1. Legal Ad

   Documents: PB LGL AD 10-14-14.PDF

2. Agenda

   Documents: PB AGENDA 10-14-14.PDF

3. 72 Bishop Street

   3.I. Report

   Documents: BISHOP ST. - 72 (REPORT).PDF

   3.II. Report Attachments

   Documents: BISHOP ST. - 72 (REPORT ATTACHMENTS).PDF

   3.III. Applicants Submittal

   Documents: BISHOP ST. - 72 (APPLICANTS SUBMITTAL).PDF

   3.IV. Plans

   Documents: BISHOP ST. - 72 (PLANS).PDF

   3.V. Public Comment

   Documents: BISHOP ST. - 72 (PUBLIC COMMENT).PDF

4. B-1 And B-2 Text Amendments

   4.I. PB Report

   Documents: B-1 AND B-2 TEXT AMENDMENTS (PB REPORT AND ATTACH.).PDF

LEGAL ADVERTISEMENT
PORTLAND PLANNING BOARD MEETING

The Portland Planning Board will hold a meeting on October 14, 2014, Room 209, 2nd Floor, City Hall, 389 Congress Street. **Public comments will be taken at the public hearing.**

The agenda includes the following items:

Public Hearing – 7:00 p.m.

i. 72 Bishop Street, B-2 Map Amendment; Avesta Housing, Applicant. The Board will consider a zoning map amendment to rezone a series of five parcels on the south side of Bishop Street (from 50 to 116 Bishop Street) from Moderate Impact Industrial (IM), Residential (R-3), and Residential (R-5) to Community Business (B-2c). Another six parcels at the intersection of Mayfield Street and Bishop Street (34 Bishop Street and 6 to 11 Mayfield Street) are being considered for rezoning from Moderate Impact Industrial (IM) to Residential (R-5). The zone change would allow Avesta Housing, the applicant, to develop 30 efficiency apartments at the property at 72 Bishop Street.

ii. B-1 and B-2 Text Amendments; City of Portland, Applicant. The Board will consider text amendments to the B-1 and B-2 zones. These amendments include changes to the dimensional standards and permitted uses of both zones.

STUART O'BRIEN, CHAIR - PORTLAND PLANNING BOARD

CITY OF PORTLAND, MAINE

PLANNING BOARD

Stuart G. O'Brien, Chair
Timothy Dean, Vice Chair
Elizabeth Boepple
Sean Dundon
Bill Hall
Carol Morrissette
Jack Soley

AGENDA
PORTLAND PLANNING BOARD

The Portland Planning Board will hold a meeting on October 14, 2014, Room 209, 2nd Floor, City Hall, 389 Congress Street. **Public comments will be taken at this meeting.**

There is no Workshop portion of this meeting.

PUBLIC HEARING - 7:00 p.m.

1. ROLL CALL AND DECLARATION OF QUORUM
2. COMMUNICATIONS AND REPORTS
3. REPORT OF ATTENDANCE AT THE FOLLOWING MEETINGS:

SEPTEMBER 9, 2014:
Workshop: O'Brien, Dean (4:45), Boepple, Dundon, Hall, Morrissette, Soley present.
Public Hearing: All members were present.

SEPTEMBER 23, 2014:
Afternoon Workshop: O'Brien, Dean, Boepple, Morrissette, Soley present. Dundon and Hall absent.
Evening Workshop: O'Brien, Dean, Boepple, Morrissette, Soley present. Dundon and Hall absent.

4. REPORT OF DECISIONS AT THE FOLLOWING MEETINGS:

SEPTEMBER 9, 2014

i. 777 Stevens Avenue; Map and Text Amendment; Park Danforth; The Park Danforth, Applicant. Dean moved and Morrissette seconded the motion to find the proposed R-6A text amendments with a maximum building height of 65 feet and the text amendments to Division 20, Off Street Parking for one space per unit in R-6 zones are consistent with the comprehensive plan and recommend adoption of the Text Amendment to the City Council. The Board voted unanimously 7-0. Dean moved and Morrissette seconded the motion to find the proposed R-6A map amendments for the Deering Pavillion Site and the entire block for Park Danforth are consistent with the comprehensive plan and recommend adoption of the two map amendments to the City Council. The Board voted unanimously 7-0.

ii. International Marine Terminal, 528 Commercial Street, Level III Site Plan, Maine Department of Transportation, Applicant. Dean moved and Morrissette seconded the motion to find the Wall Option 1 is in conformance with the site plan standards and meets the July 8, 2014 condition of approval for the IMT application. The Board voted unanimously 7-0.

SEPTEMBER 23, 2014
There were no public hearing items.

5. NEW BUSINESS

1. 72 Bishop Street, B-2 Map Amendment; Avesta Housing, Applicant. The Board will consider a zoning map amendment to rezone a series of five parcels on the south side of Bishop Street (from 50 to 116 Bishop Street) from Moderate Impact Industrial (IM), Residential (R-3), and Residential (R-5) to Community Business (B-2c). Another six parcels at the intersection of Mayfield Street and Bishop Street (34 Bishop Street and 6 to 11 Mayfield Street) are being considered for rezoning from Moderate Impact Industrial (IM) to Residential (R-5). The zone change would allow Avesta Housing, the applicant, to develop 30 efficiency apartments at the property at 72 Bishop Street.

2. B-1 and B-2 Text Amendments; City of Portland, Applicant. The Board will consider text amendments to the B-1 and B-2 zones. These amendments include changes to the dimensional standards and permitted uses of both zones.

STUART O'BRIEN, CHAIR - PORTLAND PLANNING BOARD

PLANNING BOARD REPORT
PORTLAND, MAINE

Map Amendment for 72 Bishop Street, Bishop Street Apartments
Rezone from I-M, R-3, and R-5 to B-2c and R-5
Avesta Housing, Applicant

Submitted to: Portland Planning Board Public Hearing Date: October 14, 2014 Project #: 2014-110	Prepared by: Nell Donaldson, Planner Date: October 10, 2014

Figure 1: 72 Bishop Street, aerial view

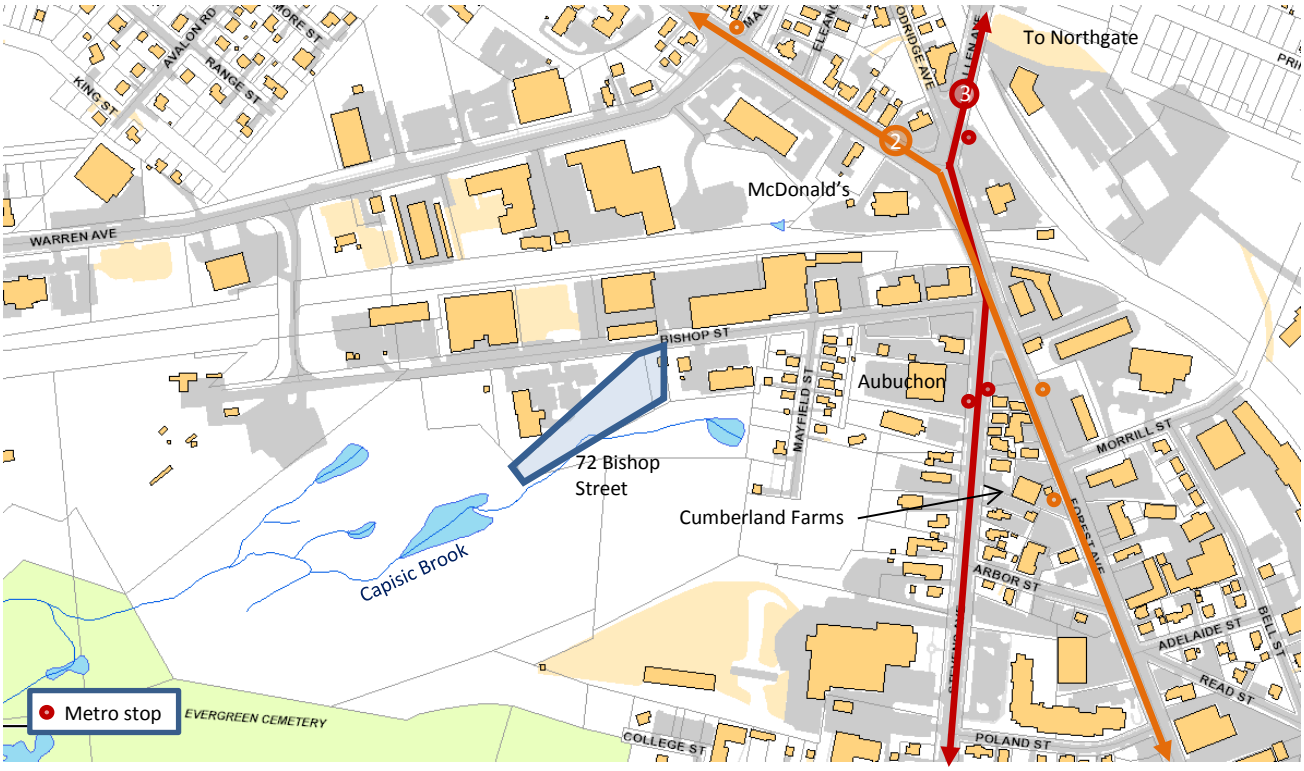
I. INTRODUCTION

In mid-June, Avesta Housing submitted a zone change request for a 1.16 acre property at 72-78 Bishop Street. The site, which actually consists of two separate lots, is currently zoned Moderate Impact Industrial (IM), Residential (R-3), and Residential (R-5), and is developed with a single family home. Avesta originally proposed a change to Community Business (B-2), arguing that this designation would best allow them to develop 30 efficiency units for chronically homeless individuals, using the Housing First approach employed for Logan Place and Florence House, on the site.

The Planning Board considered the proposal at previous workshops on July 8, August 12, and September 9. Through the course of review, the Board engaged in substantial discussion surrounding the proposed use of the 72 Bishop Street site, the suitability of the proposed zoning designation, the area of the rezoning, and its potential traffic and environmental implications. This report summarizes staff findings on the proposal; offers options for a proposed map amendment, developed over the course of previous board workshops; and finally presents a motion for the board to consider.

Public notice of the public hearing appeared in the *Portland Press Herald* on October 6 and 7, 2014, was posted on the web site, and was sent by mail or e-mail to 156 property owners as well as interested citizens.

Applicant: Avesta Housing, Greg Payne
Property Owner: Hed Way Development
Consultant: Mitchell & Associates, Bob Metcalf



Figures 2 & 3: 72 Bishop Street context (top) and site as it exists today (bottom)

II. EXISTING CONDITIONS

As noted in previous board memos, Bishop Street extends from Forest Avenue/Stevens Avenue at Morrill's Corner to Warren Avenue to the west *(Figure 2)*. It currently hosts a variety of uses ranging from auto body shops to a dog grooming business, an investment advisor, a Masonic Hall, and a taxi company. The majority of the street is occupied by commercial and industrial uses. The University of New England owns a parking lot at the west end of the street, as well as all of the undeveloped land south of Bishop Street. Single family homes can be found on the east end where Bishop Street intersects with Mayfield Street. 72-78 Bishop Street, the Avesta site, lies on the south side of the street near its center. The site is presently occupied by a single-family home, with forested wetlands at the rear. Existing uses along the length of Bishop Street, determined through a windshield survey, are shown in *Figure 4*, coded by assumed land use. Note that these land use determinations have not been verified with the Zoning Administrator as the legal uses based upon Inspections records.

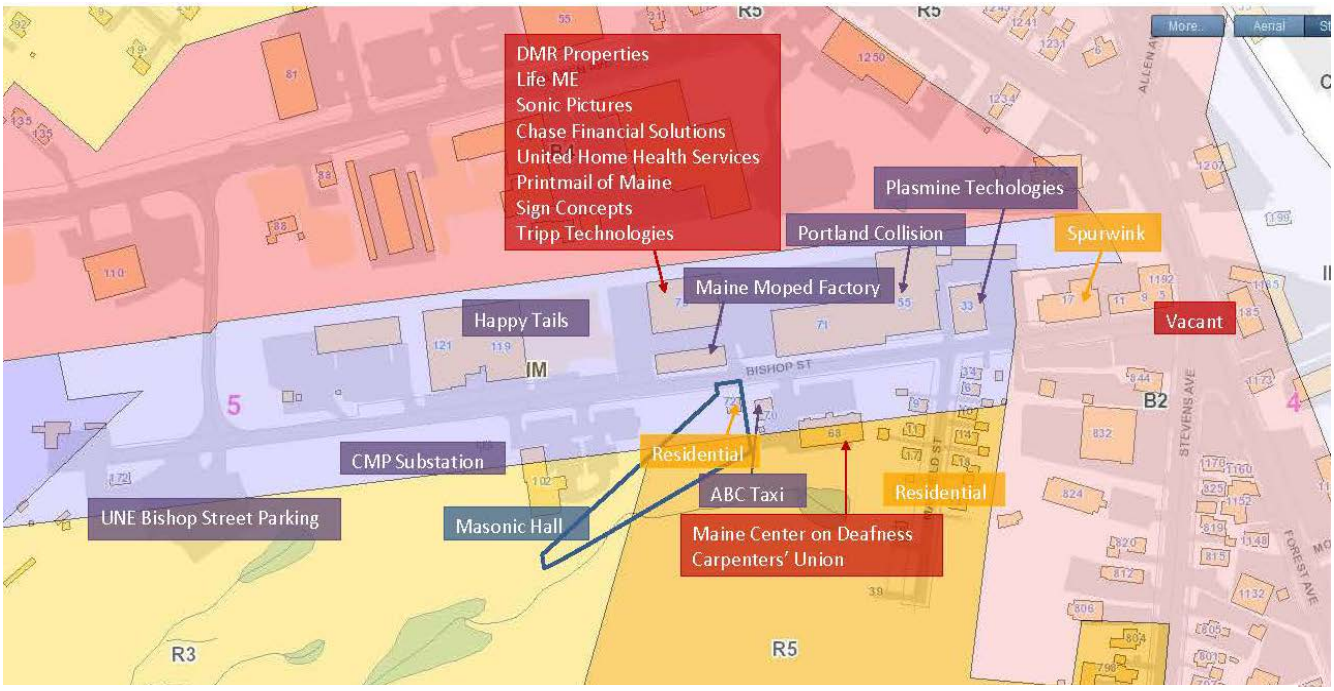


Figure 4: Existing Bishop Street uses and underlying zoning

In keeping with the mix of existing uses, Bishop Street also hosts a mix of zoning designations *(Figure 4)*. The majority of Bishop Street is zoned Industrial IM (Moderate Impact) with an Industrial IH (High Impact) zone that encompasses the former Pike Industry site at the westerly end of the street. The IM zone boundaries parallel Bishop Street, extending north to the railroad line and south approximately 100 feet. Residential R-3 and R-5 zones are located to the south of the I-M zone. The majority of Mayfield Street lies within the R-5 zone, except for the residential buildings within approximately 100 feet of Bishop Street, which are zoned IM.

III. PROPOSED MAP AMENDMENT

Current Zoning: IM (Moderate Impact Industrial), R-5 (Residential), and R-3 (Residential)
Proposed Zoning: B-2c (Community Business) and R-5 (Residential)
Current Uses: Substation, Masonic Hall, single-family residential, office
Proposed Uses: Substation, Masonic Hall, single-family and multi-family residential, office
Parcels to be Rezoned B-2c: 293-C-16, 1, 2, 3, 4 (area to be determined based on board motion)
Parcels to be Rezoned R-5: 293-C-7, 8, 9 and 293-D-1, 2, 3

IV. ZONING ANALYSIS

As noted above, Avesta originally requested a zone change to B-2 for their property at 72 Bishop Street. Avesta argued that the proposed zone change was necessary to allow them to develop high-density housing for formerly homeless individuals on the site and, further, that the change met the goals of the comprehensive plan *(Attachment A)*.

The subsequent review highlighted the fact that much of the existing IM zone along the southerly edge of Bishop Street is currently neither developed nor functioning as an industrial area. The size of lots, the fact that the lots are only partially zoned industrial, the existence of the residential neighborhood on Mayfield Street, and the presence of sensitive natural resources in the vicinity effectively limit the potential for industrial development. In contrast, the northern edge of Bishop Street has industrial uses along with other permitted uses in the IM zone.

Table 1: Purposes

Zone	Purpose
IM (Industrial – Moderate Impact)	To provide zones in areas of the city in which light and moderate impact industries and transportation-related uses will coexist. The moderate impact industrial (I-M and I-Ma) zones are located on arterials or collectors. The I-Mb zones are similarly located on the peninsula. These locations provide for direct access onto arterials, thereby protecting residential neighborhoods from drive-through traffic. The I-M, I-Ma and I-Mb industrial zones are intended to provide for larger industrial buildings and for the limited or controlled use of areas outside of structures for storage of materials and machinery. These facilities often require large volumes of imported materials and products which result in large volumes of shipping and receiving. Often uses may be highway-oriented and transportation-related, thus relying on citywide and regional transportation infrastructure. Industrial uses in the moderate impact industrial zones may require separation from higher impact uses, which should be directed to the high impact industrial zone.
R-3	To provide for medium-density residential development characterized by single-family homes on individual lots and also to provide for planned residential unit developments on substantially sized parcels. Such development shall respond to the physical qualities of a site and complement the scale, character and style of the surrounding neighborhood.
R-5	To provide appropriate areas of the city for medium-density residential development characterized by single-family and low-intensity multifamily dwellings on individual lots; to ensure the stability of established medium-density neighborhoods by controlling residential conversions; and to provide for planned residential unit development on substantially sized parcels. Such PRUD development shall respond to the physical qualities of a site and complement the scale, character and style of the surrounding neighborhood.
B-2c (Community Business)	To provide appropriate locations for the development and operation of community centers offering a mixture of commercial uses, housing and services serving the adjoining neighborhoods and the larger community. The variety, sites and intensity of the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1 neighborhood business zone. The B-2 zone will provide a broad range of goods and services and general businesses with a mixture of large and small buildings such as grocery stores, shops and services located in major shopping centers and along arterial streets. Such establishments should be readily accessible by automobile, by pedestrians and by bicycle. Development in the B-2 zone should relate to the surrounding neighborhoods by design, orientation, and circulation patterns. The B-2 and B-2b will provide locations for moderate to high density housing in urban neighborhoods along arterials. [For the B-2c] To protect and enhance the quiet enjoyment of adjoining residential neighborhoods from the impacts of businesses that serve liquor and from other uses that are incompatible with adjoining neighborhoods due to noise.

Over the course of the review, then, both the board and the city's staff recognized the opportunity to develop a more rational zoning scheme for the area. To this end, staff's zoning analysis ultimately included a variety of potential designations, including the Residential R-3, Residential R-5, Residential R-6, Neighborhood Business B-1, and Community Business B-2/B-2b/B-2c. Staff also analyzed a variety of potential geographic areas for the zone change *(Attachment 1)*. Following consideration of this analysis, the Board directed staff to advertise the B-2c and the R-5 as the proposed zoning designations. B-2c is suggested for the five properties south of Bishop Street west of Mayfield Street. R-5 is recommended at the north end of Mayfield Street where it intersects with Bishop Street.

Existing Moderate Impact Industrial IM Zoning

Of all the city's industrial zones, the IM is the most prevalent. IM zoning can be found along many of the city's rail and highway corridors, including the vicinity of Presumpscot Street, St. John Street, outer Congress Street, Rand Road, Canco Road, and much of Riverside Street. The IM zone is designed for arterial or collector streets where moderate impact industries can access the transportation network directly without affecting residential neighborhoods. The IM is "intended to provide for larger industrial buildings…[with] large volumes of shipping and receiving" (14-246).

The permitted uses in the IM zone are, as one would expect, generally industrial in nature, and include warehousing, food processing, recycling, lumber yards, miscellaneous repair services, dairies, and tow

lots, among others. The IM zone also permits general, business, and professional offices by right. Most of the existing uses south of Bishop Street west of Mayfield Street, except for the place of assembly and the single-family home at 72 Bishop Street, are technically permitted in the IM zone. However, most of these uses, including the office, are also not necessarily "industrial" in nature. The residential uses at the end of Mayfield Street are technically non-conforming.

The dimensional standards of the IM zone are geared toward uses of an industrial nature, tending toward large buildings on large lots. The minimum street frontage, 60 feet, and the maximum structure height, 75 feet, are greater than most residential and business zones. The frontage of 72 Bishop appears to be non-conforming.

While Bishop Street has been zoned industrially for a significant amount of time and was designated as an IM zone under the *Industry and Commerce Plan* of 1994, there is a case for eliminating the IM zone on the south side of Bishop Street in this area. Again, these lots are generally not functioning as industrial in nature, are small in terms of supporting industrial development, and adjoin environmentally sensitive areas. The presence of the residential community at Mayfield Street further complicates the industrial use.

Proposed Community Business B-2c Zoning

The purpose of the Community Business B-2c zone more closely fits the general pattern of existing uses on the south side of Bishop Street west of Mayfield Street. The B-2 is written to "provide appropriate locations for the development and operation of community centers offering a mixture of commercial uses, housing, and services serving the adjoining neighborhoods and the larger community" and to "provide locations for moderate to high density housing in urban neighborhoods along arterials" (14-181). The B-2c, a variant of the B-2 which emerged as a viable option over the course of the review due to its increased protections for abutting residential development, is "to protect and enhance the quiet enjoyment of adjoining residential neighborhoods from the impacts of businesses that serve liquor and from other uses that are incompatible with adjoining neighborhoods due to noise."

The B-2c allows a higher degree of flexibility in terms of uses than the industrial or residential zones, permitting a wide range of residential, office, and business uses. The B-2c permits restaurants, veterinary hospitals, theaters, hotels, and dairies and bakeries but prohibits drinking establishments explicitly. The majority of the existing uses on the south side of Bishop Street, including the residential, the office uses, the place of assembly, and the utility substation, are technically permitted by right in the B-2c zone.

The business zones generally promote a more urban form than the residential or industrial zones, characterized by greater residential density, smaller setbacks (and, in fact, build-to lines), and less open space. The maximum height is 45 feet, or 50 feet if the first floor is occupied by a commercial use. This form is similar to portions of Morrill's Corner proper.

Proposed Residential R-5 Zoning

The R-5 zone, likewise, more appropriately fits the north end of Mayfield Street where it intersects with Bishop Street. The R-5, which currently covers the rest of Mayfield Street, is designed for medium density residential development characterized by single- and "low intensity multi-family" dwellings. This purpose clearly fits the end of Mayfield Street, where single-family homes predominate as non-conforming uses in an IM zone.

The uses of the Residential R-5 zone are entirely residential in nature. There are no industrial or business uses permitted in the residential zones. Utility substations and places of assembly are conditional uses in the residential zones. Offices are generally not permitted.

The residential zones are generally oriented toward the smaller scale, small lot development characteristic of the city's off-peninsula neighborhoods.

Table 2: Permitted and Conditional Uses

Uses			I-M	R-3	R-5	B-2/B-2b/B-2c
Permitted	Residential	Single-family and two-family dwellings		•	•	•
		Multi-family dwellings				•
		Handicapped family units		•	•	•
		Single-family manufactured housing		•	•	
		Combined living/working spaces				•
		Lodging houses				•
		PRUDs		•	•	
		Multiplex development			•	
	Institutional	Schools				•
		Clinics				•
		Places of assembly				•
		Long term, extended and intermediate care facilities				•
		Governmental buildings and uses/municipal uses		•	•	•
		College, university or trade schools				•
		Day care facilities	•			•
	Business	General, business, & professional offices	•			•
		Personal services				•
		Offices of building tradespeople				•
		Retail establishments				•
		Restaurants				•
		Drinking establishments				•[1]
		Billiard parlors				•
		Mortuaries or funeral homes				•
		Miscellaneous repair services	•			•[2]
		Communication studios or broadcast facilities				•
		Health clubs and gymnasiums				•
		Veterinary hospitals				•[3]
		Theaters				•
		Hotels				•[4]
		Dairies and bakeries	•			•
		Drive-throughs when accessory to a principal use				•[5]
		Registered medical marijuana dispensaries				•
		Indoor recreation and family amusement establishments	•			
		Intermodal transportation facilities	•			
	Other	Accessory uses	•	•	•	•
		Parks		•	•	
		Home occupation		•	•	
		Studios for artists and craftspeople				•
		Special needs independent living units			•	
		Bed and breakfasts				•
		Hostels				•
		Wind energy systems	•	•	•	•
		Utility substations	•			•

Table 2: Permitted and Conditional Uses

Uses			I-M	R-3	R-5	B-2/B-2b/B-2c
		Warehousing and wholesaling	•			
		Low impact industrial uses	•			
		R&D and back office uses	•			
		Building contractors and construction services	•			
		Nurseries	•			
		Lumber yards	•			
		Commercial kitchens or other food preparation	•			
		Recycling & solid waste disposal facilities	•			
		Food processing	•			
		Correctional pre-release facilities	•			
		Tow lots	•			
Conditional	Residential	Sheltered care group homes		•	•	
		Additional accessory dwelling units		•	•	
		Alteration of non-residential structure to 3+ dwellings			•	
		Conversion of multi-family structure to lodging house			•	
	Institutional	Schools		•	•	
		Long-term and extended care facilities		•	•	
		Intermediate care facility		•	•	
		Places of assembly		•	•	
		Hospitals		•	•	
		Day care facilities		•	•	
		College, university, trade schools			•	
	Business	Auto service stations existing as of 1999				•[6]
		Car washes				•
		Drive-throughs adjacent to residential uses or zones				•[7]
		Automobile dealerships				•
	Other	Utility substations		•	•	
		Off-street parking		•	•	
		Temporary wind anemometer towers	•	•	•	•
		Wind energy systems	•	•	•	•
		Printing and publishing establishments				•
		Wholesale distribution establishments				•
		Research and development and related production				•

[1] Except in B-2c
[2] Excluding motor vehicle repair
[3] Excluding outdoor kennels
[4] Of less than 150 rooms
[5] Permitted in B-2 or B-2b if not adjacent to residential use or zone
[6] Permitted in B-2, & permitted in the B-2b if in existence since 1999
[7] Permitted in B-2, & permitted in the B-2b if accessory

Table 3: Dimensional Standards

	I-M	R-3[1]	*R-5[1,2]*	B-2
Min. Lot Area per D.U.	N/A	6,500 SF	3,000 SF, except 3,600 – 4,800 SF for special needs independent living units	1,500 SF 435 SF in projects with active street frontages
Street Frontage	60 feet	50 feet	50 feet	25 feet
Min. Lot Width	None	None	60 feet, except 90 feet for multiplex	None
Min. Front Yard	1 foot for each foot of building height	25 feet	20 feet, except where average depth of adjacent front yards is less	None
Max. Front yard	None	None	None	10 feet, except for irregularly shaped lots or lots with < 40 feet of frontage
Min. Rear Yard	1 foot for each foot of building height up to 25 feet 35 feet when abutting residential zone	25 feet	20 feet	10 feet
Min. Side Yard	1 foot for each foot of building height up to 25 feet 35 feet when abutting residential zone	8-20 feet, depending on height/location	8-15 feet, depending on height/location	None
Structure Height	75 feet	35 feet	35 feet	45 ft., except 50 feet if first floor is occupied by a commercial use 65 feet on lots > 5 ac.
Max. Lot Coverage	None	35 %	40%	None
Max. Impervious Surface	75%	None	None	Residential: None Business and non-residential uses: 80%

[1]Additional restrictions on total number of dwelling units, setbacks, and lot coverage apply for PRUDs in the R-3 and R-5 zones
[2] Separate requirements apply for small residential lot development

V. POTENTIAL IMPACTS

At previous workshops on this map amendment request, board members encouraged a broad look at the potential impacts of the proposed zoning designations, particularly in the case of the proposed B-2c zone. As a result, staff requested or performed several analyses of the zone change's implications.

Traffic

At the August 12 Planning Board workshop, residents and board members raised concerns regarding the potential impacts to pedestrian and vehicular traffic under a zone change, especially in light of existing capacity issues at Morrill's Corner. At the board's request, Tom Errico, the city's consulting traffic engineer, conducted a trip generation analysis designed to show how potential trip generation might generally compare under the present-day and proposed future zoning. In order to achieve this, the analysis assumed worst-case-scenario buildout based on the existing and proposed zoning designations, calculated trip generation based on these scenarios, and compared these figures.

The analysis found that, under the proposed rezoning scenario, particularly where Bishop Street west of Mayfield Street is rezoned to B-2c, there is the potential for more trip generation than under the existing zoning designation *(Attachment 2)*. This is largely a result of the retail use permitted in the B-2c, which Mr. Errico assumed would have "shopping center type trip generation characteristics." Mr. Errico estimates that up to 65 more trips could be generated in the AM peak hour and 100-200 more trips could be generated in the PM peak hour under the proposed B-2c zoning scheme than under the existing zoning, depending on how far onto the lots the rezoning extends. Mr. Errico has advised that the trip generation figures supplied in his analysis likely represent worst case scenarios. Regarding the downstream effects of the potential change in trip generation, Mr. Errico writes,

> *Any added traffic in this area has the potential to impact traffic conditions at Morrill's Corner. The intersection is currently near or over capacity and the nature of multiple streets intersecting Forest Avenue in close proximity complicates traffic mobility. In my professional opinion, both zoning options will have an impact. It is very difficult to predict the magnitude of the impact, without conducting detailed traffic analyses. My general opinion is that some mitigation will be warranted if significant traffic is added to Forest Avenue.*

Staff also requested that Mr. Errico comment on the implications of the trip generation analysis with respect to pedestrian accommodations. He writes,

> *Multi-modal transportation considerations are an important element of understanding project impacts. In the case of the zone change, it is my professional opinion that a sidewalk systems, without gaps, should be provided between uses on Bishop Street and Forest Avenue. Morrill's Corner currently can be a difficult environment for pedestrians. While basic pedestrians features (e.g. crosswalk, signal heads) are provided, upgrades are likely warranted to fully balance all transportation user needs. It is my professional opinion that pedestrian upgrades would be required regardless of the zoning or development. I would note that the City has required for off-site mitigation improvements or monetary contributions and these are generally related to types of land uses and how they may impact conditions, so the level of mitigation will be related to traffic and pedestrian generating levels.*

As previously noted, the applicant has offered to construct a sidewalk between their site and Morrill's Corner. Some neighboring property owners have raised concerns with this potential sidewalk, citing maintenance implications. Concerns regarding possible conflicts with existing trees have also been expressed. The details of extending a sidewalk along Bishop Street would be considered under site plan review.

Natural Resources
Residents and board members have also cited concerns regarding possible environmental impacts, particularly to the Capisic Brook. The city has devoted considerable resources to the Capisic Brook watershed in recent years, culminating in a plan for the watershed, *Capisic Brook Watershed Management Plan*, which was published in 2012. This plan cites results of a 2003 biological monitoring program on the Capisic Brook which determined that the east tributary of the Capisic, which roughly parallels Bishop Street here, had "a healthy macroinvertebrate community, good water quality, and adequate habitat" and met Class C water quality standards. It further noted that the "[v]ariation in water quality at [the east tributary/Evergreen Cemetery monitoring station compared to downstream station] has been attributed to the differences in land use, especially the presence of impervious cover, and hence probable differences of NPS [non-point source] discharges into the brook…" (1-3).

Similarly, a peer review conducted in 2007 by Call of the Wild Consulting and Environmental Services for the Gullivers Field area immediately south of Bishop Street notes that that site provides "very significant migratory passerine (songbird) stopover habitat for both the spring and fall migrations. In fact, this area is a premier destination site for spring birding because of the large variety of bird species and numbers." The review concludes, "this area is a well-documented, important ecological area in Portland that Call of the Wild recommends permanent protection [sic]…"

In terms of potential impacts to these resources, the B-2c zone actually allows a slightly greater percentage of impervious surface and a lesser rear and rear setbacks than the existing IM zone. The B-2c also permits auto service stations and car washes as conditional uses. However, the existing IM zone allows a variety of uses which generally have the potential for more intensive environmental impacts, such as recycling and solid waste disposal facilities and building contractors and construction services.

Security
At the September 9 hearing, responding to neighborhood concerns, board members also highlighted the need to understand security and safety impacts of the proposed map amendment, particularly in the context of the Avesta project. Board members asked explicitly for police department data related to security around Avesta's existing housing developments. The applicant had previously provided a testimonial from Vernon Malloch of the Portland Police Department stating that "Logan Place has successfully served as a tested model with no significant impact on the surrounding neighborhood" (*Attachment M)*, but the board stressed the importance of additional information. In response, the applicant has provided a letter stating that they had recently received police incident data but that "it is in a format that is not easily understood" *(Attachment N).* The applicant has indicated that they are "in the process of tabulating the data and preparing a chart that will show the type of incident responses that have occurred over the past 9 years….[and] coordinating with PPD to better define response call designations." They have promised that documentation will be available at the public hearing.

VI. GEOGRAPHIC AREA OF PROPOSED AMENDMENT
The September 9 workshop included some discussion of ways to limit the potential impacts of the proposed zone change, particularly in the case of the proposed B-2c. These discussions led largely to a consideration of the geography of the proposed zone change.

Extent of Rezoning to West
The extent of the rezoning west down Bishop Street has provided a source of discussion throughout the course of this review. As noted above, the University of New England owns a significant amount of land both at the west end and immediately south of Bishop Street, portions of which are currently used for parking areas and recreational open space. The board has asked for documentation regarding UNE's plans for the Bishop Street area, and whether UNE's property should be included under the proposed zone change request. The merits of a B-2 or B-2c zoning designation were discussed with UNE's Assistant Vice President for

Planning, Alan Thibeault, and Mr. Thibeault has provided a letter indicating the university's intent to "complete a Master Plan of the Portland Campus and submit it for consideration of an Overlay Zone," and consequently its desire not to be included under this zone change request *(Attachment PC-3)*. It should be noted that Mr. Thibeault's letter also states explicitly that UNE does not support the rezoning request, remarking that the "proposed rezoning would actually result in a more complicated zoning situation, for UNE and the City, as it would increase the total number of zones, to 5, that UNE's contiguous land holdings fall into." The proposed map amendment before the board does not incorporate any of the land owned by UNE.

Extent of Rezoning to South

Similarly, the extent of the proposed rezoning south of Bishop Street, particularly with respect to the proposed B-2c, has been the subject of considerable discussion over the course of the review. As part of these discussions, questions have been raised regarding additional regulatory mechanisms, both in the city's zoning and beyond, which might apply.

Stream Protection

The city's basic mechanism for regulating development near a stream is the Stream Protection zone, which is a component of the city's shoreland zoning. The applicability statement of the Stream Protection Zone states that "the S-P stream protection zone includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high water line of a stream as shown on the City of Portland Zoning Map" (14-452). As with the stream protection zone, the shoreland zone applies to areas "within seventy-five (75) feet, horizontal distance, of the normal high water line of a stream…" (14-447). The minimum setback in both zones is 75 feet from the normal high water line.

However, the Capisic Brook in this area is not technically shown in either the Stream Protection or Shoreland zones on the city's zoning map. The *Capisic Brook Watershed Management Plan* includes a recommendation to include stream segments such as this one, which were not required to be protected under the state's shoreland regulations, under the Stream Protection zone. It recommends that the city verify that mapped streams are consistent with definitions under the Natural Resources Protection Act (NRPA) and that the city "consider expanding the Stream Protection Overlay District into hydrologically connected areas of Capisic Brook." The plan also suggests that the city "consider amending the language within the overlay zone to enhance/maintain riparian vegetation and conservation of wetland/riparian area hydrologic functions" (3-28). This work has not yet been completed by the city.

The Maine DEP has found that the Capisic Brook in this area qualifies as a stream under the NRPA and is thus subject to DEP permitting requirements. Per the DEP, if a project is proposed within 25 feet of a defined stream, an individual permit is required. If a project is proposed between 25 and 75 feet of a stream, a permit-by-rule is required. While there is technically no required setback from a stream under the DEP regulations, Robert Green, a Project Manager under the DEP's Division of Land Resource Regulation has written, "[t]he expectation is that any disturbance will be minimized to the greatest extent practicable. The PBR or permit application must include a statement outlining the need to infringe on the 75-foot setback and how the proposed project has been designed to minimize this infringement" *(Attachment 3).*

Dimensional Standards, Intensity of Use, and 30' Rule

It should be noted that, on lots which fall into multiple zones, dimensional standards are applied to each distinctly-zoned portion of the lot. Thus, the amount of a lot which is rezoned directly relates to the intensity of development permitted on that lot in terms of residential density, impervious surface, and lot coverage calculations. This, in turn, directly relates to potential impacts.

It should also be noted that under Section 14-51, the land use code allows that "where a zone boundary line divides a lot in single or joint ownership of record at the time such line is established, the provisions of this article for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion, provided that the lot has at least twenty (20) feet of street frontage in the less restricted zone…" Per the zoning administrator, this provision is interpreted to mean that the use in the less restrictive zone, in this case the B-2c, could extend up to 30 feet into the adjacent, more restrictive zone on the same lot.

VII. COMPREHENSIVE PLAN ANALYSIS

With respect to the rezoning of Avesta's site in particular, there is ample policy in the Comprehensive Plan to support the change. The housing element of the Comprehensive Plan strongly supports increasing the range of housing types in the city to serve all income levels. *Housing: Sustaining Portland's Future* highlights the need for supportive housing with a goal particularly targeted towards this housing type: "ensure that a continuum of housing is available for people with special needs and circumstances ranging from emergency shelters and transitional housing to permanent housing, which offer appropriate supportive services." The housing plan recommends that the city should:

- *Increase the amount of supportive housing for persons with disabilities, the frail elderly, homeless families and individuals, and persons with other special needs that desire and need to live in an urban area where services are available*
- *Create enough beds to ensure that no one is forced to sleep outside due to a lack of beds in emergency shelters;* and
- *Encourage proposals from developers that will transition homeless families and individuals out of emergency shelters and transitional facilities into permanent housing, including single room occupancy (SRO) units*

In addition, the report of the city's Homelessness Prevention Task Force, issued in November 2012, includes recommendations designed to address the city's issues with homelessness, many of which apply here. Among these, the report recommends "a focus on providing appropriate permanent housing and support in the community for individuals, families, and youth as quickly as possible…Meeting this goal will…require constructing three new housing first units consisting of 35 units each and appropriate supports for people who are chronically homeless (4)." With respect to this action item, the Task Force set a target completion date of 2018 and charged Avesta Housing, the city, and Preble Street, among others, with the responsibility.

In terms of the Comprehensive Plan's support for rezoning this area near Morrill's Corner to a business zone, the plan includes policy designed to foster dense commercial and residential development in close proximity to transit and other infrastructure in the context of smart growth. *Housing: Sustaining Portland's Future* includes policies to "encourage sustainable development patterns and opportunities within the city by promoting efficient land use, conservation of natural resources, and easy access to public transportation, services, and public amenities." Further, the plan states that the city should "maximize development where public infrastructure and amenities, such as schools, parks, public/alternative transportation, sewer lines, and roads exist or may be expanded at minimal cost."

It should be noted that the city's *Industry and Commerce Plan* of 1994 included policies to "preserve, protect, and strengthen neighborhoods" with compatible development and that the plan recommends revising zoning to "protect neighboring residential zones."

It should also be noted that, particularly with respect to the north end of Mayfield Street, as well as with respect to the area south of the existing IM zone, the Comprehensive Plan includes policies that seek to limit business expansion into residential zones. *Housing: Sustaining Portland's Future* notes the need to "protect the stability of Portland residential neighborhoods from excessive encroachment by inappropriately scaled and obtrusive commercial, institutional, governmental, and other non-residential uses." The plan states that the city should "discourage demolition or conversion of residential properties for non-residential uses." Lastly, it is worth noting that the Comprehensive Plan supports the protection of natural resources. The city's vision, as enumerated in the Comprehensive Plan, includes protecting the natural environment, and the *Sustainable Portland* report establishes a goal related to "environmental stewardship through effective transportation and land use decision-making."

VIII. PUBLIC COMMENT

Staff sent letters through postal mail to each of the property owners subject to the proposed zone change. In response, one additional public comment was received via phone. This neighbor expressed significant concerns regarding a potential sidewalk on his property, including its implications for existing trees and maintenance, and the property tax implications of the proposed zone change.

All previous formal written comments on the proposal are attached (*Attachment PC-1 and 2*), as are the neighborhood meeting minutes *(Attachment F)*. These comments raise concerns regarding environmental impacts, traffic impacts, and the safety and scale of the Avesta proposal in particular. One of these letters also supports rezoning the end of Mayfield Street to R-5.

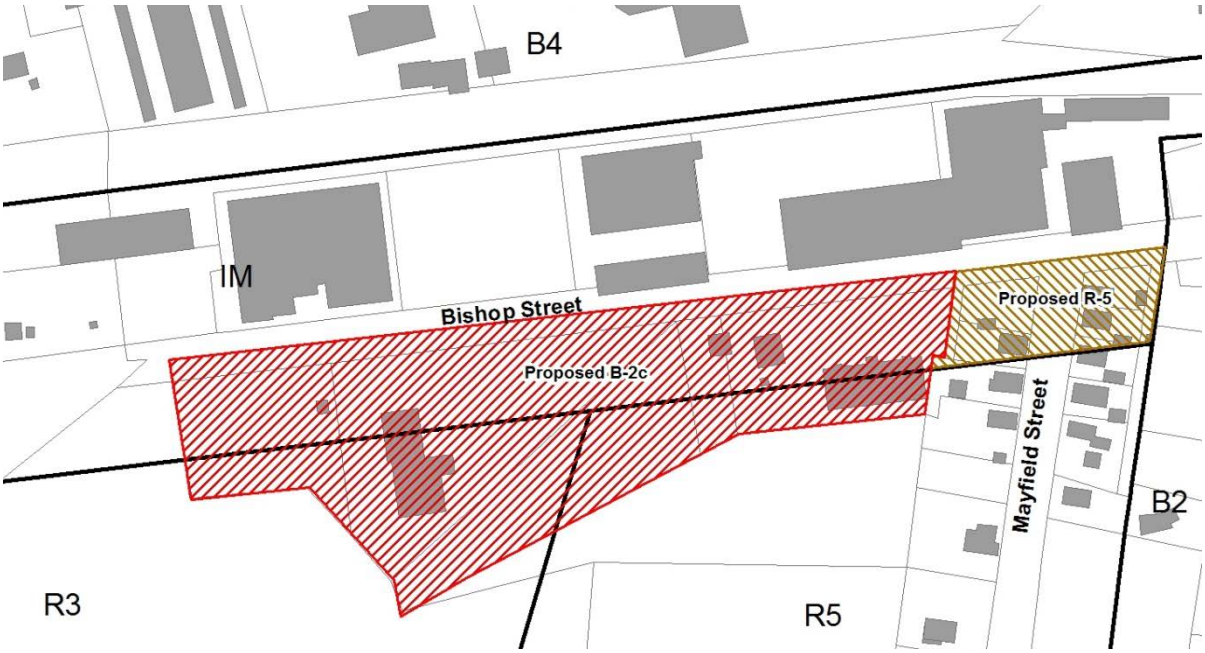
In addition, the board has heard public comment on the proposal at all previous workshops. Comments at these workshops focused largely on security, scale, and density concerns relating to the Avesta development in particular, as well as general environmental and traffic concerns regarding the zone change more broadly.

IX. MAP AMENDMENT OPTIONS AND STAFF RECOMMENDATION

As directed by the Planning Board, the B-2c was advertised as the proposed zoning designation for the stretch of Bishop Street west of Mayfield Street. The purpose statement, the permitted uses, and the form clearly connect to the existing pattern of uses as well as the city's long-term vision for Morrill's Corner, an area the city has attempted to promote as a mixed-use commercial and residential node.

The analysis also found the R-5 the most appropriate zoning designation for the northern end of Mayfield where it intersects with Bishop Street. The residential uses in this area are currently technically non-conforming; and R-5 rezoning would rectify this.

Given these zoning designations, there are several potential map amendment areas. Three options are presented here. Under each of these options, the northern end of Mayfield Street would be rezoned from Moderate Impact Industrial (IM) to Residential (R-5). The variation in the options is in the treatment of the area west of Mayfield Street.



Option A
Option A would rezone the five lots west of those on Mayfield Street, in their entirety, as well as the southern half of Bishop Street, from Moderate Impact Industrial IM, Residential R-3, and Residential R-5 to Community Business B-2c.

Option B
Option B would rezone the area which is currently zoned Moderate Impact Industrial (IM) on those five lots west of Mayfield Street, as well as the contiguous southern half of Bishop Street, to Community Business B-2c. For the 72 Bishop Street site, a slightly larger area, 30,000 SF, would be rezoned B-2c in order to provide the lot area necessary to achieve the housing density desired. This option assumes that the Avesta plans meet the active street frontage standard of the B-2 zone "to the maximum extent practicable" and thus are eligible for a density bonus under the B-2 zoning provisions. At the September 9 board meeting, five of the seven board members appeared to support this assumption. This is the option recommended by the planning staff,

subject to a consensus of the board that the project meets the active street frontage standard to the maximum extent practicable.

Option C
As with Option B, Option C would rezone the area which is currently zoned Moderate Impact Industrial (IM) west of Mayfield, as well as the southern half of Bishop Street, to Community Business B-2c. However, for the 72 Bishop Street site, a larger area, 45,000 SF, would be rezoned to B-2c in order to provide the lot area necessary to achieve the housing density desired. This option assumes that the Avesta plans do not meet the active street frontage standard and are thus held to the base density of the B-2 zone.

X. MOTION

Based on the material provided in this report, public testimony, a review of applicable policies, and other information, the Planning Board finds that the proposed map amendment to change the zoning for the southern side of Bishop Street from Moderate Impact Industrial (IM), Residential R-3, and Residential R-5 to Community Business B-2c and Residential R-5, as shown in **Option A/Option B/Option C** in the map above**, is/is not** consistent with the Comprehensive Plan and **does/does not** recommend adoption of the proposed amendment to the City Council.

XI. ATTACHMENTS

Report Attachments
1. Zoning analysis
2. Traffic Engineer review (memo from Tom Errico, 9/3/14)
3. Correspondence with Maine DEP (emails from Robert Green, 10/1/14 and 10/8/14)

Applicant's Submittals
A. Cover letter (from Bob Metcalf, 6/17/14)
B. Map amendment application
C. Context map
D. Contract for sale of real estate
E. Letter of authorization

F. Neighborhood meeting minutes
G. Cover letter (from Bob Metcalf, 8/1/14)
H. Preble Street memo (from Mark Swann, 8/1/14)
I. List of neighboring businesses
J. Map of business establishments and bus stops
K. Metro routes
L. Cover letter and massing diagrams (from CWS Architects, 8/4/14)
M. Letter from Assistant Police Chief (from Vernon Malloch, 7/11/14)
N. Letter regarding police data (from Bob Metcalf, 10/8/14)

Plans
Plan 1 Existing Conditions
Plan 2 Site Plan

Public Comment
PC-1. Email from Janet Parker (7/15/14)
PC-2. Letter from Janet Parker (8/12/14)
PC-3. Letter from Alan Thibeault, UNE (10/8/14)

Excerpts from
Memorandum
Planning and Urban Development Department
Planning Division

To: Stuart O'Brien, Chair and Members of the Portland Planning Board

From: Nell Donaldson, Planner, and Barbara Barhydt, Development Review Services Manager

Date: August 8, 2014

Re: Map Amendment for 72 Bishop Street, Bishop Street Apartments, Avesta Housing

Project #: 2014-110 CBL: 293 C002001

Meeting Date: August 12, 2014

IV. APPLICANT'S PROPOSAL
The applicant has requested a zone change to Business B-2 in order to allow them to develop 30 efficiency units in three stories for chronically homeless individuals, using the Housing First approach, on the 72 Bishop Street site. This is the same housing approach that was employed for Logan Place on Frederick Street and Florence House on Valley Street, two similar Avesta projects, both of which are subject to conditional zoning agreements.

The original application suggested that the whole site might be rezoned as B-2. Due to the environmental constraints in the vicinity and concerns by some board members regarding extending the business zone into the residential area, the staff requested further analysis on how much land area and configuration on the lot is needed to support the project. The applicant has conducted a zoning analysis to determine the percentage of lot area which would require rezoning in order to allow the total number of desired units, assuming a rezoning to B-2 as requested.

Under the recent amendments to the B-2 zone, a density of 1 unit/1,500 SF is allowed by right. However, an increased density of 1 unit/435 SF of lot area is permitted so long as the first floor is occupied by a use with "active street frontage" per *Section 14-188*. The applicable provisions from the Land Use Code are as follows:

a) Excerpts from the B-2 Zone Sec. 14-185. Dimensional requirements
<u>Front Yard Maximum</u>: No more than 10 feet, except that the Planning Board or Planning Authority may approve a different amount for irregularly shaped lots or lots with frontage less than 40 feet provided this standard is met to the maximum extent practicable.[1]

[1] If lot has less than 40 feet of frontage and is more than 100 feet deep then no maximum setback is required. If existing structures are within 20 feet of the street or meet the front yard maximum, and remainder of lot has less than 40 feet of frontage, then no maximum setback is required. Where setbacks exceed 10 feet, a continuous, attractive, and pedestrian-scaled edge treatment shall be constructed along the street, consisting of street trees spaced at no more than 15 feet on center, approved by City arborist, and a combinations of landscaping no less than 4 feet deep, ornamental brick or stone walls or ornamental fencing.

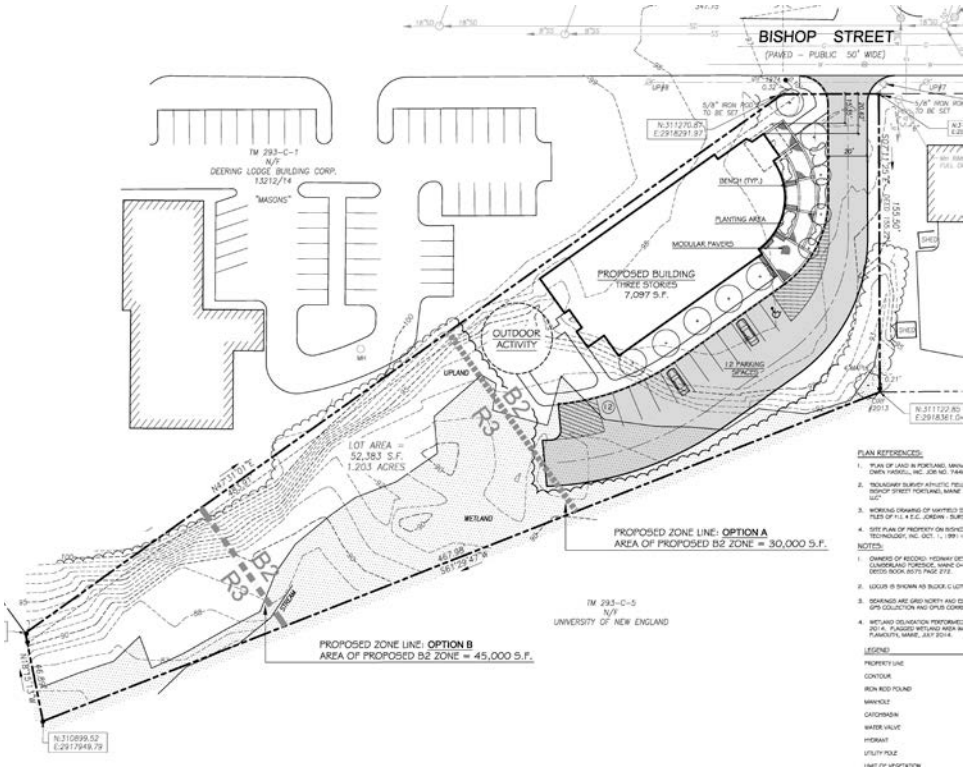
Minimum lot Area per Dwelling Unit:

a. Off-peninsula locations, as defined in Section 14-47: 1,600 square feet, except as provided for in (b) below.
b. On-peninsula locations (as per 14-47) and projects with active street frontages, as defined in section 14-188 below; 435 square feet.

b) Excerpt from B-2 Zone Section 14-188.
Active street frontages: A building will be determined to have an active street frontage upon meeting the following guidelines to the greatest extent practicable as determined by the Planning Board or Planning Authority: the primary building façade shall be within ten feet of the front street line; there shall be no parking on the lot within 35 feet of the front street line; no more than 25% of the first floor primary façade shall consist of access to garages, unutilized space, service entrances, storage or mechanicals, and the remaining minimum 75% shall have an average depth of a minimum of 20 feet for residential or commercial uses; all primary ground floor entries to multi-family buildings must orient to street, not to interior blocks or parking lots.

In the preliminary drawings, the proposed residential building is shown fronting Bishop Street, with a reception area, six units, laundry, staff rooms, and mechanical and electrical on the first floor. Conceptual plans show an outdoor terrace area in the building's front yard and 12 parking spaces behind the building. The building was shown at 23.45 feet back from the property line due to the irregular lot configuration and to accommodate a 24 foot wide driveway within the 50 feet of street frontage. The applicant has indicated their intent to design a building which qualifies as an active street frontage; however, their conceptual plans show that the building will not be within 10 feet of the street line. The applicant has stated that, given the limited frontage of the site and the need for a driveway, siting the building within 10 feet of the property line is not physically possible. The revised plan shows a reduced driveway width of 20 feet, which allows the building to be shifted forward to 20.62 feet from the property line. Avesta is seeking the Board's guidance on whether this concept meets the standard to the maximum extent practicable. In addition, the applicant is seeking the Board's guidance on whether the first floor uses (reception area (also referred to as the Great Room), six residential units, laundry room, staff rooms and mechanical rooms) meet the criteria for an active street frontage. One of the objectives of the recent B-2 amendments for active street frontage was to discourage first floor parking, which is achieved with this proposal. Staff is comfortable with the configuration as meeting the intent of the active street frontage to the extent practicable; however that determination will be made at time of site plan review. Board preliminary consideration of this is useful at this time, as it is an underlying premise of this development proposal.

Two zoning concepts from the applicant are presented for the Board's consideration, which are dependent upon how the Board interprets the B-2 maximum street setback regulations and the consideration of active street frontages for the density calculations. If this development concept appears to be consistent with the two B-2 standards, then the land area requirement of 435 square feet per unit could apply. Option Ashows the potential zone line encompassing 30,000 square feet of B-2 area on the concept site plan. If the concept for the development is not meeting the standards, then 1,500 square feet of land per dwelling unit is required. Option B depicts the zone line location to include 45,000 sf of B-2 zoned land.



Concept Site Plan with Potential B-2 Zone Lines

V. ZONING COMPARISON

Following the Board's initial workshop, staff assessed several alternatives to the B-2 zone and considered the geography of the proposed zone change, with the aim of rationalizing the existing zoning pattern both for the site, which is divided into three zones, and the neighboring parcels, which exhibit the same fragmented zoning scheme. The staff evaluated the residential zones of R-3, R-5 and R-6, the business zones of B-1 and B-2, and the current industrial I-M zone. The comparison charts of purpose statements, permitted uses and dimensional standards are below.

A. Permitted Uses

As could be expected, the uses in the I-M zone are generally industrial in nature, and the uses of the Residential R-3, R-5, and R-6 zones are entirely residential in nature. There are no residential uses permitted in the I-M zone, and there are no industrial or business uses permitted in the residential zones. The B-1 zone permits a relatively confined list of business and other uses. The B-2 allows more flexibility in terms of uses than the industrial, residential, or B-1 zones, allowing a wide range of residential, office, and business uses. The B-2 permits restaurants, drinking establishments, veterinary hospitals, theaters, hotels, and dairies and bakeries. Charts with the purpose statements and permitted uses of the zones considered for this request are below.

Most of the existing uses on the south side of Bishop Street, including the residential, the office uses, the place of assembly, and the utility substation, are technically permitted by right in the B-1 and the B-2. The zoning classification of the existing taxi service south of the site has yet to be determined, and as such, it is not immediately clear whether it would fit under a business zone designation. Utility substations and places of assembly are conditional uses in the residential zones; offices are generally not permitted. Many of the uses on the north side of Bishop Street, including the auto repair and low impact industrial uses, are not permitted in either the residential or the B-1 or B-2 zones.

Table 1: Purposes

Zone	Purpose
IM (Industrial – Moderate Impact)	To provide zones in areas of the city in which light and moderate impact industries and transportation-related uses will coexist. The moderate impact industrial (I-M and I-Ma) zones are located on arterials or collectors. The I-Mb zones are similarly located on the peninsula. These locations provide for direct access onto arterials, thereby protecting residential neighborhoods from drive-through traffic. The I-M, I-Ma and I-Mb industrial zones are intended to provide for larger industrial buildings and for the limited or controlled use of areas outside of structures for storage of materials and machinery. These facilities often require large volumes of imported materials and products which result in large volumes of shipping and receiving. Often uses may be highway-oriented and transportation-related, thus relying on citywide and regional transportation infrastructure. Industrial uses in the moderate impact industrial zones may require separation from higher impact uses, which should be directed to the high impact industrial zone.
R-3	To provide for medium-density residential development characterized by single-family homes on individual lots and also to provide for planned residential unit developments on substantially sized parcels. Such development shall respond to the physical qualities of a site and complement the scale, character and style of the surrounding neighborhood.
R-5	To provide appropriate areas of the city for medium-density residential development characterized by single-family and low-intensity multifamily dwellings on individual lots; to ensure the stability of established medium-density neighborhoods by controlling residential conversions; and to provide for planned residential unit development on substantially sized parcels. Such PRUD development shall respond to the physical qualities of a site and complement the scale, character and style of the surrounding neighborhood.
R-6	To set aside areas on the peninsula for housing characterized primarily by multifamily dwellings at a high density providing a wide range of housing for differing types of households; and to conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other nonresidential uses. In cases of qualifying small, vacant, underutilized lots located in the urban residential and business zone, to encourage new housing development consistent with the compact lot development pattern typically found on the peninsula.
B-1 (Neighborhood Business)	The purpose of the B-1 neighborhood business zone is to provide limited areas for the location of small-scale commercial establishments intended to serve a local market. As a result, uses shall be complimentary, quiet and generally do not disturb the comfort and enjoyment of the adjoining neighborhood environment. Uses shall be designed for the pedestrian scale and will provide convenient access for nearby residents and workers to walk in to purchase goods and services. Buildings and uses shall be designed with attractive storefronts or similar features, with windows and doors convenient to a public sidewalk. Building additions are encouraged but not required to meet the maximum setbacks of 14-165(c)(3). This zone shall encourage mixed use buildings such as commercial first floor with residential uses above or combined retail/office uses in a multistory structure. The zone also provides the opportunity for mixed use and high residential density in on-peninsula locations. Suitable locations for this zone may include street intersections and arterial streets with existing or proposed traditional neighborhood retail and service uses.
B-2 (Community Business)	To provide appropriate locations for the development and operation of community centers offering a mixture of commercial uses, housing and services serving the adjoining neighborhoods and the larger community. The variety, sites and intensity of the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1 neighborhood business zone. The B-2 zone will provide a broad range of goods and services and general businesses with a mixture of large and small buildings such as grocery stores, shops and services located in major shopping centers and along arterial streets. Such establishments should be readily accessible by automobile, by pedestrians and by bicycle. Development in the B-2 zone should relate to the surrounding neighborhoods by design, orientation, and circulation patterns. The B-2 and B-2b will provide locations for moderate to high density housing in urban neighborhoods along arterials.

Table 2: Permitted & Conditional Uses

Uses			I-M	R-3	R-5	R-6	B-1/B-1b[1]	B-2/B-2b/B-2c
Permitted	Residential	Single-family and two-family dwellings		•	•	•	Any use permitted in abutting (or nearest) residential zone; if commercial first floor multi-family permitted by right	•
		Multi-family dwellings				•		•
		Handicapped family units		•	•	•		•
		Single-family single- or multiple-component manufactured housing		•	•	•		
		Combined living/working spaces						•
		Lodging houses				•		•
		PRUDs		•	•			
		Multiplex development			•			
	Institutional	Schools					•	•
		Clinics					•	•
		Places of assembly					•	•
		Long term, extended and intermediate care facilities						•
		Governmental buildings and uses/municipal uses		•	•	•	•	•
		College, university or trade schools						•
		Nursery schools, kindergartens					•	
		Day care facilities	•				•	•
	Business	General, business, & professional offices	•				•	•
		Personal services					•	•
		Business services					•	
		Offices of building tradespeople					•	•
		Retail establishments					•	•
		Restaurants						•
		Drinking establishments						•[4]
		Billiard parlors						•
		Mortuaries or funeral homes						•
		Miscellaneous repair services	•					•[5]
		Communication studios or broadcast and receiving facilities						•
		Health clubs and gymnasiums						•
		Veterinary hospitals						•[6]
		Theaters						•
		Hotels						•[7]
		Dairies and bakeries	•					•
		Drive-throughs when accessory to a principal use on the same lot						•[8]
		Registered medical marijuana dispensaries						•
		Indoor recreation and family amusement establishments	•					
		Intermodal transportation facilities	•					

Permitted (continued)	**Other**	Accessory uses	•	•	•	•	•	•
		Cemeteries				•		
		Parks		•	•	•		
		Home occupation		•	•	•		
		Studios for artists and craftspeople					•	•
		Special needs independent living units			•	•		
		Bed and breakfasts					•	•
		Conversion into bed and breakfast				•		
		Hostels				•	•	•
		Wind energy systems	•	•	•	•	•	•
		Utility substations	•				•	•
		Warehousing and wholesaling	•					
		Low impact industrial uses	•					
		R&D and back office uses	•					
		Building contractors and construction/engineering services	•					
		Nurseries	•					
		Lumber yards	•					
		Commercial kitchens or other food preparation	•					
		Recycling & solid waste disposal facilities	•					
		Food processing	•					
		Correctional pre-release facilities	•					
		Tow lots	•					
		Beverage dealers					•	
Conditional	**Residential**	Sheltered care group homes		•	•	•		
		Additional accessory dwelling units		•	•			
		Alteration of non-residential structure to 3+ dwelling units			•			
		Conversion of multi-family structure to lodging house			•			
	Institutional	Schools		•	•	•		
		Long-term and extended care facilities		•	•	•		
		Intermediate care facility		•	•	•		
		Places of assembly		•	•	•		
		Hospitals		•	•	•		
		Nursery schools and kindergartens				•		
		Day care facilities		•	•	•		
		College, university, trade schools			•	•		
	Business	Major and minor auto service stations existing as of 1999						•[9]
		Car washes						•
		Drive-throughs adjacent to residential uses or zones						•[10]
		Automobile dealerships						•

		Restaurants					•[3]	
		Conversion into bed and breakfast (over 5 rooms)				•		
	Other	Utility substations		•	•	•		
		Professional offices				•		
		Chancellery				•		
		Off-street parking		•	•	•[2]		
		Temporary wind anemometer towers	•	•	•	•	•	•
		Hostels				•		
		Wind energy systems	•	•	•	•	•	•
		Printing and publishing establishments						•
		Wholesale distribution establishments						•
		Research and development and related production establishments						•

1 Permitted on ground floor of B-1b; above ground floor, residential uses of 14-162(a), bed and breakfasts, hostels permitted
2Ffor passenger cars for uses permitted in the R-6 zone.
3 Restaurants conditionally permitted, provided they have a max. floor area for use by public of 1,000 SF; hours limited to 6 am to 11 pm; food service and consumption is primary function; no drive-throughs
4 Except in B-2c
5 Excluding motor vehicle repair
6 Excluding outdoor kennels
7 Of less than 150 rooms
8 Permitted in B-2 or B-2b if not adjacent to residential use or zone
9 Permitted in B-2, & permitted in the B-2b if in existence since 1999
10 Permitted in B-2, & permitted in the B-2b if accessory

B. Dimensional Standards

The dimensional standards of the various zones under consideration here also vary broadly. The I-M is understandably geared toward large buildings on large lots; the minimum street frontage is greater than other zones and the maximum structure height is quite liberal at 75 feet. The residential zones, and particularly the R-3 and R-5, in contrast, are oriented toward the smaller scale, small lot development characteristic of the city's off-peninsula neighborhoods. The business zones promote a third, distinct development pattern, a more urban form characterized by greater building height than the residential zones, greater residential density, smaller setbacks (and, in fact, build-to lines), and less open space.

Table 3: Dimensional Standards

	I-M	R-3*	*R-5****	R-6	B-1	B-2
Min. Lot Area per D.U.	N/A	6,500 SF	3,000 SF, except 3,600 – 4,800 SF for special needs independent living units	1,000 SF; 1,200 SF after first three units	Minimum lot area of nearest zone, except 1,000 SF for multi-family dwellings above 1st floor	1,500 SF 435 SF in projects with active street frontages
Street Frontage	60 feet	50 feet	50 feet	40 ft.	50 ft., or average of lots w/in 200 ft.	25 feet
Min. Lot Width	N/A		60 feet, except 90 feet for multiplex	40 ft.	None	
Min. Front Yard	1 foot for each foot of building height	25 feet	20 feet, except where average depth of adjacent front yards is less	10 ft., except where average depth of adjacent front yards is less		N/A
Max. Front yard	N/A	N/A	N/A		10 ft., or average depth of nearest developed lots	10 feet, except for irregularly shaped lots or lots with < 40 feet of frontage
Min. Rear Yard	1 foot for each foot of building height up to 25 feet 35 feet when abutting residential zone	25 feet	20 feet	Principal > 100 SF footprint: 20 ft. Detached accessory < 144 SF footprint: 5 ft.	None, except 20 ft. if abutting residential	10 feet
Min. Side Yard	1 foot for each foot of building height up to 25 feet 35 feet when abutting residential zone	8-20 feet, depending on height/location	8-15 feet, depending on height/location	10-15 feet, depending on height/location	None, except 10 ft. if abutting residential	N/A
Structure Height	75 feet	35 feet	35 feet	45 ft.	35 ft.	45 ft., except 50 feet if first floor is occupied by a commercial use 65 feet on lots > 5 ac.
Max. Lot Coverage	N/A	35 %	40%	>20 units: 40% <20 units: 50%		N/A
Max. Impervious Surface	75%	N/A	N/A		90%	Residential: N/A Business and non-residential uses: 80%

*Additional restrictions on total number of dwelling units, setbacks, and lot coverage apply for PRUDs in the R-3 and R-5 zones
** Separate requirements apply for small residential lot development

VI. ZONING ANALYSIS

A. Industrial I-M Zone

Bishop Street was zoned industrial and in the mid-1990's after Portland's Industrial and Commerce Plan (adopted in 1994) the area was zoned as an Industrial I-M zone. At that time some of the industrial areas were rezoned for commercial use, such as the Warren Avenue corridor that was rezoned to B-4. Conversions of industrial zones to other designations has been limited; however, the I-M zone along the southerly edge of Bishop Street is not developed nor functioning as an industrial area. The size of lots, the proximity of the residential neighborhood, and the environmental factors in the vicinity limit the potential for industrial uses. On the other hand, the northerly side of Bishop Street does have established industrial uses in operation.

B. Residential Zones

Given the proposed residential use, staff considered residential zone changes for the site first and foremost. The R-5 zone, while appealing based on its proximity, does not accommodate the density nor the building height envisioned for the proposal. Staff also considered a residential zone such as the R-6, which would provide both the desired density and heights. However, the R-6 is generally located on the peninsula with only a few R-6 zones off-peninsula that are larger in scale (sites with over 4 acres). The R-6 would not be compatible with the existing office uses east of the site, so it would make those uses non-conforming or it would be a single parcel rezone if limited to the subject parcel.

Almost all of the residential homes on Mayfield Street were built between 1903 and 1930, thus the use was established prior to the City's zoning ordinance. At some point, the homes along Bishop Street were zoned industrial. As the residential use is well-established and the lots are small, the current I-M zone on Mayfield Street fails to fit. Rezoning to B-2, however, is counter to comprehensive plan policies to preserve residential areas. Instead, the Board may wish consider rezoning the lots on Mayfield to R-5. This would create a break between the existing and proposed B-2 zones, but would provide cohesive zoning along the length of Mayfield Street.

C. Business Zones

In order to achieve the housing density envisioned, staff also considered other business zones for the site. The B-1, while allowing the proposed use, is clearly designed for neighborhood-scaled mixed use buildings in corner conditions. It has a maximum building height of 35 feet and has no setbacks unless the use is next to a residential zone or use. In addition, for a completely residential building, the permitted density is based upon the nearest residential zone, which in this case would be the R-5. The R-5 density does not accommodate this development. The B-1 zone does permit residential units above first floor commercial at a density of 1,000 sf per unit. The applicant is not proposing any first floor commercial uses.

Ultimately, the B-2 emerged again as the lowest intensity business zone, which would allow both the residential density and height sought for the subject site. In many ways, the purpose of the B-2 zone fits as well, in that it should "provide locations for moderate to high density housing in urban neighborhoods along arterials." The B-2 zone encompasses Morrill's Corner and Forest Avenue. It also includes the easterly end of Bishop Street, thus the B-2 zone is in close proximity to the site. The B-2 zone has the additional benefit of accommodating the existing office uses and providing some consistency with the nearby B-2 zone on the east end of Bishop Street at Morrill's Corner. Staff notes that there is a B-2C zone along a portion of Forest Avenue near Woodford's Corner, which has all of the same requirements of the B-2 zone, except that drinking establishments are not allowed. The B-2c zone could be appropriate here as well, as we do not envision drinking establishments as an especially appropriate use in this location.

From: Tom Errico <thomas.errico@tylin.com>
To: Helen Donaldson <HCD@portlandmaine.gov>
Date: 9/3/2014 4:43 PM
Subject: 72 Bishop Street - Map Amendment

Nell - Per your request I have conducted a traffic evaluation of the implication of changing the zoning from I-M to B-2 with the primary focus on the difference in traffic generation. I have attached trip generation estimates conducted for two build-out scenarios based on assumptions provided by you. A summary of that evaluation as well as other comments are provided below.

* As noted in the attached table, the change from I-M to B-2 does have the possibility to increase traffic. Please note the following:

o The key factor in this increase is the inclusion of a retail use. My assumption for the estimate is that the retail use would have shopping center type trip generating characteristics. This is likely a worst-case scenario and there could be other retail uses that generate less traffic.

o The trip estimates noted in the attached table is the total traffic that would enter and exit the site. For retail uses (unlike office uses), not all traffic to the site is new to the area street system. Some traffic already exists on the system and is captured. According to national data, 34% of shopping center traffic may be "pass-by" type trips that are captured from existing traffic in the area. The volumes noted in the table have been reduced to reflect this adjustment.

o The magnitude of the trip generation estimate is probably a worst-case scenario given the building areas assumed.

* Any added traffic in this area has the potential to impact traffic conditions at Morrill's Corner. The intersection is currently near or over capacity and the nature of multiple streets intersecting Forest Avenue in close proximity complicates traffic mobility. In my professional opinion, both zoning options will have an impact. It is very difficult to predict the magnitude of the impact, without conducting detailed traffic analyses. My general opinion is that some mitigation will be warranted if significant traffic is added to Forest Avenue.

* Multi-modal transportation considerations are an important element of understanding project impacts. In the case of the zone change, it is my professional opinion that a sidewalk systems, without gaps, should be provided between uses on Bishop Street and Forest Avenue. Morrill's Corner currently can be a difficult environment for pedestrians. While basic pedestrians features (e.g. crosswalk, signal heads) are provided, upgrades are likely warranted to fully balance all transportation user needs. It is my professional opinion that pedestrian upgrades would be required regardless of the zoning or development. I would note that the City has required for off-site mitigation improvements or monetary contributions and these are generally related to types of land uses and how they may impact conditions, so the level of mitigation will be related to traffic and pedestrian generating levels.

If you have any questions, please let me know.

Best regards,

Thomas A. Errico, PE
Senior Associate
Traffic Engineering Director
[T.Y. Lin International]T.Y. Lin International
12 Northbrook Drive
Falmouth, ME 04105
207.781.4721 (main)
207.347.4354 (direct)
207.400.0719 (mobile)
207.781.4753 (fax)
thomas.errico@tylin.com<mailto:thomas.errico@tylin.com>
Visit us online at www.tylin.com<http://www.tylin.com>
Twitter | Facebook | LinkedIn | YouTube

"One Vision, One Company"

Please consider the environment before printing.

Traffic Generation Estimate During the AM and PM Peak Hours **Based in the Trip Generation Manual, Institute of Transportation Engineers, 9th Edition** (Retail Trips Reduced by 34% to reflect Pass-By Trips)					
	Existing I-M Zone	Proposed B-2 Zone (re-zone to back of lot)	Difference Compared to Existing	Proposed B-2 Zone (re-zone only I-M Zone)	Difference Compared to Existing
Office SF	86,624 SF	95,563 SF		65,534 SF	
AM Peak Hour	171 vehicles	185 vehicles	+14	137 vehicles	-34
PM Peak Hour	163 vehicles	177 vehicles	+14	131 vehicles	-32
Retail SF	0	31,854 SF		21,845 SF	
AM Peak Hour	0	51 vehicles	+51	41 vehicles	+41
PM Peak Hour	0	184 vehicles	+184	143 vehicles	+143
Total AM Peak Hour	*171 vehicles*	*236 vehicles*	*+65*	*178 vehicles*	*+7*
Total PM Peak Hour	*163 vehicles*	*361 vehicles*	*+198*	*274 vehicles*	*+111*

From: "Green, Robert" <Robert.Green@maine.gov>
To: 'Helen Donaldson' <HCD@portlandmaine.gov>
Date: 10/8/2014 9:48 AM
Subject: RE: Bishop Street, Portland - Avesta Housing

Good morning,
If, by absolute, you mean a distance set back from the stream and within which there shall be no disturbance, then the answer is no. The statute simply states that a disturbance within 75 feet of the normal high water line requires some form of permitting. The expectation is that any disturbance will be minimized to the greatest extent practicable. The PBR or permit application must include a statement outlining the need to infringe on the 75-foot setback and how the proposed project has been designed to minimize this infringement. It is then the Department's responsibility to review this information. If we determine it results in an unreasonable impact, then approval of the PBR or NRPA permit application would not be granted. Before a project reaches this point (nearing denial), we will have contacted the applicant to work out a solution or present our case for denying the project.
I hope this helps,
Bob.

Robert L. Green, Jr., Project Manager
Division of Land Resource Regulation
Bureau of Land and Water Quality
tel: 207-615-2214
fax: 207-822-6303

From: Helen Donaldson [mailto:HCD@portlandmaine.gov]
Sent: Wednesday, October 08, 2014 8:46 AM
To: Green, Robert
Subject: RE: Bishop Street, Portland - Avesta Housing

Bob,

Just a quick follow up question to clarify. Is there an absolute required setback from watercourses defined as streams under NRPA? Or is it just that the proximity determines the stringency of the NRPA review (and the federal/state governments rely on municipalities to establish setbacks)?

Thanks again for your help on this. I appreciate it.
Nell

_____
Nell Donaldson
City of Portland Planning Division
389 Congress Street
Portland, Maine 04101
874-8723

>>> "Green, Robert" <Robert.Green@maine.gov<mailto:Robert.Green@maine.gov>> 10/1/2014 9:21 AM >>>

Good morning,
The statute that I work under is the Natural Resources Protection Act (NRPA). It is independent of the Mandatory Shoreland Zoning Act (MSLZA), which is implemented at the local level. More often than not, a project that is subject to NRPA will also be subject MSLZA. Under the NRPA, a project that includes certain activities (i.e., soil disturbance, draining, or filling) that is in on or over a protected natural resource or adjacent to a specified list of protected natural resources, then a permit is required.
Your question deals with adjacency (defined in the Department's Wetlands and Waterbodies Protection Rules, Chapter 310). Any activity within 75 feet of the normal high water line of a great pond, river, stream, or brook, or the upland edge of a coastal wetland or certain types of freshwater wetland requires some form of permit (either a Permit-By-Rule or individual NRPA permit) from the Department. The Department has made an effort to ensure that the setback requirements of the NRPA are equivalent to the (minimum standards of) MSLZA.
The question at the Bishop Street project was whether the watercourse along the property boundary was a stream, as defined in the NRPA, and whether it would then be subject to the restriction/protection under the NRPA. At our site visit, I determined that it was a stream. So that said, the proximity of the project to the stream will dictate the level of permitting required. If it is within 25 feet, then an individual permit is required; between 25 and 75 feet, then a Permit-By-Rule.
If you have any other questions or comments, please feel free to contact me.
Bob.

Robert L. Green, Jr., Project Manager
Division of Land Resource Regulation
Bureau of Land and Water Quality
tel: 207-615-2214
fax: 207-822-6303

Mitchell & Associates
LANDSCAPE ARCHITECTS

The Staples School
70 Center Street
Portland, Maine 04101
P: 207.774.4427
F: 207.874.2460
www.mitchellassociates.biz

June 17, 2014

Ms. Barbara Barhydt
Development Review Services Manager
City of Portland
389 Congress Street, 4th Floor
Portland, Maine 04101

Re: Bishop Street Apartments
72 & 78 Bishop Street
Request for Zoning Map Amendment

Dear Barbara:

On behalf of Avesta Housing, we are pleased to submit the enclosed Zone Map Amendment application for the property located at 72 & 78 Bishop Street, Map 293, Block C Lots 2 & 3. The applicant is proposing to amend the current zoning designation (a combination of IM, R-3 and R-5) of the property to a B-2 zone with the intent to develop a 30 unit efficiency apartment building.

Housing Objective of the Project

Avesta Housing proposes to develop the combined lots of 72 & 78 Bishop Street to create 30 efficiency units at 72 Bishop Street in Portland for chronically homeless individuals, using a "housing first" approach. As was the case at Logan Place and Florence House, Avesta's two prior 'housing first' projects, Avesta anticipates partnering with Preble Street for the provision of 24-hour, on-site support services and Portland Housing Authority for project-based rental assistance. In addition to the 30 apartments, the property will include common space for residents as well as office space for Avesta and Preble Street staff. Bishop Street Apartments will provide housing and support services for those chronically homeless individuals who are currently most vulnerable due to their significant medical conditions. The project will likely include a partnership with a health care provider, to both address specific health concerns and ensure that residents have access to the health and/or personal care services that medically compromised individuals typically benefit from in their homes.

The proposed facility is in close proximity to employment opportunities, public transportation services, retail and amenities, yet beyond the high paced downtown urban environment. Avesta's vision for the property is to create a high quality housing resource for the neediest population within the City of Portland that combines the best features of affordable housing and quality design.

The Site

72 & 78 Bishop Street consists of a single family residence (lot 3) and a vacant lot (lot 2). Lot 3 has 50 feet of frontage on Bishop Street and is 8,125 SF; Lot 2 is a 42,419 SF vacant lot with no road frontage and lawn and mixed primary and secondary growth vegetation. The combined property is 52,383 SF (1.203 acres) and are zoned a combination of I-M (Industrial-Moderate Impact), R-3 and R-5 zones. Abutting properties include a single story 3 unit professional office building to the east at 68 Bishop Street and a Masonic Hall to the west. A car repair garage (Portland Collision) is located across the street. To the south, the parcel abuts property owned by the University of New England. Bishop Street has many large industrial, metal clad buildings with varied businesses including a dog kennel, printing services and home healthcare services.

Professional Office Building **72 Bishop Street** **Masonic Hall**

Bishop Street Businesses

Residences on Mayfield Street

Bishop Street connects to Riverside Street to the west and Forest Avenue at Morrill's Corner to the east. While there are no residential properties on Bishop Street besides 72 Bishop, approximately ten single family residences are located towards the Forest Avenue end of Bishop Street on a small dead end street (Mayfield Street) that bisects Bishop Street.

Building Program

Bishop Street Apartments will consist of a single, new, 3 story building. The main entrance vestibule and reception is accessed from the first floor with building services including community rooms and offices. In addition, six efficiency units are located on the first level along with laundry, staff rooms and mechanical and electrical facilities. The remaining 24 efficiency units are located on the upper second and third levels. The complex will contain 30 total efficiency units.

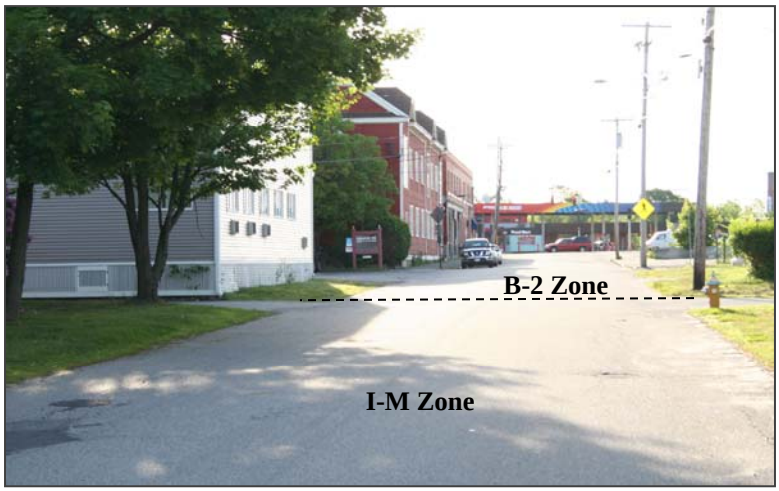
The site will accommodate a 12 space surface parking lot and dumpster pad. Outdoor recreation space will be located on the west side of the building and a landscaped seating area will be located on the eastern side of the building near the main entrance.

Zoning

The combined lots 2 and 3 (72 & 78 Bishop Street) fall within the I-M, R-3 and R-5 zones. The portion of the property along Bishop Street is defined as Industrial-Moderate Impact (IM) while the southern /rear portion of the properties are defined as Residential-3 (R-3) and Residential-5 (R-5). Avesta Housing is requesting a Zone Map Amendment to change the entire parcel created by the combined lots 2 & 3 to the B-2 Zone.

The proposed project intends to align with the city's desire to have a greater density of housing along the Forest Avenue corridor. The current zoning within the I-M zone prohibits residential uses while the R-3 and R-6 zones are primarily for medium density residential. The B-2 zone is located approximately 500 feet

from the property towards Forest Avenue. The B-2 zone supports moderate to high density residential development close to arterials.



View from 72 Bishop St towards Forest Avenue- Zoning

We believe that affording this property B-2 zoning status will provide desirable residential opportunities and support services for a population that is in great need of assistance. The location of the facility will provide residents with easy access to public transit with numerous entry level employment opportunities within walking distance.

Implementing Portland's Vision

Bishop Street Apartments supports many of Portland's goals as stated in the Land Use Ordinance and *Housing: Sustaining Portland's Future.* The purpose of the B-2 zones (sec 14-181) states to provide moderate to high density housing in urban neighborhoods along arterials. Avesta Housing has developed numerous highly successful housing projects throughout Portland and will continue, with this project, to provide excellent housing options for our community.

Housing Replacement Ordinance

The 30 housing units proposed at Bishop Street Apartments will replace the housing units lost as a result of the demolition of the single family residence.

This submission includes the following information:

1. Zoning Map Amendment Application Fee
2. Application Booklet
3. Plan Set: Sheet L1.0 Existing Conditions
   Sheet L1.1 - Concept Site Plan

We look forward to the opportunity to meet with the Planning Board to review this request. Should you have any comments and or questions, please do not hesitate to call me.

Sincerely,
Mitchell & Associates

Robert Metcalf, Principal
Maine Licensed Landscape Architect

Enclosure

cc. Greg Payne, Avesta Housing
Ben Walter, CWS Architects

Zoning Map/Text Amendment Application
Portland, Maine

Planning and Urban Development Department
Planning Division and Planning Board

Portland's Planning and Urban Development Department coordinates the development review process for requests for zoning map amendments, zoning text amendments and contract or conditional re-zoning. The Division also coordinates site plan, subdivision and other applications under the City's Land Use Code. The **Application Process for a Zone Change** is summarized below under Section I and the associated costs for reviews are found under Section II, **Development Review Fees, Public Notices and Guarantees,** and are listed on the fee structure sheet.

I. APPLICATON SUBMITTAL

Pre-application meeting

Prior to submitting a zoning amendment application, the Planning Division recommends that the applicant or the designated representative schedule a pre-application meeting to discuss the review process and applicable standards for a proposal. Please contact Barbara Barhydt, Development Review Services Manager at 874-8699 to schedule a meeting.

Zoning Amendment Application

All plans and written application materials must be uploaded to a website for review. At the time of application, instructions for uploading the plans will be provided to the applicant. One paper set of the plans, written materials and application fee must be submitted to the Planning Division Office to start the review process.

- Submit one (1) complete paper set of the zoning amendment application with a concept plan and a written narrative. Contract and conditional rezoning applications must include site plans and written material that address physical development and operation of the property to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood. Applications may be submitted between 8 a.m. and 4:30 p.m. Monday through Friday at the Planning Division on the 4th floor of City Hall, 389 Congress Street, Portland.
- All applications are processed in the order in which they are received.
- In order for the Planning Division's Administrative Staff to accept and log-in an application, the application form must be complete, it shall be signed by the applicant's or the applicant's designated representative, and all applicable fees paid at the time of submittal.
- The Land Use Code is available on the City's website at www.portlandmaine.gov.
- If the application is found to be incomplete, the applicant will be informed in writing of the required plans and materials.

II. DEVELOPMENT REVIEW FEES, PUBLIC NOTICES AND GUARANTEES

Zoning Application Fees

- Each application must be submitted with the applicable fees as listed in the fee structure on page 4. The fees cover general administrative processing costs.
- Application fees may be paid in cash or by check (addressed to the City of Portland).
- An application will not be processed without the required application fees.

Fee for City Review Services

- The City of Portland charges fees for service to cover the cost of reviews by Planning and Legal staff members. The charges will be billed at an hourly rate and will be invoiced monthly for reimbursement.
- Current billing rates: Planning services, $40.00/ hour and Legal services: $75.00/hour.

Fee for Third Party Review

- Portland contracts with local engineering firms to conduct engineering reviews of development proposals. The direct cost of all engineering services or third-party consultant reviews, such as the civil engineering review of stormwater management plans, traffic impact reviews and such other reviews as required under the City's Ordinances, will be included in the monthly invoices for reimbursement.

Public Notices

- Public notices must be sent to property owners within 500 for all proposals at the time an application is received. Zoning map amendments for Industrial zones require notices to be sent to property owners within 1,000 feet.
- In advance of a Planning Board workshop or public hearing, public notices for projects must be sent to property owners and are posted in a legal ad in the Portland Press Herald and on the City's web site.
- In addition, zoning map amendments, text amendments and conditional rezoning agreements require individual notices to be posted in the Portland Press Herald.
- The Planning Division mails public notices and posts notices in the newspaper. The applicant will be billed for actual or apportioned costs for advertising and sending mailed notices.
- The applicant is required to hold a neighborhood meeting under the City's regulations for zone change requests. The mailing labels must be purchased from the Planning Division for the neighborhood meeting invitation. A request for labels requires a minimum of two business days to generate the mailing labels and a charge of $1.00 per sheet will be payable upon receipt of the labels.

Third Party Review Fees

- Engineer and Third Party Review Fees - The fees are assessed by the Consulting Engineers and Third Party Reviewers.
- Inspection Fee - This fee is 2% of the Performance Guarantee or as assessed by Planning or Public Works Engineer with $300.00 being the minimum.

Noticing/Advertisements Planning Board/City Council Review

- Legal Advertisement: Percent of total bill
- Notices: .75 cents each
  (notices are sent to neighbors upon receipt of an application, workshop and public hearing meetings for Planning Board and public hearing meeting for City Council)

Planning Division	**Office Hours**
Fourth Floor, City Hall	Monday thru Friday
389 Congress Street	8:00 a.m. – 4:30 p.m.
(207) 874-8721 or 874-8719	

PROJECT ADDRESS: 72 & 78 Bishop Street, Portland

CHART/BLOCK/LOT: 293-C-2 & 3

DESCRIPTION OF PROPOSED ZONE CHANGE AND PROJECT:

Requesting a zone map amendment reflective of attached plans. Project to construct 30 apartment units with 12 parking spaces.

CONTACT INFORMATION:

	Applicant's Contact for electronic plans Name: Mitchell Associates e-mail Address smisner@mitchellassociates.biz work # 207.774.4427
Applicant – **must be owner, Lessee or Buyer** Name: Avesta 72 Bishop L.P. Business Name, if applicable: Address: 307 Cumberland Avenue City/State : Portland, ME Zip Code: 04101	**Applicant Contact Information** Work # 207.553.7780 Home# Cell # Fax# e-mail: gpayne@avestahousing.org
Owner – (if different from Applicant) Name: HED/WAY Development Address: 24 Sand Point Road City/State : Cumberland Foreside, ME Zip Code: 04110	**Owner Contact Information** Work # Home# Cell # Fax# e-mail:
Agent/ Representative Name: Bob Metcalf/ Mitchell & Assoc. Address: 70 Center Street City/State : Portland, ME Zip Code: 04101	**Agent/Representative Contact information** Work # 207.774.4427 Cell # e-mail: rmetcalf@mitchellassociates.biz
Billing Information Name: Avesta 72 Bishop L.P. Address: 307 Cumberland Avenue City/State : Portland, ME Zip Code: 04101	**Billing Information** Work # 207.553.7780 Cell # Fax# e-mail: gpayne@avestahousing.org
Engineer Name: Address: City/State : Zip Code:	**Engineer Contact Information** Work # Cell # Fax# e-mail:

Surveyor	Surveyor Contact Information
Name: Owen Haskell Surveyors, Inc. Address: 390 U.S. Rt 1,Unit 10 City/State : Falmouth, ME Zip Code: 04105	Work # 207.774.0424 Cell # Fax# e-mail: www.owenhaskell.com
Architect	**Architect Contact Information**
Name: CWS Architects/ Ben Walters Address: 434 Cumberland Ave City/State : Portland, ME Zip Code: 04101	Work # 207.774.4441 Cell # Fax# e-mail: bwalter@cwsarch.com
Attorney	**Attorney Contact Information**
Name: Cito Sellinger/Maurice Thaxter Address: 1 Canal Plaza Suite 1000 City/State : Portland Zip Code: 04101	Work # 207.774.9000 Cell # 207.233-1029 Fax# e-mail: mselinger@curticthaxter.com

Right, Title, or Interest: Please identify the status of the applicant's right, title, or interest in the subject property:

See attached Purchase & Sale Agreement.

Provide documentary evidence, attached to this application, of applicant's right, title, or interest in the subject property. (For example, a deed, option or contract to purchase or lease the subject property.)

Vicinity Map: Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use. (Applicant may utilize the City Zoning Map or Parcel Map as a source.)

Existing Use: Describe the existing use of the subject property:

The site is currently a single family residence and vegetated vacant lot.

Current Zoning Designation(s):

Industrial-Moderate Impact (I-M), Residential (R-5) & Residential (R-3)

Proposed Use of Property: Please describe the proposed use of the subject property. If construction or development is proposed, please describe any changes to the physical condition of the property.

See attached project narrative.

Site Plan: On a separate sheet, please provide a site plan of the property showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1" = 10' to 1' = 50'.) Contract and conditional rezoning applications may require additional site plans and written material that address physical development and operation of the property to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood.

APPLICATION FEE:

Check the type of zoning review that applies. Payment may be made in cash or check payable to the City of Portland.

Zoning Map Amendment _X_ $2,000.00 (from R6 zone to B3 zone) **Zoning Text Amendment** ___ $2,000.00 (to Section 14- _____) (For a zoning text amendment, attach on a separate sheet the exact language being proposed, including existing relevant text, in which language to be deleted is depicted as crossed out (~~example~~) and language to be added is depicted as underline (example) **Combination Zoning Text Amendment and Zoning Map Amendment** ___ $3,000.00 **Conditional or Contract Zone** ___ $3,000.00 (A conditional or contract rezoning map be requested by an applicant in cases where limitations, conditions, or special assurances related to the physical development and operation of the property are needed to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood. Please refer to Division 1.5, Sections 14-60 to 62.)	**Fees Paid** (office use) ___ ___ ___ ___	The City invoices separately for the following: • Notices ($.75 each) (notices are sent to neighbors upon receipt of an application, workshop and public hearing meetings for Planning Board and public hearing meeting for City Council) • Legal Ad (% of total Ad) • Planning Review ($40.00 hour) • Legal Review ($75.00 hour) Third party review is assessed separately.

Signature of Applic	**Date:** June 17, 2014

Further Information

In the event of withdrawal of the zoning amendment application by the applicant, a refund of two-thirds of the amount of the zone change fee will be made to the applicant as long as the request is submitted to the Planning Division prior to the advertisement being submitted to the news paper.

A Guide to Holding Neighborhood Meetings
Portland, Maine

Planning and Urban Development Department
Planning Division and Planning Board

In order to improve communication between development applicants and neighbors, the City of Portland requires applicants, proposing certain types of projects, to hold a neighborhood meeting.

What type of development proposal requires a neighborhood meeting?
Neighborhood meetings, organized and hosted by the applicant, are required for the following development proposals:

- Proposed zone changes, contract zones and zoning text amendments that would result in major development;
- Subdivisions of five or more units or lots; and
- Level III site plan proposals for preliminary or final site plans:
    - Portland's new site plan ordinance went into effect in August, 2010. It now includes provisions for preliminary and final plans. Neighborhood meetings are to be held three weeks after submitting a preliminary plan or within two weeks of submitting a final plan, if a preliminary plan was not submitted.

Who must be invited to a neighborhood meeting?
Property owners within 500 feet of the proposed development (1000 feet for proposed industrial subdivisions and zone changes) as well as those people on a list of interested citizens and neighborhood groups must be invited to the planned neighborhood meeting.

The Planning Division provides the mailing labels for the neighborhood meeting invitation. We require at least 48 hours notice to generate the mailing labels and a charge of $1.00 per sheet will be payable upon receipt of the labels.

When and where must the neighborhood meeting be held?
The neighborhood meeting must be held within three weeks of submitting a preliminary site plan. If an applicant chooses only to submit a final site plan, then the neighborhood meeting must be held within two weeks of submitting the final plan and not less than seven days prior to the Planning Board public hearing.

The meeting should be held in the evening, during the week, at a convenient location within the Portland neighborhood surrounding the proposed site. Community meeting spaces at libraries, schools or other places of assembly are recommended. Neighborhood schools are usually available for evening meetings.

Meetings should not be held on the same day as scheduled Planning Board or City Council meetings. The City Council generally meets on the first and third Monday of each month and the Planning Board generally meets on the second and fourth Tuesday of each month; however additional meetings may be scheduled. An updated schedule may be found on the City's website: www.portlandmaine.gov

When must invitations be sent?
Invitations to a neighborhood meeting must be sent no less than ten days (to include weekends) prior to the neighborhood meeting. If the notice is for a final site plan, then the neighborhood meeting must be held no less than seven days (to include weekends) prior to the public hearing. Notices may be sent by regular mail and do not need to be sent by certified mail.

What information should the invitation include?
A recommended invitation format is included in this packet of material.

Sign-up Sheets and Meeting Minutes
At the meeting, the applicant must circulate a sign-up sheet for those in attendance. The applicant must also keep accurate minutes of the meeting.

After holding the neighborhood meeting, the applicant must submit the sign-up sheet and meeting minutes to the Planning Division. The meeting minutes and sign-up sheet will be attached to the Planning Board report. A public hearing will not be scheduled until the meeting minutes and sign-up sheet are submitted to the Planning Division.

Certification
Included with this packet is a Certification to be completed and signed by the applicant. The applicant is required to certify when the invitations were sent out.

Please call the Planning Division at 874-8721 or 874-8719 if you have any questions.

Attachments
1. Neighborhood Meeting Invitation Format
2. Neighborhood Meeting Certification

~Applicant/Consultant: Please include all of the information listed below in the notice sent to neighbors~

Neighborhood Meeting Invitation Format

Applicant/Consultant
Letterhead

(Date)

Dear Neighbor:

Please join us for a neighborhood meeting to discuss our plans for a (development proposal) located at (location/number and street address).

Meeting Location: _____
Meeting Date: _____
Meeting Time: _____

The City code requires that property owners within 500 feet of the proposed development and residents on an "interested parties list", be invited to participate in a neighborhood meeting. A sign-in sheet will be circulated and minutes of the meeting will be taken. Both the sign-in sheet and minutes will be submitted to the Planning Board.

If you have any questions, please call (telephone number of applicant or consultant).

Sincerely,

(Applicant)

Note:
Under Section 14-32(C) and 14-525 of the City Code of Ordinances, an applicant for a Level III development, subdivision of over five lots/units, or zone change is required to hold a neighborhood meeting within three weeks of submitting a preliminary application or two weeks of submitting a final site plan application, if a preliminary plans was not submit. The neighborhood meeting must be held at least seven days prior to the Planning Board public hearing on the proposal. Should you wish to offer additional comments on this proposed development, you may contact the Planning Division at 874-8721 or send written correspondence to the Planning and Urban Development Department, Planning Division 4th Floor, 389 Congress Street Portland, ME 04101 or by email: to bab@portlandmaine.gov

Neighborhood Meeting Certification

I, (applicant/consultant) hereby certify that a neighborhood meeting was held on (date) at (location) at (time).

I also certify that on (date at least seven days prior to the neighborhood meeting), invitations were mailed to all addresses on the mailing list provided by the Planning Division, including property owners within 500 feet of the proposed development or within 1000 feet of a proposed industrial subdivision or industrial zone change and the residents on the “interested parties” list.

Signed,

_____ _____ (date)

Attached to this certification are:

1. Copy of the invitation sent
2. Sign-in sheet
3. Meeting minutes

BISHOP STREET CONTEXT MAP

NOT TO SCALE

Individual Member
Individual Membership

CBRE | The Boulos Company

CONTRACT
FOR THE SALE OF REAL ESTATE

Date: 2.20.14

One Canal Plaza, Portland, ME 04101
(207) 772-1333

RECEIVED OF: Avesta Housing and/or assigns whose mailing address is 307 Cumberland Av, Portland, ME 04101, hereinafter called the Purchaser(s), the sum of Five Thousand Dollars ($5,000) as earnest money deposit and in part payment of the purchase price of the following described real estate, situated in the municipality of Portland, County of Cumberland, State of Maine and located at 72 Bishop Street being all the property owned by the Seller(s) at the above address, and described at said County's Registry of Deeds Book 8575, Page 272 and further described as: a 1.16+/- acre parcel improved with a 1,134+/- sf wood frame house, upon the terms and conditions indicated below:

1. PERSONAL PROPERTY: The following items of personal property are included in this sale (if applicable): appliances
2. PURCHASE PRICE: The TOTAL purchase price being One Hundred Seventy Five Thousand Dollars ($175,000) to be paid as follows: $5,000 earnest money deposit within one business day of the execution of said contract and the balance to be paid in cash or wired funds at time of closing.
3. EARNEST MONEY/ACCEPTANCE: Malone Commercial Brokers shall hold said earnest money in a non-interest bearing account and act as Escrow Agent until closing; this offer shall be valid until February 26, 2014 at 4:00 PM; and, in the event of the Seller's non-acceptance, this earnest money shall be returned promptly to the Purchaser(s).
4. TITLE: That a deed, conveying good and merchantable title in accordance with standards adopted by the Maine Bar Association shall be delivered to the Purchaser(s) and this transaction shall be closed and the Purchaser(s) shall pay the balance due and execute all necessary papers within 45 days of receipt of zone change referenced in Paragraph 10.1. If Seller(s) is unable to convey in accordance with the provisions of this paragraph, then the Seller(s) shall have a reasonable time period, not to exceed thirty (30) days, from the time the Seller(s) receives written notice of the defect, unless otherwise agreed to by both parties, to remedy the title, after which time, if such defect is not corrected so that there is merchantable title, the Purchaser(s) may, within fifteen (15) days thereafter, at Purchaser's option, declare the contract null and void and any earnest money shall be returned to the Purchaser(s) and neither party shall have any further obligation hereunder. If the Purchaser(s) does not declare the contract void within the period set forth above, the Purchaser(s) shall have waived the right to object to title. The Seller(s) hereby agrees to make a good-faith effort to cure any title defect during such period.
5. DEED: That the property shall be conveyed by a quitclaim with covenant deed, and shall be free and clear of all encumbrances except building and zoning restrictions of record, restrictive covenants and conditions of record and usual public utilities servicing the property and shall be subject to applicable land use and building laws and regulations.
6. POSSESSION /OCCUPANCY: Possession/occupancy of premises shall be given to Purchaser(s) immediately at closing, subject to any leases, unless otherwise agreed by both parties in writing.
7. LEASES/TENANT SECURITY DEPOSITS: Seller(s) agrees to transfer at closing to Purchaser(s) all Seller(s)' rights under the current leases to the property and all security deposits held by Seller(s) pursuant to said leases.
8. RISK OF LOSS: Until the transfer of title, the risk of loss or damage to said premises by fire or otherwise, is assumed by the Seller(s) unless otherwise agreed in writing. Said premises shall then be in substantially the same condition as at present, excepting reasonable use and wear.
9. PRORATIONS: The following items shall be prorated as of the date of closing:
   a. Real Estate Taxes based on the municipality's tax year. Seller is responsible for any unpaid taxes for prior years.
   b. Fuel
   c. N/A
   d. Rents
   e. Metered utilities, such as water and sewer, shall be paid by Seller(s) through the date of closing.
   f. Purchaser(s) and Seller(s) shall each pay its transfer tax as required by the State of Maine.
10. INSPECTIONS: The Purchaser(s) is encouraged to seek information from professionals regarding any specific issue of concern. Purchaser(s) acknowledges receipt of disclosure form attached hereto. The Agent makes no warranties regarding the condition, permitted use or value of the Seller's real or personal property. This Contract is subject to the following inspections, with the results being satisfactory to the Purchaser(s):

Seen and agreed to: _____ _____

Rev. 3/2001

TYPE OF INSPECTION	YES	NO	RESULTS REPORTED	TYPE OF INSPECTION	Seller(s) YES	Seller(s) NO	Purchaser(s) RESULTS REPORTED
a. General Building	☒	☐	Within 21 days	g. Lead Paint	☐	☐	Within _____ days
b. Sewage Disposal	☐	☐	Within _____ days	h. Pests	☐	☐	Within _____ days
c. Water Quality	☐	☐	Within _____ days	i. ADA	☐	☐	Within _____ days
d. Radon Air Quality	☐	☐	Within _____ days	j. Wetlands	☒	☐	Within 30 days
e. Radon Water Quality	☐	☐	Within _____ days	k. Environmental Scan	☒	☐	Within 30 days
f. Asbestos Air Quality	☐	☐	Within _____ days	l. Zone Change	☒	☐	Within 90 days

The use of days is intended to mean from the effective date of this Contract. All inspections will be done by inspectors chosen and paid for by the Purchaser(s). If the result of any inspection or other condition specified herein is unsatisfactory to the Purchaser(s), in Purchaser(s) sole discretion, Purchaser(s) may declare the Contract null and void by notifying Seller(s) in writing within the specified number of days, and any earnest money shall be returned to the Purchaser(s). If the Purchaser(s) does not notify the Seller(s) that an inspection is unsatisfactory within the time period set forth above, this contingency is waived by the Purchaser(s). In the absence of inspection(s) mentioned above, the Purchaser(s) is relying completely upon Purchaser's own opinion as to the condition of the property.

11. FINANCING: Intentionally Deleted
12. AGENCY DISCLOSURE: The Purchaser(s) and Seller(s) acknowledge that they have been informed that the Selling Licensee is acting as a Buyer's agent in this transaction and is representing the Buyer and that the Listing Licensee is acting as a Seller's agent in this transaction and is representing the Seller.
13. DEFAULT: If Purchaser(s) fails to perform any of the terms of this Contract or is otherwise in default of any of its obligations, Seller shall have the option of either retaining the earnest money as full and complete liquidated damages or employing all available legal and equitable remedies. Notwithstanding any other provision of this agreement, Escrow Agent shall have the right to require written releases from both parties prior to releasing the earnest money to either party. If a dispute arises between Purchaser(s) and Seller as to the existence of a default hereunder and/or the release of the earnest money and said dispute is not resolved by the parties within (30) days, Escrow Agent may elect to file an action in interpleader and deposit the earnest money in the court to resolve said dispute, or otherwise disburse the earnest money pursuant to Maine Real Estate Commission regulations. Purchaser(s) and Seller, jointly and severally, shall indemnify Escrow Agent for all costs, losses, expenses, and damages, including reasonable attorneys' fees, incurred by Escrow Agent in connection with said action and/or in connection with any dispute relating to this Contract and/or the Deposit.
14. MEDIATION: Any dispute or claim arising out of or relating to this Contract or the premises addressed in this Contract shall be submitted to mediation in accordance with the Maine Residential Real Estate Mediation Rules of the American Arbitration Association. This clause shall survive the closing of this transaction.
15. PRIOR STATEMENTS: Any verbal representations, statements and agreements are not valid unless contained herein. This Contract completely expresses the obligations of the parties. This is a Maine contract and shall be construed according to the laws of Maine.
16. HEIRS/ASSIGNS: This Contract is assignable ☒ Yes ☐ No. This Contract shall extend to and be obligatory upon heirs, personal representatives, successors, and assigns (if assignment is allowed by the terms of this Contract), of the respective parties.
17. COUNTERPARTS: This Contract may be signed on any number of identical counterparts, including telefacsimile copies, with the same binding effect as if the signatures were on one instrument. Original or telefacsimilied signatures are binding.
18. BINDING CONTRACT: This Contract is a binding contract when signed by both Seller(s) and Purchaser(s) and when that fact has been communicated to all parties or to their agents. The Effective Date of the Contract is noted below. Time is of the essence of this Contract.
19. REVIEW OF LEASES AND INCOME AND EXPENSE INFORMATION: Purchaser shall have 21 days from the effective date of the Contract to review leases of the property and income and expense information regarding the property, which leases and information Seller shall make available to Purchaser at a convenient time and location. If the result of the review is unsatisfactory to Purchaser, Purchaser may declare the Contract null and void by notifying the Seller in writing within the specified number of days set forth herein, and the earnest money shall be returned to Purchaser. If Purchaser does not notify Seller that the review is unsatisfactory within the time period set forth herein, this contingency is waived by Purchaser.
20. Seller(s) and Purchaser(s) acknowledge receipt of the Maine Real Estate Commission Disclosure of Agency Relationship Form (Form #2), *if the property is, or has a component of, one to four residential dwelling units.*
21. ADDENDA: This Contract has addenda containing additional terms and conditions: YES ☐ NO ☒
22. Per the reference in Paragraph 10.1, this contract is subject to purchaser's ability to get a zone change to Residential which is satisfactory to the Purchaser for its intended use, within 90 days of the effective date of this contract.

Seen and agreed to: _____ Seller(s) _____ Purchaser(s)

A COPY OF THIS CONTRACT IS TO BE RECEIVED BY ALL PARTIES AND, BY SIGNATURE, RECEIPT OF A COPY IS HEREBY ACKNOWLEDGED. IF NOT FULLY UNDERSTOOD CONSULT AN ATTORNEY.

Seller(s) acknowledges that the laws of the State of Maine provide that every buyer of real property located in Maine must withhold a withholding tax equal to 2 1/2% of the consideration unless the Seller(s) furnishes to the Buyer(s) a certificate by the Seller(s) stating, under penalty of perjury, that Seller(s) is/are a resident of Maine or the transfer is otherwise exempt from withholding.

Dana Potter - for — 2-20-14

Purchaser — *Date*

Avesta Housing — 01-0315296

Name/Title President — *Soc. Sec. # or Tax I.D. #*

Purchaser — *Date*

Name/Title — *Soc. Sec. # or Tax I.D. #*

The Seller(s) accepts the offer and agrees to deliver the above-mentioned property at the price and upon the terms and conditions set forth above and agrees to pay the Broker the commission for services herein according to the Listing Agreement or if there is no Listing Agreement the sum of: **10% of Sale Price.** The obligation to pay said commission or sum shall survive the closing of this transaction. Seller agrees that Broker may apply any deposit(s) received in connection with the sale of the Property toward commissions due and payable under this Agreement. If the earnest money is forfeited by Purchaser(s), it shall be evenly distributed between the Broker and the Seller(s), provided, however, that Broker's portion shall not exceed the full amount of the commission specified. In the event the Seller(s) defaults on its obligations hereunder, CBRE | The Boulos Company shall be entitled to costs of collection, including reasonable attorneys' fees.

Signed this _____ day of _____, _____. Effective date of Contract: _____, _____.

The Listing Licensee is **Mark Malone** of **Malone Commercial Brokers** (Company).
The Selling Licensee is **Dan Greenstein** of **CBRE/The Boulos Company** (Company).

Frank Dixon — 2/20/14

Seller — *Date*

Partner — 01-0428120

Name/Title — *Soc. Sec. # or Tax I.D. #*

Seller — *Date*

Name/Title — *Soc. Sec. # or Tax I.D. #*

Offer reviewed and refused on _____, _____. _____, Seller

Seen and agreed to: _____ Seller(s) _____ Purchaser(s)

telefacsimiled signatures are binding.

18. BINDING CONTRACT: This Contract is a binding contract when signed by both Seller(s) and Purchaser(s) and when that fact has been communicated to all parties or to their agents. The Effective Date of the Contract is noted below. Time is of the essence of this Contract.

19. REVIEW OF LEASES AND INCOME AND EXPENSE INFORMATION: Purchaser shall have 21 days from the effective date of the Contract to review leases of the property and income and expense information regarding the property, which leases and information Seller shall make available to Purchaser at a convenient time and location. If the result of the review is unsatisfactory to Purchaser, Purchaser may declare the Contract null and void by notifying the Seller in writing within the specified number of days set forth herein, and the earnest money shall be returned to Purchaser. If Purchaser does not notify Seller that the review is unsatisfactory within the time period set forth herein, this contingency is waived by Purchaser.

20. Seller(s) and Purchaser(s) acknowledge receipt of the Maine Real Estate Commission Disclosure of Agency Relationship Form (Form 82). *If the property is, or has a component of, one to four residential dwelling units.*

21. ADDENDA: This Contract has addenda containing additional terms and conditions: YES NO

22. For the reference in Paragraph 10.1, this contract is subject to purchaser's ability to get a zone change to Residential which is satisfactory to the Purchaser for its intended use, within 90 days of the effective date of this contract.

Seen and agreed to:

Rev
1/2001

Seller(s) Purchaser(s)

A COPY OF THIS CONTRACT IS TO BE RECEIVED BY ALL PARTIES AND, BY SIGNATURE, RECEIPT OF A COPY IS HEREBY ACKNOWLEDGED. IF NOT FULLY UNDERSTOOD CONSULT AN ATTORNEY.

Seller(s) acknowledges that the laws of the State of Maine provide that every buyer of real property located in Maine must withhold a withholding tax equal to 2 1/2% of the consideration unless the Seller(s) furnishes to the Buyer(s) a certificate by the Seller(s) stating, under penalty of perjury, that Seller(s) is/are a resident of Maine or the transfer is otherwise exempt from withholding.

Avesta Housing

Purchaser Date

Name/Title Soc. Sec. # or Tax I.D. #

The Seller(s) accepts the offer and agrees to deliver the above-mentioned property at the price and upon the terms and conditions set forth above and agrees to pay the Broker the commission for services herein according to the Listing Agreement or if there is no Listing Agreement the sum of: 10% of Sale Price. The obligation to pay said commission or sum shall survive the closing of this transaction. Seller agrees that Broker may apply any deposit(s) received in connection with the sale of the Property toward commissions due and payable under this Agreement. If the earnest money is forfeited by Purchaser(s), it shall be evenly distributed between the Broker and the Seller(s), provided, however, that Broker's portion shall not exceed the full amount of the commission specified. In the event the Seller(s) defaults on its obligations hereunder, CBRE | The Boulos Company shall be entitled to costs of collection, including reasonable attorney's fees.

Signed this _____ day of _____, _____. Effective date of Contract: _____, _____.

The Listing Licensee is Mark Malone of Malone Commercial Brokers (Company).
The Selling Licensee is Dan Greenstein of CBRE|The Boulos Company (Company).

- Partner

Seller Date

First AMENDMENT
TO CONTRACT
For Sale of Real Estate
March 12, 2014

The Contract For Sale Of Real Estate for property located at 72 Bishop St. Portland, Maine, between William F. Dixon & Wesley Wright Jr., (Known as Seller) and Advesta Housing and/or assigns (known as Purchaser), dated 2/20/14, for valuable consideration, is amended as follows:

1. Paragraph 10 item a – General Building inspection shall be extended to expire on March 18, 2014 at 5:00 pm.

This Amendment may be signed on any number of identical counterparts, including telefax copies, with the same binding effect as if all of the signatures were on one instrument

All other terms and conditions of the Contract will remain in full force and effect.

Seen and agreed to by:

SELLER: _____ DATE 3/12/14
BY:
ITS:

_____ DATE 3/13/14
PURCHASER:
BY:
ITS:

Amendment A
To the Purchase and Sale Agreement
For Property Located at 72 Bishop Street, Portland, Maine
Purchaser: Avesta Housing and/or assigns
Dated: February 20, 2014

1. The time frame referenced in Paragraph 10 (l.) of the Purchase and Sale Agreement is hereby extended through July 21, 2014.

2. All other terms and conditions shall remain in full force and effect.

SEEN AND AGREED TO:

Purchaser — Date: 3-7-14

Seller — Date: 5/12/2014

AVESTA HOUSING

LETTER OF AUTHORIZATION

June 17, 2014

To: City of Portland Planning Department

This letter authorizes Robert Metcalf, Michael King and/or Sashie Misner of Mitchell & Associates and Ben Walter of CWS Architects to act as agents on behalf of Avesta Housing Development Corporation in public meetings and the submission of any and all application materials that relate to our proposed development of Bishop Street Apartments on Bishop Street in Portland.

Sincerely,

Greg Payne
Development Officer

307 Cumberland Avenue • Portland, Maine 04101
207-553-7777 • 1-800-339-6516 Voice/TTY
207-553-7778 Fax • www.avestahousing.org

NeighborWorks® CHARTERED MEMBER

Neighborhood Meeting Certification

for

72 Bishop Street

I, Greg Payne, hereby certify that a neighborhood meeting relative to the above-referenced property was held on July 14, 2014 at Deering High School at 5:30pm.

I also certify that on July 2, 2014, invitations were mailed to the following:

1. All addresses on the mailing list provided by the Planning Division which includes property owners within 500 feet of the proposed development or within 1000 feet of a proposed industrial subdivision or industrial zone change.
2. Residents on the "interested parties" list.
3. A digital copy of the notice was also provided to the Planning Division (jmy@portlandmaine.gov and ldobson@portlandmaine.gov) and the assigned planner to be forwarded to those on the interested citizen list who receive e-mail notices.

Signed,

Greg Payne July 15, 2014

Attached to this certification are:

1. Copy of the invitation sent
2. Sign-in sheet
3. Meeting minutes

AVESTA HOUSING

July 1, 2014

Dear Neighbor:

Please join us for a neighborhood meeting to discuss our plans for the creation of 30 affordable apartments at 72 Bishop Street.

Meeting Location: Deering High School

Meeting Date: Monday, July 14th

Meeting Time: 5:30pm

The City code requires that property owners within 500 feet of the proposed development and residents on an "interested parties list", be invited to participate in a neighborhood meeting. A sign-in sheet will be circulated and minutes of the meeting will be taken. Both the sign-in sheet and minutes will be submitted to the Planning Board.

If you have any questions, please call Greg Payne, Avesta Housing 553-7780 x 211.

Sincerely,

Greg Payne, Development Officer
Avesta Housing

Note:

Under Section 14-32(C) and 14-524(a)d of the City Code of Ordinances, an applicant for a Level III development, subdivision of over five lots/units, or zone change is required to hold a neighborhood meeting within 30 days of submitting a preliminary application or 21 days of submitting a final site plan application, if a preliminary plan was not submitted. The neighborhood meeting must be held at least seven days prior to the Planning Board public hearing on the proposal. Should you wish to offer additional comments on this proposed development, you may contact the Planning Division at 874-8721 or send written correspondence to the Planning and Urban Development Department, Planning Division 4th Floor, 389 Congress Street Portland, ME 04101 or by email: to bab@portlandmaine.gov

307 Cumberland Avenue • Portland, Maine 04101
207-553-7777 • 1-800-339-6516 Voice/TTY
207-553-7778 Fax • www.avestahousing.org

NeighborWorks® CHARTERED MEMBER
EQUAL HOUSING OPPORTUNITY

Neighborhood Meeting Notes
Bishop Street Apartments
Monday, July 14, 2014

Presenters: Greg Payne, Avesta Housing
Bob Metcalf, Mitchell & Associates
Jon Bradley, Preble Street
Ben Walter, CWS Architects

Also in attendance: Mindy Woerter, Avesta Housing
Mark Swann, Preble Street
Jaime McLeod, Preble Street
Six neighbors – see sign-in sheet

Meeting overview:

1. Greg Payne gave an overview of the project as including 30 efficiency apartments for chronically homeless folks with health issues, and explained the Housing First model as demonstrated at Logan Place and Florence House. He explained the need for a zoning change to accommodate the project, and that the Planning Board would make a recommendation to the City Council on that request.
2. Bob Metcalf provided an overview of the current zoning at the site and the request to change it to a B2 zone instead of the mix of zoning that is currently in place
3. Jon Bradley explained the programming and the demographics of the people to be served at Bishop Street

Questions and concerns raised by neighbors:

1. Question: Will this be a homeless shelter, like the shelter beds at Florence House?
    a. Answer: No
2. Question: If this is a residential building, why do you need a business zone?
    a. Answer: R5 does not allow the density we want, while B2 does. B2 is a mixed-use zone that includes commercial and residential, designed to integrate small business with residential.
3. Question: Did the city request the zoning change or did Avesta?
    a. Answer: Avesta is requesting the zoning change for the parcel under our control; the Planning Board staff report suggested consideration of a larger zoning change for that area
4. Question: Will this project be for UNE students?
    a. No – full-time students are not eligible for LIHTC housing
5. Question: Is this project compatible with the businesses across the street, and does it match well (will there be complaints about noise, activity)?
    a. Answer: The immediate neighbors aren't industrial businesses and shouldn't be incompatible
6. Question: Bishop Street becomes like a one-lane road as business owners park on one side of the street. What will this project do to add traffic?

    a. Answer: At Logan Place, in nine years, only one resident has had a car and staff traffic will be quite light
7. Question: How will the existing zoning change uses in the area?
    a. Answer: The city is re-evaluating the Bishop Street zoning and identifying what existing uses would be impacted by a change from an IM to a B2 zone. We're looking at changing the zoning at just the parcel currently under our control.
8. Question: Is the city looking at the zoning because of your application?
    a. The city has been examining the zoning there since Stop & Shop left and have had discussions about zone changes, and is reconsidering that issue because of this application.
9. Question: What's stopping you from building more than what you're proposing here? Could you buy more land and add 100 more apartments?
    a. Answer: Density requirements at the site, as well as our own goal of keeping the project manageable for staff, are keeping the project to under 38-40 units. It's more efficient from a program standpoint to locate several similar projects in Greater Portland.
10. Question: How many projects like this do you already have?
    a. Answer: 2
11. Question: How is this different from public housing, and how can we be sure it won't become like public housing?
    a. Answer: Public housing authorities build public housing, and we use different funding and develop different kinds of buildings.
12. Question: Is there a possibility this building will fail and you'll have to sell it in five years? Has that already happened in your business?
    a. Answer: Any housing we sell goes to other owners who will preserve it as affordable housing. Government restrictions require this project remain affordable for 45 years. But none of our LIHTC projects have failed.
13. Statement: There aren't many services located near here. It doesn't make sense to have 30 units here for people who may have mobility issues
    a. Answer: Many services will be received on site, and Preble Street staff are responsible for arranging transportation to ensure residents access off-site services they need
14. Question: How long is the residents' lease?
    a. Answer: 1 year
15. How do they pay for their housing?
    a. The housing is subsidized, so residents pay 30% of their income, and the government covers the rest
16. Is this guaranteed to stay housing, or could you turn it into something like a teen center?
    a. No, we can't do that, as it would mean evicting residents, and we're confident that our model is successful
17. Question: How does your staff handle security?
    a. Staff are there 24 hours to monitor the building and the area, and any visitors are required to sign in

18. Do tenants have to remain sober and clean? Will there be recovering alcoholics there, or people with mental illness
    a. No, they must be good tenants. If they have problems with sobriety, it becomes a tenancy issue, and we monitor them closely. Yes, there will be people dealing with alcoholism and mental illness, but we've been doing this very successfully, and we work closely with neighbors and the police to ensure there's no impact on the neighborhood.
19. Question: What about when they're out on the street – how do you monitor them?
    a. Answer: We work with the neighbors and respond to any complaints; however, we generally do not receive complaints at our other properties from neighbors. The Police Department has written a letter stating these projects have no negative impact on the neighborhood, and we don't house people unless we feel they can be safe in the neighborhood. We also run background checks and criminal checks.
20. Question: Will there be smoking in the building, or a place to smoke outside?
    a. Answer: No smoking is allowed in the building, and there will be a place outside for smokers
21. A concern was stated about safety, whether the project would lead to drug-related incidents, and about the project's compatibility with the neighborhood in consideration of the mixed results of the Spurwink facility for teens
    a. Answer: Presenters stated we work with neighbors to ensure a safe neighborhood, and that our residents tend to stay inside and won't be out on the street to cause issues. Additionally, Spurwink's program works with a very different population from ours
22. Question: How do you monitor visitors?
    a. Answer: Everyone has to be buzzed in and sign in and out. No one who has been using or is drunk is allowed in. Residents are responsible for guests, and tend to hold their guests accountable for their actions as they are invested in their home and want to remain. We're strict with guest violations and will bar them from returning if they commit offenses. Residents are only allowed a certain number of overnight guests a month.
23. Question: Does the project require DOT accommodation for transportation, or considerations for bus routes?
    a. Answer: No, however based on previous feedback we are exploring two options: adding or moving a Metro stop, or adding a sidewalk on the street.
24. Neighbors stated they'd prefer a sidewalk over a bus stop on Bishop Street, and suggested encouraging service providers not to turn left onto Bishop because of traffic issues, but rather take Warren Avenue.
25. Question: What are your landscaping requirements?
    a. Answer: We have to include trees and shrubs, as well as lighting as required by the city.
26. Question: Are pets allowed?
    a. Answer: Avesta allows cats; however, Preble Street staff work closely with residents to determine if they can handle the responsibility.

27. Question: What happens if the zoning change is approved but your project isn't built? Does the zoning revert?
    a. Answer: No
28. Why did you choose this site?
    a. Answer: The need for this kind of housing is growing, and a task force suggested building several more projects that are scattered throughout the city. We reviewed several sites, evaluated price and location, and talked to city staff, and in the end this site rose above other options. The city sees this area as changing to become more residential and agreed with us that this site is the best option available.
29. Question: How tall will the building be?
    a. Answer: Three stories
30. A statement was made that traffic concerns are the primary problem. Presenters said if the project goes through, we'll be an ally in addressing those problems
31. Concerns were raised about lighting being too bright and additional noise on the street. Presenters said most residents will be inside and won't be causing noise problems outside.
32. Question: When will elevation drawings be available?
    a. Answer: After the zoning change is approved, if it is approved.
33. Question: What will the design be like, and how much will it change?
    a. Answer: It will be good quality design that will fit with the context of the neighborhood and will last for the long term. We'll accommodate the Planning Board suggestions on design, but the footprint will not change much.
34. Question: Is there a shared kitchen?
    a. Answer: No
35. Question: Will the project devalue my property?
    a. We have no reason to believe that the project will have a negative impact on property values.
36. Question: Will there be fencing? And can it be green/natural?
    a. There will likely be some fencing, and we're happy to provide natural fencing if it's desired
37. A concern was raised about Bishop Street being a congested street, and that people on wheelchairs could be hit by cars

72 Bishop Street Neighborhood Meeting
July 14, 2014

Name	Street Address	Email Address
Janet Parker	9 Mayfield	
Joan & John Vance	393 Warren Ave	the maple@maine.rr.com
Jeff Small	29 Mayfield	Jffsmall@yahoo.com
Hutton	24 Mayfield	MHUTTON@MECA.EDU
KATHLEEN VANCE	393 WARREN AVE	THEMAPLE@MAINE.RR.COM

Mitchell
&Associates
LANDSCAPE ARCHITECTS

The Staples School
70 Center Street
Portland, Maine 04101
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August 1, 2014

Ms. Helen Donaldson, Planner
and Planning Board Members
City of Portland Planning Department
389 Congress Street, 4th Floor
Portland, Maine 04101

Re: Bishop Street Apartments
72 – 78 Bishop Street
Request for Zoning Map Amendment

Dear Nell and Planning Board Members:

The following responses and supporting documentation has been prepared in response to Planning Board and staff review comments and subsequent discussions with staff. A neighborhood meeting was held on July 14, 2014 at Deering High School, required documentation was submitted under separate cover. Since our last meeting with the Board, we have had the environmental assessment and topographic survey completed. This information has been added to the concept site plan. The following are points that we understood the Board wanted further understanding of in order to assess the proposed use and map amendment request.

Preble Street Resource Services

The following is a brief summary of points that address questions raised by the Board and several neighbors during the neighborhood meeting. These include how Preble Street will manage the property, type of services provided, including outside support services. A more detailed memo prepared by Preble Street is enclosed.

- Preble Street staffing will be provided on a 24/7 basis, shifts are 8 AM to 8 PM with a minimum of 2 staff upwards of 4 during the day, 8 PM to X AM with 2 staff.

- Outside service providers, Logan Place averages one to two per day, Bishop Street may be slightly higher due the population.

- Transportation services will be provided by case managers from several partner organizations and Preble Street.

- Services provided by Preble Street include helping individuals to transition from chronic homelessness to permanent housing; independent living skills such as cooking, budgeting, meeting vocational or school goals, begin treatment for mental illness. Coordination provided with outside service providers.

- Avesta will be the landlord and provide maintenance for the facility. Security will be will be provided around the clock by on-site staff monitoring and provide support to deal with any crisis that may occur, visitors must sign in and out at the main desk. Security cameras will be strategically located and staff will monitor activity Access by visitors and service providers will be restricted to the front entry.

Proposed B2 Zone Limits

Staff requested that we evaluate the limit of the site area of 72 & 78 Bishop Street necessary to achieve the density for 30 Apartment Units and retain the balance of the parcel as R3. As we discussed, the revised B2 Zoning Standards require a new use to have an active street frontage and have a front set *back "no more than 10 feet, except that the planning board or planning authority may approve a different amount for irregularly shaped lots or lots with frontage less than 40 feet, provided this standard is met to the maximum extent practicable."*

This is an irregular shaped lot with 50 feet of frontage. Due to the lot configuration and access 24 wide drive requirements, the original submission placed the closest point of the building to the property line at 23.45 feet. As suggested, we looked at narrowing the access drive, where there is no parking, from 24 feet to 20 feet. This allowed shifting of the building approximately 2.83 feet toward the property line or 20.62 feet.

Of concern to Avesta is the planning board's determination of meeting the standards *"to the maximum extent practicable."* If the location will satisfy this requirement the density can be based upon 435 SF/dwelling unit or 13,050 SF of lot area. If the determination is not favorable then density is based upon 1,500 SF/dwelling unit or 45,000 SF.

The determination is important to identifying where the limit of the B2 Zone is located. We have shown both options on the concept plan for discussion with the planning board. Note: The zoning line for Option 1, based on 435 SF/dwelling unit, the zone line has been located to include the area necessary for the building program, parking and circulation or 30,000 SF +/-. The remaining area to be retained as R3 would 22,383 SF +/-. Option 2, based on the 1,500 SF/dwelling unit would require 45,000 SF retaining 7,383 SF as R3.

The Building

72 Bishop Street is designed to accommodate the permanent housing needs of 30 formerly homeless elderly individuals in a modern, multi-unit apartment structure. Each apartment designed as an efficiency type single room occupancy unit where all living, dining and sleeping accommodations are provided in a single, large living space. A large "Great Room" is provided as a shared space for all residents of the program and will include multiple areas such as sitting, living, game and small kitchen area for staff and resident interaction, which is both popular and socially engaging among this population. The Great Room is designed with a tall ceiling and extensive transparency between the indoor and outdoor social patio area. Additionally the first floor will include a semi-private TV/Den area, toilet rooms, staff office and meeting spaces, laundry room, building system support spaces, a space for visiting service providers including councilors and nurses, and a respite room to accommodate residents who need short term medical assistants. A prominent and transparent access point is provided between the end of the first floor hallway and the rear outdoor social area. The facility included six residential units on the first floor and 12 units on each of the second and third floors.

Based upon the intended first floor active space and exterior public space we believe we address the active street frontage. The constraints created by the limited frontage and shape of the lot and access requirements limit the ability to place the building closer to the street frontage. The proposed outdoor open space/seating area, pedestrian and vehicular circulation support an active functional street presence.

To finalize the location of the B2 zone line is dependent upon a positive finding that the current concept plan as shown meets the setback provision *"standard is met to the maximum extent practicable."*

Public Transit

We have identified the location of Metro bus stops within a 10 +/- minute walk of the site. The Morrill's Corner area is served by the number 2 and 3 metro bus routes. The number 2 travels along Forest Avenue and the number 3 travels along Allen and Stevens Avenue. The closest bus stop locations for the number 2 are located on either side of Forest near the Subway store. There also are inbound an out bound stops at Forest Avenue and Poland Street in front of The Park Danforth. The number 3 bus has two stops within a 5 min + walk along Stevens Avenue, The first is located in front of Aubuchon Hardware and on the opposite side of the street in front of Bogusha's Polish restaurant. The next stops occur in front of The Park Danforth and the UNE School of Dentistry. All of these stops are within a 5-10 min. walk of 72 Bishop Street.

Public safety concerns were raised along Bishop Street due to lack of public sidewalk. The proposed apartments are within 500 feet of existing public sidewalk that exist along the Bishop Street side of 844 Stevens Avenue. Avesta understands the concern and will be willing to address this during the site plan review process.

Crosswalks do exist in the Morrill's Corner intersection and we concur due to the configuration of the intersection that there are safety concerns negotiating these crosswalks within the time frame allotted by the traffic signal. That said, the inbound and outbound #2 bus at Poland Streetis easily accessible and within a 5-10 minute walk and is a safer route. This bus stop location may also be accessed via Stevens Avenue and Poland Street (The Park Danforth). There is a Stevens Avenue crosswalk located at Poland Street.

Site Selection

At the workshop meeting the planning board re\quested more detail regarding the selection of this property. Avesta will be prepared to provide more in depth discussion and information with the planning board at the scheduled August 12, 2014 workshop meeting.

Environmental Assessment

CES, Inc.; Environmental Scientist completed a wetland delineation for the property, locating limits by GPS. This information was incorporated on the boundary and topographic survey completed by Owen Haskell, Inc. A short segment of stream was identified along the south westerly property line. This segment of stream does not meet the city definition of a stream. CES is in the process of coordinating a meeting with MDEP to make a determination if it meets the MDEP definition.

We understand this area, inclusive of on-site and off-site wetlands are located in the head waters of the Capisic Brook that has been classified as an impaired watershed. Based on our discussions with you and Doug Roncarati, we understand that the Citys' MS4 storm water requirements include addressing the water quality of this watershed. Storm water management will require meeting the Chapter 500 Standards address water quality treatment. These requirements will be addressed during the Site Plan permitting process.

Based upon the updated information, the concept plan has been modified to eliminate the dumpster by incorporating a trash room within the building and relocating the outdoor activity area at the rear of the building.

Enclosed for your review:

- Preble Street Memo, prepared by Mark R. Swann
- Existing businesses and aerial map exhibit
- Metro bus service schedules, bus routes #2 & #3
- Updated Existing Conditions Plan
- Revised Concept Plan
- Concept Architectural Massing prepared by CWS Architects (Under separate cover)

Should you have any questions or have additional comments, please do not hesitate to call me. We look forward to meeting with you and the Planning Board at the August 12, 2014 workshop meeting.

Sincerely,

Mitchell & Associates

BOB METCALF

Robert B. Metcalf, Principal

Maine Licensed Landscape Architect

Enclosure

Cc Greg Payne

Ben Walter

Jon Bradley

Preble Street

Turning Hunger and Homelessness into Opportunity and Hope

Anti-Trafficking Coalition
Clinical Intervention Program
First Place
Florence House
Food Programs
Joe Kreisler Teen Shelter
Logan Place
Maine Hunger Initiative & Advocacy
Resource Center
Teen Center
Veterans Housing Services

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Edie White

Mark R. Swann
Executive Director

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Portland, ME 04101
207.775.0026 Phone
info@preblestreet.org
www.preblestreet.org

United Way
United Way of Greater Portland

Memo to: City of Portland Planning Board
From: Mark R. Swann
Date: August 1, 2014
Re: Zoning Changing for 72 Bishop Street

Thank you for your consideration of this important addition to the Portland community. We look forward to being a valuable and contributing neighbor on Bishop Street. We hope the information below will assist in your assessment.

We remain available to answer any questions you may have.

Staffing Requirements on site at any one time:
A minimum of two staff members will be on duty at all times, with as many as four on-site between the hours of 8 a.m. and 8 p.m. We expect to have 10 full time employees: one coordinator, one supervisor, and one team leader managing seven housing support workers. Full-time staff will be supplemented by as-needed staff to cover vacations and sick days. Management personnel will be onsite during daytime hours, and overnight shifts will have a team leader on site. Preble Street's Chief Program Officer will oversee the program, and Preble Street provides a 24-hour on-call system, staffed by a clinical manager, to address clinically challenging situations. Additional staffing will include social work, counseling, and occupational therapy interns, as well as trained volunteers.

Staff/service traffic volume:
The staff/service traffic volume at Logan Place, the first housing development of this kind in Portland, varies greatly from day to day. Service and healthcare providers make individual appointments with tenants, and there may be a dozen individuals coming to provide case management or assistance with activities of daily living or a follow up to a medical appointment in a given day. Over a two month period from May 1, 2014, through June 30, 2014, Logan Place had an average of four service workers visiting clients each day. This number is slightly inflated due to one tenant being seriously ill and requiring daily hospice visits. A typical service appointment usually lasts 60 minutes or less. These visits are spread throughout the day, sometimes into the evening. The volume at any one time of day is typically one or two, maximum. It is rare for there to be more than five cars in the Logan Place parking lot at any one time. Non-service guest visits total approximately six per day.

Potential number of outside medical providers that would visit residents, including frequency:
As noted above, the average number of outside medical visits at Logan Place, is one or two a day. At the Bishop Street facility, because the target population is individuals who are medically compromised, we anticipate this number will be slightly higher. However, we anticipate being able to mitigate this factor by engaging with a healthcare partner and having medically credentialed staff as part of the program. This will lead to increased efficiency due to coordination of visits.

Transportation options provided to residents:
Transportation is a critical part of service planning for each tenant. Case managers from several organizations including Maine Health, Catholic Charities, and Preble Street can transport individuals for shopping and assist individuals in learning to be comfortable

with available public transportation. All tenants can get bus passes. Preble Street has an account with Elite Taxi service for emergency use. Additionally, most clients in the Bishop Street building will qualify for Medicaid assistance for rides to appointments. Preble Street is working closely with Maine's new Mainecare ride contractor, Logisticare, to transport clients to scheduled medical, case management, mental health, substance abuse counseling or treatment appointments. Tenants and Preble Street staff make these arrangements, which include pick up and return after any appointment. Many tenants who are mobile will be able to walk to local convenience stores and grocers.

Services provided by Preble Street and other partners:
Preble Street provides case management services to all tenants to ensure that individuals succeed in making the transition from chronic homelessness to permanent housing. A key role of Preble Street staff is working alongside tenants to develop service plans for improving independent living skills such as cooking or budgeting, meeting vocational or school goals, or beginning treatment for mental illnesses. Preble Street staff collaborate with tenants to reach goals, and establish new ones over time, making referrals to other providers and organizations as needed to assist tenant in achieving those goals and maintaining health and stability. Outside agencies are welcome at any time to visit and work with tenants, at tenants' discretion. Many tenants routinely receive services ranging from behavioral health to personal care attendants to housekeeping assistance.

Because many long term homeless individuals need assistance with household responsibilities, such as cleaning and cooking, staff often focus on these issues, and for disabled tenants, will find resources from the community to assist with these tasks.

How the facility will be managed:
Avesta Housing provides building maintenance and is the landlord for all tenants. Preble Street staff work closely with the building manager, facilitating communication and supporting clients with maintaining stable housing.

Preble Street takes building management and security very seriously. Staff provide on-site monitoring and support to deal with any crisis that emerges and to ensure tenant safety. Each residential site has a front desk that is staffed 24 hours a day. The doors to each building are locked and visitors are required to check in at the front desk and produce identification which is copied and filed by staff. The staff member at the front desk monitors the building exterior through strategically placed cameras. The front desk is also the place where can tenants seek assistance if they have a question or concern. An intercom in each room allows tenants to contact the desk, and makes it easy for staff to check in with tenants regarding visitors.

Tenants are allowed a maximum of five overnight visits per month in accordance with public housing leases, and staff maintains a visitor log noting every guest entry and exit. Staff members do regular rounds, ensuring the security of the building and monitoring living spaces. Preble Street offers 24-hour clinical support through an on-call system staffed by managers, and staff are trained to call for medical or law enforcement support in the case of any disturbance.

Tenants at Logan Place have created a strong community, supported by staff and volunteers. Tenants at Logan Place prepare communal dinners, participate in regular house meetings to address their concerns and issues, and enjoy activities and outings such as hikes, cooking contests, and game tournaments.

BISHOP STREET APARTMENTS

72-78 Bishop Street

The following is a list of businesses located within a fifteen minute walking distance of 72 Bishop Street (see enclosed anotated aerial plan):

Stevens Avenue

- Aubuchon Hardware
- Bogusha's Polish Restaurant
- Pat's Meat Market Café
- Siano's
- The Quality Shop
- Veterans Center

Forest Avenue

- McDonald's
- Subway
- Susan's Fish & Chips
- Sunoco Food Mart
- Banadir Halal Market
- Morrill's Corner Pub
- PO Boy's & Pickles
- Starbucks Coffee
- Ginza Town
- Cumberland Farms
- Papa Johns
- African Supermarket

Allen Avenue

- Bruno's Restaurant

Warren Avenue

- Salvation Army Thrift Shop

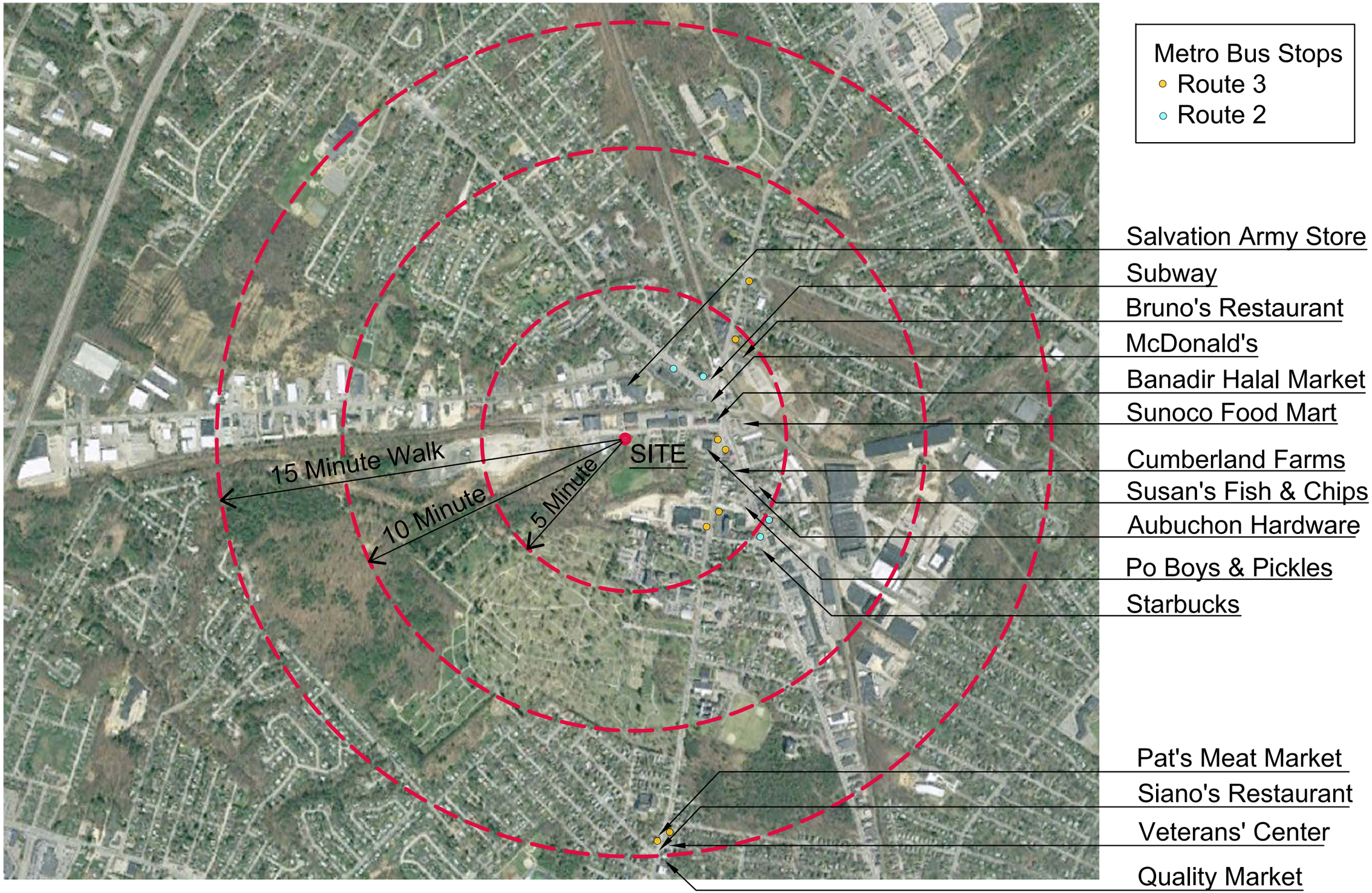
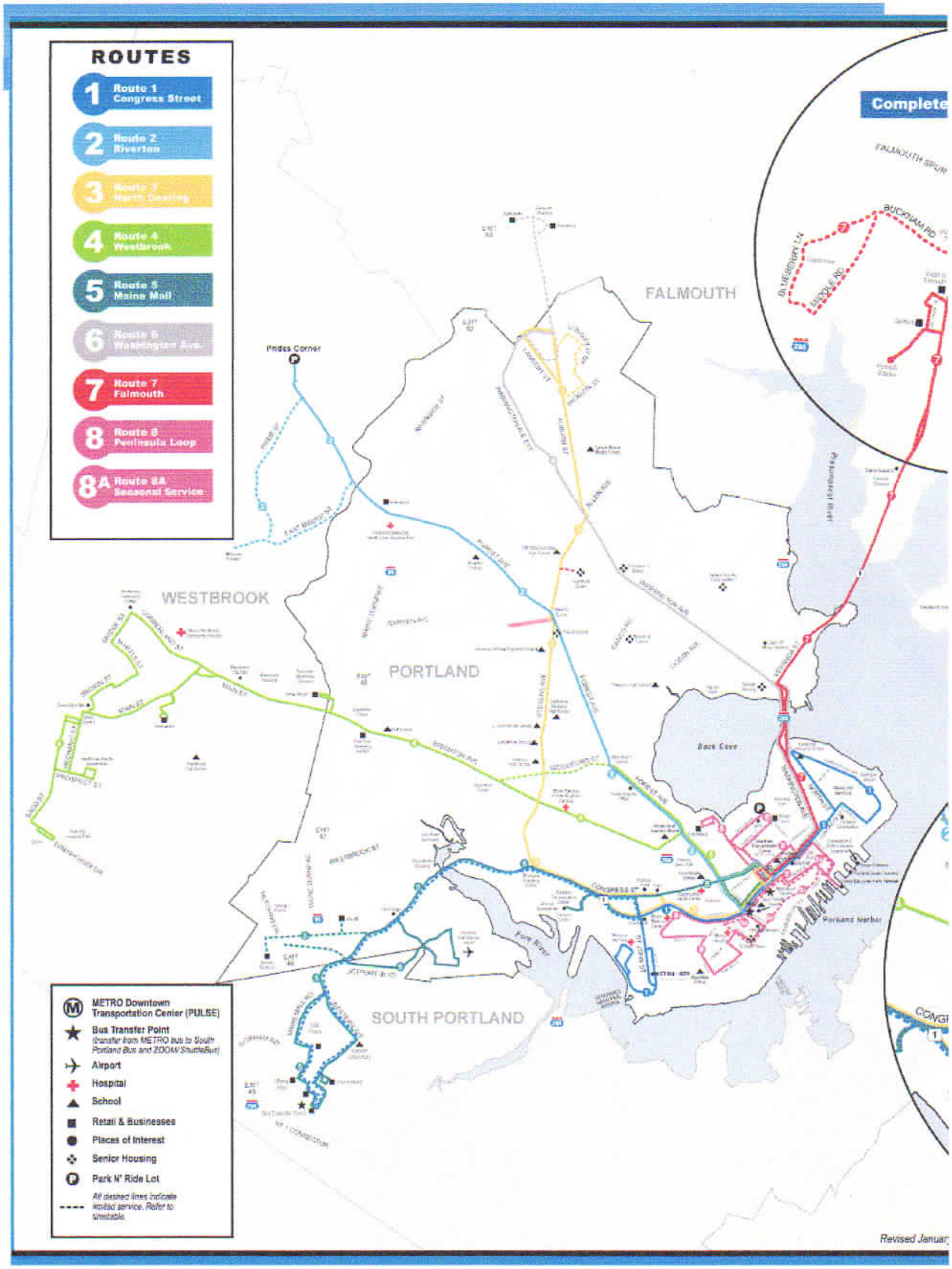


EXHIBIT A: Business Establishments and Bus Stops

July, 2014

Mitchell & Associates
LANDSCAPE ARCHITECTS

Att. K



Wednesday the 9th. 114 Valley Street Portland, ME 04102 (207) 774-0351

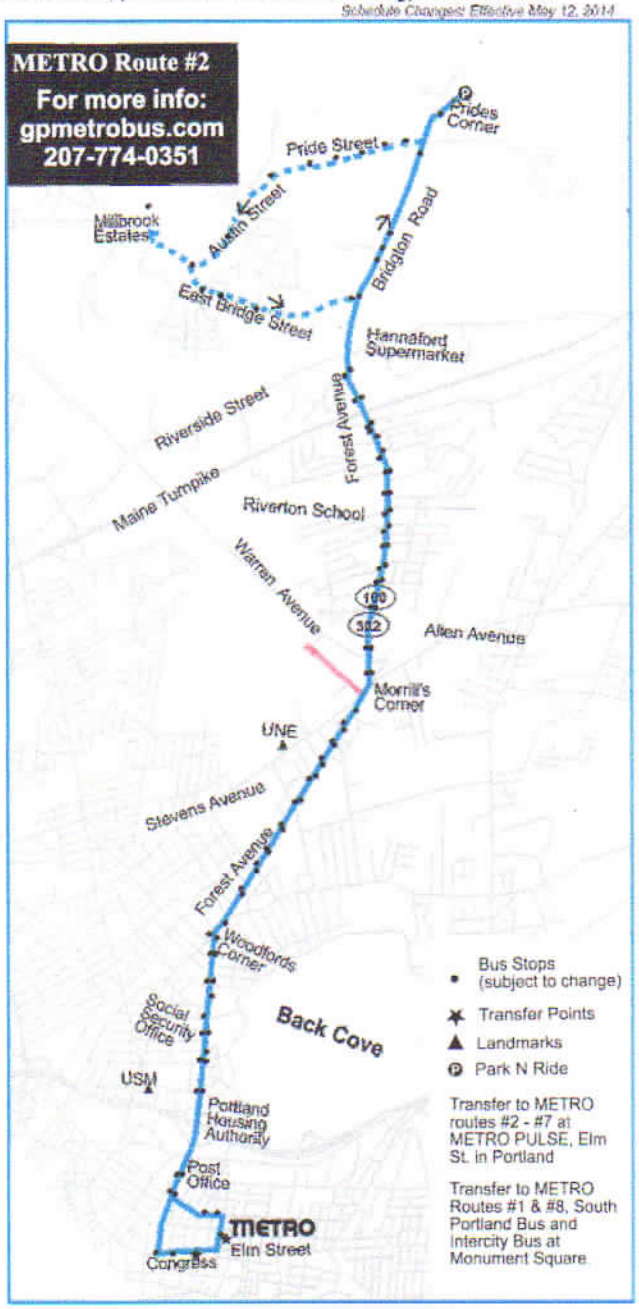
METRO Map Large

Service to Millbrook Estates on request only. (Call 774-0351).

METRO Bus travels throughout Portland, Westbrook, Falmouth and the Maine Mall area of South Portland.

Regional Monthly Passes & TenRide Tickets available along this route at METRO Pulse & Hannaford (Riverside). For fare information, please call 774-0351 or visit gpmetrobus.com

Schedule Changes: Effective May 12, 2014



Outbound Route #2 departs the METRO PULSE at Elm Street and travels to Forest Avenue, via Portland Street, with stops near USM, Portland Housing Authority, the Social Security Office and Riverton School – heading toward the Park and Ride at Prides Corner.

Inbound METRO #2 leaves Pride's Corner and heads back to Forest Avenue, via Pride and East Bridge Street (service to Millbrook Estates by request) except where noted on schedule (F), and Congress and Elm Streets.

METRO Greater Portland Transit District

Route Maps & Schedules

Main Map

Route 1 - Congress Street (May 2014 Update)

Route 2 - Forest Ave. - Riverton (May 2014 Update)

Route 3 - North Deering

Route 4 - Westbrook

Route 5 - Maine Mall - PTC (May 2014 Update)

Route 6 - North Deering

Route 7 - Falmouth

Route 8 - Peninsula Loop

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Route 2 - Riverton (New Schedule - 5.11.14)

Click here for new schedule effective May 11, 2014.

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Schedule Changes: Effective Beginning May 12, 2014

2 Riverton
Forest Avenue

M2

	OUTBOUND Departs			INBOUND Arrives/Departs				Arrives
	METRO PULSE (Elm St.)	Woodford's Corner	Morrill's Corner	Pride's Corner	Forest & Riverside	Morrill's Corner	Woodford's Corner (Dunkin' Donuts)	METRO PULSE (Elm St.)
MONDAY - FRIDAY				6:05	6:10	6:15	6:20	6:40
	6:20	6:25	6:30	6:45	6:50	6:55	7:00	7:20
	6:40	6:45	6:50	7:05	7:10	7:15	7:20	7:40
	7:00	7:05	7:10	7:25	7:30	7:35	7:40	8:00
	7:20	7:25	7:30	7:45	7:50	7:55	8:00	8:20
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	1:20	1:28	1:33	1:55	2:00	2:05	2:10	2:30
	1:40	1:48	1:53	2:20	2:25	2:30	2:35	2:55
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	2:30	2:38	2:43	3:10	3:15	3:20	3:25	3:45
	2:55	3:03	3:08	3:35	3:40	3:45	3:50	4:10
	3:20	3:28	3:33	4:00	4:05	4:10	4:15	4:35
	3:45	3:53	3:58	4:25	4:30	4:35	4:40	5:00
	4:10	4:18	4:23	4:50	4:55	5:00	5:05	5:25
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	7:20	7:25	7:30	7:45	7:50	7:55	8:00	8:20
	8:25	8:30	8:35R		8:45R	8:50	8:55	9:05
	9:30**		10:00	10:08F	10:11	10:15*		10:40
SATURDAY	6:15	6:20	6:25	6:40	6:45	6:50	6:55	7:15
	7:15	7:20	7:25	7:40	7:45	7:50	7:55	8:15
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	7:20	7:25	7:30	7:45	7:50	7:55	8:00	8:20
	8:25	8:30	8:35R		8:45R	8:50	8:55	9:05
	9:30**		10:00	10:08F	10:11	10:15*		10:40

NO SUNDAY SERVICE

** - The 10:15pm bus at Morrill's Corner runs Inbound via Stevens Avenue.*

*** - Use bus 6 / 3 North Deering*

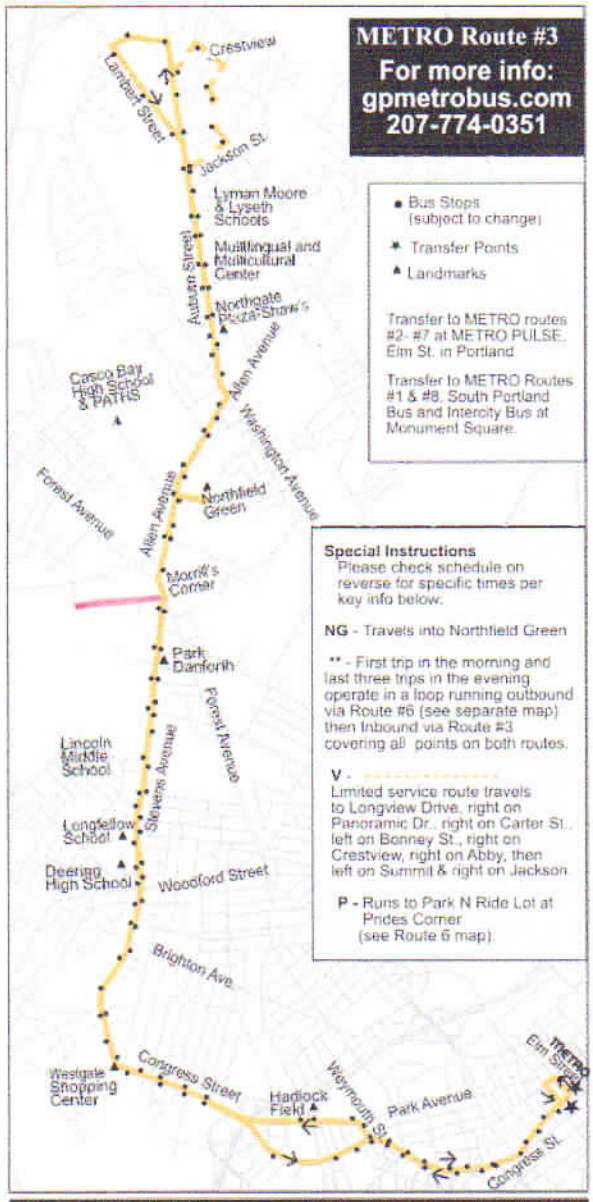
F - *Return via Forest Avenue*

R - *Route ends at Riverside and does not service Westbrook (Pride's Corner)*

Check one-way section of route Inbound. Passenger will need to board Outbound bus.

South Portland Bus Service) & TenRide Tickets available along this route at: METRO PULSE, at Elm Street in Portland, Shaw's at Westgate Shopping Center and Northgate Plaza. See reverse side for Route #3 map.

Revised January 12, 2014 - schedule subject to change.



A Quick Glimpse at METRO Route #3

Outbound Route #3 departs the METRO PULSE at Elm Street and travels along Congress St. via Preble Street to Weymouth and Park Avenue and Congress to Stevens Ave. to Morrill's Corner, then bears right on Allen Ave., left on Auburn St. to Washington Ave. Ext. **Inbound** Route #3 travels back to Congress Street and the METRO Pulse via Lambert St., Auburn Street, Allen Avenue and Stevens Avenue.

METRO Greater Portland Transit District

Route Maps & Schedules

Main Map

Route 1 - Congress Street (May 2014 Update)

Route 2 - Forest Ave. - Riverton (May 2014 Update)

Route 3 - North Deering

Route 4 - Westbrook

Route 5 - Maine Mall - PTC (May 2014 Update)

Route 6 - North Deering

Route 7 - Falmouth

Route 8 - Peninsula Loop

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Route 3 - North Deering

Click here for Route #3 schedule (to print and zoom on mobile devices.)

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Schedule Changes: Effective Beginning January 12, 2014

3 North Deering

Stevens Avenue

M3

MONDAY - FRIDAY

OUTBOUND Departs METRO PULSE (Elm St.)	Westgate	Morrill's Corner	INBOUND Arrives/Departs Washington & Lambert	Morrill's Corner	Westgate	Arrives METRO PULSE (Elm St.)
5:45 **			6:15	6:20	6:30	6:45
6:20	6:35	6:40	6:55	7:00	7:10	7:30
6:55 V	7:10	7:15	7:30 V	7:35	7:45	8:10
7:30	7:45	7:50	8:05	8:10	8:20	8:45
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8:45	9:00	9:05	9:20	9:25	9:35	9:55
9:20	9:35	9:40	9:55 NG	10:00	10:10	10:35
9:55	10:10	10:15	10:30	10:35	10:45	11:10
10:35	10:50	10:55	11:10	11:15	11:25	11:45
11:10	11:25	11:30	11:45	11:50	12:00	12:20
12:20 V	12:35	12:40	12:55 V	1:00	1:10	1:35
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4:35 V	4:50	4:55	5:10 V	5:20	5:30	5:50
5:10	5:25	5:30	5:45	5:50	6:00	6:25
5:50	6:05	6:10	6:25	6:30	6:40	7:00
6:15 **			6:45 **	6:50	7:00	7:20
7:20 **			7:50 **	7:55	8:05	8:25
8:25 **			8:55 **	9:00	9:10	9:30
9:30 **			9:50 **	10:00 P	10:20	

SATURDAY

8:15 V	8:25	8:30	8:45 V	8:50	8:55	9:20
9:15	9:25	9:30	9:45	9:50	9:55	10:20
10:15	10:25	10:30	10:45 NG	10:50	10:55	11:20
11:15	11:25	11:30	11:45	11:50	11:55	12:20
12:15 V	12:25	12:30	12:45 V	12:50	12:55	1:20
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2:15	2:25	2:30	2:45	2:50	2:55	3:20
3:15 NG	3:25	3:30	3:45	3:50	3:55	4:20
4:15 V	4:25	4:30	4:45 V	4:50	4:55	5:20
5:15	5:25	5:30	5:45	5:50	5:55	6:15
6:15 **			6:45 **	6:50	7:00	7:20
7:20 **			7:50 **	7:55	8:05	8:25
8:25 **			8:55 **	9:00	9:10	9:30
9:30 **			9:50 **	10:00 P	10:20	

NO SUNDAY SERVICE

NG - *Via Northfield Green*

** - *Trips operate in a loop running outbound via Route 6 then inbound via Route 3 covering all points on both routes.*

V - *Runs via Crestview Acres*

P - *Runs to Park 'n Ride Lot at Prides Corner.*

(See Map for Route 6/3)

METRO Bus travels throughout Portland, Westbrook, Falmouth and the Maine Mall area of South Portland, with connections to South Portland Bus Service, Intercity ShuttleBus (with service to Biddeford, Saco and OOB), Casco Bay Lines Ferry Terminal (METRO Route #8), PTC (Amtrack/DownEaster) and Portland Jetport (METRO Route #5).

Regional Monthly Passes (for travel on METRO and

CWS ARCHITECTS

August 4, 2014

Ms. Helen Donaldson, Planner
And Planning Board Members
City of Portland Planning Department
389 Congress Street, 4th Floor
Portland, Maine 04101

Re: Bishop Street Apartments
72-78 Bishop Street
Building Mass Study Model

Dear Nell and Planning Board Members,

Per your request, CWS Architects has prepared a preliminary massing model for consideration by the planning authority during the review of the B2 zone change request.

While the general building mass and fundamental placement of the building footprint and the relationship of major components are not expected to change much, please note that this model is NOT the proposed final design with respect to details, fenestration and character. Rather it is an earl study depicting one alternative that the design and development team will use for discussions, analysis and comments and we welcome yours.

The intent of providing this model is to illustrate the following:

- Overall massing of the building in context of the surrounding development.
- Relationship and adjacency of the proposed entrance and common spades to the streetscape.
- Visibility and screening of the parking area from the streetscape.
- Adequacy, transparency and screening of various indoor and outdoor common spaces.

Please feel free to provide design feedback during the zone change process.

Sincerely yours,

CWS ARCHITECTS

Benedict B. Walter, AIA
President
Licensed Architect ME NH GA
bwalter@cwsarch.com

Aerial View

Aerial View

Eye Level Entry View

Aerial Entry View

Entrance from Bishop Street

Rear View

Portland, Maine Yes. Life's good here.

Portland Police Department

July 11, 2014

Jon Bradley
Associate Director
38 Preble Street
Portland, ME 04101

Sent via email to jbradley@preblestreet.org

Dear Mr. Bradley,

Today I write in support of the successful partnerships between Preble Street Resources and Avesta Housing in providing an exceptional model that offers staff and support to those in need here in Portland. I firmly believe this partnership has increased success rates and improved outcomes for our homeless population.

I understand there is a proposal forthcoming of a housing development opportunity near Morrill's Corner. In light of the process moving forward, I would like to illustrate that a similar development, Logan Place, has successfully served as a tested model with no significant impact on the surrounding neighborhood.

The Portland Police Department believes the working relationship between Preble Street Resources and Avesta Housing continues to provide a valuable service to Portland's homeless population, our visitors, families, friends and neighbors.

Sincerely,

Vernon W. Malloch
Assistant Chief of Police

Mitchell
&Associates
LANDSCAPE ARCHITECTS

The Staples School
70 Center Street
Portland, Maine 04101
P:207.774.4427
F:207.874.2460
www.mitchellassociates.biz

October 8, 2014

Ms. Helen Donaldson, Planner
and Planning Board Members
City of Portland Planning Department
389 Congress Street, 4th Floor
Portland, Maine 04101

Re: Bishop Street Apartments
72 – 78 Bishop Street
Request for Zoning Map Amendment

Dear Nell and Planning Board Members:

The following is in regards to the Planning Board request for documentation concerning Public Safety responses for Logan Place located on Frederic Street, as a comparison for the proposed First Housing development under consideration for 72-78 Bishop Street. We received data from the Portland Police Department late last week, however it is in a format that is not easily understood. We are in the process of tabulating the data and preparing a chart that will show the type of incident responses that have occurred over the past 9 years. We are also coordinating with PPD to better define response call designations. We will have the documentation available for the Public Hearing on October 14, 2014

Should you have any questions, please do not hesitate to call me. We look forward to meeting with you and the Planning Board at the October 14, 2014 meeting.

Sincerely,

Mitchell & Associates

BOB METCALF

Robert B. Metcalf, Principal

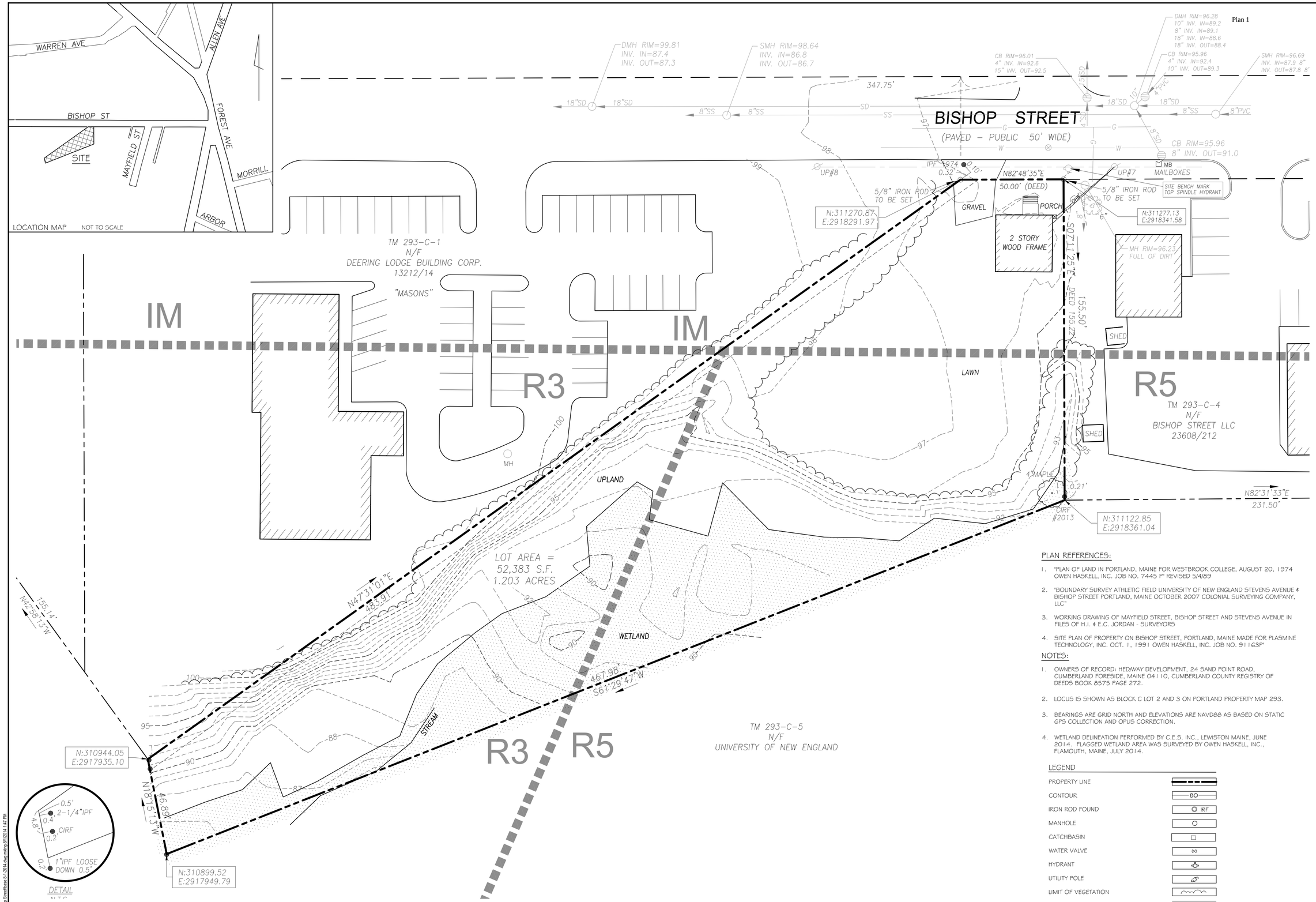
Maine Licensed Landscape Architect

Cc Greg Payne

Dana Totman

Ben Walter

Plan 1



PLAN REFERENCES:

1. "PLAN OF LAND IN PORTLAND, MAINE FOR WESTBROOK COLLEGE, AUGUST 20, 1974 OWEN HASKELL, INC. JOB NO. 7445 P" REVISED 5/4/89
2. "BOUNDARY SURVEY ATHLETIC FIELD UNIVERSITY OF NEW ENGLAND STEVENS AVENUE & BISHOP STREET PORTLAND, MAINE OCTOBER 2007 COLONIAL SURVEYING COMPANY, LLC"
3. WORKING DRAWING OF MAYFIELD STREET, BISHOP STREET AND STEVENS AVENUE IN FILES OF H.I. & E.C. JORDAN - SURVEYORS
4. SITE PLAN OF PROPERTY ON BISHOP STREET, PORTLAND, MAINE MADE FOR PLASMINE TECHNOLOGY, INC. OCT. 1, 1991 OWEN HASKELL, INC. JOB NO. 91163P"

NOTES:

1. OWNERS OF RECORD: HEDWAY DEVELOPMENT, 24 SAND POINT ROAD, CUMBERLAND FORESIDE, MAINE 04110, CUMBERLAND COUNTY REGISTRY OF DEEDS BOOK 8575 PAGE 272.
2. LOCUS IS SHOWN AS BLOCK C LOT 2 AND 3 ON PORTLAND PROPERTY MAP 293.
3. BEARINGS ARE GRID NORTH AND ELEVATIONS ARE NAVD88 AS BASED ON STATIC GPS COLLECTION AND OPUS CORRECTION.
4. WETLAND DELINEATION PERFORMED BY C.E.S. INC., LEWISTON MAINE, JUNE 2014. FLAGGED WETLAND AREA WAS SURVEYED BY OWEN HASKELL, INC., FLAMOUTH, MAINE, JULY 2014.

LEGEND

- PROPERTY LINE
- CONTOUR
- IRON ROD FOUND
- MANHOLE
- CATCHBASIN
- WATER VALVE
- HYDRANT
- UTILITY POLE
- LIMIT OF VEGETATION
- CURRENT ZONE LINE
- WETLAND

Prepared For:

Owner/Applicant:

AVESTA BISHOP STREET LP
307 Cumberland Avenue
Portland, Maine 04101
Tel.: 207-553-7777

Prepared By:

MITCHELL & ASSOCIATES
Landscape Architects
The Staples School
70 Center Street
Portland, Maine 04101
Tel.: 207-774-4427

72 BISHOP STREET

Bishop Street

Portland, Maine

Date:
June 17, 2014

Issued For:
Map Amendment

Revisions:
8-1-2014: Map Amendment Application

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Title:
EXISTING CONDITIONS PLAN

Scale: 1"= 20'

0 10 20 40 ft.

North:

Sheet No.:
L1.0

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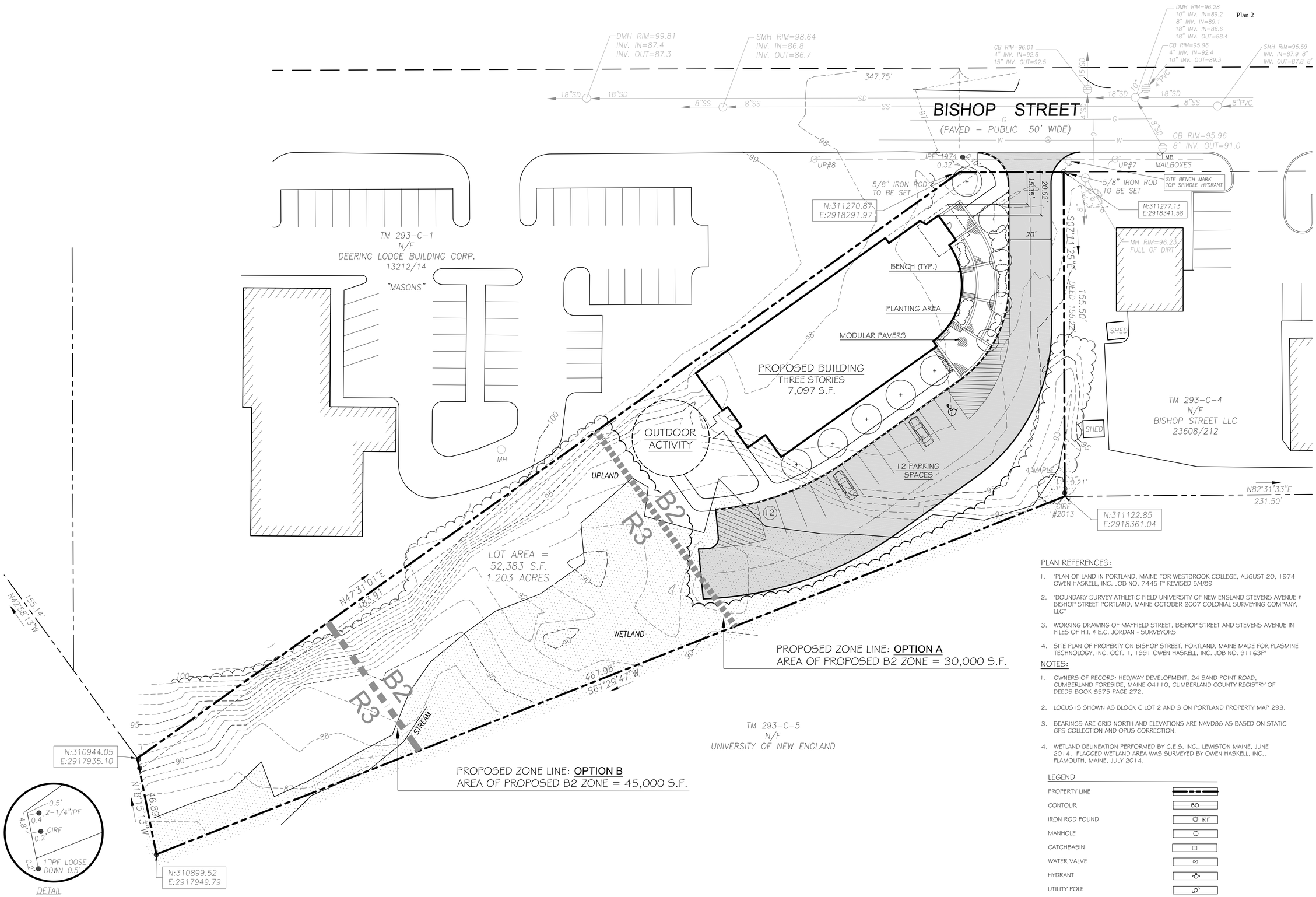
Plan 2



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1. "PLAN OF LAND IN PORTLAND, MAINE FOR WESTBROOK COLLEGE, AUGUST 20, 1974 OWEN HASKELL, INC. JOB NO. 7445 P" REVISED 5/4/89
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LEGEND

PROPERTY LINE	
CONTOUR	80
IRON ROD FOUND	IRF
MANHOLE	
CATCHBASIN	
WATER VALVE	
HYDRANT	
UTILITY POLE	
LIMIT OF VEGETATION	
CURRENT ZONE LINE	
WETLAND	

Prepared For:

Owner/Applicant:

AVESTA BISHOP STREET LP
307 Cumberland Avenue
Portland, Maine 04101
Tel.: 207-553-7777

Prepared By:

MITCHELL & ASSOCIATES
Landscape Architects
The Staples School
70 Center Street
Portland, Maine 04101
Tel.: 207-774-4427

72 BISHOP STREET

Bishop Street

Portland, Maine

Date:
June 17, 2014

Issued For:
Map Amendment

Revisions:
8-1-2014: Map Amendment Application

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Title:
CONCEPT SITE PLAN

Scale: 1"= 20'

0 10 20 40 ft.

North:

Sheet No.:
L2.0

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Hello Barbara,
I attended a neighborhood meeting last evening concerning the Avesta Housing development proposed on Bishop Street. At this meeting the presenters said there has been a study of the Morrills Corner area. They stated that this study was conducted for the development on Allen Avenue behind Bruno's restaurant which did not go forward. I would like more information about this.

I am concerned that there is a study of our neighborhood area and none of the residents are aware of it. Were the Mayfield Street residents and neighborhood part of this study? I would like a copy of this study and additional information about any planning efforts in this area.

I feel like our residential neighborhood is being isolated by commercial, business and industrial uses with no concern for the history and current use as a family-friendly neighborhood. I feel that the City of Portland Planning Division and Portland Planning Board are making plans for our neighborhood without the input of and respect for those who live there. Several of us have discussed the changes on Bishop Street and the adverse effect on our residential street. My personal concerns are with the Taxi business which is very loud with unsafe driving associated with it, the Spurwink children with many concerns, and the industrial zoning applied over our residential neighborhood (Mayfield Street should be a residential zone all the way from Bishop Street to the dead end).

How do we go about assuring that our voice is heard concerning the future of our neighborhood? Do we need to create a Neighborhood Association for formal recognition? How do we go about that? Who is our City Councilor and are they the proper person to work with? I am unsure as to how to proceed with my concerns.

Please send me information about any planning efforts for our area or the surrounding areas: reports, studies, workshops, plans, etc. Also, please include us in any planning meetings, workshops, etc. Information can be sent to my home: 9 Mayfield Street, Portland, 04103, or e-mail at this address or my home e-mail of jpparker2011@gmail.com.

I appreciate the opportunity to work with the City to create a more livable environment for all residents.
Thank you very much,
Janet

Janet Parker, CFM
Maine Floodplain Management Program
Maine Department of Agriculture, Conservation and Forestry
17 Elkins Lane, Williams Building
93 State House Station
Augusta, Maine, 04333-0038
207-287-9981 office phone
janet.parker@maine.gov

Janet Parker
9 Mayfield Street, Portland

August 12, 2014

Concerns about rezoning 72 Bishop Street for Avesta Housing

- Rezone all of Mayfield Street back to the residential use that it is.
    - Zoning as Business or Industrial uses will further isolate the current residential neighborhood.
- Environmental Concern – Morrill's Corner is the headwater of Capisic Brook, an impaired watershed. Any development in this area will further degrade it, development must be low-impact.
    - Excellent opportunity for stormwater management/green infrastructure.
        - Volume and quality of stormwater from Morrill's Corner assessed.
    - Excellent opportunity for a Greenway Gateway for recreational opportunities.
- TRAFFIC
    - Morrill's Corner does not allow for a left turn from either Forest Avenue outbound or Steven's Avenue – 'can't get there from here'. How to access?
    - Service Providers to Avesta clients: how many, how often, what types of vehicles, staff vehicles, emergency responders, estimate 3 providers/client x 30 clients = 90 additional vehicles – cumulative impact.
    - Bishop Street already has on-street parking, taxi traffic, pedestrian traffic and no sidewalks, poor snowplowing/maintenance, is there a speed limit, and drag racers-add to that wheelchairs and medically-compromised individuals – Very dangerous situation.
        - Bishop Street will need to be upgraded to accommodate heavier traffic.
        - Bus service is not easily accessible from this site, especially for medically-compromised clients.
- Unsafe, based on newspaper reports when the other facilities opened: people passed out in yards, on sidewalks, trespassing, urinating, vomiting, noise, etc. These are not 'recovering' people, these are active users, and that poses a safety concern for property and personal safety, theft, etc.
- Out of scale for the surrounding neighborhood: 3 stories is too large; no/minimal setbacks from Bishop Street and taxi garage, density of 30 people is too much.
- Not consistent with the Comprehensive Plan: does not 'seek to limit business expansion into residential zones', does not 'accommodate all income levels' by offering free housing paid for by middle/low income residents.
- B-2 uses are not compatible with residential neighborhood of Mayfield Street.

Suggested uses: Greenway Gateway to Evergreen Cemetery and trails; stormwater management and green infrastructure project opportunities; low-impact, low-density residential, small offices, perhaps affiliated with UNE;

UNIVERSITY OF NEW ENGLAND

Biddeford Campus
11 Hills Beach Road
Biddeford, ME 04005
(207) 283-0171 T

Portland Campus
716 Stevens Avenue
Portland, ME 04103
(207) 797-7261 T

October 8, 2014

Nell Donaldson
City of Portland Planning Office
389 Congress St.
Portland, ME 04101

Dear Nell;

This letter is in response to the request of the Portland Planning Board Chair, that the University of New England provide a "formal comment" in regards the proposed re-zoning of a limited portion Bishop Street.

It is the University's understanding that the proposed re-zoning is to change the IM zoning designation to B2c, and that this is limited to only the south side of Bishop Street, excluding the residential lots at the intersection of Bishop and Mayfield Streets. While the B2c zone does allow for University uses, the limited extent of this zoning is not supported by UNE. The proposed re-zoning would actually result in a more complicated zoning situation, for UNE and the City, as it would increase the total number of zones, to 5, that UNE's contiguous land holdings fall into. Thus, UNE does not support this re-zoning proposal, nor does it desire to have its land holdings considered in the proposed re-zoning.

Instead the University is proceeding with the previous agreement it has made with the Planning Office, and Planning Board, to complete a Master Plan of the Portland Campus and submit it for consideration of an Overlay Zone for the University's land holdings.

Should you have any questions or concerns, please feel free to contact me. I can be reached at 207.602.2253.

Sincerely,

Alan Thibeault
Assistant Vice President for Planning

PLANNING BOARD REPORT
PORTLAND, MAINE

B-1 AND B-2 ZONING TEXT AMENDMENTS
CITY OF PORTLAND, APPLICANT

Submitted to: Portland Planning Board Public Hearing Date: October 14, 2014	Prepared by: Nell Donaldson, Planner Date: October 10, 2014

I. INTRODUCTION

The B-1 and B-2 zones play a critical role in governing the form and function of much of the commercial and mixed-use development in the city. The Neighborhood Business B-1 applies to many of Portland's most successful small-scale, local commercial and mixed-use nodes, from Congress Street in Munjoy Hill and Pine Street in the West End to Rosemont and Stevens Avenue in Deering Center. The B-2 provides locations for larger scale commercial and residential development along the city's major arterials, such as Washington Avenue, Forest Avenue, and outer Congress Street. Many of the city's existing shopping centers, including Northgate, Westgate, and Hannaford's, lie in the B-2 zone.

In the summer of this year, city staff reviewed the B-2 zone in an effort to address concerns regarding the zone's efficacy in encouraging higher-density housing. The zone is explicitly designed to encourage "moderate to high density housing in urban neighborhoods along arterials" (14-181), and the city had made prior revisions in an effort to stimulate housing development, but that development had not occurred. The review resulted in a set of text amendments, adopted in June of 2014, which increased the permitted housing density, clarified the setback requirements, and provided for lively, urban ground floor uses.

In the fall of this year, city staff conducted a similar review on the existing B-1 zone, after realizing that it, in much the same vein, contained street frontage, setback and other restrictions which effectively precluded it from successfully encouraging the traditional small-scale commercial and mixed-use form so prized in the city's existing neighborhood retail nodes. The purpose of the B-1 zone, as stated in the code, is to

> "provide limited areas for the location of small-scale commercial establishments intended to serve a local market. As a result, uses shall be complementary, quiet and generally do not disturb the comfort and enjoyment of the adjoining neighborhood environment. Uses shall be designed for the pedestrian scale and will provide convenient access for nearby residents and workers to walk in to purchase goods and services. Buildings and uses shall be designed with attractive storefronts or similar features, with windows and doors convenient to a public sidewalk" (14-161).

As with the B-2, the existing B-1 had failed to encourage the type of development the zone exists to promote; there has been very little new retail or mixed-use development in the B-1 zone. The analysis resulted in several

proposed text amendments, including changes to the dimensional requirements and use tables. These were first presented to the Planning Board in September of 2014 as part of a review of a zoning map amendment request at 145 Washington Avenue.

Lastly, in conducting the B-1 review, it became clear to staff that minor but substantive text amendments to the B-2 were needed in order to resolve concerns that arose from the June 2014 text changes. These proposed amendments were also presented to the board in workshop format in September of 2014.

A legal ad for this board hearing was posted on the city's web page and appeared in the *Portland Press Herald* on October 6 and 7, 2013. Notices were also sent to the interested citizen list.

II. PROPOSED TEXT AMENDMENTS

Text amendments are proposed for both the Neighborhood Business B-1 zone and the Community Business B-2 zone. These include changes to the existing dimensional standards and permitted uses under both zoning classifications.

B-1 Neighborhood Business Zone (Attachment 1)

Dimensional Standards.

1. *Minimum street frontage.* Under the proposed amendments, the minimum street frontage requirement would be reduced from 50 ft. to 20 ft. A smaller minimum street frontage lends itself to the fine grained, small lot development pattern that constitutes so many walkable commercial areas and so much of the city's peninsula. Most lots in the existing B-1 and B-1b zones on Congress Street in Munjoy Hill, for example, have street frontages ranging from 35 ft. to 45 ft. range. The intent of lowering this standard is to allow existing smaller lots to be used or created.

2. *Rear setback.* Currently, there is no rear setback in the B-1 zone, except the setback is 20 ft. when abutting a residential zone or a first floor residential use. Under the proposed amendments, the rear setback would change to 10 ft. when abutting a residential zone, with no reference to abutting uses. Similarly to the principal structure setback, the existing rear setback for accessory structures is none, except when abutting a residential use or zone. The only change to this standard is the elimination of the reference to the abutting use. In both of these cases, staff felt that the adjacent zone, rather than use, should dictate the setback, as uses are subject to more frequent change.

3. *Side setbacks.* In the existing B-1 zone, there are no side setbacks, except when abutting residential uses or zones, when the setback is 10 ft. for principal structures and 5 ft. for accessory structures. Under the proposed amendments, the side setbacks would continue to be zero, except 5 ft. when abutting a residential zone. Again, the references to abutting residential uses are removed for both principal and accessory structures.

4. *Side yard on side street.* Currently, the side yard on side street setback is a maximum of 10 ft., which only applies to the property lines on the two "most major" streets in the case of a lot on two corners. Originally, staff had suggested eliminating this maximum setback entirely. However, upon reconsideration, staff is recommending simplifying the existing standard to state that the maximum applies to only one side street in cases where the lot has more than one.

5. *Stepbacks.* Stepbacks are proposed as a new dimensional standard for the B-1 zone. Under the stepback provision, portions of structures above 35 ft. would be required to be stepped back an additional five feet on side and rear lot lines when those lot lines abut a residential zone. In total, then,

   portions of structures above 35 feet would be required to be stepped back 15 ft. from a rear property line, and 10 ft. from the side property line.

6. *Maximum floor areas.* The B-1 zone currently has maximum first floor areas, which are variable by number of tenants. The intent of this existing language is to limit the overall first floor non-residential

footprint in a development. Aside from a more limited list of allowed uses, this is central to how B-1 distinguishes itself as a smaller scale commercial zone. This intent is a sound one, but modification of this language is proposed. Instead of controlling for floor area by number of tenants in a building, the amendments suggest simply limiting total maximum first floor area for non-residential uses to 10,000 SF per structure. Existing structures would be exempt from this standard. In addition, the modified language would limit the total maximum floor area per retail establishment to 5,000 SF. It should be noted that floor area for a use does not include bulk storage, kitchen areas, or vent shafts. Much of the successful existing retail in the B-1 zone, including the Hilltop Superette (former Colucci's) and Hilltop Coffee on Congress Street, Pat's Meat Market on Stevens Avenue, and Rosemont Market on Brighton Avenue, is between 2,000 and 4,000 SF in first floor area. A typical Home Depot is about 125,000 SF, and supermarkets are often in the 40,000 to 80,000 SF range. The intent of this standard is not to imply that there is not economic or aesthetic value in or need for larger commercial spaces, but only to cultivate increments of smaller non-residential development in areas where this seems most in keeping with the neighborhood context.

7. *Maximum structure height.* Where a B-1 zone abuts an R-6 zone off-peninsula, the maximum height is governed by the maximum height of the R-6, which is 45 feet. In the period since the board's workshop on this item, staff has recommended that the City Council increase the building height in the R-6A to 65 feet. Deeming this too high for the B-1 zone, staff suggests adding a footnote which creates an exception from the cross-reference to the R-6 in the case of an adjacent R-6A zone. The footnote establishes a maximum height in this instance of 45 ft. (or the maximum allowable height of the R-6 zone).

Restaurants. Currently, restaurants are limited to 1,000 SF (not including kitchen and storage), and are allowed as a conditional use only. Under the proposed amendments, the maximum floor area for a restaurant would be increased to 2,000 SF and restaurants would be listed as a permitted use, though the conditional use criteria, such as traffic standards and limited hours of operation, would continue to apply. The intent of this change is consistent with the other B-1 changes that strive to give that zone more utility while still maintaining it as a small-scale commercial zone. According to city assessing data, there is currently no Munjoy Hill restaurant that exceeds this square footage. For example, the Blue Spoon on Congress Street has a floor area of approximately 1,100 SF (inclusive of kitchen and other non-dining areas) and the Front Room has a floor area of approximately 1,600 SF (inclusive of kitchen and non-dining areas). Other restaurants on Washington Avenue and at the base of Congress Street were sampled, as well. This new maximum would not preclude many of the city's existing local restaurants and is a suitable cap for what the B-1 zone is intended for.

Uses. Two uses are proposed to be added because it has been recently pointed out they are not included in B-1, and warrant inclusion:

1. Combined living/working spaces including, but not limited to, artist residences with studio space. The code allows living and working, but not simultaneously when in a B-1 zone. Other business and industrial zones allow this.

2. Professional, business, and general offices, excluding veterinarians. The B-1 zone currently allows professional offices, excluding veterinarians. Professional office is defined as "the office of a doctor, dentist, optometrist, psychologist, accountant, lawyer, architect, engineer or similar professional" (14-47). Professional office is highly restrictive as an office category; the B-1 can accommodate other varieties of office uses.

Format. Lastly, the dimensional standards have been converted to a table format, making them more concise and accessible. This is consistent with formatting changes made to other sections of the land use code as they have been amended.

B-2, Community Business Zone (Attachment 2)

Drive-throughs in the B-2b zone. Drive-throughs associated with a permitted use are currently allowed in the B-2b zone, so long as they are not located adjacent to a residential use or zone. In this case, they are permitted

conditionally. Drive-throughs, however, are generally deemed incompatible with the purpose of the zone, as the zone is "intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street" and since the B-2b is written for areas "which exhibit a pedestrian scale and character." 14-181(b)). Under the proposed amendments, the references to drive-throughs as permitted or conditional uses in the B-2b would be eliminated.

Minimum street frontage. 20 ft. is being proposed as the minimum street frontage; 25 ft. is the current minimum frontage. Prior to the June amendments, the frontage requirement was 0 ft. for developments that were entirely residential, and 50 ft. for mixed-use or entirely non-residential sites. In an effort to streamline the dimensional requirements, to move away from neighboring use-based dimensional standards, and to allow for smaller lots to be created and/or built upon, a single standard of 25 ft.was adopted. In the intervening time, staff has received feedback from property owners in the B-2 zone with frontage just under 25 ft. On closer examination, this case is sufficiently common to merit a modification to this standard.

Stepbacks. Stepbacks are proposed as a new dimensional standard for the B-2 zone. As in the B-1, portions of structures above 35 ft. would be required to be stepped back an additional five feet on side and rear lot lines when those lot lines abut a residential zone, for a total distance of 15 feet from the rear property line and 5 feet from side property lines above 35 feet.

III. COMPREHENSIVE PLAN

The proposed text amendments have been designed to allow the B-1 and B-2 zones better accomplish their own purposes, particularly as they relate to form and walkable, neighborhood-scaled development. In this, the amendments comport with the city's Comprehensive Plan.

The Comprehensive Plan, adopted in November 2002, updated in 2005, provides a policy framework for managing growth in the city, and clearly advocates dense commercial and mixed-use development that both serves and suits the neighborhood context. *Housing: Sustaining Portland's Future* includes policies to "[m]aintain and enhance the livability of Portland's neighborhoods as the city grows and evolves through careful land use regulation, design and public participation that respects neighborhood integrity" and "encourage sustainable development patterns and opportunities within the city by promoting efficient land use, conservation of natural resources, and easy access to public transportation, services, and public amenities." In order to do so, the plan suggests "encourag[ing] increased residential densities and mixed uses within business zones" and "promot[ing] through city policies a mix of housing types, retail and service businesses, community services, and open space/recreation opportunities of appropriate size, scale, and type within neighborhoods."

Similarly, the final *Sustainable Portland* report includes policies such as "support[ing] and enhanc[ing] a citywide system of neighborhood business districts that are neighborhood-oriented, provide local services within a walkable distance from neighborhood population centers, and are linked by transit."

IV. PUBLIC COMMENT

Staff has received no public comment on the proposed text amendments.

Table 1: B-1 and B-2 Zones, Proposed Amendments

	Existing B-1/B-1b	Proposed B-1/B-1b	Existing B-2/B-2b/B-2c	Proposed B-2/B-2b/B-2c
Min. Lot Size	School: 20,000 SF	School: 20,000 SF	None	None
	Place of Assembly: 10,000 SF	Place of Assembly: 10,000 SF		
	Other Non-Res Uses: None	Other Non-Res Uses: None		
	Residential: None	Residential: None		
Min. Lot Area per D.U.	On-peninsula: 435 SF	On-peninsula: 435 SF	On-peninsula: 435 SF	On-peninsula: 435 SF
	Off-peninsula: min. lot area of nearest residential zone, except 1,000 SF for multi-family	Off-peninsula: min. lot area of nearest residential zone, except 1,000 SF for multi-family	Off-peninsula: 1,500 SF, or 435 SF if active street frontage	Off-peninsula: 1,500 SF, or 435 SF if active street frontage

	dwellings above first floor	dwellings above first floor		
Min. Street Frontage	50 ft., or the average of lots w/in 200 ft. in same zone	20 ft.	25 ft.	20 ft.
Min. Lot Width	None	None	None	None
Min. Front Yard	None	None	None	None
Max. Front yard	10 ft., or the maximum front yard setback shall not exceed the average depth of nearest developed lots if that average depth is less than 10 ft.	10 ft., or the maximum front yard setback shall not exceed the average depth of nearest developed lots if that average depth is less than 10 ft.	10 ft., except a different amount may be approved for irregularly shaped lots or lots with frontage less than 40 ft.	10 ft., except a different amount may be approved for irregularly shaped lots or lots with frontage less than 40 ft.
Min. Rear Yard	Principal: None, except 20 ft. if abutting residential zone or first floor residential use	Principal: None, except 10 ft. if abutting a residential zone.	Principal: 10 ft.	Principal: 10 ft.
	Accessory: None, except 5 ft. if abutting a residential zone or first floor residential use	Accessory: None, except 5 ft. if abutting a residential zone	Accessory: 5 ft.	Accessory: 5 ft.
Min. Side Yard	Principal: None, except 10 ft. if abutting residential zone or first floor residential use	Principal: None, except 5 ft. if abutting residential zone.	Principal: None	Principal: None
	Accessory: None, except 5 ft. if abutting a residential zone or first floor residential use	Accessory: None, except 5 ft. if abutting a residential zone	Accessory: 5 ft.	Accessory: 5 ft.
Side Yard on Side Street	10 ft. maximum setback (if on three streets, only applies to two 'most major' streets)	10 ft. maximum setback (applies to only one side street in cases of more than one)	None	None
Structure Stepbacks		Portions of a structure above 35 ft. shall be no closer than 10 ft. from the side property line and no closer than 15 ft. from the rear property line when such property line abuts a residential zone.		Portions of a structure above 35 ft. shall be no closer than 5 ft. from the side property line and no closer than 15 ft. from the rear property line when such property line abuts a residential zone.
Max. Structure Height[1]	Off- peninsula: 35 ft., except where abutting R-6, where max. height shall be the max. height of R-6	Off- peninsula: 35 ft., except where abutting R-6, where max. height shall be the max. height of R-6.[2]	45 ft., except: a. 50 feet if first floor is commercial use b. 65 feet in B-2 and B-2c zones on lots >5 acres with increases to setbacks c. 65 ft. within 65 ft. of Franklin	45 ft., except: a. 50 feet if first floor is commercial use b. 65 feet in B-2 and B-2c zones on lots >5 acres with increases to setbacks c. 65 ft. within 65 ft. of Franklin
	On-peninsula: 45 ft., except 50 ft. along Congress Street if commercial first floor & residential upper floors	On-peninsula: 45 ft., except 50 ft. along Congress Street if commercial first floor & residential upper floors.		
Max. Floor Area	Single-tenant: 5,000 SF (first floor only)	Total maximum first floor area for non-residential uses per structure: 10,000 SF[3]		
	Multi-tenant: 10,000 SF (first floor only)	Total maximum floor area per retail establishment: 5,000 SF		
Max. Impervious Surface	90%	90%	Residential: None	Residential: None
			Other uses in B-2, B-2c: 80%	Other uses in B-2, B-2c: 80%
			Other uses in B-2b: 90%	Other uses in B-2b: 90%

1. *The commercial first floor uses shall utilize at least 75 percent of the first floor frontage along Congress Street and shall have an average depth of at least 20 feet.*
2. *Except when B-1 properties abut an R-6A zone, the maximum height shall be 45 ft.*
3. *Structures which existed prior to date of enactment of the B-1/B-1b zones are exempt.*

V. STAFF RECOMMENDATION

The staff recommends that the Planning Board find the proposed text amendments to be consistent with the Comprehensive Plan and recommend to the City Council adoption of the proposed text amendments.

VI. PROPOSED MOTION

On the basis of the material provided in this report, public testimony, a review of applicable policies, and other information, the Planning Board finds that the proposed text amendments to Division 9. B-1 and B-1b Neighborhood Business Zones and Division 10. B-2 and B-2b Community Business Zones **[are or are not]** consistent with the Comprehensive Plan and **[recommends or does not recommend]** adoption of the proposed amendment to the City Council.

VII. ATTACHMENTS

1. Proposed Text Amendments to Portland Land Use Code, Div. 9. B-1 and B-1b Neighborhood Business Zones
2. Proposed Text Amendments to Portland Land Use Code, Div. 10. B-2 and B-2b Community Business Zone.

DIVISION 9. B-1 AND B-1b NEIGHBORHOOD BUSINESS ZONES*

***Editor's note--**Ord. No. 292-88, adopted Apr. 4, 1988, with an effective date of July 1, 1988, repealed §§ 14-161--14-167 of Div. 9, B-1 Business Zone, of this article and enacted in lieu thereof similar new provisions as set out in §§ 14-161--14-167. Formerly, such sections derived from §§ 602.8.A--602.8.G of the city's 1968 Code and from Ord. No. 74-72, adopted Mar. 6, 1972, and Ord. No. 499-74, § 4, adopted Aug. 19, 1974.

Sec. 14-161. Purpose.

(a) *B-1 Neighborhood Business Zone*

The purpose of the B-1 neighborhood business zone is to provide limited areas for the location of small-scale commercial establishments intended to serve a local market. As a result, uses shall be complimentary, quiet and generally do not disturb the comfort and enjoyment of the adjoining neighborhood environment. Uses shall be designed for the pedestrian scale and will provide convenient access for nearby residents and workers to walk in to purchase goods and services. Buildings and uses shall be designed with attractive storefronts or similar features, with windows and doors convenient to a public sidewalk. Building additions are encouraged but not required to meet the maximum setbacks of 14-165(c)(3). This zone shall encourage mixed use buildings such as commercial first floor with residential uses above or combined retail/office uses in a multistory structure. The zone also provides the opportunity for mixed use and high residential density in on-peninsula locations.

Suitable locations for this zone may include street intersections and arterial streets with existing or proposed traditional neighborhood retail and service uses.

(b) *B-1b Neighborhood Business Zone*

The purpose of the B-1b neighborhood business zone is to provide appropriate opportunities for the establishment of small-scale ground floor commercial uses to serve ~~in existing buildings,~~ ~~serving~~ a local market, while preserving residential uses and character above the ground floor of structures. The zone also provides the opportunity for mixed use and high residential density in on-peninsula locations. Building additions are encouraged but not required to meet the maximum setbacks of 14-165(c)(3).

Suitable locations for this zone may include street intersections, arterial streets, and sites with existing or traditional neighborhood retail and service uses.

(Ord. No. 292-88, 4-4-88; Ord. No. 133-93, § 1, 11-15-93; Ord. No. 94-99, 11-15-99; Ord. No. 281-10/11, 7-18-11)

Sec. 14-162. Permitted uses.

(a) The following uses are permitted in the B-1 zone and on the ground floor level of buildings in the B-1b zone. For permitted uses in the upper stories of buildings in the B-1b zone, refer to subsection (5) below: in existence on November 15, 1993:

1. *Residential*

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

   b. In any structure with commercial use on the first floor, multifamily dwellings are permitted above the first floor.

   c. Combined living/working spaces including, but not limited to, artist residences with studio space.

2. *Business:* Business uses listed below are permitted, provided that such use which generates in excess of a ratio of 100 peak hour vehicle trips per 2000 sq.ft. of space, and generates in excess of 100 peak hour vehicle trips is prohibited. As set forth in the City of Portland Technical Manual, section I, the city traffic engineer shall require a traffic study when it calculates the proposed use will generate in excess of a total of 50 peak hour vehicle trips.

   a. Professional, business, and general offices ~~Professional offices, as defined in section 14-~~

~~47~~, but excluding veterinarians.

b. Business services, as defined in section 14-47, but excluding beverage container redemption centers.

c. Personal services, as defined in section 14-47.

d. Offices of building tradesmen, provided there is no exterior storage of building materials.

e. Retail establishments, provided such do not include drive-through sales or services and do not operate between the hours of eleven (11) p.m. and six (6) a.m. and do not accept deliveries or services between the hours of ten (10) p.m. to seven (7) a.m.

f. Beverage dealers (as defined in 32 M.R.S.A. 1862) provided they meet the following requirements:

i. Maximum total floor area for beverage container redemptions, including the storage of spent beverage containers, shall be no greater than five hundred (500) sq. ft. or ten (10) percent of the total floor area of the facility, whichever is less;

ii. Beverage container redemption is an accessory use to a principal retail use that includes beverage sales. Local beverage container redemption centers as defined in 32 M.R.S.A. 1867, as may be amended, are not allowed as a principal use.

iii. Storage of all beverage containers shall be contained entirely within the building providing retail sales.

g. Studios for artists, photographers and craftspeople including but not limited to, painters, sculptors, dancers, graphic artists and musicians.

h. Restaurants are permitted in the B-1 zone and on

the ground floor level of buildings in the B-1b zone provided they meet the following additional requirements in addition to the vehicle trips standards of in Sec. 14-162.a.2:

a. As set forth in the City of Portland Technical Manual, section I, the city traffic engineer shall require a traffic study when it calculates the proposed use will generate in excess of a total of 50 peak hour vehicle trips.

b. Maximum total floor area for use of the public shall be two thousand (2,000) square feet.

c. The hours of operation shall be limited to between 6:00 a.m. and 11:00 p.m. each day.

d. Food service and consumption are the primary function of the restaurant.

e. There shall be no drive-through service.

3. *Institutional*:

a. Places of religious assembly;

b. Municipal offices;

c. Elementary, middle and secondary schools;

d. Nursery schools and kindergarten;

e. Clinics of less than three thousand (3,000) square feet of total floor space.

4. *Other*:

a. Lodging houses;

b. Utility substations, as defined in section 14-47, subject to the standards of article V (site plan), sections 14-522 and 14-523

notwithstanding;

c. Day care facilities or babysitting services;

d. Accessory uses as provided in section 14-404;

e. Bed and breakfast, subject to the standards of article V (site plan), sections 14-522 and 14-523 notwithstanding.

f. Hostels, provided the applicant submits a site plan and operations plan demonstrating compliance with the following conditions:

i. No more than twenty (20) overnight transient guests shall be permitted in the facility at any one time.

ii. All applicable provisions of Article V of this chapter shall be met.

iii. Parking shall be provided in compliance with Division 20 of this Article.

iv. No unaccompanied minors under the age of eighteen (18) shall be permitted in the facility.

v. The length of stay for transient guests shall not exceed fifteen (15) days out of any sixty-day period.

vi. The building shall meet the applicable occupant load requirements as defined by the International Building Code and the NFPA Life Safety Code, as such codes are amended or adopted by the city.

g. Neighborhood center.

5. Uses permitted above the ground floor level of buildings in the B-1b zone:

a. Any residential use set forth in section 14-162(a);

b. Bed and breakfast, subject to the standards of article V (site plan), sections 14-522 and 14-523 notwithstanding.

c. Hostels, provided the applicant submits a site plan and operations plan demonstrating compliance with the following conditions:

i. No more than twenty (20) overnight transient guests shall be permitted in the facility at any one time.

ii. All applicable provisions of Article V of this chapter shall be met.

iii. Parking shall be provided in compliance with Division 20 of this Article.

iv. No unaccompanied minors under the age of eighteen (18) shall be permitted in the facility.

v. The length of stay for transient guests shall not exceed fifteen (15) days out of any sixty-day period.

vi. The building shall meet the applicable occupant load requirements as defined by the International Building Code and the NFPA Life Safety Code, as such codes are amended or adopted by the city.

6. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(Ord. No. 292-88, 4-4-88; Ord. No. 133-93, § 2, 11-15-93; Ord. No. 125-97, § 5, 3-3-97; Ord. No. 94-99, 11-15-99; Ord. No.74-06/07, 12-4-06; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 278-09/10, 7-19-10, Ord. 10 10/11, 8-2-10; Ord. No. 279-09/10, 6-6-11; Ord. No. 33-11/12, 1-18-12; Ord. No. 162-12/13, 4-1-13)

***Editor's Note-** Pursuant to Ord. No. 74-06/07, enacted on 12-4-06 changes made in (2) *Business* are effective October 16, 2006.

Sec. 14-163. Conditional uses.

~~(a) The following uses are permitted in the B-1 zone and on the ground floor level of buildings in the B-1b zone, as provided in section 14-474 (conditional uses), if they meet the following requirements provided that such use which generates in excess of a ratio of 100 peak hour vehicle trips per 2000 sq. ft. of space, and generates in excess of 100 peak hour vehicle trips is prohibited. As set forth in the City of Portland Technical Manual, section I, the city traffic engineer shall require a traffic study when it calculates the proposed use will generate in excess of a total of 50 peak hour vehicle trips:~~

~~1. Restaurants, provided they meet the following requirements:~~

~~a. Maximum total floor area for use of the public shall be one thousand (1,000) square feet;~~

~~b. The hours of operation shall be limited to between 6:00 a.m. and 11:00 p.m. each day;~~

~~c. Food service and consumption are the primary function of the restaurant; and~~

~~d. There shall be no drive-through service.~~

(a) ~~(b)~~ The following use shall be permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) and any special provisions, standards or requirements specified below:

1. Temporary wind anemometer towers, as defined in sec. 14-47, are permitted provided the following standards are met in addition to sec. 14-430:

a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a certificate of occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and

b. Towers shall be constructed according to plans

and specifications stamped by a licensed professional engineer, which shall be provided to the board of appeals with the application; and

c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and

d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and

e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and

f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and

g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and

h. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical

ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

2. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(Ord. No. 292-88, 4-4-88; Ord. No. 133-93, § 3, 11-15-93; Ord. No. 94-99, 11-15-99; Ord. No. 74-06/07, 12-4-06; Ord. No. 29-09/10, 8-3-09, emergency passage; Ord. No. 278-09/10, 7-19-10; Ord. No. 33-11/12, 1-18-12)

***Editor's Note-** Pursuant to Ord. No. 74-06/07, enacted on 12-4-06 changes made in (2) *Business* are effective October 16, 2006.

Sec. 14-164. Prohibited uses.

Uses not enumerated in sections 14-162 and 14-163 as either permitted or conditional uses are prohibited.

(Ord. No. 292-88, 4-4-88)

Sec. 14-165. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, residential uses in off-peninsula locations, permitted under section 14-162(a) shall meet the requirements of such abutting or nearest residential zone except ~~as noted in Sec. 14-165(h) (~~minimum lot area per dwelling unit~~)~~. Residential uses in on-peninsula locations, as defined in Section 14-47, and nonresidential uses in the B-1 and B1-b zones shall meet the following minimum requirements:

Min. Lot Size	School: 20,000 SF
	Place of Assembly: 10,000 SF
	Other Non-Res Uses: None
	Residential: None
Min. Lot Area per D.U.	On-peninsula: 435 SF
	Off-peninsula: min. lot area of nearest residential zone, except 1,000 SF for multi-family dwellings above first floor
Min. Street Frontage	20 ft.
Min. Lot Width	None
Min. Front Yard	None
Max. Front yard	10 ft., or the maximum front yard setback shall not exceed the average depth of nearest developed lots if that average depth is less than 10 ft.

Min. Rear Yard	Principal: None, except 10 ft. if abutting a residential zone.
	Accessory: None, except 5 ft. if abutting a residential zone
Min. Side Yard	Principal: None, except 5 ft. if abutting residential zone.
	Accessory: None, except 5 ft. if abutting a residential zone
Max. Side Yard on Side Street	10 ft., except that this requirement applies to only one side street in cases where a lot has more than one side street
Structure Stepbacks	Portions of a structure above 35 ft shall be no closer than 10 ft from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone.
Max. Structure Height[1]	Off- peninsula: 35 ft., except where abutting R-6, where max. height shall be the max. height of R-6.[2]
	On-peninsula: 45 ft. except 50 ft. along Congress Street if commercial first floor & residential upper floors.
Max. Floor Area	Total maximum first floor area for non-residential uses per structure: 10,000 SF[3]
	Total maximum floor area per retail establishment: 5,000 SF
Max. Lot Coverage	-
Open Space Ratio	-
Max. Impervious Surface	90%

1. The commercial first floor uses shall utilize at least 75 percent of the first floor frontage along Congress Street and shall have an average depth of at least 20 feet.

2. Except when B-1 properties abut an R-6A zone, the maximum height shall be 45 ft.

3. Structures which existed prior to date of enactment of the B-1/B-1b zones are exempt.

~~(a) *Minimum lot size:*~~

~~1. School: Twenty thousand (20,000) square feet.~~
~~2. Places of religious assembly: Ten thousand (10,000) square feet.~~
~~3. All other nonresidential uses: None.~~
~~4. Residential uses: None.~~

~~(b) *Minimum street frontage*: Fifty (50) feet, except that if the average street frontages of all lots within two hundred (200) feet of the boundaries of the lot in question on the same side of the street and within the B-1 or B-1b zone is less than fifty (50) feet, then the minimum street frontage for the lot in question may be reduced to the average frontage of such lots.~~

~~(c) *Yard dimensions*: (Yard dimensions are required setbacks for structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.)~~

~~1. Maximum *front yard*:~~

~~Principal or accessory structure: The maximum front yard setback shall either be: (i) ten feet; or (ii) in cases where the average depth of the front yards of the nearest developed lots on either side of the lot in question is less than ten feet, the front yard setback of the lot in question shall not exceed such average depth. A "developed lot" means a lot on which a principal structure has been erected.~~

~~Building additions are not required to meet this maximum setback.~~

~~2. *Rear yard*:~~

~~a. Principal structures: None, except where a rear yard abuts a residential zone or first floor residential use, a minimum of twenty (20) feet is required.~~

~~b. Accessory structures (detached): None, except where the rear yard abuts a residential zone or first floor residential use, a minimum of five (5) feet is required.~~

~~3. *Side yard*:~~

~~a. Principal and accessory structures: None, except that where a side yard abuts a residential zone or a first floor residential use, a minimum of ten (10) feet is required.~~

~~b. Accessory structures (detached): None, except that where the side yard abuts a residential zone or a first floor residential use, a minimum of five (5) feet~~

~~is required.~~

~~c. Side yards on side streets (corner lot): Principal or accessory structures: Ten (10) feet maximum setback, except that for any new construction on a lot abutting more than two streets, the maximum setback shall not apply beyond the two most major streets. (For purposes of this section, "major street" shall mean that street with the highest traffic volume and the greatest street width in comparison with the remaining streets). This maximum setback shall not apply to building additions.~~

~~(d) *Minimum lot width*: None.~~

~~(e) *Maximum structure height*:~~

~~1. Off-peninsula locations, as defined in Section 14-47: Thirty-five (35) feet. Where the lot abuts an R-6 residential zone, the maximum height shall be the maximum permitted height in the R-6 residential zone.~~

~~2. On-peninsula B-1 and B-1b locations, as defined in Section 14-47: Forty-five (45) feet except in the case of a building in a B-1 zone along Congress Street with commercial first floor and residential upper floors where fifty (50) feet is allowed. The commercial first floor uses shall utilize at least 75 percent of the first floor frontage along Congress Street and shall have an average depth of at least 20 feet.~~

~~(f) *Maximum impervious surface ratio*: Ninety (90) percent.~~

~~(g) *Floor area*:~~

~~1. The maximum first floor area of a single tenant building shall be no greater than five thousand (5,000) square feet.~~

~~2. The maximum first floor area of a multi-tenant~~

~~building shall be no greater than ten thousand (10,000) square feet.~~

~~(h) *Minimum lot area per dwelling unit:*~~

~~1. On-peninsula locations, as defined in Section 14-47: Four hundred and thirty-five (435) square feet of land area per dwelling unit.~~

~~2. Off-peninsula locations, as defined in Section 14-47: Minimum lot area per dwelling unit requirements of the abutting or nearest residential zone shall apply. In the case of multi-family dwellings above the first floor: 1,000 square feet of land area per dwelling unit.~~

(Ord. No. 292-88, 4-4-88; Ord. No. 52-96, § 1, 7-15-96; Ord. No. 94-99, 11-15-99; Ord. No. 281-10/11, 7-18-11; Ord. No. 118-13/14, §165 (e), 1-15-14)

Sec. 14-166. Other requirements.

All nonresidential uses in B-1 and B-1b zones shall meet the requirements of division 25(space and bulk regulations and exceptions) of this article in addition to the following requirements:

(a) *Landscaping and screening:* The site shall be suitably landscaped for parking, surrounding uses and accessory site elements, including storage and solid waste receptacles where required by article IV (subdivisions) and article V (site plan).

(b) *Curbs and sidewalks*: Curbs and sidewalks as specified in article VI of chapter 25.

(c) *Off-street parking and loading*: Off-street parking and loading are required as provided in division 20 and division 21 of this article.

(d) *Front yard parking*: There shall be no off street parking in the front yard between the street line and the required maximum setback line. Where an existing building setback exceeds the maximum front yard setback, a maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the street.

(e) *Signs*: Signs shall be subject to the provisions of division 22 of this article.

(f) *Exterior storage*: There shall be no exterior storage with the exception of fully enclosed containers or receptacles for solid waste disposal. Such containers or receptacles shall be shown on the approved site plan. In no event shall vehicles, or truck trailers with or without wheels, be used for on-site storage. Truck load sales shall not be considered outside storage provided that such activity does not extend beyond three (3) consecutive days nor occur more frequently than three (3) times a calendar year.

(g) *Storage of vehicles*: Storage of vehicles is subject to the provisions of section 14-335.

(h) *Shoreland and flood plain management regulations*: If the lot is located in a shoreland zone or in a flood hazard zone, then the requirements of division 26 and/or division 26.5 apply.

(Ord. No. 292.88, 4-4-88; Ord. No. 94-99, 11-15-99)

Sec. 14-167. External effects.

Every use in a B-1 or B-1b zone shall be subject to the following requirements:

(a) *Enclosed structure*: The use shall be operated within a completely enclosed structure, except for those specific open air activities licensed by the City, including but not limited to outdoor seating, sidewalk sales, etc.

(b) *Noise:* The volume of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American Standards Association), generated shall not exceed fifty-five (55) decibels on the A scale, on impulse (less than one (1) second), at lot boundaries, excepting air raid sirens and similar warning devices.

(c) *Vibration and heat*: Vibration inherently and recurrently generated and heat shall be imperceptible

without instruments at lot boundaries.

(d) *Glare, radiation or fumes*: Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.

(e) *Smoke*: Smoke shall not be emitted at a density in excess of twenty (20) percent opacity level as classified in Method 9 (Visible Emissions) of the Opacity Evaluation System of the U.S. Environmental Protection Agency.

(f) *Materials or wastes*: No materials or wastes shall be deposited on any lot in such form or manner that they are clearly visible from neighbors' properties or may be transferred beyond the lot boundaries by natural causes or forces. All solid waste disposal, including materials which might cause fumes or dust, or constitute a fire hazard if stored out-of-doors, shall be only in fully enclosed containers or receptacles. Areas attracting large numbers of birds, rodents or insects are prohibited.

(Ord. No. 292-88, 4-4-88; Ord. No. 94-99, 11-15-99)

Date of Draft: October 9, 2014

Sec. 14-168 – Sec. 14-180 Reserved.

DIVISION 10. B-2 AND B-2b COMMUNITY BUSINESS ZONES*

***Editor's note—**Ord. No. 293-88, adopted Apr. 4, 1988, with an effective date of July 1, 1988, repealed §§ 14-181—14-187 of Div. 10, B-2 Business Zone, of this article and enacted in lieu thereof similar new provisions as set out in §§ 14-181—14-187. Formerly, such sections derived from §§ 602.9.A—602.9.G of the city's 1968 Code and from Ord. No. 74-72, adopted Mar. 6, 1972; Ord. No. 499-74, § 4, adopted Aug. 19, 1974; Ord. No. 334-76, § 6, adopted July 7, 1976; and Ord. No. 274-77, adopted May 16, 1977.

Sec. 14-181. Purpose.

(a) B-2 Community Business Zone

The purpose of the B-2 community business zone is:

1. To provide appropriate locations for the development and operation of community centers offering a mixture of commercial uses, housing and services serving the adjoining neighborhoods and the larger community.

2. The variety, sites and intensity of the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1 neighborhood business zone.

3. The B-2 zone will provide a broad range of goods and services and general businesses with a mixture of large and small buildings such as grocery stores, shops and services located in major shopping centers and along arterial streets. Such establishments should be readily accessible by automobile, by pedestrians and by bicycle. Development in the B-2 zone should relate to the surrounding neighborhoods by design, orientation, and circulation patterns.

4. The B-2 and B-2b will provide locations for moderate to high density housing in urban neighborhoods along arterials.

(b) B-2b Community Business Zone

The B-2b zone is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is

appropriate in areas where a more compact urban development pattern exists such as on-peninsula or in areas off-peninsula where a neighborhood compatible commercial district is established which exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern.

(c) B-2c Community Business Zone

To protect and enhance the quiet enjoyment of adjoining residential neighborhoods from the impacts of businesses that serve liquor and from other uses that are incompatible with adjoining neighborhoods due to noise.

(Ord. No. 293-88, 4-4-88; Ord. No. 25, 7-07-99: emergency enactment of 120-day moratorium, effective 7/07/99 thru 11/04/99; Ord. No. 94A, 11-01-99: emergency enactment of 44-day extension of moratorium enacted on 7-07-99, effective date 11/01/99 thru 12/15/99; Ord. No. 94-99, 11-15-99; Substitute Ord. No. 189-00, §2, 4-24-00; Ord. No. 151-03/04, 02/23/04; Ord. No. 244-09/10, 6-21-10)

***Editor's Note**: Order No. 25, adopted 7-07-99, enacted an emergency 120-day moratorium on drive-through facilities on lots in B-2 Zone adjacent to lots with residential uses effective 7-07-99 through 11-1-99; Ord. No. 94A, adopted 11-01-99 extended the moratorium on said drive-through facilities through December 15, 1999.

Sec. 14-182. Permitted uses.

The following uses are permitted in the B-2, B-2b and B-2c zones except that any use involving a drive-through is prohibited in these zones unless otherwise provided in section 14-183:

(a) *Residential*:

1. Attached single-family and two-family dwellings;

2. Multi-family dwellings;

3. Handicapped family units;

4. Combined living/working spaces including, but not limited to, artist residences with studio space; and

(b) *Business*:

1. General, business and professional offices, as defined in section 14-47;

2. Personal services, as defined in section 14-47;

3. Offices of building tradesmen;

4. Retail establishments;

5. Restaurants, except that restaurants shall close for all purposes including the service of alcohol no later than 11:00 p.m.;

6. Drinking establishments, except that drinking establishment as defined in section 14-47, and bars as defined in section 14-217.5 (a)(1), shall not be permitted in the B-2c zone;

7. Billiard parlors;

8. Mortuaries or funeral homes;

9. Miscellaneous repair services, excluding motor vehicle repair services;

10. Communication studios or broadcast and receiving facilities;

11. Health clubs and gymnasiums;

12. Veterinary hospitals, but excluding outdoor kennels;

13. Theaters and performance halls;

14. Hotels or motels of less than one hundred fifty (150) rooms;

15. Dairies in existence as of November 15, 1999;

16. Bakeries in existence as of November 15, 1999;

17. Bakeries established after November 15, 1999, provided the bakeries include retail sales within the principal structures. Bakeries in the B-2b

zone shall be no greater than seven thousand (7,000) square feet in size;

18. Drive-throughs associated with a permitted use in the B-2 zone provided that such do not include drive-throughs on any lot adjacent to any residential use or zone. For purposes of this section, only, “adjacent to” shall include uses across a street if within 100 feet of the subject lot boundary;

~~19. Drive-throughs associated with a permitted use in the B-2b zone, when accessory to a principal use located on the same lot, provided that such do not include drive-throughs on any lot adjacent to any residential use or zone. For purposes of this section, only, “adjacent to” shall include uses across a street if within 100 feet of the subject lot boundary.~~

19~~20.~~ Registered medical marijuana dispensaries.

(c) *Institutional*:

1. Long term, extended and intermediate care facility;

2. Clinics, as defined in section 14-47;

3. Places of assembly;

4. Kindergarten, elementary, middle and secondary schools;

5. College, university, trade schools; and

6. Municipal buildings and uses.

(d) *Other*:

1. Lodging houses;

2. Day care facilities or babysitting services;

3. Utility substations, as defined in section 14-47,

subject to the requirements of article V (site plan), sections 14-522 and 14-523 notwithstanding;

4. Accessory uses, as provided in section 14-404;

5. Bed and breakfast, subject to the standards of article V (site plan), sections 14-522 and 14-523 notwithstanding. A bed and breakfast may include a meeting facility if the facility meets the following standards:

   a. The meeting facility shall be limited to the following types of uses:

      i. Private parties.
      ii. Business meetings.
      iii. Weddings.
      iv. Receptions.
      v. Seminars.
      vi. Business and educational conferences.

   b. The building in which the bed and breakfast and the meeting facility will be located was in existence on March 3, 1997, and was greater than four thousand (4,000) square feet in floor area on that date.

6. Studios for artists and craftspeople, provided that the area of such studios does not exceed four thousand (4000) square feet for each studio space.

7. Hostels, provided the applicant submits a site plan and operations plan demonstrating compliance with the following conditions:

   a. All applicable provisions of Article V of this chapter shall be met.

   b. Parking shall be provided in compliance with Division 20 of this Article.

   c. No unaccompanied minors under the age of

eighteen (18) shall be permitted in the facility.

d. The length of stay for transient guests shall not exceed fifteen (15) days out of any sixty-day period.

e. The building shall meet the applicable occupant load requirements as defined by the International Building Code and the NFPA Life Safety Code, as such codes are amended or adopted by the city.

8. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(Ord. No. 293-88, 4-4-88; Ord. No. 39-96, § 2, 10-7-96; Ord. No. 125-97, § 6, 3-3-97; Ord. No. 164-97, § 2, 12-1-97; Ord. No. 25, 7-07-99: emergency enactment of 120-day moratorium, effective 7/07/99 thru 11/04/99; Ord. No. 94A, 11-01-99: emergency enactment of 44-day extension of moratorium enacted on 7-07-99, effective date 11/01/99 thru 12/15/99; Ord. No. 94-99, 11-15-99; Ord. No. 118-00, 11-20-00; Ord. No. 151-03/04, 02/23/04; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 244-09/10, 6-21-10; Ord. No. 283-09/10, 7-19-10 emergency passage; Ord. 10 10/11, 8-2-10; Ord. No. 279-09/10, 6-6-11; Ord. No. 33-11/12, 1-18-12; Ord. No. 113-11/12, 2-22-12; Ord. No. 41-12/13, 9-5-12; Ord. No. 263-13/14, 6-16-14)

Sec. 14-183. Conditional uses.

The following uses are permitted in the B-2,B-2b and B-2c zone, as provided in section 14-474 (conditional uses), if they meet the following requirements:

(a) *Business.* Any of the following conditional uses, provided that, notwithstanding section 14-474(a)of this article or any other provision of this code, the Planning Board shall be substituted for the board of appeals as the reviewing authority over conditional business uses:

1. Major and minor auto service stations in the B-2 zone, only;

2. Major or minor auto service stations in the B-2b zone in existence as of November 15, 1999;

3. Car washes;

4. Drive-throughs in the B-2 ~~or B-2b~~ zone~~s~~ which are adjacent to any residential use or zone~~, provided that, in the B-2b drive-throughs must be accessory to a principal use located on the same site~~;

5. Automobile dealerships.

In addition to approval by the Planning Board with respect to the requirements of article V (site plan), sections 14-522 and 14-523 notwithstanding, these uses shall comply with the following conditions and standards in addition to the provisions of section 14-474:

a. Signs: Signs shall not adversely affect visibility at intersections or access drives. Such signs shall be constructed, installed and maintained so as to ensure the safety of the public. Such signs shall advertise only services or goods available on the premises.

b. 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.

6. Drive-throughs, where permitted, shall also specifically comply with the following conditions:

a. Location of Drive-throughs: Features, such as windows, vacuum cleaners and menu/order boards, stacking lanes, must be placed, where practicable, to the side and rear of the principal building except where such placement will be detrimental to an adjacent residential zone or use, and shall be

located no nearer than forty (40) feet from any adjoining property located in a residential zone. This distance shall be measured from the outermost edge of the outside drive-through feature to such property line. In addition, drive-through features 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 vehicular circulation on adjoining streets.

b. Noise: Any speakers, intercom systems, or other audible means of communication shall not play prerecorded messages. Any speakers, intercom systems, audible signals, computer prompts, or other noises generated by the drive-through services or fixtures shall not exceed 55 dB or shall be undetectable above the ambient noise level as measured by a noise meter at the property line, whichever is greater.

c. Lighting: Drive-through facilities shall be designed so that site and vehicular light sources shall not unreasonably spill over or be directed onto adjacent residential properties and shall otherwise conform to the lighting standards set forth in 14-526.

d. Screening and Enclosure: Where automobiles may queue, waiting for drive-through services, their impacts must be substantially mitigated to protect adjacent residential properties from headlight glare, exhaust fumes, noise, etc. As deemed necessary by the reviewing authority, mitigation measures shall consist of installation of solid fencing with landscaping along any residential property line which is exposed to the drive-through or the enclosure of the drive-through fixtures and lanes so as to buffer abutting

residential properties and to further contain all associated impacts; and

e. Pedestrian access: Drive-through lanes shall be designed and placed to minimize crossing principal pedestrian access-ways or otherwise impeding pedestrian access.

f. Hours of Operation: The Board, as part of its review, may take into consideration the impact hours of operation may have on adjoining uses.

g. Conditions specific to major or minor auto service stations, car washes and automobile dealerships:

i. A landscaped buffer, no less than five (5) feet wide, shall be located along street frontages (excluding driveways). The buffer shall consist of a variety of plantings in accordance with the City of Portland Technical Manual;

ii. Car washes shall be designed to avoid the tracking of residual waters into the street.

(b) *Other*:

1. Printing and publishing establishments except as provided in subsection b. below;

2. Printing and publishing establishments in continuous operation at their current location since April 4, 1988, or earlier and which exceeded ten thousand (10,000) square feet of aggregate gross floor area at that time;

3. Wholesale distribution establishments; and

4. Research and development and related production establishments.

Uses listed in this paragraph (b) (other) 1, 3

and 4 shall be limited to ten thousand (10,000) square feet of aggregate gross floor area, and uses listed in this paragraph (b) (other) 1, 2, 3 and 4 shall be subject to the following conditions and standards in addition to the provision of section 14-474:

a. Traffic circulation: The site shall have an adequate traffic circulation pattern designed to avoid hazards to vehicular circulation on adjoining streets. All stacking of motor vehicles shall be on site, and loading facilities shall be located to the rear of the building and shall not be visible from the street.

b. Building and site design: The exterior design of the structures, including architectural style, facade materials, roof pitch, building form, established setbacks and height, shall be of a commercial rather than industrial character. The site shall contain screening and landscaping which shall meet the requirements of section 14-526 for screening between land uses and the City of Portland Technical Manual.

5. Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:

a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and

b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of

Appeals with the application; and

c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and

d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and

e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and

f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and

g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and

h. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City,

or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

6. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(Ord. No. 293-88, 4-4-88; Ord. No. 16-92, 6-15-92; Ord. No. 39-96, § 3, 10-7-96; Ord. No. 25, 7-07-99: emergency enactment of 120-day moratorium, effective 7/07/99 thru 11/04/99; Ord. No. 94A, 11-01-99: emergency enactment of 44-day extension of moratorium enacted on 7-07-99, effective date 11/01/99 thru 12/15/99; Ord. No. 94-99, 11-15-99; Ord. No. 151-03/04, 02-23-04; Ord. No. 29-09/10, 8-3-09, emergency passage; Ord. No. 276 -09/10, 7-19-10; Ord. No. 278-09/10, 7-19-10; Ord. No. 10 10/11, 8-2-10; Ord. No. 33-11/12, 1-18-12)

Sec. 14-184. Prohibited uses.

Uses not enumerated in sections 14-182 and 14-183 as either permitted uses or conditional uses are prohibited.

(Ord. No. 293-88, 4-4-88)

Sec. 14-185. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the B-2, B-2b, and B-2c zones shall meet the following dimensional requirements:

Minimum Lot Size	None
Minimum Street Frontage	~~25 ft.~~ 20 ft.
Front Yard Setback Minimum	None
Rear Yard Setback Minimum	10 feet, except as provided for below: a. 5 feet for accessory structures
Side Yard Setback Minimum	None required, except as provided for below: a. 5 feet for accessory structures
Side Yard on Side Street Setback Minimum	None
Front Yard Maximum[1]	No more than 10 feet, except that the Planning Board or Planning Authority may approve a different amount for irregularly shaped lots or lots with frontage less than 40 feet provided this standard is met to the maximum extent practicable.[2]

Structure Stepbacks	**-Portions of a structure above 35 ft shall be no closer than 5 ft from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone.**
Height Maximum	45 feet except as provided for below:
	a. 50 feet if first floor is partially or wholly occupied by a commercial use.
	b. 65 feet in B-2 and B-2c zones on lots >5 acres provided that all setbacks, except for front yard setbacks and side yard on side street setbacks, increase by 1 foot for each foot of height over 45 feet.
	c. 65 feet within 65 feet of Franklin St.
Maximum Impervious Surface Ratio	a. For residential uses: None
	b. For all other permitted uses: 80% in B-2 and B-2c
	c. For all other permitted uses: 90% in B-2b
Minimum Lot Area per Dwelling Unit	Off-peninsula locations, as defined in section 14-47: 1,500 square feet, except as provided for in (b) below.
	On-peninsula locations (as per 14-47) and projects with active street frontages, as defined in section 14-188, below: 435 square feet.

1[1] Building additions do not have to meet this section.
1[2] If lot has less than 40 feet of frontage and is more than 100 feet deep then no maximum setback is required. If existing structures are within 20 feet of the street or meet the front yard maximum, and remainder of lot has less than 40 feet of frontage, then no maximum setback is required. Where setbacks exceed 10 feet, a continuous, attractive, and pedestrian-scaled edge treatment shall be constructed along the street, consisting of street trees spaced at no more than 15 feet on center, approved by City arborist, and a combinations of landscaping no less than 4 feet deep, ornamental brick or stone walls or ornamental fencing.

(Ord. No. 293-88, 4-4-88; Ord. No. 52-96, § 2, 7-15-96; Ord. No. 94-99, 11-15-99; Ord. No. (Substitute)189-00, §3, 4-24-00; Ord. No. 151-03/04, 02/23/04; Ord. No. 244-09/10, 6-21-10; Ord. No. 41-12/13, 9-5-12; Ord. No. 163-13/14, 6-16-14)

Sec. 14-186. Other requirements.

All nonresidential uses in the B-2 and B-2b zone shall meet the requirements of division 25 (space and bulk regulations and exceptions) of this article in addition to the following requirements:

(a) *Landscaping and screening:* The site shall be suitably landscaped for parking, surrounding uses and accessory site elements, including storage and solid waste receptacles where required by article IV (subdivisions) and article V (site plan).

(b) *Curbs and sidewalks*: Curbs and sidewalks as specified in article VI of chapter 25.

(c) O*ff-street parking and loading:* Off-street parking and loading are required by division 20 and division 21 of this article;

(d) *Front yard parking*:

There shall be no off-street parking in the front yard between the street line and the required minimum setback line in the B-2, B-2b and B-2c. Where existing buildings exceed the minimum front yard setback, a maximum of ten (10) percent of the total

parking provided on the site may be located between the principal structure and the street.

(e) *Signs*: Signs shall be subject to the provisions of division 22 of this article.

(f) *Exterior storage*: There shall be no exterior storage with the exception of fully enclosed containers or receptacles for solid waste disposal. Such containers or receptacles shall be shown on the approved site plan. Vehicles or truck trailers with or without wheels shall not be used for on-site storage (1) except where such storage is located in a designated loading zone identified on an approved site plan; or (2) such storage is not visible from the street or adjacent residences during winter months and such storage area is identified on an approved site plan. Truck load sales shall not be considered outside storage provided that such activity does not extend beyond three (3) consecutive days nor occurs more frequently than three (3) times a calendar year.

(g) *Storage of vehicles*: Storage of vehicles is subject to the provisions of section 14-335.

(h) *Shoreland and flood plain management regulations*: If the lot is located in a shoreland zone or in a flood hazard zone, then the requirements of division 26 and/or division 26.5 apply.

(Ord. No. 293-88, 4-4-88; Ord. No. 51-96, 7-15-96; Ord. No. 94-99, 11-15-99; Substitute Ord. No. 189-00, §4, 4-24-00; Ord. No. 151-03/04, 02/23/04; Ord. No. 263-13/14, 6-16-14)

Sec. 14-187. External effects.

Every use in a B-2, B-2b and B-2c zone shall be subject to the following requirements:

(a) *Enclosed structure*: The use shall be operated within a completely enclosed structure except for those specific open air activities licensed by the City, including but not limited to outdoor seating, sidewalk sales, etc.

(b) Noise: Except as provided in 14-183(1)(iii)(2) (relating to Drive-throughs), the volume of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American Standards Association), generated shall not exceed sixty (60) decibels on the A scale between 7:00 a.m. and 9:00 p.m. and fifty-five (55) decibels on the A scale between 9:00 p.m. and 7:00 a.m., on impulse (less than one (1) second), at lot boundaries, excepting air raid sirens and similar warning devices.

(c) Vibration and heat: Vibration inherently and recurrently generated and heat shall be imperceptible without instruments at lot boundaries.

(d) Glare, radiation or fumes: Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.

(e) Smoke: Smoke shall not be emitted at a density in excess of twenty (20) percent opacity level as classified in Method 9 (Visible Emissions) of the Opacity Evaluation System of the U.S. Environmental Protection Agency.

(f) Materials or wastes: No materials or wastes shall be deposited on any lot in such form or manner that they may be transferred beyond the lot boundaries by natural causes or forces. All material which might cause fumes or dust, or constitute a fire hazard if stored out-of-doors, shall be only in closed containers. Areas attracting large numbers of birds, rodents or insects are prohibited.

(Ord. No. 293-88, 4-4-88; Ord. No. 94-99, 11-15-99; Ord. No. 03/04, 02/23/04)

Sec. 14-188. Active street frontages

A building will be determined to have an active street frontage upon meeting the following guidelines to the greatest extent practicable as determined by the Planning Board or Planning Authority: the primary building façade shall be within ten feet of the front street line; there shall be no parking on the lot within 35 feet of the front street line; no more than

25% of the first floor primary façade shall consist of access to garages, unutilized spacke, service entrances, storage or mechanicals, and the remaining minimum 75% shall have an average depth of a minimum of 20 feet for residential or commercial uses; all primary ground floor entries to multi-family buildings must orient to street, not to interior blocks or parking lots.
(Ord. No. 263-13/14, 6-16-14)