### Portland, Maine



### Yes. Life's good here.

#### Planning & Urban Development Department

July 1, 2015

Robert Hannigan Hannigan's Market 76 Island Avenue Peaks Island, ME 04108

Project Name: Hannigan's Market Retaining Wall

Address: 76 Island Avenue Applicant: Robert Hannigan Planner: Nell Donaldson

Dear Mr. Hannigan:

Stephen Mohr Mohr & Seredin Landscape Architects 18 Pleasant Street Portland, ME 04101

Project ID: 2015-082 CBL: 084-P-004

On July 1, 2015, the Planning Authority approved with conditions a Level II site plan for the construction of a 75' linear stone-filled gabion retaining wall and landscaping improvements at 76 Island Avenue on Peaks Island. The decision is based upon the application, documents and plans as submitted by Mohr & Seredin Landscape Architects and dated June 17, 2015. The proposal was reviewed for conformance with the standards of the city's shoreland zoning regulations, Division 26 of the land use code, and the standards of the site plan ordinance, Article V of the land use code.

#### WAIVERS

 Due to the fact that the site is developed and the submitted boundary survey depicts property lines, the Planning Authority waives the survey requirements of the City of Portland Technical Manual, Section 13, relating to the depiction of zoning boundaries, flood zones, setbacks, grading contours and elevation data, existing utility infrastructure, benchmark used, and street status, subject to the condition that the applicant identify property corners in the field at the time of the pre-construction meeting for review and approval by the city's Development Review Services Coordinator.

#### SITE PLAN REVIEW

The Planning Authority found the plan is in conformance with the Site Plan Standards of the Land Use Code subject to the following conditions of approval and the standard conditions of approval:

 The applicant shall conduct all work as proposed in the site plan application entirely within the limits of the subject property. The applicant shall identify property corners in the field at the time of the pre-construction meeting for review and approval by the city's Development Review Services Coordinator.

The approval is based on the site plan submitted June 17, 2015. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval.

#### STANDARD CONDITIONS OF APPROVAL

Please note the following standard conditions of approval and requirements for all approved site plans:

- Develop Site According to Plan The site shall be developed and maintained as depicted on the site plan and in the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or Planning Authority pursuant to the terms of Chapter 14, Land Use, of the Portland City Code.
- Separate Building Permits Are Required This approval does not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.
- 3. <u>Site Plan Expiration</u> The site plan approval will be deemed to have expired unless work has commenced within one (1) year of the approval <u>or</u> within a time period up to three (3) years from the approval date as agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the one (1) year expiration date.
- 4. Performance Guarantee and Inspection Fees A performance guarantee covering the site improvements, inspection fee payment of 2.0% of the guarantee amount and seven (7) final sets of plans must be submitted to and approved by the Planning Division and Public Services Department prior to the release of a building permit, street opening permit or certificate of occupancy for site plans. If you need to make any modifications to the approved plans, you must submit a revised site plan application for staff review and approval.
- 5. <u>Defect Guarantee</u> A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
- 6. Preconstruction Meeting Prior to the release of a building permit or site construction, a preconstruction meeting shall be held at the project site. This meeting will be held with the contractor, Development Review Coordinator, Public Service's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the Development Review Coordinator will confirm that the contractor is working from the approved site plan. The site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
- 7. <u>Department of Public Services Permits</u> If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)
- 8. <u>As-Built Final Plans</u> Final sets of as-built plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (\*,dwg), release AutoCAD 2005 or greater.

The Development Review Coordinator must be notified five (5) working days prior to the date required for final site inspection. The Development Review Coordinator can be reached at the Planning Division at 874-8632. All site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. <u>Please</u> schedule any property closing with these requirements in mind.

If there are any questions, please contact Nell Donaldson at (207) 874-8723.

Sincerely,

Jeff Levine

Director, Planning and Urban Development

#### Attachments:

1. Performance Guarantee Packet

#### **Electronic Distribution:**

CC:

Jeff Levine, AICP, Director of Planning and Urban Development Alexander Jaegerman, FAICP, Planning Division Director Barbara Barhydt, Development Review Services Manager Nell Donaldson, Planner/Senior Planner

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Keith Gautreau, Fire Department
Jennifer Thompson, Corporation Counsel
Thomas Errico, P.E., TY Lin Associates

David Senus, P.E., Woodard and Curran Rick Blackburn, Assessor's Department

Approval Letter File

Planning & Urban Development Department

Jeff Levine, AICP, Director

**Planning Division** 

Alexander Jaegerman, FAICP, Director

#### Performance Guarantee and Infrastructure Financial Contribution Packet

The municipal code requires that all development falling under site plan and/or subdivision review in the City of Portland be subject to a performance guarantee for various required site improvements. The code further requires developers to pay a fee for the administrative costs associated with inspecting construction activity to ensure that it conforms with plans and specifications.

The performance guarantee covers major site improvements related to site plan and subdivision review, such as paving, roadway, utility connections, drainage, landscaping, lighting, etc. A detailed itemized cost estimate is required to be submitted, which upon review and approval by the City, determines the amount of the performance guarantee. The performance guarantee will usually be a letter of credit from a financial institution, although escrow accounts are acceptable. The form, terms, and conditions of the performance guarantee must be approved by the City through the Planning Division. The performance guarantee plus a check to the City of Portland in the amount of 2.0% of the performance guarantee or as assessed by the planning or public works engineer, must be submitted prior to the issuance of any building permit for affected development.

Administration of performance guarantee and defect bonds is through the Planning Division. Inspections for improvements within existing and proposed public right-of-ways are the responsibility of the Department of Public Services. Inspections for site improvements are the responsibility of the Development Review Coordinator in the Planning Division.

Performance Guarantees will not be released by the City until all required improvements are completed and approved by the City and a Defect Bond has been submitted to and approved by the City.

If an infrastructure financial contribution is required by the City as part of a development approval, please complete the contribution form and submit it along with the designated contribution to the Planning Division. Please make checks payable to the City of Portland.

#### Attachments

- 1. Cost Estimate of Improvements Form
- 2. Performance Guarantee Letter of Credit Form (with private financial institution)
- 3. Performance Guarantee Escrow Account Form (with private financial institution)
- 4. Performance Guarantee Form with the City of Portland
- 5. Infrastructure Financial Contribution Form with the City of Portland

# SUBDIVISION/SITE DEVELOPMENT Cost Estimate of Improvements to be covered by Performance Guarantee

					Di	iie:	
Naı	me of Project:						
Ado	dress/Location:						
Apj	plication ID #:						
Dev	/eloper:						
For	m of Performance Guarantee: _						
	be of Development: Subdivisio						
	BE FILLED OUT BY THE A			1411 (20 (01 1, 11 )			
-0		2201111	PUBLIC			PRIVATE	
Iter	n	Quantity	Unit Cost	Subtotal	Quantity	Unit Cost	Subtotal
1.	STREET/SIDEWALK Road/Parking Areas Curbing Sidewalks Esplanades Monuments Street Lighting Street Opening Repairs Other						
2.	EARTH WORK Cut Fill						
3.	SANITARY SEWER Manholes Piping Connections Main Line Piping House Sewer Service Piping Pump Stations Other						
4.	WATER MAINS						
5.	STORM DRAINAGE Manholes Catchbasins Piping Detention Basin Stormwater Quality Units Other						

6.	SITE LIGHTING				 	=
7.	EROSION CONTROL Silt Fence Check Dams Pipe Inlet/Outlet Protection Level Lip Spreader Slope Stabilization Geotextile Hay Bale Barriers Catch Basin Inlet Protection					
8.	RECREATION AND OPEN SPACE AMENITIES				 	
9.	LANDSCAPING (Attach breakdown of plant materials, quantities, and unit costs)				 	
10.	MISCELLANEOUS				 	
	TOTAL:				 	
	GRAND TOTAL:				 	
INS	SPECTION FEE (to be filled o		ty)			
	PUB	LIC		PRIVATE	TOTAL	
1	A: 2.0% of totals:				 	<del></del>
	<u>or</u>					
]	B: Alternative Assessment:				 	
	Assessed by: (name	e)		(name)	 	. <u></u>

#### SAMPLE FORM

SITE PLAN/SUBDIVISION PERFORMANCE GUARANTEE LETTER OF CREDIT [ACCOUNT NUMBER]

### [Date]

Jeff Levine
Director of Planning and Urban Development
City of Portland
389 Congress Street
Portland, Maine 04101

Re: [Insert: Name of Developer]

[Insert: Address of Project, Portland, Maine]

[Insert: Application ID #]

[Insert: Name of Bank] hereby issues its Irrevocable Letter of Credit for the account of [Insert: Name of Developer], (hereinafter referred to as "Developer"), held for the exclusive benefit of the City of Portland, in the aggregate amount of [Insert: amount of original performance guarantee]. These funds represent the estimated cost of installing site improvements as depicted on the [Insert: subdivision and/ or site plan], approved on [Insert: Date] and as required under Portland Code of Ordinances Chapter 14 §§499, 499.5, 525 and Chapter 25 §§46 through 65.

This Letter of Credit is required under Portland Code of Ordinances Chapter 14 §§499, 499.5, 525 and Chapter 25 §46 through 65 and is intended to satisfy the Developer's obligation, under Portland Code of Ordinances Chapter 14 §§501, 502 and 525, to post a performance guarantee for the above referenced development.

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on this Letter of Credit by presentation of a sight draft and the Letter of Credit and all amendments thereto, up to thirty (30) days before or sixty (60) days after its expiration, stating any one of the following:

- 1. the Developer has failed to satisfactorily complete the work on the improvements contained within the [Insert: subdivision and/ or site plan] approval, dated [Insert date]; or
- 2. the Developer has failed to deliver to the City a deed containing the metes and bounds description of any streets, easements or other improvements required to be deeded to the City; or

3. the Developer has failed to notify the City for inspections.

In the event of the Bank's dishonor of the City of Portland's sight draft, the Bank shall inform the City of Portland in writing of the reason or reasons thereof within three (3) business days of the dishonor.

After all underground work has been completed and inspected to the satisfaction of the Department of Public Services and Planning Division, including but not limited to sanitary sewers, storm drains, catch basins, manholes, electrical conduits, and other required improvements constructed chiefly below grade, the City of Portland Director of Planning and Urban Development or its Director of Finance as provided in Chapter 14 §501 of the Portland Code of Ordinances, may authorize the [Bank], by written certification, to reduce the available amount of the escrowed money by a specified amount.

This performance guarantee will automatically expire on [Insert date between April 16 and October 30 of the following year] ("Expiration Date") or on the date when the City determines that all improvements guaranteed by this Letter of Credit are satisfactorily completed, whichever is later. It is a condition of this Letter of Credit that it is deemed to be automatically extended without amendment for period(s) of one year each from the current Expiration Date hereof, or any future Expiration Date, unless within thirty (30) days prior to any expiration, the Bank notifies the City by certified mail (restricted delivery to Ellen Sanborn, Director of Finance, City of Portland, 389 Congress Street, Portland, Maine 04101) that the Bank elects not to consider this Letter of Credit renewed for any such additional period.

in the event of such hotice, the city, in its sole discretion, may draw hereunder by
presentation of a sight draft drawn on the Bank, accompanied by this Letter of Credit and
all amendments thereto, and a statement purportedly signed by the Director of Planning
and Urban Development, at Bank's offices located at
stating that:
this drawing results from notification that the Bank has elected not to renew its Letter of Credit No

In the event of such notice, the City, in its sole discretion, may draw hereunder by

On its Expiration Date or on the date the City determines that all improvements guaranteed by this Letter of Credit are satisfactorily completed, this Performance Guarantee Letter of Credit shall be reduced by the City to ten (10) percent of its original amount and shall automatically convert to an Irrevocable Defect Letter of Credit. Written notice of such reduction shall be forwarded by the City to the Bank. The Defect Letter of Credit shall ensure the workmanship and durability of all materials used in the construction of the [Insert: subdivision and/ or site plan] approval, dated [Insert: Date] as required by City Code §14-501, 525 and shall automatically expire one (1) year from the date of its creation ("Termination Date").

discret	ion, ma	ough its Director of Planning and Urban Development and in his/her sole ay draw on the Defect Letter of Credit by presentation of a sight draft and Credit and all amendments thereto, at Bank's offices located at, prior to the Termination Date, stating any one of the following:
	1.	the Developer has failed to complete any unfinished improvements; or
	2.	the Developer has failed to correct any defects in workmanship; or
	3.	the Developer has failed to use durable materials in the construction and installation of improvements contained within the [Insert: subdivision and/ or site improvements].
Date:		By:
_		[Name]

[Title]

Its Duly Authorized Agent

#### SAMPLE FORM

SITE PLAN/SUBDIVISION PERFORMANCE GUARANTEE ESCROW ACCOUNT [ACCOUNT NUMBER]

### [Date]

Jeff Levine Director of Planning and Urban Development City of Portland 389 Congress Street Portland, Maine 04101

Re: [Insert: Name of Developer]

[Insert: Address of Project, Portland, Maine]

[Insert: Application ID #]

[Insert: Name of Bank] hereby certifies to the City of Portland that [Bank] will hold the sum of [Insert: amount of original performance guarantee] in an interest bearing account established with the Bank. These funds shall be held for the exclusive benefit of the City of Portland and shall represent the estimated cost of installing site improvements as depicted on the [Insert: subdivision and/or site plan], approved on [Insert: date] as required under Portland Code of Ordinances Chapter 14 §§499, 499.5, 525 and Chapter 25 §§46 through 65. It is intended to satisfy the Developer's obligation, under Portland Code of Ordinances Chapter 14 §§501, 502 and 525, to post a performance guarantee for the above referenced development. All costs associated with establishing, maintaining and disbursing funds from the Escrow Account shall be borne by [Insert: Developer].

[Bank] will hold these funds as escrow agent for the benefit of the City subject to the following:

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw against this Escrow Account by presentation of a draft in the event that:

- 1. the Developer has failed to satisfactorily complete the work on the improvements contained within the [Insert: subdivision and/ or site plan] approval, dated [Insert date]; or
- 2. the Developer has failed to deliver to the City a deed containing the metes and bounds description of any streets, easements or other improvements required to be deeded to the City; or
- 3. the Developer has failed to notify the City for inspections.

In the event of the Bank's dishonor of the City of Portland's sight draft, the Bank shall inform the City of Portland in writing of the reason or reasons thereof within three (3) business days of the dishonor.

After all underground work has been completed and inspected to the satisfaction of the Department of Public Services and Planning Division, including but not limited to sanitary sewers, storm drains, catch basins, manholes, electrical conduits, and other required improvements constructed chiefly below grade, the City of Portland Director of Planning and Urban Development or its Director of Finance as provided in Chapter 14 §501 of the Portland Code of Ordinances, may authorize the [Bank], by written certification, to reduce the available amount of the escrowed money by a specified amount.

This performance guarantee will automatically expire on [Insert date between April 16 and October 30 of the following year] ("Expiration Date") or on the date when the City determines that all improvements guaranteed by this Letter of Credit are satisfactorily completed, whichever is later. It is a condition of this agreement that it is deemed to be automatically extended without amendment for period(s) of one year each from the current Expiration Date hereof, or any future Expiration Date, unless within thirty (30) days prior to any expiration, the Bank notifies the City by certified mail (restricted delivery to Ellen Sanborn, Director of Finance, City of Portland, 389 Congress Street, Portland, Maine 04101) that the Bank elects not to consider the Escrow Account renewed for any such additional period.

In the event of such notice, the City, in its sole discretion, may draw against the Escrow Account by presentation of a sight draft drawn on the Bank and a statement purportedly signed by the Director of Planning and Urban Development, at Bank's offices located at stating that:
this drawing results from notification that the Bank has elected not to renew its Letter of Credit No

On its Expiration Date or on the date the City determines that all improvements guaranteed by this Escrow Account are satisfactorily completed, this Performance Guarantee shall be reduced by the City to ten (10) percent of its original amount and shall automatically convert to an Irrevocable Defect Guarantee. Written notice of such reduction shall be forwarded by the City to the Bank. The Defect Guarantee shall ensure the workmanship and durability of all materials used in the construction of the [Insert: subdivision and/ or site plan] approval, dated [Insert: Date] as required by City Code §14-501, 525 and shall automatically expire one (1) year from the date of its creation ("Termination Date").

discretion, ma	hugh its Director of Planning and Urban Development and in his/her sole by draw on the Defect Guarantee by presentation of a sight draft at Bank's dat, prior to the Termination Date, stating any one ng:			
1.	the Developer has failed to complete any unfinished			
	improvements; or			
2. the Developer has failed to correct any defects in workmanship; or				
3.	the Developer has failed to use durable materials in the construction and installation of improvements contained within the [Insert: subdivision and/ or site improvements].			
Date:	By:			
	[Name] [Title] Its Duly Authorized Agent			
Seen and Agr	eed to: [Applicant]			
By:				

# PERFORMANCE GUARANTEE with the City of Portland

Devel	oper's Tax Identification Number:	
Devel	oper's Name and Mailing Address:	
City A	ccount Number:	
Applic	eation ID #:	
Applic	cation of[Ar	pplicant] for [Insert [Address], Portland, Maine.
performinterest cost of (as apprequire through Ordinare ferent The Cartest and	rmance guarantee] on behalf of	") will hold the sum of \$[amount of[Applicant] in a nonne City. This account shall represent the estimated[insert: subdivision and/ or site improvements ision/site plan, approved on[date] as es Chapter 14 §§499, 499.5, 525 and Chapter 25 §§46 oplicant's obligation, under Portland Code of 5, to post a performance guarantee for the above and Urban Development and in his/her sole discretion the event that:
1.	contained within the	torily complete the work on the improvements  [insert: subdivision and/ or site proval, dated [insert date]; or
2.		to the City a deed containing the metes and bounds ts or other improvements required to be deeded to the
3.	the Developer has failed to notify the installation of improvements noted	he City for inspections in conjunction with the in paragraph one.

The Director of Planning and Urban Development may draw on this Guarantee, at his/her option,

either thirty days prior to the expiration date contained herein, or s/he may draw against this escrow for a period not to exceed sixty (60) days after the expiration of this commitment; provided that the Applicant, or its representative, will give the City written notice, by certified mail (restricted delivery to Ellen Sanborn, Director of Finance, City of Portland, 389 Congress Street, Room 110, Portland, Maine) of the expiration of this escrow within sixty (60) days prior thereto.

After all underground work has been completed and inspected to the satisfaction of the Department of Public Works and Planning, including but not limited to sanitary sewers, storm drains, catch basins, manholes, electrical conduits, and other required improvements constructed chiefly below grade, the City of Portland Director of Planning and Urban Development or its Director of Finance as provided in Chapter 14 §501 of the Portland Code of Ordinances, may authorize the City to reduce the available amount of the escrowed money by a specified amount.

This Guarantee will automatically expire on [Insert date between April 16 and October 30 of the following year] ("Expiration Date") or on the date when the City determines that all improvements guaranteed by this Performance Guarantee are satisfactorily completed, whichever is later. At such time, this Guarantee shall be reduced by the City to ten (10) percent of its original amount and shall automatically convert to an Irrevocable Defect Guarantee. Written notice of such reduction and conversion shall be forwarded by the City to [the applicant]. The Defect Guarantee shall expire one (1) year from the date of its creation and shall ensure the workmanship and durability of all materials used in the construction of the [Insert: Subdivision and/ or site plan] approval, dated [Insert: Date] as required by City Code §14-501, 525.

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on the Defect Guarantee should any one of the following occur:

- 1. the Developer has failed to complete any unfinished improvements; or
- 2. the Developer has failed to correct any defects in workmanship; or
- 3. the Developer has failed to use durable materials in the construction and installation of improvements contained within the [Insert: subdivision and/ or site improvements].

Seen and Agreed to:		
By: [Applicant]	Date:	
By: ****Planning Division Director	Date:	
By: Development Review Coordinator	Date:	

- 1. This information will be completed by Planning Staff.
- The account number can be obtained by calling Cathy Ricker, ext. 8665. 2.
- 3.
- The Agreement will be executed with one original signed by the Developer.

  The original signed Agreement will be scanned by the Planning Staff then forwarded to the Finance Office, 4. together with a copy of the Cash Receipts Set.

Attach Letter of Approval and Estimated Cost of Improvements to this form.

Distribution

\*\*\*\*Signature required if over \$50,000.00. 5.

## Infrastructure Financial Contribution Form Planning and Urban Development Department - Planning Division

Amou	nt \$	City Account Number: 710-0000-236-98-00	
		Project Code:(This number can be obtained by calling Cathy Ricker, x8665)	
Projec	t Name:		
Applic	ation ID #:		
Projec	t Location:		
Projec	t Description:		
Funds	intended for:		
Applica	ant's Name:		
Applica	ant's Address:		
Expira	tion:		
		ered for the intended purpose by to contributor within six months of said date.	, funds, or any balance
	Funds shall be permanently retained	by the City.	
	Other (describe in detail)		
Form o	of Contribution:		
	Escrow Account	Cash Contribution	
Interes	st Disbursement: Interest on funds to b	e paid to contributor only if project is not commenced.	
	of Draw Down of Funds: The City shall form shall specify use of City Account #	I periodically draw down the funds via a payment requisition shown above.	on from Public Works,
Date o	of Form: er:		
	each the approval letter, condition of approval or other e copy sent to the Applicant.	documentation of the required contribution.	

**Electronic Distribution to:** 

Planner for Project

Peggy Axelsen, Finance Department
Catherine Baier, Public Services Department
Barbara Barhydt, Planning Division
Jeremiah Bartlett, Public Services Department
Michael Bobinsky, Public Services Department
Diane Butts, Finance Department
Philip DiPierro, Planning Division
Katherine Earley, Public Services Department
Michael Farmer, Public Services Department
Alex Jaegerman, Planning Division
David Margolis Pineo, Public Services Department
Matt Rancourt, Public Services Department
Jeff Tarling, Public Services Department