

12 Motives

(2)

(1)

(Michael Sparks)

Sparks, Dick - 1000 Baxter Blvd. - abutter

429-T-2 - State of Maine

429-T-14 - Michael Sparks appeal.

429-T-7

429-J-#6. David C. Breunig  
37 Avalon Rd. 04403

#5 - Daniel - W. Anderson &  
Gregory Russo % JVR Inc.  
13-15 Bates St. 04103

7 - James Hoy & Etal. Sto.  
Paul M. Rousseau  
29 Bates St. 04103

11/12 - Douglas T. & Gladys Cole  
48 Berwick St. 04103

George Filabenty - Public Works

Secretary of State  
State House  
Augusta, Me. 04333

429-J-4 - Ervin J. Richardson, Jr.  
Route 11, DeLago Lake, Me.  
5 Bates St. 04075

429-C-4.15 - Embassy Convenience  
Stou, Ave.

1931 Washington St. Canton  
04202

(2)

~~429 - C - 5~~

429 - H - 31 - Fred & Margaret A. Kaserman  
170 Blackstone Rd., Phil., Mo. 04105

47 - Donna E. & James B. Spingard  
501 Wash. ave., 04103

46 - Kenneth M. DePablo  
P.O. Box 844, West, Mo. 04092

29 - Jessie P. Hosman  
10 Emerson St. 04103

CITY OF PORTLAND, MAINE  
M E M O R A N D U M

*1000 Baxter Blvd.*

TO: Chairman and Members of the Portland Planning Board, Chairman and Members of the Portland Board of Appeals, Planning Staff, and Other Interested Parties

FROM: Kathleen A. Conner, Senior Planner *KC*

DATE: July 11, 1988

SUBJECT: Amendment to the City Code, Section 14-49 (Zoning Map)

On June 20, 1988 the Portland City Council approved the enclosed amendment to the Portland City Code, which will become effective on July 21, 1988. The zone change is in the vicinity of Bates Street.

Enclosure: Change of zone from R-5 Residence to B-2 Business in the vicinity of Bates Street, I-295, and Baxter Boulevard.



0736

1000 Barts  
Blvd.

AMENDMENT TO THE PORTLAND  
CITY CODE SECTION 14-49  
(ZONING MAP) RE: B-2 BUSINESS  
ZONES BATES ST.

(Planning Board, Jack Humeniuk,  
Chairperson)

IN THE CITY COUNCIL

June 8, 1988

Given first reading.  
June 20, 1988-Read twice and passed, 7 Yeas,  
1 Nay (MacWilliams).

Attest Jane Durgin  
City Clerk.

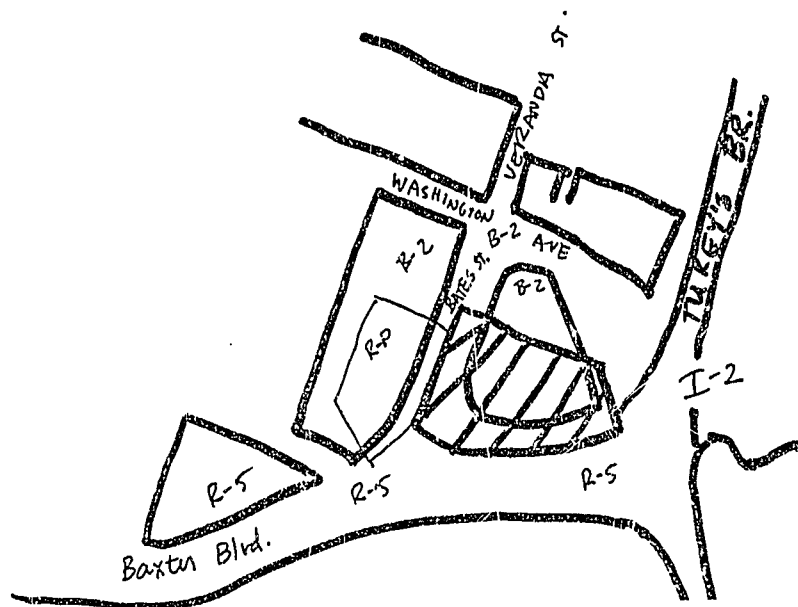


AMENDMENT TO THE PORTLAND CITY CODE  
SECTION 14-49 (ZONING MAP)  
RE: B-2 BUSINESS ZONES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, MAINE, IN THE CITY COUNCIL ASSEMBLED, AS FOLLOWS

THAT, the zoning map of the City of Portland, Maine (1958), as amended, and on file in the Office of Planning and Urban Development (incorporated into this code by Section 14-49) be further amended as shown on the fragmentary map below entitled "Change of Zone from R-5 Residence to B-2 Business, in the Vicinity of Bates Street, I-295, and Baxter Boulevard" which fragmentary map is hereby incorporated in and made a part of said zoning map.

CHANGE OF ZONE FROM R-5 RESIDENCE TO B-2 BUSINESS  
IN THE VICINITY OF BATES STREET, I-295, AND BAXTER BOULEVARD



December 8, 1987 Proposed Rezoning from R-5 Residence to B-2 Business

**CITY OF PORTLAND, MAINE**  
ZONING BOARD OF APPEALS



1000 Baxter Boulevard

MERRILL S. SELTZER  
Chairman

JOHN C. KNOX  
Secretary

PETER F. MORELLI  
THOMAS F. JEWELL  
DAVID L. SILVERNAIL  
MICHAEL E. WESTORT  
CHRISTOPHER DINAN

July 25, 1988

Mr. Michael Scarks  
c/o Neptune Properties  
1000 Baxter Boulevard  
Portland, Maine 04103

Dear Mr. Scarks:

Receipt is acknowledged of your application for a height variance for the proposed hotel planned for Lot 429-I-3 off Bates Court, which will have 1000 Baxter Boulevard for its address, but would have access only from Bates Court in the B-2 Business Zone extended by the City Council in a recently approved Zoning Map amendment, which became effective on July 21, 1988.

If the variance is granted, your proposed Inn would be constructed to include seven stories instead of the five stories not to exceed 65 feet, as required by Section 14-183(2)(d) of the City Zoning Ordinance for the B-2 Business Zone.

This height variance will be scheduled for consideration by the Board of Appeals on Thursday afternoon, August 11, 1988, at 3:30 P.M. in Room 209, City Hall, Portland, Maine. A copy of the agenda for that meeting will be sent to you as soon as copies become available for distribution.

Sincerely,

Warren J. Turner  
Zoning Enforcement Inspector

cc: Merrill S. Seltzer, Chairman, Board of Appeals  
Joseph E. Gray, Jr., Director, Planning & Urban Development  
Alexander Jaegerman, Chief Planner  
P. Samuel Hoffses, Chief, Inspection Services  
Fred Williams, Code Enforcement Officer  
Charles A. Lane, Associate Corporation Counsel

**CITY OF PORTLAND, MAINE**  
ZONING BOARD OF APPEALS



1000 Baxter Boulevard

MERRILL S. SELTZER  
Chairman

JOHN C. KNOX  
Secretary

ROBERT J. GAUDREAU  
THOMAS F. JEWELL  
DAVID L. SILVERNAIL  
MICHAEL E. WESTORT  
CHRISTOPHER DINAN

August 15, 1988

Mr. Michael Scarks, Architect  
Neptune Properties  
1000 Baxter Boulevard  
Portland, Maine 04103

Dear Mr. Scarks:

This is in reference to your variance request for Chart 129, Block I, Lot 3, the proposed site of a seven story Inn in the recently expanded B-2 Business Zone which became effective on July 21, 1988. At the August 11, 1988 meeting of the Board of Appeals, the Board voted by a five to one vote to deny your height variance to allow a seven story building instead of the five stories or 65 feet, as contained in the text of the B-2 Business Zone.

The revised B-2 Business Zone will have a height limit of only 45 feet and this amended text for the B-2 Business Zone will become effective on or after September 20, 1988.

A copy of the Board's decision is enclosed for your records.

Sincerely,

*Warren J. Turner*  
Warren J. Turner  
Zoning Enforcement Inspector

cc: Merrill S. Seltzer, Chairman, Board of Appeals  
Joseph E. Gray, Jr., Director, Planning & Urban Development  
Alexander Jaegerman, Chief Planner  
P. Samuel Hoffses, Chief, Inspection Services  
Marland Wing, Code Enforcement Officer  
Charles A. Lane, Associate Corporation Counsel



**CITY OF PORTLAND, MAINE**  
ZONING BOARD OF APPEALS



1000 Baxter Boulevard

MERRILL S. SELTZER  
Chairman  
JOHN C. KNOX  
Secretary  
PETER F. MORELLI  
THOMAS F. JEWELL  
DAVID L. SILVERNAIL  
MICHAEL E. WESTORT  
CHRISTOPHER DINAN

October 31, 1988

Mr. Michael Scarks  
Neptune Properties, Inc.  
1000 Baxter Boulevard  
Portland, Maine 04103

For November 17th meeting of the  
Board of Appeals, at 3:30 P.M.  
Room 209, City Hall, Portland  
Maine

Dear Mr. Scarks:

This will acknowledge receipt of your application for an interpretation appeal before the Board of Appeals for the property located at 1000 Baxter Boulevard in the B-2 Business Zone. The present use for this property is business/commercial, and the proposed use is for a hotel or inn in a multi-storied building.

Mr. Scarks came before the Board of Appeals on August 11, 1988 for a height variance. His application was deferred because the proposed amendment to the B-2 Business Zone did not become effective until July 21, 1988. In the new zone the area which includes 1000 Baxter Boulevard was made a B-2 Business Zone. The height variance was denied by vote of the Board of Appeals on August 11th.

Then the height limit for the B-2 Business Zone was subsequently amended by the Portland City Council to impose a height limit in the B-2 Business Zone of 45 feet, which took effect on September 20, 1988.

This interpretation appeal by Mr. Scarks requests that he be granted the 65 foot height limit for his proposed building based on the fact that he initiated the permit procedure before the "new zoning" went into effect. He therefore is seeking an interpretation appeal from the Board of Appeals as to whether the old B-2 zoning or the new B-2 Zoning text should govern his proposed development.

This office considers that a building permit is not effective until it is granted by the City. Site plan review does not constitute initiating a building permit, but merely the preliminary requirements for applying for such a permit.

Sincerely,

Warren J. Turner  
Zoning Enforcement Inspector

cc: Merrill S. Seltzer, Chairman, Board of Appeals  
Joseph E. Gray, Jr., Director, Planning & Urban Development  
Alexander Jaegerman, Chief Planner  
P. Samuel Hofses, Chief, Inspection Services  
Marland Wing, Code Enforcement Officer

389 CONGRESS STREET • PORTLAND, MAINE 04101 • TELEPHONE (207) 775-5451

814-8300

**CITY OF PORTLAND, MAINE**  
ZONING BOARD OF APPEALS



1000 Baxter Boulevard

MERRILL S. SELTZER  
Chairman

JOHN C. KNOX  
Secretary

PETER F. MORELLI  
THOMAS F. JEWELL  
DAVID L. SILVERHILL  
MICHAEL E. WESTCOT  
CHRISTOPHER DIHAN

January 13, 1989

Mr. Michael Scarks  
Neptune Properties Inc.  
1000 Baxter Boulevard  
Portland, Maine 04103

Dear Mr. Scarks:

At the meeting of the Board of Appeals on Thursday evening, January 12th, the Board voted by a 4 to 3 vote in favor of granting your interpretation appeal for 1000 Baxter Boulevard in the B-2 Business Zone. The Board found that you had an application pending prior to the effective date of the B-2 height restriction on September 20, 1988.

This above decision was based upon information considered at the public hearing before the Board of Appeals and documents presented by Charles Lane, Associate Corporation Counsel, Martin Foley, Attorney, Alexander Jaegerman, Chief Planner, and other information presented to the Board of Appeals by the applicant.

In their decision, the members of the Board of Appeals determined by a vote of four to three to grant this interpretation appeal, that the prior Zoning Ordinance applies, and that there was an application pending before the B-2 Business Zone height restriction was changed on September 20, 1988. A copy of the Board's decision is enclosed for your records.

Sincerely,

*Warren J. Turner*

Warren J. Turner  
Administrative Assistant

Enclosure: Copy of Board's Decision

cc: Merrill S. Seltzer, Chairman, Board of Appeals  
Joseph E. Gray, Jr., Director, Planning & Urban Development  
Alexander Jaegerman, Chief Planner  
Samuel Hoffses, Chief, Inspection Services  
Marland Wing, Code Enforcement Officer  
Charles A. Lane, Associate Corporation Counsel

**CITY OF PORTLAND, MAINE**  
ZONING BOARD OF APPEALS



1000 Baxter Boulevard

MERRILL S. SELTZER  
Chairman

JOHN C. KNOX  
Secretary

PETER F. MORELLI  
THOMAS F. JEWELL  
DAVID L. SILVERNAIL  
MICHAEL E. WESTORT  
CHRISTOPHER DINAN

November 21, 1988

Mr. Martin J. Foley, Attorney  
P. O. Box 15337  
482 Congress Street  
Portland, Maine 04101

Dear Mr. Foley:

At the meeting of the Board of Appeals on November 17, 1988, the Board voted by a vote of 5 to 1 to postpone the interpretation appeal requested by Mr. Michael Scarks for 1000 Baxter Boulevard in the B-2 Business Zone. This appeal was postponed to the first meeting in January 1989, which will be held on Thursday evening, January 12, 1989, at 7 P.M. in Room 209, City Hall, Portland, Maine.

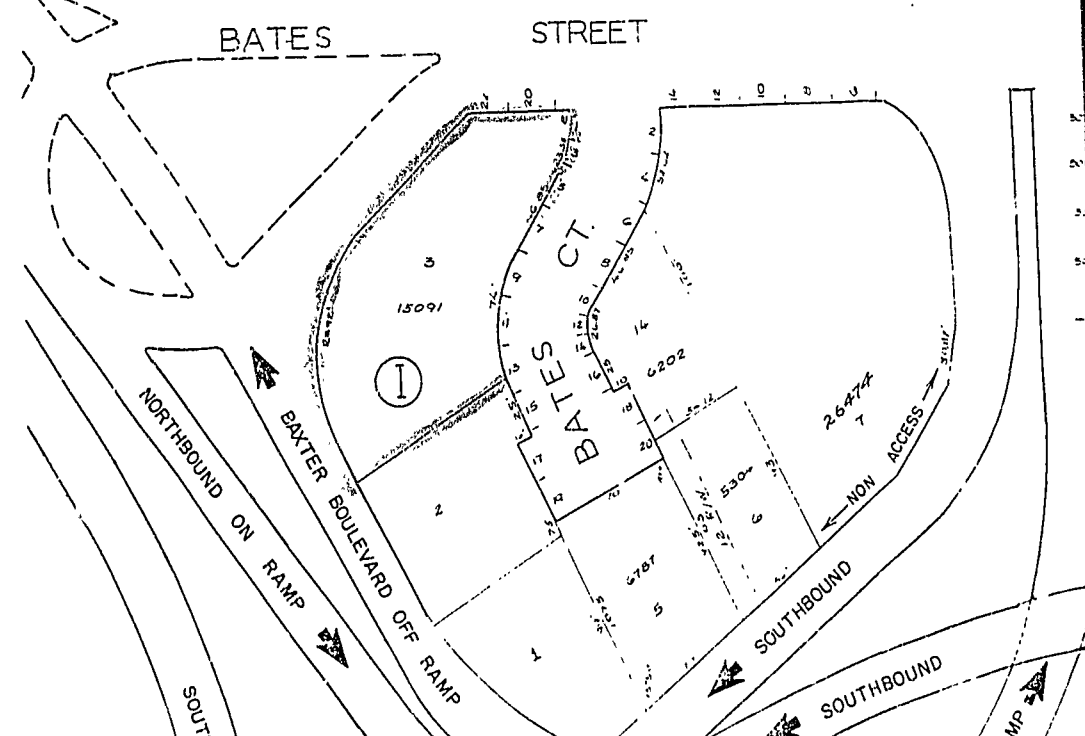
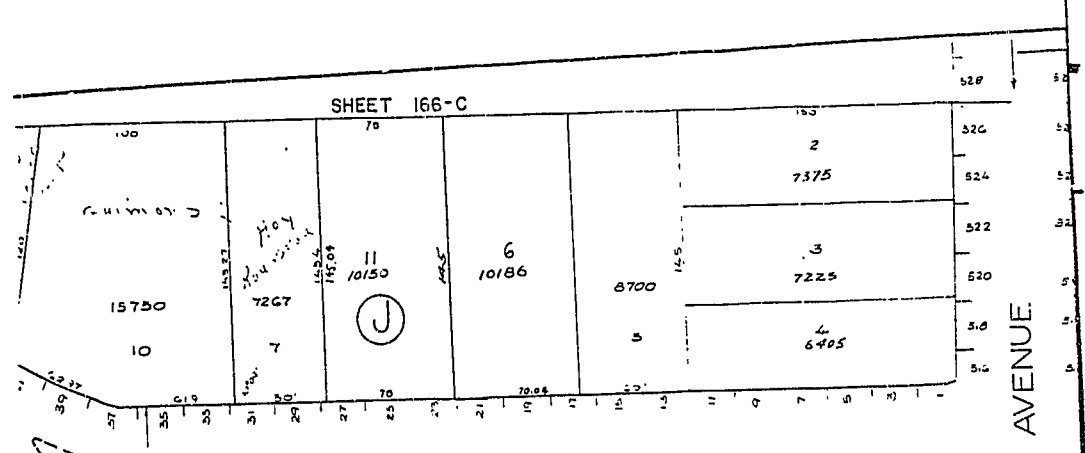
Your letter confirming this postponement dated November 18, 1988 has been received by the Chairman, Mr. Merrill S. Seltzer. This will enable additional information to be presented for consideration by the Board of Appeals.

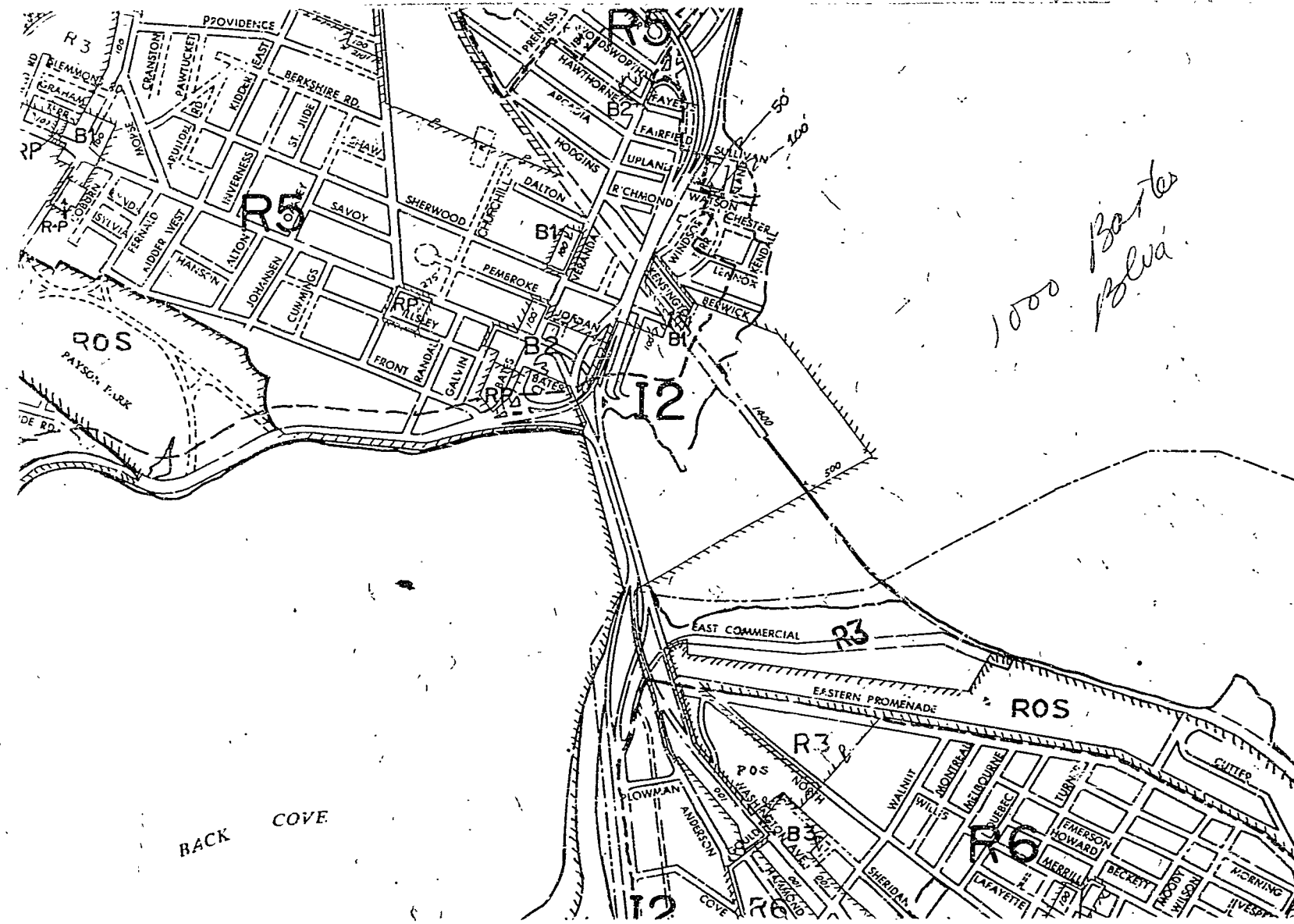
Sincerely,

*Warren J. Turner*  
Warren J. Turner  
Zoning Enforcement Inspector

cc: Merrill S. Seltzer, Chairman, Board of Appeals  
Joseph E. Gray, Jr., Director, Planning & Urban Development  
Alexander Jaegerman, Chief Planner  
P. Samuel Hoffses, Chief, Inspection Services  
Marland Wing, Code Enforcement Officer  
Charles A. Lane, Associate Corporation Counsel  
Michael Scarks, Neptune Properties, 1000 Baxter Blvd., Portland, 04103







*1000 Barta  
Bolia*

BACK COVE

CITY OF PORTLAND, MAINE  
MEMORANDUM

*Warren J. Turner*

TO: Joseph E. Gray, Jr., Director, Planning & Urban Development      DATE: December 22, 1988  
FROM: Warren J. Turner, Zoning Enforcement Inspector  
SUBJECT: Revised Site Plan for 1000 Baxter Boulevard in New B-2 Business Zone

An Interpretation Appeal requested by Michael Scarks was introduced at the November 17th meeting of the Board of Appeals and was postponed on that date until January 12, 1989 pending receipt of additional information concerning the Planning Department's disposition of the revised site plan which Mr. Scarks claimed had been submitted to the Planning Staff for review and consideration at a cost of about \$5,000.

The Board of Appeals postponed the consideration of this interpretation appeal to January 12th pending receipt of additional information regarding the revised site plan which Mr. Scarks claimed had been submitted for review to the Planning Department.

Please ask Maureen O'Meara to give us a short memorandum for the Board's information giving details concerning the status of this revised site plan. A copy of my previous request is attached.

cc: Merrill S. Seltzer, Chairman, Board of Appeals  
P. Samuel Hoffses, Chief, Inspection Services  
Alexander Jaegerman, Chief Planner  
Marland Wing, Code Enforcement Officer  
Charles A. Lane, Associate Corporation Counsel





CITY OF PORTLAND

INTERPRETATION APPEAL

APPLICATION

Applicant's name and address: MICHAEL SCARKS, NEPTUNE PROPERTIES, INC.

1000 BAXTER BLVD. PORTLAND, ME. 04103

Applicant's interest in property (e.g., owner, purchaser, etc.):

OWNER

Owner's name and address (if different):

SAME

Address of property (or Assessor's chart, block and lot number):

SAME

Zone: B-2 Present use: MULTI-FAMILY/COMMERCIAL

Order, decision, determination, or interpretation complained of:

HEIGHT LIMITATIONS FOR THE NEW "B-2 ZONE TEXT" (EFFECTIVE SEPT. 20, 1988) SHOULD GOVERN THIS DEVELOPMENT

Disputed provision: Section 14-185(5).

Type of relief requested: THAT THE FORMER "B-2 ZONE TEXT" SHOULD GOVERN THIS PROJECT.

The undersigned hereby makes application for the relief above-described, and certifies that all information herein supplied by him is true and correct to the best of his knowledge and belief.

Dated: 10/31, 1988

Michael Scarks  
Signature of Applicant



CITY OF PORTLAND

VARIANCE APPEAL

APPLICATION

Applicant's name and address: Michael Scarke, Owner  
c/o Neptune Properties, 1000 Baxter Boulevard, Portland, Maine

Applicant's interest in property (e.g., owner, purchaser, etc.):  
Owner

Owner's name and address (if different):  
Same as above

Address of property (or Assessor's chart, block and lot number):  
Chart #29 - Block I Lot 3 (15,091 sq. ft.)

Zone: B-2 Business Present use: Residential

Variance from: Section 14- 14-183 (d) Seven Stories instead of five stories or 65 feet

NOTE: If site plan approval is required, attach preliminary or final site plan.

Zone recently changed by City Council Order from R-5 Residence to B-2 Business Zone for a hotel site.

The undersigned hereby makes application for a variance as above-described, and certifies that all information herein supplied by him is true and correct to the best of his knowledge and belief.

Dated: 6/24, 1988

Michael Scarke  
Signature of Applicant



## NEPTUNE PROPERTIES, INC.

1000 BAXTER BOULEVARD PORTLAND, MAINE 04103-5333

June 24, 1988  
Zoning Board of Appeals  
City Hall  
Portland, ME 04101

*1000 Baxter  
Blvd.*

Dear Boardmembers:

I am seeking relief from the section of the B-2 Zone requirements as they pertain to building height. I am not asking for any increase in height over the 65' maximum, but rather relief from the maximum of 5 stories within that height limitation to 7 stories. A photo of the proposed 7 story "Inn" is enclosed as well as a site plan.

As you might be aware, the ongoing construction in this vicinity due to the Tukey's Bridge Project will create an embankment to the south of the property in question approximately 20' high or the equivalent of 2 stories. To overcome this man-made barrier, the proposed structure will be raised up to take advantage of light and air above this ramp embankment.

This will be accomplished by utilizing the area under the structure for drives and parking with only a small building footprint actually touching the ground. This portion is also shown on your enclosed site plan and includes only a small elevator, vestibule and stairs.

The request for a total of 7 stories does not materially affect the development density, but rather elevates a conforming structure even with the new highway embankment, while still remaining within the height limitation for the B-2 Zone.

The Planning Board and the City Council have both voted to change the Zone to B-2 and I feel have looked with favor on the proposed use and structure, which will revitalize a lot that I believe has become inappropriate and untenable as a residential location.

I believe the Tukey's Bridge project with its associated ramps has created a severe impact on the property, and that the request before you would allow re-use of the property while not exceeding the height limitations within the zone, or increasing the density of the development.

I would ask for a time to present my request to you, and answer any questions you might have.

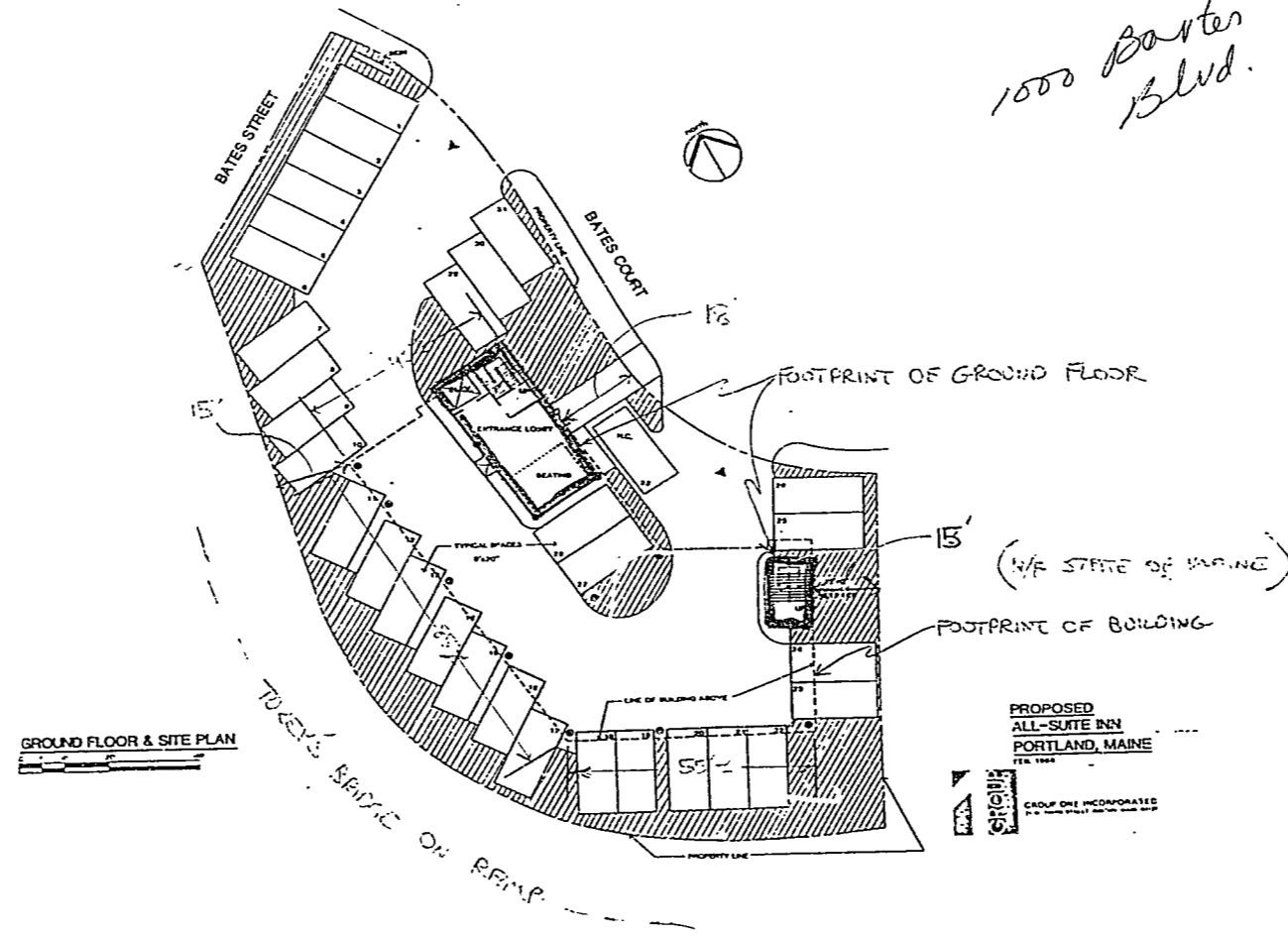
Sincerely,

*Michael Scarks*  
Michael Scarks, Owner

MS:js  
Enclosures

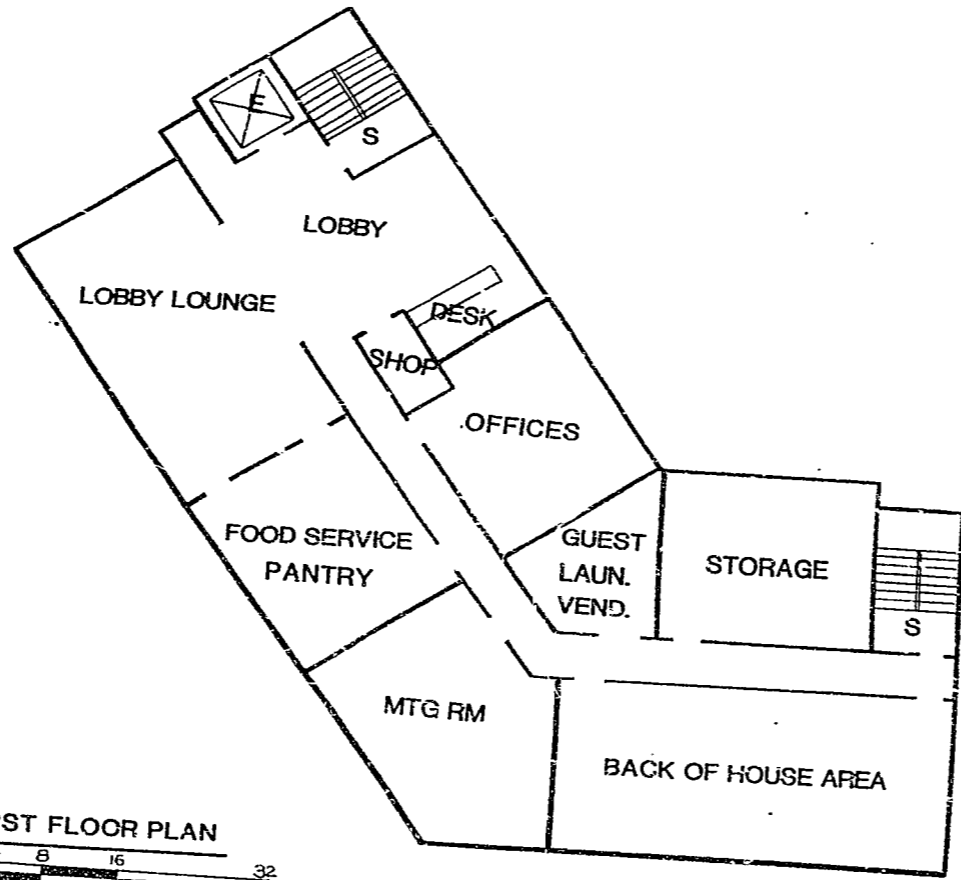


1000 Barten Blvd.



GROUND FLOOR & SITE PLAN

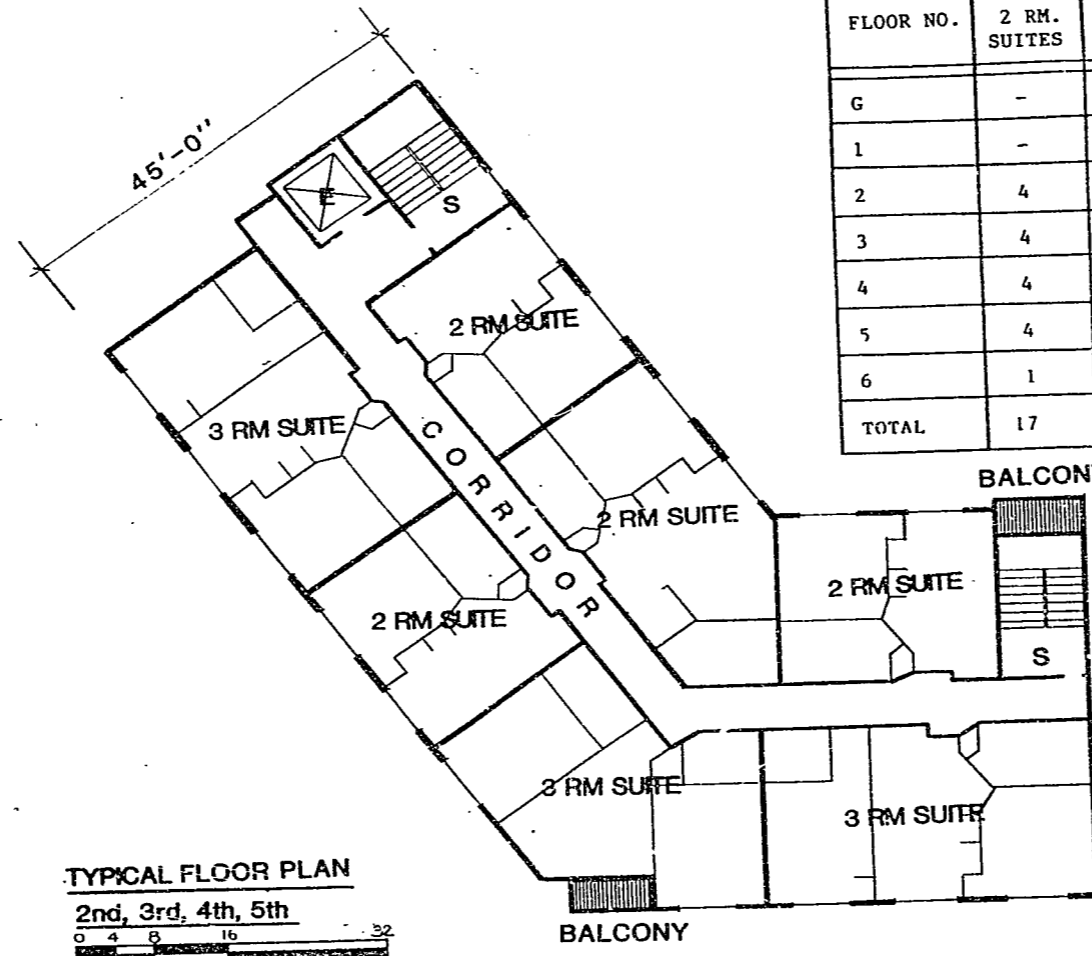
PROPOSED  
ALL-SUITE INN  
PORTLAND, MAINE  
FEB. 1968  
STONER GROUP ONE INCORPORATED



FIRST FLOOR PLAN  
0 4 8 16 32

PROPOSED  
ALL-SUITE INN  
PORTLAND, MAINE  
FEB. 1988

**GROUP ONE**  
GROUP ONE INCORPORATED  
71 W. THIRD STREET BOSTON MASS 02127



TYPICAL FLOOR PLAN  
2nd, 3rd, 4th, 5th

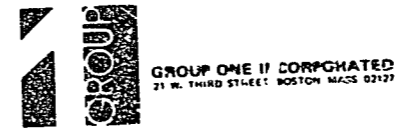
0 4 8 16 32

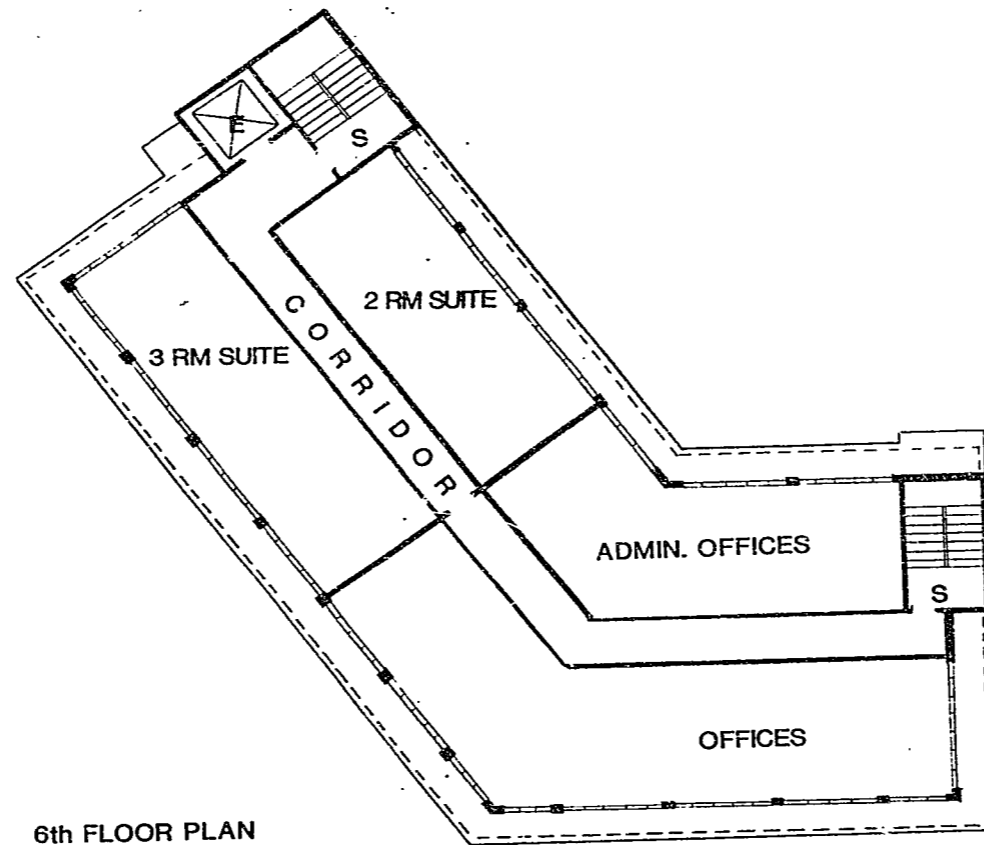
UNIT BREAKDOWN

FLOOR NO.	2 RM. SUITES	3 RM. SUITES	TOTALS	GROSS SF/FL
G	-	-	-	824
1	-	-	-	5218
2	4	3	7	5218
3	4	3	7	5218
4	4	3	7	5218
5	4	3	7	5218
6	1	1	2	4128
TOTAL	17	13	30	31042

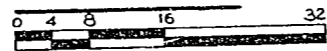
*1500 Baxter Blvd*

PROPOSED  
ALL-SUITE INN  
PORTLAND, MAINE  
FEB. 1988





6th FLOOR PLAN



PROPOSED  
 ALL-SUITE INN  
 PORTLAND, MAINE  
 FEB. 1988



GROUP ONE INCORPORATED  
 21 W. THIRD STREET BOSTON MASS 02127

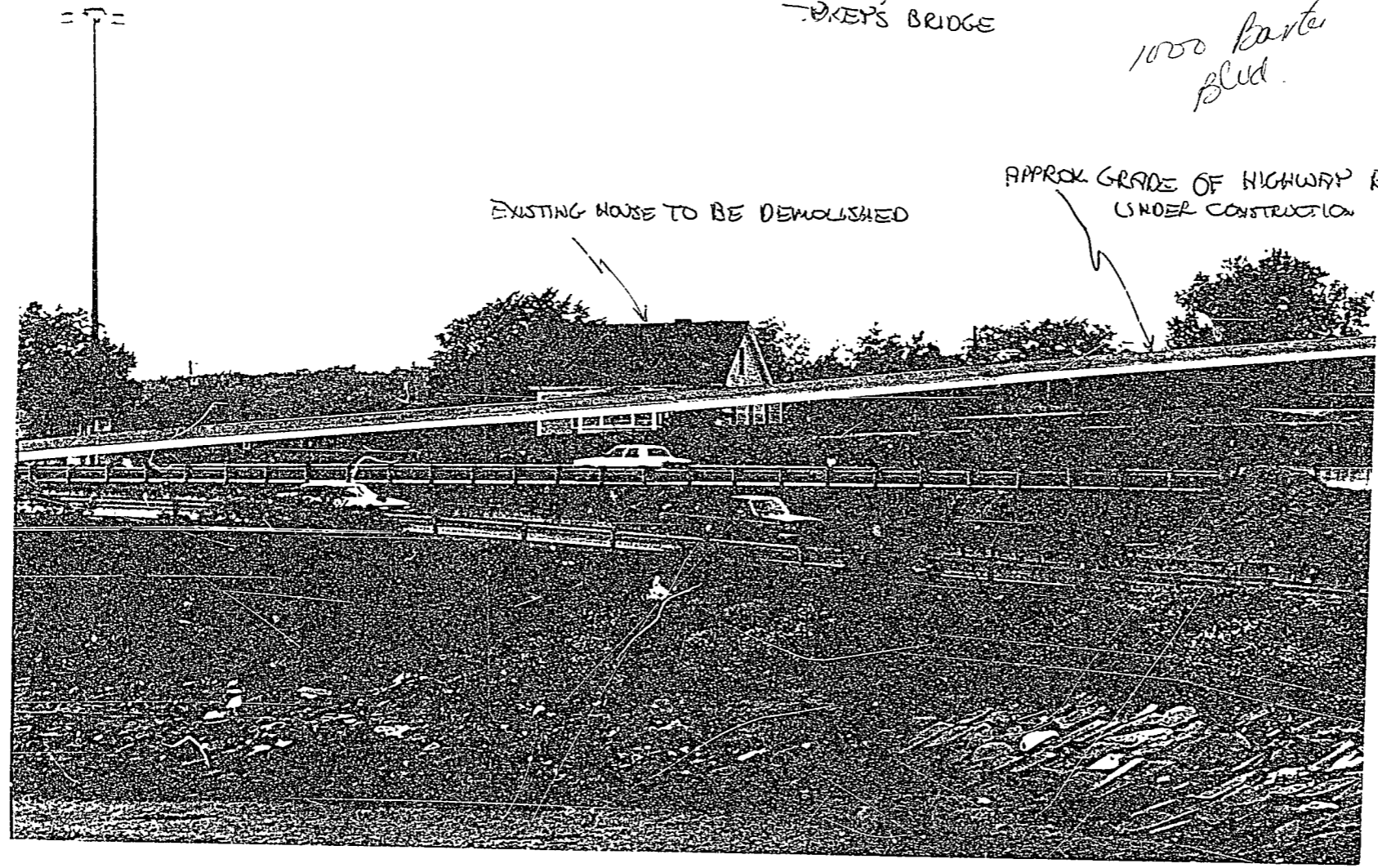


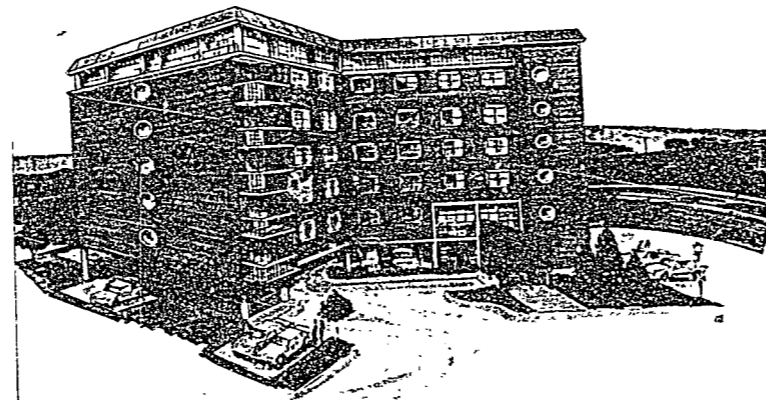
LINE OF PROPERTY  
LOOKING NORTH FROM  
TERRY'S BRIDGE

1000 feet  
blvd.

EXISTING HOUSE TO BE DEMOLISHED

APPROX. GRADE OF HIGHWAY R  
UNDER CONSTRUCTION





1000  
Booster  
Blvd.

PRO  
ALL-S

**Sec. 14-183. Space and bulk.**

No building or structure shall be erected, altered, enlarged, rebuilt or used in a B-2 zone which does not comply with the following requirements:

- (1) The dimensional requirements for residential uses shall be those of the least restricted residence zone adjoining the zone in which the property is located except that front yards of property having frontage on Brighton Avenue, Riverside Street, and Warren Avenue shall have a minimum depth of twenty (20) feet.
- (2) The dimensional requirements for nonresidential and accessory uses shall be as follows:
  - a. *Minimum rear yards:* Not required except where the rear line abuts a residence zone, in which case they shall be twenty (20) feet.
  - b. *Minimum side yards:* Not required except where the side line abuts a residence zone in which case they must be ten (10) feet in width. If provided, side yards must be not less than three (3) feet in width.
  - c. *Minimum front yards:* Not required but every property having frontage on Brighton Avenue, Riverside Street and Warren Avenue shall have a minimum front yard of twenty (20) feet.
  - d. *Maximum height:* Five (5) stories but not to exceed sixty-five (65) feet. (Code 1968, § 602.9.C; Ord. No. 274-77, 5-16-77)

**Sec. 14-184. Off-street parking.**

Off-street parking in a B-2 zone is required as provided in division 20 of this article. (Code 1968, § 602.9.D)

**Sec. 14-185. Off-street loading.**

Off-street loading in a B-2 zone is required as provided in division 21 of this article. (Code 1968, § 602.9.E)

**Sec. 14-186. Access.**

Access in a B-2 zone to streets or sections of streets from a business or from business uses on land under one ownership aggregating more than three hundred (300) feet of continuous street frontage shall be by service ways. The number of service ways, the grade, and the provisions of curbs, sidewalks and esplanade reservations shall be approved by the public works authority. No driveways crossing the sidewalk or cutting the curb in any other manner shall be permitted. (Code 1968, § 602.9.F)

**Sec. 14-187. Shorelands.**

No building or structure shall be erected, altered, enlarged, rebuilt or used, and no premises shall be used in a B-2 zone within the land area situated between the shoreland zone line and the normal high water mark of the waters of the Stroudwater River, Presumpscot River, Fore River, Portland Harbor, Back Cove, and the bays, coves, sounds, inlets, and open



CITY OF PORTLAND, MAINE  
MEMORANDUM

TO: Alexander Jaegerman, Chief Planner

FROM: Warren J. Turner, Zoning Enforcement Inspector *Warren J. Turner*

DATE: Nov. 29, 1988

SUBJECT: Revised Site Plan for 1000 Baxter Boulevard in B-2 Business Zone

The interpretation appeal requested by Mr. Michael Scarks and heard at the November 17th meeting of the Board of Appeals was postponed by the Board pending receipt of additional information concerning the status of the revised site plan which Mr. Scarks claimed had been submitted to the Planning Staff for review and consideration at a cost estimated to be about \$5,000.

The Board of Appeals postponed the consideration of this interpretation appeal pending receipt of additional information regarding the revised plan which Mr. Scarks claimed had been submitted for review by the City departments or the Planning Board.

Please ask Maureen O'Meara to give us a short memorandum for the information of the Board of Appeals prior to the January 12th meeting of the Board at 7 P.M. in room 209, City Hall, Portland, Maine, giving details concerning the status of this revised site plan.

cc: Merrill S. Seltzer, Chairman, Board of Appeals  
P. Samuel Hoffses, Chief, Inspection Services  
Joseph E. Gray, Jr., Director, Planning and Urban Development  
Marland Wing, Code Enforcement Officer  
Charles A. Lane, Associate Corporation Counsel

*1000 Baxter Blvd.*



Applicant: Michael Sparks Date: Nov. 17, 1988  
Address: 1000 Baxter Blvd (off Bates Court)  
Assessors No.: 429-I-3

CHECK LIST AGAINST ZONING ORDINANCE

Date -  
Zone Location - B-2 Business  
Interior or corner lot - Corner  
Use - Inn or Hotel  
Sewage Disposal - City  
Rear Yards - Other Michael Sparks  
Side Yards - 26474  
Front Yards - 6202  
Projections - 5304  
Height -  
Lot Area - ~~57,980 #~~ 15,091 #  
Building Area - Land \$ 15,840  
Area per Family -  
Width of Lot - Bldg 34,180  
Lot Frontage - Total \$ 50,020  
Off-street Parking -  
Loading Bays -  
Site Plan - Taxes: \$1,640.66  
Shoreland Zoning -  
Flood Plains -

**SCHWARTZ, WILSON, FERNALD & FOLEY**

ATTORNEYS AT LAW  
P.O. BOX 15337  
482 CONGRESS STREET  
PORTLAND, MAINE 04101  
207-774-2651

WALTER F. MURRELL  
OF COUNSEL

JACK L. SCHWARTZ  
THOMAS P. WILSON  
PAUL C. FERNALD  
MARTIN J. FOLEY  
SAMUEL J. SHATZ  
STEPHEN J. SCHWARTZ

November 18, 1988

ROBERT A. WILSON  
1902-1984

HENRY STEINFELD  
1910-1984

Merrill S. Seltzer, Chairman  
Portland Zoning Board of Appeals  
City Hall  
Portland, Maine 04101

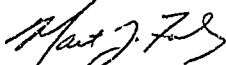
Re: Neptune Properties Application for Interpretation

Dear Mr. Seltzer:

Confirming the understanding reached at the November 17, 1988, hearing with the Board, we would agree that this matter be postponed until the first Board meeting scheduled for January 1989. This will enable us to bring additional information before the Board and will allow for full consideration by the members who were available at the hearing we held today.

Thank you for your attention.

Sincerely,



Martin J. Foley

MJF:mc

cc: Michael Scarks, Neptune Properties



## NEPTUNE PROPERTIES, INC.

1000 BAXTER BOULEVARD PORTLAND, MAINE 04103-5333

ZONING BOARD OF APPEALS

10/30/88

CITY HALL

PORTLAND, ME. 04101

DEAR BOARDMEMBERS:

I AM BEFORE YOUR BOARD TO SEEK AN INTERPRETATION OF THE ZONING LAWS OF THE CITY OF PORTLAND.

AS YOU PROBABLY RECALL, I APPLIED TO THE BOARD FOR A VARIANCE IN THE B-2 ZONE FROM "5 STORIES NOT TO EXCEED 65'" TO "7 STORIES NOT TO EXCEED 65'" IN JULY OF THIS YEAR. THE DECISION IN THIS REQUEST WAS 5 TO 1 TO DENY THIS REQUEST.

I THEN PROCEEDED TO CONTINUE THROUGH THE SITE REVIEW PROCEDURE WITHIN THE EXISTING ZONING LIMITATION OF "5 STORIES WITHIN 65'", AS A MATTER OF FACT, AFTER THE CITY COUNCIL VOTED FAVORABLY TO RE-ZONE MY SITE TO B-2 IN JUNE I MET WITH THE PLANNING STAFF AND CORPORATION COUNSEL TO DISCUSS WHAT ZONING TO DESIGN TO. BASED ON THIS MEETING THE NEXT DAY I TOOK OUT AN APPLICATION FOR MY DEVELOPMENT APPROVALS AND PAID THE FEES FOR THE SIGN PLAN REVIEW.

I HAVE, SINCE THAT TIME, PURSUED THE SAME TYPE OF DEVELOPMENT AND USE THAT I HAVE BEEN SEEKING FOR OVER 1 YEAR NOW.

I HAVE RECENTLY BEEN TOLD THAT I SHOULD (HAVE TO) DESIGN TO THE NEW 45' HEIGHT LIMIT WHICH TOOK EFFECT ON SEPTEMBER 20.

I DON'T UNDERSTAND THIS DECISION IN LIGHT OF THE FACT  
THAT I DID INITIATE THE PERMIT PROCEDURE BEFORE THE "NEW"  
ZONING TEXT WENT INTO EFFECT.

I AM SEEKING FROM YOU, AN INTERPRETATION AS TO  
WHETHER THE "OLD" OR THE "NEW" ZONING TEXT FOR THE B-2  
ZONE SHOULD GOVERN THIS DEVELOPMENT.

SINCERELY,

*Michael Sparks*  
MICHAEL SPARKS, OWNER

*1000 Bayview  
Blvd.*

CC. M. FOLEY



**CITY OF PORTLAND, MAINE**

ZONING BOARD OF APPEALS



1000 Baxter Boulevard

MERRILL S. SELTZER  
Chairman

JOHN C. KNOX  
Secretary

PETER F. MORELLI  
THOMAS F. JEWELL  
DAVID L. SILVERNAIL  
MICHAEL E. WESTORT  
CHRISTOPHER DINAN

All persons interested either for or against this Space and Bulk Variance will be heard at a public hearing in room 209, City Hall, Portland, Maine on Thursday, July 14, 1988 at 3:30.p.m. This notice of required public hearing has been sent to the owners of property directly abutting and directly across a street or alley from the property as required by the Ordinance.

Mr. Michael Scarks of Neptune Properties owner of the property at 1000 Baxter Boulevard, under the provisions of Section 14-473(c) of the Zoning Ordinance of the City of Portland, Maine hereby respectfully petitions the Board of Appeals to permit a height variance for the proposed hotel planned for lot 429-I-3 off Bates Court, which would have 1000 Baxter Boulevard for its address, but would have access only from Bates Court in the B-2 Business Zone extended by the City Council in a recently approved Zoning Map amendment.

LEGAL BASIS OF APPEAL: Such permit may be granted only if the Board of Appeals finds that the conditions imposed by Section 14-473(c)1 of the Zoning Ordinance have been met.

John C. Knox  
Secretary

jmr  
6/28/88

**CITY OF PORTLAND, MAINE**  
ZONING BOARD OF APPEALS



MERRILL S. SELTZER  
Chairman

JOHN C. KNOX  
Secretary

PETER F. MORELLI  
THOMAS F. JEWELL  
DAVID L. SILVERHAIL  
MICHAEL E. WESTORT  
CHRISTOPHER DINAN

1000 Baxter Boulevard

All persons interested either for or against this Interpretation Appeal will be heard at a public hearing in Room 209, City Hall, Portland, Maine on Thursday evening, January 12, 1989 at 7:00 P.M. This notice of required public hearing has been sent to the owners of property directly abutting and directly across a street or alley from the subject property as required by the Ordinance.

Michael Scarks of Neptune Properties, owner of the property at 1000 Baxter Boulevard, under the provisions of Section 14-472 of the Zoning Ordinance of the City of Portland, hereby respectfully petitions the Board of Appeals to determine whether the B-2 Zone which was in effect when he initiated site plan review or the new B-2 Zone, as amended, would be applicable to his proposed hotel project at 1000 Baxter Boulevard. The previous B-2 Zone had a height limit of 65 feet; the B-2 Zone as amended has a height limit of only 45 feet, and became effective September 20, 1988. The zoning map change for this site did not become effective until July 21, 1988. This request has been postponed by vote of the Board of Appeals from the November 17, 1988 meeting to enable additional information to be presented for consideration by the Board.

LEGAL BASIS OF APPEAL: The Board of Appeals may reverse said action of the Building Inspector only if it finds that said action is based on an erroneous Interpretation of said Ordinance.

John C. Knox  
Secretary

11/29/88  
/el

**CITY OF PORTLAND, MAINE**  
ZONING BOARD OF APPEALS



MERRILL S. SELTZER  
Chairman

JOHN C. KNOX  
Secretary

PETER F. MORELLI  
THOMAS F. JEWELL  
DAVID L. SILVERNAIL  
MICHAEL E. WESTORT  
CHRISTOPHER DINAN

1000 Baxter Boulevard

All persons interested either for or against this use and Bulk Variance will be heard at a public hearing in Room 209, City Hall, Portland, Maine on Thursday afternoon, August 11, 1988 at 3:30 p.m. This notice of required public hearing has been sent to the owners of property directly abutting and directly across a street or alley from the property as required by the Ordinance.

Mr. Michael Scarks of Neptune Properties, owner of the property at 1000 Baxter Boulevard, under the provisions of Section 14-473(c) of the Zoning Ordinance of the City of Portland, Maine, hereby respectfully petitions the Board of Appeals to permit a height variance for the proposed hotel planned for lot 429-I-3 off Bates Court, which would have 1000 Baxter Boulevard for its address, but would have access only from Bates Court in the B-2 Business Zone extended by the City Council in a Zoning Map amendment which became effective July 21, 1988.

LEGAL BASIS OF APPEAL: Such permit may be granted only if the Board of Appeals finds that the conditions imposed by Section 14-473(c)1 of the Zoning Ordinance have been met.

John C. Knox  
Secretary

jmr  
7/20/88



**CITY OF PORTLAND, MAINE**  
ZONING BOARD OF APPEALS



MERRILL S. SELTZER  
Chairman

JOHN C. KNOX  
Secretary

PETER F. MORELLI  
THOMAS F. JEWELL  
DAVID L. SILVERNAIL  
MICHAEL E. WESTORT  
CHRISTOPHER DINAN

1000 Baxter Boulevard

All persons interested either for or against this Interpretation Appeal will be heard at a public hearing in Room 209, City Hall, Portland, Maine on Thursday afternoon, November 17, 1988 at 3:30 P.M. This notice of required public hearing has been sent to the owners of property directly abutting and directly across a street or alley from the subject property as required by the Ordinance.

Michael Scarks of Neptune Properties, owner of the property at 1000 Baxter Boulevard, under the provisions of Section 14-472 of the Zoning Ordinance of the City of Portland, hereby respectfully petition the Board of Appeals to determine whether the B-2 Zone which was in effect when he initiated site plan review or the new B-2 Zone, as amended, would be applicable to his proposed hotel project at 1000 Baxter Boulevard. The previous B-2 Zone had a height limit of 65 feet; the B-2 Zone as amended has a height limit of only 45 feet, and became effective September 20, 1988. The zoning map change for this site did not become effective until July 21, 1988.

LEGAL BASIS OF APPEAL: The Board of Appeals may reverse said action of the Building Inspector only if it finds that said action is based on an erroneous Interpretation of said Ordinance.

John C. Knox  
Secretary

10/31/88  
/el



FINDINGS OF FACT  
ALL APPEALS

TYPE OF APPEAL SPACE & BULK

1. Name of Applicant MICHAEL SPARKS OWNER NEPTUNE PROPERTIES
2. Address of Applicant 1000 BAXTER BOULEVARD, PORTLAND, ME
3. Right of applicant to appeal.  
Owner X  
Option to Purchase \_\_\_\_\_
4. Location of property under appeal CHART 429 BLOCK I LOT 3
5. Zone in which the property is located B-2
6. Present use of property RESIDENTIAL
7. Proposed use if the appeal is granted.  
HOTEL

8. Names and addresses of those appearing in support of the application:  
MICHAEL SPARKS

9. Names and addresses of those appearing in opposition to the application:

10. Listing of the documentary evidence presented to the Board (e.g., plans, photos, maps, etc.)

VARIANCES

A variance may be granted if the Board finds that it will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the Ordinance would result in "undue hardship". The following questions must all be answered, with supporting findings of fact, in order to grant the appeal.

1. Can the land yield a reasonable return (not the highest return) without the granting of a variance?  
No 5 deny the appeal

Reasons (including evidence) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Are there factors which are unique to this property, and not to the general conditions of the neighborhood, which create a need for a variance?  
Yes 4  
No 2 (deny the appeal)

Reasons (including evidence) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Will the granting of the variance alter the essential character of the locality?  
Yes 3 (deny the appeal)  
No 3

Reasons (including evidence) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Is the hardship a result of action taken by the applicant or a prior owner (self-created hardship)?  
Yes 4 (deny the appeal)  
No 5

Reasons (including evidence) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If the appeal is granted, does the Board wish to impose conditions which will further the intent and purpose of this Ordinance?

Yes \_\_\_\_\_  
No X \_\_\_\_\_

Specific Conditions \_\_\_\_\_  
\_\_\_\_\_

Reasons \_\_\_\_\_  
\_\_\_\_\_

Date of Public Hearing 8/11/88 \_\_\_\_\_

Motion DENIED \_\_\_\_\_

(including conditions and findings of fact) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Votes In Favor

Thomas Jewell  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Votes Opposed

Michael J. ...  
John J. Morelli  
William J. ...  
Christopher C. ...  
David L. ...  
\_\_\_\_\_  
\_\_\_\_\_

Jan. 12, 1989



CITY OF PORTLAND  
INTERPRETATION APPEAL

DECISION

1000 Baxter Boulevard

For the Record

Names and addresses of witnesses (proponents, opponents and others):

Martin Foley, Atty.                      Alex Jaegerman, Chief Planner  
Michael Scarcks, Owner

Exhibits admitted (e.g., renderings, reports, etc.):

Findings of Fact

- The Board finds as fact that: application pending prior to  
65-1 ~~and a pending application~~ exists. The change in the D-2 height  
verification on 9/20/88
- The finding(s) of fact above-stated is(are) based on the following reasons:

Determinations of Law

- The Board determines as a matter of law that:
- The determination(s) of law above-stated is(are) based on the following reasoning:



PERMIT # \_\_\_\_\_ CITY OF Portland BUILDING PERMIT APPLICATION MAP # \_\_\_\_\_ LOT# \_\_\_\_\_

Please fill out any part which applies to job. Proper plans must accompany form.

Owner: Michael Scarks  
 Address: 1000 Baxter Boulevard Portland, 04103  
 LOCATION OF CONSTRUCTION 1000 Baxter Boulevard  
 CONTRACTOR: Neptune Properties SUBCONTRACTORS: \_\_\_\_\_  
 ADDRESS: \_\_\_\_\_  
 Est. Construction Cost: \_\_\_\_\_ Type of Use: \_\_\_\_\_  
 Past Use: \_\_\_\_\_  
 Building Dimensions L \_\_\_\_\_ W \_\_\_\_\_ Sq. Ft. \_\_\_\_\_ Stories: \_\_\_\_\_ Lot Size: \_\_\_\_\_  
 Is Proposed Use: \_\_\_\_\_ Seasonal \_\_\_\_\_ Condominium \_\_\_\_\_ Apartment \_\_\_\_\_  
 \_\_\_\_\_ Conversion - Explain Interpretation Appeal

COMPLETE ONLY IF THE NUMBER OF UNITS WILL CHANGE  
 Residential Buildings Only:  
 # Of Dwelling Units \_\_\_\_\_ # Of New Dwelling Units \_\_\_\_\_

Foundation:  
 1. Type of Soil: \_\_\_\_\_  
 2. Set Backs - Front \_\_\_\_\_ Rear \_\_\_\_\_ Side(s) \_\_\_\_\_  
 3. Footings Size: \_\_\_\_\_  
 4. Foundation Size: \_\_\_\_\_  
 5. Other \_\_\_\_\_

Floor:  
 1. Sills Size: \_\_\_\_\_ Sills must be anchored.  
 2. Girder Size: \_\_\_\_\_  
 3. Lally Column Spacing: \_\_\_\_\_ Size: \_\_\_\_\_  
 4. Joists Size: \_\_\_\_\_ Spacing 16" O.C.  
 5. Bridging Type: \_\_\_\_\_ Size: \_\_\_\_\_  
 6. Floor Sheathing Type: \_\_\_\_\_ Size: \_\_\_\_\_  
 7. Other Material: \_\_\_\_\_

Exterior Walls:  
 1. Studding Size \_\_\_\_\_ Spacing \_\_\_\_\_  
 2. No. windows \_\_\_\_\_  
 3. No. Doors \_\_\_\_\_  
 4. Header Sizes \_\_\_\_\_ Span(s) \_\_\_\_\_  
 5. Bracing: Yes \_\_\_\_\_ No \_\_\_\_\_  
 6. Corner Posts Size \_\_\_\_\_  
 7. Insulation Type \_\_\_\_\_ Size \_\_\_\_\_  
 8. Sheathing Type \_\_\_\_\_ Size \_\_\_\_\_  
 9. Siding Type \_\_\_\_\_ Weather Exposure \_\_\_\_\_  
 10. Masonry Materials \_\_\_\_\_  
 11. Metal Materials \_\_\_\_\_

Interior Walls:  
 1. Studding Size \_\_\_\_\_ Spacing \_\_\_\_\_  
 2. Header Sizes \_\_\_\_\_ Span(s) \_\_\_\_\_  
 3. Wall Covering Type \_\_\_\_\_  
 4. Fire Wall if required \_\_\_\_\_  
 5. Other Materials \_\_\_\_\_

**For Official Use Only**

Date <u>October 31, 1988</u>	Subdivision: Yes / No _____
Inside Fire Limits _____	Name _____
Bldg Code _____	Lot _____
Time Limit _____	Block _____
Estimated Cost _____	Permit Expiration: _____
Value/Structure _____	Ownership: _____ Public _____ Private _____
Fee <u>\$450.00</u> <u>\$50.00</u> <u>\$50.00</u>	

Ceiling:  
 1. Ceiling Joists Size: \_\_\_\_\_  
 2. Ceiling Strapping Size \_\_\_\_\_ Spacing \_\_\_\_\_  
 3. Type Ceilings: \_\_\_\_\_  
 4. Insulation Type \_\_\_\_\_ Size \_\_\_\_\_  
 5. Ceiling Height: \_\_\_\_\_

Roof:  
 1. Truss or Rafter Size \_\_\_\_\_ Span \_\_\_\_\_  
 2. Sheathing Type \_\_\_\_\_ Size \_\_\_\_\_  
 3. Roof Covering Type \_\_\_\_\_  
 4. Other \_\_\_\_\_

Chimneys:  
 Type: \_\_\_\_\_ Number of Fire Places \_\_\_\_\_

Heating:  
 Type of Heat: \_\_\_\_\_

Electrical:  
 Service Entrance Size: \_\_\_\_\_ Smoke Detector Required Yes \_\_\_\_\_ No \_\_\_\_\_

Plumbing:  
 1. Approval of soil test if required Yes \_\_\_\_\_ No \_\_\_\_\_  
 2. No. of Tubs or Showers \_\_\_\_\_  
 3. No. of Flushes \_\_\_\_\_  
 4. No. of Lavatories \_\_\_\_\_  
 5. No. of Other Fixtures \_\_\_\_\_

Swimming Pools:  
 1. Type: \_\_\_\_\_  
 2. Pool Size: \_\_\_\_\_ x \_\_\_\_\_ Square Footage \_\_\_\_\_  
 3. Must conform to National Electrical Code and State Law.

Zoning:  
 District \_\_\_\_\_ Street Frontage Req.: \_\_\_\_\_ Provided \_\_\_\_\_  
 Required Setbacks: Front \_\_\_\_\_ Back \_\_\_\_\_ Side \_\_\_\_\_ Side \_\_\_\_\_

Review Required:  
 Zoning Board Approval: Yes \_\_\_\_\_ No \_\_\_\_\_ Date: \_\_\_\_\_  
 Planning Board Approval: Yes \_\_\_\_\_ No \_\_\_\_\_ Date: \_\_\_\_\_  
 Conditional Use: \_\_\_\_\_ Variance \_\_\_\_\_ Site Plan \_\_\_\_\_ Subdivision \_\_\_\_\_  
 Shore and Floodplain Mgmt \_\_\_\_\_ Special Exception \_\_\_\_\_  
 Other (Explain) \_\_\_\_\_  
 Date Approved \_\_\_\_\_

Permit Received By Latini

Signature of Applicant Michael Scarks Date 10/ 31/88

Signature of CEO \_\_\_\_\_ Date \_\_\_\_\_

Inspection Dates \_\_\_\_\_

PERMIT # \_\_\_\_\_ CITY OF Portland BUILDING PERMIT APPLICATION

Please fill out any part which applies to job. Proper plans must accompany form.

MAP # \_\_\_\_\_ LOT# \_\_\_\_\_

Owner: Michael Scarks  
 Address: 1000 Baxter Blvd., Portland, Me 04103 (775-2100)

LOCATION OF CONSTRUCTION \_\_\_\_\_

CONTRACTOR: \_\_\_\_\_ SUBCONTRACTORS: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

Est. Construction Cost: \_\_\_\_\_ Type of Use: \_\_\_\_\_

Past Use: \_\_\_\_\_

Building Dimensions L \_\_\_\_\_ W \_\_\_\_\_ Sq. Ft. \_\_\_\_\_ # Stories: \_\_\_\_\_ Lot Size: \_\_\_\_\_

Is Proposed Use: \_\_\_\_\_ Seasonal \_\_\_\_\_ Condominium \_\_\_\_\_ Apartment \_\_\_\_\_  
 Conversion - Explain \_\_\_\_\_  
 Space Involved Variance for Height \_\_\_\_\_

COMPLETE ONLY IF THE NUMBER OF UNITS WILL CHANGE

Residential Buildings Only:  
 # Of Dwelling Units \_\_\_\_\_ # Of New Dwelling Units \_\_\_\_\_

Foundation:  
 1. Type of Soil: \_\_\_\_\_  
 2. Set Backs - Front \_\_\_\_\_ Rear \_\_\_\_\_ Side(s) \_\_\_\_\_  
 3. Footings Size: \_\_\_\_\_  
 4. Foundation Size: \_\_\_\_\_  
 5. Other \_\_\_\_\_

Floor:  
 1. Sills Size: \_\_\_\_\_ Sills must be anchored.  
 2. Girder Size: \_\_\_\_\_  
 3. Lally Column Spacing: \_\_\_\_\_ Size: \_\_\_\_\_  
 4. Joists Size: \_\_\_\_\_ Spacing 16" O.C.  
 5. Bridging Type: \_\_\_\_\_ Size: \_\_\_\_\_  
 6. Floor Sheathing Type: \_\_\_\_\_ Size: \_\_\_\_\_  
 7. Other Material: \_\_\_\_\_

Exterior Walls:  
 1. Studding Size \_\_\_\_\_ Spacing \_\_\_\_\_  
 2. No. windows \_\_\_\_\_  
 3. No. Doors \_\_\_\_\_  
 4. Header Sizes \_\_\_\_\_ Span(s) \_\_\_\_\_  
 5. Bracing: Yes \_\_\_\_\_ No \_\_\_\_\_  
 6. Corner Posts Size \_\_\_\_\_  
 7. Insulation Type \_\_\_\_\_ Size \_\_\_\_\_  
 8. Sheathing Type \_\_\_\_\_ Size \_\_\_\_\_  
 9. Siding Type \_\_\_\_\_ Weather Exposure \_\_\_\_\_  
 10. Masonry Materials \_\_\_\_\_  
 11. Metal Materials \_\_\_\_\_

Interior Walls:  
 1. Studding Size \_\_\_\_\_ Spacing \_\_\_\_\_  
 2. Header Sizes \_\_\_\_\_ Span(s) \_\_\_\_\_  
 3. Wall Covering Type \_\_\_\_\_  
 4. Fire Wall if required \_\_\_\_\_  
 5. Other Materials \_\_\_\_\_

**For Official Use Only**

Date <u>June 27, 1988</u>	Subdivision: Yes / No _____
Inside Fire Limits _____	Name _____
Bldg Code _____	Lot _____
Time Limit _____	Block _____
Estimated Cost _____	Permit Expiration: _____
Value/Structure _____	Ownership: _____ Public _____ Private _____
Fee _____	

Ceiling:  
 1. Ceiling Joists Size: \_\_\_\_\_  
 2. Ceiling Strapping Size \_\_\_\_\_ Spacing \_\_\_\_\_  
 3. Type Ceilings: \_\_\_\_\_  
 4. Insulation Type \_\_\_\_\_ Size \_\_\_\_\_  
 5. Ceiling Height: \_\_\_\_\_

Roof:  
 1. Truss or Rafter Size \_\_\_\_\_ Span \_\_\_\_\_  
 2. Sheathing Type \_\_\_\_\_ Size \_\_\_\_\_  
 3. Roof Covering Type \_\_\_\_\_  
 4. Other \_\_\_\_\_

Chimneys:  
 Type: \_\_\_\_\_ Number of Fire Places \_\_\_\_\_

Heating:  
 Type of Heat: \_\_\_\_\_

Electrical:  
 Service Entrance Size: \_\_\_\_\_ Smoke Detector Required Yes \_\_\_\_\_ No \_\_\_\_\_

Plumbing:  
 Approval of soil test if required Yes \_\_\_\_\_ No \_\_\_\_\_  
 2. No. of Tubs or Showers \_\_\_\_\_  
 3. No. of Flushes \_\_\_\_\_  
 4. No. of Lavatories \_\_\_\_\_  
 5. No. of Other Fixtures \_\_\_\_\_

Swimming Pools:  
 1. Type: \_\_\_\_\_  
 2. Pool Size: \_\_\_\_\_ x \_\_\_\_\_ Square Footage \_\_\_\_\_  
 3. Must conform to National Electrical Code and State Law.

Zoning:  
 District \_\_\_\_\_ Street Frontage Req.: \_\_\_\_\_ Provided \_\_\_\_\_  
 Required Setbacks: Front \_\_\_\_\_ Back \_\_\_\_\_ Side \_\_\_\_\_

Review Required:  
 Zoning Board Approval: Yes \_\_\_\_\_ No \_\_\_\_\_ Date: \_\_\_\_\_  
 Planning Board Approval: Yes \_\_\_\_\_ No \_\_\_\_\_ Date: \_\_\_\_\_  
 Conditional Use: \_\_\_\_\_ Variance \_\_\_\_\_ Site Plan \_\_\_\_\_ Subdivision \_\_\_\_\_  
 Shore and Floodplain Mgmt. \_\_\_\_\_ Special Exception \_\_\_\_\_  
 Other (Explain) \_\_\_\_\_  
 Date Approved \_\_\_\_\_

Permit Received By Nancy L. Dzema

Signature of Applicant Michael Scarks Date 6/27/88 11:30a

Signature of CEO \_\_\_\_\_ Date \_\_\_\_\_

Inspection Dates \_\_\_\_\_

City of Portland, Maine  
IN THE CITY COUNCIL

B-2 ZONES

AMENDMENT TO PORTLAND CITY CODE  
§14-181 THROUGH §14-187  
(RE: B-2 ZONES)

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND, MAINE  
IN CITY COUNCIL ASSEMBLED, THAT, Portland City Code Section  
14-181 through Section 14-187 are repealed and replaced with the  
following:

DIVISION 10. B-2 COMMUNITY BUSINESS ZONE

Sec. 14-181. Purpose.

The purpose of the B-2 Community Business Zone is:

- (1) To provide appropriate locations in the City for the development and operation of a mixture of commercial uses and services that have a community-wide market such as shopping centers or cluster developments.
- (2) The variety, sites, and intensity of the permitted commercial uses in the B-2 Zone is intended to be greater than those permitted in the B-1, neighborhood commercial zone.

Sec. 14-182. Permitted uses.

The following uses are permitted in the B-2 Zone:

(1) Residential

Any residential use permitted in the residential zone abutting the lot. If there is no abutting residential zone, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the most restrictive such zone.

(2) Business

- a. General, business, and professional offices as defined in §14-47;
- b. Personal services as defined in §14-47;
- c. Offices of building tradesmen;

CITY OF PORTLAND, MAINE  
M E M O R A N D U M

TO: Alex Jaegerman, Chief Planner

FROM: Sarah Greene, Planner SG

DATE: December 27, 1988

SUBJECT: Scarks; Bates Street area rezoning and site plan review

Attached is a revised chronology of the Scarks Bates Street area rezoning request.

On September 17, 1987, the Planning Board received a letter from Mike Scarks requesting a rezoning of the Bates Street area bounded by I-295 and Baxter Boulevard from R-5 to B-2, in order to build an inn. The rezoning was recommended for approval on 11/10/87 by the Planning Board and then approved 6/20/88 by the City Council. On 7/20/88 the rezoning of Bates Street was effective.

Meanwhile, the Planning Board was developing comprehensive commercial zoning amendments. On September 15, 1987 the Planning Board made a recommendation to City Council regarding the comprehensive zoning text amendments and on 4/4/88 the City Council approved these amendments. The amendments were to go into effect September 20, 1988 (approximately two months after the Bates St. zone change was to become effective).

Presently, the Commercial Inn development is undergoing site plan review. The most recent plan was received September 22, 1988 along with a written statement from Mr. Scarks (attached). The plan submitted on September 22, 1988 is described as preliminary and is missing the following information required of a final site plan:

1. Standard boundary survey;
2. Topography indicating existing and proposed contours at intervals of not more than two (2) feet;
3. Existing soil conditions;
4. Location of watercourses, marshes, rock outcroppings and wooded areas;
5. Location, ground floor area and elevations of building and other structures existing and proposed, and materials to be used;
6. Approximate location of buildings or other structures on parcels abutting the site;
7. Location of on-site public utilities, water and sewer mains, culverts, drains, existing and proposed, showing size and direction of flow;
8. Location and dimensions of any easements, public or private right-of-way, existing and proposed;
9. Location and dimensions of on-site pedestrian and vehicular access ways, parking areas, loading and unloading facilities, designs of ingress and egress of vehicles to land from the site onto public streets, and curb and sidewalk lines;
10. Landscape plan showing location, type, and approximate size of plantings;



11. Location and dimensions of all fencing and screening;
12. Location and intensity of outdoor lighting system;

and any other requirements set forth in the site plan ordinance.

A written statement including the following is also required:

1. The total land area of the site, and the total floor area and ground coverage of each proposed building and structure;
2. General summary of existing and proposed easements or other burdens now existing or to be placed on the property;
3. Method for handling solid waste disposal;
4. The applicant's evaluation of the availability of off-site public facilities including sewer, water and streets;
5. A description of any problems of drainage or topography, or a representation that, in the opinion of the applicant there are none;
6. An estimate of the time period required for completion of the development.

The present zoning for the B-2 Business Zone, enacted on Sept. 20, 1988 requires that the height of the buildings proposed in the B-2 zone does not exceed 45 feet. Mr. Scarks holds that the previous B-2 zone text governs this development and has accordingly proposed a 55 foot high structure.

We have postponed any Planning Board review of this project pending resolution of the allowable height and submission of more complete plans.

Attachments:

1. Site plan review processing form
2. Letter from Michael Scarks to Maureen O'Meara, dated 9/22/88

cc: Joseph E. Gray, Jr., Director of Planning and Urban Development  
Warren Turner, Zoning Administrator  
David A. Lourie, Corporation Counsel  
Charles Lane, Corporation Counsel  
Natalie Burns, Associate Corporation Counsel  
Sarah Greene, Planner  
Maureen O'Meara, Senior Planner

BATES STREET REZONING REQUEST CHRONOLOGY  
MICHAEL SCARKS, APPLICANT

- 09/14/87 Letter from Michael Scarks to Planning Board - Request to include Bates Street in Planning Board's comprehensive neighborhood commercial areas zoning recommendations.
- 09/15/87 Planning Board public hearing and recommendation to City Council on comprehensive zoning amendments.
- 09/17/87 Letter from Michael Scarks to Planning board, individual request for rezoning the Bates Street area.
- 09/29/87 Planning Board workshop on zoning amendment.
- 10/05/87 Letter to Planning Board from Richard Vose in favor of rezoning.
- 10/07/87 Letter to Planning Board from Robert Fraser in favor of rezoning.
- 10/10/87 Application for Bates Street zoning change from Michael Scarks.
- 10/29/87 Public hearing ad to newspaper, re: Scark's rezoning request.
- 11/02/87 Ad published in Guy Gannett newspapers, re: Scark's rezoning request.
- 11/10/87 Planning Board hearing on Bates Street zoning change (recommend B-2 to City Council).
- 11/10/87 Preliminary plan approval extension agreement (for plans submitted with rezoning request) was signed by Jack Humeniuk and Michael Scarks.
- 12/17/87 Letter to Joseph Gray, Jr., from Michael Scarks, postponing rezoning consideration before the City Council.
- 01/02/88 Michael Scarks dropped off new inn site plan to Planning Department.
- 04/04/88 City Council approved B-2 neighborhood zoning amendments and set enactment date of 07/01/88.
- 04/08/88 Letter to Mayor Dorler from Michael Scarks requesting the City to reactivate the zone change application.
- 04/29/88 Memo/Planning Board report to City Council for City Council agenda item.
- 06/08/88 First reading by City Council on Bates Street zoning change.
- Effective dates of zoning amendments changed from 07/01/88 to 09/20/88.
- 06/20/88 Public hearing City Council, Bates Street zoning change from R-5 to B-2 approved.

- 06/20/88 Michael Scarks dropped off new minor site plan to Planning Department. Seven story variance necessary.
- 06/23/88 Date of Site Plan Review Processing Form for 976-1000 Baxter Blvd.
- 07/20/88 Effective date of Bates Street zoning change.
- 08/11/88 Zoning Board of Appeals hearing on Bates St. variance. Seven story variance denied.
- 09/20/88 Commercial zoning amendments effective date.
- 09/22/88 Revised site plan received with letter indicating the plan is designed to comply with B-2 height limit in effect prior to commercial zoning revisions.
- 11/17/88 Zoning Board of Appeals hearing to decide whether Commercial Inn development is subject to new or old B-2 zoning requirements was postponed pending receipt of additional information.
- 01/12/89 Scheduled Zoning Board of Appeals hearing on Scarck's Commercial Inn proposal.

06/24/88 KC

Revised 12/27/88 SG

3-2 ZONES

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to the requirements of Article V (Site Plan.)

d. Accessory uses as provided in §14-404.

Sec. 14-183. Conditional uses.

The following uses are permitted as provided in §14-474 (Conditional Uses) if they meet the following requirements:

(1) Business

- a. Major and minor gasoline service stations, as defined in Section 14-47;
- b. Car washes;
- c. Automobile dealerships; and
- d. Drive in or drive through restaurants.

In addition to approval by the planning board with respect to the requirements of Article V ("Site Plan"), these uses shall comply with the following conditions and standards in addition to the provisions of section 14-474:

- i. Signs. Signs shall not adversely affect visibility at intersections or access drives. Such signs shall be constructed, installed and maintained so as to insure the safety of the public. Such signs shall advertise only services or goods available on the premises.
- ii. Circulation. No ingress and egress driveways shall be located within thirty (30) feet from an intersection. No entrance or exit for vehicles shall be in such proximity to a playground, school, church, other places of public assembly, or any residential zone that the nearness poses a threat or potential danger to the safety of the public.
- iii. Drive up features. Drive up features such as gasoline pumps, vacuum cleaners, and menu/order boards shall not extend nearer than twenty-five (25) feet to the street line. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular circulation or creating hazards to



