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*Penny St. Louis Littell- Director of Planning and Urban Development  
Marge Schmuckal, Zoning Administrator*

December 15, 2009

Tompkins, Clough, Hirshon & Langer, P.A.  
Three Canal Plaza  
P.O. Box 15060  
Portland, ME 04112-5060  
Attn: Lawrence R. Clough

RE: 1-125 Auburn Street – 375-C-1, 15, 17, 23 (the “Property”) – B-2 Zone and R-P  
Zone with a Stream Protection Overlay

Dear Attorney Clough,

I am in receipt of a request for a determination letter concerning the Property. The B-2 Business Zone covers the lots denoted as 375-C-1, 15, 17. The underlying zone for lot 375-C-23 is an R-P Residential Professional Zone. There is also a Stream Protection Overlay Zone that covers and follows the Fallbrook located to the rear of the Property.

On June 9, 2009 the Portland Planning Board approved, with conditions, the site plan proposal concerning a 12,900 sq ft CVS pharmacy with drive-thru service at the north end of Northgate Plaza, and the refurbishment of the existing building at 125 Auburn Street for H&R Block.

I am not aware of any pre-existing violations concerning the Property or in particular, the Shaw’s Supermarket area. There were and are no pending legal actions in regards to the Property.

If you have any questions regarding this matter, please do not hesitate to contact me at 874-8695.

Very truly yours,

Marge Schmuckal  
Zoning Administrator

Cc: File

TOMPKINS, CLOUGH, HIRSHON & LANGER, P.A.

Counselors at Law  
Three Canal Plaza  
P.O. Box 15060  
Portland, Maine 04112-5060

Lawrence R. Clough  
David M. Hirshon  
Leonard W. Langer  
Marshall J. Tinkle\*

Tel: (207) 874-6700  
Fax: (207) 874-6705  
E-Mail: lrclough@tchl.com  
\* also licensed in MA, NH and DC

December 9, 2009

Marge Schmuckal, Zoning Administrator  
CITY OF PORTLAND  
389 Congress Street  
Portland, ME 04101

**Re: A & D Realty LLC and 125 Auburn Street LLC**  
**1-125 Auburn Street, Portland**  
**Map 375, Lots 1, 15, 17, and 23 → K-P**

Dear Marge: -C- B-2

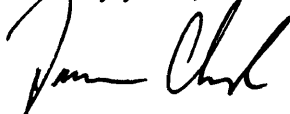
This is the property I emailed you about for which the Planning Board gave recent site plan approval (copy enclosed) to construct a new freestanding CVS and renovations to permit H&R Block to occupy the property.

I am interested in receiving a letter from you indicating the compliance status of the pre-existing improvements shown on the enclosed tax map, with particular reference to the Shaw's Supermarket property.

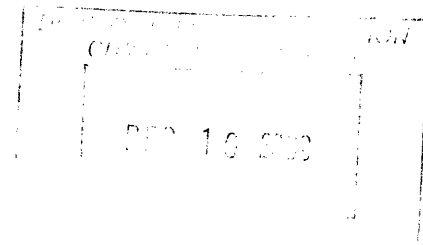
Our check for \$150.00 is enclosed.

I would appreciate your assistance. Please call if there is anything you need since this needs to close on December 18, 2009.

Sincerely yours,

  
Lawrence R. Clough

LRC/sdm  
Enclosures





City of Portland  
GIS



DISCLAIMER : This is a product of the City of Portland MIS Department. The data depicted here have been developed with cooperation from other federal, state and local agencies. The City of Portland expressly disclaims responsibility for damages or liability that may arise from the use of this map.

Copyright 2007  
City of Portland  
389 Congress St.  
Portland, Maine  
04101

**CITY OF PORTLAND, MAINE**  
**PLANNING BOARD**

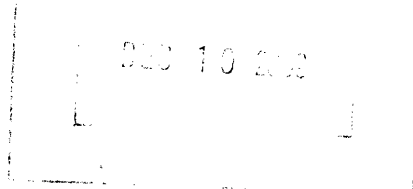
David Silk, Chair  
Shalom Odokara, Vice Chair  
Bill Hall  
Joe Lewis  
Lee Lowry, III  
Janice Tevanian  
Michael J. Patterson

June 23, 2009

A & D Realty LLC  
c/o Frank Normandin  
Winslow Property Management  
5 Militia Drive  
Lexington, MA 02421

Bradlee Mezquita  
Appledore Engineering, Inc  
177 Corporate Drive  
Portsmouth, NH 03801

**RE: Northgate Plaza/CVS Expansion with Pharmacy Drive-thru/H&R Block Refurbishment  
Vicinity of 125 Auburn Street  
Application # 2009-0010  
CBL 325 C001 and C023**



Dear Mr. Normandin and Mr. Mezquita:

On June 9, 2009, the Portland Planning Board considered the proposal for a 12,900 sq ft CVS Pharmacy with drive-thru service at the north end of Northgate Plaza, and the refurbishment of the existing building at 125 Auburn Street for H&R Block. The Planning Board reviewed the proposal for conformance with the B2 Conditional Use Standards and Site Plan Ordinance. The Planning Board voted 4-0 (Odokara, Lewis and Tevanian absent) to approve the application with the following motions and conditions as presented below.

**CONDITIONAL USE AND SITE PLAN REVIEW**

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Planning Board Report # 24-09, relevant to Portland's Site Plan Ordinance, Conditional Use Standards and other regulations, and the testimony presented at the Planning Board and other findings, the Planning Board voted 4-0 (Odokara, Lewis and Tevanian absent):

**A. Re Lot C-1 Northgate Plaza/CVS Expansion/Drive thru:**

That the plan is in conformance with the site plan standards of the land use code, and 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 conditions:

- i. That the applicant shall submit copies of the required permits from the MDEP prior to the issuance of a building permit; and
- ii. The applicant shall provide documentation, prior to the issuance of a building permit, that the submitted *Maine Traffic Resources Drive Through Survey* took place during a peak month in terms of seasonal activity and traffic activity at the drive-through. If the supporting documentation indicates that the reported queue estimate is insufficient, the applicant shall submit revised proposals to mitigate or provide adequate stacking, to be reviewed and approved by the Planning Authority prior to the issuance of a building permit; and

- iii. That the final plan set shall incorporate the submitted Plan of the Drive-thru/Crosswalk Details, dated June 8, 2009 which confirms details of measures and design elements (e.g. signage, sidewalk material, bollards, etc.) along the frontage of the shopping center that would warn pedestrians of potential vehicle conflict; and
- iv. The applicant shall be responsible for contributing \$2,500.00 towards the installation of pedestrian "count-down" signal heads for the shopping center driveway at the Auburn Street/Site Drive intersection, prior to the issuance of a Certificate of Occupancy; and
- v. That the Landscape Plan shall be revised and submitted for review and approval prior to the issuance of a building permit; such revisions to include raising the fence along the rear of the site to 8 feet and extending it 60-75 feet in an easterly direction to screen the Cyr property; tree and other planting along the proposed fencing; and two to three trees in the linear rain garden if compatible with the storm water plan; and
- vi. That the applicant shall submit a revised lighting proposal, including catalog cuts, pole heights and associated photometric plan, for review and approval by the Planning Authority prior to issuance of a building permit; and
- vii. That the applicant shall install wooden guard rails around the rain gardens. The wooden guard rails may allow a reasonable number of openings to allow pedestrian access; and
- viii. All signage, whether included in the approved plan set or not (both free standing and wall mounted) shall be subject to separate sign permits and approvals; and
- ix. That the pharmacy drive-thru hours shall be limited to 7am to 11pm everyday.

**B. Re Lot C-23 Refurbishment of existing building for H&R Block:**

That the plan is in conformance with the site plan standards of the Land Use Code subject to the following conditions:

- i. That in the event the applicant or his successor sell Lot C-23, a permanent easement that secures additional parking spaces (the number being as necessary to meet zoning requirements in place at that time) located in the Plaza for the dedicated use of Lot C-23, shall be submitted for the City's Associate Corporation Counsel review and approval prior to the sale; and
- ii. That the applicant shall submit a revised lighting proposal, including catalog cuts, pole heights and associated photometric plan, for review and approval by the Planning Authority prior to issuance of a building permit; and
- iii. All signage (both free standing and wall mounted), whether included in the approved plan set or not, shall be subject to separate sign permits and approvals.

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

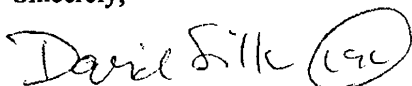
and impervious surfaces shown on the site plan. No action, other than an amendment approved by the planning authority or Planning Board, and field changes approved by the Public Services authority as provided herein, by any authority or department shall authorize any such modification or alteration.

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 the approved plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (\*.dwg), release AutoCAD 2005 or greater, prior to the issuance of a building permit. At the conclusion of the project, the digital as built plans shall be submitted prior to the issuance of a certificate of occupancy.
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, Planner at (207) 874- 8728.

Sincerely,

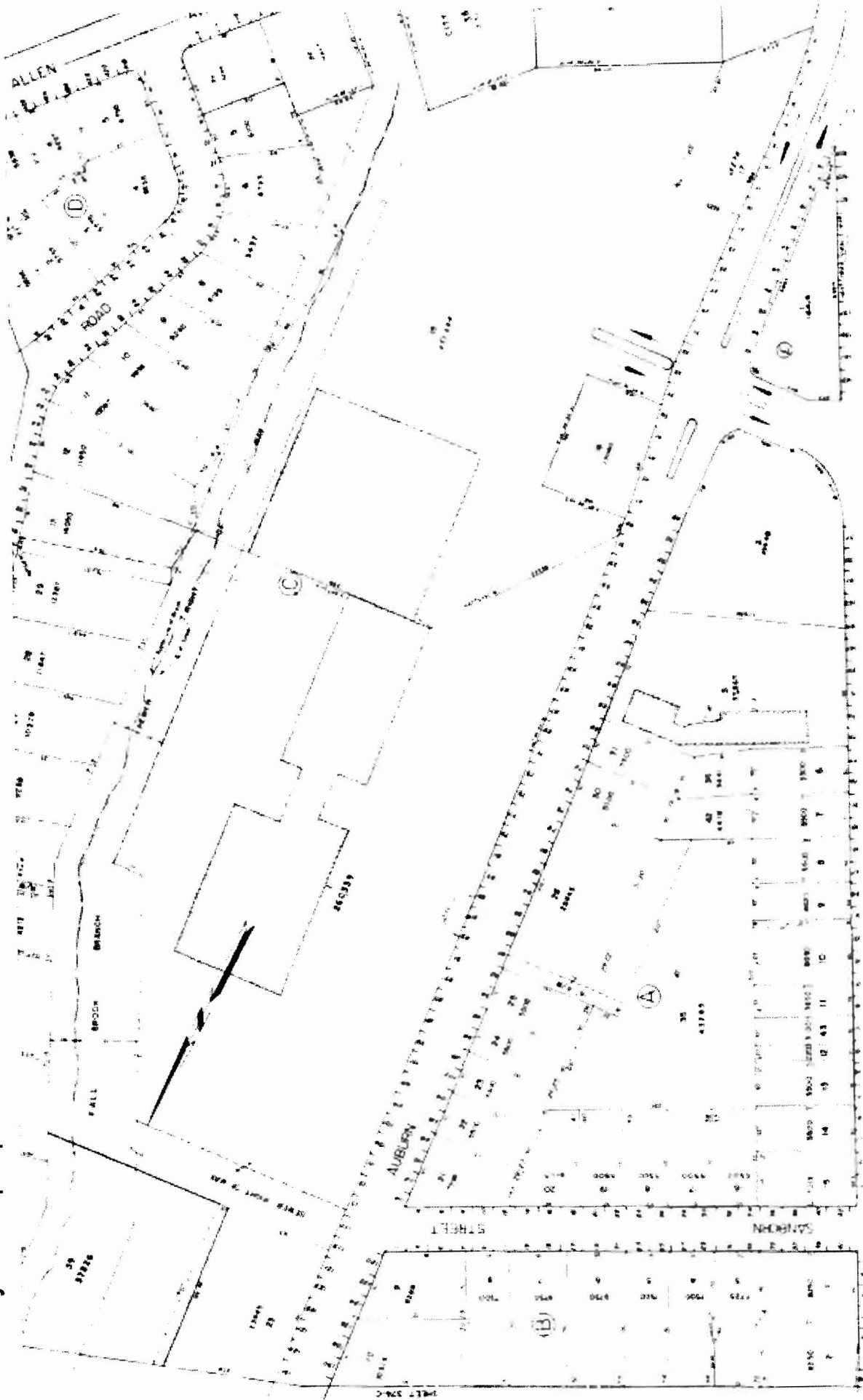


David Silk, Chair  
Portland Planning Board

Attachments:  
Performance Guarantee Packet

DEC 10 1 00

community retail properties.



**SITE AS IS**

# DISPLAY THIS CARD ON PRINCIPAL FRONTAGE OF WORK CITY OF PORTLAND

Please Read Application And Notes, If Any, Attached

BUILDING PERMIT

Permit Number: 090976

PERMIT ISSUED

This is to certify that A & D REALTY LLC % WINDOW PRODUCTION MGMT/TRADING

has permission to Build new 12480 sq ft "CVS Pharmacy"

NOV - 4 2009

AT 21 AUBURN ST 375 C001001

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 is used-in. 24 HOUR 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. CAPT. R. [Signature]  
Health Dept. \_\_\_\_\_  
Appeal Board \_\_\_\_\_  
Other \_\_\_\_\_  
Department Name \_\_\_\_\_

[Signature] 11/4/09  
Director - Building & Inspection Services

PENALTY FOR REMOVING THIS CARD



Form # P 04

DISPLAY THIS CARD ON PRINCIPAL FRONTAGE OF WORK

# CITY OF PORTLAND

BUILDING DEPARTMENT

## PERMIT

Permit Number: 090967

Please Read Application And Notes, If Any, Attached

This is to certify that A & D REALTY LLC % WINDOW PR (MGMT/TR)

has permission to Remove 12,480 sq ft of a building, rebuild wall

AT 21 AUBURN ST (C) 375 C001001

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 used-in. 2 HOUR 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. CAPT. R. [Signature]  
Health Dept. \_\_\_\_\_  
Appeal Board \_\_\_\_\_  
Other \_\_\_\_\_  
Department Name \_\_\_\_\_

[Signature] 10/9/09  
Director - Building & Inspection Services

PENALTY FOR REMOVING THIS CARD

# DISPLAY THIS CARD ON PRINCIPAL FRONTAGE OF WORK CITY OF PORTLAND

## BUILDING DEPARTMENT

# PERMIT

Permit Number: 090829

PERMIT ISSUED

OCT - 8 2009

CB 375-0023001

Please Read Application and Notes, if Any, Attached

This is to certify that 125 AUBURN STREET LLC Architecture Consulting  
has permission to Professional Offices H&R Block Change Use, Restoration of Existing building into Office Space  
AT 125 AUBURN ST CB 375-0023001

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 lathed or otherwise enclosed-in. 24 HOUR 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. [Signature]  
Health Dept. [Signature]  
Appeal Board \_\_\_\_\_  
Other \_\_\_\_\_  
Department Name \_\_\_\_\_

[Signature] 10/6/09  
Director - Building & Inspection Services

**PENALTY FOR REMOVING THIS CARD**



# CITY OF PORTLAND, MAINE

Department of Building Inspections

## Original Receipt

12-10 2009

Received from Tompkins, Clough, Hingham

Location of Work 1-125 Auburn St - Arises

Cost of Construction \$ \_\_\_\_\_ Building Fee: \_\_\_\_\_

Permit Fee \$ \_\_\_\_\_ Site Fee: \_\_\_\_\_

Certificate of Occupancy Fee: \_\_\_\_\_

Total: 150

Building (I1) \_\_\_\_\_ Plumbing (I5) \_\_\_\_\_ Electrical (I2) \_\_\_\_\_ Site Plan (U2) \_\_\_\_\_

Other Zoning Determination

CBL: 375

Check #: 30360 Total Collected \$ 150

**No work is to be started until permit issued.  
Please keep original receipt for your records.**

Taken by: [Signature]

WHITE - Applicant's Copy  
YELLOW - Office Copy  
PINK - Permit Copy