

CITY OF PORTLAND, MAINE

PLANNING BOARD

Janice E. Tevanian, Chair
David Silk, Vice Chair
Bill Hall
Joe Lewis
Lee Lowry, III
Shalom Odokara
Michael J. Patterson

August 18, 2008

Charter Realty and Development Corporation
Attn: Karen Johnson
22 McGrath Highway
Somerville, MA 022143

RE: Tim Horton's Restaurant. Westgate Shopping Plaza
1412 Congress Street

CBL: 197-B-18
Application ID: 2008-0113

Dear Karen,

On August 12, 2008, the Portland Planning Board considered the amended site plan and conditional use application for the redevelopment of the lot [referred to as Lot 3 on the approved Subdivision Plan for Westgate Shopping Plaza at 1412 Congress Street] into a Tim Horton's restaurant with drive-through service. The Planning Board reviewed the proposal for conformance with the standards for Conditional Use in the B-2 zone and the standards of the Site Plan Ordinance. The Planning Board voted (6-0, Odokara absent) to approve the application with the following motions and conditions as presented below.

1. 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 # 46-08, relevant to Portland's Conditional Use Standards and other regulations, and the testimony presented at the Planning Board hearing, the Planning Board finds that the proposed conditional use for a drive-through adjacent to a residential use or zone does meet the standards of Section 14-474 and the standards of Section 14-183 for the B-2 zone, subject to the following conditions:

- a. The final site plan must comply with any additional site plan conditions of approval, as listed below.

2. SITE PLAN:

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in Planning Board Report # 46-08, relevant to the Site Plan Ordinance and other regulations and the testimony presented at the Planning Board hearing, the Planning Board finds that the plan is in conformance with the site plan standards of the land use code, subject to the following conditions:

- a. Two (2) additional emerald green arborvitae (*Thuja occidentalis 'smargd'*) shall be added

to the final site plan to be located on the west end of the line of emerald green arborvitae proposed along the southerly boundary of the site (as shown on the plan labeled 'Revised Landscape Plan. Proposed Restaurant. Congress Street. Portland, ME', dated August 8, 2008, which is attached).

The approval is based on the submitted site plan and the findings related to site plan and conditional use review standards as contained in Planning Report #46-08, which is attached.

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

1. The above approval does not constitute approval for building plans, which must be reviewed and approved the City of Portland's Inspection Division.
2. Where submission drawings are available in electronic form, final sets of plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (*.dwg), release AutoCAD 2005 or greater.
3. A performance guarantee covering the site improvements as well as an inspection fee payment of 2.0% of the guarantee amount and seven (7) final sets of plans must be submitted to and approved by the Planning Division and Public Works prior to the release of a building permit, street opening permit or certificate of occupancy for site plans. If you need to make any modifications to the approved plans, you must submit a revised site plan application for staff review and approval.
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, Planning Division's Development Review Coordinator, Public Work's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the 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.)

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 Molly Casto, Senior Planner at (207) 874-8901

Sincerely,

Janice Tevanian, Chair
Portland Planning Board

Attachments:

2. Planning Board Report #46-08
3. Memorandum to the Planning Board from Molly Casto dated August 12, 2008
4. Performance Guarantee Packet

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
Jeanie Bourke, Inspections Division
Lisa Danforth, Administrative Assistant
Michael Bobinsky, Public Services Director
Kathi Earley, Public Works
Bill Clark, Public Works
Michael Farmer, Public Works
Jim Carmody, City Transportation Engineer
Jane Ward, Public Works
Captain Greg Cass, Fire Prevention
Jeff Tarling, City Arborist
Tom Errico, Wilbur Smith Consulting Engineers
Dan Goyette, Woodard & Curran
Assessor's Office
Approval Letter File
Hard Copy: Project File