



**CITY OF PORTLAND**  
**Planning & Urban Development**  
**Christine Grimando, AICP, Planning Director**

April 12, 2019

Banyan North LLC  
13 Kinnaird Street  
Cambridge, MA 02139

Michael Barton, Manager  
The Congress Group of Maine  
78 Lincoln Street  
Portland, Maine 04103

Jason G Howe  
Bergen Parkinson Attorneys  
62 Portland Road, Suite 25  
Kennebunk, Maine 04043

Project Name: **Taco Bell Amendment: to address condition on #2016-007 approved site plan**

Project ID: PL-000565-2019  
Address: 1363 Washington Avenue, Portland CBL: 401 A002001  
Applicant: Banyan North LLC  
Planner: Jean Fraser

Dear Sirs:

On April 12, 2019, the Planning Authority approved with conditions a Level II Site Plan application for the creation of an exit drive at the rear of the site to provide a safe exit route for vehicles wishing to go south on Washington Avenue and allowing for the restriction of the Washington Avenue access to right out only. This is an amendment to the site plan subject of approval #2016-007, and addresses conditions of that approval that sought to secure safe access to the site.

The decision is based upon the application and documents as submitted by the Congress Group of Maine, including C-01 Site Concept Plan and C-02 Details prepared by Bohler Engineering dated 3/29/2019, and legal documents including the executed cross easement agreement for access to the abutting "Rite Aid Drive" dated 4/9/2019.

The Planning Authority found the proposals are in conformance with the Site Plan Standards of the Land Use Code subject to the following waiver and conditions of approval and the standard conditions of approval:

## WAIVER

### *Parking lot layout*

The Planning Authority waives the Technical Standard, Section 1.14 and associated figures, which specify aisle widths and parking space dimensions, to allow the parking lot layout to be based on 50 degree angled parking as shown on the approved Layout Plan.

## SITE PLAN CONDITIONS OF APPROVAL

1. That the Applicant's right, title and interest in the access way proposed in this amendment is based on the submitted signed cross-easement agreement that confirms that the owner and a specific buyer have rights for access over the "Rite Aid Drive" abutting the site to the north. This easement shall be recorded in the Cumberland County Register of Deeds prior to the issuance of a building permit (if needed) or prior to the Pre Construction meeting noted below (Standard Conditions). This approval is expressly conditioned on any purchaser of the Property remaining a party to the cross-easement with a right of access.
2. The new rear access drive that connects to the "Rite Aid" Drive (as depicted on the approved site plan, including signage) shall be implemented within 2 months of the date of this letter, or within 2 months of the recommencement of a Taco Bell operation, whichever is later. The Applicant or any purchaser of the Property shall promptly notify the Planning Authority when Taco Bell resumes operations.
3. That the new rear access drive that connects to the "Rite Aid" Drive (as depicted on the approved site plan, including signage) shall be open and accessible through the site and over the "Rite Aid" Drive at all times when the restaurant and drive-through are operating, except during the implementation period as noted in 2 above.
4. That only right-turn vehicle movements are permitted from the driveway onto Washington Avenue (left-turns are prohibited). All vehicles exiting to Washington Avenue southbound shall use the rear exit and "Rite Aid Drive".
5. That Applicant and any purchaser of the property subject to this approval shall execute an assignment and assumption agreement pursuant to which the Applicant assigns and the purchaser agrees to assume ALL obligations and rights (omnibus assignment) associated with this approval, including the payment of fees associated with the cross-easement.
6. That a detailed design of the retaining wall and associated facing blocks, drainage, structural and other elements (such as fencing) shall be prepared by a Professional Engineer and submitted to the Planning Authority for review and approval. Once approved by the Planning Authority, any required building or other permits shall be obtained prior to construction.
7. That the drive-through is approved as part of the Taco Bell use only. If the occupant changes and the drive-through remains in operation, the new occupant shall submit a traffic analyses relating to the new occupant's drive through traffic generation to the Planning Authority for review and approval. If the new occupant's drive through use results in "peak hour" traffic volumes that are greater than those associated with Taco Bell (as documented in the 2016 Taco Bell site plan application), the new occupant may be required to modify the site plan layout and/or obtain a Traffic Movement Permit.

8. The Taco Bell building design was approved in 2016 as being in conformance with the B2 Design Standards (as shown in the attached elevation) based on the understanding that windows would be Solarban 60 Starphire Ultra-Clear Glass (or equivalent) of a tint to match the tint of the existing windows. The elevations shall be maintained in accordance with the approved building design, and any modifications to the elevations, material or glass specifications shall be submitted for review and approval by the Planning Authority prior to implementation.

The approval is based on the submitted site plan. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval.

## STANDARD CONDITIONS OF APPROVAL

Please note the following standard conditions of approval and requirements for all approved site plans:

1. **Develop Site According to Plan** The site shall be developed and maintained as depicted on the site plan and in 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 Planning Authority pursuant to the terms of Chapter 14, Land Use, of the Portland City Code.
2. **Separate Building Permits Are Required** This approval does not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.
3. **Site Plan Expiration** The site plan approval will be deemed to have expired unless work has commenced within one (1) year of the approval or within a time period up to three (3) years from the approval date as agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the one (1) year expiration date.
4. **Performance Guarantee and Inspection Fees** A performance guarantee covering the site improvements, inspection fee payment of 2.0% of the guarantee amount and two (2) final sets of at-scale plans must be submitted to and approved by the Planning Division and Public Works Department prior to the release of a building permit, street opening permit or certificate of occupancy for site plans. If you need to make any modifications to the approved plans, you must submit a revised site plan application for staff review and approval.
5. **Defect Guarantee** A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
6. **Preconstruction Meeting** Prior to the release of a building permit or site construction, a pre-construction meeting shall be held at the project site. This meeting will be held with the contractor, Development Review Coordinator, Public Work's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the Development Review Coordinator will confirm that the contractor is working from the approved site plan. The site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives and confirm the construction management details including delivery and storage of materials and erosion control. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.

7. **Department of Public Works Permits** If work or obstructions will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, site deliveries and equipment siting, a Street Opening and/or Occupancy 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.)
8. **As-Built Final Plans** Final sets of as-built plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (\*.dwg), release AutoCAD 2005 or greater.

The Development Review Coordinator must be notified five (5) working days prior to the date required for final site inspection. The Development Review Coordinator can be reached at the Planning Division at 874-8632. All site

plan requirements must be completed and approved by the Development Review Coordinator prior to the return of the Performance Guarantee. Please schedule any property closing with these requirements in mind.

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

Sincerely,



Christine Grimando, AICP  
City Planning Director

Attachment:

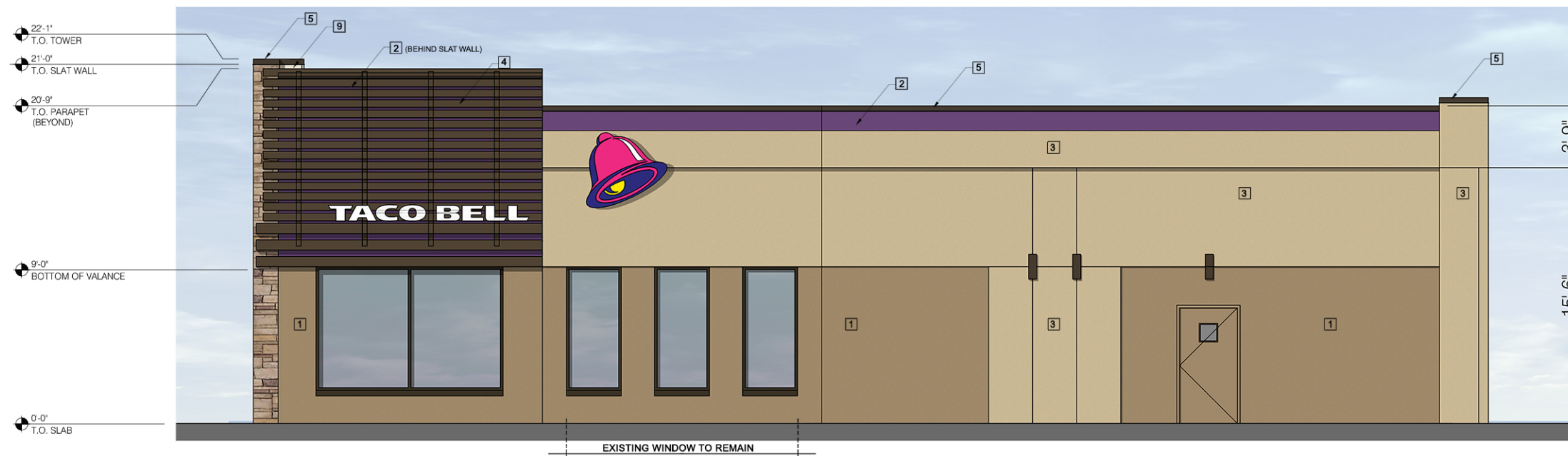
- i. Elevations as approved in 2016
- ii. Performance Guarantee Packet



SYMBOL	AREA	MANUFACTURER	COLOR
1	MAIN BUILDING COLOR (E.I.F.S)	LOTUSAN STO THERM, CI ESSENSE STOLIT LOTUSAN 1.0	NA08-0011 "CAMEL BACK"
2	WALL COLOR BEHIND SCREEN WALL (E.I.F.S)	LOTUSAN STO THERM, CI ESSENSE STOLIT 130 DARK	NA08-0011 "CLEMATIS"
3	ACCENT COLOR (E.I.F.S)	LOTUSAN STO THERM, CI ESSENSE STOLIT LOTUSAN 1.0	NA08-0011 "ROOKWOOD CLAY"
4	ALUMINUM SLAT WALL AND VALANCE COLOR	VENDOR	SW 7034 "STATUS BRONZE" (EQUAL)
5	PARAPET CAP COLOR	DUROLAST	MEDIUM BRONZE (FACTORY FINISH)
6	STONE WALL	BORAL - VERSA STONE	TIGHT CUT - "PLUM CREEK"

**EXTERIOR FINISH SCHEDULE**

NOTE: EXISTING WINDOWS NOTED TO REMAIN.  
NEW GLASS TO BE SOLARBAN 60 STARPHIRE  
ULTRA-CLEAR GLASS, TINT TO MATCH EXISTING



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15034.000

CONTRACT DATE:  
BUILDING TYPE:  
PLAN VERSION:  
SITE NUMBER:  
STORE NUMBER:

TACO BELL  
1363 WASHINGTON AVE.  
PORTLAND, ME



**EXTERIOR ELEVATIONS**

PLOT DATE: