



## Conditional Use for Planning Board Review Development Review Application Portland, Maine

Planning and Urban Development Department  
Planning Division

Portland's Planning and Urban Development Department coordinates the development review process for site plan, subdivision and other applications under the City's Land Use Code. Attached is the application form for a Conditional Use where the Planning Board is listed as the reviewing authority rather than the Zoning Board of Appeals. Please note that Portland has delegated review from the State of Maine for reviews under the Site Location of Development Act, Chapter 500 Stormwater Permits, and Traffic Movement Permits.

### **A. Conditional Use: Standards and Criteria – Section 14-474 and Zone Related Criteria**

Conditional uses are listed in the Zoning Ordinance for each zone and these proposed uses must address the criteria contained in Section 14-474 in the written application. In addition to the criteria in Section 14-474, each application must address any applicable conditional use standards contained in the applicable zone and the proposed specific use. The Zoning Ordinance specifies when the Planning Board is designated as the reviewing authority rather than the Zoning Board of Appeals. This application is for Planning Board reviews only.

Upon showing that a proposed use is a conditional use under this article, a conditional use permit shall be granted unless the Board determines that:

- a. The volume and type of vehicle traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces required are not substantially greater than would normally occur at surrounding uses or other allowable uses in the same zone; and
- b. The proposed use will not create unsanitary or harmful conditions by reason of noise, glare, dust, sewage disposal, emissions to the air, odor, lighting, or litter; and
- c. The design and operation of the proposed use, including but not limited to landscaping, screening, signs, loading, deliveries, trash or waste generation, arrangement of structures, and materials storage will not have a substantially greater effect/impact on surrounding properties than those associated with surrounding uses or other allowable uses in the zone.

### **B. Site Plan Application: Please submit the Conditional Use Application in addition to the applicable Site Plan Application.**

Portland's development review process and requirements are outlined in the Land Use Code (Chapter 14) which is available on our website:

Land Use Code: <http://me-portland.civicplus.com/DocumentCenter/Home/View/1080>

Design Manual: <http://me-portland.civicplus.com/DocumentCenter/View/2355>

Technical Manual: <http://me-portland.civicplus.com/DocumentCenter/View/2356>

**Planning Division**  
Fourth Floor, City Hall  
389 Congress Street  
(207) 874-8719

**Office Hours**  
Monday thru Friday  
8:00 a.m. – 4:30 p.m.

**PROJECT NAME:** The Waterfront Market Place at Ocean Gateway

**PROPOSED DEVELOPMENT ADDRESS:**

Commercial Street/Thames Street, southerly sideline between Maine State Pier and Ocean Gateway

**ASSESSOR'S CHART/BLOCK/LOT (s):** 444-A004, 444-A003(portions)      **Applicable Zone:** EWPZ

Contact Information

<b>Applicant</b>	<b>Applicant Contact Information</b>
Name: Bill Needelman, Waterfront Coordinator City of Portland, Maine Address: 389 Congress Street, Portland, Maine 04101 City/State : Portland, ME              Zip Code:	Work # 207-874-8722 Home# Cell #    Fax# e-mail: wbn@portlandmaine.gov

**RIGHT, TITLE OR INTEREST:**

See the attached Subdivision Map

**VICINITY MAP:** See attached

**EXISTING USE:** Describe the existing use of the subject property.

Marine Transportation, vacant

**PROPOSED USE:** Describe the proposed use of the subject property.

Occupying a strip of vacant land bounded on the west by the entrance to the Maine State Pier, on the north by the Eastern Promenade Trail, on the east by the Hancock Street entrance to Ocean Gateway, and on the south by the Ocean Gateway fence, the City of Portland proposes to establish a seasonal market greenway to support cruise ship and ferry visitations. Currently, uses such as street artists, tour operators, and food vendors compete for sidewalk space with pedestrians and sidewalk café seating. The Waterfront Market at Ocean Gateway intends to provide a location for seasonal vending while relieving congestion on the sidewalks most impacted by marine passenger operations. The Marketplace intends to mix informal pop-up street artist tables with a limited number of fixed leaseholds for seasonal food, art, and tour vending.

Informal street artist vending currently may use this area (and any sidewalk area) as allowed under City Code, Sec. 19-23. The proposal would continue and promote use of the Marketplace by artists. In addition to artist tables, “market stall clusters” will allow for limited use of portions of the land for fixed leasehold seasonal vendors.

Implementation of the Marketplace is proposed for two phases. The initial phase is proposed on City land located between Maine State Pier and India Street, south of the Eastern Promenade Trail. Occupying up to 6800 sq ft of land, the “initial market stall cluster” will be populated with no more than 5 seasonal leaseholds totaling no more than 1600 sq ft of interior spaces. Street artists will be invited to fill in areas between the leaseholds and in areas outside of the stall clusters.

A future phase of up to two additional market clusters are proposed east of India Street. Ownership of the vacant green strip east of India Street is divided between the State of Maine, on a remnant of the historic rail right of way located south of the Eastern Promenade Trail, and the City. No market stall leases would be executed east of India Street until right title and interest to do so is received from the Maine Department of Transportation. Future phases of market stall clusters would be limited to no more than 3000 sq ft of land occupied by no more than 1500 sq ft of interior space.

For both initial and future phases, booths, kiosks, tents, trucks, trailers, prefabricated storage containers, and all similar fixed or mobile structures would be considered interior space and subject to the limitations described above.

**TYPE OF CONDITIONAL USE PROPOSED (Refer To Specific Provisions Of Land Use Code Authorizing The Proposed Conditional Use).**

Eastern Waterfront Port Zone, 14-301.1, Conditional Use14-301.1b.c:

c. Passenger support services supporting a marine passenger use listed under 14- 301(a)(marine passenger). The total ground floor area occupied by any combination of the following uses (regardless of ownership) shall not exceed 35% of the gross floor area of the principle associated marine passenger use and no more than 35,000 square feet cumulative within the EWPZ:

- i. Retail;
- ii. Restaurants/food service other than street vendors;
- iii. Retail service;
- iv. Passenger information services.

**SITE PLAN:** See attached

**CONDITIONAL USE STANDARDS AND CONDITIONS – 14-474**

Address the following criteria in your written application and any applicable conditional use standards contained in the zoning code for the specific use. Upon showing that a proposed use is a conditional use under this article, a conditional use permit shall be granted unless the Board determines that:

- a. The volume and type of vehicle traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces required are not substantially greater than would normally occur at surrounding uses or other allowable uses in the same zone; and
- b. The proposed use will not create unsanitary or harmful conditions by reason of noise, glare, dust, sewage disposal, emissions to the air, odor, lighting, or litter; and
- c. The design and operation of the proposed use, including but not limited to landscaping, screening, signs, loading, deliveries, trash or waste generation, arrangement of structures, and materials storage will not have a substantially greater effect/impact on surrounding properties than those associated with surrounding uses or other allowable uses in the zone.

**CONDITIONAL USE AUTHORIZED BY: SECTION 14- \_\_\_\_\_**

Address any specific conditional use standards for the specific use contained in the zoning code in the written submission.

**APPLICATION FEES:**

**(Payment may be made by Credit Card, Cash or Check payable to the City of Portland.)**

<p>___ Conditional Use Review (\$100.00)</p> <p>(Please submit a separate application for the applicable site plan review. Fees and charges are listed within the application)</p>	<p>The City invoices separately for the following:</p> <ul style="list-style-type: none"> <li>• Notices (\$.75 each)</li> <li>• Legal Ad (% of total Ad)</li> <li>• Planning Review (\$40.00 hour)</li> <li>• Legal Review (\$75.00 hour)</li> </ul> <p>Third party review fees are assessed separately. Any outside reviews or analysis requested from the Applicant as part of the development review, are the responsibility of the Applicant and are separate from any application or invoice fees.</p>
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**APPLICATION SUBMISSION:**

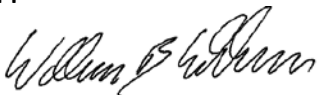
1. All site plans and written application materials must be submitted electronically on a CD or thumb drive with each plan submitted as separate files, with individual file which can be found on the Electronic Plan and Document Submittal page of the City’s website at <http://me-portland.civicplus.com/764/Electronic-Plan-and-Document-Submittal>
2. In addition, one (1) paper set of the plans (full size), one (1) paper set of plans (11 x 17), paper copy of written materials, and the application fee must be submitted to the Building Inspections Office to start the review process.
3. The application must be complete, including but not limited to the contact information, project data, application checklists, wastewater capacity, plan for fire department review, and applicant signature. The submissions shall include one (1) paper packet with folded plans containing the following materials:
  1. One (1) full size site plans that must be folded.
  2. One (1) copy of all written materials or as follows, unless otherwise noted:

Applicant Checklist	Planner Checklist	# of Copies	
		1	Application form that is completed and signed.
		1	Cover letter stating the nature of the project.
		1	Evidence of right, title and interest.
		1	Written Submittals that address the conditional use standards of Sec. 14-474.
		1	Written submittals that address any applicable standards of review contained in the zoning code for the specific use.
		1	A stamped standard boundary survey prepared by a registered land surveyor at a scale not less than one inch to 50 feet and containing the information required for the applicable level of site plan review.
		1	An accompanying site plan application, as applicable.

**APPLICANT SIGNATURE:**

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

**This application is for a Conditional Use Review. It is not a permit to begin construction. An approved site plan, a Performance Guarantee, Inspection Fee, Building Permit, and associated fees will be required prior to construction. Other Federal, State or local permits may be required prior to construction, which are the responsibility of the applicant to obtain.**

<p><b>Signature of Applicant:</b></p> 	<p><b>Date:</b> 5-26-16</p>
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