

1998-0037

263A-A-5

103a Brighton Ave.

Applebees Restaurant

Applebees, Inc.

**CITY OF PORTLAND, MAINE
DEVELOPMENT REVIEW APPLICATION
PLANNING DEPARTMENT PROCESSING FORM**

19980037
I. D. Number

Applebees International Inc
Applicant
4551 West 107th Street St 100, Overland Park, KA 66201
Applicant's Mailing Address
Bohler Engineering
Consultant/Agent
508-871-8400 **508-266-3600**
Applicant or Agent Daytime Telephone, Fax

5/1/98
Application Date
Applebees
Project Name/Description

1032 Brighton Ave
Address of Proposed Site
263-A-A-001
Assessor's Reference: Chart-Block-Lot

Proposed Development (check all that apply): New Building Building Addition Change Of Use Residential
 Office Retail Manufacturing Warehouse/Distribution Parking Lot Other (specify) **Restaurant**
5,000 sq. ft.

Proposed Building square Feet or # of Units Acreage of Site Zoning

Check Review Required:

- | | | | |
|--|---|--|--|
| <input checked="" type="checkbox"/> Site Plan
(major/minor) | <input type="checkbox"/> Subdivision
of lots _____ | <input type="checkbox"/> PAD Review | <input type="checkbox"/> 14-403 Streets Review |
| <input type="checkbox"/> Flood Hazard | <input type="checkbox"/> Shoreland | <input type="checkbox"/> Historic Preservation | <input type="checkbox"/> DEP Local Certification |
| <input type="checkbox"/> Zoning Conditional
Use (ZBA/PB) | <input type="checkbox"/> Zoning Variance | | <input type="checkbox"/> Other _____ |

Fees Paid: Site Plan **\$300.00** Subdivisio _____ Engineer Review **\$382.00** Date **9/23/98**

Planning Approval Status:

Reviewer **Kandice Talbot**

- Approved **Approved w/Conditions**
See Attached Denied

Approval Date **6/23/98** Approval Expiration **6/23/99** Extension to _____ Additional Sheets Attached

OK to Issue Building Permi **Kandice Talbot** **9/23/98**
signature date

Performance Guarantee **Required*** Not Required

* No building permit may be issued until a performance guarantee has been submitted as indicated below

<input checked="" type="checkbox"/> Performance Guarantee Accepted	8/28/98 date	\$65,247.50 amount	expiration date
<input checked="" type="checkbox"/> Inspection Fee Paid	9/23/98 date	\$1,109.21 amount	
<input type="checkbox"/> Building Permit Issue	date		
<input type="checkbox"/> Performance Guarantee Reduced	date	remaining balance	signature
<input type="checkbox"/> Temporary Certificate of Occupancy	date	<input type="checkbox"/> Conditions (See Attached)	
<input type="checkbox"/> Final Inspection	date	signature	
<input type="checkbox"/> Certificate Of Occupancy	date		
<input type="checkbox"/> Performance Guarantee Released	date	signature	
<input type="checkbox"/> Defect Guarantee Submitted	submitted date	amount	expiration date
<input type="checkbox"/> Defect Guarantee Released	date	signature	

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Site Plan (major/minor) Subdivision # of lots _____ PAD Review 14-403 Streets Review
 Flood Hazard Shoreland Historic Preservation DEP Local Certification
 Zoning Conditional Use (ZBA/PB) Zoning Variance Other _____

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DRC Approval Status:

Reviewer **Jim Wendel**

Approved Approved w/Conditions see attache Denied

Approval Date **6/23/98** Approval Expiration **6/23/99** Extension to _____ Additional Sheets Attached

Condition Compliance **Jim Wendel** **9/23/98**
signature date

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**CITY OF PORTLAND, MAINE
DEVELOPMENT REVIEW APPLICATION
PLANNING DEPARTMENT PROCESSING FORM
ADDENDUM**

19980037

I. D. Number

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5/1/98

Application Date

Applebees

Project Name/Description

1032 Brighton Ave

Address of Proposed Site

263-A-A-001

Assessor's Reference: Chart-Block-Lot

DRC Conditions of Approval

Planning Conditions of Approval

- that the applicant install a concrete sidewalk along Brighton Avenue from the westerly edge of the shopping center property to the signalized Brighton Avenue/Taft Avenue intersection and submit a pedestrian easement to the City.
- that the applicant submit a more detailed lighting plan for further staff review and approval.
- that the applicant submit a revised traffic circulation and pedestrian plan to the Planning Board.

Inspections Conditions of Approval

Fire Conditions of Approval

Application requires State Fire Marshal approval.

CITY OF PORTLAND, MAINE
MEMORANDUM

TO: Chair Carroll and Members of the Portland Planning Board
FROM: Kandice Talbot, Planner
DATE: May 12, 1998
RE: Applebee's Restaurant, 1032 Brighton Avenue

Referral by Pl. authority
accident data?
subdivision?
history of site?

Introduction

Applebee's International, Inc. has requested site plan approval for a 5,000 sq. ft. building to be located at the Pinetree Shopping Center on Brighton Avenue. The site is approximately 18 acres, and is zoned B-2.

The Applebee's Restaurant will be a new building located within the parking lot, along Brighton Avenue, and between the two existing entrances. There are twenty (20) other businesses in the Pinetree Shopping Center; which include, but are not limited to, Shaw's, Ames, Marden's, Jo-Ann Fabrics, and CVS. The overall site plan is include as Attachment 3.

As with the Candlewood Hotel on Congress Street, the Board may wish to review the entire site with regards to circulation, stormwater quality, and landscaping.

Access. Circulation

Because the Applebee's Restaurant will be located on Brighton Avenue, near Exit 8, and located within the Pinetree Shopping Center parking lot which is used by twenty other businesses; traffic and circulation are a major concern of City Staff. The driveway located west of the proposed building is where the majority of northbound traffic will exit the shopping center. Larry Ash, the Traffic Engineer, will be attending the meeting.

Access to the site is proposed via three existing shopping center driveways. Located west of the proposed building is the Brighton Avenue/Taft Avenue Shopping Center Driveway, which is a signalized intersection that prohibits westbound left-turn access. Located directly to the east of the proposed building is an unsignalized intersection that prohibits left-turn exiting movements. The third entrance is the Brighton Avenue/Rand Road signalized intersection that provides access to the Rand Road driveway.

As mentioned earlier, this parking lot is used by the patrons of twenty businesses. There are 1,080 parking spaces existing. The proposed building will eliminate 32 spaces, leaving a total of 1,048 parking spaces. Based on the overall businesses, 943 parking spaces are required by ordinance.

The site currently has granite curb and sidewalk along Brighton Avenue. The applicant is proposing to connect a five-foot concrete walk to the existing sidewalk, for pedestrians coming from Brighton Avenue. Also proposed is a painted crosswalk for pedestrians coming from the western part of the parking lot. It has

Lighting

been suggested to the applicant that another painted crosswalk be installed, connecting to the southern portion of the parking lot, since a large portion of vehicles exiting west on Brighton Avenue will have to travel through this area of the parking lot.

A traffic study has been submitted, and is included as Attachment 2. The Traffic Engineer is currently reviewing the study.

Utilities

The applicant proposed to tie into existing utility lines on Brighton Avenue. These utility lines include gas, sanitary sewer, water, electric, and telephone.

Drainage

The applicant is proposing to have runoff from the roof and the site flow to proposed drain inlets with clean-outs within the site. The northeasterly portion of the site will flow to a proposed drain which will connect to the existing storm sewer in Brighton Avenue. The remaining runoff will flow to drain inlets, which will then connect to the existing catch basin system within the parking lot.

The applicant should consider installing an oil-grit separator for water treatment. As mentioned earlier, the Board may wish to review the entire site in regards to water quality. Presently, there is no water quality treatment for this 1,048-space parking lot.

Landscaping

The landscape plan indicates a number of foundation plantings around the building, consisting mainly of junipers and rhododendrons. Also located around the building are a number of bushes. Staff is suggesting that the applicant plant street trees in the esplanade along Brighton Avenue. The City Arborist is currently reviewing the landscaping.

Building Design

The applicant is proposing a 5,000 sq. ft. restaurant which will seat approximately 198 people. At this time, the applicant has not submitted the building elevations, but they should be available at the meeting.

Attachments:

1. Vicinity Map
2. Traffic Study
3. Plans

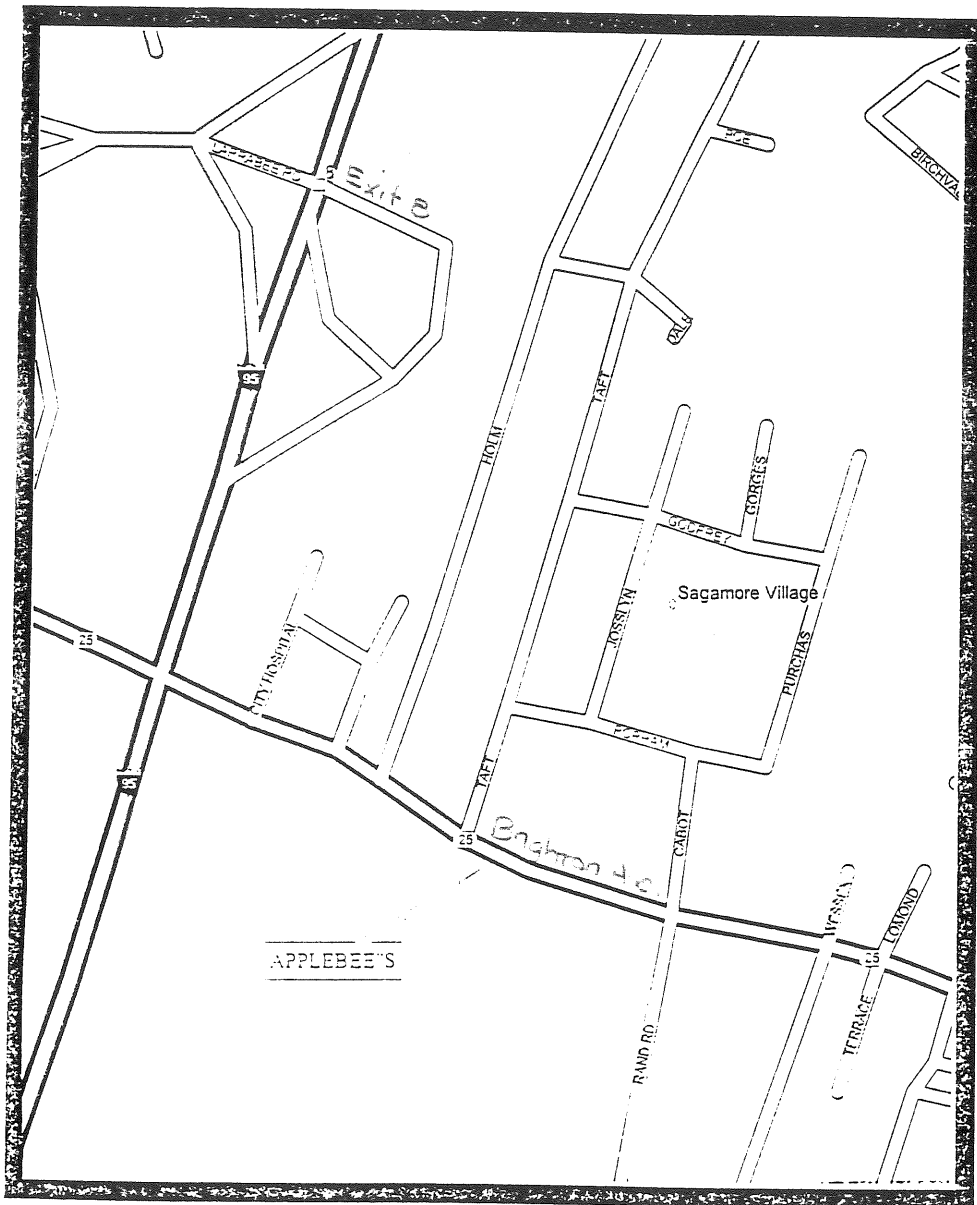


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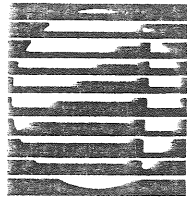
Site Location Map

Figure 1

Proposed Applebee's Restaurant
City of Portland
Maine

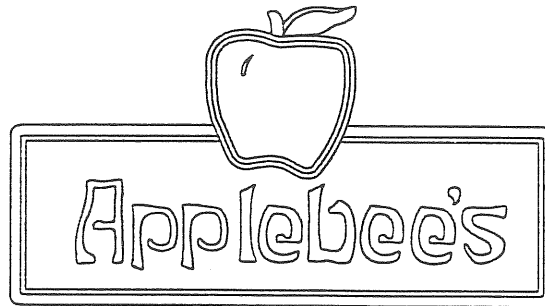


NOT TO SCALE

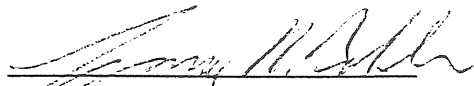


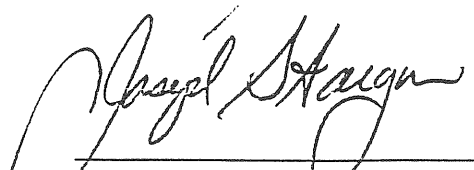
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TRAFFIC IMPACT ASSESSMENT
FOR
PROPOSED



Neighborhood Grill & Bar
CITY OF PORTLAND
MAINE


LUDWIG BOHLER, P.E.


JOSEPH J. STAIGAR, P.E.

May 5, 1998
PROJECT No. A98109

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INTRODUCTION

Atlantic Traffic & Design Engineers, Inc. (ATDE) has prepared this Traffic Impact Analysis to support the application by Applebee's Neighborhood Grill & Bar to construct a new restaurant on a pad location within the Pine Tree Shopping Center. The subject site is located along eastbound Brighton Avenue (Maine Highway 25) opposite Taft Avenue, in the City of Portland, Maine (Figure 1). The subject pad site is presently utilized for parking in the remote northwesterly corner of the Shopping Center.

The proposed Restaurant of approximately 5,000 square feet that will provide a total of 178 seating positions and for the purposed of this traffic assessment the number of seating positions have been rounded-up to 180. Access to the site is proposed via the existing Shopping Center access scheme that includes:

1. Brighton Avenue/Taft Avenue-Shopping Center Driveway signalized intersection that prohibits westbound left-turn access.
2. Brighton Avenue/Shopping Center (middle) Driveway unsignalized intersection that prohibits left-turn exiting movements.
3. Brighton Avenue/Rand Road signalized intersection that provides access to the Rand Avenue driveway.

This study identifies the increase in traffic movements along the adjacent roadway network which would occur as a result of the construction of the proposed Applebee's Restaurant, and identifies the overall impacts of the future "build" scenario.

This analysis includes the following information:

- A review of existing roadway and traffic conditions in the vicinity of the site, including roadway geometrics, traffic volumes and operations, roadway capacities, and nearby land use descriptions;
- Estimation of the volume of traffic expected to be generated by the proposed Restaurant;

- An analysis of future roadway capacities for the future “build” scenario;
- A review of the site plan focusing on access design and interior circulation characteristics, as well as the parking layout; and
- Recommendations and conclusions.



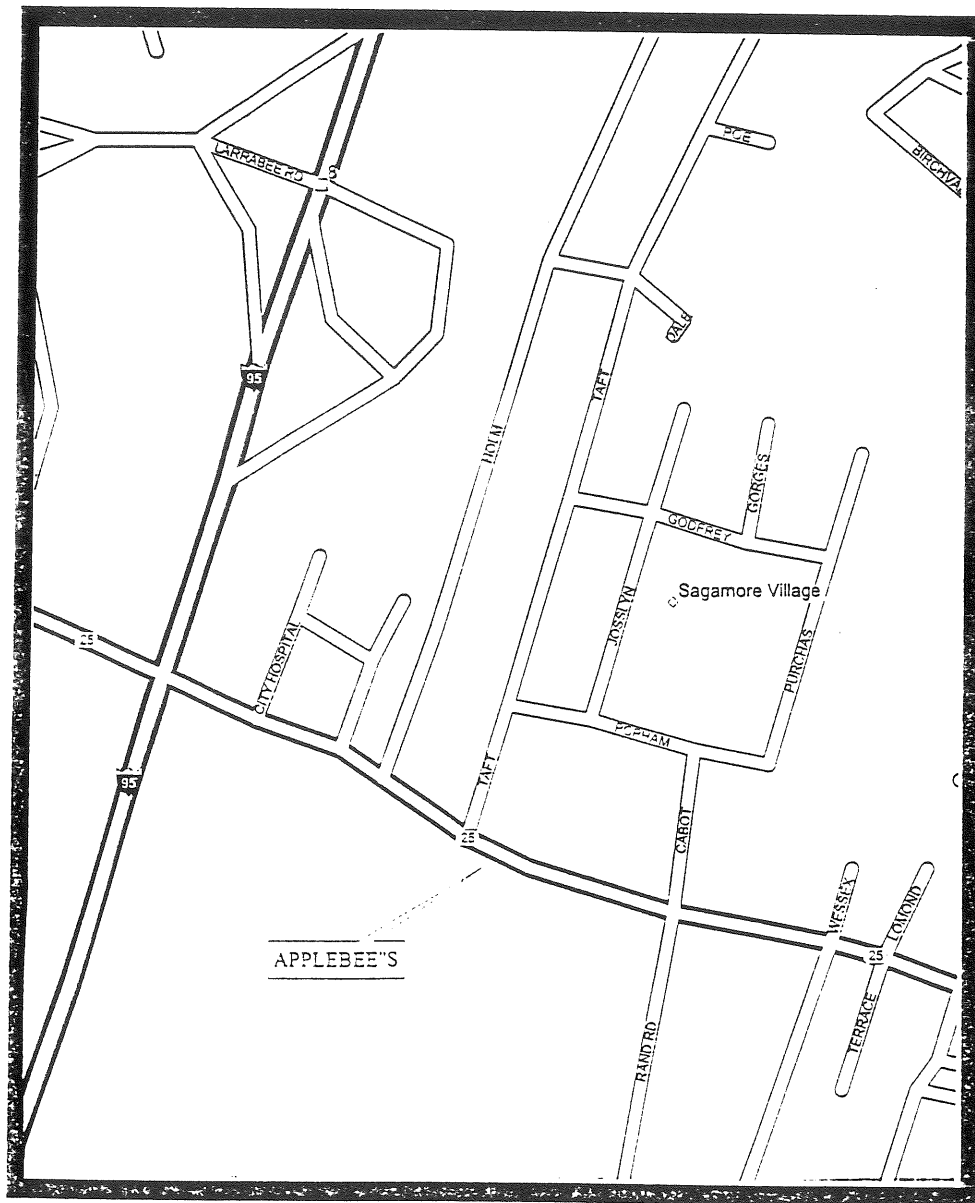
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Site Location Map

Figure 1

Proposed Applebee's Restaurant
City of Portland
Maine



NOT TO SCALE

EXISTING CONDITIONS

Existing Roadway Conditions

The pad site of the proposed Applebee's Restaurant is within the corner of the Pine Tree Shopping Center proximate to the Brighton Avenue/Taft Avenue intersection.

Brighton Avenue is an east/west roadway designated as Maine Route 25 and is under the jurisdiction of the State of Maine and the City of Portland. The roadway is characterized as an urban principal arterial that generally provides two lanes of travel in each direction. In the site vicinity, Brighton Avenue has a posted speed limit of 35 miles per hour.

Taft Avenue is a north/south local roadway with an assumed speed limit of 25 miles per hour. The Brighton Avenue/Taft Avenue intersection's southern leg serves as a Pine Tree Shopping Center direct access point. The intersection is controlled by a City traffic signal that prohibits westbound left-turning movements into the Shopping Center. The westbound approach provides two through lanes with the curb lane shared with right turns. The eastbound approach provides three lanes which are utilized as a left lane, a through lane and as a shared through/right turn lane. The northbound approach from the Shopping Center provides two lanes that are striped as a single left-turn lane and as a shared through/right lane. The southbound approach provides a single shared left/through/right lane.

The Brighton Avenue/Rand-Cabot Street signalized intersection is similar to the Taft Avenue intersection with the difference being that eastbound left-turns are permitted via a separate signal phase and signal arrow.

The two unsignalized Brighton Avenue driveways are configured as follows:

1. The westerly drive provides for channelized right-turn ingress, and a separate left turn ingress lane, as well as a right turn egress lane.
2. The easterly drive provides for right turn egress only.

Existing Traffic Volumes

To first examine the existing traffic conditions in the site vicinity, manual turning movement counts were conducted along Brighton Avenue at Taft Avenue, Rand Avenue, as well as the two site driveways along Brighton Avenue eastbound, in accordance with guidance from the City and the State traffic professionals. The purpose of conducting the traffic counts was to identify the appropriate peak periods of "typical" operation in the area. The counts were conducted during the weekday evening time period (4:00 p.m. to 7:00 p.m.) on Friday, May 1, 1998 to determine the peak hour.

Two-way peak hour traffic volumes are approximately 2,500 vehicles during the evening peak hour with a fairly even east/west distribution. Please refer to Figure 2 for the evening peak hour volumes.



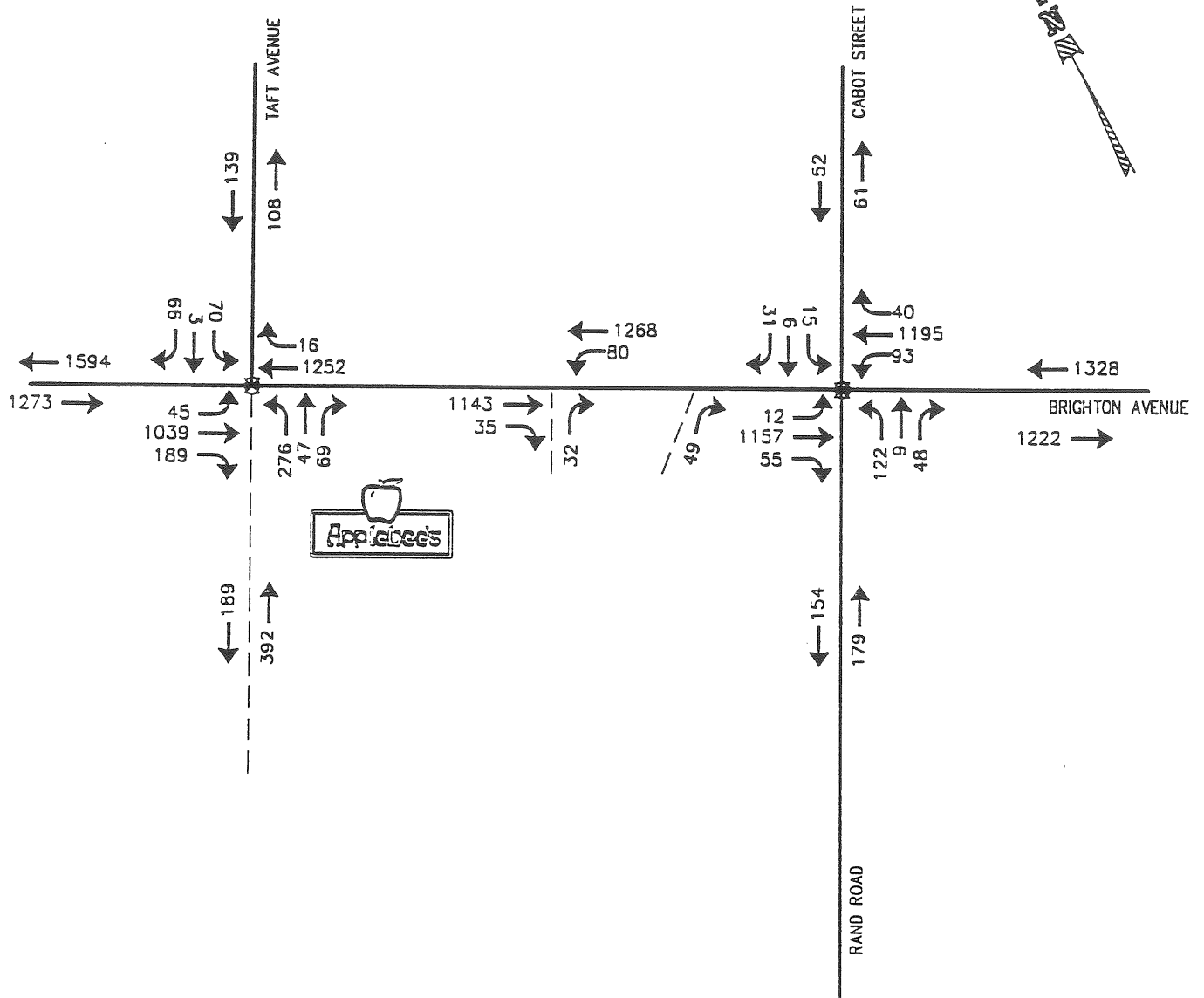
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Existing Traffic Volumes Evening Peak Hour (4:15-5:15 P.M.)

Figure 2

Applebee's Restaurant
Brighton Avenue (Route 25) @ Pine Tree Shopping Center
Portland, Maine



LEGEND

- = EXISTING TRAFFIC SIGNAL
- = EXISTING ROADWAY
- = EXISTING DRIVEWAY

Analysis of Existing Traffic Volumes

A volume/capacity analysis¹ was performed for the study intersections along Brighton Avenue at Taft Avenue, Rand Avenue, as well as the two site driveways for existing 1998 conditions utilizing the latest edition of the Highway Capacity Software (HCS).

As shown on Figure 3, the two study signalized intersections of Brighton Avenue operate at favorable "B" overall Levels of Service during the peak hour evening consistent with field observations. Movements at the two site driveways along Brighton Avenue operate at an acceptable unsignalized Level of Service "c".

¹ See Technical Appendix for Volume/Capacity analyses and Level of Service description.



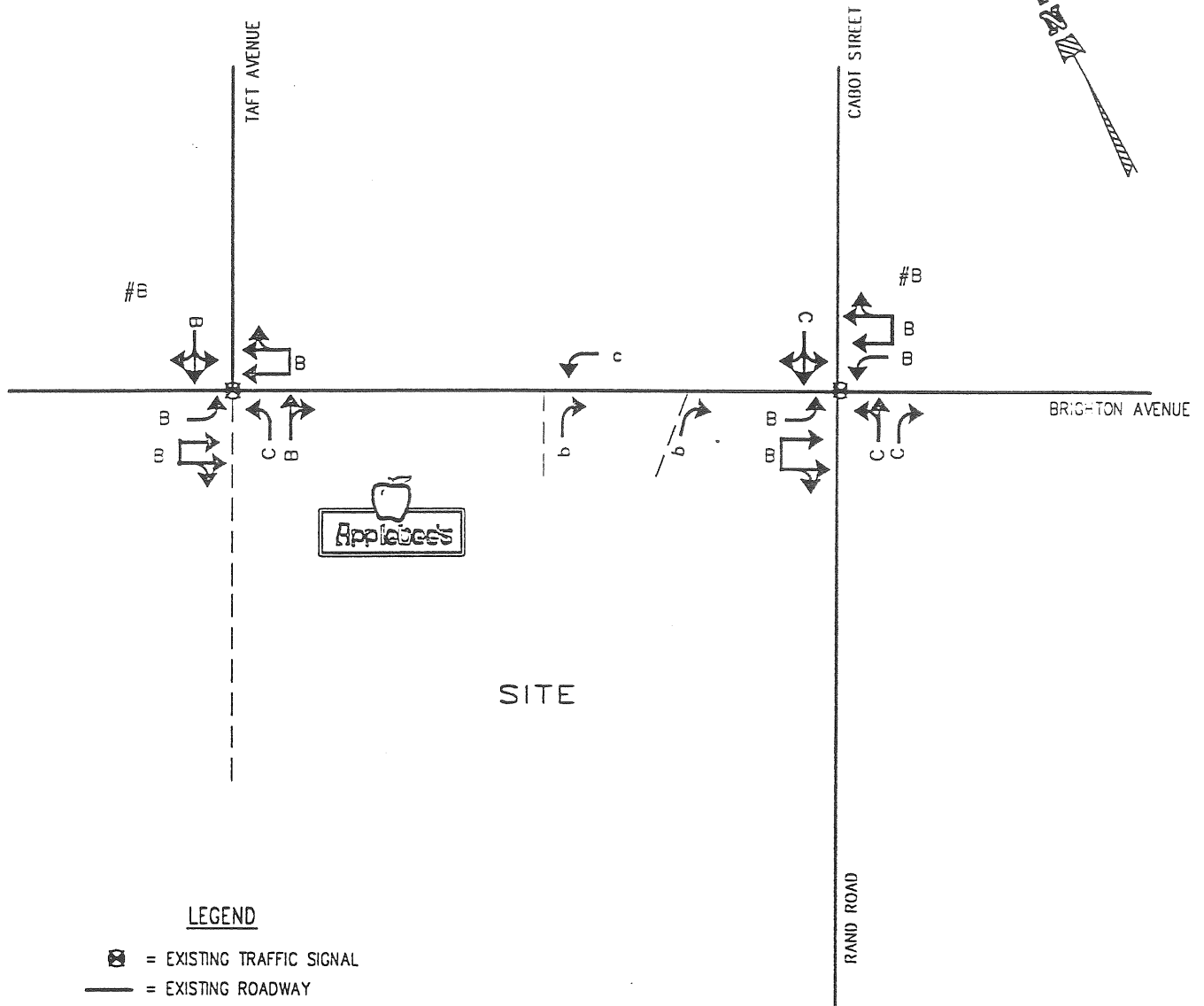
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Existing Levels of Service Evening Peak Hour (4:15-5:15 P.M.)

Figure 3

Applebee's Restaurant
Brighton Avenue (Route 25) @ Pine Tree Shopping Center
Portland, Maine



LEGEND

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-  = EXISTING ROADWAY
-  = EXISTING DRIVEWAY
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TRAFFIC CHARACTERISTICS OF THE PROPOSED USE

To identify the future traffic impact, the traffic characteristics of the proposed Applebee's Restaurant must first be determined. In addition, potential traffic increases resulting from continued changes in driver demographics must also be considered for an accurate assessment of future traffic conditions. For the purposes of this analysis, complete construction of the Applebee's Restaurant has been assumed to occur by the end of 1998.

In assessing the future traffic impact of the proposed restaurants, the following issues must be addressed:

- How much additional traffic will the proposed restaurant generate (trip generation)?
- What will be the resulting net increase in traffic volumes on the area roadway system (traffic assignment)?
- What will be the effect of overall operating conditions along Brighton Avenue, and at the site driveway intersections (traffic impact)?

Trip Generation

Trip generation characteristics of any use are generally related to type, size, and character of the use. Estimates of peak hourly and daily traffic demands for the proposed restaurant were prepared using research as compiled by the Institute of Transportation Engineers (ITE) in Trip Generation, 6th Edition 1997. Using ITE Land Use 832 "High Turnover, Sit Down Restaurant" trip generation calculations were conservatively prepared based on the proposed 180 seating positions. The High Turnover Restaurant category was used for the Applebee's Restaurant based upon consultation with the Maine Department of Transportation and provides a basis for a conservative analysis.

Trip generation estimates for the evening peak hour of the generator have been used for this analysis. As discussed previously, evening "street" peak hour traffic volumes have been collected for this analysis. The weekday evening peak hour of the generator for the Restaurant development is expected to occur after the "street" peak hour. However, to present a "worst-case", the evening "street" peak hour traffic volumes will be analyzed coincidental with the evening peak hour of the generator. Table I displays the ITE trip generation estimates for the Applebee's Restaurant.

**TABLE I
TRIP GENERATION
APPLEBEE'S RESTAURANT 180 SEATS**

TIME PERIOD	ENTER	EXIT	TOTAL
Evening Peak Hour	81	67	148
Saturday Peak Hour	92	67	159

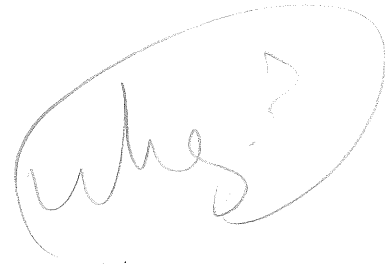
It is furthermore accepted that a certain percentage of traffic attracted to a restaurant generally relates to the volume of traffic passing by the site. Specifically, a certain percentage of restaurant traffic is comprised of trips diverted from the adjacent passing travel stream which, upon exiting the site, continues along the original trip path. Stops are made to the restaurant en route to some other destination.

As a result, such traffic should not be considered "new" to the area, but rather is already passing by the site on the adjacent public streets. Such trips are known as "pass-by" trips, which are made as a matter of convenience and are linked to some other primary purpose trip.

However, to conduct a conservative analysis no, "pass-by" trip generation credit has been taken. Therefore, the Restaurant site traffic has been assumed to be 100% "new" traffic to the area.

Trip Distribution

The directional distribution of new traffic approaching the site during the peak hours was based upon a review of the existing distribution pattern of street traffic in the vicinity of the site, as well as the existing orientation into the Pine Tree Shopping Center. The distribution pattern for new site traffic is projected to be 70% eastbound to/from the site along Brighton Avenue with the remaining 30% to/from Brighton Avenue westbound.

A handwritten signature, possibly 'Whe?', is enclosed within a hand-drawn oval. The signature is written in a cursive style.

1998 FUTURE "BUILD" TRAFFIC CONDITIONS

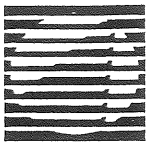
1998 Future "Build" Traffic Volumes

It is recognized that traffic routinely fluctuates along various State and County roadways, as well as local streets, and varies not only day-to-day, but on a monthly and yearly basis. It is expected that as development continues in the vicinity of the site, traffic may increase (though nominally) on a regular basis. As previously mentioned, it is expected that the construction of the restaurant would be completed by the end of 1998. As a result, existing traffic volumes were conservatively increased by 2.0% percent to reflect potential background traffic growth. To develop the 1998 future "build" traffic volumes, the Restaurant trip generation was added to the 1998 future baseline traffic volumes. The resulting 1998 future "build" traffic volumes are shown on Figure 4.

Analysis of 1998 Future "Build" Traffic Volumes

A volume/capacity analysis was again performed for the study intersections along Brighton Avenue at the four study locations. The only appreciable effect of the proposal is a change for the northbound left-turning movement at the Brighton Avenue/Taft Avenue intersection from Level of Service "C" to "D" that reflects an 8 second delay increase. The overall signalized Level of Service remains unchanged at "B" at both signalized intersections. The minor degradation in Level of Service is to the site driveway, and not to the public roadways, which remain unchanged.

A Saturday peak hour analysis was performed utilizing the ITE trip generation for the Saturday peak hour of the generator and the Friday weekday peak hour volumes. This is deemed a very conservative scenario, and was performed to determine that no significant impact will result under any circumstances. The results of the Saturday peak hour are the same as that for the Friday "build" analysis

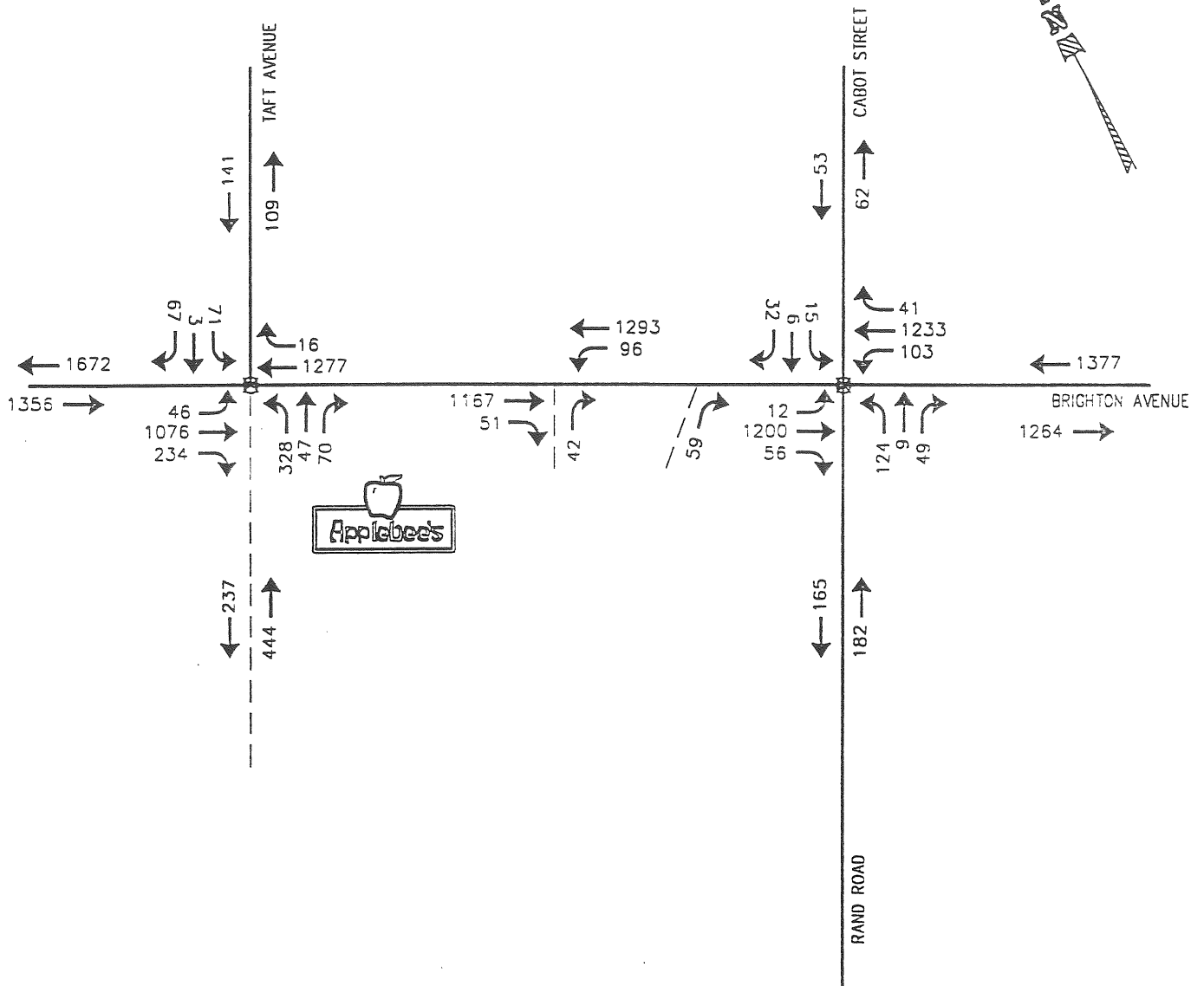


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Future "Build" Traffic Volumes Evening Peak Hour

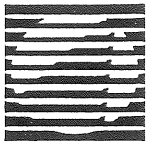
Figure 4

Applebee's Restaurant
Brighton Avenue (Route 25) @ Pine Tree Shopping Center
Portland, Maine



LEGEND

-  = EXISTING TRAFFIC SIGNAL
-  = EXISTING ROADWAY
-  = EXISTING DRIVEWAY

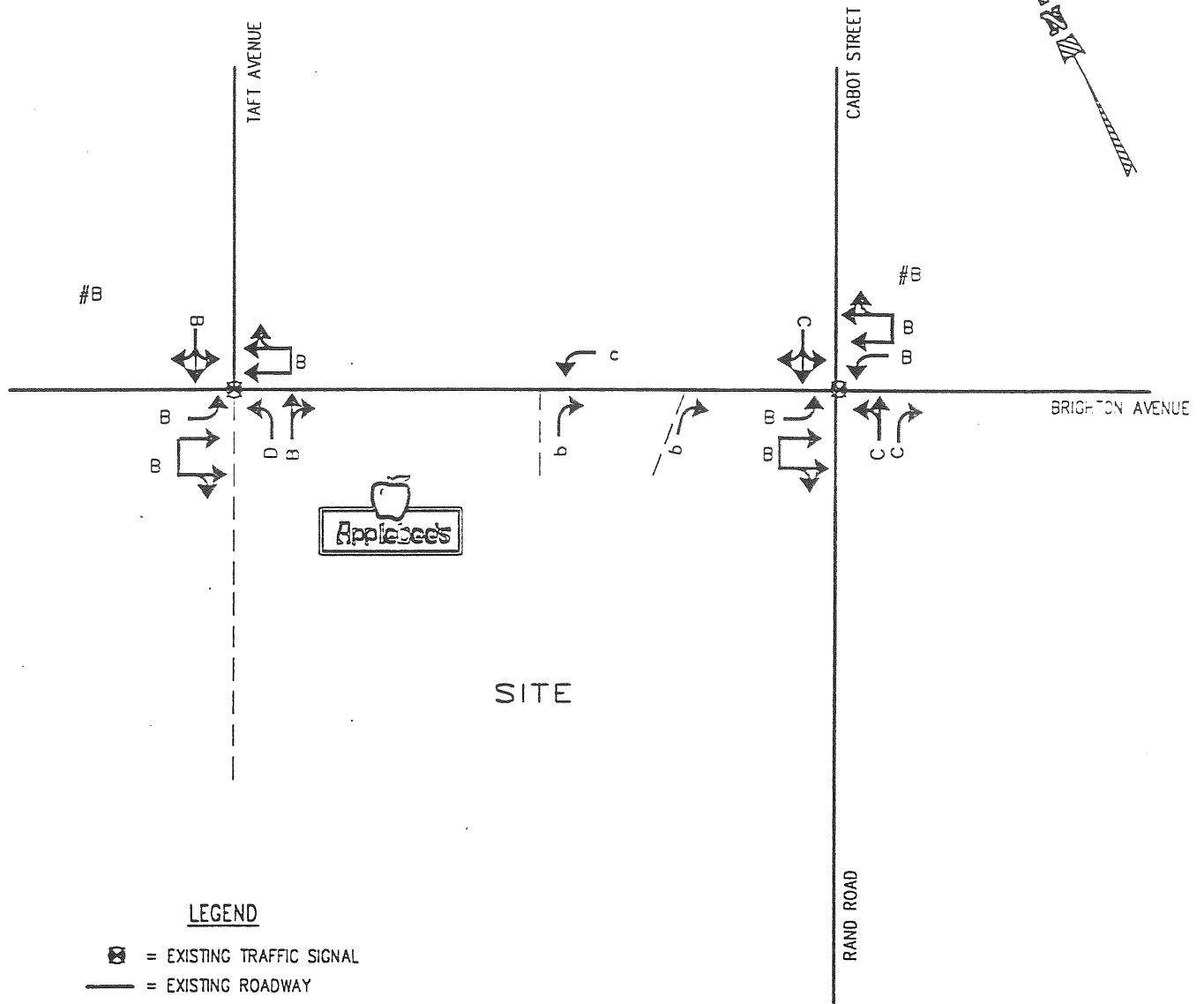


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Future "Build" Levels of Service Evening Peak Hour

Figure 5

Applebee's Restaurant
Brighton Avenue (Route 25) @ Pine Tree Shopping Center
Portland, Maine



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-  = EXISTING ROADWAY
-  = EXISTING DRIVEWAY
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- B = SIGNALIZED LEVEL OF SERVICE
- b = UNSIGNALIZED LEVEL OF SERVICE

SITE ACCESS AND CIRCULATION

A review was made of the Preliminary Plan prepared by Bohler Engineering, Inc., dated April 8, 1998. In completing this review, particular attention has been focused on the site access and circulation scheme, as well as the parking supply and orientation.

The following items address on-site design characteristics:

- Access to the proposed Applebee's Restaurant will be provided via the existing access scheme to the Pine Tree Shopping Center. As previously discussed and summarized, the four Shopping Center access points will provide efficient access to the proposed pad site.
- With respect to the parking supply at the Pine Tree Center, approximately 40 spaces will be removed to accommodate the proposed Restaurant and parking lot improvements. As the nearest removed parking space is approximately 260 feet from the existing shopping facilities, the loss of these typically low-turnover spaces will not greatly impact the overall Shopping Center parking facilities.

dr

CONCLUSIONS

This conservative analysis has shown that there is sufficient capacity along Brighton Avenue to accommodate the traffic that will be generated by the proposed Applebee's Restaurant. As a result, the overall impact on the roadway system during the typical peak hours will be minimal. The Site Plan has been prepared consistent with accepted traffic engineering design standards, which will adequately service typical demands.

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**CITY OF PORTLAND, MAINE
MEMORANDUM**

TO: Chair Carroll and Members of the Portland Planning Board
FROM: Kandice Talbot, Planner
DATE: July 28, 1998
RE: Communication: Applebee's Restaurant, 1032 Brighton Avenue

As the Board may recall, on June 23rd, the Planning Board approved the Applebee's project with conditions. One of the conditions was that the applicant submit a revised traffic circulation and pedestrian plan to the Planning Board. Net Properties Management, Inc. has submitted to staff two solutions to the traffic circulation. Before going to the Planning Board on August 11th, they would like to get some feedback from the Planning Board.

Attached are site plans showing two different schemes. The first scheme, by Dubois & King, shows the center island being moved to the east, thus eliminating the exit aisle right in front of Applebee's. This also creates one additional ingress and egress area from the westerly parking area, which will allow patrons from the Marden's parking lot area to exit without having to go down to the front of the Ame's building.

The second scheme creates an egress lane separate from the Applebee's parking area. However, this scheme still allows traffic to exit westbound onto Brighton Avenue in front of the Applebee's Restaurant. This scheme also allows patrons from the Marden's parking lot area to exit without having to go down to the front of the Ame's building.

As mentioned above, Net Properties is looking for some feedback from the Planning Board. Attachment 1 is the previously submitted site plan, Attachment 2 is the DuBois & King scheme and Attachment 3 is the Applebee's Conceptual Plan.

Attachments:

1. Previous Site Plan
2. Dubois & King Site Plan
3. Applebee's Conceptual Plan



NET PROPERTIES MANAGEMENT, INC.

Corporate Office: 535 Boylston Street, Boston, Massachusetts 02116-3766

Telephone: (617) 247-2200 • Fax: (617) 266-0885 (617) 267-4557

VIA UPS NEXT DAY

September 22, 1998

Mr. Alexander Jaegerman
Chief Planning
City of Portland
City Hall
389 Congress Street, 4th Floor
Portland, ME 04101

Re: Pine Tree Shopping Center: Site Improvement to be constructed by Net Realty Holding Trust in connection with construction of Applebee's Restaurant

Dear Mr. Jaegerman:

Pursuant to my letter to you of September 21, 1998, enclosed herewith please find the Cost Estimate of Improvements to be covered by Performance Guarantee, which was inadvertently omitted from my letter. Please feel free to contact me if you should have any questions concerning the enclosure.

Sincerely,

Edward W. Valanzola
Associate General Counsel

/kmk
enclosure

LGL MA LZ 29-30595 Jaegerman 09-21-98

CITY OF PORTLAND, MAINE

PLANNING BOARD

John H. Carroll, Chair
Jaimey Caron, Vice Chair
Kenneth M. Cole III
Cyrus Y. Hagge
Deborah Krichels
Erin Rodriguez
Mark Malone

August 8, 1998

Steve DeCoursey
Bohler Engineering
9 Otis Street
Westborough, MA 01581

RE: 1032 Brighton Avenue, Applebee's Restaurant

Dear Mr. DeCoursey:

On June 23, 1998 the Portland Planning Board voted 5-0 (Krichels, Hagge absent) to approve the site plan for Applebee's Restaurant located at 1032 Brighton Avenue. The approval was granted for the project with the following condition(s):

- i. that the applicant install a concrete sidewalk along Brighton Avenue from the westerly edge of the shopping center property to the signalized Brighton Avenue/Taft Avenue intersection and submit a pedestrian easement to the City.
- ii. that the applicant submit a more detailed lighting plan for further staff review and approval.
- iii. that the applicant submit a revised traffic circulation and pedestrian plan to the Planning Board.

The approval is based on the submitted site plan and the findings related to site plan review standards as contained in Planning Report #24-98 and memo dated June 23, 1998, which is attached.

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

1. A performance guarantee covering the site improvements as well as an inspection fee payment of 1.7% of the guarantee amount and 7 final sets of plans must be submitted to and approved by the Planning Division and Public Works prior to the release of the building permit. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval.
2. 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.

CITY OF PORTLAND, MAINE
PLANNING BOARD

John H. Carroll, Chair
Jaimey Caron, Vice Chair
Kenneth M. Cole III
Cyrus Y. Hagge
Deborah Krichels
Erin Rodriguez
Mark Malone

August 31, 1998

Steve DeCoursey
Bohler Engineering
9 Otis Street
Westborough, MA 01581

RE: 1032 Brighton Avenue, Applebee's Restaurant

Dear Mr. DeCoursey:

On August 11, 1998 the Portland Planning Board voted 5-0 (Hagge abstaining; Malone absent) to approve the revised traffic circulation and pedestrian plan for the Pinetree Shopping Center Parking lot.

The approval is based on the submitted site plan and the findings related to site plan review standards as contained in the Planning Board Memo dated August 11, 1998, which is attached.

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

1. A performance guarantee covering the site improvements as well as an inspection fee payment of 1.7% of the guarantee amount and 7 final sets of plans must be submitted to and approved by the Planning Division and Public Works prior to the release of the building permit. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval.
2. 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.
3. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
4. Prior to construction, a preconstruction meeting shall be held at the project site with the contractor, development review coordinator, Public Work'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 preconstruction meeting.



CITY OF PORTLAND

November 12, 1999

Mr. Robert C. Rechner
Heritage Realty Management, Inc.
535 Boylston Street
Boston, MA 02116-3766

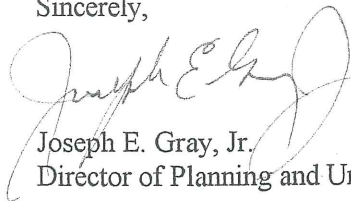
RE: Pinetree Shopping Center, Brighton Avenue, Modification to Entrance Drive

Dear Mr. Rechner:

This letter is to confirm the revision to the approved site plan of the Pinetree Shopping Center project located at Brighton Avenue. The approved revision includes modification to the entrance drive. The revised plan has been reviewed and approved by the project review staff including representatives of the Planning, Public Works, Building Inspections, Fire and Parks Departments.

If you have any questions regarding the revision please contact the planning staff at 874-8901.

Sincerely,



Joseph E. Gray, Jr.
Director of Planning and Urban Development

cc: Alexander Jaegerman, Chief Planner
✓ Kandice Talbot, Planner
P. Samuel Hoffses, Building Inspector
Jeff Tarling, City Arborist
William Bray, Director of Public Works
Tony Lombardo, Project Engineer
Lt. Gaylen McDougall, Fire Prevention
Penny Littell, Associate Corporation Counsel
Inspection Department
Development Review Coordinator
Lee Urban, Director of Economic Development
Susan Doughty, Assessor's Office
Approval Letter File

O:\PLANDEVRE\VW\BRIG1032\SPREVIS.WPD



CITY OF PORTLAND

June 8, 1998

Mr. Stephen P. DeCoursey, P.E.
Bohler Engineering, P.C.
9 Otis Street
Westborough MA 01581

RE: Sanitary Sewer Capacity to Handle Anticipated Wastewater Flows from the Proposed Applebee's Restaurant, at the Pinetree Plaza, Outer Brighton Avenue.

Dear Mr. DeCoursey:

The existing twelve inch diameter vitrified clay sanitary sewer pipe located in Brighton Avenue, and the sewage treatment facilities, in the City of Portland, have adequate capacity to transport and treat the anticipated wastewater flows of 9,210 gpd, from your proposed restaurant, to be located at 1068-1076 ± Brighton Avenue, City of Portland.

Proposed 198 seats, at 45 gpd per seat	=	8,910 GPD
Proposed 20 employees, at 15 gpd per employee	=	300 GPD
Total Proposed Wastewater Flows for this Project	=	9,210 GPD

If I can be of further assistance, please call me at 874-8843.

Sincerely,
CITY OF PORTLAND

Frank Brancely
Frank J. Brancely, B.A., M.A.
Senior Engineering Technician

FJB:jw

pc: Joseph E. Gray, Director, Department of Planning & Urban Development, City of Portland
Kandi Talbot, Planner, Department of Planning & Urban Development, City of Portland
Katherine A. Staples, P.E., City Engineer, City of Portland
William B. Goodwin, P.E., Environmental Projects Engineer, City of Portland
Anthony Lombardo, P.E., Project Engineer, City of Portland
desk file

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Engineering

Planning & Urban Development



Joseph E. Gray Jr.
Director

CITY OF PORTLAND

September 24, 1998


Mr. Gary L. Fischer
Sr. Site Development Manager
Applebee's International, Inc.
4551 W. 107th Street, Suite 100
Overland Park, Kansas 66207

RE: Applebee's Neighborhood Grill & Bar, 1032 Brighton Avenue

Dear Mr. Fischer:

Completion of site work associated with the revised traffic and circulation plan submitted by Net Properties will not be necessary for Applebee's to obtain a Certificate of Occupancy. If you have any questions, please do not hesitate to contact Kandice Talbot at 874-8901.

Sincerely,


Alexander Jaegerman
Chief Planner

cc: Kandice Talbot, Planner
Jim Wendel, Development Review Coordinator

O:\PLANDEVRE\VWBRIG1032\LETTERS\FISCHER.WPD



NET PROPERTIES MANAGEMENT, INC.

Corporate Office: 535 Boylston Street, Boston, Massachusetts 02116-3766

Telephone: (617) 247-2200 • Fax: (617) 266-0885 (617) 267-4557

October 22, 1998

Ms. Kandice Talbot
Planner
City of Portland
Planning Department
City Hall
389 Congress Street, 4th Floor
Portland, ME 04101

Re: Inspection Fee due in connection with site improvements at Pine Tree
Shopping Center; Portland, ME

Dear Kandi:

Enclosed please find our check in the amount of \$1,530.00 representing payment of the inspection fee due in connection with the work to be performed at the Pine Tree Shopping Center.

Sincerely,

Louis C. Zicht




trw
enclosure

REFERENCE NUMBER	DATE	DESCRIPTION	NET PAYABLE
102298	10/21/98	FEE DUE PORTLAND PLANNING	1530.00
TOTAL			1530.00

NET REALTY HOLDING TRUST - OPERATING ACCOUNT

NET PROPERTIES MANAGEMENT, INC.
 535 BOYLSTON ST. BOSTON, MA 02116
 PLEASE DETACH CHECK BEFORE DEPOSITING

064691

NET REALTY HOLDING TRUST		<small>5-39</small>
- OPERATING ACCOUNT -		<small>110</small>
NET PROPERTIES MANAGEMENT, INC.		064691
535 BOYLSTON ST., BOSTON, MASS. 02116		
 BankBoston, N.A. Boston, MA	<small>VENDOR NO.</small> 49509	<small>DATE</small> 10/22/98
	<small>CHECK NO.</small> 064691	<small>AMOUNT</small> ****1530.00
PAY	CITY OF PORTLAND	
<small>TO THE ORDER OF</small>	00000	
	 <small>AUTHORIZED SIGNATURE</small>	
	 <small>AUTHORIZED SIGNATURE</small>	

⑈064691⑈ ⑆011000390⑆ 223 85372⑈

Department of Planning and Urban Development
 SUBDIVISION/SITE DEVELOPMENT

COST ESTIMATE OF IMPROVEMENTS TO BE COVERED BY PERFORMANCE GUARANTEE

Date 7/21/98

Name of Project Applebees RESTAURANT

Address/Location PINE TREE PLAZA

Developer APPLEBEES INTERNATIONAL, INC / NET PROPERTIES.

Form of Performance Guarantee _____

Type of Development: _____ Subdivision X Site Plan (Major/Minor)

TO BE FILLED OUT BY APPLICANT:

Item	PUBLIC			PRIVATE		
	Quantity	Unit Cost	Subtotal	Quantity	Unit Cost	Subtotal
1. STREET SIDEWALK						
Road	0		0	675 SY	15/SY	10,125
Granite Curbing	0		0	0		0
Sidewalks	1 LS	20,000	20,000	1850 SF	5.00/SF	9,250
Esplanades	0		0	0		0
Monuments	0		0	0		0
Street Lighting	0		0	0		0
Other	0		0	1 LS	5000	5000
2. SANITARY SEWER						
Manholes	0		0	0		0
Piping	0		0	135 LF	3.50/LF	472.50
Connections	0		0	1 EA	500	500
Other	0		0	0		0
3. STORM DRAINAGE						
Manholes	0		0	0		0
Catchbasins	0		0	1 EA	1500	1500
Piping	0		0	200 LF	10/LF	2000
Detention Basin	0		0	0		0
Other	0		0	0		0
4. SITE LIGHTING	0		0	1 EA	1000/EA	1,000
5. EROSION CONTROL	0		0	1 LS	1000	1000
6. RECREATION AND OPEN SPACE AMENITIES	0		0	0		0

Item	PUBLIC			PRIVATE		
	Quantity	Unit Cost	Subtotal	Quantity	Unit Cost	Subtotal
7. LANDSCAPING (Attach breakdown of plant materials, quantities, and unit costs)	<u>0</u>	<u></u>	<u>0</u>	<u>1 LS</u>	<u>30,000</u>	<u>30,000</u>
8. MISCELLANEOUS	<u>0</u>	<u></u>	<u>0</u>	<u>1 LS</u>	<u>5,000</u>	<u>5,000</u>
TOTAL:	<u></u>	<u></u>	<u></u>	<u></u>	<u></u>	<u></u>
GRAND TOTAL:	<u></u>	<u></u>	<u>\$20,000</u>	<u></u>	<u></u>	<u>\$65,847.50</u>

INSPECTION FEE (to be filled out by City)

	PUBLIC	PRIVATE	TOTAL
A: 1.7% of totals:	<u>340.00</u>	<u>119.41</u>	<u>459.41</u>
or			
B: Alternative Assessment:	<u></u>	<u></u>	<u>1109.21</u>
Assessed by:	<u>(name)</u>	<u>(name)</u>	<u></u>

PERFORMANCE BOND

Bond # U2894016

KNOW ALL MEN BY THESE PRESENTS, That we Applebee's Northeast, Inc., as Principal, and United Pacific Insurance Company, a corporation organized under the laws of the State of Pennsylvania, and duly authorized to transact business in the State of Maine, as Surety, are held and firmly bound unto:

THE CITY OF PORTLAND, MAINE

as Obligee, in the sum of Sixty Five Thousand Two Hundred Forty Seven and 50/100---Dollars \$65,247.50, for the payment whereof well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

SIGNED, sealed, and dated this 20th day of August, 1998.

WHEREAS, said Principal has entered into a certain agreement with the Obligee for

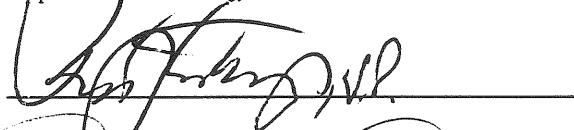
Site improvement in connection with construction of Applebee's Neighborhood Grill & Bar, Portland Maine.

NOW, THEREFORE, the condition of the foregoing obligation is such that if the Principal shall indemnify the Obligee for all loss that the Obligee may sustain by reason of the Principal's failure to fulfill all improvements as required by Section 14-499 and Article III of Chapter 25 of the City of Portland Land Use Code, then this obligation shall be void, otherwise, it shall remain in full force and effect.

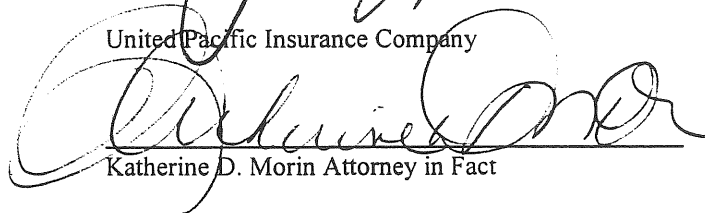
IN NO EVENT, shall the Surety be liable for a greater sum than the penalty of this Bond or subject to any suit, action or other proceeding thereon that is instituted later than one year from

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this 21st day of August, 1998.

Applebee's Northeast, Inc.



United Pacific Insurance Company



Katherine D. Morin Attorney in Fact

ADMINISTRATIVE OFFICE, PHILADELPHIA, PENNSYLVANIA

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that RELIANCE SURETY COMPANY is a corporation duly organized under the laws of the State of Delaware, and that RELIANCE INSURANCE COMPANY and UNITED PACIFIC INSURANCE COMPANY, are corporations duly organized under the laws of the Commonwealth of Pennsylvania and that RELIANCE NATIONAL INDEMNITY COMPANY is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called "the Companies") and that the Companies by virtue of signature and seals do hereby make, constitute and appoint Kathy M. Loftus, Toni P. O'Rear, Katherine D. Morin, Debra J. Scarborough., of Kansas City, Missouri their true and lawful Attorney(s)-in-Fact, to make, execute, seal and deliver for and on their behalf, and as their act and deed any and all bonds and undertakings of suretyship and to bind the Companies thereby as fully and to the same extent as if such bonds and undertakings and other writings obligatory in the nature thereof were signed by an Executive Officer of the Companies and sealed and attested by one other of such officers, and hereby ratifies and confirms all that their said Attorney(s)-in-Fact may do in pursuance hereof.

This Power of Attorney is granted under and by the authority of Article VII of the By-Laws of RELIANCE SURETY COMPANY, RELIANCE INSURANCE COMPANY, UNITED PACIFIC INSURANCE COMPANY, and RELIANCE NATIONAL INDEMNITY COMPANY which provisions are now in full force and effect, reading as follows:

ARTICLE VII - EXECUTION OF BONDS AND UNDERTAKINGS

1. The Board of Directors, the President, the Chairman of the Board, any Senior Vice President, any Vice President or Assistant Vice President or other officer designated by the Board of Directors shall have power and authority to (a) appoint Attorney(s)-in-Fact and to authorize them to execute on behalf of the Company, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, and (b) to remove any such Attorney(s)-in-Fact at any time and revoke the power and authority given to them.

2. Attorney(s)-in-Fact shall have power and authority, subject to the terms and limitations of the Power of Attorney issued to them, to execute deliver on behalf of the Company, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof. The corporate seal is not necessary for the validity of any bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof.

3. Attorney(s)-in-Fact shall have power and authority to execute affidavits required to be attached to bonds, recognizances, contracts of indemnity or other conditional or obligatory undertakings and they shall also have power and authority to certify the financial statement of the Company and to copies of the By-Laws of the Company or any article or section thereof.

This Power of Attorney is signed and sealed by facsimile under and by authority of the following resolution adopted by the Executive and Finance Committees of the Boards of Directors of Reliance Insurance Company, United Pacific Insurance Company and Reliance National Indemnity Company by Unanimous Consent dated as of February 28, 1994 and by the Executive and Financial Committee of the Board of Directors of Reliance Surety Company by Unanimous Consent dated as of March 31, 1994.

"Resolved that the signatures of such directors and officers and the seal of the Company may be affixed to any such Power of Attorney or any certificates relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company and any such Power so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company, in the future with respect to any bond or undertaking to which it is attached."

IN WITNESS WHEREOF, the Companies have caused these presents to be signed and their corporate seals to be hereto affixed, this February 1, 1998.



RELIANCE SURETY COMPANY
RELIANCE INSURANCE COMPANY
UNITED PACIFIC INSURANCE COMPANY
RELIANCE NATIONAL INDEMNITY COMPANY

David T. Akers

STATE OF Pennsylvania
COUNTY OF Philadelphia

} ss.

On this, February 1, 1998, before me, Valencia Wortham, personally appeared David T. Akers, who acknowledged himself to be the Senior Vice President of the Reliance Surety Company, and the Vice President of Reliance Insurance Company, United Pacific Insurance Company, and Reliance National Indemnity Company and that as such, being authorized to do so, executed the foregoing instrument for the purpose therein contained by signing the name of the corporation by himself as its duly authorized officer.

In witness whereof, I hereunto set my hand and official seal.

Notarial Seal
Valencia Wortham, Notary Public
Philadelphia, Philadelphia County
My Commission Expires Nov. 18, 2000



Valencia Wortham

Notary Public in and for the State of Pennsylvania
Residing at Philadelphia

I, Anita Zippert, Secretary of RELIANCE SURETY COMPANY, RELIANCE INSURANCE COMPANY, UNITED PACIFIC INSURANCE COMPANY, and RELIANCE NATIONAL INDEMNITY COMPANY do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this AUG 21 1998 day of 19

AUG 21 1998

day of 19

Anita Zippert

Secretary



Department of Planning and Urban Development
SUBDIVISION/SITE DEVELOPMENT

COST ESTIMATE OF IMPROVEMENTS TO BE COVERED BY PERFORMANCE GUARANTEE

Date 9/8/98

Name of Project Pine Tree Shopping Center
 Address/Location Brighton Avenue Portland
 Developer NET Realty Holding Trust
 Form of Performance Guarantee Performance Bond

Type of Development: _____ Subdivision _____ Site Plan (Major/Minor)

TO BE FILLED OUT BY APPLICANT:

Item	PUBLIC			PRIVATE		
	Quantity	Unit Cost	Subtotal	Quantity	Unit Cost	Subtotal
1. STREET/SIDEWALK						
Road				<u>400 lin'</u>		<u>70,000</u>
Granite Curbing						
Sidewalks				<u>420 lin'</u>		<u>20,000</u>
Esplanades						
Monuments						
Street Lighting						
Other						
2. SANITARY SEWER						
Manholes						
Piping						
Connections						
Other						
3. STORM DRAINAGE						
Manholes						
Catchbasins						
Piping						
Detention Basin						
Other						
4. SITE LIGHTING						
5. EROSION CONTROL						
6. RECREATION AND OPEN SPACE AMENITIES						

<u>Item</u>	<u>PUBLIC</u>			<u>PRIVATE</u>		
	<u>Quantity</u>	<u>Unit Cost</u>	<u>Subtotal</u>	<u>Quantity</u>	<u>Unit Cost</u>	<u>Subtotal</u>
7 LANDSCAPING (Attach breakdown of plant materials, quantities, and unit costs)	_____	_____	_____	_____	_____	_____
8 MISCELLANEOUS	_____	_____	_____	_____	_____	_____
TOTAL:	_____	_____	_____	_____	_____	_____
GRAND TOTAL:	_____	_____	_____	_____	_____	_____

90,000

90,000

INSPECTION FEE (to be filled out by City)

	<u>PUBLIC</u>	<u>PRIVATE</u>	<u>TOTAL</u>
A: 1.7% of totals:	_____	_____	_____
or			
B: Alternative Assessment:	_____	_____	_____
Assessed by:	_____	_____	_____
	(name)	(name)	

\$ 1530-



NET PROPERTIES MANAGEMENT, INC.

Corporate Office: 535 Boylston Street, Boston, Massachusetts 02116-3766

Telephone: (617) 247-2200 • Fax: (617) 266-0885 (617) 267-4557

VIA UPS NEXT DAY

September 21, 1998

\$1,530.00
Inspection
Fee

Mr. Alexander Jaegerman
Chief Planning
City of Portland
City Hall
389 Congress Street, 4th Floor
Portland, ME 04101

Re: Pine Tree Shopping Center: Site Improvement to be constructed by Net Realty Holding Trust in connection with construction of Applebee's Restaurant

Dear Mr. Jaegerman:

Please accept the enclosed Performance Bond as our personal guaranty of completion of the traffic improvements in the parking areas and construction of a sidewalk in connection with the above-referenced project. Also enclosed is the cost estimate of improvements to be covered by the performance guaranty. Please contact me if you have any questions.

Sincerely,

Edward W. Valanzola
Associate General Counsel

/kmk
enclosure

cc: Barry L. Huffman, Esq. (w/encl.)
Gary L. Fischer (w/encl.)
Mr. Robert C. Rechner
Mr. Louis C. Zicht

LGL MA LZ 29-30595 Jaegerman 09-21-98

PERFORMANCE BOND

Bond Number: U1666614

KNOW ALL MEN BY THESE PRESENTS, That we NET REALTY HOLDING TRUST, as Principal, and UNITED PACIFIC INSURANCE COMPANY, a corporation organized under the laws of the State of Pennsylvania, and duly authorized to transact business in the State of Maine, as Surety, are held and firmly bound unto THE CITY OF PORTLAND, MAINE, as Obligee, in the sum of Ninety Thousand and 00/100 Dollars (\$90,000.00), for the payment whereof well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

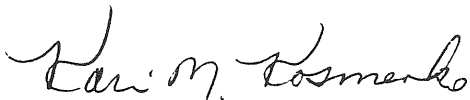
WHEREAS, said Principal has entered into a certain agreement with the Obligee for Site improvement in connection with construction of Applebee's Neighborhood Grill & Bar, Portland, Maine.

NOW, THEREFORE, the condition of the foregoing obligation is such that is the Principal shall indemnify the Obligee for all loss that the Obligee may sustain by reason of the Principal's failure to fulfill all improvements as required by Section 14-499 and Article III of Chapter 25 of the City of Portland Land Use Code, then this obligation shall be void, otherwise, it shall remain in full force and effect.

IN NO EVENT, shall the Surety be liable for a greater sum than the penalty of this Bond or subject to any suit, action or other proceeding thereon that is instituted later than one year from the date of execution of this bond.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this 9th day of September, 1998.

NET REALTY HOLDING TRUST

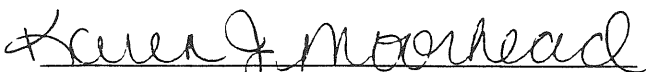


Karin M. Kosmenko, Witness as to Principal

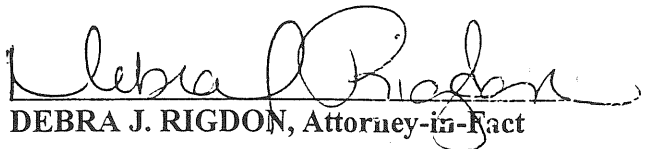


Louis C. Zicht, Authorized Representative

UNITED PACIFIC INSURANCE COMPANY



KAREN J. MOORHEAD, Witness as to Surety



DEBRA J. RIGDON, Attorney-in-Fact

RELIANCE SURETY COMPANY

RELIANCE INSURANCE COMPANY

UNITED PACIFIC INSURANCE COMPANY

RELIANCE NATIONAL INDEMNITY COMPANY

ADMINISTRATIVE OFFICE, PHILADELPHIA, PENNSYLVANIA

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that RELIANCE SURETY COMPANY is a corporation duly organized under the laws of the State of Delaware, and that RELIANCE INSURANCE COMPANY and UNITED PACIFIC INSURANCE COMPANY, are corporations duly organized under the laws of the Commonwealth of Pennsylvania and that RELIANCE NATIONAL INDEMNITY COMPANY is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called "the Companies") and that the Companies by virtue of signature and seals do hereby make, constitute and appoint Debra J. Rigdon, H. James Balcum, Karen J. Moorhead, of Charlestown, Massachusetts their true and lawful Attorney(s)-in-Fact, to make, execute, seal and deliver for and on their behalf, and as their act and deed any and all bonds and undertakings of suretyship and to bind the Companies thereby as fully and to the same extent as if such bonds and undertakings and other writings obligatory in the nature thereof were signed by an Executive Officer of the Companies and sealed and attested by one other of such officers, and hereby ratifies and confirms all that their said Attorney(s)-in-Fact may do in pursuance hereof.

This Power of Attorney is granted under and by the authority of Article VII of the By-Laws of RELIANCE SURETY COMPANY, RELIANCE INSURANCE COMPANY, UNITED PACIFIC INSURANCE COMPANY, and RELIANCE NATIONAL INDEMNITY COMPANY which provisions are now in full force and effect, reading as follows:

ARTICLE VII - EXECUTION OF BONDS AND UNDERTAKINGS

1. The Board of Directors, the President, the Chairman of the Board, any Senior Vice President, any Vice President or Assistant Vice President or other officer designated by the Board of Directors shall have power and authority to (a) appoint Attorney(s)-in-Fact and to authorize them to execute on behalf of the Company, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, and (b) to remove any such Attorney(s)-in-Fact at any time and revoke the power and authority given to them.

2. Attorney(s)-in-Fact shall have power and authority, subject to the terms and limitations of the Power of Attorney issued to them, to execute deliver on behalf of the Company, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof. The corporate seal is not necessary for the validity of any bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof.

3. Attorney(s)-in-Fact shall have power and authority to execute affidavits required to be attached to bonds, recognizances, contracts of indemnity or other conditional or obligatory undertakings and they shall also have power and authority to certify the financial statement of the Company and to copies of the By-Laws of the Company or any article or section thereof.

This Power of Attorney is signed and sealed by facsimile under and by authority of the following resolution adopted by the Executive and Finance Committees of the Boards of Directors of Reliance Insurance Company, United Pacific Insurance Company and Reliance National Indemnity Company by Unanimous Consent dated as of February 28, 1994 and by the Executive and Financial Committee of the Board of Directors of Reliance Surety Company by Unanimous Consent dated as of March 31, 1994.

"Resolved that the signatures of such directors and officers and the seal of the Company may be affixed to any such Power of Attorney or any certificates relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company and any such Power so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company, in the future with respect to any bond or undertaking to which it is attached."

IN WITNESS WHEREOF, the Companies have caused these presents to be signed and their corporate seals to be hereto affixed, this July 8, 1998.



RELIANCE SURETY COMPANY
RELIANCE INSURANCE COMPANY
UNITED PACIFIC INSURANCE COMPANY
RELIANCE NATIONAL INDEMNITY COMPANY

David T. Akers

STATE OF Pennsylvania }
COUNTY OF Philadelphia } ss.

On this, July 8, 1998, before me, Valencia Wortham, personally appeared David T. Akers, who acknowledged himself to be the Senior Vice President of the Reliance Surety Company, and the Vice President of Reliance Insurance Company, United Pacific Insurance Company, and Reliance National Indemnity Company and that as such, being authorized to do so, executed the foregoing instrument for the purpose therein contained by signing the name of the corporation by himself as its duly authorized officer.

In witness whereof, I hereunto set my hand and official seal.

Notarial Seal
Valencia Wortham, Notary Public
Philadelphia, Philadelphia County
My Commission Expires Nov. 18, 2000



Valencia Wortham
Notary Public in and for the State of Pennsylvania
Residing at Philadelphia

I, Anita Zippert, Secretary of RELIANCE SURETY COMPANY, RELIANCE INSURANCE COMPANY, UNITED PACIFIC INSURANCE COMPANY, and RELIANCE NATIONAL INDEMNITY COMPANY do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 9th day of September, 1998

Anita Zippert
Secretary



PERFORMANCE BOND

Bond Number: U1666614

KNOW ALL MEN BY THESE PRESENTS, That we NET REALTY HOLDING TRUST, as Principal, and UNITED PACIFIC INSURANCE COMPANY, a corporation organized under the laws of the State of Pennsylvania, and duly authorized to transact business in the State of Maine, as Surety, are held and firmly bound unto THE CITY OF PORTLAND, MAINE, as Obligee, in the sum of Ninety Thousand and 00/100 Dollars (\$90,000.00), for the payment whereof well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

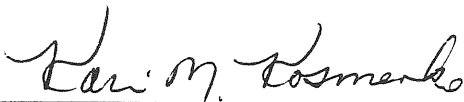
WHEREAS, said Principal has entered into a certain agreement with the Obligee for Site improvement in connection with construction of Applebee's Neighborhood Grill & Bar, Portland, Maine.

NOW, THEREFORE, the condition of the foregoing obligation is such that is the Principal shall indemnify the Obligee for all loss that the Obligee may sustain by reason of the Principal's failure to fulfill all improvements as required by Section 14-499 and Article III of Chapter 25 of the City of Portland Land Use Code, then this obligation shall be void, otherwise, it shall remain in full force and effect.

IN NO EVENT, shall the Surety be liable for a greater sum than the penalty of this Bond or subject to any suit, action or other proceeding thereon that is instituted later than one year from the date of execution of this bond.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this 9th day of September, 1998.

NET REALTY HOLDING TRUST




Karin M. Kosmenko, Witness as to Principal



Louis C. Zicht, Authorized Representative

UNITED PACIFIC INSURANCE COMPANY



KAREN J. MOORHEAD, Witness as to Surety



DEBRA J. RIGDON, Attorney-in-Fact

RELiance SURETY COMPANY
UNITED PACIFIC INSURANCE COMPANY

RELiance INSURANCE COMPANY
RELiance NATIONAL INDEMNITY COMPANY

ADMINISTRATIVE OFFICE, PHILADELPHIA, PENNSYLVANIA

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that RELIANCE SURETY COMPANY is a corporation duly organized under the laws of the State of Delaware, and that RELIANCE INSURANCE COMPANY and UNITED PACIFIC INSURANCE COMPANY, are corporations duly organized under the laws of the Commonwealth of Pennsylvania and that RELIANCE NATIONAL INDEMNITY COMPANY is a corporation duly organized under the laws of the State of Wisconsin (herein collectively called "the Companies") and that the Companies by virtue of signature and seals do hereby make, constitute and appoint Debra J. Rigdon, H. James Balcum, Karen J. Moorhead, of Charlestown, Massachusetts their true and lawful Attorney(s)-in-Fact, to make, execute, seal and deliver for and on their behalf, and as their act and deed any and all bonds and undertakings of suretyship and to bind the Companies thereby as fully and to the same extent as if such bonds and undertakings and other writings obligatory in the nature thereof were signed by an Executive Officer of the Companies and sealed and attested by one other of such officers, and hereby ratifies and confirms all that their said Attorney(s)-in-Fact may do in pursuance hereof.

This Power of Attorney is granted under and by the authority of Article VII of the By-Laws of RELIANCE SURETY COMPANY, RELIANCE INSURANCE COMPANY, UNITED PACIFIC INSURANCE COMPANY, and RELIANCE NATIONAL INDEMNITY COMPANY which provisions are now in full force and effect, reading as follows:

ARTICLE VII - EXECUTION OF BONDS AND UNDERTAKINGS

1. The Board of Directors, the President, the Chairman of the Board, any Senior Vice President, any Vice President or Assistant Vice President or other officer designated by the Board of Directors shall have power and authority to (a) appoint Attorney(s)-in-Fact and to authorize them to execute on behalf of the Company, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, and (b) to remove any such Attorney(s)-in-Fact at any time and revoke the power and authority given to them.

2. Attorney(s)-in-Fact shall have power and authority, subject to the terms and limitations of the Power of Attorney issued to them, to execute deliver on behalf of the Company, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof. The corporate seal is not necessary for the validity of any bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof.

3. Attorney(s)-in-Fact shall have power and authority to execute affidavits required to be attached to bonds, recognizances, contracts of indemnity or other conditional or obligatory undertakings and they shall also have power and authority to certify the financial statement of the Company and to copies of the By-Laws of the Company or any article or section thereof.

This Power of Attorney is signed and sealed by facsimile under and by authority of the following resolution adopted by the Executive and Finance Committees of the Boards of Directors of Reliance Insurance Company, United Pacific Insurance Company and Reliance National Indemnity Company by Unanimous Consent dated as of February 28, 1994 and by the Executive and Financial Committee of the Board of Directors of Reliance Surety Company by Unanimous Consent dated as of March 31, 1994.

"Resolved that the signatures of such directors and officers and the seal of the Company may be affixed to any such Power of Attorney or any certificates relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company and any such Power so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company, in the future with respect to any bond or undertaking to which it is attached."

IN WITNESS WHEREOF, the Companies have caused these presents to be signed and their corporate seals to be hereto affixed, this July 8, 1998.



RELiance SURETY COMPANY
RELiance INSURANCE COMPANY
UNITED PACIFIC INSURANCE COMPANY
RELiance NATIONAL INDEMNITY COMPANY

David T. Akers

STATE OF Pennsylvania }
COUNTY OF Philadelphia } ss.

On this, July 8, 1998, before me, Valencia Wortham, personally appeared David T. Akers, who acknowledged himself to be the Senior Vice President of the Reliance Surety Company, and the Vice President of Reliance Insurance Company, United Pacific Insurance Company, and Reliance National Indemnity Company and that as such, being authorized to do so, executed the foregoing instrument for the purpose therein contained by signing the name of the corporation by himself as its duly authorized officer.

In witness whereof, I hereunto set my hand and official seal.

Notarial Seal
Valencia Wortham, Notary Public
Philadelphia, Philadelphia County
My Commission Expires Nov. 18, 2000



Valencia Wortham
Notary Public in and for the State of Pennsylvania
Residing at Philadelphia

I, Anita Zippert, Secretary of RELIANCE SURETY COMPANY, RELIANCE INSURANCE COMPANY, UNITED PACIFIC INSURANCE COMPANY, and RELIANCE NATIONAL INDEMNITY COMPANY do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which is still in full force and effect.


IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 9th day of September, 1998

Anita Zippert
Secretary



To: Alex Jaegerman, Chief Planner

CC:

From:  Penny Littell, Associate Corporation Counsel

Date: August 28, 1998

Re: Appleby's Bond

Alex: I have signed off on the Performance Bond (in the form of a Surety Bond) from Appleby's to the City re the site improvements to be made at the Pine Tree Shopping Center. I understand that the City is looking to NET Properties to improve the general parking lot/traffic issues at the Pine Tree Shopping Center. While the site improvements adjacent the work at Appleby's will be the responsibility of Appleby's, as we discussed, it is my recommendation that Appleby's not be given the authority to commence its project until NET has filed with the City its performance guarantee ensuring both the commencement and completion of its public improvements (i.e. general parking/traffic). In so acting, the City is ensuring that the work in the Pine Tree Shopping Plaza will be done, as opposed to NET "deciding" at some point in the future that they do not want to do the project.

In sum, while I have no difficulty giving Appleby's its requested, written confirmation that the completion of site work associated with the revised traffic circulation plan will not be a condition for Appleby's to obtain a Certificate of Occupancy in order to open and operate, I would suggest Appleby's not be issued a building permit until the City obtains a performance guarantee from NET Properties for the parking lot work.

Call me if you have any questions.

Enc.

O:\WP\PENNY\MEMOS\PEPTJAEG831.DOC



Neighborhood Grill & Bar

August 25, 1998

Mr. Alexander Jaegerman
City of Portland
City Hall
389 Congress Street, 4th Floor
Portland, Maine 04101
(Via UPS Overnight mail)

RE: Applebee's Neighborhood Grill and Bar
Portland, Maine

Dear Mr. Jaegerman:

Please accept the enclosed performance bond as our fiscal guarantee for completion of site work associated with our restaurant project. As you know, our landlord and owner of the Pinetree Shopping Center, NET Properties, are preparing plans for the revised traffic and pedestrian circulation plan for the center as approved by your Planning Board. It is currently the intent of NET Properties to do this work themselves and provide a separate fiscal guarantee for their work.

In order for Applebee's to move forward immediately with construction of our restaurant, we ask that the City of Portland give us written confirmation that completion of the site work associated with the revised traffic and circulation plan will not be a condition for Applebee's to obtain a Certificate of Occupancy in order to open and operate our restaurant. This confirmation can be conditioned upon the additional fiscal guarantee being provided as required by the city.

We would like to start construction next week as we anticipate a January 1999 opening. I really appreciate your help on this matter. Please call me at 913-967-4005 if you have any questions.

Sincerely,

Gary L. Fischer
Sr. Site Development Manager

GF/sb

APPLEBEE'S INTERNATIONAL, INC.
4551 W. 107th Street / Suite 100 / Overland Park, Kansas 66207
(913) 967-4000 / Fax (913) 341-1694

All Services, Inc. • Applebee's of New Mexico, Inc. • Applebee's of Michigan, Inc. • Applebee's of Minnesota, Inc.
Applebee's of Texas, Inc. • Applebee's of New York, Inc. • Applebee's Neighborhood Grill & Bar of Georgia, Inc. • Applebee's Northeast, Inc.
Applebee's of Pennsylvania, Inc. • Apple Vermont Restaurants, Inc. • Apple American Limited Partnership of Minnesota
Gourmet Systems of Tennessee, Inc. • Gourmet Systems, Inc. • Gourmet Systems of California, Inc. • Gourmet Systems of Kansas, Inc.
Gourmet Systems of Nevada, Inc. • Gourmet Systems of Minnesota, Inc. • Gourmet Systems of Georgia, Inc.



ORIGINAL DOCUMENT IS PRINTED ON CHEMICAL REACTIVE PAPER & HAS A MICROPRINTED BORDER

TYREE CONSULTING CO.
9 OTIS STREET
WESTBOROUGH, MA 01581-3311



FLEET BANK
WESTBOROUGH, MASSACHUSETTS

5-13/110

9/22/98

6030

PAY TO THE ORDER OF City of Portland

\$ **1,491.21

One Thousand Four Hundred Ninety-One and 21/100***** DOLLARS

City of Portland

MEMO w97862/applebees/portland/engineering review

THE REVERSE SIDE OF THIS DOCUMENT INCLUDES AN ARTIFICIAL WATERMARK - HOLD AT AN ANGLE TO VIEW

⑈006030⑈ ⑆01000138⑆ 93576 34525⑈

TYREE CONSULTING CO.
WESTBOROUGH, MA 01581-3311

City of Portland

7000 · Direct Costs:7302 · Application/Permit fe SPD-applebees/portland/engineering review

6030

9/22/98

1,491.21

Inspection Fee: ~~1109.21~~
Engineering Fee: ~~382.00~~

Fleetbank - operating w97862/applebees/portland/engineering review

1,491.21



DERCHER © 96

APPLEBEE'S INTERNATIONAL, INCORPORATED

PINETREE PLAZA

PORTLAND, MAINE

PROJECT DEVELOPMENT STATEMENT

PROJECT DESCRIPTION

The proposed project includes construction of a 5,000 square foot Applebee's restaurant and other site improvements located in the Pine Tree Shopping Plaza on Brighton Avenue in Portland, Maine. Access to the site is via two existing accessways onto Brighton Avenue. No improvements to the existing Plaza entrances are proposed. The project site currently serves as excess parking for the plaza. All proposed improvements are fully shown on the site plan which is included in Attachment 1 of this Statement.

TITLE, RIGHT, OR INTEREST

Applebee's International, Incorporated is the applicant for the project. Applebee's will be leasing the required area for the building. Attachment 2 is a portion of the lease agreement between Applebee's and the property owner.

FINANCIAL CAPABILITY

The project will be funded by Applebee's International, Incorporated. Attachment 3 is information on Applebee's financial status.

UTILITIES

Sewer - Based on our conversations with Mr. Frank J. Brancely of the City of Portland Department of Public Works, sewer capacity for the proposed project is available. Connection to the City sewer is proposed via an existing manhole located in Brighton Avenue. A formal sewer capacity letter is being prepared. Attached is correspondence with Mr. Brancely regarding this project.

Gas - Natural gas service for the project will be provided by Northern Utilities. Connection for the gas service will be to a main line located in Brighton Avenue. Attached is a service letter from Northern Utilities.

Water - Based on our conversations with Mr. James Pandiscio of the Portland Water District, water service to the site is available. The proposed connection point for the service is at the 12" main located on the south side of Brighton Avenue.

Electric - Electric service to the site will be provided by Central Maine Power. Attached is a letter confirming availability of service.

STORM DRAINAGE/STORMWATER MANAGEMENT

The proposed project site currently serves as an excess parking area and is entirely paved. The site slopes from west to east and stormwater sheet flows off of the site and into an underground drainage system serving the plaza.

As proposed, the drainage pattern for the site would remain essentially the same as the existing condition. The site will continue to slope from west to east with storm water draining into the plaza system. One yard inlet is proposed to capture a portion of the site runoff. This inlet will connect directly into the existing storm drainage system. Roof runoff from the building will also be piped into the underground system.

The proposed project will provide improvements in both stormwater quantity and quality. The project as currently proposed will include an increase in landscaped area of approximately 6,000 square feet. Based on this increase in landscaped area, there will be a decrease of 0.52 cfs of storm runoff from the site for a ten year storm. In addition, surface runoff from the site will be reduced by 0.67 cfs due to the direct piping of the roof and inlet collected runoff into the underground drainage system.

Stormwater quality will be improved based on the increase in landscaped area. Landscaped areas allow for increased time of concentration which allows pollutants to settle out of the runoff prior to reaching the storm drain system. Landscaping also allows for direct infiltration of clean stormwater. Runoff quality will also be improved by virtue of the fact that the project area is currently fully paved for parking and can be polluted by oil, gasoline, and other contaminants from motor vehicles. These pollutants are washed into the storm drain system during a storm event. Both the roof and yard runoff from the proposed project are considered clean.

SIGNAGE

Typical Applebee's building signage is shown on the building elevations. Building signage will be designed to conform with the City of Portland zoning by-laws and will be permitted by Applebee's sign manufacturer.

ACCIDENT DATA

See attached letter from Atlantic Traffic and Design Engineers.

SITE CIRCULATION

See attached letter from Dubois and King.

SITE LIGHTING

One new area light and building lights are proposed for this project. Attachment 7 is manufacturer's data on the proposed lights.

Memorandum

To: John H. Carroll, Planning Board Chair
CC: Planning Board Members, Alex Jaegerman
From: Penny Littell
Date: May 21, 1998
Subject: Applebee's

On May 20, 1998 I met with Planning Department Staff. At that meeting we discussed the development of an Applebee's Restaurant proposed for location at the Pine Tree Shopping Mall. The Planning Board raised the question of whether this project should be examined as a subdivision. An analysis of the proposal has been undertaken and I concur with the Planning Department that this project is not a subdivision and should not be treated as such by the Planning Board. Rather, it is a minor development which has been referred to the Planning Board for approval.

O:\WP\PENNY\MEMOS\0521.MMO

Attachment 3



ENGINEERING • PLANNING • DEVELOPMENT • MANAGEMENT

R12678M3
June 2, 1998

Net Properties Management, Inc.
535 Boylston Street
Boston, Massachusetts 02116-3766

Attention: Mr. Robert Rechner

Reference: Pinetree Plaza, Applebee's

Dear Mr. Rechner:

As you know, since 1992, DuBois & King, Inc. has worked closely with the City of Portland and Net Properties Management, Inc. in accomplishing traffic improvements to the parking tract and entrances to Pinetree Plaza. The purpose of these improvements, which were accomplished in the summer of 1997, was to improve vehicular traffic access and internal circulation in the Plaza, as well as improve pedestrian access and safety. This work included the installation of transverse curbed islands to prevent vehicular traffic traveling diagonally across the parking lot.

As part of this extensive review process, we conducted site visits to observe vehicular and pedestrian traffic and reviewed alternative plans with the City of Portland. One alternative reviewed was to provide a mid-tract circulation aisle, similar to that currently being proposed. At that time, it was decided that the mid-tract aisle would be detrimental to vehicle and pedestrian traffic on the site.

During the Applebee's project site design, we again reviewed parking, access and circulation at the Plaza to determine the effect the Applebee's project would have on traffic and pedestrian circulation. This included a review of comments from the Planning Board and Planning Staff regarding a mid-tract access aisle and traffic circulation improvements in the vicinity of the Applebee's restaurant. We agreed with the traffic circulation improvements suggested near the Applebee's restaurant. However, we determined the mid-tract access aisle was not appropriate for this parking area and that the currently proposed plan would provide a more efficient access, circulation and parking plan. Further, provision of the mid-tract aisle would raise traffic circulation and safety concerns as follows:

- The mid-tract aisle will create a separation between the shared parking and the stores. This will increase the number of conflict points for pedestrians crossing vehicle aisle.

3a

Mr. Robert Rechner
June 2, 1998
Page 2

- The inclusion of the mid-tract aisle will increase the number of routes vehicles may take entering and existing the site, especially crossing the parking area to exit left onto Brighton Avenue. This will reduce the definition of the traffic circulation pattern and increase driver confusion. In addition, this negates the installed transverse curbed island's ability to prevent diagonal traffic movements across the parking area.
- The mid-tract aisle will increase the number of vehicle conflict points within the parking tract.

In summary, we believe addition of the mid-tract aisle would be detrimental to vehicular and pedestrian traffic in the plaza, and recommend that the original plan as submitted be approved.

If you have questions, please feel free to call.

Sincerely,

DuBois & King, Inc.



David Conger
Design Engineer



Bernard F. Byrne, P.E., Ph.D.
Transportation Engineer

LDC/mlb
C:\DATA\W\Planned\lido



ENGINEERING • PLANNING • DEVELOPMENT • MANAGEMENT

From: Larry W. Ash
To: KCOTE
Date: Thu, Jun 4, 1998 3:21 pm
Subject: APPLEBY'S

Kandi: Regarding the Appleby's restaurant at the Pine Tree Shopping Center:

1. I have no objection to the placement of stop signs in the vicinity of the restaurant.
2. A sidewalk should be installed along Brighton Ave. from the west end of the property to the entrance/exit of the shopping center.

If you have any questions please call.



ATLANTIC
TRAFFIC
& DESIGN
ENGINEERS, INC.

5

May 28, 1998

Bohler Engineering, P.C.
9 Otis Street
Westborough, MA 01581
Att: Steve DeCoursey

RE: Applebee's Restaurant
Brighton Avenue
Portland, Maine
File A98109

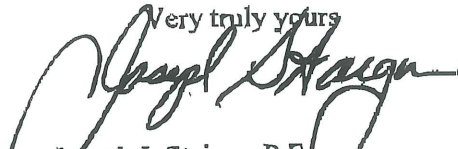
Dear Steve:

Atlantic Traffic & Design Engineers has been in contact with Officer Wentworth of the Portland Police Department Traffic with regard to pedestrian accidents within the Pine Tree Shopping Center parking lot and along Brighton Avenue between and including the intersections of Taft Avenue and Rand-Cabot Avenue. Officer Wentworth has related that the above-described vicinity along Brighton Avenue does not report an inordinate number of pedestrian accidents. He also related that the residents of Sagamore Village do walk to the Pine Tree Shopping Center without notable mishaps.

The Traffic Unit is in the process of pulling the last three years of pedestrian accident reports in the vicinity and our analyses of same will be forwarded to your office as soon as they are available and analyzed. In the interim, the Traffic Unit will fax to our office the accident database query results with respect to accidents in the vicinity for an initial quantification of accidents. Please note that the vicinity in question is not among the top three accident hotspots as noted by the Traffic Unit which include:

- 1295 ramp at Forest Avenue
- Washington Avenue at Allen Avenue
- 1295 ramp at Congress Street

Should you have any further comments or questions concerning the information contained herein, please contact the undersigned.

Very truly yours

Joseph J. Staigar, P.E.

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59



ATLANTIC
TRAFFIC
& DESIGN
ENGINEERS, INC.

June 2, 1998

Bohler Engineering, P.C.
9 Otis Street
Westborough, MA 01581
Attn: Steve DeCoursey

RE: Applebee's Restaurant
Brighton Avenue
Portland, Maine
File A98109

Dear Steve:

Officer Wentworth of the Portland Police Department Traffic has forwarded the police reports regarding pedestrian accidents within the Pine Tree Shopping Center parking lot and along Brighton Avenue between and including the intersections of Taft Avenue and Rand-Cabot Avenue. The Traffic Unit has pulled the last three years of pedestrian accident reports in the vicinity that has yielded five (5) pedestrian/vehicle accidents as follows:

	Day	Date	Time	Location	Description
1	Saturday	5/10/97	1:30 PM	Pine Tree Shopping Center	Vehicle backed into pedestrian
2	Tuesday	11/12/96	11:45 AM	Brighton Ave & Dartmouth St.	Vehicle turned into pedestrian
3	Monday	9/16/96	2:30 PM	Brighton Ave & Cabot-Rand	Bicyclist against traffic hit vehicle
4	Thursday	6/13/96	10:11 PM	Brighton Ave & Whitney Ave	Vehicle turned into bicyclist
5	Monday	6/3/96	12:30 PM	Burger King Parking Lot	Vehicle hit pedestrian

With respect to the Pine Tree Shopping Center, there has been one (1) reported vehicle/pedestrian accident within the last three years with resulting minor injuries. None of the accidents reported were fatalities. Please note that the accident reports have been included for your inspection. Should you have any questions concerning the information contained herein, please contact the undersigned.

Very truly yours

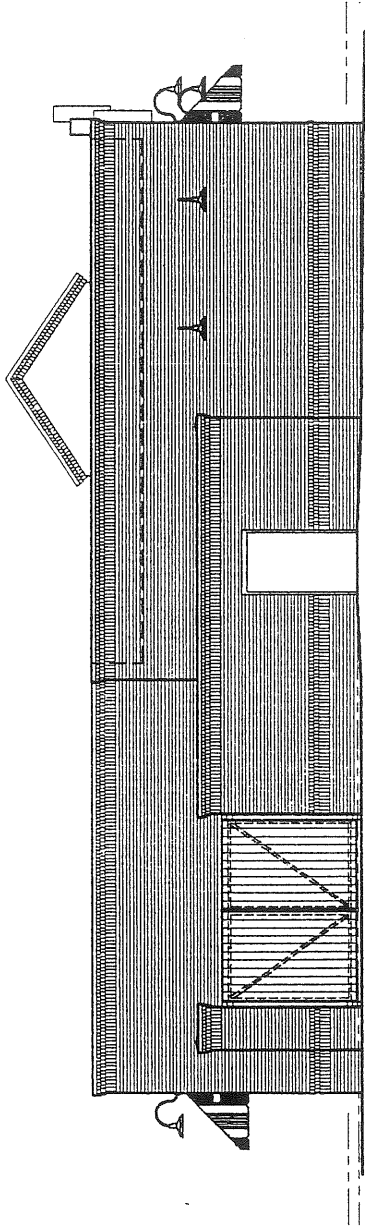
Joseph J. Staiger, P.E.

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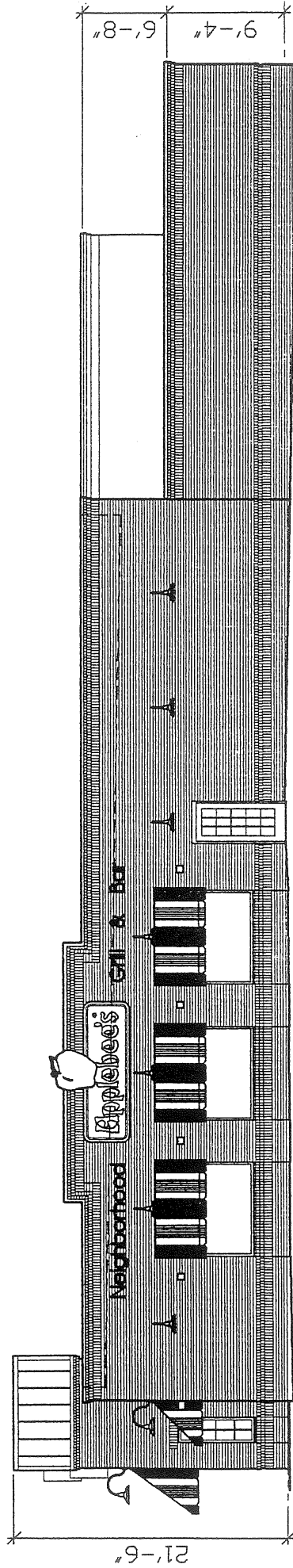
70 EAST SUNRISE HIGHWAY
SUITE 609
VALLEY STREAM, NY 11581
(516) 271-0904
Fax: (516) 272-7007

776 MOUNTAIN BOULEVARD
WATCHUNG, NEW JERSEY
07060
(908) 769-5588
Fax (908) 769-7733

109 MAMENON CORRIDOR
1475 HESTER ROAD
SUITE 100
PO BOX 513
KILPATRICK, PA 15043
(412) 343-8327
Fax: (412) 342-5130

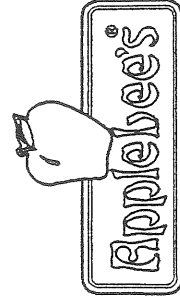


REAR ELEVATION

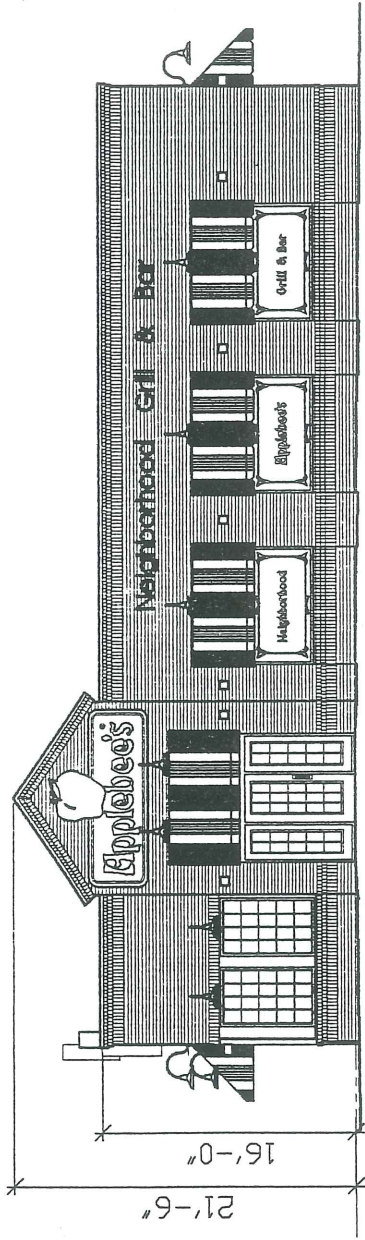


RIGHT SIDE ELEVATION

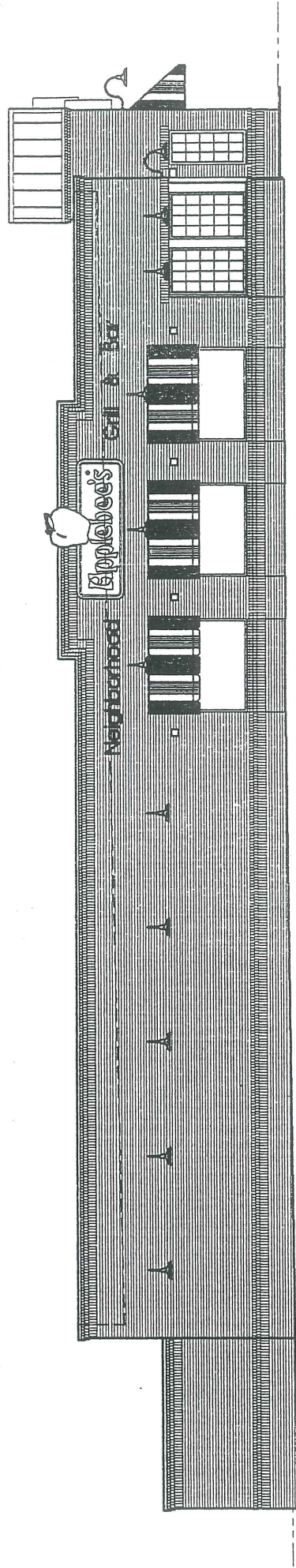
BUILDING ELEVATIONS - TLS



Neighborhood Grill & Bar
© 1996

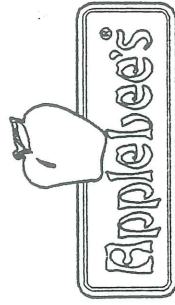


FRONT ELEVATION



LEFT SIDE ELEVATION

BUILDING ELEVATIONS - TLS



Neighborhood Grill & Bar
© 1996

7a



DERCHER © 96



Portland Water District

To:	Steve DeCoursey	Date:	5/29/98
Co:	Bohler Engineering	# of Pgs:	1
Dept:		From:	Jim Pandiscio
Fax No:	1-508-871-8401	Phone #:	270-774-5961 Ext 3006

225 Douglass St. - P.O. Box 3553 - Portland, ME 04104-3553

Customer Service Hotline (207) 761-8310
(207) 774-5961
FAX (207) 761-8307

May 29, 1998
Steve DeCoursey
Bohler Engineering
9 Otis St
Westborough, Ma 01581

Re: Brighton Ave- Applebee's Project

Dear Steve,

This letter is to confirm there should be an adequate supply of clean and healthful water to serve the needs of the proposed restaurant on Brighton Ave in Portland. Checking District records, I find there is a 12" water main on the short side of the street as well as a 6" main on the long side of the street.

The current data from the nearest hydrant indicates there should be adequate capacity of water.

Brighton Ave @ Taft Ave
Hydrant # 1059
Static pressure = 60PSI
Flow = 769GPM
Last Tested = 8/6/93

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

Sincerely,
Portland Water District

Jim Pandiscio
Means Coordinator



Central Maine Power, Customer Service Center

162 Canco Road, Portland, Maine 04103

1-800-750-4000

May 28, 1998

Bohler Engineering
9 Otis Street
Westborough, MA 01581
Attn: Steve DeCoursey

Subject: Proposed Applebee's, Portland

Dear Mr. DeCoursey

This letter is to advise that Central Maine Power Company has sufficient three phase electrical capacity in the area to serve the subject project.

When plans are available, please forward them to me so that I can coordinate our utilities with your project. I have enclosed a load request form to be completed and return to me along with a copy of Central Maine Power Company's "Contractor's Handbook".

Sincerely,

A handwritten signature in black ink that reads "Mark Kreider" with a stylized flourish at the end.

Mark Kreider
Energy Services Advisor

MK/tr
Enclosures

86

PRELIMINARY INFORMATION FOR PERMANENT ELECTRIC SERVICE

The following information must be provided as soon as it is known. Processing and approval will require four to six weeks and acquisition of transformer equipment may require up to 7 months.

Return to: Central Maine Power Company
162 Canco Road
Portland, Maine 04103
Attention: Mark Kreider
Tel # 828-2863
Fax # 828-2812

I GENERAL INFORMATION:
SERVICE ADDRESS: _____

CUSTOMER NAME _____ TEL. _____
ELEC. CONTRACTOR _____ TEL. _____
OTHER CONTACT _____ TEL. _____
BLDG. USED FOR _____ SQ.FT. _____

II SERVICE INFORMATION:

SITE/RISER LAYOUT: ATTACHED _____ WILL FOLLOW _____
DATE SERVICE REQ.: TEMPORARY / / PERMANENT / /
ENTRANCE SWITCH: VOLTS _____ AMPS _____ PHASE _____ WIRE _____
MAIN DISCONNECT: AMPS _____
TYPE OF SERVICE: PRIMARY: OVERHEAD _____ URD _____
SECONDARY: OVERHEAD _____ URD _____
URD SECONDARIES: SUPPLIED BY: CUSTOMER _____ CMP _____ (RES. ONLY)
TRANSFORMER (S): POLE MOUNT: _____ PAD _____ VAULT _____
METERING REQUIRED: PRIMARY _____ SEC _____
NO. OF METERS _____

III LOAD DATA:

CONNECTED LOADS: (NOTE IF LISTED IN KW, KVA, OR HP)

	KW	AMPS	VOLTS	HRS/WK	LGST. MOTOR
LIGHTING	_____	_____	_____	_____	_____
ELECTRIC HEAT	_____	_____	_____	_____	_____
AIR CONDITIONING	_____	_____	_____	_____	_____
WATER HEATING	_____	_____	_____	_____	_____
COOKING LOADS	_____	_____	_____	_____	_____
OTHER MOTORS	_____	_____	_____	_____	_____
RECEPTACLE, ETC.	_____	_____	_____	_____	_____

IV INFORMATION COMP. BY: _____ COMPANY _____

*(For additional comments, use reverse side)

8c

Northern Utilities

Northern Utilities
P.O. Box 3586
1075 Forest Ave.
Portland, Maine 04104-3586

Phone: 207-797-8002
Fax: 207-878-3598
E-mail: scarpenter@bgc.com

Applebee's
FILE
CORRESP
957/AND

Facsimile

To: Steve DeCoursey
@Fax: 508-871-~~8400~~ 8401
From: Scott Carpenter
Date: Thursday, May 07, 1998 @ 3:48 PM
Re: AppleBee's
Pages: 1, including this

Steve,

Per our discussion this afternoon, we are please to be able to supply you with natural gas for your AppleBee's project on Brighton Ave. We will provide the trenching, back filling and laying of the pipe from the street to the outside foundation wall. Should you have further questions, please contact me directly.

Thanks again for choosing Northern Utilities natural gas.

Scott

8d



CITY OF PORTLAND

Frank J. Brancely
Senior Engineering Technician
Department of Public Works

55 Portland Street, Portland, Maine 04101 - (207) 874-~~8852~~⁸⁸⁴³
Fax (207) 874-8852

CITY OF PORTLAND

~~Public~~ Public Works Department
Engineering Division
55 Portland Street
Portland, Maine 04101

Date: Tues. 5/12/98

TO: Steve De Coursey

Bohler Engineering

Project Reference: Applebee's Restaurant @ Pinetree Plaza

We are sending you:

- enclosed
- under separate cover
- available for pick up
- fax ph. # (508) 871-8401

For your:

- information as requested
- review and comment
- information and use
- other: _____

Copies	Document	Description
One	Chap. 9	Handbook of Subsurface Wastewater Disposal in Ma

Remarks:

Steve: Send me a letter requesting a "sewer capacity letter" for Applebee's. Include the street address for our filing ease. Your request should state design flows in gallons per day (GPD) and show the calculations upon which the design flows in GPD are based. Lean toward cookbook, rule of thumb, K.I.S.S. principles, avoid average flows, fixture units, "historical" or "normal" statistics.

cc: file

By: Frank Brancely
Phone: (807) 874-8843

To: Kandi Talbot, Planner
From: Jeff Tarling, City Arborist
Date: June 5, 1998
Subject: Applebee's Restaurant - 1032 Brighton Avenue

I have reviewed the landscaping plan for 1032 Brighton Avenue and find it to be acceptable.

Type: L

10

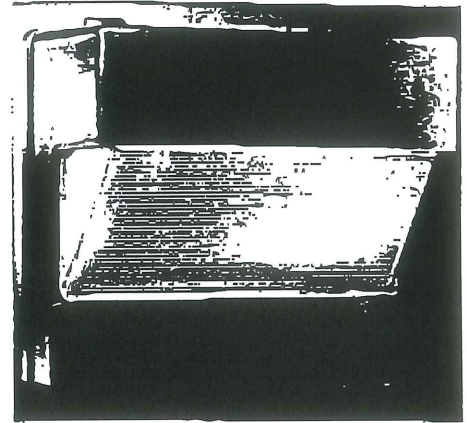
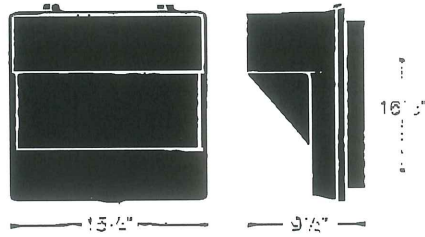
LUMARK

70-175 Watt

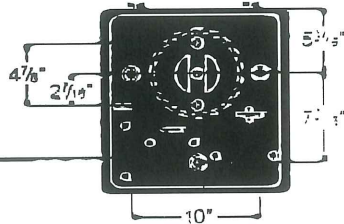
WAL-Eye
Wall-Mount Luminaire

The WAL-Eye wall-mount luminaire from Lumark offers durable construction in a distinct design that lends an exciting dimension to lighting applications. The WAL-Eye's dependable performance and efficient illumination make it perfect for walkways, entrances, building perimeters, loading areas, tunnels and underpasses.

A die-cast aluminum ballast housing combines with a one-piece, internally painted polycarbonate cover to ensure year after year of weather- and vandal-resistant performance. The WAL-Eye's prismatic refractor is molded into the polycarbonate cover and delivers maximum illumination to the front and sides of the fixture.



Design Features



Versatile, easy-mounting back plate with concealed hardware.

APPLEBEE'S INTERNATIONAL	
Project Location	
TYPE	PRODUCT NUMBER
L	MHWP-175H-MT
175 Watt Metal Halide Wall Pack, Multi-Tap Ballast	
City Lighting Products	
5001 Stilwell Street, Kansas City MO 64120	
(816) 231-4000 / (816) 231-1947 FAX	

One-piece polycarbonate front cover.

Prismatic lens area.

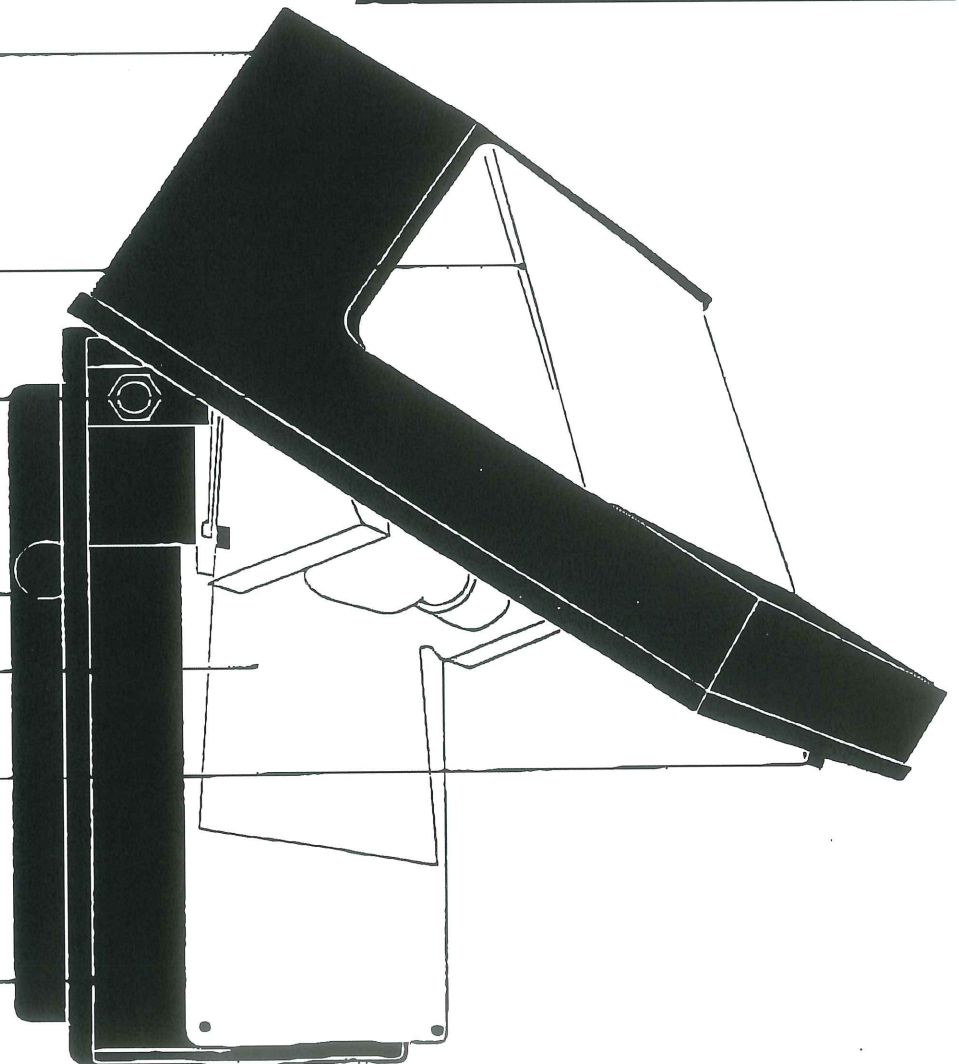
Specially formulated finish on the inside.

Die-cast aluminum base housing.

Formed, specular anodized aluminum reflector.

Molded-in latch for toolless entry.

Cast-in gasket-retaining channel positively locates door gasket.



Type: Y 10a



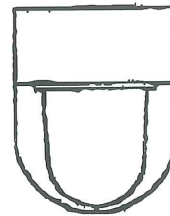
APPLEBEES

Wall Sconce

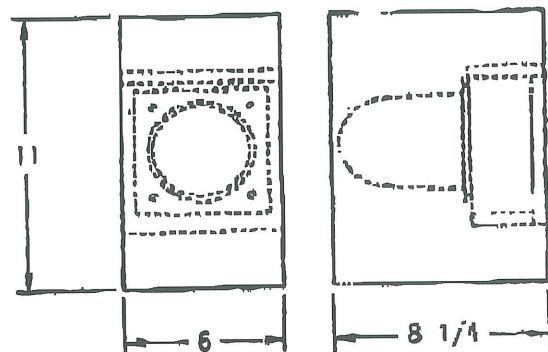
- Luminaire:** Housing is constructed of galvanized-coated steel.
- Optics:** Globe is tempered lime glass with a ceramic-sprayed Frosted Interior.
- Lamp:** 32 watt PL-T Amalgam Compact Fluorescent.
- Socket:** 32 watt PL simple push-pull design for ease of relamping.
- Mounting:** Wall or column mount.
- Finish:** Standard housing color is Applebee's Green. Other finishes available are black, white, red, bronze, cocoa, vanilla, platinum plus and verdigris.

U.L. listed - Suitable for Wet Location

Catalog Number: SCN 32 PL 120 ABG WL
Factory Part Number: 143370



- Galvanized Coated Steel
- Up and down light components



ABOLITE
 LIGHTING

January '98

TYPE V
106

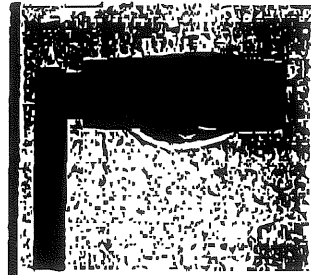
TYPE: P
DESCRIPTION

McGraw-Edison's Galleria Type III Vertical combines beauty and versatility to make it an excellent choice for architects, specifiers and contractors in today's energy- and design-conscious environment, while a variety of mounting options and lamp wattages provide maximum flexibility.

APPLICATION
The Galleria Type III Vertical achieves superior light distribution by utilizing a seamless reflector system, making it the optimum choice for virtually any large area lighting applications such as retail parking lots, roadways, convenience stores and fast food restaurants.

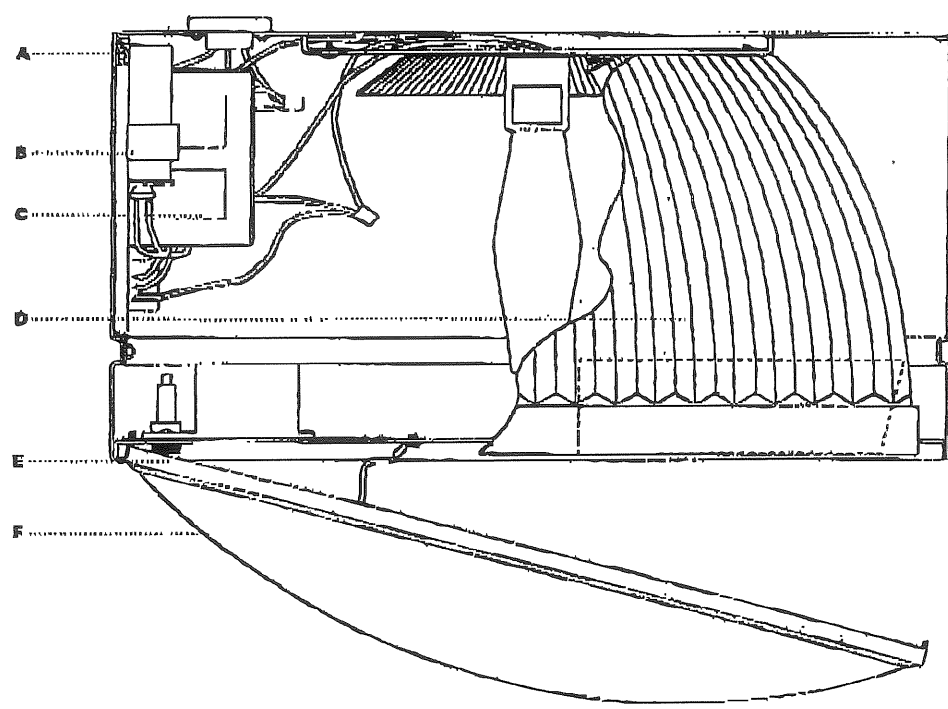
CATALOG #:
SPECIFICATION FEATURES

- A...Housing
Formed aluminum housing with stamped reveal has interior-welded seams for structural integrity and is finished in a polyester powder coat. U.L. listed for wet locations. CSA certified.
- B...Ballast Tray
Ballast tray is hard-mounted to housing interior for cooler operation.
- C...Ballast
Long-life core and coil ballast.
- D...Reflector
Spun and stamped aluminum reflector with formed aluminum inserts provides type III distribution.
- E...Door
Formed aluminum door has heavy-duty hinges, captive retaining screws and is finished in polyester powder coat. (Spider mount unit has steel door.)
- F...Lens
Convex tempered glass lens.

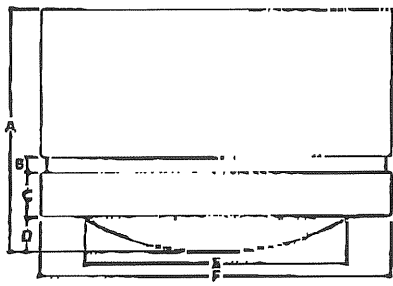


GMGALLERIA TYPE III

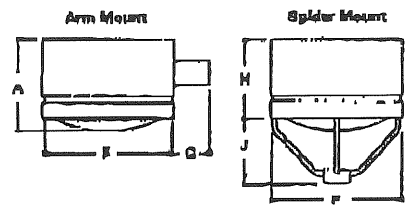
250-1000W
High Pressure Sodium Metal Halide
TYPE III VERTICAL LAMP ARCHITECTURAL AREA LIGHT



DIMENSIONS



Feature	A	B	C	D	E	F	G	H	J
Medium (In.)	14 1/2	3/4	1 1/2	3 1/2	19 1/4	27 3/4	8 or 14	11	15 or 1d
(mm)	368	19	38	89	480	702	192 or 354	279	381 or 406



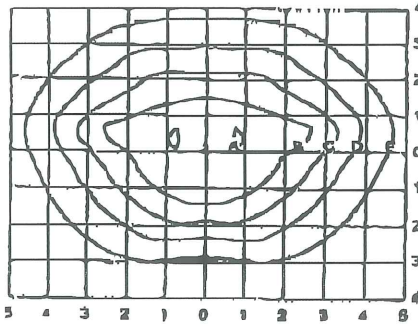
ENERGY DATA
CWA Ballast Input Watts
250W HPS HFF (300 Watts)
250W MH HFF (295 Watts)
400W HPS HFF (488 Watts)
400W MH HFF (488 Watts)
CWA Ballast Input Watts
250W HPS HFF (300 Watts)
250W MH HFF (300 Watts)
400W HPS HFF (488 Watts)
400W MH HFF (475 Watts)

Type: P

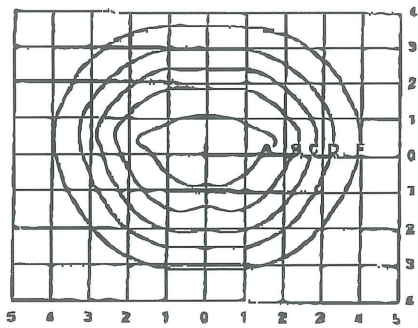
GALLERIA TYPE III VERTICAL

10c

PHOTOMETRICS



GMX402XX3V
 400-Watt MH Type III Vertical
 30,000 Lumen



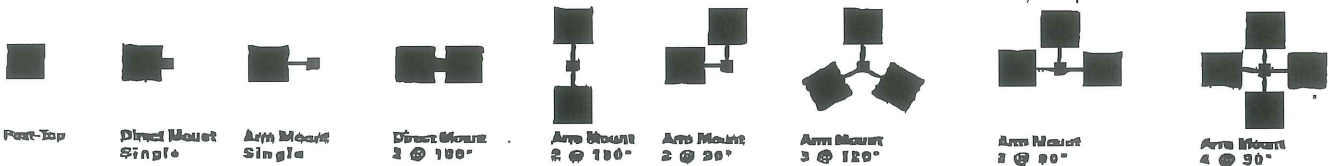
GMX402XX3V
 400-Watt HPS Type III Vertical
 50,000 Lumen

Footcandle Table

Select mounting height and read across for footcandle values of each footcandle line. Distance in units of mounting height.

Mounting Height	Footcandle Values for Indicated Line				
	A	B	C	D	E
30'	2.00	1.00	0.50	0.25	0.10
35'	1.46	0.73	0.36	0.18	0.07
40'	1.11	0.55	0.27	0.14	0.05

MOUNTING VARIATIONS



ORDERING INFORMATION

SAMPLE NUMBER: GMA262297V

G M B 91 1 2 9 3V

G Product Family
 G-Gallery
M Mounting Style
 M-Medium
B Mounting Method
 A-Arm
 S-Spider
 for 2 3/8" O.D. Tenon
 C-Spider
 for 3 1/2" O.D. Tenon
91 Lamp
 Intalco
 25-250V
 40-400W
 91-1000V*
 Lamp Type*
 1-MH
 2-HPS
1 Ballast Type
 2-CWA
 L-CWH
2 Voltage*
 1-120V
 2-208V
 3-240V
 4-277V
 5-480V
9 Distribution
 SV-Type III
 Vertical
 Lamp
3V Options (add as suffix)
 F-Single Fuse (120, 277 or 480V)
 PF-Double Pinned (208, 340 or 480V)
 R-NEMA Torsionlock Photocell/Receptacle
 Q-Quartz Resistor (Limit to 180W max. quartz lamp only, Lamp not included)
 HS-Mouse Side Shield
 VS-Vandal Shield

Accessories (order separately)
 MA1004-14" Arm for Square Pole, 1.0 EPA
 MA1005-8" Arm for Square Pole, 0.5 EPA
 MA1006-Direct Mount Kit for Square Pole
 MA1007-14" Arm for Round Pole, 1.0 EPA
 MA1008-6" Arm for Round Pole, 0.5 EPA
 MA1009-Direct Mount Kit for Round Pole
 MA1010-Single-Arm Tenon Adapter for 3 1/2" Tenon
 MA1011-2 @ 180° Tenon Adapter for 3 1/2" Tenon
 MA1012-2 @ 120° Tenon Adapter for 3 1/2" Tenon
 MA1013-4 @ 90° Tenon Adapter for 3 1/2" Tenon
 MA1014-2 @ 30° Tenon Adapter for 3 1/2" Tenon
 MA1015-2 @ 120° Tenon Adapter for 3 1/2" Tenon
 MA1016-3 @ 90° Tenon Adapter for 2 1/2" Tenon
 MA1017-Single-Arm Tenon Adapter for 2 3/8" Tenon
 MA1018-2 @ 180° Tenon Adapter for 2 3/8" Tenon
 MA1019-Wall Mount Bracket with 6" Arm (Specify color)
 CA1078-Photocell-Multi-Tap
 CA1087-Photocell-80V
 CA1091-Photoelectric Control, 247V NEMA Type
 L-Lamp Included

Catalog Number	Lamp Wattage	Lamp Type/Beam	Ballast Type	Voltage	Input Watts	EPA	Net Wt. (lbs.)	Shipping Volume (cu. ft.)
Arm Mount (Order arm separately)								
GMA251293V	250	MH/Mogul	CWA	Multi-Tap	295	2.4	64	0.2
GMA401293V	400	MH/Mogul	CWA	Multi-Tap	465	2.4	64	3.3
GMA252293V	250	HPS/Mogul	CWA	Multi-Tap	300	2.4	64	5.3
GMA402293V	400	HPS/Mogul	CWA	Multi-Tap	465	2.4	64	6.3
Spider Mount (For 2 3/8" O.D. tenon)								
GMB251293V	250	MH/Mogul	CWA	Multi-Tap	295	2.4	78	0.9
GMB401293V	400	MH/Mogul	CWA	Multi-Tap	465	2.4	78	8.0
GMB252293V	250	HPS/Mogul	CWA	Multi-Tap	300	2.4	78	8.3
GMB402293V	400	HPS/Mogul	CWA	Multi-Tap	465	2.4	78	8.9
Spider Mount (For 3" O.D. tenon)								
GMC251293V	250	MH/Mogul	CWA	Multi-Tap	295	2.4	78	0.9
GMC401293V	400	MH/Mogul	CWA	Multi-Tap	465	2.4	78	8.0
GMC252293V	250	HPS/Mogul	CWA	Multi-Tap	300	2.4	78	8.3
GMC402293V	400	HPS/Mogul	CWA	Multi-Tap	465	2.4	78	8.9

NOTE: *Arm not included (order separately).
 *Requires reduced ampacity BT91 lamp.
 *All lamps are mogul-base. Lamps are not included.
 *Products also available in non-US voltages and 50Hz for international markets. Contact factory for availability and ordering information.
 *Multi-Tap output is 120/208/240/277V. Triple-Tap ballast is 120/217/347V.

Colors (add as suffix)
 GR-Gray
 BK-Black
 WH-White

NOTE: Specifications and Dimensions subject to change without notice.

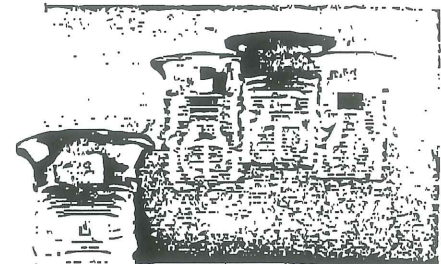
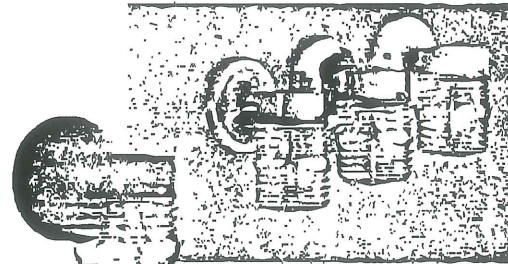
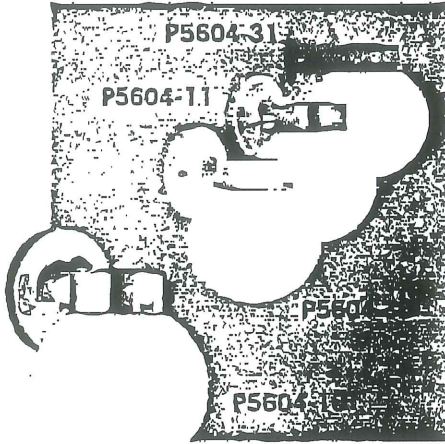


TYPE: G

152 **OUTDOOR**

PROGRESS

10d



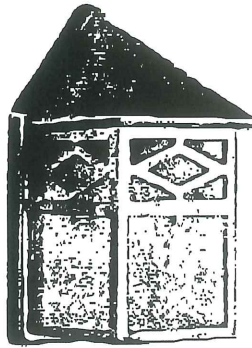
P5602-31 Black, Clear marine glass. 4 1/2" W., 7 1/4" ht. Extends 5 1/2". H/CTR 2 1/4". One [M] bulb, 75w max.
P5602-10 Polished brass
P5602-11 Weathered brass
P5602-30 White

P5603-11 Weathered brass. Clear marine glass. 4 1/2" dia., 6 1/4" ht. One [M] bulb, 60w max.
P5603-10 Polished brass
P5603-30 White
P5603-31 Black

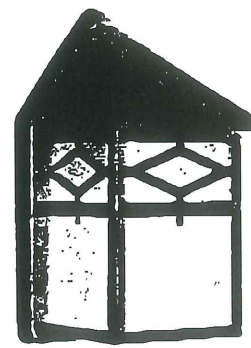
P5598 Satin black. White glass. 4 1/4" W., 8" ht. Extends 3 3/4". H/CTR 4". One [M] bulb, 100w max.

P5604-10 Polished brass. White glass globe. 6" W., 8 1/2" ht. Extends 6 1/2". H/CTR 2 1/4". One [M] bulb, 100w max.
P5604-11 Weathered brass
P5604-30 White
P5604-31 Black

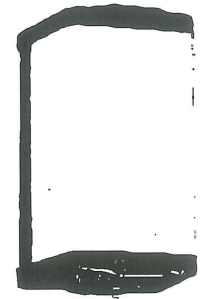
P5735-11 Weathered solid brass. Textured glass. 4 3/8" W., 9" ht. Extends 5". H/CTR 5 1/2". One [M] bulb, 100w max.
P5735-31 Black
P5735-42 Antique brass-tone finish



P5735-11



P5735-31
P5735-42



P5598

CAST ALUMINUM

All have screw-type opal glass. All have vaporproof gaskets and porcelain sockets.

P5510-16 Satin aluminum. Ceiling fixture. Opal glass. 4 7/8" dia., 6 1/8" ht. One [M] bulb, 60w max.
P5510-31 Black

P5511-31 Black. Wall fixture. Opal glass. 5" W., 6 3/4" ht. Extends 5 3/4". H/CTR 2 1/4". One [M] bulb, 100w max.
P5511-16 Satin aluminum

P5512 Satin aluminum. Two-light wall fixture. Opal glass. Mounts horizontally or vertically. 5" W., 13 1/2" ht. Extends 5 1/2". H/CTR 6 3/4". Two [M] bulbs, each 100w max.

P5616-16 Satin aluminum. Ceiling fixture. Opal glass. 6" dia., 7 1/4" ht. One [M] bulb, 60w max.
P5616-31 Black

P5617-16 Satin aluminum. Wall fixture. Opal glass. 6" dia., 8 3/4" ht. Extends 7". H/CTR 2 1/4". One [M] bulb, 100w max.
P5617-31 Black

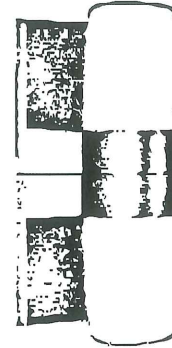
P5698-31 Black. FLUORESCENT wall fixture. White polycarbonate globe. 6" dia., 8 3/4" ht. Extends 7". H/CTR 2 1/4". Two PL-7 lamps, each 7w.



P5510-16
P5510-31



P5511-31
P5511-16

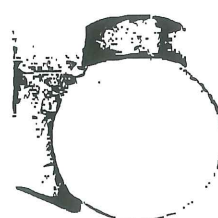


P5512
Horizontal or vertical

Matching "Hard-Nox" models on page 171



P5616-16
P5616-31



P5617-16



P5617-31



P5698-31

[M] Medium base bulb
 H/CTR = Height from center of J-box to top of fixture

DESIGNER LIGHTING

10e

THE RLM SERIES

TYPE H

SPECIFICATION INFORMATION

Designed for 3/4" Rigid Stem Mounting (Catalog Number Does Not Include Stem, Bracket, or Cord & Canopy Set. Specify these items separately from Options/Accessories).

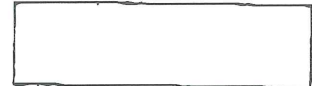
Luminaire	Fixture Prefix	Height (A)	Diameter (B)	Weight (lbs.)
-----------	----------------	------------	--------------	---------------

STANDARD DOME - Nostalgic elegance and simplicity of design.

	RD100	8"	12"	2.5
	RD150	9-3/8"	14"	3.0
	RD200	10-1/2"	16"	3.5
	RD300	10-3/4"	18"	4.0
	RD500	12-3/8"	18"	4.3



BLK - TEXTURED BLACK



WHT - TEXTURED WHITE



RED - TEXTURED RED



BRZ - TEXTURED BRONZE



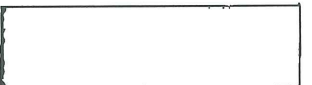
COA - TEXTURED COCOA



GRN - TEXTURED GREEN



VAN - TEXTURED VANILLA



PLT - TEXTURED PLATINUM



VGN - TEXTURED VERDIGRIS



GAL - GALVANIZED STEEL

DEEP BOWL - Provides lamp shielding and compact size.

	BD200	10-3/4"	10"	2.5
	BD300	11-7/8"	13"	3.2
	BD500	13-3/8"	13"	3.5

ANGLE REFLECTOR - Perfect for highlighting signs and product displays.

	AD100	9-1/2"	7"	2.0
	AD150	11"	9"	2.0
	AD200	12-1/2"	11"	2.5
	AD1000	19-5/8"	16"	4.5

RADIAL WAVE - Signature fixture of the RLM Series.

	RWD200	6-7/8"	20"	3.8

20 INCH DOWNLIGHT - For use in larger space planning.

	HMDM400	17-3/4"	20"	7.0

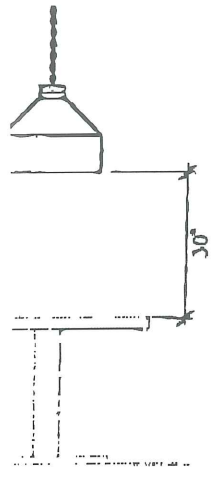
20 INCH UPLIGHT - Imparts an upward light component with High-Tech detail.

	HMDMU400	17-3/4"	20"	7.5

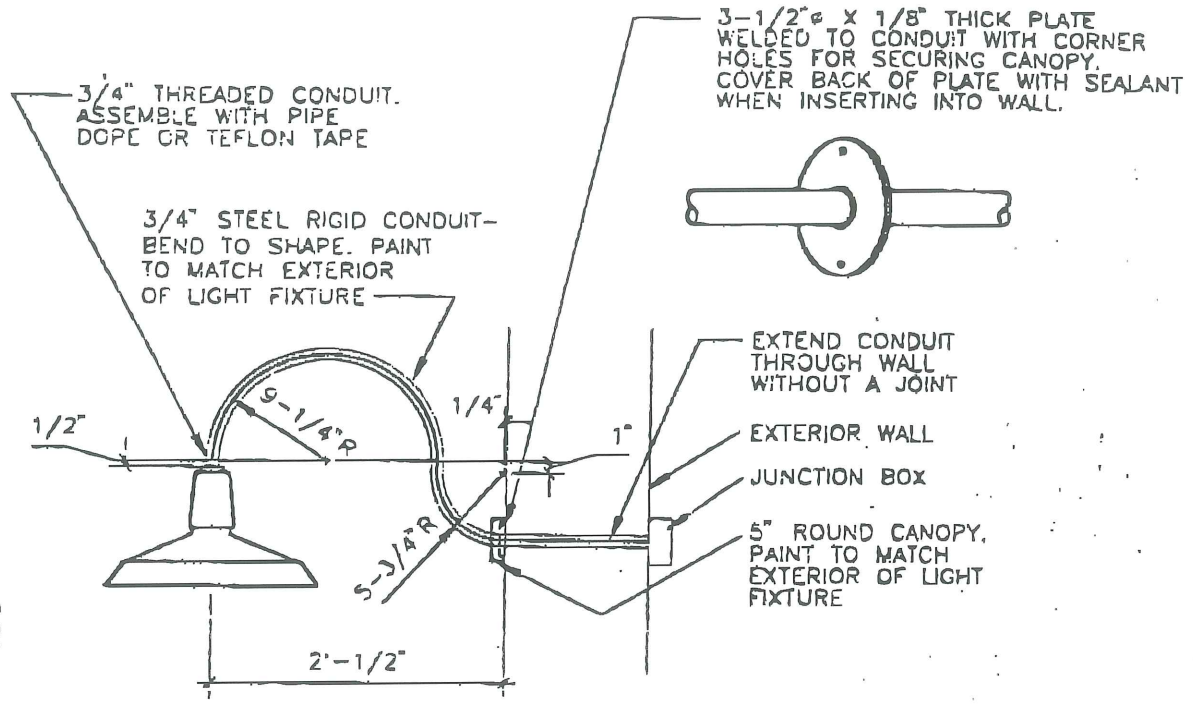
10f

Type: H

W TOP TABLES



TS OF
FIXTURES



INSTALLATION DETAIL
TYPE H LIGHT FIXTURE

NO SCALE

ELECTRICAL SYMBOLS

- 4.2 A1 HOME RUN TO PANEL - CIRCUITS AND CONDUCTORS WITH NEUTRAL INDICATED
- 2 CIRCUIT NO. 2 LOADING BEYOND THIS POINT
- BRANCH CIRCUIT CONCEALED IN CEILING OR WALL
- BRANCH CIRCUIT CONCEALED IN FLOOR
- PANELBOARD
- FLUORESCENT LIGHT FIXTURE
- INCANDESCENT OR HID LIGHT FIXTURE
- EXITLIGHT
- SINGLE POLE SWITCH (+48" OR AS INDICATED)
- THREE WAY SWITCH (+48" OR AS INDICATED)
- SWITCH WITH PILOT LIGHT (+48" OR AS INDICATED)

11

AGREEMENT OF LEASE (hereinafter the "Lease") dated as of December 23/1997, by and between Net Realty Holding Trust, c/o Net Properties Management, Inc., 535 Boylston Street, Boston, Massachusetts 02116 (hereinafter "Landlord") and **Applebee's Northeast, Inc.**, a duly organized Massachusetts corporation in good standing having its principal place of business at 4551 W. 107th Street, Suite 100, Overland Park, Kansas 66207 (hereinafter "Tenant").

1. PREMISES

Landlord hereby leases to Tenant and Tenant hereby rents from Landlord a parcel of land consisting of approximately 5,000 square feet and a one-story building to be constructed by Tenant thereon consisting of approximately 5,000 square feet (the "Building") in accordance with Article 12 below (hereinafter the "Premises") at the Pine Tree Shopping; Brighton Avenue; Portland, Maine 04102 (hereinafter the "Shopping Center"). The approximate location and dimensions of the Premises and the Building, and the Shopping Center are shown on Exhibit "1", attached hereto and made a part hereof. Within thirty (30) days of the date of the Lease, Landlord, at its expense, shall obtain a survey prepared by a licensed surveyor showing the exact location and dimensions of the Premises and the Building and also showing the Shopping Center, and, subsequent to Landlord's and Tenant's review and approval, said survey shall be attached to this Lease as Exhibit "A", which exhibit shall supersede and replace Exhibit 1. The legal description of the Shopping Center is shown on Exhibit B attached hereto and made a part hereof.

2. TERM

A. Tenant shall have and hold the Premises for:

(1) An interim term, without payment of rent therefor, commencing on the date of last execution of this Lease and ending on the earlier of (a) the date that Tenant opens for business or (b) one hundred twenty (120) days from the last to occur of: (i) the date Tenant obtains all required permits and approvals as defined in Article 14, (ii) the date Landlord and Tenant satisfies the conditions set forth in Article 46 (hereinafter referred to as the "Lease Commencement Date"); and

(2) A primary term commencing on the Lease Commencement Date and ending on the last day of the 240th full calendar month thereafter (hereinafter referred to as the "Lease Expiration Date").

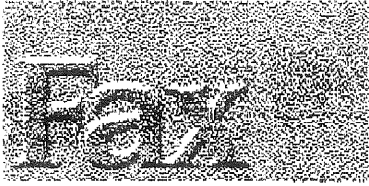
B. Following the Lease Commencement Date, Landlord and Tenant agree to execute a confirmation of lease term to be prepared by Landlord, setting forth the Lease Commencement Date and Lease Expiration Date in the form attached hereto as Exhibit C.

3. RENEWAL OPTION

A. Provided Tenant shall keep, observe and perform all the terms, provisions, covenants and conditions hereunder, Tenant shall have the right to renew this Lease for 3 additional periods of 5 years each, on the same terms provided in this Lease by delivering written notice of the exercise thereof to Landlord not later than 365 days before the Lease Expiration Date or renewal term expiration date, as applicable.

4. MINIMUM RENT

A. The minimum rent during the primary term and renewal periods of this Lease shall be payable by Tenant to Landlord in equal monthly installments on the first day of each calendar month, in advance, and shall be payable in the annual and monthly amounts as follows:



Date: Tuesday, November 09, 1999

To: Portland - Planning Department
Candi Talbot
Phone: 207-874-8901
Fax: 207-874-8716

From: Heritage Realty Management, Inc.
Robert C. Rechner
Phone: 617-247-2200
Fax: 617-266-0885

Pages: 3

Subject: Pinetree Shopping Center

Candi -

Here is the letter and plan. Please let me know if we can proceed.

Thanks!

Bob

HERITAGE REALTY MANAGEMENT, INC.

Corporate Offices: 535 Boylston Street, Boston, Massachusetts 02116-3766

Telephone: (617) 247-2200 • Fax: (617) 266-0885 (617) 267-4557

Tuesday, November 09, 1999

Candi Talbot
Planning Department
City of Portland
City Hall - 389 Congress Street
Portland, ME 04101

re: Pinetree Shopping Center
Brighton Avenue, Portland, Maine
Minor Modification to Entrance Drive

Dear Candi:

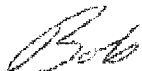
In accordance with our meetings and discussions, we would like to make some minor modifications to our main entrance drive, in order to accommodate one of our tenants and improve on the changes approved by the Board.

Please refer to the attached plan drawn by DuBois and King, dated Sept. 1999 attached and labeled exhibit "A". Specifically, we would add an entrance only, related signage, curbing and pavement markings as shown on the attached plan, to facilitate traffic flow in this portion of our parking lot. We would like the option of installing a raised median extension or posts with railing in the area shown as "Proposed Jersey Barrier"

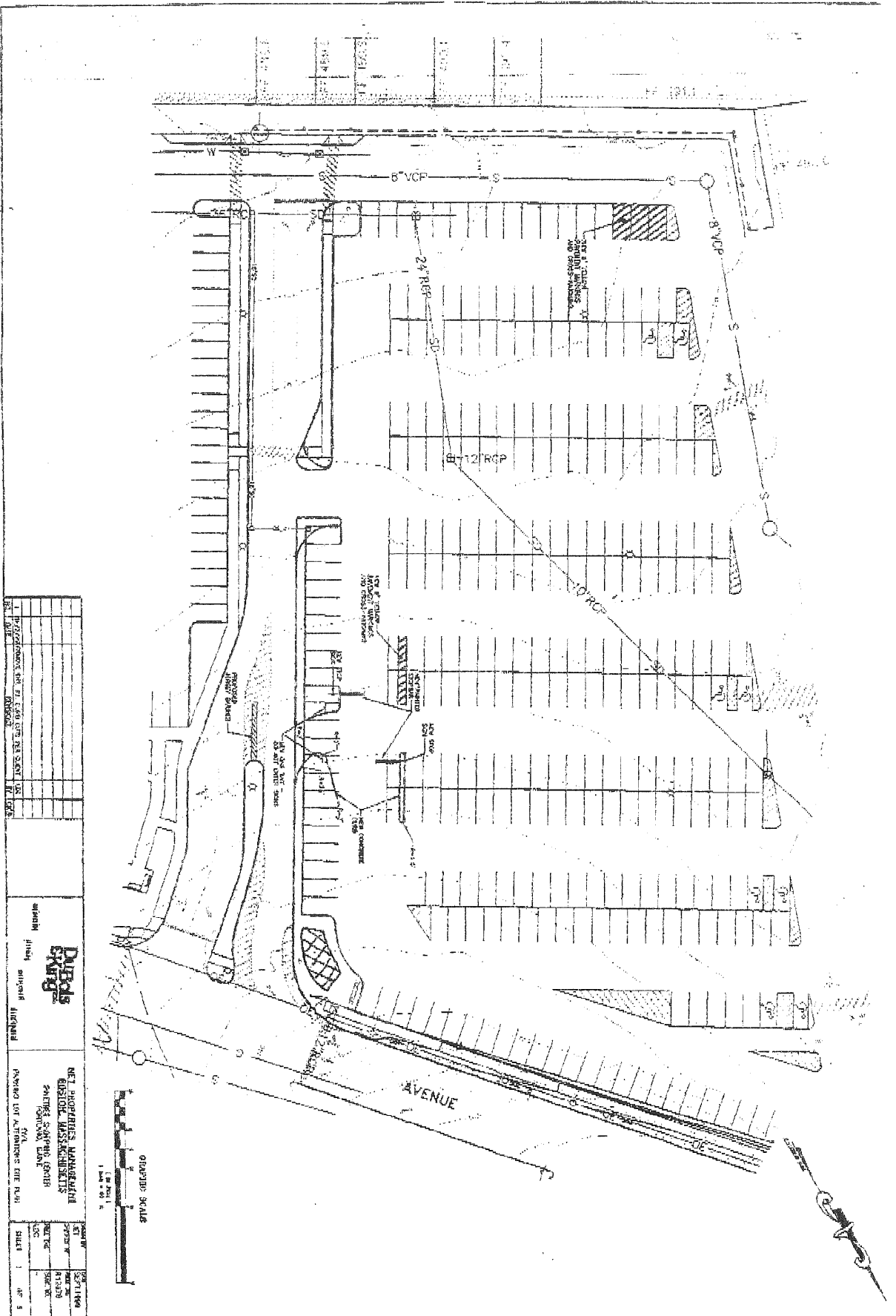
In addition, please accept this letter as our confirmation, we will create a "green area" using grass or more likely mulch with low bushes in the area as shown crosshatched on the attached plan.

Please confirm by phone and writing your approval. Thank you and Alex for your time and willingness to listen.

Sincerely,



Robert C. Rechner
Director of Leasing



1	PROPOSED FOR 11.2.00 (BY: NLS) (DATE: 11.09.99)	DATE	BY	SCALE	NO.
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Exhibit A

February 26, 2003 10:00am to 11:30am
Planning Conference Room
Please call Sarah if you cannot attend.

*Progress always involves risks. You can't steal second base and keep your foot on first.
- Frederick B. Wilcox*

Exemptions

1. 233-235 Oxford Street - 10'x10' pad for satalite dish - ms

New Projects

1. Morrill's Corner..Packard Group...sh
2. Cornell St. Duplex.....jr
3. Past residential projects (on public streets) with water quality units - Planners - can you think of any? pl
4. sheridan pkg..sh
5. quality crane ...sh
6. City Riverwalk along Presumpscot River . . . rk

Ongoing Review

1. Presumpscot St. Collins...sh
2. Congress/Frost regrading.....jr
3. Carriage Lane.....kt
4. Evergreen Credit Union.....kt
5. Bell Street.....bn
6. Catherine McCauley field expansion ...back again...bn
7. 100 Congress St. Ricks Cafe.....bn

Post Approval/Revisions

1. PRP3 problem(s) . . . rk
2. PROP (monroe/greenleaf) . . . rk

February 26, 2003 10:00am to 11:30am
Planning Conference Room
Please call Sarah if you cannot attend.

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6. Catherine McCauley field expansion ...back again...bn
7. 100 Congress St. Ricks Cafe.....bn



ENGINEERING • PLANNING • DEVELOPMENT • MANAGEMENT

PINETREE -

Traffic Issues

Lang Ash?

R12678M1
October 28, 1997

City of Portland
Department of Planning & Urban Development
389 Congress Street
Portland, Maine 04101

ATTN: Marge Schumakel

RE: Pine Tree Shopping Center

As discussed in our telephone conversation, NET Properties is exploring options to close the drive connection between the Pinetree Shopping Center and the adjacent Safelite Auto Glass. Presently, vehicles are cutting through the Safelite parking area to and from Brighton Avenue. This through traffic conflicts with the Safelite use of their parking area for pedestrians, parking, and access to their service bays.

By way of this letter, we wish to confirm that the City of Portland does not have concerns about or permit requirements for this closure. Thank you again for your help. If you have any questions, please contact us.

Sincerely,

David Conger
Design Engineer

\mlb
12678-04.LET
CC: Lawrence Pope

From: ALEX JAEGERMAN
To: CHARLIE
Date: 5/14/98 10:03am
Subject: Applebee's Legal Issues.

I appreciate your comments regarding the last meeting. I'll never look at a paint booth the same. We should now routinely request information about the location of any exterior ducts, air intakes, HVAC, generators, etc and associated noise, visual, or other impacts.

On Applebee's, (at least) two legal questions were raised.

1. The "lot" is a leased pad site. They should submit evidence of right title and interest in the property. A leased lot is a division of property, but unless the larger parcel triggers subdivision by virtue of divisions resulting in creation of three or more lots within any five year period, I don't think it is a subdivision. So we need to know more about the recent history of the parcel to determine this. Ken's theory that if this was ever an approved subdivision then this requires amendment/revision under subdivision regs I don't think is correct. But who am I to say? We should get together with Marge to solidify our interpretations on this. One option we have used in the past is to say that we don't think it is a subdivision, but the Board could approve it as a subdivision to foreclose any later second guessing by title attorneys. The review is substantially the same, and they can record a plat in the registry as a conservative measure...at their option. We'd be willing to review it as such if they so desire.

2. the question of the remainder of the site. If it is a subdivision, then clearly we get to look at the rest of the site under subdivision. If it isn't, we still get to look at related site conditions that affect any of the site plan review standards, traffic, pedestrian and vehicular circulation on and off and within the site, drainage (...still a leap to get them to retrofit the entire lot, but at least the parking associated or related to this use should meet current standards for stormwater quality.) I'd like to be able to require an overall upgrade to the stormwater management of the site to remove pollution from the runoff, if we can get there under this review. And the Board is interested in parking lot landscaping beyond Applebee's. If we reach too far, we may get little.

Anyway, could you give this some thought and give us advice on the above, and for the Planning Board packet for the June 9 meeting a memo?

CC: KCOTE, MES, JEG

Shaw's - Separate Lot

Marge, Charlie, Penny, Alex
& ME - Monday or Tuesday

**CITY OF PORTLAND, MAINE
MEMORANDUM**

TO: Chair Carroll and Members of the Portland Planning Board

FROM: Kandice Talbot, Planner

DATE: June 23, 1998

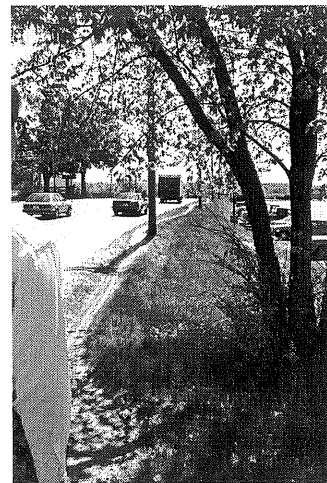
RE: Applebee's Restaurant, 1032 Brighton Avenue

At the June 9th Planning Board meeting, this item was tabled because of a couple of issues. Those issues were the sidewalk along Brighton Avenue and a mid-tract circulation aisle within the parking lot.

Sidewalk

Currently the shopping center has no sidewalk along Brighton Avenue from the west end of the property to the signalized Brighton Avenue/Taft Avenue intersection. There is a well-worn walking path along the side of Brighton Avenue in this area (please see photo). Staff is suggesting that the applicant install a sidewalk along this portion of Brighton Avenue, to fill in the gap, to be located with as minimum disturbance as possible to the sloped edge. The applicant has agreed to installing a sidewalk at the time of construction. A potential condition of approval is:

- that the applicant install a concrete sidewalk along Brighton Avenue from the westerly edge of the shopping center property to the signalized Brighton Avenue/Taft Avenue intersection and submit a pedestrian easement to the city.



Mid-Tract Circulation Aisle

The Planning Board had asked the applicant to look into the possibility of creating a mid-tract circulation aisle so that traffic from the parking lot going west onto Brighton Avenue isn't all being directed to the lane in front of the shopping center and to the lane in front of Applebee's. The applicant's Traffic Engineer has reviewed this suggestion and feels that the mid-tract aisle would increase the number of conflict points for pedestrians crossing vehicle aisles. The addition of the mid-tract aisle will also increase the number of routes vehicles may take entering and exiting the site. They feel that this will reduce the definition of the traffic circulation pattern and create driver confusion. And also, that the mid-tract aisle will increase the number of vehicle conflict points within the parking tract.

The City's Traffic Engineer has reviewed the possibility of a mid-tract circulation aisle and does not feel that the applicant should be required to install a mid-tract circulation aisle, as it relates to internal circulation. Larry Ash, City Traffic Engineer, will be at the meeting on Tuesday. The applicant will

have a site plan at the Planning Board meeting showing the mid-tract circulation aisle within the parking lot. A potential condition of approval is:

- that the applicant install a mid-tract circulation aisle within the parking lot.

REVISED MOTIONS FOR THE BOARD TO CONSIDER

On the basis of plans and materials submitted by the applicant and on the basis of information provided in Planning Board Report #24-98, the Planning Board finds:

- i. That the site plan is/is not in conformance with the Site Plan Ordinance of the Land Use Code.

Potential Condition of Approval:

- that the applicant install a concrete sidewalk along Brighton Avenue from the westerly edge of the shopping center property to the signalized Brighton Avenue/Taft Avenue intersection and submit a pedestrian easement to the city.
- that the applicant submit a more detailed lighting plan for further staff review and approval.
- that the applicant install a mid-tract circulation aisle within the parking lot.

Attachment

- 1. Planning Report #24-98

I. INTRODUCTION

Applebee's International, Inc. has requested site plan approval for a 5,000 sq. ft. building to be located at the Pinetree Shopping Center on Brighton Avenue. The site is approximately 18 acres, and is zoned B-2.

The Applebee's Restaurant will be a new building located on a leased pad within the Pinetree Shopping Center parking lot, along Brighton Avenue, between the two existing entrances. There are twenty (20) other businesses in the Pinetree Shopping Center; which include, but are not limited to, Shaw's, Ames, Marden's, Jo-Anne Fabrics, and CVS. The overall site plan is included as Attachment 12c.

At the May 12th workshop meeting, the Planning Board had asked if this project should be reviewed as a subdivision. Corporation Counsel and Planning Staff have determined that this project is not a subdivision. It is a minor site plan that has been referred to the Planning Board for approval. A memo from Corporation Counsel is included as Attachment 2. The Planning Board should review the entire site for these items which clearly relate to the Applebee project. For example, vehicular and pedestrian circulation for much of the site should be examined because of the shared parking and customer sharing between the shopping center and Applebee. Landscaping and drainage within the near proximity of the leased pad is clearly related to the project, but remote areas are less directly associated.

A legal ad appeared in the June 1st and 2nd editions of the Portland Press Herald. Notices have been sent to area property owners in the vicinity of the project.

II. FINDINGS

Zoning:	B-2 Community Business Zone
Land Area:	18 acres
Floor Area:	5,000 sq. ft.
Proposed Use:	Restaurant
Parking	
Proposed:	1,048 spaces
Required:	943 spaces

III. STAFF REVIEW

The proposed development has been reviewed for compliance with the standards of the Site Plan Ordinance of the Land Use Code. Review of the proposal has been completed by Planning, Public Works, Parks and Recreation and Fire Prevention Staff.

IV. SITE PLAN REVIEW

1. Traffic/Circulation/Parking

Access to the site is proposed via three existing shopping center driveways. Located west of the proposed building is the Brighton Avenue/Taft Avenue Shopping Center driveway, which is a signalized intersection that prohibits westbound left-turn access. Located directly to the east of the proposed building is an unsignalized intersection that prohibits left-turn exiting movements.

The third entrance is the Brighton Avenue/Rand Road signalized intersection that provides access to the Rand Road driveway.

As mentioned earlier, this parking lot is used by the patrons of twenty (20) businesses. There are 1,080 parking spaces existing. The proposed building will eliminate 32 spaces, leaving a total of 1,048 parking spaces. Based on the overall businesses, 943 parking spaces are required by ordinance.

At the workshop meeting, a major portion of the discussion was focused on internal circulation and pedestrian safety within the parking lot. The issues discussed were traffic calming, pedestrian routes, a possible mid-tract aisle, and accident data for the site and Brighton Avenue.

The site currently has granite curb and sidewalk along Brighton Avenue from the signalized intersection to Rand Road. The applicant is proposing to connect a five-foot concrete walk to the existing sidewalk, for pedestrians coming from Brighton Avenue. Also proposed is a painted crosswalk for pedestrians coming from the western part of the parking lot and a painted crosswalk connected to the southern portion of the parking lot.

Currently the shopping center has no sidewalk along Brighton Avenue from the west end of the property to the signalized Brighton Avenue/Taft Avenue intersection. There is a well-worn walking path along the side of Brighton Avenue in this area. The applicant objects to placing a sidewalk at this location due to the sloping conditions between the curb and parking lot adjacent. Staff is suggesting that the applicant install a sidewalk along this portion of Brighton Avenue, to fill in the gap, to be located with as minimum disturbance as possible to the sloped edge. A potential condition of approval is:

- that the applicant install a concrete sidewalk along Brighton Avenue from the westerly edge of the shopping center property to the signalized Brighton Avenue/Taft Avenue intersection.

The Planning Board had asked the applicant to look into the possibility of creating a mid-tract circulation aisle so that traffic from the parking lot going west onto Brighton Avenue isn't all being directed to the lane in front of the shopping center and to the lane in front of Applebee's. The applicant's Traffic Engineer has reviewed this suggestion and feels that the mid-tract aisle would increase the number of conflict points for pedestrians crossing vehicle aisles. The addition of the mid-tract aisle will also increase the number of routes vehicles may take entering and exiting the site. They feel that this will reduce the definition of the traffic circulation pattern and create driver confusion. And also, that the mid-tract aisle will increase the number of vehicle conflict points within the parking tract.

The City's Traffic Engineer has reviewed the possibility of a mid-tract circulation aisle and does not feel that the applicant should be required to install a mid-tract circulation aisle, as it relates to internal circulation.

For traffic calming, the applicant is proposing that the two islands directly to the south of the building will be raised landscaped islands. The applicant is also proposing to install a stop sign at the southeasterly corner of the leased boundary, so that traffic will not flow directly into the path of incoming cars from Brighton Avenue. There was also some discussion on whether or not to install a stop sign at the island located southwest of the building for traffic going to the signalized intersection on Brighton Avenue, but none is proposed at this time.

The applicant has contacted the Portland Police Department regarding pedestrian accidents with the parking lot and along Brighton Avenue, between the intersections of Taft Avenue and Rand Road. The Portland Police Department does not report an inordinate number of pedestrian accidents within this area. The accident data is included as Attachment 5.

2. Bulk, Location, Height of Buildings and Uses Thereof

The applicant is proposing a 5,000 sq. ft. restaurant which will seat approximately 198 people. The building will be one story, 16 ft. high, with a brick facade. Elevations are included as Attachment 7.

3. Utilities/Easements/Solid Wastes

The applicant proposes to tie into existing utility lines on Brighton Avenue. These utility lines include gas, sanitary sewer, water, electric, and telephone. Utility letters are included as Attachment 8.

4. Landscaping

The landscape plan indicates a number of foundation plantings around the building, consisting mainly of junipers and rhododendrons. Also located around the building are a number of bushes. The applicant is also proposing to landscape the two islands to the south of the building, the island to the west of the site and the existing paved area at the entrance of the signalized intersection. The City Arborist has reviewed and approved the landscape plan. His memo is included as Attachment 9. Attachment 12h is the landscape plan.

5. Drainage

Currently the proposed area is used as an excess parking area and is paved. The drainage sheet flows off the site and into an underground drainage system serving the entire shopping center. The applicant is proposing that the drainage pattern for the site would remain basically the same as the existing condition. One inlet is proposed to capture a portion of the site runoff. This inlet will connect directly into the existing storm drainage system, as well as the roof runoff from the building.

There was some discussion of the possibility of the applicant installing an oil/grit separator within the existing underground drainage system, because currently there is no water quality treatment for this 1,048 space parking lot. The applicant feels that this is not necessary since the proposed project will (very slightly) improve both the stormwater quantity and quality. Because of the increase in landscaped area, there will be a decrease in the amount of stormwater runoff

and an increased time of concentration. This will allow pollutants to settle out of the runoff prior to reaching the storm drain system. While it might be desirable to upgrade the larger parking lot to current standards, it is not clear that this project of itself justifies such a requirement at this time.

6. Lighting

The applicant is proposing two (2) 1000 watt pole-mounted lights within the site. The applicant has submitted catalogue cuts which are included as Attachment 10. We do not have pole heights. A more detailed and carefully developed lighting plan should be submitted for further staff review and approval.

7. Fire Safety

The site plan has been reviewed and approved by the Fire Department.

8. Applicant's Title, Right or Interest

The applicant's lease agreement is included as Attachment 11.

9. Natural Resources

It does not appear that this proposal will have any adverse impact on the natural resources of the area.

10. Financial Capability

The applicant has submitted an annual report from 1996 to staff. Staff is suggesting that the applicant obtain a letter of financial capability from a financial institution.

V. **MOTIONS FOR THE BOARD TO CONSIDER**

On the basis of plans and materials submitted by the applicant and on the basis of information provided in Planning Board Report #24-98, the Planning Board finds:

- i. That the site plan ~~is~~ is not in conformance with the Site Plan Ordinance of the Land Use Code.

Potential Condition of Approval:

- that the applicant install a concrete sidewalk along Brighton Avenue from the westerly edge of the shopping center property to the signalized Brighton Avenue/Taft Avenue intersection.
- that the applicant submit a more detailed lighting plan for further staff review and approval.

~~- that the applicant submit a letter of financial capability to staff for review and approval.~~

have a site plan at the Planning Board meeting showing the mid-tract circulation aisle within the parking lot. A potential condition of approval is:

- that the applicant install a mid-tract circulation aisle within the parking lot.

REVISED MOTIONS FOR THE BOARD TO CONSIDER

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- that the applicant submit a more detailed lighting plan for further staff review and approval.
- that the applicant ~~install a mid-tract circulation aisle within the parking lot.~~

Attachment

1. Planning Report #24-98

Submit revised traffic circulation and Pedestrian plan to the Planning Board.
5-0

Steve D - Sidewalk they have agreed to
Chris Neagle - lawyer for owner of Net Properties
Dave Conger - Dubois + King

KC -

Pat Reese - before changes huge Circulation Safety
(Ames manager) issue - Since change it has been more
Controlled.

Chris Neagle - if Traffic Engineer says no hazard
why should PB say it is a hazard.

Jaimey C - Applebees needs create some type of
pedestrian safety

Attachments

1. Written Statement
2. Corporation Counsel Memo
3. Letter regarding Site Circulation
4. City Traffic Engineer's Memo
5. Accident Data
6. Traffic Study
7. Elevations
8. Utility Letters
9. City Arborist's Memo
10. Lighting Catalogue Cuts
11. Lease Agreement
12. Plans

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INTRODUCTION

Atlantic Traffic & Design Engineers, Inc. (ATDE) has prepared this Traffic Impact Analysis to support the application by Applebee's Neighborhood Grill & Bar to construct a new restaurant on a pad location within the Pine Tree Shopping Center. The subject site is located along eastbound Brighton Avenue (Maine Highway 25) opposite Taft Avenue, in the City of Portland, Maine (Figure 1). The subject pad site is presently utilized for parking in the remote northwesterly corner of the Shopping Center.

The proposed Restaurant of approximately 5,000 square feet that will provide a total of 178 seating positions and for the purpose of this traffic assessment the number of seating positions have been rounded-up to 180. Access to the site is proposed via the existing Shopping Center access scheme that includes:

1. Brighton Avenue/Taft Avenue-Shopping Center Driveway signalized intersection that prohibits westbound left-turn access.
2. Brighton Avenue/Shopping Center (middle) Driveway unsignalized intersection that prohibits left-turn exiting movements.
3. Brighton Avenue/Rand Road signalized intersection that provides access to the Rand Avenue driveway.

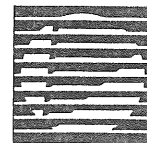
This study identifies the increase in traffic movements along the adjacent roadway network which would occur as a result of the construction of the proposed Applebee's Restaurant, and identifies the overall impacts of the future "build" scenario.

This analysis includes the following information:

- A review of existing roadway and traffic conditions in the vicinity of the site, including roadway geometrics, traffic volumes and operations, roadway capacities, and nearby land use descriptions;
- Estimation of the volume of traffic expected to be generated by the proposed Restaurant;

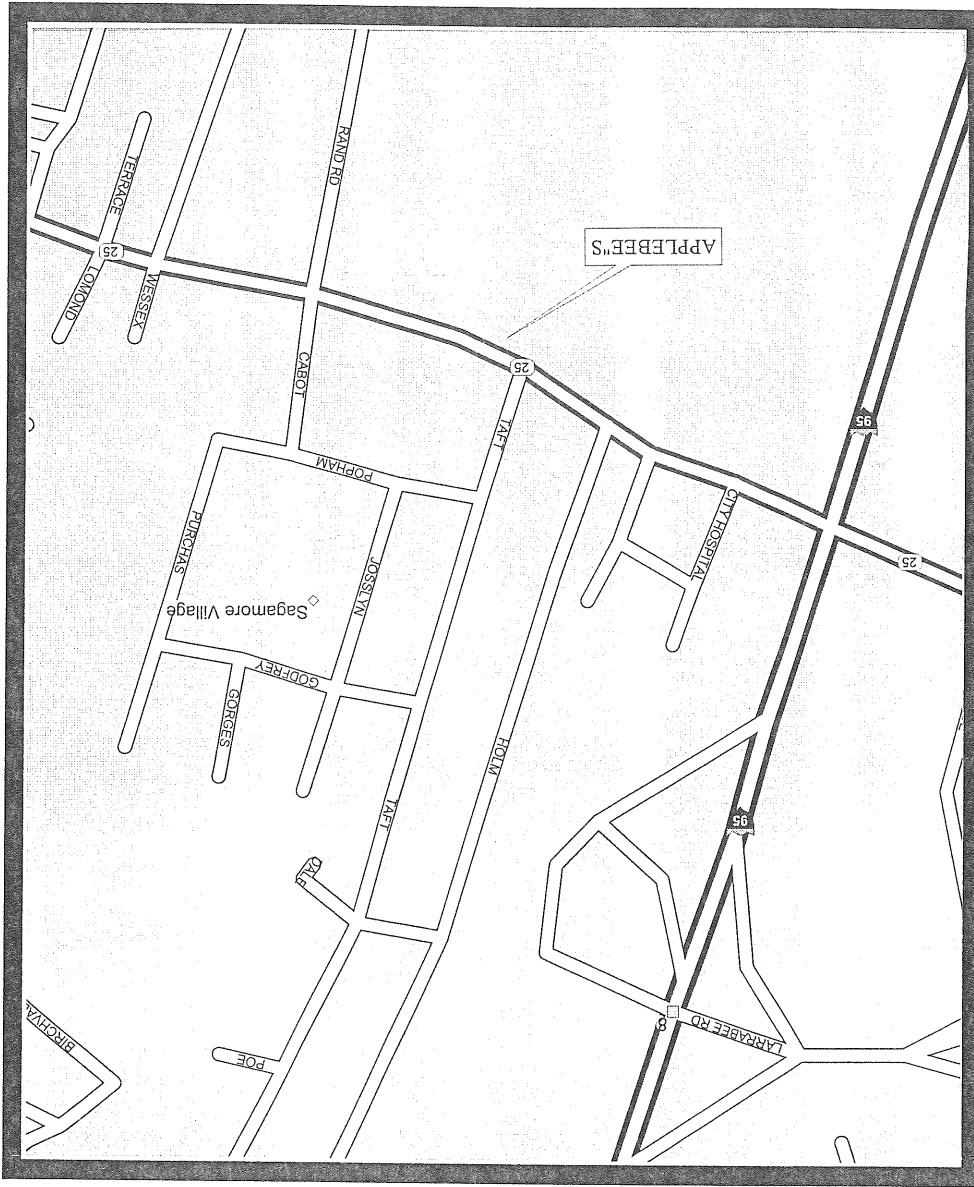
- An analysis of future roadway capacities for the future "build" scenario;
- A review of the site plan focusing on access design and interior circulation characteristics, as well as the parking layout; and
- Recommendations and conclusions.

ATLANTIC
TRAFFIC
& DESIGN
ENGINEERS, INC.



Site Location Map

Proposed Applebee's Restaurant
City of Portland
Maine



NOT TO SCALE

Figure 1

EXISTING CONDITIONS

Existing Roadway Conditions

The pad site of the proposed Applebee's Restaurant is within the corner of the Pine Tree Shopping Center proximate to the Brighton Avenue/Taft Avenue intersection.

Brighton Avenue is an east/west roadway designated as Maine Route 25 and is under the jurisdiction of the State of Maine and the City of Portland. The roadway is characterized as an urban principal arterial that generally provides two lanes of travel in each direction. In the site vicinity, Brighton Avenue has a posted speed limit of 35 miles per hour.

Taft Avenue is a north/south local roadway with an assumed speed limit of 25 miles per hour. The Brighton Avenue/Taft Avenue intersection's southern leg serves as a Pine Tree Shopping Center direct access point. The intersection is controlled by a City traffic signal that prohibits westbound left-turning movements into the Shopping Center. The westbound approach provides two through lanes with the curb lane shared with right turns. The eastbound approach provides three lanes which are utilized as a left lane, a through lane and as a shared through/right turn lane. The northbound approach from the Shopping Center provides two lanes that are striped as a single left-turn lane and as a shared through/right lane. The southbound approach provides a single shared left/through/right lane.

The Brighton Avenue/Rand-Cabot Street signalized intersection is similar to the Taft Avenue intersection with the difference being that eastbound left-turns are permitted via a separate signal phase and signal arrow.

Two-way peak hour traffic volumes are approximately 2,500 vehicles during the evening peak hour with a fairly even east/west distribution. Please refer to Figure 2 for the evening peak hour volumes.

To first examine the existing traffic conditions in the site vicinity, manual turning movement counts were conducted along Brighton Avenue at Taft Avenue, Rand Avenue, as well as the two site driveways along Brighton Avenue eastbound, in accordance with guidance from the City and the State traffic professionals. The purpose of conducting the traffic counts was to identify the appropriate peak periods of "typical" operation in the area. The counts were conducted during the weekday evening time period (4:00 p.m. to 7:00 p.m.) on Friday, May 1, 1998 to determine the peak hour.

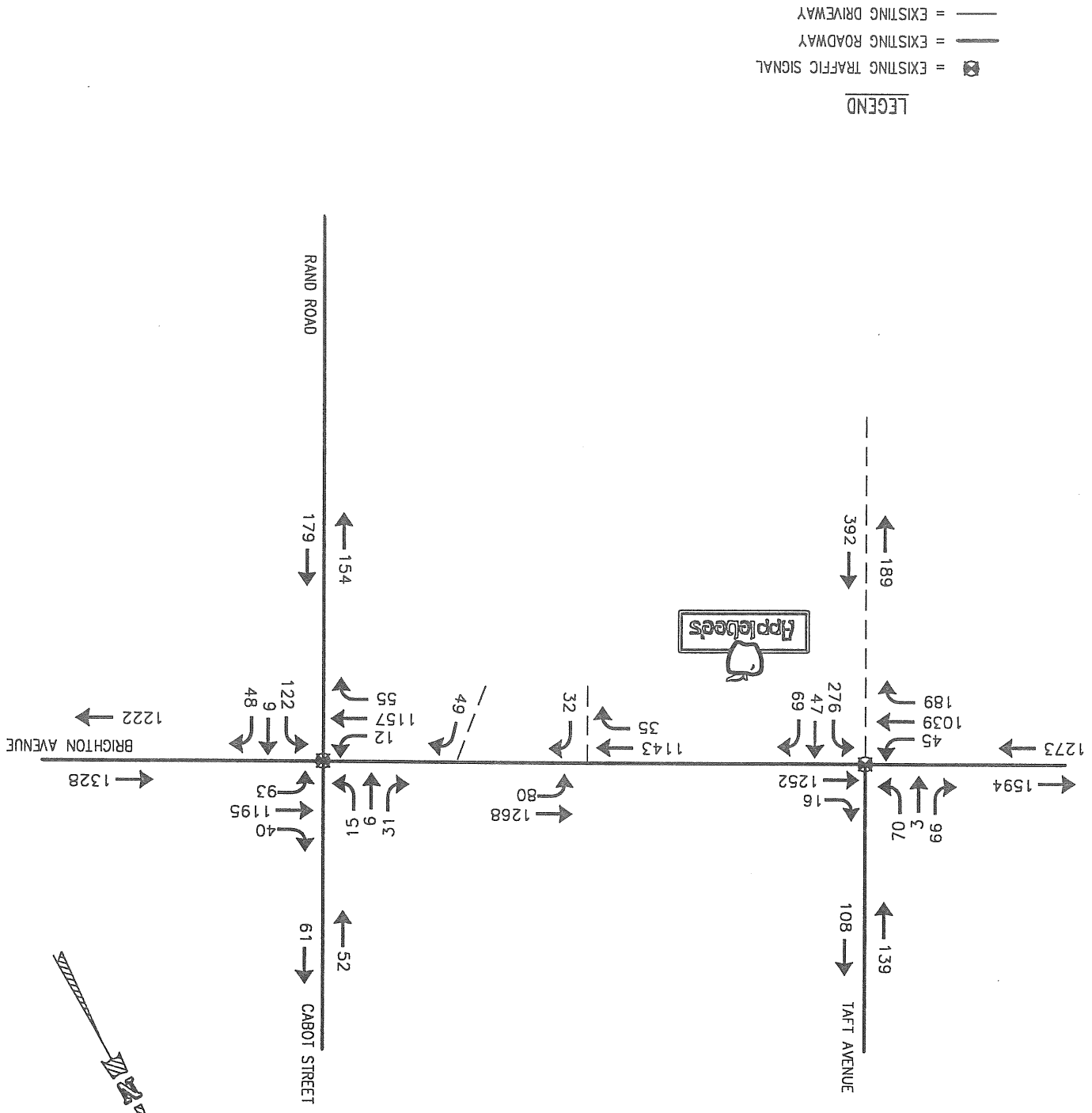
Existing Traffic Volumes

- The two unsignalized Brighton Avenue driveways are configured as follows:
1. The westerly drive provides for channelized right-turn ingress, and a separate left turn ingress lane, as well as a right turn egress lane.
 2. The easterly drive provides for right turn egress only.

Existing Traffic Volumes Evening Peak Hour (4:15-5:15 P.M.)

Figure 2

Applebee's Restaurant (Route 25) @ Pine Tree Shopping Center
Portland, Maine



Analysis of Existing Traffic Volumes

A volume/capacity analysis¹ was performed for the study intersections along Brighton Avenue at Taft Avenue, Rand Avenue, as well as the two site driveways for existing 1998 conditions utilizing the latest edition of the Highway Capacity Software (HCS).

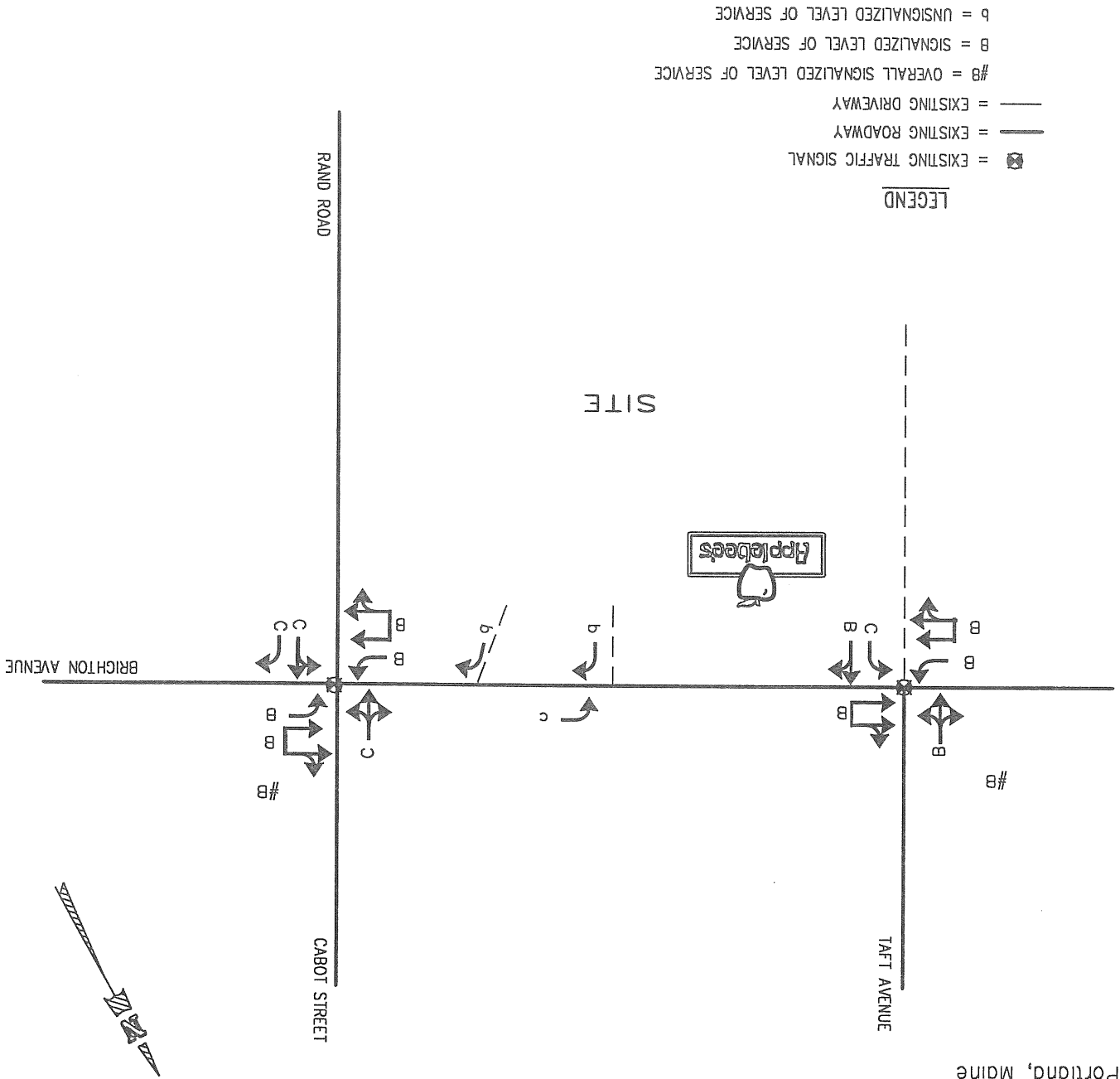
As shown on Figure 3, the two study signalized intersections of Brighton Avenue operate at favorable "B" overall Levels of Service during the peak hour evening consistent with field observations. Movements at the two site driveways along Brighton Avenue operate at an acceptable unsignalized Level of Service "c".

¹ See Technical Appendix for Volume/Capacity analyses and Level of Service description.

Existing Levels of Service Evening Peak Hour (4:15-5:15 P.M.)

Figure 3

Applebee's Restaurant
Brighton Avenue (Route 25) @ Pine Tree Shopping Center
Portland, Maine



TRAFFIC CHARACTERISTICS OF THE PROPOSED USE

To identify the future traffic impact, the traffic characteristics of the proposed Applebee's Restaurant must first be determined. In addition, potential traffic increases resulting from continued changes in driver demographics must also be considered for an accurate assessment of future traffic conditions. For the purposes of this analysis, complete construction of the Applebee's Restaurant has been assumed to occur by the end of 1998.

In assessing the future traffic impact of the proposed restaurants, the following issues must be addressed:

- How much additional traffic will the proposed restaurant generate (trip generation)?
- What will be the resulting net increase in traffic volumes on the area roadway system (traffic assignment)?
- What will be the effect of overall operating conditions along Brighton Avenue, and at the site driveway intersections (traffic impact)?

Trip Generation

Trip generation characteristics of any use are generally related to type, size, and character of the use. Estimates of peak hourly and daily traffic demands for the proposed restaurant were prepared using research as compiled by the Institute of Transportation Engineers (ITE) in "Trip Generation, 6th Edition 1997. Using ITE Land Use 832 "High Turnover, Sit Down Restaurant" trip generation calculations were conservatively prepared based on the proposed 180 seating positions. The High Turnover Restaurant category was used for the Applebee's Restaurant based upon consultation with the Maine Department of Transportation and provides a basis for a conservative analysis.

area. However, to conduct a conservative analysis no, "pass-by" trip generation credit has been taken. Therefore, the Restaurant site traffic has been assumed to be 100% "new" traffic to the

are made as a matter of convenience and are linked to some other primary purpose trip. As a result, such traffic should not be considered "new" to the area, but rather is already passing by the site on the adjacent public streets. Such trips are known as "pass-by" trips, which

route to some other destination. It is furthermore accepted that a certain percentage of traffic attracted to a restaurant generally relates to the volume of traffic passing by the site. Specifically, a certain percentage of restaurant traffic is comprised of trips diverted from the adjacent passing travel stream which, upon exiting the site, continues along the original trip path. Stops are made to the restaurant en

TIME PERIOD	ENTER	EXIT	TOTAL
Saturday Peak Hour	92	67	159
Evening Peak Hour	81	67	148

**TABLE I
TRIP GENERATION
APPLEBEE'S RESTAURANT 180 SEATS**

Applebee's Restaurant. Trip generation estimates for the evening peak hour of the generator have been used for this analysis. As discussed previously, evening "street" peak hour traffic volumes have been collected for this analysis. The weekday evening peak hour of the generator for the Restaurant development is expected to occur after the "street" peak hour. However, to present a "worst-case", the evening "street" peak hour traffic volumes will be analyzed coincidental with the evening peak hour of the generator. Table I displays the ITE trip generation estimates for the

Trip Distribution

The directional distribution of new traffic approaching the site during the peak hours was based upon a review of the existing distribution pattern of street traffic in the vicinity of the site, as well as the existing orientation into the Pine Tree Shopping Center. The distribution pattern for new site traffic is projected to be 70% eastbound to/from the site along Brighton Avenue with the remaining 30% to/from Brighton Avenue westbound.

1998 FUTURE "BUILD" TRAFFIC CONDITIONS

1998 Future "Build" Traffic Volumes

It is recognized that traffic routinely fluctuates along various State and County roadways, as well as local streets, and varies not only day-to-day, but on a monthly and yearly basis. It is expected that as development continues in the vicinity of the site, traffic may increase (though nominally) on a regular basis. As previously mentioned, it is expected that the construction of the restaurant would be completed by the end of 1998. As a result, existing traffic volumes were conservatively increased by 2.0% percent to reflect potential background traffic growth. To develop the 1998 future "build" traffic volumes, the Restaurant trip generation was added to the 1998 future baseline traffic volumes. The resulting 1998 future "build" traffic volumes are shown on Figure 4.

Analysis of 1998 Future "Build" Traffic Volumes

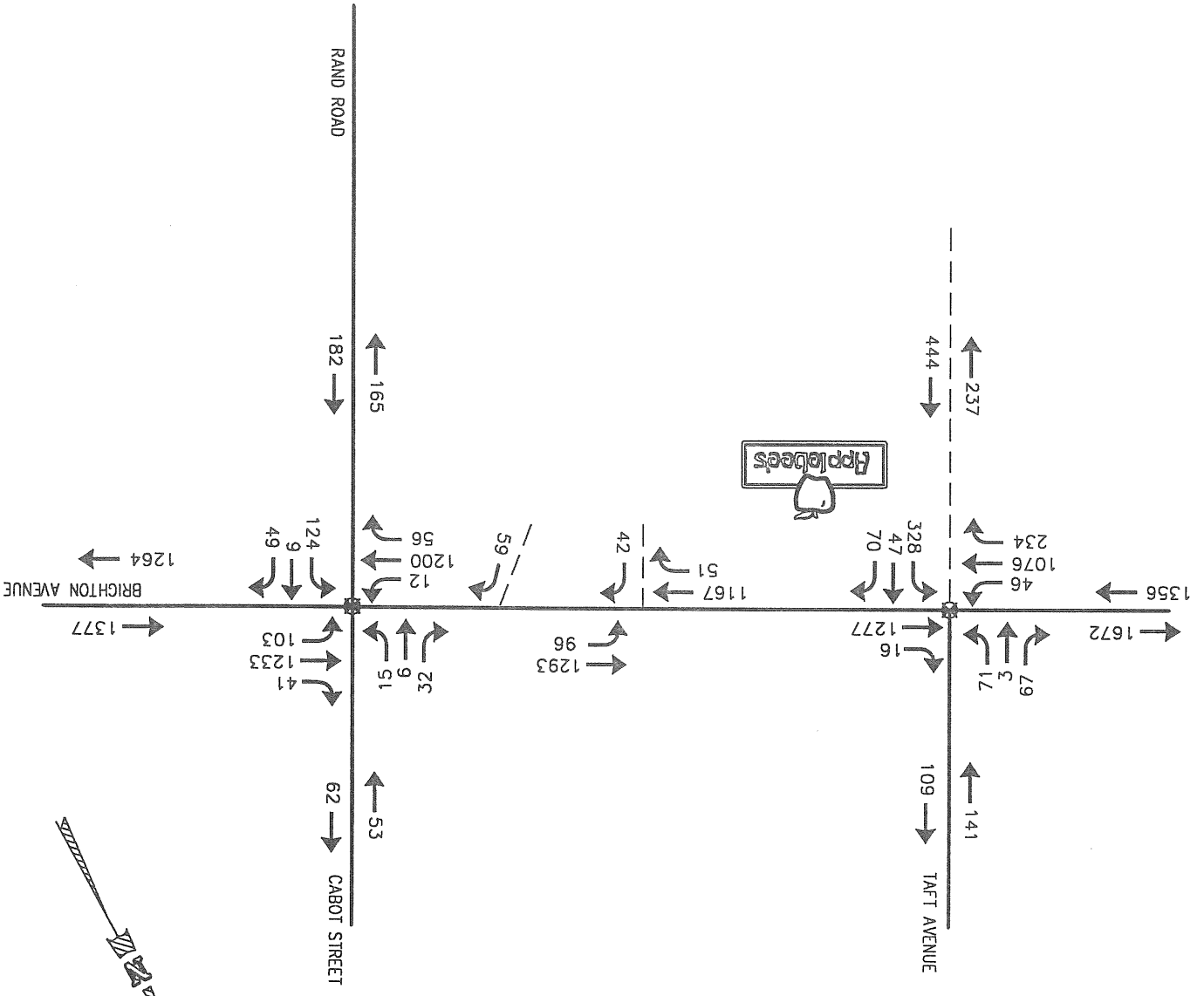
A volume/capacity analysis was again performed for the study intersections along Brighton Avenue at the four study locations. The only appreciable effect of the proposal is a change for the northbound left-turning movement at the Brighton Avenue/Taft Avenue intersection from Level of Service "C" to "D" that reflects an 8 second delay increase. The overall signalized Level of Service remains unchanged at "B" at both signalized intersections. The minor degradation in Level of Service is to the site driveway, and not to the public roadways, which remain unchanged.

A Saturday peak hour analysis was performed utilizing the ITE trip generation for the Saturday peak hour of the generator and the Friday weekday peak hour volumes. This is deemed a very conservative scenario, and was performed to determine that no significant impact will result under any circumstances. The results of the Saturday peak hour are the same as that for the Friday "build" analysis

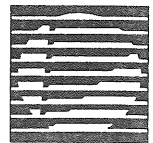
Future "Build" Traffic Volumes Evening Peak Hour

Figure 4

Applebee's Restaurant (Route 25) @ Pine Tree Shopping Center
Portland, Maine



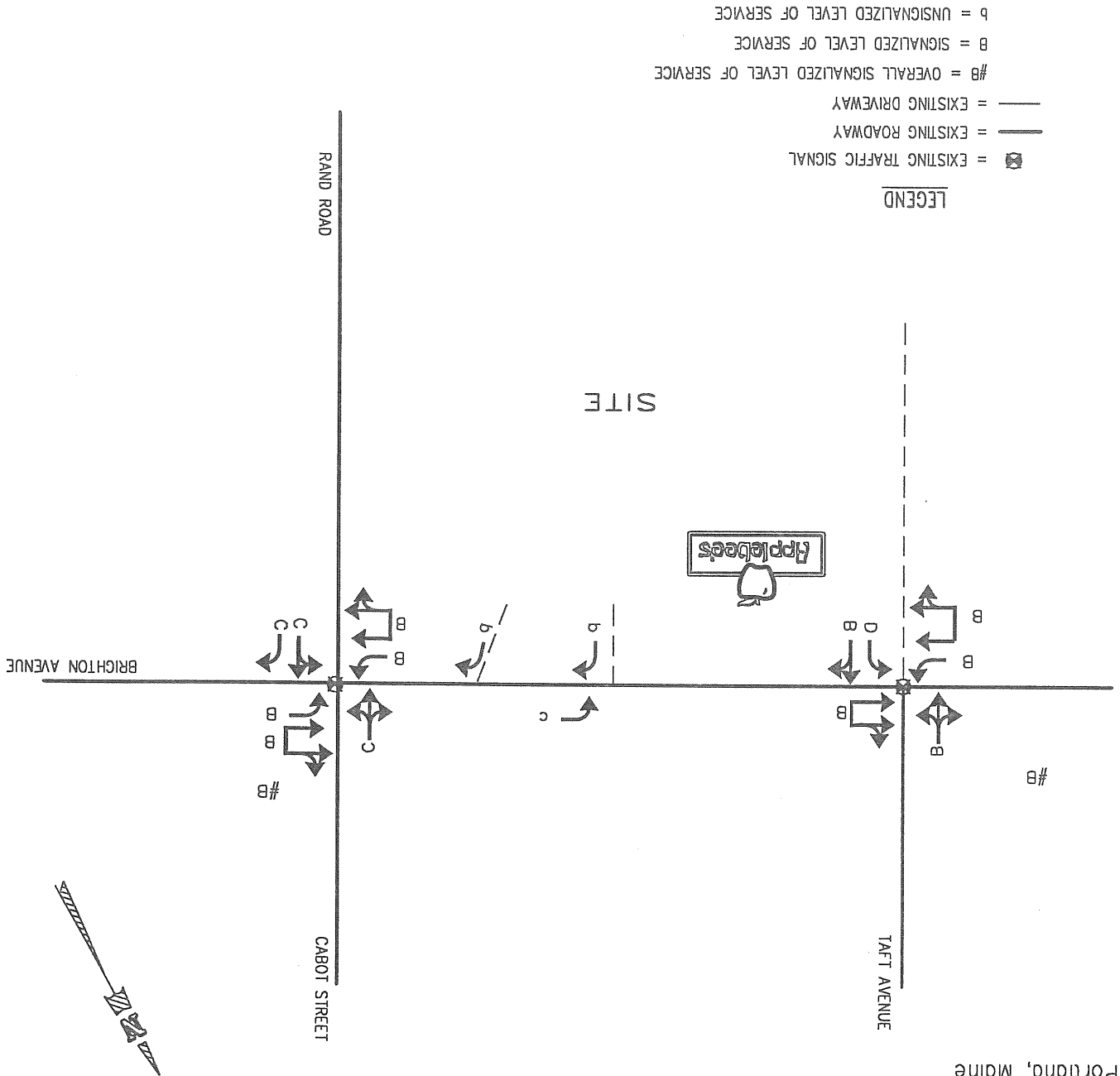
LEGEND
 [Symbol] = EXISTING TRAFFIC SIGNAL
 [Symbol] = EXISTING ROADWAY
 [Symbol] = EXISTING DRIVEWAY



Future "Build" Levels of Service Evening Peak Hour

Figure 5

Applebee's Restaurant
Brighton Avenue (Route 25) @ Pine Tree Shopping Center
Portland, Maine



SITE ACCESS AND CIRCULATION

A review was made of the Preliminary Plan prepared by Bohler Engineering, Inc., dated April 8, 1998. In completing this review, particular attention has been focused on the site access and circulation scheme, as well as the parking supply and orientation.

The following items address on-site design characteristics:

- Access to the proposed Applebee's Restaurant will be provided via the existing access scheme to the Pine Tree Shopping Center. As previously discussed and summarized, the four Shopping Center access points will provide efficient access to the proposed pad site.

- With respect to the parking supply at the Pine Tree Center, approximately 40 spaces will be removed to accommodate the proposed Restaurant and parking lot improvements. As the nearest removed parking space is approximately 260 feet from the existing shopping facilities, the loss of these typically low-turnover spaces will not greatly impact the overall Shopping Center parking facilities.

CONCLUSIONS

This conservative analysis has shown that there is sufficient capacity along Brighton Avenue to accommodate the traffic that will be generated by the proposed Applebee's Restaurant. As a result, the overall impact on the roadway system during the typical peak hours will be minimal. The Site Plan has been prepared consistent with accepted traffic engineering design standards, which will adequately service typical demands.

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TECHNICAL APPENDIX

LEVEL OF SERVICE ANALYSIS

While traffic volumes provide a measure of activity on the area roadway system, it is also important to evaluate how well that system can accommodate those volumes -- i.e., a comparison of peak traffic volumes with available roadway capacity. By definition, capacity represents the maximum number of vehicles which can be accommodated given the constraints of roadway geometry, environment, traffic characteristics, and controls. Intersections are usually the critical point in any road network since it is at such points that conflicts exist between through, crossing, and turning traffic, and where congestion is most likely to occur.

Unsignalized Intersections

An unsignalized (i.e., "YIELD" or "STOP" sign controlled) driveway or side street along a through route is seldom critical from an overall capacity standpoint, however, it may be of great significance to the capacity of the minor cross-route, and it may influence the quality of traffic flow on both. In analyzing unsignalized intersections, it is assumed that both the through movements and right turn movements on the major street approaches are unimpeded and have the right-of-way over the minor street approaches and left turns from the major street. All other turning movements in the intersection cross, merge with, or are otherwise impeded by the major street movements.

The concept in determining traffic delays at an unsignalized intersection is to process these impeded movements in a sequential manner. For each impeded movement, all conflicting flows are summed, and an initial critical 'gap' in traffic is determined with a "follow-up" gap determined for subsequent vehicles waiting in a queue. Based upon the number of available gaps in the passing traffic stream, the potential capacity of that movement can be calculated.

However, since operation at capacity is usually unsatisfactory to most drivers, a descriptive mechanism (Level of Service) has been developed which describes traffic operations as a function of average total delay. Unsignalized Levels of Service range from 'a' (delays less than five seconds) to 'f' (delays greater than 45 seconds). Table I summarizes the relationship between capacity and Level of Service for unsignalized intersections as defined by the Transportation Research Board Highway Capacity Manual updated in October, 1994.

* Transportation Research Board, Highway Capacity Manual, Special Report 209, Third Edition, 5th printing, published in October, 1994 by the Transportation Research Board, Washington, D.C.

LEVEL OF SERVICE	AVERAGE TOTAL DELAY (SEC./VEH.)
a	≤ 5
b	> 5 and ≤ 10
c	> 10 and ≤ 20
d	> 20 and ≤ 30
e	> 30 and ≤ 45
f	> 45

LEVEL OF SERVICE AND EXPECTED DELAY*
FOR UNSIGNALIZED INTERSECTIONS

TABLE I

Signalized Intersections

At signalized intersections, numerous other factors regulate the various approach capacities, including width of approach, number of lanes, signal "green time", turning percentages, truck volumes, etc. As with unsignalized intersections, operation at capacity is far from satisfactory since substantial delays or reduced operating speeds are likely. Therefore, a similar description mechanism has been developed (also called Level of Service) which indicates, on the basis of average delay per vehicle, the relative smoothness of intersection operation on a scale of 'A' (indicating average delays of 5 seconds or less) to 'F' (indicating average delays greater than 60 seconds). The various levels of signalized intersections are summarized in Table II. Again, the acceptable limit of delay for most motorists is Level of Service 'E'.

Delays cannot be related to overall roadway capacity in a simple one-to-one fashion. It is possible to have delays in the Level of Service 'F' range, without exceeding the physical roadway capacity. Such delays can exist if one or more of the following conditions exist:

- “ long signal cycle lengths (the time of complete a full sequence of signal phases);
- “ the particular traffic movement experiences a long red time; or,
- “ a progressive movement for a particular lane group is poor.

TABLE II

LEVEL OF SERVICE
FOR SIGNALIZED INTERSECTIONS+

LEVEL OF SERVICE	DESCRIPTION	AVERAGE STOPPED DELAY PER VEHICLE (SECONDS)
A	Very short delay, good progression; most vehicles do not stop at intersection.	≤ 5.0
B	Generally good signal progression and/or short cycle length; more vehicles stop at intersection than Level of Service A.	5.1 to 15.0
C	Fair progression and/or longer cycle length; significant number of vehicles stop at intersection.	15.1 to 25.0
D	Congestion becomes noticeable; individual cycle failures; longer delays from unfavorable progression, long cycle length; or high volume/capacity ratios; most vehicles stop at intersection.	25.0 to 40.0
E	Usually considered limit of acceptable delay indicative of poor progression long cycle length, or high volume/capacity ratio; frequent individual cycle failures.	40.1 to 60.0
F	Could be considered excessive delay in some areas, frequently an indication of over-saturation (i.e., arrival flows exceeds capacity), or very long cycle lengths with minimal side street green time. Capacity is not necessarily exceeded under this Level of Service.	> 60.0

+ Transportation Research Board, Special Report 209, Highway Capacity Manual, 1994, published by the Transportation Research Board, Washington, D.C.

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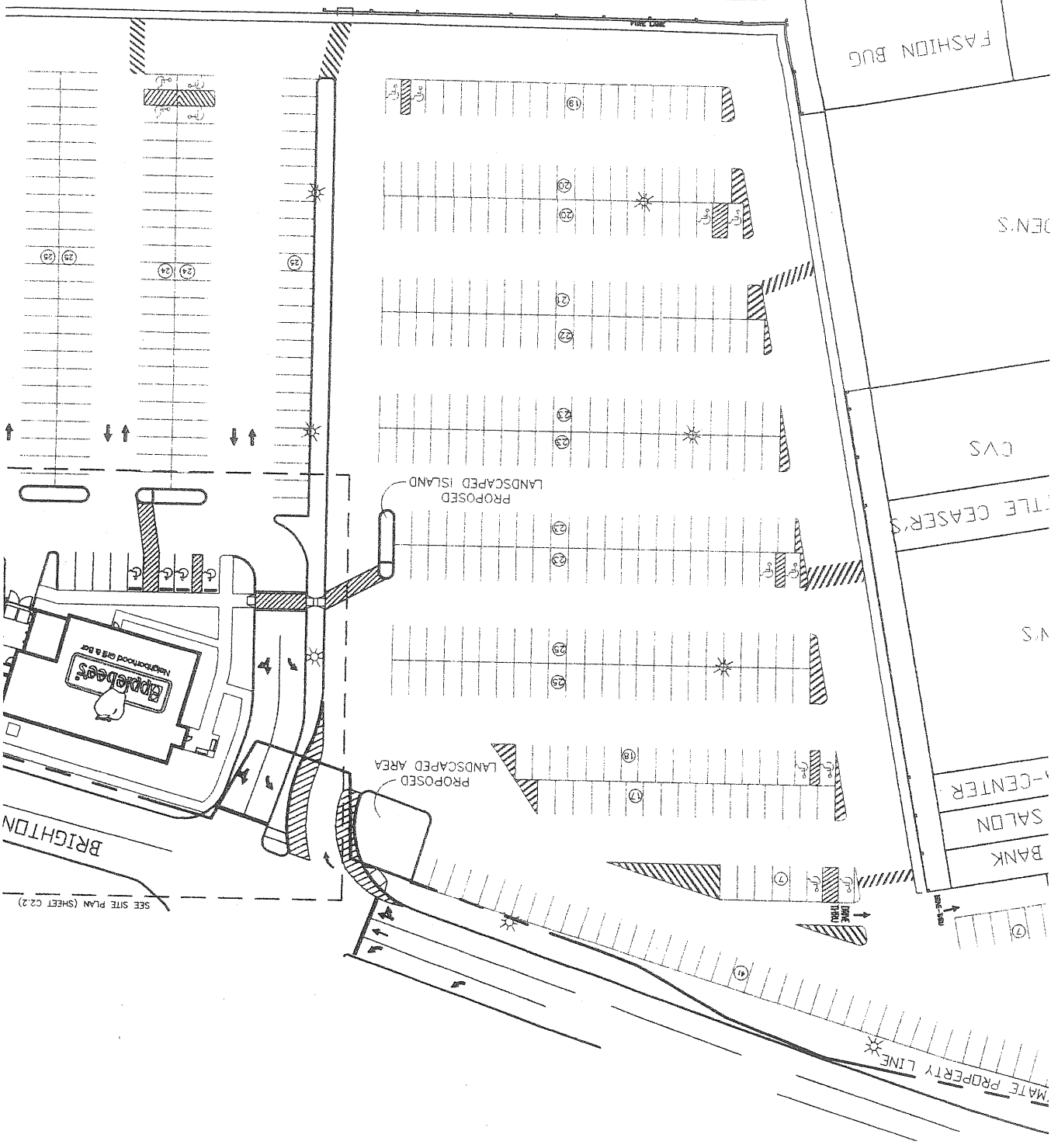
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CHRISTOPHER S. NEAGLE
PARTNER
e-mail: csn@verdan.com

June 15, 1998

Mr. Alexander Jaegerman
City of Portland
389 Congress Street
Portland, Maine 04101

Re: Applebee's Restaurant Application
Pine Tree Shopping Center, Portland, Maine

Dear Alex:

I represent the owner of the shopping center and Landlord, Net Realty Holding Trust. I have enclosed the Lease Agreement between the Landlord and Applebee's for its restaurant site at the Pine Tree Shopping Center. All financial figures have been deleted.

As you can see from Section 1, Exhibit A, Applebee's has only leased the store footprint and has limited parking rights within the Shopping Center. It has no interest in the remainder of the site or the section of Brighton Avenue with no sidewalk.

I can understand the City's position on the Brighton Avenue sidewalk as arguably related to the new Applebee's restaurant. The application addresses the vehicular and pedestrian impact on the common parking area, so I do not understand how the Planning Board can require a "center cut" in the parking lot for reasons unrelated to Applebee's restaurant.

The applicant will be in touch with you regarding internal traffic circulation issues and the City's request for a new sidewalk. Please call me if I can help further.

Sincerely,

Christopher S. Neagle

CSN/mle

Enclosure

cc: Robert Rechner, NET Properties
Penny Littell, City Attorney
Steve DeCourcy, Applebee's

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