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**CITY OF PORTLAND, MAINE**  
**ZONING BOARD OF APPEALS**

I-B – Island Business Zone  
**Conditional Use Appeal**

**DECISION**

Date of public hearing: December 1, 2016

Name and address of applicant: Heather Thompson & Mario Proia  
9 Adams Street, Peaks Island  
Portland, Maine 04108

Location of property under appeal: 2 Island Avenue, Peaks Island  
CBL 084 R030001

For the Record:

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

Heather Thompson  
Mario Proia  
9 Adams St.  
Peaks Island

Jessica Burton  
Peaks Island  
Supports application

Lawrence Mott  
Peaks Island  
Supports Application

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

Application and Exhibits

Findings of Fact and Conclusions of Law:

The applicants are seeking a conditional use permit pursuant to § 14-224(a) of the City of Portland Code of Ordinances to convert an existing two-family dwelling to a four-family dwelling. The Board has authority to consider a conditional use permit application pursuant to § 14-474(a).

Four-family dwellings are permitted in the I-B Zone if they meet all of the requirements of § 14-224(a)(1) – (8), as well as the requirements of § 14-474(c).

Findings:

1. No open outside stairways or fire escapes above ground floor will be constructed or has been constructed in the immediately preceding five (5) years. § 14-224(a)(1).

Satisfied  Not Satisfied

Reason and supporting facts:

*Application indicates fire escape built in 2000. No other fire escapes planned.*

2. A below-grade dwelling unit, if any, must provide access directly to the outside of the building. § 14-224(a)(2).

Satisfied  Not Satisfied

Reason and supporting facts:

*Application says there will be at grade dwelling unit and access will be provided.*

3. The lot meets the required density. Density shall be determined by the most restrictive abutting residential zone, except for those lots which are served by public water and sewer, where density shall be determined by the least restrictive abutting residential zone. If no residential zone is abutting, density shall be determined by the nearest residential zone. Residential uses shall meet the requirements of such abutting or nearest residential zone. § 14-224(a)(3).

Satisfied  Not Satisfied

Reason and supporting facts:

Nearest applicable residential zone is IR2. Law Court has said there is no legal density requirement. Testimony of 2 witnesses that density is consistent with what is on Island.

4. Any additions or exterior alterations will be compatible with the original architecture of the building. The exterior design of new construction, including the architectural style, facade materials, roof pitch, building form, and height will be compatible with neighboring properties. § 14-224(a)(4).

Satisfied  Not Satisfied

Reason and supporting facts:

No exterior alterations are planned.

5. No existing dwelling unit will be decreased to less than one thousand (1,000) square feet of floor area. § 14-224(a)(5).

Satisfied  Not Satisfied

Reason and supporting facts:

2 existing apartments won't be reduced in size.

6. No additional dwelling unit will have less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic. § 14-224(a)(6).

Satisfied  Not Satisfied

Reason and supporting facts:

*new* Units will be larger than 600 S.A.Ft.  
(728 sq feet + 1342 sq. ft)

7. All sanitary waste will be disposed of by a public sewer, subsurface sewerage system or other method in compliance with all applicable federal, state and local regulations. § 14-224(a)(7).

Satisfied  Not Satisfied

Reason and supporting facts:

Property is served by public sewer

8. The proposed conversion has sufficient water for the needs of the dwellings and will not cause an unreasonable burden on an existing water supply nor adversely affect groundwater resources. § 14-224(a)(8).

Satisfied  Not Satisfied

Reason and supporting facts:

Property served by public water  
No burden on groundwater  
resources

9. The proposed use, at the size and intensity contemplated at the proposed location, will not have substantially greater negative impacts than would normally occur from surrounding uses or other allowable uses in the same zoning district. This standard is satisfied if all of the following are met. § 14-474(c).

- a. The volume and type of vehicle traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces required are not substantially greater than would normally occur at surrounding uses or other allowable uses in the same zone.

Satisfied  Not Satisfied

Reason and supporting facts:

*No cars needed due to close proximity to ferry landing. Some of the surrounding uses generate more vehicular traffic than what is proposed.*

- b. The proposed use will not create unsanitary or harmful conditions by reason of noise, glare, dust, sewage disposal, emissions to the air, odor, lighting, or litter.

Satisfied  Not Satisfied

Reason and supporting facts:

*Residential use consistent with other residential use in the area. Not likely to cause unsanitary harmful conditions.*

- c. The design and operation of the proposed use, including but not limited to landscaping, screening, signs, loading, deliveries, trash or waste generation, arrangement of structures, and materials storage will not have a substantially greater effect/impact on surrounding properties than those associated with surrounding uses or other allowable uses in the zone.

Satisfied  Not Satisfied

Reason and supporting facts:

*Design + proposed use will remain residential. No special alterations planned. Surrounding properties are quasi-commercial.*

