

Form # P 04

DISPLAY THIS CARD ON PRINCIPAL FRONTAGE OF WORK CITY OF PORTLAND

Please Read Application And Notes, If Any, Attached

BUILDING PERMIT

Permit Number: 101446

This is to certify that SHIR SADRI

has permission to Permit will support the Conditional use of the property as a place of religious assembly on 1st floor

AT 978 WASHINGTON AVE CE 161 E003001

provided that the person or persons, firm or corporation accepting this permit shall comply with all of the provisions of the Statutes of Maine and of the Ordinances of the City of Portland regulating the construction, maintenance and use of buildings and structures, and of the application on file in this department.

Apply to Public Works for street line and grade if nature of work requires such information.

Notification of inspection must be given and written permission procured before this building or part thereof is lathed or otherwise finished-in. 24 HOUR NOTICE IS REQUIRED.

A certificate of occupancy must be procured by owner before this building or part thereof is occupied.

OTHER REQUIRED APPROVALS
Fire Dept. CHPT. N. [Signature]
Health Dept. _____
Appeal Board _____
Other _____
Department Name _____

[Signature] 12/7/10
Director - Building & Inspection Services

PENALTY FOR REMOVING THIS CARD

PERMIT ISSUED

DEC - 7

City of Portland

City of Portland, Maine - Building or Use Permit Application

389 Congress Street, 04101 Tel: (207) 874-8703, Fax: (207) 874-8716

Permit No: 10-1446	Issue Date:	CBL: 161 E003001
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Location of Construction: 978 WASHINGTON AVE	Owner Name: SHIR SADRI	Owner Address: 41 OCEAN HOUSE RD	Phone:
Business Name:	Contractor Name:	Contractor Address:	Phone:
Lessee/Buyer's Name	Phone:	Permit Type: Change of Use - Commercial	Zone: RS

Past Use: Commercial - TV Repair	Proposed Use: Commercial - Place of Assembly & Residential - Permit will support the Conditional use of the property as a place of religious assembly <i>on 1st floor</i> <i>2nd floor</i>	Permit Fee: \$105.00	Cost of Work: \$105.00	CEO District: 4	
Proposed Project Description: Permit will support the Conditional use of the property as a place of religious assembly (1st floor) 2nd floor is I.d.u.		FIRE DEPT: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied * See Condition	INSPECTION: Use Group: A-3/R Type: SB		

Signature: <i>RG</i>	Signature: <i>JMB 12/7/10</i>
PEDESTRIAN ACTIVITIES DISTRICT (P.A.D.)	
Action: <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/Conditions <input type="checkbox"/> Denied	
Signature:	Date:

Permit Taken By: Idobson	Date Applied For: 11/17/2010	Zoning Approval	
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<p>1. This permit application does not preclude the Applicant(s) from meeting applicable State and Federal Rules.</p> <p>2. Building permits do not include plumbing, septic or electrical work.</p> <p>3. Building permits are void if work is not started within six (6) months of the date of issuance. False information may invalidate a building permit and stop all work..</p>	<p>Special Zone or Reviews</p> <p><input type="checkbox"/> Shoreland <i>N/A</i></p> <p><input type="checkbox"/> Wetland</p> <p><input type="checkbox"/> Flood Zone</p> <p><input type="checkbox"/> Subdivision</p> <p><input type="checkbox"/> Site Plan <i>not applicable</i></p> <p>Maj <input type="checkbox"/> Minor <input type="checkbox"/> MM <input type="checkbox"/></p> <p>Date: <i>11/19/10</i></p>	<p>Zoning Appeal</p> <p><input type="checkbox"/> Variance</p> <p><input type="checkbox"/> Miscellaneous</p> <p><input checked="" type="checkbox"/> Conditional Use <i>+ to PB.</i> <i>#10-97900001</i></p> <p><input type="checkbox"/> Interpretation</p> <p><input checked="" type="checkbox"/> Approved <i>7/27/10</i></p> <p><input type="checkbox"/> Denied</p> <p>Date:</p>	<p>Historic Preservation</p> <p><input checked="" type="checkbox"/> Not in District or Landmark</p> <p><input type="checkbox"/> Does Not Require Review</p> <p><input type="checkbox"/> Requires Review</p> <p><input type="checkbox"/> Approved</p> <p><input type="checkbox"/> Approved w/Conditions</p> <p><input type="checkbox"/> Denied</p> <p>Date: <i>S</i></p>
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PERMIT ISSUED

DEC - 7

City of Portland

CERTIFICATION

I hereby certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in the application is issued, I certify that the code official's authorized representative shall have the authority to enter all areas covered by such permit at any reasonable hour to enforce the provision of the code(s) applicable to such permit.

SIGNATURE OF APPLICANT	ADDRESS	DATE	PHONE
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RESPONSIBLE PERSON IN CHARGE OF WORK, TITLE	DATE	PHONE
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City of Portland, Maine - Building or Use Permit

389 Congress Street, 04101 Tel: (207) 874-8703, Fax: (207) 874-8716

Permit No: 10-1446	Date Applied For: 11/17/2010	CBL: 161 E003001
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Location of Construction: 978 WASHINGTON AVE	Owner Name: SHIR SADRI	Owner Address: 41 OCEAN HOUSE RD	Phone:
Business Name:	Contractor Name:	Contractor Address:	Phone:
Lessee/Buyer's Name	Phone:	Permit Type: Change of Use - Commercial	

Proposed Use: Commercial - Place of Assembly & Residential - Permit will support the Conditional use of the property as a place of religious assembly	Proposed Project Description: Permit will support the Conditional use of the property as a place of religious assembly
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Dept: Zoning **Status:** Approved with Conditions **Reviewer:** Marge Schmuckal **Approval Date:** 11/19/2010

Note: **Ok to Issue:**

- 1) All requirements of the conditional use appeal shall be maintained during the life of the place of assembly use.
- 2) With the issuance of this permit, this property shall remain a place of assembly on the first floor with a single family dwelling unit on the second floor. Any change of use shall require a separate permit application for review and approval.
- 3) Separate permits shall be required for any new signage.
- 4) This permit is being approved on the basis of plans submitted. Any deviations shall require a separate approval before starting that work.

Dept: Building **Status:** Approved with Conditions **Reviewer:** Jeanine Bourke **Approval Date:** 12/07/2010

Note: **Ok to Issue:**

- 1) This is a Change of Use ONLY permit. It does NOT authorize any construction activities.
- 2) Separate permits are required for any electrical, plumbing, sprinkler, fire alarm HVAC systems, heating appliances, including pellet/wood stoves, commercial kitchen exhaust hood systems and fuel tanks. Separate plans may need to be submitted for approval as a part of this process.

Dept: Fire **Status:** Approved with Conditions **Reviewer:** Capt Keith Gautreau **Approval Date:** 12/02/2010

Note: **Ok to Issue:**

- 1) This permit is for change of use only, any construction shall require additional permits. The occupancy shall meet NFPA 101 code requirements upon inspection.

Comments:
11/19/2010-mes: 7/27/10 the PB approved the conditional use for a change of use of the first floor from a tv repair shop to a place of religious assembly. The second floor is one residential dwelling unit.

PERMIT ISSUED

DEC - 7

City of Portland

BUILDING PERMIT INSPECTION PROCEDURES

**Please call 874-8703 or 874-8693 (ONLY)
or email: buildinginspections@portlandmaine.gov**

With the issuance of this permit, the owner, builder or their designee is required to provide adequate notice to the City of Portland Inspection Services for the following inspections. Appointments must be requested 48 to 72 hours in advance of the required inspection. The inspection date will need to be confirmed by this office.

- **Please read the conditions of approval that is attached to this permit!! Contact this office if you have any questions.**
- **Permits expire in 6 months, if the project is not started or ceases for 6 months.**
- **If the inspection requirements are not followed as stated below additional fees may be incurred due to the issuance of a "Stop Work Order" and subsequent release to continue with construction.**

 X **Final/Certificate of Occupancy: Prior to any occupancy of the structure or use.**

NOTE: There is a \$75.00 fee per inspection at this point.

The project cannot move to the next phase prior to the required inspection and approval to continue, REGARDLESS OF THE NOTICE OR CIRCUMSTANCES.

IF THE PERMIT REQUIRES A CERTIFICATE OF OCCUPANCY, IT MUST BE PAID FOR AND ISSUED TO THE OWNER OR DESIGNEE BEFORE THE SPACE MAY BE OCCUPIED.

PERMIT ISSUED

DEC -7

City of Portland

CITY OF PORTLAND
DEPARTMENT OF PLANNING & URBAN DEVELOPMENT

389 Congress Street
Portland, Maine 04101

INVOICE FOR PERMIT FEES

Application No: 10-1446	Applicant: SHIR SADRI
Project Name:	Location: 978 WASHINGTON AVE
CBL: 161 E003001	Development Type:
Invoice Date: 11/19/2010	

Previous Balance	-	Payment Received	+	Current Fees	-	Current Payment	=	Total Due	Payment Due Date
\$0.00		\$0.00		\$105.00		\$30.00		\$75.00	On Receipt

First Billing

Previous Balance	\$0.00
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Fee Description	Qty	Fee/Deposit Charge
Certificate of Occupancy	1	\$75.00
Change of Use First \$1000	1	\$30.00
		\$105.00

Total Current Fees:	+	\$105.00
Total Current Payments:	-	\$30.00
Amount Due Now:		\$75.00

Detach and remit with payment

Bill to: SHIR SADRI
41 OCEAN HOUSE RD
CAPE ELIZABETH, ME 04107

CBL 161 E003001
Application No: 10-1446
Invoice Date: 11/19/2010
Invoice No: 38952
Total Amt Due: \$75.00
Payment Amount:

Make checks payable to the *City of Portland*, ATTN: Inspections, 3rd Floor, 389 Congress Street, Portland, ME 04101.



General Building Permit Application

If you or the property owner owes real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

Location/Address of Construction: <u>978 Washington Avenue</u>		
Total Square Footage of Proposed Structure/Area <u>3,465 sf (1,155 sf Footprint)</u>	Square Footage of Lot <u>14,400 sq. ft (.331 acre)</u>	Number of Stories <u>2</u>
Tax Assessor's Chart, Block & Lot Chart# Block# Lot# <u>161 - E - 003 - 001</u>	Applicant *must be owner, Lessee or Buyer* Name <u>Sadri Shir</u> Address <u>41 Ocean house Rd.</u> City, State & Zip <u>Cape Elizabeth, ME 04107</u>	Telephone: <u>(207) 228-5040</u>
Lessee/DBA (If Applicable) <u>Need \$75 in future for CO</u>	Owner (if different from Applicant) Name Address City, State & Zip	Cost Of Work: \$ <u>—</u> C of O Fee: \$ <u>—</u> Total Fee: \$ <u>—</u>
Current legal use (i.e. single family) <u>television repair residential</u> Number of Residential Units <u>one</u> If vacant, what was the previous use? _____ Proposed Specific use: <u>Place of Assembly (small) and residential</u> Is property part of a subdivision? <u>no</u> If yes, please name _____ Project description: <u>This permit will support the conditional use of the property as a place of religious assembly. The planning board approved this conditional use, subject to the installation of a fence and the removal of a nonconforming light which have been done.</u>		
Contractor's name: _____ Address: _____ City, State & Zip _____ Telephone: _____		
Who should we contact when the permit is ready: <u>Zachary Heiden, Esq</u> Telephone: <u>774-5444</u>		
Mailing address: <u>401 Cumberland Ave., Suite 105 Portland, ME 04101</u>		

Please submit all of the information outlined on the applicable Checklist. Failure to do so will result in the automatic denial of your permit.

In order to be sure the City fully understands the full scope of the project, the Planning and Development Department may request additional information prior to the issuance of a permit. For further information or to download copies of this form and other applications visit the Inspections Division on-line at www.portlandmaine.gov, or stop by the Inspections Division office, room 315 City Hall or call 874-8703.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Code Official's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

Signature:  Date: 11/17/2010

This is not a permit; you may not commence ANY work until the permit is issue



CITY OF PORTLAND, MAINE
Department of Building Inspections

Original Receipt

11/17 / 2010

Received from Portland Masjid Islamic Center

Location of Work 978 Washington Ave

Cost of Construction \$ _____ Building Fee: ch of use

Permit Fee \$ _____ Site Fee: _____

Certificate of Occupancy Fee: _____

Total: 30.00

Building (IL) ___ Plumbing (IS) ___ Electrical (I2) ___ Site Plan (U2) ___

Other _____

CBL: 161-E-003

Check #: 378

Total Collected \$ 30.00

**No work is to be started until permit issued.
Please keep original receipt for your records.**

Taken by: [Signature]

WHITE - Applicant's Copy
YELLOW - Office Copy
PINK - Permit Copy



PORTLAND MAINE

Strengthening a Remarkable City, Building a Community for Life • www.portlandmaine.gov

Planning & Urban Development Department
Penny St. Louis Littell, Director

Planning Division
Alexander Jaegerman, Director

July 29, 2010

Zachary Heiden, Esq.
Maine Civil Liberties Union
401 Cumberland Avenue
Portland, Maine 04101

Project Name:	Portland Masjid and Islamic Center 978 Washington Avenue, Portland ME Place Of Assembly - Conditional Use
Project ID:	10-97900001
CBL:	161 - E-003-001
Applicant	Maine Civil Liberties Union. Zachary Heiden Esq.
Planner	Molly Casto, Senior Planner

Dear Mr. Heiden,

On July 27, 2010 the Portland Planning Board considered a proposed Change of Use from a repair shop to a place of assembly for the property at 978 Washington Avenue, encompassing the first floor space. The Planning Board reviewed the proposal for conformance with the standards of Section 14-474 and 14-118 of the City of Portland Land Use Code for a conditional use in the R-5 Residential Zone. The Planning Board voted unanimously (4-0, members Patterson, Hall and Lewis absent) to approve the application with the following condition(s) as presented below.

CONDITIONAL USE

The Planning Board voted 4-0 (Patterson, Hall and Lewis absent) that the proposed conditional use for a place of assembly in the R-5 Residential Zone is in conformance with the standards of Section 14-474 and 14-118 of the Land Use Code, subject to the following condition(s):

- i. The applicant shall obtain all necessary building permits for the change of use through the City of Portland Inspections Division. As part of the building

permit review process, the applicant and property shall comply with applicable requirements for fencing to screen off street parking and shading of exterior light fixtures, as described in Section 14-338 and 14-340 of the Land Use Code.

The approval is based upon the submitted materials and the findings related to applicable conditional use review standards as contained in Planning Report #22-10 for application 10-97900001, which is attached.


STANDARD CONDITIONS OF APPROVAL

Please note the following applicable standard conditions of approval and requirements for all approved applications:

1. The site shall be developed and maintained as depicted in the site plan and 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 the planning authority pursuant to the terms of this article. Any such parcel lawfully altered prior to the enactment date of these revisions shall not be further altered without approval as provided herein. Modification or alteration shall mean and include any deviations from the approved site plan including, but not limited to, topography, vegetation and impervious surfaces shown on the site plan. No action, other than an amendment approved by the planning authority or Planning Board, and field changes approved by the Public Services authority as provided herein, by any authority or department shall authorize any such modification or alteration.
2. The above approvals do not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.

If you have any questions, please contact Molly Casto, Senior Planner at (207) 874-8901 or by email at mpc@portlandmaine.gov.

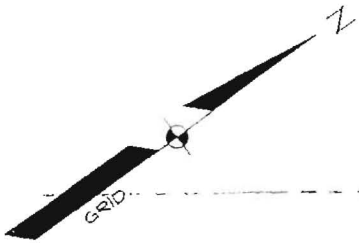
Sincerely,



Bill Hall, Chair
Portland Planning Board

Attachments:

1. Planning Board Report #22-10



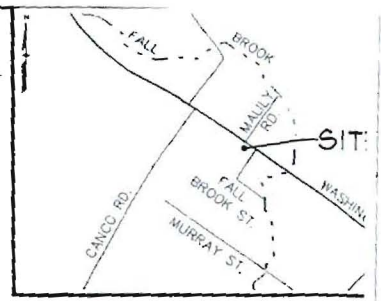
N/F
HOPE, SETH R

979 Washington Ave
161-2-003

2/11/10
measure

1" = 20'

pkg space is
9' x 19'



LOCATION MAP

UNNAMED STREET
(A.K.A. JILL STREET)

MALILY

BENCHMARK
HORIZ. SPK IN UTIL
POLE 133
ELEV. = 61.25 FT

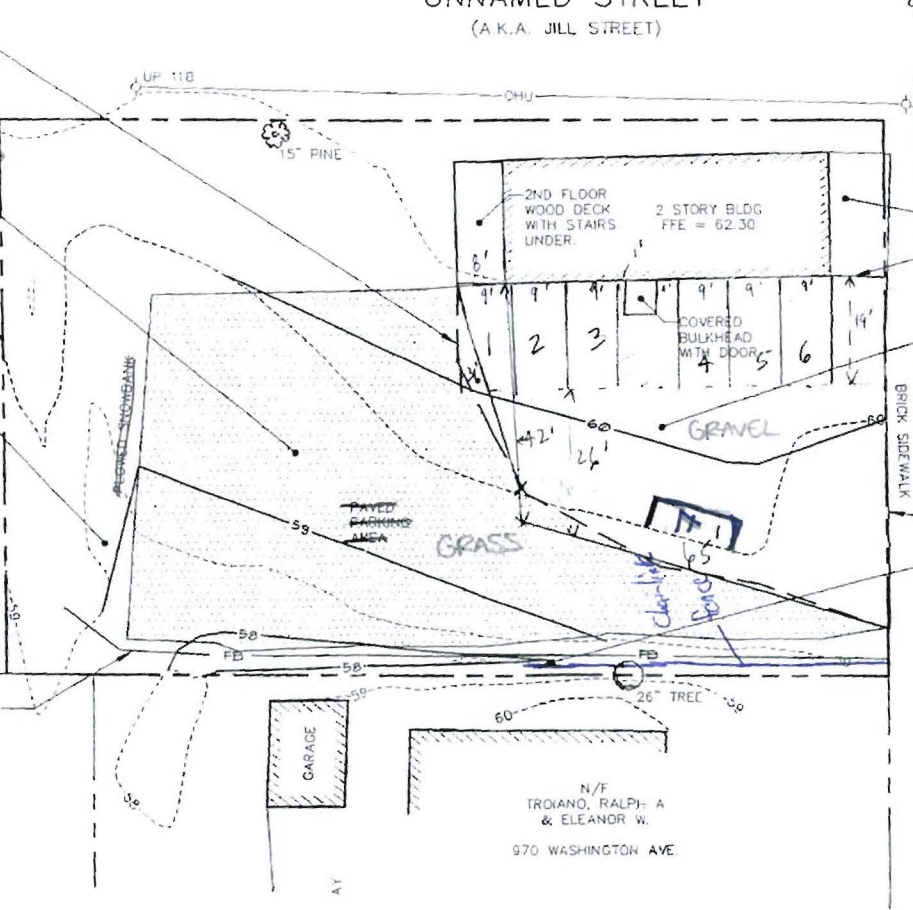
APPROX. ORIGINAL EDGE
OF GRAVEL PAVEMENT
BASED ON 2006 AERIAL
IMAGERY. SEE NOTE 3B.
LIMIT OF RESTORED
GRAVEL PARKING AREA

REMOVE BITUMINOUS
PAVEMENT AND GRAVEL
BASE TO NATIVE SOIL.
INSTALL 4" OF LOAM AND
SEED. MULCH SHALL BE
INSTALLED IN
ACCORDANCE WITH
EROSION CONTROL
MEASURES.

FILL IN EXISTING
DITCH

N/F
TOPPI, ROCO III
& MARY M
17 FALL BROOK ST

FILTER BARRIER/
SILT FENCE (TYP)



BITUMINOUS PAVEMENT
TO REMAIN

SAW CUT PAVEMENT
JOINT (TYP)

REMOVE BITUMINOUS
PAVEMENT. GRAVEL BASE
TO REMAIN. SHIM WITH AS
NEEDED TO MATCH
GRADES AT EXISTING
BRICK SIDEWALK AND
PROPOSED GRADES
SHOWN.

MATCH EXISTING
GRADES (TYP)

EXISTING DITCH TO
REMAIN

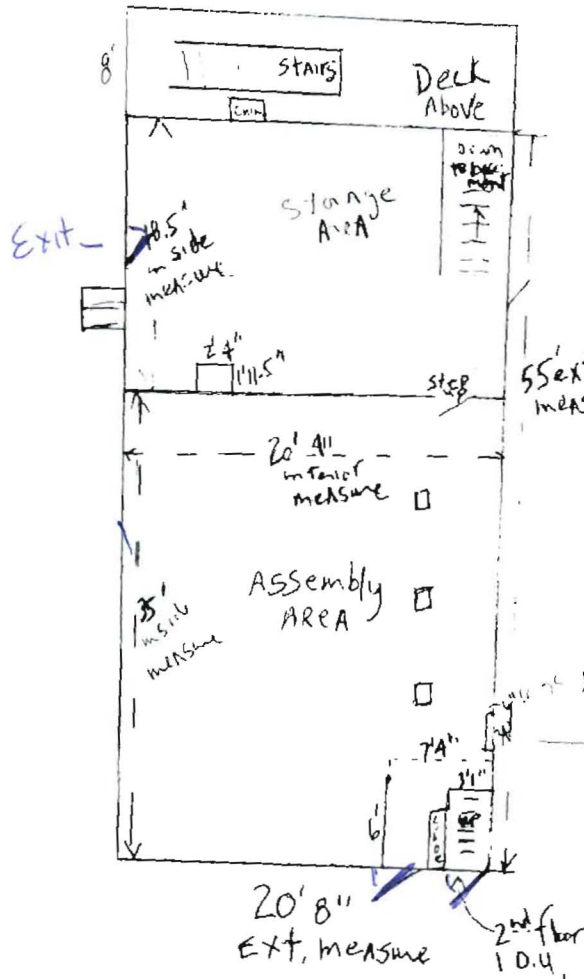
WASHINGTON AVENUE

2/11/10
3:00 PM

Gary Wood
Zack Heiden
Tammy
Maggie
Ct R. Z. G.
RAMAD Habibzai

Parking CALCS

$664.921 \text{ ft}^2 \div 125 = 5.32 \text{ or}$
6 pkg spaces rounded up



$20' 4" \times 35' = 711.55 \text{ ft}^2$
 $20' 8" \times 35' = 728 \text{ ft}^2$
 $- 1,164 \text{ ft}^2$
 $- 1,465 \text{ ft}^2$
 $- 44 \text{ ft}^2$
GLOBAL Assembly Area = 664.921 ft²

516 sq ft of 11' x 11' tiles
 (11' x 11' = 121 sq ft each)
 $516 \div 121 = 4.26$
 $3 \times (1,000 \times .666) = 1,998$
 $\div 380$

$5 \times 2.933 = 1.465 \text{ ft}^2$
(Fire box)

1" = 10'

161-E-003
978 W. 1st St. or Ave

$6 \times 7' 4" = 43.98 \text{ ft}^2$
or
44 ft²



Planning & Urban Development Department
 Penny St. Louis L. Bell, Director

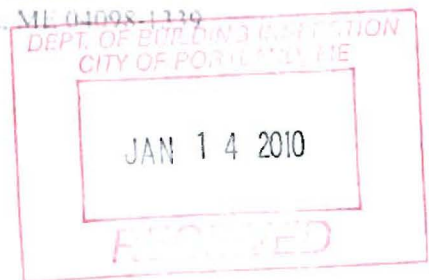
Planning Division
 Alexander Jaegerman, Director
 January 13, 2010

161-E-003

John B. Shumadine, Esq.
 Murray Plumb & Murray
 75 Pearl Street
 Post Office Box 9785
 Portland, ME 04101-5085

Christopher DiMatteo
 Sebago Technics
 One Chabot Street
 Westbrook, ME 04098-1330

Project Name: Restoration of a Site
Address: 978 Washington Avenue
Applicant: Sadri Shiri



Dear Mr. Shumadine:

On January 13, 2010, the Portland Planning Authority approved with conditions the restoration plan for removing a parking lot and restoring the site to its original topography at 978 Washington Avenue as shown on the restoration plan submitted by Sebago Technics dated 12-29-09 and revised 1-08-10. The conditions of approval are as follows:

1. A performance guarantee covering the site improvements as well as an inspection fee payment of 2.0% of the guarantee amount must be submitted to and approved by the Planning Division and Public Services Dept. prior to the release of a building permit. The sample letters of credit or escrow account forms are contained within the attached Performance Guarantee Packet. The building permit application is attached and must be submitted to Portland's Inspection Division along with a copy of the Site Restoration Plan.
2. Prior to construction, a pre-construction meeting shall be held at the project site with the contractor, development review coordinator, Public Service's representative and owner to review the construction schedule and critical aspects of the site work. At that time, 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.
3. The site preparation shall include the removal of snow and installation of erosion control measures as shown on the restoration plan prior to the start of construction.
4. The applicant's consulting engineer shall confirm in writing that the final grades of the site are in conformance with the approved restoration plan.
5. The performance guarantee shall not be released or reduced until after the City has conducted final inspections of the site in the spring in order to confirm that the site work completed in January meets the stormwater management objectives of the approved plan.

The approval is based on the submitted restoration plan. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval.

STANDARD CONDITIONS OF APPROVAL

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

1. The site shall be developed and maintained as depicted in the site plan and 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 the planning authority pursuant to the terms of this article. Any such parcel lawfully altered prior to the enactment date of these revisions shall not be further altered without approval as provided herein. Modification or alteration shall mean and include any deviations from the approved site plan including, but not limited to, topography, vegetation and impervious surfaces shown on the site plan. No action, other than an amendment approved by the planning authority or Planning Board, and field changes approved by the Public Services authority as provided herein, by any authority or department shall authorize any such modification or alteration.
2. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
3. If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)

The Development Review Coordinator must be notified five (5) working days prior to date required for final site inspection. The Development Review Coordinator can be reached at the Planning Division at 874-8632. Please make allowances for completion of site plan requirements determined to be incomplete or defective during the inspection. This is essential as 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 Barbara Barhydt, Development Review Services Manager at 874-8699.

Sincerely,



Alexander Jaegerman
Planning Division Director

Attachments

1. Performance Guarantee Packet
2. Building Permit Application

Electronic Distribution

Penny St. Louis-Littell, Director of Planning and Urban Development

Alexander Jaegerman, Planning Division Director

Barbara Barnydt, Development Review Services Manager

Philip DiPietro, Development Review Coordinator

Marge Schumack, Zoning Administrator

Tammy Manson, Inspections Division

Michael Bobinsky, Public Services Director

Kathy Farley, Public Services

Bill Clark, Public Services

David Margolis Price, Deputy City Engineer

Jane Ward, Public Services

Keith Gautreau, Fire

Jeff Farling, City Attorney

Dan Coyette, Woodard & Curran

Assessor's Office

Approval Letter File

Hard Copy - Project File



PORTLAND, MAINE

Strengthening a Remarkable City. Building a Community for Life

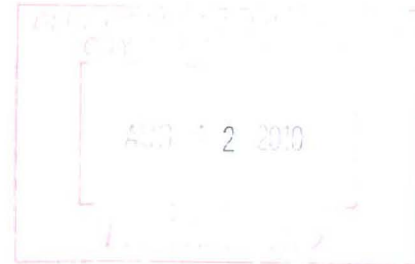
www.portlandmaine.org

Planning & Urban Development Department
Penny St. Louis Littell, Director

Planning Division
Alexander Jaegerman, Director

July 29, 2010

Zachary Heiden, Esq.
Maine Civil Liberties Union
401 Cumberland Avenue
Portland, Maine 04101



Project Name:	Portland Masjid and Islamic Center 978 Washington Avenue, Portland ME Place Of Assembly - Conditional Use
Project ID:	10-97900001
CBL:	161 - E-003-001
Applicant	Maine Civil Liberties Union, Zachary Heiden Esq.
Planner	Molly Casto, Senior Planner

Dear Mr. Heiden,

On July 27, 2010 the Portland Planning Board considered a proposed Change of Use from a repair shop to a place of assembly for the property at 978 Washington Avenue, encompassing the first floor space. The Planning Board reviewed the proposal for conformance with the standards of Section 14-474 and 14-118 of the City of Portland Land Use Code for a conditional use in the R-5 Residential Zone. The Planning Board voted unanimously (4-0, members Patterson, Hall and Lewis absent) to approve the application with the following condition(s) as presented below.

CONDITIONAL USE

The Planning Board voted 4-0 (Patterson, Hall and Lewis absent) that the proposed conditional use for a place of assembly in the R-5 Residential Zone is in conformance with the standards of Section 14-474 and 14-118 of the Land Use Code, subject to the following condition(s):

- i. The applicant shall obtain all necessary building permits for the change of use through the City of Portland Inspections Division. As part of the building

permit review process, the applicant and property shall comply with applicable requirements for fencing to screen off street parking and shading of exterior light fixtures, as described in Section 14-338 and 14-340 of the Land Use Code.

The approval is based upon the submitted materials and the findings related to applicable conditional use review standards as contained in Planning Report #22-10 for application 10-97900001, which is attached.

STANDARD CONDITIONS OF APPROVAL.

Please note the following applicable standard conditions of approval and requirements for all approved applications:

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2. The above approvals do not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.

If you have any questions, please contact Molly Casto, Senior Planner at (207) 874-8901 or by email at mpe@portlandmaine.gov.

Sincerely,



Bill Hall, Chair
Portland Planning Board

Attachments:

1. Planning Board Report #22-10

Electronic Distribution:

Penny St. Louis Littell, Director of Planning and Urban Development

Alexander Jaegerman, Planning Division Director

Barbara Barhydt, Development Review Services Manager

Molly Casto, Senior Planner

Philip DiPierro, Development Review Coordinator

Marge Schmuckal, Zoning Administrator

Tammy Munson, Inspections Division Director

Gayle Guertin, Inspections Division

Lannie Dobson, Inspections Division

Michael Bobinsky, Public Services Director

Kathi Earley, Public Services

Bill Clark, Public Services

David Margolis-Pineo, Deputy City Engineer

Greg Vining, Public Services

John Low, Public Services

Jane Ward, Public Services

Keith Gautreau, Fire

Jeff Tarling, City Arborist

Tom Errico, TY Lin

Dan Goyette, Woodard & Curran

Assessor's Office

Approval Letter File

Hard Copy: Project File



PLANNING BOARD REPORT PORTLAND, MAINE

PORTLAND MASJID AND ISLAMIC CENTER
978 WASHINGTON AVENUE
CONDITIONAL USE
PROJECT ID #97900001
ZACHARY HEIDEN, ESQ. MAINE CIVIL LIBERTIES UNION, APPLICANT

Submitted to: Portland Planning Board Public Hearing Date: JULY 27, 2010	Prepared by: Molly Casto, Senior Planner Date: July 15, 2010
--------------------------------------------------------------------------------	--------------------------------------------------------------------

1. INTRODUCTION

Mr. Zachary Heiden of the Maine Civil Liberties Union Foundation (MCLU), on behalf of the property owner, Mrs. Sadri Shir, requests the Planning Boards review and approval of a proposed change of use from a repair shop to place of assembly for Mrs. Shir's property located at 978 Washington Avenue. The applicant does not propose any development or alteration to the site at this time. The project is being reviewed as a conditional use in the R-5 zone. The City has determined that the application is not subject to site plan review (see attached memorandum from Corporation Counsel – [Attachment 2](#)). The property does not meet the square footage threshold for site plan review of interior site alteration and the site is not proposed to be altered from its existing condition.

219 notices were sent to area residents and interested parties. Notice also appeared in the July 12th and July 19th, 2010 editions of the *Portland Press Herald*.

2. PROJECT DATA

Total Area of Lot:	14,400 sq. ft. (.331 acres)
Zone:	R-5 Residential
Existing Uses:	Television Repair (currently vacant) and Residential (2 nd floor apartment)
Proposed Use:	Place of Assembly (small) and Residential (retain existing 2 nd floor apartment).
Bldg. Square Footage:	3,465 sf (1,155 sf footprint)
Total Area for Proposed Change of Use:	665 sf

Existing Parking: Gravel Lot (Approx. 7 spaces)
Proposed Parking: 7 spaces

3. PROPOSED DEVELOPMENT

The property encompasses a 14,400 s.f. parcel on Washington Avenue near the corner of Fall Brook Street. The property is in an R-5 Residential Zone, which permits places of assembly as a conditional use, to be reviewed and approved by the Planning Board. Places of Assembly became a permitted conditional use in the R-5 zone and in the other R-zones on January 4, 2010 as a result of ordinance amendments approved by the Planning Board and City Council. The total square footage of the building is 3,465 sf. The applicant proposes to change the use of approx. 665 s.f. of the first floor, the most recent use of which was for television repair and sales, to a mosque (place of assembly). The remaining 490 sf of first floor area has been and will remain as storage space. The second floor will remain as a residential apartment.



VICINITY OF PROJECT SITE

The proposed assembly area measures 20'4" x 35". The applicant proposes to retain 7 existing parking spaces on an existing gravel parking area, defined by large logs placed on the ground (see Feb 11, 2010 sketch plan in the application packet – Attachment 1). The remainder of the site is grassed. There is a dense vegetated buffer along the rear (southerly) property boundary. There is one existing exterior light on the easterly wall of the building to illuminate the parking area. This light appears not to be functional at this time. There are two existing curb cuts accessing the site from Washington Avenue and an existing brick sidewalk and granite curbing along the Washington Avenue frontage. The site is abutted on three sides by single-family residential homes.

4. BACKGROUND AND SCOPE OF REVIEW

The owner illegally paved and expanded the existing gravel parking area without approval from the City. Ultimately, the City and the property owner reached an agreement in December, 2009 where the owners removed all pavement and gravel that had been installed, filled a drainage course that had been created to divert water, re-graded the property to a flat contour and restored the area outside what had been existing gravel parking with loam and seed. The lot has been returned to its original condition ([Attachment 3](#) – Agreement between Sadri Shir, Nawad Shir and Portland Masjid and Islamic Center and City of Portland).

The proposed new use as a place of assembly is subject to the conditional use provisions of the Land Use Code. The proposal is not subject to City site plan requirements because the lot was returned to its original configuration, thus it is no longer subject to the site plan threshold concerning construction of a parking lot. In addition, the site plan ordinance includes exemptions for alterations inside a structure due to a change of use if those changes impact less than 5,000 sf. As previously noted, the proposed change of use is limited to 665 sf. of the first floor. Gary Wood, Corporation Counsel has provided the Board with a memorandum detailing this determination (Attachment 2).

5. RIGHT, TITLE OR INTEREST

The applicant has submitted a Warranty Deed, dated November, 2005 confirming Mrs. Sadri Shir as owner of the property at 978 Washington Avenue (Attachment 1).

6. STAFF REVIEW

The proposed development has been reviewed by staff for conformance with applicable conditional use standards of the Land Use Code. These include Section 14-118, the Conditional Use Standards of the R-5 zone, and Section 14-474, Conditional Use Standards. The proposal is also subject to applicable standards of Division 20, Off-Street Parking.

A. Zoning Assessment

Marge Schmuckal, Zoning Administrator submitted the following review comments on June 3, 2010. She has no additional comments for the Planning Board since the workshop:

This property is located in an R-5 Residential Zone which allows Places of Assembly as a Conditional Use before the Planning Board. This is a change of use from a TV service repair and sales on the first floor and a single family on the second floor, to a Place of Assembly on the first floor and a single family dwelling on the second floor. This is considered to be a "Small" Place of Assembly which requires a minimum lot size of 10, 890 square feet. The current lot size is 14, 400 square feet. The required minimum lot size for the Place of Assembly use is being met.

The exterior and interior of the building was inspected on February 11, 2010. Under the parking requirements for Places of Assembly, one (1) parking space for each one hundred and twenty five (125) square feet of floor area used for assembly area not including bathrooms, bulk storage, stairways, closets or other non-assembly areas, it was determined that six parking spaces are required for the Place of Assembly use plus one parking space for the existing dwelling unit is required for a total of seven (7) parking spaces. Seven parking spaces are being shown on the submitted plot plan and meets the minimum requirements.

Section 14-337 requires parking for more than six vehicles to be no closer than 25 feet to any residential structure on an adjoining lot. The scaled drawings show the parking area to be at least 30 feet away from the closest residential structure.

During a building permit review and approval, the application will be conditioned with compliance with Section 14-338 which states that "Where off-street parking shall abut a lot in residential use or an unoccupied lot which is located in a residence zone, a fence no less than forty-eight (48) inches shall be provided and maintained between such off-street parking and that part of the lot line involved."

Also during the building permit review and approval, the application will be conditioned with compliance with Section 14-340 which states, "where artificial lighting is provided, it shall be shaded or screened so that no light source shall be visible from outside the area and its access driveways."

B. Conditional Use Standards

The Board is asked to review the proposal for conformance with the following relevant Conditional Use standards. The standards, along with Planning staff discussion, are provided below:

DIVISION 6. R-5 RESIDENTIAL ZONE

Sec. 14-118 (b) 3: Conditional uses for places of assembly.

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

The proposed use is confined to the existing site and does not propose to expand onto land other than the lot in which the principal use is located.

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

The use is proposed in a former television repair and retail shop, thus it is not displacing a residential use. The existing residential apartment on the second floor will remain residential.

(c) In the case of a use or use expansion which constitutes a combination of the above listed uses [elementary, middle, and secondary school; long-term and extended care facilities; Intermediate care facility for thirteen (13) or more persons; Places of assembly; Hospital; College, university, trade school] with capacity for concurrent operations, the applicable minimum lot sizes shall be cumulative.

The proposal does not constitute a combination of the uses listed in Section 14-118 and above.

(d) In the case of places of assembly (including places of religious assembly, community halls and private club or fraternal organizations) the proposed use shall be subject to the requirements of article V (site plan) of this chapter.

The City has determined, in this case, that the proposed change of use is not subject to site plan review because it does not meet the site plan review thresholds and, after previously being modified, the site has since been brought back to its previously existing, original condition (see Attachment 2 – memorandum from Corporation Counsel).

At the June workshop, the Planning Board questioned Corporation Counsel's interpretation of Section 14-118(b). Corporation Counsel was present at the workshop and responded that the language of Section 14-118(b) 3 (d) would need to be amended to that that Places of Assembly are subject to the requirements of Article V notwithstanding exceptions listed in Section 14-523. Planning Board member, Lee Lowry asked that Corporation Counsel initiate such an amendment to this section. Gary Wood, Corporation Counsel agreed but noted the importance of carefully reviewing the type and scale of uses that would be subject to this provision to be sure that costs associated with site plan review would not be onerous for smaller applications.

DIVISION 28. JURISDICTION OF BOARD OF APPEALS

Sec. 14-474. Conditional uses.

(2) Standards. Upon a showing that a proposed use is a conditional use under this article, a conditional use permit shall be granted unless the board determines that:

(a) There are unique or distinctive characteristics or effects associated with the proposed conditional use;

The proposed use as a place of assembly would not result in unique or distinctive characteristics. There are no changes proposed to the exterior of the building or the site. The mosque remains open during the day but sees the majority of the congregation for Friday services at noon. These typically last for ½ hour. The number of cars arriving at the mosque for these Friday serves has traditionally not exceeded ten. The site accommodates the majority of these vehicles and there is on-street parking available on adjacent side streets.

(b) There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area;

It does not appear that there will be any adverse impacts associated with the proposed project. The proposed use will be limited to worship and study.

(c) Such impact differs substantially from the impact which would normally occur from such a use in that zone.

The impacts of this site will not differ from those normally expected from such a use in the R-5 Residential zone.

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

7. STAFF RECCOMENDATION

Planning staff recommends that the Planning Board approve the applicant's conditional use application with a condition of approval requiring the applicant to obtain all necessary building permits for change of use and to comply with corresponding building permit standards of Section 14-338 and 14-340 addressing screening of the parking area and exterior lighting.

8. MOTIONS

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 application #979 000 01 relevant to Portland's Conditional Use Standards and other regulations, and the testimony presented at the Planning Board hearing:

The Planning Board finds the proposed conditional use for a Place of Assembly in the R-6 Zone (**does or does not**) meet the standards of Sections 14-474 and 14-118, subject to the following conditions of approval:

- (1) The applicant shall obtain all necessary building permits for the change of use. As part of the building permit review process, the applicant shall comply with applicable requirements for fencing to screen off street parking and shading of exterior light fixtures, as described in Section 14-338 and 14-340 of the Land Use Code.

9. ATTACHMENTS

(1) Application

- a. Cover Letter from Zachary L. Heiden, Counsel for Plaintiffs
- b. Conditional Use Application
- c. Warranty Deed
- d. Tax Map
- e. Site Plan sketch
- f. Floor Plan sketch
- g. Aerial photo
- h. Site photos
- i. Wastewater flow calculations
- j. Assessor's database information

(2) Memorandum from Gary Wood, Corporation Counsel, June 10, 2010

(3) Copy of December, 2009 agreement between Portland Masjid and Islamic Center and the City of Portland.

Act 1



MAINE CIVIL LIBERTIES UNION FOUNDATION

May 17, 2010

VIA REGULAR MAIL

Zoning Board of Appeals
City of Portland
389 Congress Street
Portland, Maine 04101

Re: Conditional Use Application (Place of Assembly) for 978 Washington Avenue (161-E-3)

To the Board:

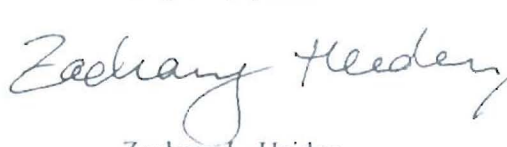
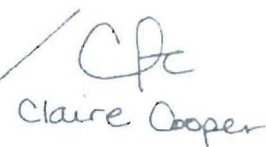
Enclosed, please find a completed Conditional Use Appeal Application along with accompanying material, to authorize the use of 978 Washington Avenue (161-E-3) as a Place of Assembly.

A conditional use permit for the proposed use as a place of assembly (religious) is authorized by Section 14-118(b)(3) of the City of Portland Code of Ordinances, and the property fulfills the dimensional requirements set forth in Section 14-120(1)(a)(5) and the parking qualification set fourth in Section 14-332(k). Specifically, the lot size of 978 Washington Avenue is 14,418 square feet, which is less than 21,780 square feet; and the lot contains at least seven off-street parking spots—six spots for the place of assembly plus an additional one spot for the upstairs residential area—for the approximately 665 square feet of assembly area, which is at least one spot per 125 square feet of assembly area.

There are no unique or distinctive characteristics or effects associated with the proposed use. There will not be an adverse impact upon the health, safety, or welfare of the public or the surrounding area by the proposed use. There are no dumpsters on site that require screening or buffering, as there will be no trash generated by the downstairs place of assembly and the 1 dwelling unit on the second floor of the property will take out their own trash. And, the impact of the proposed use does not differ substantially from the impact which would normally occur from such use in that zone.

Please let me know if I can be of further assistance.

Very truly yours,

 / 

Zachary L. Heiden,
Counsel for Plaintiffs



Conditional Use Application PORTLAND, MAINE

Department of Planning and Urban Development
Planning Division and Planning Board

PROJECT NAME AND ADDRESS

978 WASHINGTON AVE.

CHARTER BLOCK LOT: 161-E-3

RIGHT, TITLE OR INTEREST: Please identify the type of the interest in the property.

OWNER

1. List the name and address of the applicant, or applicant's agent, or other person or persons who are acting as agent for the applicant, and the address of the property to be developed.

VICINITY MAP: Attach a map showing the subject street and adjoining streets, and a scale of 1" = 100 feet.

EXISTING USE: Describe the existing use of the subject property.

RESIDENTIAL

TYPE OF CONDITIONAL USE PROPOSED:

PLACE OF ASSEMBLY

SKETCH PLAN: Attach a sketch plan of the subject property showing the proposed conditional use and any other features of the property.

CONDITIONAL USE AUTHORIZED BY: SECTION 14-118(b)(3)

STANDARDS - CRITERIA FOR CONDITIONAL USE APPEAL

1. The applicant has proposed a conditional use under this article, a conditional use requiring standards, and the Board determines that:

(a) there are unique or distinctive characteristics or effects associated with the proposed conditional use;

(b) there will be no adverse impact upon the health, safety, or welfare of the public or the surrounding area;

(c) the proposed conditional use is not a use which would normally occur from adjacent or nearby properties.

WARRANTY DEED

KNOW ALL BY THESE PRESENTS, that we, MARY N. BLESSING, JUSTINA IVES, JEANNETTE A. BREGGIA, JOHN DIMILLO, all of Portland, Maine and ADELIA JACKSON, of North Carolina, in consideration of One and No/100 Dollars (\$1.00) and other valuable consideration paid by SADRI SHAIR whose mailing address is 41 Ocean House Road, Cape Elizabeth, Maine, the receipt whereof we do hereby acknowledge, do hereby GIVE, GRANT, BARGAIN, SELL AND CONVEY, WITH WARRANTY COVENANTS unto the said Sadri Shair, her heirs, her successors and assigns forever, the following described premises:

Shair, her heirs, her successors and assigns forever, the following described premises: Shik 55

See Schedule A attached hereto and made a part hereof.

TO HAVE AND TO HOLD the same, together with all the privileges and appurtenances thereunto belonging, to the said Sadri Shair, her heirs, her successors and assigns forever. We do covenant with the said Grantee, her heirs, her successors and assigns, that we are lawfully seized in fee of the premises, free of all encumbrances and that we do have good right to sell and convey the same to the said Grantees to hold as aforesaid; and that we and our successors shall and will warrant and defend the same to the said Grantee, her heirs, her successors and assigns, forever, against the lawful claims and demands of all persons.

IN WITNESS WHEREOF, we, the said Mary N. Blessing, Justina Ives, Jeannette A. Breggia, John DiMillo, and Adelia C. Jackson have caused these presents to be signed this 30th day of November, 2005.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF

MAINE REAL ESTATE TAX PAID

[Signature] _____

Witness

Mary N. Blessing
Mary N. Blessing

[Signature] _____

Witness

Justina Ives
Justina Ives

[Signature] _____

Witness

Jeannette A. Breggia
Jeannette A. Breggia

[Signature] _____

Witness

John DiMillo
John DiMillo

[Signature] _____

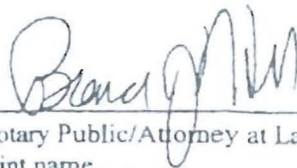
Witness

Adelia C. Jackson
Adelia C. Jackson

STATE OF MAINE
COUNTY OF Cumberland

11-30-05, 2005

Then personally appeared the above-named Mary N. Blessing, Justina Ives, Jeannette A Breggia, John DiMillo and acknowledged the foregoing instrument to be their free acts and deeds before me.



Notary Public/Attorney at Law
print name _____

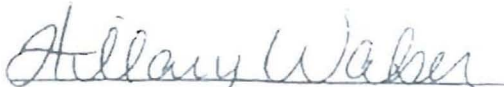
my comm. exp. Brenda J. Hall

Notary Public, Maine
My Commission Exp: 3/9/06

STATE OF NORTH CAROLINA
COUNTY OF Guilford

11-29-05, 2005

Then personally appeared the above-named Adelia C. Jackson and acknowledged the foregoing instrument to be their free acts and deeds before me,



Notary Public/Attorney at Law

print name HILLARY WALSER

my comm. exp. 12-11-2008

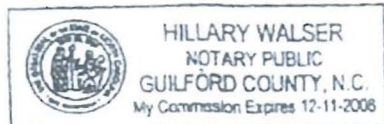
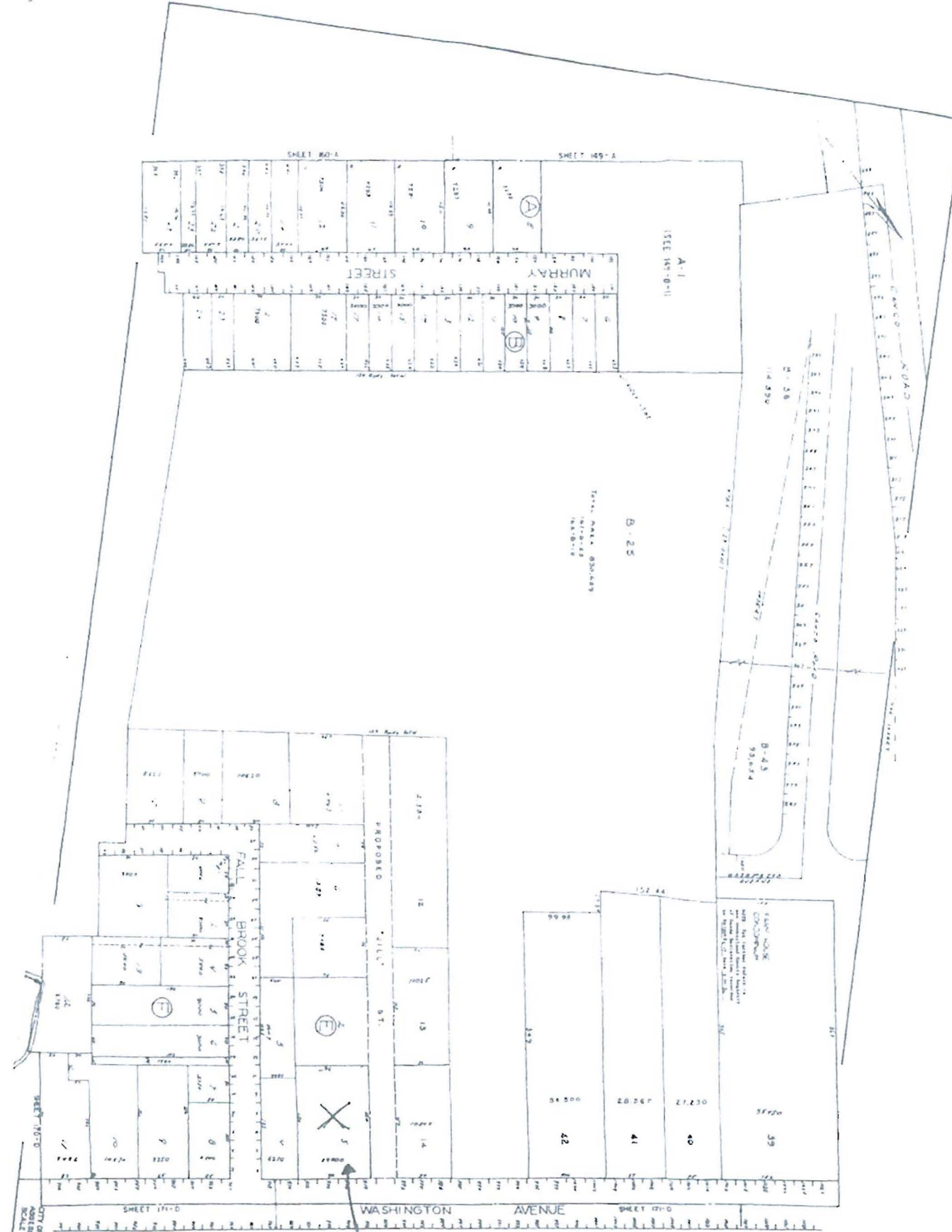


EXHIBIT A

A certain lot or parcel of land with the building thereon, situated on the Southwesterly side of Washington Avenue, formerly called Main Street, in said Portland, and bounded and described as follows:

Beginning at a point in the Southwesterly side line of said Washington Avenue, at the Northwesterly corner of land which Arthur E. Marks conveyed to Charles Murphy, by deed dated April 18, 1894, and recorded in Cumberland County Registry of Deeds, Book 610, Page 284, and now or formerly owned by one Speirs; thence Northwesterly by said Washington Avenue, ninety-six (96) feet to a point two (2) feet Northwesterly of the Northwesterly side line extended of the two story building containing the store and dwelling house on said lot; thence Southwesterly on a line parallel to the Northwesterly side line of said Speirs land one hundred fifty (150) feet to a point; thence Southeasterly by land now or formerly of Antonio Leo and on a line parallel to said Washington Avenue ninety-six (96) feet to the Northwesterly side line of land of one Harris, same being a continuation of the Northwesterly side line of said Speirs land; thence Northeasterly by said Harris and Speirs land, one hundred fifty (150) feet to the point of beginning.

Meaning and intending to convey the same premise conveyed to Mary N. Blessing, Justina Ives, Jeannette A. Breggia, John DiMillo, and Adelia C. Jackson by Mary N. Blessing, Personal Representative for the Estate of Rose DiMillo by Deed of Distribution by Personal Representative dated July 31, 2003, and recorded in said Registry of Deeds, in Book 20508, Page 195.



CITY OF PORTLAND
 ENGINEERING DEPT.
 SCALE 1" = 50'

No 16

Lot 160-1-376

107



979 - 1st Avenue Ave
161-8-003

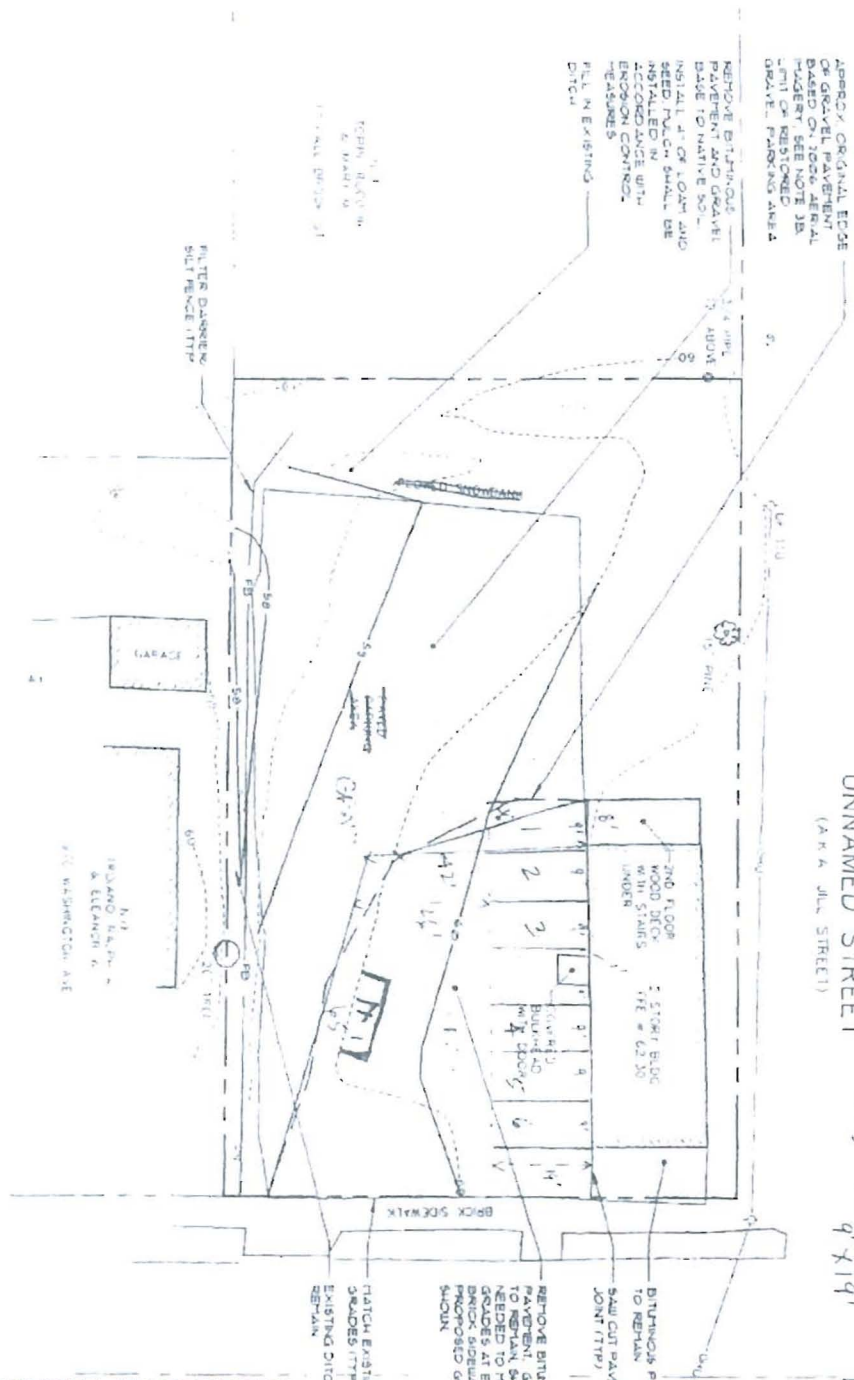
DATE: 10/10/10

UNNAMED STREET
(AKA JUL STREET)

Play Space 15
9' x 19'

1" = 20'

2/11/10
JUANASUNE



REMOVE ORIGINAL EDGE OF GRAVEL PAVEMENT AND REPAIR BASE TO MATCH SOIL. INSTALL 1/4" OF ASPHALT AND REPAIRED SHALL BE ACCORDANCE WITH EROSION CONTROL MEASURES.

REMOVE BITUMINOUS PAVEMENT AND GRAVEL BASE TO MATCH SOIL. INSTALL 1/4" OF ASPHALT AND REPAIRED SHALL BE ACCORDANCE WITH EROSION CONTROL MEASURES.

TOP OF FINISH GRADE TO BE MAINTAINED AT EXISTING GRADE

FILTER DRAINER SPLIT FENCE (TYP)

GARAGE

10' x 10' GARAGE
A. ELEGANT A.
A. WASHINGTON AVE

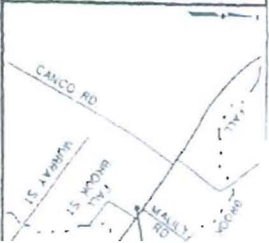
2ND FLOOR WOOD DECK WITH STAIRS UNDER
2 STORY BRICK W/ 1/2 STORY
ELEV. 62.30

REMOVE BITUMINOUS PAVEMENT, GRAVEL BASE TO REPAIR. PATCH WITH AS REDEDED TO MATCH EXISTING. REPAIRED AND PROPOSED GRADES SHOWN.

BITUMINOUS PAVEMENT TO REMAIN
SAW CUT PAVEMENT JOINT (TYP)

PATCH EXISTING GRADES (TYP) EXISTING DITCH TO REMAIN

LOCATION MAP



BENCHMARK
HORIZ. 59
POLE 133
ELEV. = 6

MA

WASHINGTON AVENUE

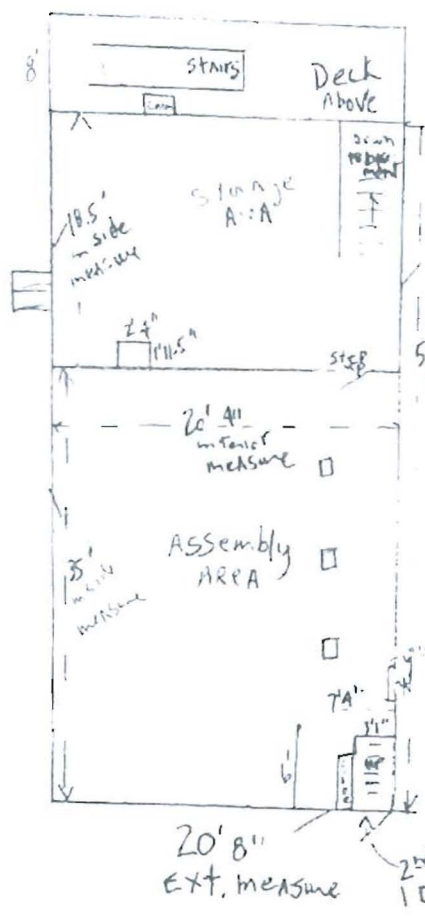
2/4/10
3:00 PM

GARY WARD
ZARK HEDDEN
TAMM I
WAG
GUY K. TING
KAMAD HUBUBZAI

Parking CALC

$664,921 \div 125 = 5.32 \text{ or}$

6 PKG SPACES
rounded up



$20' \times 35' = 711.55 \text{ sq}$
 $7' \times 35' = 245 \text{ sq}$
 $711.55 - 245 = 466.55 \text{ sq}$
 $466.55 - 44 = 422.55 \text{ sq}$

$422.55 \times 1.57 = 664,921 \text{ sq}$

5' x 10' = 50 sq
 10' x 10' = 100 sq
 10' x 10' = 100 sq
 10' x 10' = 100 sq
 10' x 10' = 100 sq

$10' \times 10' = 100 \text{ sq}$
 $100 \times 6.66 = 666 \text{ sq}$
 $666 - 388 = 278 \text{ sq}$

$5' \times 2.933 = 14.66 \text{ sq}$
 $14.66 \times 20 = 293.2 \text{ sq}$

1" = 10'

161-E-003
978-0300-0000 or A102

$6' \times 7'4" = 43.98 \text{ sq}$
 $7.333' = 43.98 \text{ sq}$

Comments
Submitted

5/25/10

City of Portland
Development Review Application
Planning Division Transmittal form

Application Number: 10-97900001 Application Date: 5-26-10

Project Name: PLACES OF ASSEMBLY
Address: 978 Washington Ave CBL: 161 - E-003-001

Project Description: Washington Avenue - 978; Places Of Assembly Cond. Use; Zachary Heiden, Applicant.

Zoning: R5

Other Reviews Required:
Review Type: CONDITIONAL USE

Applicant:
Zachary Heiden
401 Cumberland Avenue
Portland Me 04101



Distribution List:

Molly

<input type="checkbox"/> Planner	Barbara Barhydt	<input type="checkbox"/> Parking	John Peverada
<input checked="" type="checkbox"/> Zoning Administrator	Marge Schmuckal	<input type="checkbox"/> Design Review	Alex Jaegerman
<input type="checkbox"/> Traffic	Tom Errico	<input type="checkbox"/> Corporation Counsel	Danielle West-Chuhta
<input type="checkbox"/> Stormwater	Dan Goyette	<input type="checkbox"/> Sanitary Sewer	John Emerson
<input type="checkbox"/> Fire Department	Keith Gautreau	<input type="checkbox"/> Inspections	Tammy Munson
<input type="checkbox"/> City Arborist	Jeff Tarling	<input type="checkbox"/> Historic Preservation	Deb Andrews
<input type="checkbox"/> Engineering	David Margolis-Pineo	<input type="checkbox"/> Outside Agency	
		<input type="checkbox"/> DRC Coordinator	Phil DiPierro

Preliminary Comments needed by: Wednesday, June 2nd, 2010

Final Comments needed by:



MAINE CIVIL LIBERTIES UNION FOUNDATION

May 17, 2010

VIA REGULAR MAIL

Zoning Board of Appeals
City of Portland
389 Congress Street
Portland, Maine 04101



Re: Conditional Use Application (Place of Assembly) for 978 Washington Avenue (161-E-3)

To the Board:


Enclosed, please find a completed Conditional Use Appeal Application along with accompanying material, to authorize the use of 978 Washington Avenue (161-E-3) as a Place of Assembly.

A conditional use permit for the proposed use as a place of assembly (religious) is authorized by Section 14-118(b)(3) of the City of Portland Code of Ordinances, and the property fulfills the dimensional requirements set forth in Section 14-120(1)(a)(5) and the parking qualification set fourth in Section 14-332(k). Specifically, the lot size of 978 Washington Avenue is 14,418 square feet, which is less than 21,780 square feet; and the lot contains at least seven off-street parking spots—six spots for the place of assembly plus an additional one spot for the upstairs residential area—for the approximately 665 square feet of assembly area, which is at least one spot per 125 square feet of assembly area.

There are no unique or distinctive characteristics or effects associated with the proposed use. There will not be an adverse impact upon the health, safety, or welfare of the public or the surrounding area by the proposed use. There are no dumpsters on site that require screening or buffering, as there will be no trash generated by the downstairs place of assembly and the 1 dwelling unit on the second floor of the property will take out their own trash. And, the impact of the proposed use does not differ substantially from the impact which would normally occur from such use in that zone.

Please let me know if I can be of further assistance.

Very truly yours,

 / 

Zachary L. Heiden,
Counsel for Plaintiffs

CC: Mary E. Costigan, Esq.
Danielle P. West-Chuhta, Esq.



Conditional Use Application
PORTLAND, MAINE
Department of Planning and Urban Development,
Planning Division and Planning Board

PROJECT NAME AND ADDRESS:

978 WASHINGTON AVE.

CHART/BLOCK/LOT: 161-E-3

RIGHT, TITLE OR INTEREST: Please identify the status of the applicant's right, title, or interest in the subject property

OWNER

(Provide documentary evidence, attached to this application, of applicant's right, title, or interest in the subject property. (For example, a deed, option or contract to purchase or lease the subject property.)

VICINITY MAP: Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use.

EXISTING USE: Describe the existing use of the subject property.

RESIDENTIAL

DEPT. OF BUILDING INSPECTION
CITY OF PORTLAND, ME

MAY 26 2010

RECEIVED

TYPE OF CONDITIONAL USE PROPOSED:

PLACE OF ASSEMBLY

SKETCH PLAN: On a separate sheet please provide a sketch plan of the property, showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1" = 10' to 1" = 100')

CONDITIONAL USE AUTHORIZED BY: SECTION 14-118(b)(3)

STANDARDS - CRITERIA FOR CONDITIONAL USE APPEAL

Upon a showing that a proposed use is a conditional use under this article, a conditional use permit shall be granted unless the Board determines that:

- There are unique or distinctive characteristics or effects associated with the proposed conditional use;
- There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area;
- Such impact differs substantially from the impact which would normally occur from such a use in that zone.

WARRANTY DEED

KNOW ALL BY THESE PRESENTS, that we, MARY N. BLESSING, JUSTINA IVES, JEANNETTE A. BREGGIA, JOHN DIMILLO, all of Portland, Maine and ADELIA JACKSON, of North Carolina, in consideration of One and No/100 Dollars (\$1.00) and other valuable consideration paid by SADRI SHAIR whose mailing address is 41 Ocean House Road, Cape Elizabeth, Maine, the receipt whereof we do hereby acknowledge, do hereby **GIVE, GRANT, BARGAIN, SELL AND CONVEY, WITH WARRANTY COVENANTS** unto the said Sadri Shair, her heirs, her successors and assigns forever, the following described premises:

Shair, her heirs, her successors and assigns forever, the following described premises:
Shair (55)

See Schedule A attached hereto and made a part hereof.

TO HAVE AND TO HOLD the same, together with all the privileges and appurtenances thereunto belonging, to the said Sadri Shair, her heirs, her successors and assigns forever. We do covenant with the said Grantee, her heirs, her successors and assigns, that we are lawfully seized in fee of the premises, free of all encumbrances and that we do have good right to sell and convey the same to the said Grantees to hold as aforesaid; and that we and our successors shall and will warrant and defend the same to the said Grantee, her heirs, her successors and assigns, forever, against the lawful claims and demands of all persons.

IN WITNESS WHEREOF, we, the said Mary N. Blessing, Justina Ives, Jeannette A. Breggia, John DiMillo, and Adelia C. Jackson have caused these presents to be signed this 20th day of November, 2005.



**SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF**

MAINE REAL ESTATE TAX PAID

[Signature]
Witness

Mary N. Blessing
Mary N. Blessing

[Signature]
Witness

Justina Ives
Justina Ives

[Signature]
Witness

Jeannette A. Breggia
Jeannette A. Breggia

[Signature]
Witness

John DiMillo
John DiMillo

[Signature]
Witness

Adelia C. Jackson
Adelia C. Jackson

STATE OF MAINE
COUNTY OF Androscoggin

11-30-05, 2005

Then personally appeared the above-named Mary N. Blessing, Justina Ives, Jeannette A. Breggia, John DiMillo and acknowledged the foregoing instrument to be their free acts and deeds before me,

Brenda J. Hall

Notary Public/Attorney at Law
print name _____

my comm. exp. Brenda J. Hall
Notary Public, Maine
My Commission Exp: 3/9/06

STATE OF NORTH CAROLINA
COUNTY OF Guilford

11-29-05, 2005

Then personally appeared the above-named Adelia C. Jackson and acknowledged the foregoing instrument to be their free acts and deeds before me,

Hillary Walser

Notary Public/Attorney at Law

print name Hillary WALSER

my comm. exp. 12-11-2008

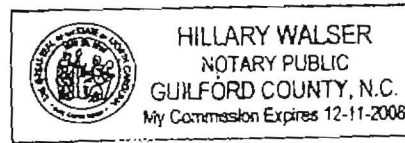


EXHIBIT A

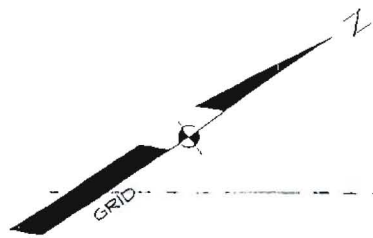
A certain lot or parcel of land with the building thereon, situated on the Southwesterly side of Washington Avenue, formerly called Main Street, in said Portland, and bounded and described as follows:

Beginning at a point in the Southwesterly side line of said Washington Avenue, at the Northwesterly corner of land which Arthur E. Marks conveyed to Charles Murphy, by deed dated April 18, 1894, and recorded in Cumberland County Registry of Deeds, Book 610, Page 284, and now or formerly owned by one Speirs; thence Northwesterly by said Washington Avenue, ninety-six (96) feet to a point two (2) feet Northwesterly of the Northwesterly side line extended of the two story building containing the store and dwelling house on said lot; thence Southwesterly on a line parallel to the Northwesterly side line of said Speirs land one hundred fifty (150) feet to a point; thence Southeasterly by land now or formerly of Antonio Leo and on a line parallel to said Washington Avenue ninety-six (96) feet to the Northwesterly side line of land of one Harris, same being a continuation of the Northwesterly side line of said Speirs land; thence Northeasterly by said Harris and Speirs land, one hundred fifty (150) feet to the point of beginning.

Meaning and intending to convey the same premise conveyed to Mary N. Blessing, Justina Ives, Jeannette A. Breggia, John DiMillo, and Adelia C. Jackson by Mary N. Blessing, Personal Representative for the Estate of Rose DiMillo by Deed of Distribution by Personal Representative dated July 31, 2003, and recorded in said Registry of Deeds, in Book 20508, Page 195.



Received
Recorded Register of Deeds
Dec 02, 2005 12:32:32P
Cumberland County
John B O'Brien



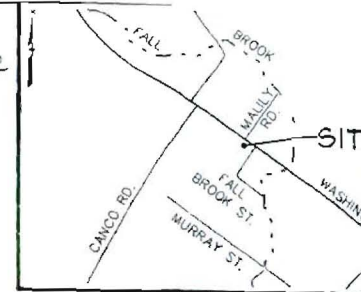
N/F
HOPE, SETH R

978 Washington Ave
161-E-003

2/11/10
measure

1" = 20'

pkg space is
9' x 19'



LOCATION MAP

UNNAMED STREET
(A.K.A JILL STREET)

MALILY

BENCHMARK
HORIZ. SPK IN UTIL
POLE 133
ELEV. = 61.25 FT

APPROX. ORIGINAL EDGE
OF GRAVEL PAVEMENT
BASED ON 2006 AERIAL
IMAGERY, SEE NOTE 3B.
LIMIT OF RESTORED
GRAVEL PARKING AREA

REMOVE BITUMINOUS
PAVEMENT AND GRAVEL
BASE TO NATIVE SOIL.
INSTALL 4" OF LOAM AND
SEED. MULCH SHALL BE
INSTALLED IN
ACCORDANCE WITH
EROSION CONTROL
MEASURES.

FILL IN EXISTING
DITCH

N/F
TOPPI, ROCD III
& MARY M
17 FALL BROOK ST.

FILTER BARRIER/
SILT FENCE (TYP)

UP 110

CHU

15" PINE

2ND FLOOR
WOOD DECK
WITH STAIRS
UNDER.

2 STORY BLDG
FFE = 62.30

BITUMINOUS PAVEMENT
TO REMAIN

SAW CUT PAVEMENT
JOINT (TYP)

REMOVE BITUMINOUS
PAVEMENT, GRAVEL BASE
TO REMAIN, SHIM WITH AS
NEEDED TO MATCH
GRADES AT EXISTING
BRICK SIDEWALK AND
PROPOSED GRADES
SHOWN

MATCH EXISTING
GRADES (TYP)

EXISTING DITCH TO
REMAIN

BRICK SIDEWALK

PAVED
PARKING
AREA

GRASS

GRAVEL

GARAGE

N/F
TROIANO, RALPH A
& ELEANOR W.
970 WASHINGTON AVE

WASHINGTON AVENUE

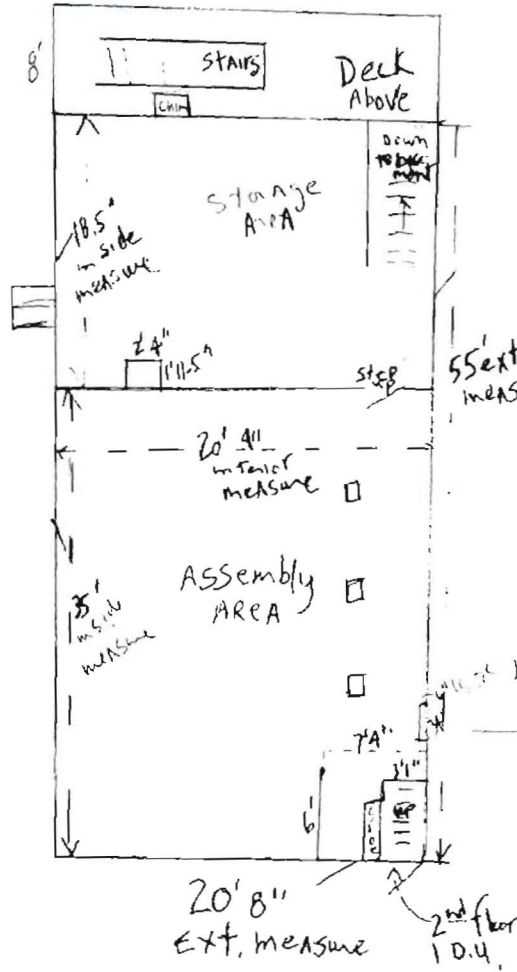
AY

2/11/10
3:00 PM

Gary Wood
Zark Heiden
TAMM
MGA
Cpt Keith
RAMAD Habibzai

Parking CARCS

$664.921 \div 125 = 5.32$ or
6 pkg spaces
rounded up

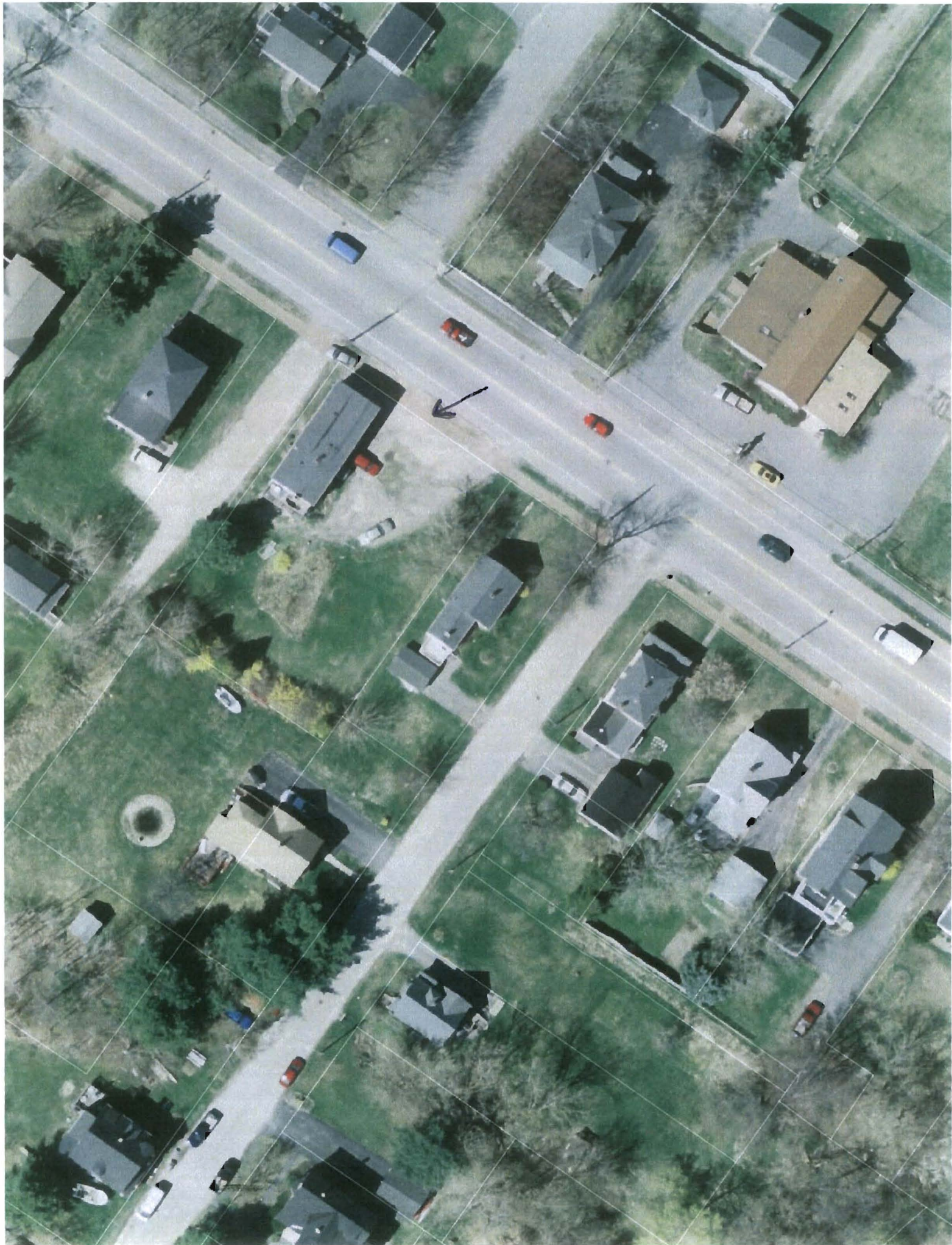


$20' 4'' \times 35' = 711.55 \text{ sq}$
 $20' 22'' \times 35' = 1,164 \text{ sq}$
 $- 44 \text{ sq}$
 $\text{Total Room Area} = 664.921 \text{ sq}$
 Enclosed space
 columns - each
 1" dia of 10" x 7" dia
 $3(1.33 \times .666) = 1.164 \text{ sq}$
 .388

1" = 10'

161-E-003
978 WRS or A102

$6 \times 7' 4'' = 43.98 \text{ sq}$
 or
 44 sq





CONTACT INFORMATION:

APPLICANT

Name: ZACHARY HEIDEN
Address: 401 CUMBERLAND AVE
STE 105
Zip Code: 04101
Work #: (207) 774-5444
Cell #: _____
Fax #: (207) 774-1103
Home: _____
E-mail: heiden@mcu.org

PROPERTY OWNER

Name: SADRI SHIR
Address: 41 OCEAN HOUSE ROAD
CAPE ELIZABETH, ME
Zip Code: 04107
Work #: _____
Cell #: _____
Fax #: _____
Home: (207) 228-5040
E-mail: _____

BILLING ADDRESS

Name: MAINE CIVIL LIBERTIES UNION FOUNDATION
Address: 401 CUMBERLAND AVE.
STE. 105
Zip: 04101
Work #: (207) 774-5444
Cell #: _____
Fax #: _____
Home: _____
E-mail: heiden@mcu.org
wfo@mcu.org

~As applicable, please include additional contact information on the next page~

N/A

AGENT/REPRESENTATIVE

Name: _____

Address: _____

Zip Code: _____

Work #: _____

Cell #: _____

Fax #: _____

Home: _____

E-mail: _____

ENGINEER

Name: _____

Address: _____

Zip Code: _____

Work #: _____

Cell #: _____

Fax #: _____

Home: _____

E-mail: _____

ARCHITECT

Name: _____

Address: _____

Zip Code: _____

Work #: _____

Cell #: _____

Fax #: _____

Home: _____

E-mail: _____

CONSULTANT

Name: _____

Address: _____

Zip Code: _____

Work #: _____

Cell #: _____

Fax #: _____

Home: _____

E-mail: _____

SURVEYOR

Name: _____

Address: _____

Zip Code: _____

Work #: _____

Cell #: _____

Fax #: _____

Home: _____

E-mail: _____

ATTORNEY

Name: ZACHARY HEIDEN

Address: 401 CUMBERLAND AVE
STE 105

Zip Code: 04101

Work #: (207) 771-8444

Cell #: _____

Fax #: _____

Home: _____

E-mail: heiden@mcldu.org

PROJECT DATA

The following information is required where applicable, in order complete the application

Total Site Area 14,400 #
 Proposed Total Disturbed Area of the Site _____ sq. ft.
 (If the proposed disturbance is greater than one acre, then the applicant shall apply for a Maine Construction General Permit (MCGP) with DEP and a Stormwater Management Permit, Chapter 500, with the City of Portland)

IMPERVIOUS SURFACE AREA

Proposed Total Paved Area N/A sq. ft.
 Existing Total Impervious Area ~4224 # sq. ft.
 Proposed Total Impervious Area SAME sq. ft.
 Proposed Impervious Area Change 0 sq. ft.

BUILDING AREA

Existing Building Footprint 1323 sq. ft.
 Proposed Building Footprint SAME sq. ft.
 Proposed Building Footprint Net Change 0 sq. ft.
 Existing Total Building Floor Area 2646 sq. ft.
 Proposed Total Building Floor Area SAME sq. ft.
 Proposed Building Floor Area Net Change 0 sq. ft.
 New Building SAME sq. ft.

ZONING

Existing R-5
 Proposed, if applicable SAME, R-5

LAND USE

Existing _____
 Proposed RESIDENTIAL (1 D.U.)
 PLACE OF ASSEMBLY + 1 D.U. (2nd Floor)

RESIDENTIAL, IF APPLICABLE:

Proposed Number of Affordable Housing Units 0
 Proposed Number of Residential Units to be Demolished 0
 Existing Number of Residential Units 1
 Proposed Number of Residential Units 1
 Subdivision, Proposed Number of Lots N/A

PARKING SPACES

Existing Number of Parking Spaces 7
 Proposed Number of Parking Spaces 7
 Number of Handicapped Parking Spaces 0
 Proposed Total Parking Spaces 7

BICYCLE PARKING SPACES

Existing Number of Bicycle Parking Spaces 0
 Proposed Number of Bicycle Parking Spaces 0
 Total Bicycle Parking Spaces 0 (UNDER 10)

ESTIMATED COST OF PROJECT

NO COST / NO INTERIOR CHANGES

Please answer the following with a Yes/No response on all that apply to the proposed development

Institutional	_____	Change of Use	<u>✓</u> FROM TV REPAIR & RETAIL
Parking Lot	_____	Design Review	_____
Manufacturing	_____	Flood Plain Review	_____
Office	_____	Historic Preservation	_____
Residential	_____	Housing Replacement	_____
Retail Business	_____	14-03 Street Review	_____
Warehouse	_____	Shoreland	_____
Single Family Dwelling	_____	Site Location	_____
2 Family Dwelling	_____	Stormwater Quality	_____
Multi Family Dwelling	_____	Traffic Movement	_____
R/S Ped Activity Review	_____	Zoning Variance	_____ (for date)
		Historic Dist./Landmark	_____
		Off Site Parking	_____

APPLICATION FEE:

Check all reviews that apply. Payment may be made in cash or check to the City of Portland.

<p>Major Development (more than 10,000 sq. ft.)</p> <p><input type="checkbox"/> Under 50,000 sq. ft. (\$500.00)</p> <p><input type="checkbox"/> 50,000 - 100,000 sq. ft. (\$1,000.00)</p> <p><input type="checkbox"/> Parking Lots over 100 spaces (\$1,000.00)</p> <p><input type="checkbox"/> 100,000 - 200,000 sq. ft. (\$2,000.00)</p> <p><input type="checkbox"/> 200,000 - 300,000 sq. ft. (\$3,000.00)</p> <p><input type="checkbox"/> Over 300,000 sq. ft. (\$4,000.00)</p> <p><input type="checkbox"/> After the fact Review \$1,000.00 plus applicable application fee</p>	<p>Plan Amendments</p> <p><input type="checkbox"/> Planning Staff Review (\$250.00)</p> <p><input type="checkbox"/> Planning Board Review (\$500.00)</p> <p>Subdivision</p> <p><input type="checkbox"/> Subdivision (\$500.00 + amount of lots \$250.00 per lot, \$_____ per _____ Major site plan fee</p>
<p>Minor Site Plan Review</p> <p><input type="checkbox"/> Less than 10,000 sq. ft. (\$400.00)</p> <p><input type="checkbox"/> After the-fact Review (\$1,000.00) plus applicable application fee</p> <p>Zoning <input checked="" type="checkbox"/></p> <p><input type="checkbox"/> Conditional Use (\$100.00)</p>	<p>Other Reviews</p> <p><input type="checkbox"/> Site Location of Development (\$5,000.00) (except for residential projects which shall be \$200.00 per lot _____)</p> <p><input type="checkbox"/> Traffic Movement (\$1,000.00)</p> <p><input type="checkbox"/> Stormwater Quality (\$250.00)</p> <p><input type="checkbox"/> Section 14-403 Review (\$400.00 + \$25.00 per 1 _____)</p> <p><input type="checkbox"/> Other _____</p>

Application Fees

- Each application must be submitted with the applicable fees as listed in the fee structure above. The fees cover general administrative processing costs.
- Application fees may be paid in cash or by check (addressed to the City of Portland).
- An application will not be processed without the required application fees.

Noticing/Advertisements for Planning Board Review

- Legal Advertisement: Percent of total bill
- Notices: .75 cents each
- Public notices must be sent to property owners with 500 feet for all proposals at the time an application is received. Industrial project require notices to be sent to property owners with 1,000 feet
- Prior to any workshop or public hearing meetings, notices will be sent to property owners. The item will also appear on a legal ad that is published in the Portland Press Herald and on the City's web site.
- The applicant will be billed for actual or apportioned costs for advertising and sending of meeting notices.

Applicants are encouraged to include a letter or narrative to accompany the conditional use application, which can provide additional background or contextual information, and describe the proposed conditional use and reasons for the request in a manner that best suits the situation.

<p>Signature of Applicant:</p> <p><i>Zachary Hecker / C/A</i> (Claire Cooper)</p>	<p>Date: 5/19/2010</p>
---------------------------------------------------------------------------------------	------------------------

CITY OF PORTLAND WASTEWATER CAPACITY APPLICATION

Department of Public Services,
55 Portland Street,
Portland, Maine 04101-2991



Mr. Frank J. Brancely,
Senior Engineering Technician,
Phone #: (207) 874-8832,
Fax #: (207) 874-8852,
E-mail: fjb@portlandmaine.gov

Date: 5/19/2010

1. Please, Submit Utility, Site, and Locust Plans.

Site Address: 978 WASHINGTON AVE.

(If mailing addressing, please contact Leslie Kaurin, either at 56-8346 or at MK@portlandmaine.gov)

Chart Block Lot Number: 161-E-3

Proposed Use: 1 D.U. + PLACE OF ASSEMBLY

Previous Use: 1 D.U. + TO REPAIR/RETAIL

Existing Sanitary Flows: MAX 344 GPD

Existing Process Flows: N/A GPD

Description and location of City sewer, at proposed building sewer lateral connection

PLEASE SEE ATTACHED

Site Category

- Commercial
- Industrial (complete part 4 below)
- Governmental
- Residential
- Other (specify): PLACE OF ASSEMBLY ✓✓

see attached math ←

Clearly indicate the proposed connection on the submitted plans

2. Please, Submit Domestic Wastewater Design Flow Calculations.

Estimated Domestic Wastewater Flow Generated: (work attached) 50 GPD

Peaking Factor, Peak Times: FRIDAYS 11:30-1:30 PM

Specify the source of design guidelines: *(i.e. "Handbook of Subsurface Wastewater Disposal in Maine," "Plumbers and Pipe Fitters Calculation Manual," Portland Water District Records, Other (specify))*

Note: Please submit calculations showing the derivation of your design flows, either on the following page, in the space provided, or attached, as a separate sheet.

3. Please, Submit Contact Information.

Owner/Developer Name: SADRI SHIR
Owner/Developer Address: 41 OCEAN HOUSE ROAD CAPE ELIZABETH, ME 04102

Phone: (207) 228-5040 Fax: _____ E-mail: _____

Engineering Consultant Name: N/A

Engineering Consultant Address: _____

Phone: _____ Fax: _____ E-mail: _____

City Planner's Name: BARBARA BARKHYDT Phone: 874-8699
OR MARGE SCHUMUCKAL Phone: 874-8695

Note: Consultants and Developers should allow +/- 15 days, for capacity status, prior to Planning Board Review.

4. Please, Submit Industrial Process Wastewater Flow Calculations

Estimated Industrial Process Wastewater Flows Generated: _____ GPD

Do you currently hold Federal or State discharge permits? Yes No

Is the process wastewater termed categorical under CFR 40? Yes No

OSHA Standard Industrial Code (SIC) _____

Peaking Factor Peak Process Time: _____

FACTOR N/A ; TIME - FRIDAYS 11:30 AM - 1:30 PM

Note: On the submitted plans, please show the locations, where the building's sanitary, and process water sewer laterals, exit the facility, where they enter the city's sewer, the location of any control manholes, wet wells, or other access points, and the locations of any filters, strainers, or grease traps.

Notes, Comments, or Calculations:

ESTIMATED DOMESTIC WATER FLOW:

25 people (max) = 50 GPD
 (GPD per seat - # from Frank Biancely)

EXISTING SANITARY FLOWS

(FROM PORTLAND WATER DISTRICT)

AVG MONTHLY USE = 15,000 cubic ft / month

AVG DAILY USE: 500 cubic ft / day

748 GPD (WATER DISTRICT USE)

344 AVG. USE (HIGHORLOW ESTIMATED)

Assessor's Office 897 Congress Street Portland, Maine 04101 Room 115 (207) 874-8486

City Home Departments City Council E-Services Calendar Jobs

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

Services

Applications

Doing Business

Maps

Tax Relief

Tax Roll

Q & A

browse city services a-z

browse facts and links a-z



Best viewed at 800x600, with Internet Explorer

Current Owner Information:

CBL 161 E003001
 Land Use Type MULTI-USE COMMERCIAL
 Property Location 978 WASHINGTON AVE
 Owner Information SHIR SADRI
 41 OCEAN HOUSE RD
 CAPE ELIZABETH ME 04107
 Book and Page 23454/156
 Legal Description 161-E-3
 WASHINGTON AVE 972-978
 ACRES 0.331

Handwritten note: 14400 SF ← TOTAL SITE AREA

Current Assessed Valuation:

TAX ACCT NO.	22676	OWNER OF RECORD AS OF APRIL 2009	SHIR SADRI
LAND VALUE	\$170,800.00	41 OCEAN HOUSE RD	CAPE ELIZABETH ME 04107
BUILDING VALUE	\$59,200.00		
NET TAXABLE - REAL ESTATE	\$230,000.00		
TAX AMOUNT	\$4,080.20		

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

Building Information:

Card 1 of 1
 Year Built 1920
 Style/Structure Type MIXED RES/COMM
 # Units 1
 Building Num/Name J - WATERHOUSE TV CENTER
 Square Feet 3465
 View Sketch View Map

View Picture



Exterior/Interior Information:

Card 1
 Levels B1/B1
 Size 1155
 Use SUPPORT AREA
 Height 6
 Heating NONE
 A/C NONE

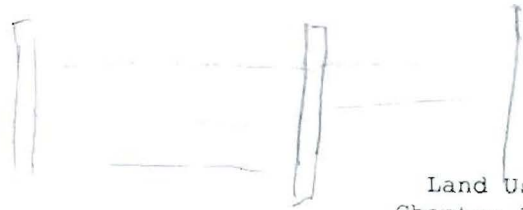
Card 1
 Levels 01/01
 Size 1155
 Use MULTI-USE SALES
 Height 10
 Walls FRAME
 Heating HW/STEAM
 A/C NONE

Card 1
 Levels 02/02
 Size 1155
 Use APARTMENT
 Height 8
 Walls FRAME
 Heating HW/STEAM
 A/C NONE

Other Features:

Card 1
 Structure STORE FRONT - WD
 Size 29X1





(a) Where off-street parking for more than six (6) vehicles is required or provided on a lot in a residence zone and vehicles are to be or may be parked within the area otherwise required to be kept open and unoccupied for front, side and rear yards in the zone in which such parking is located, the following requirements shall be met:

- (1) A continuous curb guard, rectangular in cross-section, at least six (6) inches in height and permanently anchored, shall be provided and maintained at least five (5) feet from the street or lot line between such off-street parking and that part of the street or lot line involved; or a continuous bumper guard of adequate strength, the top of which shall be at least twenty (20) inches in height, shall be provided and maintained between such off-street parking and that part of the street or lot line involved so that bumpers of vehicles cannot project beyond its face toward the street or lot line involved, either above or below the impact surface.
- (2) Where such off-street parking shall abut a lot in residential use or an unoccupied lot which is located in a residence zone, a chain link, picket or sapling fence, not less than forty-eight (48) inches in height, shall be provided and maintained between such off-street parking and that part of the lot line involved.

NOT WITHIN 5' N/A



(b) Notwithstanding the provisions of subsection (a) of this section, parking shall be prohibited in the front yard of lots containing two (2) or more dwelling units, except within one (1) driveway on the lot. "Driveway," as used in this paragraph, shall not include any turnaround area.

(Code 1968, § 602.14.H; Ord. No. 231-90, § 2, 3-5-90)

Sec. 14-339. When located adjacent to a street or a residential use.

Where off-street parking for more than six (6) vehicles is required or provided on a lot in any business zone, the following requirements shall be met:

- (a) Where vehicles are to be or may be parked within ten (10) feet of any street line, a continuous curb guard, rectangular in cross-section, at least six (6) inches in

- (c) Loading, sales, dead storage, repair, or servicing of any kind, except when customarily incidental or accessory to a conforming principal building or use when located in an I-2, I-2b, I-3 zone and I-3b zone;
- (d) Except in the case of a car dealer, more than one (1) unregistered motor vehicle stored outside for a period in excess of thirty (30) days in any residence zone, the R-P zone or any business zone;
- (e) Notwithstanding (1) above, any truck body, commercial trailer or similar commercial vehicles in any residence zone or the R-P zone.

(Code 1968, § 602.14.E; Ord. No. 298-88, 5-31-88)

Sec. 14-336. Location in residence zones for six or fewer vehicles.

(a) Where off-street parking for six (6) or fewer vehicles is required or provided in any residence zone, it shall not be located closer than fifty (50) feet to any street line if less than five (5) feet from any lot line and shall not be closer to any street line than the required depth of the front yard for the same lot, except on a corner lot where the minimum depth from the line of the side street shall be the minimum width of the side yard on the side street. Lots in the R-6 zone shall not be required to provide the five-foot setback required by this section, but parking in the R-6 zone shall meet the front yard setbacks set forth in this section.

(b) Parking shall be prohibited in the front yard of lots containing two (2) or more dwelling units, except within one (1) driveway on the lot. "Driveway," as used in this paragraph, shall not include any turnaround area.

(Code 1968, § 602.14.F; Ord. No. 231-90, § 1, 3-5-90; Ord. No. 310-98, § 2, 5-4-98)

Sec. 14-337. Location in residence zones for more than six vehicles.

Where off-street parking for more than six (6) vehicles is required or provided for nonresidential uses in residence zones, it shall not be located closer than twenty-five (25) feet to any residential structure on an adjoining lot.

(Code 1968, § 602.14.G)

Sec. 14-338. When located within required open yard areas in residence zones

meets

MARGE SCHMUCKAL, ZONING ADMINISTRATOR

JUNE 3, 2010

This property is located in an R-5 Residential Zone which allows Places of Assembly as a Conditional Use before the Planning Board.

This is a change of use from a TV service repair and sales on the first floor and a single family on the second floor, to a Place of Assembly on the first floor and a single family dwelling on the second floor. This is considered to be a "Small" Place of Assembly which requires a minimum lot size of 10, 890 square feet. The current lot size is 14, 400 square feet. The required minimum lot size for the Place of Assembly use is being met.

The exterior and interior of the building was inspected on February 11, 2010. Under the parking requirements for Places of Assembly, one (1) parking space for each one hundred and twenty five (125) square feet of floor area used for assembly area not including bathrooms, bulk storage, stairways, closets or other non-assembly areas, it was determined that six parking spaces are required for the Place of Assembly use plus one parking space for the existing dwelling unit is required for a total of seven (7) parking spaces. Seven parking spaces are being shown on the submitted plot plan and meets the minimum requirements.

Section 14-337 requires parking for more than six vehicles to be no closer than 25 feet to any residential structure on an adjoining lot. The scaled drawings show the parking area to be at least 30 feet away from the closest residential structure.

During a building permit review and approval, the application will be conditioned with compliance with Section 14-338 which states that Where a such off-street parking shall abut a lot in residential use or an un occupied lot which is located in a residence zone, a fence no less than forty-eight (48) inches shall be provided and maintained between such off-street parking and that part of the lot line involved.

Also during the building permit review and approval, the application will be conditioned with compliance with Section 14-340 which states, "where artificial lighting is provided, it shall be shaded or screened so that no light source shall be visible from outside the area and its access driveways.

Marge Schmuckal - Fwd: RE: 978 Washington- Zoning Assessment

From: Gary Wood
To: Danielle West-Chuhta
Date: 6/16/2010 9:57 AM
Subject: Fwd: RE: 978 Washington- Zoning Assessment
CC: Marge Schmuckal

what does "required to be kept open" mean?

>>> Danielle West-Chuhta (Danielle West-Chuhta) 6/16/2010 9:54 AM >>>
The way I read section 14-338 is this:

When there is off-street parking for more than six (6) vehicles required or provided on a lot in a residence zone and vehicles are parked within the area required to be kept open for front, side and rear yards then the requirements (i.e. fencing, etc.) in that section kick in.

So, in this case, I think that the requirements of section 14-338 kick in since this is a residence zone, there is parking for more than six vehicles on the lot and they will be parking the front/side yards.

Danielle

>>> Gary Wood 6/16/2010 9:43 AM >>>
please review and comment
Isentit to Marge as well to take a look at

Marge Schmuckal - RE: 978 Washington- Zoning Assessment

From: Zachary Heiden <heiden@mclu.org>
To: 'Gary Wood' <GARY@portlandmaine.gov>
Date: 6/15/2010 3:30 PM
Subject: RE: 978 Washington- Zoning Assessment

Thank you. Nice to be back. What does it mean, in 14-338, that "vehicles are to be or may be parked within the area otherwise required to be kept open and unoccupied for front, side and rear yards in the zone in which such parking is located"?

It seems to me that the fence requirement is only triggered if this qualification is met.

Zachary L. Heiden, Legal Director
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(207) 774-5444

-----Original Message-----

From: Gary Wood [mailto:GARY@portlandmaine.gov]
Sent: Tuesday, June 15, 2010 3:25 PM
To: Zachary Heiden
Subject: Fwd: 978 Washington- Zoning Assessment

here you go
welcome back

including those fifteen (15) years of age: One (1) parking space for each room used for purposes of instruction.

- (e) *Schools providing instruction for students sixteen (16) years of age and over:* One (1) parking space for each ten (10) seats or major fraction thereof, used for purposes of instruction; if no fixed seats, one (1) parking space for each one hundred (100) square feet or major fraction thereof used for purposes of instruction.
- (f) *Hospitals:* One (1) parking space for each five hundred (500) square feet or major fraction thereof, of floor area, exclusive of cellar.
- (g) *Auditoriums, theaters, assembly halls, funeral homes:* One (1) parking space for each five (5) seats or for each one hundred (100) square feet, or major fraction thereof, of assemblage space if no fixed seats.
- (h) *Retail stores:* One (1) parking space for each two hundred (200) square feet of first floor area in excess of two thousand (2,000) square feet not used for bulk storage and one (1) parking space for each seven hundred (700) square feet, or major fraction thereof, for each floor above the first floor not used for bulk storage.
- (i) *Restaurants or establishments constructed and intended for the dispensing of food and drink as the principal activity:* One (1) parking space for each one hundred fifty (150) square feet, or major fraction thereof, of floor area not used for bulk storage or food preparation.
- (j) *Offices; professional and public buildings:* One (1) parking space for each four hundred (400) square feet, or major fraction thereof, of floor area exclusive of cellar not used for bulk storage.
- (k) *Places of assembly (which includes private club and fraternal halls, places of religious assembly, and community halls):* One (1) parking space for reach one hundred and twenty five (125) square feet, or major fraction thereof, of floor area used for assembly area not including bathrooms, bulk storage, stairways, closets or other non-assembly areas.

height and permanently anchored, shall be provided and maintained at least five (5) feet from the street line between such off-street parking and that part of the street line involved; or a continuous bumper guard of adequate strength, the top of which shall be at least twenty (20) inches in height, shall be provided and maintained between such off-street parking and that part of the street line involved so that bumpers of vehicles cannot project beyond its face toward the street line involved either above or below the impact surface.

- (b) Where such off-street parking shall abut a lot in a residence zone or a lot in residential use, a chain link, picket or sapling fence, not less than forty-eight (48) inches in height, shall be provided and maintained between such off-street parking and that part of the lot line involved.

(Code 1968, § 602.14.1)

Sec. 14-340. Construction requirements when more than six vehicles parked.

Where off-street parking for more than six (6) vehicles is required or provided, the following construction requirements shall apply:

- (a) Appropriate driveways from streets or alleys, as well as maneuvering areas, shall be provided. Location and width of approaches over public sidewalks shall be approved by the traffic engineer.
- (b) The surface of driveways, maneuvering areas and parking areas shall be uniformly graded with a subgrade consisting of gravel or equivalent materials at least six (6) inches in depth, well compacted, and with a wearing surface equivalent in quantities of compaction and durability to fine gravel.
- (c) A system of surface drainage shall be provided in such a way that the waste run-off shall not run over or across any public sidewalk or street.
- (d) Where artificial lighting is provided, it shall be shaded or screened so that no light source shall be visible from outside the area and its access driveways.



Marge Schmuckal - Fwd: RE: 978 Washington- Zoning Assessment

From: Marge Schmuckal
To: Danielle West-Chuhta; Gary Wood
Date: 6/16/2010 11:26 AM
Subject: Fwd: RE: 978 Washington- Zoning Assessment
CC: Molly Casto

I think that parking **can** be located within the required front, side and rear building setbacks based upon other setback requirements for parking that are listed in the ordinance. However, if the parking is located in those required yard setbacks for buildings, then the following listed requirements apply, such as the fencing. I interpret that to mean not just the actual parking spaces for the cars, but the area denoted for the entire parking lot, meaning access and driving areas needed to maneuver into the spaces. and the actual spaces involved.

In this case, there is a portion of their parking lot which is in the required building setback along the side of the property. Because of that, I believe that the fencing requirements kick in as stated.

Marge

>>> Danielle West-Chuhta (Danielle West-Chuhta) 6/16/2010 10:55 AM >>>

I think that there is a requirement that the front/side setbacks be kept open in the residential zones - that is, no parking can be there....Marge?

>>> Gary Wood 6/16/2010 9:57 AM >>>

what does "required to be kept open" mean?

>>> Danielle West-Chuhta (Danielle West-Chuhta) 6/16/2010 9:54 AM >>>

The way I read section 14-338 is this:

When there is off-street parking for more than six (6) vehicles required or provided on a lot in a residence zone and vehicles are parked within the area required to kept open for front, side and rear yards then the requirements (i.e. fencing, etc.) in that section kick in.

So, in this case, I think that the requirements of section 14-338 kick in since this is a residence zone, there is parking for more than six vehicles on the lot and they will be parking the front/side yards.

Danielle

>>> Gary Wood 6/16/2010 9:43 AM >>>

please review and comment

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(a) Where off-street parking for more than six (6) vehicles is required or provided on a lot in a residence zone and vehicles are to be or may be parked within the area otherwise required to be kept open and unoccupied for front, side and rear yards in the zone in which such parking is located, the following requirements shall be met:

- (1) A continuous curb guard, rectangular in cross-section, at least six (6) inches in height and permanently anchored, shall be provided and maintained at least five (5) feet from the street or lot line between such off-street parking and that part of the street or lot line involved; or a continuous bumper guard of adequate strength, the top of which shall be at least twenty (20) inches in height, shall be provided and maintained between such off-street parking and that part of the street or lot line involved so that bumpers of vehicles cannot project beyond its face toward the street or lot line involved, either above or below the impact surface.
- (2) Where such off-street parking shall abut a lot in residential use or an unoccupied lot which is located in a residence zone, a chain link, picket or sapling fence, not less than forty-eight (48) inches in height, shall be provided and maintained between such off-street parking and that part of the lot line involved.

(b) Notwithstanding the provisions of subsection (a) of this section, parking shall be prohibited in the front yard of lots containing two (2) or more dwelling units, except within one (1) driveway on the lot. "Driveway," as used in this paragraph, shall not include any turnaround area.

(Code 1968, § 602.14.H; Ord. No. 231-90, § 2, 3-5-90)

Sec. 14-339. When located adjacent to a street or a residential use.

Where off-street parking for more than six (6) vehicles is required or provided on a lot in any business zone, the following requirements shall be met:

- (a) Where vehicles are to be or may be parked within ten (10) feet of any street line, a continuous curb guard, rectangular in cross-section, at least six (6) inches in

From: Tammy Munson
To: Gary Wood; Marge Schmuckal
Date: 1/27/2010 3:02 PM
Subject: Fwd: RE: Re: 978 Washington Avenue

Gary, it is in the IBC 2003- Administration Chapter 1 Section 105.1 - permit required - Any owner...who intends to construct, enlarge alter, repair, move, demolish, or change the occupancy...
So if they changed the use they need a building permit The alterations can be part of the same permit.

>>> Gary Wood 1/27/2010 2:48 PM >>>

see attached

Zach is asking for the code references that could /would require a building permit in this change of use situation

I suspect but do not know if the alterations that they have already done inside to convert the former tv repair space to a place of worship will require an after the fact permit

the more critical permit requirement at this point is what if any life safety requirements they might have to meet re number of exits, emergency lighting, smoke detectors stairways etc etc for which they would need a building permit.. some of those issues will depend on the occupancy limit established by Marge's internal space measurement of the place of assembly

the changes passed by the council include our standard requirement that the occupancy limit for this type of use is 15sq ft per person

this religion requires the use of prayer rugs...please measure the prayer rug dimensions as that may lead to an agreed upon condition re allowed occupancy that is less than would be allowed by our 15 sq ft requirement

CC: Danielle West -Chuhta; PENNY LITTELL