



Planning & Urban Development Department

Jeff Levine, AICP, Director

Marge Schmuckal, Zoning Administrator

September 29, 2014

Beth A. Smith
c/o Bernstein Shur
100 Middle Street
P.O. Box 9729
Portland, Maine 04104-5029

RE: 1877-1881 (called 1877) Congress Street – 217-A-010 – (the “Property”) - R-2 Zone

Dear Attorney Smith,

I am in receipt of your request concerning the Property. The Property is located entirely within the R-2 Residential Zone. The R-2 zone is primarily a single family residential zone. However, the R-2 zone does allow uses other than purely residential under the Condition Use section of the Ordinance. These uses are considered to be compatible with residential dwelling units. Places of Assembly, which includes places of religious assembly and community halls, is specifically listed in the R-2 zone under Conditional Uses. The Place of Assembly use is required to go to the Planning Board for its approval.

You have asked me to comment on anticipated hurdles to obtaining a conditional use permit in this zone. As a zoning Administrator, I am aware that the use is allowed under the conditional use standards. It is difficult for me to anticipate any hurdles. Past development throughout the City indicates that any changes, whether permitted or a conditional use, may aggravate neighbors, just because it is a change. Please note that it is the planning staff and not the zoning staff that help applicants through the required processes.

I also do not know how to comment on whether the proposed use for the Property is consistent with the uses for which it is zoned. Apparently it is consistent with the other listed uses since the Planning Board and City Council approved such a uses to be listed in the R-2 Zone.

The R-2 zone under dimensional requirements states that a large Place of Assembly requires a minimum of two (2) acres (section 14-80(a)4). The Assessor's web site indicates that the current size of the lot is just over four (4) acres in size. This is more than enough land to satisfy the minimum lot size for the proposed use.

The R-2 zone under section 14-80 (h) states that the maximum floor area on a collection or arterial road for a large place of assembly is not limited. It is noted that in August 2002, the Planning staff released a map indicating that Congress Street in this area of the City is located on a Principle Arterial (map enclosed).

Portland, Maine



Yes. Life's good here.

Planning & Urban Development Department

Jeff Levine, AICP, Director

Marge Schmuckal, Zoning Administrator

Parking for Places of Assembly is outlined under section 14-332(k) which states that one (1) parking space is required for each 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. Without specific, dimensioned floor plans, I am not able to state a specific number of parking spaces for your project. I will be glad to sit down with the applicant prior to any submittal in order to review the floor plans and determine specific parking requirements for the project.

When placing the building on the Property, all the other listed dimensional requirements must also be met, including, but not limited to, setbacks, minimum lot width, maximum lot coverage and maximum building height. This building is required to be reviewed by the Planning Division under site plan review standards and the conditional use criteria and standards.

If you have any other questions regarding this matter, please don't hesitate to contact me at (207) 874-8695.

Very truly yours,

A handwritten signature in black ink that reads "Marge Schmuckal".

Marge Schmuckal
Zoning Administrator
City of Portland, Maine

attachments

provisions of this Code, the Planning Board shall be substituted for the board of appeals as the reviewing authority:

1. Elementary, middle, and secondary school;
2. a. Long-term and extended care facilities;
b. Intermediate care facility for thirteen (13) or more persons;
3. Places of assembly;
4. College, university, trade school;

14-78(b)

Such uses shall be subject to the following conditions and standards in addition to the provisions of section 14-474:

- a. Any new institutional use shall demonstrate that it has a lot size of sufficient area to accommodate all proposed and foreseeable future activities and programs, including parking, and to absorb the impacts and growth needs of the institution. Such new use established after April 19, 2012 shall not be eligible for expansion under the provisions of paragraph b below;
- b. 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 area; and
- c. The proposed use will not cause significant displacement or conversion of residential uses existing as of June 1, 1983, or thereafter; and
- d. In the case of a use or use expansion which constitutes a combination of the above-listed uses with capacity for concurrent operations, the applicable minimum lot sizes shall be cumulative;

or managed on an integrated coordinated basis.

On-peninsula: Includes all land located south of I-295.

Off-peninsula: Includes all land located north of I-295.

Personal service: Establishments engaged in providing services involving the care of the person or his apparel, such as laundries, dry cleaning establishments, photographic studios, beauty and barber shops but not including commercial or industrial laundries.

Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high water line or within a wetland:

- (a) *Temporary:* Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.
- (b) *Permanent:* Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Place of assembly: A building or portion of a building used as a community hall, neighborhood center, private and fraternal organization or place of religious assembly. This definition shall not include buildings or portions of buildings used as a community hall, neighborhood center, private and fraternal organization or place of religious assembly where fifteen (15) or fewer people, not including the permanent residents of a single family dwelling, assemble.

Place of religious assembly: A building or portion of a building used for religious worship or instruction including, but not limited to, churches, synagogues, masjids, mosques and other places of worship.

Pre-development grade. Pre-development grade is defined as average grade, existing on October 1, 2000, at the corners of the foundation of the proposed structure.

Principal building: The building occupied by the chief or principal use on the premises. When a garage is attached to the principal building in a substantial manner as by a roof or common wall, it shall be considered as a part of the principal building.

the roof beams in flat roofs; to the highest point of the roof beams or the highest point on the deck of mansard roofs; to a level midway between the level of the eaves and highest point of pitched roofs or hip roofs; or to a level two-thirds of the distance from the level of the eaves to the highest point of gambrel roofs. For this purpose the level of the eaves shall be taken to mean the highest level where the plane of the roof intersects the plane of the outside wall on a side containing the eaves.

Business service: Establishments primarily engaged in rendering services to other business establishments on a fee or contract basis such as advertising, mailing services, building maintenance services, employment services, management and consulting services, protective services, personnel services and similar businesses.

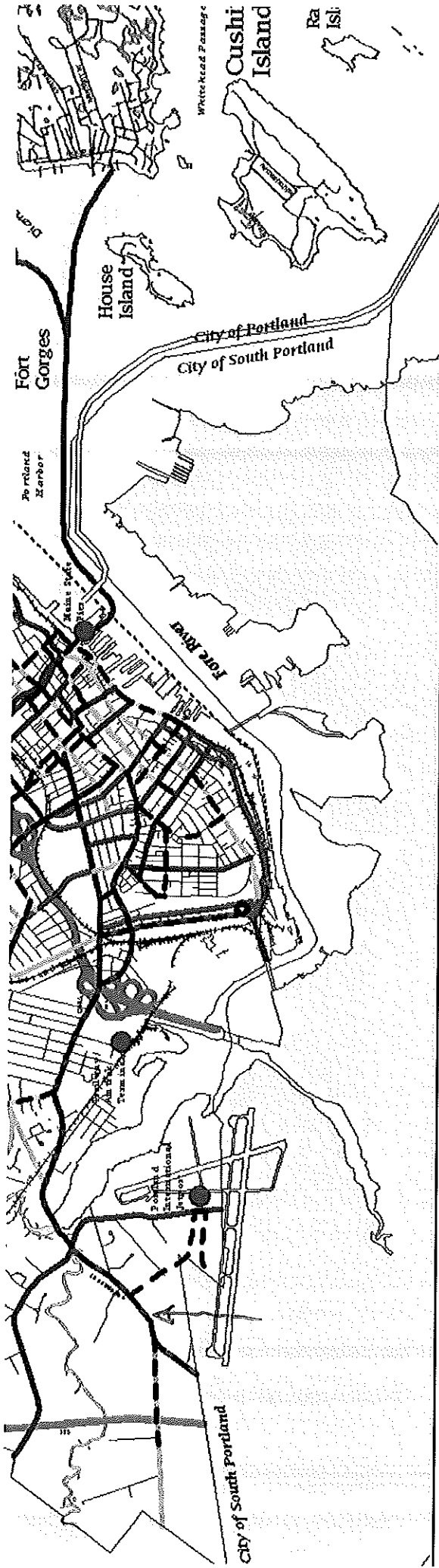
Chemical-free night club: An alcohol-free commercial establishment that offers live entertainment, amplified music, and/or dancing, where the primary source of income for such alcohol-free commercial establishment is derived from the entertainment and/or any admission or cover charge.

Clinics: Any establishment where patients are admitted for examination and treatment by one (1) or more professionals such as, but not limited to, physicians, dentists, psychologists or social workers.

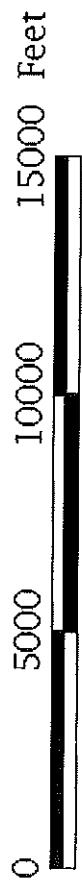
Coastal wetland: All tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and that occurs primarily in a salt water or estuarine habitat; and/or any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

Collector or arterial road: A roadway which is classified as a collector or minor, principal or other arterial by the federal functional road classification for Portland, Maine, a map of which is on file with the department of planning and urban development.

Commercial vessel: Any watercraft used principally in a business or trade, including common carriers of passenger or freight, whether for governmental, nonprofit or emergency purposes; but not including pleasure craft used principally for recreational



TRANSPORTATION



Map produced by the City of Portland's GIS Workgroup August 2002

FEDERAL HIGHWAY CLASSIFICATION	
	COLLECTOR
	INTERSTATE
	MINOR ARTERIAL
	OTHER PRINCIPLE AR

lot size

2. Long-term, extended, or intermediate care facility:
Three (3) acres.
3. School: Two (2) acres.
4. Places of assembly:

14-80(a)

Large	Two (2) acres
Medium	One (1) acre
Small	Half (1/2) acre

5. Municipal use: Ten thousand (10,000) square feet.
6. College, university, trade school: Two (2) acres.
7. All other uses: Ten Thousand (10,000) square feet.

Provided that for uses specified in section 14-80(a)2 through 7 above, no minimum lot area shall be required in the following cases:

- a. Uses existing as of June 1, 1983;
- b. Expansion of uses onto land abutting the lot on which the principal use is located;
- c. Expansion onto land other than the lot on which the principal use is located to the extent that such expansion consists of the reuse of surface parking area or nonresidential structures existing and in nonresidential use as of June 1, 1983, provided that such reuse is contained within the lot of record of such structure or parking area as of June 1, 1983;
- d. Expansion onto land other than the lot on which the principal use is located of no more than fifteen (15) percent of the total contiguous land area of the existing use, or one (1) acre, whichever is less, within any five-year period.

(b) *Minimum area per dwelling unit:* Ten thousand (10,000)

Parking

City of Portland
Code of Ordinances
Sec. 14-332

Land Use
Chapter 14
Rev.8-15-13

- (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 each 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.
- (l) *For that part of every business, manufacturing, and industrial building not catering to retail trade and with floor area over three thousand (3,000) square feet:* One (1) parking space for each one thousand (1,000) square feet of floor area, or major fraction thereof.
- (m) *Hostels:* One (1) parking space for each eight (8) beds, or major fraction thereof. This requirement may be reduced to one (1) parking space for each twelve (12) beds if the site is within one quarter (1/4) mile of a public transit stop.
- (n) *Long-term, extended care and intermediate care facilities:* One (1) parking space for each five (5) beds, or major fraction thereof, plus one (1) parking space per each employee normally present during one (1) weekday morning shift.
- (o) *Lodging houses:* One (1) parking space for each five (5) rooming units, except in the R-5 zone; in the R-5 zone, one (1) parking space for every two (2) rooming units.
- (p) *Sheltered care group homes and emergency shelters:* One (1) parking space for every two (2) employees.
- (q) *Congregate care facilities:* One (1) parking space for every three (3) living units.
- (r) *Special needs independent living units:* One (1) parking space per every four (4) living units, plus one (1) parking space for each staff member, if any, normally present at any one time.

The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than twelve (12) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than twelve (12) feet.

b. Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.

4. *Side yard on side streets:*

Principal or accessory structures: Twenty (20) feet.

(e) *Maximum lot coverage:* Twenty (20) percent of lot area.

(f) *Minimum lot width:* Eighty (80) feet.

(g) *Maximum structure height:*

1. Principal or accessory attached structure: Thirty-five (35) feet.

2. Accessory detached structure: Eighteen (18) feet.

1A-80-7(h) Maximum floor area on a collector or arterial road:

1. Places of public assembly:

Large	Not limited
Medium	9,000 sq. ft.
Small	5,000 sq. ft.

2. College, university, trade school:

Lot area of 6 acres or larger: 24,000 sq. ft.
Lot area of 4 acres to 5.99 acres: 18,000 sq. ft.

Lot area of 2 acres to 3.99 acres: 12,000 sq. ft.

(i) *Maximum floor area not on a collector or arterial road:*

1. Places of public assembly:

Large	9,000 sq. ft.
Medium	4,500 sq. ft.
Small	2,500 sq. ft.

2. College university, trade school:

Not a permitted use.

(Ord. No. 533-84, 5-7-84; Ord. No. 80-88, § 3, 7-19-88; Ord. No. 235-91, § 4, 2-4-91; Ord. No. 118-93, § 4, 10-18-93; Ord. No. 154-96, § 3, 12-16-96; Ord. No. 131-08/09, 12-15-08; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 131-11/12, 3-19-12)

*Editor's note--Ord. No. 80-88, § 3, adopted July 19, 1988, amended this section to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 80-88.

Sec. 14-81. Other requirements.

Other requirements are as follows:

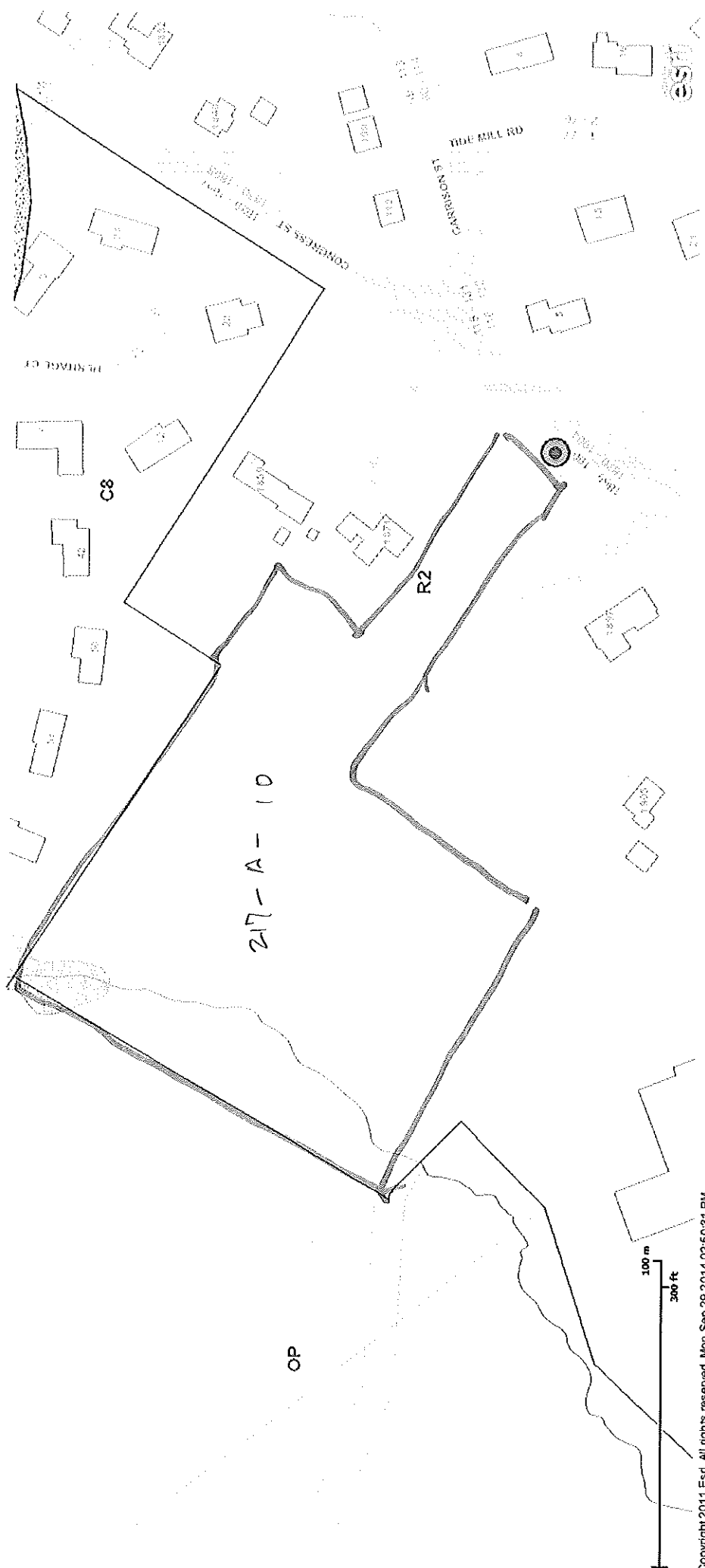
(a) *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.

(b) *Shoreland and flood plain management regulations:* Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

(c) *Storage of vehicles:* Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.

(Ord. No. 533-84, 5-7-84; Ord. No. 15-92, § 6, 6-15-92)

Sec. 14-82 - 14-85. Reserved.



Copyright 2011 Esri. All rights reserved. Mon Sep 29 2014 02:50:31 PM.

square feet.

(c) *Minimum street frontage:* Fifty (50) feet.

(d) *Minimum yard dimensions:*

(Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.)

1. *Front yard:*

Principal or accessory structures: Twenty-five (25) feet.

2. *Rear yard:*

a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Twenty-five (25) feet.

b. Accessory detached structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.

Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.

3. *Side yard:*

a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet:

Height of Structure Required Side Yard

1 story 12 feet

1 1/2 stories 12 feet

2 stories 14 feet

2 1/2 stories 16 feet