

### **PROJECT DESCRIPTION:**

The "Project" consists of development of a 6,010 s.f. parcel of land adjacent to Route 295 on Marginal Way, Portland, Maine. The parcel of land does not currently have an address but is labeled as Map # 34A, Chart B, Lot # 2. The existing site was previously developed and currently has a open air bus shelter canopy with a semicircular driveway to the west of the bus shelter and subject property. Some trees and other vegetation are currently present on the site.

The current Project encompasses redevelopment of the site to house the historic Miss Portland Diner which is currently held in storage by the City of Portland. The current project will propose to add a new attached building that will house additional dining space, a cashier, memorabilia cases, men's & women's accessible restrooms, a commercial kitchen, utility room and freezer/cooler enclosure.

Parking for the facility will be shared and located on the adjacent parcel of land that was previously deeded from the City of Portland, Maine to the Maine Department of Transportation (MDOT). On-street parallel parking on Marginal Way, directly in front of the project will be permitted by the City of Portland. A new semicircular driveway to the rear of the property will be included in the construction scope of the Miss Portland Diner Developer that will provide access to the adjacent MDOT property to the southwest of the project.

Applicant: Miss Porter's ~~Diner~~ <sup>"eligible" by history</sup> Date: 3/26/07

Address: Marginal Way C-B-L: ~~034A-B-001E2~~

CHECK-LIST AGAINST ZONING ORDINANCE 442-A-005

NO Drive-Thru

Date -

Zone Location - B-7 # 08-0179

Interior or corner lot -

Proposed Use/Work - to move Miss P. diner & add an addition

Sevage Disposal - City

Lot Street Frontage - No min req -

Front Yard - MAX setback 14-298 CDb - exempt

Rear Yard - None req -

Side Yard - None req

Projections -

Width of Lot -

Height - max → 1 story ok  
min → exempt -

Lot Area - None required

Lot Coverage/ Impervious Surface - 100%

Area per Family - N/A

Off-street Parking - Do not apply } sec. 14-299 (f)

Loading Bays - Do not apply

Site Plan - 2007-0052

- Shoreland Zoning/ Stream Protection - N/A

ok → Flood Plains - MAP 13 - Zone C.

street frontage: min length of Bldg - exempt - "eligible" structure  
w/ie condition → Dumpster screening → if not refrigerated → pickup in 48 hrs 14-299  
ok Bldg entrances - it does directly to the street

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## MEMORANDUM

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**To:** FILE

**From:** Marge Schmuckal

**Dept:** Zoning

**Subject:** Application ID: 2007-0052

**Date:** 3/26/2007

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This property is located within the B-7 Zone which allows a restaurant use without a drive-thru. Because Miss Portland Diner is an eligible structure by definition, such a structure and additions are exempt from minimum height and the front yard set back. All other B-7 zoning requirements are being met. Following is my only condition.

Performance Standards under 14-299 (a) storage: requires that all waste shall be stored in covered containers that do not leak or otherwise permit liquids or solids to escape from the container. All food processing waste shall be stored within a completely enclosed structure and if not refrigerated shall be removed from the site in an enclosed container within forty-eight (48) hours of its generation. All enclosed and exterior areas shall be cleaned and sanitized on a regular basis.

Marge Schmuckal  
Zoning Administrator

**From:** Marge Schmuckal  
**To:** RICK KNOWLAND  
**Date:** 3/26/2007 4:44:49 PM  
**Subject:** Miss Portland Diner - Marginal Way

Rick,  
I have put my comments into the system, signing off on this application.  
Marge



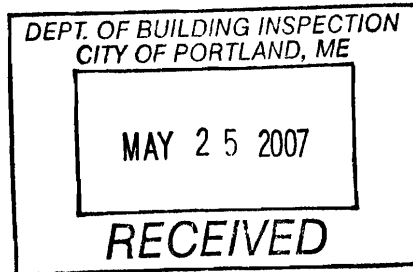
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**Planning and Development Department**  
Lee D. Urban, Director

**Planning Division**  
Alexander Jaegerman, Director

May 23, 2007

Mr. Tom Manning  
Tomaks, LLC  
Mahwah, New Jersey 07430



RE: Miss Portland Diner, 138 Marginal Way, CBL: 442-A-6; #2007-0052

Dear Mr. Manning:

On May 16, 2007 the Portland Planning Authority reviewed and approved for site plan review the proposed Miss Portland Diner and building addition in the vicinity of 138 Marginal Way subject to the following conditions of approval.

1. That the site plan shall be revised for review and approval addressing the comments of Dan Goyette dated May 11, 2007. Since a land survey is already on file in the Planning Office that comment is already addressed. Mr. Goyette's memo is attached.
2. The Applicant shall contribute \$7,000 towards implementation of the Marginal Way Master Plan and \$1,500 towards planned improvements at the Franklin Street and Marginal Way intersection. Applicant shall also be responsible for installing a crosswalk across Marginal Way on the eastside of Chestnut Street (including a tipdown curb). The cost of this improvement and other improvements within the Marginal Way right-of-way may be credited to the applicant's contribution towards the Marginal Way Master Plan. Applicant shall incorporate an appropriate transition between the proposed curb line adjacent to the Miss Portland Diner site and the existing curb line towards the east as reviewed and approved by the City Traffic Engineer. Applicant shall install curb along the easterly edge of access drive or provide evidence that curb will be installed by others.
3. A more appropriate screening material including a manufacturer's catalog cut for the exterior cooler and dumpster shall be submitted for Planning Staff review and approval.
4. The color of the Holophane Esplanade series street lighting pole, bracket and fixture shall be silver metallic aluminum (F264H). For your information the light fixture is supplied by Central Maine Power. The applicant is responsible for purchasing and installing the light base, light pole and bracket including the wiring and the decorative base. Applicant is also responsible for installing the light fixture in coordination with Central Maine Power.

5. The plan submitted for review bears the following “general note”: These drawings are conceptual in nature. Further development, information and detail is necessary for these drawings to fully define construction directives and compliance strategies to all governing codes and regulations... These drawings are not intended for use in bidding, construction, or obtaining governing authority approvals and permits. Thus, the submitted plan shall be finalized such that the general note as it applies to “obtaining governing authority approvals and permits” shall be able to be deleted as follows. Project architect shall submit building sections, details, material specifications and catalogue cuts for proposed addition. The following key architectural details should be addressed with a higher level of design development: cornice detail, screening for rooftop mechanicals, main entrance canopy, and new exterior stairs to the diner. Any exterior repairs and alterations to the historic diner not reflected on the final plan shall be reviewed and approved by Planning Staff. Planning Staff is of the opinion that more compatible roofing options for the historic diner would be a standing seam metal roof or a membrane roof (which can be coated.) Although the diner originally featured asphalt shingles, this is not a compatible choice given the character and material palette of the new addition. Construction drawings for proposed sign shall be submitted for final review and approval.
6. Applicant shall provide further information to Fire Department on details for fire access and available water supply for fire fighting use.
7. The three (3) Dawn Redwoods and two (2) White Birch trees shall be preserved along the northerly edge of driveway. Applicant shall consult with the City Arborist (Jeff Tarling (tel no. 874-8793) prior to construction to determine if any of the existing trees along Marginal Way can be transplanted.
8. That the applicant shall receive approval for a City license for the landscape related improvements within the Marginal Way right-of-way.
9. Catalog cuts of the proposed light fixtures shall be submitted for review and approval. Fixtures shall have a full cut-off feature. Photometric plan shows elevated light levels along certain sections of the site. Plan shall be revised and submitted for review and approval.

The approval is based on the submitted site plan and related submissions.

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

1. Where submission drawings are available in electronic form, the applicant shall submit any available electronic Autocad files (\*.dwg), release 14 or greater, with seven (7) sets of the final plans.
2. A performance guarantee covering the site improvements as well as an inspection fee payment of 2.0% of the guarantee amount and 7 final sets of plans must be submitted to and approved by the Planning Division and Public Works prior to the release of the building permit. If you need to make any modifications to the approved site plan, you must submit a revised site plan for staff review and approval.
3. 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.
4. A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.

5. Prior to construction, a pre-construction meeting shall be held at the project site with the contractor, development review coordinator, Public Work's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
6. 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.)

The 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 the Planning Division 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 Richard Knowland at 874-8725.

Sincerely,

  
Alex Jaegerman  
Planning Division Director

cc: Lee D. Urban, Planning and Development Department Director  
Alexander Jaegerman, Planning Division Director  
Barbara Barhydt, Development Review Services Manager  
Richard Knowland, Senior Planner  
Development Review Coordinator  
Marge Schmuckal, Zoning Administrator  
Michael Bobinsky, Public Works Director  
Jeanie Bourke, Inspections Division  
Kathi Earley, Public Works  
Bill Clark, Public Works  
Jim Carmody, Transportation Manager  
Jeff Tarling, City Arborist  
Penny Littell, Associate Corporation Counsel  
Captain Greg Cass, Fire Prevention  
Assessor's Office  
Approval Letter File  
David Leasure, Architectural Associates, 1344 Washington Avenue, Portland, Maine