

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

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

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

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

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

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

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

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

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

APL

11/11/11





APPLICATION FOR ZONING AMENDMENT
 City of Portland, Maine
 Department of Planning and Urban Development
 Portland Planning Board

1. Applicant Information:

C. N. Brown Company
 Name
P.O. Box 200
 Address
So. Paris, Maine 04281
800-442-6330/207-743-8353 (fax)
 Phone Fax

2. Subject Property:

194 Auburn Street
 Address
Portland, ME
Map 374-A-30
 Assessor's Reference (Chart-Block-Lot)

3. Property Owner: X Applicant Other

C.N. Brown Company
 Name
P.O. Box 200
 Address
So Paris, Maine 04281
800-442-6330/207-743-8353 (fax)
 Phone Fax

4. Right, Title, or Interest: Please identify the status of the applicant's right, title, or interest in the subject property:
Applicant owns the property -- see attached deed

Provide documentary evidence, attached to this application, of applicant's right, title, or interest in the subject property. (For example, a deed, option or contract to purchase or lease the subject property.)

5. Vicinity Map: Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use. (Applicant may utilize the City Zoning Map or Parcel Map as a source.)

6. Existing Use:

Describe the existing use of the subject property: Service Station, together with automobile repair facility and retail sale of associated parts and supplies.

7. Current Zoning Designation(s): R-3

8. Proposed Use of Property: Please describe the proposed use of the subject property. If construction or development is proposed, please describe any changes to the physical condition of the property.

Applicant proposes to improve and upgrade the property. Improvements include the renovation and conversion of the existing building to a Big Apple convenience store. Plans provide for a more attractive front wall and elimination of the garage bay doors. The inside of the building will be improved with removal of interior walls to provide a large open space for grocery items. Overall visual improvements will also include enhancement of the existing landscaping, a new sign and new lighting.

The existing automobile repair facility will be eliminated. Currently there are two fuel pumps at the site and this will remain the same.

9. Sketch Plan: On a separate sheet please provide a sketch plan of the property, showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1"=10' to 1"=100'.)

10. Proposed Zoning: Please check all that apply:

- A. Zoning Map Amendment, from R-3 to B-2
- B. Zoning Text Amendment to Section 14- _____

For Zoning Text Amendment, attach on a separate sheet the exact language being proposed, including existing relevant text, in which language to be deleted is depicted as crossed out (example), and language to be added is depicted with underline (example).

- C. Conditional or Contract Zone

A conditional or contract rezoning may be requested by an applicant in cases where limitations, conditions, or special assurances related to the physical development and operation of the property are needed to ensure that the rezoning and subsequent development are consistent with the comprehensive plan and compatible with the surrounding neighborhood. (Please refer to Division 1.5, Sections 14-60 to 62)

11. **Application Fee:** A fee for this application for a zoning amendment must be submitted, by check payable to the City of Portland in accordance with Section 14-54 of the Municipal Code (see below). The applicant also agrees to pay all costs of publication (or advertising) of the Public Hearing Notice as required for this application. Such amount will be billed to the applicant following the appearance of the advertisement.


	<u>1-25 Units</u>	<u>26-50 Units</u>	<u>51-75 Units</u>	<u>75 & Over</u>
Residential Zones	\$350.00	\$400.00	\$450.00	\$500.00
Nonresidential Zones	\$350.00	\$400.00	\$450.00	\$500.00
	0-15,000 sq. ft. or 0-5 acres (which-ever is less)	15,000-30,000 sq. ft. or 6-10 acres (which-ever is less)	30,000-45,000 sq. ft. or 10-15 acres (which-ever is less)	45,000-60,000 sq. ft. or 15-20 acres (which-ever is less)

- Legal Advertisements (one for workshop and one for public hearing) percent of total bill
- Notices (one for workshop and one for public hearing) 40 cents each
- Text Amendments \$300.00

\$400.00 Amount of Fee

12. **Signature:** The above information is true and accurate to the best of my knowledge.

May 11, 1999
Date of Filing



Signature of Applicant
Operations Manager
C. N. Brown Co.

Further Information:

Please contact the Planning Office for further information regarding the rezoning process. Applicants are encouraged to make an appointment to discuss their rezoning requests before filing the application.

Applicants are encouraged to include a letter or narrative to accompany the rezoning application which can provide additional background or context information, and describe the proposed rezoning and reasons for the request in a manner that best suits the situation.

In the event of withdrawal of the zoning amendment application by the applicant in writing prior to the submission of the advertisement copy to the newspaper to announce the public hearing, a refund of two-thirds of the amount of the zone change fee will be made to the applicant by the City of Portland.

Portland Planning Board
Portland, Maine

Effective: July 6, 1998

PRETI, FLAHERTY, BELIVEAU, PACHIOS & HALEY, LLC
ATTORNEYS AT LAW

ONE CITY CENTER, P.O. BOX 9546, PORTLAND, MAINE 04112-9546
TELEPHONE: (207) 791-3000 -- TELEFAX (207) 791-3111
INTERNET: WWW.PRETI.COM -- E-MAIL: ADMIN@PRETI.COM

May 5, 1999

PRELIMINARY WORKING DRAFT --
FOR REVIEW ONLY.

Alex Jaegerman, Chief Planner
City of Portland
Portland City Hall
389 Congress Street
Portland, ME 04101

DRAFT

Re: C.N. Brown/Application for Zoning Amendment

Dear Alex:

I am writing on behalf of the C.N. Brown Company, owner of property at 194 Auburn Street, Portland, Maine for the purpose of submitting an Application for Zoning Amendment. C.N. Brown requests a rezoning of the property from the R-3 Residential Zone to the B-2 Business Zone. This rezoning will be consistent with the comprehensive plan and compatible with the surrounding neighborhood.

In connection with this Application, we would like to provide some ~~additional information concerning the site.~~

A. Historical Background of the Property

The Applicant purchased the property on July 7, 1975, from REPROCO, Inc. (a copy of the deed is attached). Historically this site has been used as a gas station for at least seventy (70) years. At the time that the gas service station was established, the area was primarily farm land with nearby rural residences. It has been a non-conforming use of the property since at least 1957 when the Portland Planning Department changed the zoning codes and adopted the current designations which now provide for this area to be an R-3 zone.

Two blocks southerly from this site is a heavily developed commercial area which has increased in commercial activity in the last two to three decades. The businesses along this stretch of Auburn Street include a full scale shopping center, with Shaw's as the satellite store, a farm/hardware store, a drive-through gasoline station, a dairy freeze store, restaurants, medical offices, and numerous

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ROBERT F. PRETI
ALBERT J. BELIVEAU, JR.
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GREGORY P. HANSEL
NAOMI SAKAMOTO
PETER S. CARLISLE

ASSOCIATE COUNSEL:
JAMES E. PHIPPS
KEVIN J. BEAL
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JOEL H. THOMPSON
SHARON G. NEWMAN**

* Admitted to practice law only in the
District of Columbia.

** Admitted to practice law only in Ohio.

JOHN J. FLAHERTY
(1929 - 1995)

banks. Approximately one-half mile northerly from the site, within the same R-3 zone, is a family type variety store.

Adjacent to the property and just behind the site is an eleven unit cluster of apartments associated with a series of half-way houses located throughout the city. In addition, and as we discuss below, there are several large apartment complexes within walking distance to the site.

B. Construction Activity at 194 Auburn Street

The Applicant proposes to improve and upgrade the property and to discontinue the automobile repair facility. These proposed improvements include the renovation and conversion of the existing building to a Big Apple convenience store and gasoline pump island with a separate canopy replacing the existing connected one. The plans provide for a more attractive front wall and elimination of the garage bay doors. The inside of the building will be improved with removal of interior walls to provide a large open space for grocery items. The automobile service bays will also be removed. Overall visual improvements will also include enhancement of the existing landscaping, a new sign, and new lighting. There are currently two fuel pumps at the service station and this number will remain the same.

C. Discussion of Application for Zoning Amendment

The proposed rezoning will not alter the character of the neighborhood, but rather will enhance and improve the property from the perspective of adjacent residents. In addition to the single and duplex homes up and down the street from the site location, there are, in very close proximity (less than one-fifth of a mile), four apartment complexes comprising one hundred eighty-three (183) units as well as a condominium development.

As the Portland Transportation Plan states, it is beneficial to have nearby convenient stores for residential dwellers. The Big Apple convenience store would provide that.

Specifically, the Transportation Plan provides that:

“Vibrant neighborhoods include nearby, small-scale commercial areas that provide both convenient service and natural meeting places. Routine, daily services should be within walking distance of residents of all neighborhoods, as long as the businesses providing the services are small-scale, are designed compatibly with residences, and fit into the fabric of the neighborhood.”

In this case, the convenience store would also benefit the school children who attend Lyseth and Lyman Moore Middle Schools, which school complex is almost directly across Auburn Street from the site. Children who reside in the apartment complexes would no longer need to walk through the more dangerous and heavily trafficked parking lot of Northgate.

PRETI, FLAHERTY, BELIVEAU, PACHIOS & HALEY, LLC

Alex Jaegerman, City Planner

May 5, 1999

Page 3

School signs, crosswalks and crossing guards already in place would facilitate the foot traffic to the newer, closer store.

In support of this Application, we have attached a number of documents:

1. Deed
2. Photos of property and surrounding areas
3. Plot Plan

We appreciate the opportunity to present this to the Board at its May 25th workshop and look forward to discussing it with you. In the meantime, please feel free to call me if you would like any further clarification of this Application.

Sincerely,

DRAFT

Jeanne T. Cohn-Connor

JTCC/jp

cc: Mr. Charles Sheehan

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PRETI, FLAHERTY, BELIVEAU, PACHIOS & HALEY, LLC
ATTORNEYS AT LAW

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JOHN J. FLAHERTY
(1929 - 1995)

May 5, 1999

VIA HAND DELIVERY

Alex Jaegerman, Chief Planner
City of Portland
Portland City Hall
389 Congress Street
Portland, ME 04101

Re: C.N. Brown/Application for Zoning Amendment

Dear Alex:

As you may be aware, Penny Littell and I had planned to meet this morning to discuss the application for rezoning to be submitted by the C.N. Brown Company in connection with its property at 194 Auburn Street. Penny called me yesterday afternoon and asked that, instead of meeting, I provide to you the application, in draft form, along with a plot plan for you to informally review this morning.

As a result, I am enclosing a draft application, together with a draft supplementary letter. I have also delivered a plot plan. In connection with the application, I do have a few specific questions that I was planning to discuss with Penny this morning. First, with respect to item #5, we have included a vicinity map but have not identified all the current owners. Please let us know if that is information you would want us to provide. Second, with respect to item #10, I marked both A (zoning map amendment) and C (conditional zone) as being applicable. Please let me know which is more appropriate.

I plan to submit the actual application and supporting documentation next Tuesday in time to be placed on the calendar for the May 25th workshop.

PRETI, FLAHERTY, BELIVEAU, PACHIOS & HALEY, LLC

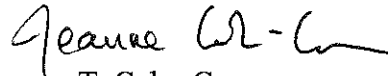
Alex Jaegerman, Chief Planner

May 5, 1999

Page 2

I look forward to hearing from you or one of the other planners in your office with any comments and suggestions concerning this documentation. Thanks for your assistance.

Sincerely,



Jeanne T. Cohn-Connor

JTC/jd

Enc.

cc: Mr. Charles Sheehan

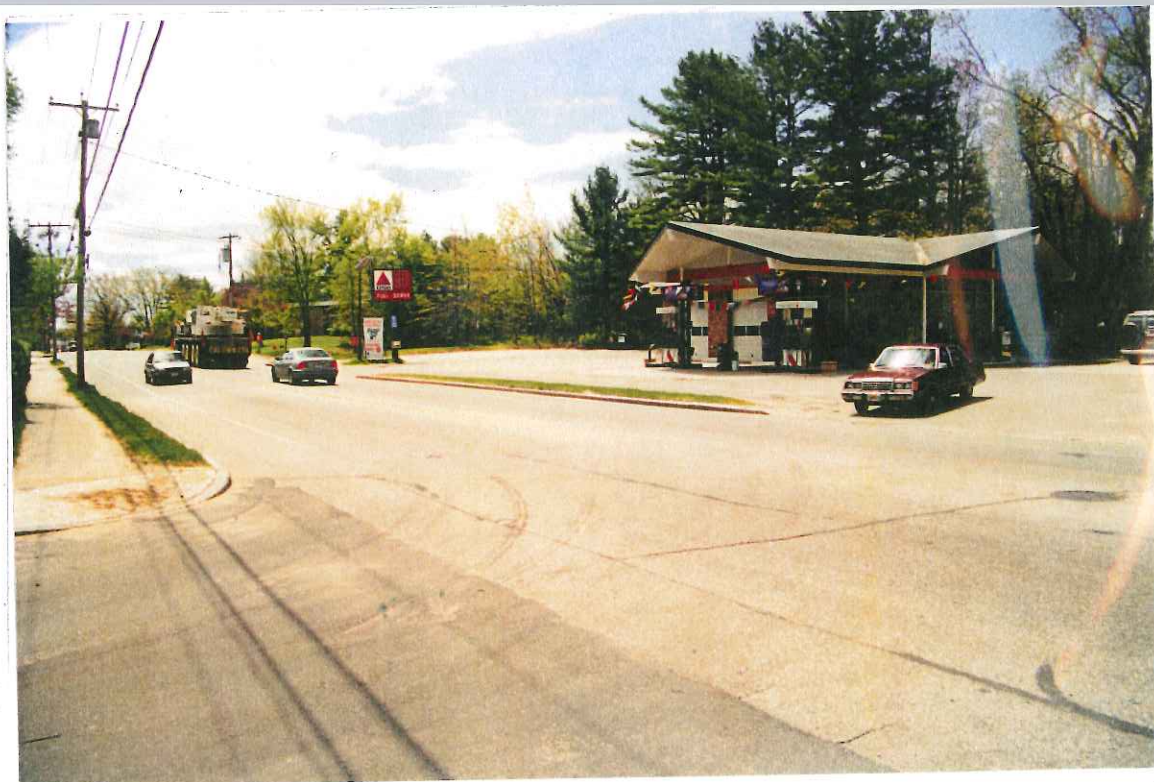
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REVIEW



Side View

View from Side Street





C.N. BROWN- 194 Auburn Street

Front View





School Crossing Guard

Up Street View-Brookfield Apartments





View from School Entrance

View with School Crosswalk





Brookfield Abutting Auburn Terrace

**Auburn Terrace Apartments
(64 Units)**





**View of Brookfield Apartments
(60 Units)**

Brookfield Apartments





Northgate Parking Lot

Northgate/Auburn St. View





Auburn Terrace

View of Site from Northgate



44 Autumn Lane
Bartley Gardens
Portland, ME 04103

Mr. Alex Jaegerman, Chief Planner
Planning and Urban Development
City Hall
389 Congress St.
Portland, ME 04101

Dear Mr. Jaegerman:

I'm writing this letter to let you know that I am *adamantly* opposed to the relocation of The Big Apple to what is now the Citgo Station on 194 Auburn Street across from the entrance to Lyseth and Lyman Moore schools.

This is not the type of business that is compatible with my neighborhood. Lyseth's and Lyman Moore's school grounds have been plagued for years by vandalism which occurs after dark. The Big Apple which is open 24 hours will only serve to further attract this kind of behavior and undermine efforts to minimize the attraction of "hanging out" on school grounds.

In addition, supplier's trucks which very often are left running while delivering product, will have an adverse affect on the neighborhood. The added noise and pollution from delivery trucks and customer traffic is NOT something I want on the edge of this neighborhood – which has always been a quiet residential area.

There is a convenience store approx. ¼ mile to the North of the proposed site, and another convenience store approx. ¼ to the South of the proposed site. In addition, there is a CVS, Shaws, Baskin Robbins, and Paris Farmers Union within ¼ mile of the proposed site. This area does NOT NEED another convenience store – it is not necessary to have one on each corner and halfway between the corners!

I do not want a convenience store on the edge of my neighborhood. I have lived very close to a convenience store in the past, and it is very annoying. The noise from trucks, cars, kids hanging out, and the trash blowing into my yard caused me to move from a previous house. That is why I moved to a Residential Zone. I believe this type of activity would adversely affect the value of the properties close to the proposed site.

The rights of those who choose to live in a Residential Zone should certainly take precedence over the special interests of C.N. Brown and The Big Apple.

Sincerely,


Judith Mulligan

20 Bartley Ace
Portland, Maine 04103

Joseph E. Gray, Jr.
Director of Planning and Urban Development
City Hall
Portland Maine

To the Portland Planning Board:

This is a letter stating my objection to a change of zoning for the site at 194 Auburn Street from R-3 Residential to B-2 Business Zone.

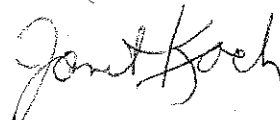
I understand C.N Brown's wanting to more money by having a store at this site . However, if anyone has been to this site they will see that it so very, very close to an elementary and middle school complex where buses, cars, and pedestrians are trying to get into Lyseth Lyman Moore Road.

Residents of this area were already made aware of the fact that Auburn Street is a state road and so, no traffic light could be erected at the school crossing because of large trucks coming from the Maine Turnpike

If a site visit is done, it can also be observed that not too far in either direction there are convenience stores that already carry the kind of goods that a Big Apple store would sell, as well as a s trip mall complex one block away. ~~Certainly cigarettes and junk food should not be anymore available to our school children then they already are!~~

Lastly, the area is zoned RESIDENTIAL.. Let's try to keep in mind the matter of quality of life. Living two houses away from Auburn Street can be a little noisy from the aforementioned trucks. Why should the city want to encourage more traffic and noise in any fully developed heavily traveled residential and SCHOOL area. It is already difficult to make a left hand turn for parents picking up their children and leaving at Bartley Avenue - This will make it even more difficult, and accidents will result.

Again I state my objection to a change in zoning at 194 Auburn Street.
Thank you for consideration.



Janet Koch

797 6701 home
878 5505 work

The Farrell Family
17 Bartley Avenue
Portland, ME 04103

Dear Mr. Gray,

We are writing this letter out of concern for our neighborhood and the quality of life that we now enjoy.

We are concerned that the zone change requested by CN Brown, for the 194 Auburn Street location, will not only create an extremely hazardous traffic situation (within an already dangerous school zone), but also cause loitering of school children and increase the potential for underage drinking, smoking, and vandalism in the school vicinity.

The FAMILY run variety store-EDDIES-, north of the proposed Big Apple, blends in nicely with the North Deering environment. Why do we need yet another large chain putting the little guy out of business????

Does not Shaws, CVS, Mobile, south of the location, provide us with adequate "walk to shop" stores?

Please save our neighborhood from the zone change! Lets keep the business zone on the southern side of Auburn and Sanborn where it should be.

Lets not turn our community, from the safe, friendly, residential neighborhood that it is, into another hazardous, strip mall style of undesirable area.

Help save North Deering from over COMMERCIALIZATION!

We appreciate your attention to this matter!

Very Sincerely,

Tom & Kathy

Annie Jane BILLY Kate

Mr. Joseph E. Gray Jr.
Director of Planning and Urban Development
City Hall
Portland Maine

Dear Sir;

I am writing to express my opposition to C.N. Brown's proposed contract change.

My primary concern is the children who will congregate there before and after school at the same time at which there is significant increase in traffic in the area because of the two schools(Lyseth and Lyman Moore)

I understand that this contract change is intended to be only for C.N. Brown. However most of this section of North Deering is residential, and I do not want to see further changes in zoning which will lengthen and strenghten the commercial sites on this corridor. I do not want to see any precedents set with this type of zoning contract change.

Thank you

David R. Alvord
46 Melody Lane
Portland, Maine 04103

October 6, 1995

Dear Mr. Gray,

Being the spokesperson for our North Deering
Neighborhood and having organized zoning material
for the proposed B-2 contract zone issue at
194 Auburn Street, I was dismayed to learn
that the site plan workshop (#3 or 4 or 5?) and
the meeting before the Planning Board
will be held during my absence. I will be
away with my husband from October 11
to November 10. This trip has been planned
since last April. At that time I assumed
the zone issue would be a "fait accompli."

I do not mind missing the site plan
hearing, however I cannot miss the
actual Planning Board meeting when
voting will take place. I have been told
this will be November 2 if the board

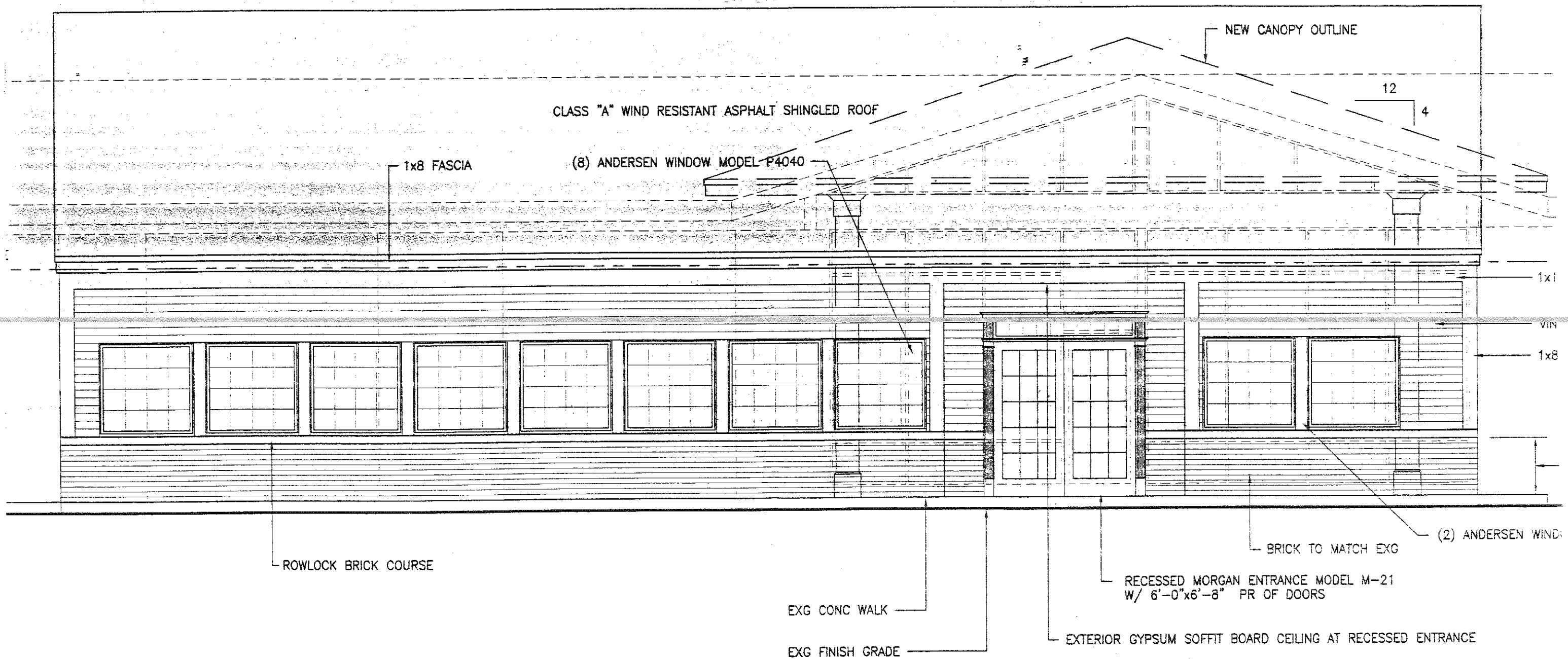
approves the site plan.

Because I am the key spokesperson, it is crucial that I speak at the November 2 meeting. So there a possibility of moving this meeting to November 23, the fourth instead of the second Tuesday? If this does not fit your agenda, could you move it to December 14, the second Tuesday of December?

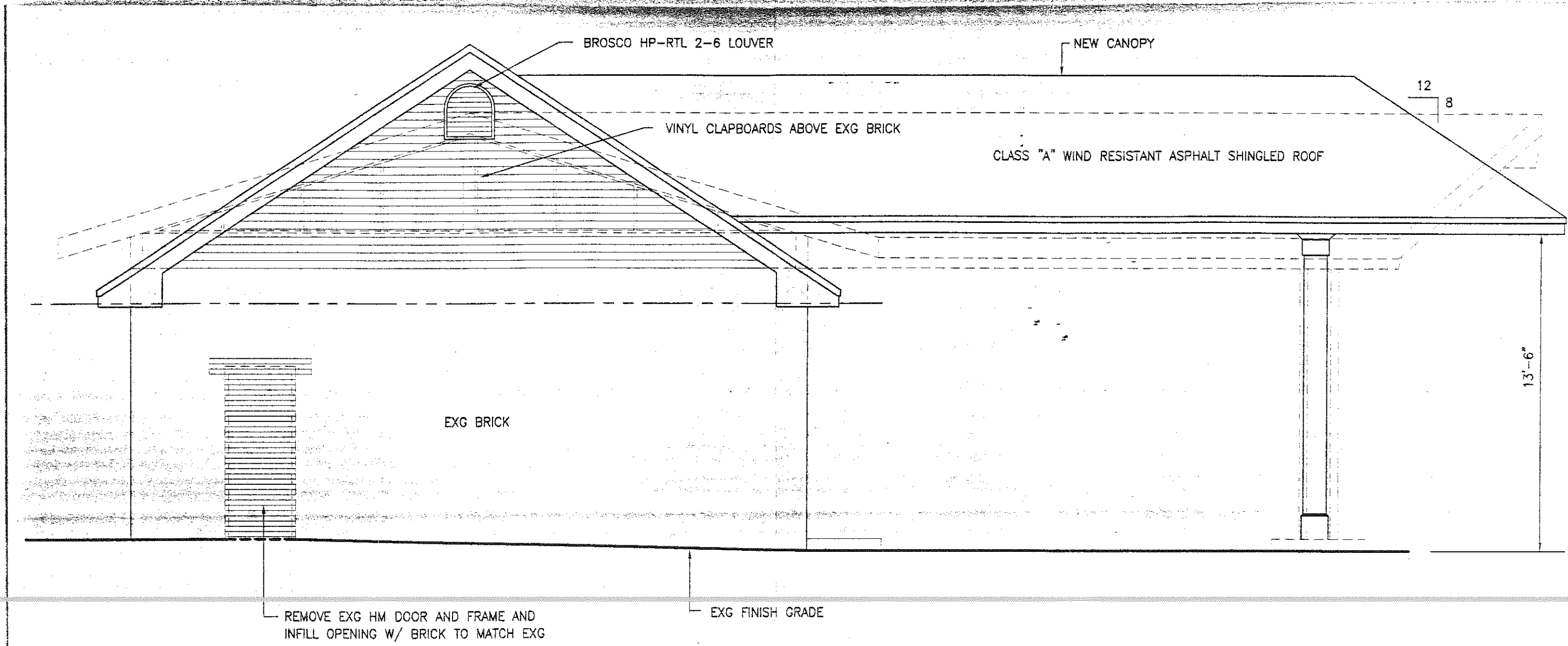
Mr. Gray, please know that if my speaking to the Planning Board were not crucial to the neighborhood residents, I would not ask your indulgence for personal reasons. You have known me to be a person of integrity.

Please consider the above issue and contact me at home, 497-5298. My e-mail address is Parshigolf@aol.com.

We leave Pattanand Sunday, October 10.



AUBURN STREET ELEVATION (EAST ELEVATION)




SOUTH ELEVATION

SCALE: 1/4" = 1'-0"

PRELIMINARY

SQUAW BAY CORP.
Consulting Engineers

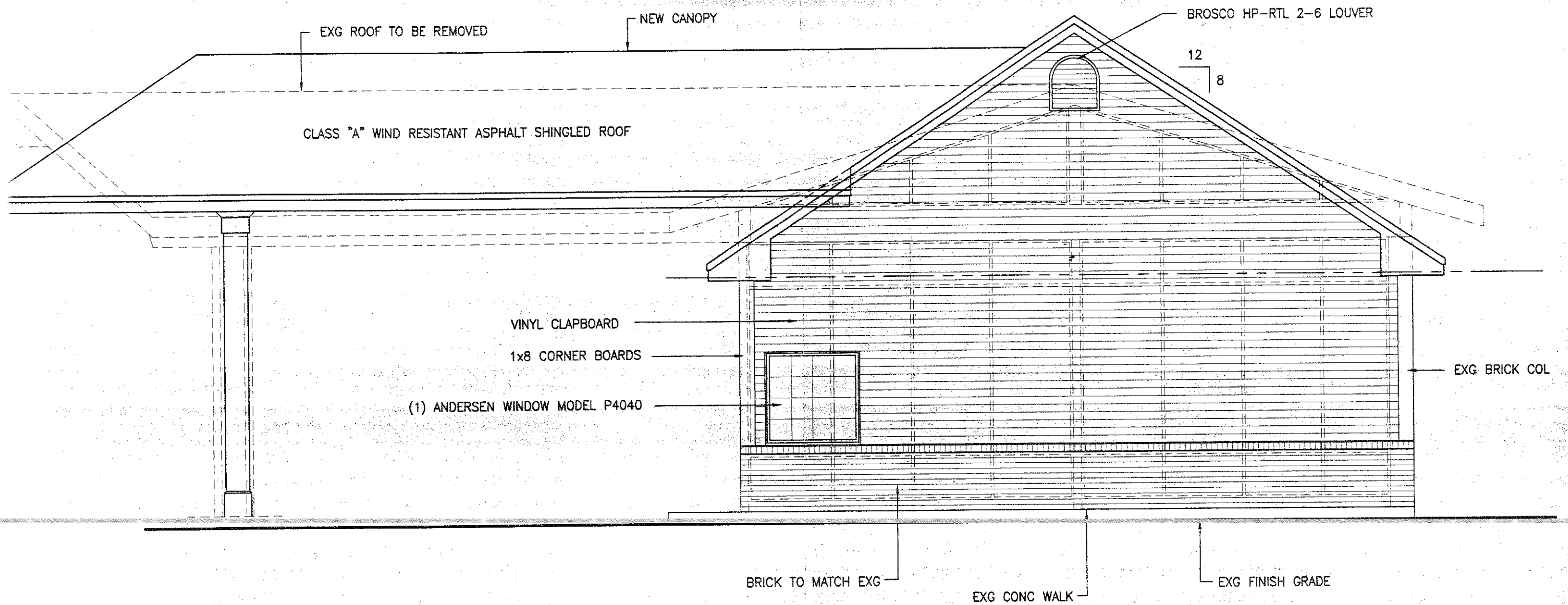


P.O. BOX 86A, CUMBERLAND CENTER, ME 04021
 TEL: (207)829-6994 FAX: (207)829-2231
 EMAIL: INFO@SQUAWBAY.COM

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BUTEAU ASSOCIATES
 ARCHITECTS & ENGINEERS
 666a CONGRESS STREET TEL:(207) 772-1010

PROJECT NAME: _____
 E
 C.M



NORTH ELEVATION

SCALE: 1/4" = 1'-0"

SCALE:

DATE:

ELEVATIONS

SHEET No:

APPLE
BROWN

PRETI, FLAHERTY, BELIVEAU, PACHIOS & HALEY, LLC
ATTORNEYS AT LAW

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May 11, 1999

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PETER S. CARLISLE

ASSOCIATE COUNSEL:
JAMES E. PHIPPS
KEVIN J. BEAL
BONNIE L. MARTINOLICH
TRACEY G. BURTON
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SHARON G. NEWMAN**

* Admitted to practice law only in the District of Columbia.
** Admitted to practice law only in Ohio.

JOHN J. FLAHERTY
(1929 - 1995)

Kandi Talbot, Planner
City of Portland
Portland City Hall
389 Congress Street
Portland, ME 04101

Re: C.N. Brown Company/Application for Zoning Amendment

Dear Kandi:

I am writing on behalf of the C.N. Brown Company, owner of property at 194 Auburn Street, Portland, Maine for the purpose of submitting an Application for Zoning Amendment. C.N. Brown requests a rezoning of the property from the R-3 Residential Zone to the B-2 Business Zone. This rezoning will be consistent with the comprehensive plan and compatible with the surrounding neighborhood.

In connection with this Application, we would like to provide some additional information concerning the site.

A. Historical Background of the Property

The Applicant purchased the property on July 7, 1975, from REPROCO, Inc. (a copy of the deed is attached). Historically this site has been used as a gas station for at least seventy (70) years. At the time that the gas service station was established, the area was primarily farm land with nearby rural residences. The service station has been a non-conforming use of the property since at least 1957 when the Portland Planning Department changed the zoning codes and adopted the current designations which now provide for this area to be an R-3 zone.

Two blocks southerly from this site is a heavily developed commercial area which has increased in commercial activity in the last two to three decades. The businesses along this stretch of Auburn Street include a full scale shopping center, with Shaw's as the satellite store, a farm/hardware store, a drive-through gasoline station, a dairy freeze store, restaurants, medical offices, and numerous banks. Approximately one-half mile northerly from the site, within the same R-3 zone, is a family type variety store.

45 MEMORIAL CIRCLE, P.O. BOX 1058
AUGUSTA, MAINE 04332-1058
TELEPHONE: (207) 623-5300 -- TELEFAX: (207) 623-2914

THIRTY FRONT STREET, P.O. BOX 665
BATH, MAINE 04530-0665
TELEPHONE: (207) 443-5576 -- TELEFAX: (207) 443-6665

Adjacent to the property and just behind the site is an eleven unit cluster of apartments associated with a series of half-way houses located throughout the city. In addition, and as we discuss below, there are several large apartment complexes within walking distance to the site.

B. Construction Activity at 194 Auburn Street

The Applicant proposes to improve and upgrade the property and to discontinue the automobile repair facility. These proposed improvements include the renovation and conversion of the existing building to a Big Apple convenience store and the construction of an attached canopy over the gasoline pump island. There are currently two fuel pumps at the service station and this number will remain the same.

The plans provide for a more attractive front wall and elimination of the garage bay doors. The inside of the building will be improved with removal of interior walls to provide a large open space for grocery items. The automobile service bays will also be removed. Overall visual improvements will include enhancement of the existing landscaping, a new sign, and new lighting.

C. Discussion of Application for Zoning Amendment

The proposed rezoning will not alter the character of the neighborhood, but rather will enhance and improve the property from the perspective of adjacent residents. In addition to the single and duplex homes up and down the street from the site location, there are, in very close proximity (less than one-fifth of a mile), four apartment complexes comprising one hundred eighty-three (183) units as well as a condominium development.

As the Portland Transportation Plan states, it is beneficial to have nearby convenient stores for residential dwellers within walking distance of their homes. The Big Apple convenience store, which would sell an array of grocery items, would provide that.

Specifically, the Transportation Plan provides that:

“Vibrant neighborhoods include nearby, small-scale commercial areas that provide both convenient service and natural meeting places. Routine, daily services should be within walking distance of residents of all neighborhoods, as long as the businesses providing the services are small-scale, are designed compatibly with residences, and fit into the fabric of the neighborhood.”

In this case, the convenience store would also benefit the school children who attend Lyseth and Lyman Moore Middle Schools, which school complex is almost directly across Auburn Street from the site. Children who reside in the apartment complexes would no longer need to walk through the more dangerous and heavily trafficked parking lot of Northgate.

PRETI, FLAHERTY, BELIVEAU, PACHIOS & HALEY, LLC

Alex Jaegerman, City Planner

May 11, 1999

Page 3

School signs, crosswalks and crossing guards already in place would facilitate the foot traffic to the newer, closer store.

In support of this Application, we have attached a number of documents:

1. Deed
2. Vicinity Map
3. Photos of property and surrounding areas
4. Plot Plan
5. Elevations Plan which shows the proposed renovations

We appreciate the opportunity to present this to the Board at its May 25th workshop and look forward to discussing it with you. In the meantime, please feel free to call me if you would like any further clarification of this Application.

Sincerely,


Jeanne T. Cohn-Connor

JTCC/jp

cc: Mr. Charles Sheehan

\\E:\BROWN\1999\Jaegerman ltr 041599.doc

PRETI, FLAHERTY, BELIVEAU, PACHIOS & HALEY, LLC
ATTORNEYS AT LAW

ONE CITY CENTER, P.O. BOX 9546, PORTLAND, MAINE 04112-9546
TELEPHONE: (207) 791-3000 – TELEFAX (207) 791-3111
INTERNET: WWW.PRETI.COM – E-MAIL: ADMIN@PRETI.COM

May 11, 1999

HAND DELIVERY

Kandi Talbot, Planner
City of Portland
Portland City Hall
389 Congress Street
Portland, ME 04101

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Dear Kandi:


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1. Two copies of the Application for Zoning Amendment, together with copies of the deed and vicinity map.
2. Check payable to the City of Portland for \$400 representing the filing fee for the Application.
3. Two copies of the Supplementary Letter dated May 11, 1999, together with several photos of the property and surrounding areas.
4. Elevations Plan.

We hand-delivered the Plot Plan to you last week; please let me know if you would like additional copies of it.

Please feel free to call me if you have any questions with the enclosed. We look forward to presenting this to the Board at the workshop on May 25, 1999.

Sincerely,


Jeanne T. Cohn-Connor

MEMBERS:

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JTCC/jp
cc: Mr. Charles Sheehan
JTCC \E:\BROWN\1999\Jaegerman 051099.doc

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20350
D E E D

103

KNOW ALL MEN BY THESE PRESENTS:

THAT REPROCO, INC., A Delaware corporation with an office in First National Bank Bldg. ~~XXXXXXXXXXXX~~ XXXXXX (no street number), Bartlesville, Oklahoma 74003, hereinafter referred to as Grantor, in consideration of the sum of TEN AND NO/100- - - - - - Dollars (\$10.00), and other valuable considerations, in hand paid, the receipt whereof is hereby acknowledged, Grantor does hereby grant, bargain, sell and convey

unto C. N. BROWN COMPANY, a Maine corporation

with an office at 110 Main Street, P.O. Box 200, South Paris, Maine, 04281, hereinafter referred to as Grantee, Grantee's heirs or successors and assigns, the following described premises and property situated in the County of Cumberland, State of Maine, to-wit:

A certain lot or parcel of land, with the buildings thereon, situated on the westerly side of Auburn Street, in the City of Portland, County of Cumberland and State of Maine, bounded and described as follows:

Beginning at an iron on the westerly side line of Auburn Street at the southeasterly corner of land conveyed by Alexander A. McIntyre, et al, to Joseph M. F. Etheze, et al, by deed dated October 13, 1945, and recorded in Cumberland County Registry of Deeds in Book 1796, Page 156; thence South 6° 04' West by the westerly side line of Auburn Street, two hundred nine and four tenths (209.4) feet to an iron at the northeasterly corner of land designated by the said McIntyre as a proposed street; thence South 80° 03' West by said proposed street, eighty-eight and forty-three hundredths (88.43) feet to an iron; thence North 6° 04' East by land of Richard B. Bowley, et al, two hundred nine and eight tenths (209.8) feet to an iron in the southerly side line of said Etheze land; thence North 80° 18' East by said Etheze land, eighty-eight and thirty-two hundredths (88.32) feet to the point of beginning.

The above described courses are magnetic as of the year 1962.

Being a portion of the premises conveyed by Community Oil Company, Inc. to Richard B. and Ruth J. Bowley by deed dated March 14, 1946 and recorded in said Registry of Deeds, Book 1807, Page 216.

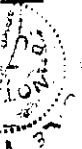
This conveyance is made subject, however, to the rights and privileges conveyed by Richard B. Bowley to Central Maine Power Company and New England Telephone & Telegraph Company by deed dated August 19, 1955 and recorded in said Registry of Deeds, Book 2276, Page 295.

Excepting and reserving, however, to the said Bowleys, their heirs and assigns, a right of way for passing and re-passing and for the maintenance of utility services, fifteen (15) feet in width, and being seven and one-half (7½) feet on either side of the following described center line: Beginning on the westerly side line of Auburn Street at a point forty-eight and two tenths (48.2) feet northerly from the southeasterly corner of the premises above described; thence North 83° 56' West, eighty-five (85) feet to land of Richard B. Bowley, et al. Provided, however, that if and at such time as said proposed street above referred to shall have been constructed in such a manner as to allow reasonable access to the said premises of Richard B. Bowley, et al, then the right of way herein reserved shall be terminated; provided further, said right of way as herein reserved shall not terminate, even though said proposed street has been constructed to provide reasonable access as aforesaid, unless said proposed street shall first qualify as a sufficient street access to the remaining land of Grantors as defined and prescribed by the then applicable zoning and other applicable ordinances of the City of Portland.

There is also conveyed hereby the following strip of land five (5) feet in width adjacent to the westerly boundary line of the above described premises in said City of Portland bounded and described as follows: Beginning at the iron situated at the northwesterly corner of the above described premises at land formerly of said Etheze, now of James G. Lamson, et al; thence South 80° 18' West by said land formerly of Etheze five and two tenths (5.2) feet to a stake; thence South 6° 04' West by land of said Richard B. Bowley, et al, one hundred twenty-eight and twenty-nine hundredths (128.29) feet to a stake; thence South 83° 56' East again by said Bowley land five (5) feet to the iron at the southwesterly corner of the above described premises; thence by the westerly boundary line of the above described premises North 6° 04' East one hundred twenty-nine and seven tenths (129.7) feet to the iron at the point of beginning; provided that Grantee, by acceptance of this deed, agrees for itself and its successors and assigns, that it and they shall not cut, remove, damage or destroy the pine trees now growing on said five foot strip of land, except that Grantee, its successors and assigns, may prune and otherwise trim branches and parts of said pine trees to improve the appearance thereof and to prevent such branches or parts of said pine trees from encroaching upon the first above described parcel of land as herein conveyed; said obligation of Grantee, its successors and assigns shall be a covenant to run with and bind said five foot strip of land, provided that only the then owner of said five foot strip of land shall have the obligation for fulfillment of said covenant and the liability for the breach thereof.

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same being premises conveyed to Grantor by deed dated January 23,
1970, of record in the office for recording of deeds in
Cumberland County, Maine, in Deed Book 3116
page 15; and re-recorded with said Registry on July 28, 1970.
in Book 3136, page 841.

together with all improvements, equipment and personal property thereon
and the appurtenances thereunto belonging except: Phillips 66 signs
and indicia and credit card imprints, if any.

Grantor makes no warranty, covenant or representation of any kind, either express or implied, as to the quality, condition or fitness of the improvements, equipment and personal property covered hereby for any purpose, and Grantee, by its acceptance hereof, so acknowledges and accepts same in their present condition and waives the benefit of any covenant or warranty as may be implied by law.

Tanks and equipment covered hereby may contain flammable liquids and/or gases and may have contained flammable leaded gasoline. Same should not be used, for storage or otherwise, of any substance whatsoever, liquid or otherwise, for human or animal internal consumption or skin contact or any other use that would later involve such consumption or contact or any other use that would be injurious to any person or animal.

TO HAVE AND TO HOLD said premises and property unto Grantee, Grantee's heirs or successors and assigns, forever, and, Grantor does hereby warrant title thereto unto Grantee, Grantee's heirs or successors and assigns, against any person or persons whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under Grantor, but not otherwise, except and this deed is subject to current taxes and assessments which are assumed by Grantee, such matters as may be disclosed by an accurate survey, rights of way, easements, reservations and restrictions of record, if any, governmental regulations applicable to the premises, rights of way and easements for public utilities, if any, and any streets, roads or highways abutting the premises or within the boundaries of which any portion of the above described premises and property may be located and to the rights of the public therein, and to the following: None

IN WITNESS WHEREOF, Grantor has caused this deed to be signed and attested in its name and behalf and its corporate seal to be hereunto affixed, by its proper corporate officers duly authorized thereunto, the 7th day of July, 1975.

Signed, sealed and delivered in the presence of:

REPROCO, INC.

Walter D. Walker, Witness

By [Signature] Vice President

[Signature], Witness

ATTEST: [Signature] ASST. Secretary

(MS)

106

STATE OF OKLAHOMA)
) SS.
COUNTY OF WASHINGTON)

VEDA MICKELS

Before me, _____, a Notary Public in and for the state and county aforesaid and residing therein, and duly commissioned, sworn and authorized in said state and in said county to take acknowledgments, on this 7th day of July, 1975, personally appeared BETTY E. DALRYMPLE and SPENCER KISSBELL, whose names as Vice President and Secretary, respectively, of REPROCO, INC., a Delaware corporation, are signed to the foregoing instrument and personally known to me and known to me to be such officers and who being by me duly sworn, did say that they are such officers, that their signatures are in their own proper handwriting, that said instrument is executed on behalf of such corporation, that the seal affixed to said instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of such corporation by authority of its Board of Directors and by authority of the bylaws of said corporation and the authorization of said corporation, and said persons, being informed of the contents of said instrument, duly acknowledged the execution of said instrument as such officers, their free and voluntary acts and deeds and the free and voluntary act and deed of such corporation for the uses, purposes and consideration therein stated and declared that the statements therein contained are true; and I do so certify.

Given under my hand and seal of office the day and year aforesaid.

My commission expires:
MARCH 7, 1978

Veda Mickels
Notary Public
(Seal)

SEP 17 1975

REGISTRY OF DEEDS, CUMBERLAND COUNTY, MAINE
Received at 12 H 32 M, and recorded in
BOOK 3743 PAGE 103. Margaret Chisholm Acting Register

PRETI, FLAHERTY, BELIVEAU, PACHIOS & HALEY, LLC
ATTORNEYS AT LAW

ONE CITY CENTER, P.O. BOX 9546, PORTLAND, MAINE 04112-9546
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May 11, 1999

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4. Elevations Plan.

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Please feel free to call me if you have any questions with the enclosed. We look forward to presenting this to the Board at the workshop on May 25, 1999.

Sincerely,


Jeanne T. Cohn-Connor

JTCC/jp
cc: Mr. Charles Sheehan
JTCC\E:\BROWN\1999\Jaegerman 051099.doc

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Joseph E. Gray Jr.
Director of Planning and Urban Development
City Hall, 4th Floor
389 Congress Street
Portland, Maine 04101

Dear Sir:

I am writing about the change in the zoning being proposed by C.N. Brown Co. I am not in favor of the change in zoning to allow an increase in commercial activity. The area is more than adequately served by several stores currently in the area. Auburn Street is already quite congested at peak commuting hours, we have 2 school, (Lyman Moore and Lyseth), in the area. The increase in turning traffic, and children possibly congregating at this store, will only add to the risks that the children currently face as they walk up Auburn Street. Please reject any zoning amendments that will allow a convenience store at the listed location. (194 Auburn Street)

Thank you,



David R. Alvord
46 Melody Lane
Portland, Maine 04103

Fax No: (207) 775-7499

facsimile transmittal

To: Penny Littel, Esq. Fax: 874-8497
 Kandi Talbot Fax: 756-8258

From: Jeanne T. Cohn-Connor, Esq. Date: 8/20/99

Re: CN BROWN - Pages: 5 (including cover sheet)
 194 Auburn St.

Urgent For Review Please Comment Please Reply Please Recycle

Penny & Kandi,
 Attached are our comments
 to the Agreement. Please call me
 with any questions.

Jeanne

If this transmittal is incomplete or illegible, please call Jeanne T. Cohn-Connor at (207) 791-3000.

CONFIDENTIAL

FROM : -----

FAX NO. : 7757499

Aug. 20 1999 10:49AM P2
257 874 8457 P.01

CNBROWN/AUBURNST.REZ
08.16.99

AGREEMENT BETWEEN
CITY OF PORTLAND
AND
C.N. BROWN

AGREEMENT made this day of , 1999 by and between the CITY OF PORTLAND, a body corporate and politic, located in Cumberland County and State of Maine (hereinafter the "CITY") and C.N. BROWN of 194 Auburn Street, Portland, Maine 04102 (hereinafter "C.N. BROWN"),

WITNESSETH:

WHEREAS, C.N. BROWN ~~did request a rezoning~~ ^{submitted an application for zoning amendment} of property located at 194 Auburn Street, in Portland, to that of a B-2 zone; and

WHEREAS, the Planning Board of the City of Portland, pursuant to 30-A M.R.S.A. '4352(8), and after notice and hearing and due deliberation thereon, recommended the rezoning of the property as aforesaid, subject, however, to certain conditions; and

WHEREAS, the CITY by and through its City Council has determined that said rezoning would be pursuant to and consistent with the CITY'S comprehensive land use plan and consistent with the existing and permitted uses within the original zone; and

In that a long-standing gasoline station is situated on a major thoroughfare and also abuts residential property

WHEREAS, the CITY has determined that because of the unusual nature of the development it is necessary or appropriate to impose by agreement the following conditions or restrictions in order to insure that the rezoning is consistent with the CITY'S comprehensive land use plan; and

WHEREAS, the CITY authorized the execution of this Agreement on , 1999;

NOW, THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

Post-It Fax Note	7871	Date	8-20	# of pages	5
To	<i>Kear</i>	From	<i>Penny</i>		
Ct./Dept.		Co.			
Phone #		PHONE #			
Fax #	775-7499	Fax #			

CNBROWN/AUBURNST.REZ
08.16.99

We need to see the 2 attachments. Janet Donovan will call Kandi about that.

Three

1. The CITY shall amend the Zoning Map of the City of Portland, dated March 1958, as amended and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by '14-49 of the Portland City Code, by adopting the map change amendment shown on Attachment 1.

2. The property shall be developed substantially in accordance with the site plan shown on Attachment 2.

amended by the Site Plan

3. C.N. BROWN shall be authorized to establish and maintain a one island gas station with a total of two pumps and retail sales in the structure as ~~presently located on the property~~ in addition to those uses permitted in the R-3 Residential zone.

4. There shall be no speakers or other outside audible systems used in conjunction with the sale of gasoline or any other activity on the premises.

5. The hours of operation of the gas station with retail sales shall be limited to 6:00 a.m. to 10:00 p.m. Monday through Saturday, and 8:00 a.m. through 8:00 p.m. on Sundays. Hours of delivery shall be limited to

P.M.

6. Lighting of the property shall be restricted to the front of the building, with no lighting located along the rear property line ~~or the side of the building~~. In no case shall any lighting spill over onto adjacent residential properties.

EXCEPT FOR LIGHTING OVER THE REAR EMERGENCY EXIT

7. Buffering, in the form of natural landscaping shall be added to the property to protect neighboring residential properties from noise, pollution, and lighting.

8. Signage shall be limited to one (1) free-standing sign on the property, and no more than the two (2) existing advertisement signs presently adorning the canopy and the one (1) advertisement sign presently affixed to the building.

one (1) sidewalk sign

9. Outdoor display of merchandise is prohibited, except for ^{the} display of motor vehicle ~~oil containers sold in conjunction with gasoline and an~~ ice machine.

10.

11. The project shall be required to undergo review by the Portland Planning Board in accordance with the requirements for a Major Site Plan. In addition, C.N. BROWN shall be required to provide a traffic study to the CITY as part of its site plan review.

Such as low shrubs,

12. The provisions of this Agreement are intended to be supplemental to the uses and requirements of the underlying R-3 zone.

The above stated restrictions, provisions and conditions are an essential part of the rezoning, shall run

PRETI, FLAHERTY, BELIVEAU, PACHIOS & HALEY, LLC
ATTORNEYS AT LAW

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August 4, 1999

MEMBERS:

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CHARLES F. DINGMAN
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NELSON J. LARKINS
JEANNE T. COHN-CONNOR
ROBERT O. NEWTON
JOHN S. RUDD
TIMOTHY J. BRYANT
BRIAN L. CHAMPION

SENIOR COUNSEL TO THE FIRM:

COUNSEL:

ROBERT F. PRETI
ALBERT J. BELIVEAU, JR.
ROBERT W. SMITH
GREGORY P. HANSEL
NAOMI SAKAMOTO
PETER S. CARLISLE

ASSOCIATE COUNSEL:

JAMES E. PHIPPS
KEVIN J. BEAL
BONNIE L. MARTINOLICH
TRACEY G. BURTON
DONALD J. SIPE
ROY T. PIERCE
ELIZABETH A. CAMPBELL
JON A. FITZGERALD
JEFFREY W. PETERS
MATTHEW J. LAMOURIE
SIGMUND D. SCHUTZ
SUSAN A. PEREIRA
JOEL H. THOMPSON
SHARON G. NEWMAN**

* Admitted to practice law only in the
District of Columbia.

** Admitted to practice law only in Ohio
and Washington

JOHN J. FLAHERTY
(1929 - 1995)

Alex Jaegerman, Chief Planner
City of Portland
Portland City Hall
389 Congress Street
Portland, ME 04101

Re: C.N. Brown Company/Application for Zoning Amendment

Dear Alex:

I am writing on behalf of the C.N. Brown Company, owner of property at 194 Auburn Street, Portland, Maine. As we discussed on the telephone, C.N. Brown would like to revise its Application for Zoning Amendment, dated May 11, 1999, so that the Application reflects a request for a conditional or contact rezoning.

C.N. Brown recognizes that such a rezoning would likely be subject to certain conditions. The conditions may include:

- (1) specific hours of operation,
- (2) submitting to major site plan review so that, among other things, signage and lighting are addressed, and
- (3) substantial conformance to the site plan that was submitted previously.

After you have had a chance to review this, please call me if there is any further information that I can provide. In addition, please advise me once you have placed this matter on the schedule for the Planning Board Workshop.

Thanks.

Sincerely,


Jeanne T. Cohn-Connor

JTCC/jp

cc: Penny Littell, Esq.
Ms. Kandi Talbot
Mr. Charles Sheehan

JTCC\E:\BROWN\1999\Jaegerman ltr 080499.doc

PRETI, FLAHERTY, BELIVEAU, PACHIOS & HALEY, LLC
ATTORNEYS AT LAW

ONE CITY CENTER, P.O. BOX 9546, PORTLAND, MAINE 04112-9546
TELEPHONE: (207) 791-3000 -- TELEFAX (207) 791-3111
INTERNET: WWW.PRETI.COM -- E-MAIL: ADMIN@PRETI.COM

August 23, 1999

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JOHN S. RUDD
TIMOTHY J. BRYANT
BRIAN L. CHAMPION

SENIOR COUNSEL TO THE FIRM:
HON. GEORGE J. MITCHELL

COUNSEL:
ROBERT F. PRETI
ALBERT J. BELIVEAU, JR.
ROBERT W. SMITH
GREGORY P. HANSEL
NAOMI SAKAMOTO
PETER S. CARLISLE

ASSOCIATE COUNSEL:
JAMES E. PHIPPS
KEVIN J. BEAL
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HAND DELIVERY

Kandi Talbot, Planner
City of Portland
Portland City Hall
389 Congress Street
Portland, ME 04101

Re: C.N. Brown Company/194 Auburn Street

Dear Kandi:

In reviewing the packet of documents that had been put together in connection with the contract zone proposal submitted by the C.N. Brown Company, I noticed that the zoning map, Item No. 5, is incorrect. I am enclosing, with this letter, the correct version of the zoning map. I will also provide a copy to Jennifer Dorr in the event that she is making copies of the map today in preparation for tomorrow's workshop.

With respect to letters from residents, Item No. 10, we have two or three ~~additional letters to enclose within the packet for the workshop. Copies of those~~ letters are also enclosed with this letter and a set will be provided to Jennifer Dorr as well.

Please give me a call if you have any questions with the enclosed.

Sincerely,


Jeanne T. Cohn-Connor

JTCC/jp
Enclosures

cc: Mr. Charles Sheehan (via telecopy 207-743-6383)
Ms. Jennifer Dorr (via Hand Delivery)

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Attachment

