



Planning & Urban Development Department

Jeff Levine, AICP, Director

Marge Schmuckal, Zoning Administrator

June 27, 2014

Natalie L. Burns, Esq.
c/o Jensen-Baird Garner-Henry
Ten Free Street
P.O. Box 4510
Portland, Maine 04112-4510

RE: 20 Marginal Way - 113-A-025 – Northern Pride Auto Wash (the “Property”) – B-7 Zone

Dear Natalie:

I am in receipt of your request of a determination letter concerning the Property.

The Property is an approved car wash considered to be a legal nonconforming use. My research shows that the B-7 Mixed Use Development District Zone was placed on the Property (along with other properties along the Marginal Way corridor) when it was created and approved by City Council on April 19, 2006. The B-7 Zone does not list car washes in either the permitted uses or conditional uses. It is noted that under 14-295(e)1 accessory uses are described and prohibit all drive-up services for all retail or drive-up repair facilities except for bank drive-up services, where permitted. Bank drive-up services are considered a conditional use to the Planning Board in the B-7 Zone.

Section 14-384, Change of nonconforming use, does state that “A lawful nonconforming use in a structure not designed for a use permitted in the zone in which it is located shall not be changed to any use other than to a use permitted in the zone in which the use is located *or* to any use other than a nonconforming use of a more restricted zone, as set forth in the following schedule, *provided* that in no such case shall any structural alterations be made in any building except those required by law, ordinance or other regulations:” You have outlined that you believe that the change of use circumstances of the car wash to a Dunkin’ donuts drive through falls under (a) of the listed schedule: “In a business zone, from any use permitted in an industrial zone to any use permitted in a business zone”. It is true that the Property is located in a business zone (B-7). However, I disagree with the assertion that the car wash is an allowed use in an industrial zone. You have stated that the car wash use would fall under an allowable use in the I-M zone using 14-248, “Performance based uses”. I disagree that a car wash could be considered an allowable use under the Performance based uses. I do not agree that a car wash would be consistent with the purposes of the I-M zone. It is clearly not a light or moderate impact industry use. You have not given any supporting evidence defending your assertion that a car wash use meets the I-M zone purpose statement. Since the car wash is not a use permitted in an industrial zone, 14-384(a) cannot be used as a vehicle to allow a change of nonconforming car wash use to a Dunkin’ Donuts drive-thru. Furthermore, none of the other exception (b) through (d) can be used to allow a Dunkin’ Donuts drive-thru. Therefore, any change of the nonconforming use must be changed to a use that is permitted in the B-7 Zone as required under 14-384.



Planning & Urban Development Department

*Jeff Levine, AICP, Director**Marge Schmuckal, Zoning Administrator*

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You also request an opinion of whether a bank with a drive-through could be created on the site. Based solely on allowable use, yes, a bank with a drive-through (drive-up) is allowed as a conditional use to the Planning Board under section 14-296(a)1c. However, the B-7 zone, as you know, contains other dimensional requirements, such as minimum building height and minimum floor area. I understand that the site may be challenging. When developing a lot in any zone, *all* the requirements of the underlying zone must be met.

Your request goes on to state that the reconstruction of the existing nonconforming structure would be allowed under 14-385(f). I think that you have misstated the appropriate section number for the allowance to rebuild. 14-385(f) relates to nonconforming buildings located in the R-6 zone. I think that you may be referring to section 14-385(b) which states: "Where the restoration or reconstruction will occur entirely within the existing footprint and previous shell of the building and will not create a new nonconformity;" 14-385(c) goes on to state that the reconstruction must happen within one (1) year. I have not been able to follow your argument concerning the allowance to do alterations and modifications of a building. I do not believe the section number has been correctly stated. I can cite 14-382(b) which states: "A building whose use is wholly nonconforming shall not be altered so as to increase the cubical content or the degree of nonconformity." Certainly the current building use is wholly nonconforming. Therefore, I believe this section would apply to the Property. Because section 14-382(b) concerns the nonconforming use of the structure, I believe it would prevail over section 14-382(d) which only speaks to nonconformity of space and bulk requirements and not to the nonconformity of building use.

You have the right to appeal my decision concerning this matter if you wish to exercise your right to appeal, you have thirty (30) days from the date of this letter in which to appeal. If you should fail to do so, my decision is binding and not subject to appeal. Please contact this office for the necessary paperwork that is required to file an appeal.

Very truly yours,

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

Marge Schmuckal
Zoning Administrator
City of Portland, Maine



Attorneys at Law

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May 21, 2014

*Developed under I-2
B-7 - wait to effect 4/19/14
2006*

VIA HAND-DELIVERY

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

Re: Zoning Determination Letter
20 Marginal Way / Tax Map 113, Block A, Lot 25

RECEIVED

MAY 22 2014

Dept. of Building Inspections
City of Portland Maine

Dear Marge:

On behalf of Northern Pride Auto Wash ("Northern Pride"), I am submitting this zoning determination request for 20 Marginal Way (Tax Map 113, Block A, Lot 25). This request is being made in connection with Northern Pride's attempts to lease the property for the purpose of its redevelopment. While we have had a preliminary discussion, this letter is our request for a formal determination.

The property at 20 Marginal Way is currently improved with a car wash, a nonconforming use in the B-7 Mixed Use Development District. Northern Pride has received an offer for redevelopment of the property as a Dunkin Donuts restaurant with a drive-through. It is our opinion that this change of use is allowed, subject to site plan review, under the provisions of Section 14-384 of the Land Use Code. Section 14-384 allows a change of a nonconforming use in a business zone from any use permitted in an industrial zone to any use permitted in a business zone. In this case, the existing car wash falls within the definition of a drive-through facility set forth in Section 14-47:

A commercial facility which provides a service directly to a motor vehicle occupant and where the customer drives a motor vehicle onto the premises and to a window or mechanical device through or by which the customer is served with or without exiting the vehicle. Drive-throughs do not include major or minor auto service stations.

Jensen Baird
Gardner Henry

May 21, 2014
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Both restaurants and drive-throughs associated with a permitted use are listed as conditional uses in the B-2 and B-2b zones, provided that the drive-through is not adjacent to any residential use or zone. Restaurants with drive-throughs are a permitted use in the B-4 zone. Car washes are allowed in the I-M Industrial zone as performance-based uses and are also allowed in the B-2 districts as a conditional use

NO

↓ That is a jump

Because the proposed change of use is from one allowed in an industrial zone to a use permitted in a business zone, it is our opinion that the proposed change is expressly allowed by the provisions of Section 14-384. It should be noted that due to the smaller size of this lot in relation to other properties along Marginal Way, many uses may not be feasible due to the building construction and parking requirements. It should also be noted that the proposed change of use will reduce the number of drive-through facilities that currently exist on the site.

In addition to the question of whether the existing car wash can be converted to a restaurant with drive-through under the provisions of Section 14-384, we would like your opinion on whether a bank with a drive-through could be created on the site. This question requires a different analysis from the restaurant issue since banks with drive-throughs are allowed as conditional uses in the B-7 zoning district. The problem for this site again is its limited size. It would be difficult if not impossible to build a structure that meets the requirements of Section 14-296(a)(1)(c) requiring the construction of a 20,000 square foot building in order to have a bank drive-through. The site could not accommodate parking for such a structure even if the structure could be fitted on the lot; the construction of a parking garage would make redevelopment infeasible.

2nd Question

We believe that the construction of a bank with a drive through facility that does not meet the dimensional requirements established by Section 14-296(a)(1)(c) is allowed under the provisions of Sections 14-385(f), which allows the reconstruction of a structure that is nonconforming as to dimensional requirements, within the existing footprint and shell of the building and that will not create a new nonconformity. Further, Section 14-384(d) allows the alteration, modification to such a building, again within the existing shell and further provided that no new nonconformity is created. The combination of these two provisions would allow: (a) the reconstruction of the existing building and (b) an increase in the existing height, without having to comply with the dimensional requirements for a new structure. This would include the 20,000 square foot minimum for a bank with a drive-through. We understand that as a new use, the bank with a drive-through would still require conditional use approval from the Planning Board, subject to the nonconforming provisions cited in this paragraph.

- 14-385(b)

- 14-384(d)

Jensen Baird
Gardner Henry

May 21, 2014
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Enclosed herewith is a check in the amount of \$150.00 payable to the City of Portland to cover the zoning determination letter fee, as well as a plan showing the existing structure on the site. If I can provide any additional information to assist you in your determination, please feel free to contact me by email at nburns@jbggh.com or by telephone at (207) 775-7271.

Sincerely,



Natalie L. Burns

enc.

cc: William DeSena (via email)
Joe Malone (via email)

)

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

RECEIPT OF FEES

Application No: 0000-1937	Applicant: NORTHERN PRIDE AUTO WASH
Project Name: 20 MARGINAL WAY	Location: 20 MARGINAL WAY
CBL: 113 A025001	Application Type: Determination Letter
Invoice Date: 05/27/2014	

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

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

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

CBL 113 A025001
Bill to: NORTHERN PRIDE AUTO WASH
 PO BOX 2147
 SOUTH PORTLAND , ME 04116

Application No: 0000-1937
Invoice Date: 05/27/2014
Invoice No: 45236
Total Amt Due: \$0.00
Payment Amount: \$150.00

Make checks payable to the *City of Portland*, ATTN: Inspections, 3rd Floor, 389 Congress Street, Portland, ME 04101.
 Check the status of your permit or schedule an inspection on-line at <http://www.portlandmaine.gov/planning/permitstatus.asp>

- (f) A nonconforming building located in the R-6 which is destroyed by fire, explosion, flood, riot, act of the enemy, or accident may be rebuilt under the small residential lot development provisions of the R-6 zone as if the lot were vacant as of January 1, 2005 and such reconstruction shall meet the setback requirements contained therein to the extent practicable; otherwise the building shall be reconstructed within the footprint of the previously existing building such that any nonconformity will not be enlarged.

For the purpose of this section, the footprint of a building is the perimeter of the foundation supporting a structure.
(Code 1968, § 602.17.E; Ord. No. 89-88, 7-19-88; Ord. No. 284-99, §2, 5-17-99, enacted as an emergency; Ord. No.254-05/06, 6-5-06; Ord. No. 61-07/08, 10-1-07; Ord. No. 240-09/10, 6-21-10; Ord. No. 139-12/13, 2-4-13)

*Editor's note—Ord. No. 89-88, adopted July 19, 1988, amended this section to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 89-88.

Sec. 14-386. Discontinuance of use of land for ninety days.

A nonconforming use of land where no buildings or only incidental or accessory buildings are employed together with such use shall not be changed to any other nonconforming use, and if such use is discontinued for a period of ninety (90) days, it shall not be reestablished.
(Code 1968, § 602.17.G)

Sec. 14-387. Discontinuance of use of property.

If a legally nonconforming non-residential use is discontinued for a period of twelve (12) months or if a legally nonconforming residential use is discontinued for a period of twenty-four (24) months, such discontinuance shall constitute an abandonment of the use and the property shall not thereafter be occupied or used except in conformity with the provisions of this article. In cases of foreclosure or similar situations involving a legally nonconforming residential structure, the Planning Authority shall be authorized to extend the aforementioned period up to an additional five (5) years provided that the extension is for good cause and the minimum length considered necessary to resume the

use not
Dimension

legally nonconforming use of the structure. A nonconforming use of land which is incidental or accessory to such nonconforming structure shall be considered as being discontinued at the same time as the nonconforming use of the structure. Note that for buildings in Shoreland zones, state regulations may also govern and provide for a shorter period of time for nonconforming properties. (Code 1968, § 602.17.F; Ord. No. 499-74, § 9, 8-19-74; Ord. No. 139-12/13, 2-4-13) *

Sec. 14-388. Reserved.

*Editor's Note—Per Council Order 125-09/10 passed on January 4, 2010 Section 14-388 (Nonconformity as to the area of dwelling) was repealed in its entirety.

Sec. 14-389. Nonconformity as to off-street parking.

A building or structure which is nonconforming as to the requirements for off-street parking shall not be enlarged or altered to create additional dwelling units, or seats as in the case of places of public assembly, or floor area as in the case of industrial, business, manufacturing, institutional or recreational buildings, or accommodations as in the case of hotels, tourist homes and tourist courts, unless required off-street parking is provided for such addition or enlargement.
(Code 1968, § 602.17.I)

Sec. 14-390. Nonconformity as to off-street loading.

A building which is nonconforming as to the requirements for off-street loading shall not be enlarged or added to, unless off-street loading is provided sufficient to satisfy the requirements of this article for both the addition or enlargement and the original building or structure.
(Code 1968, § 602.17.J)

Sec. 14-391. Nonconformity as to number of dwelling units.

- (a) Purpose. The purpose of this provision is to establish a process whereby certain dwellings which contain more dwelling units than the number permitted by the applicable provisions of the Land Use Code may be recognized as legal, nonconforming uses. This provision shall not apply to rooming units.
- (b) Approval by Zoning Administrator.

(3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than fifty (50%) percent of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

b. Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

4. Buildings in existence on January 1, 1989, and located in shoreland zones may be expanded once during the lifetime of the structure up to twenty-five (25) feet toward a freshwater wetland or tributary stream, provided that a minimum setback of forty (40) feet is maintained and that the existing floor area or volume is not increased by more than thirty (30%) percent, and shall not create any undue environmental impact or flood prone condition.

(Code 1968, § 602.17.B; Ord. No. 271-89, 2-22-89; Ord. No. 96-89, § 2, 9-18-89; Ord. No. 15-92, § 26, 6-15-92; Ord. No. 284-99, §1, 5-17-99, enacted as an emergency; Ord. No. 296-08/09, 6-15-09; Ord. No. 139-12/13, 2-4-13)

Sec. 14-383. Extension of nonconforming use of land prohibited.

A lawful nonconforming use existing on premises outside of a building shall not be extended to or allowed to occupy any part or parts of such premises outside of the building.

(Code 1968, § 602.17.C; Ord. No. 354-85, § 3, 1-7-85)

Sec. 14-384. Change of nonconforming use.

A lawful nonconforming use in a structure designed for a use permitted in the zone in which it is located shall not be changed to any use other than a use permitted in the zone in which the structure is located. When a nonconforming use in such a structure

has been changed to a permitted use, it shall not thereafter be changed back to any non-permitted use. For purposes of this section, a use shall be deemed to have been so changed when an existing nonconforming use shall have been terminated and a permitted use shall have commenced and continued for a period of seven (7) days. Any change of use in violation of this division shall be deemed to be an abandonment of the lawfully existing nonconforming use. A lawful nonconforming use in a structure not designed for a use permitted in the zone in which it is located shall not be changed to any use other than a use permitted in the zone in which the use is located (or) to any use other than a nonconforming use of a more restricted zone, as set forth in the following schedule, provided that in no such case shall any structural alterations be made in any building except those required by law, ordinance or other regulations:

(a) In (a) business zone, from any use permitted in an industrial zone to any use permitted in (a) business zone.

Does The Accessory use get carried over

(b) In a B-1 zone, from any use permitted in a B-3 zone to any use permitted in a B-2 zone.

(c) In a residence zone, from any use permitted in a B-2 zone to any use permitted in a B-1 zone.

(d) In a residence zone, from any use permitted in any other residence zone to any use permitted in a more restricted residence zone. For the purpose of this subsection, an R-6 zone shall be deemed the least restricted and an R-2 zone shall be deemed the most restricted, with the intervening zones restricted in order of zone number.

(Code 1968, § 602.17.D; Ord. No. 499-74, § 8, 8-19-74)

Sec. 14-385. Restoration or reconstruction within an existing footprint of damaged nonconforming structure.

A nonconforming structure damaged by fire, explosion, flood, riot, act of the public enemy, accident of any kind, decay (or) otherwise may be restored or rebuilt only where:

(a) The restoration or reconstruction is of a building which is nonconforming only as to land area, setbacks or any other dimensional requirements; and

(b) Where the restoration or reconstruction will occur

entirely within the existing footprint and previous shell of the building and will not create a new nonconformity; and

(c) Restoration or reconstruction occurs within one (1) year for a nonconforming non-residential structure, or two (2) years for a nonconforming residential structure, of the initial damage where such damage is sudden and accidental. Note that for buildings in Shoreland zones, state regulations may also govern and provide for a shorter period for restoration or reconstruction of nonconforming structures; and

(d) Restoration or reconstruction necessitated by decay must be completed within one (1) year of the demolition of the building or the commencement of the restoration or reconstruction, whichever occurs first; and

(e) Any reconstruction, under this provision, in the residential R-6 zone on a lot with 10,000 square feet or less, other than the exact restoration of a previously existing building on the site, shall comply with the applicable standards contained within the Planning and Development Design Manual; and

(f) A nonconforming building located in the R-6 which is destroyed by fire, explosion, flood, riot, act of the enemy, or accident may be rebuilt under the small residential lot development provisions of the R-6 zone as if the lot were vacant as of January 1, 2005 and such reconstruction shall meet the setback requirements contained therein to the extent practicable; otherwise the building shall be reconstructed within the footprint of the previously existing building such that any nonconformity will not be enlarged.

For the purpose of this section, the footprint of a building is the perimeter of the foundation supporting a structure.

(Code 1968, § 602.17.E; Ord. No. 89-88, 7-19-88; Ord. No. 284-99, §2, 5-17-99, enacted as an emergency; Ord. No. 254-05/06, 6-5-06; Ord. No. 61-07/08, 10-1-07; Ord. No. 240-09/10, 6-21-10; Ord. No. 139-12/13, 2-4-13)

*Editor's note—Ord. No. 89-88, adopted July 19, 1988, amended this section to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 89-88.

applicable state and federal regulations.

(j) *Discharge into sewers:* No discharge shall be permitted at any point into any private sewage disposal system, or stream, or into the ground of any materials in such a way or of such nature or temperature as to contaminate any water supply, or otherwise cause the emission of dangerous or objectionable elements, except in accordance with standards approved by the health authority or by the public works authority.

(k) *Lighting:* All lighting shall be designed and installed with cut-off fixtures to direct illumination onto the site and to prevent illumination from such fixtures on neighboring properties.

(Ord. No. 164-97, § 6, 1-6-97)

Sec. 14-237. thru 14-245. Reserved.

DIVISION 14. I-M, I-Ma AND I-Mb INDUSTRIAL ZONES*

*Editor's note—Ord. No. 164-97, § 7, passed Jan. 6, 1997, repealed div. 14, §§ 14-246-14-251 of this article and enacted new provisions as herein set out. Formerly, such provisions pertained to the I-2 and I-2b industrial zones and derived from §§ 602.12.A-602.12.F of the 1968 Code as amended by Ord. No. 499-74, § 5, adopted Aug. 19, 1974; Ord. No. 334-76, §§ 2, 3, adopted Jul. 7, 1976; Ord. No. 234-88, adopted Feb. 1, 1988; Ord. No. 330-90, § 2, adopted May 7, 1990; Ord. No. 15-92, § 18, adopted Jun. 15, 1992; Ord. No. 193A-93, § 2, adopted Feb. 17, 1993; and Ord. No. 154-96, § 15, 12-16-96.

Sec. 14-246. Purpose.

The moderate impact industrial zones are intended to provide zones in areas of the city in which light and moderate impact industries and transportation-related uses will coexist.

The moderate impact industrial (I-M and I-Ma) zones are located on arterials or collectors. The I-Mb zones are similarly located on the peninsula. These locations provide for direct access onto arterials, thereby protecting residential neighborhoods from drive-through traffic.

The I-M, I-Ma and I-Mb industrial zones are intended to

I - M

City of Portland
Code of Ordinances
Sec. 14-246

Land Use
Chapter 14
Rev. 3-4-13

provide for larger industrial buildings and for the limited or controlled use of areas outside of structures for storage of materials and machinery. These facilities often require large volumes of imported materials and products which result in large volumes of shipping and receiving. Often uses may be highway-oriented and transportation-related, thus relying on citywide and regional transportation infrastructure.

Industrial uses in the moderate impact industrial zones may require separation from higher impact uses, which should be directed to the high impact industrial zone.
(Ord. No. 164-97, § 7, 1-6-97)

Sec. 14-247. Permitted uses.

The following uses are permitted whether provided by private or public entities in the I-M moderate impact industrial zone, the I-Ma and the I-Mb zone:

- (a) Low impact industrial uses, including but not limited to bakeries, breweries, bottling, printing and publishing, pharmaceuticals, machine shops, musical instruments, precision instruments, watchmakers, toys and sporting goods, wood products, jewelry, assembly of electrical components, tool and die shops and the packaging of food.
- (b) Research and development and back office uses.
- (c) Building contractors and construction and engineering services.
- (d) Wholesale trade.
- (e) Warehousing and distribution facilities, including outdoor storage.
- (f) Intermodal transportation facilities and transportation terminals.
- (g) Repair services, including all types of automotive repair services.
- (h) Indoor amusement or recreational centers.
- (i) Plant and tree nurseries, including associated recycling

1. No correctional prerelease facility shall be located within one thousand (1,000) feet of another, as measured in a radius from the center of the lot;
2. Such facilities shall not be permitted in the I-Ma or I-Mb zones;
3. If a facility requires state or federal licensing, staffing of the facility shall be as required by such license. If a facility does not require state or federal licenses, there shall be a minimum of one (1) staff person for every ten (10) residents or fraction thereof; and
4. The facility shall provide twenty-four-hour supervision of program participants.

(s) Incidental accessory uses.

(t) General, business and professional offices.

(u) Storage lots for towed or impounded vehicles, provided that such lots are located at least 300 feet from any residential zone or existing conforming residential use. For the purposes of this section, "existing conforming residential use" does not include a legally nonconforming residential use as described in division 23 of this chapter.

(v) Registered medical marijuana cultivation facilities.

(w) Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(x) Street vendors licensed pursuant to Chapter 19.

(Ord. No. 164-97, § 7, 1-6-97; Ord. No. 137-97, § 3, 11-3-97; Substitute Ord. No. 72-01/02, § 1, 10-1-01; Ord. No. 97-06/07, 11-20-06; Ord. No. 240-09/10, 6-21-10; Ord. No. 283-09/10, 7-19-10 emergency passage; Ord. No. 33-11/12, 1-18-12; Ord. No. 10-12/13, 7-16-12)

Sec. 14-248. Performance based uses.

Uses not expressly permitted as provided in section 14-247 or

expressly prohibited in section 14-249 may be permitted if they meet the following conditions and standards:

- (a) The proposed development is consistent with the purposes of this zone.
- (b) The proposed development is designed and operated so that it will prevent undue adverse environmental impacts, substantial diminution of the value or utility of neighboring structures, or significant hazards to the health or safety of neighboring residents by controlling noise levels, emissions, traffic, lighting, odor, and any other potential negative impacts of the proposal.

(Ord. No. 164-97, § 7, 1-6-97)

Sec. 14-248.1. Conditional uses.

The following use shall be permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses), and any special provisions, standards or requirements specified below:

- (a) Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:
 - 1. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
 - 2. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and
 - 3. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
 - 4. The applicant shall provide a safety report

4. Pedestrian and multi-use trails;
5. Emergency or safety facilities;
6. Municipal offices;
7. Active recreation parks and facilities, including but not limited to ball fields, skateboard parks, and basketball courts.

(d) *Institutional:*

1. Public or private schools;
2. Medical and mental health clinics but not methadone or other controlled substance addiction treatment centers;
3. Places of assembly;
4. Colleges, universities, or trade schools;
5. Governmental buildings and uses;
6. Nursery and pre-schools, kindergartens, and child day care facilities or home babysitting services;
7. Educational, research, and laboratory facilities;
8. Adult day care center.

(e) *Other:*

- 14-295(e) →
1. Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses. All drive-up services for all retail or drive-up repair facilities are prohibited except that bank drive-up services, where permitted, area conditional use.
 2. Intermodal transportation facilities.
 3. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

- (b) Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(Ord. No. 29-09/10, 8-3-09, emergency passage)

Sec. 14-263. Prohibited uses.

I-H

Uses that are not expressly enumerated herein as permitted uses are prohibited. Those uses that are prohibited shall include, but are not limited to, the following:

- (a) Junk yards.
- (b) Amusement parks.
- (c) Refining of petroleum or its products, including tar distillation.
- (d) Distillation of bones; fat rendering; glue, soap, or fertilizer manufacture, except that fish waste processing may be permitted as set forth in section 14-262.
- (e) Dumping, disposal, incineration, or reduction of garbage, sewage, offal, dead animals, or refuse.
- (f) Stockyard or slaughtering of animals.
- (g) Smelting of iron, copper, tin, zinc, or any other ore.
- (h) Manufacture of explosives or fireworks.
- (i) Coal distillation or coke ovens.
- (j) Creosote treatment.
- (k) Drop forging.
- (l) Steel mills or furnaces.

- (m) Coal- or coke-fired kilns.
- (n) Used tire storage.
- (o) Extraction of raw materials.
- (p) Concert halls or dance halls.
- (q) Banquet facilities.

(Ord. No. 164-97, § 8, 1-6-97; Ord. No. 137-97, § 6, 11-3-97; Ord. No. 106-01/02, § 2, 12-3-01)

Sec. 14-264. Contract or conditional zoning.

A conditional or contract rezoning shall only be approved if, after public hearing and opportunity for public comment, the reviewing body finds that the applicant has carried the burden of proof to show that the proposed development meets the following standards:

- (a) The proposed development is consistent with the comprehensive plan.
- (b) The proposed development is consistent with the purposes of this zone.
- (c) The proposed development is designed and operated so that it will prevent undue adverse environmental impacts, substantial diminution of the value or utility of neighboring structures, or significant hazards to the health or safety of neighboring residents by controlling noise levels, emissions, traffic, lighting, odors, and any other potential negative impacts of the proposal.
- (d) All plans must include complete information of processes, materials or methods of storage to be used by the development and shall specify how hazardous impacts to neighboring properties will be prevented.

(Ord. No. 164-97, § 8, 1-6-97)

Sec. 14-265. Dimensional requirements.

- (a) *Minimum lot size:*

I-M

City of Portland
Code of Ordinances
Sec. 14-249

Land Use
Chapter 14
Rev.3-4-13

uses are prohibited. Those uses that are prohibited shall include, but are not limited to, the following:

- (a) Residential uses.
- (b) Retail trade that is not ancillary to a permitted use.
- (c) Restaurant uses.
- (d) Junk yards.
- (e) Amusement parks.
- (f) Crematoriums.
- (g) Mining and drilling operations.
- (h) Refining of petroleum or its products, including tar distillation.
- (i) Petroleum tank farms.
- (j) Commercial excavation of building or construction materials other than in the normal course of building or construction or site preparation.
- (k) Distillation of bones; fat rendering; glue, soap, or fertilizer manufacture.
- (l) Dumping, disposal, incineration, or reduction of garbage, sewage, offal, dead animals, or refuse.
- (m) Stockyard or slaughtering of animals.
- (n) Smelting of iron, copper, tin, zinc, or any other ore.
- (o) Manufacture of primary chemicals.
- (p) Manufacture of cement, lime, gypsum, or plaster of paris.
- (q) Manufacture of bleaching powder, matches, paper, or rubber.
- (r) Manufacture of explosives or fireworks. Bulk storage of explosives or fireworks is also prohibited unless such

Uses that are not expressly enumerated herein as permitted uses are prohibited. Those uses that are prohibited shall include, but are not limited to, the following:

- (a) Residential uses.
- (b) Retail trade and restaurants that are not ancillary to a permitted use.
- (c) Junk yards and scrap metal reprocessing and recycling.
- (d) Amusement parks.
- (e) Crematoriums.
- (f) Mining and drilling operations.
- (g) Refining of petroleum or its products, including tar distillation.
- (h) Commercial petroleum storage yards.
- (i) Commercial excavation of building or construction materials other than in the normal course of building or construction or site preparation.
- (j) Distillation of bones; fat rendering; glue, soap, or fertilizer manufacture.
- (k) Dumping, disposal, incineration, or reduction of garbage, sewage, offal, dead animals, or refuse.
- (l) Stockyard or slaughtering of animals.
- (m) Smelting of iron, copper, tin, zinc, or any other ore.
- (n) Manufacture of primary chemicals.
- (o) Manufacture of cement, lime, gypsum, or plaster of paris.
- (p) Manufacture of bleaching powder, matches, paper, or rubber.
- (q) Manufacture and storage of explosives or fireworks.

CITY OF PORTLAND, MAINE

SITE PLAN REVIEW

Processing Form

Applicant Intown Car Wash Inc. Date July 27, 1982

Mailing Address 445 Congress St. Portland Maine 04101 Address of Proposed Site 12-24 Marginal Way

Proposed Use of Site Carwash Site Identifier(s) from Assessors Maps 113-A-10425

Acreage of Site 15,695 sq. ft. Ground Floor Coverage 2624 sq. ft. Zoning of Proposed Site T-2

Site Location Review (DEP) Required: () Yes (X) No Proposed Number of Floors 1 (12 ft)
 Board of Appeals Action Required: () Yes (X) No Total Floor Area 2624 sq. ft.
 Planning Board Action Required: () Yes (X) No

Other Comments: See attached sheet and letter 8/2/82

Date Dept. Review Due: _____

PLANNING DEPARTMENT REVIEW

July 27, 1982
(Date Received)

- Major Development — Requires Planning Board Approval; Review Initiated
- Minor Development — Staff Review Below

	LOADING AREA	PARKING	CIRCULATION PATTERN	ACCESS	PEDESTRIAN WALKWAYS	SCREENING	LANDSCAPING	SPACE & BULK OF STRUCTURES	LIGHTING	CONFLICT WITH CITY PROJECTS	FINANCIAL CAPACITY	CHANGE IN SITE PLAN
APPROVED	✓	✓						✓		✓	NA	
APPROVED CONDITIONALLY			✓	✓	✓	✓	✓		✓			✓
DISAPPROVED												

CONDITIONS SPECIFIED BELOW
REASONS SPECIFIED BELOW

REASONS: No gasoline pumps involved.
Access & circulation pattern subject to
Traffic Engineer's approval.
Header of sidewalk to be requested from
Portland City Council by applicant.
 (Attach Separate Sheet if Necessary)

Warren J. Turner 8/2/82
SIGNATURE OF REVIEWING STAFF/DATE

APPLICATION FOR PERMIT

PERMIT ISSUED

AUG 9 1982

B.O.C.A. USE GROUP
 B.O.C.A. TYPE OF CONSTRUCTION 00048

ZONING LOCATION PORTLAND, MAINE July, 28, 1982.

CITY of PORTLAND

To the CHIEF OF BUILDING & INSPECTION SERVICES, PORTLAND, MAINE

The undersigned hereby applies for a permit to erect, alter, repair, demolish, move or install the following building, structure, equipment or change use in accordance with the Laws of the State of Maine, the Portland B.O.C.A. Building Code and Zoning Ordinance of the City of Portland with plans and specifications, if any, submitted herewith and the following specifications:

LOCATION 20 Marginal Way Fire District #1 , #2

1. Owner's name and address Intown Car Wash, Inc. - c/o Emerson & Co. Telephone 773-7917
 465 Congress St., Portland, Me. 04101

2. Lessee's name and address Telephone
 465 Congress St., Portland, Me. 04101

3. Contractor's name and address Dahlgren, Const. - U.S. Rto., 1, York, Maine Telephone 846-3505

Proposed use of building car wash No. of sheets

Last use vacant lot No. families

Material No. stories Heat Style of roof Roofing

Other buildings on same lot

Estimated contractual cost \$ 32,000

FIELD INSPECTOR Mr. [Signature] Appeal Fees \$

Base Fee

Late Fee

TOTAL \$ 200.00 - Site Plan

135.00 - Credit

335.00 for Permit.

DEPARTMENT OF SPECIAL CONDITIONS

PERMIT ISSUED

LETTER

(CALL 773-7917 - CHARLIE EMERSON - TO PICK UP PERMIT)

#1

NOTE TO APPLICANT: Separate permits are required by the installers and subcontractors for plumbing, electrical and mechanicals.

DETAILS OF NEW WORK

Is any plumbing involved in this work? ..yes..... Is any electrical work involved in this work? ... YES.....

Is connection to be made to public sewer? If not, what is proposed for sewage?

Has septic tank notice been sent? Form notice sent?

Height average grade to top of plate Height average grade to highest point of roof

Size, front depth No. stories solid or filled land? earth or rock?

Material of foundation Thickness, top bottom cellar

Kind of roof Rise per foot Roof covering

No. of chimneys Material of chimneys of lining Kind of heat fuel

Framing Lumber - Kind Dressed or full size? Corner posts Sills

Size Girder Columns under girders Size Max. on centers

Studs (outside walls and carrying partitions) 2x4-16" O. C. Bridging in every floor and flat roof space over 8 feet.

Joists and rafters: 1st floor 2nd 3rd roof

O.C. centers: 1st floor 2nd 3rd roof

Maximum span: 1st floor 2nd 3rd roof

If one story building with masonry walls, thickness of walls? height?

IF A GARAGE

No. cars now accommodated on same lot to be accommodated number commercial cars to be accommodated

Will automobile repairing be done other than minor repairs to cars habitually stored in the proposed building?

APPROVALS BY: DATE MISCELLANEOUS

BUILDING INSPECTION PLAN EXAMINER Will work require disturbing of any tree on a public street? .. NO.

ZONING: [Signature] 8/11/82

BUILDING CODE: [Signature] Will there be in charge of the above work a person competent

Fire Dept.: [Signature] to see that the State and City requirements pertaining thereto

Health Dept.: [Signature] are observed? .. YES

Others: [Signature] Signature of Applicant Phone #



CITY OF PORTLAND, MAINE
Department of Building Inspection

Certificate of Occupancy

LOCATION 20 Marginal Way

Issued to Introm Car Wash Inc.

Date of Issue Nov. 16, 1982

This is to certify that the building, premises, or part thereof, at the above location, built, altered, changed as to use under Building Permit No. 82-640, has had final inspection, has been found to conform substantially to requirements of Zoning Ordinance and Building Code of the City, and is hereby approved for occupancy or use, limited or otherwise, as indicated below.

PORTION OF BUILDING OR PREMISES

APPROVED OCCUPANCY

Entire

Car Wash

Limiting Conditions:

This certificate supersedes certificate issued

Approved:

11/16/82 M.C. Bortlett
(Date) Inspector

P. S. Hynes
Inspector of Buildings

Notice: This certificate identifies lawful use of building or premises, and ought to be transferred from owner to owner when property changes hands. Copy will be furnished to owner or lessee for one dollar.

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

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This page contains a detailed description of the Parcel ID you selected. Press the **New Search** button at the bottom of the screen to submit a new query.

Current Owner Information:

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[Q & A](#)

[browse city services a-z](#)

[browse facts and links a-z](#)



Best viewed at 800x600, with Internet Explorer

CBL 113 A025001
Land Use Type RETAIL & PERSONAL SERVICE
 Verify legal use with Inspections Division
Property Location 20 MARGINAL WAY
Owner Information NORTHERN PRIDE AUTO WASH
 PO BOX 2147
 SOUTH PORTLAND ME 04116
Book and Page 9621/212
Legal Description 113-A-25
 MARGINAL WAY 18-24
 15286 SF
Acres 0.3509

Current Assessed Valuation:

TAX ACCT NO. 16022 **OWNER OF RECORD AS OF APRIL 2013**
LAND VALUE \$201,900.00 NORTHERN PRIDE AUTO WASH
BUILDING VALUE \$158,200.00 PO BOX 2147
NET TAXABLE - REAL ESTATE \$360,100.00 SOUTH PORTLAND ME 04116
TAX AMOUNT \$6,989.54

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

Building Information:

Building 1
Year Built 1987
Style/Structure Type CAR WASH AUTOMATIC
Units 1
Building Num/Name 1 - AUTO WASH / AUTO
 DETAILING
Square Feet 2656

[View Sketch](#)

[View Map](#)

[View Picture](#)

Exterior/Interior Information:

Building 1
Levels 01/01
Size 1328
Use CAR WASH - AUTOMATIC
Height 11
Walls FRAME
Heating UNIT HEAT
A/C NONE

Building 1
Levels 01/01
Size 320
Use CAR WASH - MANUAL
Height 11