

Zoning Division
Marge Schmuckal
Zoning Administrator

Department of Planning & Development
Lee Urban, Director



CITY OF PORTLAND

February 24, 2004

Steven Mardigan
460 Baxter Blvd
Portland, ME 04103

*Received 2/26/04
Due to phone conversation
received*

RE: 726 Forest Avenue – 130-H-021 & 027

Dear Mr. Mardigan,

This letter is to notify you that before any use will be permitted on your property located at 726 Forest Avenue, you will first have to file for and receive a change of use permit from the City. It is my understanding, based upon a conversation with City Attorney Gary Wood, that you represented to the City Council that you will not be leasing this property for use as a bar or drinking establishment which was its prior use.

Before a change of use permit will be issued, or before any other use of the property is undertaken, you will be required to construct a fence separating your property from that of the Nashes. This is required by both our ordinance and it is my understanding by an existing court order resolving the boundary dispute and fence issue between you and the Nashes. In addition to installing the fence, there may be other changes required to the property before a change of use permit can be issued. Those changes will depend upon the proposed use. Please contact me in Inspection Services for a permit before entering into any binding legal obligations.

Failure to comply with any or all City Ordinances will result in legal action.

Sincerely,

Marge Schmuckal
Zoning Administrator

CC: Chris Vaniotis, Esq.
Councilor Karen Geraghty
Gary Wood, Corporation Counsel

130-H-021

Bernstein, Shur, Sawyer & Nelson, P.A.

Counselors at Law

100 Middle Street, West Tower, P.O. Box 9729, Portland, Maine 04104-5029
207-774-1200 Fax 207-774-1127
Internet: bssn.com

Christopher L. Vaniotis
E-mail: cvaniotis@bssn.com

February 27, 2004

Linn S. Nash and Lynn B. Nash
13 Concord Street
Portland, Maine 04103

Re: Construction of Fence on Stephen E. Mardigan Property

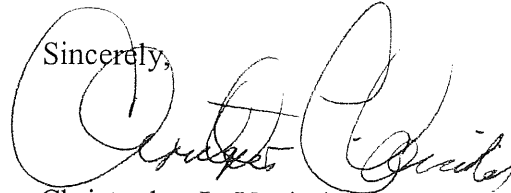
Dear Mr. and Mrs. and Nash:

Stephen Mardigan is ready to construct the fence which will implement the settlement reached in Linn S. Nash and Lynn B. Nash v. Stephen E. Mardigan, Cumberland County Superior Court Docket No. RE-01-085. In order to do so, Mr. Mardigan needs to have you select the style of fencing and trim the row of pine trees on your property. Could you please contact Mr. Mardigan right away to coordinate the selection and installation of the fence?

Mr. Mardigan has identified a potential new tenant for the property. We think you will be pleased that the tenant is not an establishment that will serve alcohol or be open late. The potential tenant is a retail print shop which will offer photocopying services and sell preprinted stationery and similar materials (the actual printing operation will occur off-site).

This prospective tenant would like to move into the property right away to begin the necessary renovations. If there is any significant delay, this tenant may seek another location. Therefore, your prompt response to this letter would be very much appreciated.

Sincerely,

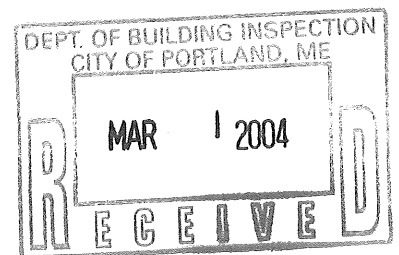


Christopher L. Vaniotis

CLV/lc

cc: Steve Mardigan
March Schmuckal, City of Portland Zoning Administrator
Gary Wood, Esquire, City of Portland Corporation Counsel

Carpenter/CLV/Mardigan/NashLtr022704 34320.1



From: Marge Schmuckal
To: Gary Wood
Date: Thu, Feb 26, 2004 12:30 PM
Subject: Steve Mardigan - 726 Forest Ave

Gary,

FYI - Steve Mardigan has received a copy of my letter. He called me to say that he has entered into an agreement with someone to lease the area. He said that he didn't realize that he had to take out a change of use permit. I again told him that he did need a permit and that the area shall not be occupied prior to obtaining a change of use permit. Then he started complaining about the Nashes and how they were not living up to their part of the deal - and that it is cold out and how can he get a fence in - etc. I advised him to talk to an attorney.

Marge

From: Theresa Bourgoin
To: Marge Schmuckal; Penny Littell
Date: Wed, Feb 11, 2004 9:48 AM
Subject: Donald E. Pride/ 964 Forest Ave/ Question RE: Public Notice

Attached is a memo regarding the above referenced matter from Gary. I will put a hard copy in the mail as well.

CC: Cheryl Leeman; Gary Wood

2/13/04

CITY OF PORTLAND
MEMORANDUM

TO: Marge Schmuckal, Penny Littell

FROM: Gary Wood

DATE: February 11, 2004

RE: Donald E. Pride/964 Forest Avenue/ Question Re: Public Notice

WRE
775-3999
965 Forest Ave
Print world location
→ milkie Broiler
Share

B-2
spoke with Mr. Thirsty
Dunkin' est

move out March 26th
April 1st to move in

Mr. Pride has a single-family home across the street from the location at which C.J.

Thirsty's may relocate. I talked to him at length about the relocation and the fact that the area where the bar may go in, which now contains a print shop, is zoned for a restaurant or restaurant/lounge or lounge. He was a very reasonable and sensible man and one question he had that I could not answer is why he and his neighbors received notices from the City when the following changes of use occurred both on their side of the street and as I understand it on the opposite side of the street:

- (1) A car auto shop that was licensed to do body work wanted to be licensed as a transportation service for cars;
- (2) Next to Mr. Pride's property, a house that was classified as a residential/professional house was proposed for licensing as a daycare center;
- (3) A print shop that was across the street? Was converted into a bead shop with storage.

According to Mr. Pride he and his neighbors received a notice prior to these changes of use so his question is why did they not receive a notice about the proposed change of use across the street from a print shop to a lounge for C.J. Thirsty's.

I told him the only thing I could think of is that the property owner, Arthur Girard, may not yet have applied for a change of use because he is apparently in the process of renovating another one of his buildings into which he plans to move the print shop.

I would appreciate it if one of you would respond in writing to Mr. Pride about the City's notification process in relation to the above cases and in relation to C.J. Thirsty's proposed move.

Finally, I gave Attorney Gary Prolman's telephone number to Mr. Pride and suggested that the neighbors ask Mr. Prolman to set up a neighborhood meeting with C.J. Thirsty's owner Joe Saucier. Mr. Pride seemed more inclined to just see how things work because he said they have had a number of bars nearby that have operated without any problems for the neighborhood but they are concerned in this case because of C.J. Thirsty's reputation.

GCW:tlb

Cc: Councilor Cheryl Leeman

O:/Gary/Memos/Pride/C.J. Thirsty's

From: Marge Schmuckal
To: Gary Wood
Date: Fri, Feb 13, 2004 2:50 PM
Subject: 965 Forest Ave - C J Thirstys

Gary,

I made a site visit to the location that C J Thirstys is advertising that they are moving to. This location is presently occupied by Print World. I spoke to them about when they might be moving out and when C J's might be starting work. He said that they were scheduled to probably move out on the weekend of March 26th. No work for C J's is being done there at this time.

I have left a voice message for Donald E. Pride who lives across the street so that I can discuss when notices go out to neighbors.

Currently notices are required to go out any time a public meeting, or a site plan review is required. Conditional uses were required for the new Caravan Bead location and the car auto shop, and for daycares over six children. There is also a requirement for noticing for any change of use of over 5,000 sq. feet. I am not sure that this location is over 5,000 sq. feet. If not, noticing would not be required. However, a building permit for a change of use with alteration would be required PRIOR to the commencement of any work.

This is a B-2 business zone in which "drinking establishments" are permitted. I will be checking to be sure all the B-2 zoning requirements are being met including parking. I will try to remember to give a "heads up" when an application comes across my desk.

This property is currently owned by Delta Realty and managed by WRE Management.

CC: Cheryl Leeman; Lee Urban; MARK ADELSON; PENNY ...

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

Card Number	1 of 1
Parcel ID	142 B001001
Location	961 FOREST AVE
Land Use	RETAIL & PERSONAL SERVICE
Owner Address	DELTA REALTY CO INC 120 EXCHANGE ST PORTLAND ME 04101
Book/Page	14551/252
Legal	142-B-1 FOREST AVE 961-969
	13000 SF

Valuation Information

Land	Building	Total
\$169,050	\$99,960	\$269,010

Building Information

Bldg #	Year Built	# Units	Bldg Sq. Ft.	Identical Units
1	1986	1	3894	1
Total Acres	Total Buildings	Sq. Ft.	Structure Type	Building Name
0.298	3894		OFFICE BUILDING - LOW-RISE	PRINTWORLD

Exterior/Interior Information

Section	Levels	Size	Use
1	01/01	3894	OFFICE BUILDING
Height	Walls	Heating	A/C
10	CONC. BLOCK	UNIT HEAT	NONE

Building Other Features

Line	Structure Type	Identical Units
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Yard Improvements

Year Built	Structure Type	Length or Sq. Ft.	# Units
1986	ASPHALT PARKING	8000	1



CITY OF PORTLAND

MEMORANDUM

TO: Marge Schmuckal, Penny Littell

FROM: Gary Wood

DATE: February 11, 2004

RE: Donald E. Pride/964 Forest Avenue/ Question Re: Public Notice



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