

# CITY OF PORTLAND, MAINE

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## PLANNING BOARD

Stuart O'Brien, Chair  
Timothy Dean, Vice Chair  
Elizabeth Boepple  
Sean Dundon  
Bill Hall  
Carol Morrissette  
Jack Soley

May 28<sup>th</sup>, 2014

Charter Realty and Development Corporation  
Attn: Karen Johnson, AICP Charter Westgate LLC  
800 Westchester Avenue, Suite S-632  
Rye Brook, NY 10573

Project Name: Reuse of Tim Horton's Restaurant for Dunkin Donuts, Westgate Shopping Plaza  
Project ID: #2014-033  
Address: 1412 Congress Street  
CBL: 197-B-18  
Applicant: Charter Realty and Development Corporation  
Planner: Jean Fraser

Dear Karen,

On May 13<sup>th</sup>, 2014, the Portland Planning Board considered the amended site plan and conditional use application for the reuse of the Tim Hortons restaurant and drive-through [referred to as Lot 3 on the approved Subdivision Plan for Westgate Shopping Plaza at 1412 Congress Street] into a Dunkin Donuts restaurant and drive-through.

On the basis of the applications, plans, reports, and other information submitted by the applicant, and on findings and recommendations contained in the May 13<sup>th</sup>, 2014 Planning Report for Project #2014-033 1412 Congress Street (Lot #3 in the Westgate Shopping Plaza), relevant to Portland's Conditional Use Standards, Site Plan Standards and other applicable regulations, and testimony presented at the Planning Board Hearing, and based upon the City of Portland's Delegated Review Authority for Traffic Movement Permits, the Planning Board voted 5-0 (Dundon and Morrissette absent) to approve the application with the following motions and conditions as presented below.

1. **CONDITIONAL USE:**

The Portland Planning Board finds the plan is in conformance with the B2 conditional use standards (14-183 and 14-474) of the Land Use Code, subject to the following condition of approval:

- a. That the applicant shall obtain Planning Board approval to any modifications to the characteristics subject of the conditional use review (including but not limited to lighting and hours of operation) prior to the introduction of such revision.

2. **TRAFFIC MOVEMENT PERMIT:**

The Portland Planning Board finds the plan is in conformance with 23 MRSA 704-A and Chapter 305 Rules and Regulations pertaining to Traffic Movement Permits and grants the modification to the Traffic Movement Permit granted in 2008 for the Westgate Shopping Plaza, subject to the following condition of approval:

- a. That the applicant shall contribute \$5000 to an account maintained by the City that will be used to fund pedestrian improvements to the intersection at Congress Street/Stevens Avenue near the Westgate Shopping Plaza.

3. **SITE PLAN:**

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 of approval:

- a. That the applicant shall submit a final revised site plan, prior to the opening of the Dunkin Donuts, that shows the approved location of the menu board as in Plan P8 of this report; and
- b. That separate permits and/or site plan approvals shall be required for any exterior changes to the site and drive-through features, and or any new signage.

**STANDARD CONDITIONS OF APPROVAL**

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

1. **Develop Site According to Plan** The site shall be developed and maintained as depicted on the site plan and in the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or Planning Authority pursuant to the terms of Chapter 14, Land Use, of the Portland City Code.
2. **Separate Building Permits Are Required** This approval does not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.
3. **Site Plan Expiration** The site plan approval will be deemed to have expired unless work has commenced within one (1) year of the approval or within a time period up to three (3) years from the approval date as agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the one (1) year expiration date.
4. **Department of Public Services Permits** 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.)

All conditional use, TMP and site plan requirements, as outlined in the above conditions, must be completed and approved by the Development Review Coordinator (Phil diPierro on 207 874 8632) prior to issuance of a Certificate of Occupancy.

If there are any questions, please contact Jean Fraser at (207) 874- 8728.

Sincerely,



Stuart O'Brien, Chair  
Portland Planning Board

Attachment: Planning Board Report

**Electronic Distribution:**

Jeff Levine, AICP, Director of Planning and Urban Development  
Alexander Jaegerman, FAICP, Planning Division Director  
Barbara Barhydt, Development Review Services Manager  
Jean Fraser, Planner  
Philip DiPierro, Development Review Coordinator, Planning  
Marge Schmuckal, Zoning Administrator, Inspections Division  
Tammy Munson, Inspection Division Director  
Lannie Dobson, Administration, Inspections Division  
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David Margolis-Pineo, Deputy City Engineer, Public Services  
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Greg Vining, Associate Engineer, Public Services  
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Jeremiah Bartlett, Public Services  
Captain Chris Pirone, Fire Department  
Danielle West-Chuhta, Corporation Counsel  
Thomas Errico, P.E., TY Lin Associates  
David Senus, P.E., Woodard and Curran  
Rick Blackburn, Assessor's Department  
Approval Letter File