

CITY OF PORTLAND, MAINE

PLANNING BOARD

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September 16, 2016

Stephen E. Mardigan
460 Baxter Boulevard
Portland, ME 04103

Behrouz Lashgarlou
24 Colonial Avenue
South Portland, ME 04106

Project Name:	Pre-owned Automobile Dealership	Project ID:	#2016-189
Address:	783 Forest Avenue	CBL:	137-C-001
Applicant:	Stephen E Mardigan		
Planner:	Jean Fraser		

Dear Sirs:

On September 13, 2016, the Planning Board considered the proposed use of the site at 783 Forest Avenue for the sale of pre-owned cars and associated site improvements. The Planning Board reviewed the proposals for conformance with the standards of the Conditional Use Review and Site Plan Ordinance. 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 September 13th, 2016, the Planning Board voted 7-0 to approve the application with the following waiver and conditions as presented below.

WAIVER

Driveway Separation

The Planning Board voted 7-0 to waive the requirements of *Technical Manual Section 1.7.1.7*, which sets out standards for minimum driveway separation, to allow the existing curb cuts/driveways to remain as modified by the approved proposals in Plan P2. This waiver is based on the fact that the driveways are an existing condition with no history of safety issues, and the proposed use involves limited traffic volumes entering and exiting the site; and the applicant is reducing the width of and better defining the driveways and thus will improve upon existing conditions.

CONDITIONAL USE

The Planning Board voted 7-0 that the proposed conditional use for a Pre-owned Auto Dealership at 783 Forest Avenue in the B-2 zone meets the standards of Section 14-474 and the standards of Section 14-183 for the B2 zone, subject to the following conditions:

- i. That the site access/egress conditions for vehicles are considered to be acceptable in view of the low traffic generation and minimal service requirements of the used car sales use. If changes in the business operations occur on the site that increase traffic levels, the Planning Authority will require the applicant to provide a review of traffic impacts associated with the change, for review and approval by the Planning Authority; and

- ii. The location of parked vehicles shall not encroach on parking circulation aisles, sidewalks nor block the proposed driveways. The number of vehicles allowed to park on the site shall conform to those illustrated on the site plan and not exceed 20 in total (including display, customer and employee parking). Idling vehicles shall be limited to 3 at any one time; and
- iii. That no vehicles associated with this site and the dealership use shall be parked on any adjoining or nearby streets (including, but not limited to, any part of Hartley Street) nor overhang the City's right-of-way, sidewalk or property outside of the site; if such parking is documented as taking place, enforcement action may be pursued by the City; and
- iv. That all car sales and other activities associated with the car dealership use shall take place only on the privately owned part of the site. No car sales or any other activities associated with the car dealership may take place in the City right of way, sidewalk, or on property outside of the site; and
- v. A Performance Guarantee shall be posted covering the cost of the improvements shown on the approved amended plans. No cars may be parked on the site and no car sales or other activities associated with the car dealership use may take place from the site until the Performance Guarantee described herein has been posted and a Change of Use permit has been obtained from the Department of Permitting and Inspections.

SITE PLAN REVIEW

The Planning Board voted 7-0 that the plan is in conformance with the site plan standards of the land use code, subject to the following conditions of approval:

- i. No work shall commence on any site improvements until such time as the applicant has:
 - 1) posted a Performance Guarantee in accordance with the standard conditions of approval;
 - 2) obtained all required City permits including a street opening permit (obtained by a licensed contractor) from the Department of Public Works; and
 - 3) attended a mandatory preconstruction meeting with City staff.
- ii. That the site plan and detail plans shall be revised to address the Peer Engineer comments dated 9.7.2016, and to revise the location of the ADA parking, for review and approval of the Planning Authority and Department of Public Works prior to any work starting on the site; and
- iii. That the improvements to the sidewalks, aprons and curbing be completed in accordance with the City of Portland Technical Standards (which include specifications requiring granite curbing); and
- iv. That the applicant shall obtain a license from the State of Maine Bureau of Motor Vehicles prior to the start of car sales from this site; and
- v. That erosion control measures, as outlined in the Peer Engineer comments dated 9.7.2016, be in place prior to the start of construction of the planter and relocation of curbs; and
- vi. That the storage of snow shall not impede sight distance for vehicles exiting the site, and on-site parking of vehicles should not block access and egress movements; and

- vii. That no car repairs shall take place on the site unless an amended site plan is approved by the Planning Authority, with the amendments showing where and how these would be accommodated, and all other necessary permits are obtained; and
- viii. That existing and any new site or exterior building lighting shall be in compliance with the site lighting requirements as set out in the City's Technical Standard 12 "Site Lighting"; and
- ix. That separate permits are required for any signs on the site prior to their installation.

Failure to comply with any of the above-stated conditions of approval, in whole or in part, shall render this approval void.

The approval is based on the submitted plans and the findings related to conditional use and site plan review standards as contained in Planning Report for application #2016-189 which is attached.

STANDARD CONDITIONS OF APPROVAL

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

1. **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.
2. **Separate Building Permits Are Required** A Building Permit is required prior to the commencement of any site work, and a Change of Use Permit is required before the car sales use commences (see condition v. under "Conditional Use" above). Please coordinate with the City of Portland's Permitting and Inspection Department to arrange for these permits.
3. **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.
4. **Performance Guarantee and Inspection Fees** A performance guarantee covering the site improvements (as based on the approved plans) is required before the car sales use commences, before any work starts on the site (see condition v. under "Conditional Use" above) and before any permits are issued. In addition, an inspection fee payment of either \$300 or 2.0% of the guarantee amount (whichever is greater) is required prior to the release of 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. **Defect Guarantee** 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 pre-construction meeting shall be held at the project site. This meeting will be held with the contractor, Development Review Coordinator, Public Work'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. (If applicable)

7. **Department of Public Works 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.)
8. **As-Built Final Plans** 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. Please schedule any property closing with these requirements in mind.

If there are any questions, please contact Jean Fraser at (207) 874- 8728.

Sincerely,



Elizabeth Boepple, Chair
Portland Planning Board

Attachments:

1. Peer Engineer comments 9.7.2016
2. Planning Board Report
3. Performance Guarantee Packet

Electronic Distribution:

cc: Jeff Levine, AICP, Director of Planning and Urban Development
Barbara Barhydt, Development Review Services Manager
Jean Fraser, 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
Jeanie 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
Rick Blackburn, Assessor's Department
Approval Letter File

COMMITMENT & INTEGRITY DRIVE RESULTS	41 Hutchins Drive Portland, Maine 04102 www.woodardcurran.com	T 800.426.4262 T 207.774.2112 F 207.774.6635
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MEMORANDUM



TO: Jean Fraser, Planner
FROM: Lauren Sweet, PE & Craig Sweet, EIT
DATE: September 7, 2016
RE: 783 Forest Avenue, Level I Site Plan Application

Woodard & Curran has reviewed the Site Plan Application for the proposed site is located at 783 Forest Avenue in Portland, Maine. The project involves the construction of planter beds, new pavement striping, repair of sidewalks, driveway aprons and installation of new curbing.

Documents Reviewed by Woodard & Curran

- Level I Site Plan Application and attachments, dated August 2, 2016, prepared by Behrouz Lashgari, on behalf of Stephen Mardigan.
- Plans, Sheets C 1-4, dated August 2, 2016, prepared by Robert T. Greenlaw, PLS, on behalf of Stephen Mardigan.

Comments

The project was reviewed previously as part of an Application submitted in 2014. The following comments from Woodard & Curran and the Department of Public Works remain from the previous submission:

1. The plans should show or note catch basin inlet protection (silt sacks) to be installed at the first down-gradient catch basin in Forest Ave during construction. The plans should state that the Forest Ave Right-of-Way shall be kept clean from dust and construction debris and swept daily or as requested by the City of Portland during construction to minimize dust and sediment originating from the site.
2. The following details provided should be in conformance with the City of Portland Technical Design Manual. The manual with standard details is available here:
<http://me-portland.civicplus.com/757/Technical-Design-Standards>
 - a. Driveway apron - update the detail to be in conformance with City of Portland standards (see comment below on material type). The driveway aprons shall be constructed to meet ADA standards to the extent practicable, achieving a maximum 2% cross-slope for a minimum of 3' of the sidewalk width along the back of the 5' wide sidewalk. The sidewalks shall be constructed to have a maximum 2% cross-slope.
 - b. Concrete sidewalk – update detail to be in conformance with City of Portland standards, including a note that that minimum cross slopes shall be 2%.
3. Notes should be provided to the plans indicating the following:
 - a. Obtain a Street Opening Permit by a licensed contractor before starting work.
 - b. A mandatory pre-construction meeting with City staff from the Planning and Public Works Departments shall take place on site after issuance of the Street Opening Permit and prior to starting work.
4. It had previously been noted that the driveway aprons may be bituminous or concrete; bituminous is the current standard. It should be noted that the City of Portland will be reviewing for adoption within the next month a sidewalk material policy standard that will require that driveway aprons match adjacent sidewalks in material types. This standard has not yet been approved, but in light of the future requirement, and the fact that driveway aprons and abutting sidewalks in the area are constructed of concrete, the Department of Public Works would prefer that concrete be used for driveway aprons on this project. The narrowing/modification of the existing driveways will require that portions of concrete sidewalks be constructed. Constructing concrete driveway aprons with the concrete sidewalks would allow the same contractor to construct both. We ask that the Applicant consider this, but note that under the current standards, bituminous is allowed.

PLANNING BOARD REPORT PORTLAND, MAINE



Pre-owned Automobile Dealership
Conditional Use and Site Plan Review Amendments

Stephen E Mardigan, Applicant

Project No: 2016-189

CBL: 130-C-001

Submitted to: Portland Planning Board Public Hearing Date: September 13, 2016	Prepared by: Jean Fraser, Planner Date: September 9, 2016
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I. INTRODUCTION

Behrouz Lashgarlou (known as Cyrus), as agent for Stephen Mardigan (owner of the site), has requested Planning Board re-approval for the use of the site as a conditional use for pre-owned car sales. Associated with the use is a Level I Site Alteration application for minor improvements to the site.

The proposals were previously approved by the Planning Board in February, 2015 and the approval letter is [Attachment 1](#). That approval was based on the same set of plans that are proposed in the application before the Board today ([Plans P2-P4](#)). The previous approval has expired and the new applicant would like to implement the previously approved plans.

The site has been vacant for about a year, since the City's Corporation Counsel took legal action against the previous applicant to remove the cars and use from the site. This action was taken because the previous car sales use had been operating since 2013 without compliance with conditional use and site plan conditions of approval.

The site is located in a B-2 Community Business Zone, where automobile dealerships are listed as a conditional use and therefore are reviewed by the Planning Board.

Applicant: Stephen Mardigan, owner

Agent: Behrouz Lashgarlou (known as Cyrus) (lessor of the site)

Surveyor: Robert T Greenlaw,



Site at 783 Forest Ave. 0 12.5 25 50 Feet

**AERIAL ABOVE IS OUT OF DATE –
SITE IS NOW VACANT**

Required Reviews:

- Conditional Use in the B2 zone;
- Level I (Site Alteration) Site Plan (staff level review).

A total of 200 notices of the Hearing were sent to property owners within 500 feet and to interested citizens and a notice was published in the September 5th and 6th, 2016 editions of the *Portland Press Herald*. The applicant is not required to hold a neighborhood meeting for this proposal. The Planning office has not received any public comments regarding the application.

Required Waivers:

<i>Requested Waiver</i>	<i>Standard and any waiver provisions</i>
Driveway Separation: The existing curbcuts are not in compliance with the City standards; the proposals make them more in compliance reducing the width of driveways, better defining driveways and moving the centerlines farther from nearby driveways..	<i>Technical Manual Section 1.7.1.7</i> sets out standards for minimum driveway separation and the Traffic Engineer supports the waiver as they are an existing condition and the proposed use has limited traffic volumes entering and exiting the site and there is no history of safety issues (Att 4).

II. PROJECT DATA:

Zone:	B-2 Business
Proposed Use:	Automobile Sales
Previous (Legal) Use:	Office and oil truck storage (use of former Gas Station)
Required Minimum Lot Area:	10,000 sq ft
Proposed Lot Area:	12,111 sq ft
Existing impervious area:	10,408 sq ft
Proposed impervious area:	10,258 sq ft
Total floorspace of existing bldg:	652 sq.ft. (included in above impervious area)
Required parking:	not specified in ordinance
Proposed parking:	6 spaces for employees and customers, up to 13 vehicle display spaces
Required Bicycle Parking:	2 spaces
Proposed bicycle parking:	2 spaces
Existing Driveways:	2
Proposed Driveways:	2 (narrowed from over 40 feet to 24 feet)

III. EXISTING CONDITIONS

The site is located between a parking lot with drive access serving the adjacent restaurant and hairdressers to the north, and a driveway and commercial building to the south. Opposite the site (across Forest Avenue) is Hartley Street, a residential street with commercial uses nearest Forest Avenue where it is zoned B2c (see below under VII A Zoning Assessment). A pedestrian crosswalk is located across Forest Avenue just north of the site.

The parcel is largely a rectangle with 134 feet of frontage along Forest Avenue, but includes a sliver of land running northward along the back of the abutting lot along the railway (Plan P1.)

The 12,111 sq ft site was formerly a gas station; the gas tanks were removed and filled with sand in 2005 and the site is currently paved, with the

former gas station building remaining on the rear part of the site. The site has a legal use as “office and oil truck storage” and the existing building has been upgraded for use as an office.



The site backs onto the railway line and there are mature trees along the rear boundary (photo below). The B2 zone extends over the railway and some 50 feet beyond before the R5 zone begins.



IV. PROPOSALS

The proposal is to use the site for selling pre-owned cars. The applicant also proposes to carry out minor improvements that include narrowing of both existing curb cuts from over 40 feet to 24 feet (which involves extending the sidewalks), landscaping along the frontage, and striping to control site parking and circulation.

V. PUBLIC COMMENT

At the time of completing this report no public comments have been received. However, staff are aware that local residents were adversely affected by the previous occupier of the site and the suggested conditions of approval are intended to clarify the operational restrictions to avoid any potential impacts on neighbors.

VI. RIGHT, TITLE AND INTEREST AND FINANCIAL/TECHNICAL CAPABILITY

The deed has been submitted ([Attachment E](#)).

VII. STAFF REVIEW

A. ZONING ASSESSMENT

The site is located in the B-2 Community Business zone where automobile dealerships are permitted as a Conditional Use. The site is within a long band of B2 on the east side of Forest Avenue and is at least 90 feet from the R5 zone on the other side of the railway tracks.

The existing building is legally nonconforming in relation to the front yard setback zoning requirement. Once the use has been approved by the Planning Board, the applicant would need to get a separate permit from the Department of Permitting and Inspections to establish the use as a legal use of the property.

B. CONDITIONAL USE REVIEW (*Section 14-183*):

Sec. 14-183. Conditional uses identifies auto dealership in the B-2 zone as a conditional business use and specify that they meet the following requirements. It confirms that "the Planning Board shall be substituted for the board of appeals as the reviewing authority over conditional business uses".

The applicant has submitted a conditional use application ([Attachment C](#)) and an analysis of how the proposal complies with the conditional use standards in [Attachment F](#).

Section 14-183 specifies (in relation to automobile dealerships):

In addition to approval by the Planning Board with respect to the requirements of article V (site plan), sections 14-522 and 14-523 notwithstanding, these uses shall comply with the following conditions and standards in addition to the provisions of section 14-474:

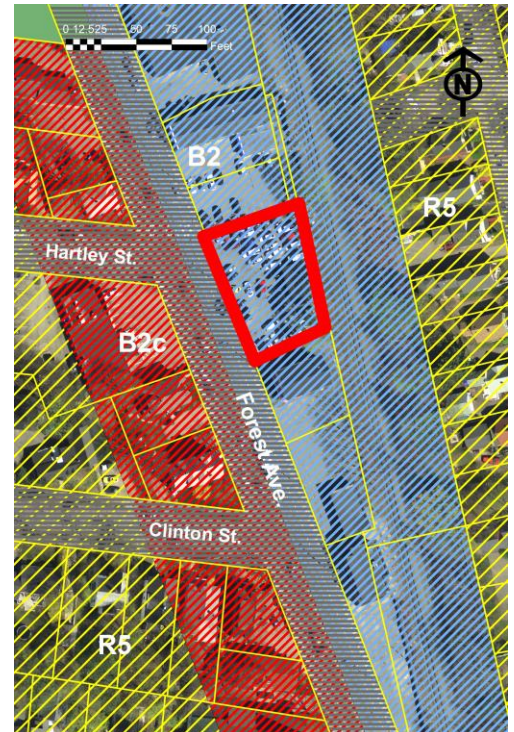
The requirements taken from the Ordinance 14-183 (a) 5 are in italics below, together with a staff comment in respect of the proposals.

- a. *Signs: Signs shall not adversely affect visibility at intersections or access drives. Such signs shall be constructed, installed and maintained so as to ensure the safety of the public. Such signs shall advertise only services of goods available on the premises.*

Staff comment: The applicant is not proposing any signs as part of the current applications. A potential condition requiring the separate sign review and approval is included in the proposed motion for the Board to consider.

- b. *Circulation: No ingress and egress driveways shall be located within thirty (30) feet from an intersection. No entrance or exit for vehicles shall be in such proximity to a playground, school, church, other places of public assembly, or any residential zone that the nearness poses a threat or potential danger to the safety of the public.*

Staff comment: This requirement is met both in the existing conditions and as proposed to be modified.



Clause 6 g.i. *A landscaped buffer, no less than five (5) feet wide, shall be located along street frontages (excluding driveways). The buffer shall consist of a variety of plantings in accordance with the City of Portland Technical Manual.*

Staff comment: The proposals include a 5 foot wide landscaped buffer along three sections of the Forest Avenue frontage, including a street tree in each of the two corner sections and low grass and shrubs in all three buffer areas (Plans P2, P3 and P4). The City Arborist, Jeff Tarling, has confirmed the proposals are acceptable (Attachment 3).

The following standards apply to all conditional uses:

Section 14-474(c)(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: Tom Errico, the Traffic Engineer, does not have any concerns regarding these aspects of the proposal as shown on the submitted plans (Attachment 4).

- 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 location of the proposed car dealership is within a large section of B2/B2c. The site abuts the railway to the east, where mature trees contribute to the buffering and screening of the site from the nearest residential zone. To the north and south are commercial premises and associated parking. Suggested conditions of approval require the use and associated activities to stay on-site to ensure noise and emissions do not impact the residential neighborhood on the other side of Forest Avenue. It should be noted that the applicant has indicated that they will limit the number of idling vehicles to a maximum of 3 (Attachment 1).

- 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 impacts of this use, assuming it remains within the site, would not differ substantially from the impacts associated with the surrounding uses or other allowable uses in the zone.

C. DEVELOPMENT REVIEW

The proposed development has been reviewed by staff for conformance with the relevant review standards of Section 14-526- Site Plan. As this is a Level I: Site Alteration Site Plan, not all of the standards are applicable and there are fewer submittal requirements. Staff comments are highlighted in this report.

1 SITE PLAN SUBMISSION REQUIREMENTS (Section 14-527)

The proposal is subject to a Level I: Site Alteration Site Plan and the submission requirements are listed in 14-527 (b). The Site Plan application (Attachment A) and submitted narratives and plans have addressed the ordinance requirements.

2 SITE PLAN STANDARDS (Section 14-526)

The proposed development has been reviewed by staff for conformance with the relevant review standards of Portland's site plan ordinance and applicable regulations. A Level I site Alteration is not subject to all of the Site Plan Standards. Staff comments are listed below.

A. Transportation Standards (1,2 and 4)

1. Impact on Surrounding Street system and 2. Access and circulation

The proposed used car dealership is located on Forest Avenue along a straight stretch of single lane traffic with good visibility; there are two existing curb cuts on the site, each about 40 feet in width. The proposed use does not have high trip generation, with limited loading and servicing. The Technical Standards allow two drives for a commercial site but the existing curb cuts do not meet City Standards in terms of width and distance from other driveways.

Tom Errico has confirmed that the retention of the two existing drives is acceptable for this particular use as long as they are improved to be more in compliance with City Standards.

The applicant has reduced existing curb cuts to meet the City standard of 24 feet and to better define their location within the sidewalk; the proposals also move the centerline of both drives so that they are further away from nearby driveways.

Tom Errico, the Traffic Engineering reviewer, has commented (Attachment 4):

I have reviewed the site plan for the project and I find it to be acceptable with the following comments:

- *A detailed review of the site access and circulation was conducted previously under a two-way circulation system. I continue to find traffic conditions to be acceptable under that scenario with the noted site improvements. The applicant has noted that a one-way circulation system is under consideration. I would note that I would find a one-way traffic circulation system to be acceptable with the entry located at the southerly driveway and the egress located opposite Hartley Street.*
- *Given limited traffic volumes entering and exiting the site and no history of safety issues (the non-compliant driveway separation isa current issue), I support a waiver from the City's Technical Standards as it relates to driveway separation. I would note that the applicant is reducing the width of driveways and better defining driveways and thus will improve upon existing conditions.*
- *The approval of the proposed driveway design is based upon the assumption that the project will not generate a significant amountof traffic. If changes in the business operations occur that increase traffic levels, the applicant shall be required to provide a review of traffic impacts associated with the change for review and approval by the City.*
- *The location of parked vehicles shall not encroach on parking circulation aisles, sidewalks and block the proposed driveways. Thenumber of vehicles allowed to park on the site shall conform to those illustrated on the site plan.*

Two suggested conditions of approval (for the conditional use application) require the applicant to address the Traffic Engineer's comments.

2. Access and circulation- Sidewalks

The proposal creates 32 feet of new sidewalk where the driveway aprons have been narrowed. The driveway aprons need some repair and the plans confirm that these will be repaired with materials approved by DPW.

DPW/Peer Engineer have commented regarding materials (Attachment 2):

It had previously been noted that the driveway aprons may be bituminous or concrete; bituminous is the current standard. It should be noted that the City of Portland will be reviewing for adoption within the next month a sidewalk material policy standard that will require that driveway aprons match adjacent sidewalks in material types. This standard has not yet been approved, but in light of the future requirement, and the fact that driveway aprons and abutting sidewalks in the area are constructed of concrete, the Department of Public Works would prefer that concrete be used for driveway aprons on this project. The narrowing/modificaiton of the existing driveways will require that portions of concrete sidewalks be constructed. Constructing concrete driveway aprons with the concrete sidewalks would

allow the same contractor to construct both. We ask that the Applicant consider this, but note that under the current standards, bituminous is allowed.

A suggested condition of approval requires the applicant to address these comments.

4. Parking Requirements

The ordinance does not specify minimum vehicle parking provision for this use. The Ordinance requires 2 bicycle parking spaces where the parking requirement is 0 to 10 vehicle parking spaces for this proposal, which have been included in the site improvements on Plan P2.

B. *Environmental Quality Standards (1 and 3)*

1. Preservation of Significant Natural Features

There are no significant natural features on this site, which is largely paved or built. There are several large trees along the rear boundary line that are not impacted by the proposal; the plans indicate that these will be preserved. Planting along the frontage at the back of the sidewalk is proposed (see conditional use review above).

3. Water quality; Stormwater Management; Erosion control:

The applicant has reduced the overall impervious surface through the addition of the planted area at the front and therefore does not trigger Chapter 500 requirements. Lauren Swett, the Peer Engineering reviewer, has commented that during the construction of the planter (and any other construction eg laying of new curbing) that:

The plans should show or note catch basin inlet protection (silt sacks) to be installed at the first down-gradient catch basin in Forest Ave during construction. The plans should state that the Forest Ave Right-of-Way shall be kept clean from dust and construction debris and swept daily or as requested by the City of Portland during construction to minimize dust and sediment originating from the site. (Att.2)

C. *Public Infrastructure and Community Safety Standards (1)*

1. Consistency with Master Plans:

The proposals do not impact city infrastructure except the repairs/sidewalk reinstatement to the drive apron areas which is discussed above.

D. *Site Design Standards (5,6,8,9)*

5. Historic Resources:

The proposed site alterations do not affect any historic resource.

6. Exterior Lighting:

The proposals do not include any specific lighting proposals. It is noted that two existing light bases are on site and if these are re-fitted or new lighting is proposed, the proposals would need to be reviewed and approved to ensure that they meet the City's Technical Standards.

The existing building includes bright lighting under the canopy (open fluorescent with no shield) and residents have stated it is on all night. This does not meet City Technical standards which require cut-off lighting and that the light levels should be halved during night time hours. A potential condition of approval is included in the motion for the Board to consider to address both of these issues.

8. Signage and Wayfinding:

The proposals do not include any new signs, but a potential condition of approval is included to clarify that any new signs would require separate permits.

9. Zoning Related Design Standards

There are B2 standards that would apply if there was a new building. The existing gas station building is legally nonconforming regarding setbacks. The B2 design standards do require landscaping and buffers, which is largely addressed by the Conditional Use requirement for a frontage buffer. Staff recommend the preservation of the mature trees along the rear of the site to address this requirement regarding the residential properties on the other side of the railway line, and this has been noted on the Site Plan (Plan P2).

VIII. STAFF RECOMMENDATION

Staff recommends that the Planning Board approve the Pre-owned Automobile Dealership conditional use and site plan, with the proposed waiver and suggested conditions of approval as outlined below.

IX. PROPOSED MOTIONS FOR THE PLANNING BOARD'S CONSIDERATION

WAIVER

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 September 13th, 2016 for application #2016-189 (783 Forest Avenue) relevant to the Portland Technical and Design Standards and Guidelines and other regulations and the testimony presented at the Planning Board hearing:

1. *Driveway Separation*

The Planning Board **waives / does not waive** the requirements of *Technical Manual Section 1.7.1.7*, which sets out standards for minimum driveway separation, to allow the existing curb cuts/driveways to remain as modified by the approved proposals in Plan P2. This waiver is based on the fact that the driveways are an existing condition with no history of safety issues, and the proposed use involves limited traffic volumes entering and exiting the site; and the applicant is reducing the width of and better defining the driveways and thus will improve upon existing conditions.

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 September 13th, 2016 for application #2016-189 (783 Forest Avenue), 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 for an Pre-owned Auto Dealership at 783 Forest Avenue in the B-2 zone **does / does not** meet the standards of Section 14-474 and the standards of Section 14-183 for the B2 zone, subject to the following conditions:

- i. That the site access/egress conditions for vehicles are considered to be acceptable in view of the low traffic generation and minimal service requirements of the used car sales use. If changes in the business operations occur on the site that increase traffic levels, the Planning Authority will require the applicant to provide a review of traffic impacts associated with the change, for review and approval by the Planning Authority; and
- ii. The location of parked vehicles shall not encroach on parking circulation aisles, sidewalks nor block the proposed driveways. The number of vehicles allowed to park on the site shall conform to those illustrated on the site plan and not exceed 20 in total (including display, customer and employee parking). Idling vehicles shall be limited to 3 at any one time; and
- iii. That no vehicles associated with this site and the dealership use shall be parked on any adjoining or nearby streets (including, but not limited to, any part of Hartley Street) nor overhang the City's right-of-way, sidewalk or property outside of the site; if such parking is documented as taking place, enforcement action may be pursued by the City; and
- iv. That all car sales and other activities associated with the car dealership use shall take place only on the privately owned part of the site. No car sales or any other activities associated with the car dealership may take place in the City right of way, sidewalk, or on property outside of the site; and
- v. A Performance Guarantee shall be posted covering the cost of the improvements shown on the approved amended plans. No cars may be parked on the site and no car sales or other activities associated with the car dealership use may take place from the site until the Performance Guarantee described herein has been posted and a Change of Use permit has been obtained from the Department of Permitting and Inspections.

Failure to comply with any of the above-stated conditions of approval, in whole or in part, shall render this approval void.

SITE PLAN

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in Planning Board Report for the public hearing on September 13th, 2016 for application #2016-189 (783 Forest Avenue), relevant to the Site Plan Ordinance and other regulations and the testimony presented at the Planning Board hearing:

The Planning Board finds that the plan **is / is not** in conformance with the site plan standards of the land use code, subject to the following conditions:

- i. No work shall commence on any site improvements until such time as the applicant has:
 - 1) posted a Performance Guarantee in accordance with the standard conditions of approval;
 - 2) obtained all required City permits including a street opening permit (obtained by a licensed contractor) from the Department of Public Works; and
 - 3) attended a mandatory preconstruction meeting with City staff.
- ii. That the site plan and detail plans shall be revised to address the Peer Engineer comments dated 9.7.2016, and to revise the location of the ADA parking, for review and approval of the Planning Authority and Department of Public Works prior to any work starting on the site; and
- iii. That the improvements to the sidewalks, aprons and curbing be completed in accordance with the City of Portland Technical Standards (which include specifications requiring granite curbing); and
- iv. That the applicant shall obtain a license from the State of Maine Bureau of Motor Vehicles prior to the start of car sales from this site; and
- v. That erosion control measures, as outlined in the Peer Engineer comments dated 9.7.2016, be in place prior to the start of construction of the planter and relocation of curbs; and
- vi. That the storage of snow shall not impede sight distance for vehicles exiting the site, and on-site parking of vehicles should not block access and egress movements; and
- vii. That no car repairs shall take place on the site unless an amended site plan is approved by the Planning Authority, with the amendments showing where and how these would be accommodated, and all other necessary permits are obtained; and
- viii. That any new lighting shall be in compliance with the site lighting requirements as set out in the City's Technical Standard 12 "Site Lighting"; and
- ix. That separate permits are required for any signs on the site prior to their installation.

Failure to comply with any of the above-stated conditions of approval, in whole or in part, shall render this approval void.

ATTACHMENTS

Report attachments

1. Approval letter February, 2015
2. Peer Engineering Comments
3. City Arborist, Jeff Tarling
4. Traffic Engineering Reviewer, Tom Errico

Public Comments (none)

Applicants submittal

- A. Cover letter
- B. Level I: Site Alteration Site Plan Application
- C. Conditional Use Application
- D. Letter of authorization and financial capability from owner
- E. Right, title and interest (deed)
- F. Conditional use analysis

Plans

- P1. Existing conditions/survey
- P2. Proposed improvements (Site Plan C2)
- P3. Curb and Sidewalk Details
- P4. Details C3