

**MEMORANDUM**  
**City Council Agenda Item**

**TO:** Sonia Bean, Senior Administrative Assistant  
**FROM:** Alexander Jaegerman, Planning Division Director  
**DATE:** August 27, 2013

**DISTRIBUTION:** Mark Rees, City Manager  
Mayor Brennan  
Danielle West-Chuhta, Corporation Counsel  
Terry Tucker, Administrative Assistant

**SUBJECT:** City Council Order approving Dinosaur Enterprise, LTD. Conditional Zone for a Fuel Distribution Service on Great Diamond Island

**SPONSOR:** Carol Morrissette, Chair of the Planning Board

**CITY COUNCIL MEETING DATE ACTION IS REQUESTED:**

1<sup>st</sup> reading: September 16, 2013 Final action: October 7, 2013

Can action be taken at a later date:  X  YES        NO

**PRESENTATION:**

Carol Morrissette, Chair of the Planning Board, overview of Planning Board recommendation.

Planning Staff presentation as necessary.

Applicant represented by Attorney Ron Ward.

**I. SUMMARY OF ISSUE (Agenda Description)**

The Planning Board is forwarding a positive recommendation to create a conditional zone for a fuel distribution business by Dinosaur Enterprises LTD. on Great Diamond Island. The Planning Board at a public hearing on July 9, 2013 voted to recommend approval of the conditional zone. The conditional zone is intended to allow continuation of a fuel distribution service on Great Diamond Island in a residential zone on a site that Dinosaur Enterprises has been operating on since 1988. Business related activities allowed under the conditional zone are limited to the fuel distribution service.

Dinosaur provides gasoline and heating oil for Great Diamond Island residents and is the only source of fuel on the island. Fuel distribution uses are not listed as permitted uses in island residential zones. The City has given notice to the property owner of this zoning violation and has required this issue be resolved by moving the operations to an appropriately zoned site or seeking a zoning amendment to allow the use at the Sunset Avenue site. Approval of the conditional zone resolves this issue.

## **II. REASON FOR SUBMISSION (Summary of Issue/Background)**

Dinosaur Enterprises sought the conditional zoning to resolve a zoning issue associated with the operation of their fuel distribution business in a residential zone on Great Diamond Island. Fuel distribution is not a permitted use in island residential zones (IR-2). The City had previously given notice to Dinosaur of this zoning violation and has required this issue be resolved by moving the operations to an appropriately zoned site or seek a zoning amendment to allow the use at the Dinosaur site, thus the reason for the rezoning application.

Dinosaur is the only source of fuel on the island for vehicles and home heating. The Dinosaur fuel distribution site at 118 Sunset Avenue includes a single family residence, two fuel trucks (2,400 and 3,000 gallon capacity) and a pick-up truck (with a mounted fuel tank) parked on the property.

## **III. INTENDED RESULT**

The intent of the conditional zoning amendment is to allow the continuation of the Dinosaur Enterprises fuel distribution services at the Sunset Avenue site on Great Diamond Island. Fuel distribution services are not a permitted use in a residential zone so passage of the conditional zone resolves an existing zoning violation.

The City had previously given notice to the property owner of this zoning violation and has required this issue be resolved by moving the operations to an appropriately zoned site or seeking a zoning amendment to allow the use at the Dinosaur site. The recommended conditional zoning amendment addresses this issue.

## **IV. COUNCIL GOAL OBJECTIVE**

This amendment addresses a long standing city concern of resolving this zoning issue.

## **V. FINANCIAL IMPACT**

There are no known negative municipal financial impacts associated with this use.

## **VI. STAFF ANALYSIS**

Dinosaur is the only source of fuel on the island for vehicles and home heating. The applicant is proposing a conditional zone on a property that has been used for fuel distribution in some form since 1988 although not sanctioned under present and past zoning. This amendment resolves that zoning issue while limiting business activities on the site to fuel distribution related services.

## **VII. RECOMMENDATION**

The Planning Board at a public hearing on July 9, 2013 voted to recommend to the City Council approval of the proposed Dinosaur conditional zone. The conditional zone allows continuation of the existing fuel distribution service.

## **VIII. LIST ATTACHMENTS**

**Council Order**

## Planning Board Report

Prepared by:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

MICHAEL F. BRENNAN (MAYOR)  
KEVIN J. DONOGHUE (1)  
DAVID A. MARSHALL (2)  
EDWARD J. SUSLOVIC (3)  
CHERYL A. LEEMAN (4)

**CITY OF PORTLAND  
IN THE CITY COUNCIL**

JOHN R. COYNE (5)  
JOHN M. ANTON (A/L)  
JILL C. DUSON (A/L)  
NICHOLAS M. MAVODONES (A/L)

**AMENDMENT TO CITY CODE  
SEC. 14-49 (ZONING MAP AMENDMENT)  
RE: CONDITIONAL REZONING FOR DINOSAUR ENTERPRISES LTD**

**ORDERED**, that the Zoning Map of the City of Portland, dated December 2000 as amended and on file in the Department of Planning & Development, and incorporated by reference into the Zoning Ordinance by Sec. 14-49 of the Portland City Code, is hereby amended to reflect a conditional rezoning as detailed below:

**CONDITIONAL ZONE AGREEMENT  
RE:  
DINOSAUR ENTERPRISES LTD**

AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by DINOSAUR ENTERPRISES LTD, a Maine corporation with a place of business in Portland, Maine (“Applicant”), and its successors and assigns and Elizabeth A. Weber (“Owner”), the owner of the property where the Applicant operates its fuel business.

**W I T N E S S E T H**

WHEREAS, the Applicant operates its business on land owned by (“Owner”) containing approximately 21,643 square feet and shown on the Portland Tax Map as 83A, Block K, Lots 5 and 10, and more particularly described in that warranty deed recorded in Book 10389, Page 179 (the “Property”); and

WHEREAS, the Applicant and its president, Ted Weber, have been continuously delivering and dispensing fuel products from the Property since 1988; and

WHEREAS, there are no structures on the Property dedicated to the fuel delivery business, and the only equipment relating thereto are two fuel delivery trucks and a DOT-approved mobile gasoline tank and pump mounted on Applicant’s truck, which move on and off the Property; and

WHEREAS, the current zoning of the Dinosaur site is IR-2 ; and

WHEREAS, the current zoning does not textually permit the parking of two fuel delivery trucks or the sale or dispensing of fuel products from the Property; and

WHEREAS, Dinosaur provides an essential utility service and serves a verifiable need for the neighbors, City, residents and guests on Great Diamond Island; and

WHEREAS, Dinosaur has operated from the Property since 1988; and

WHEREAS, Dinosaur's business is fully insured;

WHEREAS, the Applicant has requested a rezoning of the Property in order to permit the long-standing and limited business use of the Property; and

WHEREAS, the Portland Planning Board has determined this rezoning meets an essential need for the Great Diamond Island and the customers of the Applicant, and is consistent with the Comprehensive Plan; and

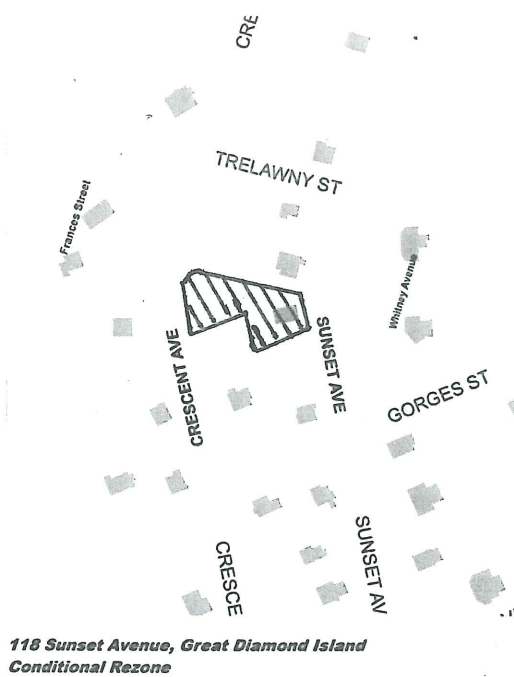
WHEREAS, the Planning Board, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however to certain conditions contained in this Agreement; and

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 existing and unique location of the proposal, its consistency with the Comprehensive Plan 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 \_\_\_\_\_, 2013 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 Applicant and Owner covenant and agree 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 I-R2, subject to the conditions contained below.



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 IR-1 and IR-2 zones.

2. Permitted uses:

- a. All of the permitted uses allowed in the IR-2 zone; and
- b. Parking on the Property of two (2) fuel trucks and one (1) truck fitted with a DOT-approved mobile gasoline tank and pump or such fixed tank as may be permitted by the State Fire Marshal in the Applicant's fuel business; and
- c. Dispensing and sale of fuel from the Property.

3. The conditions of this Rezoning shall be:

- a. This rezoning shall terminate if the Applicant or its successor discontinues the fuel business operation for at least twelve (12) consecutive months.
- b. The rezoning shall terminate at any time the Applicant's business is permanently moved off the Property.
- c. The business of the Applicant on the Property shall be limited to the current use of the Property (i.e. the parking of two(2) fuel trucks and a truck fitted with a DOT-approved mobile gasoline tank and pump or such fixed tank as may be permitted by the State Fire Marshal for the Applicant's fuel business), both in type and scope, such that impacts upon surrounding properties, if any, shall not be expanded.

4. All equipment including, but not limited to the two (2) fuel trucks and a vehicle equipped with approved mobile gasoline tank and pump shall be located/stored on the Property not within the abutting street or other property. In addition, all dispensing of fuel shall be performed on the Property except for fuel truck deliveries to customer properties.

5. The Applicant shall obtain and submit documentation to the City of all necessary City (including, if necessary, site plan approval), State (including, but not limited to, State Fire Marshal's approval) and Federal approvals, licenses and/or permits necessary to address the operation of its fuel business on the Property including, but not limited to, fuel storage and dispensing operations on the Property. Such documentation shall also include all submitted applications to these agencies. In addition, an Oil Spill Prevention, Control and Countermeasure (SPCC) Plan, including all revisions and/or amendments, shall be submitted to the City for review and approval by the Planning Authority. A copy of all SPCC Plan inspection and testing records shall also be made available to the Planning Authority upon request.

6. In the event of a breach by the Applicant, Owner or their 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 IR-2 zone requirements in place before the execution of this Agreement.

7. The above stated restrictions, provisions, and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit the Applicant and Owner, any entity affiliated with the Applicant and Owner, 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 Applicant or Owner shall record a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

8. This Conditional Rezoning Agreement may be enforced by the City pursuant to the land use enforcement provisions of state law including, but not limited to, 30-A M.R.S.A. § 4452 and the Portland City Code.

9. 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.

10. 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:

DINOSAUR ENTERPRISES, LTD.

\_\_\_\_\_

By: \_\_\_\_\_  
William E. Weber, President

WITNESS:

\_\_\_\_\_

By: \_\_\_\_\_  
Elizabeth A. Weber, Owner



STATE OF MAINE  
CUMBERLAND, ss.

\_\_\_\_\_, 2012

Personally appeared before me the above-named William E. Weber, in his capacity as President of DINOSAUR ENTERPRISES LTD, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said corporation.

Before me,

\_\_\_\_\_  
Notary Public/Attorney-at-Law

STATE OF MAINE  
CUMBERLAND, ss.

\_\_\_\_\_, 2012

Personally appeared before me the above-named Elizabeth A. Weber, in her capacity as Owner of the Property, and acknowledged the foregoing instrument to be her free act and deed in her said capacity.

Before me,

\_\_\_\_\_  
Notary Public/Attorney-at-Law



**Memorandum  
Planning and Urban Development Department  
Planning Division**

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**To:** Mayor Brennan and Members of the Portland City Council

**From:** Alexander Jaegerman, Director of Planning Division

**Date:** August 29, 2013

**Re:** Dinosaur Enterprise, LTD. Conditional Zone for a Fuel Distribution Service; Sunset Avenue; Great Diamond Island

**Project #:** #2012-576 CBL: 83A-K-5-10

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**I. Introduction**

The Planning Board is forwarding a positive recommendation to create a conditional zone for a fuel distribution service by Dinosaur Enterprises Ltd. on Great Diamond Island. The applicant is requesting a conditional zone to allow this use in a residential zone. The Planning Board at a public hearing on July 9, 2013 voted 4 to 0 (Boepple, Dundon and O'Brien absent) to approve the proposed conditional zone. Dinosaur provides gasoline and home heating oil for Great Diamond Island residents and is the only source of fuel on the island. Business related activities allowed under the conditional zone are limited to the fuel distribution use.

Attachments 1-A and 1-B include a map of the island and the Planning Board's recommended version of the conditional zone text. The application, background info and site photos are shown on Attachments 2-A and 2-B.

An index of this memo is shown below:

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## II. Findings

**Existing Zoning:** IR-2 residential zone  
**Proposed Zoning:** Conditional zone to allow an existing fuel distribution business  
**Proposed Use:** Fuel distribution service  
**Lot Area:** 21,643 sq. ft.  
**Lot Address:** 118 Sunset Avenue  
**Assessors C-B-L:** 83A-K-5-10

**Site:** The site is located within the southerly or village area of Great Diamond Island in a residential area with lot frontage on Sunset Avenue and Crescent Street. The site is a short walk from the public ferry landing and is south of the Diamond Cove property.

The site consists of a single family residence on the Sunset Avenue side of the property and equipment associated with the fuel distribution business including two fuel trucks parked in a driveway on the Crescent Street side of the property and a 110 gallon gas tank mounted on a pick-up truck. The truck mounted tank recently replaced a 300 gallon tank mounted on a trailer.

The Crescent Street frontage of the property is about 100 feet from the 250 foot wide shoreland zone or about 350 feet from the shoreline edge. The property slopes down from Sunset Avenue to Crescent Street where the grade declines further to the shore.

## III. Background

The proposed zone change is intended to allow the continuation of a fuel distribution service on Great Diamond Island in a residential zone that Ted Weber (Dinosaur Enterprises) has been operating on the site since 1988. Dinosaur provides gasoline and heating oil to Great Diamond Island residents and is the only source of fuel on the island. Fuel distribution uses are not listed as a permitted use in the IR-2 zone. The City has given notice to the property owner of this zoning violation and has required this issue be resolved by moving the operations to an appropriately zoned site or seeking a zoning amendment to allow the use at the Sunset Avenue site, thus the reason for the rezoning application.

Dinosaur provides fuel services to island residents from the Sunset Avenue site. These services are provided primarily from two fuel trucks (2,400 and 3,000 gallon capacity) and a gasoline tank (110 gallon) mounted on a pick-up truck that recently replaced a 300 gallon tank mounted on a trailer. Heating oil, kerosene and gasoline/diesel are the primary products sold by Dinosaur,

provided through oil truck deliveries, or dispensing gasoline from a tank mounted on a pick-up truck on the property.

Dinosaur does not maintain regular business hours and is more active during the summer months when more people are on the island. The logistics of providing fuel to an island are challenging and while Great Diamond has a limited number of cars and trucks, fuel service is needed to run these vehicles as well as to heat homes. The applicant indicates that similar fuel services have been provided on the island since World War II “without significant incident”. The Dinosaur zone change application states: *“This letter will serve as the formal application.... to allow the continuation of the current fuel distribution services from the Sunset Avenue site, conditioned as outlined below. The discussion with this operation has actually continued for years, and most recently included discussions with the Diamond Island Association (“DIA”) regarding the “DPW Site” [Public Services site] on land licensed by DIA to the City of Portland. Those discussions, for a number of reasons, never reached the point of agreement and Dinosaur has since continued the attempt to reach a mutually agreeable resolution.”*

Later it states: *“Dinosaur was formally challenged by the City regarding this family operation on December 21, 2011 when the earlier proposal to move the Dinosaur business to the DPW site, licensed to the City by DIA, collapsed. Several reasons for the collapse were referenced but the primary reason is that the City and DIA could not find common ground on the detail. With respect to Dinosaur, those negotiations were initiated by an earlier challenge to our right to continue our long-standing business because of the City’s zoning regulations.”*

The issue of an alternative site for Dinosaur was discussed in particular, the Diamond Island Association (DIA) property on which Public Services through a license agreement with DIA has a parking area for trucks and equipment. A site plan had been commissioned by the City to accommodate Public Services needs as well as space for a fuel distribution business. A move to this location would cluster similar types of uses and activities in one area of the island away from the developed village area of the island. Factors cited by the applicant as obstacles to such a relocation include the lack of a long term lease from DIA, the cost of upgrading the site for a fuel distribution business and vandalism. It was disclosed during the review process that after collapse of discussions with DIA and the City regarding moving Dinosaur to the Public Services site, the DIA Board subsequently passed a motion at their June 24, 2012 meeting stating that *“the Diamond Island Association will support the conditional zoning of the DPW site in order to locate and be limited to a fuel distribution business”*. See Attachment 1-D. While the DIA site represented a potential site for Dinosaur, the specific rezoning application before the Planning Board was the Sunset Avenue site.

The original application indicated that Dinosaur would like an agreement that would include the following conditions.

The terms of this agreement terminate if Dinosaur or the immediate Weber family discontinue the operation for at least 12 months.

The term of this Agreement terminate if Dinosaur or the immediate Weber family transfer the business or assets of the current business to unrelated third parties.

The term of this agreement terminate at any time the current business is transferred off the current Sunset/Crescent Avenue location.

The business of Dinosaur be limited to the current uses, both in type and scope, such that impacts on surrounding properties, if any, not be expanded.

The Planning Board recommendation is shown in section IV below.

#### **IV. Planning Board Recommended Conditional Zoning Agreement**

The Planning Board recommended zoning text is shown starting on Attachment 1-B. Key provisions of the agreement are highlighted below which are also found on Attachment 1-B-3.

##### **(2) Permitted uses**

- a. All of the permitted uses allowed in the IR-2 zone
- b. Parking on the property of two (2) fuel trucks and one (1) truck fitted with a DOT-approved mobile gasoline tank and pump or such fixed tank as may be permitted by the State Fire Marshal in the Applicant's fuel business;
- c. Dispensing and sale of fuel from the property.

##### **(3) The conditions of this rezoning shall be:**

- a. This rezoning shall terminate if the Applicant or ~~the immediate Weber family~~ its successor discontinue the fuel business operation for at least twelve (12) consecutive months.
- b. ~~The rezoning shall terminate if the Applicant or the immediate Weber family transfer the business or assets of the current business to unrelated third properties.~~
- c. The rezoning shall terminate at any time the Applicant's business is permanently moved off the property.
- d. The business of the Applicant on the Property shall be limited to the current use of the Property (ie. the parking of two (2) fuel trucks and a truck fitted with a DOT-approved mobile gasoline tank and pump or such fixed tank as may be permitted by the State Fire Marshal for the Applicant's fuel business), both in type and scope, such that impacts upon surrounding properties, if any, shall not be expanded.

*Note: Section 3 above (paragraphs a and b) as originally proposed by the applicant included a sunset provision terminating the rezoning if the applicant or immediate family members transferred the business or assets to unrelated third parties. A sunset provision was considered given the particular circumstances of this conditional rezoning such as less than optimal location of the fuel service facility and a potential future site elsewhere on the island. The Planning Board felt however that zoning should be based on the land not the people or personalities that occupy the land. The Planning Board's recommendation therefore modified paragraph a and eliminated paragraph b.*

(4) All equipment including, but not limited to the two (2) fuel trucks and a vehicle equipped with approved mobile gasoline tank and pump shall be located/stored on the Property not within the abutting street or other property. In addition, all dispensing of fuel shall be performed on the Property except for fuel truck deliveries to customer properties.

(5) The Applicant shall obtain and submit documentation to the City of all necessary City (including, if necessary, site plan approval), State (including, but not limited to, State Fire Marshal's approval) and Federal approvals, licenses and/or permits necessary to address the operation of its fuel business on the Property including, but not limited to, fuel storage and dispensing operations on the Property. Such documentation shall also include all submitted applications to these agencies. In addition, an Oil Spill Prevention, Control and Countermeasure (SPCC) Plan, including all revisions and/or amendments, shall be submitted to the City for review and approval by the Planning Authority.

## **V. Federal/State/Local Fuel Distribution Regulations**

The original application indicated the fuel distribution use consisted of two fuel delivery trucks and a small fuel tank on a trailer. The applicant recently indicated that the fuel truck trailer has been replaced with a code compliant tank mounted to a pick-up. Home fuel deliveries presumably take place off-site while gasoline is dispensed on the site as vehicles or equipment drive-up for refueling. While the scale of this operation is smaller than typical mainland operations, basic procedures and methodologies need to be documented given the type of material handled and stored on the site.

Karen Townsend of Woodard and Curran outlined potential local, state and federal regulations that apply to a fuel dispensing operation based on the original proposal. (See summary below and Attachment 1-B.) Information on such permits was not submitted as part of the original application. The applicant should provide documentation on the status of permits they have obtained, applicability of other permits and if additional permits are required, the time frame for obtaining such permits. Paragraph (5) above requires documentation of applicable permits.

Summary of comments from Woodard and Curran are shown below. Staff has subsequently updated this information.

### **Federal Regulations**

Federal regulations require facilities prepare and implement an Oil Spill Prevention, Control and Countermeasure (SPCC) Plan. A mobile refueler (oil truck) is only required to meet the general secondary containment provisions of the rule, which may consist of passive or active containment methods. Passive containment would include dikes, berms, and diversionary structures, and active containment could include the use of absorbent booms, or drip pans. A bulk storage container must be equipped with sized secondary containment.

Dinosaur did not have a SPCC plan at the time of the initial Planning Board workshop but they subsequently commissioned St. German Collins Environmental Consultants to develop such a plan. The submitted SPCC plan (dated October 2012) is on file in the Planning Office. Note that paragraph 5 above requires Planning Staff review and approval of the SPCC.

### **State of Maine Regulations: State Fire Marshal and State Police**

The State Fire Marshal Office regulates above-ground tanks with a capacity of 60 or more gallons that store flammable or combustible liquids. Since the original gasoline tank was used to store and dispense motor fuels it was assumed it would be subject to NFPA 30A Motor Fuel Dispensing Facilities and Repair Garages, which requires secondary containment.

Staff has recently spoken to Stephen Dixon of the State Fire Marshal Office who is the staff person responsible for regulating aboveground tanks. He confirmed there are two types of above ground storage tanks “permanent” or “mobile”. The Dinosaur’s original gas tank trailer falls outside the permanent category since it has wheels. A permanent tank has significantly more requirements than a mobile storage tank.

The applicant has recently changed from 300 gallon fuel tank mounted on a trailer to a new 110 gallon tank mounted on a pick-up. Apparently the original fuel tank was not compliant for mobile application but the new one appears to be DOT certified according to the manufacturer’s web site (JNG Ellsworth).

With the change to a fuel tank mounted on a pick-up truck, the tank is clearly classified as mobile. NFPA 385 (Standard for Tank Vehicles for Flammable and Combustible Liquids) would presumably apply. According to Mr. Dixon no special permit is required from the State Fire Marshal for a mobile tank (however the tank would need to meet

NFPA 385) although such vehicles are generally regulated by the Commercial Vehicle Enforcement Division of the Maine State Police.

Staff did speak with Dan Russell of the Commercial Vehicle Enforcement Division who indicated that a typical pick-up would not have any special permits beyond an annual state vehicle inspection. (Commercial vehicles may not take advantage of the island state inspection exemption for passenger cars). The two larger fuel trucks require an annual commercial truck state inspection which would include NFPA considerations. It is our understanding that a Commercial Vehicle Enforcement Division representative recently went to Great Diamond Island to inspect the Dinosaur vehicles. This resulted in one of the fuel trucks being taken out of service with the remaining vehicles required to have a formal commercial vehicle inspection on the main land.

#### **City of Portland**

The City of Portland issues permits for flammable and combustible liquids in accordance with the Fire Prevention Ordinance. Dinosaur did submit an Application for the Storage, Use or Handling of Hazardous Materials, and Flammable and Combustible Materials to the City Clerk Office on September 19, 2012. Like other similar permits/licenses, it could not be processed until the property is zoning compliant. Assuming the conditional zone is approved the facility would be reviewed by the Fire Dept.

### **VI. Land Use Policy**

The applicant is proposing a commercial use not permitted in a residential zone. Great Diamond zoning districts include two residential zones (IR-1 and IR-2), one business zone (I-B) and a planned unit development-mixed use zone (Diamond Cove IR-3). With an application to allow a commercial use outside an I-B zone on the island, it is appropriate to review existing zoning districts and land use policy.

#### **IR-2**

The site is located in the IR-2 residential zone which does not allow a fuel distribution use. The policy statement of the IR-2 zone is as follows.

“The purpose of the IR-2 island residential zone is to protect the character of existing developed residential neighborhoods on the islands and to allow infill where there are adequate public services available...”

#### **I-B**

Fuel distribution is a commercial use and would qualify as a permitted use in the I-B zone.



The policy statement of the I-B zone is as follows.

“The purpose section of the I-B island business zone is to provide limited areas on the islands for retail and service establishments that serve primarily the needs of the local island market area.”

There is an existing I-B Island Business zone on Great Diamond adjacent to the southerly public ferry, but it is limited to only 3 or 4 properties and there are no commercial uses located within the zone. Given the decidedly residential character of the district and proximity to the shore, it may not be a good location for a fuel dispensary use. While all of Portland’s Islands have business zones near public ferry landings, the reality is that most are either underutilized or have few businesses (except Peaks) because of limited business activity.

ITSOZ:

Sec 14-145.20 provides for an Island Transfer Station Overlay Zone (ITSOZ). With limited land on an island it can be a challenge to find appropriate places for commercial uses which feature large trucks not totally contained in a building, outside storage of equipment and supplies, etc. This has been an ongoing issue on Peaks Island where there has been discussion over time of creating a special zone for “contractor type” uses away from the main I-B zone and residential areas. On Peaks, the Public Services facility was relocated to the middle of the island away from the village area (with a specially created Island Transfer Station Overlay Zone, ITSOZ) to address this type of concern.

An effort to consolidate Dinosaur with the existing Public Services facility on Diamond Avenue offered promise in terms of clustering similar types of uses in one location on the island but that too requires a zone change. While the Public Services facility is a municipal use and permitted in the IR-1, Dinosaur is a commercial use. Public Services leases property from the Diamond Island Association and although at one point negotiations to allow Dinosaur seemed stalled, the Diamond Island Association Board as recently as June 24, 2012 voted to support relocation of Dinosaur to the Diamond Avenue Public Services facility.

The ITSOZ, enacted through a conditional zoning process, is intended to provide appropriate locations for solid waste and public works facilities. Peaks Island is the only island where a specific site has received this designation to date. Permitted uses in this zone include municipal solid waste facilities; recycling facilities; municipal garages, material storage and parking for vehicles; maintenance of municipal vehicles and equipment. Planning Staff has been working on an amendment to the ITSOZ that would allow public or private managed fuel storage facilities as a permitted use.

As demonstrated in the Dinosaur situation, Peaks Island, Cliff Island, and other islands, there are basic services such as public works and fuel supply facilities that are critical for island life but are difficult to locate because of limited land area and the presence of large trucks and outside storage that can be problematic in a residential setting. This proposed future ITSOZ text amendment is not intended as a substitute for the Dinosaur amendment, rather it will provide a prospective solution to help locate future facilities that are unable to locate in island business zones. This is a text amendment only. Full enactment would require rezoning a specific site with a conditional zone. Staff anticipates submitting this amendment to the Planning Board within the next couple of months.

**Consistency with Comprehensive Plan:** The Dinosaur zoning request must be evaluated for consistency with the Comprehensive Plan. The comprehensive goals and policies that were adopted as part of the Portland Island Study state the following:

**Portland Islands Goals:**

- The Portland Islands pose a completely unique situation for land use planning and zoning. Unlike most other densely inhabited islands on the Maine coast, which are separate municipalities, the Portland islands are similar to the neighborhoods of a large urban mainland municipality and pose strong contrasts of urban vs. rural and seasonal vs. year-round living. Similarly, unlike other areas of seasonal home concentrations in the rural Lakes regions of the State, the islands are subject to spillover growth pressures from the ‘city’, and invite comparison to the mainland’s relatively high level of public services in terms of streets, sewage, schools, waste collections, fire protection, police and libraries.
- The islands are different from the mainland in terms of the natural features, their resource value, the public services available (or possible), and the people who reside and work there. The City’s land use policies and regulations should reflect these essential differences.
- The overall land use goal is to balance future growth and development on the islands to preserve those essential natural, physical and social factors that contribute to the islands’ unique value and character.

**Portland Islands Policies**

- Portland's islands are unique and valuable natural areas and villages. Each island is unique, with individual community needs and aspirations. There are those most sparsely or seasonally populated, such as the Diamonds and Cushing, serving as summer retreat and vacation homes, to those that support a more significant year round population, such as Peaks (within commuting distance of downtown Portland) and Cliff (an hour's boat ride away). Island residents are striving to

sustain the mix of jobs, housing, education and culture of their unique and independent-spirited island community.<sup>1</sup>

- Encourage development of a type, scale, diversity and density appropriate to the circumstances, environment, infrastructure, and service capabilities of each island.
- The City should adopt a policy for future development that minimizes the dependency on and intrusion of private automobiles on the islands.
- Protect groundwater aquifer resources from degradation or depletion as a result of the cumulative impact of development. Groundwater resources shall be managed so that the islands can be self-sufficient in reliance upon natural systems for water supply and sewage disposal. (Planning Board Report #70-89, see editor's note, footnote 1)
- Islands are unique landforms, which have particularly fragile environmental characteristics. These environmental conditions pose upper limits to the level of development that can be supported in harmony with the islands' environment. In addition, environmental conditions and logistical constraints pose challenges to provision of basic services such as solid waste disposal and other community services that are available or possible. Such concerns, including groundwater issues, are significant enough to dictate a policy of low-density development for the islands. (Planning Board Report #70-89, see editor's note, footnote 1).

**Summary:** The southerly end of Great Diamond Island is almost entirely residential. The exception is the Public Services yard (permitted as a municipal use in the IR-1) located on Diamond Avenue. The existing I-B zone on the southerly end of the island has no commercial uses and the lots are very close to the shoreline. Non-residential uses on the Diamond Cove side of the island include a fire station, a restaurant and small store.

Fuel services are an essential community resource. Fuel is critical in operating a variety of equipment ranging from fire trucks, public service vehicles, and construction equipment, to lawn mowers. While groceries can be bought on the main land and transported on the ferry, obtaining fuel for heating and motor vehicles is more complicated. Fuel may not be transported on the ferry and must be delivered by private boat/barge. The transportation, storage and distribution of fuel requires specialized trucks and equipment. The City of Portland uses Dinosaur to fuel their trucks, equipment, ambulance and fire engine.

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<sup>1</sup> Editor's Note: While the basic plan for Portland's Islands was written in 1985, the goals and policies evolved in the intervening years with increased attention to the uniqueness of each island. These policies reflect these changes. The first two policies listed here are found in Planning Board Report #70-89, Planning Board Report Recommendation to Adopt the Portland Islands Groundwater Management Study as part of the Comprehensive Plan of the City of Portland and To Adopt Zoning Amendments to the Land Use Code.

The applicant is proposing a contract/conditional zone on a property that has been used for fuel distribution in some form since 1988 in a residential zone that was not sanctioned under present or past zoning. The phrase “to protect the character of existing developed residential neighborhoods” in the purpose section of the IR-2 offers an important context in evaluating the zone change proposal along with the comprehensive plan policies for the Islands.

**Recommendation:** The conditional zoning amendment is a positive step forward for provision of this essential service on Great Diamond Island with identification of the relevant safety codes pertinent to the use. It allows continuation of an existing fuel service facility upon which the islanders have long relied.

## **VII. Public Process**

The Planning Board held a workshop for this item on September 24, 2012 and a public hearing on July 9, 2013.

Public Notice of the workshop and public hearing consisted of mailed notice to 40 property owners on Great Diamond Island and notice to the Interested Parties List. The public hearing notice also included a legal ad appearing in the June 24, 2013 and July 1, 2013 editions of the Portland Press Herald.

A neighborhood meeting was held by the applicant on July 1, 2013. Applicant has submitted a copy of the neighborhood meeting notice, a meeting attendance sheet and notes from the meeting.

Written public comment is shown as Attachment 1-F.

## **VIII. Planning Board Recommendation**

At a public hearing held on July 9, 2013, the Planning Board voted 4 to 0 (Boepple, Dundon and O’Brien absent) on the following motion.

Based on the information contained in Planning Report #31-13, the comprehensive plan of the City of Portland, the testimony and evidence heard at the Planning Board Public Hearing and other factors, the Planning Board finds:

The proposed conditional zoning amendment is consistent with the comprehensive plan of the City of Portland and therefore recommends the proposed amendments to the City Council.

The original conditional zoning language included a sunset provision terminating the rezoning if the applicant or immediate family members transferred the business to unrelated third parties. The Planning Board decided that this provision should be taken out of the agreement because zoning should be based on land not the people that occupy the land. The conditional zoning does terminate if the applicant or its successor discontinue the fuel business operation for 12 consecutive months.

## **Attachments**

### Staff Attachments

- 1-A. Great Diamond Island Map
- 1-B. Planning Board Recommended Conditional Zoning Amendment
- 1-C. Memo from Karen Townsend (Woodard and Curran) Revised 9-20-12
- 1-D. Letter from Diamond Island Association dated 9-19-12 of Meeting Minutes (6-24-12)
- 1-E. Written Public Comment

### Applicant Submissions

- 2-A. Original Contract Zone Application Submission dated 8-22-12
- 2-B. Site Photos and Area Maps
- 2-C. Original Proposed Conditional Zoning Text dated 9-21-12
- 2-D. Revised Conditional Zoning Amendment Text submitted 7-3-13
- 2-E. Background Information on Dinosaur Operations submitted 9-20-12
- 2-F. SPCC Plan (Oil Spill Prevention, Control and Countermeasure) by St. Germain-Collins dated October 2012. Excerpt, plan on file in Planning Division Office
- 2-G. Neighborhood Meeting Info
- 2-H. Photos of New Fuel Tank On Pick-up Truck



118 Sunset Ave  
Proposed Site

Public Works  
Facility

Shoreland  
Zone

# Great Diamond Island Dinosaur Enterprises

Data Source:  
 Portland GIS Data  
 Aerial -2006  
 Zoning and Building - 2011  
 Map prepared by Planning

ATT 1-13-1

MICHAEL F. BRENNAN (MAYOR)  
KEVIN J. DONOGHUE (1)  
DAVID A. MARSHALL (2)  
EDWARD J. SUSLOVIC (3)  
CHERYL A. LEEMAN (4)

**CITY OF PORTLAND  
IN THE CITY COUNCIL**

JOHN R. COYNE (5)  
JOHN M. ANTON (A/L)  
JILL C. DUSON (A/L)  
NICHOLAS M. MAVODONES (A/L)

**AMENDMENT TO CITY CODE  
SEC. 14-49 (ZONING MAP AMENDMENT)  
RE: CONDITIONAL REZONING FOR DINOSAUR ENTERPRISES LTD**

**ORDERED**, that the Zoning Map of the City of Portland, dated December 2000 as amended and on file in the Department of Planning & Development, and incorporated by reference into the Zoning Ordinance by Sec. 14-49 of the Portland City Code, is hereby amended to reflect a conditional rezoning as detailed below:

**CONDITIONAL ZONE AGREEMENT  
RE:  
DINOSAUR ENTERPRISES LTD**

AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_, 2013, by DINOSAUR ENTERPRISES LTD, a Maine corporation with a place of business in Portland, Maine (“Applicant”), and its successors and assigns and Elizabeth A. Weber (“Owner”), the owner of the property where the Applicant operates its fuel business.

**WITNESSETH**

WHEREAS, the Applicant operates its business on land owned by (“Owner”) containing approximately 21,643 square feet and shown on the Portland Tax Map as 83A, Block K, Lots 5 and 10, and more particularly described in that warranty deed recorded in Book 10389, Page 179 (the “Property”); and

WHEREAS, the Applicant and its president, Ted Weber, have been continuously delivering and dispensing fuel products from the Property since 1988; and

WHEREAS, there are no structures on the Property dedicated to the fuel delivery business, and the only equipment relating thereto are two fuel delivery trucks and a DOT-approved mobile gasoline tank and pump mounted on Applicant’s truck, which move on and off the Property; and

WHEREAS, the current zoning of the Dinosaur site is IR-2 ; and

WHEREAS, the current zoning does not textually permit the parking of two fuel delivery trucks or the sale or dispensing of fuel products from the Property; and

WHEREAS, Dinosaur provides an essential utility service and serves a verifiable need for the neighbors, City, residents and guests on Great Diamond Island; and

WHEREAS, Dinosaur has operated from the Property since 1988; and

WHEREAS, Dinosaur's business is fully insured;

WHEREAS, the Applicant has requested a rezoning of the Property in order to permit the long-standing and limited business use of the Property; and

WHEREAS, the Portland Planning Board has determined this rezoning meets an essential need for the Great Diamond Island and the customers of the Applicant, and is consistent with the Comprehensive Plan; 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

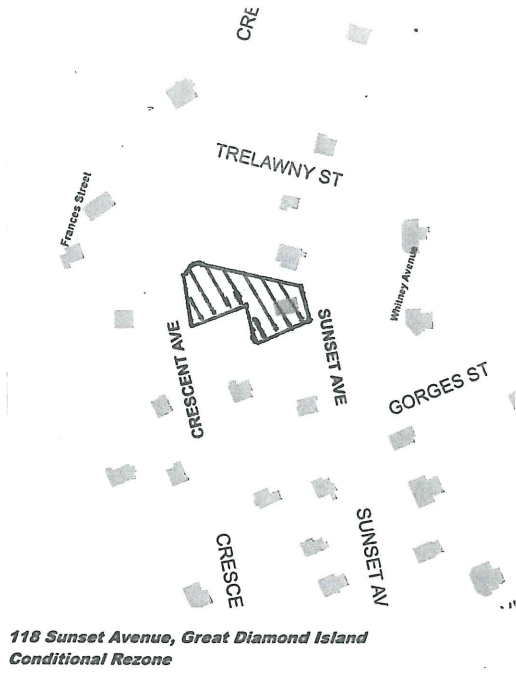
WHEREAS, the Portland City Council, pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Land Use Code (the "Code") §§ 14-60 to 14-62, after notice, hearing and due deliberation thereon, has determined that because of the existing and unique location of the proposal, its consistency with the Comprehensive Plan 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 \_\_\_\_\_, 2013 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 Applicant and Owner covenant and agree 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 I-R2, subject to the conditions contained below.





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 IR-1 and IR-2 zones.

2. Permitted uses:

- a. All of the permitted uses allowed in the IR-2 zone; and
- b. Parking on the Property of two (2) fuel trucks and one (1) truck fitted with a DOT-approved mobile gasoline tank and pump or such fixed tank as may be permitted by the State Fire Marshal in the Applicant's fuel business; and
- c. Dispensing and sale of fuel from the Property.

3. The conditions of this Rezoning shall be:

- a. This rezoning shall terminate if the Applicant or its successor discontinue the fuel business operation for at least twelve (12) consecutive months.
- b. The rezoning shall terminate at any time the Applicant's business is permanently moved off the Property.
- c. The business of the Applicant on the Property shall be limited to the current use of the Property (i.e. the parking of two(2) fuel trucks and a truck fitted with a DOT-approved mobile gasoline tank and pump or such fixed tank as may be permitted by the State Fire Marshal for the Applicant's fuel business), both in type and scope, such that impacts upon surrounding properties, if any, shall not be expanded.

4. All equipment including, but not limited to the two (2) fuel trucks and a vehicle equipped with approved mobile gasoline tank and pump shall be located/stored on the Property not within the abutting street or other property. In addition, all dispensing of fuel shall be performed on the Property except for fuel truck deliveries to customer properties.

5. The Applicant shall obtain and submit documentation to the City of all necessary City (including, if necessary, site plan approval), State (including, but not limited to, State Fire Marshal's approval) and Federal approvals, licenses and/or permits necessary to address the operation of its fuel business on the Property including, but not limited to, fuel storage and dispensing operations on the Property. Such documentation shall also include all submitted applications to these agencies. In addition, an Oil Spill Prevention, Control and Countermeasure (SPCC) Plan, including all revisions and/or amendments, shall be submitted to the City for review and approval by the Planning Authority. A copy of all SPCC Plan inspection and testing records shall also be made available to the Planning Authority upon request.

6. In the event of a breach by the Applicant, Owner or their 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 IR-2 zone requirements in place before the execution of this Agreement.

7. The above stated restrictions, provisions, and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit the Applicant and Owner, any entity affiliated with the Applicant and Owner, 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 Applicant or Owner shall record a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

8. This Conditional Rezoning Agreement may be enforced by the City pursuant to the land use enforcement provisions of state law including, but not limited to, 30-A M.R.S.A. § 4452 and the Portland City Code.

9. 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.

10. 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:

DINOSAUR ENTERPRISES, LTD.

1-8-5

\_\_\_\_\_

By: \_\_\_\_\_  
William E. Weber, President

WITNESS:

\_\_\_\_\_

By: \_\_\_\_\_  
Elizabeth A. Weber, Owner

STATE OF MAINE  
CUMBERLAND, ss.

\_\_\_\_\_, 2012

Personally appeared before me the above-named William E. Weber, in his capacity as President of DINOSAUR ENTERPRISES LTD, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said corporation.

Before me,

\_\_\_\_\_  
Notary Public/Attorney-at-Law

STATE OF MAINE  
CUMBERLAND, ss.

\_\_\_\_\_, 2012

Personally appeared before me the above-named Elizabeth A. Weber, in her capacity as Owner of the Property, and acknowledged the foregoing instrument to be her free act and deed in her said capacity.

Before me,

\_\_\_\_\_  
Notary Public/Attorney-at-Law

## MEMORANDUM



TO: Rick Knowland, Planner  
FROM: Karen Townsend, P.E.  
DATE: Revised September 20, 2012  
RE: Dinosaur Enterprises LTD, Contract Zoning Application

Woodard & Curran has reviewed the Contract Zoning Application for the Dinosaur Enterprises LTD fuel service at 118 Sunset Avenue on Great Diamond Island in Portland, Maine. The Applicant is requesting an amendment to the current zoning at 118 Sunset Street on Great Diamond Island to allow the continued operation of fuel distribution services on the island, which utilizes an oil truck to deliver heating oil and a "gas trailer" used for dispensing gasoline on-site, and has been operating from this location since 1988.

### Documents Provided By Applicant

- Contract Zoning Application and attachments dated August 22, 2012, prepared by Drummond Woodsum, on behalf of Dinosaur Enterprises, LTD.
- Memo written by the Maine Energy Marketers Association (MEMA) dated January 18, 2010, recently submitted by the applicant.

### Comments

The application does not provide details regarding the capacity of the oil truck or the gas trailer, or how and where the fuels are dispensed. However, based on photos provided in the application, the oil truck appears to be similar to a standard heating oil delivery truck (with a typical capacity of 2,000 to 4,000 gallons) and the gas trailer appears to be a 300-gallon to 500-gallon home heating oil-type tank with a pump and dispensing hose mounted on a small trailer. Presumably, the oil truck is parked at this property when not in service making a delivery (which is the majority of the time) and the gas trailer is permanently parked at this location (and gasoline is dispensed into island vehicles and/or equipment from this location). It does not appear that the vehicles are provided with secondary containment.

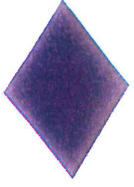
The following Federal, State, and City regulations could potentially apply to this site:

- Under Federal regulation, owners or operators of non-transportation-related onshore facilities engaged in storing, transferring or delivering oil and oil products which, due to their location, could reasonably be expected to discharge oil, in quantities that may be harmful, into or upon waters of the United States, are subject to the requirements of the Oil Pollution Prevention rules at 40 C.F.R. Part 112 (see 40 C.F.R § 112.1). Subject facilities must prepare and implement an Oil Spill Prevention, Control and Countermeasure (SPCC) Plan in accordance with 40 C.F.R. § 112.7. Facilities with an aggregate aboveground oil storage capacity of 1,320 gallons or more are subject to the rules. The oil truck would be classified as a "mobile refueler" under the rule and the gas trailer would be classified as a bulk storage container, based on the assumption that it remains in this location when in use dispensing fuel. As a bulk storage container, the gas trailer must be equipped with sized secondary containment, whereas a mobile refueler is only required to meet the general secondary containment provisions of the rule, which may consist of passive or active containment methods. Passive containment would include dikes, berms, and diversionary structures, and active containment could include the use of absorbent booms or drip pans. Regardless of the type of secondary containment provided for the oil truck, the facility owner would ultimately be responsible for a spill or release to the environment. Also, both types of tanks must undergo periodic visual inspection and integrity testing.



- The Maine State Fire Marshal's Office (SFMO) regulates aboveground tanks with a capacity of 60 gallons or more that store flammable or combustible liquids. The gas trailer would be considered an aboveground tank that is subject to the SFMO rules (see Chapter 34, which incorporate by reference the NFPA standards) and requires a permit. Because the tank is used to store and dispense motor fuels, it would be subject to NFPA 30A Motor Fuel Dispensing Facilities and Repair Garages, which requires secondary containment and appropriate appurtenant devices (e.g., level gauge, audible high level alarm, and shut-off valve).
- The City of Portland issues permits for flammable and combustible liquids in accordance with the Fire Prevention Ordinance. The Applicant did not indicate if they have obtained permit coverage or submitted a completed Application for the Storage, Use or Handling of Hazardous Materials, and Flammable and Combustible Materials.

The application does not indicate that Dinosaur Enterprise's oil storage facilities have the required permits and/or that the owners have prepared and are implementing an Oil SPCC Plan. The Applicant should provide additional information regarding the applicability of these regulatory requirements to their facilities and operations to ensure the operations are compliant with State and Federal laws and regulations.



**Diamond Island Association**  
Founded 1882

ATT 1-0-1

September 19, 2012

To: Rick Knowland, Planning, City of Portland

From : Nancy Gleason, President, Diamond Island Association

As you requested today, I am sending you the minutes of the Diamond Island Association's meeting of June 24, 2012, called to discuss the possible placement of Dinosaur Enterprises at the DPW site; the board vote taken at this meeting is recorded and noted in bold at the end of the minutes.

cc Jeanne Smith, DIA Secretary

Bill Robitzek, IDC Committee

Diamond Island Association  
Board of Directors Meeting

June 24, 2012 11:00 AM

The meeting was held at Elwell Hall, Great Diamond Island, Portland, Maine

**Present:** President Judy Sedgewick (by telephone), Vice President Mike Harris, Secretary Nancy Gleason, Jeanne Smith, Robert Laughlin, Susan Sala, Tammy Robinson, Anne Weber

**Absent:** Liz Wanzer, Treasurer Hal Soederberg

Among those also attending: Paul Gleason, Jane Laughlin, Roger Robinson, Mike Burton, Nancy Burton, Kate and Jeff Putnam, Gary Smith, Elda Fairchild, Doug Roberts, Patti and Mark McAndrew, Ed and Martha Frager, Eileen Harris

The meeting was called to order by Vice President Harris at 11:00AM.

Mike announced that this is a regular DIA board meeting called at this time to meet a city deadline (cease and desist order) placed upon the fuel business to discuss possible placement of Dinosaur Enterprises at the DPW site. Mike Harris and Jim Grout spoke to Ted Weber, owner of Dinosaur Enterprises, following the General meeting regarding the future of the fuel business, offering support. Ted expressed appreciation of our support. Following this, Mike spoke to Dinosaur Attorney, Ron Warc who told him that the business has a new deadline to find a suitable site and needs a "yes or "no" answer regarding DIA's willingness to offer land for the business prior to next week.

It was generally thought by Board members that the original option of offering the DPW site, created in 2006, was withdrawn in 2011 due to a lack of interest. The original DPW site was a result of a vision to consolidate all city trucks in one place. Today, some members expressed a need to be cognizant of a transfer station coming to GDI which would house all trash from LDI, GDI, DCHA and the Hotel. Housing that transfer facility in the DPW site could be an unintended consequence of rezoning for the fuel business.

More discussion followed from board members and members attending, including the following points:

- Most on the island support offering as an option housing the fuel business at the DPW site..
- Some would like to explore alternative solutions. We should work together with DCHA to find a solution.
- Will the facility also house trash? Concern about hotel trash- transfer station. Trash now leaves the island within 48 hours of pick up. Odor and noise are issues of long-term storage. Most do not want the transfer station attached to a lease agreement for the fuel business.
- Environmental concerns of having fuel business near stream and vernal pools. Environmental issues need to be checked out by experts.
- We need to have all concerned parties put the facts on the table; need to operate from factual points directly in face to face communication.
- Most in our community desire gas distribution and K1 monitor fuel (black truck). The preponderance of home heating oil (red truck) customers live at the Cove. Are all three parts of the business to be housed at the DPW, some at Cove?
- Concerns raised regarding legal compliance issues and current conditions of equipment: trucks pad for trucks, gas dispenser. Example of Cranberry Island compliant gas dispensing unit which



1-D-3

cost around \$50,000.00. Chebeague just had to go through compliance process. Compliance needs to be checked out by experts.

- o DIA has allocated \$3000.00 toward legal work on lease.
- o Questions raised about rezoning: Would the City apply for rezoning at the DPW site employing a RFP process? We currently have a license agreement with the City; will we need a lease agreement specific to a fuel business? Will site still need rezoning for the DPW site given a lease agreement?
- o We are willing to offer DPW for a fuel business site with conditions.

**Moved:** Jeanne Smith offered the motion: **The Diamond Island Association will support the conditional rezoning of the DPW site in order to locate and be limited to a fuel distribution business.** Passed. One Opposed: Tammy Robinson.

The next meeting, previously scheduled, will be Saturday, June 30 at 11:00 am at Elwell Hall.  
The meeting was adjourned at 12:20 am.

Nancy Gleason, Secretary

ATT.  
I-E

**Rick Knowland - Conditional Zone / Dinosaur Enterprises**

**From:** Bruce LaPierre <Lapierre@wulaw.wustl.edu>  
**To:** "rwk@portlandmaine.gov" <rwk@portlandmaine.gov>  
**Date:** 7/2/2013 3:57 PM  
**Subject:** Conditional Zone / Dinosaur Enterprises

Mr. Knowland, We are property owners in Diamond Cove on Great Diamond Island. We support the Conditional Zone Agreement for Dinosaur Enterprises. We depend on the Webbers for our fuel oil during the winter and on their good will and Island spirit year-round. Islands are special places; it takes cooperation to make Island communities work; our island community depends on the Webbers. The Webbers' fuel oil operation has been a central component of the island for many, many years, and the approval of the Conditional Zone Agreement will help maintain our island community. Bruce La Pierre and Kathryn Adamchick, 36 Hillcrest, Diamond Cove, Great Diamond Island, Maine 04109.

D. Bruce La Pierre  
Professor of Law  
Director, Appellate Clinic  
School of Law  
Washington University  
St. Louis, Missouri 63130-4899  
314-935-6477  
lapierre@wulaw.wustl.edu

July 5, 2013

Portland Planning Board  
389 Congress Street  
Portland, Maine 04101

Dear Planning Board Members

I am a year round resident of Great Diamond Island. I am not opposed to having a fuel business on GDI. I am opposed to a zoning change in the middle of a residential zone when it is not necessary. I realize the Planning Board can only consider the matter that is before you. However, it is very important that the board members realize that there is much better alternate location that is available to the applicant. Several years ago, as a member of the Island Development Committee (IDC), I was asked to look into the rules and regulations that relate to moving Dinosaur Enterprises to Diamond Island Association (DIA) owned land that currently houses the Department of Public Services. The DIA membership and BOD had voted in favor of allowing Dinosaur Enterprises to move to the DPS yard. It was always assumed that Dinosaur Enterprises would be moving to that location. That location is in a more remote area of the island away from the majority of residential properties. Consolidating large commercial vehicles at one location made more sense as opposed to two different locations. The City, in conjunction with Sebago Technics, developed a site plan that would incorporate all of the applicant's vehicles (see attached site plan). Moving the business to that location would more closely follow the city's Comprehensive Plan for islands which states in part, "the island use goal is to preserve those essential natural, physical and social factors that contribute to the islands unique value and character." As far as I can determine, the only reason the applicant has given for requesting a zoning change is that they feel secure being able to look out their window and see their equipment. It's quite a stretch to make that reason align with the city's Comprehensive Plan especially when a much better alternative exists.

Compliance with city, state, and federal regulations are a major concern. Those regulations ensure that public safety and the environment are not exposed to unnecessary risk. I believe that Dinosaur Enterprises is noncompliant on many levels. A portion of the business' application states that "We have been inspected by the DEP, City of Portland Fire Dept., & the State Fire Marshall's Office. The equipment at least once a year goes to the mainland for inspection & maintenance" (see attached Dinosaur's Initial Application). I do not believe the applicant's vehicles have current annual motor vehicle inspections in addition to inspections for compliance with CFR 49 and NFPA 385 regulations as outlined by the State Fire Marshall. The business has

never been inspected by the Portland Fire Department or the State Fire Marshall's office (see attachments from PFD and SFMO). The applicant's SPCC Plan also contains inaccurate information that relates to parking locations for vehicles in addition to garages located on the property (see attachments).

insurance liability is another area of concern. I have been told that no insurance carrier would pay a claim if it was determined that the insured was not in compliance with all necessary regulations that relate to this type business. In addition, no insurance company would underwrite a policy for a noncompliant business unless it was given information that indicated it was in compliance with all city, state, and federal regulations.

The MDEP and the SFMO have indicated that if any type of fuel is dispensed into a container or vehicle a fixed facility with fixed tanks will be required (see attachments from MDEP and SFMO). The applicant currently sells and dispenses gasoline and #2 fuel (diesel alternative) into containers and various types of vehicles. A fixed facility with fixed above ground storage tanks will require security fencing and probably lighting which would not be a good fit for the community. There are also strict distance and setback requirements for above ground storage tanks. NFPA 30 and NFPA 30A outline those distance requirements from property lines, ROW's etc. Those setbacks needs to be examined by the PFD in order to determine if it is physically possible to locate any above ground storage tanks on the applicant's property. I just learned that the applicant will be abandoning the tank trailer that the business has been using and that he will be selling gasoline from an auxiliary tank mounted in the bed of his pickup truck in order to be subject to less restrictive regulations. I have just contacted the SFMO regarding this issue. I do not know the ramifications associated with that move. I hope to have a response by early next week.

The Maine State Police Commercial Vehicle Enforcement Unit will be coming to GDI this month to inspect the applicant's vehicles. The MSP regulate and enforce statutes that relate to tank trucks and tank trailers. Due to the holiday and other ongoing investigations they will not be able to get to the island before the PB hearing. They have started their investigation and will be coming as soon as possible. The result of their investigation is very important not only because it will give an accurate assessment of compliance/noncompliance issues, but it will also be an indicator of how much it may cost to come into compliance. A cost that could be so prohibitive that the applicant may choose not to pay the price of compliance.

The city has always characterized the fuel business as "essential" for the entire island. I would estimate that over 90% of the fuel delivered to GDI is consumed by Diamond Cove homeowners. The type of fuel they use is #2 heating oil. I believe the only year round household in the Cottage Community that uses #2 fuel is the applicant's residence. There are a couple seasonal residents that use #2 fuel. I realize the applicant has the right to ask for a zoning change. If granted a zoning change, it is very possible the applicant may choose to do away with the gasoline and K-1 portion of the business because the cost of compliance will be too high and regulations too stringent. K-1 and gasoline are the two fuels that are most vital to the Cottage Community. The "essential" for the entire island concept would be gone at that point. The historic Cottage Community could be subject to a zoning change with only the applicant and Diamond Cove as

1-E 2/25

the beneficiaries. The needs of all should be a part of the solution. Please consider the rezoning of the DPS yard, and not the applicant's property, the best solution for the entire island.

Thank you very much.

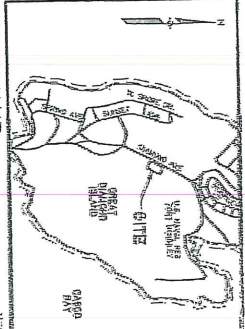
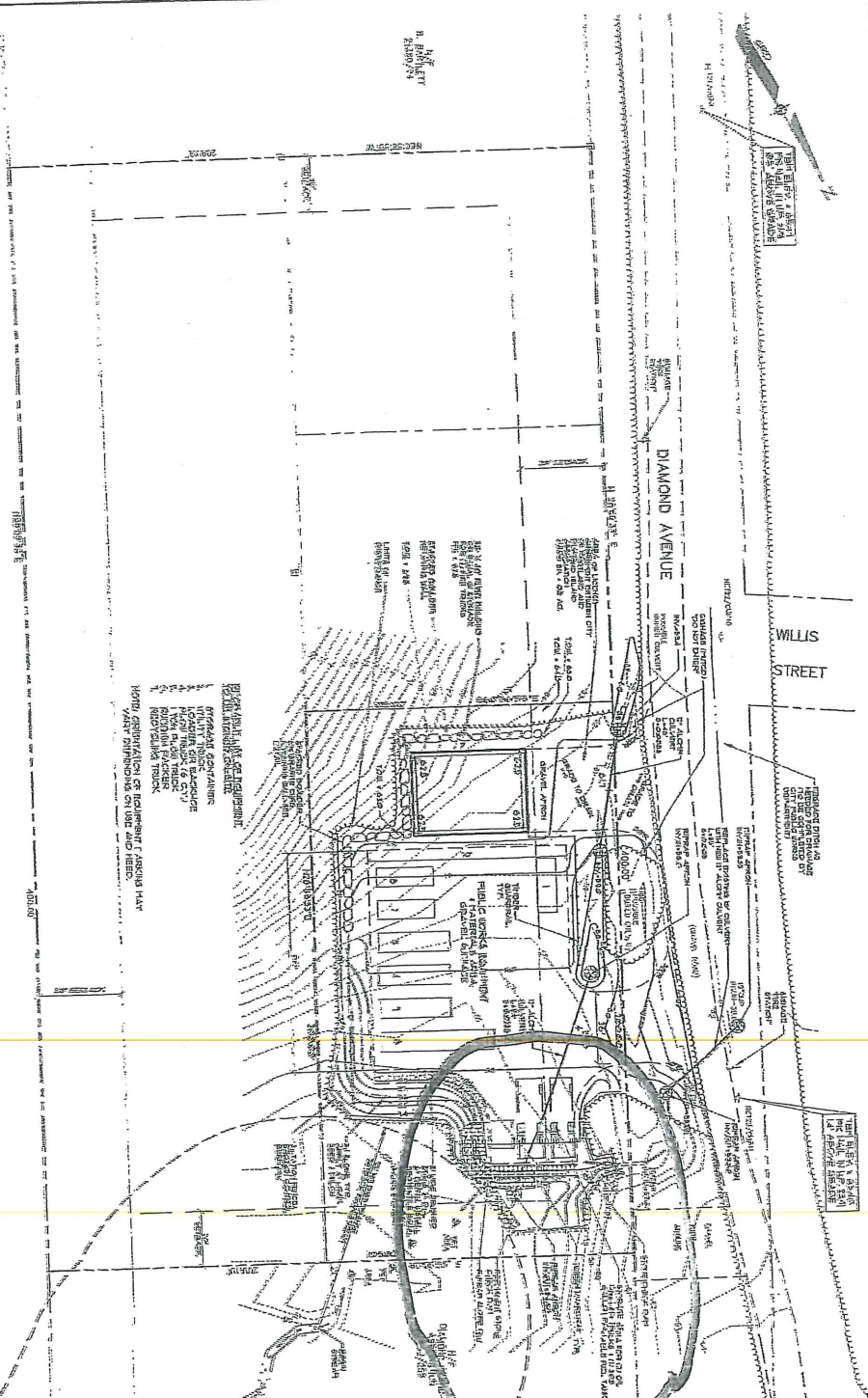
Gary L Smith

100 Willis Street

Great Diamond Island

**LEGEND**

EXISTING	PROPOSED
PROPERTY LINE	PROPERTY LINE
EXISTING DRIVEWAY	PROPOSED DRIVEWAY
EXISTING SIDEWALK	PROPOSED SIDEWALK
EXISTING CURB	PROPOSED CURB
EXISTING PAVEMENT	PROPOSED PAVEMENT
EXISTING UTILITY	PROPOSED UTILITY
EXISTING TREE	PROPOSED TREE
EXISTING FENCE	PROPOSED FENCE
EXISTING SIGN	PROPOSED SIGN
EXISTING LIGHT	PROPOSED LIGHT
EXISTING SIGN	PROPOSED SIGN
EXISTING LIGHT	PROPOSED LIGHT
EXISTING SIGN	PROPOSED SIGN
EXISTING LIGHT	PROPOSED LIGHT



Site plan developed by City and Sebago Technics to allow Fuel business at DPS yard.



**Sebago Technics**

1000 Main Street, Sebago, ME 04086

TEL: 603-883-1111 FAX: 603-883-1112

WWW.SEBAGOTECHNICS.COM

**PROJECT:** SEBAGO TECHNICS FUEL BUSINESS AT DPS YARD

**DATE:** 10/1/2011

**SCALE:** AS SHOWN

**SHEET 1 OF 2**

**APPROVED:** [Signature]

**DATE:** 10/1/2011

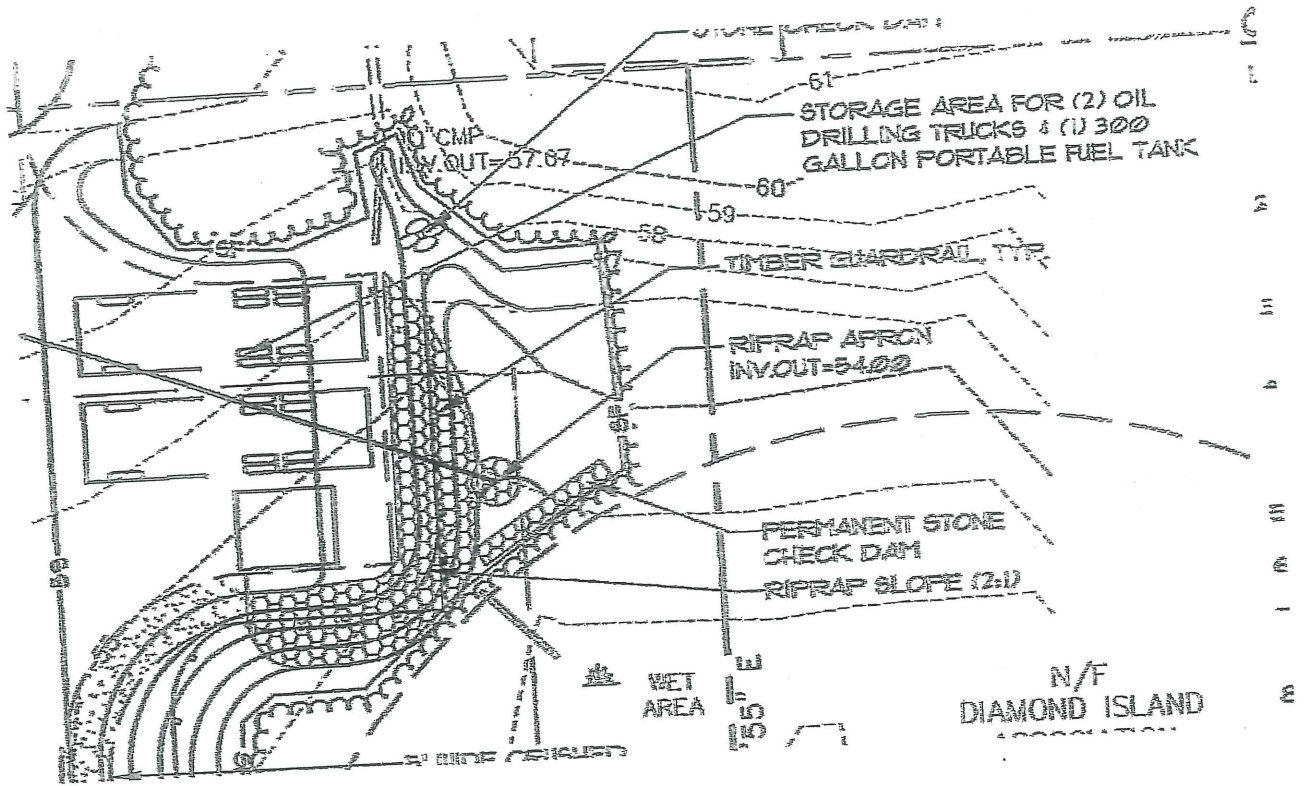
**PROJECT:** SEBAGO TECHNICS FUEL BUSINESS AT DPS YARD

**DATE:** 10/1/2011

**SCALE:** AS SHOWN

**SHEET 1 OF 2**

1-E 2:5



16

# Dinosaur's Initial Application

1-E2.0

ATT 2-E-1

SUBMITTED 9-20-2012



Great Diamond Island has had a fuel business on island owned by a resident since the late 1800's. Dinosaur Enterprises, LTD for the past 25 years has been supplying fuel oil, kerosene, & gasoline as well as providing service & maintenance around the clock to the island communities of Little Diamond, Great Diamond, & Diamond Cove.

Dinosaur Enterprises has 2 Fuel Delivery trucks -- 1 2400 gallon Aluminum tank & 1 3000 gallon Aluminum tank as well as a 300 gallon gasoline trailer which holds a maximum capacity of 225 gallons. The oil trucks are standard heating oil delivery trucks and the gas trailer is a double walled UL approved tank mounted on a trailer with a pump, meter and dispensing hose. The oil trucks are parked at this location when not in service making a delivery and the gasoline trailer is parked at this location as well & is used primarily to fill 1-5 gallon gasoline jugs for lawn mowers & golf carts which is the primary means of transportation on the island. All equipment have secondary containment. Drip pans, absorbents, & fire extinguishers are provided on equipment. We have engaged Scott Collins of St Germain-Collins Environmental Consulting Group, 848 Main St., Suite 3, Westbrook, Maine to implement an SPCC plan. Woodward & Curran stated in their memo that we must be equipped with secondary containment. The information provided is outdated & false. We have enclosed a copy of the EPA New SPCC Rule for Non-Transportation Tanker Truck Secondary Containment amended Rule 40 CFR 112.6 effective January 14, 2010. We have also enclosed a copy of our permit application filed for the Storage, Use, & Handling of Hazardous Materials, and Flammable & Combustible Material. The memo from Woodward & Curran also states the gasoline trailer requires secondary containment and appropriate appurtenant devices. Our gasoline trailer meets these requirements as stated above. The gasoline trailer is a Double walled UL approved tank with level gauge, audible high level alarm, shut-off valve as well as absorbents & a fire extinguisher.

It is important to note that due to the cost of fuel that we deliver 90-95% of the fuel in the trucks on the day we receive it, therefore the trucks parked in the driveway have minimum fuel stored in them. Having a gasoline trailer is an advantage for fire & safety reasons meaning in the event of an emergency we're able to move it out of harm's way. We have never had an accident and/or spill nor have we been cited for any violation. We have been inspected by the DEP, City of Portland Fire Dept., & the State Fire Marshall's Office. We carry a \$1 million dollar insurance policy with a \$3 million dollar rider. The equipment at least once a year goes to the mainland for inspection & maintenance as well as we have a mechanic who we hire to come to the island for repairs.

no



no

no

Our largest consumer here on Great Diamond Island is the City of Portland. We supply fuel to the City fire trucks, City Ambulance, City Forestry Unit, City Public Works vehicles, emergency generators as well as heating fuel to the Fire Barn which houses emergency vehicles & equipment under cover.

no



3a

1 E 2.7

Gary,

I am sorry for the delay in providing an answer.

To the best of my knowledge using the data base on Naviline they have never been issued a permit by the City Clerks office or the PFD. There is no record of Fire Permit inspections by PFD in Naviline.

If you need more assistance in this matter please schedule a meeting.

Thank you.

Captain Chris Pirone  
Portland Fire Department  
Fire Prevention Bureau  
380 Congress Street  
Portland, ME 04101  
(t) 207.874.8405  
(f) 207.874.8410

 Please consider the environment before printing this email.

3b

1-E 2.8

Gary L Smith

**From:** "Dixon, Stephen W" <Stephen.W.Dixon@maine.gov>  
**To:** "Gary L Smith" <gls101@myfairpoint.net>  
**Cc:** "McCarthy, Richard" <RICHARD.M.MCCARTHY@maine.gov>  
**Sent:** Friday, June 28, 2013 11:58 AM  
**Subject:** RE: Dinosaur Enterprises on Great Diamond Island

I have never inspected the Dinosaur facility. I do not know of anyone else from the Office of the State Fire Marshal who has inspected the facility.

The tank shown in the photograph from the earlier email appears to meet the standards for a permanent tank, although I cannot tell if there are distance issues or Well Head protection issues. The tank appears to be a double wall tank that will fulfill the secondary containment requirement for a permanent tank.

When the tank was placed on the trailer, it changed from requirements of NFPA 30 for a permanent tank to NFPA 385 Standard for Tank Vehicles and Trailers. The UL 142 tank shown does not meet this standard. The emergency vents shown will allow product to flow freely from the tank in a roll-over situation, rather than seal as required by NFPA 385, and the appurtenances on top of the tank have to be protected against damage from a roll-over.

The annual inspection is probably just the annual motor vehicle inspection [tires, suspension, exhaust, etc.], not necessarily an inspection for compliance with CFR 49 and NFPA 385 requirements.

NFPA 30A does allow "equipment" to be fueled in remote locations from tank vehicles when it is approved by the Authority Having Jurisdiction.

---

**From:** Gary L Smith [mailto:gls101@myfairpoint.net]  
**Sent:** Tuesday, June 25, 2013 11:59 AM  
**To:** Dixon, Stephen W  
**Subject:** Dinosaur Enterprises on Great Diamond Island

Mr. Dixon

Attached is the letter I sent you on June 14th. Also attached is a small portion of Dinosaur's application that was submitted to the city for a September 24th Planning Board workshop. I forgot to send it to you as part of the June 14th email. You will notice that the applicant states that his business has been inspected by the Portland Fire Department, the SFMO, and that the vehicles annually go to the mainland for annual inspections. It is my understanding that none of those statements are true.

I had a brief conversation with Rick Knowland who works at the Planning Division for the City of Portland. He said he recently had a conversation with you regarding this matter. His understanding of the facts as they relate to the gasoline tank trailer, and how it is being used, are quite different than the facts you sent me.

Will a fixed facility with fixed tanks be required if various types of fuels are sold and dispensed into containers and/or vehicles?

Will the skid tank mounted on a homemade trailer comply as a transport vehicle and a dispensing vehicle?

Gary L Smith  
 GDI

1a

1-E 2.9

Gary L Smith

From: "McCaskill, David" <David.McCaskill@maine.gov>  
To: "Gary L Smith" <gls101@myfairpoint.net>  
Cc: "Bowie, Butch C" <Butch.C.Bowie@maine.gov>  
Sent: Tuesday, February 02, 2010 10:59 AM  
Subject: RE: Fuel Business on Great Diamond Island  
Gary,

If this was a fixed facility with, for example, heating oil, kerosene and a gasoline aboveground storage tanks then one would have to go through our aboveground storage tank siting laws. In essence, these laws would prevent one from locating such a facility within 300 feet of a private well or 1000 feet from a community or school well.

{ If these trucks and trailer are going to be used to transfer fuel to another container or vehicle then the State Fire Marshal will require a fixed facility with fixed tanks. }

If you have any question or need us to do a site visit then let me know.

I hope this helps,

<http://www.maine.gov/dep/rwm/drinkingwater/index.htm>

<http://www.maine.gov/dep/rwm/drinkingwater/pdf/sitingasother.pdf>

<http://www.maine.gov/dep/rwm/abovegroundtanks/dtree.htm>

W. David McCaskill, P.E.  
Senior Environmental Engineer  
Division of Technical Services

To: Gary L Smith  
 Cc: McCarthy, Richard  
 Sent: Monday, October 15, 2012 11:47 AM  
 Subject: RE: Dinosaur Enterprises Application Status

4b

1-E 2.10

I have not seen an application yet.

The Fire Marshal's Office does not inspect and issue permits for tank vehicles and tank trailers.

The Fire Marshal's Office does require a permit for a bulk plant, a permanent tank(s) that stores fuel until it is dispensed into a vehicle or trailer for delivery to a customer.

Vehicles and tank trailers are required to meet 49 CFR requirements and NFPA 385 Standard for tank vehicles and tank trailers.

Maine State Police Commercial Vehicle Enforcement division generally enforces statutes and rules pertaining to transportation of hazardous materials, including flammable and combustible liquids.

The US Coast Guard probably will be involved when a tank vehicle or tank trailer is transported over the water.

A tank trailer, designed, tested, and approved for use as a trailer for flammable or combustible liquids may be used.

49 CFR specifies the types of trailers that may be used for transporting flammable or combustible liquids.

A skid tank on a trailer will **not comply** with the standards for a tank vehicle or a tank trailer.

Skid Tanks are intended to be permanently situated tanks, not mobile tanks.

They are not designed to withstand the vibrations encountered with moving over the road.

Their supports will be subject to metal fatigue the manufacturer had not anticipated.

They are also not designed to restrict sloshing which can result in instability of the trailer.

Skid Tanks are required to have emergency venting which is normally a weighted plug that will open in a rollover situation.

Mobile tanks are required to have emergency vents that will close in the event of a rollover.

All fittings and external piping on a tank trailer must be protected against damage from a motor vehicle accident and from a roll over incident.

Internal valves are required to prevent spillage from a tank vehicle or tank trailer in case the external piping is damaged. These valves must be closed during transportation.

There must be a shear section on external piping as close as practical to the shell of the tank to allow the piping to break away without damaging the tank shell.

Electrical wiring for a pump must be appropriate for use in the hazard area for the product. Pumps for use with gasoline must be installed and used in compliance with manufacturer's requirements. Alligator clip connections to a battery are not allowed in any area where flammable gasoline vapors may be present. Making or breaking the connection will, and accidental or unplanned movement of the alligator clip may cause a spark capable of igniting gasoline vapors present. Wiring openings on the pump must be vapor-proof to prevent vapors from entering the pump and being ignited by its operation.

Trailer wiring and tow vehicle wiring (brake lights, turn signals, and running lights, connection to the tow vehicle electrical system, etc) must also be appropriate for the product hazard class when it is within the hazard area.

The designer or **manufacturer** of the tank trailer (**whoever puts the tank on the trailer**) is responsible for providing technical documentation and testing from a recognized testing laboratory (e.g., UL) to show that the tank trailer complies with all applicable requirements, and that the tank manufacturer and the trailer manufacturer will both approve that use of their product (tank or trailer).

The designer or manufacturer must also document compliance with all federal motor vehicle design and safety requirements.

The manufacturer must document that the design will prevent the trailer from rolling over under normal operating and worst case sloshing conditions.

The manufacturer will have to document that the weight distribution of the tank on the trailer will comply with all applicable standards.

The manufacturer must document that the trailer used is capable of supporting the weight of the tank, product, and associated equipment.

Tank vehicle and tank trailer tanks are generally made of aluminum or stainless steel to reduce weight of the tank from the weight of an equivalent capacity "steel tank" such as a skid tank.

The tank manufacturer will have specific standards and procedures that must be followed when attaching anything to the tank.

The UL 142 and UL 142 with secondary containment listings are for permanently mounted tanks. The listings



1-E 2.11

Section 1: Facility Overview - 112.7(a)(3)

Dinosaur Enterprises' Great Diamond Island Facility (herein referred to as facility) serves as an off-duty/overnight parking area for trucks that may contain petroleum products. The following portable containers may not be empty when parked and are considered mobile oil storage containers, having a capacity of 55 gallons or greater and therefore subject to EPA's Oil SPCC Regulations contained in 40CFR112 of the Code of Federal Regulations:

- One #2 fuel oil delivery truck with a tank capacity of 3,000 gallons (1-1,000 & 1-2,000-gallon compartments);
- One kerosene delivery truck with a tank capacity of 2,400 gallons; and
- One 300-gallon double-wall gasoline tank with a tank mounted battery-powered pump.

The facility does not have any fixed above ground or underground oil storage tanks.

Identification of Navigable Waters

Just over 300 feet and outside Shoreland zone

- ⊗ The nearest navigable water that could be impacted by a discharge of oil from the facility is Casco Bay, which is located approximately 600 feet west of the facility. Storm water runoff generally flows in a west, southwest direction towards the bay.

Refer to Attachment B for a site plan (Facility Site Plan) that identifies oil storage locations, and for a topographic map (Site Location Map) identifying the location of the facility and the navigable water.

Section 2: SPCC Conformance/Additional Measures - 112.7(a)(1)

The facility is in compliance with all applicable regulations required by the SPCC rule. If changes or modifications are made to the facility that would require additional measures, a Professional Engineer will inspect the site and re-certify the Oil SPCC Plan accordingly.

Section 3: Discharge Discovery, Response and Cleanup - 112.7(a)(3)

Regarding initial response actions, the facility emergency contacts (listed in the following section) will make the initial discharge assessments and direct any facility response actions. Dinosaur Enterprises personnel are capable of responding to and cleaning up certain small spills and/or leaks. Spill equipment comprising absorbent boom and pads are maintained on the delivery trucks and in a container on the gasoline tank trailer. In the event of a large spill and/or leak, one of Dinosaur Enterprises' emergency contact(s) will contact an off-site response contractor for assistance. The name and phone number of selected organizations are listed in Section 4 of this Plan.

Secondary Containment for Portable and Mobile Containers - 112.8(c)(11)

*no garages  
at site* (X) The fuel delivery trucks, which are parked at night at the facility, may contain oil. The trucks are parked inside one of the garage buildings. The most likely release from a parked delivery truck is small quantities of oil (less than 2 gallons) from a leaky valve, pump fitting, meter or hose/nozzle. A drip pan is placed beneath the pump to collect potential oil leaking from pump while the truck is parked. The pan is inspected in the morning, and stored at the facility for future use. Additionally, absorbent pads are used beneath the valves, meter, and hose (along with an additional supply of absorbents on the truck). Nozzles are secondarily contained either in a drip tray or a drip tube. (X)

Secondary containment for the 300-gallon double-wall gasoline tank is discussed in Section 6 of this Plan.

Any other portable or mobile oil storage containers brought on-site will be equipped with secondary containment or will be placed in a location that provides secondary containment.

Section 13: Non-applicable Provisions

The following provisions of the SPCC rule do not apply to the facility.

- Contingency Planning - 112.7(d): facility will comply with containment provisions.
- Redundancy for Continuous Treatment Units - 112.8(b)(5): no such equipment present.
- Buried Metallic Storage Tanks - 112.8(c)(4) & (5): no such tanks are present.
- Internal #2 Fuel Coils - 112.8(c)(7): no #2 fuel coils in the tanks are present.
- Master Flow and Drain Valves - 112.7(g)(2): no drain valves are present.
- Out-of-Service Piping - 112.7(g)(4) & 112.8(d)(2): no out-of-service piping present.
- Tank Truck Loading/Unloading - 112.7(h): no tank truck loading racks/unloading area are present.
- Drainage from Diked Areas - 112.8(b)(1) & (2) & 112.8(c)(3): no diked areas are present.
- Effluent Treatment Facilities - 112.8(c)(9): none exist at the facility.
- Corrosion Protection for Buried Piping - 112.8(d)(1): no underground product piping present.
- Pipe Supports - 112.8(d)(3), (4) and (5): no above ground piping is present.
- Oil Pump Starter Controls - 112.7(g)(3): no oil pump starter controls are present.

1-E3

Rick Knowland - Proposed zoning change

From: Rachel Taylor <sn0\_brd7@hotmail.com>  
To: "rwk@portlandmaine.gov" <rwk@portlandmaine.gov>  
Date: 7/3/2013 8:56 PM  
Subject: Proposed zoning change

We would like to add our voices to so many others here on Great Diamond Island in favor of the proposed zoning change that would allow Dinosaur Enterprises LLC to continue its business and have business trucks at the present address.

The Webers have for many years been the sole supply of heating oil for this island. They have been good neighbors and most responsive to the needs of their fellow islanders.

To prevent them from doing business here would create a severe hardship for the island and its inhabitants. We sincerely hope that the zoning change will be approved.

Sincerely,  
Rachel Taylor and George Francis

1-E

**From:** Richard McGoldrick <rmcgoldrick@comprop-1.com>  
**To:** Rick Knowland <rwk@portlandmaine.gov>  
**Date:** Tuesday, July 02, 2013  
**Subject:** Weber /Dinosaur Enterprises Zone Amendment

Rick, I am writing in support of the Conditional Zone request by Dinosaur Enterprises on Great Diamond Island. We, along with most of our neighbors, are completely dependent on Dinosaur's delivery of oil to keep our home and water heated. They have been providing this essential service to the entire community since long before we built in 1994. We strongly urge the Planning Board to recommend approval of this continued use.

Thank you, Dick and Carolyn McGoldrick



1-ES

**From:** <barbandbruce@verizon.net>  
**To:** <rwk@portlandmaine.gov>  
**Date:** Tuesday, July 02, 2013  
**Subject:** 118 Sunset Ave. GDI

Dear Mr. Knowland, Senior Planner:

I support the move to allow the existing fuel distribution business named Dinosaur Enterprises to continue to operate on Great Diamond Island.

Frederick Robinson  
80 Ingalls Road  
Diamond Cove  
Great Diamond Island  
207-766-5531

1-E

Rick Knowland - Dinosaur Enterprises

From: "Richard A. Molyneux" <richardamolyneux@yahoo.com>  
To: "rwk@portlandmaine.gov" <rwk@portlandmaine.gov>  
Date: 7/2/2013 10:57 AM  
Subject: Dinosaur Enterprises

Dear Mr. Knowland,

On behalf of the Diamond Cove Homeowners Association, representing 121 homeowners on Great Diamond Island, I would like to express support for the proposed conditional zone by Dinosaur Enterprises for fuel distribution at 118 Sunset Ave., Great Diamond Island. This is a critical service to the majority of our homeowners with no viable alternative. In the middle of the winter, when it is difficult or impossible to have a fuel truck from the mainland come out to the island, or when a homeowner's furnace stops functioning, the Weber family is always on site and available. To not have this service available will have a significant negative effect on the viability of year around island living. Furthermore, the Webers have always been responsible and honorable providers of fuel services, never exploiting the captive nature of an island market. We strongly encourage the City of Portland to approve the proposed conditional zone for Dinosaur Enterprises.

Sincerely,

Diamond Cove Homeowners

Richard Molyneux, president

Association

1-E7

Rick Knowland - conditional zone/Dinosaur Enterprise LTD

From: "Leddy Houser Associates" <ledhouse@maine.rr.com>  
To: <rwk@portlandmaine.gov>  
Date: 7/2/2013 10:29 AM  
Subject: conditional zone/Dinosaur Enterprise LTD  
CC: "Leddy" <pkleddy@yahoo.com>

Rick Knowland  
Senior Planner, Planning division, City Hall  
389 Congress Street  
Portland, Me 04101  
July 2<sup>nd</sup>, 2013

Dear Mr. Knowland,

My name is Paul Leddy and our family owns a summer cottage at 71 Crescent Avenue, Great Diamond Island, Portland, ME.

I am writing to you to express my support for the proposed zone change and of my support for the Weber family who owns and operates Dinosaur Enterprise.

Our family cottage is within 500 feet of the proposed zone change. We are also one of the many family's on Great Diamond Island that depend on the Weber's service and supply. We are grateful for their continued service even in the wake of a minority of opposition. Please know that the majority of us islanders cannot remember when there was not someone on the island to supply much needed fuel for heat, gas for vehicles and dependable and consistent service and the Weber family have graciously continued that tradition.

Our family spans four generations on Great Diamond, I personally remember Dan Carr senior delivering kerosene in 55 gallon drums that all of us islanders needed for cooking, heat and hot water. Bill and Mary Loveless took over and continued that service with no problems or issues. Since then the island has grown. The Weber's have invested their time and money and lives into and onto Great Diamond Island so that they could live on island and provide this traditional service to all of us, no matter what time of year, no matter what the weather was.

I may not be able to attend this public hearing, I respectfully request that you read my thoughts on this issue and consider my support in this proposal.

Sincerely,

Paul Leddy

Leddy Houser Associates  
10 Buttonwood Street

1 - E S

**From:** Donna Schwartz <dlshrs@maine.rr.com>  
**To:** Rick Knowland <rwk@portlandmaine.gov>  
**CC:** Elizabeth Weber <shelbywoo@me.com>  
**Date:** Monday, July 01, 2013  
**Subject:** Dinosaur Enterprises @118 Sunset Ave., GDI

I will be unable to attend the meeting due to work, however, I urge you and the planning board to please allow Ted Weber's family owned & operated fuel distribution business to continue operating as it has successfully for years & years!

I see no way in which our island could continue to function / operate on any number of different levels w/o the essential services provided by Ted & family!

Most of the individuals who have initiated this process against Dinosaur Ent. and have voiced the most objections/protest have a personal agenda/vendetta and are self serving at best!!

Thank you for your sane, sensible, rational & reasonable consideration!

Sincerely,  
Donna Schwartz  
The Schoolhouse @Diamond Cove, GDI

1-E<sup>2</sup>

**From:** Donna Schwartz <dshrs@maine.rr.com>  
**To:** Rick Knowland <rwk@portlandmaine.gov>  
**CC:** Elizabeth Weber <shelbywoo@me.com>  
**Date:** Monday, July 01, 2013  
**Subject:** Dinosaur Enterprises @118 Sunset Ave., GDI

I will be unable to attend the meeting due to work, however, I urge you and the planning board to please allow Ted Weber's family owned & operated fuel distribution business to continue operating as it has successfully for years & years!

I see no way in which our island could continue to function / operate on any number of different levels w/o the essential services provided by Ted & family!

Most of the individuals who have initiated this process against Dinosaur Ent. and have voiced the most objections/protest have a personal agenda/vendetta and are self serving at best!!

Thank you for your sane, sensible, rational & reasonable consideration!

Sincerely,  
Donna Schwartz  
The Schoolhouse @Diamond Cove, GDI

1-17-12

**From:** Richard McGoldrick <rmcgoldrick@comprop-1.com>  
**To:** Rick Knowland <rwk@portlandmaine.gov>  
**CC:** Richard/karen Molyneau <richardamolyneux@yahoo.com>, Roger Shoemaker dc...  
**Date:** Tuesday, September 18, 2012  
**Subject:** Dinosaur Enterprises

I am writing in support of the application for contract zone on GDI. As a homeowner and the owner of the restaurant building, we are totally dependent of the Webbers for our fuel,as well as other services. Ted,Betsy and Beth are an essential part of the lifeblood of the Great Island community. As I'm sure you've seen, they keep their property in pristine condition. Please pass my comments on to the Planning Board for consideration. Thank you, Dick and Carolyn McGoldrick

1E11

**From:** Donna Schwartz <dshrs@maine.rr.com>  
**To:** Rick Knowland <rwk@portlandmaine.gov>  
**Date:** Tuesday, September 18, 2012  
**Subject:** "Dinosaur Enterprises Ltd."

Dear Ptd. Planning Board Members,

I am emailing in support of the proposed zoning change for Ted Weber / Dinosaur Ent., Ltd. so that Mr. Weber can continue to service his clientele here on GDI without further ado!

Thank you!

Sincerely,

Donna Schwartz  
The Schoolhouse  
Diamond Cove  
GDI

1-E 12

Rick Knowland - Dinosaur Enterprises

From: "Richard A. Molyneux" <richardamolyneux@yahoo.com>  
To: "rwk@portlandmaine.gov" <rwk@portlandmaine.gov>  
Date: 9/18/2012 8:40 PM  
Subject: Dinosaur Enterprises

Dear Mr. Knowland,

On behalf of the board of directors of the Diamond Cove Homeowner Association, I wish to voice our collective support for Dinosaur Enterprise's application for a contract zone for his fuel trucks on Great Diamond Island. It is a frightening proposition to imagine the crisis that will be created if the sole provider of oil ceases to operate on the island this winter. The Webber's are also solid, responsible citizens, and are highly respected by the majority of the people on both sides of Great Diamond Island. We are hopeful that you and the members of the Portland Planning Board can avoid this enormous potential problem by supporting his application now. Thank you for your time and consideration.

Sincerely,  
Richard Molyneux  
President  
Diamond Cove Homeowners

Association



1-E 13

Rick Knowland - Dinosaur Enterprises of Great Diamond Island

From: "S. Bean" <s\_bean152@hotmail.com>  
 To: <rwk@portlandmaine.gov>  
 Date: 9/18/2012 10:40 PM  
 Subject: Dinosaur Enterprises of Great Diamond Island

154 McKinley Court  
 Diamond Cove  
 Great Diamond Island, ME. 04109-3001

207-766-2107  
 Fax 707-202-7145

18 September 2012

Rick Knowland  
 City Hall  
 Portland, ME. 04102

Re: Dinosaur Enterprises, Little Diamond's and Great Diamond's source for heating oil, gasoline, heating and lighting kerosene, and diesel fuel.

Dear Mr. Knowland,

Dinosaur Enterprises has been providing fuel to the residents of Great Diamond and Little Diamond Islands for the last twenty-five years. This is a necessary service and any loss of or interruption would greatly inconvenience and threaten the health and well being of the citizens of these islands. Before Dinosaur Enterprises there had been a fuel business on Great Diamond Island since the 1930's.

The Weber's, owners of Dinosaur Enterprises, have served all their neighbors well. They have continually helped their neighbors with many more things, relating to our existence on these islands that are served by Casco Bay Ferry Lines and various private water taxis which are not allowed to carry fuel by or for customers for obvious safety and legal reasons. During these twenty-five years there have been no safety or contamination concerns related to Dinosaur Enterprises.

The people who are complaining to Portland do not own land or live in close proximity to the Weber's property. Most of the complainers are young and/or strong. They carry their own fuel and/or heat with wood. They have their own private boats and trucks to carry their fuel for themselves. Some of them have their property for sale and wish to move "off island", where presumably they will be happier.

The complainers do not participate in the "volunteer fire and rescue service" on these islands. Dinosaur supplies fuel to the City fire trucks, City ambulance, City forestry unit, City service vehicles, emergency generators, etc. as well as heating fuel to the "Fire Barn" where the emergency vehicles and equipment are housed out of the weather.

Most of us have signed a petition requesting the City to provide Dinosaur Enterprises "Island contract zoning". Another possible solution would be to zone part of the Weber land "commercial". All of the Dinosaur vehicles need to remain where they can be watched and protected on Weber property. Whatever it takes please use your "office" to expedite a solution such that the islands can remain habitable and safe.

Thank you, in advance, for your consideration in this matter.

Sincerely yours,

W. Schafer Bean  
 Volunteer Firefighter

Ethel R. Bean  
 First Responder

1-E 14

Rick Knowland

From: "jkenly007@aol.com" <jkenly007@aol.com>  
To: <rwk@portlandmaine.gov>  
Date: 9/19/2012 9:14 AM

Please give Ted Weber any contract he wants. He's the most valuable man we have on Great Di  
amond island. Thanks, Jackie& Dave Kenly

Sent from my Verizon Wireless 4G LTE Smartphone

1-EIS

Rick Knowland - 118 Sunset Ave (GDI)

From: sam cady <samcady@hotmail.com>  
To: <rwk@portlandmaine.gov>  
Date: 9/19/2012 6:13 PM  
Subject: 118 Sunset Ave (GDI)

Mr. Knowland,

As an owner of a residence on Great Diamond island, I support the contract zone that would allow the continuation of the current fuel distribution service.

Thank you.

Sam Cady

1-E/6

Rick Knowland - Dinosaur Enterprises

From: "Gary L Smith" <gls101@myfairpoint.net>  
 To: DWCHUHTA@portlandmaine.gov  
 Date: 9/7/2012 2:15 PM  
 Subject: Dinosaur Enterprises  
 CC: RWK@portlandmaine.gov  
 Attachments: Cranberry Isles Page 1.pdf; Cranberry Isles Page 2.pdf

Good Afternoon,

Will the issues surrounding state and federal compliance be addressed prior to the Planning Board workshop?

Does that come later in the process?

Attached is an article that relates to gasoline storage and dispensing on Cranberry Island. It cost nearly 50 K to properly store, secure, and dispense gasoline.

Several years ago, as a member of the Island Development Committee ( IDC ), I was asked to investigate the state and federal requirements that relate to the storage and transportation of petroleum products. Below are just two of the dozens of emails I have from various agencies concerning those requirements.

The first is an email from Owens McCullough of Sebago Technics. In 2009 the DIA assumed the fuel business would be moving to the current DPS site that is currently located on DIA land.

The second email is from the State Fire Marshall and is self explanatory.

In the past the City has characterized the fuel business as "essential" for the entire island. The only way the entire island can be served is for the vendor to supply all three types of fuel (#2 oil, K-1, gasoline).

Thank you.

Gary L Smith  
 100 Willis Street  
 GDI  
 766-3390

From: Owens McCullough  
 Sent: Friday, September 25, 2009 4:03 PM  
 To: Gary L Smith  
 Subject: GDI Fuel Truck Parking

Hi Gary,

The following is what I anticipate will be needed to locate a fuel storage trucks at the public works site.

1. I too had some conversations with the State Fire Marshall's office when I was working on the original site plan for the fuel parking area for the City. Up until recently (within the past year or so), the MDEP and Fire Marshal's office did not have any specific requirements for parking these trucks on a site. However, a federal determination has been given that small fuel delivery trucks parked overnight are subject to the federal SPCC requirements. This means an SPCC plan will be required by the fuel delivery company including all necessary provisions to comply with federal law.
2. I also believe that gasoline/fuel oil is considered a hazardous material; therefore, the driver will need to have a hazardous materials certification and all vehicles must have appropriate MDOT certifications.
3. The fire marshals office also has regulations regarding the dispensing of fuel onsite that may be applicable depending on the operation. I believe the current fuel oil delivery company on the Island has a small trailer mounted 300 gallon gasoline tank to distribute fuel to Island vehicles, mowers, generators, etc. Would the plans also include a gasoline trailer mounted tank at the site? If so, there are restrictions surrounding the dispensing of gasoline.
4. A zone text amendment will also be required through the City of Portland to allow for the fuel storage use in the IR-1 zone.
5. Once a zone text amendment is in place, the project will require planning board approval most likely under the conditional use permit requirements.
6. A modification to the existing license agreement between Diamond Island Association and the City of Portland may also be required.

Hope this is helpful.

Thanks,

Owens

Transportation of Flammable and Combustible liquids is regulated by:

1-E 16.2

US DOT Title 49 CFR

Maine Statutes:

<http://www.mainelegislature.org/legis/statutes/25/title25sec2481.html>

Rules of the Office of the State Fire Marshal:

<http://www.maine.gov/sos/cec/rules/16/219/219c034.doc>

These rules adopt National Fire Protection Association (NFPA) codes including:

NFPA 385 Standard for Tank Vehicles for Flammable and Combustible Liquids, 2007 Edition

NFPA 30 Flammable and Combustible Liquids Code, 2008 Edition

NFPA 30A Code for Motor Fuel Dispensing Facilities and Repair Garages, 2008 Edition

A permit is required for any fuel storage facility with a capacity of greater than 60 gallons. See [http://www.maine.gov/dps/fmo/plans/storage\\_tanks.html](http://www.maine.gov/dps/fmo/plans/storage_tanks.html) for Guidelines for the installation of aboveground storage tanks.

Municipalities may adopt rules as restrictive or more restrictive than rules adopted by the US DOT or the Office of the State Fire Marshal.

Check with your municipality to see if they have any specific regulations.

NFPA 385 includes specifications for transport vehicles, both self-powered and trailers. It also has a chapter with requirements for vehicle operation and delivery operations.

NFPA 30 includes requirements for permanently installed storage tanks that may be used as bulk storage tanks or tanks for private fueling operations. (Setback table has been modified in Fire Marshal Rules, Chapter 34, follow link, above)

NFPA 30A includes regulations for fuel dispensing facilities, land and marina, for use by the public.

(Setback table has been modified in Fire Marshal Rules, Chapter 34, follow link, above)

A tank must be listed for the use, and used according to its listing. Therefore, a tank designed for use as a permanent, aboveground storage tank, can not be used as a transport tank, and a tank designed to be a transport tank can not be used as a permanent, aboveground storage tank.

Any changes in the use of, or modifications to the tank must be approved in writing by the manufacturer. [Whoever changes the use or modifies the tank without approval of the manufacturer assumes the liability of the manufacturer.]

Supports for an aboveground storage tanks are not designed to resist the vibrations that will be encountered when used as a transport tank.

Appurtenances, such as fill opening, normal vent, emergency vent, gauges, and withdrawal piping, on a transport tank must be protected against damage in case of a rollover. A permanent tank is not subject to rollover, therefore does not require protection of the appurtenances.

The emergency vent of a transport tank must close in case of rollover. Emergency vents for permanent tanks will open and allow free flow of product from the tank in case of rollover.

A system of straps, chains, ropes, wire ropes, etc. used to secure a tank to a trailer may cause stresses in areas not intended by the manufacturer and may cause the tank to fail in these areas.

Welding of "tie down" points to a tank may adversely affect the strength of the tank in a manner not anticipated by the manufacturer, and may cause the tank to fail.

# Great Cranberry

*Focusing on the fuel problem*

Great Cranberry is the largest of the group of islands comprising the Cranberry Isles. These five islands — Bear, Sutron, Little Cranberry or Islesford, Great Cranberry and Baker's — are located from half a mile to four miles south of Mt. Desert Island. Islesford and Great Cranberry are year-round islands with winter populations of about 65 and 45 residents respectively. Each island has a school, a post office and daily passenger ferry service to and from the mainland.

Early records dating back to the late 1760s show that Bunkers, Spurlings, Manchesters and Stanleys were the first decided landholders on Great Cranberry Island. Life on an island in those times was not as inconvenient as one might imagine, because transportation of goods by boat and travel via the sea were often much easier and more direct than overland travel.

Early settlers tended to be self sufficient with a variety of foods available from their livestock and gardens, as well as fish and waterfowl. The sea played a pivotal role, and through the generations, many of the men have been actively involved with boats. Today, David Bunker, the owner and captain of the mailboat/ferry service, is a direct descendant of one of the original Bunker landholders. His father, uncle and grandfather all were involved in carrying the mail.

After the turmoil of the Revolutionary War, relative peace and prosperity returned to the island. Groundfish were plentiful, and there was a continual demand for fish and lumber which could easily be transported and traded along the coast. Resourcefulness and self-sufficiency seemed to be the key to success and survival, so most islanders possessed all the skills of carpenters, fishermen, farmers, woodcutters and sailors. Families tended to be large in those times, gradually increasing the population of the island.

The island was once a much busier place than it is today. Even within recent memory, there were two schools, several small stores, many

active wharves with sheds for baiting trawl, and many people engaged in boatbuilding and fishing. Islanders' social lives were filled with dances, card parties and suppers. The community spirit was strong and active, ranging from helping the sick and those in need of temporary assistance to joining your "gang" of snow shovelers in the winter to clear your assigned stretch of the road. Longtime residents today still remember groups of shovel wielding men starting at the opposite ends of the main road and shoveling until they met somewhere in the middle.

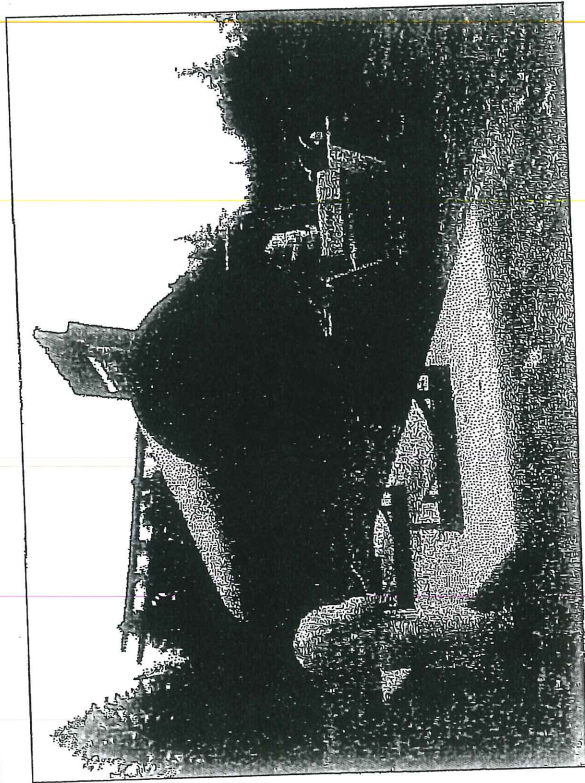
The first "summer" family bought property in the 1890s, inaugurating a gradual change in the island economy — adding summer "catering," domestic help, and caretaking to the list of islanders' skills.

As the years went by, other changes occurred. Groundfishing declined; more homes were sold to summer people; and the economy moved further away from its independent past to a service based economy. Today, included in the winter population of 45 residents are four active lobster fisherman, two active boatyards employing six people, two people involved year-round in the boating business, one postmistress, two students attending our school, three children attending high school, three children attending the Islesford school and two preschoolers. Of 45 residents, a third are between the ages of 60 and 92!

The island is still a wonderful place to live, but, in spite of the modern conveniences, it is in a fragile state. There is constant concern about residents' ability to maintain the island as an active, viable year-round community. An attempt has been made to discuss the issues of jobs, affordable housing and transportation through the Great Cranberry Futures Group (GCFG), organized in 1994.

The futures group has most recently been concerned with the sudden closing of the island's only gasoline supply. Island Woodworking had been supplying fuel oil, kerosene and gasoline to island residents as well as being involved in the boat hauling and storage business. This business

## *The Futures Group has placed its own fuel tank in the middle of the island.*



Barbara Stainton photo

was purchased a dozen years ago from Beal and Bunker (operators of the island's boat service to the mainland) by a young man who had decided to settle permanently on the island with his family after summering here for many years. About four years ago he offered the business and property for sale. The GCFG discussed the purchase of this property and made an offer less than the \$350,000 asking price. The offer was rejected, and no counter-proposal was made. In the interim, an alternative fuel oil and kerosene supplier began to do business on the island, but car gasoline continued to be supplied by Island Woodworking. In the spring of 1997, that service was abruptly discontinued, and all automobile fuel had to be brought to the island in five-gallon cans, either by individual users in their own boats or by a group of enterprising young men who made weekly trips with an assortment of cans for people who were unable to do this by themselves.

After some rather intense discussions and investigation of alternatives — not many very practical or economical ones were available — the futures group decided to purchase a free-standing, double-walled,

above-ground tank for self-service operation. The town cooperated and made available a spot for the placement of the facility on a piece of land it owned in the middle of the island — easily accessible but away from the waterfront so that no waterfront permitting process was necessary.

Under the arrangement proposed by the futures group, residents and potential users will purchase keys to the pump and maintain a balance of at least \$50 in their gas account to help pay for the continuing supply of gasoline. The key will activate the pump when a "member" needs to fill up. Billing is to be done monthly through the group and each key will access an individual account. No attendant will be required; fuel may be pumped at the customer's convenience.

By October, 1997, approximately \$42,000 had been raised — either in the form of low interest loans or tax-free donations from island residents. The loans are to be repaid through future profits from the sale of gasoline. The hope is that the price of gas will be lowered once the project is debt free. By the end of October the three concrete pads had been laid, the tank was in place, the site and concept had been approved by the fire marshal, the ditch was ready to receive the electric wires needed for power, on-site grading had been done and fencing had been ordered to surround the tank. All planning, organization, site work, and construction on the pads were undertaken locally by community members. Tanks Unlimited of Boothbay Harbor supplied the rest of the equipment.

GCFG planned to use part of a mini-grant from the Island Institute to update residents (year round and seasonal) on progress.

While fuel is the most pressing at the moment, other problems of concern to residents include affordable housing, jobs and transportation. The Great Cranberry Futures Group is committed to preserving the future of its island at any cost, and has chosen the fuel project as a place to start.

— Barbara Stainton

1-19-1997

1-E17

**From:** Stuart <tfafusl@yahoo.com>  
**To:** Rick Knowland <RWK@portlandmaine.gov>  
**Date:** Wednesday, September 26, 2012  
**Subject:** Re: Ted Weber

And thank you for your prompt response. BUT PLEASE FORWARD THE SOMEWHAT EDITED NOTE BELOW IN LIEU OF THE ORIGINAL.

> Dear Mr. Knowland,

>

> My wife and I are homeowners at Diamond Cove and I am also on the Board of Directors there. As you likely know, Ted Weber and his family are well liked and respected on all of Great Diamond Island (GDI)--apparently with a few exceptions. I say the latter because I (and others at Diamond Cove) believe that for those people on the southside of GDI that object to Ted having oil trucks on his property, it is not about business, environmental concerns... But I have heard, rather perhaps in some cases due to personal enmity.

>

> With that said, Ted and Dinosaur Enterprises are a critical need with respect to the habitability of GDI and the viability of its tax base and, therefore, it's financial and other contributions to the City of Portland. I believe that Ted and Dinosaur perform an essential function, much like a utility and, on that and other bases, deserve a zoning waiver or other form of relief.

>

> Thank you for your consideration.

Stuart Pergament  
88 McKinley Court

>

>

>



1-E 18

Rick Knowland - rezoning Weber's on Great Diamond

From: "Eric J. Chaisson" <ejchaisson@cfa.harvard.edu>  
To: <RWK@portlandmaine.gov>  
Date: 9/24/2012 7:07 PM  
Subject: rezoning Weber's on Great Diamond

Mr. Knowland:

This letter concerns the pending application to rezone the Weber's property on Great Diamond Island. We are close neighbors of the Webers, diagonally across the street at 108 Crescent Ave—and thus we have added interest in the ongoing debate regarding how best to provide fuel to local residents.

We support the limited, conditional rezoning of the particular, half-acre parcel of land owed by the Webers at 118 Sunset Ave, in order to allow the continuation of the current fuel distribution services of Dinosaur Enterprises. We agree that the proposed rezoning will properly allow this small family business to remain a positive asset for all islanders, and that the rezoning will not negatively impact the neighborhood or the island.

Our main concern is for the safety and security of the fuel products. We believe that they would be safest on the Weber's property, where the Webers can properly monitor their own equipment, as they do now carefully and professionally. If their equipment were moved to the DPW site, or any other place on the island, there would not be enough security—even if surveillance cameras and other sensing technology were installed to monitor their equipment remotely.

We are confident that approval of the limited rezoning of this single piece of property on GDI would provide an adequate and mutually agreeable solution to this ongoing controversy.

-- Eric and Lola Chaisson  
108 Crescent Ave, GDI

1-E19

From: michael kane <madsp1@embarqmail.com>  
Subject: Permit/zoning  
Date: September 21, 2012 11:06:01 AM EDT



Mayor Michael Brennan  
389 Congress Street  
Portland, Maine 04101

RE: Dinosaur Enterprises Oil Co.

Dear Mayor Brennan;

We have been residents, owners and taxpayers of property located at 42 Ingalls Way Diamond Cove, Great Diamond Island for approx. 15 years. Our property has been fueled and serviced by the Weber Family during this period. We find it hard to believe that if this property or business is not in complete compliance, and if not it then should be Grandfathered. This operation is vital to the safety, preservation of Historical property, island commerce and life of taxpayers and families on the island. If the City of Portland wishes to continue to develop this resource, then find and accomdation quickly and let the life on both Little Diamond and Great Diamond continue with it's charm and beauty.

Michael G. Kane  
1538 Hartsville Trail  
The Villages, FL 32162  
352-751-3247

CC: Mark Rees, City Manager  
Michael Murray, Island/ Neighborhood Administrator  
Ted Weber, Dinosaur Enterprises

Rick Knowland - Dinosaur Enterprise Application

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1-E 20

From: "Jim Grout" <jgrout@high5adventure.org>  
To: <RWK@portlandmaine.gov>  
Date: 9/24/2012 12:07 PM  
Subject: Dinosaur Enterprise Application

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Dear Rick,

I cannot attend the meeting today but would like to express my strong support for the Contract Zone application by Dinosaur Enterprises to be approved by the city.

This service is both an economic and a safety issue for those of us who live on Great Diamond. Whether it is the Weber family or some other entity in the future, having a fuel service on island is of paramount importance to the vast majority of islanders.

As a homewoner and long time islander (1964) I speak from experience in knowing how crucial this service is to Great Diamond and personally attest to the high quality of service that has been provided by the Webers.

Please do everything possible to assure that they are able to continue providing heating and fuel service to Great Diamond residents.

Thanks you for your time,

Jim & Colleen Grout  
195 Crescent Ave.  
Great Diamond Island  
Portland, ME  
207-766-3327

*Jim Grout*  
Director  
High 5 Adventure Learning Center  
(802) 254-8718 office  
(802) 735-7554 cell  
jgrout@high5adventure.org

Empowering People, Building Programs, Creating Change

Rick Knowland - FW: Rezoing application & Planning board documents (Large Attachment Removed)

1-E21

From: "Bogdanovich, Paul (Group Benefits)" <paul.bogdanovich@thehartford.com>  
To: <RWK@portlandmaine.gov>  
Date: 9/24/2012 11:00 AM  
Subject: FW: Rezoing application & Planning board documents (Large Attachment Removed)  
Attachments: City'sResponsetoDinosaurApplication.pdf.html; Dinosaur'sFullApplication.pdf.html

Rick, I am a neighbor of the Weber's on Great Diamond Island. I have a cottage just 3 down from the Weber's residence. I am in full support of Dinosaur Enterprises Application. The Weber's provide vital services to the island residents in a high quality manner.

Sincerely,  
Paul Bogdanovich  
207-671-9852

From: Nmgleason@aol.com [mailto:Nmgleason@aol.com]  
Sent: Sunday, September 23, 2012 10:56 AM  
To: Nmgleason@aol.com  
Subject: Rezoing application & Planning board documents (Large Attachment Removed)

Dear members:

As you may know, there is a Planning Board workshop being held at City Hall Monday, September 24 - tomorrow - at 3:30 to consider rezoning the Weber's property to accommodate the fuel business. Attached is the application submitted by Dinosaur Enterprises and the remarks submitted by Rick Knowland, City Planning staff. Should you wish to make a comment or ask a question, you can do so at the meeting or by sending an email to Rick Knowland at [RWK@portlandmaine.gov](mailto:RWK@portlandmaine.gov).

My goal is to keep you posted on the process. Nancy

\*\*\*\*\*

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1-E22

Rick Knowland - Dinosaur Enterprises

From: Robert McAndrew <rmac0104@sbcglobal.net>  
To: <RWK@portlandmaine.gov>  
Date: 9/24/2012 7:49 AM  
Subject: Dinosaur Enterprises

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Mr. Knowland,

I am writing to express my complete support for allowing Dinosaur Ent. to continue its operation of fuel distribution from its present location. Thank you.

Robert McAndrew  
36 Meadow Ave.  
Great Diamond Island

1 - E 23

Rick Knowland - Dinosaur Enterprises

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From: "McAndrew, Mark" <Mark.McAndrew@ct.gov>  
To: "RWK@portlandmaine.gov" <RWK@portlandmaine.gov>  
Date: 9/24/2012 8:22 AM  
Subject: Dinosaur Enterprises

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Dear Mr Knowland,

We are Pati and Mark McAndrew and we live at 211 Sunset Avenue on Great Diamond Island. We have owned our home for over 20 years and have been a part of the island community for over 40 years. We are in complete support of the rezoning of the Weber's property to accommodate the fuel business, Dinosaur Enterprises. Mr Ted Weber has conducted a safe and very valuable business without incident for many many years. The island community depends on this business for heating oil, heating oil Kerosene, and gasoline for lawn mowers and golf carts and the like. Thank you for this consideration.

Mark and Patricia McAndrew  
211 Sunset Avenue  
Great Diamond Island

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1-E24

**From:** Donna Schwartz <dlshrs@maine.rr.com>  
**To:** Rick Knowland <rwk@portlandmaine.gov>  
**Date:** Sunday, September 23, 2012  
**Subject:** the monday meeting for "dinosaur enterprises"

dear rick et al,

i have emailed you prior in support of ted weber / dinosaur enterprises -

i planned on being present at tomorrow's meeting unfortunately i am now unable to attend.

i cannot tell you or the planning board anything new about the dynamics of GDI -  
i'm sure that you are all only too well aware of the fact that we have a small group of trouble makers that have nothing better to do then to constantly stir the pot and caus strife in one way or another and i'm sure that you are familiar with just who the 'usual suspects' are w/o my having to name them!

this time they have jumped on ted weber's back and care not the chaos they are causing him and his family or those of us who rely on ted for not only our home heating oil but many other invalueable services as well!  
we could not begin to function on island w/o ted and his family personally and professionally.

most of them got their little duckies in a row and for the most part converted to propane gas heat before making their move on ted & family w/o any consideration as to how the rest of us are going to fend?!

and i understand that they have voiced objections to the delivery trucks being parked in ted's driveway -  
well, the planning board ought to take a looksee at some of their house lots - some of them should clean up their own act before voicing complaint about someone else - whose calling the kettle black here?!

the fact that any of us are required to give this matter any time and attention is a total waste of resources - but, again, they care not - as they are feeding their own frenzy!

i trust that the planning board will take the appropriate action - one that is rational, reasonable, sane and sensible!

thank you.

sincerely,  
donna schwartz  
diamond cove  
GDI

1-E25

Rick Knowland - Weber rezoning/ abutter comment

From: Karen Tucker <chinagirl3203@aol.com>  
To: <RWK@portlandmaine.gov>  
Date: 9/23/2012 12:44 PM  
Subject: Weber rezoning/ abutter comment

Hello:  
Please note that my brother and I own the property that abuts the Weber's property on Great Diamond Island.  
Although we both have to work on Monday 9/24 I feel it is important that you *add our voices again to those that support the request that Dinosaur Enterprises has submitted to the city, they perform invaluable service on Great Diamond Island and we would be lost without them.*

My parents are elderly and live on the island too, I truly feel that they would not be able to spend as much time as they do on the island without Dinosaur and the Weber's helping them with their fuel needs.

Thank you for your time and consideration.

Karen Tucker  
Great Diamond Island  
Portland, Me 04109  
207 415 6712



1-E26

**From:** Edward Maas <etmaas@myfairpoint.net>  
**To:** <rwk@portlandmaine.gov>  
**Date:** Sunday, September 23, 2012  
**Subject:** Dinosaur Enterprises

Mr. Knowland,

This note is intended to express my wife's and my appreciation and total support for Mr. Weber and Dinosaur Enterprises. As year round residents and registered voters, we believe the presence and services of Dinosaur Enterprises provide for the continuing existence of Great Diamond Island as a vibrant and desirable portion of the City of Portland. Without these services, it is our belief that the quality of life and desirability of calling this beautiful neighborhood of Portland our home would be seriously degraded and damaged. Likewise, as active members of the Great Diamond Island Volunteer Fire Company (Engine 13), we would also point out the critical services for the safety of our island that are provided by Dinosaur Enterprises. Without the services of Dinosaur, it is hard to imagine how our fire trucks and ambulance would be fueled. This is especially true when an emergency occurs as it did a number of years ago when a structure fire in the middle of the night required refueling of Fire Engine 13 during the fire fighting activities. Dinosaur immediately provided the critical service needed.

We urge you to look favorably on Dinosaur's request for appropriate zoning that would allow their continued existence and service to the citizens of Portland.

Please share this letter with whomever is appropriate.

Respectfully yours,

E. Thomas and Irene Maas  
59 Moon Garden Way  
Diamond Cove, Maine 04109

207-766-5199

1-E-27

**From:** Alden Finney <abfinney1@myfairpoint.net>  
**To:** RWK@portlandmaine.gov  
**CC:** dinosaurenterprises@yahoo.com  
**Date:** Friday, July 05, 2013  
**Subject:** 118 SUNSET AVE. GREAT DIAMOND ISLAND

Rick Knowland  
Senior Planner Planning Division  
City Hall, 4th Floor  
389 Congress St.  
Portland ME 04101

Dear Mr. Knowland,

As a year round resident of Great Diamond Island I support the proposed conditional zone by Dinosaur Enterprises for a fuel distribution service at 118 Sunset Avenue. As you know this is the only fuel oil delivery business located on the Island and the Webber family has operated it for many years. It is a service important for the continued viability of the Island as a year round community.

The Webbers have delivered fuel and repaired heating systems at all hours of the day and night and in all weather conditions. They have provided excellent service. This is a service that should be available on the Island as service from the mainland is not always possible.

I urge you to support the Dinosaur Enterprises proposal.

Sincerely

Alden J. Finney  
92 McKinley Court  
Diamond Cove ME 04109

207-766-2988

1-E-28

**Rick Knowland - Ted Weber/Dinosaur**

**From:** <MLNATHAN@aol.com>  
**To:** RWK@portlandmaine.gov  
**Date:** 7/9/2013 8:58 AM  
**Subject:** Ted Weber/Dinosaur

Dear Mr. Knowland

I am writing this to endorse the efforts of Mr. Ted Weber and Dinosaur Enterprises for a conditional zone on Great Island.

We have had our second home at Diamond Cove for 12 years, leaving it for the majority of the winter months while we enjoyed the climes of South Florida.

In those twelve years there has never been one occasion when we could not count on Mr Weber to take care and see to the fuel needs, and in a sense the survival, of our home. He and his company are reliable, trustworthy and virtually indispensable to the well-being of the entire community.

To the extent that the City of Portland has the discretion to grant Mr. Weber's request, it is my - and that of every person at Diamond Cove with whom I have discussed this - hope and request that the City grant Mr. Weber's request.

Thank you for taking the time to read this.

---

Martin L Nathan  
Nathan & Hauser  
2699 South Bayshore Dr.  
Seventh Floor  
Miami, Fl 33133  
305 371 5588

1-E-29

**Rick Knowland - Dinosaur Enterprises**

**From:** Lisa Haabestad <lisa@pfaffmann.com>  
**To:** RWK@portlandmaine.gov  
**Date:** 7/9/2013 9:31 AM  
**Subject:** Dinosaur Enterprises

Dear Mr. Knowland,

We are unable to attend the hearing this afternoon as we are back in Pittsburgh after leaving 148 McKinley Ct this weekend. We wish to express our support of Dinosaur Enterprises to continue to provide fuel distribution services on GDI. They are caring professionals and an island asset.

Sincerely,

Lisa Haabestad

Pfaffmann+Associates  
223 4th Ave Suite 800  
Pittsburgh, PA 15222  
412-471-2470

1-E-30

**Rick Knowland - Ted Weber Zoning**

**From:** sam cady <samcady@hotmail.com>  
**To:** RWK@portlandmaine.gov  
**Date:** 7/9/2013 9:45 AM  
**Subject:** Ted Weber Zoning

Dear Sir,

I am writing in support of Mr. Weber's zoning application. His services are critical to the survival of Great Diamond Island.

Sincerely,

Sam Cady, MD  
Maine Eye Center  
Portland, Maine.

1-E-31

**Rick Knowland - Ted Weber and Dinosaur Enterprises - public hearing today at 3:30PM**

**From:** Annette Kane <madsp1@embarqmail.com>  
**To:** RWK@portlandmaine.gov  
**Date:** 7/9/2013 9:46 AM  
**Subject:** Ted Weber and Dinosaur Enterprises - public hearing today at 3:30PM  
**CC:** Annette Kane <madsp1@embarqmail.com>

Dear Rick,

I'm a homeowner at Diamond Cove (42 Ingalls Road) and will not be able to attend today's meeting. I wanted to contact you today to offer my full support of Ted Weber and his zoning application. Please contact me if there are any questions.

Thank you.

Respectfully,  
Annette Kane  
PH: 352-751-3247

1-E-32

**From:** Roger Blatty <diamondcovemaine@msn.com>  
**To:** RWK@portlandmaine.gov  
**CC:** rshoemaker@phoenixmanagementcompany.com  
**Date:** Tuesday, July 09, 2013  
**Subject:** Ted Weber and Dinosaur Enterprises

Rick, I'm a homeowner at Diamond Cove and want to express my total support of Ted Weber, owner of Dinosaur Enterprises. I realize the zoning issue is not in place to permit Weber current operation, but ask that a waiver of the current zoning be approved by the Portland Planning Board.

The Weber's are not only a supplier of fuel to Great Diamond, Diamond Cove & Little Diamond but a great asset with mechanical problems both during the spring/summer seasons, but manly during the fall/winter seasons on the islands.

Thank you for your time and please consider this request.

RogerBlatty

86 Ingalls Road, 13G  
Diamond Cove, Great Diamond Island  
Maine, 04109, USA  
Cell: 207.233.8001  
Island: 207.766.5711  
E-Mail: diamondcovemaine@msn.com  
Website: www.diamondcovemaine.com <<http://www.diamondcovemaine.com/>>

time zone: GMT -5:00  
P Please consider the environment before printing this e-mail or any attachments.

1-E-33

**From:** <byoung@levetrockwood.com>  
**To:** RWK@portlandmaine.gov  
**Date:** Tuesday, July 09, 2013  
**Subject:** Zoning Application of Dinosaur Enterprises

As Diamond Cove residents, we have relied on Ted Weber and Dinosaur Enterprises as our source of oil for heat and hot water for more than 10 years. This oil delivery is indispensable for Great Diamond Island, both for all year and seasonal residents.

Please approve the application for a conditional zone so that the business can continue as it has for so many years.

Thank you,  
Barbara A. Young and James W. Fast  
92 McKinley Court  
Great Diamond Island, Maine 04109



**Rick Knowland - dinosaur oil**

**From:** <Judithklee@aol.com>  
**To:** RWK@portlandmaine.gov  
**Date:** 7/9/2013 9:48 AM  
**Subject:** dinosaur oil

As a year round resident of Great Diamond Island I rely on Dinosaur Oil to keep my furnace going. they respond immediately to any problems I've had and keep my oil tank filled. They are a wonderful business to have on the island and have given fast, efficient and friendly service in the 13 years I have lived here. I hope they can continue to serve us. Please consider granting the zoning permission for them.

Judith Lee  
70 McKinley Ct  
Diamond Cove

1-E-35

**From:** Ed Wolak <ewolak@aol.com>  
**To:** RWK@portlandmaine.gov  
**Date:** Tuesday, July 09, 2013  
**Subject:** Regarding Ted Weber and Dinosaur Enterprises

Rick

I am the owner of two homes (unit 17E and 17F) at Diamond Cove. I am writing to voice my support for Ted Weber and his fuel business to continue as it has for many years. We rely upon this business to supply us with oil year around. They have been a dependable source of supply and I can't imagine how residents who use oil could do without this business. It is my hope that the city will find a way to allow this business to continue as well as to be eventually assigned or sold if the Webers for some reason can't continue to operate it.

Respectfully,

Ed Wolak

1-E-36

**Rick Knowland - Dinosaur Enterprises**

**From:** Ken Wood <ken@attarengineering.com>  
**To:** ken@attarengineering.com; RWK@portlandmaine.gov  
**Date:** 7/9/2013 9:49 AM  
**Subject:** Dinosaur Enterprises  
**CC:** CHomler@phoenixmanagementcompany.com

Hi Rick - Sorry that I can't attend tonight's meeting re. DINOSAUR ENTERPRISES. I have been a seasonal resident of Diamond Cove since 1994 - Ted , Betsy & Beth provide an essential service to all on Great Diamond Island - they certainly have my support.

Yours,

Kenneth A Wood, PE  
Atrar Engineering, Inc.

Sent from my Sprint phone

1-E-37

**From:** "Richard L. Emerson" <emerson@gagerlaw.net>  
**To:** RWK@portlandmaine.gov  
**Date:** Tuesday, July 09, 2013  
**Subject:** Dinosaur Enterprises

I am a property owner at Diamond Cove on Great Diamond Island and I am writing to support the application for the establishment of an area for fuel distribution services. I believe Mr. Weber has conducted his operations responsibly and will continue to do so. Thank you for your favorable consideration.

Sent from my iPhone

**Rick Knowland - RE: Dinosaur Enterprises**

---

**From:** "Dixon, Stephen W" <Stephen.W.Dixon@maine.gov>  
**To:** "Gary L Smith" <gls101@myfairpoint.net>  
**Date:** 7/9/2013 9:38 AM  
**Subject:** RE: Dinosaur Enterprises  
**CC:** "McCarthy, Richard" <RICHARD.M.MCCARTHY@maine.gov>

---

**From:** Gary L Smith [mailto:gls101@myfairpoint.net]  
**Sent:** Wednesday, July 03, 2013 10:13 AM  
**To:** Dixon, Stephen W  
**Cc:** McCarthy, Richard  
**Subject:** Dinosaur Enterprises

Mr. Dixon,

The owner of this business has now stated that he will be selling gasoline from an auxiliary tank mounted in the bed of his pickup truck because he will be under a different jurisdiction with less restrictive rules and regulations.

1. What rules and regulations would apply to the storage, transportation, and sales of gasoline from a truck mounted auxiliary tank? Would Maine's "island use" exemption for vehicle inspections apply to the truck with the auxiliary tank?

These would be State Police and/or Commercial Vehicle Enforcement issues. The tank he is referring to is intended for private use, not retail sales. There may be issues with Dept of Agriculture, Weights and Measures. Many of the pumps used on this type of tank are marked "Not for Resale".

2. If the UL 142 tank currently mounted on the homemade trailer was removed from the trailer and placed on the ground in the middle of a residential neighborhood what distance and setbacks would your office require from property lines, ROW's etc?

100 feet to property lines, 50 feet from tank to dispenser, 50 feet from tank to important buildings, 50 feet from tank to the nearest side of a public way, no less than 3 feet between tanks.

3. Would fencing and lighting be required for that UL 142 tank? Would there be any other requirements? A 6 foot high chain link fence 10 feet from the tank would be required. Secondary containment is required.

An anti-siphon valve and a pressure relief system will be required depending on the type of pump used. If piping is run underground, several Dept of Environmental Protection requirements will apply. The tank will have to have the common appurtenances including a normal vent that terminates no less than 12 feet above ground level, an emergency vent for the primary chamber, an emergency vent for the interstitial space if it is a double wall tank, a method of overfill prevention, piping leak detection, a drop tube in the fill that extends to within 6" of the bottom of the tank to prevent static electric charge development during filling.

The site will have to comply with DEP wellhead Protection siting rules.

Numerous other requirements will apply if it is intended to be self-service.

The owner must obtain a permit from this office BEFORE constructing the facility.

Thanks in advance.

1-E-39

**From:** Tracy Sommers <lassasommers@yahoo.com>  
**To:** RWK@portlandmaine.gov  
**Date:** Tuesday, July 09, 2013  
**Subject:** Ted weber and diamond island

Hello,

Unwanted to send a brief note on my complete support for Dinosaur Enterprises. As a full time resident of Diamond cove, Ted provides a service where we don't have any other alternatives. During the winter months this critical and without, could be devastating to home an personal safety.

Regards, Tracy Sommers

Sent from my iPhone

1-E-40

**From:** Lance Vardis <musmix@aol.com>  
**To:** RWK@portlandmaine.gov  
**Date:** Tuesday, July 09, 2013  
**Subject:** Dinosaur Enterprises conditional zoning GDI

As property owners on Great Diamond Island/Diamond Cove, we wanted to offer our full support to the Webers and Dinosaur Enterprises for their conditional zoning. Dinosaur offers an essential service to our community, and they always go above and beyond.

We hope the City recognizes how important Dinosaur is to GDI.

Respectfully,

Lance and Gina Vardis  
164 Diamond Ave  
GDI/ Portland, ME

**Rick Knowland - Fwd: ted weber & family / dinosaut ent.**

---

**From:** Donna Schwartz <dlshrs@maine.rr.com>  
**To:** RWK@portlandmaine.gov  
**Date:** 7/9/2013 12:01 PM  
**Subject:** Fwd: ted weber & family / dinosaut ent.

---

Begin forwarded message:

**From:** Donna Schwartz <[dlshrs@maine.rr.com](mailto:dlshrs@maine.rr.com)>  
**Date:** July 9, 2013 9:29:31 AM EDT  
**To:** Rick Knowland <[rwk@portlandmaine.gov](mailto:rwk@portlandmaine.gov)>  
**Subject:** ted weber & family / dinosaut ent.

dear rick et al,  
emailing again in support of ted & co. - cannot believe that a handful of whiners has managed thus far to caus such chaos & conflict?!  
wld hope & pray that the planning board has more sense & sanity then to allow this to continue much longer!? good grief!  
thank you!  
sincerely,  
donna schwartz  
diamond cove, gdi



1-E-42

**From:** Byron Neal <byron\_neal@yahoo.com>  
**To:** RWK@portlandmaine.gov  
**CC:** alexkneal@gmail.com  
**Date:** Tuesday, July 09, 2013  
**Subject:** Dinosaur Enterprises

Hello,  
We are year round homeowners at Diamond Cove, Great Diamond Island, and strongly support the zoning application by Dinosaur Enterprises. Ted and family provide an essential service to our island.  
Thank you, Alexandra and Byron Neal

I-E-43

**From:** Amy Farrell <amy@portisland.com>  
**To:** RWK@portlandmaine.gov  
**Date:** Tuesday, July 09, 2013  
**Subject:** Ted Weber - zone application

Rick-

Hope this email finds you well.

Please consider this email to show my support of approving a zoning application for Ted Weber with Dinosaur Enterprises.

Thank you,  
Amy

Amy Farrell  
Port Island Realty  
Diamond Cove  
Great Diamond Island, ME 04109  
207 766 3377  
207 233 0033

1-E-44

**Rick Knowland - Support of Ted Weber Dinosaur Enterprises**

---

**From:** Joe VanWhy <[joevanwhy@me.com](mailto:joevanwhy@me.com)>  
**To:** [RWK@portlandmaine.gov](mailto:RWK@portlandmaine.gov)  
**Date:** 7/9/2013 3:18 PM  
**Subject:** Support of Ted Weber Dinosaur Enterprises

---

Dear Mr. Knowland,

My name is Joe VanWhy and i own a home on Great Diamond Island (Diamond Cove) at 98 Seal Cove Lane. I am sending this email to inform you of my support of Ted Weber Dinosaur Enterprises zoning application. Due to a schedule conflict, I am not able to be there today at the planning board meeting.

Joe VanWhy  
27828 Lincoln Place  
Wesley Chapel, FL 33544  
(p) 813-994-9414  
(f) 813-354-3616  
email: [joevanwhy@me.com](mailto:joevanwhy@me.com)  
facetime: [joevanwhy@me.com](mailto:joevanwhy@me.com)

1-E-45

**From:** <joana@islands.vi>  
**To:** RWK@portlandmaine.gov  
**Date:** Tuesday, July 09, 2013  
**Subject:** Ted Weber

We live on Great Diamond Island and support Ted Weber's application, 100%, totally.

John and Joan Amerling  
53 Ingalls Road  
Diamond Cove

1-E-46

**Rick Knowland - Dinosaur Enterprises (Ted Weber) Conditional Zoning Application - Great Diamond Island**

**From:** "John Tooker" <jtookер@mail.acponline.org>  
**To:** RWK@portlandmaine.gov  
**Date:** 7/9/2013 9:13 AM  
**Subject:** Dinosaur Enterprises (Ted Weber) Conditional Zoning Application - Great Diamond Island

Dear Mr. Knowland,

As a Great Diamond Island (GDI) property owner (15E Diamond Cove) dependent upon Dinosaur Enterprises for year around fuel, I'd like to express my support for Mr. Weber's application for a conditional fuel distribution zone on GDI @ today's Portland Planning Board hearing.

Best Wishes,

John Tooker

John Tooker, MD, MBA, MACP  
CEO Emeritus, American College of Physicians  
Adjunct Professor of Medicine  
Perelman School of Medicine at the University of Pennsylvania  
190 N. Independence Mall West  
Philadelphia, PA 19106-1572  
Tel: (215) 351-2825  
Cell: (267) 303-1070  
email: jtookер@mail.acponline.org  
Fax: (215) 351-2829

1-E-47

**From:** Kim Garrett <kim.garrett@wolakgroup.com>  
**To:** RWK@portlandmaine.gov  
**Date:** Tuesday, July 09, 2013  
**Subject:** Great Diamond Proposed Conditional Zone

Dear Mr. Knowland,

My name is Kimberly (Wolak) Garrett and I am a homeowner of two units on the Diamond Cove side of Great Diamond Island. I want to send a letter of my support for the proposed conditional zone application for Ted Weber and Dinosaur Enterprises for fuel distribution on Great Diamond Island.

Ted and his family have been helping support our units since 1999 and probably the owners before us. I don't know a more helpful and deserving family of our support. They have always been willing to help us with furnace issues and fuel needs throughout the year at a drop of a hat. Please support his zoning application so we, who have supported his company for years, can continue to feel safe on Great Diamond Island in this capacity.

Kimberly (Wolak) Garrett  
17E & 17F, DCHA  
818-522-4254  
VP of Management Services & Franchise Owner  
The Wolak Group  
Kim.Garrett@WolakGroup.com

# Applicant's Submittal

# Drummond Woodsum

Daniel Amory\*  
David J. Backer\*  
S. Campbell Badger\*  
Michael L. Buescher\*  
Alexandra E. Cautfield\*  
Jerrold A. Crouter\*  
George T. Dilworth\*  
Peter C. Feimly\*  
Erin R. Feltes†  
Adrienne E. Fouts\*  
Sara S. Hellstedt\*  
Eric R. Herlan\*†  
Melissa A. Hewey\*†  
Michael E. High\*  
David M. Kallin\*  
John S. Kaminski\*  
Edward J. Kelleher\*  
James T. Kilbreth\*  
Jeanne M. Kincaid\*†  
Peter D. Klein\*  
Rodney A. Lake\*  
Benjamin E. Marcus\*  
Elek A. Miller\*  
Mona T. Movafaghiti  
Michael J. Murray\*  
Robert P. Nadeau\*  
Daina J. Nathanson\*†  
Kimberly A. Pacelli\*  
Jeffrey T. Piampiano\*  
William L. Plouffe\*  
Aaron M. Pratt\*†  
Harry R. Pringle\*  
Kerian Roman†  
Daniel J. Rose\*†  
George Royle V\*  
Gregory W. Sample\*  
Jessica M. Scherb\*†  
David S. Sherman, Jr.\*  
Richard A. Shinay\*  
Christina R. Simpson†  
Kaighn Smith, Jr.\*  
Bruce W. Smith\*  
Richard A. Spencer\*†  
Christopher G. Stevenson\*  
E. William Stockmeyer\*†  
Amy K. Tchao\*†  
Joanna B. Tourangeau\*†  
M. Thomas Trenholm\*  
Matthew H. Upton†  
Gary D. Vogel\*  
Ronald N. Ward\*  
Thomas R. Watson\*†  
Brian D. Willing\*  
Reade E. Wilson\*  
Gerald M. Zelint

Ronald N. Ward

rnward@dwmlaw.com

84 Marginal Way, Suite 600  
Portland, ME 04101-2480

ART 2-A-1  
(207) 772-1941

(207) 772-3627 Fax

(800) 727-1941

Admitted in ME only

www.dwmlaw.com

August 22, 2012

City of Portland Planning Department  
389 Congress Street  
Portland ME 04101

RE: Dinosaur Enterprises Ltd. – Contract Zoning Application

Ladies and Gentlemen:


Enclosed is the original application, amended to add the City's prescribed application form. We assume it to be complete, but let me or Ted Weber know if you feel differently.

We do not believe that this application requires a neighborhood meeting, in accordance with your published standards for such a meeting. Be aware that the Webers have signed petitions from dozens of Island residents supporting their business and this application which we can provide to you, if requested.

You will keep us all posted on the various hearing dates and required meetings at City Hall.

Thank you for your consideration.

Sincerely,



Ronald N. Ward

RNW:kjl

Enclosures

cc: Dinosaur Enterprises Ltd.  
Danielle West-Chuhta, Esq.  
Michael Murray, Island Liaison

#### Consultants

Ann S. Chapman  
Policy & Labor Relations

Roger P. Kelley  
Labor Relations &  
Conflict Management

Michael J. Opuda Ph.D.  
Special Education

#### Of Counsel

Joseph L. Delafield III\*  
Robert L. Gips\*  
Donald A. Kopp\*  
Hugh G. E. MacMahon\*  
Harold E. Woodsum, Jr.\*

\* Admitted in Maine

† Admitted in New Hampshire





2-2-2

# Zoning Amendment Application

Department of Planning and Development, Planning Division and Planning Board

PROJECT ADDRESS: 118 Sunset Avenue, Great Diamond Island

CHART/BLOCK/LOT: 83A-K-5-10

## CONTACT INFORMATION:

### APPLICANT

Name: Dinosaur Enterprises Ltd.  
 Address: PO Box 4804  
Great Diamond Island  
Portland, ME  
 Zip Code: 04112-4804  
 Work #: 207-766-5673 or  
207-766-5061  
 Cell #: \_\_\_\_\_  
 Fax #: \_\_\_\_\_  
 Home: \_\_\_\_\_  
 E-mail: dinosaurenterprises@yahoo.com

### PROPERTY OWNER

Name: Elizabeth A. Weber  
 Address: PO Box 4804  
Great Diamond Island  
Portland, ME  
 Zip Code: 04112-4804  
 Work #: 207-766-5673 or  
207-766-5061  
 Cell #: \_\_\_\_\_  
 Fax #: \_\_\_\_\_  
 Home: \_\_\_\_\_  
 E-mail: dinosaurenterprises@yahoo.com

### BILLING ADDRESS

Name: Dinosaur Enterprises Ltd.  
 Address: PO Box 4804  
Great Diamond Island  
Portland, ME  
 Zip: 04112-4804  
 Work #: 207-766-5673 or  
207-766-5061  
 Cell #: \_\_\_\_\_  
 Fax #: \_\_\_\_\_  
 Home: \_\_\_\_\_  
 E-mail: dinosaurenterprises@yahoo.com

~As applicable, please include additional contact information on the next page~

AGENT/REPRESENTATIVE

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Zip Code: \_\_\_\_\_  
Work #: \_\_\_\_\_  
Cell #: \_\_\_\_\_  
Fax #: \_\_\_\_\_  
Home: \_\_\_\_\_  
E-mail: \_\_\_\_\_

ENGINEER

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Zip Code: \_\_\_\_\_  
Work #: \_\_\_\_\_  
Cell #: \_\_\_\_\_  
Fax #: \_\_\_\_\_  
Home: \_\_\_\_\_  
E-mail: \_\_\_\_\_

ARCHITECT

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Zip Code: \_\_\_\_\_  
Work #: \_\_\_\_\_  
Cell #: \_\_\_\_\_  
Fax #: \_\_\_\_\_  
Home: \_\_\_\_\_  
E-mail: \_\_\_\_\_

CONSULTANT

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Zip Code: \_\_\_\_\_  
Work #: \_\_\_\_\_  
Cell #: \_\_\_\_\_  
Fax #: \_\_\_\_\_  
Home: \_\_\_\_\_  
E-mail: \_\_\_\_\_

SURVEYOR

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Zip Code: \_\_\_\_\_  
Work #: \_\_\_\_\_  
Cell #: \_\_\_\_\_  
Fax #: \_\_\_\_\_  
Home: \_\_\_\_\_  
E-mail: \_\_\_\_\_

ATTORNEY

Name: Ronald N. Ward  
Address: Drummond Woodsum & MacMahon  
84 Marginal Way, Suite 600  
Portland, ME  
\_\_\_\_\_  
Zip Code: 04101-2480  
Work #: 207-772-1941  
Cell #: \_\_\_\_\_  
Fax #: 207-772-3627  
Home: \_\_\_\_\_  
E-mail: rward@dwmlaw.com

# PROJECT DATA

2-A-4

The following information is required where applicable, in order complete the application

Total Site Area	N/A - see _____ sq. ft.
Proposed Total Disturbed Area of the Site	enclosed narrative sq. ft.
(If the proposed disturbance is greater than one acre, then the applicant shall apply for a Maine Construction General Permit (MCGP) with DEP and a Stormwater Management Permit, Chapter 500, with the City of Portland.)	
<u>Impervious Surface Area</u>	
Proposed Total Paved Area	N/A - see enclosed narrative sq. ft.
Existing Total Impervious Area	_____ sq. ft.
Proposed Total Impervious Area	_____ sq. ft.
Proposed Impervious Net Change	_____ sq. ft.
 <u>Building Area</u>	
Existing Building Footprint	N/A - see enclosed narrative sq. ft.
Proposed Building Footprint	_____ sq. ft.
Proposed Building Footprint Net change	_____ sq. ft.
Existing Total Building Floor Area	_____ sq. ft.
Proposed Total Building Floor Area	_____ sq. ft.
Proposed Building Floor Area Net Change	_____ sq. ft.
New Building	_____ (yes or no)
 <u>Zoning</u>	
Existing	IR-1/IR-2
Proposed	Unchanged with respect to underlying zone designation, but subject to additional Contract Zone requirements
 <u>Land Use</u>	
Existing	N/A - see enclosed narrative
Proposed	_____
 <u>Residential, if applicable</u>	
Proposed Number of Affordable Housing Units	N/A
Proposed Number of Residential Units to be Demolished	_____
Existing Number of Residential Units	_____
Proposed Number of Residential Units	_____
Subdivision, Proposed Number of Lots	_____
 <u>Parking Spaces</u>	
Existing Number of Parking Spaces	N/A
Proposed Number of Parking Spaces	_____
Number of Handicapped Parking Spaces	_____
Proposed Total Parking Spaces	_____
 <u>Bicycle Parking Spaces</u>	
Existing Number of Bicycle Parking Spaces	N/A
Proposed Number of Bicycle Parking Spaces	_____
Total Bicycle Parking Spaces	_____
 <u>Estimated Cost of Project</u>	 N/A

2-A-5

**Right, Title, or Interest:** Please identify the status of the applicant's right, title, or interest in the subject property:

See enclosed narrative

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Provide documentary evidence, attached to this application, of applicant's right, title, or interest in the subject property. (For example, a deed, option or contract to purchase or lease the subject property.)

**Vicinity Map:** Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use. (Applicant may utilize the City Zoning Map or Parcel Map as a source.)

**Existing Use:**

Describe the existing use of the subject property:

See enclosed narrative

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**Current Zoning Designation(s):**

IR-1/IR-2 (residential)

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**Proposed Use of Property:** Please describe the proposed use of the subject property. If construction or development is proposed, please describe any changes to the physical condition of the property.

See enclosed narrative

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**Sketch Plan:** On a separate sheet, please provide a sketch plan of the property showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1" = 10' to 1" = 100'.) Contract and conditional rezoning applications may require inclusion of site plans and written material that address physical development and operation of the property to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood.

2-A-6

**APPLICATION FEE:**

Check the type of zoning review that applies. Payment may be made in cash or check to the City of Portland.

<p><b>Zoning Map Amendment</b>  _____ \$2,000.00 (from _____ zone to _____ zone)</p> <p><b>Zoning Text Amendment</b>  _____ \$2,000.00 (to Section 14- _____)</p> <p>(For Zoning Text Amendment, attach on a separate sheet the exact language being proposed, including existing relevant text, in which language to be deleted is depicted as crossed out (<del>example</del>), and language to be added is depicted with underline (<u>example</u>).</p> <p><b>Conditional or Contract Zone</b></p> <p><input checked="" type="checkbox"/> \$1,000.00 (under 5,000 sq. ft.)  _____ \$3,000.00 (5,000 sq. ft. and over)</p> <p>(A conditional or contract rezoning map be requested by an applicant in cases where limitations, conditions, or special assurances related to the physical development and operation of the property are needed to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood. Please refer to Division 1.5, Sections 14-60 to 62.)</p>
--

**Signature:** The above information is true and accurate to the best of my knowledge.

<p><b>Signature of Applicant:</b>  <i>Elizabeth A. Weber</i>  <i>William E. Weber</i></p>	<p><b>Date:</b>  August 13, 2012</p>
---	--

**Further Information**

In the event of withdrawal of the zoning amendment application by the applicant, a refund of two-thirds of the amount of the zone change fee will be made to the applicant as long as the request is submitted to the Planning Division prior to the advertisement being submitted to the news paper.

Dinosaur Enterprises Ltd.  
Great Diamond Island  
Portland, ME 04112

August 13, 2012

City of Portland Planning Board  
389 Congress Street  
Portland, ME 04101

Re: Contract Zoning Application - Great Diamond Island  
Dinosaur Enterprises Ltd.

Ladies and Gentlemen:

This letter will serve as the formal application of Dinosaur Enterprises Ltd. ("Dinosaur") and Elizabeth A. Weber to amend the current zoning at 118 Sunset Avenue on Great Diamond Island ("GDI") to allow the continuation of the current fuel distribution services from the Sunset Avenue site, conditioned as outlined below. The discussion of this operation has actually continued for years, and most recently included discussions with Diamond Island Association ("DIA") regarding the "DPW Site" on land licensed by DIA to the City of Portland. Those discussions, for a number of reasons, never reached the point of agreement and Dinosaur has since continued the attempt to reach a mutually agreeable resolution. This Application is the result of those efforts.

Background of the Operation

Dinosaur is a Maine corporation which provides fuel and services to Island residents from the Sunset Avenue site. These services are provided primarily from an oil truck and a gasoline trailer housed at the site. Dinosaur is a very small family business, however measured. Ted is the principal of Dinosaur, assisted as needed by the family, including daughter, Beth. Heating oil and gasoline are the primary products sold by Dinosaur, primarily through oil truck deliveries, or dispensing gasoline from the gas trailer on-site. Ted/Dinosaur has been operating from this site without incident since 1988. Elizabeth Weber is the owner of the real estate (see deed copy, attached).

Dinosaur does not maintain regular business hours and is significantly more active during the tourist season, relating primarily to gasoline sales. Dinosaur is the only source for fuel purchases on GDI. Fuel cannot be carried on Casco Bay Lines or water taxi. The list of Dinosaur customers is lengthy and has included Portland's Department of Public Works, for example. The availability of gasoline and fuel oil is a significant advantage to the residents and visitors to GDI,

it being licensed to transport and dispense these products on the Island, which is otherwise very difficult to serve. Similar services have been continuously provided on GDI since World War II without significant incident. The operators and their general eras of providing these services are Dan Carr 1940-1970, Bill Loveless 1970-1988, Ted Weber 1988-1992 and Dinosaur 1992-present.

Current photos of our property are included to show the physical arrangement of the site, including the Weber home which shares this site and affords us round-the-clock security. A listing of the abutters to the site is also enclosed.

#### Background of this Contract Zone Request

Dinosaur was formally challenged by the City regarding this family operation on September 21, 2011 (see letter attached as Exhibit A) when the earlier proposal to move the Dinosaur business to the DPW site, licensed to the City by DIA, collapsed. Several reasons for the collapse were referenced, but the primary reason is that the City and DIA could not find common ground on the detail. With respect to Dinosaur, those negotiations were initiated by an earlier challenge to our right to continue our long-standing business because of the City's zoning regulations. We argued that Dinosaur was grandfathered, but ultimately agreed to join a discussion with the City to find a means that met the needs of all. Hence, this application.

The real estate runs between Crescent Avenue and Sunset Avenue, and is shown on Tax Map 83A-K-5-10 (see map attached as Exhibit B). A zone line dividing IR-1 and IR-2 zones runs through the property. These zones do not permit the kinds of business operated by Dinosaur. Our application is submitted pursuant to the Portland Land Use Ordinance Division 1.5 "Conditional or Contract Zoning" (14-60 to 14-65), based upon the State authority appearing in 30-A M.R.S.A. sections 4503 (9) and 4352.

#### The Contract Zone Request

We request that the City of Portland, acting through its Planning Board and City Council, grant us the authority to continue the current Dinosaur business through a formal Contract Zone Agreement. The Conditions remain to be determined, but Dinosaur is in favor of the following conditions:

- The term of this Agreement terminate if Dinosaur or the immediate Weber family discontinue the operation for at least 12 months.
- The term of this Agreement terminate if Dinosaur or the immediate Weber family transfer the business or assets of the current business to unrelated third parties.
- The term of this Agreement terminate at any time the current business is transferred off the current Sunset/Crescent Avenue location.

- The business of Dinosaur be limited to the current uses, both in type and scope, such that impacts on surrounding properties, if any, not be expanded.

Dinosaur stands willing to discuss such further, reasonable conditions as the City may propose. We're a service-driven, small family business which has provided fuel products and service from this site since 1992. We'd like to continue to do so without in any way negatively impacting our neighbors.

Thank you for your consideration.

Sincerely,



Ted Weber  
Dinosaur Enterprises Ltd.

Enclosures

cc: Elizabeth A. Weber  
Danielle West-Chuhta, Esq.  
Michael Murray, Island Liaison  
Ronald N. Ward, Esq.



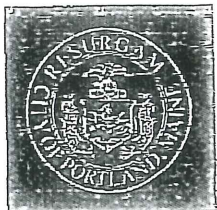


EXHIBIT A

2-6-10

Strengthening a Remarkable City. Building a Community for Life

www.portlandmaine.gov

Corporation Counsel  
Gary C. Wood

Associate Counsel  
Mary E. Costigan  
Danielle P. West-Chuhta  
Ann M. Freeman

September 21, 2011

William E. Weber  
PO Box 4804  
Portland ME 04112

*HAD meeting with  
City Oct 4, 2011  
At 9:30AM.*

RE: Dinosaur Enterprises, Inc.

Dear Mr. Weber:

I am writing in regard to the operation of your business, Dinosaur Enterprises, Inc., at your property on Great Diamond Island. As you are aware, the City of Portland has a license from the Diamond Island Association ("DIA") for a parcel of land that the City uses for Department of Public Services ("DPS") operations. The City began the process of applying for a rezoning of that parcel in order to accommodate an oil business on the site. By letter dated June 15, 2011, DIA advised the City that it no longer supported the rezoning of the DPS site to allow a fuel business.

The purpose of this letter is to provide you with notice that the DPS site is no longer an option for relocation of your business. Please contact Mike Murray at 756-8288 at your earliest convenience to schedule a meeting to discuss next steps.

Thank you for your attention to this matter. Please feel free to call me if you have any questions.

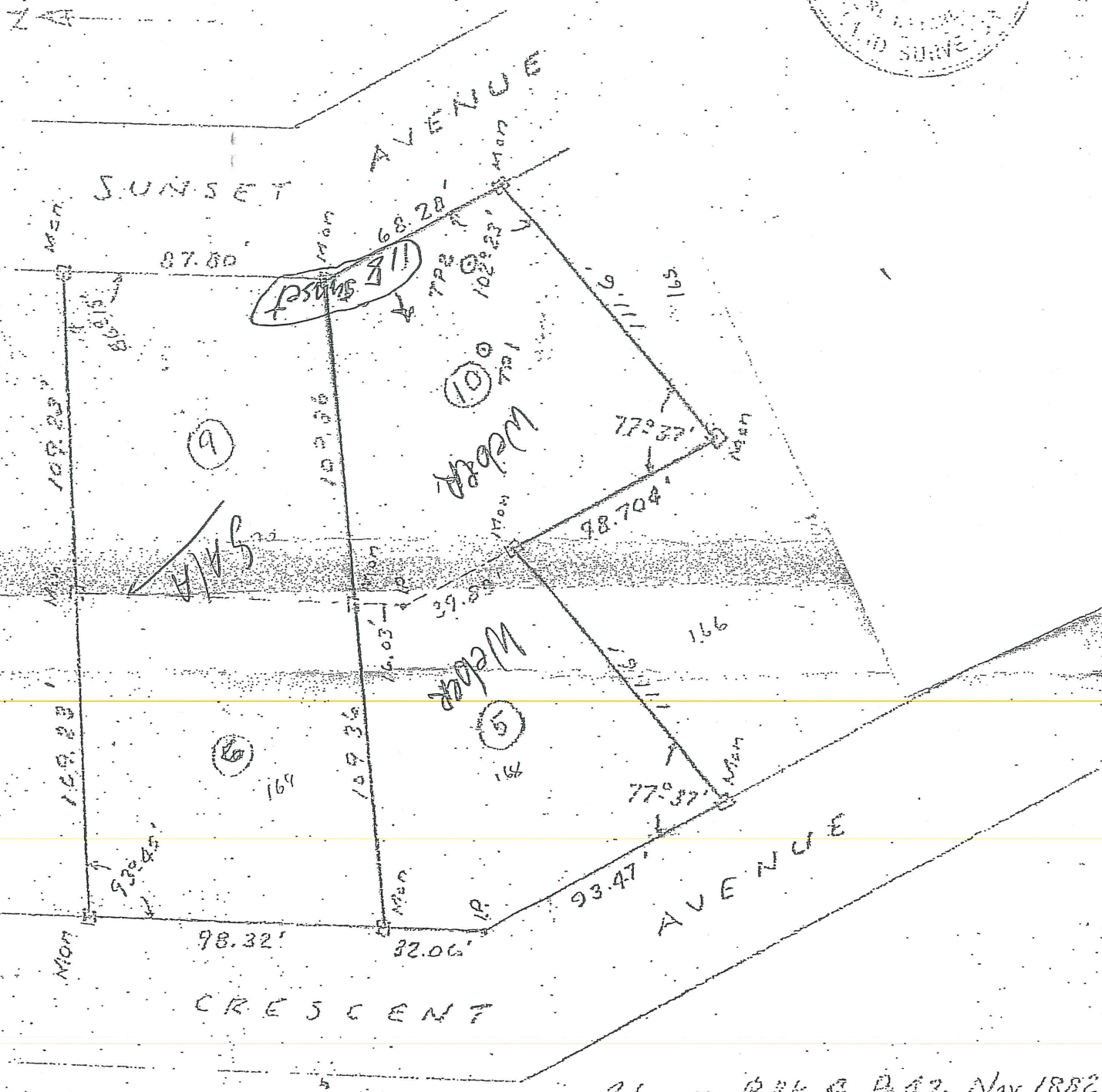
Sincerely,

Mary E. Costigan  
Associate Corporation Counsel

cc: Mike Murray  
Michael Bobinsky

Sold  
house & lot 9, 6  
to Sales

EXHIBIT B



Reference: B B k & P 42 Nov 1882

Ed Weber  
1-617-388-0410 (Amesbury)  
766-5061 (Island)

LAND AT GREAT DIAMOND  
Portland, Maine  
Assessors 83A-K-5, 6, 7,  
8, 9  
Date: 7-19-78

69265

WARRANTY DEED

Maine Statutory Short Form

KNOW ALL MEN BY THESE PRESENTS THAT, We , William F. Batal and Cheryl T. Cartmill, of Greenwich, State of New Jersey, for consideration paid, grant to Elizabeth A. Weber, of Portland, County of Cumberland, State of Maine, with a mailing address of P.O. Box 4841, Portland, ME 04112, with WARRANTY COVENANTS, the following:

A certain lot or parcel of land, together with the buildings or improvements thereon, more particularly described in Exhibit A attached hereto and made a part hereof.

This deed is given subject to real property taxes for the current year, and by acceptance of this deed, the Grantees hereby assume and agree to pay same.

Witness our hand(s) and seal(s) this 5 day of November, 1992

W. Batal 11/5/92  
William F. Batal

Cheryl T. Cartmill  
Cheryl T. Cartmill



State of New Jersey  
County of Salem

November 5, 1992

Personally appeared William F. Batal and acknowledged the foregoing to be his free act and deed.

Before me,

Elizabeth J. Kidd  
Notary Public/Attorney at Law  
Print Name:

ELIZABETH J. KIDD  
Notary Public of New Jersey  
My Commission Expires April 25, 1995

## Exhibit A

Two certain lots or parcels of land situated on Great Diamond Island in the City of Portland, County of Cumberland and State of Maine, and being lots numbered 167 and 168 as shown on a Plan of Land of Great Diamond Island Association, recorded in the Cumberland County Registry of Deeds at Plan Book 4, Page 42.

The above described premises are conveyed together with all rights and privileges, and subject to all the agreements, conditions, restrictions, and limitations contained in the original deed from said Great Diamond Island Association above referenced recorded in said Registry in Book 500, Page 62.

Being the same premises conveyed to the Grantors by deed of Grantee dated January 24, 1979 and recorded in the Cumberland County Registry of Deeds in Book 4373, Page 331.

RECEIVED  
RECORDED REGISTRY OF DEEDS  
92 NOV 10 PM 3: 14  
CUMBERLAND COUNTY

*Robert J. [Signature]*

Abutters to the Weber residence 118 Sunset Ave, GDI

Jim & Hilary Riedy	111 Sunset Ave,	766-3075
Lyn, Peter & Susan Sala	124 Sunset Ave.	766-5637
Didriksen / Tucker	100 Sunset Ave.	415-0333 / 766-2172
Fred & Philip Laughlin	63 Crescent Ave.	838-8101
Mike & Eileen Harris	78 Crescent Ave.	766-5779



IMG\_0111



IMG\_0112



IMG\_0113



IMG\_0114



IMG\_0115



IMG\_0116



IMG\_0117

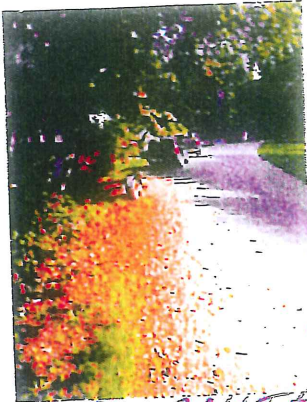


IMG\_0118



IMG\_0122

VIEWS OF OIL TRUCKS IN DRIVEWAY FROM CRESCENT AVE.



GAS TRAILER  
FROM SUNSET  
IMG\_0107



SUNSET AVE  
IMG\_0108



SUNSET AVE  
IMG\_0109

2-B-3



IMG\_0110



IMG\_0119



IMG\_0120

✓ VIEWS OF GAS TRAILER  
LOCATED AT 118 SUNSET AVE,  
GREAT DIAMOND ISLAND



GAS TRAILER  
SUNSET AVENUE  
IMG\_0150



OIL TRUCKS  
SUNSET AVE LOOKING  
DOWN TO CRESCENT  
AVE  
IMG\_0151



CRESCENT AVE  
OIL TRUCK  
DRIVEWAY  
IMG\_0152

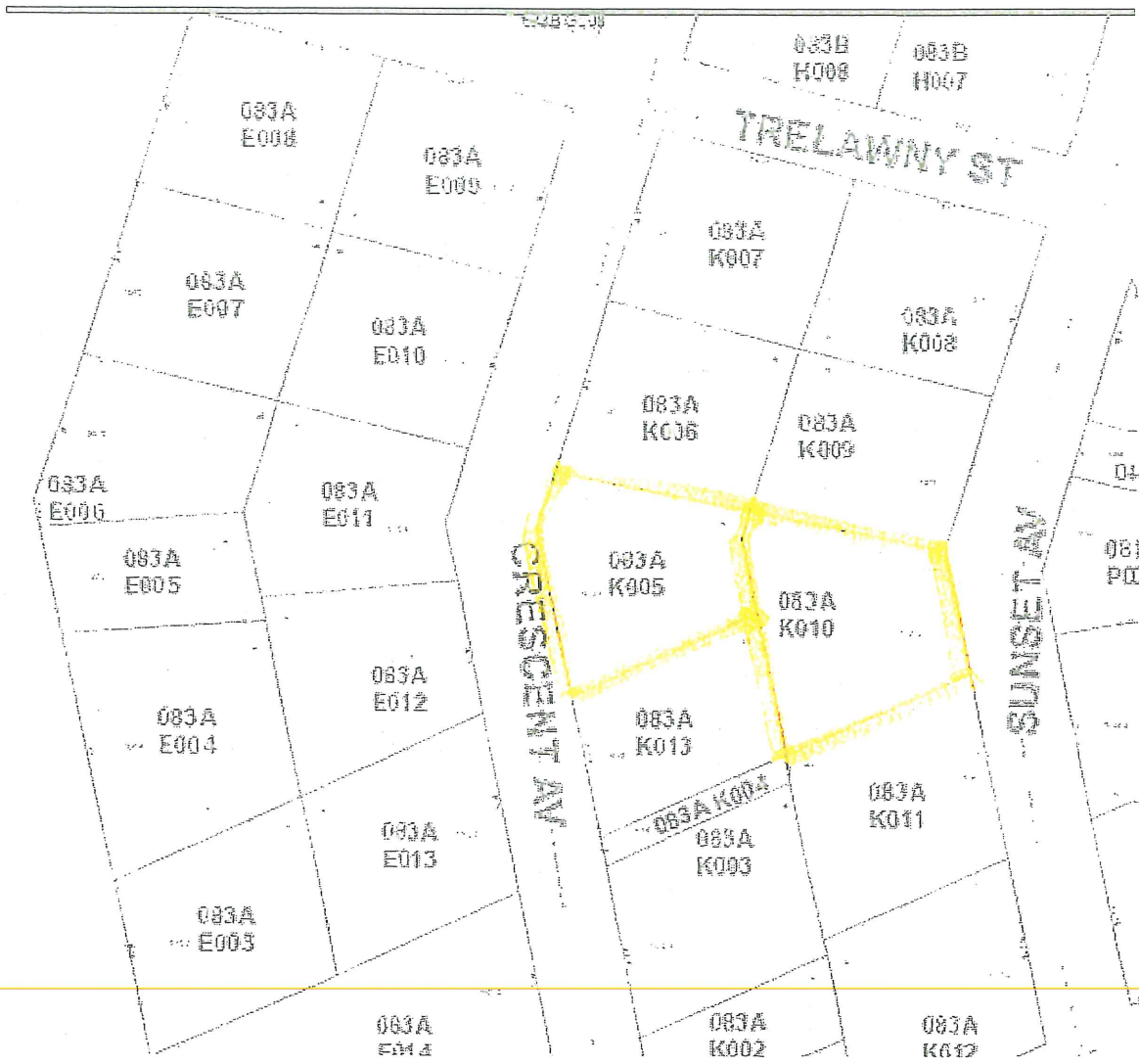
2-B-2

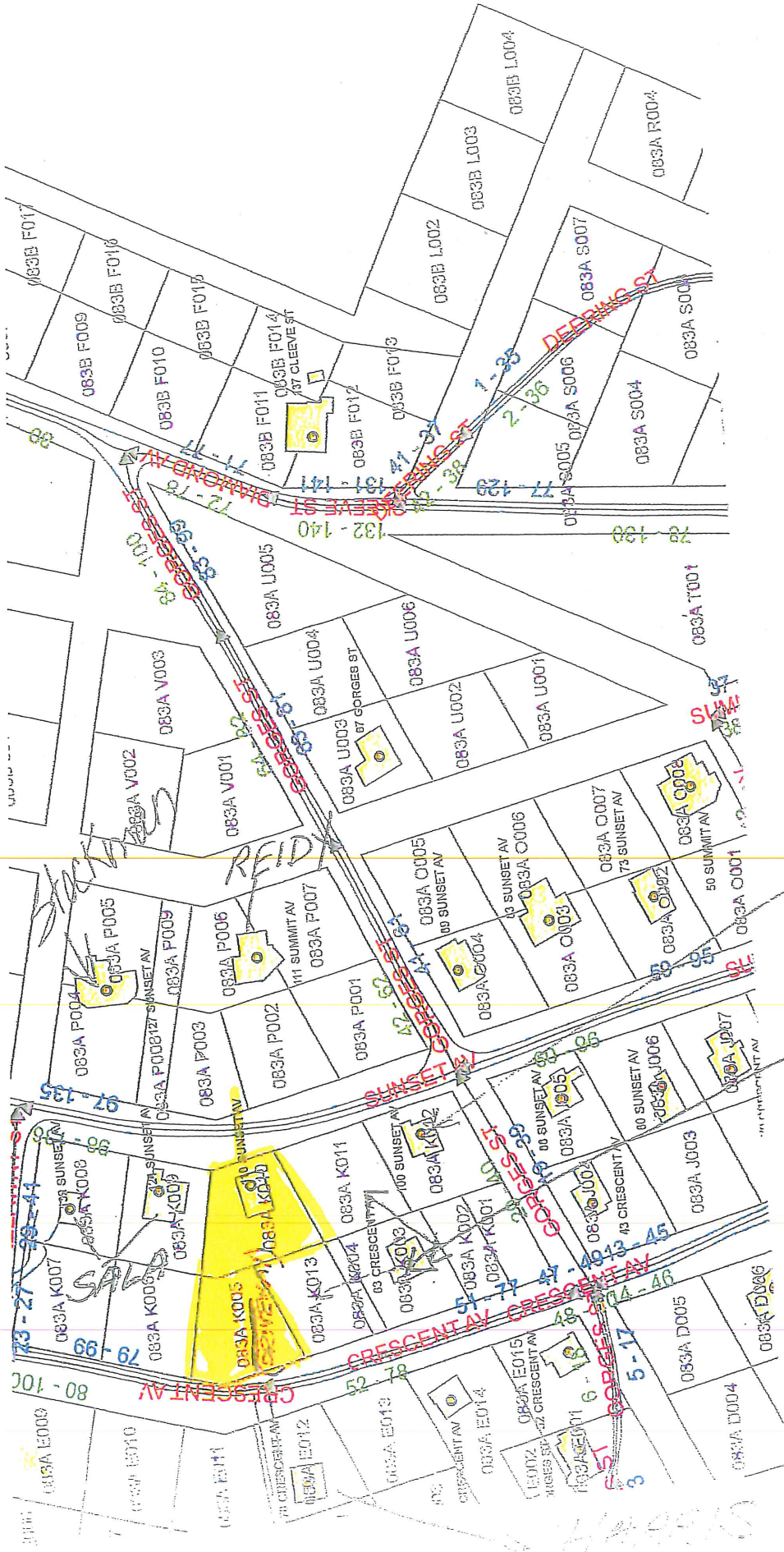


IMG\_0153  
VIEW FROM  
BACK DOOR OF  
HOUSE (118 SUNSET)  
AVE.

Weber Property  
DINOZSAUR ENTERPRISES, LLC







DIDRICKSEN

LAUGHLIN  
(083A K003, 004, 011, 003)

THIS AREA OF  
GREAT ISLAND IS  
RESIDENTIAL.

ATT 2-C

PROPOSED ZONING TEXT AMENDMENT  
Dinosaur Enterprises Ltd.  
118 Sunset Avenue, Great Diamond Island

RECOMMENDED, that the Zoning Map of the City of Portland, as amended and on file with the Planning Department, and incorporated by reference into the Zoning Ordinance by Sec. 14-49 of the Portland City Code, be amended to reflect a conditional rezoning, as follows:

WHEREAS, Dinosaur Enterprises Ltd and its owner, Ted Weber, has been continuously delivering and dispensing fuel products from its site at 118 Sunset Avenue (Tax Map 83A-K-5-10), Great Diamond Island, Portland, ME since 1988; and

WHEREAS, the current zoning of the Dinosaur site is IR-1 and IR-2 (the site being bisected by a zone line); and

WHEREAS, the current zoning does not textually permit the sale or dispensing of fuel products from this site; and

WHEREAS, Dinosaur serves a verifiable need for the City, residents and guests on Great Diamond Island; and

WHEREAS, Dinosaur has operated from this site since 1988 without incident or conflict with the neighboring properties; and

WHEREAS, Dinosaur's business practices are in compliance with applicable regulatory standards and are fully insured;

NOW, THEREFORE, in consideration of the rezoning of the Property, Dinosaur Enterprises Ltd contracts to be bound by the following terms and conditions:

- The rezoning shall terminate if Dinosaur or the immediate Weber family discontinue the business operation for at least 12 months.
- The rezoning shall terminate if Dinosaur or the immediate Weber family transfer the business or assets of the current business to unrelated third parties.
- The rezoning shall terminate at any time the current business is transferred off the current Sunset Avenue location.
- The business of Dinosaur shall be limited to the current uses, both in type and scope, such that impacts upon surrounding properties, if any, shall not be expanded.

[July 2013 Revision:

Redate

Reflect Planning Board Workshop comments regarding succession

Reflect recommendations from SPCC Plan]

CONDITIONAL ZONE AGREEMENT

RE:

DINOSAUR ENTERPRISES LTD.

AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, 2013~~2~~, by DINOSAUR ENTERPRISES LTD., a Maine corporation with a place of business in Portland, Maine ("Applicant"), and its successors and assigns and Elizabeth A. Weber ("Owner"), the owner of the property where the Applicant operates its fuel business.

WITNESSETH

WHEREAS, the Applicant operates its business on land owned by Owner containing approximately 21,643 square feet and shown on the Portland Tax Map as 83A, Block K, Lots 5 and 10, and more particularly described in that warranty deed recorded in Book 10389, Page 179 (the "Property");

WHEREAS, the Applicant and its president, Ted Weber, have been continuously delivering and dispensing fuel products from the Property since 1988; and

WHEREAS, there are no structures on the Property dedicated to the fuel delivery business, and the only equipment relating thereto are two fuel delivery trucks and a ~~"gasoline trailer"~~, DOT-approved mobile gasoline tank and pump mounted on Applicant's truck, which move on and off the Property; and

WHEREAS, the current zoning of the Dinosaur site is IR-2 (the Property being bisected by a zone line); and

WHEREAS, the current zoning does not textually permit the parking of two fuel delivery trucks ~~or gasoline trailer~~ or the sale or dispensing of fuel products from the Property; and

WHEREAS, Dinosaur provides an essential utility service and serves a verifiable need for the neighbors, City, residents and guests on Great Diamond Island; and

WHEREAS, Dinosaur has operated from the Property since 1988; and

WHEREAS, Dinosaur's business is fully insured;

WHEREAS, the Applicant has requested a rezoning of the Property in order to permit the long-standing and limited business use of the Property; and

WHEREAS, the Portland Planning Board has determined this rezoning meets an essential need for Great Diamond Island and the customers of the Applicant, and is consistent with the Comprehensive Plan; and

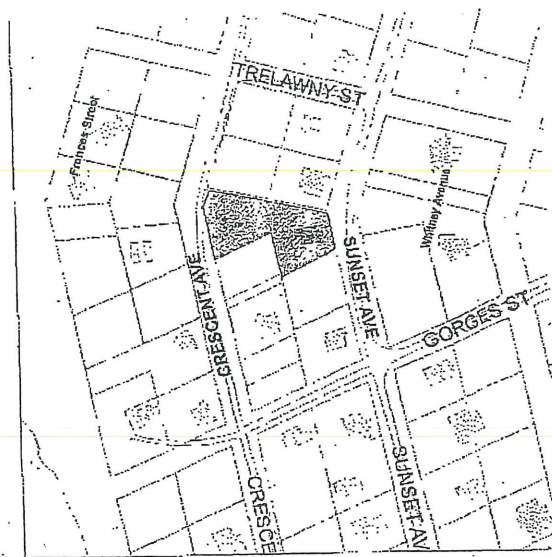
WHEREAS, the Planning Board, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however to certain conditions contained in this Agreement; and

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 existing and unique location of the proposal, its consistency with the Comprehensive Plan 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 \_\_\_\_\_, 2013~~2~~ 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 Applicant and Owner covenant and agree 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 IR-2, subject to the conditions contained below.



118 Sunset Avenue, Great Diamond Island  
Conditional Rezone

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 IR-1 and IR-2 zones.

2. Permitted uses:

- a. All of the permitted uses allowed in the IR-2 zone; and
- b. Parking on the Property of two (2) fuel trucks and one (1) fuel trailer used truck fitted with a DOT-approved mobile gasoline tank and pump or such fixed tank as may be permitted by the State Fire Marshal in the Applicant's fuel business; and
- c. Dispensing and sale of fuel from the Property.

3. The conditions of this Rezoning shall be:

- a. This rezoning shall terminate if the Applicant or ~~the immediate Weber family~~ its successor discontinue the fuel business operation for at least twelve (12) consecutive months.
- b. ~~The rezoning shall terminate if Applicant or the immediate Weber family transfer the business or assets of the current business to unrelated third parties.~~
- e.b. The rezoning shall terminate at any time the Applicant's business is permanently moved off the Property.
- d.c. The business of the Applicant on the Property shall be limited to the current use of the Property (i.e., the parking of two (2) fuel trucks and a ~~trailer truck~~ trailer truck fitted with a DOT-approved mobile gasoline tank and pump or such fixed tank as may be permitted by the State Fire Marshal for the Applicant's fuel business), both in type and scope, such that impacts upon surrounding properties, if any, shall not be expanded.

4. All equipment including, but not limited to the two (2) fuel trucks and ~~dispensing trailer vehicle~~ equipped with approved mobile gasoline tank and pump shall be located/stored on the Property not within the abutting street or other property. In addition, all dispensing of fuel shall be performed on the Property except for fuel truck deliveries to customer properties.

5. The Applicant shall obtain and submit documentation to the City of all necessary City (including, if necessary, site plan approval), State (including, but not limited to, State Fire Marshal's approval) and Federal approvals, licenses and/or permits necessary to address the operation of its fuel business on the Property including, but not limited to, fuel storage and dispensing operations on the Property. Such documentation shall also include all submitted applications to these agencies. In addition, an Oil Spill Prevention, Control and Countermeasure (SPCC) Plan, including all revisions and/or amendments, shall be submitted to the City for

review and approval by the Planning Authority. A copy of all SPCC Plan inspection and testing records shall also be made available to the Planning Authority upon request.

6. In the event of a breach by the Applicant, Owner or their 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 IR-2 zone requirements in place before the execution of this Agreement.

7. The above stated restrictions, provisions, and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit the Applicant and Owner, any entity affiliated with the Applicant and Owner, 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 Applicant or Owner shall record a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

8. This Conditional Rezoning Agreement may be enforced by the City pursuant to the land use enforcement provisions of state law including, but not limited to, 30-A M.R.S.A. § 4452 and the Portland City Code.

9. 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.

10. 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: \_\_\_\_\_ DINOSAUR ENTERPRISES LTD.  
By: \_\_\_\_\_  
William E. Weber, President

WITNESS: \_\_\_\_\_  
By: \_\_\_\_\_  
Elizabeth A. Weber, Owner

Great Diamond Island has had a fuel business on island owned by a resident since the late 1800's. Dinosaur Enterprises, LTD for the past 25years has been supplying fuel oil, kerosene, & gasoline as well as providing service & maintenance around the clock to the island communities of Little Diamond, Great Diamond, & Diamond Cove.

Dinosaur Enterprises has 2 Fuel Delivery trucks ~ 1 2400 gallon Aluminum tank & 1 3000 gallon Aluminum tank as well as a 300 gallon gasoline trailer which holds a maximum capacity of 225 gallons. The oil trucks are standard heating oil delivery trucks and the gas trailer is a double walled UL approved tank mounted on a trailer with a pump, meter and dispensing hose. The oil trucks are parked at this location when not in service making a delivery and the gasoline trailer is parked at this location as well & is used primarily to fill 1-5 gallon gasoline jugs for lawn mowers & golf carts which is the primary means of transportation on the island. All equipment have secondary containment. Drip pans, absorbents, & fire extinguishers are provided & on equipment. We have engaged Scott Collins of St Germain-Collins Environmental Consulting Group, 846 Main St., Suite 3, Westbrook, Maine to implement an SPCC plan. Woodward & Curran stated in their memo that we must be equipped with secondary containment. The information provided is outdated & false. We have enclosed a copy of the EPA New SPCC Rule for Non-Transportation Tanker Truck Secondary Containment amended Rule 40 CFR 112.6 effective January 14, 2010. We have also enclosed a copy of our permit application filed for the Storage, Use, & Handling of Hazardous Materials, and Flammable & Combustible Material. The memo from Woodward & Curran also states the gasoline trailer requires secondary containment and appropriate appurtenant devices. Our gasoline trailer meets these requirements as stated above. The gasoline trailer is a Double walled UL approved tank with level gauge, audible high level alarm, shut-off valve as well as absorbents & a fire extinguisher.

It is important to note that due to the cost of fuel that we deliver 90-95% of the fuel in the trucks on the day we receive it, therefore the trucks parked in the driveway have minimum fuel stored in them. Having a gasoline trailer is an advantage for fire & safety reasons meaning in the event of an emergency we're able to move it out of harm's way. We have never had an accident and/or spill nor have we been cited for any violation. We have been inspected by the DEF, City of Portland Fire Dept., & the State Fire Marshall's Office. We carry a \$1million dollar insurance policy with a \$3 million dollar rider. The equipment at least once a year goes to the mainland for inspection & maintenance as well as we have a mechanic who we hire to come to the island for repairs.

Our largest consumer here on Great Diamond Island is the City of Portland. We supply fuel to the City fire trucks, City Ambulance, City Forestry Unit, City Public Works vehicles, emergency generators as well as heating fuel to the FireBarn which houses emergency vehicles & equipment under cover.



SBI/PPD \_\_\_\_\_  
Fire Dept \_\_\_\_\_  
Zoning \_\_\_\_\_  
(Only Required if New Business)  
Taxes \_\_\_\_\_  
CBL \_\_\_\_\_

Office of the City Clerk  
389 Congress Street  
Portland, ME 04101  
(207) 874-8557

App. Fee: New \$35.00 Renew \$25.00  
See Other Side for  
Complete Fee Schedule  
Total Due: \$195.00  
Make Check Payable To:  
CITY OF PORTLAND

CK # 3324

Application for the Storage, Use, or Handling of  
Hazardous Materials, and Flammable or Combustible Materials  
(License EXPIRES annually on June 30)

Please check one: (Corporation/ LLC/ Non-profit org. ) (Sole Proprietor ) (Partnership )

For renewal applicants: Has there been any change in ownership in the last 12 months? Yes  No

Business Name (d/b/a): Dinosaur Enterprises Ltd. Phone: 766-5673

Location Address: 11 1/2 Sunset Ave. Great Diamond Island ZIP 04109

(If new, what was formerly in this location: Driveway)

Mailing/Billing Address: P.O. Box 4804, Portland, ME ZIP 04112

Contact Person: TED WEBER Phone: 766-5673

Manager of Establishment: u Date of Birth 8/4/36

Owner of Premises (landlord): Elizabeth A. Weber

Address of Premises Owner: 11 1/2 Sunset, Great Diamond Is. ZIP 04109

Does the Issuance of this license benefit any City employee(s)? Yes  No

If yes, list name(s) of employee(s) and department(s): Public Works & Fire Dept - Dinosaur  
fuels City Vehicles on the island - including Ambulance + Fire Engines.

Have any of the applicants, including the corporation if applicable, ever held a business license with the City of  
Portland? Yes  No  If yes, please list business name(s) and location(s) Dinosaur Enterprises  
Great Diamond Island - Portland, ME 04109

Is any principal officer/owner under the age of 18? Yes  No

SOLE PROPRIETOR / PARTNERSHIP INFORMATION: (if corporation, leave blank)

Name of Owner(s): \_\_\_\_\_ Date of Birth \_\_\_\_\_ Residence Zip Code \_\_\_\_\_  
Name of Owner(s): \_\_\_\_\_ Date of Birth \_\_\_\_\_ Residence Zip Code \_\_\_\_\_  
Name of Owner(s): \_\_\_\_\_ Date of Birth \_\_\_\_\_ Residence Zip Code \_\_\_\_\_

CORPORATE / LLC / NON-PROFIT ORGANIZATION APPLICANTS: (if sole proprietor, leave blank)

Corporation Name: Dinosaur Enterprises Ltd.

Corporation Mailing Address: P.O. Box 4804, Portland, ME ZIP 04112

Contact Person: TED WEBER Phone Number: 766-5673

PRINCIPAL OFFICERS: (if more space is needed, please attach a separate page)

Name TED WEBER Title OWNER Date of Birth 8/4/36 Residence Zip Code 04109  
Name \_\_\_\_\_ Title \_\_\_\_\_ Date of Birth \_\_\_\_\_ Residence Zip Code \_\_\_\_\_  
Name \_\_\_\_\_ Title \_\_\_\_\_ Date of Birth \_\_\_\_\_ Residence Zip Code \_\_\_\_\_  
Name \_\_\_\_\_ Title \_\_\_\_\_ Date of Birth \_\_\_\_\_ Residence Zip Code \_\_\_\_\_

ATT 2-F-1

ENVIRONMENTAL CONSULTING GROUP  
**St. Germain • Collins**

DINOSAUR ENTERPRISES LTD  
OIL SPILL PREVENTION, CONTROL AND COUNTERMEASURE (SPCC) PLAN

\* NOTE COMPLETE PLAN ON FILE IN  
PLANNING DIVISION OFFICE

Truck Parking Facility  
118 Sunset Avenue  
Great Diamond Island, Maine

October 2012

St. Germain Collins File No.: 3382.1

EXPERIENCE YOU CAN RELY ON WHEN IT COUNTS

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- Plan Review/Amendment Log (112.5(a) & (b))
- Management Approval Sheet (112.5 & 112.7(d)(2))
- Professional Engineer Certification (112.3(d))

- Section 1: Facility Overview – 112.7(a)(3) .....1
- Section 2: SPCC Conformance/Additional Measures – 112.7(a)(1).....1
- Section 3: Discharge Discovery, Response and Cleanup – 112.7(a)(3) .....1
- Section 4: Discharge Reporting Procedures and Notification List – 112.7(a)(3) & (4).....3
- Section 5: Fault Analysis – 112.7(b) .....3
- Section 6: Secondary Containment (Tanks & Piping) – 112.7(c) .....4
- Section 7: Inspections, Tests and Records – 112.7(e).....4
- Section 8: Personnel Training and Briefings – 112.7(f).....5
- Section 9: Site Security – 112.7(g) .....5
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- Section 11: Facility Drainage – 112.8(b) & 112.8(c) .....6
- Section 12: Bulk Storage Containers – 112.8(c) .....6
- Section 13: Non-applicable Provisions .....7

**Attachments**

- A: Documentation of Five-Year Review
- B: Site Location Map and Facility Site Plan
- C: Spill Reporting Form
- D: Inspection Checklists
- E: Certification of Substantial Harm Non-Applicability

Neighborhood Meeting Certification

I, Ted Weber, Dinosaur Enterprises LTD hereby certify that a neighborhood meeting was held on July 1, 2013 at 160 Sunset Avenue, Great Diamond Island at 6:30pm.

I also certify that on June 24, 2013, invitations were mailed to the following:

1. All addresses on the mailing list provided by the Planning Division which includes property owners within 500 feet of the proposed development or within 1000 feet of a proposed industrial subdivision or industrial zone change.
2. Residents on the "interested parties" list.
3. A digital copy of the notice was also provided to the Planning Office (jmy@portlandmaine.gov) and the assigned planner to be forwarded to those on the interested citizen list who receive e-mail notices.

Signed,

 7/3/13

Attached to this certificatio are:

1. Copy of the invitation sent
2. Sign-in sheet
3. Meeting Minutes

DINOSAUR ENTERPRISES,LTD

June 24, 2013

Dear Neighbor:

Please join us for a neighborhood meeting to discuss our plans for a proposed conditional zone for a fuel distribution service located at 118 Sunset Avenue on Great Diamond Island. The proposal would allow an existing fuel distribution business to continue its operations.

Meeting Location: 160 Sunset Avenue, Great Diamond Island

Meeting Date: July 1, 2013

Meeting Time: 6:30PM

(The City code requires that property owners within 500 feet (1000 feet for proposed industrial subdivisions and industrial zone changes) of the proposed development and residents on an "interested parties list", be invited to participate in a neighborhood meeting. A sign-in sheet will be circulated and minutes of the meeting will be taken. Both the sign-in sheet and minutes will be submitted to the Planning Board.)

If you have any questions, please call 207-766-5673

Sincerely,



Ted & Betsy Weber

Note:

Under Section 14-32(C) and 14-524c of the City Code of Ordinances, an applicant for a Level III development, subdivision of over five lots/units, or zone change is required to hold a neighborhood meeting within 30 days of submitting a preliminary application or 21 days of submitting a final site plan application, if a preliminary plans was not submitted. The neighborhood meeting must be held at least seven days prior to the Planning Board public hearing on the proposal. Should you wish to offer additional comments on this proposed development, you may contact the Planning Division at 874-8721 or send written correspondence to the Planning and Urban Development Department, Planning Division 4th Floor, 389 Congress Street Portland, ME 04101 or by email: to [bab@portlandmaine.gov](mailto:bab@portlandmaine.gov)

DINOSAUR ENTERPRISES, LTD.  
 Conditional Zone Amendment  
 Neighborhood Meeting on Great Diamond Island  
 July 1, 2013

<u>NAME</u>	<u>TELEPHONE</u>	<u>ADDRESS</u>
Karen Tucker	207-4156712	100 SUNSET AVE / GDI / 27 WILLIS ST. GDI
MARK DIDRIKSEN	923-625-9361	100 SUNSET / 95 ERIE AVE ROCKAWAY NJ 07866
Chris Hayes	321-1905	
Peter Sale	766-5639	124 Sunset Ave GDI
Bill Robituk	766 2000	2 Spring Ave
John Condon	329-5061	100 Sunset Ave GDI
Martha Frager	766-2949	136 Crescent Ave GDI
Hilary + Jim Riedy	766-3075	111 Sunset Ave GDI
Jim + Colleen Groat	766 3327	195 Sunset Ave. GDI
Joe VanWhy	766-3079	98 South Cove Diamond Cove, ME
Kyle Peterson	766-3079	98 South Cove Lane DC
Walter Vaccar	766-2825	8 McKinley Ct. Diamond Cove GDI
Martha Vaccar	766-2825	8 McKinley Ct. Diamond Cove, GDI
DAVID F. Kenly	766-0004	11 McKinley Ct. Diamond Cove, GDI
Paul Henry	766-5779	68 Crescent Ave (184 Longfellow St)
Anne Weber	766-3398	73 Diamond Ave, GDI 04112
Thomas Mas	766-5799	59 Moon Garden Way Dia. Cove.
Richard J. J. J. J.	766-2342	135 ERIE CREST AVE.

DINOSAUR ENTERPRISES, LTD.  
Conditional Zone Amendment  
Neighborhood Meeting on Great Diamond Island  
July 1, 2013

<u>NAME</u>	<u>TELEPHONE</u>	<u>ADDRESS</u>
Lyn SARA	301-346-8857	124 and 137 Sunset Ave, Gt Diamond
KATE SARA	860-667-1221	124 Sunset Ave " "
JANET INGRAHAM	766-2342	138 CRESCENT AVE
Susan SARA	766-5637	124 Sunset Ave, Gt. Diamond
Elizabeth A. Weber	766-5001	118 Sunset Ave GDI
W. Schafer Bean	766-2107	154 McKinley Ct Diamond Cove
Paul Gleason	766-2607	89 Sunset Ave
Charles Stokem	766-2541	127 Sunset Ave
NAN + Stokem		127 Sunset Ave
Nancy Gleason		89 Sunset Ave
Ethel Bean	766-7107	154 McKinley Ct Diamond Cove
Nancy Jacquelyn Kenly	766-0004	30A Diamond Cove

Minutes of Neighborhood Meeting  
Great Diamond Island  
Meeting held in John Condon's garage on 7/01/2013.

Meeting called to order by Ron Ward, Attorney for Dinosaur Enterprises at 6:35 pm.

Ron Ward acting as mediator:  
This is the Neighborhood meeting, intended to be informational. Next steps: Planning Board meeting on 7/9/2013; City Council meeting - date tbd.

Sign up sheet is required and becomes part of permanent record of the meeting.

Summary of process to-date

- Webers' petitioned city last year to get conditional zone for continuation of Dinosaur enterprise to operate existing current business
- Went to planning board workshop
- Had site analyzed
- St. Germain & Collins did environmental study and issued a report.

Ted Weber said:

Environmental Engineer said oil tanks do not have to be on concrete pads or have fence around them. They need fire extinguishers and oil pads (which they have). Ted said chances are leaks are minimal - any issues are usually with the pump, not the tank.

St. Germain & Collins proposed a federally approved 110 gal. gas tank on a pick-up truck.

How to refill a fuel tank in the middle of the island is a problem.

State Fire Marshall suggested this alternative. There is a Federally approved tank that goes on back of pick up. (Beth Weber noted they are common, construction companies used in Portland). Updated SPCC plan includes this tank - latest version April 2013. Anyone is welcome to stop by Ted's to review these plans.

Beth is licensed technician. Trucks will deliver Kerosene and Oil. Gas would be on pick up truck.



Question and Answer portion

Ann Webber asked if the Webers would have to buy another pick up to support this portable tank. Ted said no - already on existing truck.

Tom Moss asked why there was 121,000 sq ft to be zoned. Ted responded that you need to park the trucks in the driveway and you have to zone the whole property.

Mike Harris - asked in the terms what is meant by immediate Weber family. Ted responded that the definition includes Ted, Betsy and their children. Ted said "there is no change in the way we operate today." There would be no change to structure, equipment.

Ted explained what an Oil pad is -- (absorbs antifreeze, gas, not water).

Beth said Dinosaur tries to send trucks off island twice a year to be serviced. Meters are calibrated. If there is a problem with a truck, they get a mechanic. City has the service records.

Betsy Weber stated they have no intention of doing propane ever.

Ann Webber recalled last meeting, it sounded like there were more permits to be obtained.

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Ted Weber stated all permits have been received except the one from the local Fire department, which will only be issued after ruling on zoning... they have a Portland business license, are members of the Maine Oil Dealers Association and New England Dealers Association... a licensed corporation in the State of ME. Ted reiterated that they have all required licenses and permits, except for fire department permit, which would be issued after zoning approval.

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Ted reviewed insurance -- \$1million insurance and \$3 million rider for accident and spills -- \$4 million total. (Beth noted this was more than required).

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Bill Robitizek commented on insurance, confirming it was -- \$1million insurance and \$3 million rider for accident and spills -- \$4 million total.

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Betsy Weber added they have been in business for 25 years without any accidents.

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Schafer Bean - asked if the gas tank was smaller on the pick up truck. Ted responded yes, it is about 1/3 the size. (100 gallon tank on truck vs. 300 tank on trailer). Schafer inquired if old tank will be sold. Ted said yes.

Nancy Gleason ask if there be system to reserve oil and gas since there will be less with new tank. Ted replied that they need to make sure the tank is filled more often. Barge goes to Peaks twice a week in season.

Nancy Gleason asked if there are permits and plans available for review. Ted said they are available at the Webers for review and at the Planning Board. Ron added that the packets will go out on Friday.

Ann Webber - is the Planning Meeting open for public comment. Ron said people from the public can have 3 minutes to speak.

Mark Didriksen asked what is the overall process. Ron responded that there is

- Workshop
- Planning board hearing (vote)
- recommend goes to city council to accept or reject

Meeting adjourned at 7 p.m.