-	Current Payment	=	Total Due		Payment Due Date
\$0.00		\$0.00		\$150.00		\$150.00		\$0.00		On Receipt

Previous Balance	\$0.00
-------------------------	---------------

Fee Description	Qty	Fee/Deposit Charge
Zoning Determinations	1	\$150.00
		\$150.00
	Total Current Fees:	+ \$150.00
	Total Current Payments:	- \$150.00
	Amount Due Now:	\$0.00

CBL 063 E005001
Bill To:
 Portland, ME

Application No: 0000-2045
Invoice Date: 09/17/2014
Invoice No: 46612
Total Amt Due: \$0.00
Payment Amount: \$150.00

Make checks payable to the *City of Portland*, ATTN: Inspections, 3rd Floor, 389 Congress Street, Portland, ME 04101.
 Check the status of your permit or schedule an inspection on-line at <http://www.portlandmaine.gov/792/Permit-Status>
[Click Here to Pay On Line](#)