

CITY OF PORTLAND, MAINE

PLANNING BOARD

Sean Dundon, Chair
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September 18, 2018

Daniel Paisner
ScrubaDub Car Wash
172 Worcester Street
Natick, MA 01760

Tom Saucier, P.E.
Site Design Associates
23 Whitney Way
Topsham, ME 04086

Project Name: ScrubaDub Car Wash)
Address: 1185 Forest Avenue
Applicant: ScrubaDub Car Wash
Planner: Matthew Grooms

Project ID: PL-000113-2018,
CU-000120-2018
CBL: 152-B-002

Dear Mr. Paisner and Mr. Saucier:

On September 11, 2018, the Planning Board considered a Level II site plan and conditional use application to demolish an existing building (convenience store) and portion of an existing fuel canopy, stripe seven (7) new off-street parking spaces and construct a new building addition totaling 1,332 square feet for use as a convenience store at 1185 Forest Avenue in the B-2 Community Business and I-L Low-Impact Industrial zones. The use, 'expansion of an auto service station' triggers conditional use review, with relevant standards being listed under Sec. 14-183(a), which are the zone-specific standards related to automotive uses, and Sec. 14-474, which are the general conditional use standards.

The Planning Board reviewed the proposal for conformance with the standards of the Site Plan Ordinance and those Conditional Use standards as stated above. The Planning Board voted 5-0 (Dundon and Silk absent) to approve the application with the following conditions as presented below:

Conditional Use

The Planning Board voted 5-0 (Dundon and Silk absent) that the plan is in conformance with the conditional use standards of the Land Use Code (Sec. 14-183(a) and Sec. 14-474).

The approval is based on the submitted plans and the findings related to site plan review standards as contained in the Planning Report for application CU-000120-2018 which is attached.

Site Plan Review

The Planning Board voted 5-0 (Dundon and Silk absent) that the plan is in conformance with the site plan standards of the Land Use subject to the following conditions of approval:

PRIOR TO APPLYING FOR A BUILDING PERMIT:

1. The location of building and canopy mounted light fixtures shall be shown on the site plan, and an accompanying photometric plan shall be provided which demonstrates compliance with Section 12 of the City's Technical Manual. All proposed lighting shall be full cut off.
2. The applicant shall coordinate with the city's consulting traffic engineer to restrict access as necessary to the three existing driveways.
3. The applicant shall provide bicycle parking at a ratio of two (2) bicycle parking spaces for every ten (10) vehicle spaces, for a total requirement of five (5) bicycle parking spaces.

PRIOR TO ISSUANCE OF A BUILDING PERMIT:

4. The applicant shall continue to coordinate with the Department of Public Works on the development of a construction management plan.
5. The applicant shall provide 'ability to serve' letters from the Portland Water District and Central Maine Power for the proposed expansion.

ONGOING CONDITIONS OF APPROVAL:

6. The number, location and configuration of future driveway locations will be determined in conjunction with the redesign of Morrill's Corner.
7. The configuration of future parking and required landscape buffering/screening will be determined in conjunction with the redesign of Morrill's Corner.

The approval is based on the submitted plans and the findings related to site plan review standards as contained in the Planning Report for application PL-000113-2018 which is attached.

Standard Conditions of Approval

Please Note: The following standard conditions of approval and requirements apply to all approved site plans and shall be met PROR TO ISSUANCE of a building permit unless otherwise

stated:

1. Performance Guarantee and Inspection Fees A performance guarantee covering the site improvements, inspection fee payment of 2.0% of the guarantee amount and three (3) final sets of plans must be submitted to and approved by the Planning and Urban Development Department and Public Works Department prior to the release of a 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.
2. Defect Guarantee – Prior to issuance of a Certificate of Occupancy - A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
3. 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 Works 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.
4. 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 Permitting and Inspections Department.
5. Department of Public Works Permits If work or obstructions will occur within the public right-of-way, such as utilities, curb, sidewalk, driveway construction, site deliveries and equipment siting, a Street Opening and/or Occupancy Permit (s) is required for your site. Please contact the Department of Public Works Permit Clerk at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)
6. Construction Management Plans – Prior to issuance of a Certificate of Occupancy - The applicant, contractor and subcontractors are required to conform to the approved Construction Management Plan, and all conditions contained within the project's approval, for the entire duration of the project. Any amendments to the approved Construction Management Plan shall be reviewed and approved by the Department of Public Works prior to the execution. The Planning Authority and the Department of Public Works have the right to seek revisions to an approved Construction Management Plan. The applicant shall coordinate the project's construction schedule with the timing of nearby

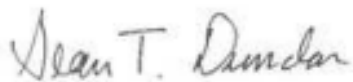
construction activities to avoid cumulative impacts on a neighborhood and prevent unsafe vehicle and pedestrian movements. Accordingly, nearby construction activities could involve a delay in the commencement of construction.

7. As-Built Final Plans – Prior to issuance of a Certificate of Occupancy - Final sets of as-built plans shall be submitted digitally to the Planning and Urban Development Department, on a CD or DVD, in AutoCAD format (*.dwg), release AutoCAD 2005 or greater.
8. Develop Site According to Plan – Ongoing Condition of Approval - 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.
9. Site Plan Expiration – Ongoing condition of approval - 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.

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 and Urban Development Department 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 Matthew Grooms at (207) 874-8725

Sincerely,



Sean Dundon, Chair
Portland Planning Board

Attachments:

1. Planning Board Report
2. Revised Planning Board Motions
3. Performance Guarantee Packet



PLANNING BOARD REPORT PORTLAND, MAINE

ScrubuDub Car Wash – New Convenience Store
1185 Forest Avenue
Level II Site Plan and Conditional Use Applications
PL-000113-2018, PL-000120-2018
B & D MEREALTY, LLC, Applicant

Submitted to: Portland Planning Board: Public Hearing Date: September 11, 2018	Prepared by: Matthew Grooms, Planner Date: September 7, 2018
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I. INTRODUCTION

B & D MEREALTY, LLC has submitted a Level II site plan and conditional use application for their property at 1185 Forest Avenue (ScrubuDub Car Wash), with the intent of relocating and expanding the convenience store, adding additional parking and reconfiguring the existing canopy layout. This property is located in both the B-2 Community Business and I-L Low Impact Industrial zoning districts, with the B-2 occupying roughly the front half of the site (closer to Forest Avenue) and the I-L occupying the rear half of the site. The proposed convenience store would be located entirely within the B-2 zone. Retail, when combined with gasoline or fuel sales, is considered an ‘auto service station’, and is defined as a conditional use in the B-2 zone, subject to the zone-specific conditional use standards, Section 14-183 and general conditional use standards, Section 14-474. Conditional use applications, when submitted in conjunction with a Level II site plan, are required to go before the Planning Board for review and approval.

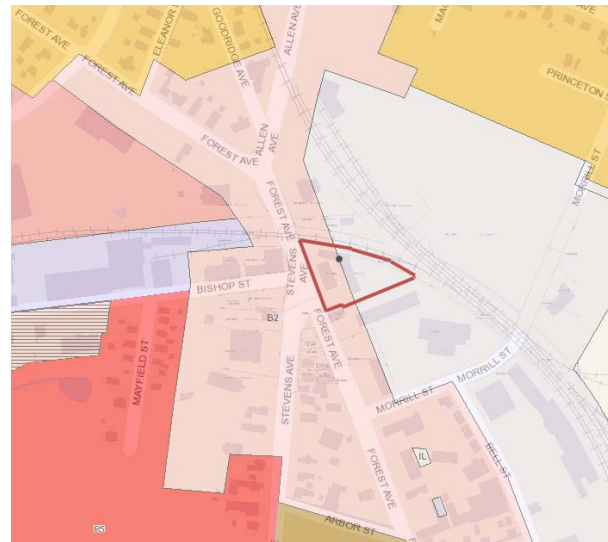


Figure 1: Project location with zoning context

A total of seventy-five (75) notices were sent to property owners within 500 feet of the site and interested party list. A legal ad ran on the August 31st and September 3rd, 2018 editions of the Portland Press Herald. As of the writing of this report, no public comments have been received by the Planning Office.

Applicant Name: Daniel E. Paisner, B & D MEREALTY, LLC

Consultants: Tom Saucier, P.E., Site Design Associates; Mark Chaloupecky, Port City Architecture; AMEC Foster Wheeler, Surveyor

II. PROJECT DATA

Existing Zoning	B-2 Community Business, I-L Low Impact Industrial zones
Existing Use	Auto Service Center with fuel sales, retail, auto detailing and car wash
Proposed Use	Same, with expanded retail, additional parking

	Existing	Proposed	Net Change
Building Footprint	542 SF	1,333 SF	791 SF
Building Floor Area	542 SF	1,333 SF	791 SF
Impervious Surface Area	49,693 SF	49,693 SF	0 SF
Parking Spaces (on site)	19	25	6
Bicycle Parking Spaces	0	0	0
Estimated Cost of Project	\$250,000		

III. PROPOSED PROJECT DESCRIPTION

A. Existing Conditions

The subject property is located at Morrill's corner in close proximity to the intersections of Forest Avenue with both Stevens Avenue and Allen Avenue. Within this immediate vicinity uses include retail, food services, medical and substance abuse facilities and low-impact industrial activities. Forest Avenue itself experiences very high traffic volumes, which has influenced review of this proposal due to the difficulty of either entering or exiting the subject site.



Figure 2: View of the site through the central curb cut. Note, the 'food mart' structure and portion of the canopy directly overhead is to be removed.

In its current configuration, the site features a large canopy under which is located two (2) pump islands with eight (8) fueling positions and a small 542 square foot convenience store. This canopy is located towards the front of the property, and separated from Forest Avenue via a two-way drive aisle of approximately twenty-eight (28) feet and a narrow four (4) foot wide box planter. To the south and east of the fuel canopy are vacuum stations, housed either beneath a brick open-air structure or as stand-alone stations. To the north of the fuel canopy is the drive-through car-wash, which can be accessed via a queuing lane that begins at the southerly most entrance and runs along the perimeter of the property.

At present, three separate curb cuts and driveways provide access to the site, with the northerly most driveway serving as the exit from the drive through car wash. With approximately 96% impervious surface, the property features very limited site landscaping and is arrayed so as to provide maneuvering space and stations for vehicle detailing along with seven (7) off-street parking spaces.

B. Proposal

The proposal involves demolition of a portion of the existing fuel canopy (approximately 1,200 square feet) as well as demolition of the small 542 square foot convenience store. This work will free up space at the northwesterly corner of the site which under this proposal would be converted to seven (7) additional off-street parking spaces. Adjacent to the existing car wash, the applicant is proposing to construct a 1,330

square foot addition that would house an expanded convenience store.

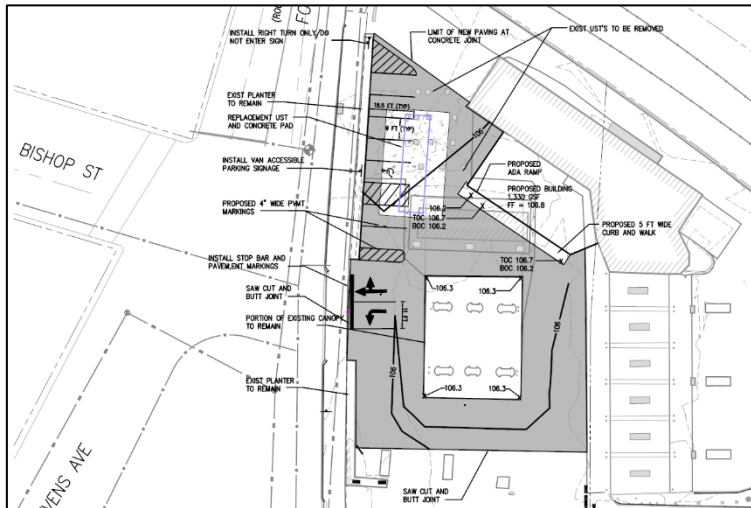


Figure 3: Proposed site plan with additional parking, reconfigured canopy and convenience store addition

The design of the addition features a largely transparent store-front with a prominent entrance identified by a canopy and placement of the wall sign. The use is clearly identifiable as retail and features building materials that are complimentary to the existing structure and other nearby uses. Materials include a red brick matched with the brick of the car wash and open-air vacuum structure, metal vertical siding tinted red, and larger metal façade panels tinted black. The structure gains further visual interest through use of a curved, asymmetrical roofline over approximately two-thirds of the proposed addition.

Aside from the improvements previously described, other proposed site work is very minimal. The applicant will be installing wall mounted LED lighting on the proposed building addition and will make minor improvements to landscaping within the existing planter areas along the property's frontage.

C. Morrill's Corner Realignment

Maine DOT, in conjunction with the City of Portland, has begun preliminary discussions regarding realignment of Morrill's Corner, with the intent of creating a more efficient and safe intersection between Bishop Street, Forest Avenue and Stevens Avenue. The preliminary concept, completed as part of the Portland-South Portland Smart Corridor Plan, conducted in 2017 (which has not been formally adopted by the City Council as an approved Master Plan), shows Stevens Avenue being realigned with the southerly driveway for the site, and a new traffic signal that would control the intersection between Stevens Avenue, Forest Avenue and this site. This realignment, according to the applicant would dramatically impact access to their site.

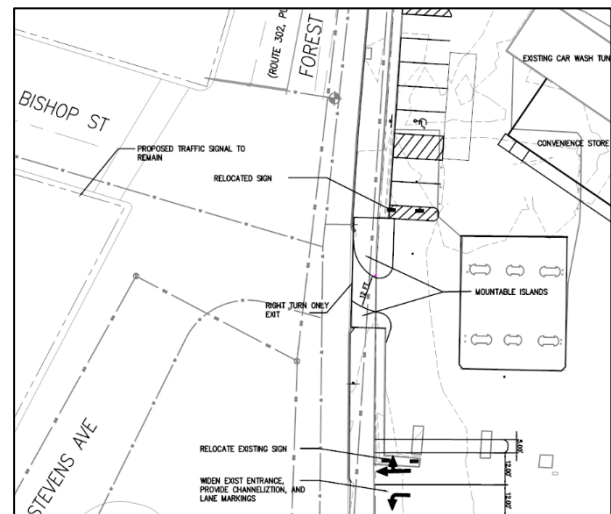


Figure 4: Conceptual Plan Developed by Applicant for Morrill's Corner Redevelopment. Note, middle driveway is reduced to single-lane exit only with mountable curb.

Initially, city staff requested that the center curb cut be closed, given that just two curb cuts are permitted per site. In response, the applicant stated that the northerly and center driveways are required for truck deliveries, and closing of that center curb-cut would be detrimental to site circulation. Additionally, under the current intersection configuration, adding additional traffic to the northerly driveway would exacerbate traffic congestion along Forest Avenue, that typically backs up to this entrance.

Due to these projected conditions, the applicant has requested that all three curb-cuts and driveways be maintained in their current condition, with the understanding that the applicant would work with MaineDOT and the City in redeveloping this intersection at a later date.

The staff are satisfied with this approach, and have encouraged the applicant to develop a conceptual reconfiguration based upon the draft concept plan, which has been provided. This plan shows the center driveway being reduced to a right-only exit with no entry, and mountable curbing for truck use.

For the reference of the Board and members of the public, other improvements to Morrill's Corner under this concept plan would be as follows:

- Creating a higher quality pedestrian environment and streetscape with street trees and other plantings that screen parking
- Relocation of the traffic signal at Bishop Street to Stevens Avenue, which would move the signal-controlled driveway movements from opposite Bishop Street (where they currently are) to opposite Stevens Avenue
- Creating bicycle lanes through the intersection

IV. PUBLIC COMMENT

As of the writing of this report, no public comments have been received by the Planning Division. Further, since this is a Level II Site Plan, no neighborhood meeting was required.

V. RIGHT, TITLE & INTEREST

The applicant has provided a deed demonstrating ownership of the subject property (Attachment F).

VI. FINANCIAL AND TECHNICAL CAPACITY

The estimated cost of the project is \$250,000, and the owner has indicated that proposal will be self-financed (Attachment G). In terms of technical capacity, the applicant has provided a profile of architectural and engineering consultants working on the project (Attachment H).

VII. ZONING ANALYSIS

A. Dimensional Requirements:

Given that this proposal involves redevelopment of an existing site, it is not required that all dimensional requirements of the zone be met, only that their level of non-conformity not be increased. For example, the proposal does not meet pavement setbacks required under the I-L zone or impervious surface requirements for either the B-2 or I-L zones. Respectively, the proposed pavement setback is between three (3) and four (4) feet whereas the requirement is fifteen (15) feet, and the amount of impervious surface is measured at 96%, whereas the requirement is 80% for the B-2 zone and 60% for the I-L zone. Aside from these two standards, the proposal was found to meet all other applicable dimensional requirements.

B. Conditional Use Review:

As stated in the introduction, the expansion of the 'auto service station' use, triggers a conditional use review by the Planning Board of compliance with the zone-specific conditional use standards, Section 14-183, and the general conditional use standards, Section 14-474.

- a. Section 14-183(a) – Auto-Oriented Conditional Uses in the B-2

- i. Standard - A landscape buffer, no less than 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
 - 1. Applicant Response: An existing buffer in the form of a raised planter which may be slightly less than 5 feet in width, runs along the street frontage.
 - 2. Staff Discussion: Given site constraints and maneuvering requirements for delivery vehicles, the staff is satisfied with a limited vegetative buffer, though the staff have suggested more substantial and permanent plantings along the property's frontage. A draft condition of approval to this effect has been included in the Planning Board motion.

- ii. Standard – Car washes shall be designed to avoid tracking of residual waters into the street.
 - 1. Applicant Response: A trench drain is located northeasterly of the car wash exit to collect residual car wash water and minimize tracking into the street.
 - 2. Staff Discussion: Staff understand that the redevelopment of Morrill’s corner will likely require upgrades to existing storm drain infrastructure for the site, including this trench drain. Based upon this fact and the applicant’s assertion that the drain is operating effectively, the staff are satisfied that this standard is being met.

b. Section 14-474 – General Conditional Use Standards

- i. Standard – 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
 - 1. Applicant Response: Trip generation for a convenience store with fuel pumps is based on an average of the trip generation for the convenience store and the trip generation for the fueling positions. In this case, there is also a car wash located on the site, but because the car wash will remain as is, with no expansion, the trip generation estimate for the store was based on the fueling positions and car wash square footage. Based on the ITE trip generation manual, 9th addition:

Existing Site		
	AM Peak Hour	PM Peak Hour
542 sf convenience store	22	28
8 fueling positions	133	153
Average Trips	75	91
Total Existing Trips	75	91
Proposed Site		
1,333 sf convenience store	55	68
8 fueling positions	133	153
Average Trips	94	111
Total Proposed Trips	94	111

As noted, AM and PM peak hour trips are estimated to increase 19 and 20 trips respectively. Neither estimated increase will significantly impact the surrounding streets or driveway operations.

Hours of operation will remain unchanged as a result of the improvements, there will be no increase in the pavement area, and the number of parking spaces required are not significantly greater than existing, nor is the number significantly greater than surrounding or other permitted uses.

The provision of formal parking spaces on the site, along with improved circulation due to the relocation of the existing store and removal of a portion of the canopy, both enhance site circulation.

2. Staff Discussion: The City's Traffic consultant, Tom Errico, reviewed the proposal and was satisfied that the proposed expansion would not have a detrimental impact on the surrounding street-scape, and would be comparable to other uses within the vicinity. Mr. Errico has requested several alterations to the plan that would facilitate better site access and circulation. (for more details please see discussion under site plan review standards (Attachment 1)). These alterations have been drafted as conditions of approval.

The staff acknowledge that hours of operation are not to change, that the pavement is not to expand and that parking space counts are not dramatically increasing nor out of context with surrounding uses.

Assuming that the changes requested by Mr. Errico are implemented, the staff find that this conditional use standard has been met.

- ii. Standard – 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.
 1. Applicant Response: The proposed use will remain relatively unchanged from the existing use in size and scope. The new store will be connected to the existing water and sewer services. No new activities impacting the existing noise levels, lighting, odor, glare, dust, litter or emissions are proposed.
 2. Staff Discussion: The staff agrees with the applicant's assessment and finds this standard to have been met.
- iii. 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.
 1. Applicant Response: The design and operation of the proposed use will remain relatively unchanged from existing conditions, including but not limited to

landscaping, screening, signs, loading, deliveries, trash or waste generation, arrangement of structures, and material storage and therefore will not have a substantially greater effect/impact on surrounding properties than those associated with surrounding uses or other allowable uses in the zone.

2. Staff Discussion: The staff agrees with the applicant's assessment and in review of this project, requested that more substantial buffer plantings be provided to screen this site, which has been made a draft condition of approval. Assuming this condition is met, the staff finds the project to be in compliance with this standard.

VIII. SITE PLAN REVIEW

Due to the scope of this project, the proposal before the Board is a Level II Site Plan, typically reviewed at the administrative level. However, given that the conditional use component of this project requires Planning Board review, the staff are also having the Planning Board review the plan for compliance with the city's site plan standards. A list of those standards and discussion of compliance can be seen below.

A. Transportation Standards

a. Impact on Surrounding Street Systems

As stated under the conditional use review section, the proposal involves the addition of nineteen (19) AM and twenty (20) PM Peak Hour trips, which according to Mr. Errico, will not have a detrimental impact on roadway capacity. In addition, the staff acknowledge that additional site improvements will be required at the time of the Morrill's Corner realignment project occurs, and is satisfied that street integration at present, given that this is an existing site being only partially redeveloped.

b. Access and Circulation

To improve site access and circulation, Mr. Errico is requesting that the following improvements be made, which have been drafted as conditions of approval (Attachment 1):

- i. An entry arrow shall be installed for the main middle driveway
- ii. A right-turn exit arrow shall be installed for the northerly driveway
- iii. An entry arrow shall be installed for the southerly driveway. A "Do Not Enter" sign shall be installed reinforcing the entry only condition.

c. Public Transit Access

The proposed project is located less than a quarter mile from the nearest transit stop as required by the site plan ordinance.

d. Parking

Per Division 20, the city's off-street parking standards, no parking is required for retail uses under 2,000 square feet in area. The proposed convenience store totals just 1,330 square feet, and a total of fifteen (15) parking spaces are being provided, including those located at fuel pumping stations.

e. Transportation Demand Management (TDM)

A TDM plan is not required.

B. Environmental Quality Standards

a. Preservation of Significant Natural Features

There are no known significant natural features on the site.

- b. Landscaping and Landscape Preservation
With an impervious surface area of approximately 96%, there is extremely limited on-site landscaping. Jeff Tarling, the City Arborist, has reviewed the proposal and made the following recommendation to augment on-site landscaping (Attachment 4). The recommendation has been incorporated into the updated landscaping plan.

- i. Recommendations for the 1185 Forest Avenue project would be to add into the landscape 3 groups of ornamental grasses that would give the landscape more of a 3-season appeal and help screen or buffer the site without causing a hinderance to traffic movements or security. The three beds would likely contain 6 or 7 plants each, 3 gallon size.

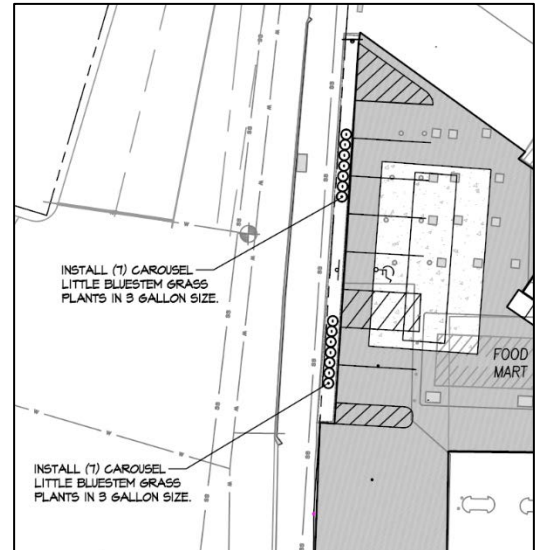


Figure 5: Updated Plan showing placement of ornamental grasses.

We like the Little Bluestem Grasses, there are a number of cultivars, 'Carousel' is one of the recommended types.

- c. Water Quality/Storm Water Management/Erosion Control
The proposal before the Board involves a zero-net gain in impervious surface, and as such, the applicant was not required to meet Maine DEP Chapter 500 Flooding or General Standards. Further, given that the total non-roof redevelopment consists of fewer than 5,000 square feet, the applicant is not required to meet the Maine DEP Chapter 500 Redevelopment standard. The Basic Standard, which pertains to erosion and sedimentation control, has been met by the applicant (Attachment 2).

C. Public Infrastructure and Community Safety Standards

- a. Consistency with Related Master Plans
While not an approved Master Plan, the 'Portland-South Portland Smart Corridor Study' conducted in 2017 has influenced discussions pertaining to this project. Initially, the staff suggested closing the middle curb-cut, in line with the city's transportation/traffic standards. However, after discussing site constraints with the applicant and uncertainty surrounding future improvements to Morrill's Corner, the staff are no longer pursuing closure of this curb cut at this time. A concept plan was drafted by the applicant showing a potential reconfiguration based upon the draft corridor study (Plan 7).
- b. Public Safety and Fire Prevention
Chief Thompson with the Portland Fire Department has reviewed the proposal and has indicated that he is satisfied with the proposal as shown.
- c. Availability and Capacity of Public Utilities

The staff have requested ‘ability to serve’ letters from the Portland Water District and Central Maine Power to confirm adequate utility capacity. Submission of these letters has been drafted as a condition of approval.

D. Site Design Standards

a. Massing, Ventilation and Wind Impact

The proposal is not anticipated to have adverse impacts related to massing, ventilation or wind.

b. Shadows

No shadow impacts on publicly accessible open spaces are anticipated

c. Snow and Ice Loading

Based upon the roof design, the staff is not concerned with snow or ice loading, as accumulated snow and ice is directed away from pedestrian areas, and is not within the vicinity of adjacent properties or public rights of way.

d. View Corridors

The site is not located within an established view corridor and is not anticipated to cause adverse impacts to view protection areas within the city.

e. Historic Resources

The site is not located within or near an established historic district.

f. Exterior Lighting

According to the applicant, site lighting levels should actually be reduced from the existing condition. New lighting will consist of wall pack LED lighting attached to the convenience store and intended for low-level lighting of the building’s convenience store entrance (Attachment I).

The staff is recommending a condition of approval that a lighting plan for the building mounted and canopy lights be submitted for review and approval against the city’s technical standards.

g. Noise and Vibration

The proposal is not expected to result in adverse impacts related to noise or vibration.

h. Signage and Wayfinding

A wall-sign is proposed over the convenience store entrance that is complimentary to existing signage and the size and scale of the building. The applicant is aware that a separate sign permit will be required and that approval of this application does not constitute approval of the sign illustrated on the building’s elevations.

i. Zoning Related Design Standards

The project at 1185 Forest Avenue was reviewed by Caitlin Cameron, Urban Designer, Matt Grooms, Planner, and Shukria Wiar, Planner, against the B-2 Commercial Business Zones Standards (Section (d) of the City of Portland Design Manual).

Design Review Comments (Attachment 3): (Questions and unmet standards in red)

(d) B-2 Commercial Business Zones

Standard (1) a. Urban Street Wall – Proposal is an addition to an existing building set away from the street; many blocks within this context do not establish a strong street wall. The building, though not at the street, does extend towards the street and improves the existing condition. **Staff would like to see a more permanent and durable planter edge or landscape with height that provides screening and holds this edge between the sidewalk and property – existing conditions are low, wood timber edges that do not screen, are not urban in character.**

Standard (1) b. Mixed Uses – Not applicable

Standard (1) c. Building Entrances – The addition provides a new, more visible entrance into the store portion of the building oriented towards the street. Door is emphasized with an awning, glass, and signage.

Standard (1) d. Windows – Windows are provided along street frontage as required – high level of fenestration, **.7 VT transparent glass required.**

Standard (1) e. Façade Character – The addition is creating a more active portion of the building with high transparency of the storefront windows – oriented towards the street but not adjacent given the existing conditions.

Standard (1) f. Building Design – Building design conveys its commercial nature and uses a curved roof to add dynamic, commercial character to a one-story building. Though this form does not copy the existing building forms, staff found it to be compatible given the varied character found in the context and also considering that the building is set back from the street and an addition to an existing, one-story building.

Standard (1) g. Building Materials – The project uses brick to match existing, metal panel with storefront, and a standing seam metal roof. The surrounding context is varied in materials, quality, and character but often with low-rise, traditional brick or clapboard and some industrial and commercial buildings. Staff review found that the building is sufficiently compatible using the existing brick to fit into the existing building and surrounding context with the metal being appropriate for the kind of building and reflecting the commercial use in a neighborhood that has many materials used.

Standard (1) h. Building Scale – Not applicable

Standard (1) i. Landscaping and Buffers – Site includes fences on property edges. Low planters exist between site and sidewalk, **however, staff would like to see understory plantings that provide screening between the sidewalk and site to meet this standard.** Neighboring uses are rail line and storage – not sensitive uses.

Based upon the comments from the City’s Urban Designer, the staff have drafted a condition of approval requiring that an updated landscape plan be submitted, showing more substantial and permanent buffer plantings that provide a suitable edge for the site and adequate screening of the site.



Figure 6: Proposed Building Elevation

**IX. STAFF
RECOMMENDATIONS**

The Planning Division recommends approval of the Level II Site Plan and Conditional Use application with the recommended conditions of approval listed under the proposed Planning Board motion.

VI. PROPOSED MOTIONS

A. Development Review

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 11, 2018 for application PL-000113-2018 relevant to the site plan 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 of approval:

Prior to applying for a Building Permit

1. The applicant shall provide 'ability to serve' letters from the Portland Water District and Central Maine Power for the proposed expansion.
2. The location of building and canopy mounted light fixtures shall be shown on the site plan, and an accompanying photometric plan shall be provided which demonstrates compliance with Section 12 of the City's Technical Manual. All proposed lighting shall be full cut off.
3. The applicant shall submit an updated site plan that addresses Tom Errico's comments dated September 7, 2018, which request the following improvements:
 - a. An entry arrow shall be installed for the main middle driveway
 - b. A right-turn exit arrow shall be installed for the northerly driveway
 - c. An entry arrow shall be installed for the southerly driveway. A "Do Not Enter" sign shall be installed reinforcing the entry only condition.
4. Per Design Review comments dated August 27, 2018, the applicant shall submit an updated landscape plan to be reviewed and approved by the City Arborist and Urban Designer. The plan shall include a more substantial planter that provides an appropriate edge along the site and offers additional site buffering.
5. The applicant shall provide bicycle parking at a ratio of one bicycle parking space for every ten (10) vehicle spaces, for a total requirement of five (5) bicycle parking spaces.

Prior to Issuance of a Building Permit

6. The applicant shall continue to coordinate with the Department of Public Works on the development of a construction management plan.

Ongoing Conditions of Approval

7. The number, location and configuration of future driveway locations will be determined in conjunction with the redesign of Morrill's Corner.
8. The configuration of future parking and required landscape buffering/screening will be determined in conjunction with the redesign of Morrill's Corner.

B. Conditional Use Review

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 application PL-000120-2018 relevant to the conditional use standards as listed under Sections 14-183(a) and 14-474 of the land use code; and the testimony presented at the planning board hearing, the Planning Board finds that the plan **[is or is not]** in conformance with the conditional use standards of the land use code.

VII. ATTACHMENTS

STAFF REVIEW

1. Final Traffic Review Comment
2. Final Stormwater and Utility Review Comments
3. Final Design Review Comments
4. Landscaping Comment

APPLICANT'S SUBMITTAL

- A. Cover Letter with Technical Assessment
- B. Site Plan Application
- C. Checklist for Level II and III Site Plan
- D. Conditional Use Application
- E. Checklist for Conditional Use
- F. Right, Title & Interest
- G. Financial Capacity
- H. Technical Capacity
- I. Lighting Cut Sheet
- J. Zoning Analysis
- K. Response Letter 07.24.2018
- L. Response Letter 08.22.2018
- M. Response Letter – Landscape Comments
- N. Portland Water District Correspondence
- O. Construction Management Plan

PLANS

- | | |
|--------|---|
| Plan 1 | Boundary Survey |
| Plan 2 | Existing Conditions Plan |
| Plan 3 | Site Plan |
| Plan 4 | Architectural Elevations and Renderings |
| Plan 5 | Landscape Plan |
| Plan 6 | Erosion Control Plan & Details |
| Plan 7 | Concept Site Plan – Morrill's Corner Redevelopment Scenario |

REVISED MOTIONS – 1185 Forest Avenue – ScrubaDub Car Wash

A. Development Review

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 11, 2018 for application PL-000113-2018 relevant to the site plan 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 of approval:

Prior to applying for a Building Permit

1. The location of building and canopy mounted light fixtures shall be shown on the site plan, and an accompanying photometric plan shall be provided which demonstrates compliance with Section 12 of the City's Technical Manual. All proposed lighting shall be full cut off.
2. The applicant shall coordinate with the city's consulting traffic engineer to restrict access as necessary to the three existing driveways.
3. The applicant shall provide bicycle parking at a ratio of one bicycle parking space for every ten (10) vehicle spaces, for a total requirement of five (5) bicycle parking spaces.

Prior to Issuance of a Building Permit

4. The applicant shall continue to coordinate with the Department of Public Works on the development of a construction management plan.
5. The applicant shall provide 'ability to serve' letters from the Portland Water District and Central Maine Power for the proposed expansion.

Ongoing Conditions of Approval

6. The number, location and configuration of future driveway locations will be determined in conjunction with the redesign of Morrill's Corner.
7. The configuration of future parking and required landscape buffering/screening will be determined in conjunction with the redesign of Morrill's Corner.

B. Conditional Use Review

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 application PL-000120-2018 relevant to the conditional use standards as listed under Sections 14-183(a) and 14-474 of the land use code; and the testimony presented at the planning board hearing, the Planning Board finds that the plan [**is or is not**] in conformance with the conditional use standards of the land use code.



Jeff Levine, AICP

Director, Planning & Urban Development Department

Performance Guarantee, Inspection Fee, and Infrastructure Financial Contribution Packet

A. Site Plan/Subdivision Performance Guarantees Required

Portland's Land Use Code requires all developers with approved site plan and/or subdivision applications to submit a performance guarantee to the City prior to the start of any construction or site improvements. The performance guarantee represents 100% of the total cost of site improvements, as determined by the City. The code further requires developers to pay an inspection fee of 2% of the performance guarantee amount to the City for the administrative costs associated with inspecting construction activity to ensure that it conforms with plans and specifications. (Portland's Land Use Code, Sections 14-501 and 14-530)

B. Cost Estimate Form and Inspection Fee

The performance guarantee covers major site improvements related to site plan and subdivision review, such as paving, roadway, utility connections, drainage, landscaping, lighting, etc. Please submit an itemized cost estimate form to determine the detailed costs of both public and private site improvements to the Planning Division for review and approval. The cost estimate form is shown as [Attachment 1](#) and also available in excel format for your convenience. The approved amount on the Cost Estimate form is the amount to be covered by the performance guarantee and is the basis for calculating the 2% inspection fee.

C. Acceptable Types of Performance Guarantees

The accepted forms of a performance guarantee, covering the amount approved on the Cost Estimate form, must be one of the following options consistent with the attached templates, with **NO** exceptions:

1. A letter of credit from a bank/credit union (Attachment 2)
2. A deposit into a bank-held escrow account (Attachment 3)
3. A deposit into a City-held escrow account (Attachment 4)

NOTE: No land use application of any kind shall be processed, reviewed or issued, no signed subdivision plat shall be released or recorded, and no building permit of any kind shall be issued unless all fees have been paid and every aspect of the proposed development is in compliance with City Codes as determined by the Development Review Coordinator in the Planning Division.

The developer is eligible to receive up to three reductions from the performance guarantee in a calendar year equal to the estimated cost of the completed improvements. In no case, however, shall any performance guarantee be reduced 1) in any line item where improvements remain to be completed; or 2) to a value which is less than the estimated cost of completing all remaining required improvements; or 3) to a value less than 10% of the Performance Guarantee.

At the conclusion of the project, the City will release 90% of the performance guarantee after the Development Review Coordinator determines that site improvements have been satisfactorily completed at the time of the final inspection. The City will then retain a 10% defect guarantee to cover the workmanship and durability of materials used in construction. The defect guarantee will be released one (1) year from date of acceptance, subject to the Development Review Coordinator inspecting the site and finding it in compliance with the approved site plan.

D. Housing Replacement Performance Guarantees

For those projects that are subject to Portland's Housing Preservation and Replacement Ordinance (Section 24-483) and have an approved plan, then a performance guarantee is required for housing replacement. An owner or developer must post a performance guarantee in the form of a letter of credit in the amount equivalent to the amount the applicant would have been required to contribute to the City's Housing Fund, if the applicant had chosen that option. The guarantee shall be valid for no more than three years, after which the full amount shall be provided to the City's Housing Trust Fund, if replacement units meeting the code do not have certificates of occupancy. The guarantee can be released upon the issuance of a certificate of occupancy for the replacement units. A suggested template for a Housing Replacement Performance Guarantee is included as Attachment 5.

E. Infrastructure Accounts

Contributions to infrastructure accounts may be required as part of the conditions of site plan approval. The contributions must be submitted prior to the issuance of any permits, unless stated otherwise in the approval. The form for submitted required contributions is included as Attachment 6.

F. Administrative Process for Submitting Performance Guarantee

- **Step 1 - Cost Estimate**
Submit completed cost estimate form to Planning Division for review and approval. Once approved, use this total amount as the performance guarantee amount in Step 2.
- **Step 2 - Performance Guarantee**
Complete a draft of 1 of the 3 attached performance guarantee templates, inputting project specific information into blank and bracketed areas, and submit to the Planning Division for final approval. Once staff approved the draft, the applicant shall submit the official signed original performance guarantee document, which for option 1) or 2) must be on Bank/Credit Union letterhead with original signatures.
- **Step 3 - Submit Performance Guarantee, Inspection Fee, and Infrastructure Contributions**
Submit the final original Performance Guarantee, the required inspection fee, and any infrastructure contributions to the Planning Division. The Planning Division will confirm that the final documents are accurate and acceptable.
- **Step 4 - Release of Recording Plat and Permits**
Only after the performance guarantee is issued, fees paid, and all other conditions of site plan approval and compliance are met, will the recording plat be released for recording at the Cumberland County Registry of Deeds and/or City permits issued.

Contact: Please email the cost estimate form to jdealaman@portlandmaine.gov

After the cost estimate is approved, all subsequent paperwork can be submitted by mail to 389 Congress Street, 4th Floor, Portland, ME 04101, Attn: James Dealaman.

Please call 207-874-8721 with any questions.

Attachments

1. Cost Estimate of Improvements Form
2. Performance Guarantee Letter of Credit Form (with private financial institution)
3. Performance Guarantee Escrow Account Form (with private financial institution)
4. Performance Guarantee Escrow Form with the City of Portland
5. Housing Replacement Performance Guarantee Form
6. Infrastructure Financial Contribution Form with the City of Portland

6. SITE LIGHTING	_____	_____	_____	_____	_____	_____
7. EROSION CONTROL						
Silt Fence	_____	_____	_____	_____	_____	_____
Check Dams	_____	_____	_____	_____	_____	_____
Pipe Inlet/Outlet Protection	_____	_____	_____	_____	_____	_____
Level Lip Spreader	_____	_____	_____	_____	_____	_____
Slope Stabilization	_____	_____	_____	_____	_____	_____
Geotextile	_____	_____	_____	_____	_____	_____
Hay Bale Barriers	_____	_____	_____	_____	_____	_____
Catch Basin Inlet Protection	_____	_____	_____	_____	_____	_____
8. RECREATION AND OPEN SPACE AMENITIES	_____	_____	_____	_____	_____	_____
9. LANDSCAPING (Attach breakdown of the quantities of plant material and unit costs)	_____	_____	_____	_____	_____	_____
10. MISCELLANEOUS	_____	_____	_____	_____	_____	_____
TOTAL:	_____	_____	_____	_____	_____	_____
GRAND TOTAL:	_____	_____	_____	_____	_____	_____

INSPECTION FEE (to be filled out by the City)

	PUBLIC	PRIVATE	TOTAL
A: 2.0% of totals:	_____	_____	_____
<u>or</u>			
B: Alternative Assessment:	_____	_____	_____
Assessed by:	_____	_____	_____
	(name)	(name)	

TEMPLATE – PERFORMANCE GUARANTEE LETTER OF CREDIT

SITE PLAN/SUBDIVISION
PERFORMANCE GUARANTEE
LETTER OF CREDIT
[ACCOUNT NUMBER]

[Date]

Jeff Levine
Director of Planning and Urban Development
City of Portland
389 Congress Street
Portland, Maine 04101

Re: [Insert: Name of Applicant]
[Insert: Address of Project, Portland, Maine]
[Insert: Application ID #]

[Insert: Name of Bank/Credit Union] (hereinafter referred to as “Bank”) hereby issues its Irrevocable Letter of Credit for the account of [Insert: Name of Applicant] (hereinafter referred to as “Applicant”), held for the exclusive benefit of the City of Portland, in the aggregate amount of [Insert: amount of original performance guarantee]. These funds represent the estimated cost of installing site improvements as depicted on the [Insert: subdivision and/ or site plan], approved on [Insert: Date] and as required under the City of Portland Code of Ordinances Chapter 14 §§ 501, 530 and Chapter 25 §§ 46-65.

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on this Letter of Credit by presentation of a sight draft and the Letter of Credit and all amendments thereto, up to thirty (30) days before or sixty (60) days after its expiration, stating any one of the following:

1. the Applicant has failed to satisfactorily complete the work on the improvements contained within the [Insert: subdivision and/ or site plan] approval, dated [Insert date]; or
2. the Applicant has failed to deliver to the City a deed containing the metes and bounds description of any streets, easements or other improvements required to be deeded to the City; or
3. the Applicant has failed to notify the City for inspections.

In the event of the Bank’s dishonor of the City’s sight draft, the Bank shall inform the City in writing of the reason or reasons thereof within three (3) business days of the dishonor.

After all underground work has been completed and inspected to the satisfaction of the City, including but not limited to sanitary sewers, storm drains, catch basins, manholes, electrical conduits, and other required improvements constructed chiefly below grade, the City may authorize the Bank, by written certification, to reduce the available amount of the escrowed money by a specified amount.

The City of Portland Code of Ordinances Chapter 14 §§ 503 requires the duration of the performance guarantee term to be at least one year. This Letter of Credit will automatically expire on **[Insert date one year from the date of this Letter of Credit]** or on the date when the City determines that all improvements guaranteed herein are satisfactorily completed, whichever is later (“Expiration Date”), provided that the expiration date does not fall between October 30th and April 15th. It is a condition of this Letter of Credit that the expiration date be automatically extended without amendment for period(s) of one year each from the current Expiration Date hereof, or any future Expiration Date, unless within thirty (30) days prior to any expiration, the Bank notifies the City by certified mail (restricted delivery to Brendan O’Connell, Director of Finance, City of Portland, 389 Congress Street, Portland, Maine 04101) that the Bank elects not to consider this Letter of Credit renewed for any such additional period.

In the event of such notice, the City, in its sole discretion, may draw hereunder by presentation of a sight draft drawn on the Bank, accompanied by this Letter of Credit and all amendments thereto, and a statement purportedly signed by the Director of Planning and Urban Development, at Bank’s offices located at _____ stating that:

this drawing results from notification that the Bank has elected not to renew its Letter of Credit No. _____.

On its Expiration Date or on the date the City determines that all improvements guaranteed by this Letter of Credit are satisfactorily completed, this Performance Guarantee Letter of Credit shall be reduced by the City to ten (10) percent of its original amount and shall automatically convert to an Irrevocable Defect Letter of Credit. Written notice of such reduction shall be forwarded by the City to the Bank. The Defect Letter of Credit shall ensure the workmanship and durability of all materials used in the construction of the **[Insert: subdivision and/ or site plan]** approval, dated **[Insert: Date]** as required by City Code §14-501, 530 and shall automatically expire one (1) year from the date of its creation (“Termination Date”).

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on the Defect Letter of Credit by presentation of a sight draft and this Letter of Credit and all amendments thereto, at Bank’s offices located at _____, prior to the Termination Date, stating any one of the following:

1. the Applicant has failed to complete any unfinished improvements; or
2. the Applicant has failed to correct any defects in workmanship; or
3. the Applicant has failed to use durable materials in the construction and installation of improvements contained within the **[Insert: subdivision and/ or site improvements]**.

Date: _____

By: _____

[Name]
[Title]
Its Duly Authorized Agent

TEMPLATE –ESCROW ACCOUNT WITH FINANCIAL INSTITUTION

SITE PLAN/SUBDIVISION

PERFORMANCE GUARANTEE

ESCROW ACCOUNT WITH FINANCIAL INSTITUTION

[ACCOUNT NUMBER]

[Date]

Jeff Levine
Director of Planning and Urban Development
City of Portland
389 Congress Street
Portland, Maine 04101

Re: [Insert: Name of Applicant]
[Insert: Address of Project, Portland, Maine]
[Insert: Application ID #]

[Insert: Name of Bank/Credit Union] (hereinafter referred to as “Bank”) hereby certifies to the City of Portland that [Bank] will hold the sum of [Insert: amount of original performance guarantee] in an interest-bearing account established with the Bank. These funds shall be held for the exclusive benefit of the City of Portland and shall represent the estimated cost of installing site improvements as depicted on the [Insert: subdivision and/or site plan], approved on [Insert: date] as required under the Portland Code of Ordinances Chapter 14 §§ 501, 530 and Chapter 25 §§ 46-65. All costs associated with establishing, maintaining and disbursing funds from the Escrow Account shall be borne by [Insert: Applicant].

[Bank] will hold these funds as escrow agent for the benefit of the City subject to the following:

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw against this Escrow Account by presentation of a draft in the event that:

1. the Applicant has failed to satisfactorily complete the work on the improvements contained within the [Insert: subdivision and/ or site plan] approval, dated [Insert date]; or
2. the Applicant has failed to deliver to the City a deed containing the metes and bounds description of any streets, easements or other improvements required to be deeded to the City; or
3. the Applicant has failed to notify the City for inspections.

In the event of the Bank’s dishonor of the City’s sight draft, the Bank shall inform the City in writing of the reason or reasons thereof within three (3) business days of the dishonor.

After all underground work has been completed and inspected to the satisfaction of the City, including but not limited to sanitary sewers, storm drains, catch basins, manholes, electrical conduits, and other required improvements constructed chiefly below grade, the City may authorize the [Bank], by written certification, to reduce the available amount of the escrowed

money by a specified amount.

The City of Portland Code of Ordinances Chapter 14 §§ 503 requires the duration of the performance guarantee term to be at least one year. This Escrow Account will automatically expire on **[Insert date one year from the date of this Escrow Account]** or on the date when the City determines that all improvements guaranteed herein are satisfactorily completed, whichever is later (“Expiration Date”), provided that the expiration date does not fall between October 30th and April 15th. It is a condition of this Escrow Account that the expiration date be automatically extended without amendment for period(s) of one year each from the current Expiration Date hereof, or any future Expiration Date, unless within thirty (30) days prior to any expiration, the Bank notifies the City by certified mail (restricted delivery to Brendan O’Connell, Director of Finance, City of Portland, 389 Congress Street, Portland, Maine 04101) that the Bank elects not to consider this Escrow Account renewed for any such additional period.

In the event of such notice, the City, in its sole discretion, may draw against the Escrow Account by presentation of a sight draft drawn on the Bank and a statement purportedly signed by the Director of Planning and Urban Development, at Bank’s offices located at _____ stating that:

this drawing results from notification that the Bank has elected not to renew its Escrow Account No. _____.

On its Expiration Date or on the date the City determines that all improvements guaranteed by this Escrow Account are satisfactorily completed, this Performance Guarantee shall be reduced by the City to ten (10) percent of its original amount and shall automatically convert to an Irrevocable Defect Guarantee. Written notice of such reduction shall be forwarded by the City to the Bank. The Defect Guarantee shall ensure the workmanship and durability of all materials used in the construction of the **[Insert: subdivision and/ or site plan]** approval, dated **[Insert: Date]** as required by City Code §14-501, 530 and shall automatically expire one (1) year from the date of its creation (“Termination Date”).

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on the Defect Guarantee by presentation of a sight draft at Bank’s offices located at _____, prior to the Termination Date, stating any one of the following:

1. the Applicant has failed to complete any unfinished improvements; or
2. the Applicant has failed to correct any defects in workmanship; or
3. the Applicant has failed to use durable materials in the construction and installation of improvements contained within the **[Insert: subdivision and/ or site improvements]**.

Date: _____

By: _____

[Name]

[Title]

Its Duly Authorized Agent

Seen and Agreed to: **[Applicant]**

By: _____

TEMPLATE - PERFORMANCE GUARANTEE ESCROW ACCOUNT
with the City of Portland

Applicant’s Tax Identification Number: _____

Applicant’s Name and Mailing Address: _____

City Account Number: _____

Application ID #: _____

Application of _____ [Applicant] for _____ [Insert
street/Project Name] at _____ [Address], Portland, Maine.

The City of Portland (hereinafter the “City”) will hold the sum of \$_____ [amount of performance
guarantee] on behalf of _____ [Applicant] in a noninterest bearing account
established with the City. This account shall represent the estimated cost of installing
_____ [insert: subdivision and/ or site improvements (as applicable)] as depicted
on the subdivision/site plan, approved on _____ [date] as required under the Portland Code of
Ordinances Chapter 14 §§ 501, 530and Chapter 25 §§46-65.

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw
against this Escrow Account in the event that:

1. the Applicant has failed to satisfactorily complete the work on the improvements contained within
the _____ [insert: subdivision and/ or site improvements (as applicable)]
approval, dated _____ [insert date]; or
2. the Applicant has failed to deliver to the City a deed containing the metes and bounds description
of any streets, easements or other improvements required to be deeded to the City; or
3. the Applicant has failed to notify the City for inspections in conjunction with the installation of
improvements noted in paragraph one.

The Director of Planning and Urban Development may draw on this Guarantee, at his/her option, either
thirty days prior to the expiration date contained herein, or s/he may draw against this escrow for a period
not to exceed sixty (60) days after the expiration of this commitment; provided that the Applicant, or its
representative, will give the City written notice, by certified mail (restricted delivery to Brendan O’Connell,
Director of Finance, City of Portland, 389 Congress Street, Room 110, Portland, Maine) of the expiration of
this escrow within sixty (60) days prior thereto.

After all underground work has been completed and inspected to the satisfaction of the City, including but
not limited to sanitary sewers, storm drains, catch basins, manholes, electrical conduits, and other required
improvements constructed chiefly below grade, the City of Portland Director of Planning and Urban
Development or its Director of Finance as provided in Chapter 14 §§ 501, 530 of the Portland Code of
Ordinances, may authorize the City to reduce the available amount of the escrowed money by a specified
amount.

This Guarantee will automatically expire on [Insert date one years from the date of this performance
guarantee] (“Expiration Date”), or on the date when the City determines that all improvements guaranteed
by this Performance Guarantee are satisfactorily completed, whichever is later, provided that the expiration

date does not fall between October 30th and April 15th.

At such time, this Guarantee shall be reduced by the City to ten (10) percent of its original amount and shall automatically convert to an Irrevocable Defect Guarantee. Written notice of such reduction and conversion shall be forwarded by the City to **[the applicant]**. The Defect Guarantee shall expire one (1) year from the date of its creation and shall ensure the workmanship and durability of all materials used in the construction of the **[Insert: Subdivision and/ or site plan]** approval, dated **[Insert: Date]** as required by City Code §14-501, 525.

The City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on the Defect Guarantee should any one of the following occur:

1. the Applicant has failed to complete any unfinished improvements; or
2. the Applicant has failed to correct any defects in workmanship; or
3. the Applicant has failed to use durable materials in the construction and installation of improvements contained within the **[Insert: subdivision and/ or site plan]**.

Seen and Agreed to:

By: _____
[Applicant]

Date: _____

By: _____
****Planning Division Director

Date: _____

By: _____
Development Review Coordinator

Date: _____

Attach **Letter of Approval and Estimated Cost of Improvements** to this form.

Distribution

1. This information will be completed by Planning Staff.
2. The account number can be obtained by calling Cathy Ricker, ext. 8665.
3. The Agreement will be executed with one original signed by the Applicant.
4. The original signed Agreement will be scanned by the Planning Staff then forwarded to the Finance Office, together with a copy of the Cash Receipts Set.
5. ****Signature required if over \$50,000.00.

**TEMPLATE - PERFORMANCE GUARANTEE FOR
COMPLIANCE WITH HOUSING REPLACEMENT ORDINANCE**

Demolition and Housing Replacement
PERFORMANCE GUARANTEE
LETTER OF CREDIT
[ACCOUNT NUMBER]

[Insert Date]

Jeffrey Levine
Director of Planning and Urban Development
City of Portland
389 Congress Street
Portland, Maine 04101

Re: [Insert Project Address] Demolition and Housing Replacement

[Insert Name of Lender] (“Bank”) hereby issues its Irrevocable Letter of Credit for the account of **[Insert Name of Applicant]** (“Applicants”), held for the exclusive benefit of the City of Portland (“City”), in the aggregate amount of **[Insert exact amount to be determined by the City]**. These funds represent the estimated cost of **[Insert Amount]** for the housing replacement fee applicable to the demolition of **[insert number of units demolished]** dwelling units if no replacement units are constructed, as approved on _____ (“**Demolition Approval**”) and as required under Portland Code of Ordinances Chapter 14-483(j).

In the event that Applicant fails to satisfy its housing replacement obligation, the City, through its Director of Planning and Urban Development and in his/her sole discretion, may draw on this Letter of Credit by presentation of a sight draft and the Letter of Credit and all amendments thereto, if any.

The housing replacement requirement shall be deemed satisfied upon the City’s issuance of a Certificate of Occupancy for **[insert number of units to be replaced]** dwelling units located in the City of Portland provided that the aggregate size of the replacement units will be no less than 80% of the size of the aggregate of the original units.

After construction of each of the replacement units has been completed, the City, as provided in Chapter 14 of the Portland Code of Ordinances, may authorize the Bank, by written certification along with the return of the original of this Letter of Credit, to reduce the available amount of the escrowed money by the full amount of the Letter of Credit.

In the event of the Bank’s dishonor of the City of Portland’s sight draft, the Bank shall inform the City of Portland in writing of the reason or reasons thereof within three (3) business days of the dishonor.

The City of Portland Code of Ordinances Chapter 14 §§ 503 requires the duration of the performance guarantee term to be at least one year. This Letter of Credit will automatically expire on **[Insert date one year from the date of this Letter of Credit]** or on the date when the City determines that all improvements guaranteed herein are satisfactorily completed, whichever is later (“Expiration Date”), provided that the expiration date does not fall between October 30th and April 15th. It is a condition of this

Letter of Credit that the expiration date be automatically extended without amendment for period(s) of one year each from the current Expiration Date hereof, or any future Expiration Date, unless within thirty (30) days prior to any expiration, the Bank notifies the City by certified mail (restricted delivery to Brendan O'Connell, Director of Finance, City of Portland, 389 Congress Street, Portland, Maine 04101) that the Bank elects not to consider this Letter of Credit renewed for any such additional period.

In the event that the Bank provides notice of its election to discontinue this Letter of Credit and Applicant has not satisfied its housing replacement obligation, the City, in its sole discretion, may draw hereunder by presentation of a sight draft drawn on the Bank, accompanied by this Letter of Credit and all amendments thereto, and a statement signed by the Director of Planning and Urban Development, at Bank's offices located at Portland Maine stating that:

this drawing results from notification that the Bank has elected to discontinue its Letter of Credit No. _____.

Date: _____ By: _____

[Name]

[Title]

Its Duly Authorized Agent

Contribution Form (Watershed, Tree, and Infrastructure Accounts)
Planning and Urban Development Department - Planning Division

Application ID:		Planner:	
Project Name:		Date of Form:	
Project Address:			
Applicant's Name:			
Applicant's Address:			
Project Description:			

TYPE OF CONTRIBUTION	Account #	Project Code	Funds Intended for:	Retained by City	Funds not Expended	Expiration Date:	Amount
Infrastructure #1	710-0000-236-98-00						\$
Infrastructure #2	710-0000-236-98-00						\$
TYPE OF CONTRIBUTION	Account #	Project Code	Funds Intended for:				Amount
Transportation Fund	710-0000-238-01-00						\$
Infrastructure (Tree Fund)	242-3100-341-00-00	PR0045					\$
Watershed (Nason's Brook)	257-3100-327.10-00	CFUP03					\$
Watershed (Fallbrook)	257-3100-327.10-00	CFUP02					\$
Watershed (Capisc Brook)	257-3100-327.10-00	CFUP01					\$
						Total Amount:	\$

* Funds not expended or encumbered by the expiration date, shall be returned to contributor within 6 months of said date.

* Office Use Only

FORM OF CONTRIBUTION: (Please check the applicable box below for an Infrastructure Account only)

Cash Contribution	
Escrow Account	

Interest on funds to be paid to contributor only if project is not commenced.

The City shall periodically draw down funds from Public Works, which form shall specify use of City Account # as shown above.

Electronic Distribution:

Tiffany Mullen, Finance Department
 Joanna Coey, Principal Financial Officer, Recreation and Facilities Mgt.
 Stuart O'Brien, City Planning Director
 Barbara Barhydt, Development Review Services Manager, Planning Division
 Jeremiah Bartlett, Public Services Department
 Christopher Branch, Public Services Director

Philip DiPierro, Development Review Coordinator, Planning Division
 Katherine Earley, Engineer Services Manager, Public Services
 Michael Farmer, Project Engineer, Public Services Department
 David Margolis Pineo, Deputy City Engineer, Public Services Department
 Jeff Tarling, City Arborist, Public Services Department
 Planner for the Project