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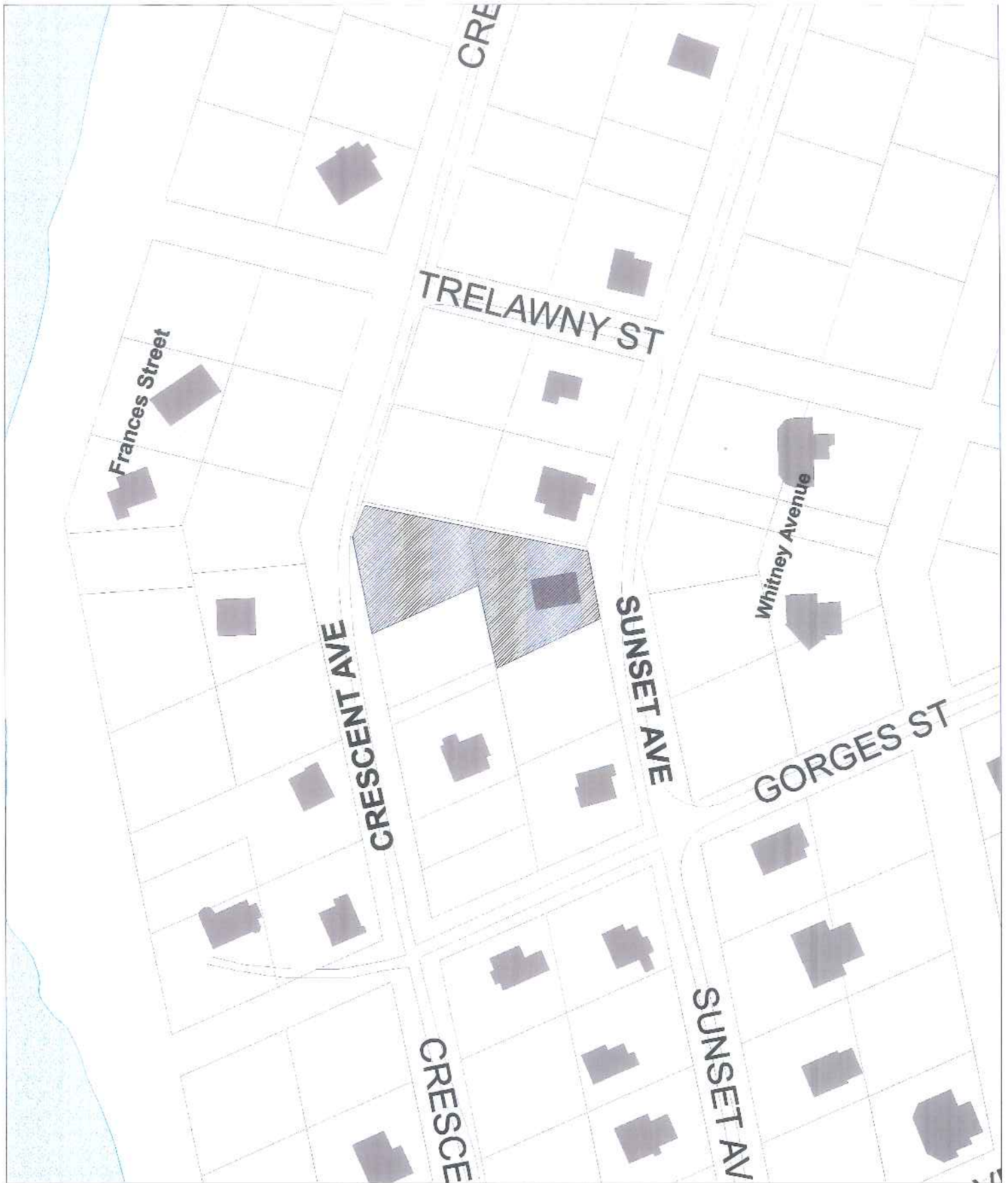
2008.0177

18 McKinley Ct. - GDI

Inn at Diamond Cove

Inn at Diamond Cove, LLC.

on Spreadsheet



**118 Sunset Avenue, Great Diamond Island
Conditional Rezone**

Rick Knowland - Re: Fwd: Inn At Diamond Cove [DWM-Client.FID359749]

From: Barbara Barhydt
To: Knowland, Rick
Date: 2/19/2013 8:55 AM
Subject: Re: Fwd: Inn At Diamond Cove [DWM-Client.FID359749]

Have them put it in writing and I can authorize an extension. I can't extend a subdivision approval.

>>> Rick Knowland Tuesday, February 19, 2013 8:49 AM >>>

Barbara, I believe they are going to need a site plan extension otherwise its getting too close to the expiration date.

>>> Barbara Barhydt Tuesday, February 19, 2013 >>>

I have a 2 p.m. meeting over at DPS, so I am not sure when I can join. The question we should discuss is an extension. I am not sure what our options are at this point.

Barbara

>>> "Ronald N. Ward" <RWard@dwmlaw.com> Monday, February 18, 2013 3:51 PM >>>

Hi Rick/ Barbara- the following is a quick list, in no particular order, that we can use as an Agenda for tomorrow. I'll come over to the Planning Dept at 3:00. We're projecting a closing in the 2d week of April. The construction financing promises to be complicated and arduous, made more so by the fact that it's coming from 3 different sources. I don't have their agendas yet, so the following does not take into account what they want to see from the City.

1. Recording subdivision/ site plan- want to assure what was delivered to you in final form was the same as what I received.
2. Letter of Credit/ performance guarantee- will be posted by Katahdin Trust in amounts which I know are being worked out with City staff, but we have a change in the construction responsibilities. DCHA will take direct responsibility for contracting directly to install water main improvements, preliminary to IDC installing the fire suppression equipment. I know David has asked whether DCHA needs to arrange its own building permit and post a performance guarantee for repairs to its own system. I'll need to discuss that with you tomorrow. IDC retains responsibility for any performance guarantees and construction associated with upgraded fire suppression.
3. Plan Bd extension of subdivision/ site plan approval- I'm informed that construction has commenced on- site in the form of site stabilization and preparation pursuant to written Agreement with the City. Are you of the opinion that this represents sufficient work to constitute commencement of the approved subdivision, or will you ask for a formal extension of time? If son, when can this be scheduled?
4. Conditions of Approval- the condo docs are in drafting now and will be submitted when in final DeLuca Hoffman sent a letter to you last Spring indicating an agreement with PFD- do you believe the Condition satisfied
Do you perceive other Conditions needing further attention prior to pulling building permits
5. Staff issues- whatever you may have on your list for lingering issues

That leaves the realm of transactional documents to be drafted to transfer the asset to IDC, both City and

Rick Knowland - Update on Dinosaur Enterprises

From: "Gary L Smith" <gls101@myfairpoint.net>
To: "Rick Knowland" <RWK@portlandmaine.gov>
Date: 8/20/2013 10:42 AM
Subject: Update on Dinosaur Enterprises
CC: "Alex Jaegerman" <AQJ@portlandmaine.gov>, "Chris Pirone" <cpp@portlandma...

Rick,

Do you have any updates regarding Dinosaur Enterprises permitting?

The pump that is currently being used to sell gasoline from the back of a pickup truck is marked "not for resale."

As stated below, the SFMO has indicated that "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".

Has Weights and measures been involved in this process? Do you know if the applicant is intending to replace the black kerosene truck that will be pulled off the road? Thank you.

Gary

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.

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".

If the UL 142 tank currently mounted on the homemade trailer was removed from the trailer and placed on the

and 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.

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.

Gary L Smith

Great Diamond Island

671-2595

Rick Knowland - RE: dinosaur

From: "Gary L Smith" <gls101@myfairpoint.net>
To: "Rick Knowland" <RWK@portlandmaine.gov>
Date: 3/4/2013 12:38 PM
Subject: RE: dinosaur
CC: <DWCHUHTA@portlandmaine.gov>, <BAB@portlandmaine.gov>

Got it! There is some inaccurate information in the plan. In addition, the gasoline trailer and the tank trucks are in non-compliance at the state level. The current gasoline tank and trailer setup will never be allowed. The MSP regulate the tank trucks and the operators. I hope the City will require the applicant's vehicles and operators meet the same standards as any other similar type business that may be located in the city. As I mentioned earlier, this is also a public safety and environmental concern. We have a volunteer fire department. There are many times when there is no one on the island to fight a fire. The volunteer fire department does not have the proper equipment, and is not trained, to fight a petroleum based fire.

Apparently the SPCC Plan and the certifying engineer are not required to look into the integrity and compliance of the vehicles. I have numerous emails from the State Fire Marshall substantiating my statements regarding compliance. I will be glad to share them with you and Corporation Counsel if you think they may be helpful. In 2009, as a member of the Island Development Committee (IDC), I was asked to look into the requirements necessary to move the fuel business to the current Public Services yard. Our homeowner association had approved that move and it was assumed the business would relocate to that site. As you know, that option is still available to the applicant.

Is it possible that the PB and the City Council would endorse a zoning change for this business knowing the options available, the lack of compliance regarding the vehicles, as well as the public safety and environmental concerns that may arise as a result of vehicle noncompliance?

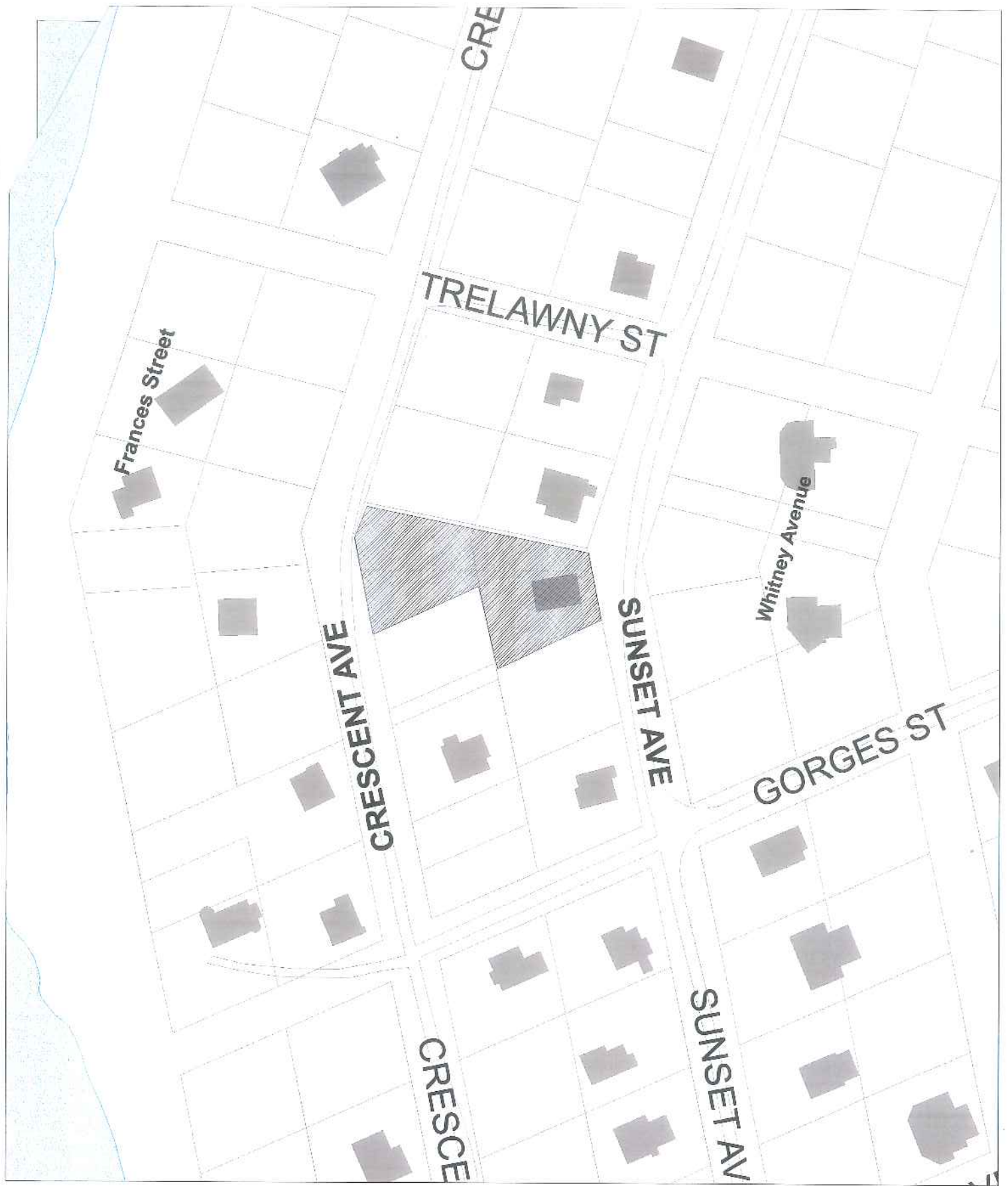
Thank you.

Gary

From: Rick Knowland [mailto:RWK@portlandmaine.gov]
Sent: Monday, March 04, 2013 10:38 AM
To: gls101@myfairpoint.net
Subject: dinosaur

Gary, Hopefully this works.

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.



**118 Sunset Avenue, Great Diamond Island
Conditional Rezone**

IN COUNCIL SPECIAL MEETING OCTOBER 21, 2013 VOL. 129 PAGE 32

ROLL CALL: Mayor Brennan called the meeting to order at 7:00 P.M. (Councilor Duson, Councilor Leeman absent).

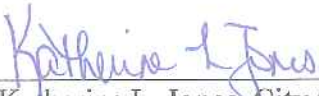
UNFINISHED BUSINESS:

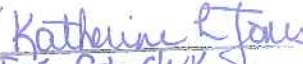
This Special City Council meeting is for public comment only.

Order 52-13/14 Amendment to City Code Sec. 14-49 (Zoning Map Amendment) Re: Conditional Rezoning for Dinosaur Enterprises LTD – Sponsored by the Planning Board, Carol Morrissette, Chair. This item was given first reading on September 16, 2013.

Motion was made by Councilor Mavodones and seconded by Councilor Suslovic to adjourn the special City Council meeting. Passage 5-0, (Anton, Donoghue out), 6:59P.M.

A TRUE COPY.


Katherine L. Jones, City Clerk

A TRUE COPY
ATTEST: 
Katherine L. Jones, City Clerk
Portland, Maine
DATE 11/7/2013

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

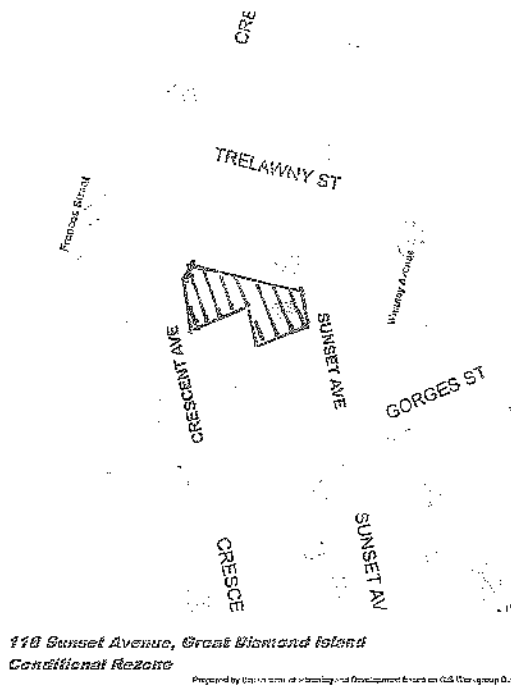
WHEREAS, the Planning Board, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however to certain conditions contained in this Agreement; and

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 October 21, 2013 approved this Agreement in its entirety, by City Council Order No. 52-13/14, 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-2 zone.

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 property 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

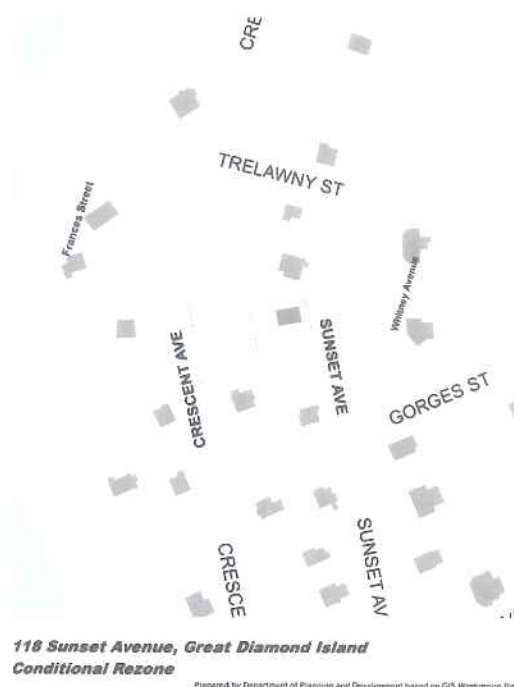
Personally appeared before me the above-named Elizabeth A. Weber, in her capacity as Owner of the Property, and acknowledged the foregoing instrument to be her free act and deed in her said capacity.

Before me,

Notary Public/Attorney-at-Law

**A NOTICE FROM THE PORTLAND PLANNING BOARD
RE: 118 SUNSET AVENUE (GREAT DIAMOND ISLAND)**

To Residents and Property Owners: The Portland Planning Board will hold a public hearing to consider a proposed conditional zone by Dinosaur Enterprises, Ltd. for a fuel distribution service at 118 Sunset Avenue on Great Diamond Island. The proposal would allow an existing fuel distribution business to continue its operations. The existing underlying zoning of the property (IR-2 Residential) does not permit such uses. The size of the property and zone change is 21,643 sq. ft. The proposal would allow two fuel delivery trucks and a dispensing gasoline trailer on the site. Conditional zoning provisions include applicant to demonstrate compliance with federal, state and local permits, licenses and other requirements, restriction on uses on the site; and termination of agreement if Dinosaur or immediate family discontinues business for at least 12 months. Public comments will be taken at this meeting. A vicinity map of the proposed zone change is shown below:



The meeting will be held:
Tuesday, July 9, 2013
3:30 p.m.
City Hall, Room 209, 2nd Floor

The proposed Conditional Zone Agreement is available for viewing in the Portland Planning Division, 4th Floor, City Hall. If you wish to submit written comments, address them to Rick Knowland, Senior Planner, Planning Division, City Hall, 4th Floor, 389 Congress Street, Portland, ME 04101; contact by phone at (207)874-8725 or e-mail at rwk@portlandmaine.gov

Please visit http://www.portlandmaine.gov/planning.htm#Current_Backup_Material on or after the preceding Friday of the Planning Board meeting for current memos and reports.

CONDITIONAL ZONE AGREEMENT
RE:
DINOSAUR ENTERPRISES LTD

AGREEMENT made this _____ day of _____, 2012, 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 Elizabeth A. Weber (“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 “gasoline trailer”, 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 the Great Diamond Island and the customers of the Applicant, and is consistent with the Comprehensive Plan; and

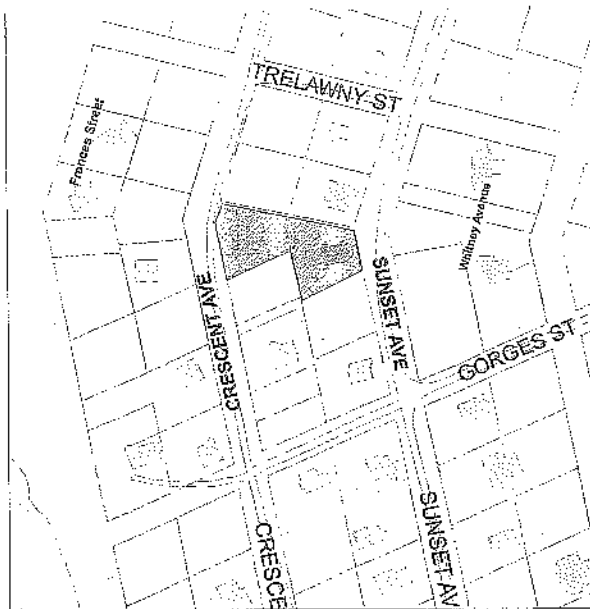
WHEREAS, the Planning Board, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however to certain conditions contained in this Agreement; and

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 _____, 2012 approved this Agreement in its entirety, by City Council Order No. _____, a true copy of which is attached hereto as Attachment I (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.



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 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 discontinue the fuel business operation for at least twelve (12) 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 parties.
- c. The rezoning shall terminate at any time the Applicant's business is moved off the Property.
- d. 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 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 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

October 16, 2013

Sent via email and regular mail

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

Re: Proposed Conditional Zoning Application for Dinosaur Enterprises

Dear Rick and Members of the Portland City Council:

As I am unable to attend the meeting on October 21, 2013, I would like to take this opportunity to express my support of Dinosaur Enterprises' conditional zoning application in order to permit Ted Weber and his family to continue to distribute fuel from the current location (118 Sunset Avenue on Great Diamond Island).

As you know, Dinosaur is the sole source of fuel on the island, and many families, on both Great and Little Diamond Islands, depend on Ted and his family for reliable, safe, and cost effective fuel distribution on a year-round basis. I cannot imagine the disruption to our island way of life if Dinosaur did not exist, or was not allowed to continue operating as they have been for many years.

As a longtime customer and friend of the Webers, I know Ted and his family very much want to comply with rules and regulations that help insure safe and reliable operations. I hope the City Council will endorse the Weber family and all that they do for the island community with a unanimous vote of approval on the 21st.

Thank you for your consideration.

Sincerely,



Robert M. Whelan, Jr.
126 McKinley Court
Great Diamond Island
(homeowner since 1995)

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

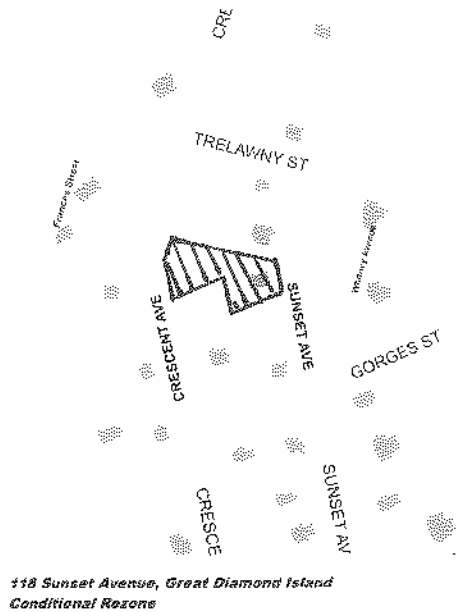
WHEREAS, the Planning Board, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however to certain conditions contained in this Agreement; and

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.

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

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

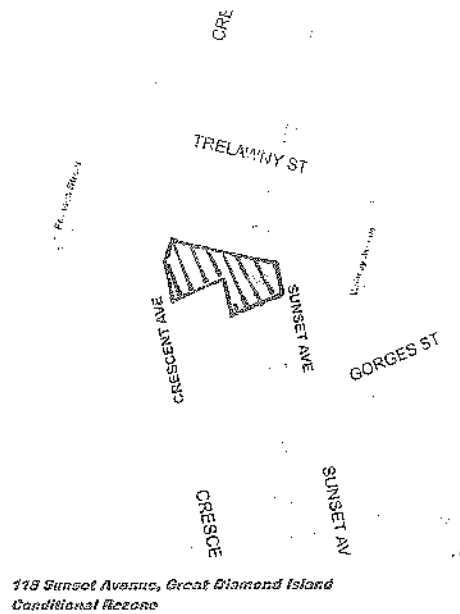
WHEREAS, the Planning Board, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however to certain conditions contained in this Agreement; and

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 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
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:

1st 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.

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

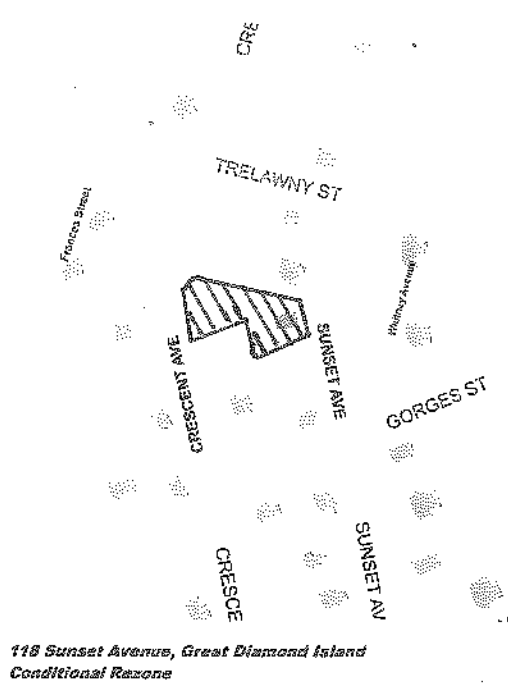
WHEREAS, the Planning Board, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however to certain conditions contained in this Agreement; and

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 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**



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

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:

- I. Introduction...page 1**
- II. Findings...page 2**
- III. Background...pages 2 to 4**
- IV. Planning Board Recommended Conditional Zoning Agreement...pages 4 to 5**
- V. Federal/State/Local Fuel Distribution Regulations...pages 5 to 7**

- VI. Land Use Policy...pages 7 to 11
- VII. Public Process...page 11
- VIII. Planning Board Recommendation...pages 11 to 12

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.¹

- 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.

¹ 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 discontinues 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 1-8-1

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

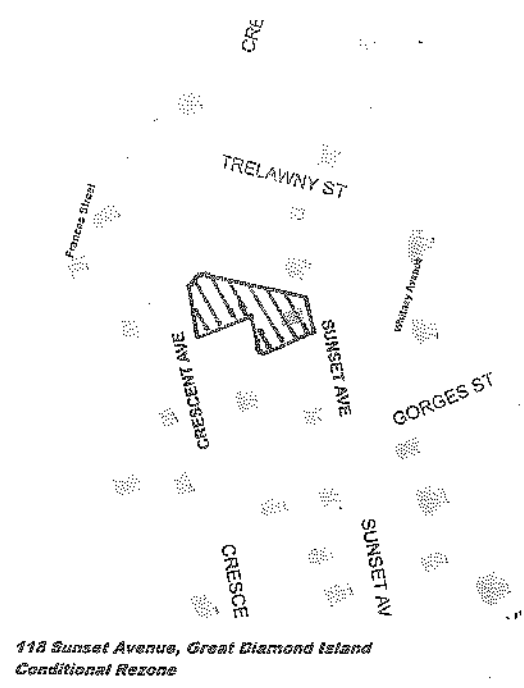
WHEREAS, the Planning Board, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however to certain conditions contained in this Agreement; and

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.

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

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 SFDC 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, ROP'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

1-8-2011

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

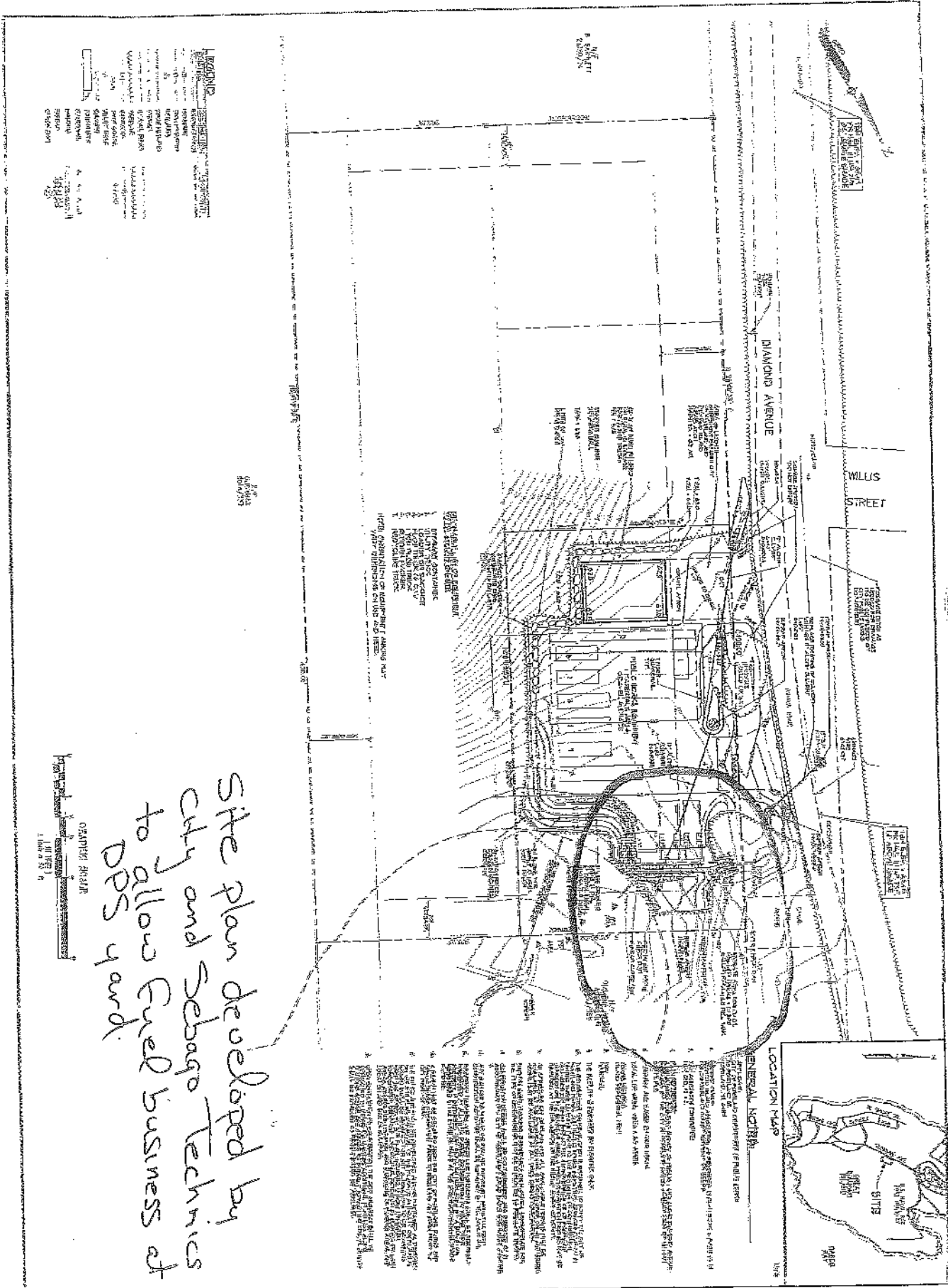
Thank you very much.

Gary L. Smith

100 Willis Street

Great Diamond Island

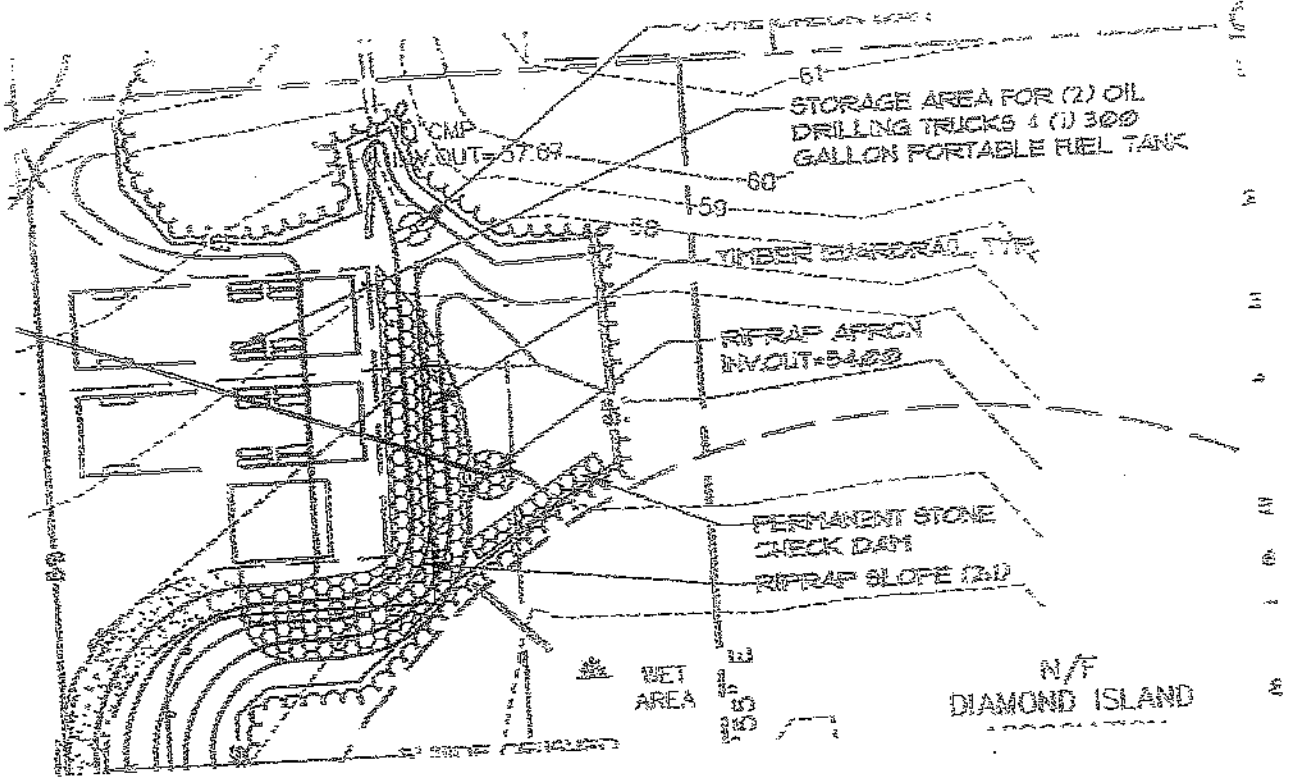
169



Site plan developed by City and Sewage Technics to allow Fuel Business at DPS yard.



1-E26



Dinosaur's Initial Application

1-E2.0

APP 2-G-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, 845 Main St., Suite 3, Westbrook, Maine to implement an SPOC 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 SPOC 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 FireBarn which houses emergency vehicles & equipment under cover.

no

3a

IE 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-EE-18

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

1-E2.1

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

46

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:

- o One #2 fuel oil delivery truck with a tank capacity of 3,000 gallons (1-1,000 & 1-2,000-gallon compartments);
- o One kerosene delivery truck with a tank capacity of 2,400 gallons; and
- o 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

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.

Just over 300 feet and just outside Shoreland zone

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.

56

1-E 2012

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

no garage at site

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.

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.

10000
10000

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

1-15

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 - E 7

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" <pkteddy@yahoo.com>

Rick Knowland
Senior Planner, Planning division, City Hall
389 Congress Street
Portland, Me 04101
July 2nd, 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

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 21

From: Donna Schwartz <dishrs@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!

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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 - 10

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



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 Ward 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

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

- DIA has allocated \$3000.00 toward legal work on lease.
- 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?
- 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

1 E 11

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-E-15

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/16

Rick Knowland - Dinosaur Enterprises

From: "Gary L Smith" <gls101@myfairpoint.net>
 To: DWCHUHITA@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
 765-3390

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 JR-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 13.2

US DOT Title 49 CFR

Maine Statutes:

<http://www.mainelegislature.org/legis/statutes/25/title25sec7481.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 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

Focuses on the fuel problem

Great Cranberry is the largest of the group of islands comprising the Cranberry Isles. These five islands — Bear, Sutton, 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 deeded 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 "cabinings," 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 summing 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-E 17

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 13

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 owned 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-EP

From: michael kane <madsp1@embarqmail.com>
Subject: Permit/zoning
Date: September 21, 2012 11:08:01 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

1-E 20

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

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.

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

Your email exceeded the allowable message size.
Please double-click the attached .html file(s) and select OPEN.
From there you can download the original file.

Note:
You have 21 calendar days from the date of the original email to download the file(s)

*

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1-E??

Rick Knowland - Dinosaur Enterprises

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

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

1-623

Rick Knowland - Dinosaur Enterprises

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

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 invaluable 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 fed'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-E 25

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: <nwk@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

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

I-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 climates 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-27

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-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

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.

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: <Judithlee@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

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.

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-70

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>
Date: July 9, 2013 9:29:31 AM EDT
To: Rick Knowland <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

1-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

I-E-44

Rick Knowland - Support of Ted Weber Dinosaur Enterprises

From: Joe VanWhy <joevanwhy@me.com>
To: 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
facetime: 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

1-6-46

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 Acory*
David J. Backe*†
S. Campbell Badger*
Michael L. Busscher*
Alexandra E. Caulfield*
Jerrold A. Crozier*
George T. Dilworth*
Peter C. Falmly*
Erin R. Faltesl
Adrienne E. Fouts*
Sara S. Hallstedt*
Eric R. Herlan*†
Melissa A. Hawvey*†
Michael E. High*
David M. Kalin*
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. Movsiaghit
Michael J. Murray*
Robert P. Nadeau*
Daina J. Nathanson*†
Kimberly A. Pacelli*
Jeffrey T. Pampiano*
William L. Plouffe*
Aaron M. Pratt*†
Harry R. Pringle*
Kerlann Peman†
Daniel J. Rose*†
George Royla V*
Gregory W. Sample*
Jessica M. Scherb*††
David S. Sherman, Jr.*
Richard A. Shiny*
Christina R. Simpson†
Kathryn Smith, Jr.*
Bruce W. Smith*
Richard A. Spencer*†
Christopher B. Stevenson*
E. William Stockmeyer*††
Amy K. Tchoy*†
Joanna B. Tourangeau*†
M. Thomas Trewhella*
Matthew H. Upton†
Gary D. Vogel*
Ronald N. Ward*
Thomas R. Watson*†
Brian D. Willing*
Reade E. Wilson*
Gerald M. Zell†

Ronald N. Ward

(207) 772-1941

(207) 772-3627 Fax

(800) 727-1941

rnward@dwmlew.com

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

Admitted in ME only
www.dwmlew.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:

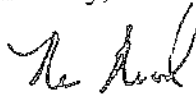
Enclosed is the original application, amended to add the City's prescribed application form. We assume it to be complete, but let me or Ted Weber know if you feel differently.

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



2-8-2

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

E-A-24

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	<u>enclosed narrative</u> 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 <u>enclosed narrative</u> 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 <u>enclosed narrative</u> 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	<u>IR-1/IR-2</u>
Proposed	Unchanged with respect to underlying zone designation, but subject to additional Contract Zone requirements
<u>Land Use</u>	
Existing	N/A - see <u>enclosed narrative</u>
Proposed	_____
<u>Residential, if applicable</u>	
Proposed Number of Affordable Housing Units	<u>N/A</u>
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	<u>N/A</u>
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	<u>N/A</u>
Proposed Number of Bicycle Parking Spaces	_____
Total Bicycle Parking Spaces	_____
<u>Estimated Cost of Project</u>	<u>N/A</u>

2-2-17

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

See enclosed narrative

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

Current Zoning Designation(s):

IR-1/IR-2 (residential)

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

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-3

APPLICATION FEE:

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

<p>Zoning Map Amendment</p> <p>___ \$2,000.00 (from ___ zone to ___ zone)</p> <p>Zoning Text Amendment</p> <p>___ \$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 (example), and language to be added is depicted with underline (<u>example</u>).</p> <p>Conditional or Contract Zone</p> <p><input checked="" type="checkbox"/> \$1,000.00 (under 5,000 sq. ft.)</p> <p>___ \$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.

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

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.

2-8-12

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.

City of Portland Planning Board
August 13, 2012
Page 3

2-10-12

- 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

2-6-11

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-Chuha
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.

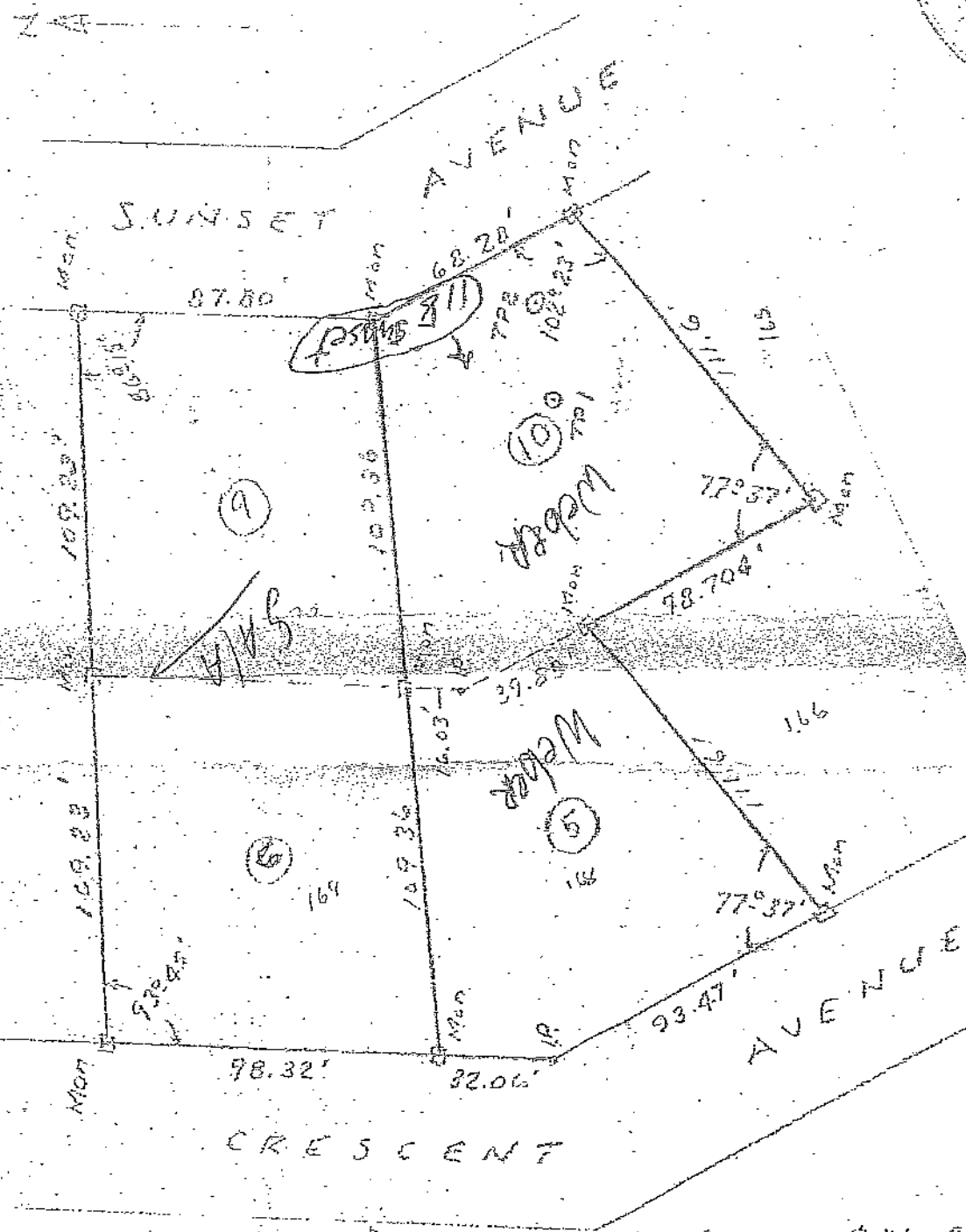
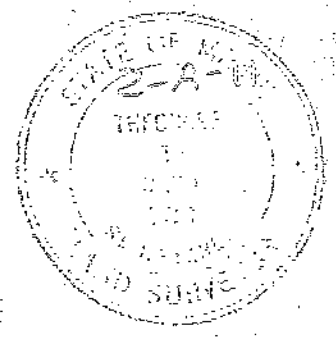
Sincerely,


Mary E. Costigan
Associate Corporation Counsel

cc: Mike Murray
Michael Bobinsky

Sold house & lot 9, 6 to Selas

EXHIBIT B



Reference: B 3k & P 42 Nov 1882

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

LAND AT GREAT DIAMOND
Portland, Maine
Assessors 83A-K-5, 6, 7,
7-79-78 782

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.

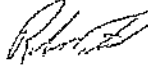
The above described premises are conveyed together with all rights and privileges, and subject to all the agreements, conditions, restrictions, and limitations contained in the original deed from said Great Diamond Island Association above referenced recorded in said Registry in Book 500, Page 62.

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



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
FRONT SUNSET
IMG_0107



SUNSET AVE
IMG_0108



SUNSET AVE
IMG_0109

2-8-3



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



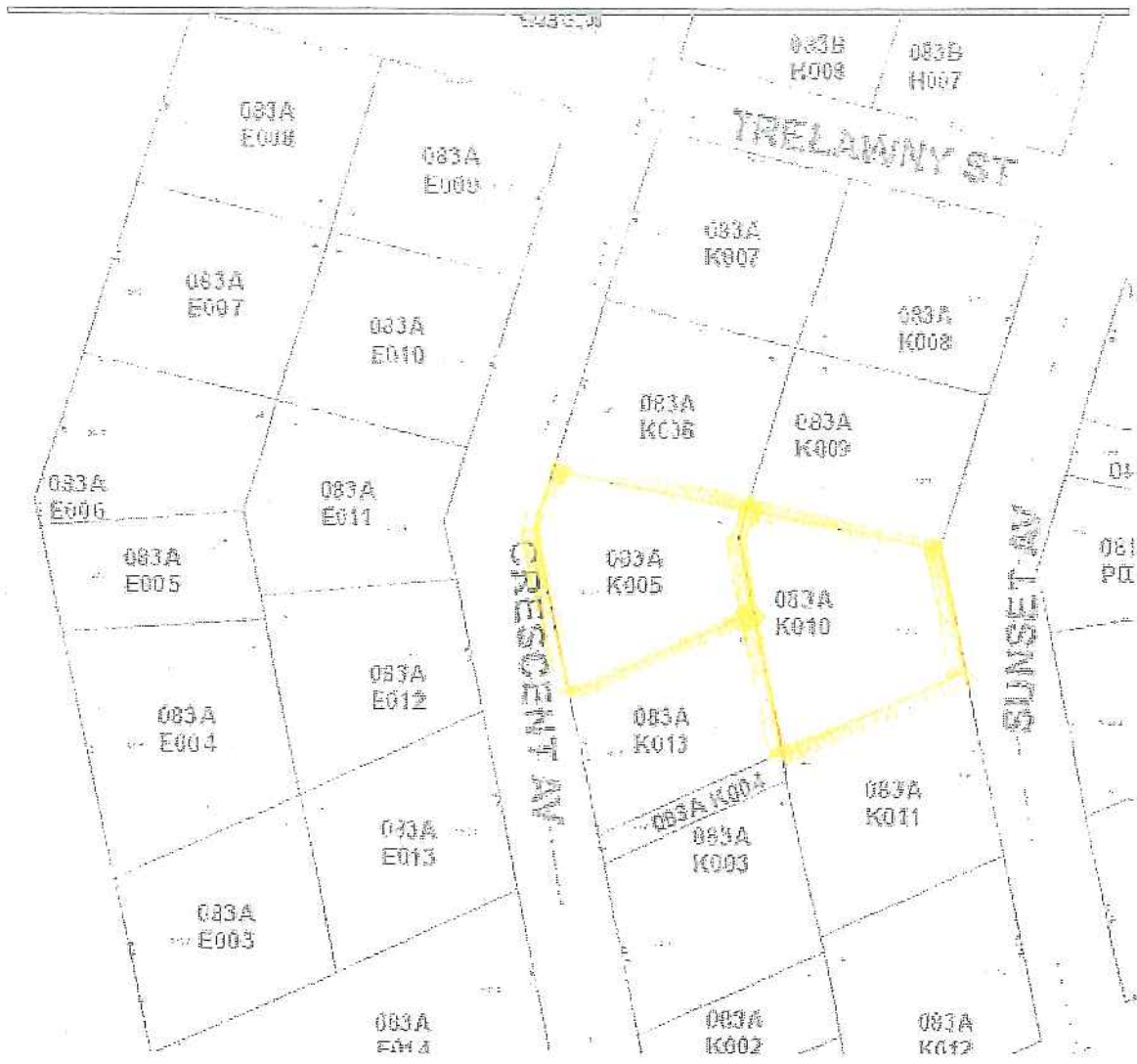
CRESCENT AVE
OIL TRUCK
DRIVEWAY
IMG_0152

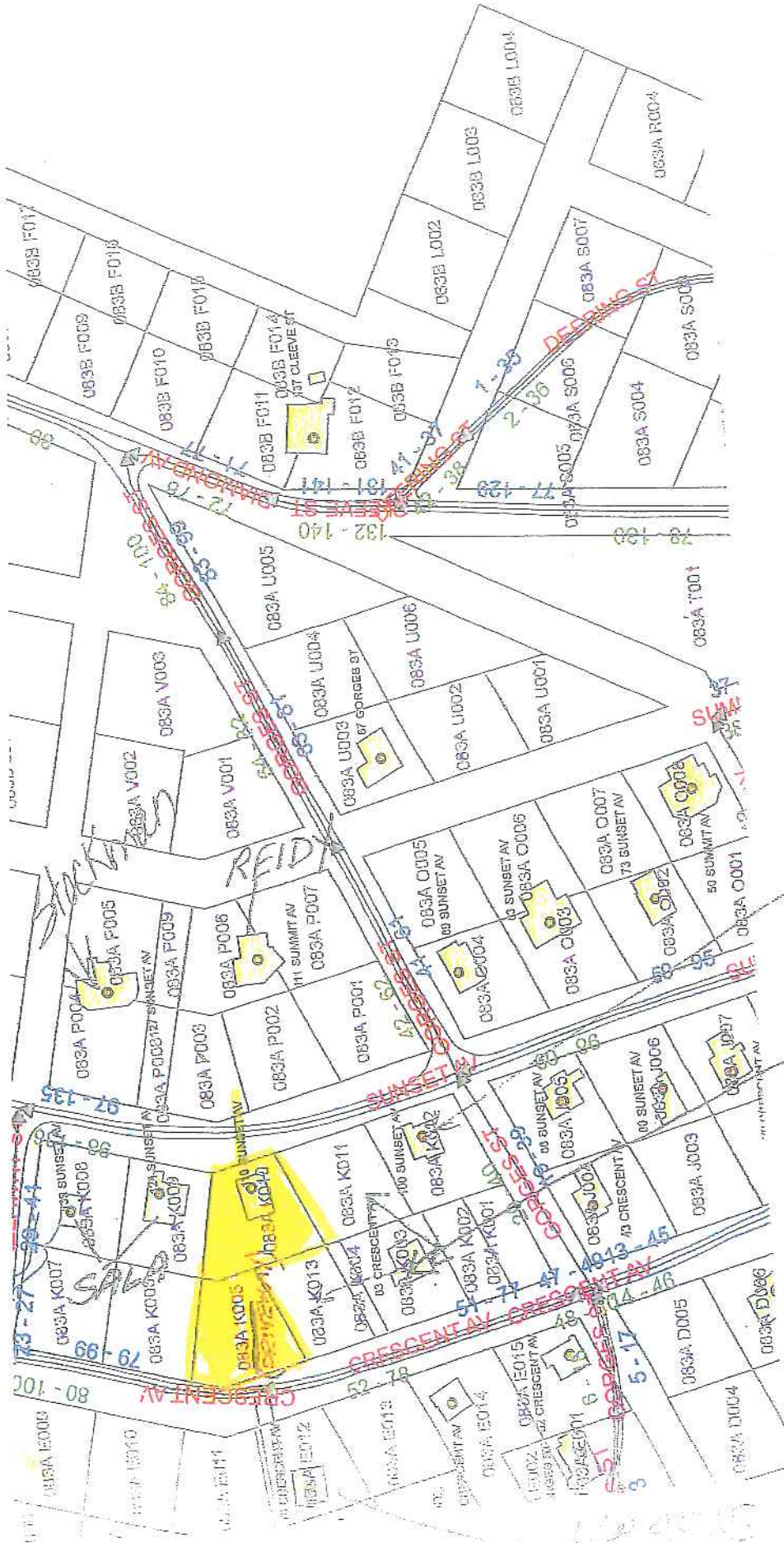
2-B-2



IMG_0153
VIEW FROM
BACK DOOR OF
HOUSE (118 SUNSET)
AVE.

Weber Property
DINOZAUER ENTERPRISES, LLC





DIDRICKSEN

LAUGHLIN
(083A K003, 004, 011, 005)

THIS AREA OF
GREAT DIAMOND
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, 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

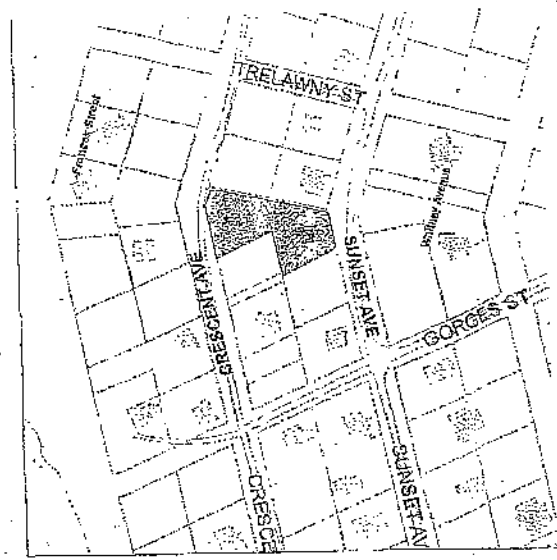
WHEREAS, the Planning Board, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however to certain conditions contained in this Agreement; and

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 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 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, 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 DEP, 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

CHK # 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: 114 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: 114 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

Oil SPCC Plan

Dinosaur Enterprises - Great Diamond Island, Maine

October 2012

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- 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

2-15-2

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

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	913-625-9361	100 SUNSET / 65 ERIE AVE ROCKAWAY NJ 07866
Chris Hayes	321-1905	
Peter Sela	766-5637	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 Redy	766-3075	111 Sunset Ave GDI
Jim + Colleen Groat	766 3327	195 Sunset Ave. GDI
Joe VanWhy	766-3079	98 SEASIDE COVE DIAMOND COVE, ME
KYLE PETERSON	766-3079	98 SEASIDE COVE LANS DC
WALTER VACKER	766-2825	8 McKinley Ct. Diamond Cove GDI
MARTINA VACKER	766-2825	8 McKinley Pt. DIAMOND COVE, GDI
DAVID F. Kowly	766-0004	11 McKinley Ct. Diamond Cove, GDI
Paul Harris	766-5779	68 Crescent Ave (18th Longfellow St)
Anne Weber	766-3398	73 Diamond Ave, GDI 04112
Thomas Mass	766-5799	59 Moor Garden Way Dia. Cove.
Richard Young	766-2342	138 CRESCENT AVE.

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.

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.

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

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

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

2-6-7

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.

2-H



SECTION 17

WASTEWATER DISPOSAL

17.0 Overview

The redevelopment of the former historical Fort McKinley military base on Great Diamond Island in Portland, Maine was originally permitted with the MeDEP on December 10, 1986. Sewage generated from the redevelopment is collected by gravity sewer mains and conveyed to an onsite secondary wastewater treatment system before discharging to Casco Bay.

Sanitary wastewaters generated from the existing development are comprised of 79 residential dwelling units (2 one-bedroom, 15 two-bedroom, 53 three bedroom and nine four bedroom units), a restaurant, two administrative/maintenance buildings and three slip marina.

The raw sewage is collected by a network of underground gravity sewer pipes that conveyed the sewer flow to an onsite secondary treatment system. Raw sewage flows that enter the treatment system are distributed between six 10,000 gallon septic tanks configured in two rows of three tanks. Supernatant from the settling tanks is collected in a wetwell and distributed amongst three 100' by 115' (11,500 sq. ft.) sand filter beds. The treated wastewater is collected in the underdrain system and conveyed to a disinfection system consisting of liquid sodium hypochlorite disinfection and two 1,000 gallon detention tanks. Dechlorination is accomplished through sodium bisulfate injection. The treated sanitary wastewater then travels through a v-notch weir-type flow meter before being discharged to Casco Bay through an eight inch diameter outfall pipe with diffuser. The outfall pipe extends approximately 250 feet from the shoreline to a point where there is approximately twelve vertical feet of water over the crown of the pipe at mean low water.

The existing wastewater facility is licensed to discharge a monthly average of up to 35,000 gallons per day.

17.1 Existing Wastewater Flows

As summarized above, the existing uses tributary to the onsite wastewater collection and treatment system generate an estimated 28,910 gallons per day, which includes an allowance of 3,000 gallons per day for illicit inflow and infiltration (Refer to Attachment B).

As part of the original development of the Diamond Cove project, the developer's replaced and lined significant portions of the sewer system in order to reduce the amount of illicit flow (infiltration and inflow) into the existing sewer system. Upon completion of this work, the existing sewer system still experienced excessive amounts of illicit inflow. As a result, the developer's continued to make improvements to the system to further remove sources of illicit inflow, which included eliminating several building roof drains, building foundation drains, etc. The following Figure 1 is a graphical depiction of the existing sewer collection system.

Prior to 2006, the developer's performed a relatively extensive evaluation of the sewer collection system in an effort to identify and isolate the source of the remaining illicit inflow to the system and determine the collection system was not the primary source of illicit inflow, but rather from the filter beds themselves. Specifically, the surface area over the existing sand filters was not graded to promote sheet flow of rainwater or snow melt away from the fields. In addition, the surface material over the sand filters did not include at least 6 to 8 inches of loam to further reduce infiltration of stormwater into the system. In actuality, rainwater or snow melt water ponding over the beds resulted in excessive quantities of infiltration into the system.

In 2006 the developer's performed a relatively extensive reconstruction on the sand filter beds to correct settlement of the surface material over the beds. The surface over the beds were reconstructed with approximately 12-inches of loam thickness and graded (raised) to promote surface drainage away from the fields. Since these modifications were performed to the filter beds, the rate of flow through the system has been reduced significantly as measured by the effluent flow meter and shown on the daily flow reports submitted to the DEP. Based upon these daily flow records, the sewer system's average monthly flow rate since 2006 has consistently been below the 35,000 gpd limitation contained in the Waste Discharge Permit.

17.2 Continued Removal of Inflow/Infiltration

The applicant has continued to review the condition of the collection system in an effort to locate any additional or remaining sources of illicit inflow/infiltration (I/I). Based upon this work, the applicant has developed the following list of repairs to the sewer collection system that will result in reduction of I/I to the system:

1. Terminus manhole adjacent to Building 26
Raise manhole cover above existing grade to provide positive drainage away from manhole cover
2. Manhole at rear of Building 3
Replace cracked frame and cover. Raise manhole cover above existing grade to provide positive drainage away from cover.
3. Manhole between Buildings 54 and 55
Replace perforated manhole cover with solid cover.
4. Manhole between Building 18 and 19
Install plug at outlet of 6" sewer main to prevent surface water collecting in the foundation of Building 19 from entering into the sewer collection system.

The applicant proposes to complete this work in the spring/summer of 2009. The approximate location of the remedial I/I work is shown on Figure 1.

17.3 Proposed Wastewater Flows

The proposed renovation of the "Double Barracks" (building #46) was a part of the original redevelopment plan for the Diamond Cove project. The renovation project will

create twenty hotel condominium units referred to as the Inn at Diamond Cove. These twenty units consist of two 1-bedroom units, ten 2-bedroom units, eight 3-bedroom units for a total of 46 bedrooms and 15 employees. Conservatively, our office has applied the design flows for single family dwelling units from the Maine Subsurface Waste Water Disposal Rules for the hotel residential units resulting in a total projected daily flow rate of 4,545 gpd (180 gpd per dwelling unit with 2-bedrooms or less and 270 gpd per 3-bedroom unit plus 15 gpd per employee). The applicant proposes to connect the renovated "Double Barracks" building into the existing gravity sewer collection system with discharge to the onsite sanitary wastewater treatment system.

Therefore, the addition of the "Double Barrack" renovation will result in a total flow of 33,455 gpd (28,910 gpd plus 4,545 gpd) resulting in a remaining surplus flow allocation of 1,545 gpd (Refer to Attachment B).

17.4 Site Evaluator

During a Pre-Application meeting with the MeDEP on June 12, 2008, the use of the onsite wastewater collection and treatment was discussed. Since the existing system is licensed through the overboard discharge system program, Michael Demarest had requested that the applicant retain a licensed site evaluator to review alternatives for designing and siting a separate onsite subsurface wastewater disposal field to serve the proposed Inn. The purpose of this work was to verify that there is not a practicable alternative for providing sanitary wastewater treatment for the new Inn other than connection to the existing onsite OBD system.

The site evaluator field work was performed by Albert Frick (SE 163 CSS 66) of Albert Frick Associates, Inc. in July of this year. Mr. Frick concludes that there is insufficient area of suitable soils in the vicinity of the Double Barracks building to accommodate the subsurface wastewater disposal requirements for this project and that in his professional opinion, the proposed wastewater generation from the proposed Inn project should be directed to the existing sand filter system within the licensed overboard discharge. A copy of the field work and site evaluator report is contained in Attachment A of this Section.

17.5 Design Standards

The applicant will require the sewer work to meet infiltration standards as set forth by the American Society of Civil Engineers (ASCE) Manual of Practice No. 9 and FD-5. Construction will be specified to be in accordance with ASCE MOP37 and 60. All design and construction will be in adherence to specifications and standards as set forth by the rules and regulations of the City of Portland.

17.6 Related Sections

Section 1 – Development Description
Section 16 – Water Supply

17.7 Attachments

Attachment A – Site Evaluator Report
Attachment B – Estimated Existing and Proposed Sewer Flow Rates

ATTACHMENT A

Site Evaluator Report



Albert Frick Associates, Inc.

Soil Scientists & Site Evaluators

95A County Road Gorham, Maine 04038
(207) 839-5563 FAX (207) 839-5564

2769
43

Albert Frick, SS, SE
James Logan, SS, SE
Mathew Logan, SE
Brady Frick, SE
Bryan Jordan, SE
William O'Connor, SE

September 22, 2008

Michael Demarest
Maine Department of Environmental Protection
312 Canco Road
Portland, ME 04103

Re: N/F David Bateman, Diamond Cove, Great Diamond Island, Portland

Dear Mike:

We spoke on September 11, 2008, concerning Mr. Bateman's proposal to develop Buildings #19 and #46. You had requested that I elaborate on my previous report dated July 24, 2008.

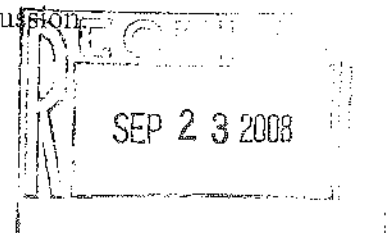
I found suitable soils of sufficient area and depth to accommodate the subsurface wastewater disposal requirements for the proposed flow of 1,620 gals/day for the proposed development of Building #19.

I did not find sufficient area of suitable soils in the vicinity of Building #46 to accommodate the subsurface wastewater disposal requirements for its proposed development. The underlying bedrock in the vicinity of TP1 and TP2 was bowl-shaped, exhibiting depressional pocket that would likely cause a *ponding* of wastewater on top of the bedrock bowl. The potential wastewater flow from the site would be restricted by two bedrock ridges to the east and west, a waterline and existing concrete military bunker to the north and upslope bedrock and existing road and building foundation to the south. The site conditions are severely limited for wastewater flow away from the disposal site.

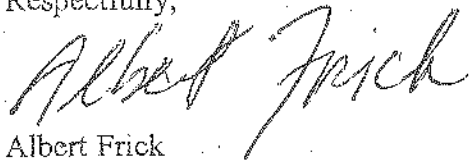
The suitable soils in the vicinity of Test Pit 3 exhibited better subsurface bedrock surface contouring to allow for wastewater movement away from the disposal area, however, this pool area by itself was deficient in area to accommodate the proposed flows. The suitable disposal area in the vicinity adjacent to TP3 is truncated by a bedrock ridge to the west, existing property line, roadway and existing concrete military bunker to the east.

It is my professional opinion that the proposed wastewater generation from the proposed development of Building #46 would be directed to the existing sand filter within the licensed overboard discharge allocation.

Please contact me if you have any questions or additional matters for discussion.



Respectfully,



Albert Frick
AF/nd

cc. David Batemen
Joe Laverriere, DeLuca-Hoffman





Albert Frick Associates, Inc.

Soil Scientists & Site Evaluators

95A County Road Gorham, Maine 04038
(207) 839-5563 FAX (207) 839-5564

Albert Frick, SS, SE
James Logan, SS, SE
Matthew Logan, SE
Brady Frick, SE
Bryan Jordan, SE
William O'Connor, SE

July 24, 2008

David Bateman
P.O. Box 3572
Portland, ME 04104

Re: Diamond Cove, On-site Septic Potential, Buildings 46 & 19, Great Diamond Island, Portland

Dear Mr. Bateman:

I was requested to analyze the potential for future development of existing Buildings 46 and 19, utilizing subsurface wastewater disposal.

Wastewater volume

The potential wastewater volume is as outlined below:

Building 46 (Hotel) 4,426 gallons/day
6 - 1 bedroom units @ 100 gpd - 600 gpd
6 - 2 bedroom units @ 200 gpd - 1,200 gpd
8 - 3 bedroom units @ 300 gpd - 2,400 gpd
15 employees @ 15 gpd - 225 gpd

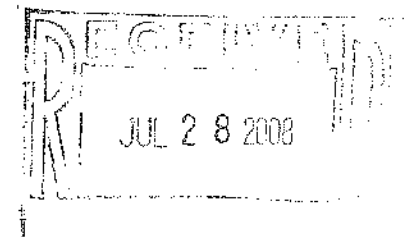
Building 19 (Residential Units) 1,620 gallons/day
9 - 2 Bedroom @ 180 gpd

Soils/Site

The general original soil on the island is a thin layer of glacial till soil overlying bedrock. The glacial till soil is comprised of sandy loam textured soil which requires a minimum of 3.3 sq. feet of effective disposal area per gallon/ day of wastewater generation.

Building #46

There is potential septic system capacity in the vicinity of Test Pit 1, 2, 3 as shown on sheet 1 of 2 of the enclose site plan. This area is limited in size and could potentially handle 3,600 gals/day max.) However, the area in the vicinity of TP #1 is a depressional area in the bedrock (area) and I would have reservation of designing a large system in that area due to potential ponding of wastewater in the bedrock 'bowl'.



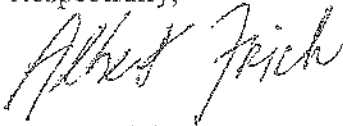
It is my professional opinion that the proposed wastewater generation would be better treated utilizing the allotted capacity in the existing overboard discharge treatment system.

Building #19

The soils in the vicinity of Test Pit #4 and #5 are suitable and have sufficient capacity to accommodate the proposed wastewater flow from Building # 19 into a subsurface wastewater disposal system.

Please contact me if you have any questions or matters for additional discussions.

Respectfully,



Albert Frick
AF/jf

cc. Joseph Laverriere
Enc. Soil Profiles
Site Plan
Photos



Town, City, Plantation
PORTLAND, GREAT DIAMOND ISLAND

Street, Food Subdivision
DIAMOND COVE

Owner's Name
DAVID BATEMAN

SOIL DESCRIPTION AND CLASSIFICATION (Location of Observation Holes Shown Above)

Observation Hole AF TP 1 Test Pit Boring
 " Depth of Organic Horizon Above Mineral Soil

DEPTH BELOW MINERAL SOIL SURFACE (inches)	Texture	Consistency	Color	Mottling
0				
10	GRAVELLY LOAMY SAND AND CORAL ASH (FILL)	FRIABLE	GRAY	
20				
30				
40				
50	SANDY LOAM	FIRM @ 66"	OLIVE BROWN	COMMON, DISTINCT @ 66"

Soil Classification: Profile 12 Condition B
 Slope: 2% Limiting Factor: 66"
 Ground Water
 Restrictive Layer
 Bedrock
 Pit Depth

(FILL OVER 3 C)

Observation Hole AF TP 2 Test Pit Boring
 " Depth of Organic Horizon Above Mineral Soil

DEPTH BELOW MINERAL SOIL SURFACE (inches)	Texture	Consistency	Color	Mottling
0				
10	GRAVELLY LOAMY SAND AND CORAL ASH (FILL)	FRIABLE	GRAY	
20				
30				
40				
50	SANDY LOAM	FIRM @ 60"	OLIVE BROWN	COMMON, DISTINCT @ 60"

Soil Classification: Profile 12 Condition B
 Slope: 2% Limiting Factor: 60"
 Ground Water
 Restrictive Layer
 Bedrock
 Pit Depth

(FILL OVER 3 C)

SOIL DESCRIPTION AND CLASSIFICATION (Location of Observation Holes Shown Above)

Observation Hole AF TP 3 Test Pit Boring
 " Depth of Organic Horizon Above Mineral Soil

DEPTH BELOW MINERAL SOIL SURFACE (inches)	Texture	Consistency	Color	Mottling
0				
10	GRAVELLY LOAMY SAND AND CORAL ASH (FILL)	FRIABLE		
20				
30				
40				
50	SANDY LOAM	FIRM @ 56"		COMMON, DISTINCT @ 56"

Soil Classification: Profile 12 Condition B
 Slope: 2% Limiting Factor: 56"
 Ground Water
 Restrictive Layer
 Bedrock
 Pit Depth

(FILL OVER 3 C)

Observation Hole AF TP 4 Test Pit Boring
 " Depth of Organic Horizon Above Mineral Soil

DEPTH BELOW MINERAL SOIL SURFACE (inches)	Texture	Consistency	Color	Mottling
0	SANDY LOAM		DARK BROWN	
10		FRIABLE		
20	LOAMY SAND		STRONG BROWN	
30	SANDY LOAM	FIRM	LIGHT OLIVE BROWN	COMMON DISTINCT
40	// // // BEDROCK // // //			
50				

Soil Classification: Profile 3 Condition A/C
 Slope: 2% Limiting Factor: 36"
 Ground Water
 Restrictive Layer
 Bedrock
 Pit Depth

Albert Frick
 Site Evaluator / Soil Scientist Signature

163/66

7/8/08

SE 055 -

Date

Town, City, Plancton
PORTLAND, GREAT DIAMOND ISLAND

Street, Block, Subdivision
DIAMOND COVE

Owner's Name
DAVID BATEMAN

SOIL DESCRIPTION AND CLASSIFICATION (Location of Observation Holes Shown Above)

Observation Hole AF TP 5 Test Pit Boring
 " Depth of Organic Horizon Above Mineral Soil

DEPTH BELOW MINERAL SOIL SURFACE (inches)	Texture	Consistency	Color	Mottling
0	SANDY LOAM		DARK BROWN	
10		FRIBLE		
20	LOAMY SAND		DARK YELLOW BROWN	
30		FIRM	LIGHT BROWN	
40				
50				

Soil Classification 3	Slope %	Limiting Factor 26"	<input type="checkbox"/> Ground Water
Profile A/C	Condition	<input checked="" type="checkbox"/> Restrictive Layer	<input type="checkbox"/> Bedrock
		<input type="checkbox"/> Pit Depth	

Observation Hole _____ Test Pit Boring
 " Depth of Organic Horizon Above Mineral Soil

DEPTH BELOW MINERAL SOIL SURFACE (inches)	Texture	Consistency	Color	Mottling
0				
10				
20				
30				
40				
50				

Soil Classification	Slope	Limiting Factor	<input type="checkbox"/> Ground Water
Profile	Condition	"	<input type="checkbox"/> Restrictive Layer
			<input type="checkbox"/> Bedrock
			<input type="checkbox"/> Pit Depth

SOIL DESCRIPTION AND CLASSIFICATION (Location of Observation Holes Shown Above)

Observation Hole _____ Test Pit Boring
 " Depth of Organic Horizon Above Mineral Soil

DEPTH BELOW MINERAL SOIL SURFACE (inches)	Texture	Consistency	Color	Mottling
0				
10				
20				
30				
40				
50				

Soil Classification	Slope	Limiting Factor	<input type="checkbox"/> Ground Water
Profile	Condition	"	<input type="checkbox"/> Restrictive Layer
			<input type="checkbox"/> Bedrock
			<input type="checkbox"/> Pit Depth

Observation Hole _____ Test Pit Boring
 " Depth of Organic Horizon Above Mineral Soil

DEPTH BELOW MINERAL SOIL SURFACE (inches)	Texture	Consistency	Color	Mottling
0				
10				
20				
30				
40				
50				

Soil Classification	Slope	Limiting Factor	<input type="checkbox"/> Ground Water
Profile	Condition	"	<input type="checkbox"/> Restrictive Layer
			<input type="checkbox"/> Bedrock
			<input type="checkbox"/> Pit Depth

Albert Frick
 Site Evaluator / Soil Scientist Signature

163/66
 SE, CSS

7/8/08
 Date

DIAMOND COVE # 19 BUILDING #46 & SEPTIC SYSTEM ELEVATION



PHOTO 1: BEDROCK IMPRESSIONAL AREA IN VICINITY OF TP1 & TP2



PHOTO 2: MILITARY BUNKER AT AND OF SUITABLE AREA

DIAMOND COVE # 19 BUILDING #46 & SEPTIC SYSTEM ELEVATION



PHOTO 3: BEDROCK "BOWL" IN VICINITY OF TP1 & TP2



PHOTO 4: TEST PIT

DIAMOND COVE # 19 BUILDING #46 & SEPTIC SYSTEM ELEVATION



PHOTO 5: TEST PIT #2



PHOTO 6: TEST PIT #5

ATTACHMENT B

Estimated Existing and Proposed Sewer Flow Rates

ATTACHMENT B

SUMMARY OF EXISTING AND PROPOSED SEWER FLOW RATES

ESTIMATED WASTEWATER FLOWS TRIBUTARY TO OVERBOARD DISCHARGE SYSTEM
WASTE DISCHARGE LICENSE W006931-41-A-N

CURRENT USES

ESTABLISHMENT USES		QUANTITY	ADF RATE GPD	ADF GPD	COMMENTS
TYPE	DESCRIPTION				
RESIDENTIAL	DWELLING UNITS (79 TOTAL)				
	1 BEDROOM RESIDENTIAL UNITS	2	180	360	
	2 BEDROOM RESIDENTIAL UNITS	15	180	2,700	
	3 BEDROOM RESIDENTIAL UNITS	53	270	14,310	
	4 BED ROOM RESIDENTIAL UNITS	9	360	3,240	
RESTAURANT					SEE NOTE 1
	SEATS	161	20	3,220	
	EMPLOYEES	20	15	300	
COMMERCIAL	SPECIAL EVENT TENT				SEE NOTE 2 SEE NOTE 3 SEE NOTE 3
	AVG. NUMBER OF PEOPLE PER EVENT	150	7	1,050	
	AVG. NUMBER OF STAFF PER EVENT	8	15	120	
COMMERCIAL	ADMINISTRATION / MAINTENANCE BLDG.	2	240	480	
COMMERCIAL	MARINA PUMP OUT FACILITY	1	100	100	SEE NOTE 4
COMMERCIAL	GIFT STORE EMPLOYEES	2	15	30	

SUBTOTAL	25,910	GPD
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ALLOWABLE I/I FLOW	3,000	GPD
TOTAL FLOW	28,910	GPD

AVAILABLE OBD SYSTEM TREATMENT CAPACITY 35,000 GPD
EXISTING EXCESS CAPACITY 6,090 GPD

PROPOSED USES (SEE NOTE 5)

ESTABLISHMENT USES		QUANTITY	ADF RATE GPD	ADF GPD	COMMENTS
TYPE	DESCRIPTION				
HOTEL					
	1 BEDROOM RESIDENTIAL UNITS	2	180	360	
	2 BEDROOM RESIDENTIAL UNITS	10	180	1,800	
	3 BEDROOM RESIDENTIAL UNITS	8	270	2,160	
	EMPLOYEES	15	15	225	

SUBTOTAL	4,545	GPD
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TOTAL SEWER FLOW	30,455	GPD
ALLOWABLE I/I FLOW	3,000	GPD
TOTAL FLOW	33,455	GPD

AVAILABLE OBD SYSTEM TREATMENT CAPACITY 35,000 GPD
REMAINING EXCESS CAPACITY 1,545 GPD

NOTE 1 - BASED UPON INFORMATION PROVIDED BY JOHN HOWARD, OWNER OF DIAMOND'S EDGE RESTAURANT, THE MAXIMUM SEATING CAPACITY IS 161 FOR THE RESTAURANT AND BAR. THE RESTAURANT HAS A TOTAL OF 20 FULL TIME EMPLOYEES SERVING 2 MEALS A DAY (LUNCH AND DINNER). THE AVERAGE DAILY NUMBER OF MEALS SERVED (BASED UPON PEAK MONTHS OF JULY AND AUGUST) ARE:

100 PEOPLE AT LUNCH
160 PEOPLE AT DINNER

FOR 2007, THE RESTAURANT OPERATING PERIODS WERE AS FOLLOWS:

MAY 24th - RESTAURANT OPENED
MAY 24th THROUGH JUNE 15th - SERVING DINNER ONLY WITH 791 CUSTOMERS
JUNE 16th THROUGH JUNE 30th - SERVING LUNCH AND DINNER WITH 1,645 CUSTOMERS
JULY 1st THROUGH JULY 31st - SERVING LUNCH AND DINNER WITH 4,594 CUSTOMERS
AUGUST 1st THROUGH SEPTEMBER 3rd - SERVING LUNCH AND DINNER WITH 6,809 CUSTOMERS
SEPTEMBER 4th THROUGH SEPTEMBER 29th - SERVING DINNER ONLY WITH 1,579 CUSTOMERS
SEPTEMBER 30th - RESTAURANT CLOSED

NOTE 2 - SPECIAL EVENT TENT FACILITY BASED UPON AN AVERAGE DAILY FLOW RATE OF 7 GPD PER PERSON (BASED UPON MAINE SUBSURFACE WASTE WATER DISPOSAL RULES FOR AN EATING PLACE, PAPER SERVICE) AND 15 GPD PER EMPLOYEE

NOTE 3 - BASED UPON INFORMATION PROVIDED BY JOHN HOWARD, OWNER OF DIAMOND'S EDGE RESTAURANT, THE SPECIAL EVENT TENT FACILITY CAN COMFORTABLY SEAT 150 PEOPLE. PORT-A-POTTIES ARE BROUGHT ONTO THE ISLAND FOR ANY EVENT WITH MORE THAN 150 PEOPLE. THE PORT-A-POTTIES ARE RETURNED AND CONTENTS DISPOSED ON THE MAINLAND. TYPICALLY, ONE ADDITIONAL STAFF PER EIGHTEEN GUESTS WILL PROVIDE SERVICE THE SPECIAL EVENT ACTIVITY.

FOR 2007, THE TENT FACILITY HELD THE FOLLOWING SPECIAL EVENTS:

<u>DATE</u>	<u>NO. OF PEOPLE</u>	<u>NO. OF STAFF</u>
23-Jun	74	5
30-Jun	150	9
12-Jul	458	26
14-Jul	108	6
19-Jul	82	5
21-Jul	164	10
28-Jul	73	5
29-Jul	154	9
9-Aug	88	5
11-Aug	124	7
18-Aug	190	11
24-Aug	77	5
25-Aug	108	6
30-Aug	65	4
1-Sep	146	9
10-Sep	150	9
15-Sep	186	11
22-Sep	180	10

AS SHOWN ABOVE, THERE WERE 18 EVENTS IN 2007 WITH AN AVERAGE OF 143 GUESTS AND 8 STAFF MEMBERS IN ATTENDANCE.

NOTE 4 - BASED UPON INFORMATION PROVIDED BY JOHN HOWARD, OWNER OF DIAMOND'S EDGE RESTAURANT, WHILE PROVISIONS FOR PUMP-OUT ARE AVAILABLE FOR THE PUBLIC MARINA SLIPS, THESE FACILITIES HAVE ONLY BEEN USED ONCE IN FOUR (4) YEARS BY THE GENERAL PUBLIC.

NOTE 5 - PROPOSED USES ASSOCIATED WITH THE REDEVELOPMENT OF THE BARRACKS BUILDING IS BASED UPON INFORMATION PROVIDED BY DAVID BATEMAN, DEVELOPER OF PROJECT. THE HOTEL CONDOMINIUM FLOW RATES ARE BASED UPON 180 GPD PER RESIDENTIAL UNIT WITH 2-BEDROOMS OR LESS, 270 GPD PER 3-BEDROOM UNIT AND 15 GPD PER EMPLOYEE.



PLANNING BOARD REPORT PORTLAND, MAINE

**Diamond Cove Conditional Zoning Amendment
Great Diamond Island
#2012-411
The Inn at Diamond Cove, LLC., Applicant.**

Submitted to: Portland Planning Board: Public Hearing Date: February 14, 2012	Prepared by: Richard Knowland, Senior Planner Date: February 9, 2012 Planning Board Report #6-12
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I. Introduction

A public hearing has been scheduled to consider amendments to the existing Diamond Cove conditional zoning on Great Diamond Island. The Inn at Diamond Cove, LLC. has requested some revisions to the conditional zoning provisions related to an increase in the number of hotelminium units.

In 2008 the City approved an amendment to the Diamond Cove conditional zoning provisions allowing the conversion of the Double Barracks building into a residential hotel condominium or hotelminium use. At the Board's January 24, 2012 workshop for the hotelminium site plan, the Applicant indicated the number of hotelminium units needed to be increased from 20 to 22 units for marketing reasons. Subsequently an amendment application filed on January 26th, reflected 22 units but also a request to increase the number of lock-out units from 16 to 22. The number of total bedrooms remains unchanged from the original proposal (46) according to the applicant.

The Board is requested to make a recommendation to the City Council to amend the 2008 hotelminium conditional zoning amendments reflecting an increase in the number of hotelminium units and lock-out units. Site plan/subdivision review of the Double Barracks will be deferred until the City Council makes a decision on the zoning amendment.

The proposed conditional zoning amendment is shown on Attachment 1-A. The zone change application and an explanation of the need for the revision are shown on Attachments 2-A and 2-B.

While the proposed amendment is minor and does not change the physical appearance of the development, today's report incorporates information from the 2008 Planning Staff Report which served as the basis for the Planning Board recommendation and subsequent City Council approval of the hotelminium amendments.

Please refer to the attached Staff Memo which was prepared for the January 24, 2012 workshop on the Diamond Cove hotelminium site plan. The memo includes exhibits/submissions regarding background information on Diamond Cove; island maps; site plans; DEP permits; and other background information. On page 12 of that report is an index of these materials. The index is also featured as Attachment 1-B in today's report.

285 notices were sent to property owners on Great Diamond Island as well as a Legal Notice which ran in the Portland Press Herald on January 30th and February 6th.

II. Proposed Conditional Zoning Hotelminium Amendment

Proposed changes to the 2008 conditional zoning amendments are limited to increasing the number of hotelminium units in the Double Barracks from 20 to 22 and the number of lock-out units from 16 to 22. The number of hotelminium units for the Hospital remains unchanged.

The changes are internal only and will not affect the exterior appearance of the building nor the total number of bedrooms originally planned (46).

The specific revisions are in paragraph 2 of the zoning text and shown below:

The Double Barracks may include up to a maximum of twenty-two (22) hotelminium units [with the maximum of lock out units, included as part of the twenty-two hotelminiums and not separate units, not to exceed twenty-two sixteen (22+6)] and the Hospital may include up to a maximum number of twelve (12) hotelminium units [with the maximum number of lock out units, included as part of the twelve hotelminiums and not separate units, not to exceed twelve (12)].

III. Background of 2008 Conditional Zoning Amendment

In 2008 the IR-3 conditional zoning for Diamond Cove was amended by the City Council (after recommendation by the Planning Board) to accommodate a request by The Inn at Diamond, LLC to convert the existing Double Barracks and Hospital buildings into residential hotel condominium units (hotelminiums).

The 2008 conditional zoning amendment was viewed as the last best chance to renovate these buildings. The Applicant observed that "both buildings are substantially deteriorated and a collapse of either would not be unexpected". Given the poor condition of the buildings, residential uses have not proven financially feasible. Consequently these buildings are the last significant brick buildings within the historic Fort McKinley complex not renovated. They are also the largest brick buildings in the complex. Renovation of the Fort McKinley buildings was initiated 20-plus years ago.

The City of Portland acquired these two buildings in 2004 for non-payment of property taxes. The City solicited requests for proposals from developers in the past but attracted little interest given the deteriorated conditions of the buildings particularly the Double Barracks. In 2007, the City entered into an option agreement with the applicant to purchase the Double Barracks and Hospital.

IV. Key Elements of 2008 Conditional Zoning Amendment

The 2008 conditional zoning amendment [entitled “Supplemental Conditions and Restrictions Buildings 46 (“Double Barracks”) and 19 (“Hospital”)] was intended to facilitate the conversion of the Double Barracks and Hospital buildings into a hotelminium. The most significant text changes in terms of development and use involve the following: (1) referencing a residential hotel condominium (hotelminium) as a permitted use, including a definition of the use; (2) use of dedicated open space for a swimming pool and bar/service building; and (3) referencing construction of the bar/service building. Other sections of the conditional zoning text addressed disposal of solid waste; fire protection; transportation services and disposal of sanitary waste.

A discussion of the hotelminium use is provided below as background to the 2012 amendment.

Creation of Hotelminium Use

The 2008 amendment incorporated a new term for a residential hotel condominium (hotelminium) use for the Double Barracks and the Hospital since a residential hotel condominium was not a recognized use in the zoning ordinance. In preliminary discussions the Applicant described the use as an inn. However, as each unit will have kitchen facilities this was deemed inconsistent with the zoning definition of an inn. See excerpt of the inn definition from sec-14-47 below:

Inn: “A building used for more or less temporary occupancy of individuals, who are lodged with or without meals, having ten (10) but no more than fifty (50) rooms. Guest rooms shall not contain separate kitchen facilities...”

The applicant indicated “this project proposes individual, residential condominium units, each of which will have its own separate kitchen facilities, together with limited common amenities.” The condominium units will apparently be sold to investors and the individual units rented for public use similar to a hotel or inn room. There is a management entity that will be coordinating this function including providing a van service, security and maintaining the exterior of the building.

The 2008 amendment created a new term “hotelminium” to address this issue.

“Hotelminium” is defined as privately owned residential condominium units (with kitchens) located within a structure that offers reasonable and customary on-site hotel services which are limited to the unit owners, their guests, tenants in residence and members of the DCHA. The hotelminium may be rented (in whole or in part by virtue of attached bedrooms capable of being independently rented

through a “lock out” system from the remainder of the unit) for varying durations to the general public through a centralized hospitality vendor.

V. Land Use Policy

The 2008 review of the hotel/miniium amendments included a discussion of land use policy. This narrative is provided as background information since the amendment (although minor) represents a change in the IR-3 conditional zoning for Diamond Cove.

The primary policy document for the islands is **Portland Islands Land Use and Zoning Study**, which was adopted by the City Council (1985) as an element of the City Comprehensive Plan. It was the first comprehensive land use and zoning plan for the islands. The original Diamond Cove conditional zoning was enacted pursuant to this plan. The renovation of the existing Fort McKinley buildings within Diamond Cove was anticipated and was provided for in the approved conditional zone.

The summary and goal statement of the island comprehensive plan is expressed below:

The islands are different from the mainland in terms of the natural features, their resource value, the public services available (or possible), the people who reside and work there. The City’s land use policies and regulations should reflect this essential difference.

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.

The purpose of the IR-3 Island Residential Zone as expressed in the comprehensive plan is shown below:

The purpose of the IR-3 would be to allow for planned unit development in a manner compatible with both the natural and built environment. Parcels should not be rezoned to IR-3 unless an applicant can demonstrate that a development plan for the site can meet a series of detailed location and performance standards and is part of a contract or conditional rezoning. These standards would provide guidance to the City on whether a specific site would be appropriate for an IR-3 rezoning.

The comprehensive plan discussion for the IR-3 Contract-Conditional Zoning is shown below:

All IR-3 rezoning should be subject to contract or conditional zoning. Contract zoning is critical to the IR-3 rezoning process in that if a development plan for a proposed rezoning met the IR-3 review standards, the City would require that the zone change be subject to certain conditions through contract zoning that would insure that the final development for the site was in conformity with the land use policies represented in the IR-3 standards. This zoning tool can insure that the representations and assertions of a particular zone change application and

development plan that served as the basis for granting the rezoning, are formally carried out in the context in which it was approved. Given the sensitive environmental issues and development constraints on the islands, it is not in the interest of the City to approve an IR-3 without appropriate assurances that the ultimate development for the site appropriately addresses such development constraints.

The purpose section of the IR-3 Zone (zoning text sec. 14-145.13) is shown below.

The purpose of the IR-3 island residential zone is to allow for a planned unit development in a manner compatible with both the natural and built environment, which provides for adequate circulation and waterfront access, adequate water supply for private use and fire protection, and safe and clean disposal of solid and septic wastes.

The above paragraph also includes sec. 14-145.13(e), which states:

(c) The development plan should have the capability of meeting the development review standards of sec. 14-145.16.

Although Diamond Cove is an existing IR-3 conditional zone and the hotel/miniature proposal represented an amendment to the conditional zone text, the hotel/miniature proposal needed to demonstrate the “capability” of meeting these standards.

Note the Board determined in its 2008 review the hotel/miniature proposal did demonstrate the “capability” of meeting these standards. A discussion of these standards is provided for background information. A more detailed review of these standards will take place during site plan review since the applicant at the zone change stage need only demonstrate the capability of addressing these standards.

A response to the development standards of sec. 14-156.16 is shown below. The Applicant’s response to these standards is shown starting on Attachment 2-AA-2 of the 1-24-12 Planning Staff Workshop Memo.

Transportation: The transportation standard states in part that “development shall be designed with a pedestrian orientation to minimize the use and dependency on private motor vehicles”. The original 1985 conditional zoning (and subsequent amendments including the 2008 amendments), placed restrictions on the use of motor vehicles which is consistent with this standard. Private motor vehicles are in fact banned from Diamond Cove. As the Board is aware, the transportation issues on Great Diamond Island (motor vehicles golf carts, common motor vehicles) have been complex and contentious. The 2008 amendments are very specific in prohibiting motorized ground transportation off the Fort McKinley site to the southerly pier. The intent is that owners and visitors of the units will use the Diamond Cove pier for all water transportation needs and not use the southerly pier. See conditional zoning transportation requirement Attachment 1-A.

Solid Waste: The applicant indicates all solid waste will be held within the building in a trash room and will be picked and removed in accordance with the Diamond Cove

Homeowners Association. Solid waste will be taken off the island in accordance with “present practices” or off the island via the Diamond Cove pier by a private contractor. The present practices for Diamond Cove involve the City taking solid waste off the island. We have requested comments from Public Services whether they are in a position to serve the hotel/miniium project.

Sanitary Waste: This standard has been addressed with Maine DEP approval of a Maine Discharge Elimination System Permit and Waste Discharge License for this project. A copy of the permit is shown on Attachment 2-E of the 1-24-12 Planning Staff Workshop Memo. Sanitary waste will be processed through an existing sand filter treatment system that has an outfall pipe in Casco Bay. The sand filter system serves the entire Fort McKinley complex and is licensed not to exceed 35,000 gallons per day based on a monthly-daily average.

Water: A letter from the Portland Water District indicates “there should be adequate pressure and volume of water to serve the domestic needs of the proposed Inn at Diamond Cove at the point which Diamond Cove is connected to the public system”. See Attachment 2-J of 1-24-12 Planning Staff Workshop Memo.

Shoreland Area: The project area is outside of a shoreland zone.

Environmentally Sensitive Areas: The focus of the development is the renovation of the Double Barracks which is an integral part of the Fort McKinley development and the primary feature of this site, historically and visually. Site disturbance is limited to the rear of the building where an inground pool, deck and gazebo will be constructed which will not impact any significant scenic vista.

The significant environmental areas cited in this standard have been conserved elsewhere within the IR-3.

Recreation and Open Space Area: The Diamond Cove open space is functionally integrated into the entire development plan. A swimming pool and gazebo (food/beverage) are proposed behind the Double Barracks. This land is owned in common by the DCHA but will be leased by The Inn at Diamond Cove. Given the size and location of this open space it is unlikely this loss of land (as common area) will adversely affect open space resources within Diamond Cove

Financial and Technical Capability: Two letters have been submitted by Katahdin Trust Company in support of the applicant’s financial capability. The submission includes an estimated project cost of \$9,392,154. Sources of funding include a first mortgage loan (permanent) of \$5,290,000 and partnership equity (cash) of \$4,102,154. Technical capacity information has also been submitted. See Attachment 2-C of today’s report and Attachment 2-O of the 1-24-12 Planning Staff Workshop Memo.

Environmental Impact Analysis: The project involves renovation of an existing building with very limited site disturbance except in the immediate vicinity of the site. The significant features cited in the above standard has been preserved on other locations of Diamond Cove. It is unlikely that the disturbed are would be rated as significant in

terms of its natural features. The amount of vegetation likely to be disturbed within the footprint of the swimming pool/service building area is minimal in the context of the total open space and vegetation preserved within the Diamond Cove development.

Staff has re-read an environmental assessment study filed with the original zone change application. The hotel/miniium seems consistent with the impacts associated with the original Diamond Cove development except for a few trees that may be taken down for the swimming pool.

Development Phasing: The renovation of the Double Barracks will be completed without phasing. The Hospital is not part of the current development application and will be renovated at an unspecified date in the future.

Emergency Services: As part of the conditional zoning amendment the applicant is required to install a sprinkler system and a central alarm system for the entire building.

VI. Motions for the Board to Consider

On the basis of plans and information submitted by the applicant and the information contained in Planning Report #6-12, and testimony presented at the Planning Board public hearing, the Board finds:

1. The proposed amendments to the Diamond Cove conditional zone text (Attachment 1-A) (is or is not) in conformance with the City of Portland Comprehensive Plan and therefore (recommends or does not recommend) approval of the proposed text amendments zoning to the City Council
2. The Planning Board also (recommends or does not recommend) approval to the City Council revisions to the 2008 Diamond Cove conditional zoning text (Attachment 1-A)

Attachments

1 Staff Comments/Submissions

- 1-A Proposed Diamond Cove Conditional Zoning Amendment Revisions for Hotel/miniiums (Supplemental Conditions and Restrictions)
- 1-B Index of Exhibits from Planning Staff Workshop Memo (January 24, 2012)
- 1-C Planning Staff Workshop Memo (January 24, 2012)

2 Applicant Submissions

- 2-A Application for IR-3 Diamond Cove Conditional Zoning Amendment (January 26, 2012)
- 2-B Background Information on Zone Amendment Request by Ronald Ward (January 20, 2012)
- 2-C Financial and Technical Capacity Information

3 Written Public Comments

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)

**ORDER AUTHORIZING AMENDMENT TO
CONDITIONAL ZONE FOR PROPERTY
IN THE VICINITY OF
DIAMOND COVE, GREAT DIAMOND ISLAND
PORTLAND, MAINE**

ORDERED, that the Conditional Zone by and between the City of Portland and The Inn at Diamond Cove LLC and the Diamond Cove Homeowners Association, adopted on _____ and incorporated by reference into the Zoning Ordinance by Sec. 14-49 of the Portland City Code, is hereby amended to read as follows:

**SUPPLEMENTAL CONDITIONS AND RESTRICTIONS
BUILDINGS 46 (“DOUBLE BARRACKS”) AND 19 (“HOSPITAL”)
FT. MCKINLEY, PORTLAND, MAINE
FEBRUARY 22, 2012**

The following supplemental conditions and restrictions are imposed by the City of Portland (the “City”) on that portion of the Ft. McKinley project (“Project”) commonly known as Buildings 46 and 19, together with the ancillary service area, all as depicted on the map attached hereto as Attachment 1 (“Premises”), as conditions of the rezoning of the Premises at the request of The Inn At Diamond Cove, LLC (“IDC”) ¹, and consented to by the Diamond Cove Homeowners Association (“DCHA”):

1. Existing Conditions. The Premises are a portion of the development commonly known as Ft. McKinley, Great Diamond Island, Portland, Maine which is subject, inter alia, to those Conditions and Restrictions recorded in the Cumberland County Registry of Deeds in Book 8928, Page 263, as amended by Order of the Portland City Council on August 16, 2004 relating to ground transportation in and around the Project (collectively, the “Existing Conditions and Restrictions”).

2. Supplemental Conditions and Restrictions. Notwithstanding the terms of the IR-3 zoning text otherwise applicable to the Premises, and the Existing Conditions and Restrictions, those buildings designated as Building 19 (“Hospital”) and Building 46 (“Double Barracks”), the immediate grounds attendant thereto and a portion of the Open Space, all depicted on the site plans dated June 24, 2008 [consisting of four (4) sheets and

¹ For purposes of this Supplemental Conditions and Restrictions document, “Owner/Manager” referred to herein shall mean, individuals and collectively, the following: IDC, its successors in interest or assigns; individual unit owners, their heirs, successors in interest and assigns; any and all management company retained by or working on behalf of IDC, its successors or assigns and/or individual units owners and their heirs, successors in interest or assigns.

attached hereto as Attachment 2], all may be redeveloped into individually owned and fully equipped condominium units, sometimes known as “hotelminiums” and a supporting pool/services area on the Open Space. “Hotelminium” is defined as privately owned residential condominium units (with kitchens) located within a structure that offers reasonable and customary on-site hotel services² which are limited to the unit owners, their guests, tenants in residence and members of the DCHA. The Hotelminium units may be rented (in whole or in part by virtue of attached bedrooms capable of being independently rented through a “lock out” system from the remainder of the unit) for varying durations to the general public through a centralized hospitality vendor. The Double Barracks may include up to a maximum of ~~twenty-two~~ (22) hotelminium units [with the maximum number of lock out units, included as part of the ~~twenty-two~~ hotelminiums and not separate units, not to exceed ~~twenty-twosixteen~~ (22+6)] and the Hospital may include up to a maximum of twelve (12) hotelminium units [with the maximum number of lock out units, included as part of the twelve hotelminiums and not separate units, not to exceed twelve (12)]. The units contained within the Double Barracks and the Hospital buildings shall become members of a separate condominium association established for these two rehabilitated buildings, and each unit will also be considered a “lot” within DCHA, subject to all of the applicable restrictions, covenants, conditions, assessments and the like of both DCHA and the newly-established condominium association.

The Double Barracks and the Hospital, both of which may be renovated, are depicted on Attachment 2. The allowable rehabilitation of these buildings may include construction of a new swimming pool and related guest services building on that portion of the Open Space depicted on the site plans, a copy of the relevant portion of which appears as Attachment 2 hereto. The recording of the this Amendment shall be deemed to supplement the Conditions and Restrictions recorded in Book 8928, Page 263 and the “Dedicated Open Space Plan” attached thereto as an Exhibit.

3. Disposal of Solid Waste. All solid waste generated on the Premises shall be collected and disposed of privately, on the mainland, with temporary storage of such waste being handled within the building and disposed of in accordance with all applicable regulations, codes and laws; or if, in the City’s opinion, it would not create an unreasonable burden thereon, at a municipally-operated island solid waste disposal facility.

4. Fire Protection. The Double Barracks and Hospital buildings shall be fully sprinkled and have installed, and at all times functional, a central fire alarm system operative prior to the issuance of any certificate of occupancy for the respective building.

5. Transportation Services. The Owner/Manager of the Premises shall use its best efforts to secure from the Casco Bay Island Transit District year-round common carrier water transportation service to, from and between the Portland waterfront and the

² For purposes of this Supplemental Conditions and Restrictions document, “reasonable and customary on-site hotel services” shall include but not be limited to laundry service, linen service, room service, health and fitness facilities, food and beverage service, concierge, etc.

Diamond Cove Pier (or barge landing where appropriate for passengers and/or cargo) on a schedule to be established by the carrier based upon passenger demand; provided, however, that in the event that such service becomes unavailable, the Owner/Manager shall provide an equivalent alternative to such service, subject only to the approval thereof by the Public Utilities Commission, or such other regulatory authority having jurisdiction thereof. The Owner/Manager shall also provide suitable ground transportation from points of disembarkment within the Project to the hotelminiums. The Owner/Manager shall not provide motorized ground transportation off the Ft. McKinley Project site and the Owner/Manager, its guests, tenants, invitees and employees shall not operate motorized ground transportation of any kind to travel off the Ft. McKinley project site to the pier at the south end of the island except in the event of an emergency. All such transportation shall strictly conform to all existing ordinances, rules and regulations concerning travel outside of the project site to the public pier at the southerly end of Great Diamond Island. All owners, guests and employees will be directed to utilize Casco Bay Lines or private water shuttles arriving at the Diamond Cove landing point or the barge landing point (at the north end of Great Diamond Island) and will be specifically advised not to utilize any off-site facilities, including the pier at the south end of the island. The Owner/ Manager shall conspicuously post, and keep posted in each hotelminium units at the Premises, a written notice of the applicable ordinances, rules and regulations. Moreover, the City shall have no obligation to provide mainland parking for any owner, occupant, guest or invitee of any hotelminium unit or any manager or on-site staff thereof.

6. Disposal of Sanitary Waste. The IDC is obligated hereunder to involve the City in all aspects of its sanitation waste licensing, and any modifications thereto, with any local, state or federal agency. This includes providing the City with copies of all information submitted to said agencies and involving the City in all meetings and discussions concerning sanitary waste disposal. No site plan or subdivision application shall be approved by the City unless and until documentation of Maine DEP approval of the sanitary waste system serving the Premises is provided.

7. Interpretation: Conflicts. The within conditions and restrictions are intended to supplement the existing Conditions and Restrictions and amendments thereto, all of which shall remain in full force and effect except as modified herein or as may be modified by further amendment or ordinance duly enacted by the City of Portland. In the event of any conflict between these Supplemental Conditions and Restrictions and the pre-existing Conditions and Restrictions, as amended, these Supplemental Conditions and Restrictions shall control.

Index of Exhibits from Jan. 24, 2012 Planning Staff Workshop Memo

Attachments

City Staff Submissions

- 1-A Vicinity Maps
- 1-B Commonly Asked Questions on Diamond Cove and Original 1985 Conditional Zone
- 1-C Revised Conditional Zoning Amendments, enacted September 15, 2008
- 1-D Comments of Tom Errico, Traffic Review Consultant (December 23, 2009)
- 1-E Comments of David Senus, Development Review Engineer (January 17, 2012)
- 1-F Comments of Chris Pirone, Fire Captain (January 16, 2012)
- 1-G Approval Letter from Historic Preservation Board (November 6, 2009)

Applicant Submissions

- 2-AA Introductory Cover Letter and Related Material for January 24, 2012 Planning Board Workshop
- 2-A Introductory Cover Letter and Related Exhibits for January 27, 2009 Planning Board Workshop
- 2-B Introductory Cover Letter for January 26, 2010 Planning Board Workshop
- 2-C Site Plan and Subdivision Recording Plat
- 2-D Building Elevations
- 2-E Maine DEP Maine Pollutant Elimination System Permit and Waste Discharge License (September, 2009)
- 2-F Maine DEP Site Location Permit (September, 2009)
- 2-G US National Park Service Historic Preservation Certification (May 15, 2008)
- 2-H Transportation
- 2-I Parking Related Information
- 2-J Portland Water District Letter (January 6, 2012)
- 2-K Stormwater Mangement Report
- 2-L Erosion and Sedimentation Report
- 2-M Sprinkler System Info.
- 2-N Solid Waste
- 2-O Financial and Technical Capacity
- 2-P Second Amendment to Amended and Restated General Declaration of Covenants and Restrictions (on file in Planning Office)
- 2-Q Property Deed (on file in Planning Office)

3 Written Public Comment

January 25, 2012

Richard Knowland
Senior Planner
City of Portland
389 Congress Street
Portland, ME 04101

RE: Site Plan Application Double Barracks (Building 46) – Great Diamond Island; Zoning Text Amendment

Rick:

On behalf of the Inn at Diamond Cove LLC, I am providing below a proposal for a text amendment to the IR-3 Conditional Zoning language, associated with the redevelopment of the Double Barracks Building 46 on the Fort McKinley site of Great Diamond Island.

The proposed text change is as follows:

1. Supplemental Conditions and Restrictions... The Double Barracks may include up to a maximum of ~~twenty (20)~~ twenty-two (22) hotelminium units [with the maximum number of lock out units, included as part of the twenty hotelminiums and not separate units, not to exceed ~~sixteen (16)~~ twenty-two (22) and the Hospital...

If you have any questions or concerns with this application, please let me know and I will address them immediately.

Thank you,



Kevin Gough, Architect
Archetype PA
Portland, ME

PROJECT ADDRESS: Building 46, Double Barracks - Great Diamond Island

CHART/BLOCK/LOT: 83E/F/460

DESCRIPTION OF PROPOSED ZONE CHANGE AND PROJECT:

Change of number of hotel units within building footprint.
Hotelminium

<p>CONTACT INFORMATION:</p>	<p>Applicant's Contact for electronic plans Name: Kevin Gough e-mail Address Gough@archetypepa.cm work # (207) 772-6022</p>
<p>Applicant – must be owner, Lessee or Buyer Name: The Inn @ Diamond Cove, LLC Business Name, if applicable: Address: PO Box 3572 City/State: Portland, ME Zip Code: 04104</p>	<p>Applicant Contact Information Work # (207) 772-2992 Home# Cell # Fax# e-mail: nathan@batemanpartnersllc.com</p>
<p>Owner – (if different from Applicant) Name: Address: City/State: Zip Code:</p>	<p>Owner Contact Information Work # Home# Cell # Fax# e-mail:</p>
<p>Agent/ Representative David Lloyd Name: Archetype Address: 48 Union Wharf City/State: Portland, ME Zip Code: 04101</p>	<p>Agent/Representative Contact information Work # (207) 772-6022 Cell # (207) 831-8327 e-mail: lloyd@archetypepa.com</p>
<p>Billing Information Name: The Inn @ Diamond Cove, LLC Address: PO Box 3572 City/State: Portland, ME Zip Code: 04101</p>	<p>Billing Information Work # (207) 772-2992 Cell # Fax# e-mail: nathan@batemanpartnersllc.com</p>
<p>Engineer Joseph Laverriere Name: DeLuca Hoffman Address: 778 Main Street, Suite 8 City/State: S. Portland, ME Zip Code: 04106</p>	<p>Engineer Contact Information Work # (207) 775-1121 Cell # Fax#(207) 879-0896 e-mail: joe@delucahoffman.com</p>

Surveyor John Swan Name: Owen Haskell Address: 390 U.S. Route 1 - Unit 10 City/State: Falmouth, ME Zip Code: 04105	Surveyor Contact Information Work # (207) 774-0424 Cell # Fax#(207) 774-0511 e-mail: jswan@owenhaskell.com
Architect Kevin Gough Name: Archetype Address: 48 Union Wharf City/State: Portland, ME Zip Code: 04101	Architect Contact Information Work # (207) 772-6022 Cell # (207) 831-8627 Fax# e-mail: gough@archetypepa.com
Attorney Ron Ward Name: Drummond Woodsum Address: 84 Marginal Way City/State: Portland, ME Zip Code: 04101	Attorney Contact Information Work # (207) 772-194 Cell # Fax# e-mail: rnward@dwmlaw.com

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

Option to purchase with the City of Portland

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:

Abandoned army barracks, vacant.

Current Zoning Designation(s):

IR-3 Conditional Zone

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.

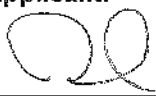
Hotelminium

Site Plan: On a separate sheet, please provide a site 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" = 50'.) Contract and conditional rezoning applications may require additional 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.

APPLICATION FEE:

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

<p>Zoning Map Amendment ___ \$2,000.00 (from ___ zone to ___ zone)</p>	<p>Fees Paid (office use) _____</p>	<p>The City invoices separately for the following:</p> <ul style="list-style-type: none"> • Notices (\$.75 each) (notices are sent to neighbors upon receipt of an application, workshop and public hearing meetings for Planning Board and public hearing meeting for City Council) • Legal Ad (% of total Ad) • Planning Review (\$40.00 hour) • Legal Review (\$75.00 hour) <p>Third party review is assessed separately.</p>
<p>Zoning Text Amendment <u>X</u> \$2,000.00 (to Section 14- 49) (For a 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 (example) and language to be added is depicted as underline (example) .</p>	<p>_____</p>	
<p>Combination Zoning Text Amendment and Zoning Map Amendment ___ \$3,000.00</p>	<p>_____</p>	
<p>Conditional or Contract Zone ___ \$3,000.00 (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>	<p>_____</p>	

<p>Signature of Applicant: </p>	<p>Date: 1-26-12</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.

DrummondWoodsum

Ronald N. Ward

rnward@dwmlaw.com

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

(207) 722-1944
ATTN: 13-1
(207) 772-3622 Fax
(800) 727-1941

Admitted in ME only
www.dwmlaw.com

RECEIVED

JAN 20 2012

City of Portland
Planning Division

January 20, 2012

HAND DELIVERED AND SENT BY EMAIL

Richard W. Knowland, Planner (RWK@portlandmaine.gov)
City of Portland Planning Department
Portland City Hall
389 Congress Street
Portland, ME 04101

RE: Inn At Diamond Cove – Planning Board Workshop
January 24, 2012

Dear Rick:

The following letter is intended to summarize our telephone conferences from yesterday relating to the variation in the number of condominium units contained at the proposed development.

For review purposes, the Project commenced with its application to the Portland City Council for amendment to the pre-existing IR-3 Conditional Zoning text. On September 15, 2008, the Portland City Council issued its Order, amending the relevant text to allow a 20-unit condominium project. The application by the developer was actually submitted as a project containing 20-22 units, but the plan exhibited at that time contained 20 units, including 3-bedroom units, with a total of 46 bedrooms.

Thereafter, the planning for the Project continued and we appeared before the Planning Board in a workshop on January 27, 2009. The plan at that time remained essentially unchanged, although more detailed.

After that initial workshop session, and also after significant additional review and planning, litigation was initiated against the City and the Developer. That litigation was recently successfully resolved in favor of the City and the Developer.

In the evaluation of the change in the marketplace over the course of the litigation, the development team concluded that the 3-bedroom units originally proposed were not consistent with the current marketplace. Accordingly, the 3-bedroom units were revised into 2-bedroom units, such that the total number of units went back to the 22 (with 46

David Anory*
David J. Backer*
S. Campbell Badger*
Jerrai A. Crouter*
George T. Dilworth*
Jessica M. Emmons†
Peter C. Felinly*
Erin R. Feltost
Anthony T. Frotonna*
Sara S. Helfstedt*
Eric R. Herlan**
Melissa A. Hewey†
Michael E. High*
David M. Kallin*
John S. Kaminski*
Edward J. Kelleher*
Jeanne M. Kincaid**
Peter D. Klein*
Rodney A. Lake*
Benjamin E. Marcus*
Elok A. Miller*
Mona T. Movafaghli†
Michael J. Murray*
Robert P. Nadeau*
Daina J. Nathanson**
Kimberly A. Pacelli*
Jeffrey T. Pampiano*
William L. Plouffe*
Aaron M. Pratt**
Harry R. Pringle*
Daniel J. Rose**
George Royle V*
Gregory W. Sampin*
David S. Sherman, Jr.*
Richard A. Shrinay*
Christine R. Simpson†
Kathryn Smith, Jr.*
Bruce W. Smith*
Richard A. Spencer**
Christopher G. Stevenson*
E. William Stockmeyer**
Amy K. Tchaou**
Joanna B. Tourangeau**
M. Thomas Trenholm*
Matthew H. Upton†
Gary D. Vogel*
Ronald N. Ward*
Brian D. Willing*
Gerald M. Zelint

Consultants

Ann S. Dugman
Policy & Labor Relations

Roger P. Kelley
Labor Relations &
Conflict Management

Michael J. Opuda Ph.D.
Special Education

Of Counsel

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

* Admitted In Maine

† Admitted In New Hampshire

January 20, 2012
Page 2

bedrooms) referenced at the start of the review process. The change in the number of units has no bearing upon the building footprint or envelope or any of the support systems or public improvements. The Project has always been envisioned as containing 46 bedrooms, and is the number approved by the Maine Department of Environmental Protection in its permits for the Project. The "change" in the Project is entirely internal configuration of the units.

The change in the number of units was not picked up as inconsistent with the original City Council Order until very recently. While the change is technical in nature, we agree that Order should be amended to recognize the current 22 units actually being proposed. Accordingly, we would suggest that Tuesday's workshop go forward on the basis of the 22-unit plan submitted, with the recognition that it will be our obligation to achieve an Amended Order before coming back for final approval. We perceive this to be technical, but what is envisioned by City ordinances.

We look forward to meeting with you on Tuesday and presenting the final design of our Project, which has been in process since 2007.

Sincerely,



Ronald N. Ward

RNW:kjl

cc: Portland Planning Board
Danielle West-Chuta (DWCHUTA@portlandmaine.gov)
Alex Q. Jaegerman (AQJ@portlandmaine.gov)
Inn At Diamond Cove (Attention: David H. Bateman)

*The Inn at Diamond Cove
P. O. Box 3572
Portland, ME 04104*

RECEIVED

JAN 20 2012

City of Portland
Planning Division

January 20, 2012

Portland Planning Department
Portland City Hall
389 Congress St.
Portland, ME 04104

Re: The Inn at Diamond Cove
Additional Information

To Whom It May Concern;

The following information is intended to supplement the materials submitted 12/20/2011 regarding Financial Capacity specifically relating to the Development Partners.

The Inn at Diamond Cove is being developed by the same partners who developed the Portland Harbor Hotel. Since its opening in July 2002 this property continues to be accepted as the leading hotel in Portland. The partners as a group are comprised of three seasoned hotel executives, and two experienced local developers.

The Inn at Diamond Cove is being developed as a specific hospitality product, referred to as a "condominium hotel." The partners have experience in the development, sales, and management of this product (in addition to both franchised and non-franchised hotel venues across the country).

The estimated project cost is \$9,392,154 of which the partnership is investing over \$4,000,000 in equity capital (43.6% of total cost). Additionally, the partnership is purchasing 100% of the condominiums.

A list of project consultants is attached.

The partnership is currently working with Katahdin Trust Company to provide both construction and take-out financing as outlined in their letters of 12/20/2011 and 1/20/2012.

Should you require additional information, do not hesitate to call.

Sincerely,

A handwritten signature in black ink, appearing to read "David Bateman", with a long horizontal flourish extending to the right.

David Bateman
Managing Member
The Inn at Diamond Cove, LLC
(207) 772-2992

*The Inn at Diamond Cove
22 Condominiums
(44 Rooms & Suites)
Project Team*

Developer

Development Consultant
Hotel Management
General Contractor

The Inn at Diamond Cove, LLC

Bateman Partners, LLC
Hart Hotels, Inc.
Portland Builders

Design Team

Architect
Interior Design

Archetype, PA
Truex Cullins/Partners

Engineering

Civil
Structural
Mechanical

DeLuca-Hoffman Associates, Inc.
Structural Design Consulting, Inc.
Mechanical Systems

Legal

Drummond Woodsum

Accounting

Baker, Newman, Noyes

Market Analysis

Pinnacle Advisory Group

Historic Preservation

Tremont Preservation Services



January 20, 2011

Portland Planning Department
Portland City Hall
389 Congress St.
Portland ME 04101

To Whom It May Concern;

Katahdin Trust Company has met with David Bateman several times and has reviewed the available detail of the proposed development on Great Diamond Island, Portland, ME, which involves the historically qualified rehabilitation of the Double Barracks building and associated grounds. Mr. Bateman has submitted project and construction budgets to us for our review. The total project budget is approximately \$9,300,000. Within this figure is an approximate construction budget of \$6,500,000 and Katahdin Trust is prepared to meet financing needs beyond the substantial owner equity investment, subject to review of the final permitting and overall package.

Our credit review will not include review of a sales program as 3rd party sales of condo units are not immediately contemplated in the business plan of Mr. Bateman.

We fully understand that the Project has not yet completed its permitting, but we remain interested in providing the financing. Our interest is driven not only by the perceived marketability of the final product, but also the track record of the principals involved in it. We perceive The Inn at Diamond Cove, LLC to have a strong financial and technical capability to deliver a highly successful project to the marketplace.

We would be happy to update our interest at any point in the process, at your request.

Sincerely

Aaron Cannan
Vice President

Pete St. John
Sr. Vice President

15 Pleasant Hill Road · PO Box 1689 · Scarborough, ME 04074 · Telephone (207) 510-7017 (866) 441-5197 · Fax (207) 883-1205

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February 7, 2012

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

Re: The Inn at Diamond Cove

Dear Board Members:

This Firm represents Diamond Island Association (“DIA”) with regard to the proposed “The Inn at Diamond Cove” development. As we have stated previously, DIA has not voted to oppose the Inn at Diamond Cove’s application. However, it seeks to ensure that whatever is approved, constructed and operated is consistent with City and State approvals and with City of Portland zoning. In this regard, the application’s statements regarding transportation and solid waste continue to concern DIA and its members.

At the January 24, 2012 Workshop on this application, DIA raised these concerns to the Planning Board. After the conclusion of that Workshop, I spoke with applicant’s counsel, Ronald Ward, Esq., and told him at that time that my client, DIA, had authorized me to work with him to “fine tune” the application materials language to resolve DIA’s transportation and solid waste concerns. He said that he would have to check with his client. On Monday, January 26, 2012, I sent him an email reiterating that offer (copy enclosed). To date, I have received no response from Attorney Ward.

Therefore, I am sending this letter on behalf of DIA in advance of the February 14, 2012 public hearing on this application to request that the Planning Board take two actions with regard to this application.

By now, the Planning Board is well acquainted with the history of the cottage community on the southern part of Great Diamond Island that has existed and been represented by DIA since the 1880s. The Board also is well acquainted with the Diamond Cove development on the northern part of Great Diamond Island that began in the 1980s. The Board has seen that in the zoning, planning and land use approvals for the Diamond Cove development, the Portland City Council, the Portland Planning Board and the Maine Department of Environmental Protection attempted to keep these developments separate, with the southern part of Great Diamond Island using the southerly pier for access and the Diamond Cove development using the Diamond Cove Pier for access. However, despite what we believe were clear permits, conditions and agreements, Diamond Cove owners, occupants, guests, contractors and employees and

PHILIP C. HUNT
 JOHN S. UPTON
 PEGGY L. MCGEEHEE
 MELISSA HANLEY MURPHY
 JOHN A. HOBSON
 JAMES N. KATSIANIKAS
 TIMOTHY P. BENOIT
 J. GORDON SCANNELL, JR.
 FRED W. BOFF III
 MARK P. SNOW
 WILLIAM J. SHELS
 DAVID B. MCCONNELL
 PAUL D. PETROFAOLI
 HOPE CREAL JACOBSEN
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 ANTHONY J. MANIHART
 STEPHANIE A. WILLIAMS
 PETER J. McDONELL
 KEITH J. DUNLAP
 SARA N. MORRIN
 JEFFREY A. COHEN
 SHAWN K. LEYDEN
 JOSEPH G. TALBOT
 LAUREN B. WELMER

OF COUNSEL

DOUGLAS S. CARR

JOHN A. CIRALDO
 1956 - 2010

Diamond Cove supplies have used the southerly pier for other than emergency access. Since the mid-1980s, the relationship between DIA members and Diamond Cove owners and residents has been acrimonious at times, and DIA members have experienced great difficulty in persuading City and State officials to enforce those permits, conditions and agreements, with ambiguities and differences in responsibilities having been cited as reasons not to do so.

Therefore, DIA asks the Planning Board to help ensure that the permits it issues and the conditions it attaches to this new development are clear, unambiguous and consistent with other permits and approvals for this development – so that the planning approvals for The Inn at Diamond Cove will not also become a source of controversy in the future. The Planning Board can do so by taking these two actions:

1. Adopting a definition of the term “Diamond Cove Pier” in the findings of fact that the Planning Board will issue as part of its written decision, and by stating that references in the application materials to “the Diamond Cove landing of the Casco Bay Lines” or to “the Diamond Cove ferry landing” or to “the pier in Diamond Cove” (all terms used at various times by the applicant in its application) or similar terms mean the “Diamond Cove Pier.” The City Council used the term “Diamond Cove Pier” in the IR-3 Conditional Zoning Amendment it adopted on September 3, 2008, and so it makes sense to use this term consistently in referring to the pier. Because this application is for an amendment to an approved subdivision plan, the Planning Board’s definition could tie the term “Diamond Cove Pier” to its depiction on a subdivision plan that is recorded or is to be recorded. For example, the Planning Board’s definition might be “the pier depicted to the right of the legend ‘Diamond Cove’ on a map entitled ‘Plan of Diamond Cove Phase I – Third Amended Sheet 3’ dated February 5, 2001 and recorded in the Cumberland County Registry of Deeds in Plan Book 202, Page 527” (an example of a recorded plan showing the Diamond Island Pier).

2. Attaching a condition of approval that the applicant will store, dispose of and handle solid waste in accordance with the Maine Department of Environmental Protection’s September 2009 Site Location of Development Act Minor Amendment Order (the “DEP Order”) for the Inn at Diamond Cove.

The need for this is shown by what happened at the Workshop.

The IR-3 Conditional Zoning Amendment states in Section 3 (“Disposal of Solid Waste”):

All solid waste generated on the Premises shall be collected and disposed of privately, on the mainland, with temporary storage of such waste being handled within the building and disposed of in accordance with all applicable regulations, codes and laws; or if, in the City’s opinion, it would not create an unreasonable burden thereon, at a municipally-operated island solid waste disposal facility.

The DEP Order in Section 10 states:

All general solid wastes from the proposed project will be collected and stored within the hotel/condominium facility before being transported by barge or otherwise from Diamond Cove property to the mainland for disposal at Ecomaine,

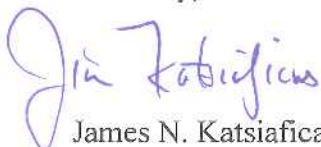
In other words, both the City IR-3 Conditional Zoning Amendment and the DEP Order require solid waste generated by The Inn at Diamond Cove to be collected and stored within the Inn, and the DEP Order requires the solid waste to be “transported by barge or otherwise **from Diamond Cove property to the mainland** for disposal at Ecomaine.” The DEP Order does not allow temporary storage or transportation of solid waste on the southern part of the Island.

Archetype’s January 3, 2012 Site Plan Application letter with regard to solid waste recited only the first half of the above: “All solid waste will be held within the building in a trash room and will be picked up and removed in accordance with the Diamond Cove Homeowner’s Association, of which this project will be a member.” It is unknown whether solid waste removal in accordance with DCHA complies with the DEP Order’s requirement that solid waste be “transported by barge or otherwise from Diamond Cove property to the mainland for disposal at Ecomaine.” Because Archetype’s letter could be read to contemplate using solid waste temporary storage and transportation over the southern part of the Island, DIA asked for a special condition of approval imposing the DEP Order’s solid waste provisions. Attorney Ward responded that it was unnecessary because the applicant had to comply with the DEP order.

However, in summarizing the dispute between DIA and the applicant on solid waste generated by the development, the January 24, 2012 Planning Department Memorandum to the Planning Board reads, “The Diamond Island Association indicates waste associated with the hotelminium project should be transported off the island from the Diamond Cove side of the island and not cross the southerly end of the island.” While DIA did make the statement, DIA did not invent the requirement that solid waste be transported from Diamond Cove property – **it is clearly stated in the DEP Order and is omitted from Archetype’s description of the development’s solid waste plan.** This is a perfect example of how for the past 25 years clear permit requirements have become “ambiguities” that have led to conflict among these parties and have caused a lack of enforcement. The Planning Board can help prevent this from happening with regard to this new development by attaching the condition of approval requested by DIA.

Thank you for your consideration.

Sincerely,



James N. Katsiaficas

JNK:pal

cc: Richard Knowland, Senior Planner, City of Portland
Diamond Island Association

James N. Katsiaficas

From: James N. Katsiaficas
Sent: Monday, January 30, 2012 5:25 PM
To: rnward@dwmlaw.com
Cc: RWK@portlandmaine.gov; Nmgleason@aol.com; jmsgdi@myfairpoint.net
Subject: Inn at Diamond Cove Application

Hi Ron:

I'm following up on our brief conversation at the end of last week's Planning Board workshop on the Inn at Diamond Cove application.

As I noted at that time, my client, the Diamond Island Association, has authorized me to work with you to "fine tune" the application materials language to help insure that the terminology and provisions for transportation and solid waste are consistent internally and consistent with other approvals so as to avoid any potential future issues and misunderstandings. Please let me know if that is acceptable to your client.

For example, with regard to transportation, we could agree on a definition of "Diamond Cove Pier" that refers to a recorded subdivision plan and then the Applicant and the Board could use that term consistently.

With regard to solid waste, we could agree to a Planning Board condition of approval, or a statement in your application to the Planning Board which would be restated in the Board's findings, that the applicant will store, dispose of and handle solid waste in accordance with the September 2009 Site Location of Development Act Minor Amendment for the Inn at Diamond Cove.

Reaching agreement on these two matters now would allow the Applicant to make the appropriate submittals in advance of the Feb. 14 2012 Planning Board hearing that would avoid our having to again bring these matters to the Board.

Thank you.

Jim

JAMES N. KATSIAFICAS
ATTORNEY

PERKINS THOMPSON

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katsiaficas@perkinsthompson.com

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as passed by P.B.

V. MOTIONS FOR THE BOARD TO CONSIDER (Rev. 3-13-2011)

1. IR-3 Development Standards

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in Planning Board Report #10-12 relevant to the IR-3 development standards and other regulations, and the testimony presented at the Planning Board public hearing, the Planning Board finds that the plan is in conformance with the IR-3 development standards with the following conditions of approval:

- i. That prior to the issuance of a building permit, documentation from a Fire Protection Engineer shall be provided certifying that the fire protection and operations components of the development meets the requirements of Chapter 10 of the City Code (which adopts NFPA 1 and 101) and the City's Technical Standards subject to review and approval by the Planning Authority and Fire Department.
- ii. That the Applicant shall implement all measures required in the Maine Department of Environmental Protection Pollutant Discharge Elimination System Permit and Maine Waste Discharge License (both dated September 2009) including, but not limited to, rehabilitating the remaining non-rehabilitated wastewater conduit, capping off the hospital sewer connection and other remedial measures.
- iii. That the Applicant shall submit to Corporation Counsel for review and approval documentation of an executed project financing agreement (a line of credit or a loan by a financial institution, or evidence of another form of financial assurance), prior to the initiation of construction.

2. Subdivision Standards

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in Planning Board Report #10-12 relevant to the subdivision ordinance and other regulations, and the testimony presented at the Planning Board hearing, the Planning Board finds that the plan is in conformance with the subdivision standards of the land use code with the following conditions of approval:

- i. That the final subdivision and condominium recording plats shall be reviewed and approved by the Planning Authority and Corporation Counsel to be signed by the Planning Board.
- ii. That the Applicant shall submit all new or revised easements, ground leases, and homeowner association documents including the declaration, bylaws and rules and regulations to Corporation Counsel for review and approval prior to the issuance of a certificate of occupancy.
- iv. That prior to the issuance of a building permit, documentation from a Fire Protection Engineer shall be provided certifying that the fire protection and operations components

of the development meets the requirements of Chapter 10 of the City Code (which adopts NFPA 1 and 101) and the City's Technical Standards subject to review and approval by the Planning Authority and Fire Department.

- v. That the Applicant shall implement all measures required in the Maine Department of Environmental Protection Pollutant Discharge Elimination System Permit and Maine Waste Discharge License (both dated September 2009) including, but not limited to, rehabilitating the remaining non-rehabilitated wastewater conduit, capping off the hospital sewer connection and other remedial measures.
- vi. That the Applicant shall submit to Corporation Counsel for review and approval documentation of an executed project financing agreement (a line of credit or a loan by a financial institution, or evidence of another form of financial assurance), prior to the initiation of construction.

3. Site Plan Standards

On the basis of the application, plan, reports and other information submitted by the applicant, findings and recommendations contained in Planning Board Report #10-12 relevant to the site plan ordinance and other regulations, and the testimony presented at the Planning Board hearing, the Planning Board finds that the plan is in conformance with the site plan standards of the land use code.

From: Walter Vackar <wvackar@yahoo.com>
To: <rwk@portlandmaine.gov>
Date: Friday, October 18, 2013
Subject: conditional zoning-dinosaur enterprises

i am sure you know how much we all depend on dinosaur for our energy but you may not know that Ted, Betsy, and Beth have the highest integrity in all of their dealings with all of the islanders. As a seasonal resident for 13 years i am always amazed by their generous helpfulness and action over and above what is expected. we request that you allow them to continue their business and vote in support of this zoning request.

Martha and Walter Vackar
8 Quartermasters
Diamond Cove

October 18, 2013

To: Portland City Councilors
CC: Rick Knowland
Subject: Proposed Conditional Zone by Dinosaur Enterprises, Ltd.

Dear Councilors:

Eileen Harris and I own the property located at 68 Crescent Avenue, Great Diamond Island, which abuts the Dinosaur Enterprises, Ltd. property located at 118 Sunset Avenue. We have owned our island property for eleven years and have appreciated the service and responsible operation of the fuel business owned and operated by the Weber family.

On July 1, 2013 we attended a neighborhood meeting on the island during which the zoning application was presented and discussed with community residents. We supported this original application submitted by Dinosaur Enterprises which contained a condition restricting operation of the fuel business to the immediate Weber family. Since this neighborhood meeting, we have become aware that the revised application does not contain this condition, which in our view increases the potential for future safety risks and physical alterations to the property or equipment should the fuel business be sold to another party, especially if a new owner chooses to operate the business without residing on the property.

A better option in our opinion would be to continue to work with island residents and neighborhood associations and identify a more suitable site that is being used for similar purposes today and not located in the middle of a residential area. Such a site could be designed from the onset to support a permanent and potentially growing island fuel business. One possible location might be the "DPW" (Department of Public Works) site owned by the Diamond Island Association and licensed to the city that now serves as a parking lot for city waste and other vehicles.

For the above reasons, we ask that the City either reject the current zoning proposal or postpone this decision until more viable, long-term options can be explored.

Sincerely,

Michael A Harris

Eileen R. Harris

Rick Knowland - Great Diamond Island Conditional Zoning Application

From: Cherie Wendelken <cheriewendelken@yahoo.com>
To: "rwk@portlandmaine.gov" <rwk@portlandmaine.gov>
Date: 10/18/2013 1:36 PM
Subject: Great Diamond Island Conditional Zoning Application

To: Portland City Councilors
From: Cherie Wendelken
CC: Rick Knowland

Subject: Proposed Conditional Zoning by Dinosaur Enterprises, Ltd on Great Diamond Island.

Dear Councilors,

I am writing to join others in voicing my objection to the application to change the zoning at 118 Sunset Avenue, Great Diamond Island. I am writing as an abutter, owner of 84 Crescent Avenue.

This is not an easy letter to write. Island life is characterized by support and connection to neighbors and community. The Weber family have been great neighbors for the twenty years we have been on the island. Although we had reservations, we did not initially object to the proposal because the application presented to the community explicitly stated that the contract would be limited to the family currently operating the business. The application was subsequently changed to remove that limiting condition, and approved by the Planning Board without neighborhood review.

The current application would create zoning for a fuel business in the middle of a residential area comprised of closely-sited wooden houses, many of which were built in the 19th century. The application is submitted at a time when the city continues to approve development of the island (most recently a hotel) which increases demand for fuel, and has loosened outdoor fire restrictions on private property.

I ask that the city recognize that a change in zoning is not only inappropriate for this historic residential area, it fails to address the long-term planning needs of an island that continues to grow and develop. An more appropriate site is available to this business away from family homes.

Sincerely,
Cherie Wendelken

PS: I might add that my husband is so concerned with the significant loss to our property value due to our living downhill from a commercially-zoned fuel business, that he has informed the Webers that he is willing to reimburse their legal costs to date and provide additional funds to help relocate their business to a more appropriate site away from family homes.

Rick Knowland - Proposed Conditional Zone for Dinosaur Enterprises Ltd.

From: "Joan Amerling" <joana@islands.vi>
To: <rwk@portlandmaine.gov>
Date: 10/18/2013 2:44 PM
Subject: Proposed Conditional Zone for Dinosaur Enterprises Ltd.
Attachments: Letter to Planning Board.docx

To: Richard Knowland, Senior Planner, Planning Division, City of Portland
From: Joan and John Amerling
Re: Hearing 10/21 to consider proposed conditional zone for Dinosaur Enterprises Ltd.

Dear Mr. Knowland,

We have lived full-time and now, part-time, at Diamond Cove on Great Diamond Island since 1996. We feel very fortunate to have had the fuel distribution services of Dinosaur Enterprises Ltd here on the island. We write to fully support the granting of the proposed conditional zone which will allow for the continued presence of Dinosaur on the island.

We are not supporting the granting of the zone because Ted Weber is a nice person. Or because he will –and has –got up in the middle of the night to help people on both sides of the island. Or because he will check out a problem at no charge when customers are off island. All of these facts are true and it makes Ted a valuable and trusted member of the island community.

But our reason for supporting the granting of this conditional zone is based on the very practical fact that such a change is long overdue. A fuel distribution service located on the island is a necessity for all of those using fuel who live here, on both sides of the island. What Dinosaur provides is a necessary service at a reasonable price. There is no guarantee that without such a service on the island that fuel oil would be available when needed or at a price that would be affordable.

We cannot be at the hearing next Monday but want to have our voices heard. We strongly urge you to grant this request. I have attached a copy of this email on letterhead for inclusion in your records.

Sincerely yours,

Joan and John Amerling
23B Diamond Cove/53 Ingalls Road
Great Diamond Island
Portland, ME 04109

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53 Ingalls Road
Great Diamond Island
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Sincerely yours,

Joan and John Amerling
23B Diamond Cove/53 Ingalls Road
Great Diamond Island
Portland, ME 04109

Rick Knowland - Conditional Zone Agreement re Dinosaur Enterprises Ltd.

From: "Pergament, Stuart P." <SPergament@mayerbrown.com>
To: "rwk@portlandmaine.gov" <rwk@portlandmaine.gov>
Date: 10/19/2013 9:19 AM
Subject: Conditional Zone Agreement re Dinosaur Enterprises Ltd.
CC: Lorine Kritzer Pergament <lorine.pergament@gmail.com>

Dear Mr. Knowland,

My wife and I have owned a home at 88 McKinley Court, Diamond Cove, Great Diamond Island since 2003. During that time, we have relied on Dinosaur Enterprises for the supply of reasonably priced heating oil. I also happen to be on the Diamond Cove Homeowners Association Board of Directors. I, as a homeowner and as a member of such Board, believe that the services provided by Dinosaur constitute an essential service for the homeowners at both Diamond Cove and for many homeowners on the so-called cottage side of Great Diamond Island (where Dinosaur is located) and that the Planning Board should approve of the subject CZA. In the absence of such approval, the price for oil paid by homeowners on all of Great Diamond Island will increase and their property values decrease—both a personal hardship and, with the likely consequence of Great Diamond Island being a less attractive place to live and with a corresponding decrease in real estate assessment values resulting in a diminution in tax revenues for the City of Portland.

Thank you, Stuart Pergament

IRS CIRCULAR 230 NOTICE. Any tax advice expressed above by Mayer Brown LLP was not intended or written to be used, and cannot be used, by any taxpayer to avoid U.S. federal tax penalties. If such advice was written or used to support the promotion or marketing of the matter addressed above, then each offeree should seek advice from an independent tax advisor.

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Rick Knowland - Proposed conditional zoning for Dinosaur Enterprises

From: Beth Sanders <quasinonnaroma@yahoo.com>
To: "rwk@portlandmaine.gov" <rwk@portlandmaine.gov>
Date: 10/21/2013 1:29 PM
Subject: Proposed conditional zoning for Dinosaur Enterprises

My husband and I fully support the conditional zoning for Dinosaur Enterprises to store and maintain their equipment at 118 Sunset Ave on Great Diamond Island. This business is invaluable to the island community. Ted, Betsy and Beth have made it possible for us to be in Maine weekends year round. They have responded personally to emergency situations. I will be at the public hearing to be held this evening, making a special trip from Boston to show my support.

Best regards,
Beth Sanders
4 Quartermaster Ct.
Diamond Cove

Best regards,
Beth Sanders

Savor kindness because cruelty is always possible later. Jenny Holzer, Peggy Guggenheim Museum, Venice

October 13, 2013

To: Rick Knowland

Senior Planner, Planning Division, City Hall, 4th Floor

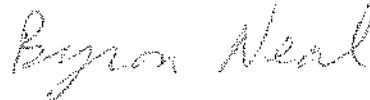
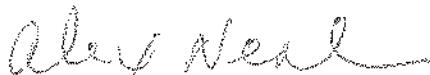
Re: Dinosaur Enterprises Public Hearing

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Ted Weber and his family provide an essential service to our island, and do so with amazing timeliness and friendliness, in a cost effective manner. There are countless examples of their helping out neighbors in need. We urge the Portland City Council to approve Dinosaur Enterprises continuing operations on Great Diamond Island.

Thank you,



Alexandra and Byron Neal

30 West Shore Drive, Diamond Cove

Great Diamond Island, ME 04109

Cc: Ted Weber, Dinosaur Enterprises

Roger Shoemaker, Property Manager, Diamond Cove

- is designed or used to transport more than 15 passengers, including the driver and is not used to transport passengers for compensation or
- is used in transporting material found by the Secretary of Transportation to be hazardous.

Yes, if you are operating a vehicle in **intrastate** (in Maine only) commerce and the vehicle

- has a registered gross weight of 10,001lbs or more or
- is a truck with three or more axles on the powered unit, or
- is a bus for hire that has been issued a Permit for Operation of Motorcoach Intrastate Carrier by the Bureau of Motor Vehicles

Do I have to display the DOT number on the side of my truck?

Yes, if you are operating in interstate commerce.

How do I view the safety rating for my business or that of another motor carrier?

You can view a carrier's rating at any of several websites, including <http://ai.volpe.dot.gov/mcspa.asp>

Agriculture & Farm related information pertaining to Commercial Vehicles

<http://www.maine.gov/sos/bmv/commercial/farmvehicles.htm>

Maine.gov | [Department of Public Safety](#) | [State Police Home](#) | [Site Policies](#)

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[Handwritten red ink notes and signatures]

[Faint, illegible handwritten text]



**'18 Sunset Avenue, Great Diamond Island
Conditional Rezone**

Prepared by Department of Planning and Development based on GIS Workgroup D

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

AGREEMENT made this _____ day of _____, 2012, 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 “gasoline trailer”, 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 the Great Diamond Island and the customers of the Applicant, and is consistent with the Comprehensive Plan; and

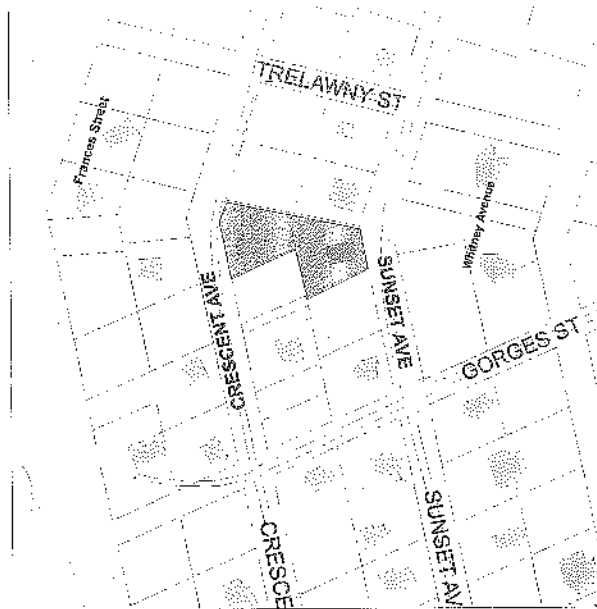
WHEREAS, the Planning Board, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however to certain conditions contained in this Agreement; and

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

NOW, THEREFORE, in consideration of the rezoning, the 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.



**110 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 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 discontinue the fuel business operation for at least twelve (12) 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 parties.
 - c. The rezoning shall terminate at any time the Applicant's business is moved off the Property.
 - d. 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 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 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

Rick Knowland - Re: Dinosaur Enterprises - City Council

From: Rick Knowland
To: dinosaurenterprises@yahoo.com; rward@dwmlaw.com
Date: 9/13/2013 2:06 PM
Subject: Re: Dinosaur Enterprises - City Council
CC: Alex Jaegerman; Barbara Barhydt; Chris Pirone; Danielle West-Chuhta; ...

Hi, I wanted to reconfirm that the city council public hearing date for the dinosaur zone change is Monday, October 7th. I will forward to you the planning board report that went to the city council on this item. As indicated earlier the first reading is Sept 16th but there is no reason to attend as no public comment is taken.

I would like to reiterate the importance of providing documentation on Dinosaur's compliance with state regulations. I have received a number of inquiries whether Dinosaur has all their required permits/licenses/inspections and whether documentation of these permits has been provided. Paragraph 5 of the conditional zoning agreement states the applicant shall obtain and submit documentation of such permits, licenses and inspections. This is likely to be at the top of the list of questions when the Council considers this item so it would be extremely helpful to get this information to us asap. After all the work that has been put into the dinosaur proposal, it would be a shame if the zone change was not approved for lack of documentation regarding basic permits/licenses/inspections. Thanks.

>>> Rick Knowland Thursday, August 29, 2013 >>>
Hope everyone has had a wonderful summer. Still a couple of days left.

I wanted to give you an update on scheduling of a City Council public hearing on Dinosaur. It appears the first reading of the Dinosaur zone change will be Sept 16th (no reason to attend this meeting) with a formal public hearing on Monday, October 7th. Unless you hear from me otherwise this will be the public hearing date.

I have heard that a representative of the Commercial Vehicle Enforcement Division did an inspection of the Dinosaur vehicles recently on the island. It is my understanding that this inspection resulted in one of the trucks (kerosine) being voluntarily taken out of service and that the remaining oil truck and pick-up truck were to be sent to the mainland for a commercial state inspection. Is that statement accurate? If not please correct me.

Have the trucks received there commercial state inspection yet?
Do you have documentation for the inspection?
Will you replace the out of service truck with another truck?
A question has arisen about whether the pickup truck tank requires Dept of Agriculture approval from the Weights and Measures Division since you will be dispensing fuel for retail customers. Have you contacted them to confirm whether you need a permit/license?

It would be helpful if you could give us an update in terms of where you stand with licenses and permits since it is a condition of the rezoning. You have filed an SPCC plan. The City license will be processed once the zone change occurs. But what about the status of other state licenses/permits as represented in the above questions?

I have basically finished my report to the city council on the zone change but if you can provide the supplementary information requested above I can update my report accordingly.

Thank you.

Rick Knowland - Dinosaur

From: Rick Knowland
To: rnward@dwmlaw.com
Date: 4/4/2013 12:49 PM
Subject: Dinosaur
CC: Alex Jaegerman; Barbara Barhydt; Danielle West-Chuhta; Jeff Levine

Hi Ron, This must be a Great Diamond Island day.

Curious to know where things stand with the Dinosaur application. We would very much like to have a public hearing on the Dinosaur conditional zoning sooner rather than later, lets say in July. We have a copy of the SPCC plan prepared by St. Germain-Collins but you indicated that you wanted to have the necessary permit from the State Fire Marshall's office in hand prior to the planning board public hearing to avoid controversy. Has Ted been able to obtain a permit from the State Fire Marshall's office? Please let me know the status.

I'll go through the SPCC shortly and forward comments (if any) that I might have. Thanks.

Rick Knowland - RE: Dinosaur

From: Rick Knowland
To: Rick Knowland
Date: 4/16/2013 1:03 PM
Subject: RE: Dinosaur
CC: Alex Jaegerman; Barbara Barhydt; Danielle West-Chuhta; Jeff Levine

Hi Ron, Just wanted to reiterate our interest in having the Dinosaur project proceed to a public hearing by summer. I'm not sure what Ted has told you about the State Fire Marshall's Permit but we keep on getting comments that such a permit has not been issued. It would surely simplify things if he did have the permit and we had it on file. Thanks.

>>> "Ronald N. Ward" <RWard@dwmlaw.com> Thursday, April 04, 2013 >>>

Sorry, Rick, miscommunication. I thought I was waiting for you to get back to me with anything else you wanted to see, other than the State Fire Marshall permit. I'll send you that permit.

Yes, please set us up for the earliest possible hearing so we can move this along. Ted's historic customers will be lining up soon.

GDI is making great strides forward on all fronts.

Thanks- Ron

From: Rick Knowland [mailto:RWK@portlandmaine.gov]
Sent: Thursday, April 04, 2013 12:49 PM
To: Ronald N. Ward
Cc: Alex Jaegerman; Barbara Barhydt; Danielle West-Chuhta; Jeff Levine
Subject: Dinosaur

Hi Ron, This must be a Great Diamond Island day.

Curious to know where things stand with the Dinosaur application. We would very much like to have a public hearing on the Dinosaur conditional zoning sooner rather than later, lets say in July. We have a copy of the SPCC plan prepared by St. Germain-Collins but you indicated that you wanted to have the necessary permit from the State Fire Marshall's office in hand prior to the planning board public hearing to avoid controversy. Has Ted been able to obtain a permit from the State Fire Marshall's office? Please let me know the status.

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Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

October 13, 2013

To: Rick Knowland

Senior Planner, Planning Division, City Hall, 4th Floor

Re: Dinosaur Enterprises Public Hearing

Dear Mr. Knowland,

We are writing to express support for Dinosaur Enterprises' fuel distribution service. We have been year round residents of Great Diamond Island for the past ten years and the service received from Dinosaur has been exemplary.

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Thank you,



Alexandra and Byron Neal

30 West Shore Drive, Diamond Cove

Great Diamond Island, ME 04109

Cc: Ted Weber, Dinosaur Enterprises

Roger Shoemaker, Property Manager, Diamond Cove

Rick Knowland - Proposed conditional zoning for Dinosaur Enterprises

From: Beth Sanders <quasinonnaroma@yahoo.com>
To: "rwk@portlandmaine.gov" <rwk@portlandmaine.gov>
Date: 10/21/2013 1:29 PM
Subject: Proposed conditional zoning for Dinosaur Enterprises

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Best regards,
Beth Sanders
[4 Quartermaster Ct.](#)
[Diamond Cove](#)

Best regards,
Beth Sanders

Savor kindness because cruelty is always possible later. Jenny Holzer, Peggy Guggenheim Museum, Venice

From: Walter Vackar <wvackar@yahoo.com>
To: <rwk@portlandmaine.gov>
Date: Friday, October 18, 2013
Subject: conditional zoning-dinosaur enterprises

i am sure you know how much we all depend on dinosaur for our energy but you may not know that Ted, Betsy, and Beth have the highest integrity in all of their dealings with all of the islanders. As a seasonal resident for 13 years i am always amazed by their generous helpfulness and action over and above what is expected. we request that you allow them to continue their business and vote in support of this zoning request.

Martha and Walter Vackar
8 Quartermasters
Diamond Cove

October 18, 2013

To: Portland City Councilors

CC: Rick Knowland

Subject: Proposed Conditional Zone by Dinosaur Enterprises, Ltd.

Dear Councilors:

Eilcen Harris and I own the property located at 68 Crescent Avenue, Great Diamond Island, which abuts the Dinosaur Enterprises, Ltd. property located at 118 Sunset Avenue. We have owned our island property for eleven years and have appreciated the service and responsible operation of the fuel business owned and operated by the Weber family.

On July 1, 2013 we attended a neighborhood meeting on the island during which the zoning application was presented and discussed with community residents. We supported this original application submitted by Dinosaur Enterprises which contained a condition restricting operation of the fuel business to the immediate Weber family. Since this neighborhood meeting, we have become aware that the revised application does not contain this condition, which in our view increases the potential for future safety risks and physical alterations to the property or equipment should the fuel business be sold to another party, especially if a new owner chooses to operate the business without residing on the property.

A better option in our opinion would be to continue to work with island residents and neighborhood associations and identify a more suitable site that is being used for similar purposes today and not located in the middle of a residential area. Such a site could be designed from the onset to support a permanent and potentially growing island fuel business. One possible location might be the "DPW" (Department of Public Works) site owned by the Diamond Island Association and licensed to the city that now serves as a parking lot for city waste and other vehicles.

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Sincerely,

Michael A Harris

Eileen R. Harris

Rick Knowland - Great Diamond Island Conditional Zoning Application

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To: "rwk@portlandmaine.gov" <rwk@portlandmaine.gov>
Date: 10/18/2013 1:36 PM
Subject: Great Diamond Island Conditional Zoning Application

To: Portland City Councilors
From: Cherie Wendelken
CC: Rick Knowland

Subject: Proposed Conditional Zoning by Dinosaur Enterprises, Ltd on Great Diamond Island.

Dear Councilors,

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This is not an easy letter to write. Island life is characterized by support and connection to neighbors and community. The Weber family have been great neighbors for the twenty years we have been on the island. Although we had reservations, we did not initially object to the proposal because the application presented to the community explicitly stated that the contract would be limited to the family currently operating the business. The application was subsequently changed to remove that limiting condition, and approved by the Planning Board without neighborhood review.

The current application would create zoning for a fuel business in the middle of a residential area comprised of closely-sited wooden houses, many of which were built in the 19th century. The application is submitted at a time when the city continues to approve development of the island (most recently a hotel) which increases demand for fuel, and has loosened outdoor fire restrictions on private property.

I ask that the city recognize that a change in zoning is not only inappropriate for this historic residential area, it fails to address the long-term planning needs of an island that continues to grow and develop. An more appropriate site is available to this business away from family homes.

Sincerely,
Cherie Wendelken

PS: I might add that my husband is so concerned with the significant loss to our property value due to our living downhill from a commercially-zoned fuel business, that he has informed the Webers that he is willing to reimburse their legal costs to date and provide additional funds to help relocate their business to a more appropriate site away from family homes.

Rick Knowland - Proposed Conditional Zone for Dinosaur Enterprises Ltd.

From: "Joan Amerling" <joana@islands.vi>
To: <rwk@portlandmaine.gov>
Date: 10/18/2013 2:44 PM
Subject: Proposed Conditional Zone for Dinosaur Enterprises Ltd.
Attachments: Letter to Planning Board.docx

To: Richard Knowland, Senior Planner, Planning Division, City of Portland
From: Joan and John Amerling
Re: Hearing 10/21 to consider proposed conditional zone for Dinosaur Enterprises Ltd.

Dear Mr. Knowland,

We have lived full-time and now, part-time, at Diamond Cove on Great Diamond Island since 1996. We feel very fortunate to have had the fuel distribution services of Dinosaur Enterprises Ltd here on the island. We write to fully support the granting of the proposed conditional zone which will allow for the continued presence of Dinosaur on the island.

We are not supporting the granting of the zone because Ted Weber is a nice person. Or because he will –and has – got up in the middle of the night to help people on both sides of the island. Or because he will check out a problem at no charge when customers are off island. All of these facts are true and it makes Ted a valuable and trusted member of the island community.

But our reason for supporting the granting of this conditional zone is based on the very practical fact that such a change is long overdue. A fuel distribution service located on the island is a necessity for all of those using fuel who live here, on both sides of the island. What Dinosaur provides is a necessary service at a reasonable price. There is no guarantee that without such a service on the island that fuel oil would be available when needed or at a price that would be affordable.

We cannot be at the hearing next Monday but want to have our voices heard. We strongly urge you to grant this request. I have attached a copy of this email on letterhead for inclusion in your records.

Sincerely yours,

Joan and John Amerling
23B Diamond Cove/53 Ingalls Road
Great Diamond Island
Portland, ME 04109

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Great Diamond Island
Portland, ME 04109

Rick Knowland - Conditional Zone Agreement re Dinosaur Enterprises Ltd.

From: "Pergament, Stuart P." <SPergament@mayerbrown.com>
To: "rwk@portlandmaine.gov" <rwk@portlandmaine.gov>
Date: 10/19/2013 9:19 AM
Subject: Conditional Zone Agreement re Dinosaur Enterprises Ltd.
CC: Lorine Kritzer Pergament <lorine.pergament@gmail.com>

Dear Mr. Knowland,

My wife and I have owned a home at 88 McKinley Court, Diamond Cove, Great Diamond Island since 2003. During that time, we have relied on Dinosaur Enterprises for the supply of reasonably priced heating oil. I also happen to be on the Diamond Cove Homeowners Association Board of Directors. I, as a homeowner and as a member of such Board, believe that the services provided by Dinosaur constitute an essential service for the homeowners at both Diamond Cove and for many homeowners on the so-called cottage side of Great Diamond Island (where Dinosaur is located) and that the Planning Board should approve of the subject CZA. In the absence of such approval, the price for oil paid by homeowners on all of Great Diamond Island will increase and their property values decrease—both a personal hardship and, with the likely consequence of Great Diamond Island being a less attractive place to live and with a corresponding decrease in real estate assessment values resulting in a diminution in tax revenues for the City of Portland.

Thank you, Stuart Pergament

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Rick Knowland - 118 Sunset Av Great Diamond Island

From: Bobby Spark <bspark@mac.com>
To: <RWK@portlandmaine.gov>
Date: 10/19/2013 1:29 PM
Subject: 118 Sunset Av Great Diamond Island

TO: Rick Knowland

Re: Proposed Conditional Zone by Dinosaur Industries for Fuel Distribution

We are property owners at Diamond Cove, Lot 66

We are IN COMPLETE FAVOR of the Proposed Conditional Zoning for Dinosaur Enterprises

Thank you

Bobby and John Spark

609-709-9231

From: Walter Vackar <wvackar@yahoo.com>
To: <rwk@portlandmaine.gov>
Date: Friday, October 18, 2013
Subject: conditional zoning-dinosaur enterprises

i am sure you know how much we all depend on dinosaur for our energy but you may not know that Ted, Betsy, and Beth have the highest integrity in all of their dealings with all of the islanders. As a seasonal resident for 13 years i am always amazed by their generous helpfulness and action over and above what is expected. we request that you allow them to continue their business and vote in support of this zoning request.

Martha and Walter Vackar
8 Quartermasters
Diamond Cove

October 18, 2013

To: Portland City Councilors

CC: Rick Knowland

Subject: Proposed Conditional Zone by Dinosaur Enterprises, Ltd.

Dear Councilors:

Eileen Harris and I own the property located at 68 Crescent Avenue, Great Diamond Island, which abuts the Dinosaur Enterprises, Ltd. property located at 118 Sunset Avenue. We have owned our island property for eleven years and have appreciated the service and responsible operation of the fuel business owned and operated by the Weber family.

On July 1, 2013 we attended a neighborhood meeting on the island during which the zoning application was presented and discussed with community residents. We supported this original application submitted by Dinosaur Enterprises which contained a condition restricting operation of the fuel business to the immediate Weber family. Since this neighborhood meeting, we have become aware that the revised application does not contain this condition, which in our view increases the potential for future safety risks and physical alterations to the property or equipment should the fuel business be sold to another party, especially if a new owner chooses to operate the business without residing on the property.

A better option in our opinion would be to continue to work with island residents and neighborhood associations and identify a more suitable site that is being used for similar purposes today and not located in the middle of a residential area. Such a site could be designed from the onset to support a permanent and potentially growing island fuel business. One possible location might be the "DPW" (Department of Public Works) site owned by the Diamond Island Association and licensed to the city that now serves as a parking lot for city waste and other vehicles.

For the above reasons, we ask that the City either reject the current zoning proposal or postpone this decision until more viable, long-term options can be explored.

Sincerely,

Michael A Harris

Eileen R. Harris

Rick Knowland - Great Diamond Island Conditional Zoning Application

From: Cherie Wendelken <cheriewendelken@yahoo.com>
To: "rwk@portlandmaine.gov" <rwk@portlandmaine.gov>
Date: 10/18/2013 1:36 PM
Subject: Great Diamond Island Conditional Zoning Application

To: Portland City Councilors
From: Cherie Wendelken
CC: Rick Knowland

Subject: Proposed Conditional Zoning by Dinosaur Enterprises, Ltd on Great Diamond Island.

Dear Councilors,

I am writing to join others in voicing my objection to the application to change the zoning at 118 Sunset Avenue, Great Diamond Island. I am writing as an abutter, owner of 84 Crescent Avenue.

This is not an easy letter to write. Island life is characterized by support and connection to neighbors and community. The Weber family have been great neighbors for the twenty years we have been on the island. Although we had reservations, we did not initially object to the proposal because the application presented to the community explicitly stated that the contract would be limited to the family currently operating the business. The application was subsequently changed to remove that limiting condition, and approved by the Planning Board without neighborhood review.

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Rick Knowland - 118 Sunset Av Great Diamond Island

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Date: 10/19/2013 1:29 PM
Subject: 118 Sunset Av Great Diamond Island

TO: Rick Knowland

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We are property owners at Diamond Cove, Lot 66

We are IN COMPLETE FAVOR of the Proposed Conditional Zoning for Dinosaur Enterprises

Thank you

Bobby and John Spark

609-709-9231

Rick Knowland - Dinosaur/ Conditional Zoning

From: "Ronald N. Ward" <RWard@dwmlaw.com>
To: 'Rick Knowland' <RWK@portlandmaine.gov>
Date: 7/2/2013 11:11 AM
Subject: Dinosaur/ Conditional Zoning
CC: 'William' 'Weber' <dinosaurenterprises@yahoo.com>

Rick- brief confirmation of last night's Neighborhood Meeting, to be supplemented by Ted and Beth with documents.

Meeting went off on schedule and well- attended. Beth has the sign- up sheet which she'll deliver back to you shortly, along with her Certification and minutes of the meeting. I believe you already have the Invitation she sent out.

Ted presented the updated plan developed in accordance with the St. Germaine and Collins SPCC report. The essence of that is the "gasoline trailer" will be discontinued in favor of a DOT- certified 100 gal gas tank mounted in Ted's pick- up truck. Otherwise the plan remains the same. The primary issue at the Meeting, which you'll see in the Minutes, is concern that Dinosaur will continue to serve the Island residents. Assuming the Conditional Zoning is approved, that's assured.

Sometime before the close of business tomorrow, I'll send you a slight revision of the Conditional Zone Agreement which I took from the comments by the Planning Board at the Workshop last year. The CZA, as is, is fine with Dinosaur, but we want to memorialize the Board's additional thoughts, should they choose to go in that direction, again.

We'll see you next Tuesday- Ron

DrummondWoodsum

Ronald N. Ward | Attorney

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

voice (207) 772-1941 ext. 503 • fax (207) 772-3627 • (800) 727-1941

RWard@dwmlaw.com | www.dwmlaw.com

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Rick Knowland - Re: Fwd: question

From: Business Licensing
To: Knowland, Rick
Date: 7/1/2013 11:58 AM
Subject: Re: Fwd: question
CC: Jones, Katherine

Hello Rick,

Kathy forwarded me your email about Dinosaur Enterprises. According to our records, they submitted what we call a Fire Prevention Permit (a different name for the application you mention below) on 9/19/12. We were informed by Ann Machado in Zoning that they had applied for a Conditional/Contract Rezone for their property at 118 Sunset Ave. They needed to have a public hearing by the planning board and then a final approval for the rezoning would need to be given by the City Council. She said that no inspections could be done until the Council approved the rezoning and a building permit applied for and issued.

At this time, I have received no further updates about the status of the rezoning process. So, they have not yet received a Fire Prevention Permit from us.

Please let me know if you have any further questions.

Best,
Janice Gardner

Business License Administrator

bl@portlandmaine.gov

207.874.8557

>>> Katherine Jones 7/1/2013 11:35 AM >>>

fyi

>>> Rick Knowland 7/1/2013 11:09 AM >>>

Hi Kathy, I have a question. Do you have a record of Dinosaur Enterprises on Great Diamond Island applying for and receiving a license for "Application for the Storage, Use, or Handling of Hazardous Materials, and Flammable or Combustible Materials" in 2012? Have they submitted an application for 2013? Thanks.