



PLANNING BOARD REPORT

Commercial Development including gas station and convenience store with ATM

2282 Congress Street

Level III Site Plan and Traffic Movement Permit

Project ID #2013-086

CJ Developers, Inc. and Portland Property Holdings LLC., Joint Applicants

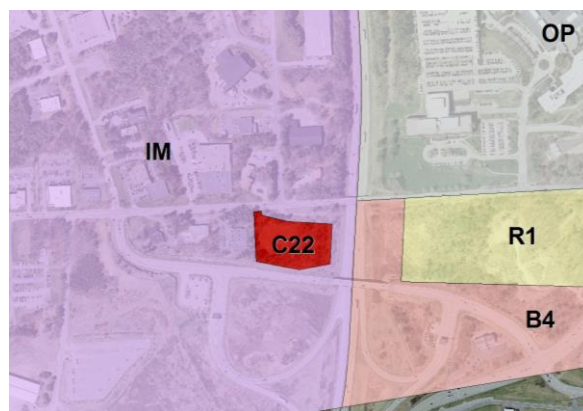
Submitted to: Portland Planning Board Public Hearing Date: May 14 th , 2013	Prepared by: Jean Fraser, Planner Date: May 10 th , 2013 Planning Board Report # 24-13
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I. INTRODUCTION

David Latulippe of CJ Developers, Inc. has applied (jointly with Portland Property Holdings LLC) for site plan approval in accordance with the Conditional Rezoning Agreement (CZA) that was recommended by the Planning Board on February 12, 2013 and the City Council on March 4, 2013 (Attachment 1). The CZA varied the underlying I-M zone to allow commercial uses including a convenience store, bank with ATM and gas station, subject to conditions regarding a pedestrian crossing of Congress Street, traffic, landscape and lighting to be addressed in the site plan.

The zoning context is shown on the plan below; the site is C22 but this number will be updated.

The applicant has requested that the proposed site plan go direct to a Planning Board hearing in view of the extensive discussions that took place in connection with the review of the Conditional Rezoning. The proposals are essentially as shown in the CZA Concept Plan except that the bank and one drive through have been removed, a small farmstand has been added, and the area of proposed impervious surface has been reduced by about 7%.



Staff plan based on City of Portland GIS data

The site plan proposals are for a commercial development that includes a 3,850 sq. ft. convenience store with an ATM and a fuel station with 14 filling dispensers plus a future compressed natural gas pump and electric recharging stations. The applicant has recently added a small farm stand associated with the convenience store, which would be available to local producers at no rent similar to a “farmer’s market”.

The lot has approximately 60 linear feet of frontage on Congress Street at the western edge of the site, and an access easement has been secured from MTA (who own the two frontage lots) to allow the site access to be better located opposite Blueberry Road.

Required reviews: The site plan is subject to review in the context of the CZA and I-M zoning requirements that were not varied by the CZA. The scale of the proposals would have triggered a Level II Site Plan review at staff level, but the CZA explicitly requires this site plan to be reviewed by the Planning Board. The proposal is being reviewed under the Land Use Code provision 14-526 (Site Plan) and Traffic Movement Permit (delegated authority from the State). The project is located within the Long Creek Watershed District and must obtain a Water Discharge Permit from the MDEP in addition to a Stormwater Permit from the City of Portland (delegated review).

The project requires the following waivers, which are supported by reviewers:

<i>Requested Waiver</i>	<i>Standard and any waiver provisions</i>
Driveway Design: the driveway width (38ft) exceeds the maximum in order to allow for the large vehicles anticipated to require regular access to the site.	<i>Technical Manual Section 1.7.1.4</i> which specifies a maximum of 36 feet wide for a major commercial driveway.

<p>Parking Lot and Parking Space Design: The parking aisles are also designed for circulation by large truck vehicles and therefore exceed the maximum width in several locations.</p>	<p><i>Technical Manual Section 1.14</i> which specifies a maximum of 24 feet for parking aisles.</p>
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II. PUBLIC NOTICING

This Hearing was noticed to 65 parties including property owners, interested citizens, and those who wrote to the Planning division in relation to the conditional rezoning (all were in support; one concerned about the new Blueberry/Congress intersection). A legal notice also appeared in the May 6th and 7th, 2013 editions of the *Portland Press Herald*. There have been no public comments as of the time of completing this report.

A Neighborhood Meeting was held on April 10, 2013 and attended by one person; the certificate with notes and sign up sheet is included in Attachment K.

IV. PROJECT DATA

<p>Existing Zoning: Proposed Use: Parcel Size: Impervious Surface Area: Existing: Proposed: Net Change: Building Area: Existing Floor Area: Proposed Floor Area: Proposed Building Footprint: Vehicle Parking: Proposed Car Parking: No. of Handicapped Spaces: Bicycle Parking Spaces: Proposed: Estimated Cost of Project: Uses in Vicinity: Applicant Name: Consultants:</p>	<p>Industrial (Moderate Impact) Convenience store with ATM and gas station with 14 fueling stations, and small farm stand 146,361 sq. ft. including 5,227 sq ft subject to MTA easement) Undeveloped- 0 sq. ft. 56,855 sq ft as shown on plan; 62,033 sq. ft for future full build out 56,855 sq ft as shown on plan; 62,033 sq. ft for future full build out 0 4,066 sq ft (3,850 sq. ft. convenience store; 216 sq ft farmstand) 4,066 sq ft (3,850 sq. ft. convenience store; 216 sq ft farmstand) 26 car parking spaces plus area for truck parking 2 (included in the 26) 8 (meets the requirement) \$2-3 million This wider area is industrial but includes many general offices and animal facilities and set in a campus-like setting; this site is bounded on 3 sides by roads (Turnpike , Skyway Drive and Congress Street), with the “back” of Methadone Clinic to the west. David LaTulippe DeLuca Hoffman Engineers</p>
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V. EXISTING CONDITIONS

The existing site is located on the south side of outer Congress Street, opposite Blueberry Road, near the Turnpike bridge. It is currently undeveloped, with wetlands in the southwest corner and mature vegetation around the western perimeter.

To the south it abuts Skyway Drive, a limited access road serving the turnpike exit 46, the park & ride and the MTA Headquarters to the west. Blueberry Road (location of *Ecomaine*) is opposite the site on Congress Street, with the turnpike to the east, the Methadone Clinic to the west and a veterinarian practice to the north (other side of Congress and also abutting the turnpike).



VI. PROPOSED DEVELOPMENT

The applicant proposes to develop a 3,850 sq ft convenience store with gas station, ATM and farmstand (Plans 5-8). The bank that was shown in the earlier concept plan associated with the CZA (Attachment 1) has been removed. A fuel canopy and compressor building for compressed natural gas fuel are also included. The small farmstand has been added near Congress Street as part of a landscaped area; the applicant’s e-mail explaining the operation of the farmstand is included in Attachment M. Staff support the addition of the farmstand in the context of supporting local food producers and facilitating access to local food and consider it consistent with zoning.

The site plan (Plan 5) shows 12 gas fueling stations under the canopy plus 2 diesel fuel dispensers at a separate island at the rear of the site. A future Compressed Natural Gas pump is shown with the gas pumps under the canopy and a future electric vehicle charging station (4 bays) is included on the east side of the paved area.

A single access from Congress Street is proposed, located opposite Blueberry Road over MTA-owned land that is subject to an agreed but not executed easement (Attachment C.13). During the CZA review the Planning Board had supported the potential connection to Skyway Drive (shown as dotted lines on the CZA concept plan) but the Maine Turnpike Authority (MTA) has confirmed that they do not support this connection as it impacts the efficiency of Skyway Drive (Attachment 2).

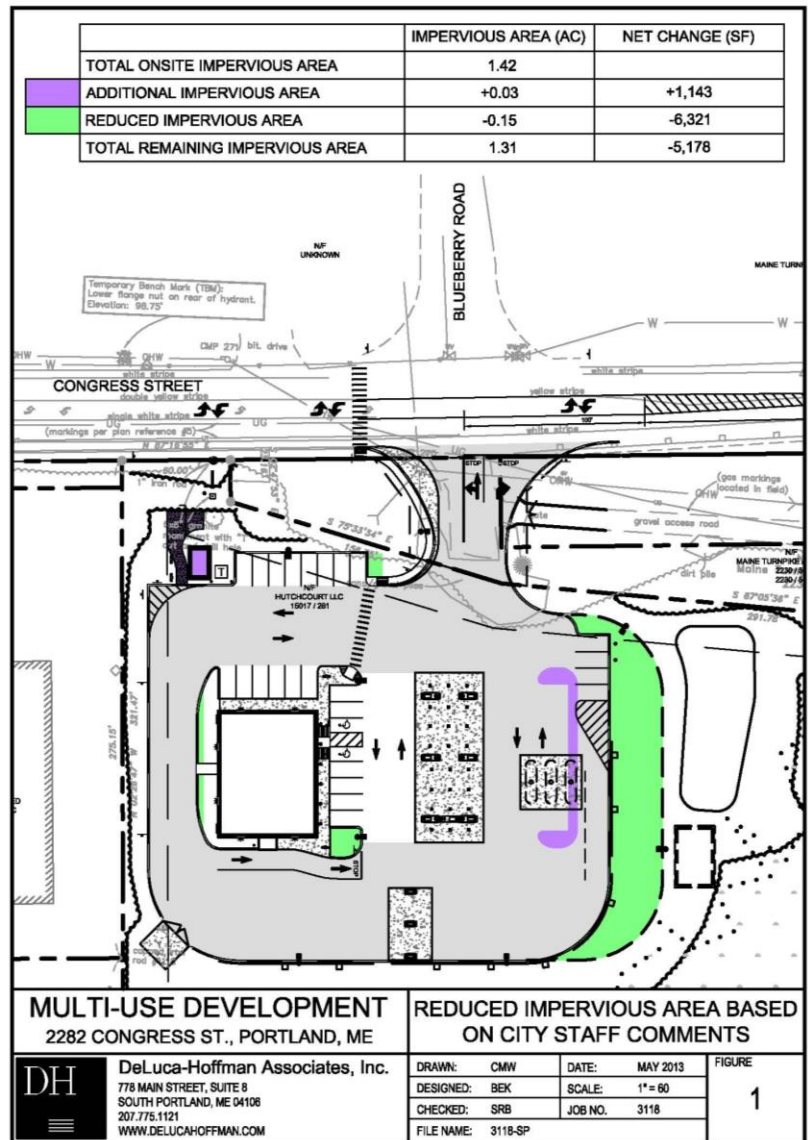
During the review staff raised concerns about the extent of the impervious surface (over 40% of the site), which was designed to accommodate maximum peak parking demand and provide ideal turning areas for very large tractor trailers. Although all of the stormwater run off would be treated, the key issue was that this created an expanse of pavement that was not consistent with the campus-like character required by the CZA.

The applicant reconsidered the parking and truck maneuvering requirements and was able to reduce the impervious area by 7% as summarized in the sketch at right.

Car parking for customers of the convenience store is now at 26 spaces, reduced from 32 spaces in the original site plan. The layout allows for the creation of parking spaces (in the green area of plan to the right) if future peak demand indicates a need for additional parking. Eight bicycle parking spaces are included and a truck parking area.

Pedestrian accommodations include the crosswalk on Congress Street as required by the CZA and an internal walkway linking the Congress Street crosswalk and the convenience store.

Landscaping has been incorporated around the periphery to buffer the development and create the “campus-like” character required by the CZA. The scope for internal landscaping is limited by the underground stormwater system and fuel storage, and the turning areas required for internal circulation.



VII. REVIEW ON CONTEXT OF THE CONDITONAL REZONING AGREEMENT

The Conditional Rezoning Agreement (Attachment 1) was reviewed by the Planning Board over three meetings and unanimously approved by the City Council on March 4, 2013. The Agreement is with CJ Developers Inc who were the applicants for the rezoning. CJ Developers Inc have not executed the agreement because they do not have

ownership of the site (see Purchase and Sale Agreement and recent Assignment of the Option to Portland Property Holdings in Attachment C). The City's Corporation Counsel has advised that the execution of the conditional zoning agreement can be a condition of the site plan and that the CZA may be assigned by CJ Developers (Attachment 10).

The final proposals have been reviewed in the context of the CZA and staff consider that the proposals now meet the CZA requirements. The supporting analysis is set out below:

1. *The property shall be developed substantially in accordance with the conceptual site plan shown on Attachment 2. The site layout plan may be amended, modified or altered with the Portland Planning Board approval in connection with the site plan review process;*

Staff comment: The overall scale of built development and layout of the proposals has remained as in the concept plan.

2. *Permitted uses: Those uses allowed in the IM zone. In addition, the Property shall be permitted to be used for the following uses:*
 - a. *Major auto service station. Natural gas and electricity fuel shall be included in the fuels that the major auto service station is allowed to sell.*
 - b. *Bank or ATM (with a drive through)*
 - c. *Convenience Store (without a drive through)*
 - d. *Restaurant (without a drive through)*

Staff comment: Marge Schmuckal, Zoning Administrator, has confirmed that the farmstand is in accordance with this provision (Attachment 4).

3. *Planning Board Site Plan Approval: The major auto service station, convenience store/restaurant and bank project must obtain final site plan from the Portland Planning Board. Included within any application for such approval are the following requirements:*
 - a. *CJD shall submit a traffic study establishing its ability to meet all the traffic safety requirements to the satisfaction of the CITY's Traffic Engineer, including information on integration of a possible future connection to Skyway Drive; and,*

Staff comment: The City's Traffic Engineer has confirmed that the project is acceptable in relation to safety requirements, subject to conditions (see Site Plan Review and Attachment 7). The submitted Traffic Studies (Attachment F.1 and F.2) included a preliminary analysis of the potential connection to Skyway Drive and the results indicated that the level of service at the Skyway Drive and turnpike intersection would degrade with a 4th approach from the proposed site. The MTA are not supportive of the connection (Attachment 2). The applicant has designed the site plan such that this connection is possible in the event it is reconsidered in the future.

- b. *CJD shall submit a detailed site plan addressing the bank drive through and associated stacking capacity, landscaping, architecture and protection of pedestrians.*

Staff comment: The bank drive through is no longer part of the proposals. The site plan has addressed landscaping, and protection of pedestrians as discussed under the Site Plan review. The elevations of the proposed convenience store and gas station canopy are included in Plans 25 and 26.

- c. *CJD shall include Landscape, Architectural and Lighting Plans that achieve a campus like character for the project.*

Staff comment: The proposed architecture (Plans 25 and 26) appears to be consistent with a campus like character. Board will need to consider whether the landscaping (which staff recommends should be augmented near the truck parking area) and the light fixture ("Prolific", see Attachment I.4) is consistent with the aim to achieve a campus like character (both discussed in Site Plan Review below)

4. *Community Contribution*: shall install a new crosswalk on Congress Street from the project site to the sidewalk on the north side of Congress Street. The crosswalk shall include the following features:
 - a. A pedestrian island in Congress Street. The island shall be raised and include granite curbing. The location, size (width and length) and material shall be determined by the City;
 - b. Rectangle Rapid Flash Beacon warning lights. Three sets of the warnings lights shall be installed (on each side of Congress Street and in the median island);
 - c. The crosswalk and all accessories shall be ADA complaint and include sidewalk ramps and connections to the existing sidewalk;
 - d. Durable pavement markings and supplemental signs; and
 - e. Drainage and pavement improvements, as required by the Planning Authority and/or the Department of Public Services.

This full combination of the above items is above and beyond the usual site plan requirement that would apply to this project for a striped crosswalk as shown in the Conceptual Site Plan in Attachment 2 Plan.

Staff comment: The pedestrian crosswalk has been provided generally to the satisfaction of the Consulting Traffic Engineer, who has requested removal of the island and addition of an ADA accessible landing, with final details to be reviewed by the City. This requirement is included in potential condition *iv*.

VIII. DEVELOPMENT REVIEW

A. SITE PLAN SUBMISSION REQUIREMENTS (Section 14-527)

The applicant has submitted all of the required materials for a final plan. The letter confirming financial capability is included at Attachment D.

Right, title and Interest (See Attachment C)

The original applicant (CJ Developers Inc) had a P&S Agreement with the owner which was dependent on the receipt of zoning and site plan approvals. Since the site plan application was submitted CJ Developers Inc have assigned this Agreement and its associated rights and obligations to Portland Property Holdings, LLC (Attachment C.4). Portland Property Holdings LLC are now added as joint applicants. The CZA remains in CJ Developers Inc name and is a precondition for the site plan review. Corporation Counsel has advised that since the CZA can be assigned (Attachment 10) that the joint party arrangement is satisfactory and that the execution of the CZA should be a site plan condition.

The proposed driveway access from Congress Street is across land owned by the Maine Turnpike Authority (MTA). An easement to CJ Developers Inc was agreed by the MTA on 4.25.2013 and a confirming e-mail and the easement language is enclosed at Attachment C.14.

B. SITE PLAN STANDARDS (Section 14-526)

The proposed development has been reviewed by staff for conformance with the relevant review standards of Portland's site plan ordinance and applicable regulations. Staff comments are listed below.

1. Transportation Standards

a. *Traffic Movement Permit (TMP)*

The Traffic Study and Scoping Report (Attachment F) confirmed that a Traffic Movement Permit is required because the proposed trip generation reaches a high of 277 trip ends in the weekday PM peak (ie it exceeds the 99 trip ends which trigger a TMP). A Scoping meeting was held on April 16, 2013 and a further Traffic Impact Study was received on April 23, 2013 to address the several issues raised at the Scoping meeting.

The Planning Division requested that those who had commented on the rezoning application be notified of the TMP Scoping meeting (the public may attend and observe), particularly *Ecomaine* who had written during the conditional rezoning review (the letter arrived after the PB Hearing; copy attached for information in Attachment 11). *Ecomaine* is located on Blueberry Road and raised the question of a possible signal at the intersection with the new project drive, given the fact that Congress Street is busy commuter route and *Ecomaine* has many turning trucks at that location. The Traffic Studies (Attachment F) indicate that a signal is not warranted at this location, but Tom

Errico, Consultant Traffic Engineer, is recommending a post-occupancy signal warrant be conducted, with the applicant responsible for signal installation (Attachment 7, extract below).

Extracted below are Tom Errico's final comments re TMP (underlining refers to a suggested condition of TMP approval which has been incorporated in the motion for the Board to consider):

- *I find the methods used in the traffic study to be acceptable.*
- *The analysis indicated the Congress Street/Site Drive/Blueberry Road intersection will operate at acceptable levels of service following build-out of the project. I concur with this conclusion.*
- *A signal warrant analysis was conducted at the Congress Street/Site Drive/Blueberry Road intersection. According to the applicant a traffic signal is not warranted. I concur with this conclusion, but suggest that a post-occupancy signal warrant study be conducted one year after opening. If a traffic signal is warranted, the applicant shall be responsible for all costs associated with design and implementation of the traffic signal.*
- *According to a warrant analysis for a right-turn lane entering the site from Congress Street, a right-turn lane is warranted. At this time I concur with the applicant that provision of a right-turn lane entering the site is not preferred given that it will increase the crosswalk length. I would suggest that conditions be monitored one year following opening and if crash data suggests a problem exists, the applicant shall be responsible for installing a right-turn lane.*
- *The Congress Street/Skyway Drive/Hutchins Drive intersection is projected to have movements that will operate at an unacceptable level of service following the construction of the project. In addition, while not a High Crash Location per MaineDOT criteria, the intersection does display a pattern of rear-end collisions. The City has been collecting funds from developments in the area for the implementation of improvements to mitigate congestion and safety deficiencies. Based upon prior contribution methods, the applicant shall contribute \$5,000.00 towards improvements at the subject intersection.*

b. *Parking and Circulation on Site*

Tom Errico, the Consultant Traffic Engineer, reviewed the initial submission (Attachment 7) and raised concerns particularly regarding the number of parking spaces and the excessive aisle widths along with detailed comments regarding the internal pedestrian facility. The April 23, 2013 submission provided data and other information in support of the parking provision and aisle widths (Attachment L), but staff still considered that the paved area was underutilized and more than necessary for the proposed uses.

Tom Errico met with the applicant and his engineering advisers on April 30th, 2013 to further understand the functional requirements of the proposed development and consider whether there was some scope for reducing parking and circulation area pavement. The applicant responded positively by reorganizing the internal circulation and reducing the parking provision from 32 spaces to 26 spaces, as shown in Attachment O (and inserted above on page 3), which highlights in green the reduced imperious surface area. It is understood that that this area may be needed in the future if found necessary to meet parking or other needs. Turning templates were submitted (Attachments N.7 and N.8) that show the circulation areas are warranted to allow large vehicles to maneuver.

Mr Errico has confirmed that the revised proposals are acceptable and he supports waivers to allow the driveway and aisle widths as proposed (Attachment 7). The Board may wish to consider what level of review (if any) should be stipulated for any future change from pervious to impervious.

The site access on Congress Street allows for left turns from Congress Street into the site and Plan 5 (Site Layout) shows the associated new pavement marking and signs. Potential condition *iv* incorporates the comments from Mr Errico:

The applicant has developed an improvement plan for Congress Street such that left-turn accommodations are provided. I support the general concept of the plan provided in the application. Final design plans shall be submitted to the City for review and approval (It should be noted that adjustments to the design may be required during this review process). (Attachment 7)

Parking for eight bicycles has been provided near the convenience store and meets the ordinance requirement.

c. *Snow Storage*

The applicant has indicated the snow storage areas on the final site plan, see Plan 5, which is satisfactory.

d. *Internal Pedestrian Access and sidewalks*

The proposal includes an internal pedestrian link from the convenience store to the pedestrian crosswalk across Congress Street (as required by the CZA), which in turn connects to the sidewalk on the north side of Congress Street. Tom Errico, consulting Traffic Engineer, has commented that these proposals are acceptable (Att. 7).

The site plan ordinance requires the installation of sidewalks (curbing is already in place) along the frontage of the site. In this case the majority of the frontage is in MTA ownership, leaving approximately 60 linear feet of lot frontage. The applicant has requested a waiver from the provision of a sidewalk along this stretch (Attachment E).

Staff note that all recent developments in this area have been required to provide sidewalks or contribute to the cost of such provision. In this case staff suggest that in lieu of constructing this isolated stretch of sidewalk, that the applicant paint a crosswalk across Blueberry Road to connect the completed sections of sidewalk on the north side of Congress Street. This would improve the safety for pedestrians coming to the convenience store from Unum and points east as well as from the Veterinary facility opposite the site (Attachment 7). The potential condition of approval *iv.* includes this requirement.

2. Environmental Quality Standards

a. *Landscaping and Landscape Preservation*

The initial submission included a Landscape Plan that staff considered did not address the CZA requirement for “campus-like character” nor the Site plan ordinances (Attachment 3 and 8). The City Arborist met the design team on site and advised on tree preservation and new planting.

The final Landscape Plan (Plan 8) reflects a number of improvements (relocation of the dumpster; addition of the farmstand and landscaped area near Congress Street, more extensive buffer planting). However, the City Arborist, Jeff Tarling, has two small recommendations to address both the CZA objective of achieving a “campus like character” and the site plan ordinance requirements for retaining trees (Attachment 8):

a) Tree Save - the 'tree-save', tree thinning area along Congress Street is improved and meets our recommendations. Additional 'tree-save' areas along the Western property line and towards Skyview Drive will need to be marked prior to site work and as approved by the City Arborist. There may be trees to be thinned or removed due to poor condition or risk. (Thinning trees for views is not recommended - thinning trees for safety and condition is.) Standard tree protection measures shall be used during construction, these include protection of tree root zones, identifying trees to protected, construction fencing or tagging where needed. No storage of equipment or construction materials in tree protection root zone areas. The area around the Shagbark Hickory is one of the tree protection zones.

b) Trees in parking lot - In the area shown as snow storage, and addition one to two trees could be set back away from the edge of pavement to still allow snow clearing and meet the parking lot tree / shrub standards.

Overall the landscape plan is acceptable as shown with the recent improvement and suggested conditions.

A potential condition of approval includes these recommendations.

b. *Water Quality, Storm Water Management and Erosion Control*

In addition to compliance with the MaineDEP Basic and General Standards (city review under delegated authority re Stormwater Permit), the site is within the Long Watershed District which requires a Stormwater Discharge Permit from the MDEP and potential fees to the Watershed District. The site is the only site within the City of Portland that is within the Long Creek Watershed and staff met with the Tamara Lee Pinard, Executive Director of the Long Creek Watershed Management District (organized by the applicant) to clarify what permits and fees were applicable and to avoid duplicating reviews and fee payments.

The meeting and follow up discussions concluded:

- That the applicant is required to obtain a stormwater discharge license due to the project location in the Long Creek Watershed;
- That the project would be an individual permit holder and is therefore subject to payment of Stream Restoration and Monitoring Fees to the LCWMD;

- That the project will not be subject to the City of Portland Urban Impaired Stream standard nor associated fees (see detailed determination in [Attachment 10](#));
- That the Stormwater Permit (with delegated review by the City) would be reviewed usual.

The applicant has submitted the Stormwater Discharge application to the MDEP and an extract is included in [Attachment G.4.](#); an update from the MDEP is included at [Attachment 13](#). A potential condition of approval is proposed:

- That a copy of the MDEP Stormwater Discharge approval shall be submitted to the Planning Authority prior to the issuance of a building permit. If there are significant modifications to the stormwater system as a result of the MDEP review, then an amended site plan would be required for approval by the Planning Authority prior to the issuance of a building permit; and*

Stormwater Permit

[Plan 6](#) (Grading and Drainage) shows the stormwater system which is described in [Attachment G.1](#); details are included in [Plans 9.1, 9.2 & 9.3](#). The system comprises a stormwater detention basin on the east side of the site and an underground treatment system (“Stormtreats”) on the south side.

The proposals were revised to address the earlier Peer Engineer comments, and the final proposals are considered acceptable with no conditions ([Attachment 5](#)). The standard potential condition for the Stormwater Permit is included (referencing Chapter 32 and the submitted Stormwater management Plans), and it has been modified to refer to the Long Creek Watershed District requirements.

c. Public Safety and Fire Prevention

The site layout does not appear to present any public safety issues, and is well lit.

Captain Chris Pirone has reviewed the proposed project and the submitted code analysis ([Attachment B](#); also [Att. N](#) re truck maneuvering templates) and has confirmed there are no site plan issues ([Attachment 6](#)).

Since fuel storage is part of the gas station proposal, the proposals will be subject to State and MDEP rules, and a potential condition regarding these requirements has been included.

d. Availability and Adequate Capacity of Public Utilities

All of the utilities have confirmed capacity for the development on this site- see [Attachment H](#).

3. Site Design Standards

a. Exterior Lighting

A lighting/ photometric plan has been submitted ([Plan 10](#)), with details included in [Attachment I](#). These reflect revisions made to address staff comments ([Attachment 3](#)) and generally meet the City Technical Standards. There are several areas where the lighting levels are slightly higher than the specified maximums, but these do not impinge on the neighboring property and are justified by the unique combination of uses including the farmstand and convenience store pedestrian circulation. The Technical Standard allows for some exceptions where need is demonstrated and the design meets IESNA standards (confirmed by applicant in [Att.L](#)).

The light fixtures meet Site Plan standards but there is one fixture (“Prolific” – see [I.4](#)) which appears somewhat “industrial” rather than “campus-like”. The applicant has investigated alternatives, but this fixture is favored for its longevity/low power requirements.

b. Noise and Vibration

The proposals will need to meet the requirements of the I-M zone and provide information to the Zoning Administrator.

c. Signage

Internal signage and pavement markings have been shown on [Plan 5](#) and Tom Errico has asked for signage and pavement markings to clarify where one-way and two-way operation is allowed on the site. This question was still under discussion as the time this Report was completed and an update will be provided at the hearing. The Zoning Administrator has noted that separate permits are required for the construction and for any new signage. The project includes at least 2 pylon signs and these will be subject to separate sign reviews.

d. *Zoning Related Design Standards*- There are no specific design standards, except as included within the CZA.

IX. STAFF RECOMMENDATION

The applicant has worked to address staff comments and has improved the layout considerably by reducing the impervious surface area. The addition of the farm stand and associated landscaped area near Congress Street is a welcome initiative. The project is considered to be consistent with the Conditional Zoning Agreement with a couple of minor questions as to whether the interior landscaping and the design of the light fixture are satisfactory in the context of the requirement for a “campus like” character.

The combination of CZA, TMP and Long Creek Watershed requirements have presented a challenge for the development. The comprehensive application submittal and follow up has helped reviewers focus on the few outstanding issues and staff recommend approval subject to several potential conditions.

X. PROPOSED MOTIONS FOR THE BOARD TO CONSIDER

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in Planning Board Report # 24 -13 for the commercial development at 2282 Congress Street relevant to the Site Plan, Traffic Movement Permit and Stormwater Permit reviews and other regulations, and the testimony presented at the Planning Board hearing, the Planning Board finds the following:

WAIVERS

1. *Driveway Design:*

The Planning Board (**waives/ does not waive**) Technical Standard, Section 1.7.1.4, which specifies a maximum of 36 feet wide for a major commercial driveway, to allow a 38 ft wide driveway that accommodates the large vehicles anticipated to require regular access to the site.

2. *Parking Aisle:*

The Planning Board (**waives/ does not waive**) Technical Standard, Section 1.14, Figures I-28 to I-32 which require a 24 foot wide drive aisle, to allow wider aisles as shown in the approved site layout plan (Plan 5 as attached to this Report).

TRAFFIC MOVEMENT PERMIT

That the Planning Board finds that the proposed plan [**is/is not**] in conformance with 23 MRSA 704-A and Chapter 305 Rules and Regulations pertaining to Traffic Movement Permits.

Potential conditions of approval:

- i. That the applicant shall contribute \$5000 to an account maintained by the City that will be used to fund traffic improvements to the intersection at Congress Street/Hutchins Drive/Skyway Drive; and
- ii. That a post-occupancy signal warrant study shall be conducted one year after opening. If a traffic signal is warranted, the applicant shall be responsible for all costs associated with design and implementation of the traffic signal; and
- iii. That the operation of the right turn into the site from Congress Street shall be monitored for one year following opening. If the crash data suggests a problem exists, the applicant shall be responsible for installing a right-turn lane.

STORMWATER MANAGEMENT PERMIT

That based upon the City of Portland’s Delegated Review Authority, the Portland Planning Board finds the plan [**is/ is not**] in conformance with the standards for a Storm Water Permit application for the commercial development at 2282 Congress Street and [**grants/does not grant**] a permit subject to the following condition:

Potential condition of approval:

- i. That the applicant and all assigns, must comply with the conditions of Chapter 32 Storm Water including Article III. Post-Construction Storm Water Management, which specifies the annual inspections and reporting requirements. The developer/contractor/subcontractor must comply with conditions of the construction storm water management plan and sediment & erosion control plan as included Attachment G.1-3 of this Report, and as based on the Long Creek Watershed District standards/requirements and state permits and guidelines.

SITE PLAN REVIEW

The Planning Board finds that the plan **[is/is not]** in conformance with the site plan standards of the Land Use Code, subject to the following condition(s) of approval:

Potential conditions of approval:

- i. That this site plan approval is subject to the Conditional Zone Agreement as approved by the City Council on March 4, 2013, and that C J Developers Inc. shall sign and record the aforementioned Conditional Zoning Agreement prior to the issuance of a building permit, and if the CZA is assigned, C J Developers Inc. shall provide notification of the assignment to the City; and
- ii. That the signed and recorded access easement from Maine Turnpike Authority for the area of the proposed access from Congress Street shall be submitted to the Planning Authority prior to the issuance of a building permit; and
- iii. That a copy of the MDEP Stormwater Discharge approval shall be submitted to the Planning Authority prior to the issuance of a building permit. If there are significant modifications to the stormwater system as a result of the MDEP review, then an amended site plan would be required for approval by the Planning Authority prior to the issuance of a building permit; and
- iv. That the applicant shall submit a revised off-site improvements plan that addresses Tom Errico's memorandum dated 05.09.2013 regarding the left turn accommodations, crosswalk design with ADA landing, and painted crosswalk on Blueberry, for review and approval by the Planning Authority prior to the issuance of a building permit; and
- v. That the applicant shall submit a revised Landscaping Plan (with notes), for review and approval by the Planning Authority and City Arborist prior to the issuance of a building permit, that meets the recommendations set out in Jeff Tarling's e-mail dated 5.10.2013; and
- vi. That all necessary permits and licenses shall be obtained from the Federal, State (including MDEP) or local authorities in respect to the fuel storage, compressed natural gas installation and electric charging stations; and
- vii. That commercial signage shall be subject to separate sign reviews and permits, and that the project shall meet the I-M noise requirements.

Attachments

PLANNING BOARD REPORT ATTACHMENTS

1. Conditional Zoning Agreement and associated Concept Plan
2. Letter from MTA concerning Skyway Drive connection (3.14.2013) and City reply
3. Staff review e-mails dated April 10 and 18, 2013
4. Marge Schmuckal Memorandum, dated 4.10.2013 and 4.30.2013
5. David Senus Memorandum, Dated 4.18.2013 and (final) 5.1.2013
6. Capt. Chris Pirone Memorandum, dated 5.8.2013
7. Tom Errico Memorandum, preliminary dated 4.18.2013 and final dated 5.9.2013
8. Jeff Tarling e-mail preliminary 4.17.2012 and 5.2.2013 and (final) 5.10.2013
9. David Margolis-Pineo, DPS not received at the time the Report completed
10. Danielle West-Chuhta, Corporation Counsel, 4.24.2013(re assign. of option) & 4.22.2013 (re Long Creek fees)
11. *Ecomaine* letter 2.15.2013 (re rezoning; included as background)

APPLICANT'S SUBMITTAL

- A. Cover letter and Site Plan Application 4.1.2013, as updated by letters of April 23 and May 2 (see below)
- B. Development Description and Fire Department information
- C. Right, Title and Interest including Assignments and status of MTA easement
- D. Financial Capability letter
- E. Conformity with applicable Design Standards
- F. Traffic
 - 1. TMP Application and Request for Scoping meeting (extract) dated April 2013
 - 2. TMP Traffic Impact Study dated 4.23.2013 (Response to TMP Scoping meeting)
- G. Stormwater Reports
 - 1. Stormwater Management Plan (Extract)
 - 2. Erosion and Sedimentation Control Report (Extract)
 - 3. Inspection and Maintenance Manual for Stormwater Management and Related Stormwater Facilities
 - 4. Long Creek Individual Application for Post-construction discharge of Stormwater to the Long Creek (extract) 4.9.2013 and status e-mail dated 5.9.2013 (circulated separately).
- H. Utility and Capacity Letters
- I. Lighting information
- J. Construction Management Plan
- K. Neighborhood Meeting Certificate dated
- L. DeLuca Hoffman Response letter to comments 4.23.2013
- M. E-mail re farmstand 4.24.2013
- N. DeLuca Hoffman Response letter to comments 5.2.2013
- O. Comparison of impervious surface original April submission vs 5.2.2013 final revision

PLANS

- Plan 1 C-1.0 Cover Sheet
- Plan 2 C-1.1 General Notes and Legend
- Plan 3 Boundary Survey
- Plan 4 C-1.3 Existing conditions
- Plan 5 C-2.0 Site Layout Plan
- Plan 6 C-3.0 Grading and Drainage Plan
- Plan 7 C-4.0 Utility Plan
- Plan 8 C-5.0 Landscape Plan
- Plan 9 C-6.0 Erosion & Sediment Control Plan
- Plan 10 C-7.0 Photometric Plan
- Plan 11 C-8.0 Landscape Details
- Plan 12 C-8.1 Utility Details
- Plan 13 C-8.2 Miscellaneous Details
- Plan 14 C-8.3 Site Details
- Plan 15 C-8.4 Site Details
- Plan 16 C-8.5 Electrical and Lighting Details
- Plan 17 C-8.6 Erosion Control Details
- Plan 18 C-8.7 Erosion Control Details
- Plan 19 C-8.8 Erosion Control Details
- Plan 20 C-9.0 Stormwater Management: Channel Protection and Flooding Basin
- Plan 21 C-9.1 Stormwater Management: StormTreat Systems
- Plan 22 C-9.1 Stormwater Management: Underground Storage Details
- Plan 23 Predevelopment Watershed Plan
- Plan 24 Postdevelopment Watershed Plan
- Plan 25 A1 Exterior Elevations
- Plan 26 A2 Canopy Elevations