

# CITY OF PORTLAND, MAINE

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## PLANNING BOARD

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August 11, 2016

Portland Community Squash  
Attention: Barrett Takesian  
PO Box 10412  
Portland, ME 04104

Bernstein, Shur, Sawyer and Nelson  
Attention: Mary Costigan  
100 Middle Street  
Portland, ME04101

Project Name: Community Squash Courts  
Address: 66 Noyes Street  
Applicant: Portland Community Squash  
Planner: Shukria Wiar

Project ID: 2016-168  
CBL: 118 E003 001

Dear Mr. Takesian:

On August 9, 2016, the Planning Board considered a conditional use application to convert a synagogue (place of assembly use) and daycare to a community hall (place of assembly) at 66 Noyes Street. The proposal to convert the current assembly space into four squash courts and the classroom space will be retained for the after school programs. The Planning Board reviewed the proposal for conformance with the Land Use Code Section 14-118 (R-5 Conditional Uses) and 14-474 (Conditional Uses). The Planning Board voted 5-0 (Nichols and Stanley absent) to approve the application with the conditions as presented below.

### CONDITIONAL USE

The Planning Board voted 5-0 (Nichols and Stanley absent) that the proposed conditional use for a community hall as defined as a place of assembly at 66 Noyes Street in the R-5 zone does meet the standards of § 14-474 and the standards of §14-118 for the R-5 zone, subject to the following conditions:

1. A parking and traffic monitoring study shall be conducted within six months of a certificate of occupancy to verify the predicted traffic and parking impacts of the project as set forth in the conditional use application. The scope and timing of the monitoring study shall be coordinated with the Planning Authority and Department of Public Works. It shall be noted that mitigation strategies may be required following the outcome of the monitoring study if warranted by project specific impacts. Such mitigation strategies and associated costs shall be directly related to the increased impacts from the project, if any are found to exist.
2. The applicant shall provide bicycle racks for a minimum of twenty (20) bicycle parking spaces onsite and the details shall be depicted on the final site plan.
3. A fence or landscaped buffer to screen the parking area shall be installed along the proposed parking lot, and the plans for the screening shall be reviewed and approved by the Planning Authority prior to the issuance of a building permit.

## STANDARD CONDITIONS OF APPROVAL

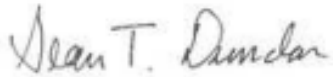
Please note the following standard conditions of approval and requirements for all approved site plans:

1. **Final Site Plan** A final site plan shall be submitted for review and approval by the Planning Authority that meets the conditions of this approval.
2. **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.
3. **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.
4. **Site Plan Expiration** The site plan approval will be deemed to have expired unless work has commenced within one (1) year of the approval or 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.
5. **Department of Public Services Permits** 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.)

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. Please schedule any property closing with these requirements in mind.

If there are any questions, please contact Shukria Wiar at (207) 756-8083 or via [shukriaw@portlandmaine.gov](mailto:shukriaw@portlandmaine.gov).

Sincerely,



Sean Dundon, Vice Chair  
Portland Planning Board

### Attachments:

1. Planning Board Report

### Electronic Distribution:

Jeff Levine, AICP, Director of Planning and Urban Development  
Barbara Barhydt, Development Review Services Manager  
Shukria Wiar, Planner  
Philip DiPierro, Development Review Coordinator, Planning  
Mike Russell, Director of Permitting and Inspections  
Ann Machado, Zoning Administrator, Inspections Division  
Jonathan Rioux, Inspections Division Deputy Director  
Jenie Bourke, Plan Reviewer/CEO, Inspections Division  
Chris Branch, Director of Public Works  
Katherine Earley, Engineering Services Manager, Public Works  
Bill Clark, Project Engineer, Public Works

Doug Roncarati, Stormwater Coordinator, Public Works  
Greg Vining, Associate Engineer, Public Works  
Michelle Sweeney, Associate Engineer, Public Works  
John Low, Associate Engineer, Public Works  
Rhonda Zazzara, Field Inspection Coordinator, Public Works  
Jeff Tarling, City Arborist, Public Works  
Jeremiah Bartlett, Public Works  
Keith Gautreau, Fire Department  
Danielle West-Chuhta, Corporation Counsel  
Thomas Errico, P.E., TY Lin Associates  
Lauren Swett, P.E., Woodard and Curran



# PLANNING BOARD REPORT PORTLAND, MAINE



Conversion to Community Hall  
66 Noyes Street  
Conditional Use in the Residential R-5 Zone  
2016-183  
Portland Community Squash, Applicant

Submitted to: Portland Planning Board: Public Hearing Date: August 9, 2016	Prepared by: Shukria Wiar, Planner Date: August 5, 2016
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## **I. INTRODUCTION**

Portland Community Squash has requested a conditional use review and approval to convert a synagogue (place of assembly use) and daycare to a community hall (place of assembly) at 66 Noyes Street. The site is zoned Residential R-5. The proposed community hall will be used for community recreation and educational functions by the Portland Community Squash; adult squash, junior squash league, and classroom space for tutoring children on this property. There are also minor changes to the site. The proposed institutional use and associated functions will be reviewed by the Planning Board as a Conditional Use in the R-5 zone for conformance with the Land Use Code Section 14-118 (R-5 Conditional Uses) and 14-474 (Conditional Uses). There is also an Administrative Authorization application associated with the conversion, which will be reviewed by the Planning Authority (staff).

<b>Applicant Name</b>	Portland Community Squash
<b>Agent Representative</b>	Mary Costigan of Bernstein Shur

One hundred and sixty-five (165) notices were sent to area residents within 500 feet of the site and the interested party list. A notice also appeared in the August 1<sup>st</sup> and 2<sup>nd</sup> editions of the *Portland Press Herald*. As of the writing of this report, Alyson Maloy of 22 Holwell Street, called the Planning Division office. Ms. Maloy expressed concerns about the loss of a daycare in the neighborhood and how the ten proposed parking spaces are not supporting the new use. Rosie Lenehan on behalf of residents of Noyes Street has submitted written comments, [Attachment 2](#). They are requesting the safety measurements to be implemented: a crosswalk at Deering Ave and Noyes Street, preferably with flashing lights to alert drivers OR a 4-way stop with crosswalks at the intersection of Deering and Noyes. They also request speed bumps put on Noyes Street to discourage speeding. Laura Share submitted public comment seeking to maintain and improve a fence along the shared property boundary for privacy (Attachment 2).

## **II. REQUIRED REVIEWS**

<i>Applicant's Proposal</i>	<i>Applicable Standards</i>
Synagogue to Community Hall	Administrative Authorization
Place of Assembly	Level III Conditional Use in the R-5 zone (§14-118)

## **III. SUMMARY OF FINDINGS:**

**Zone:** R-5 Residential  
**Existing Use:** Synagogue and Daycare  
**Proposed Use:** Community Hall  
**Lot Size:** .9058 acres  
**Building Area:** 13,164 square foot

## **IV. SITE DESCRIPTION:**

The property is located at 66 Noyes Street. The synagogue was built in 1955 to accommodate 208 adults in the main hall with an adjoining school. The school was a Hebrew School for approximately 120 children from K to 6<sup>th</sup> grade. The Hebrew School moved in 2004 and at that time, the YMCA daycare moved into the facility. At some point, YMCA moved out and Sherry Adams of Children's Adventure Center ran the daycare. There are currently five to seven onsite parking spaces at the southeasterly end of the site. The site also includes a courtyard and a

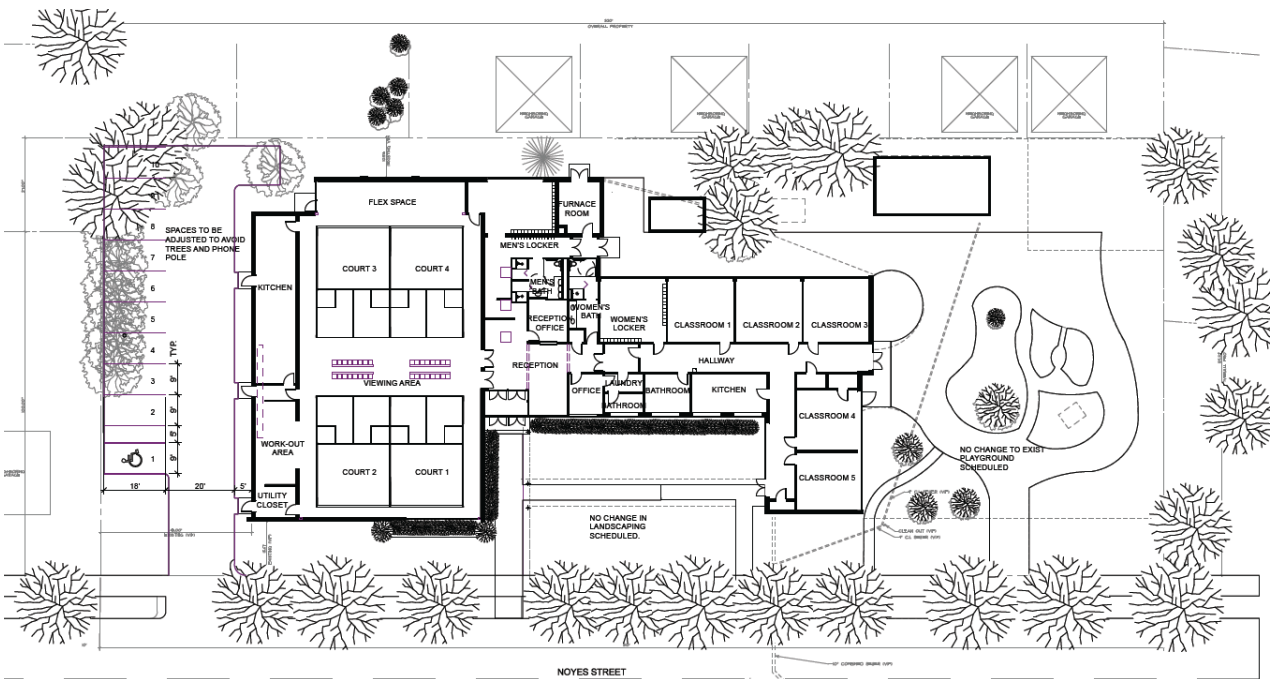
playground at the northern end of the property. The synagogue had between 100 to 200 members and the members primarily attended the facility on Friday evenings and Saturday mornings. According to the application, “at one time there could be up to 200 people with approximately 100 cars parked on the surrounding streets....Parking would spill from Noyes Street into Holwell Street and around Longfellow Park”. There has been a decline in the synagogue members and now approximately 100 people will attend on holidays and special events.



Currently, the daycare serves 50 students and has 5-6 employees. The hours of operation are from 6:00 AM to 6:00 PM with drops offs between 6:00 to 9:00 AM and pickups between 3:00 to 6:00 PM. Approximately 40 to 50 cars per day, park at the curb in front of the building to drop off and pickup children.

**V. PROPOSED DEVELOPMENT**

The applicant proposes to utilize the existing building as a community hall. The building will be renovated to have four squash courts, as well as the classroom spaces. The existing parking lot will be restriped to create 10 parking spaces. The proposed community hall will be used for recreation and educational functions by the Portland Community Squash. There will be three different programs in the building: adult squash, junior squash league, and Rally Portland and Learning Works. The adult squash program is a member-based program, which helps to support the youth programs. There are approximately 130 to 200 members and will have access to the



courts seven days a week except between 2:00 to 5:00 PM (this is the time for the youth league).

The junior league program, designed for middle and high schools students, will have approximately 60 to 150 students. The junior league will utilize the courts between 2:00 to 5:00 PM. The students will have matches on Saturdays and will involve 20 students at a time for a three hour period. The students will also have access to homework help sessions with PCS volunteers. Students will walk, carpool with parents, or take the bus.

The Rally Portland program is designed to offer academic support, squash lessons, community services, and travel opportunities to help city's most-at-risk students from fourth grade to college. At this community hall, Rally Portland is partnering with Learning Works to couple squash and Learning Works curriculum to work with students. Rally Portland will have 20 students, with additional 20 students to add to the program every year for slightly over 100 students. Middle School students will get to the site by a 14 passenger bus and high school students will ride the metro bus. This program will utilize the courts from 3:00 to 5:00 PM along the junior squash league and will access two classrooms very afternoon.

In addition to these three programs, summer weekday camps will be offered that will have approximately 12 to 20 students per session.

## **VI. STAFF REVIEW**

This project is subject to conditional use review. Staff review includes the following subsections:

### **1. ZONING, RIGHT TITLE AND INTEREST, AND NEIGHBORHOOD MEETING**

#### **A. Zoning**

##### **CONDITIONAL USE REVIEW**

The current use of the existing building is a religious place of assembly and a day care. In 2009, updated definitions of a place of assembly and dimensional standards were adopted, which included new dimensional standards for places of assembly. The current use of the building is allowed as a conditional use and there is sufficient land area for a medium sized facility, but the building exceeds the maximum floor area for a place of public assembly on a local street. The maximum floor areas are as follows:

16. *Maximum floor area for places of assembly not on a collector or arterial road:*

Large	4,500 sq. ft.
Medium	2,250 sq. ft.
Small	1,125 sq. ft.

The proposal to convert the current assembly space into the squash courts modifies roughly 4,700 square feet of the structure and classroom space is retained for the after school programs. The classrooms have been used for the former school and then day care center.

Ann Machado, Zoning Administrator has confirmed that the current use of the building is a legal non-conforming place of assembly (due to the dimensional standards for places of assembly) and that the proposed change of use to a community hall (another place of public assembly) is permissible. The use will remain as a legal nonconforming place of assembly, subject to the Planning Board's review of the conditional use application.

This project is considered a change of use of an institutional use in the R-5 zone and it is subject to the conditional use standards of Sections 14-118 and 14-474. The applicant has submitted an analysis of how the proposal meets the R-5 Conditional Use Standards (Attachment E) as follows:

**Sec. 14-118. Conditional uses**

The following uses 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:

(b) Institutional: Any of the following conditional uses provided that, notwithstanding section 14-474(a) (conditional uses) of this article, or any other provision of this Code, the Planning Board shall be substituted for the board of appeals as the reviewing authority:

1. Elementary, middle, and secondary school;
2. a. Long-term and extended care facilities; b. Intermediate care facility for thirteen (13) or more persons;
3. Places of assembly;
4. Reserved;
5. Hospital;
6. College, university, trade school.

Such uses shall be subject to the following conditions and standards in addition to the provisions of section 14-474:

- a. In the case of expansion of existing such uses onto land other than the lot on which the principal use is located, it shall be demonstrated that the proposed use cannot reasonably be accommodated on the existing site through more efficient utilization of land or buildings, and will not cause significant physical encroachment into established residential areas; and

Staff Comments: The principle use will be accommodated on this one property; therefore this standard does not apply. The proposal is replacing a religious place of assembly with a community hall place of assembly with no expansion of the structure.

- b. The proposed use will not cause significant displacement or conversion of residential uses existing as of June 1, 1983, or thereafter; and

Staff Comments: The renovations to the building and accompanying improvements will not cause the displacement or conversion of any residential units. The use of the site historically has been a place of religious assembly; thus this standard is met.

- c. In the case of a use or use expansion which constitutes a combination of the above-listed uses with capacity for concurrent operations, the applicable minimum lot sizes shall be cumulative; and

Staff Comments: The lot size for this property is approximately 39,456 square feet. The minimum lot size in the R-5 zone for a medium-scaled place of assembly is 21,780 sq. ft.; therefore this standard is being met.

- d. *Article V (site plan) sections 14-522 and 14-523 notwithstanding, in the case of places of assembly the proposed use shall be subject to the requirements of article V (site plan) of this chapter; and*

Staff comment: The applicant has submitted an administrative application which is being reviewed concurrently. The site plan is ready to be approved with conditions.

e. In the case of community halls:

i. The structure was in existence as of January 4, 2010;

Staff Comments: The structure was built in 1955; thus this standard is being met.

ii. The structure was built for institutional or other non-residential uses;

Staff Comments: The structure was used as a synagogue and school since it was built; thus this standard is being met.

iii. The structure is operated by, or operated subject to the control of, a not-for-profit entity in accordance with its not-for-profit purposes; and

Staff Comments: Portland Community Squash is a Maine not-for-profit corporation and will be used as such; thus this standard is being met.

iv. A parking management plan is submitted for review and approval by the planning board;

Staff Comments: A parking management plan was submitted. Based on the report, the traffic and parking created by the proposed community hall is expected to be less than what was generated by the synagogue and school. According to the report, "the ten spaces on the property, plus the available on-street parking is more than adequate to serve the needs of the Community Hall with no great impact on the neighborhood". Public comment from the neighborhood has been received regarding local traffic conditions and a request for safety measures at the Noyes and Deering intersection and traffic calming measures on Noyes Street. Tom Errico, Consultant Traffic Engineer, has reviewed the project and offers that following recommendation:

*Given the data provided, I generally agree that the net change in traffic volumes between the prior and proposed uses appear to be a reduced condition. With that said, it is my recommendation that a parking and traffic monitoring study be conducted within 6 months of occupancy. The scope and timing of the monitoring study shall be coordinated with City staff. I would note that mitigation strategies may be required following the outcome of the monitoring study.*

**Sec. 14-474:**

The following standards 14-474 apply to all conditional uses:

2. *Standards. The Board shall, after review of required materials, authorize issuance of a conditional use permit, upon a showing that 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. The Board shall find that this standard is satisfied if it finds that:*

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; and*



Staff comment: The site is in the R5 zone which allows schools, hospitals, colleges and universities, most of which would have greater traffic generation and parking requirements than the proposed use. When compared to the existing use of a synagogue and daycare, the weekly volume and maximum number of vehicles for the proposed use of community hall will be lower. Like the synagogue and daycare, and other uses in the area, vehicle traffic will be passenger vehicles, primarily in the morning and afternoon during the week, as well as some traffic on the weekend. According to the applicant, “[t]he hours of operation, expanses of pavement and required parking spaces will be the same as that required and used by the synagogue and is not greater than that for similar uses in the area”. As mentioned above, Mr. Errico has reviewed the parking analysis for the project and recommends that a parking and traffic monitoring study be conducted with six months of occupancy. He also states that in addition to the new ten parking spaces, bicycle parking shall be provided for the project; he recommends a minimum of twenty (20) bicycle parking spaces shall be provided. The proposed aisle width in the parking area is not meeting the standard of 24 feet; the aisle width is 20 feet. Mr. Errico supports the waiver and will be part of the site plan review.

*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; and*

Staff comment: The proposal would not create harmful conditions, thus this standard is met.

*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.*

Staff comment: The design and operation of the proposed use is anticipated to have similar effects/impacts as the existing synagogue and daycare use, as well as the surrounding uses. The proposed parking will abut a residential home. There is an existing fence that runs along a portion of the paved area and the abutting property owner has asked about fence improvements to retain a privacy buffer. The staff is recommending a condition of approval to require fencing or an enhanced buffer between the parking area and the home in order to reduce the glare of vehicle headlights and retain privacy.

Section 14-474 (d) states:

*(d) Conditions on conditional use permits. The board of appeals may impose such reasonable conditions upon the premises benefited by a conditional use as may be necessary to prevent or minimize adverse effects therefrom upon other property in the neighborhood. Such conditions shall be expressly set forth in the resolution authorizing the conditional use permit and in the permit. Violation of such conditions shall be a violation of this article.*

Staff Comment: Planning staff recommends conditions of approval as suggested by Mr. Errico

**B. Right, Title or Interest:**

The applicant submitted a purchase and sale agreement, Attachment C.

**C. Neighborhood Meeting:**

This proposal is subject to administrative authorization and conditional use review (for place of assembly use in the R-5 zone). Section 14-32 (c) of the City Code requires only applicants for Level III site plan review or subdivisions of five or more units or lots to host a neighborhood meeting.

## **VII. PROPOSED MOTIONS**

### **A. CONDITIONAL USE**

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Planning Board Report for the public hearing on August 9, 2016 for application #2016-183 (Conditional Use), relevant to Portland's Conditional Use Standards and other regulations, and the testimony presented at the Planning Board hearing:

The Planning Board finds that the proposed conditional use of place of assembly use at 66 Noyes Street in the R-5 zone [**does/does not**] meet the standards of § 14-474 and the standards of §14-118 for the R-5 zone, subject to the following condition:

1. A parking and traffic monitoring study shall be conducted within six months of certificate of occupancy and the scope and timing of the monitoring study shall be coordinated with the Planning Authority and Department of Public Works. It shall be noted that mitigation strategies may be required following the outcome of the monitoring study if warranted by project specific impacts.
2. The applicant shall provide a minimum of twenty (20) bicycle parking spaces onsite and the details shall be depicted on the final site plan.
3. A fence or landscaped buffer to screen the parking area shall be installed along the proposed parking lot, and the plans for the screening shall be reviewed and approved by the Planning Authority prior to the issuance of a building permit.

## **ATTACHMENTS**

### **PLANNING BOARD REPORT ATTACHMENTS**

1. Traffic Review 08.04.2016 (email from Tom Errico)
2. Public Comment

### **APPLICANT'S SUBMITTAL**

- A. Cover Letter, Mary Costigan of Bernstein Shur, dated 07.11.2016
- B. Application, dated 07.11.2016
- C. Purchase and Sale Agreement
- D. Prior and Proposed Uses of 66 Noyes Street
- E. Analysis of Condition Use Standards
- F. PCS Parking Management Plan
- G. Administrative Authorization Application

## **PLANS**

- |       |                 |
|-------|-----------------|
| Plan1 | Boundary Survey |
| Plan2 | Site Plan       |