

# CITY OF PORTLAND, MAINE

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## PLANNING BOARD

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June 24, 2008

Karen Johnson  
Charter Realty and Development Corporation  
800 Westchester Avenue  
Suite S-632  
Rye Brook, NY 10573

**RE: Westgate Shopping Plaza**  
Application # 2008-0027  
Chart: 191-B-19

Dear Karen:

On May 27, 2008 and June 10, 2008, the Portland Planning Board considered the submitted application for Westgate Shopping Plaza. The Planning Board reviewed the proposal for conformance with the standards for Conditional Use in the B-2 zone, standards and requirements for Traffic Movement Permit, and the standards of the Subdivision Ordinance and the Site Plan Ordinance. The Planning Board voted to approve the application with the following motions, waivers and conditions as presented below.

**I. May 27, 2008 Public Hearing:**

On May 27, 2008 the Portland Planning Board voted on the following motions concerning the proposed redevelopment of the Westgate Shopping Plaza:

**A. CONDITIONAL USE**

The Planning Board voted unanimously (5-0. Hall and Odokara absent) that the proposed conditional use for a drive-through adjacent to a residential use or zone meets the standards of Section 14-474 and the standards of Section 14-182 for the B2-b zone, subject to the following conditions:

- 1. Once a tenant for the restaurant has been identified, the applicant must submit final site plans and elevation drawings for the proposed development of Lot 3 for review and approval by the Planning Board prior to the issuance of a building permit. As part of the site plan review, the applicant shall submit information relating to Section 14-183 (a) (6) of the City Code demonstrating that the proposal for Lot 3 complies with zoning requirements, as determined by the City Zoning Administrator.*
- 2. The applicant shall address, to the satisfaction of the City Transportation Engineer, the location of crosswalks on Lot 3 as well as the any warning signage for lot 3 alerting vehicles to the presence of pedestrian crosswalks. In addition, if the tenant of the building causes*

*“peak hour” traffic volumes to be greater than those included in the traffic analyses conducted for the project as submitted in connection with this application, a revised traffic analysis will be required for review and approval by the City Traffic Engineer (or if already before the Planning Board for site plan approval, then the Planning Board) prior to the issuance of a building permit.*

3. *Once a tenant has been finalized for the proposed building on lot 3, the applicant shall submit sign details for the proposed use for review and approval by the Planning Authority prior to the issuance of a building permit.*
4. *A pre-development assessment of noise levels and a prediction of decibel levels from the proposed speaker system must be submitted for review and approval by the Planning Authority prior to the issuance of a building permit. Post-development noise levels shall also be taken and submitted quarterly for the first year of operation to the Planning Authority. If it is determined that noise levels exceed the standards of Section 14-187, the applicant shall install noise mitigation measures for the intercom system prior to the release of the performance guarantee.*

#### **B. WAIVERS**

The Portland Planning Board voted unanimously (5-0, Hall and Odokara absent) to grant the following waiver from subdivision standards:

1. *A waiver from the requirements of Section 14-499 (h) that all utilities be placed underground for Lot 1.*

The Portland Planning Board voted unanimously (5-0, Hall and Odokara absent) to grant the following waiver from site plan standards:

2. *A partial waiver from the requirements of Section 14-526 (a) (9) requiring that exterior lighting comply with the applicable specifications of the City of Portland Technical and Design standards, as proposed for lot 1.*

#### **C. TRAFFIC MOVEMENT PERMIT**

The Portland Planning Board voted unanimously (5-0, Hall and Odokara absent) that the plan is in conformance with the standards for a Traffic Movement Permit, subject to the following conditions of approval:

1. *If the tenant of the proposed building on lot 3 changes such that “peak hour” traffic volumes are greater than that included in the traffic analyses conducted for the project a submitted as part of this application, a revised traffic analysis will be required for review and approval by the City Transportation Engineer.*

## **II. June 10, 2008 Motion to Reconsider:**

On June 10, 2008, the Planning Board voted to reconsider the parking layout for the Westgate Shopping Plaza, approved on May 27, 2008. One June 10, 2008, the Planning Board voted on the following motions as presented below.

#### **A. SUBDIVISION**

The Portland Planning Board voted unanimously (6-0. Odokara absent) that the subdivision plan, entitled Westgate Shopping Plaza, is in conformance with the subdivision standards of the land use code, subject to the following conditions of approval:



1. *The applicant should confirm that the survey for the project coincides with approved City standards. The survey needs to be tied to the vertical datum of NGVD 1929 and to the Maine State Plane Coordinate System (2-zone projection), West Zone using the NAD 1983 (HARN) Datum and the U.S. Survey Foot as the unit of measure. This shall be confirmed by The Department of Public Services prior to the issuance of a building permit.*
2. *The applicant shall revise the site plan so as to include a continuous travel lane from the Stevens Avenue/Congress Street entrance to the front of retail 'A' of the main shopping plaza. The applicant shall submit final site plans showing the revised travel lane for review and approval by the City Transportation Engineer prior to the issuance of a building permit. The applicant shall also widen the proposed traffic islands in front of retail 'A', the width of which shall be determined by the City Transportation Engineer. The need to include an additional traffic island or additional demarcation in this location shall be determined by the City Transportation Engineer. Nine (9) parking spaces shall be relocated to the rear of the plaza, as shown on Alternative Schematic (2), submitted to the Planning Board on June 10, 2008.*

**B. SITE PLAN**

The Planning Board voted unanimously (6-0. Odokara absent) that the plan is in conformance with the site plan standards of the land use code, subject to the following conditions of approval:

1. *The applicant shall provide easement language for the proposed bus turnout and sidewalk based on as-built condition for review and approval by Corporation Counsel prior to the issuance of a Certificate of Occupancy.*
2. *The applicant shall provide a license to the City of Portland to allow municipal vehicles to turn around at the end of Westland Street for review and approval by Corporation Counsel prior to the issuance of a Certificate of Occupancy.*
3. *The applicant shall provide a pre-development assessment of noise levels and a prediction of decibel levels from the proposed speaker system be submitted for review and approval by Planning staff prior to the issuance of a building permit. After construction, post-development noise levels shall be submitted to the Planning Authority for review. If it is determined that the levels exceed the standards of Section 14-187, the applicant shall install noise mitigation measures for the intercom system prior to the release of the performance guarantee.*
4. *The applicant shall provide evidence of adequate sewer capacity prior to the issuance of a building permit.*
5. *The applicant shall submit a photometric plan meeting the requirements of the City of Portland Technical and Design Standards, with respect to the rear of the building so as to demonstrate that no unnecessary light, as defined by City Standards, is being passed onto the abutting residential properties. This shall be reviewed and approved by the Planning Authority prior to the issuance of a building permit.*
6. *The applicant shall submit an updated landscaping plan for the rear portion of the property that abuts residential lots that provides continuous buffering along the property line between lot 1 and abutting residential properties for the Planning Authority's review and approval prior to the issuance of a building permit.*

7. *The applicant shall revise the site plan so as to include a continuous travel lane from the Stevens Avenue/Congress Street entrance to the front of retail 'A' of the main shopping plaza. The applicant shall submit final site plans showing the revised travel lane for review and approval by the City Transportation Engineer prior to the issuance of a building permit. The applicant shall also widen the proposed traffic islands in front of retail 'A', the width of which shall be determined by the City Transportation Engineer. The need to include an additional traffic island or additional demarcation in this location shall be determined based on review by the City Transportation Engineer. Nine (9) parking spaces shall be relocated to the rear of the plaza, as shown on Alternative Schematic (2), submitted to the Planning Board on June 10, 2008.*

Please note the following provisions and requirements for all site plan approvals:

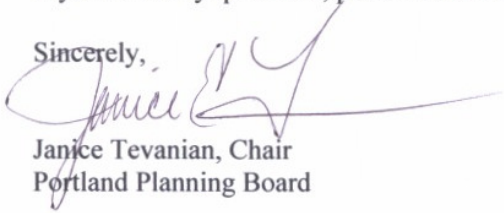
1. The above approvals do not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.
2. Where submission drawings are available in electronic form, the applicant shall submit any available electronic Autocad files (\*.dwg), release 14 or greater, with seven (7) sets of the final plans.
3. A performance guarantee covering the site improvements as well as an inspection fee payment of 2.0% of the guarantee amount and 7 final sets of plans must be submitted to and approved by the Planning Division and Public Works prior to the release of the building permit. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval.
4. The site plan approval will be deemed to have expired unless work in the development has commenced within one (1) year of the approval or within a time period agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the expiration date.
5. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
6. Prior to construction, a pre-construction meeting shall be held at the project site with the contractor, Phil DiPierro - Development Review Coordinator, Public Work's representatives and the property 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.
7. 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.)

Philip DiPierro, Development Review Coordinator, must be notified five (5) working days prior to date required for final site inspection. He can be reached 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 you have any questions, please contact Molly Casto, Planner at (207) 874-8901.

Sincerely,



Janice Tevanian, Chair  
Portland Planning Board

cc: Alexander Jaegerman, Planning Division Director  
Barbara Barhydt, Development Review Services Manager  
Molly Casto, Planner  
Phil DiPierro, Development Review Coordinator  
Marge Schmuckal, Zoning Administrator  
Jeanie Bourke, Director of Inspections  
Inspections Division  
Michael Bobinsky, Public Works Director  
Mike Farmer, Project Engineer  
Jim Carmody, City Transportation Engineer  
Jeff Tarling, City Arborist  
Penny Littell, Associate Corporation Counsel  
Captain Greg Cass, Fire Prevention. Fire Department  
Assessor's Office  
Approval Letter File

Attachments: Planning Board Report #26-08  
Revised Recommended Motions for Planning Board Report #26-08  
Planning Board Memorandum re: June 10, 2008 Reconsideration