

ORDER 119

ORDER AUTHORIZING AMENDMENT TO
PORTLAND CITY COSE SECTION 14-49 (ZONING MAP
AMENDMENT) AND CONTRACT FOR
REZONING FOR HOTEL USE VICINITY OF
SEWALL STREET - SPONSORED BY THE PLANNING
BOARD, CYRUS HAGGE, CHAIR.

IN THE CITY COUNCIL

OCTOBER 6, 1997

Attest: Nadeen M. Daniels
Nadeen M. Daniels, City Clerk

Yeas

Nays

October 6, 1997: This Order received a first reading.

October 20, 1997: Motion made by Councilor Harlow to
accept this Order; seconded by Councilor Rickett. Roll call
vote, passed 7-0.

189-A-14

CR
CB

Order 119
Tab 2/ 10.6.27

City of Portland, Maine

IN THE CITY COUNCIL

ORDER AUTHORIZING AMENDMENT TO CITY CODE
§14-49 (ZONING MAP AMENDMENT)
AND CONTRACT FOR REZONING FOR HOTEL USE
VICINITY OF SEWALL STREET

ORDERED, that the Zoning Map of the City of Portland, dated March 1958 as amended and on file in the Department of Planning & Urban Development, and incorporated by reference into the Zoning Ordinance by §14-49 of the Portland City Code, is hereby amended as shown on Exhibit 1 of Attachment A hereto to allow the hotel use enumerated in Attachment A;

BE IT FURTHER ORDERED, that the amendment of the City's Zoning Map is conditioned upon execution of the contract for rezoning attached to this Order as Attachment A;

BE IT FURTHER ORDERED, that the City Manager is hereby authorized to execute the contract attached hereto as Attachment A.

BE IT FURTHER ORDERED, that such zone change shall take effect immediately pursuant to Article II, section 8 of the Portland City Charter, subject to execution of the contract for rezoning by both parties, in order to allow the owner of the property to receive necessary approvals to commence foundation work prior to the end of this construction season.

SEWALLSTCON.REZ
09.11.97

**CITY OF PORTLAND, MAINE
CITY COUNCIL AGENDA REQUEST FORM**

TO: Sonia Bean, Administrative Assistant
Elizabeth Boynton, Associate Corporation Counsel

FROM: Joseph E. Gray, Jr., Director of Planning and Urban Development

DATE: September 24, 1997

SUBJECT: Contract Zone Change - Candlewood Hotel, Sewall Street

- 1) Council Meeting at which action is requested (Date): First Reading: October 6, 1997
Public Hearing: October 20, 1997
- 2) Can action be taken at a later date? ___ YES X NO

If no, why not?

In order to allow the owner of the property to receive necessary approvals to commence foundation work prior to the end of this construction season, the applicant has requested an emergency preamble, so that the zone will take effect immediately.

I. SUMMARY OF ISSUE

Olympia Equity Investors II, LLC, is proposing a zone change from R-5 Residential and R-P Residence Professional to a B-2 Contract Zone in the vicinity of Congress and Sewall Streets, behind the Double Tree Hotel (formerly Ramada Inn). The Portland Planning Board voted 6-0 (Rodriquez absent) to recommend to the City Council approval of the proposed contract rezoning at Sewall Street to allow a 70 room Candlewood Hotel, subject to four (4) conditions within the terms of the contract.

II. REASON FOR SUBMISSION (What issue/problem will this address?)

The property at Sewall Street is situated in a R-5 Residential Zone and R-P Residence Professional Zone, which excludes hotels as a permitted use. The reason for the B-2 contract rezoning is because the standard B-2 zoning allows only ten percent of the total parking in the front yard. The way the lot is situated, the applicant must have almost all of the parking in the front yard.

III. INTENDED RESULT (How does it resolve the issue/problem?)

The contract rezone will allow the applicant to have a hotel use with more than ten (10) percent of the parking allowed in the front yard. The contract and its conditions are included as Attachment A.

IV. FINANCIAL IMPACT

There are no known financial impacts to the City.

V. STAFF ANALYSIS & RECOMMENDATION

See attached copy of the Board's report to City Council (Attachment B).

Attachments:

- A. Zoning Contract
- B. Planning Board Report

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09.11.97

AGREEMENT BETWEEN

CITY OF PORTLAND

AND

OLYMPIA EQUITY INVESTORS II, LLC

AGREEMENT made this day of , 1997 by and between the
CITY OF PORTLAND, a body corporate and politic, located in
Cumberland County and State of Maine (hereinafter the "CITY") and
OLYMPIA EQUITY INVESTORS II, a Maine Limited Liability Company
(hereinafter "OLYMPIA").

W I T N E S S E T H:

WHEREAS, OLYMPIA did request a rezoning of property located on
Sewall Street, in Portland, in order to permit the establishment
and operation of a hotel; and

WHEREAS, the Planning Board of the City of Portland, pursuant
to 30-A M.R.S.A. §4352(8), and after notice and hearing and due
deliberation thereon, recommended the rezoning of the property as
aforesaid, subject, however, to certain conditions; and

WHEREAS, the CITY by and through its City Council has
determined that said rezoning would be pursuant to and consistent
with the CITY'S comprehensive land use plan and consistent with the
existing and permitted uses within the original zone; and

WHEREAS, the CITY has determined that because of the unusual
nature of the proposed development it is necessary or appropriate
to impose by agreement the following conditions or restrictions in

order to insure that the rezoning is consistent with the CITY's comprehensive land use plan; and

WHEREAS, the CITY authorized the execution of this Agreement on _____, 1997;

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The CITY shall amend the Zoning Map of the City of Portland, dated March 1958, as amended and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by §14-49 of the Portland City Code, by adopting the map change amendment shown on Attachment 1.
2. The property shall be developed substantially in accordance with the site plan and elevations shown on Attachment 2; provided, however, that such plan and elevations shall be subject to full site plan review by the Planning Board.
3. OLYMPIA shall be authorized to establish and maintain a hotel use, limited to seventy (70) guest rooms, and accessory parking as required by Division 20 of Chapter 14 of the Portland City Code only.
4. The development shall meet all of the requirements of §§14-185, 14-186 and 14-187 of the Portland City Code, except that parking may be located in front of the building.

The above stated restrictions, provisions and conditions are an essential part of the rezoning, shall run with the subject premises, shall bind OLYMPIA, its successors and assigns, as permitted by this Agreement, of said property or any part thereof or interest therein, and any party in possession or occupancy of said property or any part thereof, and shall inure to the benefit

of and be enforceable by the CITY, by and through its duly authorized representatives.

If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed as a separate, distinct and independent provision and such determination shall not affect the validity of the remaining portions hereof.

Except as expressly modified herein, the use and occupancy of the subject premises shall be governed by and comply with the provisions of the Land Use Code of the City of Portland and any applicable amendments thereto or replacement thereof.

In the event that OLYMPIA or any successor fails to continue to utilize the property in accordance with this Agreement, or in the event of a breach of any condition(s) set forth in this Agreement, the Planning Board shall have the authority, after hearing, to resolve the issue resulting in the breach or the failure to operate. The resolution may include a recommendation to the City Council that the site be rezoned to R-5 and R-P Residence-Professional or any successor zones and that this Agreement be terminated, requiring a cessation of the hotel and parking uses permitted under this terms of this Agreement.

WITNESS:

CITY OF PORTLAND

By _____
Robert B. Ganley
Its City Manager

WITNESS:

OLYMPIA INVESTORS II, LLC

By: _____
Its

STATE OF MAINE
CUMBERLAND, ss.

, 1997

Personally appeared the above-named Robert B. Ganley, in his capacity as City Manager, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of the City of Portland.

Before me,

Notary Public/Attorney at Law

STATE OF MAINE
CUMBERLAND, ss.

, 1997

Personally appeared the above-named, in his/her said capacity and acknowledged the foregoing instrument to be his/her free act and deed and the free act and deed of Olympia Equity Investors II, LLC.

Before me,

Notary Public/Attorney at Law

Exhibit 1

