

Listed below are key characters (in bold) for searching within this file.

Hold down the control key and select the “f” key. Enter either a key character from the list below or document name and select enter for a list of documents containing the search word you entered.

APL – all documents behind this target sheet pertain to the original application submitted by the Applicant.

REVIEW – all documents behind this target sheet pertain to those documents submitted to and from staff as part of the project review.

PBM1 – all documents behind this target sheet are any Planning Board memos with attachments that went to the Board.

PBR1 - all documents behind this target sheet are any Planning Board reports with attachments that went to the Board.

CC1 - all documents behind this target sheet are any City Council memos/reports that went to the City Council.

DRC1 - all documents behind this target sheet are those pertaining to the post review of the project by the Development Review Coordinator.

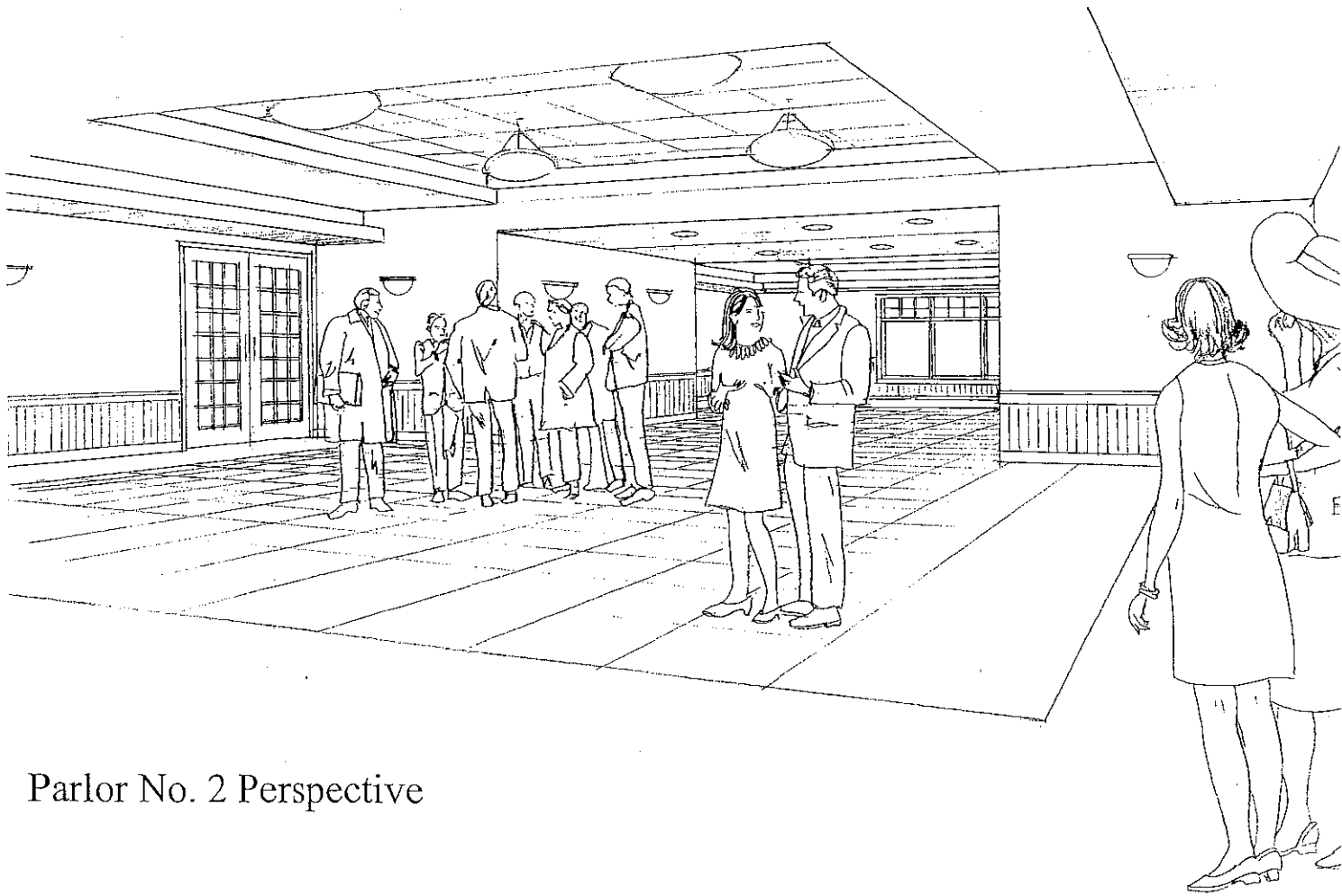
MISC1 - all documents behind this target sheet are those that may not be included in any of the categories above.

APL

Hutchins Funeral Home
660 Brighton Avenue
Portland, Maine
Project No. 0813

Development Review Application

Project Statement



Parlor No. 2 Perspective

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198 Main Street, Suite-C
Lewiston, Maine 04240
207-344-6611
DLLAIA@AOL.COM

.....

DLL Associates /Architects

August 18, 2009

Planning and Development Department
Portland City Hall
389 Congress Street
Portland, Maine 04101
Attn: Jean Fraser

RE: Hutchins Funeral
660 Brighton Avenue
Portland, Maine
Project No.0813

Dear Jean:

On behalf of ATH Realty LLC, enclosed please find the building permit application documentation for the existing structure located at 660 Brighton Avenue. Also enclosed is a check to cover the application fee.

The project is located in the Residential-Professional (R-P) Zone in the City of Portland. The proposed project is an adaptive re-use of the existing medical office building and change of use to a funeral home. The current structure is a two story wood frame with approximately 4,244 sq.ft. per floor. We propose a minor 10' x 18' 180 sq.ft. addition to house an elevator and elevator machine room, and a 6' x 17' 102 sq.ft. extension of the exit balcony. The proposed alterations will not alter the existing City of Portland permitted use or the current utilization of the site. The project has been designed to ensure that the existing topography will not be altered. The existing surface water drainage system and the existing catch basin will be preserved and remain as is.

Site access will continue to be from Brighton Avenue and no new curb cuts or alterations will be required. The current landscaping will be pruned and if required replaced with applicable plantings.

The current off-street parking requirements for the City of Portland are one space per 100 sq.ft. of assembly area, one space per 400 sq.ft. per public office use, and one space per 1000 sq.ft. of bulk storage/garage area. The total required parking is 41 spaces and the proposed project will accommodate 83 spaces. Bicycle parking

.....

Focus on quality design and Architectural Integrity.

August 18, 2009

Page 2

requirements is two spaces for ten motor vehicle spaces. We will provide for 8 bicycle spaces.

The existing site is currently being supplied by a public sewer and water system. The infrastructure in this area was designed and constructed for commercial purposes. The proposed change of use will reduce the demands on the public utilities. We will have to install a new sprinkler water connection. The solid waste disposal will continue to be handled by a private waste disposal contractor, and we do not anticipate any significant increase in solid waste handling volume.

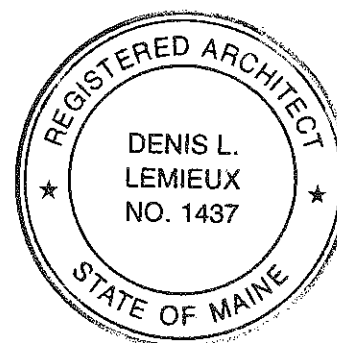
We trust the enclosed application submission information is complete and will allow you to process this application. If you need any additional information or require clarification of any items please do not hesitate to contact me.

Sincerely,

DLL Associates/Architects

Denis L. Lemieux, AIA
President

Enc: Permit Application
Check



Application



Development Review Application
PORTLAND, MAINE

Department of Planning and Urban Development,
Planning Division and Planning Board

PROJECT NAME: HUTCHINS FUNERAL HOME

PROPOSED DEVELOPMENT ADDRESS:
660 BRIGHTON AVENUE

PROJECT DESCRIPTION:
ADAPTIVE RE-USE OF EXISTING MEDICAL OFFICE

CHART/BLOCK/LOT: 224/A/1

CONTACT INFORMATION:

APPLICANT

Name: ATH REALTY, LLC
Address: 16 EQUESTRIAN WAY
SCARBOROUGH, ME
Zip Code: 04074
Work #: 329-3649
Cell #: SAME
Fax #: -
Home: SAME
E-mail: M.HUTCHINS@MAINE
RR.COM

PROPERTY OWNER

Name: WHITE WATER, LLC
Address: 1601 CONGRESS ST.
PORTLAND, ME
Zip Code: 04102
Work #: _____
Cell #: _____
Fax #: _____
Home: _____
E-mail: _____

BILLING ADDRESS

Name: _____
Address: SAME AS ABOVE

Zip: _____
Work #: _____
Cell #: _____
Fax #: _____
Home: _____
E-mail: _____

RECEIVED

AUG 24 2009

City of Portland
Planning Division

~As applicable, please include additional contact information on the next page~

AGENT/REPRESENTATIVE

Name: DEHIS L. LEHIEUX, AIA
Address: 198 MAIN ST.
LEWISTON, ME
Zip Code: 04240
Work #: 344-6611
Cell #: 754-5100
Fax #: 344-6612
Home: _____
E-mail: DLAIA@AOL.COM

ENGINEER

Name: RTB ENTERPRISE, P.E.
Address: 32 FORSIDE COMMON
FALMOUTH, ME
Zip Code: 04105
Work #: 232-2509
Cell #: SAMIE
Fax #: 829-4347
Home: _____
E-mail: _____

ARCHITECT

Name: DLA ASSOC. / ARCH
Address: _____
(SEE ABOVE)
Zip Code: _____
Work #: _____
Cell #: _____
Fax #: _____
Home: _____
E-mail: _____

CONSULTANT

Name: BETH DELLA VALLE, AICP
Address: 64 WELLINGTON ROAD
PORTLAND, ME.
Zip Code: 04103
Work #: 899-3123
Cell #: 671-2956
Fax #: _____
Home: _____
E-mail: BETH DELLA VALLE @ MAINE.RR.COM

SURVEYOR

Name: _____
Address: _____
Zip Code: _____
Work #: _____
Cell #: _____
Fax #: _____
Home: _____
E-mail: _____

ATTORNEY

Name: TOM JEWELL
Address: 477 CONGRESS ST.
PORTLAND, ME
Zip Code: 04102
Work #: 774-6665
Cell #: _____
Fax #: _____
Home: _____
E-mail: _____

PROJECT DATA

The following information is required where applicable, in order complete the application

Total Site Area 84,506.4 sq. ft.
 Proposed Total Disturbed Area of the Site 180 sq. ft.
 (If the proposed disturbance is greater than one acre, then the applicant shall apply for a Maine Construction General Permit (MCGP) with DEP and a Stormwater Management Permit, Chapter 500, with the City of Portland.)

IMPERVIOUS SURFACE AREA

Proposed Total Paved Area _____ sq. ft.
 Existing Total Impervious Area 40,669 sq. ft.
 Proposed Total Impervious Area SAME sq. ft.
 Proposed Impervious Net Change N/A sq. ft.

BUILDING AREA

Existing Building Footprint 4,244 sq. ft.
 Proposed Building Footprint 4,424 sq. ft.
 Proposed Building Footprint Net change 180 sq. ft.
 Existing Total Building Floor Area 8,488 sq. ft.
 Proposed Total Building Floor Area 8,770 sq. ft.
 Proposed Building Floor Area Net Change 282 sq. ft.
 New Building NO (yes or no)

ZONING

Existing B-P

Proposed, if applicable _____

LAND USE

Existing _____
 Proposed MEDICAL OFFICE
FUNERAL HOME

RESIDENTIAL, IF APPLICABLE

Proposed Number of Affordable Housing Units _____
 Proposed Number of Residential Units to be Demolished _____
 Existing Number of Residential Units _____
 Proposed Number of Residential Units _____
 Subdivision, Proposed Number of Lots _____

PARKING SPACES

Existing Number of Parking Spaces 83
 Proposed Number of Parking Spaces 83
 Number of Handicapped Parking Spaces 4
 Proposed Total Parking Spaces 83

BICYCLE PARKING SPACES

Existing Number of Bicycle Parking Spaces _____
 Proposed Number of Bicycle Parking Spaces 0
 Total Bicycle Parking Spaces 0

ESTIMATED COST OF PROJECT

\$800,000

Please check all reviews that apply to the proposed development

Design Review	<u>X</u>	Stormwater Quality	_____
Flood Plain Review	_____	Traffic Movement	<u>X</u>
Historic Preservation	_____	Zoning Variance	_____
Housing Replacement	_____	Historic District/Landmark	_____
14-403 Street Review	_____	Off Site Parking	_____
Shorland	_____	Multi-Family Dwelling	_____
Site Location Act Local Review	_____	B-3 Pedestrian Activity Review	_____
Single Family Dwelling	_____	Change of Use	<u>X</u>
2 Family Dwelling	_____		

APPLICATION FEE:

Check all reviews that apply. Payment may be made in cash or check to the City of Portland.

<p>Major Development (more than 10,000 sq. ft.)</p> <p><input type="checkbox"/> Under 50,000 sq. ft. (\$500.00)</p> <p><input type="checkbox"/> 50,000 - 100,000 sq. ft. (\$1,000.00)</p> <p><input type="checkbox"/> Parking Lots over 100 spaces (\$1,000.00)</p> <p><input type="checkbox"/> 100,000 - 200,000 sq. ft. (\$2,000.00)</p> <p><input type="checkbox"/> 200,000 - 300,000 sq. ft. (\$3,000.00)</p> <p><input type="checkbox"/> Over 300,000 sq. ft. (\$5,000.00)</p> <p><input type="checkbox"/> After-the-fact Review (\$1,000.00) plus applicable application fee)</p>	<p>Plan Amendments</p> <p><input type="checkbox"/> Planning Staff Review (\$250.00)</p> <p><input type="checkbox"/> Planning Board Review (\$500.00)</p> <p>Subdivision</p> <p><input type="checkbox"/> Subdivision (\$500.00) + amount of lots _____ (\$25.00 per lot) \$ _____ + (applicable Major site plan fee)</p>
<p>Minor Site Plan Review</p> <p><input checked="" type="checkbox"/> Less than 10,000 sq. ft. (\$400.00)</p> <p><input type="checkbox"/> After-the-fact Review (\$1,000.00) plus applicable application fee)</p>	<p>Other Reviews</p> <p><input type="checkbox"/> Site Location of Development (\$3,000.00) (except for residential projects which shall be \$200.00 per lot _____)</p> <p><input type="checkbox"/> Traffic Movement (\$1,000.00)</p> <p><input type="checkbox"/> Storm water Quality (\$250.00)</p> <p><input type="checkbox"/> Section 14-403 Review (\$400.00 + \$25.00 per lot)</p> <p><input type="checkbox"/> Other _____</p>

DEVELOPMENT REVIEW APPLICATION SUBMISSION

Submissions shall include seven (7) packets with folded plans containing the following materials:

1. Seven (7) full size site plans that must be folded.
2. Application form that is completed and signed.
3. Cover letter stating the nature of the project.
4. All Written Submittals (Sec. 14-525 2 (c)), including evidence of right, title and interest.
5. A stamped standard boundary survey prepared by a registered land surveyor at a scale not less than one inch to 100 feet.
6. Plans and maps based upon the boundary survey and containing the information found in the attached sample plan checklist.
7. Copy of the checklist completed for the proposal listing the material contained in the submitted application.
8. One (1) set of plans reduced to 11 x 17.

Refer to the application checklist (page 9) for a detailed list of submittal requirements.

Portland's development review process and requirements are outlined in the Land Use Code (Chapter 14), which includes the Subdivision Ordinance (Section 14-491) and the Site Plan Ordinance (Section 14-521). Portland's Land Use Code is on the City's web site: www.portlandmaine.gov. Copies of the ordinances may be purchased through the Planning Division.

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Planning Authority and Code Enforcement's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

This application is for site review only; a Performance Guarantee, Inspection Fee, Building Permit Application and associated fees will be required prior to construction.

<p>Signature of Applicant:</p> <p><i>Henri J. Lemieux</i></p>	<p>Date:</p> <p><i>August 18, 2007</i></p>
---	--

Site Plan Checklist

Portland, Maine

Department of Planning and Urban Development, Planning Division and Planning Board

HUTCHINS FUNERAL HOME

Project Name, Address of Project

Application Number

(The form is to be completed by the Applicant or Designated Representative)

Check Submitted	Required Information	Section 14-525 (b,c)
Applicant	Staff	
X	Standard boundary survey (stamped by a registered surveyor, at a scale of not less than 1 inch to 100 feet and including:	1
X	Name and address of applicant and name of proposed development	a
X	Scale and north points	b
X	Boundaries of the site	c
X	Total land area of site	d
X	Topography - existing and proposed (2 foot intervals or less)	e
X	<u>Plans based on the boundary survey including:</u>	2
	Existing soil conditions	a
X	Location of water courses, wetlands, marshes, rock outcroppings and wooded areas	b
	Location, ground floor area and grade elevations of building and other structures existing and proposed, elevation drawings of exterior facades, and materials to be used	c
X	Approx location of buildings or other structures on parcels abutting the site and a zoning summary of applicable dimensional standards (sample page 11 of packet)	d
X	Location of on-site waste receptacles	e
	Public utilities	
	Water and sewer mains	e
	Culverts, drains, existing and proposed, showing size and directions of flows	e
	Location and dimensions, and ownership of easements, public or private rights-of-way, both existing and proposed	f
X	Location and dimensions of on-site pedestrian and vehicular access ways	g
X	Parking areas	g
X	Loading facilities	g
X	Design of ingress and egress of vehicles to and from the site onto public streets	g
X	Curb and sidewalks	g
	Landscape plan showing:	h
X	Location of existing vegetation and proposed vegetation	h
X	Type of vegetation	h
X	Quantity of plantings	h
X	Size of proposed landscaping	h
X	Existing areas to be preserved	h
X	Preservation measures to be employed	h
X	Details of planting and preservation specifications	h
X	Location and dimensions of all fencing and screening	i
X	Location and intensity of outdoor lighting system	j
X	Location of fire hydrants, existing and proposed (refer to Enc 12 parameter checklist, page 11)	k
	Written statements to include:	c
X	Description of proposed uses to be located on site	c1
N/A	Quantity and type of residential, if any	c1
X	Total land area of the site	c2
X	Total floor area, total disturbed area and ground coverage of each proposed building and structure	c2
	General summary of existing and proposed easements or other burdens	c3
X	Type, quantity and method of handling solid waste disposal	c4
X	Applicant's evaluation or evidence of availability of off-site public facilities, including sewer, water and streets (refer to the wastewater capacity application - page 12)	c5
X	Description of existing surface drainage and a proposed stormwater management plan or description of measures to control surface runoff	c6

- _____
 - _____
 - _____
 - _____
 - _____
 - _____
 - _____
- An estimate of the time period required for completion of the development 7
 - A list of all state and federal regulatory approvals to which the development may be subject to, the status of any pending applications, anticipated timeframe for obtaining such permits, or letters of non-jurisdiction 8
 - Evidence of financial and technical capability to undertake and complete the development including a letter from a responsible financial institution stating that it has reviewed the planned development and would seriously consider financing it when approved.
 - Evidence of applicant's right title or interest, including deeds, leases, purchase options or other documentation.
 - A description of any unusual natural areas, wildlife and fisheries habitats, or archaeological sites located on or near the site.
- A jpeg or pdf of the proposed site plan, if available.
- Final sets of the approved plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (*.dwg), release AutoCAD 2005 or greater.

Note: Depending on the size and scope of the proposed development, the Planning Board or Planning Authority may request additional information, including (but not limited to):

- drainage patterns and facilities
- erosion and sedimentation controls to be used during construction
- a parking and/or traffic study
- emissions
- a wind impact analysis
- an environmental impact study
- a sun shadow study
- a study of particulates and any other noxious
- a noise study

Business Plan

ATH, LLC dba HUTCHINS Independent Death Care of Maine

Business Plan

Mission Statement

Our mission is to provide an exceptional and meaningful experience for the families that we serve; through teamwork, dedication, and professionalism. Our commitment to service comes from our strong family tradition of providing caring and compassionate personal service with the utmost respect. We strive to develop a relationship of trust, reliability and comfort with each family that we serve and by which they have come to expect and deserve. We are dedicated to ensuring that the families in our community, in which we live, has a funeral home which will treat their loved ones with dignity and our success will be measured by the loyalty of those we are honored to serve.

History

Back in the late 1920s, my grandfather established our first family funeral home on Cumberland Avenue in Portland. It was named the George E. Hutchins Funeral Home. At that time there were eight funeral homes in Portland. There are now basically only three. My father started working in the funeral home at the age of thirteen. Both my uncle and aunt also worked in the family business. My father then opened his own funeral home in Portland in 1965 shortly after my grandfather passed away. It was located at One William Street in Portland. The business was sold in 1979 to Jones & Rich Funeral Home in Portland. At the time, my father's business was the fastest growing funeral home the area.

Philosophy

Both of our family's funeral homes were run under the same philosophy and that was to treat every family as if they were one of your own. My grandfather and father treated everyone with compassion, respect and dignity. These are the same principles that were passed down to me by my father and I have tried to live by these principles throughout my life.

My father always stated that when a family comes into our funeral home, it becomes their home. My father also did not believe that you needed to spend a lot of money to bury your loved one. When he purchased the Harlow and Libby Funeral Home in 1965, the first thing he did was to remove the casket show room. He felt that when people walked into a casket showroom they would have the tendency to spend more on a casket than they needed to. My father's practice was to go to the family's home to make arrangement and if the family wanted to see him at 3 o'clock in the morning; then he would be there at 3:00 AM. It is this type of personal commitment to the families and their needs is what I believe will set us apart from the other funeral homes in the area. To be able to develop a solid business foundation for a funeral

Hutchins Funeral Home Business Plan cont.

home today, it can only be done by developing strong family relationships. You build those relationships by being committed to supplying the finest level of service to the families, along with having a price structure that is fair. You need to be willing to take the extra steps needed to ensure that the whole experience is well received by the family. By re-establishing the family business, it will allow me the opportunity to bring back to the industry some of the ways that my father had developed his reputation on.

Objective

I have missed over the years being associated with the funeral business. Because of the changes that have gone on within the funeral industry and with the local funeral homes, I believe that it is a good time to establish another funeral home serving Greater Portland. We will be able to distinguish our business from the other Portland funeral homes because ours will be truly family run, just as my grandfather and father before me, because my wife, both of our sons, my father-in-law and my mother will all become involve in operations of the business. Along with assisting families through such an emotional and trying time; I want the families to have the ability to afford the service level that they feel is appropriate for their loved ones. I believe that our price structure will accomplish that goal.

Backgrounds

The funeral home industry develops it business based on relationships with families that it serves. Over the years, I have maintained a close relationship with many of the families that were served by us at my father's funeral home. Also during the time that I have been away from the business, I have developed great relationships with many people through work and community involvement. I was on the United Way Finance Committee for a number of years. I was also involved with two Little Leagues, ultimately being President of both. I was the Program Director and Treasurer of the City of Portland's Youth Sport Exchange through its sister city program. I spent eight years as a board member of the Friends of Evergreen Cemetery I have also been active in the Catholic community at both St. Peter's and St. Pius X churches in Portland. At St. Pius X, I was elected and served six years on the parish council and was its chairperson for three of those years.

The funeral director that will operate the business for us (State licensing requirements) has been a licensed funeral director for 25+ years. Most of that time was spent in the Portland market working for the old Hay & Peabody Funeral Home and for the Jones, Rich & Hutchins Funeral Home. This individual developed many of the same relationships with families that I know we would serve through the Hutchins connection. Plus, over those years in Portland, he developed many more new relationships with families that he served at those two local funeral homes. The team that we will put together will have many years of experience within the funeral industry serving the people of Greater Portland.

Business Plan

I have put together a business plan that I believe will accomplish my objectives and that is by providing "affordable and personally-tailored funeral services" to the Greater Portland community.

Hutchins Funeral Home Business Plan cont.

The estimated total cost of the project is \$2,283,000, broken down as follows:

Purchase of property at 660 Brighton Ave.	985,000
Renovations of property	988,000
Equipment	175,000
Vehicles	135,000

Volume

The estimated volume of 400 calls for the first year is as follows:

55 calls from Jones, Rich & Hutchins Funeral Home – 13% of their projected annual total of 425

15 calls from Conory, Tully, Crawford Funeral Home – 5% of their projected annual total of 285.

330 calls form Independent Death Care of Maine – through the acquisition of the business.

The volume is broken down into four categories:

Traditional	-	18%
Traditional – no visitation	-	10%
Cremations	-	35%
Cremations – no visitations	-	37%

A “Traditional” service would require embalming, casket, visitation and funeral service. Where as cremations would exclude embalming and casket. A traditional service would have a higher margin than a cremation service. In the proceeding there will be a shift to cremations from the more traditional types of services.

We are projecting a modest increase of 25 calls in the second year of operation, then another 25 calls in the third year.

The following are my reasons for my estimate:

Jones, Rich & Hutchins –A large number of those calls that use this facility, use it due to the fact that Jones & Rich purchased my father’s business. As I mentioned above the funeral home business is based on relationships. After my father sold his business he worked for Jones & Rich for over two years to help transition his families that he had come to serve. Many of the families still view this location on Woodford St in Portland as Hutchins Funeral Home. Jones, Rich & Hutchins is now part of a national chain and many families in the community miss the fact that they are not locally owned or that our family is not involved with the operation. Currently, even with their high price structure, families will still use the facility because that is where their families have gone over the years since my father sold his business.

Conory, Tully, Crawford – Just like Jones, Rich & Hutchins this funeral home has a high price structure. The Portland facility is small, has inadequate parking and is difficult to get into. Their South Portland location is laid out better, but many Portland families want to be in Portland. They do not want to travel across the bridge.

Hutchins Funeral Home Business Plan cont.

Overall our Brighton Avenue location in Portland will be easier to access, have better parking and will become a newly well designed facility. The structure will have two visitation areas of approximately 1,200 sq ft each. When opened as one room, the size will be larger than any funeral home in the Greater Portland area. There will also be a private family room that the family can use for some quiet time during visitations or be used by younger members of the family. This room will have the look and feel of a living room that you might have within your own home.

Pricing

Based on the price list from Jones, Rich & Hutchins, our prices will be approximately 31% or \$3,120 less on average for a traditional service. For cremations, our prices will be approximately 45% or \$2,265 less on average. Our price structure will enable us to make inroads with families that do not currently have any connection to the Hutchins family name.

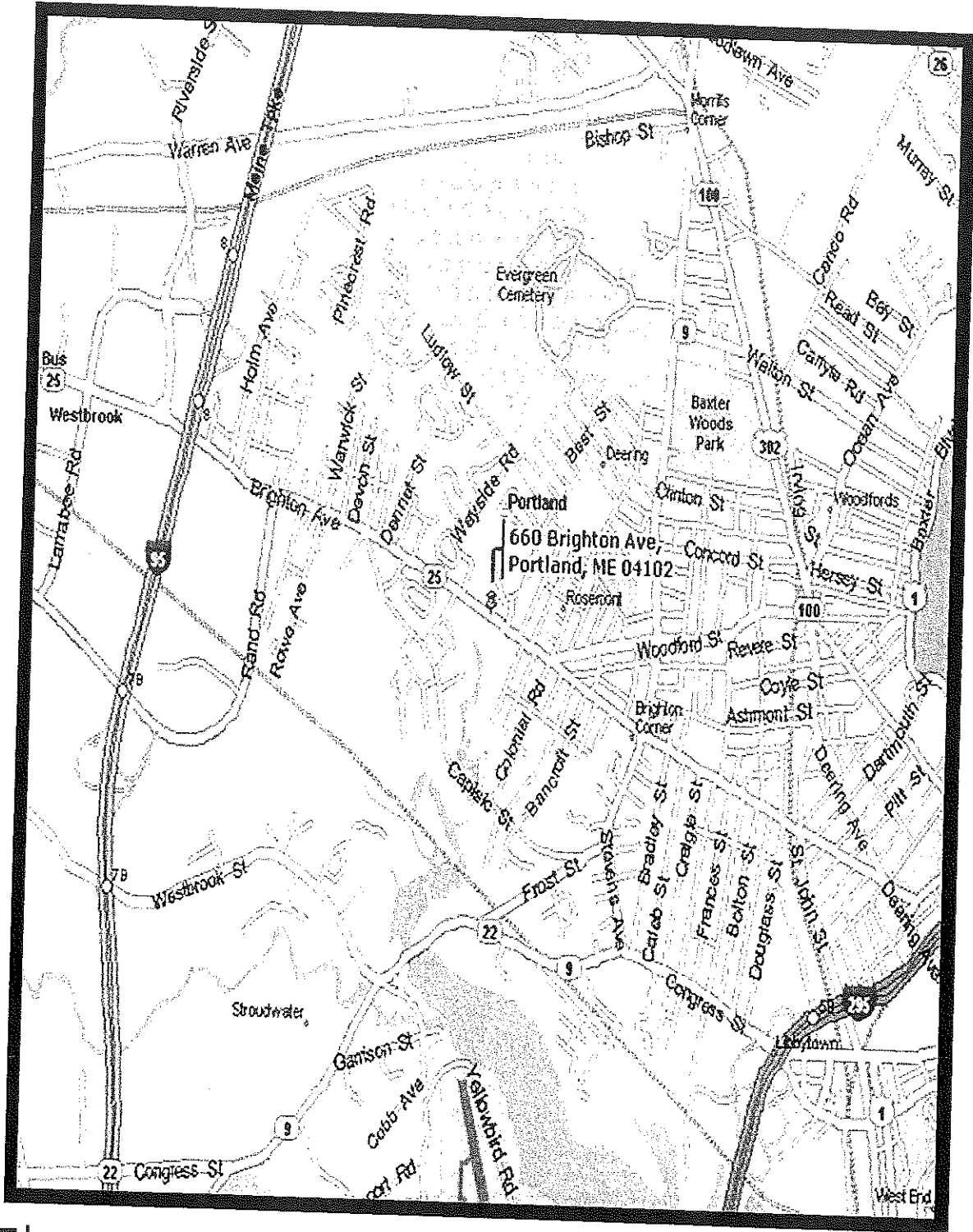
Financial Summary

	1st Yr	2nd Yr	3rd Yr	4th Yr	5th Yr
Traditional	72	102	104	102	100
Traditional - No Visitation	40	43	68	74	71
Cremations	140	153	167	163	166
Cremations - No Visitation	148	127	111	126	138
	400	425	450	465	475
Traditional - Visitation	\$ 395,640	\$ 588,545	\$ 634,405	\$ 652,805	\$ 679,005
Traditional - No Visitation	192,600	217,580	363,800	421,800	428,840
Cremation - Visitation	466,200	533,970	617,900	629,180	683,920
Cremation - No Visitation	410,700	369,570	347,430	410,760	476,100
Interest Income	1,614	1,811	3,781	5,987	8,450
Total Revenue	\$ 1,466,754	\$ 1,711,476	\$ 1,967,317	\$ 2,120,532	\$ 2,276,315
Total Fixed Overhead Expenses	\$ 1,331,368	\$ 1,457,446	\$ 1,580,299	\$ 1,675,082	\$ 1,766,651
Taxes	32,481	88,717	153,955	182,076	212,899
Gain / (Loss) on Fixed Expenses	\$ 102,905	\$ 165,313	\$ 233,062	\$ 263,373	\$ 296,764

Location Map

660 Brighton Avenue | Portland, Maine

Locus Map

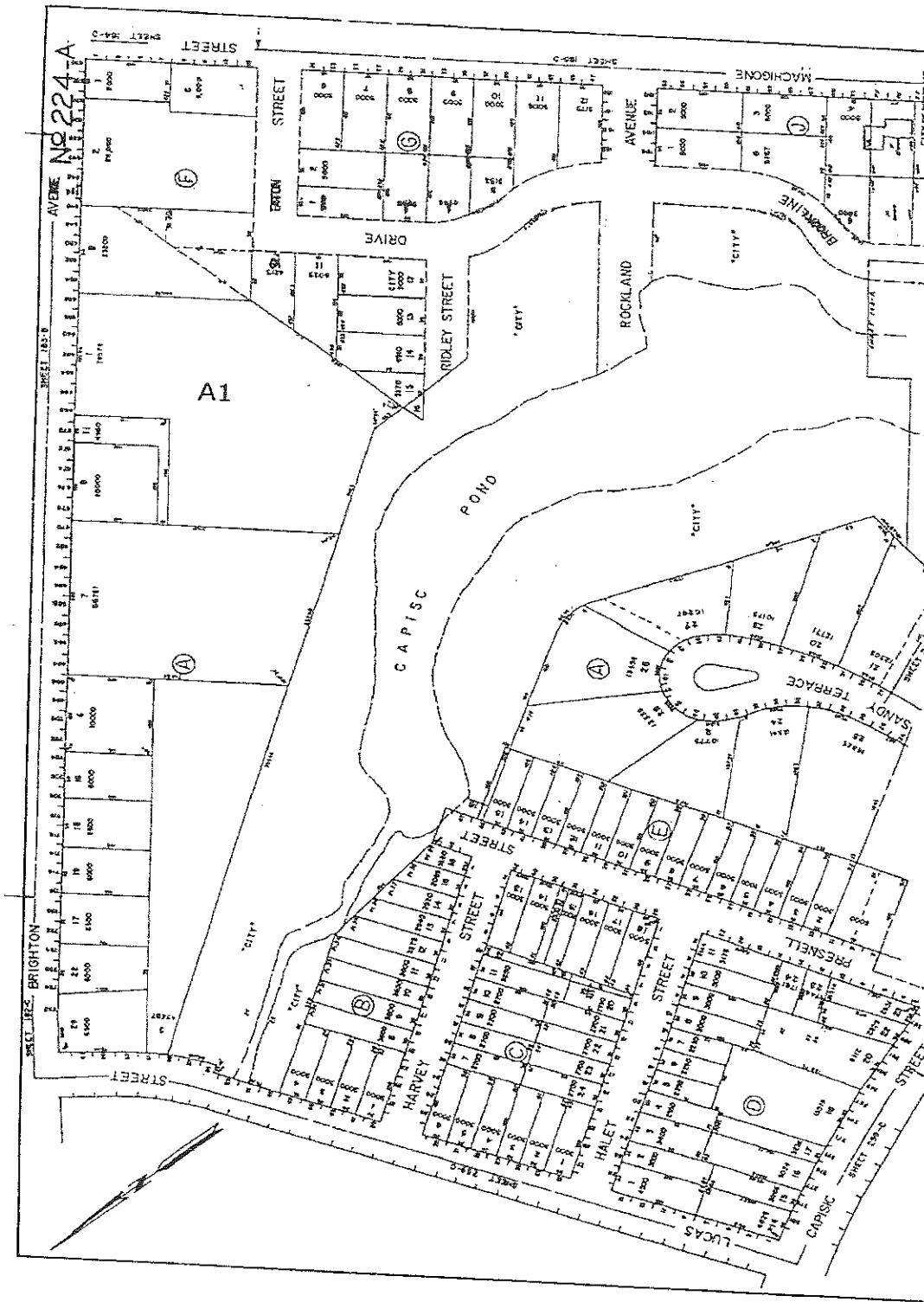


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660 Brighton Avenue | Portland, Maine

Tax Map

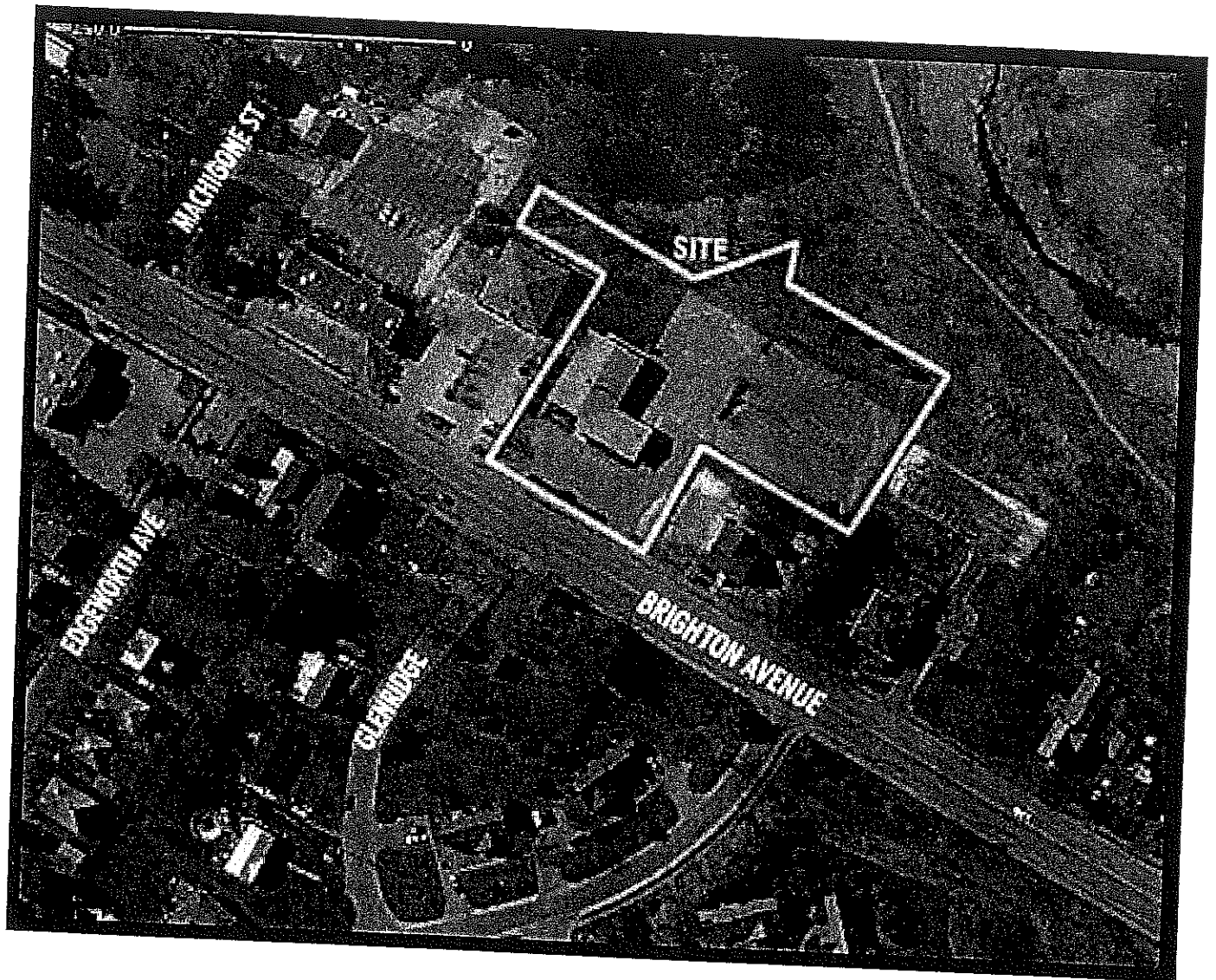


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660 Brighton Avenue | Portland, Maine

Aerial Photograph



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Title, Right, Interest

CONTRACT FOR THE SALE OF REAL ESTATE, FIXTURES AND RELATED PERSONAL PROPERTY

RECEIVED OF: ATH, LLC, a Delaware limited liability company, and/or assigns, whose mailing address is 16 Equestrian Way, Scarborough, Maine 04074 (hereinafter called the "Purchaser(s)") the sum of [REDACTED] (\$) as earnest money and in part payment of the purchase price of the following described real estate, building, fixtures and related personal property situated in the municipality of Portland, County of Cumberland, State of Maine and located at 660 Brighton Avenue and being (all/part of) the property owned by Whitewater, LLC, a Maine limited liability company, with a mailing address at 1601 Congress Street, Portland, ME 04102 (hereinafter referred to as the "Seller(s)") at the above address, and described at said County's Registry of Deeds Book 22707, Page 275 and further described as: City of Portland, Maine's Tax Assessors Office as Map 224A, Block A, Lot 1 (the "Premises"). The Purchaser and the Seller shall be individually sometimes referred to herein as the "party", and collectively as the "parties."

The total purchase price being [REDACTED] Dollars (\$ [REDACTED]) is to be paid as follows:

Cash:

[REDACTED] order; and

[REDACTED] (\$) at closing by certified check or money

Said earnest money is received subject to the following conditions:

- 1. EARNEST MONEY/ACCEPTANCE:** Within One (1) business day of the mutual acceptance of this contract C.B. Richard Ellis/The Bouffas Company (the "Agent") shall be given the earnest money and hold said earnest money in an interest bearing account and act as escrow agent until closing. This offer shall be valid until November 17, 2008 at 5:00 PM and, in the event of the Seller's non-acceptance, this earnest money, including any interest earned thereon, shall be returned promptly in immediately available funds to the Purchaser(s) by hand at the address set forth above. ** 20th PJK*
- 2. TITLE:** That a general warranty deed, bill of sale and other necessary conveyance documents conveying good, valid, and marketable title in accordance with standards adopted by the Maine Bar Associations shall be delivered to the Purchaser(s) and this transaction shall be closed and the Purchaser(s) shall pay the balance due in accordance with the terms hereof and each party shall execute all necessary papers on or before June 1, 2009. If Seller(s) is unable to convey in accordance with the provisions of this paragraph, then the Seller(s) shall have a reasonable time period, not to exceed 30 days, from the time the Seller(s) is notified of the defect, unless otherwise agreed to by both parties, to remedy the title, after which time, if such defect is not corrected so that there is good, valid and marketable title, the Purchaser(s) may, at Purchaser's option, withdraw said earnest money and be relieved from all obligations hereunder and otherwise. The Seller(s) shall use its best efforts to cure any title defect during such period.
- 3. DEED:** Seller shall deliver to Purchaser, at the closing, a Warranty Deed conveying good and marketable title, free and clear of all liens, claims and encumbrances, except any easements or zoning restrictions of record which do not materially impair the marketability of title.
- 4. POSSESSION/OCCUPANCY:** Possession/occupancy of premises shall be given to Purchaser(s) immediately at closing free and clear of any and all liens, leases, claims, adverse interests and encumbrances. The Seller represents and warrants that there are currently two tenants in the building and both are Tenants at Will with no written agreement. Purchaser agrees to allow the existing tenants to remain in the building for 60 days from date of closing. If the Seller should lease any of the individual spaces of the building the Seller shall lease the spaces under the same terms and conditions as the existing tenants set forth in the immediately preceding sentence. Seller shall indemnify and shall hold the Purchaser harmless from any and all costs, expenses, losses, claims, demands and suits pertaining to the existing tenants during the time of Purchaser's ownership of the property.
- 5. RISK OF LOSS:** Until the closing, the risk of loss or damage to said Premises by fire or otherwise is assumed by the Seller(s) unless otherwise agreed in advance in writing. Said Premises shall then be in the same condition at present, excepting reasonable wear and tear prior to the closing of the transaction contemplated hereby.
- 6. PRORATIONS:** The following items shall be prorated as of the date of closing:
 - a. Real Estate Taxes based on the municipality's tax year.

** PJK*

- b. Utilities servicing the common areas of the property and the individual spaces. Metered utilities, such as water and sewer, shall be paid by the Seller(s) through and including the date of closing. Purchaser(s) and Seller(s) shall each pay its transfer tax as required by the State of Maine.
- c. Rents

INSPECTIONS The Purchaser(s) is encouraged to seek information from professionals regarding any specific issue of concern. Purchaser(s) acknowledges receipt of the disclosure form attached hereto. The Agent makes no warranties regarding the condition, permitted use or value of the Seller's real or personal property situated at the Premises. This contract is subject to the following inspections, with the results being solely satisfactory to the Purchaser(s):

- a. General Building Inspection: Within five (5) business days of the mutual signing of the formal Purchase and Sales Agreement, the Purchaser will be given access to the three (3) currently occupied office spaces and associated Premises to conduct a general building inspection of said office spaces.
- b. Environmental Scan: Within ten (10) days of the City Council of Portland, Maine's approval of the Zoning Text Amendment, the Purchaser(s) will be given access to the Premises to perform a proper environmental scan. The Seller shall complete a lending institutions environmental questionnaire, if necessary, within ten (10) days of receipt.

All inspections will be done by inspectors chosen and paid for by the Purchaser(s). If the result of any inspection or other condition specified herein is unsatisfactory to the Purchaser(s) in its sole and absolute discretion, Purchaser(s) may declare the contract null and void by notifying the Seller(s) in writing within the specified number of days, and any earnest money shall be promptly returned to the Purchaser(s) in immediately available funds by hand at the address set forth above. If the Purchaser(s) does not notify the Seller(s) that an inspection is unsatisfactory within thirty (30) days of the time set forth for initiation of the related inspection set forth in either Section 7 (a) or (b) above, as the case may be, this contingency is waived by the Purchaser(s). In the absence of inspection(s) mentioned above, the Purchaser(s) is relying completely upon Purchaser(s) own option as to the condition of the property.

8. FINANCING This contract and the Purchaser(s) obligations hereunder are expressly subject to an approved and guaranteed commercial mortgage with approval by the U.S. Small Business Administration ("SBA") with a commercial appraisal of an amount not less than [REDACTED] which will include Purchasers projected renovations, at an interest rate not to exceed [REDACTED], and amortized over a period of not less than twenty (20) years.

- a. This contract and the Purchaser(s) obligations hereunder are expressly subject to a written statement from a lender selected by the Purchaser within thirty (30) days of the Purchaser receiving Portland Minor Site Review approval from the City of Portland, that the Purchaser(s) has financing approval.
- b. The Purchaser(s) shall use all commercially reasonable efforts to seek and accept financing on the above-described terms. The Purchaser(s) acknowledges that a breach of this obligation to seek and accept financing on the above-described terms will be a breach of this contract.
- c. If this condition is not met within aforesaid time periods, the Seller(s) may declare this contract null and void and the earnest money shall be returned to the Purchaser(s).

9. AGENCY DISCLOSURE: The Purchaser(s) and Seller(s) acknowledge that they have been informed that the Selling Agency is acting as a Buyers Agent in this transaction and that the Listing Agency is acting as a Sellers Agent in this transaction. The Purchaser agrees to pay the Selling Agencies brokerage fee for this transaction.

10. DEFAULT Subject to Purchaser(s) right to rescind this contract and/or a return of the earnest money set forth above, if the Purchaser(s) fails to consummate this transaction for a material cause within the Purchaser(s) control, Seller(s) shall retain the earnest money as full and complete liquidated damages. Should Seller(s) elect to retain the earnest money, this Agreement shall terminate and neither party shall be under any further obligation hereunder. In the event of default by either party, the escrow agent will not return the earnest money to the Purchaser(s) or turn over the deposit to the Seller(s) without written releases from both parties.

11. PRIOR STATEMENTS: Any prior verbal presentations, statements and agreements are not valid unless contained herein. This contract completely expresses the obligations of the parties. This is a Maine contract and shall be construed according to the laws of Maine.

12. HEIRS-ASSIGNS This contract shall extend to and be obligatory upon heirs, personal representatives, successors, and assigns of the respective parties.

✱ PK

13. COUNTERPARTS: This agreement may be signed on any number of identical counterparts, including telefacsimile copies, with the same binding effect as if the signatures were on one instrument. Original or telefacsimiled signatures are binding.

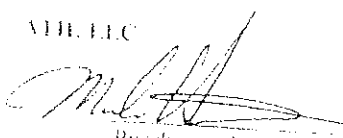
14. EFFECTIVE DATE: This contract is a binding contract when signed by both Seller(s) and Purchaser(s) and when that fact has been communicated to all parties or to their agents. The Effective Date of the contract is noted below. Time is of the essence of this contract.

15. ADDENDA: This contract has addenda containing additional items and conditions: YES X NO _____

A COPY OF THIS CONTRACT IS TO BE RECEIVED BY ALL PARTIES AND BY SIGNATURE RECEIPT OF A COPY IS HEREBY ACKNOWLEDGED. IF NOT FULLY UNDERSTOOD, THE PARTIES SHOULD CONSULT AND ATTORNEY

Seller(s) acknowledges that State of Maine law requires buyer(s) of property owned by non-resident sellers to withhold State Income Tax from the consideration paid for the property unless a waiver has been obtained by the Seller(s) from the State of Maine Bureau of Taxation or Seller(s) is otherwise exempt from withholding.

VIIH, LLC


Purchaser, Its. Managing Member

004-56-8382
Soc. Sec. # or Tax I.D. #

Signed this 17th day of November, 2008

Whitewater, LLC


Seller, Its. Member

095-48-7324
Soc. Sec. # or Tax I.D. #

Effective Date of contract is the 19 day of November 2008.

Offer reviewed and refused on the ___ day of November, 2008 _____ Seller

The Listing Agent is CB Richard Ellis/The Boulos Company (Agency)

The Selling Agent is Akers Associates, Inc. (Agency)

The time for the performance of this contract is extended until _____ EXTENSION _____, 2008

Witness our hands this _____ day of _____, 2008.

(Purchaser) _____ (Seller)

ADDENDUM #1

Purchase and Sales Agreement
Between
ATH, LLC and/or assigns, Purchaser, and
Whitewater, LLC, Seller,
Dated November 17, 2008

16.) ADDITIONAL PURCHASERS' CONTINGENCIES: The Purchase and Sales Agreement is contingent upon and subject to the Purchaser receiving, reviewing and approval of the following items, to the sole and absolute satisfaction of the Purchaser, within the stated time frames set forth below. If the Purchaser finds any of these items as unsatisfactory, the Purchaser shall notify the Seller, in writing, within five (5) business days after the expiration of the stated time frames set forth below of the Purchaser's intent to terminate the contract and all earnest money or other deposits will be returned to the Purchaser immediately in immediately available funds at the address set forth for the Purchaser hereunder.

16A.) Text Amendment: Within five (5) business days of the mutual signing of the formal Purchase and Sales Agreement, the Purchaser shall submit an application and all associated fees to the City of Portland to receive a Text Amendment to the City of Portland, Maine's zoning ordinance for an RP Zone to enable the Purchaser to be on the City of Portland's Planning Board agenda by January 20, 2009. The Purchaser shall have four months (4) from the time of application to receive the Text Amendment to the RP Zone. If necessary on behalf of the Purchaser, the Purchaser will be given up to seventy five (75) additional days in which to receive the Text Amendment as long as the Purchaser has not delayed the approval for reasons within the Purchaser's sole control.

16 B.) Planning Approval & Change of Use: Within five (5) business days from the time the Text Amendment comes into effect, the Purchaser shall submit plans, application and fees for the approval of City of Portland's Minor Site Plan Review. From the time of submittal the Purchaser shall have two (2) months in which to receive the approval for the redevelopment of the property and the change of use.

16 C.) Documents: Upon mutual signing of the Purchase and Sales Agreement the Seller, if the items are within the Seller's control or possession, the Seller shall promptly provide the Purchaser with a copy of all, but not limited to, surveys, structural plans, engineering reports, environmental reports, traffic studies, architectural renderings, floor plans, equipment lists and construction plans for the Purchaser to use to analyze the property and the Premises and to receive their necessary approvals.

16 D.) Leases & Historic Expenses: Within five (5) business days of the mutual signing of the formal Purchase and Sales Agreement, the Seller shall provide the Purchaser with a copy of all leases associated with the property. Furthermore, the Seller shall provide a copy of historic expenses for the property for the time period that Seller has owned the property. The Purchaser shall have five (5) business days in which to review the leases and historic information.

[Handwritten signature]

17.) **MONTHLY PAYMENTS:** During the Purchasers' permitting and approval process pertaining to the contract, the Purchaser agrees to submit monthly payments during the term of this contract in the amount of [REDACTED] to the Seller, beginning sixty (60) days after the date of the mutual execution and delivery of the Purchase and Sales Agreement. Such monthly payments will be considered non-refundable; provided, however, that all such payments shall be applied by the Seller as advance payments by the Purchaser toward the total purchase price of the property at closing. The monthly payments will cease immediately at any time that the Purchaser or the Seller notifies the other party, in writing, that such notifying party is terminating the contract.

18.) **EXITING TENANTS:** Thirty (30) days prior to closing, the Purchaser shall notify the Seller, in writing, of its intent to close on the property and the Premises. At the time of closing, the property and the Premises shall be free and clear of all personal property belonging to the Seller.

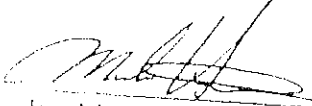
19. **MEDIATION:** Any dispute or claim arising out of or relating to this Contract or the premises addressed in this Contract shall be submitted to mediation in accordance with the Maine Residential Real Estate Mediation Rules. This clause shall survive the closing of this transaction with respect to the leases pertaining to the current tenants of the premises.

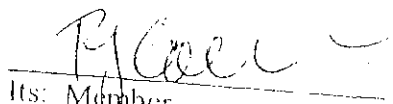
20. Purchaser is responsible for any commission due Akers Associates, Inc. by separate agreement with Akers Associates, Inc.

SEEN AND AGREED TO:

Purchaser: **ATH, LLC**
and/or assigns

Seller: **Whitewater, LLC**


Its: Managing Member


Its: Member

FIRST AMENDMENT TO
ATH, LLC AND WHITEWATER, LLC
LETTER AGREEMENT

This First Amendment to ATH, LLC and Whitewater, LLC Contract for Sale of Real Estate, Fixtures and Related Personal Property, is by and between ATH, LLC, a Delaware limited liability company, and/or assigns, whose mailing address is 16 Equestrian Way, Scarborough, Maine 04074 (hereinafter called the "Purchaser(s)"); and Whitewater, LLC, a Maine limited liability company, with a mailing address at 1601 Congress Street, Portland, ME 04102 (hereinafter referred to as the "Seller(s)"). Purchaser and Seller may be sometimes individually referred to herein as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, the Parties entered into that certain Contract for Sale of Real Estate, Fixtures and Related Personal Property dated on or about November 17, 2008 (the "Agreement"); and

WHEREAS, the Parties desire to amend the Agreement in accordance with this First Amendment to clarify certain provisions of the Agreement and to include certain additional provisions therein.


NOW, THEREFORE, for and consideration of the mutual covenants and agreements of the Parties contained herein, the Parties hereto hereby agree as follows.


1. **Defined Terms:** Unless otherwise defined herein, all initial capitalized terms in the First Amendment shall have the same meaning ascribed to such terms in the Agreement.
2. **Title:** Section 2 of the Agreement is hereby amended to provide that "each party shall execute all necessary papers on or before August 1, 2009."
3. **Incorporation by Reference:** Unless otherwise amended hereby, all terms and provisions of the Agreement, as amended, are hereby restated, reaffirmed and confirmed in all respects as if copied herein in full.

IN WITNESS WHEREOF, intending to be legally bound hereby, the Parties hereby execute and deliver the First Amendment on the day and year first above written.

ATH, LLC.

WHITEWATER, LLC

By: 
Mark Hutchins
President

By: 
Printed Name: R. J. Collett
Title: Owner, Whitewater LLC

SECOND AMENDMENT TO
ATH, LLC. AND WHITEWATER, LLC
LETTER AGREEMENT
JULY 30, 2009

This Second Amendment to ATH, LLC and Whitewater, LLC Contract for Sale of Real Estate, Fixtures and Related Personal Property, is by and between ATH, LLC, a Delaware limited liability company, and/or assigns, whose mailing address is 16 Equestrian Way, Scarborough, Maine 04074 (hereinafter called the "Purchaser(s)"); and Whitewater, LLC, a Maine limited liability company, with a mailing address at 1601 Congress Street, Portland, ME 04102 (hereinafter referred to as the "Seller(s)"). Purchaser and Seller may be sometimes individually referred to herein as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, the Parties entered into that certain Contract for Sale of Real Estate, Fixtures and Related Personal Property dated on or about November 17, 2008 (the "Agreement"); and a First Amendment to the contract dated June 8, 2009

WHEREAS, the Parties desire to amend the Agreement in accordance with this Second Amendment to clarify certain provisions of the Agreement and to include certain additional provisions therein.

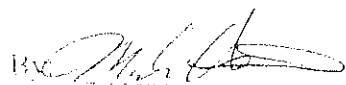
NOW, THEREFORE, for and consideration of the mutual covenants and agreements of the Parties contained herein, the Parties hereto hereby agree as follows.

1. **Defined Terms:** Unless otherwise defined herein, all initial capitalized terms in the Second Amendment shall have the same meaning ascribed to such terms in the Agreement.
2. **Title:** Section 2 of the Agreement is hereby amended to provide that "each party shall execute all necessary papers on or before October 1, 2009."
3. **Incorporation by Reference:** Unless otherwise amended hereby, all terms and provisions of the Agreement, as amended, are hereby restated, reaffirmed and confirmed in all respects as if copied herein in full.

IN WITNESS WHEREOF, intending to be legally bound hereby, the Parties hereby execute and deliver the Second Amendment on the day and year first above written.

ATH, LLC.

WHITEWATER, LLC

By: 
Mark Hutchins
President

By: _____
Printed Name: _____
Title: _____

Exhibit A

A certain lot or parcel of land situated on the southwesterly side of Brighton Avenue in the City of Portland, County of Cumberland and State of Maine, bounded and described as follows:

Beginning on the southwesterly side of Brighton Avenue at the southeasterly corner of land now or formerly of Doris H. Fogg, being the premises conveyed by Moses W. Lucas to Mabel Lucas by deed dated January 19, 1945, recorded in Cumberland County Registry of Deeds, Book 1767, Page 410; thence southwesterly at a right angle to Brighton Avenue and by said land of Fogg S 44° 30' W one hundred ten (110) feet, more or less, to the southwesterly corner thereof; thence northwesterly and at a right angle to the last named course and by said Fogg land N 45° 30' W a distance of one hundred thirty-six (136) feet, more or less, to the southerly boundary line of land conveyed by Moses W. Lucas to the Grantors by deed dated October 15, 1941, recorded in said Registry of Deeds, Book 1654, Page 252; thence southwesterly by said land of the Grantors and at a right angle to the last named course S 44° 30' W a distance of two hundred one and five tenths (201.5) feet, more or less, to land taken by eminent domain proceedings by the City of Portland, an abstract of which proceedings dated November 17, 1947 is recorded in said Registry of Deeds, Book 1899, Page 18; thence S 30° 03-1/2' E a distance of one hundred forty-six and three tenths (146.3) feet, more or less, to an iron and S 1° 10' E a distance of forty-three and five tenths (43.5) feet, more or less, by said land taken by the City of Portland to the northerly side line of Lot 438 as shown on a Plan of Greater Brighton dated August, 1904, recorded in said Registry of Deeds in Plan Book 11, Page 111; thence N 80° 05-1/2' E a distance of one hundred fifty-nine and nine tenths (159.9) feet, more or less, by said Lot 438 and by the northerly boundary lines of Lots 453 and 456 to the northwesterly corner of Lot 457 all as shown on said Plan; thence S 46° 02-1/2' E by the division line between Lots 456 and 457 a distance of one hundred two and five tenths (102.5) feet, more or less, to Brookline Drive as shown on said Plan; thence N 43° 57-1/2' E by Brookline Drive and the northwesterly end of Eaton Street also shown on said Plan a distance of fifty (50) feet, more or less, to land now or formerly of Philip E. Gorrivan, being the premises conveyed by Moses W. Lucas to Herman G. Hawkes by deed dated November 10, 1933, recorded in said Registry of Deeds, Book 1429, Page 306; thence N 46° 02-1/2' W by said Gorrivan land sixty-six (66) feet, more or less, to the northwesterly corner thereof; thence N 43° 57-1/2' E by said land of Gorrivan as described in said deed to Hawkes and at a right angle to the last named course a distance of two hundred and fifty-eight hundredths (200.58) feet, more or less, to Brighton Avenue; thence N 45° 30' W by Brighton Avenue a distance of one hundred sixty-three and thirty-six hundredths (163.36) feet, more or less, to said land now or formerly of Fogg and the point of beginning.

Also including in this conveyance all right, title and interest and easements of the Grantors, if any, in said Brookline Drive and Eaton Street as well as any other streets also shown on said Plan of Greater Brighton dated August 1904, recorded in said Registry of Deeds in Plan Book 11, Page 111.

Received
Recorded Register of Deeds
Jun 02, 2005 10:56:35A
Cumberland County
John E O'Brien

1, 2005

of

Financial Capacity

Bangor
Savings Bank

You matter more.

June 25, 2009

Mark Hutchins
Roberta Hutchins
ATH, LLC D/B/A Hutchins Funeral Home
16 Equestrian Way
Scarborough, ME 04074

RE: Term Loan Agreement

Dear Mark and Roberta:

We have approved your request, subject to participation of the SBA 504 Loan Program for 35% of the project costs. This letter, when accepted and properly signed, will constitute an agreement between Bangor Savings Bank (Bank), which agrees to lend, and ATH, LLC (Borrower), which agrees to borrow in accordance with the following terms and conditions:

Borrower: ATH, LLC

Purpose: It is anticipated that the proceeds from this loan will be used to finance the real estate purchase and renovations to the facility located at 660 Brighton Ave, Portland, Maine. The land and the improvements are hereinafter collectively referred to as the "Project".

Amount: Loan A: Up to \$ [REDACTED]
Loan B: Up to \$ [REDACTED]

The combined Loans (Both A and B) shall not exceed eighty-five percent (85%) of total project costs or appraised value, whichever is less.

Term: The term of Loan A is ten (10) years with a construction period of nine (9) months and a permanent loan period of ten (10) years with amortization based on a twenty (20) year schedule.

The term of Loan B is twelve (12) months.

Interest Rate: Both Loans A and B shall bear a fixed rate equal to the Federal Home Loan Bank 5/20 Amortizing Index plus 300 basis points. Rate to be fixed five (5) business days prior to closing. Based upon the current FHLB index plus margin, the rate of interest would be [REDACTED]. On both Loans A and B, the rate of interest will remain fixed for the term of the loan.

All interest hereunder shall be computed on the basis of the actual number of days elapsed over a 360-day year.

Default Rate: Bank shall have the right to charge interest, payable on demand, on the unpaid principal balance of the Loan at an interest rate of four percent (4%) per annum in excess of the rate of interest otherwise payable for any period during which the Borrower shall be in default under any document governing or securing the Loan.

Repayment: For Loan A: During the nine (9) month construction period, payments of interest only shall be due monthly commencing one month after closing. Interest shall be payable on the same day of each month and shall be paid for the actual days on the funds advanced under the Loan. Beginning ten (10) months from closing, Borrower shall make a fixed principal and interest payment in an amount to be determined (based on the fixed interest rate and the twenty year amortization schedule) which shall be due monthly. Any unpaid principal plus accrued interest shall be due and payable at maturity.

For Loan B: Payments of interest only shall be due monthly commencing one month after closing. Interest shall be payable on the same day of each month and shall be paid for the actual days on the funds advanced under the Loan. The principal balance plus any accrued interest shall be due and payable at maturity.

Prepayment
Penalty: For Loan A: This loan is subject to a prepayment premium for full prepayment equal to the following percentages of the amount of the prepayment applied to the principal balance of the loan; 3.00% if prepayment is made at any time during the first loan year, 2.00% if prepayment is made at any time during the second loan year, and 1.00% if prepayment is made at any time during the third loan year, unless prepayment is from the sale of the collateral or a refinance with Bangor Savings Bank, in which case there will be no prepayment penalty. "Loan year" shall mean the twelve-month period following the closing. No partial prepayment shall alter the scheduled monthly payment.

For Loan B: There will be no prepayment penalty for this loan.

Late Charge: Borrower shall pay to Bank a late charge of five percent (5%) of any scheduled payment of principal and/or interest which is not paid within ten (10) days of the date when due.

Origination Fee: Borrower shall pay the Bank a loan origination fee in an amount equal to one percent (1.00%) of construction costs on both Loans A & B. This fee is deemed earned and payable upon funding the loan and Borrower hereby authorizes Bank to deduct said fees from the proceeds of the loan.

Participation Fee: A SBA 504 one-time nonrefundable participation fee equal to .25% of the Bank's mortgage loan has been waived as part of the SBA Stimulus Package.

Security: Loan A will be collateralized by the following:

a) A (1st) first mortgage security interest in the facility to be purchased and renovated, located at 660 Brighton Ave, Portland, Maine and an assignment of all leases, now in existence or hereafter arising, covering the premises or any parts thereof as Bank may require, as well as an assignment of all contracts, specifications and approvals related to the project.

b) A (2nd) second security interest in Borrower's accounts receivable, inventory, machinery and equipment, furniture and fixtures, and general intangibles now owned, contemporaneously acquired herewith, and hereafter acquired, wherever located, used or to be used in the Borrower's business.

Loan B will be collateralized by the following:

a) A (2nd) second mortgage security interest in the facility to be purchased and renovated, located at 660 Brighton Ave, Portland, Maine and an assignment of all leases, now in existence or hereafter arising, covering the premises or any parts thereof as Bank may require, as well as an assignment of all contracts, specifications and approvals related to the project.

b) A (3rd) third security interest in Borrower's accounts receivable, inventory, machinery and equipment, furniture and fixtures, and general intangibles now owned, contemporaneously acquired herewith, and hereafter acquired, wherever located, used or to be used in the Borrower's business.

Guarantors:

For Loan A:

Mark and Roberta Hutchins ("Guarantors") shall unconditionally (and jointly and severally) guarantee the payment and performance of all obligations of Borrower under the Loan documents. The Guaranty of Mark

and Roberta Hutchins will be secured as follows: A (2nd) second mortgage on land and buildings located at 16 Equestrian Way, Scarborough, Maine.

For Loan B:

Mark and Roberta Hutchins ("Guarantors") shall unconditionally (and jointly and severally) guarantee the payment and performance of all obligations of Borrower under the Loan documents. The Guaranty of Mark and Roberta Hutchins will be secured as follows: A (3rd) third mortgage on land and buildings located at 16 Equestrian Way, Scarborough, Maine.

Financial
Statements:

Borrower shall furnish bank annually with financial statements with a review opinion, as well as Federal Income Tax Returns within one hundred and twenty (120) days after the close of each fiscal year, prepared by an independent certified public accountant satisfactory to the Bank.

Borrower to furnish Bank with a minimum of quarterly financial statements prepared by management within 45 days after the end of each period; and to provide such additional information as the Bank deems necessary. Said financial statements shall include comparison to budget/projections.

Borrower shall furnish the Bank annually with projections including balance sheet, income statement and cash flow projection prepared by month with related assumptions.

Guarantor(s) shall furnish Bank annually with Federal Income Tax Returns prepared in accordance with generally accepted accounting principles within 180 days of the calendar year end. Guarantor(s) will also provide an updated Personal Financial Statement every fourteen (14) months.

Legal Services:

The Bank's Counsel may review and approve to the Bank all title matters and related documentation. They may prepare all documents pertaining to this loan, on behalf of the Bank.

All documents or other instruments executed and delivered in connection with the closing of the loan and all insurance binders, policies and opinion letters shall be in a form and substance satisfactory to the Bank and its Counsel.

Insurance

Requirements:

Borrower will maintain hazard, liability and flood insurances (if applicable) with financially sound and reputable insurers in such amounts and for such coverages as shall be satisfactory in all respects to Bank.

Bank shall be designated as mortgagee and loss payee under standard mortgage clause with ten (10) day notice of cancellation clause given to Bank.

Borrower or its Contractor shall provide a copy of the Builder's Risk Insurance policy in an amount satisfactory to the Bank.

Environmental

Compliance Analysis: The loan is subject to the completion of an Environmental Risk Assessment Questionnaire and such other follow-up analysis that may be determined to be necessary, including but not necessarily limited to, an environmental site assessment of any real estate pledged to secure the loan, or an environmental audit of Borrower's operations. All assessments, audits or other analyses shall be at Borrower's expense and shall be performed by a qualified environmental consulting firm. If the results of any site assessment reveal that environmental problems exist, or if the results of any environmental audit reveal compliance problems by Borrower with relevant environmental laws and regulations, Bank reserves the right to determine, in its sole judgment, whether such problems pose sufficient credit risk or risk of liability to the Bank, that Bank desires to reconsider entering into a loan relationship.

If any further environmental analyses are required, Borrower authorizes Bank or its agents to directly discuss with any consultants retained by Borrower the results of those analyses. Borrower acknowledges that Bank's inquiries and required environmental analyses are for Bank's credit risk assessment purposes only. The decision by Bank to lend after review of Borrower's environmental consultant's report should not be construed as Bank's determination or implicit representation that Borrower's real property or mode of operation is free of actual or potential environmental problems.

Borrower will remove, in accordance with applicable law, or will otherwise comply with orders or directives of environmental regulatory agencies relating to use or removal of, underground storage tank(s) and will provide evidence, through reports of qualified environmental consultants, that no unacceptable environmental problems resulted from prior use of those tanks.

Borrower will provide evidence, in the form of reports from a qualified environmental consulting firm, that there are no leaks in any underground storage tanks that exist on real property Borrower is pledging to secure this loan.

Title Insurance:

The Bank shall be given as security a real estate mortgage which shall create valid first and second liens on real estate located at 660 Brighton Ave, Portland, Maine, as well as valid second and third liens on real estate located at 16 Equestrian Way, Scarborough, Maine, both with good and merchantable title.

The Borrower may select an attorney to make a title examination, or the Bank may elect to receive an executed title insurance binder. Such binder is to be supplemented within fifteen (15) days after closing by an executed policy of title insurance from a title insurance company approved by the Bank. The binder will be, dated not more than five (5) days prior to closing, with premium paid, securing the Bank in the total amount of the loan as the holder of a valid mortgage lien on the Borrower's fee simple interest in the property, free and clear of all liens, encumbrances, and exceptions other than those approved by the Bank. All standard exceptions shall be deleted from the title binder and policy unless otherwise approved by the Bank. The binder and policy shall insure a perimeter survey of the property and any easements.

On the date of the closing, an interim title report for the subject property shall be provided certifying that there are no additional items of record between the date of the title insurance binder and the date of the closing.

Construction Requirements:

The Borrower shall provide to the Bank not less than ten (10) days prior to closing:

- 1) A signed fixed price or guaranteed maximum price construction contract with the General Contractor to be assigned to the Bank.
- 2) A complete set of plans and specifications for the proposed project, budget and schedule of estimated advances to be assigned to the Bank.
- 3) A written construction estimate from the General Contractor, together with a budget detailing the costs of construction, including all hard and soft costs and appropriate contingency reserves, and a disbursement schedule.

- 4) A specimen title insurance binder for the construction loan.
- 5) A preconstruction review of the budget, periodic inspections and requisition and lien waiver review during construction, by a qualified independent engineer.
- 6) Evidence of adequate builder's risk insurance, with theft of materials endorsement and extended coverage covering improvements, insuring Bank as mortgagee.
- 7) Evidence of contractor's general liability insurance and workers' compensation coverage.
- 8) Borrower shall have all licenses, permits and approvals relating to the construction, ownership, and use of the building.
- 9) The construction loan will provide for monthly loan disbursements with title checks and lien waivers during construction.
- 10) Any deviation from the plans, specifications and written estimates must be approved in writing by the Bank and the Borrower.
- 11) Borrower will comply with all normal construction guidelines as required by Bank.
- 12) Borrower will be required to obtain a signed W-9 form from all contractors, subcontractors or suppliers prior to obtaining an advance during construction.
- 13) Borrower agrees to allow Bank to place a sign on the Borrower's premises, advertising that the Bank is the construction lender for this project.

Conditions:

- 1) Borrower will pay all out-of-pocket costs and expenses incurred by the Bank in connection with the proposed loan and financing arrangement. This will include, but will not be limited to, attorneys' fees, lien search fees, filing fees, environmental audit fees, inspection costs, and appraisal costs. These fees will be paid by the Borrower whether or not the transaction contemplated herein is closed.
- 2) Borrower shall execute such further documents to secure the loan transaction contemplated hereunder as counsel for Bank shall determine necessary or advisable in the interest of the Bank.

- 3) A default by Borrower under any agreement with Bank or under any agreement with any institution holding a lien upon Borrower's assets whose priority is superior to any lien held by Bank will be considered as a default in all loans.
- 4) Any business conducted by Borrower shall have all licenses, permits and approvals required under any federal, state, or local statute, regulation, ordinance, rule, or other legal requirement relating to the establishment, ownership or operation of such business, including appropriate environmental approvals.
- 5) Borrower shall, at all times, maintain compliance with all applicable federal, state, and local environmental and land use laws and regulations, including, but not limited to, those provisions relating to fuel and chemical storage tanks.
- 6) Borrower shall promptly notify Bank of any change in environmental status from that previously supplied to Bank. Further, Borrower shall promptly notify Bank of the commencement of state, federal, or private environmental or land use investigation or enforcement proceeding or threat thereof.
- 7) Borrower and Guarantor(s) agree to indemnify and hold Bank harmless from all liability or loss arising out of the application of any environmental law to Bank or to any collateral for any loan to Borrower, including, without limitation, any environmental law creating a lien upon property or imposing any liability upon Bank for any clean up costs; provided, however, that this indemnity shall not apply to liability arising out of willful violation of environmental laws by the Bank.
- 8) All collateral shall be kept in good repair, and all taxes and assessments thereon shall be paid when due.
- 9) No loan commitment given by Bank to Borrower shall be assignable by Borrower.
- 10) Any additions, deletions, substitutions, or other changes in this Agreement must be documented in writing to become effective.
- 11) Borrower shall confirm by satisfactory documentation supplied to Bank, the existence of all leases, insurance, or other collateral reserved or taken by Bank.

- 12) Borrower will not sell, transfer, or redeem any of its outstanding shares of corporate stock without prior written permission from Bank.
- 13) No liens, attachments or other encumbrances whether or not superior to the lien of Bank shall be placed or arise on the collateral except with the prior approval of the Bank.
- 14) Borrower must certify to Bank prior to closing, the status of any actions, suits, proceedings, or investigations, now pending or to the knowledge of Borrower threatened against or affecting Borrower and/or Guarantor(s).
- 15) Said loan described herein shall be cross collateralized and cross defaulted with proposed \$ [REDACTED] working capital line of credit.
- 16) Starting with Fiscal Year 2011, Borrower agrees to maintain a minimum debt service coverage ratio of 1.20X during the term of this commitment. Unless specified otherwise elsewhere in this letter, said ratio shall be calculated annually based upon Borrower's CPA prepared year end financial statements. For purposes of this calculation, debt service coverage ratio is defined as $\text{Net Income} + \text{Depreciation} + \text{Amortization} + \text{Interest} \pm \text{Non-recurring (Gains)/Losses} - \text{Distributions for taxes} / (\text{Required Principal Payments} + \text{Interest Expense})$.
- 17) Receipt and satisfactory review of final signed Purchase & Sale Agreement, as well as any extensions, for 660 Brighton Avenue in Portland.
- 18) Loan is subject to review and acceptance of appraisal on 660 Brighton Avenue, Portland, prepared for Maine Bank and Trust and provided by the Borrower which indicated an "as completed" value of \$ [REDACTED]
- 19) Subject to the receipt and review of an appraisal on 1174 Salem Road, Salem, Maine.
- 20) Subject to verification that the Borrower has a commitment from the SBA 504 program for funding of 35% of project costs upon completion of the construction.
- 21) Subject to verification that all approvals and licenses are in place for the operation of a funeral home at the Brighton Avenue location.

- 22) Subject to a review by Bank Counsel of the investor agreements to determine if there are any ramifications or concerns to the interests of the Bank and /or the SBA 504 program based on the terms of the agreement.
- 23) Subject to the receipt and review of a listing of the equipment being purchased with copies of invoices and/or other acceptable documentation asserting the value of the equipment.
- 24) Evidence of cash available for the project of not less than \$ [REDACTED] including the breakdown of sources of cash equity with names and amounts of investor injections. Investor injections shall be no less than \$ [REDACTED]
- 25) Evidence of cash injection from the guarantor of not less than \$ [REDACTED] to be verified prior to closing.
- 26) Receipt and review of the terms of the residential mortgage for Mark and Roberta Hutchins on their residence located in Scarborough.
- 27) [REDACTED]
- 28) A debt service escrow will be established at closing that will be in an amount of not less than \$ [REDACTED]
- 29) Borrowings on the Line of Credit will not be advanced until completion of construction project and SBA 504 loan is closed.
- 30) Subject to the satisfactory review of the employment contracts for the seller and the other licensed funeral director.

The rate and term of this commitment (and all existing commitments) are in express reliance on your maintenance of a comprehensive deposit relationship with us and on your continuing compliance with the terms and conditions of this commitment and loan documents. If, for any reason, this relationship changes, Bangor Savings Bank specifically reserves the right to review and modify the rate and term.

The commitment was approved on the basis of information and financial data furnished by the Borrower and Guarantor(s) and is extended subject to and conditioned on there being no material adverse change in the financial condition of the Borrower or Guarantor(s), and no substantive change in governmental regulations or monetary policy. In the event of such material adverse

change, in the opinion of the Bank, the right is reserved to terminate the commitment or line of credit.

Under Maine Law, no promise, contract or agreement to lend money, extend credit, forbear from collection of a debt or make any other accommodation for the repayment of a debt for more than \$250,000 may be enforced in court against the Bank unless the promise, contract or agreement is in writing and signed by the Bank. Accordingly, the Borrower cannot enforce any oral promise unless it is contained in a loan document signed by the Bank, nor can any change, forbearance, or other accommodation relating to the loan, this agreement or any other loan document be enforced, unless it is in writing signed by the Bank. Borrower also understands that all future promises, contracts or agreements of the Bank relating to any other transaction between Borrower and Bank cannot be enforced in court unless they are in writing signed by the Bank. Borrower further agrees that the requirement of a writing described in this paragraph shall apply to this commitment, the loans or credit described herein, any extension, modification, renewal, forbearance or other accommodation relating to the transactions contemplated by this commitment, and to any other credit relationship between Borrower and Bank, (whether existing now or created in the future) whether or not the amount involved exceeds \$250,000.

To the extent that the terms and conditions as stated herein are not incorporated into the loan documents, this letter will survive the loan closing and will govern our relationship while the loan detailed herein, together with interest and fees, remains outstanding.

If the terms and conditions as herein stated are satisfactory to you, please sign this letter signifying your acceptance and return the signed and accepted copy by July 24, 2009 as your authorization for us to proceed with the preparation of the necessary loan documentation. We will anticipate a closing on or before September 23, 2009. Unless otherwise extended, this commitment will expire at either of the above two dates, if not promptly acted upon.

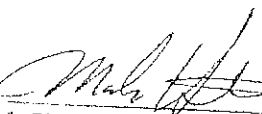
Sincerely,

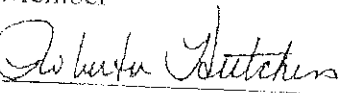

Terry Trickey
Vice President

SEEN AND AGREED TO:

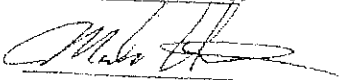
BORROWER:

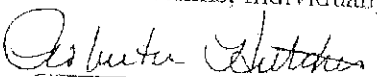
ATH, LLC

By:  Date: 7/12/08
Mark Hutchins
Its: Member

By:  Date: 7/13/09
Roberta Hutchins
Its: Member

GUARANTORS

 Date: 7/13/09
Mark Hutchins, Individually

 Date: 7/13/09
Roberta Hutchins, Individually

Erosion and Sedimentation Control

Section 31 25 00 Erosion and Sedimentation Controls

The proposed earth moving operation will be limited to the frost wall excavation for the 10' x 18' 180 sq.ft. addition to house an elevator and elevator machine room, and a 6' x 17' 102 sq.ft. extension of the existing exit balcony.

The existing and proposed drainage features will essentially remain "as is". We propose to seal the existing pavement and re-stripe the parking lot.

Temporary erosion and sedimentation control measures will include a sedimentation fence along the south west lawn area and along the east property line.

Permanent erosion control measures will include loam and seeding all disturbed areas. The duration of exposure of the disturbed areas will be kept to a practical minimum to ensure protection of surrounding properties and existing parking areas.

Seed mixture will consist of seeds proportioned by weight as follows:

Kind of Grass	Proportion by Weight
Creeping Red Fescue	50%
Kentucky Blue Grass	30%
Pennfine Perennial Rye Grass	20%

Fertilizer will be commercial 10-10-10 grade

All loam and seed areas will be sown with grass seed at a rate of 4 lbs./1000 sq.ft.

All temporary controls will be maintained during construction and will be removed only when no longer needed.

Traffic Study

William J. Bray, P.E.
235 Bancroft Street
Portland, Maine 04102
Phone (207) 774-3603
trafficsolutions@maine.rr.com

August 20, 2009

Traffic Assessment
Proposed
660 Brighton Avenue Funeral Home

INTRODUCTION

AT Hutchins LLC is proposing re-development of an existing and, presently vacant 8,646 square foot medical office building, to a funeral home. The existing site is located at 660 Brighton Avenue, west of the Rosemont Corner signalized intersection. Access to the proposed funeral home will be provided through two existing driveways, which are spaced approximately 100-feet apart.

Brighton Avenue, in the vicinity of the project site, is striped with two through travel lanes and a center two-way left-turn lane. A posted speed limit of 35mph exists between the section of Brighton Avenue between Rosemont Corner and the more westerly signalized intersection at Capisic and Kent Streets. On-street parking is prohibited along both sides of the roadway throughout the noted corridor. There are a total of 83 parking spaces provided on-site, which include four covered spaces located under the building.

This document compares PM peak hour trip generation of the proposed funeral home with the prior site use of medical office space (The PM peak hour condition represents the “peak” time period for both the existing site use and the proposed funeral home project); provides an additional comparative assessment of parking supply and demand for the proposed funeral home project and, verifies that adequate vehicle sight distance exists at both existing site driveways to provide safe egress from the site onto Brighton Avenue.

SITE TRAFFIC

Site Trip Generation: PM peak hour trip generation was determined for the prior site use (medical office space) based upon trip tables presented in the eighth edition of the Institute of Transportation Engineers (ITE) “**TRIP GENERATION**” handbook. Trip generation for the proposed funeral home was estimated based upon data collected locally at a facility in the City of South Portland. The following presentation summarizes that effort:

Existing Site Use

Land-Use Code 720 – Medical-Dental Office Building

Street Peak Hour – PM Peak = 3.72 trips/1,000 square feet of building area

As a result, the existing (8,646 square foot) medical office building could be expected to generate a total of 32 vehicle trips during the PM peak hour.

Proposed Site Use

Gorrill-Palmer, Inc. completed a traffic impact study for a proposed funeral home in the Town of Scarborough; trip generation for the proposed site was based upon manual traffic counts conducted at an existing funeral home in South Portland on five separate dates in 2007 (April 20 and August 20 through 23) and, from a summary of the data, an average trip rate was determined for the proposed funeral home site. A copy of the actual count data is attached. The highest volume recorded was 32 vehicles, at which time two visiting hours were happening simultaneously at the funeral home. The lowest recorded volume of site generated trips was 1 trip. The data summary shows the average PM peak hour trip generation for the funeral home is 12 trips.

Overall Site Trip Generation

The prior site use of medical office space could be expected to generate approximately 20 trips more during the PM peak hour than the average trip generation of the proposed funeral home.

PARKING DEMAND/SUPPLY

Generally, parking generation rates are readily obtained from the Institute of Transportation Engineers "PARKING GENERATION" publication. The latest version of this publication doesn't provide data for a funeral home. The City's Traffic Consultant has advised that a presentation of zoning requirements obtained from other municipalities compared with actual on-site spaces be provided and with his review of that data direction would be provided to the next steps. The following table was developed by the Applicant and previously provided to the City for review:

**Parking Standards for Funeral Homes and Mortuaries
ATH, LLC**

Parking Standard	Source	Specific to Funeral Homes	Required # Spaces	Met on 660 Brighton¹
1 space for each 5 seats or for each 100 sq ft, or major fraction thereof, of assemblage space, if no fixed seats	Portland	Yes	31 ³	Yes
25 spaces per parlor or 1 space for each 4 patrons based on design capacity, whichever standard produces the greater number of spaces	Augusta	Yes	50 to 63	Yes
1 space per 100 sq ft floor space ²	Biddeford	No	87	Yes
1 space for every 4 seats or 100 sq ft, or major fraction of assemblage space ³ , if no fixed seats	Falmouth	No	31	Yes
1 space for each hearse or service vehicle plus 1 space for each family or individual resident on the premises plus additional spaces equal in number to 1 space for each 100 sq ft of public area ⁴ within the building	South Portland	Yes	35	Yes
1 space for every 100 sq ft of floor space ⁵	Topsham	No	87	Yes
1 space for every 4 spaces of seating capacity plus 1 space per employee and clergy	National Foundation of Funeral Services ⁶	Yes	70	

¹ Existing building is 8,646 sq ft. New funeral home use proposed to include 2 viewing areas or parlors totaling 2,400 sq ft, a 460 sq ft family room, and 220 sq ft reception area for a total public area of 3,080 sq ft. Maximum flexible seating proposed for 250. No fixed seating or chapel proposed. New funeral home proposed to have 1 hearse, 1 limousine, and 2 service vehicles and employ 6 full-time equivalents. Site currently includes 79 outdoor parking spaces, plus 4 spaces within the building, for a total of 83 parking spaces.

² Includes total square footage.

³ Includes individual rooms, but not hallways or bathrooms.

⁴ Includes viewing rooms, hallways, and bathrooms; excludes offices, storage and processing.

⁵ Includes total square footage.

Parking Supply Summary

The proposed funeral home site will provide a total of 83 on-site parking spaces, which exceeds the City of Portland zoning requirements by more than 50 spaces. Additionally, local zoning parking requirements from five other Maine municipalities and the National Foundation of Funeral Services were checked to determine the appropriateness of the Portland standard. Generally, the number of on-site parking spaces proposed for the funeral home project at 660 Brighton Avenue meets and/or exceeds standards presented for the other communities and the National Foundation of Funeral Services Association.

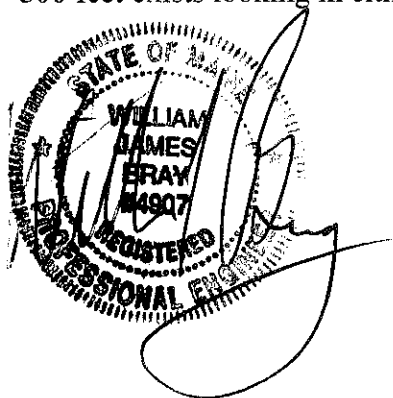
VEHICLE SIGHT DISTANCE

The Maine Department of Transportation’s Highway Entrance and Driveway Rules, require the following sight distances for a non-mobility roadway:

Sight Distance Standards

Speed Limit	Sight Distance
25 mph	200 feet
30	250
35	305
40	360
45	425
50	495
55	570

Brighton Avenue, adjacent to the proposed site entrance, is posted at 35mph, which requires an unobstructed sight line of 305 feet. Based upon in-field measurements, a distance in excess of 500 feet exists looking in either direction from the existing site driveways.



Gorrill-Palmer Consulting Engineers, Inc.

15 Shaker Road, P.O. Box 1237
Gray, Maine 04039
(207) 657-6910

Location: So. Portland
Counter: NL
JOB-400: GP1
Weather: Clear

File Name : Hobbs Trip Gen_082007
Site Code : 00001809
Start Date : 8/20/2007
Page No : 1

Groups Printed- CARS - SINGLE UNIT - COMBINATION VEHICLES

Start Time	HOBBS					COTTAGE					HOBBS					COTTAGE					Int. Total
	From North					From East					From South					From West					
	Factor	Thru	Right	Peds	App. Total	Left	Thru	Right	Peds	App. Total	Left	Thru	Right	Peds	App. Total	Left	Thru	Right	Peds	App. Total	
03:00 PM	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1	1
03:15 PM	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
03:30 PM	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1	1
03:45 PM	1	0	2	0	3	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1	4
Total	1	0	2	0	3	0	0	0	0	0	0	0	0	0	0	3	0	0	0	3	6
04:00 PM	0	0	1	0	1	0	0	0	0	0	0	0	0	0	0	1	0	0	0	1	2
04:15 PM	0	0	1	0	1	0	0	0	0	0	0	0	0	0	0	2	0	0	0	2	3
04:30 PM	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
04:45 PM	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	0	0	0	2	2
Total	0	0	2	0	2	0	0	0	0	0	0	0	0	0	0	5	0	0	0	5	7
05:00 PM	1	0	0	0	1	0	0	1	0	1	0	0	0	0	0	7	0	0	0	7	9
05:15 PM	0	0	0	0	0	0	0	1	0	1	0	0	0	0	0	0	0	0	0	0	1
05:30 PM	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	3	0	0	0	3	3
05:45 PM	0	0	1	0	1	0	0	0	0	0	0	0	0	0	0	3	0	0	0	3	4
Total	1	0	1	0	2	0	0	2	0	2	0	0	0	0	0	13	0	0	0	13	17
Grand Total	2	0	5	0	7	0	0	2	0	2	0	0	0	0	0	21	0	0	0	21	30
Apprch %	28.6	0	71.4	0	23.3	0	0	100	0	6.7	0	0	0	0	0	70	0	0	0	70	
Total %	6.7	0	16.7	0	23.3	0	0	6.7	0	6.7	0	0	0	0	0	70	0	0	0	70	
CARS	2	0	5	0	7	0	0	2	0	2	0	0	0	0	0	21	0	0	0	21	30
% CARS	100	0	100	0	100	0	0	100	0	100	0	0	0	0	0	100	0	0	0	100	100
SINGLE UNIT	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
% SINGLE UNIT	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
COMBINATION VEHICLES	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
% COMBINATION VEHICLES	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

TRAFFIC OPERATIONS PLAN

General

AT Hutchins, LLC adopts these traffic operational standards to insure the safety of both visitors and employees at their funeral home property site at 660 Brighton Avenue. These provisions and their compliance with have been further promulgated to minimize vehicular delay and conflict with through vehicles on Brighton Avenue as visitors and/or funeral processions enter and exit the 660 Brighton Avenue property.

Committed Standards

1. Conformance with Section 28-182 of the City of Portland Traffic and Motor Vehicles Code of ordinance, latest amendment, which states the following:
No procession or parade containing two hundred (200) or more persons or fifty (50) or more vehicles, excepting the forces of the United States Army, Navy or Air Force, the military forces of this state, and the forces of the police and fire departments, shall occupy, march or proceed along any street except in accordance with a permit issued by the chief of police and such other regulations as are set forth herein which may apply.
(Ord. No. 183-97, 1-22-97)
2. Conformance with Section 28-183 of the City of Portland Traffic and Motor Vehicles Code of ordinance, latest amendment, which states the following:
(a) A funeral composed of a procession of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant of a type designated by the city traffic engineer.
(b) Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practicable and follow the vehicle ahead as closely as is practicable and safe.
(Ord. No. 183-97, 1-22-97)
3. Funeral processions exceeding 50 or more vehicles in length with issuance of a permit by the Chief of Police will be directed from the 660 Brighton Avenue site by a uniformed Portland Police Officer.
4. No funeral procession will depart from the 660 Brighton Avenue property site prior to 8:30AM unless written permission is granted by the Chief of Police.
5. No funeral procession will depart from the 660 Brighton Avenue property site after 3:00PM unless written permission is granted by the Chief of Police.
6. Dual or overlapping funeral services will not be permitted at anytime.
7. No funeral procession will exit the 660 Brighton Avenue property and turn left to travel west on Brighton Avenue unless written permission is granted by the Chief of Police. In all cases where written permission is granted the funeral procession will be directed from the 660 Brighton Avenue property by a uniformed City of Portland police office.

8. Funeral Attendants will be authorized to direct departing funeral processions from the 660 Brighton Avenue site with processions of less than 50 vehicles and an east only direction on Brighton Avenue. In all circumstances only vehicular traffic traveling eastbound on Brighton Avenue site will be stopped. Through traffic traveling westerly on Brighton Avenue will not be stopped. The Funeral Attendants are further authorized and will in all cases stop all pedestrian or bicycle traffic attempting to cross in front of the funeral home property traffic during time periods when either entering or exiting traffic from the site would significantly create unwanted and unsafe conflicts.

9. Funeral Attendants will wear at all times an OSHA approved safety vest that meets the standards for both daytime and nighttime conditions. The vest will meet the latest requirements as stipulated in the Manual on Uniform Traffic Control Devices and applicable OSHA regulations. The current standard is presented as follows:

Standard:

For daytime and nighttime activity, flaggers shall wear safety apparel meeting the requirements of ISEA "American National Standard for High-Visibility Apparel" (see Section 1A.11) and labeled as meeting the ANSI 107-1999 standard performance for Class 2 risk exposure. The apparel background (outer) material color shall be either fluorescent orange-red or fluorescent yellow-green as defined in the standard. The retroreflective material shall be either orange, yellow, white, silver, yellow-green, or a Fluorescent version of these colors, and shall be visible at a minimum distance of 300 m (1,000 ft). The Retroreflective safety apparel shall be designed to clearly identify the wearer as a person.

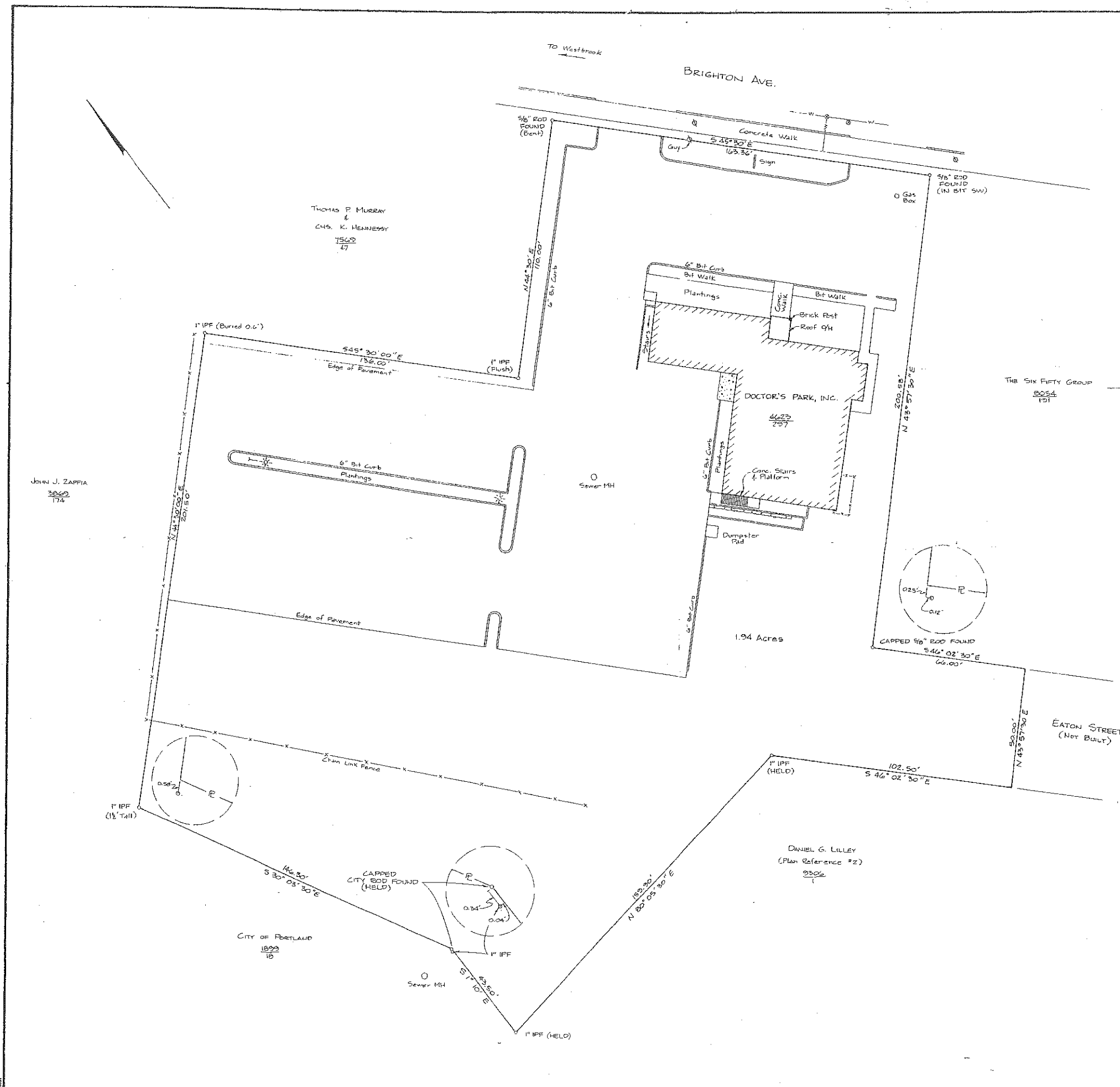
Guidance:

For nighttime activity, safety apparel meeting the requirements of ISEA "American National Standard for High-Visibility Apparel" (see Section 1A.11) and labeled as meeting the ANSI 107-1999 standard performance for Class 3 risk exposure should be considered for flagger wear (instead of the Class 2 safety apparel in the Standard above).

10. Funeral Attendants will stop eastbound traffic on Brighton Avenue to allow the funeral procession to enter Brighton Avenue with the display of a stop paddle. The stop/slow paddle shall be in conformance with the latest version of the Manual on Uniform Traffic Control Devices. The current standard is presented as follows:

Standard:

The STOP/SLOW paddle shall have an octagonal shape on a rigid handle. STOP/SLOW paddles shall be at least 450 mm (18 in) wide with letters at least 150 mm (6 in) high and should be fabricated from light semirigid material. The background of the STOP face shall be red with white letters and border. The background of the SLOW face shall be orange with black letters and border. When used at night, the STOP/SLOW paddle shall be retroreflectorized.



LEGEND

- EXISTING WCON PIPE
- ⊗ WATER GATE/VALVE
- ⊗ UTILITY POLE

PLAN REFERENCES:

- 1) PLAN OF BRIGHTON, PLAN BOOK 11/109; 7/25/1908
- 2) GREATER BRIGHTON EXTENSION, PLAN BOOK 11/111; APR., 1904
- 3) PLAN OF BRIGHTON GARDENS, PLAN BOOK 14/56; 3/18/1921
- 4) REVISED PLAN OF BRIGHTON PARK, PLAN BOOK 17/30; 11/27/1926
- 5) LAND ACQUIRED IN 1935 BY THE CITY OF PORTLAND, PLAN BOOK 24/54; 2/5/1935
- 6) PLAN OF CITY LAND AT CAPISIC POND, DATED SEPT. 10, 1933 ON FILE AT CITY ENGINEER'S OFFICE.
- 7) PLAN OF LAND FOR LEIGHTON PHILBRICK BY OWEN HASKELL DATED JUNE 22, 1967.

CERTIFICATION: TO DOCTOR'S PARK, INC.

OWEN HASKELL, INC. HEREBY CERTIFIES THAT THIS PLAN IS THE RESULT OF AN ON THE GROUND INSTRUMENT SURVEY AND THAT TO THE BEST OF OUR KNOWLEDGE, INFORMATION AND BELIEF IT CONFORMS TO THE BOARD OF LICENSURE STANDARDS FOR A CATEGORY I CONDITION II BOUNDARY SURVEY WITH THE FOLLOWING EXCEPTIONS:

- 1) NO WRITTEN REPORT HAS BEEN PREPARED.
- 2) NOT ALL CORNERS HAVE BEEN MARKED.
- 3) NO DESCRIPTION HAS BEEN PREPARED.

12/16/93
DATE

[Signature]
PROFESSIONAL LAND SURVEYOR #509



JOHN J. ZAPPIA
3062
174

THOMAS P. MURRAY &
K. HENNESSY
7562
17

THE SIX FIFTY GROUP
3054
151

DANIEL G. LILLEY
(Plan Reference #2)
2306

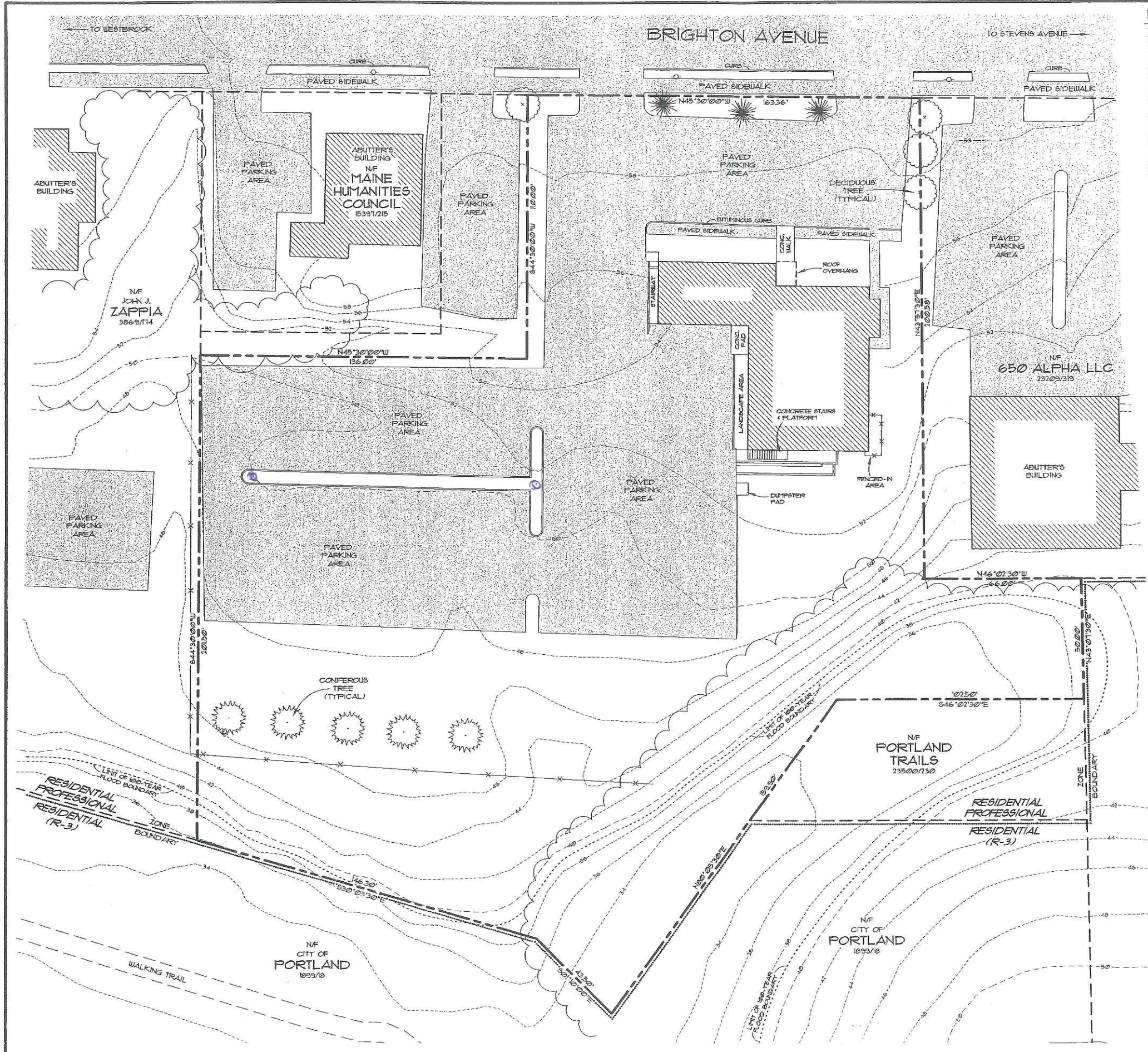
STANDARD BOUNDARY SURVEY AT 460-666 BRIGHTON AVE., PORTLAND, MAINE MADE FOR DOCTOR'S PARK, INC. 460 BRIGHTON AVE., PORTLAND, MAINE		
Owen Haskell, Inc.		
Civil Engineers	66 Casson Street PORTLAND, MAINE	Land Surveyors
Drawn By: JOK	Date: DEC. 16, 1993	Job No.: 92002.P
Trace By: MPW	Scale: 1" = 20'	Drawg. No.: 1
Check By: JOK/JPRC	Blk No.: 600 P	

D.J.L. Associates / Architects

100 Main Street, Suite - C, Lewiston, Maine 04240 (207) 344-6611 DELAWARE

Project Title	Hutchins Funeral Home Brighton Avenue Portland, Maine
Drawing Title	Standard Boundary Survey
Project No.	0813
Sub Title	
Drawing No.	C-1.0

Scale	1" = 20'
Drawn By	JOK
Checked By	JOK/JPRC
Date	DEC 16 1993
Blk No.	600 P



NOTES

THE PURPOSE OF THIS PLAN IS TO SERVE AS A VISUAL AID TO FACILITATE MUNICIPAL APPROVALS. IT WAS PREPARED BASED UPON THE PLAN REFERENCED BELOW AND CITY OF PORTLAND MAPPING (G.I.S.) AND ASSESSING INFORMATION.

FOR COMPLETE BOUNDARY INFORMATION REFERENCE IS MADE TO A PLAN ENTITLED "STANDARD BOUNDARY SURVEY AT 660-666 BRIGHTON AVENUE", DATED DECEMBER 16, 1993 PREPARED BY OWEN HASKELL, INC.

ALL BOOK AND PAGE NUMBERS REFER TO THE CUMBERLAND COUNTY REGISTRY OF DEEDS.

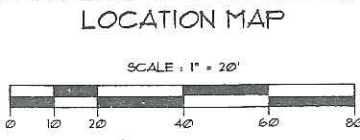
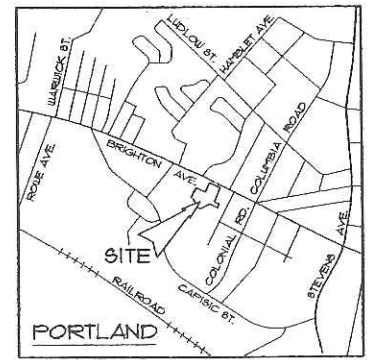
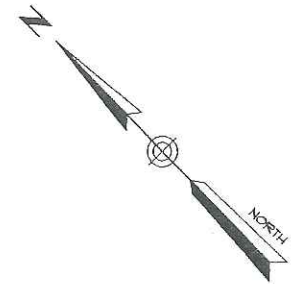
TOTAL AREA = 134 ACRES

THE PARCEL IS LOCATED WITHIN THE "RESIDENTIAL PROFESSIONAL" ZONING DISTRICT.

A PORTION OF THE PARCEL IS LOCATED WITHIN THE 100-YEAR FLOOD HAZARD AREA AS SHOWN ON FLOOD INSURANCE RATE MAP COMMUNITY PANEL #230251 0202 C, DATED DECEMBER 8, 1998.

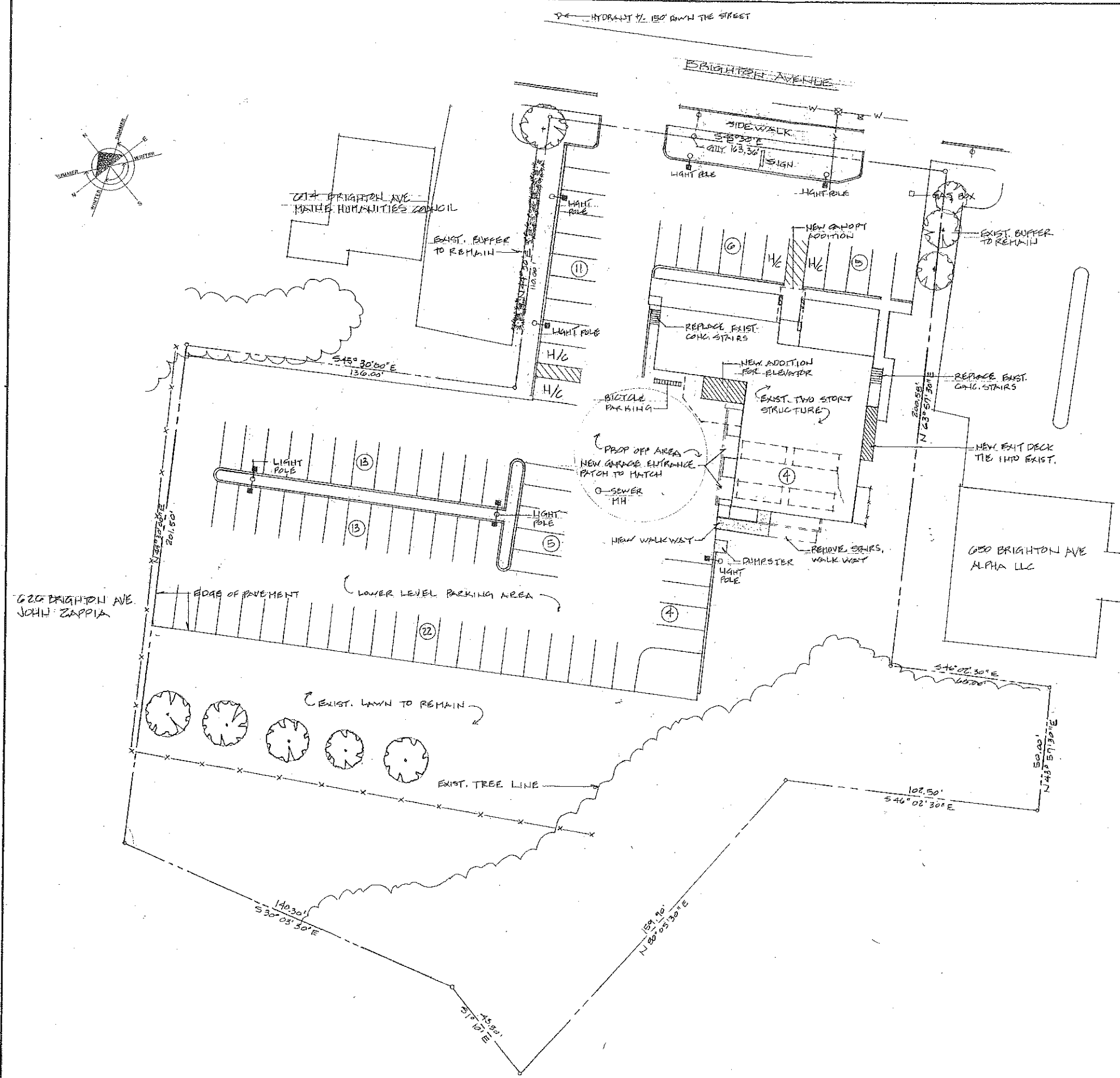
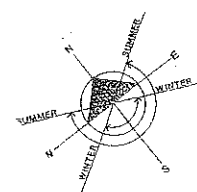
LEGEND

- BOUNDARY LINE (SUBJECT PARCEL)
- BOUNDARY LINE (OTHER)
- EXISTING CONTOUR (G.I.S.)
- x-x- FENCE
- TREE LINE
- ZONING BOUNDARY
- APPROXIMATE LIMIT OF FLOOD ZONE
- o UTILITY POLE
- NF NOW OR FORMERLY
- 2532/56 BOOK AND PAGE NUMBER
- PAVED AREA
- BUILDING



SHEET TITLE:		EXISTING CONDITIONS		NO.	DATE
PROJECT:	HUTCHINS FUNERAL HOME	DRAWN BY:	KRF	REVISION	
PREPARED FOR:	ATH REALTY, LLC	DATE:	JULY 2009	NO.	
ADDRESS:	660 BRIGHTON AVENUE	APPR BY:	JUB		
CLIENT:	PORTLAND, MAINE				
PROJECT:		HUTCHINS FUNERAL HOME			
PREPARED FOR:		ATH REALTY, LLC			
ADDRESS:		660 BRIGHTON AVENUE			
CLIENT:		PORTLAND, MAINE			
Tel: (207) 755-6009		Fax: (207) 755-6128			
640 MAIN ST.		LEWISTON, MAINE 04240			
SUMMIT ENVIRONMENTAL		PROJECT:		16641	
		SHEET NUMBER		C-1.1	

16641_VCL.dwg

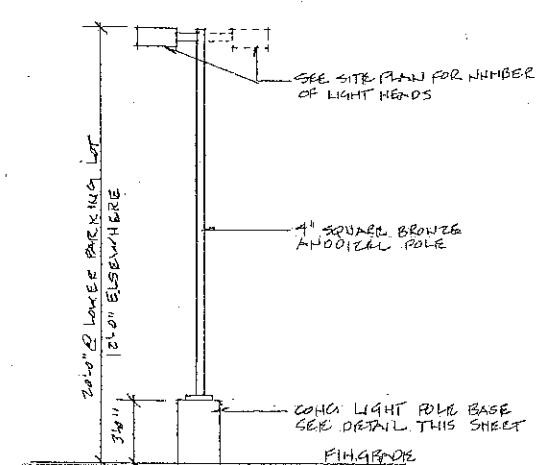


GENERAL NOTES
 RECORD OWNER OF PROPERTY IS White Water LLC, BOOK NO. 22707, PAGE 271, FILED IN THE CUMBERLAND COUNTY REGISTER OF DEEDS.
 BOUNDARY SURVEY PREPARED BY OWEN HASKELL, INC. DATED DEC. 16, 1993, JOB NO. 92002 P. BOOK NO. 600 P.
 ZONING CLASSIFICATION: RP RESIDENCE - PROFESSIONAL
 PROPOSED USE: FUNERAL HOME, PERMITTED USE

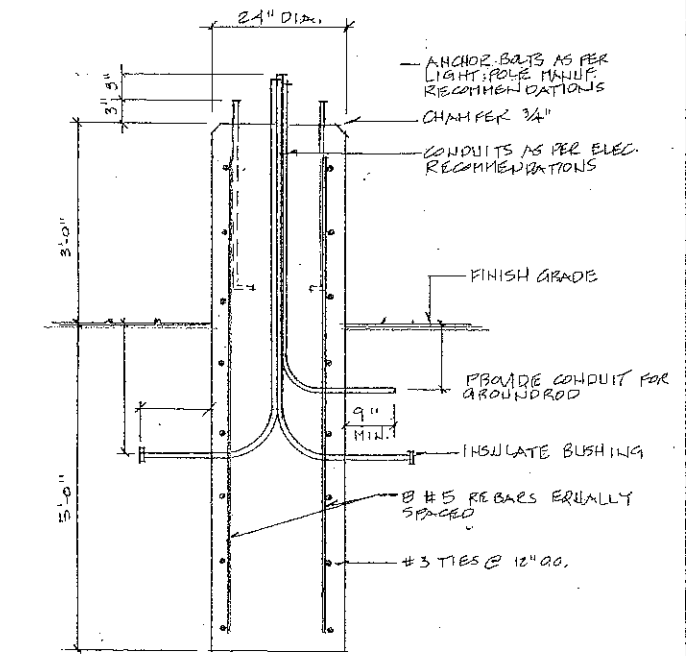
SPACE STANDARDS	REQUIRED	PROPOSED
MIN. LOT SIZE:	6,000 SQ. FT.	
CURRENT FOOT PRINT AREA:		
MIN. STREET FRONTAGE:	60 FEET	163.36 FEET
MIN. FRONT SETBACK:	20 FEET	69 FEET
MIN. REAR SETBACK:	20 FEET	117 FEET
MIN. SIDE SETBACK - FOR 2 STORIES:	12 FEET	17 FEET
MIN. LOT WIDTH:	60 FEET	365.36 FEET
MAX. BUILDING HEIGHT:	45 FEET	45 FEET
MAX. IMPERVIOUS RATIO:	0.80	0.48
MAX. FLOOR AREA RATIO:	0.65	0.05
OFF STREET PARKING:	41	83

OFF STREET PARKING CALCULATIONS

DESCRIPTION	AREA	RATIO
OFFICE/PUBLIC AREAS	2080 SQ. FT.	400/SPACE = 5
PROCEDURE/BULK STORAGE	3315 SQ. FT.	1000/SPACE = 3
ASSEMBLY AREAS	3264 SQ. FT.	100/SPACE = 33
TOTAL	8659 SQ. FT.	41 SPACES



LIGHT POLE ELEVATION

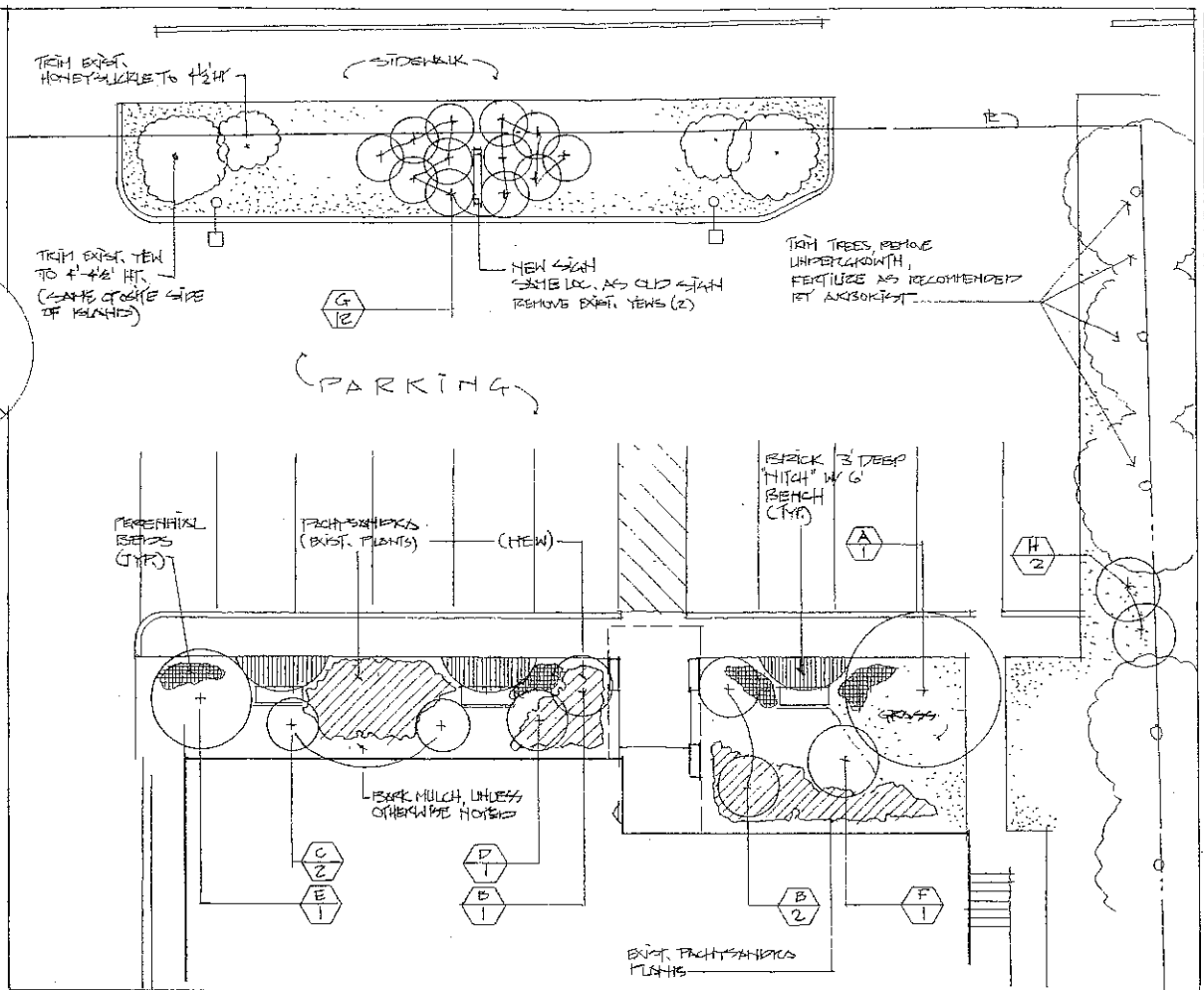
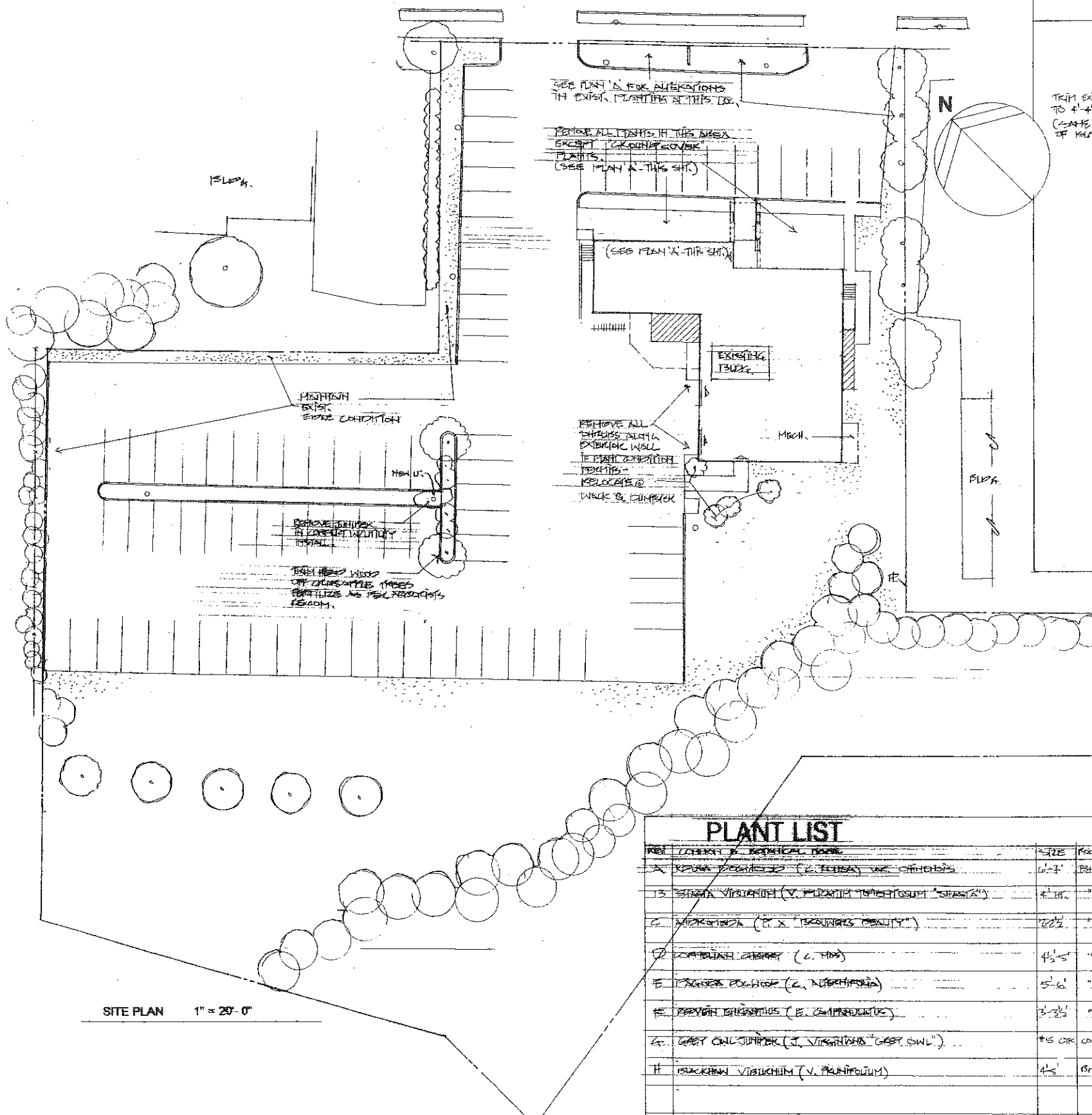


LIGHT POLE BASE DETAIL
 3/4" = 1'-0"

109 Main Street, Suite - C, Lewiston, Maine 04240 (207) 344-6611 DDLAIA@AOL.COM
 DLL Associates / Architects

Drawing Title Site Plan	Project Title Hutchins Funeral Home Brighton Avenue Portland, Maine															
Project No. 0813	Date _____															
Sub Title _____	Revisions <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>No.</th> <th>Date</th> <th>By</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>	No.	Date	By												
No.	Date	By														
Drawing No. C-1.2	Scale _____															

BRIGHTON AVENUE



PLAN A

1" = 10' - 0"

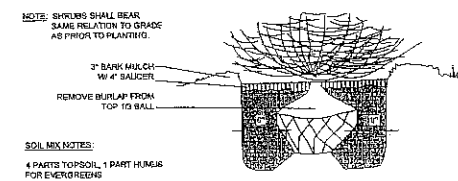
SITE PLAN 1" = 20' - 0"

PLANT LIST

NO.	SYMBOL & BOTANICAL NAME	SIZE	ROOT	QTY	NOTES
1	REPAVE DRIVEWAY (2. TERRAZZO) SEE CHANGES	6'-2"	BRKS	1	
2	SHRUB VIRGATUM (V. VIRGATUM 'SERRATA')	4'-10"		3	
3	YACONTHIA (P. X. 'SOURDIS BEAUTY')	10'-2"		2	
4	COMPTONIA PERUVIANA (C. PERU)	4'-5"		1	3 TRUNK
5	YACONTHIA (P. X. 'SOURDIS BEAUTY')	5'-6"		1	
6	PEROVIA GIBBERNA (P. GIBBERNA)	3'-2"		1	
7	GRAB ONC. JUNIPER (J. VIRGINICA 'GRAB SWL')	1'-5" OR	CONT.	12	
8	FRAXINUS VIRGINICA (V. PRINCEPIUM)	4'-5"	BRKS	2	3 TRUNK

PLANTING NOTES

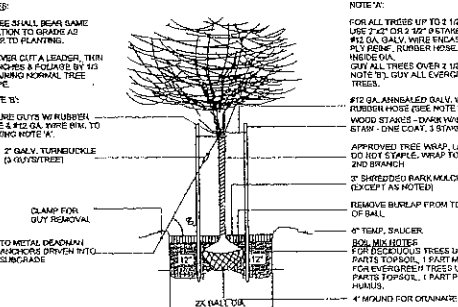
- The contractor shall supply all plants in quantities sufficient to complete the work shown on plan. Any discrepancies between quantities shown on plant list and those required by this drawing shall not entitle contractor to additional remuneration.
- Any plant substitutions must be approved by the owner.
- Any tree or shrub which comes over or under any utility shall be relocated on the site by the landscape architect.
- All lawn areas to have 6" of topsoil unless noted otherwise.
- All trees and shrubs shall be placed in the designated areas as shown on the plan and before planting shall be approved by the landscape architect.
- The contractor shall relocate any tree or shrub as directed by the landscape architect.
- All plant material installed shall meet the specifications of the American Standard for Nursery Stock (latest edition) as set forth by the American Association of Nurserymen.
- The landscape contractor shall replace or repair to original condition any and all utilities, paving, curbing, etc., damaged as a result of their operations at no additional cost to the owner.



PLANTING DETAIL - SHRUB

1/17

N.T.S.

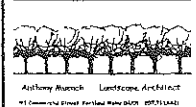


PLANTING DETAIL - TREE

2/17

N.T.S.

DATE: 8-19-09

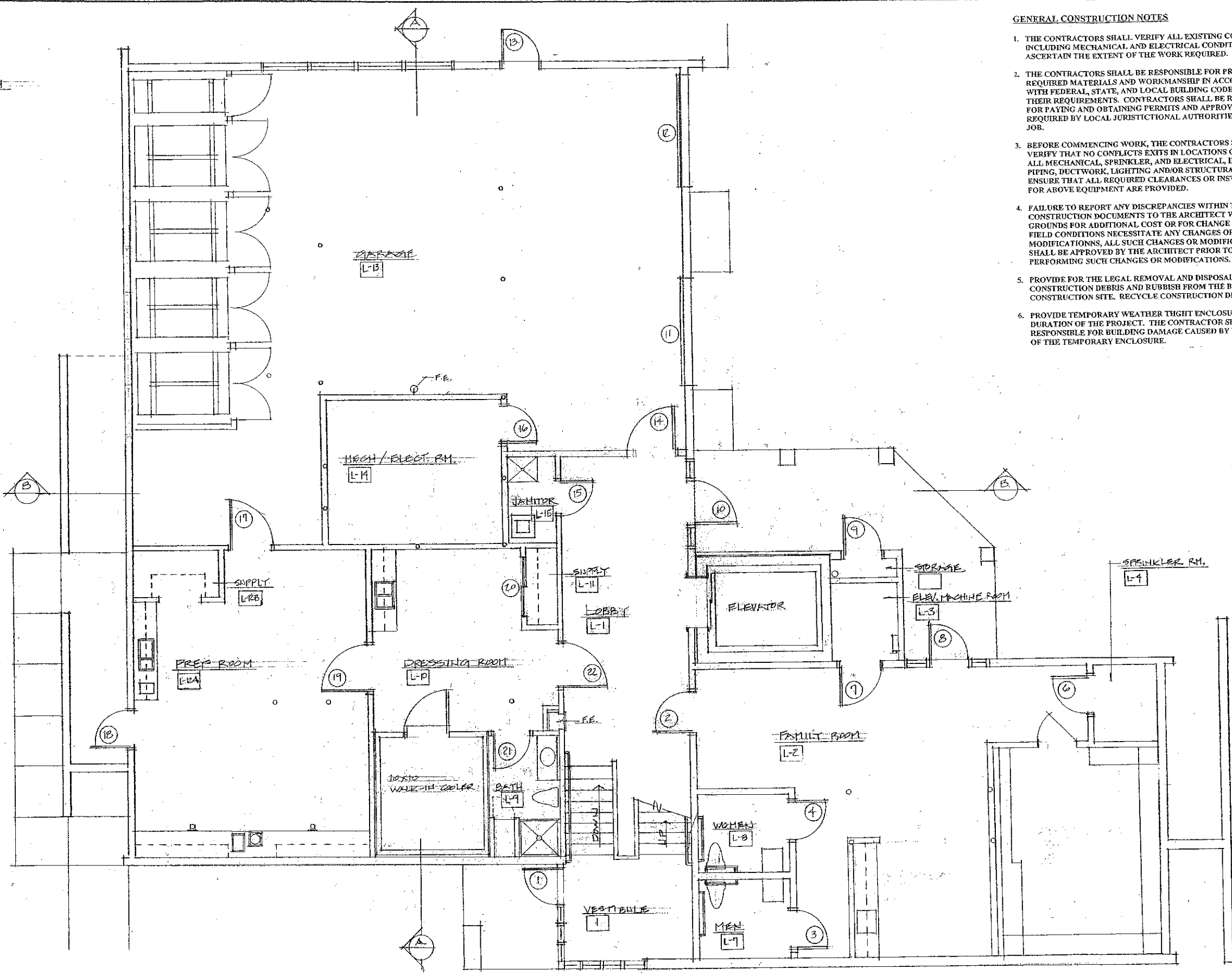
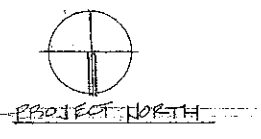


DLL ASSOCIATES / ARCHITECTS
186 MAIN STREET, SUITE C
LEWISTON, MAINE 04240

HUTCHINS FUNERAL HOME
860 BRIGHTON AVENUE
PORTLAND, MAINE

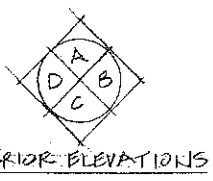
PROPOSED NEW LANDSCAPE
PLANTING SITE PLAN

L-2



GENERAL CONSTRUCTION NOTES

1. THE CONTRACTORS SHALL VERIFY ALL EXISTING CONDITIONS INCLUDING MECHANICAL AND ELECTRICAL CONDITIONS TO ASCERTAIN THE EXTENT OF THE WORK REQUIRED.
2. THE CONTRACTORS SHALL BE RESPONSIBLE FOR PROVIDING REQUIRED MATERIALS AND WORKMANSHIP IN ACCORDANCE WITH FEDERAL, STATE, AND LOCAL BUILDING CODES AND THEIR REQUIREMENTS. CONTRACTORS SHALL BE RESPONSIBLE FOR PAYING AND OBTAINING PERMITS AND APPROVALS AS REQUIRED BY LOCAL JURISDICTIONAL AUTHORITIES FOR THE JOB.
3. BEFORE COMMENCING WORK, THE CONTRACTORS SHALL VERIFY THAT NO CONFLICTS EXIST IN LOCATIONS OF ANY AND ALL MECHANICAL, SPRINKLER, AND ELECTRICAL, INCLUDING PIPING, DUCTWORK, LIGHTING AND/OR STRUCTURAL TO ENSURE THAT ALL REQUIRED CLEARANCES OR INSTALLATIONS FOR ABOVE EQUIPMENT ARE PROVIDED.
4. FAILURE TO REPORT ANY DISCREPANCIES WITHIN THESE CONSTRUCTION DOCUMENTS TO THE ARCHITECT WILL NOT BE GROUNDS FOR ADDITIONAL COST OR FOR CHANGE ORDERS. IF FIELD CONDITIONS NECESSITATE ANY CHANGES OR MODIFICATIONS, ALL SUCH CHANGES OR MODIFICATIONS SHALL BE APPROVED BY THE ARCHITECT PRIOR TO PERFORMING SUCH CHANGES OR MODIFICATIONS.
5. PROVIDE FOR THE LEGAL REMOVAL AND DISPOSAL OF ALL CONSTRUCTION DEBRIS AND RUBBISH FROM THE BUILDING AND CONSTRUCTION SITE. RECYCLE CONSTRUCTION DEBRIS.
6. PROVIDE TEMPORARY WEATHER TIGHT ENCLOSURES FOR THE DURATION OF THE PROJECT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR BUILDING DAMAGE CAUSED BY THE FAILURE OF THE TEMPORARY ENCLOSURE.

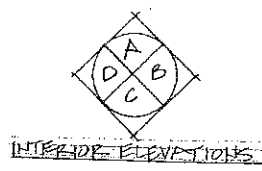
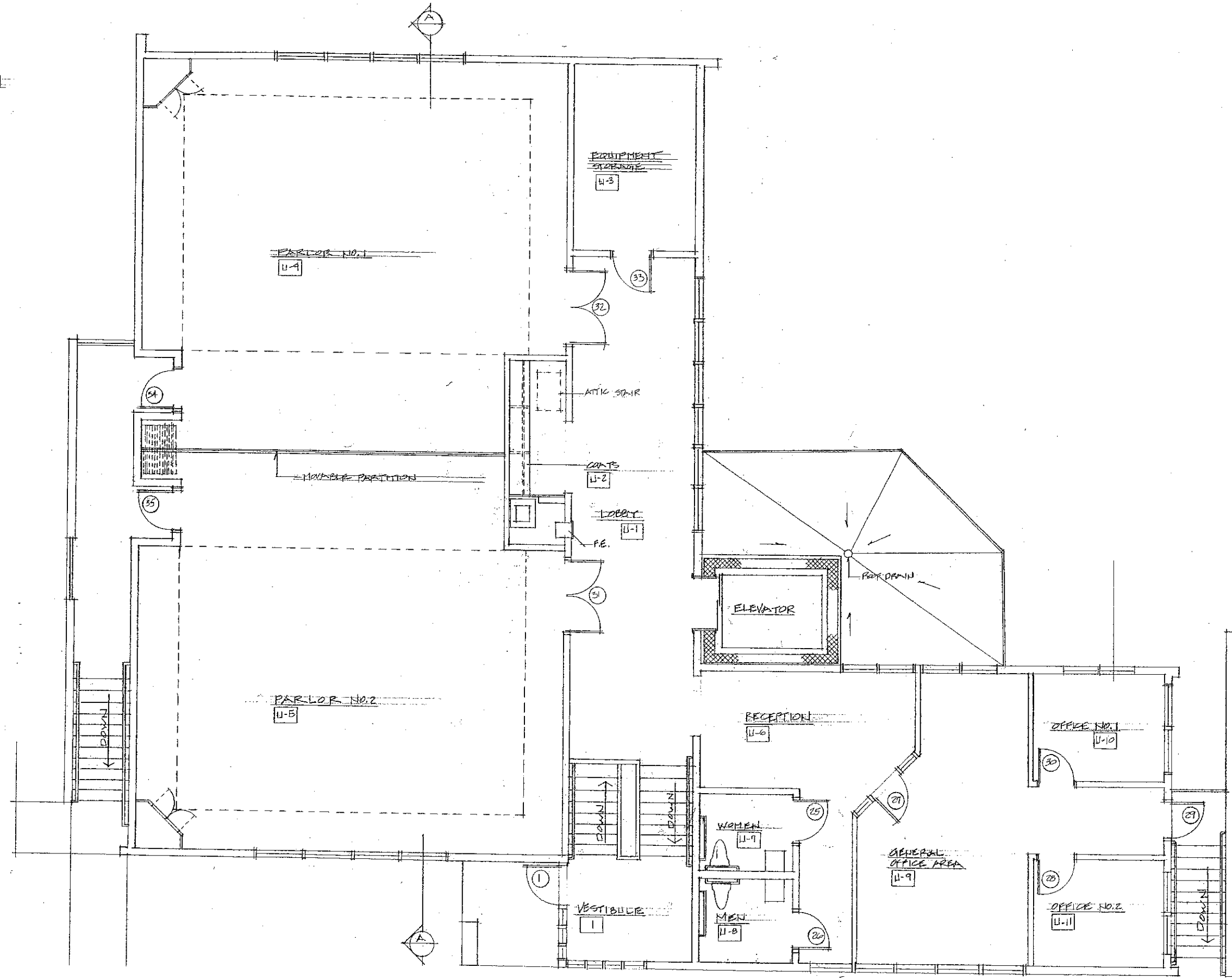


INTERIOR ELEVATIONS

109 Main Street, Suite - C, Lewiston, Maine 04240 (207) 344-6611 DLATA@AOL.COM

DLA Associates / Architects

Project Title	Hutchins Funeral Home 660 Brighton Avenue Portland, Maine
Drawing Title	Lower Level Floor Plans
Project No.	0813
Sub Title	
Drawing No.	A-1.0
Scale	
Dwn. By	
Ckd. By	
Date	
Revisions	
No.	
Date	
By	

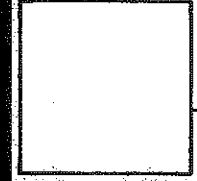


INTERIOR ELEVATIONS

109 Van Street, Suite - C, Lewiston, Maine 04240 (207) 344-6611 DELAIA@AIAOF.COM

DLL Associates / Architects

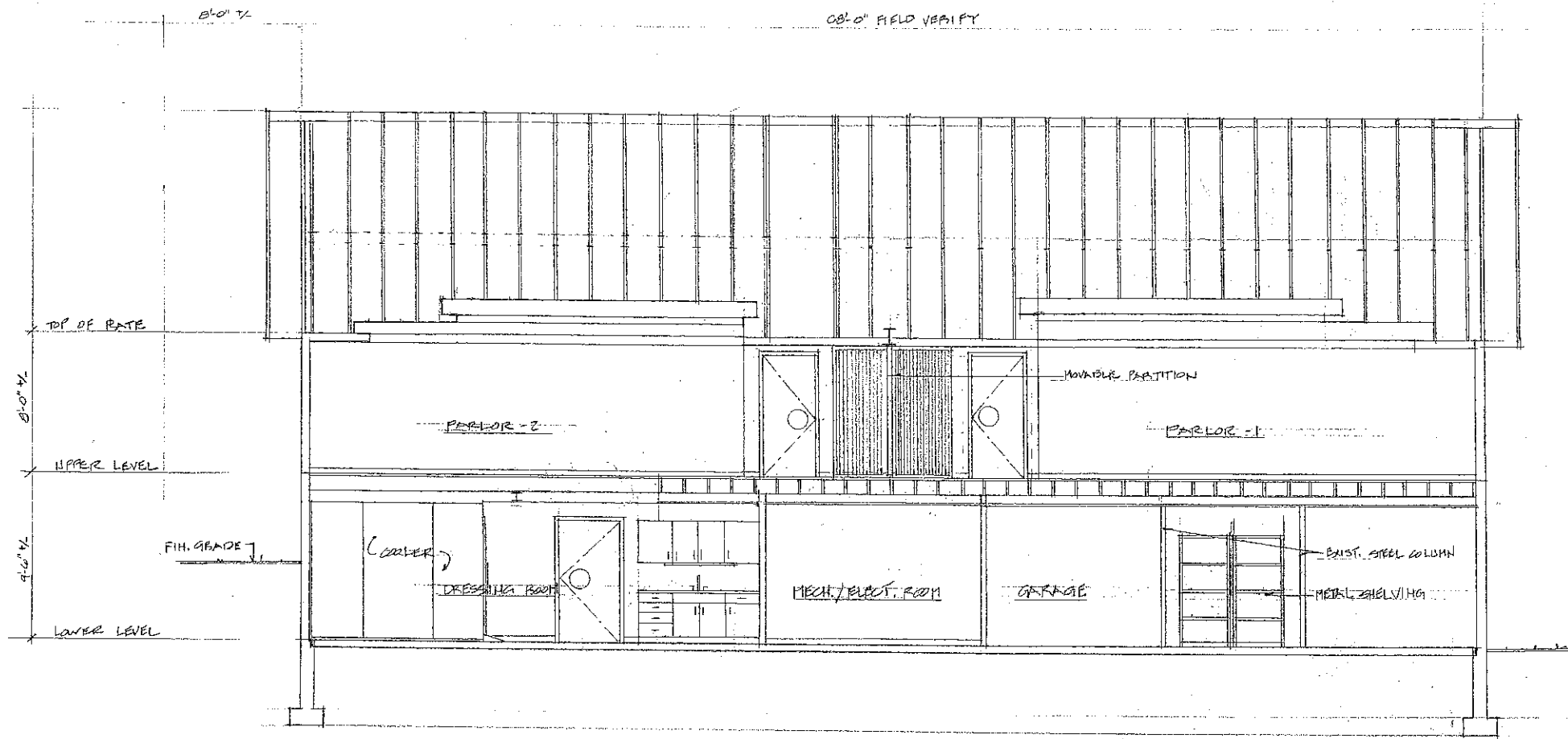
No.	Revisions	Date	BY



Project Title
Hutchins Funeral Home
 660 Brighton Avenue
 Portland, Maine

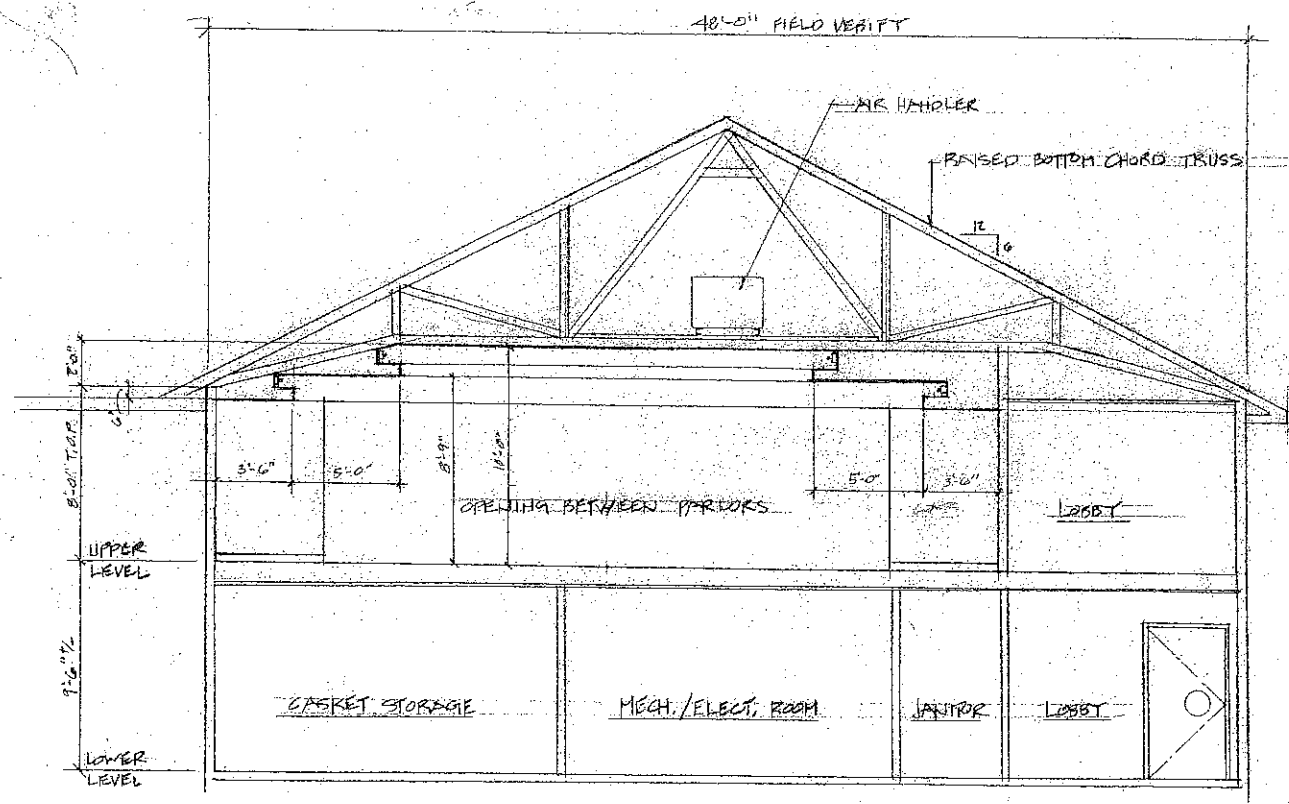
Drawing Title
Upper Level Floor Plans
 Scale: 1/8" = 1'-0"
 Date: 08/13
 Drawn by: DBS
 Checked by: EKL

Project No.
0813
 Sub Title
 Drawing No.
A-1.1



SECTION
1/4" = 1'-0"

(A)



SECTION
1/4" = 1'-0"

(B)

No.	Revisions	Date	By

Project Title
Hutchins Funeral Home
 660 Brighton Avenue
 Portland, Maine

Drawing Title
Building Sections
 Scale 1/4" = 1'-0"
 Dwn. By: Cde
 Ckd. By: Cde

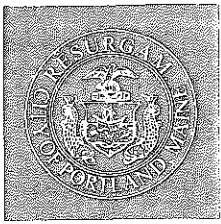
Project No.
0813

Sub Title

Drawing No.
A-3.0

DLL Associates / Architects
 128 Main Street, Suite - C, Lewiston, Maine 04240 (207) 344-6611 DLLA@AOL.COM

REVIEW



Strengthening a Remarkable City, Building a Community for Life www.portlandmaine.gov

Planning & Urban Development Department
Penny St. Louis Littell, Director

Planning Division
Alexander Jaegerman, Director

October 29, 2009

Denis L Lemieux, AIA
198 Main Street
Lewiston, ME 04240

Mark Hutchins
ATH Realty LLC
16 Equestrian Way
Scarborough, ME 04074

RE: **660/666 Brighton Avenue; Hutchins Funeral Home**
CBL: 224A A001001
Application ID: (HTE system) 09-79900008

Dear Mr Lemieux and Mr Hutchins:


On October 8, 2009 the Portland Planning Authority approved the minor site plan for the use and refurbishment of the existing medical office building (known as "Doctors Park") at 660/666 Brighton Avenue subject to conditions.

I am writing to confirm that the following conditions have been met:

- i. That the eastern-most driveway shall be one-way egress only; the applicant shall submit a plan, for review and approval by the Planning Authority prior to the issuance of a building permit, that illustrates the signage and pavement markings to be included in the proposal to convert the eastern-most driveway into a one-way egress only; and*
- ii. That the applicant shall submit a revised lighting proposal, including catalog cuts, pole heights and associated photometric plan, for review and approval by the Planning Authority prior to issuance of a building permit; and*
- iii. That the applicant shall submit a copy of the Wastewater Capacity letter prior to the issuance of a building permit.*

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

Sincerely,


Jean Fraser
Planner

Electronic Distribution:

Alexander Jaegerman, Planning Division Director
Barbara Barhydt, Development Review Services Manager
Philip DiPierro, Development Review Coordinator
Marge Schmuckal, Zoning Administrator
Kathi Earley, Public Services
Hard Copy: Project File

Bill Clark, Public Services
David Margolis-Pineo, Deputy City Engineer
Jane Ward, Public Services
Jeff Tarling, City Arborist
Tom Errico, Traffic engineering Reviewer



PORTLAND MAINE

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Penny St. Louis Littell, Director

Planning Division
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October 29, 2009

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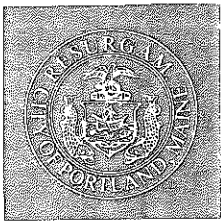
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Planner

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Planning & Urban Development Department
Penny St. Louis Littell, Director

Planning Division
Alexander Jaegerman, Director

October 29, 2009

Denis L Lemieux, AIA
198 Main Street
Lewiston, ME 04240

Mark Hutchins
ATH Realty LLC
16 Equestrian Way
Scarborough, ME 04074

10-29-09
MH req. the letter be
faxed to
885 0089

file copy

RE: **660/666 Brighton Avenue; Hutchins Funeral Home**
CBL: 224A A001001
Application ID: (HTE system) 09-79900008

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Planning & Urban Development Department
Penny St. Louis Littell, Director

Planning Division
Alexander Jaegerman, Director
November 9, 2009

Denis L Lemieux, AIA
198 Main Street
Lewiston, ME 04240

Mark Hutchins
ATH Realty LLC
16 Equestrian Way
Scarborough, ME 04074

RE: **660/666 Brighton Avenue; Hutchins Funeral Home**
CBL: 224A A001001
Application ID: (HTE system) 09-79900008

file copy

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Since then all of the conditions of approval have been met and I understand that the project is now progressing. Please note that no alterations to the site (eg exterior work) should take place until the requirements set out on the second page of the Site Plan approval letter have been met, particularly items 3, 4, and 7.


This request is based on the City's Ordinance 14-528, which states:

- (b) *No alterations shall be made to a site with a pending or approved site plan application until:*
 - (1) *The performance guarantee has been posted and final site plans have been submitted to the planning authority;*
or
 - (2) *Written permission has been received from the director of planning and urban development or his designee. Such permission shall be granted only after submission of a written request setting forth the work proposed to be done on the site. All such work shall be done in compliance with information provided with the site plan application including, but not limited to, an erosion control plan. Such written permission shall not be required when the only work proposed is the digging of test pits.*

Please liaise with Phil diPierro, Development Review Coordinator (874 8632, PD@portlandmaine.gov.) regarding the Performance Guarantee, Inspections fee and pre-construction meeting.

Please send me (if not done already) 5 copies of the final plans (Site Plan and Planting Plan only)- at scale and with all of the approved revisions regarding light pole locations, signing and markings incorporated on both plans (see attached which is the approved directional signage and pavement marking plan).

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

Sincerely,

Jean Fraser
Planner



Strengthening a Remarkable City, Building a Community for Life

www.portlandmaine.gov

Planning & Urban Development Department
Penny St. Louis Littell, Director

Planning Division
Alexander Jaegerman, Director

October 8, 2009

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Application ID: (HTE system) 09-79900008

Dear Mr Lemieux and Mr Hutchins:

On October 8, 2009 the Portland Planning Authority approved a minor site plan for the use and refurbishment of the existing medical office building (known as "Doctors Park") at 660/666 Brighton Avenue, for a funeral home as submitted by ATH Realty LLC and shown on the approved plan (Site Plan C-1.2 Rev 2 dated 10.8.2009; Planting Plan L-2 dated 8.25.09; and Elevations A-2.0 dated 9.18.2009 prepared by DLL Associates/Architects) with the following conditions:

- i. That the eastern-most driveway shall be one-way egress only; the applicant shall submit a plan, for review and approval by the Planning Authority prior to the issuance of a building permit, that illustrates the signage and pavement markings to be included in the proposal to convert the eastern-most driveway into a one-way egress only; and
- ii. That the applicant shall submit a revised lighting proposal, including catalog cuts, pole heights and associated photometric plan, for review and approval by the Planning Authority prior to issuance of a building permit; and
- iii. That the applicant shall submit a copy of the Wastewater Capacity letter prior to the issuance of a building permit; and
- iv. That if the City receives any complaints concerning the noise generated by the HVAC condenser units, the owner shall take appropriate measures to mitigate any noise above that allowed by the current ordinance; and
- v. All signage shall be subject to separate sign permits and approvals; and
- vi. Building permits shall be required for all structural additions and changes.

The approval is based on the submitted site plan. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval.

The site abuts the Capisic Brook watershed (an urban impaired watershed) which has both flooding and water quality problems. The applicant has agreed to develop and submit a **management plan** that sets out future intentions for reducing the storm water runoff and pollution to Capisic Brook that results from the use of this site. Such plan could include bio filtration unit(s) along rear of the parking area, reduction where possible of impervious area, planting of additional trees in and around the parking area, and methods of disposal of garden waste so that it is not within the Capisic floodplain. The City is working with landowners and other interested parties to improve the Capisic Brook Watershed and further information and advice is available from Doug Roncarati, Department of Public Services (C/O 874- 8846 or DAR@portlandmaine.gov).

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

1. The site shall be developed and maintained as depicted in the site plan and 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 the planning authority pursuant to the terms of this article. Any such parcel lawfully altered prior to the enactment date of these revisions shall not be further altered without approval as provided herein. Modification or alteration shall mean and include any deviations from the approved site plan including, but not limited to, topography, vegetation and impervious surfaces shown on the site plan. No action, other than an amendment approved by the planning authority or Planning Board, and field changes approved by the Public Services authority as provided herein, by any authority or department shall authorize any such modification or alteration.
2. The above approvals do not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.
3. 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.
4. 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 Services Dept. 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.
5. 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.
6. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
7. Prior to construction, a pre-construction meeting shall be held at the project site with the contractor, development review coordinator, Public Service'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.

8. 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 Jean Fraser at 874- 8728.

Sincerely,



Alexander Jaegerman
Planning Division Director

Attachment: 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
Jean Fraser, Planner
Philip DiPierro, Development Review Coordinator
Marge Schmuckal, Zoning Administrator
Tammy Munson, Inspections Division Director
Gayle Guertin, Inspections Division
Lannie Dobson, Inspections Division
Michael Bobinsky, Public Services Director
Kathi Earley, Public Services
Bill Clark, Public Services
David Margolis-Pineo, Deputy City Engineer
Doug Roncarati, Public Services
Todd Merkle, Public Services
Greg Vining, Public Services
John Low, Public Services
Jane Ward, Public Services
Keith Gautreau, Fire
Jeff Tarling, City Arborist
Tom Errico, Wilbur Smith Consulting Engineers
Dan Goyette, Woodard & Curran
Assessor's Office
Approval Letter File

Hard Copy: Project File

8/11/10

Discussed at
Dev Rev with
all relevant
reviewers +
Phil DiPierro
present:

It was agreed
that Mr Hutchins
should install the
second arrow,
as close as poss
to sidewalk.



PORTLAND MAINE

Planning Division
Jean Fraser, Planner

8/3/10

Mark Hutchins
re: one way sign

office 878 3246
cell 329 3649

Phil D. wouldn't ^{sign off for} issue of CO because
one sign missing

MH asked if I could review need
for 2nd one as planting etc make it
obscured. Insp. said I/BB could
sign off.

JF committed to do w/ BB + TE
let MH know situation ~~if~~ if poss. *
JF to look at tonight
* and follow up as necessary

MH needs CO re #

8/4/10 - called + left
message "no
progress"

389 Congress Street, 4th floor • Portland, ME • (207) 874-8728 • Fx 756-8258
Email: jf@portlandmaine.gov

8/4/10 - spk BB - see over

From: Thomas Errico <Thomas.Errico@tylin.com>
To: Jean Fraser <JF@portlandmaine.gov>
Date: 10/26/2009 9:30 AM
Subject: RE: Driveway Signs

I did speak to Bill Bray on Friday and told him that I am open for options that minimizes the sign clutter. At this time I'm leaning towards not requiring STOP signs, but need to think about signage as it relates to the driveway prohibition.

Thomas A. Errico, P.E.

12 Northbrook Drive
Building A, Suite One
Falmouth, ME 04105

207.347.4354 (Direct)
207.781.4721 (Main)
207.781.4753 (Fax)
207.400.0719 (Mobile)

-----Original Message-----

From: Jean Fraser [mailto:JF@portlandmaine.gov]
Sent: Monday, October 26, 2009 9:21 AM
To: Thomas Errico
Subject: Fwd: Driveway Signs

Tom,

I spoke to Mr Hutchins last week and he was very upset about your comments dated 10.15.09.

He told me that Bill Bray was going to contact you to establish why such signs as you specified were needed on private property. Since then I have heard nothing and assumed that Bill was speaking to you.

I received this today.....

Mr Hutchins is trying to create a welcoming attractive and "soft" impression for his clients and therefore is unahppy at the negative/municipal tone of the signs you have specified.

Anyway, I guess he will be sending the proposed "architecturally designed" signs and we can discuss at Dev Rev. A couple of questions:

1. I was wondering whether "One-way" signs for the eastern drive might be an alternative approach....
2. Do we have examples of where we have requested similar signing for, say, a medical office building? Or Church?

Thanks
Jean

>>> "mark hutchins" <mhutchi2@maine.rr.com> 10/25/2009 9:34:18 PM >>>
Jean:

I want to follow-up with an e-mail regarding our discussion that we had pertaining to the two driveways on the property. As I stated I do not have a problem installing signs at the driveways. But to be required to install traditional traffic "stop" and "do not enter" signs would take away from the redesign of the property. What I have Denis designing are nice rectangular signs at both driveways. On the eastern driveway, we will have two signs stating "Do Not Enter, Exit Only". They would be perpendicular to Brighton Ave so that they will stand out to traffic coming from both directions. The western driveway would have a sign stating "Enter / Exit". I believe that this will accomplish what Tom is trying to do, but again the signs will blend in architecturally with the rest of the building. I will get hard copies of Denis's design on Monday and have them to you Tuesday morning. Hopefully, Tom will reconsider his recommendation and be OK with what we are proposing.

Thanks,

Mark

From: "Tom Errico" <thomas.errico@tylin.com>
To: "Jean Fraser" <JF@portlandmaine.gov>
Date: 9/8/2009 11:53:49 AM
Subject: 660 Brighton Avenue - Traffic Review Comments

Jean -

My comments for the above noted project is summarized below and is based upon the submittal by DLL Associates/Architects dated August 18, 2009.

In my professional opinion the parking supply of 83 spaces will be adequate for most events. The applicant should be required to develop a parking management plan for events where the supply will exceed the spaces provided.

Based upon the information provided it is my professional opinion that a Traffic Movement Permit is not required.

The applicant should provide justification for maintaining the easternmost driveway on Brighton Avenue. The driveway does not meet City of Portland technical standards for driveway separation and supporting documentation on retaining its use is requested.

The following summarizes some suggested revisions to the Traffic Operations Plan:

- o For Item #4, "written permission is granted by the Chief of Police and the City Transportation Engineer".
- o For Item #5, "written permission is granted by the Chief of Police and the City Transportation Engineer".
- o For Item #7, "written permission is granted by the Chief of Police and the City Transportation Engineer".

It appears that some elements of the parking lot (stall size and aisle width) do not meet City of Portland Technical standards. The applicant shall identify those deficiencies on the plan. It is likely that I will support waivers from the technical standards.

If you have any questions, please contact me.

Best regards,

Thomas A. Errico, P.E.

T.Y. Lin International

12 Northbrook Drive
Building A, Suite One
Falmouth, ME 04105

207.347.4354 (Direct)
207.781.4721 (Main)
207.781.4753 (Fax)
207.400.0719 (Mobile)

CC: "Katherine Earley" <KAS@portlandmaine.gov>, "David Margolis-Pineo"
<DMP@portlandmaine.gov>

From: "Tom Errico" <thomas.errico@tylin.com>
To: "Jean Fraser" <JF@portlandmaine.gov>
Date: 10/5/2009 11:30:26 AM
Subject: 660-666 Brighton Avenue - Hutchins Funeral Home

Jean - the following represents my final comments and includes a status report on my September 8, 2009 email.

In my professional opinion the parking supply of 83 spaces will be adequate for most events. The applicant should be required to develop a parking management plan for events where the supply will exceed the spaces provided.

Status: From information provided, the applicant is in discussions with abutting property owners about overflow parking supply provisions.

Based upon the information provided it is my professional opinion that a Traffic Movement Permit is not required.

Status: I have no further comment.

The applicant should provide justification for maintaining the easternmost driveway on Brighton Avenue. The driveway does not meet City of Portland technical standards for driveway separation and supporting documentation on retaining its use is requested.

Status: Internal traffic flow requirements prevent the closure of the subject driveway. The applicant has suggested that it be converted to a one-way egress only driveway. I support this recommendation and the applicant should provide a plan illustrating signage and pavement markings for review and approval.

The following summarizes some suggested revisions to the Traffic Operations Plan:

- o For Item #4, "written permission is granted by the Chief of Police and the City Transportation Engineer".
- o For Item #5, "written permission is granted by the Chief of Police and the City Transportation Engineer".
- o For Item #7, "written permission is granted by the Chief of Police and the City Transportation Engineer".

Status: I have no further comment.

It appears that some elements of the parking lot (stall size and aisle width) do not meet City of Portland Technical standards. The applicant shall identify those deficiencies on the plan. It is likely that I will support waivers from the technical standards.

Status: It appears the non-conforming conditions include two specific areas. The parking area on the side

of the building has a total curb to building width of 41 feet. This width is 2 feet narrower than the required 43 feet. Additionally, the parking area on the southwest corner of the lot has a total curb to curb width of 58 feet. Sixty-two feet of width is required. In both cases I support a waiver from the technical standard.

If you have any questions, please contact me.

Best regards,

Thomas A. Errico, P.E.

T.Y. Lin International

12 Northbrook Drive
Building A, Suite One
Falmouth, ME 04105

207.347.4354 (Direct)
207.781.4721 (Main)
207.781.4753 (Fax)
207.400.0719 (Mobile)

CC: "Katherine Earley" <KAS@portlandmaine.gov>, "David Margolis-Pineo" <DMP@portlandmaine.gov>

From: "Dan Goyette" <DGoyette@woodardcurran.com>
To: "Jean Fraser" <JF@portlandmaine.gov>
Date: 9/16/2009 1:42:07 PM
Subject: 660/666 Brighton Ave Funeral Home

Jean,

I have no comments at this time as the applicant is not proposing any significant changes to the site. I would encourage the applicant to install stormwater BMP's to the site, such as bio-filtration swales, in an effort to help address stormwater issues in the Capisic Brook watershed when it is financially viable. Please let me know if you have any questions.

Dan Goyette, P.E.
Project Engineer
(207) 774-2112 (office)
(207) 774-6635 (fax)

dgoyette@woodardcurran.com

Woodard & Curran
www.woodardcurran.com
Commitment & Integrity Drive Results

From: "Dan Goyette" <DGoyette@woodardcurran.com>
To: "Jean Fraser" <JF@portlandmaine.gov>
Date: 9/16/2009 2:05 PM
Subject: RE: 660/666 Brighton (Funeral Home)

That is typically just for new sites.

-----Original Message-----

From: Jean Fraser [mailto:JF@portlandmaine.gov]
Sent: Wednesday, September 16, 2009 2:00 PM
To: Dan Goyette
Subject: RE: 660/666 Brighton (Funeral Home)

You usually comment about tying into maine plane etc - its at the beginning of many of your comments. Its not great but I have n't reviewed it.

>>> "Dan Goyette" <DGoyette@woodardcurran.com> 9/16/2009 1:31:21 PM
>>>

Is there something in particular with the survey. I usually spend very little time looking at them.

-----Original Message-----

From: Jean Fraser [mailto:JF@portlandmaine.gov]
Sent: Wednesday, September 16, 2009 1:26 PM
To: Dan Goyette
Subject: 660/666 Brighton (Funeral Home)

Dan

You may want to look at the survey... (in addition to the stormwater issue)

Re the latter, we agreed last week (with David and I thought he was going to pass them on re raingardens etc) that we would encourage them to do something re treatment even tho not required and the comments needed to include some suggested details.

Mr Hutchins does not have extra money now but in a year or two might do more.

Jean

Circulation of stamped app. plans

11-23-09 Phil C-1.2 w/ incorrect stop bar.

Hold Assessors + DPS (Todd)

[Pdf on the way of all]

Spoke Dennis L.M. 11/23/09

11-25-09

Planning
Inspection

both at scale (stop bar, corrected by me)

both at scale (stop bar corrected by me)

~~Jeff Tardif~~
Fire Dept

C-1.2 only.

(Hold these to attach to ones to be rec'd wed)

(when have PDF +
corrected C-1.2)

- 11-30-09 ✓ ASSESSORS
- 11-30-09 ✓ DPS Todd
- 11-25-09 late ✓ DPS Bill Clark
- 11-25-09 ✓ Jeff Tardif
- 11-25-09 late ✓ DPS Doug R

- await paper copies of corrected C-1.2 as of 11.25.09
- corrected C-1.2 + large L-2
- " + small L-2
- old C-1.2 + small L-2
- small C-1.2 + large L-2.
- small C-1.2 + small L-2

Letter of Transmittal

rec'd 11-30-09.



DLL Associates/Architects, LLC

198 Main Street, Suite-C
Lewiston, Maine 04240

207-344-6611

Date: 11-25-09
To: Jean Fraser, Planner
Planning and Urban Development
389 Congress Street
Portland, Maine 04101-3509

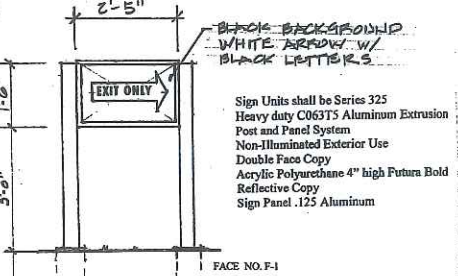
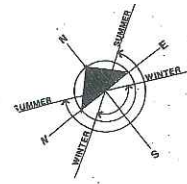
Reference:
Hutchins Funeral Home
660 Brighton Avenue
Portland, Maine
Project No. 0813

Comments:

Jean;
As requested, 3 hard copies of C-1.2. for your use.

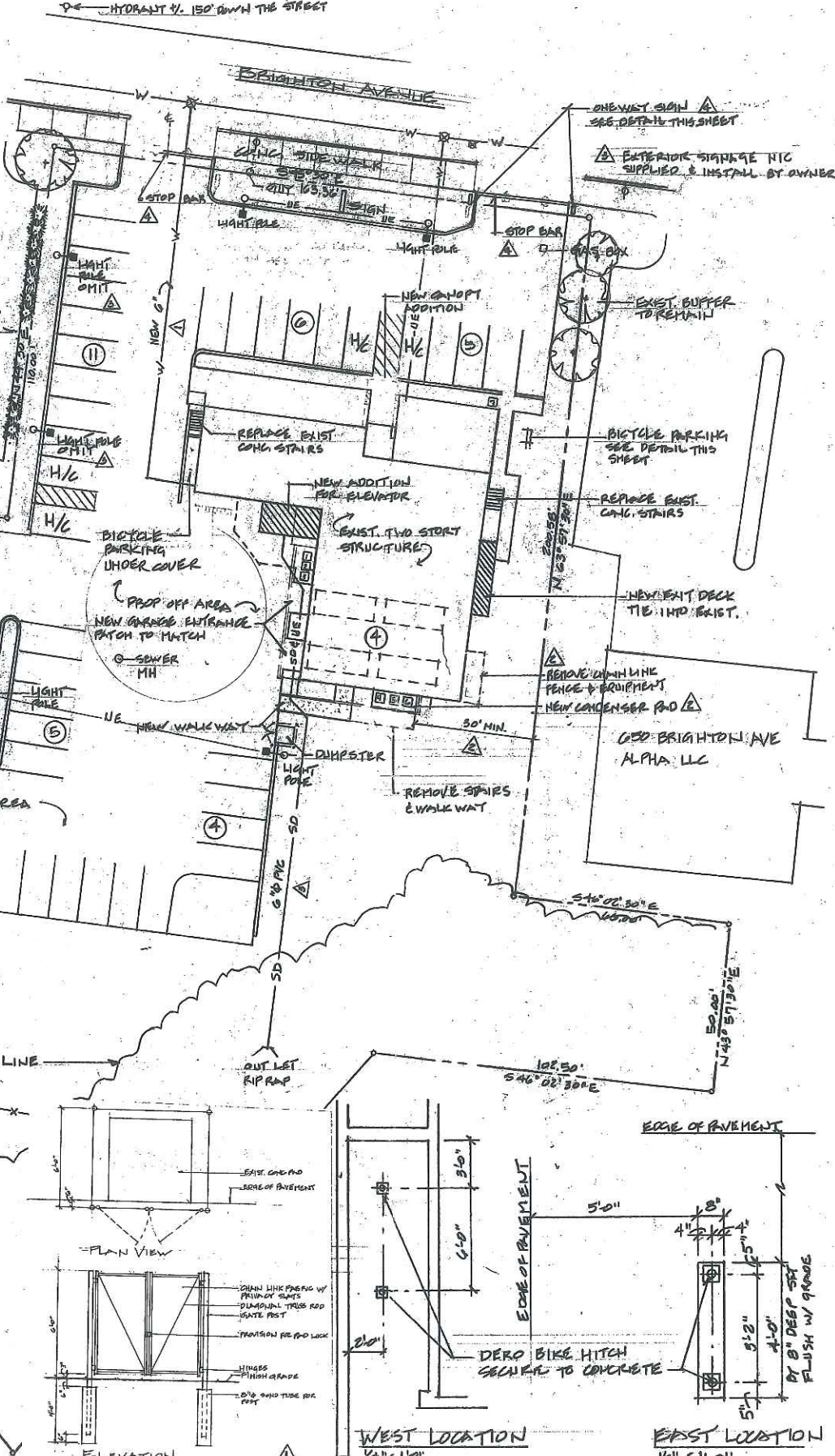
- 1 copy Pl. file
- 1 copy Assessors
- 1 copy Todd Merkle, Public Services

(3-24x36 dwg.)



TYPICAL DIRECTIONAL SIGN DETAIL

Sign Units shall be Series 325
Heavy duty C06375 Aluminum Extrusion
Post and Panel System
Non-Illuminated Exterior Use
Double Face Copy
Acrylic Polyurethane 4" high Futura Bold
Reflective Copy
Sign Panel .125 Aluminum



GENERAL NOTES
RECORD OWNER OF PROPERTY IS White Water LLC, BOOK NO. 22707, PAGE 271, FILED IN THE CUMBERLAND COUNTY REGISTER OF DEEDS.
BOUNDARY SURVEY PREPARED BY OWEN HASKELL, INC. DATED DEC. 16, 1993, JOB NO. 92002 P, BOOK NO. 600 P.

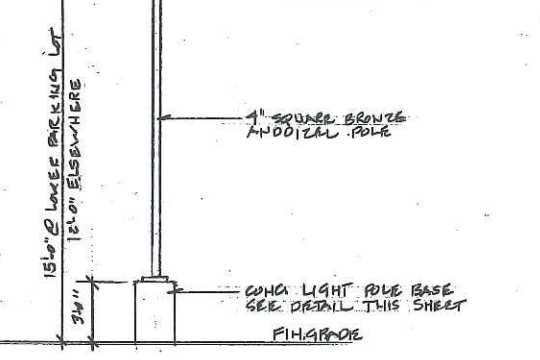
ZONING CLASSIFICATION: RP RESIDENCE - PROFESSIONAL
PROPOSED USE: FUNERAL HOME, PERMITTED USE

SPACE STANDARDS	REQUIRED	PROPOSED
MIN. LOT SIZE:	6000 SQ.FT.	
CURRENT FOOT PRINT AREA:		
MIN. STREET FRONTAGE:	60 FEET	163.36 FEET
MIN. FRONT SETBACK:	20 FEET	69 FEET
MIN. REAR SETBACK:	20 FEET	117 FEET
MIN. SIDE SETBACK - FOR 2 STORIES:	12 FEET	17 FEET
MIN. LOT WIDTH:	60 FEET	365.36 FEET
MAX. BUILDING HEIGHT:	45 FEET	45 FEET
MAX IMPERVIOUS RATIO:	0.80	0.48
MAX. FLOOR AREA RATIO:	0.65	0.05
OFF STREET PARKING:	41	83

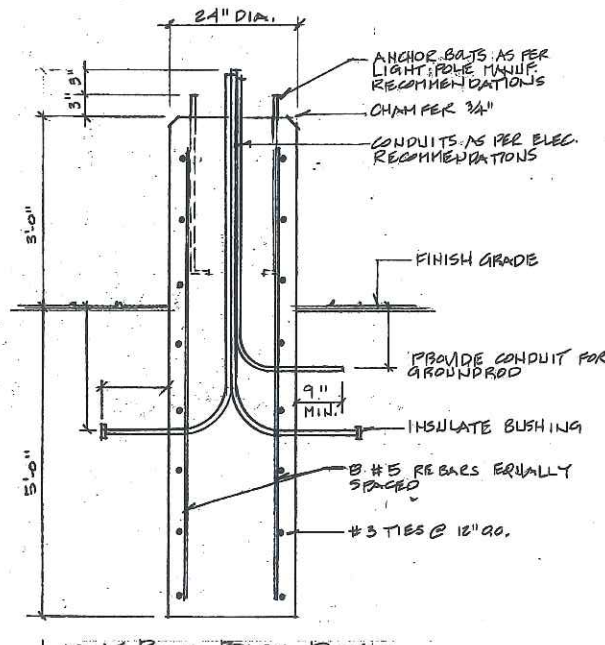
OFF STREET PARKING CALCULATIONS

DESCRIPTION	AREA	RATIO
OFFICE/PUBLIC AREAS	2080 SQ.FT.	400/SPACE = 5
PROCEDURE/BULK STORAGE	3315 SQ.FT.	1000/SPACE = 3
ASSEMBLY AREAS	3264 SQ.FT.	100/SPACE = 33
TOTAL	8659 SQ.FT.	41 SPACES

CITY OF PORTLAND
APPROVED SITE PLAN
Subject to Dept. Conditions
Date of Approval: 10-08-2009



LIGHT POLE ELEVATION



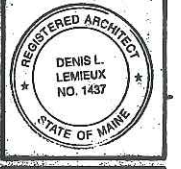
LIGHT POLE BASE DETAIL
3/4" = 1'-0"

October 28, 2009
Issued for Construction

199 Main Street, Suite - C, Lewiston, Maine 04240 (207) 344-6611 DLLA@AOL.COM

DLL Associates / Architects

NO.	REVISIONS	DATE	BY
1	ADD WATER LINE & DUMPSTER CONNECTION	9-25-09	DL
2	CONCRESS PAD & BIKE/ENT STAIRS	10-08-09	DL
3	VALUE ENGINEERING MODIFICATIONS	10-28-09	DL
4	SIGNAGE & MARKING REVISIONS	11-10-09	DL



Project Title
Hutchins Funeral Home
Brighton Avenue
Portland, Maine

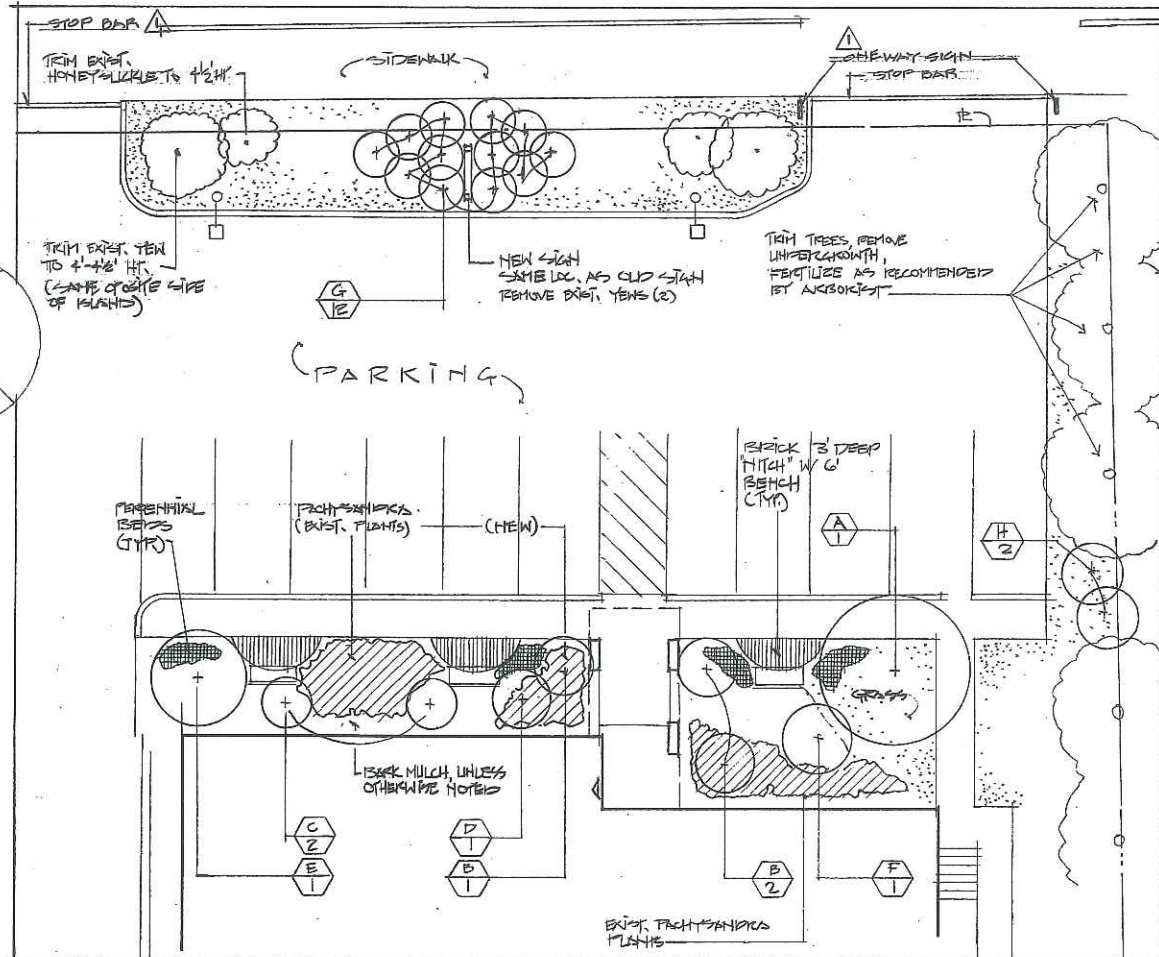
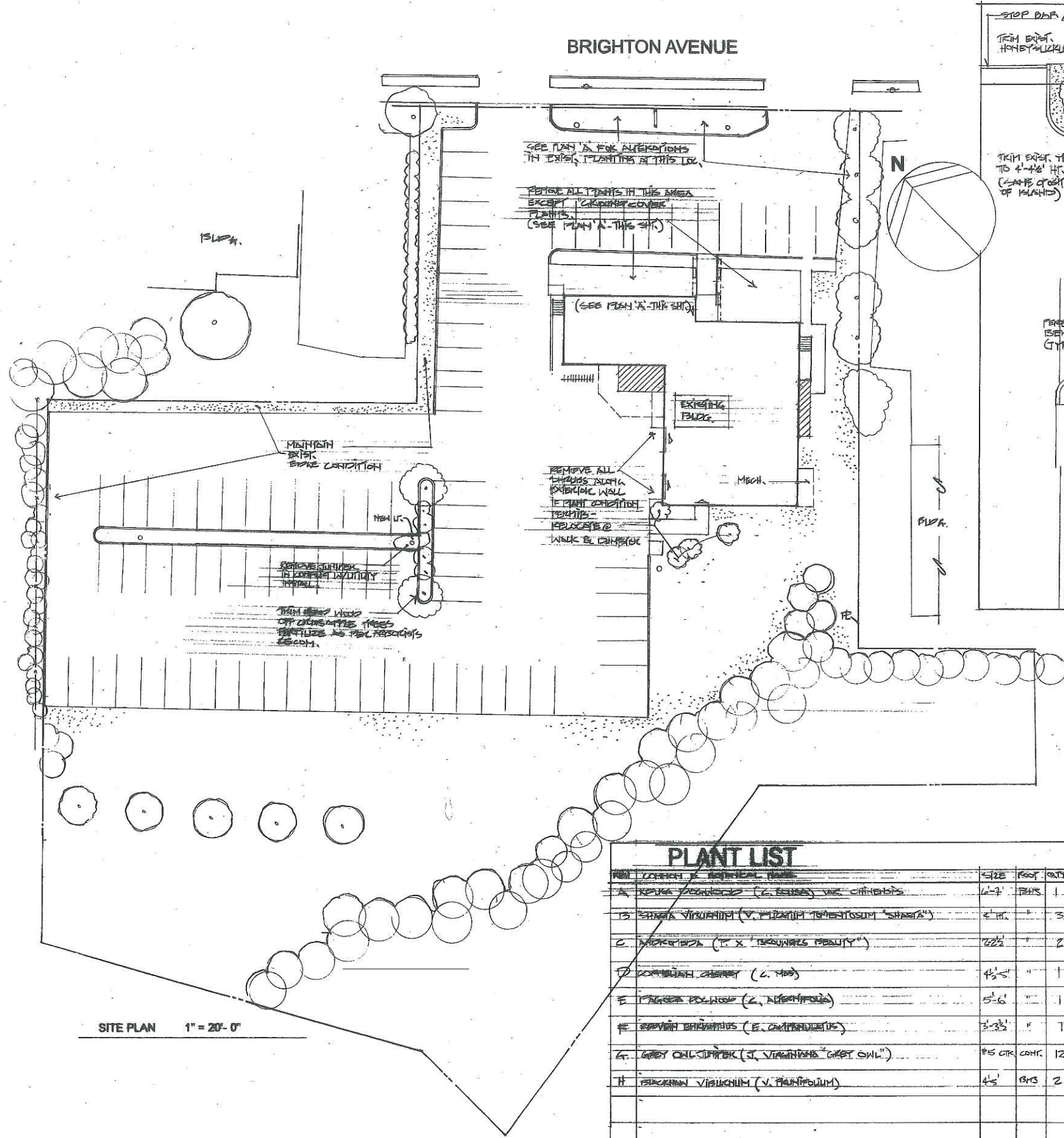
Scale	NOTED	Ckd. BY	Date

Drawing Title
Site Plan

Project No.
0813

Sub Title

Drawing No.
C-1.2



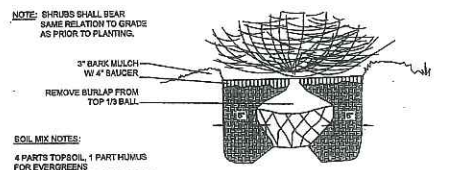
PLAN A

1" = 10' - 0"

NO.	COMMON / BOTANICAL NAME	SIZE	ROOT	QTY.	NOTES
A	REDWOOD (SEEDLING)	6'-7'	BRNS	1	
B	SHRUB VIRGINIANUM (V. PLANTANUM 'MONTICUM' 'SHRUBS')	4'-6"		3	
C	HYDRANGEA (C. X. 'BOURNVILLE BEAUTY')	12-14"		2	
D	DOGWOOD (C. MOD)	4'-5"		1	3 TRUNK
E	FRAXINUS (L. NORTHERN)	5'-6"		1	
F	SPYRINUS (E. COMMON)	3'-3.5"		1	
G	GREY OWL (J. VIRGINIANA 'GREY OWL')	#5 CRT	CONT.	12	
H	BLACKBERRY VIRGINIANUM (V. PLANTANUM)	4'-5"	BRNS	2	3 TRUNK

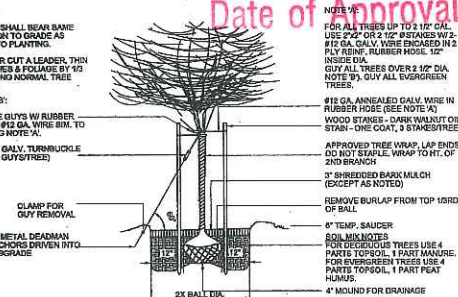
PLANTING NOTES

- The contractor shall supply all plants in quantities sufficient to complete the work shown on plan. Any discrepancies between quantities shown on plant list and those required by this drawing shall not entitle contractor to additional remuneration.
- Any plant substitutions must be approved by the owner.
- Any tree or shrub which comes over or under any utility shall be relocated on the site by the landscape architect.
- All lawn areas to have 6" of topsoil unless noted otherwise.
- All trees and shrubs shall be placed in the designated areas as shown on the plan and before planting shall be approved by the landscape architect.
- The contractor shall relocate any tree or shrub as directed by the landscape architect.
- All plant material installed shall meet the specifications of the American Standard for Nursery Stock (latest edition) as set forth by the American Association of Nurserymen.
- The landscape contractor shall replace or repair to original condition any and all utilities, paving, curbing, etc., damaged as a result of their operations at no additional cost to the owner.



PLANTING DETAIL - SHRUB

1 L-2



PLANTING DETAIL - TREE

2 L-2

LANDSCAPE PLANTING NOT IN G.C. CONTRACT

CITY OF PORTLAND
APPROVED SITE PLAN
Subject to Dept. Conditions
Date of Approval: 10-08-2009

October 28, 2009
Issued for Construction
SIGNAGE & MARKING PROVISIONS 11-10-09

DL ASSOCIATES / ARCHITECTS
1000 BRIGHTON AVENUE
LEWISTON, MAINE 04240

HUTCHINS FUNERAL HOME
600 BRIGHTON AVENUE
PORTLAND, MAINE

PROPOSED NEW LANDSCAPE
PLANTING SITE PLAN

L-2

From: Thomas Errico <Thomas.Errico@tylin.com>
To: Jean Fraser <JF@portlandmaine.gov>
Date: 10/29/2009 10:47:04 AM
Subject: RE: Revised signing etc for Funeral home

Jean -- I have reviewed the most recent submitted plan and find it acceptable. As you note the sign panel should be black, the arrow white, and the text black.

If you have any questions, please contact me.

Best regards,

Thomas A. Errico, P.E.

12 Northbrook Drive
Building A, Suite One
Falmouth, ME 04105

207.347.4354 (Direct)
207.781.4721 (Main)
207.781.4753 (Fax)
207.400.0719 (Mobile)

-----Original Message-----

From: Jean Fraser [mailto:JF@portlandmaine.gov]
Sent: Thursday, October 29, 2009 9:31 AM
To: Thomas Errico
Subject: Revised signing etc for Funeral home

Tom

Mark Hutchins sent me this today and I think its pretty close.....could you let me know what you think ASAP thanks

(he hasn't stated its a black background with white arrow and black lettering but its implied)

Jean

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Subject: RE: Revised signing etc for Funeral home

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12 Northbrook Drive
Building A, Suite One
Falmouth, ME 04105

207.347.4354 (Direct)
207.781.4721 (Main)
207.781.4753 (Fax)
207.400.0719 (Mobile)

-----Original Message-----

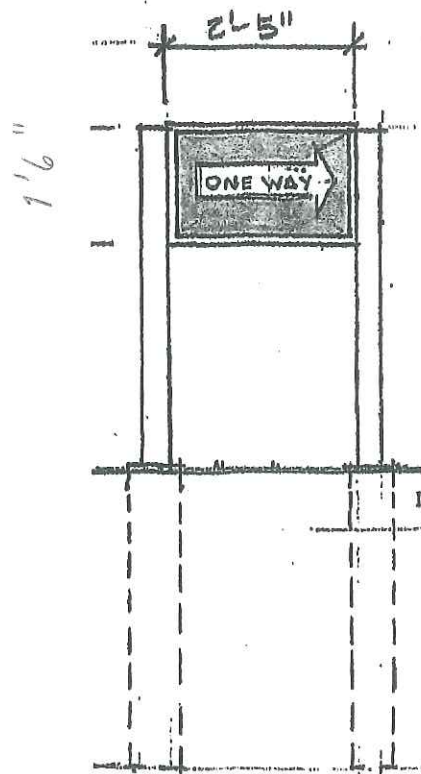
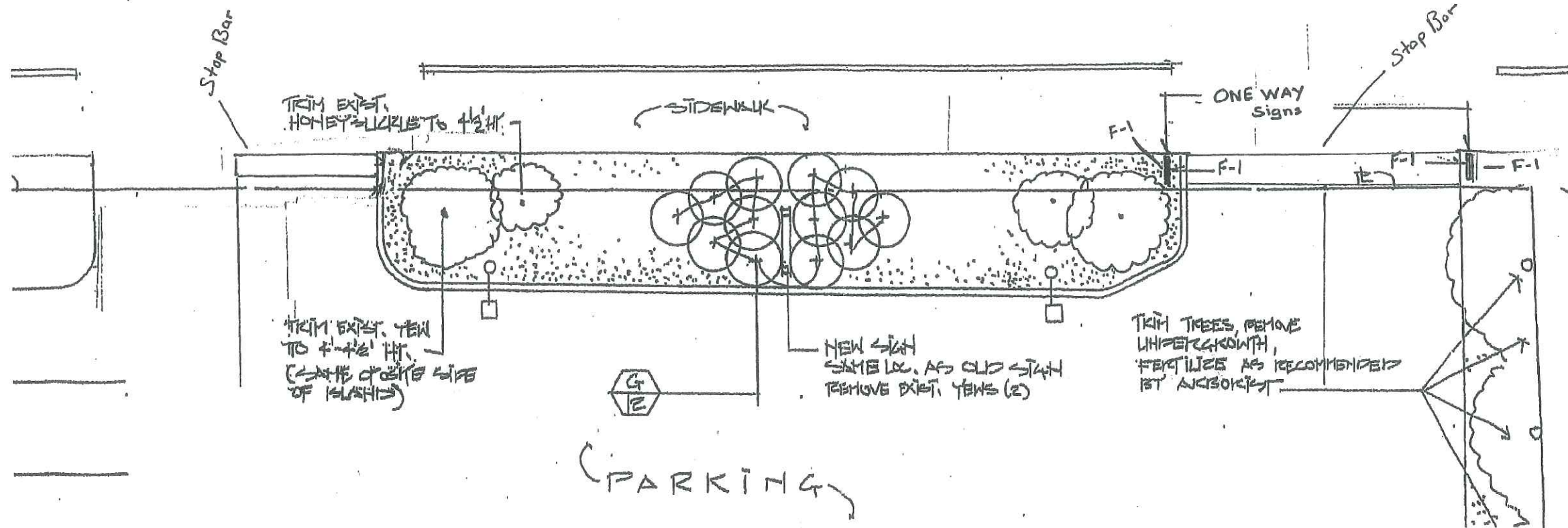
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Mark Hutchins sent me this today and I think its pretty close.....could you let me know what you think ASAP thanks

(he hasn't stated its a black background with white arrow and black lettering but its implied)

Jean



Sign Units shall be Series 325
 Heavy duty C063T5 Aluminum Extrusion
 Post and Panel System
 Non-Illuminated Exterior Use
 Double Face Copy
 Acrylic Polyurethane 4" high Futura Bold
 Reflective Copy
 Sign Panel .125 Aluminum

PAGE NO. F-1

TYPICAL DIRECTIONAL SIGN DETAIL

CITY OF PORTLAND
 APPROVED SITE PLAN
 Subject to Dept. Conditions
 Date of Approval: 10-08-09

as approved
 amendment

as approved
 10/29/09

From: Jean Fraser
To: mark hutchins
Date: 11/17/2009 9:24:04 AM
Subject: Final sets of plans re 660 Brighton

Mark,

As I mentioned in my letter of Nov 9, 2009 and when you were in the office last week, the approval letter (para 4 page 2) includes a requirement for final plans (ie ones that are revised to address conditions) to be submitted prior to issuance of a building permit and work starting on site.

In this case it is just the Site Plan and the Planting Plan- both need to include what was agreed (copy attached) re the signing and pavement marking and also the revised locations of lamp poles/lights. I need 5 paper copies of each, at scale- plus pdfs by e-mail.

I would be grateful if this requirement could be addressed since you already received the building permit.

thanks
Jean

Jean Fraser, Planner
City of Portland
874 8728

CC: Juris', 'Andrew P.; Lemieux', 'Denis

From: Jean Fraser
To: mark hutchins
Date: 10/29/2009 4:12:07 PM
Subject: Traffic signing and markings

Mark,

The plan you submitted today has been reviewed and is acceptable, subject to the plan indicating clearly that the sign panel will be black, the arrow white, and the text black and include the dimensions.

Please send a pdf of the plan with the colors etc confirmed tonight/tomorrow.

Please have all of the information incorporated exactly as on this sketch plan into the final Site Plan so that there is one final plan including all of the revisions to address the conditions (including signs, pavement markings, - also relocated/removed lamp poles). The Landscape Plan should also be revised so it is consistent with the revised Site plan.

Please submit seven sets of those revised/ final site and landscape plans (at scale and a pdf to me) and the elevations (presumably not revised since the approval date - these can be 11X17 and also to me) and the Performance Guarantee/Inspection Fee to Phil DiPierro- all need to be received before the Building Permit can be issued.

Hope all goes well tomorrow.

Jean

Jean Fraser, Planner
City of Portland
874 8728

CC: Lemieux', 'Denis

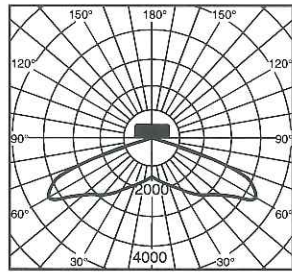
Lamp Included!



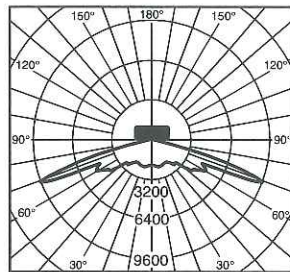
LPR Series
1-1/2" Close Pole Mount

Parking/Roadway

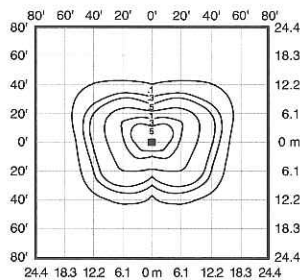
The Parking/Roadway Light has a Type III asymmetric distribution pattern. The optical chamber is sealed to reduce dirt and insect contamination. Ideally suited for pedestrian walkways, small parking areas and building-mounted security lighting. Versatile lens frame makes this fixture suitable for downlighting or uplighting applications.



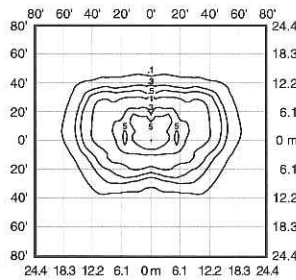
Candlepower Distribution Curve of 175W MH Parking/Roadway Light. (Front View)



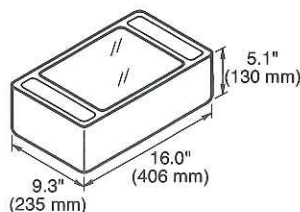
Candlepower Distribution Curve of 150W HPS Parking/Roadway Light. (Front View)



Isofootcandle plot of one 175W MH Parking/Roadway Light at 15' (4.6 m) from reference plane and 0° tilt.



Isofootcandle plot of one 150W HPS Parking/Roadway Light at 15' (4.6 m) from reference plane and 0° tilt.



Order Information

Wattage/ Lamp	Catalog Number	Mounting Code (Insert Code at * in Catalog #)
150W PSMH	LPR*615-M	1 = 1-1/2" Close Pole Mount
50W MH	LPR*405-M	3 = 2" Adjustable Fitter
70W MH	LPR*407-M	4 = Yoke Mount
100W MH	LPR*410-M	8 = Without Mounting (hardware)
175W MH	LPR*417-M	(factory-drilled)
35W HPS	LPR*503-1	W = Wall Mount Downlight
50W HPS	LPR*505-D	
70W HPS	LPR*507-M	
100W HPS	LPR*510-M	
150W HPS	LPR*515-M	

Some states prohibit these products from being sold.

* Specify Mounting (additional cost)

Options: (Factory-installed)	Change Suffix To	Add After Suffix
120V Reactor ballast (50-150W HPS only)	1	
277V Reactor Ballast (PSMH only)	27	
347V ballast (50W HPS only)	6	
480V ballast (175W MH & 70-100W HPS only)	5	
Tri-volt ballast (MH & 70-150W HPS only)	T	
Single Fuse (277V Reactor, 120V, 277V or 347V)	27, 1, 2 or 6	F
Dual Fuse (208V, 240V or 480V) (n/a Canada)	3, 4 or 5	F
Tamperproof Lens Fasteners		J
Button Photocell (Factory-installed with all mountings other than 2" Adjustable Fitter)		
NOTE: n/a on 480V	27, 1, 2, 3, 4 or 6	P

External Photocell (Factory-installed) (Page 147)

For fixtures w/480V	5	P
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Accessories: (Field-installed)

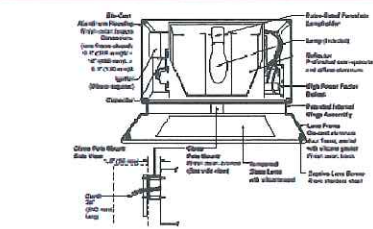
Description	Catalog #
Wire Guard	FWG-L
Glare Shield	GS-12
Polycarbonate Vandal Shield (n/a if fixture is used in an uplight position)	LS-L
Backlight Shield (standard on Wall Mount)	SBL-L
Tamperproof Screwdriver	TPS-1
Button Photocell (Field-installed in fixtures with 2" Adjustable Fitter)	
For fixtures w/120V	PC-1
For fixtures w/208, 240 or 277V	PC-2
For fixtures w/347V	PC*6

Optical Systems Page 139
 Mountings Page 140
 Catalog Number Logic/Voltage Suffix Key Page 140
 Accessories Page 147
 Mounting Alternatives Pages 148-149
 Mounting Brackets Pages 150-151
 Poles Pages 152-159

CITY OF PORTLAND
 APPROVED SITE PLAN
 Subject to Dept. Conditions
 Date of Approval: 10-08-2009

Approved

1-1/2" CLASS POLE MOUNT
RECTANGULAR PARKING/ROADWAY FLOOD



Notes
SA
LPR1615-M

SPC #	QUANTITY	CATALOG #	(N) VOLTAGE SUPPLY KIT
1	150	150W PSMH ROADWAY FLOOD	150W PSMH ROADWAY FLOOD
2	150	150W PSMH CUTOFF FLOOD	150W PSMH CUTOFF FLOOD
3	1	150W PSMH FULL CUTOFF WALL PACK	150W PSMH FULL CUTOFF WALL PACK

GENERAL DESCRIPTION
Fully Adjustable. Full Cutoff optics for full tempered glass lens. EZ mount brackets for easy wiring. Lamp supplied.

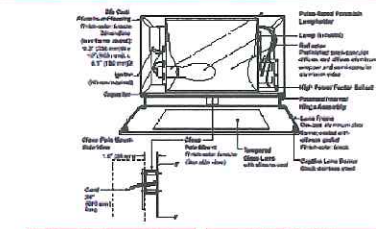
RETRACTOR
Refractor optics designed to minimize glare and lower light spill and cut. Heat resistant borosilicate glass.

FINISH
Anodized aluminum. 1/2" IPS for pole from top, both sides and back for structural subcontrol. Hinged reflector frame. Continuous lifetime rubber gasket.

REFLECTOR
Specular anodized aluminum, recessed for insulation. Symmetrical 90° beam maximum distance between fixtures.

ORDERING INFORMATION
RAB Lighting, Inc. - 170 Ludlow Ave. - Northville, NJ 07417 - Tel: 888 RAB-1000 - Fax: 888 RAB-1232 - www.rabweb.com

1-1/2" CLASS POLE MOUNT
RECTANGULAR AREA CUTOFF FLOOD



Notes
SA1
LAC1615-M

SPC #	QUANTITY	CATALOG #	(N) VOLTAGE SUPPLY KIT
1	150	150W PSMH ROADWAY FLOOD	150W PSMH ROADWAY FLOOD
2	150	150W PSMH CUTOFF FLOOD	150W PSMH CUTOFF FLOOD
3	1	150W PSMH FULL CUTOFF WALL PACK	150W PSMH FULL CUTOFF WALL PACK

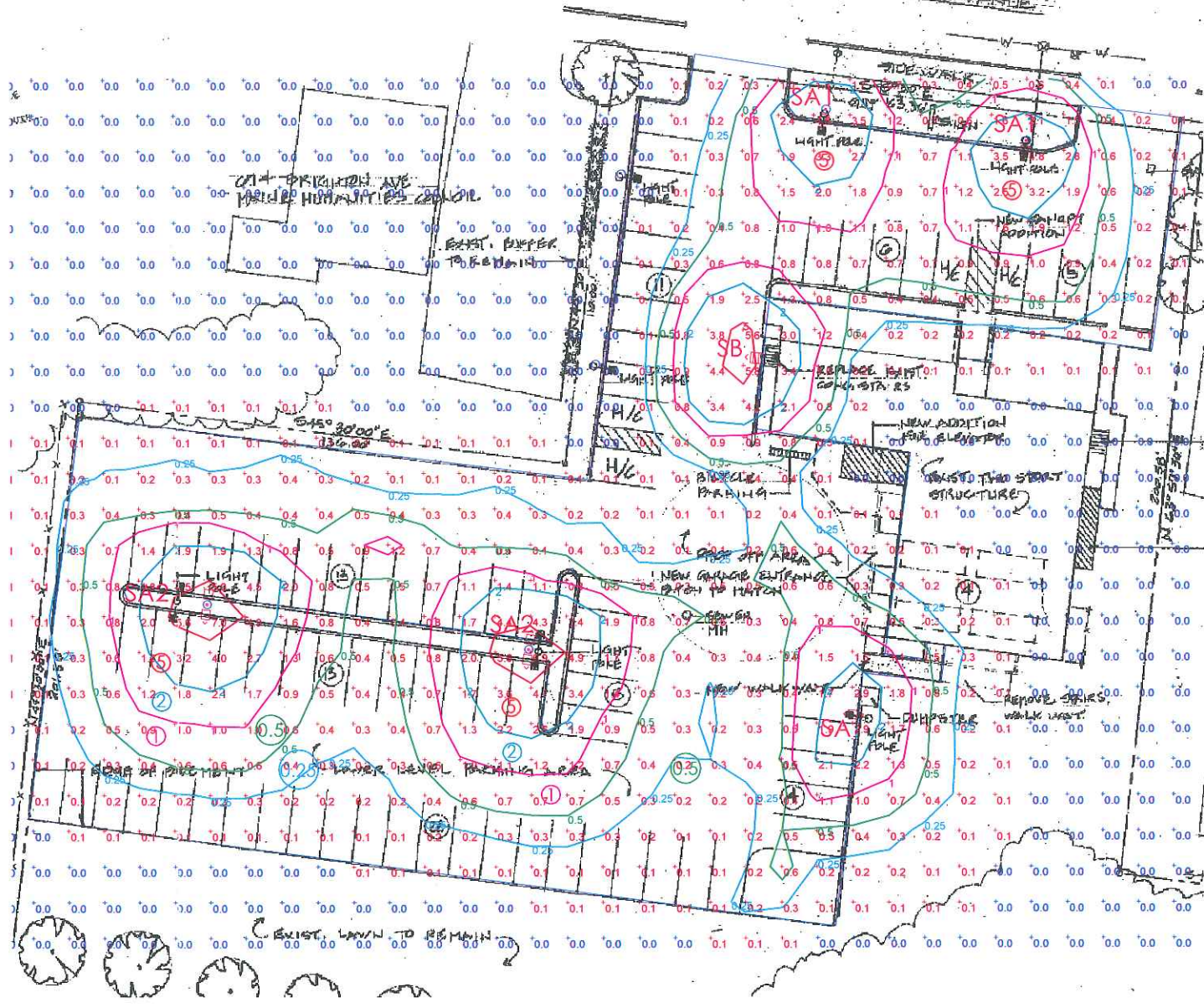
GENERAL DESCRIPTION
Fully Adjustable. Full Cutoff optics for full tempered glass lens. EZ mount brackets for easy wiring. Lamp supplied.

RETRACTOR
Refractor optics designed to minimize glare and lower light spill and cut. Heat resistant borosilicate glass.

FINISH
Anodized aluminum. 1/2" IPS for pole from top, both sides and back for structural subcontrol. Hinged reflector frame. Continuous lifetime rubber gasket.

REFLECTOR
Specular anodized aluminum, recessed for insulation. Symmetrical 90° beam maximum distance between fixtures.

ORDERING INFORMATION
RAB Lighting, Inc. - 170 Ludlow Ave. - Northville, NJ 07417 - Tel: 888 RAB-1000 - Fax: 888 RAB-1232 - www.rabweb.com



Hutchins Funeral Home				
QUANTITY	TYPE	MANUFACTURE/CAT. NUMBER	DESCRIPTION	LAMPS
1	SA	RUUD LPR1615-M/PS4S17C1BZ	150W PSMH ROADWAY FLOOD/17' POLE - SINGLE HEAD	150 PSMH
2	SA1	RUUD LAC1615-M/PS4S17C1BZ	150W PSMH CUTOFF FLOOD/17' POLE - SINGLE HEAD	150 PSMH
2	SA2	RUUD LAC1615-M & LPR1615-M/PS4S17C2BZ	150W PSMH CUTOFF FLOOD/17' POLE - TWIN at 180°	150 PSMH
1	SB	RAB WP2FCH150PSQ	150W PSMH FULL CUTOFF WALL PACK	150 PSMH

PHOTOMETRIC STATISTICS				
DESCRIPTION	AVG.	MIN.	MAX.	MAX/MIN
CALCULATION ZONE #1	1.00 FC	0.2 FC	7.0 FC	20:0:1

- GENERAL NOTES:
- POLES TO BE MOUNTED ON BASES 3'-0" ABOVE FINISH GRADE.
 - EXTERIOR LIGHTING TO BE CONTROLLED BY TIME CLOCK - LIGHT TO TURN OFF AT 9:30 PM.

CITY OF PORTLAND
APPROVED SITE PLAN
Subject to Dept. Conditions
Date of Approval: 10-8-2009

Anthony Mancini, Inc.
179 SHERIDAN ST.
PORTLAND, ME 04101
P: (207) 774-5829 F: (207) 772-1486
E: info@anthonycaninc.com
"We appreciate Your Business."



NO.	DATE	DESCRIPTION
A	10-09-09	REVISED PHOTOMETRICS

PROJECT NAME & ADDRESS:
Hutchins Funeral Home
660 Brighton Ave
Portland, Maine

SHEET NAME:
Photometric Layout
Checked By: G. MANCINI
Drawn By: A. AMES
Date: 09.18.2009
Scale:

SHEET:
E1

City of Portland
Department of Planning and Development
Planning Division

389 Congress Street, 4th Floor
Portland ME 04101
(207)874-8721 or (207)874-8719
Fax: (207)756-8258



FAX

To:

Mark Hutchins

Company:

ATH Realty LLC

Fax #:

885 - 0089

Date:

Oct. 29, 2009

From:

Jean Fraser

You should receive 2 page(s) including this cover sheet.

Comments:

Mr Hutchins requested that
this letter be faxed to you...
it will also be mailed.

Call if any questions
Jean Fraser

874-8728

jf@portlandmaine.gov

MODE = MEMORY TRANSMISSION

START=OCT-29 11:46

END=OCT-29 11:48

FILE NO. =955

STN NO.	COMM.	ABBR NO.	STATION NAME/TEL NO.	PAGES	DURATION
001	OK	8	98850089	002/002	00:00:47

-CITY OF PORTLAND -

***** -PLANNING DEPT. - ***** 2077568258-*****

City of Portland
Department of Planning and Development
Planning Division
 389 Congress Street, 4th Floor
 Portland ME 04101
 (207)874-8721 or (207)874-8719
 Fax: (207)756-8258



FAX

To: Mark Hutchins

Company: ATI Realty LLC

Fax #: 885 - 0089

Date: Oct. 29, 2009

From: Jean Fraser

You should receive 2 page(s) including this cover sheet.

Comments:

Mr Hutchins requested that
 this letter be faxed to you...
 it will also be mailed.

Call if any questions
 Jean Fraser
 874-8728
 jf@portlandmaine.gov

From: Jean Fraser
To: hutchins, mark
Date: 10/28/2009 5:04:39 PM
Subject: Re: FW: Exterior Directional Signage

Mark

I don't know if you tried to call but I need to leave the office and wanted to let you know what we thought would be a good compromise:

1. Agreed that there be no stop signs, but do need the stop bars as set out in Tom Erricos e-mail of 10.15.09;
2. No signs at western drive (having this marked as parking entrance might imply it was not an exit).
3. Proposed sign F2 not good because it faces the wrong way- so do not use.
4. The sign F1 as designed by Denis is OK subject to:
 - a. It being on both sides of both signs at the eastern-most drive;
 - b. It having a black background, with a white arrow
 - c. That it say "ONE WAY" instead of "EXIT ONLY" and the letters to be black
 - d. The locations re eastern drive as shown on Denis's Plan are OK

I can explain the logic etc behind the above when we speak.

If you can get me a pdf of a plan showing the above I can get Tom to review it tomorrow.

Must leave so please call me tomorrow.

Jean

>>> "mark hutchins" <mhutchi2@maine.rr.com> 10/28/2009 8:20:06 AM >>>
Please see attached

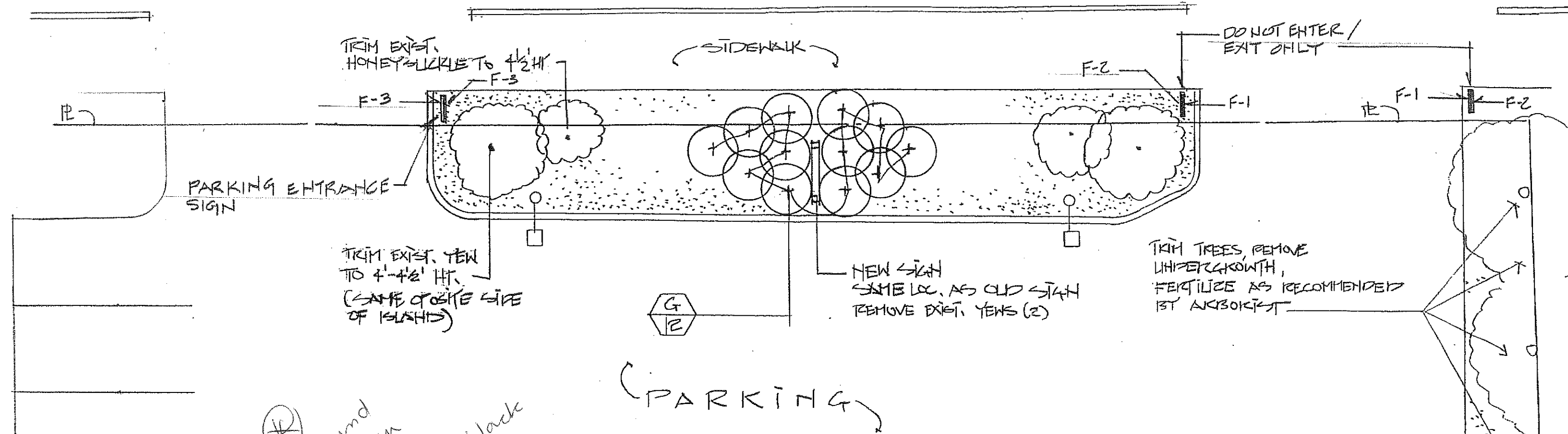
From: Denis Lemieux [<mailto:dllaia@aol.com>]
Sent: Tuesday, October 27, 2009 11:43 PM
To: mhutchi2@maine.rr.com
Cc: andrewprudential@aol.com
Subject: Exterior Directional Signage

Mark;

If this works for you e-mail it to Jean.

Denis

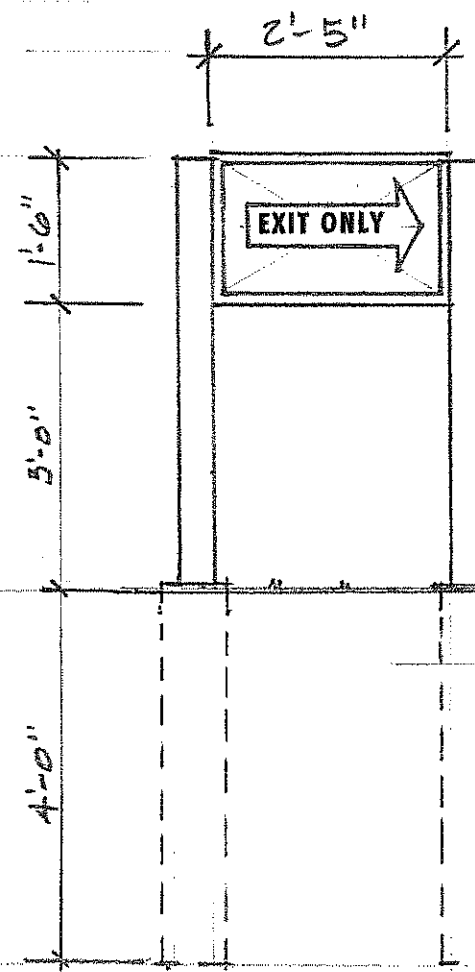
also f/w h/r



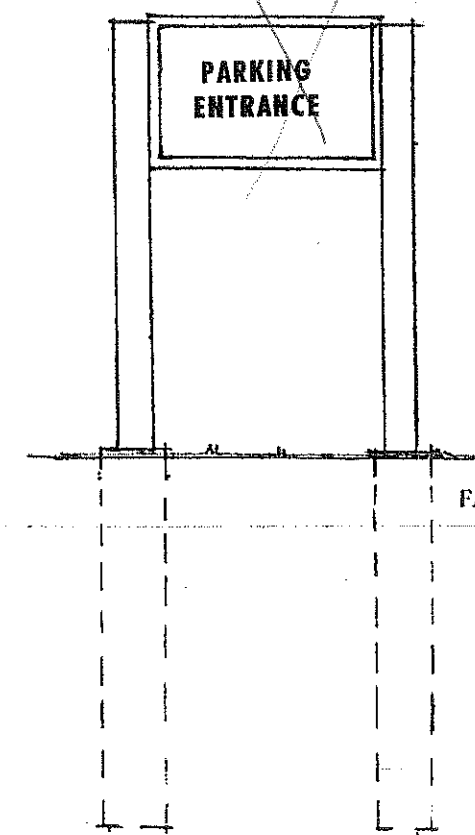
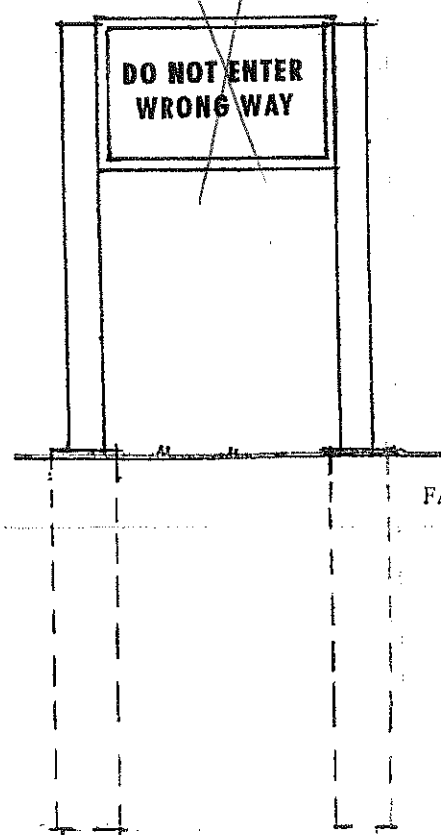
PARKING

⊗ background black on white "one way" ← black

Tom:
 OK w/ no stop signs
 OK stop bars
 OK w/ 2 signs as described ⊗



Sign Units shall be Series 325 Heavy duty C063T5 Aluminum Extrusion Post and Panel System Non-Illuminated Exterior Use Double Face Copy Acrylic Polyurethane 4" high Futura Bold Reflective Copy Sign Panel .125 Aluminum



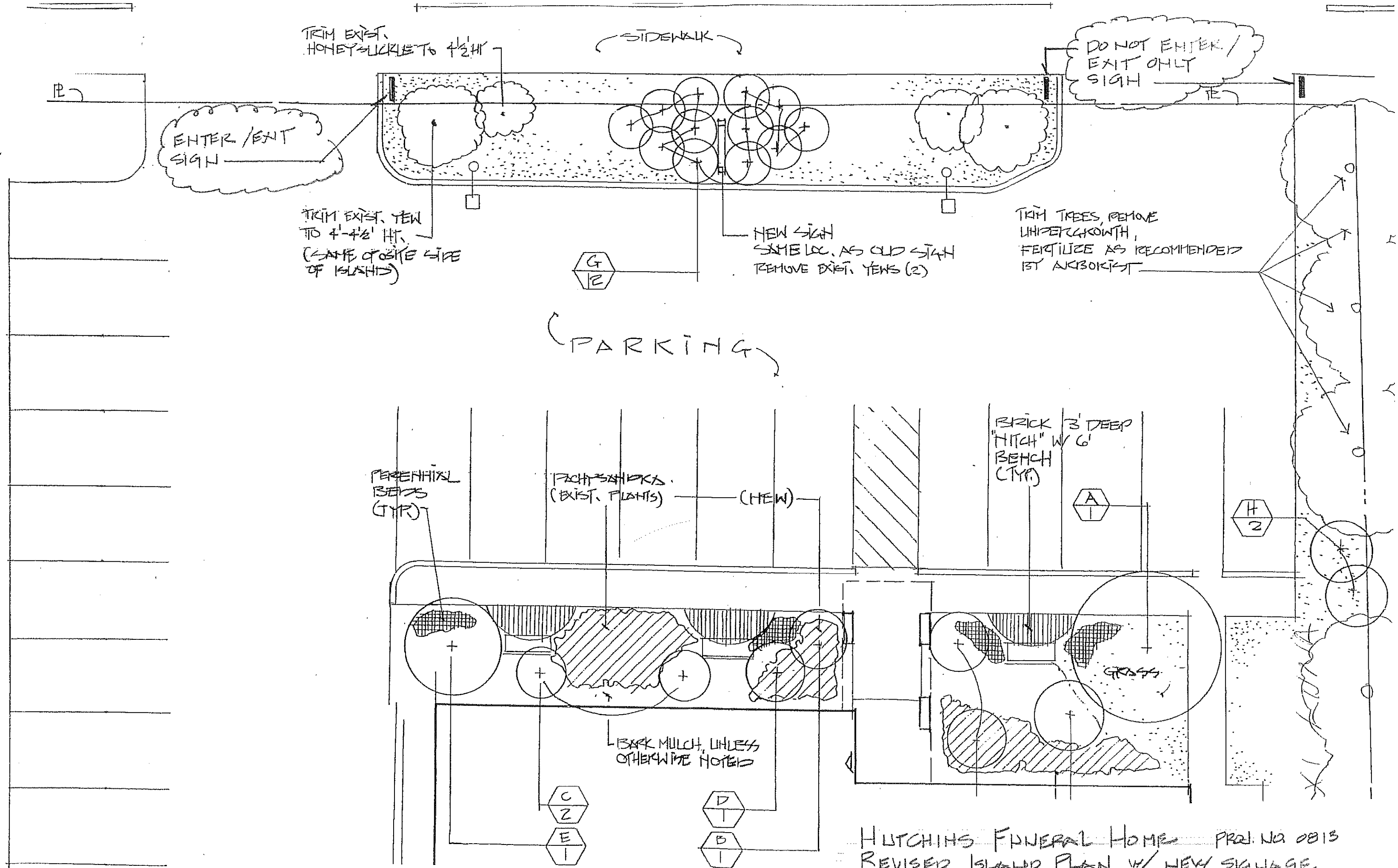
FACE NO. F-1

FACE NO. F-2

FACE NO. F-3

TYPICAL DIRECTIONAL SIGN DETAIL

red oct 28 2009
 Tom M. Hutchins



ENTER / EXIT SIGN

DO NOT ENTER / EXIT ONLY SIGN

TRIM EXIST. HONEY-SUCKLE TO 4 1/2' HT.

SIDEWALK

TRIM EXIST. YEW TO 4'-4 1/2' HT. (SAME OPPOSITE SIDE OF ISLANDS)

NEW SIGN SAME LOC. AS OLD SIGN REMOVE EXIST. YEW (2)

TRIM TREES, REMOVE UNDERGROWTH, FERTILIZE AS RECOMMENDED BY ARBORIST

PARKING

PERENNIAL BEDS (TYP.)

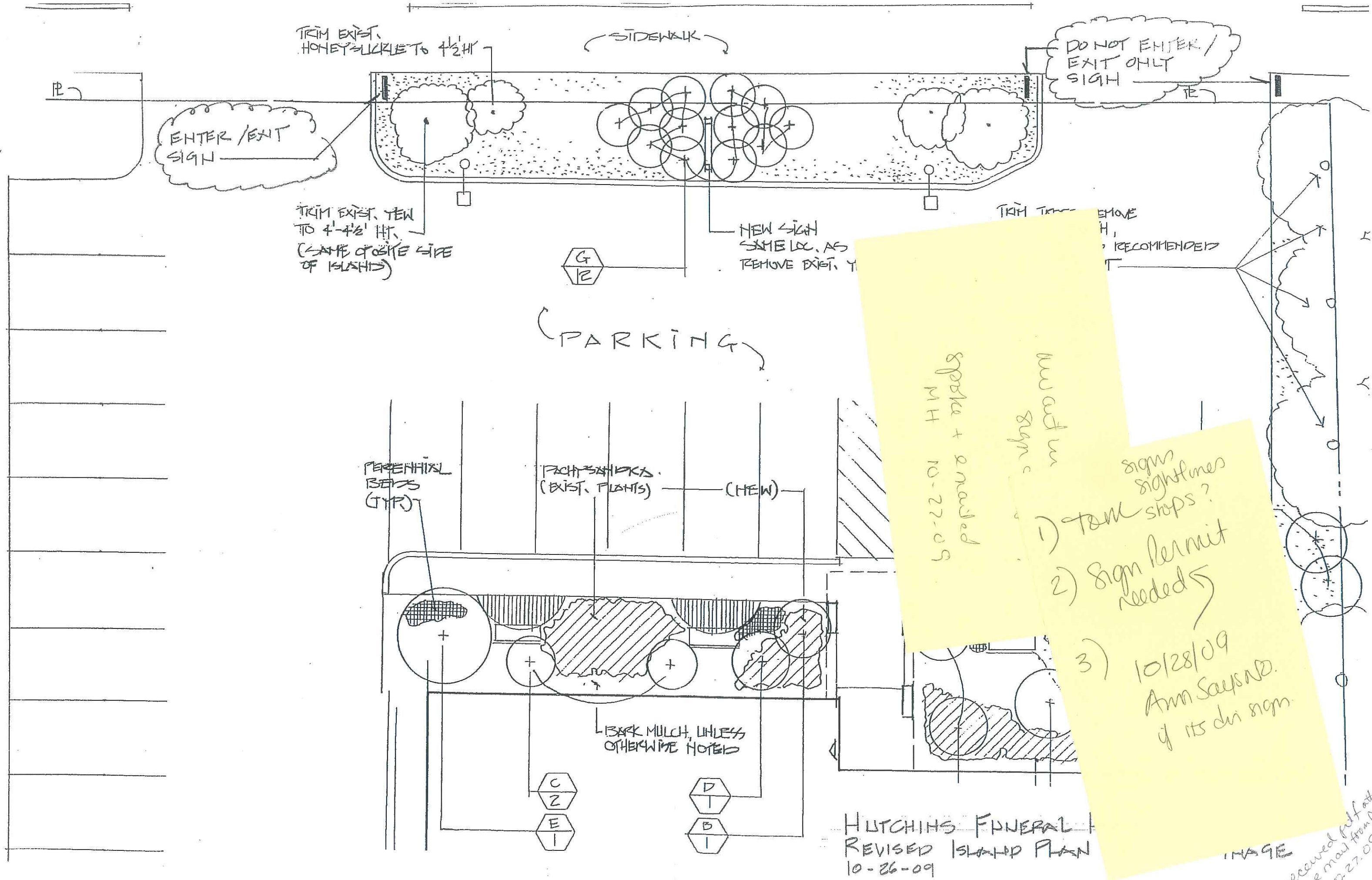
PERENNIALS (EXIST. PLANTS)

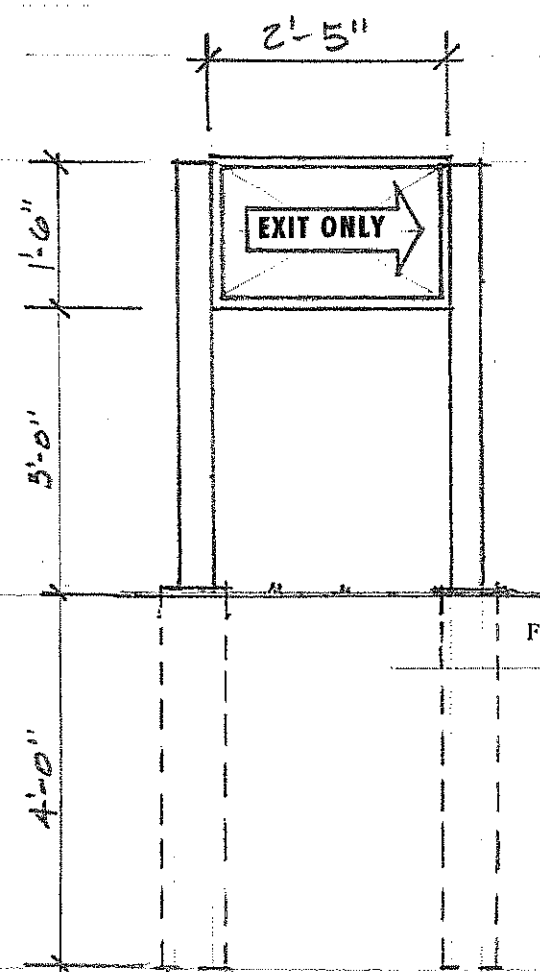
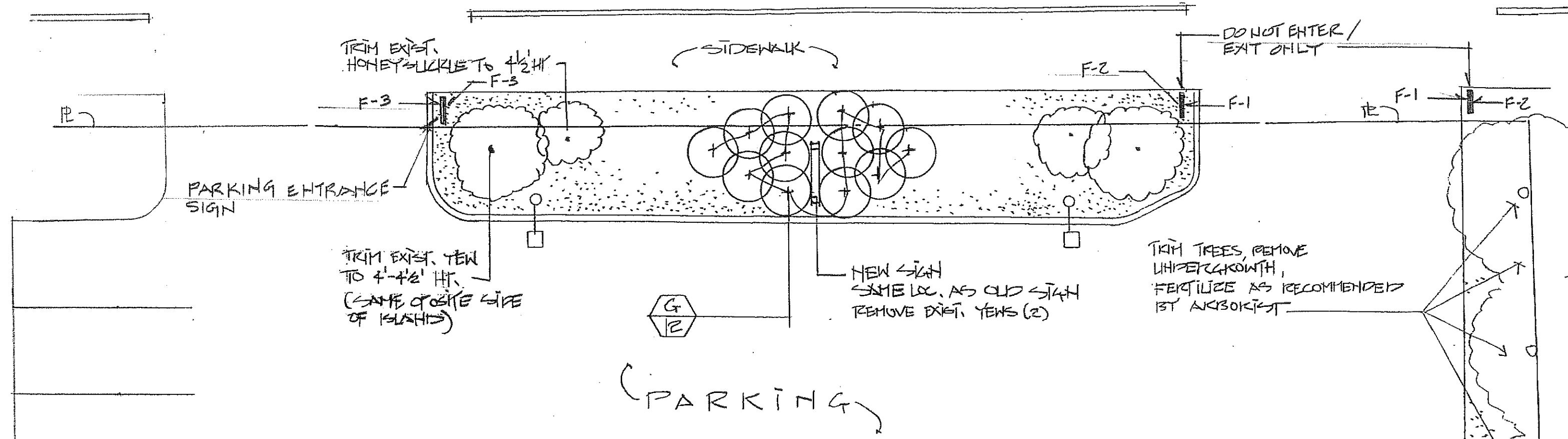
(NEW)

BRICK 3' DEEP "NITCH" W/ 6' BENCH (TYP.)

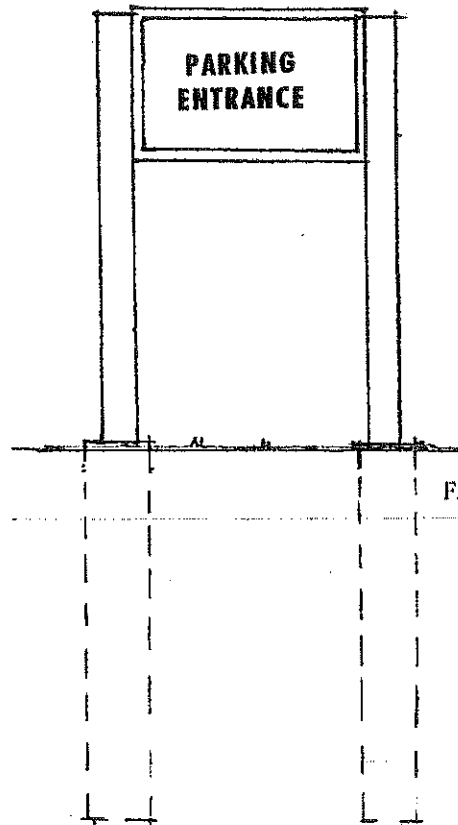
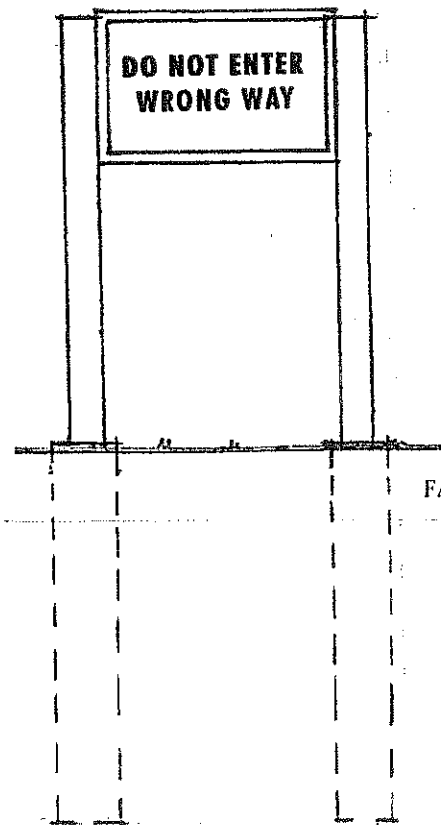
BARK MULCH, UNLESS OTHERWISE NOTED

HUTCHINS FUNERAL HOME PROJ. NO 0813
 REVISED ISLAND PLAN W/ NEW SIGNAGE
 10-26-09





Sign Units shall be Series 325
 Heavy duty C063T5 Aluminum Extrusion
 Post and Panel System
 Non-Illuminated Exterior Use
 Double Face Copy
 Acrylic Polyurethane 4" high Futura Bold
 Reflective Copy
 Sign Panel .125 Aluminum



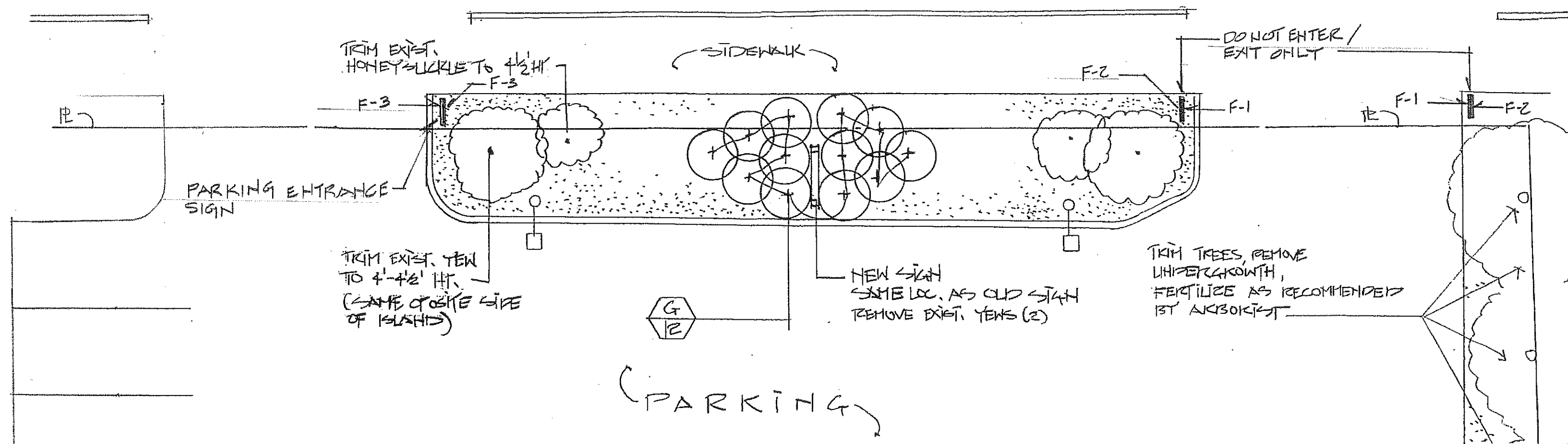
FACE NO. F-1

FACE NO. F-2

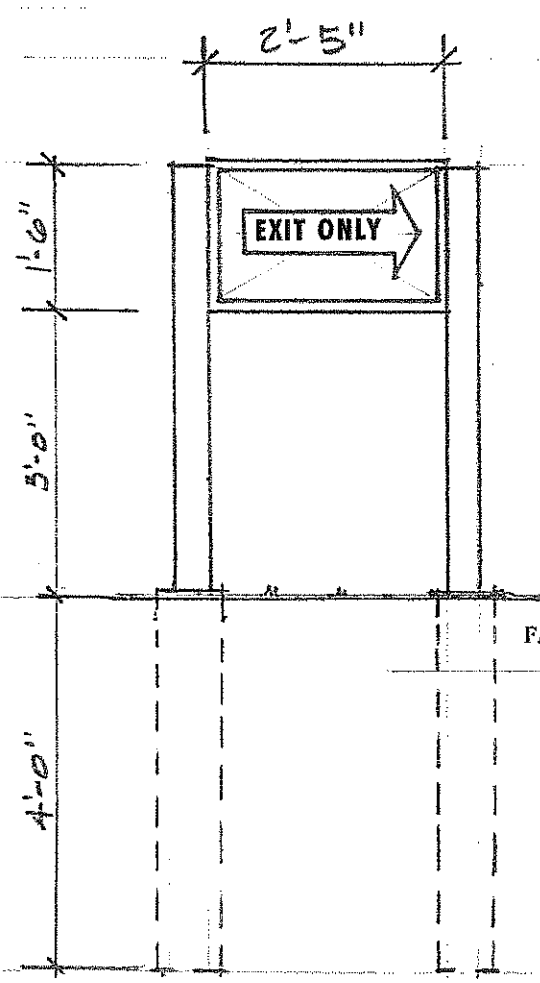
FACE NO. F-3

TYPICAL DIRECTIONAL SIGN DETAIL

Rec'd Pdf 10-28-09
 from m/hutchins

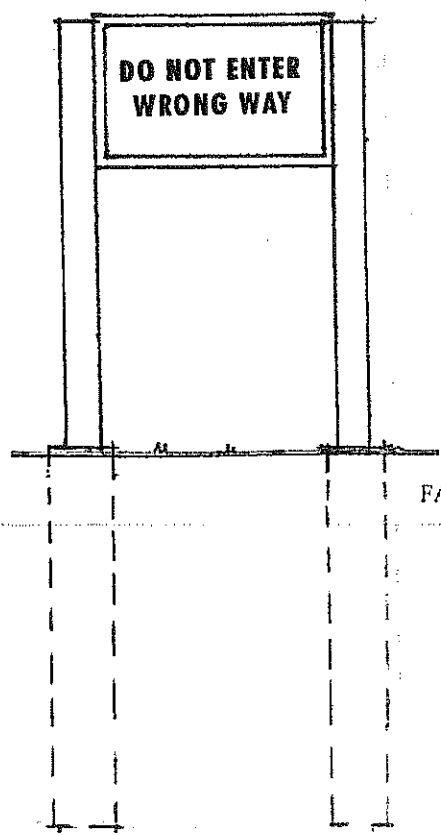


PARKING

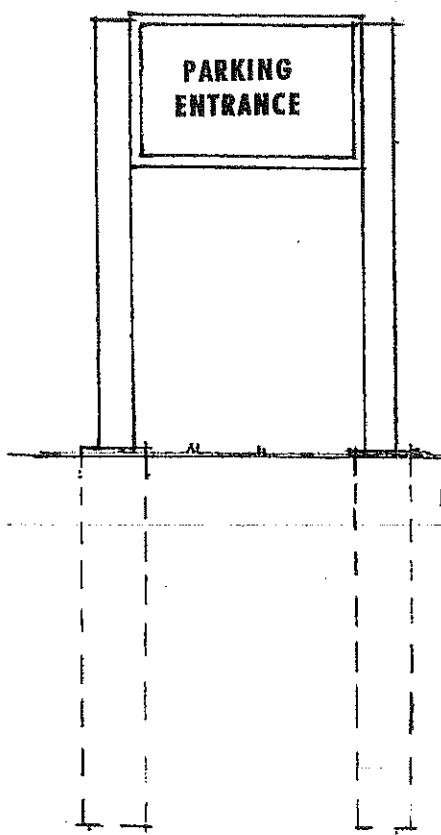


Sign Units shall be Series 325
 Heavy duty C063T5 Aluminum Extrusion
 Post and Panel System
 Non-Illuminated Exterior Use
 Double Face Copy
 Acrylic Polyurethane 4" high Futura Bold
 Reflective Copy
 Sign Panel .125 Aluminum

FACE NO. F-1



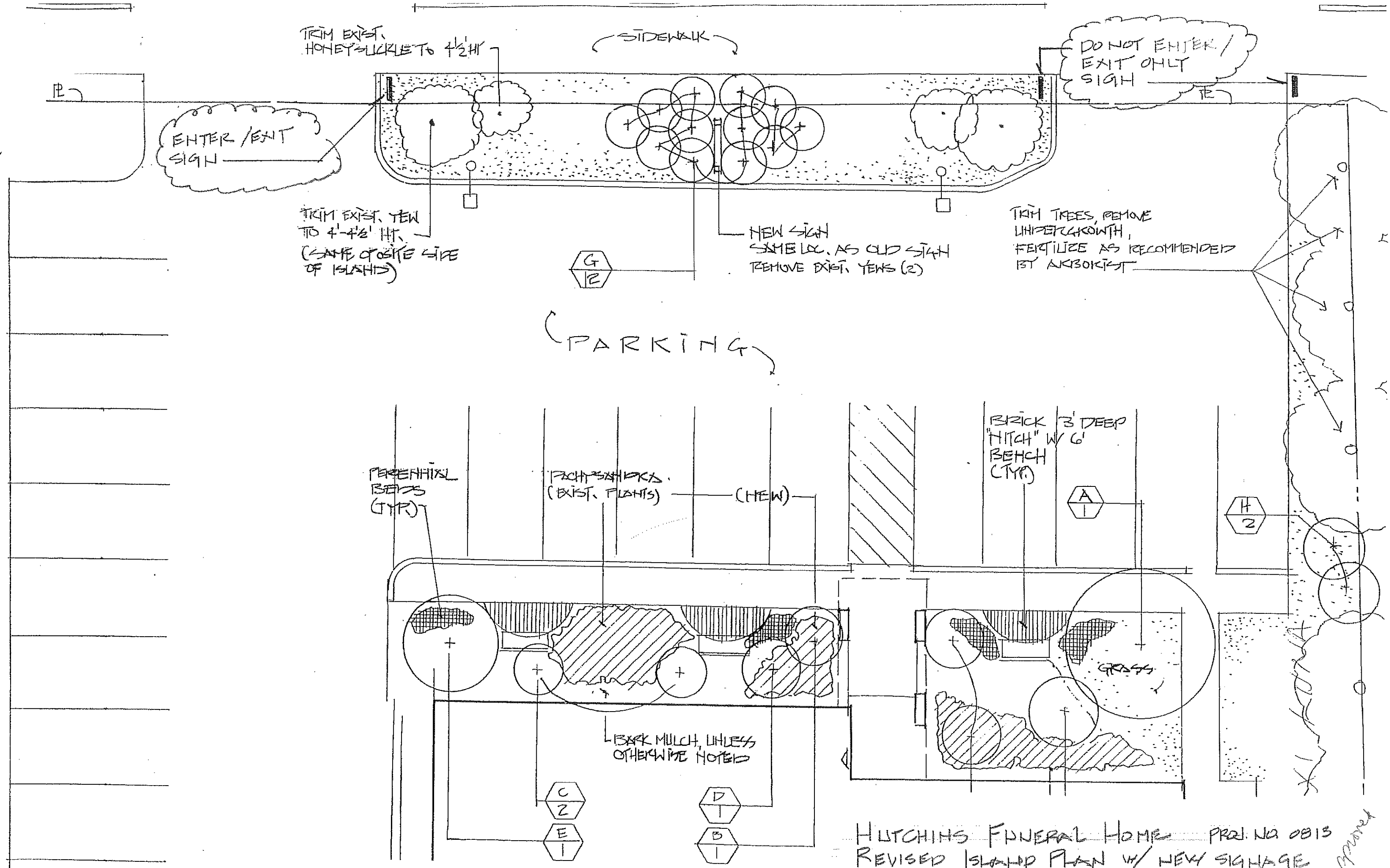
FACE NO. F-2



FACE NO. F-3

TYPICAL DIRECTIONAL SIGN DETAIL

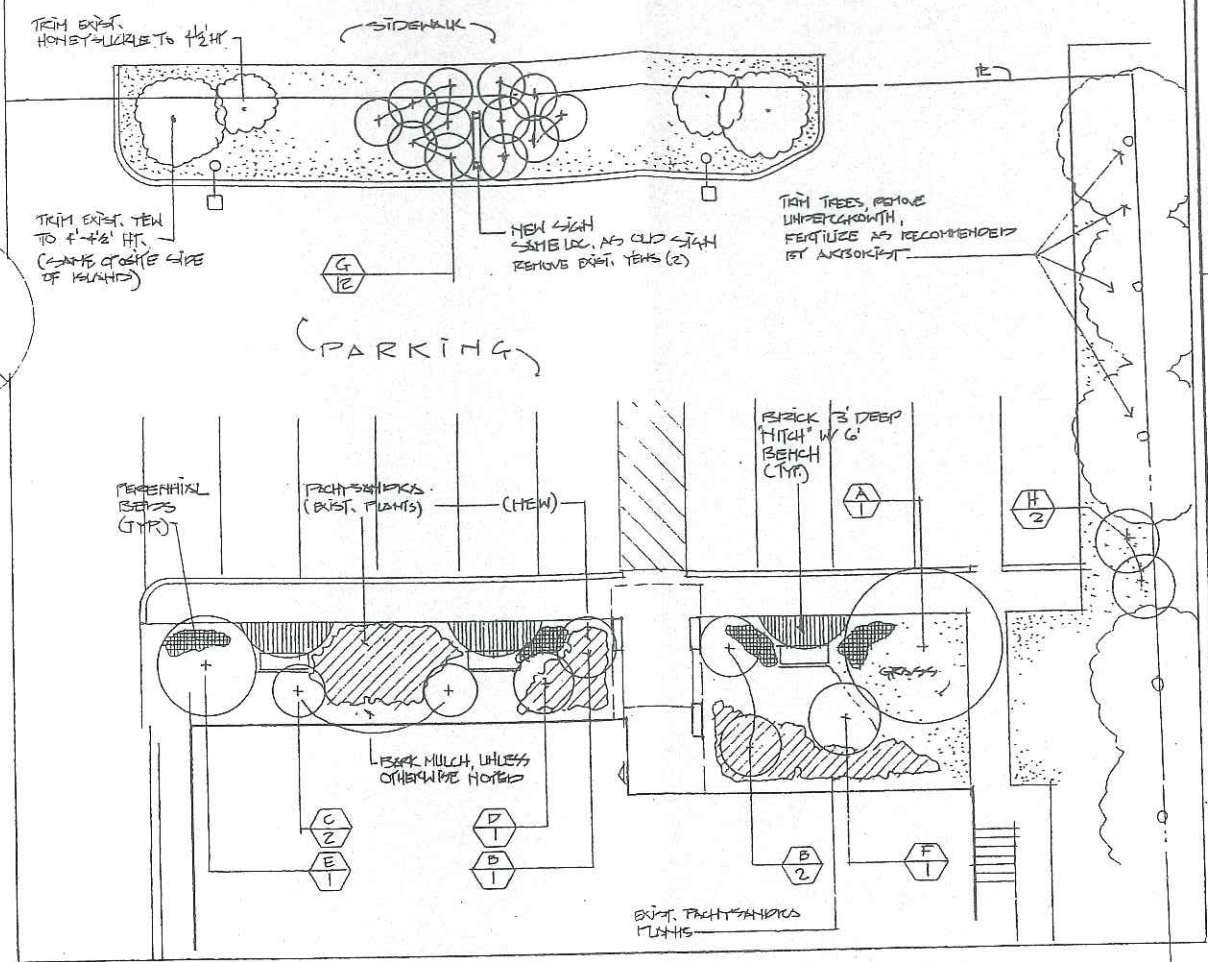
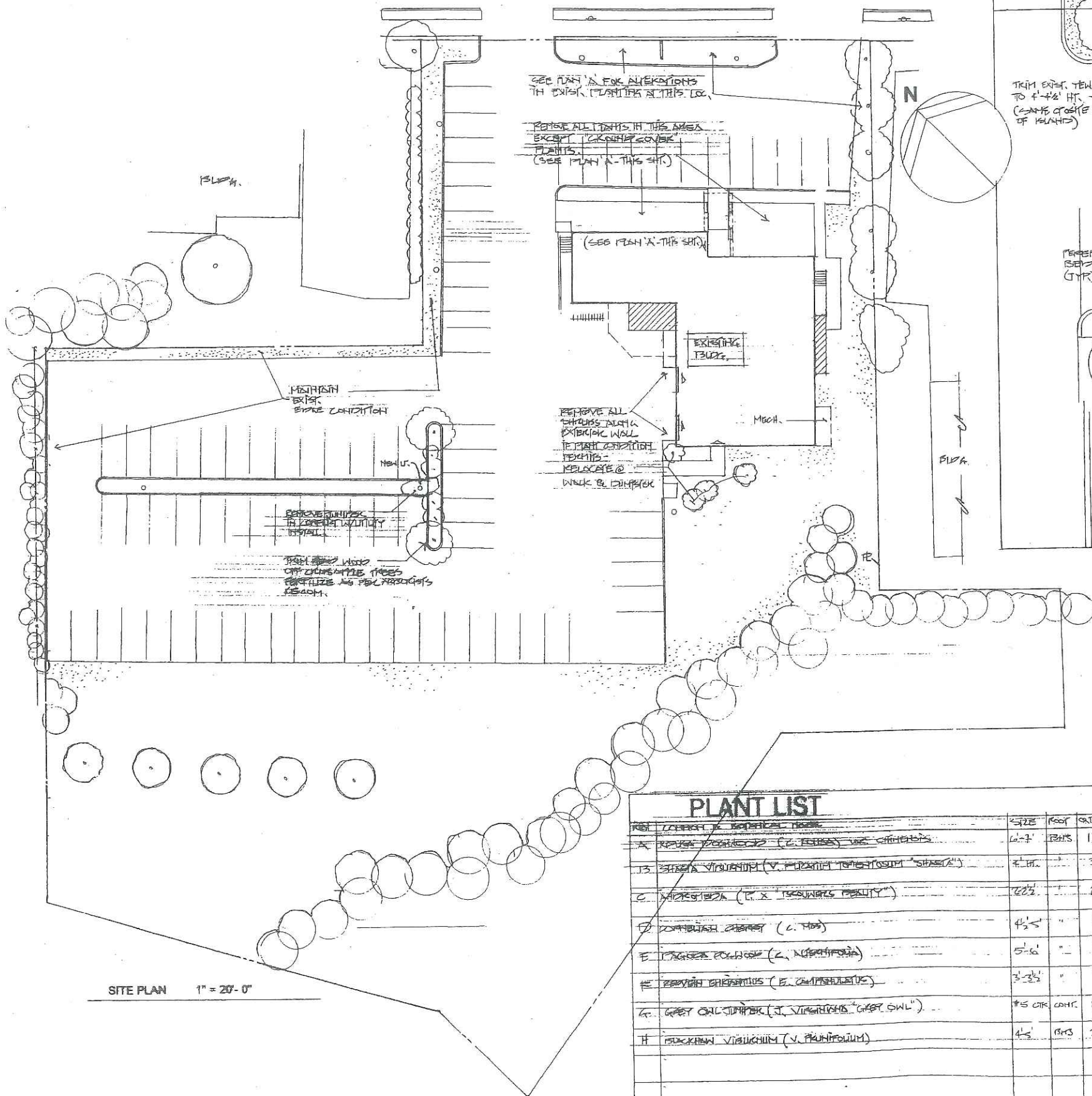
*see pdf 10-25-09
 from m Hutchins
 not approved*



HUTCHINS FUNERAL HOME PROJ: NO 0813
 REVISED ISLAND PLAN W/ NEW SIGNAGE
 10-26-09

not approved

BRIGHTON AVENUE



PLAN A

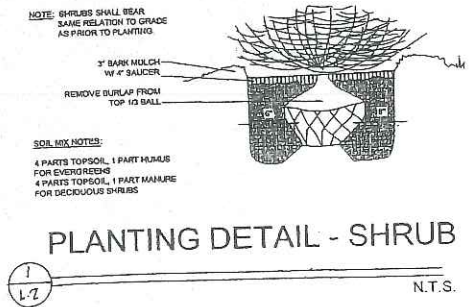
1" = 10' - 0"

PLANT LIST

NO.	COMMON NAME	SCIENTIFIC NAME	SIZE	ROOT BALL	QUANTITY	NOTES
A	RED TWIG DOGWOOD	(<i>C. TORREYI</i>) VAR. <i>CHRYSEOLA</i>	6'-7'	BRNS	1	
B	SHRUB VIRGATUM	(<i>V. FURCATA</i>) TOMENTOSUM "SHIRAZI"	4'-6"		3	
C	HYDRANGEA	(<i>H. X. TOSCANENSIS</i>) "PINKY"	2'-3"		2	
D	DOGWOOD	(<i>C. TORREYI</i>)	4'-5"		1	3 TRUNK
E	FRAGARIA	(<i>F. X. NURSERY</i>)	5'-6"		1	
F	BRITISH BIRCH	(<i>B. PUMILA</i>)	3'-3"		1	
G	GRAY OWL	(<i>J. VIRGATUM</i>) "GRAY OWL"	10'5" CLR	COHTC	12	
H	BUCKLEAM VIRGATUM	(<i>V. PUNIFOLIUM</i>)	4'-5"	BRNS	2	3 TRUNK

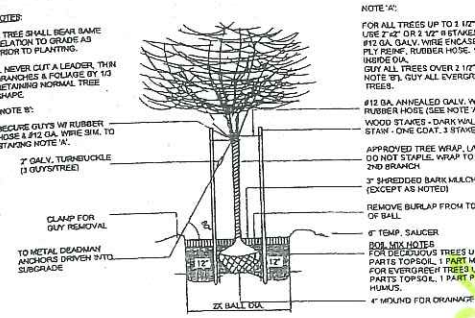
PLANTING NOTES

- The contractor shall supply all plants in quantities sufficient to complete the work shown on plan. Any discrepancies between quantities shown on plant list and those required by this drawing shall not entitle contractor to additional remuneration.
- Any plant substitutions must be approved by the owner.
- Any tree or shrub which comes over or under any utility shall be relocated on the site by the landscape architect.
- All lawn areas to have 6" of topsoil unless noted otherwise.
- All trees and shrubs shall be placed in the designated areas as shown on the plan and before planting shall be approved by the landscape architect.
- The contractor shall relocate any tree or shrub as directed by the landscape architect.
- All plant material installed shall meet the specifications of the American Standard by Nursery Stock (latest edition) as set forth by the American Association of Nurserymen.
- The landscape contractor shall replace or repair to original condition any and all utilities, paving, curbing, etc., damaged as a result of their operations at no additional cost to the owner.



PLANTING DETAIL - SHRUB

1" = 1/2" N.T.S.



PLANTING DETAIL - TREE

2" = 1/2" N.T.S.

SITE PLAN 1" = 20' - 0"

as approved
 DATE: 8-19-09

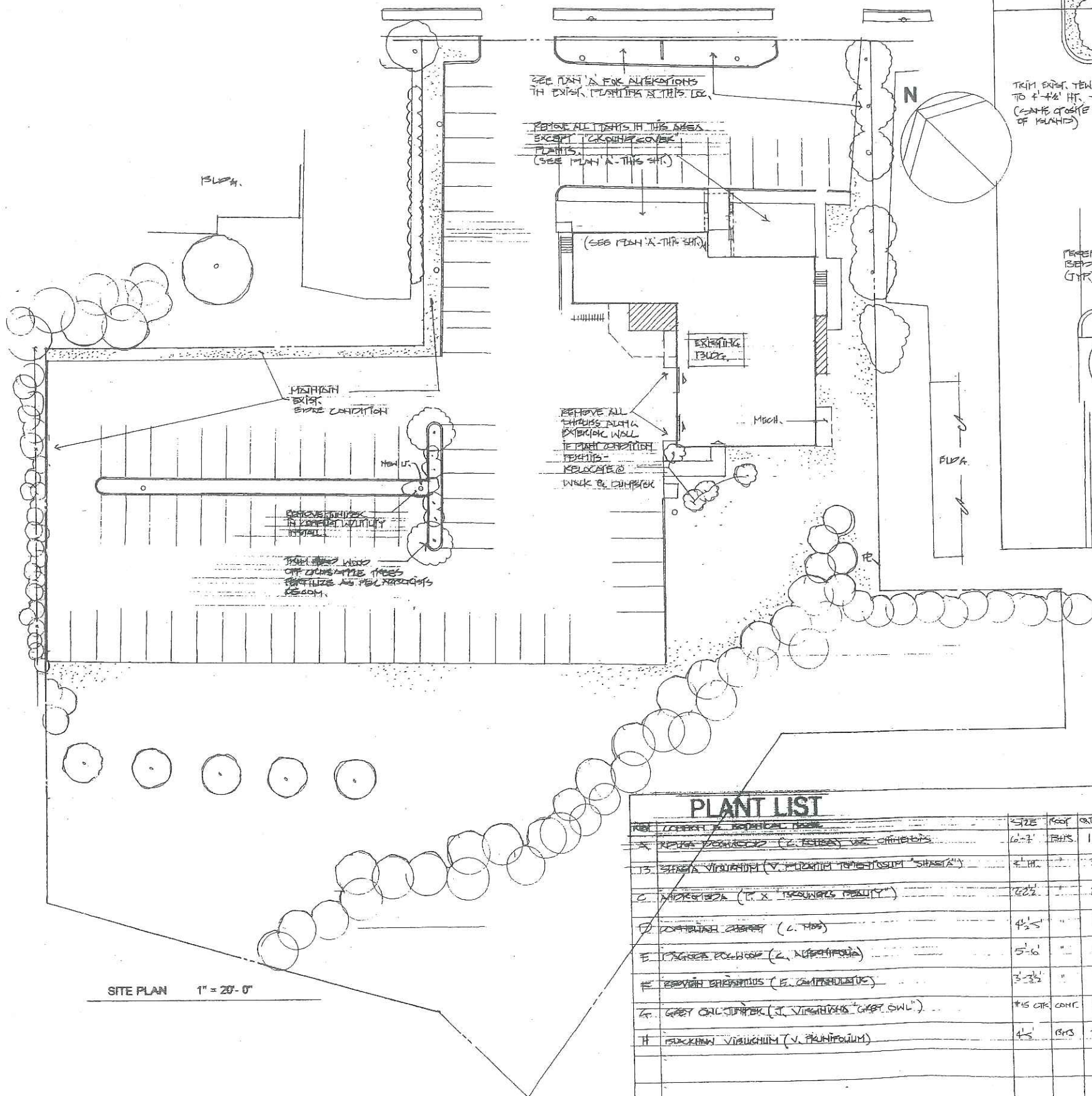
DLL ASSOCIATES / ARCHITECTS
 188 MAIN STREET, SUITE C
 LEWISTON, MAINE 04240

HUTCHINS FUNERAL HOME
 660 BRIGHTON AVENUE
 PORTLAND, MAINE

PROPOSED NEW LANDSCAPE
 PLANTING SITE PLAN

L-2

BRIGHTON AVENUE

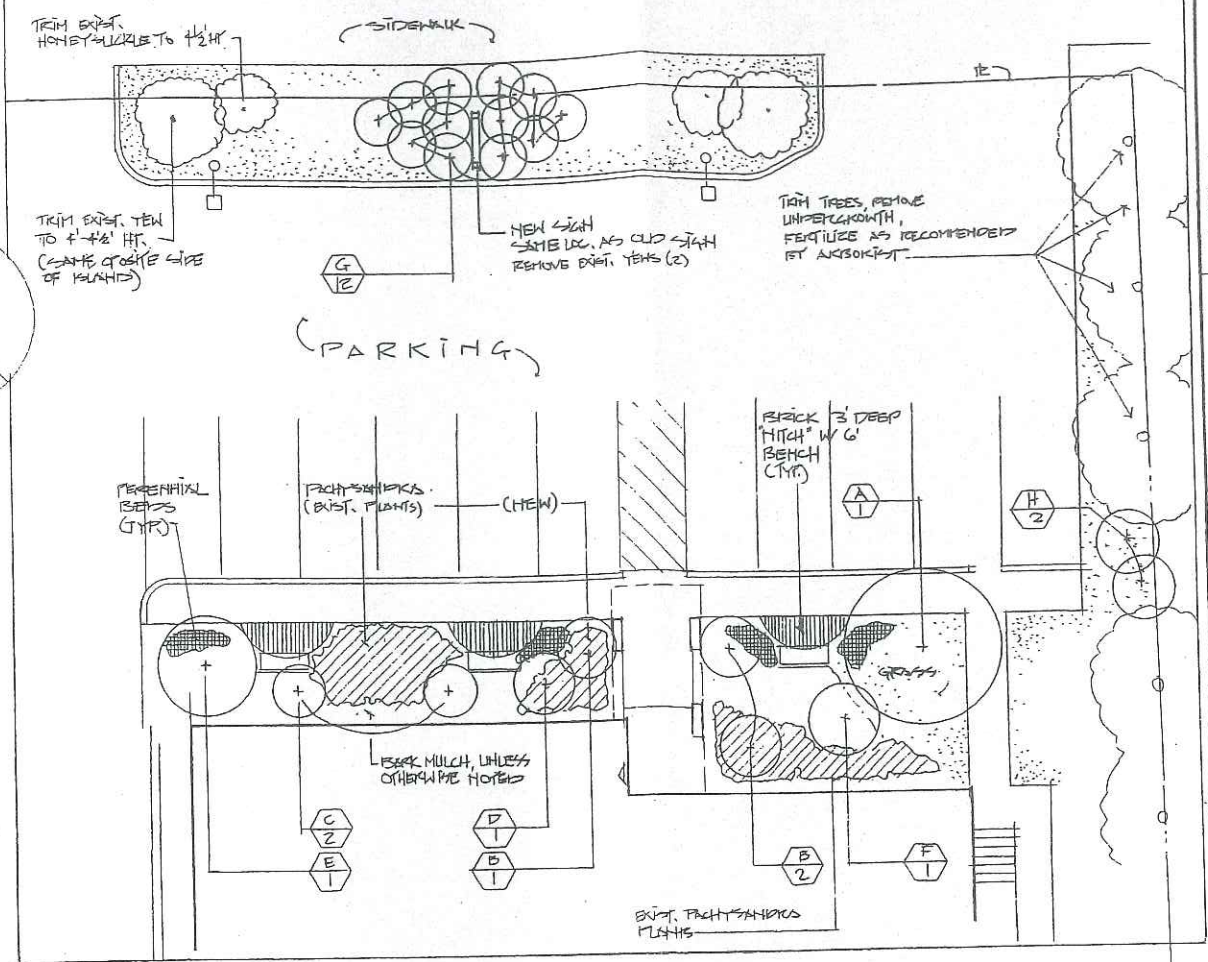


SITE PLAN 1" = 20'-0"

PLANT LIST					
NO.	COMMON NAME	SIZE	ROOT	QTY.	NOTES
1	RED CEDAR	6'-7'	BRIS	1	
2	SPREA VIRGIDUM (V. PLURICOLOR)	4'-5'	"	3	
3	HYDRANGEA	4'-5'	"	2	
4	DOGWOOD	4'-5'	"	1	3 TRUNK
5	DOGWOOD	5'-6'	"	1	
6	DOGWOOD	3'-3 1/2'	"	1	
7	DOGWOOD	4'-5'	BRIS	2	3 TRUNK

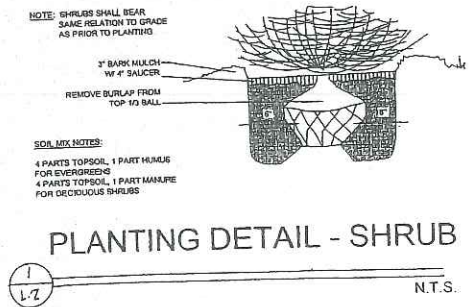
PLAN A

1" = 10' - 0"

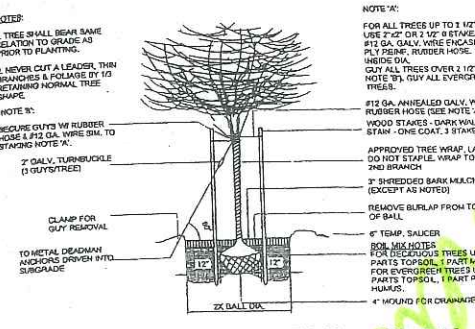


PLANTING NOTES

- The contractor shall supply all plants in quantities sufficient to complete the work shown on plan. Any discrepancies between quantities shown on plan list and those required by this drawing shall not entitle contractor to additional remuneration.
- Any plant substitutions must be approved by the owner.
- Any tree or shrub which comes over or under any utility shall be relocated on the site by the landscape architect.
- All lawn areas to have 6" of topsoil unless noted otherwise.
- All trees and shrubs shall be placed in the designated areas as shown on the plan and before planting shall be approved by the landscape architect.
- The contractor shall relocate any tree or shrub as directed by the landscape architect.
- All plant material installed shall meet the specifications of the American Standard for Nursery Stock (latest edition) as set forth by the American Association of Nurserymen.
- The landscape contractor shall replace or repair to original condition any and all utilities, paving, curbing, etc., damaged as a result of their operations at no additional cost to the owner.



PLANTING DETAIL - SHRUB



PLANTING DETAIL - TREE

as approved

DATE: 8-19-09

D.L.L. ASSOCIATES / ARCHITECTS
189 MAIN STREET, SUITE C
LEWISTON, MAINE 04240

HUTCHINS FUNERAL HOME
660 BRIGHTON AVENUE
PORTLAND, MAINE

PROPOSED NEW LANDSCAPE
PLANTING SITE PLAN

L-2

From: Jean Fraser
To: Ames, Aric
Date: 10/23/2009 3:32:22 PM
Subject: Re: Hutchins Funeral Home site lighting

Thank you- just what I needed.

Could you please put a revision date on the plan E1 that I was given Oct 9, 2009 (as all of your plans are dated 9.18.09) and send the plan to me by pdf so that I can reference the approval note and so there is no confusion over revisions.

Thank you
Jean

>>> "Aric Ames" <aames@mancinielectric.com> 10/23/2009 2:02:19 PM >>>

Good afternoon Jean,

Gino Mancini asked to forward you information about the Ruud LPR fixture being used at Hutchins Funeral Home. I have highlighted the part number of the fixture in question and where the manufacture rates this fixture as a full cutoff fixture. Please contact us if you have any question.

Have a great day.

Aric Ames | Mancini Electric
179 Sheridan Street | Portland, Maine 04101 | p: (207)774-5829 | f:
(207)772-1686 | aames@mancinielectric.com

As signed

*copy of JF note
as in HTE.*

October 8, 2009

Denis L Lemieux, AIA
198 Main Street
Lewiston, ME 04240

Mark Hutchins
ATH Realty LLC
16 Equestrian Way
Scarborough, ME 04074

RE: **660/666 Brighton Avenue; Hutchins Funeral Home**
CBL: 224A A001001
Application ID: (HTE system) 09-79900008

Dear Mr Lemieux and Mr Hutchins:

On October 8, 2009 the Portland Planning Authority approved a minor site plan for the use and refurbishment of the existing medical office building (known as "Doctors Park") at 660/666 Brighton Avenue, for a funeral home as submitted by ATH Realty LLC and shown on the approved plan (Site Plan C-1.2 Rev 2 dated 10.8.2009; Planting Plan L-2 dated 8.25.09; and Elevations A-2.0 dated 9.18.2009 prepared by DLL Associates/Architects) with the following conditions:

- i. That the eastern-most driveway shall be one-way egress only; the applicant shall submit a plan, for review and approval by the Planning Authority prior to the issuance of a building permit, that illustrates the signage and pavement markings to be included in the proposal to convert the eastern-most driveway into a one-way egress only; and
- ii. That the applicant shall submit a revised lighting proposal, including catalog cuts, pole heights and associated photometric plan, for review and approval by the Planning Authority prior to issuance of a building permit; and
- iii. That the applicant shall submit a copy of the Wastewater Capacity letter prior to the issuance of a building permit; and
- iv. That if the City receives any complaints concerning the noise generated by the HVAC condenser units, the owner shall take appropriate measures to mitigate any noise above that allowed by the current ordinance; and
- v. All signage shall be subject to separate sign permits and approvals; and
- vi. Building permits shall be required for all structural additions and changes.

The approval is based on the submitted site plan. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval.

The site abuts the Capisic Brook watershed (an urban impaired watershed) which has both flooding and water quality problems. The applicant has agreed to develop and submit a **management plan** that sets out future intentions for reducing the storm water runoff and pollution to Capisic Brook that results from the use of this site. Such plan could include bio filtration unit(s) along rear of the parking area, reduction where possible of impervious area, planting of additional trees in and around the parking area, and methods of disposal of garden waste so that it is not within the Capisic floodplain. The City is working with landowners and other interested parties to improve the Capisic Brook Watershed and further information and advice is available from Doug Roncarati, Department of Public Services (C/0 874- 8846 or DAR@portlandmaine.gov).

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

1. The site shall be developed and maintained as depicted in the site plan and 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 the planning authority pursuant to the terms of this article. Any such parcel lawfully altered prior to the enactment date of these revisions shall not be further altered without approval as provided herein. Modification or alteration shall mean and include any deviations from the approved site plan including, but not limited to, topography, vegetation and impervious surfaces shown on the site plan. No action, other than an amendment approved by the planning authority or Planning Board, and field changes approved by the Public Services authority as provided herein, by any authority or department shall authorize any such modification or alteration.
2. The above approvals do not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.
3. 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.
4. 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 Services Dept. 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.
5. 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.

6. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
7. Prior to construction, a pre-construction meeting shall be held at the project site with the contractor, development review coordinator, Public Service'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.
8. 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 Jean Fraser at 874- 8728.

Sincerely,

Alexander Jaegerman
Planning Division Director

Attachment: 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
Jean Fraser, Planner
Philip DiPierro, Development Review Coordinator
Marge Schmuckal, Zoning Administrator

Tammy Munson, Inspections Division Director
Gayle Guertin, Inspections Division
Lannie Dobson, Inspections Division
Michael Bobinsky, Public Services Director
Kathi Earley, Public Services
Bill Clark, Public Services
David Margolis-Pineo, Deputy City Engineer
Doug Roncarati, Public Services
Todd Merkle, Public Services
Greg Vining, Public Services
John Low, Public Services
Jane Ward, Public Services
Keith Gautreau, Fire
Jeff Tarling, City Arborist
Tom Errico, Wilbur Smith Consulting Engineers
Dan Goyette, Woodard & Curran
Assessor's Office
Approval Letter File

Hard Copy: Project File

Note from Case planner not on the copy sent to the applicant: the note at the top of page 2 re "The applicant has agreed to develop and submit a **management plan** that sets out future intentions for reducing the storm water runoff and pollution to Capisic Brook that results from the use of this site. " is **not** a condition of approval and is **not** a requirement. It is intended to document that this issue was discussed with the applicant; that staff has some suggestions; and that the applicant is hoping to address it in the future, initially be developing a plan and maybe later some actual work.

From: Jean Fraser
To: mark hutchins
Date: 10/15/2009 2:17:58 PM
Subject: Lighting for 660/666 Brighton

Mark

I refer to the Photometric Plan received 10.9.09.

I as mentioned to you this plan is fine re the levels of lamination and trespass.

My only question is that the LPR1615 lamp fixture (used in 3 places) appears to be a different type and is not described as "cut-off" in the manufacturers specification; our standards require all of the lamp fixtures to be full cut off type.

So before I can sign off I need evidence that the LPR1615 fixture is a full cutoff luminaire.

thank you
Jean

Jean Fraser, Planner
City of Portland
874 8728

CC: Juris', 'Andrew P.

*contact OK
re ceper/polfr*

From: "Tom Errico" <thomas.errico@tylin.com>
To: "Jean Fraser" <JF@portlandmaine.gov>
Date: 10/15/2009 3:13:37 PM
Subject: Hutchins Funeral Home - 660 Brighton Avenue

Jean -- I have reviewed the plan prepared by DLL Associates/Architects dated October 8, 2009 as it relates to traffic control pavement markings and signage and offer the following comments.

. If not provided, STOP signs should be installed at each driveway. The signs shall meet the MUTCD and shall be a R1-1 sign.

. Two "Do Not Enter" signs shall be provided on each side of the egress driveway. The signs shall meet the MUTCD and be a R5-1 sign.

. STOP bars should be provided on each driveway. For the two-way driveway, the STOP bar shall extend half way across the driveway and a 4" single white line shall separate inbound and outbound lanes. For the egress only driveway, the STOP bar shall extend across the entire width of the driveway. A 4" single white lane line shall be provided delineating two egress lanes

. Eliminate the pavement arrows at the two-way driveway.

. For a typical two lane approach, I would provide separate left and right turn arrows. However, in this case, I suspect procession queuing will occur in two lanes with both lanes destined in one direction. I would suggest that either no arrows be provided, or separate left and right arrows be provided (because processions will be controlled, I find it acceptable for vehicles to turn right from the left lane - otherwise during non-procession periods, typical traffic control will be in effect).

If you have any questions, please contact me.

Best regards,

Thomas A. Errico, P.E.

T.Y. Lin International

12 Northbrook Drive
Building A, Suite One
Falmouth, ME 04105

207.347.4354 (Direct)
207.781.4721 (Main)
207.781.4753 (Fax)
207.400.0719 (Mobile)

CC: "Katherine Earley" <KAS@portlandmaine.gov>, "David Margolis-Pineo" <DMP@portlandmaine.gov>

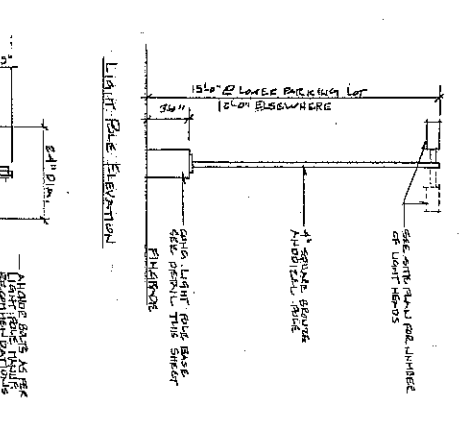
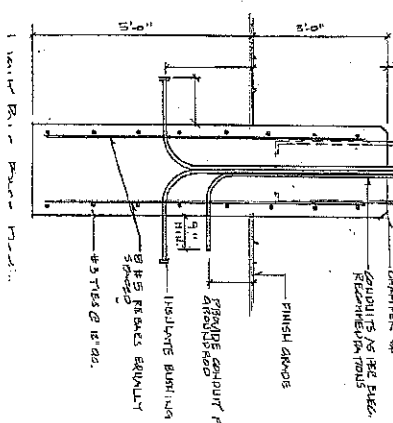
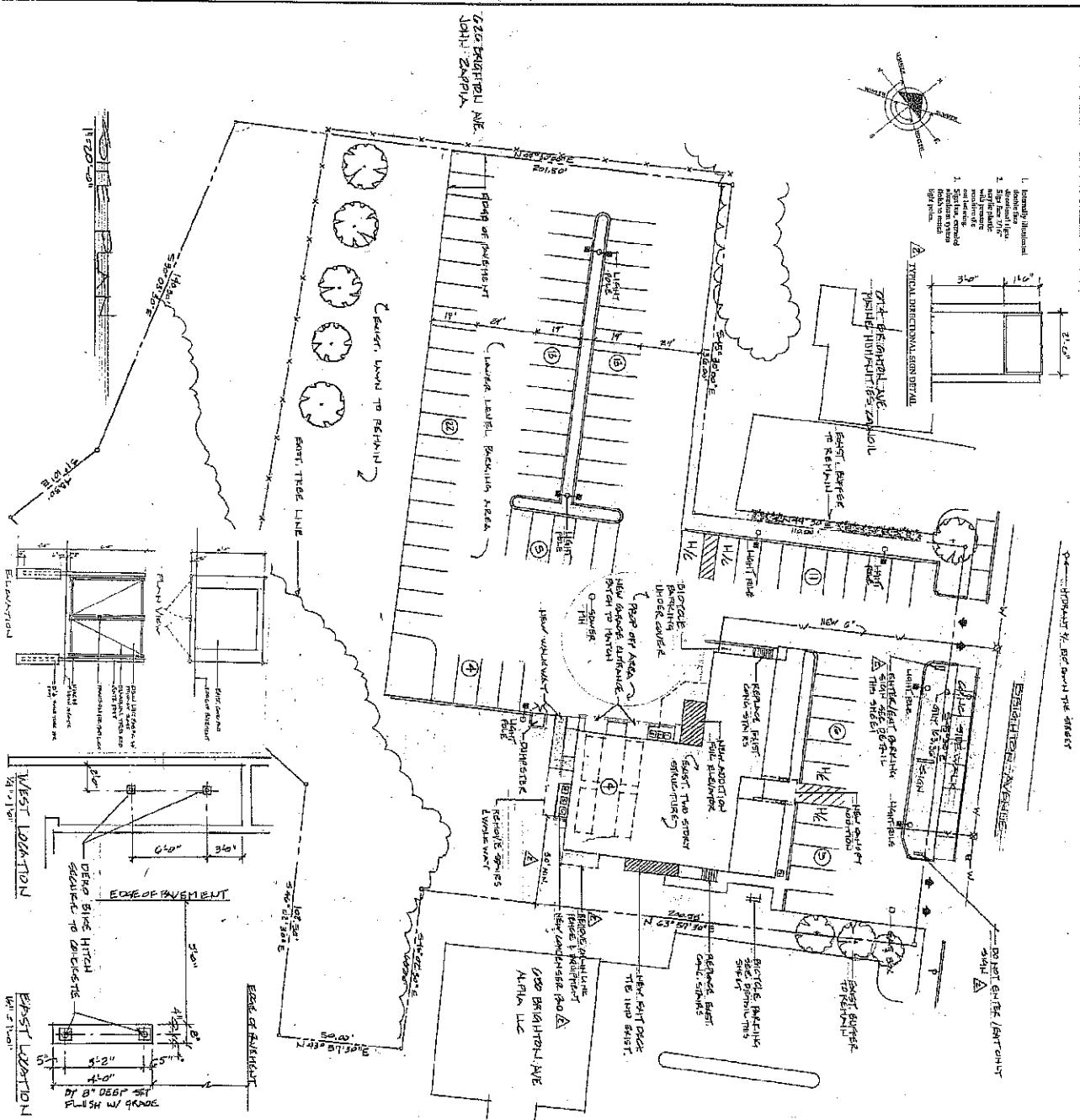
From: Jean Fraser
To: Bourke, Jeanie; DiPierro, Philip; Schmuckal, Marge
Date: 10/9/2009 3:11:55 PM
Subject: Hutchins Funeral Home Site Plan

Please note that Site Plan approval was given today for this project (approval letter attached) so please proceed with the Building Permit and Performance Guarantee processes.

It is in the HTE system (mine is erratic) so I am sending this e-mail to be sure the info gets to you.

I will get a copy of the final site plan (which shows three condensers at the back of the building instead of at the side) to you on Monday- it was delayed by external e-mail problems today.

CC: Munson, Tammy



GENERAL NOTES

1. General Notes
2. Site Plan
3. Elevation
4. Section
5. Foundation
6. Mechanical
7. Electrical
8. Plumbing
9. Fire
10. Other

ZONING CLASSIFICATION: RESIDENTIAL - PROFESSIONAL

PROPOSED USE: FUNERAL HOME

REQUIRED	PROVIDED
MIN. LOT FRONTAGE	60 FEET
MIN. STREET FRONTAGE	20 FEET
MIN. LOT WIDTH	117 FEET
MIN. LOT AREA	13,380 SQ. FT.
MIN. SIDE SETBACK - FOR 2 STORES	10 FEET
MIN. SIDE SETBACK - FOR 3 STORES	15 FEET
MAX. DEPTH	117 FEET
MAX. DEPTH TO LOT	117 FEET
MAX. FLOOR AREA RATIO	0.5
OFF STREET PARKING	41 SPACES

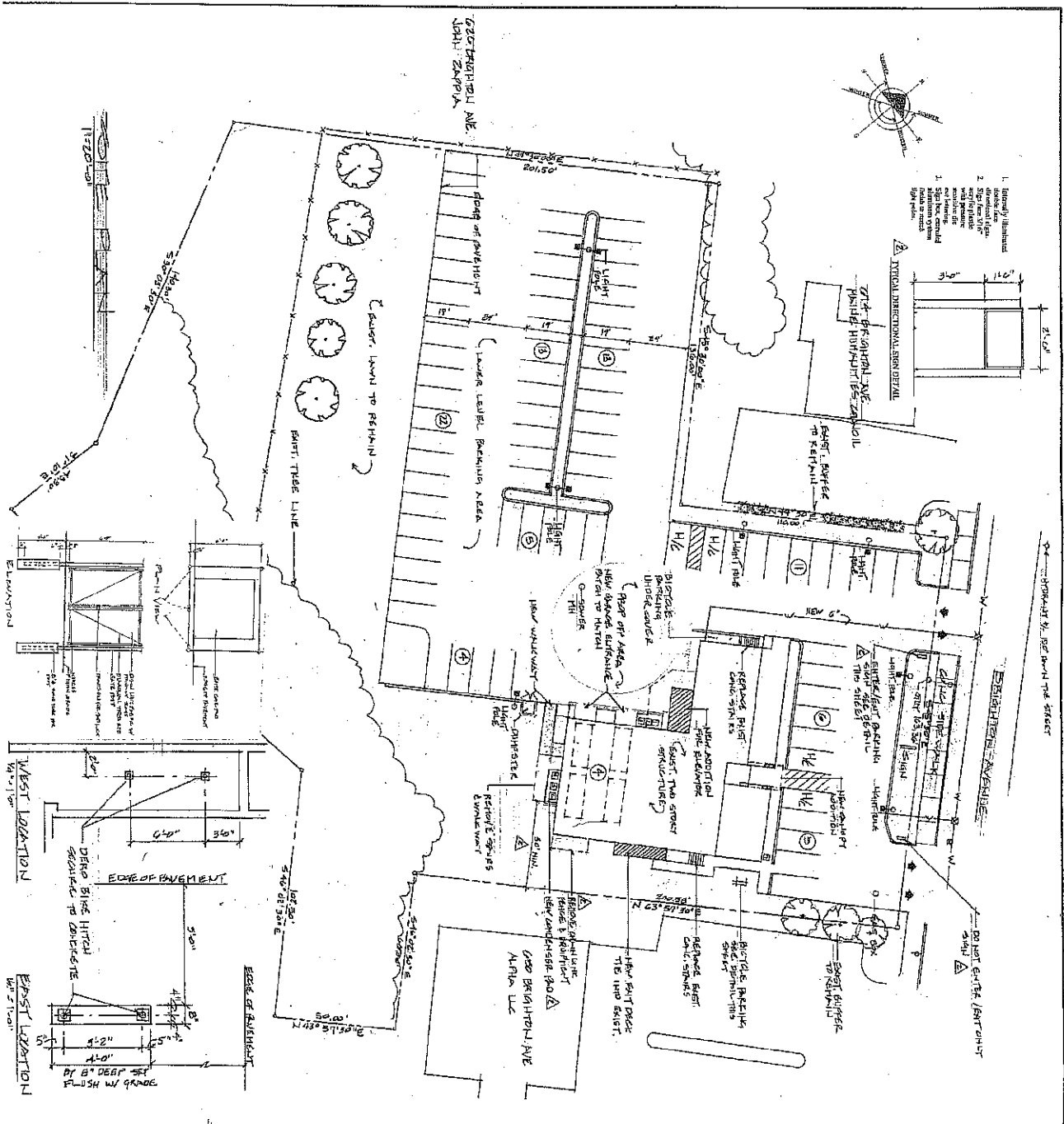
PERMITS: 1. AREA PERMITS: 2. SIGNAGE PERMITS: 3. OTHER PERMITS: 4. TOTAL: 41 SPACES

Associates / Architects 108 Main Street, Suite - C, Lewiston, Maine 04240 (207) 344-6611 BILLAI@AQAOL.COM

Drawing Title Site Plan	Project Title Hutchins Funeral Home Brighton Avenue Portland, Maine	Scale 1" = 10'-0"	Drawn By G. B. B.	Checked By G. B. B.	Date 1-25-01
--	--	-----------------------------	-----------------------------	-------------------------------	------------------------

No.	Revisions	Date	By
1	CONDENSED BLDG & BENCH/RENT PLANS	10-18-01	DL
2	ADD WATER LINE & DUMPSTER SERVICES	1-25-01	DL

Revisions



1. Identify building
2. Identify area
3. Identify area
4. Identify area
5. Identify area
6. Identify area
7. Identify area
8. Identify area
9. Identify area
10. Identify area

GENERAL NOTES

1. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE INTERNATIONAL BUILDING CODE (IBC) AND THE NATIONAL FIRE PROTECTION ASSOCIATION (NFPA) CODES.

2. ALL MATERIALS SHALL BE OF THE BEST QUALITY AVAILABLE.

3. ALL WORK SHALL BE COMPLETED WITHIN THE SPECIFIED TIME FRAME.

4. ALL WORK SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE LOCAL BUILDING DEPARTMENT.

5. ALL WORK SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE LOCAL FIRE DEPARTMENT.

6. ALL WORK SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE LOCAL HEALTH DEPARTMENT.

7. ALL WORK SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE LOCAL ENVIRONMENTAL AGENCY.

8. ALL WORK SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE LOCAL PUBLIC WORKS DEPARTMENT.

9. ALL WORK SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE LOCAL POLICE DEPARTMENT.

10. ALL WORK SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE LOCAL COURT SYSTEM.

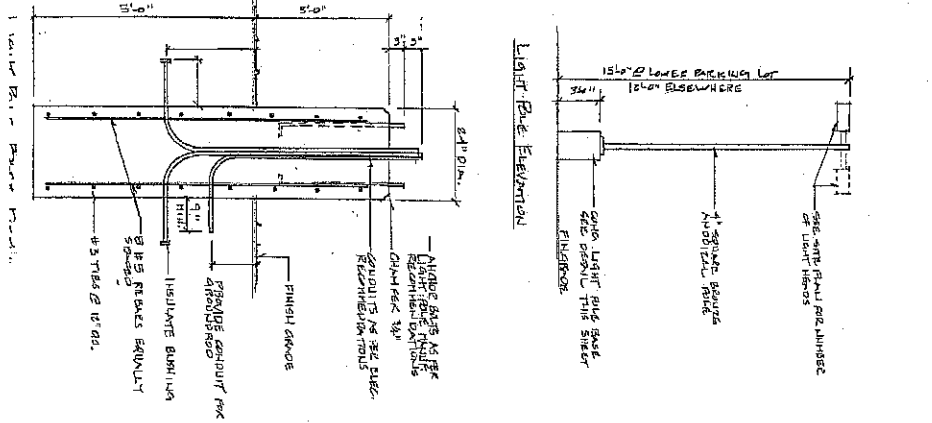
11. ALL WORK SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE LOCAL LEGISLATURE.

12. ALL WORK SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE LOCAL GOVERNMENT.

13. ALL WORK SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE LOCAL PEOPLE.

14. ALL WORK SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE LOCAL GODS.

15. ALL WORK SHALL BE SUBJECT TO INSPECTION AND APPROVAL BY THE LOCAL UNIVERSE.



Drawing Title Site Plan		Project Title Hutchins Funeral Home Brighton Avenue Portland, Maine	
Scale 1" = 10'-0"	Drawn By CJL/BJV	Date 08/13	Project No. 0813
Revision		Date	
1. CHANGES TO BUILDING FOOTPRINT		10-25-09	ALL
2. ADD WATERLINE & SANITARY CONNECTIONS		11-25-09	ALL
Development Review Application		11-25-09	ALL
Revisions		Date	By
NO.			

From: Jean Fraser
To: hutchins, mark
Date: 10/5/2009 2:48:15 PM
Subject: RE: Traffic Issues

Mark,

I have just received final comments from the Traffic Engineer and he supports your suggestion that the eastern-most driveway be converted to one-way egress only but would like a plan illustrating signage and pavement markings to be submitted for review and approval.

We could make that a condition of approval (ie issue the approval letter with that being one of the conditions) or you could prepare and submit the signage and pavements markings plan now.

In any case please address the other outstanding traffic comments (see e-mail from Tom Errico dated 9.8.09) which requested:

1. A parking management plan for events where the supply will exceed the spaces provided (the 41 spaces is a zoning requirement; the site plan and the R-P special requirement re impact on the street system consider parking from a different viewpoint and you need to demonstrate that there will be no parking on Brighton Ave); and
2. Revision of the Traffic Operations Plan to take on board the suggested revision to add the City Transportation Engineer in three places.

I suggest that you submit the revised Traffic Operations Plan and also add in a para re Parking Management and provision of overflow parking capacity on adjacent sites.

See separate e-mail re other issues.

Jean

Jean Fraser, Planner
City of Portland
874 8728

>>> "mark hutchins" <mhutchi2@maine.rr.com> 10/1/2009 10:04:00 PM >>>

From: mark hutchins [<mailto:mhutchi2@maine.rr.com>]
Sent: Thursday, October 01, 2009 9:42 PM
To: 'Jean Fraser'
Cc: 'andrewprudential@aol.com'; 'DLLAIA@aol.com'; 'Trafficsolutions@maine.rr.com'
Subject: Traffic Issues

Jean:

I just want to follow-up on our discussion today. As I mentioned in a prior e-mail the eastern curb cut is critical for the traffic flow on the property during the staging of funeral processions. The suggestion to install a gate at the opening would in my mind be unsightly and take away from the appearance of the building. To add a sophisticated or elaborate gate would also be very costly. I believe that during the winter months, the maintenance that would be required for a gate and the surrounding area could be problematic. What I would like to suggest is to install "Do Not Enter, Exit Only" sign at that opening, with an arrow painted on the pavement pointing out toward Brighton Ave. On the other opening, I would also have two arrows painted on the pavement pointing in and out toward Brighton Ave.

Please let me know what you think.

Thanks,

Mark

-----Original Message-----

From: Jean Fraser

Sent: Thursday, October 01, 2009 11:16 AM

To: mhutchi2@maine.rr.com

Cc: andrewprudential@aol.com; DLLAIA@aol.com

Subject: update re traffic issues

Mark

Further to our conversation yesterday regarding our traffic engineer's concerns....I am in discussion with Tom Errico who is reconsidering his views/comments; as of now he has not reached a final decision.

I will get back to you once I hear from Tom. He has confirmed that he does not require any further information from Bill Bray.

Otherwise I look forward to receiving the slightly expanded photometric

plan and the specification that goes with the HVAC note.

Please note that the recently submitted plans are still under review so I am not in a position to say these are the "final" set of comments.

However, we are getting close....

Thank you

Jean

Jean Fraser, Planner

City of Portland

874 8728

CC: andrewprudential@aol.com; DLLAIA@aol.com; Trafficsolutions@maine.rr.com

From: Jean Fraser
To: hutchins, mark
Date: 10/5/2009 4:10:33 PM
Subject: Re: update re traffic issues

Mark,

This is an update on the issues that are still outstanding:

1. Traffic issues: see separate e-mail which outlines latest comments from the Traffic Engineer;
2. Zoning: Marge Schmuckal is awaiting confirmation that the condenser units will meet Noise standards (?? re need attenuation panels/need to be relocated etc);
3. Lighting: the Photometric Plan received today still allows too much light trespass onto the adjacent property and includes too many places where our max of 5 footcandles is exceeded. I have discussed it with colleagues and we suggest a lower wattage lamp in all of the parking lot light fixtures might help (although its also because there are so few poles for such a large space and they are fairly low; they could be a few feet higher). If this is not resolved by the time everything else is resolved, this can be a condition of approval.
4. Capisic Brook: This is the draft condition that we are suggesting be included:
"i. That the applicant shall develop and submit a management plan that sets out future intentions for reducing the storm water runoff and pollution of Capisic Brook that results from the use of this site. Such plan to include installation of bio filtration unit(s) along rear of the parking area, reduction where possible of impervious area, planting of additional trees in and around the parking area, and methods of disposal of garden waste so that it is not within the Capisic floodplain".
5. Sewer Capacity Letter: not received yet.

As I mentioned I am working toward issuing the approval letter this week. Some of these issues may be treated as conditions but probably not all (I will be having a final discussion with my colleagues on Wed AM).

Jean

Jean Fraser, Planner
City of Portland
874 8728

CC: andrewprudential@aol.com; DLLAIA@aol.com; Trafficsolutions@maine.rr.com

From: "Tom Errico" <thomas.errico@tylin.com>
To: "Jean Fraser" <JF@portlandmaine.gov>
Date: 10/5/2009 11:30:26 AM
Subject: 660-666 Brighton Avenue - Hutchins Funeral Home

Jean - the following represents my final comments and includes a status report on my September 8, 2009 email.

In my professional opinion the parking supply of 83 spaces will be adequate for most events. The applicant should be required to develop a parking management plan for events where the supply will exceed the spaces provided.

Status: From information provided, the applicant is in discussions with abutting property owners about overflow parking supply provisions.

Based upon the information provided it is my professional opinion that a Traffic Movement Permit is not required.

Status: I have no further comment.

The applicant should provide justification for maintaining the easternmost driveway on Brighton Avenue. The driveway does not meet City of Portland technical standards for driveway separation and supporting documentation on retaining its use is requested.

Status: Internal traffic flow requirements prevent the closure of the subject driveway. The applicant has suggested that it be converted to a one-way egress only driveway. I support this recommendation and the applicant should provide a plan illustrating signage and pavement markings for review and approval.

The following summarizes some suggested revisions to the Traffic Operations Plan:

- o For Item #4, "written permission is granted by the Chief of Police and the City Transportation Engineer".
- o For Item #5, "written permission is granted by the Chief of Police and the City Transportation Engineer".
- o For Item #7, "written permission is granted by the Chief of Police and the City Transportation Engineer".

Status: I have no further comment.

It appears that some elements of the parking lot (stall size and aisle width) do not meet City of Portland Technical standards. The applicant shall identify those deficiencies on the plan. It is likely that I will support waivers from the technical standards.

Status: It appears the non-conforming conditions include two specific areas. The parking area on the side

of the building has a total curb to building width of 41 feet. This width is 2 feet narrower than the required 43 feet. Additionally, the parking area on the southwest corner of the lot has a total curb to curb width of 58 feet. Sixty-two feet of width is required. In both cases I support a waiver from the technical standard.

If you have any questions, please contact me.

Best regards,

Thomas A. Errico, P.E.

T.Y. Lin International

12 Northbrook Drive
Building A, Suite One
Falmouth, ME 04105

207.347.4354 (Direct)
207.781.4721 (Main)
207.781.4753 (Fax)
207.400.0719 (Mobile)

CC: "Katherine Earley" <KAS@portlandmaine.gov>, "David Margolis-Pineo" <DMP@portlandmaine.gov>

MINOR SITE PLAN DEVELOPMENT REVIEW

Final review and sign off

PROJECT: 660/666 Brighton ^{Hutchins Fun Home} Application #: 09-799 000 08 (HTE)
 Date of completion: final renew 9/30/09

Review item	Status	Who signed off on this
Evidence of Right, Title & Interest	P+S agreement	✓
MDEP/MP etc issues	none	N/A
Additional info provided as requested:	traffic info / HVAC info etc. all provided	Ch Marge/Tom/ band OK
Access and parking layout (including contributions)	awaiting TE sign off	Review 9-30 gate so only used for processes + safety of impact on Brighton
Bicycle parking	details submitted	
Stormwater Management	OK	
Other engineering issues	Donna Roncarati suggestion	cond. agreed
Zoning	awaiting zoning s/o	Marge - need decibels + loc. in condenser's Marge
Fire Department	OK	✓
Building materials etc	details submitted OK	
Landscape	see cond.	JT signed off
Two trees/lot; two foundation plantings per lot	N/A	N/A
Lighting	awaiting photometric	***** Jean
Letter of financial capability	✓	✓
Capacity letter water	✓	✓
Capacity letter sewer	applied	awaited
Sidewalk/Curbing		DM-P S/O - ✓
Dumpster location and enclosure/waste collection	✓	
Other issues		



To: Marge Schmuckal; David Margolis-Pineo; Tom Errico

From: Jean Fraser

Date: September 30, 2009

Additional information submitted for the following project:

Application ID #: HTE 09-79900008

Project Name: Hutchins Funeral Home

Project Address: 660-666 Brighton Ave

Please find attached additional information to address your review comments plus a Site Plan that has been revised to add information (eg water line and sidewalk info) and address other comments in the review letter (re dumpster and bike racks).

The letter of 9.24.09 was e-mailed to Tom Errico and Marge Schmuckal on 9.24.09 and the applicant is anxious to know whether further information is necessary.

I also attach a draft approval letter and would be grateful for any comments on that (it picks up comments by Doug Roncarati).

Thanks

Jean



To: Marge Schmuckal; David Margolis-Pineo; Tom Errico

From: Jean Fraser

Date: September 30, 2009

Additional information submitted for the following project:

Application ID #: HTE 09-79900008

Project Name: Hutchins Funeral Home

Project Address: 660-666 Brighton Ave

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I also attach a draft approval letter and would be grateful for any comments on that (it picks up comments by Doug Roncarati).

Thanks

Jean

L NOTES
 OWNER OF PROPERTY IS White Water LLC, BOOK NO. 22707, PAGE
 IN THE CUMBERLAND COUNTY REGISTER OF DEEDS.

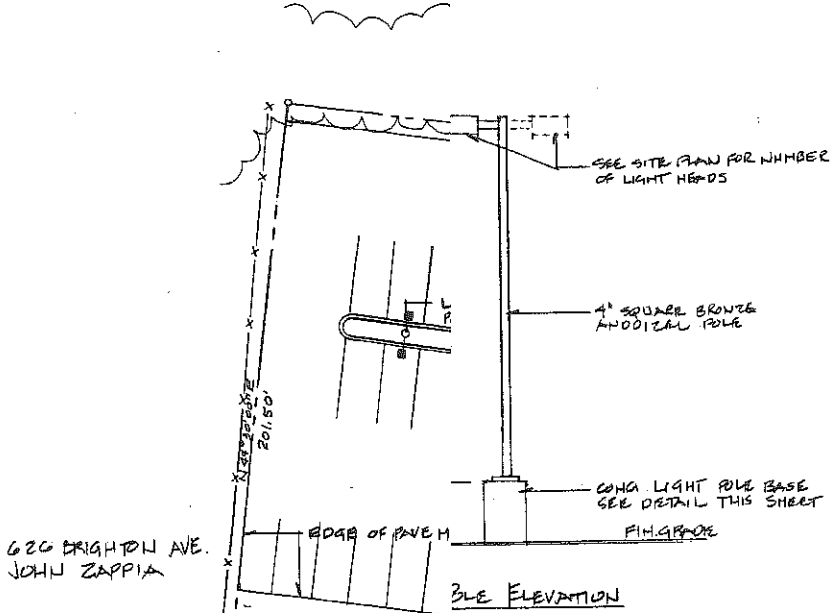
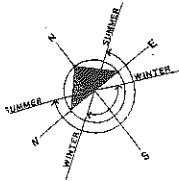
Y SURVEY PREPARED BY OWEN HASKELL, INC. DATED DEC. 16,
 10. 92002 P, BOOK NO. 600 P.

CLASSIFICATION: RP RESIDENCE - PROFESSIONAL
 USE: FUNERAL HOME, PERMITTED USE

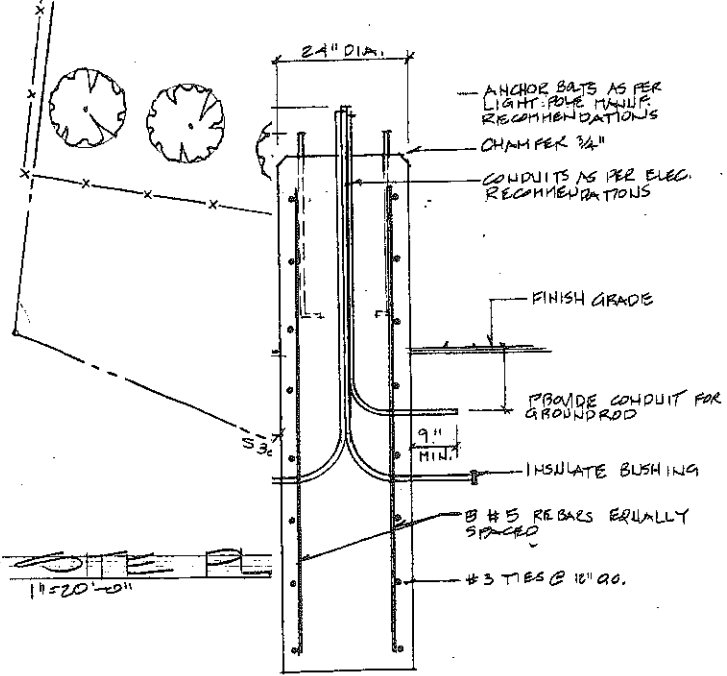
STANDARDS	REQUIRED	PROPOSED
SIZE:	6,000 SQ.FT.	
FOOT PRINT AREA:		
SET FRONTAGE:	60 FEET	163.36 FEET
SETBACK:	20 FEET	69 FEET
SETBACK - FOR 2 STORIES	12 FEET	17 FEET
WIDTH	60 FEET	365.36 FEET
CEILING HEIGHT	45 FEET	45 FEET
COVERAGE RATIO	0.80	0.48
DR AREA RATIO	0.65	0.05
NET PARKING	41	83

NET PARKING CALCULATIONS

FUNCTION	AREA	RATIO
PUBLIC AREAS	2080 SQ.FT.	400/SPACE = 5
RE/BULK STORAGE	3315 SQ.FT.	1000/SPACE = 3
OFFICE AREAS	3264 SQ.FT.	100/SPACE = 33
TOTAL	8659 SQ.FT.	41 SPACES

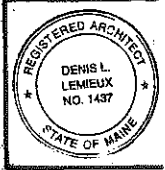


620 BRIGHTON AVE.
 JOHN ZAPPIA



POLE BASE DETAIL

September 18, 2009
 Building Permit Submission
 Review and Approval
 NOT FOR CONSTRUCTION



ADD WATERLINE & DISTRICT 5065 E-1	9-25-09	D.L.
Development Review Application	8-25-09	

Project Title
 Hutchins Funeral Home
 Brighton Avenue
 Portland, Maine

Drawing Title	Scale	Drawn By
Site Plan		
Project No.	0813	
Sub Title		
Drawing No.	C-1.2	

100 Main Street, Suite - C, Lewiston, Maine 04240 (207) 344-6611 D.L.A.M.A.@AOL.COM
DLL Associates / Architects

read 9-25-09

September 24, 2009

City Of Portland
Congress Street
Portland, ME 04101

Attn: Jean Fraser

Dear Jean,

I am writing this letter in response to your September 17, 2009 letter to Denis Lemieux regarding staff comments for my development proposal at 660 Brighton Avenue. The following information will hopefully address the concerns in your letter.

1. Zoning: With regards to the Ms. Schmuckal's request for additional information:

a) pertaining to the hours of operations impact to the public street systems. "The hours of operation of funeral homes (including processions) may be restricted and/or traffic management measures may be required, in order to avoid impacts to the public street system, if so recommended by the city traffic engineer or comparable professional." In our Traffic Operations Plan, it states that; no funeral procession will depart from the 660 Brighton Avenue property site prior to 8:30AM unless written permission is granted by the Chief of Police. Also, it states that; no funeral procession will depart from the 660 Brighton Avenue property site prior to 3:00PM unless written permission is granted by the Chief of Police. I believe that Tom Errico was in agreement with these hours. As for the total hours of operation, we are really a 24-hour operation. What I mean by this is that there could be one or two vehicles coming and going throughout a 24-hour period. As for service type hours they would probably be 8:00AM to 9:00PM. The 8:00AM time would be the family coming to the funeral home prior to other members of the public for a service. The opposite would hold true for the 9:00PM time. Most wakes today end at 8:00PM, so the family might stay a little bit longer after it is over.

b) With regards to the installation of the new HVAC system the outside condensers will all be new units. Due to the nature of the business I will require my HVAC contractor to install units that will produce the least amount of decibels. The existing noise that can be heard on the exterior of the building is coming from the dental offices vacuum system. This will be removed from the property in my demolition thus eliminating the sound.

2. Traffic Generation and Access: Based upon the existing parking code I will be required to have 41 parking spaces. My development will have 83 spaces which doubles the required parking. I will be working with the 2 abutting property owners with the hope of being able to use their parking lots, during after hours, if I need overflow parking. These 2 lots would increase my parking capacity to 150+ spaces. One of the property owners I know personally and I do not believe there will be a problem in making some kind of arrangement.

With regards to the second curb cut, I will tell you that one of the items that made this property desirable when I first looked at it was the ability to use one curb cut for my funeral processions and the other to be used for ingress/egress to the property. On the day of a service, we will begin the process of arranging the vehicles as people arrive. My intention is to have the "family vehicles" be lined up along the front of the building facing the eastern driveway. I would cone off the eastern entrance way until the funeral procession was ready to leave the property. This will allow the western driveway to be used by vehicles entering the property and exiting the property that are not going to be participating in the funeral procession. If we were to lose the eastern driveway, then the "family vehicles" will need to be lined up along the side of the building. This will cause the only entrance to the parking lot area to be blocked by the line of "family vehicles", resulting in a bottle neck at the back entrance of the building. The use of the eastern entrance will allow me to stack 2 rows of "family vehicles" which will leave the rest of the parking lot and driveway open for other attendees of the funeral service. I would be more than happy to meet and discuss the layout of my parking and procession plan with Tom.

I do not have any issue with adding the City Transportation Engineer to be notified with the Police Chief regarding any funeral procession that exceeds 50 cars.

With regards to the technical standards of the parking lot, I have discussed this with my architect, Denis Lemieux, and at this point he believes that he is meeting the current standards. I will have Denis contact Tom to discuss this issue.

3. Lighting: We have Mancini Electric performing a photometric plan for the lighting. Once I receive a copy I will forward it to your office.

4. Storm Water Drainage: As we have discussed in the past, I understand the sensitivity to Capisic Pond, however, at this time I do not have the financial resources to install a storm water treatment facility on the property. In the future, once I have had a chance to establish myself and the cash flow is there, I will certainly look at ways to minimize the storm water runoff on the property.

5. Landscape and Screening: We will be installing a metal fence that will surround the dumpster. We will install the metal slats to shade the view of the dumpster.

6. Fire: We have finalized our plans for the re-development and they include the installation of a full sprinkler and fire alarm system.

7. Other information required:

- a) Sewer and water service capacity: Currently we are working with both departments and anticipate having their written approval within the next few days.
- b) Location and size of new water service: It appears that the only new water line will be for the sprinkler system. We will have the architect provide you with that.
- c) Concrete Sidewalk: The architect will provide you with that.
- d) Cladding materials: We have just finalized our plans and that information will be shown.
- e) Bicycle parking: We will comply and show that on the plans.

8. Other information: The other items addressed in this section will be complied with if they come to light.

As for the address number, I will look into formally changing it from 666 Brighton Ave to 660 Brighton Ave. I am sure you can understand the need for the change.

Jean, as always thank you for your time and consideration on this development.

Sincerely,

Mark Hutchins

Bellino Grosso Inc.

Mechanical Contractors
980 Riverside Street
Portland, Maine 04103
Phone: 878-2087

09/24/09
Akers Associates
408 Fore St.
Portland, Maine 04103

Hutchins Funeral Home
660 Brighton Ave.
Portland, Maine
Attn: Andrew Juris

Subject: HVAC system noise.

There will be 7 new condensers located on the outside of the building for cooling purposes. These units are the same as all typical commercial air conditioners. I have attached a manufactures catalog sheet for your review. The current building utilizes the same type of equipment through out the facility .The noise issue that was recently raised by the City of Portland was investigated by us and determined to be caused by a dental vacuum pump being used by a current tenant. That equipment is not part of our current design and would be removed in the demolition stage. If you require any additional information please call me.

Sincerely

Lawrence Guidi

Email lguidi@bellinogrossoinc.com

From: Jean Fraser
To: Errico, Thomas; Schmuckal, Marge
Date: 9/24/2009 5:36:42 PM
Subject: Fwd: RE: Review letter 660/666 Brighton (funeral home)

Marge and Tom,

Please see attached information that is intended to address your review comments.

I have left it with Mr Hutchins that I will forward this to you and that I will see whether you want any further information; if so, I will let him know.

So could you please review (asap) the additional information submitted today and let me know if you have any further comments or requests for further information.

Many thanks
Jean

>>> "mark hutchins" <mhutchi2@maine.rr.com> 9/24/2009 3:17:57 PM >>>

Hi Jean:

Attached is my response to your letter. I apologize that I have not responded sooner, but I have been a little under the weather this week and I was in PA at the end of last week.

Mark

-----Original Message-----

From: Jean Fraser [<mailto:JF@portlandmaine.gov>]
Sent: Thursday, September 17, 2009 10:47 AM
To: mhutchi2@maine.rr.com
Cc: andrewprudential@aol.com
Subject: Review letter

Attached please find the review letter which is being mailed today to both you and Mr Lemieux; the 2 other attachments are the Att 2 & 3 of the letter.

I am in meetings from 12:30pm to about 3:30pm (thursday) but otherwise around today and tomorrow.

September 24, 2009

City Of Portland
Congress Street
Portland, ME 04101

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Dear Jean,

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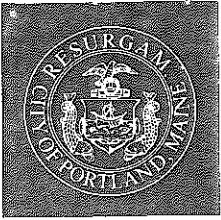
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Jean, as always thank you for your time and consideration on this development.

Sincerely,

Mark Hutchins



Strengthening a Remarkable City, Building a Community for Life www.portlandmaine.gov

Planning & Urban Development Department
Penny St. Louis Littell, Director

Planning Division
Alexander Jaegerman, Director

September 17, 2009

Denis L Lemieux
198 Main Street
Lewiston, ME 04240

Re: Site Plan Review: 660/666 Brighton Avenue
Re-use and refurbishment of existing medical office building
for a Funeral Home
Site Plan Application # 09-79900008
CBL: 224A-A-001-001

Dear Mr. Lemieux,

I refer to your letter and submissions dated August 18, 2009 and confirm that this proposal is being reviewed as a Minor Site Plan.

Staff has completed a review of the proposals and has the following comments. Please note that some of these comments were previously forwarded to Mr Hutchins at his request but this letter includes all review comments received to date.

1. Zoning: Ms Schmuckal (Zoning Administrator) has requested the following additional information:
 - a. Please confirm the hours of operation so that the impact on the public street system (see RP zone requirements) can be assessed. I anticipate further discussion on this issue.
 - b. What is proposed regarding the HVAC system; we need to determine if noise requirements are being met? In the R-P Zone the requirement is: *"The volume of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American Standards Association), generated shall not exceed fifty-five (55) decibels on the A scale, on impulse (less than one (1) second), at lot boundaries, excepting air raid sirens and similar warning devices."* (14-151(b)).

[Staff report that there is a noise coming from the building that seems quite loud].
2. Traffic Generation and Access: I attach the 9.8.09 comments of Mr Errico, the Traffic Engineering Reviewer, which were also sent to Mr Hutchins on September 9, 2009. I understand that Mr Errico has discussed these comments with Mr Bray and that further information will be submitted.

addition, a street opening permit would be needed from the Department of Public Services, which would require the work to be completed by a licensed contractor within the street right of way and a traffic control plan to be approved before commencing work.

- b. Please note that separate permits are required for any new signage, even if it is located on the site of the existing sign. Building permits are required for all structural additions and changes.
- c. Please note that this site is logged in the City Assessors Records as 666 Brighton Avenue and this address may also be logged into the 911 emergency system. The address of 660 Brighton Avenue does not exist within the City's computer system and therefore the Site Plan Approval documentation will be logged under 666 Brighton Avenue. If you wish to continue to use the address 660 Brighton as the only legal and formal reference for this site, please discuss with Assessors and Public Services Departments whether there is a way it can be changed formally.
- d. Please note that no alterations are permitted to a site (including internal demolition) with a pending or approved site plan application, except as allowed under the Ordinance 14-528 (b) (which can be viewed on the City's Website at <http://www.ci.portland.me.us/>).

Please feel free to contact me if you have any questions; I can be reached on (207) 874 8728 or at jf@portlandmaine.gov.

Sincerely,

Jean Fraser
Planner

Attachments:

not in pdf {

- 1. Comments from Tom Errico, Traffic Engineering Reviewer, dated 9.8.09
- 2. City Lighting Standards
- 3. City Bicycle Parking Standards

Cc Barbara Barhydt, Development Review Manager
Marge Schmuckal, Zoning Administrator
Tom Errico, Traffic Engineer
Dan Goyette, Development Review Coordinator
Jeff Tarling, City Arborist
Keith Gautreau, Fire Prevention

Papers Mr Mark Hutchins, ATH Realty LLC, 16 Equestrian Way, Scarborough, ME 04074
(applicant)

City of Portland, Maine, Technical Standards and Guidelines

SECTION XV: SITE LIGHTING STANDARDS

1. INTENTION

These standards are intended to provide for safe and adequate site lighting for proposed developments which meets the needs of the proposed use but does not create unsafe or unpleasant conditions which adversely affect surrounding properties. These standards do not address Public Street lighting, which is covered in Section 1(5). The following standards are intended to prevent 1) higher than necessary illuminance levels which create a sense of incompatibility with neighboring properties; 2) uncontrolled source brightness which creates glare; and 3) improperly aimed/installed lights which cause light trespass onto neighboring properties.

2. APPLICABILITY

The following development proposals shall be required to submit a lighting management plan:

- A. All major and minor development, as defined in the Land Use Code - Section 14-522.
- B. Other projects where the Planning Authority determines that special conditions warrant a lighting management plan.

3. GENERAL STANDARDS

The provision for exterior lighting shall be adequate for the safety of the occupants or users of the site but shall not cause glare or direct spillover to adjacent properties or create visual distraction to motorists traveling on adjacent streets. Unless otherwise specified below, exterior lighting shall conform to the recommendations put forth in Lighting for Exterior Environments RP-33-99, or its successor, published by the Illuminating Engineering Society of North America (IESNA).

All fixtures, including wall packs, shall be a "cut-off" type *where lenses, refractors or lamp sources do not extend below the surface of the fixture housing and no direct light shall be directed at or above the horizontal plane*. Sites which are part of an historic district or require specific decorative lighting fixtures as means to achieve compatibility within an existing architectural context may propose non-cutoff fixtures providing that photometrics fall within IESNA guidelines.

Mounting heights of all fixtures shall be the minimum necessary to meet the need. Wherever practicable, lighting installations shall include timers, dimmers, and/or sensors to reduce overall energy consumption and eliminate unneeded lighting.

Proposed uses that demonstrate a need to exceed the specific site lighting limits shown below for safe and reasonable exercise of the proposed use, must provide a professionally produced lighting plan which adheres to the current Illuminating Engineering Society of North America (IESNA) recommendations for the proposed use.

Approaches and Drives: 1.5 FC average
3:1 average-to-minimum
uniformity ratio
3.0 FC maximum

Service Areas: 3.0 FC average
3:1 average-to-minimum
uniformity ratio
6.0 FC maximum

Pump Island Areas: 20 FC average
3:1 average-to-minimum
uniformity ratio
40 FC maximum

b. Major Gasoline Service Stations
Illuminance levels shall not exceed the following:

Approaches and Drives: 3.0 FC average
3:1 average-to-minimum
uniformity ratio
6.0 FC maximum

Service Areas: 7.0 FC average
3:1 average-to-minimum
uniformity ratio
14 FC maximum

Pump Island Areas: 30 FC average
3:1 average-to-minimum
uniformity ratio
60 FC maximum

H. Submission Requirements, Photometric Plans:

A photometric plan shall be provided at 20 scale or larger which shall show the extent of the areas designed and intended for lighting, and within those specific areas show a photometric grid of maximum 10' point spacing, and within those areas provide foot candle calculations of maximum, average, minimum, maximum to minimum ratio, and average to minimum ratio. On the same or additional plan, a photometric plot shall extend to all lot lines and as necessary to reach illumination levels of 0 (zero) foot candles. Additionally, the applicant shall provide descriptive information, including manufacturers catalog excerpts, for all proposed light fixtures, lamps, and poles.

B. *Bicycle Parking Facilities:*

1. Off-street parking for bicycles shall provide a secure, durable structure to which bicycles can be affixed with customary lock and cable mechanisms, and shall maintain the bicycle in an upright position.
2. Bicycle parking facilities that are used at night shall be adequately illuminated to minimize the risk of theft and vandalism.
3. Structures that support the bicycle frame at two locations such as inverted U-racks and bike hitches are preferred over racks with single connection points, such as bike fences and wave racks. Racks shall be securely and permanently anchored according to manufacturer's specifications.
 - i. **Storage Lockers:** Where feasible, such as residential developments, parking garages, or other suitable locations, bicycle storage lockers are encouraged for long-term bicycle parking. Double-decker bicycle racks are appropriate for bicycle storage lockers.
 - ii. **Approved Bicycle Racks:** Catalogue cuts and installation specifications are provided for rack systems approved for the City right-of-way and recommended for private property. A variety of commercially available racks are acceptable on private property, including those catalogue listings identified herein (Illustrations II and III), or equivalents upon approval by the Planning Authority.
 - iii. **Bicycle Racks in public right-of-way:** Where site conditions cannot reasonably accommodate bicycle parking on private property, it may be located within a public sidewalk area either adjacent to or within reasonable walking distance of the site, if such areas are available that meet the Bicycle Parking Rack Placement Criteria of this chapter (*drawn from the Bicycle Facility Design Guide of the District Department of Transportation, 2006*) – see Illustration I. If no such location is available, a financial contribution commensurate with the cost for purchase and installation of the required number of bicycle racks shall be made to a City infrastructure account for racks to be installed in the public right-of-way in other, more suitable locations of the City.

The following approved brands, installed according to company specifications, shall be permitted for bicycle racks in the public right of way. Equivalent bicycle racks by other manufacturers are acceptable upon approval by the Planning Authority.

- DERO 'Downtown Rack' Inverted U-Rack (Illustration II)
- DERO 'Bike Hitch' (Illustration III)

BICYCLE PARKING RACK PLACEMENT

RACK PLACEMENT

RULES:

5' from:

Fire hydrant
Crosswalk

4' from:

Loading zone
Bus stop
Bus shelter
Bus bench

Min. 2', Rec. 3' from:

Curb

3' from:

Parking meter
Newspaper rack
US mailbox
Light pole
Sign pole
Driveway
Tree space
Trash can
Utility meter
Manhole
Other street furniture
Other sidewalk obstructions

WALL SETBACKS

For racks set

parallel to a wall:

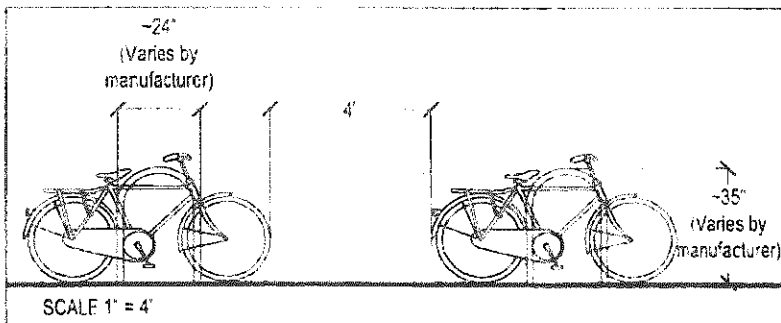
Min. 24', Rec. 36'

For racks set perpendicular to a

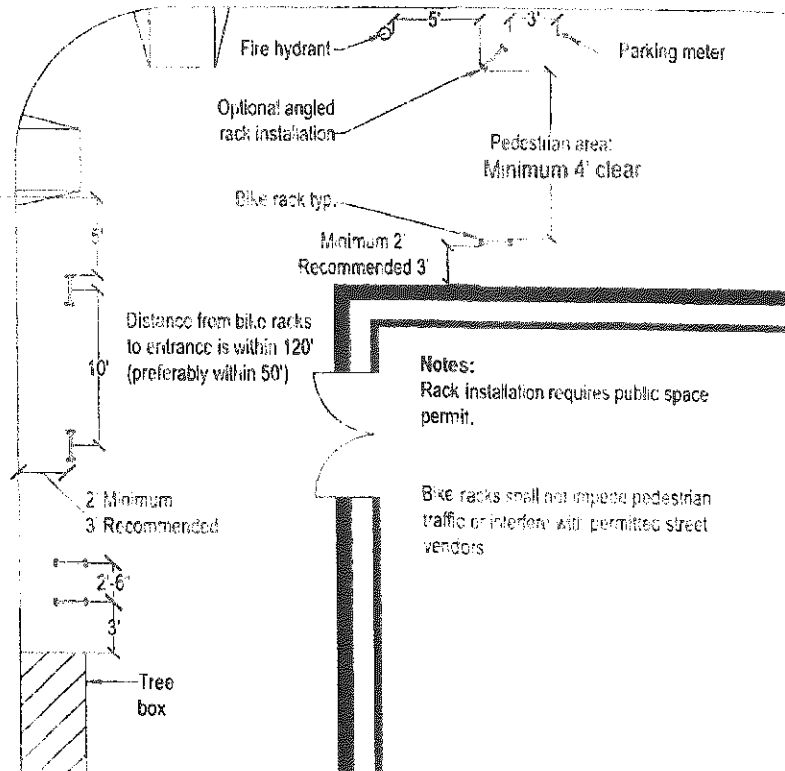
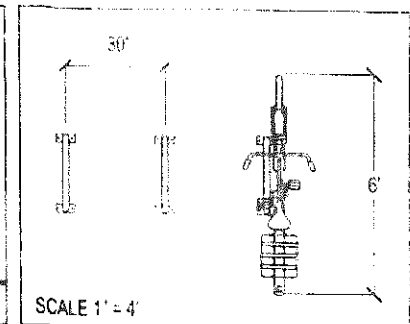
wall:

Min. 28', Rec. 36'

SIDE VIEW

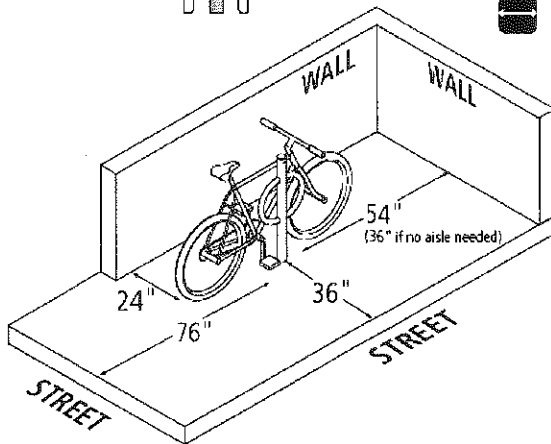
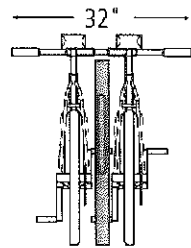
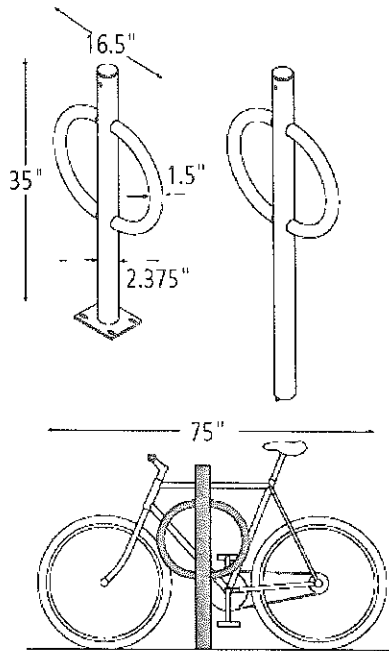


SIDE BY SIDE RACKS:



Not to Scale

Illustration I
BICYCLE PARKING RACK PLACEMENT



Product Dero Bike Hitch
As manufactured by Dero Bike Racks

Capacity 2 Bikes

Materials
Centerbeam: 2" schedule 40 pipe (2.375" OD)
Ring: 1.5" OD 11 gauge tube

Finishes
An after fabrication hot dipped galvanized finish is standard. 250 TGIC powder coat colors and a stainless steel option are also available.

Our powder coat finish assures a high level of adhesion and durability by following these steps:
1. Sandblast
2. Iron phosphate pretreatment
3. Epoxy primer electrostatically applied
4. Final thick TGIC polyester powder coat

Stainless Steel: 304 grade stainless steel material finished in either a high polished shine or a satin finish.

A rubbery PVC Dip is also available

Installation Methods
In-ground mount is embedded into concrete base. Surface mount has one 5" x 6" foot which is anchored to the ground with four anchors (included with rack).

Space Use and Setbacks

Wall Setbacks:
For racks set parallel to a wall:
Minimum: 12"
Recommended: 24"

For racks set perpendicular to a wall:
Minimum: 35" (centerline measurement)
Recommended: 38" (54" if aisle is needed between bike and wall)

Distance Between Racks:
Minimum: 24"
Recommended: 38"

Street Setbacks:
Minimum: 36"



www.dero.com 1-800-290-4011

Action: JF
Others

MINOR SITE PLAN DEVELOPMENT REVIEW
Final review and sign off

PROJECT: Hutchinson funeral home Application #: 09-799 000 08
Date of completion: 9/16/09 1 wk past "final" deadline
HTE

Review item	Status	Who signed off on this
Evidence of Right, Title & Interest	Submitted as P+S agreement	
MDEP/MP etc issues	N/R	
Additional info provided as requested:	Traffic Eng. req'd justification for keeping 2 access drives; zoning Admin req. hrs of operation + HVAC/ noise info.	
Access and parking layout (including contributions)	Prelim comments from TE req. further info; TE spoke to Paul Bray 9.14.09	need info
Bicycle parking	8 stated provided but not shown no r spec	meets std - need back spec JF
Stormwater Management	Prelim verbal comments	} awaited
Other engineering issues	indicate no issues	
Zoning	Zoning req. - further info hrs of op + HVAC - none (9.15.09)	need info
Fire Department		awaited
Building materials etc	Submitted but not enough detail	need details JF
Landscape	Submitted	JT 9/14/09 OK.
Two trees/lot; two foundation plantings per lot	N/R	N/R.
Lighting	? new or ex. poles + lamps ? photo metric ? bldg mounted lts. are shown	questions to CR. JF
Letter of financial capability	offer letter loan from bank dated 6-25-09.	OK.
Capacity letter water	} being pursued; oversight by arch not in application	
Capacity letter sewer		
Sidewalk/Curbing	Be mostly concrete, part asphalt; asphalt + brick nearby; OK cond	await PS sign off.
Dumpster location and enclosure/waste collection	location shown - no details re enclosure	ok ex. enclosure JF
Other issues	- abouts PT land + trail/park assoc. Capisic Brook; JF has emailed PT (Nan Cummins) to ck re comments - inform ^{new} sign needs permit	JF

From: Jean Fraser
To: Barhydt, Barbara; Margolis-Pineo, David; Roncarati, Doug
Date: 9/17/2009 12:15:06 PM
Subject: Re: 660 Brighton Ave

Doug & Co,

While the applicant does not yet own this building and is not responsible for the current violation, I agree that a condition along the lines you suggest could and should be included to assist the new owner.

It might be useful for the potential owner (applicant) to have a copy of any violation documents re the dumping so that they understand the importance- if you copy to me I will forward.

There is no proposed tree planting in the parking lot and none at present (though there is vegetation between the parking lot and Capisic)- see photo below- and that might be something we can request tho' it might be too late...the review letter has gone out (attached) based on comments received (we are now 3 weeks since application was distributed).

Thanks
Jean

>>> Doug Roncarati 9/17/2009 11:40:34 AM >>>
David,

I agree with your water quality comments, though I have not seen the site or plan. Certainly, any effort to significantly reduce impervious surface area, provide vegetated areas to promote stormwater infiltration, and shade the parking area would be an improvement. Noting the existing violation of Ch32, a written & signed plan/agreement for proper disposal of yard waste would not be an unreasonable requirement. We could use the opportunity to teach them (and/or their landscaping contractor) about proper disposal options, put them on notice, and encourage them to clean up the existing material.

Doug

>>> David Margolis-Pineo 09/16 3:28 PM >>>
Please see attached.

CC: Bobinsky, Michael; Earley, Katherine; Errico, Tom; Goyette, Dan; Merkle, Todd

From: "mark hutchins" <mhutchi2@maine.rr.com>
To: "Jean Fraser" <JF@portlandmaine.gov>
Date: 9/16/2009 7:58:53 AM
Subject: RE: Further comments on 660/666 Brighton

Jean:

"(g) The hours of operation of funeral homes (including processions) may be restricted and/or traffic management measures may be required, in order to avoid impacts to the public street system, if so recommended by the city traffic engineer or comparable professional."

In our Traffic Operations Plan, it states that; no funeral procession will depart from the 660 Brighton Avenue property site prior to 8:30AM unless written permission is granted by the Chief of Police. Also, it states that; no funeral procession will depart from the 660 Brighton Avenue property site prior to 3:00PM unless written permission is granted by the Chief of Police. I believe that Tom Errico was in agreement with these hours.

As for the total hours of operation, we are really a 24-hour operation. What I mean by this is that there could be one or two vehicles coming and going throughout a 24-hour period. As for service type hours they would probably be 8:00AM to 9:00PM. The 8:00AM time would be the family coming to the funeral home prior to other members of the public for a service. The opposite would hold true for the 9:00PM time. Most wakes today end at 8:00PM, so the family might stay a little bit longer after it is over.

I will need to check on the HVAC system. I do not believe that this should be an issue because I can not have a noisy system in or around a funeral home.

Mark

-----Original Message-----

From: Jean Fraser [mailto:JF@portlandmaine.gov]
Sent: Tuesday, September 15, 2009 1:36 PM
To: mhutchi2@maine.rr.com
Cc: andrewprudential@aol.com
Subject: Further comments on 660/666 Brighton

Mark,

Traffic: I understand that Tom Errico has spoken to Bill Bray and that a further submission will be coming to me.

Landscape: Jeff Tarling (City Arborist) has confirmed that the Landscape Plan is acceptable.

Zoning:

I have just received the comments from Zoning but am unable to forward them as they are locked within our new computer system.

All is basically OK but Ms Schmuckal (Zoning Administrator) needs further information:

1. The revised RP zone text states:

info re hours

The submission does not confirm the hours of operation so we do not know whether they need to be restricted; could you please confirm the hours of operation?

2. Will there be any changes to the HVAC system as we need to determine if noise requirements are being met? (this is also part of the RP zoning language and therefore a site plan issue)

Other:

I hope to have the rest of the review comments (Fire, Public Services re ROW; Engineering re site proposals) tomorrow morning and will contact you tomorrow afternoon (or you can call me).

Jean

Jean Fraser, Planner
City of Portland
874 8728

CC: <andrewprudential@aol.com>

666 Brighton

Fire Prevention Captain Keith Gautreau
MM/DD/YY INSERT COMMENTS HERE

09/17/09 Met with the Developer's representative on 9/14 and the building will have a proposed sprinkler and fire alarm system. They will apply for the appropriate permits and paperwork as necessary during the building permit process. Access to the existing building is adequate for fire emergencies. KG

JF

660/666 Brighton

Site visit

9.15/9.16

to ck on site:

- lt poles/lamps - existing?
- dumpster encl - existing?
- ck ex. bldg lts -
- ck PT park area
- ck cond. of sidewalks.

on site

2 existing; high
w/ 2 lt sea.
~~dumpster~~ not
enclosed
3 sm on front
over hull + head
photo/good.



September 21, 2009

Portland Water District
FROM SEBAGO LAKE TO CASCO BAY

Akers Associates, Inc.
408 Fore Street
Portland, ME 04101

Attn: Andrew P. Juris
Re: 660 Brighton Avenue, Portland
Ability to serve with PWD water

Dear Mr. Juris:

This letter is to confirm that there should be an adequate supply of clean and healthful water to serve the needs of the proposed funeral home located at 660 Brighton Avenue in Portland. According to District records, there is a 12-inch diameter cast iron water main on the south side of the street as well as a hydrant located within 200 feet from the site.

The current data from the nearest hydrant indicates there should be adequate capacity of water to serve the domestic water needs of your proposed project, as stated in your e-mail dated September 15, 2009.

Hydrant Location: Opposite #674 Brighton Avenue
Hydrant Number: POD-HYD01052
Static Pressure: 77 PSI
Flow: 843 GPM
Last Tested: 08/13/1993

With regard to your fire protection needs, please notify your mechanical engineer of these results so that they can design any required system to best fit the noted conditions. Also, please contact your local fire department to determine if the fire service capacity is sufficient for their needs.

The existing building is currently served with domestic water via a 1.5" diameter service line. Based on the proposed use, we anticipate that this will be able to be used to meet the needs of your project without a new domestic service connection being installed. However, if this service is not used as planned, it will need to be terminated by cutting it from the main in the street as part of any site work.

If the District can be of further assistance in this matter, please let us know.

Sincerely,
Portland Water District

Rico Spugnardi, P.E.
Business Development Engineer

DEPARTMENT OF PUBLIC WORKS

Portland, Me., Nov 15, 1967

Permit No. C 4060 has been granted to
Chester Daves

to open

Brighton Ave. Street at No. 666

owned by Dr. Philbrick

for the purpose of Enter Deering Br. Interceptor Sewer

The connection with the sewer must be inspected, sketched on back of this card with size and kind of pipe used, date of inspection, name of inspector and any further information which may be of value to the department.

THOMAS F. GRIFFIN, JR.
Director of Public Works

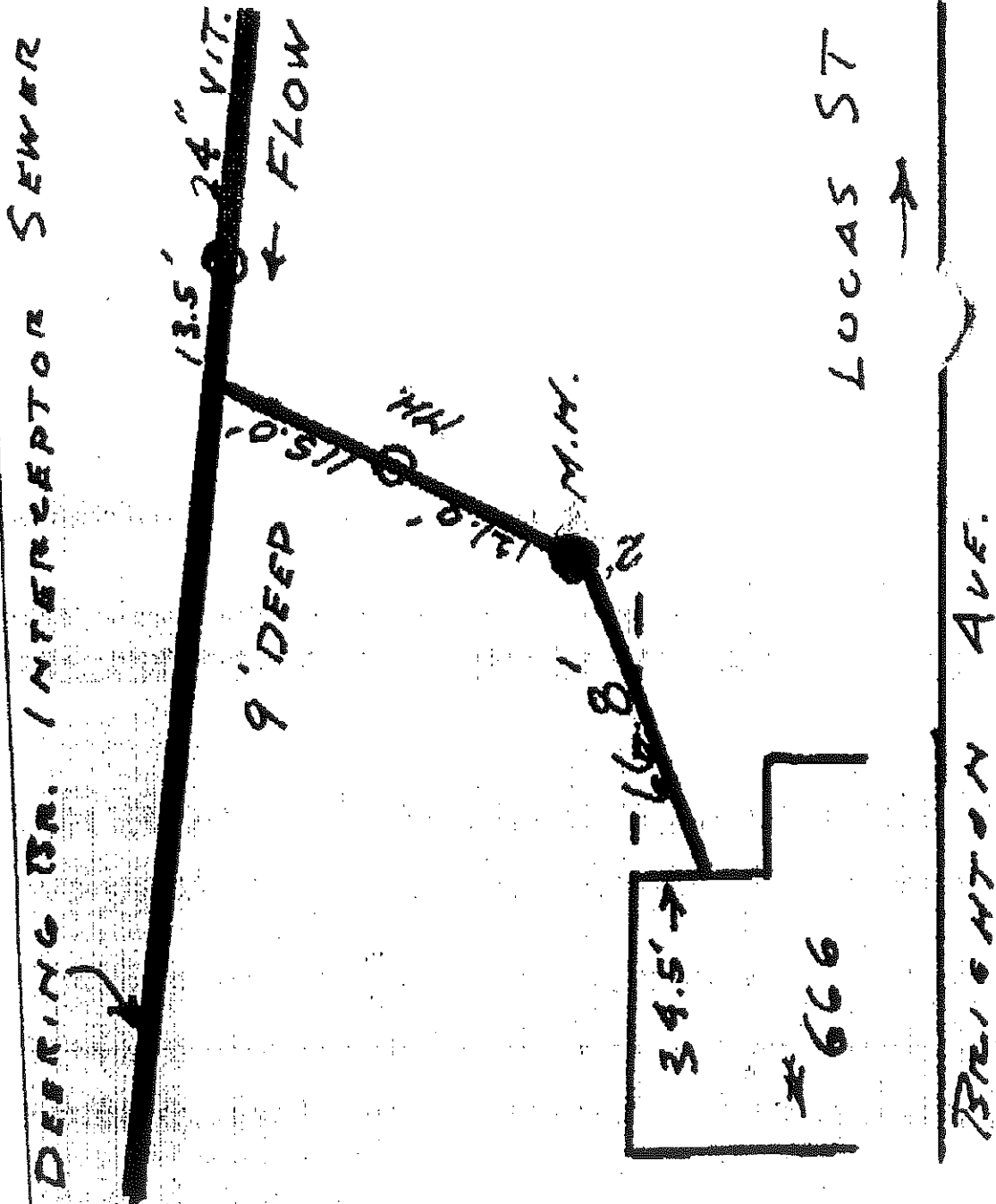
Date of Entrance 11/18/67

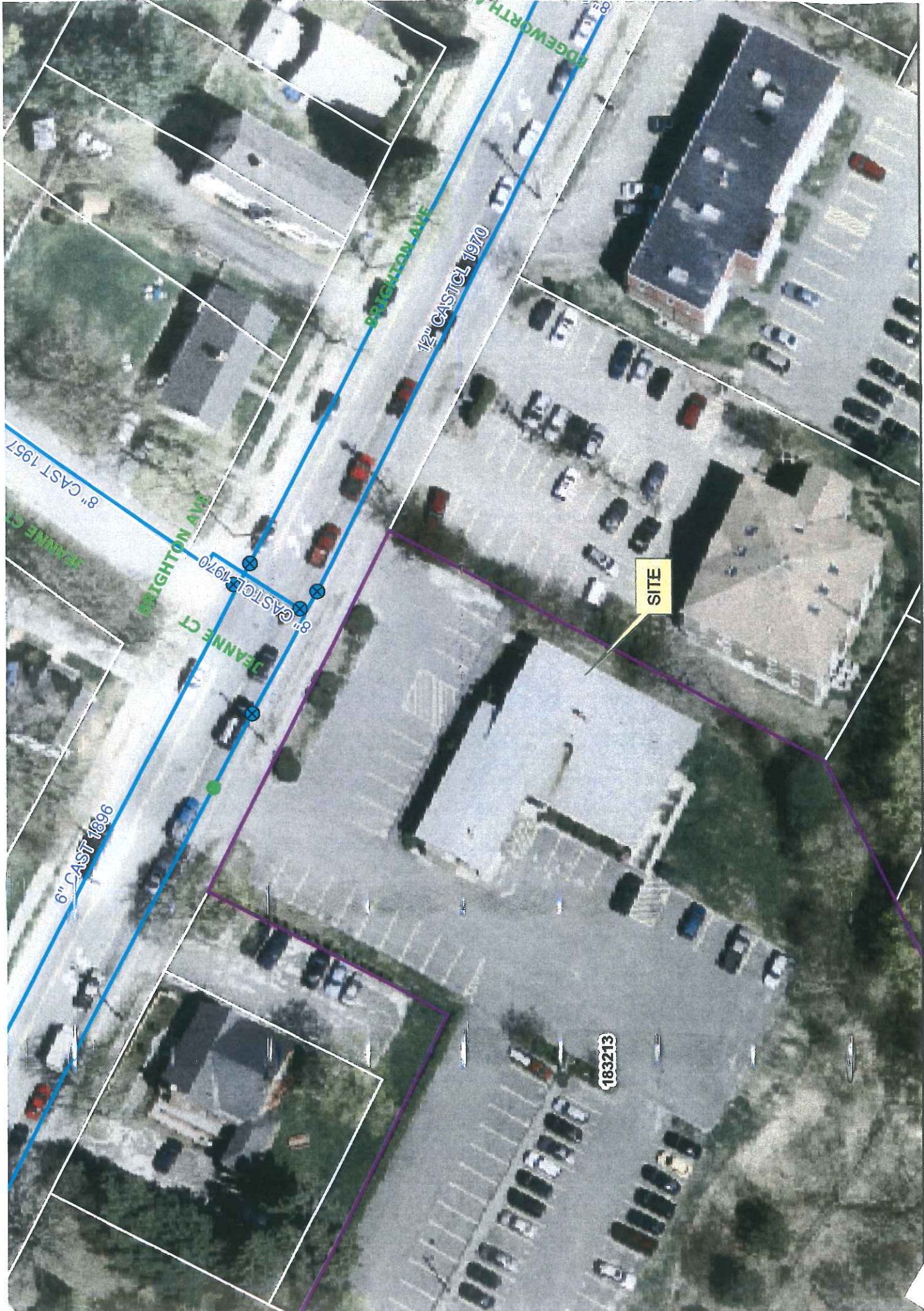
Connected by CHESTER DAVES

Size and kind of pipe 4" C.I.P.

Inspected by J LOWERY

Sewer Connection Book Vol. P 1111





1 inch = 50 feet



From: "Nan Cumming" <nan@trails.org>
To: "Jean Fraser" <JF@portlandmaine.gov>
Date: 9/16/2009 12:12:46 PM
Subject: RE: 660/666 Brighton Ave.

It seems fine to me then--thanks.

Nan

-----Original Message-----

From: Jean Fraser [mailto:JF@portlandmaine.gov]
Sent: Wednesday, September 16, 2009 12:06 PM
To: nan@trails.org
Subject: RE: 660/666 Brighton Ave.

Nan,

This is a minor site plan as its mainly a change of use and refurbishment of the building...so it does not need to go to the Planning Board.

I attach a photo from the parking lot (your site is behind the red car at left) and you will see there is already considerable vegetation.
(Sorry- not a wonderful photo)

I would estimate we will be in a position to issue an approval letter on this in about 2 weeks. We are in discussions with the applicant re some details and particularly re the traffic access and hours because Brighton has a commuter peak. Jeff Tarling has "signed off" re the Landscaping but I think there is time to raise other issues.

Jean

>>> "Nan Cumming" <nan@trails.org> 9/16/2009 11:06:59 AM >>>
Thanks Jean,

Please always send this stuff to me. I sometimes delegate, but not often enough...

In some ways, we consider our lot the "buffer lot" between the park and the surrounding buildings. But it does offer a nice overlook and some plantings along the back of the parking area would be very nice.

When is this going to the planning board?

Nan

-----Original Message-----

From: Jean Fraser [mailto:JF@portlandmaine.gov]
Sent: Tuesday, September 15, 2009 2:27 PM
To: nan@trails.org
Subject: 660/666 Brighton Ave.

Nan

I am not sure who in your organization this should be addressed to so I will

start with you.

I am dealing with a Site Plan application for this site which abuts (at the rear of a large parking lot) a small area of land a near Capisic Brook that appears to be owned by Portland Trails.

Hopefull you have received a notice of this proposal (to change the use to a funeral home with some refurbishment of the building; no other changes proposed).

The applicant does not have extra cash but is probably willing to include some boundary improvements if pressed....does Portland Trails have any comments?

thanks

Jean

No virus found in this incoming message.

Checked by AVG - www.avg.com

Version: 8.5.409 / Virus Database: 270.13.99/2372 - Release Date:

09/15/09

13:37:00

No virus found in this incoming message.

Checked by AVG - www.avg.com

Version: 8.5.409 / Virus Database: 270.13.99/2372 - Release Date: 09/16/09

05:51:00

328 9.16.09.
by email after
HTE one printed

September 16, 2009

To: Jean Fraser
Barbara Barhydt
From: David Margolis-Pineo and
Public Services Staff
Re: Review Comments – Hutchins Funeral Home - 660 Brighton Ave

1. A new water service is proposed for fire protection. The size or location of this proposed water service is not shown on the plans.
2. The existing sidewalk in front of 660 Brighton Ave is concrete however the plans state that the sidewalk is paved. The city's sidewalk material policy for this area is asphalt. If the new water service extends through the existing sidewalk, the city would request that the disturbed sidewalk be replaced with asphalt.
3. A street opening permit must be obtained from this department with the work being completed by a licensed contractor within the street right of way. A traffic control plan must be approved before commencing work.
4. Since Capisic Brook is an impair water body and the runoff from this site is adjacent to Capisic Brook, is strongly encouraged that the applicant consider the installation of a stormwater treatment facility such as a Bio-filtration unit to capture and treat the runoff from the parking lot. This is not a requirement but would demonstrate a strong environmental consciousness.
5. The current owner of this site is disposing yard waste off the back corner of this site. Current stormwater regulations prohibit dumping of yard waste into a stream flood plain. The City is currently trying to notify the owner of this property. This comment is to make the applicant aware of present regulations.

**Deputy City Engineer
David Margolis-Pineo**

September 15, 2009

To: Jean Fraser
Barbara Barhydt
From: David Margolis-Pineo and
Public Services Staff

Re: Review Comments – Hutchins Funeral Home - 660 Brighton Ave

*as in
ATE
superseded
by 9.16.09
comments*

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5. The current owner of this site is disposing yard waste off the back corner of this site. Current stormwater regulations prohibit dumping of yard waste into a stream flood plain.

From: Jean Fraser
To: Brancely, Frank; Margolis-Pineo, David
Date: 9/15/2009 12:45:21 PM
Subject: Re: 666 Brighton Avenue.

Frank

Thank you so much for assisting re this application.

As you know, the applicant submits these applications and usually it is their architect.

In this case the applicant has been very diligent about everything but the architect he hired (based in Lewiston) many months ago overlooked this part of the Site Plan application form and being from outside of Portland did not realize it was required.

The submission was received in Planning a day before I went on vacation and I had not noticed that the Wastewater application was missing.

I brought this to the attention of the applicant last Wednesday 9.9.09 (I re-sent them your application form) after seeing your e-mail of 8.31.09 upon my return from vacation. The applicant (on Monday 9.14.09, as Andrew was away the previous week) asked Andrew Juris to help him pursue this as Andrew is more familiar with the system.

The applicant has had many premeetings and done everything possible to ensure that he had made a comprehensive application and was let down by the architect it appears. Both the applicant and Mr Juris are up against deadlines and therefore are very anxious to "catch up" re this oversight.

All this is just so that you understand some of the background and again I appreciate your assistance; please let me know if you foresee any problems regarding this use/application from your perspective.

Thank you

Jean

Jean Fraser, Planner

>>> Frank Brancely 9/15/2009 12:03:06 PM >>>
Good Morning Dave,

This morning I related to you that Mr. Andrew Juris appeared yesterday (Monday 9/14/09) around four o'clock, with a blank "City of Portland Wastewater Capacity Application." He said that he had just receive it and he asked me how to fill it out. I started by pulling up the sewer lateral information, for 666 Brighton Avenue, on my computer. Then, I made copies, for him and my 666 Brighton Avenue file. At his insistence, I called the Portland Water District, for the existing wastewater flows, for 666 Brighton Avenue, as well as the records of a funeral home, in order to get a feel for the wastewater flows of a funeral home, as such a category is not one of those listed by the Handbook of Subsurface Wasterwater Disposal in Maine. Those records were faxed to me, after Mr. Juris left my office.

Frank Brancely,
Senior Engineering Technician,
Department of Public Services,
55 Portland Street,
Portland, Maine 04101-2991
(207) 874-8832 (phone),
(207) 874-8852 (fax),

<fjb@portlandmaine.gov>

CC: Barhydt, Barbara

Zoning Administrator Marge Schmuckal
09/15/2009

This is a change of use from doctor's offices to a funeral home located within the R-P Zone. The use of mortuaries or funeral homes are a listed, permitted use in the R-P Zone. The apparent floor area is currently 8,664 square feet which requires a minor site plan review. There is an elevator being installed on the parking lot side and an egress deck on the opposite side.

All additions and building changes are meeting the R-P Zone setbacks and floor area ratio requirements. The new use is also meeting the parking requirements. The plans that I reviewed show 80 existing parking spaces with the new proposal showing 79 parking spaces instead of the 83 parking spaces which are listed in the documentation. I am not sure where the discrepancy comes from. Either way, the parking requirements are more than being met for the project.

When the mortuary/funeral home use was recently added to the Land Use Zoning Ordinance, there was also an external effect requirement regarding the hours of operation. I looked through the submittal, but I did not see the actual proposed hours of operation. I did see that funeral processions would not depart from the 660 Brighton Avenue property site after 3:00 pm unless written permission is granted by the Chief of Police. Because there is a requirement in the Ordinance, I will need to know the hours of operation.

I will need to know if there are any changes to the HVAC system(s) so that I can determine whether noise requirements are being met.

Separate permits are required for any new signage. Building permits are required for all structural additions and changes.

10/08/09

The applicant has submitted further information regarding the HVAC systems and their decibel ratings. The information confirms what the decibel readings would be at distance of 20 feet. Only one unit is above the maximum 55 dBA allowed by 14-151. Further, it is my understanding that the HVAC units closest to the property side line will be moved to the rear or other side of the building thereby decreasing any noise violation.

I am giving my final approval with the condition that if there are future complaints received concerning the noise generated by these units that the owner will take appropriate measures to mitigate any noise above what the current ordinance allows.

All other conditions listed previously are still in force.

9/30/09

I have reviewed the submitted information contained in a letter dated September 24, 2009. From a Zoning standpoint the hours of general operation seem reasonable.

I can appreciate that the owner intends on installing units that will produce the least amount of decibels. However, there are specific guidelines within the Zoning Ordinance: the sound of

volume of the noise created shall not be greater than 55 dBAs on an "A" scale at lot boundaries. I would like copies of the catalog cuts with the manufactures specifications so that I can determine whether they will meet the noise guidelines. If attenuation panels are required, this would be the time to know that.

From: Jean Fraser
To: Cumming, Nan
Date: 9/15/2009 2:27:25 PM
Subject: 660/666 Brighton Ave.

Nan

I am not sure who in your organization this should be addressed to so I will start with you.

I am dealing with a Site Plan application for this site which abuts (at the rear of a large parking lot) a small area of land near Capisic Brook that appears to be owned by Portland Trails.

Hopefull you have received a notice of this proposal (to change the use to a funeral home with some refurbishment of the building; no other changes proposed).

The applicant does not have extra cash but is probably willing to include some boundary improvements if pressed....does Portland Trails have any comments?

thanks
Jean

From: Jean Fraser
To: mark hutchins
Date: 9/15/2009 1:35:39 PM
Subject: Further comments on 660/666 Brighton

Mark,

Traffic: I understand that Tom Errico has spoken to Bill Bray and that a further submission will be coming to me.

Landscape: Jeff Tarling (City Arborist) has confirmed that the Landscape Plan is acceptable.

Zoning:

I have jsut received the comments from Zoning but am unable to forward them as they are locked within our new computer system.

All is basically OK but Ms Schmuckal (Zoning Administrator) needs further information:

1. The revised RP zone text states: "(g) *The hours of operation of funeral homes (including processions) may be restricted and/or traffic management measures may be required, in order to avoid impacts to the public street system, if so recommended by the city traffic engineer or comparable professional.*"

The submission does not confirm the hours of operation so we do not know whether they need to be restricted; could you please confirm the hours of operation?

2. Will there be any changes to the HVAC system as we need to determine if noise requirements are being met? (this is also part of the RP zoning language and therefore a site plan issue)

Other:

I hope to have the rest of the review comments (Fire, Public Services re ROW; Engineering re site proposals) tomorrow morning and will contact you tomorrow afternoon (or you can call me).

Jean

Jean Fraser, Planner
City of Portland
874 8728

CC: Juris', 'Andrew P.

From: Jeff Tarling
To: Jean Fraser
Date: 9/14/2009 12:12:37 PM
Subject: Brighton Avenue 660

Hi Jean -

I have reviewed the landscape plan for the proposed 660 Brighton Avenue project. The plan improves the existing landscape and is acceptable as shown.

Thanks,

Jeff Tarling
City Arborist

CC: David Margolis-Pineo

From: Jean Fraser
To: mark hutchins
Date: 9/9/2009 5:31:26 PM
Subject: 660 Brighton Avenue

Hello Mark

I am writing to let you know the status of your site plan application....normally we write a formal "review letter" at this stage but I am unable to complete that review letter as I have not received all of the reviewer's comments.

However, I have received comments from the Traffic Engineer (Tom Errico, see below) who is requesting further information to support the proposals. Regarding the 2 curb cuts, your traffic engineer needs to explain why these are particularly required to facilitate operation of your use; I understand that Tom Errico was going to speak directly to Bill Bray re this to explain further.

If you are required to modify or close one of the existing curb cuts, it would open up other questions about the replacement of the sidewalks and curbing etc. We may have more comments on that issue depending on the condition of the sidewalk along your frontage.

(the following added after our telephone conversation):

I suggest that your architect contact the Fire Department- Keith Gautreau at 874 8400 or KNG@portlandmaine.gov) partly to address the Site Plan requirements (if not done already- see below and page 11 of the web link below) and partly to anticipate the more detailed Code review that would form part of the Building Permit process.

Water capacity confirmation (from the Portland Water district) and Wastewater Capacity confirmation (from the City's Public Services) are also required as part of the site plan review. The Sewer Capacity Request application is on the city's Web site(link below) on pages 12 and 13:
<http://www.portlandmaine.gov/planning/siteplanapp.pdf>

I will get back to you if I get any further comments or requests for additional information.

Jean

Jean Fraser, Planner
City of Portland
874 8728

>>> "Tom Errico" <thomas.errico@tylin.com> 9/8/2009 11:50:04 AM >>>
Jean -

My comments for the above noted project is summarized below and is based upon the submittal by DLL Associates/Architects dated August 18, 2009.

. In my professional opinion the parking supply of 83 spaces will be adequate for most events. The applicant should be required to develop a parking management plan for events where the supply will exceed the spaces provided.

. Based upon the information provided it is my professional opinion that a Traffic Movement Permit is not required.

. The applicant should provide justification for maintaining the easternmost driveway on Brighton Avenue. The driveway does not meet City of Portland technical standards for driveway separation and supporting documentation on retaining its use is requested.

. The following summarizes some suggested revisions to the Traffic Operations Plan:

- o For Item #4, "written permission is granted by the Chief of Police and the City Transportation Engineer".
- o For Item #5, "written permission is granted by the Chief of Police and the City Transportation Engineer".
- o For Item #7, "written permission is granted by the Chief of Police and the City Transportation Engineer".

. It appears that some elements of the parking lot (stall size and aisle width) do not meet City of Portland Technical standards. The applicant shall identify those deficiencies on the plan. It is likely that I will support waivers from the technical standards.

If you have any questions, please contact me.

Best regards,

Thomas A. Errico, P.E.

T.Y. Lin International

12 Northbrook Drive
Building A, Suite One
Falmouth, ME 04105

207.347.4354 (Direct)
207.781.4721 (Main)
207.781.4753 (Fax)
207.400.0719 (Mobile)

Zoning Administrator Marge Schmuckal

09/15/2009

This is a change of use from doctor's offices to a funeral home located within the R-P Zone. The use of mortuaries or funeral homes are a listed, permitted use in the R-P Zone. The apparent floor area is currently 8,664 square feet which requires a minor site plan review. There is an elevator being installed on the parking lot side and an egress deck on the opposite side.

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I will need to know if there are any changes to the HVAC system(s) so that I can determine whether noise requirements are being met.

Separate permits are required for any new signage. Building permits are required for all structural additions and changes.

*Example of
an approval to
work prior to SRApp*

March 16, 2009

Bayside Maine LLC
477 Congress Street, Suite 1012
Portland, Maine 04101

Re: 645 Congress Street

Dear Mr. Shinberg:

I have reviewed your request, submitted on behalf of Bayside Maine LLC to initiate the removal of asbestos from portions of the structure located at 645 Congress Street (sometimes referred to as Portland Hall). I have reviewed the scope of work outlined in the report by Northeast Test Consultants dated January 30, 2009.

Pursuant to section 14-528 (b) (2), at this time the City grants your request as follows:

- remove asbestos from the A, B, and C wings of the building
- remove pipe wrap and boiler wrap at the boiler room in the main building
- remove pipe wrap in the main building cellar

I am notifying the Building Inspections Department of this approval so that your stop work order may be lifted.

Sincerely,

Penny St. Louis Littell

Cc. Tammy Munson
Barbara Barhydt



From: Jean Fraser
To: Bourke, Jeanie; Gautreau, Keith
Date: 8/24/2009 4:23:29 PM
Subject: Fwd: Site Plan application 660/666 Brighton

Jeanie and Keith

Just a heads up re the need for a BP pre-app on this project.

The applicant is proposing to rehab the existing two story medical building for use as a funeral home and it is currently under Site Plan review (having gone through a Zone amendment in the spring of 2009).

However, from the Site Plan viewpoint the proposal is very minor and we are advising them to start on the Code side now (as you will see in the forwarded e-mail) - they hope to complete the purchase of the building at the end of Sept and need both Site Plan and BP in place by then.

They propose to add an elevator; extend the fire exit "porch"; reconfigure the internal spaces; raise the roof (I think); replace windows and cladding.

In terms of use, I think there will be more people in the building with this new use than there would have been in the previous use.

The Architect is Denis LeMieux of Lewiston.

I have a couple of extra sets of 11X17 plans/details if you need them.

Thanks
Jean

>>> Jean Fraser 8/24/2009 4:15:04 PM >>>
Mark

Just to confirm that the application is in order and will be circulated to Site Plan Reviewers on Wednesday morning (8.26.09).

I spoke to Marge Schmuckal (Zoning Administrator and the person who first looks at Building Permit applications) regarding the timing of the Building Permit application and she suggested that in this case she would advise a pre-application meeting with Building Inspections and Fire Department to run through the details and clarify things that are not on the Site Plan (for example, I thought you said the roof was being raised but this is not clear on the submitted plans). You could go ahead with that this week.

The Building Inspections contact is :

Jeanie Bourke
874 8715
JMB@portlandmaine.gov

I think Jeanie Bourke would include the Fire Dept if she sets up a meeting, but in case you/your architect want to make contact directly with the Fire Dept the contact is:

Keith Gautreau
Fire Prevention

874-8400
KNG@portlandmaine.gov

If anything comes up on Wednesday when this is circulated iw ill let you know but otherwise please contact Barbara Barhydt the followingWed as we discussed to see if anything else has been raised.

Please note that the problem re the street number has arisen again because our GIS system and Assessors has this lot as 666 Brighton and for the moment that is how we need to identify it; I have also ensured that 660 is associated with it in the computer system we use. Our GIS system is tied into 911 responses etc and I think there may need to be formal correction to the street numbering to make it 660- I am investigating that.

Jean

Jean Fraser, Planner
City of Portland
874 8728

From: Jean Fraser
To: mark hutchins
Date: 8/24/2009 4:15:04 PM
Subject: Site Plan application

Mark

Just to confirm that the application is in order and will be circulated to Site Plan Reviewers on Wednesday morning (8.26.09).

I spoke to Marge Schmuckal (Zoning Administrator and the person who first looks at Building Permit applications) regarding the timing of the Building Permit application and she suggested that in this case she would advise a pre-application meeting with Building Inspections and Fire Department to run through the details and clarify things that are not on the Site Plan (for example, I thought you said the roof was being raised but this is not clear on the submitted plans). You could go ahead with that this week.

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Jean

Jean Fraser, Planner
City of Portland
874 8728

















City of Portland
Development Review Application
Planning Division Transmittal form

Application Number: 09-79900008 **Application Date:** 8/24/09

Project Name: HUTCHINS FUNERAL HOME

Address: 666 Brighton Ave **CBL:** 224A- A-001-001

Project Description: Hutchins Funeral Home; 666 Brighton Ave [Aka 660 Brighton]; Ath Realty Llc, Applicant

Zoning: R-P

Other Reviews Required:

Review Type: MINOR SITE PLAN

ATH Realty, LLC
16 Equestrian Way

Scarborough Me 04074
Denis L. Lemieux, AIA
198 Main Street

Lewiston Me 04240

*circ. 8/26/09
copies given to those circled
+ 11x17 bound doc to Jeanie B
in inspections
so pro BP
mitig can
take
place*

Distribution List:

<input checked="" type="checkbox"/> Planner	<i>Jean Fiser</i> Barbara Barhydt	<input checked="" type="checkbox"/> City Arborist	Jeff Tarling
<input checked="" type="checkbox"/> Zoning Administrator	Marge Schmuckal	<input checked="" type="checkbox"/> Design Review	Alex Jaegerman
<input checked="" type="checkbox"/> Traffic	Tom Errico	<input checked="" type="checkbox"/> Corporation Counsel	Danielle West-Chuhta
<input checked="" type="checkbox"/> Inspections	Tammy Munson	<input checked="" type="checkbox"/> Sanitary Sewer	John Emerson
<input checked="" type="checkbox"/> Fire Department	Keith Gautreau	<input checked="" type="checkbox"/> Stormwater	Dan Goyette
<input checked="" type="checkbox"/> Parking	John Peverada	<input checked="" type="checkbox"/> Historic Preservation	Deb Andrews
<input checked="" type="checkbox"/> Engineering	David Margolis-Pineo	<input type="checkbox"/> Outside Agency	
<input checked="" type="checkbox"/> DRC Coordinator	Phil DiPierro		

Preliminary Comments needed by:

Final Comments needed by:

(Architect) *will coordinate but applications not present.*
Denis LaMue

Jean Fraser (lib)

Andrew Jarvis (agent/advisor)

Mark Hutchins (applicant)

7/21/09.

660 Brighton

Conversion to Funeral Home.

IF dan. That all 7 sets come in together + coordinate, helpful if he has a single pt of contact for us.

① Pre-meeting with Marion ... - 1 wk w/ A. Jarvis held 3/24/2009

② Andrew + Kevin Farva
hence del 660 Brighton
what needs to be on plan

to refine

③ IF confirm discussed but the foll

795 6009
Cell 740-7460
0460

been requested/ addressed some others

a) Traffic/ parking

re a traffic eng - re-attach appl.

b) Fire Ckhs

called me 7/27/09; returned call after mtg 7/28/09.

etc. - can be via info. + I would

get to fire.

c) landscaping - need to show proposed incl size + species clarity re fencing.

d) lighting - clarify what's there re ex cands. signage - dk with margin; annotate what intended

④ Drainage - IF to ck wed AM + call mark to confirm

From: Jean Fraser
To: mark hutchins
Date: Wed, Mar 25, 2009 4:49 PM
Subject: Traffic Info to include in Site Plan Application

Mark,

I double-checked with the Traffic Engineer today regarding the information he would like to see with your submission. It should include:

1. The traffic generation associated with the previous use and that anticipated for your use (he needs this to document that the proposed change of use does not require a Traffic Movement Permit); we are fairly sure it would not require this permit but need to have the data
2. A parking demand/supply analysis (I mentioned this yesterday)

For both 1 and 2 there are ITE tables that give expected traffic generation and parking demand by use and then you multiply by floorspace - I think Beth or your Architect will know how to do this.

3. Document the anticipated processions- timing eg time of day; occasions per week/month, numbers entering the street, which way they turn from the site etc (you did this before for the rezone but it would be helpful if it were more precise and in a table or bullet-point format); helpful to document that these would not be in the morning peak hour (7:30 to 8:30am).

The application does not have to be perfect when submitted as long as it has the basics that Marge mentioned; staff will review it and let you know if they need more info.

Jean

Jean Fraser, Planner
 City of Portland
 874 8728

Monday Aug 17

8:20 Bill Bray
 w/eg w/mark
 Hutchins

774-3603

cell 400 6890

8/17/09

Bill Bray called JF - is preparing
 note for Mark Hutchins + has this e-mail.

- JF
- 1) read out zoning requirement
 - 2) advised he see Beth Dellaballas Feb 09 note / cc council report
 - 3) submit something w/ Mark's appli + then we can follow up - we have not even seen plans / floor space / empl. #'s so difficult to be B/W. He to do JF

Pre-appl. meeting:

3/24/2009

- Mark Hutchins (applicant)
- Andrew Juris (agent/advisor)
- Jean Fraser (Planner - City)
- Marge Schmuckel (Zoning Admin - City)

1) C/U / minor

2) MS/JF asked for abutter bldg. ft points on plans

3) Clarify re landscaping
{
existing
proposed

4) Checklist - discussed. - need contours.

5) Zoning - MS needs uses to calc. parking

6) Signage - not on buildings
- poss granite sign

7) went thru elevs + f/ps → clar. uses.

show
changes. ↑

← 8) Traffic/parking - JF sug. incl all on 1 sheet

9) Order - comes into effect 30 days.

10) Landscape - needs plan of what's proposed.
- could be conditioned

11) want lighting plan

* email of re traffic
 conveyed by email to MH 3-25-09
 rule out TMP
 med office to funeral prior/new
 traffic gen
 parking demand/supply anal; doc. processional



Planning Division
Jean Fraser, Planner

2-13-09.

To: David Silk
Re: R-P Zone - text amendment to
allow funeral homes

Please find attached the City Council
Report + order re this recommendation
from the PB to the Council.

The first reading is Feb 18, 2009 (Wed)
The second reading is Mar 2, 2009 (Mon)
and please confirm with Alex or
Barbara whether you plan to
attend/would like any additional
material.

Thank you
Jean (Fraser)

From: <bethdellavalle@maine.rr.com>
To: <mhutchi2@maine.rr.com>, Jean Fraser <JF@portlandmaine.gov>
Date: 2/12/2009 5:50:15 PM
Subject: Re: City Council Report on R-P Zone Text amendment

Thanks, Jean.

Beth

----- Jean Fraser <JF@portlandmaine.gov> wrote:

> Hello,

>

> Please find attached the Report (cover text only) as will go to the
> City Council members tomorrow. I understand that the entire Report will
> be on the City's website later today or tomorrow at:
> <http://www.portlandmaine.gov/councilpacket.htm>

>

> That same site contains the following outline of procedures etc and in
> Rule 31 it confirms what we were discussing regarding no one speaking at
> the first reading <http://www.portlandmaine.gov/citycouncilrules.pdf> .

>

> Incidentally, the Notice for the March 2nd second reading will be
> published in the next 2-3 days. I don't have an electronic version of
> the final Notice as it was sent by my colleagues who are at a training
> session out of the office.

>

> Jean (Fraser)
> Planner, City of Portland
> 874 8728

>

>

>

From: <bethdellavalle@maine.rr.com>
To: <mhutchi2@maine.rr.com>, Jean Fraser <JF@portlandmaine.gov>
Date: 2/12/2009 6:19:20 PM
Subject: Re: Docs re the Council Meeting

Thanks, Jean.

beth

----- Jean Fraser <JF@portlandmaine.gov> wrote:

> Beth and Mark

>

> There are various documents that we are preparing for the Council
> meetings; as available they are attached for information.

>

> 1. Council Request Form to get on agenda (this went in last week and
> has been updated re the PB decision) ATTACHED

>

> 2. Council ORDER (prepared by Legal and in legalese): also ATTACHED

>

> 3. Notices- being prepared- go out tomorrow or Friday for March 2
> meeting

>

> 4. Council Report- slightly revised version of the Planning Board
> Report- being prepared- goes out tomorrow afternoon for scanning and
> then to Council members (most get it electronically on Friday). Will be
> on Web on Friday.

>

> Jean

>

>

> Jean Fraser

> Planner, City of Portland

> 874 8728

From: <bethdellavalle@maine.rr.com>
To: <mhutchi2@maine.rr.com>, Jean Fraser <JF@portlandmaine.gov>
Date: 2/9/2009 9:52:15 AM
Subject: Re: PB Report R-P Text amendment

Thanks, Jean. We'll likely arrive around 8:15. If things look like they might move along more quickly, please give me a call on my cell phone at 671-2956 and I'll notify the rest of the group.

Thanks for the heads up re the compromise Alex crafted. I'll give him a call.

Beth

--- Jean Fraser <JF@portlandmaine.gov> wrote:

> Hello,

>

> I didn't mention it in my e-mail and assume you have seen it on the
> City's website, but just to confirm that unless an earlier item is
> withdrawn (and at the moment I have no reason to believe that will
> happen) this item is the third on the Hearing agenda and is estimated to
> start at 8:45pm.

>

> The idea of the "compromise" came up at the last minute so I didn't
> have a chance to discuss with you. Beth, you might want a conversation
> with Alex as he "directed" me regarding the Report and no doubt will be
> commenting at the Hearing.

>

> Jean

>

> >>> <bethdellavalle@maine.rr.com> 2/6/2009 4:47:44 PM >>>

> Thanks, Jean.

>

> We'll see you Tuesday, but if anything comes up in the meantime, please
> don't hesitate to contact me. Have a good weekend.

>

> Beth

> --- Jean Fraser <JF@portlandmaine.gov> wrote:

> > Mark and Beth,

> >

> > Please find attached the "cover" text of the PB report that went out
> > today.

> >

> > Also please find the Traffic Engineer comments, although we did not
> > reference all of these in the report at this level of detail.

> >

> > As before, the entire Report is on the City's website at:

> > http://www.portlandmaine.gov/planning.htm#Current_Backup_Material

> >

> > I am in the office on Monday if you have any questions.

> >

> > Jean

> >

> > Jean Fraser

> > Planner, City of Portland


> > 874 8728

>



Results 1-10 of about 1,215 for funeral homes near Portland, ME

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1024 Broadway, South Portland, ME - (207) 773-6511

C. Hobbs Funeral Home
230 Cottage Rd, South Portland, ME - (207) 799-4472

D. Jewish Funeral Home
471 Deering Ave, Portland, ME - (207) 774-3733

E. Independent Death Care of Maine
471 Deering Ave, Portland, ME - (207) 878-3246

F. Jones Rich & Hutchins: Full Service ... One
199 Woodford St, Portland, ME - (207) 775-3763
1 review

G. A Dignified Cremation & Funeral Service
Portland, ME - (207) 878-1040

H. American Board of Funeral Service
38 Florida Ave, Portland, ME - (207) 878-6530

I. T. Cooke Funeral Directors
Quarry Rd, Portland, ME - +44 1326 312131

J. Jewish Funeral Home
Portland, ME - (207) 773-2611

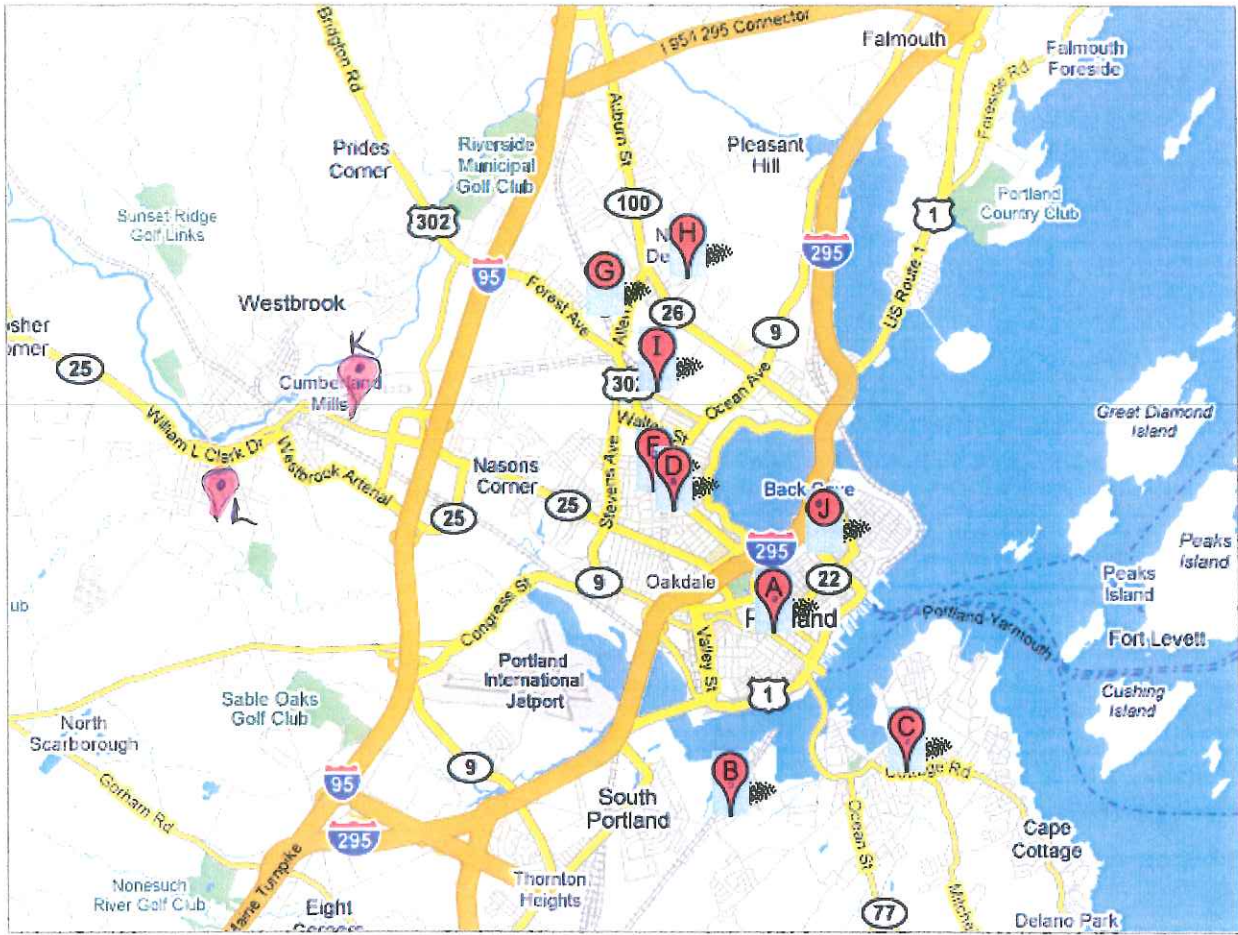
K. Chase Funeral Home
350 Main St.
Westbrook

L. Blais + Hay Funeral Home
35 Church Street
Westbrook

Funeral homes near Portland

Funeral homes in Portland

Others understood to be offices only



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Portland Funeral Home

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✓ R6 A

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 Website - Directions

B

Conroy-Tully Crawford Funeral Homes & Cremation Services - Write a review
 1024 Broadway, South Portland, ME - (207) 773-6511
 Website - Directions

C

Hobbs Funeral Home - Write a review
 230 Cottage Rd, South Portland, ME - (207) 799-4472
 Website - Directions

R5 D

Jewish Funeral Home - Write a review
 471 Deering Ave, Portland, ME - (207) 774-3733
 Directions

R5 E

Independent Death Care of Maine - Write a review
 471 Deering Ave, Portland, ME - (207) 878-3246
 Category: Funeral Homes & Directors
 Website - Directions

62/B1 F

Jones Rich & Hutchins: Full Service ... One
 1 review - Write a review
 199 Woodford St, Portland, ME - (207) 775-3763
 Category: Funeral Homes & Directors
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G Plymouth Stay Task

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 - Write a review
 Portland, ME - (207) 878-1040
 Directions

H Education

American Board of Funeral Service
 (Unverified listing) - Write a review
 38 Florida Ave, Portland, ME - (207) 878-6530
 Website - Directions

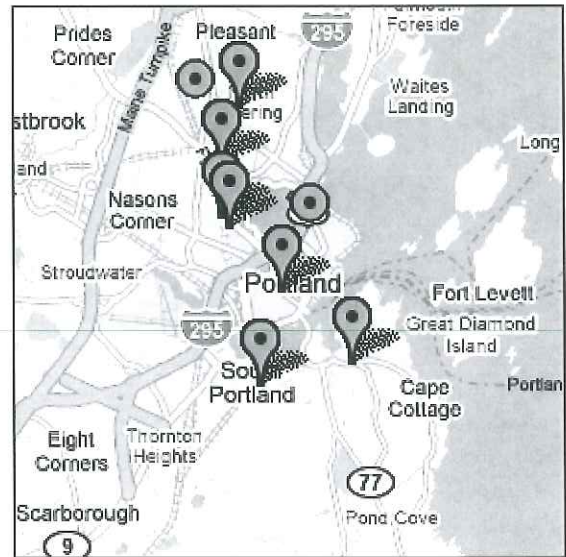
im/1 K.

T. Cooke Funeral Directors
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Jewish Funeral Home - Write a review
 Portland, ME - (207) 773-2611

R6 or Franklin Arterial.



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[Directions](#)

inwards Gray

Blais & Hay Funeral Home - Write a review

35 Church St, Westbrook, ME - (207) 854-2341
[Website](#) - [Directions](#)

Chase Funeral Home - Write a review

350 Main St, Westbrook, ME - (207) 854-4301
[Directions](#)

Lindquist Funeral Home 1 review - Write a review

1 Mayberry Ln, Yarmouth, ME - (207) 846-4011
[Directions](#)

Old Orchard Beach Funeral Home - Write a review

36 Portland Ave, Old Orchard Bch, ME - (207) 934-2698
[Website](#) - [Directions](#)

Funeral Alternatives - Write a review

500 Route 1 # 3B, Yarmouth, ME - (207) 846-5800
[Website](#) - [Directions](#)

Dolby Funeral Chapel - Write a review

434 River Rd, Windham, ME - (207) 892-6342
[Website](#) - [Directions](#)

Cathedral Pines Funeral Home - Write a review

156 Saco Ave, Old Orchard Bch, ME - (207) 934-0300
[Directions](#)

Gross Philip H SR Funeral Dir - Write a review

365 Main St, Saco, ME - (207) 284-5611
[Website](#) - [Directions](#)

Dennet-Craig & Pate Funeral Home Inc.: Buxton

- Write a review
 13 Portland Rd, Buxton, ME - (207) 929-8200
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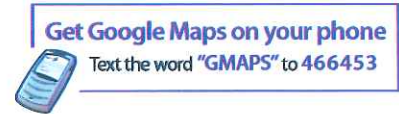
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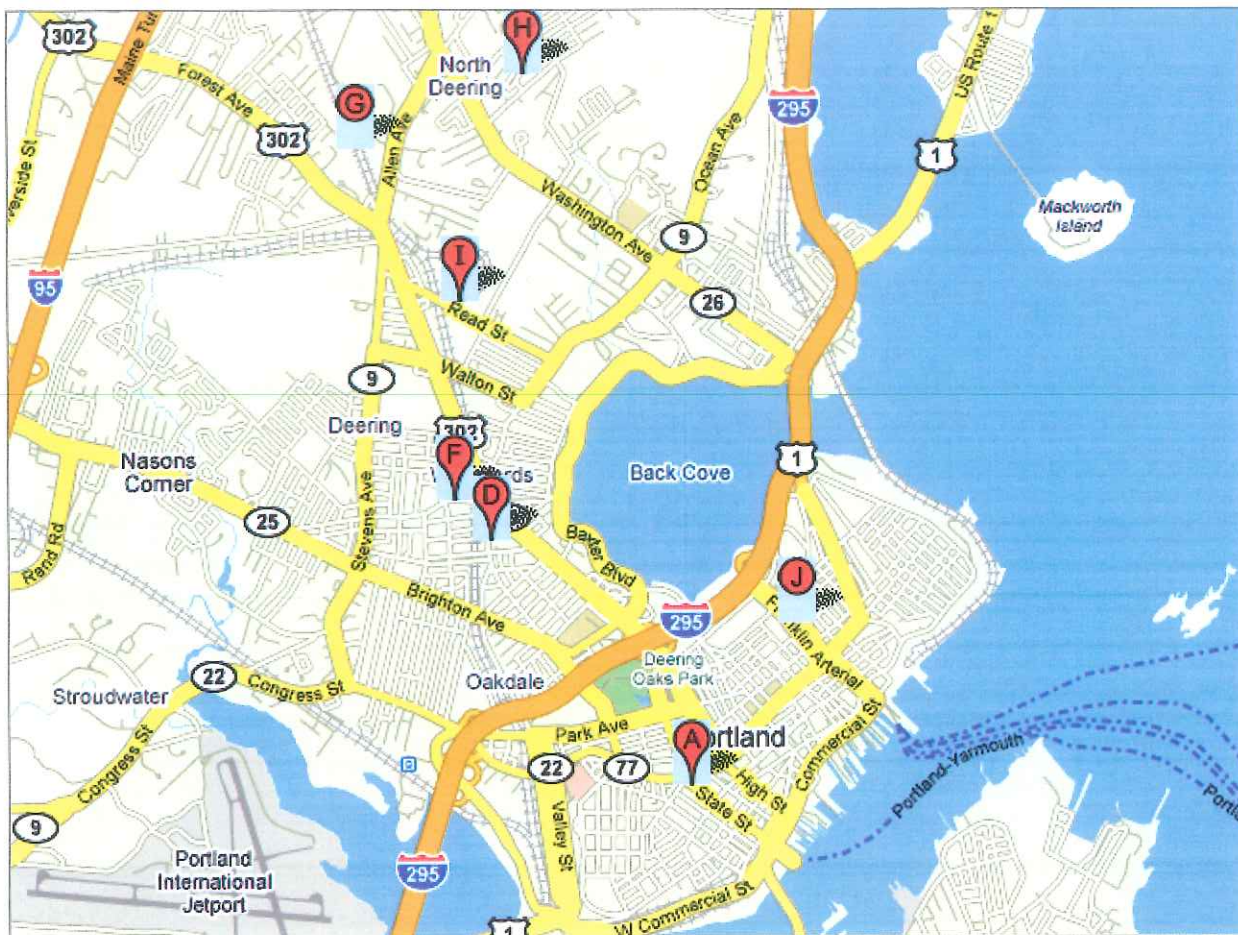
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- E. **Independent Death Care of Maine**
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199 Woodford St, Portland, ME - (207) 775-3763
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- I. **T. Cooke Funeral Directors**
Quarry Rd, Portland, ME - +44 1326 312131
- J. **Jewish Funeral Home**
Portland, ME - (207) 773-2611



From: Marge Schmuckal
To: Barbara Barhydt ; Jean Fraser
Date: 2/10/2009 11:01:13 AM
Subject: Funeral Homes & Traffic

Barbara & Jean,

I was thinking about your scenarios to the R-P Zone. I would like to point out a complication concerning putting traffic concerns under zoning review and not site plan review. I do not have a budget to use Tom Erricco's services. I am thinking that perhaps the traffic reviews should be thru site plan instead.

Marge

From: Jean Fraser
To: Dellavalle, Beth; mark hutchins
Date: 2/6/2009 4:04:26 PM
Subject: PB Report R-P Text amendment

Mark and Beth,

Please find attached the "cover" text of the PB report that went out today.

Also please find the Traffic Engineer comments, although we did not reference all of these in the report at this level of detail.

As before, the entire Report is on the City's website at:
http://www.portlandmaine.gov/planning.htm#Current_Backup_Material

I am in the office on Monday if you have any questions.

Jean

Jean Fraser
Planner, City of Portland
874 8728

From: Alex Jaegerman
To: JF@portlandmaine.gov, TERRICO@wilbursmith.com
Date: 2/5/2009 10:03:51 PM
Subject: Re: R-P Zone Funeral Homes

Remember that we are reviewing a text amendment at this time. Beth's argument is that we can make this a permitted use, rather than a conditional use, and still have the authority under site plan to impose restrictions on procession hours. So, Tom, are you comfortable with leaving the issue of procession hours to further discussion at time of site plan review? That is my inclination. The Board might still choose to make the use a conditional use in RP, as a belts and suspenders approach. The difference is minor. I do not want to stipulate specific hours in the zoning text, in any case. We can say that limitations on procession hours may be imposed.

Alex.

Alexander Jaegerman, AICP
Planning Division Director
389 Congress Street, Suite 400
Portland, ME 04101

Phone: (207)874-8724

>>> Jean Fraser 02/05/09 3:02 PM >>>

Tom,

Re your last comment- staff were intending to recommend to the Board that this be a permitted use with no conditions. How strongly do you feel about this being a required condition?- if you do feel strongly, I think a discussion with Barbara or Alex would be helpful.

At Dev Rev I think we were asking that you note that funeral processions would not conflict with peak hours.....

Jean

>>> "Errico, Thomas A" <TERRICO@wilbursmith.com> 2/5/2009 1:49:43 PM >>>

Jean -

The following outlines my comments regarding traffic and parking impacts associated with funeral homes.

* I researched information available from publications prepared by the Institute of Transportation Engineers (ITE) for traffic and parking generation for funeral homes. No information is documented.

* The applicant has provided information on parking requirements for funeral homes from various communities. Based upon the data provided, the proposed 660 Brighton Avenue facility would meet the noted regulations, although it was unclear how the required spaces were calculated. In my professional opinion, the proposed site will provide

sufficient parking, with the exception of events for prominent individuals. I would note that we don't design parking lots and transportation infrastructure for the worst-case scenario (e.g. Christmas season for a retail store) and therefore would not request the applicant to increase the parking supply for a peak event.

* Traffic impacts are not expected to be problematic with the exception of funeral processions. To avoid impacts to the public street system, it is suggested that funeral processions be prohibited during the AM peak hour (7:30-8:30am) and PM peak hour (4:30-5:30pm).

If you have any questions or comments, please contact me.

Best regards,

Thomas A. Errico, P.E.

Senior Transportation Engineer

Wilbur Smith Associates

59 Middle Street

Portland, Maine 04101

w: 207.871.1785 f: 207.871.5825

TErrico@WilburSmith.com

[www.WilburSmith.com](http://www.wilbursmith.com/) <<http://www.wilbursmith.com/>>

CC: BAB@portlandmaine.gov

From: "Errico, Thomas A" <TERRICO@wilbursmith.com>
To: "Jean Fraser" <JF@portlandmaine.gov>
Date: 2/5/2009 1:50:30 PM
Subject: R-P Zone Funeral Homes

Jean -

The following outlines my comments regarding traffic and parking impacts associated with funeral homes.

* I researched information available from publications prepared by the Institute of Transportation Engineers (ITE) for traffic and parking generation for funeral homes. No information is documented.

* The applicant has provided information on parking requirements for funeral homes from various communities. Based upon the data provided, the proposed 660 Brighton Avenue facility would meet the noted regulations, although it was unclear how the required spaces were calculated. In my professional opinion, the proposed site will provide sufficient parking, with the exception of events for prominent individuals. I would note that we don't design parking lots and transportation infrastructure for the worst-case scenario (e.g. Christmas season for a retail store) and therefore would not request the applicant to increase the parking supply for a peak event.

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If you have any questions or comments, please contact me.

Best regards,

Thomas A. Errico, P.E.

Senior Transportation Engineer

Wilbur Smith Associates

59 Middle Street

Portland, Maine 04101

w: 207.871.1785 f: 207.871.5825

TErrico@WilburSmith.com

www.WilburSmith.com <<http://www.wilbursmith.com/>>

CC: "Katherine Earley" <KAS@portlandmaine.gov>

TO: Chair and Members of the Portland Planning Board
Jean Fraser, Planner
FROM: Mark Hutching
SUBJECT: Zoning Text Amendment: R-P Zone to Allow Funeral Homes, ATH, LLC – Applicant
DATE: February 4, 2009

The funeral industry has changed dramatically over the past twenty to thirty years. At one point in Portland's history there were over eight funeral homes. Now there are basically only three. One has even become part of a national chain of funeral homes. The time of the family owned and operated funeral home has diminished, but our funeral home will be family owned and operated. Years ago the local funeral homes were all situated in converted homes. This was due to the fact that the visiting hours were held at the deceased own home. The funeral home facility was primarily used to embalm the individual who had passed away. Over time the families would come to use the funeral home in place of their own homes for the visitations and services.

Twenty years ago, the normal length of time that a family would use the services of a funeral home would be approximately three days. The first two days would be for the wake or visiting hours. The normal hours for a wake would be 2:00PM to 5:00PM, then again from 7:00PM to 9:00PM. During this time period many individuals would stay for the duration of the wake which would require plenty of parking. On the third day, a family might have prayers said at the funeral home prior to leaving for a church service or the funeral service would be held at the funeral home.

Today most wakes or visiting hours are only about three to four hours long (4:00PM to 8:00PM) and for only one day. The other major change is that individuals will go to a wake to pay their respect to the family, then leave. This requires a lot less parking because you are turning over the parking space much more quickly. On the day of the funeral it is usually just the family that will meet at the funeral home before leaving for a church service, where as, the public will go directly to the church. Funeral processions today from the funeral home generally range from six to ten vehicles. Also these vehicles tend be full, again requiring less parking. The procession usually becomes larger when it leaves the church to go to the cemetery.

Based on the current layout of the parking area at 660 Brighton Ave. we would have the ability to stage a funeral possession of approximately 100 cars. In today's world, that happens rarely, possibly once in a span of several of years.

Funeral services at a church or at the funeral home would be concentrated between the hours of 9:30AM to 11:00AM. I spoke with each of the Catholic churches in Portland and most of the time, with the rare exception, funeral masses would be at 10:00 AM. One of the major reasons for this time is due to the fact the churches already have scheduled daily masses in the morning and some even have a noontime mass. By having a funeral service before 10 in the morning, it would be putting a hardship on the family. A family would have to be at the funeral home by 7:30 in the morning, so that we could be at a church by 8:45AM. As for weekends, you can have both funeral services in the morning and a wake in the afternoon/evening. On Sunday you would only have an afternoon/evening wake. The services that are held on the weekend would not cause any major traffic issues because there would be

no “rush hour” or peak traffic to contend with. You are also having more services scheduled on the weekends due to the fact that many people are now being cremated and the weekend is more convenient for the families.

There could be, on occasion, a funeral service in the early afternoon but the funeral director would have to keep in mind the operational hours of the cemetery. The cemetery would require at least a couple of hours after the graveside service to close the grave, which would require that the service be completed by 3:00PM.

I would like to make a couple of points surrounding traffic flows for funeral homes:

First, it is difficult to estimate the overall size of a procession leaving a funeral home because family sizes vary. There are times when a procession will be large and that is usually the case when a public figure passes away. This is also the case when you try to estimate the amount of traffic that would be generated during visiting hours. Today traffic flow surrounding a funeral home would be concentrated to the hours of 9:00AM to 11:00AM and between 4:00PM to 8:00PM and is usually limited to a few cars at a time entering or leaving the facility at any one time.

Second, the length of time that a funeral procession might require that traffic be stopped in order for the vehicle to leave the funeral would generally be less than a couple minutes. Again, this depends on the size of the family or if the individual is a public figure. Once the procession has left the funeral home, depending on the size, it can create a traffic concern anywhere along its route through the city. The funeral procession will not create traffic issues just within the RP Zone.

Thank you for your consideration.

Mark Hutchins
ATH, LLC

TO: Chair and Members of the Portland Planning Board
Jean Fraser, Planner

FROM: Elizabeth A. Della Valle, AICP

SUBJECT: Zoning Text Amendment: R-P Zone to Allow Funeral Homes, ATH, LLC – Applicant

DATE: February 4, 2009

The January 16th staff memorandum to the Planning Board and the Planning Board’s discussion of ATH, LLC’s request for a zoning text amendment to allow funeral homes and mortuaries as a permitted use in the R-P Zone raised three concerns – traffic, parking, and hours of operation.

ATH, LLC has investigated each of these issues and offers the following additional information for your consideration.

Funeral homes are a permitted use in the B-2 Zone, which are often located on arterials and abut residences, similar to most R-P Zones. Furthermore, the R-P Zone has built-in standards in §§14-150 and 14-151 of the City’s ordinances that provide more restrictions than would be applicable in the B-2 Zone in order to protect neighboring residences.

Furthermore, site review standards in §14-521 et seq. require the Planning Authority to address a plethora of issues. The Planning Authority may even refer the matter to the Planning Board, under §14-525(h) if it encounters issues it believes are best resolved by the Board on a specific site.

While the parking and procession issues, more fully discussed below, may be real, they are best addressed by amending the specific section of the City’s codes that govern them, rather than by adding an additional layer of regulation in the R-P Zone as the cost and timing of a Planning Board conditional use review can be unnecessarily burdensome.

For these and the following reasons, ATH, LLC encourages the Planning Board to make a favorable recommendation to the City Council on its request for a zoning text change to allow funeral homes and mortuaries in the R-P Zone as a permitted use.

Traffic

Some members of the Planning Board raised concerns about potential problems generated by long processions that could disrupt traffic during peak traffic hours on arterial roadways. The City has identified peak traffic hours as 7:30-8:30 am and 4:30-5:30 pm. Based on the anticipated normal operation of a funeral home, virtually all funeral processions occur in the morning after these peak hours. ATH, LLC phone calls to area churches indicate that funeral services are rarely scheduled prior to 9:30 or 10:00 am to avoid conflicts with morning services. Even if a service is scheduled for 9:00 am, ATH, LLC does not anticipate that its funeral processions would begin prior to 8:30 am, the end of the morning peak traffic hours. Furthermore, because burials must take place before the end of a normal

work day for cemetery staff, ATH, LLC anticipates that afternoon funeral processions would occur no later than 2:30 pm, well before the afternoon peak traffic hours begin. Furthermore, most B-2 and B-4 zones, where funeral homes and mortuaries are a permitted use, are also located along arterials throughout the City. Processions originating from within those zones are likely to generate similar concerns about the disruption of traffic during peak hours on Portland's arterials suggesting that concerns about the disruption of traffic from funeral processions is not exclusive to funeral homes located within the R-P Zone.

The City regulates processions under Chapter 28, §28-182 through §28-184 of its Code of Ordinances. None of these sections specifically discuss the issue of the timing of processions, though under §28-182, a procession of 200 or more persons or 50 or more vehicles is required to secure a permit, under which time limitations may be required. Very few funerals are likely to generate processions of this size, though it is likely that funeral homes in any location in the City would seek a permit under the ordinance when a funeral procession is planned for a prominent public figure.

Since none of the existing funeral homes in the City are located in an R-P Zone, if the Planning Board is concerned about funeral processions interrupting traffic on arterials during peak hours, it would appear that traffic concerns related to processions would be far better addressed by modifying the Traffic and Motor Vehicle Code rather than by applying additional regulatory standards to funeral homes and mortuaries solely in the R-P Zone. If addressed through the Traffic Code, all existing and future funeral homes and mortuaries will be subject to the same rules, which presumably would be expanded to address the timing of processions throughout the City.

Parking

Concerns were also raised about the potential need for on-street parking during the 4:00-8:00 pm period. Some Planning Board members expressed concern that the City's parking standards for funeral homes (§14-332(g)) is inadequate, frequently necessitating the use of on-street parking. When the Planning Board discussed this issue, some members noted parking problems for existing funeral homes in the City. All, but one of the existing funeral homes, are grandfathered uses, which are restricted from expansion, even to address existing parking needs. Only one of these establishments includes as many parking spaces as the property at 660 Brighton Avenue, and much of that parking is located across the street from that funeral home. Most of the grandfathered funeral homes do not have nearly the number of spaces available at 660 Brighton Avenue.

To assess the likelihood of the need for on-street parking for new funeral homes, we examined several communities' parking standards and offer the attached chart of standards and how the property at 660 Brighton Avenue might meet them. Some standards include provisions for the number of employees and service vehicles. Some include standards based on permanent seating, but recognizing that most funeral homes use flexible seating, many include some reference to square footage. In cases, where the standard is specific to funeral homes, the standard usually refers to the square footage of public areas or, as in Portland's case, area of "assemblage". In cases where the standard is more generally applied

for “places of assembly”, the standard usually applies to a more generic total square footage, including storage space and garages. Except for those standards that employ total square footage, most standards require a similar number of spaces to those required under Portland’s standard. In all cases, the property at 660 Brighton Avenue meets or exceeds the standard.

It appears that parking problems associated with existing funeral homes in Portland are more a matter of grandfathered properties that have limited parking facilities than a problem with the City’s parking standard. Furthermore, if the City is concerned that its current standard is inadequate to meet parking demand for funeral homes, ATH, LLC believes that a more appropriate response would be to require additional parking as a condition of site plan approval and/or revise the parking standard itself rather than require that funeral homes be a conditional use in a R-P Zone.

Hours of Operation

Planning staff note that the normal visiting hours for funeral homes extend “slightly later than most offices”, but notes that a number of conditional uses in adjoining residential districts have similar if not later hours of operation. Furthermore, many B-2 Zones, where funeral homes are permitted, are adjacent to residential zones. While ATH, LLC recognizes the need to protect adjacent residences from undue impact, it does not believe that funeral homes in the R-P Zone will have any greater impact on surrounding residences than funeral homes in a B-2 Zone would have. As a point of information, while the property at 660 Brighton Avenue abuts a residential zone, it does not abut any residential properties.

Conditions of Site Plan Approval

Under §14-526 (b), the “Planning Authority or Planning Board may impose any condition upon its approval of any site Plan: (1) to minimize or abate any adverse impact of the proposed development on the value or utility of other private property, or on public property or facilities, to the extent feasible; or (2) to bring the development into compliance with the requirements of subsection (a); or (3) to minimize any other adverse environmental effects of the proposed development. Such conditions may include, but are not limited to, enclosing of equipment or operations, imposing limitations upon the hours of operation, or requiring the employment of specific design technologies, modes of operation, or traffic patterns...”

ATH, LLC believes that this provision of the City’s ordinance provides ample authority for the Planning Authority to impose conditions of approval that would address noted concerns about traffic, parking, or hours of operation that might arise with any specific site within the R-P District.

Rather than impose an additional layer of regulation by making funeral homes and mortuaries a conditional use in the R-P Zone, the City has the authority under existing ordinances to address potential impacts arising from a specific site in the R-P Zone through the application of conditions of approval.

Parking Standards for Funeral Homes and Mortuaries

ATH, LLC

Parking Standard	Source	Specific to Funeral Homes	Required # Spaces	Met on 660 Brighton ¹
1 space for each 5 seats or for each 100 sq ft, or major fraction thereof, of assemblage space, if no fixed seats	Portland	Yes	31 ²	Yes
25 spaces per parlor or 1 space for each 4 patrons based on design capacity, whichever standard produces the greater number of spaces	Augusta	Yes	50 to 63	Yes
1 space per 100 sq ft floor space ³	Biddeford	No	87	Yes
1 space for every 4 seats or 100 sq ft, or major fraction of assemblage space ⁴ , if no fixed seats	Falmouth	No	31	Yes
1 space for each hearse or service vehicle plus 1 space for each family or individual resident on the premises plus additional spaces equal in number to 1 space for each 100 sq ft of public area ⁵ within the building	South Portland	Yes	35	Yes
1 space for every 100 sq ft of floor space ⁶	Topsham	No	87	Yes
1 space for every 4 spaces of seating capacity plus 1 space per employee and clergy	National Foundation of Funeral Services ⁷	Yes	70	

¹ Existing building is 8,664 sq ft. New funeral home use proposed to include 2 viewing areas or parlors totaling 2400 sq ft, a 460 sq ft family room, and 220 sq ft reception area for a total public area of 3,080 sq ft. Maximum flexible seating proposed for 250. No fixed seating or chapel proposed. New funeral home proposed to have 1 hearse, 1 limousine, and 2 service vehicles and employ 6 full-time equivalents. Site currently includes 85 outdoor parking spaces, plus 3 spaces within the building, for a total of 88 parking spaces.

² Does not include parking that may be attributable to other uses, such as offices, within the facility.

³ Includes total square footage.

⁴ Includes individual rooms, but not hallways or bathrooms.

⁵ Includes viewing rooms, hallways, and bathrooms; excludes offices, storage and processing.

⁶ Includes total square footage.

⁷ Dr. Charles Nichols, Director of National Foundation of Funeral Services.

Action for
Jean: await
Beth's further submissions
Report for Th.

R-PText Amend

Mtg. 2/2/09 3pm.

Dennis Lamus
Andrew Junis
Beth Bellavalle
Tom Jewell
Mark Hutchins

} applicant.

Alex
Barbara
Marge
Danielle
Tom
Jean

} City.

- ① MH - opened re his concerns following Board comments - -
- ② BB - recap of Board view + issues req. tech. input
- ③ AJ - Brighton Ave site prob OK re plng + procs.
- ④ TJ - need to fix Div 20 re all funeral homes.
- ⑤ TE - no natl stds
- ⑥ They are results of research

⑦ TE }
MH } discussion of adequacy of
Brighton site (88 spaces) +
MH could have use of adjoining spaces

⑧ Beth - MAP on web - no one ans. Z8,
procession managed under other ords.

this list SPA/ATAA.

discussion of basis of stds.

City's issue to the std so that is
what shd be renewed. Dnt 20.

⑨ TJ - what conds being looked at.
agreed pleg main; procs less

⑩ AJ - Board's approach based on R-P being
more sensitive zone + potentially more
concerning impact on neighbors.

ZBA det. + admin at site plan

⑪ BeD - asking why powers under site plan
couldn't be used to impose conds.

⑫ AJ - agreed, but cond use → ZBA or PB.

(13) ZBA - Marge commented on how ZBA

(14) Bell - ? def. "assemblage"
Marge commented - as per word
in this case no deductions
(office wd be office)

clar. re
site plan
cond. regis.

(15) Conclusions - if Bd. OK w/ pkg regis
Pl. Bd. may be more
demanding than staff.

(16) MH - looked all over Portland
bldg good — pkg
— type of bldg
— loc. on art.

Is an independent operator.

Cond Use regis Pl. Bd review + more time
refr. Perm. and admin. rev.

(17) weekends

Sets - still have services/users

Sun afternoon/eve may also have users
asked them to clarify operations
other fun. homes grandfathered (except with)

Deering - legally non-conforming
+ pkg. couldn't expand

ck std
pkg can
go in report
qual to
Portland.

circ. at 2/2/09 mtg for discussion by Beth Dellavalle - not formal submission

Parking Standards for Funeral Homes and Mortuaries

ATH, LLC

Parking Standard	Source	Specific to Funeral Homes	Required # Spaces	Met on 660 Brighton Property?¹
1 space for each 5 seats or for each 100 sq ft or major fraction of floor area, exclusive of cellar	Portland	Yes	24	Yes
25 spaces / parlor or 1 space / 4 patrons based on design capacity, whichever standard produces the greater number of spaces	Augusta	Yes	50 or 75	Yes
1 space / 100 sq ft floor space	Biddeford		87	Yes
1 space / each hearse or service vehicle plus 1 space / each family or individual resident on the premises plus additional spaces equal in number to 1 space / each 100 sq ft of public area within the building	South Portland	Yes	47	Yes
1 space / 3 seats	Topsham		58	Yes
1 space / 3 seats	Stayton, OR		58	Yes
0.25 space / seat of chapel capacity plus 0.33 space / employee	Tampa, FL	Yes	47	Yes
1 space / 3 persons capacity	Hickory, NC	Yes	58	Yes
1 space / 5 seats in	Columbia, MD	Yes	49	Yes

¹ Existing building is 8,664 sq ft. New funeral home use proposed to include 2 viewing areas or parlors totaling 2400 sq ft, 2050 of which will be available; maximum number of seats is 174; no fixed seating or chapel proposed. New funeral home will have 1 hearse, 1 limousine, and 2 service vehicles. New funeral home proposed to employ 6 FTE with no more than 10 employees at any one time. Site currently includes 85 outdoor parking spaces, plus 3 spaces within the building, for a total of 88 parking spaces.

Parking Standard	Source	Specific to Funeral Homes	Required # Spaces	Met on 660 Brighton Property? ¹
largest chapel plus 1 space / employee plus 1 space / facility vehicle				
1 space / 3 permanent seats plus 1 space / 25 sq ft temporary seating area	Lanaxa, KS	Yes	82	Yes
minimum of 1 space / 5 seats and maximum of 1 space / 2 seats	San Antonio, TX	Yes	35 to 87	Yes
minimum of 1 space / 150 sq ft floor area in parlors or assembly areas and maximum of 1 seat / 75 sq ft in parlors or assembly areas	Jefferson County	Yes	16 to 32	Yes
minimum 1 space / 5 seats of maximum capacity and minimum of 1 space / 4 seats of maximum capacity	Glenville, NY	Yes	35 to 44	Yes
1 space / 50 sq ft floor area of parlor or viewing room plus 1 space / each employee	American Architects Association	Yes	58	Yes

Funeral Homes
Text Amendment to R-P

Section VI Zone Change (Map Amendment)/Text Amendments

I. Application Process

- ✓ A. Application is made in the Planning Office. (See Attachment 1 for application)
- ✓ B. Fee of \$500.00 is paid at that time (fee current as of 2-01-2002)
- ✓ C. Notice sent out to neighbors within 500 feet of project to notify that an application was filed. Notice sent out by Inspection Services. In Industrial zones notices are sent to neighbors within 1,000 feet of project. Applicant is billed at time of noticing.

II. Review Process

- 12.4.08 ✓ A. Project is assigned to Planner by Development Review Services Manager and the Division Head
- 12.19.08 ✓ B. Planner contacts applicant to discuss policy, logistics, scheduling, and neighborhood meeting requirement.
after Dev Rev discussion
- ✓ C. Planning Staff reviews application with other departments.

several dev rev mtgs
last before PB memo 1-14-09.

III. Approval/Recommendation Process

- ✓ A. Project tentatively scheduled on the Planning Board workshop and public hearing agenda.
- B. Notice sent out to residents within 500 ft. of project, 1,000 ft. of project for industrial zones for workshop, 7 days before Planning Board meeting.
- C. Memo written for workshop.
- D. Workshop Held

1. Brief Staff Introduction
2. Applicant Presentation
3. Planning Board Questions/Deliberations
4. Public Comment
5. Answering of Public Questions, if any
6. Determination of Next Step

advised not
reg for wk shop
legal ad in
paper

- a. Additional Workshop Scheduled
- b. Language Recommended for Advertising (text amendment)/ Public Hearing Scheduled

- E. Additional Workshop Held (if applicable)
- F. Planner works with GIS to produce appropriate materials for presentation and legal advertisement (map amendment).
- G. Three weeks before public hearing, Planner works with front office to prepare mailed notice and legal advertisement, as well as posting in City Clerk's office. (See Noticing.)
- H. Planner requests comments from reviewing engineer, arborist, traffic engineer, Fire Dept., etc as appropriate. (Most likely, not necessary for zone/text changes.)
- I. Planner writes the Planning Board report, attaching all correspondence from neighbors, in addition to applicant's submission items and staff comments.
- J. Planning Board Public Hearing is held
 - 1. Staff Presentation
 - 2. Applicant Presentation
 - 3. Planning Board Questions/Deliberations
 - 4. Public Comment
 - 5. Answering of Public Questions, if any
Further Deliberations and Motion
- K. Planner writes approval/recommendation letter to applicant. Final draft is placed in folder in front office for Planning Board Chair signature.
- L. Schedule City Council 1st and 2nd readings with City Manager's secretary.
- M. Revise Planning Board Report to read from Planning Board to City Council.
- N. Fill out City Council Agenda Item form. (See Attachment 2.)
- O. Prepare notice for City Council Public Hearing, following same rules for Planning Board notice (see Noticing).

- P. Make sure Planning Board Chair knows the date for the City Council public hearing. Forward a copy of report and agenda item form to Chair. (S/he will need to make a presentation to the Council.)
- Q. If Council approves Zone/Text Change, send a memo “to the world” with language and/or map.
- R. Applicant is billed by front office for the notices sent, as well as their share of the legal advertisements.

From: Jean Fraser
To: Errico, Thomas
Date: 1/12/2009 10:46:24 AM
Subject: Res/Prof Zone- funerla traffic

Tom

The applicants agent (a planner) is contacting me today and wants to understand the issues re the question of whether this use is added to the R/P zone as a conditonal use or as a permitted use.

My intention is just to put the facts before the Board (Workshop Jan 20th).

You have the note from the applicant re traffic (copy also attached). He wants to add funeral homes to the list of permitted uses in R/P (which already include Residential; Professional offices (including the offices and facilities of health care and related laboratory and pharmacy services and health care administration, but excluding personal services, retail establishments and veterinarians); Business services, as defined in section 14 47, except copy services; Adult day care services; Utility substations; Accessory uses as provided in section 14 404.)

The zoning issue is that if it is just "permitted" then only site plan requirements would apply (and the scale of the operation would come into play); if the text is changed to make it a conditional use, then the following would apply as well as site plan:

"Such other offices which have characteristics similar to but no more objectionable than those generally associated with professional offices. In determining appropriateness, the zoning board shall consider the quality of building design and materials, signage, and landscaping, and their general compatibility with the surrounding residential development. **Such uses shall also be shown to have vehicular patterns, including parking and storage of motor vehicles, similar to those associated with professional offices.** Noise levels and hours of operation shall also be considered. An approval granted under this section shall be issued to a specific user and shall not run with the land to subsequent users. A new conditional use approval shall be required when the user changes. A new conditional use approval may be issued by the zoning authority if it determines that the new user will maintain the same use as the original user and that such use will not have substantially different external effects, including, but not limited to, parking, vehicular traffic on and off the site, noise levels, hours of operation, and visual characteristics such as signage or changes to building design."

This applicant wants to change the text so he can put a funeral home in at 666 Brighton (8664 sq ft - 85 parking spaces) with no changes externally. It would still be a mionor site plan for change of use. However, the text change (allowing funeral homes where they now are prohibited) would affect all the other R/P zones which include:

Sewell St
rest of Brighton Ave corner of Woodford
Bit of Forest
2 bits on Ocean
1 bit on Allen
4 bits n Washington
3 bits on Auburn

If you have any views please let me know...you don't have to comment but I would appreciate positive confirmation that you have no comments in that case.

Many thnaks
Jean

file



PORTLAND MAINE

Planning Division
Jean Fraser, Planner

12-4-08.

TO: Marge Schmuckal, Zoning
Administrator
Danielle West-Chukta, Associate
Corporation Counsel

Re: Zoning Text Amendment
to allow funeral homes in the
R-P zone.

This just arrived although Barbara has had several meetings and many telephone conversations because they have been looking for a suitable site for some while. They have found one on Brighton Ave in R-P zone and the text change is needed to allow them this use.

We can discuss at Dev Rev next week;
it is tentatively scheduled for a
PB workshop on Jan 20th 2009.

Jan.

Applicant: Mark Hutchins
329 - 3649

Note for file

1-28-09.

R-P Text Amendment

Dev Rev Mtg / Discussion

① Confirmed 2pm mtg w/ applicant (to incl. Beth Bellavalle, Tom Jewell, Andrew Jarvis (broker), Dennis Lamue, (Arch) — however, given storm asked for alt + agreed Mon 2/2/09 3pm.

② Discussion — TE confirmed peak hours (AM in terms of traffic on Portland arterials is 7:30 - 8:30 am so funeral processions unlikely to conflict? need for condition

Parking — TE not able to locate national standard for this but agrees with PB that City Ord. DW 20 is low (1 per 100 sq ft assemblage)

After the meeting JF spoke with Applicant:

(a) Agreed to postpone mtg. to 2/2 3pm

(b) Mark gave me ref re potential pkg std:

Am. Arch Assoc

1 parking space per 50 sq ft gross
assemblage
area

plus 1 space
per employee

From: Jean Fraser
To: mark hutchins
Date: 1/23/2009 2:41:17 PM
Subject: Meeting on R-P zoning text amendment

Hello Mark,

I am confirming the meeting for **Wednesday, January 28th, 2009 at 2pm**, here in the Planning Conference Room on the 4th floor of City Hall (ask for me at reception, just opposite the elevator).

From the City side those attending will be:

Alex Jaegerman, Director of Planning
Barbara Barhydt, Development Review Services Manager
Jean Fraser, Planner
Tom Errico, City's Traffic Reviewing Engineer (consultant)
Marge Schmuckal, Zoning Administrator
Danielle West- Chuhta, Associate Corporation Counsel

I attach a brief note of the key points I picked up from the Planning Board's discussion.

See you next week.

Jean

Jean Fraser
Planner, City of Portland
874 8728

CC: Dellavaile, Beth

From: Jean Fraser
To: Errico, Thomas
Date: 1/27/2009 9:46:46 AM
Subject: R-P Text amendment re funeral homes

Tom,

Just following up re the requests we made last week for info to inform the discussions tomorrow:

1. **Peak hour (AM) traffic times for the main arterials on which R-P zones are located** eg outer Congress St, Forest Ave between Woodford and Morrill Corners, Brighton from Rosemont to Rand Road, Washington Avenue near Allen Avenue and Washington near Veranda, and lastly Ocean Avenue; and

2. **National parking standards for funeral homes** so we can compare with the ones in zoning (1. Section 14-332 (g) the parking requirement for funeral homes is stated to be "One (1) parking space for each five (5) seats or for each 100 square feet, or major fraction thereof, of assemblage space if no fixed seats.") This applicant proposes 2400 sq fr of assemblage so only 24 parking spaces appear to be required.

We need these asap and for Dev Rev at latest- sorry to pester but the applicant is very frustrated and we need to see whether there is enough information to satisfy the Board that the problem is not as great as they were thinking (or otherwise).

thanks
Jean

CC: Barhydt, Barbara

*Meeting
 postponed to
 2-2-09 3pm
 same place*

sent to mtg participants

PLANNING BOARD WORKSHOP

January 20, 2009

Consideration of Zoning Text Amendment- R-P zone to allow funeral homes

Key points from the discussion by Board Members:

1. Lee Lowry:

- a. Could only support if as a conditional use with specified conditions
- b. Needs more info re parking- applying our standard (Div 20) doesn't appear to meet the actual need
- c. How do you quantify assemblage area re funeral homes?
- d. Needs to understand re the Brighton property (enough? and how does that relate to proposed assemblage floorspace)

2. Mike Patterson:

- a. Similar concerns to Lee Lowry's
- b. Notes that B2 and B4 are on arterials but knows that processions on Brighton at peak hour would be a problem
- c. More comfortable with conditional use

3. Shalom Odokara:

- a. Deering Ave. a mess re parking
- b. Woodfords St lot is also full
- c. Now more funerals take place at funeral homes and conditions need to take account of changes
- d. Need to look at parking
- e. Prefers conditional use

4. David Silk:

- a. Comfortable with conditional use
- b. The Brighton Ave site appears OK re parking
- c. Need to look at parking issue regarding other sites in R-P
- d. Woodfords funeral home also uses parking across the street associated with church
- e. Less concerned re processions

5. Janice Tevanian:

- a. Wanted to know if processions were at peak traffic hours?

6. Bill Hall: no strong view

7. Joe Lewis: absent

workshop 1-20-09.
R-P Zone text change

Mark Hutchins - reiterated issues re BZ/B4.

Public Comment - no one req. to comment.

Qw from Board

BH - no ?'s

- seems reas; processions largely fr. Church

JT - processions at peak hours

ans from MH is minimal likelihood

LL - could only support as could use w/ ^{specified} conditions.
more info re pkg - applying our std. didn't

meet real need; need to understand re Brighton property.

MP - sim. to Lee's - noted BZ/B4 on arterials
but knows Brighton wd be problem; more
comfortable w/ cond use.

SD - Deering Ave a "mess" re parking
Woodford's lot is also full.
more happens at fun home
look at parking / constraints
prefer cond use.

DS - conf. w/ cond use

This site appears OK re pkg.

but need to look at pkg re other sites.
Woodfords also use pkg lot across Street
less concerned re processions (Church)
because of

Mark H - early afternoon service latest
because cemetery closes 5pm

~~LL~~

LL - clar. re maps.

Alex - can advertise as cond use if appl.
agrees or can advertise as both.

- agreed staff will draft conditions.

Chari - agreed can

Mark Hutchins
Beth Dellavalle

PLANNING BOARD WORKSHOP 1-20-2009

Text amendment R-P Zone

Planners Presentation:

1. Review: Text amendment only to allow mortuaries and funeral homes in the Residence Professional Zone. The Planning Board's recommendation will be forwarded to the City Council who will make the final decision.
2. Note: The text change would allow the applicant to use a building at 666 Brighton Avenue as a funeral parlor, subject to minor site plan approval and the other requirements of the R-P zone. However, this is not the focus of the current review which potentially could impact the future use of all sites which are zoned R-P.
3. No public comments have been received by the Planning office. This project does not require a Neighborhood Meeting.
4. Proposal: The applicant requests the text change to allow mortuaries and funeral homes to be located in the R-P zone as a permitted use. These uses are currently permitted only in the B2 and B4 zones (see **TABLE**), and the wording of the R-P conditional use provisions (which would be interpreted by the Zoning Board of Appeals) limits uses to those that are shown to be similar to professional offices or which are conditional uses within residential zones. *The applicant has submitted a narrative explaining why the B2 + B4 zones are generally not suitable for funeral homes.*
5. Staff comments are summarized on page 4 of the memo, where it is suggested that the text change could add funeral homes as a **permitted use** or (top of page 5) as a separate **conditional use** subject to potential restrictions on the hours of any processions.
 - a. **PERMITTED** is supported by:
 - i. The proposed use appears similar to professional offices in most ways except for the fact that there are occasional funeral processions. Such processions could take place in the B2 or B4 zones where funeral homes are permitted uses and are located along some of the same arterials as the R-P (eg Forest, Congress, Allen, Auburn, Brighton) where the issue of the timing of processions has not been included as a restriction.
 - ii. The applicant has noted (Att A-2) that often the procession from the funeral home is small (6-10 vehicles) while it might be larger when it leaves a church. Also the applicant has indicated that they generally take place between 9am and 3pm.
 - b. **CONDITIONAL USE with potential restriction on processions** is supported by:
 - i. Staff have discussed the issue of funeral processions with the traffic engineer who considers that there may be some R-P locations where a procession would create unsafe traffic conditions and therefore it would be helpful to have wording which allows for these to be limited to off-peak traffic hours where warranted;
 - ii. The R-P zone does already allow conditional uses (eg places of worship) that could be considered to be similar to funeral homes and allowed within the adjacent or nearest abutting residential zone and under 14-474 such uses would be reviewed in terms of whether "There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area".

From: Jean Fraser
To: Dellavalle, Beth; mark hutchins
Date: 1/16/2009 2:19:37 PM
Subject: R-P Text amendment- PB Memo

Beth and Mark,

Please find attached the PB Memorandum that has gone to the Board members for consideration next week.

The entire PB memo with all attachments should be on the City's web site by the end of today- the link is: http://www.portlandmaine.gov/planning.htm#Current_Backup_Material

Let me know if you there is anything in it that raises concerns for you- if so, I can address them in my presentation.

Jean

Jean Fraser
Planner, City of Portland
874 8728

Traffic Generation -

**PRE-APPLICATION MEETING
AND, DEPARTMENT OF PLANNING AND DEVELOPMENT**

From
barbara 12-4-08
prev. discussions with
this as "best fit"

Brighton Ave Date: 6/10/08

Zone: R-P

Proposed Building Size: _____ sq. ft

Proposed Use of site: 85 parking spaces -

ect:

days)
58%

traffic volume -
Issues

storage, 2 day wait for cremation (no
viewing - visiting - service @ funeral
home (meet at funeral home & then go to church)

4-7-08 - evening - 9-10-11 - services -
- service - mostly right -

Potential Reviews Required¹:

	Shoreland Zoning Stream Protection	Conditional use	Flood Plains	Design Review	Historic Preservation	Replacement Housing	Site Plan	Sub-division	Zone Change Request	Street Extension 14-403	Site Location of Development	Traffic Permit DEP	Storm water Management DEP
Yes													
Possible													

Next Steps:



AKERS associates, inc.

408 Fore Street
Portland, ME 04101
Office (207) 774-8300 Ext. 15
Fax (207) 774-8347
E-mail: andrewprudential@aol.com

Andrew P. Juris
Commercial Services

val of **any** ordinances. Any project must go through the appropriate before construction or reuse can begin. The meeting and notes are intended to a proposal based upon the information provided at the meeting. Any change the development review requirements. Please check on-line for information at www.portlandmaine.gov.

**PRE-APPLICATION MEETING
CITY OF PORTLAND, DEPARTMENT OF PLANNING AND DEVELOPMENT**

Project Name: _____ Date: _____

People in attendance:

Address of development: _____ Zone: _____

Lot Size: _____ Proposed Building Size: _____ sq. ft

Existing Use of site: _____ Proposed Use of site: _____

Description of Proposed Project:

Potential Reviews Required¹:

	Shoreland Zoning Stream Protection	Conditional use	Flood Plains	Design Review	Historic Preservation	Replacement Housing	Site Plan	Sub-division	Zone Change Request	Street Extension 14-403	Site Location of Development	Traffic Permit DEP	Storm water Management DEP
Yes													
Possible													

Next Steps:

¹ Please note: this meeting is not a pre-approval of any ordinances. Any project must go through the appropriate reviews and receive permits from Portland before construction or reuse can begin. The meeting and notes are intended to outline the City processes that may apply to a proposal based upon the information provided at the meeting. Any changes to the information or proposal may change the development review requirements. Please check on-line for Portland's Land Use Ordinance and other information at www.portlandmaine.gov.



666 W. GILTON

This page contains a detailed description of the Parcel ID you selected. Press the **New Search** button at the bottom of the screen to submit a new query.

Current Owner Information

Card Number 1 of 1
Parcel ID 224A A001001
Location 666 BRIGHTON AVE
Land Use OFFICE & BUSINESS SERVICE

Owner Address WHITEWATER LLC
 1601 CONGRESS ST
 PORTLAND ME 04102

Book/Page 22707/247
Legal 224A-A-1
 BRIGHTON AVE 656-668

 78576 SF

Current Assessed Valuation

Land	Building	Total
\$496,000	\$572,100	\$1,068,100

Building Information

Bldg #	Year Built	# Units	Bldg Sq. Ft.	Identical Units
1	1968	1	8664	1

Total Acres	Total Buildings	Sq. Ft.	Structure Type	Building Name
1.804	8664		MEDICAL OFFICE	DOCTORS PARK

Exterior/Interior Information

Section	Levels	Size	Use
1	01/01	4332	MEDICAL CENTER
1	02/02	4332	MEDICAL CENTER

Height	Walls	Heating	A/C
8	MASNRY/FRAME	HOT AIR	CENTRAL
8	MASNRY/FRAME	HOT AIR	CENTRAL
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE

Building Other Features

Line	Structure Type	Identical Units
1	CANOPY - ONLY	1
1	PORCH - COVERED	1

Yard Improvements

Year Built	Structure Type	Length or Sq. Ft.	# Units
1971	ASPHALT PARKING	45000	1

Sales Information

Date	Type	Price	Book/Page
06/02/2005	LAND + BLDING	\$1,150,000	22707-247

Picture and Sketch

[Picture](#) [Sketch](#) [Tax Map](#)

[Click here](#) to view Tax Roll Information.

Any information concerning tax payments should be directed to the Treasury office at 874-8490 or [e-mailed](#).

[New Search!](#)



PORTLAND MAINE

Planning Division

Barbara Barhydt, Development Review Services Manager

Mark Hutchins

329-3649

-Brighton Ave - 660 or 666?

medical office - interested in
a funeral home -

funeral homes only permitted in
B-2 to B-4

PBM1



**Memorandum
Department of Planning and Development
Planning Division**

To: Chair Silk and Members of the Portland Planning Board

From: Jean Fraser, Planner

Date: January 9, 2009

Re: Zoning Text Amendment
R-P Zone to allow funeral homes
ATH, LLC– Applicant

INTRODUCTION

The ATH, LLC (Mark Hutchins) has requested a text change to the City Ordinance to allow funeral homes in the Residence-Professional (R-P) zone. The amendment requested is to section *14-147 Permitted Uses (R-P Zone)* ([Attachment 1](#)) and they request that “Mortuaries or funeral homes” be added to the list of permitted uses under *(b) Business* ([Attachment A-1, page 3](#)).

The applicant seeks the amendment as it would allow him to use a building in the R-P zone (666 Brighton Avenue-referred to in the submission as 660 Brighton Avenue) for a funeral home. This building has been identified by the applicant as suitable for conversion from a medical office to a funeral home; it is understood to be under contract by the applicant after a wide search in Portland for a building for a new funeral home.

Funeral homes are not permitted in the R-P zone on any basis. They are permitted uses only in the B2 and B4 zones but the applicant considers that generally the B2 and B4 zones do not provide an appropriate environment for a funeral home, being business and large scale commercial.

ZONING REQUEST

The applicant has outlined ([Attachment A-1](#)) that funerals were traditionally home-based and that a funeral home (which are now used more than homes for funerals) should be located in an area where the atmosphere is more like “home”. The narrative suggests that the R-P zone is more compatible with the funeral home use than the B2 or B4 zones as the atmosphere is likely to be suitable because of the limitations on uses (see provisions 14-150 and 14-151 in [Attachment 1](#) which include “Other Requirements” (eg storage, parking) and requirements

related to “External Effects” (eg noise, smoke, wastes)) intended to ensure compatibility with residential uses. It should be noted that all of the R-P Zones abut residential uses (Attachments 2 and 3) as they were intended as transitional zones between business and residential areas.

The permitted uses in the R-P zone are limited to professional office uses (see table below and Attachment 1) which are intended to have limited impacts on adjoining residential zones. The conditional use provisions allow other offices with similar characteristics as to the permitted uses. While funeral homes are similar in scale and activity to professional offices, the conditional use provisions appear to exclude funeral homes because the hours of operation and associated traffic patterns (eg processions) are not similar to professional offices (see below re characteristics of funeral homes).

While the B2 and B4 zones do allow funeral homes, they also allow a wide range of other uses that include large scale, commercial and highway-oriented businesses (see table below). The applicant notes that the business zones are “not conducive for creating a residential or “home” atmosphere desirable for a mortuary or funeral home” (Attachment A-1.4). The applicant has included the purpose, full list of permitted and conditional uses for the B2 and B4 zones in the “Attachment A” to the narrative (Attachment A-1.5).

The Text amendment would allow the applicant to use a property at 666 Brighton Avenue (identified as 660 Brighton in the submission) as a funeral home. This property is in a row of medical office buildings just west of Woodford Street intersection on the south side of Brighton Avenue. It comprises a former medical office building totaling 8664 sq ft on 2 levels with 85 parking spaces, mostly to the rear of the building (see Attachment 4). It is understood the applicant would be undertaking interior alterations along with the change of use; minor site plan approval would be required for his proposal if the text change is approved.

FUNERAL HOME CHARACTERISTICS

Staff have had numerous discussions with the applicant to better understand the nature of the use and its impacts on traffic and hours of operation, as these appear to be the issues that distinguish this use from that of a professional office/medical office. The applicant was requested to summarize these aspects to better inform staff and the Planning Board and his Memo is in Attachment A-2. In summary:

Most activity including traffic: 4-8 pm

Some traffic: 9-11 am

Occasional Processions: generally take place between 9am and 3pm, most in morning

PERMITTED USES COMPARISON (Summary)

R-P	B-2	B-4
<p>Residential</p> <p>Business:</p> <ol style="list-style-type: none"> Professional offices, including the offices and facilities of health care and related laboratory and pharmacy services and health care administration, but excluding personal services, retail establishments and veterinarians. Business services, as defined in section 14-47, except copy services. Adult day care services. <p>Other:</p> <ol style="list-style-type: none"> Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan). Accessory uses as provided in section 14-404. 	<p>Residential</p> <p>Business:</p> <ol style="list-style-type: none"> General, business and professional offices, as defined in section 14-47; Personal services, as defined in section 14-47; Offices of building tradesmen; Retail establishments; Restaurants; Restaurants, except that restaurants shall close for all purposes incl. the service of alcohol no later than 11:00 p.m.; Drinking establishments, except in the B-2c zone; Billiard parlors; Mortuaries or funeral homes; Miscellaneous repair services, excluding motor vehicle repair services; Communication studios or broadcast and receiving facilities; Health clubs and gymnasiums; Veterinary hospitals, but excluding outdoor kennels; Theaters and performance halls; Hotels or motels of less than one hundred fifty (150) rooms; Dairies; & 17. Bakeries; & 19. Drive-throughs associated with a permitted use in the B-2 zone not adjacent to any residential use or zone. <p>Institutional:</p> <ol style="list-style-type: none"> Private club or fraternal organization; Long term, extended and intermediate care facility; Clinics, as defined in section 14-47; Churches or other places of worship; Kindergarten, elementary, middle and secondary schools; College, university, trade schools; and Municipal buildings and uses. <p>Other:</p> <ol style="list-style-type: none"> Lodging houses; Day care facilities or babysitting services; Utility substations; Accessory uses; Bed and breakfast, including meeting facilities of certain types; Studios for artists and craftspeople. 	<p>Business:</p> <ol style="list-style-type: none"> General, business and professional offices, as def. in section 14-47; Personal services, as defined in section 14-47; Offices of building tradesmen; Retail establishments; Restaurants; Drinking establishments; Billiard parlors; Major and minor gasoline service stations; Mortuaries or funeral homes; Miscellaneous repair services; Health clubs and gymnasiums; Hotels and motels; New and used car dealerships; Facilities for the maintenance and repair of automobiles, (in a fully enclosed structure); Car washes; Lumber and building materials dealers; Communication studios and broadcast receiving facilities; Veterinary hospitals but excluding outdoor kennels; Auto body repair and paint shops (in fully enclosed structures); Boat, trailer or recreational vehicle sales and service; Theaters, entertainment and recreation services; Self-storage facility. <p>Institutional:</p> <ol style="list-style-type: none"> Governmental buildings and uses. Colleges, universities and trade schools. Churches or other places of worship. Correctional pre-release facilities subject to conditions. <p>Other:</p> <ol style="list-style-type: none"> Lodging houses; Wholesale warehousing and distribution establishments; Commercial bakeries and dairies; Light manufacturing uses subject to conditions; Printing and publishing establishments; Research and development and related production establishments; Utility substations; Day care facilities; Studios for artists and craftspeople; Accessory uses, as provided in section 14-404; and Storage lots for towed or impounded vehicles, subject to conditions.

STAFF ANALYSIS

The proposed funeral home use is similar to the permitted uses of the Residence Professional Zone. Therefore allowing funeral homes in the R-P zone appears a reasonable way to provide for this community use. Funeral homes appear to be consistent with the purpose of the R-P zone which is (14-146):

- (a) *To provide appropriate location for the development and operation of low-intensity business uses, including professional offices on or near major arterials, that are compatible in scale, density and use with surrounding and adjacent residential neighborhoods; or*
- (b) *To serve as a transition or buffer zone between residential and more intensive nonresidential zones.*

However, the R-P zones are located along arterials (Forest, Congress, Allen, Washington, Ocean, Brighton, Auburn – see Attachments 2 and 3) and often include medical offices. If funeral homes were allowed in this zone, the main concerns would be:

1. Traffic: while the day-to-day traffic patterns associated with funeral homes do not appear to be a problem as they are generally not in the peak hour, the potential for long processions which disrupt traffic is a concern. This would be a concern on the property under consideration (666 Brighton Avenue), as a procession which disrupted traffic during the morning peak would be unacceptable.
2. Parking: the 4-8pm period of activity is understood to be characterized by a possibly large number of vehicles accessing the funeral home. There is potential for disruption to the streets and to neighbors as a result of on-street parking. This issue is already addressed in the City's ordinance under *Parking*, where in Section 14-332 (g) the parking requirement for funeral homes is stated to be "*One (1) parking space for each five (5) seats or for each 100 square feet, or major fraction thereof, of assemblage space if no fixed seats.*"
3. Hours of activity: R-P zones are adjacent to residential areas and the existing text limits the conditional uses to those which operate in a manner similar to "professional offices". As characterized by the applicant, funeral homes are similar although the evening hours are slightly later than most offices. The R-P zone allows, as a conditional use, any use that is allowed as a conditional use in the residential zone abutting the lot. All of the residential zones include places of worship, and most include private clubs and fraternal organizations, as conditional uses (albeit with additional review criteria) which would have hours similar if not later than 8pm.

In considering the text amendment request, the Planning Board will want to consider two options for the text amendment:

1. To amend the text of the R-P zone (Section 14- 147 *Permitted Uses*) as proposed by the applicant in Attachment A-1.3 to add, under (b) Business: "4. Mortuaries or funeral homes". In this case the use would be subject to the requirements included in the R-P zone (14-150 and 14-151) as well as the site plan requirements if the use triggered minor or major site plan; or

2. To amend the text of the R-P zone (Section 14- 147.5 Conditional Uses) to add, as a new item (c): “Mortuaries or funeral homes, subject to the restriction of processions to non-peak traffic times where necessary to ensure safe conditions on affected pedestrian and vehicular routes. The use would also be subject to the requirements included in the R-P zone (14-150 and 14-151) as well as the site plan requirements if the use triggered minor or major site plan.

NEXT STEPS

The applicant is not required to hold a Neighborhood Meeting in respect of the text amendment.

The applicant will need to address the Planning Board comments and return to the Board for Hearing. The request would then proceed to the City Council with the Planning Board’s recommendation.

Attachments:

Memorandum Attachments

1. Current R-P Zone Ordinance language
2. R-P Zone locations south part of Portland
3. R-P Zone locations north part of Portland
4. Aerial and photo of 666 Brighton Avenue

Application Submittal

Attachment A: Excerpts of Application and Written Material

- A-1 Zoning Text Change Amendment Application
- A-2 Information from applicant regarding traffic



**Memorandum
Department of Planning and Development
Planning Division**

To: Chair Silk and Members of the Portland Planning Board

From: Jean Fraser, Planner

Date: January 16, 2009

Re: January 20, 2009 Planning Board Workshop
Zoning Text Amendment
R-P Zone to allow funeral homes
ATH, LLC– Applicant

INTRODUCTION

The ATH, LLC (Mark Hutchins) has requested a text change to the City Ordinance to allow funeral homes in the Residence-Professional (R-P) zone. The amendment requested is to section *14-147 Permitted Uses (R-P Zone)* (Attachment 1) and they request that “Mortuaries or funeral homes” be added to the list of permitted uses under *(b) Business* (Attachment A-1, page 3).

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STAFF ANALYSIS

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- (b) *To serve as a transition or buffer zone between residential and more intensive nonresidential zones.*

However, the R-P zones are located along arterials (Forest, Congress, Allen, Washington, Ocean, Brighton, Auburn – see Attachments 2 and 3) and often include medical offices. If funeral homes were allowed in this zone, the main concerns would be:

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In considering the text amendment request, the Planning Board will want to consider two options for the text amendment:

1. To amend the text of the R-P zone (Section 14- 147 *Permitted Uses*) as proposed by the applicant in Attachment A-1.3 to add, under (b) Business: "4. Mortuaries or funeral homes". In this case the use would be subject to the requirements included in the R-P zone (14-150 and 14-151) as well as the site plan requirements if the use triggered minor or major site plan; or

R-P Residence-Professional Zone (content text only)

Sec. 14-146. Purposes.

The purposes of the R-P residence-professional zone are:

- (a) To provide appropriate location for the development and operation of low-intensity business uses, including professional offices on or near major arterials, that are compatible in scale, density and use with surrounding and adjacent residential neighborhoods; or
- (b) To serve as a transition or buffer zone between residential and more intensive nonresidential zones.

Sec. 14-147. Permitted uses.

The following uses are permitted in the R-P district:

- (a) *Residential:* Any residential use is permitted in the residential zone abutting the lot. If there is no abutting residential zone, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the most restrictive such zone.
- (b) *Business:*
 - 1. Professional offices, including the offices and facilities of health care and related laboratory and pharmacy services and health care administration, but excluding personal services, retail establishments and veterinarians.
 - 2. Business services, as defined in section 14-47, except copy services.
 - 3. Adult day care services.
- (c) *Other:*
 - 1. Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan).
 - 2. Accessory uses as provided in section 14-404.

Sec. 14-147.5. Conditional uses.

The following uses are permitted as provided in section 14-474 (conditional uses) if they meet the following requirements:

- (a) Such other offices which have characteristics similar to but no more objectionable than those generally associated with professional offices. In determining appropriateness, the zoning board shall consider the quality of building design and materials, signage, and landscaping, and their general compatibility with the surrounding residential development. Such uses shall also be shown to have vehicular patterns, including parking and storage of motor vehicles, similar to those associated with professional offices. Noise levels and hours of operation shall also be considered. An approval granted under this section shall be issued to a specific user and shall not run with the land to subsequent users. A new conditional use approval shall be required when the user changes. A new conditional use approval may be issued by the zoning authority if it determines that the new user will maintain the same use as the original user and that such use will not have substantially different external effects, including, but not limited to, parking, vehicular traffic on and off the site, noise levels, hours of operation, and visual characteristics such as signage or changes to building design.

(b) Any conditional use that is allowed as a conditional use in any residential zone abutting the lot. If there is no abutting residential zone, any conditional use that is allowed as a conditional use in the nearest residential zone to the lot. Any such conditional use shall be subject to all conditions required in the residential zone.

Sec. 14-148. Prohibited uses.

Uses not enumerated in section 14-147 as permitted uses or in section 14-147.5 as conditional uses are prohibited.

Sec. 14-149. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, the following requirements shall apply. Residential uses permitted under section 14-147(a) shall meet the requirements of such abutting or nearest residential zone. Nonresidential uses in the R-P zone shall meet the following minimum requirements:

(a) *Minimum lot size:* Six thousand (6,000) square feet.

(b) *Minimum street frontage:* Sixty (60) feet.

(c) *Minimum yard dimensions:*

1. *Front yard:*

a. Principal or accessory structures: Twenty (20) feet, except that:

- i. The front yard need not exceed the average depth of immediately abutting front yards; and
- ii. The front yard of a lot existing as of April 4, 1988, which lot is less than one hundred (100) feet deep, need not be deeper than ten (10) percent of the depth of the lot.

2. *Rear yard:*

- a. Principal structures: Twenty (20) feet.
- b. Accessory structures (detached): Seven (7) feet.

3. *Side yard:*

a. Principal structures:

Number of Stories Required Side Yard

- 1 story 10 feet
- 2 stories 12 feet
- 3 or more stories . . 14 feet

The width of one (1) side yard may be reduced one (1) foot for each foot that the other side yard is correspondingly increased, provided, however, no side yard shall be reduced to less than seven (7) feet in width.

b. Accessory structures (detached): Seven (7) feet.

c. Side yards on side streets (corner lot): For both principal or accessory structures:

- i. One (1) or two (2) stories: Fifteen (15) feet; and
- ii. Three (3) or more stories: Eighteen (18) feet.

(d) *Minimum lot width:* Sixty (60) feet.

(e) *Maximum structure height:* Forty-five (45) feet. Where the lot abuts an R-6 residential zone, the maximum permitted height shall be the maximum permitted height of the R-6 zone. If there is a difference in height between abutting R-6 zones, the least restrictive height limitation shall apply.

- (f) *Maximum impervious surface ratio:* The maximum impervious surface ratio is established according to the abutting residential zone. If there is no abutting residential zone to the lot in question, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the least restrictive such zone. The ratios are as follows:

Maximum Impervious

Residential Zone Surface Ratio

- R-1/R-2 0.60
- R-3 0.70
- R-4/R-5/R-5A/R-6 0.80

- (g) *Floor area ratio (F.A.R.):* The maximum floor area ratio is established according to the abutting residential zone. If there is no abutting residential zone to the lot in question, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the least restrictive such zone. The ratios are as follows:

Residential Floor Area Ratio

- R-1/R-2 0.45
- R-3 0.55
- R-4/R-5/R-5A/R-6 . . 0.65

Sec. 14-150. Other requirements.

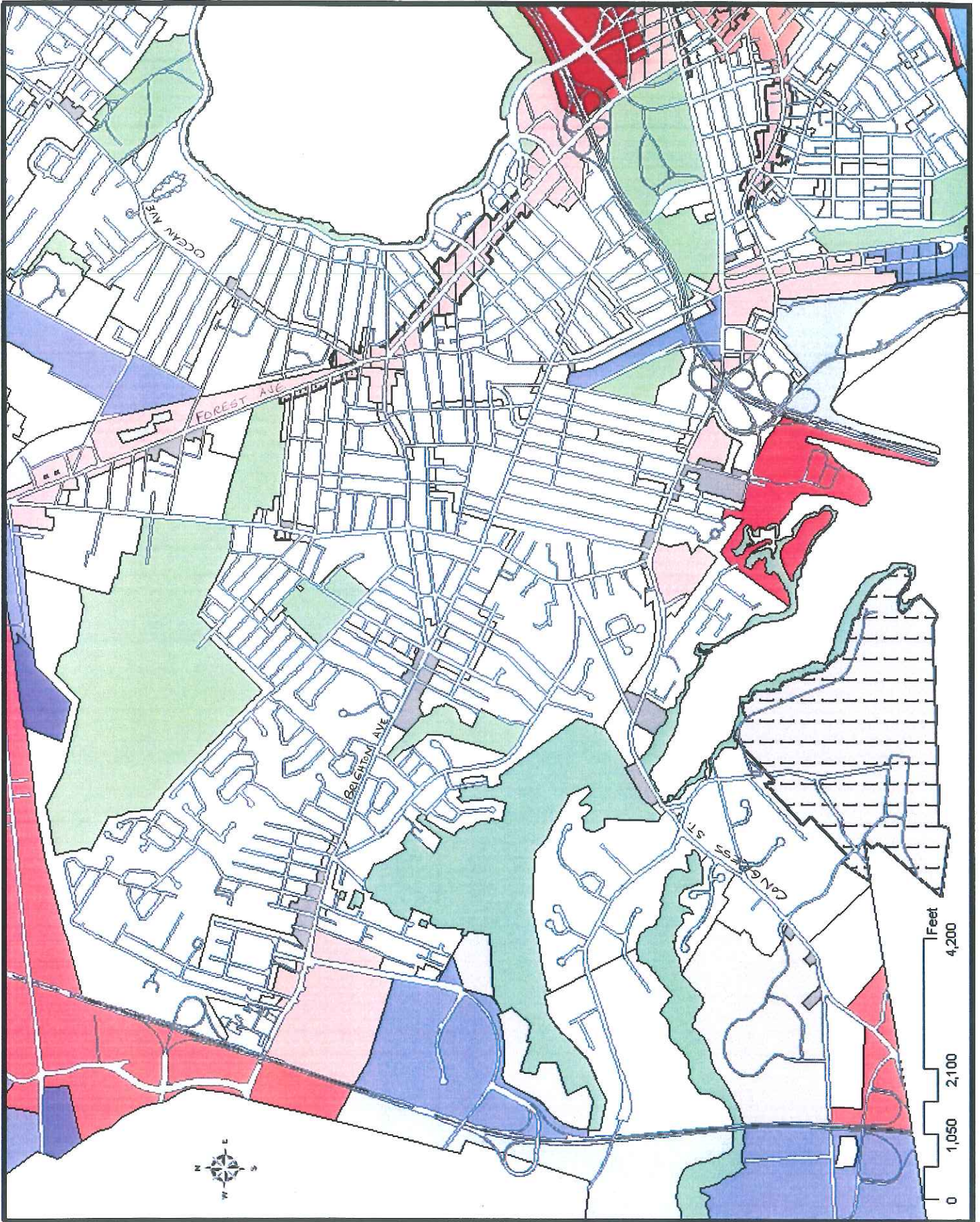
All nonresidential uses in the R-P zone shall meet the requirements of division 25 (space and bulk regulations and exceptions) of this article in addition to the following requirements:

- (a) *Landscaping and screening:* The site shall be suitably landscaped for parking, surrounding uses and accessory site elements, including storage and solid waste receptacles where required by article IV (subdivisions) and article V (site plan).
- (b) *Curbs and sidewalks:* Curbs and sidewalks as specified in article VI of chapter 25.
- (c) *Off-street parking and loading:* Off-street parking and loading are as required by division 20 and division 21 of this article.
- (d) *Front yard parking:* There shall be no parking in the front yard between the street line and the required minimum setback line. A maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the front yard, provided that for a lot of three (3) acres or more this limitation does not apply.
- (e) *Signs:* Signs shall be subject to the provisions of division 22 of this article.
- (f) *Exterior storage:* There shall be no exterior storage with the exception of receptacles for solid waste disposal. Such receptacles shall be shown on the approved site plan.
- (g) *Storage of vehicles:* Storage of vehicles is subject to the provisions of section 14-335.
- (h) *Shoreland and flood plain management regulations:* If the lot is located in a shoreland zone or in a flood hazard zone, the requirements of division 26 and/or division 26.5 apply.

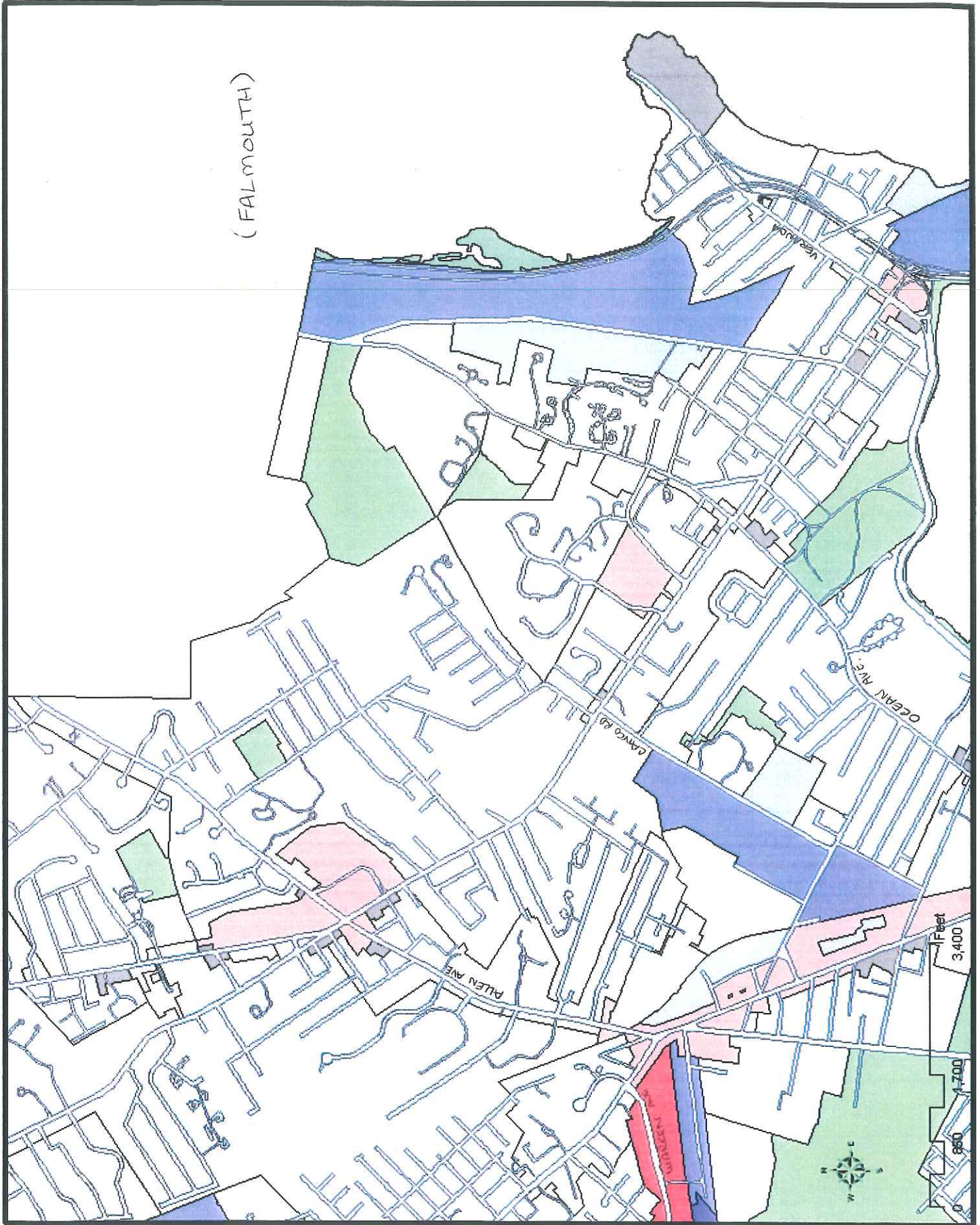
Sec. 14-151. External effects.

Every use in a R-P zone shall be subject to the following requirements:

- (a) *Enclosed structure:* The use shall be operated within a completely enclosed structure, except for those customarily operated in the open air.
- (b) *Noise:* The volume of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American Standards Association), generated shall not exceed fifty-five (55) decibels on the A scale, on impulse (less than one (1) second), at lot boundaries, excepting air raid sirens and similar warning devices.
- (c) *Vibration and heat:* Vibration inherently and recurrently generated and heat shall be imperceptible without instruments at lot boundaries.
- (d) *Glare, radiation or fumes:* Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.
- (e) *Smoke:* Smoke shall not be emitted at a density in excess of twenty (20) percent opacity level, as classified in Method 9 (Visible Emissions) of the Opacity Evaluation System of the U.S. Environmental Protection Agency.
- (f) *Materials or wastes:* No materials or wastes shall be deposited on any lot in such form or manner that they may be transferred beyond the lot boundaries by natural causes or forces. All material which might cause fumes or dust, or constitute a fire hazard if stored out-of-doors, shall be only in closed containers. Areas attracting large numbers of birds, rodents or insects are prohibited.



R-P zones south part of Portland R-P Zones in dark gray; Residential in white; B1/B2 in lt.pink



R-P zones north part of Portland R-P Zones in dark gray; Residential in white; B1/B2 in lt.pink

- 660 -



North is up

Attachment 4.2



Applicant's Submittal



City of Portland, Maine
Department of Planning and Development
Zoning Text Amendment Application

SUBMITTAL
Attachment A-1.1

Application ID: 1464 Application Date: 12/03/2008 CBL: 224A Property Location: 660 Brighton Ave

Applicant Information:

ATH, LLC
Name

Business Name
16 Equestrian Way
Address

Scarborough, ME 04074
City, State and Zip

Telephone _____ Fax _____

Applicant's Right, Title or Interest in Subject Property:

Current Zoning Designation: RP

Existing Use of Property:

Proposed Use of Property:

allow funeral homes in the R-P zone

Property Owner:

Whitewater Llc
Name

1601 Congress St
Address

Portland, ME 04102
City, State and Zip

Telephone _____ Fax _____

Amendment A _____

Amendment B _____

Amendment C

Section 14: _____

Requested:

Planning Approval

REVIEW TYPE: _____

RECOMMENDATION DATE: _____ APPROVAL DATE: _____ ENACTMENT DATE: _____

A-1.2

**ATH, LLC
16 Equestrian Way
Scarborough, Maine 04074**

Barbara Barhydt, Development Review Services Manager
City of Portland, Planning Division
389 Congress St.
Portland, Maine 04101

Dear Barbara:

Please accept the following as our Zoning Amendment Application for a Zoning Text Amendment.

1. Applicant Name:

ATH, LLC
16 Equestrian Way
Scarborough, Maine 04074

2. Subject Property: N/A – See Narrative

3. Property Owner: N/A

4. Billing Address:

ATH, LLC
16 Equestrian Way
Scarborough, Maine 04074

4. Right, Title, or Interest: N/A – See Narrative

5. Vicinity Map: N/A

6. Existing Use: N/A – See Narrative

7. Current Zoning Designation: N/A

8. Proposed Use of Property: N/A – See Narrative

9. Sketch Plan: N/A – See attached

10. Proposed Zoning:

B. Zoning Text Amendment to Section 14-147 Permitted uses. The requested addition to RP Zone is highlighted below.

Zoning Amendment Application (cont.)

The following uses are permitted uses in the R-P zone:

- (a) *Residential:* Any residential use is permitted in the residential zone abutting the lot. If there is no abutting residential zone, the nearest residential zone to the lot.

In the case of two (2) or more abutting residential zones, the most restrictive such zone.

- (b) *Business:*

1. Professional offices, including the offices and facilities of health care and related laboratory and pharmacy services and health care administration, but excluding personal services, retail establishments and veterinarians.

2. Business services, as defined in section 14-47, except copy services.

3. Adult day care services.

4. Mortuaries or funeral homes

- (c) *Other:*

1. Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan).

2. Accessory uses as provided in section 14-404.

The purposes of the R-P residence-professional zone are:

(a) To provide appropriate location for the development and operation of low-intensity business uses, including professional offices on or near major arterials, that are compatible in scale, density and use with surrounding and adjacent residential neighborhoods; or

(b) To serve as a transition or buffer zone between residential and more intensive nonresidential zones.

Narrative

The funeral industry has changed over the years. Back some 75 plus years ago most of the wakes for a family's deceased member would be held within the family's home. So there was not the need for large funeral homes with ample parking. Over time, families began to rely on the funeral home establishment as a place to hold a wakes or a service. Even with that shift in location for wakes and services, all the funeral homes at that time were established within large residential homes and in a neighborhood setting. This was done to mimic the "home" atmosphere that a family was used to. It was not until 1959, in Portland, that a building was designed and built for the sole purpose of being a funeral home. This facility is currently the Jones, Rich and Hutchins Funeral Home on Woodford

Zoning Amendment Application (cont.)

St. and it was constructed next to a residential neighborhood. A funeral home is better suited to be positioned next to a residential neighborhood, because of the atmosphere that you want to have surrounding the site of the funeral home . You want to have the feeling of “home”.

The subject property that would benefit from the Text Amendment is located at 660 Brighton Ave. Currently, ATH, LLC. has a signed Purchase and Sales Agreement with Waterwater, LLC on the subject property. The subject property is currently being used as a Doctor’s Park (dentists and physicians). The proposed use of the subject property would be for the establishment of a funeral home.

Based on the above permitted uses and the purpose of the R-P residence-professional zone, it is our belief that the inclusion of mortuaries or funeral homes in this zone would be a better fit for this type of business, than the B-2 and B-4 zones, which are the only zones that permit a mortuary or funeral home.

We do not view either of these zones as compatible with the desired surrounding environment for a mortuary or funeral home. This view is based on the other types of business that are allowed in those zones. By reviewing the listed purposes and permitted uses in these zones, (See attachment A) there are a number of businesses that, largely because of the noise and traffic that they generate would not be appropriate next to a mortuary or funeral home.

The B2 zone is intended for a mixture of businesses, including major shopping centers. The B4 zone is intended for highway-orientated trade and large-scale commercial use; hardly characteristics conducive for creating a residential or “home” atmosphere desirable for a mortuary or funeral home.

We believe that the RP zone is far more conducive to the desired atmosphere for a mortuary or funeral home The traffic likely to be generated from a mortuary or funeral home and its hours of operation are far more like a professional office than that of a shopping center, automobile dealership or wholesale distribution establishment.

A-1.5

ATH, LLC - Zoning Amendment Application for a Zoning Text Amendment

Attachment A

B-2 zones in the city are currently located in the following areas:

Forest Ave bordering I-295 up to Morrill's Corner
Woodfords St. – from Forest Ave up to the Jones, Rich & Hutchins Funeral Home
Washington Ave – Andover College / Martin's Point property
Washington Ave – Northport property
Auburn St. – Northgate Property
Allens Corner
St. Johns St / Valley St. area
Congress St. – west from State St. to Weymouth St.
Outer Congress St.:
 Old Double Tree Hotel property, Norway Savings Bank, Mobil Station
 Westgate Shopping Center area
 Pinetree Shopping Center / Quirk Chevrolet

B-4 zones in the city are currently located in the following areas:

Warren Ave from Forest Ave to Riverside St.
Riverside St. to Brighton Ave.

The purpose of the B-2 community business zone is:

- (1) To provide appropriate locations for the development and operation of community centers offering a mixture of commercial uses and services serving the adjoining neighborhoods and the larger community.
- (2) The variety, sites and intensity of the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1 neighborhood business zone.
- (3) The B-2 zone will provide a broad range of goods and services and general businesses with a mixture of large and small buildings such as grocery stores, shops and services located in major shopping centers and along arterial streets. Such establishments should be readily accessible by automobile and by pedestrians. Development in the B-2 zone should relate to the surrounding neighborhoods by design, orientation, and circulation patterns.
 - (b) B-2b Community Business Zone – is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate areas where a more compact urban development pattern exists on-peninsula or in areas where a neighborhood compatible commercial

Zoning Amendment Application (cont.)

district is established off-peninsula and each area exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern. Building additions are encouraged but not required to meet the maximum setbacks of 14-185I.

(c) B-2c Community Business Zone – is intended to protect and enhance the quiet enjoyment of adjoining residential neighborhoods from the impacts of businesses that serve liquor and from other uses that are incompatible with adjoining neighborhoods due to noise.

The following uses are permitted in the B-2, B-2b and B-2c zones except that any use involving drive-throughs are prohibited in these zones unless otherwise provided in section 14-183:

(a) *Residential:*

1. Any residential use permitted in the residential zone abutting the lot. If there is no abutting residential zone, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the most restrictive such zone; and
2. In any structure with commercial uses in the first floor, multi-family dwellings are permitted above the first floor.

(b) *Business:*

1. General, business and professional offices, as defined in section 14-47;
2. Personal services, as defined in section 14-47;
3. Offices of building tradesmen;
4. Retail establishments;
5. Restaurants, except that restaurants shall close for all purposes including the service of alcohol no later than 11:00 p.m.;
6. Drinking establishments, except that drinking establishment as defined in section 14-47, and bars as defined in section 14-217.5 (a)(1), shall not be permitted in the B-2c zone;
7. Billiard parlors;
8. Mortuaries or funeral homes;
9. Miscellaneous repair services, excluding motor vehicle repair services;
10. Communication studios or broadcast and receiving facilities;
11. Health clubs and gymnasiums;
12. Veterinary hospitals, but excluding outdoor kennels;
13. Theaters and performance halls;
14. Hotels or motels of less than one hundred fifty (150) rooms;
15. Dairies in existence as of November 15, 1999;
16. Bakeries in existence as of November 15, 1999;
17. Bakeries established after November 15, 1999, provided the bakeries include retail sales within the principal structures. Bakeries in the B-2b zone shall be no greater than seven thousand (7,000) square feet in size;

Zoning Amendment Application (cont.)

18. Drive-throughs associated with a permitted use in the B-2 zone provided that such do not include drive-throughs on any lot adjacent to any residential use or zone. For purposes of this section, only, "adjacent to" shall include uses across a street if within 100 feet of the subject lot boundary;
19. Drive-throughs associated with a permitted use in the B-2b zone, when accessory to a principal use located on the same lot, provided that such do not include drive-throughs on any lot adjacent to any residential use or zone. For purposes of this section, only, "adjacent to" shall include uses across a street if within 100 feet of the subject lot boundary.

(c) Institutional:

1. Private club or fraternal organization;
2. Long term, extended and intermediate care facility;
3. Clinics, as defined in section 14-47;
4. Churches or other places of worship;
5. Kindergarten, elementary, middle and secondary schools;
6. College, university, trade schools; and
7. Municipal buildings and uses.

(d) Other:

1. Lodging houses;
2. Day care facilities or babysitting services;
3. Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan);
4. Accessory uses, as provided in section 14-404;
5. Bed and breakfast, subject to the standards of article V (site plan). A bed and breakfast may include a meeting facility if the facility meets the following standards:
 - a. The meeting facility shall be limited to the following types of uses:
 - i. Private parties.
 - ii. Business meetings.
 - iii. Weddings.
 - iv. Receptions.
 - v. Seminars.
 - vi. Business and educational conferences.
 - b. The building in which the bed and breakfast and the meeting facility will be located was in existence on March 3, 1997, and was greater than four thousand (4,000) square feet in floor area on that date.
6. Studios for artists and crafts people, provided that the area of such studios does not exceed four thousand (4000) square feet for each studio space.

Zoning Amendment Application (cont.)

The following uses are permitted in the B-2, B-2b and B-2c zone, as provided in section 14-474 (conditional uses), if they meet the following requirements:

- (a) *Business*. Any of the following conditional uses, provided that, notwithstanding section 14-474(a) of this article or any other provision of this code, the Planning Board shall be substituted for the board of appeals as the reviewing authority over conditional business uses:
1. Major and minor auto service stations in the B-2 zone, only;
 2. Major or minor auto service stations in the B-2b zone in existence as of November 15, 1999;
 3. Car washes;
 4. Drive-throughs in the B-2 or B-2b zones which are adjacent to any residential use or zone, provided that, in the B-2b drive-throughs must be accessory to a principal use located on the same site;
 5. Automobile dealerships.

(b) *Other*:

1. Printing and publishing establishments except as provided in subsection b. below;
2. Printing and publishing establishments in continuous operation at their current location since April 4, 1988, or earlier and which exceeded ten thousand (10,000) square feet of aggregate gross floor area at that time
3. Wholesale distribution establishments; and
4. Research and development and related production establishments.

Uses listed in this paragraph (b) (other) 1, 3 and 4 shall be limited to ten thousand (10,000) square feet of aggregate gross floor area, and uses listed in this paragraph (b) (other) 1, 2, 3 and 4 shall be subject to the following conditions and standards in addition to the provision of section 14-474:

- a. *Traffic circulation*: The site shall have an adequate traffic circulation pattern designed to avoid hazards to vehicular circulation on adjoining streets. All stacking of motor vehicles shall be on site, and loading facilities shall be located to the rear of the building and shall not be visible from the street.
- b. *Building and site design*: The exterior design of the structures, including architectural style, facade materials, roof pitch, building form, established setbacks and height, shall be of a commercial rather than industrial character. The site shall contain screening and landscaping which shall meet the requirements of the Technical Standards and Design Guidelines adopted pursuant to section 14-498 and section 14-526 for screening between land uses.

The purpose of the B-4 commercial corridor zone is:

- (a) To provide appropriate locations in the city for the development and operation of businesses catering primarily to highway-oriented trade along major

Zoning Amendment Application (cont.)

- arterials. (Uses which have market areas which are primarily dependent on the regional highway network or serve a regional or larger market); or
- (b) To provide appropriate locations for large-scale commercial uses and commercial uses that require larger land areas to accommodate their operations.

The following uses are permitted in the B-4 zone:

(a) Business:

1. General, business and professional offices, as defined in section 14-47;
2. Personal services, as defined in section 14-47;
3. Offices of building tradesmen;
4. Retail establishments;
5. Restaurants;
6. Drinking establishments;
7. Billiard parlors;
8. Major and minor gasoline service stations, as defined in section 14-47;
9. Mortuaries or funeral homes;
10. Miscellaneous repair services;
11. Health clubs and gymnasiums;
12. Hotels and motels;
13. New and used car dealerships;
14. Facilities for the maintenance and repair of automobiles, provided all repairs are performed in a fully enclosed structure;
15. Car washes;
16. Lumber and building materials dealers;
17. Communications studios and broadcast receiving facilities;
18. Veterinary hospitals but excluding outdoor kennels;
19. Auto body repair and paint shops provided all repairs are performed in fully enclosed structures;
20. Boat, trailer or recreational vehicle sales and service;
21. Theaters, entertainment and recreation services;
22. Self-storage facility.

(b) Institutional:

1. Governmental buildings and uses.
2. Colleges, universities and trade schools.
3. Churches or other places of worship.
4. Correctional prerelease facilities for up to twelve (12) persons, plus staff, serving a primary clientele of parolees or persons in correctional prerelease programs, provided that:
 - a. No correctional prerelease facility shall be located within one thousand (1,000) feet of another, as measured in a radius from the center of the lot;
 - b. If a facility requires state or federal licensing, staffing of the facility shall be as required by such license. If a facility does not require state or federal licenses, there shall be a

Zoning Amendment Application (cont.)

minimum of one (1) staff person for every ten (10) residents or fraction thereof; and

- c. The facility shall provide twenty-four-hour supervision of program participants.

(c) *Other:*

1. Lodging houses;
2. Wholesale warehousing and distribution establishments;
3. Commercial bakeries and dairies;
4. Light manufacturing uses with not more than twenty-five thousand (25,000) square feet or less of gross floor area. Exterior assembly of materials or products is prohibited. Activity defined as a high hazard by chapter 6 of this Code (building code) is also prohibited;
5. Printing and publishing establishments;
6. Research and development and related production establishments;
7. Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan); and
8. Day care facilities;
9. Studios for artists and craftspeople;
10. Accessory uses, as provided in section 14-404;
11. Storage lots for towed or impounded vehicles, provided that such lots are located at least 300 feet from any residential zone or existing conforming residential use. For the purposes of this section, "existing conforming residential use" does not include a legally nonconforming residential use as described in division 23 of this chapter.

Attachment A-2

Jean:

The funeral industry has changed dramatically over the past twenty years. Twenty years ago, the normal length of time that a family would use the services of a funeral home would be approximately three days. The first two days would be for the wake or visiting hours. The normal hours for a wake would be 2:00PM to 5:00PM, then again from 7:00PM to 9:00PM. On the third day, a family might have prayers said at the funeral home prior to leaving for a church service or the funeral service would be held at the funeral home.

Today most wakes or visiting hours are only about three to four hours long (4:00PM to 8:00PM) and for only one day. On the day of the funeral it is usually just the family that will meet at the funeral home before leaving for a church service, where as the public will go directly to the church. Funeral processions today from the funeral home may range from six to ten vehicles. The procession will become much larger when it leaves the church to go to the cemetery.

I would like to make a couple of points surrounding traffic flows for funeral homes:

First, it is difficult to estimate the overall size of a procession leaving a funeral home because family sizes vary. There are times when a procession will be large and that is usually the case when a public figure passes away. This is also the case when you try to estimate the amount of traffic that would be generated during visiting hours. Today traffic flow surrounding a funeral home would be concentrated to the hours of 9:00AM to 11:00AM and between 4:00PM to 8:00PM and is usually limited to a few cars at a time entering or leaving the facility.

Second, the length of time that a funeral procession might require that traffic be stopped in order for the vehicle to leave the funeral would generally be less than five minutes. Again, this depends on the size of the family or if the individual is a public figure. Once the procession has left the funeral home, depending on the size, it can create a traffic concern along its route through the city. The funeral procession will not create traffic issues just within the RP Zone.

[from Mark Hutchins 12.30.2008]

PBR1

**RESIDENCE-PROFESSIONAL (R-P) TEXT AMENDMENT TO
SECTION 14-147. PERMITTED USES**

ATH, LLC, APPLICANT

Submitted to:

Portland Planning Board
Portland, Maine

February 10, 2009 Public Hearing

Submitted by:

Jean Fraser, Planner
February 6, 2009

I. INTRODUCTION

The ATH, LLC (Mark Hutchins) has requested a text change to the City Ordinance to allow funeral homes in the Residence-Professional (R-P) zone. The amendment requested is to section *14-147 Permitted Uses (R-P Zone)* (Attachment 1) and they request that “Mortuaries or funeral homes” be added to the list of permitted uses under *(b) Business* (Attachment A-1, page 3).

Funeral homes are not permitted in the R-P zone on any basis. The R-P zone does provide for uses which can be shown to meet the conditional use requirements ie shown to be similar to professional offices. Funeral homes are permitted uses only in the B2 and B4 zones, which generally accommodate business and large scale commercial uses.

The text amendment allows the applicant to use a building in the R-P zone (660* Brighton Avenue) for a funeral home. If an R-P text change is recommended by the Planning Board and approved by the City Council, the change of use at this site would then be subject to minor site plan approval and the other requirements of the R-P zone.

Some members of the Planning Board considered that potential issues related to parking and processions warranted the funeral home use being included as an R-P conditional use subject to restrictions, rather than a permitted use. The applicant has submitted further information to illustrate that funeral homes do not have adverse impacts, and therefore encourages the Board to allow funeral homes and mortuaries as a permitted use, with these issues (if still a concern) addressed through amendments to the Ordinance relating to that issue or addressed at the Site Plan review stage (Attachments B-1 and B-2).

This meeting was noticed to the 88 persons on the interested parties list. The Planning division has not received any public comments as of the time of writing this Report.

II. ZONING TEXT AMENDMENT REQUEST

Background

The R-P zones are generally in small pockets along major arterials (Forest, Congress, Allen, Washington, Ocean, Brighton, Auburn –see Attachments 2 & 3) and often include medical offices. They were intended as buffer zones between business and residential areas; all abut residential uses and most abut B1 or B2 zones.

The permitted uses in the R-P zone are professional office uses, businesses and adult care services (see table below & Attachment 1) which are intended to have limited impacts on adjoining residential zones. The conditional use provisions allow other offices with similar characteristics as to the permitted uses. While funeral homes are similar in scale and activity to professional offices, the conditional use provisions exclude funeral homes due to the different hours of operation and traffic patterns.

Funeral homes are permitted in the B2 and B4 zones, but these zones also allow a wide range of other uses that include large scale, commercial and highway-oriented businesses (see table below). The applicant notes that these business zones are “not conducive for creating a residential or “home” atmosphere desirable for a mortuary or funeral home” (Attachment A-1.4). The applicant’s narrative “Attachment A” includes the purpose and full list of permitted and conditional uses for the B2 and B4 zones (Att. A-1.5).

Proposal by applicant

After a wide search in Portland for a building for a new funeral home, the applicant has secured a Purchase and Sale Agreement for the building at 660* Brighton Avenue for conversion from a medical office to a funeral home (needing only interior alterations). The building is within an R-P zone largely made up of medical office buildings just west of Woodford Street intersection on the south side of Brighton Avenue. This property comprises a former medical office building totaling 8664 sq ft on 2 levels with 85 parking spaces, mostly to the rear of the building (see Attachment 4).

PERMITTED USES COMPARISON (Summary)

R-P	B-2	B-4
<p>Residential</p> <p>Business:</p> <ol style="list-style-type: none"> 1. Professional offices, including the offices and facilities of health care and related laboratory and pharmacy services and health care administration, but excluding personal services, retail establishments and veterinarians. 	<p>Residential</p> <p>Business:</p> <ol style="list-style-type: none"> 1. General, business and professional offices, as defined in section 14-47; 2. Personal services, as defined in section 14-47; 3. Offices of building tradesmen; 4. Retail establishments; 5. Restaurants; 6. Drinking establishments; incl. the service of alcohol no later than 11:00 p.m.; 7. Billiard parlors; 8. Mortuaries or funeral homes; 9. Miscellaneous repair services, excluding motor vehicle repair services; 10. Communication studios or broadcast and receiving facilities; 11. Health clubs and gymnasiums; 12. Veterinary hospitals, but excluding outdoor kennels; 13. Theaters and performance halls; 14. Hotels or motels of less than one hundred fifty (150) rooms; 15. Dairies; 16. & 17. Bakeries; 18. & 19. Drive-throughs associated with a permitted use in the B-2 zone not adjacent to any residential use or zone. <p>Institutional:</p> <ol style="list-style-type: none"> 1. Private club or fraternal organization; 2. Long term, extended and intermediate care facility; 3. Clinics, as defined in section 14-47; 4. Churches or other places of worship; 5. Kindergarten, elementary, middle and secondary schools; 6. College, university, trade schools; and 7. Municipal buildings and uses. <p>Other:</p> <ol style="list-style-type: none"> 1. Lodging houses; 2. Day care facilities or babysitting services; 3. Utility substations; 4. Accessory uses; 5. Bed and breakfast, including meeting facilities of certain types; 6. Studios for artists and craftspeople. 	<p>Business:</p> <ol style="list-style-type: none"> 1. General, business and professional offices, as def. in section 14-47; 2. Personal services, as defined in section 14-47; 3. Offices of building tradesmen; 4. Retail establishments; 5. Restaurants; 6. Drinking establishments; 7. Billiard parlors; 8. Major and minor gasoline service stations; 9. Mortuaries or funeral homes; 10. Miscellaneous repair services; 11. Health clubs and gymnasiums; 12. Hotels and motels; 13. New and used car dealerships; 14. Facilities for the maintenance and repair of automobiles, (in a fully enclosed structure); 15. Car washes; 16. Lumber and building materials dealers; 17. Communications studios and broadcast receiving facilities; 18. Veterinary hospitals but excluding outdoor kennels; 19. Auto body repair and paint shops (in fully enclosed structures); 20. Boat, trailer or recreational vehicle sales and service; 21. Theaters, entertainment and recreation services; 22. Self-storage facility. <p>Institutional:</p> <ol style="list-style-type: none"> 1. Governmental buildings and uses. 2. Colleges, universities and trade schools. 3. Churches or other places of worship. 4. Correctional prerelease facilities subject to conditions. <p>Other:</p> <ol style="list-style-type: none"> 1. Lodging houses; 2. Wholesale warehousing and distribution establishments; 3. Commercial bakeries and dairies; 4. Light manufacturing uses subject to conditions; 5. Printing and publishing establishments; 6. Research and development and related production establishments; 7. Utility substations; 8. Day care facilities; 9. Studios for artists and craftspeople; 10. Accessory uses, as provided in section 14-404; and 11. Storage lots for towed or impounded vehicles, subject to conditions.

In order to proceed with this plan the applicant seeks the text amendment allowing funeral homes in the R-P zone; his application requests that they be included as permitted uses in the R-P zone. The applicant has outlined (Attachment A-1 and B-1) that funerals were traditionally home-based but now more funerals take place in a funeral home, therefore funeral homes need to be located in an area where the atmosphere is more like “home”. The narrative suggests that the R-P zone is more compatible with the funeral home use than the B2 or B4 zones as the atmosphere is likely to be suitable because of the limitations on uses (see provisions 14-150 and 14-151 in Attachment 1 which include “Other Requirements” (eg storage, parking) and requirements related to “External Effects” (eg noise, smoke, wastes) intended to ensure compatibility with residential uses.

The applicant also states that “the traffic likely to be generated from a mortuary or funeral home and its hours of operation are far more like a professional office than that of a shopping center, automobile dealership or wholesale distribution establishment” (Attachment A-1.4). The activity at a funeral home is largely between 9:00am and 8:00pm, and based on further submitted information regarding the operation of funeral homes (Attachment A-2, B-1 and B-2) it can be summarized as:

<u>Most activity:</u>	4:00-8:00 pm 7 days per week, largely visiting hours when people and cars come and stay for short periods of time (See first page, <u>Attachment B-1</u> so parking requirements are not high)
<u>Some traffic:</u>	9:00-11:00am 6 days per week (excluding Sunday) (possible service or when people attend the facility to make arrangements)
<u>Occasional Processions:</u>	generally take place between 9:30am and 3:00pm for operational reasons, most in morning (ie outside of peak hours of 7:30 to 8:30am and 4:30-5:30pm) and generally 6-10 vehicles because they involve just the family. Longer processions are rare (<u>attachment B-1</u>).

For these reasons the applicant considers that funeral homes are compatible with the objectives and locations of the R-P zones in Portland and has proposed that “mortuaries or funeral homes” be added to the list of permitted uses under (b) *Business* in Section 147.

III. STAFF ANALYSIS

The proposed funeral home use is consistent with the objectives of the R-P zone (see below under para. IV), is similar to the permitted uses of the Residence-Professional Zone, and would be subject to the extra requirements contained in 14-150 and 14-151 (Attachment 1). The aim of the R-P additional requirements is to ensure there are no adverse impacts on nearby residential uses. Therefore allowing funeral homes in the R-P zone appears a reasonable way to provide for this community use.

In the Planning Board Workshop memo, staff had identified the issues that may distinguish the funeral use from that of a professional office/medical office as being traffic, parking and hours of activity. The Planning Board raised specific issues requiring further investigation and which might warrant a text amendment that allowed funeral homes in the R-P zone as a conditional use rather than a permitted use:

- Requested more information re parking, as the application of the existing standard for funeral homes (Div 20) doesn't appear to meet the actual need;
- Noted that other funeral homes appear to have a need for considerable parking and how would this impact other R-P zones;
- How is “assemblage area” (Div 20 refers) measured re funeral homes?
- Processions on Brighton Ave. at peak hour would be a problem (though parking at that site appears OK); are processions likely to take place at peak hours?

The applicant's planning advisor (Elizabeth Della Valle) has submitted a Memo (Attachment B-2) which addresses these points and is discussed further below.

1. **Parking:** The 4-8pm period of activity for a funeral home is generally characterized as visiting hours with vehicles accessing the funeral home, though these usually are not all at one time. Viewing hours are the most common activity and at those times visitors would attend for a short period of time somewhere between the hours of 4pm and 7/8pm.

Memorial services are now usually held at the church or other place of worship, but an occasional service is held at the funeral home which could result in more concentrated parking demand, typically between 9:30 to 11:00am. There are two issues:

- a. Is the scale of parking likely to result in on-street parking in residential areas?
- b. If there is a possibility of that, how should it be restricted?

To answer the first question, a comparison with other local funeral homes may not be helpful because the other Portland sites are unique; all but one are grandfathered with very limited parking which they are not able to expand (to provide off-street parking) as they are non-conforming uses. The funeral home on Woodfords Street is in the B-2 zone and conforming; it has about 65 adjacent parking spaces and are allowed to use the lot across the street.

The applicant's Planning Advisor Elizabeth Della Valle has submitted a review of other communities' parking standards for funeral homes (Attachment B-2, pages 2 and 4) and included an assessment of the applicant's Brighton Ave property. The standards are not directly comparable with each other as they use slightly different measures, but it appears that Falmouth and South Portland employ similar standards to those in the City of Portland.

The Portland Parking ordinance states; "(g) *Auditoriums, theaters, assembly halls, funeral homes: One (1) parking space for each five (5) seats or for each one hundred (100) square feet, or major fraction thereof, of assemblage space if no fixed seats* (Div 20, 14-332(g)). (For a comparison with other uses, see an extract of 14-332 in Attachment 5). Assemblage area in the context of a funeral home is the viewing area and public gathering areas. There is no recognized national standard for parking for a funeral home, as confirmed by the City's Traffic Engineering Reviewer (below and Attachment 6).

*"I researched information available from publications prepared by the Institute of Transportation Engineers (ITE) for traffic and parking generation for funeral homes. No information is documented. * The applicant has provided information on parking requirements for funeral homes from various communities. Based upon the data provided, the proposed 660 Brighton Avenue facility would meet the noted regulations, although it was unclear how the required spaces were calculated. In my professional opinion, the proposed site will provide sufficient parking, with the exception of events for prominent individuals. I would note that we don't design parking lots and transportation infrastructure for the worst-case scenario (e.g. Christmas season for a retail store) and therefore would not request the applicant to increase the parking supply for a peak event". (Attachment 6)*

It is difficult to quantify the parking needs of a funeral home as the likely maximums (ie for a service) would not be needed very often. At other times visitors are in small groups or are attending for a short time, not unlike a professional office.

While the parking requirements for funeral homes can be debated, staff believes the current zoning minimum regulations are adequate, given the opportunity to review the parking on a case by case basis under the site plan ordinance. In addition, the R-P zones are located along arterials where mass transit service is generally available. A comprehensive review and revision of Parking Standards is a potential future planning initiative and would be conducted in context with policies to reduce impervious surfaces within the City, reduce dependence on Single Occupancy Vehicles, and the need to provide adequate parking. (Most of the comments received regarding parking minimums is that they should be reduced, not increased.)

2. **Traffic:** The applicant has confirmed that there is the possibility of processions, typically of 6-10 vehicles, occurring occasionally between 9:30am and 3pm. The City's Traffic Engineering Reviewer has confirmed that in Portland arterial streets experience the morning peak hour between 7:30am and 8:30am (Attachment 6) so an occasional procession at 9:00/9:30am does not present a concern. The applicant has pointed out (Attachment B-2, page 2) that processions of 50 or more vehicles are regulated under Chapter 28 (extract is in Attachment 5), which includes a specific reference to funeral processions.

The Traffic Engineering Reviewer (Tom Errico) advises that during the site plan review process he would seek conditions on the hours of funeral processions to avoid traffic impacts (Attachment 6). Such a condition could be applied if the funeral home use is a conditional use in the R-P zone, or through a compromise that staff have identified which involves including this condition as a provision under the *External effects* section of the R-P zone (section 14-151, see Attachment 1), thus allowing the funeral home use to be a permitted use in the R-P zone.

3. **Hours of operation:** The applicant has confirmed that the hours of operation are 9:00 to 11:00am every day except Sunday and 4:00-8:00pm every day, although the funeral home does not operate at all these times in any given week. These appear to be compatible with nearby residential uses. It should be noted that the Brighton Avenue property is not immediately adjacent to residential development.

The applicant suggests (Attachment B-2) that the potential for placing restrictions, if warranted, on this use are available during the site plan review or through amendments to the Ordinances regulating Parking and Processions. If the Board considers that any of these issues warrant additional restrictions, Staff suggests that the most straightforward approach would be to amend Sections 14-150 and/or 14-151 which already contain conditions on non-residential R-P uses to limit the impacts on neighbors.

IV. COMPREHENSIVE PLAN POLICIES

The Portland Neighborhood Economic Development Study (1992) included as a goal to "Restructure the City's zoning ordinances to accurately reflect the hierarchy of commercial centers. This would result in five commercial districts: R-P Residence-Professional to serve as a buffer district; B-1 Neighborhood Business District to provide limited areas for the location of small scale retail and service establishments; B-2 Community Business District to provide several major locations for a variety of retail, service and office uses; B-3 Downtown Business District; and B-4 Commercial Corridor District to provide locations for businesses that rely particularly on the regional highway network.

The purpose of the R-P zone (14-146) is:

- (a) *To provide appropriate location for the development and operation of low-intensity business uses, including professional offices on or near major arterials, that are compatible in scale, density and use with surrounding and adjacent residential neighborhoods; or*
- (b) *To serve as a transition or buffer zone between residential and more intensive nonresidential zones.*

Funeral homes were traditionally a use within residential areas and more recently have evolved into larger facilities but remain a service to the residential community. The funeral home use is consistent with the purpose of the R-P zone and is supported by the following sections of the Comprehensive Plan:

- o "Support Portland's livable neighborhoods by encouraging a mix of uses that provide goods and services needed and are within walking distance of most residents";
- o "Encourage growth in Portland that strives for a dynamic balance of the essential elements of the city, such as excellent schools, diverse housing choices, proximity to services and employment, increased public transit usage, expanded economic base, high quality services and an affordable tax base" and

- “Encourage neighborhood business centers throughout the city to reduce dependence on the car and to make neighborhood life without a car more practical”

(Policies under *Housing: Sustaining Portland's Future* November 18, 2002)

- “Vibrant neighborhoods include nearby, small scale commercial areas that provide both convenient service and natural meeting places. Provide routine, daily services within walking distance of residents of all neighborhoods, as long as the businesses providing the services are small scale, are designed compatibly with residences, and fit into the fabric of the neighborhood”.
- “Encourage businesses to locate in established employment centers, including Downtown, that are served by public transportation or that have the critical mass necessary to support alternative modes of transportation”.

(both Transportation Policies from *A Time of Change: Portland Transportation Plan* – July, 1993)

V. STAFF RECOMMENDATION

Funeral homes are consistent with the purpose of the R-P zone and the issue centers on whether the parking and traffic characteristics of funeral homes are similar to those of professional offices (already permitted in R-P zones). The additional information from the applicant regarding the potential parking and traffic impacts associated with a funeral home (Attachments B-1 and B-2) is summarized above under Section II.

Generally traffic and parking impacts are distributed during off peak hours (ie between 9am and 8pm) and appear similar to those associated with a medical office building, though the evening and weekend hours are slightly different than most offices and occasionally there are services or short vehicle processions. Any proposal for a funeral home would be subject to the requirements included in the R-P zone (14-150 and 14-151) as well as the site plan requirements if the use triggered minor or major site plan.

Staff therefore recommends that a text change including mortuaries and funeral homes as a permitted use in the R-P zone is unlikely to create any adverse impacts on areas near R-P zones. Therefore the first potential motion is based on the applicant's request for these to be added as permitted uses.

Should the Board consider that one or more of the issues warrant restrictions beyond what is already set out in the City's Ordinances, staff have included two alternative potential motions which incorporate conditions on the hours of operation to avoid large processions during peak traffic hours. The two alternatives achieve the same restriction; the first allows funeral homes as a Conditional Use, while the second allows funeral homes as a permitted use with the condition added to the list of requirements already in 14-151.

VI. MOTIONS FOR THE BOARD TO CONSIDER (three)

- A. On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Board report #04-09 and on the basis of the testimony presented at the public hearing, the Planning Board finds that the following zoning text amendment to the Residence-Professional Zone, Chapter 14, Sec. 14-147 [is or is not] consistent with Portland's Comprehensive Plan and (recommends or does not recommend) adoption of the amendment to the City Council.

Zoning Text Amendment to Section 14- 147 Permitted Uses: Add to (b) Business:

“4. Mortuaries or funeral homes”.

OR

POTENTIAL ALTERNATIVE MOTION

- B. On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Board report #04-09 and on the basis of the testimony presented at the public hearing, the Planning Board finds that the following zoning text amendment to the Residence-Professional Zone, Chapter 14, Sec. 14-147.5, **[is or is not]** consistent with Portland's Comprehensive Plan and **(recommends or does not recommend)** adoption of the amendment to the City Council.

Zoning Text Amendment to Section 14- 147.5 Conditional Uses, to add:

"(c) Mortuaries or funeral homes; the hours of operation of such uses (including processions) may be restricted to avoid impacts to the public street system, if so recommended by the City Traffic Engineer or comparable professional."

OR

POTENTIAL ALTERNATIVE MOTION

- C. On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Board report #04-09 and on the basis of the testimony presented at the public hearing, the Planning Board finds that the following zoning text amendment to the Residence-Professional Zone, Chapter 14, Sections 147 and 151, **[is or is not]** consistent with Portland's Comprehensive Plan and **(recommends or does not recommend)** adoption of the amendment to the City Council.

Zoning Text Amendment to Section 14- 147 Permitted Uses: Add to (b) Business:

"4. Mortuaries or funeral homes";

and

Zoning Text Amendment to Section 14-151 External effects: to add:

"(g) The hours of operation of funeral homes (including processions) may be restricted to avoid impacts to the public street system, if so recommended by the City Traffic Engineer or comparable professional."

Attachments:

Planning Board Report Attachments

1. Current R-P Zone Ordinance language
2. R-P Zone locations south part of Portland
3. R-P Zone locations north part of Portland
4. Aerial and photo of 660* Brighton Avenue
5. Portland ordinances for Parking and processions
6. Traffic Engineering Review comments from Tom Errico, e-mail dated February 5, 2009

Attachment A: Excerpts of Application and Written Material

- A-1 Zoning Text Change Amendment Application
- A-2 Information from applicant regarding traffic

Attachment B: Submissions in response to Workshop discussion

- B-1 Further information from applicant (Mark Hutchins) regarding operation of funeral homes, dated February 4, 2009
- B-2 Narrative addressing questions raised by the Planning Board, Elizabeth Della Valle, AICP dated February 4, 2009 [includes table of parking standards applied elsewhere]

*660 Brighton Avenue is listed as 666 Brighton Avenue in some records

R-P Residence-Professional Zone (content text only)

Sec. 14-146. Purposes.

The purposes of the R-P residence-professional zone are:

- (a) To provide appropriate location for the development and operation of low-intensity business uses, including professional offices on or near major arterials, that are compatible in scale, density and use with surrounding and adjacent residential neighborhoods; or
- (b) To serve as a transition or buffer zone between residential and more intensive nonresidential zones.

Sec. 14-147. Permitted uses.

The following uses are permitted in the R-P district:

- (a) *Residential:* Any residential use is permitted in the residential zone abutting the lot. If there is no abutting residential zone, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the most restrictive such zone.
- (b) *Business:*
 - 1. Professional offices, including the offices and facilities of health care and related laboratory and pharmacy services and health care administration, but excluding personal services, retail establishments and veterinarians.
 - 2. Business services, as defined in section 14-47, except copy services.
 - 3. Adult day care services.
- (c) *Other:*
 - 1. Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan).
 - 2. Accessory uses as provided in section 14-404.

Sec. 14-147.5. Conditional uses.

The following uses are permitted as provided in section 14-474 (conditional uses) if they meet the following requirements:

- (a) Such other offices which have characteristics similar to but no more objectionable than those generally associated with professional offices. In determining appropriateness, the zoning board shall consider the quality of building design and materials, signage, and landscaping, and their general compatibility with the surrounding residential development. Such uses shall also be shown to have vehicular patterns, including parking and storage of motor vehicles, similar to those associated with professional offices. Noise levels and hours of operation shall also be considered. An approval granted under this section shall be issued to a specific user and shall not run with the land to subsequent users. A new conditional use approval shall be required when the user changes. A new conditional use approval may be issued by the zoning authority if it determines that the new user will maintain the same use as the original user and that such use will not have substantially different external effects, including, but not limited to, parking, vehicular traffic on and off the site, noise levels, hours of operation, and visual characteristics such as signage or changes to building design.

(b) Any conditional use that is allowed as a conditional use in any residential zone abutting the lot. If there is no abutting residential zone, any conditional use that is allowed as a conditional use in the nearest residential zone to the lot. Any such conditional use shall be subject to all conditions required in the residential zone.

Sec. 14-148. Prohibited uses.

Uses not enumerated in section 14-147 as permitted uses or in section 14-147.5 as conditional uses are prohibited.

Sec. 14-149. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, the following requirements shall apply. Residential uses permitted under section 14-147(a) shall meet the requirements of such abutting or nearest residential zone. Nonresidential uses in the R-P zone shall meet the following minimum requirements:

(a) *Minimum lot size:* Six thousand (6,000) square feet.

(b) *Minimum street frontage:* Sixty (60) feet.

(c) *Minimum yard dimensions:*

1. *Front yard:*

a. Principal or accessory structures: Twenty (20) feet, except that:

- i. The front yard need not exceed the average depth of immediately abutting front yards; and
- ii. The front yard of a lot existing as of April 4, 1988, which lot is less than one hundred (100) feet deep, need not be deeper than ten (10) percent of the depth of the lot.

2. *Rear yard:*

- a. Principal structures: Twenty (20) feet.
- b. Accessory structures (detached): Seven (7) feet.

3. *Side yard:*

a. Principal structures:

<i>Number of Stories</i>	<i>Required Side Yard</i>
1 story	10 feet
2 stories	12 feet
3 or more stories . .	14 feet

The width of one (1) side yard may be reduced one (1) foot for each foot that the other side yard is correspondingly increased, provided, however, no side yard shall be reduced to less than seven (7) feet in width.

b. Accessory structures (detached): Seven (7) feet.

c. Side yards on side streets (corner lot): For both principal or accessory structures:

- i. One (1) or two (2) stories: Fifteen (15) feet; and
- ii. Three (3) or more stories: Eighteen (18) feet.

(d) *Minimum lot width:* Sixty (60) feet.

(e) *Maximum structure height:* Forty-five (45) feet. Where the lot abuts an R-6 residential zone, the maximum permitted height shall be the maximum permitted height of the R-6 zone. If there is a difference in height between abutting R-6 zones, the least restrictive height limitation shall apply.

- (f) *Maximum impervious surface ratio:* The maximum impervious surface ratio is established according to the abutting residential zone. If there is no abutting residential zone to the lot in question, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the least restrictive such zone. The ratios are as follows:

Maximum Impervious

Residential Zone Surface Ratio

R-1/R-2	0.60
R-3	0.70
R-4/R-5/R-5A/R-6	0.80

- (g) *Floor area ratio (F.A.R.):* The maximum floor area ratio is established according to the abutting residential zone. If there is no abutting residential zone to the lot in question, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the least restrictive such zone. The ratios are as follows:

Residential Floor Area Ratio

R-1/R-2	0.45
R-3	0.55
R-4/R-5/R-5A/R-6 . .	0.65

Sec. 14-150. Other requirements.

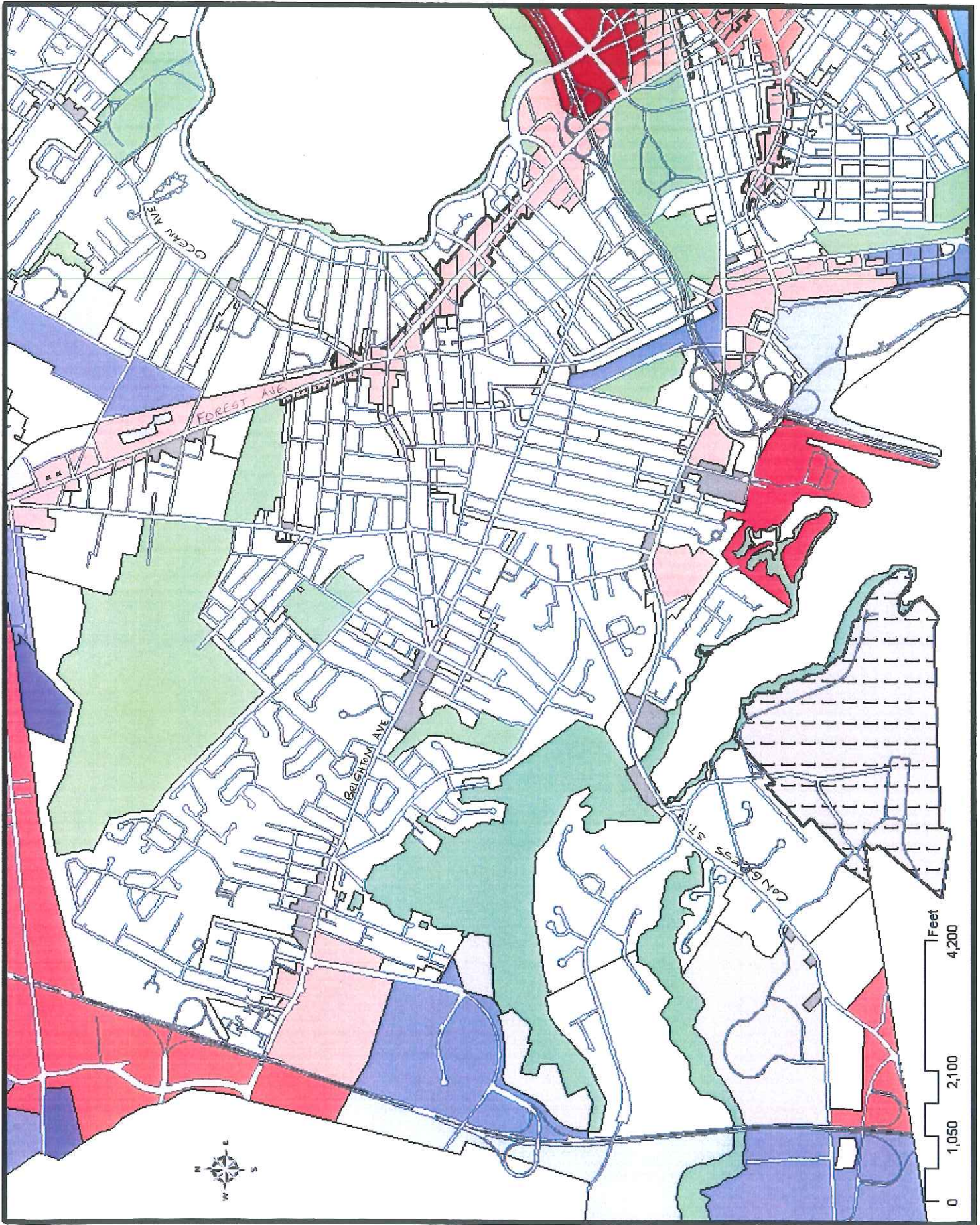
All nonresidential uses in the R-P zone shall meet the requirements of division 25 (space and bulk regulations and exceptions) of this article in addition to the following requirements:

- (a) *Landscaping and screening:* The site shall be suitably landscaped for parking, surrounding uses and accessory site elements, including storage and solid waste receptacles where required by article IV (subdivisions) and article V (site plan).
- (b) *Curbs and sidewalks:* Curbs and sidewalks as specified in article VI of chapter 25.
- (c) *Off-street parking and loading:* Off-street parking and loading are as required by division 20 and division 21 of this article.
- (d) *Front yard parking:* There shall be no parking in the front yard between the street line and the required minimum setback line. A maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the front yard, provided that for a lot of three (3) acres or more this limitation does not apply.
- (e) *Signs:* Signs shall be subject to the provisions of division 22 of this article.
- (f) *Exterior storage:* There shall be no exterior storage with the exception of receptacles for solid waste disposal. Such receptacles shall be shown on the approved site plan.
- (g) *Storage of vehicles:* Storage of vehicles is subject to the provisions of section 14-335.
- (h) *Shoreland and flood plain management regulations:* If the lot is located in a shoreland zone or in a flood hazard zone, the requirements of division 26 and/or division 26.5 apply.

Sec. 14-151. External effects.

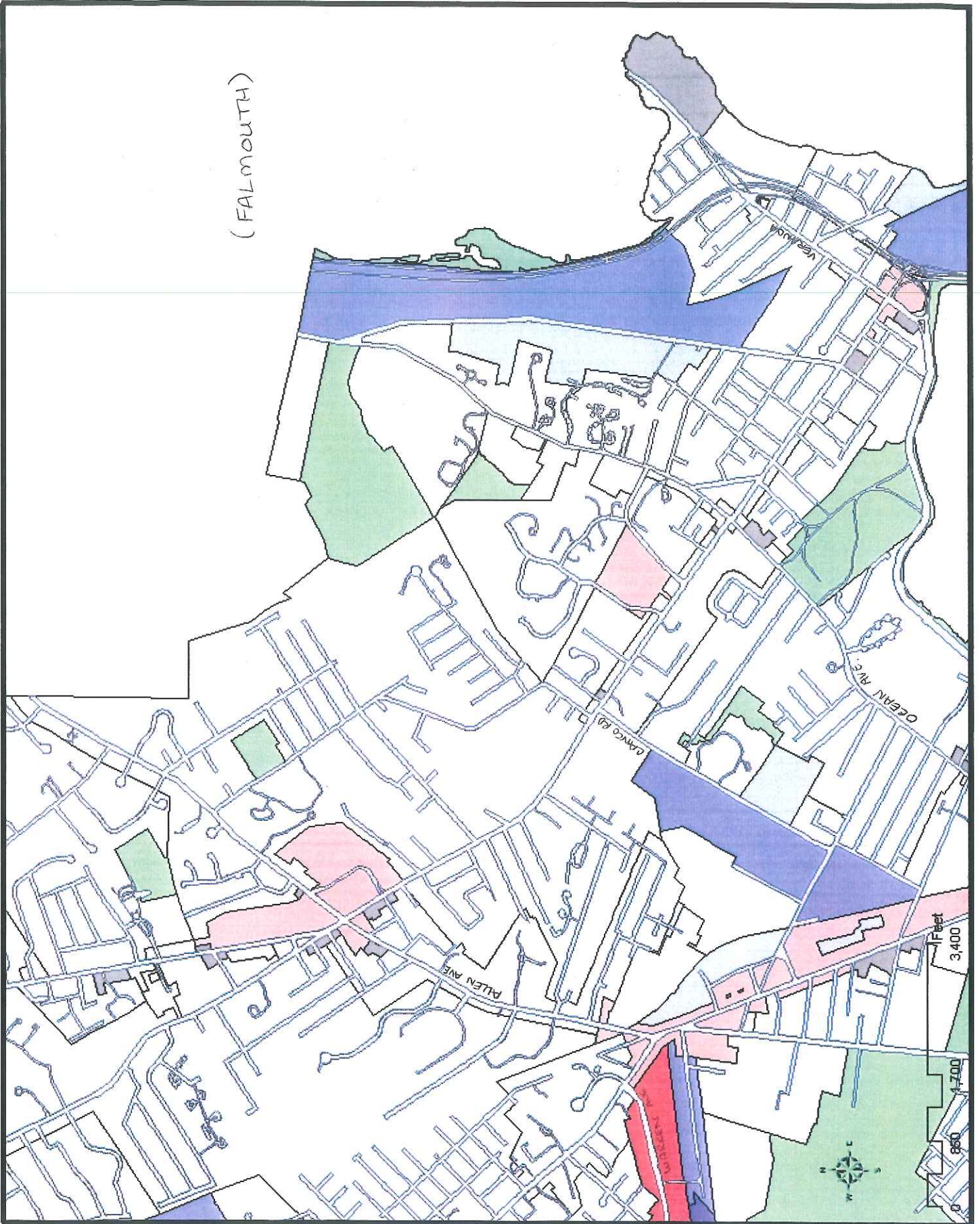
Every use in a R-P zone shall be subject to the following requirements:

- (a) *Enclosed structure:* The use shall be operated within a completely enclosed structure, except for those customarily operated in the open air.
- (b) *Noise:* The volume of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American Standards Association), generated shall not exceed fifty-five (55) decibels on the A scale, on impulse (less than one (1) second), at lot boundaries, excepting air raid sirens and similar warning devices.
- (c) *Vibration and heat:* Vibration inherently and recurrently generated and heat shall be imperceptible without instruments at lot boundaries.
- (d) *Glare, radiation or fumes:* Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.
- (e) *Smoke:* Smoke shall not be emitted at a density in excess of twenty (20) percent opacity level, as classified in Method 9 (Visible Emissions) of the Opacity Evaluation System of the U.S. Environmental Protection Agency.
- (f) *Materials or wastes:* No materials or wastes shall be deposited on any lot in such form or manner that they may be transferred beyond the lot boundaries by natural causes or forces. All material which might cause fumes or dust, or constitute a fire hazard if stored out-of-doors, shall be only in closed containers. Areas attracting large numbers of birds, rodents or insects are prohibited.

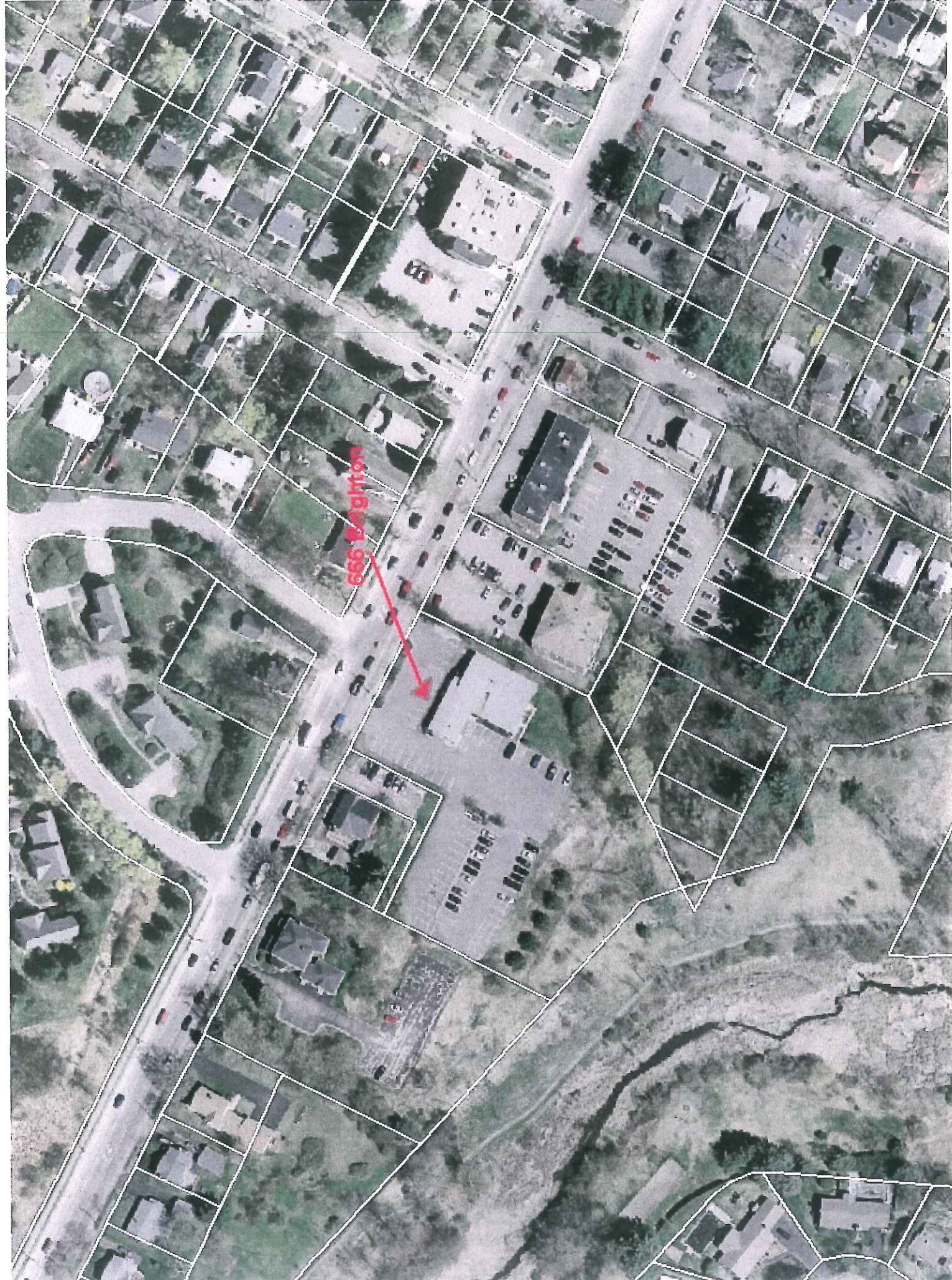


R-P zones south part of Portland R-P Zones in dark gray; Residential in white; B1/B2 in lt.pink

(FALMOUTH)



R-P zones north part of Portland R-P Zones in dark gray; Residential in white; B1/B2 in lt.pink



666 Brighton

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Attachment 4.2



DIVISION 20. OFF-STREET PARKING (EXTRACT)

Sec. 14-332. Uses requiring off-street parking.

In all zones where off-street parking is required, the following minimum off-street parking requirements shall be provided and maintained in the case of new construction, alterations which increase the number of units, and changes of use:

- (a) *Residential structures:*
1. For new construction, two, (2) parking spaces for each dwelling unit, plus one (1) additional parking space for every six (6) units or fraction thereof.
 2. For alterations or changes of use in existing structures, which create new or additional dwelling units in such structures, and for accessory units pursuant to §§ 14-68, 78, 88, one (1) additional parking spaces for each such unit. Existing parking spaces shall not be used to meet the parking requirements of this paragraph, unless the existing parking spaces exceed one (1) space for each dwelling unit.
 3. For residential development on the peninsula (area defined as southerly of I-295).
 - a. One (1) space per unit;
 - b. The required parking for multi-unit residential buildings may be partially met through provision of shared-use vehicles, which are vehicles owned and maintained by the owner/manager of the building and available for use on a fee basis to the residents of the building. One shared use vehicle shall be deemed to satisfy eight (8) required car spaces, but in no case shall more than 50% of the parking requirement be satisfied by shared vehicle use.
 - c. The planning board may establish a parking requirement that is less than the normally required number of spaces upon a finding of unique conditions that result in a lesser parking demand, such as housing for persons who cannot drive, housing that participates in a travel demand management program, availability of transit, or housing which includes permanent restrictions on automobile usage, and which is permanently restricted from utilizing resident on-street parking stickers.
- (b) *Motel:* One (1) parking space for each sleeping room.
- (c) *Hotels:* One (1) parking space for each four (4) guest rooms.
- (d) *Schools providing instruction for students up to and including those fifteen (15) years of age:* One (1) parking space for each room used for purposes of instruction.
- (e) *Schools providing instruction for students sixteen (16) years of age and over:* One (1) parking space for each ten (10) seats or major fraction thereof, used for purposes of instruction; if no fixed seats, one (1) parking space for each one hundred (100) square feet or major fraction thereof used for purposes of instruction.
- (f) *Hospitals:* One (1) parking space for each five hundred (500) square feet or major fraction thereof, of floor area, exclusive of cellar.
- (g) *Auditoriums, theaters, assembly halls, funeral homes:* One (1) parking space for each five (5) seats or for each one hundred (100) square feet, or major fraction thereof, of assemblage space if no fixed seats.
- (h) *Retail stores:* One (1) parking space for each two hundred (200) square feet of first floor area in excess of two thousand (2,000) square feet not used for bulk storage and one (1) parking space for each seven hundred (700) square feet, or major fraction thereof, for each floor above the first floor not used for bulk storage.
- (i) *Restaurants or establishments constructed and intended for the dispensing of food and drink as the*

principal activity: One (1) parking space for each one hundred fifty (150) square feet, or major fraction thereof, of floor area not used for bulk storage or food preparation.

- (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; except that in the B-2 and B-2b zones one (1) parking space for each three hundred and thirty four (334) square feet or major fraction thereof, of floor area exclusive of cellar not used for bulk storage shall be required.
- (k) *Church and accessory uses located on same or contiguous lots*: One (1) parking space for each five (5) fixed seats; or if no fixed seats, one (1) parking space for each twenty-five (25) square feet, or major fraction thereof, of area in sanctuary or principal place of assemblage for worship in the church.
- (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) *Beds*: One (1) parking space for each eight (8) beds, or major fraction thereof.
- (n) *Longterm, 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.
- (s) *Bed and breakfast*:
 - 1. *Except in the I-B zone*: One (1) parking space for each two (2) guest rooms or fraction thereof for the first four (4) guest rooms; one (1) parking space for each additional guest room in excess of four (4).
 - 2. *In the I-B zone*: No off-street parking required.
- (t) *[Exception:]* Notwithstanding the preceding provisions of this section, the parking requirement for any new structure in excess of fifty thousand (50,000) square feet shall be as established by the Planning Board pursuant to section 14-526(a)(2).
- (u) *Exception for historic structures*. No parking in excess of that existing on or servicing the lot as of March 15, 1999 shall be required for any structure under Article IX of this Chapter, as a contributing structure in a local or National Register historical district, or as a locally designated or National Register landmark building; however, parking may not be decreased from that existing on or servicing the lot on March 15, 1999 except to the extent necessary to meet the requirements of the Americans with Disabilities Act.
- (v) *Private clubs*: One (1) parking space for each one hundred fifty (150) square feet, or major fraction thereof, of floor area.
- (w) *Community Centers*: One (1) parking space for each 150 square feet, or major fraction thereof, of floor area, except for community centers which serve primarily clientele from the surrounding neighborhood, the parking requirement shall be one (1) parking space per 1,000 square feet, or major fraction thereof, of floor area.

PORTLAND ORDINANCE - PROCESSIONS AH 5.3

City of Portland
Code of Ordinances
Sec. 28-180

Traffic and Motor Vehicles
Chapter 28
Rev.10-15-08

(Ord. No. 183-97, 1-22-97)

State law reference(s)--Similar provisions, 29-A M.R.S.A. § 2063.

Sec. 28-182. Parades and processions.

No procession or parade containing two hundred (200) or more persons or fifty (50) or more vehicles, excepting the forces of the United States Army, Navy or Air Force, the military forces of this state, and the forces of the police and fire departments, shall occupy, march or proceed along any street except in accordance with a permit issued by the chief of police and such other regulations as are set forth herein which may apply.

(Ord. No. 183-97, 1-22-97)

Sec. 28-183. Funeral and other processions.

(a) A funeral composed of a procession of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant of a type designated by the city traffic engineer.

(b) Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practicable and follow the vehicle ahead as closely as is practicable and safe.

(Ord. No. 183-97, 1-22-97)

Sec. 28-184. Driving through processions.

No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this chapter. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers, or other authorized persons.

(Ord. No. 183-97, 1-22-97)

Sec. 28-185. Golf carts on certain island streets by certain persons.

The operation of golf carts shall be permitted on the streets of Cliff Island, Great Diamond Island and Peaks Island if in compliance with the following requirements:

- (a) The operator must be over the age of twenty-one (21) or possess a valid license to operate a motor vehicle;

Attachment 6

From: "Errico, Thomas A" <TERRICO@wilbursmith.com>
To: "Jean Fraser" <JF@portlandmaine.gov>
Date: 2/5/2009 1:50:30 PM
Subject: R-P Zone Funeral Homes

Jean -

The following outlines my comments regarding traffic and parking impacts associated with funeral homes.

* I researched information available from publications prepared by the Institute of Transportation Engineers (ITE) for traffic and parking generation for funeral homes. No information is documented.

* The applicant has provided information on parking requirements for funeral homes from various communities. Based upon the data provided, the proposed 660 Brighton Avenue facility would meet the noted regulations, although it was unclear how the required spaces were calculated. In my professional opinion, the proposed site will provide sufficient parking, with the exception of events for prominent individuals. I would note that we don't design parking lots and transportation infrastructure for the worst-case scenario (e.g. Christmas season for a retail store) and therefore would not request the applicant to increase the parking supply for a peak event.

* Traffic impacts are not expected to be problematic with the exception of funeral processions. To avoid impacts to the public street system, it is suggested that funeral processions be prohibited during the AM peak hour (7:30-8:30am) and PM peak hour (4:30-5:30pm).

If you have any questions or comments, please contact me.

Best regards,

Thomas A. Errico, P.E.
Senior Transportation Engineer
Wilbur Smith Associates
59 Middle Street
Portland, Maine 04101
w: 207.871.1785 f: 207.871.5825

TErrico@WilburSmith.com
www.WilburSmith.com <http://www.wilbursmith.com/>

CC: "Katherine Earley" <KAS@portlandmaine.gov>

R-P Residence-Professional Zone (content text only)

Sec. 14-146. Purposes.

The purposes of the R-P residence-professional zone are:

- (a) To provide appropriate location for the development and operation of low-intensity business uses, including professional offices on or near major arterials, that are compatible in scale, density and use with surrounding and adjacent residential neighborhoods; or
- (b) To serve as a transition or buffer zone between residential and more intensive nonresidential zones.

Sec. 14-147. Permitted uses.

The following uses are permitted in the R-P district:

- (a) *Residential:* Any residential use is permitted in the residential zone abutting the lot. If there is no abutting residential zone, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the most restrictive such zone.
- (b) *Business:*
 - 1. Professional offices, including the offices and facilities of health care and related laboratory and pharmacy services and health care administration, but excluding personal services, retail establishments and veterinarians.
 - 2. Business services, as defined in section 14-47, except copy services.
 - 3. Adult day care services.
- (c) *Other:*
 - 1. Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan).
 - 2. Accessory uses as provided in section 14-404.

Sec. 14-147.5. Conditional uses.

The following uses are permitted as provided in section 14-474 (conditional uses) if they meet the following requirements:

- (a) Such other offices which have characteristics similar to but no more objectionable than those generally associated with professional offices. In determining appropriateness, the zoning board shall consider the quality of building design and materials, signage, and landscaping, and their general compatibility with the surrounding residential development. Such uses shall also be shown to have vehicular patterns, including parking and storage of motor vehicles, similar to those associated with professional offices. Noise levels and hours of operation shall also be considered. An approval granted under this section shall be issued to a specific user and shall not run with the land to subsequent users. A new conditional use approval shall be required when the user changes. A new conditional use approval may be issued by the zoning authority if it determines that the new user will maintain the same use as the original user and that such use will not have substantially different external effects, including, but not limited to, parking, vehicular traffic on and off the site, noise levels, hours of operation, and visual characteristics such as signage or changes to building design.

- (f) *Maximum impervious surface ratio:* The maximum impervious surface ratio is established according to the abutting residential zone. If there is no abutting residential zone to the lot in question, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the least restrictive such zone. The ratios are as follows:

Maximum Impervious

Residential Zone Surface Ratio

- R-1/R-2 0.60
- R-3 0.70
- R-4/R-5/R-5A/R-6 0.80

- (g) *Floor area ratio (F.A.R.):* The maximum floor area ratio is established according to the abutting residential zone. If there is no abutting residential zone to the lot in question, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the least restrictive such zone. The ratios are as follows:

Residential Floor Area Ratio

- R-1/R-2 0.45
- R-3 0.55
- R-4/R-5/R-5A/R-6 . . 0.65

Sec. 14-150. Other requirements.

All nonresidential uses in the R-P zone shall meet the requirements of division 25 (space and bulk regulations and exceptions) of this article in addition to the following requirements:

- (a) *Landscaping and screening:* The site shall be suitably landscaped for parking, surrounding uses and accessory site elements, including storage and solid waste receptacles where required by article IV (subdivisions) and article V (site plan).
- (b) *Curbs and sidewalks:* Curbs and sidewalks as specified in article VI of chapter 25.
- (c) *Off-street parking and loading:* Off-street parking and loading are as required by division 20 and division 21 of this article.
- (d) *Front yard parking:* There shall be no parking in the front yard between the street line and the required minimum setback line. A maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the front yard, provided that for a lot of three (3) acres or more this limitation does not apply.
- (e) *Signs:* Signs shall be subject to the provisions of division 22 of this article.
- (f) *Exterior storage:* There shall be no exterior storage with the exception of receptacles for solid waste disposal. Such receptacles shall be shown on the approved site plan.
- (g) *Storage of vehicles:* Storage of vehicles is subject to the provisions of section 14-335.
- (h) *Shoreland and flood plain management regulations:* If the lot is located in a shoreland zone or in a flood hazard zone, the requirements of division 26 and/or division 26.5 apply.



R-P zones south part of Portland R-P Zones in dark gray; Residential in white; B1/B2 in lt. pink





**City of Portland, Maine
Department of Planning and Development
Zoning Text Amendment Application**

SUBMITTAL
Attachment A-1.1

Application ID: 1464 Application Date: 12/03/2008 CBL: 224A Property Location: 660 Brighton Ave

Applicant Information:

ATH, LLC

Name

Business Name

16 Equestrian Way

Address

Scarborough, ME 04074

City, State and Zip

Telephone

Fax

Applicant's Right, Title or Interest in Subject Property:

Current Zoning Designation: RP

Existing Use of Property:

Proposed Use of Property:

allow funeral homes in the R-P zone

Property Owner:

Whitewater Llc

Name

1601 Congress St

Address

Portland, ME 04102

City, State and Zip

Telephone

Fax

Amendment A

Amendment B

Amendment C

Section 14:

Requested:

Planning Approval

REVIEW TYPE: _____

RECOMMENDATION DATE: _____ APPROVAL DATE: _____ ENACTMENT DATE: _____

Zoning Amendment Application (cont.)

The following uses are permitted uses in the R-P zone:

- (a) *Residential:* Any residential use is permitted in the residential zone abutting the lot. If there is no abutting residential zone, the nearest residential zone to the lot.

In the case of two (2) or more abutting residential zones, the most restrictive such zone.

- (b) *Business:*

1. Professional offices, including the offices and facilities of health care and related laboratory and pharmacy services and health care administration, but excluding personal services, retail establishments and veterinarians.

2. Business services, as defined in section 14-47, except copy services.

3. Adult day care services.

4. Mortuaries or funeral homes

- (c) *Other:*

1. Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan).

2. Accessory uses as provided in section 14-404.

The purposes of the R-P residence-professional zone are:

(a) To provide appropriate location for the development and operation of low-intensity business uses, including professional offices on or near major arterials, that are compatible in scale, density and use with surrounding and adjacent residential neighborhoods; or

(b) To serve as a transition or buffer zone between residential and more intensive nonresidential zones.

Narrative

The funeral industry has changed over the years. Back some 75 plus years ago most of the wakes for a family's deceased member would be held within the family's home. So there was not the need for large funeral homes with ample parking. Over time, families began to rely on the funeral home establishment as a place to hold a wakes or a service. Even with that shift in location for wakes and services, all the funeral homes at that time were established within large residential homes and in a neighborhood setting. This was done to mimic the "home" atmosphere that a family was used to. It was not until 1959, in Portland, that a building was designed and built for the sole purpose of being a funeral home. This facility is currently the Jones, Rich and Hutchins Funeral Home on Woodford

ATH, LLC - Zoning Amendment Application for a Zoning Text Amendment

Attachment A

B-2 zones in the city are currently located in the following areas:

Forest Ave bordering I-295 up to Morrill's Corner
Woodfords St. – from Forest Ave up to the Jones, Rich & Hutchins Funeral Home
Washington Ave – Andover College / Martin's Point property
Washington Ave – Northport property
Auburn St. – Northgate Property
Allens Corner
St. Johns St / Valley St. area
Congress St. – west from State St. to Weymouth St.
Outer Congress St.:
 Old Double Tree Hotel property, Norway Savings Bank, Mobil Station
 Westgate Shopping Center area
 Pinetree Shopping Center / Quirk Chevrolet

B-4 zones in the city are currently located in the following areas:

Warren Ave from Forest Ave to Riverside St.
Riverside St. to Brighton Ave.

The purpose of the B-2 community business zone is:

- (1) To provide appropriate locations for the development and operation of community centers offering a mixture of commercial uses and services serving the adjoining neighborhoods and the larger community.
- (2) The variety, sites and intensity of the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1 neighborhood business zone.
- (3) The B-2 zone will provide a broad range of goods and services and general businesses with a mixture of large and small buildings such as grocery stores, shops and services located in major shopping centers and along arterial streets. Such establishments should be readily accessible by automobile and by pedestrians. Development in the B-2 zone should relate to the surrounding neighborhoods by design, orientation, and circulation patterns.
 - (b) B-2b Community Business Zone – is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate areas where a more compact urban development pattern exists on-peninsula or in areas where a neighborhood compatible commercial

Zoning Amendment Application (cont.)

18. Drive-throughs associated with a permitted use in the B-2 zone provided that such do not include drive-throughs on any lot adjacent to any residential use or zone. For purposes of this section, only, "adjacent to" shall include uses across a street if within 100 feet of the subject lot boundary;
19. Drive-throughs associated with a permitted use in the B-2b zone, when accessory to a principal use located on the same lot, provided that such do not include drive-throughs on any lot adjacent to any residential use or zone. For purposes of this section, only, "adjacent to" shall include uses across a street if within 100 feet of the subject lot boundary.

(c) Institutional:

1. Private club or fraternal organization;
2. Long term, extended and intermediate care facility;
3. Clinics, as defined in section 14-47;
4. Churches or other places of worship;
5. Kindergarten, elementary, middle and secondary schools;
6. College, university, trade schools; and
7. Municipal buildings and uses.

(d) Other:

1. Lodging houses;
2. Day care facilities or babysitting services;
3. Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan);
4. Accessory uses, as provided in section 14-404;
5. Bed and breakfast, subject to the standards of article V (site plan). A bed and breakfast may include a meeting facility if the facility meets the following standards:
 - a. The meeting facility shall be limited to the following types of uses:
 - i. Private parties.
 - ii. Business meetings.
 - iii. Weddings.
 - iv. Receptions.
 - v. Seminars.
 - vi. Business and educational conferences.
 - b. The building in which the bed and breakfast and the meeting facility will be located was in existence on March 3, 1997, and was greater than four thousand (4,000) square feet in floor area on that date.
6. Studios for artists and crafts people, provided that the area of such studios does not exceed four thousand (4000) square feet for each studio space.

Zoning Amendment Application (cont.)

- arterials. (Uses which have market areas which are primarily dependent on the regional highway network or serve a regional or larger market); or
- (b) To provide appropriate locations for large-scale commercial uses and commercial uses that require larger land areas to accommodate their operations.

The following uses are permitted in the B-4 zone:

(a) Business:

1. General, business and professional offices, as defined in section 14-47;
2. Personal services, as defined in section 14-47;
3. Offices of building tradesmen;
4. Retail establishments;
5. Restaurants;
6. Drinking establishments;
7. Billiard parlors;
8. Major and minor gasoline service stations, as defined in section 14-47;
9. Mortuaries or funeral homes;
10. Miscellaneous repair services;
11. Health clubs and gymnasiums;
12. Hotels and motels;
13. New and used car dealerships;
14. Facilities for the maintenance and repair of automobiles, provided all repairs are performed in a fully enclosed structure;
15. Car washes;
16. Lumber and building materials dealers;
17. Communications studios and broadcast receiving facilities;
18. Veterinary hospitals but excluding outdoor kennels;
19. Auto body repair and paint shops provided all repairs are performed in fully enclosed structures;
20. Boat, trailer or recreational vehicle sales and service;
21. Theaters, entertainment and recreation services;
22. Self-storage facility.

(b) Institutional:

1. Governmental buildings and uses.
2. Colleges, universities and trade schools.
3. Churches or other places of worship.
4. Correctional prerelease facilities for up to twelve (12) persons, plus staff, serving a primary clientele of parolees or persons in correctional prerelease programs, provided that:
 - a. No correctional prerelease facility shall be located within one thousand (1,000) feet of another, as measured in a radius from the center of the lot;
 - b. If a facility requires state or federal licensing, staffing of the facility shall be as required by such license. If a facility does not require state or federal licenses, there shall be a

Attachment A-2

Jean:

The funeral industry has changed dramatically over the past twenty years. Twenty years ago, the normal length of time that a family would use the services of a funeral home would be approximately three days. The first two days would be for the wake or visiting hours. The normal hours for a wake would be 2:00PM to 5:00PM, then again from 7:00PM to 9:00PM. On the third day, a family might have prayers said at the funeral home prior to leaving for a church service or the funeral service would be held at the funeral home.

Today most wakes or visiting hours are only about three to four hours long (4:00PM to 8:00PM) and for only one day. On the day of the funeral it is usually just the family that will meet at the funeral home before leaving for a church service, where as the public will go directly to the church. Funeral processions today from the funeral home may range from six to ten vehicles. The procession will become much larger when it leaves the church to go to the cemetery.

I would like to make a couple of points surrounding traffic flows for funeral homes:

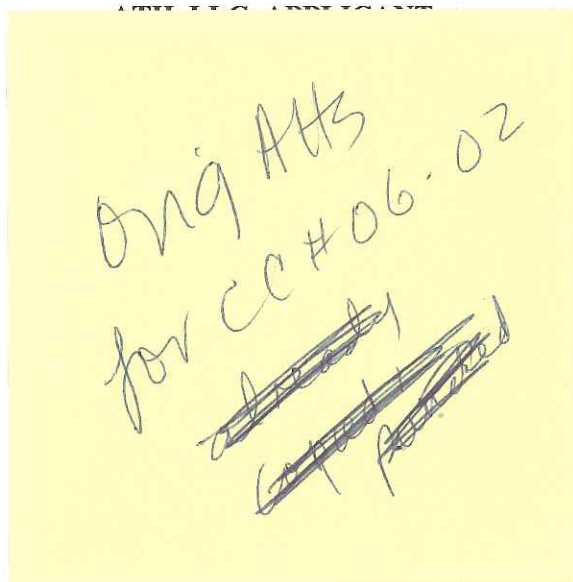
First, it is difficult to estimate the overall size of a procession leaving a funeral home because family sizes vary. There are times when a procession will be large and that is usually the case when a public figure passes away. This is also the case when you try to estimate the amount of traffic that would be generated during visiting hours. Today traffic flow surrounding a funeral home would be concentrated to the hours of 9:00AM to 11:00AM and between 4:00PM to 8:00PM and is usually limited to a few cars at a time entering or leaving the facility.

Second, the length of time that a funeral procession might require that traffic be stopped in order for the vehicle to leave the funeral would generally be less than five minutes. Again, this depends on the size of the family or if the individual is a public figure. Once the procession has left the funeral home, depending on the size, it can create a traffic concern along its route through the city. The funeral procession will not create traffic issues just within the RP Zone.

[from Mark Hutchins 12.30.2008]

CC1

**RESIDENCE-PROFESSIONAL (R-P) TEXT AMENDMENT TO
SECTION 14-147. PERMITTED USES**



Submitted to:

City Council
Portland, Maine

First Reading: February 18th, 2009

Second Reading: March 2nd, 2009

Submitted by: Portland Planning Board
February 12th, 2009

I. INTRODUCTION

The ATH, LLC (Mark Hutchins) has requested a text change to the City Ordinance to allow funeral homes in the Residence-Professional (R-P) zone. The amendment requested is to section *14-147 Permitted Uses (R-P Zone) (Attachment 1)* and they request that "Mortuaries or funeral homes" be added to the list of permitted uses under *(b) Business (Attachment A-1, page 3)*.

Funeral homes are not currently permitted in the R-P zone. The R-P zone does provide for uses which can be shown to meet the conditional use requirements ie shown to be similar to professional offices. Funeral homes are permitted uses only in the B2 and B4 zones, which generally accommodate business and large scale commercial uses.

The text amendment allows the applicant to use a building in the R-P zone (660* Brighton Avenue) for a funeral home. If an R-P text change is recommended by the Planning Board and approved by the City Council, the change of use at this site would then be subject to minor site plan approval and the other requirements of the R-P zone.

Some members of the Planning Board considered that potential issues related to parking and processions could be a concern at some locations or circumstances. The applicant submitted further information to illustrate that funeral homes do not generally have adverse impacts, and therefore encouraged the Board to allow funeral homes and mortuaries as a permitted use, with these issues addressed at the Site Plan review stage (Attachments B-1 and B-2).

The Planning Board held a public hearing on February 10, 2009; the Board voted 6-1 (Silk opposed) to approve the following motion which allows funeral homes as a permitted use and also amends the text in Section 14-151 to provide an explicit review (at the site plan stage) of the impacts on the public street system:

Planning Board Recommendation

"On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Board report #04-09 and on the basis of the testimony presented at the public hearing, the Planning Board finds that the following zoning text amendment to the Residence-Professional Zone, Chapter 14, Sections 147 and 151, is consistent with Portland's Comprehensive Plan and recommends adoption of the amendment to the City Council.

Zoning Text Amendment to Section 14- 147 Permitted Uses: Add to (b) Business:

"4. *Mortuaries or funeral homes*";

and

Zoning Text Amendment to Section 14-151 External effects: to add:

"(g) The hours of operation of funeral homes (including processions) may be restricted and/or traffic management measures may be required, in order to avoid impacts to the public street system, if so recommended by the City Traffic Engineer or comparable professional."

II. ZONING TEXT AMENDMENT REQUEST

Background

The R-P zones are generally in small pockets along major arterials (Forest, Allen, Congress, Ocean, Auburn, Brighton, Washington--see Attachments 2 & 3) and often include medical offices. They were intended as buffer zones between business and residential areas; all abut residential uses and most abut B1 or B2 zones.

*660 Brighton Avenue is listed as 666 Brighton Avenue in some records

The permitted uses in the R-P zone are professional office uses, businesses and adult care services (see table below & Attachment 1) which are intended to have limited impacts on adjoining residential zones. The conditional use provisions allow other offices with similar characteristics as to the permitted uses. While funeral homes are similar in scale and activity to professional offices, the conditional use provisions exclude funeral homes due to the different hours of operation and traffic patterns.

Funeral homes are permitted in the B2 and B4 zones, but these zones also allow a wide range of other uses that include large scale, commercial and highway-oriented businesses (see table below). The applicant notes that these business zones are “not conducive for creating a residential or “home” atmosphere desirable for a mortuary or funeral home” (Attachment A-1.4). The applicant’s narrative “Attachment A” includes the purpose and full list of permitted and conditional uses for the B2 and B4 zones (Att. A-1.5).

Proposal by applicant

After a wide search in Portland for a building for a new funeral home, the applicant has secured a Purchase and Sale Agreement for the building at 660 Brighton Avenue for conversion from a medical office to a funeral home (needing only interior alterations). The building is within an R-P zone largely made up of medical office buildings just west of Woodford Street intersection on the south side of Brighton Avenue. This property comprises a former medical office building totaling 8664 sq ft on 2 levels with 85 parking spaces, mostly to the rear of the building (see Attachment 4).

In order to proceed the applicant seeks the text amendment allowing funeral homes in the R-P zone; his application requests that they be included as permitted uses in the R-P zone. The applicant has outlined (Attachment A-1 and B-1) that funerals were traditionally home-based but now more funerals take place in a funeral home, therefore funeral homes need to be located in an area where the atmosphere is more like “home”. The narrative suggests that the R-P zone is more compatible with the funeral home use than the B2 or B4 zones as the atmosphere is likely to be suitable due to limitations on uses (see provisions 14-150 “Other Requirements” (eg storage, parking) and 14-151 “External Effects” (eg restricting noise, smoke, wastes) in Attachment 1) which are intended to ensure compatibility with residential uses.

The applicant also states that “the traffic likely to be generated from a mortuary or funeral home and its hours of operation are far more like a professional office than that of a shopping center, automobile dealership or wholesale distribution establishment” (Attachment A-1.4). The activity at a funeral home is largely between 9:00am and 8:00pm, and based on further submitted information regarding the operation of funeral homes (Attachment A-2, B-1 and B-2) it can be summarized as:

- Most activity: 4:00-8:00 pm 7 days per week, largely visiting hours when people and cars come and stay for short periods of time (See first page, Attachment B-1 so parking requirements are not high)
- Some traffic: 9:00-11:00am 6 days per week (excluding Sunday) (possible service or when people attend the facility to make arrangements)
- Occasional Processions: generally take place between 9:30am and 3:00pm for operational reasons, most in morning (ie outside of peak hours of 7:30 to 8:30am and 4:30-5:30pm) and generally 6-10 vehicles because they involve just the family. Longer processions are rare (attachment B-1).

For these reasons the applicant considers that funeral homes are compatible with the objectives and locations of the R-P zones in Portland and has proposed that “mortuaries or funeral homes” be added to the list of permitted uses under (b) *Business* in Section 147.

III. STAFF ANALYSIS

The proposed funeral home use is consistent with the objectives of the R-P zone (see below under para. IV), is similar to the permitted uses of the Residence-Professional Zone, and would be subject to the extra requirements contained in 14-150 and 14-151 (Attachment 1). The aim of the R-P additional requirements is to ensure there are no adverse impacts on nearby residential uses. Therefore allowing funeral homes in the R-P zone appears a reasonable way to provide for this community use.

The applicant's planning advisor (Elizabeth Della Valle) has submitted a Memo (Attachment B-2) which addresses these points and is discussed further below.

1. Parking: The 4-8pm period of activity for a funeral home is generally characterized as visiting hours with vehicles accessing the funeral home, though these usually are not all at one time. Viewing hours are the most common activity and at those times visitors would attend for a short period of time somewhere between the hours of 4pm and 7/8pm.

Memorial services are now usually held at the church or other place of worship, but an occasional service is held at the funeral home which could result in more concentrated parking demand, typically between 9:30 to 11:00am. There are two issues:

- a. Is the scale of parking likely to result in on-street parking in residential areas?
- b. If there is a possibility of that, how should it be restricted?

To answer the first question, a comparison with other local funeral homes may not be helpful because the other Portland sites are unique; all but one are grandfathered with very limited parking which they are not able to expand (to provide off-street parking) as they are non-conforming uses. The funeral home on Woodfords Street is in the B-2 zone and conforming; it has about 65 adjacent parking spaces and are allowed to use the lot across the street.

The applicant's Planning Advisor Elizabeth Della Valle has submitted a review of other communities' parking standards for funeral homes (Attachment B-2, pages 2 and 4) and included an assessment of the applicant's Brighton Ave property. The standards are not directly comparable with each other as they use slightly different measures, but it appears that Falmouth and South Portland employ similar standards to those in the City of Portland.

The Portland Parking ordinance states; "(g) *Auditoriums, theaters, assembly halls, funeral homes: One (1) parking space for each five (5) seats or for each one hundred (100) square feet, or major fraction thereof, of assemblage space if no fixed seats* (Div 20, 14-332(g). (For a comparison with other uses, see an extract of 14-332 in Attachment 5). Assemblage area in the context of a funeral home is the viewing area and public gathering areas. There is no recognized national standard for parking for a funeral home, as confirmed by the City's Traffic Engineering Reviewer (below and Attachment 6).

*"I researched information available from publications prepared by the Institute of Transportation Engineers (ITE) for traffic and parking generation for funeral homes. No information is documented. * The applicant has provided information on parking requirements for funeral homes from various communities. Based upon the data provided, the proposed 660 Brighton Avenue facility would meet the noted regulations, although it was unclear how the required spaces were calculated. In my professional opinion, the proposed site will provide sufficient parking, with the exception of events for prominent individuals. I would note that we don't design parking lots and transportation infrastructure for the worst-case scenario (e.g. Christmas season for a retail store) and therefore would not request the applicant to increase the parking supply for a peak event". (Attachment 6)*

It is difficult to quantify the parking needs of a funeral home as the likely maximums (ie for a service) would not be needed very often. At other times visitors are in small groups or are attending for a short time, not unlike a professional office.

2. Traffic: The applicant has confirmed that there is the possibility of processions, typically of 6-10 vehicles, occurring occasionally between 9:30am and 3pm. The City's Traffic Engineering Reviewer

has confirmed that in Portland arterial streets experience the morning peak hour between 7:30am and 8:30am (Attachment 6) so an occasional procession at 9:00/9:30am does not present a concern. The applicant has pointed out (Attachment B-2, page 2) that processions of 50 or more vehicles are regulated under Chapter 28 (extract is in Attachment 5), which includes a specific reference to funeral processions.

The Traffic Engineering Reviewer (Tom Errico) advises that during the site plan review process he would seek conditions on the hours of funeral processions to avoid traffic impacts (Attachment 6). This condition is proposed as a provision (to be reviewed at the Site Plan Review stage) under the *External effects* section of the R-P zone (section 14-151, see Attachment 1), thus allowing the funeral home use to be a permitted use in the R-P zone.

3. **Hours of operation:** The applicant has confirmed that the hours of operation are 9:00 to 11:00am every day except Sunday and 4:00-8:00pm every day, although the funeral home does not operate at all these times in any given week. These appear to be compatible with nearby residential uses. It should be noted that the Brighton Avenue property is not immediately adjacent to residential development.

IV. COMPREHENSIVE PLAN POLICIES

The Portland Neighborhood Economic Development Study (1992) included as a goal to “Restructure the City’s zoning ordinances to accurately reflect the hierarchy of commercial centers. This would result in five commercial districts: R-P Residence-Professional to serve as a buffer district; B-1 Neighborhood Business District to provide limited areas for the location of small scale retail and service establishments; B-2 Community Business District to provide several major locations for a variety of retail, service and office uses; B-3 Downtown Business District; and B-4 Commercial Corridor District to provide locations for businesses that rely particularly on the regional highway network.

The purpose of the R-P zone (14-146) is:

- (a) *To provide appropriate location for the development and operation of low-intensity business uses, including professional offices on or near major arterials, that are compatible in scale, density and use with surrounding and adjacent residential neighborhoods; or*
- (b) *To serve as a transition or buffer zone between residential and more intensive nonresidential zones.*

Funeral homes were traditionally a use within residential areas and more recently have evolved into larger facilities but remain a service to the residential community. The funeral home use is consistent with the purpose of the R-P zone and is supported by the following sections of the Comprehensive Plan:

- “Support Portland’s livable neighborhoods by encouraging a mix of uses that provide goods and services needed and are within walking distance of most residents”;
- “Encourage growth in Portland that strives for a dynamic balance of the essential elements of the city, such as excellent schools, diverse housing choices, proximity to services and employment, increased public transit usage, expanded economic base, high quality services and an affordable tax base” and
- “Encourage neighborhood business centers throughout the city to reduce dependence on the car and to make neighborhood life without a car more practical”

(Policies under *Housing: Sustaining Portland’s Future* November 18, 2002)

- “Vibrant neighborhoods include nearby, small scale commercial areas that provide both convenient service and natural meeting places. Provide routine, daily services within walking distance of residents of all neighborhoods, as long as the businesses providing the services are small scale, are designed compatibly with residences, and fit into the fabric of the neighborhood”.
- “Encourage businesses to locate in established employment centers, including Downtown, that are served by public transportation or that have the critical mass necessary to support alternative modes of transportation”.

(both Transportation Policies from *A Time of Change: Portland Transportation Plan* – July, 1993)

V. PLANNING BOARD RECOMMENDATION

The Planning Board finds that funeral homes are consistent with the purpose of the R-P zone and that the parking and traffic characteristics of funeral homes are similar to those of professional offices (already permitted in R-P zones). Generally traffic and parking impacts are distributed during off peak hours (ie between 9am and 8pm) and appear similar to those associated with a medical office building, though the evening and weekend hours are slightly different than most offices and occasionally there are services or short vehicle processions. Any proposal for a funeral home would be subject to the requirements included in the R-P zone (14-150 & 14-151) and they are recommending a specific additional provision related to this use.

The Planning Board held a public hearing on February 10, 2009. This hearing was noticed to the 88 persons on the interested parties list and the Planning Division has not received any written public comments as of the time of writing this Report. One member of the public asked a point of clarification at the hearing.

The recommended R-P text amendment:

- allows funeral homes and mortuaries as permitted uses as requested by the applicant; and
- also amends the list of requirements for all uses in the R-P zone (Section 14-151) *External Effects* to minimize potential impacts of funeral homes on the public street system (eg processions), as recommended by the Planning Board. This new requirement would be assessed at the site plan review stage for any funeral home use in the R-P Zone.

The Board voted 6-1 (Silk opposed) to approve the following motion:

“On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Board report #04-09 and on the basis of the testimony presented at the public hearing, the Planning Board finds that the following zoning text amendment to the Residence-Professional Zone, Chapter 14, Sections 147 and 151, is consistent with Portland’s Comprehensive Plan and recommends adoption of the amendment to the City Council.

Zoning Text Amendment to Section 14- 147 Permitted Uses: Add to (b) Business:

“4. *Mortuaries or funeral homes*”;

and

Zoning Text Amendment to Section 14-151 External effects: to add:

“(g) The hours of operation of funeral homes (including processions) may be restricted and/or traffic management measures may be required, in order to avoid impacts to the public street system, if so recommended by the City Traffic Engineer or comparable professional.”

Mr. Silk expressed the opinion that the use as proposed is appropriate for the location presented, but such a use on a smaller site, or proposed as a conversion of a residential structure, could have additional parking impacts on the surrounding neighborhood, and therefore should be classified as a conditional use. The other Board members were satisfied that sufficient controls exist in the site plan ordinance with the proposed amendment to 14-151.

Attachments (all as attached to Planning Board Report #04-09 for this project):

Report Attachments

1. Current R-P Zone Ordinance language
2. R-P Zone locations south part of Portland
3. R-P Zone locations north part of Portland
4. Aerial and photo of 660* Brighton Avenue
5. Portland ordinances for Parking and processions
6. Traffic Engineering Review comments from Tom Errico, e-mail dated February 5, 2009

Attachment A: Excerpts of Application and Written Material

A-1 Zoning Text Change Amendment Application

A-2 Information from applicant regarding traffic

Attachment B: Submissions in response to PB Workshop discussion

B-1 Further information from applicant (M.Hutchins) regarding operation of funeral homes, February 4, 2009

B-2 Narrative addressing questions raised by the Planning Board, Elizabeth Della Valle, AICP, Feb. 4, 2009

R-P Residence-Professional Zone (content text only)

Sec. 14-146. Purposes.

The purposes of the R-P residence-professional zone are:

- (a) To provide appropriate location for the development and operation of low-intensity business uses, including professional offices on or near major arterials, that are compatible in scale, density and use with surrounding and adjacent residential neighborhoods; or
- (b) To serve as a transition or buffer zone between residential and more intensive nonresidential zones.

Sec. 14-147. Permitted uses.

The following uses are permitted in the R-P district:

- (a) *Residential:* Any residential use is permitted in the residential zone abutting the lot. If there is no abutting residential zone, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the most restrictive such zone.
- (b) *Business:*
 - 1. Professional offices, including the offices and facilities of health care and related laboratory and pharmacy services and health care administration, but excluding personal services, retail establishments and veterinarians.
 - 2. Business services, as defined in section 14-47, except copy services.
 - 3. Adult day care services.
- (c) *Other:*
 - 1. Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan).
 - 2. Accessory uses as provided in section 14-404.

Sec. 14-147.5. Conditional uses.

The following uses are permitted as provided in section 14-474 (conditional uses) if they meet the following requirements:

- (a) Such other offices which have characteristics similar to but no more objectionable than those generally associated with professional offices. In determining appropriateness, the zoning board shall consider the quality of building design and materials, signage, and landscaping, and their general compatibility with the surrounding residential development. Such uses shall also be shown to have vehicular patterns, including parking and storage of motor vehicles, similar to those associated with professional offices. Noise levels and hours of operation shall also be considered. An approval granted under this section shall be issued to a specific user and shall not run with the land to subsequent users. A new conditional use approval shall be required when the user changes. A new conditional use approval may be issued by the zoning authority if it determines that the new user will maintain the same use as the original user and that such use will not have substantially different external effects, including, but not limited to, parking, vehicular traffic on and off the site, noise levels, hours of operation, and visual characteristics such as signage or changes to building design.

(b) Any conditional use that is allowed as a conditional use in any residential zone abutting the lot. If there is no abutting residential zone, any conditional use that is allowed as a conditional use in the nearest residential zone to the lot. Any such conditional use shall be subject to all conditions required in the residential zone.

Sec. 14-148. Prohibited uses.

Uses not enumerated in section 14-147 as permitted uses or in section 14-147.5 as conditional uses are prohibited.

Sec. 14-149. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, the following requirements shall apply. Residential uses permitted under section 14-147(a) shall meet the requirements of such abutting or nearest residential zone. Nonresidential uses in the R-P zone shall meet the following minimum requirements:

(a) *Minimum lot size:* Six thousand (6,000) square feet.

(b) *Minimum street frontage:* Sixty (60) feet.

(c) *Minimum yard dimensions:*

1. *Front yard:*

a. Principal or accessory structures: Twenty (20) feet, except that:

- i. The front yard need not exceed the average depth of immediately abutting front yards; and
- ii. The front yard of a lot existing as of April 4, 1988, which lot is less than one hundred (100) feet deep, need not be deeper than ten (10) percent of the depth of the lot.

2. *Rear yard:*

- a. Principal structures: Twenty (20) feet.
- b. Accessory structures (detached): Seven (7) feet.

3. *Side yard:*

a. Principal structures:

<i>Number of Stories</i>	<i>Required Side Yard</i>
1 story	10 feet
2 stories	12 feet
3 or more stories . .	14 feet

The width of one (1) side yard may be reduced one (1) foot for each foot that the other side yard is correspondingly increased, provided, however, no side yard shall be reduced to less than seven (7) feet in width.

- b. Accessory structures (detached): Seven (7) feet.
- c. Side yards on side streets (corner lot): For both principal or accessory structures:
 - i. One (1) or two (2) stories: Fifteen (15) feet; and
 - ii. Three (3) or more stories: Eighteen (18) feet.

(d) *Minimum lot width:* Sixty (60) feet.

(e) *Maximum structure height:* Forty-five (45) feet. Where the lot abuts an R-6 residential zone, the maximum permitted height shall be the maximum permitted height of the R-6 zone. If there is a difference in height between abutting R-6 zones, the least restrictive height limitation shall apply.

- (f) *Maximum impervious surface ratio:* The maximum impervious surface ratio is established according to the abutting residential zone. If there is no abutting residential zone to the lot in question, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the least restrictive such zone. The ratios are as follows:

Maximum Impervious

Residential Zone Surface Ratio

- R-1/R-2 0.60
- R-3 0.70
- R-4/R-5/R-5A/R-6 0.80

- (g) *Floor area ratio (F.A.R.):* The maximum floor area ratio is established according to the abutting residential zone. If there is no abutting residential zone to the lot in question, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the least restrictive such zone. The ratios are as follows:

Residential Floor Area Ratio

- R-1/R-2 0.45
- R-3 0.55
- R-4/R-5/R-5A/R-6 . . 0.65

Sec. 14-150. Other requirements.

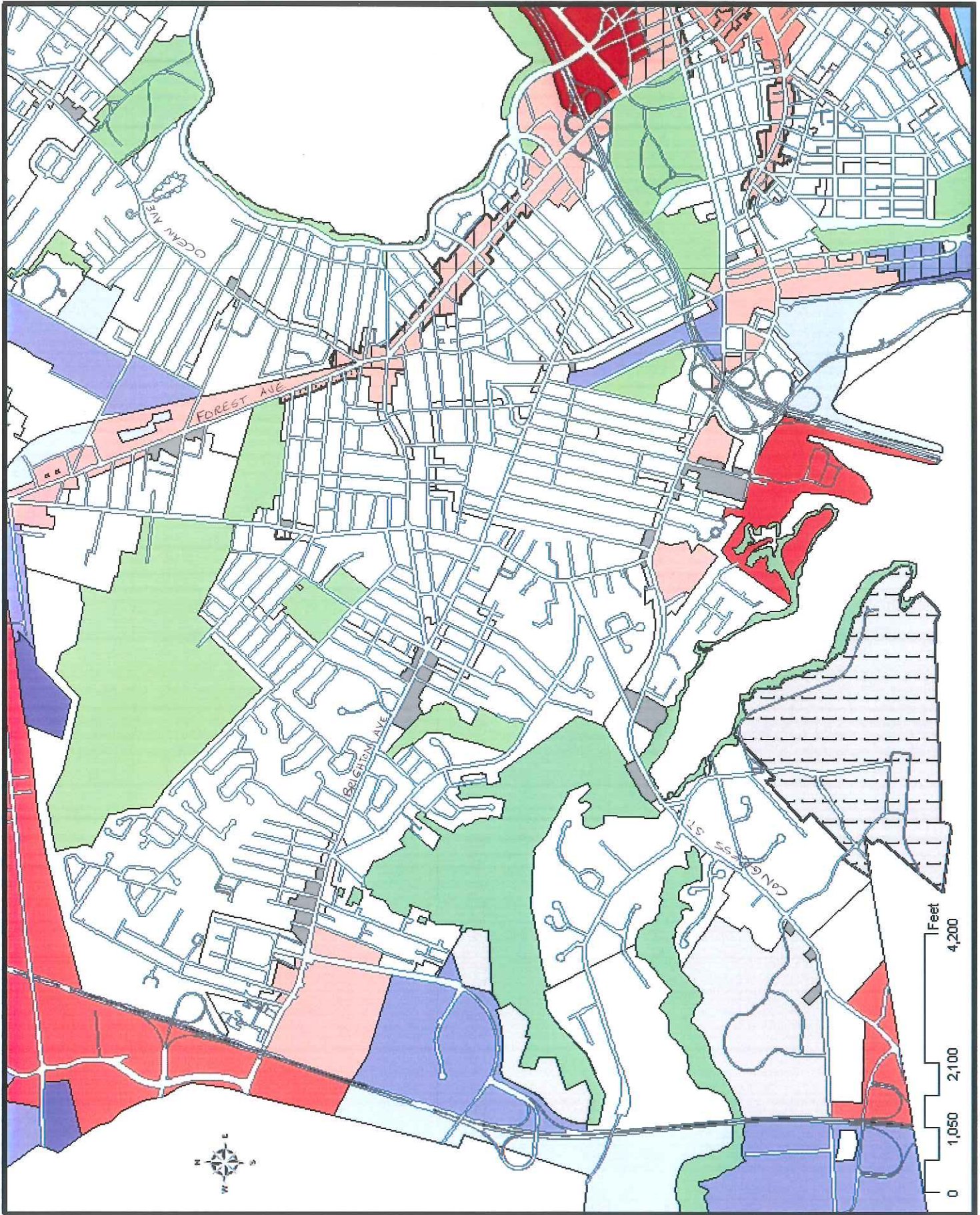
All nonresidential uses in the R-P zone shall meet the requirements of division 25 (space and bulk regulations and exceptions) of this article in addition to the following requirements:

- (a) *Landscaping and screening:* The site shall be suitably landscaped for parking, surrounding uses and accessory site elements, including storage and solid waste receptacles where required by article IV (subdivisions) and article V (site plan).
- (b) *Curbs and sidewalks:* Curbs and sidewalks as specified in article VI of chapter 25.
- (c) *Off-street parking and loading:* Off-street parking and loading are as required by division 20 and division 21 of this article.
- (d) *Front yard parking:* There shall be no parking in the front yard between the street line and the required minimum setback line. A maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the front yard, provided that for a lot of three (3) acres or more this limitation does not apply.
- (e) *Signs:* Signs shall be subject to the provisions of division 22 of this article.
- (f) *Exterior storage:* There shall be no exterior storage with the exception of receptacles for solid waste disposal. Such receptacles shall be shown on the approved site plan.
- (g) *Storage of vehicles:* Storage of vehicles is subject to the provisions of section 14-335.
- (h) *Shoreland and flood plain management regulations:* If the lot is located in a shoreland zone or in a flood hazard zone, the requirements of division 26 and/or division 26.5 apply.

Sec. 14-151. External effects.

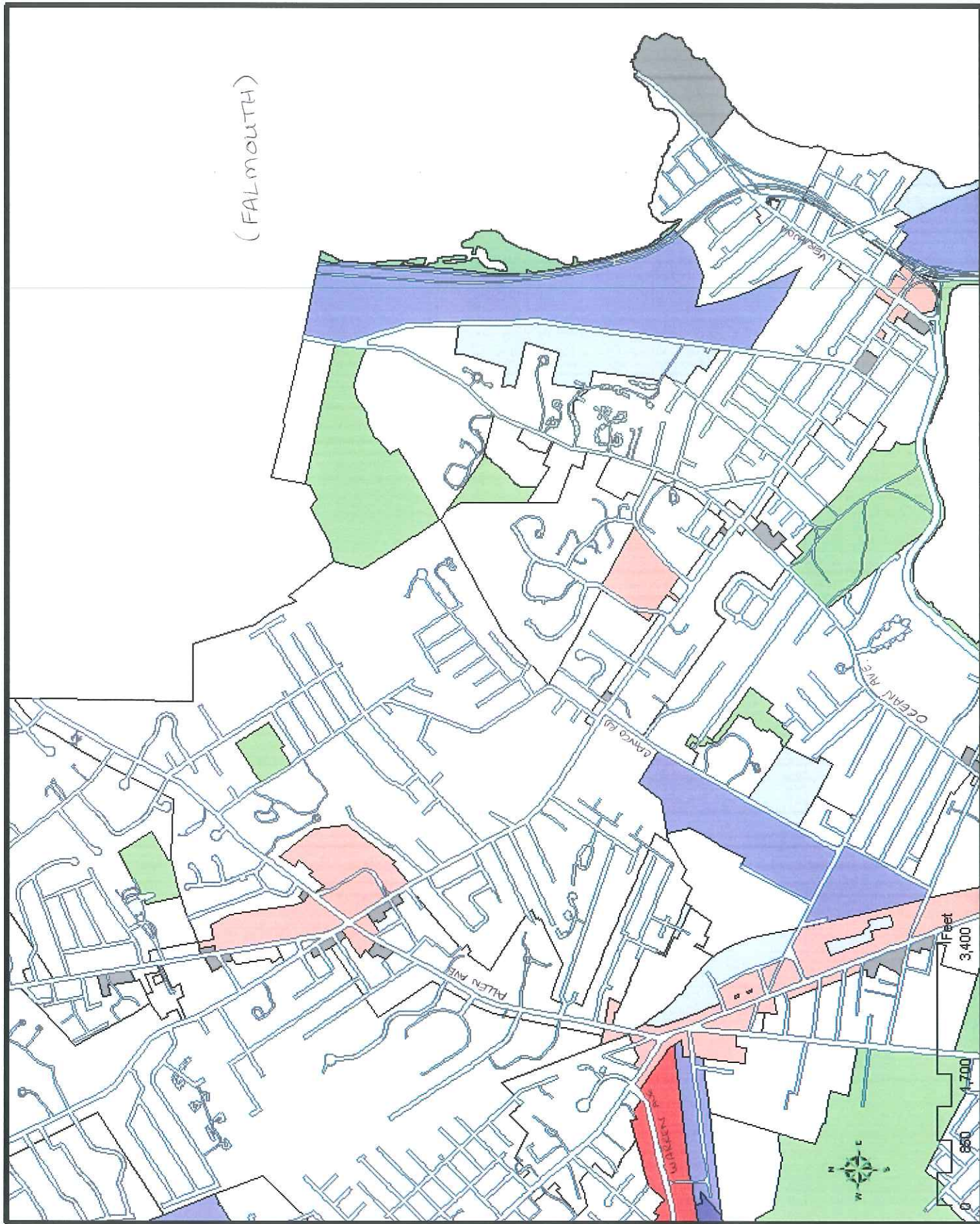
Every use in a R-P zone shall be subject to the following requirements:

- (a) *Enclosed structure:* The use shall be operated within a completely enclosed structure, except for those customarily operated in the open air.
- (b) *Noise:* The volume of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American Standards Association), generated shall not exceed fifty-five (55) decibels on the A scale, on impulse (less than one (1) second), at lot boundaries, excepting air raid sirens and similar warning devices.
- (c) *Vibration and heat:* Vibration inherently and recurrently generated and heat shall be imperceptible without instruments at lot boundaries.
- (d) *Glare, radiation or fumes:* Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.
- (e) *Smoke:* Smoke shall not be emitted at a density in excess of twenty (20) percent opacity level, as classified in Method 9 (Visible Emissions) of the Opacity Evaluation System of the U.S. Environmental Protection Agency.
- (f) *Materials or wastes:* No materials or wastes shall be deposited on any lot in such form or manner that they may be transferred beyond the lot boundaries by natural causes or forces. All material which might cause fumes or dust, or constitute a fire hazard if stored out-of-doors, shall be only in closed containers. Areas attracting large numbers of birds, rodents or insects are prohibited.



R-P zones south part of Portland R-P Zones in dark gray; Residential in white; B1/B2 in lt.pink

(FALMOUTH)



R-P zones north part of Portland R-P Zones in dark gray; Residential in white; B1/B2 in lt.pink

666 Brighton



Attachment 4.2



DIVISION 20. OFF-STREET PARKING (EXTRACT)

Sec. 14-332. Uses requiring off-street parking.

In all zones where off-street parking is required, the following minimum off-street parking requirements shall be provided and maintained in the case of new construction, alterations which increase the number of units, and changes of use:

- (a) *Residential structures:*
1. For new construction, two, (2) parking spaces for each dwelling unit, plus one (1) additional parking space for every six (6) units or fraction thereof.
 2. For alterations or changes of use in existing structures, which create new or additional dwelling units in such structures, and for accessory units pursuant to §§14-68,78,88, one (1) additional parking spaces for each such unit. Existing parking spaces shall not be used to meet the parking requirements of this paragraph, unless the existing parking spaces exceed one (1) space for each dwelling unit.
 3. For residential development on the peninsula (area defined as southerly of I-295).
 - a. One (1) space per unit;
 - b. The required parking for multi-unit residential buildings may be partially met through provision of shared-use vehicles, which are vehicles owned and maintained by the owner/manager of the building and available for use on a fee basis to the residents of the building. One shared use vehicle shall be deemed to satisfy eight (8) required car spaces, but in no case shall more than 50% of the parking requirement be satisfied by shared vehicle use.
 - c. The planning board may establish a parking requirement that is less than the normally required number of spaces upon a finding of unique conditions that result in a lesser parking demand, such as housing for persons who cannot drive, housing that participates in a travel demand management program, availability of transit, or housing which includes permanent restrictions on automobile usage, and which is permanently restricted from utilizing resident on-street parking stickers.
- (b) *Motel:* One (1) parking space for each sleeping room.
- (c) *Hotels:* One (1) parking space for each four (4) guest rooms.
- (d) *Schools providing instruction for students up to and including those fifteen (15) years of age:* One (1) parking space for each room used for purposes of instruction.
- (e) *Schools providing instruction for students sixteen (16) years of age and over:* One (1) parking space for each ten (10) seats or major fraction thereof, used for purposes of instruction; if no fixed seats, one (1) parking space for each one hundred (100) square feet or major fraction thereof used for purposes of instruction.
- (f) *Hospitals:* One (1) parking space for each five hundred (500) square feet or major fraction thereof, of floor area, exclusive of cellar.
- (g) *Auditoriums, theaters, assembly halls, funeral homes:* One (1) parking space for each five (5) seats or for each one hundred (100) square feet, or major fraction thereof, of assemblage space if no fixed seats.
- (h) *Retail stores:* One (1) parking space for each two hundred (200) square feet of first floor area in excess of two thousand (2,000) square feet not used for bulk storage and one (1) parking space for each seven hundred (700) square feet, or major fraction thereof, for each floor above the first floor not used for bulk storage.
- (i) *Restaurants or establishments constructed and intended for the dispensing of food and drink as the*

OFF-STREET PARKING, CONT. Art. 5.2

principal activity: One (1) parking space for each one hundred fifty (150) square feet, or major fraction thereof, of floor area not used for bulk storage or food preparation.

- (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; except that in the B-2 and B-2b zones one (1) parking space for each three hundred and thirty four (334) square feet or major fraction thereof, of floor area exclusive of cellar not used for bulk storage shall be required.
- (k) *Church and accessory uses located on same or contiguous lots*: One (1) parking space for each five (5) fixed seats; or if no fixed seats, one (1) parking space for each twenty-five (25) square feet, or major fraction thereof, of area in sanctuary or principal place of assemblage for worship in the church.
- (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) *Beds*: One (1) parking space for each eight (8) beds, or major fraction thereof.
- (n) *Longterm, 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.
- (s) *Bed and breakfast*:
 - 1. *Except in the I-B zone*: One (1) parking space for each two (2) guest rooms or fraction thereof for the first four (4) guest rooms; one (1) parking space for each additional guest room in excess of four (4).
 - 2. *In the I-B zone*: No off-street parking required.
- (t) *[Exception:]* Notwithstanding the preceding provisions of this section, the parking requirement for any new structure in excess of fifty thousand (50,000) square feet shall be as established by the Planning Board pursuant to section 14-526(a)(2).
- (u) *Exception for historic structures*. No parking in excess of that existing on or servicing the lot as of March 15, 1999 shall be required for any structure under Article IX of this Chapter, as a contributing structure in a local or National Register historical district, or as a locally designated or National Register landmark building; however, parking may not be decreased from that existing on or servicing the lot on March 15, 1999 except to the extent necessary to meet the requirements of the Americans with Disabilities Act.
- (v) *Private clubs*: One (1) parking space for each one hundred fifty (150) square feet, or major fraction thereof, of floor area.
- (w) *Community Centers*: One (1) parking space for each 150 square feet, or major fraction thereof, of floor area, except for community centers which serve primarily clientele from the surrounding neighborhood, the parking requirement shall be one (1) parking space per 1,000 square feet, or major fraction thereof, of floor area.

PORTLAND ORDINANCE - PROCESSIONS AH 5.3

City of Portland
Code of Ordinances
Sec. 28-180

Traffic and Motor Vehicles
Chapter 28
Rev.10-15-08

(Ord. No. 183-97, 1-22-97)

State law reference(s)--Similar provisions, 29-A M.R.S.A. § 2063.

Sec. 28-182. Parades and processions.

No procession or parade containing two hundred (200) or more persons or fifty (50) or more vehicles, excepting the forces of the United States Army, Navy or Air Force, the military forces of this state, and the forces of the police and fire departments, shall occupy, march or proceed along any street except in accordance with a permit issued by the chief of police and such other regulations as are set forth herein which may apply.

(Ord. No. 183-97, 1-22-97)

Sec. 28-183. Funeral and other processions.

(a) A funeral composed of a procession of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant of a type designated by the city traffic engineer.

(b) Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practicable and follow the vehicle ahead as closely as is practicable and safe.

(Ord. No. 183-97, 1-22-97)

Sec. 28-184. Driving through processions.

No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this chapter. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers, or other authorized persons.

(Ord. No. 183-97, 1-22-97)

Sec. 28-185. Golf carts on certain island streets by certain persons.

The operation of golf carts shall be permitted on the streets of Cliff Island, Great Diamond Island and Peaks Island if in compliance with the following requirements:

- (a) The operator must be over the age of twenty-one (21) or possess a valid license to operate a motor vehicle;

Attachment 6

From: "Errico, Thomas A" <TERRICO@wilbursmith.com>
To: "Jean Fraser" <JF@portlandmaine.gov>
Date: 2/5/2009 1:50:30 PM
Subject: R-P Zone Funeral Homes

Jean -

The following outlines my comments regarding traffic and parking impacts associated with funeral homes.

* I researched information available from publications prepared by the Institute of Transportation Engineers (ITE) for traffic and parking generation for funeral homes. No information is documented.

* The applicant has provided information on parking requirements for funeral homes from various communities. Based upon the data provided, the proposed 660 Brighton Avenue facility would meet the noted regulations, although it was unclear how the required spaces were calculated. In my professional opinion, the proposed site will provide sufficient parking, with the exception of events for prominent individuals. I would note that we don't design parking lots and transportation infrastructure for the worst-case scenario (e.g. Christmas season for a retail store) and therefore would not request the applicant to increase the parking supply for a peak event.

* Traffic impacts are not expected to be problematic with the exception of funeral processions. To avoid impacts to the public street system, it is suggested that funeral processions be prohibited during the AM peak hour (7:30-8:30am) and PM peak hour (4:30-5:30pm).

If you have any questions or comments, please contact me.

Best regards,

Thomas A. Errico, P.E.
Senior Transportation Engineer
Wilbur Smith Associates
59 Middle Street
Portland, Maine 04101
w: 207.871.1785 f: 207.871.5825

TErrico@WilburSmith.com
www.WilburSmith.com <http://www.wilbursmith.com/>

CC: "Katherine Earley" <KAS@portlandmaine.gov>



**City of Portland, Maine
 Department of Planning and Development
 Zoning Text Amendment Application**

SUBMITTAL
Attachment A-1.1

Application ID: 1464 Application Date: 12/03/2008 CBL: 224A Property Location: 660 Brighton Ave

Applicant Information:

ATH, LLC
 Name

Business Name

16 Equestrian Way
 Address

Scarborough, ME 04074
 City, State and Zip

Telephone _____ Fax _____

Applicant's Right, Title or Interest in Subject Property:

Current Zoning Designation: RP

Existing Use of Property:

Proposed Use of Property:

allow funeral homes in the R-P zone

Property Owner:

Whitewater Llc
 Name

1601 Congress St
 Address

Portland, ME 04102
 City, State and Zip

Telephone _____ Fax _____

Amendment A _____

Amendment B _____

Amendment C

Section 14: _____

Requested:

Planning Approval

REVIEW TYPE: _____

RECOMMENDATION DATE: _____ APPROVAL DATE: _____ ENACTMENT DATE: _____

A-1.2

**ATH, LLC
16 Equestrian Way
Scarborough, Maine 04074**

Barbara Barhydt, Development Review Services Manager
City of Portland, Planning Division
389 Congress St.
Portland, Maine 04101

Dear Barbara:

Please accept the following as our Zoning Amendment Application for a Zoning Text Amendment.

1. Applicant Name:

ATH, LLC
16 Equestrian Way
Scarborough, Maine 04074

2. Subject Property: N/A – See Narrative

3. Property Owner: N/A

4. Billing Address:

ATH, LLC
16 Equestrian Way
Scarborough, Maine 04074

4. Right, Title, or Interest: N/A – See Narrative

5. Vicinity Map: N/A

6. Existing Use: N/A – See Narrative

7. Current Zoning Designation: N/A

8. Proposed Use of Property: N/A – See Narrative

9. Sketch Plan: N/A – See attached

10. Proposed Zoning:

B. Zoning Text Amendment to Section 14-147 Permitted uses. The requested addition to RP Zone is highlighted below.

Zoning Amendment Application (cont.)

The following uses are permitted uses in the R-P zone:

- (a) *Residential:* Any residential use is permitted in the residential zone abutting the lot. If there is no abutting residential zone, the nearest residential zone to the lot.

In the case of two (2) or more abutting residential zones, the most restrictive such zone.

- (b) *Business:*
1. Professional offices, including the offices and facilities of health care and related laboratory and pharmacy services and health care administration, but excluding personal services, retail establishments and veterinarians.
 2. Business services, as defined in section 14-47, except copy services.
 3. Adult day care services.
 - 4. Mortuaries or funeral homes**
- (c) *Other:*
1. Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan).
 2. Accessory uses as provided in section 14-404.

The purposes of the R-P residence-professional zone are:

- (a) To provide appropriate location for the development and operation of low-intensity business uses, including professional offices on or near major arterials, that are compatible in scale, density and use with surrounding and adjacent residential neighborhoods; or
- (b) To serve as a transition or buffer zone between residential and more intensive nonresidential zones.

Narrative

The funeral industry has changed over the years. Back some 75 plus years ago most of the wakes for a family's deceased member would be held within the family's home. So there was not the need for large funeral homes with ample parking. Over time, families began to rely on the funeral home establishment as a place to hold a wakes or a service. Even with that shift in location for wakes and services, all the funeral homes at that time were established within large residential homes and in a neighborhood setting. This was done to mimic the "home" atmosphere that a family was used to. It was not until 1959, in Portland, that a building was designed and built for the sole purpose of being a funeral home. This facility is currently the Jones, Rich and Hutchins Funeral Home on Woodford

Zoning Amendment Application (cont.)

St. and it was constructed next to a residential neighborhood. A funeral home is better suited to be positioned next to a residential neighborhood, because of the atmosphere that you want to have surrounding the site of the funeral home . You want to have the feeling of "home".

The subject property that would benefit from the Text Amendment is located at 660 Brighton Ave. Currently, ATH, LLC. has a signed Purchase and Sales Agreement with Waterwater, LLC on the subject property. The subject property is currently being used as a Doctor's Park (dentists and physicians). The proposed use of the subject property would be for the establishment of a funeral home.

Based on the above permitted uses and the purpose of the R-P residence-professional zone, it is our belief that the inclusion of mortuaries or funeral homes in this zone would be a better fit for this type of business, than the B-2 and B-4 zones, which are the only zones that permit a mortuary or funeral home.

We do not view either of these zones as compatible with the desired surrounding environment for a mortuary or funeral home. This view is based on the other types of business that are allowed in those zones. By reviewing the listed purposes and permitted uses in these zones, (See attachment A) there are a number of businesses that, largely because of the noise and traffic that they generate would not be appropriate next to a mortuary or funeral home.

The B2 zone is intended for a mixture of businesses, including major shopping centers. The B4 zone is intended for highway-orientated trade and large-scale commercial use; hardly characteristics conducive for creating a residential or "home" atmosphere desirable for a mortuary or funeral home.

We believe that the RP zone is far more conducive to the desired atmosphere for a mortuary or funeral home The traffic likely to be generated from a mortuary or funeral home and its hours of operation are far more like a professional office than that of a shopping center, automobile dealership or wholesale distribution establishment.

ATH, LLC - Zoning Amendment Application for a Zoning Text Amendment

Attachment A

B-2 zones in the city are currently located in the following areas:

Forest Ave bordering I-295 up to Morrill's Corner
Woodfords St. – from Forest Ave up to the Jones, Rich & Hutchins Funeral Home
Washington Ave – Andover College / Martin's Point property
Washington Ave – Northport property
Auburn St. – Northgate Property
Allens Corner
St. Johns St / Valley St. area
Congress St. – west from State St. to Weymouth St.
Outer Congress St.:
 Old Double Tree Hotel property, Norway Savings Bank, Mobil Station
 Westgate Shopping Center area
 Pinetree Shopping Center / Quirk Chevrolet

B-4 zones in the city are currently located in the following areas:

Warren Ave from Forest Ave to Riverside St.
Riverside St. to Brighton Ave.

The purpose of the B-2 community business zone is:

- (1) To provide appropriate locations for the development and operation of community centers offering a mixture of commercial uses and services serving the adjoining neighborhoods and the larger community.
- (2) The variety, sites and intensity of the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1 neighborhood business zone.
- (3) The B-2 zone will provide a broad range of goods and services and general businesses with a mixture of large and small buildings such as grocery stores, shops and services located in major shopping centers and along arterial streets. Such establishments should be readily accessible by automobile and by pedestrians. Development in the B-2 zone should relate to the surrounding neighborhoods by design, orientation, and circulation patterns.
 - (b) B-2b Community Business Zone – is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate areas where a more compact urban development pattern exists on-peninsula or in areas where a neighborhood compatible commercial

Zoning Amendment Application (cont.)

district is established off-peninsula and each area exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern. Building additions are encouraged but not required to meet the maximum setbacks of 14-185I.

(c) B-2c Community Business Zone – is intended to protect and enhance the quiet enjoyment of adjoining residential neighborhoods from the impacts of businesses that serve liquor and from other uses that are incompatible with adjoining neighborhoods due to noise.

The following uses are permitted in the B-2, B-2b and B-2c zones except that any use involving drive-throughs are prohibited in these zones unless otherwise provided in section 14-183:

(a) Residential:

1. Any residential use permitted in the residential zone abutting the lot. If there is no abutting residential zone, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the most restrictive such zone; and
2. In any structure with commercial uses in the first floor, multi-family dwellings are permitted above the first floor.

(b) Business:

1. General, business and professional offices, as defined in section 14-47;
2. Personal services, as defined in section 14-47;
3. Offices of building tradesmen;
4. Retail establishments;
5. Restaurants, except that restaurants shall close for all purposes including the service of alcohol no later than 11:00 p.m.;
6. Drinking establishments, except that drinking establishment as defined in section 14-47, and bars as defined in section 14-217.5 (a)(1), shall not be permitted in the B-2c zone;
7. Billiard parlors;
8. Mortuaries or funeral homes;
9. Miscellaneous repair services, excluding motor vehicle repair services;
10. Communication studios or broadcast and receiving facilities;
11. Health clubs and gymnasiums;
12. Veterinary hospitals, but excluding outdoor kennels;
13. Theaters and performance halls;
14. Hotels or motels of less than one hundred fifty (150) rooms;
15. Dairies in existence as of November 15, 1999;
16. Bakeries in existence as of November 15, 1999;
17. Bakeries established after November 15, 1999, provided the bakeries include retail sales within the principal structures. Bakeries in the B-2b zone shall be no greater than seven thousand (7,000) square feet in size;

Zoning Amendment Application (cont.)

18. Drive-throughs associated with a permitted use in the B-2 zone provided that such do not include drive-throughs on any lot adjacent to any residential use or zone. For purposes of this section, only, "adjacent to" shall include uses across a street if within 100 feet of the subject lot boundary;
19. Drive-throughs associated with a permitted use in the B-2b zone, when accessory to a principal use located on the same lot, provided that such do not include drive-throughs on any lot adjacent to any residential use or zone. For purposes of this section, only, "adjacent to" shall include uses across a street if within 100 feet of the subject lot boundary.

(c) Institutional:

1. Private club or fraternal organization;
2. Long term, extended and intermediate care facility;
3. Clinics, as defined in section 14-47;
4. Churches or other places of worship;
5. Kindergarten, elementary, middle and secondary schools;
6. College, university, trade schools; and
7. Municipal buildings and uses.

(d) Other:

1. Lodging houses;
2. Day care facilities or babysitting services;
3. Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan);
4. Accessory uses, as provided in section 14-404;
5. Bed and breakfast, subject to the standards of article V (site plan). A bed and breakfast may include a meeting facility if the facility meets the following standards:
 - a. The meeting facility shall be limited to the following types of uses:
 - i. Private parties.
 - ii. Business meetings.
 - iii. Weddings.
 - iv. Receptions.
 - v. Seminars.
 - vi. Business and educational conferences.
 - b. The building in which the bed and breakfast and the meeting facility will be located was in existence on March 3, 1997, and was greater than four thousand (4,000) square feet in floor area on that date.
6. Studios for artists and crafts people, provided that the area of such studios does not exceed four thousand (4000) square feet for each studio space.

Zoning Amendment Application (cont.)

The following uses are permitted in the B-2, B-2b and B-2c zone, as provided in section 14-474 (conditional uses), if they meet the following requirements:

- (a) *Business*. Any of the following conditional uses, provided that, notwithstanding section 14-474(a) of this article or any other provision of this code, the Planning Board shall be substituted for the board of appeals as the reviewing authority over conditional business uses:
1. Major and minor auto service stations in the B-2 zone, only;
 2. Major or minor auto service stations in the B-2b zone in existence as of November 15, 1999;
 3. Car washes;
 4. Drive-throughs in the B-2 or B-2b zones which are adjacent to any residential use or zone, provided that, in the B-2b drive-throughs must be accessory to a principal use located on the same site;
 5. Automobile dealerships.

(b) *Other*:

1. Printing and publishing establishments except as provided in subsection b. below;
2. Printing and publishing establishments in continuous operation at their current location since April 4, 1988, or earlier and which exceeded ten thousand (10,000) square feet of aggregate gross floor area at that time
3. Wholesale distribution establishments; and
4. Research and development and related production establishments.

Uses listed in this paragraph (b) (other) 1, 3 and 4 shall be limited to ten thousand (10,000) square feet of aggregate gross floor area, and uses listed in this paragraph (b) (other) 1, 2, 3 and 4 shall be subject to the following conditions and standards in addition to the provision of section 14-474:

- a. *Traffic circulation*: The site shall have an adequate traffic circulation pattern designed to avoid hazards to vehicular circulation on adjoining streets. All stacking of motor vehicles shall be on site, and loading facilities shall be located to the rear of the building and shall not be visible from the street.
- b. *Building and site design*: The exterior design of the structures, including architectural style, facade materials, roof pitch, building form, established setbacks and height, shall be of a commercial rather than industrial character. The site shall contain screening and landscaping which shall meet the requirements of the Technical Standards and Design Guidelines adopted pursuant to section 14-498 and section 14-526 for screening between land uses.

The purpose of the B-4 commercial corridor zone is:

- (a) To provide appropriate locations in the city for the development and operation of businesses catering primarily to highway-oriented trade along major

Zoning Amendment Application (cont.)

arterials. (Uses which have market areas which are primarily dependent on the regional highway network or serve a regional or larger market); or

- (b) To provide appropriate locations for large-scale commercial uses and commercial uses that require larger land areas to accommodate their operations.

The following uses are permitted in the B-4 zone:

(a) *Business:*

1. General, business and professional offices, as defined in section 14-47;
2. Personal services, as defined in section 14-47;
3. Offices of building tradesmen;
4. Retail establishments;
5. Restaurants;
6. Drinking establishments;
7. Billiard parlors;
8. Major and minor gasoline service stations, as defined in section 14-47;
9. Mortuaries or funeral homes;
10. Miscellaneous repair services;
11. Health clubs and gymnasiums;
12. Hotels and motels;
13. New and used car dealerships;
14. Facilities for the maintenance and repair of automobiles, provided all repairs are performed in a fully enclosed structure;
15. Car washes;
16. Lumber and building materials dealers;
17. Communications studios and broadcast receiving facilities;
18. Veterinary hospitals but excluding outdoor kennels;
19. Auto body repair and paint shops provided all repairs are performed in fully enclosed structures;
20. Boat, trailer or recreational vehicle sales and service;
21. Theaters, entertainment and recreation services;
22. Self-storage facility.

(b) *Institutional:*

1. Governmental buildings and uses.
2. Colleges, universities and trade schools.
3. Churches or other places of worship.
4. Correctional prerelease facilities for up to twelve (12) persons, plus staff, serving a primary clientele of parolees or persons in correctional prerelease programs, provided that:
 - a. No correctional prerelease facility shall be located within one thousand (1,000) feet of another, as measured in a radius from the center of the lot;
 - b. If a facility requires state or federal licensing, staffing of the facility shall be as required by such license. If a facility does not require state or federal licenses, there shall be a

Zoning Amendment Application (cont.)

minimum of one (1) staff person for every ten (10) residents or fraction thereof; and

- c. The facility shall provide twenty-four-hour supervision of program participants.

(c) *Other:*

1. Lodging houses;
2. Wholesale warehousing and distribution establishments;
3. Commercial bakeries and dairies;
4. Light manufacturing uses with not more than twenty-five thousand (25,000) square feet or less of gross floor area. Exterior assembly of materials or products is prohibited. Activity defined as a high hazard by chapter 6 of this Code (building code) is also prohibited;
5. Printing and publishing establishments;
6. Research and development and related production establishments;
7. Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan); and
8. Day care facilities;
9. Studios for artists and craftspeople;
10. Accessory uses, as provided in section 14-404;
11. Storage lots for towed or impounded vehicles, provided that such lots are located at least 300 feet from any residential zone or existing conforming residential use. For the purposes of this section, "existing conforming residential use" does not include a legally nonconforming residential use as described in division 23 of this chapter.

Attachment A-2

Jean:

The funeral industry has changed dramatically over the past twenty years. Twenty years ago, the normal length of time that a family would use the services of a funeral home would be approximately three days. The first two days would be for the wake or visiting hours. The normal hours for a wake would be 2:00PM to 5:00PM, then again from 7:00PM to 9:00PM. On the third day, a family might have prayers said at the funeral home prior to leaving for a church service or the funeral service would be held at the funeral home.

Today most wakes or visiting hours are only about three to four hours long (4:00PM to 8:00PM) and for only one day. On the day of the funeral it is usually just the family that will meet at the funeral home before leaving for a church service, where as the public will go directly to the church. Funeral processions today from the funeral home may range from six to ten vehicles. The procession will become much larger when it leaves the church to go to the cemetery.

I would like to make a couple of points surrounding traffic flows for funeral homes:

First, it is difficult to estimate the overall size of a procession leaving a funeral home because family sizes vary. There are times when a procession will be large and that is usually the case when a public figure passes away. This is also the case when you try to estimate the amount of traffic that would be generated during visiting hours. Today traffic flow surrounding a funeral home would be concentrated to the hours of 9:00AM to 11:00AM and between 4:00PM to 8:00PM and is usually limited to a few cars at a time entering or leaving the facility.

Second, the length of time that a funeral procession might require that traffic be stopped in order for the vehicle to leave the funeral would generally be less than five minutes. Again, this depends on the size of the family or if the individual is a public figure. Once the procession has left the funeral home, depending on the size, it can create a traffic concern along its route through the city. The funeral procession will not create traffic issues just within the RP Zone.

[from Mark Hutchins 12.30.2008]

TO: Chair and Members of the Portland Planning Board
Jean Fraser, Planner
FROM: Mark Hutching
SUBJECT: Zoning Text Amendment: R-P Zone to Allow Funeral Homes, ATH, LLC – Applicant
DATE: February 4, 2009

The funeral industry has changed dramatically over the past twenty to thirty years. At one point in Portland's history there were over eight funeral homes. Now there are basically only three. One has even become part of a national chain of funeral homes. The time of the family owned and operated funeral home has diminished, but our funeral home will be family owned and operated. Years ago the local funeral homes were all situated in converted homes. This was due to the fact that the visiting hours were held at the deceased own home. The funeral home facility was primarily used to embalm the individual who had passed away. Over time the families would come to use the funeral home in place of their own homes for the visitations and services.

Twenty years ago, the normal length of time that a family would use the services of a funeral home would be approximately three days. The first two days would be for the wake or visiting hours. The normal hours for a wake would be 2:00PM to 5:00PM, then again from 7:00PM to 9:00PM. During this time period many individuals would stay for the duration of the wake which would require plenty of parking. On the third day, a family might have prayers said at the funeral home prior to leaving for a church service or the funeral service would be held at the funeral home.

Today most wakes or visiting hours are only about three to four hours long (4:00PM to 8:00PM) and for only one day. The other major change is that individuals will go to a wake to pay their respect to the family, then leave. This requires a lot less parking because you are turning over the parking space much more quickly. On the day of the funeral it is usually just the family that will meet at the funeral home before leaving for a church service, where as, the public will go directly to the church. Funeral processions today from the funeral home generally range from six to ten vehicles. Also these vehicles tend to be full, again requiring less parking. The procession usually becomes larger when it leaves the church to go to the cemetery.

Based on the current layout of the parking area at 660 Brighton Ave. we would have the ability to stage a funeral procession of approximately 100 cars. In today's world, that happens rarely, possibly once in a span of several of years.

Funeral services at a church or at the funeral home would be concentrated between the hours of 9:30AM to 11:00AM. I spoke with each of the Catholic churches in Portland and most of the time, with the rare exception, funeral masses would be at 10:00 AM. One of the major reasons for this time is due to the fact the churches already have scheduled daily masses in the morning and some even have a noontime mass. By having a funeral service before 10 in the morning, it would be putting a hardship on the family. A family would have to be at the funeral home by 7:30 in the morning, so that we could be at a church by 8:45AM. As for weekends, you can have both funeral services in the morning and a wake in the afternoon/evening. On Sunday you would only have an afternoon/evening wake. The services that are held on the weekend would not cause any major traffic issues because there would be

no "rush hour" or peak traffic to contend with. You are also having more services scheduled on the weekends due to the fact that many people are now being cremated and the weekend is more convenient for the families.

There could be, on occasion, a funeral service in the early afternoon but the funeral director would have to keep in mind the operational hours of the cemetery. The cemetery would require at least a couple of hours after the graveside service to close the grave, which would require that the service be completed by 3:00PM.

I would like to make a couple of points surrounding traffic flows for funeral homes:

First, it is difficult to estimate the overall size of a procession leaving a funeral home because family sizes vary. There are times when a procession will be large and that is usually the case when a public figure passes away. This is also the case when you try to estimate the amount of traffic that would be generated during visiting hours. Today traffic flow surrounding a funeral home would be concentrated to the hours of 9:00AM to 11:00AM and between 4:00PM to 8:00PM and is usually limited to a few cars at a time entering or leaving the facility at any one time.

Second, the length of time that a funeral procession might require that traffic be stopped in order for the vehicle to leave the funeral would generally be less than a couple minutes. Again, this depends on the size of the family or if the individual is a public figure. Once the procession has left the funeral home, depending on the size, it can create a traffic concern anywhere along its route through the city. The funeral procession will not create traffic issues just within the RP Zone.

Thank you for your consideration.

Mark Hutchins
ATH, LLC

TO: Chair and Members of the Portland Planning Board
Jean Fraser, Planner

FROM: Elizabeth A. Della Valle, AICP

SUBJECT: Zoning Text Amendment: R-P Zone to Allow Funeral Homes, ATH, LLC – Applicant

DATE: February 4, 2009

The January 16th staff memorandum to the Planning Board and the Planning Board's discussion of ATH, LLC's request for a zoning text amendment to allow funeral homes and mortuaries as a permitted use in the R-P Zone raised three concerns – traffic, parking, and hours of operation.

ATH, LLC has investigated each of these issues and offers the following additional information for your consideration.

Funeral homes are a permitted use in the B-2 Zone, which are often located on arterials and abut residences, similar to most R-P Zones. Furthermore, the R-P Zone has built-in standards in §§14-150 and 14-151 of the City's ordinances that provide more restrictions than would be applicable in the B-2 Zone in order to protect neighboring residences.

Furthermore, site review standards in §14-521 et seq. require the Planning Authority to address a plethora of issues. The Planning Authority may even refer the matter to the Planning Board, under §14-525(h) if it encounters issues it believes are best resolved by the Board on a specific site.

While the parking and procession issues, more fully discussed below, may be real, they are best addressed by amending the specific section of the City's codes that govern them, rather than by adding an additional layer of regulation in the R-P Zone as the cost and timing of a Planning Board conditional use review can be unnecessarily burdensome.

For these and the following reasons, ATH, LLC encourages the Planning Board to make a favorable recommendation to the City Council on its request for a zoning text change to allow funeral homes and mortuaries in the R-P Zone as a permitted use.

Traffic

Some members of the Planning Board raised concerns about potential problems generated by long processions that could disrupt traffic during peak traffic hours on arterial roadways. The City has identified peak traffic hours as 7:30-8:30 am and 4:30-5:30 pm. Based on the anticipated normal operation of a funeral home, virtually all funeral processions occur in the morning after these peak hours. ATH, LLC phone calls to area churches indicate that funeral services are rarely scheduled prior to 9:30 or 10:00 am to avoid conflicts with morning services. Even if a service is scheduled for 9:00 am, ATH, LLC does not anticipate that its funeral processions would begin prior to 8:30 am, the end of the morning peak traffic hours. Furthermore, because burials must take place before the end of a normal

work day for cemetery staff, ATH, LLC anticipates that afternoon funeral processions would occur no later than 2:30 pm, well before the afternoon peak traffic hours begin. Furthermore, most B-2 and B-4 zones, where funeral homes and mortuaries are a permitted use, are also located along arterials throughout the City. Processions originating from within those zones are likely to generate similar concerns about the disruption of traffic during peak hours on Portland's arterials suggesting that concerns about the disruption of traffic from funeral processions is not exclusive to funeral homes located within the R-P Zone.

The City regulates processions under Chapter 28, §28-182 through §28-184 of its Code of Ordinances. None of these sections specifically discuss the issue of the timing of processions, though under §28-182, a procession of 200 or more persons or 50 or more vehicles is required to secure a permit, under which time limitations may be required. Very few funerals are likely to generate processions of this size, though it is likely that funeral homes in any location in the City would seek a permit under the ordinance when a funeral procession is planned for a prominent public figure.

Since none of the existing funeral homes in the City are located in an R-P Zone, if the Planning Board is concerned about funeral processions interrupting traffic on arterials during peak hours, it would appear that traffic concerns related to processions would be far better addressed by modifying the Traffic and Motor Vehicle Code rather than by applying additional regulatory standards to funeral homes and mortuaries solely in the R-P Zone. If addressed through the Traffic Code, all existing and future funeral homes and mortuaries will be subject to the same rules, which presumably would be expanded to address the timing of processions throughout the City.

Parking

Concerns were also raised about the potential need for on-street parking during the 4:00-8:00 pm period. Some Planning Board members expressed concern that the City's parking standards for funeral homes (§14-332(g)) is inadequate, frequently necessitating the use of on-street parking. When the Planning Board discussed this issue, some members noted parking problems for existing funeral homes in the City. All, but one of the existing funeral homes, are grandfathered uses, which are restricted from expansion, even to address existing parking needs. Only one of these establishments includes as many parking spaces as the property at 660 Brighton Avenue, and much of that parking is located across the street from that funeral home. Most of the grandfathered funeral homes do not have nearly the number of spaces available at 660 Brighton Avenue.

To assess the likelihood of the need for on-street parking for new funeral homes, we examined several communities' parking standards and offer the attached chart of standards and how the property at 660 Brighton Avenue might meet them. Some standards include provisions for the number of employees and service vehicles. Some include standards based on permanent seating, but recognizing that most funeral homes use flexible seating, many include some reference to square footage. In cases, where the standard is specific to funeral homes, the standard usually refers to the square footage of public areas or, as in Portland's case, area of "assemblage". In cases where the standard is more generally applied

for “places of assembly”, the standard usually applies to a more generic total square footage, including storage space and garages. Except for those standards that employ total square footage, most standards require a similar number of spaces to those required under Portland’s standard. In all cases, the property at 660 Brighton Avenue meets or exceeds the standard.

It appears that parking problems associated with existing funeral homes in Portland are more a matter of grandfathered properties that have limited parking facilities than a problem with the City’s parking standard. Furthermore, if the City is concerned that its current standard is inadequate to meet parking demand for funeral homes, ATH, LLC believes that a more appropriate response would be to require additional parking as a condition of site plan approval and/or revise the parking standard itself rather than require that funeral homes be a conditional use in a R-P Zone.

Hours of Operation

Planning staff note that the normal visiting hours for funeral homes extend “slightly later than most offices”, but notes that a number of conditional uses in adjoining residential districts have similar if not later hours of operation. Furthermore, many B-2 Zones, where funeral homes are permitted, are adjacent to residential zones. While ATH, LLC recognizes the need to protect adjacent residences from undue impact, it does not believe that funeral homes in the R-P Zone will have any greater impact on surrounding residences than funeral homes in a B-2 Zone would have. As a point of information, while the property at 660 Brighton Avenue abuts a residential zone, it does not abut any residential properties.

Conditions of Site Plan Approval

Under §14-526 (b), the “Planning Authority or Planning Board may impose any condition upon its approval of any site Plan: (1) to minimize or abate any adverse impact of the proposed development on the value or utility of other private property, or on public property or facilities, to the extent feasible; or (2) to bring the development into compliance with the requirements of subsection (a); or (3) to minimize any other adverse environmental effects of the proposed development. Such conditions may include, but are not limited to, enclosing of equipment or operations, imposing limitations upon the hours of operation, or requiring the employment of specific design technologies, modes of operation, or traffic patterns...”

ATH, LLC believes that this provision of the City’s ordinance provides ample authority for the Planning Authority to impose conditions of approval that would address noted concerns about traffic, parking, or hours of operation that might arise with any specific site within the R-P District.

Rather than impose an additional layer of regulation by making funeral homes and mortuaries a conditional use in the R-P Zone, the City has the authority under existing ordinances to address potential impacts arising from a specific site in the R-P Zone through the application of conditions of approval.

Parking Standards for Funeral Homes and Mortuaries

ATH, LLC

Parking Standard	Source	Specific to Funeral Homes	Required # Spaces	Met on 660 Brighton ¹
1 space for each 5 seats or for each 100 sq ft, or major fraction thereof, of assemblage space, if no fixed seats	Portland	Yes	31 ²	Yes
25 spaces per parlor or 1 space for each 4 patrons based on design capacity, whichever standard produces the greater number of spaces	Augusta	Yes	50 to 63	Yes
1 space per 100 sq ft floor space ³	Biddeford	No	87	Yes
1 space for every 4 seats or 100 sq ft, or major fraction of assemblage space ⁴ , if no fixed seats	Falmouth	No	31	Yes
1 space for each hearse or service vehicle plus 1 space for each family or individual resident on the premises plus additional spaces equal in number to 1 space for each 100 sq ft of public area ⁵ within the building	South Portland	Yes	35	Yes
1 space for every 100 sq ft of floor space ⁶	Topsham	No	87	Yes
1 space for every 4 spaces of seating capacity plus 1 space per employee and clergy	National Foundation of Funeral Services ⁷	Yes	70	

¹ Existing building is 8,664 sq ft. New funeral home use proposed to include 2 viewing areas or parlors totaling 2400 sq ft, a 460 sq ft family room, and 220 sq ft reception area for a total public area of 3,080 sq ft. Maximum flexible seating proposed for 250. No fixed seating or chapel proposed. New funeral home proposed to have 1 hearse, 1 limousine, and 2 service vehicles and employ 6 full-time equivalents. Site currently includes 85 outdoor parking spaces, plus 3 spaces within the building, for a total of 88 parking spaces.

² Does not include parking that may be attributable to other uses, such as offices, within the facility.

³ Includes total square footage.

⁴ Includes individual rooms, but not hallways or bathrooms.

⁵ Includes viewing rooms, hallways, and bathrooms; excludes offices, storage and processing.

⁶ Includes total square footage.

⁷ Dr. Charles Nichols, Director of National Foundation of Funeral Services.

JILL C. DUSON (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
DANIEL S. SKOLNIK (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
DORY RICHARDS WAXMAN (A/L)
NICHOLAS M. MAVODONES (A/L)

**AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14 LAND USE
ARTICLE III. ZONING
SECTIONS 14-147 AND 14-151**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

1. *That Sections 14-147 and 14-151 of the Portland City Code are hereby amended to read as follows:*

Sec. 14-147. Permitted uses.

The following uses are permitted in the R-P district:

(b) Business:

1. Professional offices, including the offices and facilities of health care practitioners and related laboratory and pharmacy services and health care administration, but excluding personal services, retail establishments and veterinarians.
2. Business services, as defined in section 14-47, except copy services.
3. Adult day care services.
4. Mortuaries or funeral homes.

Sec. 14-151. External effects.

Every use in a R-P zone shall be subject to the following requirements:

- (g) The hours of operation of funeral homes (including processions) may be restricted and/or traffic management measures may be required, in order to avoid impacts to the public street system, if so recommended by the City Traffic Engineer or comparable professional.

**City of Portland, Maine
City Council Agenda Request Form**

TO: Sonia Bean, Senior Administrative Assistant

FROM: Alexander Jaegerman, Planning Division Director

DATE:1) Council meeting at which action is requested:

1st reading: February 18, 2009

Final action: March 2, 2009

2) Can action be taken at a later date: X YES NO

If not, why not:

3) This item is sponsored by: Portland Planning Board

Subject is: Application for Residence-Professional (R-P)Text Amendment to allow funeral homes in R-P Zone; PB Hearing Recommendation 2.10.2009

I. SUMMARY OF ISSUE

The ATH, LLC (Mark Hutchins), an independent funeral home operator, has requested a text change to the City Ordinance to allow funeral homes in the Residence-Professional (R-P) zone. The amendment requested is to section *14-147 Permitted Uses (R-P Zone)* and they request that "Mortuaries or funeral homes" be added to the list of permitted uses under *(b) Business*. Such an amendment must be reviewed by the Planning Board and then approved by the City Council.

II. REASON FOR SUBMISSION (What issue/problem will this address?)

The R-P zones are generally in small pockets along major arterials (Forest, Congress, Allen, Washington, Ocean, Brighton, Auburn) and were intended as transitional zones between business and residential areas. The permitted uses in the R-P zone do not include funeral homes as they are restricted to professional office, business service and adult day care uses which have limited impacts on adjoining residential zones. The R-P conditional use provisions allow other offices with similar characteristics as the permitted uses. While funeral homes are similar in scale and activity to professional offices, the conditional use provisions exclude funeral homes due to the different hours of operation and traffic patterns.

Funeral homes are permitted in the B2 and B4 zones, but these zones also allow a wide range of other uses that include large scale, commercial and highway-oriented businesses. The applicant states that these business zones are "not conducive for creating a residential or "home" atmosphere desirable for a mortuary or funeral home" and that the R-P zone is more compatible. The applicant considers that funeral homes are consistent with the objectives and locations of the R-P zones in Portland and has requested that "mortuaries or funeral homes" be added to the list of permitted uses in the R-P zone.

III. INTENDED RESULT (How does it resolve the issue/problem?)

The text amendment allows the applicant to use a currently vacant building in the R-P zone (666 Brighton Avenue-aka 660 Brighton Avenue) for a funeral home. The property requires minor alterations and benefits from 88 parking spaces on-site. If an R-P text amendment is approved by the City Council, the change of use at this site would then be subject to minor site plan approval.

IV. FINANCIAL IMPACT

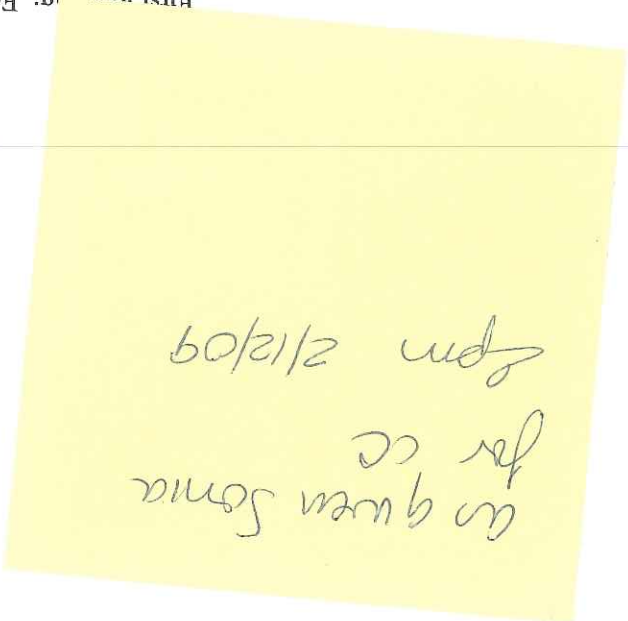
There is no direct financial impact related to this text amendment. The amendment slightly widens the possible uses of sites and properties in the R-P zone, and will effect investment in a vacant commercial property.

Submitted by: Portland Planning Board
February 12th, 2009

First Reading: February 18th, 2009
Second Reading: March 2nd, 2009

City Council
Portland, Maine

Submitted to:



ATH, LLC, APPLICANT

RESIDENCE-PROFESSIONAL (R-P) TEXT AMENDMENT TO
SECTION 14-147. PERMITTED USES

This is
Zoning Amend
ID # 1464
in P+UO system

I. INTRODUCTION

The ATH, LLC (Mark Hutchins) has requested a text change to the City Ordinance to allow funeral homes in the Residence-Professional (R-P) zone. The amendment requested is to section 14-147 *Permitted Uses* (R-P Zone) (Attachment 1) and they request that "Mortuaries or funeral homes" be added to the list of permitted uses under (b) *Business* (Attachment A-1, page 3).

Funeral homes are not currently permitted in the R-P zone. The R-P zone does provide for uses which can be shown to meet the conditional use requirements ie shown to be similar to professional offices. Funeral homes are permitted uses only in the B2 and B4 zones, which generally accommodate business and large scale commercial uses.

The text amendment allows the applicant to use a building in the R-P zone (660* Brighton Avenue) for a funeral home. If an R-P text change is recommended by the Planning Board and approved by the City Council, the change of use at this site would then be subject to minor site plan approval and the other requirements of the R-P zone.

Some members of the Planning Board considered that potential issues related to parking and processions could be a concern at some locations or circumstances. The applicant submitted further information to illustrate that funeral homes do not generally have adverse impacts, and therefore encouraged the Board to allow funeral homes and mortuaries as a permitted use, with these issues addressed at the Site Plan review stage (Attachments B-1 and B-2).

The Planning Board held a public hearing on February 10, 2009; the Board voted 6-1 (Sillik opposed) to approve the following motion which allows funeral homes as a permitted use and also amends the text in Section 14-151 to provide an explicit review (at the site plan stage) of the impacts on the public street system:

Planning Board Recommendation

"On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Board report #04-09 and on the basis of the testimony presented at the public hearing, the Planning Board finds that the following zoning text amendment to the Residence-Professional Zone, Chapter 14, Sections 147 and 151, is consistent with Portland's Comprehensive Plan and recommends adoption of the amendment to the City Council.

Zoning Text Amendment to Section 14-147 Permitted Uses: Add to (b) Business:
"4. *Mortuaries or funeral homes*;"
and
Zoning Text Amendment to Section 14-151 External effects: to add:

"(g) The hours of operation of funeral homes (including processions) may be restricted and/or traffic management measures may be required, in order to avoid impacts to the public street system, if so recommended by the City Traffic Engineer or comparable professional."

II. ZONING TEXT AMENDMENT REQUEST

Background

The R-P zones are generally in small pockets along major arterials (Forest, Allen, Congress, Ocean, Auburn, Brighton, Washington—see Attachments 2 & 3) and often include medical offices. They were intended as buffer zones between business and residential areas; all about residential uses and most about B1 or B2 zones.

The permitted uses in the R-P zone are professional office uses, businesses and adult care services (see table below & Attachment 1) which are intended to have limited impacts on adjoining residential zones. The conditional use provisions allow other offices with similar characteristics as to the permitted uses. While funeral homes are similar in scale and activity to professional offices, the conditional use provisions exclude funeral homes due to the different hours of operation and traffic patterns.

Funeral homes are permitted in the B2 and B4 zones, but these zones also allow a wide range of other uses that include large scale, commercial and highway-oriented businesses (see table below). The applicant notes that these business zones are "not conducive for creating a residential or "home" atmosphere desirable for a mortuary or funeral home" (Attachment A-1.4). The applicant's narrative "Attachment A" includes the purpose and full list of permitted and conditional uses for the B2 and B4 zones (Att. A-1.5).

Proposal by applicant

After a wide search in Portland for a building for a new funeral home, the applicant has secured a Purchase and Sale Agreement for the building at 660 Brighton Avenue for conversion from a medical office to a funeral home (needing only interior alterations). The building is within an R-P zone largely made up of medical office buildings just west of Woodford Street intersection on the south side of Brighton Avenue. This property comprises a former medical office building totaling 8664 sq ft on 2 levels with 85 parking spaces, mostly to the rear of the building (see Attachment 4).

In order to proceed the applicant seeks the text amendment allowing funeral homes in the R-P zone; his application requests that they be included as permitted uses in the R-P zone. The applicant has outlined (Attachment A-1 and B-1) that funerals were traditionally home-based but now more funerals take place in a funeral home, therefore funeral homes need to be located in an area where the atmosphere is more like "home". The narrative suggests that the R-P zone is more compatible with the funeral home use than the B2 or B4 zones as the atmosphere is likely to be suitable due to limitations on uses (see provisions 14-150 "Other Requirements" (eg storage, parking) and 14-151 "External Effects" (eg restricting noise, smoke, wastes) in Attachment 1) which are intended to ensure compatibility with residential uses.

The applicant also states that "the traffic likely to be generated from a mortuary or funeral home and its hours of operation are far more like a professional office that that of a shopping center, automobile dealership or wholesale distribution establishment" (Attachment A-1.4). The activity at a funeral home is largely between 9:00am and 8:00pm, and based on further submitted information regarding the operation of funeral homes (Attachment A-2, B-1 and B-2) it can be summarized as:

Most activity:

4:00-8:00 pm 7 days per week, largely visiting hours when people and cars come and stay for short periods of time (See first page, Attachment B-1 so parking requirements are not high)

Some traffic:

9:00-11:00am 6 days per week (excluding Sunday) (possible service or when people attend the facility to make arrangements)

Occasional Processions:

generally take place between 9:30am and 3:00pm for operational reasons, most in morning (ie outside of peak hours of 7:30 to 8:30am and 4:30-5:30pm) and generally 6-10 vehicles because they involve just the family. Longer processions are rare (attachment B-1).

For these reasons the applicant considers that funeral homes are compatible with the objectives and locations of the R-P zones in Portland and has proposed that "mortuaries or funeral homes" be added to the list of permitted uses under (b) *Business* in Section 147.

PERMITTED USES COMPARISON (Summary)

R-P	B-2	B-4
<p>Residential</p> <p>Business:</p> <ol style="list-style-type: none"> Professional offices, including the offices and facilities of health care and related laboratory and pharmacy services and health care administration, but excluding personal services, retail establishments and veterinarians. Business services, as defined in section 14-47, except copy services. Adult day care services. <p>Other:</p> <ol style="list-style-type: none"> Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan). Accessory uses as provided in section 14-404. 	<p>Residential</p> <p>Business:</p> <ol style="list-style-type: none"> General, business and professional offices, as defined in section 14-47; Personal services, as defined in section 14-47; Offices of building tradesmen; Retail establishments; Restaurants, except that restaurants shall close for all purposes incl. the service of alcohol no later than 11:00 p.m.; Drinking establishments, except in the B-2c zone; Billiard parlors; Mortuaries or funeral homes; Miscellaneous repair services, excluding motor vehicle repair services; Communication studios or broadcast and receiving facilities; Health clubs and gymnasiums; Veterinary hospitals, but excluding outdoor kennels; Theaters and performance halls; Hotels or motels of less than one hundred fifty (150) rooms; Dairies; Bakeries; Drive-throughs associated with a permitted use in the B-2 zone not adjacent to any residential use or zone. <p>Institutional:</p> <ol style="list-style-type: none"> Private club or fraternal organization; Long term, extended and intermediate care facility; Clinics, as defined in section 14-47; Churches or other places of worship; Kindergarten, elementary, middle and secondary schools; College, university, trade schools; and Municipal buildings and uses. <p>Other:</p> <ol style="list-style-type: none"> Lodging houses; Day care facilities or babysitting services; Utility substations; Accessory uses; Bed and breakfast, including meeting facilities of certain types; Studios for artists and craftspeople. 	<p>Business:</p> <ol style="list-style-type: none"> General, business and professional offices, as def. in section 14-47; Personal services, as defined in section 14-47; Offices of building tradesmen; Retail establishments; Restaurants; Drinking establishments; Billiard parlors; Major and minor gasoline service stations; Mortuaries or funeral homes; Miscellaneous repair services; Health clubs and gymnasiums; Hotels and motels; New and used car dealerships; Facilities for the maintenance and repair of automobiles, (in a fully enclosed structure); Car washes; Lumber and building materials dealers; Communications studios and broadcast receiving facilities; Veterinary hospitals but excluding outdoor kennels; Auto body repair and paint shops (in fully enclosed structures); Boat, trailer or recreational vehicle sales and service; Theaters, entertainment and recreation services; Self-storage facility. <p>Institutional:</p> <ol style="list-style-type: none"> Governmental buildings and uses. Colleges, universities and trade schools. Churches or other places of worship. Correctional prerelease facilities subject to conditions. <p>Other:</p> <ol style="list-style-type: none"> Lodging houses; Wholesale warehousing and distribution establishments; Commercial bakeries and dairies; Light manufacturing uses subject to conditions; Printing and publishing establishments; Research and development and related production establishments; Utility substations; Day care facilities; Studios for artists and craftspeople; Accessory uses, as provided in section 14-404; and Storage lots for towed or impounded vehicles, subject to conditions.

III. STAFF ANALYSIS

The proposed funeral home use is consistent with the objectives of the R-P zone (see below under para. IV), is similar to the permitted uses of the Residence-Professional Zone, and would be subject to the extra requirements contained in 14-150 and 14-151 (Attachment 1). The aim of the R-P additional requirements is to ensure there are no adverse impacts on nearby residential uses. Therefore allowing funeral homes in the R-P zone appears a reasonable way to provide for this community use.

The applicant's planning advisor (Elizabeth Della Valle) has submitted a Memo (Attachment B-2) which addresses these points and is discussed further below.

1. Parking: The 4-8pm period of activity for a funeral home is generally characterized as visiting hours with vehicles accessing the funeral home, though these usually are not all at one time. Visiting hours are the most common activity and at those times visitors would attend for a short period of time somewhere between the hours of 4pm and 7/8pm.

Memorial services are now usually held at the church or other place of worship, but an occasional service is held at the funeral home which could result in more concentrated parking demand, typically between 9:30 to 11:00am. There are two issues:

- a. Is the scale of parking likely to result in on-street parking in residential areas?
- b. If there is a possibility of that, how should it be restricted?

To answer the first question, a comparison with other local funeral homes may not be helpful because the other Portland sites are unique; all but one are grandfathered with very limited parking which they are not able to expand (to provide off-street parking) as they are non-conforming uses. The funeral home on Woodfords Street is in the B-2 zone and conforming; it has about 65 adjacent parking spaces and are allowed to use the lot across the street.

The applicant's Planning Advisor Elizabeth Della Valle has submitted a review of other communities' parking standards for funeral homes (Attachment B-2, pages 2 and 4) and included an assessment of the applicant's Brighton Ave property. The standards are not directly comparable with each other as they use slightly different measures, but it appears that Falmouth and South Portland employ similar standards to those in the City of Portland.

The Portland Parking Ordinance states; "(g) Auditoriums, theaters, assembly halls, funeral homes: One (1) parking space for each five (5) seats or for each one hundred (100) square feet, or major fraction thereof, of assembly space if no fixed seats (Div 20, 14-332(g)). (For a comparison with other uses, see an extract of 14-332 in Attachment 5). Assembly area in the context of a funeral home is the viewing area and public gathering areas. There is no recognized national standard for parking for a funeral home, as confirmed by the City's Traffic Engineering Reviewer (below and Attachment 6).

"I researched information available from publications prepared by the Institute of Transportation Engineers (ITE) for traffic and parking generation for funeral homes. No information is documented. * The applicant has provided information on parking requirements for funeral homes from various communities. Based upon the data provided, the proposed 660 Brighton Avenue facility would meet the noted regulations, although it was unclear how the required spaces were calculated. In my professional opinion, the proposed site will provide sufficient parking, with the exception of events for prominent individuals. I would note that we don't design parking lots and transportation infrastructure for the worst case scenario (e.g. Christmas season for a retail store) and therefore would not request the applicant to increase the parking supply for a peak event". (Attachment 6)

It is difficult to quantify the parking needs of a funeral home as the likely maximums (ie for a service) would not be needed very often. At other times visitors are in small groups or are attending for a short time, not unlike a professional office.

2. Traffic: The applicant has confirmed that there is the possibility of processions, typically of 6-10 vehicles, occurring occasionally between 9:30am and 3pm. The City's Traffic Engineering Reviewer

has confirmed that in Portland arterial streets experience the morning peak hour between 7:30am and 8:30am (Attachment 6) so an occasional procession at 9:00/9:30am does not present a concern. The applicant has pointed out (Attachment B-2, page 2) that processions of 50 or more vehicles are regulated under Chapter 28 (extract is in Attachment 5), which includes a specific reference to funeral processions.

The Traffic Engineering Reviewer (Tom Errico) advises that during the site plan review process he would seek conditions on the hours of funeral processions to avoid traffic impacts (Attachment 6). This condition is proposed as a provision (to be reviewed at the Site Plan Review stage) under the *External effects* section of the R-P zone (section 14-151, see Attachment 1), thus allowing the funeral home use to be a permitted use in the R-P zone.

3. Hours of operation: The applicant has confirmed that the hours of operation are 9:00 to 11:00am every day except Sunday and 4:00-8:00pm every day, although the funeral home does not operate at all these times in any given week. These appear to be compatible with nearby residential uses. It should be noted that the Brighton Avenue property is not immediately adjacent to residential development.

IV. COMPREHENSIVE PLAN POLICIES

The Portland Neighborhood Economic Development Study (1992) included as a goal to "Restructure the City's zoning ordinances to accurately reflect the hierarchy of commercial centers. This would result in five commercial districts: R-P Residence-Professional to serve as a buffer district; B-1 Neighborhood Business District to provide limited areas for the location of small scale retail and service establishments; B-2 Community Business District to provide several major locations for a variety of retail, service and office uses; B-3 Downtown Business District; and B-4 Commercial Corridor District to provide locations for businesses that rely particularly on the regional highway network.

The purpose of the R-P zone (14-146) is:

- (a) To provide appropriate location for the development and operation of low-intensity business uses, including professional offices on or near major arterials, that are compatible in scale, density and use with surrounding and adjacent residential neighborhoods; or
- (b) To serve as a transition or buffer zone between residential and more intensive nonresidential zones.

Funeral homes were traditionally a use within residential areas and more recently have evolved into larger facilities but remain a service to the residential community. The funeral home use is consistent with the purpose of the R-P zone and is supported by the following sections of the Comprehensive Plan:

- "Support Portland's livable neighborhoods by encouraging a mix of uses that provide goods and services needed and are within walking distance of most residents";
 - "Encourage growth in Portland that strives for a dynamic balance of the essential elements of the city, such as excellent schools, diverse housing choices, proximity to services and employment, increased public transit usage, expanded economic base, high quality services and an affordable tax base" and
 - "Encourage neighborhood business centers throughout the city to reduce dependence on the car and to make neighborhood life without a car more practical"
- (Policies under *Housing: Sustaining Portland's Future* November 18, 2002)

- "Vibrant neighborhoods include nearby, small scale commercial areas that provide both convenient service and natural meeting places. Provide routine, daily services within walking distance of residents of all neighborhoods, as long as the businesses providing the services are small scale, are designed compatibly with residences, and fit into the fabric of the neighborhood";
 - "Encourage businesses to locate in established employment centers, including Downtown, that are served by public transportation or that have the critical mass necessary to support alternative modes of transportation";
- (both Transportation Policies from *A Time of Change: Portland Transportation Plan* – July, 1993)

V. PLANNING BOARD RECOMMENDATION

The Planning Board finds that funeral homes are consistent with the purpose of the R-P zone and that the parking and traffic characteristics of funeral homes are similar to those of professional offices (already permitted in R-P zones). Generally traffic and parking impacts are distributed during off peak hours (ie between 9am and 8pm) and appear similar to those associated with a medical office building, though the evening and weekend hours are slightly different than most offices and occasionally there are services or short vehicle processions. Any proposal for a funeral home would be subject to the requirements included in the R-P zone (14-150 & 14-151) and they are recommending a specific additional provision related to this use.

The Planning Board held a public hearing on February 10, 2009. This hearing was noticed to the 88 persons on the interested parties list and the Planning Division has not received any written public comments as of the time of writing this Report. One member of the public asked a point of clarification at the hearing.

The recommended R-P text amendment:

- allows funeral homes and mortuaries as permitted uses as requested by the applicant; and
- also amends the list of requirements for all uses in the R-P zone (Section 14-151) *External Effects* to minimize potential impacts of funeral homes on the public street system (eg processions), as recommended by the Planning Board. This new requirement would be assessed at the site plan review stage for any funeral home use in the R-P Zone.

The Board voted 6-1 (Silk opposed) to approve the following motion:

“On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Board report #04-09 and on the basis of the testimony presented at the public hearing, the Planning Board finds that the following zoning text amendment to the Residence-Professional Zone, Chapter 14, Sections 147 and 151, is consistent with Portland’s Comprehensive Plan and recommends adoption of the amendment to the City Council.

Zoning Text Amendment to Section 14-147 Permitted Uses: Add to (b) Business:

“4. *Mortuaries or funeral homes*”;

and

Zoning Text Amendment to Section 14-151 External effects: to add:

“(g) The hours of operation of funeral homes (including processions) may be restricted and/or traffic management measures may be required, in order to avoid impacts to the public street system, if so recommended by the City Traffic Engineer or comparable professional.”

Mr. Silk expressed the opinion that the use as proposed is appropriate for the location presented, but such a use on a smaller site, or proposed as a conversion of a residential structure, could have additional parking impacts on the surrounding neighborhood, and therefore should be classified as a conditional use. The other Board members were satisfied that sufficient controls exist in the site plan ordinance with the proposed amendment to 14-151.

Attachments (all as attached to Planning Board Report #04-09 for this project):

Report Attachments

1. Current R-P Zone Ordinance language
2. R-P Zone locations south part of Portland
3. R-P Zone locations north part of Portland
4. Aerial and photo of 660* Brighton Avenue
5. Portland ordinances for Parking and processions
6. Traffic Engineering Review comments from Tom Errico, e-mail dated February 5, 2009

Attachment A: Excerpts of Application and Written Material

- A-1 Zoning Text Change Amendment Application
- A-2 Information from applicant regarding traffic

Attachment B: Submissions in response to PB Workshop discussion

- B-1 Further information from applicant (M.Hutchins) regarding operation of funeral homes, February 4, 2009
- B-2 Narrative addressing questions raised by the Planning Board, Elizabeth Della Valle, AICP, Feb. 4, 2009

R-P Residence-Professional Zone (content text only)

Sec. 14-146. Purposes.

The purposes of the R-P residence-professional zone are:

- (a) To provide appropriate location for the development and operation of low-intensity business uses, including professional offices on or near major arterials, that are compatible in scale, density and use with surrounding and adjacent residential neighborhoods; or
- (b) To serve as a transition or buffer zone between residential and more intensive nonresidential zones.

Sec. 14-147. Permitted uses.

The following uses are permitted in the R-P district:

- (a) *Residential*: Any residential use is permitted in the residential zone abutting the lot. If there is no abutting residential zone, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the most restrictive such zone.
- (b) *Business*:
 - 1. Professional offices, including the offices and facilities of health care and related laboratory and pharmacy services and health care administration, but excluding personal services, retail establishments and veterinarians.
 - 2. Business services, as defined in section 14-47, except copy services.
 - 3. Adult day care services.
- (c) *Other*:
 - 1. Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan).
 - 2. Accessory uses as provided in section 14-404.

Sec. 14-147.5. Conditional uses.

The following uses are permitted as provided in section 14-474 (conditional uses) if they meet the following requirements:

- (a) Such other offices which have characteristics similar to but no more objectionable than those generally associated with professional offices. In determining appropriateness, the zoning board shall consider the quality of building design and materials, signage, and landscaping, and their general compatibility with the surrounding residential development. Such uses shall also be shown to have vehicular patterns, including parking and storage of motor vehicles, similar to those associated with professional offices. Noise levels and hours of operation shall also be considered. An approval granted under this section shall be issued to a specific user and shall not run with the land to subsequent users. A new conditional use approval shall be required when the user changes. A new conditional use approval may be issued by the zoning authority if it determines that the new user will maintain the same use as the original user and that such use will not have substantially different external effects, including, but not limited to, parking, vehicular traffic on and off the site, noise levels, hours of operation, and visual characteristics such as signage or changes to building design.

Attachment 1.1

(b) Any conditional use that is allowed as a conditional use in any residential zone abutting the lot. If there is no abutting residential zone, any conditional use that is allowed as a conditional use in the nearest residential zone to the lot. Any such conditional use shall be subject to all conditions required in the residential zone.

Sec. 14-148. Prohibited uses.

Uses not enumerated in section 14-147 as permitted uses or in section 14-147.5 as conditional uses are prohibited.

Sec. 14-149. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, the following requirements shall apply. Residential uses permitted under section 14-147(a) shall meet the requirements of such abutting or nearest residential zone. Nonresidential uses in the R-P zone shall meet the following minimum requirements:

- (a) *Minimum lot size:* Six thousand (6,000) square feet.
- (b) *Minimum street frontage:* Sixty (60) feet.
- (c) *Minimum yard dimensions:*

1. *Front yard:*

- a. Principal or accessory structures: Twenty (20) feet, except that:
 - i. The front yard need not exceed the average depth of immediately abutting front yards; and
 - ii. The front yard of a lot existing as of April 4, 1988, which lot is less than one hundred (100) feet deep, need not be deeper than ten (10) percent of the depth of the lot.

2. *Rear yard:*

- a. Principal structures: Twenty (20) feet.
- b. Accessory structures (detached): Seven (7) feet.

3. *Side yard:*

- a. Principal structures:
 - 1 story 10 feet
 - 2 stories 12 feet
 - 3 or more stories 14 feet

The width of one (1) side yard may be reduced one (1) foot for each foot that the other side yard is correspondingly increased, provided, however, no side yard shall be reduced to less than seven (7) feet in width.

- b. Accessory structures (detached): Seven (7) feet.
- c. Side yards on side streets (corner lot): For both principal or accessory structures:
 - i. One (1) or two (2) stories: Fifteen (15) feet; and
 - ii. Three (3) or more stories: Eighteen (18) feet.

(d) *Minimum lot width:* Sixty (60) feet.

(e) *Maximum structure height:* Forty-five (45) feet. Where the lot abuts an R-6 residential zone, the maximum permitted height shall be the maximum permitted height of the R-6 zone. If there is a difference in height between abutting R-6 zones, the least restrictive height limitation shall apply.

1.2

All nonresidential uses in the R-P zone shall meet the requirements of division 25 (space and bulk regulations and exceptions) of this article in addition to the following requirements:

Sec. 14-150. Other requirements.

- (f) *Maximum impervious surface ratio*: The maximum impervious surface ratio is established according to the abutting residential zone. If there is no abutting residential zone to the lot in question, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the least restrictive such zone. The ratios are as follows:

R-1/R-2	0.60
R-3	0.70
R-4/R-5/R-5A/R-6	0.80
- (g) *Floor area ratio (F.A.R.)*: The maximum floor area ratio is established according to the abutting residential zone. If there is no abutting residential zone to the lot in question, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the least restrictive such zone. The ratios are as follows:

R-1/R-2	0.45
R-3	0.55
R-4/R-5/R-5A/R-6	0.65

- (a) *Landscaping and screening*: The site shall be suitably landscaped for parking, surrounding uses and accessory site elements, including storage and solid waste receptacles where required by article IV (subdivisions) and article V (site plan).
- (b) *Curbs and sidewalks*: Curbs and sidewalks as specified in article VI of chapter 25.
- (c) *Off-street parking and loading*: Off-street parking and loading are as required by division 20 and division 21 of this article.
- (d) *Front yard parking*: There shall be no parking in the front yard between the street line and the required minimum setback line. A maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the front yard, provided that for a lot of three (3) acres or more this limitation does not apply.
- (e) *Signs*: Signs shall be subject to the provisions of division 22 of this article.
- (f) *Exterior storage*: There shall be no exterior storage with the exception of receptacles for solid waste disposal. Such receptacles shall be shown on the approved site plan.
- (g) *Storage of vehicles*: Storage of vehicles is subject to the provisions of section 14-335.
- (h) *Shoreland and flood plain management regulations*: If the lot is located in a shoreland zone or in a flood hazard zone, the requirements of division 26 and/or division 26.5 apply.

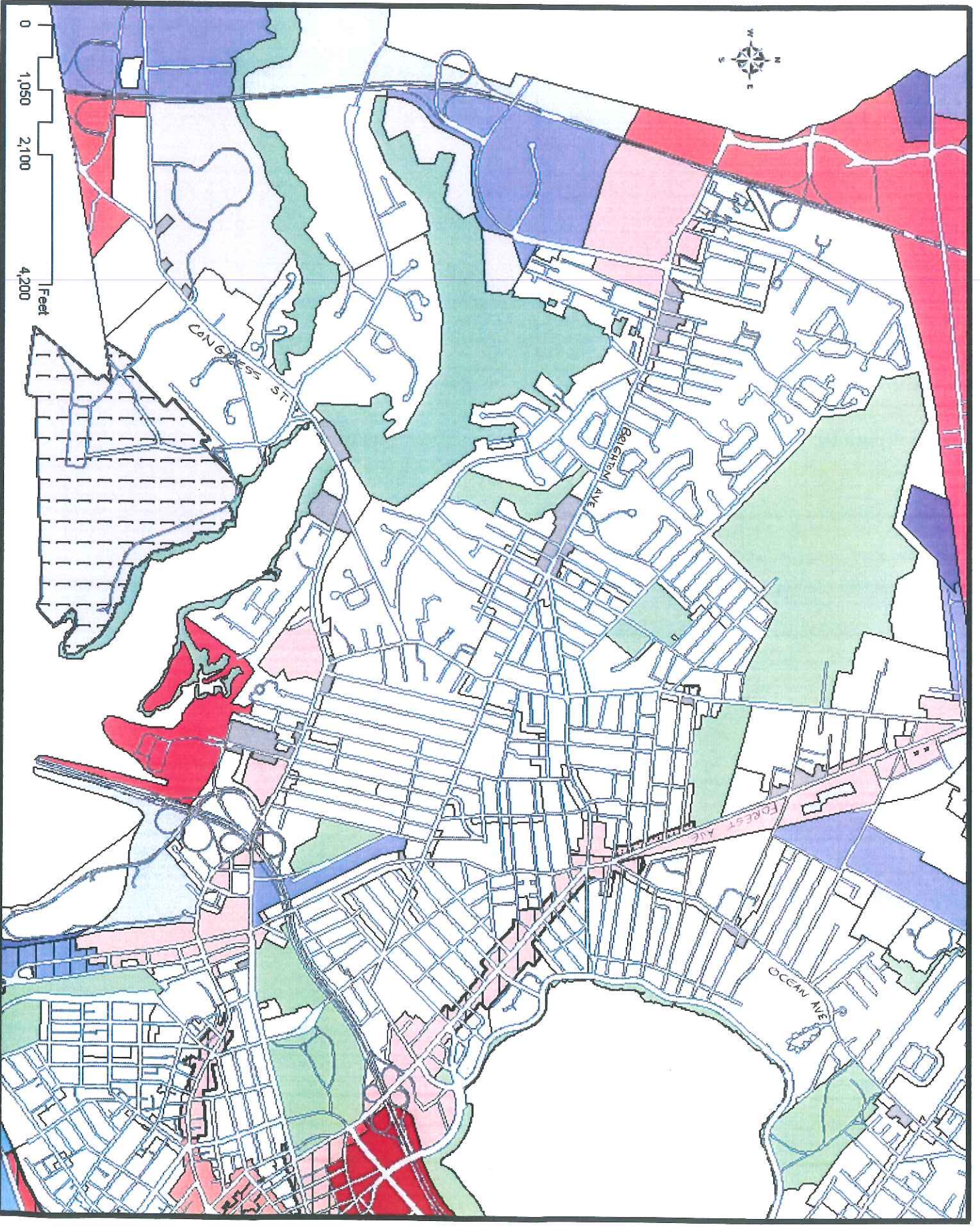
1.3

1.4

Sec. 14-151. External effects.

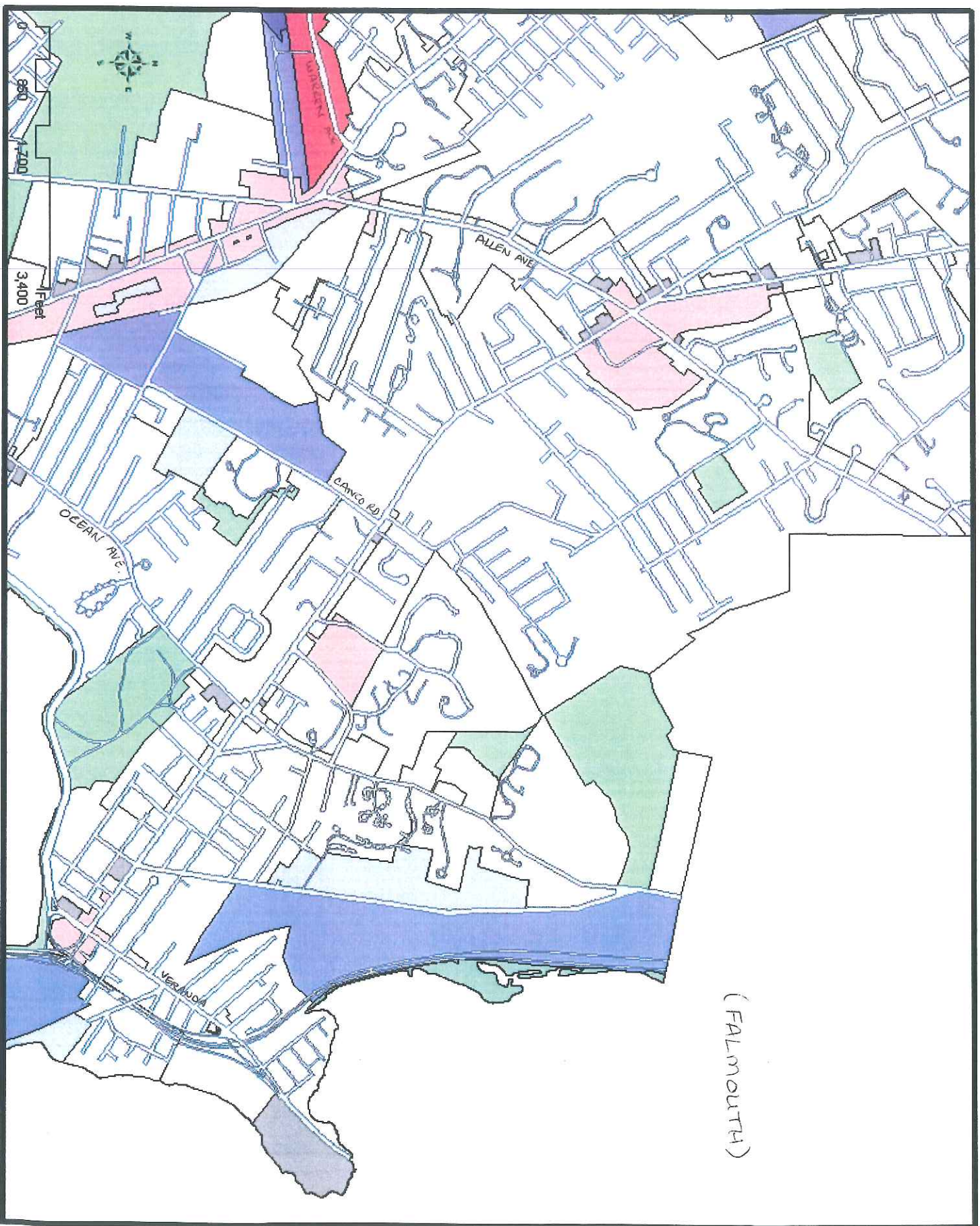
Every use in a R-P zone shall be subject to the following requirements:

- (a) *Enclosed structure*: The use shall be operated within a completely enclosed structure, except for those customarily operated in the open air.
- (b) *Noise*: The volume of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American Standards Association), generated shall not exceed fifty-five (55) decibels on the A scale, on impulse (less than one (1) second), at lot boundaries, excepting air raid sirens and similar warning devices.
- (c) *Vibration and heat*: Vibration inherently and recurrently generated and heat shall be imperceptible without instruments at lot boundaries.
- (d) *Glare, radiation or fumes*: Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.
- (e) *Smoke*: Smoke shall not be emitted at a density in excess of twenty (20) percent opacity level, as classified in Method 9 (Visible Emissions) of the Opacity Evaluation System of the U.S. Environmental Protection Agency.
- (f) *Materials or wastes*: No materials or wastes shall be deposited on any lot in such form or manner that they may be transferred beyond the lot boundaries by natural causes or forces. All material which might cause fumes or dust, or constitute a fire hazard if stored out-of-doors, shall be only in closed containers. Areas attracting large numbers of birds, rodents or insects are prohibited.



R-P zones south part of Portland R-P Zones in dark gray; Residential in white; B1/B2 in lt. pink

R-P zones north part of Portland R-P Zones in dark gray; Residential in white; B1/B2 in lt. pink



Attachment 3

(FALMOUTH)



DIVISION 20. OFF-STREET PARKING (EXTRACT)

Sec. 14-332. Uses requiring off-street parking.

In all zones where off-street parking is required, the following minimum off-street parking requirements shall be provided and maintained in the case of new construction, alterations which increase the number of units, and changes of use:

- (a) *Residential structures:*
1. For new construction, two, (2) parking spaces for each dwelling unit, plus one (1) additional parking space for every six (6) units or fraction thereof.
 2. For alterations or changes of use in existing structures, which create new or additional dwelling units in such structures, and for accessory units pursuant to §§14-68,78,88, one (1) additional parking spaces for each such unit. Existing parking spaces shall not be used to meet the parking requirements of this paragraph, unless the existing parking spaces exceed one (1) space for each dwelling unit.
 3. For residential development on the peninsula (area defined as southerly of I-295).
 - a. One (1) space per unit;
 - b. The required parking for multi-unit residential buildings may be partially met through provision of shared-use vehicles, which are vehicles owned and maintained by the owner/manager of the building and available for use on a fee basis to the residents of the building. One shared use vehicle shall be deemed to satisfy eight (8) required car spaces, but in no case shall more than 50% of the parking requirement be satisfied by shared vehicle use.
 - c. The planning board may establish a parking requirement that is less than the normally required number of spaces upon a finding of unique conditions that result in a lesser parking demand, such as housing for persons who cannot drive, housing that participates in a travel demand management program, availability of transit, or housing which includes permanent restrictions on automobile usage, and which is permanently restricted from utilizing resident on-street parking stickers.
- (b) *Motel:* One (1) parking space for each sleeping room.
- (c) *Hotels:* One (1) parking space for each four (4) guest rooms.
- (d) *Schools providing instruction for students up to and including those fifteen (15) years of age:* One (1) parking space for each room used for purposes of instruction.
- (e) *Schools providing instruction for students sixteen (16) years of age and over:* One (1) parking space for each ten (10) seats or major fraction thereof, used for purposes of instruction; if no fixed seats, one (1) parking space for each one hundred (100) square feet or major fraction thereof used for purposes of instruction.
- (f) *Hospitals:* One (1) parking space for each five hundred (500) square feet or major fraction thereof, of floor area, exclusive of cellar.
- (g) *Auditoriums, theaters, assembly halls, funeral homes:* One (1) parking space for each five (5) seats or for each one hundred (100) square feet, or major fraction thereof, of assemblage space if no fixed seats.
- (h) *Retail stores:* One (1) parking space for each two hundred (200) square feet of first floor area in excess of two thousand (2,000) square feet not used for bulk storage and one (1) parking space for each seven hundred (700) square feet, or major fraction thereof, for each floor above the first floor not used for bulk storage.
- (i) *Restaurants or establishments constructed and intended for the dispensing of food and drink as the*

principal activity: One (1) parking space for each one hundred fifty (150) square feet, or major fraction thereof, of floor area not used for bulk storage or food preparation.

- (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; except that in the B-2 and B-2b zones one (1) parking space for each three hundred and thirty four (334) square feet or major fraction thereof, of floor area exclusive of cellar not used for bulk storage shall be required.
- (k) *Church and accessory uses located on same or contiguous lots*: One (1) parking space for each five (5) fixed seats; or if no fixed seats, one (1) parking space for each twenty-five (25) square feet, or major fraction thereof, of area in sanctuary or principal place of assemblage for worship in the church.
- (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) *Beds*: One (1) parking space for each eight (8) beds, or major fraction thereof.
- (n) *Longterm, 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.
- (s) *Bed and breakfast*:
 - 1. *Except in the I-B zone*: One (1) parking space for each two (2) guest rooms or fraction thereof for the first four (4) guest rooms; one (1) parking space for each additional guest room in excess of four (4).
 - 2. *In the I-B zone*: No off-street parking required.
- (t) *[Exception:]* Notwithstanding the preceding provisions of this section, the parking requirement for any new structure in excess of fifty thousand (50,000) square feet shall be as established by the Planning Board pursuant to section 14-526(a)(2).
- (u) *Exception for historic structures*. No parking in excess of that existing on or servicing the lot as of March 15, 1999 shall be required for any structure under Article IX of this Chapter, as a contributing structure in a local or National Register historical district, or as a locally designated or National Register landmark building; however, parking may not be decreased from that existing on or servicing the lot on March 15, 1999 except to the extent necessary to meet the requirements of the Americans with Disabilities Act.
- (v) *Private clubs*: One (1) parking space for each one hundred fifty (150) square feet, or major fraction thereof, of floor area.
- (w) *Community Centers*: One (1) parking space for each 150 square feet, or major fraction thereof, of floor area, except for community centers which serve primarily clientele from the surrounding neighborhood, the parking requirement shall be one (1) parking space per 1,000 square feet, or major fraction thereof, of floor area.

PURTLAND ORDINANCE - PROCESSIONS ^{Att 5.3}

City of Portland
Code of Ordinances
Sec. 28-180

Traffic and Motor Vehicles
Chapter 28
Rev.10-15-08

(Ord. No. 183-97, 1-22-97)

State law reference(s)--Similar provisions, 29-A M.R.S.A. § 2063.

Sec. 28-182. Parades and processions.

No procession or parade containing two hundred (200) or more persons or fifty (50) or more vehicles, excepting the forces of the United States Army, Navy or Air Force, the military forces of this state, and the forces of the police and fire departments, shall occupy, march or proceed along any street except in accordance with a permit issued by the chief of police and such other regulations as are set forth herein which may apply.

(Ord. No. 183-97, 1-22-97)

Sec. 28-183. Funeral and other processions.

(a) A funeral composed of a procession of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant of a type designated by the city traffic engineer.

(b) Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practicable and follow the vehicle ahead as closely as is practicable and safe.

(Ord. No. 183-97, 1-22-97)

Sec. 28-184. Driving through processions.

No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this chapter. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers, or other authorized persons.

(Ord. No. 183-97, 1-22-97)

Sec. 28-185. Golf carts on certain island streets by certain persons.

The operation of golf carts shall be permitted on the streets of Cliff Island, Great Diamond Island and Peaks Island if in compliance with the following requirements:

(a) The operator must be over the age of twenty-one (21) or possess a valid license to operate a motor vehicle;

Applicant's Submittal



**City of Portland, Maine
 Department of Planning and Development
 Zoning Text Amendment Application**

SUBMITTAL
 Attachment A-1.1

Application ID: 1464 Application Date: 12/03/2008 CBL: 224A Property Location: 660 Brighton Ave

Applicant Information:

ATH, LLC
 Name

Business Name

16 Equestrian Way
 Address

Scarborough, ME 04074
 City, State and Zip

Telephone _____ Fax _____

Applicant's Right, Title or Interest in Subject Property:

Current Zoning Designation: RP

Existing Use of Property:

Proposed Use of Property:

allow funeral homes in the R-P zone

Property Owner:

Whitewater Llc
 Name

1601 Congress St
 Address

Portland, ME 04102
 City, State and Zip

Telephone _____ Fax _____

Amendment A _____

Amendment B _____

Amendment C _____

Section 14: _____

Requested: _____

Planning Approval

REVIEW TYPE: _____

RECOMMENDATION DATE: _____ APPROVAL DATE: _____ ENACTMENT DATE: _____

A-1.2

**ATH, LLC
16 Equestrian Way
Scarborough, Maine 04074**

Barbara Barhydt, Development Review Services Manager
City of Portland, Planning Division
389 Congress St.
Portland, Maine 04101

Dear Barbara:

Please accept the following as our Zoning Amendment Application for a Zoning Text Amendment.

1. Applicant Name:

ATH, LLC
16 Equestrian Way
Scarborough, Maine 04074

2. Subject Property: N/A – See Narrative

3. Property Owner: N/A

4. Billing Address:

ATH, LLC
16 Equestrian Way
Scarborough, Maine 04074

4. Right, Title, or Interest: N/A – See Narrative

5. Vicinity Map: N/A

6. Existing Use: N/A – See Narrative

7. Current Zoning Designation: N/A

8. Proposed Use of Property: N/A – See Narrative

9. Sketch Plan: N/A – See attached

10. Proposed Zoning:

B. Zoning Text Amendment to Section 14-147 Permitted uses. The requested addition to RP Zone is highlighted below.

Zoning Amendment Application (cont.)

The following uses are permitted uses in the R-P zone:

- (a) *Residential:* Any residential use is permitted in the residential zone abutting the lot. If there is no abutting residential zone, the nearest residential zone to the lot.

In the case of two (2) or more abutting residential zones, the most restrictive such zone.

- (b) *Business:*
1. Professional offices, including the offices and facilities of health care and related laboratory and pharmacy services and health care administration, but excluding personal services, retail establishments and veterinarians.
 2. Business services, as defined in section 14-47, except copy services.
 3. Adult day care services.
 4. **Mortuaries or funeral homes**
- (c) *Other:*
1. Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan).
 2. Accessory uses as provided in section 14-404.

The purposes of the R-P residence-professional zone are:

- (a) To provide appropriate location for the development and operation of low-intensity business uses, including professional offices on or near major arterials, that are compatible in scale, density and use with surrounding and adjacent residential neighborhoods; or
- (b) To serve as a transition or buffer zone between residential and more intensive nonresidential zones.

Narrative

The funeral industry has changed over the years. Back some 75 plus years ago most of the wakes for a family's deceased member would be held within the family's home. So there was not the need for large funeral homes with ample parking. Over time, families began to rely on the funeral home establishment as a place to hold a wakes or a service. Even with that shift in location for wakes and services, all the funeral homes at that time were established within large residential homes and in a neighborhood setting. This was done to mimic the "home" atmosphere that a family was used to. It was not until 1959, in Portland, that a building was designed and built for the sole purpose of being a funeral home. This facility is currently the Jones, Rich and Hutchins Funeral Home on Woodford

Zoning Amendment Application (cont.)

St. and it was constructed next to a residential neighborhood. A funeral home is better suited to be positioned next to a residential neighborhood, because of the atmosphere that you want to have surrounding the site of the funeral home . You want to have the feeling of "home".

The subject property that would benefit from the Text Amendment is located at 660 Brighton Ave. Currently, ATH, LLC. has a signed Purchase and Sales Agreement with Waterwater, LLC on the subject property. The subject property is currently being used as a Doctor's Park (dentists and physicians). The proposed use of the subject property would be for the establishment of a funeral home.

Based on the above permitted uses and the purpose of the R-P residence-professional zone, it is our belief that the inclusion of mortuaries or funeral homes in this zone would be a better fit for this type of business, than the B-2 and B-4 zones, which are the only zones that permit a mortuary or funeral home.

We do not view either of these zones as compatible with the desired surrounding environment for a mortuary or funeral home. This view is based on the other types of business that are allowed in those zones. By reviewing the listed purposes and permitted uses in these zones, (See attachment A) there are a number of businesses that, largely because of the noise and traffic that they generate would not be appropriate next to a mortuary or funeral home.

The B2 zone is intended for a mixture of businesses, including major shopping centers. The B4 zone is intended for highway-orientated trade and large-scale commercial use; hardly characteristics conducive for creating a residential or "home" atmosphere desirable for a mortuary or funeral home.

We believe that the RP zone is far more conducive to the desired atmosphere for a mortuary or funeral home The traffic likely to be generated from a mortuary or funeral home and its hours of operation are far more like a professional office than that of a shopping center, automobile dealership or wholesale distribution establishment.

A-1.5

ATH, LLC - Zoning Amendment Application for a Zoning Text Amendment

Attachment A

B-2 zones in the city are currently located in the following areas:

Forest Ave bordering I-295 up to Morrill's Corner
Woodfords St. – from Forest Ave up to the Jones, Rich & Hutchins Funeral Home
Washington Ave – Andover College / Martin's Point property
Washington Ave – Northport property
Auburn St. – Northgate Property
Allens Corner
St. Johns St / Valley St. area
Congress St. – west from State St. to Weymouth St.
Outer Congress St.:
 Old Double Tree Hotel property, Norway Savings Bank, Mobil Station
 Westgate Shopping Center area
 Pinetree Shopping Center / Quirk Chevrolet

B-4 zones in the city are currently located in the following areas:

Warren Ave from Forest Ave to Riverside St.
Riverside St. to Brighton Ave.

The purpose of the B-2 community business zone is:

(1) To provide appropriate locations for the development and operation of community centers offering a mixture of commercial uses and services serving the adjoining neighborhoods and the larger community.

(2) The variety, sites and intensity of the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1 neighborhood business zone.

(3) The B-2 zone will provide a broad range of goods and services and general businesses with a mixture of large and small buildings such as grocery stores, shops and services located in major shopping centers and along arterial streets. Such establishments should be readily accessible by automobile and by pedestrians. Development in the B-2 zone should relate to the surrounding neighborhoods by design, orientation, and circulation patterns.

(b) B-2b Community Business Zone – is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate areas where a more compact urban development pattern exists on-peninsula or in areas where a neighborhood compatible commercial

Zoning Amendment Application (cont.)

district is established off-peninsula and each area exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern. Building additions are encouraged but not required to meet the maximum setbacks of 14-185I.

(c) B-2c Community Business Zone – is intended to protect and enhance the quiet enjoyment of adjoining residential neighborhoods from the impacts of businesses that serve liquor and from other uses that are incompatible with adjoining neighborhoods due to noise.

The following uses are permitted in the B-2, B-2b and B-2c zones except that any use involving drive-throughs are prohibited in these zones unless otherwise provided in section 14-183:

(a) *Residential:*

1. Any residential use permitted in the residential zone abutting the lot. If there is no abutting residential zone, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the most restrictive such zone; and
2. In any structure with commercial uses in the first floor, multi-family dwellings are permitted above the first floor.

(b) *Business:*

1. General, business and professional offices, as defined in section 14-47;
2. Personal services, as defined in section 14-47;
3. Offices of building tradesmen;
4. Retail establishments;
5. Restaurants, except that restaurants shall close for all purposes including the service of alcohol no later than 11:00 p.m.;
6. Drinking establishments, except that drinking establishment as defined in section 14-47, and bars as defined in section 14-217.5 (a)(1), shall not be permitted in the B-2c zone;
7. Billiard parlors;
8. Mortuaries or funeral homes;
9. Miscellaneous repair services, excluding motor vehicle repair services;
10. Communication studios or broadcast and receiving facilities;
11. Health clubs and gymnasiums;
12. Veterinary hospitals, but excluding outdoor kennels;
13. Theaters and performance halls;
14. Hotels or motels of less than one hundred fifty (150) rooms;
15. Dairies in existence as of November 15, 1999;
16. Bakeries in existence as of November 15, 1999;
17. Bakeries established after November 15, 1999, provided the bakeries include retail sales within the principal structures. Bakeries in the B-2b zone shall be no greater than seven thousand (7,000) square feet in size;

Zoning Amendment Application (cont.)

18. Drive-throughs associated with a permitted use in the B-2 zone provided that such do not include drive-throughs on any lot adjacent to any residential use or zone. For purposes of this section, only, "adjacent to" shall include uses across a street if within 100 feet of the subject lot boundary;
19. Drive-throughs associated with a permitted use in the B-2b zone, when accessory to a principal use located on the same lot, provided that such do not include drive-throughs on any lot adjacent to any residential use or zone. For purposes of this section, only, "adjacent to" shall include uses across a street if within 100 feet of the subject lot boundary.

(c) Institutional:

1. Private club or fraternal organization;
2. Long term, extended and intermediate care facility;
3. Clinics, as defined in section 14-47;
4. Churches or other places of worship;
5. Kindergarten, elementary, middle and secondary schools;
6. College, university, trade schools; and
7. Municipal buildings and uses.

(d) Other:

1. Lodging houses;
2. Day care facilities or babysitting services;
3. Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan);
4. Accessory uses, as provided in section 14-404;
5. Bed and breakfast, subject to the standards of article V (site plan). A bed and breakfast may include a meeting facility if the facility meets the following standards:
 - a. The meeting facility shall be limited to the following types of uses:
 - i. Private parties.
 - ii. Business meetings.
 - iii. Weddings.
 - iv. Receptions.
 - v. Seminars.
 - vi. Business and educational conferences.
 - b. The building in which the bed and breakfast and the meeting facility will be located was in existence on March 3, 1997, and was greater than four thousand (4,000) square feet in floor area on that date.
6. Studios for artists and crafts people, provided that the area of such studios does not exceed four thousand (4000) square feet for each studio space.

Zoning Amendment Application (cont.)

The following uses are permitted in the B-2, B-2b and B-2c zone, as provided in section 14-474 (conditional uses), if they meet the following requirements:

- (a) *Business*. Any of the following conditional uses, provided that, notwithstanding section 14-474(a) of this article or any other provision of this code, the Planning Board shall be substituted for the board of appeals as the reviewing authority over conditional business uses:
1. Major and minor auto service stations in the B-2 zone, only;
 2. Major or minor auto service stations in the B-2b zone in existence as of November 15, 1999;
 3. Car washes;
 4. Drive-throughs in the B-2 or B-2b zones which are adjacent to any residential use or zone, provided that, in the B-2b drive-throughs must be accessory to a principal use located on the same site;
 5. Automobile dealerships.

(b) *Other*:

1. Printing and publishing establishments except as provided in subsection b. below;
2. Printing and publishing establishments in continuous operation at their current location since April 4, 1988, or earlier and which exceeded ten thousand (10,000) square feet of aggregate gross floor area at that time
3. Wholesale distribution establishments; and
4. Research and development and related production establishments.

Uses listed in this paragraph (b) (other) 1, 3 and 4 shall be limited to ten thousand (10,000) square feet of aggregate gross floor area, and uses listed in this paragraph (b) (other) 1, 2, 3 and 4 shall be subject to the following conditions and standards in addition to the provision of section 14-474:

- a. *Traffic circulation*: The site shall have an adequate traffic circulation pattern designed to avoid hazards to vehicular circulation on adjoining streets. All stacking of motor vehicles shall be on site, and loading facilities shall be located to the rear of the building and shall not be visible from the street.
- b. *Building and site design*: The exterior design of the structures, including architectural style, facade materials, roof pitch, building form, established setbacks and height, shall be of a commercial rather than industrial character. The site shall contain screening and landscaping which shall meet the requirements of the Technical Standards and Design Guidelines adopted pursuant to section 14-498 and section 14-526 for screening between land uses.

The purpose of the B-4 commercial corridor zone is:

- (a) To provide appropriate locations in the city for the development and operation of businesses catering primarily to highway-oriented trade along major

Zoning Amendment Application (cont.)

arterials. (Uses which have market areas which are primarily dependent on the regional highway network or serve a regional or larger market); or

- (b) To provide appropriate locations for large-scale commercial uses and commercial uses that require larger land areas to accommodate their operations.

The following uses are permitted in the B-4 zone:

(a) *Business:*

1. General, business and professional offices, as defined in section 14-47;
2. Personal services, as defined in section 14-47;
3. Offices of building tradesmen;
4. Retail establishments;
5. Restaurants;
6. Drinking establishments;
7. Billiard parlors;
8. Major and minor gasoline service stations, as defined in section 14-47;
9. Mortuaries or funeral homes;
10. Miscellaneous repair services;
11. Health clubs and gymnasiums;
12. Hotels and motels;
13. New and used car dealerships;
14. Facilities for the maintenance and repair of automobiles, provided all repairs are performed in a fully enclosed structure;
15. Car washes;
16. Lumber and building materials dealers;
17. Communications studios and broadcast receiving facilities;
18. Veterinary hospitals but excluding outdoor kennels;
19. Auto body repair and paint shops provided all repairs are performed in fully enclosed structures;
20. Boat, trailer or recreational vehicle sales and service;
21. Theaters, entertainment and recreation services;
22. Self-storage facility.

(b) *Institutional:*

1. Governmental buildings and uses.
2. Colleges, universities and trade schools.
3. Churches or other places of worship.
4. Correctional prerelease facilities for up to twelve (12) persons, plus staff, serving a primary clientele of parolees or persons in correctional prerelease programs, provided that:
 - a. No correctional prerelease facility shall be located within one thousand (1,000) feet of another, as measured in a radius from the center of the lot;
 - b. If a facility requires state or federal licensing, staffing of the facility shall be as required by such license. If a facility does not require state or federal licenses, there shall be a

Zoning Amendment Application (cont.)

minimum of one (1) staff person for every ten (10) residents or fraction thereof; and

- c. The facility shall provide twenty-four-hour supervision of program participants.

(c) *Other:*

1. Lodging houses;
2. Wholesale warehousing and distribution establishments;
3. Commercial bakeries and dairies;
4. Light manufacturing uses with not more than twenty-five thousand (25,000) square feet or less of gross floor area. Exterior assembly of materials or products is prohibited. Activity defined as a high hazard by chapter 6 of this Code (building code) is also prohibited;
5. Printing and publishing establishments;
6. Research and development and related production establishments;
7. Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan); and
8. Day care facilities;
9. Studios for artists and craftspeople;
10. Accessory uses, as provided in section 14-404;
11. Storage lots for towed or impounded vehicles, provided that such lots are located at least 300 feet from any residential zone or existing conforming residential use. For the purposes of this section, "existing conforming residential use" does not include a legally nonconforming residential use as described in division 23 of this chapter.

Attachment A-2

Jean:

The funeral industry has changed dramatically over the past twenty years. Twenty years ago, the normal length of time that a family would use the services of a funeral home would be approximately three days. The first two days would be for the wake or visiting hours. The normal hours for a wake would be 2:00PM to 5:00PM, then again from 7:00PM to 9:00PM. On the third day, a family might have prayers said at the funeral home prior to leaving for a church service or the funeral service would be held at the funeral home.

Today most wakes or visiting hours are only about three to four hours long (4:00PM to 8:00PM) and for only one day. On the day of the funeral it is usually just the family that will meet at the funeral home before leaving for a church service, where as the public will go directly to the church. Funeral processions today from the funeral home may range from six to ten vehicles. The procession will become much larger when it leaves the church to go to the cemetery.

I would like to make a couple of points surrounding traffic flows for funeral homes:

First, it is difficult to estimate the overall size of a procession leaving a funeral home because family sizes vary. There are times when a procession will be large and that is usually the case when a public figure passes away. This is also the case when you try to estimate the amount of traffic that would be generated during visiting hours. Today traffic flow surrounding a funeral home would be concentrated to the hours of 9:00AM to 11:00AM and between 4:00PM to 8:00PM and is usually limited to a few cars at a time entering or leaving the facility.

Second, the length of time that a funeral procession might require that traffic be stopped in order for the vehicle to leave the funeral would generally be less than five minutes. Again, this depends on the size of the family or if the individual is a public figure. Once the procession has left the funeral home, depending on the size, it can create a traffic concern along its route through the city. The funeral procession will not create traffic issues just within the RP Zone.

[from Mark Hutchins 12.30.2008]

TO: Chair and Members of the Portland Planning Board
Jean Fraser, Planner
FROM: Mark Hutching
SUBJECT: Zoning Text Amendment: R-P Zone to Allow Funeral Homes, ATH, LLC – Applicant
DATE: February 4, 2009

The funeral industry has changed dramatically over the past twenty to thirty years. At one point in Portland's history there were over eight funeral homes. Now there are basically only three. One has even become part of a national chain of funeral homes. The time of the family owned and operated funeral home has diminished, but our funeral home will be family owned and operated. Years ago the local funeral homes were all situated in converted homes. This was due to the fact that the visiting hours were held at the deceased own home. The funeral home facility was primarily used to embalm the individual who had passed away. Over time the families would come to use the funeral home in place of their own homes for the visitations and services.

Twenty years ago, the normal length of time that a family would use the services of a funeral home would be approximately three days. The first two days would be for the wake or visiting hours. The normal hours for a wake would be 2:00PM to 5:00PM, then again from 7:00PM to 9:00PM. During this time period many individuals would stay for the duration of the wake which would require plenty of parking. On the third day, a family might have prayers said at the funeral home prior to leaving for a church service or the funeral service would be held at the funeral home.

Today most wakes or visiting hours are only about three to four hours long (4:00PM to 8:00PM) and for only one day. The other major change is that individuals will go to a wake to pay their respect to the family, then leave. This requires a lot less parking because you are turning over the parking space much more quickly. On the day of the funeral it is usually just the family that will meet at the funeral home before leaving for a church service, where as, the public will go directly to the church. Funeral processions today from the funeral home generally range from six to ten vehicles. Also these vehicles tend to be full, again requiring less parking. The procession usually becomes larger when it leaves the church to go to the cemetery.

Based on the current layout of the parking area at 660 Brighton Ave. we would have the ability to stage a funeral procession of approximately 100 cars. In today's world, that happens rarely, possibly once in a span of several of years.

Funeral services at a church or at the funeral home would be concentrated between the hours of 9:30AM to 11:00AM. I spoke with each of the Catholic churches in Portland and most of the time, with the rare exception, funeral masses would be at 10:00 AM. One of the major reasons for this time is due to the fact the churches already have scheduled daily masses in the morning and some even have a noontime mass. By having a funeral service before 10 in the morning, it would be putting a hardship on the family. A family would have to be at the funeral home by 7:30 in the morning, so that we could be at a church by 8:45AM. As for weekends, you can have both funeral services in the morning and a wake in the afternoon/evening. On Sunday you would only have an afternoon/evening wake. The services that are held on the weekend would not cause any major traffic issues because there would be

Act. B-1. 2

no "rush hour" or peak traffic to contend with. You are also having more services scheduled on the weekends due to the fact that many people are now being cremated and the weekend is more convenient for the families.

There could be, on occasion, a funeral service in the early afternoon but the funeral director would have to keep in mind the operational hours of the cemetery. The cemetery would require at least a couple of hours after the graveside service to close the grave, which would require that the service be completed by 3:00PM.

I would like to make a couple of points surrounding traffic flows for funeral homes:

First, it is difficult to estimate the overall size of a procession leaving a funeral home because family sizes vary. There are times when a procession will be large and that is usually the case when a public figure passes away. This is also the case when you try to estimate the amount of traffic that would be generated during visiting hours. Today traffic flow surrounding a funeral home would be concentrated to the hours of 9:00AM to 11:00AM and between 4:00PM to 8:00PM and is usually limited to a few cars at a time entering or leaving the facility at any one time.

Second, the length of time that a funeral procession might require that traffic be stopped in order for the vehicle to leave the funeral would generally be less than a couple minutes. Again, this depends on the size of the family or if the individual is a public figure. Once the procession has left the funeral home, depending on the size, it can create a traffic concern anywhere along its route through the city. The funeral procession will not create traffic issues just within the RP Zone.

Thank you for your consideration.

Mark Hutchins
ATH, LLC

TO: Chair and Members of the Portland Planning Board
Jean Fraser, Planner

FROM: Elizabeth A. Della Valle, AICP

SUBJECT: Zoning Text Amendment: R-P Zone to Allow Funeral Homes, ATH, LLC – Applicant

DATE: February 4, 2009

The January 16th staff memorandum to the Planning Board and the Planning Board's discussion of ATH, LLC's request for a zoning text amendment to allow funeral homes and mortuaries as a permitted use in the R-P Zone raised three concerns – traffic, parking, and hours of operation.

ATH, LLC has investigated each of these issues and offers the following additional information for your consideration.

Funeral homes are a permitted use in the B-2 Zone, which are often located on arterials and abut residences, similar to most R-P Zones. Furthermore, the R-P Zone has built-in standards in §§14-150 and 14-151 of the City's ordinances that provide more restrictions than would be applicable in the B-2 Zone in order to protect neighboring residences.

Furthermore, site review standards in §14-521 et seq. require the Planning Authority to address a plethora of issues. The Planning Authority may even refer the matter to the Planning Board, under §14-525(h) if it encounters issues it believes are best resolved by the Board on a specific site.

While the parking and procession issues, more fully discussed below, may be real, they are best addressed by amending the specific section of the City's codes that govern them, rather than by adding an additional layer of regulation in the R-P Zone as the cost and timing of a Planning Board conditional use review can be unnecessarily burdensome.

For these and the following reasons, ATH, LLC encourages the Planning Board to make a favorable recommendation to the City Council on its request for a zoning text change to allow funeral homes and mortuaries in the R-P Zone as a permitted use.

Traffic

Some members of the Planning Board raised concerns about potential problems generated by long processions that could disrupt traffic during peak traffic hours on arterial roadways. The City has identified peak traffic hours as 7:30-8:30 am and 4:30-5:30 pm. Based on the anticipated normal operation of a funeral home, virtually all funeral processions occur in the morning after these peak hours. ATH, LLC phone calls to area churches indicate that funeral services are rarely scheduled prior to 9:30 or 10:00 am to avoid conflicts with morning services. Even if a service is scheduled for 9:00 am, ATH, LLC does not anticipate that its funeral processions would begin prior to 8:30 am, the end of the morning peak traffic hours. Furthermore, because burials must take place before the end of a normal

work day for cemetery staff, ATH, LLC anticipates that afternoon funeral processions would occur no later than 2:30 pm, well before the afternoon peak traffic hours begin. Furthermore, most B-2 and B-4 zones, where funeral homes and mortuaries are a permitted use, are also located along arterials throughout the City. Processions originating from within those zones are likely to generate similar concerns about the disruption of traffic during peak hours on Portland's arterials suggesting that concerns about the disruption of traffic from funeral processions is not exclusive to funeral homes located within the R-P Zone.

The City regulates processions under Chapter 28, §28-182 through §28-184 of its Code of Ordinances. None of these sections specifically discuss the issue of the timing of processions, though under §28-182, a procession of 200 or more persons or 50 or more vehicles is required to secure a permit, under which time limitations may be required. Very few funerals are likely to generate processions of this size, though it is likely that funeral homes in any location in the City would seek a permit under the ordinance when a funeral procession is planned for a prominent public figure.

Since none of the existing funeral homes in the City are located in an R-P Zone, if the Planning Board is concerned about funeral processions interrupting traffic on arterials during peak hours, it would appear that traffic concerns related to processions would be far better addressed by modifying the Traffic and Motor Vehicle Code rather than by applying additional regulatory standards to funeral homes and mortuaries solely in the R-P Zone. If addressed through the Traffic Code, all existing and future funeral homes and mortuaries will be subject to the same rules, which presumably would be expanded to address the timing of processions throughout the City.

Parking

Concerns were also raised about the potential need for on-street parking during the 4:00-8:00 pm period. Some Planning Board members expressed concern that the City's parking standards for funeral homes (§14-332(g)) is inadequate, frequently necessitating the use of on-street parking. When the Planning Board discussed this issue, some members noted parking problems for existing funeral homes in the City. All, but one of the existing funeral homes, are grandfathered uses, which are restricted from expansion, even to address existing parking needs. Only one of these establishments includes as many parking spaces as the property at 660 Brighton Avenue, and much of that parking is located across the street from that funeral home. Most of the grandfathered funeral homes do not have nearly the number of spaces available at 660 Brighton Avenue.

To assess the likelihood of the need for on-street parking for new funeral homes, we examined several communities' parking standards and offer the attached chart of standards and how the property at 660 Brighton Avenue might meet them. Some standards include provisions for the number of employees and service vehicles. Some include standards based on permanent seating, but recognizing that most funeral homes use flexible seating, many include some reference to square footage. In cases, where the standard is specific to funeral homes, the standard usually refers to the square footage of public areas or, as in Portland's case, area of "assemblage". In cases where the standard is more generally applied

for “places of assembly”, the standard usually applies to a more generic total square footage, including storage space and garages. Except for those standards that employ total square footage, most standards require a similar number of spaces to those required under Portland’s standard. In all cases, the property at 660 Brighton Avenue meets or exceeds the standard.

It appears that parking problems associated with existing funeral homes in Portland are more a matter of grandfathered properties that have limited parking facilities than a problem with the City’s parking standard. Furthermore, if the City is concerned that its current standard is inadequate to meet parking demand for funeral homes, ATH, LLC believes that a more appropriate response would be to require additional parking as a condition of site plan approval and/or revise the parking standard itself rather than require that funeral homes be a conditional use in a R-P Zone.

Hours of Operation

Planning staff note that the normal visiting hours for funeral homes extend “slightly later than most offices”, but notes that a number of conditional uses in adjoining residential districts have similar if not later hours of operation. Furthermore, many B-2 Zones, where funeral homes are permitted, are adjacent to residential zones. While ATH, LLC recognizes the need to protect adjacent residences from undue impact, it does not believe that funeral homes in the R-P Zone will have any greater impact on surrounding residences than funeral homes in a B-2 Zone would have. As a point of information, while the property at 660 Brighton Avenue abuts a residential zone, it does not abut any residential properties.

Conditions of Site Plan Approval

Under §14-526 (b), the “Planning Authority or Planning Board may impose any condition upon its approval of any site Plan: (1) to minimize or abate any adverse impact of the proposed development on the value or utility of other private property, or on public property or facilities, to the extent feasible; or (2) to bring the development into compliance with the requirements of subsection (a); or (3) to minimize any other adverse environmental effects of the proposed development. Such conditions may include, but are not limited to, enclosing of equipment or operations, imposing limitations upon the hours of operation, or requiring the employment of specific design technologies, modes of operation, or traffic patterns...”

ATH, LLC believes that this provision of the City’s ordinance provides ample authority for the Planning Authority to impose conditions of approval that would address noted concerns about traffic, parking, or hours of operation that might arise with any specific site within the R-P District.

Rather than impose an additional layer of regulation by making funeral homes and mortuaries a conditional use in the R-P Zone, the City has the authority under existing ordinances to address potential impacts arising from a specific site in the R-P Zone through the application of conditions of approval.

Parking Standards for Funeral Homes and Mortuaries

ATH, LLC

Parking Standard	Source	Specific to Funeral Homes	Required # Spaces	Met on 660 Brighton¹
1 space for each 5 seats or for each 100 sq ft, or major fraction thereof, of assemblage space, if no fixed seats	Portland	Yes	31 ²	Yes
25 spaces per parlor or 1 space for each 4 patrons based on design capacity, whichever standard produces the greater number of spaces	Augusta	Yes	50 to 63	Yes
1 space per 100 sq ft floor space ³	Biddeford	No	87	Yes
1 space for every 4 seats or 100 sq ft, or major fraction of assemblage space ⁴ , if no fixed seats	Falmouth	No	31	Yes
1 space for each hearse or service vehicle plus 1 space for each family or individual resident on the premises plus additional spaces equal in number to 1 space for each 100 sq ft of public area ⁵ within the building	South Portland	Yes	35	Yes
1 space for every 100 sq ft of floor space ⁶	Topsham	No	87	Yes
1 space for every 4 spaces of seating capacity plus 1 space per employee and clergy	National Foundation of Funeral Services ⁷	Yes	70	

¹ Existing building is 8,664 sq ft. New funeral home use proposed to include 2 viewing areas or parlors totaling 2400 sq ft, a 460 sq ft family room, and 220 sq ft reception area for a total public area of 3,080 sq ft. Maximum flexible seating proposed for 250. No fixed seating or chapel proposed. New funeral home proposed to have 1 hearse, 1 limousine, and 2 service vehicles and employ 6 full-time equivalents. Site currently includes 85 outdoor parking spaces, plus 3 spaces within the building, for a total of 88 parking spaces.

² Does not include parking that may be attributable to other uses, such as offices, within the facility.

³ Includes total square footage.

⁴ Includes individual rooms, but not hallways or bathrooms.

⁵ Includes viewing rooms, hallways, and bathrooms; excludes offices, storage and processing.

⁶ Includes total square footage.

⁷ Dr. Charles Nichols, Director of National Foundation of Funeral Services.

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**RESIDENCE-PROFESSIONAL (R-P) TEXT AMENDMENT TO
SECTION 14-147. PERMITTED USES**

ATH, LLC, APPLICANT

Submitted to:

Portland Planning Board
Portland, Maine

February 10, 2009 Public Hearing

Submitted by:

Jean Fraser, Planner
February 6, 2009

I. INTRODUCTION

The ATH, LLC (Mark Hutchins) has requested a text change to the City Ordinance to allow funeral homes in the Residence-Professional (R-P) zone. The amendment requested is to section *14-147 Permitted Uses (R-P Zone)* (Attachment 1) and they request that “Mortuaries or funeral homes” be added to the list of permitted uses under *(b) Business* (Attachment A-1, page 3).

Funeral homes are not permitted in the R-P zone on any basis. The R-P zone does provide for uses which can be shown to meet the conditional use requirements ie shown to be similar to professional offices. Funeral homes are permitted uses only in the B2 and B4 zones, which generally accommodate business and large scale commercial uses.

The text amendment allows the applicant to use a building in the R-P zone (660* Brighton Avenue) for a funeral home. If an R-P text change is recommended by the Planning Board and approved by the City Council, the change of use at this site would then be subject to minor site plan approval and the other requirements of the R-P zone.

Some members of the Planning Board considered that potential issues related to parking and processions warranted the funeral home use being included as an R-P conditional use subject to restrictions, rather than a permitted use. The applicant has submitted further information to illustrate that funeral homes do not have adverse impacts, and therefore encourages the Board to allow funeral homes and mortuaries as a permitted use, with these issues (if still a concern) addressed through amendments to the Ordinance relating to that issue or addressed at the Site Plan review stage (Attachments B-1 and B-2).

This meeting was noticed to the 88 persons on the interested parties list. The Planning division has not received any public comments as of the time of writing this Report.

II. ZONING TEXT AMENDMENT REQUEST

Background

The R-P zones are generally in small pockets along major arterials (Forest, Congress, Allen, Washington, Ocean, Brighton, Auburn –see Attachments 2 & 3) and often include medical offices. They were intended as buffer zones between business and residential areas; all abut residential uses and most abut B1 or B2 zones.

The permitted uses in the R-P zone are professional office uses, businesses and adult care services (see table below & Attachment 1) which are intended to have limited impacts on adjoining residential zones. The conditional use provisions allow other offices with similar characteristics as to the permitted uses. While funeral homes are similar in scale and activity to professional offices, the conditional use provisions exclude funeral homes due to the different hours of operation and traffic patterns.

Funeral homes are permitted in the B2 and B4 zones, but these zones also allow a wide range of other uses that include large scale, commercial and highway-oriented businesses (see table below). The applicant notes that these business zones are “not conducive for creating a residential or “home” atmosphere desirable for a mortuary or funeral home” (Attachment A-1.4). The applicant’s narrative “Attachment A” includes the purpose and full list of permitted and conditional uses for the B2 and B4 zones (Att. A-1.5).

Proposal by applicant

After a wide search in Portland for a building for a new funeral home, the applicant has secured a Purchase and Sale Agreement for the building at 660* Brighton Avenue for conversion from a medical office to a funeral home (needing only interior alterations). The building is within an R-P zone largely made up of medical office buildings just west of Woodford Street intersection on the south side of Brighton Avenue. This property comprises a former medical office building totaling 8664 sq ft on 2 levels with 85 parking spaces, mostly to the rear of the building (see Attachment 4).

PERMITTED USES COMPARISON (Summary)

R-P	B-2	B-4
<p>Residential</p> <p>Business:</p> <ol style="list-style-type: none"> Professional offices, including the offices and facilities of health care and related laboratory and pharmacy services and health care administration, but excluding personal services, retail establishments and veterinarians. Business services, as defined in section 14-47, except copy services. Adult day care services. <p>Other:</p> <ol style="list-style-type: none"> Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan). Accessory uses as provided in section 14-404. 	<p>Residential</p> <p>Business:</p> <ol style="list-style-type: none"> General, business and professional offices, as defined in section 14-47; Personal services, as defined in section 14-47; Offices of building tradesmen; Retail establishments; Restaurants; Drinking establishments; Billiard parlors; Major and minor gasoline service stations; Mortuaries or funeral homes; Miscellaneous repair services; Health clubs and gymnasiums; Hotels and motels; New and used car dealerships; Facilities for the maintenance and repair of automobiles, (in a fully enclosed structure); Car washes; Lumber and building materials dealers; Communications studios and broadcast receiving facilities; Veterinary hospitals but excluding outdoor kennels; Auto body repair and paint shops (in fully enclosed structures); Boat, trailer or recreational vehicle sales and service; Theaters, entertainment and recreation services; Self-storage facility. <p>Other:</p> <ol style="list-style-type: none"> Private club or fraternal organization; Long term, extended and intermediate care facility; Clinics, as defined in section 14-47; Churches or other places of worship; Kindergarten, elementary, middle and secondary schools; College, university, trade schools; and Municipal buildings and uses. <p>Other:</p> <ol style="list-style-type: none"> Lodging houses; Day care facilities or babysitting services; Utility substations; Accessory uses; Bed and breakfast, including meeting facilities of certain types; Studios for artists and craftspeople. 	<p>Business:</p> <ol style="list-style-type: none"> General, business and professional offices, as def. in section 14-47; Personal services, as defined in section 14-47; Offices of building tradesmen; Retail establishments; Restaurants; Drinking establishments; Billiard parlors; Major and minor gasoline service stations; Mortuaries or funeral homes; Miscellaneous repair services; Health clubs and gymnasiums; Hotels and motels; New and used car dealerships; Facilities for the maintenance and repair of automobiles, (in a fully enclosed structure); Car washes; Lumber and building materials dealers; Communications studios and broadcast receiving facilities; Veterinary hospitals but excluding outdoor kennels; Auto body repair and paint shops (in fully enclosed structures); Boat, trailer or recreational vehicle sales and service; Theaters, entertainment and recreation services; Self-storage facility. <p>Institutional:</p> <ol style="list-style-type: none"> Governmental buildings and uses. Colleges, universities and trade schools. Churches or other places of worship. Correctional prerelease facilities subject to conditions. <p>Other:</p> <ol style="list-style-type: none"> Lodging houses; Wholesale warehousing and distribution establishments; Commercial bakeries and dairies; Light manufacturing uses subject to conditions; Printing and publishing establishments; Research and development and related production establishments; Utility substations, Day care facilities; Studios for artists and craftspeople; Accessory uses, as provided in section 14-404; and Storage lots for towed or impounded vehicles, subject to conditions.

In order to proceed with this plan the applicant seeks the text amendment allowing funeral homes in the R-P zone; his application requests that they be included as permitted uses in the R-P zone. The applicant has outlined (Attachment A-1 and B-1) that funerals were traditionally home-based but now more funerals take place in a funeral home, therefore funeral homes need to be located in an area where the atmosphere is more like "home". The narrative suggests that the R-P zone is more compatible with the funeral home use than the B2 or B4 zones as the atmosphere is likely to be suitable because of the limitations on uses (see provisions 14-150 and 14-151 in Attachment 1 which include "Other Requirements" (eg storage, parking) and requirements related to "External Effects" (eg noise, smoke, wastes) intended to ensure compatibility with residential uses.

The applicant also states that "the traffic likely to be generated from a mortuary or funeral home and its hours of operation are far more like a professional office than that of a shopping center, automobile dealership or wholesale distribution establishment" (Attachment A-1.4). The activity at a funeral home is largely between 9:00am and 8:00pm, and based on further submitted information regarding the operation of funeral homes (Attachment A-2, B-1 and B-2) it can be summarized as:

Most activity: 4:00-8:00 pm 7 days per week, largely visiting hours when people and cars come and stay for short periods of time (See first page, Attachment B-1 so parking requirements are not high)

Some traffic: 9:00-11:00am 6 days per week (excluding Sunday) (possible service or when people attend the facility to make arrangements)

Occasional Processions: generally take place between 9:30am and 3:00pm for operational reasons, most in morning (ie outside of peak hours of 7:30 to 8:30am and 4:30-5:30pm) and generally 6-10 vehicles because they involve just the family. Longer processions are rare (attachment B-1).

For these reasons the applicant considers that funeral homes are compatible with the objectives and locations of the R-P zones in Portland and has proposed that "mortuaries or funeral homes" be added to the list of permitted uses under (b) *Business* in Section 147.

III. STAFF ANALYSIS

The proposed funeral home use is consistent with the objectives of the R-P zone (see below under para. IV), is similar to the permitted uses of the Residence-Professional Zone, and would be subject to the extra requirements contained in 14-150 and 14-151 (Attachment 1). The aim of the R-P additional requirements is to ensure there are no adverse impacts on nearby residential uses. Therefore allowing funeral homes in the R-P zone appears a reasonable way to provide for this community use.

In the Planning Board Workshop memo, staff had identified the issues that may distinguish the funeral use from that of a professional office/medical office as being traffic, parking and hours of activity. The Planning Board raised specific issues requiring further investigation and which might warrant a text amendment that allowed funeral homes in the R-P zone as a conditional use rather than a permitted use:

- Requested more information re parking, as the application of the existing standard for funeral homes (Div 20) doesn't appear to meet the actual need;
- Noted that other funeral homes appear to have a need for considerable parking and how would this impact other R-P zones;
- How is "assemblage area" (Div 20 refers) measured re funeral homes?
- Processions on Brighton Ave. at peak hour would be a problem (though parking at that site appears OK); are processions likely to take place at peak hours?

The applicant's planning advisor (Elizabeth Della Valle) has submitted a Memo (Attachment B-2) which addresses these points and is discussed further below.

1. **Parking:** The 4-8pm period of activity for a funeral home is generally characterized as visiting hours with vehicles accessing the funeral home, though these usually are not all at one time. Viewing hours are the most common activity and at those times visitors would attend for a short period of time somewhere between the hours of 4pm and 7/8pm.

Memorial services are now usually held at the church or other place of worship, but an occasional service is held at the funeral home which could result in more concentrated parking demand, typically between 9:30 to 11:00am. There are two issues:

- a. Is the scale of parking likely to result in on-street parking in residential areas?
- b. If there is a possibility of that, how should it be restricted?

To answer the first question, a comparison with other local funeral homes may not be helpful because the other Portland sites are unique; all but one are grandfathered with very limited parking which they are not able to expand (to provide off-street parking) as they are non-conforming uses. The funeral home on Woodfords Street is in the B-2 zone and conforming; it has about 65 adjacent parking spaces and are allowed to use the lot across the street.

The applicant's Planning Advisor Elizabeth Della Valle has submitted a review of other communities' parking standards for funeral homes (Attachment B-2, pages 2 and 4) and included an assessment of the applicant's Brighton Ave property. The standards are not directly comparable with each other as they use slightly different measures, but it appears that Falmouth and South Portland employ similar standards to those in the City of Portland.

The Portland Parking ordinance states; "(g) *Auditoriums, theaters, assembly halls, funeral homes: One (1) parking space for each five (5) seats or for each one hundred (100) square feet, or major fraction thereof, of assemblage space if no fixed seats* (Div 20, 14-332(g)). (For a comparison with other uses, see an extract of 14-332 in Attachment 5). Assemblage area in the context of a funeral home is the viewing area and public gathering areas. There is no recognized national standard for parking for a funeral home, as confirmed by the City's Traffic Engineering Reviewer (below and Attachment 6).

*"I researched information available from publications prepared by the Institute of Transportation Engineers (ITE) for traffic and parking generation for funeral homes. No information is documented. * The applicant has provided information on parking requirements for funeral homes from various communities. Based upon the data provided, the proposed 660 Brighton Avenue facility would meet the noted regulations, although it was unclear how the required spaces were calculated. In my professional opinion, the proposed site will provide sufficient parking, with the exception of events for prominent individuals. I would note that we don't design parking lots and transportation infrastructure for the worst-case scenario (e.g. Christmas season for a retail store) and therefore would not request the applicant to increase the parking supply for a peak event". (Attachment 6)*

It is difficult to quantify the parking needs of a funeral home as the likely maximums (ie for a service) would not be needed very often. At other times visitors are in small groups or are attending for a short time, not unlike a professional office.

While the parking requirements for funeral homes can be debated, staff believes the current zoning minimum regulations are adequate, given the opportunity to review the parking on a case by case basis under the site plan ordinance. In addition, the R-P zones are located along arterials where mass transit service is generally available. A comprehensive review and revision of Parking Standards is a potential future planning initiative and would be conducted in context with policies to reduce impervious surfaces within the City, reduce dependence on Single Occupancy Vehicles, and the need to provide adequate parking. (Most of the comments received regarding parking minimums is that they should be reduced, not increased.)

2. **Traffic:** The applicant has confirmed that there is the possibility of processions, typically of 6-10 vehicles, occurring occasionally between 9:30am and 3pm. The City's Traffic Engineering Reviewer has confirmed that in Portland arterial streets experience the morning peak hour between 7:30am and 8:30am (Attachment 6) so an occasional procession at 9:00/9:30am does not present a concern. The applicant has pointed out (Attachment B-2, page 2) that processions of 50 or more vehicles are regulated under Chapter 28 (extract is in Attachment 5), which includes a specific reference to funeral processions.

The Traffic Engineering Reviewer (Tom Errico) advises that during the site plan review process he would seek conditions on the hours of funeral processions to avoid traffic impacts (Attachment 6). Such a condition could be applied if the funeral home use is a conditional use in the R-P zone, or through a compromise that staff have identified which involves including this condition as a provision under the *External effects* section of the R-P zone (section 14-151, see Attachment 1), thus allowing the funeral home use to be a permitted use in the R-P zone.

3. **Hours of operation:** The applicant has confirmed that the hours of operation are 9:00 to 11:00am every day except Sunday and 4:00-8:00pm every day, although the funeral home does not operate at all these times in any given week. These appear to be compatible with nearby residential uses. It should be noted that the Brighton Avenue property is not immediately adjacent to residential development.

The applicant suggests (Attachment B-2) that the potential for placing restrictions, if warranted, on this use are available during the site plan review or through amendments to the Ordinances regulating Parking and Processions. If the Board considers that any of these issues warrant additional restrictions, Staff suggests that the most straightforward approach would be to amend Sections 14-150 and/or 14-151 which already contain conditions on non-residential R-P uses to limit the impacts on neighbors.

IV. COMPREHENSIVE PLAN POLICIES

The Portland Neighborhood Economic Development Study (1992) included as a goal to "Restructure the City's zoning ordinances to accurately reflect the hierarchy of commercial centers. This would result in five commercial districts: R-P Residence-Professional to serve as a buffer district; B-1 Neighborhood Business District to provide limited areas for the location of small scale retail and service establishments; B-2 Community Business District to provide several major locations for a variety of retail, service and office uses; B-3 Downtown Business District; and B-4 Commercial Corridor District to provide locations for businesses that rely particularly on the regional highway network.

The purpose of the R-P zone (14-146) is:

- (a) *To provide appropriate location for the development and operation of low-intensity business uses, including professional offices on or near major arterials, that are compatible in scale, density and use with surrounding and adjacent residential neighborhoods; or*
- (b) *To serve as a transition or buffer zone between residential and more intensive nonresidential zones.*

Funeral homes were traditionally a use within residential areas and more recently have evolved into larger facilities but remain a service to the residential community. The funeral home use is consistent with the purpose of the R-P zone and is supported by the following sections of the Comprehensive Plan:

- o "Support Portland's livable neighborhoods by encouraging a mix of uses that provide goods and services needed and are within walking distance of most residents";
- o "Encourage growth in Portland that strives for a dynamic balance of the essential elements of the city, such as excellent schools, diverse housing choices, proximity to services and employment, increased public transit usage, expanded economic base, high quality services and an affordable tax base" and

- “Encourage neighborhood business centers throughout the city to reduce dependence on the car and to make neighborhood life without a car more practical”

(Policies under *Housing: Sustaining Portland's Future* November 18, 2002)

- “Vibrant neighborhoods include nearby, small scale commercial areas that provide both convenient service and natural meeting places. Provide routine, daily services within walking distance of residents of all neighborhoods, as long as the businesses providing the services are small scale, are designed compatibly with residences, and fit into the fabric of the neighborhood”.
- “Encourage businesses to locate in established employment centers, including Downtown, that are served by public transportation or that have the critical mass necessary to support alternative modes of transportation”.

(both Transportation Policies from *A Time of Change: Portland Transportation Plan* – July, 1993)

V. STAFF RECOMMENDATION

Funeral homes are consistent with the purpose of the R-P zone and the issue centers on whether the parking and traffic characteristics of funeral homes are similar to those of professional offices (already permitted in R-P zones). The additional information from the applicant regarding the potential parking and traffic impacts associated with a funeral home (Attachments B-1 and B-2) is summarized above under Section II.

Generally traffic and parking impacts are distributed during off peak hours (ie between 9am and 8pm) and appear similar to those associated with a medical office building, though the evening and weekend hours are slightly different than most offices and occasionally there are services or short vehicle processions. Any proposal for a funeral home would be subject to the requirements included in the R-P zone (14-150 and 14-151) as well as the site plan requirements if the use triggered minor or major site plan.

Staff therefore recommends that a text change including mortuaries and funeral homes as a permitted use in the R-P zone is unlikely to create any adverse impacts on areas near R-P zones. Therefore the first potential motion is based on the applicant's request for these to be added as permitted uses.

Should the Board consider that one or more of the issues warrant restrictions beyond what is already set out in the City's Ordinances, staff have included two alternative potential motions which incorporate conditions on the hours of operation to avoid large processions during peak traffic hours. The two alternatives achieve the same restriction; the first allows funeral homes as a Conditional Use, while the second allows funeral homes as a permitted use with the condition added to the list of requirements already in 14-151.

VI. MOTIONS FOR THE BOARD TO CONSIDER (three)

- A. On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Board report #04-09 and on the basis of the testimony presented at the public hearing, the Planning Board finds that the following zoning text amendment to the Residence-Professional Zone, Chapter 14, Sec. 14-147 [is or is not] consistent with Portland's Comprehensive Plan and (recommends or does not recommend) adoption of the amendment to the City Council.

Zoning Text Amendment to Section 14- 147 Permitted Uses: Add to (b) Business:
“4. *Mortuaries or funeral homes*”.

OR

POTENTIAL ALTERNATIVE MOTION

- B. On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Board report #04-09 and on the basis of the testimony presented at the public hearing, the Planning Board finds that the following zoning text amendment to the Residence-Professional Zone, Chapter 14, Sec. 14-147.5, **[is or is not]** consistent with Portland's Comprehensive Plan and **(recommends or does not recommend)** adoption of the amendment to the City Council.

Zoning Text Amendment to Section 14- 147.5 Conditional Uses, to add:

"(c) Mortuaries or funeral homes; the hours of operation of such uses (including processions) may be restricted to avoid impacts to the public street system, if so recommended by the City Traffic Engineer or comparable professional."

OR

POTENTIAL ALTERNATIVE MOTION

- C. On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Board report #04-09 and on the basis of the testimony presented at the public hearing, the Planning Board finds that the following zoning text amendment to the Residence-Professional Zone, Chapter 14, Sections 147 and 151, **[is or is not]** consistent with Portland's Comprehensive Plan and **(recommends or does not recommend)** adoption of the amendment to the City Council.

Zoning Text Amendment to Section 14- 147 Permitted Uses: Add to (b) Business:

"4. Mortuaries or funeral homes";

and

Zoning Text Amendment to Section 14-151 External effects: to add:

"(g) The hours of operation of funeral homes (including processions) may be restricted to avoid impacts to the public street system, if so recommended by the City Traffic Engineer or comparable professional."

**
or to require
traffic management
plan/measures.*

Attachments:

Planning Board Report Attachments

1. Current R-P Zone Ordinance language
2. R-P Zone locations south part of Portland
3. R-P Zone locations north part of Portland
4. Aerial and photo of 660* Brighton Avenue
5. Portland ordinances for Parking and processions
6. Traffic Engineering Review comments from Tom Errico, e-mail dated February 5, 2009

Attachment A: Excerpts of Application and Written Material

- A-1 Zoning Text Change Amendment Application
- A-2 Information from applicant regarding traffic

Attachment B: Submissions in response to Workshop discussion

- B-1 Further information from applicant (Mark Hutchins) regarding operation of funeral homes, dated February 4, 2009
- B-2 Narrative addressing questions raised by the Planning Board, Elizabeth Della Valle, AICP dated February 4, 2009 [includes table of parking standards applied elsewhere]

*660 Brighton Avenue is listed as 666 Brighton Avenue in some records

R-P Residence-Professional Zone (content text only)

Sec. 14-146. Purposes.

The purposes of the R-P residence-professional zone are:

- (a) To provide appropriate location for the development and operation of low-intensity business uses, including professional offices on or near major arterials, that are compatible in scale, density and use with surrounding and adjacent residential neighborhoods; or
- (b) To serve as a transition or buffer zone between residential and more intensive nonresidential zones.

Sec. 14-147. Permitted uses.

The following uses are permitted in the R-P district:

- (a) *Residential:* Any residential use is permitted in the residential zone abutting the lot. If there is no abutting residential zone, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the most restrictive such zone.
- (b) *Business:*
 - 1. Professional offices, including the offices and facilities of health care and related laboratory and pharmacy services and health care administration, but excluding personal services, retail establishments and veterinarians.
 - 2. Business services, as defined in section 14-47, except copy services.
 - 3. Adult day care services.
- (c) *Other:*
 - 1. Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan).
 - 2. Accessory uses as provided in section 14-404.

Sec. 14-147.5. Conditional uses.

The following uses are permitted as provided in section 14-474 (conditional uses) if they meet the following requirements:

- (a) Such other offices which have characteristics similar to but no more objectionable than those generally associated with professional offices. In determining appropriateness, the zoning board shall consider the quality of building design and materials, signage, and landscaping, and their general compatibility with the surrounding residential development. Such uses shall also be shown to have vehicular patterns, including parking and storage of motor vehicles, similar to those associated with professional offices. Noise levels and hours of operation shall also be considered. An approval granted under this section shall be issued to a specific user and shall not run with the land to subsequent users. A new conditional use approval shall be required when the user changes. A new conditional use approval may be issued by the zoning authority if it determines that the new user will maintain the same use as the original user and that such use will not have substantially different external effects, including, but not limited to, parking, vehicular traffic on and off the site, noise levels, hours of operation, and visual characteristics such as signage or changes to building design.

(b) Any conditional use that is allowed as a conditional use in any residential zone abutting the lot. If there is no abutting residential zone, any conditional use that is allowed as a conditional use in the nearest residential zone to the lot. Any such conditional use shall be subject to all conditions required in the residential zone.

Sec. 14-148. Prohibited uses.

Uses not enumerated in section 14-147 as permitted uses or in section 14-147.5 as conditional uses are prohibited.

Sec. 14-149. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, the following requirements shall apply. Residential uses permitted under section 14-147(a) shall meet the requirements of such abutting or nearest residential zone. Nonresidential uses in the R-P zone shall meet the following minimum requirements:

(a) *Minimum lot size:* Six thousand (6,000) square feet.

(b) *Minimum street frontage:* Sixty (60) feet.

(c) *Minimum yard dimensions:*

1. *Front yard:*

a. Principal or accessory structures: Twenty (20) feet, except that:

- i. The front yard need not exceed the average depth of immediately abutting front yards; and
- ii. The front yard of a lot existing as of April 4, 1988, which lot is less than one hundred (100) feet deep, need not be deeper than ten (10) percent of the depth of the lot.

2. *Rear yard:*

- a. Principal structures: Twenty (20) feet.
- b. Accessory structures (detached): Seven (7) feet.

3. *Side yard:*

- a. Principal structures:

<i>Number of Stories</i>	<i>Required Side Yard</i>
1 story	10 feet
2 stories	12 feet
3 or more stories . .	14 feet

The width of one (1) side yard may be reduced one (1) foot for each foot that the other side yard is correspondingly increased, provided, however, no side yard shall be reduced to less than seven (7) feet in width.

- b. Accessory structures (detached): Seven (7) feet.
- c. Side yards on side streets (corner lot): For both principal or accessory structures:
 - i. One (1) or two (2) stories: Fifteen (15) feet; and
 - ii. Three (3) or more stories: Eighteen (18) feet.

(d) *Minimum lot width:* Sixty (60) feet.

(e) *Maximum structure height:* Forty-five (45) feet. Where the lot abuts an R-6 residential zone, the maximum permitted height shall be the maximum permitted height of the R-6 zone. If there is a difference in height between abutting R-6 zones, the least restrictive height limitation shall apply.

- (f) *Maximum impervious surface ratio:* The maximum impervious surface ratio is established according to the abutting residential zone. If there is no abutting residential zone to the lot in question, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the least restrictive such zone. The ratios are as follows:

Maximum Impervious

Residential Zone Surface Ratio

- R-1/R-2 0.60
- R-3 0.70
- R-4/R-5/R-5A/R-6 0.80

- (g) *Floor area ratio (F.A.R.):* The maximum floor area ratio is established according to the abutting residential zone. If there is no abutting residential zone to the lot in question, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the least restrictive such zone. The ratios are as follows:

Residential Floor Area Ratio

- R-1/R-2 0.45
- R-3 0.55
- R-4/R-5/R-5A/R-6 . . . 0.65

Sec. 14-150. Other requirements.

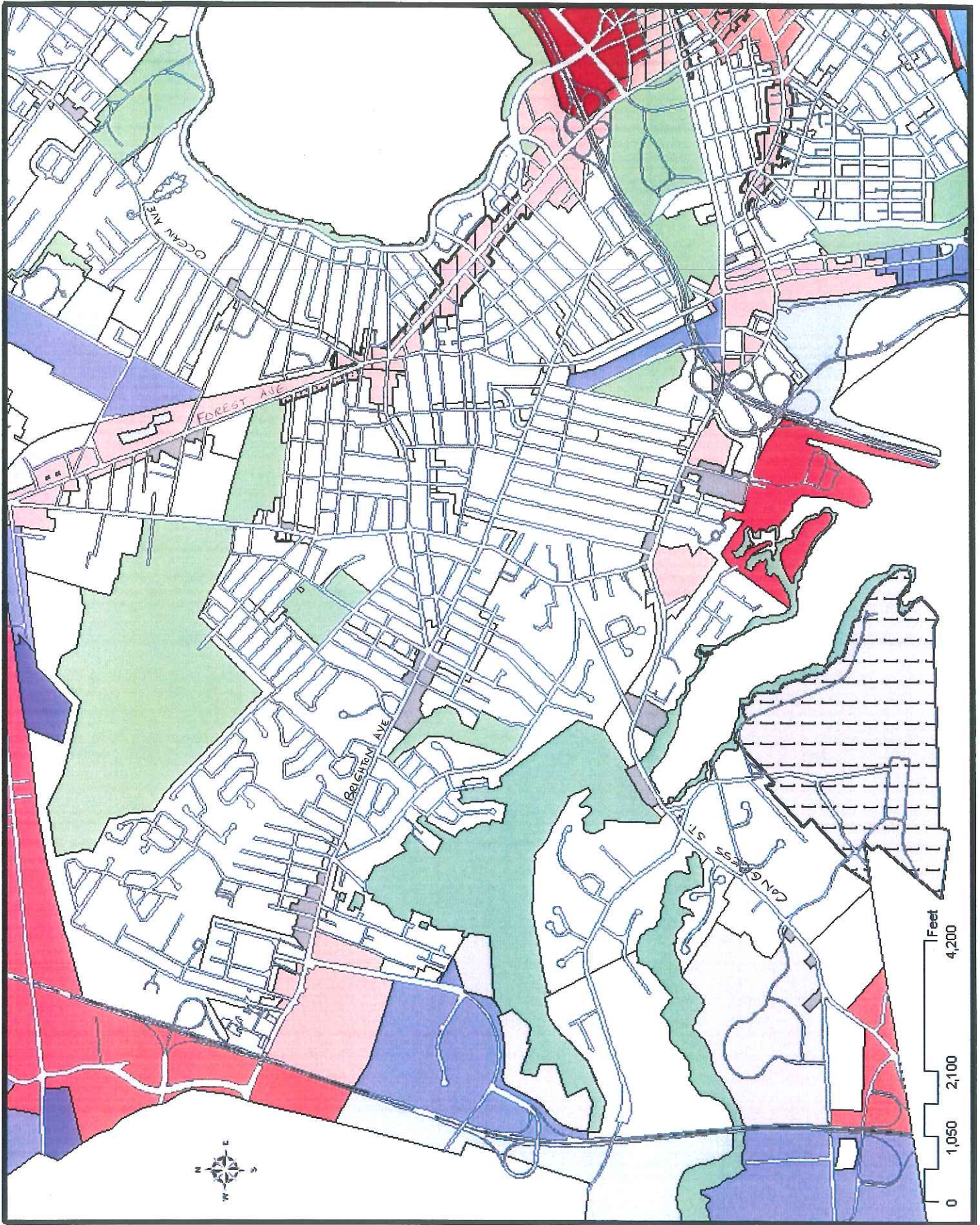
All nonresidential uses in the R-P zone shall meet the requirements of division 25 (space and bulk regulations and exceptions) of this article in addition to the following requirements:

- (a) *Landscaping and screening:* The site shall be suitably landscaped for parking, surrounding uses and accessory site elements, including storage and solid waste receptacles where required by article IV (subdivisions) and article V (site plan).
- (b) *Curbs and sidewalks:* Curbs and sidewalks as specified in article VI of chapter 25.
- (c) *Off-street parking and loading:* Off-street parking and loading are as required by division 20 and division 21 of this article.
- (d) *Front yard parking:* There shall be no parking in the front yard between the street line and the required minimum setback line. A maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the front yard, provided that for a lot of three (3) acres or more this limitation does not apply.
- (e) *Signs:* Signs shall be subject to the provisions of division 22 of this article.
- (f) *Exterior storage:* There shall be no exterior storage with the exception of receptacles for solid waste disposal. Such receptacles shall be shown on the approved site plan.
- (g) *Storage of vehicles:* Storage of vehicles is subject to the provisions of section 14-335.
- (h) *Shoreland and flood plain management regulations:* If the lot is located in a shoreland zone or in a flood hazard zone, the requirements of division 26 and/or division 26.5 apply.

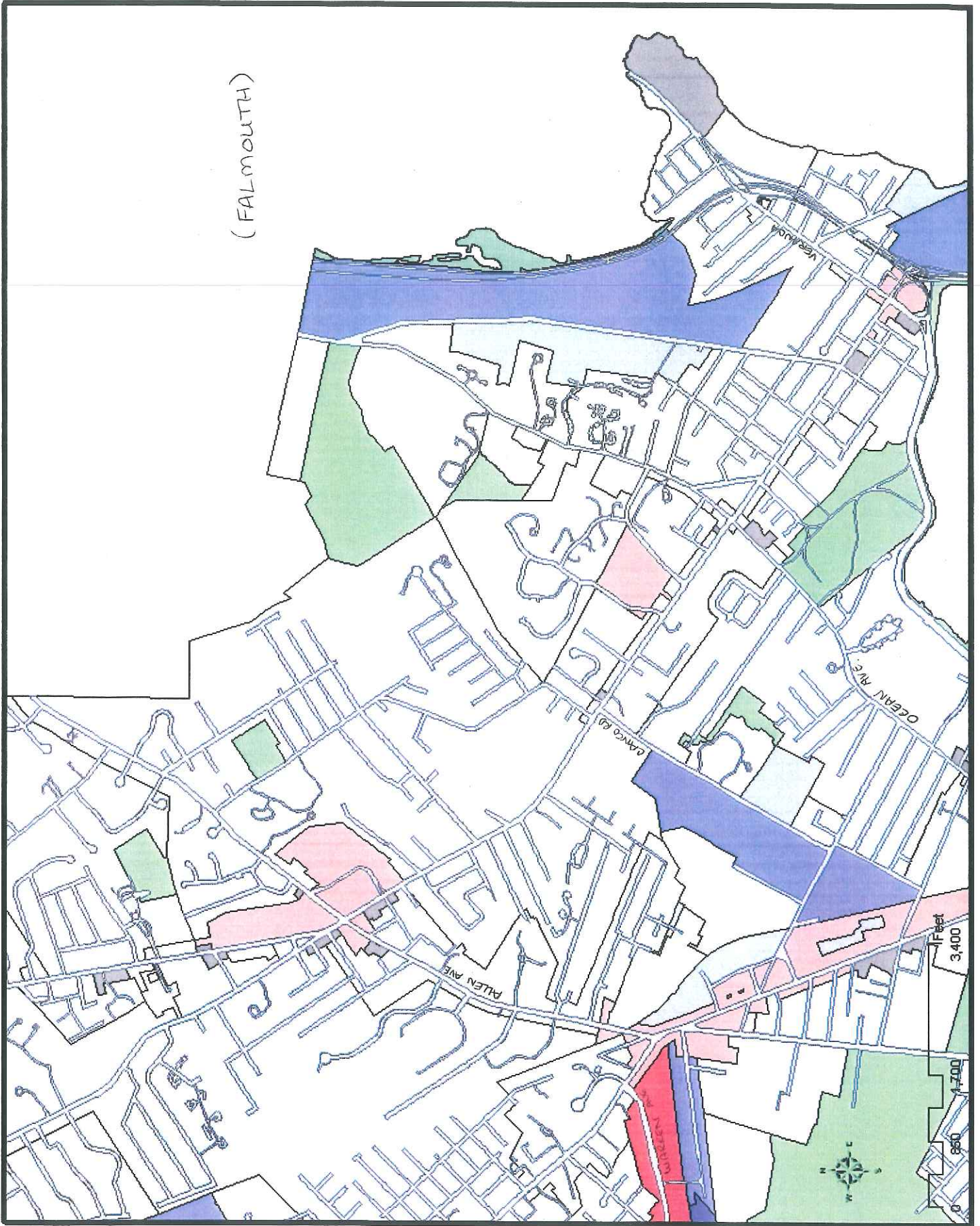
Sec. 14-151. External effects.

Every use in a R-P zone shall be subject to the following requirements:

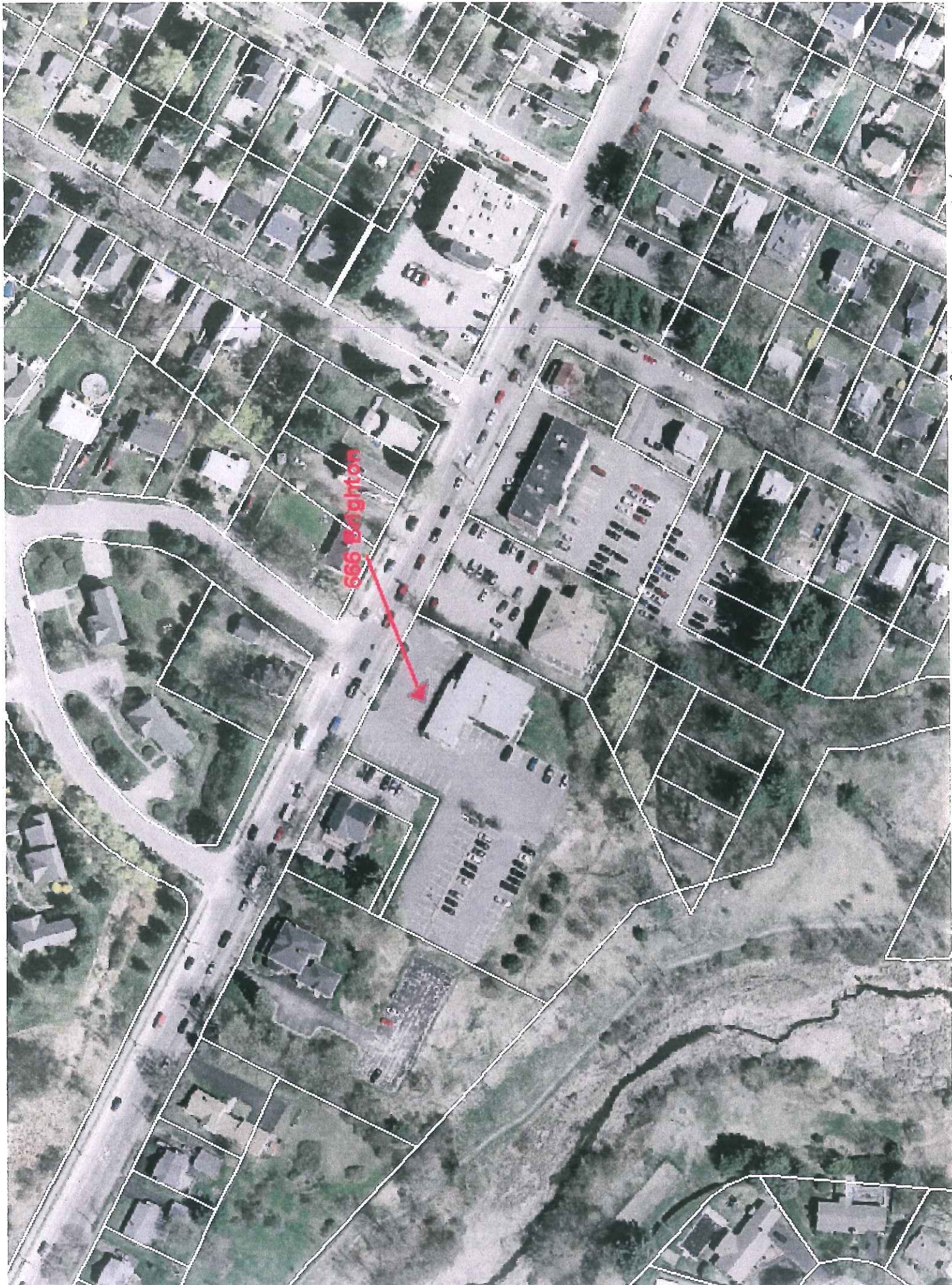
- (a) *Enclosed structure:* The use shall be operated within a completely enclosed structure, except for those customarily operated in the open air.
- (b) *Noise:* The volume of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American Standards Association), generated shall not exceed fifty-five (55) decibels on the A scale, on impulse (less than one (1) second), at lot boundaries, excepting air raid sirens and similar warning devices.
- (c) *Vibration and heat:* Vibration inherently and recurrently generated and heat shall be imperceptible without instruments at lot boundaries.
- (d) *Glare, radiation or fumes:* Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.
- (e) *Smoke:* Smoke shall not be emitted at a density in excess of twenty (20) percent opacity level, as classified in Method 9 (Visible Emissions) of the Opacity Evaluation System of the U.S. Environmental Protection Agency.
- (f) *Materials or wastes:* No materials or wastes shall be deposited on any lot in such form or manner that they may be transferred beyond the lot boundaries by natural causes or forces. All material which might cause fumes or dust, or constitute a fire hazard if stored out-of-doors, shall be only in closed containers. Areas attracting large numbers of birds, rodents or insects are prohibited.



R-P zones south part of Portland R-P Zones in dark gray; Residential in white; B1/B2 in lt.pink



R-P zones north part of Portland R-P Zones in dark gray; Residential in white; B1/B2 in lt.pink



Notes to map 1

Attachment 4.2



DIVISION 20. OFF-STREET PARKING (EXTRACT)

Sec. 14-332. Uses requiring off-street parking.

In all zones where off-street parking is required, the following minimum off-street parking requirements shall be provided and maintained in the case of new construction, alterations which increase the number of units, and changes of use:

- (a) *Residential structures:*
1. For new construction, two, (2) parking spaces for each dwelling unit, plus one (1) additional parking space for every six (6) units or fraction thereof.
 2. For alterations or changes of use in existing structures, which create new or additional dwelling units in such structures, and for accessory units pursuant to §§14-68,78,88, one (1) additional parking spaces for each such unit. Existing parking spaces shall not be used to meet the parking requirements of this paragraph, unless the existing parking spaces exceed one (1) space for each dwelling unit.
 3. For residential development on the peninsula (area defined as southerly of I-295).
 - a. One (1) space per unit;
 - b. The required parking for multi-unit residential buildings may be partially met through provision of shared-use vehicles, which are vehicles owned and maintained by the owner/manager of the building and available for use on a fee basis to the residents of the building. One shared use vehicle shall be deemed to satisfy eight (8) required car spaces, but in no case shall more than 50% of the parking requirement be satisfied by shared vehicle use.
 - c. The planning board may establish a parking requirement that is less than the normally required number of spaces upon a finding of unique conditions that result in a lesser parking demand, such as housing for persons who cannot drive, housing that participates in a travel demand management program, availability of transit, or housing which includes permanent restrictions on automobile usage, and which is permanently restricted from utilizing resident on-street parking stickers.
- (b) *Motel:* One (1) parking space for each sleeping room.
- (c) *Hotels:* One (1) parking space for each four (4) guest rooms.
- (d) *Schools providing instruction for students up to and including those fifteen (15) years of age:* One (1) parking space for each room used for purposes of instruction.
- (e) *Schools providing instruction for students sixteen (16) years of age and over:* One (1) parking space for each ten (10) seats or major fraction thereof, used for purposes of instruction; if no fixed seats, one (1) parking space for each one hundred (100) square feet or major fraction thereof used for purposes of instruction.
- (f) *Hospitals:* One (1) parking space for each five hundred (500) square feet or major fraction thereof, of floor area, exclusive of cellar.
- (g) *Auditoriums, theaters, assembly halls, funeral homes:* One (1) parking space for each five (5) seats or for each one hundred (100) square feet, or major fraction thereof, of assemblage space if no fixed seats.
- (h) *Retail stores:* One (1) parking space for each two hundred (200) square feet of first floor area in excess of two thousand (2,000) square feet not used for bulk storage and one (1) parking space for each seven hundred (700) square feet, or major fraction thereof, for each floor above the first floor not used for bulk storage.
- (i) *Restaurants or establishments constructed and intended for the dispensing of food and drink as the*

principal activity: One (1) parking space for each one hundred fifty (150) square feet, or major fraction thereof, of floor area not used for bulk storage or food preparation.

- (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; except that in the B-2 and B-2b zones one (1) parking space for each three hundred and thirty four (334) square feet or major fraction thereof, of floor area exclusive of cellar not used for bulk storage shall be required.
- (k) *Church and accessory uses located on same or contiguous lots*: One (1) parking space for each five (5) fixed seats; or if no fixed seats, one (1) parking space for each twenty-five (25) square feet, or major fraction thereof, of area in sanctuary or principal place of assemblage for worship in the church.
- (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) *Beds*: One (1) parking space for each eight (8) beds, or major fraction thereof.
- (n) *Longterm, 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.
- (s) *Bed and breakfast*:
 - 1. *Except in the I-B zone*: One (1) parking space for each two (2) guest rooms or fraction thereof for the first four (4) guest rooms; one (1) parking space for each additional guest room in excess of four (4).
 - 2. *In the I-B zone*: No off-street parking required.
- (t) *[Exception:]* Notwithstanding the preceding provisions of this section, the parking requirement for any new structure in excess of fifty thousand (50,000) square feet shall be as established by the Planning Board pursuant to section 14-526(a)(2).
- (u) *Exception for historic structures*. No parking in excess of that existing on or servicing the lot as of March 15, 1999 shall be required for any structure under Article IX of this Chapter, as a contributing structure in a local or National Register historical district, or as a locally designated or National Register landmark building; however, parking may not be decreased from that existing on or servicing the lot on March 15, 1999 except to the extent necessary to meet the requirements of the Americans with Disabilities Act.
- (v) *Private clubs*: One (1) parking space for each one hundred fifty (150) square feet, or major fraction thereof, of floor area.
- (w) *Community Centers*: One (1) parking space for each 150 square feet, or major fraction thereof, of floor area, except for community centers which serve primarily clientele from the surrounding neighborhood, the parking requirement shall be one (1) parking space per 1,000 square feet, or major fraction thereof, of floor area.

PORTLAND ORDINANCE - PROCESSIONS AH 5.3

City of Portland
Code of Ordinances
Sec. 28-180

Traffic and Motor Vehicles
Chapter 28
Rev.10-15-08

(Ord. No. 183-97, 1-22-97)

State law reference(s)--Similar provisions, 29-A M.R.S.A. § 2063.

Sec. 28-182. Parades and processions.

No procession or parade containing two hundred (200) or more persons or fifty (50) or more vehicles, excepting the forces of the United States Army, Navy or Air Force, the military forces of this state, and the forces of the police and fire departments, shall occupy, march or proceed along any street except in accordance with a permit issued by the chief of police and such other regulations as are set forth herein which may apply.

(Ord. No. 183-97, 1-22-97)

Sec. 28-183. Funeral and other processions.

(a) A funeral composed of a procession of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant of a type designated by the city traffic engineer.

(b) Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practicable and follow the vehicle ahead as closely as is practicable and safe.

(Ord. No. 183-97, 1-22-97)

Sec. 28-184. Driving through processions.

No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this chapter. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers, or other authorized persons.

(Ord. No. 183-97, 1-22-97)

Sec. 28-185. Golf carts on certain island streets by certain persons.

The operation of golf carts shall be permitted on the streets of Cliff Island, Great Diamond Island and Peaks Island if in compliance with the following requirements:

(a) The operator must be over the age of twenty-one (21) or possess a valid license to operate a motor vehicle;

Attachment 6

From: "Errico, Thomas A" <TERRICO@wilbursmith.com>
To: "Jean Fraser" <JF@portlandmaine.gov>
Date: 2/5/2009 1:50:30 PM
Subject: R-P Zone Funeral Homes

Jean -

The following outlines my comments regarding traffic and parking impacts associated with funeral homes.

* I researched information available from publications prepared by the Institute of Transportation Engineers (ITE) for traffic and parking generation for funeral homes. No information is documented.

* The applicant has provided information on parking requirements for funeral homes from various communities. Based upon the data provided, the proposed 660 Brighton Avenue facility would meet the noted regulations, although it was unclear how the required spaces were calculated. In my professional opinion, the proposed site will provide sufficient parking, with the exception of events for prominent individuals. I would note that we don't design parking lots and transportation infrastructure for the worst-case scenario (e.g. Christmas season for a retail store) and therefore would not request the applicant to increase the parking supply for a peak event.

* Traffic impacts are not expected to be problematic with the exception of funeral processions. To avoid impacts to the public street system, it is suggested that funeral processions be prohibited during the AM peak hour (7:30-8:30am) and PM peak hour (4:30-5:30pm).

If you have any questions or comments, please contact me.

Best regards,

Thomas A. Errico, P.E.
Senior Transportation Engineer
Wilbur Smith Associates
59 Middle Street
Portland, Maine 04101
w: 207.871.1785 f: 207.871.5825

TErrico@WilburSmith.com
[www.WilburSmith.com http://www.wilbursmith.com/](http://www.wilbursmith.com/)

CC: "Katherine Earley" <KAS@portlandmaine.gov>

R-P Text amendment - funeral homes HEARING.
2-10-09.

1) Jan's pres

2) DS query - who reviews cond use and EBA.

3) Mark Hutchins

intro - his bk qd; B2 - B4 not conducive
R-P more suitable.

660 Brighton only one size/pkg etc good
accessible

ref. Jones, Rich, Hutchins_{res.} wr. env - feel of neigh.

patterns of visiting chg from 3 days to ~~3~~ hrs
4-8 w/ service next day

Constant turnover of vehicles/visitors

processors - 40-50 cars rare

us. 9:30 - 11 occ. proc. sl. earlier.

more services - weekend.

Tom Jewell, Attorney.

Argue in favor of permitted rather than cond.
granted purpose of R-P

R-P similar to B2 tho Brighton site not
near

seek parity w/ B2 zone

R-P 14-150/14-151 make sure bus fit in w/ residential

higher than B2

these conds + Site Plan would add any
adverse impacts

R-P zone

(2)

T Jewell -

cond. contracting, unlikely to be another
parking 333g. maybe low but applicant's
piste has 3x; need to amend this
so apphs B2/B4

Processions - ref. 28 - ^{generic change} could deal w/ any issues

note Brighton has B2 further out

Concerned about _{about} Time + expense of evad use appeal/permit.

Please take close look at making a permitted use

Beth DellaValle

TJ covered pts at workshop

ref her memo which also covered these pts.

Gwen addl strds in R-P + 14-526 strds ensure

that at Site Plan could be adequate roads.

Use tools already avail rather than introduce

level of review.

Public Comment

Who re what being reviewed.

No ^{members} _{HPA} of public attending Hearing.

JL - no comment.

BH - no comment

MP - leaning towards "C"

JT - conf. w/ "a" bus can control as ^{in its own} _{interest}

LL - how do we ensure operator takes appropriate steps
to regulate in-out traffic at busy times
asked applicant what do they do (knows

JRH have staff available? ^{MH} The larger the service the more staff; re procession, would be leaving earliest 9:15 and if 10 vehs. would have staff avail. to stop traffic.

It asked is there a min size for funeral home?

LL started to ask re where "overflow" pkg (if any) would go - MH cons. could adv. use of spaces at adj. med offices. Ref to proc. needing permits

SO - leaning towards "C"

DS - Brighton a great site for fun. homes but concerned other sites don't have pkg.

MP - clar than R-P does control pkg

MOTIONS

SO read C -

added friendly amend re ^{traffic} management (LL)

DS concerned that could go w R-P & be devastating for neighborhood

voted on motion w/out parking added;
passes 6-1 C w/amend (no parking)

PLANNING BOARD HEARING 2-10-2009: Text amendment R-P Zone

Planners Presentation:

1. Review: Text amendment only to allow mortuaries and funeral homes in the Residence Professional Zone. The Planning Board's recommendation will be forwarded to the City Council who will take the final decision.
2. Note: The text change would allow the applicant to use a building at 660 Brighton Avenue as a funeral home, subject to minor site plan approval and the other requirements of the R-P zone. However, this is not the focus of the current review which potentially could impact the future use of all sites which are zoned R-P.
3. No public comments have been received by the Planning office. This project does not require a Neighborhood Meeting.
4. Proposal: The applicant requests the text change to allow mortuaries and funeral homes to be located in the R-P zone as a permitted use. These uses are currently permitted only in the B2 and B4 zones (see **TABLE**), and the wording of the R-P conditional use provisions (which would be interpreted by the Zoning Board of Appeals) limits uses to those that are shown to be similar to professional offices or which are conditional uses within residential zones.
5. At the January Workshop Board Members requested further information regarding the likely need for parking; how the current parking standard would be applied in this case; and whether processions would overlap with peak traffic hours. The Applicant has submitted two further notes that address these questions.
 - i. Requested more information re parking, as the application of the existing standard for funeral homes (Div 20) doesn't appear to meet the actual need;
 - ii. Noted that other funeral homes appear to have a need for considerable parking and how would this impact other R-P zones;
 - iii. How is "assemblage area" (Div 20 refers) measured re funeral homes?
 - iv. Processions on Brighton Ave. at peak hour would be a problem (though parking at that site appears OK); are processions likely to take place at peak hours?
6. Staff analysis:
 - a. PARKING:
 - i. There are 4 funeral homes on Portland, of which 3 are grandfathered uses within residential areas (not Jones, Rich and Hutchins on Woodfords St) and expansion to accommodate parking would not be allowed under zoning;
 - ii. Difficult to determine actual need as high demand relates to occasional events such as viewing or services for a prominent person; most memorial services held at a place of Worship;
 - iii. No national standards for parking needs of funeral homes;
 - iv. Applicant's information on local standards shows they are similar to Portland's current zoning requirement
 - b. TRAFFIC
 - i. Occasional small scale processions do take place after about 9:30 am, outside of the peak traffic times of 7:30 to 8:30am as identified by the Traffic Engineer
 - ii. Restrictions are suggested by the Traffic Engineer, but these would probably not apply to all R-P locations and could be imposed at the Site Plan review stage
 - c. HOURS OF OPERATION
 - i. Hours are longer than generally associated with professional offices eg potentially to 8pm and/or on the weekend excluding Sunday mornings. However, the use is not continuous during those hours.

7. Staff suggest that there are three possible approaches for allowing funeral homes and mortuaries in the R-P Zone:
 - a. As a **PERMITTED USE**, as the proposed use appears similar to professional offices and the occasional funeral processions would be outside of traffic peak hours.
 - b. As a **CONDITIONAL USE** with a restriction on hours of operations if recommended by the City Traffic Engineer; this addresses the issue of processions but could cover other issues if they arise. If a conditional use, the use would also be reviewed under 14-474 which is applied for all conditional uses and includes assessment of whether *“There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area”*.
 - c. As a **PERMITTED USE**, with an additional potential restriction added to 14-151 **External Effects [the list of requirements already included in the R-P Zone language for all uses in the R-P zone]** that may restrict – at the site plan review stage- the hours of operations of funeral homes if recommended by the City Traffic Engineer; this addresses the issue of processions but could cover other issues if they arise.

From January Workshop discussion

1. **Lee Lowry:**
 - a. Could only support if as a conditional use with specified conditions
 - b. Needs more info re parking- applying our standard (Div 20) doesn't appear to meet the actual need
 - c. How do you quantify assemblage area re funeral homes?
 - d. Needs to understand re the Brighton property (enough? and how does that relate to proposed assemblage floorspace)
2. **Mike Patterson:**
 - a. Similar concerns to Lee Lowry's
 - b. Notes that B2 and B4 are on arterials but knows that processions on Brighton at peak hour would be a problem
 - c. More comfortable with conditional use
3. **Shalom Odokara:**
 - a. Deering Ave. a mess re parking
 - b. Woodfords St lot is also full
 - c. Now more funerals take place at funeral homes and conditions need to take account of changes
 - d. Need to look at parking
 - e. Prefers conditional use
4. **David Silk:**
 - a. Comfortable with conditional use
 - b. The Brighton Ave site appears OK re parking
 - c. Need to look at parking issue regarding other sites in R-P
 - d. Woodfords funeral home also uses parking across the street associated with church
 - e. Less concerned re processions
5. **Janice Tevanian:**
 - a. Wanted to know if processions were at peak traffic hours?

MISC1

establish an appropriate location for a transfer station for municipal solid waste and municipal public works activities. This zone shall be established through a conditional rezoning process in order to ensure the imposition of appropriate conditions for the protection of neighboring properties.

(Ord. No. 50-98, 7-20-98)

Sec. 14-145.21. Permitted uses.

The following uses shall be permitted in the Island Transfer Overlay Zone:

(a) Municipal solid waste facilities, including compactors and storage bins, provided that the compactor shall be located within a fully enclosed structure.

(b) Recycling facilities, provided that all recycling areas shall be buffered and screened from neighboring properties.

(c) Municipal garages, material storage, and parking for vehicles.

(d) Maintenance of municipal vehicles and equipment.

(Ord. No. 50-98, 7-20-98)

Sec. 14-145.22. Conditional rezoning.

Requirements for setbacks and any operational limitations shall be established as part of the conditional rezoning process.

(Ord. No. 50-98, 7-20-98)

DIVISION 8. R-P RESIDENCE-PROFESSIONAL ZONE*

*Editor's note--Ord. No. 291-88, adopted Apr. 4, 1988, with an effective date of July 1, 1988, repealed §§ 14-146--14-151 of Div. 8, R-P Residence-Professional Zone, of this article and enacted similar new provisions in lieu thereof as set out in §§ 14-146--14-151. Formerly, such sections derived from §§ 602.7A, 602.7A.A and 602.7A.B of the city's 1968 Code and from Ord. No. 49-73, adopted Jan. 3, 1973; Ord. No. 499-74, § 3, adopted Aug. 19, 1974; and Ord. No. 312-85, §§ 1--3, adopted Dec. 2, 1985.

Sec. 14-146. Purposes.

The purposes of the R-P residence-professional zone are:

(a) To provide appropriate location for the development and operation of low-intensity business uses, including professional offices on or near major arterials, that are compatible in scale, density and use with surrounding and adjacent residential neighborhoods; or

(b) To serve as a transition or buffer zone between residential and more intensive nonresidential zones.
(Ord. No. 291-88, 4-4-88)

Sec. 14-147. Permitted uses.

The following uses are permitted in the R-P district:

(a) *Residential:* Any residential use is permitted in the residential zone abutting the lot. If there is no abutting residential zone, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the most restrictive such zone.

(b) *Business:*

1. Professional offices, including the offices and facilities of health care and related laboratory and pharmacy services and health care administration, but excluding personal services, retail establishments and veterinarians.
2. Business services, as defined in section 14-47, except copy services.
3. Adult day care services.

(c) *Other:*

1. Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan).
2. Accessory uses as provided in section 14-404.

(Ord. No. 291-88, 4-4-88; Ord. No. 149-05/06, 2-18-06)

Sec. 14-147.5. Conditional uses.

The following uses are permitted as provided in section 14-474 (conditional uses) if they meet the following requirements:

(a) Such other offices which have characteristics similar to but no more objectionable than those generally associated with professional offices. In determining appropriateness, the zoning board shall consider the quality of building design and materials, signage, and landscaping, and their general compatibility with the surrounding residential development. Such uses shall also be shown to have vehicular patterns, including parking and storage of motor vehicles, similar to those associated with professional offices. Noise levels and hours of operation shall also be considered. An approval granted under this section shall be issued to a specific user and shall not run with the land to subsequent users. A new conditional use approval shall be required when the user changes. A new conditional use approval may be issued by the zoning authority if it determines that the new user will maintain the same use as the original user and that such use will not have substantially different external effects, including, but not limited to, parking, vehicular traffic on and off the site, noise levels, hours of operation, and visual characteristics such as signage or changes to building design.

access
ask
at
see
+ hours

(b) Any conditional use that is allowed as a conditional use in any residential zone abutting the lot. If there is no abutting residential zone, any conditional use that is allowed as a conditional use in the nearest residential zone to the lot. Any such conditional use shall be subject to all conditions required in the residential zone.

(Ord. No. 201-92, § 1, 1-6-92; Ord. No. 133-96, § 10, 11-18-96)

Sec. 14-148. Prohibited uses.

Uses not enumerated in section 14-147 as permitted uses or in section 14-147.5 as conditional uses are prohibited.

(Ord. No. 291-88, 4-4-88; Ord. No. 201-92, § 2, 1-6-92)

Sec. 14-149. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, the following requirements shall apply. Residential uses permitted under section 14-147(a) shall meet the requirements of such abutting or nearest residential zone. Nonresidential uses in the R-P zone shall meet the following minimum requirements:

- (a) *Minimum lot size:* Six thousand (6,000) square feet.
- (b) *Minimum street frontage:* Sixty (60) feet.
- (c) *Minimum yard dimensions:*

1. *Front yard:*

- a. Principal or accessory structures: Twenty (20) feet, except that:
 - i. The front yard need not exceed the average depth of immediately abutting front yards; and
 - ii. The front yard of a lot existing as of April 4, 1988, which lot is less than one hundred (100) feet deep, need not be deeper than ten (10) percent of the depth of the lot.

2. *Rear yard:*

- a. Principal structures: Twenty (20) feet.
- b. Accessory structures (detached): Seven (7) feet.

3. *Side yard:*

- a. Principal structures:

<i>Number of Stories</i>	<i>Required Side Yard</i>
1 story	10 feet
2 stories	12 feet
3 or more stories . .	14 feet

The width of one (1) side yard may be reduced one (1) foot for each foot that the other side yard is correspondingly increased, provided, however, no side yard shall be reduced to less than

seven (7) feet in width.

- b. Accessory structures (detached): Seven (7) feet.
- c. Side yards on side streets (corner lot): For both principal or accessory structures:
 - i. One (1) or two (2) stories: Fifteen (15) feet; and
 - ii. Three (3) or more stories: Eighteen (18) feet.
- (d) *Minimum lot width*: Sixty (60) feet.
- (e) *Maximum structure height*: Forty-five (45) feet. Where the lot abuts an R-6 residential zone, the maximum permitted height shall be the maximum permitted height of the R-6 zone. If there is a difference in height between abutting R-6 zones, the least restrictive height limitation shall apply.
- (f) *Maximum impervious surface ratio*: The maximum impervious surface ratio is established according to the abutting residential zone. If there is no abutting residential zone to the lot in question, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the least restrictive such zone. The ratios are as follows:

Maximum Impervious

Residential Zone	Surface Ratio
R-1/R-2	0.60
R-3	0.70
R-4/R-5/R-5A/R-6	0.80

- (g) *Floor area ratio (F.A.R.)*: The maximum floor area ratio is established according to the abutting residential zone. If there is no abutting residential zone to the lot in question, the nearest residential zone to the lot. In

the case of two (2) or more abutting residential zones, the least restrictive such zone. The ratios are as follows:

Residential Floor Area Ratio

R-1/R-2 0.45

R-3 0.55

R-4/R-5/R-5A/R-6 . . . 0.65

(Ord. No., 291-88, 4-4-88; Ord. No. 149-05/06, 1-18-06)

Sec. 14-150. Other requirements.

All nonresidential uses in the R-P zone shall meet the requirements of division 25 (space and bulk regulations and exceptions) of this article in addition to the following requirements:

- (a) *Landscaping and screening:* The site shall be suitably landscaped for parking, surrounding uses and accessory site elements, including storage and solid waste receptacles where required by article IV (subdivisions) and article V (site plan).
- (b) *Curbs and sidewalks:* Curbs and sidewalks as specified in article VI of chapter 25.
- (c) *Off-street parking and loading:* Off-street parking and loading are as required by division 20 and division 21 of this article.
- (d) *Front yard parking:* There shall be no parking in the front yard between the street line and the required minimum setback line. A maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the front yard, provided that for a lot of three (3) acres or more this limitation does not apply.
- (e) *Signs:* Signs shall be subject to the provisions of division 22 of this article.
- (f) *Exterior storage:* There shall be no exterior storage with

the exception of receptacles for solid waste disposal. Such receptacles shall be shown on the approved site plan.

- (g) *Storage of vehicles:* Storage of vehicles is subject to the provisions of section 14-335.
- (h) *Shoreland and flood plain management regulations:* If the lot is located in a shoreland zone or in a flood hazard zone, the requirements of division 26 and/or division 26.5 apply.

(Ord. No. 291-88, 4-4-88; Ord. No. 149-05/06, 1-18-06)

Sec. 14-151. External effects.

Every use in a R-P zone shall be subject to the following requirements:

- (a) *Enclosed structure:* The use shall be operated within a completely enclosed structure, except for those customarily operated in the open air.
- (b) *Noise:* The volume of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American Standards Association), generated shall not exceed fifty-five (55) decibels on the A scale, on impulse (less than one (1) second), at lot boundaries, excepting air raid sirens and similar warning devices.
- (c) *Vibration and heat:* Vibration inherently and recurrently generated and heat shall be imperceptible without instruments at lot boundaries.
- (d) *Glare, radiation or fumes:* Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.
- (e) *Smoke:* Smoke shall not be emitted at a density in excess of twenty (20) percent opacity level, as classified in Method 9 (Visible Emissions) of the Opacity Evaluation System of the U.S. Environmental Protection Agency.
- (f) *Materials or wastes:* No materials or wastes shall be deposited on any lot in such form or manner that they may

be transferred beyond the lot boundaries by natural causes or forces. All material which might cause fumes or dust, or constitute a fire hazard if stored out-of-doors, shall be only in closed containers. Areas attracting large numbers of birds, rodents or insects are prohibited.

(Ord. No. 291-88, 4-4-88)

DIVISION 8.1 USM, UNIVERSITY OF SOUTHERN MAINE OVERLAY ZONE

Sec. 14-152. Purpose.

The intention of this division is to establish an overlay zone in which an existing university campus can be continued and reasonably expanded within defined boundaries, in addition to those uses permitted in the underlying zone or zones. The purpose of this division is to recognize the unique qualities of a university campus while at the same time protecting the value and integrity of established neighborhoods.

(Ord. No. 171-05/06, 3-20-06)

Sec. 14-152.1. Location and applicability of University of Southern Maine overlay zone.

The University of Southern Maine overlay district, as shown on the zoning map is intended to encompass and define the University of Southern Maine campus westerly of Forest Avenue. Properties in the University of Southern Maine overlay zone shall continue to be governed by the regulations applicable to the underlying zoning districts except as specifically modified by this division.

(Ord. No. 171-05/06, 3-20-06)

Sec. 14-152.2. Permitted uses.

In addition to the permitted uses allowed in the underlying zoning districts and notwithstanding anything to the contrary in the use regulations for the underlying zoning districts, the following uses are permitted uses in the University of Southern Maine overlay zone.

University uses including, but not limited to, the following:

1. Classrooms;
2. Laboratory facilities;

(Ord. No. 183-97, 1-22-97)

State law reference(s)--Similar provisions, 29-A M.R.S.A. § 2063.

Sec. 28-182. Parades and processions.

No procession or parade containing two hundred (200) or more persons or fifty (50) or more vehicles, excepting the forces of the United States Army, Navy or Air Force, the military forces of this state, and the forces of the police and fire departments, shall occupy, march or proceed along any street except in accordance with a permit issued by the chief of police and such other regulations as are set forth herein which may apply.

(Ord. No. 183-97, 1-22-97)

Sec. 28-183. Funeral and other processions.

(a) A funeral composed of a procession of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant of a type designated by the city traffic engineer.

(b) Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practicable and follow the vehicle ahead as closely as is practicable and safe.

(Ord. No. 183-97, 1-22-97)

Sec. 28-184. Driving through processions.

No driver of a vehicle shall drive between the vehicles comprising a funeral or other authorized procession while they are in motion and when such vehicles are conspicuously designated as required in this chapter. This provision shall not apply at intersections where traffic is controlled by traffic-control signals or police officers, or other authorized persons.

(Ord. No. 183-97, 1-22-97)

Sec. 28-185. Golf carts on certain island streets by certain persons.

The operation of golf carts shall be permitted on the streets of Cliff Island, Great Diamond Island and Peaks Island if in compliance with the following requirements:

- (a) The operator must be over the age of twenty-one (21) or possess a valid license to operate a motor vehicle;

Sec. 14-474. Conditional uses.

(a) *Authority.* The board of appeals may, subject to the procedures, standards and limitations set out in this section, approve the issuance of a conditional use permit authorizing development of conditional uses listed in this article.

(b) *Procedure:*

(1) *Application.* Applications for conditional use permits shall be submitted to the building authority. A nonrefundable application fee, as established from time to time by the city council to cover administrative costs and costs of a hearing, shall accompany each application. The application shall be in such form and shall contain such information and documentation as shall be prescribed from time to time by the building authority but shall in all instances contain at least the following information and documentation:

- a. The applicant's name and address and his or her interest in the subject property;
- b. The owner's name and address if different than the applicant;
- c. The address, or chart, block and lot number as shown in the records of the office of the assessor of the subject property;
- d. The zoning classification and present use of the subject property;
- e. The particular provision of this article authorizing the proposed conditional use;
- f. A general description of the proposed conditional use;
- g. Where site plan approval is required by article V of this chapter, a preliminary or final site plan as defined by article V of this chapter.

- (2) *Public hearing.* A public hearing shall be set, advertised and conducted by the board of appeals in accordance with article VI of this chapter.
- (3) *Action by the board of appeals.* Within thirty (30) days following the close of the public hearing, the board of appeals shall render its decision, in a manner and form specified by article VI of this chapter, granting the application for a conditional use permit, granting it subject to conditions as specified in subsection (d), or denying it. The failure of the board to act within thirty (30) days shall be deemed an approval of the conditional use permit, unless such time period is mutually extended in writing by the applicant and the board. Within five (5) days of such decision or the expiration of such period, the secretary shall mail notice of such decision or failure to act to the applicant and, if a permit is authorized, shall issue such permit, listing therein any and all conditions imposed by the board of appeals.

(c) *Conditions for conditional uses:*

- (1) *Authorized uses.* A conditional use permit may be issued for any use denominated as a conditional use in the regulations applicable to the zone in which it is proposed to be located.
- (2) *Standards.* Upon a showing that a proposed use is a conditional use under this article, a conditional use permit shall be granted unless the board determines that:
 - a. There are unique or distinctive characteristics or effects associated with the proposed conditional use;
 - b. There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area; and
 - c. Such impact differs substantially from the impact which would normally occur from such a use in that zone.

(d) *Conditions on conditional use permits.* The board of appeals may impose such reasonable conditions upon the premises benefited by a conditional use as may be necessary to prevent or minimize adverse effects therefrom upon other property in the neighborhood. Such conditions shall be expressly set forth in the resolution authorizing the conditional use permit and in the permit. Violation of such conditions shall be a violation of this article.

(e) *Effect of issuance of a conditional use permit.* The issuance of a conditional use permit shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any permits or approvals which may be required by the codes and ordinances of the city, including but not limited to a building permit, a certificate of occupancy, subdivision approval and site plan approval.

(f) *Limitations on conditional use permits.* No conditional use permit shall be valid for a period longer than six (6) months from the date of issue, or such other time as may be fixed at the time granted not to exceed two (2) years, unless the conditional use has been commenced or is issued and construction is actually begun within that period and is thereafter diligently pursued to completion; provided, however, that one (1) or more extensions of said time may be granted if the facts constituting the basis of the decision have not materially changed, and the two-year period is not exceeded thereby. A conditional use permit shall be deemed to authorize only the particular use for which it was issued and such permit shall automatically expire and cease to be of any force or effect if such use shall for any reason be discontinued for a period of twelve (12) consecutive months or more.

(g) *Appeals from board decisions.* Appeals from any decision of the board of appeals or, where applicable, the Planning Board respecting a conditional use permit shall be to superior court.

(Code 1968, § 602.24.D; Ord. No. 437-74, 7-1-74; Ord. No. 407-83, 2-2-83; Ord. No. 467-83, § 2, 4-20-83; Ord. No. 237-83, 10-17-83)