

CITY OF PORTLAND

BU **PERMIT** ION

Please Read Application And Notes, if Any, Attached

Permit Number: 090332

This is to certify that LOCKARD ROBERT A /P.M. construction
has permission to New 14,097 sq ft "Walgreens"
AT 336 ALLEN AVE CP 344 E036001

provided that the person or persons, firm or corporation accepting this permit shall comply with all of the provisions of the Statutes of Maine and of the Ordinances of the City of Portland regulating the construction, maintenance and use of buildings and structures, and of the application on file in this department.

Apply to Public Works for street line and grade if nature of work requires such information.

Notification of inspection must be given and written permission procured before this building or part thereof is lath or other work is set-in. 2 HO NOTICE IS REQUIRED.

A certificate of occupancy must be procured by owner before this building or part thereof is occupied.

OTHER REQUIRED APPROVALS

Fire Dept. CHPT. R. Santoro
Health Dept. _____
Appeal Board _____
Other _____
Department Name

Chet J. ... 8/29/29
Director - Building & Inspection Services

PENALTY FOR REMOVING THIS CARD

City of Portland, Maine - Building or Use Permit Application
 389 Congress Street, 04101 Tel: (207) 874-8703, Fax: (207) 874-8716

Permit No: 09-0332	Issue Date: 8/28/09	CBL: 344 E036001
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Location of Construction: 336 ALLEN AVE	Owner Name: LOCKARD ROBERT A	Owner Address: 69 HANCOCK RD	Phone:
Business Name: Walgreens	Contractor Name: P M Construction Co.	Contractor Address: 19 Industrial Park Rd Saco	Phone: 2072827697
Lessee/Buyer's Name	Phone:	Permit Type: Commercial	Zone: B-2

Past Use: Vacant Land MULTI-Commercial USCS	Proposed Use: Commercial - "Walgreens" New 14,097 sq ft "Walgreens"	Permit Fee: \$20,595.00	Cost of Work: \$2,050,000.00	CEO District: 5
Proposed Project Description: New 14,097 sq ft "Walgreens"		FIRE DEPT: <input checked="" type="checkbox"/> Approved <input type="checkbox"/> Denied * See Conditions	INSPECTION: Use Group: M Type: 11B IBC-2003	
		Signature: (KG)	Signature: (CO)	
PEDESTRIAN ACTIVITIES DISTRICT (P.A.D.)				
Action: <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/Conditions <input type="checkbox"/> Denied				
Signature: _____ Date: _____				

Permit Taken By: Ldobson	Date Applied For: 04/16/2009	Zoning Approval
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1. This permit application does not preclude the Applicant(s) from meeting applicable State and Federal Rules. 2. Building permits do not include plumbing, septic or electrical work. 3. Building permits are void if work is not started within six (6) months of the date of issuance. False information may invalidate a building permit and stop all work.. 	Special Zone or Reviews <input type="checkbox"/> Shoreland NA <input type="checkbox"/> Wetland <input type="checkbox"/> Flood Zone Panel 2 Zone X <input type="checkbox"/> Subdivision <input checked="" type="checkbox"/> Site Plan 2007-0189 Maj <input checked="" type="checkbox"/> Minor <input type="checkbox"/> MM <input type="checkbox"/> Date: 5/1/09	Zoning Appeal <input type="checkbox"/> Variance <input type="checkbox"/> Miscellaneous <input checked="" type="checkbox"/> Conditional Use granted 4/13/09 <input checked="" type="checkbox"/> Interpretation granted 7/17/09 re: errata submittal EBA <input type="checkbox"/> Approved <input type="checkbox"/> Denied Date:	Historic Preservation <input checked="" type="checkbox"/> Not in District or Landmark <input type="checkbox"/> Does Not Require Review <input type="checkbox"/> Requires Review <input type="checkbox"/> Approved <input type="checkbox"/> Approved w/Conditions <input type="checkbox"/> Denied Date:
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CERTIFICATION

I hereby certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in the application is issued, I certify that the code official's authorized representative shall have the authority to enter all areas covered by such permit at any reasonable hour to enforce the provision of the code(s) applicable to such permit.

SIGNATURE OF APPLICANT	ADDRESS	DATE	PHONE
RESPONSIBLE PERSON IN CHARGE OF WORK, TITLE		DATE	PHONE

BUILDING PERMIT INSPECTION PROCEDURES

Please call 874-8703 or 874-8693 (ONLY)

to schedule your inspections as agreed upon

Permits expire in 6 months, if the project is not started or ceases for 6 months.

The Owner or their designee is required to notify the inspections office for the following inspections and provide adequate notice. Notice must be called in 48-72 hours in advance in order to schedule an inspection:

By initializing at each inspection time, you are agreeing that you understand the inspection procedure and additional fees from a "Stop Work Order" and "Stop Work Order Release" will be incurred if the procedure is not followed as stated below.

A Pre-construction Meeting will take place upon receipt of your building permit.

- Footing/Building Location Inspection: Prior to pouring concrete or setting precast piers**
- Re-Bar Schedule Inspection: Prior to pouring concrete**
- Framing/Rough Plumbing/Electrical: Prior to Any Insulating or drywalling**
- Final/Certificate of Occupancy: Prior to any occupancy of the structure or use. NOTE: There is a \$75.00 fee per inspection at this point.**
- The final report of Special Inspections shall be submitted prior to the final inspection or the issuance of the Certificate of Occupancy**
- Underground electrical or plumbing inspection prior to pouring concrete**

Certificate of Occupancy is not required for certain projects. Your inspector can advise you if your project requires a Certificate of Occupancy. All projects DO require a final inspection.

If any of the inspections do not occur, the project cannot go on to the next phase, REGARDLESS OF THE NOTICE OR CIRCUMSTANCES.

CERIFICATE OF OCCUPANICES MUST BE ISSUED AND PAID FOR, BEFORE THE SPACE MAY BE OCCUPIED.



Signature of Applicant/Designee

9-1-09
Date



Signature of Inspections Official

9-1-09
Date

City of Portland, Maine - Building or Use Permit
 389 Congress Street, 04101 Tel: (207) 874-8703, Fax: (207) 874-8716

Permit No: 09-0332	Date Applied For: 04/16/2009	CBL: 344 E036001
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Location of Construction: 336 ALLEN AVE	Owner Name: LOCKARD ROBERT A	Owner Address: 69 HANCOCK RD	Phone:
Business Name: Walgreens	Contractor Name: P M Construction Co.	Contractor Address: 19 Industrial Park Rd Saco	Phone: (207) 282-7697
Lessee/Buyer's Name	Phone:	Permit Type: Commercial	

Proposed Use: Commercial - "Walgreens" New 14,097 sq ft "Walgreens"	Proposed Project Description: New 14,097 sq ft "Walgreens"
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Dept: Zoning	Status: Approved with Conditions	Reviewer: Marge Schmuckal	Approval Date: 05/01/2009
Note:			Ok to Issue: <input checked="" type="checkbox"/>
<ol style="list-style-type: none"> 1) Separate permits are required for alarms and sprinkler systems. 2) Separate permits are required for the demolition of the existing buildings. 3) Separate permits shall be required for any new signage. 4) This permit is being approved on the basis of plans submitted. Any deviations shall require a separate approval before starting that work. 5) Separate permits are required for demolition of the existing buildings on site. Application with required call list can be found on-line or in our office. 			
Dept: Building	Status: Approved with Conditions	Reviewer: Chris Hanson	Approval Date: 08/28/2009
Note:			Ok to Issue: <input checked="" type="checkbox"/>
<ol style="list-style-type: none"> 1) The owner and builder agree to submit a statement from a licensed surveyor PRIOR to placement of backfill stating the location of the structure is compliant with the City of Portland required setbacks. 2) Separate Permits shall be required for any new signage. 3) The design load spec sheets for any engineered beam(s) / Trusses must be submitted to this office. 4) Application approval based upon information provided by applicant. Any deviation from approved plans requires separate review and approval prior to work. 5) Equipment must be installed in compliance per the manufacturer's specifications 6) All special inspection reports must be submitted to this office for review within 48 hours of the inspection. A final special inspection report must be submitted prior to issuance of a certificate of occupancy. This report must demonstrate any deficiencies and corrective measures that were taken. 7) Separate permits are required for any electrical, plumbing, sprinkler, fire alarm or HVAC or exhaust systems. Separate plans may need to be submitted for approval as a part of this process. 			
Dept: Fire	Status: Approved with Conditions	Reviewer: Capt Keith Gautreau	Approval Date: 05/13/2009
Note:			Ok to Issue: <input checked="" type="checkbox"/>
<ol style="list-style-type: none"> 1) The fire alarm system shall comply with NFPA 72. Compliance letter is required. 2) Application requires State Fire Marshal approval. 3) The sprinkler system shall be installed in accordance with NFPA 13. 4) All construction shall comply with NFPA 101 5) Installation of a Fire Alarm system requires a Knox Box to be installed per city ordinance 			

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Lessee/Buyer's Name	Phone:	Permit Type: Commercial	

- 6) The Fire alarm and Sprinkler systems shall be reviewed by a licensed contractor[s] for code compliance. Compliance letters are required.
- 7) Emergency lights and exit signs are required
- 8) Fire alarm system requires a Masterbox connection per city ordinance.
- 9) Emergency lights are required to be tested at the electrical panel.
- 10 All fire alarm records required by NFPA 72 should be stored in an approved cabinet located at the FACP and keyed alike, labeled "FIRE ALARM RECORDS".
- 11 Fire Alarm system shall be maintained.
If system is to be off line over 4 hours a fire watch shall be in place.
Dispatch notification required 874-8576.
- 12 Sprinkler protection shall be maintained.
Where the system is to be shut down for maintenance or repair, the system shall be checked at the end of each day to insure the system has been placed back in service.

Dept: Public Services	Status: Approved	Reviewer: David Margolis-Pineo	Approval Date:	Ok to Issue: <input type="checkbox"/>
Note:				
Dept: Zoning	Status:	Reviewer: Marge Schmuckal	Approval Date:	Ok to Issue: <input type="checkbox"/>
Note:				
Dept: Parks	Status: Approved with Conditions	Reviewer: Jeff Tarling	Approval Date:	Ok to Issue: <input type="checkbox"/>
Note:				
Dept: Fire	Status:	Reviewer: Greg Cass	Approval Date:	Ok to Issue: <input type="checkbox"/>
Note:				
Dept: DRC	Status: Approved with Conditions	Reviewer: Philip DiPierro	Approval Date: 07/30/2009	Ok to Issue: <input checked="" type="checkbox"/>
Note:				
Dept: Planning	Status: Approved with Conditions	Reviewer: Jean Fraser	Approval Date: 01/13/2009	Ok to Issue: <input type="checkbox"/>
Note:				

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Lessee/Buyer's Name	Phone:	Permit Type: Commercial	

1) **CONDITIONAL USE**

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Planning Board Report # 02-09, relevant to Portland's Conditional Use Standards and other regulations, and the testimony presented at the Planning Board hearing, the Planning Board voted 7-0 that the proposed conditional use for a drive-thru adjacent to a residential use or zone is in conformance with the standards of the Land Use Code, Section 14-183 for the B2 zone, subject to the following condition(s):

i. That the applicant shall submit, for the City's Associate Corporation Counsel review and approval prior to the issuance of a building permit, final easement documentation/ agreements that allow for the access and boundary revisions and associated works on the properties owned by Allen Avenue Extension LLC (Espo's) and Ritco Properties, Inc (Laundromat) properties, and by which agreement such owners agree that no site changes other than shown on the approved plan shall be made to their properties without Planning Authority approval; and

ii. That the applicant shall conduct a detailed Traffic Monitoring Study, as described in the January 7, 2009 comments from Tom Errico, 18 months following the opening of the pharmacy to the public, such date to be informed to the City Planning Authority. A report summarizing the outcomes of the Traffic Monitoring Study, including the identification of deficiencies and corrective measures (if any), shall be submitted to the City Planning Authority immediately upon completion and no later than one month after the Study is conducted; and

iii. That if mitigation actions are identified, the City of Portland shall be responsible for all costs associated with implementation of improvements within the public right of way and the four foot easement area referenced below in item iv., provided the applicant shall be responsible for reasonable on-site signage or similar improvements as required by the Planning Authority. Such improvements shall not include the elimination of either the right-turn entry or the exit movements as approved, provided that the City can make whatever other improvements, the nature and scope at the City's sole discretion, within the public right of way and the four foot easement area referenced below in item iv.; and

iv. That the applicant shall provide, prior to the issuance of a building permit, a four foot wide easement along the applicant's Washington Avenue property boundary for possible improvement requirements as identified in the Traffic Monitoring Study; and

v. That the applicant shall implement, prior to the issuance of a Certificate of Occupancy, pavement reconstruction, pavement markings and signing improvements to create a central turning lane along Allen Avenue from west of their site to their easterly site drive (similar to that shown in an indicative plan titled "Off-site Improvements" dated 9.22.2008 and referenced as Attachment M21 to Report #02-09.) The applicant shall be responsible for preparing construction design plans and documents for such work, which shall be subject to review and approval by the Planning Authority prior to issuance of a building permit; and

vi. That the existing "stamped" islands on Allen Avenue, that are to be modified as part of Walgreens Off -site Improvements plan referenced in condition v. above, shall not be painted black, but milled and replaced with new bituminous pavement; and

vii. That the applicant shall submit, prior to the issuance of a building permit, a more detailed design to clarify the layout and operation of the area adjacent to joint access with the Ritco; and

viii. That deliveries to the site and trash removal shall be restricted to between the hours of 8am and 8pm everyday, and that the pharmacy drive-thru hours shall be limited to 7am to 11pm everyday; and

WAIVERS

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Planning Board Report # 02-09 relevant to the Portland Technical and Design Standards and Guidelines and other regulations and the testimony presented at the Planning Board hearing:

i. The Planning Board voted 7-0 to waive the requirements of Section III.2.A.(b) of the Technical and Design Standards and

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Lessee/Buyer's Name	Phone:	Permit Type: Commercial	

Guidelines which requires driveway widths to be no greater than 30 feet, to allow the Washington Avenue drive and easterly Allen Avenue drive to exceed this width as shown on the approved Plan C1.1 Rev B (Attachment M7 to Report #02-09).

ii. The Planning Board voted 7-0 to waive the requirement of Section III.3.A of the Technical and Design Standards and Guidelines for parking spaces to be 9 feet by 19 feet, to allow 9 feet by 18 feet parking spaces as shown on the approved Plan C1.1 Rev B (Attachment M7 to Report #02-09).

SITE PLAN REVIEW

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in Planning Board Report # 02-09 relevant to the Site Plan Ordinance and other regulations and the testimony presented at the Planning Board hearing, the Planning Board voted 7-0 that the plan is in conformance with the site plan standards of the land use code, subject to the following conditions:

i. That the applicant shall submit, for the City's Associate Corporation Counsel review and approval prior to the issuance of a building permit, final easement documentation/ agreements that allow for the access and boundary revisions and associated works on the properties owned by Allen Avenue Extension LLC (Espo's) and Ritco Properties, Inc (Laundromat) properties, and by which agreement such owners agree that no site changes other than shown on the approved plan shall be undertaken to their properties without Planning Authority approval; and

ii. That the applicant shall conduct a detailed Traffic Monitoring Study, as described in the January 7, 2009 comments from Tom Errico, 18 months following the opening of the pharmacy to the public, such date to be informed to the City Planning Authority. A report summarizing the outcomes of the Traffic Monitoring Study, including the identification of deficiencies and corrective measures (if any), shall be submitted to the City Planning Authority immediately upon completion and no later than one month after the Study is conducted; and

iii. That if mitigation actions are identified, the City of Portland shall be responsible for all costs associated with implementation of improvements within the public right of way and the four foot easement area referenced below in item iv., provided the applicant shall be responsible for reasonable on-site signage or similar improvements as required by the Planning Authority. Such improvements shall not include the elimination of either the right-turn entry or the exit movements as approved, provided that the City can make whatever other improvements, the nature and scope at the City's sole discretion, within the public right of way and the four foot easement area referenced below in item iv.; and

iv. That the applicant shall provide, prior to the issuance of a building permit, a four foot wide easement along the applicant's Washington Avenue property boundary for possible improvement requirements as identified in the Traffic Monitoring Study; and

v. That the applicant shall implement, prior to the issuance of a Certificate of Occupancy, pavement reconstruction, pavement markings and signing improvements to create a central turning lane along Allen Avenue from west of their site to their easterly site drive (similar to that shown in an indicative plan titled "Off-site Improvements" dated 9.22.2008 and referenced as Attachment M21 to Report #02-09.) The applicant shall be responsible for preparing construction design plans and documents for such work, which shall be subject to review and approval by the Planning Authority prior to issuance of a building permit for new construction; and

vi. That the existing "stamped" islands on Allen Avenue, that are to be modified as part of Walgreens Off -site Improvements plan referenced in condition v. above, shall not be painted black, but milled and replaced with new bituminous pavement; and

vii. That the easterly drive from Allen Avenue shall have the channelization island comprise of sloped granite curbing and the main body of the island be of a material that can carry the weight of a fire truck and not be obstructed by landscaping; and

viii. That the applicant shall submit, prior to the issuance of a building permit, a more detailed design to clarify the layout and

Location of Construction: 336 ALLEN AVE	Owner Name: LOCKARD ROBERT A	Owner Address: 69 HANCOCK RD	Phone:
Business Name: Walgreens	Contractor Name: P M Construction Co.	Contractor Address: 19 Industrial Park Rd Saco	Phone (207) 282-7697
Lessee/Buyer's Name	Phone:	Permit Type: Commercial	

operation of the area adjacent to joint access with the Ritco Properties Inc; and

ix. That the Landscape Plan be revised and submitted for review and approval; such revisions to 'crown' or slightly berm the landscape and turf area between the parking lot and Washington Avenue along with the 'bump-outs' or islands that project out into the parking area; and

x. That the sprinkler connection shall be located on the Allen Avenue side of the pharmacy building to facilitate Fire Department operations; and

xi. That the applicant shall submit, for review and approval prior to the issuance of a building permit, a construction mobilization plan that will include, but is not limited to, access, demolition, sequencing, site stabilization, hours of operation, and interim lighting; and

xii. That deliveries to the site and trash removal shall be restricted to between the hours of 8am and 8pm everyday and that the pharmacy drive-thru hours shall be limited to 7am to 11pm everyday; and

xiii. That the applicant shall revise the site plan as necessary to resolve any conflict between the landscape and snow storage areas, for Planning Authority review and approval; and

xiv. That the applicant agrees that the employee's parking area lighting shall be turned off not later than one hour after the Walgreens store closes.

Comments:

5/1/2009-mes: An Interpretation Appeal concerning front setbacks was granted to the developers on 7/17/08. A site plan and conditional use appeal was granted by the PB on 1/13/09



General Building Permit Application

If you or the property owner owes real estate or personal property taxes or user charges on any property within the City, payment arrangements must be made before permits of any kind are accepted.

Location/Address of Construction: <u>Northwest corner of Washington Ave. and Allen Ave.</u>		
Total Square Footage of Proposed Structure/Area <u>14,097</u>		Square Footage of Lot <u>57,398</u>
Tax Assessor's Chart, Block & Lot Chart# <u>344</u> Block# <u>E</u> Lot# <u>36</u>	Applicant * must be owner, Lessee or Buyer * Name <u>The Richmond Co.</u> Address <u>23 Concord St.</u> City, State & Zip <u>Wilmington, MA 01887</u>	Telephone: <u>207-865-4323</u>
Lessee/DBA (If Applicable)	Owner (if different from Applicant) Name Address City, State & Zip	Cost Of Work: \$ <u>2,050,000.00</u> C of O Fee: \$ <u>75.00</u> Total Fee: \$ <u>20,520.00</u>
Current legal use (i.e. single family) _____ If vacant, what was the previous use? _____ Proposed Specific use: _____ Is property part of a subdivision? _____ If yes, please name _____ Project description: <u>new 14,097 sq ft addition</u>		
Contractor's name: <u>Pm Construction Co., Inc.</u> Address: <u>19 Industrial Park Road</u> City, State & Zip <u>Saco, ME 04072</u> Telephone: <u>207-282-7697</u> Who should we contact when the permit is ready: <u>Kristopher Voisine</u> Telephone: <u>207-423-2517</u> Mailing address: <u>P.O. Box 728, Saco, ME 04072</u>		

Please submit all of the information outlined on the applicable Checklist. Failure to do so will result in the automatic denial of your permit.

In order to be sure the City fully understands the full scope of the project, the Planning and Development Department may request additional information prior to the issuance of a permit. For further information or to download copies of this form and other applications visit the Inspections Division on-line at www.portlandmaine.gov, or stop by the Inspections Division office, room 315 City Hall or call 874-8703.

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

Signature: [Signature] Date: 4/15/09

This is not a permit; you may not commence ANY work until the permit is issued



Certificate of Design Application

From Designer: Domenic W. DeAngelo
 Date: April 8, 2009
 Job Name: New Walgreens Drug Store
 Address of Construction: Washington & Allen Avenue – Portland, ME

2003 International Building Code
 Construction project was designed to the building code criteria listed below:

Building Code & Year IBC 2006 Use Group Classification (s) M- Mercantile
 Type of Construction 2B
 Is there a Fire suppression in Accordance with Section 903.3.1 of the 2003 IBC? Yes Supervisory alarm system? Yes
 Is the Structure mixed use? No If yes, separated or non separated or non separated (section 302.3) _____
 Geotechnical/Soils report required? (See Section 1802.2) Prepared by S. W. Cole Engineering

Structural Design Calculations

N/A Submitted for all structural members (106.1 – 106.11)

Design Loads on Construction Documents (1603) Uniformly distributed floor live loads (7603.11, 1807)

Floor Area Use	Loads Shown
<u>Retail</u>	<u>100 PSF</u>

Wind Loads (1603.1.4, 1609)

Simplified Design option utilized (1609.1.1, 1609.6)

90 MPH Basic wind speed (1809.3)

I = 1.0 Building category and wind improvement Factor, table 1604.5, 1609.5)

B Wind exposure category (1609.4)

± 0.18 Internal pressure coefficient (ASCE 7)

16.9 PSF Component and cladding pressures (1609.1.1, 1609.6.2.2)

15.9 PSF Main force wind pressures (7603.1.1, 1609.6.2.1)

Earth design data (1603.1.5, 1614-1623)

Simplified Design option utilized (1614.1)

C Seismic use group ("Category")

SDs = .3K SDi = .16 Spectral response coefficients, SQ;& SDI (1615.1)

D Site class (1615.1.5)

N/A Live load reduction

42 PSF Roof *live* loads (1603.1.2, 1607.11)

42 PSF Roof snow loads (1603.7.3, 1608)

60 PSF Ground snow load, P_s (1608.2)

42 PSI If $P_g > 10$ psf, flat-roof snow load p_g

1.0 If $P_g > 10$ psf, snow exposure factor, C_e

1.0 If $P_g > 10$ psf, snow load importance factor, I_s

1.1 Roof thermal factor, ρ (1608.4)

N/A Sloped roof snowload, P_s (1608.4)

C Seismic design category (1616.3)

Ordinary Reinf masonry Basic seismic force resisting system (1617.6.2)

R=2.5/CD=1/4 Response modification coefficient, R and deflection amplification factor C_d (1617.6.2)

Simplified Analysis procedure (1616.6, 1617.5)

277,146 Design base shear (1617.4, 1617.5.1)

Floor loads (1803.1.6, 1612)

N/A Floor Hazard area (1612.3)

_____ Elevation of Structure

Other loads

2000 IBS Concentrated loads (1607.4)

20 PSI Partition loads (1607.5)



Certificate of Design Application

From Designer: Steven A. Moeser
 Date: April 8, 2009
 Job Name: New Walgreens Drug Store
 Address of Construction: Washington & Allen Avenue – Portland, ME

2003 International Building Code
 Construction project was designed to the building code criteria listed below:

Building Code & Year IBC 2006 Use Group Classification (s) M- Mercantile
 Type of Construction 2B
 Is there a Fire suppression in Accordance with Section 903.3.1 of the 2003 IBC? Yes Supervisor alarm system? Yes
 Is the Structure mixed use? No If yes, separated or non separated or non separated (section 302.3) _____
 Geotechnical/Soils report required? (See Section 1802.2) Prepared by S. W. Cole Engineering

Structural Design Calculations

<u>N/A</u> Submitted for all structural members (106.1 – 106.11)	<u>N/A</u> Live load reduction
Design Loads on Construction Documents (1603) Uniformly distributed floor live loads (7603.11, 1807)	<u>42 PSF</u> Roof <i>live</i> loads (1603.1.2, 1607.11)
Floor Area Use	<u>42 PSF</u> Roof snow loads (1603.7.3, 1608)
<u>Retail</u>	<u>60 PSF</u> Ground snow load, P_s (1608.2)
Loads Shown	<u>42 PSI</u> If $P_g > 10$ psf, flat-roof snow load p_s
<u>100 PSF</u>	<u>1.0</u> If $P_g > 10$ psf, snow exposure factor, C_e
Wind Loads (1603.1.4, 1609)	<u>1.0</u> If $P_g > 10$ psf, snow load importance factor, I_s
<u>Simplified</u> Design option utilized (1609.1.1, 1609.6)	<u>1.1</u> Roof thermal factor, α (1608.4)
<u>90 MPH</u> Basic wind speed (1809.3)	<u>N/A</u> Sloped roof snowload, P_s (1608.4)
<u>1 = 1.0</u> Building category and wind improvement Factor, table 1604.5, 1609.5)	<u>C</u> Seismic design category (1616.3)
<u>B</u> Wind exposure category (1609.4)	<u>Ordinary Reinf masonry</u> , Basic seismic force resisting system (1617.6.2)
<u>± 0.18</u> Internal pressure coefficient (ASCE 7)	<u>$R=2.5/CD=1/4$</u> Response modification coefficient, R and deflection amplification factor G (1617.6.2)
<u>16.9 PSF</u> Component and cladding pressures (1609.1.1, 1609.6.2.2)	<u>Simplified</u> Analysis procedure (1616.6, 1617.5)
<u>15.9 PSF</u> Main force wind pressures (7603.1.1, 1609.6.2.1)	<u>277,146</u> Design base shear (1617.4, 1617.5.1)
Earth design data (1603.1.5, 1614-1623)	Floor loads (1803.1.6, 1612)
<u>Simplified</u> Design option utilized (1614.1)	<u>N/A</u> Floor Hazard area (1612.3)
<u>C</u> Seismic use group ("Category")	_____ Elevation of Structure
<u>$SD_s = .3K$ $SD_i = .16$</u> Spectral response coefficients, SQ ; & SD_1 (1615.1)	Other loads
<u>D</u> Site class (1615.1.5)	<u>2000 IBS</u> Concentrated loads (1607.4)
	<u>20 PSI</u> Partition loads (1607.5)



Accessibility Building Code Certificate

Designer: Steven A. Moeser

Address of Project: Washington & Allen Avenue

Nature of Project: New Walgreens Drug Store

The technical submissions covering the proposed construction work as described above have been designed in compliance with applicable referenced standards found in the Maine Human Rights Law and Federal Americans with Disability Act. Residential Buildings with 4 units or more must conform to the Federal Fair Housing Accessibility Standards. Please provide proof of compliance if applicable.



Signature: 
Title: President / Architect
Firm: Moeser & Associates
Address: 206 Ayer Road – Suite 2
Harvard, MA 01451
Phone: 978-456-6905

For more information or to download this form and other permit applications visit the Inspections Division on our website at www.portlandmaine.gov

Building Inspections Division - 389 Congress Street - Portland, Maine 04101 - (207) 874-8703 - FACSIMILE (207) 874-8716 - TTY (207) 874-8936

Revised 9-26-08



Certificate of Design

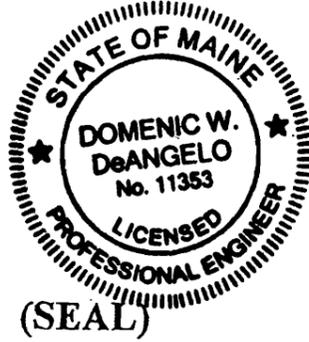
Date: April 3, 2009

From: Domenic W. DeAngelo

These plans and / or specifications covering construction work on:

Proposed Walgreens
Washington & Allen Avenue

Have been designed and drawn up by the undersigned, a Maine registered Architect / Engineer according to the *2003 International Building Code* and local amendments.



Signature: Domenic W. DeAngelo

Title: President

Firm: DWD Engineering, Inc.

Address: 5 Michael Road

East Bridgewater, MA 02333

Phone: 508-378-9602

For more information or to download this form and other permit applications visit the Inspections Division on our website at www.portlandmaine.gov



Certificate of Design

Date: April 3, 2009

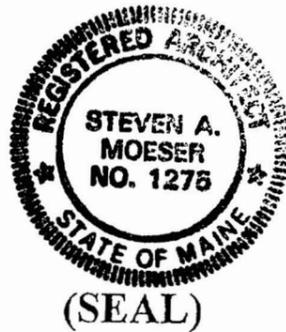
From: Steven A. Moeser

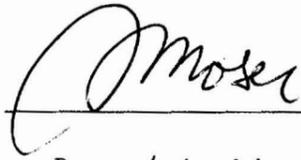
These plans and / or specifications covering construction work on:

Proposed Walgreens

Washington & Allen Avenue

Have been designed and drawn up by the undersigned, a Maine registered Architect / Engineer according to the *2003 International Building Code* and local amendments.



Signature: 

Title: Pres / Architect

Firm: Moeser & Associates

Address: 206 Ayer Road - Suite 2

Harvard, MA 01451

Phone: 978-456-6905

For more information or to download this form and other permit applications visit the Inspections Division on our website at www.portlandmaine.gov



Lee Urban- Director of Planning and Development
Marge Schmuckal, Zoning Administrator

Meeting Information

DATE: 8/18/08

LOCATION: 330 Allen Ave - Walgreens

PEOPLE PRESENT: DAVID LaTulip - Maureen - Peter Hedrich
Tom ERICO - Jim Connolly - Jean F - Marge
BARBARA

ZONE: B-2

DISCUSSION: DAVID GAVE A history of the lots - all vacant now -
Explained The lots

2 separate site plans - Espos & Walgreens
Peter explained The traffic - closing 3 drive ways &
restricting movements - 150' from corner
Jim & Tom - Dunkin Donuts makes it a High HAZARD AREA
Double left turn lane on Allen
Jim → Right out onto Washington (Peter understands) is a problem
Doesn't meet the waiver criteria
Maureen on The deliveries - 6 or 7 deliveries per week 1 or 2 larger trucks
Needs to be 14' x 50' & shown on The plan - Explained the lot
20-25 drive-up/drop off - 2 CAR stacking only - Documentation?
per day - lighting is excessive
Dumpster? - not shown on site -
Discussed signage -
Submit info on stacking / noise

Please note: this meeting is not an pre-approval of any ordinances. No project can be approved without going thru the appropriate reviews. This meeting is only to outline the City processes to go through based on the information given at this meeting. Any changes to that information may change the process requirements. Please check ordinances that are on-line for further information at www.portlandmaine.gov.

Stormwater is an issue -
Room 315 - 389 Congress Street - Portland, Maine 04101 (207) 874-8695 - FAX:(207) 874-8716 - TTY:(207) 874-3936
Workshop: 10/14/08?

Statement of Special Inspections

Project: *Walgreens*
 Location: *Washington & Allen Avenues - Portland, ME*
 Owner: *The Richmond Company - 23 Concord Street - Wilmington, MA 01887*
 Design Professional in Responsible Charge: *DWD Engineering*

This *Statement of Special Inspections* is submitted as a condition for permit issuance in accordance with the Special Inspection and Structural Testing requirements of the Building Code. It includes a schedule of Special Inspection services applicable to this project as well as the name of the Special Inspection Coordinator and the identity of other approved agencies to be retained for conducting these inspections and tests. This *Statement of Special Inspections* encompass the following disciplines:

- Structural Mechanical/Electrical/Plumbing
 Architectural Other: _____

The Special Inspection Coordinator shall keep records of all inspections and shall furnish inspection reports to the Building Official and the Registered Design Professional in Responsible Charge. Discovered discrepancies shall be brought to the immediate attention of the Contractor for correction. If such discrepancies are not corrected, the discrepancies shall be brought to the attention of the Building Official and the Registered Design Professional in Responsible Charge. The Special Inspection program does not relieve the Contractor of his or her responsibilities.

Interim reports shall be submitted to the Building Official and the Registered Design Professional in Responsible Charge.

A *Final Report of Special Inspections* documenting completion of all required Special Inspections, testing and correction of any discrepancies noted in the inspections shall be submitted prior to issuance of a Certificate of Use and Occupancy.

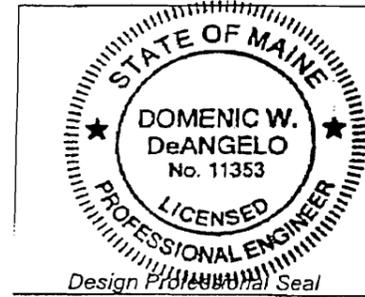
Job site safety and means and methods of construction are solely the responsibility of the Contractor.

Interim Report Frequency: *As required by construction Schedule* or per attached schedule.

Prepared by:

Domenic DeAngelo
 (type or print name)

Domenic W. DeAngelo 07/31/09
 Signature Date



Owner's Authorization:

Building Official's Acceptance:

 Signature Date

 Signature Date

Schedule of Inspection and Testing Agencies

This Statement of Special Inspections / Quality Assurance Plan includes the following building systems:

- | | |
|---|--|
| <ul style="list-style-type: none"> <input checked="" type="checkbox"/> Soils and Foundations <input checked="" type="checkbox"/> Cast-in-Place Concrete <input type="checkbox"/> Precast Concrete <input checked="" type="checkbox"/> Masonry <input checked="" type="checkbox"/> Structural Steel <input type="checkbox"/> Cold-Formed Steel Framing | <ul style="list-style-type: none"> <input type="checkbox"/> Spray Fire Resistant Material <input type="checkbox"/> Wood Construction <input type="checkbox"/> Exterior Insulation and Finish System <input type="checkbox"/> Mechanical & Electrical Systems <input type="checkbox"/> Architectural Systems <input type="checkbox"/> Special Cases |
|---|--|

Special Inspection Agencies	Firm	Address, Telephone, e-mail
1. Special Inspection Coordinator	<i>DWD Engineering Structural Engineer</i>	<i>5 Michael Road East Bridgewater, MA 02333 (508) 378-9602 domdean@aol.com</i>
2. Inspector		
3. Inspector	<i>Miller Engineering & Testing Attn: Howard Goddard</i>	<i>100 Sheffield Road Manchester, NH 03108</i>
4. Testing Agency		
5. Testing Agency	<i>Miller Engineering & Testing Attn: Howard Goddard</i>	<i>100 Sheffield Road Manchester, NH 03108</i>
6. Other	<i>Miller Engineering & Testing Attn: Howard Goddard</i>	<i>100 Sheffield Road Manchester, NH 03108</i>

Note: The inspectors and testing agencies shall be engaged by the Owner or the Owner's Agent, and not by the Contractor or Subcontractor whose work is to be inspected or tested. Any conflict of interest must be disclosed to the Building Official, prior to commencing work.

Quality Assurance Plan

Quality Assurance for Seismic Resistance

Seismic Design Category *C*
Quality Assurance Plan Required (Y/N) *N*

Description of seismic force resisting system and designated seismic systems:
Reinforced masonry shear walls.

Quality Assurance for Wind Requirements

Basic Wind Speed (3 second gust) *100 mph*
Wind Exposure Category *B*
Quality Assurance Plan Required (Y/N) *N*

Description of wind force resisting system and designated wind resisting components:
Reinforced masonry shear walls.

Statement of Responsibility

Each contractor responsible for the construction or fabrication of a system or component designated above must submit a Statement of Responsibility.

Qualifications of Inspectors and Testing Technicians

The qualifications of all personnel performing Special Inspection and testing activities are subject to the approval of the Building Official. The credentials of all Inspectors and testing technicians shall be provided if requested.

Key for Minimum Qualifications of Inspection Agents:

When the Registered Design Professional in Responsible Charge deems it appropriate that the individual performing a stipulated test or inspection have a specific certification or license as indicated below, such designation shall appear below the *Agency Number* on the Schedule.

PE/SE	Structural Engineer – a licensed SE or PE specializing in the design of building structures
PE/GE	Geotechnical Engineer – a licensed PE specializing in soil mechanics and foundations
EIT	Engineer-In-Training – a graduate engineer who has passed the Fundamentals of Engineering examination

American Concrete Institute (ACI) Certification

ACI-CFTT	Concrete Field Testing Technician – Grade 1
ACI-CCI	Concrete Construction Inspector
ACI-LTT	Laboratory Testing Technician – Grade 1&2
ACI-STT	Strength Testing Technician

American Welding Society (AWS) Certification

AWS-CWI	Certified Welding Inspector
AWS/AISC-SSI	Certified Structural Steel Inspector

American Society of Non-Destructive Testing (ASNT) Certification

ASNT	Non-Destructive Testing Technician – Level II or III.
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International Code Council (ICC) Certification

ICC-SMSI	Structural Masonry Special Inspector
ICC-SWSI	Structural Steel and Welding Special Inspector
ICC-SFSI	Spray-Applied Fireproofing Special Inspector
ICC-PCSI	Prestressed Concrete Special Inspector
ICC-RCSI	Reinforced Concrete Special Inspector

National Institute for Certification in Engineering Technologies (NICET)

NICET-CT	Concrete Technician – Levels I, II, III & IV
NICET-ST	Soils Technician - Levels I, II, III & IV
NICET-GET	Geotechnical Engineering Technician - Levels I, II, III & IV

Exterior Design Institute (EDI) Certification

EDI-EIFS	EIFS Third Party Inspector
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Other

Soils and Foundations

Page 4 of

Item	Agency # (Qualif.)	Scope
1. Shallow Foundations	#2 PE/GE	<i>Inspect soils below footings for adequate bearing capacity and consistency with geotechnical report.</i> <i>Inspect removal of unsuitable material and preparation of subgrade prior to placement of controlled fill</i>
2. Controlled Structural Fill	#2 and #4 PE/GE	<i>Perform sieve tests (ASTM D422 & D1140) and modified Proctor tests (ASTM D1557) of each source of fill material.</i> <i>Inspect placement, lift thickness and compaction of controlled fill.</i> <i>Test density of each lift of fill by nuclear methods (ASTM D2922)</i> <i>Verify extent and slope of fill placement.</i>
3. Deep Foundations	N/A PE/GE	<i>Inspect and log pile driving operations. Record pile driving resistance and verify compliance with driving criteria.</i> <i>Inspect piles for damage from driving and plumbness.</i> <i>Verify pile size, length and accessories.</i> <i>Inspect installation of drilled pier foundations. Verify pier diameter, bell diameter, lengths, embedment into bedrock and suitability of end bearing strata.</i>
4. Load Testing		
4. Other:		

Cast-in-Place Concrete

Page 5 of

Item	Agency # (Qualif.)	Scope
1. Mix Design	#1 and #2 ACI-CCI ICC-RCSI	Review concrete batch tickets and verify compliance with approved mix design. Verify that water added at the site does not exceed that allowed by the mix design.
2. Material Certification		
3. Reinforcement Installation	#1 and #2 ACI-CCI ICC-RCSI	Inspect size, spacing, cover, positioning and grade of reinforcing steel. Verify that reinforcing bars are free of form oil or other deleterious materials. Inspect bar laps and mechanical splices. Verify that bars are adequately tied and supported on chairs or bolsters
4. Post-Tensioning Operations	N/A ICC-PCSI	Inspect placement, stressing, grouting and protection of post-tensioning tendons. Verify that tendons are correctly positioned, supported, tied and wrapped. Record tendon elongations.
5. Welding of Reinforcing	N/A AWS-CWI	Visually inspect all reinforcing steel welds. Verify weldability of reinforcing steel. Inspect preheating of steel when required.
6. Anchor Rods	#1 and #2	Inspect size, positioning and embedment of anchor rods. Inspect concrete placement and consolidation around anchors.
7. Concrete Placement	#2 ACI-CCI ICC-RCSI	Inspect placement of concrete. Verify that concrete conveyance and depositing avoids segregation or contamination. Verify that concrete is properly consolidated.
8. Sampling and Testing of Concrete	#4 ACI-CFTT ACI-STT	Test concrete compressive strength (ASTM C31 & C39), slump (ASTM C143), air-content (ASTM C231 or C173) and temperature (ASTM C1064).
9. Curing and Protection	#2 ACI-CCI ICC-RCSI	Inspect curing, cold weather protection and hot weather protection procedures.
10. Other:		

MasonryRequired Inspection Level: 1 2

Page 6 of

Item	Agency # (Qualif.)	Scope
1. Material Certification		
2. Mixing of Mortar and Grout	#2 and #4 ICC-SMSI	Inspect proportioning, mixing and retempering of mortar and grout.
3. Installation of Masonry	#1 and #2 ICC-SMSI	Inspect size, layout, bonding and placement of masonry units.
4. Mortar Joints	#1 and #2 ICC-SMSI	Inspect construction of mortar joints including tooling and filling of head joints.
5. Reinforcement Installation	#1 and #2 ICC-SMSI AWS-CWI	Inspect placement, positioning and lapping of reinforcing steel. Inspect welding of reinforcing steel.
6. Prestressed Masonry	N/A ICC-SMSI	Inspect placement, anchorage and stressing of prestressing bars.
7. Grouting Operations	#1 and #2 ICC-SMSI	Inspect placement and consolidation of grout. Inspect masonry clean-outs for high-lift grouting.
7. Weather Protection	#2 ICC-SMSI	Inspect cold weather protection and hot weather protection procedures. Verify that wall cavities are protected against precipitation.
9. Evaluation of Masonry Strength	#4 ICC-SMSI	Test compressive strength of mortar and grout cube samples (ASTM C780). Test compressive strength of masonry prisms (ASTM C1314).
10. Anchors and Ties	#1 and #2 ICC-SMSI	Inspect size, location, spacing and embedment of dowels, anchors and ties.
11. Other:		

Structural Steel

Page 7 of

Item	Agency # (Qualif.)	Scope
1. Fabricator Certification/ Quality Control Procedures <input type="checkbox"/> Fabricator Exempt	#2 AWS/AISC- SSI ICC-SWSI	Review shop fabrication and quality control procedures.
2. Material Certification	#2 AWS/AISC- SSI ICC-SWSI	Review certified mill test reports and identification markings on wide-flange shapes, high-strength bolts, nuts and welding electrodes
3. Open Web Steel Joists	#1 and #2	Inspect installation, field welding and bridging of joists.
4. Bolting	#1 and #2 AWS/AISC- SSI ICC-SWSI	Inspect installation and tightening of high-strength bolts. Verify that splines have separated from tension control bolts. Verify proper tightening sequence. Continuous inspection of bolts in slip-critical connections.
5. Welding	#1 and #2 AWS-CWI ASNT	Visually inspect all welds. Inspect pre-heat, post-heat and surface preparation between passes. Verify size and length of fillet welds. Ultrasonic testing of all full-penetration welds.
6. Shear Connectors	N/A AWS/AISC- SSI ICC-SWSI	Inspect size, number, positioning and welding of shear connectors. Inspect studs for full 360 degree flash. Ring test all shear connectors with a 3 lb hammer. Bend test all questionable studs to 15 degrees.
7. Structural Details	#1 and #2 PE/SE	Inspect steel frame for compliance with structural drawings, including bracing, member configuration and connection details.
8. Metal Deck	#1 and #2 AWS-CWI	Inspect welding and side-lap fastening of metal roof and floor deck.
9. Other:		

Comments
Submitted to the Richmond Co. for
Applicant: Walgreens

Date: 8/14/08 10/10/08

Address: 340 Allen Ave, Cor Washington
C-B-L: B-2

CHECK-LIST AGAINST ZONING ORDINANCE 344-E-008, 12, 36, 42 #58

Date - lot to be redeveloped - permit # 09-0332

Zone Location - B-2

cond. use to PB for Drive thru Interior of corner lot -

to construct a 109' x 135' bldg (14045 #) for a drive-thru retail & pharmacy. 9/24/08 plan conditional use PB 14045 # 14/22 #

Proposed Use/Work -
Sewage Disposal - (city)

Lot Street Frontage -

Front Yard - ok for given front yard - see attach 7/17/08 - 38.5' show

Rear Yard - 10' where abuts 15' (front est. blocked along Wash - 60' scaled) Res. zone 1st floor res. use 20' doesn't abut there

Side Yard - 10' min req - 20' & 28' scaled

Projections -

Width of Lot - No min

Height - 45' max - 1 story high - no

Lot Area - 10,000 # min - 50,454 # 58,931 # 11/12/08 Landscaped Areas Figure # 3 plan ok 78.1%
Impervious Surface - 80% max not given 78.1%
Not meeting the Definition of Impervious Areas in parking area under 200 #

Area per Family - N/A 045 # near

Off-street Parking - 14/22 - 2000 # - 2500 # bulk storage + 200 = 48 (a 48) PKG req - show 10/24/08 is shown NO PARKING in front yard on 12/07 plan

Loading Bays - No 14 x 50'

Site Plan - # 2007-0189 - appeal granted concerning the front setback 7/17/08

Shoreland Zoning/ Stream Protection - N/A

Flood Plains - Panel 2 - Zone X

1A-43A -> Corner Sign - corner clearance - no higher than 3 1/2'

From: Jean Fraser
To: Machado, Ann; Schmuckal, Marge
Date: 4/13/2009 3:18:04 PM
Subject: Walgreens - Allen Ave. - building permit

Marge and Ann,

The applicant or his contractor may be applying for a building permit this week and I am writing to let you know the position from the Planning viewpoint:

1. I have a final set of plans (that meet those conditions that are plan based) and I will bring a set of these down so that you can compare with Building Permit plans when they come in- once the Perf Guarantee comes in I will stamp them but they are OK to use now as basis for progressing the BP;
2. The applicant has not met all of the conditions that need to be met prior to issuing a Building Permit- ie re easements and the site mobilization plan (attached below for info)- these require submissions to be reviewed by Danielle and Tom so the applicant needs to get them in asap to me;
3. They want to start by May 1st (using same contractor as for the Forest Ave Walgreens) so will be requesting things move forward in parallel.

Please note that the site includes an existing business (ESPO's Restaruant) which will remain, and is adjacent residences and a "failing" intersection (with high accident record near dunkin donuts), so the demolitions, utility caps, and traffic management will be particularly complicated.

thanks
Jean

Outstanding conditions:

- i. *That the applicant shall submit, for the City's Associate Corporation Counsel review and approval prior to the issuance of a building permit, final easement documentation/ agreements that allow for the access and boundary revisions and associated works on the properties owned by Allen Avenue Extension LLC (Espo's) and Ritco Properties, Inc (Laundromat) properties, and by which agreement such owners agree that no site changes other than shown on the approved plan shall be made to their properties without Planning Authority approval;*
- iv. *That the applicant shall provide, prior to the issuance of a building permit, a four foot wide easement along the applicant's Washington Avenue property boundary for possible improvement requirements as identified in the Traffic Monitoring Study; and*
- xi. *That the applicant shall submit, for review and approval prior to the issuance of a building permit, a construction mobilization plan that will include, but is not limited to, access, demolition, sequencing, site stabilization, hours of operation, and interim lighting*

CC: DiPierro, Philip; Errico, Thomas; Munson, Tammy; West -Chuhta, Danielle

From: Jean Fraser
To: Barhydt, Barbara; DiPierro, Philip; Errico, Thomas; Goyette, Dan; Margolis-Pineo, David; Schmuckal, Marge; Tarling, Jeff
Date: 4/16/2009 1:35:21 PM
Subject: Walgreens Allen Ave

To all:

As some of you are aware, David Latulippe is gearing up for a start on site in the next month or so.

To that end:

1. He has sent the cross easement agreement draft (attached, plus plan) for the planning department's review in accordance with Condition i of the Planning Board approval (also attached). I am asking the Legal Department to check the submitted easement, but as it secures the access and construction rights please review as appropriate;
2. David has confirmed he will soon be sending the draft easement language for the 4 foot easement (to the City) along Washington Ave for possible improvement requirements associated with the Allen/Washington intersection (if needed- see cond. iv of the approval letter); I will circulate when available;
3. David/Gorrill Palmer submitted final plans that address those conditions that apply to the plans and these were reviewed by reviewers over the last few weeks; a confirmation letter on behalf of the City went out yesterday and a copy is attached if you are interested (the plans include the improvement works in Allen Ave that Jim Carmody and Tom Errico requested).

A substantial amount of utility and street improvement work will be in the ROW and we are awaiting a site mobilization plan as access and impacts on neighbors needs to be carefully managed.

Attachments to this e-mail

1. David Latulippe's cross easement with Espo and Ritco- for access and construction and reciprocal easements) LANGUAGE
2. As above associated PLAN
3. Copy of letter from city to David confirming that some conditions have been met;
4. Planning Board Site Plan Approval letter for information

Thanks
Jean

CC: Clark, William; DiPierro, Philip; Earley, Katherine; Jaegerman, Alex; Machado, Ann; West -Chuhta, Danielle

CITY OF PORTLAND, MAINE
PLANNING BOARD

David Silk, Chair
Shalom Odokara, Vice Chair
Bill Hall
Joe Lewis
Lee Lowry, III
Janice Tevaman
Michael J. Patterson

January 27, 2009

David Latulippe
The Richmond Company
23 Concord Street
Wilmington, MA 01887

Maureen M. McGlone
Gorrill-Palmer Consulting Engineers
P.O. Box 1237
15 Shaker Road
Gray, ME 04039

**RE: Walgreens Pharmacy with Pharmacy Drive-Thru
340 Allen Avenue
Application # 2007-0189
CBL 344 E 8, 12, 36, 37, 42, 27, 50**

Dear Mr. Latulippe and Ms. McGlone:

On January 13, 2009, the Portland Planning Board considered the proposal for a 14,014 sq ft Walgreens Pharmacy with drive-thru service located at 340 Allen Avenue. The Planning Board reviewed the proposal for conformance with the B2 Conditional Use Standards and Site Plan Ordinance. The Planning Board voted 7-0 to approve the application with the following motions, waivers and conditions as presented below.

CONDITIONAL USE

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Planning Board Report # 02-09, relevant to Portland's Conditional Use Standards and other regulations, and the testimony presented at the Planning Board hearing, the Planning Board voted 7-0 that the proposed conditional use for a drive-thru adjacent to a residential use or zone is in conformance with the standards of the Land Use Code, Section 14-183 for the B2 zone, subject to the following condition(s):

- i. That the applicant shall submit, for the City's Associate Corporation Counsel review and approval prior to the issuance of a building permit, final easement documentation/ agreements that allow for the access and boundary revisions and associated works on the properties owned by Allen Avenue Extension LLC (Espo's) and Ritco Properties, Inc (Laundromat) properties, and by which agreement such owners agree that no site changes other than shown on the approved plan shall be made to their properties without Planning Authority approval; and
- ii. That the applicant shall conduct a detailed Traffic Monitoring Study, as described in the January 7, 2009 comments from Tom Errico, 18 months following the opening of the pharmacy to the public, such date to be informed to the City Planning Authority. A report summarizing the outcomes of the Traffic Monitoring Study, including the identification of deficiencies and corrective measures (if any), shall be submitted to the City Planning Authority immediately upon completion and no later than one month after the Study is conducted; and

- iii. That if mitigation actions are identified, the City of Portland shall be responsible for all costs associated with implementation of improvements within the public right of way and the four foot easement area referenced below in item iv., provided the applicant shall be responsible for reasonable on-site signage or similar improvements as required by the Planning Authority. Such improvements shall not include the elimination of either the right-turn entry or the exit movements as approved, provided that the City can make whatever other improvements, the nature and scope at the City's sole discretion, within the public right of way and the four foot easement area referenced below in item iv.; and
- iv. That the applicant shall provide, prior to the issuance of a building permit, a four foot wide easement along the applicant's Washington Avenue property boundary for possible improvement requirements as identified in the Traffic Monitoring Study; and
- v. That the applicant shall implement, prior to the issuance of a Certificate of Occupancy, pavement reconstruction, pavement markings and signing improvements to create a central turning lane along Allen Avenue from west of their site to their easterly site drive (similar to that shown in an indicative plan titled "Off-site Improvements" dated 9.22.2008 and referenced as Attachment M21 to Report #02-09.) The applicant shall be responsible for preparing construction design plans and documents for such work, which shall be subject to review and approval by the Planning Authority prior to issuance of a building permit; and
- vi. That the existing "stamped" islands on Allen Avenue, that are to be modified as part of Walgreens Off-site Improvements plan referenced in condition v. above, shall not be painted black, but milled and replaced with new bituminous pavement; and
- vii. That the applicant shall submit, prior to the issuance of a building permit, a more detailed design to clarify the layout and operation of the area adjacent to joint access with the Ritco; and
- viii. That deliveries to the site and trash removal shall be restricted to between the hours of 8am and 8pm everyday, and that the pharmacy drive-thru hours shall be limited to 7am to 11pm everyday; and

WAIVERS

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Planning Board Report # 02-09 relevant to the Portland Technical and Design Standards and Guidelines and other regulations and the testimony presented at the Planning Board hearing:

- i. The Planning Board voted 7-0 to waive the requirements of Section III.2.A.(b) of the Technical and Design Standards and Guidelines which requires driveway widths to be no greater than 30 feet, to allow the Washington Avenue drive and easterly Allen Avenue drive to exceed this width as shown on the approved Plan C1.1 Rev B (Attachment M7 to Report #02-09).
- ii. The Planning Board voted 7-0 to waive the requirement of Section III.3.A of the Technical and Design Standards and Guidelines for parking spaces to be 9 feet by 19 feet, to allow 9 feet by 18 feet parking spaces as shown on the approved Plan C1.1 Rev B (Attachment M7 to Report #02-09).

SITE PLAN REVIEW

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in Planning Board Report # 02-09 relevant to the Site Plan Ordinance and other regulations and the testimony presented at the Planning Board hearing, the Planning Board voted 7-0 that the plan is in conformance with the site plan standards of the land use code, subject to the following conditions:

- i. That the applicant shall submit, for the City's Associate Corporation Counsel review and approval prior to the issuance of a building permit, final easement documentation/ agreements that allow for the access and boundary revisions and associated works on the properties owned by Allen Avenue Extension LLC (Esposito's) and Riteo Properties, Inc (Laundromat) properties, and by which agreement such owners agree that no site changes other than shown on the approved plan shall be undertaken to their properties without Planning Authority approval; and
- ii. That the applicant shall conduct a detailed Traffic Monitoring Study, as described in the January 7, 2009 comments from Tom Errico, 18 months following the opening of the pharmacy to the public, such date to be informed to the City Planning Authority. A report summarizing the outcomes of the Traffic Monitoring Study, including the identification of deficiencies and corrective measures (if any), shall be submitted to the City Planning Authority immediately upon completion and no later than one month after the Study is conducted; and
- iii. That if mitigation actions are identified, the City of Portland shall be responsible for all costs associated with implementation of improvements within the public right of way and the four foot easement area referenced below in item iv., provided the applicant shall be responsible for reasonable on-site signage or similar improvements as required by the Planning Authority. Such improvements shall not include the elimination of either the right-turn entry or the exit movements as approved, provided that the City can make whatever other improvements, the nature and scope at the City's sole discretion, within the public right of way and the four foot easement area referenced below in item iv.; and
- iv. That the applicant shall provide, prior to the issuance of a building permit, a four foot wide easement along the applicant's Washington Avenue property boundary for possible improvement requirements as identified in the Traffic Monitoring Study; and
- v. That the applicant shall implement, prior to the issuance of a Certificate of Occupancy, pavement reconstruction, pavement markings and signing improvements to create a central turning lane along Allen Avenue from west of their site to their easterly site drive (similar to that shown in an indicative plan titled "Off-site Improvements" dated 9.22.2008 and referenced as Attachment M21 to Report #02-09.) The applicant shall be responsible for preparing construction design plans and documents for such work, which shall be subject to review and approval by the Planning Authority prior to issuance of a building permit for new construction; and
- vi. That the existing "stamped" islands on Allen Avenue, that are to be modified as part of Walgreens Off-site Improvements plan referenced in condition v. above, shall not be painted black, but milled and replaced with new bituminous pavement; and
- vii. That the easterly drive from Allen Avenue shall have the channelization island comprise of sloped granite curbing and the main body of the island be of a material that can carry the weight of a fire truck and not be obstructed by landscaping; and

- viii. That the applicant shall submit, prior to the issuance of a building permit, a more detailed design to clarify the layout and operation of the area adjacent to joint access with the Ritco Properties Inc; and
- ix. That the Landscape Plan be revised and submitted for review and approval; such revisions to 'crown' or slightly berm the landscape and turf area between the parking lot and Washington Avenue along with the 'bump-outs' or islands that project out into the parking area; and
- x. That the sprinkler connection shall be located on the Allen Avenue side of the pharmacy building to facilitate Fire Department operations; and
- xi. That the applicant shall submit, for review and approval prior to the issuance of a building permit, a construction mobilization plan that will include, but is not limited to, access, demolition, sequencing, site stabilization, hours of operation, and interim lighting; and
- xii. That deliveries to the site and trash removal shall be restricted to between the hours of 8am and 8pm everyday and that the pharmacy drive-thru hours shall be limited to 7am to 11pm everyday; and
- xiii. That the applicant shall revise the site plan as necessary to resolve any conflict between the landscape and snow storage areas, for Planning Authority review and approval; and
- xiv. That the applicant agrees that the employee's parking area lighting shall be turned off not later than one hour after the Walgreens store closes.

The approval is based on the submitted plans and the findings related to site plan and conditional use review standards as contained in Planning Report #02-09, which is attached.

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

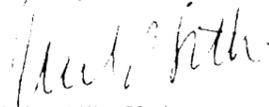
1. The site shall be developed and maintained as depicted in the site plan and the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or the planning authority pursuant to the terms of this article. Any such parcel lawfully altered prior to the enactment date of these revisions shall not be further altered without approval as provided herein. Modification or alteration shall mean and include any deviations from the approved site plan including, but not limited to, topography, vegetation and impervious surfaces shown on the site plan. No action, other than an amendment approved by the planning authority or Planning Board, and field changes approved by the Public Services authority as provided herein, by any authority or department shall authorize any such modification or alteration.
2. The above approvals do not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.
3. A performance guarantee covering the site improvements as well as an inspection fee payment of 2.0% of the guarantee amount and seven (7) final sets of plans must be submitted to and approved by the Planning Division and Public Services Dept. prior to the release of a building permit, street opening permit or certificate of occupancy for site plans.
4. 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.

5. Final sets of plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (*.dwg), release AutoCAD 2005 or greater.
6. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
7. Prior to construction, a pre-construction meeting shall be held at the project site with the contractor, development review coordinator, Public Service's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
8. If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)

Philip DiPierro, Development Review Coordinator, must be notified five (5) working days prior to date required for final site inspection. The Development Review Coordinator can be reached at 874-8632. Please make allowances for completion of site plan requirements determined to be incomplete or defective during the inspection. This is essential as all site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

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

Sincerely,



David Silk, Chair
Portland Planning Board

Attachments:

1. Tom Errico (Traffic Engineering Reviewer) comments of January 7, 2009
2. Planning Board Report #02-09
3. Performance Guarantee Packet

Electronic Distribution:

Penny St Louis Lattell, Director of Planning and Urban Development
Alexander Jaegerman, Planning Division Director
Barbara Barhydt, Development Review Services Manager
Jean Fraser, Planner
Philip DiPierro, Development Review Coordinator
Marge Schmuckal, Zoning Administrator
Tammy Munson, Inspections Division Director
Lisa Danforth, Administrative Assistant
Michael Bobinsky, Public Services Director
Kathi Earley, Public Services
Bill Clark, Public Services
David Margolis-Pineo, Deputy City Engineer
Jane Ward, Public Services
Captain Greg Cass, Fire Prevention
Jeff Farling, City Arborist
Tom Errico, Wilbur Smith Consulting Engineers
Dan Goyette, Woodard & Curran
Assessor's Office
Approval Letter File
Hard Copy: Project File

O:\PLAN\Dev Rev\Allen Ave. - 340 (Walgreen's Pharmacy)\Approval letter Walgreens- Allen Avenue
01.13.2009.docx

page 5.

W. L. L. L.

COMMERCIAL LEASE (NET LEASE)

1. PARTIES

Laurie Bernier, in her capacity as Personal Representative of the estate of Robert A. Lockard (Cumberland County Probate Docket No. 2005-1412), with a mailing address of 69 Hancock Road, Raymond, Maine 04071 ("LANDLORD"), hereby leases to Portland Islamic Center, with a mailing address of 340 Allen Avenue, Portland, Maine, ("TENANT"), and the TENANT hereby leases from LANDLORD the following described premises. Landlord represents that this lease shall be binding upon the probate estate of Robert A. Lockard and upon the devisees of the premises identified below.

2. PREMISES

The Premises are deemed to contain 2,400 ± square feet. The Premises are located at 340 Allen Avenue, Portland, Maine together with the right to use, in common with others entitled thereto, the hallways, stairways, and elevators, necessary for access to said leased premises and lavatories nearest thereto. The leased premises are accepted in "as is" condition except if specifically set forth to the contrary in this lease.

3. TERM

The term of this lease shall be for Three (3) years, unless sooner terminated as herein provided, commencing on September 15, 2006, and ending on September 14, 2009.

4. RENT

TENANT shall pay to the LANDLORD the following base rent:

Lease Year(s)	Annual Base Rent	Monthly Rent
1	\$28,800.00	\$2,400.00
2	\$29,664.00	\$2,472.00
3	\$30,553.92	\$2,546.16

payable in advance in equal monthly installments on the first day of each month during the term of this Lease without deduction or setoff, said rent to be prorated for portions of a calendar month at the beginning or end of said term, all payments to be made to LANDLORD or to such agent and at such place as LANDLORD shall from time to time in writing designate, the following being now so designated 69 Hancock Road, Raymond, Maine, 04071. If TENANT does not pay base rent, supplemental and additional rents, or other fees and charges when due pursuant to the terms of this Lease, then LANDLORD, in its sole discretion, may charge, in addition to any other remedies it may have, a late charge for each month or part thereof that TENANT fails to pay the amount due after the due date. The late charge shall be equal to four percent (4%) of the amount due LANDLORD each month in addition to the rent then due.

5. RENEWAL OPTION

So long as TENANT has not been in default of this lease during the term hereof, TENANT shall have the option to renew this Lease for an additional Two (2), Three (3) year terms. In order to exercise TENANT'S option, TENANT shall notify LANDLORD in writing by Certified or Registered Mail of its intention to exercise its option on or before six (6) months prior to the end of the then current term, said renewal to be upon the same terms and conditions set forth in this Lease except for base rent which shall be as follows:

Renewal Option #1

Lease Year(s)	Annual Base Rent	Monthly Rent
1	\$31,470.54	\$2,622.54
2	\$32,414.65	\$2,701.22
3	\$33,387.09	\$2,782.26

NOV 9 2007

A-M

provisions hereof. This Lease shall be governed exclusively by the provisions hereof and by the laws of the State of Maine. The headings herein contained are for convenience only, and shall not be considered a part of this Lease.

30. BROKERAGE

TENANT warrants and represents to LANDLORD that is has not dealt with any broker, finder or similar person concerning the leasing of the leased premises, other than NAI The Dunham Group. ("TENANT'S BROKER"). TENANT agrees to pay TENANT'S BROKER any commission due upon execution of this Lease, and in the event of any brokerage claims against LANDLORD by TENANTS'S BROKER, TENANT agrees to defend the same and indemnify LANDLORD against any such claim. LANDLORD warrants and represents to TENANT that it has not dealt with any broker, finder or similar person concerning the leasing of the leased premises other than NAI The Dunham Group. ("LANDLORD'S BROKER"). LANDLORD agrees to pay LANDLORD'S BROKER any commission due upon execution of this Lease, and in the event of any brokerage claims against TENANT by LANDLORD'S BROKER, LANDLORD agrees to defend the same and indemnify TENANT against any such claim. Landlord agrees to pay NAI The Dunham Group 5% of the aggregate net rent of this lease as commission due upon execution of this Lease.

31. OTHER PROVISIONS

It is also understood and agreed that:

DISCLAIMER: THIS IS A LEGAL DOCUMENT. IF NOT FULLY UNDERSTOOD, CONSULT AN ATTORNEY.

IN WITNESS WHEREOF, the said parties hereunto set their hands and seals this 14 day of SEP, 2006.

TENANT:

LANDLORD:

ABDIRIZAK MATSOUB / ABDIRAHMAN HASSAN
Legal Name of Tenant

Laurie Bernier P.R.
Laurie Bernier as Pers. Rep of Estate of Robert A. Lockard

Abd Spk & Mehly Abdichan
Signature

Laurie Bernier
Signature

CLERK / TREASURER
NAME/TITLE

Personal Representative - estate of Robert Lockard
NAME/TITLE

[Signature]
Witness to Tenant

[Signature]
Witness to Landlord

GUARANTY For value received, and in consideration for, and as an inducement to LANDLORD to enter into the foregoing lease with Portland Community Center, TENANT, Abdirizak A. Mahboub ("GUARANTOR") does hereby unconditionally guaranty to LANDLORD the complete, due, and timely performance of each and every agreement, covenant, term and condition of the Lease to be performed by TENANT. The validity of this guaranty and the obligations of the GUARANTOR hereunder shall not be terminated, affected, or impaired by reason of the granting by LANDLORD of any indulgences to TENANT. This guaranty shall remain and continue in full force and effect as to any renewal, modification, subletting or extension of the Lease, whether or not GUARANTOR shall have received any notice of or consented to such renewal, modification or extension. The liability of GUARANTOR under this guaranty shall be primary, and in any right of action which shall accrue to LANDLORD under the lease, LANDLORD may proceed against GUARANTOR and TENANT, jointly and severally, and may proceed against GUARANTOR without having commenced any action against or having obtained any judgment against TENANT. All of the terms and provisions of this guaranty shall inure to the benefit of the successors and assigns of LANDLORD and shall be binding upon the successors and assigns of GUARANTOR.

IN WITNESS WHEREOF, GUARANTOR has executed this Guaranty this 14 day of SEP, 2006.

GUARANTOR:

ABDIRIZAK A. MAHBOUB
Legal name of Guarantor

Abdirizak A. Mahboub
Signature

[Handwritten Signature]
Witness to Guarantor

CLERK
NAME/TITLE

DAVID LANTALIPPE

11/5/07

Walgreen Stores

Alex J.

BARBARA

MARGE

discussed

Forest AVE Site - practical Difficulty variance?

"What constitutes a New Bldg?" - That's the million \$ question

"What constitute a rehab?"

?

Allen AVE?



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

Lee Urban- Director of Planning and Development
Marge Schmuckal, Zoning Administrator

Meeting Information

DATE: 5/22/08

LOCATION: 340 Allen Ave - Wallgreens

PEOPLE PRESENT: DAVID LATULIP - Alex Jaegerman - Marge -

ZONE: B-2

DISCUSSION:

further discussion of the front setback and how to interpret

or both APPEALS
① option - ZBA after my interpretation

② option - Practical Difficulty ZBA

③ looked at the current Submittal briefly -

Please note: this meeting is not an pre-approval of any ordinances. No project can be approved without going thru the appropriate reviews. This meeting is only to outline the City processes to go through based on the information given at this meeting. Any changes to that information may change the process requirements. Please check ordinances that are on-line for further information at www.portlandmaine.gov.

Room 315 - 389 Congress Street - Portland, Maine 04101 (207) 874-8695 - FAX:(207) 874-8716 - TTY:(207) 874-3936

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

*ON Hold by PLANNING
Never distributed*
2007-0189
Application I. D. Number

The Richmond Company

10/23/2007

Applicant

Application Date

23 Concord Street, Wilmington, MA 01887

Pharmacy

Applicant's Mailing Address

Project Name/Description

Consultant/Agent

340 - 340 Allen Ave, Portland, Maine

Applicant Ph: (978) 988-3900 Agent Fax:

Address of Proposed Site

Applicant or Agent Daytime Telephone, Fax

344 E036001

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 Apt **0** Condo **0** Other (specify) _____

Proposed Building square Feet or # of Units	Acreage of Site	Proposed Total Disturbed Area of the Site	B2 Zoning
---	-----------------	---	---------------------

Check Review Required:

- Site Plan (major/minor) Zoning Conditional - PB Subdivision # of lots _____
- Amendment to Plan - Board Review Zoning Conditional - ZBA Shoreland Historic Preservation DEP Local Certification
- Amendment to Plan - Staff Review Zoning Variance Flood Hazard Site Location
- After the Fact - Major Stormwater Traffic Movement Other
- After the Fact - Minor PAD Review 14-403 Streets Review

Fees Paid: Site Plan **\$500.00** Subdivision _____ Engineer Review _____ Date **10/24/2007**

Zoning Approval Status:

Reviewer _____

- Approved Approved w/Conditions See Attached Denied

Approval Date _____ Approval Expiration _____ Extension to _____ Additional Sheets Attached

Condition Compliance _____ signature _____ date _____

Performance Guarantee Required* Not Required

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

- Performance Guarantee Accepted _____ date _____ amount _____ expiration date _____
- Inspection Fee Paid _____ date _____ amount _____
- Building Permit Issue _____ date _____
- Performance Guarantee Reduced _____ date _____ remaining balance _____ signature _____
- Temporary Certificate of Occupancy _____ date _____ Conditions (See Attached) _____ expiration date _____
- Final Inspection _____ date _____ signature _____
- Certificate Of Occupancy _____ date _____
- Performance Guarantee Released _____ date _____ signature _____
- Defect Guarantee Submitted _____ submitted date _____ amount _____ expiration date _____
- Defect Guarantee Released _____ date _____ signature _____



PORTLAND MAINE

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

Lee Urban - Director of Planning and Development
Marge Schmuckal, Zoning Administrator

Meeting Information

DATE: 1/22/08

LOCATION: ⁶⁰⁶ Forest Ave

Washington & Allen Ave ^{more problematic}

PEOPLE PRESENT: DAVID L. - Alex - Marge - Barbara -

Maureen -

ZONE: B-2b -

NEXT STEPS:

Now wants to expand the existing Bldg - still for the Walgreen's use -
 Reduce the ASPHALT impervious surface
 Walgreens WANTS to replace the sidewalk in concrete eliminating one of the curb cut along Forest.
 Doing storm water & taking out some parking - will separate the storm water -
 Barbara needs a conditional use appeal for the drive-thru
 working with Bob Metcalf - ^{to PB}

340 Allen Ave
 right title interest?
 222,000 ft²
 talked to the
 Abbotts

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Room 315 - 389 Congress Street - Portland, Maine 04101 (207) 874-8695 - FAX:(207) 874-8716 - TTY:(207) 874-3936

FAX



To: DAVID Catalippe

Fax Number: 685-4025

From: MARGE Schmuckel

Fax Number:

Date: 1/22/08

Regarding:

Total Number Of Pages Including Cover: 4

Phone Number For Follow-Up:

Comments:

DAVID,
I am basically seeing that this lease
extends thru Sept 14, 2009.
I hope this helps you -
marge

City Of Portland, Maine
Inspections Division Services
389 Congress St Room 315 Portland Me 04101-3509
Phone: (207) 874-8703 or (207) 874-8693
Fax: (207) 874-8716
<http://www.portlandmaine.gov/>

COMMERCIAL LEASE (NET LEASE)

1. PARTIES

Laurie Bernier, in her capacity as Personal Representative of the estate of Robert A. Lockard (Cumberland County Probate Docket No. 2005-1412), with a mailing address of 69 Hancock Road, Raymond, Maine 04071 ("LANDLORD"), hereby leases to Portland Islamic Center, with a mailing address of 340 Allen Avenue, Portland, Maine, ("TENANT"), and the TENANT hereby leases from LANDLORD the following described premises. Landlord represents that this lease shall be binding upon the probate estate of Robert A. Lockard and upon the devisees of the premises identified below.

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The Premises are deemed to contain 2,400 ± square feet. The Premises are located at 340 Allen Avenue, Portland, Maine together with the right to use, in common with others entitled thereto, the hallways, stairways, and elevators, necessary for access to said leased premises and lavatories nearest thereto. The leased premises are accepted in "as is" condition except if specifically set forth to the contrary in this lease.

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The term of this lease shall be for Three (3) years, unless sooner terminated as herein provided, commencing on September 15, 2006, and ending on September 14, 2009.

4. RENT

TENANT shall pay to the LANDLORD the following base rent:

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1	\$28,800.00	\$2,400.00
2	\$29,664.00	\$2,472.00
3	\$30,553.92	\$2,546.16

payable in advance in equal monthly installments on the first day of each month during the term of this Lease without deduction or setoff, said rent to be prorated for portions of a calendar month at the beginning or end of said term, all payments to be made to LANDLORD or to such agent and at such place as LANDLORD shall from time to time in writing designate, the following being now so designated 69 Hancock Road, Raymond, Maine, 04071. If TENANT does not pay base rent, supplemental and additional rents, or other fees and charges when due pursuant to the terms of this Lease, then LANDLORD, in its sole discretion, may charge, in addition to any other remedies it may have, a late charge for each month or part thereof that TENANT fails to pay the amount due after the due date. The late charge shall be equal to four percent (4%) of the amount due LANDLORD each month in addition to the rent then due.

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Renewal Option #1

<u>Lease Year(s)</u>	<u>Annual Base Rent</u>	<u>Monthly Rent</u>
1	\$31,470.54	\$2,622.54
2	\$32,414.65	\$2,701.22
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NOV 9 2007

A-M

Z.B.

provisions hereof. This Lease shall be governed exclusively by the provisions hereof and by the laws of the State of Maine. The headings herein contained are for convenience only, and shall not be considered a part of this Lease.

30. BROKERAGE

TENANT warrants and represents to LANDLORD that is has not dealt with any broker, finder or similar person concerning the leasing of the leased premises, other than NAI The Dunham Group. ("TENANT'S BROKER"). TENANT agrees to pay TENANT'S BROKER any commission due upon execution of this Lease, and in the event of any brokerage claims against LANDLORD by TENANTS'S BROKER, TENANT agrees to defend the same and indemnify LANDLORD against any such claim. LANDLORD warrants and represents to TENANT that it has not dealt with any broker, finder or similar person concerning the leasing of the leased premises other than NAI The Dunham Group. ("LANDLORD'S BROKER"). LANDLORD agrees to pay LANDLORD'S BROKER any commission due upon execution of this Lease, and in the event of any brokerage claims against TENANT by LANDLORD'S BROKER, LANDLORD agrees to defend the same and indemnify TENANT against any such claim. Landlord agrees to pay NAI The Dunham Group 5% of the aggregate net rent of this lease as commission due upon execution of this Lease.

31. OTHER PROVISIONS

It is also understood and agreed that:

DISCLAIMER: THIS IS A LEGAL DOCUMENT. IF NOT FULLY UNDERSTOOD, CONSULT AN ATTORNEY.

IN WITNESS WHEREOF, the said parties hereunto set their hands and seals this 14 day of SEP, 2006.

TENANT:

LANDLORD:

ABDIRIZAK MATHEOUS / ABDIRAHMAN HASSAN
Legal Name of Tenant

Laurie Bernier P.R.
Laurie Bernier as Pers. Rep of Estate of Robert A. Lockard

Abdirizak & Mehly Abdirahman
Signature

Laurie Bernier
Signature

CLERK / TREASURER
NAME/TITLE

Personal Representative - estate of Robert Lockard
NAME/TITLE

[Signature]
Witness to Tenant

[Signature]
Witness to Landlord

GUARANTY For value received, and in consideration for, and as an inducement to LANDLORD to enter into the foregoing lease with Portland Community Center, TENANT, Abdirizak A. Mahboub ("GUARANTOR") does hereby unconditionally guaranty to LANDLORD the complete, due, and timely performance of each and every agreement, covenant, term and condition of the Lease to be performed by TENANT. The validity of this guaranty and the obligations of the GUARANTOR hereunder shall not be terminated, affected, or impaired by reason of the granting by LANDLORD of any indulgences to TENANT. This guaranty shall remain and continue in full force and effect as to any renewal, modification, subletting or extension of the Lease, whether or not GUARANTOR shall have received any notice of or consented to such renewal, modification or extension. The liability of GUARANTOR under this guaranty shall be primary, and in any right of action which shall accrue to LANDLORD under the lease, LANDLORD may proceed against GUARANTOR and TENANT, jointly and severally, and may proceed against GUARANTOR without having commenced any action against or having obtained any judgment against TENANT. All of the terms and provisions of this guaranty shall inure to the benefit of the successors and assigns of LANDLORD and shall be binding upon the successors and assigns of GUARANTOR.

IN WITNESS WHEREOF, GUARANTOR has executed this Guaranty this 14 day of SEP, 2006.

GUARANTOR:

ABDIRIZAK A. MAHBOUB
Legal name of Guarantor

Abdirizak A. Mahboub
Signature

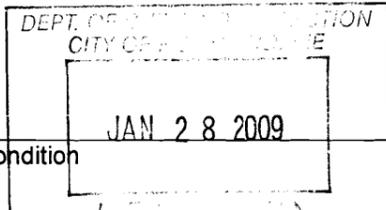
[Handwritten Signature]
Witness to Guarantor

CLERK
NAME/TITLE

1/28/09

7Am - 11pm Drive Thru

Research re Walgreens, Allen Ave; Restrictions on hours of operation for drive thrus in B2 zones

Project (date order)	Restrictions on drive thru hours of operation	Restrictions on trash collection & deliveries	Relevant Factors
Walgreens Allen Ave 340 Allen Avenue Pharmacy drive thru January 2009	<p>Submittal stated: "The hours of operation for the retail store are anticipated to from (sic) 8AM to 11PM Monday through Sunday: (Feb 8, 2008); "The drive-through will likely be operating between the hours of 8AM and 9PM, but may be adjusted to meet customer needs" (Dec 22, 2008); "It is expected that the store will operate somewhere between 8AM and 11PM with the pharmacy closing before the store. Store hours may fluctuate based on customer need." (Dec 22, 2008)</p> <p>Final Condition agreed by the Board: That deliveries to the site and trash removal shall be restricted to between the hours of 8am and 8pm everyday and that the pharmacy drive-thru hours shall be limited to 7am to 11pm everyday;</p>	<p>PB Condition: That deliveries to the site and trash removal shall be restricted to between the hours of 8am and 8pm everyday and that the pharmacy drive-thru hours shall be limited to 7am to 11pm everyday; and</p> 	<p>Immediately abuts residential for 170 feet along rear boundary; 50 parking spaces; 14,096 sq ft</p>
Westgate - Rest. with drive thru (Tim Hortons) June, 2008	<p>Submittal stated: Restaurant hours would be 5am to 11pm, 7 days a week. [No condition. Occupier held to these hours by Zoning Admin.]</p>	No condition	Nearest residences on opposite side of Congress Street
Westgate - TD Banknorth Double bank drive thru June, 2008	<p>Submittal stated: Bank branch hours vary from 8am to between 1 and 8pm depending on the day. The drive up teller opens at 7:30am and maintains the same closing hours. It is assumed that the drive-up ATM is available 24 hours a day.</p>	No condition	Abuts parking/commercial uses
Walgreens Forest Ave 606/ 616 Forest Ave. Pharmacy Drive thru May, 2008	<p>Submittal stated: Expected hours of operation will be from 8am to 10pm, seven days a week. (Staff assumed at this time that the pharmacy and corresponding drive-thru maintain the same hours.)</p>	<p>PB Condition: Deliveries to the site and trash removal shall be restricted to between the hours of 8am and 8pm.</p>	Abuts residential on two sides but with street in between
Brighton Ave USM Credit Union 1071 Brighton Ave. 2007	<p>Submittal stated: The hours of operation of the drive-through remote banking will be 8:00 AM to 4:00 PM Monday through Thursday and 8:00 AM to 5:00 PM on Fridays. Hours on Saturday will be 9:00 AM to 12:00 PM. The ATM will be available 24 hours per day. No PB Condition of approval</p>	No PB condition	Street between drive thru and residential opposite
Pinetree - Bangor Bank (2 drive thrus) 2006	No PB Condition of approval	No PB condition	Abuts parking /commercial uses
Forest Ave Starbucks 1080 Forest Ave. Coffee Drive thru July, 2006	<p>PB Condition of approval: The hours of use by the public will be limited to between 6AM and 10PM.</p>	<p>PB Condition: The hours for operational activities eg deliveries and trash collection will be limited as follows: 6AM to 10PM weekdays and 9AM to 6PM weekends</p>	Abuts residential uses 2 sides.
Brighton Ave Rite Aid; 930 Brighton Ave 1998 (no drive thru)	Rite aid requested rezone to B2 to allow drive thru ; Planning Board did not recommend due to impact on neighbors	<p>PB Condition: That deliveries will be prohibited between 9:00 p.m. and 7:00 a.m.</p>	Immediately abuts residential on 1 side not separated by street
Forest Ave Rite Aid; 701 Forest Ave. Pharmacy Drive thru May, 1996	Paper files not available to view submissions; Approval letter does not include conditions	Paper files not available to view submissions; Approval letter does not include conditions	Abuts residential

Commercial
Submitted

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

2007-0189
Application I. D. Number
10/23/2007
Application Date
Pharmacy
Project Name/Description

The Richmond Company
Applicant
23 Concord Street, Wilmington, MA 01887
Applicant's Mailing Address

11/23/08

Consultant/Agent
Applicant Ph: (978) 988-3900 Agent Fax:
Applicant or Agent Daytime Telephone, Fax

340 - 340 Allen Ave, Portland, Maine
Address of Proposed Site
344 E036001
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 Apt 0 Condo 0 Other (specify)

Proposed Building square Feet or # of Units _____ Acreage of Site _____ Zoning **B2**

Check Review Required:

- Site Plan (major/minor) Zoning Conditional - PB Subdivision # of lots _____
- Amendment to Plan - Board Review Zoning Conditional - ZBA Shoreland Historic Preservation DEP Local Certification
- Amendment to Plan - Staff Review Zoning Variance Flood Hazard Site Location
- After the Fact - Major Stormwater Traffic Movement Other _____
- After the Fact - Minor PAD Review 14-403 Streets Review

Fees Paid: Site Plan \$500.00 Subdivision _____ Engineer Review _____ Date 10/24/2007

Zoning Approval Status:

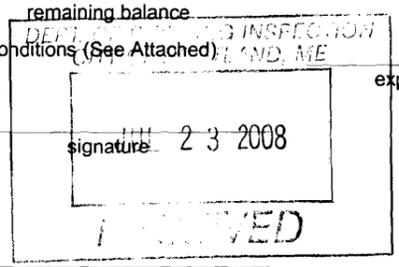
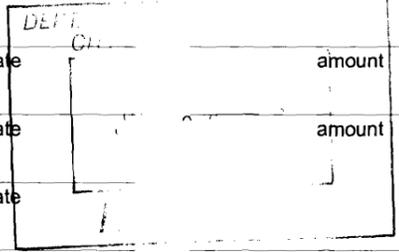
Reviewer Morgan S. - J.M.P.

- Approved Approved w/Conditions See Attached Denied
- Approval Date _____ Approval Expiration _____ Extension to _____ Additional Sheets Attached
- Condition Compliance _____ signature _____ date _____

Performance Guarantee Required* Not Required

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

<input type="checkbox"/> Performance Guarantee Accepted	date	amount	expiration date
<input type="checkbox"/> Inspection Fee Paid	date	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)	expiration date
<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	



MEMORANDUM

To: FILE

From: Marge Schmuckal

Dept: Zoning

Subject: Application ID: 2007-0189

Date: 10/10/2008

I have reviewed the most current submittals received on 9/24/08. The property is located within a B-2 zone. This project requires a Planning Board approval for the drive-thru retail and pharmacy as proposed. The applicant received a reversal of my zoning determination on 7/17/08 concerning the interpretation of required front yard setback. Therefore, the location of the building as presented with the front yard facing Washington Avenue, was allowed by the Zoning Board of Appeals.

All other B-2 zoning dimensional requirements are being met. The most recent plan does show a 14'x50' loading area as required. The information given on plan entitled "Landscaped Areas" has been reviewed. The applicant needs to revise the impervious calculations because areas have been included for pervious areas which by definition can not be included. By definition, "Landscaping island or strips of two hundred (200) square feet or less shall be included in the calculations as IMPERVIOUS surfaces". Many of the landscaped island strips are less than two hundred square feet.

Planning staff expressed concern about front yard parking. Section 14-186(d)1 states that in a B-2 zone, "There shall be no off-street parking in the front yard between the street line and the REQUIRED minimum setback line". The applicant is not showing parking in the required setback line as indicated on the plans. It is noted that the next sentence does not apply to this particular building because it refers to existing buildings, and not to new structures. The minimum number of parking spaces based on information provided by the applicant (given size of bulk storage area) is 48 parking spaces. 48 parking spaces are shown on the plan.

14-434 restricts corner signs to meet certain height restrictions if it is located in a designated area as defined by that section. I will need to confirm the size and location of the corner sign before final approvals.

This project also encompasses a reconfiguration of an adjoining property, Espos, as part of this site plan approval. This property is also located within a B-2 zone. The impervious surface ratio needs to be revised for this lot as well as described above.

Because the existing front parking is being reconfigured, I reviewed conformance with the ordinance. Currently there are 19 parking spaces in the entire front yard of Espos's parking lot which are considered to be legally nonconforming. The reconfiguration with the Walgreen's proposal is showing 15 parking spaces in the entire front yard, thereby lessening the legal nonconformity. Section 14-186(d) under the front yard parking requirements state, "Where EXISTING buildings exceed the minimum front yard setback, a maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the street". The existing parking configuration on the Espos's lot shows 9 parking spaces between the principal structure and the street. The reconfiguration of the Espos's parking is showing 6 parking spaces between the principal structure and the street, thereby lessening the legal nonconformity.

All other dimensional setbacks are being met with the new reconfiguration of the Espos's lot.

Marge Schmuckal
Zoning Administrator

MEMORANDUM

To: FILE

From: Marge Schmuckal

Dept: Zoning

Subject: Application ID: 2007-0189

Date: 1/8/2009

I have reviewed the most recent submittals for updated zoning compliance. These submittals show that the maximum 80% impervious surface ratio is being met at 78.1%. All the other B-2 zone requirements are being met.

It is noted that the applicant is limiting their hours of operation as part of their application. If there are any changes or allowances for other hours, Zoning staff would like it to be part of the conditions for any future enforcement issues.

Again, any signage approvals will require separate building permits and approvals.

Marge Schmuckal
Zoning Administrator

- (a) *Landscaping and screening:* The site shall be suitably landscaped for parking, surrounding uses and accessory site elements, including storage and solid waste receptacles where required by article IV (subdivisions) and article V (site plan).
- (b) *Curbs and sidewalks:* Curbs and sidewalks as specified in article VI of chapter 25.
- (c) *Off-street parking and loading:* Off-street parking and loading are required by division 20 and division 21 of this article;
- (d) *Front yard parking:*
1. B-2 and B-2c zone: There shall be no off-street parking in the front yard between the street line and the required minimum setback line in the B-2 and B-2c. Where existing buildings exceed the minimum front yard setback, a maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the street.
 2. B-2b zone (On-peninsula): There shall be no parking in the front yard between the street line and the required maximum setback line in the B-2b. Where existing buildings exceed the maximum front yard setback, a maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the street.
 3. B-2b zone (Off-peninsula): Parking in the front yard between the street line and the required maximum setback line in the B-2b is discouraged. However, where parking in the front yard is permitted pursuant to §14-185(c)(1)(c), a maximum of fifty percent (50%) of the total parking on the site may be located between the principal structure and the street.
- (e) *Signs:* Signs shall be subject to the provisions of division 22 of this article.

*This is a
New building
Not an existing
Bldg.*

*100
of total
Pkg*

Portland's land use code, to offer such accommodations as a bed and breakfast, hotel, inn, lodging house, motel or tourist home.

Impervious surface: Means any surface which does not absorb rain and includes all buildings, roads, sidewalks, parking areas, and any area paved with bricks, concrete or asphalt.

Impervious surface ratio: The proportion of a site covered by impervious surfaces. Landscaping islands of strips of two hundred (200) square feet or less shall be included in the calculations as impervious surfaces. The ratio is calculated as follows:

$$\frac{5,000 \text{ square feet (impervious surfaces)}}{10,000 \text{ square feet (gross land area)}} = 0.50 \text{ impervious surface ratio}$$

Inaccessible area:

- (a) Land which is separated from the main portion of the development parcel by means of one (1) or more of the following:
1. Existing easements, rights-of-way or dedicated areas which preclude use in conjunction with the proposed development;
 2. Gullies, drainage swales or watercourses, where the land which is separated thereby from the main development parcel is not to be used for the building of units or is not available for active or passive recreation areas; or
 3. Areas which are located more than three hundred (300) feet from the nearest proposed dwelling unit.
- (b) Areas which are not to be used for building purposes and are connected to the main portion of the development parcel only by a strip of land which is less than fifty (50) feet wide shall also be deducted as inaccessible areas.

Indoor amusement and recreation centers: Facilities which limit admission either to members or to persons paying an entrance fee and which offer one (1) or more of the following activities: indoor athletics, including exercise and practice facilities, or

ol

than twenty-five (25) feet to the street line. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular circulation or creating hazards to vehicular circulation on adjoining streets.

- b. Noise: Any ^{*no speakers*}speakers, intercom systems, or other audible means of communication shall not play prerecorded messages. Any speakers, intercom systems, audible signals, computer prompts, or other noises generated by the drive-through services or fixtures shall not exceed 55 dB or shall be undetectable above the ambient noise level as measured by a noise meter at the property line, whichever is greater.
- c. Lighting: Drive-through facilities shall be designed so that site and vehicular light sources shall not unreasonably spill over or be directed onto adjacent residential properties and shall otherwise conform to the lighting standards set forth in 14-526.
- d. Screening and Enclosure: Where automobiles may queue, waiting for drive-through services, their impacts must be substantially mitigated to protect adjacent residential properties from headlight glare, exhaust fumes, noise, etc. As deemed necessary by the reviewing authority, mitigation measures shall consist of installation of solid fencing with landscaping along any residential property line which is exposed to the drive-through or the enclosure of the drive-through fixtures and lanes so as to buffer abutting residential properties and to further contain all associated impacts; and
- e. Pedestrian access: Drive-through lanes shall be designed and placed to minimize crossing principal pedestrian access-ways or otherwise impeding pedestrian access.

- f. Hours of Operation: The Board, as part of its review, may take into consideration the impact hours of operation may have on adjoining uses.
- g. Conditions specific to major or minor auto service stations, car washes and automobile dealerships:
 - i. A landscaped buffer, no less than five (5) feet wide, shall be located along street frontages (excluding driveways). The buffer shall consist of a variety of plantings in accordance with the Technical and Design Standards and Guidelines;
 - ii. Car washes shall be designed to avoid the tracking of residual waters into the street.

(b) *Other:*

- 1. Printing and publishing establishments except as provided in subsection b. below;
- 2. Printing and publishing establishments in continuous operation at their current location since April 4, 1988, or earlier and which exceeded ten thousand (10,000) square feet of aggregate gross floor area at that time;
- 3. Wholesale distribution establishments; and
- 4. Research and development and related production establishments.

Uses listed in this paragraph (b) (other) 1, 3 and 4 shall be limited to ten thousand (10,000) square feet of aggregate gross floor area, and uses listed in this paragraph (b) (other) 1, 2, 3 and 4 shall be subject to the following conditions and standards in addition to the provision of section 14-474:

- a. Traffic circulation: The site shall have an adequate traffic circulation pattern designed

AMENDMENT TO PORTLAND CITY CODE
§§ 14-426 and 14-434 (LAND USE)
RE: FENCES AND CORNER CLEARANCE

in effect
4/97

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, MAINE
IN CITY COUNCIL ASSEMBLED AS FOLLOWS:

That Sections 14-426 and 14-434 of the Portland City Code are
hereby amended to read as follows:

Sec. 14-426. Fences.

curb line - definition
see

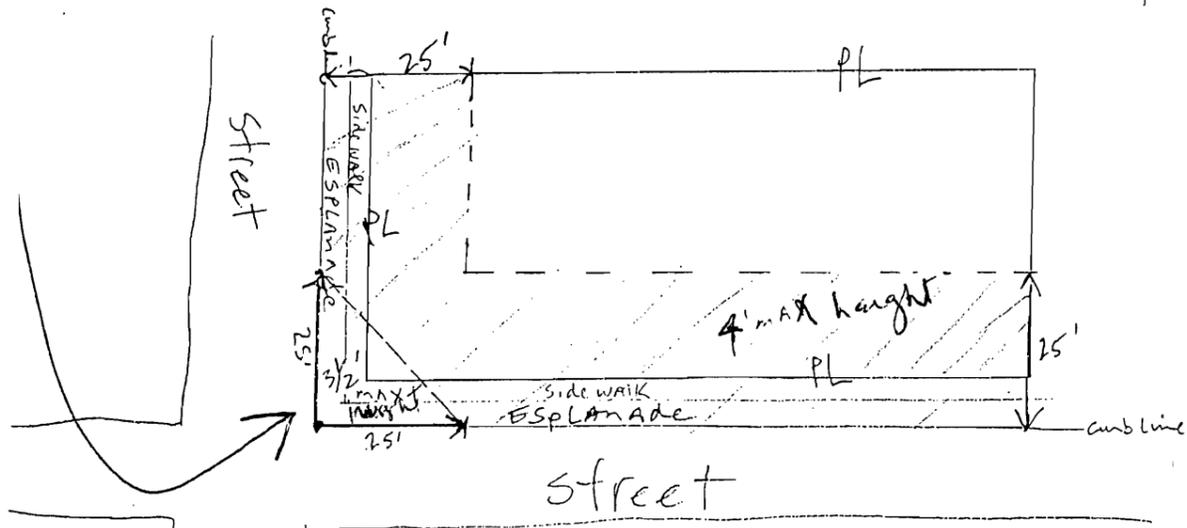
In residence zones no wall or fence along a (street line) or
within twenty-five (25) feet of a street line shall be more than
four (4) feet in height unless said fence is located in the side or
rear yard and is reviewed by the public works authority and found
not to be a traffic or public safety hazard, subject to the
provisions of section 14-434.

Sec. 14-434. Corner clearance.

No obstruction higher than three and one-half (3½) feet above the lowest elevation at the
curbline shall be permitted on a corner lot within the area of a triangle formed by a line
intersecting the street lines of the intersecting streets at points twenty-five (25) feet from the
corner, unless said obstruction is located in the side or rear yard and is reviewed by the public
works authority and found not to be a traffic or public safety hazard. For the purpose of this
section, the word "obstruction" shall mean any shrub, wall, fence, temporary building, sign, a
pile of material, but shall not include permanent buildings or structures where permitted
elsewhere in this article.

(Code 1968, § 602.19.M; Ord. No. 247-97, 4-9-97)

1" = 30'



CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

Peter Coyne
Philip Saucier-sec
Peter Thornton
Deborah Rutter
Jill E. Hunter
David Dore, chair
Gordan Smith

July 21, 2008

David Latulippe
The Richmond Company
23 Concord Street
Wilmington, MA 01887

RE: 330 Allen Avenue
CBL: 344 E008, 012, 036, 042 & 050
ZONE: B2

Dear Mr. Latulippe:

As you know, at its July 17, 2008, meeting, the Board voted 6-1 to grant your Interpretation Appeal.

Enclosed please find the billing for the Zoning Board Appeals legal ad and abutters notification; also a copy of the board's decision. Zoning will now move forward on the site plan submittal (permit #2007-0189) for the redevelopment at 330 Allen Avenue.

Should you have any questions please feel free to contact me at 207-874-8701.

Sincerely,



Gayle Guertin
Office Assistant

CC: Christopher L. Vaniotis, Attorney
file

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

APPEAL AGENDA

The Board of Appeals will hold a public hearing on Thursday, July 17, 2008 at 6:30 p.m. on the second floor, Room 209, City Hall, 389 Congress Street, Portland, Maine to hear the following appeals:

To: City Clerk
From: Marge Schmuckal, Zoning Administrator
Date: July 18, 2008
RE: Action taken by the Zoning Board of Appeals on July 17, 2008.

The meeting was called to order at 6:35pm.

Roll call as follows: **Members Present:** David Dore, Philip Saucier, Peter Coyne, Deborah Rutter, Peter Thornton, Gordon Smith and Jill Hunter.
Members Absent: None

1. New Business:

A. Interpretation Appeal:

330 Allen Avenue, The Richmond Company, Prospective Purchaser, Tax Map #344 Block E Lots #008, 012, 036, 037, 042, 047 and 050 in the B-2 Business Community Zone. The Appellant is seeking an Interpretation Appeal regarding the written decision of the Zoning Administrator's letter issued on June 26, 2008, concerning the construction of the proposed new pharmacy (Walgreen's), located at 330 Allen Avenue, concerning section 14-185 (c) 1 (a), the definition of front yard setback. The submitted plans show the proposed new building of approximately 134 feet from the front property line off Washington Avenue. The average set back of buildings on adjacent parcels is 38.5 feet. The new building is set back further than allowed and should be set back no further than 38.5 feet from the property line. Representing the appeal is the applicant / purchaser, David Latulippe and Christopher Vaniotis, Attorney. **The Board voted 6-1 and granted the Interpretation Appeal.**

B. Practical Difficulty Variance Appeal:

330 Allen Avenue, The Richmond Company, Prospective Purchaser, Tax Map #344 Block E Lots #008, 012, 036, 037, 042, 047 and 050 in the B-2 Business Community Zone. The Appellant is seeking a Practical Difficulty Variance Appeal under Section 14-185 (c) 1 (a) of the City of Portland Zoning Ordinance. The Appellant is requesting a front yard setback variance of 134 feet instead of the required 38.5 feet. Representing the appeal is the applicant / purchaser, David Latulippe. **The Board voted 7-0 for the Practical Difficulty Appeal to be withdrawn by the applicant.**

2. Other Business: None

3. Adjournment: 7:40pm

Enclosure:

Agenda of July 17, 2008
Original Zoning Board Decision
1 tapes of meeting

CC: Joseph Gray, City Manager
Alex Jaegerman, Planning Department
Penny St. Louis Littell, Director, Planning & Urban Development
T.J. Martzial, Housing & Neighborhood Services

CITY OF PORTLAND, MAINE
ZONING BOARD OF APPEALS

Maximum Front Yard Setback in B-2 Zone:

Interpretation Appeal

DECISION

Date of public hearing:

July 17, 2008

Name and address of applicant:

The Richmond Company, David Latulippe, 23 Concord Street, Wilmington, MA 01887

Location of property under appeal:

330 Allen Avenue, Portland, ME

For the Record:

Names and addresses of witnesses (proponents, opponents and others):

Christopher Vaniotis, Bernstein Shur, 100 Middle Street, PO Box 9729, Portland, ME 04104-5029
David Latulippe, 35 Primrose Lane, Freeport, ME

Fred Hipp, adjacent owner (proponent)

Steven Cape, Represents Laurie Bernier (proponent)

Exhibits admitted (e.g. renderings, reports, etc.):

Laurie Bernier (proponent), P.O. Box 204, Gray, ME 04039

Robert Esposito, Falmouth, ME (proponent)

Pam Lovely, Portland (proponent)

Mike Rutherford, Na-K Peering, Portland (proponent)

Cristy Esposito, Falmouth, ME (proponent)

Findings of Fact and Conclusions of Law:

The Board's authority to review an interpretation of the Zoning Administration is pursuant to Section 14-472 of the zoning ordinance.

The City's Zoning Administrator issued an Interpretation on June 26, 2008, stating that pursuant to section 14-185(c)(1)(a) of the zoning ordinance the applicant's proposed new building at 340 Allen Avenue may be set back no more than 38.5 feet from the property line (the maximum front yard setback). The language of that provision of the ordinance states as follows:

"Except as provided in subsection (e) below, the following setbacks are required:

1. Front Yard

- a. Minimum front yard in B-2 and B-2c zone: None, except that the front yard setback shall not exceed the average depth of the front yards of the closest developed lots on either side of the lot. A developed lot means a lot on which a principal structure has been erected."

Appellant has demonstrated that the Interpretation of the Zoning Administrator was incorrect or improper.

Satisfied X 6-1 Not Satisfied

Reason: ~~Section~~ Section 14-185(c)(1)(a) speaks to the minimum ^{front} yard setback, and does not establish a minimum, unlike the B-2b zone. The reading of the ordinance, and the difference between the 2 zones, with ordinance + planning memo, lead the Board to believe that the

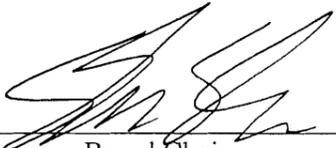
Decision: (check one)

 Option 1: The Board finds that the Appellant has satisfactorily demonstrated that the Interpretation of the City's Code Enforcement Officer was incorrect or improper, and therefore GRANTS the application.

Zoning administrator was incorrect.

 Option 2: The Board finds that the Appellant has NOT satisfactorily demonstrated that the Interpretation of the City's Code Enforcement Officer was incorrect or improper, and therefore DENIES the application.

Dated: 7/17/08


Board Chair



To: Dan Goyette; PS (David Margolis-Pineo/Jim Carmody); Marge Schmuckal; Tom Errico; Greg Cass; Jeff Tarling

From: Jean Fraser

Date: Nov 12, 2008

11/12/08

Additional information submitted for the following project:

Application ID #: 2007-0189

Project Name: Walgreens Allen Ave

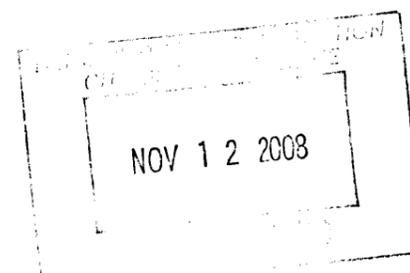
Project Address: 340 Allen Ave c/o Washington

Preliminary Comments needed by: asap

Written Comments needed by: Nov 19, 2008 as anticipate this will be going to Planning Board Workshop on Nov 25th

This is slightly revised (to move the building towards Washington Ave. and reduce parking between the building and the streets) so does not need full review of storm water; traffic info was submitted last week.

Review largely relates to impervious surfaces; landscape; circulation; fire access.



November 12, 2008

207-657-6910
FAX: 207-657-6912
E Mail: mailbox@gorrillpalmer.com

Ms. Jean Fraser
Development Review Services Manager
City of Portland
Planning & Development Department
389 Congress Street
Portland, Maine 04101

RE: Walgreen's Pharmacy, Allen Avenue
Letter of Correspondence No. 4
Revised Site Plan Layout

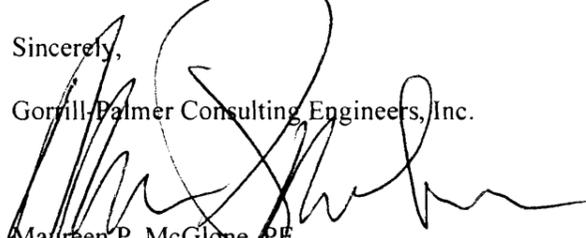
Dear Jean,

After further review of comments received from both the Planning Department and Planning Board, Gorrill-Palmer Consulting Engineers Inc. has reconfigured the site to address many of the concerns the City has. The revised Site Plan has multiple changes including moving the building closer to Washington Avenue, removing a row of parking between the front of the building and Washington Avenue, increasing the landscaping between the proposed development and the residential properties behind the site and enhancing the pedestrian circulation throughout the site. An alternative concept was generated where the loading area at the rear of the site was removed, and the building was placed at the rear setback line. This concept resulted in additional parking spaces at the front of building, but did not provide adequate loading opportunity or truck turning throughout the site. The revised Site Plan, Landscaped Areas Plan, alternative concept plan and Building Elevations have been included as attachments to this letter.

Gorrill-Palmer Consulting Engineers, Inc. looks forward to your review of the revised Site Plan. Should you have any questions or require any additional information, please feel free to contact me.

Sincerely,

Gorrill-Palmer Consulting Engineers, Inc.


Maureen P. McGlone, PE
Project Engineer

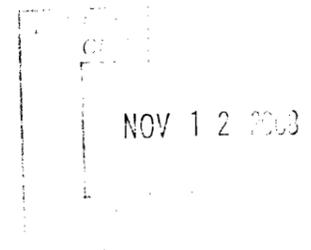
CC:

- David Latulippe, The Richmond Company, Inc.

Attachments:

- Revised Site Plan
- Revised Landscaped Areas Plan
- Alternative Concept Plan
- Building Elevations

MPM/jjm/JN1909.fraser_reponse_loc#4_11-04-08



CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

APPEAL AGENDA

The Board of Appeals will hold a public hearing on Thursday, July 17, 2008 at 6:30 p.m. on the second floor in room 209 at the Portland City Hall, 389 Congress Street, Portland, Maine, to hear the following Appeals:

1. New Business:

A. Interpretation Appeal:

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330 Allen Avenue, The Richmond Company, Prospective Purchaser, Tax Map #344 Block E Lots #008, 012, 036, 037, 042, 047 and 050 in the B-2 Business Community Zone. The Appellant is seeking a Practical Difficulty Variance Appeal under Section 14-185 (c) 1 (a) of the City of Portland Zoning Ordinance. The Appellant is requesting a front yard setback variance of 134 feet instead of the required 38.5 feet. Representing the appeal is the applicant / purchaser, David Latulippe.

2. Other Business:

3. Adjournment:



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

Lee Urban- Director of Planning and Development
Marge Schmuckal, Zoning Administrator

June 26, 2008

Christopher L. Vaniotis
Bernstein Shur Counselors at law
100 Middle Street
PO Box 9729
Portland, ME 04104-5029

RE: 340 Allen Avenue – 344-E-036 – B-2 Zone – Site Plan Application #2007-0189

Dear Chris,

This department is in receipt of a site plan submittal concerning the redevelopment of a site on the corner of Washington and Allen Avenues. During an initial zoning analysis, it has come to my attention that the required front yard setback is not being met as historically interpreted by this division.

It is understood that the front of this corner lot is along Washington Avenue. Therefore Allen Avenue is a side yard on a side street. 14-185(c)1.a. states:

“1. Front Yard

a. *Minimum front yard in B-2 and B-2c zone:* None, except that the front yard setback shall not exceed the average depth of the front yards of the closest developed lots on either side of the lot. A developed lot means a lot on which a principal structure has been erected.

b. *Maximum front yard in the B-2b zone (On-peninsula):* The maximum front yard setback shall either be: (i) ten feet; or (ii) in cases where the average depth of the front yard of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such average depth. A “developed lot” means a lot on which a principal structure has been erected.

Building additions are not required to meet this maximum setback.

c. *Maximum front yard in B-2b zone (Off-peninsula):* None, except that the front yard setback shall not exceed the average depth of the front yards of the closest

developed lots on either side of the lot. A developed lot means a lot on which a principal structure has been erected.”

The property being redeveloped is within the B-2 Zone. Therefore the front yard requirements would be controlled by 1.a which regulates the front yard requirements for the B-2 and B-2c zones. The B-2b zone is regulated under 1.b. and 1.c.

The submitted plans show a front yard setback of approximately 134 feet from the front property line off Washington Avenue back to the front of the building. These same plans are showing the average setback of buildings on adjacent parcels as 38.5 feet. My interpretation of the minimum front yard setback clearly shows the new building is setback further than what is allowed under the ordinance. The new building should be setback no further than the 38.5 feet from the front property line.

I understand the applicant’s reasoning concerning this section of the ordinance. However, I disagree with that reasoning. I understand that the title heading of the ordinance does read “Minimum” and not “Maximum”. Court cases have previously determined that headings and/or titles of paragraph do not rule an interpretation. It is the wording of the regulations that guide an interpretation. I have determined that the wording of 1.a. does limit the projection of a structure into the site from the front property line. In essence there is a maximum setback that a building can be placed extending into a lot from the front property line, even though the heading may classify this requirement as a “minimum”.

Much of my interpretation is guided by the plain meaning of the words such as “exceed”, which means go beyond, or to surpass. Even the word “setback” is referring to the act of setting back or away from the property line (in this case the front property line). The setback of the new building shall not be placed further back from the front property line or beyond the average setback of the buildings on the adjacent parcels. I do not believe that “exceed” refers to placing the building closer to the front property line from the average setback line.

My interpretation of the ordinance is reinforced by Planning Board Staff memos to the City Council in 1999 when the B-2 zones were revised. The amendments at that time were characterized to “promote pedestrian oriented design and access”. Orientation close to the street is one of the methods used for this goal.

The City of Portland Technical Standards and Design Guidelines also fortify my interpretation. Under the guideline for building location and form, the Technical Standards state that “buildings shall be located near the street so as to create an urban street wall”. It goes on to state that that “Major entries should be adjacent to, or very close to, the street and public sidewalk”. The intent is to bring the building as close to the street line as possible. Section 14-185(c)1.a. does first state that there is no minimum setback required. The requirement in this section is not intended to set the building back further than the buildings on either side.

Instead it is intended to set the building *no further back* than the buildings on either side.

Because this particular issue arose during my zoning review of your initial application, the zoning review has not been finalized. Although, at this time, I am not aware of any other violations of the ordinance, I reserve my right to complete my review and would certainly apprise the applicant immediately of any other zoning issues.

You have the right to appeal my decision concerning use. If you wish to exercise your right to appeal, you have 30 days from the date of this letter in which to appeal. If you should fail to do so, my decision is binding and not subject to appeal. Please contact this office for the necessary paperwork that is required to file an appeal.

Very truly yours,



Marge Schmuckal
Zoning Administrator

Cc: Penny Littell, Director of Planning and Development
Alex Jaegerman, Planning Division Director
Barbara Barhydt, Planning
Legal
David Latulippe, The Richmond Co., 23 Concord Street, Wilmington, MA
01887

attachments

TEXT AND MAP AMENDMENTS
for
B-1 and B-1b NEIGHBORHOOD BUSINESS ZONES
&
B-2 and B-2b COMMUNITY BUSINESS ZONES

AND

TEXT AMENDMENTS
for
SITE PLAN ORDINANCE

Submitted to:
Portland City Council
Portland, Maine

October 18, 1999

I. INTRODUCTION

D. Other requirements Sec. 14-166

The off-street parking requirements have been modified slightly to clarify that 10% of the required parking may be located between a structure and street in both the B-1 and B-1b zone, where existing structures exceed the minimum or maximum setbacks.

The external storage provisions are revised to require fully enclosed containers for solid waste. Vehicles with or without wheels are prohibited for use as on-site storage. Truckload sales are exempt, provided that the activity does not extend beyond three consecutive days and no more than three times per calendar year.

E. External Effects Sec. 14-167

Uses within the B-1 are required to operate within a completely enclosed structure. As a means of encouraging pedestrian activity in neighborhood business zones, an exception to this provision is suggested to allow open-air activities licensed by the City, including but not limited to outdoor seating, sidewalk sales, etc. [Sec. 14-167(1)].

A revision to the materials or wastes section states that no materials or wastes shall be deposited that are clearly visible from neighbors' properties [Sec. 14-167(6)].

V. COMMUNITY BUSINESS B-2 and B-2b ZONING TEXT AMENDMENTS

1. Intent of B-2 and B-2b Zone

The B-2 Community Business Zone offers opportunities for larger and more intensive commercial areas serving both adjoining neighborhoods and the community as a whole. To improve the appearance and access of these commercial centers, it is suggested that they be easily accessible by both automobiles and pedestrians. Developments should relate to the surrounding neighborhoods by design, orientation, and circulation patterns.

The B-2b zone is proposed as a new zoning classification, which is designed to preserve the more compact urban development of Portland. The B-2b purpose states it is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street, in areas where a more compact urban development pattern is established and exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections to foster an existing urban commercial development pattern.

2. Text Amendments

Text amendments to the Community Business B-2 and B-2b Zones are contained within the included packet of amendments and ordinance citations are noted below for the City Council's reference. The complete text is contained within the draft amendments included in the packet. Attachment 4 and 5 are reduced

and automobile dealerships; there are two standards in the text specific to the auto service stations, car washes and auto dealerships. The first standard requires a five foot wide landscaped buffer along street frontage, except for driveways, and the buffer shall consist of a variety of plantings in accordance with the City's technical and design guidelines. Secondly, car washes shall be designed to avoid the tracking of residual waters into the street. This is not a new standard for car washes, but has been relocated to apply to the auto related facilities.

There are several "other" conditional uses listed in the B-2 zones, which are proposed to be included within the B-2b. The "other" conditional uses are printing and publishing establishments, wholesale distribution, and research and development and related production establishments. As mentioned earlier, the Board of Appeals would serve as the reviewing authority for these uses.

C. Dimensional requirements Sec. 14-185

1. Minimum lot size

Currently, long term and extended care facilities must meet a minimum lot size of 10,000 square feet for the first 9 residents plus 750 square feet for each additional resident provided no more than 2 acres is required. An intermediate care facility must have a minimum of 10,000 square feet. The proposal is to combine intermediate care facilities with the other types of establishments and simply require a minimum lot size of 10,000 square feet.

There is no minimum front yard requirement in the B-2 zone, except that the front yard setback shall not exceed the average depth of the closest developed lots on either side of the property. In the B-2b zone a maximum front yard setback of ten (10) feet is proposed or in cases where the average depth of the front yard of adjoining developed lots is closer to the street, then the average will not be exceeded by the pending project. The same maximum setback is proposed for side yards on side streets (corner lots), so buildings will be located at street corners. An exception is proposed to this requirement which states that any new construction on a lot abutting more than two streets, the maximum setback shall not apply beyond the two most major streets. Major streets are defined as streets with the highest traffic volume and the greatest street width. Building additions are exempt from these setback requirements. The maximum setback serves as a "build-to line", one of the suggestions contained in the *Nason's Corner* study and consistent with the intent of the B-2b.

Business representatives have expressed opposition to the maximum front yard setback proposed in the B-2b zone at both public hearings. It was felt that such a requirement would hinder businesses and runs counter to current development trends. An amendment to a motion was proposed to eliminate the maximum front yard setback in the B-2b zone and have the same dimensional requirements for both B-2 and B-2b. The B-2b zone is intended for areas with compact urban development that maintain a strong streetscape along the street line. The amendment failed for lack of a second.

The other dimensional revisions proposed for B-2 and B-2b include the following:

- a) delete the minimum lot width of 50 feet;
- b) the maximum structure height may be exceeded under certain circumstances, provided each of the minimum setbacks are met; and
- c) the maximum impervious ratio is 80% in the B-2 zone and 90% is proposed in the B-2b zone.

D. Other requirements Sec. 14-186

1. Off-street parking and loading

The off-street parking provisions contain an exception which allows parking in the front yard of buildings built before 1996 where a portion of the building is removed and used for parking. It is proposed that this exception be deleted [Sec 14-186(4)a].

Division 20, Sec. 14-332 includes the Board's recommendation to increase the number of parking spaces for office uses in the B-2 to B-2b from 2.5 spaces to 3 spaces per 1,000 square feet of office space. The Board received many citizen complaints regarding inadequate off-street parking for office uses, so the Board is recommending increasing the required number of spaces in B-2 and B-2b zones. One member pointed out that this is not consistent with the City's Transportation Plan.

2. Front yard parking

In the B-2 and B-2b zones, off-street parking is not allowed between the street line and the required minimum or maximum setback lines. The provision is clarified to state where an existing building exceeds the minimum or maximum setbacks, then a maximum of 10% of the parking may be located between the structure and the street.

As in the B-1 amendments, the exterior storage standards are clarified that vehicles or truck trailers with or without wheels may not be used for on-site storage, except for truckload sales (duration of no more than 3 days and no more than 3 times per year). In the B-2 zones, the following exceptions are proposed:

- a) except where such storage is located in a designated loading zone on an approved site plan; or
- b) such storage is not visible from the street or adjacent residences and again such storage is shown on an approved site plan.

E. External Effect Sec. 14-187

Uses shall be operated within a completely enclosed structure. As a means of encouraging pedestrian activity in the community business zones, an exception is suggested to allow specific open-air activities licensed by the City, including but not limited to outdoor seating, sidewalk sales, etc. [Sec. 187(1)].

VI. PUBLIC COMMENT

The Planning staff has responded to many requests for information regarding the proposed amendments. A summary of public comments is included as Attachment 10. In addition, there is a written request from Mr. Bryant to include his property near Woodfords Corner within the B-2b zone, Attachment 11, and Mr. Maier submitted a request to include self-storage as a permitted use in the B-1 zone, Attachment 12.

VII. COMPLIANCE WITH COMPREHENSIVE PLAN

Portland's *Transportation Plan* contains the underlying policies for the proposed text amendments. The guiding principle of the *Plan* states, "Provide maximum mobility in a balanced transportation system which encompasses all modes, to support the economic vitality and quality of life of the Portland community." One of the goals is to ensure that future growth does not foster auto dependencies. Relevant land use/transportation policies include the following:

- Vibrant neighborhoods include nearby, small-scale commercial areas that provide both convenient service and natural meeting places. Provide routine, daily services within walking distance or residents of all neighborhoods, as long as the businesses providing the services are small-scale, are designed compatibly with residences, and fit into the fabric of the neighborhood.
- Allow development along transit corridors and near community centers to evolve at a density sufficient to make public transit, walking and biking viable options. Such density should be coupled with policies that encourage or maintain a healthy share of owner-occupancy in these areas as well as compatible site design.

The *Nason's Corner Study* has not been adopted as part of the City's Comprehensive Plan; however, it does offer specific policy guidance from the neighborhood and builds on the goals of the *Transportation Plan*. The specific recommendations to limit building size, prohibit bottle redemption centers, maintain small-scale development, confirm that drive-throughs are not permitted in the B-1, improve the aesthetics of the neighborhood, and control the external impacts of commercial uses are consistent with the policies of the Transportation Plan.

The proposed amendments are consistent with the goals and policies of the City's Comprehensive Plan. The zoning text revisions are intended to strengthen the concept of neighborhood commercial areas and enhance the attractiveness and compatibility of commercial areas with adjoining residential neighborhoods. Specifically, the amendments seek to promote pedestrian oriented design and access. Residential uses are encouraged above ground floor businesses, which supports the concept of higher density along arterials.

VIII. RECOMMENDATION FOR THE BOARD TO CONSIDER

On the basis of the information contained within the Planning Board Report # 33-99, the Planning Board finds that the proposed zoning amendments for the Neighborhood Business B-1 and B-1b Zone, the Community Business B-2 and B-2b Zone, and the Site Plan Ordinance Amendments to be consistent with Portland's Comprehensive Plan and recommends adoption of the amendments to the City Council.

GUIDELINES: The following guidelines set forth various land use planning objectives to be achieved in the future in the following zones: B-1, B-1b, B-2, B-2b.

1. **Building Location and Form**

Guideline: Buildings shall be located near the street so as to create an urban street wall.

An urban street wall is created by a pattern of buildings which line the street in a consistent manner, thereby establishing a desirable spatial relationship between the building in the commercial district and the major street. Location is one of several related factors defining the street environment.

The desired condition is to have the building frame and enclose the street, which is achieved by providing building height that is in appropriate proportion to the width of the adjoining major street.

A ratio of building height to street width of one-to-two creates a strong "room-like" street, while a one-to-three ratio provides good street definition and proportion. Shorter buildings of one story facing broad streets will not achieve the desired relationship. By way of example, for a fifty-foot street right-of-way, a minimum building height of 15' is desired, with 25' height preferred. An eighty-foot right-of-way would foster a minimum of a 27' building to achieve the 1:3 proportion, with 40' building height preferred. Obviously, buildings located as close as possible to the street right-of-way will provide better definition and proportion than buildings set further back.

2. **Building Function**

Guideline: An urban street and business district requires a substantial intensity and variety of uses.

It is beneficial to have mixed uses within portions of buildings situated near the street. For example, a retail first floor might have office or residential on the second or third floors. This provides both the scale of building height desired, as well as the economic vitality of the business district.

3. **Orientation of Buildings and their Entrances to the Street**

Guideline: Major building entries shall be designed and located to provide the primary building access oriented to the public street and sidewalk.

Doorways should be prominent and obvious in appearance, so as to attract the users toward the entry. Major entry features should address the street, with entry courts, display windows, signage, lights, walkways, and vestibules, as appropriate. Major entries should be adjacent to, or very close to, the street and public sidewalk.

4. **Windows**

Guideline: Windows should be located in all building facades visible from the public way, especially on building facades along the major public street.

Retail uses with store fronts are the most desirable feature for locations adjacent to the public sidewalk; and active, transparent, and interesting windows contribute the maximum value. Limitations on transparency, such as dark or reflective glass, or interior coverings, should be avoided. Where uses (such as office) are not conducive to transparent viewing from the public way, windows can still convey a sense of activity and presence along the street. Even these more private windows can convey occupancy and habitation when lighted from within, as during evening hours, even if the interior is screened from view.

5. Building Character, Detail, Scale, and Graphic Qualities

Guideline: Building design should include various architectural and graphic amenities to provide a strong presence along a street and relate a building to its community.

Awnings, canopies, and flags may be utilized to highlight entryways and to further identify the activity and identity of a use. Facade lighting may be used to highlight entryways or to provide visual interest along an otherwise blank façade. Building scale, roof pitch, architectural detail, and fenestration shall be designed to complement and be compatible with surrounding residential and commercial buildings.

6. Signage and Building Entrances

Guideline: Building entrances and building signage in the B-1, B-1b, and B-2b zones should be designed and constructed at the pedestrian scale. (**We may need to revise the Sign Ordinance for allowed height and dimension of signs.**)



7. Development Relationship to Street

Guideline: Building facades and site amenities should form a cohesive wall of enclosure along a street.

Where buildings are not located at the street line, site amenities, including masonry walls, fences, and landscaping, should be placed along the street to provide a sense of enclosure or definition.

8. Parking Lots

Guideline: Parking Lots should be screened from view of the public way.

Landscaping or fencing should be used to screen parking lots from public ways and residential neighbors. Where parking is located within the front yard (or side yard of a corner lot), a landscaped buffer or fence should be placed along the street line to distinguish the private space from the public space and to help define the street wall.

Guideline: Parking lots should be screened from neighboring properties.

A densely planted landscape buffer or fencing should be installed to protect neighboring properties from the impacts associated with the parking lot and the use it serves.

Guideline: Crosswalks should be provided within parking lots and across entrance driveways, directing pedestrians to building entrances.

Guideline: Street trees should be planted along property street frontage 25ft. on center.

9. Transit Connections

Guideline: Development proposed along established transit corridors must design uninterrupted access from the proposed development to the transit stop.

An easement to place a transit shelter may be requested for development located along a transit corridor.

Site PLAN REVIEW STANDARDS -
urban street B
"encouraged"

207 774-1200 main
207 774-1127 facsimile
bernsteinshur.com

100 Middle Street
PO Box 9729
Portland, ME 04104-5029

BERNSTEIN SHUR

COUNSELORS AT LAW

mandatory vs "encouraged"

Christopher L. Vaniotis
207 228-7205 direct
cvaniotis@bernsteinshur.com

February 27, 2008

Marge Schmuckal, Zoning Administrator
City of Portland
389 Congress Street
Portland, Maine 04101

Re: Front Setback Requirement in the B-2 Zone

FEB 29 2008

Dear Marge:

I am writing to follow up on our meeting yesterday morning in connection with The Richmond Company's proposal for the property at the corner of Washington and Allen Avenues. My purpose in this letter is to explain my analysis so that you will have it in front of you as you give some additional thought to the question.

Section 14-148(c) contains the setback requirements for the B-2, B-2b and B-2c zones. For front yard setbacks, the ordinance lists both minimums and maximums. However, the maximum front yard setback applies only in the B-2b zone. The B-2 and B-2c zones have only a minimum front yard setback.

"Setback" is a defined term in the ordinance. The definition is: "The required distance and the land resulting therefrom between a street line and the closest possible line of conforming structure." (Emphasis added.) Applying that definition, the minimum front yard setback is the shortest allowable distance between the street and any structure, while a maximum front yard setback is the longest allowable distance between the street and any structure. The minimum setback requirement answers the question, "How close can I get to the street?" The maximum setback requirement answers the question, "How far away from the street am I allowed to go?" Because the B-2 district has no maximum setback requirement, there is no limit on how far away from the street buildings or structures can be located.

I know that you are trying to make sense of the language in Section 14-184(c)1.a. "except that the front yard setback shall not exceed the average depth of the front yards of the closest developed lots on either side of the lot." In my view, that language does not create a maximum setback requirement - which the ordinance could have done in subparagraph (b) where it set a maximum front yard setback requirement in the B-2b zone, but not in the B-2 zone.

The language "the front yard setback shall not exceed the average depth" has to be read in connection with the definition of setback. Setback is the required distance between the street and the building. Therefore, what the ordinance is saying is that the minimum setback requirement cannot be greater than the average depth of the adjoining yards. But, as with any minimum setback requirement, nothing in the ordinance prevents the property owner from locating structures farther away from the street than the minimum requirement.

The "average depth" language for front yard setbacks appears in a number of other zones – R-4, R-5, R-6, IR-2, R-P, I-B and B-4. In all those zones, the application of the "average depth" language for front yard setbacks is quite straightforward because the required setback is expressed as a number, ranging from 10 feet to 25 feet. Consequently, the minimum setback for any buildings and structures is either the specified number, or the average depth. Either way, the requirement is a minimum; there is no maximum setback requirement in any of those zones. A building can always be located further away from the street than the required minimum setback.

The application of "average depth" seems a little less obvious in the B-2 zone because the initial required setback is "none," rather than a specified number. (Originally the B-2 zone had a 10-foot front yard setback requirement together with the "average depth" exception: see copy of the 1989 ordinance, attached.) However, just as in the other zones, what the ordinance means is that the required minimum setback is either zero or, if there are buildings on either side, the average depth of those buildings. But since there is no maximum setback requirement in the B-2 zone, buildings can always be located further away from the street than the required minimum setback.

In summary, it seems to me that the front yard setback requirements for the B-2 zone simply do not impose a maximum setback requirement. A structure in the B-2 district cannot be located any closer to the front lot line than the average depth of structures on abutting lots, but nothing in the ordinance prevents it from being located deeper into the lot.

Thanks for taking the time to meet with me yesterday. I always appreciate your willingness to look at all sides of a question. Please let me know if I can provide any further information that would be helpful to you.

Sincerely,



Christopher L. Vaniotis

CLV/lc

cc: David Latulippe
Enclosure

Carpenter/CLV/RichmondCo/Schmuckal/tr022608 38981 1

LAND USE

CITY OF
PORTLAND, MAINE

This pamphlet is a reprint of Chapter 14, Land Use, of the Code of Ordinances of the City of Portland, Maine, published by order of the City Council.

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100 Middle Street
Portland, Maine



MUNICIPAL CODE CORPORATION

Tallahassee, Florida

1989

- ii. *Circulation:* No ingress and egress driveways shall be located within thirty (30) feet from an intersection. No entrance or exit for vehicles shall be in such proximity to a playground, school, church, other places of public assembly, or any residential zone that the nearness poses a threat or potential danger to the safety of the public.
- iii. *Drive-up features:* Drive-up features, such as gasoline pumps, vacuum cleaners and menu/order boards, shall not extend nearer than twenty-five (25) feet to the street line. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular circulation or creating hazards to vehicular circulation on adjoining streets.
- iv. *Car washes:* Car washes shall be designed to avoid the tracking of residual waters into the street.

(2) *Other:*

- a. Printing and publishing establishments;
- b. Wholesale distribution establishments; and
- c. Research and development and related production establishments.

Uses listed in this paragraph (2) (other) a. through c. shall be limited to ten thousand (10,000) square feet of aggregate gross floor area and shall be subject to the following conditions and standards in addition to the provision of section 14-474:

- i. *Traffic circulation:* The site shall have an adequate traffic circulation pattern designed to avoid hazards to vehicular circulation on adjoining streets. All stacking of motor vehicles shall be on site, and loading facilities shall be located to the rear of the building and shall not be visible from the street.
- ii. *Building and site design:* The exterior design of the structures, including architectural style, facade materials, roof pitch, building form, established setbacks and height, shall be of a commercial rather than industrial character. The site shall contain screening and landscaping which shall meet the requirements of the Technical Standards and Design Guidelines adopted pursuant to section 14-498 and section 14-526 for screening between land uses. (Ord. No. 293-88, 4-4-88)

Sec. 14-184. Prohibited uses.

Uses not enumerated in sections 14-182 and 14-183 as either permitted uses or conditional uses are prohibited. (Ord. No. 293-88, 4-4-88)

Sec. 14-185. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, residential uses permitted under section 14-182(1) shall meet the requirements of such abutting or nearest residential zone, and nonresidential uses in the B-2 zone shall meet the following minimum requirements:

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Sec. 14-1
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Supp. No. 1

(1) *Minimum lot size:*

- a. Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents, plus seven hundred fifty (750) square feet for each additional resident; provided, however, no more than two (2) acres shall be required.
- b. Intermediate care facility: Ten thousand (10,000) square feet.
- c. All other nonresidential uses: Ten thousand (10,000) square feet.
- d. Where multiple uses are on one lot, the highest applicable minimum lot size must be met.

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

(3) *Minimum yard dimensions:*

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

Except as provided in subsection (5) below, the following setbacks are required:

a. *Front yard:*

- 1. Principal or accessory structures: Ten (10) feet, except that a front yard need not exceed the average depth of immediately abutting front yards, The front yard of a lot existing as of April 4, 1988, and less than one hundred (100) feet deep need not be deeper than ten (10) percent of the depth of the lot.

b. *Rear yard:*

- 1. Principal structures: Ten (10) feet. Where a rear yard abuts a residence zone or residential use, twenty (20) feet is required.
- 2. Accessory structures: Five (5) feet.

c. *Side yard:*

- 1. Principal structures:

<i>Number of Stories</i>	<i>Required side yard</i>
1 or 2 stories	10 feet
3 or more stories	12 feet

- 2. Accessory structures: Five (5) feet.
- 3. Side yards on side streets (corner lot): Ten (10) feet.

(4) *Minimum lot width:* Fifty (50) feet.

(5) *Maximum structure height:* Forty-five (45) feet, except that on lots in excess of five (5) acres, sixty-five (65) feet is permitted; provided each of the setbacks required under subsection (3) above are increased by one (1) foot in distance for each foot of height above forty-five (45) feet.

(6) *Maximum impervious surface ratio:* Eighty (80) percent. (Ord. No. 293-88, 4-4-88)

Sec. 14-186. Other requirements.

All nonresidential uses in the B-2 zone shall meet the requirements of division 25 (space and bulk regulations and exceptions) of this article in addition to the following requirements:

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2/28/08

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February 27, 2008

Marge Schmuckal, Zoning Administrator
City of Portland
389 Congress Street
Portland, Maine 04101

Re: Front Setback Requirement in the B-2 Zone

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Section 14-¹⁸⁵~~148~~(c) contains the setback requirements for the B-2, B-2b and B-2c zones. For front yard setbacks, the ordinance lists both minimums and maximums. However, the maximum front yard setback applies only in the B-2b zone. The B-2 and B-2c zones have only a minimum front yard setback.

"Setback" is a defined term in the ordinance. The definition is: "The required distance and the land resulting therefrom between a street line and the closest possible line of conforming structure." (Emphasis added.) Applying that definition, the minimum front yard setback is the shortest allowable distance between the street and any structure, while a maximum front yard setback is the longest allowable distance between the street and any structure. The minimum setback requirement answers the question, "How close can I get to the street?" The maximum setback requirement answers the question, "How far away from the street am I allowed to go?" Because the B-2 district has no maximum setback requirement, there is no limit on how far away from the street buildings or structures can be located.

I know that you are trying to make sense of the language in Section 14-18⁵A(c)1.a, "except that the front yard setback shall not exceed the average depth of the front yards of the closest developed lots on either side of the lot." In my view, that language does not create a maximum setback requirement – which the ordinance could have done in subparagraph (b) where it set a maximum front yard setback requirement in the B-2b zone, but not in the B-2 zone.

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The "average depth" language for front yard setbacks appears in a number of other zones – R-4, R-5, R-6, IR-2, R-P, I-B and B-4. In all those zones, the application of the "average depth" language for front yard setbacks is quite straightforward because the required setback is expressed as a number, ranging from 10 feet to 25 feet. Consequently, the minimum setback for any buildings and structures is either the specified number, or the average depth. Either way, the requirement is a minimum; there is no maximum setback requirement in any of those zones. A building can always be located further away from the street than the required minimum setback.

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Thanks for taking the time to meet with me yesterday. I always appreciate your willingness to look at all sides of a question. Please let me know if I can provide any further information that would be helpful to you.

Sincerely,

Christopher L. Vaniotis

CLV/lc

cc: David Latulippe
Enclosure

Carpenter/CLV/RichmondCo:Schmuckal1.tr022608.38981.1

LAND USE

CITY OF
PORTLAND, MAINE

This pamphlet is a reprint of Chapter 14, Land Use, of the Code of Ordinances of the City of Portland, Maine, published by order of the City Council.

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MUNICIPAL CODE CORPORATION

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(1) *Minimum lot size:*

- a. Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents, plus seven hundred fifty (750) square feet for each additional resident; provided, however, no more than two (2) acres shall be required.
- b. Intermediate care facility: Ten thousand (10,000) square feet.
- c. All other nonresidential uses: Ten thousand (10,000) square feet.
- d. Where multiple uses are on one lot, the highest applicable minimum lot size must be met.

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

(3) *Minimum yard dimensions:*

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

Except as provided in subsection (5) below, the following setbacks are required:

a. *Front yard:*

- 1. Principal or accessory structures: Ten (10) feet, except that a front yard need not exceed the average depth of immediately abutting front yards. The front yard of a lot existing as of April 4, 1988, and less than one hundred (100) feet deep need not be deeper than ten (10) percent of the depth of the lot.

b. *Rear yard:*

- 1. Principal structures: Ten (10) feet. Where a rear yard abuts a residence zone or residential use, twenty (20) feet is required.
- 2. Accessory structures: Five (5) feet.

c. *Side yard:*

- 1. Principal structures:

<i>Number of Stories</i>	<i>Required side yard</i>
1 or 2 stories	10 feet
3 or more stories	12 feet

- 2. Accessory structures: Five (5) feet.
- 3. Side yards on side streets (corner lot): Ten (10) feet.

(4) *Minimum lot width:* Fifty (50) feet.

(5) *Maximum structure height:* Forty-five (45) feet, except that on lots in excess of five (5) acres, sixty-five (65) feet is permitted; provided each of the setbacks required under subsection (3) above are increased by one (1) foot in distance for each foot of height above forty-five (45) feet.

(6) *Maximum impervious surface ratio:* Eighty (80) percent. (Ord. No. 293-88, 4-4-88)

Sec. 14-186. Other requirements.

All nonresidential uses in the B-2 zone shall meet the requirements of division 25 (space and bulk regulations and exceptions) of this article in addition to the following requirements:

Supp. No. 17

(a) *Minimum lot size:*

1. Intermediate, longterm and extended care facilities:
Ten thousand (10,000).
2. *Nonresidential uses:*

B-2 zone: Ten thousand (10,000) square feet
B-2b zone: None
B-2c zone: Ten thousand (10,000) square feet
3. Where multiple uses are on one (1) lot, the highest applicable minimum lot size must be met.
4. Multi-family dwellings above the first floor: 1,000 square feet of land area per dwelling unit.

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

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

Except as provided in subsection (e) below, the following setbacks are required:

1. *Front Yard*

a. *Minimum front yard in B-2 and B-2c zone:* None, except that the front yard setback shall not exceed the average depth of the front yards of the closest developed lots on either side of the lot. A developed lot means a lot on which a principal structure has been erected.

b. *Maximum front yard in B-2b zone (On-peninsula):* The maximum front yard setback shall either be: (i) ten feet; or (ii) in cases where the average depth of the front yard of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such

average depth. A "developed lot" means a lot on which a principal structure has been erected.

Building additions are not required to meet this maximum setback.

- c. *Maximum front yard in B-2b zone (Off-peninsula):* None, except that the front yard setback shall not exceed the average depth of the front yards of the closest developed lots on either side of the lot. A developed lot means a lot on which a principal structure has been erected.

Where the front yard setback exceeds ten (10) feet, however, a continuous, attractive, and pedestrian scaled edge treatment shall be constructed along the street(s) consisting of street trees spaced at not more than fifteen (15) feet on center, (which otherwise meet the requirements of city arborist) and a combination of the following:

- i. Landscaping of no less than four (4) feet in depth; and
- ii. Ornamental brick or stone walls; and/or
- iii. Ornamental fencing.

The site shall otherwise meet the requirements of article V (Site Plan).

2. *Rear yard:*

- a. Principal structures: Ten (10) feet. Where a rear yard abuts a residence zone or first floor residential use, twenty (20) feet is required.
- b. Accessory structures: Five (5) feet.

3. *Side yard:*

From: Marge Schmuckal
To: cvaniotis@bernsteinshur.com
Date: 6/26/2008 4:40:45 PM
Subject: Walgreens

Chris,
I just faxed over a copy of my interpretation letter.
I hope that helps you.
Marge

FAX



To: Chris Vanotis

Fax Number: 774-1127

From: Marge Schmeckel

Fax Number:

Date: 6/26/08

Regarding: 340 Allen Ave

Total Number Of Pages Including Cover: 4

Phone Number For Follow-Up:

Comments:

Chris -
The letter with attachments will be
ready to send - or pick up if you wish -
tomorrow morning after 8:00 -

Marge

City Of Portland, Maine
Inspections Division Services
389 Congress St Room 315 Portland Me 04101-3509
Phone: (207) 874-8703 or (207) 874-8693
Fax: (207) 874-8716
<http://www.portlandmaine.gov/>

From: Barbara Barhydt
To: Schmuckal, Marge
Date: 3/7/2008 8:16:05 AM
Subject: B-2 setbacks

Hi Marge:

Last night I was thinking about the B-2 zoning. You had asked me what I remembered about the setback. I don't know if we stated it in any of the memos, but I think we did not modify the B-2 language because it encouraged buildings to be up near the street or not further back than the adjoining buildings. In the B-2b, the Board and Council wanted to make sure buildings were up to the street so they established the maximum setback. I think the interpretation of the B-2 setback was based upon the way it was being applied at that time. The site plan standards were also created to encourage or support buildings up to the street. Sarah worked on that piece of it. I think her part of it is contained within the material I gave you, but if not, I can look further.

Thanks.

Barbara

CC: "Chris Vaniotis" <cvaniotis@bernsteinshur.com>



Applicant: 340 Walgreens Pharmacy Date: 2/19/08

Address: 340 Allen Ave

C-B-L: 344-E-38

CHECK-LIST AGAINST ZONING ORDINANCE

Date -

Zone Location - 3-2 Zone

Interior or corner lot - WASH.

Proposed Use/Work -

Sewage Disposal -

Lot Street Frontage -

Front Yard -

Rear Yard -

Side Yard -

Projections -

Width of Lot -

Height -

Lot Area -

Lot Coverage/ Impervious Surface -

Area per Family -

Off-street Parking -

Loading Bays -

Site Plan -

Shoreland Zoning/ Stream Protection -

Flood Plains -

Front is Washington Ave
under conditional use
① Question on 14-183(2)5(c) stacking not ^{NEARER} than 40' to any residential zone over 200' length away
② Appeal back to front setback
→ front yd pkg - 14-186(d)
Allen Ave 48-49' scaled @ 0'
Showing pkg 50+0 ÷ 2 = 24
14-389 Nonconformity AS to off-street parking

lease can be cancelled within 45 Days Notice per their lawyer
Showing parking in front yard

The purpose of the B-2 community business zone is:

- (1) To provide appropriate locations for the development and operation of community centers offering a mixture of commercial uses and services serving the adjoining neighborhoods and the larger community.
- (2) The variety, sites and intensity of the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1 neighborhood business zone.
- (3) The B-2 zone will provide a broad range of goods and services and general businesses with a mixture of large and small buildings such as grocery stores, shops and services located in major shopping centers and along arterial streets. Such establishments should be readily accessible by automobile and by pedestrians. Development in the B-2 zone should relate to the surrounding neighborhoods by design, orientation, and circulation patterns.

(b) B-2b Community Business Zone

B-2b zone is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate in areas where a more compact urban development pattern exists on-peninsula or in areas where a neighborhood compatible commercial district is established off-peninsula and each area exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern. Building additions are encouraged but not required to meet the maximum setbacks of 14-185(c).

(a) *Minimum lot size:*

1. Intermediate, longterm and extended care facilities:
Ten thousand (10,000).
2. *Nonresidential uses:*

B-2 zone: Ten thousand (10,000) square feet
B-2b zone: None
B-2c zone: Ten thousand (10,000) square feet
3. Where multiple uses are on one (1) lot, the highest applicable minimum lot size must be met.
4. Multi-family dwellings above the first floor: 1,000 square feet of land area per dwelling unit.

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

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

Except as provided in subsection (e) below, the following setbacks are required:

1. *Front Yard*

a. Minimum front yard in B-2 and B-2c zone: None, except that the front yard setback shall not exceed the average depth of the front yards of the closest developed lots on either side of the lot. A developed lot means a lot on which a principal structure has been erected.

b. Maximum front yard in B-2b zone (On-peninsula): The maximum front yard setback shall either be: (i) ten feet; or (ii) in cases where the average depth of the front yard of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such

average depth. A "developed lot" means a lot on which a principal structure has been erected.

Building additions are not required to meet this maximum setback.

- c. *Maximum front yard in B-2b zone (Off-peninsula):* None, except that the front yard setback shall not exceed the average depth of the front yards of the closest developed lots on either side of the lot. A developed lot means a lot on which a principal structure has been erected.

Where the front yard setback exceeds ten (10) feet, however, a continuous, attractive, and pedestrian scaled edge treatment shall be constructed along the street(s) consisting of street trees spaced at not more than fifteen (15) feet on center, (which otherwise meet the requirements of city arborist) and a combination of the following:

- i. Landscaping of no less than four (4) feet in depth; and
- ii. Ornamental brick or stone walls; and/or
- iii. Ornamental fencing.

The site shall otherwise meet the requirements of article V (Site Plan).

2. *Rear yard:*

- a. Principal structures: Ten (10) feet. Where a rear yard abuts a residence zone or first floor residential use, twenty (20) feet is required.
- b. Accessory structures: Five (5) feet.

3. *Side yard:*

VI. PUBLIC COMMENT

The Planning staff has responded to many requests for information regarding the proposed amendments. A summary of public comments is included as Attachment 10. In addition, there is a written request from Mr. Bryant to include his property near Woodfords Corner within the B-2b zone, Attachment 11, and Mr. Maier submitted a request to include self-storage as a permitted use in the B-1 zone, Attachment 12.

VII. COMPLIANCE WITH COMPREHENSIVE PLAN

Portland's *Transportation Plan* contains the underlying policies for the proposed text amendments. The guiding principle of the *Plan* states, "Provide maximum mobility in a balanced transportation system which encompasses all modes, to support the economic vitality and quality of life of the Portland community." One of the goals is to ensure that future growth does not foster auto dependencies. Relevant land use/transportation policies include the following:

- Vibrant neighborhoods include nearby, small-scale commercial areas that provide both convenient service and natural meeting places. Provide routine, daily services within walking distance or residents of all neighborhoods, as long as the businesses providing the services are small-scale, are designed compatibly with residences, and fit into the fabric of the neighborhood.
- Allow development along transit corridors and near community centers to evolve at a density sufficient to make public transit, walking and biking viable options. Such density should be coupled with policies that encourage or maintain a healthy share of owner-occupancy in these areas as well as compatible site design.

The *Nason's Corner Study* has not been adopted as part of the City's Comprehensive Plan; however, it does offer specific policy guidance from the neighborhood and builds on the goals of the *Transportation Plan*. The specific recommendations to limit building size, prohibit bottle redemption centers, maintain small-scale development, confirm that drive-throughs are not permitted in the B-1, improve the aesthetics of the neighborhood, and control the external impacts of commercial uses are consistent with the policies of the Transportation Plan.

The proposed amendments are consistent with the goals and policies of the City's Comprehensive Plan. The zoning text revisions are intended to strengthen the concept of neighborhood commercial areas and enhance the attractiveness and compatibility of commercial areas with adjoining residential neighborhoods. Specifically, the amendments seek to promote pedestrian oriented design and access. Residential uses are encouraged above ground floor businesses, which supports the concept of higher density along arterials.

VIII. RECOMMENDATION FOR THE BOARD TO CONSIDER

On the basis of the information contained within the Planning Board Report # 33-99, the Planning Board finds that the proposed zoning amendments for the Neighborhood Business B-1 and B-1b Zone, the Community Business B-2 and B-2b Zone, and the Site Plan Ordinance Amendments to be consistent with Portland's Comprehensive Plan and recommends adoption of the amendments to the City Council.

City of Portland
Technical Standards and Design Guidelines

GUIDELINES: The following guidelines set forth various land use planning objectives to be achieved in the future in the following zones: B-1, B-1b, B-2, B-2b.

1. **Building Location and Form**

Guideline: Buildings shall be located near the street so as to create an urban street wall. An urban street wall is created by a pattern of buildings which line the street in a consistent manner, thereby establishing a desirable spatial relationship between the building in the commercial district and the major street. Location is one of several related factors defining the street environment.

The desired condition is to have the building frame and enclose the street, which is achieved by providing building height that is in appropriate proportion to the width of the adjoining major street. A ratio of building height to street width of one-to-two creates a strong "room-like" street, while a one-to-three ratio provides good street definition and proportion. Shorter buildings of one story facing broad streets will not achieve the desired relationship. By way of example, for a fifty-foot street right-of-way, a minimum building height of 15' is desired, with 25' height preferred. An eighty-foot right-of-way would foster a minimum of a 27' building to achieve the 1:3 proportion, with 40' building height preferred. Obviously, buildings located as close as possible to the street right-of-way will provide better definition and proportion than buildings set further back.

2. **Building Function**

Guideline: An urban street and business district requires a substantial intensity and variety of uses. It is beneficial to have mixed uses within portions of buildings situated near the street. For example, a retail first floor might have office or residential on the second or third floors. This provides both the scale of building height desired, as well as the economic vitality of the business district.

3. **Orientation of Buildings and their Entrances to the Street**

Guideline: Major building entries shall be designed and located to provide the primary building access oriented to the public street and sidewalk. Doorways should be prominent and obvious in appearance, so as to attract the users toward the entry. Major entry features should address the street, with entry courts, display windows, signage, lights, walkways, and vestibules, as appropriate. Major entries should be adjacent to, or very close to, the street and public sidewalk.

4. **Windows**

Guideline: Windows should be located in all building facades visible from the public way, especially on building facades along the major public street. Retail uses with store fronts are the most desirable feature for locations adjacent to the public sidewalk; and active, transparent, and interesting windows contribute the maximum value. Limitations on transparency, such as dark or reflective glass, or interior coverings, should be avoided. Where uses (such as office) are not conducive to transparent viewing from the public way, windows can still convey a sense of activity and presence along the street. Even these more private windows can convey occupancy and habitation when lighted from within, as during evening hours, even if the interior is screened from view.

5. Building Character, Detail, Scale, and Graphic Qualities

Guideline: Building design should include various architectural and graphic amenities to provide a strong presence along a street and relate a building to its community.

Awnings, canopies, and flags may be utilized to highlight entryways and to further identify the activity and identity of a use. Facade lighting may be used to highlight entryways or to provide visual interest along an otherwise blank façade. Building scale, roof pitch, architectural detail, and fenestration shall be designed to complement and be compatible with surrounding residential and commercial buildings.

6. Signage and Building Entrances

Guideline: Building entrances and building signage in the B-1, B-1b, and B-2b zones should be designed and constructed at the pedestrian scale. (**We may need to revise the Sign Ordinance for allowed height and dimension of signs.*)

7. Development Relationship to Street

Guideline: Building facades and site amenities should form a cohesive wall of enclosure along a street.

Where buildings are not located at the street line, site amenities, including masonry walls, fences, and landscaping, should be placed along the street to provide a sense of enclosure or definition.

8. Parking Lots

Guideline: Parking Lots should be screened from view of the public way. Landscaping or fencing should be used to screen parking lots from public ways and residential neighbors. Where parking is located within the front yard (or side yard of a corner lot), a landscaped buffer or fence should be placed along the street line to distinguish the private space from the public space and to help define the street wall.

Guideline: Parking lots should be screened from neighboring properties. A densely planted landscape buffer or fencing should be installed to protect neighboring properties from the impacts associated with the parking lot and the use it serves.

Guideline: Crosswalks should be provided within parking lots and across entrance driveways, directing pedestrians to building entrances.

Guideline: Street trees should be planted along property street frontage 25ft. on center.

9. Transit Connections

Guideline: Development proposed along established transit corridors must design uninterrupted access from the proposed development to the transit stop.

An easement to place a transit shelter may be requested for development located along a transit corridor.

"Proposed amendments ARE consistent with
the goals & policies of the City's Comprehensive
Plan.

Read the purpose section
"orientation" keyword

From: Marge Schmuckal
To: Barbara Barhydt
Date: 2/29/2008 1:39:40 PM
Subject: B-2 & B2b background material

Barbara,
yesterday Penny left a message with Jen concerning the B-2 changes that I believe that you worked on several years ago. Can I get a copy of what was presented to the PB/Council. I am trying to make a decision on the minimum front setback provision in the ordinance. Being able to look at the discussion would be very helpful. I am now getting calls from the lawyer, who is getting calls from his clients as to what decision I have made... (none yet).

Thanks
Marge

CC: PENNY LITTELL

Westlaw
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 (Cite as: 239 A.2d 167)

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C
 Forest City, Inc. v. Payson,
 Me. 1968.

Supreme Judicial Court of Maine.
 FOREST CITY, INC.
 v.
 Henry PAYSON.
 March 7, 1968.

Action for injunctions against construction of business building. The Superior Court of Cumberland County denied the injunctions and plaintiff appealed on an agreed statement of facts. The Supreme Judicial Court, Weatherbee, J., held that under zoning ordinance providing that where boundary line divides a lot, provisions for less restricted portion of lot shall extend not more than 30 feet into the more restricted portion, if lot has at least 20 feet of street frontage in less restricted **zone** when taken together with adjacent premises under same or equivalent ownership or control, rear yard need not be within less restricted **zone** and landowner could occupy entire 30 feet of depth of extension of building **zone** with buildings so long as lot contained sufficient area beyond this to provide a 20-foot rear yard.

Appeal denied.

West Headnotes

[1] Zoning and Planning 414 ⇌271

414**Zoning** and Planning
 414V Construction, Operation and Effect
 414V(C) Uses and Use Districts
 414V(C)1 In General
 414k271 k. Uses in General. Most Cited Cases
Zoning ordinance provision that where boundary line divides a lot, provisions for less restricted portion of lot shall extend not more than 30 feet into the more restricted portion, if lot has at least 20 feet of street frontage in less restricted zone when taken

together with adjacent premises under same or equivalent ownership or control, represents a compromise between recognition of value of regular zone boundaries and a desire to permit landowners to enjoy use of their entire properties as single units.

[2] Zoning and Planning 414 ⇌255

414 Zoning and Planning
 414V Construction, Operation and Effect
 414V(B) Architectural and Structural Designs
 414k255 k. Yards. Most Cited Cases
 Under zoning ordinance providing that where boundary line divides a lot, provisions for less restricted portion of lot shall extend not more than 30 feet into the more restricted portion, if lot has at least 20 feet of street frontage in less restricted **zone** when taken together with adjacent premises under same or equivalent ownership or control, rear yard need not be within less restricted **zone** and landowner could occupy entire 30 feet of depth of extension of building **zone** with buildings so long as lot contained sufficient area beyond this to provide a 20-foot rear yard.

[3] Zoning and Planning 414 ⇌232

414**Zoning** and Planning
 414V Construction, Operation and Effect
 414V(A) In General
 414k232 k. Strict or Liberal Construction. Most Cited Cases
 A **zoning** ordinance, like any other statute in **derogation** of **common law**, must be strictly construed and exemptions should be construed in favor of landowner.

[4] Zoning and Planning 414 ⇌255

414**Zoning** and Planning
 414V Construction, Operation and Effect
 414V(B) Architectural and Structural Designs

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414k255 k. Yards. Most Cited Cases
 Under zoning ordinance defining "yard" as a space which is "maintained open, unoccupied and unobstructed," an area burdened with a right-of-way of passage for persons and vehicles may serve as such a yard.

*167 Julius Greenstein, and Richard A. Davis, Portland, for plaintiff.
 Louis A. Wood, John A. Mitchell, Louis Bernstein, Portland, for defendant.

Before WILLIAMSON, C. J., and WEBBER, MARDEN, DUFRESNE and WEATHERBEE, JJ.
 WEATHERBEE, Justice.
 On appeal.

The plaintiff is the owner of property in a R-6 Residential Zone in the City of Portland. The defendant owns property which extends in a northeasterly direction 300 feet from the northeasterly side line of Forest Avenue to the southwesterly side line of plaintiff's property which it abuts for at least part of its width. The first 250 feet of this parcel is within a B-2 Business Zone.*168 The last fifty feet of it is within the R-6 Residential Zone which the plaintiff also occupies. The last thirty feet of defendant's land is subject to a right of way owned by the plaintiff in common with others running along the most northeasterly edge of defendant's land from Dartmouth Street (which runs at right angles to Forest Avenue) a distance of 584 feet.

The Building Inspector of the City of Portland issued defendant a foundation permit for a proposed business building to be constructed by the defendant on his lot. This building would abut the southwesterly side of the right of way and thus would extend twenty feet into the R-6 zone. The plaintiff sought a temporary and permanent injunction against this construction. A hearing was had before a single justice in the Superior Court. The justice denied the injunctions and the parties are here on the plaintiff's appeal from his decision, on an agreed statement of facts. Our problem is that of construction of several applicable sections of the

city zoning ordinance.

The pertinent parts of these sections follow:

Section 9 C(b):

'b. The dimensional requirements for non-residential and accessory uses shall be as follows:

'Minimum rear yards

'1. Not required except where the rear line abuts a Residence Zone, in which case they shall be 20 feet.'

Section 20 B:

'Extension of zone lines

'B. Where a zone boundary line divides a lot in a single or joint ownership of record at the time such line is established, the provisions of this Ordinance for the less restricted portion of such lot shall extend not more than thirty feet into the more restricted portion provided that the lot has at least 20 feet of street frontage in the less restricted zone when taken together with adjacent premises which are under the same or equivalent ownership or control. If such boundary line divides a Business or Industrial Zone from a Residence Zone, no frontage on a street other than the principal business street in the less restricted zone may be taken into consideration in connection with the right herein granted.'

Section 27:

'The following words shall be defined as set forth below for use in this Ordinance. Definitions set forth in the Building Code of the City of Portland shall apply to words not therein defined:

'Lot area The area of land enclosed within the boundary lines of a lot.

'Lot Except when reference is made herein to a lot or record, a lot is a single tract of land located

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3/10/08

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within a single block which at the time of filing for a building permit or certificate of occupancy is designated by its owner or developer as a tract to be used, developed, or built upon as a unit under single ownership or control.

'Yard A space on a lot which is required by this Ordinance to be maintained open, unoccupied and unobstructed between lot lines and any structure, except as permitted in this Ordinance. In determining the front, rear, or side of any accessory building, the orientation of the principal building shall be controlling.

'Yard, rear A yard adjoining the rear lot line, extending between side lot lines the depth of which shall be the least distance between the rear lot line and the rear of any structure.'

It is agreed that Section 9 C(b) requires defendant's building to have a rear yard twenty feet in depth. It is not disputed that Section 20 B extends the uses permitted in the B-2 **zone** thirty feet into the *169 R-6 **zone** in so far as defendant's property is concerned. However, defendant's lot actually extends into the R-6 **zone** fifty feet. The first issue presented to us is whether the twenty foot rear yard requirement of Section 9 C(b) must be satisfied out of that part of defendant's lot which lies within the B-2 **zone**, as extended, or whether it may lie in the R-6 **zone**.

[1] Persuasive arguments can be advanced concerning the desirability of maintaining a straight **zoning** line, free from areas where lots used for business purposes jut into a residential **zone**, but these considerations fail to support an inference that such was the intention of the **zoning** ordinance. In fact, the provisions of Section 20 B create just such intrusions to the extent of thirty feet. It appears that this section represents a compromise between the ordinance's apparent recognition of the value of regular **zone** boundaries and a desire to permit land owners to enjoy the use of their entire properties as single units.

[2] There is in the **zoning** ordinance a complete absence of any expression of intent that the rear

yard must be within the business **zone**. On the contrary the language used strongly suggests otherwise. The description of a 'lot' as being 'a single tract of land located within a single block' is significant for the absence of any attempt to limit a lot by **zone** lines. The definition of 'yard' situates it between 'lot lines' and the structure. That of 'rear yard' uses the words 'rear lot line' twice in establishing its location.

[3] A **zoning** ordinance, like any other statute which is in **derogation** of the **common law**, must be strictly construed.

'The restrictions of **zoning** statutes and **zoning** ordinances authorized by statute, are in **derogation** to the **common law** and should be strictly construed. Where exemptions appear in favor of the property owner, the exemptions should be construed in favor of the owner.' Toulouse et al. v. Board of **Zoning** Adjust., City of Waterville, 147 Me. 387, 393, 87 A.2d 670, 673.

Applying such a construction, we conclude that the ordinance permits defendant to occupy the entire thirty feet of depth of the extension of the B-2 zone with his building so long as his lot contains sufficient area beyond this, as it does, to provide a twenty foot rear yard.

Although the provisions of the indentures creating the right of way are not before us, we are aware that these obligations-but not the zoning ordinance-will actually restrict defendant's location of his building to the first twenty feet of the thirty foot extension.

We know of only one jurisdiction which has considered the use of a more restricted area to supply the rear yard required for the less restricted zone. In Hutzler v. Mayor and City Council of City of Baltimore, 207 Md. 424, 114 A.2d 608 (1955) the Maryland Court was required to construe an ordinance which divided the city into both use areas and density of population areas with degrees of progressive restrictions. The issue there involved two density of population areas in the same use district

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and the Court found that the yard requirements of a building standing in the less restricted area could properly be satisfied out of that part of the lot which was located in the more restricted area. The Court found that the purposes of the yard requirements were to provide open spaces and light and air, and to regulate density of population and that these purposes had been fully met. Although the Court was concerned there with density areas and not use areas, we feel that the issues are somewhat analogous. Later, the same Court in *Roland Park Civic League v. Lanco, Inc.*, 238 Md. 3, 207 A.2d 462 (1965) held that the parking space required for an apartment house in one density area might properly be located in another density area, in the absence of any express provisions in the ordinance forbidding it.

*170 The second issue before us is whether that part of defendant's land which is subject to a private right of way by plaintiff in common with others can serve as the required rear yard.

The Maryland Court has considered a somewhat similar issue in *Akers v. Mayor and City Council of Baltimore*, 179 Md. 448, 20 A.2d 181 (1941), and we find that Court's reasoning helpful in the resolution of our own problem. There the Board of Zoning Appeals had in effect given approval to the use of an apartment house parking area to serve as the yard area which the ordinance demanded. The Baltimore ordinance did not specifically forbid this use and the court said:

'And whatever the objections in fact to the inclusion of the parking spaces in the open spaces or yards required, the ordinance itself does not prohibit it. 'Yard' is defined as 'the clear unoccupied space on the same lot with a building required by the provisions of this ordinance'. Par. 44(1). This cannot mean that nothing can be put on the space temporarily; there might be a variety of uses made other than by buildings which would leave the spaces still unoccupied, and yards, in the sense of this definition. It is with buildings that the ordinance is concerned in the definition, and so long as a

space is occupied by none, there is, as the court sees it, no restriction against parking cars in the space required for yards. The protestants regard the restrictive designation of the use, for parking spaces, as a departure from the purpose of the ordinance in requiring yards, and perhaps there is ground for this conception of requirements for a suburban residential development, but it would require a more definite statement in the ordinance to enable a court to find in it a prohibition of the use.'

[4] The ordinance of the City of Portland defines a 'yard' as a space which is 'maintained open, unoccupied and unobstructed'. We find nothing in the Portland ordinance's definition of 'yard' or in any of its other language which would prohibit an area burdened with a right of way of passage for persons and vehicles from serving as such a yard. We do not consider the passage or even the temporary stopping of vehicles to be inconsistent with the requirement of the ordinance that the space be open, unoccupied and unobstructed.

We recognize that the right of way is stated to be thirty feet wide and that only the most southwesterly ten feet of it is in the B-2 zone. Defendant's Exhibit 1, the defendant's development plan, portrays the expected use of considerably more than this ten foot strip as a delivery area in connection with defendant's building. Because of this, we point out that we do not intend here to suggest any opinion as to the propriety of such a use in a R-6 zone.

Appeal denied.

TAPLEY, J., not sitting.
 DUFRESNE, J., sat at argument but did not participate in the decision.
 Me. 1968.
Forest City, Inc. v. Payson
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END OF DOCUMENT

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TEXT AND MAP AMENDMENTS
for
B-1 and B-1b NEIGHBORHOOD BUSINESS ZONES
&
B-2 and B-2b COMMUNITY BUSINESS ZONES
AND
TEXT AMENDMENTS
for
SITE PLAN ORDINANCE

Submitted to:
Portland City Council
Portland, Maine
October 18, 1999

I. INTRODUCTION

D. Other requirements Sec. 14-166

The off-street parking requirements have been modified slightly to clarify that 10% of the required parking may be located between a structure and street in both the B-1 and B-1b zone, where existing structures exceed the minimum or maximum setbacks.

The external storage provisions are revised to require fully enclosed containers for solid waste. Vehicles with or without wheels are prohibited for use as on-site storage. Truckload sales are exempt, provided that the activity does not extend beyond three consecutive days and no more than three times per calendar year.

E. External Effects Sec. 14-167

Uses within the B-1 are required to operate within a completely enclosed structure. As a means of encouraging pedestrian activity in neighborhood business zones, an exception to this provision is suggested to allow open-air activities licensed by the City, including but not limited to outdoor seating, sidewalk sales, etc. [Sec. 14-167(1)].

A revision to the materials or wastes section states that no materials or wastes shall be deposited that are clearly visible from neighbors' properties [Sec. 14-167(6)].

V. COMMUNITY BUSINESS B-2 and B-2b ZONING TEXT AMENDMENTS

1. Intent of B-2 and B-2b Zone

The B-2 Community Business Zone offers opportunities for larger and more intensive commercial areas serving both adjoining neighborhoods and the community as a whole. To improve the appearance and access of these commercial centers, it is suggested that they be easily accessible by both automobiles and pedestrians. Developments should relate to the surrounding neighborhoods by design, orientation, and circulation patterns.

The B-2b zone is proposed as a new zoning classification, which is designed to preserve the more compact urban development of Portland. The B-2b purpose states it is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street, in areas where a more compact urban development pattern is established and exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections to foster an existing urban commercial development pattern.

2. Text Amendments

Text amendments to the Community Business B-2 and B-2b Zones are contained within the included packet of amendments and ordinance citations are noted below for the City Council's reference. The complete text is contained within the draft amendments included in the packet. Attachment 4 and 5 are reduced

copies of the City's zoning map and the B-2 zones are highlighted in red and the proposed B-2b areas are shown in orange.

A. Permitted Use Sec. 14-182

1. Residential Uses

As noted above, Portland's *Transportation Plan* recommends residential development along arterial streets and at transportation centers in order to support transportation alternatives. It is proposed that multi-family dwellings are permitted above first floor commercial uses in both B-2 zones at the R-6 density [sec. 14-182 (1)].

2. Business Uses

It is proposed to remove major and minor businesses as a permitted use in the B-2 zone and to list major and minor auto service stations as a conditional use in the B-2 zone. In the B-2b zone, only minor auto service stations in existence at the date of enactment are listed as a conditional use. The proposed conditional use standards for these uses are described below.

Dairies and bakeries in existence as of the date of enactment are proposed as permitted uses (Sec. 14-182 (2) (o) and (p)). These uses were added after receiving public comment at the July 27th public hearing. In addition, bakeries established after the date of enactment are included as a permitted use provided that the bakeries include retail sales within the principal structure. In the B-2b zone, bakeries shall be no greater than 7,000 square feet in size (Sec. 14-182) (2)(q).

B. Conditional Use Sec. 14-183

1) Business Conditional Uses

On July 7, 1999, the City Council enacted a moratorium on the issuance of drive-through facilities in the B-2 zone which are proposed next to a residential use. The City Council directed the Planning Board to study this issue and address concerns of noise, lights, and proximity to residential uses. A focus group meeting was held on August 12 with neighborhood and business representatives to discuss potential drive-through regulations. The Planning Board held two workshops and a second focus group session was held on October 4, 1999. The business representatives would prefer that any review of drive-through facilities be conducted through the City's site plan review process, rather than as a conditional use review. Several business representatives felt that the general conditional use standards dictated by State law are too vague. The neighborhood representatives did not advocate one review process over another, but they clearly stated a desire to have a public hearing during a review process. The Planning Board debated both approaches and determined that the conditional use review process is conducted simultaneously with site plan and it offered the City a more thorough review over drive-through facilities. Several of the standards were modified to reflect comments received by the business community at the public hearing.

Currently, car washes, automobile dealerships, and drive-in and drive-through restaurants are listed as conditional uses in the B-2 zone. In this proposal all drive-through facilities, not just drive-in restaurants, are proposed as a conditional use. Car washes and automobile dealerships remain as conditional uses. In the B-2b zone, drive-through facilities must be accessory to a permitted principal use on the same site, thus a lot with just a drive-through facility would not be allowed. Major and minor auto service stations are proposed as a conditional use in the B-2 zone and only minor auto service stations in existence at the time of enactment are proposed as conditional uses in the B-2b zone.

Under the conditional use provisions, the Planning Board is substituted for the Board of Appeals as the review authority over the four conditional business uses. The Board of Appeals would continue to be the reviewing authority for the "other" conditional uses in the B-2 zone.

The conditional use standards for signs and circulation have been retained from the current ordinance. The proposal includes six new conditional use standards for drive-throughs and two additional standards for major and minor auto service stations, car washes and automobile dealerships. The proposed standards are summarized below.

a) Location of Drive-throughs: The current standards state that drive-through features shall not extend nearer than 25 feet to the street line and that there must be adequate stacking capacity for waiting vehicles without creating any hazards to circulation on adjoining streets. In addition to this existing standard, it is proposed that drive-through features, including stacking lanes, must be placed, where practicable, to the side and rear of the principal building, except where such placement will be detrimental to an adjacent residential zone or use, and shall be located no nearer than 40 feet from any residential zone. The 40 feet distance is measured from the outside edge of a drive-through feature to any property line. The 40 foot separation provides a setback for drive-through features from residential zones, but this separation is not required for a facility located in a B-2 zone adjoining a lot in a residential use or other businesses.

At the September 28 public hearing, it was suggested that the separation between drive-through facilities and residential zones be reduced to 25 feet rather than the proposed 40 feet. The Board agreed that a separation between businesses or a residential use located within a business zone is not necessary, but the majority of the Board members expressed concern for the impact of a drive-through facility on adjoining residential neighborhoods. The proposed revision was not supported by the Board (vote 1-4).

b) Noise: A standard is proposed that speakers, intercom systems or other audible means of communication shall not play prerecorded messages and that the noise generated by such devices shall not exceed 55 db or shall be undetectable above the ambient noise level as measured by a noise meter, whichever is greater.

Attachment 7 lists the decibel readings for various typical activities. City

staff took decibel readings at drive-through facilities located within the City. The ambient noise levels during the day and evening were all between 60 and 65 decibels due to traffic and other activities. A new type of automated menu board is being used at several of the drive-through restaurants, which cuts down the conversation between the customer and employee. A summary of the noise levels recorded at local sites is included as Attachment 8.

The Planning Board debated whether to modify this standard which prohibits pre-recorded messages. The Board considered a provision to prohibit pre-recorded messages or other sounds when not interacting with customers. Citizens have complained at the public hearings and focus group meetings that the devices go off throughout the night when the laser is triggered. The Planning Board did not recommend this change (vote 2-3).

c) Lighting: It is proposed that the drive-through facilities shall be designed so that site and vehicular light sources shall not unreasonably spill over or be directed onto adjacent residential properties and shall otherwise conform to the lighting standards set forth in Sec.14-526. The Planning staff met with Mr. Larry Bartlett, Lighting Engineer, about the City's lighting standards contained within the Technical Standards and Regulations for the Site Plan Ordinance. Recently, EIS revised their recommended national standards for exterior lighting and parking lots, which now suggest lower illumination levels than those contained in the previous manual. He will be working with the staff and Planning Board to develop complimentary lighting standards for Portland's technical supplement.

d) Screening and Enclosure: It is proposed that where vehicles queue, the impacts of these vehicles must be substantially mitigated to protect adjacent residential properties from headlight glare, exhaust fumes, noise etc. As deemed necessary by the Planning Board, mitigation measures shall consist of installation of solid fencing with landscaping along any residential property line or the enclosure of the drive-through fixtures and lanes so as to buffer abutting residential properties and to further contain all associated impacts.

e) Pedestrian access: This standard proposes that drive-through lanes shall be designed and placed to minimize crossing principal pedestrian access-ways or otherwise impeding pedestrian access. One of the goals of both the B-2 and B-2b zones is to encourage pedestrian access to buildings from adjoining neighborhoods and public sidewalks, so this standard is proposed to support that objective.

f) Hours of Operation: The Planning Board requested that a standard be developed to address the hours of operation for drive-through facilities. The proposed standard states, "The Board, as part of its review, may take into consideration the impact hours of operation may have on adjoining uses."

g) Conditions specific to major or minor auto service stations, car washes

and automobile dealerships: there are two standards in the text specific to the auto service stations, car washes and auto dealerships. The first standard requires a five foot wide landscaped buffer along street frontage, except for driveways, and the buffer shall consist of a variety of plantings in accordance with the City's technical and design guidelines. Secondly, car washes shall be designed to avoid the tracking of residual waters into the street. This is not a new standard for car washes, but has been relocated to apply to the auto related facilities.

There are several "other" conditional uses listed in the B-2 zones, which are proposed to be included within the B-2b. The "other" conditional uses are printing and publishing establishments, wholesale distribution, and research and development and related production establishments. As mentioned earlier, the Board of Appeals would serve as the reviewing authority for these uses.

C. Dimensional requirements Sec. 14-185

1. Minimum lot size

Currently, long term and extended care facilities must meet a minimum lot size of 10,000 square feet for the first 9 residents plus 750 square feet for each additional resident provided no more than 2 acres is required. An intermediate care facility must have a minimum of 10,000 square feet. The proposal is to combine intermediate care facilities with the other types of establishments and simply require a minimum lot size of 10,000 square feet.

There is no minimum front yard requirement in the B-2 zone, except that the front yard setback shall not exceed the average depth of the closest developed lots on either side of the property. In the B-2b zone a maximum front yard setback of ten (10) feet is proposed or in cases where the average depth of the front yard of adjoining developed lots is closer to the street, then the average will not be exceeded by the pending project. The same maximum setback is proposed for side yards on side streets (corner lots), so buildings will be located at street corners. An exception is proposed to this requirement which states that any new construction on a lot abutting more than two streets, the maximum setback shall not apply beyond the two most major streets. Major streets are defined as streets with the highest traffic volume and the greatest street width. Building additions are exempt from these setback requirements. The maximum setback serves as a "build-to line", one of the suggestions contained in the *Nason's Corner* study and consistent with the intent of the B-2b.

Business representatives have expressed opposition to the maximum front yard setback proposed in the B-2b zone at both public hearings. It was felt that such a requirement would hinder businesses and runs counter to current development trends. An amendment to a motion was proposed to eliminate the maximum front yard setback in the B-2b zone and have the same dimensional requirements for both B-2 and B-2b. The B-2b zone is intended for areas with compact urban development that maintain a strong streetscape along the street line. The amendment failed for lack of a second.

The other dimensional revisions proposed for B-2 and B-2b include the following:

- a) delete the minimum lot width of 50 feet;
- b) the maximum structure height may be exceeded under certain circumstances, provided each of the minimum setbacks are met; and
- c) the maximum impervious ratio is 80% in the B-2 zone and 90% is proposed in the B-2b zone.

D. Other requirements Sec. 14-186

1. Off-street parking and loading

The off-street parking provisions contain an exception which allows parking in the front yard of buildings built before 1996 where a portion of the building is removed and used for parking. It is proposed that this exception be deleted [Sec 14-186(4)a].

Division 20, Sec. 14-332 includes the Board's recommendation to increase the number of parking spaces for office uses in the B-2 to B-2b from 2.5 spaces to 3 spaces per 1,000 square feet of office space. The Board received many citizen complaints regarding inadequate off-street parking for office uses, so the Board is recommending increasing the required number of spaces in B-2 and B-2b zones. One member pointed out that this is not consistent with the City's Transportation Plan.

2. Front yard parking

In the B-2 and B-2b zones, off-street parking is not allowed between the street line and the required minimum or maximum setback lines. The provision is clarified to state where an existing building exceeds the minimum or maximum setbacks, then a maximum of 10% of the parking may be located between the structure and the street.

As in the B-1 amendments, the exterior storage standards are clarified that vehicles or truck trailers with or without wheels may not be used for on-site storage, except for truckload sales (duration of no more than 3 days and no more than 3 times per year). In the B-2 zones, the following exceptions are proposed:

- a) except where such storage is located in a designated loading zone on an approved site plan; or
- b) such storage is not visible from the street or adjacent residences and again such storage is shown on an approved site plan.

E. External Effect Sec. 14-187

Uses shall be operated within a completely enclosed structure. As a means of encouraging pedestrian activity in the community business zones, an exception is suggested to allow specific open-air activities licensed by the City, including but not limited to outdoor seating, sidewalk sales, etc. [Sec. 187(1)].

VI. ZONING DEFINITIONS AND OFF-STREET PARKING TEXT AMENDMENTS

A. Definitions Sec. 14-47 Land Use Code

Two new definitions are proposed for drive-through facilities and drive-through features. A drive-through facility is a commercial facility which provides a direct service to a motor vehicle occupant where the vehicle is driven onto the premises to use a window or mechanical device. The customer may be served with or without exiting the vehicle. Drive-through features include, but are not limited to designated travel or stacking lanes, intercom systems, menu boards, service windows, kiosks, and mechanical devices. These definitions are proposed in conjunction with the proposed conditional use standards for drive-through facilities in the B-2 zones.

The Planning Board recommends changing the definition of major and minor businesses to major and minor auto service stations. The definitions include clarification for establishments selling gasoline, diesel or propane fuel. In addition, it is proposed that retail and retail establishments combined with gasoline sales shall be considered a single use for zoning purposes and shall constitute a major or minor auto service station.

B. Division 20: Off-Street Parking and Joint Parking Sec. 14-333 to 14-343

In the draft amendments, joint or shared parking is reviewed by the Board of Appeals or the Planning Board may be substituted for the ZBA, where an applicant is before the Planning Board for site plan approval. Section 14-343 includes language to authorize the Zoning Administrator to consider requests for joint use of parking in the B-2b zone under the following circumstances:

- a) Residential uses above commercial uses in existing buildings within the B-2b zone must have 1.5 spaces. The 0.5 may be shared with commercial uses in the same building;
- b) Applicants must demonstrate that the parking requirements will be met by reason of variation in the probable time of use; and
- c) Applicants involved in joint use shall provide evidence of a binding agreement and any subsequent modifications to the structure or change in tenancy must be reviewed by the Zoning Administrator for conformance; and
- d) Appeals of the zoning administrator's decision will be made to the ZBA.

VI. SITE PLAN ORDINANCE AMENDMENTS

1. Intent of Site Plan Standards

Throughout the Planning Board's deliberations regarding the B-1 and B-2 text and map amendments, there was agreement as to the need for site plan standards specifically applicable to development in the B-1 and B-2 zones. With the site plan standards, the Board also directed staff to draft design guidelines for inclusion in the City's Technical Standards and Design Guidelines.

The text amendments, site plan standards, and design guidelines are meant to be used in concert to guide an applicant as to the City's expectations for development in a zone.

They are also to be used by the Planning Staff and Planning Board to determine whether a proposal meets and is consistent with the applicable standards and guidelines for a zone.

2. History

The need for improved standards regarding B-1 and B-2 was strongly voiced during implementation of the Transportation Plan. In the winter of 1994, a charette was held with members of the Portland Planning Board, design professionals, and other to draft changes to the zoning and site plan and subdivision ordinances to make them consistent with the Transportation Plan. Mixed use, density, building form, and pedestrian access were all issues discussed during the event and have all resurfaced as part of this effort.

3. Standards

The proposed Site Plan definitions and standards for development in the B-1, B-1b, B-2, and B-2b zones are found in Sec. 14-522 and 14-526 (27) a-i, respectively.

4. Guidelines

Guidelines have also been drafted to provide additional direction on the planning objectives in the B-1 and B-2 zones.

VIII. ZONING MAP AMENDMENTS

The proposed B-2b zone is intended for areas where more compact urban development with a pedestrian orientation exists. This type of development pattern is reflected throughout the peninsula with some exceptions where redevelopment has not maintained the streetscape or pedestrian scale. The current B-2 zones contain a mix of residential and commercial land uses and there are numerous examples of dwelling units located above ground floor businesses. The B-2b zone is intended to preserve the traditional pattern of development that has occurred on the peninsula and guide new construction to be compatible with established patterns. As part of the comprehensive review of community business zones, the Planning Board is recommending the following zone changes. The recommended map changes and accompanying maps are listed in the attached set of amendments.

1) Forest Avenue

a) Forest Avenue in the vicinity of Portland Street is zoned B-2 and contains a mix of uses including single and multi-family residences, a variety of retail establishments, U.S. Post Office facility, the City's Public Works Facility and other uses. This is an area under pressure for parking and erosion of residential uses. The B-2b zone is suggested in order to support the diverse mix of land uses and encourage compatible infill development.

b) Forest Avenue from Falmouth Street and Preble Street Extension up to the railroad line at Woodford's Corner is recommended to be rezoned from B-2 to B-2b. This segment of Forest Avenue retains a relatively urban feel with many of the structures built near the street line, oriented for pedestrian access, and offer interesting facades. There are some gaps in the Forest Avenue street wall where structures are set further back from the street. For example, there is a small scale shopping center with an automobile repair shop and drive-through restaurant added within the parking lot. The businesses in this corridor serve both the adjoining neighborhoods and the community at large. The

VI. PUBLIC COMMENT

The Planning staff has responded to many requests for information regarding the proposed amendments. A summary of public comments is included as Attachment 10. In addition, there is a written request from Mr. Bryant to include his property near Woodfords Corner within the B-2b zone, Attachment 11, and Mr. Maier submitted a request to include self-storage as a permitted use in the B-1 zone, Attachment 12.

VII. COMPLIANCE WITH COMPREHENSIVE PLAN

Portland's *Transportation Plan* contains the underlying policies for the proposed text amendments. The guiding principle of the *Plan* states, "Provide maximum mobility in a balanced transportation system which encompasses all modes, to support the economic vitality and quality of life of the Portland community." One of the goals is to ensure that future growth does not foster auto dependencies. Relevant land use/transportation policies include the following:

- Vibrant neighborhoods include nearby, small-scale commercial areas that provide both convenient service and natural meeting places. Provide routine, daily services within walking distance or residents of all neighborhoods, as long as the businesses providing the services are small-scale, are designed compatibly with residences, and fit into the fabric of the neighborhood.
- Allow development along transit corridors and near community centers to evolve at a density sufficient to make public transit, walking and biking viable options. Such density should be coupled with policies that encourage or maintain a healthy share of owner-occupancy in these areas as well as compatible site design.

The *Nason's Corner Study* has not been adopted as part of the City's Comprehensive Plan; however, it does offer specific policy guidance from the neighborhood and builds on the goals of the *Transportation Plan*. The specific recommendations to limit building size, prohibit bottle redemption centers, maintain small-scale development, confirm that drive-throughs are not permitted in the B-1, improve the aesthetics of the neighborhood, and control the external impacts of commercial uses are consistent with the policies of the Transportation Plan.

The proposed amendments are consistent with the goals and policies of the City's Comprehensive Plan. The zoning test revisions are intended to strengthen the concept of neighborhood commercial areas and enhance the attractiveness and compatibility of commercial areas with adjoining residential neighborhoods. Specifically, the amendments seek to promote pedestrian oriented design and access. Residential uses are encouraged above ground floor businesses, which supports the concept of higher density along arterials.

VIII. RECOMMENDATION FOR THE BOARD TO CONSIDER

On the basis of the information contained within the Planning Board Report # 33-99, the Planning Board finds that the proposed zoning amendments for the Neighborhood Business B-1 and B-1b Zone, the Community Business B-2 and B-2b Zone, and the Site Plan Ordinance Amendments to be consistent with Portland's Comprehensive Plan and recommends adoption of the amendments to the City Council.

IX . PUBLIC COMMENT

The Planning staff has responded to many requests for information regarding the proposed amendments. A summary of public comments is included as Attachment 9 and a collection of written responses are included as Attachment 10.

X. COMPLIANCE WITH COMPREHENSIVE PLAN

Portland's *Transportation Plan* contains the underlying policies for the proposed text amendments. The guiding principle of the *Plan* states, "Provide maximum mobility in a balanced transportation system which encompasses all modes, to support the economic vitality and quality of life of the Portland community." One of the goals is to ensure that future growth does not foster auto dependencies. Relevant land use/transportation policies include the following:

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Allow development along transit corridors and near community centers to evolve at a density sufficient to make public transit, walking and biking viable options. Such density should be coupled with policies that encourage or maintain a healthy share of owner-occupancy in these areas as well as compatible site design.

The *Nason's Corner Study* has not been adopted as part of the City's Comprehensive Plan; however, it does offer specific policy guidance from the neighborhood and builds on the goals of the *Transportation Plan*. The specific recommendations to limit building size, prohibit bottle redemption centers, maintain small-scale development, confirm that drive-throughs are not permitted in the B-1, improve the aesthetics of the neighborhood, and control the external impacts of commercial uses are consistent with the policies of the Transportation Plan. The recommendations for the B-2 zone included considering buffer requirements between commercial uses and residential neighbors, a "build-to" line, and encouraging redevelopment within existing shopping centers.

The proposed amendments are consistent with the goals and policies of the City's Comprehensive Plan. The zoning text revisions are intended to strengthen the concept of neighborhood commercial areas and enhance the attractiveness and compatibility of commercial areas with adjoining residential neighborhoods. Specifically, the amendments seek to promote pedestrian oriented design and access. Residential uses are encouraged above ground floor businesses, which supports the concept of higher density along arterials.

XI. RECOMMENDATION FROM THE PLANNING BOARD

The Planning Board unanimously finds the proposed Zoning Text and Map Amendments and the Site Plan Ordinance Text Amendments are consistent with Portland's Comprehensive Plan and recommends adoption of the amendments to the Portland City Council.

The recommended map changes are listed with accompanying maps in the attached set of amendments.

City of Portland
Technical Standards and Design Guidelines

GUIDELINES: The following guidelines set forth various land use planning objectives to be achieved in the future in the following zones: B-1, B-1b, B-2, B-2b.

1. **Building Location and Form**

Guideline: Buildings shall be located near the street so as to create an urban street wall.

An urban street wall is created by a pattern of buildings which line the street in a consistent manner, thereby establishing a desirable spatial relationship between the building in the commercial district and the major street. Location is one of several related factors defining the street environment.

The desired condition is to have the building frame and enclose the street, which is achieved by providing building height that is in appropriate proportion to the width of the adjoining major street.

A ratio of building height to street width of one-to-two creates a strong "room-like" street, while a one-to-three ratio provides good street definition and proportion. Shorter buildings of one story facing broad streets will not achieve the desired relationship. By way of example, for a fifty-foot street right-of-way, a minimum building height of 15' is desired, with 25' height preferred. An eighty-foot right-of-way would foster a minimum of a 27' building to achieve the 1:3 proportion, with 40' building height preferred. Obviously, buildings located as close as possible to the street right-of-way will provide better definition and proportion than buildings set further back.

2. **Building Function**

Guideline: An urban street and business district requires a substantial intensity and variety of uses.

It is beneficial to have mixed uses within portions of buildings situated near the street. For example, a retail first floor might have office or residential on the second or third floors. This provides both the scale of building height desired, as well as the economic vitality of the business district.

3. **Orientation of Buildings and their Entrances to the Street**

Guideline: Major building entries shall be designed and located to provide the primary building access oriented to the public street and sidewalk.

Doorways should be prominent and obvious in appearance, so as to attract the users toward the entry. Major entry features should address the street, with entry courts, display windows, signage, lights, walkways, and vestibules, as appropriate. Major entries should be adjacent to, or very close to, the street and public sidewalk.

4. **Windows**

Guideline: Windows should be located in all building facades visible from the public way, especially on building facades along the major public street.

Retail uses with store fronts are the most desirable feature for locations adjacent to the public sidewalk; and active, transparent, and interesting windows contribute the maximum value. Limitations on transparency, such as dark or reflective glass, or interior coverings, should be avoided. Where uses (such as office) are not conducive to transparent viewing from the public way, windows can still convey a sense of activity and presence along the street. Even these more private windows can convey occupancy and habitation when lighted from within, as during evening hours, even if the interior is screened from view.

5. Building Character, Detail, Scale, and Graphic Qualities

Guideline: Building design should include various architectural and graphic amenities to provide a strong presence along a street and relate a building to its community.

Awnings, canopies, and flags may be utilized to highlight entryways and to further identify the activity and identity of a use. Facade lighting may be used to highlight entryways or to provide visual interest along an otherwise blank facade. Building scale, roof pitch, architectural detail, and fenestration shall be designed to complement and be compatible with surrounding residential and commercial buildings.

6. Signage and Building Entrances

Guideline: Building entrances and building signage in the B-1, B-1b, and B-2b zones should be designed and constructed at the pedestrian scale. (**We may need to revise the Sign Ordinance for allowed height and dimension of signs.*)

7. Development Relationship to Street

Guideline: Building facades and site amenities should form a cohesive wall of enclosure along a street.

Where buildings are not located at the street line, site amenities, including masonry walls, fences, and landscaping, should be placed along the street to provide a sense of enclosure or definition.

8. Parking Lots

Guideline: Parking Lots should be screened from view of the public way.

Landscaping or fencing should be used to screen parking lots from public ways and residential neighbors. Where parking is located within the front yard (or side yard of a corner lot), a landscaped buffer or fence should be placed along the street line to distinguish the private space from the public space and to help define the street wall.

Guideline: Parking lots should be screened from neighboring properties.

A densely planted landscape buffer or fencing should be installed to protect neighboring properties from the impacts associated with the parking lot and the use it serves.

Guideline: Crosswalks should be provided within parking lots and across entrance driveways, directing pedestrians to building entrances.

Guideline: Street trees should be planted along property street frontage 25ft. on center.

9. Transit Connections

Guideline: Development proposed along established transit corridors must design uninterrupted access from the proposed development to the transit stop.

An easement to place a transit shelter may be requested for development located along a transit corridor.

b. ~~c.~~ ~~All other nonresidential uses:~~

B-2 zone: Ten thousand (10,000) square feet;
 B-2b zone: None

c. Where multiple uses are on one (1) lot, the highest applicable minimum lot size must be met.

d. Multi-family dwellings above the first floor: 1,000 square feet of land area per dwelling unit.

(2) Minimum street frontage: Fifty (50) feet.

(3) ~~Minimum~~ Yard dimensions: (Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum or maximum yard of another structure.)

Except as provided in subsection (5) below, the following setbacks are required:

a. Front Yard

1. Minimum front yard in B-2 zone: None, except that the front yard setback shall not exceed the average depth of the front yards of the closest developed lots with a structure on either side of the lot. A developed lot means a lot on which a principal structure has been erected.

2. Maximum front yard in B2-b zone: The maximum front yard setback shall either be: (i) ten feet; or (ii) in cases where the average depth of the front yard of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such average depth. A "developed lot" means a lot on which a principal structure has been erected.

Building additions are encouraged but not required to meet this maximum setback.

3. Any minor business permitted in B-2b shall meet the maximum front yard setback of (b) above. No canopy, gasoline or air pump shall be considered a structure for purposes of meeting this setback requirement.

b. Rear yard:

From: <dlatulip@aol.com>
To: <MES@portlandmaine.gov>, <cvaniotis@bernsteinshur.com>
Date: 6/2/2008 9:20:05 AM
Subject: Re: The Richmond Company--Washington and Allen Avenue project

Marge,

Chris is on vacation.? Please fax your sheet to my attention to (978) 988-3950.

Thank you.

David Latulippe
The Richmond Company, Inc.

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

From: Marge Schmuckal <MES@portlandmaine.gov>
To: cvaniotis@bernsteinshur.com
Cc: dlatulip@aol.com; Alex Jaegerman <AQJ@portlandmaine.gov>
Sent: Mon, 2 Jun 2008 9:11 am
Subject: Re: The Richmond Company--Washington and Allen Avenue project

Chris,

The first step is to first request an interpretation. There is a process for that. If you would like me to fax over my sheet on an interpretation request, let me know. Then that interpretation has rights for appeal - your choice: interpretation and/or variance, a practical difficulty I believe.

Marge

>>> "Chris Vaniotis" <cvaniotis@bernsteinshur.com> 5/30/2008 5:42:54 PM

>>>

Hello Marge,

It's hard to believe that it was back in February that we talked about the front setback requirement in the B-2 zone. It's a little warmer now.

I understand that you and Alex Jaegerman met recently with David Latulippe of the Richmond Company and it was suggested that we seek an interpretation from the board of appeals (as well as apply for a practical difficulties variance, contingent on the outcome of the interpretation appeal).

We are prepared to do that, so if you could put your interpretation in writing we'll aim for the July ZBA agenda. We'd appreciate it if you would address your interpretation to the applicant:

The Richmond Company, Inc.
c/o David Latulippe
35 Primrose Lane
Freeport, ME 04032

with a copy to me.

Thanks

Chris Vaniotis
Bernstein Shur
100 Middle Street
PO Box 9729
Portland, ME 04104-5029

207 774-1200 main
207 774-1127 facsimile

cvaniotis@bernsteinshur.com
www.bernsteinshur.com

Portland, ME | Augusta, ME | Manchester, NH

Confidentiality notice: This message is intended only for the person to whom addressed in the text above and may contain privileged or confidential information. If you are not that person, any use of this message is prohibited. We request that you notify us by reply to this message, and then delete all copies of this message including any contained in your reply. Thank you.

IRS notice: Unless specifically indicated otherwise, any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (a) avoiding tax-related penalties under the Internal Revenue Code, or (b) promoting, marketing, or recommending to another party any transaction or matter addressed herein.

CC: <AQJ@portlandmaine.gov>

From: Marge Schmuckal
To: Chris Vaniotis
Date: 6/2/2008 9:11:14 AM
Subject: Re: The Richmond Company--Washington and Allen Avenue project

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Marge

>>> "Chris Vaniotis" <cvaniotis@bernsteinshur.com> 5/30/2008 5:42:54 PM >>>

Hello Marge,

It's hard to believe that it was back in February that we talked about the front setback requirement in the B-2 zone. It's a little warmer now.

I understand that you and Alex Jaegerman met recently with David Latulippe of the Richmond Company and it was suggested that we seek an interpretation from the board of appeals (as well as apply for a practical difficulties variance, contingent on the outcome of the interpretation appeal).

We are prepared to do that, so if you could put your interpretation in writing we'll aim for the July ZBA agenda. We'd appreciate it if you would address your interpretation to the applicant:

The Richmond Company, Inc.
c/o David Latulippe
35 Primrose Lane
Freeport, ME 04032

with a copy to me.

Thanks

Chris Vaniotis

Bernstein Shur

100 Middle Street

PO Box 9729

Portland, ME 04104-5029

207 774-1200 main

207 774-1127 facsimile

cvaniotis@bernsteinshur.com

www.bernsteinshur.com

Portland, ME | Augusta, ME | Manchester, NH

Confidentiality notice: This message is intended only for the person to whom addressed in the text above and may contain privileged or confidential information. If you are not that person, any use of this message is prohibited. We request that you notify us by reply to this message, and then delete all copies of this message including any contained in your reply. Thank you.

IRS notice: Unless specifically indicated otherwise, any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (a) avoiding tax-related penalties under the Internal Revenue Code, or (b) promoting, marketing, or recommending to another party any transaction or matter addressed herein.

CC: Alex Jaegerman ; ddatulip@aol.com

FAX



To: DAVID LATulippe
Fax Number: (978) 988-3950

From: Marge Schmuckel
Fax Number:

Date: 6/2/08
Regarding: Interpretation request

Total Number Of Pages Including Cover: 2

Phone Number For Follow-Up:

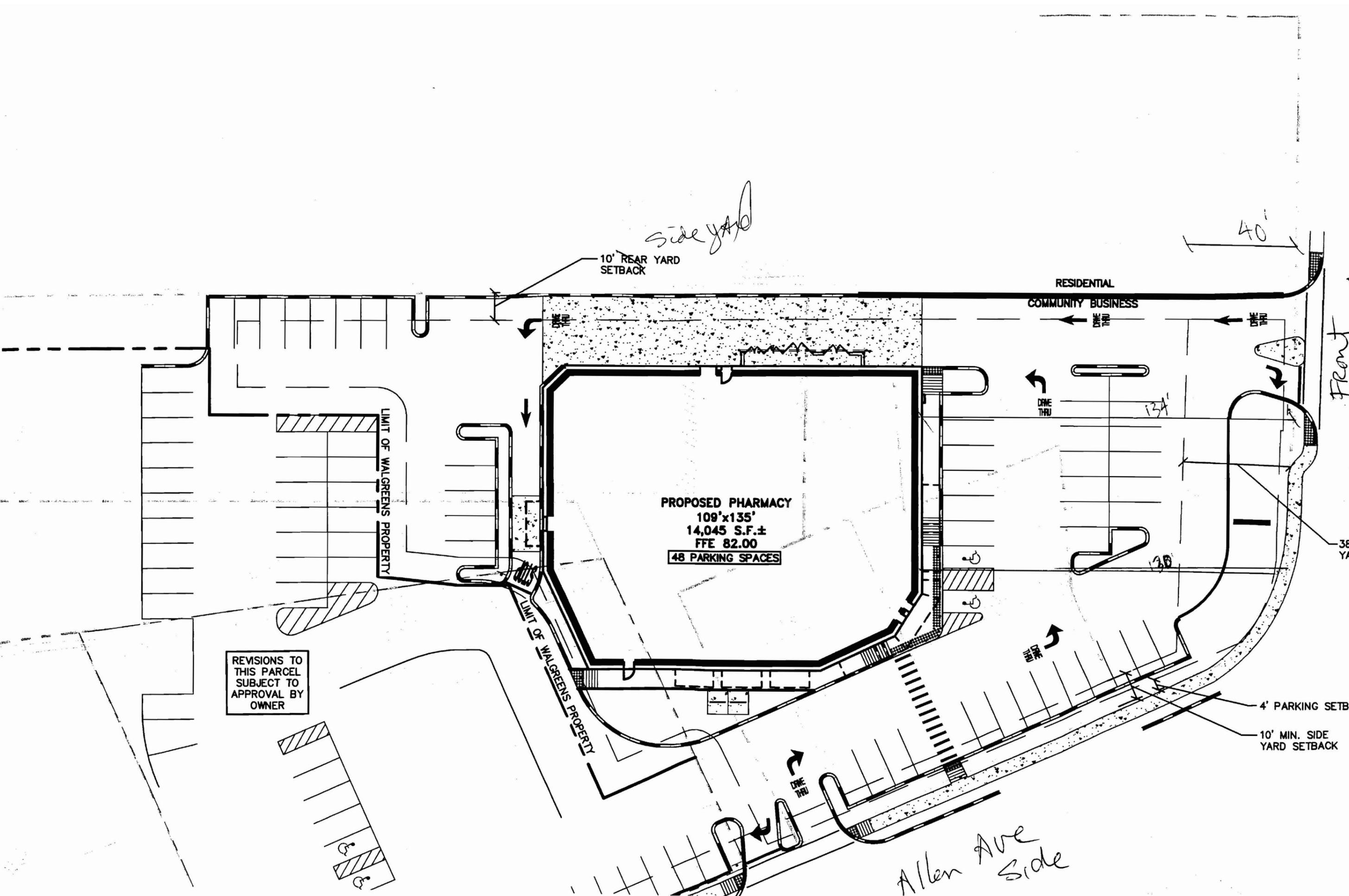
DAVID

Comments:

I hope this helps you

MARGE

City Of Portland, Maine
Inspections Division Services
389 Congress St Room 315 Portland Me 04101-3509
Phone: (207) 874-8703 or (207)874-8693
Fax: (207) 874-8716
<http://www.portlandmaine.gov/>



PROPOSED PHARMACY
109'x135'
14,045 S.F.±
FFE 82.00
48 PARKING SPACES

REVISIONS TO
THIS PARCEL
SUBJECT TO
APPROVAL BY
OWNER

10' REAR YARD
SETBACK

RESIDENTIAL
COMMUNITY BUSINESS

LIMIT OF WALGREENS PROPERTY

LIMIT OF WALGREENS PROPERTY

4' PARKING SETBACK

10' MIN. SIDE
YARD SETBACK

38.5'
YARD

40'

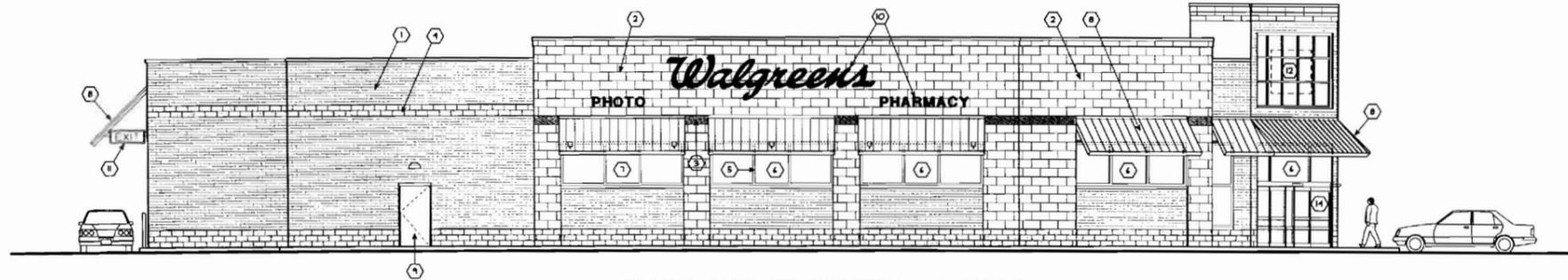
Front

Allen Ave
Side

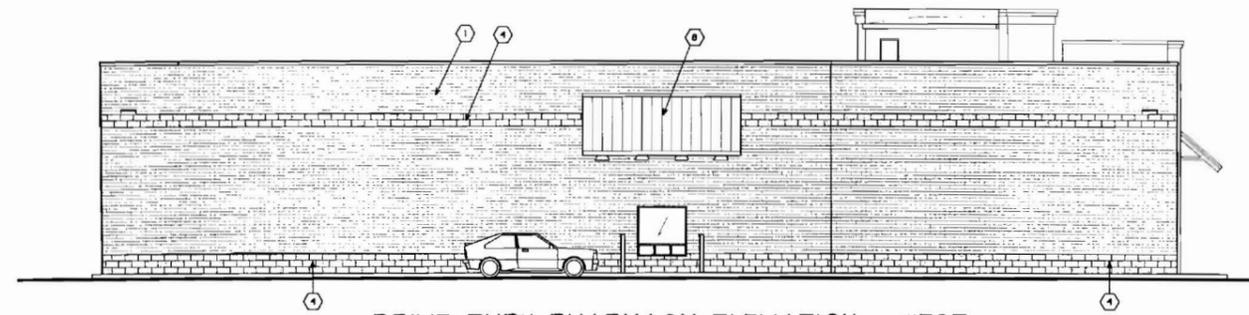
side yard



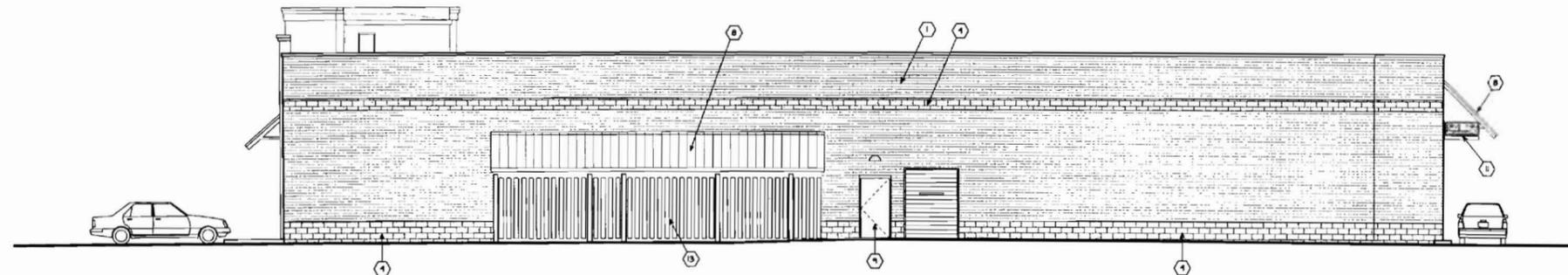
WASHINGTON AVE. ELEVATION - EAST



ALLEN AVE. ELEVATION - SOUTH



DRIVE-THRU PHARMACY ELEVATION - WEST



RECEIVING ELEVATION - NORTH



KEYED NOTES - EXTERIOR FINISHES

- ① FACE BRICK (UTILITY SIZE) BY CAROLINA CERAMICS "HERITAGE BRECUT".
- ② CALCIUM SILICATE UNITS (1"X2"X4" NOMINAL) BY ARRISCRAFT "RENAISSANCE" COLOR: NUTHEG SANDBLAST FINISH.
- ③ CALCIUM SILICATE UNITS (1"X2"X4" NOMINAL) BY ARRISCRAFT "RENAISSANCE" COLOR: NUTHEG ROCKED FINISH.
- ④ SPLIT FACE CONCRETE BLOCK BY NORTHFIELD BLOCK CO. STANDARD #2; COLOR: LIMESTONE.
- ⑤ ALUMINUM STOREFRONT BY KABNEER "TRIFAB VG 45I-T-CG" MILL FINISH ALUMINUM.
- ⑥ TRANSPARENT INSULATED GLAZING BY PPG INDUSTRIES "AZURIA TINTED" (OUTER PANE) CLEAR (INNER PANE).
- ⑦ OPAQUE INSULATED GLAZING BY PPG INDUSTRIES CLEAR (OUTER PANE) SPANDREL (INNER PANE) COLOR: TO MATCH "AZURIA".
- ⑧ METAL STANDING SEAM ROOF BY BERRIDGE "CEE-LOCK" COLOR: KYNAR 500 "FOREST GREEN".
- ⑨ PAINTED METAL DOOR AND FRAME COLOR: HC-11 "ALEXANDRIA BEIGE".
- ⑩ INTERNALLY ILLUMINATED L.E.D. BUILDING SIGN FACE COLOR: RED, SIDE RETURNS: BRONZE.
- ⑪ INTERNALLY ILLUMINATED BOX D/T SIGN FACE COLOR: WHITE W/RED LETTERS, CABINET: BRONZE.
- ⑫ CLEAR 1/4" NON-INSULATING GLAZING.
- ⑬ CEDAR WOOD FENCE ENCLOSURE W/CLEAR PRESERVATIVE FINISH.
- ⑭ AUTOMATIC SLIDING DOOR ENTRANCE SYSTEM MANUF. BY STANLEY, MILL FINISH ALUMINUM.

30 SEP 08 BY TD

Walgreens
200 WILMOT ROAD DEERFIELD, IL

MOESER & ASSOCIATES
ARCHITECT

206 AYER ROAD
HARVARD, MA 01451
978-456-6905
FAX 978-456-9153

PROPOSED WALGREENS
WASHINGTON AVENUE AND ALLEN AVENUE
PORTLAND, MAINE

ACP-1

Walgreens

The Pharmacy America Trusts Since 1901

CONSULTANT PROJECT NO. 1909

PROJECT TYPE

DRAWINGS/SPECIFICATIONS BY:

WALGREENS

LANDLORD'S CONSULTANT

ALL CONSTRUCTION WORK, UNLESS NOTED OTHERWISE, BY:

WALGREENS CONTRACTOR

LANDLORD'S CONTRACTOR (TURNKEY CONSTRUCTION)

STORE	BUILDING
NEW <input checked="" type="checkbox"/>	NEW <input checked="" type="checkbox"/>
REMODELING <input type="checkbox"/>	EXISTING <input type="checkbox"/>
RELOCATION <input type="checkbox"/>	NEW SHELL ONLY <input type="checkbox"/>
OTHERS <input type="checkbox"/>	

No dedicated loading

Truck access limited to WB-40

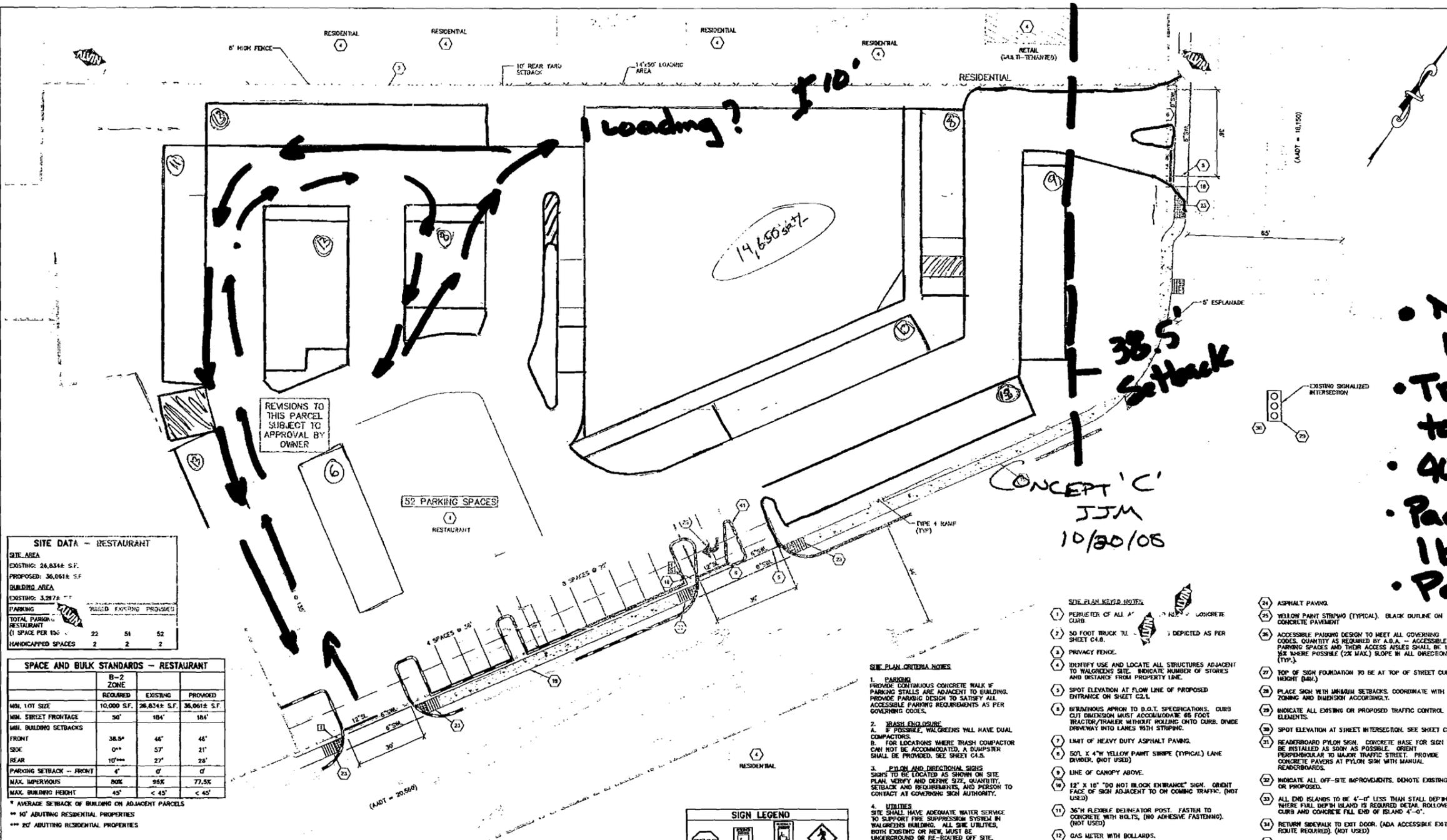
40 spaces @ entrance

Parking limited to 1 bay @ front

Ped. access further from Allen

10' Landscaping @ back of bldg.

Inefficient paved area in rear



SITE DATA - RESTAURANT

EXISTING	PROPOSED
26,834± S.F.	36,061± S.F.
3,287± S.F.	
22	51
2	2

SPACE AND BULK STANDARDS - RESTAURANT

	B-2 ZONE		
	REQUIRED	EXISTING	PROPOSED
MIN. LOT SIZE	10,000 S.F.	26,834± S.F.	36,061± S.F.
MIN. STREET FRONTAGE	50'	184'	184'
MIN. BUILDING SETBACKS			
FRONT	38.5'	45'	45'
SIDE	0'	57'	21'
REAR	10'	27'	28'
PARKING SETBACK - FRONT	4'	0'	0'
MAX. IMPERVIOUS	80%	98%	77.5%
MAX. BUILDING HEIGHT	45'	< 45'	< 45'

SITE DATA - PHARMACY

EXISTING	PROPOSED
14,045 S.F.	
48	48
2	2

SPACE AND BULK STANDARDS - PHARMACY

	B-2 ZONE	
	REQUIRED	PROVIDED
MIN. LOT SIZE	10,000 S.F.	14,045 S.F.
MIN. STREET FRONTAGE	50'	133'
MIN. BUILDING SETBACKS		
FRONT	35.5'	131'
SIDE	0'	44'
REAR	10'	27'
PARKING SETBACK - FRONT	4'	> 4'
MAX. IMPERVIOUS	80%	77.4%
MAX. BUILDING HEIGHT	45'	< 45'

PAVEMENT LEGEND

ALL PAVEMENT SHALL BE STANDARD DUTY EXCEPT AS FOLLOWS:

- HEAVY DUTY BITUMINOUS CONCRETE
- PORTLAND CEMENT CONCRETE
- BITUMINOUS CONCRETE OVERLAY

CURBING LEGEND

- SLOPED GRANITE CURB
- VERTICAL GRANITE CURB
- CONCRETE CURB

SIGN LEGEND

81-1 30" x 30"	87-8 12" x 18"	87-8 12" x 18"	W1A-2 30" x 30"
83-1 24" x 24"	85-1 24" x 24"	810-7 30" x 30"	810-7 12" x 18"

STRIPING LEGEND

SIGNAGE, STRIPING AND PAVEMENT MARKING SHALL BE IN ACCORDANCE WITH THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD) REGARDING SIZE, INSTALLATION, LOCATION & REFLECTIVITY.

- 12" SL - 12" WIDTH STOP LINE
- 4" SWL - 4" WIDTH SOLID WHITE LANE LINE
- 4" SYL - 4" WIDTH SOLID YELLOW LANE LINE
- 4" DYEL - 4" WIDTH DOUBLE YELLOW CENTERLINE
- 4" DWL - 4" WIDTH DASHED WHITE LANE LINE

- SITE PLAN CRITERIA NOTES**
- PARKING**
PROVIDE CONTINUOUS CONCRETE WALK IF PARKING STALLS ARE ADJACENT TO BUILDING. PROVIDE PAVING DESIGN TO SATISFY ALL ACCESSIBLE PARKING REQUIREMENTS AS PER GOVERNING CODES.
 - TRASH ENCLOSURE**
A. IF POSSIBLE, WALGREENS WILL HAVE DUAL COMPACTORS.
B. FOR LOCATIONS WHERE TRASH COMPACTOR CAN NOT BE ACCOMMODATED, A DISPOSER SHALL BE PROVIDED. SEE SHEET C4.5.
 - PLYON AND DIRECTIONAL SIGNS**
SIGNS TO BE LOCATED AS SHOWN ON SITE. PLAN, VERIFY AND DEFINE SIZE, QUANTITY, SETBACK AND REQUIREMENTS, AND PERSON TO CONTACT AT GOVERNING SIGN AUTHORITY.
 - UTILITIES**
SITE SHALL HAVE ADEQUATE WATER SERVICE TO SUPPORT FIRE SUPPRESSION SYSTEM IN WALGREENS BUILDING. ALL SITE UTILITIES, BOTH EXISTING OR NEW, MUST BE UNDERGROUND OR BE RE-ROUTED OFF SITE.
 - TRUCK EGRESS**
ALLOWER CURBS TO ACCOMMODATE 50 FOOT DELIVERY TRUCK SHOULD BE CONSIDERED IF ANY OF THE FOLLOWING OCCURS:
1. MAX CURB WIDTH ALLOWED IS LESS THAN 40 FEET.
2. STREET CURB CUT IS LESS THAN 4 LAMES WIDE.
3. ALLOWABLE FRANKS AT CURB ENTRANCE IS LESS THAN 30 FEET.
 - MAIL BOX**
IN AREAS WHERE THE U.S. POST OFFICE CONTRACTOR SHALL PROVIDE HEAVY DUTY DIE CAST ALUMINUM RURAL MAIL BOX EQUAL TO MODEL #4850 BY SALSBERY INDUSTRIES, LOS ANGELES, CALIFORNIA, WITH MATCHING POST BRASS ON 18" DIA. CONCRETE FOUNDATION.
 - EXPOSED EQUIPMENT**
WALGREENS PREFERS TO HAVE ALL EQUIPMENT INSIDE. WHEN EQUIPMENT IS REQUIRED TO BE OUTSIDE, IT IS TO BE HOUSED IN A SECURE, LOCKABLE ENCLOSURE.
 - FINISHED FLOOR ELEVATION**
WALGREENS PREFERS TO BE ABOVE 100 YEAR FLOOD ELEVATION. DO NOT TRAP STORM WATER ON SITE. DESIGN STORM OVERFLOW BELOW FLOOR ELEVATION.
 - LOADING AREA**
A 50' TRUCK MUST BACK INTO RECEIVING AREA.
- SIDE PLAN KEYED NOTES**
- PERIMETER OF ALL 4" CURB
 - 30 FOOT TRUCK TURN RADIUS AS PER SHEET C4.8
 - PRIVACY FENCE
 - IDENTIFY USE AND LOCATE ALL STRUCTURES ADJACENT TO WALGREENS SITE. INDICATE NUMBER OF STORES AND DISTANCE FROM PROPERTY LINE
 - SPOT ELEVATION AT FLOW LINE OF PROPOSED ENTRANCE ON SHEET C2.1
 - BITUMINOUS ASPHALT TO D.O.T. SPECIFICATIONS. CURB CUT DIMENSION MUST ACCOMMODATE 65 FOOT TRACTOR/TRAILER WITHOUT ROLLING ONTO CURB. DRIVE DRIVEWAY INTO LANES WITH STRIPING.
 - LIMIT OF HEAVY DUTY ASPHALT PAVING
 - 50' X 4" W YELLOW PAINT STRIPE (TYPICAL) LANE DIVIDER. (NOT USED)
 - LINE OF CANOPY ABOVE
 - 12" X 18" "DO NOT BLOCK ENTRANCE" SIGN. ORIENT FACE OF SIGN ADJACENT TO ON COMING TRAFFIC. (NOT USED)
 - 36" FLEXIBLE DELIMITER POST. FASTEN TO CONCRETE WITH BOLTS, (NO ADHESIVE FASTENING). (NOT USED)
 - COMPACTORS. (NOT USED)
 - LINES OF CONCRETE PAD.
 - LIGHT POLE (TYPICAL). QUANTITY AND LOCATION OF POLES TO BE DETERMINED BY APPROVED PHOTOGRAPHS. (NOT USED)
 - CONCRETE DRIVE-UP LANE AND CANOPY ABOVE
 - PROVIDE LANE DIVIDERS AND DIRECTIONAL ARROWS AT ALL DRIVES AND END OF DRIVE ALLEYS.
 - MINIMUM 24" OCTAGONAL REFLECTIVE STEEL STOP SIGN (SET BACK CLEAR OF TRAFFIC). AT DRIVE-THRU ALIGN EDGE OF STOP SIGN WITH EDGE OF 1'-0" CURB AT DRIVE-THRU.
 - CONCRETE SIDEWALK (TYP.).
 - PAD MOUNTED TRANSFORMER WITH BOLLARDS. (COORDINATE W/ P.A. ANY OTHER LOCATIONS). (NOT USED)
 - ENTRY BOLLARDS W/ POLYETHYLENE COVERS 5'4" CLEAR MAX
 - ACCESSIBLE PARKING SIGN. SEE SHEET C4.2 FOR DETAIL.
 - ACCESSIBLE RAMP W/ DETECTABLE WARNING. WHEN SLOPE IS LESS THAN 5%, ONLY 38" OF DETECTABLE WARNING SURFACE IS REQUIRED.
- REVISIONS**
- | NO. | DATE | BY | DESCRIPTION | CONST. |
|-----|------|----|-------------|--------|
| | | | | |

THE RICHMOND COMPANY, INC.

GP Gorrill-Palmer Consulting Engineers, Inc.

PO Box 1237 Transportation and Civil Engineering Services 207-657-6910
15 Shaker Road FAX: 207-657-6912
Gray, ME 04039 E-Mail: mailbox@gorrillpalmer.com

STORE NUMBER 12326

PROJECT NAME
WALGREENS - STORE #12326
(NWC) WASHINGTON AND ALLEN
PORTLAND, MAINE

DRAWING TITLE
SITE LAYOUT PLAN

CADD PLOT: SCALE: 1"=20'

VOID PLOT: DRAWN BY: JBC

SUPERSEDES PLAN DATED: DATE: 11/07

REVIEWED BY: MFM

DRAWING NO. **C1.1**

OF DWGS.

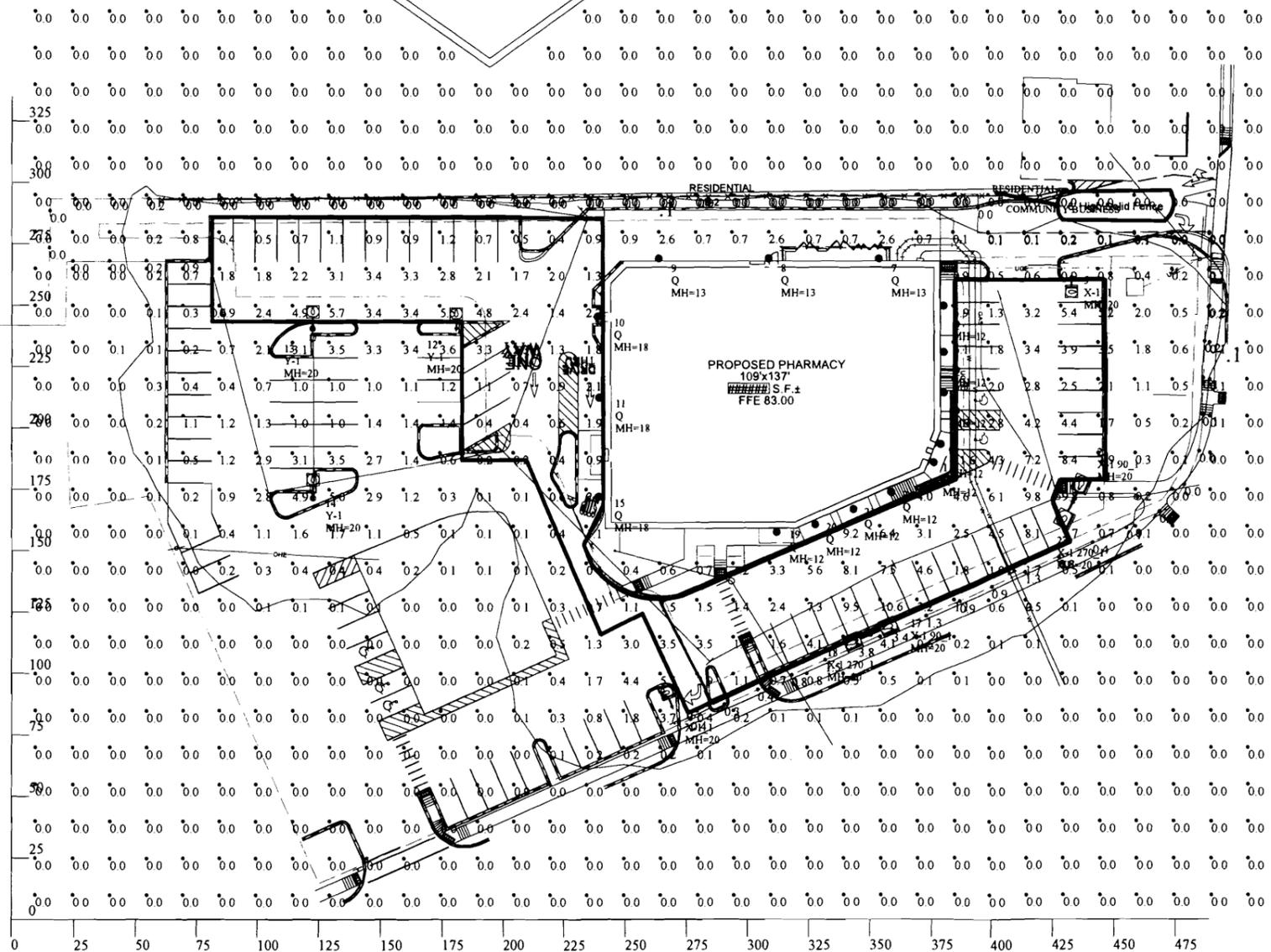
Luminaire Schedule						
Symbol	Qty	Label	Lumens	LLF	Description	Remarks
☉	15	Q	3400	0.750	MHIP-S-50	Wall Mounted
☉	2	X-1 270_1	25000	0.750	WAG-HPTR-SL-250-MT-ADV	Optics Rotated 270 deg
☉	2	X-1 90_1	25000	0.750	WAG-HPTR-SL-250-MT-ADV	Optics Rotated 90 deg
☉	2	X-1_1	24000	0.750	WAG-HPTR-SL-250-MT-ADV	
☉	3	Y-1	24000	0.750	WAG-HPTR-3F-250-MT-ADV	

Calculation Summary										
Label	CalcType	Units	Avg	Max	Min	Avg/Min	Max/Min	# Pts	PtSpLr	PtSpTr
A	Illuminance	Fc	0.68	11.6	0.0	N.A.	N.A.	775	15	15
PROPERTY LINE	Illuminance	Fc	0.31	3.8	0.0	N.A.	N.A.	62	15	N.A.
WALGREEN'S PARKING	Illuminance	Fc	2.92	10.6	0.2	14.60	53.00	108		
DESIGNATED AREA	Illuminance	Fc	4.33	10.6	0.7	6.19	15.14	51		

AUG - 7 2009

****ATTENTION****
 THIS LAYOUT DOES NOT MEET
 WALGREEN STANDARD SPECIFICATIONS
 DUE TO STRICT CITY SITE
 LIGHTING REQUIREMENTS.

**ROTATE REFLECTOR
 FOR CORRECT SOCKET POSITION
 BEFORE FIXTURE INSTALLATION**



Walgreen's Allen Ave
 # 2007-0189
**CITY OF PORTLAND
 APPROVED SITE PLAN**
 Subject to Dept. Conditions
 Date of Approval: original 1-13-09
 this amended lighting: 7-21-07

Luminaire Location Summary						
SeqNo	Label	X	Y	Z	Orient	Tilt
1	Q	133.1	27.3	12	349.16	0
2	Q	135.9	34.9	12	342.474	0
3	Q	137.2	55.5	12	0	0
4	Q	137.2	72.1	12	0	0
5	X-1_1	191.8	103.8	20	270	0
6	Q	137.2	90.9	12	0	0
7	Q	112.5	108.7	13	90	0
8	Q	67.5	108.7	13	90	0
9	Q	22.5	108.7	13	90	0
10	Q	-1	86.5	18	180	0
11	Q	-0.5	53.5	18	180	0
12	Y-1	-60.8	80.6	20	90	0
13	Y-1	-119	81.5	20	90	0
14	Y-1	-119	13	20	90	0
15	Q	-1	13	18	180	0
16	X-1_1	27.7	-73.4	20	109.911	0
17	X-1 90_1	108.8	-43.2	20	23.853	0
18	X-1 270_1	108.8	-43.2	20	202.997	0
19	Q	70.5	0.1	12	270	0
20	Q	85.5	3.1	12	294.274	0
21	Q	101.3	9.3	12	294.274	0
22	X-1 90_1	192.2	11	20	66.165	0
23	X-1 270_1	192.2	11	20	243.059	0
24	Q	116.7	16.2	12	294.274	0

Total Quantity = 24

Project: **WALGREEN'S # 12326
 PORTLAND, ME**
 Client: **NATIONAL ACCOUNTS
 JIM SYCHTA**

Project #: **0802336P**
 Date: **6/29/2009**
 Scale: **1" = 30'**
 Drawing: **JR**

Cooper Lighting CFC
 Applications Engineering
 1121 Highway 74 South
 Peachtree City, Georgia 30269
 770-486-4582
 770-486-4599 fax
 e-mail: applications@cooperlighting.com

Chris Hansen
 → Inspection
 for the person
 this is approved
 tension to light
 poles sl. moved
 etc.
 for inspection
 records.

*Agreed by Alex Jaegerman
 Director of Planning
 July 21, 2009.*