



## Planning &amp; Urban Development Department

*Jeff Levine, AICP, Director*

*Marge Schmuckal, Zoning Administrator*

October 10, 2014

REVISED LETTER

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, section 14-78(b)3. The Place of Assembly use is required to go to the Planning Board for its approval. The ancillary grade school use is also considered a conditional use under section 14-78(b)1 of the R-2 Zone. It too would go to the Planning Board as the reviewing authority. Any new building site plan along with the conditional uses for places of assembly and elementary school would go before the Planning Board in tandem for approvals.

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



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map indicating that Congress Street in this area of the City is located on a Principle Arterial (map enclosed).

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. Please note the corrected CBL number. Your request to me indicated that the CBL number was 217-A-011001. However, your description of vacant land states that the parcel is at and around 1877-1897 Congress Street. I believe that is the lot more accurately described by CBL #217-A-010001.

Very truly yours,

Marge Schmuckal  
Zoning Administrator  
City of Portland, Maine

attachments

dwelling unit;

- b. Lot area shall be eight thousand (8,000) square feet for single-family dwellings in existence as of May 1, 1984, and lot area shall be ten thousand (10,000) square feet for single-family dwellings constructed after May 1, 1984;
- c. There shall be no open, outside stairways or fire escapes above the ground floor;
- d. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the single-family appearance of the building;
- e. The project shall be subject to article V (site plan) of this chapter for site plan review and approval and the following additional standards:
  - i. Any additions or exterior alterations, such as facade materials, building form and roof pitch shall be designed to be compatible with the architectural style of the building and preserve the single-family appearance of the building.
  - ii. The scale and surface area of parking, driveways and paved areas shall be arranged and landscaped to properly screen vehicles from adjacent properties and streets.
- f. Either the accessory unit or the principal dwelling shall be occupied by the owner of the lot on which the principal building is located, except for bona fide temporary absences; and
- g. Parking shall be provided as required by division 20 of this article.

(b) Institutional: Any of the following conditional uses provided that, notwithstanding section 14-474 (conditional uses) of this article or any other

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

- 14-78(b)
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;

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;