

1. Legal Ad

Documents: [PB LGL AD 2-24-15.PDF](#)

2. PB AGENDA 2-24-15

Documents: [PB AGENDA 2-24-15.PDF](#)

3. Cleeves Street - Great Diamond Island

3.I. Cleeve Street Discontinuance

Documents: [PB MEMO CLEEVE STREET DISCONTINUANCE.PDF](#)

4. Form Based Code - India Street

4.I. India Street - PB Memo

Documents: [INDIA STREET - MEMO AND ATTACHMENTS.PDF](#)

5. 58 Fore Street

5.I. Fore Street 58 - PB Report

Documents: [FORE STREET 58 - PB REPORT.PDF](#)

5.I.i. Fore Street 58 - Applicant Submission

Documents: [APPLICANT SUBMISSION.PDF](#)

5.I.i.1. Fore Street 58 - Public Comment

Documents: [PUBLIC COMMENT.PDF](#)

**LEGAL ADVERTISEMENT
PORTLAND PLANNING BOARD MEETING**

The Portland Planning Board will hold a meeting on Tuesday, February 24, 2015, Council Chambers, 2nd Floor, City Hall, 389 Congress Street. **Public comments will be taken at both meetings.**

Workshop – 4:30 p.m.

- i. Cleeves Street – Great Diamond Island; Street Discontinuance; Diamond Island Association, Applicant. The Board will consider the discontinuance of a portion of Cleeves Street that is located between Diamond and Crescent Avenue on Great Diamond Island. The Association is seeking the discontinuance of Cleeves Street that abuts Elwell Hall along with the adjoining triangle of land in order to restore the porch and balcony of the Hall and meet applicable zoning requirements.
- iii. Form Based Code – India Street, City of Portland, Applicant. The draft India Street Form-based Code will be presented to the Planning Board, which is proposed to replace existing zoning regulations in the India Street Neighborhood. This first workshop is an opportunity for the Planning Board to review the proposal and hear public comment and no action will be taken at this meeting. Additional information may be found here: <http://www.portlandmaine.gov/1114/India-Street>

Public Hearing – 7:00 p.m.

- i. 58 Fore Street; Zoning Map Amendment; CPB2, LLC. and CPB2 Management, LLC., Applicants. The Board will consider a zoning map amendment to rezone the Waterfront Special Use Zone (WSUZ) which includes the property at 58 Fore Street (known as the Portland Company Complex) and adjoining parcels along the waterfront, to the B-6 Eastern Waterfront Mixed Zone and the Eastern Waterfront Port Zone (EWPZ). The proposal includes extending the B-6 Height Overlay Map over the site. The proposed map amendments would eliminate the WSUZ zone. The application includes proposed text amendments to the Shoreland regulations and to add permitted uses in both the B-6 and EWPZ zones.

STUART O'BRIEN, CHAIR - PORTLAND PLANNING BOARD

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

AGENDA
PORTLAND PLANNING BOARD

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PUBLIC HEARING – 7:00 p.m.

1. ROLL CALL AND DECLARATION OF QUORUM

2. COMMUNICATIONS AND REPORTS

3. REPORT OF ATTENDANCE AT THE FEBRUARY 10, 2015 MEETING:

Workshop: O'Brien, Boepple, Dean, Dundon, Hall and Soley present; Morrisette absent.

Public Hearing: O'Brien, Boepple, Dean, Dundon, Hall and Soley present; Morrisette absent.

4. REPORT OF DECISIONS AT FEBRUARY 10, 2015 MEETING:

- i. 777 Stevens Avenue; Level III Site Plan and Subdivision; Park Danforth, Applicant. Boepple moved and Hall seconded motions to grant five (5) waivers regarding street trees, driveway location, aisle width, underground utilities and site lighting. Board voted 6-0, Morrisette absent. Boepple moved and Dundon seconded motion to grant a waiver from the maximum number of driveways to allow four (4) curb cuts. Board voted 6-0, Morrisette absent. Boepple moved and Hall seconded motion to approve the subdivision plat with four (4) conditions of approval. Board voted 6-0, Morrisette absent. Boepple moved and Hall seconded a motion to approve the site plan with ten (10) conditions of approval. Board voted 6-0, Morrisette absent.

- ii. 783 Forest Avenue; Conditional Use; Changiz Fard, Applicant. Boepple moved and Dean seconded a motion to grant a waiver of the minimum driveway separation. Board voted 6-0, Morrisette absent. Boepple moved and Hall seconded a motion to approve the conditional use for a used car dealership with five (5) conditions of approval. Board voted 6-0, Morrisette absent. Boepple moved and Hall seconded a motion to approve the Level I site plan subject to nine (9) conditions of approval. Board voted 6-0, Morrisette absent.

5. NEW BUSINESS

- i. 58 Fore Street; Zoning Map Amendment; CPB2, LLC. and CPB2 Management, LLC., Applicants. The Board will consider a zoning map amendment to rezone the Waterfront Special Use Zone (WSUZ) which includes the property at 58 Fore Street (known as the Portland Company Complex) and adjoining parcels along the waterfront, to the B-6 Eastern Waterfront Mixed Zone and the Eastern Waterfront Port Zone (EWPZ). The proposal includes extending the B-6 Height Overlay Map over the site. The proposed map amendments would eliminate the WSUZ zone. The application includes proposed text amendments to the Shoreland regulations and to add permitted uses in both the B-6 and E

STUART O'BRIEN, CHAIR - PORTLAND PLANNING BOARD



Memorandum

Planning and Urban Development Department

Planning Division

To: Stuart O'Brien, Chair, and Members of the Portland Planning Board
From: Nell Donaldson, Planner
Date: February 19, 2015
Re: Petition for Street Discontinuance - Portion of Cleeve Street
Diamond Island Association, Applicant
Project #: 2014-216
Meeting Date: February 24, 2015

I. INTRODUCTION

The Diamond Island Association (DIA) has petitioned the city for the discontinuance of a portion of Cleeve Street on the west side of Great Diamond Island without retention of a public easement. The applicant has complemented the petition with a proposal to provide a 25-foot wide pedestrian easement over the southern half of the discontinued portion of Cleeve Street. This petition is made in accordance with state statute (Title 23 M.R.S.A. Section 3026) and has been accompanied by a City of Portland application for a street discontinuance.

Notices of the petition were sent to 276 property owners within 500 feet, or to all of Great Diamond Island. A legal ad was also posted in the *Portland Press Herald* on February 16 and 17, 2015.

Applicant: Diamond Island Association

Consultants: Perkins Thompson, Attorneys at Law; Northeast Civil Solutions, Surveyor

II. REQUIRED REVIEWS

Review	Relevant Statute
Street Discontinuance	<i>MRSA Title 23, §3026; City Code of Ordinances 14-30(n)</i>

Under Maine state statute, a municipality may terminate “whole or in part any interests held by it for highway purposes” after giving “best practicable notice” to abutting property owners. Per state law, upon discontinuance, the street right-of-way “shall pass to the abutting property owners to the center of the way,” and “unless otherwise stated in the order, a public easement shall...be retained” by the municipality.

Per the city’s ordinance, the Planning Board has jurisdiction “[t]o hear, review and offer its recommendations to the city council on petitions for street vacations and discontinuances” (*Section 14-30(n)*). The city council is ultimately responsible for issuing orders of discontinuance.



Figures 1, 2, and 3 (from top left): Western shore of Great Diamond Island, including Elwell Hall and the portion of the Cleve Street right-of-way proposed for discontinuance; 1886 Great Diamond Island plat, by the Diamond Island Association, showing the ‘Cleave’ Street right-of-way (note that the Elwell Hall lot (shaded red) is marked with a cross, indicating that a building existed there); Unconstructed portion of the Cleve Street right-of-way today, showing encroachment of the Elwell Hall building (note that parcel boundaries are not exact)

III. BACKGROUND

The Cleve Street right-of-way, along with much of Great Diamond Island’s western half, was originally platted in the early 1880s by the Diamond Island Association (DIA). An 1886 plat shows the “Cleave Street” right-of-way meeting the Diamond Avenue right-of-way at a pier on the island’s western shore. At this intersection, the right-of-way is bounded by a built lot, housing what is today called Elwell Hall, to the north (Figure 2).

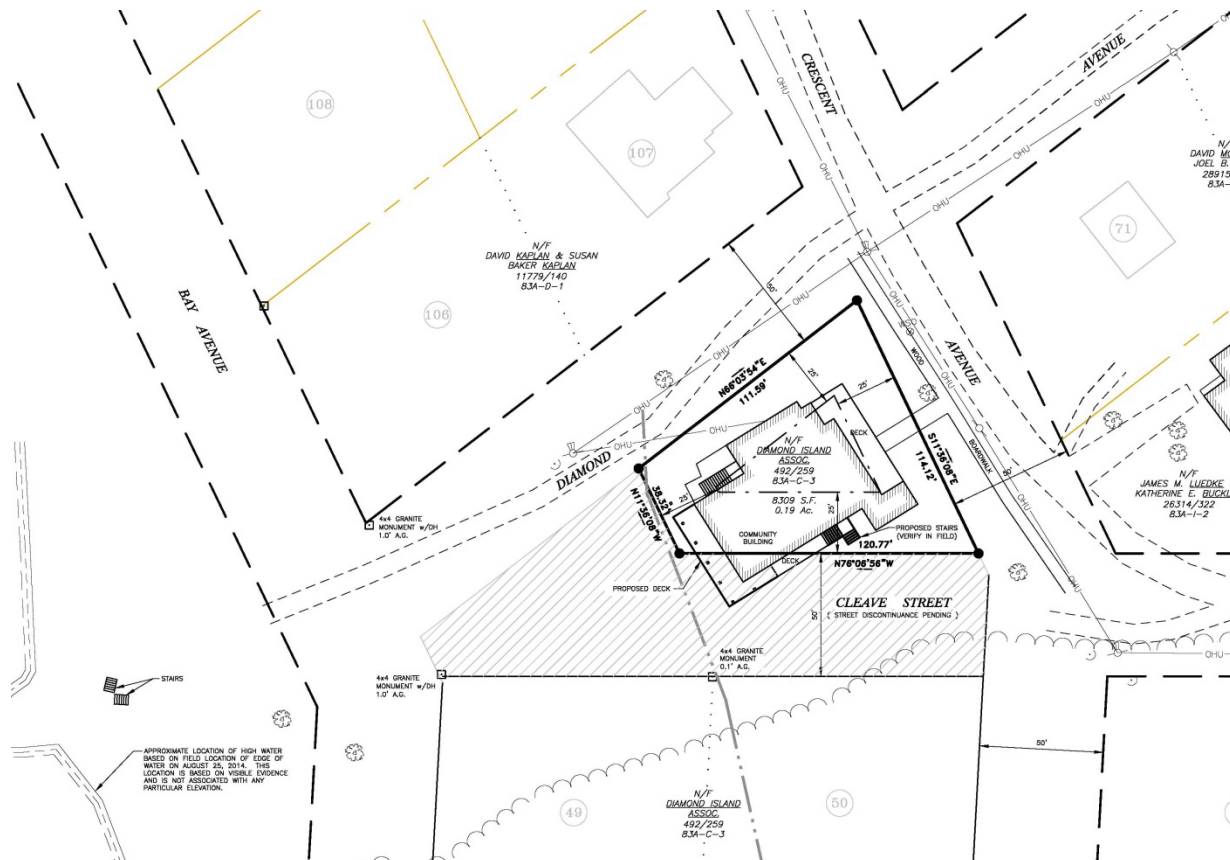
The city formally accepted the Cleve Street right-of-way in 1892. It appears that by this point, its more eastern portions had actually been constructed as public dirt roads; for unknown reasons the Cleve Street right-of-way nearest the shore, from Crescent Avenue west, was never developed as a roadway. From the time of the 1886 plat, it seems that portions of the Elwell Hall building have encroached into the Cleve Street right-of-way (Figure 3).



Today, the Diamond Island Association owns the properties on both the north and the south sides of the unbuilt portion of Cleeve Street. These holdings include Elwell Hall, which the DIA maintains as a community center and library, and the vacant lots opposite. There is some evidence that the Elwell Hall septic system lies entirely within the Cleeve Street right-of-way. There is no evidence of public utilities.

IV. PROPOSAL

The petition requests the discontinuance of the Cleeve Street right-of-way between the westerly boundary of the Crescent Avenue right-of-way and the easterly boundary of the Bay Avenue right-of-way, a linear distance of approximately 220 feet. In addition, the proposal sweeps in a triangle of land where the Cleeve Street and Diamond Avenue rights-of-way meet to the north (Figure 5).



Figures 4 and 5 (from top): Cleeve Street right-of-way today; Discontinuance proposal

As noted above, the applicant has proposed the discontinuance without retention of a public easement. However, upon discussion with staff, the applicant has offered to provide a 25-foot wide pedestrian access easement over the southern half of the existing right-of-way. Thus, under the current proposal, the city would relinquish all public rights, save for pedestrian access, to the right-of-way. The city's maintenance obligations for the right-of-way would also be terminated.

Because, under state provisions for a discontinuance, the right-of-way is split at the centerline and passed to the abutters, the discontinuance would effectively rectify the Elwell Hall encroachment issue, enabling the building to sit entirely within the boundaries of a larger lot. The discontinuance would likewise obviate any property rights issues with respect to the septic system. Ultimately, the Diamond Island Association envisions restoring a porch and balcony that were originally part of the Elwell Hall building; the discontinuance would provide the side and rear setbacks required in order to do so.

V. PUBLIC COMMENT

State statute requires that, upon a petition for a street discontinuance, "municipal officers" give "best practicable notice" to all abutting property owners (*MRSA Title 23, §3026 (1)*). In this case, the only abutting property owner is the Diamond Island Association itself. City staff also mailed notice to all property owners within 500 feet; this mailing encompassed all of Great Diamond Island.

Staff has received two written comments on the proposed discontinuance, one from Portland Trails and the other from a neighbor (*Attachments 1 and 2*). Both expressed concerns about any infringement on public access to the shore. The neighbor further voiced general opposition to the proposed discontinuance, citing concerns about precedent, particularly with respect to Great Diamond Island, access to shorefront lots, and the concept of discontinuances more broadly.

VI. STAFF REVIEW

Rights-of-way clearly serve the city in various capacities, in terms of providing property for public utilities and travel ways, among others. Staff has reviewed the petition for discontinuance in this light and notes the following:

Utilities

The applicant has requested verification that there are no utilities in the right-of-way from the Portland Water District (PWD), Central Maine Power (CMP), and Fairpoint Communications. The PWD has confirmed that there are no water lines and has stated that they do not object to the proposed discontinuance (*Attachment K*). Similar letters from other utilities have not yet been received.

David Margolis-Pineo, of the city's Department of Public Services, has indicated his department's support for the proposed discontinuance. He has stated that there is no reason to retain the right-of-way for the city's utility purposes.

Public Pedestrian Access

The applicant's original submittal spoke to the question of public access, particularly with respect to the adjacent shoreline. The submittal stated that the proposed discontinuance "will not impair public access to the water...there is no path over Cleeve Street – in fact, tables are there. Access to the water traditionally has been over the portion of the accepted Diamond Avenue that is along the DIA/Elwell Hall lot, and this access will continue as it has always occurred" (*Attachment A*). A worn travel route is faintly visible over the Diamond Avenue right-of-way in aerial photographs (*Figure 6*), and can be seen in ground shots as well (*Figure 7*).

However, in initial discussions, the applicant was amenable to the concept of a public pedestrian access easement over the Cleeve Street right-of-way, where there is also some evidence of an existing cow path (*Figure 6*). Staff reviewed the condition of the Diamond Avenue shore access at some length and, following discussion with the Department of Public Services, resolved that, given its quality, which



appears to be fairly rough in some locations, there were grounds for retention of a public pedestrian easement over Cleeve Street. Since Elwell Hall lies in the right-of-way in this area, staff suggested that the easement be confined to the southern half of the discontinued right-of-way. David Margolis-Pineo of the city's Department of Public Services writes,

On behalf of the Department of Public Services, we have no issues with the discontinuance of Cleeve Street between Crescent Avenue and Bay Avenue as proposed, with the condition of granting a pedestrian easement along the entire length of the former discontinued Cleeve Street.



Ann Machado, zoning administrator, has confirmed that an easement would not affect Elwell Hall's setbacks in any way, and thus would not restrict the DIA's future plans to construct a deck on the building. She writes,

If Diamond Island Association has to grant a public access easement to the City, the setbacks and lot coverage for the proposed porch and balcony will still be met because Diamond Island Association will own the property. An easement does not impact the proposed property lines or lot area. I checked with Jennifer Thompson and she concurs.

Figures 6 and 7 (from top): Worn travel routes along the Diamond Avenue right-of-way and at rear of Elwell Hall; Diamond Avenue right of way today

Staff has discussed the concept of a public pedestrian access easement with Corporation Counsel, who has engaged the DIA's attorney to develop appropriate language for the council proceedings. The DIA and Corporation Counsel have resolved that the pedestrian easement should be treated distinctly from the discontinuance, largely on technical grounds, "since the defined term 'public easement' as used in the [state] discontinuance statute includes all access rights the public has enjoyed, which could be read to

include rights of vehicular access” (*Attachment L*). The applicant has thus requested that the order of discontinuance be considered without retention of a public easement, but has simultaneously offered to “provide a separate easement to the City to be accepted by the Council immediately following the discontinuance; it would be part of the same Council proceeding and item” (*Attachment L*). A draft of the order of discontinuance, a draft of the easement, and a revised boundary plan showing the easement area, reviewed and approved by the city’s Department of Public Services, will be available at the time of final hearing.

VII. NEXT STEPS

- Applicant to provide outstanding letters from utilities
- Applicant to revise boundary survey, to be reviewed by DPS, and develop draft easement and order language, in conjunction with Corporation Counsel
- Staff to schedule public hearing

VIII. ATTACHMENTS

PLANNING BOARD REPORT ATTACHMENTS

1. Public comment (email from Jaime Parker, Portland Trails, 11/24/14)
2. Public comment (email from Anne Weber, 1/5/15)
3. Department of Public Services review (memo from Bill Clark, 12/4/14)
4. Zoning Administrator review (memo on easement and setbacks from Ann Machado, 12/22/14)
5. Department of Public Services review (memo from David Margolis-Pineo, 1/29/15)

APPLICANT’S SUBMITTALS

- A. Cover Letter (from Jim Katsiaficas, dated 10/31/14)
- B. Discontinuance application
- C. Portion of 1886 Great Diamond Island Plat
- D. Street Acceptance Record
- E. Elwell Hall Deed
- F. Abutter List
- G. Waiver and Indemnification
- H. Aerial Photograph
- I. Right-of-Way Photograph
- J. Right-of-Way Photograph
- K. PWD Letter
- L. Cover Letter (from Jim Katsiaficas, dated 2/12/15)
- M. Draft Metes and Bounds Description, Discontinuance

C. PLANS

- Plan 1 Boundary Survey (9/5/14)

From: Jaime Parker <jaime@trails.org>
To: Helen Donaldson <hcd@portlandmaine.gov>
Date: 11/24/2014 10:55 AM
Subject: Cleeves Street on Great Diamond

Hi Nell,

I received the following notice about Cleeves St. on Great Diamond. Admittedly I am not familiar with the particular location, but is there any reason to think that this would limit public access to this area? I wouldn't want to deny them the ability to restore the porch or make improvements, but also recognize these 'grass streets' are part of what makes the islands so special. The ability of people to walk through is important in keeping the islands accessible to the public, and avoiding exclusivity. Discontinuing streets should not be done lightly, as we have lost many important connections by abandoning public rights. If the street were discontinued, might a public access easement on a narrower corridor be appropriate?

Thank you,

Jaime Parker

Cleeves Street - Great Diamond Island

To residents and property owners: The Diamond Island Association is requesting the discontinuance of a portion of Cleeves Street that is located between Diamond and Crescent Avenues on Great Diamond Island. The Association is seeking the discontinuance of Cleeves Street that abuts Elwell Hall along with the adjoining triangle of land in order to restore the porch and balcony of the Hall and meet applicable zoning requirements.

In accordance with the Portland Land Use Ordinance, notices of receipt of a Street Discontinuance application must be sent to property owners within 500 ft. of the subdivision.

You will be notified of future Planning Board meetings by receiving notices from the Planning Division prior to any workshops or public hearings. Plans are available for viewing in the Portland Planning Division, 4th Floor, City Hall. If you have questions or would like to submit comments, please call Nell Donaldson, Planner at (207) 874-8723 or at hcd@portlandmaine.gov

--

Jaime Parker
Trails Manager
Portland Trails
jaime@trails.org
329.6180

Non Sibi, Sed Omnibus

From: <aweber123@myfairpoint.net>
To: <hcd@portlandmaine.gov>
Date: 1/5/2015 3:51 PM
Subject: Cleeve St. closing on GDI

Dear Members of the Planning Board:

My name is Anne Weber, a year round resident and member of the Diamond Island Association. I am writing to tell you I am strongly opposed to the closing of Cleeve St on Great Diamond Island for the following reasons:

- 1.) I believe it is not in the best interest of the Island to close ANY public roads regardless of the reasons.
- 2.) The Planning Board has repeatedly denied all requests to close other public roads on the Island in the past
- 3.) Such closing would encourage other applications for further closures, ie. Trelawny St and Gorges St.
- 4.) Maps show there are seven streets that lead to the beach. However, Cleeve St. is one of only three navigable public access roads to the beach. Proctor, Waymouth, Trelawny and Gorges have not been maintained in the 20 years I have lived here and are overgrown at best while Diamond Ave is very deeply rutted and Willis St has a 22ft. stairway down to the water. Cleeve St is the ONLY island street which is safely driveable to the water.
- 5.) Despite the fact the Diamond Island Association owns lot 49, closing Cleeve St would mean lot 49 would have no public access. Bay Ave as indicated on maps appears to be a road but has eroded away so much it is now all beach. Without Cleeve St, the value of lot 49 would decrease considerable for any future sale.

Please consider my objections as you make your decision on the closing of Cleeve St.

Sincerely,
Anne E. Weber
73 Diamond Ave.
Great Diamond Island, 04109

From: William Clark
To: Helen Donaldson
CC: David Margolis-Pineo; Michelle Sweeney
Date: 12/4/2014 10:08 AM
Subject: Re: Cleeve Street Discontinuance, Great Diamond Island

Bearings and Distances should be labeled for all lines around the area to be discontinued for a Metes and Bound Description to be prepared by the Professional Land Surveyor at Northeast Civil Solutions. The Metes and Bound Description will be an attachment or exhibit for the formal discontinuance by City Council.

Thanks,

Bill

>>> William Clark 12/4/2014 9:51 AM >>>
Hi Nell,

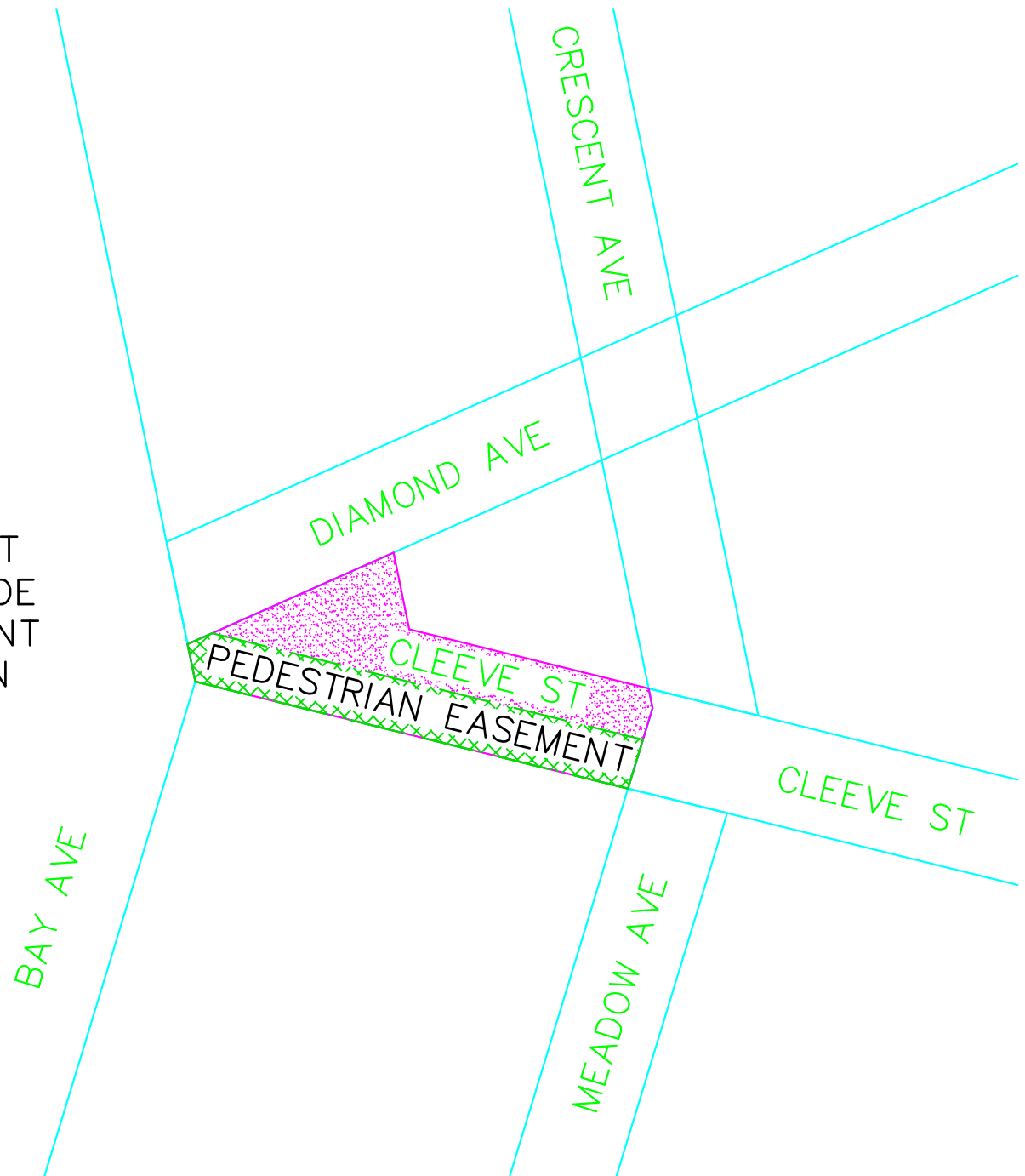
Please have them add State Plane Coordinates to all the corners of the area we will discontinue. This allows us to accurately add the area into our GIS should the AutoCAD file become unreadable or corrupted.

Thanks,

Bill

PROPOSED DISCONTINUANCE
OF A PORTION OF CLEEVE ST
AND PROPOSED 25 FOOT WIDE
PUBLIC PEDESTRIAN EASEMENT
OVER DISCONTINUED PORTION

GREAT DIAMOND ISLAND
PORTLAND, MAINE
FEBRUARY 18, 2015



From: Ann Machado
To: Helen Donaldson; jkatsiaficas@perkinsthompson.com
CC: Jennifer Thompson
Date: 12/22/2014 10:14 AM
Subject: RE: Cleeve Street discontinuance

Jim -

I think that Nell is on vacation this week so I thought that I would respond to your email.

If Diamond Island Association has to grant a public access easement to the City, the setbacks and lot coverage for the proposed porch and balcony will still be met because Diamond Island Association will own the property. An easement does not impact the proposed property lines or lot area. I checked with Jennifer Thompson and she concurs.

Ann

Ann Machado
Acting Zoning Administrator
Planning & Urban Development
Portland City Hall
(207) 874-8709

From: David Margolis-Pineo
To: Helen Donaldson; Jennifer Thompson
Date: 1/29/2015 1:24 PM
Subject: Fwd: RE: Cleeve Street Discontinuance Application

January 29, 2015

Memo To: Nell Donaldson
Barbara Barhydt
From: David Margolis-Pineo, Department of Public Services
Re: Discontinuance of Cleeve St – Great Diamond Island

On behalf of the Department of Public Services, we have no issues with the discontinuance of Cleeve Street between Crescent Avenue and Bay Avenue as proposed, with the condition of granting a pedestrian easement along the entire length of the former discontinued Cleeve Street.

October 31, 2014

Barbara Barhydt, Development Review Manager
Planning Division, City of Portland
389 Congress Street
Portland ME 04101

RE: Petition for Discontinuance of Portion of Cleeve Street,
Great Diamond Island, Portland, Without Public Easement

Dear Ms. Barhydt:

Diamond Island Association (DIA) owns and operates a community center and library at Elwell Hall on Great Diamond Island. DIA wishes to restore a porch and balcony that long had been a part of this building, but which had been removed in the early 1960s. However, a portion of Elwell Hall is within a right of way of a portion of an accepted but unbuilt and unused City street – Cleeve Street. DIA owns the lot on the opposite side of this portion of Cleeve Street, so that discontinuance of this portion without retention of public easement would provide DIA with a sufficient combined lot area to meet all side and rear setbacks and lot coverage requirements to permit the porch and balcony restoration.

Therefore, in accordance with State law (23 MRSA § 3026), Diamond Island Association (DIA) hereby petitions to have that portion of Cleeve Street between the westerly boundary of Crescent Avenue and the easterly boundary of Casco Bay or Bay Avenue, which serves now as the westerly terminus of said Cleeve Street, together with the triangle of land between Cleeve Street and the southerly boundary of Diamond Avenue, all located on Great Diamond Island within the City of Portland and all as more generally depicted with hatch marks on the plan entitled "Boundary Plan, 8 Crescent Avenue, Great Diamond Island, Portland, Maine 04109" dated September 5, 2014 and prepared by Northeast Civil Solutions for Diamond Island Association, attached as **Exhibit B**, discontinued by the City of Portland **without retention of a public easement**.

Discontinuance of that portion of Cleeve Street without retention of a public easement will not impair public access to the water. As the enclosed photographs and City GIS view show, there is no path over Cleeve Street – in fact, tables are there. Access to the water traditionally has been over the portion of the accepted Diamond Avenue that is along the DIA/Elwell Hall lot, and this access will continue as it always has occurred.

PHILIP C. HUNT
JOHN S. UPTON
PEGGY L. McGEHEE
MELISSA HANLEY MURPHY
JOHN A. HOBSON
JAMES N. KATSIARCAS
TIMOTHY P. BENOIT
J. GORDON SCANNELL, JR.
FRED W. BOPP III
MARK P. SNOW
WILLIAM J. SHELS
DAVID B. McCONNELL
PAUL D. PIETROPAOLI
RANDY J. CRESWELL
JULIANNE C. RAY
DAWN M. HARMON
CHRISTOPHER M. DARGIE
STEPHANIE A. WILLIAMS
PETER J. McDONELL
SARA N. MOPPIN
SHAWN K. DOIL
JOSEPH G. TALBOT
LAUREN B. WELIVER
JOSEPH C. SIVISKI

Cleeve Street was dedicated by the recording in the City Clerk's office on November 8, 1892 of a Plan in the City Clerk's office Volume 1, Page 224. The street was accepted by the City on November 8, 1892. (See copy of Street Record attached as **Exhibit A.**)

The only party owning property abutting the portion of Cleeve Street and the triangle to be discontinued is the Diamond Island Association.

We are obtaining letters from public utilities having lines or pipe or cables on Great Diamond Island – Portland Water District, Central Maine Power Company and FairPoint -- detailing whatever interests they have in the portion of Cleeve Street proposed to be discontinued. Copies of our letters to those utilities are enclosed, and we will provide responses from those utilities when they are obtained.

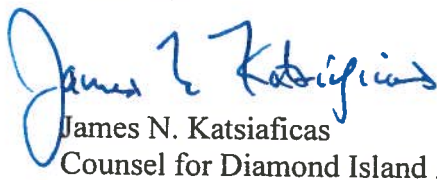
We understand that City Islands Liaison Michael Murray will supply a list of all property owners owning lots in the subdivision (**Exhibit C**) shown on the 1892 plan (copy of plan attached; here, this means all property owners whose lots are on the "public" side of Great Diamond Island) whose addresses appear in the City's assessment records, which list includes all owners of property abutting the portion of Cleeve Street proposed to be discontinued.

Also enclosed is the standard waiver and indemnification agreement provided by your office, signed by DIA President, Lyn Sala.

By separate letter to City Planning & Urban Development Department Head Jeffrey Levine and Planning Division Director Alex Jaegerman (copy enclosed), DIA is requesting a waiver of the \$2,000.00 fee that the City typically requires to cover your administrative costs and costs of providing notice to said property owners and mortgagees; therefore, no fee is enclosed with this application. DIA is acting on behalf of its more than 80 members to bring this discontinuance petition, and the additional land will permit expansion of Elwell Hall, a building that serves as a community center and library for the southern half of Great Diamond Island.

DIA hereby requests that the City take all further action necessary to complete discontinuing the above-described street. Please inform us if it is necessary for DIA to provide you with any further information, or take any further action. DIA understands that the matter will be brought up before the Planning Board for workshop and public hearing, that the Planning Board will make a recommendation to the City Council, and that final action on the street discontinuance will be made by the City Council.

Sincerely,



James N. Katsiaficas
Counsel for Diamond Island Association

cc: Jeffrey Levine, Planning & Urban Development, City of Portland

Barbara Baryhdt, City of Portland
October 31, 2014
Page 3

Alex Jaegerman, Director, Planning Division, City of Portland
Danielle West-Chuhta, Corporation Counsel, City of Portland
Lyn Sala, President, Diamond Island Association
Michael Burton, Diamond Island Association

STREET NAME: Portion of Cleeve Street (and adjoining triangle of land between it and Diamond Avenue right-of-way).

STREET DISCONTINUANCE REQUEST, REASON FOR REQUEST, AND DESCRIPTION OF THE EXTENT OF DISCONTINUANCE:

As stated in our letter of Oct. 31, 2014, Diamond Island Association requests the discontinuance of the portion of Cleeve Street that abuts the Elwell Hall Lot (83A-C-3) and of the adjoining triangle of land so that it may restore the porch and balcony of the Hall while meeting City zoning requirements.

CONTACT INFORMATION:

Applicant – must be owner, Lessee or Buyer Name: Diamond Island Association Business Name, if applicable: Address: City/State : Zip Code:	Applicant Contact Information E-mail: Home #: Work #: Cell #: Fax#:
Adjoining Owner – (if different from Applicant) Name: David Kaplan and Susan Baker Kaplan Address: 18 Crescent Ave., Great Diamond Island City/State : Portland, Zip Code: ME 04109	Owner Contact Information E-mail: Home #: Work #: Cell #: Fax#:
Agent/ Representative Name: James N. Katsiaficas, Esq. Perkins Thompson Address: One Canal Plaza, PO Box 426 Portland, ME 04112-0426 City/State : Zip Code:	Agent/Representative Contact information E-mail: jkatsiaficas@perkinsthompson.com Home #: Work #: (207) 400-8108 Cell #: (207) 400-7650 Fax#: (207) 871-8026
Billing Information Name: Address: City/State : Zip Code:	Billing Information E-mail: Home #: Work #: Cell #: Fax#:

Engineer Name: Address: City/State : Zip Code:	Engineer Contact Information E-mail: Home #: Work #: Cell #: Fax#:
Surveyor Name: Northeast Civil Solutions Address: 153 U.S. Route 1 Scarborough, ME 04074 City/State : Zip Code:	Surveyor Contact Information E-mail: Home #: Work #: (207) 883-1000 Cell #: Fax#: (207) 883-1001
Architect Name: Address: City/State : Zip Code:	Architect Contact Information E-mail: Home #: Work #: Cell #: Fax#:
Attorney Same as Agent/Representative Name: Address: City/State : Zip Code:	Attorney Contact Information E-mail: Home #: Work #: Cell #: Fax#:

APPLICATION FEES:

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

Street Discontinuance: A fee for the discontinuance must be submitted by check or credit card to the City of Portland in accordance with Section 14-54 of the Municipal Code along with direct reimbursement for noticing, legal ads, planner review time, and legal review.

____ \$2,000 – Public Street Discontinuance

The City invoices separately for the following:

- Notices (\$.75 each)
- Legal Ad (% of total Ad)
- Planning Review (\$40.00 hour)
- Legal Review (\$75.00 hour)

Third party review fees are assessed separately. Any outside reviews or analysis requested from the Applicant as part of the development review, are the responsibility of the Applicant and are separate from any application or invoice fees.

STREET DISCONTINUANCE APPLICATION			
Applicant Checklist	Planner Checklist	# of Copies	GENERAL WRITTEN SUBMISSIONS CHECKLIST
X		1	Completed Application form
X		1	Application fees (waiver requested)
X		1	Written description of project (in Oct. 31, 2014 letter)
X		1	Legal Description of Street or portion thereof to be discontinued (Oct. 31, 2014 letter)
X		1	Evidence of right, title and interest for applicant's property
X		1	List of all abutting property owners
X		1	List of all public utilities within the right-of-way. (in Oct. 31, 2014 letter)
X		1	Summary of existing and/or proposed easement, covenants, public or private rights-of-way, or other burdens on the street
X		1	Letters from public utilities detailing interests they have in all or portion of street to be discontinued. (Requested; one response included)
X		1	Petition for Street Discontinuance (template included as Attachment 1 to application form). (in Oct. 31, 2014 letter)
X		1	Waiver and Indemnification Form (template included as Attachment 2 to application form).
Applicant Checklist	Planner Checklist	# of Copies	SITE PLAN SUBMISSIONS CHECKLIST
X		1	Boundary Survey of applicant's property and Street meeting the requirements of Section 13 of the City of Portland's Technical Manual

APPLICATION SUBMISSION:

1. All site plans and written application materials must be submitted electronically on a CD or thumb drive with each plan submitted as separate files, with individual file which can be found on the **Electronic Plan and Document Submittal** page of the City's website at <http://me-portland.civicplus.com/764/Electronic-Plan-and-Document-Submittal>
2. In addition, one (1) paper set of the plans (full size), one (1) paper set of plans (11 x 17), paper copy of written materials, and the application fee must be submitted to the Building Inspections Office to start the review process.

The application must be complete, including but not limited to the contact information, application checklists, and applicant signature. The submissions shall include one (1) paper packet with folded plans containing the following materials:

1. One (1) full size site plans that must be folded.
2. One (1) copy of all written materials or as follows, unless otherwise noted:
 - a. Application form that is completed and signed.
 - b. Cover letter stating the nature of the project.
 - c. All Written Submittals (Sec. 14-527 (c), including evidence of right, title and interest.
3. A stamped standard boundary survey prepared by a registered land surveyor at a scale not less than one inch to 50 feet.
4. Plans and maps based upon the boundary survey and containing the information found in the attached sample plan checklist.
5. One (1) set of plans reduced to 11 x 17.

Please refer to the application checklist (attached) for a detailed list of submission requirements.

APPLICANT SIGNATURE:

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

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

Signature of Applicant:**Date:**

James R. Kobernick, Esq.,
Authorized agent (attorney) for
Diamond Island Association

Nov. 7, 2014

EXHIBIT A

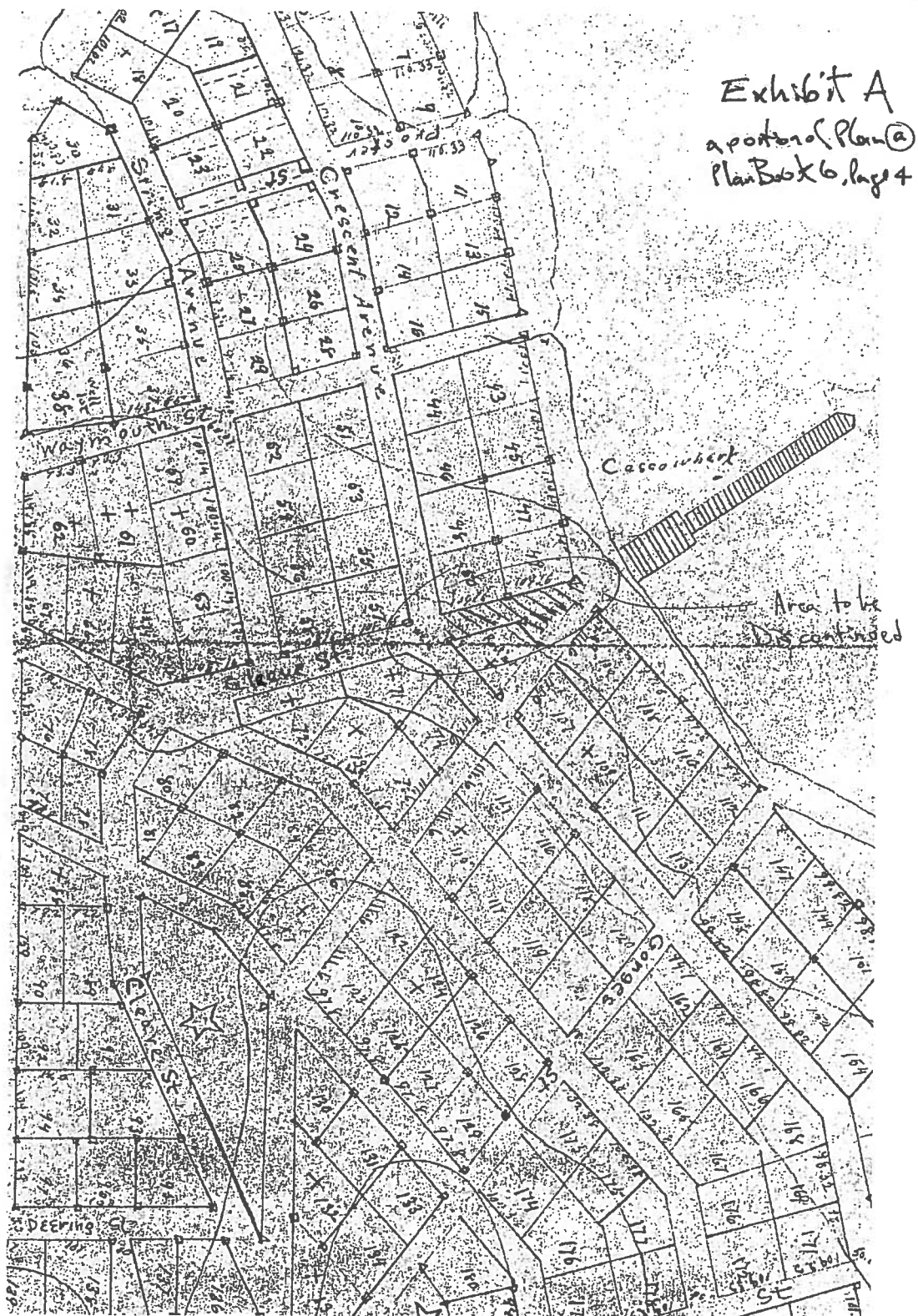


EXHIBIT B

Name

GREAT DIAMOND ISLAND

Section

To

DATE	DESCRIPTION	BOOK	PAGE
Nov. 8, 1892	All streets shown on Plan $\frac{362}{6}$ Acceptance	1	224
Feb. 1, 1960	Nancy Lane $\frac{2354}{76}$ Public Landing to Valley St.	2	291
Feb. 1, 1960	Nicholas Street - from Nancy Lane Northeastly $\frac{76}{76}$	2	292
Jun. 21, 1961	Nancy Ln - Public Landing to Valley St. - Cent. of Taking C.C.R.D. $\frac{2611}{217}$		
Jun. 21, 1961	Nicholas St. - Nancy Lane Northeastly - Cent. of Taking C.C.R.D. $\frac{2611}{219}$		
Street Record			

Know all Men by these Presents, That

259

I, Elbridge G. Smith of Portland, County of Cumberland, State of Maine.

in consideration of Twenty-eight Hundred Dollars paid by

The Diamond Island Association, a Corporation existing by law and having its location and place of business at said Portland.

the receipt whereof I do hereby acknowledge, do hereby give, grant, bargain, sell and convey unto the said

Diamond Island Association, its successors

heirs and assigns forever, All that portion of Great Hog Island in said Portland

which was set off to James B. Fenderson and Francis Fenderson on

partitions between them and Nathaniel Dressing and others, recorded

in the Maine Reg. of Deeds Book 168 P. 1642. Also all that portion of

said Island that was set off to them on partitions between them and

Edward E. Goble and others recorded in said Registry Book 168 Page 186

being also marked to and by a plan recorded in Plan Book 14

Page 24 together with the right to use the wharf and road leading

across numbers 4 & 5 to Shore number 5 of said Island, the same

being subject to the right of way and right to construct and maintain

a wharf granted and described as a deed from Nathaniel Dressing

and others to the United States, recorded in said Registry Book 110

Page 53, and subject also to taxes for the current year which are to be

paid by the grantee.

To have and to hold the aforegranted and bargained Premises, with all the privileges and appurtenances thereof, to the said Diamond Island Association, its successors

heirs and assigns, to their use and behoof forever. And I do covenant with the said

Grantee: its successors I am lawfully seized in fee of the premises; that they are free of all

incumbrances: that I have good right to sell and convey the same to the said

to hold as aforesaid; and that I and my heirs shall and will warrant and defend the same to the

said Grantee: its successors heirs and assigns forever, against the lawful claims and demands of all persons.

In Witness Whereof, I the said E. G. Smith and Maria L. Smith wife of the said E. G. Smith

in testimony of her relinquishment of her right of dower in the above described premises, have hereunto

set our hands and seals this twenty-fifth day of September in the year of

our Lord one thousand eight hundred and eighty-nine

Signed, Sealed and Delivered in presence of Elbridge G. Smith Seal

Maria L. Smith Seal

Anna B. Basse

State of Maine, CUMBERLAND, ss. October 2^d 1882 Personally appeared

the above named Elbridge G. Smith and acknowledged the above instrument to be his free act and deed

Before me, L. H. Merrill, JUSTICE OF THE PEACE Received October 22, 1882, at 4 o'clock 40 m. P. M., and recorded according to the original.

ATTEST:

Francis J. Stevens

REGISTER.

ABUTTER LIST

Applicant for discontinuance of portion of Cleeve Street and adjoining triangle of land is Diamond Island Association, owner of the parcel on City of Portland Map/Lot No. 83A-C-3, described in a deed recorded in the Cumberland county Registry of Deeds in Book 492, Page 259.

Abutter to the south across Cleeve Street is Diamond Island Association, with a parcel that shares the same City Tax Map and Lot No. and same deed reference.

Abutters to the north across Diamond Avenue are David Kaplan and Susan Baker Kaplan, whose lot at 18 Crescent Avenue, Great Diamond Island, Portland, is shown as City of Portland Map/Lot No. 83A-D-1 and is described in a deed recorded in said Registry of Deeds in Book 11779, Page 140.

WAIVER AND INDEMNIFICATION

WHEREAS, Diamond Island Association, a Maine corporation in good standing, has requested the City of Portland to discontinue the portion of a certain way known as Cleeve Street westerly of Crescent Avenue, along with the triangular area between Diamond Avenue, Cleve Street and the abutting property owned by Diamond Island Association, pursuant to 23 MRSA § 3026 *et seq.*

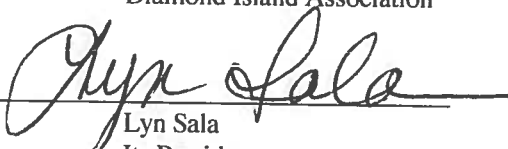
WHEREAS, the City of Portland as a condition precedent to the discontinuance of the way requires a waiver of any claims which Diamond Island Association may have against the City for such discontinuance, and further, requires indemnification against any claims of third persons arising out of or resulting from the discontinuance of said way;

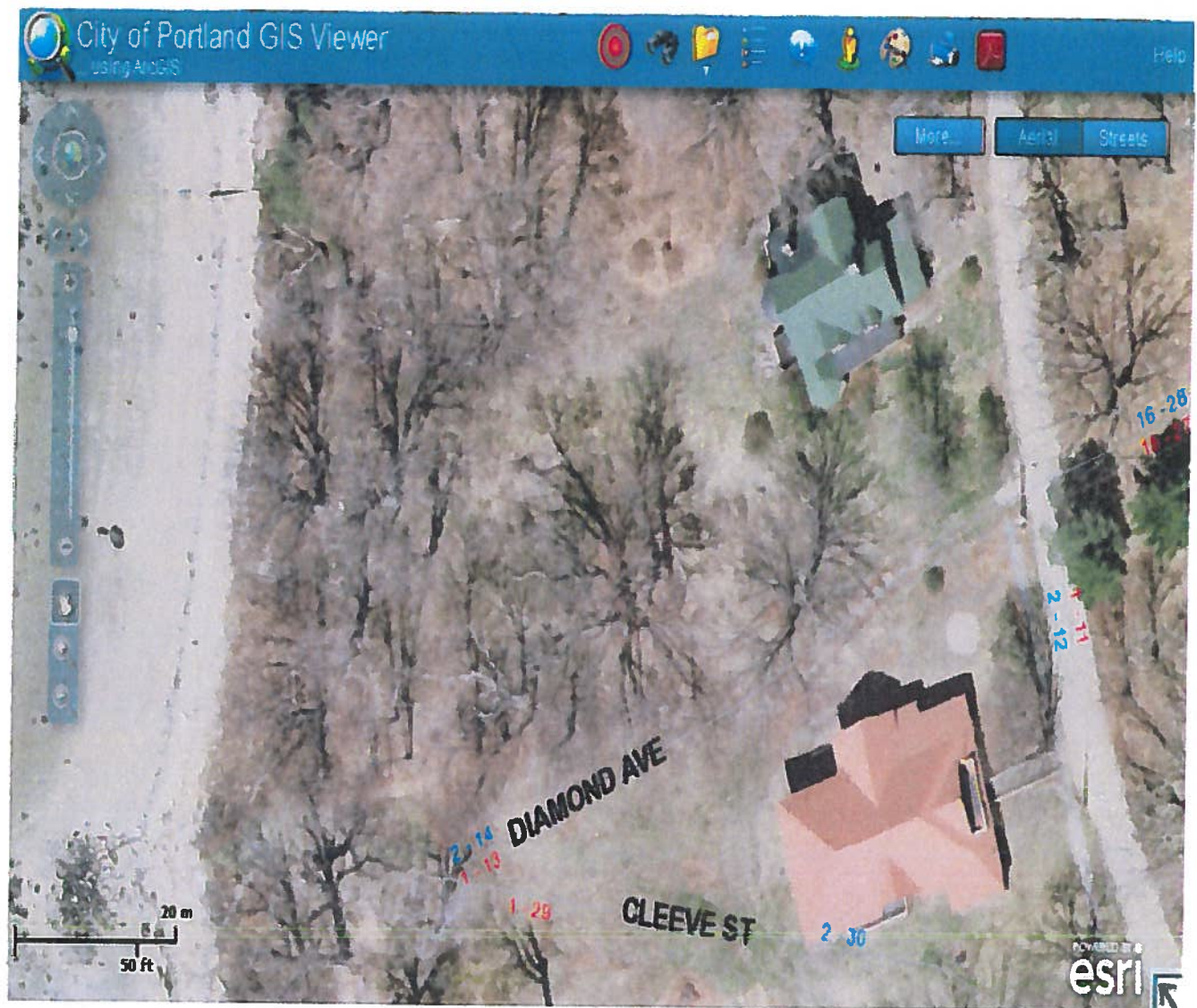
NOW, THEREFORE, in consideration of the City of Portland discontinuing said proposed town way, Diamond Island Association for itself and its successors and assigns, agrees as follows:

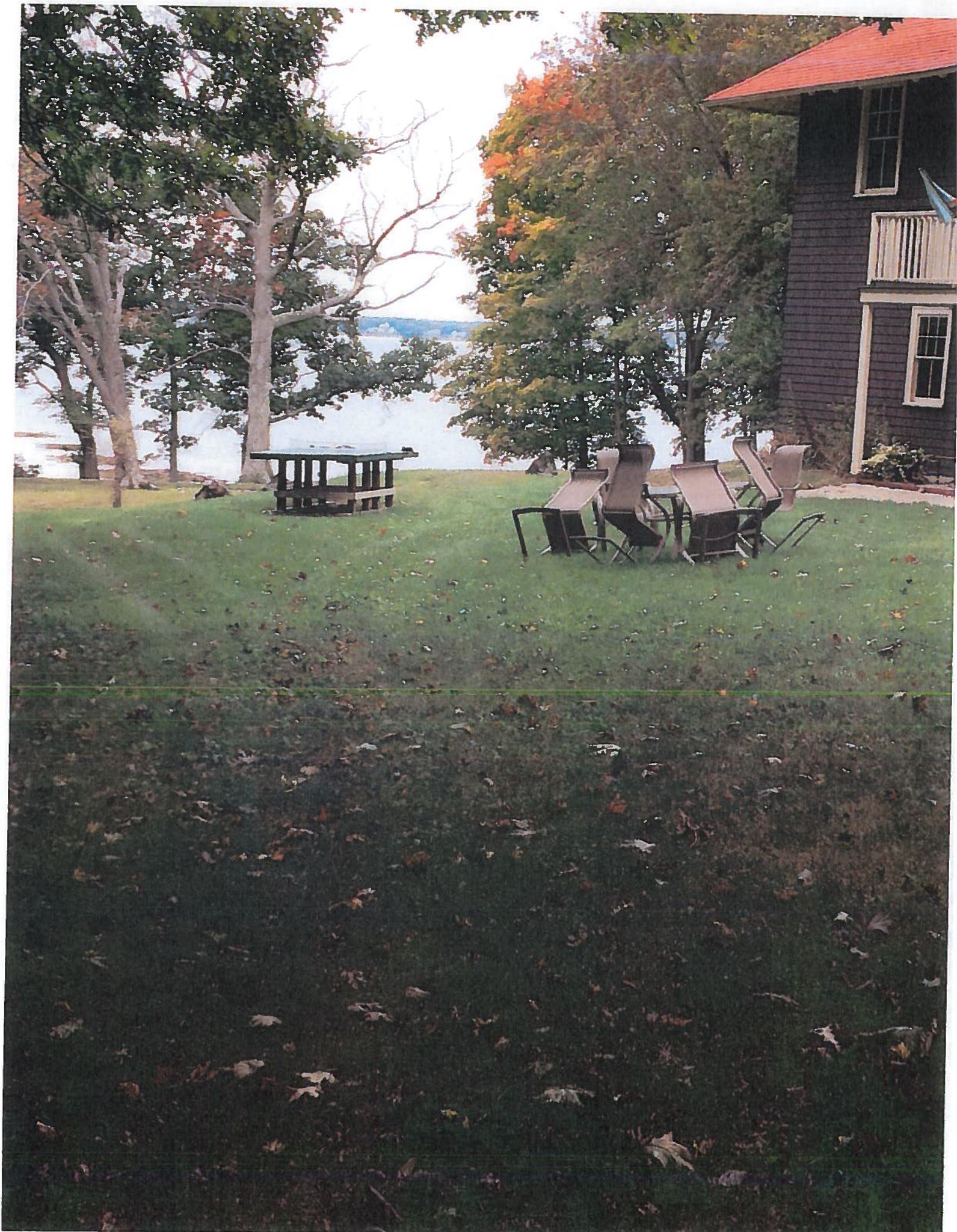
1. Diamond Island Association hereby waives any claim for damages which it may now or hereafter have against the City of Portland arising out of or resulting from the discontinuance of this way by the City pursuant to 23 MRSA § 3026 *et seq.*;
2. Diamond Island Association hereby agrees to indemnify and hold harmless the City of Portland against any claims by any third party against the City of Portland for damages arising out of or resulting from this discontinuance of said way by the City of Portland pursuant to said statute.

IN WITNESS WHEREOF, the **DIAMOND ISLAND ASSOCIATION** has caused this Agreement to be signed and sealed in its corporate name by Lyn Sala, its President, thereunto duly authorized, the day and year first written below.

Dated: 9-30-14

Diamond Island Association
By: 
Lyn Sala
Its President









Portland Water District

FROM SEBAGO LAKE TO CASCO BAY

November 3, 2014

Mr. James Katsiaficas
Perkins Thompson
One Canal Plaza
P. O. Box 426
Portland, Maine 04112

Re: Proposed Vacation of Portion of Cleave Street – Great Diamond Island

Dear Mr. Katsiaficas:

In response to your October 31, 2014 letter, the Portland Water District has no water facilities within that portion of Cleave Street on Great Diamond Island that at your client is proposing to vacate. I have attached a map showing our facilities in the area. Therefore, the District does not object to the vacation of that portion of the street.

If you have any questions or need anything further, do not hesitate to call me at 774-5961 ext. 3057.

Sincerely yours,

PORTLAND WATER DISTRICT

Norman V. Twaddel
Right of Way Agent

Enclosure



February 12, 2015

Barbara Barhydt, Development Review Manager
Planning Division, City of Portland
389 Congress Street
Portland ME 04101

RE: Petition for Discontinuance of Portion of Cleeve Street,
Great Diamond Island, Portland.

Dear Ms. Barhydt:

I am writing to update the Petition for Discontinuance of Portion of Cleeve Street filed last October by Diamond Island Association (DIA) in advance of the February 24, 2015 Planning Board workshop on this matter.

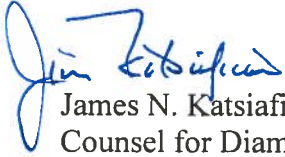
First, we now have a property description for the proposed discontinuance which was prepared by William Clark of the City's Public Services Department (copy enclosed). I have reviewed that description and have discussed it with Mr. Clark, and believe that it is appropriate and suitable for this purpose. DIA greatly appreciates Mr. Clark's assistance.

Second, DIA had requested discontinuance of the portion of Cleeve Street without retention of a public easement by the City. While access to the water traditionally has been over the portion of the accepted Diamond Avenue that is along the northern side of the DIA/Elwell Hall lot and this access will continue as it always has occurred, the City has asked DIA if it would provide the City with a pedestrian access easement over the area proposed to be discontinued. DIA agrees to provide a 25-foot wide public pedestrian easement over the southern half of the discontinued portion of Cleeve Street to the City; please consider our petition as so amended.

We still will request that the Council's discontinuance be without retention of public easement, since the defined term "public easement" as used in the discontinuance statute includes all access rights the public had enjoyed, which could be read to include rights of vehicular access. However, we will provide a separate easement to the City to be accepted by the Council immediately following the discontinuance; it would be part of the same Council proceeding and item. We will provide an updated plan following the Planning Board workshop that will depict this public pedestrian easement and are working with Corporation Counsel's Office to prepare a proposed order of discontinuance and public pedestrian easement so that these documents will be available when the Planning Board conducts a public hearing and makes its recommendation to the City Council.

Thank you for your assistance in this matter.

Sincerely,



James N. Katsiaficas
Counsel for Diamond Island Association

cc: Jeffrey Levine, Planning & Urban Development, City of Portland
Alex Jaegerman, Director, Planning Division, City of Portland
Helen Donaldson, Planning Division, City of Portland
William Clark, Public Services, City of Portland
Jennifer L. Thompson, Associate Corporation Counsel, City of Portland
Lyn Sala, President, Diamond Island Association
Michael Burton, Diamond Island Association

A certain lot or parcel of land situated on Great Diamond Island in the City of Portland, County of Cumberland, and State of Maine, being a portion of Cleeve Street as accepted by the City of Portland on November 8, 1892, and more particularly bounded and described as follows:

COMMENCING at the intersection of the westerly line of Crescent Avenue with the southeasterly line of Diamond Avenue;

THENCE S 66° 03' 54" W 111.59 feet, more or less, along the southeasterly line of Diamond Avenue to the **POINT OF BEGINNING**;

THENCE S 11° 36' 08" E 38.32 feet, more or less, along land now or formerly of Diamond Island Association as described in a deed recorded at the Cumberland County Registry of Deeds in Deed Book 492, Page 259, to a point along the northerly line of Cleeve Street;

THENCE S 76° 06' 56" E 120.77 feet, more or less, along said land now or formerly of Diamond Island Association and the northerly line of Cleeve Street to a point at the intersection of the northerly line of Cleeve Street with the the westerly line of Crescent Avenue";

THENCE S 11° 36' 08" E 9.69 feet, more or less, along the extension of the westerly line of Crescent Avenue and crossing through Cleeve Street to an angle point;

THENCE S 16° 58' 04" W 41.31 feet, more or less, to a point at the intersection of the southerly line of Cleeve Street with the westerly line of Meadow Avenue;

THENCE N 76° 06' 56" W 218.32 feet, more or less, along the southerly line of Cleeve Street to an angle point in the easterly line of Bay Avenue;

THENCE N 11° 40' 13" W 18.74 feet, more or less, along the easterly line of Bay Avenue to a point at the intersection of Bay Avenue with the southeasterly line of Diamond Avenue;

THENCE N 66° 03' 54" E 110.39 feet, more or less, along the southeasterly line of Diamond Avenue to the **POINT OF BEGINNING**.

Bearings are based on the Maine State Coordinates, West Zone, NAD 1983, HARN, Grid North, and field surveys conducted by the City of Portland, Department of Public Services, Engineering Division.

Reference is made to a plan titled "Plan of a part of Diamond Island" dated 1882 on file as plan number 362/6 in the Engineering Archives of said Engineering Division.



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Memorandum
Planning and Urban Development Department
Planning Division



To: Stuart O'Brien, Chair and Members of the Portland Planning Board
From: Caitlin Cameron, Urban Designer, & Alex Jaegerman, Planning Division Director
Date: January 20, 2015
Re: India Street Form-based Code District – Workshop 1
Meeting Date: January 24, 2015

I. Introduction

A Form-based Code was first proposed as part of the India Street Sustainable Neighborhood Plan (ISSNP) process. The India Street neighborhood, one of the oldest in the city, has many available development parcels. Consequently, several new developments have recently been built or proposed in this neighborhood. Neighborhood residents called for a neighborhood plan that included consideration of the form of development in the neighborhood, many feeling as though the new development allowed by the current zoning was out of scale with the existing context. While the recently completed ISSNP does include development principles regarding the form of development in this neighborhood, it was determined an overhaul of the underlying zoning was appropriate to achieve the vision of the neighborhood plan document. Much of the existing zoning in this neighborhood was retroactively located and does not reflect the character of the built environment, much of which was developed before the zoning codes existed. The intention of the FBC is to provide zoning code that more adequately and appropriately reflects the built form and scale of the neighborhood. As a mixed-use neighborhood, separation or regulation of uses is not highly desired or appropriate. The FBC is currently proposed for the India Street neighborhood only and would replace all existing zoning in the neighborhood.

Why Form-based Code?

Form-based Code (FBC) is different from Euclidean zoning in that it shifts the priority away from use and focuses on the form, dimensional, and design components of zoning. Traditional Euclidean zoning will often have dimensional requirements but focuses on land use.

Staff examined examples of FBC developed in Yarmouth and Standish in Maine, as well as Knoxville, Cincinnati, and some California cities. Documents from the SmartCode and the Form-based Code Institute were also consulted.

II. Planning and Public Process

The India Street Form-based Code has been developed over several phases. In March/April 2013, as part of the Sustain Southern Maine initiative, a visual preference

study and technical workshop were held to collect input from the neighborhood and other stakeholders especially on the topics of height, form, and land use. Subsequently, Richardson Associates compiled this information into an Emergent Vision Plan (found in the India Street Sustainable Neighborhood Plan) which was a guiding document in the development of the India Street Sustainable Neighborhood Plan.

With the formation of the India Street Neighborhood Advisory Committee in November 2013, a group of stakeholders tasked with developing the neighborhood plan, five Working Groups were created to develop different components of the Plan. One of these five groups is the Form-based Code/Land Development Working Group which has continued to work with staff on the development of the Form-based Code; this group is comprised of residents, business owners, developers/land owners, architects, and a member of the Planning Board. Components of the FBC have been presented throughout the neighborhood planning process to the India Street Neighborhood Advisory Committee (meetings were open to the public) for feedback and review as well as one public meeting held in the summer of 2014 to present the neighborhood plan and some of the implementation tools proposed such as the FBC and historic district. The materials were also periodically made available online on the project webpage.

Throughout the process the Working Group and Staff have sought out feedback from stakeholders and related groups – residents, business owners, real estate developers, Portland Society for Architecture, Greater Portland Landmarks, the Historic Preservation Board, and the India Street Neighborhood Association. We continue to look for this kind of feedback as this latest draft of the FBC is reviewed by the Planning Board.

Legal Review

Staff began a legal review with Corporation Counsel this month to discuss the components of the code and the legal implications of what is being proposed. This is especially critical since this is the first time the City has implemented a form-based code. Revisions to the code may be proposed based on this review.

Planning Board Process

Workshop 1 – Introduction to proposed Form-based Code (FBC) content
Workshop 2 – Site Walk + Discussion of FBC interaction with proposed Historic District
Workshop 3 – Discussion of FBC revisions and Administration of code
Public Hearing – Final presentation of FBC for possible recommendation to Council (It is intended that the recommendations on the FBC and the proposed Historic District converge in the process so that both provisions will be sent to the Council together as a package.)

III. Background – Existing Context

Developing the FBC is highly determined by existing context. This includes the existing building fabric, the building footprints, the height and scale of structures, building placement in relation to the street and other buildings, the proportion and form of facades and roofs. Therefore, several key aspects of the neighborhood were studied for the last

several years for the India Street neighborhood planning process as well as the development of the FBC.

History and building inventory

Julie Larry of Turk Tracey Larry Architects was hired as a consultant in 2012/2013 to inventory all the existing buildings in the neighborhood and write a historical narrative of the neighborhood. Those documents can be found on the India Street project webpage at www.portlandmaine.gov

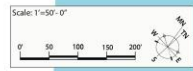
Architectural character

The architectural character is best understood by reading the history of India Street as prepared by Julie Larry (available online at project webpage) and with a site walk to take place during Workshop 2. The architectural character is varied with retail and mixed uses, smaller residential buildings, various religious institutions, and industrial and waterfront industry-related buildings. There are many brick, three-story buildings here accented by the larger institutional structures such as the Cathedral, synagogue, or North School – all also using masonry construction and set back from the street to alleviate the impact of the building scale. Much of the residential architecture includes single family, double-house, and triple-decker types, often brick or clapboard and basic vernacular architecture without a lot of ornamentation. There are also a variety of roof forms to be found in the neighborhood – flat roof, front end gable, and mansard being the most predominant.

Existing Heights and Zoning

The map below shows the existing zoning and height regulation in the India Street neighborhood as well as the approximate existing building heights. This aspect of the context was studied and considered especially in the development of the Regulating Plan and heights associated with each subdistrict. New development in the neighborhood, such as the parking garage, Bay House, and the hotels, is closer to the waterfront, large in form and tall in height – often around 65’ in height and spanning half or whole blocks. Block structure and lot size in this neighborhood is not uniform which also contributes to the varying scale of development.

Sustainable Neighborhood Plan INDIA STREET, PORTLAND MAINE



IV. Compatibility with the Comprehensive Plan – India Street Sustainable Neighborhood Plan

A form-based code addresses the following Goals and Development Principles of the India Street Sustainable Neighborhood Plan:

Goals:

Good Quality Design

- People are attracted to neighborhoods with good quality design. This includes not only the materials and aesthetics of new development but also the street presence and longevity of a project.
- Compatibility, especially in terms of building scale, is essential in a historic and mixed-used neighborhood such as this one.
- In this neighborhood, good quality design also includes good quality rehabilitation of existing and historic buildings.

Strong Neighborhood Identity Builds on Its Heritage

- Streetscape and building improvements (both existing and historic) as well as new development should contribute to an identity that promotes the neighborhood to prospective residents, tourists, and adjacent neighborhoods as a destination.
- The historic fabric and landmarks tell a story about this neighborhood and are critically important to its identity.

Development Principles:

1. Strong Neighborhood Identity - The India Street Neighborhood presents a human-scale, downtown-adjacent neighborhood with commerce, light industry, authenticity, and community. The key principle here is to bring these unique characteristics and assets into closer connection and a cohesive neighborhood identity that will permeate the built environment as well as associated housing and business – all serving to strengthen and enhance the community.

3. Neighborhood Heritage and Historic Preservation - The historic buildings that remain not only tell the story about how this neighborhood has evolved and functioned, but also contribute significantly to its unique character, scale, and patterns. . . . Infill construction will be a clear product of its own time, and respect established development patterns that characterize the neighborhood.

4. Mixed-use Neighborhood - The India Street neighborhood is today truly a mixed-use neighborhood with residences, businesses, offices, hotels, retail, and restaurants. The neighborhood plan should allow the mixed-use nature of this neighborhood to continue and expand, with the goal of providing a fair and high quality of life for all manner of people.

6. Retail Corridors - The beginnings of a retail corridor exist on India Street, the neighborhood's main street, as well as on Congress and Commercial streets, and commercial uses are dispersed across the neighborhood. The neighborhood's vitality will

be heightened with more concentrated commercial activity – particularly restaurants and retail – along India and on Congress, Commercial, and Middle streets.

7. Guided Growth - The India Street neighborhood is an ideal place to target sustainable growth due to the availability of development sites and existing urban infrastructure. . . . Growth will also come from increased density of smaller units of development rather than increased height. . . . There are several areas in which this growth will be located. Due to availability and size of land, significant growth will occur on large redevelopment sites toward the waterfront. As an urban avenue, Franklin Street has valuable frontage along which new development will redefine the neighborhood's edge and contribute to its identity as a desirable residential/mixed-use district. Smaller infill developments will be strongly encouraged as a way to expand the capacity for neighborhood growth and test prospective housing unit types.

8. Form of Development - Neighborhood growth will carefully consider of form and scale, with an emphasis on “human scale” development and good quality design. Graduation of form will vary by location so that future new development is appropriate to its surrounding context. Within intact historic streets, form is modulated to approximate surrounding building forms. In larger blocks presently dominated by surface parking, new buildings will be scaled proportionately to allow larger buildings with mass and scale designed to achieve a human scale street presence, protection of street view corridors, and varied and permeable block faces. The intended outcome will be a harmonious composition of new and old buildings that fit well together to create a lively fabric of modern and traditional building forms.

The Importance of Form – The identity of a downtown adjacent neighborhood is dictated in large part by its scale and pedestrian-friendly design. Critical elements include¹:

- Relatively high residential density within a relatively small district, putting many people within walking distance of many activities and, for trips outside of the district, regular and reliable bus service with bus stops;
- A fine-grained mix of uses – both horizontal and vertical – that invite a flow of people at different times of the day, seven days a week;
- A street pattern with pedestrian-scaled blocks. Longer blocks and larger buildings will be interrupted and made permeable by mid-block pedestrian ways, alleys, or streets;
- Continuous sidewalks designed with universal access and widths scaled to the pedestrian activity of the street, to allow two couples walking in opposite directions to comfortably pass each other, and to allow outdoor café seating on active retail streets;
- Strong street walls with development placed close to the property line at street frontage
- Street-oriented buildings, with commercial and mixed use buildings with “permeable” facades – front entrances and fenestration that relate to the street;

¹ These are drawn from the India Street Neighborhood workshop discussion, the City's design manual, and reference materials such as Ewing and Bartholomew, *Pedestrian- and Transit-Oriented Design* (2013).

- Human-scale buildings – neither so tall as to block a pedestrian’s cone of vision at four stories, nor so horizontally large or dominated by a single use as to discourage the casual interaction between pedestrians and a mix of uses along the street.

V. Components of the Form-based Code (Attachment 1)

- a. Purpose – Purpose statement and general vision statements applicable to whole district
- b. Definitions – There are many terms and descriptions used in FBC that are currently absent from Section 14-47 Definitions. This section includes quite a few definitions, some of which might be altered or removed based on the legal review. The intention is to clarify and bring efficiency to the code document.
- c. Subdistricts – Three subdistricts have been identified and created as part of the FBC and their purpose statements can be found in the code document. These are:
 - i. Urban Neighborhood (UN)
 - ii. Urban Transitional (UT)
 - iii. Urban Active (UA)
- d. Regulating Plan (Attachment 2) – The Regulating Plan is equivalent to a zoning map however, in this case, it was determined to designate subdistricts according to streets rather than blocks or parcels. FBC is most concerned with the streetscape and the presence of the buildings in the public realm. Therefore, the street designation seeks to regulate according to the existing context on each street. The Regulating Plan also includes the district boundary, and the proposed mid-block passages. Staff will elaborate on the components of the Regulating Plan in the workshop presentation.
- e. General Development Standards – These are development standards that apply to the entire district regardless of subdistrict designation. For the sake of efficiency, they are stated once in this section rather than repeated with each subdistrict section.
- f. Subdistrict Dimensional Requirements
 - i. Siting Standards – These include setbacks, building frontage lengths, lot coverage, and landscaping/screening.
 - ii. Height Standards – proposed heights are:
 1. UN – 45’ & 4 story max, 25’ & 2 story min
 2. UT – 65’ & 6 story max, 3 story min
 3. UA – 50’ & 4 story max, 3 story min with a 12’ min ground floor
 - iii. Building Envelope Standards (BES) – BES are similar to design guidelines and regulate the architectural features of the building. Staff proposes a system that describes a list of options that are “preferred.” Preferred elements are those which are common or predominant in each subdistrict. Rather than rely on the applicant, as the currently design guidelines do, to study and understand the context, the FBC seeks to provide strong guidance on desirable

qualities and characteristics of the existing neighborhood architectural context. If an applicant chooses to propose a project that is comprised of “preferred” architectural elements, then the application review process will be more expedient. For the most part, the FBC and BES are very permissive and staff does not seek to make the code prescriptive. However, if the applicant proposes forms that differ from the predominant characteristics as identified as “preferred” in the BES, then that project will require additional design review and potentially a Planning Board review depending on the type of application.

- iv. Parking Standards – The FBC continues to prohibit the creation of new surface parking within 35’ of any street. The FBC also proposes to allow the India Street FBC district to take advantage of the parking fee-in-lieu. Finally, the FBC proposes to exempt the first three residential units from parking requirements.
- g. Additional Diagrams – Some concepts and definitions are further illustrated with diagrams such as corner conditions, building separation, and fence/wall requirements.
- h. Administration – The Form-based Code will become a section of the existing Chapter 14 Land Use Code, Division 15 Zoning and development projects will continue to be subject to Site Plan and Subdivision Ordinances. Projects will still have design review, however, the intention is to provide an efficient review process for projects by creating the “preferred” options. Staff will also be proposing some revised thresholds for Planning Board review as well as a checklist process for review of applications. Staff would like to discuss the administrative and procedure components of the code more thoroughly at Workshop 3.
- i. Other Considerations – Some FBC address elements such as streetscape design or signage. In this case, we are relying on the impending development of a Complete Streets Design Manual for the City of Portland to guide that aspect of the neighborhood design. There is also existing sign permitting policy which will remain for this neighborhood. The sign ordinance would be amended to include FBC subdistricts.

VI. Workshop One Goals

- Explanation of the Subdistricts:
 - i. How these three subdistricts reflect the character of the neighborhood;
 - 1. Rationale for the number of subdistricts;
 - 2. Description of subdistricts;
 - ii. Designated on the Regulating Plan, street subdistrict depiction, boundary and intersection characteristics;
- Dimensional Requirements:
 - i. Height: Rationale for the proposed heights and the specified locations;

- ii. Building Length: Importance of managing frontage building lengths and discussion of perceptual effect of larger building forms; How to accommodate developer needs/preferences/market forces while generating a form that respects the context of smaller lot incremental development
- Code Organization and Components
 - i. Formatting: Provision of maps, diagrams, tables and narrative to convey information clearly and easy to use;
 - ii. Further opportunities for incorporation of diagrams and illustrations tographically depict the regulations and intended outcomes;

Attachments

1. India Street Form-based Code Draft
2. Regulating Plan

DIVISION 15.2 IS-FBC - INDIA STREET FORM-BASED CODE DISTRICT

Sec. 14- XXX. Purpose

The India Street Form-based Code is different than traditional zoning, placing the primary emphasis on a buildings physical form and its relationship to the street, with a secondary focus on land uses. The intent of the India Street Form-based Code district is to establish a zoning district that encourage a vibrant, walkable, mixed-use, urban district, preserves and values the existing historic neighborhood fabric, fosters and supports local businesses and residential areas. The components of a Form-Based Code include the REGULATING PLAN, Subdistricts, General Development Standards, Dimensional Requirements, BUILDING ENVELOPE STANDARDS, Diagrams, and Definitions.

The goal of the India Street Form-based Code is the creation and preservation of a vital and human scale public realm through good street space design. The General Guiding Principles set forth here shall be applicable to all subdistricts within the India Street Form-based Code.

1. The street is a coherent space, with consistent building and streetscape character on both sides of the street. This agreement of buildings and streetscape across the street contributes to a clear public space and district identity.
2. The street wall is visually well defined. Land should be clearly public or private. Buildings contribute to the vital and safe public space while providing a clear boundary to the private, protected realm.
3. Street walls are engaged with the street environment. Vehicle storage, garbage, and mechanical equipment should be kept away from the street. Shared infrastructure to the extent practicable, including, but not limited to service alleys, parking areas, stormwater treatment, public transportation facilities, and driveways, shall be utilized.
4. Buildings are designed for the urban environment. Buildings must be designed for the urban situation within the district. Facades are oriented to the street.
5. Respect historic character. If your property is within the India Street Historic District, **Sec. xx** is applicable. New development, ADDITIONS, or ALTERATIONS in the India Street Historic District shall reflect and complement the character defining features and elements of the existing historic development to which it is visually related.
Heights . . .

Sec. 14- xx Applicability

The requirements set forth in this Division shall apply to all new development, primary and accessory structures, including ADDITIONS and ALTERATIONS within the India Street Form-based Code District as designated on the India Street REGULATING PLAN.

Sec. 14-xx Other Provisions

All development must comply with relevant Federal, State, and City regulations. Whenever any provision of this Code imposes a greater requirement or a higher standard than is required in any State or Federal statute or other local by-law or regulation, the provisions of this Code shall govern unless preempted by State or Federal law.

Sec. 14-xx Severability

The provisions of this Code shall be severable, and in the event one (1) or more of the provisions of this Code shall be judged to be invalid or unenforceable, the validity and enforceability of the remaining provisions shall not in any way be affected or impaired by such adjudication.

Sec. 14-xx Compliance with the Regulating Plan

Within the India Street Form-based District as presented on the REGULATING PLAN, all lots hereafter created or modified, all buildings and structures hereafter erected, reconstructed, altered, enlarged or moved, all uses hereafter established, all other development or improvements, and all plans, applications and submissions shall comply with the requirements of this Form-based Code, as well as with all provisions of this Zoning Ordinance that are not superseded by the Form-based Code.

Sec. 14-xx Definitions

Terms used throughout this Form Based Code may be defined in Section 14-47 or elsewhere in the Zoning Ordinance. Terms not so defined shall be accorded their commonly accepted meanings. In the event of any conflict between the definitions in this Section and those in Section 14-47, or any other sections of the Zoning Ordinance, the Subdivision Rules and Regulations, or any other local land use ordinances, rules or regulations, those of this Form-based Code shall take precedence.

ADDITION: Any increase to footprint or volume of an existing structure.

ALTERATION: A change or rearrangement in the structural supports, exterior appearance, height, width or depth, moving of a structure from one location or position to another, or changing, adding to, or removing from or otherwise affecting the exterior appearance of a structure.

BLOCK: The aggregate of private lots, passages, and rear alleys circumscribed by streets.

BLOCK FACE: The aggregate of all the building facades on one side of a block.

BUILDABLE AREA: The area enclosed by the front, side, and rear yard setbacks.

BUILDING ENVELOPE STANDARD (BES): The basic parameters governing building form, including the building envelope and required and preferred architectural elements such as fenestration, roof lines, façade composition, materials, and articulation.

DRIVEWAY: The area used for vehicular access to an off-street parking area from a street or alley. Driveway shall also include the area used for vehicular access to areas of the zoning lot other than an off-street parking area.

ELEVATION: An exterior wall of a building not along a frontage line.

ENTRANCE: Point(s) of access for pedestrians into or out of a building that do not serve as the main point of access. A building may have more than one entrance.

ENTRANCE, PRINCIPAL: The main point of access for pedestrians into a building. A building may have more than one principal entrance.

EXPRESSION LINE: A line prescribed at a certain level of a building for the major part of the width of a Façade, expressed by a variation in material or by a limited projection such as a molding or balcony.

FAÇADE: Any exterior wall of a structure exposed to public view from a public right-of-way.

FAÇADE, BLANK: Building façade that contains expanses of wall area with no windows, no entrances, and no other elements or features, or is otherwise undifferentiated.

FRONTAGE: The area between a building façade and the vehicular lanes, inclusive of its built and planted components. Frontage includes private and public frontage.

FRONTAGE LINE: A lot line bordering a public frontage. Facades facing frontage lines define the public realm and are therefore more regulated than the elevations facing other lot lines.

FULL BUILDING SEPARATION: The condition of having a vertical party wall between two attached structures.

GREEN ROOF: A roof of a building that is partially or completely covered with vegetation. A green roof may serve the purpose of, but not limited to, stormwater retention or slowing, energy conservation, insulation, reduced heat island effect.

LOT, CORNER: A lot on the junction of and abutting two (2) or more intersecting streets where the interior angle of intersection does not exceed 135 degrees.

PARTY WALL: A wall common to two adjoining attached structures.

PASSAGE: A pedestrian connector, open or roofed, that passes between buildings to provide shortcuts through long blocks

PREDOMINANT: Architectural elements or characteristics being most frequent or common in a given subdistrict.

PREFERRED: A predominant architectural element or characteristic sanctioned as being an acceptable design choice in a given subdistrict. Any proposed architectural element or characteristic not listed as preferred shall require additional design review for compatibility with context.

REGULATING PLAN: A zoning map or set of maps that shows the boundary of the area and subdistricts subject to, or potentially subject to, regulation by the India Street Form-based Code.

STEPBACK: A building setback of a specified distance that occurs at a prescribed number of stories or height above the ground.

STOOP: A private frontage wherein the façade is aligned close to the frontage line with the first story elevated from the sidewalk with an exterior stair and landing at the entrance.

STRUCTURE, ACCESSORY: Detached structure that is incidental and subordinate in area and extent to the principal structure on the property. A lot may have more than one accessory structure.

STRUCTURE, PRINCIPAL: The main structure(s) on a lot having the predominant area and extent. A lot may have more than one principal structure.

STRUCTURES, ATTACHED: Two or more independent structures that share at least one common wall but have full building separation; not free-standing. Attached structures may or may not have common ownership.

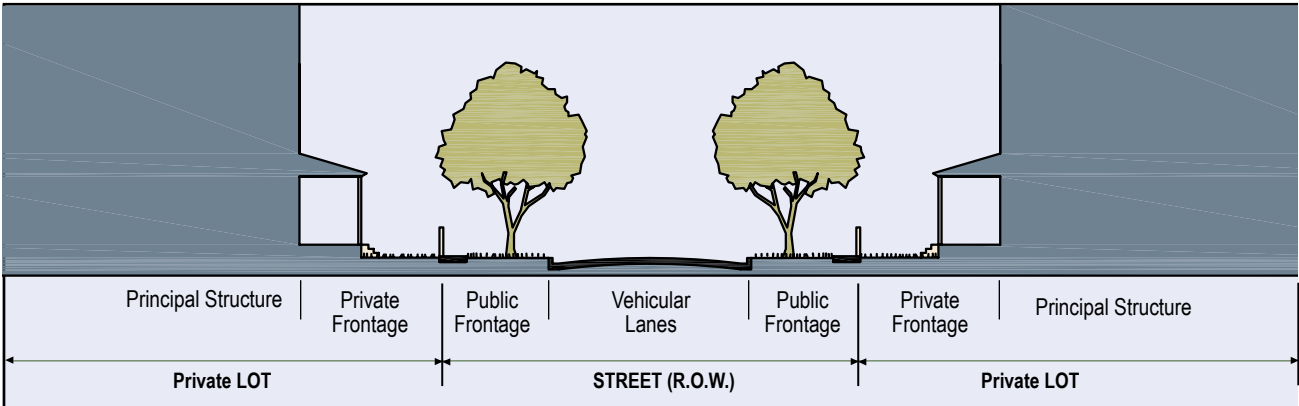
YARD, SIDE: A yard adjoining a side lot line extending from the front yard to the rear yard, the width of which shall be the shortest horizontal distance between the side lot line and any structure. On corner lots, non-frontage yards shall be considered side yards.

ZERO LOT LINE: The location of a structure on a lot such that one or more of the structure sides rests directly on a lot line.

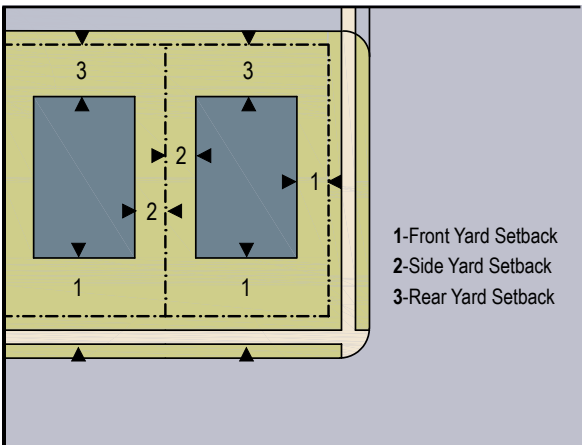
Table xx Definitions illustrated

TABLE XX. DEFINITIONS ILLUSTRATED

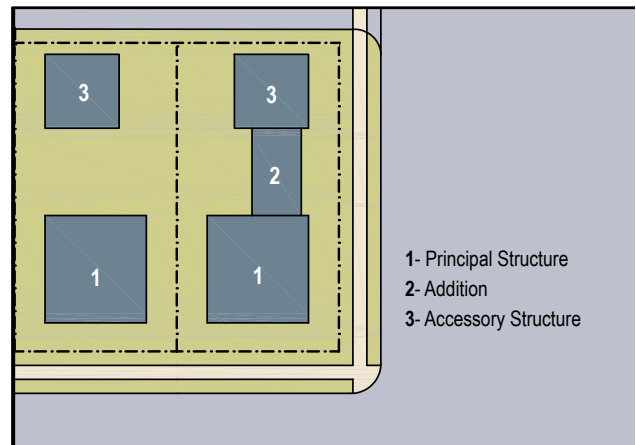
STREETS & FRONTAGES



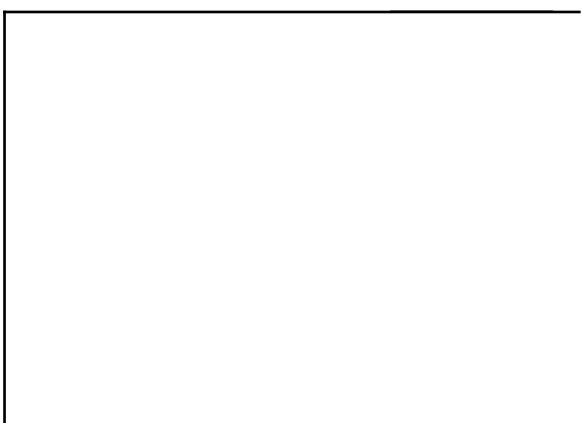
SETBACK DESIGNATIONS



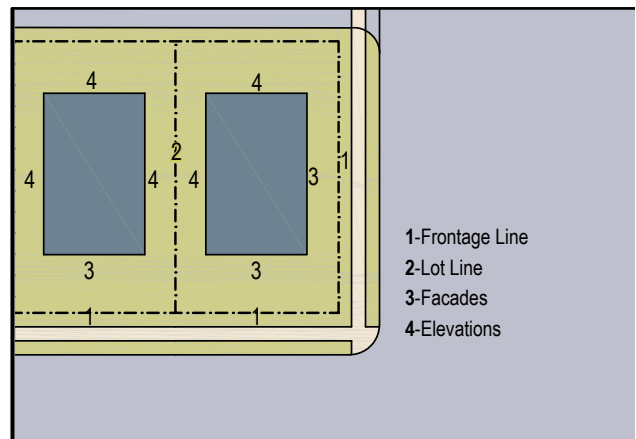
STRUCTURE - PRINCIPAL & ACCESSORY



ZERO LOT LINES



FRONTAGE & LOT LINES



Sec. 14-xx Establishment of subdistricts

The India Street Form-based Code District covers 57 acres and is divided into three distinct subdistricts.

a) Urban Neighborhood (UN) Subdistrict:

The intent of this subdistrict is to maintain and promote a mixed-use but primarily private, less active urban fabric. Building frontages may be less transparent and entries raised above sidewalk level. The subdistrict has smaller building footprints and many buildings within one block. Building types may include but are not limited to single, sideyard, and rowhouses, duplexes, triple-deckers, and double triple-deckers. Setbacks and landscaping are variable. Streets and sidewalks tend to be narrow.

b) Urban Transitional (UT) Subdistrict:

The intent of this subdistrict is to encourage higher density mixed-use building types that accommodate any use. Street-facing building frontages are a mix of activity level and more flexibility of height and scale. Ground floor spaces may be less transparent and tend to accommodate flexible and changing uses. The streetscape may be less active than the UA subdistrict with wide sidewalks, street trees, and setbacks and stepbacks providing relief from large building masses.

c) Urban Active (UA) Subdistrict:

The intent of this subdistrict is to maintain and promote the look and feel of a small scale, diverse, mixed-use neighborhood with vibrant streets and active ground floor spaces. Buildings shall engage with the street at the ground level and contribute to a strong street wall. Building frontages are transparent and entries are at sidewalk level. Building height, mass, and scale shall be respectful of historic buildings in this zone. The streetscape has steady street planting, and buildings set close to the street.

Sec. 14-xx Administration

The standards in the form based zones are specific and prescriptive. This level of specificity is meant to provide certainty for applicants, neighborhoods and City staff and is not intended to limit design creativity or ignore unique site features.

a) Application Requirements.

In addition all required application materials defined in [Article V Site Plan](#), applicants submitting under the India Street Character-based Code shall additionally submit the application and checklist specific to this District.

b) Common Review Procedures.

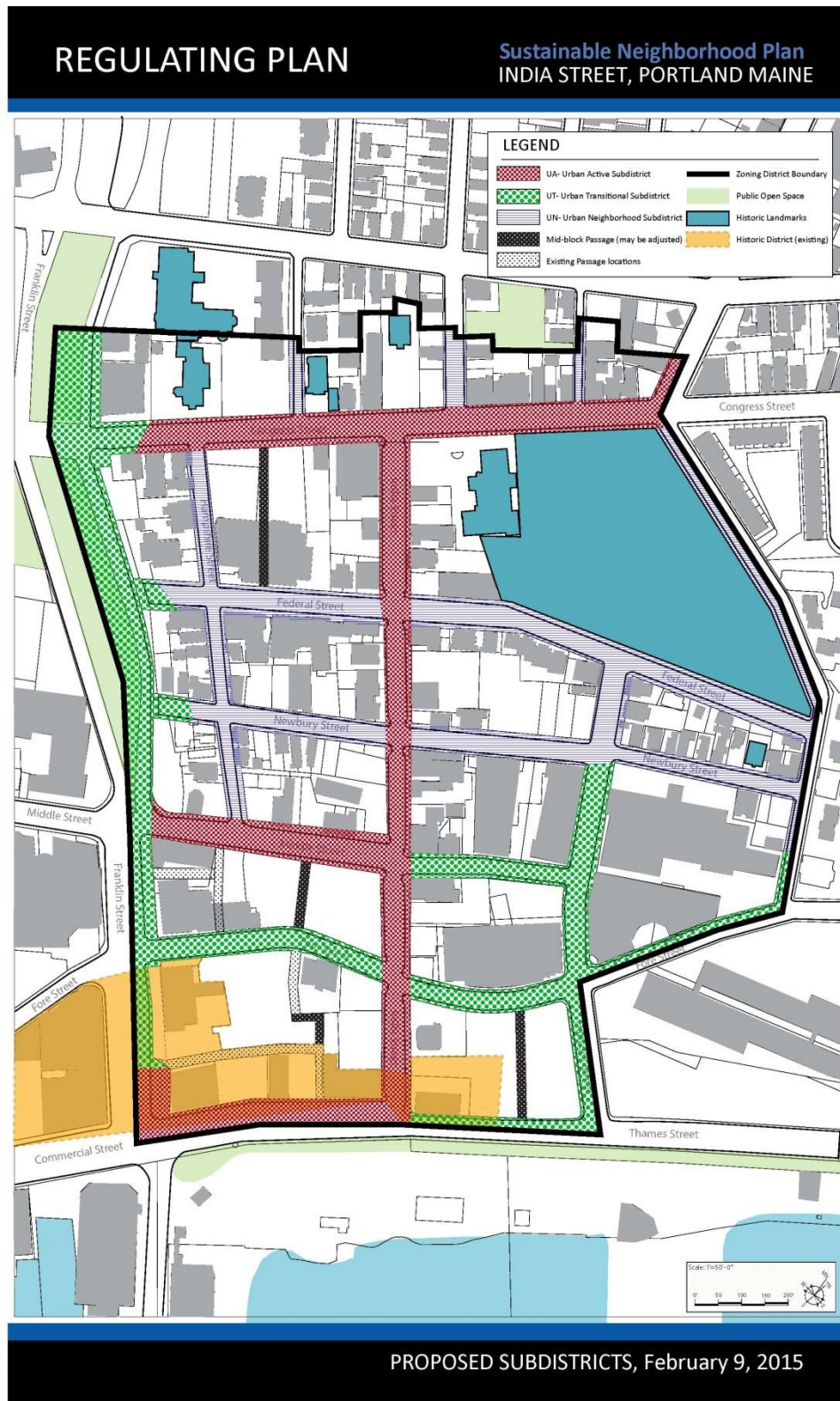
Development review will be conducted in accordance with the procedures set forth in Article V Site Plan of the City of Portland Zoning Ordinance, and as further defined by the table below:

Type of Application	Definition	Level of Review	Reviewing Authority
By Right Option	Projects on smaller site (square feet?) are considered under Level I or Level II Site Plan Review standards and are able to build as a matter right when	Administrative Site Plan- Level I, Level II	Planning Staff

	they meet all of the standards of the India Street Character Code.		
Special Permit Option	This option applies to projects that meet the intent of the code but deviate from one or more of the standards. They are considered under Level III or Master Development Plan as outlined in Article V Site Plan Review Standards, and require the approval of the Planning Board.	Level III Site Plan and Master DevelopmentPlan	Planning Board

Section 14-xx Regulating Plan

The REGULATING PLAN provides standards for the disposition of each property, or LOT and how each relates to its adjacent properties and STREETS.



Sec. 14-xx General Development Standards

The following standards apply to all subdistricts unless expressly stated otherwise.

- a) PROHIBITED USES – uses not to be established in the India Street Form-based Code District include:

Cremation facilities,

Drive-through facilities,

High-impact industrial uses, including industrial uses that are prohibited in the IL zone, specifically Section 14-233(c), (e – y), (aa),

Major/minor auto-service station,

Truck terminals,

Waste related services,

and storage and parking facilities for Class 1 flammable and combustible liquids (having an aggregate total of more than 100 gallons) but excluding storage that is part of a motorized vehicle or pleasure craft facility.

- b) SITING STANDARDS

1. Mid-block Permeability – For each and every 200' in frontage line length of lot:
 - a. For lots with frontage on two streets roughly parallel to Commercial/Thames Street a full break between structures of at least 20' in width must be provided roughly perpendicular to Commercial/Thames Street and within the middle third of the applicable street frontage.
 - b. Refer to REGULATING PLAN for identified mid-block passage locations
2. Attached Structures on Individual Lots - Subdivision developments consisting of horizontally attached dwellings on individual lots are not required to have side yards between buildings where a party wall condition will exist, but shall be required to meet the applicable side yard requirements at the external and internal subdivision lot boundaries between buildings that are not attached to each other.
3. Landscaping and Screening - The lot shall be suitably landscaped to screen parking, surrounding uses, and accessory site elements, including storage and solid waste receptacles where required by article IV (subdivisions) and article V (site plan).
4. Building ADDITIONS – Building ADDITIONS may match but not exceed the length of the existing building to which they are additions. (See Table XX)

- c) HEIGHT STANDARDS

1. Height Increase – one of the following provisions may be applied per structure:
 - a. For residential development with residential density equal to or greater than 150 dwelling units per acre (density must be achieved within stated subdistrict maximum building height), one additional story of up to 12' above the stated building height maximum is allowed provided that such bonus story shall be stepped back an additional 15' from each and every building edge facing adjacent streets.
 - b. For any development providing a GREEN ROOF, where at least 50% of the lot area is pervious and where at least 50% of the roof is a GREEN ROOF, one addition story in height (up to 12') is

allowed provided that such added bonus story shall be stepped back an additional 15' from each and every building edge facing adjacent streets.

d) **PARKING STANDARDS**

1. No parking is required for the first three dwelling units in a multi-family residential development.
2. Any major or minor development shall be eligible for the Peninsula fee-in-lieu of parking subject to the provisions of Sec. 14-345 of Chapter 14 Land Use Code.
3. Exception – One frontage building length exceeding 100' without partition walls is allowed for the use of ground-level structured parking only if the following conditions are met:
 - a. Building projections or unique design features are provided at building entrances and/or at least one corner
 - b. Project provides an open space ratio of 15%. This area shall not include parking areas or other impervious surfaces as defined in Section 14-47
 - c. Project is subject to additional design review

e) **BUILDING ENVELOPE STANDARDS**

1. New construction and ADDITIONS should respect the surrounding context demonstrating recognition of patterns and characteristics that exist in the context sharing the same streetscape. Such patterns and characteristics include:
 - a. Rhythm of spacing and structures on the streetscape
 - b. Proportion of principle facades
 - c. Rhythm of solids to voids in facades
 - d. Proportion of openings
 - e. Rhythm of entries and projections
 - f. Roof shapes
 - g. Relationship of materials, texture, and color
2. High quality materials and design techniques shall be applied. Developments shall use high quality, durable, and authentic materials that exhibit longevity and integrity. Building materials and techniques shall reflect or complement the existing materials and techniques within the India Street Form-based Code District and shall be visually compatible with the predominant materials used in the structures to which they are visually related.

Sec. 14-xx Subdistrict Dimensional Requirements

SEC XX. SUBDISTRICT DIMENSIONAL REQUIREMENTS - UN

Urban Neighborhood (UN) Subdistrict:

The intent of this subdistrict is to maintain and promote a mixed use but primarily private, less active urban fabric. Building frontages may be less transparent and entries raised above sidewalk level. The subdistrict has smaller building footprints and many buildings within one block. Building types may include but are not limited to single, sideyard, and rowhouses, duplexes, triple-deckers, and double triple-deckers. Setbacks and landscaping are variable. Streets and sidewalks tend to be narrow.

SITING STANDARDS

Orientation	N/A
Lot Coverage	100% max

FRONTAGE REQUIREMENTS (see Table x)

(a) Building Length at Frontage	50'0" max.
Attached Buildings	
30' Building Length	unlimited run
50' Building Length	run of up to 3 buildings
100' Building Length	not permitted

SETBACKS - PRINCIPAL STRUCTURE

(b) Front Yard Setback	5'0" max.
(c) Side Yard Setback	5'0" min.
(d) Rear Yard Setback	10'0" min.
Frontage Line Buildout	75% min. at setback

WALLS/FENCES (see Table x)

At Frontage - Height	6'0" max.
Visual Permeability	above 2'0" from sidewalk
Non-frontage - Height	8'0" max.

HEIGHT STANDARDS

Building Height Min.**	25' and 2 stories
Building Height Max.	45' and 4 stories
Ground Story Height	N/A

PARKING STANDARDS (SURFACE PARKING)

Front Yard	not permitted
Side Yard	20' max in width
Rear Yard	permitted 35' from street
Garage Doors (facing street)	40% max. of facade length
or	20' max. whichever is less
Curb Cuts	1 max. per frontage

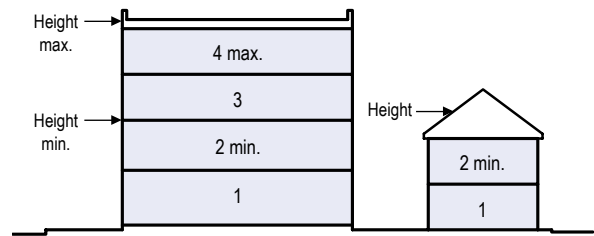
Exceptions

*One frontage building length exceeding 100' without partition walls is allowed for the use of ground-level structured parking on special condition (see Sec 14.xx d) 3.)

**Pre-existing industrial uses are exempt from story minimums.

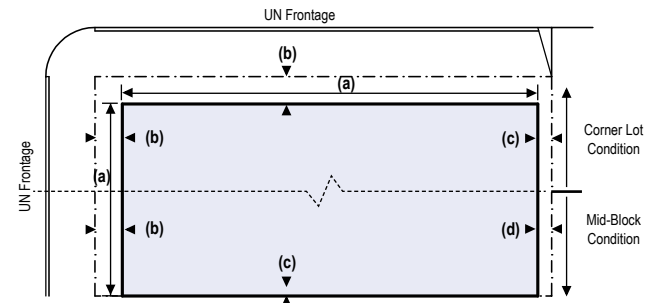
HEIGHT STANDARDS

- Height shall be measured from grade to the highest point of roof beams as specified in Sec. 14-47 Definitions "Building, height of."
- Number of Stories excludes attics and raised basements.



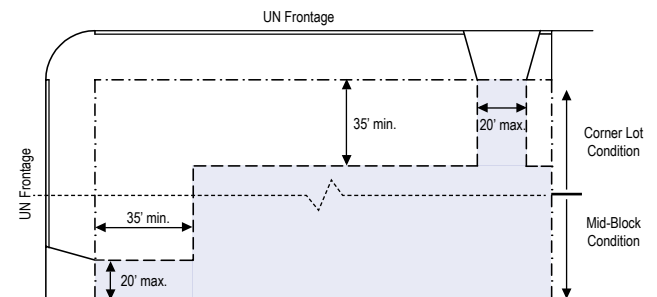
SETBACKS - PRINCIPAL STRUCT

- The Facades and Elevations of Principal Structures shall be distanced from the Lot lines as shown.
- Facades shall be built along the Frontage Lines to the minimum specified width in the table.



PARKING PLACEMENT

- Surface parking areas may be provided within the shaded area shown.
- Exceptions may be made for structured parking with additional design review. See Sec. 14.xx (d) 3. Exception.



SEC XX. SUBDISTRICT DIMENSIONAL REQUIREMENTS - UT

Urban Transitional (UT) Subdistrict:

The intent of this subdistrict is to encourage higher density mixed-use building types that accommodate any use. Street-facing building frontages are a mix of activity level and more flexibility of height and scale. Ground floor spaces may be less transparent and tend to accommodate flexible and changing uses. The streetscape may be less active than the UA subdistrict with wide sidewalks, street trees, and setbacks and stepbacks providing relief from large building masses.

SITING STANDARDS

Orientation	N/A
Lot Coverage	100% max

FRONTAGE REQUIREMENTS (see Table x)

(a) Building Length at Frontage*	100'0" max.
Attached Buildings	
30' Building Length	unlimited run
50' Building Length	run of up to 3 buildings
100' Building Length	run of up to 2 buildings

SETBACKS - PRINCIPAL STRUCTURE

(b) Front Yard Setback	10'0" max.
(c) Side Yard Setback	10'0" min.
(d) Rear Yard Setback	10'0" min.
Frontage Line Buildout	75% min. at setback

WALLS/FENCES (see Table x)

At Frontage - Height	6'0" max.
Visual Permeability	above 2'0" from sidewalk
Non-frontage - Height	8'0" max.

HEIGHT STANDARDS

Building Height Min.**	3 stories
Building Height Max.	65' and 6 stories
Ground Story Height	N/A

PARKING STANDARDS (SURFACE PARKING)

Front Yard	not permitted
Side Yard	permitted 35' from street
Rear Yard	permitted 35' from street
Garage Doors (facing street)	40% max. of facade length
or	20' max. whichever is less
Curb Cuts	2 max. per frontage

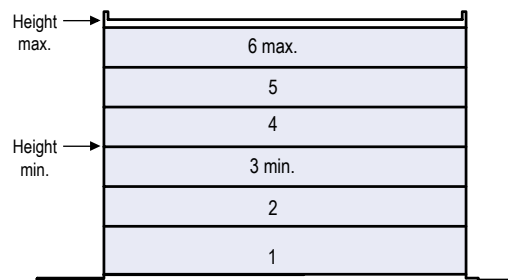
Exceptions

*One frontage building length exceeding 100' without partition walls is allowed for the use of ground-level structured parking on special condition (see Sec 14.xx d) 3.)

**Pre-existing industrial uses are exempt from story minimums.

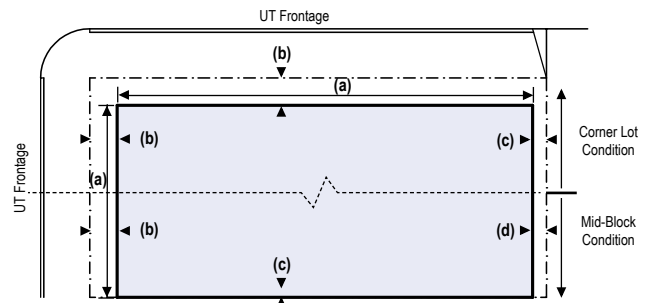
HEIGHT STANDARDS

- Height shall be measured from grade to the highest point of roof beams as specified in Sec. 14-47 Definitions "Building, height of."
- Number of Stories excludes attics and raised basements.



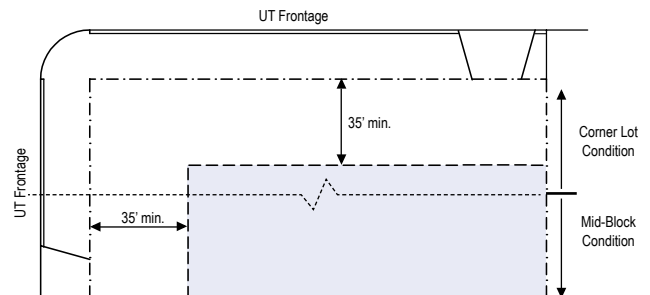
SETBACKS - PRINCIPAL STRUCT

- The Facades and Elevations of Principal Structures shall be distanced from the Lot lines as shown.
- Facades shall be built along the Frontage Lines to the minimum specified width in the table.



PARKING PLACEMENT

- Surface parking areas may be provided within the shaded area shown.
- Exceptions may be made for structured parking with additional design review. See Sec. 14.xx (d) 3. Exception.



SEC XX. SUBDISTRICT DIMENSIONAL REQUIREMENTS - UA

Urban Active (UA) Subdistrict:

The intent of this subdistrict is to maintain and promote the look and feel of a small scale, diverse, mixed-use neighborhood with vibrant streets and active ground floor spaces. Buildings shall engage with the street at the ground level and contribute to a strong street wall. Building frontages are transparent and entries are at sidewalk level. Building height, mass, and scale shall be respectful of historic buildings in this zone. The streetscape has steady street planting, and buildings set close to the street.

SITING STANDARDS

Orientation	Strong orientation to UA street
Lot Coverage	100% max

FRONTAGE REQUIREMENTS (see Table x)

(a) Building Length at Frontage*	50'0" max.
Attached Buildings	
30' Building Length	unlimited run
50' Building Length	run of up to 3 buildings
100' Building Length	not permitted

SETBACKS - PRINCIPAL STRUCTURE

(b) Front Yard Setback**	5'0" max.
(c) Side Yard Setback	5'0" min.
(d) Rear Yard Setback	10'0" min.
Frontage Line Buildout	75% min. at setback

WALLS/FENCES (see Table x)

At Frontage - Height	6'0" max.
Visual Permeability	above 2'0" from sidewalk
Non-frontage - Height	8'0" max.

HEIGHT STANDARDS

Building Height Min.***	3 stories
Building Height Max.	50' and 4 stories
Ground Story Height	12'0" min.

PARKING STANDARDS (SURFACE PARKING)

Front Yard	not permitted
Side Yard	permitted 35' from street
Rear Yard	permitted 35' from street
Garage Doors (facing street)	40% max. of facade length
or	20' max. whichever is less
Curb Cuts	1 max. per frontage

Exceptions

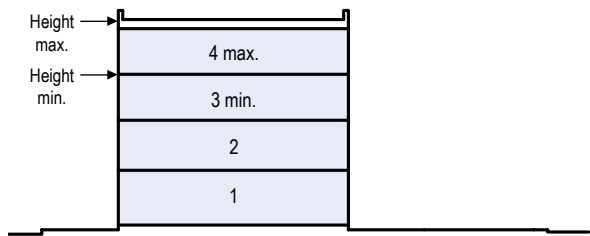
*One frontage building length exceeding 100' without partition walls is allowed for the use of ground-level structured parking on special condition (see Sec 14.xx d) 3.)

**Up to 10'0" max. front yard setback is allowed if ground plane at frontage is a continuation of the accessible public right-of-way

***Pre-existing industrial uses are exempt from story minimums.

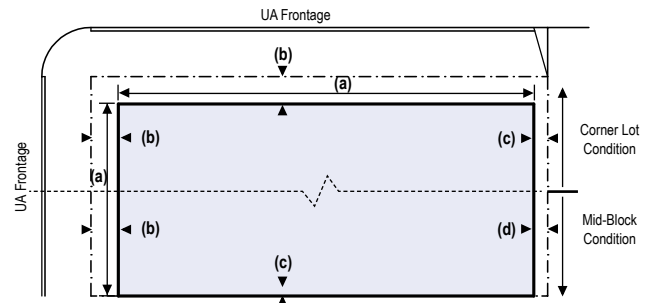
HEIGHT STANDARDS

- Height shall be measured from grade to the highest point of roof beams as specified in Sec. 14-47 Definitions "Building, height of."
- Number of Stories excludes attics and raised basements.



SETBACKS - PRINCIPAL STRCT

- The Facades and Elevations of Principal Structures shall be distanced from the Lot lines as shown.
- Facades shall be built along the Frontage Lines to the minimum specified width in the table.



PARKING PLACEMENT

- Surface parking areas may be provided within the shaded area shown.
- Exceptions may be made for structured parking with additional design review. See Sec. 14.xx (d) 3. Exception.

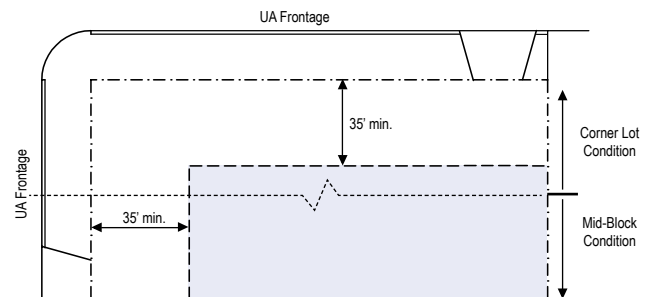


TABLE XX CORNER CONDITIONS

Corner Lot

A CORNER LOT is a lot on the junction of and abutting two (2) or more intersecting streets where the interior angle of intersection does not exceed 135 degrees.

Where two subdistricts intersect at a corner, for lots bounded by streets with different subdistrict designations, the Dimensional Requirements and Building Envelope Standards of the more restrictive (lessor allowed height) subdistrict shall extend 35' into the lot along its associated street frontage or public ways including required mid-block passage. Otherwise, Dimensional Requirements shall be according to subdistrict onto which the facade faces

SITING STANDARDS

Orientation	according to subdistrict
Lot Coverage	100% max

FRONTAGE REQUIREMENTS (see Table x)

Building Length at Frontage	according to subdistrict
Attached Buildings	
30' Building Length	unlimited run
50' Building Length	run of up to 3 buildings
100' Building Length	according to subdistrict

SETBACKS - PRINCIPAL STRUCTURE AT CORNER

(b) Front Yard Setback	according to subdistrict
(c) Side Yard Setback	according to subdistrict
(d) Rear Yard Setback	10'0" min.
Frontage Line Buildout	75% min. at setback

WALLS/FENCES (see Table x)

At Frontage - Height	6'0" max.
Visual Permeability	above 2'0" from sidewalk
Non-frontage - Height	8'0" max.

HEIGHT STANDARDS

Building Height Min.*	according to subdistrict
Building Height Max.	according to subdistrict
Ground Story Height	according to subdistrict

PARKING STANDARDS

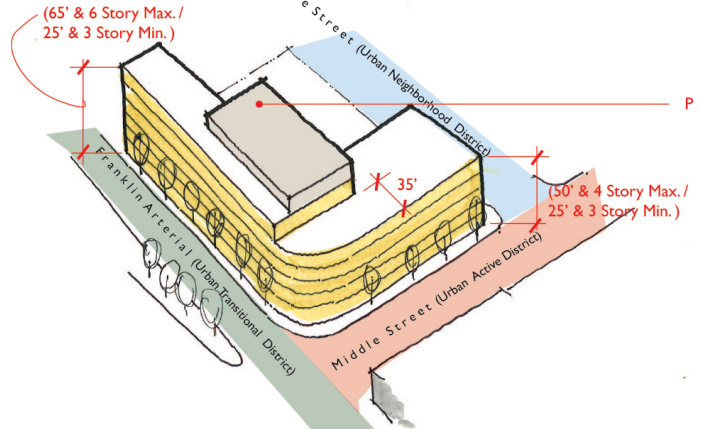
Front Yard	not permitted
Side Yard	according to subdistrict
Rear Yard	according to subdistrict
Garage Doors (facing street)	40% max. of facade length
or	20' max. whichever is less
Curb Cuts	according to subdistrict

Exceptions

*Pre-existing industrial uses are exempt from story minimums.

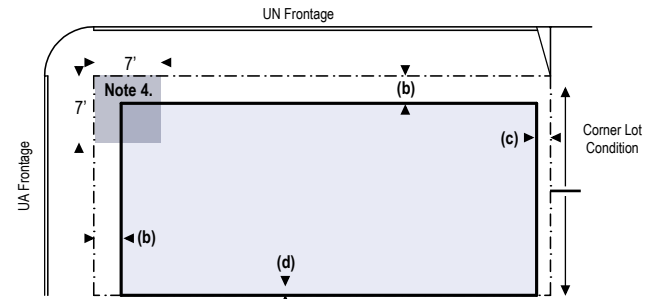
CORNER EXAMPLE

- Where two subdistricts intersect at a corner, for lots bounded by streets with different subdistrict designations, the Dimensional Requirements and Building Envelope Standards of the more restrictive (lessor allowed height) subdistrict shall extend 35' into the lot along its associated street frontage or public ways including required mid-block passages.



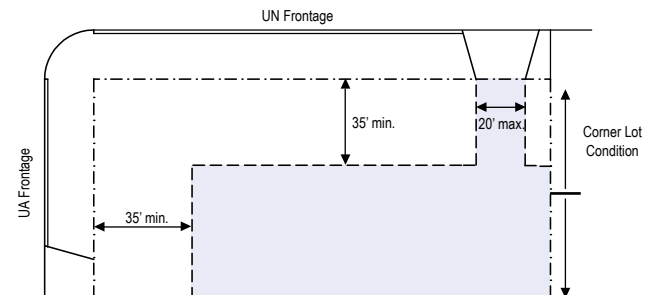
SETBACKS - PRINCIPAL STRUCT

- The Facades and Elevations of Principal Structures shall be distanced from the Lot lines as shown.
- Facades shall be built along the Frontage Lines to the minimum specified width according to the requirements of the subdistrict onto which the facade faces.
- Corner lots shall be treated as having street frontage on all streets regardless of building orientation.
- Ground floor portions of facades within 7' of a corner are exempt from setback requirements in order to allow special corner treatments in these areas.



PARKING EXAMPLE

- Surface parking areas may be provided within the shaded area shown (in this example only).
- Exceptions may be made for structured parking with additional design review. See Sec. 14.xx (d) 3. Exception.



SEC. XX BUILDING ENVELOPE STANDARDS

Preferred: A predominant architectural element or characteristic sanctioned as being an acceptable design choice in a given subdistrict.
Any architectural element or characteristic not listed as preferred shall require additional design review for compatibility with context.

	UN	UT	UA
FACADE COMPOSITION (preferred options)			
Vertical Proportion	X		
Double-house Proportion	X		
Two-part Composition	X		
Three-part Composition	X		
Symmetrical or local symmetry	X	X	X
Clearly defined base, middle, and top		X	X
Delineation of floors (Examples: belt courses, changes in materials, stepbacks, or transoms)		X	X
BLANK FACADE			
Maximum Length	not permitted	30'	15'

Notes:

- All Facades shall be designed to avoid the appearance of the "back of the building."
- Facades shall be articulated to improve the quality of the building design. Appropriate methods of articulation include a combination of, but not limited to, the following:
 - Stoops, porches, bay windows, overhangs, and other variations to the façade planes
 - Changing the direction of the wall or façade
 - Stepping back an upper floor
 - Increasing the number and/or size of window openings
 - Altering the height of the building or roofline
 - Breaking up large, smooth surfaces with expansion joints, expression lines, reveals, recessed panels, molding, or changes in texture and color
 - Providing trellises, canopies, awnings, or similar projecting features over window openings
 - Adding depth and detail to the cornice or roof parapet
 - Recessing entrances and windows into the façade to create depth and shadow lines
 - Providing building projections or unique design features at building entrances and/or corner
 - Creating a defined building base and cap

	UN	UT	UA
FENESTRATION CHARACTERISTICS (preferred options)			
Vertical window proportion	X		X
Local symmetry	X		X
Frequent and symmetrical rhythm of fenestration (upper floors)		X	
Top alignment	X	X	X
Articulation of lintel and sill	X	X	X
Up to two window types	X		X
Bay window	X		X
Storefront		X	X

BUILDING ENTRY CHARACTERISTICS (preferred options)			
Street-facing	X	X	X
One large principal Entry		X	
Entry near corner		X	
Recessed Entry	X		X
Ground-level Stoop		X	X
Elevated Stoop	X		
Canopy or Awning with brackets	X		

BUILDING ENTRY CONFIGURATION - PRINCIPAL ENTRY(IES)			
Street-facing Entry	X	X*	X*
Side Entry	X		
Corner Entry	X	X	X
Elevated Stoop (more than 1 step above sidewalk grade)	X	X	

*At least 1 principal entry must face an UA street

BUILDING ENTRY CONFIGURATION - NON-PRINCIPAL ENTRY(IES)			
Street-facing Entry	X	X	X
Side Entry	X	X	X
Corner Entry	X	X	X**
Elevated Stoop (more than 1 step above sidewalk grade)	X	X	X**

**If corner entry is at an intersection of two subdistricts, elevated stoop is allowed

ENTRY FREQUENCY (preferred)			
Entry provided at least every	35'	95'	40'

Notes:

- Principal entrance(s) to the building shall be designed as a prominent element of the facade
- Provide unique building elements that emphasize the entrance such as, but not limited to:
 - Change in roofline
 - Recessed facade at entrance
 - Expressed structure
 - Projecting elements such as a canopy and stoop
 - Change in material
 - Lighting features

TABLE XX. BUILDING ENVELOPE STANDARDS (CONTINUED)

Preferred: A predominant architectural element or characteristic sanctioned as being an acceptable design choice in a given subdistrict.
Any architectural element or characteristic not listed as preferred shall require additional design review for compatibility with context.

	UN	UT	UA
ROOF FORMS (preferred options)			
Flat Roof with eaves or parapet and articulated cornice line	X	X	X
Front Gable, symmetrical (without dormer) pitch between 7:12 and 12:12	X		X
Side Gable, symmetrical (without dormer) pitch between 7:12 and 12:12	X		
Hipped or Cross-hipped	X		
Mansard	X		X

Notes:

- All roof profiles allowed in all subdistricts
- Roof line shall be articulated with the use of details such as, but not limited to:
 - Cornices
 - Moldings, trims, and fascia boards
 - Altering the height of the building or roofline
 - Open eaves and rakes, and other overhangs
 - Exposed rafters or purlins, or decorative brackets

	UN	UT	UA
MATERIALS (preferred options)			
Masonry - brick	X	X	X
Stone - foundation walls, steps, detail elements	X	X	X
Concrete - foundation walls, steps, expressed structure, detail elements	X	X	X
Clapboard - wood or composite	X		X
Storefront - metal or wood frame/panel		X	X*
Wood details	X	X	X

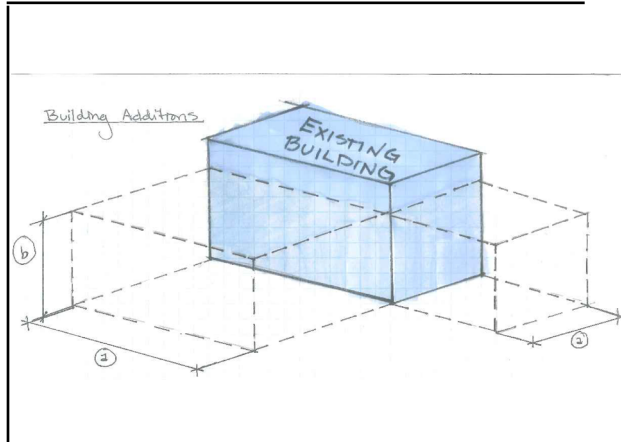
*Storefront is required at the ground level of UA facades in UA districts

Notes:

- Ground floor Storefront shall be between 60% and 90% fenestration (measured as a percentage of the facade that is between 2' and 20' above the frontage sidewalk grade.

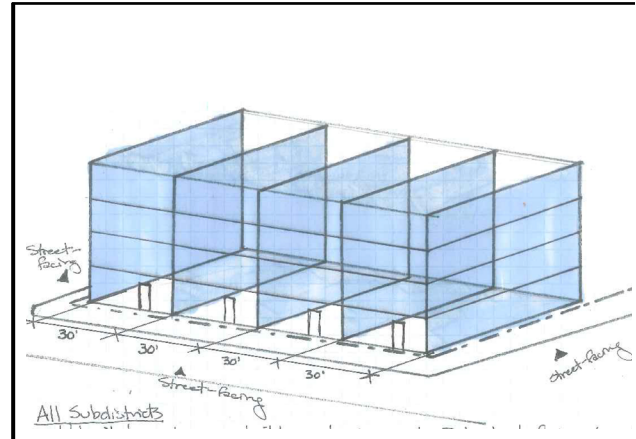
TABLE XX. BUILDING ENVELOPE STANDARDS ILLUSTRATED

ADDITION



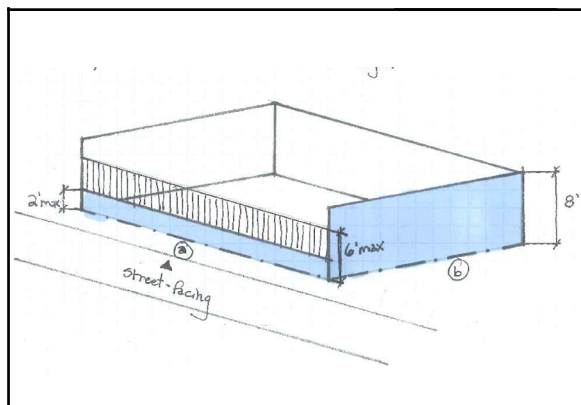
- Additions may match but not exceed the length of existing building to which they are additions
- Additions shall conform to all other Dimensional Requirements according to subdistrict

STRUCTURES - ATTACHED 30'

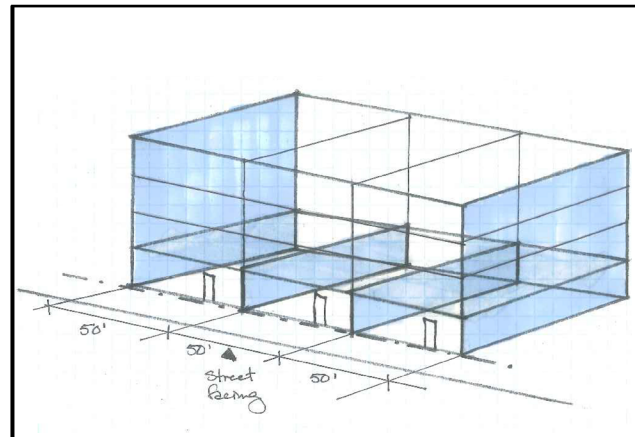


Unlimited contiguous buildings having up to 30' street-facing building length are allowed with zero lot lines; A party wall condition is required every 30' and for the entire height of each building

FENCE/WALL AT FRONTAGE

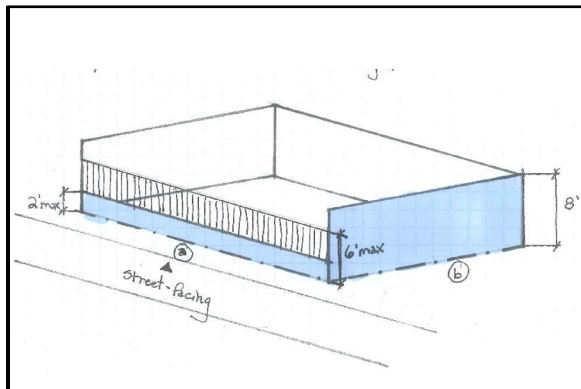


STRUCTURES - ATTACHED 50'

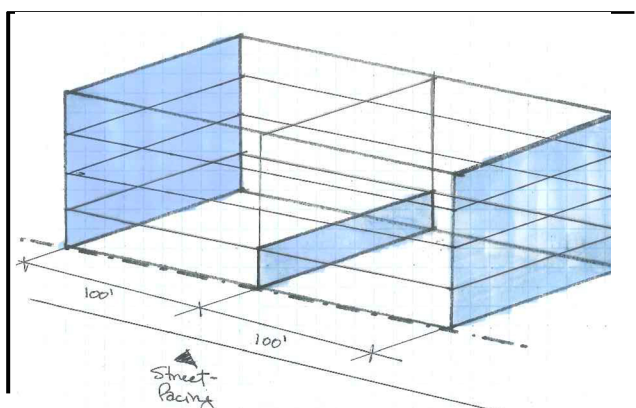


Three (3) contiguous buildings having up to 50' street-facing building length are allowed with zero lot lines; A party wall condition is required every 50' on the ground level only; Upper stories may be a continuous space

FENCE/WALL NON-FRONTAGE



STRUCTURES - ATTACHED 100'



Two (2) contiguous buildings having up to 100' street-facing building length are allowed with zero lot lines; A party wall condition is required every 100' on the ground level only; Upper stories may be a continuous space.

Sec. 14-xx Nonconformance

Sec. 14-xx Amendments

a) Regulating Plan Amendment

The Regulating Plan in effect from time to time may be amended as a Zoning Map amendment in accordance with the provisions of this ordinance. An application for Regulating Plan amendment initiated by or on behalf of the owner of property shall be accompanied by approved proposed site plan.

b) Preparation and requirements

An application for REGULATING PLAN amendment shall be prepared in accordance with ~~xxx~~ and shall conform to the requirements of Section 14-~~xx~~.c (below) and other provisions hereof.

c) Application Requirements

In addition to all other requirements for zoning map amendments under this Section, an application for a Regulating Plan Amendment shall include approved proposed site plan that complies with this ordinance and indicates the area proposed to be amended and all adjacent property; all existing zoning districts or Character Districts and the maximum number of stories and the maximum building height in feet and any other special requirements.

d) Plan Submission

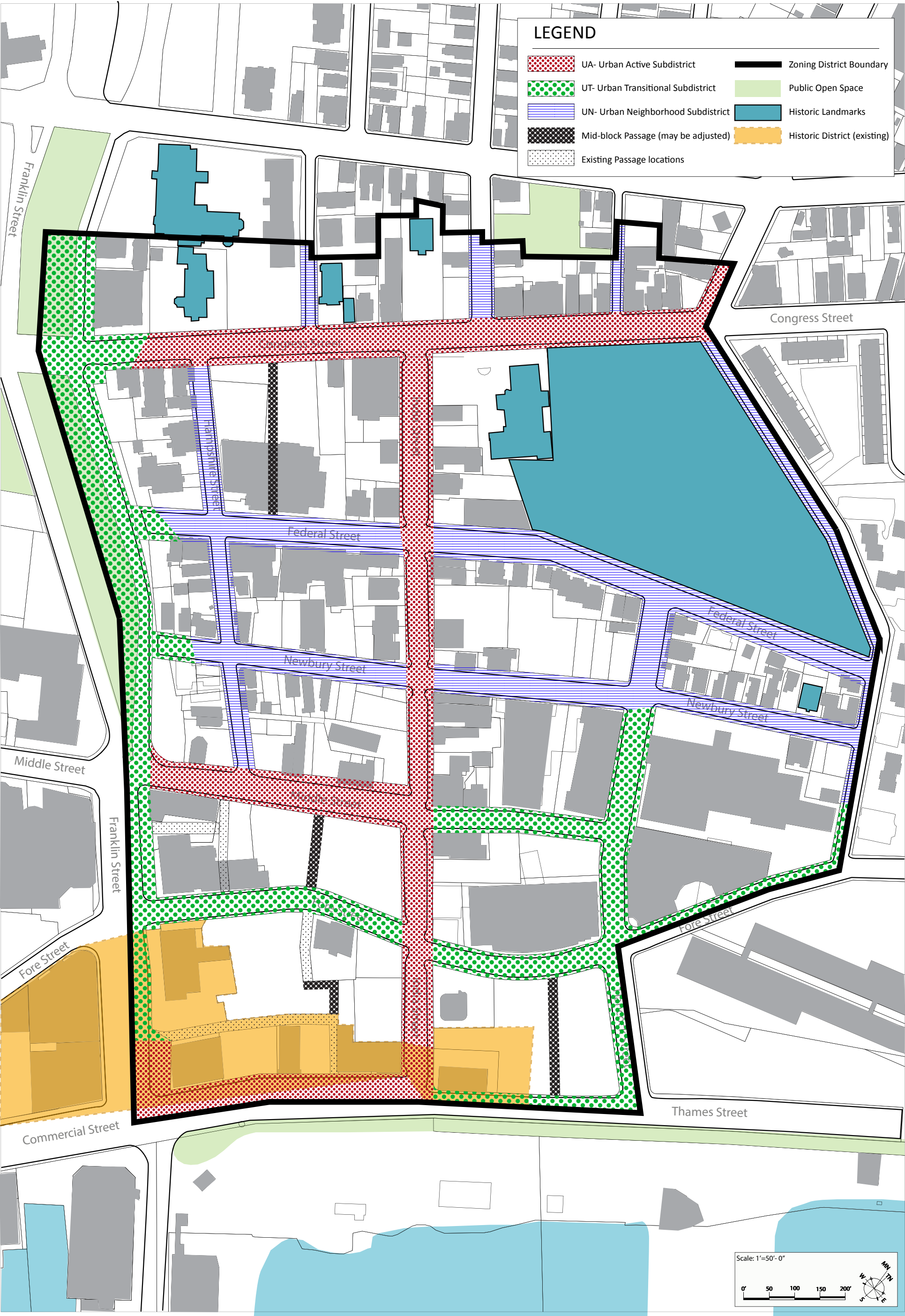
An application for a Regulating Plan Amendment shall be submitted and processed in accordance with this Section as applicable.

e) Action on Plan

Any application for a Regulating Plan Amendment shall be processed and be subject to submission, consideration, and approval as a zoning map amendment under this Section.

REGULATING PLAN

Sustainable Neighborhood Plan INDIA STREET, PORTLAND MAINE





PLANNING BOARD REPORT PORTLAND, MAINE

Zoning Map and Text Amendments for 58 Fore Street

58 Fore Street

PEZ.2014-153

Applicant and Property Owner: CPB2 LLC

Submitted to: Portland Planning Board
Date: February 20, 2015
Public Hearing Date: February 24, 2015

Prepared by: Christine Grimando, Senior Planner
CBL: 018 A001001, 018 A002, 018 A003, 018
A013, 019 A014, 446 A001, 446 A003, 446 A004,
002 X001, 002 A018
Project ID: PEZ. 2014-153

I. INTRODUCTION

This is an application for zoning map and text amendments for property at 58 Fore Street, the site of the Portland Company complex, and adjacent property, including a 50' wide strip of land owned by the State of Maine, two City-owned parking areas, and submerged lands. Established in 1846 for the manufacture of railroad equipment, the Portland Company continued and evolved as an industrial complex, manufacturing steel through 1978. It is now occupied by a variety of tenants. The property is currently zoned Waterfront Special Use Zone (WSUZ), and includes warehouses, storage buildings, and a marina with associated parking and laydown



Figure 1, Advertised Area

areas. The zones being applied for in place of WSUZ are the B-6 Eastern Waterfront Mixed Zone, and the Eastern Waterfront Port Zone (EWPZ). There are also proposed text amendments for the B-6, EWPZ and Shoreland Overlay zones, and an amendment to the B-6 Building Height Overlay & Building Envelopes map.

This application has been before the Planning Board for a workshop on October 21st, a workshop and site walk in November 18th, and a third workshop on February 10th. Full application materials from the applicant submitted for prior workshops, as well as related historic and Comprehensive Plan documents, are stored here:

<http://www.portlandmaine.gov/1341/58-Fore-Street-Portland-Company>

The Eastern Waterfront Building Height Study can be found at the above link or accessed directly here:

<http://www.portlandmaine.gov/DocumentCenter/Home/View/3378>

Applicant: CPB2 LLC

Property Owner: CPB2 LLC

Consultants: Woodard & Curran & Bernstein Shur

Public Notice: Public notice of the workshop appeared in the Portland Press Herald on February 12 and February 13, 2015, was posted on the web site and in the office of the City Clerk and was sent by mail or e-mail to 234 property owners and interested citizens.

A neighborhood meeting was held on September 16, and notes and documentation from that meeting are included in the original application materials, compiled in Attachment M. Written public comment that has been received to date is included (Public Comment PC1 through 19).

II. CONTEXT

Current Uses. The property is currently occupied by a range of uses, including a full service marina, parking, warehouses, boat storage, a blacksmith facility and some accessory office space. The property is also bisected by a 50' wide strip of Maine State property land that encompasses both the Maine Narrow Gauge Railway and a public, multi-use trail that is an extension of the Eastern Promenade, maintained by Portland Trails and the City of Portland. The application also includes two adjacent City-owned lots.

Surrounding Uses. The property is contiguous with active waterfront uses to the west, bordered by the Ocean Gateway Terminal, and east of that, at the foot of Commercial and Franklin Streets, the Maine State Pier, both serving deep water dependent large vessels, including cruise ships. To the east is the Eastern Promenade. The neighborhood to the immediate north is residential, with Waterville, St. Lawrence and Atlantic Streets perpendicular to the Fore Street-side boundary of the property, and abutted by Munjoy South apartments. Also to the north but immediately west of this residential area is the India Street neighborhood, which contains residential uses and a diverse mix of commercial uses – Shipyard Brewery, parking garages, the shops of India Street, a Marriot Residence Inn, and the Eastern Cemetery.

Zoning Context. The immediately adjacent zones to 58 Fore Street are R-6 (Residential) to the east and north, ROS (Recreation and Open Space) to the east, B-6 to the west, and EWPZ to the west and south. The property is also partially in the Shoreland Zone, and partially in a flood zone.



Figure 2, Existing Zoning



Figure 3, Aerial View of 58 Fore Street

III. PROPOSED MAP AMENDMENT

Current Zoning:	Waterfront Special Use Zone (WSUZ), Shoreland Overlay
Proposed Zoning:	B-6, Eastern Waterfront Port Zone (EWPZ), Shoreland Overlay
Current Uses:	Warehouses, storage buildings, marina, associated parking. State of Maine Property, currently utilized by the Maine Narrow Gauge Railroad and a section of the paved, public Eastern Promenade Trail maintained by Portland Trails/City of Portland. The City Property includes gravel and paved parking areas.
Proposed Uses:	None proposed at this time
Total Parcel Area:	Approximately 12 acres, + submerged lands
Area to be Rezoned:	Approximately 12 acres, + submerged lands



Figure 4, Proposed Zoning

In addition to the base zone map amendment, the application includes a change to the B-6 Building Height Overlay & Building Envelopes map, which currently encompasses the existing B-6 zone, and is proposed to be extended to encompass the new, easterly extent of the B-6 zone.

Since the February workshop there has been a change to note #3, which had previously indicated that no buildings east of Mountfort Street shall exceed 35 feet in height above the adjacent Fore Street right-of-way grade within 35

feet of the Fore Street right-of-way. It has been altered to state that *no buildings east of Mountfort Street shall exceed 35 feet in height above the adjacent Fore Street right-of-way grade*, with the reference to the depth of this restriction extended to 100 feet. This was proposed by the applicant in response to concerns made in written and verbal public comments about the potential of buildings to rise above Fore Street greater than 35 feet beyond the 35 feet of depth.

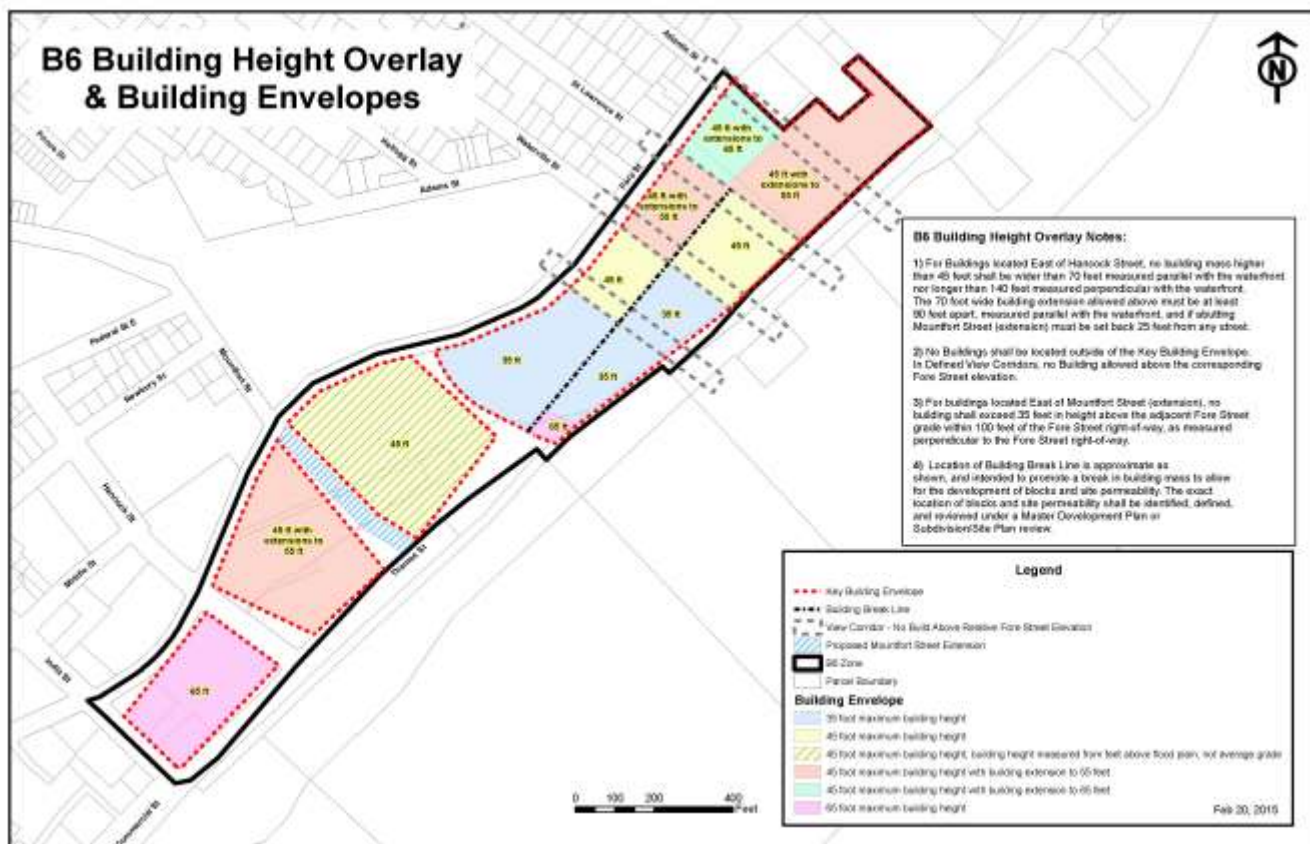


Figure 5, Proposed B6 Building Height Overlay & Building Envelopes

IV. PROPOSED TEXT AMENDMENTS

The application includes text amendments to the following sections of the Land Use Code:

- **Sec. 14-48. Establishment of Zones (Division 1)**
Reference to WSUZ is struck.
- **B-6 Eastern Waterfront Mixed Zone (Division 15.1)**

The following permitted uses are proposed to be added to the B-6 zone:

- Private clubs or nonprofit social and recreational facilities, as defined in 14-47.
- Educational facilities.
- Temporary events, provided that all such events on a lot do not exceed a combined total of (60) days per year and that the total floor area utilized for such uses does not exceed seventy thousand (70,000) square feet at any one (1) time.

- Museums and art galleries.
- A new use of underground fuel storage in B-6

An exemption from the noise standard has been modified to include temporary activities, festivals, events and concerts. Special events are subject to their own permitting standards.

Mediation is proposed to be changed to *Meditation* – staff and the applicant view this as correction of an existing typo.

In response to concerns raised during the February 10th public comment period, the applicant has proposed a standard prohibiting brew pubs with entrances on Fore Street east of Waterville Street, and a standard limiting the hours, locations and primary functions drinking establishment in the same area.

- **Eastern Waterfront Port Zone (Division 17.5)**

The following changes to the use standards are proposed:

- A permitted marine use that references a maximum fuel storage of 20,000 gallons has been substituted with similar language that appears in other zones, and provides for similar functions, except that the maximum of 20,000 gallons has been removed.
- Marinas are proposed as a permitted use east of the Ocean Gateway facility (referenced by deed). Marinas are currently a conditional use – the application proposes they remain conditional west of Ocean Gateway.
- To be added: Marine office, including but not limited to offices of owners of marinas, wharves or their agents, and naval architects, and seafood brokers.
- To be added: A facility for non-profit organizations whose facility may include offices, classrooms, equipment, equipment rentals, storage, and bathrooms for the public.

The following change to the dimensional requirements is proposed:

- Sec. 14-303. Dimensional requirements.

....

4. Setback from pier line: Notwithstanding the above requirements, a minimum setback of twenty-five(25) feet from the edge of any pier, wharf or working edge of the hardened shoreline shall be required for any structure, [provided that marine offices, as defined in Section 14-301\(b\)\(12\), may be located up to five \(5\) feet from the edge of any pier, wharf or working edge of the hardened shoreline.](#) The setback area may be utilized for water-dependent uses and public uses and activities, subject to the provisions of sections 14-300.1 (no adverse impact) and 14-301.1 (conditional use provisions), and shall not be utilized for restaurant, drinking, or other non water-dependent uses or for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).

- **Waterfront Special Use Zone (Division 18.7)**

The body of section is struck, replaced by *Reserved*.

- **Signs (Division 22)**

References to WSUZ are struck.

- **Shoreland Regulations (Division 26)**

References to WSUZ are struck, and references to B-6 are inserted. The October submission of text changes includes references to reduced minimum setbacks in the B-6 from 75 ft. to 25 ft. As the zone

boundary currently proposed in this application places the B-6 edge no closer than 75 ft to the shore line, the changes initially included for sections Sec. 14-449(a)1.a, 14-449(a)(1) – 3rd paragraph, Sec. 14-449(j)1.a, and Sec. 14-449(k)1 are no longer needed or reflective of the location of the B-6 zone as shown in Figure 4. Any change to Shoreland Regulations require Maine DEP approval. Revised Shoreland amendments are included as Attachment K.

- **Massing and Permeability in B-6 and EWPZ.**

Additional text amendments have been submitted since the February 10th workshop that address design concerns raised at the February 10th workshop regarding massing and permeability of future developments under the B-6 and Eastern Waterfront Port Zones. The applicant has proposed additions to the Site Plan standards, specifically, 14-526(d) Site Design Standards: *B3, B5, B5-b, B7 Zones, and B6 and EWPZ Waterfront Zones: Development in the B3, B5, B5-b, B7 business zones and in the B6 and EWPZ waterfront zones shall be designed to support the development of dense, mixed-use neighborhoods with attractive, safe and convenient street level pedestrian environments as demonstrated by compliance with all applicable design standards listed in the Design Manual. New development along the Eastern Waterfront should avoid large monolithic massing along all street frontages and should promote permeability through and within the development at a scale compatible with the existing street networks of the Eastern Waterfront. Where new structures are larger than buildings characteristically found in Portland's waterfront, horizontal and vertical variation should be used to break large expanses of building into components that are in scale with the context to which they most closely relate.*

- **Fuel Storage**

Fuel storage is addressed in three ways in the proposed text amendments.

1. Fuel storage in the WSUZ is eliminated, along with all other reference to this zone. The WSUZ zone currently allows for the following at 58 Fore Street: *Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels.*
2. The B-6 zone proposes a new use: *Underground marine fuel storage provided that fuel storage structures shall be used solely for the purpose of fueling vessels.* As a mixed-use zone adjacent to the Eastern Waterfront Port zone, this is a waterfront compatible use.
3. The proposed text amendments to the Eastern Waterfront Port Zone removes the current limitation of 20,000 gallons of fuel storage, and replaces it with the language currently in the WSUZ, the current zone of this site: ~~*Marine fuel storage and dispensing provided that on-site fuel storage structures shall be used solely for the purpose of fueling vessels and shall be limited, cumulatively, to 20,000 gallons of storage capacity within the zone;*~~ *Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels;*

The applicant has provided a consultant opinion from Petroleum Marine Consultants in their submission materials for the February 10th workshop (<http://www.portlandmaine.gov/1341/58-Fore-Street-Portland-Company>) regarding the fuel storage capacity needs of a deep water marina that will accommodate both small and large transient vessels, which sites anticipated fuel capacity needs well in excess of 20,000 gallons.

The proposed change is not a net change to fuel storage standards for this area, since it aligns with the fuel storage standard of the current zone. Nor does it hamper the functioning of the EWPZ. Any large fuel storage additions proposed for the property would be included in an application to the Planning Board, and subject full site plan and safety reviews.

Supplemental Text Amendments

Staff has included additional text amendments not in the original submission made by the applicant. These are changes to the B-6 dimensional standards, exempting the new, eastern portion of the B-6 zone from the following requirements that don't fit well the particular conditions of 58 Fore Street: a three story building minimum stories of habitable space within 25 feet of any public street (14-272.g), and a requirement that 70% of building wall or 25% or building perimeter be located along the street frontage of the lot (14-272.d). The three story minimum runs counter to the B-6 Building Height Overlay & Building Envelopes map requirements. For a parcel this size, where multiple interior buildings could be constructed, requiring a 70% of building wall be along street frontage would require all buildings constructed along the site line of Fore Street.

Drafts of all proposed text changes are included in Attachments 5, and E through K.

V. ZONING ANALYSIS

Purpose of WSUZ, B6, EWPZ. The purpose of the WSUZ is defined by its constraints, as a zone sandwiched between high density residential to the north, parkland to the east, and industrial uses to the west, and the need to be compatible between these diverse land uses. It sets minimum expectations for development in the zone to be compatible with water-related and water-dependent uses, and that uses be compelled to contribute to maintenance and improvement of waterfront infrastructure.

The purpose of the B-6, eastern waterfront mixed zone is to establish a zoning district for the upland portion of the eastern waterfront area. The B-6 zone encourages this district to acquire a distinctly urban form through development that emphasizes a quality pedestrian experience, promotes public transit, and demonstrates exemplary urban design. The zone promotes a range of uses to achieve twenty-four hour urban vitality and shared use of parking infrastructure as recommended in the Eastern Waterfront Master plan for redevelopment. The B-6 is described as a zone that abuts a waterfront zone, not as having a water-dependent purpose itself.

The purpose of the EWPZ is more explicit in its purpose as a waterfront zone than the WSUZ, and quite detailed. It exists to nurture a wide range of deepwater-dependent industry and commerce. Piers, uplands, and circulation patterns consistent with the transportation needs of marine facilities are mentioned, as well as the encouragement of non-marine uses that support deepwater activities, provided that they do not conflict or compete for limited space with existing or anticipated deepwater-dependent needs. It's primary emphasis, however, is on the berthing and support of large vessels. The purpose statement ends on a recognized hierarchy of uses:

- (a) The first priority of this zone is to protect and nurture existing and potential deepwater dependent uses (those uses requiring a minimum of 15 feet of water depth);*
- (b) The second priority is to allow shallow water-dependent and other permitted marine uses, so long as they do not interfere with deepwater dependent uses, either directly by displacement or indirectly by placing incompatible demands on the zone's infrastructure; and*
- (c) Other uses specified herein are allowed only if they do not interfere with and are not incompatible with higher priority uses.*

The full text of the purpose statements is included in Attachment 6.

Comparison of Allowed Uses

Both the WSUZ and the EWPZ contain a prohibition on uses that have adverse impacts on marine uses (Sec. 14-320.5.5 & Sec. 14-300.1), including uses that will displace an existing water-dependent use; uses that will reduce existing commercial vessel berthing space; uses, structures or activities that will unreasonably interfere with the activities and operation of existing water-dependent uses or significantly impede access to vessel berthing or other

access to the water by water-dependent uses; or the siting of uses that will substantially reduce or inhibit existing public access to marine or tidal waters. B-6, being an upland zone, does not contain a parallel section.

The WSUZ distinguishes allowed uses according to their location north and south of the railway tracks. The marine-related and marine-dependent uses allowed on both sides of the tracks in the WSUZ include a full slate of uses:

Marine	Marine products, wholesaling, distribution and retailing
	Marine repair services and machine shops
	Tugboat, fireboat, pilot boat and similar services
	Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels
	Marine industrial welding and fabricating
	Shipbuilding and facilities for construction, maintenance and repair of vessels
	Commercial marine transport and excursion services, including ferries, captained charter services, sport fishing and water taxis
	Cargo handling facilities, including docking, loading and related storage
	Boat repair yards
	Boat storage facilities, including rack storage facilities
	Seafood processing
	Seafood packing and packaging
	Seafood loading and seafood distribution
	Fabrication, storage and repair of fishing equipment
	Ice-making services
	Facilities for marine construction and salvage
	Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices
	Fabrication of marine-related goods
	Fishing and commercial vessel berthing
	Noncommercial berthing
	Marine office, including but not limited to offices of owners of wharves or their agents, and naval architects, and seafood brokers
	Public landings
	Marinas
	Intermodal transportation facilities
Public	Pedestrian and bicycle trails
Industrial	Industrial uses which meet the performance standards of the I-2 zone

The uses permitted north of those tracks fall under the following conditions: *in (a) buildings in existence on January 4, 1993, or (b) one (1) new structure per parcel, which parcel was in existence on January 4, 1993, of up to five thousand (5,000) square feet in total floor area. No construction of a new structure of more than five thousand (5,000) square feet in total floor area or in excess of one (1) per parcel for uses other than those specified in subsections (1) through (3) above is allowed without approval of a conditional use pursuant to section*

14-320.6.5 or conditional or contract rezoning pursuant to division 1.5. No residential construction is allowed either as a permitted use or as a conditional use.

Commercial	Professional, business, and general offices;
	Business service establishments
	Restaurants, provided that food service and consumption shall be the primary function of the restaurant
	Cabinet and carpentry shops
	Cold storage facilities
	Museums and art galleries
Other	Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses or temporary exhibition uses, provided that all such exhibition uses on a lot do not exceed a combined total of sixty (60) days per year and that the total floor area utilized for such uses does not exceed seventy thousand (70,000) square feet at any one (1) time;
	Parking: Parking shall be permitted as long as it does not impede access to water by existing or potential marine uses
	Institutional uses including marine research, education and laboratory facilities. Such uses shall not include any type of overnight accommodations.
Public	Wind energy systems, as defined and allowed in Article X, Alternative Energy.
	Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures, provided that such structures are located more than one hundred (100) feet from the water
	Municipal uses
Industrial	Landscaped pedestrian parks, plazas and similar outdoor pedestrian spaces, including without limitation pedestrian and bicycle trails.

Conditional Uses are as follows:

Conditional Uses	Warehousing and wholesaling
	Any use permitted in section 14-320.6(d)2, 4, 5 or 6, (e), (f) or (g), in one (1) new structure of more than five thousand (5,000) square feet, but not more than ten thousand (10,000) square feet in total floor area per parcel.*
	Temporary wind anemometer towers
	Wind energy systems, as defined and allowed in Article X, Alternative Energy.

EWPZ permits the following uses:

Marine Passenger	Intermodal marine passenger facilities
	Cruise ship home port and port of call berthing and support

	International and domestic ferries
Marine Commercial	Transient and long-term commercial berthing
	Marine-related warehousing
	Marine related construction, manufacturing, fabrication, salvage and repair
	Storage and repair of fishing equipment
	Ship and other marine vessel construction, building, servicing, and repair
	Boat and marine equipment storage
	Marine fuel storage and dispensing provided that on-site fuel storage structures shall be used solely for the purpose of fueling vessels and shall be limited, cumulatively, to 20,000 gallons of storage capacity within the zone
	Public, non-profit, or commercial marine transportation and excursion services, including captained charter services, sport fishing and water taxis
	Ship and off-shore support services, including but not limited to tug boats, pilot boats, and chandleries
	Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices
Commercial	Professional, business, government, and general office located in upper floors of structures existing as of September 18, 2006.
	Temporary events, except festivals as otherwise governed under section 14-301I3 below.
	Buildings, piers and lands within the EWPZ may be used for temporary public and private events including but not limited to exhibitions, conferences, meetings, and trade shows under the following conditions:
	a. Temporary events occupying more than 10,000 square feet of building or outdoor space shall not exceed a combined total of sixty (60) days between May 1st to October 31st;
	b. No temporary event may continue for more than 14 days of continuous operation;
	c. Any temporary event that anticipates more than 5,000 people in attendance on any single day must provide and be subject to a parking management plan. The parking management plan must be submitted for the review and approval of the public works authority at least 60 days prior to the first day of the event.
	Festivals subject to City license
	Street vendors licensed pursuant to Chapter 19 as a result of a competitive bid process conducted pursuant to Chapter 2 of the City Code
Public	Fire, police and emergency services
	Governmental agency emergency operations/crisis centers;
	Research, military and visiting attraction vessel berthing
	Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces, including without limitation pedestrian and/or bicycle trails
Other	Wind energy systems, as defined and allowed in Article X, Alternative Energy.

In conjunction with the standard conditions of approval for all conditional uses (Section 14-474), conditional uses in the EWPZ are allowed provided the uses impede or preclude existing or potential water-dependent development within the zone, will allow for adequate right-of-way access to the water, are compatible with marine uses, in addition to the following additional conditional use standards:

- a. *Marine compatibility:* The proposed use shall be compatible with existing and potential marine uses in the vicinity, as required by section 14-304(n) and (o) (compatibility of non-marine uses with marine uses and functional utility of piers and access to the water's edge); and
- b. *Parking and traffic circulation:*
 - i. *Parking and traffic circulation plan:* All applications for conditional use in the EWPZ shall submit a parking and circulation plan for review and approval by the planning board. The parking and circulation plan shall show the location of all existing and proposed structures, travel ways and parking under the common ownership and/or control of the subject pier or property. The plan shall demonstrate that the parking and circulation of the conditional use does not interfere with the functional marine utility of the property and otherwise meets the standards and conditions of the EWPZ.

Marine	Marine products, wholesaling and retailing
	Ice-making services
	Marine freight facilities providing service for, and/or intermodal transfer of, container and breakbulk freight
	Marine educational facilities
	Seafood retailing, wholesaling, packaging and shipping
	Seafood processing for human consumption, subject to the performance standards of the IL zone set forth in section 14-236 in addition to the performance standards of section 14-304
	Commercial marinas serving commercial and recreation boats, provided that such facilities are located in areas that do not conflict with the navigation and handling of deepwater dependent vessels accessing existing or potential deepwater berthing
	Fish byproducts processing, provided that:
	a. Any fish byproducts processing facility has a valid rendering facility license under chapter 12 of the Portland city code; and b. Any fish byproducts facility shall employ current and appropriate odor control technology to eliminate or minimize detectable odors from such a process, and in no case shall odors exceed the odor limitation performance standards of the IM zone (section 14-252); and c. The processing other material wastes or byproducts shall not be deemed a lawful accessory use Permitted herein.
Commercial	Structured parking available to the general public
	Professional, business, government and general offices uses in upper floors of structures constructed after September 18, 2006
	Passenger support services supporting a marine passenger use listed under 14- 301(a)(marine passenger). Total ground floor area occupied by any combination of the following uses (regardless of ownership) shall not exceed 35% of the gross floor area of the principle associated marine passenger use and no more than 35,000 sf cumulative within the EWPZ:

	i. Retail;
	ii. Restaurants/food service other than street vendors;
	iii. Retail service;
	iv. Passenger information services.
Industrial (subject to IM performance standards)	Non-marine related warehousing in structures existing as of September 18, 2006
	Facilities for combined marine and general construction
	Low impact industrial uses as permitted in the IL zone in structures existing as of September 18, 2006, excluding all auto repair service facilities
Public	Utility substations: Public utility substations, including but not limited to electrical transformers, sewage and stormwater pumps and telecommunication switching stations, are permitted under the following conditions:
	a. The facility is located more than 100 feet from the water's edge;
	b. The facility occupies no more than 50 square feet of structure above ground;
	c. The facility provides no dedicated on-site parking and all subsurface elements of the facility are installed and operated such that land occupied by the facility is otherwise useable and made available for marine related uses, including but not limited to parking, travel ways, and/or storage; and
	d. The facility shall be sized, sited and screened to minimize visual impact and prominence from public ways.
	Maritime museums, limited to 5,000 square feet of ground floor footprint.
Parking for non-marine uses	No parking shall be allowed in this zone for non-marine uses unless the applicant can demonstrate that the number of parking spaces on-site exceeds the number of parking spaces needed to accommodate the demand for marine and water-dependent uses that are permitted as permitted and conditional marine uses which are or may be located on the subject property. The remainder of parking required, if any, for such non-marine uses shall be provided off-site.
Other	Temporary wind anemometer towers
	Wind energy systems, as defined and allowed in Article X, Alternative Energy

As with other zones, uses not enumerated are not permitted. Additionally, the following uses are specified as prohibited: residential uses, amusement/theme parks, bulk freight facilities, on-site gambling casinos not accessory to and located aboard either a ferry or inter-port cruise ship.

A comparative table of WSUZ and EWPZ uses is included as Attachment L.

The B-6 zone allows the following uses:

Commercial	Professional, business and general offices
	Restaurants and other eating and drinking establishments
	Hotels and inns limited to no more than 150 rooms
	Craft and specialty shops, including the on-premises production of handcrafted goods
	Retail and retail service establishments, excluding those with gas pumps
	Theatres
	Banking services, excluding vehicular drive-up services*
	Cabinet and carpentry shops
	Personal services
	Business services
	Offices of business trades people
	Miscellaneous repair services, excluding all types of automotive repair except for automobile repair and service establishments
	Telecommunication and broadcast and receiving facilities*
	Brew pubs and microbreweries without associated bottling facilities; and brewpubs and microbreweries with associated bottling facilities limited to 5,000 bottles per year output.
	Electronic data storage
	Marine products wholesaling and retailing
	Harbor and marine supplies and services, chandlery and ship supply
	Bakeries, coffee roasters, and commercial kitchens with building footprints limited to fifteen thousand (15,000) square feet of contiguous building space.
	Printing establishments.
Residential	Attached dwellings including row houses, two-family and multifamily dwellings
	Handicapped family units
	Combined living/working spaces, including but not limited to artist residences with studio space
	Mixed use residential and commercial structures
Public	Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures
	Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces
	Pedestrian and multi-use trails
Other	Studios for artists, photographers and craftspeople including but not limited to, painters, sculptors, dancers, graphic artists and musicians
	Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses*
	Health clubs, martial arts and mediation facilities
	Intermodal transportation facilities
	Nursery schools, kindergartens, and daycare facilities or home babysitting services
	Wind energy systems, as defined and allowed in Article X, Alternative Energy

B-6 conditional uses include meeting and exhibition facilities up to a total of 20,000 gross sf; wholesaling, providing the wholesale operation is associated with an onsite retail establishment and that the wholesaling component of the facility occupies a building footprint of less than 15,000 square feet; drive-up banking facilities

located in the interior of parking structures, subject to multiple criteria; surface and structured parking, subject to multiple criteria, including ground floor commercial requirements for structured lots; and temporary wind anemometer towers.

As with other zones, uses not enumerated are not permitted. Additionally, the B-6 use requirements specifically prohibit ground mounted telecommunication towers; waste, scrap, and/or byproduct storage and processing facilities; auto service stations; and drive-up facilities, excepting bank drive-ups in interior parking structures.

In sum, neither the WSUZ nor the EWPZ allow residential uses or anything but ancillary non-residential, non-marine uses. They tackle this issue through different tools – the WSUZ allowing a greater range of non-marine-dependent uses north of the rail line that splits the zone and through limits on new construction, and EWPZ through a narrower list of combined possible uses and strong language regarding the necessary marine compatibility of non-marine uses. The emphasis in the list of permitted uses for EWPZ is on marine-dependent uses, with most marine-related uses being conditionally allowed. The allowed uses of the B-6 zone read like many other mixed-use urban zones, with no particular marine emphasis, except for its noted adjacency, and upland-intended application.

Comparison of Dimensional Requirements:

	WSUZ	EWpz	B-6
Min. Lot Size	None	None	None
Min. Street Frontage	None	None	
Min. Front Yard	None	None	
Min. Rear Yard	None required unless adjacent to a residential zone; if adjacent to a residential zone, twenty-five (25) feet.	None	None
Min. Side Yard	None required unless adjacent to a residential zone; if adjacent to a residential zone, twenty-five (25) feet.	None	
Max. Setback from Street Line			10 ft., excepting parking garages, public trans. facilities, and subject to the building height envelopes of Eastern Waterfront Building Height Overlay Map. See Sec. 14-272 c.2 for exemptions.
Min. Length of Building Wall required to be located along street frontage of lot			70% of lot street frontage or 25% of building perimeter. For buildings fronting on 2+ streets, building wall on one street may be decreased so long as it is proportionally increased on others and the building wall on the secondary street is not reduced to less than 25 ft.
Min. Setback from Pier Line	5 feet from the edge of any pier, wharf or bulkhead. The setback may be utilized for activities related to the principal uses carried on in the structure, subject to 14-313/14-314, but shall not be utilized for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).	25 feet from the edge of any pier, wharf or bulkhead. The setback may be utilized for activities related to the principal uses carried on in the structure, subject to 14-313/14-314, but shall not be utilized for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).	
Max. Structure Height	45-100 ft. (see Sec. 14-320.9.e)	45 ft, except for cranes and gantries, rooftop appurtenances (see Sec. 14-303.e for full exemptions)	65 ft. or as otherwise governed by a Building Height Overlay Map
Minimum Building Height for New Construction			3 floors of habitable space above the average adjacent grade within 25 ft. of any public street. See Sec. 14-272 c.3.g for exemptions.
Max. Lot Coverage			100%
Max. Impervious Surface		100%	

Building Height Overlay and Building Envelopes Map

The current B-6 Building Height Overlay & Building Envelopes map was adopted in 2004 as a direct outgrowth

of the policy recommendations of the Height Study, and regulates heights and building areas within the current B-6 boundaries (Figure6). A simultaneously amended B-6 Building Height Overlay and B-6 zone extent is critical to maintain Comprehensive Plan consistency. Illustration 33 of the Eastern Waterfront Building Height Study is the document that has informed the creation of the Building Height Overlay and Building Envelopes map. Illustration 33 is included as part of the Eastern Waterfront Building Height Study, pg. 29:

<http://www.portlandmaine.gov/DocumentCenter/Home/View/3378> and in Figure 7 below.

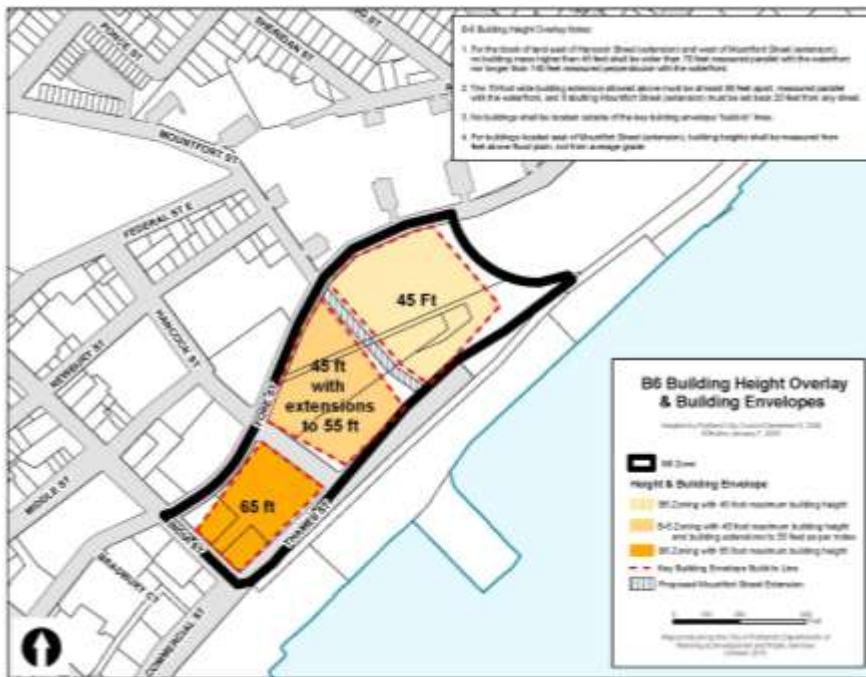


Figure 6, Current Height Overlay and Building Envelopes

Implementing Illustration 33's policy recommendations into zoning regulations for the newly extended area of the B-6 zone required some modifications. View corridors and building height envelopes are maintained as shown on Illustration 33.

- Interior build-to lines have been eliminated because they would not have any practical importance or benefit for the area.
- An additional building restriction was added in a height maximum along Fore Street of 35 feet. This was added to allay concerns about the extent of the view

obstruction and the unpredictability of

possible building heights along Fore Street. It originally was accompanied by a depth of 35 feet, so that buildings beyond 35 feet in distance from the Fore Street right of way could potentially exceed the 35 foot height cap, but this distance is now extended to 100 feet from the edge of Fore Street. The topography of the site, which includes significant grade, would make it extremely unlikely that a building could exceed 35 feet above Fore Street while complying with the height maximums of the Height Overlay map. This is a more restrictive map than the previous iteration, and gives considerably more assurance of predictable maximums in the viewshed from Fore Street.

- Illustration 33 shows an opening between the building envelopes, through the center of the Portland Co. site, and is referred to in the Height Study as the Portland Company Alignment. The location of this alignment is the service alley that presently runs between buildings on the site. The alignment as depicted on Illustration 33 is outside of the key building envelopes boundary, indicating that it should be preserved from further development. The proposed height overlay map (Attachments B & C and Figure 5) depicts the building envelopes touching, but with a seam between them along the centerline of the corridor, accompanied by a map note that indicates there shall be a break of buildings. This insures this corridor from being spanned by single buildings, but does not specify the distance between buildings. The reasons for this are several - close scrutiny of Illustration 33 shows the Portland Co. alignment running through a portion of an existing building; the intended dimensions of the alignment are not specified; there is an historic preservation process, both in terms of the potential designation of the site or portions of the site, which if approved would lead to the requirement for Certificate of Appropriateness review by the Historic

Preservation Board when a development proposal is brought forward, that will allow for evaluation of the precise area best retained between buildings; and, the anticipated Master Development Plan requires the Planning Board to review it for consistency with City Comprehensive Plan. The break between the building envelopes in the area of this alignment is a rational implementation of zoning based on the policy recommendations of Illustration 33, and one that leaves some discretion to the tools available to both the Historic Preservation Board and the Planning Board to determine the final dimensions and physical characterizations of this area.

VI. COMPREHENSIVE PLAN ANALYSIS

Comprehensive Plan Volume 1 (2002/2004) gives an overview of the years of waterfront planning efforts of the City, and addresses redevelopment of Waterfront East specifically. It outlines four redevelopment principles for development in this area (these four principles are restated in the Eastern Waterfront Masterplan): Character and Impact of Development, with particular emphasis on compatibility with surrounding areas – residential, maritime, and natural environment; Mixed-use as a component of an active, vibrant urban area; maintaining Maritime Resources; and Economically Responsible Development that benefits the city and the region. Volume 1 references the Eastern Waterfront Masterplan (adopted 2002 and amended 2004 & 2006). The two other pertinent documents adopted as Comprehensive Plan documents are the Eastern Waterfront Design Guidelines and the Eastern Waterfront Building Height Study.

The Eastern Waterfront Masterplan makes specific reference to the Portland Company property:

The Portland Company complex, a mid-nineteenth century manufacturing facility, occupies the easterly end of the Eastern Waterfront. As an early manufacturing center, the site is home to several large brick and granite industrial buildings of architectural significance with potential for adaptive reuse. The Portland Company property is currently designated as eligible for inclusion in the National Register of Historic Places.

The property is highly developed, but in need of significant structural and cosmetic repair. Importantly, the complex is the only private property in the study area with direct water access. Currently, the Portland Company houses a variety of commercial uses, including a marina, boatyard, boat repair, general office, exhibition space, and the Narrow Gauge Railroad Museum.

Future parking enhancements and better vehicular and pedestrian access to the central redevelopment area will better integrate the Portland Company complex with the Eastern Waterfront and the Commercial Street business district, spurring the adaptive reuse and restoration of the historic structures.

Development Considerations

- *Historic 19th Century industrial complex.*
- *Promote the continuation of boat yard and yacht support services.*
- *Encourage the adaptive reuse and sensitive rehabilitation of historic structures.*
- *Increase connections to Commercial Street and promote shared parking with abutting uses.*
- *Expand recreational boating and active public use of the water.*

The applicant provides a summary of the alignment of their project with the Eastern Waterfront Masterplan in section 2.4 of their application. The application accurately cites support in that document for zoning changes that foster upland mixed use development as well as water dependent and marine uses within 75 feet of the shore line.

Rezoning of this eastern waterfront area, which resulted in the establishment of the B-6 zone, was anticipated, and the zone changes proposed herein reflect the overall policy guidance of the Eastern Waterfront Masterplan.

The first volume of the Comprehensive Plan, and the Eastern Waterfront Masterplan indicates that land within 75 feet of mean high water should be given priority to water-dependent and marine uses. The location of the B-6/EWPZ boundary as originally submitted carried the B-6 zone to less than 75 feet of mean high water, thereby reducing the availability of land for intended marine-dependent uses, but this was subsequently adjusted into a revised zoning map showing an adjusted B-6 boundary line no closer than 75 feet – the currently proposed zone boundaries between B-6 and EWPZ are consistent with Comprehensive Plan recommendations.

The Eastern Waterfront Building Height Study has implications for the proposed zone change. The Height Study not only includes maximum height recommendations, but incorporates other tools for preserving and enhancing view corridors for a topographically varied area of Portland. It includes recommendations for street extensions and greater connectivity with the surrounding neighborhoods, maintaining view corridors through the delineation of building envelopes, as well as areas where “towers” could be built – areas where the maximum height could be exceeded – provided that those towers met particular spacing and dimensional requirements.

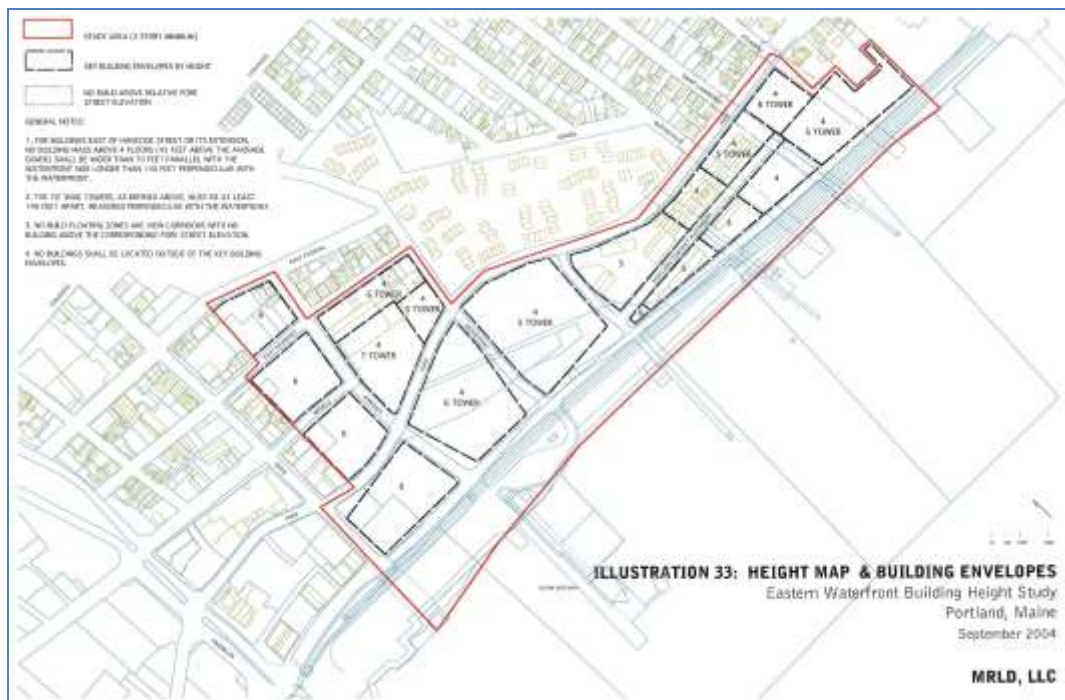


Figure 7, Illustration 33

The B-6 Building Height Overlay & Building Envelopes map was adopted in 2004 as a direct outgrowth of the policy recommendations of the Height Study, and regulates heights and building areas within the current B-6 boundaries (Figure 6). A simultaneously amended B-6 Building Height Overlay and B-6 zone boundary has been undertaken to maintain Comprehensive Plan consistency.

The Design Guidelines for Development of the Eastern Waterfront will be a pertinent policy document when a development proposal is brought forward. The applicant has brought forward language from the Design Guidelines regarding massing and permeability, in response to Planning Board and public concerns. In addition, staff will bring forward for Planning Board consideration and subsequent action an amendment to the City of Portland Design Manual that incorporates the Eastern Waterfront Design Guidelines by reference and/or text

amendment. Currently a master plan would be reviewed for consistency with the Eastern Waterfront Design Guidelines, but incorporation into the City's Design Manual will give it regulatory capabilities.

In sum, there was a multi-year planning process, with robust public engagement, that produced multiple policy documents for this area which anticipated rezoning and redevelopment of this area. Staff has worked with the applicant over many months to insure that the rezoning of this eastern portion of the Eastern Waterfront is consistent with these broader policies.

VII. PUBLIC COMMENT/NEIGHBORHOOD MEETING

Heights at Fore Street

Though the issues of interest and concern to the public in regard to the rezoning of this site have been varied, the issues of building heights and resulting view impacts have been a central topic (as they have for Planning staff and the Planning Board). Other issues raised to date have included the preference for a contract zone for the area, methods for building height measurement, the range of uses abutting the adjacent residential neighborhood, retention of a viable waterfront zone, potential noise and traffic impacts, pedestrian access to the property and to the water, the continued presence of the rail/trail, sea level rise impacts, the desire to see a development concept for the property prior to rezoning, and the importance of historic preservation. Neighborhood Meeting comments are included as part of Attachment M, and public comments submitted to date are included as PC1 through PC19.

VIII. DISCUSSION ITEMS

Waterfront Compatibility

The Comprehensive Plan supports rezoning this parcel to a combination of a mixed-use zone and a waterfront zone, as is currently proposed. The questions that have arisen have primarily focused not on whether this property should be rezoned, but how to implement new zoning in such a way so as to retain viable waterfront area into the future. This has implications for the specific uses proposed, but most significantly in where the boundary between the two zones is drawn.

As review of this application has progressed, there have been several changes to both the text and map amendments, in response to staff comments regarding waterfront impacts. These include adjusting the proposed zone boundary between the B-6 and EWPZ to maintain adequate dedicated waterfront space in the EWPZ, making marinas a permitted use only in the eastern portion of the proposed EWPZ, and adjusting the pier setback to only allow a reduction from 25 ft to 5 ft in the EWPZ for marine-related buildings. Prior memos, attached, have discussed marine impacts in detail, and the Waterfront Coordinator's memo on the waterfront implications of the rezoning is included as Attachment 4.

Historic Preservation

The Historic Preservation process to date has been summarized in previous memos to the Board, and is included here, with the addition of Deb Andrews, Historic Preservation Manager at the February 24th Public Hearing to speak to Historic Preservation Program's current and anticipated process in regard to this site.

In September 2014 Greater Portland Landmarks made a request to the Historic Preservation Board that the site be nominated as a local historic district. Planning staff met with the Historic Preservation Board in September to request that they delay this process until after the rezoning process is complete. The Historic Preservation Board has delayed reviewing the request until review of the rezoning application has been completed. The Historic Preservation Board sent a letter to the Planning Board in October stating the Board's agreement to have the rezoning and the designation process taken in sequence, provided that there is a clear understanding that the rezoning will not superseded or compromise Historic Preservation Board review. When the request to designate the property is considered, there will be a nomination process that involves the Historic Preservation Board, the

Planning Board, and the City Council for a final determination.

There have been several studies conducted of this property in anticipation of this application and concurrent with it:

- *Inventory of Historic Buildings*, January 2014, prepared by Tremont Preservation Services, commissioned by the applicant.
- *Evaluation of Existing Buildings*, March 28, 2014, prepared by Becker Structural Engineers, commissioned by the applicant.
- *Portland Company Historic Significant and Integrity*, Sutherland Conservation & Consulting, 2014, commissioned by the Department of Planning & Urban Development. This report can be viewed in full here: <http://www.portlandmaine.gov/DocumentCenter/Home/View/6507>
- A site walk led by Sutherland Conservation & Consulting was conducted on Dec. 7th to accompany this report, as were several presentations on the findings.

In addition to the completed studies, an independent conditions assessment is underway, conducted by Resurgence Engineering and Preservation, Inc., to supplement the *Evaluation of Existing Buildings* report listed above. The assessment began at the end of December, and a final report is anticipated soon. It was commissioned in equal parts by the applicant, Department of Planning & Urban Development, and Greater Portland Landmarks.

Average Grade

A question was asked at the November workshop about the implications of the two methods of calculating average grade that are accepted as legitimate by the City for the purposes of calculating building height. The two methods are 1) either using the elevations of four building corners or 2) using measurements taken at regular intervals around a building. The applicant addressed this topic in a letter for the February 10th meeting and in their presentation at that workshop. At the February 10th workshop the Planning Board indicated they would like to see methods for determining average grade clarified for greater consistency City-wide. Lack of specificity in zoning definitions is not specific to this application, and staff is proposing to include revisions to this section of the Land Use Code in upcoming months to clarify the preferred method or methods for determining average grade, but we are not proposing this change as part of this application. All applications for development will be subject to the revised standard.

Visualizing Heights

At the November workshop the applicant submitted multiple sections to illustrate the height implications of the zoning map amendment on the property. An example from that submission is included as Figure 8, and the full submission can be accessed on the project's webpage:

<http://www.portlandmaine.gov/DocumentCenter/Home/View/7373>

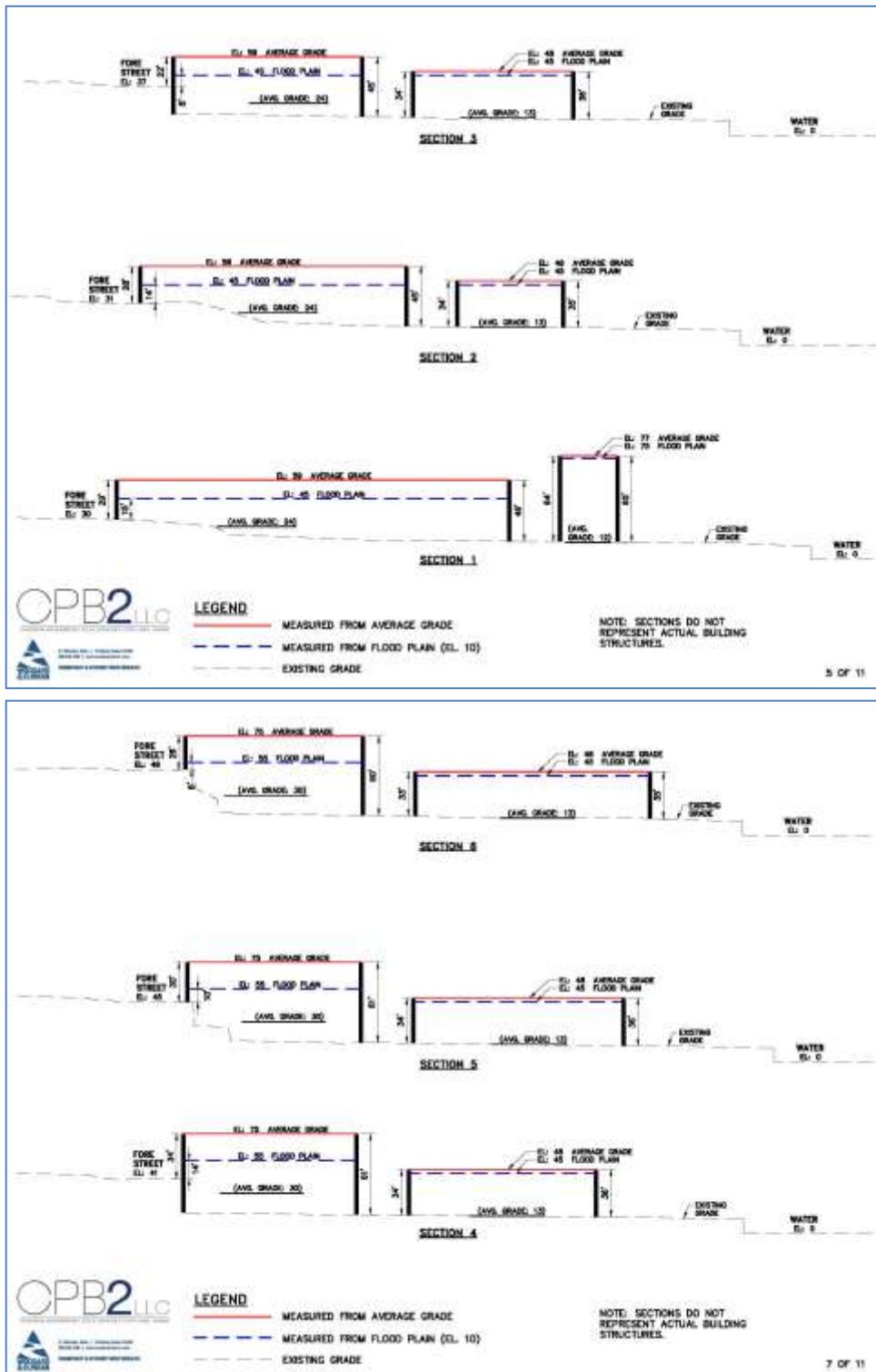


Figure 8

The Planning Board subsequently requested additional visuals to better understand the height implications of the project both from Fore Street looking south, and from the southern portion of the property looking towards Fore Street. An excerpt of the response to that request is included in Figure 9 and the full visuals are included here: <http://www.portlandmaine.gov/DocumentCenter/Home/View/7734>. The section below layers existing buildings on Fore Street (north side of street), maximum building envelopes under the B-6 Height Overlay, buildings at 58 Fore Street that are visible at Fore Street, a dashed line marking the 35 foot height maximum proposed at Fore Street, and the heights and location of existing utility poles. View corridors are depicted, as well.

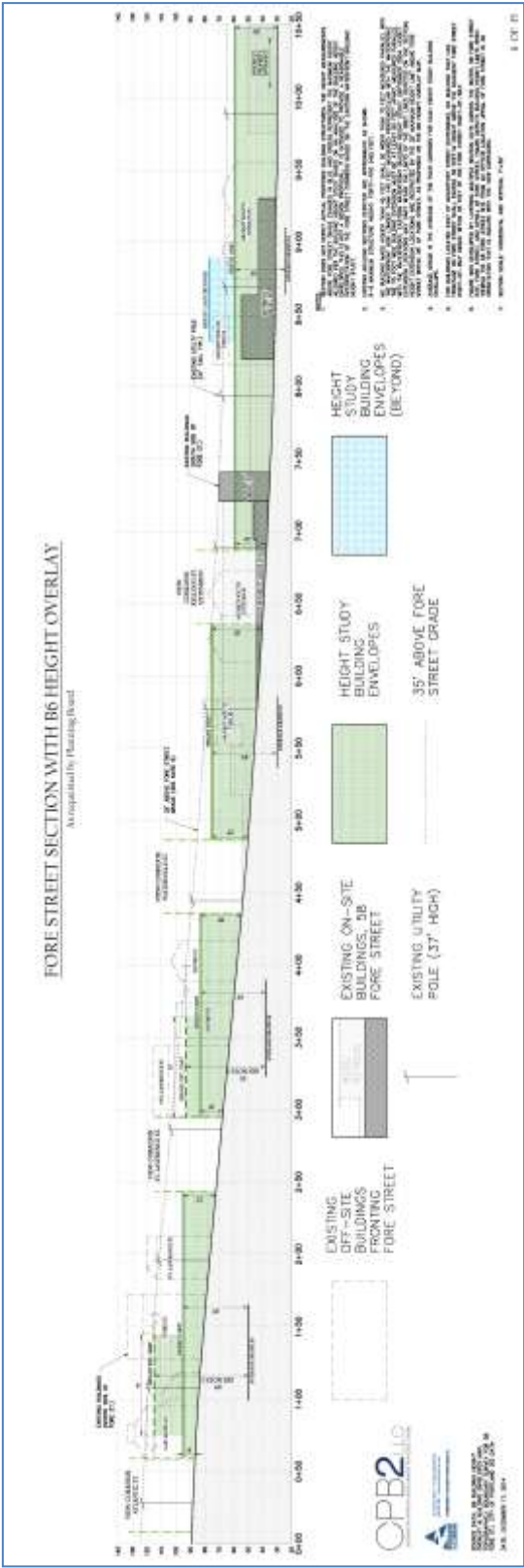


Figure 9

IX. STAFF RECOMMENDATION

The staff recommends that the Planning Board find the proposed map amendment from Waterfront Special Use Zone to B-6 and the Eastern Waterfront Port Zone, the extension of the B-6 Building Height Overlay & Building Envelopes map, and the accompanying text amendments, to be consistent with the Comprehensive Plan and recommend to the City Council adoption of the proposed amendment.

X. 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 map amendment from Waterfront Special Use Zone to B-6 and the Eastern Waterfront Port Zone, the extension of the B-6 Building Height Overlay & Building Envelopes map, and the accompanying text amendments, **[are or are not]** consistent with the Comprehensive Plan and **[recommends or does not recommend]** adoption of the proposed amendment to the City Council.

XI. ATTACHMENTS

Report Attachments

1. October Planning Board Memo
2. November Planning Board Memo
3. February Planning Board Memo
4. 2_3 Memo from Waterfront Coordinator
5. B-6 Supplemental Edits
6. Purpose Statements

Applicant's Submittal

- A. 2_18 Cover Letter
- B. 2_18 Building Height Map
- C. 2_18 Building Height Map Ortho
- D. Proposed Zoning Extent Map
- E. 2_18 B6 Text Amendments
- F. 2_18 B6/EWPZ Site Plan Text Amendments
- G. Sec. 48 Text Amendment
- H. Signs Text Amendment
- I. WSUZ Text Amendment
- J. EWPZ Text Amendment
- K. Shoreland Text Amendment
- L. Chart of Permitted Uses WSUZ/EWPZ
- M. Original Application Materials

Public Comment

- PC 1.A. Adams
- PC 2. Vestal/Soul of Portland
- PC 3. Macomber
- PC 4. Burwell
- PC 5. Vestal
- PC 6. Ingalls
- PC 7. Agopian
- PC 8. Snyder
- PC 9. Snyder
- PC 10. Greater Portland Landmarks
- PC 11. Small

PC 12. Pressier
PC 13. Burwell
PC 14. Macomber
PC 15. Ansheles
PC 16. Vestel
PC 17. Stevens
PC 18. PSA
PC 19. Postcards



Memorandum

Planning and Urban Development Department

Planning Division

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

From: Christine Grimando, Senior Planner

Date: October 8, 2014

Project #: PEZ.2014-153

CBLs: 018 A001001, 018 A002, 018 A003, 018 A013, 019 A014, 446 A001, 446 A003, 446 A004, 002 X001, 002 A018

Re: Zoning Map and Text Amendments for 58 Fore Street

Meeting Date: October 21, 2014

I. INTRODUCTION

The applicant, CPB2 LLC, is requesting zoning map and text amendments for property at 58 Fore Street, the site of the Portland Company complex. Established in 1846 for the manufacture of railroad equipment, it continued as the Portland Company, and as an industrial center, continuing to manufacture steel into 1978. It is now occupied by a variety of tenants. The property is currently zoned Waterfront Special Use Zone (WSUZ), and includes warehouses, storage buildings, and a marina with associated parking and laydown areas. The request for a zoning map amendment also encompasses State of Maine Property, two City-owned parking areas, and submerged lands. The zones being requested in place of WSUZ are the B-6, Eastern Waterfront Mixed Zone, and the Eastern Waterfront Port Zone (EWPZ). There are also proposed text amendments for the B-6, EWPZ and Shoreland Overlay zones.

Applicant: CPB2 LLC

Property Owner: CPB2 LLC

Consultants: Woodard & Curran, David Senus/ Bernstein Shur

Public Notice: Public notice of the workshop appeared in the Portland Press Herald on October 13 and October 14, 2014, was posted on the web site and was sent by mail or e-mail to 234 property owners and interested citizens.

A neighborhood meeting was held on September 16, and notes and documentation from that meeting are attached ([Applicant's Submittal G](#)). Written public comment is included in the packet ([Public Comment PC1 through 3](#)).

II. Background

Current Uses. The property is currently occupied by a range of uses, including a full service marina, parking, warehouses, boat storage, a blacksmith facility and some accessory office space. The property is also bisected by a 50' wide strip of Maine State property land that encompasses both the Maine Narrow

Gauge Railway and a public, multi-use trail that is an extension of the Eastern Promenade, maintained by Portland Trails and the City of Portland. The application also includes two adjacent City-owned lots.

Surrounding Uses. The property is contiguous with active waterfront uses to the west, bordered by the Ocean Gateway Terminal, and east of that, at the foot of Commercial and Franklin Streets, the Maine State Pier, both serving deep water dependent large vessels, including cruise ships. To the east is the Eastern Promenade. The neighborhood to the immediate north is residential, with Waterville, St. Lawrence and Atlantic Streets perpendicular to the Fore Street-side boundary of the property, and abutted by Munjoy South apartments. Also to the north but immediately west of this residential area is the India Street neighborhood, which contains residential uses and a diverse mix of commercial uses – Shipyard Brewery, parking garages, the shops of India Street, a Marriot Residence Inn, and the Eastern Cemetery.

Zoning Context. The immediately adjacent zones to 58 Fore Street are R-6 (Residential) to the east and north, ROS (Recreation and Open Space) to the east, B-6 to the west, and EWPZ to the west and south. The property is also partially in the Shoreland Zone, and partially in a flood zone.



Figure 1

III. PROPOSED DEVELOPMENT

The applicant has not submitted a development proposal for the property. They are requesting that the zoning map and text changes be evaluated independent of a development proposal. Though not how zoning amendments are customarily presented to the Planning Board, presenting an accompanying development concept with the zoning changes is information requested in the application form, but is not a submission requirement by ordinance. The applicant has submitted an existing conditions plan to accompany the application in lieu of a development plan.

IV. PROPOSED MAP AMENDMENT

Current Zoning:	Waterfront Special Use Zone (WSUZ), Shoreland Overlay
Proposed Zoning:	B-6, Eastern Waterfront Port Zone (EWPZ), Shoreland Overlay
Current Uses:	Warehouses, storage buildings, marina, associated parking. State of

Maine Property, currently utilized by the Maine Narrow Gauge Railroad and a section of the paved, public Eastern Promenade Trail maintained by Portland Trails/City of Portland. The City Property includes gravel and paved parking areas.

Proposed Uses: None proposed at this time
Total Parcel Area: Approximately 12 acres, + submerged lands
Area to be Rezoned: Approximately 12 acres, + submerged lands



Figure 2

V. PROPOSED TEXT AMENDMENTS

The application includes text amendments to the following sections of the Land Use Code:

- **Sec. 14-48. Establishment of Zones (Division 1)**
Reference to WSUZ is struck.
- **B-6 Eastern Waterfront Mixed Zone (Division 15.1)**
The following permitted uses are proposed to be added to the B-6 zone:
 - Private clubs or nonprofit social and recreational facilities, as defined in 14-47.
 - Educational facilities.
 - Temporary events, provided that all such events on a lot do not exceed a combined total of (60) days per year and that the total floor area utilized for such uses does not exceed seventy thousand (70,000) square feet at any one (1) time.
 - Museums and art galleries.

An exemption from the noise standard has been modified to include temporary activities, festivals, events and concerts.

Mediation is proposed to be changed to *Meditation* – staff and the applicant view this as correction of an existing typo.

- **Eastern Waterfront Port Zone (Division 17.5)**

The following changes to the use standards are proposed:

- A permitted marine use that references a maximum fuel storage of 20,000 gallons has been substituted with similar language that appears in other zones, and provides for similar functions, except that the maximum of 20,000 gallons has been removed.
- Marinas are proposed as a permitted use east of the Ocean Gateway facility (referenced by deed). Marinas are currently a conditional use – the application proposes they remain conditional west of Ocean Gateway.
- To be added: Marine office, including but not limited to offices of owners of marinas, wharves or their agents, and naval architects, and seafood brokers.
- To be added: A facility for non-profit organizations whose facility may include offices, classrooms, equipment, equipment rentals, storage, and bathrooms for the public.

- **Waterfront Special Use Zone (Division 18.7)**

The body of section is struck, replaced by *Reserved*.

- **Signs (Division 22)**

References to WSUZ are struck.

- **Shoreland Regulations (Division 26)**

References to WSUZ are struck, and references to B-6 are inserted. These changes to the Shoreland zone reduce minimum setbacks for the B-6 zone from 75ft to 25 ft for structures, roads and driveways.

The applicant has submitted a summary of the proposed changes, and the text edits in the context of their respective sections. Both are included as Applicant's Submittal C and D, respectively. Attachments C and D were part of a submission made on October 9th, and supersede the original submission. The key differences in the October 9th submission are: a new use of underground fuel storage in B-6 and a reduced setback from pier line east of Ocean Gateway, as well as some modifications of the original wording in the text changes. The Oct. 9th submission also included a modified zoning map, with a change in where the B-6/EWPZ is drawn, with a modest amount more area devoted to B-6, and a submission of a proposed amendment to the B-6 height and building envelope overlay.

VI. ZONING ANALYSIS

Purpose of WSUZ, B6, EWPZ. The purpose of the WSUZ is defined by its constraints, as a zone sandwiched between high density residential to the north, parkland to the east, and industrial uses to the west, and the need to be compatible between these diverse land uses. It sets minimum expectations for development in the zone to be compatible with water-related and water-dependent uses, and that uses be compelled to contribute to maintenance and improvement of waterfront infrastructure.

The purpose of the B-6, eastern waterfront mixed zone is to establish a zoning district for the upland portion of the eastern waterfront area. The B-6 zone encourages this district to acquire a distinctly urban form through development that emphasizes a quality pedestrian experience, promotes public transit, and demonstrates exemplary urban design. The zone promotes a range of uses to achieve twenty-four hour urban vitality and shared use of parking infrastructure as recommended in the Eastern Waterfront Master plan for redevelopment. The B-6 is described as a zone that abuts a waterfront zone, not as having a water-dependent purpose itself.

The purpose of the EWPZ is more explicit in its purpose as a waterfront zone than the WSUZ, and quite detailed. It exists to nurture a wide range of deepwater-dependent industry and commerce. Piers, uplands, and circulation patterns consistent with the transportation needs of marine facilities are mentioned, as well as the encouragement of non-marine uses that support deepwater activities, provided that they do not conflict or

compete for limited space with existing or anticipated deepwater-dependent needs. It's primary emphasis, however, is on the berthing and support of large vessels. The purpose statement ends on a recognized hierarchy of uses:

- (a) *The first priority of this zone is to protect and nurture existing and potential deepwater dependent uses (those uses requiring a minimum of 15 feet of water depth);*
- (b) *The second priority is to allow shallow water-dependent and other permitted marine uses, so long as they do not interfere with deepwater dependent uses, either directly by displacement or indirectly by placing incompatible demands on the zone's infrastructure; and*
- (c) *Other uses specified herein are allowed only if they do not interfere with and are not incompatible with higher priority uses.*

The full text of the purpose statements is included in Attachment 4.

Comparison of Allowed Uses. Both the WSUZ and the EWPZ contain a prohibition on uses that have adverse impacts on marine uses (Sec. 14-320.5.5 & Sec. 14-300.1), including uses that will displace an existing water-dependent use; uses that will reduce existing commercial vessel berthing space; uses, structures or activities that will unreasonably interfere with the activities and operation of existing water-dependent uses or significantly impede access to vessel berthing or other access to the water by water-dependent uses; or the siting of uses that will substantially reduce or inhibit existing public access to marine or tidal waters. B-6, being an upland zone, does not contain a parallel section.

The WSUZ distinguishes allowed uses according to their location north and south of the railway tracks. The marine-related and marine-dependent uses allowed on both sides of the tracks in the WSUZ include a full slate of uses:

Marine	Marine products, wholesaling, distribution and retailing
	Marine repair services and machine shops
	Tugboat, fireboat, pilot boat and similar services
	Harbor and marine supplies and services, chandlery, and ship supply such as fueling and bunkering of vessels
	Marine industrial welding and fabricating
	Shipbuilding and facilities for construction, maintenance and repair of vessels
	Commercial marine transport and excursion services, including ferries, captained charter services, sport fishing and water taxis
	Cargo handling facilities, including docking, loading and related storage
	Boat repair yards
	Boat storage facilities, including rack storage facilities
	Seafood processing
	Seafood packing and packaging
	Seafood loading and seafood distribution
	Fabrication, storage and repair of fishing equipment
	Ice-making services
	Facilities for marine construction and salvage
	Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices
	Fabrication of marine-related goods
	Fishing and commercial vessel berthing
	Noncommercial berthing
	Marine office, including but not limited to offices of owners of wharves or their agents, and naval architects, and seafood brokers

	Public landings
	Marinas
	Intermodal transportation facilities
Public	Pedestrian and bicycle trails
Industrial	Industrial uses which meet the performance standards of the I-2 zone

The uses permitted north of those tracks fall under the following conditions: in (a) buildings in existence on January 4, 1993, or (b) one (1) new structure per parcel, which parcel was in existence on January 4, 1993, of up to five thousand (5,000) square feet in total floor area. No construction of a new structure of more than five thousand (5,000) square feet in total floor area or in excess of one (1) per parcel for uses other than those specified in subsections (1) through (3) above is allowed without approval of a conditional use ...No residential construction is allowed either as a permitted use or as a conditional use.

Commercial	Professional, business, and general offices;
	Business service establishments
	Restaurants, provided that food service and consumption shall be the primary function of the restaurant
	Cabinet and carpentry shops
	Cold storage facilities
	Museums and art galleries
Other	Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses or temporary exhibition uses, provided that all such exhibition uses on a lot do not exceed a combined total of sixty (60) days per year and that the total floor area utilized for such uses does not exceed seventy thousand (70,000) square feet at any one (1) time;
	Parking: Parking shall be permitted as long as it does not impede access to water by existing or potential marine uses
	Institutional uses including marine research, education and laboratory facilities. Such uses shall not include any type of overnight accommodations.
Public	Wind energy systems, as defined and allowed in Article X, Alternative Energy.
	Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures, provided that such structures are located more than one hundred (100) feet from the water
	Municipal uses
Industrial	Landscaped pedestrian parks, plazas and similar outdoor pedestrian spaces, including without limitation pedestrian and bicycle trails.

Conditional Uses are as follows:

Conditional Uses	Warehousing and wholesaling
	Any use permitted in section 14-320.6(d)2, 4, 5 or 6, (e), (f) or (g), in one (1) new structure of more than five thousand (5,000) square feet, but not more than ten thousand (10,000) square feet in total floor area per parcel.*
	Temporary wind anemometer towers
	Wind energy systems, as defined and allowed in Article X, Alternative Energy.

EWPZ permits the following uses:

Marine Passenger	Intermodal marine passenger facilities
	Cruise ship home port and port of call berthing and support
	International and domestic ferries
Marine Commercial	Transient and long-term commercial berthing
	Marine-related warehousing
	Marine related construction, manufacturing, fabrication, salvage and repair
	Storage and repair of fishing equipment
	Ship and other marine vessel construction, building, servicing, and repair
	Boat and marine equipment storage
	Marine fuel storage and dispensing provided that on-site fuel storage structures shall be used solely for the purpose of fueling vessels and shall be limited, cumulatively, to 20,000 gallons of storage capacity within the zone
	Public, non-profit, or commercial marine transportation and excursion services, including captained charter services, sport fishing and water taxis
	Ship and off-shore support services, including but not limited to tug boats, pilot boats, and chandleries
Commercial	Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices
	Professional, business, government, and general office located in upper floors of structures existing as of September 18, 2006.
	Temporary events, except festivals as otherwise governed under section 14-301I3 below.
	Buildings, piers and lands within the EWPZ may be used for temporary public and private events including but not limited to exhibitions, conferences, meetings, and trade shows under the following conditions:
	a. Temporary events occupying more than 10,000 square feet of building or outdoor space shall not exceed a combined total of sixty (60) days between May 1st to October 31st;
	b. No temporary event may continue for more than 14 days of continuous operation;
	c. Any temporary event that anticipates more than 5,000 people in attendance on any single day must provide and be subject to a parking management plan. The parking management plan must be submitted for the review and approval of the public works authority at least 60 days prior to the first day of the event.
	Festivals subject to City license
	Street vendors licensed pursuant to Chapter 19 as a result of a competitive bid process conducted pursuant to Chapter 2 of the City Code
Public	Fire, police and emergency services
	Governmental agency emergency operations/crisis centers;
	Research, military and visiting attraction vessel berthing
	Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces, including without limitation pedestrian and/or bicycle trails

Other	Wind energy systems, as defined and allowed in Article X, Alternative Energy.
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In conjunction with the standard conditions of approval for all conditional uses (Section 14-474), conditional uses in the EWPZ are allowed provided the uses impede or preclude existing or potential water-dependent development within the zone, will allow for adequate right-of-way access to the water, are compatible with marine uses, in addition to the following additional conditional use standards:

- a. *Marine compatibility:* The proposed use shall be compatible with existing and potential marine uses in the vicinity, as required by section 14-304(n) and (o) (compatibility of non-marine uses with marine uses and functional utility of piers and access to the water's edge); and
- b. *Parking and traffic circulation:*
 - i. *Parking and traffic circulation plan:* All applications for conditional use in the EWPZ shall submit a parking and circulation plan for review and approval by the planning board. The parking and circulation plan shall show the location of all existing and proposed structures, travel ways and parking under the common ownership and/or control of the subject pier or property. The plan shall demonstrate that the parking and circulation of the conditional use does not interfere with the functional marine utility of the property and otherwise meets the standards and conditions of the EWPZ.

Marine	Marine products, wholesaling and retailing
	Ice-making services
	Marine freight facilities providing service for, and/or intermodal transfer of, container and breakbulk freight
	Marine educational facilities
	Seafood retailing, wholesaling, packaging and shipping
	Seafood processing for human consumption, subject to the performance standards of the IL zone set forth in section 14-236 in addition to the performance standards of section 14-304
	Commercial marinas serving commercial and recreation boats, provided that such facilities are located in areas that do not conflict with the navigation and handling of deepwater dependent vessels accessing existing or potential deepwater berthing
	Fish byproducts processing, provided that:
	a. Any fish byproducts processing facility has a valid rendering facility license under chapter 12 of the Portland city code; and b. Any fish byproducts facility shall employ current and appropriate odor control technology to eliminate or minimize detectable odors from such a process, and in no case shall odors exceed the odor limitation performance standards of the IM zone (section 14-252); and c. The processing other material wastes or byproducts shall not be deemed a lawful accessory use Permitted herein.
Commercial	Structured parking available to the general public
	Professional, business, government and general offices uses in upper floors of structures constructed after September 18, 2006
	Passenger support services supporting a marine passenger use listed under 14- 301(a)(marine passenger). Total ground floor area occupied by any combination of the following uses (regardless of ownership) shall not exceed 35% of the gross floor area of the principle associated marine passenger use and no more than 35,000 sf cumulative within the EWPZ:
	i. Retail;

	ii. Restaurants/food service other than street vendors;
	iii. Retail service;
	iv. Passenger information services.
Industrial (subject to IM performance standards)	Non-marine related warehousing in structures existing as of September 18, 2006
	Facilities for combined marine and general construction
	Low impact industrial uses as permitted in the IL zone in structures existing as of September 18, 2006, excluding all auto repair service facilities
Public	Utility substations: Public utility substations, including but not limited to electrical transformers, sewage and stormwater pumps and telecommunication switching stations, are permitted under the following conditions:
	a. The facility is located more than 100 feet from the water's edge;
	b. The facility occupies no more than 50 square feet of structure above ground;
	c. The facility provides no dedicated on-site parking and all subsurface elements of the facility are installed and operated such that land occupied by the facility is otherwise useable and made available for marine related uses, including but not limited to parking, travel ways, and/or storage; and
	d. The facility shall be sized, sited and screened to minimize visual impact and prominence from public ways.
	Maritime museums, limited to 5,000 square feet of ground floor footprint.
Parking for non-marine uses	No parking shall be allowed in this zone for non-marine uses unless the applicant can demonstrate that the number of parking spaces on-site exceeds the number of parking spaces needed to accommodate the demand for marine and water-dependent uses that are permitted as permitted and conditional marine uses which are or may be located on the subject property. The remainder of parking required, if any, for such non-marine uses shall be provided off-site.
Other	Temporary wind anemometer towers
	Wind energy systems, as defined and allowed in Article X, Alternative Energy

As with other zones, uses not enumerated are not permitted. Additionally, the following uses are specified as prohibited: residential uses, amusement/theme parks, bulk freight facilities, on-site gambling casinos not accessory to and located aboard either a ferry or inter-port cruise ship.

The B-6 zone allows the following uses:

Commercial	Professional, business and general offices
	Restaurants and other eating and drinking establishments
	Hotels and inns limited to no more than 150 rooms
	Craft and specialty shops, including the on-premises production of handcrafted goods
	Retail and retail service establishments, excluding those with gas pumps
	Theatres
	Banking services, excluding vehicular drive-up services*
	Cabinet and carpentry shops

	Personal services
	Business services
	Offices of business trades people
	Miscellaneous repair services, excluding all types of automotive repair except for automobile repair and service establishments
	Telecommunication and broadcast and receiving facilities*
	Brew pubs and microbreweries without associated bottling facilities; and brewpubs and microbreweries with associated bottling facilities limited to 5,000 bottles per year output.
	Electronic data storage
	Marine products wholesaling and retailing
	Harbor and marine supplies and services, chandlery and ship supply
	Bakeries, coffee roasters, and commercial kitchens with building footprints limited to fifteen thousand (15,000) square feet of contiguous building space.
	Printing establishments.
Residential	Attached dwellings including row houses, two-family and multifamily dwellings
	Handicapped family units
	Combined living/working spaces, including but not limited to artist residences with studio space
	Mixed use residential and commercial structures
Public	Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures
	Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces
	Pedestrian and multi-use trails
Other	Studios for artists, photographers and craftspeople including but not limited to, painters, sculptors, dancers, graphic artists and musicians
	Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses*
	Health clubs, martial arts and mediation facilities
	Intermodal transportation facilities
	Nursery schools, kindergartens, and daycare facilities or home babysitting services
	Wind energy systems, as defined and allowed in Article X, Alternative Energy

B-6 conditional uses include meeting and exhibition facilities up to a total of 20,000 gross sf; wholesaling, providing the wholesale operation is associated with an onsite retail establishment and that the wholesaling component of the facility occupies a building footprint of less than 15,000 square feet; drive-up banking facilities located in the interior of parking structures, subject to multiple criteria; surface and structured parking, subject to multiple criteria, including ground floor commercial requirements for structured lots; and temporary wind anemometer towers.

As with other zones, uses not enumerated are not permitted. Additionally, the B-6 use requirements specifically prohibit ground mounted telecommunication towers; waste, scrap, and/or byproduct storage and processing facilities; auto service stations; and drive-up facilities, excepting bank drive-ups in interior parking structures.

In sum, neither the WSUZ nor the EWPZ allow residential uses or anything but ancillary non-residential, non-marine uses. They tackle this issue through different tools – the WSUZ allowing a greater range of non-marine-dependent uses north of the rail line that splits the zone and through limits on new construction, and EWPZ through a narrower list of combined possible uses and strong language regarding the necessary marine compatibility of non-marine uses. The emphasis in the list of permitted uses for EWPZ is on marine-dependent uses, with most marine-related uses being conditionally allowed. The allowed uses of the B-6 zone read like many other mixed-use urban zones, with no particular marine emphasis, except for its noted adjacency, and upland-intended application.

Dimensional Requirements Summary:

	WSUZ	EWPZ	B-6
Min. Lot Size	None	None	None
Min. Street Frontage	None	None	
Min. Front Yard	None	None	
Min. Rear Yard	None required unless adjacent to a residential zone; if adjacent to a residential zone, twenty-five (25) feet.	None	None
Min. Side Yard	None required unless adjacent to a residential zone; if adjacent to a residential zone, twenty-five (25) feet.	None	
Max. Setback from Street Line			10 ft., excepting parking garages, public trans. facilities, and subject to the building height envelopes of Eastern Waterfront Building Height Overlay Map. See Sec. 14-272 c.2 for exemptions.
Min. Length of Building Wall required to be located along street frontage of lot			70% of lot street frontage or 25% of building perimeter. For buildings fronting on 2+ streets, building wall on one street may be decreased so long as it is proportionally increased on others and the building wall on the secondary street is not reduced to less than 25 ft.
Min. Setback from Pier Line	5 feet from the edge of any pier, wharf or bulkhead. The setback may be utilized for activities related to the principal uses carried on in the structure, subject to 14-313/14-314, but shall not be utilized for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).	5 feet from the edge of any pier, wharf or bulkhead. The setback may be utilized for activities related to the principal uses carried on in the structure, subject to 14-313/14-314, but shall not be utilized for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).	
Max. Structure Height	45-100 ft. (see Sec. 14-320.9.e)	45 ft, except for cranes and gantries, rooftop appurtenances (see Sec. 14-303.e for full exemptions)	65 ft. or as otherwise governed by a Building Height Overlay Map
Minimum Building Height for New Construction			3 floors of habitable space above the average adjacent grade within 25 ft. of any public street. See Sec. 14-272 c.3.g for exemptions.
Max. Lot Coverage			100%
Max. Impervious Surface		100%	

VII. POLICY ANALYSIS

Comprehensive Plan Volume 1 (2002/2004) gives an overview of the years of waterfront planning efforts of the City, and addresses redevelopment of Waterfront East specifically. It outlines four redevelopment principles for development in this area (these four principles are restated in the Eastern Waterfront Masterplan): Character and Impact of Development, with particular emphasis on compatibility with surrounding areas – residential, maritime, and natural environment; Mixed-use as a component of an active, vibrant urban area; maintaining Maritime Resources; and Economically Responsible Development that benefits the city and the region. Volume 1 references the Eastern Waterfront Masterplan (adopted 2002 and

amended 2004 & 2006). The study boundary is shown in red in Figure 3 below (also [Attachment 1](#)), which is the specific policy document for this area, which also consists, by reference, of two other documents: the Eastern Waterfront Design Guidelines and the Eastern Waterfront Building Height Study.

The Eastern Waterfront Masterplan makes specific reference to the Portland Company property:

The Portland Company complex, a mid-nineteenth century manufacturing facility, occupies the easterly end of the Eastern Waterfront. As an early manufacturing center, the site is home to several large brick and granite industrial buildings of architectural significance with potential for adaptive reuse. The Portland Company property is currently designated as eligible for inclusion in the National Register of Historic Places.

The property is highly developed, but in need of significant structural and cosmetic repair. Importantly, the complex is the only private property in the study area with direct water access. Currently, the Portland Company houses a variety of commercial uses, including a marina, boatyard, boat repair, general office, exhibition space, and the Narrow Gauge Railroad Museum.

Future parking enhancements and better vehicular and pedestrian access to the central redevelopment area will better integrate the Portland Company complex with the Eastern Waterfront and the Commercial Street business district, spurring the adaptive reuse and restoration of the historic structures.

Development Considerations

- *Historic 19th Century industrial complex.*
- *Promote the continuation of boat yard and yacht support services.*
- *Encourage the adaptive reuse and sensitive rehabilitation of historic structures.*
- *Increase connections to Commercial Street and promote shared parking with abutting uses.*
- *Expand recreational boating and active public use of the water.*

The applicant provides a summary of the alignment of their project with the Eastern Waterfront Masterplan in section 2.4 of their application. The application accurately cites support in that document for zoning changes that foster upland mixed use development as well as water dependent and marine uses in this area.

In discussion of Marine Compatibility, in section IX., below, the specific location of the B-6/EWPZ boundary as it relates to marine resources is highlighted. The Eastern Waterfront Masterplan makes specific reference to priority areas for water dependent uses: *Maritime Resources: Development in the eastern waterfront on piers, bulkheads, and on land within 75 feet of mean high water line will give priority to compatible water-dependent and maritime uses.* Though this application is generally consistent, this is one specific area that warrants a detailed discussion of consistency of the Comprehensive Plan with the proposed zone boundaries.

The Eastern Waterfront Design Guidelines will be a pertinent policy document when a development proposal is brought forward, but doesn't have bearing on the zoning application. The Eastern Waterfront Building Height Study (Height Study), however, has implications for the proposed zone change. The Height Study does not only include maximum height recommendations, but incorporates other tools for preserving and enhancing view corridors for a topographically varied area of Portland. It includes recommendations for street extensions and greater connectivity with the surrounding neighborhoods, maintaining view corridors through the delineation of building envelopes, as well as areas where "towers" could be built – areas where the maximum height could be exceeded – provided that those towers met particular spacing and dimensional requirements.

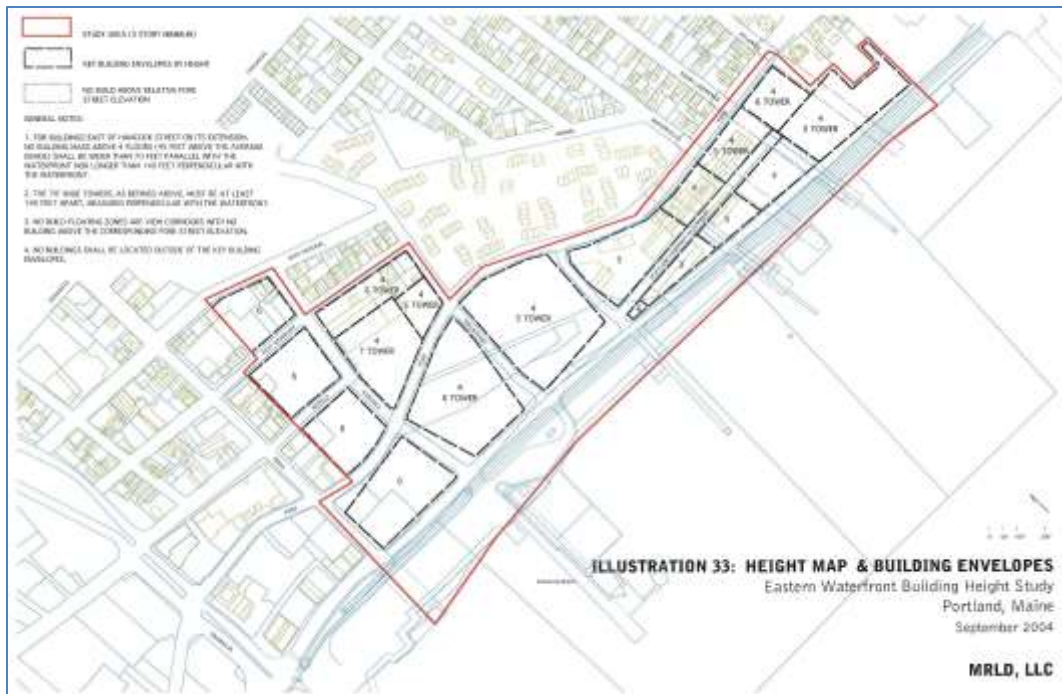


Figure 3, Eastern Waterfront Building Height Study, Illustration 33.

The B-6 Building Height Overlay & Building Envelopes was adopted in 2004 as a direct outgrowth of the policy recommendations of the Height Study, and regulates heights and building areas within the current B-6 boundaries (Figure 4 and Attachment 2). The B-6 zone and the Height Study are currently in alignment. A simultaneously amended B-6 Building Height Overlay and B-6 zone extent would maintain Comprehensive Plan consistency.

The Height Study, and Illustration 33, do not extend to the southerly boundary of where this application extends the B-6 to, leaving a gap between the Height Study and the developable area of the proposed B-6 zone.

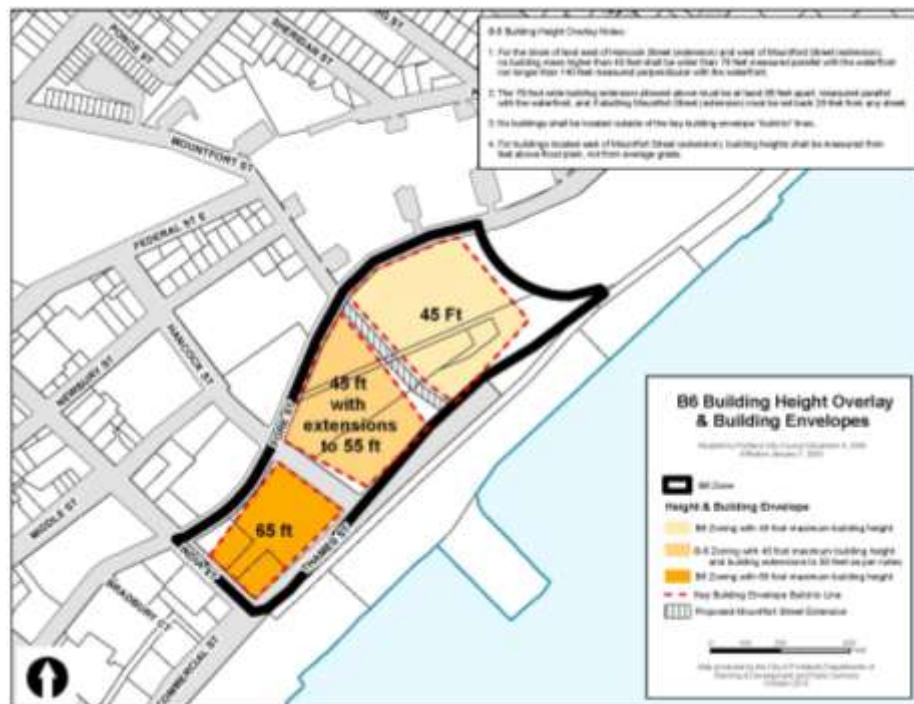
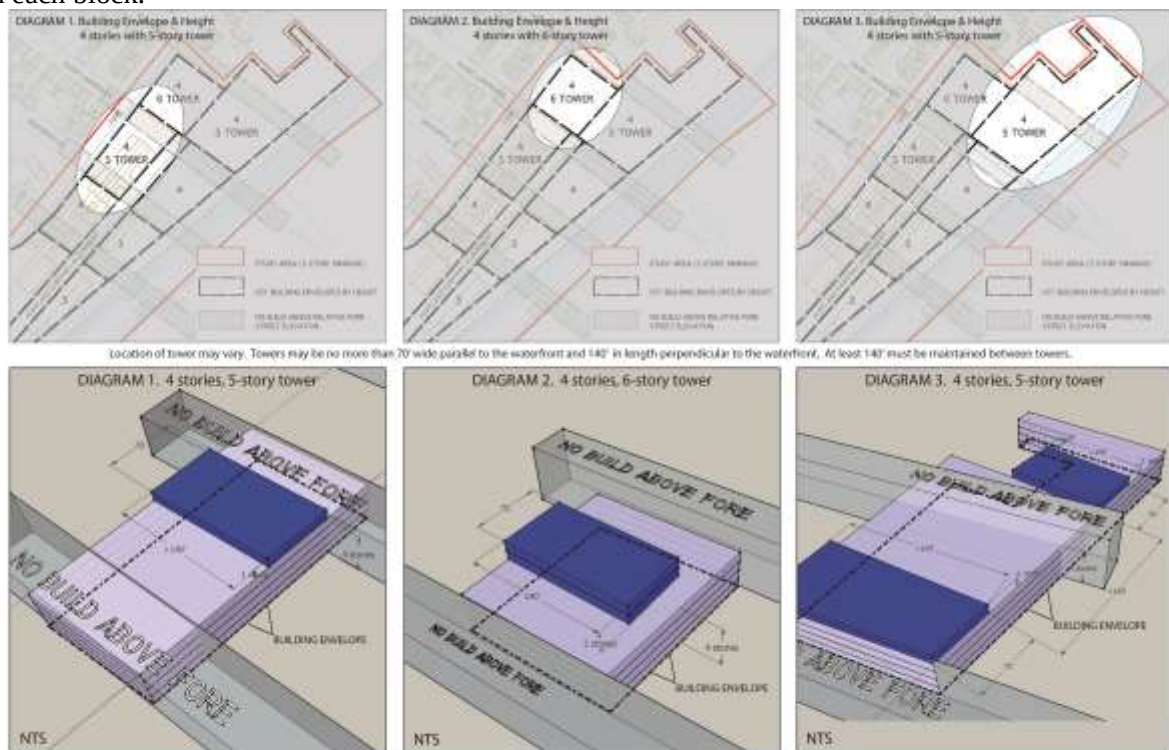


Figure 4

VIII. DISCUSSION

Height. The B-6 Building Height Overlay & Building Envelopes map is the regulatory fulfillment of one geographic area, just the west of the Portland Company land, of Illustration 33 (Figure 3 above and Attachment 1). An extension of the B-6 zone will require a continuation of the B-6 Building Height Overlay & Building Envelopes map in order for an expansion of B-6 to be compliant with Comprehensive Plan policy. Planning staff has had discussion about the height/building envelopes component of this proposal, and the applicant has submitted a proposal for discussion. B-6 currently allows for 65 ft. maximum feet, except that the B-6 zone (Sec. 14-272) currently states that *Notwithstanding sections 1. and 2. above, new structures located in the blocks located south of Fore Street and north of Commercial Street and its extension, shall build to the key building envelopes shown on the Eastern Waterfront Building Height Overlay Map.* An extension of the zone outside the boundary of the Height Overlay map would default to the maximum allowed height of 65 feet because the map stops before 58 Fore Street, creating a gap between the Height Study, which as an adopted component of the Eastern Waterfront Masterplan is an element of the Comprehensive Plan, and enacted Zoning. Staff recommends that the B-6 Building Height Overlay & Building Envelopes map be amended concurrently with an amendment to the zoning map, so that Comprehensive Plan consistency is maintained.

The conversion of the Height Study recommendations to the B-6 Building Height Overlay involved some interpreting of terms used in the Height Study. The Height Study makes recommendations for # of stories, and elsewhere in the document defines a story as 11 feet. The B-6 Building height Overlay therefore reflects this as maximum number of feet, so that a recommendation for 4 stories (or floors) was implemented as 45 feet. The Height Study uses the term “towers” to describe areas where the maximum height can be exceeded. These towers have both dimensional and locational limits, so as to avoid blocking identified view corridors and monolithic, uniform building heights. Towers were recommended to be no wider than 70’ parallel with the waterfront nor longer than 140’ perpendicular, and no closer than 140 feet apart. Because this language is potentially confusing, we have prepared a diagram below, and included as Attachment 2, which depicts the opportunity for a tower in the various blocks presented in Illustration 33, showing the dimensional limits for towers in each block.



The B-6 Building Height Overlay drops the tower terminology, but adopts the recommended dimensional and spacing standards. Building envelopes and view corridors are carried over, as well. The building envelope east of Mountfort St. was not implemented with height extensions above 4 stories, as originally recommended. This same building envelope has a different means of calculating height than the other envelopes – maximum building height is calculated from feet above floodplain in deference to the steep grades of this eastern section of the study area, rather than the standard measurement from average surrounding grade. As can be seen from the topographic map of the area (Figure 5 and [Applicant's submission Plan 1](#)), the difference in resulting building heights when measured from average grade versus feet above flood plain could be significant.

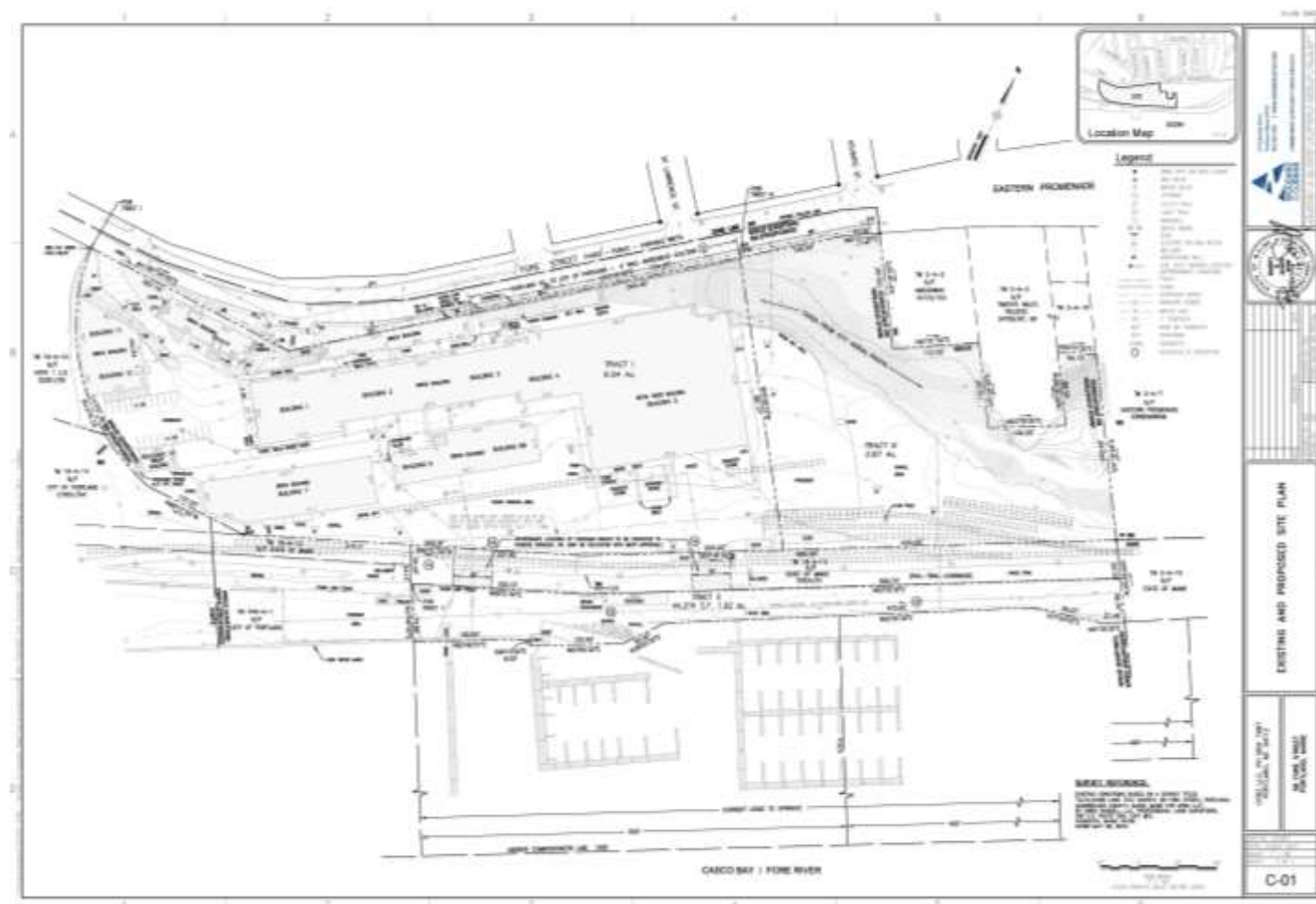


Figure 5

Height Study recommendations east of the B-6 Height Overlay continue to the eastern limits of the Portland Company complex, with a northern boundary on Fore Street and a southern boundary stopping north of the rail/trail ROW. It includes protected view corridors, and recommended heights ranging from 3-6 stories (minimum 3, and maximums are tower inclusive).

On October 9th a supplement to the original submission was made to include a proposal for an amended B-6 Height Overlay & Building Envelopes map (Figure 6 and [Applicant's submission Plan 2](#)). The applicant's proposed height map does not carry over the height measurement above flood plain east of Mountfort Street extension to the 58 Fore Street site. Given the topography of the site, a measurement from average adjoining grade could result in substantially higher building forms than were predicated for this area, as we read the plan. This is an issue for further discussion.

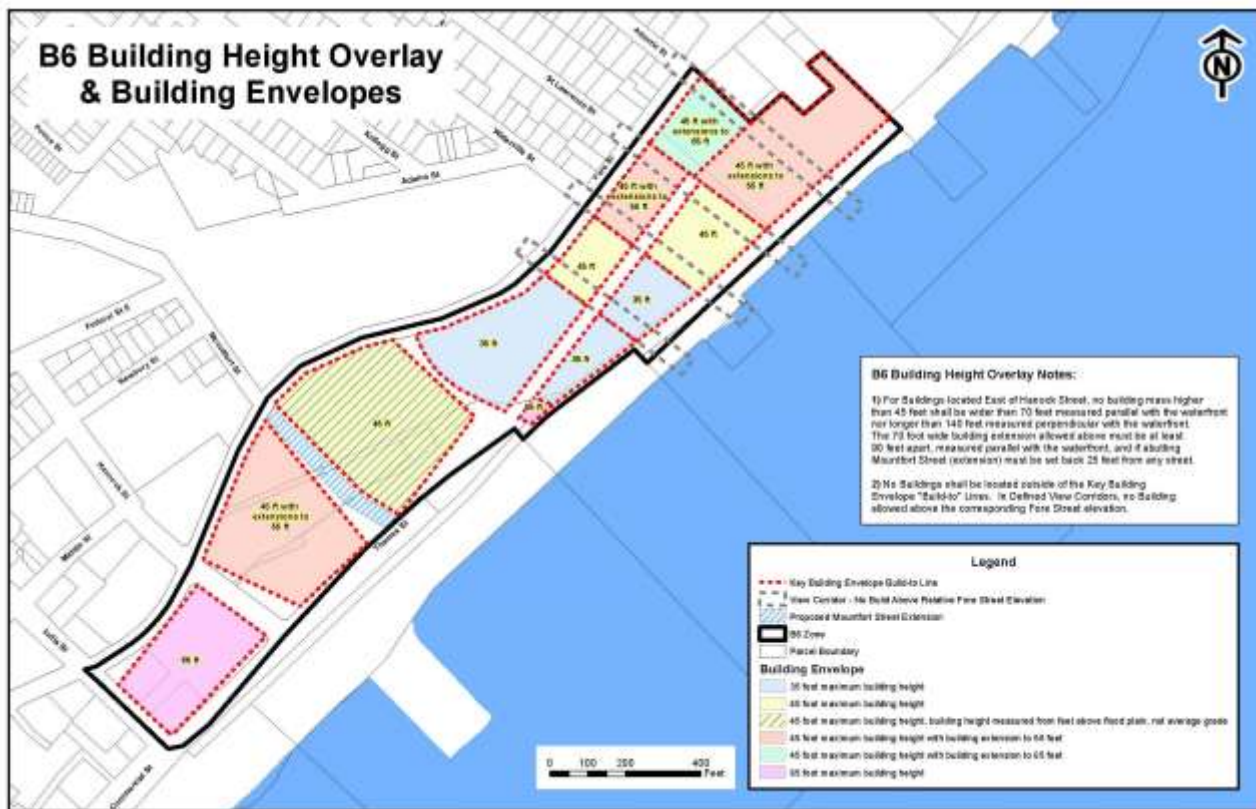


Figure 6

Marine Compatibility. Two topics arose in discussion between Planning staff and Bill Needelman, Waterfront Coordinator, that warrant consideration at the upcoming workshop – 1) the proposed change in EWPZ to have marinas be allowed as a permitted use east of Ocean Gateway, rather than the current conditional use for all marinas in this zone, and 2) the southerly boundary of the B-6 zone.

The conditional use standards for marinas remain pertinent east of Ocean Gateway, as they control for possible interference with the large vessels the EWPZ prioritizes. The EWPZ is primarily concerned with the needs of water-dependent, not water-related, deep water vessel needs, and the conditional use standards work to maintain this balance. As a conditional use, marinas in EWPZ must demonstrate that they *are located in areas that do not conflict with the navigation and handling of deepwater dependent vessels accessing existing or potential deepwater berthing*. They are also subject to marine compatibility standards, as are all conditional uses in this zone.

The proposed B-6 zone boundary is drawn within or at 25' from the water's edge, breaking south of the existing rail ROW. By pulling the southerly edge of the B-6 zone so near to the water, and leaving a relatively narrow band of EWPZ, there remains little area dedicated to marine activity. The proposed southerly B-6 boundary replaces an active waterfront area with a mixed-use, not marine-related area. This aspect of the application constitutes an important policy change for the Board to consider, and should be a discussion item at the October 21st workshop. The B-6 rezoning anticipates the possibility of relocating the rail-trail corridor towards the water's edge, a topic yet to be evaluated by the City, and one with implications for the upland needed to support a water dependent EWPZ. At this stage, the Board should consider whether this State-owned corridor should be rezoned to EWPZ rather than B-6.

Related to the proposed zone boundary are the proposed Shoreland zone changes, which reduce the minimum setback to 25 ft. for B-6. These changes run in tandem with the map change as a whole, and if, through the course of review, another zone boundary is agreed to between B-6 and EWPZ, Shoreland changes will need to be evaluated for consistency with the base zones and approved by DEP.

Historic Preservation

There is no action required on historic preservation or formal role for the Historic Preservation Board at this stage, but the historic significance of the site, and the interests of that Board and the community are such that it warrants mention at the outset of this process.

Prior to and concurrent to the zoning application, there has been significant activity related to the historic significance of the property. Before the submission of the rezoning application, the developer had studies conducted of the historic character of the buildings on site (available in full at this link: <http://www.portlandmaine.gov/1341/58-Fore-Street-Portland-Company>), and a structural assessment of the same. A full survey of the historic significance of the site was conducted, as well, and a review of the structural assessment is under way. Portland Landmarks has requested that the Historic Preservation Board nominate the site for designation as a Historic District (Attachment 5). On this last event, Planning staff has to date recommended that the rezoning request be considered prior to action on the Historic District nomination, so that the issues can be considered sequentially rather than in tandem.

Portland's Historic Preservation submitted correspondence dated October 15, 2014 for the Planning Board's consideration (Attachment 6). The Historic Preservation Board outlines their review standards and process. In addition the Board suggests a joint site walk be scheduled in the near future, which "...would be both efficient and of mutual benefit.

IX. NEXT STEPS

- Provide initial feedback on zoning map and text amendment requests.
- Schedule Site Visit
- Schedule second workshop, if needed.

X. ATTACHMENTS

Report Attachments

1. Illustration 33
2. Diagram of Tower Spacing
3. B-6 Building Height Overlay & Building Envelopes Map
4. WSUZ, EWPZ, B-6 Purpose Statements
5. Portland Landmarks Correspondence
6. Portland Historic Preservation Board Correspondence

Applicant's Submittal

- A. Application
- B. Applicant's Cover Letter – 2014.10.09
- C. Applicant's Revised Text Amendment Summary – 2014.10.09
- D. Full Revised Text Amendments – 2014.10.09
- E. Proposed Zoning Extent – 2014.10.09
- F. DOT Correspondence
- G. Neighborhood Meeting Documentation

Public Comment

- PC1. Paula Guillemette Agopian 10-8-14
- PC2. Everett and Susan Ingalls
- PC3. Karen Snyder 10-12-14
- PC4. Brian Burwell 10-16-14

Plans

- Plan 1. Existing Conditions Plan
- Plan 2. Proposed B-6 Height Overlay – 2014.10.09
- Plan 3. Proposed B-6 Height Overlay w/Aerial – 2014.10.09



Memorandum

Planning and Urban Development Department

Planning Division

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

From: Christine Grimando, Senior Planner

Date: November 12, 2014

Project #: PEZ.2014-153

CBLs: 018 A001001, 018 A002, 018 A003, 018 A013, 019 A014, 446 A001, 446 A003, 446 A004, 002 X001, 002 A018

Re: Zoning Map and Text Amendments for 58 Fore Street

Meeting Date: November 18, 2014

I. INTRODUCTION

The applicant, CPB2 LLC, is requesting zoning map and text amendments for property at 58 Fore Street, the site of the Portland Company complex. Established in 1846 for the manufacture of railroad equipment, it continued and evolved as an industrial complex, manufacturing steel through 1978. It is now occupied by a variety of tenants. The property is currently zoned Waterfront Special Use Zone (WSUZ), and includes warehouses, storage buildings, and a marina with associated parking and laydown areas. The request for a zoning map amendment also encompasses State of Maine Property, two City-owned parking areas, and submerged lands. The zones being requested in place of WSUZ are the B-6 Eastern Waterfront Mixed Zone, and the Eastern Waterfront Port Zone (EWPZ). There are also proposed text amendments for the B-6, EWPZ and Shoreland Overlay zones, and an amendment to the B-6 Building Height Overlay & Building Envelopes map.

Applicant: CPB2 LLC

Property Owner: CPB2 LLC

Consultants: Woodard & Curran & Bernstein Shur

Public Notice: Public notice of the workshop appeared in the Portland Press Herald on November 10, 2014 on November 11, 2014 was posted on the web site and was sent by mail or e-mail to 264 property owners and interested citizens.

A neighborhood meeting was held on September 16, and notes and documentation from that meeting were attached as part of the October workshop packet and can be referenced here: <http://www.portlandmaine.gov/AgendaCenter/ViewFile/Agenda/10212014-649?html=true> . Written public comment is included in the packet (Public Comment PC1 through 3).

II. Background

Current Uses. The property is currently occupied by a range of uses, including a full service marina,

parking, warehouses, boat storage, a blacksmith facility and some accessory office space. The property is also bisected by a 50' wide strip of Maine State property land that encompasses both the Maine Narrow Gauge Railway and a public, multi-use trail that is an extension of the Eastern Promenade, maintained by Portland Trails and the City of Portland. The application also includes two adjacent City-owned lots.

Surrounding Uses. The property is contiguous with active waterfront uses to the west, bordered by the Ocean Gateway Terminal, and east of that, at the foot of Commercial and Franklin Streets, the Maine State Pier, both serving deep water dependent large vessels, including cruise ships. To the east is the Eastern Promenade. The neighborhood to the immediate north is residential, with Waterville, St. Lawrence and Atlantic Streets perpendicular to the Fore Street-side boundary of the property, and abutted by Munjoy South apartments. Also to the north but immediately west of this residential area is the India Street neighborhood, which contains residential uses and a diverse mix of commercial uses – Shipyard Brewery, parking garages, the shops of India Street, a Marriot Residence Inn, and the Eastern Cemetery.

Zoning Context. The immediately adjacent zones to 58 Fore Street are R-6 (Residential) to the east and north, ROS (Recreation and Open Space) to the east, B-6 to the west, and EWPZ to the west and south. The property is also partially in the Shoreland Zone, and partially in a flood zone.



Figure 1

III. PROPOSED DEVELOPMENT

The applicant is requesting that the zoning map and text changes be evaluated independent of a development proposal. The applicant has submitted an existing conditions plan to accompany the application in lieu of a development plan.

IV. PROPOSED MAP AMENDMENT

Current Zoning:	Waterfront Special Use Zone (WSUZ), Shoreland Overlay
Proposed Zoning:	B-6, Eastern Waterfront Port Zone (EWPZ), Shoreland Overlay
Current Uses:	Warehouses, storage buildings, marina, associated parking. State of Maine Property, currently utilized by the Maine Narrow Gauge

Railroad and a section of the paved, public Eastern Promenade Trail maintained by Portland Trails/City of Portland. The City Property includes gravel and paved parking areas.

Proposed Uses: None proposed at this time
Total Parcel Area: Approximately 12 acres, + submerged lands
Area to be Rezoned: Approximately 12 acres, + submerged lands

V. PROPOSED TEXT AMENDMENTS

The application includes text amendments to the following sections of the Land Use Code:

- **Sec. 14-48. Establishment of Zones (Division 1)**

Reference to WSUZ is struck.

- **B-6 Eastern Waterfront Mixed Zone (Division 15.1)**

The following permitted uses are proposed to be added to the B-6 zone:

- Private clubs or nonprofit social and recreational facilities, as defined in 14-47.
- Educational facilities.
- Temporary events, provided that all such events on a lot do not exceed a combined total of (60) days per year and that the total floor area utilized for such uses does not exceed seventy thousand (70,000) square feet at any one (1) time.
- Museums and art galleries.
- A new use of underground fuel storage in B-6

A reduced setback from pier line east of Ocean Gateway

An exemption from the noise standard has been modified to include temporary activities, festivals, events and concerts.

Mediation is proposed to be changed to *Meditation* – staff and the applicant view this as correction of an existing typo.

- **Eastern Waterfront Port Zone (Division 17.5)**

The following changes to the use standards are proposed:

- A permitted marine use that references a maximum fuel storage of 20,000 gallons has been substituted with similar language that appears in other zones, and provides for similar functions, except that the maximum of 20,000 gallons has been removed.
- Marinas are proposed as a permitted use east of the Ocean Gateway facility (referenced by deed). Marinas are currently a conditional use – the application proposes they remain conditional west of Ocean Gateway.
- To be added: Marine office, including but not limited to offices of owners of marinas, wharves or their agents, and naval architects, and seafood brokers.
- To be added: A facility for non-profit organizations whose facility may include offices, classrooms, equipment, equipment rentals, storage, and bathrooms for the public.

- **Waterfront Special Use Zone (Division 18.7)**

The body of section is struck, replaced by *Reserved*.

- **Signs (Division 22)**

References to WSUZ are struck.

- **Shoreland Regulations (Division 26)**

References to WSUZ are struck, and references to B-6 are inserted. These changes to the Shoreland zone reduce minimum setbacks for the B-6 zone from 75ft to 25 ft for structures, roads and driveways.

VI. ZONING ANALYSIS

Purpose of WSUZ, B6, EWPZ. The purpose of the WSUZ is defined by its constraints, as a zone sandwiched between high density residential to the north, parkland to the east, and industrial uses to the west, and the need to be compatible between these diverse land uses. It sets minimum expectations for development in the zone to be compatible with water-related and water-dependent uses, and that uses be compelled to contribute to maintenance and improvement of waterfront infrastructure.

The purpose of the B-6, eastern waterfront mixed zone is to establish a zoning district for the upland portion of the eastern waterfront area. The B-6 zone encourages this district to acquire a distinctly urban form through development that emphasizes a quality pedestrian experience, promotes public transit, and demonstrates exemplary urban design. The zone promotes a range of uses to achieve twenty-four hour urban vitality and shared use of parking infrastructure as recommended in the Eastern Waterfront Master plan for redevelopment. The B-6 is described as a zone that abuts a waterfront zone, not as having a water-dependent purpose itself.

The purpose of the EWPZ is more explicit in its purpose as a waterfront zone than the WSUZ, and quite detailed. It exists to nurture a wide range of deepwater-dependent industry and commerce. Piers, uplands, and circulation patterns consistent with the transportation needs of marine facilities are mentioned, as well as the encouragement of non-marine uses that support deepwater activities, provided that they do not conflict or compete for limited space with existing or anticipated deepwater-dependent needs. It's primary emphasis, however, is on the berthing and support of large vessels. The purpose statement ends on a recognized hierarchy of uses:

- (a) *The first priority of this zone is to protect and nurture existing and potential deepwater dependent uses (those uses requiring a minimum of 15 feet of water depth);*
- (b) *The second priority is to allow shallow water-dependent and other permitted marine uses, so long as they do not interfere with deepwater dependent uses, either directly by displacement or indirectly by placing incompatible demands on the zone's infrastructure; and*
- (c) *Other uses specified herein are allowed only if they do not interfere with and are not incompatible with higher priority uses.*

Comparison of Allowed Uses. Both the WSUZ and the EWPZ contain a prohibition on uses that have adverse impacts on marine uses (Sec. 14-320.5.5 & Sec. 14-300.1), including uses that will displace an existing water-dependent use; uses that will reduce existing commercial vessel berthing space; uses, structures or activities that will unreasonably interfere with the activities and operation of existing water-dependent uses or significantly impede access to vessel berthing or other access to the water by water-dependent uses; or the siting of uses that will substantially reduce or inhibit existing public access to marine or tidal waters. B-6, being an upland zone, does not contain a parallel section.

The WSUZ distinguishes allowed uses according to their location north and south of the railway tracks. The marine-related and marine-dependent uses allowed on both sides of the tracks in the WSUZ include a full slate of uses:

Marine	Marine products, wholesaling, distribution and retailing
	Marine repair services and machine shops

	Tugboat, fireboat, pilot boat and similar services
	Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels
	Marine industrial welding and fabricating
	Shipbuilding and facilities for construction, maintenance and repair of vessels
	Commercial marine transport and excursion services, including ferries, captained charter services, sport fishing and water taxis
	Cargo handling facilities, including docking, loading and related storage
	Boat repair yards
	Boat storage facilities, including rack storage facilities
	Seafood processing
	Seafood packing and packaging
	Seafood loading and seafood distribution
	Fabrication, storage and repair of fishing equipment
	Ice-making services
	Facilities for marine construction and salvage
	Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices
	Fabrication of marine-related goods
	Fishing and commercial vessel berthing
	Noncommercial berthing
	Marine office, including but not limited to offices of owners of wharves or their agents, and naval architects, and seafood brokers
	Public landings
	Marinas
	Intermodal transportation facilities
Public	Pedestrian and bicycle trails
Industrial	Industrial uses which meet the performance standards of the I-2 zone

The uses permitted north of those tracks fall under the following conditions: in (a) buildings in existence on January 4, 1993, or (b) one (1) new structure per parcel, which parcel was in existence on January 4, 1993, of up to five thousand (5,000) square feet in total floor area. No construction of a new structure of more than five thousand (5,000) square feet in total floor area or in excess of one (1) per parcel for uses other than those specified in subsections (1) through (3) above is allowed without approval of a conditional use ...No residential construction is allowed either as a permitted use or as a conditional use.

Commercial	Professional, business, and general offices;
	Business service establishments
	Restaurants, provided that food service and consumption shall be the primary function of the restaurant
	Cabinet and carpentry shops
	Cold storage facilities
	Museums and art galleries
Other	Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses or temporary exhibition uses, provided that all such exhibition uses on a lot do not exceed a combined total of sixty (60) days per year and that the total floor area utilized for such uses does not exceed seventy thousand (70,000) square feet at any one (1) time;

	Parking: Parking shall be permitted as long as it does not impede access to water by existing or potential marine uses
	Institutional uses including marine research, education and laboratory facilities. Such uses shall not include any type of overnight accommodations.
Public	Wind energy systems, as defined and allowed in Article X, Alternative Energy.
	Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures, provided that such structures are located more than one hundred (100) feet from the water
	Municipal uses
Industrial	Landscaped pedestrian parks, plazas and similar outdoor pedestrian spaces, including without limitation pedestrian and bicycle trails.

Conditional Uses are as follows:

Conditional Uses	Warehousing and wholesaling
	Any use permitted in section 14-320.6(d)2, 4, 5 or 6, (e), (f) or (g), in one (1) new structure of more than five thousand (5,000) square feet, but not more than ten thousand (10,000) square feet in total floor area per parcel.*
	Temporary wind anemometer towers
	Wind energy systems, as defined and allowed in Article X, Alternative Energy.

EWPZ permits the following uses:

Marine Passenger	Intermodal marine passenger facilities
	Cruise ship home port and port of call berthing and support
	International and domestic ferries
Marine Commercial	Transient and long-term commercial berthing
	Marine-related warehousing
	Marine related construction, manufacturing, fabrication, salvage and repair
	Storage and repair of fishing equipment
	Ship and other marine vessel construction, building, servicing, and repair
	Boat and marine equipment storage
	Marine fuel storage and dispensing provided that on-site fuel storage structures shall be used solely for the purpose of fueling vessels and shall be limited, cumulatively, to 20,000 gallons of storage capacity within the zone
	Public, non-profit, or commercial marine transportation and excursion services, including captained charter services, sport fishing and water taxis
	Ship and off-shore support services, including but not limited to tug boats, pilot boats, and chandleries
merci al	Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices
	Professional, business, government, and general office located in upper floors of structures existing as of September 18, 2006.

	Temporary events, except festivals as otherwise governed under section 14-30113 below.
	Buildings, piers and lands within the EWPZ may be used for temporary public and private events including but not limited to exhibitions, conferences, meetings, and trade shows under the following conditions:
	a. Temporary events occupying more than 10,000 square feet of building or outdoor space shall not exceed a combined total of sixty (60) days between May 1st to October 31st;
	b. No temporary event may continue for more than 14 days of continuous operation;
	c. Any temporary event that anticipates more than 5,000 people in attendance on any single day must provide and be subject to a parking management plan. The parking management plan must be submitted for the review and approval of the public works authority at least 60 days prior to the first day of the event.
	Festivals subject to City license
	Street vendors licensed pursuant to Chapter 19 as a result of a competitive bid process conducted pursuant to Chapter 2 of the City Code
Public	Fire, police and emergency services
	Governmental agency emergency operations/crisis centers;
	Research, military and visiting attraction vessel berthing
	Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces, including without limitation pedestrian and/or bicycle trails
Other	Wind energy systems, as defined and allowed in Article X, Alternative Energy.

In conjunction with the standard conditions of approval for all conditional uses (Section 14-474), conditional uses in the EWPZ are allowed provided the uses impede or preclude existing or potential water-dependent development within the zone, will allow for adequate right-of-way access to the water, are compatible with marine uses, in addition to the following additional conditional use standards:

- a. *Marine compatibility:* The proposed use shall be compatible with existing and potential marine uses in the vicinity, as required by section 14-304(n) and (o) (compatibility of non-marine uses with marine uses and functional utility of piers and access to the water's edge); and
- b. *Parking and traffic circulation:*
 - i. *Parking and traffic circulation plan:* All applications for conditional use in the EWPZ shall submit a parking and circulation plan for review and approval by the planning board. The parking and circulation plan shall show the location of all existing and proposed structures, travel ways and parking under the common ownership and/or control of the subject pier or property. The plan shall demonstrate that the parking and circulation of the conditional use does not interfere with the functional marine utility of the property and otherwise meets the standards and conditions of the EWPZ.

Marine	Marine products, wholesaling and retailing
	Ice-making services
	Marine freight facilities providing service for, and/or intermodal transfer of, container and breakbulk freight
	Marine educational facilities
	Seafood retailing, wholesaling, packaging and shipping

	Seafood processing for human consumption, subject to the performance standards of the IL zone set forth in section 14-236 in addition to the performance standards of section 14-304
	Commercial marinas serving commercial and recreation boats, provided that such facilities are located in areas that do not conflict with the navigation and handling of deepwater dependent vessels accessing existing or potential deepwater berthing
	Fish byproducts processing, provided that:
	a. Any fish byproducts processing facility has a valid rendering facility license under chapter 12 of the Portland city code; and
	b. Any fish byproducts facility shall employ current and appropriate odor control technology to eliminate or minimize detectable odors from such a process, and in no case shall odors exceed the odor limitation performance standards of the IM zone (section 14-252); and
	c. The processing other material wastes or byproducts shall not be deemed a lawful accessory use Permitted herein.
Commercial	Structured parking available to the general public
	Professional, business, government and general offices uses in upper floors of structures constructed after September 18, 2006
	Passenger support services supporting a marine passenger use listed under 14- 301(a)(marine passenger). Total ground floor area occupied by any combination of the following uses (regardless of ownership) shall not exceed 35% of the gross floor area of the principle associated marine passenger use and no more than 35,000 sf cumulative within the EWPZ:
	i. Retail;
	ii. Restaurants/food service other than street vendors;
	iii. Retail service;
	iv. Passenger information services.
Industrial (subject to IM performance standards)	Non-marine related warehousing in structures existing as of September 18, 2006
	Facilities for combined marine and general construction
	Low impact industrial uses as permitted in the IL zone in structures existing as of September 18, 2006, excluding all auto repair service facilities
Public	Utility substations: Public utility substations, including but not limited to electrical transformers, sewage and stormwater pumps and telecommunication switching stations, are permitted under the following conditions:
	a. The facility is located more than 100 feet from the water's edge;
	b. The facility occupies no more than 50 square feet of structure above ground;
	c. The facility provides no dedicated on-site parking and all subsurface elements of the facility are installed and operated such that land occupied by the facility is otherwise useable and made available for marine related uses, including but not limited to parking, travel ways, and/or storage; and
	d. The facility shall be sized, sited and screened to minimize visual impact and prominence from public ways.
	Maritime museums, limited to 5,000 square feet of ground floor footprint.

Parking for non-marine uses	No parking shall be allowed in this zone for non-marine uses unless the applicant can demonstrate that the number of parking spaces on-site exceeds the number of parking spaces needed to accommodate the demand for marine and water-dependent uses that are permitted as permitted and conditional marine uses which are or may be located on the subject property. The remainder of parking required, if any, for such non-marine uses shall be provided off-site.
Other	Temporary wind anemometer towers
	Wind energy systems, as defined and allowed in Article X, Alternative Energy

As with other zones, uses not enumerated are not permitted. Additionally, the following uses are specified as prohibited: residential uses, amusement/theme parks, bulk freight facilities, on-site gambling casinos not accessory to and located aboard either a ferry or inter-port cruise ship.

The B-6 zone allows the following uses:

Commercial	Professional, business and general offices
	Restaurants and other eating and drinking establishments
	Hotels and inns limited to no more than 150 rooms
	Craft and specialty shops, including the on-premises production of handcrafted goods
	Retail and retail service establishments, excluding those with gas pumps
	Theatres
	Banking services, excluding vehicular drive-up services*
	Cabinet and carpentry shops
	Personal services
	Business services
	Offices of business trades people
	Miscellaneous repair services, excluding all types of automotive repair except for automobile repair and service establishments
	Telecommunication and broadcast and receiving facilities*
	Brew pubs and microbreweries without associated bottling facilities; and brewpubs and microbreweries with associated bottling facilities limited to 5,000 bottles per year output.
	Electronic data storage
	Marine products wholesaling and retailing
	Harbor and marine supplies and services, chandlery and ship supply
	Bakeries, coffee roasters, and commercial kitchens with building footprints limited to fifteen thousand (15,000) square feet of contiguous building space.
	Printing establishments.
Residential	Attached dwellings including row houses, two-family and multifamily dwellings
	Handicapped family units
	Combined living/working spaces, including but not limited to artist residences with studio space
	Mixed use residential and commercial structures
Public	Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures
	Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces
	Pedestrian and multi-use trails

Other	Studios for artists, photographers and craftspeople including but not limited to, painters, sculptors, dancers, graphic artists and musicians
	Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses*
	Health clubs, martial arts and mediation facilities
	Intermodal transportation facilities
	Nursery schools, kindergartens, and daycare facilities or home babysitting services
	Wind energy systems, as defined and allowed in Article X, Alternative Energy

B-6 conditional uses include meeting and exhibition facilities up to a total of 20,000 gross sf; wholesaling, providing the wholesale operation is associated with an onsite retail establishment and that the wholesaling component of the facility occupies a building footprint of less than 15,000 square feet; drive-up banking facilities located in the interior of parking structures, subject to multiple criteria; surface and structured parking, subject to multiple criteria, including ground floor commercial requirements for structured lots; and temporary wind anemometer towers.

As with other zones, uses not enumerated are not permitted. Additionally, the B-6 use requirements specifically prohibit ground mounted telecommunication towers; waste, scrap, and/or byproduct storage and processing facilities; auto service stations; and drive-up facilities, excepting bank drive-ups in interior parking structures.

In sum, neither the WSUZ nor the EWPZ allow residential uses or anything but ancillary non-residential, non-marine uses. They tackle this issue through different tools – the WSUZ allowing a greater range of non-marine-dependent uses north of the rail line that splits the zone and through limits on new construction, and EWPZ through a narrower list of combined possible uses and strong language regarding the necessary marine compatibility of non-marine uses. The emphasis in the list of permitted uses for EWPZ is on marine-dependent uses, with most marine-related uses being conditionally allowed. The allowed uses of the B-6 zone read like many other mixed-use urban zones, with no particular marine emphasis, except for its noted adjacency, and upland-intended application.

Dimensional Requirements Summary:

	WSUZ	EWPZ	B-6
Min. Lot Size	None	None	None
Min. Street Frontage	None	None	
Min. Front Yard	None	None	
Min. Rear Yard	None required unless adjacent to a residential zone; if adjacent to a residential zone, twenty-five (25) feet.	None	None
Min. Side Yard	None required unless adjacent to a residential zone; if adjacent to a residential zone, twenty-five (25) feet.	None	
Max. Setback from Street Line			10 ft., excepting parking garages, public trans. facilities, and subject to the building height envelopes of Eastern Waterfront Building Height Overlay Map. See Sec. 14-272 c.2 for exemptions.
Min. Length of Building Wall required to be located along street frontage of lot			70% of lot street frontage or 25% of building perimeter. For buildings fronting on 2+ streets, building wall on one street may be decreased so long as it is proportionally increased on others and the building wall on the secondary street is not reduced to less than 25 ft.
Min. Setback from Pier Line	5 feet from the edge of any pier, wharf or bulkhead. The setback may be utilized for activities related to the principal uses carried on in the structure, subject to 14-313/14-314, but shall not be utilized for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).	5 feet from the edge of any pier, wharf or bulkhead. The setback may be utilized for activities related to the principal uses carried on in the structure, subject to 14-313/14-314, but shall not be utilized for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).	
Max. Structure Height	45-100 ft. (see Sec. 14-320.9.e)	45 ft, except for cranes and gantries, rooftop appurtenances (see Sec. 14-303.e for full exemptions)	65 ft. or as otherwise governed by a Building Height Overlay Map
Minimum Building Height for New Construction			3 floors of habitable space above the average adjacent grade within 25 ft. of any public street. See Sec. 14-272 c.3.g for exemptions.
Max. Lot Coverage			100%
Max. Impervious Surface		100%	

VII. POLICY ANALYSIS

Comprehensive Plan Volume 1 (2002/2004) gives an overview of the years of waterfront planning efforts of the City, and addresses redevelopment of Waterfront East specifically. It outlines four redevelopment principles for development in this area (these four principles are restated in the Eastern Waterfront Masterplan): Character and Impact of Development, with particular emphasis on compatibility with surrounding areas – residential, maritime, and natural environment; Mixed-use as a component of an active, vibrant urban area; maintaining Maritime Resources; and Economically Responsible Development that benefits the city and the region. Volume 1 references the Eastern Waterfront Masterplan (adopted 2002 and amended 2004 & 2006). The study boundary is shown in red in Figure 2 below which is the specific policy

document for this area, which also consists, by reference, of two other documents: the Eastern Waterfront Design Guidelines and the Eastern Waterfront Building Height Study.

The Eastern Waterfront Masterplan makes specific reference to the Portland Company property:

The Portland Company complex, a mid-nineteenth century manufacturing facility, occupies the easterly end of the Eastern Waterfront. As an early manufacturing center, the site is home to several large brick and granite industrial buildings of architectural significance with potential for adaptive reuse. The Portland Company property is currently designated as eligible for inclusion in the National Register of Historic Places.

The property is highly developed, but in need of significant structural and cosmetic repair. Importantly, the complex is the only private property in the study area with direct water access. Currently, the Portland Company houses a variety of commercial uses, including a marina, boatyard, boat repair, general office, exhibition space, and the Narrow Gauge Railroad Museum.

Future parking enhancements and better vehicular and pedestrian access to the central redevelopment area will better integrate the Portland Company complex with the Eastern Waterfront and the Commercial Street business district, spurring the adaptive reuse and restoration of the historic structures.

Development Considerations

- *Historic 19th Century industrial complex.*
- *Promote the continuation of boat yard and yacht support services.*
- *Encourage the adaptive reuse and sensitive rehabilitation of historic structures.*
- *Increase connections to Commercial Street and promote shared parking with abutting uses.*
- *Expand recreational boating and active public use of the water.*

The applicant provides a summary of the alignment of their project with the Eastern Waterfront Masterplan in section 2.4 of their application. The application accurately cites support in that document for zoning changes that foster upland mixed use development as well as water dependent and marine uses within 75 feet of the shore line. Rezoning of this area was not only anticipated but called for, and the zone changes proposed reflect the specific policy guidance of the Eastern Waterfront Masterplan.

The October 21st memo regarding this application highlighted a Comprehensive Plan discrepancy with the application – the first volume of the Comprehensive Plan, and the Eastern Waterfront Masterplan (a component of the Comprehensive Plan by reference) indicated that land within 75 feet of mean high water should be given priority to water-dependent and marine uses. The location of the B-6/EWPZ boundary as originally submitted carried the B-6 zone to less than 75 feet of mean high water, thereby reducing the availability of land for intended marine-dependent uses. At the October workshop the applicant incorporated into their presentation a revised zoning map showing an adjusted B-6 boundary line no closer than 75 feet – the zone boundaries between B-6 and EWPZ are now consistent with Comprehensive Plan recommendations.

The Eastern Waterfront Design Guidelines will be a pertinent policy document when a development proposal is brought forward, but doesn't have bearing on the zoning application. The Eastern Waterfront Building Height Study (Height Study), however, has implications for the proposed zone change. The Height Study not only includes maximum height recommendations, but incorporates other tools for preserving and enhancing view corridors for a topographically varied area of Portland. It includes recommendations for street extensions and greater connectivity with the surrounding neighborhoods, maintaining view corridors through the delineation of building envelopes, as well as areas where "towers" could be built – areas where the maximum height could be exceeded – provided that those towers met particular spacing and dimensional requirements.

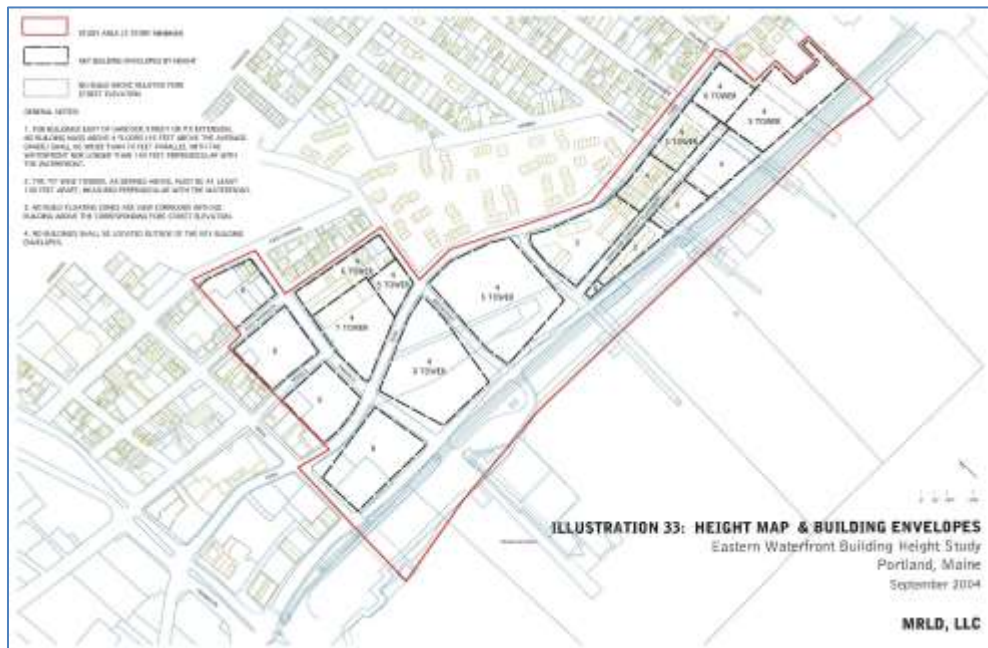


Figure 2, Eastern Waterfront Building Height Study, Illustration 33.

The B-6 Building Height Overlay & Building Envelopes map was adopted in 2004 as a direct outgrowth of the policy recommendations of the Height Study, and regulates heights and building areas within the current B-6 boundaries (Figure 4 and Attachment 2). The B-6 Height Overlay and the Height Study are currently in alignment, although the implemented height overlay took a somewhat more conservative approach to maximum heights than the Height Study recommended. A simultaneously amended B-6 Building Height Overlay and B-6 zone boundary would maintain Comprehensive Plan consistency. The applicant presented a proposal for amending the map at the previous meeting, and has included it as a primary discussion item for the November 18th workshop.

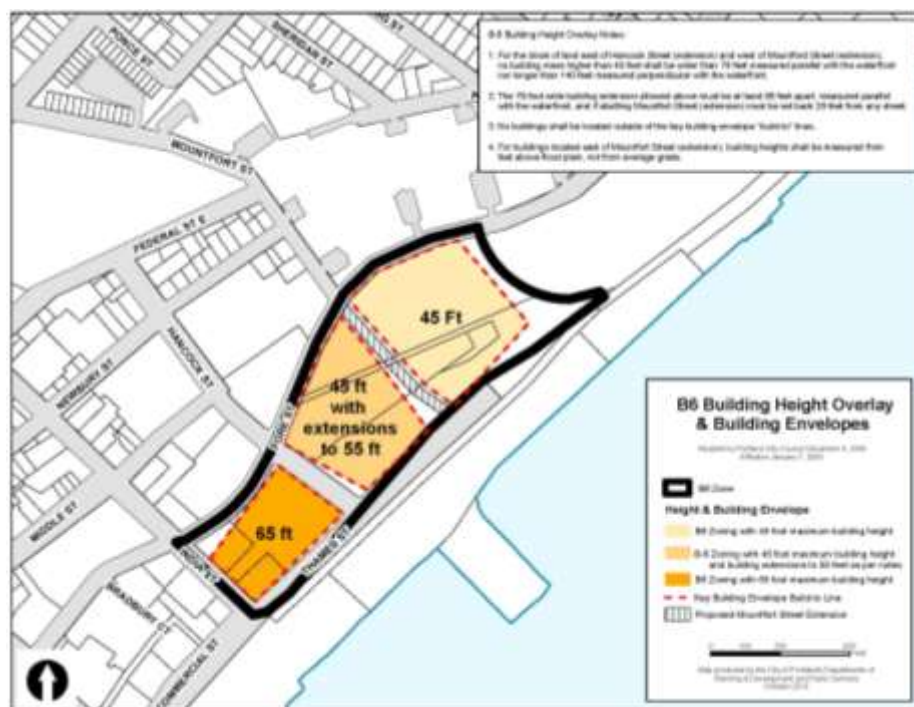


Figure 3

VIII. DISCUSSION

As the November 18th site walk is concerned primarily with illustrating the height implications of the proposed zoning changes, it would be ideal to focus the workshop that immediately follows the site walk with a focus on the pertinent building height issues of this application. An overview of staff and applicant discussions of building heights follows. Also included is a short list of other topics that could be discussed on Nov. 18th if time allowed, or at a subsequent meeting.

Height. The B-6 Building Height Overlay & Building Envelopes map is the regulatory fulfillment of one geographic area, just the west of the Portland Company land, of Illustration 33 (Figure 3 above and Attachment 1). An extension of the B-6 zone will require a continuation of the B-6 Building Height Overlay & Building Envelopes map in order for an expansion of B-6 to be compliant with Comprehensive Plan policy. Planning staff has had discussion about the height/building envelopes component of this proposal, and the applicant has submitted a Height Overlay map amendment as part of their application. B-6 currently allows for 65 ft. maximum feet, except that the zone (Sec. 14-272) currently states that *Notwithstanding sections 1. and 2. above, new structures located in the blocks located south of Fore Street and north of Commercial Street and its extension, shall build to the key building envelopes shown on the Eastern Waterfront Building Height Overlay Map.* An extension of the zone outside the boundary of the Height Overlay map would default to the maximum allowed height of 65 feet because the map stops before 58 Fore Street, creating a gap between the Height Study (which as an adopted component of the Eastern Waterfront Masterplan is an element of the Comprehensive Plan), and enacted Zoning. Staff recommends that the B-6 Building Height Overlay & Building Envelopes map be amended concurrently with an amendment to the zoning map, so that Comprehensive Plan consistency is maintained, and so that a 65 foot building height is not the resulting default maximum for this area.

The conversion of the Height Study recommendations to the B-6 Building Height Overlay involved some interpreting of terms used in the Height Study. The Height Study makes recommendations for # of stories, and elsewhere in the document defines a story as 11 feet. Zoning does not regulate height by stories, and so the B-6 Building height Overlay reflects this as maximum number of feet. A recommendation for 4 stories (or floors) was implemented as 45 feet. The Height Study uses the term “towers” to describe areas where the maximum height can be exceeded. These towers have both dimensional and locational limits, so as to avoid blocking identified view corridors and monolithic, uniform building heights. Towers were recommended to be no wider than 70’ parallel with the waterfront nor longer than 140’ perpendicular, and no closer than 140 feet apart.

The B-6 Building Height Overlay does not employ the tower terminology, but adopts the recommended dimensional and spacing standards, as well as building envelopes and view corridors. The building envelopes east of Hancock Street were implemented with more conservative heights than recommended in the Height Study. Another divergence from the Height Study is that the building envelope east of Mountfort Street utilizes a different means of calculating height than the others – maximum building height is calculated from feet above floodplain in deference to the steep grades of this eastern section of the study area, rather than the standard measurement from average surrounding grade. The topography of the site includes significant grade changes (Figure 5), and the difference in resulting building heights when measured from average grade versus feet above flood plain could be significant.

The City’s measurement of height is defined in Sec. 14-47 of the Land Use Code: ***Building, height of:*** *The vertical measurement from grade, or the predevelopment grade on the islands, to the highest point of the roof beams in flat roofs; to the highest point of the roof beams or the highest point on the deck of mansard roofs; to a level midway between the level of the eaves and highest point of pitched roofs or hip roofs; or to a level two-thirds of the distance from the level of the eaves to the highest point of gambrel roofs. For this purpose the level of the eaves shall be taken to mean the highest level where the plane of the roof intersects the plane of the outside wall on a side containing the eaves.*

This is the standard measurement city-wide, and the B-6 Height Overlay is the only instance of height being measured from floodplain. The Eastern Waterfront Building Height Study itself references height measurement from average grade (see Figure 3, Illustration 33, General Note 1). When the B-6 height Overlay map was adopted, two very different methods of calculating height were implemented, with the flood plain measurement being adopted as a way to control for unexpected visual impact due to the marked change in elevation in this area. In reviewing the application to amend the B-6 Height Overlay map the implications of the two methods have to be discussed.

Since the October workshop, staff and the applicant have had extensive discussions regarding the implications of both measurement methods, and they have included effective visuals in their most recent submission that demonstrate the implications of both (Attachment E and excerpted in Figure 5).



Figure 4, Height Measurement Comparison Examples

In the context of these visuals, and a more thorough picture of the implications of measuring from floodplain, Planning staff does not believe that the floodplain measurement would produce the intended development patterns outlined in the Eastern Waterfront Building Height Study. The Height Study anticipated building above the grade of Fore Street, as well as strongly supporting greater physical connectivity and continuity of the waterfront with the surrounding neighborhoods. At the October 21st workshop there were several public comments made regarding the wish for the grade of Fore Street not being broken by new construction, or for current views to be any further obscured. These opinions are understandable and a valuable part of the rezoning discussion, but in the interest of avoiding any future confusion in regard to City policy in this area, the Comprehensive Plan itself anticipates construction above Fore Street. The protected street projection view corridors recommended by the height study were recommended precisely because greater height was anticipated elsewhere. The Height Study also encourages a varied, punctuated, not-monolithic skyline in this area, which would not be a result of measuring from floodplain. The recommendations for variable stories and tower allowances attest to this. Allowing maximum building heights measured from adjacent grade is consistent with Comprehensive Plan policy for this area, and consistent with standard practice for calculating building height.

Consistency with the Comprehensive Plan established, concern for viewsheds in this area, and the overall aesthetic impact of the site's redevelopment has been stated by the public repeatedly, and we anticipate it will continue to be a source of great concern. In addition to the maximum building height, and the method of measuring height, the other tools available to govern the overall visual impact of eventual building heights at 58 Fore Street are the view corridors, building envelopes, and location and dimensional requirements for the height extensions (sometimes referred to as towers). A new dimensional standard has been introduced in the

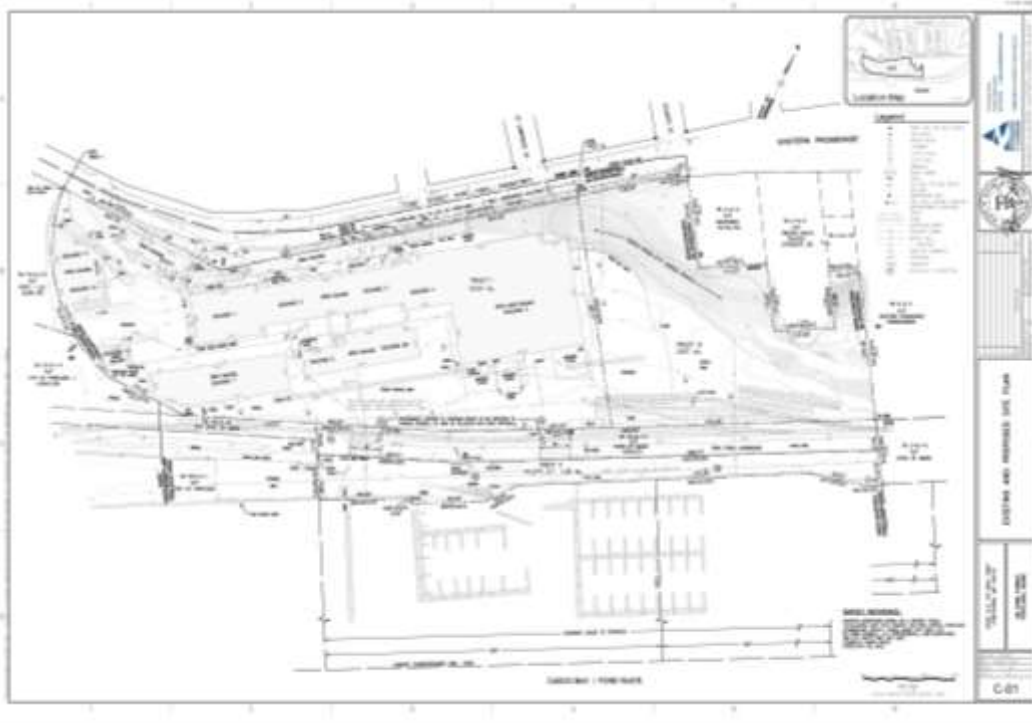


Figure 6

Marine Compatibility. Several issues have been raised in regard to the marine compatibility of the proposed changes. These were 1) the proposed boundary between B-6 and EWPZ, and the adequacy of the remaining upland, 2) marinas as a permitted use as opposed to a conditional use, and 3) setbacks from piers. The B-6 boundary has been moved northward, to 75 feet from the shore line. The proposal to allow marinas as a permitted use has been satisfactorily contained by limiting it as an allowed use only in the eastern portion of this zone, where there is currently a marina – this boundary line is shown as a dotted line perpendicular to the shoreline on the zoning map, as well as being tied by reference to a deed in the body of the proposed text amendments (Figure 8). A reduction in the required setback from pier line is also proposed to be limited to the eastern side of the depicted dotted line. Currently 25 feet in the B-6 zone, but 5 feet in the WSUZ, the proposed reduction east of roughly Ocean Gateway from 25 ft to 5 ft maintains current conditions in this area. As a standard that is cross-referenced in Shoreland Zone changes, this, like any other changes to Shoreland Zoning will require Maine DEP concurrence before enactment. Staff is satisfied with how each of these items is currently proposed.

Miscellaneous Dimensional Requirements. At the October workshop it was noted that the B-6 zone contains several provisions, including setback maximums, height minimums, and length of building wall minimum that might be problematic as applied to this location. Staff will assess these issues for discussion at a subsequent Board meeting.

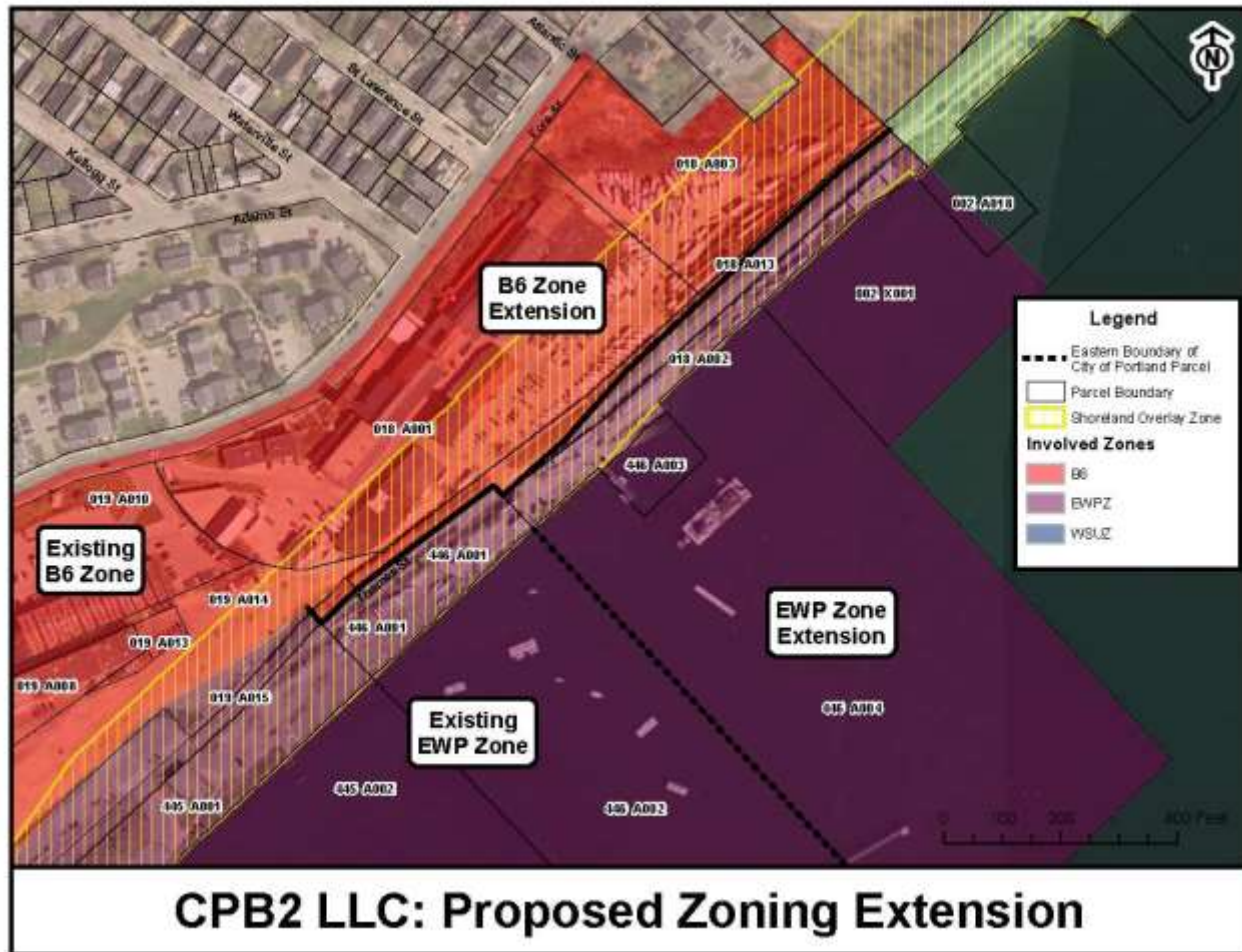


Figure 7, Proposed Zoning Map Amendment

IX. NEXT STEPS

- Provide feedback on zoning map, building height and text amendment requests.
- Schedule a public hearing or additional workshop if needed.

X. ATTACHMENTS

Report Attachments

1. Illustration 33
2. B-6 Building Height Overlay & Building Envelopes Map
3. Corporation Counsel Comments Re: Site Walks

Applicant's Submittal (Supplemental materials for the November 18th Workshop)

- A. Applicant's Cover Letter – 2014.11.07
- B. Proposed Zoning Extension
- C. Proposed B-6 Height Overlay with Aerial
- D. Proposed B-6 Height Overlay
- E. Height Overlay Plans and Sections

Public Comment

- PC 1. Preisser 11-11-14

PC 2 Macomber 11-14-2014

PC 3. Burwell 11-14-2014



Memorandum

Planning and Urban Development Department

Planning Division

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

From: Christine Grimando, Senior Planner

Date: February 6, 2015

Project #: PEZ.2014-153

CBLs: 018 A001001, 018 A002, 018 A003, 018 A013, 019 A014, 446 A001, 446 A003, 446 A004, 002 X001, 002 A018

Re: Zoning Map and Text Amendments for 58 Fore Street

Meeting Date: February 10, 2015

I. INTRODUCTION

The applicant, CPB2 LLC, is requesting zoning map and text amendments for property at 58 Fore Street, the site of the Portland Company complex. Established in 1846 for the manufacture of railroad equipment, it continued and evolved as an industrial complex, manufacturing steel through 1978. It is now occupied by a variety of tenants. The property is currently zoned Waterfront Special Use Zone (WSUZ), and includes warehouses, storage buildings, and a marina with associated parking and laydown areas. The request for a zoning map amendment also encompasses State of Maine Property, two City-owned parking areas, and submerged lands. The zones being requested in place of WSUZ are the B-6 Eastern Waterfront Mixed Zone, and the Eastern Waterfront Port Zone (EWPZ). There are also proposed text amendments for the B-6, EWPZ and Shoreland Overlay zones, and an amendment to the B-6 Building Height Overlay & Building Envelopes map.

This application has been before the Planning Board for a workshop in October, a workshop and site walk in November, and will be heard on February 10th for a third workshop. Full Zoning and Comprehensive Plan analysis can be found in the October and November memos, Attachment 1 and 2, respectively. Full application materials from the applicant submitted for prior workshops, as well as related historic and Comprehensive Plan documents, are stored here: <http://www.portlandmaine.gov/1341/58-Fore-Street-Portland-Company>

The Eastern Waterfront Building Height Study can be found at the above link or accessed directly here: <http://www.portlandmaine.gov/DocumentCenter/Home/View/3378>

Applicant: CPB2 LLC

Property Owner: CPB2 LLC

Consultants: Woodard & Curran & Bernstein Shur

Public Notice: Public notice of the workshop appeared in the Portland Press Herald on February 2nd and February 3, 2015, was posted on the web site and was sent by mail or e-mail to 371 property owners and interested citizens.

A neighborhood meeting was held on September 16, and notes and documentation from that meeting were attached as part of the October workshop packet and can be referenced here:

<http://www.portlandmaine.gov/AgendaCenter/ViewFile/Agenda/10212014-649?html=true>. Written public comment that has been received to date is included (Public Comment PC1 through 16).

II. Background

Current Uses. The property is currently occupied by a range of uses, including a full service marina, parking, warehouses, boat storage, a blacksmith facility and some accessory office space. The property is also bisected by a 50' wide strip of Maine State property land that encompasses both the Maine Narrow Gauge Railway and a public, multi-use trail that is an extension of the Eastern Promenade, maintained by Portland Trails and the City of Portland. The application also includes two adjacent City-owned lots.

Surrounding Uses. The property is contiguous with active waterfront uses to the west, bordered by the Ocean Gateway Terminal and the Maine State Pier, both serving deep water dependent large vessels, including cruise ships. To the east is the Eastern Promenade. The neighborhood to the immediate north is residential, with Waterville, St. Lawrence and Atlantic Streets perpendicular to the Fore Street-side boundary of the property, and abutted by Munjoy South apartments. Also to the north but immediately west of this residential area is the India Street neighborhood, which contains residential uses and a diverse mix of commercial uses – Shipyard Brewery, parking garages, the shops of India Street, a Marriot Residence Inn, and the Eastern Cemetery.



Figure 1, Existing Zoning

Zoning Context. The immediately adjacent zones to 58 Fore Street are R-6 (Residential) to the east and north, ROS (Recreation and Open Space) to the east, B-6 to the west, and EWPZ to the west and south. The southern edge of the property is partially in the Shoreland Zone, and partially in a flood zone.

III. PROPOSED MAP AMENDMENT

Current Zoning:	Waterfront Special Use Zone (WSUZ), Shoreland Overlay
Proposed Zoning:	B-6, Eastern Waterfront Port Zone (EWPZ), Shoreland Overlay
Current Uses:	Warehouses, storage buildings, marina, associated parking. State of Maine Property, currently utilized by the Maine Narrow Gauge Railroad and a section of the paved, public Eastern Promenade Trail maintained by Portland Trails/City of Portland. The City Property includes gravel and paved parking areas.
Proposed Uses:	None proposed at this time

Total Parcel Area: Approximately 12 acres, + submerged lands
Area to be Rezoned: Approximately 12 acres, + submerged lands

IV. PROPOSED MAP AMENDMENT

Waterfront Compatibility

The Comprehensive Plan supports rezoning this parcel to a combination of a mixed-use zone and a waterfront zone, as is currently proposed. The questions that have arisen have primarily focused not on whether this property should be rezoned, but how to implement new zoning in such a way so as to retain viable waterfront area into the future. This has implications for the specific uses proposed, but most significantly in where the boundary between the two zones is drawn.

The original application showed the boundary of the EWPZ closer than 75 feet from the shore line. There is Eastern Waterfront Master Plan language recommending that land within 75' of mean high water should give priority to compatible water-dependent and maritime uses. After this recommendation was highlighted, the application included an amended map showing the Eastern Waterfront Port Zone and B-6 zone boundary drawn at the 75 foot line.



Figure 2, Proposed Zoning

The Board asked that Bill Needelman, Waterfront Coordinator, weigh in on anticipated waterfront implications of the rezoning. His February 3rd memo on waterfront implications is included as Attachment 3, and he will be able to attend the February 10th workshop in the event the Board would like to discuss waterfront implications of the proposed rezoning greater detail.

In response to this memo, the applicant has proposed a text change to 14-303, regarding the setback from pier line. In the WSUZ the required setback from any pier is 5 feet, and in the EWPZ the required setback from any pier is 25. The applicant had proposed to retain this 5 foot setback on the property, changing the EWPZ setback from pier edge requirement. Bill Needelman's memo raised the issue of a more extensive range of uses in the EWPZ presenting a potential conflict, and the applicant has responded to this concern with a modified text amendment of the setback from pier line applying to marine offices, rather than for all possible activities in the EWPZ (Figure 3).

Sec. 14-303. Dimensional requirements

4. Setback from pier line: Notwithstanding the above requirements, a minimum setback of twenty-five (25) feet from the edge of any pier, wharf or working edge of the hardened shoreline shall be required for any structure, provided that marine offices, as defined in Section 14-301(b)(12), may be located up to five (5) feet from the edge of any pier, wharf or working edge of the hardened shoreline. The setback area may be utilized for water-dependent uses and public uses and activities, subject to the provisions of sections 14-300.1 (no adverse impact) and 14-301.1 (conditional use provisions), and shall not be utilized for restaurant, drinking, or other non water-dependent uses or for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).

Figure 3

The February 3rd memo outlines the importance of retaining sufficient land for active waterfront uses, and finds that the zone boundaries as proposed are generally consistent with Comprehensive Plan policy with the trail/rail corridor in its current location. In the event there is a proposal in the future to re-align this corridor, compatibility with this area for marine dependent and related activities would need to be revisited at that time.

Another item that has been previously discussed in regard to waterfront compatibility is the proposal to allow marinas as a permitted use rather than a conditional use, as currently permitted in the EWPZ. The applicant responded to staff concerns about the overall suitability of this standard for the EWPZ by limiting marinas as a permitted use to the easterly portion of the zone, to correspond with the Portland Company site, where a marina is currently operated. This is a satisfactory resolution of this concern.

Comparison of Waterfront Zones

Both the WSUZ and the EWPZ contain a prohibition on activities that have adverse impacts on marine uses (Sec. 14-320.5.5 & Sec. 14-300.1), including uses that will displace an existing water-dependent use; uses that will reduce existing commercial vessel berthing space; uses, structures or activities that will unreasonably interfere with the activities and operation of existing water-dependent uses or significantly impede access to vessel berthing or other access to the water by water-dependent uses; or the siting of uses that will substantially reduce or inhibit existing public access to marine or tidal waters.

The WSUZ distinguishes allowed uses according to their location north and south of the railway tracks, being somewhat more permissive north of-, reserving the shoreward side of the tracks for marine-dependent space. The uses permitted north of those tracks fall under the following conditions: *in (a) buildings in existence on January 4, 1993, or (b) one (1) new structure per parcel, which parcel was in existence on January 4, 1993, of up to five thousand (5,000) square feet in total floor area. No construction of a new structure of more than five thousand (5,000) square feet in total floor area or in excess of one (1) per parcel for uses other than those specified in subsections (1) through (3) above is allowed without approval of a conditional use ...*No residential construction is allowed either as a permitted use or as a conditional use.

In conjunction with the standard conditions of approval for all conditional uses (Section 14-474), conditional uses in the EWPZ are allowed provided the uses do not impede or preclude existing or potential water-dependent development within the zone, will allow for adequate right-of-way access to the water, and are compatible with marine uses, in addition to the following additional conditional use standards:

- a. *Marine compatibility:* The proposed use shall be compatible with existing and potential marine uses in the vicinity, as required by section 14-304(n) and (o) (compatibility of non-marine uses with marine uses and functional utility of piers and access to the water's edge); and
- b. *Parking and traffic circulation:*
 - i. Parking and traffic circulation plan: All applications for conditional use in the EWPZ shall submit a parking and circulation plan for review and approval by the Planning Board. The parking and circulation plan shall show the location of all existing and proposed structures, travel ways and parking under the common ownership and/or control of the subject pier or property. The plan shall demonstrate that the parking and circulation of the conditional use does not interfere with the functional marine utility of the property and otherwise meets the standards and conditions of the EWPZ.

As with other zones, uses not enumerated are not permitted. Additionally, the following uses are specified as prohibited: residential uses, amusement/theme parks, bulk freight facilities, on-site gambling casinos not accessory to and located aboard either a ferry or inter-port cruise ship.

In sum, neither the WSUZ nor the EWPZ allow residential uses or non- marine related unless clearly

ancillary to waterfront needs. They tackle this issue through different tools – the WSUZ allowing a greater range of non- marine-dependent uses north of the rail line that splits the zone and through limits on new construction. EWPZ regulates uses through a narrow list of combined possible uses and strong language regarding the necessary marine compatibility of non-marine uses. The emphasis in the list of permitted uses for EWPZ is on marine-dependent uses, with most marine-related uses being conditionally allowed.

Dimensional Requirements Summary

The October memo contained a version of this table with an error in the EWPZ pier setback, now corrected below.

Table 1

	WSUZ	EWPZ	B-6
Min. Lot Size	None	None	None
Min. Street Frontage	None	None	
Min. Front Yard	None	None	
Min. Rear Yard	None required unless adjacent to a residential zone; if adjacent to a residential zone, twenty-five (25) feet.	None	None
Min. Side Yard	None required unless adjacent to a residential zone; if adjacent to a residential zone, twenty-five (25) feet.	None	
Max. Setback from Street Line			10 ft., excepting parking garages, public trans. facilities, and subject to the building height envelopes of Eastern Waterfront Building Height Overlay Map. See Sec. 14-272 c.2 for exemptions.
Min. Length of Building Wall required to be located along street frontage of lot			70% of lot street frontage or 25% of building perimeter. For buildings fronting on 2+ streets, building wall on one street may be decreased so long as it is proportionally increased on others and the building wall on the secondary street is not reduced to less than 25 ft.
Min. Setback from Pier Line	5 feet from the edge of any pier, wharf or bulkhead. The setback may be utilized for activities related to the principal uses carried on in the structure, subject to 14-313/14-314, but shall not be utilized for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).	25 feet from the edge of any pier, wharf or bulkhead. The setback may be utilized for activities related to the principal uses carried on in the structure, subject to 14-313/14-314, but shall not be utilized for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).	
Max. Structure Height	45-100 ft. (see Sec. 14-320.9.e)	45 ft, except for cranes and gantries, rooftop appurtenances (see Sec. 14-303.e for full exemptions)	65 ft. or as otherwise governed by a Building Height Overlay Map
Minimum Building Height for New Construction			3 floors of habitable space above the average adjacent grade within 25 ft. of any public street. See Sec. 14-272 c.3.g for exemptions.
Max. Lot Coverage			100%
Max. Impervious Surface		100%	

Full listing of allowed uses are detailed in the October memo for this application (Attachment 1). The applicant has submitted a color coded, comparative table of allowed uses, included as Attachment E.

Building Height Overlay and Building Envelopes Map

Illustration 33 of the Eastern Waterfront Building Height Study (Figure 4) is the document that has informed the creation of the B-6 Building Height Overlay map. It shows an opening between the building envelopes, through the center of the Portland Co. site, and is referred to in the Height Study as the Portland Company Alignment. The location of this alignment is the service alley that presently runs between buildings on the site. The alignment as depicted on Illustration 33 is outside of the

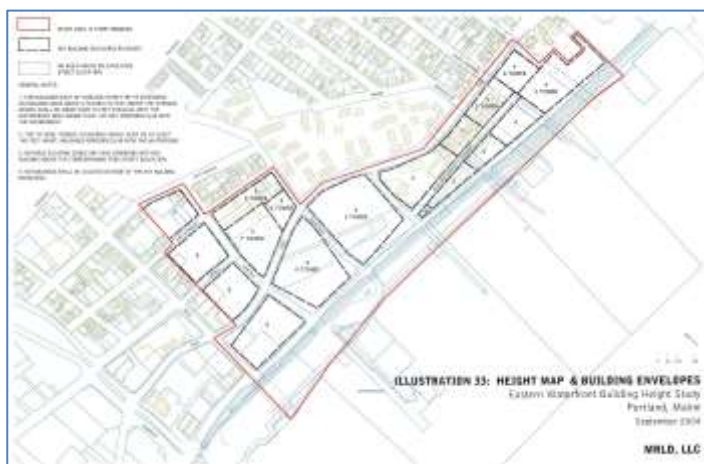


Figure 4, Illustration 33

key building envelopes boundary, indicating that it should be preserved from further development. The proposed height overlay map (Attachments H & J) depicts the building envelopes touching, but with a seam between them along the centerline of the corridor between the existing buildings, accompanied by a map note that indicates there shall be a break of buildings between the building envelopes. This insures this corridor from being spanned by single buildings, but does not specify the distance between buildings. The reasons for this are several - close scrutiny of Illustration 33 shows the Portland Co. alignment running through a portion of an existing building; the intended dimensions of the alignment are not specified; there is an historic preservation process, both in terms of the potential designation of the site or portions of the site, which if approved would lead to the requirement for Certificate of Appropriateness review by the Historic Preservation Board when a development proposal is brought forward, that will allow for evaluation of the precise area best retained between buildings; and, the anticipated Master Development Plan requires the Planning Board to review it for consistency with City Comprehensive Plan. The break between the building envelopes in the area of this alignment is a rational implementation of zoning based on the policy recommendations of Illustration 33, and one that leaves some discretion to the tools available to both the Historic Preservation Board and the Planning Board to determine the final dimensions and physical characterizations of this area.

Average Grade. A question was asked at the November workshop about the implications of the two methods of calculating average grade that are accepted as legitimate by the City for the purposes of calculating building height. The two methods are 1) either using the elevations of four building corners or 2) using measurements taken at regular intervals around a building. The applicant has submitted a letter (Attachment G) addressing resulting differences between the two methods. The measurements taken at four corners result in higher building heights, the extent of difference depending on the extent of the grade change between the points. The applicant has compared measurements around an entire building envelope from the Height Overlay map, where the grade changes are significant, and the difference between the two methods was approximately 6 feet. The letter points out that the applicant has used the four corner method to portray anticipated building heights at Fore Street to show maximum anticipated heights, and that the proposed Height Overlay map includes a maximum cap of 35 feet at Fore Street, adding to greater predictability along this important corridor.

Visualizing Heights. At the November workshop the applicant submitted multiple sections to illustrate the height implications of the zoning map amendment on the property (Figure 5).

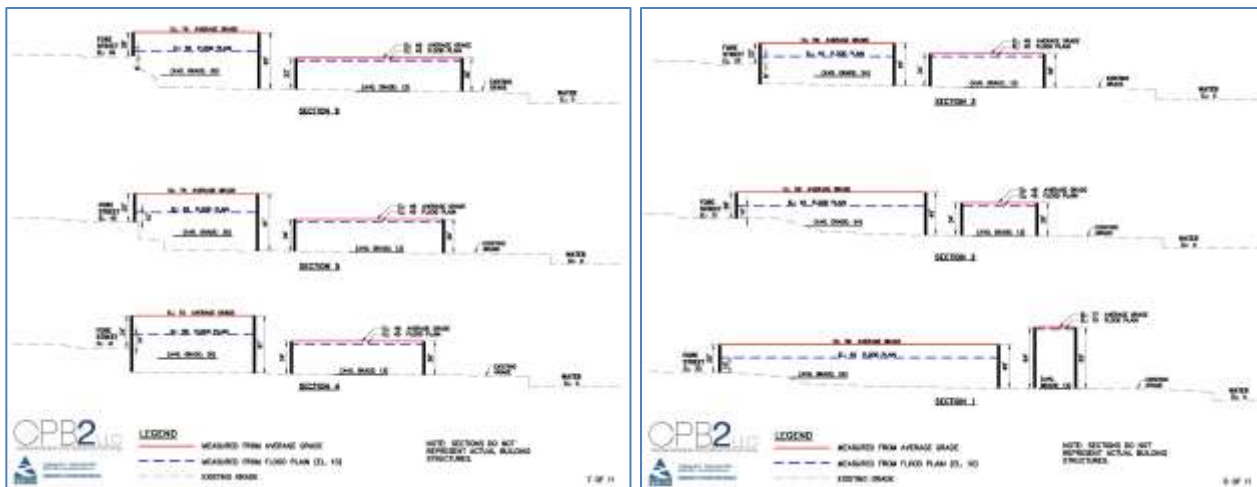


Figure 5, Height Measurement Comparison Examples

At the November 18th meeting the Board requested additional visuals to better understand the height implications of the project both from Fore Street looking south, and from the southern portion of the property looking towards Fore Street. An excerpt of the response to that request is included in Figure 6 and the full visuals are included as Attachment D. The section below layers existing buildings on Fore Street (north side of street), maximum building envelopes under the B-6 Height Overlay, buildings at 58 Fore Street that are visible at Fore Street, a dashed line marking the 35 foot height maximum proposed at Fore Street, and the heights and location of existing utility poles. View corridors are depicted, as well.

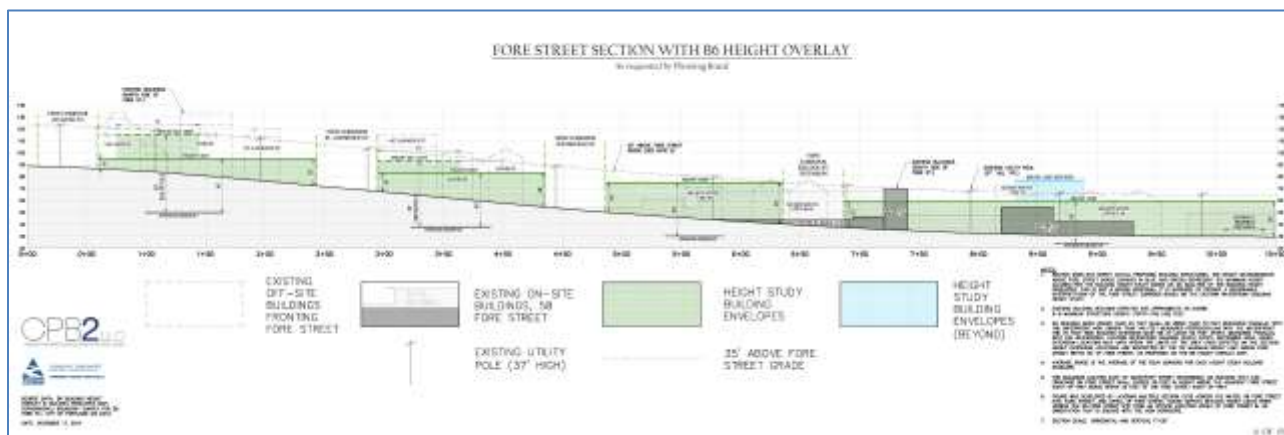


Figure 6, Fore Street Section

Water Depths

A question was raised at the previous workshop about near shore water depths. A nautical chart of the area is below and included as Attachment C.

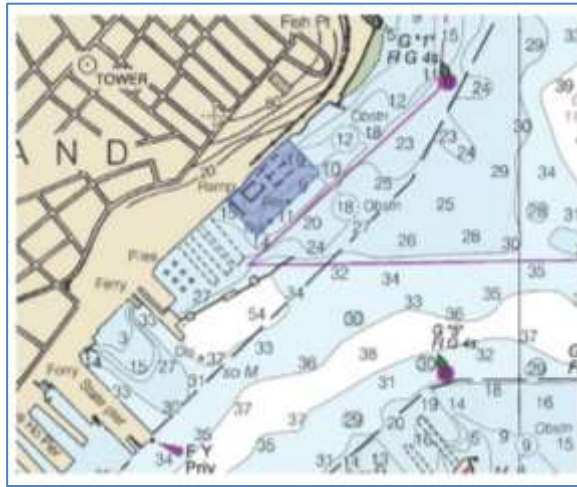


Figure 7, Chart Depths

V. PROPOSED TEXT AMENDMENTS

The application includes text amendments to the following sections of the Land Use Code:

- **Sec. 14-48. Establishment of Zones (Division 1)**

Reference to WSUZ is struck.

- **B-6 Eastern Waterfront Mixed Zone (Division 15.1)**

The following permitted uses are proposed to be added to the B-6 zone:

- Private clubs or nonprofit social and recreational facilities, as defined in 14-47.
- Educational facilities.
- Temporary events, provided that all such events on a lot do not exceed a combined total of (60) days per year and that the total floor area utilized for such uses does not exceed seventy thousand (70,000) square feet at any one (1) time.
- Museums and art galleries.
- A new use of underground fuel storage in B-6

An exemption from the noise standard has been modified to include temporary activities, festivals, events and concerts.

Mediation is proposed to be changed to *Meditation* – staff and the applicant view this as correction of an existing typo.

- **Eastern Waterfront Port Zone (Division 17.5)**

The following changes to the use standards are proposed:

- A permitted marine use that references a maximum fuel storage of 20,000 gallons has been substituted with similar language that appears in other zones, and provides for similar functions, except that the maximum of 20,000 gallons has been removed.
- Marinas are proposed as a permitted use east of the Ocean Gateway facility (referenced by deed). Marinas are currently a conditional use – the application proposes they remain conditional west of Ocean Gateway.
- To be added: Marine office, including but not limited to offices of owners of marinas, wharves or their agents, and naval architects, and seafood brokers.
- To be added: A facility for non-profit organizations whose facility may include offices,

classrooms, equipment, equipment rentals, storage, and bathrooms for the public.

- **Waterfront Special Use Zone (Division 18.7)**

The body of section is struck, replaced by *Reserved*.

- **Signs (Division 22)**

References to WSUZ are struck.

- **Shoreland Regulations (Division 26)**

References to WSUZ are struck, and references to B-6 are inserted. The October submission of text changes includes references to reduced minimum setbacks in the B-6 from 75 ft. to 25 ft. As the zone boundary currently proposed in this application places the B-6 edge no closer than 75 ft to the shore line, the changes initially included for sections Sec. 14-449(a)1.a, 14-449(a)(1) – 3rd paragraph, Sec. 14-449(j)1.a, and Sec. 14-449(k)1 are no longer needed or reflective of the location of the B-6 zone as shown in Figure 2.

Fuel Storage

Fuel storage is addressed in three ways in the proposed text amendments.

1. Fuel storage in the WSUZ is eliminated, along with all other reference to this zone. The WSUZ zone currently allows for the following at 58 Fore Street: *Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels.*
2. The B-6 zone proposes a new use: *Underground marine fuel storage provided that fuel storage structures shall be used solely for the purpose of fueling vessels.* As a mixed-use zone adjacent to the Eastern Waterfront Port zone, this is a waterfront compatible use.
3. The proposed text amendments to the Eastern Waterfront Port Zone removes the current limitation of 20,000 gallons of fuel storage, and replaces it with the language currently in the WSUZ, the current zone of this site: ~~*Marine fuel storage and dispensing provided that on-site fuel storage structures shall be used solely for the purpose of fueling vessels and shall be limited, cumulatively, to 20,000 gallons of storage capacity within the zone;*~~ *Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels;*

The Board requested additional information on the suitability of these changes. The applicant has provided a consultant opinion from Petroleum Marine Consultants (Attachment B) regarding the fuel storage capacity needs of a deep water marina that will accommodate both small and large transient vessels, which sites anticipated fuel capacity needs well in excess of 20,000 gallons.

The proposed change is not a net change to fuel storage standards for this area, since it aligns with the fuel storage standard of the current zone. Nor does it hamper the functioning of the EWPZ. Any large fuel storage additions proposed for the property would be included in an application to the Planning Board, and subject full site plan and safety reviews. Staff sees no issues with the proposed fueling standards.

A draft of the proposed changes and a summary sheet of the same are included as attachments (Attachments J and K). Detailed attention is given to Fuel Storage standards below, and the full text of a modified pier setback in EWPZ is included in **IV**, Waterfront Compatibility, above.

Other Text Amendments

Staff has included additional text amendments not in the original submission made by the applicant. These are changes to the B-6 dimensional standards, exempting the new, eastern portion of the B-6 zone from the following requirements that don't fit well the particular conditions of 58 Fore Street: a three story building minimum stories of habitable space within 25 feet of any public street (14-272.g), and a requirement that

70% of building wall or 25% of building perimeter be located along the street frontage of the lot (14-272.d). The three story minimum runs counter to the B-6 Building Height Overlay & Building Envelopes map requirements. For a parcel this size, where multiple interior buildings could be constructed, requiring a 70% of building wall be along street frontage would require all buildings constructed on the site line Fore Street.

VI. HISTORIC PRESERVATION

At the November 18th workshop the Planning Board requested that the next meeting include an update on Historic Preservation. As touched on in previous documents, in September 2014 Greater Portland Landmarks made a request to the Historic Preservation Board that the site be nominated as a local historic district. Planning staff met with the Historic Preservation Board in September to request that they delay this process until after the rezoning process is complete. The Historic Preservation Board has delayed reviewing the request until review of the rezoning application has been completed. The Historic Preservation Board sent a letter to the Planning Board in October stating the Board's agreement to have the rezoning and the designation process taken in sequence, provided that there is a clear understanding that the rezoning will not superseded or compromise Historic Preservation Board review. These letters were in your October 21st meeting materials, and are reattached here as Attachment 4 and 5. When the request to designate the property is considered, there will be a nomination process that involves the Historic Preservation Board, the Planning Board, and the City Council for a final determination.

There have been several studies conducted of this property in anticipation of this application and concurrent with it:

- *Inventory of Historic Buildings*, January 2014, prepared by Tremont Preservation Services, commissioned by the applicant.
- *Evaluation of Existing Buildings*, March 28, 2014, prepared by Becker Structural Engineers, commissioned by the applicant.
- *Portland Company Historic Significant and Integrity*, Sutherland Conservation & Consulting, 2014, commissioned by the Department of Planning & Urban Development. This report can be viewed in full here: <http://www.portlandmaine.gov/DocumentCenter/Home/View/6507>
 - A site walk led by Sutherland Conservation & Consulting was conducted on Dec. 7th to accompany this report, as were several presentations on the findings.

In addition to the completed studies, an independent conditions assessment is underway, conducted by Resurgence Engineering and Preservation, Inc., to supplement the *Evaluation of Existing Buildings* report listed above. The assessment began at the end of December, and a final report is anticipated soon. It was commissioned in equal parts by the applicant, Department of Planning & Urban Development, and Greater Portland Landmarks.

No action is required by the Planning Board on Historic Preservation issues at this time.

VII. Discussion Items

Heights at Fore Street

Though the issues of interest and concern to the public in regard to the rezoning of this site have been varied, the issues of building heights and resulting view impacts, particularly looking past Fore Street towards Casco Bay, have been a central topic (as it has been for Planning staff and the Planning Board). There will be a presentation at the February 10th Workshop showing a digital massing model of the site. Considerable effort and thought went in to the creation of the model, and the representatives of the Keep the Soul of Portland in the Portland Company group have requested time to present this dynamic visual. The Board has been forwarded pdfs and links to the model as part of public comment. The live presentation of this information will allow the presenters to give context and on what the model depicts, and answer any questions the Board

may have. The model does not depict building envelopes for this property, and is exclusively focused on maximum, combined massing – many dimensional, design, and other zoning requirements will shape the eventual built form and overall appearance of this site. The applicant has responded to the 3-D model (Attachment F), and raised questions about the soundness of the methodology used in the massing exercise. February 10th workshop should afford an opportunity to clarify and contextualize the presentation.

Contract Zone

Over the course of the review of this application, written and verbal comments have been submitted regarding the preference for this site to be the subject of a contract zone, rather than pursue zoning amendments and subsequent applications for a Master Development Plan and Site Plan. Though a contract zone is a valid option the applicant might have pursued, the contract zone as a tool precedes the Master Development Plan option, which was developed to allow for multi-year, phased build out of larger properties. The Master Development Plan process allows for flexibility in the development program in the event needs change, the economy shifts, or any number of other factors that might arise for a large, multifaceted project. If the project were to remain in the Waterfront Special Use Zone, the contract zone provisions for that zone are very restrictive, and would not allow for a combination of mixed-use and waterfront uses on the property, and would itself require a zone text change for a departure from narrow the range of uses allowed there. These are some considerations of why a contract zone would not necessarily be an advantage over the current application. Lastly, choosing to apply for a contract zone for this property would be a voluntary and alternate application process than what the applicant has chosen to pursue.

VIII. NEXTS STEPS

Staff is recommending that following the February 10th workshop, this application's third, that this application for zoning map and text amendments be scheduled for a public hearing.

IX. ATTACHMENTS

Report Attachments

1. October Memo
2. November Memo
3. Waterfront Memo
4. GPL Correspondence
5. HP Memo
6. B-6 Supplemental Edits

Applicant's Submittal (Supplemental materials since the November workshop)

- A. December 17 cover letter
- B. Marine Fuel Storage
- C. Nautical Chart
- D. Fore and Water Sections
- E. Chart of Permitted Uses
- F. Soul of Portland Response
- G. Average Grade
- H. Building Height Overlay
- I. Building Height Overlay - Ortho
- J. October Text Amendment Summary
- K. October Full Amendments

Public Comment

- PC 1. A. Adams
- PC 2. Vestal/Soul of Portland
- PC 3. Macomber

PC 4. Burwell
PC 5. Vestal
PC 6. Ingalls
PC 7. Agopian
PC 8. Snyder
PC 9. Snyder
PC 10. Greater Portland Landmarks
PC 12. Pressier
PC 13. Burwell
PC 14. Macomber
PC 15. Ansheles
PC 16. Postcards

**Memorandum**

Office of the Waterfront Coordinator

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

From: Bill Needelman, Waterfront Coordinator

Date: February 3, 2014

Re: Portland Company Rezoning – Waterfront Impacts

I. Introduction

At the request of the Portland Planning Board, the Office of the Waterfront Coordinator offers the following observations regarding the proposed zone amendments for the Portland company complex at 58 Fore Street in the Eastern Waterfront.

The amendments include zone map changes and text changes as follows: extending the B-6 zone onto the upland portion of the subject site; extending the Eastern Waterfront Port Zone (EWPZ) along the water's edge and over the submerged lands currently occupied by the PYS marina; eliminating the Waterfront Special Use Zone (WSUZ); text changes to the B-6 zone broadening uses; and, text changes to the EWPZ allowing marine offices, and marinas and vessel fueling as a permitted use over portions of the site under the developer's control.

Additional amendments are requested for the Shoreland Zone providing the B-6 zone with reduced building, roadway and parking setback requirements

The following comments will concentrate on impacts to marine industry and active use of the water within the context of existing policies of the City of Portland.

II. Policy Background

The Eastern Waterfront Master Plan (Master Plan) provides the primary City policies informing land use and infrastructure decision making for the Portland Company complex. These policies are well explained in both the October and November memos to the Planning Board. Readers of this memo should refer to the policy discussions provided by Senior Planner, Christine Grimando as companion documents to this memo.

In addition to the policy analysis already provided, Board members should refer to *Eastern Waterfront Master Plan, Section IV. Statement of Principles for Redevelopment of the Eastern Waterfront*. These Development Principles will be key to locating the appropriate boundary line between the proposed B-6 and EWPZ zones. See Attachment 1 to this memo.

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III. Waterfront Implications of the Proposed Rezoning

B-6/EWPZ Boundary: Retain Sufficient Land for Active Use of the Water

The Portland Company development team requests a zone map change placing the B-6 zone 75' back from high water and extension of the EWPZ over the remaining shorefront and adjacent submerged lands. The significant waterfront questions raised by such amendments include (1) whether there is sufficient land retained in waterfront zoning in support of marine activity, and (2) whether the EWPZ is the appropriate zone to regulate waterfront activity associated with the Portland Company.

The “Maritime Resources” development principle from the Master Plan states that “Development...on land within 75' of mean high water ...will give priority to compatible water-dependent and maritime use.” This principle recognized that all water-dependent uses require some degree of upland support for circulation and efficient operation. Seventy five feet was selected as a minimum turning radius for a reasonably large truck and represented a minimum width of land expected to encourage active use of the water.

The existing Portland Yacht Services use occupies a strip of land approximately 72 feet wide at the westerly boundary with the Sail Maine community boating facilities and approximately 38 feet wide further to the east. As seen in the aerial photo below, the more active portions of the site are located in the areas with the greatest width, while the narrower areas to the east are generally used for boat and trailer storage.



The above aerial photo supports the wisdom of retaining sufficient land to support active use of the water. Where the rail-trail is set back from the water, a marginally sufficient strip of land supports the marina office, rigging storage, and circulation for the launch/haul ramp. The narrower strip has significantly less utility. The amount of land dedicated to the EWPZ may ultimately be less important to the promotion of active marine use than the location of the rail-trail corridor. Both zones allow for mixed use trails. As seen above, the trail has the potential to constrain land supporting active marine use, depending on its separation from the water and the nature of the marine use.

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Presuming that the trail and train remain in their present location, the current proposal appears generally consistent with standing policies for preservation of land for marine uses and the purpose of the EWPZ

Proposed Text Changes:

Marinas, Vessel Fueling, Marine Office and Classrooms as Permitted Uses: The proposed changes to the EWPZ text, with geographically specific allowances for marinas and vessel fueling as permitted uses, appears consistent with the purpose and policies of the zone and the Eastern Waterfront Master Plan. Marine office and classroom space likewise appears consistent with these policies, although building placement is a consideration – as discussed below with the *Setback from Pier Line* issues

5-foot building Setback from Pier Line: The proposal to allow structures closer than 25 feet to a pier edge or bulkhead poses potential conflicts with marine use, depending on the use of the structure. The purpose of the 25-foot setback is to allow large vehicle circulation adjacent to the water. If a proposed building supporting a marina were to be located closer than 25 to the water, it likely would not be a problem as it would be designed to facilitate the primary marine use. Other uses in the EWPZ, such as the conditionally permitted retail/restaurant uses, would likely compete for space with marine use. If the 5-foot setback were approved, the development team and the Planning Authority would need to work to ensure that the design and placement of structures and circulation routes facilitated active use of the water as consistent with the purpose of the EWPZ.

Shoreland Zone Amendments: Assuming that the location of the B-6 zone remains a minimum of 75 feet from high water, the B-6 setback reductions for buildings, roadways, and parking are not needed.

Attachments

Eastern Waterfront Master Plan, Section IV. *Statement of Principles for Redevelopment of the Eastern Waterfront.*

Development Principles for the Eastern Waterfront

Development Principles for the Eastern Waterfront

1. CHARACTER AND IMPACT OF DEVELOPMENT

Development within the eastern waterfront will be compatible with the surrounding areas, neighborhoods, natural environment and maritime uses.

Objectives:

- Protect the operation of island ferry service and enhance parking, circulation and safety.
- Encourage compatible architecture.
- Encourage historic preservation and adaptive reuse of historic structures.
- Establish a new street and pedestrian network that integrates with the surrounding street and trail network.
- Preserve significant public view corridors to and from water and along the waterfront.
- Manage traffic, noise, and air and water emissions to minimize impacts on the surrounding community and users.
- Improve and protect the value and quality of natural resources.

2. MIXED USE

Development within the eastern waterfront will create a vital and active mixed use urban area that generates life and use every day of the year and all hours of the day.

Objectives:

- Provide opportunity for mixed-use non-marine development and activities in locations and in ways that are compatible with the use of maritime resources.
- Increase public use of the water, waterfront and shore through public access and green space development.
- Maintain and enhance recreational trail access.

* Note: Mixed use includes but is not limited to residential, commercial, public, institutional, marine, park, trail and industrial uses (all as generally defined in the B-5 Zone of the Portland Land Use Code.)

Development Principles for the Eastern Waterfront

3. MARITIME RESOURCES

Development in the eastern waterfront on piers, bulkheads, and on land within 75' of mean high water line, will give priority to compatible water-dependent and maritime uses.

Objectives:

- Preserve and encourage long-term enhancement of emerging and traditional maritime and water dependent uses.
- Utilize the harbor's deep-water resources to serve deep draft vessels.
- Encourage small boat berthing where water depth does not permit deep-water berthing.
- Encourage public physical and visual access to the water where appropriate.
- Allow non-marine mixed uses when compatible with water dependent and marine uses.

4. ECONOMICALLY RESPONSIBLE DEVELOPMENT

Development in the eastern waterfront will provide a significant benefit to the City and regional economy.

Objectives:

- Encourage a positive economic return to City government.
- Sustain and strengthen water-related tourism.
- Enhance the economic viability of the eastern waterfront's property and facilities.
- Assure that public investment and development benefit the residents of the greater Portland community.
- Provide adaptable, flexible infrastructure that will allow the City to adjust to future technologies and trends.
- Enhance multi-modal transportation opportunities.

DIVISION 15.1. B-6 EASTERN WATERFRONT MIXED ZONE

...

Sec. 14-272. Dimensional requirements.

In addition to the provisions of article III, division 25 of this Code, lots in the B-6 Eastern Waterfront Business Zone shall meet the following requirements:

(a) *Minimum lot size:* None.

(b) *Minimum frontage:* None.

(c) *Yard dimensions:*

1. Minimum yards in the B-6 zone:

Front setback: None required except as provided in 3. below:

Side setback: None required.

Rear setback: None required.

2. Maximum building setback from street line except for parking garages, public transportation facilities and provided in 3. below: 10 feet.

a. For lots fronting on more than one street, the setback can be increased more than ten (10) feet if all of the following conditions are met:

i. The increased setback occurs at the intersection of the streets;

ii. The increased setback area is the primary pedestrian entrance to the building;

iii. Seventy-five (75) percent of the total building wall length facing the abutting streets shall be setback no greater than ten (10) feet; and

iv. All building wall segments, which make

up the increased setback shall be included in the calculation of the total building wall length noted in subsection iii above.

In addition, for any new construction on a lot abutting three or more streets, the maximum setback shall apply only to the two most major streets. (For purposes of this section, major street shall mean that street with the highest traffic volume or the greatest street width in comparison with the remaining streets).

3. View Corridors and Key Street Wall Development

Notwithstanding sections 1. and 2. above, new structures located in the blocks located south of Fore Street and north of Commercial Street and its extension, shall build to the key building envelopes shown on the B6 Building Height Overlay & Building Envelopes map Eastern Waterfront Building Height Overlay Map. Buildings located in the easternmost key building envelope, shall not have a maximum front setback, and shall not be required to build to the key building envelope perimeter. Parking structures and the buildings for public transportation facilities may, however, set back beyond the key building envelopes (toward the interior of blocks), but may not occupy the land between the key building envelope and the street right of way.

- (d) *Minimum length of building wall required to be located along street frontage of lot (except that buildings located in the easternmost key building envelope, as shown on the B6 Building Height Overlay & Building Envelopes map, shall not be subject to this requirement).*

- i. 70% of lot street frontage; or
- ii. 25% of building perimeter,
- iii. For buildings fronting on two or more streets, the minimum building wall on one street may be decreased so long as the

frontage is proportionally increased on other streets in so far that the building wall on the secondary street is not reduced to less than 25 feet.

- (e) *Maximum lot coverage:* One hundred (100) percent.
- (f) *Maximum building height:* 65 feet, or as otherwise governed by a Building Height Overlay map (for example, in the Eastern Waterfront). Building Height Overlay maps are found in the Planning and Development Department Office.
- (g) *Minimum building height:* No new construction of any building shall have less than three (3) floors of habitable space above the average adjacent grade within twenty five (25) feet of any public street (except that buildings located in the easternmost key building envelope, as shown on the B6 Building Height Overlay & Building Envelopes map, shall not be subject to a minimum building height).

This provision shall not apply to:

- i. Parking attendant booths,
- ii. Information kiosks and ticketing booths,
- iii. Parking garages,
- iv. Public transportation facilities,
- v. Additions to buildings existing as of December 8, 2004 provided that the cumulative additions since December 8, 2004 does not exceed 25% of the building footprint on December 8, 2004 except that such restriction shall not apply to those portions of the building addition that are constructed closer to the street line than the building footprint existing as of December 8, 2004,
- vi. Buildings or building additions of less than 2,000 square feet footprint, on lots or available building sites of less than 2,000 square feet,

vii. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures, and

viii. Additions to and/or relocations of designated historic structures.

Waterfront Special Use Zone Purpose (Sec. 14-320.5):

The waterfront special use zone recognizes that the uses appropriate in this zone are constrained by its proximity to heavy industrial use on the western end, a high-density residential neighborhood on the north, and park and R-OS land to the east. Uses to be located in this zone must be compatible with these existing neighborhood uses.

At a minimum, parcels in this zone generally enjoy visual access to the port. It is further recognized that this area has historically been used for marine uses and that some of the parcels have the capacity to accommodate active water-dependent uses. While physical access to the water may not currently be legally available to all parcels in this zone, it is anticipated that developments in this zone may be able to negotiate easements for access. At a minimum, development in this zone should not be incompatible with marine and water-dependent uses. Uses which contribute to the maintenance and improvement of the infrastructure along the water's edge as a condition of use are strongly encouraged.

B-6 Eastern Waterfront Mixed Zone Purpose (Sec. 14-268):

The purpose of the B-6, eastern waterfront mixed zone is to establish a zoning district for the upland portion of the eastern waterfront area. The B-6 zone encourages this district to acquire a distinctly urban form through development that emphasizes a quality pedestrian experience, promotes public transit, and demonstrates exemplary urban design. The zone promotes a range of uses to achieve twenty-four urban vitality and shared use of parking infrastructure as recommended in the eastern waterfront master plan for redevelopment.

The zone language established herein provides regulatory framework to promote the mixed-use development pattern envisioned for urban land on Portland's peninsula. Specific development criteria, including building height overlays and design standards, may be established for this district to supplement the provisions of this section. District-specific design standards and overlay maps can be found at the city planning and development office.

Eastern Waterfront Port Zone Purpose (Sec. 14-300):

The Eastern Waterfront Port Zone is created to nurture deepwater dependent activity within the context of the established waterfront. The transport of goods and passengers by water is an important component of both the local and regional economies and this transport and other forms of marine industry are dependent upon land and piers with direct access to Portland Harbor. Given the existing pier infrastructure, proximity to deep water, and urban context, Portland's Eastern Waterfront is uniquely situated to support a wide range of water-dependent industry and commerce through a variety of marine activities.

The support and expansion of Portland's marine industry requires piers, uplands, and circulation consistent with the transportation purpose and use of marine facilities. The growth of Portland's marine passenger industry also requires supporting services and activities to provide a safe, convenient, and enjoyable travel experience for users of marine passenger facilities. Non-marine uses that complement the marine passenger industry, are compatible with existing and future water-dependent uses, and provide opportunities for residents and visitors alike to enjoy the Eastern Waterfront throughout the year, are encouraged.

The primary use of the deep-water resources must be for the berthing and support of large vessels. Non-marine uses that complement and support the deepwater infrastructure and do not conflict or compete for limited space with existing or anticipated deepwater-dependent uses are encouraged. Existing and future pier infrastructure and upland support areas should be designed and maintained to support a variety of marine uses and be responsive to future technologies and trends in the marine industry.

Given the need to nurture and support deepwater-dependent uses and the need for non-deepwater dependent uses to complement the marine passenger industry and to support the maintenance and repair of pier infrastructure, the Eastern Waterfront Port Zone recognizes the following hierarchy of uses:

- (a) The first priority of this zone is to protect and nurture existing and potential deepwater dependent uses (those uses requiring a minimum of 15 feet of water depth);
- (b) The second priority is to allow shallow water-dependent and other permitted marine uses, so long as they do not interfere with deepwater dependent uses, either directly by displacement or indirectly by placing incompatible demands on the zone's infrastructure; and
- (c) Other uses specified herein are allowed only if they do not interfere with and are not incompatible with higher priority uses.



February 18, 2015

Christine Grimando, Senior Planner
City of Portland Department of Planning and Development
389 Congress Street
Portland, Maine 04101

Re: 58 Fore Street Zoning Map/Text Amendment Application
Additional Material Submittal

Dear Christine:

On behalf of CPB2 LLC, we are pleased to submit additional information in support of our application for a Zoning Map/Text Amendment at the 58 Fore Street site. This additional information has been prepared in response to the requests received from the Planning Board at the February 10, 2015 Workshop and in response to public comments and concerns from the neighborhood. Enclosed, please find one copy (via email) of the additional information described herein:

1. B6 Building Height Overlay & Building Envelopes Figure – We have worked extensively with planning staff to ensure that all figures presented by the CPB2 team to date are accurate and provide a proper representation of maximum building height on the site, as per the proposed B6 Building Height Overlay figure. We have heard from members of the Board, members of the public, and at meetings with representatives from *Soul of Portland* that additional assurance would be appreciated relative to maximum building heights along Fore Street. To date, we have placed a self-imposed restriction on the B6 Building Height Overlay figure restricting height along Fore Street to no greater than 35' within 35' of Fore Street (note 3 of the figure). Understanding that additional assurance on maximum building height is desired by the neighborhood, under this submittal we have modified note 3 on the *B6 Building Height Overlay & Building Envelopes* figure to restrict building height for those buildings fronting Fore Street to 35' maximum above Fore Street, with no limit on distance from the Fore Street Right-of-Way. This revision to note 3 provides assurance that buildings along Fore Street cannot eclipse 35 feet (3 stories) above the Fore Street grade. It should be noted that the building envelopes along Fore Street, per the B6 Height Overlay figure, most commonly allow for 2 stories across the Fore Street frontage.
2. B6 Text Amendments – One concern voiced by members of the public and the *Soul of Portland* is the possibility that incompatible or undesirable uses allowed under the B6 Zone could occur adjacent to the established residential neighborhood on Fore Street; notably drinking establishments and brew pubs. Under this submittal we are providing text amendments to the B6 zone language that would restrict these uses on Fore Street, refer to the proposed text amendments under sections 14-269 (a) 2 & 14 of the attached documents.
3. Site Plan Standards Text Amendments – To date we have gone through an extensive review of the B6 building height overlay figure and associated building height sections with the Staff, the Board and the public. These figures depict maximum building heights as represented by a height overlay, and do not represent a massing diagram; however, the visuals of large blocks representing these maximum heights did raise questions of permeability on the site. We understand that members of the Board and the public would like assurance that future development will be designed with permeability into and through the site and variation to building masses. We feel that these requirements are largely covered in the Design Guidelines for Portland's Eastern Waterfront, an adopted element of the comprehensive plan; however, we have proposed a change to the Site Plan Standards to incorporate these requirements as a design standard; refer to the proposed text amendments under section 14-526 (d) 9 a (i) of the attached documents.



We look forward to our Public Hearing with the Planning Board on February 24th to summarize our application and to review this additional information. If you have any questions or require additional information, please contact me at any time at (207) 774-2112.

Sincerely,

WOODARD & CURRAN INC.

A handwritten signature in black ink, appearing to read "D. Senus".

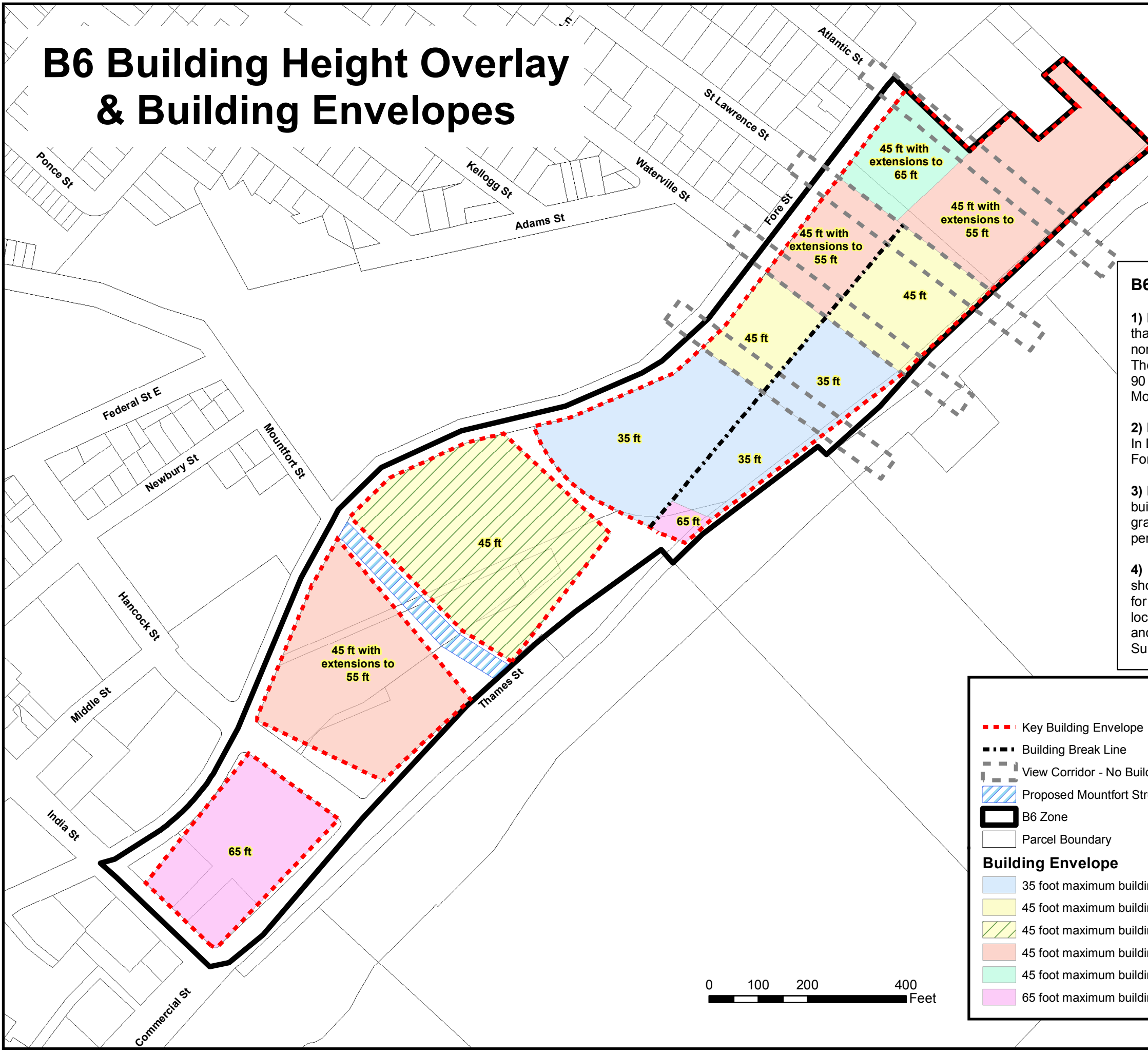
David Senus, P.E.
Project Manager

227007

Attachment: 2015.02.18 B6 Bldg Hgt Overlay.pdf
 2015.02.18 B6 Bldg Hgt Overlay_Ortho.pdf
 2015.02.18 B6 Text Amendments.docx
 2015.02.18 Site Plan Standards Text Amendments.docx

cc: CPB2 LLC (via email)
 Mary E. Costigan, Bernstein-Shur (via email)

B6 Building Height Overlay & Building Envelopes



- B6 Building Height Overlay Notes:**
- 1) For Buildings located East of Hancock Street, no building mass higher than 45 feet shall be wider than 70 feet measured parallel with the waterfront nor longer than 140 feet measured perpendicular with the waterfront. The 70 foot wide building extension allowed above must be at least 90 feet apart, measured parallel with the waterfront, and if abutting Mountfort Street (extension) must be set back 25 feet from any street.
 - 2) No Buildings shall be located outside of the Key Building Envelope. In Defined View Corridors, no Building allowed above the corresponding Fore Street elevation.
 - 3) For buildings located East of Mountfort Street (extension), no building shall exceed 35 feet in height above the adjacent Fore Street grade within 100 feet of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way.
 - 4) Location of Building Break Line is approximate as shown, and intended to promote a break in building mass to allow for the development of blocks and site permeability. The exact location of blocks and site permeability shall be identified, defined, and reviewed under a Master Development Plan or Subdivision/Site Plan review.

Legend

- Key Building Envelope
- Building Break Line
- View Corridor - No Build Above Relative Fore Street Elevation
- Proposed Mountfort Street Extension
- B6 Zone
- Parcel Boundary

Building Envelope

- 35 foot maximum building height
- 45 foot maximum building height
- 45 foot maximum building height, building height measured from feet above flood plain, not average grade
- 45 foot maximum building height with building extension to 55 feet
- 45 foot maximum building height with building extension to 65 feet
- 65 foot maximum building height

0 100 200 400 Feet

Feb 20, 2015

B6 Building Height Overlay & Building Envelopes



B6 Building Height Overlay Notes:

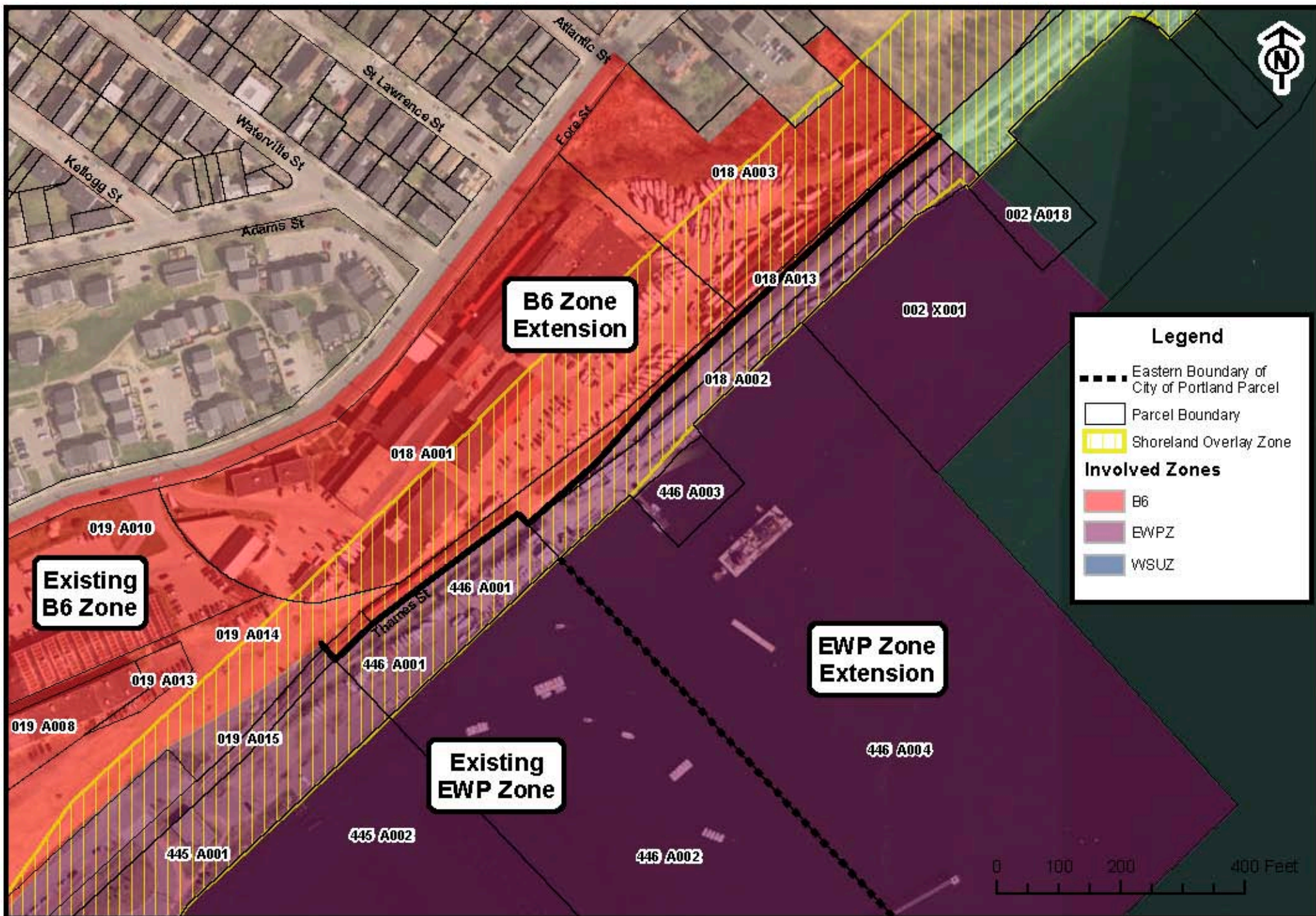
- 1) For Buildings located East of Hancock Street, no building mass higher than 45 feet shall be wider than 70 feet measured parallel with the waterfront nor longer than 140 feet measured perpendicular with the waterfront. The 70 foot wide building extension allowed above must be at least 90 feet apart, measured parallel with the waterfront, and if abutting Mountfort Street (extension) must be set back 25 feet from any street.
- 2) No Buildings shall be located outside of the Key Building Envelope. In Defined View Corridors, no Building allowed above the corresponding Fore Street elevation.
- 3) For buildings located East of Mountfort Street (extension), no building shall exceed 35 feet in height above the adjacent Fore Street grade within 100 feet of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way.
- 4) Location of Building Break Line is approximate as shown, and intended to promote a break in building mass to allow for the development of blocks and site permeability. The exact location of blocks and site permeability shall be identified, defined, and reviewed under a Master Development Plan or Subdivision/Site Plan review.

Legend

- Key Building Envelope
 - Building Break Line
 - View Corridor - No Build Above Relative Fore Street Elevation
 - Proposed Mountfort Street Extension
 - B6 Zone
 - Parcel Boundary
- ### Building Envelope
- 35 foot maximum building height
 - 45 foot maximum building height
 - 45 foot maximum building height, building height measured from feet above flood plain, not average grade
 - 45 foot maximum building height with building extension to 55 feet
 - 45 foot maximum building height with building extension to 65 feet
 - 65 foot maximum building height

0 100 200 400 Feet

Feb 20, 2015



CPB2 LLC: Proposed Zoning Extension

DIVISION 15.1. B-6 EASTERN WATERFRONT MIXED ZONE

. . .

Sec. 14-269. Permitted uses.

The following uses are permitted in the B-6 zone:

(a) *Commercial:*

1. Professional, business and general offices;
2. Restaurants and other eating and drinking establishments, except that no drinking establishments as defined in section 14-47 that have an entrance on Fore Street shall be located east of Waterville Street and provided that restaurants that have an entrance on Fore Street and are located east of Waterville Street must meet the following requirements:
 - a. The hours of operation shall be limited to between 5:00 a.m. and 11:00 p.m. each day.
 - b. Food service and consumption are the primary function of the restaurant;
3. Hotels and inns limited to no more than 150 rooms;
4. Craft and specialty shops, including the on-premises production of handcrafted goods;
5. Retail and retail service establishments, excluding those with gas pumps;
6. Theatres;
7. Banking services, excluding vehicular drive-up services;

Editor's Note: Drive-up banking facilities located in the interior of parking structures are allowed as a conditional use subject to the criteria outlined below in the conditional use provisions of this section.

8. Cabinet and carpentry shops;

9. Personal services;
10. Business services;
11. Offices of business trades people;
12. Miscellaneous repair services, excluding all types of automotive repair except for automobile repair and service establishments;
13. Telecommunication and broadcast and receiving facilities, except as prohibited in section 14-271 (prohibited uses);

In addition, building mounted telecommunications antennas, discs, transmitting and receiving equipment and the like shall adhere to the following criteria. Such roof-mounted equipment shall be:

- a. No taller than 15 feet above the highest structural steel of the building roof; and
 - b. Set back no less than 15 feet from the building perimeter; and
 - c. Integrated into the architecture of the building in placement, form, color, and material so as to screen or camouflage such equipment from public view.
14. Brew pubs and microbreweries without associated bottling facilities; and brewpubs and microbreweries with associated bottling facilities limited to 5,000 bottles per year output, provided that no brew pubs or microbreweries that have an entrance on Fore Street shall be located east of Waterville Street.
 15. Electronic data storage;
 16. Marine products wholesaling and retailing;
 17. Harbor and marine supplies and services, chandlery and ship supply;

18. Underground marine fuel storage provided that fuel storage structures shall be used solely for the purpose of fueling vessels;

~~19~~19. Bakeries, coffee roasters, and commercial kitchens with building footprints limited to fifteen thousand (15,000) square feet of contiguous building space.

~~19~~20. Printing establishments.

(b) *Residential:*

1. Attached dwellings including row houses, two-family and multifamily dwellings;
2. Handicapped family units;
3. Combined living/working spaces, including but not limited to artist residences with studio space;
4. Mixed use residential and commercial structures.

(c) *Public:*

1. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures;
2. Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces;
3. Pedestrian and multi-use trails;

(d) *Other:*

1. Studios for artists, photographers and craftspeople including but not limited to, painters, sculptors, dancers, graphic artists and musicians;
2. Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses, except that parking lots shall not be considered a permitted

accessory use and such parking is subject to the conditional use section of the B-6 zone.

3. Health clubs, martial arts and ~~mediation~~ meditation facilities.
 4. Intermodal transportation facilities.
 5. Nursery schools, kindergartens, and daycare facilities or home babysitting services.
 6. Private clubs or nonprofit social and recreational facilities, as defined in 14-47.
 7. Educational facilities.
 8. Temporary events, provided that all such events on a lot do not exceed a combined total of (60) days per year and that the total floor area utilized for such uses does not exceed seventy thousand (70,000) square feet at any one (1) time.
 9. Museums and art galleries.
- (e) Wind energy systems, as defined and allowed in Article X, Alternative Energy.

Sec. 14-270. Conditional uses.

(a) The following uses shall be permitted as conditional uses in the B-6 zone as provided in 14-474 (conditional uses), provided that, notwithstanding section 14-474(a) or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority:

(1) *Commercial:*

- a. Meeting and exhibition facilities limited to a total of 20,000 gross square feet of interior floor area.
- b. Wholesaling, providing the wholesale operation is associated with an onsite retail establishment and that the wholesaling component of the facility occupies a building footprint of less than 15,000 square feet.

- c. Drive-up banking facilities located in the interior of parking structures, subject to the following criteria:
 - i. All drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street line;
 - ii. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicular or pedestrian circulation on adjoining streets;
 - iii. Drive-up vehicle circulation shall not create an impediment for retail or mixed-use development for the first floor of the subject garages along any adjacent public streets.
- d. Research and development and related production facilities, including but not limited to biotechnology, subject to the following conditions:
 - i. Associated manufacturing and warehousing uses combined are not to exceed 15,000 square feet.
 - ii. Biotechnology facilities must demonstrate approvals by all applicable regulatory authorities prior to commencement of operations.

(2) *Parking*

. . .

Sec. 14-273. Performance standards.

All new development in the B-6 Eastern Waterfront Business Zone shall comply with the following standards:

. . .

(b) *Noise:*

1. *Definitions:*

- a. Tonal sounds are defined as sound waves usually perceived as a hum or whine because their instantaneous sound pressure varies essentially as a simple sinusoidal function of time.
- b. Impulse sounds are defined as sound events characterized by brief excursions of sound pressure, each with duration of less than one (1) second.

2. *Measurement:* Sound levels shall be measured with a sound level meter with a frequency weighting network manufactured according to standards prescribed by the American National Standards Institute (ANSI) or its successor body. Measurements shall be made at all major lot lines of the site, at a height of at least four (4) feet above the ground surface. In measuring sound levels under this section, sounds with a continuous duration of less than sixty (60) seconds shall be measured by the maximum reading on a sound level meter set to the A weighted scale and the fast meter response (L maxfast). Sounds with a continuous duration of sixty (60) seconds or more shall be measured on the basis of the energy average sound level over a period of sixty (60) seconds (LEQ₁).

3. *Maximum permissible sound levels:* The maximum permissible sound level of any continuous, regular or frequent source of sound produced by an activity shall be as follows:

- a. Sixty (60) dBA between the hours of 7:00 a.m. and 10:00 p.m.
- b. Fifty (50) dBA between the hours of 10:00 p.m. and 7:00 a.m., as measured at or within the boundaries of any residential zone.

In addition to the sound level standards

established above, all uses located within this zone shall employ best practicable sound abatement techniques to prevent tonal sounds and impulse sounds or, if such tonal and impulse sounds cannot be prevented, to minimize the impact of such sounds in residential zones.

4. *Exemptions:*

- a. Noises created by construction and maintenance activities between 7:00 a.m. and 10:00 p.m. are exempt from the maximum permissible sound levels set forth in subsection (a)3 of this section. Construction activities on a site abutting any residential use between the hours of 10:00 p.m. of one (1) day and 7:00 a.m. of the following day shall not exceed fifty (50) dBA.
- b. The following uses and activities shall also be exempt from the requirements of subsection (a)3 of this section:
 - i. The noises of safety signals, warning devices, emergency pressure relief valves, and any other emergency devices.
 - ii. Traffic noise on public roads or noise created by airplanes and railroads.
 - iii. Noise created by refuse and solid waste collection, provided that the activity is conducted between 6:00 a.m. and 7:00 p.m.
 - iv. Emergency construction or repair work by public utilities, at any hour.
 - v. Noise created by any ~~recreational activities~~ temporary activities which are permitted by law and for which a license or permit has been granted by the city, including but not limited to parades, sporting events, ~~and~~ fireworks displays, festivals, events and

concerts.

Proposed amendments from Land Use Code regarding massing and permeability in B-6 and EWPZ

Sec. 14-524. Site plan review processes.

14-524(a) (3) (c) (iii) *Standards of Review*. A Master Development Plan shall adhere to the following general requirements and features, and shall meet the Master Development Plan Site Plan Standards of 14-526 (d) (9):

- a. A designated tract of land consisting of a parcel or parcels of contiguous land or land on both sides of a public street, totaling one (1) acre or more;
- b. Developed in a comprehensive, design-integrated manner, according to an overall master development plan;
- c. Consistent with the objectives of this ordinance;
- d. Consistent with the City's Comprehensive Plan and consistent with City Council approved master plans and facility plans for off-premise infrastructure, including but not limited to, trails, pedestrian and bicycle network, view corridors, environmental management, sewer and stormwater, streets, or other facilities (see Section 15 of the Technical Manual);
- e. Developed so as to locate buildings and improvements in a manner that provides usable open space, preserves significant natural features, as defined by the site plan ordinance standards, and preserves existing trees to the maximum extent possible;
- f. Developed so as to be in conformance with Portland's Historic Preservation Ordinance standards for designated landmarks or for properties within designated historic districts or designated historic landscapes, if applicable. When proposed adjacent to or within one hundred (100) feet of designated landmarks, historic districts or historic landscapes, the Master Plan shall be developed so as to be generally compatible with the major character-defining elements of the landmark or portion of the district in the immediate vicinity of the proposed development;

- g. An efficient use of land which properly considers topography and protects significant natural features including, but not limited to, waterways, wetlands, floodplains and wildlife;
- h. An efficient use of land demonstrating full coordination of its own site development and surrounding context including, but not limited to, the land uses and functions contemplated, architecture, open space and pedestrian networks, vehicular access and circulation, and all other infrastructure;
- i. Linked and coordinated with surrounding land uses, infrastructure and off-site public facilities, including but not limited to the public school system, where appropriate, in a manner that is safe, efficient, non-injurious to the public, and an improvement or benefit to the public where possible;
- j. Designed with sizing of street and other infrastructure systems to accommodate the overall service demand of the Master Plan;
- k. Designed to create a street grid pattern that reflects average city block sizes of the neighborhood for street connectivity;
- l. Designed as to create a cohesive identity through building scale, massing, and articulation; use of quality exterior materials, architectural detailing at pedestrian scale; consistency of design and materials for streetscape and pedestrian amenities; framing of outdoor open space and linkages; a clear conveyance of the function and significance of various buildings, entrances, and features; and to generally comply with design and development standards of the zone in which it is located;
- m. Inclusive of provisions for the ownership and maintenance of usable open space as appropriate; and
- n. For areas proposed as future development phase(s), the proposed interim conditions shall be managed and

maintained to ensure stable, safe and attractive site conditions.

Sec. 14-526. Site plan standards.

14-526(d) *Site Design Standards*

9. *Zoning Related Design Standards:*

a. Development of certain types and/or proposed in certain zones, as specified below, are subject to design standards in addition to the provisions of Section 14-526 (a) in order to ensure designs that contribute to and enhance the goals and policies for specific districts of the City. The City of Portland Design Standards is listed in the City of Portland Design Manual, which is included by reference. If the development is located in a historic district or associated with a historic landmark, City of Portland Historic Preservation standards shall supersede:

- (i) B3, B5, B5-b, B7 Zones, and B6 and EWPZ Waterfront Zones: Development in the B3, B5, B5-b, B7 business zones and in the B6 and EWPZ waterfront zones shall be designed to support the development of dense, mixed-use neighborhoods with attractive, safe and convenient street level pedestrian environments as demonstrated by compliance with all applicable design standards listed in the Design Manual. New development along the Eastern Waterfront should avoid large monolithic massing along all street frontages and should promote permeability through and within the development at a scale compatible with the existing street networks of the Eastern Waterfront. Where new structures are larger than buildings characteristically found in Portland's waterfront, horizontal and vertical variation should be used to break large expanses of building into components that are in scale with the context to which they most closely relate.

b. *Master Development Plan Design Standards:* A Master Plan shall comply with the design and development standards

of the zone in which it is located, and shall achieve a cohesive land development consistent with the assets of the site, land uses, functional activities, and major design elements, such as buildings, roads, utilities, drainage systems and open space as well as with the Master Development Plan Standards of Review contained in Section 14-524.

Sec. 14-48. Establishment of zones.

In order to carry out the provisions of this article, the city is hereby divided into the following classes of zones:

. . .

~~(dd) Waterfront special use zone~~

. . .

DIVISION 22. SIGNS

. . .

Sec. 14-369.5. Tables.

(a) Table 1. Permitted sign types by zone.

Note: The following legend applies for Table 1 below:

- A. Allowed, no permit required;
- B. Allowed, permit required;
- C. Allowed, subject to licensing and permit required;
- D. Prohibited;
- E. Not Applicable

Parenthetical letters, i.e. (a), refer to the notes provided at the end of Table 1.

. . .

	<i>I-M, I-Ma, I-Mb Industrial</i>	<i>I-H, I-Hb Industrial</i>	<i>Eastern Waterfront Port Waterfront Central Waterfront Special Use</i>	<i>Waterfront Port Development</i>
Freestanding	B	B	B	B
In general(b)				
ResidentialI	A	A	A	A
Residential(d)	A	A	A	A
Temporary/ Portable (b)	D/D	B/D	D	D
Building	B	B	B	B
Commercial				
Banner				
Building	A	A	A	A
Marker(f)				
Awning	B	B	B	B
Identification(e)	A	A	A	A
Incidental(d)	A	A	A	A
Marquee(g)	B	B	B	B
Projecting	B	B	B	B
Residential(b)	A	A	A	A
Roof	D	D	D	D
Roof Integral	D	D	D	D
Suspended(g)	B	B	B	B
Temporary(h)	B	B	B	B
Wall	B	B	B	B
Window(I)	A	A	A	A
Miscellaneous	A	A	A	A
Community, Cultural Banner				
Directory(j)	A	A	A	A

Flag(k)	A	A	A	A
Pennant	D	D	D	D
Portable-in				
City right-of-way				
(A-frame)	D	D	C	D

. . .

Contents of Table 2:

2.1 Sign Regulations for R-1-R-7, IR-1-IR-3 Residential Zones

2.2 Sign Regulations for Institutional Uses in Residential Zones

2.3 Sign Regulations for RP Residence-Professional Zone

2.4 Sign Regulations for ROS/RPZ Open Space Zones & Signs in all Municipal Parks

2.5 Sign Regulations for B-1 Neighborhood Business Zone – Single Tenant Lots

2.6 Sign Regulations for B-2 Regional Business Zone – Single Tenant Lots

2.7 Sign Regulations for AB Airport Business Zone – Single Tenant Lots

2.8 Sign Regulations for B-3 Downtown Business, B-5 Urban Commercial, B-6 and B-7 Mixed Use Urban, WC Waterfront Central, ~~WSU Waterfront Special Use~~, and EWP, Eastern Waterfront Port Zones

2.9 Sign Regulations for IB Island Business Zone – Single Tenant Lots

2.10 Sign Regulations for B-4 Commercial Corridor Zone – Single Tenant Lots

2.11 Sign Regulations for OP Office Park Zones

2.12 Sign Regulations for I-L, I-Lb, I-M, I-Ma, I-Mb, I-H, I-Hb Industrial and WPD Waterfront Port Development Zones

2.13 Sign Regulations for B-1, B-2, AB, IB, and B-4

Business Zones – Multi-Tenant Lots

2.14 Sign Regulations for Gas Stations – All Zones Where Permitted

. . .

TABLE 2.8 SIGN REGULATIONS BY ZONE

Downtown Business (B-3), Urban Commercial (B-5), and Waterfront
Central (WC), ~~and Waterfront Special Use (WSU)~~ Zones

. . .

DIVISION 18.7. ~~WATERFRONT SPECIAL USE ZONE*~~ RESERVED

~~-----~~
~~*Editor's Note~~ See the editor's note to division 18 of this article.
~~-----~~

~~Sec. 14-320.5. Purpose.~~

~~The waterfront special use zone recognizes that the uses appropriate in this zone are constrained by its proximity to heavy industrial use on the western end, a high-density residential neighborhood on the north, and park and R-OS land to the east. Uses to be located in this zone must be compatible with these existing neighborhood uses.~~

~~At a minimum, parcels in this zone generally enjoy visual access to the port. It is further recognized that this area has historically been used for marine uses and that some of the parcels have the capacity to accommodate active water-dependent uses. While physical access to the water may not currently be legally available to all parcels in this zone, it is anticipated that developments in this zone may be able to negotiate easements for access. At a minimum, development in this zone should not be incompatible with marine and water-dependent uses. Uses which contribute to the maintenance and improvement of the infrastructure along the water's edge as a condition of use are strongly encouraged.~~

~~(Ord. No. 168-93, § 2, 1-4-93)~~

~~Sec. 14-320.5.5. No adverse impact on marine uses.~~

~~No use shall be permitted, approved or established in this zone if it will have an impermissible adverse impact on future marine development opportunities. A proposed development will have an impermissible adverse impact if it will result in any one (1) or more of the following:~~

- ~~(a) The proposed nonwater-dependent use will displace an existing water-dependent use;~~
- ~~(b) The proposed use will reduce existing commercial vessel berthing space;~~
- ~~(c) The proposed nonwater-dependent use, structure or activities, including but not limited to access, circulation, parking, dumpsters, exterior storage or~~

~~loading facilities, and other structures, will unreasonably interfere with the activities and operation of existing water-dependent uses or significantly impede access to vessel berthing or other access to the water by water-dependent uses; or~~

- ~~(d) The siting of a proposed nonwater-dependent use will substantially reduce or inhibit existing public access to marine or tidal waters.~~

~~(Ord. No. 168-93, § 2, 1-4-93)~~

~~Sec. 14-320.6. Permitted uses.~~

~~Subject to a determination that the proposed use meets the standards of section 14-320.5.5 (no adverse impact on marine uses):~~

- ~~(a) The following uses are permitted in the waterfront special use zone on both the north and south sides of the railroad line indicated on the City of Portland Zoning Map:~~

~~1. Marine:~~

- ~~a. Marine products, wholesaling, distribution and retailing;~~
- ~~b. Marine repair services and machine shops;~~
- ~~c. Tugboat, fireboat, pilot boat and similar services;~~
- ~~d. Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels;~~
- ~~e. Marine industrial welding and fabricating;~~
- ~~f. Shipbuilding and facilities for construction, maintenance and repair of vessels;~~
- ~~g. Commercial marine transport and excursion services, including ferries, captained charter services, sport fishing and water~~

~~taxis;~~

~~h. Cargo handling facilities, including
docking, loading and related storage;~~

~~i. Boat repair yards;~~

~~j. Boat storage facilities, including rack
storage facilities;~~

~~k. Seafood processing;~~

~~l. Seafood packing and packaging;~~

~~m. Seafood loading and seafood distribution;~~

~~n. Fabrication, storage and repair of fishing
equipment;~~

~~o. Ice-making services;~~

~~p. Facilities for marine construction and
salvage;~~

~~q. Facilities for marine pollution control, oil
spill cleanup, and servicing of marine
sanitation devices;~~

~~r. Fabrication of marine-related goods;~~

~~s. Fishing and commercial vessel berthing;~~

~~t. Noncommercial berthing;~~

~~u. Marine office, including but not limited to
offices of owners of wharves or their
agents, and naval architects, and seafood
brokers;~~

~~v. Public landings;~~

~~w. Marinas;~~

~~x. Intermodal transportation facilities.~~

~~2. Industrial uses:~~

~~Industrial uses which meet the performance standards of the I-2 zone.~~

~~3. Public:~~

~~Pedestrian and bicycle trails.~~

~~The following uses are permitted in the waterfront special use zone only on the north side of the railroad tracks indicated on the City of Portland Zoning Map only in (a) buildings in existence on January 4, 1993, or (b) one (1) new structure per parcel (as defined in 30-A M.R.S.A. Section 4401(6)), which parcel was in existence on January 4, 1993, of up to five thousand (5,000) square feet in total floor area. No construction of a new structure of more than five thousand (5,000) square feet in total floor area or in excess of one (1) per parcel for uses other than those specified in subsections (1) through (3) above is allowed without approval of a conditional use pursuant to section 14-320.6.5 or conditional or contract rezoning pursuant to division 1.5 of this article:~~

~~4. Commercial uses:~~

~~a. Professional, business, and general offices;~~

~~b. Business service establishments;~~

~~c. Restaurants, provided that food service and consumption shall be the primary function of the restaurant;~~

~~d. Cabinet and carpentry shops;~~

~~e. Cold storage facilities;~~

~~f. Museums and art galleries.~~

~~5. Other:~~

~~a. Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses or temporary exhibition uses, provided that all such~~

~~exhibition uses on a lot do not exceed a combined total of sixty (60) days per year and that the total floor area utilized for such uses does not exceed seventy thousand (70,000) square feet at any one (1) time;~~

~~b. Parking: Parking shall be permitted as long as it does not impede access to water by existing or potential marine uses.~~

~~c. Institutional uses including marine research, education and laboratory facilities. Such uses shall not include any type of overnight accommodations.~~

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

~~6. Public:~~

~~a. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures, provided that such structures are located more than one hundred (100) feet from the water;~~

~~b. Municipal uses;~~

~~c. Landscaped pedestrian parks, plazas and similar outdoor pedestrian spaces, including without limitation pedestrian and bicycle trails.~~

~~7. Industrial uses:~~

~~Warehousing and wholesaling.~~

~~(Ord. No. 168-93, § 2, 1-4-93; Ord No. 187-99, 1-4-99; Ord. No. 33-11/12, 1-18-12)~~

~~**Sec. 14-320.6.5. Conditional uses.**~~

~~(a) The following uses shall be permitted only upon the issuance of a conditional use permit, subject to the provisions~~

~~of sections 14-320.5.5, 14-474 and any special provisions, standards or requirements specified below, and further provided that, notwithstanding section 14-474(a) or any other provision of this Code, the Planning Board shall be substituted for the board of appeals as the reviewing authority:~~

- ~~1. Any use permitted in section 14-320.6(d)2, 4, 5 or 6, (e), (f) or (g), in one (1) new structure of more than five thousand (5,000) square feet, but not more than ten thousand (10,000) square feet in total floor area per parcel.~~

~~— (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. 168-93, § 2, 1-4-93; Ord. No. 29-09/10, 8-3-09, emergency passage; Ord. No. 33-11/12, 1-18-12)~~

~~Sec. 14-320.7. Contract or conditional zoning.~~

~~An applicant may only construct a new structure of either more than five thousand (5,000) square feet in total floor area~~

~~for occupancy by uses enumerated in section 14-320.6(d)1, or ten thousand (10,000) square feet in total floor area for occupancy by uses enumerated in section 14-320.6(d)2, 4, 5 or 6, (e), (f) or (g) or in excess of one (1) per parcel for occupancy by those same uses if a rezoning is approved pursuant to division 1.5 of this article. A conditional or contract rezoning shall only be approved if, after public hearing and opportunity for public comment, the reviewing body finds that the applicant has carried the burden of proof to show that the proposed development meets the standards of section 14-320.55 and all of the following standards:~~

- ~~(a) The proposed development is consistent with the comprehensive plan.~~
- ~~(b) The project's public benefits outweigh its potential negative impacts, taking into consideration as public benefits protection of existing water-dependent uses, preservation of future water-dependent use development opportunities, contribution to the development of and/or on-going maintenance of the marine infrastructure for commercial vessels (either on- or off-site), and visual and physical access to the waterfront for the general public.~~
- ~~(c) The proposed development responds to any unique physical conditions and development opportunities along the shoreline.~~
- ~~(d) The proposed development is sensitive to design opportunities and local environmental conditions, makes use of creative design solutions, does not significantly restrict air, light or water views of other structures located in the vicinity and does not create significant adverse local climatic effects such as increased winds, shadowing, or less efficient traffic, parking or circulation patterns.~~
- ~~(e) The proposed development is consistent with the Portland Waterfront Public Access Design Guidelines, a copy of which is on file in the department of planning and urban development.~~
- ~~(f) The proposed rezoning contains adequate provisions and/or conditions to ensure that the water-dependent~~

~~use is not abandoned after the project is developed.~~
(Ord. No. 168-93, § 2, 1-4-93)

~~Sec. 14-320.8. Prohibited uses.~~

~~Uses which are not enumerated in section 14-320.6 as permitted or in section 14-320.6.5 as conditional uses are prohibited.~~
(Ord. No. 168-93, § 2, 1-4-93)

~~Sec. 14-320.9. Dimensional requirements.~~

~~In addition to the provisions of article III, division 25 of this Code, lots in the waterfront special use zone shall be subject to the following requirements:~~

~~(a) Minimum lot size: None.~~

~~(b) Minimum frontage: None.~~

~~(c) Minimum yard dimensions:~~

~~Front setback: None.~~

~~Side setback: None required unless adjacent to a residential zone; if adjacent to a residential zone, twenty-five (25) feet.~~

~~Rear setback: None required unless adjacent to a residential zone; if adjacent to a residential zone, twenty-five (25) feet.~~

~~Setback from pier line: Notwithstanding the above requirements, a minimum setback of five (5) feet from the edge of any pier, wharf or bulkhead shall be required for any structure. The setback area may be utilized for activities related to the principal uses carried on in the structure, subject to the provisions of sections 14-313 and 14-314, but shall not be utilized for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).~~

~~(d) Maximum lot coverage: One hundred (100) percent.~~

~~(e) 1. Maximum building height: Forty-five (45) feet, except in the area formed by the projection~~

~~of the centerline of Atlantic Street between its intersections with Wilson Street and the Eastern Promenade easterly to the easternmost boundary of the waterfront special use zone, where facilities for bulk storage of materials delivered to a site by waterborne transportation or awaiting transportation from the site by means of waterborne transportation may be erected to heights that shall not exceed sixty-five (65) feet above mean sea level. In those areas where the maximum height may not exceed forty-five (45) feet above grade, no structure may exceed sixty-five (65) feet in height above mean sea level. For purposes of this section, a projection of the centerline of a street shall consist of an extension of the centerline of the street to the water side boundary of the waterfront special use zone.~~

~~2. Additional bulk, height and location standards for structures exceeding forty-five (45) feet in height above grade within the waterfront special use zone:~~

~~a. The maximum horizontal diagonal measurement of portions of a structure, cluster of structures or equipment exceeding forty-five (45) feet in height above grade shall not exceed one hundred (100) feet, except that for each foot that the structure, cluster of structures, or equipment is lowered from the maximum permitted height, the maximum horizontal measurement may increase by one (1) foot.~~

~~b. In addition to any other setback requirements, portions of structures or clusters of structures exceeding forty-five (45) feet in height above grade shall be set back a minimum of one (1) foot from the exterior property line of the owner of the underlying fee interest for each foot that the structure or cluster of structures exceeds forty-five (45) feet in height above grade.~~

- ~~e. No structure or cluster of structures exceeding forty-five (45) feet in height above grade may be located closer than one hundred fifty (150) feet from any other such structure or cluster of structures.~~
- ~~d. The cumulative width of the portion of structures exceeding forty-five (45) feet in height above grade shall not exceed more than thirty (30) percent of the average width of the lot as measured by a line drawn parallel to the water.~~
- ~~e. No structure shall exceed forty-five (45) feet in height above grade within the view corridors established by the projection of the street right-of-way lines for Atlantic Street, Vesper Street or for O'Brion Street.~~
- ~~f. For purposes of this section only, moveable elements such as cranes and gantries, and connection devices such as conveyors or bridges shall not be subject to the space and bulk requirements, but shall be subject to a determination by the Federal Aviation Administration that the location of such equipment will not create a hazard to navigation. Other rooftop appurtenances shall not exceed the maximum height limits set forth in this section.~~
- ~~g. The applicant must provide a determination from the Federal Aviation Administration that structures and equipment will not exceed the applicable height guidelines for the runway approach and will not create a hazard to navigable airspace. Such a determination shall be accepted as conclusive evidence that the proposed development will not create a hazard.~~
- ~~h. Accessory uses in structures which exceed forty-five (45) feet in height above grade shall not be located higher than forty-five~~

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~~(45) feet within the structure.~~
~~(Ord. No. 168-93, § 2, 1-4-93)~~

~~Sec. 14-320.10. Performance standards.~~

~~All uses in the waterfront special use zone shall comply with the following standards:~~

~~(a) *Outdoor storage of materials:* Outdoor storage of commodities and materials accessory to normal conduct of business, except pilings and/or cranes, shall be permitted to a maximum height of forty-five (45) feet, and such materials shall be entirely contained, including runoff contaminants and residual material, within a designated area within the lot boundaries.~~

~~(b) *Noise:*~~

~~1. The level of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American National Standards Institute, Inc.), inherently and recurrently generated within the waterfront special use zone between the hours of 7:00 p.m. and 7:00 a.m. from industrial facilities or operations commenced on or after July 1, 1988, shall not exceed fifty-five (55) decibels on the A scale at or within the boundaries of any residential zone, except for sound from construction activities, sound from traffic on public streets, sound from temporary activities such as festivals, and sound created as a result of, or relating to, an emergency, including sound from emergency warning signal devices.~~

~~2. In measuring sound levels under this section, sounds with a continuous duration of less than sixty (60) seconds shall be measured by the maximum reading on a sound level meter set to the A weighted scale and the fast meter response (L maxfast). Sounds with a continuous duration of sixty (60) seconds or more shall be measured on the basis of the energy average sound level over a period of sixty (60) seconds (LEQ₁).~~

~~3. In addition to the sound level standards otherwise established, facilities or operations established or built in the waterfront special~~

~~use zone on or after July 1, 1988, shall employ best practicable sound abatement techniques to prevent tonal sounds and impulse sounds or, if such tonal and impulse sounds cannot be prevented, to minimize the impact of such sounds in residential zones. Tonal sound is defined as a sound wave usually perceived as a hum or which because its instantaneous sound pressure varies essentially as a simple sinusoidal function of time. Impulse sounds are defined as sound events characterized by brief excursions of sound pressure, each with a duration of less than one (1) second.~~

- ~~(c) *Vibration:* Vibration inherently and recurrently generated shall be imperceptible without instruments at lot boundaries. This shall not apply to vibration resulting from activities aboard a vessel or from railroad vehicle activities, or from activities on a pile supported pier.~~
- ~~(d) *Federal and state environmental regulations:* All uses shall comply with federal and state environmental statutes and regulations regarding emissions into the air, except where provisions of this Code are more stringent.~~
- ~~(e) *Discharges into harbor areas:* No discharge into harbor water areas shall be permitted, unless permitted by the Maine Department of Environmental Protection under a waste discharge license and as approved by the department of parks and public works in accordance with chapter 24, article III of this Code. All private sewage disposal or private wastewater treatment facilities shall comply with the provisions of chapter 24, article II of this Code and federal and state environmental statutes and regulations regarding wastewater discharges.~~
- ~~(f) *Storage of vehicles:* Storage of any unregistered automotive vehicle on the premises for more than sixty (60) days shall not be permitted.~~
- ~~(g) *Landfill of docking and berthing areas:* Landfill of docking and berthing areas shall be governed by 38 M.R.S.A. Sections 471 through 478, and permitted only if the landfill does not reduce the amount of linear~~

~~berthing areas or space, or berthing capacity. If approved, construction shall be undertaken using methods approved by the department of parks and public works and shall be accomplished in accordance with the provisions of division 25 of this article and in a manner so as to ensure that a stable and impermeable wall of acceptable materials will completely contain the fill material and will not permit any fill material to leach into docking areas or navigable waters.~~

~~(h) Off-street parking: Off-street parking is required as provided in division 20 (off-street parking) of this article.~~

~~(i) Off-street loading: Off-street loading is required as provided in division 21 of this article.~~

~~(j) Shoreland and flood plain management regulations: Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.~~

~~(k) Lighting: All lighting on the site shall be shielded such that direct light sources shall not unreasonably interfere with vessels transiting the harbor nor have an unreasonable adverse impact on adjacent residential zones.~~

~~(l) Signs: Signs shall be permitted as set forth in division 22 of this article.~~

~~(m) Storage of pollutants and oily wastes: On premises storage of pollutants and oily wastes shall not be permitted for more than forty-five (45) days.~~

~~(n) Compatibility of nonmarine uses with marine uses: Nonmarine uses, structures and activities, including but not limited to access, circulation, parking, dumpsters, exterior storage and loading facilities or other structures shall neither unreasonably interfere with the existence or operation of marine uses nor significantly impede access to vessel berthing or other access to the water by existing or potential marine uses.~~

DIVISION 17.5. EASTERN WATERFRONT PORT ZONE*

. . .

Sec.14-301. Permitted uses.

Subject to a determination that the proposed use meets the standards of section 14-300.1. (no adverse impact on marine uses), the following uses are permitted in the Eastern Waterfront Port Zone:

(a) *Marine passenger:*

1. Intermodal marine passenger facilities;
2. Cruise ship home port and port of call berthing and support;
3. International and domestic ferries.

(b) *Marine commercial:*

1. Transient and long-term commercial berthing;
2. Marine-related warehousing;
3. Marine related construction, manufacturing, fabrication, salvage and repair;
4. Storage and repair of fishing equipment;
5. Ship and other marine vessel construction, building, servicing, and repair;
6. Boat and marine equipment storage;
7. ~~Marine fuel storage and dispensing provided that on-site fuel storage structures shall be used solely for the purpose of fueling vessels and shall be limited, cumulatively, to 20,000 gallons of storage capacity within the zone; Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels;~~
8. Public, non-profit, or commercial marine

transportation and excursion services, including captained charter services, sport fishing and water taxis;

9. Ship and off-shore support services, including but not limited to tug boats, pilot boats, and chandleries;
10. Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices;~~;~~
11. Marinas located east of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26;
12. Marine office, including but not limited to offices of owners of marinas, wharves or their agents, and naval architects, and seafood brokers.

(c) *Commercial:*

1. Professional, business, government, and general office located in upper floors of structures existing as of September 18, 2006.

***Editor's Note**—On-site parking for non-marine commercial uses are permitted as conditional uses subject to the provisions of section 14-301.1. (conditional uses, parking) below.

2. Temporary events, except festivals as otherwise governed under section 14-301I3 below.

Buildings, piers and lands within the EWPZ may be used for temporary public and private events including but not limited to exhibitions, conferences, meetings, and trade shows under the following conditions:

- a. Temporary events occupying more than 10,000 square feet of building or outdoor space

shall not exceed a combined total of sixty
(60) days between May 1st to October 31st;

- b. No temporary event may continue for more than 14 days of continuous operation;
- c. Any temporary event that anticipates more than 5,000 people in attendance on any single day must provide and be subject to a parking management plan. The parking management plan must be submitted for the review and approval of the public works authority at least 60 days prior to the first day of the event.

- 2. Festivals subject to City license.
- 4. Street vendors licensed pursuant to Chapter 19 as a result of a competitive bid process conducted pursuant to Chapter 2 of the City Code.

(d) *Public:*

- 1. Fire, police and emergency services;
- 2. Governmental agency emergency operations/crisis centers; 3. Research, military and visiting attraction vessel berthing;
- 4. Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces, including without limitation pedestrian and/or bicycle trails.

(e) *Other:*

- 1. Wind energy systems, as defined and allowed in Article X, Alternative Energy.
- 2. A facility for non-profit organizations whose facility may include offices, classrooms, equipment, equipment rentals, storage, and bathrooms for the public.

Sec. 14-301.1. Conditional uses.

(a) The following uses shall be permitted as conditional uses in the Eastern Waterfront Port Zone, provided that, notwithstanding section 14-471(c), section 14-474(a), or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority, and provided further that in addition to the provision of section 14-474(c)(2) such uses will not impede or preclude existing or potential water-dependent development within the zone, will allow for adequate right-of-way access to the water, are compatible with marine uses, and meet all additional standards set forth below:

1. Conditional use standard:

- a. *Marine compatibility:* The proposed use shall be compatible with existing and potential marine uses in the vicinity, as required by section 14-304(n) and (o) (compatibility of non-marine uses with marine uses and functional utility of piers and access to the water's edge); and
- b. *Parking and traffic circulation:*
 - i. *Parking and traffic circulation plan:* All applications for conditional use in the EWPZ shall submit a parking and circulation plan for review and approval by the planning board. The parking and circulation plan shall show the location of all existing and proposed structures, travel ways and parking under the common ownership and/or control of the subject pier or property. The plan shall demonstrate that the parking and circulation of the conditional use does not interfere with the functional marine utility of the property and otherwise meets the standards and conditions of the EWPZ.

2. Conditional uses:

- a. *Marine:*
 - i. Marine products, wholesaling and retailing;

- ii. Ice-making services;
- iii. Marine freight facilities providing service for, and/or intermodal transfer of, container and breakbulk freight;
- iv. Marine educational facilities;
- v. Seafood retailing, wholesaling, packaging and shipping;
- vi. Seafood processing for human consumption, subject to the performance standards of the IL zone set forth in section 14-236 in addition to the performance standards of section 14-304;
- vii. Commercial marinas serving commercial and recreation boats located west of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26, provided that such facilities are located in areas that do not conflict with the navigation and handling of deepwater dependent vessels accessing existing or potential deepwater berthing;
- viii. Fish byproducts processing, provided that:
 - a. Any fish byproducts processing facility has a valid rendering facility license under chapter 12 of the Portland city code; and
 - b. Any fish byproducts facility shall employ current and appropriate odor control technology to eliminate or minimize detectable odors from such a process, and in no case shall odors exceed the odor limitation performance standards of the IM zone (section 14-

252); and

- c. The processing other material wastes or byproducts shall not be deemed a lawful accessory use Permitted herein.

b. *Commercial:*

- a. Structured parking available to the general public;
- b. Professional, business, government and general offices uses in upper floors of structures constructed after September 18, 2006;
- c. Passenger support services supporting a marine passenger use listed under 14-301(a) (marine passenger). The total ground floor area occupied by any combination of the following uses (regardless of ownership) shall not exceed 35% of the gross floor area of the principle associated marine passenger use and no more than 35,000 square feet cumulative within the EWPZ:
 - i. Retail;
 - ii. Restaurants/food service other than street vendors;
 - iii. Retail service;
 - iv. Passenger information services.

- c. *Industrial:* The following industrial uses are permitted provided that such uses shall conform to the IM zone performance standards set forth in section 14-252 in addition to the performance standards of 14-304. Where redundant or contradictory performance standards exist, the more restrictive standard applies.

- i. Non-marine related warehousing in structures existing as of September 18, 2006;

- ii. Facilities for combined marine and general construction;
- iii. Low impact industrial uses as permitted in the IL zone in structures existing as of September 18, 2006, excluding all auto repair service facilities.

d. *Public:*

- i. *Utility substations:* Public utility substations, including but not limited to electrical transformers, sewage and stormwater pumps and telecommunication switching stations, are permitted under the following conditions:
 - a. The facility is located more than 100 feet from the water's edge;
 - b. The facility occupies no more than 50 square feet of structure above ground;
 - c. The facility provides no dedicated on-site parking and all subsurface elements of the facility are installed and operated such that land occupied by the facility is otherwise useable and made available for marine related uses, including but not limited to parking, travel ways, and/or storage; and
 - d. The facility shall be sized, sited and screened to minimize visual impact and prominence from public ways.
- ii. Maritime museums, limited to 5,000 square feet of ground floor footprint.

***Editor's Note**—On-site parking for non-marine commercial and industrial uses are permitted as conditional uses subject to the provisions of section 14-301.1. (conditional uses, parking) below.

- e. *Parking for non-marine uses:* Notwithstanding sections 14-304(h), 14-331, 14-334 (regarding off-street parking requirements) and article V (site plan) of this chapter, no parking shall be allowed in this zone for non-marine uses unless the applicant can demonstrate that the number of parking spaces on-site exceeds the number of parking spaces needed to accommodate the demand for marine and water-dependent uses that are permitted by section 14-301 (permitted marine uses) and 14-301.1. (conditional marine uses) which are or may be located on the subject property (see editor's note below). The remainder of parking Required, if any, for such non-marine uses shall be provided off-site.

***Editor's Note**—Vacant ground floor space should be considered to have a parking demand similar to other space housing an existing water-dependent use elsewhere on the subject property or on a comparable property.

Sec. 14-303. Dimensional requirements.

....

4. Setback from pier line: Notwithstanding the above requirements, a minimum setback of twenty-five(25) feet from the edge of any pier, wharf or working edge of the hardened shoreline shall be required for any structure, provided that marine offices, as defined in Section 14-301(b)(12), may be located up to five (5) feet from the edge of any pier, wharf or working edge of the hardened shoreline. The setback area may be utilized for water-dependent uses and public uses and activities, subject to the provisions of sections 14-300.1 (no adverse impact) and 14-301.1 (conditional use provisions), and shall not be utilized for restaurant, drinking, or other non water-dependent uses or for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).

DIVISION 26. SHORELAND REGULATIONS

. . .

Sec. 14-449. Land use standards.

All land uses and land use activities subject to this division shall conform to the following standards and regulations, as applicable:

(a) Principal and accessory structures:

1. All principal and accessory structures shall be set back at least seventy-five (75) feet horizontal distance, from the normal high water line of water bodies, the upland edge of a wetland or associated tributary streams within a shoreland zone, except that in the following zones the setback shall be as indicated below:
 - a. B-3, B-5, B-5b, I-L (south and east of I-295), and I-M (south and east of I-295): Twenty-five (25) feet.
 - b. W-C, W-PD, ~~W-SU~~, I-B, EWP: No setback required. Pier edge setbacks apply in EWP (Sec. 14-303(c)(4), W-C (Sec. 14-310(d)(4), and W-PD (Sec. 320.2(c)), ~~and W-SU (Sec. 320.9(e))~~.

For the principle structures, setback measurements shall be taken from the top of a costal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant "Classification of Coastal Bluffs", and published in the most recent Coastal Bluff Map as further referenced on the Zoning Map.

Notwithstanding this requirement, when a lot is a lot of record as defined in section 14-433 or cannot otherwise meet the setback requirement of this section due to physical limitations of the site, the Planning Board may approve a reduction of the setback requirement for a principal structure to the least amount necessary to achieve a building dimension of twenty-eight (28)

feet, provided that the setback is not reduced to less than forty (40) feet. Structures in existence on June 15, 1992, may be expanded once during the lifetime of the structure up to twenty-five (25) feet toward a freshwater wetland, stream or tributary stream, provided that the setback is not reduced to less than forty (40) feet and the floor area or volume is not increased by more than thirty (30) percent. In no event shall the setback from a coastal wetland be reduced to less than seventy-five (75) feet, except in the B-3, B-5, B-5b, EWP, W-C, W-PD, ~~W-SU~~, I-B, I-L and I-M zones, where setbacks shall be as set forth above in this subsection.

In all cases, accessory detached structures of less than one hundred (100) square feet of floor area shall be permitted with no setback, provided that such structures shall be used only for the storage of fish, bait, and related equipment. No setback shall be required for piers, docks, retaining walls, or any other structures which require direct access to the water as an operational necessity.

. . .

- (b) *Piers, docks, wharves, bridges and other structures and uses extending over or below the normal high water line of a water body or within a wetland:*

. . .

6. Except in the W-C, EWP, W-PD, ~~W-SU~~, and I-B zones, no new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity;

. . .

- (c) *Clearing or removal of vegetation:*

1. In all shoreland areas in resource protection

zones, the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that zone.

2. The clearing or removal of vegetation standards of this section shall not apply to the following zones: EWP, WCZ, WPD, ~~WSU~~, B-3, B-5, B-5b, B-6, B-7, I-L (south and east of I-295) and I-M zones (south and east of I-295).

. . .

(j) *Roads and driveways:*

1. Roads and driveways shall be setback a minimum of seventy-five (75) feet from the normal high-water or upland edge of a coastal wetland, freshwater wetland, river or tributary stream within a shoreland zone, except:

- a. In the EWP, WC, WPD, ~~WSU~~, B-3, B-5, B-5b, I-L (south and east of I-295) and I-M (south and east of I-295) roads and driveways shall be setback as established for structures in those zones; as specified in Sec. 14-449(a)1.

- b. Where the planning board determines that no other reasonable alternative exists. If no other reasonable alternative exists, the planning board may reduce the road and/or driveway setback requirement to no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or effective use of additional ditch relief culverts and turnouts place so as to avoid sedimentation of the water body, tributary stream or wetland.

. . .

(k) *Parking areas:* Parking areas shall be set back a minimum of seventy-five (75) feet from the normal high-water or upland edge of a coastal wetland, freshwater wetland, river or tributary stream within a shoreland zone except:

1. In the EWP, WC, WPD, ~~WSU~~, B-3, B-5, B-5b, I-L and I-M zones, parking setbacks shall be as established for structures in those zones; as specified in Sec. 14-449(a)1.

2. Parking setbacks in the S-P (stream protection) zones are as established in Division 26.7.

3. Where the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream, the board may reduce the parking setback requirement to no less than fifty (50) feet in the R-OS, and I-B zones to the least amount necessary for construction, provided that the applicant proves by a preponderance of the evidence that appropriate techniques will be used to prevent sedimentation of the water body.

. . .

Comparison of Permitted Uses in WSUZ and EWPZ

Black text indicates uses permitted in both zones.

Green text indicates uses permitted in EWPZ, but not in WSUZ.

Red text indicates uses permitted in WSUZ, but not in EWPZ.

Blue text indicates uses permitted in WSUZ and conditional in EWPZ.

Orange text indicates proposed text amendment

Waterfront Special Use Zone	Eastern Waterfront Port Zone
Permitted Uses: <i>Marine:</i> 1. Marine products, wholesaling, distribution and retailing; 2. Marine repair services and machine shops; 3. Tugboat, fireboat, pilot boat and similar services; 4. Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels (NOTE: proposed amendment to EWPZ to retain this provision); 5. Marine industrial welding and fabricating; 6. Shipbuilding and facilities for construction, maintenance and repair of vessels; 7. Commercial marine transport and excursion services, including ferries, captained charter services, sport fishing and water taxis; 8. Cargo handling facilities, including docking, loading and related storage; 9. Boat repair yards; 10. Boat storage facilities, including rack storage facilities; 11. Seafood processing; 12. Seafood packing and packaging; 13. Seafood loading and seafood distribution; 14. Fabrication, storage and repair of fishing equipment; 15. Ice-making services; 16. Facilities for marine construction and salvage; 17. Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices; 18. Fabrication of marine-related goods; 19. Fishing and commercial vessel berthing; 20. Noncommercial berthing; 21. Marine office, including but not limited to offices of owners of wharves or their agents, and naval architects, and seafood brokers; (NOTE: proposed text amendment adds this use to EWPZ)	Permitted Uses: <i>Marine :</i> 1. Intermodal marine passenger facilities; 2. Cruise ship home port and port of call berthing and support; 3. International and domestic ferries. 4. Transient and long-term commercial berthing; 5. Marine-related warehousing; 6. Marine related construction, manufacturing, fabrication, salvage and repair; 7. Storage and repair of fishing equipment; 8. Ship and other marine vessel construction, building, servicing, and repair; 9. Boat and marine equipment storage; 10. Marine fuel storage and dispensing provided that on-site fuel storage structures shall be used solely for the purpose of fueling vessels and shall be limited, cumulatively, to 20,000 gallons of storage capacity within the zone; (NOTE: proposed text amendment deletes this provision and replaces it with language from WSUZ: "Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels") 11. Public, non-profit, or commercial marine transportation and excursion services, including captained charter services, sport fishing and water taxis; 12. Ship and off-shore support services, including but not limited to tug boats, pilot boats, and chandleries; 13. Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices. Additional text amendments: A facility for non-profit organizations whose facility may include offices, classrooms, equipment, equipment rentals, and storage and bathrooms for the public.

Comparison of Permitted Uses in WSUZ and EWPZ

Black text indicates uses permitted in both zones.

Green text indicates uses permitted in EWPZ, but not in WSUZ.

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22. Public landings; 23. Marinas; (NOTE: commercial marinas are permitted as conditional use in EWPZ and the proposed text amendment allows marinas located east of the Ocean Gateway facility as a permitted use) 24. Intermodal transportation facilities.	Marinas located east of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26. Marine office, including but not limited to offices of owners of wharves or their agents, and naval architects, and seafood brokers.
<i>Industrial uses:</i> Industrial uses which meet the performance standards of the I-2 zone.	<i>Commercial:</i> 1. Professional, business, government, and general office located in upper floors of structures existing as of September 18, 2006. 2. Temporary events, except festivals as otherwise governed under section 14-30113 below. 3. Festivals subject to City license. 4. Street vendors licensed pursuant to Chapter 19 as a result of a competitive bid process conducted pursuant to Chapter 2 of the City Code.
<i>Public:</i> Pedestrian and bicycle trails.	<i>Public:</i> 1. Fire, police and emergency services; 2. Governmental agency emergency operations/crisis centers; 3. Research, military and visiting attraction vessel berthing; 4. Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces, including without limitation pedestrian and/or bicycle trails.
	<i>Other:</i> 1. Wind energy systems, as defined and allowed in Article X, Alternative Energy.
Conditional uses: 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: 2. Wind energy systems, as defined and allowed in Article X, Alternative Energy.	Conditional uses: provided that such uses will not impede or preclude existing or potential water-dependent development within the zone, will allow for adequate right-of-way access to the water, are compatible with marine uses, and meet all additional standards. 1. Marine products, wholesaling and retailing;

Comparison of Permitted Uses in WSUZ and EWPZ

Black text indicates uses permitted in both zones.

Green text indicates uses permitted in EWPZ, but not in WSUZ.

Red text indicates uses permitted in WSUZ, but not in EWPZ.

Blue text indicates uses permitted in WSUZ and conditional in EWPZ.

Orange text indicates proposed text amendment

NOTE: There are additional uses permitted in the WSUZ but only allowed north of the railroad tracks so were not included in this comparison of uses that would be permitted in the proposed new extension of the EWPZ.	2. Ice-making services; 3. Marine freight facilities providing service for, and/or intermodal transfer of, container and breakbulk freight; 4. Marine educational facilities; 5. Seafood retailing, wholesaling, packaging and shipping; 6. Seafood processing for human consumption, subject to the performance standards of the IL zone set forth in section 14-236 in addition to the performance standards of section 14-304; 7. Commercial marinas serving commercial and recreation boats, located west of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26., provided that such facilities are located in areas that do not conflict with the navigation and handling of deepwater dependent vessels accessing existing or potential deepwater berthing; 8. Fish byproducts processing, 9. Structured parking available to the general public; 10. Professional, business, government and general offices uses in upper floors of structures constructed after September 18, 2006; 11. Passenger support services supporting a marine passenger use listed under 14- 301(a)(marine passenger). The total ground floor area occupied by any combination of the following uses (regardless of ownership) shall not exceed 35% of the gross floor area of the principle associated marine passenger use and no more than 35,000 square feet cumulative within the EWPZ: i. Retail; ii. Restaurants/food service other than street vendors; iii. Retail service; iv. Passenger information services. 12. Non-marine related warehousing in structures
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Comparison of Permitted Uses in WSUZ and EWPZ

Black text indicates uses permitted in both zones.

Green text indicates uses permitted in EWPZ, but not in WSUZ.

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Blue text indicates uses permitted in WSUZ and conditional in EWPZ.

Orange text indicates proposed text amendment

	existing as of September 18, 2006; 13. Facilities for combined marine and general construction; 14. Low impact industrial uses as permitted in the IL zone in structures existing as of September 18, 2006, excluding all auto repair service facilities. 15. Utility substations: Public utility substations, including but not limited to electrical transformers, sewage and stormwater pumps and telecommunication switching stations 16. Maritime museums, limited to 5,000 square feet of ground floor footprint. 17. Parking for non-marine uses. 18. Temporary wind anemometer towers, as defined in Sec 14-47. 19. Wind energy systems, as defined and allowed in Article X, Alternative Energy.
--	---



58 Fore Street

Zoning Map/Text
Amendment
Application

41 Hutchins Drive
Portland, ME 04102
800-426-4262

woodardcurran.com
COMMITMENT & INTEGRITY DRIVE RESULTS

227007.00
CPB2 LLC
August 21, 2014



August 21, 2014

Department of Planning and Development
City of Portland
389 Congress Street
Portland, Maine 04101

Re: 58 Fore Street
Zoning Map/Text Amendment Application

To Whom It May Concern:

On behalf of CPB2 LLC, we are pleased to submit an application for a Zoning Map/Text Amendment. Enclosed, please find one paper copy and one PDF copy (on CD) of the Application Package and associated attachments, which includes a written narrative and figures describing the proposed zoning map and text amendments. The \$3,000 application fee check made payable to the City of Portland from CPB2 LLC was previously submitted and can be applied to this Application package. It is our understanding that the City of Portland will coordinate the necessary public notices and that the fee for public notices and other review services will be billed to CPB2 at a later date. Once a neighborhood meeting has been scheduled, mailing labels will be purchased from the Planning Division and neighborhood meeting invitations will be sent out.

We look forward to discussing this project further. If you have any questions or require additional information, please contact me at any time at (207)774-2112 or by email dsenus@woodardcurran.com.

Sincerely,

WOODARD & CURRAN INC.

David Senus, P.E.
Project Manager

227007

Enclosures: Zoning Map/Text Amendment Application (1 paper copy, 1 PDF copy)

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APPENDICES

Appendix A:	Tax Maps
Appendix B:	Existing & Proposed Zoning Maps
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1. APPLICATION FORM



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 rezoning. 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. APPLICATION 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
Fourth Floor, City Hall
389 Congress Street
(207) 874-8721 or 874-8719

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

PROJECT ADDRESS: 58 Fore Street

CHART/BLOCK/LOT: Chart 18/ Block A/ Lots 1, 2, 3

DESCRIPTION OF PROPOSED ZONE CHANGE AND PROJECT:

Applicant proposes to extend the existing B-6 and EWPZ zones to include the area shown on the attached figures; this area is currently within the WSUZ zone. In addition, various zoning text amendments to the B-6 and EWP Zones, and elimination of the WSUZ zone are also proposed.

CONTACT INFORMATION:

	Applicant's Contact for electronic plans Name: Woodard & Curran, c/o David Senus, PE e-mail Address dsenus@woodardcurran.com work # 207-774-2112
Applicant – must be owner, Lessee or Buyer Name: Jim Brady, Casey Prentice, Kevin Costello Business Name, if applicable: CPB2 LLC Address: PO Box 7987 City/State : Portland/ME Zip Code: 04112	Applicant Contact Information Work # (207) 653-9990 (Jim's cell) Home# (207) 358-1994 (Casey's cell) Cell # (617) 821-0262 (Kevin's cell) Fax# e-mail: casey.prentice@cpb2.com; kevin.costello@cpb2.com; jameshbrady@gmail.com
Owner – (if different from Applicant) Name: CPB2 LLC, c/o CPB2 Management LLC Address: PO Box 7987 City/State : Portland/ME Zip Code: 04112	Owner Contact Information Work # (207) 653-9990 (Jim's cell) Home# (207) 358-1994 (Casey's cell) Cell # (617) 821-0262 (Kevin's cell) Fax# e-mail: casey.prentice@cpb2.com; kevin.costello@cpb2.com; jameshbrady@gmail.com
Agent/ Representative Name: Woodard & Curran, c/o David Senus, PE Address: 41 Hutchins Drive City/State : Portland/ME Zip Code: 04102	Agent/Representative Contact information Work # 207-774-2112 Cell # 207-210-7035 e-mail: dsenus@woodardcurran.com
Billing Information (Same as Applicant) Name: Address: City/State : Zip Code:	Billing Information Work # Cell # Fax# e-mail:
Engineer Name: Woodard & Curran, c/o David Senus, PE Address: 41 Hutchins Drive City/State : Portland/ME Zip Code: 04102	Engineer Contact Information Work # 207-774-2112 Cell # 207-210-7035 Fax# 207-774-6635 e-mail: dsenus@woodardcurran.com

Surveyor Name: N/A Address: City/State : Zip Code:	Surveyor Contact Information Work # Cell # Fax# e-mail:
Architect Name: N/A Address: City/State : Zip Code:	Architect Contact Information Work # Cell # Fax# e-mail:
Attorney Name: Bernstein Shur, c/o Mary Costigan Address: 100 Middle Street, PO Box 9729 City/State : Portland, Maine Zip Code: 04104-5029	Attorney Contact Information Work # (207) 774-1200 Cell # Fax# (207) 774-1127 e-mail: mcostigan@bernsteinshur.com

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

The "Owner" owns the property associated with Tax Map 18-A, Lots 1, 2 & 3, which are proposed to be rezoned under this Application; herein referred to as CPB2 Property. Copies of the deeds are appended herein. This rezone request includes a 50' wide strip of land owned by the State of Maine that bisects the Applicant's property (part of Tax Map 18-A, Lot 13); herein referred to as State of Maine Property. The Applicant has been in discussions with MaineDOT and anticipates receiving a letter confirming acceptance of the proposal to rezone this land from the MaineDOT. This rezone request also includes two small gravel and paved parking areas of City-owned land on the east edge of TM 19-A-Lot 14 and TM 446-A-Lot 1; herein referred to as City Property. A copy of the Submerged Lands Lease is also appended covering 4 lots

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 CPB2 Property includes warehouses, storage buildings, and a marina with associated parking and laydown areas. The majority of the CPB2 Property is currently occupied by Portland Yacht Services, which provides full-service boatyard operations and a marina. The State of Maine Property includes railroad tracks utilized and maintained by the Maine Narrow Gauge Railway and a section of the paved, public Eastern Promenade Trail maintained by Portland Trails/City of Portland. The City Property includes gravel and paved parking areas.

Current Zoning Designation(s):

Waterfront Special Use Zone (WSUZ)

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.

The existing uses of the CPB2 Property, the State of Maine Property, and the City Property will continue unchanged for the immediate future. There are no set plans at this time for redevelopment or construction on the CPB2 Property; however, planning for future development would maintain consistency with the proposed B6 and EWPZ zone extensions. The requested rezone will inform the future development planning for these areas.

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 ___ \$2,000.00 (from ___ zone to ___ zone)	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.
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 (<u>example</u>) and language to be added is depicted as underline (<u>example</u>))	___	
Combination Zoning Text Amendment and Zoning Map Amendment <u>X</u> \$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.)	___	

Signature of Applicant: See Below	Date: August 18, 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.

CPB2 LLC

By: CPB2 Management LLC, Manager

By: 

Name: Casey W. Prentice

Title: Manager

2. PROJECT DESCRIPTION

2.1 PROJECT SITE & BACKGROUND

The proposed rezoning area includes (i) three parcels identified as Lots 1, 2, and 3 on Map 18-A of the City of Portland Tax Maps (attached in Appendix A) owned by CPB2 LLC (the ‘CPB2 Property’); (ii) a portion of Lot 13 on Map 18-A owned by the State of Maine (the ‘State of Maine Property’); (iii) two (2) small areas of City-owned land on the west edge of the adjacent City-owned lots, specifically portions of Map 19-A, Lot 14 and Map 446-A, Lot 1 (the ‘City Property’); and, (iv) four (4) lots covering areas of submerged lands leased to the Owner, specifically Map 446-A, Lots 3 and 4, Map 2-X, Lot 1, and a portion of Map 2-A, Lot 18.

The CPB2 Property, commonly referred to as the “Portland Company Complex”, is located at 58 Fore Street in Portland, Maine and is currently zoned Waterfront Special Use Zone (WSUZ) with a Shoreland Overlay Zoning over the waterfront portion of the property. CPB2 LLC acquired the CPB2 Property from the previous owner in two (2) installments, the first occurring in July 2013 and the second occurring in April 2014 (see Section 3 of this application for additional information on Right, Title or Interest); during the past 12 months, CPB2 LLC has been evaluating rezoning of the CPB2 Property to align it with the goals of the Master Plan for Redevelopment of the Eastern Waterfront (Master Plan).

On the CPB2 Property, Map 18-A Lots 1 and 3 have frontage along Fore Street, while Lot 2 is located along the waterfront. Lots 1 and 3 are separated from Lot 2 by the State of Maine Property, which is currently utilized by the Maine Narrow Gauge Railroad and Portland Trails. The City of Portland Online Assessor’s Database and GIS parcel maps combine Lots 1 and 2 together as 6.92 acres, and list Lot 3 as 2.87 acres. A recent survey of the CPB2 Property indicates that Lots 1 and 2 are approximately 0.14 acres greater than the City’s Assessor’s Database. Lots 1 and 3 are proposed to be rezoned from WSUZ to B-6 Zone; Lot 2 is proposed to be rezoned from WSUZ to Eastern Waterfront Port Zone (EWPZ). The exact location of the proposed zone boundary between the B-6 zone and the EWPZ has not been determined at this time; we anticipate further discussions with City Staff to help define this boundary location.

Four (4) lots covering areas of submerged lands leased to the Owner, specifically Map 446-A, Lots 3 and 4, Map 2-X, Lot 1, and a portion of Map 2-A, Lot 18, are proposed to be rezoned from WSUZ to EWPZ (see Section 3 of this application for additional information on Right, Title or Interest).

The State of Maine Property, Map 18-A Lot 13, is a continuous strip of land that extends beyond the proposed area to be rezoned; a total of 1.35 acres of Lot 13 is proposed to be rezoned from WSUZ to B-6 under this application. In addition, 0.01 acres of City Property (Map 19-A Lot 14) is proposed to be rezoned from WSUZ to B-6, and 0.5 acres of City Property (Map 446-A Lot 1) is proposed to be rezoned from WSUZ to EWPZ.

Redevelopment in the eastern waterfront area of Portland, near the CPB2 Property, has intensified over the last 5 to 10 years, however, the property at 58 Fore Street and the properties immediately adjacent to the CPB2 Property have remained largely unchanged during this period. The CPB2 Property primarily slopes from northwest to southeast towards the waterfront. A steep grade change exists along Fore Street from northwest to southeast. The northeastern corner of the CPB2 Property is comprised of a steep, vegetated embankment. Retaining walls and buildings have been constructed along much of the boundary with Fore Street. A driveway from Fore Street on the western end of the CPB2 Property provides the primary means of site access. The CPB2 Property is also connected to Hancock Street and Thames Street by gravel parking lots and driveways located on adjacent parcels to the west.

2.2 AREA DEVELOPMENT

2.2.1 Recent Adjacent Projects

The City-owned Ocean Gateway facility with international ferry accommodations on Pier 2 Berth 1 was completed in 2008, and construction of the facility's cruise ship accommodations on Pier 2 Berth 2 was completed in 2011; this project is located within the Eastern Waterfront Port Zone and the adjacent B-6 Eastern Waterfront Mixed Zone. The Ocean Gateway project included the construction of roadway extensions in the vicinity of the subject property. The Ocean Gateway facility is currently used as a terminal for Nova Star Cruises, which provides international ferry service to Nova Scotia, and as an event center and transient berthing for cruise ships and other vessels. Renewed use of the terminal for regular international ferry service to Nova Scotia began in May 2014 under Nova Star Cruises; previous international ferry service provided by the Bay Ferries Cat ended operations in 2009.

The roughly 750-space privately-owned Ocean Gateway parking garage was constructed in 2008 at the northwest corner of the Fore and Hancock street intersection, located within the B5b Urban Commercial Business Zone. In the last several years, a roughly 180-key Marriott Residence Inn was completed on the northeast corner of the Fore and Hancock street intersection, located in the B5b Urban Commercial Business Zone. In 2012, a roughly 120-key Hampton Inn with ground-floor restaurant and residential condominiums was completed at northeast corner of the intersection of Fore and Franklin Streets, at the former Jordan's Meats site, located in the B3 Commercial Business Zone. Phase one of a two phase project referred to as the "The Bay House" was recently completed on the east side of the block formed by Hancock, Newbury, Middle and India Streets in a Contract Zone (C52). Phase I of the project included two buildings containing 84 residential condominium units and street level commercial space.

2.2.2 Existing Use & Zoning

The existing CPB2 Property is developed with warehouse and storage buildings on Lots 1 and 2 with associated parking and laydown areas, and similar parking and laydown areas on Lot 3 and the adjacent City-owned lots. The State of Maine Property, the 50' wide strip of land that bisects the CPB2 Property, includes railroad tracks owned, utilized and maintained by the Maine Narrow Gauge Railway as well as a section of the paved, public pathway, The Eastern Promenade Trail, maintained by Portland Trails/City of Portland. The majority of the existing 15 buildings on the CPB2 Property are currently occupied by Portland Yacht Services, which provides full-service boatyard operations accompanied by marina operations. The remainder of the CPB2 Property is leased to various other tenants. The CPB2 Property also serves as exhibition and event space, hosting events ranging from wedding receptions to several well recognized annual events, including the Maine Boatbuilders Show and the Portland Flower Show.

The CPB2 Property is currently located in the City's Waterfront Special Use Zone (WSUZ), and is partially within the Shoreland Overlay Zone. A figure showing the existing zoning map for the area around and including the CPB2 Property is provided in Appendix B of this Report. WSUZ permits the following marine-related uses:

- Marinas, boat repair yards, boat storage;
- Seafood processing, packing and packaging, loading and distribution;
- Commercial marine transport and excursion services, ferries, captained charter services, sport fishing and water taxis;
- Marine office, including offices of owners of wharves or their agents, and naval architects, and seafood brokers;
- Marine wholesaling, distribution, retailing, marine repair services;

- Harbor and marine supplies and services, ship supply such as fueling and bunkering of vessels;
- Marine industrial welding and fabricating, shipbuilding and facilities for construction, maintenance, and repair of vessels; and
- Cargo handling facilities, including docking, loading, and related storage.

The following commercial uses are permitted on Lots 1 and 3, on the north side of the railroad track (State of Maine Property, Lot 13) in existing buildings or in a new building that meets a zoning-defined square footage requirement:

- Professional, business, and general offices;
- Business service establishments;
- Restaurants;
- Cabinet and carpentry shops;
- Cold storage facilities; and
- Museums and art galleries.

2.3 PROPOSED ZONE MAP & TEXT AMENDMENTS

The Owner of the CPB2 Property is requesting a zone map amendment with associated text edits for the CPB2 Property and the abutting State of Maine Property and City Property. Specifically, the Owner is requesting an extension of the B-6 Zone and Eastern Waterfront Port Zone (EWPZ) to cover the CPB2 Property, four lots comprising submerged lands leased to the Owner, two small areas on adjacent City-owned lots (City Property), and a portion of Lot 13 (State of Maine Property), as originally contemplated during the development of the Master Plan. Extending these existing zones over these properties will eliminate the need for the Waterfront Special Use Zone (WSUZ). The former owner of the CPB2 Property objected to the extension of the B-6 zone to his property, and the WSU Zone was created, as a compromise, for only the CPB2 Property (and the adjacent State and City Properties noted herein) in order to protect the then-owner's right to operate and expand his boat repair business, which use was not permitted under the B-6 zone, and to continue his other non-marine uses. No changes are proposed to the existing Shoreland overlay zone. A figure showing the proposed zoning map for the CPB2 Property is provided in Appendix B of this Report.

As shown by the existing zoning map, the neighboring property to the west of the CPB2 Property is zoned as B-6. The B-6 zone encourages development that emphasizes quality pedestrian experience, promotes public transport, and demonstrates exemplary urban design.

The Purpose of the B-6 Zone, as stated in Sec. 14-268. of the City of Portland Code of Ordinances is as follows:

The purpose of the B-6, eastern waterfront mixed zone is to establish a zoning district for the upland portion of the eastern waterfront area. The B-6 zone encourages this district to acquire a distinctly urban form through development that emphasizes a quality pedestrian experience, promotes public transit, and demonstrates exemplary urban design. The zone promotes a range of uses to achieve twenty-four urban vitality and shared use of parking infrastructure as recommended in the eastern waterfront master plan for redevelopment.

The zone language established herein provides regulatory framework to promote the mixed-use development pattern envisioned for urban land on Portland's peninsula. Specific development

criteria, including building height overlays and design standards, may be established for this district to supplement the provisions of this section.

Proposed text amendments to the B-6 and EWPZ zones are provided in Appendix C of this Application. These text amendments include the addition of zone-appropriate uses and clarifications to text. Our team has reviewed the proposed text amendments with City Staff at our Pre-Application Meeting, and welcomes discussion of any revisions that may be suggested by Staff to ensure that structure, context, and consistency is maintained in the City's Land Use Code.

2.4 COMPLIANCE WITH THE CITY OF PORTLAND COMPREHENSIVE PLAN

This request for a zone map amendment is in compliance with the City of Portland Comprehensive Plan, as it is directly aligned with the goals, objectives, and recommendations of the Master Plan, an adopted element of the Comprehensive Plan. As stated in the City's Comprehensive Plan, the Master Plan focused, in part, on the potential for high-value, mixed-use development on the upland areas of the Eastern Waterfront. The Master Plan also included zoning recommendations designed/intended to increase opportunities for a mix of residential, commercial, and office uses.

The Eastern Waterfront Development and Master Planning Committee worked to create a consensual, unified vision for private and public development in the study area. The Master Planning process sought involvement from all stakeholders in an open, participatory process and considered both impacts and opportunities presented for the Eastern Waterfront.

The Master Plan was adopted by the City Council in December of 2004 and focused on four adopted principles to guide redevelopment and land use policy in the eastern waterfront:

The principles and objectives reported here are of equal value and should be applied uniformly during the evaluation of proposed land use policies and development for the Eastern Waterfront.

- *Character and Impact of Development: Development within the eastern waterfront will be compatible with the surrounding areas, neighborhoods, natural environment, and maritime uses;*
- *Mixed Use: Development within the eastern waterfront will create a vital and active mixed use urban area that generates life and use every day of the year and all hours of the day;*
- *Maritime Resources: Development in the eastern waterfront on piers, bulkheads, and on land within 75 feet of mean high water line will give priority to compatible water-dependent and maritime uses; and*
- *Economically Responsible Development: Development within the eastern waterfront will provide a significant benefit to the City and regional economy.*

The Master Plan notes that "Mixed Use" includes, but is not limited to residential, commercial, public, institutional, marine, park, trail, and industrial uses (all as generally defined in the B-6 zone of the City of Portland Land Use Code).

The B-6 Eastern Waterfront Mixed Use Zone, was adopted concurrently with the adoption of the Master Plan in December of 2004, and in September of 2006, the City Council adopted the EWPZ. At the time, the City adopted a Waterfront Special Use Zone for the Property in accommodation of the desires of the prior landowner.

The City of Portland Future Land Use Map indicates that the Site is located within the area designated as "Redevelopment/Study Area B – Waterfront East". It is the Owner's understanding, as verified by City Staff and other key contributors to the Master Plan, and its process, that the CPB2 Property was intended to be rezoned to include the Mixed Use (upland) and Maritime Resource (waterfront) objectives of the Master Plan, upon agreement from the landowner, and upon determination of a more appropriate zone

designation. The B-6 and EWPZ zones were created to achieve the Mixed Use and Maritime Resource objectives of the Master Plan respectively, as these zones were established as a direct recommendation of the Master Plan. As stated in the Master Plan and its associated design guidelines document, *“the [design] guidelines [established in the plan] have [the] intended application [of] a policy basis for future zoning and land use ordinance changes for the Eastern Waterfront”*.

As stated in the City’s Land Use Code, the purpose of the B-6 Eastern Waterfront Mixed Zone is to establish a zoning district for the upland portion of the eastern waterfront area. The B-6 zone encourages this district to acquire a distinctly urban feel through development that emphasizes quality pedestrian experiences, promotes public transit, demonstrates exemplary urban design, and encourages uses which/that achieve 24-hour urban vitality. The rezoning of the CPB2 Property to B-6 and EWPZ would ensure that the development be compatible with the surrounding neighborhood, as the neighboring property to the west of the CPB2 Property has since been rezoned to B-6 and EWPZ, and the residential uses of the B-6 zone complement the Munjoy Hill neighborhood zoned R-6 to the north and east of the CPB2 Property. Furthermore, the new zoning would encourage mixed use development on the 10 acre CPB2 Property, and 13 acre marina, which would provide significant benefit to the local economy, sustain and strengthen water-dependent uses, and enhance the economic viability of the Eastern Waterfront’s property and facilities. For these reasons, the proposed zoning amendments are consistent with the goals and intent of the City’s Comprehensive Plan for the Eastern Waterfront. CPB2 LLC, the new landowner of the CPB2 Property, welcomes this zone change.

In summary:

- The Master Plan for Redevelopment of the Eastern Waterfront development process headed by the Eastern Waterfront Development and Master Planning Committee informed the creation of the B-6 Zone and EWPZ to achieve the vision for the public and private properties on the Eastern Waterfront.
- The CPB2 Property was intended for mixed use rezoning (B-6 and EWPZ) during the Master Plan process;
- The previous owner of the Property opted for the Waterfront Special Use Zone (WSUZ) to preserve existing uses on the property
- The B-6 Zone incorporates the goals for “Mixed Use”, “Economically Responsible Development”, and “Character and Impact of Development”, as described in the Master Plan
- The EWPZ incorporates the goals for preservation of “Maritime Resources” on the waterfront as described in the Master Plan

2.5 SITE PLAN AND PROCESS

The Zoning Map / Text Amendment Application form from the City of Portland Planning and Urban Development Department requests the submittal of a Site Plan showing the existing and proposed improvements for the site. CPB2 LLC is requesting to rezone the CPB2 Property in accordance with the intent of the Master Plan, similar to the process undertaken by the City when rezoning the adjacent lots in 2004 and 2006 during the establishment of the B6 and EWP Zones. Rezoning the CPB2 Property is a necessary initial step that will inform future planning and concept design development for the CPB2 Property; however, at this time the Owner does not propose changes to the existing site or its uses. As such, included in Appendix D of this Application is a site plan showing the existing and proposed site conditions (which will remain unchanged under this Application).

Upon receiving approval for a Zoning Map / Text Amendment, CPB2 LLC anticipates entering into a coordination and planning process to develop concept plans and potentially a Master Development Plan for redevelopment of the CPB2 Property. Any future changes to the site will follow the processes

established in the City's Land Use Code, including preparing either a Master Development Plan, Site Plans, and/or Subdivision Plans, and seeking approval from the appropriate local, state and federal review authorities.

3. EVIDENCE OF RIGHT, TITLE OR INTEREST

The CPB2 Property located at 58 Fore Street, is owned by CPB2, LLC (parcel located at map/block/lots 18/A/ 1, 2, & 3). CPB2 LLC acquired the CPB2 Property from the previous landowner in two (2) installments, the first occurring in July 2013 and the second occurring in April 2014; a copy of the Deeds are included in Appendix E. A tax map and parcel information is provided in Appendix A of this submission package.

Four (4) lots covering areas of submerged lands leased to the Owner, specifically Map 446-A, Lots 3 & 4, Map 2-X, Lot 1, and a portion of Map 2-A, Lot 18, are proposed to be rezoned from WSUZ to EWPZ. A copy of the submerged lands lease for these lots is included in Appendix E.

With respect to the State of Maine Property, Lot 13, CPB2 LLC has been working closely with the MaineDOT to review the zone map change proposal. The Owner has been in discussions with MaineDOT and anticipates receiving a letter confirming acceptance of the proposal to rezone this land from the MaineDOT; a copy of which will be forwarded to the Planning office. It should be noted that the change in zone will not serve to limit or restrict the current uses on Lot 13, and that portions of this lot were rezoned by the City in 2006 during the establishment of the Eastern Waterfront Port Zone.

With respect to the City Property, 0.01 acres of City-owned Map 19-A Lot 14 is proposed to be rezoned from WSUZ to B-6, and 0.5 acres of City-owned Map 446-A Lot 1 is proposed to be rezoned from WSUZ to EWPZ. These are small areas of larger City-owned lots that fall within the current WSUZ. These areas should be rezoned under this application to keep consistency with the adjacent zones, and to eliminate the WSUZ. We anticipate the City will be accepting of these proposed zone map changes over sections of their property.

APPENDIX A: TAX MAPS

My Map

58 Fore Street - Lot 1 & 2



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CBL 018 A001001
Land Use Type WAREHOUSE & STORAGE
*Verify legal use with
Inspections Division*
Property Location 58 FORE ST
Owner Information CPB2 LLC
 PO BOX 7987
 PORTLAND ME 04112
Book and Page 31425/267
Legal Description 18-A-1-2
 FORE ST 10-82
 301299 SF
Acres 6.9169

Current Assessed Valuation:

TAX ACCT NO. 2994 **OWNER OF RECORD AS OF APRIL 2014**
 CPB2 LLC
LAND VALUE \$4,140,300.00
BUILDING VALUE \$1,856,000.00
NET TAXABLE - REAL ESTATE \$5,996,300.00
TAX AMOUNT \$119,926.00

Any information concerning tax payments should be directed to the
 Treasury office at 874-8490 or [e-mailed](#).

Building Information:**Building 1**

Year Built 1900
Style/Structure Type MANUFACTURING
Units 1
Building Num/Name 1 - PORTLAND YCHT
 SVCES
Square Feet 118132

[View Sketch](#)[View Map](#)[View
Picture](#)**Building 2**

Year Built 1900
Style/Structure Type MANUFACTURING
Units 1
Building Num/Name 2 - PORTLAND YACHT
 SERVICES
Square Feet 19526

[View Sketch](#)[View Map](#)[View
Picture](#)**Building 3**

Year Built 1951
Style/Structure Type OFFICE BUILDING - LOW-RISE
Units 1
Building Num/Name 3 - CORNER STONES
Square Feet 9120

[View Sketch](#)[View Map](#)[View
Picture](#)**Exterior/Interior Information:**

Building 1	
Levels	01/01
Size	35578
Use	WAREHOUSE
Height	14
Walls	BRICK/STONE
Heating	UNIT HEAT
A/C	NONE
Building 1	
Levels	01/01
Size	4800
Use	LIGHT MANUFACTURING
Height	14
Walls	BRICK/STONE
Heating	UNIT HEAT
A/C	NONE
Building 1	
Levels	02/02
Size	2930
Use	WAREHOUSE
Height	11
Walls	BRICK/STONE
Heating	UNIT HEAT
A/C	NONE
Building 1	
Levels	02/02
Size	14260
Use	SUPPORT AREA
Height	11
Walls	BRICK/STONE
Heating	UNIT HEAT
A/C	NONE
Building 1	
Levels	03/03
Size	12230
Use	SUPPORT AREA
Height	10
Walls	BRICK/STONE
Heating	UNIT HEAT
A/C	NONE
Building 1	
Levels	01/01
Size	32104
Use	WAREHOUSE
Height	22
Walls	METAL-LIGHT
Heating	UNIT HEAT
A/C	NONE
Building 1	
Levels	01/01
Size	12170
Use	LIGHT MANUFACTURING
Height	14
Walls	BRICK/STONE
Heating	UNIT HEAT
A/C	NONE
Building 1	
Levels	01/01
Size	4060
Use	MULTI-USE OFFICE
Height	12
Walls	CONC. BLOCK
Heating	ELECTRIC
A/C	NONE
Building 2	
Levels	B1/B1
Size	4359
Use	RETAIL STORE
Height	10
Heating	HOT AIR
A/C	NONE
Building 2	
Levels	01/01
Size	3120
Use	SUPPORT AREA
Height	12
Walls	BRICK/STONE
Heating	NONE
A/C	NONE

Building 2
Levels 01/01
Size 4559
Use RETAIL STORE
Height 12
Walls BRICK/STONE
Heating HOT AIR
A/C NONE

Building 2
Levels 02/02
Size 3120
Use SUPPORT AREA
Height 12
Walls BRICK/STONE
Heating NONE
A/C NONE

Building 2
Levels 03/03
Size 3120
Use SUPPORT AREA
Height 10
Walls BRICK/STONE
Heating NONE
A/C NONE

Building 2
Levels 04/04
Size 1248
Use SUPPORT AREA
Height 8
Walls BRICK/STONE
Heating NONE
A/C NONE

Building 3
Levels 01/01
Size 3840
Use OFFICE BUILDING
Height 10
Walls BRICK/STONE
Heating HW/STEAM
A/C NONE

Building 3
Levels 02/02
Size 3840
Use OFFICE BUILDING
Height 10
Walls MASNRY/FRAME
Heating HW/STEAM
A/C NONE

Building 3
Levels 03/03
Size 1440
Use OFFICE BUILDING
Height 10
Walls MASNRY/FRAME
Heating HW/STEAM
A/C NONE

Other Features:

Building 1
Structure OVERHEAD DOOR - ROLLING
Size STEEL
 12X20

Building 1
Structure OVERHEAD DOOR - ROLLING
Size STEEL
 14X30

Building 1
Structure CRANEWAYS
Size 628X0

Building 1
Structure ROOF - MONITOR
Size 336X10

Building 1
Structure AERIAL WALK
Size 6X42

Building 1

Building 1
Structure OVERHEAD DOOR - WD/MT
Size 12X14

Building 1
Structure ROOF - MONITOR
Size 474X12

Building 1
Structure ROOF - MONITOR
Size 204X5

Building 2
Structure OVERHEAD DOOR - WD/MT
Size 14X20

Building 2
Structure WOOD DECK
Size 960X1

Building 2
Structure PORCH - COVERED
Size 200X1

Building 2
Structure SPRINKLER - DRY
Size 20098X1

Building 3
Structure SPRINKLER - WET
Size 9120X1

Building 3
Structure CANOPY - ROOF/SLAB
Size 7X16

Outbuildings/Yard Improvements:

Building 1
Year Built 1960
Structure FENCE CHAIN
Size 11100
Units 1
Grade C
Condition 2

Building 1
Year Built 1960
Structure ASPHALT PARKING
Size 80000
Units 1
Grade C
Condition 2

Building 1
Year Built 1930
Size 1X1260
Units 1
Grade C
Condition 2

Sales Information:

Sale Date	Type	Price	Book/Page
4/3/2014	LAND + BUILDING	\$0.00	31425/267
3/1/1996	LAND + BUILDING	\$1,000,000.00	12399/112

New Search!

My Map

58 Fore Street - Lot 3



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CBL	018 A003001
Land Use Type	VACANT LAND
Verify legal use with Inspections Division	
Property Location	4 FORE ST
Owner Information	CPB2 LLC 254 COMMERCIAL ST STE 122 PORTLAND ME 04101
Book and Page	30879/075
Legal Description	18-A-3 FORE ST 2-8 EASTERN PROMENADE 1-3 125017 SF
Acres	2.87

Current Assessed Valuation:

TAX ACCT NO.	51582	OWNER OF RECORD AS OF APRIL 2014 CPB2 LLC
LAND VALUE	\$2,439,900.00	254 COMMERCIAL ST STE 122
BUILDING VALUE	\$0.00	PORTLAND ME 04101
NET TAXABLE - REAL ESTATE	\$2,439,900.00	
TAX AMOUNT	\$48,798.00	

Any information concerning tax payments should be directed to the
Treasury office at 874-8490 or [e-mailed](#).



[View Map](#)

Sales Information:

Sale Date	Type	Price	Book/Page
7/29/2013	LAND	\$8,000,000.00	30879/075
12/31/2012	LAND	\$7,800,000.00	30265/032

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My Map

446-A-3



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CBL	446 A003001
Land Use Type	GOVERNMENTAL
Verify legal use with Inspections Division	
Property Location	26 FORE ST R
Owner Information	STATE OF MAINE
	AUGUSTA ME 04333
Book and Page	
Legal Description	446-A-3-4 R FORE ST 26-36 U-19630 D-304290
Acres	0.4506

Current Assessed Valuation:

TAX ACCT NO.	No Tax Information Available at This Time
LAND VALUE	\$601,100.00
BUILDING VALUE	\$0.00
STATE OF MAINE	(\$601,100.00)
NET TAXABLE - REAL ESTATE	\$0.00
TAX AMOUNT	ADODB.Field error '800a0bcd'

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446-A-4



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Internet Explorer

CBL	446 A003001
Land Use Type	GOVERNMENTAL
Verify legal use with Inspections Division	
Property Location	26 FORE ST R
Owner Information	STATE OF MAINE
	AUGUSTA ME 04333
Book and Page	
Legal Description	446-A-3-4 R FORE ST 26-36 U-19630 D-304290
Acres	0.4506

Current Assessed Valuation:

TAX ACCT NO.	No Tax Information Available at This Time
LAND VALUE	\$601,100.00
BUILDING VALUE	\$0.00
STATE OF MAINE	(\$601,100.00)
NET TAXABLE - REAL ESTATE	\$0.00
TAX AMOUNT	ADODB.Field error '800a0bcd'

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2-X-1



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Current Owner Information:

CBL	018 A001001
Land Use Type	WAREHOUSE & STORAGE
Verify legal use with Inspections Division	
Property Location	58 FORE ST
Owner Information	CPB2 LLC PO BOX 7987 PORTLAND ME 04112
Book and Page	31425/267
Legal Description	18-A-1-2 FORE ST 10-82 301299 SF
Acres	6.9169

Current Assessed Valuation:

TAX ACCT NO.	2994	OWNER OF RECORD AS OF APRIL 2014
LAND VALUE	\$4,140,300.00	CPB2 LLC
BUILDING VALUE	\$1,856,000.00	PO BOX 7987
NET TAXABLE - REAL ESTATE	\$5,996,300.00	PORTLAND ME 04112
TAX AMOUNT	\$119,926.00	

Any information concerning tax payments should be directed to the Treasury office at 874-8490 or [e-mailed](#).

Building Information:

	Building 1
Year Built	1900
Style/Structure Type	MANUFACTURING

Units 1
 Building 1 - PORTLAND YCHT
 Num/Name SVCES
 Square Feet 118132

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Building 2

Year Built 1900
 Style/Structure Type MANUFACTURING
 # Units 1
 Building 2 - PORTLAND YACHT
 Num/Name SERVICES
 Square Feet 19526

[View Sketch](#)

[View Map](#)

[View
Picture](#)



Building 3

Year Built 1951
 Style/Structure Type OFFICE BUILDING -
 LOW-RISE
 # Units 1
 Building 3 - CORNER
 Num/Name STONES
 Square Feet 9120

[View Sketch](#)

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Picture](#)



Exterior/Interior Information:

Building 1

Levels 01/01
 Size 35578
 Use WAREHOUSE
 Height 14
 Walls BRICK/STONE
 Heating UNIT HEAT
 A/C NONE

Building 1

Levels 01/01
 Size 4800
 Use LIGHT
 MANUFACTURING
 Height 14
 Walls BRICK/STONE
 Heating UNIT HEAT
 A/C NONE

Building 1

Levels 02/02
 Size 2930
 Use WAREHOUSE

Height 11
Walls BRICK/STONE
Heating UNIT HEAT
A/C NONE

Building 1

Levels 02/02
Size 14260
Use SUPPORT AREA
Height 11
Walls BRICK/STONE
Heating UNIT HEAT
A/C NONE

Building 1

Levels 03/03
Size 12230
Use SUPPORT AREA
Height 10
Walls BRICK/STONE
Heating UNIT HEAT
A/C NONE

Building 1

Levels 01/01
Size 32104
Use WAREHOUSE
Height 22
Walls METAL-LIGHT
Heating UNIT HEAT
A/C NONE

Building 1

Levels 01/01
Size 12170
Use LIGHT
 MANUFACTURING
Height 14
Walls BRICK/STONE
Heating UNIT HEAT
A/C NONE

Building 1

Levels 01/01
Size 4060
Use MULTI-USE OFFICE
Height 12
Walls CONC. BLOCK
Heating ELECTRIC
A/C NONE

Building 2

Levels B1/B1
Size 4359
Use RETAIL STORE
Height 10
Heating HOT AIR
A/C NONE

Building 2

Levels 01/01
Size 3120
Use SUPPORT AREA

Height 12
Walls BRICK/STONE
Heating NONE
A/C NONE

Building 2

Levels 01/01
Size 4559
Use RETAIL STORE
Height 12
Walls BRICK/STONE
Heating HOT AIR
A/C NONE

Building 2

Levels 02/02
Size 3120
Use SUPPORT AREA
Height 12
Walls BRICK/STONE
Heating NONE
A/C NONE

Building 2

Levels 03/03
Size 3120
Use SUPPORT AREA
Height 10
Walls BRICK/STONE
Heating NONE
A/C NONE

Building 2

Levels 04/04
Size 1248
Use SUPPORT AREA
Height 8
Walls BRICK/STONE
Heating NONE
A/C NONE

Building 3

Levels 01/01
Size 3840
Use OFFICE BUILDING
Height 10
Walls BRICK/STONE
Heating HW/STEAM
A/C NONE

Building 3

Levels 02/02
Size 3840
Use OFFICE BUILDING
Height 10
Walls MASNRY/FRAME
Heating HW/STEAM
A/C NONE

Building 3

Levels 03/03
Size 1440
Use OFFICE BUILDING

Height 10
Walls MASNRY/FRAME
Heating HW/STEAM
A/C NONE

Other Features:

Building 1
Structure OVERHEAD DOOR -
 WD/MT
Size 12X14

Building 1
Structure CRANEWAYS
Size 628X0

Building 1
Structure OVERHEAD DOOR -
 ROLLING STEEL
Size 14X30

Building 1
Structure ROOF - MONITOR
Size 204X5

Building 1
Structure ROOF - MONITOR
Size 474X12

Building 1
Structure AERIAL WALK
Size 6X42

Building 1
Structure ROOF - MONITOR
Size 336X10

Building 1
Structure OVERHEAD DOOR -
 ROLLING STEEL
Size 12X20

Building 2
Structure OVERHEAD DOOR -
 WD/MT
Size 14X20

Building 2
Structure SPRINKLER - DRY
Size 20098X1

Building 2
Structure PORCH - COVERED
Size 200X1

Building 2
Structure WOOD DECK
Size 960X1

Building 3
Structure SPRINKLER - WET
Size 9120X1

Building 3

Structure CANOPY - ROOF/SLAB
Size 7X16

Outbuildings/Yard Improvements:

Building 1
Year Built 1930
Size 1X1260
Units 1
Grade C
Condition 2

Building 1
Year Built 1960
Structure FENCE CHAIN
Size 11100
Units 1
Grade C
Condition 2

Building 1
Year Built 1960
Structure ASPHALT PARKING
Size 80000
Units 1
Grade C
Condition 2

Sales Information:

Sale Date	Type	Price	Book/Page
4/3/2014	LAND + BUILDING	\$613,070.00	31425/267
3/1/1996	LAND + BUILDING	\$1,000,000.00	12399/112

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2-A-18



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CBL	001 A002001
Land Use Type	GOVERNMENTAL
Verify legal use with Inspections Division	
Property Location	0 EASTERN PROMENADE
Owner Information	STATE OF MAINE STATE HOUSE AUGUSTA ME 04330
Book and Page	10924/91
Legal Description	1-A-2 1-C-2T05 2-A-16 TO 20-22 4-A-6 5-E-3 TO 5 6-A-4 6-B-2 18-A-13 19-A-15 880102 SF
Acres	20.2044

Current Assessed Valuation:

TAX ACCT NO.	No Tax Information Available at This Time
LAND VALUE	\$3,080,400.00
BUILDING VALUE	\$0.00
STATE OF MAINE	(\$3,080,400.00)
NET TAXABLE - REAL ESTATE	\$0.00
TAX AMOUNT	ADODB.Field error '800a0bcd'

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18-A-13



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Current Owner Information:

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Best viewed at
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CBL	001 A002001
Land Use Type	GOVERNMENTAL
Verify legal use with Inspections Division	
Property Location	0 EASTERN PROMENADE
Owner Information	STATE OF MAINE STATE HOUSE AUGUSTA ME 04330
Book and Page	10924/91
Legal Description	1-A-2 1-C-2T05 2-A-16 TO 20-22 4-A-6 5-E-3 TO 5 6-A-4 6-B-2 18-A-13 19-A-15 880102 SF
Acres	20.2044

Current Assessed Valuation:

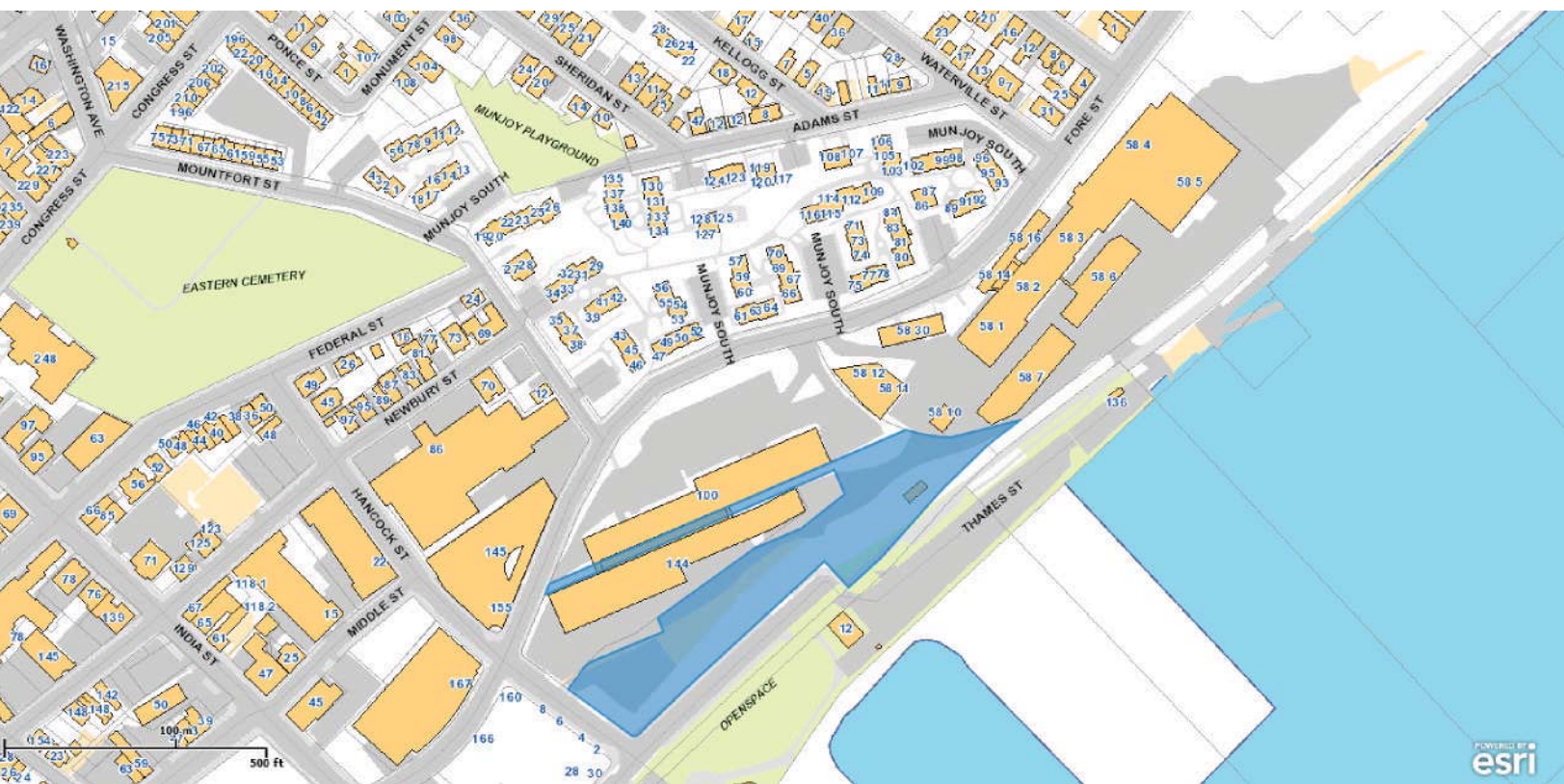
TAX ACCT NO.	No Tax Information Available at This Time
LAND VALUE	\$3,080,400.00
BUILDING VALUE	\$0.00
STATE OF MAINE	(\$3,080,400.00)
NET TAXABLE - REAL ESTATE	\$0.00
TAX AMOUNT	ADODB.Field error '800a0bcd'

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19-A-14



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CBL	019 A014001
Land Use Type	GOVERNMENTAL
Verify legal use with Inspections Division	
Property Location	0 HANCOCK ST CITY OF PORTLAND 389 CONGRESS ST PORTLAND ME 04101
Owner Information	
Book and Page	21951/341
Legal Description	19-A-14 HANCOCK ST THAMES ST 111142 SF
Acres	2.5515

Current Assessed Valuation:

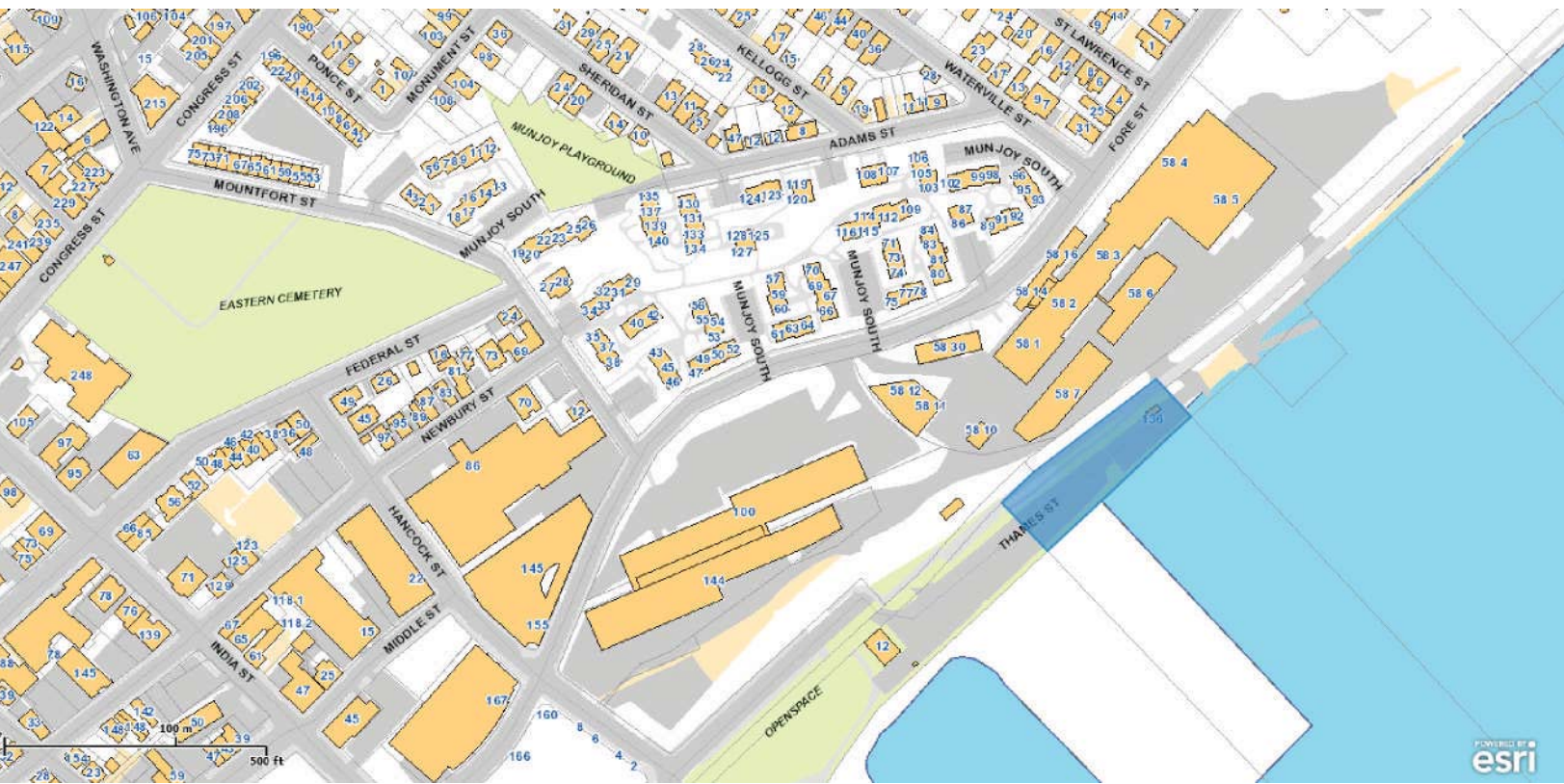
TAX ACCT NO.	No Tax Information Available at This Time
LAND VALUE	\$2,716,900.00
BUILDING VALUE	\$0.00
PORTLAND, CITY OF	(\$2,716,900.00)
NET TAXABLE - REAL ESTATE	\$0.00
TAX AMOUNT	ADODB.Field error '800a0bcd'

Either BOF or EOF is True, or the current record has been deleted.
Requested operation requires a current record.

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446-A-001



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Best viewed at
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CBL	444 A003001
Land Use Type	GOVERNMENTAL
Verify legal use with Inspections Division	
Property Location	6 COMMERCIAL ST
Owner Information	CITY OF PORTLAND 389 CONGRESS ST PORTLAND ME 04101
Book and Page	
Legal Description	444-A-3-4 445-A-1-2 446-A-1-2 COMMERCIAL ST 6-44 THAMES ST 443300 SF 1459157 SF
Acres	10.1768

Current Assessed Valuation:

TAX ACCT NO.	No Tax Information Available at This Time
LAND VALUE	\$6,947,700.00
BUILDING VALUE	\$18,335,080.00
PORTLAND, CITY OF	(\$25,282,780.00)
NET TAXABLE - REAL ESTATE	\$0.00
TAX AMOUNT	ADODB.Field error '800a0bcd'

Either BOF or EOF is True, or the current record has been deleted.
Requested operation requires a current record.

/searchdetail.asp, line 241

APPENDIX B: EXISTING & PROPOSED ZONING MAPS

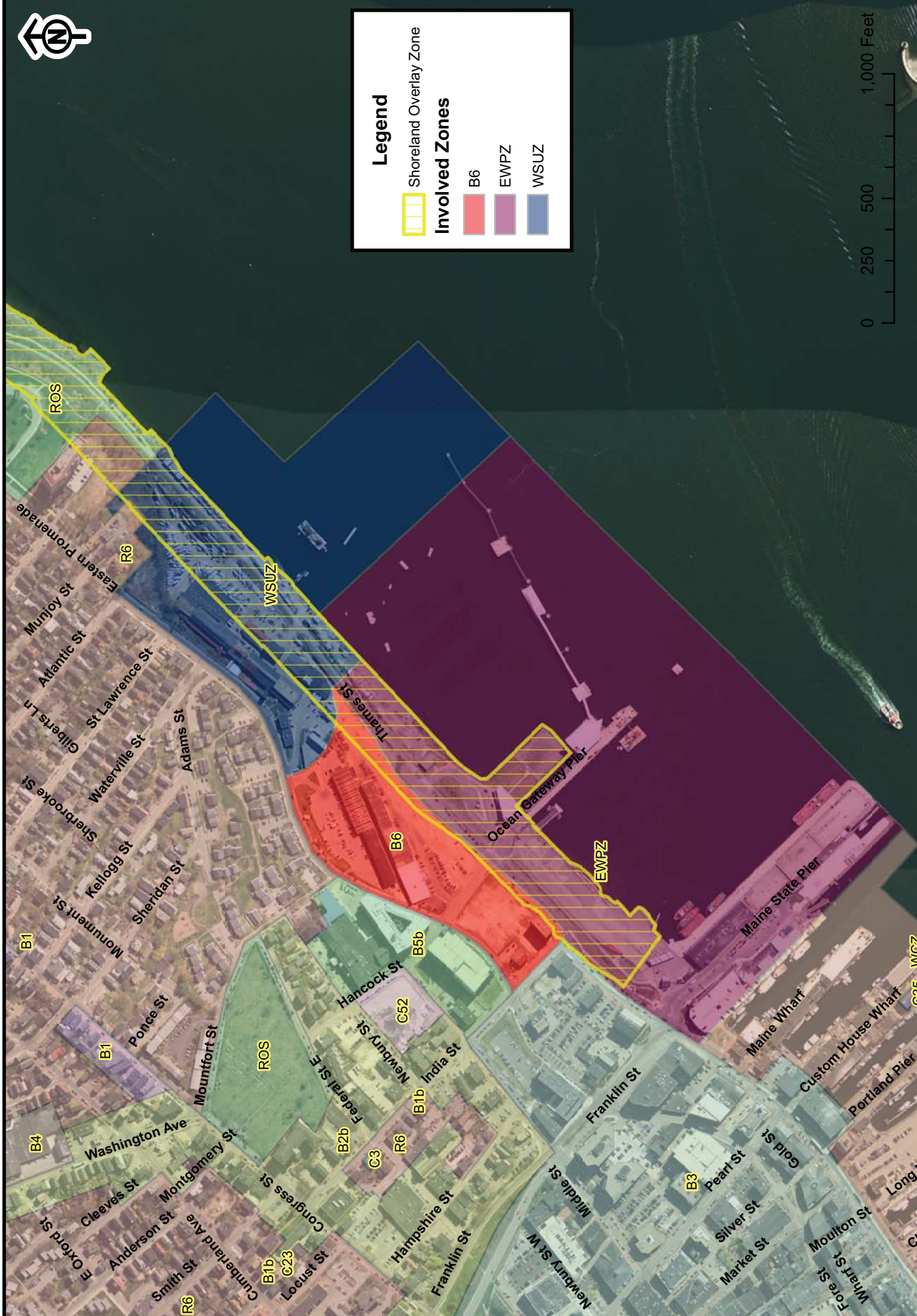
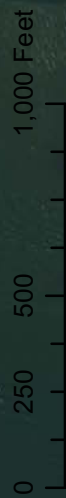


Legend

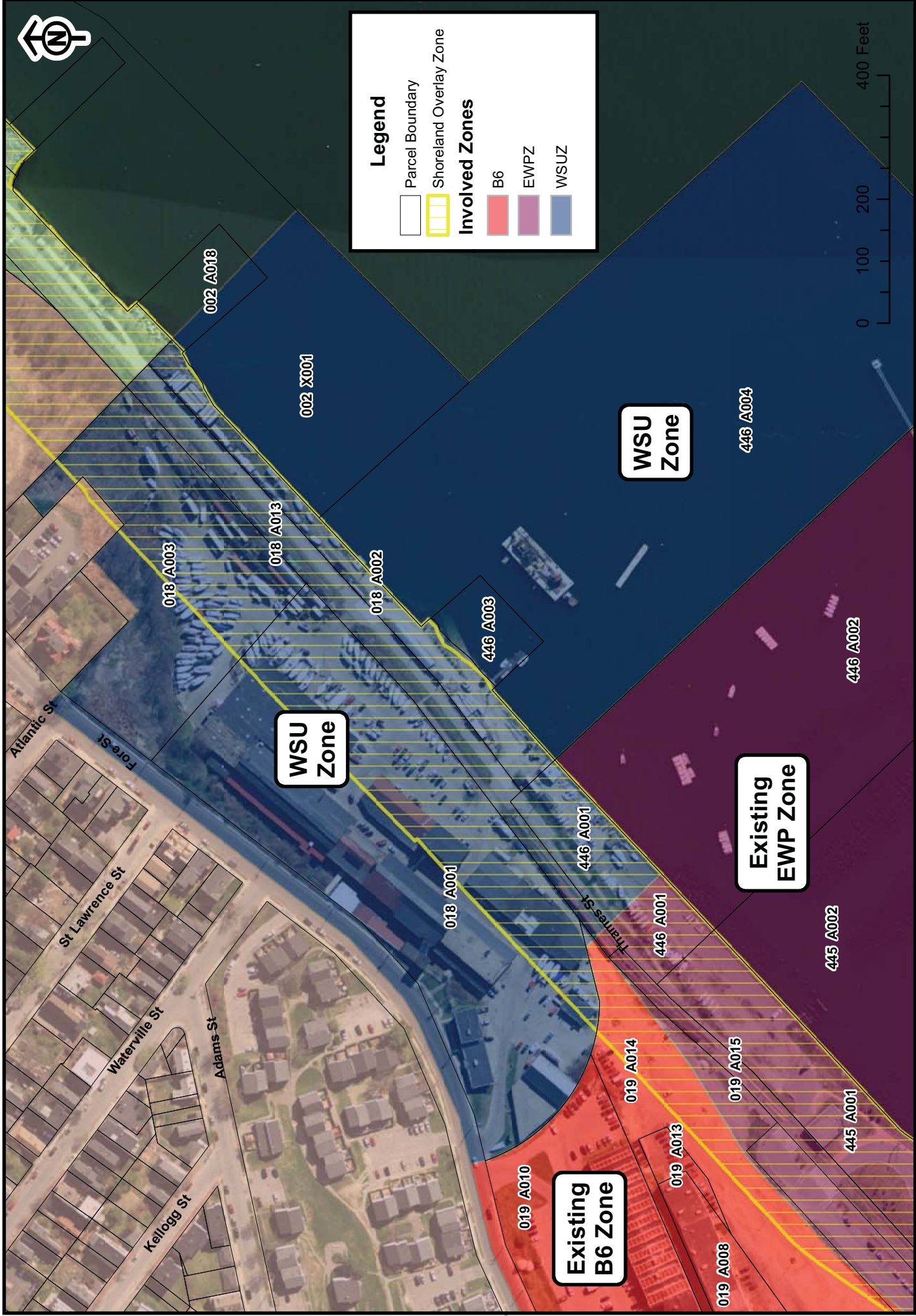
Shoreland Overlay Zone

Involved Zones

- B6
- EWpz
- WSUZ



Existing Portland Eastern Waterfront Zoning Map



CPB2 LLC: Existing Zoning



Legend

Parcel Boundary

Shoreland Overlay Zone

Involved Zones

B6

EWPZ

WSUZ

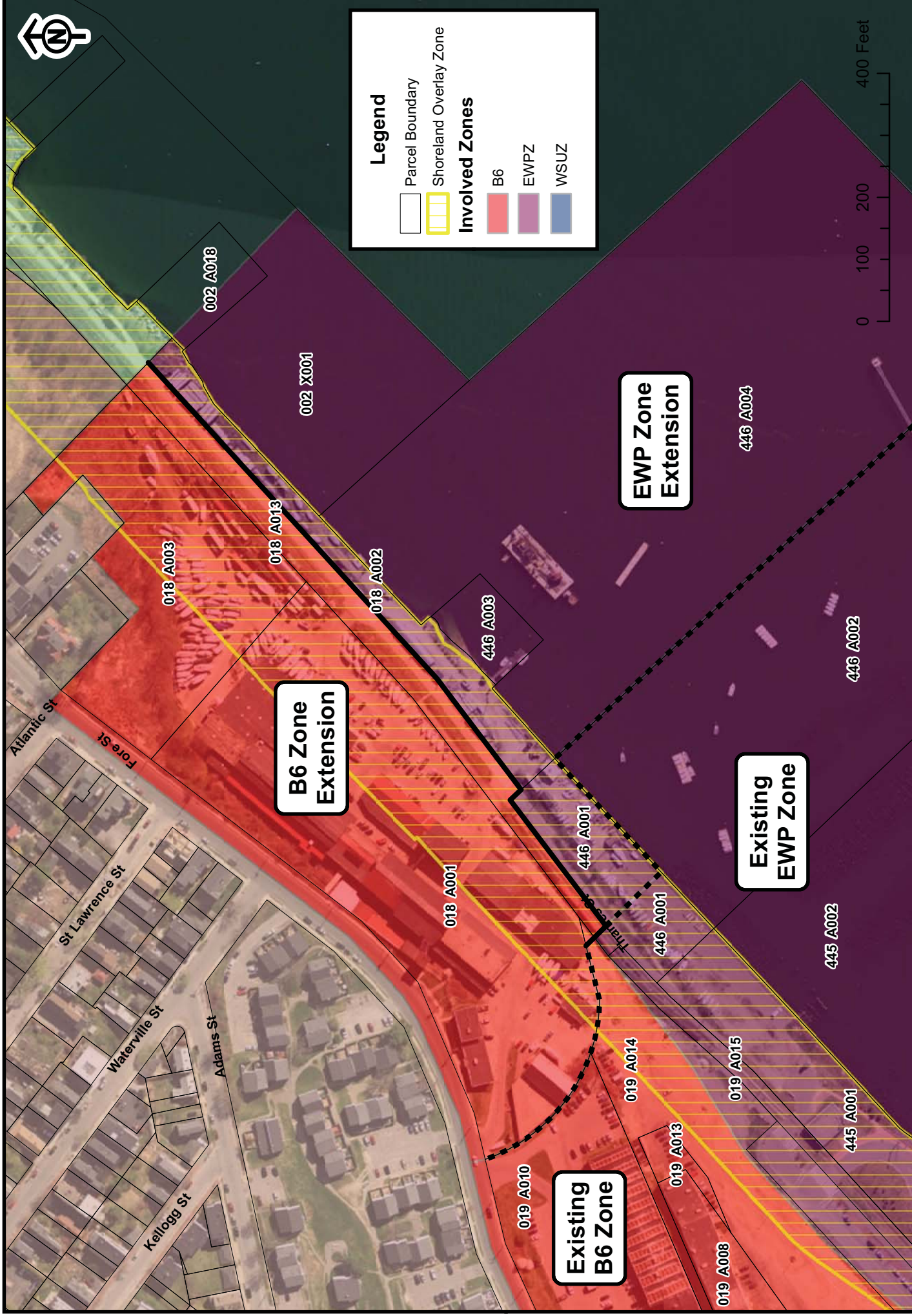
0 100 200 400 Feet

**B6 Zone
Extension**

**EWP Zone
Extension**

**Existing
EWP Zone**

**Existing
B6 Zone**



CPB2 LLC: Proposed Zoning Extension

APPENDIX C: PROPOSED TEXT AMENDMENTS



PROPOSED TEXT EDITS

Shoreland Regulations (Sec. 14-446 to 14-450)

- Sec. 14-449(a)1.a
 - B-3, B-5, B-5b, B-6, I-L (south and east of I-295), and I-M (south and east of I-295): Twenty-five (25) feet
- Sec. 14-449(a)1.b
 - W-C, W-PD, ~~W-SU~~, I-B, EWP: No setback required. Pier edge setbacks apply in EWP (Sec. 14-303(c)(4), W-C (Sec. 14-310(d)(4), and W-PD (Sec. 320.2(c)); and W-SU (Sec. 320.9(c)).
- Sec. 14-449(a)(1) – 3rd Paragraph
 - In no event shall the setback from a coastal wetland be reduced to less than seventy-five (75) feet, except in the B-3, B-5, B-5b, B-6, EWP, W-C, W-PD, ~~W-SU~~, I-B, I-L and I-M zones, where setbacks shall be as set forth above in this subsection.
- Sec. 14-449(b)6
 - Except in the W-C, EWP, W-PD, ~~W-SU~~, and I-B zones, no new structure shall be built . . .
- Sec. 14-449(c)2
 - The clearing or removal of vegetation standards of this section shall not apply to the following zones: EWP, WCZ, WPD, ~~WSU~~, B-3, B-5, B-5b, B-6, B-7, I-L (south and east of I-295) and I-M zones (south and east of I-295).
- Sec. 14-449(j)1.a
 - In the EWP, WC, WPD, ~~WSU~~, B-3, B-5, B-5b, B-6, I-L (south and east of I-295) and I-M zones (south and east of I-295) roads and driveways shall be setback as established for structures in those zones; as specified in Sec. 14-449(a)1.
- Sec. 14-449(k)1
 - In the EWP, WC, WPD, ~~WSU~~, B-3, B-5, B-5b, B-6, I-L and I-M zones, parking setbacks shall be as established for structures in those zones; as specified in Sec. 14-449(a)1.

B-6 Eastern Waterfront Mixed Zone (Sec. 14-268 to 14-275)

- Sec. 14-269(c)
 - New clause
 - 4. Museums, art galleries, and educational exhibition space;
- Sec. 14-269(d)
 - Text correction
 - 3. Health clubs, martial arts and meditation facilities.
 - *Note: Language currently reads “mediation”*
- Sec. 14-269(d)
 - New clause
 - 6. Private clubs or nonprofit social and recreational facilities, as defined in 14-47.
- Sec. 14-269(d)
 - New clause
 - 7. Educational, research, and laboratory facilities.
- Sec. 14-269(d)
 - New clause
 - 8. Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses or temporary exhibition uses, provided that all such exhibition uses on a lot do not exceed a combined total of (60) days per year and that the total floor area utilized for such uses does not exceed seventy thousand (70,000) square feet at any one (1) time;
 - Note: Consistent with Sec. 14-320.6. (a) 5.a. Permitted uses under “Other”
- Sec. 14-273(b)4.b.v
 - Rewording
 - v. Noise created by ~~any recreational activities~~ any temporary activities which are permitted by law and for which a license or permit has been granted by the city, including but not limited to parades, sporting events, and fireworks displays, festivals, events and concerts.

Eastern Waterfront Port Zone (Sec. 14-300 to 14-304)

- Sec. 14-301 (b)
 - Rewording
 - 7. Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels;



- Note: Consistent with Sec. 14-307. (a) 4. Permitted uses “Marine”
- Sec. 14-301 (b)
 - New clause
 - 11. [Marinas located east of the Ocean Gateway facility.](#)
- Sec. 14-301 (b)
 - New clause
 - 12. [Marine office, including but not limited to offices of owners of marinas, wharves or their agents, and naval architects, and seafood brokers](#)
 - Note: Consistent with Sec 14-307(a) 21.
- Sec. 14-301(e)
 - New clause
 - 2. [A facility for non-profit organizations whose facility may include offices, classrooms, equipment, equipment rentals, and storage and bathrooms for the public.](#)

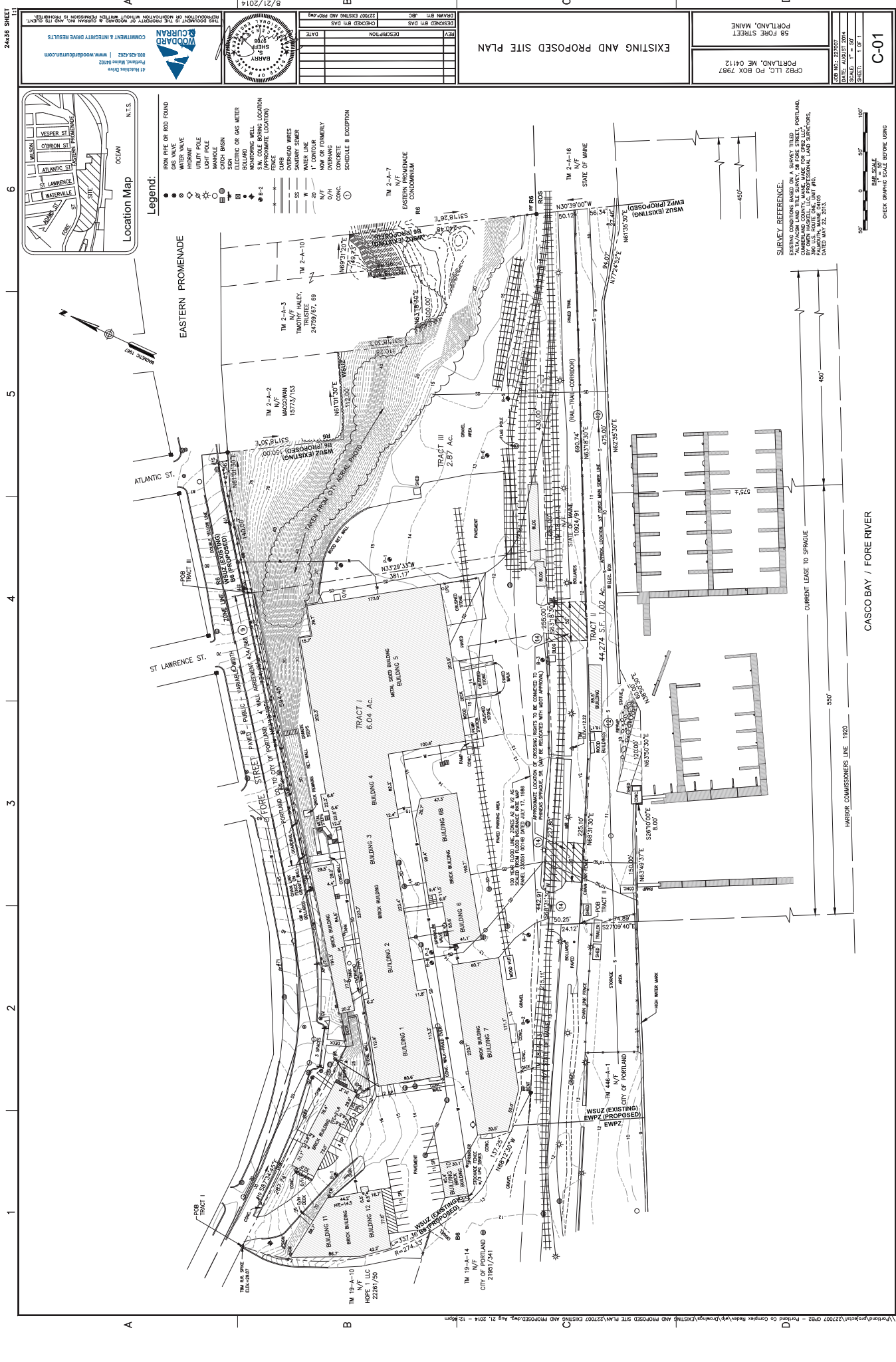
Waterfront Special Use Zone (Sec. 14-320.5 to 14-320.10)

- Delete entire section and replace with "[Reserved](#)"

Additional references to WSU to be deleted:

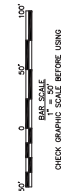
- Sec. 14-369.5(b) – delete references to “[WSU](#)” in Table 2.8 on signs

APPENDIX D: EXISTING AND PROPOSED SITE PLAN



- Legend:**
- ROW FIVE OR ROD FOUND
 - GAS VALVE
 - WATER VALVE
 - UTILITY POLE
 - LIGHT POLE
 - MANHOLE
 - SEWER
 - ELECTRIC OR GAS METER
 - MONITORING WELL
 - WATER METER
 - WATER LINE
 - 1" CONTOUR
 - NOV OR FORMERLY
 - CONC
 - CONCRETE
 - SCHEDULE B EXCEPT

SURVEY REFERENCE:
EXISTING CONDITIONS BASED ON A SURVEY TITLED "PORTLAND, MAINE, MAINE, MADE FOR CFBZ LLC, CUMMINGS COUNTY, MAINE, MADE FOR CFBZ LLC, 390 U.S. ROUTE ONE, PORTLAND, MAINE, 04112, DATED MAY 22, 2013."



2438 SHEET

11

6

5

4

3

2

1

1

2

3

4

5

6

1

2

3

4

5

6

DATE: AUGUST 2014

SCALE: 1" = 50'

SHEET: 1 OF 2

C-01

CFBZ LLC, PO BOX 7987

PORTLAND, ME 04112

58 FORE STREET

PORTLAND, MAINE

EXISTING AND PROPOSED SITE PLAN

DATE: AUGUST 2014

SCALE: 1" = 50'

SHEET: 1 OF 2

WOODWARD CLARK

61 Industrial Drive

Portland, Maine 04112

woodwardclark.com

8/21/2014

DATE: AUGUST 2014

SCALE: 1" = 50'

SHEET: 1 OF 2

DATE: AUGUST 2014

SCALE: 1" = 50'

SHEET: 1 OF 2

DATE: AUGUST 2014

SCALE: 1" = 50'

SHEET: 1 OF 2

APPENDIX E: RIGHT, TITLE OR INTEREST

TRUSTEES' DEED
Maine Statutory Short Form

KNOW ALL BY THESE PRESENTS THAT ELIZABETH M. SPRAGUE, ERIC THOMAS SPRAGUE and PHINEAS M. SPRAGUE, as Trustees of THE BUENA VISTA TRUST, under indenture dated December 20, 2011, with a principal place of business in Cape Elizabeth, Maine, by the power conferred by law, and every other power, for consideration paid, grant to CPB2 LLC, a Delaware limited liability company, with a place of business c/o Blue Water Construction, 41 Glendale Place, Gilford, New Hampshire 03249, the land, together with any improvements thereon, situated in the City of Portland, County of Cumberland, State of Maine, described on Exhibit A attached hereto.

Pursuant to Title 18-B M.R.S. § 1013, we, in our capacities, do hereby certify that (1) we are all of the Trustees of said Trust; (2) the Trust exists as the date of this Agreement; (3) we have power under said Trust to convey any trust asset in our sole discretion and need no consent from any beneficial interests; (4) we are the trustees authorized to execute or otherwise authenticate any and all documents in the exercise of our power; (5) in making this conveyance, we have in all respects acted in pursuance of the authority granted in and by said Trust; and (6) the Trust has not been revoked, modified, amended or terminated in any way that would cause the representations contained in this certificate to be incorrect.

[signatures on next page]

MAINE REAL ESTATE TAX PAID

Witness our hands and seals this 19 day of the month of July, 2013.

WITNESS:

THE BUENA VISTA TRUST

By

Eric Thomas Sprague, Trustee

By

Elizabeth M. Sprague, Trustee

By

Phineas M. Sprague, Trustee

STATE OF MAINE
COUNTY OF CUMBERLAND

July __, 2013

Then personally appeared the above named Eric Thomas Sprague,
in his said capacity and acknowledged the foregoing instrument to be his free act and
deed.

Before me,

Notary Public/Attorney at Law

Witness our hands and seals this 26 day of the month of July, 2013.

WITNESS:

THE BUENA VISTA TRUST

By [Signature]
Eric Thomas Sprague, Trustee

By [Signature]
Elizabeth M. Sprague, Trustee

By _____
Phineas M. Sprague, Trustee

STATE OF MAINE
COUNTY OF CUMBERLAND

July 26, 2013

Then personally appeared the above named Eric Thomas Sprague,
in his said capacity and acknowledged the foregoing instrument to be his free act and
deed.

Before me,

[Signature]
Notary Public/Attorney at Law

[Signature]

EXHIBIT A

A certain lot or parcel of land together with the buildings thereon situated on the southerly side of Fore Street in the City of Portland, County of Cumberland and State of Maine bounded and described as follows:

Beginning at a point on the southerly sideline of Fore Street at the northeasterly corner of Tract I as shown on "ALTA/ACSM Land Title Survey 58 Fore Street, Portland, Cumberland County, Maine made for CPB2 LLC" dated May 22, 2013 by Owen Haskell, Inc., thence N53°19'30"E along the southerly sideline of said Fore Street 140.00 feet;

Thence, N 61° 01' 30" E along the southerly sideline of said Fore Street 43.36 feet to land now or formerly of Macgowan as described in the Deed recorded in Cumberland County Registry of Deeds in Book 15773, Page 153;

Thence, S 31° 18' 30" E along land of said Macgowan 150.00 feet;

Thence, N 61° 01' 30" E along land of said Macgowan 112.00 feet to land now or formerly of Timothy Haley, Trustee, as described in the Deed recorded in the said Registry of Deeds in Book 24759, Pages 67 & 69;

Thence, S 31° 18' 30" E along land of said Haley 110.28 feet;

Thence, N 63° 18' 30" E along land of said Haley 100.00 feet;

Thence, N 31° 18' 30" W along land of said Haley 95.88 feet;

Thence, N 69° 31' 20" E along land of said Haley 49.73 feet to land now or formerly of Eastern Promenade Condominium;

Thence, S 31° 18' 26" E along land of said Eastern Promenade Condominium 240.48 feet to an iron rod found and to land now or formerly of the State of Maine as described in the Deed recorded in said Registry of Deeds in Book 10924, Page 91;

Thence, S 63° 18' 30" W along land of said State of Maine 430.00 feet to the easterly line of said Tract I;

Thence, N 33° 29 '33" W along said Tract I 381.17 feet to the point of beginning containing 2.87 acres.

The premises are conveyed together with the right of access and egress running from the existing paved driveway over land now or formerly of The Portland Company to the

premises conveyed herein as described in a deed to Elizabeth M. Sprague, Eric Thomas Sprague and Phineas M. Sprague, Trustees of The Buena Vista Trust by Warranty deed of The Portland Company dated December 30, 1012 and recorded in the Cumberland County Registry of Deeds in Book 30265, Page 32.

Meaning and intending to convey and hereby conveying the same premises conveyed to Elizabeth M. Sprague, Eric Thomas Sprague and Phineas M. Sprague, Trustees of The Buena Vista Trust by Warranty Deed of The Portland Company, dated December 30, 2012 and recorded in the Cumberland County Registry of Deeds in Book 30265, Page 32.

S:\P\POCO14\Prentice Purchase\Sale Documents\Deed of Trustees.doc

Received
Recorded Register of Deeds
Jul 27, 2013 03:54:21P
Cumberland County
Pamela E. Lovles

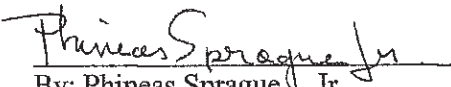
Doc# 13675 Bk#31425 Pg# 267
QUITCLAIM DEED WITH COVENANT
Maine Statutory Short Form

KNOW ALL BY THESE PRESENTS, that **THE PORTLAND COMPANY**, a Maine corporation and having a place of business at 58 Fore Street, County of Cumberland, and State of Maine, for consideration paid, grants to **CPB2 LLC**, a Delaware limited liability company, with an address of P.O. Box 7987, Portland, Maine 04112, with **QUITCLAIM COVENANTS**, the land located in Portland, County of Cumberland and State of Maine, and more particularly described in Exhibit "A" attached hereto and made a part hereof.

IN WITNESS WHEREOF, said **THE PORTLAND COMPANY** has caused this instrument to be signed and sealed this 1st day of April, 2014.

WITNESS:

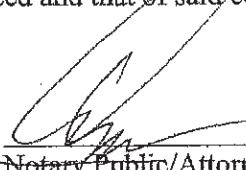
THE PORTLAND COMPANY


By: Phineas Sprague, Jr.
Its: President

STATE OF MAINE
COUNTY OF CUMBERLAND

April 1, 2014

Personally appeared the above-named Phineas Sprague, Jr. in his said capacity, and acknowledged the foregoing to be his free act and deed and that of said corporation, The Portland Company, before me.


Notary Public/Attorney at Law
Drew H. Anderson
Printed Name

MAINE REAL ESTATE TAX PAID

EXHIBIT A

TRACT I

A certain lot or parcel of land together with the buildings thereon situated on the southerly side of Fore Street, City of Portland, County of Cumberland and State of Maine bounded and described as follows:

Beginning at a point on the southerly sideline of Fore Street at a railroad spike at the northeasterly corner of land now or formerly of Hope 1 LLC as described in deed Book 22261, Page 50, thence S 87° 34' 45" E along the southerly sideline of said Fore Street 287.74 feet;

Thence, N 53° 19' 30" E along the southerly sideline of said Fore Street 594.45 feet to the northwesterly corner of Tract III, as shown on "ALTA/ACSM Land Title Survey, 58 Fore Street, Portland, Cumberland County, Maine made for CPB2 LLC" by Owen Haskell, Inc. dated May 22, 2013.

Thence, S 33° 29' 33" E along the westerly side of said Tract III 381.17 feet to land now or formerly of the State of Maine as described in deed Book 10924, Page 91;

Thence, S 63° 18' 30" W along land of said State of Maine 255.00 feet;

Thence, S 68° 31' 30" W along land of said State of Maine 442.91 feet to an iron rod found (bent) and land now or formerly of City of Portland as described in deed Book 21951, Page 341;

Thence, N 88° 12' 30" W along land of said City of Portland 137.25 feet to a non-tangent curve to the right;

Thence, following the curve to the right, along land of said City of Portland and land of said Hope 1 LLC, having a radius of 274.33 feet, an arc length of 337.36 feet, a chord bearing of N 38° 35' 30" W, and a chord length of 316.50 feet, to the southerly sideline of Fore Street and the point of beginning containing 6.04 acres.

Basis of bearings: Magnetic 1967.

TRACT II

A certain lot or parcel of land together with the buildings thereon situated southerly of but not adjacent to Fore Street, in the City of Portland, County of Cumberland and State of Maine bounded and described as follows:

Commencing at a point on the southerly line of Tract I, at an iron rod found (bent) at the southeasterly corner of land now or formerly of the City of Portland as described in deed Book 21951, Page 341, on the northerly line of land now or formerly of the State of Maine as described in deed Book 10924, Page 91, as shown on "ALTA/ACSM Land Title Survey, 58 Fore Street, Portland, Cumberland County, Maine made for CPB2 LLC" by Owen Haskell, Inc. dated May 22, 2013.

Thence, N 68° 31' 30" E along the northerly line of land of said State of Maine 215.11 feet;

Thence, S 27° 09' 40" E across land of said State of Maine and along the easterly line of land now or formerly of the City of Portland 50.25 feet to the true point of beginning;

Thence, N 68° 31' 30" E along the southerly sideline of land of said State of Maine 225.10 feet;

Thence, N 63° 18' 30" E along the southerly sideline of land of said State of Maine 690.74 feet;

Thence, S 30° 39' 00" E along land of said State of Maine 56.34 feet;

Thence, S 61° 35' 30" W 27.46 feet;

Thence, S 77° 24' 52" W 94.07 feet;

Thence, S 62° 35' 30" W 475.00 feet;

Thence, S 38° 50' 30" W 60.00 feet;

Thence, S 63° 50' 30" W 120.00 feet;

Thence, N 26° 10' 00" W 8.00 feet;

Thence, S 63° 49' 37" W 150.00 feet to land of said City of Portland;

Thence, N 27° 09' 40" W along land of said City of Portland 74.89 feet to the point of beginning containing 44,274 sq. ft.

Basis of bearings: Magnetic 1967.

ALSO CONVEYING two crossings for vehicular, pedestrian and utility access to and from other land now or formerly of Phineas Sprague to the most immediately above described parcel across the area shown on Exhibit B of Indenture Deed by and between the Maine Department of Transportation and Phineas Sprague, dated August 30, 1993 and recorded in Book 10924, Page 97, as the "Rail-Trail Corridor." Each crossing shall be 50 feet in width over the 50 foot wide "Rail-Trail Corridor" plus turning radii, as necessary, at the entrances to the crossings from the above described parcel of land. Such crossings may be moved from time to time by the Grantee at its expense upon proper notice to and approval by the Maine Department of Transportation, provided that the distance between the centerlines of the two crossings shall never be less than 200 feet; and further provided that in the event of any relocation, any former crossing shall be restored to the condition it would have been in had the crossing not been placed in that location.

TOGETHER WITH any upland including the seawall which immediately adjoin the above described premises.

Received
Recorded Register of Deeds
Apr 03, 2014 12:25:29P
Cumberland County
Pamela E. Lovley

MEMORANDUM

TO: Ed Haddad
FROM: Peter S. Plumb
DATE: December 11, 2007
FILE: POCO-001
RE: The Portland Company - Submerged Lands Lease and Related Matters

I. Submerged Lands Lease.

The Portland Company is the current holder (through a series of assignments) of a Submerged Lands Lease (the "Lease") originally entered into between the Maine Department of Transportation and Fish Point Associates, dated October 20, 1978. The Lease was for an original term of ten years, with the first period ending on October 31, 1988. The Lessee has the right to renew the Lease for three successive renewal terms of ten years each. The First Lease Extension was exercised in 1988 and the second was exercised in 1998. In 2008, the final renewal will be exercised so that this Lease will finally expire on October 31, 2018. In the normal course a new lease would be negotiated for the demised premises at that time.

The original lease area included approximately 1,000 feet along the shore front, and extending out 575 feet more or less to the Harbor Commissioner's Line. In November 1983, approximately 450 feet of the western end of the frontage was deleted to

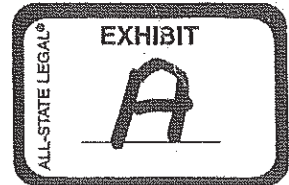
make room for the Bath Iron Works dry dock facility. Simultaneously, the State added 450 feet to the other (easterly) side of the leased area, leaving a total frontage of 1000 feet, extending out to the Harbor's Commissioners Line. This is the area occupied by the marina slips and moorings today.

II. Access Across the Railroad Right of Way and the Upland Parcel to the Ocean Side of the Railroad Right of Way.

In August 1993, the Portland Company's predecessor in title purchased from the Maine Department of Transportation via an "Indenture Deed" the property from the seawall inward to the Railroad Right of Way abutting the submerged lands lease area and, in addition, two 50 foot wide crossings of the 50 foot wide railroad right of way running between the shore and the Portland Company's principal property. These railroad crossings are 50 feet in width and may not be spaced more than 200 feet apart, center to center.

There are a variety of conditions imposed on the use of the railroad crossings, as well as on the land between the railroad right of way and the seawall. Copies of both the Submerged Lands Lease and the Indenture Deed are available through CBRE The Boulos Company, and all interested parties are urged to review them in detail.

END

Two highlights from D.O.T.
LEASE

AGREEMENT made this 20th day of October, 1978 by and between the MAINE DEPARTMENT OF TRANSPORTATION, hereafter called the Department and FISH POINT ASSOCIATES, a Maine partnership having a place of business in Portland, Maine, hereafter called Lessee.

WHEREAS, the Department is interested in encouraging the development of Marine-related activities in Portland Harbor and the Lessee has indicated a similar interest and intent, and the Department is willing to enter this lease with the Lessee of the premises described below for the purpose of furthering and encouraging the Lessee in this development and providing some protection for the investment which the Lessee will make in its investigation and development of the premises;

NOW, THEREFORE, the parties in consideration of agreement of the other do hereby agree as follows:

ARTICLE ILeased Premises

The Department leases to the Lessee a certain lot or parcel of land and area of Tidal Waters located in the City of Portland, Cumberland County, Maine on the northwesterly shore of Fore River, so-called, more particularly described in Exhibit A annexed hereto and made part of this lease and hereafter called the "premises".

ARTICLE IITerm And Renewals

This lease shall be for an initial term of 10 years, beginning on November 1, 1978 and ending on October 31, 1988. The Lessee shall have the right to renew the term of this lease for three successive renewal terms of

10 years each, subject to the termination conditions. The first renewal term shall commence on the termination of the initial term and each succeeding renewal term shall commence on the expiration of the preceding term, provided that each right of renewal may be exercised and effected only if this lease is in full force and effect immediately prior to the commencement of the applicable renewal term. Lessee shall separately exercise its options to renew by notifying the Department in writing of such election at least 3 months in advance of the commencement date of the applicable renewal term. All terms and conditions applicable during the initial term shall be applicable during each renewal term except that after the third renewal term there shall be no further renewals of this lease.

ARTICLE III.

Rent

The Lessee shall pay to Lessor the following amounts of rent, to wit:

- (a) \$1,000 per year for the first two years of the initial term of this lease.
- (b) \$3,000 for the third year of the initial term of this lease.
- (c) An amount for each year thereafter during the initial term and any renewal term, equal to \$3,000 multiplied by the fraction, the denominator of which shall be the U. S. Bureau of Labor Statistics Consumer Price Index for Boston, Mass., revised wage earners and clerical (or successor) in effect for October 1, 1980 and the numerator of which shall be said Index as of the lease year in question. In the event that said Index is not published for a month specified above, the Index for the closest preceding month shall be used instead. The annual rent shall in no case be reduced below the sum of \$3,000.

Rental payments shall be payable annually, in advance on the first day of November for each lease year. A twelve percent (12%)

annual interest charge shall be assessed on rent more than one (1) month in arrears.

ARTICLE IV

Development Of Premises

The Lessee shall from time to time present to the Department proposals as to portions and stages of its development of a berthing facility and/or other Marine-related facilities to be constructed on the premises, for review and approval by the Department, such approval shall not be unreasonably withheld. On or before November 1, 1980 the Lessee shall submit to the Department the final plan of the Lessee for such development, incorporating the portions previously approved by the Department and including a schedule for construction, to receive final approval by the Department. The final approval of the Department shall be concerned only with the general overall scope of the proposed development and the construction schedule, not any of the design details and such approval shall not be unreasonably withheld provided the intent of Article V, Use Of Premises is satisfied. No construction shall take place on the leased premises until the Lessee has secured approval for such construction from the Department. The Department agrees that it will take action to review and approve all plans as soon as possible after the plan is submitted and in no event, later than thirty (30) days after its submission.

If the Lessee has not substantially completed by November 1, 1981 that portion of the development scheduled for completion by that date, this lease may be terminated at the option of the Department provided that this day may be extended by the Department if the Lessee was unable to meet the schedule deadline due to delays caused by any reason or force beyond the control of the Lessee.

ARTICLE V.

Use Of Premises.

The premises shall be developed and operated for Marine-related activities and/or facilities available for commercial use including but not limited to, berthing for commercial vessels. The Lessee shall restrict its use to the above described purposes and shall not use or permit the use of the premises for any other purpose unless the express written consent of the Department is first obtained, such consent shall not be unreasonably withheld.

ARTICLE VI.

Insurance And Indemnity

The Lessee shall obtain and keep in force at all times during the continuance of this lease, general public liability insurance reasonably satisfactory to the Department against claims for personal injury, death or property damage arising out of or in any way related to, the use and occupancy of the leased premises by Lessee, its agents or invitees. This insurance shall provide a combined limit of at least \$1,000,000.00 for personal injury, death and property damage. Evidence of such insurance shall be forwarded to the Department.

The Lessee further agrees to indemnify the Department against all expenses, liabilities and claims of every kind, including reasonable counsel fees, by or on behalf of any person or entity arising out of either (1) failure by Lessee to perform any of the terms or conditions of this Lease, (2) any injury or damage happening on or about the premises due to the negligence of Lessee or (3) any mechanic's lien or security interest filed against the premises.

ARTICLE VII

Assignment And Subletting

The Lessee may assign this lease for security or mortgage its leasehold interest provided that, although approval is not needed for assignments for security or for mortgages of the leasehold interest, the Lessee must give the Department prompt notice of any such assignment or mortgage. The Lessee will not transfer or assign this lease in whole or in part for other than security, nor sub-let any of the leased premises for any purpose without the prior written consent of the Department, such consent shall not be unreasonably withheld. This provision shall not apply to the short-term leasing by the Lessee of individual berths and/or other space in connection with its Marine-related activities.

Whenever an assignment for other than security is approved, the Lessee shall remain primarily liable to the Department for the due performance of all covenants, undertakings and agreements on its part to be performed. A mortgagee or assignee for security will not assume the obligations or liabilities of the Lessee under this lease, provided however, that continued payment of rent shall be a condition precedent to such mortgagee or assignee for security exercising any of the Lessee's rights hereunder. In the event of a default under this lease by the Lessee, the Department agrees that it will at the time of giving the Lessee any notice of default also give any of record mortgagee or assignee for security a copy of the notice of default and said mortgagee or assignee shall have the right to cure such default within the time permitted the Lessee herein.

ARTICLE VIII

Default Of Lessee

In the event of any default by the Lessee in the payment of any rental due hereunder or in the performance of any other term, condition or covenant of this lease to be observed or performed by Lessee for more than thirty (30)

days after written notice of such default shall have been given to Lessee, or if Lessee shall become bankrupt or insolvent, or file any debtor proceeding or have taken against Lessee in any court pursuant to any statute, either of the United States or any state, a petition in bankruptcy or insolvency or for the reorganization or for the appointment of a receiver or trustee of all or a portion of Lessee's property or if Lessee makes an assignment for the benefit of creditors, or petitions for or enters into such an arrangement or if Lessee shall abandon the premises or suffer this lease to be taken under any writ or execution, then the lease shall terminate and the Department in addition to any other rights or remedies it may have, shall have the immediate right of re-entry and may remove all persons and property from the leased premises, and such property may be removed and stored at the cost of and for the account of Lessee, all without service, notice or resort to legal process and without being deemed guilty of trespass or becoming liable for any loss or damage which may be occasioned thereby.

ARTICLE IX

Parties Bound

It is agreed and understood that as part of the consideration for this lease, the Lessee will purchase the real estate near the leased premises presently owned by United Industrial Syndicate, Inc. and being that land as more particularly described in a deed recorded in the Cumberland County Registry of Deeds in Book 2359, Page 233. As further consideration, the Lessee agrees that it will not convey or in any way divest itself of ownership of the above described land during the development stages of this lease or during the first five year period, without the prior written approval of the Department.

All rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several respective heirs, executors, administrators, successors, and assigns of the respective

parties. No rights, however, shall inure to the benefit of any assignee or Lessee unless the assignment to such assignee has been approved by the Department in writing as provided in Article VII.

ARTICLE X

Taxes

The Lessee agrees to pay all taxes, assessments, or charges which during the term hereof may become a lien or be levied by the State, municipality or other tax-levying body on all personal property of the Lessee, upon all improvements made to the premises by the Lessee in connection with its use and occupancy thereof, and upon the possessory interest of the Lessee in the premises.

ARTICLE XI

Ownership Of Improvements

The personal property and other improvements placed or installed by the Lessee in or on the leased premises shall remain the property of the Lessee and must be removed on or before the expiration of the lease term or its renewals. In the event of expiration or other termination, Lessee shall have ten (10) days, exclusive of Sundays, Saturdays, or Holidays, after such termination, in which to remove its property. All property and other improvements remaining on the premises after the 10 days shall become the property of the Department. If any building or other such improvement which remains on the premises after the ten days extends onto other property owned by the Lessee, Lessee will make an option available to the Department for the purchase of all property covered by such building or improvement for the fair market value of such property at the time of the termination.

This provision will not apply to any cancellation or termination of the lease which is arranged by agreement between the parties.

ARTICLE XII

Waste, Restriction And Nuisance

During the term of this lease, Lessee shall comply with all applicable laws and ordinances affecting the premises and shall not commit or suffer to be committed, any waste or nuisance on the leased premises.

ARTICLE XIII.

Quiet Enjoyment

Upon payment by Lessee of the rent herein provided and observance and performance of all covenants, terms and conditions to be observed and performed by Lessee, Lessee shall peaceably and quietly hold and enjoy the leased premises for the term hereof without hindrance or interruption by the Department or any person or persons lawfully or equitably claiming by, through, or under the Department.

ARTICLE XIV

Waiver

The waiver by either party of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition herein contained. The subsequent acceptance of rent hereunder by the Department shall not be deemed to be a waiver of any preceding breach by Lessee of any term, covenant or condition of this lease, other than the failure of Lessee to pay the particular rental so accepted.

ARTICLE XV

Notices

Any notice, demand, request or other instrument given under this lease shall be delivered in person or sent by Certified Mail, postage prepaid, (a) if to the Department, at the Maine Department of Transportation, Transportation Building, Augusta, Maine 04333, or at such other address as Lessor may designate by written notice, and (b) if to the Lessee, at 58 Fore Street, Portland, Maine 04101, or at such other address as Lessee shall

designate by written notice.

ARTICLE XVI

Miscellaneous

This lease is subject to any and all rights and easements of record and to all terms, conditions, reservations and interests acquired as set forth and described in a Quit-Claim Deed dated November 30, 1973 from Canadian National Railway Company to the State of Maine and recorded in the Cumberland County Registry of Deeds in Book 3490, Page 318. The Lessee agrees to maintain the fencing on the northwesterly boundary of the leased premises as it now exists, or as it by mutual agreement may be relocated.

IN WITNESS WHEREOF, the Department and Lessee have signed this lease as of the day and year first above written.

Witnessed by:

Claire M. Fitzgerald

MAINE DEPARTMENT OF TRANSPORTATION

By

[Signature]
Its Commissioner

LESSEE:

FISH POINT ASSOCIATES

By

[Signature]
A Partner

State of Maine
Cumberland, ss.

October 20, 1978

Personally appeared the above named Roger L. Hallar
Commissioner of the Department of Transportation of the State of
Maine, and acknowledged the foregoing instrument to be his free act and
deed and the free act and deed of the State of Maine.

Before me,

Alden H. Small
Justice of the Peace
~~Notary Public~~

State of Maine
Cumberland, ss.

October 20, 1978

Personally appeared the above-named

Phineas Sprague, Jr.

A Partner of Fish Point Associates, and acknowledged the
foregoing instrument to be his free act and deed and the free act and
deed of the partnership.

Before me,

Alden H. Small
Justice of the Peace
~~Notary Public~~

EXHIBIT A

Leased Premises

Beginning at a point bearing S 46° 46' 11" W four hundred and fifty (450) feet from the most northerly corner of land conveyed to the State of Maine by Canadian National Railway Company by Quit-Claim Deed dated November 30, 1973 and recorded in the Cumberland County Registry of Deeds, Book 3490, Page 318;

Thence N 46° 46' 11" E along land of the Canadian National Railway Company and said line extended a distance of one thousand (1000) feet to a point;

Thence southeasterly at right angles to the hereinbefore described line about five hundred and seventy-five (575) feet to the Harbor Commissioners line in Fore River;

Thence southwesterly along the Harbor Commissioners line one thousand (1000) feet to a point;

Thence northwesterly along a line one thousand (1000) feet southwesterly from and parallel to the second line described herein five hundred and seventy-five (575) feet to the point of beginning.

Reference is hereby made to a Plan of the State of Maine entitled "Department of Transportation, Bureau of Waterways, Portland, Cumberland County" dated July 1974, on file in the office of the Department of Transportation, Bureau of Highways at Augusta (D.O.T. File No. 3-238A).

B-6187
P. 215ASSIGNMENT OF LEASE

For valuable consideration FISH POINT ASSOCIATES, a Maine partnership, hereby transfers and conveys to PHINEAS SPRAGUE of Scarborough, Maine, effective October 29, 1981, all its right, title and interest in and to the lease between Fish Point Associates and The Portland Engineering Company ("PEC") dated December 10, 1978, providing for the leasing to PEC of the property of Fish Point Associates on Fore Street in Portland, Maine.

FISH POINT ASSOCIATES

By Phineas Sprague
A Partner

October 29, 1981

006420-1224

11046

LEASE AMENDMENT

THIS LEASE AMENDMENT made as of this 14th day of November, 1983, by and between the MAINE DEPARTMENT OF TRANSPORTATION, acting by and through its Commissioner, and PHINEAS SPRAGUE, of Scarborough, Maine,

WITNESSETH:

WHEREAS, by Lease dated October 20, 1978 the MAINE DEPARTMENT OF TRANSPORTATION leased a certain lot or parcel of land and area of tidal waters located in Portland, Cumberland County, Maine to FISH POINT ASSOCIATES; and

WHEREAS, a copy said Lease is attached to a Conditional Assignment of Lease by and between FISH POINT ASSOCIATES and RHODE ISLAND HOSPITAL TRUST NATIONAL BANK dated January 11, 1979 and recorded at the Cumberland County Registry of Deeds in Book 4368, Page 119; and

WHEREAS, by Assignment of Lease dated October 29, 1981, a copy of which is attached hereto as Exhibit A, FISH POINT ASSOCIATES assigned its interest in said Lease to PHINEAS SPRAGUE; and

WHEREAS, a portion of the leased premises was conveyed by the State of Maine to the City of Portland by deed dated February 1, 1982 and recorded at said Registry of Deeds in Book 4916, Page 28; and

WHEREAS, the MAINE DEPARTMENT OF TRANSPORTATION and PHINEAS SPRAGUE have agreed to amend the description of the leased Premises as provided herein;

NOW, THEREFORE, IN CONSIDERATION OF ONE DOLLAR (\$1.00) and other valuable consideration each to the other given, the receipt of

-2-

BOOK 6428 PAGE 225

which is hereby acknowledged, the MAINE DEPARTMENT OF TRANSPORTATION and PHINEAS SPRAGUE hereby agree that the description of the leased premises is amended so that the parcel described on Exhibit B attached hereto is released from the leased premises and the parcel described on Exhibit C attached hereto is included in the leased premises. Except as amended hereby, said Lease remains in full force and effect.

Dated: November 22, 1983

WITNESSETH:

MAINE DEPARTMENT OF
TRANSPORTATION

John E. Fox

By:

George N. Campbell
Commissioner

Laura Leigh Sprague

Phineas Sprague
Phineas Sprague

STATE OF MAINE
CUMBERLAND, SS.
November 22, 1983

November 22, 1983

PERSONALLY APPEARED the above named George N. Campbell, Commissioner of the MAINE DEPARTMENT OF TRANSPORTATION as aforesaid and acknowledged the foregoing to be his free act and deed in said capacity and the free act and deed of the MAINE DEPARTMENT OF TRANSPORTATION.

Before me,

John E. Fox
Notary Public

MY COMMISSION EXPIRES
JULY 31, 1988

SEAL

STATE OF MAINE
CUMBERLAND, SS.

November 1980

PERSONALLY APPEARED the above-named Phineas Sprague and
acknowledged the foregoing instrument to be his free act and deed.

Seth Sprague
Notary Public

MY COMMISSION EXPIRES
MARCH 24, 1988

SEAL

2051.012

BOOK 6428 PAGE 227

EXHIBIT AASSIGNMENT OF LEASE

For valuable consideration FISH POINT ASSOCIATES, a Maine partnership ("FPA"), hereby transfers and conveys to PHILEAS SPRAGUE of Scarborough, Maine, effective October 19, 1981, all its right, title and interest in and to the lease between Fish Point Associates and the Maine Department of Transportation ("DOT") dated October 20, 1978, providing for the leasing to FPA by DOT of certain tidal waters located in the City of Portland, Maine.

FISH POINT ASSOCIATES

By *Phileas Sprague*
A Partner

October 29, 1981

EXHIBIT B

A certain lot or parcel of land located in Portland, Cumberland County, Maine, bounded and described as follows:

Beginning at a point bearing south $46^{\circ}46'11''$ west 450 feet from the most northerly corner of land conveyed to the State of Maine by Canadian National Railway Company by Deed dated November 30, 1973 and recorded in Cumberland County Registry of Deeds, Book 3490, page 118; thence southeasterly at right angles to the hereinbefore described line about 575 feet to the Harbor Commissioner's line in the Fore River; thence northeasterly along the Harbor Commissioner's line 450 feet to a point; thence northwesterly along a line parallel to the second line described herein 575 feet to a point at the most northerly corner of land conveyed in the aforementioned deed to the State of Maine by Canadian National Railway Company dated November 30, 1973; thence south $46^{\circ}46'11''$ west along land of the Canadian National Railway Company 450 feet to the point of beginning.

Meaning and intending to release and hereby releasing all of that portion of the premises described in a certain Lease from the Maine Department of Transportation to Fish Point Associates dated October 20, 1978, a true copy of said Lease being attached to a certain Conditional Assignment of Lease by and between Fish Point Associates and Rhode Island Hospital Trust National Bank dated January 11, 1979 and recorded at the Cumberland County Registry of Deeds in Book 4368, page 119, which is within the boundaries of that parcel of land which was conveyed by the State of Maine to the City of Portland by Deed dated February 1, 1982 and recorded at the Cumberland County Registry of Deeds in Book 4916, page 26.

0006428-223

EXHIBIT C

A certain lot or parcel of land located in Portland, Cumberland County, Maine, bounded and described as follows:

Beginning at a point on the sea wall located 550 feet Northeastly from the most Northerly corner of land conveyed to the State of Maine by Canadian National Railway Company by deed dated November 30, 1973 and recorded at the Cumberland County Registry of Deeds in Book 3490, Page 318, which point is also the most Northerly corner of land leased to Fish Point Associates by the Maine Department of Transportation by lease dated October 20, 1978, a copy of which is recorded along with a certain conditional assignment of lease by and between Fish Point Associates and Rhode Island Hospital Trust National Bank dated January 11, 1979 and recorded at said Registry of Deeds in Book 4368, Page 115; thence continuing in a Northeastly direction along said sea wall a distance of 450 feet to a point; thence Southeastly at right angles to the hereinafore described line about 575 feet to the Harbor Commissioner's line in the Fore River; thence Southwestly along the Harbor Commissioner's line 450 feet to a point which is the most Southeastly corner of the aforementioned premises leased to Fish Point Associates by the Maine Department of Transportation; thence Northwestly along said leased premises and parallel to the second line described herein 575 feet to the point of beginning.

RECEIVED

1996 APR 16 AM 9:52

RECORDED REGISTRY OF DEEDS
CUMBERLAND COUNTY*James J. Walsh*

INDENTURE DEED

55756
Indenture by and between the MAINE DEPARTMENT OF TRANSPORTATION (hereinafter the "DEPARTMENT") and PHINEAS SPRAGUE, SR., of Scarborough, Maine (hereinafter "SPRAGUE") dated this 30 day of August, 1993.

WHEREAS, the DEPARTMENT is conveying in this instrument certain real property to SPRAGUE, together with certain crossings which will cross land described below as the Rail-Trail Corridor, which land will be owned by the DEPARTMENT.

NOW, THEREFORE, the DEPARTMENT for one dollar and other good and valuable consideration, including the covenants and agreements contained herein, grants to SPRAGUE certain real property, together with any improvements thereon, subject to the covenants and agreements contained herein which SPRAGUE, by acceptance of this Indenture Deed and execution hereof, agrees to be bound on behalf of himself, his heirs, successors, administrators and assigns, more particularly described as follows:

Certain land (hereinafter the "SPRAGUE FEE PARCEL") located in Portland, Cumberland County, Maine, more particularly described on Exhibit A attached hereto and made a part hereof, together with two crossings (hereinafter the "CROSSINGS") for vehicular, pedestrian and utility access to and from other land of SPRAGUE to the SPRAGUE FEE PARCEL across the area shown on Exhibit B as the "Rail-Trail Corridor." Each crossing shall be fifty (50) feet in width over the fifty (50) foot wide "Rail-Trail Corridor" plus turning radii, as necessary, at the entrances to the CROSSINGS from the SPRAGUE FEE PARCEL. Such CROSSINGS may be moved from time to time by SPRAGUE at his expense upon proper notice to and approval by DEPARTMENT provided that the distance between the centerlines of the two CROSSINGS shall never be less than two hundred (200) feet and further provided that SPRAGUE, upon such relocation, fully restores any former crossing area to the condition it would have been in had the crossing not been placed in that location.

The SPRAGUE FEE PARCEL and the CROSSINGS are hereby conveyed to SPRAGUE and accepted by SPRAGUE subject to the following exceptions, covenants, reservations and agreements which shall be for the benefit of the DEPARTMENT, its successors and assigns, and with which, by acceptance of this Deed, SPRAGUE hereby agrees:

1. SPRAGUE will make no claim or demand against the owner or any operator of the Rail-Trail Corridor for any injury, including injury resulting in death, loss or damage to property suffered or sustained by SPRAGUE, his employees, agents, subcontractors, business invitees, or any other person or corporation which is based upon or arises out of or is connected with the CROSSINGS

granted herein or anything done or maintained hereunder and hereby waives as against the DEPARTMENT, its operators, subcontractors, agents, servants, lessees or employees, successors and assigns, all such claims and demands.

2. SPRAGUE does hereby and will indemnify and save harmless the DEPARTMENT, its operators, subcontractors, agents, servants, lessees or employees and its successors or assigns:

- (a) From and against any and all loss, costs, damages, harm or expenses of any kind, including attorneys' fees suffered or incurred by the DEPARTMENT, its officers, subcontractors, agents, servants, lessees, employees or operators, including injuries, as well as those resulting in death, damage to or destruction of property which are based upon, arise out of or are connected with the grant of the CROSSINGS hereunder or anything done or maintained pursuant to the rights granted or obligations created hereunder, or anything not done or maintained as required hereunder whether caused by the negligence of SPRAGUE, his employees, agents, business invitees, visitors, independent contractors, or otherwise.

3. SPRAGUE understands and agrees that the Rail-Trail Corridor will be used for several purposes including, without limitation, rail transportation and recreation. In the event that (i) the DEPARTMENT, or its operators, subcontractors, successors or assigns installs a railroad in the Rail-Trail Corridor, or (ii) the DEPARTMENT or the City of Portland determines that it is in the interest of public safety, then:

- (a) SPRAGUE shall, at his own expense, (i) install fencing or other appropriate barriers along the Rail-Trail Corridor on both the northerly and southerly sides, such fencing or other appropriate barriers to be of a design and material (which may include plantings) approved by the DEPARTMENT and (ii) install the CROSSINGS, including gates and, if required by the DEPARTMENT, active crossing warning devices on both the northerly and the southerly sides of the CROSSINGS area. The purpose of the barriers to be installed by SPRAGUE is to assure that the uses of the Rail-Trail Corridor on the one hand and the adjoining SPRAGUE lands on the other do not interfere with one another and to assure that any crossing of the Rail-Trail Corridor from the SPRAGUE lands is at the designated CROSSINGS. If and when a railroad line is placed in the Rail-Trail Corridor, SPRAGUE shall execute a standard

Crossing Maintenance Agreement of the DEPARTMENT (generic Crossing Maintenance Agreement is appended hereto). Installation of all active crossing warning devices shall be performed under the direction of the DEPARTMENT by its Operator or subcontractors who are acceptable to the DEPARTMENT. Installation of the items listed in this paragraph shall commence and be completed within sixty (60) days, unless material availability so prohibits, after proper notice from the DEPARTMENT to SPRAGUE. All such installation shall be at the expense of SPRAGUE.

- (b) SPRAGUE shall, at his own expense, obtain and maintain at all times in a form and with an insurance company satisfactory to the DEPARTMENT, a commercial liability insurance policy with a policy limit of not less than One Million Dollars (\$1,000,000.00) inclusive for bodily injury and property damage, which amount or form of the policy may at any time upon receipt by SPRAGUE of a written request to do so from the DEPARTMENT be varied at the expense of SPRAGUE. Such policy shall by its wording or endorsement extend to insure the liabilities herein assumed by SPRAGUE and shall name the DEPARTMENT as an additional insured. Said policy shall provide that fifteen (15) days prior written notice shall be given to the DEPARTMENT in the event that the insured desires to cancel, change or modify such insurance or any part thereof.

4. Neither SPRAGUE nor any of his contractors, subcontractors, agents or employees shall ever construct, maintain (this provision does not apply to nor prohibit winter snow plowing, snow removal, sanding or salting subject to Paragraph 7 below), repair, replace or remove the CROSSINGS or any addition or extension thereof, without first complying with the following:

- (a) SPRAGUE shall give the director of the Rail Transportation Division of the DEPARTMENT (and, in the case of Operators for the right-of-way affected by the CROSSINGS to the principal engineering officer of such Operators) twenty-one (21) days written notice in advance of any proposed construction, relocation, maintenance, repair, replacement or removal work affecting the CROSSINGS (hereinafter "WORK"), enclosing with such notice full plans and specifications for any such WORK (if applicable), including a description of the manner thereof. Each such entry shall be deemed to

require full project review by the DEPARTMENT and its operators and the presence at each crossing of a flagman, inspector or other personnel of the DEPARTMENT, or its Operators, at the discretion of the DEPARTMENT.

- (b) Notwithstanding any other provision hereof, any entry and all WORK shall only occur at such times and subject to such conditions as the DEPARTMENT may from time to time specify and not otherwise.
- (c) SPRAGUE shall perform all WORK in good, safe and workmanlike manner and in accordance with all federal, state and local laws, statutes, ordinances and regulations of any description which may apply. SPRAGUE shall furnish the DEPARTMENT and its Operators with copies of any building permits and escrow permits and excavation permits or other similar permits on demand. SPRAGUE shall follow the provisions of any engineering codes applicable to the CROSSINGS to the extent the same shall not be inconsistent with any conditions specified by the DEPARTMENT or its Operators.

5. Notwithstanding any other provisions hereof, SPRAGUE agrees that, in the event the DEPARTMENT, or its Operators, are ever ordered by any governmental authority to provide, install, alter, or improve any form of crossing or vehicular traffic protection at the CROSSINGS or other facilities of any description appurtenant thereof (including, but not limited to flashing lights, automatic gates and other mechanical devices) SPRAGUE shall reimburse the DEPARTMENT and its Operators for the design, construction, installation, maintenance, repair, renewal and removal of the same and for any electricity necessary to operate any mechanical or electrical protection.

6. SPRAGUE shall take all necessary precautions for SPRAGUE's own protection and for the protection of his employees, agents, subcontractors, business invitees, or any other person or corporation and the protection of trains while using the CROSSINGS, having due regard for the operation of trains or locomotives about the CROSSINGS without whistling, ringing of bells or other warning.

7. SPRAGUE shall use the CROSSINGS in such a manner as will not damage the rails, ties or fastenings, and SPRAGUE shall restrict the use of the CROSSINGS to rubber-tired vehicles (upon request by SPRAGUE to and approval from the DEPARTMENT, non rubber-tired equipment may be used). The DEPARTMENT and its Operators further agree that snow plowing, snow removal, sanding and salting by vehicle of the CROSSINGS are not prohibited and are hereby approved by the DEPARTMENT and its Operators provided no plows or

related equipment shall come in direct contact with the rail or ties or appurtenances thereto; plow blades must be kept at least one inch above the crossing surface.

8. Rail movements over the CROSSINGS shall have preference to vehicular and/or pedestrian movements and no claim shall be made against the DEPARTMENT and/or its Operators and no action shall ever be taken by SPRAGUE against the DEPARTMENT or its Operators because of the Operators' equipment blocking passage of vehicles and/or pedestrians over the CROSSINGS. The DEPARTMENT and its Operators agree to use reasonable efforts not to block such passage and any required blockage shall be kept to as short a duration as is possible.

9. SPRAGUE's rights in and to the CROSSINGS conveyed herein shall neither be affected nor lapse as a result of any non-use of either of the CROSSINGS by SPRAGUE from time to time. The parties acknowledge that the CROSSINGS conveyed herein provide access from SPRAGUE's abutting upland property to the SPRAGUE FEE PARCEL and the abutting submerged lands leased to SPRAGUE by the State of Maine (acting by and through the Department of Transportation) pursuant to a Lease dated October 20, 1978, as amended by Amendment dated as of November 1, 1988, and that the CROSSINGS may require relocation from time to time upon prior written notice to and approval from DEPARTMENT by virtue of the changing nature of activities conducted in the area of the leased premises pursuant to said Lease.

10. In the event that SPRAGUE fails to perform in any material respect his obligations under this Agreement within thirty (30) days after receipt of a written notice of breach from the then owner or operator of the Rail-Trail Corridor, or in the event SPRAGUE fails to submit to the DEPARTMENT for approval, a plan satisfying the requirements of the DEPARTMENT for performance of his obligations under this Agreement within thirty (30) days after said notice (and completes the work outlined in the plan within a reasonable period of time after approval by the DEPARTMENT) in the event that the obligations to be performed cannot reasonably be completed within thirty (30) days after said notice, or in the event that the CROSSINGS pose an unreasonable threat to public safety, then the owner of such Rail-Trail Corridor shall have the right to restrict and/or prohibit use of the CROSSINGS (or either of them) until SPRAGUE is in compliance with the provisions hereof.

11. SPRAGUE further agrees that no fences, barriers or other non-marine related structures which would unreasonably interfere with the views of Casco Bay from the Rail-Trail Corridor shall be installed on the SPRAGUE FEE PARCEL or on any wharves which may extend into Casco Bay from the SPRAGUE FEE PARCEL.

12. The covenants and agreements contained herein are intended to be for the benefit and the burden of the SPRAGUE FEE PARCEL and the CROSSINGS and shall run therewith in perpetuity for the benefit of the owners of the Rail-Trail Corridor and the SPRAGUE FEE PARCEL.

IN WITNESS WHEREOF, the DEPARTMENT and SPRAGUE have executed this Indenture Deed on the day and year first stated.

WITNESS:

[Signature]
[Signature]

MAINE DEPARTMENT OF
TRANSPORTATION

By:

[Signature]
Dana F. Connors
Its Commissioner

[Signature]
Phineas Sprague, Sr.

STATE OF MAINE
CUMBERLAND, SS.

August 30, 1993

Personally appeared the above-named Dana F. Connors, Commissioner of the Maine Department of Transportation as aforesaid, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act of said Maine Department of Transportation.

Before me,

[Signature]
CATHY McCOLLETT
NOTARY PUBLIC, MAINE
MY COMMISSION EXPIRES JANUARY 29, 1994
Notary Public/Attorney-at-Law

240.NHS
22611001.713

SEAL

EXHIBIT A
(SPRAGUE LOT 3)

No 55156 R 10924 P 103

Lot 3 as shown on a certain Plan entitled "Land Title Survey & Subdivision Plan in Portland, Maine, U.S.A.," made for The Trust for Public Land, City of Portland, Maine Department of Transportation, and Canadian National Railway Company dated February 19, 1993, as amended, Sheets 1 through 7, which is recorded in the Cumberland County Registry of Deeds in Plan Book 193, Pages 187 through 193 (the "Plans"), which Lot is more particularly described by metes and bounds as follows:

A certain lot or parcel of land in the City of Portland, County of Cumberland, State of Maine with all buildings and improvements thereon, bounded and described as follows:

Beginning at a point located at the northeasterly corner of land leased to Bath Iron Works ("BIW") Corporation (as described in the Memorandum of Pier Lease recorded in said Registry of Deeds in Book 4916, Page 26); thence from said point of beginning N 27° 10' W a distance of 11.44 feet to a point located on the southerly sideline of Parcel C as shown on the Plans (Sheet 2 of 7); thence along said Parcel C N 68° 31' 30" E a distance of 225.10 feet to a point; thence N 63° 18' 30" E a distance of 690.74 feet to a point; thence S 30° 39' E a distance of 56.34 feet to a point; thence S 61° 35' 30" W a distance of 27.46 feet to a point; thence S 77° 25' 00" W a distance of 94.07 feet to a point; thence S 62° 35' 30" W a distance of 475.00 feet to a point; thence S 38° 50' 30" W, a distance of 60.00 feet to a point; thence S 63° 50' 30" W a distance of 120.00 feet to a point; thence N 26° 10' 00" W a distance of 8.00 feet to a point; thence S 63° 50' 30" W a distance of 150.00 feet to a point and land leased to BIW; thence N 27° 10' 00" W along said land leased to BIW a distance of 63.45 feet to the point of beginning.

Together with any upland and intertidal lands including the seawall which immediately adjoin the above-described Premises and lie between the projection of the northeasterly endline of the Premises and the projection of the southwesterly endline of the Premises seaward to the mean low-water line of Casco Bay.

Exhibit 15

FISH POINT ADJACENT TO

PHINNEAS SPRING

4576/268

SHORE LAND BOUND LINES
11 NEW WATER

APPROXIMATE LOCATION OF CROSSING RIVER
TO BE CONVEYED TO PHINNEAS SPRING, SE.
(MAY BE RELATED WITH ADJUTANT)

45,716 SQ. FT.
1.03 ACRES

NO RECORD FOUND
NO CAP

LOCATION 35' FORCE MAIN SEWER LINE

LOCATION 35' FORCE MAIN SEWER LINE

LOCATION 35' FORCE MAIN SEWER LINE

LOCATION 35' FORCE MAIN SEWER LINE

LOCATION 35' FORCE MAIN SEWER LINE

LOCATION 35' FORCE MAIN SEWER LINE

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LOCATION 35' FORCE MAIN SEWER LINE

LOCATION 35' FORCE MAIN SEWER LINE

LOCATION 35' FORCE MAIN SEWER LINE

LOCATION 35' FORCE MAIN SEWER LINE

SPECIAL USE ZONE RAIL/TAIL CORRIDOR

PARCEL C

35' FORCE MAIN SEWER LINE

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UNITED INDUSTRIAL STOCKCO INC.
STATE OF MAINE
DOES, 12, 1974

Recorded
Cumberland County
Registers of Deeds
08/30/93 04:32:12PM
John B. O'Brien
Register

35' FORCE MAIN SEWER LINE

LAND TITLE SURVEY & SUBDIVISION PLAN	
MADE FOR THE TRUST FOR PUBLIC LAND THE CITY OF PORTLAND THE MAINE DEPARTMENT OF TRANSPORTATION THE CANADIAN NATIONAL RAILWAY COMPANY OTHERS	
Owen Haskell, Inc.	
C&D Engineers	
Maine Department of Transportation and Planning Services	
LARGE SCALE SURVEY	
1" = 20'	
DATE: 10/10/93	
BY: [Signature]	
CHECKED BY: [Signature]	
APPROVED BY: [Signature]	
SCALE: 1" = 20'	
SHEET NO. 1 OF 1	

NOTE: SEE SHEET 1 FOR CERTIFICATION AND DETAILS.

No 55156 Bk 10924 Pg 104



October 9, 2014

Christine Grimando, Senior Planner
Department of Planning and Development
City of Portland
389 Congress Street
Portland, Maine 04101

Re: 58 Fore Street Zoning Map/Text Amendment Application
Additional Material Submittal

Dear Christine:

On behalf of CPB2 LLC, we are pleased to submit additional information in support of our application for a Zoning Map/Text Amendment at the 58 Fore Street site. Enclosed, please find one paper copy and one PDF copy (via email) of the additional information described herein:

1. Proposed Zoning Extension figure – Replaces the figure in Appendix B of the Application.
2. Summary of Proposed Text Edits – Replaces Appendix C of the Application.
3. Proposed text edits in the context of their respective sections, with full strike-out and replacement language – Addition to Appendix C of the Application:
 - a. Establishment of Zones (Division 1)
 - b. B6 (Division 15.1)
 - c. EWPZ (Division 17.5)
 - d. WSUZ (Division 18.7)
 - e. Signs (Division 22)
 - f. Shoreland (Division 26)
4. Letter from MaineDOT dated Sept. 25, 2014 consenting to proposed zone change – Addition to Appendix E of the Application.
5. Proposed B6 Building Height Overlay & Building Envelopes figure incorporating the height overlay map from the Eastern Waterfront Height Study (with and without aerial photo)
6. Neighborhood meeting minutes and neighborhood meeting certification letter (including sign-in sheet, notification letter, and abutters list)

We look forward to presenting the application to the Planning Board on October 21st. If you have any questions or require additional information, please contact me at any time at (207) 774-2112, or by email dsenus@woodardcurran.com.

Sincerely,

WOODARD & CURRAN INC.

David Senus, P.E.
Project Manager

227007

cc: CPB2 LLC (via email)
Mary E. Costigan, Bernstein Shur (via email)

SUMMARY OF PROPOSED TEXT EDITS

Establishment of zones (Sec. 14-48)

- Sec. 14-48
 - Strike text
 - ~~(dd) Waterfront special use zone~~

Shoreland Regulations (Sec. 14-446 to 14-450)

- Sec. 14-449(a)1.a
 - B-3, B-5, B-5b, B-6, I-L (south and east of I-295), and I-M (south and east of I-295): Twenty-five (25) feet
- Sec. 14-449(a)1.b
 - W-C, W-PD, ~~W-SU~~, I-B, EWP: No setback required. Pier edge setbacks apply in EWP (Sec. 14-303(c)(4), W-C (Sec. 14-310(d)(4), and W-PD (Sec. 320.2(c)); and W-SU (Sec. 320.9(c)).
- Sec. 14-449(a)(1) – 3rd Paragraph
 - In no event shall the setback from a coastal wetland be reduced to less than seventy-five (75) feet, except in the B-3, B-5, B-5b, B-6, EWP, W-C, W-PD, ~~W-SU~~, I-B, I-L and I-M zones, where setbacks shall be as set forth above in this subsection.
- Sec. 14-449(b)6
 - Except in the W-C, EWP, W-PD, ~~W-SU~~, and I-B zones, no new structure shall be built . . .
- Sec. 14-449(c)2
 - The clearing or removal of vegetation standards of this section shall not apply to the following zones: EWP, WCZ, WPD, ~~WSU~~, B-3, B-5, B-5b, B-6, B-7, I-L (south and east of I-295) and I-M zones (south and east of I-295).
- Sec. 14-449(j)1.a
 - In the EWP, WC, WPD, ~~WSU~~, B-3, B-5, B-5b, B-6, I-L (south and east of I-295) and I-M zones (south and east of I-295) roads and driveways shall be setback as established for structures in those zones; as specified in Sec. 14-449(a)1.
- Sec. 14-449(k)1
 - In the EWP, WC, WPD, ~~WSU~~, B-3, B-5, B-5b, B-6, I-L and I-M zones, parking setbacks shall be as established for structures in those zones; as specified in Sec. 14-449(a)1.

B-6 Eastern Waterfront Mixed Zone (Sec. 14-268 to 14-275)

- Sec. 14-269(a)
 - New clause
 - 18. Underground marine fuel storage provided that fuel storage structures shall be used solely for the purpose of fueling vessels;
 - *Note: Renumber existing #18 to 19 and existing #19 to 20*
- Sec. 14-269(d)
 - Strike existing text and add new text
 - 3. Health clubs, martial arts and ~~mediation~~meditation facilities.
 - *Note: Language currently reads “mediation”*
- Sec. 14-269(d)
 - New clause
 - 6. Private clubs or nonprofit social and recreational facilities, as defined in 14-47.
- Sec. 14-269(d)
 - New clause
 - 7. Educational facilities.
- Sec. 14-269(d)
 - New clause
 - 8. Temporary events, provided that all such events on a lot do not exceed a combined total of (60) days per year and that the total floor area utilized for such uses does not exceed seventy thousand (70,000) square feet at any one (1) time;
 - *Note: Consistent with Sec. 14-320.6. (a) 5.a. Permitted uses under “Other”*
- Sec. 14-269(d)
 - New clause
 - 9. Museums and art galleries;
- Sec. 14-273(b)4.b.v
 - Strike existing text and add new text
 - v. Noise created by ~~any recreational activities~~ any temporary activities which are permitted by law and for which a license or permit has been granted by the city, including but not limited to parades, sporting events, ~~and~~ fireworks displays, festivals, events and concerts.

Eastern Waterfront Port Zone (Sec. 14-300 to 14-304)

- Sec. 14-301 (b)
 - Strike existing clause and add new clause
 - 7. Marine fuel storage and dispensing provided that on-site fuel storage structures shall be used solely for the purpose of fueling vessels and shall be limited, cumulatively, to 20,000 gallons of storage capacity within the zone; Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels;

- Sec. 14-301 (b)
 - New clause
 - 11. Marinas located east of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26;

- Sec. 14-301 (b)
 - New clause
 - 12. Marine office, including but not limited to offices of owners of marinas, wharves or their agents, and naval architects, and seafood brokers
 - Note: Consistent with Sec 14-307(a) 21.

- Sec. 14-301(e)
 - New clause
 - 2. A facility for non-profit organizations whose facility may include offices, classrooms, equipment, equipment rentals, and storage and bathrooms for the public.

- Sec. 14-301.1 (a)2.a.vii
 - New text
 - Commercial marinas serving commercial and recreation boats located west of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26, provided that such facilities are located in areas that do not conflict with the navigation and handling of deepwater dependent vessels accessing existing or potential deepwater berthing;

- Sec. 14-303(c)4
 - Strike existing text and add new text
 - 4. Setback from pier line: Notwithstanding the above requirements, a minimum setback ~~of twenty-five (25) feet~~ from the edge of any pier, wharf or working edge of the hardened shoreline shall be required for any structure as follows:-
 - Twenty-five (25) feet for structures located west of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26.
 - Five (5) feet for structures located east of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26.

The setback area may be utilized for water-dependent uses and public uses and activities, subject to the provisions of sections 14-300.1 (no adverse impact) and 14-301.1 (conditional use provisions), and shall not be utilized for restaurant, drinking, or other non water-dependent uses or for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).

Waterfront Special Use Zone (Sec. 14-320.5 to 14-320.10)

- Strike entire section and add word "RESERVED"

Additional references to WSU to be deleted:

- Sec. 14-369.5(b) – Strike references to “WSU” and “Waterfront Special Use”

Sec. 14-48. Establishment of zones.

In order to carry out the provisions of this article, the city is hereby divided into the following classes of zones:

. . .

| ~~(dd) Waterfront special use zone~~

. . .

DIVISION 15.1. B-6 EASTERN WATERFRONT MIXED ZONE

. . .

Sec. 14-269. Permitted uses.

The following uses are permitted in the B-6 zone:

(a) *Commercial:*

1. Professional, business and general offices;
2. Restaurants and other eating and drinking establishments;
3. Hotels and inns limited to no more than 150 rooms;
4. Craft and specialty shops, including the on-premises production of handcrafted goods;
5. Retail and retail service establishments, excluding those with gas pumps;
6. Theatres;
7. Banking services, excluding vehicular drive-up services;

Editor's Note: Drive-up banking facilities located in the interior of parking structures are allowed as a conditional use subject to the criteria outlined below in the conditional use provisions of this section.

8. Cabinet and carpentry shops;
9. Personal services;
10. Business services;
11. Offices of business trades people;
12. Miscellaneous repair services, excluding all types of automotive repair except for automobile repair and service establishments;
13. Telecommunication and broadcast and receiving facilities, except as prohibited in section 14-

271 (prohibited uses);

In addition, building mounted telecommunications antennas, discs, transmitting and receiving equipment and the like shall adhere to the following criteria. Such roof-mounted equipment shall be:

- a. No taller than 15 feet above the highest structural steel of the building roof; and
- b. Set back no less than 15 feet from the building perimeter; and
- c. Integrated into the architecture of the building in placement, form, color, and material so as to screen or camouflage such equipment from public view.

14. Brew pubs and microbreweries without associated bottling facilities; and brewpubs and microbreweries with associated bottling facilities limited to 5,000 bottles per year output.

15. Electronic data storage;

16. Marine products wholesaling and retailing;

17. Harbor and marine supplies and services, chandlery and ship supply;

18. Underground marine fuel storage provided that fuel storage structures shall be used solely for the purpose of fueling vessels;

~~19~~8. Bakeries, coffee roasters, and commercial kitchens with building footprints limited to fifteen thousand (15,000) square feet of contiguous building space.

~~19~~20. Printing establishments.

(b) *Residential:*

1. Attached dwellings including row houses, two-family and multifamily dwellings;

2. Handicapped family units;
3. Combined living/working spaces, including but not limited to artist residences with studio space;
4. Mixed use residential and commercial structures.

(c) *Public:*

1. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures;
2. Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces;
3. Pedestrian and multi-use trails;

(d) *Other:*

1. Studios for artists, photographers and craftspeople including but not limited to, painters, sculptors, dancers, graphic artists and musicians;
2. Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses, except that parking lots shall not be considered a permitted accessory use and such parking is subject to the conditional use section of the B-6 zone.
3. Health clubs, martial arts and ~~mediation~~ meditation facilities.
4. Intermodal transportation facilities.
5. Nursery schools, kindergartens, and daycare facilities or home babysitting services.
6. Private clubs or nonprofit social and recreational facilities, as defined in 14-47.
7. Educational facilities.

8. Temporary events, provided that all such events on a lot do not exceed a combined total of (60) days per year and that the total floor area utilized for such uses does not exceed seventy thousand (70,000) square feet at any one (1) time.

9. Museums and art galleries.

- (e) Wind energy systems, as defined and allowed in Article X, Alternative Energy.

Sec. 14-270. Conditional uses.

(a) The following uses shall be permitted as conditional uses in the B-6 zone as provided in 14-474 (conditional uses), provided that, notwithstanding section 14-474(a) or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority:

(1) *Commercial:*

- a. Meeting and exhibition facilities limited to a total of 20,000 gross square feet of interior floor area.
- b. Wholesaling, providing the wholesale operation is associated with an onsite retail establishment and that the wholesaling component of the facility occupies a building footprint of less than 15,000 square feet.
- c. Drive-up banking facilities located in the interior of parking structures, subject to the following criteria:
 - i. All drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street line;
 - ii. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicular or pedestrian

circulation on adjoining streets;

iii. Drive-up vehicle circulation shall not create an impediment for retail or mixed-use development for the first floor of the subject garages along any adjacent public streets.

d. Research and development and related production facilities, including but not limited to biotechnology, subject to the following conditions:

i. Associated manufacturing and warehousing uses combined are not to exceed 15,000 square feet.

ii. Biotechnology facilities must demonstrate approvals by all applicable regulatory authorities prior to commencement of operations.

(2) *Parking*

. . .

Sec. 14-273. Performance standards.

All new development in the B-6 Eastern Waterfront Business Zone shall comply with the following standards:

. . .

(b) *Noise:*

1. *Definitions:*

a. Tonal sounds are defined as sound waves usually perceived as a hum or whine because their instantaneous sound pressure varies essentially as a simple sinusoidal function of time.

b. Impulse sounds are defined as sound events characterized by brief excursions of sound pressure, each with duration of less than one (1) second.

2. *Measurement:* Sound levels shall be measured with a sound level meter with a frequency weighting network manufactured according to standards prescribed by the American National Standards Institute (ANSI) or its successor body. Measurements shall be made at all major lot lines of the site, at a height of at least four (4) feet above the ground surface. In measuring sound levels under this section, sounds with a continuous duration of less than sixty (60) seconds shall be measured by the maximum reading on a sound level meter set to the A weighted scale and the fast meter response (L maxfast). Sounds with a continuous duration of sixty (60) seconds or more shall be measured on the basis of the energy average sound level over a period of sixty (60) seconds (LEQ₁).
3. *Maximum permissible sound levels:* The maximum permissible sound level of any continuous, regular or frequent source of sound produced by an activity shall be as follows:
 - a. Sixty (60) dBA between the hours of 7:00 a.m. and 10:00 p.m.
 - b. Fifty (50) dBA between the hours of 10:00 p.m. and 7:00 a.m., as measured at or within the boundaries of any residential zone.

In addition to the sound level standards established above, all uses located within this zone shall employ best practicable sound abatement techniques to prevent tonal sounds and impulse sounds or, if such tonal and impulse sounds cannot be prevented, to minimize the impact of such sounds in residential zones.

4. *Exemptions:*
 - a. Noises created by construction and maintenance activities between 7:00 a.m. and 10:00 p.m. are exempt from the maximum permissible sound levels set forth in subsection (a)3 of this section. Construction activities on a site abutting

any residential use between the hours of 10:00 p.m. of one (1) day and 7:00 a.m. of the following day shall not exceed fifty (50) dBA.

b. The following uses and activities shall also be exempt from the requirements of subsection (a)3 of this section:

i. The noises of safety signals, warning devices, emergency pressure relief valves, and any other emergency devices.

ii. Traffic noise on public roads or noise created by airplanes and railroads.

iii. Noise created by refuse and solid waste collection, provided that the activity is conducted between 6:00 a.m. and 7:00 p.m.

iv. Emergency construction or repair work by public utilities, at any hour.

v. Noise created by any ~~recreational activities~~ temporary activities which are permitted by law and for which a license or permit has been granted by the city, including but not limited to parades, sporting events, ~~and~~ fireworks displays, festivals, events and concerts.

DIVISION 17.5. EASTERN WATERFRONT PORT ZONE*

. . .

Sec.14-301. Permitted uses.

Subject to a determination that the proposed use meets the standards of section 14-300.1. (no adverse impact on marine uses), the following uses are permitted in the Eastern Waterfront Port Zone:

(a) *Marine passenger:*

1. Intermodal marine passenger facilities;
2. Cruise ship home port and port of call berthing and support;
3. International and domestic ferries.

(b) *Marine commercial:*

1. Transient and long-term commercial berthing;
2. Marine-related warehousing;
3. Marine related construction, manufacturing, fabrication, salvage and repair;
4. Storage and repair of fishing equipment;
5. Ship and other marine vessel construction, building, servicing, and repair;
6. Boat and marine equipment storage;
7. ~~Marine fuel storage and dispensing provided that on-site fuel storage structures shall be used solely for the purpose of fueling vessels and shall be limited, cumulatively, to 20,000 gallons of storage capacity within the zone; Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels;~~
8. Public, non-profit, or commercial marine transportation and excursion services, including captained charter services, sport fishing and water taxis;

9. Ship and off-shore support services, including but not limited to tug boats, pilot boats, and chandleries;
10. Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices~~;-~~;
11. Marinas located east of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26;
12. Marine office, including but not limited to offices of owners of marinas, wharves or their agents, and naval architects, and seafood brokers.

(c) *Commercial:*

1. Professional, business, government, and general office located in upper floors of structures existing as of September 18, 2006.

***Editor's Note**—On-site parking for non-marine commercial uses are permitted as conditional uses subject to the provisions of section 14-301.1. (conditional uses, parking) below.

2. Temporary events, except festivals as otherwise governed under section 14-301I3 below.

Buildings, piers and lands within the EWPZ may be used for temporary public and private events including but not limited to exhibitions, conferences, meetings, and trade shows under the following conditions:

- a. Temporary events occupying more than 10,000 square feet of building or outdoor space shall not exceed a combined total of sixty (60) days between May 1st to October 31st;
- b. No temporary event may continue for more than 14 days of continuous operation;

c. Any temporary event that anticipates more than 5,000 people in attendance on any single day must provide and be subject to a parking management plan. The parking management plan must be submitted for the review and approval of the public works authority at least 60 days prior to the first day of the event.

2. Festivals subject to City license.

4. Street vendors licensed pursuant to Chapter 19 as a result of a competitive bid process conducted pursuant to Chapter 2 of the City Code.

(d) *Public:*

1. Fire, police and emergency services;

2. Governmental agency emergency operations/crisis centers; 3. Research, military and visiting attraction vessel berthing;

4. Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces, including without limitation pedestrian and/or bicycle trails.

(e) *Other:*

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

2. A facility for non-profit organizations whose facility may include offices, classrooms, equipment, equipment rentals, storage, and bathrooms for the public.

Sec. 14-301.1. Conditional uses.

(a) The following uses shall be permitted as conditional uses in the Eastern Waterfront Port Zone, provided that, notwithstanding section 14-471(c), section 14-474(a), or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority,

and provided further that in addition to the provision of section 14-474(c)(2) such uses will not impede or preclude existing or potential water-dependent development within the zone, will allow for adequate right-of-way access to the water, are compatible with marine uses, and meet all additional standards set forth below:

1. Conditional use standard:

- a. *Marine compatibility:* The proposed use shall be compatible with existing and potential marine uses in the vicinity, as required by section 14-304(n) and (o) (compatibility of non-marine uses with marine uses and functional utility of piers and access to the water's edge); and
- b. *Parking and traffic circulation:*
 - i. *Parking and traffic circulation plan:* All applications for conditional use in the EWPZ shall submit a parking and circulation plan for review and approval by the planning board. The parking and circulation plan shall show the location of all existing and proposed structures, travel ways and parking under the common ownership and/or control of the subject pier or property. The plan shall demonstrate that the parking and circulation of the conditional use does not interfere with the functional marine utility of the property and otherwise meets the standards and conditions of the EWPZ.

2. Conditional uses:

- a. *Marine:*
 - i. Marine products, wholesaling and retailing;
 - ii. Ice-making services;
 - iii. Marine freight facilities providing service for, and/or intermodal transfer of, container and breakbulk freight;
 - iv. Marine educational facilities;

- v. Seafood retailing, wholesaling, packaging and shipping;
- vi. Seafood processing for human consumption, subject to the performance standards of the IL zone set forth in section 14-236 in addition to the performance standards of section 14-304;
- vii. Commercial marinas serving commercial and recreation boats located west of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26, provided that such facilities are located in areas that do not conflict with the navigation and handling of deepwater dependent vessels accessing existing or potential deepwater berthing;
- viii. Fish byproducts processing, provided that:
 - a. Any fish byproducts processing facility has a valid rendering facility license under chapter 12 of the Portland city code; and
 - b. Any fish byproducts facility shall employ current and appropriate odor control technology to eliminate or minimize detectable odors from such a process, and in no case shall odors exceed the odor limitation performance standards of the IM zone (section 14-252); and
 - c. The processing other material wastes or byproducts shall not be deemed a lawful accessory use Permitted herein.

b. *Commercial:*

- a. Structured parking available to the general

public;

- b. Professional, business, government and general offices uses in upper floors of structures constructed after September 18, 2006;
- c. Passenger support services supporting a marine passenger use listed under 14-301(a) (marine passenger). The total ground floor area occupied by any combination of the following uses (regardless of ownership) shall not exceed 35% of the gross floor area of the principle associated marine passenger use and no more than 35,000 square feet cumulative within the EWPZ:

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

- c. *Industrial:* The following industrial uses are permitted provided that such uses shall conform to the IM zone performance standards set forth in section 14-252 in addition to the performance standards of 14-304. Where redundant or contradictory performance standards exist, the more restrictive standard applies.

- i. Non-marine related warehousing in structures existing as of September 18, 2006;
- ii. Facilities for combined marine and general construction;
- iii. Low impact industrial uses as permitted in the IL zone in structures existing as of September 18, 2006, excluding all auto repair service facilities.

- d. *Public:*

- i. *Utility substations:* Public utility substations, including but not limited to electrical transformers, sewage and stormwater pumps and telecommunication switching stations, are permitted under the following conditions:
 - a. The facility is located more than 100 feet from the water's edge;
 - b. The facility occupies no more than 50 square feet of structure above ground;
 - c. The facility provides no dedicated on-site parking and all subsurface elements of the facility are installed and operated such that land occupied by the facility is otherwise useable and made available for marine related uses, including but not limited to parking, travel ways, and/or storage; and
 - d. The facility shall be sized, sited and screened to minimize visual impact and prominence from public ways.
- ii. Maritime museums, limited to 5,000 square feet of ground floor footprint.

***Editor's Note**—On-site parking for non-marine commercial and industrial uses are permitted as conditional uses subject to the provisions of section 14-301.1. (conditional uses, parking) below.

- e. *Parking for non-marine uses:* Notwithstanding sections 14-304(h), 14-331, 14-334 (regarding off-street parking requirements) and article V (site plan) of this chapter, no parking shall be allowed in this zone for non-marine uses unless the applicant can demonstrate that the number of parking spaces on-site exceeds the number of parking spaces needed to accommodate the demand for marine and water-dependent uses that are permitted by section 14-301 (permitted marine uses) and 14-301.1. (conditional marine uses) which are or may be located on the subject

property (see editor's note below). The remainder of parking Required, if any, for such non-marine uses shall be provided off-site.

***Editor's Note**—Vacant ground floor space should be considered to have a parking demand similar to other space housing an existing water-dependent use elsewhere on the subject property or on a comparable property.

. . .

Sec. 14-303. Dimensional requirements.

In addition to the provisions of article III, division 25 of this code, lots in the EWPZ shall be subject to the following requirements:

- (a) *Minimum lot size*: None.
- (b) *Minimum frontage*: None.
- (c) *Minimum yard dimensions*:

- 1. Front setback: None.
- 2. Side setback: None.
- 3. Rear setback: None.

4. Setback from pier line: Notwithstanding the above requirements, a minimum setback ~~of twenty-five (25) feet~~ from the edge of any pier, wharf or working edge of the hardened shoreline shall be required for any structure as follows:-

- Twenty-five (25) feet for structures located west of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26.
- Five (5) feet for structures located east of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26.

The setback area may be utilized for water-dependent

uses and public uses and activities, subject to the provisions of sections 14-300.1 (no adverse impact) and 14-301.1 (conditional use provisions), and shall not be utilized for restaurant, drinking, or other non water-dependent uses or for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).

DIVISION 18.7. ~~WATERFRONT SPECIAL USE ZONE*~~ RESERVED

~~*Editor's Note~~ See the editor's note to division 18 of this article.

~~Sec. 14-320.5. Purpose.~~

~~The waterfront special use zone recognizes that the uses appropriate in this zone are constrained by its proximity to heavy industrial use on the western end, a high-density residential neighborhood on the north, and park and R-OS land to the east. Uses to be located in this zone must be compatible with these existing neighborhood uses.~~

~~At a minimum, parcels in this zone generally enjoy visual access to the port. It is further recognized that this area has historically been used for marine uses and that some of the parcels have the capacity to accommodate active water-dependent uses. While physical access to the water may not currently be legally available to all parcels in this zone, it is anticipated that developments in this zone may be able to negotiate easements for access. At a minimum, development in this zone should not be incompatible with marine and water-dependent uses. Uses which contribute to the maintenance and improvement of the infrastructure along the water's edge as a condition of use are strongly encouraged.~~

~~(Ord. No. 168-93, § 2, 1-4-93)~~

~~Sec. 14-320.5.5. No adverse impact on marine uses.~~

~~No use shall be permitted, approved or established in this zone if it will have an impermissible adverse impact on future marine development opportunities. A proposed development will have an impermissible adverse impact if it will result in any one (1) or more of the following:~~

- ~~(a) The proposed nonwater-dependent use will displace an existing water-dependent use;~~
- ~~(b) The proposed use will reduce existing commercial vessel berthing space;~~
- ~~(c) The proposed nonwater-dependent use, structure or activities, including but not limited to access, circulation, parking, dumpsters, exterior storage or~~

~~loading facilities, and other structures, will unreasonably interfere with the activities and operation of existing water-dependent uses or significantly impede access to vessel berthing or other access to the water by water-dependent uses; or~~

- ~~(d) The siting of a proposed nonwater-dependent use will substantially reduce or inhibit existing public access to marine or tidal waters.~~

~~(Ord. No. 168-93, § 2, 1-4-93)~~

~~Sec. 14-320.6. Permitted uses.~~

~~Subject to a determination that the proposed use meets the standards of section 14-320.5.5 (no adverse impact on marine uses):~~

- ~~(a) The following uses are permitted in the waterfront special use zone on both the north and south sides of the railroad line indicated on the City of Portland Zoning Map:~~

~~1. Marine:~~

- ~~a. Marine products, wholesaling, distribution and retailing;~~
- ~~b. Marine repair services and machine shops;~~
- ~~c. Tugboat, fireboat, pilot boat and similar services;~~
- ~~d. Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels;~~
- ~~e. Marine industrial welding and fabricating;~~
- ~~f. Shipbuilding and facilities for construction, maintenance and repair of vessels;~~
- ~~g. Commercial marine transport and excursion services, including ferries, captained charter services, sport fishing and water~~

~~taxis;~~

~~h. Cargo handling facilities, including
docking, loading and related storage;~~

~~i. Boat repair yards;~~

~~j. Boat storage facilities, including rack
storage facilities;~~

~~k. Seafood processing;~~

~~l. Seafood packing and packaging;~~

~~m. Seafood loading and seafood distribution;~~

~~n. Fabrication, storage and repair of fishing
equipment;~~

~~o. Ice-making services;~~

~~p. Facilities for marine construction and
salvage;~~

~~q. Facilities for marine pollution control, oil
spill cleanup, and servicing of marine
sanitation devices;~~

~~r. Fabrication of marine-related goods;~~

~~s. Fishing and commercial vessel berthing;~~

~~t. Noncommercial berthing;~~

~~u. Marine office, including but not limited to
offices of owners of wharves or their
agents, and naval architects, and seafood
brokers;~~

~~v. Public landings;~~

~~w. Marinas;~~

~~x. Intermodal transportation facilities.~~

~~2. Industrial uses:~~

~~Industrial uses which meet the performance standards of the I-2 zone.~~

~~3. Public:~~

~~Pedestrian and bicycle trails.~~

~~The following uses are permitted in the waterfront special use zone only on the north side of the railroad tracks indicated on the City of Portland Zoning Map only in (a) buildings in existence on January 4, 1993, or (b) one (1) new structure per parcel (as defined in 30-A M.R.S.A. Section 4401(6)), which parcel was in existence on January 4, 1993, of up to five thousand (5,000) square feet in total floor area. No construction of a new structure of more than five thousand (5,000) square feet in total floor area or in excess of one (1) per parcel for uses other than those specified in subsections (1) through (3) above is allowed without approval of a conditional use pursuant to section 14-320.6.5 or conditional or contract rezoning pursuant to division 1.5 of this article:~~

~~4. Commercial uses:~~

~~a. Professional, business, and general offices;~~

~~b. Business service establishments;~~

~~c. Restaurants, provided that food service and consumption shall be the primary function of the restaurant;~~

~~d. Cabinet and carpentry shops;~~

~~e. Cold storage facilities;~~

~~f. Museums and art galleries.~~

~~5. Other:~~

~~a. Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses or temporary exhibition uses, provided that all such~~

~~exhibition uses on a lot do not exceed a combined total of sixty (60) days per year and that the total floor area utilized for such uses does not exceed seventy thousand (70,000) square feet at any one (1) time;~~

~~b. Parking: Parking shall be permitted as long as it does not impede access to water by existing or potential marine uses.~~

~~c. Institutional uses including marine research, education and laboratory facilities. Such uses shall not include any type of overnight accommodations.~~

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

~~6. Public:~~

~~a. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures, provided that such structures are located more than one hundred (100) feet from the water;~~

~~b. Municipal uses;~~

~~c. Landscaped pedestrian parks, plazas and similar outdoor pedestrian spaces, including without limitation pedestrian and bicycle trails.~~

~~7. Industrial uses:~~

~~Warehousing and wholesaling.~~

~~{Ord. No. 168-93, § 2, 1-4-93; Ord No. 187-99, 1-4-99; Ord. No. 33-11/12, 1-18-12}~~

~~**Sec. 14-320.6.5. Conditional uses.**~~

~~(a) The following uses shall be permitted only upon the issuance of a conditional use permit, subject to the provisions~~

~~of sections 14-320.5.5, 14-474 and any special provisions, standards or requirements specified below, and further provided that, notwithstanding section 14-474(a) or any other provision of this Code, the Planning Board shall be substituted for the board of appeals as the reviewing authority:~~

- ~~1. Any use permitted in section 14-320.6(d)2, 4, 5 or 6, (e), (f) or (g), in one (1) new structure of more than five thousand (5,000) square feet, but not more than ten thousand (10,000) square feet in total floor area per parcel.~~

~~(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. 168-93, § 2, 1-4-93; Ord. No. 29-09/10, 8-3-09, emergency passage; Ord. No. 33-11/12, 1-18-12)~~

~~Sec. 14-320.7. Contract or conditional zoning.~~

~~An applicant may only construct a new structure of either more than five thousand (5,000) square feet in total floor area~~

~~for occupancy by uses enumerated in section 14-320.6(d)1, or ten thousand (10,000) square feet in total floor area for occupancy by uses enumerated in section 14-320.6(d)2, 4, 5 or 6, (e), (f) or (g) or in excess of one (1) per parcel for occupancy by those same uses if a rezoning is approved pursuant to division 1.5 of this article. A conditional or contract rezoning shall only be approved if, after public hearing and opportunity for public comment, the reviewing body finds that the applicant has carried the burden of proof to show that the proposed development meets the standards of section 14-320.55 and all of the following standards:~~

- ~~(a) The proposed development is consistent with the comprehensive plan.~~
- ~~(b) The project's public benefits outweigh its potential negative impacts, taking into consideration as public benefits protection of existing water-dependent uses, preservation of future water-dependent use development opportunities, contribution to the development of and/or on-going maintenance of the marine infrastructure for commercial vessels (either on- or off-site), and visual and physical access to the waterfront for the general public.~~
- ~~(c) The proposed development responds to any unique physical conditions and development opportunities along the shoreline.~~
- ~~(d) The proposed development is sensitive to design opportunities and local environmental conditions, makes use of creative design solutions, does not significantly restrict air, light or water views of other structures located in the vicinity and does not create significant adverse local climatic effects such as increased winds, shadowing, or less efficient traffic, parking or circulation patterns.~~
- ~~(e) The proposed development is consistent with the Portland Waterfront Public Access Design Guidelines, a copy of which is on file in the department of planning and urban development.~~
- ~~(f) The proposed rezoning contains adequate provisions and/or conditions to ensure that the water-dependent~~

~~use is not abandoned after the project is developed.
(Ord. No. 168-93, § 2, 1-4-93)~~

~~**Sec. 14-320.8. Prohibited uses.**~~

~~Uses which are not enumerated in section 14-320.6 as permitted or in section 14-320.6.5 as conditional uses are prohibited.
(Ord. No. 168-93, § 2, 1-4-93)~~

~~**Sec. 14-320.9. Dimensional requirements.**~~

~~In addition to the provisions of article III, division 25 of this Code, lots in the waterfront special use zone shall be subject to the following requirements:~~

~~(a) Minimum lot size: None.~~

~~(b) Minimum frontage: None.~~

~~(c) Minimum yard dimensions:~~

~~Front setback: None.~~

~~Side setback: None required unless adjacent to a residential zone; if adjacent to a residential zone, twenty-five (25) feet.~~

~~Rear setback: None required unless adjacent to a residential zone; if adjacent to a residential zone, twenty-five (25) feet.~~

~~Setback from pier line: Notwithstanding the above requirements, a minimum setback of five (5) feet from the edge of any pier, wharf or bulkhead shall be required for any structure. The setback area may be utilized for activities related to the principal uses carried on in the structure, subject to the provisions of sections 14-313 and 14-314, but shall not be utilized for off-street parking. The edge of any pier, wharf or bulkhead shall include any attached apron(s).~~

~~(d) Maximum lot coverage: One hundred (100) percent.~~

~~(e) 1. Maximum building height: Forty-five (45) feet, except in the area formed by the projection~~

~~of the centerline of Atlantic Street between its intersections with Wilson Street and the Eastern Promenade easterly to the easternmost boundary of the waterfront special use zone, where facilities for bulk storage of materials delivered to a site by waterborne transportation or awaiting transportation from the site by means of waterborne transportation may be erected to heights that shall not exceed sixty five (65) feet above mean sea level. In those areas where the maximum height may not exceed forty five (45) feet above grade, no structure may exceed sixty-five (65) feet in height above mean sea level. For purposes of this section, a projection of the centerline of a street shall consist of an extension of the centerline of the street to the water side boundary of the waterfront special use zone.~~

~~2. Additional bulk, height and location standards for structures exceeding forty-five (45) feet in height above grade within the waterfront special use zone:~~

~~a. The maximum horizontal diagonal measurement of portions of a structure, cluster of structures or equipment exceeding forty-five (45) feet in height above grade shall not exceed one hundred (100) feet, except that for each foot that the structure, cluster of structures, or equipment is lowered from the maximum permitted height, the maximum horizontal measurement may increase by one (1) foot.~~

~~b. In addition to any other setback requirements, portions of structures or clusters of structures exceeding forty-five (45) feet in height above grade shall be set back a minimum of one (1) foot from the exterior property line of the owner of the underlying fee interest for each foot that the structure or cluster of structures exceeds forty-five (45) feet in height above grade.~~

- ~~e. No structure or cluster of structures exceeding forty-five (45) feet in height above grade may be located closer than one hundred fifty (150) feet from any other such structure or cluster of structures.~~
- ~~d. The cumulative width of the portion of structures exceeding forty-five (45) feet in height above grade shall not exceed more than thirty (30) percent of the average width of the lot as measured by a line drawn parallel to the water.~~
- ~~e. No structure shall exceed forty-five (45) feet in height above grade within the view corridors established by the projection of the street right-of-way lines for Atlantic Street, Vesper Street or for O'Brion Street.~~
- ~~f. For purposes of this section only, moveable elements such as cranes and gantries, and connection devices such as conveyors or bridges shall not be subject to the space and bulk requirements, but shall be subject to a determination by the Federal Aviation Administration that the location of such equipment will not create a hazard to navigation. Other rooftop appurtenances shall not exceed the maximum height limits set forth in this section.~~
- ~~g. The applicant must provide a determination from the Federal Aviation Administration that structures and equipment will not exceed the applicable height guidelines for the runway approach and will not create a hazard to navigable airspace. Such a determination shall be accepted as conclusive evidence that the proposed development will not create a hazard.~~
- ~~h. Accessory uses in structures which exceed forty-five (45) feet in height above grade shall not be located higher than forty-five~~

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~~(45) feet within the structure.~~
~~(Ord. No. 168-93, § 2, 1-4-93)~~

~~Sec. 14-320.10. Performance standards.~~

~~All uses in the waterfront special use zone shall comply with the following standards:~~

~~(a) Outdoor storage of materials: Outdoor storage of commodities and materials accessory to normal conduct of business, except pilings and/or cranes, shall be permitted to a maximum height of forty-five (45) feet, and such materials shall be entirely contained, including runoff contaminants and residual material, within a designated area within the lot boundaries.~~

~~(b) Noise:~~

~~1. The level of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American National Standards Institute, Inc.), inherently and recurrently generated within the waterfront special use zone between the hours of 7:00 p.m. and 7:00 a.m. from industrial facilities or operations commenced on or after July 1, 1988, shall not exceed fifty-five (55) decibels on the A scale at or within the boundaries of any residential zone, except for sound from construction activities, sound from traffic on public streets, sound from temporary activities such as festivals, and sound created as a result of, or relating to, an emergency, including sound from emergency warning signal devices.~~

~~2. In measuring sound levels under this section, sounds with a continuous duration of less than sixty (60) seconds shall be measured by the maximum reading on a sound level meter set to the A weighted scale and the fast meter response (L maxfast). Sounds with a continuous duration of sixty (60) seconds or more shall be measured on the basis of the energy average sound level over a period of sixty (60) seconds (LEQ₁).~~

~~3. In addition to the sound level standards otherwise established, facilities or operations established or built in the waterfront special~~

~~use zone on or after July 1, 1988, shall employ best practicable sound abatement techniques to prevent tonal sounds and impulse sounds or, if such tonal and impulse sounds cannot be prevented, to minimize the impact of such sounds in residential zones. Tonal sound is defined as a sound wave usually perceived as a hum or which because its instantaneous sound pressure varies essentially as a simple sinusoidal function of time. Impulse sounds are defined as sound events characterized by brief excursions of sound pressure, each with a duration of less than one (1) second.~~

- ~~(c) *Vibration:* Vibration inherently and recurrently generated shall be imperceptible without instruments at lot boundaries. This shall not apply to vibration resulting from activities aboard a vessel or from railroad vehicle activities, or from activities on a pile supported pier.~~
- ~~(d) *Federal and state environmental regulations:* All uses shall comply with federal and state environmental statutes and regulations regarding emissions into the air, except where provisions of this Code are more stringent.~~
- ~~(e) *Discharges into harbor areas:* No discharge into harbor water areas shall be permitted, unless permitted by the Maine Department of Environmental Protection under a waste discharge license and as approved by the department of parks and public works in accordance with chapter 24, article III of this Code. All private sewage disposal or private wastewater treatment facilities shall comply with the provisions of chapter 24, article II of this Code and federal and state environmental statutes and regulations regarding wastewater discharges.~~
- ~~(f) *Storage of vehicles:* Storage of any unregistered automotive vehicle on the premises for more than sixty (60) days shall not be permitted.~~
- ~~(g) *Landfill of docking and berthing areas:* Landfill of docking and berthing areas shall be governed by 38 M.R.S.A. Sections 471 through 478, and permitted only if the landfill does not reduce the amount of linear~~

~~berthing areas or space, or berthing capacity. If approved, construction shall be undertaken using methods approved by the department of parks and public works and shall be accomplished in accordance with the provisions of division 25 of this article and in a manner so as to ensure that a stable and impermeable wall of acceptable materials will completely contain the fill material and will not permit any fill material to leach into docking areas or navigable waters.~~

~~(h) Off-street parking: Off-street parking is required as provided in division 20 (off-street parking) of this article.~~

~~(i) Off-street loading: Off-street loading is required as provided in division 21 of this article.~~

~~(j) Shoreland and flood plain management regulations: Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.~~

~~(k) Lighting: All lighting on the site shall be shielded such that direct light sources shall not unreasonably interfere with vessels transiting the harbor nor have an unreasonable adverse impact on adjacent residential zones.~~

~~(l) Signs: Signs shall be permitted as set forth in division 22 of this article.~~

~~(m) Storage of pollutants and oily wastes: On premises storage of pollutants and oily wastes shall not be permitted for more than forty-five (45) days.~~

~~(n) Compatibility of nonmarine uses with marine uses: Nonmarine uses, structures and activities, including but not limited to access, circulation, parking, dumpsters, exterior storage and loading facilities or other structures shall neither unreasonably interfere with the existence or operation of marine uses nor significantly impede access to vessel berthing or other access to the water by existing or potential marine uses.~~

DIVISION 22. SIGNS

. . .

Sec. 14-369.5. Tables.

(a) Table 1. Permitted sign types by zone.

Note: The following legend applies for Table 1 below:

- A. Allowed, no permit required;
- B. Allowed, permit required;
- C. Allowed, subject to licensing and permit required;
- D. Prohibited;
- E. Not Applicable

Parenthetical letters, i.e. (a), refer to the notes provided at the end of Table 1.

. . .

	<i>I-M, I-Ma, I-Mb Industrial</i>	<i>I-H, I-Hb Industrial</i>	<i>Eastern Waterfront Port Waterfront Central Waterfront Special Use</i>	<i>Waterfront Port Development</i>
Freestanding	B	B	B	B
In general(b)				
ResidentialI	A	A	A	A
Residential(d)	A	A	A	A
Temporary/ Portable (b)	D/D	B/D	D	D
Building	B	B	B	B
Commercial				
Banner				
Building	A	A	A	A
Marker(f)				
Awning	B	B	B	B
Identification(e)	A	A	A	A
Incidental(d)	A	A	A	A
Marquee(g)	B	B	B	B
Projecting	B	B	B	B
Residential(b)	A	A	A	A
Roof	D	D	D	D
Roof Integral	D	D	D	D
Suspended(g)	B	B	B	B
Temporary(h)	B	B	B	B
Wall	B	B	B	B
Window(I)	A	A	A	A
Miscellaneous	A	A	A	A
Community, Cultural Banner				
Directory(j)	A	A	A	A

Flag(k)	A	A	A	A
Pennant	D	D	D	D
Portable-in				
City right-of-way				
(A-frame)	D	D	C	D

. . .

Contents of Table 2:

2.1 Sign Regulations for R-1-R-7, IR-1-IR-3 Residential Zones

2.2 Sign Regulations for Institutional Uses in Residential Zones

2.3 Sign Regulations for RP Residence-Professional Zone

2.4 Sign Regulations for ROS/RPZ Open Space Zones & Signs in all Municipal Parks

2.5 Sign Regulations for B-1 Neighborhood Business Zone – Single Tenant Lots

2.6 Sign Regulations for B-2 Regional Business Zone – Single Tenant Lots

2.7 Sign Regulations for AB Airport Business Zone – Single Tenant Lots

2.8 Sign Regulations for B-3 Downtown Business, B-5 Urban Commercial, B-6 and B-7 Mixed Use Urban, WC Waterfront Central, ~~WSU Waterfront Special Use~~, and EWP, Eastern Waterfront Port Zones

2.9 Sign Regulations for IB Island Business Zone – Single Tenant Lots

2.10 Sign Regulations for B-4 Commercial Corridor Zone – Single Tenant Lots

2.11 Sign Regulations for OP Office Park Zones

2.12 Sign Regulations for I-L, I-Lb, I-M, I-Ma, I-Mb, I-H, I-Hb Industrial and WPD Waterfront Port Development Zones

2.13 Sign Regulations for B-1, B-2, AB, IB, and B-4

Business Zones – Multi-Tenant Lots

2.14 Sign Regulations for Gas Stations – All Zones Where Permitted

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TABLE 2.8 SIGN REGULATIONS BY ZONE

Downtown Business (B-3), Urban Commercial (B-5), <u>and</u> Waterfront Central (WC), and Waterfront Special Use (WSU) Zones
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. . .

DIVISION 26. SHORELAND REGULATIONS

. . .

Sec. 14-449. Land use standards.

All land uses and land use activities subject to this division shall conform to the following standards and regulations, as applicable:

(a) Principal and accessory structures:

1. All principal and accessory structures shall be set back at least seventy-five (75) feet horizontal distance, from the normal high water line of water bodies, the upland edge of a wetland or associated tributary streams within a shoreland zone, except that in the following zones the setback shall be as indicated below:

a. B-3, B-5, B-5b, B-6, I-L (south and east of I-295), and I-M (south and east of I-295): Twenty-five (25) feet.

b. W-C, W-PD, ~~W-SU~~, I-B, EWP: No setback required. Pier edge setbacks apply in EWP (Sec. 14-303(c)(4), W-C (Sec. 14-310(d)(4), and W-PD (Sec. 320.2(c)), ~~and W-SU (Sec. 320.9(e))~~.

For the principle structures, setback measurements shall be taken from the top of a costal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant "Classification of Coastal Bluffs", and published in the most recent Coastal Bluff Map as further referenced on the Zoning Map.

Notwithstanding this requirement, when a lot is a lot of record as defined in section 14-433 or cannot otherwise meet the setback requirement of this section due to physical limitations of the site, the Planning Board may approve a reduction of the setback requirement for a principal structure to the least amount necessary to achieve a building dimension of twenty-eight (28)

feet, provided that the setback is not reduced to less than forty (40) feet. Structures in existence on June 15, 1992, may be expanded once during the lifetime of the structure up to twenty-five (25) feet toward a freshwater wetland, stream or tributary stream, provided that the setback is not reduced to less than forty (40) feet and the floor area or volume is not increased by more than thirty (30) percent. In no event shall the setback from a coastal wetland be reduced to less than seventy-five (75) feet, except in the B-3, B-5, B-5b, B-6, EWP, W-C, W-PD, ~~W-SU~~, I-B, I-L and I-M zones, where setbacks shall be as set forth above in this subsection.

In all cases, accessory detached structures of less than one hundred (100) square feet of floor area shall be permitted with no setback, provided that such structures shall be used only for the storage of fish, bait, and related equipment. No setback shall be required for piers, docks, retaining walls, or any other structures which require direct access to the water as an operational necessity.

. . .

- (b) *Piers, docks, wharves, bridges and other structures and uses extending over or below the normal high water line of a water body or within a wetland:*

. . .

6. Except in the W-C, EWP, W-PD, ~~W-SU~~, and I-B zones, no new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity;

. . .

- (c) *Clearing or removal of vegetation:*

1. In all shoreland areas in resource protection zones, the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that zone.
2. The clearing or removal of vegetation standards of this section shall not apply to the following zones: EWP, WCZ, WPD, ~~WSU~~, B-3, B-5, B-5b, B-6, B-7, I-L (south and east of I-295) and I-M zones (south and east of I-295).

. . .

(j) *Roads and driveways:*

1. Roads and driveways shall be setback a minimum of seventy-five (75) feet from the normal high-water or upland edge of a coastal wetland, freshwater wetland, river or tributary stream within a shoreland zone, except:
 - a. In the EWP, WC, WPD, ~~WSU~~, B-3, B-5, B-5b, B-6, I-L (south and east of I-295) and I-M (south and east of I-295) roads and driveways shall be setback as established for structures in those zones; as specified in Sec. 14-449(a)1.
 - b. Where the planning board determines that no other reasonable alternative exists. If no other reasonable alternative exists, the planning board may reduce the road and/or driveway setback requirement to no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or effective use of additional ditch relief culverts and turnouts place so as to avoid sedimentation of the water body, tributary stream or wetland.

. . .

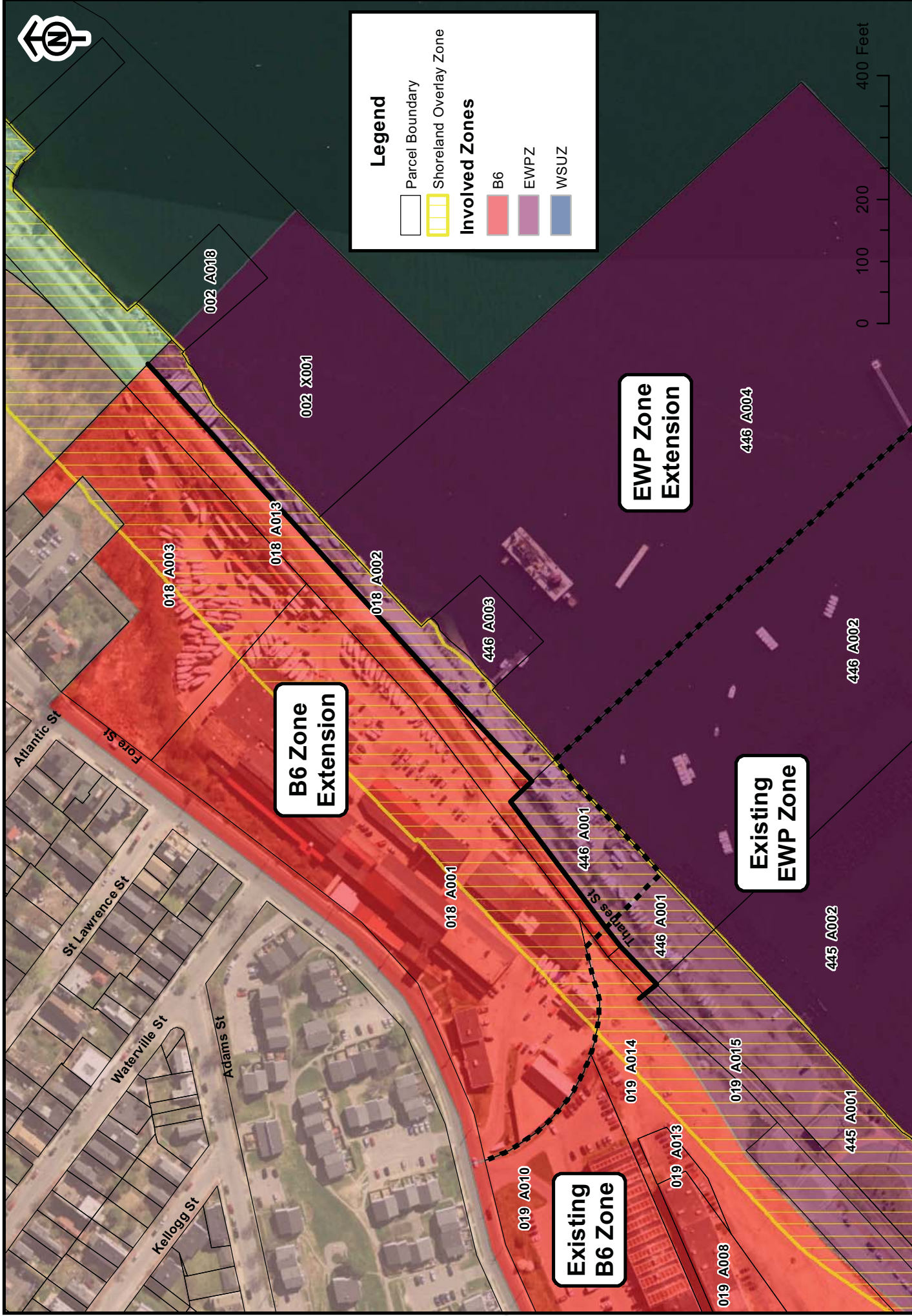
(k) *Parking areas:* Parking areas shall be set back a minimum of seventy-five (75) feet from the normal high-water or upland edge of a coastal wetland, freshwater wetland, river or tributary stream within a shoreland zone except:

1. In the EWP, WC, WPD, ~~WSU~~, B-3, B-5, B-5b, B-6, I-L and I-M zones, parking setbacks shall be as established for structures in those zones; as specified in Sec. 14-449(a)1.

2. Parking setbacks in the S-P (stream protection) zones are as established in Division 26.7.

3. Where the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream, the board may reduce the parking setback requirement to no less than fifty (50) feet in the R-OS, and I-B zones to the least amount necessary for construction, provided that the applicant proves by a preponderance of the evidence that appropriate techniques will be used to prevent sedimentation of the water body.

. . .



CPB2 LLC: Proposed Zoning Extension



Paul R. LePage
GOVERNOR

STATE OF MAINE
DEPARTMENT OF TRANSPORTATION
16 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0016

David Bernhardt
COMMISSIONER

September 25, 2014

Via Electronic Mail and US Mail

Planning and Urban Development Department
Planning Division and Planning Board
Fourth Floor, City Hall
389 Congress Street
Portland, Maine 04101

Re: Application for Zone Change
Applicant: CPB2 LLC
Property: 58 Fore Street, Portland, Maine

To Whom It May Concern:

The undersigned is the owner of the property identified as Lot 13 on Map 18-A of the City of Portland Tax Maps (the "Lot"). A portion of the Lot is currently located in the Waterfront Special Use Zone.

By this letter, the undersigned hereby consents to the proposed zone change described in the above-referenced Application for Zone Change submitted by CPB2 LLC and deemed complete by the Planning Division on August 22, 2014.

Very truly yours,

Robert D. Elder
Director of Freight and Business Services
Maine Department of Transportation

RDE/jas



PRINTED ON RECYCLED PAPER



October 9, 2014

Department of Planning and Development
City of Portland
389 Congress Street
Portland, Maine 04101

Re: 58 Fore Street
Neighborhood Meeting Certification

To Whom It May Concern:

I, David Senus, P.E., of Woodard & Curran, hereby certify that a neighborhood meeting was held on September 16, 2014, at the Community Room of the East End Community School, located at 195 North Street in Portland, Maine, at 6:00 PM.

I also certify that on September 4, 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.
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,

WOODARD & CURRAN INC.

David Senus, P.E.
Project Manager

October 9, 2014

Date

Attached to this certification are:

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



September 4, 2014

Re: Neighborhood Meeting
58 Fore Street Property - Zoning Map/Text Amendment Application

Dear Neighbor:

Please join us for a neighborhood meeting to discuss our plans for a Zoning Map Amendment/Text Amendment for the parcels located at 58 Fore Street.

Meeting Location: Community Room, East End Community School, 195 North Street, Portland, ME

Meeting Date: Tuesday, September 16, 2014

Meeting Time: 6 PM – 7 PM

The City Code requires that property owners within 500 feet of 58 Fore Street 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 contact David Senus at (207)774-2112 or by email at dsenus@woodardcurran.com

Sincerely,

WOODARD & CURRAN INC.

David Senus
Project Manager

227007

45-46 LLC
PO BOX 575
PORTLAND, ME 04112

9 DC LLC
100 SILVER ST
PORTLAND, ME 04101

ABT HEATHER S
94 ST LAWRENCE ST
PORTLAND, ME 04101

ALLEN PAUL S
45 EASTERN PROMENADE # K04
PORTLAND, ME 04101

ATELIER 3 LLC
PO BOX 75
BIDDEFORD POOL, ME 04006

ATLANTIC STREET LLC
217 COMMERCIAL ST STE 500
PORTLAND, ME 04101

AUSTIN RACHEL N & JAMES C AUSTIN
45 EASTERN PROMENADE # B3
PORTLAND, ME 04101

AUSTIN RACHEL N & JAMES C AUSTIN
JTS
45 EASTERN PROMENADE # A03
PORTLAND, ME 04101

BARBOUR NAN WISTER & LISA S
BUSSEY JTS
508 CHANDLER'S WHARF
PORTLAND, ME 04101

BARSTOW F BREWER & JEAN D
BARSTOW JTS
22 LUDLOW ST
PORTLAND, ME 04103

BASS PETER L & LINDA B LISBERGER
JTS
29 WATERVILLE ST # 2
PORTLAND, ME 04101

BERLIN A JAN VN VET & LOUISE A
BERLIN JTS
45 EASTERN PROMENADE # H10
PORTLAND, ME 04101

BERNSTEIN ROSALYNE
45 EASTERN PROMENADE
PORTLAND, ME 04101

BONETTI SALVATORE & BARBARA L
BONETTI JTS
45 EASTERN PROMENADE # K01
PORTLAND, ME 04101

BOUCHARD DEBORAH A & WILLIAM
JABINE III JTS
26 MUNJOY ST
PORTLAND, ME 04101

BOURDEAU KELLY J & JACOB A
BOURDEAU JTS
17 WATERVILLE ST
PORTLAND, ME 04101

BRACERAS CHRISTINE
35 ST LAWRENCE ST
PORTLAND, ME 04101

BRENNAN JOSEPH E KW VET &
CONSTANCE L JTS
45 EASTERN PROM # C7
PORTLAND, ME 04101

BRENNAN WILLIAM M
23 ATLANTIC ST
PORTLAND, ME 04101

BROADWATER IAN
47 ADAMS ST
PORTLAND, ME 04101

BURWELL BRIAN R
12 MAPLE AVE
FREEPORT, ME 04032

CADOT ANDREW A VN VET
45 EASTERN PROMENADE # 9E
PORTLAND, ME 04101

CAHILL JAMES A
39 CORBETT LN
WINSLOW, ME 04901

CAMPBELL MARCIA E TRUSTEE
815 EAST BROADWAY
BOSTON, MA 02127

CANNING CHARLES F JR TRUSTEES
47 MARKET ST
GARDINER, ME 04345

CARSON LYDIA & MARK CARSON JTS
45 EASTERN PROMENADE # B05
PORTLAND, ME 04101

CASALE MARY K
39 WATERVILLE ST
PORTLAND, ME 04101

CASCO BAY VENTURES
223 WOODVALE RD
FALMOUTH, ME 04105

CHAN WENDY
45 EASTERN PROMENADE # A02
PORTLAND, ME 04101

CHAPLIN DOROTHY K WID KW VET
45 EASTERN PROMENADE APT 5D
PORTLAND, ME 04101

CHENOWETH BARBARA A & WILFRID J
ROLLMAN JTS
15 GLOUCESTER ST
ARLINGTON, MA 02476

CHESTER EDWIN P & BARBARA A
VESTAL
107 CONGRESS ST
PORTLAND, ME 04101

CHRISTIAN LISA E
27 MUNJOY ST
PORTLAND, ME 04101

CONLEY GERALD F VN VET
16 ATLANTIC ST
PORTLAND, ME 04101

CONNOLLY KATHERINE
45 EASTERN PROMENADE # B11
PORTLAND, ME 04101

CONNOLLY MARY FRANCES
28 ATLANTIC ST # 1
PORTLAND, ME 04101

CONNOLLY MICHAEL C & REBECCA S
HITCHCOCK JTS
36 WATERVILLE ST # 4
PORTLAND, ME 04101

CONNOLLY MICHAEL C & REBECCA S
HITCHCOCK JTS
36 WATERVILLE ST # 4
PORTLAND, ME 04101

COPLON MICHAEL & BONNIE COPLON
JTS
7019 SILVERWOOD ST
PHILADELPHIA, PA 19128

COTE PAUL B & JUDITH L COTE JTS
45 EASTERN PROMENADE # C09
PORTLAND, ME 04101

COUTURE JUDY A
45 EASTERN PROMENADE UNIT 1-J
PORTLAND, ME 04101

CPB2 LLC
254 COMMERCIAL ST STE 122
PORTLAND, ME 04101

CPB2 LLC
PO BOX 7987
PORTLAND, ME 04112

CRONIN PAUL B & FRANK H FRYE
TRUSTEES
45 EASTERN PROMENADE # H11
PORTLAND, ME 04101

CUSHMAN CONSTANCE J
45 EASTERN PROM #1E
PORTLAND, ME 04101

DAMBRIE STEPHANIE A & ANGELA M
DAMBRIE &
8 KELLOGG ST
PORTLAND, ME 04101

DECKER JOSHUA L
16 ST LAWRENCE ST # 1
PORTLAND, ME 04101

DELORME GEORGENA A
45 EASTERN PROM # 2-F
PORTLAND, ME 04101

D'ENTREMONT RICHARD L & FRANCES
C D'ENTREMONT TRUSTEES
45 EASTERN PROMENADE #3C
PORTLAND, ME 04101

DEY FREDERICK C & MARY G GRIFFITH
JTS
6 EASTERN PROMENADE # 2
PORTLAND, ME 04101

DOMINIAK GEORGE M
56 CROSS ST
BELMONT, MA 02478

DOUGLAS MARTICA S
11 MUNJOY ST
PORTLAND, ME 04101

DRISKELL DAVID C & THELMA G JTS
4206 DECATUR ST
HYATTSVILLE, MD 20781

DUNBAR SAN JUAN SANDY
5701 COLLINS AVE # 808
MIAMI BEACH, FL 33140

ELLIMAN THOMAS T VN VET &
ELIZABETH K ELLIMAN JTS
36 ST LAWRENCE ST
PORTLAND, ME 04101

EMMERICH REID H & KATHERINE
PANILL-SIERSMA JTS
22 ATLANTIC ST
PORTLAND, ME 04101

FARRIS RICHARD A
19 MUNJOY ST
PORTLAND, ME 04101

FITCH HOUSE LLC
61 JUNE ST # 4P
NEW YORK, NY 10014

FITZGERALD DAVID J & SHELIA A
FITZGERALD
45 EASTERN PROMENADE #10A
PORTLAND, ME 04101

FLANAGAN SANDRA L
13 WATERVILLE ST
PORTLAND, ME 04101

FRENCH PAULETTE
14 SHERIDAN ST
PORTLAND, ME 04101

FRYE EILEEN N
45 EASTERN PROMENADE # F04
PORTLAND, ME 04101

GALE PETER
45 EASTERN PROMENADE # B04
PORTLAND, ME 04101

GARDNER EUGENE F
110 FLEETWOOD TER
SILVER SPRING, MD 20910

GELFAND CHRISTOPH & KATHLEEN
RILEY JTS
33 ATLANTIC ST
PORTLAND, ME 04101

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151 PLEASANT HILL RD
SCARBOROUGH, ME 04074

GINESTET FRANCES M
PO BOX 23
MIRROR LAKE, NH 03853

GLEASON WILLIAM E
19012 RIDGEVIEW RD
VILLA PARK, CA 92861

GLS PROPERTIES LLC
PO BOX 136
STANDISH, ME 04084

GOLDBERG STUART E VN VET &
MELINDA T JTS
45 EASTERN PROMENADE UNIT 4-J
PORTLAND, ME 04101

GRAFFAM MARY ANN
45 EASTERN PROM # 2J
PORTLAND, ME 04101

GREENSTEIN DANIEL
420 BAXTER BLVD
PORTLAND, ME 04103

GRISANTI SUSAN
29 ATLANTIC ST
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HALEY TIMOTHY TRUSTEE
PO BOX 100899
CAPE CORAL, FL 33910

HAMILL SHERWOOD N
2 ATLANTIC ST
PORTLAND, ME 04101

HANLEY MURIEL B & JOHN B HANLEY
136 LAKESHORE DR # 1110
NORTH PALM BEACH, FL 33408

HANSEN BURNETT M
2 JAFFRAY PARK
IRVINGTON, NY 10533

HARTHORNE J WARREN & CHRISTA H M
HARTHORNE TRUSTEES
33 HIGHLAND CIR
WAYLAND, MA 01778

HAWES SUSAN C
12 OBRION ST # 3
PORTLAND, ME 04101

HERNANDEZ GUY A & STELLA
HERNANDEZ JTS
12 ATLANTIC ST
PORTLAND, ME 04101

HITT PETER C TRUSTEE OF
MARGUERITE E HENDERSON
100 WOODBROOK LANE
BALTIMORE, MD 21212

HODGDON AUDREY J
16 ST LAWRENCE ST # 2
PORTLAND, ME 04101

HOPE 1 LLC
25 SOUTH SERVICE RD #300
JERICHO, NY 11753

HUDSON DIANE M
16 OBRION ST
PORTLAND, ME 04101

INGALLS EVERETT P & SUSAN W
INGALLS
PO BOX 7602
PORTLAND, ME 04112

JABLONSKI GREGORY M & ANTONIO
CARLI JTS
CMR 427 BOX 2385
APO, AE 09630

JACKRABBIT LIMITED LIABILITY
COMPANY
44 OAK ST
PORTLAND, ME 04101

JOFFE THEODORE
45 EASTERN PROMENADE # B07
PORTLAND, ME 04101

JOHNSON DAVID E
PO BOX 17622
PORTLAND, ME 04112

JORDAN ROBERT K TRUSTEE
1050 ISLAND AVE
LONG ISLAND, ME 04050

KATZE MEHITABEL LENA
7 ATLANTIC ST
PORTLAND, ME 04101

KATZMAN PHYLLIS D TRUSTEE
4148 BOCAIRE BLVD
BOCA RATON, FL 33487

KEILTY VICTOR A
156 INTERLAKEN RD
LAKEVILLE, CT 06039

KELSH PETER & SABINE KOENGETER
JTS
22 IRVING PLACE # 5F
NEW YORK, NY 10003

KILLIAN MARION T
108 VAUGHAN ST STE 207
PORTLAND, ME 04102

KNIGHT KRISTINA M
12 O'BRIEN ST # 4
PORTLAND, ME 04101

KOWALCZUK HENRY & CYNTHIA J
KOWALCZUK JTS
45 EASTERN PROMENADE # 11A
PORTLAND, ME 04101

KUHLTHAU GAIL
9 ADAMS ST
PORTLAND, ME 04101

KURTZ DONALD R
163 DAVENPORT DR
STAMFORD, CT 06902

LAMONT THOMAS S & BARBARA S
LAMONT JTS
47 PEABODY ST
GROTON, MA 01450

LANNON JAMES D
158 POWNAL RD
FREEPORT, ME 04032

LAWRENCE WHITTEN LLC
23 ST LAWRENCE ST
PORTLAND, ME 04101

LEGERE RONALD J & NANCY L LEGERE
TRUSTEES
10108 EAST TOPAZ DR
SCOTTSDALE, AZ 85258

LESLIE PETER M & KATHLEEN S LESLIE
PO BOX 295
WATERFORD, ME 04088

LEVANDOWSKI WILLIAM J SR WWII VET
& PATRICIA S LEVANDOWSKI JTS
45 EASTERN PROMENADE # 1F
PORTLAND, ME 04101

LINSLEY AUSTIN G & KATHERINE S
LINSLEY TRUSTEE
43180 CORNA CALA CAMINO
MURRIETA, CA 92562

LIVADA IRENE L TRUSTEE
45 EASTERN PROM # 8F
PORTLAND, ME 04101

LLOYD DAVID VN VET & NANCY M
ADAMS JTS
29 WATERVILLE ST # 1
PORTLAND, ME 04101

MACGOWAN HELEN M & KENNETH N
MACGOWAN &
5 EASTERN PROMENADE
PORTLAND, ME 04101

MACOMBER PETER B JR & MARGARET
P MACOMBER JTS
4 ST LAWRENCE ST
PORTLAND, ME 04101

MAHONEY ALICE B TRUSTEE
991 PONAS RIDGE
NEW CANAAN, CT 06840

MAJARONE WANCHAI
45 EASTERN PROMENADE # A5
PORTLAND, ME 04101

MARDIN JAMES A WWII VET
45 EASTERN PROMENADE # U5-G
PORTLAND, ME 04101

MARKS FRED & KATHLEEN MARKS JTS
231 GLEN EAGLES RD EAST
STATESVILLE, NC 28625

MARTELLUCCI JENNA M & BRENT J
VANNI JTS
19 ATLANTIC ST
PORTLAND, ME 04101

MARTORELLA LISA
45 EASTERN PROM # J7
PORTLAND, ME 04101

MAZER BRANDON
45 EASTERN PROMENADE # F03
PORTLAND, ME 04101

MCARDLE ROBERT D & RICHARD F
ROTHLISBERGER JTS
19 BAYSITE LN
FALMOUTH, ME 04105

MCGEE STEVEN & MICHELLE MCGEE
JTS
8 MARK RD
FRAMINGHAM, MA 01701

MCGHIE J ALEXANDER TRUSTEE
PO BOX 224
CUTLER, ME 04626

MCGM RETIREMENT LLC
226 DUNBAR ST
MANCHESTER, NH 03103

MCINTOSH ARLENE G TRUSTEE
PO BOX 793
BOOTHBAY HARBOR, ME 04538

MCLAUGHLIN AIRADEAN E
18 MUNJOY ST
PORTLAND, ME 04101

MENARIO ANTOINETTE
45 EASTERN PROMENADE # 6F
PORTLAND, ME 04101

MICHAELS LINDA B
45 EASTERN PROMENADE # K10
PORTLAND, ME 04101

MICHAELS LINDA B
45 EASTERN PROMENADE #J10
PORTLAND, ME 04101

MILLER MARKOS S
17 ATLANTIC ST
PORTLAND, ME 04101

MILLER ROBERT L & JEANNE A MILLER
8 KIRKWOOD CIR
SCARBOROUGH, ME 04070

MILLS JOHN P & SARAH C MILLS
TRUSTEE
45 EASTERN PROMENADE # 3K
PORTLAND, ME 04101

MODARRESSI AMIR H & NEGAR NAVA
JTS
11514 NE 107TH PL
KIRKLAND, WA 98033

MONTFORT HOUSING LIMITED
PARTNERSHIP
PO BOX 3879
PORTLAND, ME 04104

MOORES BLAINE D
45 EASTERN PROMENADE # C01
PORTLAND, ME 04101

MORGAN PHILIP H
30 BARKLEY AVE
AUBURN, ME 04210

MORTIMER CLAIRE
PO BOX 184
BROOKLIN, ME 04616

MOULTON SUMNER E
45 EASTERN PROMENADE
PORTLAND, ME 04101

MULLIN PAMELA & PETER MULLIN JTS
44 TWO LIGHTS RD
CAPE ELIZABETH, ME 04107

NAPOLITANO PETER S KW VET & MARIE
J NAPOLITANO TRUSTEE
12 ST LAWRENCE ST
PORTLAND, ME 04101

NEPTUNE PROPERTIES LLC
120 EXCHANGE ST
PORTLAND, ME 04101

NOBLE TALLISON W TRUSTEE
115 LAKEWOOD RD
SOUTH GLASTONBURY, CT 06073

OLINS ADA L
45 EASTERN PROMENADE # 7D
PORTLAND, ME 04101

OMARK SIGRUNN
45 EASTERN PROMENADE # B02
PORTLAND, ME 04101

PARENT R JOSEPH & SHIRLEY M
18 IVY ST
PORTLAND, ME 04102

PARKER DAVID H KW VET ETALS JTS
45 EASTERN PROMENADE #J05
PORTLAND, ME 04101

PEARSON THOMAS L
20 ATLANTIC ST #5
PORTLAND, ME 04101

PETIT MICHAEL R & PAMELA J DAY JTS
2304 NO JACKSON ST
ARLINGTON, VA 22201

POLLACK JUDITH S
PO BOX 718
PORTLAND, ME 04104

POOLE DANA S
45 EASTERN PROMENADE # H05
PORTLAND, ME 04101

PORTER JAMES M & KATHRYN A
PORTER TRUSTEE
304 PLEASANT VALLEY RD
MENDHAM, NJ 07945

PORTLAND HOUSE CONDO 9-B LLC
240 BROAD TURN RD
SCARBOROUGH, ME 04074

PORTLAND HOUSE CONDO 9-B LLC
45 EASTERN PROMENADE # 9B
PORTLAND, ME 04101

PRATT S MASON JR & CAROL PRATT
JTS
45 EASTERN PROM # 4-H
PORTLAND, ME 04101

PREISSER GAYLA M & DENISE E
PREISSER JTS
25 FORE ST # A02
PORTLAND, ME 04101

PRICE MARY J
45 EASTERN PROMENADE # H07
PORTLAND, ME 04101

PULSONI MARIA T
11 ADAMS ST
PORTLAND, ME 04101

RAMHARTER NICKALOS D & KIM M
RAMHARTER JTS
36 WATERVILLE ST # 3
PORTLAND, ME 04101

REYNOLDS JOHN M KW VET
45 EASTERN PROMENADE # 8-C
PORTLAND, ME 04101

RISANO PETER
45 EASTERN PROMENADE # A04
PORTLAND, ME 04101

RYAN JOHN W & JENNY P SCHEU JTS
29 WATERVILLE ST # 3
PORTLAND, ME 04101

SANKEY DAVID W
45 EASTERN PROM # 10B
PORTLAND, ME 04101

SAWYER CHARLES R & CHATTYE B
SAWYER JTS
45 EASTERN PROMENADE # 6-C
PORTLAND, ME 04101

SAWYER CHARLES R & CHATTYE
SAWYER JTS
45 EASTERN PROM # 6C
PORTLAND, ME 04101

SAWYER CHARLES R & CHATTYE
SAWYER JTS &
45 EASTERN PROMENADE # C6
PORTLAND, ME 04101

SCHIFFMAN STEPHEN J & LISA S
SCHIFFMAN JTS
9 WATERVILLE ST # 3
PORTLAND, ME 04101

SCHMERLER DAVID & ISABEL R
SCHMERLER JTS
122 SURREY LN
TENAFLY, NJ 07670

SHEEHAN M ELIZABETH
208 WEST 18TH AVE
VANCOUVER, BC V5Y 2A7

SHIPYARD BREWING COMPANY
LIMITED LIABILITY COMPANY
86 NEWBURY ST
PORTLAND, ME 04102

SHUMAN MICHAEL L
45 EASTERN PROMENADE # A1
PORTLAND, ME 04101

SILVERMAN SALLY WIGON
45 EASTERN PROMENADE #6-H
PORTLAND, ME 04101

SMITH FRAZIER J
11203 S TALAVI LN
PHOENIX, AZ 85044

SMITH KIRBY & CARLETTE MOORE JTS
45 EASTERN PROMENADE # 7A
PORTLAND, ME 04101

SOMERO SCOTT J
13 ATLANTIC ST
PORTLAND, ME 04101

STARK CARL G SR & HILTRUD A STARK
JTS
61 WHITE OAK ST # 5G
NEW ROCHELLE, NY 10801

STATE OF MAINE
AUGUSTA, ME 04333

STATE OF MAINE
STATE HOUSE
AUGUSTA, ME 04330

STILLWELL RICHARD D
20 ST LAWRENCE ST
PORTLAND, ME 04101

SUKASKAS JOSEPH D VN VET & GAYLE
R BRIGGS JTS
45 EASTERN PROMENADE # D02
PORTLAND, ME 04101

THOMPSON JEFFREY G
6 ST LAWRENCE ST
PORTLAND, ME 04101

TIERNEY MARK & COLLEEN B JTS
PO BOX 7903
PORTLAND, ME 04112

TOOTHAKER CRANDALL K
PO BOX 4271
PORTLAND, ME 04101

TRYON PAT C
1 ST LAWRENCE ST # B03
PORTLAND, ME 04101

TUREEN SUSAN
45 EASTERN PROMENADE # K06
PORTLAND, ME 04101

VESPA LLC
20 COVESIDE RD
CUMBERLAND FORESIDE, ME 04110

VON STADE PHILIP R JR ETALS
PMB 4526 411 WALNUT ST
GREEN COVE SPRINGS, FL 32043

WARD JAMES E
45 EASTERN PROMENADE # G-3
PORTLAND, ME 04101

WEBSTER MARTHA F
829 PARK AVE
NEW YORK, NY 10021

WEISBERG HOWARD L & TIMOTHY J
MAUCHE JTS
45 EASTERN PROMENADE # 6J
PORTLAND, ME 04101

WELTON RONALD K
45 EASTERN PROMENADE #A-G
PORTLAND, ME 04101

WESTLEY JOHN R & JOAN E WESTLEY
JTS
4530 LOWELL ST NW
WASHINGTON, DC 20016

WHELAN THOMAS C TRUSTEE
PO BOX 548
BATH, ME 04530

WHITTEN GEORGE R & ROBIN F JTS
23 ST LAWRENCE ST
PORTLAND, ME 04101

WILHOITE DOLORES M & TRACY
WILHOITE JTS
PO BOX 582
PORTLAND, ME 04112

WILKINSON JEFFREY R & DONNA M
WILKINSON JTS
3 PRIDE LN
WINDHAM, ME 04062

WILLIAMS PATRICIA ANN
45 EASTERN PROMENADE # 1-B
PORTLAND, ME 04101

WILLIAMS WALTER S & KELLY A
WILLIAMS JTS
24 ST LAWRENCE ST
PORTLAND, ME 04101

WINTERSTEEN JEREMY R
9 WATERVILLE ST # 4
PORTLAND, ME 04101

WINTHROP KATHERINE H TRUSTEE
45 EASTERN PROMENADE UNIT B-G
PORTLAND, ME 04101

WRIGHT JEFFREY A
45 EASTERN PROMENADE # 8D
PORTLAND, ME 04101

WRIGHT MAXINE L TRUSTEE
45 EASTERN PROMENADE # 2E
PORTLAND, ME 04101

ZELMAN VICTOR & ESTELLE BETTY
ZELMAN TRUSTEE
2632 SPICEBERRY LN
BOYNTON BEACH, FL 33436

Labels Requested For CBL:

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003 O007
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003 O010
003 O012
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019 A008
019 A010
019 A013
019 A014
020 C009
444 A003
446 A003
001 A002
002 A002
002 A003
002 A004
002 A007
002 A010

Anne Weigel
92 Hamblet Avenue
Portland, ME 04103

Anthony Donovan
27 Riverview Street
Portland, ME 04102

Barb Wood
125 Emery Street
Portland, ME 04102

Chris Castelsky
Fairpoint Communications
521 East Morehead Street
Charlotte, NC 28202

David Nowlin
215 Oxford Street
Portland, ME 04102

Deb Keenan
28 Dorothy Street
Portland, ME 04103

Devon and Pamela Platte
26 North Street, #3
Portland, ME 04101

Edward Suslovic
District 3
46 Kenwood St.
Portland, Me 04103

Ethan Strimling
211 Spring Street
Portland, ME 04102

Greater Portland Council of Governments
970 Baxter Blvd., 2nd Floor
Portland, ME 04103

Henry Leclair
209 Range Road
Windham, ME 03087

Janice Carpenter
9 West Commonwealth Drive
Portland, ME 04103

Jennifer Yeaton
City of Portland
389 Congress Street
Portland, ME 04101

Jesse Thompson, RA, LEED AP
Kaplan Thompson Architects
424 Fore Street
Portland, ME 04101

John Leavitt
NE Regional Council of Carpenters
68 Bishop Street, Unit 1
Portland, ME 04103

Kerry Anderson
5 Frederick Thompson Drive
Scarborough, ME 04074

Len Anderson
543 Allen Avenue
Portland, ME 04103

Liz Holton
18 Victoria Street
Portland, ME 04103

Lynn Clarkson
145 Marlborough Road
Portland, ME 04103

Mary Griffith
6 E. Promenade, Unit #2
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Nancy Bartlett
PO Box 7965
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Pam Burnside
64 Lester Drive
Portland, ME 04103

Paul Dubois
Kimberly Dubois
1915 Congress Street
Portland, Me 04102

Paul Leblond
55 Stevens Avenue
Portland, ME 04102

Peggy Morin
66 Farnham Street
Portland, ME 04101

Philip Haughey
1660 Soldiers Field Road
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Portland Society of Architects
c/o James Sterling, AIA
PO Box 7305
Portland, ME 04112

Priscilla D. LaVallee
28 Greenway Drive, Unit #2
Falmouth, ME 04105-2150

Rebecca Halla
Waste Management
2000 Forest Avenue
Portland, ME 04103

REP Benjamin Dudley III
District 30
9 Ponce Street
Portland, ME 04101

08/25/2014

Citizen's Mailing List

1:22 PM

REP Glenn Cummings
District 37
24 Nevens Street
Portland, ME 04103

REP Herb Adams
District 33
231 State Street
Portland, ME 04101-2361

REP Joseph Brannigan
District 35
168 Concord Street
Portland, ME 04103

Robert Hains
250 Holm Avenue
Portland, ME 04102

William Meridian
105 Stonecrest Drive
Portland, ME 04103

58 Fore Street Zone Map/Text Amendment
Neighborhood Meeting, September 16, 2014
East End Community School

Attendance Sign-In Form

Name	Address	Email or Phone
Barbara Vestal	7 Fore St, Portland	Vestal B christina.vestal@comcast.net
Edwin Chester	" " " "	
Mary Connolly	28 Atlantic St. #114	MFC@maine-RR.com
Markus Miller	17 Atlantic St.	Markusmiller@hotmail.com
Denise Preisser	25 Fore	depreisser@hotmail.com
Paula Agopian	98 Monument St	415-1870
Jeff Lennie	City Hall	jlenne@portlandme.gov
Crandall Tothaker	54 Eastern Promenade	crandalltothaker@gmail.com

58 Fore Street Zone Map/Text Amendment
Neighborhood Meeting, September 16, 2014
East End Community School

Attendance Sign-In Form

Name	Address	Email or Phone
Donald & Ada Olin's	45 Eastern Prom 7D	dolins@une.edu
Tom Landry	100 Congress St	Tom Landry B benchmark@maine.com
Arthur Fink	10 New Island Ave Port	arthur@artfink.com
Brian Burwell	12 MAPLE AVE / 31 FORE ST. FREEPORT, ME	burwelle@maine.edu
GAIL Kuhlthau	9 Adams St, Portland	truenorth9@msn.com
Will Williams	24 ST. Lawrence St. Portland	williehrpmangemart.com
Rick Danbrie	11 Wythburn Rd SP	whizkid@maine.com
Jeri Schroeder	20 Sheridan St.	jschroed@maine.com
JOHN MENABIO	45 E. PROM 6F&6	JMENABIO@MAINEAPR.COM
Tom Pearson	20 Atlantic	tpearson73@gmail.com
Keith Lane	73 Waterville	
Jaime Parker	73 Atlantic	jaimet@tails.org
Betsy Ellman	36 St. Lawrence	betsyellman@msn.com
Hugh NAZOR	50 Federal	hugh@NAZOR.NET

58 Fore Street Zone Map/Text Amendment
Neighborhood Meeting, September 16, 2014
East End Community School

Attendance Sign-In Form

Name	Address	Email or Phone
Pam + Peter Macomber	4 Saint Lawrence St	pamominesstonespa.com
BREW + Jean BARSTOW	45 EASTERN PROM 22 LUDLOW ST.	jbarsto2@gmail.com
Phil + Mary Anne von Stade	9 Waterville	PhilvonStade@gmail.com
PETER BASS	29 Waterville St	pbass@maine.rr.com
Terry + Susan Ingalls	45 E. Prom, Portland	ingalls3@maine.rr.com Singalls@maine.rr.com
FRANK & Eileen Hise	45 E Prom Ave.	
Tony Donovan	27 Riverside Pkld	MELIKESRAIL @GMAIL.COM
Pat Tryn	1 St. Lawrence	ptryon44@hotmail.com
MARIAM LONG	67 ATLANTIC STREET	ml204625@hotmail.com
Jon A. Pederson	20 Sheridan St	Sailmakon@Maine.rr.com
Steve + Lisa Schiffman	9 Waterville St. #3	LisaSchiffman18@gmail.com
Rebecca Hitchcock	36 Waterville St. #4	
Michael Connolly	same	michael.connolly@maine.edu
A. Jan + Louise Berkin	95 Eastern Prom Portland	openberkin@gmail.com
Anne M. Rand	61 Melbourne St 04101	RNDANNE@AOL.COM
Christopher Closs	93 High ST Portland 04101	CCLOSS@portland @LENAMEXIS.ORG
JoAnn Dove	28 Waterville St Portland ME	jopdaigle@gmail.com
Sarah Graulty	36 Waterville #2B	sarahgraulty@gmail.com

Attendance Sign-In Form

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Attendance Sign-In Form

[illegible]



MEETING MINUTES

TO: City of Portland Planning Department
FROM: Barry Sheff and David Senus (Woodard & Curran) on behalf of CPB2 LLC
MTG DATE: September 16, 2014
RE: 58 Fore Street Zoning Map/Text Amendment Application – Neighborhood Meeting

A neighborhood meeting was held on September 16, 2014 at the Community Room, East End Community School, 195 North Street, Portland, ME at 6:00 PM. Per the sign-in sheet, the meeting was attended by 48 “abutters” to the 58 Fore Street site or interested members of the public, along with eight members of the project team. The meeting sign-in sheets are appended to these minutes along with a copy of the PowerPoint presentation presented at the meeting, a project brochure provided to attendees, a signed Neighborhood Meeting Certification form, and a copy of the notice letter and mailing lists. Project team members that were present at the meeting are as follows:

Project Team Members:

- Jim Brady, CPB2 LLC
- Casey Prentice, CPB2 LLC
- Kevin Costello, CPB2 LLC
- Richard Prentice, Bernstein Shur
- Mary Costigan, Bernstein Shur
- Angie Helton, Northeast Media Associates
- Barry Sheff, Woodard & Curran, Inc.
- David Senus, Woodard & Curran, Inc.

Meeting Minutes:

Meeting began at approximately 6:00 PM

Jim Brady provided introduction and project team background, specifically Jim provided background on himself, Casey Prentice, and Kevin Costello. Jim also introduced Richard Prentice, Mary Costigan, Barry Sheff and David Senus. Jim described the timing of CPB2 acquisition of the 58 Fore Street property and the development vision.

Barry Sheff presented a PowerPoint presentation (as appended) which addressed:

- goals of the Neighborhood Meeting;
- Zoning Map/Text Amendment Application submission to the City;
- overview and history of Eastern Waterfront Master Planning;
- graphical depiction of existing and proposed zoning map at the 58 Fore Street property and surrounding area;
- why CPB2 is proposing a Zone Map/Text Amendment in lieu of Conditional Rezoning, including discussion of existing WSUZ, B6 and EWP zones;
- overview of the proposed text amendments;
- proposed zoning heights in conformance with the 2004 Height Study;
- regulatory path forward



Upon conclusion of the PowerPoint presentation, questions were received from attendees and recorded on tack-board paper mounted at the front of the room. Response and discussions followed some questions and comments. A summary of the questions and responses offered by the CPB2 team during the meeting follows..

Questions/Reponses:

Question: *What is the Historic Character of the area that you are looking to preserve? What specifically will you preserve on the site?*

Response: CPB2 has undertaken a historical and structural evaluation of the buildings on the site with a plan to preserve and incorporate certain historic structures in future designs. Future design will go through a review and approval process that will include the City's Historic Preservation Board.

Question: *Can you elaborate on the height overlay? What does that term mean? What is a height overlay?*

Response: In certain zones within the City, there are strict dimensional standards with maximum heights in feet and there are also height overlay maps that define the maximum height of buildings within specified areas or blocks. These height overlay maps are typically generated from a height study of the area. Currently the City's height overlay map on the eastern waterfront includes only those parcels in the current B-6 zone and not including the WSUZ. the 2004 Eastern Waterfront Height Study however, includes a height overlay map of the 58 Fore Street property which CPB2 anticipates applying to this Zone Map / Text Amendment Application.

Question: *Will you be asking for a building height variance to allow buildings over 65'?*

Response: CPB2 will evaluate proposed building heights during our future Master Development Planning process in context with the work completed as part of the Eastern Waterfront Height Study.

Comment: *I have a concern about buildings higher than the Fore Street grade.*

Response: CPB2 is sensitive to how the development will interact with Fore Street. The intent is to plan and design with respect for the residential neighborhood, preserve view corridors identified in the height study, and attempt to integrate the 58 Fore Street site into the neighborhood.

Question: *How is height measured? Is building height measured from adjacent grade?*

Response: The City measures building height as the difference between the top structural element on a building and the average abutting grade at the base of the building.

Comment: *The B6 zone language statement of "24 (hour) urban vitality" is concerning to me; I have concern about light & noise pollution.*

Response: CPB2 understands the concern and anticipates a diverse mixed use development including residential uses; the intent is for the project to be harmonious with the needs of a residential neighborhood.

Comment: *This is an intact industrial historic site. I don't want historic preservation to be caught in the shadows of site planning; I would like to see historic preservation at the center of*



design. I would like historic protection to lead the process (prior to zoning). I would like to see the design priorities spelled out early in the process.

Response: This zone change application process does not diminish the level of Site Plan and Historic review that CPB2 must undertake at future phases of permitting and design.

Comment: I did not like the heights, view corridors and concepts depicted in the Master Plan for Redevelopment of the Eastern Waterfront. I would like the developer to use a means of showing potential building heights on the site, for example, balloons elevated to max building height on each building.

Response: The comment was acknowledged and clarification provided that CPB2 is requesting a zone change and a height overlay referenced to the 2004 Eastern Waterfront Height Study. The Height Study and the Master Plan for Redevelopment of the Eastern Waterfront had significant public involvement and buy-in prior to its adoption into the City's Comprehensive Plan.

Comment: I would like to see pedestrian-friendly design for the property frontage along Fore Street.

Response: The comment was acknowledged; CPB2 plans to develop and incorporate a pedestrian friendly design in this area.

Question: Who owns the "green space" of undeveloped land on the east side of the site?

Response: That is part of the 58 Fore Street site owned by CPB2.

Question: Are you requesting a height overlay for the site?

Response: CPB2 clarified that it was requesting the height overlay that was developed in the Eastern Waterfront Height Study be extended onto the 58 Fore Street property.

Question: Is the height overlay new? Are you "dragging" it over or does it currently cover the site?

Response: The B6 Building Height Overlay Map on file and online from the City only covers the parcels currently in the B6 zone, west of the site. This map was developed from the 2004 Eastern Waterfront Height Study, which included a height overlay figure for the entire area, including the 58 Fore Street Site. CPB2 proposes and is requesting to use the figure from the Eastern Waterfront Height Study, as it covers the project site.

Question: Is the height overlay greater than 65' or short of 65'?

Response: The height overlay has a maximum of 65', but is largely less than 65' and is measured in stories (generally 11' floor to floor).

Question: Are you doing your own height study?

Response: No.

Comment: If you are keeping the current height overlay I feel you are in good shape.

Response: The comment was acknowledged..



Question: *What is the current height allowed in the WSUZ for the site?*

Response: WSUZ allows 45' and up to 65' with certain other parameters on type of structure and location.

Question: *Is your primary motivation to change the zone to allow for residential?*

Response: CPB2 envisions residential uses on the site, however the rezone request is to allow for a mixed use development that follows the principles and is harmonious with the established zoning for the surrounding area. The request for the B-6 zone executes the vision established in the Master Plan for Redevelopment of the Eastern Waterfront.

Question: *Is your vision of mixed use inclusive of mixed income housing? It is important that project contains mixed income housing.*

Response: CPB2 envisions a variety in size and cost of housing on the site and sees a mixed housing stock as important for the project and the City; CPB2 anticipates meeting with the City's Housing and Community Development Committee to further discuss housing among other topics.

Comment: *Tell us your plan for the site.*

Response: CPB2 needs a zone change to allow development of a plan for the site. While CPB2 has worked with a master planning consultant to develop concepts and solicit feedback from some members of the Portland community, there is no plan established for the site. CPB2 would be pleased to meet with members of the public and further discuss the vision for the site and solicit feedback.

Comment: *The plan should include multiple points of public access to the development.*

Response: The comment was acknowledged and CPB2 agrees with the sentiment.

Comment: *I support the proposed B-6 Zone change.*

Response: No response provided.

Question: *Will B-6 Zone change affect the potential for rail use on the strip of MaineDOT-owned land that bisects the site? We need to preserve opportunity for passenger rail to extend to Ocean Gateway.*

Response: CPB2 replied that the zone change will not restrict rail or trail use across the site.

Comment: *Interested in reducing traffic to the site and associated parking requirement; promote alternate means of transportation including rail.*

Response: The comment was acknowledged and CPB2 suggested this concern will need to be considered in future planning exercises for the site.

Question: *What are the heights of the current buildings on the site?*

Response: CPB2 replied that the taller buildings are generally 3 stories.

Question: *Where are the 5-story buildings shown on the height overlay map?*



Response: CPB2 referred to the presentation slide and the height overlay map to answer the question.

Question: *Have you looked at traffic impacts? I'm concerned about further traffic impacts on Fore Street.*

Response: CPB2 understands the concern, however traffic impacts are not a consideration of the Zone Map / Text Amendment Application. The project will be required to undergo an extensive traffic impact analysis during the Master Development Plan and/or Site Plan processes that considers nearby projects, Fore Street traffic, and other roadways and intersections.

Question: *This site is a wonderful asset. During redevelopment, it is important to have a "Pedestrian feel" along Fore Street. How will height be measured? From the Fore Street grade?*

Response: CPB2 agreed on the need to maintain a pedestrian feel along Fore Street. Height is measured as the difference between the top structural element on a building and the average abutting grade at the base of the building.

Question: *Can you elaborate on the Marina, what is there currently and what is planned in the future?*

Response: Incorporating water dependent uses into the redevelopment are consistent with the Master Plan for Redevelopment of the Eastern Waterfront and important to CPB2. The plan is to maintain the existing marina in the near term, and a marina on the site is part of future planning considerations. CPB2 hopes that maintaining and enhancing marina operations on the site will be a significant asset to the development.

Question: *Will your planning include consideration for sea level rise?*

Response: Yes, we understand the need to plan for sea level rise and will be evaluating how we plan for this in our future design efforts with the architects and engineers.

Question: *You are proposing a significant population center, is it time to consider a light-rail option to downtown?*

Response: No response provided.

Question: *We would like to see concept plans. I know people have seen plans. It would be helpful to have a plan to understand the height and view corridor discussion.*

Response: Working with a master planning consultant, CPB2 has developed concepts for the site that we've shared with some groups for early feedback, but those are not the final plans for the site; CPB2 does not have a final plan for the site. CPB2 has owned the site for more than a year (at this point) and working with the City staff has developed a step by step approach to zoning and eventual planning for the site that will include significant public input. CPB2 would be pleased to meet with members of the public and further discuss the vision for the site and solicit feedback.

Comment: *Your Application requires a description of the proposed use and a Site Plan.*

Response: The site plan included in the Application is the existing conditions plan for the site, because there is no proposed plan. We have lease agreements with existing tenants and envision



maintaining the existing site operations during and after the zone change, until such time as a site plan is developed and approved.

Question: *Will the Master Development Plan go to City Council or just the Planning Board?*

Response: No, the Master Development Plan process is through the City's Planning Board.

Comment: *The WSUZ height limit of 65' applies to bulk storage and is measured as the height above sea level.*

Response: No response provided.

Question: *Does the text edit associated with noise allow for more noise on the site?*

Response: The text edit associated with noise allows for licensed events through the City; it is not intended to allow a greater level of noise on the site. CPB2 is envisioning maintaining events like the Boat Builders Show and the Flower Show-licensed events that have historically been held at the site.

Question: *Are you proposing housing on the Fore Street frontage?*

Response: We are considering housing along the Fore Street frontage.

Comment: *If you propose to go above the Fore Street grade you will get resistance from the neighborhood.*

Response: The height study doesn't limit building areas to the Fore Street grade, but it does maintain view corridors relative to the Fore Street grade. CPB2 looks forward to working with the residents in the neighborhood to develop a plan that is acceptable to as many parties as possible.

Question: *What is the future plan for the building that houses Hamilton Marine?*

Response: CPB2 does not own or control that building; it is not on the 58 Fore Street site.

Question: *Can you send notification on future Planning Board & City Council Meetings to those that signed in?*

Response: Jeff Levine responded that the City will work to send notices relative to Board and Council meetings as part of their process, with a focus on ensuring the that legal notice requirements are met.

The Neighborhood Meeting concluded at approximately 8:00 PM, with some attendees remaining to talk with the CPB2 team.

Attachments:

- Neighborhood Meeting Certification (signed)
- Meeting Sign-In Sheets
- Notice Letter and Mailing Lists
- PowerPoint Presentation (PDF)
- Project Brochure Provided to Attendees

58 | FORE STREET

Neighborhood Meeting | 16 September 2014

AGENDA

Who is CPB2

Neighborhood Meeting Goals

Zoning Map / Text Amendment Application

Eastern Waterfront Master Planning

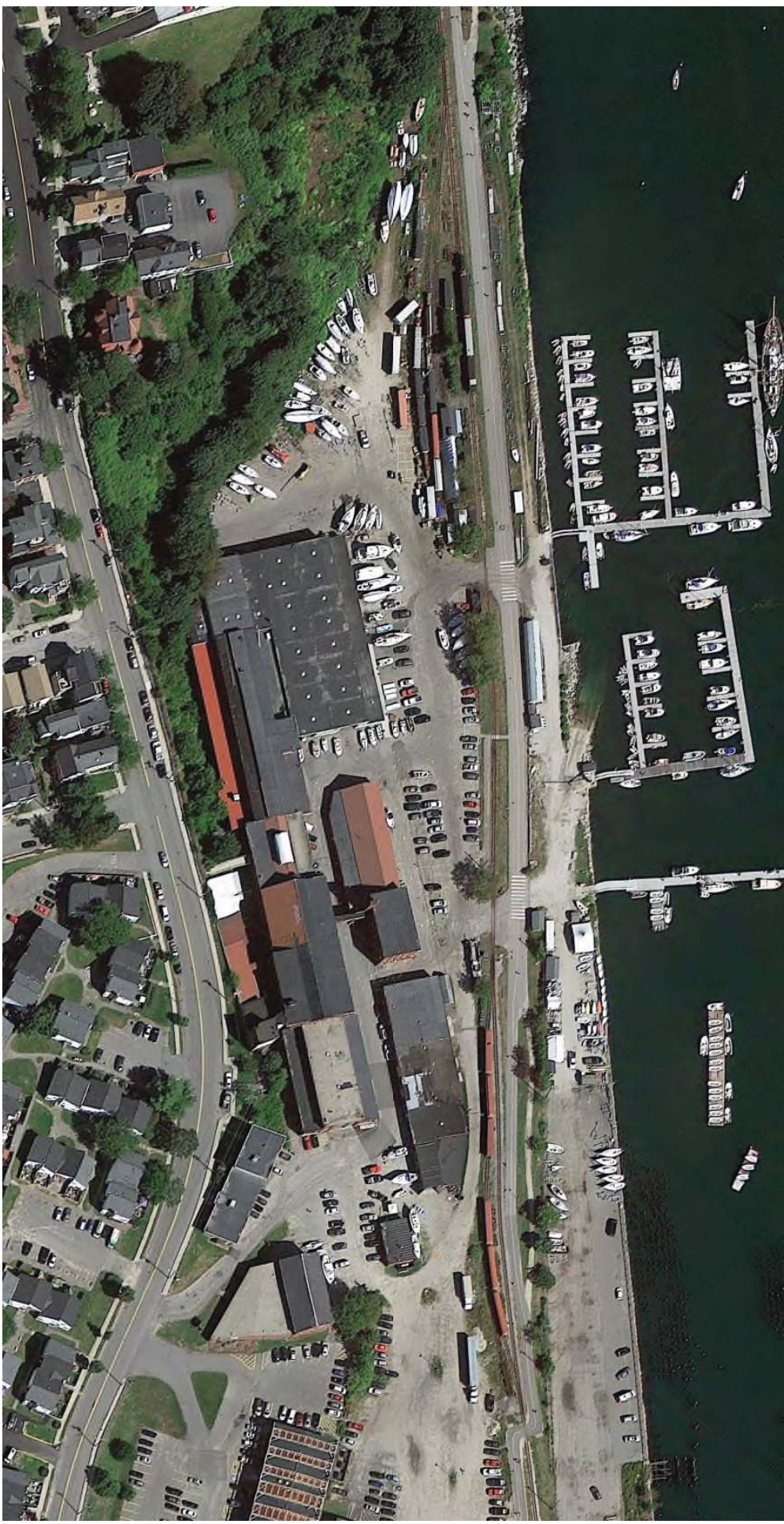
Regulatory Process Path Forward

Questions and Public Comment

Next Steps



WHO IS CPB2



CPB2



WHO IS CPB2

Development Vision

CPB2 envisions redeveloping 58 Fore Street into a vibrant, urban, mixed-use waterfront community that complements the most celebrated features of Portland and the former Portland Company site.

Create a landmark New England destination that delivers the waterfront to Portland's community and surrounding neighborhoods for years to come.



ZONING MAP/TEXT AMENDMENT APPLICATION

Submitted to City Planning Office on August 21, 2014

Zoning Map / Text Amendment Application

- Project Site & Background
- Area Development
- Proposed Zone Map and Text Amendments
- Compliance with Comprehensive Plan
- Site Plan and Process

CPB2

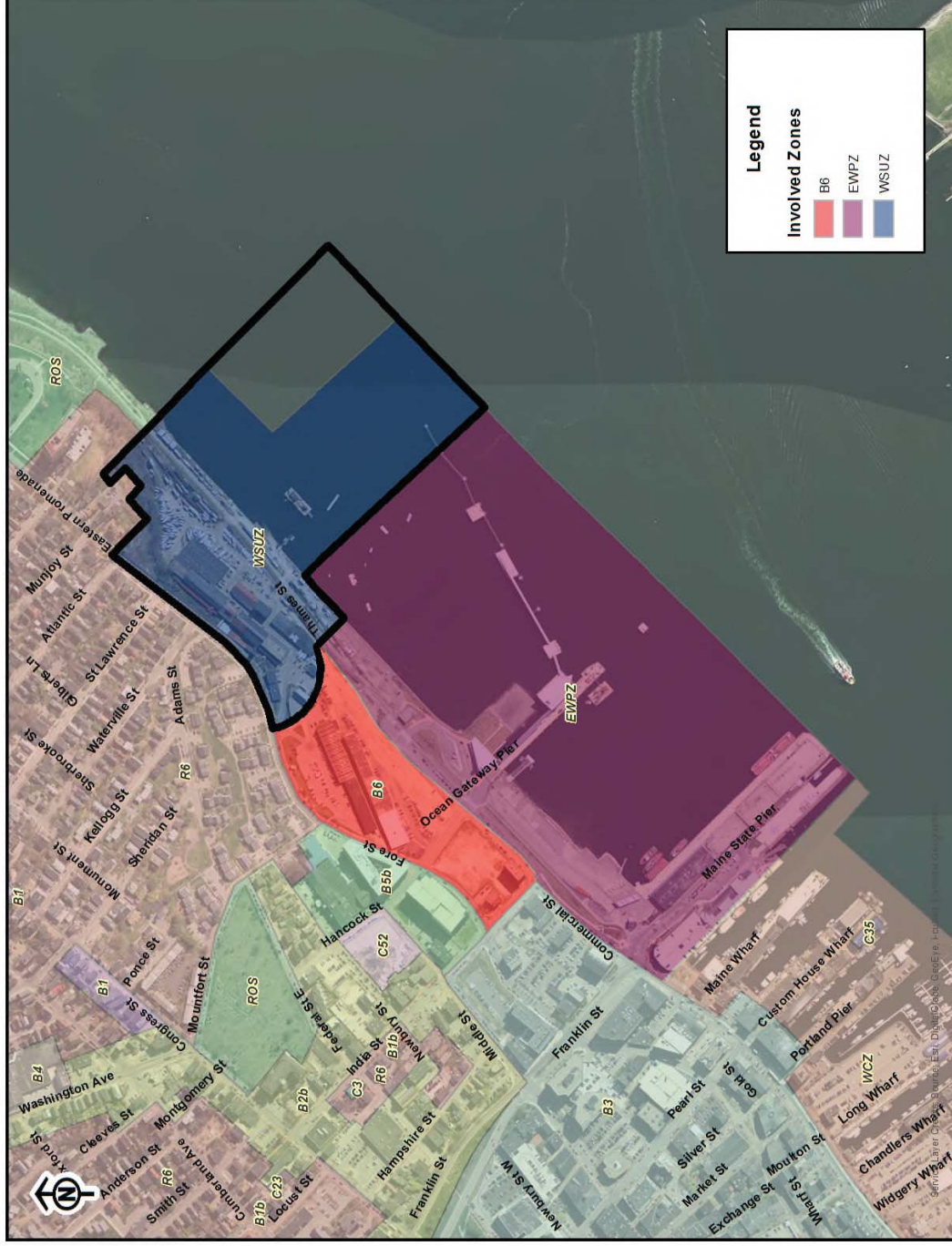


EASTERN WATERFRONT MASTER PLANNING

- 2000** Community Input Forums
- 2001** Community Design Workshop
- 2001** Committee Statement of Principles
- 2002** Final Draft – Master Plan for Redevelopment of the Eastern Waterfront
- 2002** Design Guidelines for the Eastern Waterfront
- 2002** Council Community Development Committee (CDC) Master Plan Review
- 2002-04** Planning Board Review and Recommendation on Master Plan
- 2004** City Rezoning from Waterfront Port Development Zone (WPDZ)
 - Waterfront – Eastern Waterfront Port Zone
 - Uplands – B6 Zone with Building Height Overlay
 - 58 Fore Street - Waterfront Special Use Zone
- 2014** CPB2 Application for Zoning Map Amendment
 - Realizing the Master Plan



EXISTING ZONING



CPB2



[illegible]

WHY ZONING MAP/TEXT AMENDMENT

Waterfront Special Use Zone (WSUZ) focuses on and encourages active water-dependent uses; retained at 58 Fore Street to promote continuation of boat yard and yacht support, **protecting former landowner's tenants and uses.**

Eastern Waterfront Port Zone is created **to nurture deepwater dependent activity** within the context of the established waterfront. The primary use of the **deep-water resources must be for the berthing and support of large vessels.** Non-marine **uses that complement and support the deepwater infrastructure and do not conflict or compete for limited space** with existing or anticipated deepwater-dependent uses are encouraged.

Purpose of the **B-6**, eastern waterfront mixed zone is **to establish a zoning district for the upland portion of the eastern waterfront area.** The B-6 zone encourages this district **to acquire a distinctly urban form through development that emphasizes a quality pedestrian experience, promotes public transit, and demonstrates exemplary urban design.** The zone **promotes a range of uses to achieve twenty-four urban vitality and shared use of parking infrastructure** as recommended in the eastern waterfront master plan for redevelopment.

The zone language established herein provides **regulatory framework to promote the mixed-use development pattern** envisioned for urban land on Portland's peninsula.

ZONING TEXT AMENDMENT

B-6 Eastern Waterfront Mixed Zone

Additions:

- Museums, art galleries, and educational exhibition space;
- Private clubs or nonprofit social and recreational facilities;
- Educational, research, and laboratory facilities; and
- Accessory uses to permitted uses or temporary exhibition uses.

Eastern Waterfront Port Zone

Additions:

- Marinas located east of the Ocean Gateway facility;
- Marine office, including but not limited to offices of owners of marinas, wharves or their agents, and naval architects, and seafood brokers; and
- A facility for non-profit organizations whose facility may include offices, classrooms, equipment, equipment rentals, and storage and bathrooms for the public.

Various Clarifications for Consistency within Land Use Code



ZONING HEIGHTS

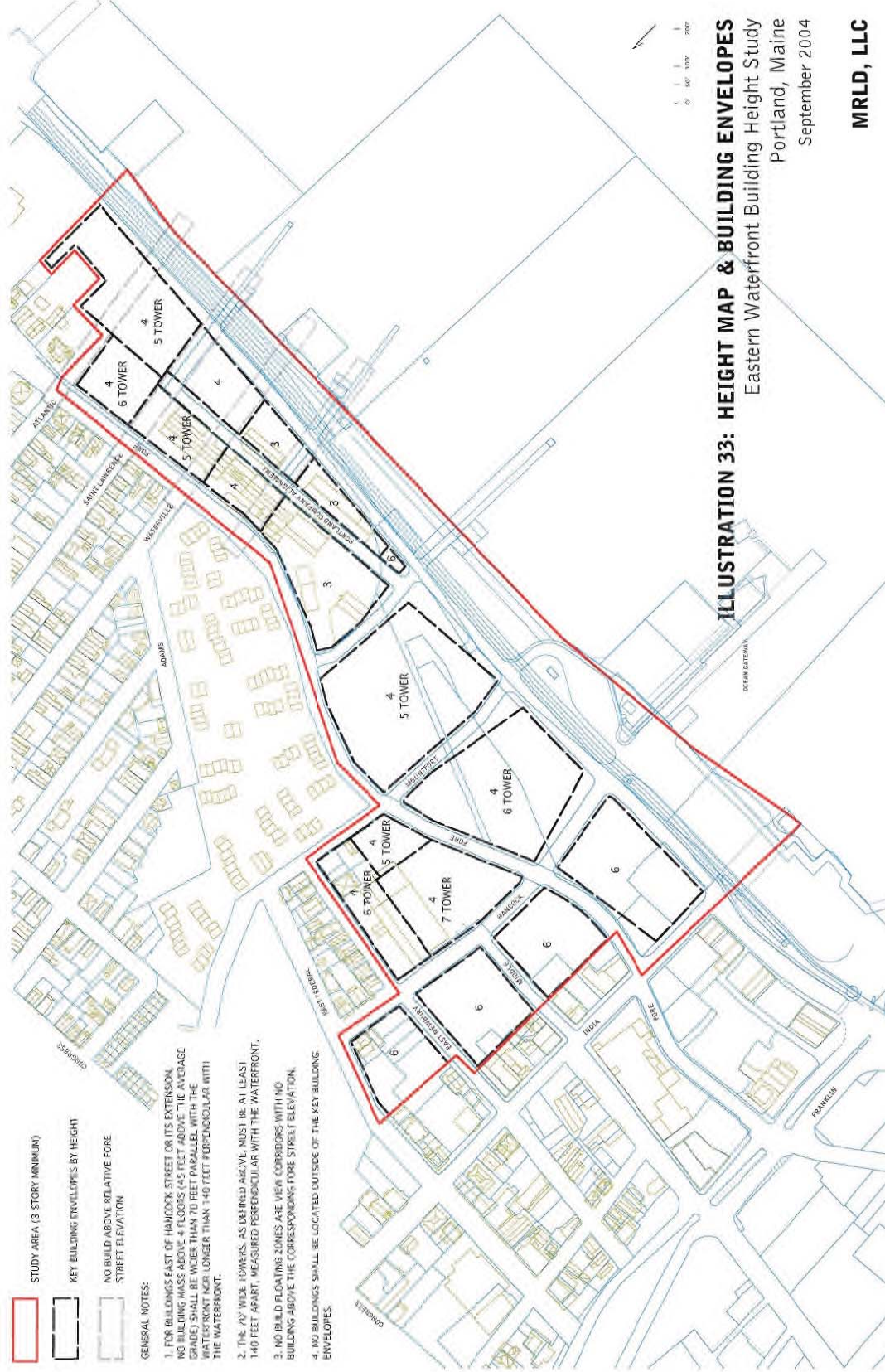


ILLUSTRATION 33: HEIGHT MAP & BUILDING ENVELOPES
 Eastern Waterfront Building Height Study
 Portland, Maine
 September 2004

MRLD, LLC



REGULATORY PROCESS PATH FORWARD

Zoning Map / Text Amendment

Planning Board

Workshop(s)

Public Hearing

Council Housing and Community Development Committee

Workshop(s)

City Council

Two Readings

Future Steps

Planning Board Master Development Plan

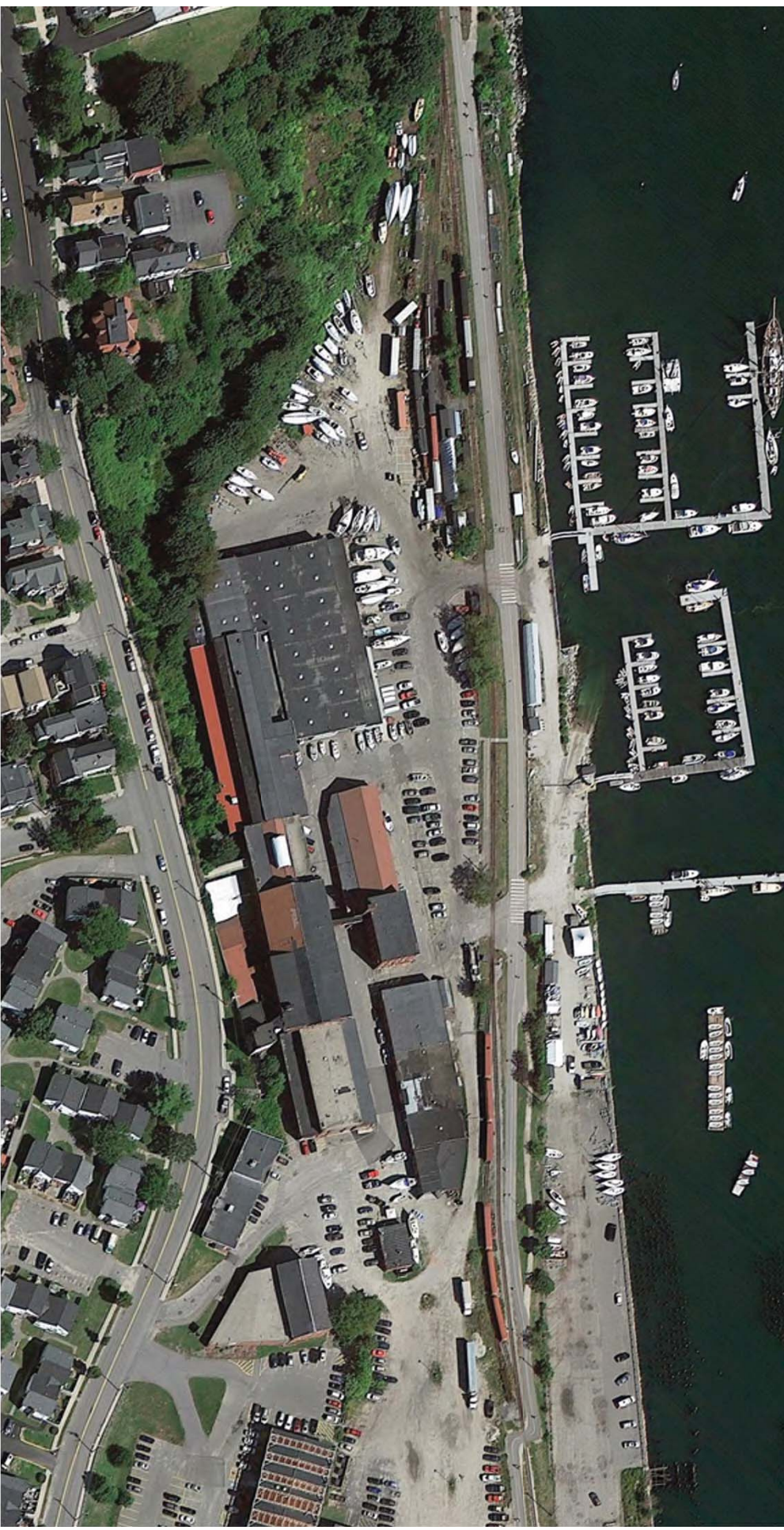
Historic Preservation Board

Planning Board Site Plan Review(s)

CPB2



QUESTIONS AND PUBLIC COMMENT



CPB2



NEXT STEPS

Document questions and public comments received
Prepare Meeting Minutes
Present at Planning Board Workshop(s)
Present to Council Housing and Community Development Committee



CONTACT:

info@cpb2.com

FAQ:

Q: What is the maximum building height that will be allowed on the Property?:

A: The B-6 zone allows for "65' or as otherwise governed by a Building Height Overlay map". Current zoning on the site allows for 45 – 65'. The Eastern Waterfront Building Height Overlay Study completed under Master Plan for Redevelopment of the Eastern Waterfront contemplated a height overlay map covering the property. Future site-specific master planning processes will establish site-appropriate building heights with consideration for view corridors, preservation of structures, and site topography in context with the height study and its associated Building Height Overlay Map.

Q: Will the existing historic buildings be impacted by your proposal?

A: Encouraging historic preservation and adaptive reuse of historic structures is an objective that will be thoughtfully considered under the guidance of the Master Plan for Redevelopment of the Eastern Waterfront. The Zone Change approval process does not change the protections offered to the buildings on the site. There will be an extensive public review and approval process that we will follow before we put a shovel in the ground. We are currently, and will continue to work with, and engage, the City on historic preservation concepts for the property.

Q: How will the Maine Narrow Gauge Rail (MNGRR) and the Portland Trails Eastern Promenade Trail be impacted by your plans for redevelopment?

A: Although the primary path of the MNGRR and trail are within a MaineDOT-owned strip of land abutting our property, we share the community's desire to maintain these amenities. We are very supportive of incorporating and accommodating the



Maine Narrow Gauge RR and the Eastern Promenade Trail into our future development vision.

Q: Is this the only chance to provide comment on your zone change application or future design?

A: Absolutely not. This is just step 1 of a multi-step process. We will be presenting our current application at a Planning Board Workshop, Public Hearing, and at a City Council meeting. The public is invited to attend these forums; the dates and times for which are TBD (check the City's website). Future development planning on the site will include an extensive public process.

Q: What will happen to the tenants on site?

A: While Portland Yacht Services is in the process of relocating to the Western waterfront, virtually all other current tenants will have the opportunity to stay on site.

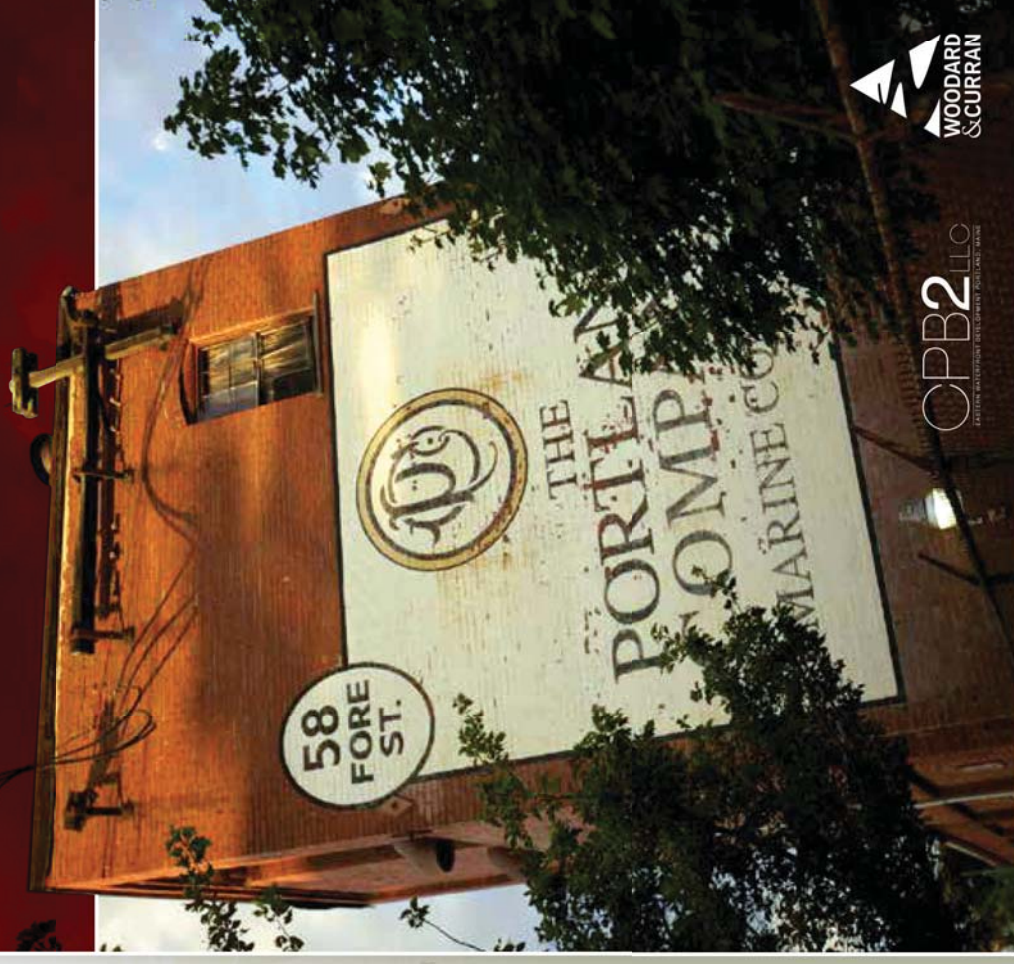
Q'S : What about public access to the waterfront? Will my view of the water be impacted by your proposal? Will the development promote public space? Have you considered sea level rise in your planning for the site? What will happen to the marina?

A: We understand that all of these questions/concerns exist, and more. We will thoughtfully consider all of these questions in future planning for the redevelopment of the site. At this early stage, we need to establish a zone change that will inform our planning for the site. It is our desire to design a landmark development, which the surrounding neighborhood and the whole of Portland will celebrate. We will continue to seek and encourage your input in this process as we move forward.

58 Fore Street ± 10 AC site

Integrating the neighborhood with the waterfront

The zoning changes requested by CPB2 LLC would make it possible to reinvent the Portland Company property and truly integrate it with the surrounding area, creating a connection between the waterfront and the rest of the neighborhood, and matching the vision of the Master Plan for Redevelopment of the Eastern Waterfront.



CPB2 LLC
EASTERN WATERFRONT REDEVELOPMENT PORTLAND, MAINE

WOODARD
& CURRAN

WHY ZONING MATTERS

Zoning maps and language define how a property can be used. In Portland's eastern waterfront, the City engaged stakeholders and the public in an extensive master planning process including six forums, collecting input from over 300 citizens, and a two-day interactive workshop where 165 citizens and 40 City staff and consultants participated. This public process gave rise to two new zones for the area, the B-6 Eastern Waterfront Mixed Zone and the Eastern Waterfront Port Zone. Although the City was able to create these zones over much of the desired mixed use area, the prior landowner of the Portland Company Site requested that the site be excluded from the new zones, and thus, the Waterfront Special Use zone was created. The zoning changes requested by CPB2 would make it possible to reinvent the Portland Company property and truly integrate it with the surrounding area, creating a connection between the waterfront and the rest of the neighborhood and matching the vision of the Master Plan for Redevelopment of the Eastern Waterfront.



A MORE INCLUSIVE ZONE

CPB2 has applied for a change to the City's zoning map, along with minor edits to the City's zoning text. Here's what that means:

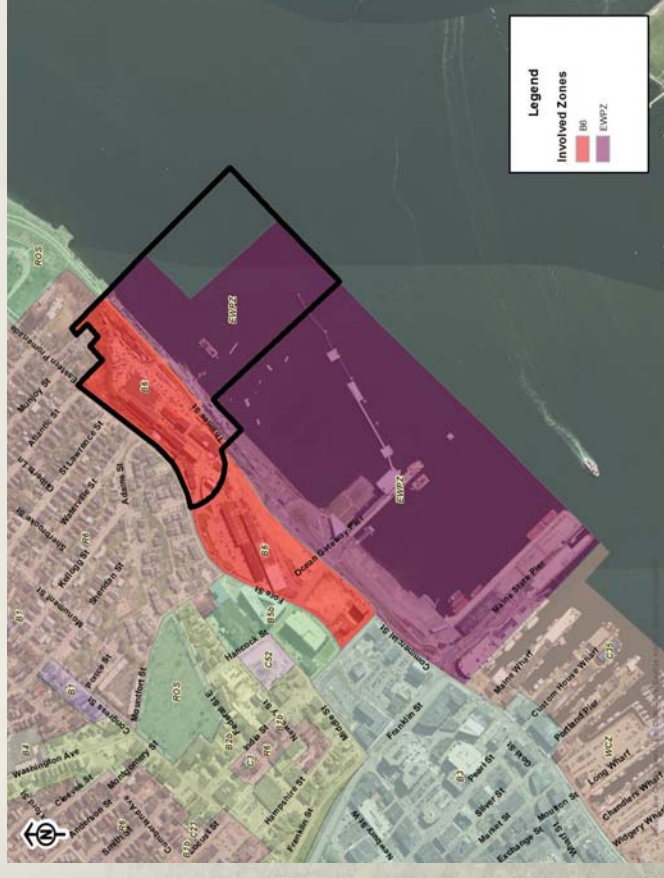
- ▷ The 58 Fore Street site zoning would change from "Waterfront Special Use" to "B-6 Eastern Waterfront Mixed" for upland areas and "Eastern Waterfront Port" along the waterfront.
- ▷ B-6 zoning "encourages this district to acquire a distinctly urban feel through development that emphasizes a quality pedestrian experience... and demonstrates exemplary urban design."
- ▷ Businesses currently operating on the site are encouraged to remain.
- ▷ New uses, including residential development and expanded retail and commercial uses are allowed.
- ▷ Potential uses align more closely with the goals of the Master Plan for Redevelopment of the Eastern Waterfront.
- ▷ The site will be connected to adjacent properties that share the B-6 and Eastern Waterfront Port zoning.

NEIGHBORHOOD INPUT WILL SHAPE THE DIRECTION OF ANY DEVELOPMENT

Upon approval of the zoning change, CPB2 will begin the process of planning for redevelopment of the site. No specific project is planned at this time, and planning for any proposed project would follow the procedures outlined in Portland's land use code, which includes significant public input. All parties will have the opportunity and will be encouraged to weigh in and help shape the direction of changes to the site.

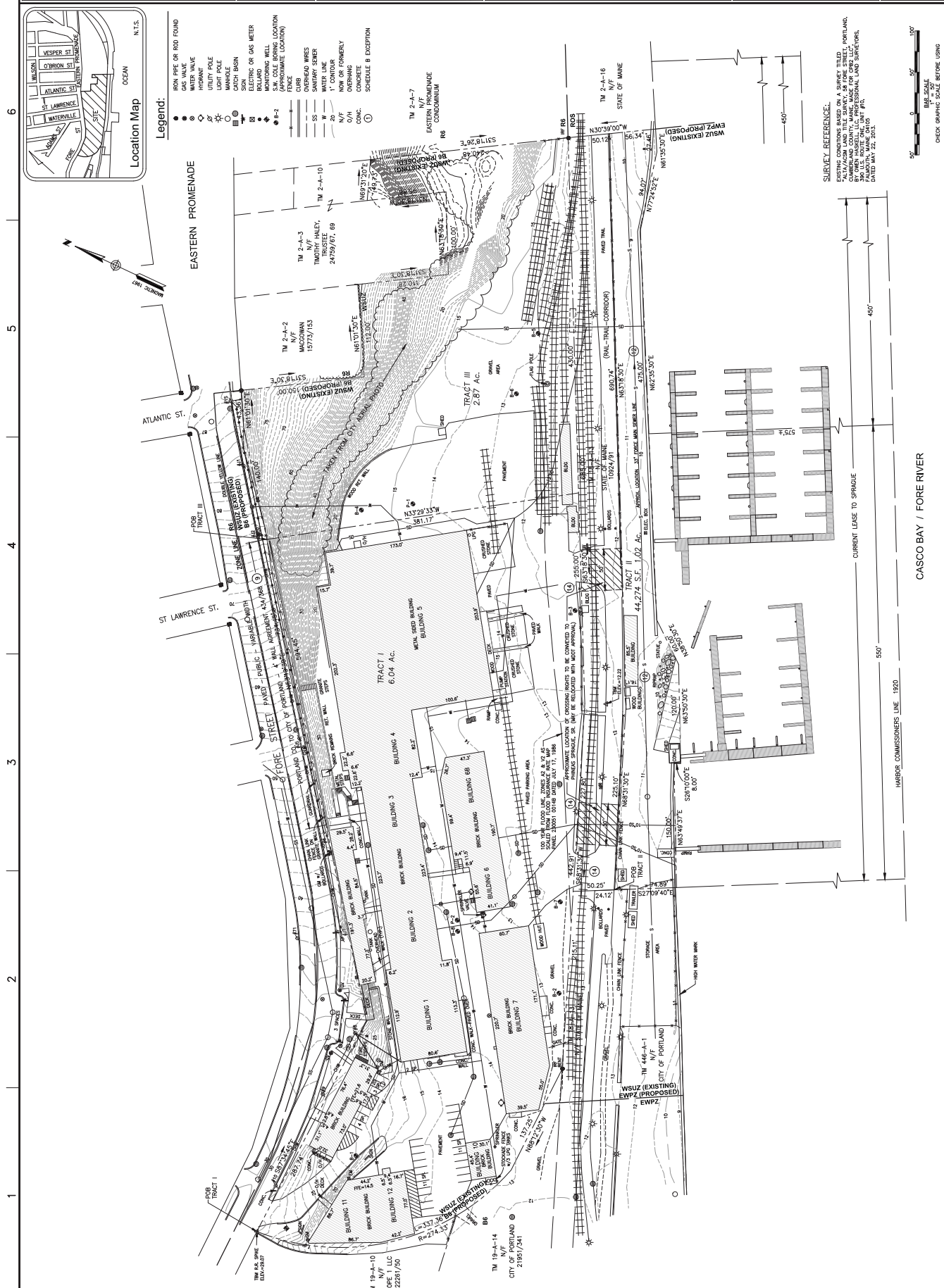
HISTORIC CHARACTER

Future development of the site will include historic preservation. New development, including new pedestrian-friendly streets and pathways, will be thoughtfully integrated with the historic character of the area.



THE BOTTOM LINE

The zoning change requested by CPB2 creates opportunities for economic development. It also opens the door for a closer connection between the Old Port and the residential neighborhoods to the east. The entire redevelopment process will be guided by the City's existing Master Plans and the vision of engaged stakeholders.



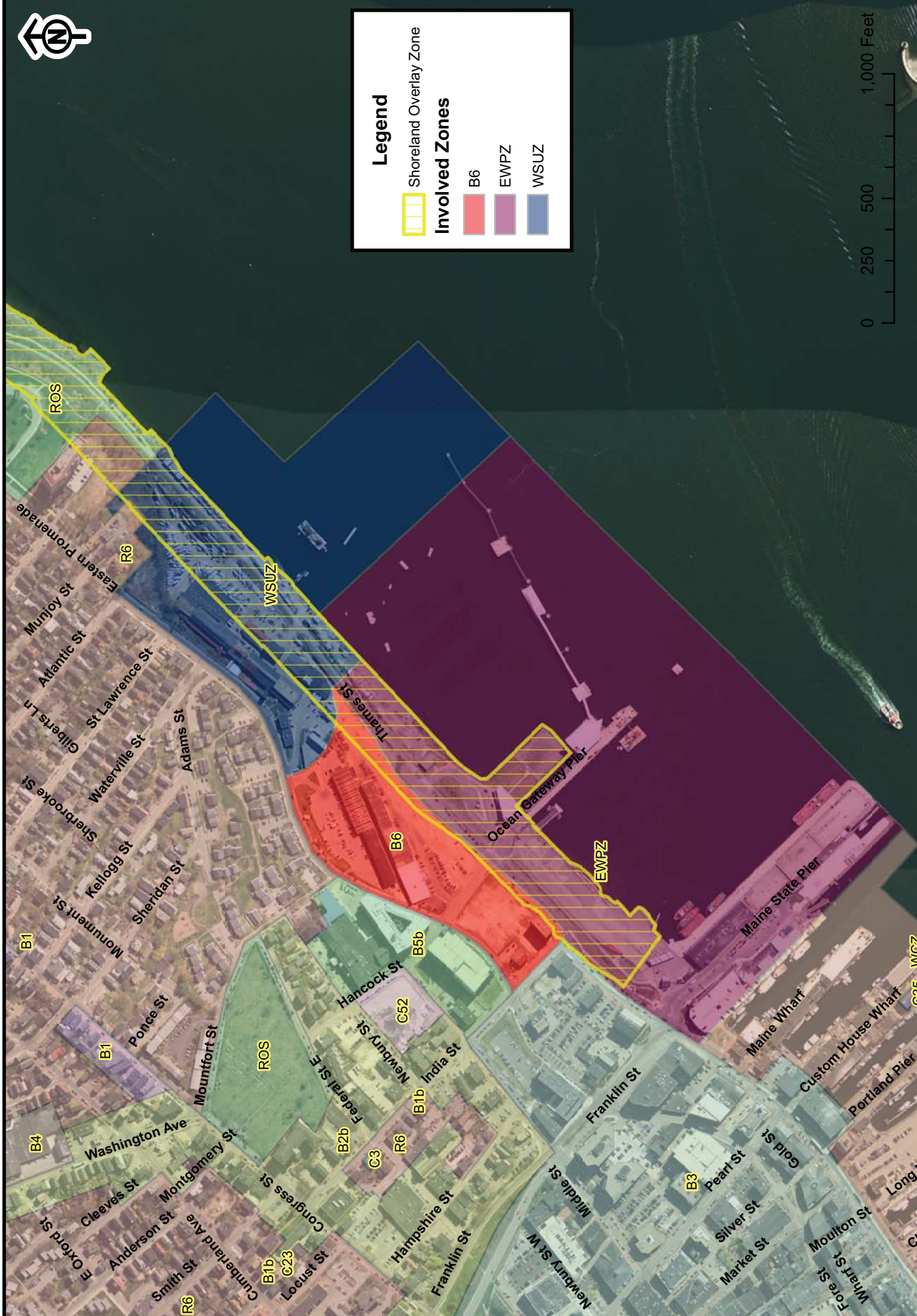
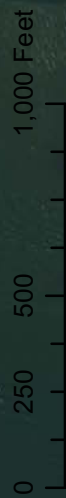


Legend

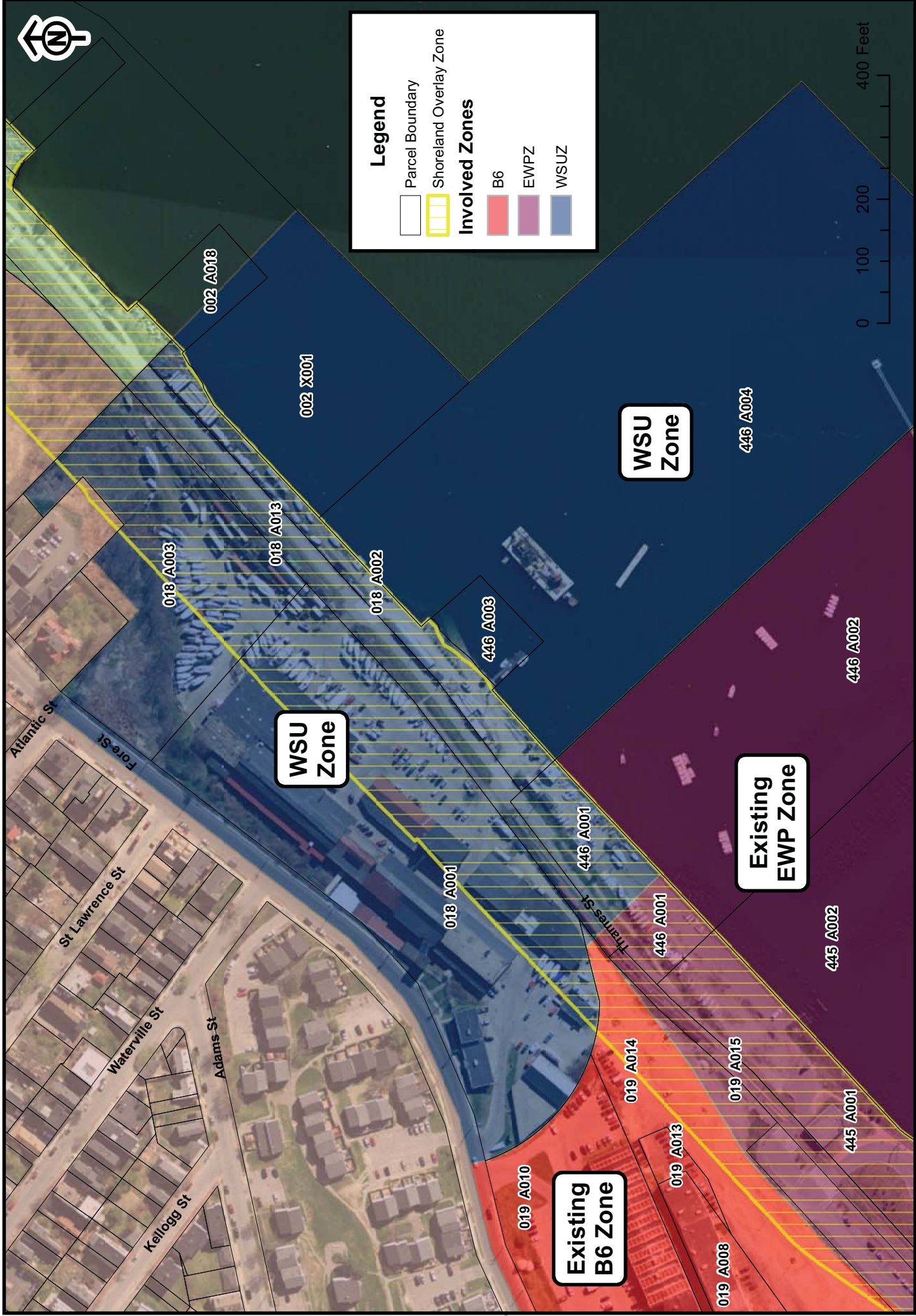
Shoreland Overlay Zone

Involved Zones

- B6
- EWpz
- WSUZ



Existing Portland Eastern Waterfront Zoning Map



CPB2 LLC: Existing Zoning



Legend

Parcel Boundary

Shoreland Overlay Zone

Involved Zones

B6

EWPZ

WSUZ

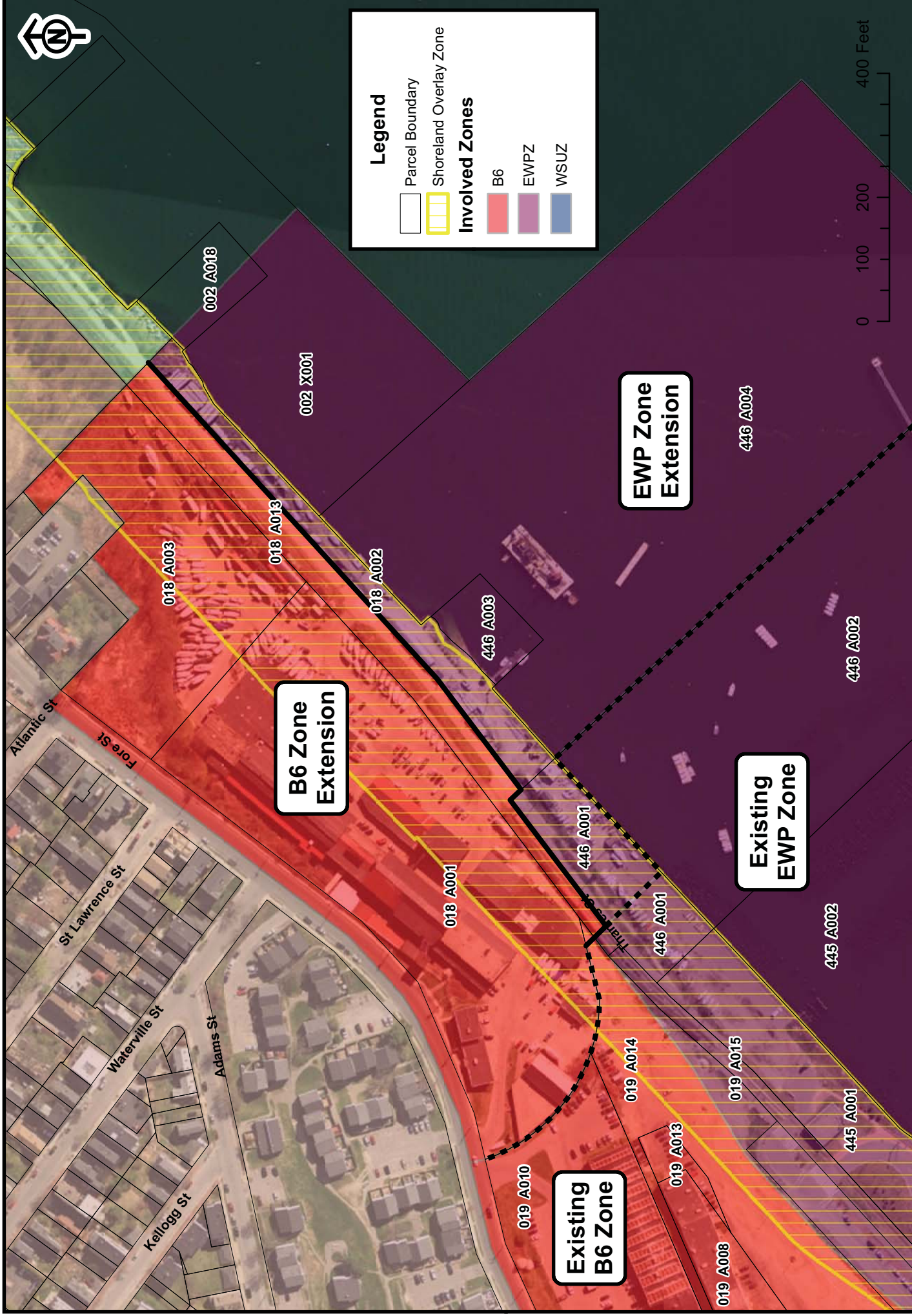
0 100 200 400 Feet

**B6 Zone
Extension**

**EWP Zone
Extension**

**Existing
EWP Zone**

**Existing
B6 Zone**



CPB2 LLC: Proposed Zoning Extension

Lannie Dobson - Re: Fwd: 58 Fore Street

From: Lannie Dobson
To: Christine Grimando
Subject: Re: Fwd: 58 Fore Street

>>> Christine Grimando 2/6/2015 9:24 AM >>>
 Hi Lannie,

I had sent this and one other to Jen yesterday, but I'm resending for good measure.

Christine

Christine Grimando, AICP
 Senior Planner
 Planning & Urban Development Department
 389 Congress Street
 Portland, Maine 04101
cdg@portlandmaine.gov
 Ph: (207) 874-8608

>>> Christine Grimando 2/5/2015 6:24 PM >>>
 Hi Jen,

More public comment.

Christine

Christine Grimando, AICP
 Senior Planner
 Planning & Urban Development Department
 389 Congress Street
 Portland, Maine 04101
cdg@portlandmaine.gov
 Ph: (207) 874-8608

>>> Angela Adams <aaa@angelaadams.com> 2/5/2015 6:10 PM >>>

Dear Chairman O'Brien, Members of the the Planning Board and Senior Planner Ms. Grimando,

As a Portland resident, property owner and business owner I am writing to express my concerns regarding the proposed development of the 10 acre site known as The Portland Company and located at 58 Fore Street.

This parcel of land is critical to our city and the lifestyle that we all embrace as residents and business owners. It is most often the first thing you see as you fly in, the first thing you see entering the harbor by boat, ferry or cruise ship and it is the route the leaf peepers, tourists and locals use to show off the beauty of our coastal city from Fore Street. Developing this site is an exciting idea and if done thoughtfully and with the residents of the neighborhood and city in mind, Portland could have a world class waterfront that is enjoyed by all.

The Portland Company history is a critical part of the DNA of our city and a national treasure. Maine has a long history of craft and innovation and there is no better example of this than the Portland Company.

The historic importance of this site is of national significance:

- It is the only surviving pre-civil war locomotive manufacturing facility in the country
- It was critical to the development of many industries in Maine, including the textile industry, paper making and canning industries
- The company's development of Maine's railroads and the shipping industry are of significant importance
- This site is the only intact industrial complex from the 19th and early 20th century remaining in the city today
- Architecturally, the buildings which were built in the 1840's and 1850's are the only remaining industrial buildings of that era in our city.
- The Portland Company buildings as a whole, comprise the historic manufacturing process that allowed them to manufacture everything on one site (outside of the boiler construction) and was the only facility in the nation to do this on one site.
- The maritime significance is immense as our lighthouse components, lanterns and navigational buoys were manufactured there.
- Bug Light, the lighthouse at the entrance to Portland Harbor was made at the Portland Company complex.

The list goes on and on as to the historical significance of this site and I urge you to please consider preserving the existing buildings and maintaining the integrity of this important historical site.

Preserving the existing buildings is only one of my primary concerns. The other is in regard to the overall design of this project, the magnitude of it and it's importance to our city. As a designer, I am well aware of the time and consideration that must go into designs and projects in order for them to be great. We all know what a less than thoughtful development looks like and it's always unfortunate to see this, especially in our beautiful city.

My concern is that in order for the most valuable piece of our city to be designed in such a way that is worthy of it's spectacular site, it must be done in the most thoughtful process possible. It should be done incrementally and with intermittent approvals that allow the city to manage the process and development in such a way that prevents it from being a one sided project that benefits developers far more than an entire city of people that live and work here. The developers are asking for a zone change that would grant broad changes to the site that greatly benefit them and that could have a disastrous impact on the city's waterfront and surrounding neighborhood. An alternative to granting the zone change request is to instead change the zone to a Contract Zone that would allow the city to monitor the development and manage the evolution of the project in such a way that works both for the developers and the residents of the city. This property is too important for us to hand the keys over to developers that, like all developers, will have very different intentions for the site than the city does. This site cannot be developed simply for the benefit of investors.

Like everyone else I know, I live here because I love the fact that Portland is located on the waterfront. Many of us would have a much easier time running a business in other cities, but we choose Portland because it is a great place to live and because it is a beautiful city located on the ocean. We all get to enjoy the spectacular views, watching the boats and planes come and go and walking along the trails that line the waterfront.

This property is not like other properties you have been asked to vote on. This is the MOST valuable property in our city and our state. It must be treated differently and with the greatest care and consideration for the future or we will forever look longingly back on the days when it was a more integral part of our lives and city and not just a big business deal that made a lot of investors and developers very wealthy. We need to preserve the integrity of the historic site and the value of the waterfront views for greatest number of people and not simply for the wealthy that have the resources to purchase it. It's the reason we all live here and we need to be thoughtful about every aspect of it's future.

Sincerely,

Angela Adams

Angela Adams

Co-Founder, Creative Director

angela adams

273 Congress Street Portland, Maine 04101

(207) 774 3523 / ext. 203 fax (207) 874 9819

From: Barbara Vestal <vestal@chesterandvestal.com>
To: Christine Grimando <CDG@portlandmaine.gov>
Date: 2/5/2015 3:15 PM
Subject: Portland Company Complex
Attachments: 58 Fore - average grade vs. flood plain.pdf

3-D Height and Massing Study, 58 Fore Street, Portland, Maine,

Prepared for Keep the Soul of Portland in the Portland Company by Rob Whitten, Whitten Architects.

Submitted to the Portland Planning Board for the 2/10/2015 workshop by Barbara Vestal due to Rob Whitten's absence from the country. Rob Whitten is expected to be back for the February 10th workshop to briefly explain the study in person.

Background and Methodology:

At the request of Keep the Soul of Portland in the Portland Company (SOP), Whitten Architects (WA) prepared a graphic 3D representation of the Portland Company site and the surrounding Portland neighborhoods using Google Earth information and 3D modeling. They used it to show the maximum possible site coverage and maximum possible heights as currently proposed by the applicant in a much more detailed scale than the previous submissions of the applicant. The applicant's submissions represented maximum build-out heights by dividing the 10 acre site into 9 large blocks, and using the average grade within each of those large blocks as the baseline. Due to the extreme change in grade in some parts of the site, the applicant's methodology minimized the height impact in the portion of the site closest to Fore Street.

In contrast, the study prepared for SOP divided the 10 acre site into 35' by 35' squares, and calculated average mean height within each square. Then it applied the proposed allowable height to each 35' by 35' square. The resulting graphic representation shows the possibilities and limits of the proposed heights and massing as proposed by the applicant. The representation is NOT a design. It does NOT represent specific buildings. Where there are proposals for "extensions" or "towers", WA did not select where they would be located. Instead the extension is shown over the full area where it could be located. It should be noted that according to the existing proposal, these extensions would be limited to a width of 70' parallel with the water and a depth of 140' perpendicular to the water and would have to be separated by at least 90'.

In summarizing the methodology, Rob Whitten of Whitten Architects states:

We overlaid the Portland Company site with a 35' x 35' grid and used it to calculate the average mean height within each 35' square. We worked with Google height information in 5' contours. The grid is more or less parallel to Fore Street and the waterfront edge of the Portland Company site. We then took the 2004 Eastern Waterfront Planning information for Building Envelopes and Heights including view easements and established a height for each of the 35' x 35' grids. (Note: this is the same as proposed by the applicant, except that the applicant additionally proposes to limit heights immediately along Fore Street to 35 feet for a distance of 35 feet back from Fore Street. The WA study used the same 35' for 35' limit.) In the video, none of the Fore Street heights exceed 35' above Fore Street for a depth of 35'. The heights are approximate. They are only as good as the Google information.

The CPB2 submission treated each height area as a big block, which results in lower heights along Fore Street. In the video diagram we broke them into the smaller 35' x 35' units which results in more accurately representing the higher heights that would be allowed along Fore Street. It is a logical representation of the Eastern Waterfront Master Plan Height Overlay description as interpreted by the applicant.

The heights show what is possible on the Portland Company site as re-zoned to a B-6 zone. The 3D diagrams do not show buildings or any sort of design. The diagrams show the maximum possible site coverage and the maximum

possible heights in 35' x 35' sizes. Note that we show all possible options for height extensions in the B-6 zone. The Height Overlay extensions are limited to a variety of blocks and options relative to the waterfront. How they are placed and organized is a building and site design process.

There are two ways to interpret the Eastern Waterfront Building Height Study height overlay illustration 33 (from which the zoning is derived). The applicant asserts that maximum heights should be measured from average grade. SOP asserts that the maximum heights should be measured from *FEET ABOVE FLOOD PLAIN, NOT FROM AVERAGE GRADE*. SOP asserts that measuring heights from flood plain is consistent with the intent of the Eastern Waterfront Height Study, which emphasizes placing taller buildings in the "shadow areas" below Fore Street. Measuring from flood plain is also consistent with how the B-6 zoning was implemented in the adjacent block when it was rezoned to B-6. In that rezoning of the waterfront area from India Street up to (but not including) the 58 Fore Street property, the City adopted as part of the building height overlay: *"For buildings located east of Mountfort Street (extension), building heights shall be measured from feet above flood plain, not from average grade."* As the 58 Fore Street is east of Mountfort Street and the same condition of steep slopes toward Fore Street applies, the same method of measuring heights should apply.

It should also be noted that the WA representation is based upon conservative assumptions in showing height and massing. It calculates grade using existing, pre-development grade. In fact, as height is traditionally calculated for mainland Portland, it is based on post-development grade. The applicant could fill portions of the site, resulting in greater finished heights. Similarly the WA representation shows flat-roofed buildings with no roof-top appurtenances. In fact, actual heights could be higher if a different roof form is used (e.g. for a peak roof parallel to Fore Street, half of the roof from the eaves to the peak could exceed the applicable height limit) and if there are HVAC units, stairway access units, satellite dishes, decks or other non-occupied elements on the roof.

Videos of the Results of the Height and Massing Study:

There are two ways to view the results of the study. One way is to go to the website of SOP at www.soulofportland.org and click on Height Study and Other Links and scroll down a few inches. Posted on that website are images from Vimeo files.

You may also go directly to Vimeo by using the following link:
<http://vimeo.com/album/3202655/video/116566665>

The *first video* that appears on the website (a portion of the Keep the Soul of Portland in the Portland Company 3-D Height and Massing Study prepared by Whitten Architects) shows the maximum potential massing under the zoning currently proposed by the developer* if building heights are measured from average grade*. This shows the maximum potential massing going up Fore Street toward the Eastern Prom.

Videos have been made of additional views of the developer's proposed massing as rendered in the SOP study, showing an overview (long), going along the Eastern Prom Trail heading away from India Street, going down Fore Street, and going down Atlantic, St. Lawrence and Waterville Streets toward the "view corridors" as now proposed. Each of these videos assumes heights measured from average grade, as proposed by the developer.

They may be seen at www.soulofportland.org at Height Study and Other Links, or you may go directly to Vimeo by using the following links:

<http://vimeo.com/album/3202655/video/116573487> (overview)

<http://vimeo.com/album/3202655/video/116565732> (Eastern Prom Trail heading away from India St.)

<http://vimeo.com/album/3202655/video/116567730> (heading down Fore St. toward the Old Port)

<http://vimeo.com/album/3202655/video/116568347> (Waterville Street “view corridor”)

<http://vimeo.com/album/3202655/video/116569060> (St. Lawrence Street “view corridor”)

<http://vimeo.com/album/3202655/video/116569828> (Atlantic Street “view corridor”)

Images Comparing the Impact of Measuring from Average Grade or Flood Plain

The *next sets of six still shots *show a series of comparisons of the maximum potential massing under the same zoning, first showing massing if building heights are measured from average grade (as contended by the developer) and then, from the same location, *if building heights are measured by feet above flood plain (as asserted is proper by SOP)*. Only portions of the site are shown in these views. Whether height is measured from average grade or from flood plain only makes a significant difference in the massing in the vicinity of Fore Street. The captions in the bottom right identify location and method of measurement. They are attached to this e-mail as a pdf file.

--

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Chester & Vestal, PA
107 Congress Street
Portland, Maine 04101
(207) 772-7426 - phone
(207) 761-5822 - facsimile

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CHESTER & VESTAL

A PROFESSIONAL ASSOCIATION

ATTORNEYS AT LAW

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EDWIN P. CHESTER
BARBARA A. VESTAL
MICHAEL P. DIXON

chester@chesterandvestal.com
vestal@chesterandvestal.com
dixon@chesterandvestal.com

February 5, 2015

Chair O'Brien and Members of the Planning Board
c/o Christine Grimando
Planning Department
City of Portland
389 Congress Street
Portland, Maine 04101

Re: Portland Company Complex

Dear Chair O'Brien and Members of the Planning Board,

The Portland Company Complex, a very visible 10 acre gateway site, is critical to the identity of Portland. As the applicant needs a zone change of some variety in order to proceed with uses that are not currently allowed, the Board has the opportunity to craft zoning that is fully reflective of the best use of that site. It is important for the City to get its zoning right. I firmly believe that the B-6 zone is not the answer for the reasons outlined below.

1. THE B-6 ZONE WAS NOT DRAFTED TO APPLY TO THE PORTLAND COMPANY SITE.

During the course of the Eastern Waterfront master planning process, an "**Ultimate Build-out Scheme**" scenario was developed by the Planning Office in the spring of 2002. It included City-owned land, the parcel referred to as the Farley-Marino property and some land belonging to Shipyard Brewing. **It did not include the Portland Company Complex** because its owner was not interested in redeveloping his property at that time. That illustration is attached as Exhibit A.

The Eastern Waterfront Master Plan generally recommended mixed use development for upland areas of the Eastern Waterfront, including the Portland Company Complex. But it did not recommend that the Portland Company Complex be rezoned from WSUZ to B-6. Mixed use development on the Portland Company Complex can be accommodated within the existing WSUZ regulation.

Between the spring of 2002 and its adoption in December 2004, the Planning Board developed and forwarded to the City Council the proposed B-6 Eastern Waterfront Mixed Use Zone. It applied only to the properties east of India Street, north of Commercial Street and its extension, west of the Portland Company complex, and south of Fore Street. It did not include the Portland

Company Complex (See Exhibit B). This area was denoted the "Central Redevelopment District." In some documents the Shipyard Property, which was eventually developed as the Gateway Parking Garage and the Residence Inn, was included in the discussion as well. However, the B-6 zoning which was enacted in December 2004 applies only to the "Central Redevelopment Area," without the Shipyard properties.

2. THE B-6 ZONE MANDATES A VERY SPECIFIC FORM OF DEVELOPMENT WHICH IS A POOR FIT FOR THE PORTLAND COMPANY SITE

The B-6 zone is a variation of a form-based code. The attached Ultimate Build-out Scheme (Exhibit A) set the stage for a form of urban development that is woven throughout the zoning language. It is very specific to the three blocks that were rezoned to B-6.

The Ultimate Build-out is premised upon a re-connected grid of public streets and public sidewalks (Hancock St., Mountfort St. and an unnamed/unbuilt street adjacent to 58 Fore St.) The parking is directed to the interior of each block (light blue), with structures accommodating mixed uses wrapped around the parking (dark blue). There are virtually no provisions for the consideration of existing buildings, because the area of the Ultimate Build-out is composed of vacant land, surface parking lots, and metal industrial structures which will be razed in the event of development. The B-6 ordinance incorporates unique dimensional requirements to produce this Ultimate Build-out -- e.g., "built to lines," 10 foot maximum setbacks from "build to lines," minimum street wall lengths, and minimum heights -- and requires for ground floor retail space to create new, very dense urban space.

Poor Fit: Already Existing Structures: In contrast to the 3 blocks of B-6, the Portland Company Complex is already significantly occupied by historic buildings. The majority of these buildings are of the character which should be adaptively reused, as stated in the Master Plan and the Design Guidelines. Contrary to assuming a virtually blank slate, as the B-6 does, the Design Guidelines state:

Historically and architecturally significant structures and sites should be inventoried and protected from demolition and carefully rehabilitated in a way that is consistent with their original architectural intent. The challenge and opportunity is to adaptively reuse significant structures while retaining their historic character (Design Guidelines, p.7).

The form-based code approach of the B-6 zone is inconsistent with the goals for the important buildings already occupying a portion of this site.

Poor Fit: No Street Grid: There is no street grid proposed for 58 Fore which will produce the basic building blocks of the B-6 zone -- blocks surrounded on four sides by public streets. The only streets proposed are the existing Fore Street (which is well above the grade of most of the

existing buildings and the "Portland Company Alignment" where no buildings will be allowed. Presumably the no build area will serve as a street, but it is not clear whether it will be public. The B-6 zone relies upon public streets and public sidewalks on both sides of the streets to make the land publicly accessible, thus securing a benefit for the general public. There is no such similar street grid proposed on the Portland Company site.

The rest of the circulation pattern on the Portland Company site has yet to be determined, and may consist of private lanes. This is the opposite of the B-6 zone which relies upon a grid of public streets and sidewalks to assure public access.

Poor Fit: Build-to Lines Nonsensical: In the existing B-6 zone, the dashed lines are "key building envelopes." The B-6 zone states:

New structures located in the blocks located south of Fore Street and north of Commercial Street and its extension, shall build to the key building envelopes [sic] shown on the *Eastern Waterfront Building Height Overlay Map*. (14-272(c)(3))

These build-to lines are tied to the building envelopes, not to streets. The Overlay Map which the applicant proposed to apply to 58 Fore Street has 9 building envelopes. There are eight "built to" lines that do not abut streets or the edge of the parcel. It is unclear what the zoning intends to accomplish by requiring build-to lines in the eight locations where build-to lines are in the middle of a parcel, not bounded by a street. Similarly the impact of overlaying this grid of build-to lines on top of historic structures is unclear.

Poor Fit: High-Density Urban Pattern of Development: The type of development that would be produced by the B-6 standards is similar to the Ocean Gateway Garage and the Residence Inn. Even beyond the question of whether the provisions are effective to generate ground floor active uses (given that the "retail space" in the Gateway Garage has been vacant since it was constructed), it is important to ask whether this is, in fact, the type of development desired at 58 Fore St. It may make more sense to first settle the issue of whether the 58 Fore Street site, or some portion of it, is going to be designated a local historic district before casting the form of new development in stone as do the very detailed standards in the B-6 zone.

Poor Fit: Brew Pubs, Restaurants, etc. Incompatible with Immediately Adjacent Residential Neighborhood: The B-6 zone was designed to abut other commercial uses. Extending that zone to 58 Fore Street gives no consideration to the established residential neighborhood which, for over 100 years, has overlooked, but not interacted with, the 58 Fore Street property except at its single entrance. The substantial change in grade has acted as a buffer between the industrial use and the residences. The proposed extension of the B-6 to 58 Fore St. completely disregards this traditional buffer.

Except for the Portland Company site itself, both sides of Fore Street in the vicinity of 58 Fore St. are occupied by residential uses, mostly in small scale 1-3 family structures, with the exception of the Portland House. There are no existing non-residential uses except for one small insurance office, which may be a home occupation. The Munjoy Hill neighborhood moving north from Fore Street is of a similar, entirely residential, character.

In contrast, if the entire 58 Fore St. site is rezoned to B-6 as proposed, it would allow a developer to build, as of right, on the south side of Fore Street hotels, retail space, offices, restaurants, brew pubs and any number of other uses facing the residential neighborhood. It would require at least 75% of the street wall of whatever use to be built out to within 10 feet of Fore Street. And, in a provision that is inconsistent with how the maximum height limits should be applied to this site, it would require that uses facing Fore Street not have less than three (3) floors of habitable space above the average adjacent grade. This scale and range of permitted uses is completely out of character and incompatible with the existing, long-standing residential uses.

While these non-residential uses might belong in the area where the existing B-6 is located and on the filled land portion of 58 Fore Street, they are completely inappropriate on the upper portion of Fore Street. A rezoning to allow the incursion of this type of commercial use into a residential area that has no such similar uses would be unprecedented.

3. THE EXISTING B-6 ZONE REFLECTS CAREFUL PLANNING OF PUBLIC VISTAS WHICH HAS NOT YET BEEN UNDERTAKEN IN RELATION TO THE PORTLAND COMPANY SITE.

The B-6 Building Height Overlay & Building Envelopes evidences a level of planning to preserve public views and vistas from public streets that has not yet taken place on the 58 Fore Street site. In the overlay, the building envelopes are pulled back from street lines and the street space is splayed out to enhance public views. If serious consideration is being given to a B-6 rezoning for 58 Fore Street, that same level of detailed vista analysis needs to be done for that site. The Height Study just assumes that the existing buildings will remain on the site, and that the vistas over the existing buildings will remain. The study did not look at the impacts of new construction on the vistas.

4. THE CIRCULATION PATTERN WITHIN THE PORTLAND COMPANY COMPLEX, PARTICULARLY FOR WATER-DEPENDENT USES, NEEDS TO BE CONSIDERED PRIOR TO ADOPTION OF THE HEIGHT OVERLAY.

The B-6 dimensional requirements appear to allow limited space for driveways between buildings which are arranged around the build-to lines. But it is unclear whether these will be private or public within the 58 Fore Street site. It is also unclear whether they will be sufficient to provide the circulation patterns to allow continued existence of marine uses under the WSUZ.

The preface to the Eastern Waterfront Master Plan states: "the water's edge is the most precious resource we have" (p. 2). Similarly, the Design Guidelines note that the challenge is to preserve the value and marine utility of the water's edge while stimulating appropriate upland development for the benefit of the general population (p. 14). The Community Development Committee of the City Council, prior to recommending approval, added a section to the Master Plan noting the challenges of implementing the Master Plan. It reemphasized the importance of the working waterfront and full utilization of deep-water berthing resources, stating:

The challenge will be to maximize the benefits of mixed-use non-marine development, while retaining the function and future flexibility of the Eastern Waterfront as a pivotal intermodal hub in Maine's transportation system. Transportation utility of the Eastern Waterfront will require constant and vigilant protection (Master Plan, p. 21).

The circulation pattern within the 58 Fore Street site is critical to maintaining the functionality of the water's edge. The current circulation pattern does not allow for any obvious vehicular access to the water's edge. The building envelopes do not suggest any circulation pattern. As protection of the utility of the water's edge has been identified as a primary goal, it should be addressed as part of any rezoning.

5. THE "PORTLAND COMPANY ALIGNMENT" NEEDS TO BE CONSISTENT WITH THE ORIGINAL HEIGHT STUDY RECOMMENDATION

Illustration 33 of the Height Study (Exhibit C) shows a "Portland Company Alignment" (a no-build area) that was carefully located to preserve views from the B-6 area into the Portland Company Complex and line up to avoid the existing historic buildings. Building envelopes in the B-6 zone were pulled back to preserve the view into the heart of the historic buildings. However, in the applicant's proposed overlay map (Exhibit D), the no-build area has been moved so that views from the B-6 zone are not preserved. It also cuts across existing buildings.

It is unclear whether shifting this alignment is intentional or an oversight. If it is intentional, the applicant should make it clear that it is asking for an amendment to the height overlay and explain the basis for the change in the alignment. However, as it was carefully located as part of the Height Study design process, it would seem that there is good reason for keeping the original alignment.

6. THE APPLICANT'S POSITION THAT HEIGHTS AT 58 FORE SHOULD BE MEASURED FROM AVERAGE GRADE IS INCORRECT, AND WOULD RESULT IN A DEVELOPMENT WHICH IS OUT OF SCALE WITH THE RESIDENTIAL NEIGHBORHOOD

One of the primary goals of the Eastern Waterfront Height Study was to balance the needs of the study area against the surrounding "impact areas", including the Munjoy Hill residential

neighborhood. As part of that balancing, it identified three "shadow areas" where development could be located that would not negatively impact the adjacent areas. The upper Fore Street shadow area was identified to justify a height of 65 feet, due to the large change in grade.

Obviously, the large change in grade would not be cited as a reason to allow that extra height if it was anticipated that the extra height would be located at the top of the slope, as is contended should be allowed by the applicant. As is clear in the Building Height Study, it was intended that the resulting extra-tall structure would be located on the filled land portion of the site.

The November 2004 graphic, prepared by the height consultant after the adoption of the Building Height Study as part of the Master Plan (Exhibit E), includes as General Note 2:

The height of buildings and tower masses east of Mountfort Street or its extension shall be measured from 2' above the flood plain elevation for the site based on the National Geodetic Vertical Datum. Where allowed, building mass above 4 floors shall not be wider than 70 feet parallel with the waterfront nor longer than 140 feet perpendicular with the waterfront. [Emphasis added]

This graphic applies to the entire study area, including the Portland Company site.

This method of calculating height was carried over one month later into the December 2004 Council-adopted B-6 Building Height Overlay & Building Envelopes, which states in Note 4:

For buildings located east of Mountfort Street (extension), building heights shall be measured from feet above flood plain, not from average grade (Exhibit B). [Emphasis added]

Thus, not only does it make sense for heights for the entire area east of Mountfort Street extension to be measured from flood plain based upon the substance of the height study, but it is also consistent with what the City actually enacted in the B-6 zone.

CONCLUSION: EXTENSIVE MODIFICATIONS TO B-6 OR OTHER ALTERNATIVES

The B-6 zone is not an appropriate zone to import to the heart of residential Munjoy Hill unless it is very significantly modified to keep the impact and uses down on the filled land. Moreover, the urban form the B-6 tries to create is incompatible with the existing historic structures and protection of the water's edge for the working waterfront.

If the City is still considering importing the B-6 zone to 58 Fore Street, the zoning text for the B-6 would require multiple modifications, including, but not limited to:

- (1) there should be a very substantial mandatory minimum setback from Fore Street (greater than 150 feet) for all new construction which would override the otherwise required build-to line and keep commercial uses from being developed on the southern side of Fore Street;
- (2) the building height overlay should specify, as it does for the block of B-6 adjacent to 58 Fore Street, that "the heights shall be measured from feet above flood plain, not from average grade";
- (3) the minimum height requirement of 3 stories should be deleted for this portion of the B-6 zone as being inconsistent with the historic buildings; and
- (4) the circulation pattern established as part of the height overlay and the dimensional requirements in the B-6 text, particularly the built-to lines, should be re-examined and modified as necessary to respond to the Master Plan goals of adaptive reuse of historic structures, protection of the utility of the water's edge for water-dependent uses, and preservation of public visual access to the water.

Much additional study is required to determine what pattern of development is appropriate for this site and how successfully the form-based code developed for the three blocks in the "Ultimate Build-Out Scenario" translates to an entirely different location.

In lieu of essentially rewriting the B-6 zone text to make numerous exceptions for 58 Fore Street, it would be better to leave the B-6 text alone and not expand its scope. That would leave the applicant with two options: applying for some form of contract zone under the existing WSUZ, or proposing text amendments to the WSUZ.

The WSUZ as written anticipates that any new mixed use development over 5,000 square feet will be reviewed as a contract zone, using the standards contained in the existing WSUZ text. In the past, the City has required very detailed plans to accompany any conditional rezoning. However, there is nothing in the enabling legislation or in the City's own ordinance pertaining to contract zones that requires that level of detail.

The applicant has made it clear that it does not want to invest in developing plans to the level of detail previously required by the City in order to pursue a contract zone. If the City finds that reasoning compelling, the applicant and the City should explore whether there is a more conceptual way to approve a conditional rezoning that clarifies, in general terms, what each will get in exchange for agreeing to a conditional rezoning, without requiring a site plan level of detail. Perhaps conditions more in the nature of performance standards would provide a way for the City to give the applicant the certainty it says it needs to proceed while still enacting a conditional rezoning that will run with the land to any new owner.

Chair O'Brien & Board
February 5, 2015
Page Eight

In the alternative, now that the Farley-Marino site has been rezoned to B-6, 58 Fore Street is the only property remaining in the WSUZ. That fact offers the opportunity for carefully crafted amendments to the text of the WSUZ which are designed to allow a thoughtful version of the proposed development. It would obviate the need to comply with the precedent set by the City for conditional rezonings.

The applicant would have to reveal enough of its concepts and plans to allow discussion of text amendments. The amendments would likely identify sub-areas of the site for different treatment, such as permitting a certain range of uses only on the filled land. Similarly it could allow for new construction in locations and meeting dimensional requirements that are not incompatible with the existing historic structures. It could be in the nature of form based code, but designed for this particular location.

There is no reason to make tortured amendments to the B-6 or have portions of the B-6 apply only to the 58 Fore Street site when, due to the geographic scope of the existing WSUZ, the City can amend that zoning text directly to allow the development it wants to permit.

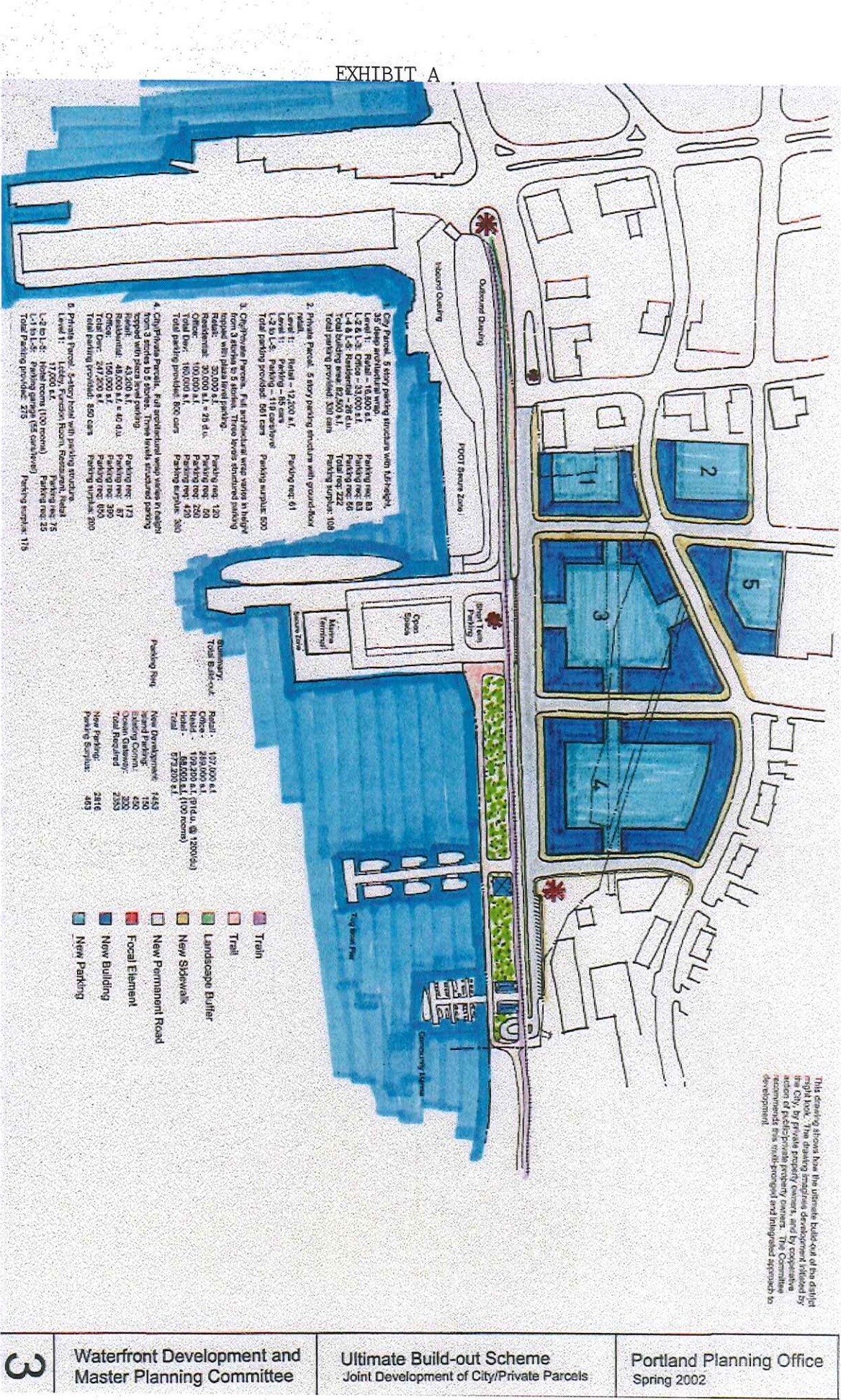
The applicant bought the property with the WSUZ in place. The burden is on the applicant to show that it will be in the best interest of the City to modify the zoning requirements. The Master Plan does lend support for upland mixed uses, provided they are balanced with protecting the water's edge for marine uses. But moving the B-6 zone over to encompass 58 Fore Street is like trying to jam a square peg in a round hole. As there are at least two viable better alternatives, I urge you to recommend that request for rezoning to B-6 not be approved.

Very truly yours,



Barbara A. Vestal

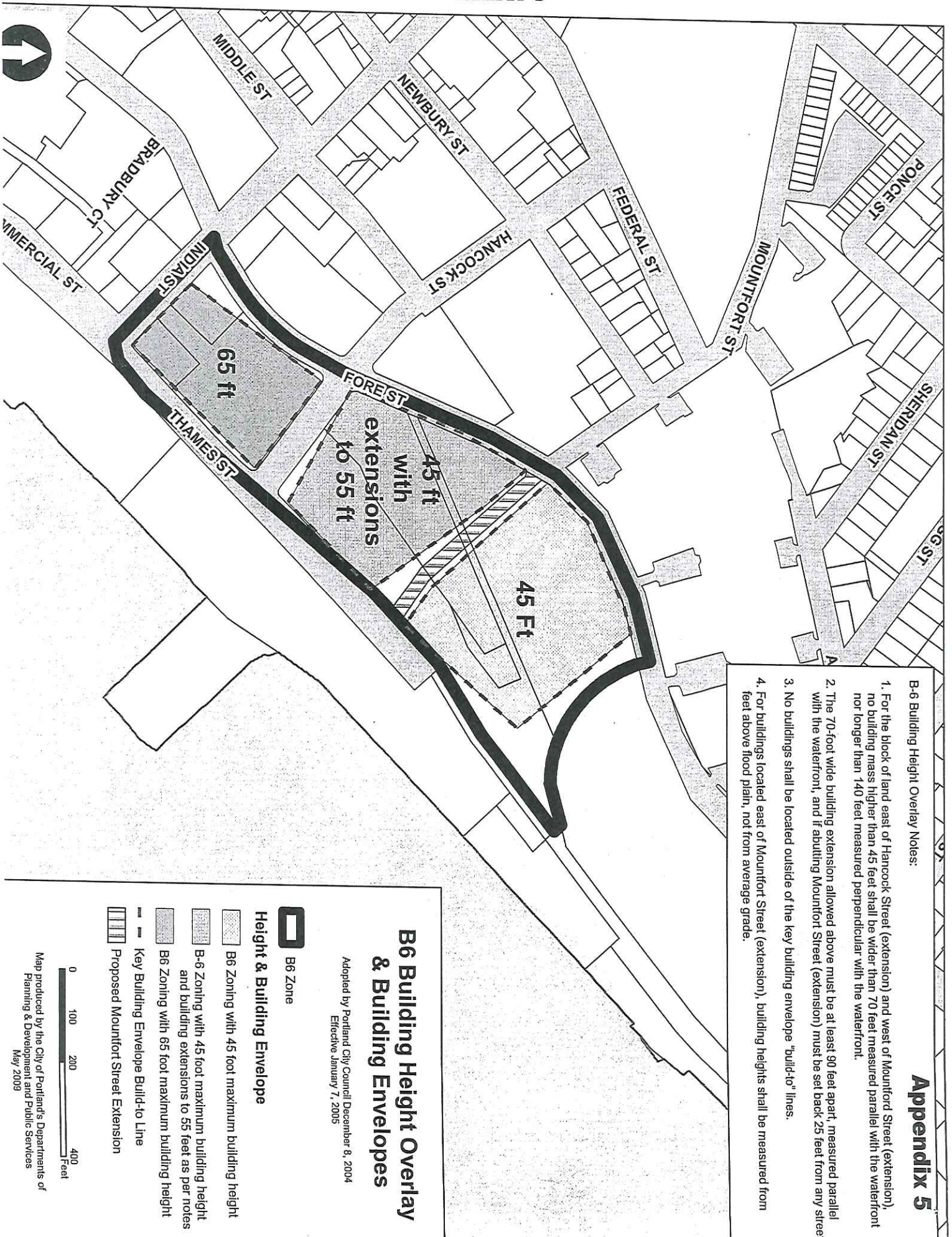
BAV/om
Enclosures
cc: Christine Grimando

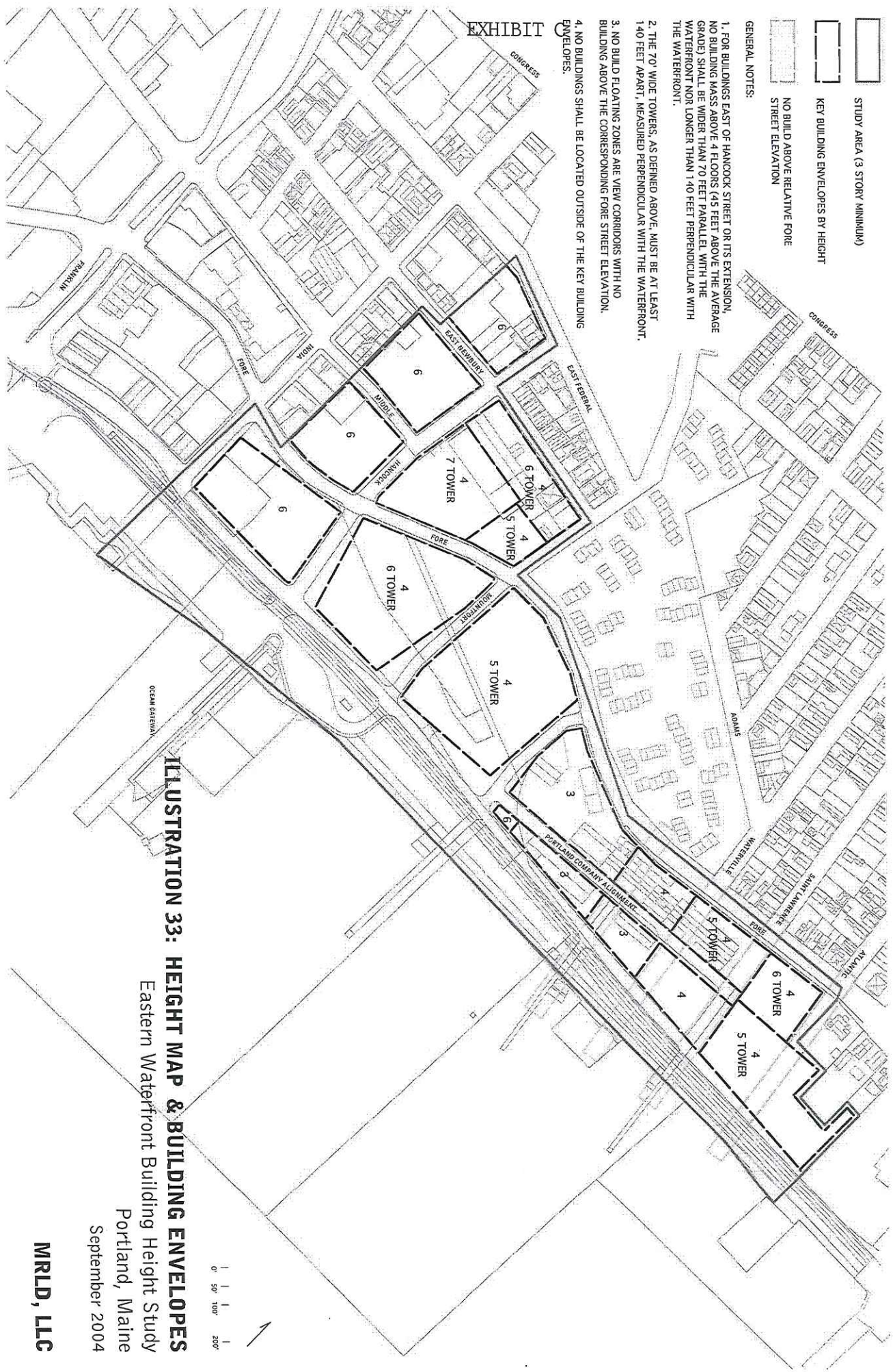


Appendix 5

B-6 Building Height Overlay Notes:

1. For the block of land east of Hancock Street (extension) and west of Mountfort Street (extension), no building mass higher than 45 feet shall be wider than 70 feet measured parallel with the waterfront nor longer than 140 feet measured perpendicular with the waterfront.
2. The 70-foot wide building extension allowed above must be at least 90 feet apart, measured parallel with the waterfront, and if abutting Mountfort Street (extension) must be set back 25 feet from any street.
3. No buildings shall be located outside of the key building envelope "built-to" lines.
4. For buildings located east of Mountfort Street (extension), building heights shall be measured from feet above flood plain, not from average grade.





EXHIBIT

- STUDY AREA (3 STORY MINIMUM)
- KEY BUILDING ENVELOPES BY HEIGHT
- NO BUILD ABOVE RELATIVE FORE STREET ELEVATION

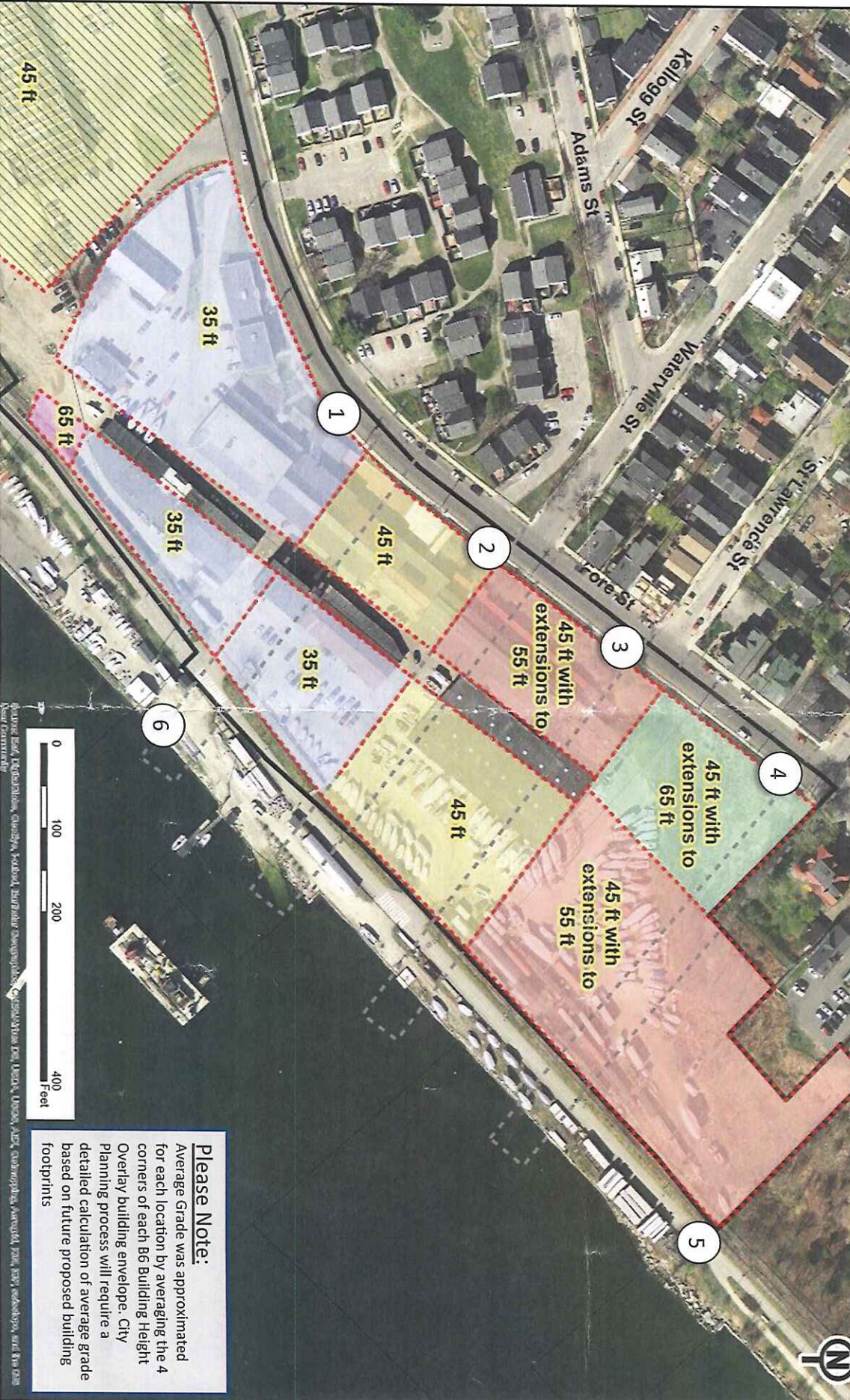
- GENERAL NOTES:**
1. FOR BUILDINGS EAST OF HANCOCK STREET OR ITS EXTENSION, NO BUILDING MASS ABOVE 4 FLOORS (45 FEET ABOVE THE AVERAGE GRADE) SHALL BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.
 2. THE 70' WIDE TOWERS, AS DENIED ABOVE, MUST BE AT LEAST 140 FEET APART, MEASURED PERPENDICULAR WITH THE WATERFRONT.
 3. NO BUILD FLOATING ZONES ARE VIEW CORRIDORS WITH NO BUILDING ABOVE THE CORRESPONDING FORE STREET ELEVATION.
 4. NO BUILDINGS SHALL BE LOCATED OUTSIDE OF THE KEY BUILDING ENVELOPES.

ILLUSTRATION 33: HEIGHT MAP & BUILDING ENVELOPES

Eastern Waterfront Building Height Study
 Portland, Maine
 September 2004

MRLD, LLC

EXHIBIT D



1 - Maximum Building Height Above Average Grade: 35' - Average Fore Street Elevation: 33' - Approximate Average Grade of Building Envelope: 24' - Average Height above Fore Street: 26' - Max Height above Fore Street: 29'	2 - Maximum Building Height Above Average Grade: 45' - Average Fore Street Elevation: 45' - Approximate Average Grade of Building Envelope: 30' - Average Height above Fore Street: 30' - Max Height above Fore Street: 34'	3 - Maximum Building Height Above Average Grade: 45' - 55' - Average Fore Street Elevation: 61' - Approximate Average Grade of Building Envelope: 38' - Average Height above Fore Street: 27' - Max Height above Fore Street: 35'	4 - Maximum Building Height Above Average Grade: 45' - 65' - Average Fore Street Elevation: 80' - Approximate Average Grade of Building Envelope: 50' - Average Height above Fore Street: 25' - Max Height above Fore Street: 35'
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Please Note:
Average Grade was approximated for each location by averaging the 4 corners of each B6 Building Height Overlay building envelope. City Planning process will require a detailed calculation of average grade based on future proposed building footprints

- STUDY AREA (3 STORY MINIMUM)
- KEY BUILDING ENVELOPES BY HEIGHT
- NO BUILD ABOVE RELATIVE FORE STREET ELEVATION

GENERAL NOTES:

1. FOR BUILDINGS EAST OF HANCOCK STREET OR ITS EXTENSION, BUILDING MASS ABOVE 4 FLOORS (45 FEET ABOVE THE AVERAGE GRADE) SHALL NOT BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.
2. THE HEIGHT OF BUILDINGS AND TOWER MASSES EAST OF MOUNTFORT STREET OR ITS EXTENSION SHALL BE MEASURED FROM 2' ABOVE THE FLOOD PLAIN ELEVATION FOR THE SITE BASED ON THE NATIONAL GEODETIC VERTICAL DATUM, WHERE ALLOWED, BUILDING MASS ABOVE 4 FLOORS SHALL NOT BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.
3. THE 70' WIDE TOWERS, AS DEFINED ABOVE, MUST BE AT LEAST 140 FEET APART, MEASURED PERPENDICULAR WITH THE WATERFRONT.
4. NO BUILD FLOATING ZONES ARE VIEW CORRIDORS WITH NO BUILDING ABOVE THE CORRESPONDING FORE STREET ELEVATION.
5. NO BUILDINGS SHALL BE LOCATED OUTSIDE OF THE KEY BUILDING ENVELOPES.

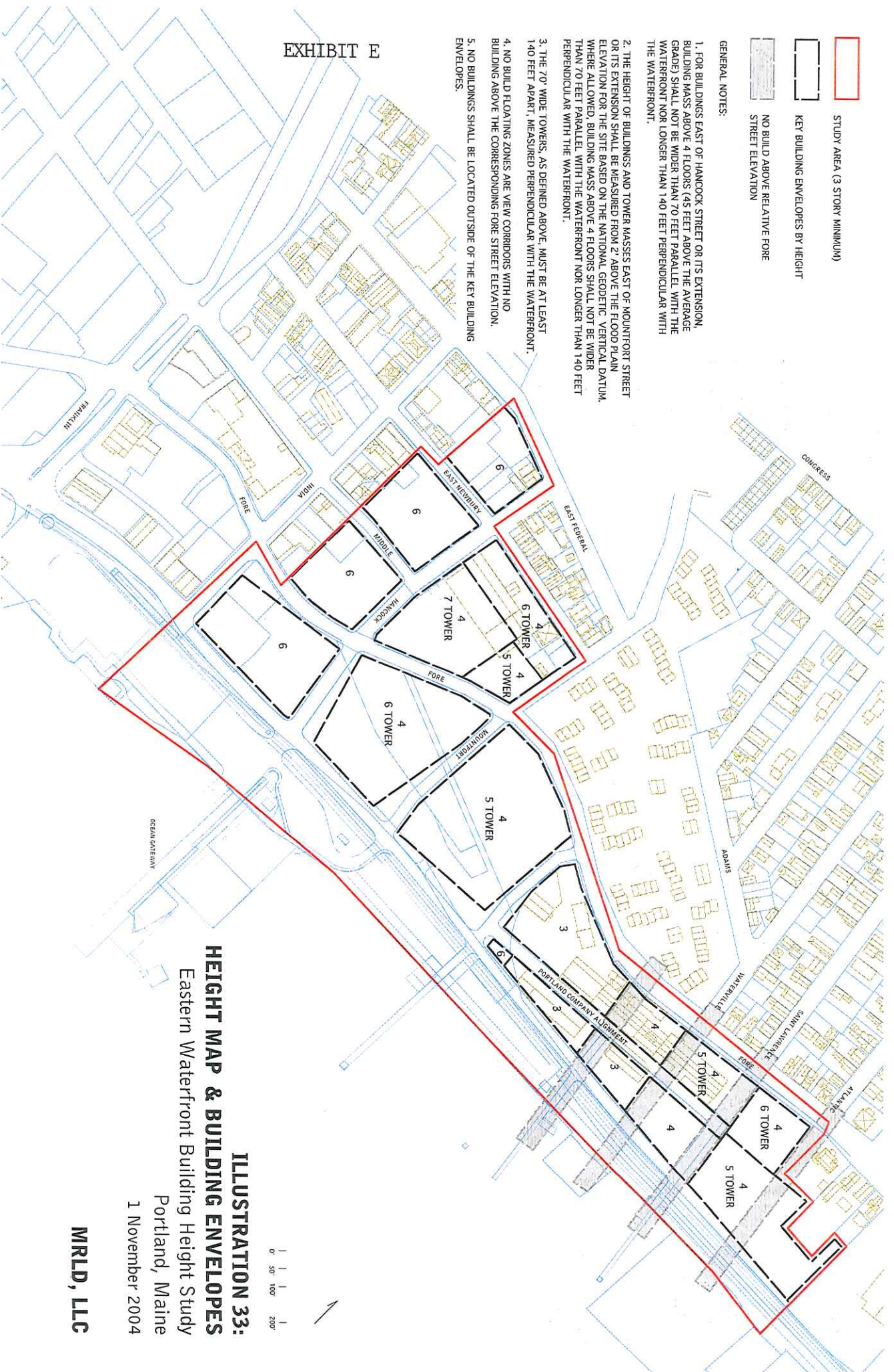
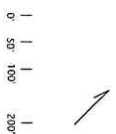


EXHIBIT E

ILLUSTRATION 33:
HEIGHT MAP & BUILDING ENVELOPES
 Eastern Waterfront Building Height Study
 Portland, Maine
 1 November 2004

MRLD, LLC






SOUL OF PORTLAND
 SOULOFPORTLAND.ORG

FORE STREET & MUNJOY SOUTH
 HEIGHTS ABOVE AVERAGE GRADE




SOUL OF PORTLAND
 SOULOFPORTLAND.ORG

FORE STREET & MUNJOY SOUTH*
 HEIGHTS ABOVE FLOOD PLAIN





February 6, 2015

Chair O'Brien and Members of the Planning Board
% Christine Grimando
Planning Department
City of Portland
389 Congress Street
Portland, Maine 04101

Dear Chair O'Brien and Members of the Planning Board,

My name is Peter Macomber and I live on St Lawrence Street. I'd like to call the Board's attention to a study completed in 1983 by Terrien Architects and Mitchell-Dewan Associates titled "Portland Waterfront: Public Access Design Project". This study is referenced in Volume 2 of the Comprehensive Plan (page N-16) and is thereby incorporated into the Comprehensive Plan.

Among other things, the study identifies significant viewpoints and panoramas in the City. The panoramas from Fore Street above and overlooking the Portland Company complex and into the working harbor are labelled as **major panoramas** (Exhibits A-1 and A-2). The larger the arrow on the map, the more significant the panorama. These major panoramas are classified in the study as having an 'A' view, showing not only background views of the harbor and beyond, but also foreground waterfront activities as well.

The study acknowledges that progress is inevitable: "*conditions and circumstances of private interest and concern will continue to change, as will the scope and application of public policy*". But it also cautions that "*the City must nurture its connection to the sea to bring full advantage to the many public and private users, present and future, that take their livelihood and enjoyment from the waterfront.*"

I mention this study not only because it's part of the City's Comprehensive Plan and helps inform policy decisions, but also because it speaks to us, from 37 years ago, about just how valuable the street-level views of the water have been and continue to be. And it calls upon the City to preserve these views as much as possible in the face of change.

When I walk along Fore Street between Atlantic and Waterville streets, I also take "*enjoyment from the waterfront.*" I see daily the panoramas that are highlighted in that study. I find the harbor vista to be as compelling and significant as the authors of that study did 37 years ago. And I think the majority of Munjoy Hill residents and City residents would strongly agree with that. As such, I am very focussed on the building height issues related to the Portland Company development especially if any buildings protrude above Fore Street and degrade the street-level panorama. How building height maximums are calculated will determine whether these panoramas will survive.

But how the height maximums are determined is, at best, bewildering. I find the height calculations as brought forward at Planning Board workshops with regard to the site topology to be vague, confusing and contradictory. And it's not just me. It appears that differing

interpretations of this issue extend to the city staff as well: in a memo to the Board dated October 8, 2014, staff referenced the Eastern Waterfront Building Height Study and wrote *“Given the topography of the site, a measurement from average adjoining grade could result in substantially higher building forms than were predicated for this area, as we read the plan.”* But one month later this policy position is turned on its head. In a memo dated November 12, 2014, staff wrote *“Planning staff does not believe that the floodplain measurement would produce the intended development patterns outlined in the Eastern Waterfront Building Height Study.”* This is a breathtaking reversal of position.

It seems to boil down to this: should you measure building heights in this particular site from the floodplain or from average grade? Average grade calculations seem to be used fairly consistently in Portland, although I’ve found only one reference to average grade in the the Land Use Code: *“Pre-development grade is defined as average grade, existing on October 1, 2000, at the corners of the foundation of the proposed structure.”* It seems logical, though, and seems like it works quite well, even for a relatively steep site that has a consistent slope.

But does this methodology still work when 5% of a site is at at one elevation and 80% at a much lower elevation with an extremely steep slope comprising about 15% between? Take a close look at the applicant’s submittal “height measurement package” of November 7, 2014, page 9, Sections 7-9 (Exhibit B) to see how steeply the slope drops. These sections are between Waterville and St Lawrence streets. Is “average grade” still an appropriate methodology for determining building heights in such extreme topological conditions?

Maybe the best way to see how surprising an outcome can result from such extreme conditions is to look at it from the opposite direction.

Let’s take “Section 8” of the applicant’s submittal and flip the elevations (Exhibit C). Let’s suppose that the site conditions were reversed and 80% of the site is now at an elevation of 61 feet and 5% is now at 14 feet. And let’s say that an imaginary developer wanted to have a zone-permitted 45 foot building over that entire block of land.

The “average grade” of this imaginary site is exactly the same as the actual one - 38 feet - that the applicant has calculated. But even though the elevation of 95% of the imaginary site supports a 45’ building, the “average grade” formula would prohibit it. Only a 22 foot building would be permitted, or two full stories less than the desired 45 feet. Hmmm. I have a feeling that our imaginary developer would strongly advocate alternative measurement methods for determining building height maximums.

You may find this scenario a little silly and ludicrous, but then the converse must also be silly and ludicrous. And in truth, if 95% of a building envelope supports a given building height, it really should be permitted. Conversely, if 95% of a building envelope does not support a given building height, it should not be permitted.

This is a valid observation with respect to the matter before you. **If the preponderance of the elevation of the Portland Company site does not support a given building height, you must look at another way of calculating that building height.**

I urge the Board to consider the elevation of the bulk of the Portland Company site as a basis for calculating heights. That would be the “floodplain” methodology that has been interpreted or advocated by, among others, the Soul of Portland group, by Planning Staff in the memo to the Board dated October 8, 2014, the more recent version of Illustration 33 of the Eastern Waterfront Building Height Study(Exhibit D, Note 2) and even by the City’s own B-6 Building Height Overlay Map (Exhibit E). This approach would bring consistency and clarity to the applicant and to the citizens of Portland as well as helping preserve the treasured street-level panoramas that were celebrated 37 years ago.

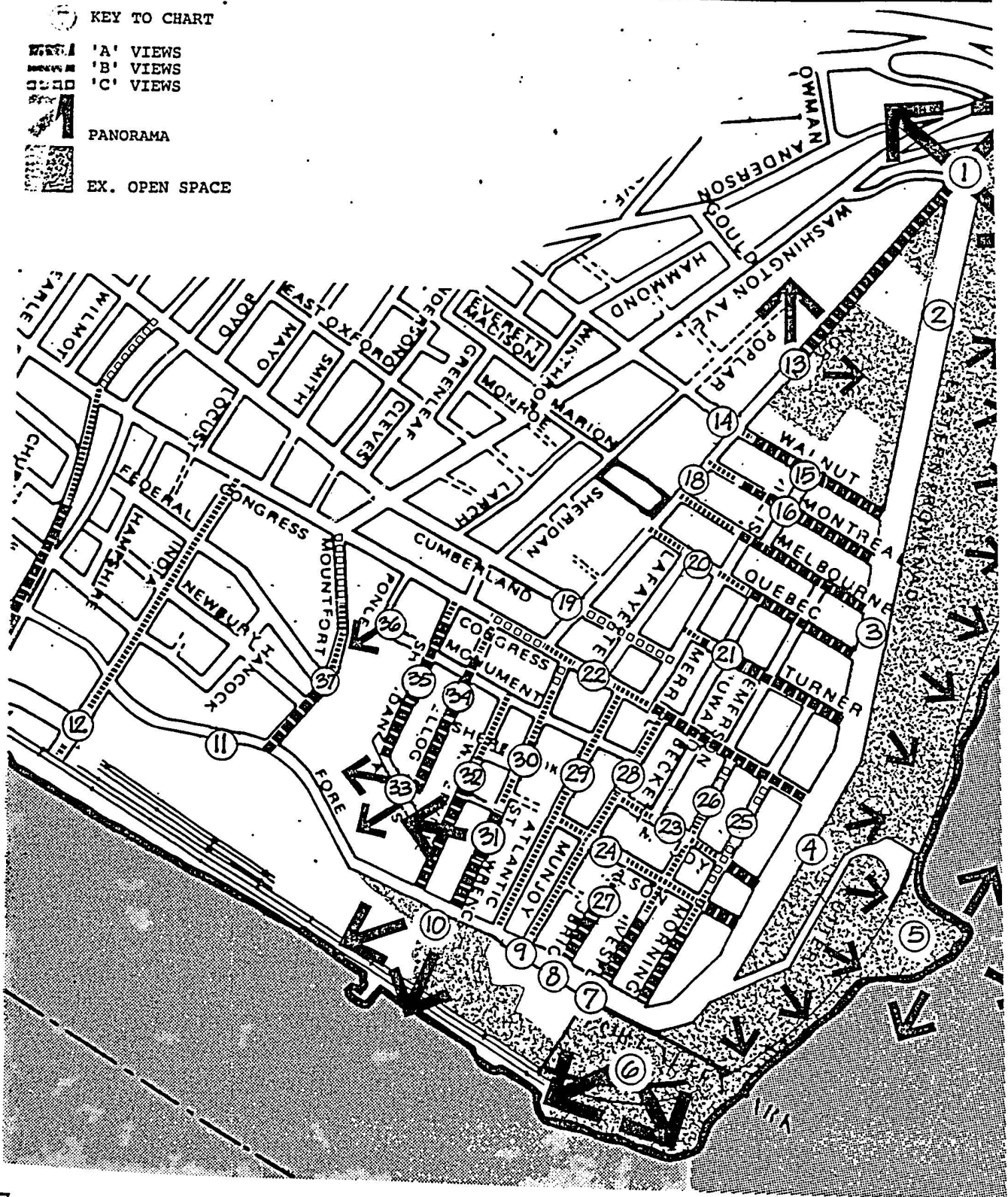
Sincerely,

A handwritten signature in black ink, appearing to read 'Peter Macomber', with a long horizontal flourish extending to the right.

Peter Macomber

VISUAL CORRIDORS Eastern Prom

- KEY TO CHART
-  'A' VIEWS
 -  'B' VIEWS
 -  'C' VIEWS
 -  PANORAMA
 -  EX. OPEN SPACE



Within each of the four subsections the view corridors have been classified as follows, based upon field observations at street level:

■■■■■ 'A' VIEWS. Foreground or midground views of Portland's waterfront or the water's edge, plus background views of Casco Bay or South Portland.

■■■■■■■■ 'B' VIEWS. Midground or background views of Casco Bay or the Fore River and the opposite shore, with the Portland Waterfront obstructed by grade changes or buildings.

□□□□□ 'C' VIEWS. Water is not visible, but the observer has a sense of being near the water.

The map(s) of each section graphically show the extent of each type of view corridor. In addition the location of panorama viewpoints are noted: the larger the arrow the greater the significance of the panorama in terms of angle of view, position of observer, and degree of obstructions. A panorama is generally assumed to be a point or area offering the street level observer the opportunity to view water and waterfront activities in a cone of vision greater than 45°. The visual corridors map also indicates major open spaces that exist along the waterfront.

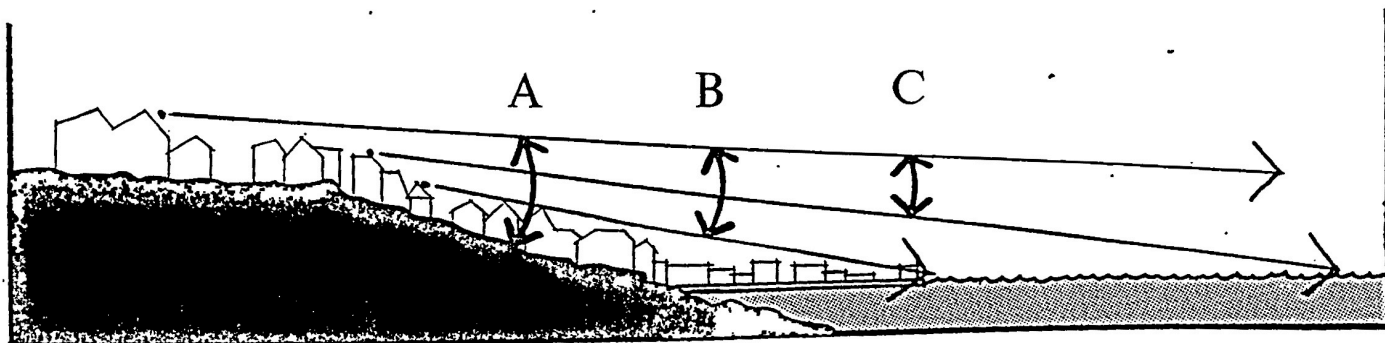
Opposite the visual corridors map is a chart describing characteristics of the visual corridors and viewpoints. In some instances the number on the chart refers to a single point, in others, a street - usually running perpendicular to the waterfront, and in others it represents an entire area Location.

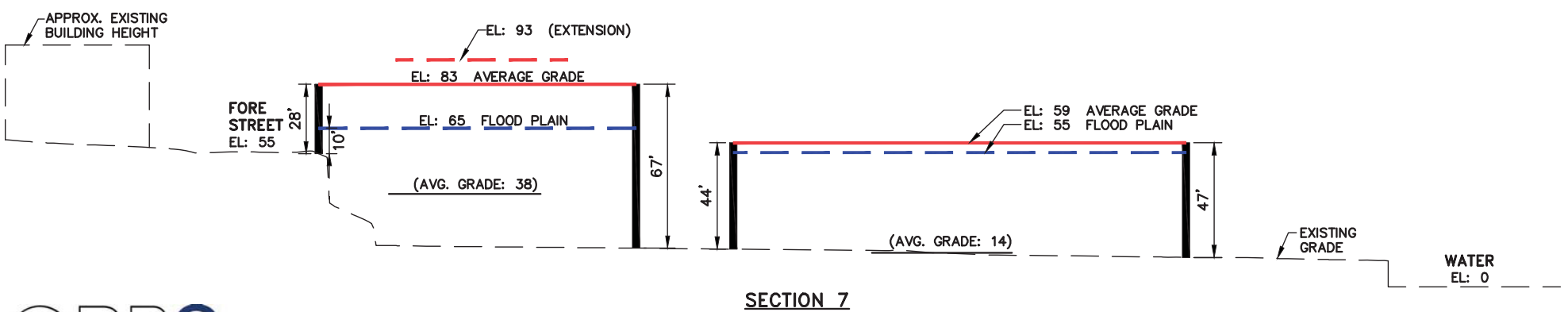
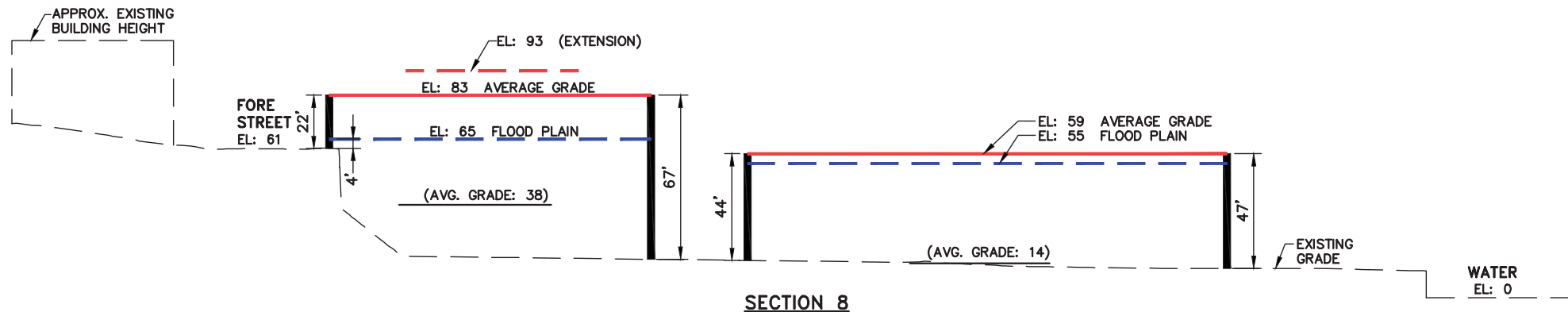
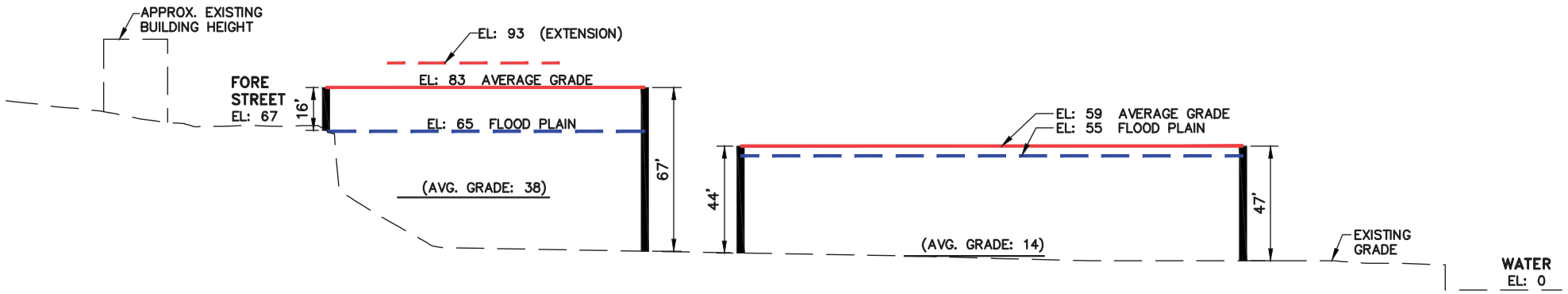
The Position column refers to the observer's position relative to the waterfront (WF): well above it, at the waterfront roofline, or at the water's edge.

Neighborhood land use and Condition observations are the result of site visits by consultant team members and are included for use as a benchmark for continuing assessments.

The View Types indicate whether the view at the designated position is a major panorama (solid block), minor panorama (cross-hatched block), a corridor terminus, or a minor interest point (occupying a relatively small percentage of the cone of vision at ground level).

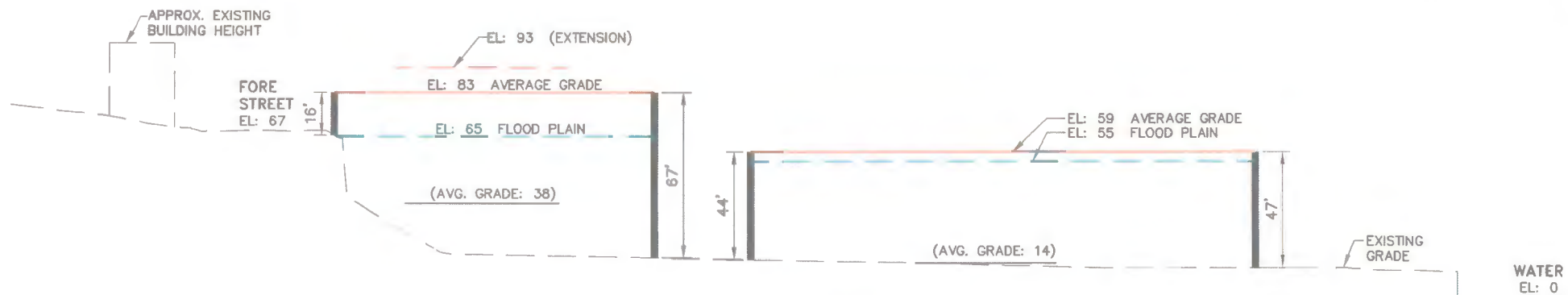
Where 'A' VIEWS are found, the 'A' View Foreground (waterfront activity) is noted. Similarly, the 'B' View Background records waterfront activities or land uses on the opposite shore.





- LEGEND**
- MEASURED FROM AVERAGE GRADE
 - MEASURED FROM FLOOD PLAIN (EL. 10)
 - EXISTING GRADE

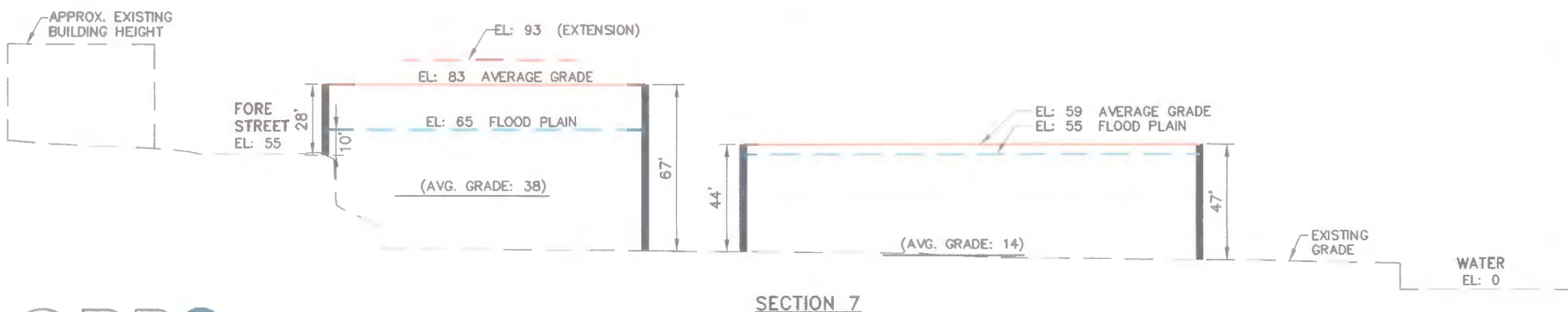
NOTE: SECTIONS DO NOT REPRESENT ACTUAL BUILDING STRUCTURES.



SECTION 9



SECTION 8



SECTION 7

CPB2

LEGEND

- MEASURED FROM AVERAGE GRADE
- MEASURED FROM FLOOD PLAIN (EL. 10)
- EXISTING GRADE

NOTE: SECTIONS DO NOT REPRESENT ACTUAL BUILDING STRUCTURES.

-  STUDY AREA (3 STORY MINIMUM)
-  KEY BUILDING ENVELOPES BY HEIGHT
-  NO BUILD ABOVE RELATIVE FORE STREET ELEVATION

GENERAL NOTES:

1. FOR BUILDINGS EAST OF HANCOCK STREET OR ITS EXTENSION, BUILDING MASS ABOVE 4 FLOORS (45 FEET ABOVE THE AVERAGE GRADE) SHALL NOT BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.
2. THE HEIGHT OF BUILDINGS AND TOWER MASSES EAST OF MOUNTFORT STREET OR ITS EXTENSION SHALL BE MEASURED FROM 2' ABOVE THE FLOOD PLAIN ELEVATION FOR THE SITE BASED ON THE NATIONAL GEODETIC VERTICAL DATUM. WHERE ALLOWED, BUILDING MASS ABOVE 4 FLOORS SHALL NOT BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.
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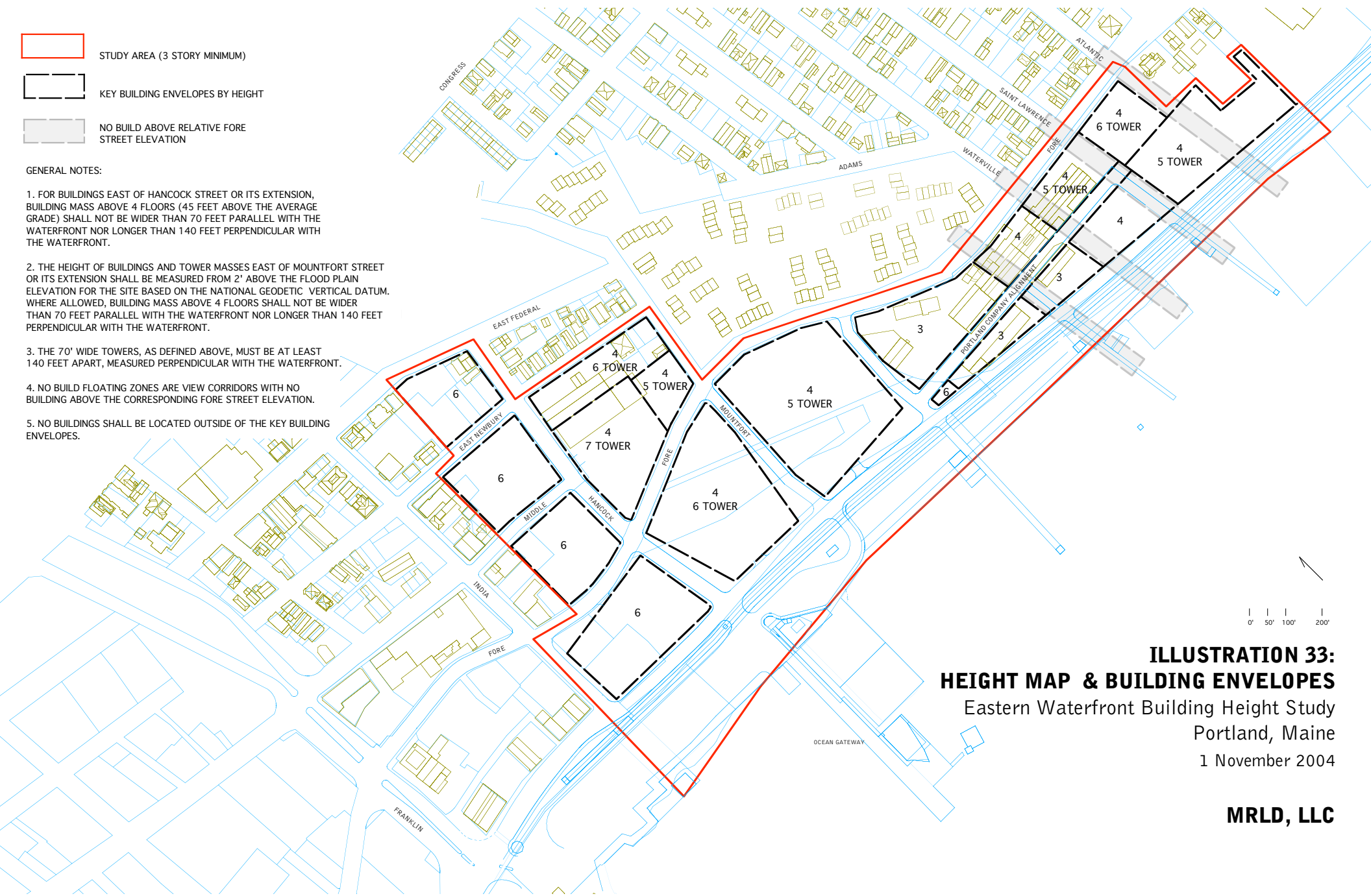
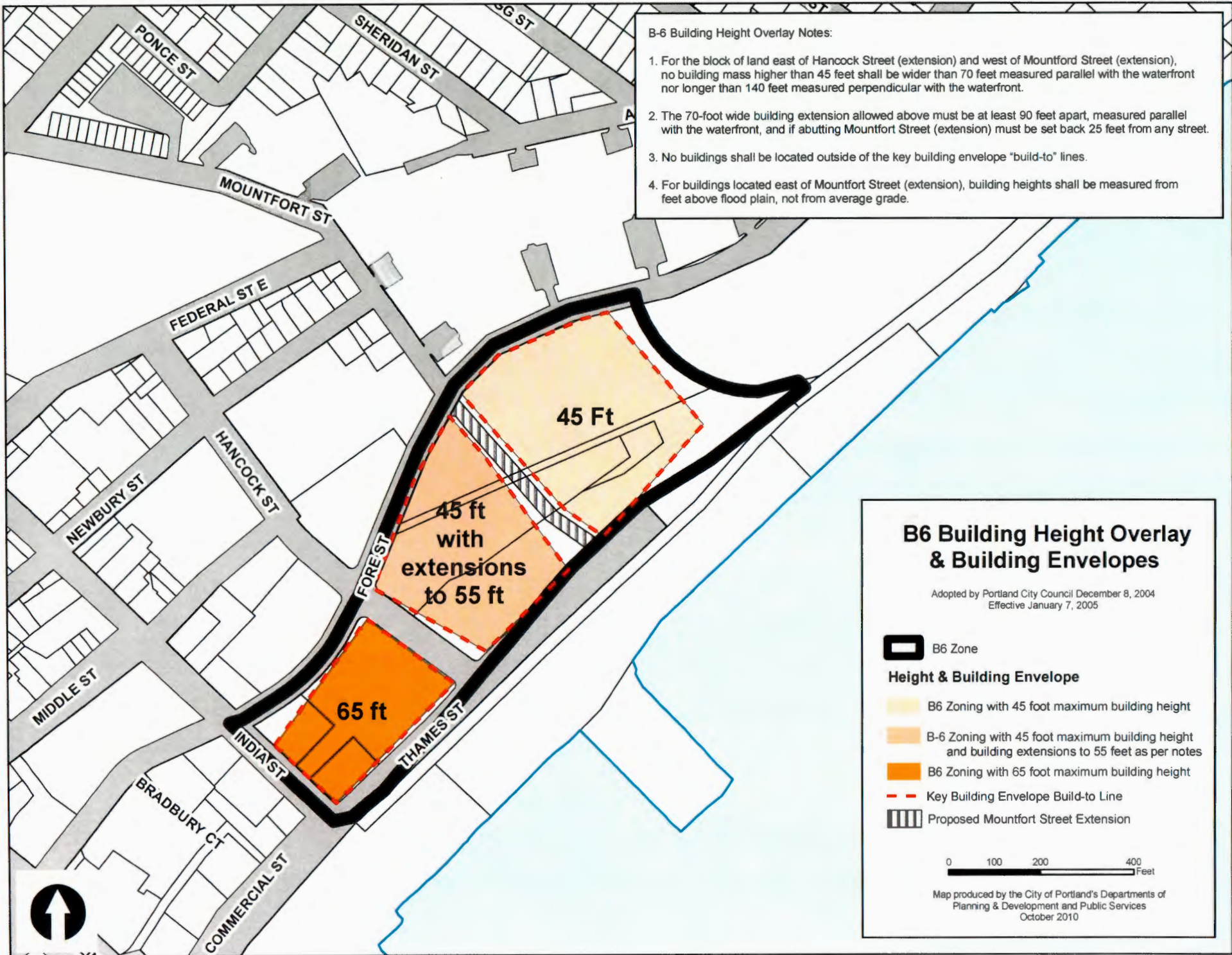


ILLUSTRATION 33:
HEIGHT MAP & BUILDING ENVELOPES
 Eastern Waterfront Building Height Study
 Portland, Maine
 1 November 2004

MRLD, LLC



Lannie Dobson - Re: Fwd: The Comprehensive Plan on public views of the harbor and building heights

From: Lannie Dobson
To: Christine Grimando
Subject: Re: Fwd: The Comprehensive Plan on public views of the harbor and building heights

Christine Grimando, AICP
 Senior Planner
 Planning & Urban Development Department
 389 Congress Street
 Portland, Maine 04101
cdg@portlandmaine.gov
 Ph: (207) 874-8608

>>> Brian Burwell <burwell@maine.edu> 2/6/2015 9:50 AM >>>
 Dear Chair O'Brien and Planning Board Members,

Re: Development of the Portland Company property

The City's Comprehensive Plan is a rigorous document incorporating professional expertise and resident inputs. And it is an asset belonging to all of its citizens.

Community forums held in 2001 were asked "What makes Portland distinctive?" Portland's natural setting was the number one response. (Comprehensive Plan, Vol 2, Natural Environment Inventory and Analysis, N-1). Recognizing the vital contributions of the ocean to its unique history and current character, the City has focused much planning effort on optimizing its relationship to the waterfront.

THE PUBLIC ACCESS DESIGN PROJECT

In 1983 the City engaged Terrien Architects and Mitchell-Dewan Assoc. to provide guidelines for "public access" to the waterfront for the entire peninsula. The Public Access Design Project identified "major viewing corridors and viewing points, (and) suggested measures to preserve and enhance these resources.." On Munjoy Hill, as well as other high points in the City, public access is defined in terms of water and/or harbor views obtained at street level. The Public Access Design Project classifies a major panorama "to be a point or area offering the street level observer the opportunity to view water and waterfront activities in a cone of vision greater than 45 degrees."

--" Panorama viewpoints are noted with an arrow, the larger the arrow, the greater the significance of the panorama in terms of angle of view, position of observer, and degree of obstructions. "



Comprehensive Plan, Volume 2, N-16.

As seen above, in addition to the Ft. Allen Park area, the only "major panoramic views" of the ocean and/or harbor are along Fore Street in the Waterville and Saint Lawrence Street blocks, and along Waterville Street; with lesser panoramas along Adams Street and at the corner of Ponce and Monument Streets. The streets sloping down to Adams and Fore are replete with "view corridors". This study assessed these panoramic and corridor views as "increasingly important for the well being of the entire City...", and having a goal "to protect and enhance them." (The entire study relating to the East End is available at dropbox: <https://www.dropbox.com/s/c9b3a1usc053k0/Portland%20Waterfront%20Public%20Access%20Design%20Project.pdf?dl=0>)

THE EASTERN WATERFRONT BUILDING HEIGHT STUDY

The Building Height Study was adopted into the Comprehensive Plan in December of 2004 after four years of work. It anticipated development of the Portland Company property emphasizing how the unusual topography of the site, with Fore Street rising to 80 feet over sea level, allows for the preservation of harbor views for pedestrians on Fore Street while enabling four to six story buildings nestled into the hillside. Guiding principles for the Building Height Study include:

- * "Protect, enhance and create views from various vantage points surrounding the study area and within the study area"; and
- * "Place taller and larger buildings in the "shadow" of existing grade changes"

The report was finalized after a lively meeting at Adams School attended by over 100 neighborhood residents who in large majority criticized the draft building heights as too aggressive. The study author notes that the "final illustrations provided herein, including section drawingsreflect public input generated at the neighborhood meeting." (Appendix D-5) Section E (attached below) shows existing and proposed building heights relative to Fore Street for the Portland Company property. Public views along Fore Street are minimally affected, while five and six story buildings (including the towers) are largely within the shadow of existing grade changes.

THESE PANORAMIC HARBOR VIEWS CONTRIBUTE TO THE PEDESTRIAN EXPERIENCE OF LARGE NUMBERS OF THE PUBLIC

Panoramic views of the harbor enhance the experience of living on the Hill and help foster a balance in the Hill's natural and increasingly dense built environment.

Neighborhood residents, whose numbers are increasing from new infill developments and building enlargements, walk the area and to and from downtown.

Hundreds of downtown workers on lunch breaks, cruise line passengers and other visitors stroll the Fore Street sidewalks during good weather in order to experience the harbor views unique to Portland.

According to the Maine Department of Transportation 4,573 vehicles traveled on upper Fore Street on October 21, 2013.

Austin, Seattle and other cities protect unique natural views and respect typography to maintain and enhance distinctive character

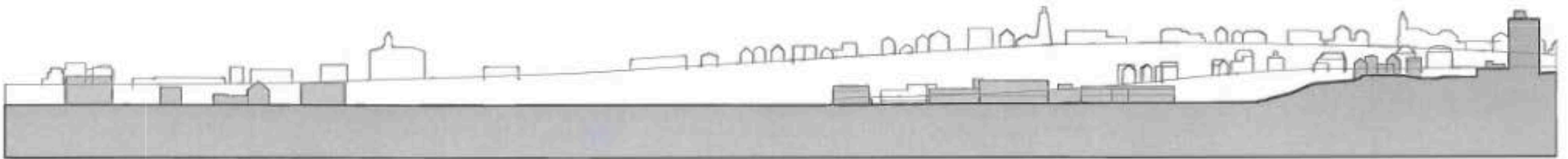
B-6 REQUIREMENTS FOR A BUILT STREETScape ON THE SOUTH SIDE OF FORE STREET ARE ANTITHETICAL TO "WHAT MAKES PORTLAND DISTINCTIVE".

B-6 is designed to apply to a commercial setting, with no setbacks in order to create a built streetscape. Application of B-6 standards to this setting would disrespect the unique, wonderful panoramas currently enjoyed by Portland's residents and visitors. It would be a be a major, non-reversible mistake.

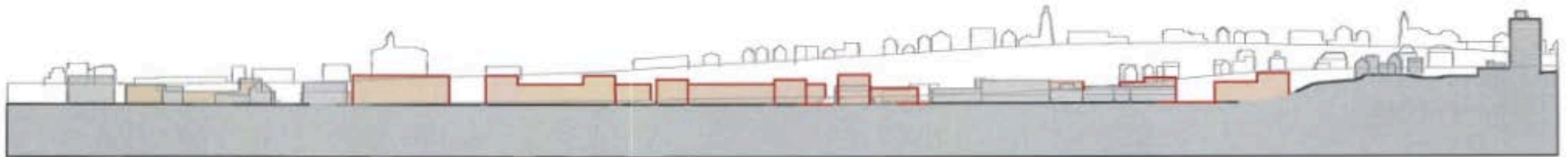
Question: If we ignore the wisdom and clear intent of these Comprehensive Plan documents, why would the City and its residents bother with the strenuous efforts to develop such plans?

Sincerely,

Brian Burwell
31 Fore Street



SECTION E EXISTING - EAST / WEST (with Congress Street and Fore Street Elevations)



SECTION E PROPOSED - EAST / WEST (with Congress Street and Fore Street Elevations)

EASTERN WATERFRONT HEIGHT STUDY

CHESTER & VESTAL

A PROFESSIONAL ASSOCIATION

ATTORNEYS AT LAW

107 Congress Street, Portland, Maine 04101
Telephone (207) 772-7426 Fax (207) 761-5822

EDWIN P. CHESTER
BARBARA A. VESTAL
MICHAEL P. DIXON

chester@chesterandvestal.com
vestal@chesterandvestal.com
dixon@chesterandvestal.com

February 5, 2015

Chair O'Brien and Members of the Planning Board
c/o Christine Grimando
Planning Department
City of Portland
389 Congress Street
Portland, Maine 04101

Re: Portland Company Complex

Dear Chair O'Brien and Members of the Planning Board,

The Portland Company Complex, a very visible 10 acre gateway site, is critical to the identity of Portland. As the applicant needs a zone change of some variety in order to proceed with uses that are not currently allowed, the Board has the opportunity to craft zoning that is fully reflective of the best use of that site. It is important for the City to get its zoning right. I firmly believe that the B-6 zone is not the answer for the reasons outlined below.

1. THE B-6 ZONE WAS NOT DRAFTED TO APPLY TO THE PORTLAND COMPANY SITE.

During the course of the Eastern Waterfront master planning process, an "**Ultimate Build-out Scheme**" scenario was developed by the Planning Office in the spring of 2002. It included City-owned land, the parcel referred to as the Farley-Marino property and some land belonging to Shipyard Brewing. **It did not include the Portland Company Complex** because its owner was not interested in redeveloping his property at that time. That illustration is attached as Exhibit A.

The Eastern Waterfront Master Plan generally recommended mixed use development for upland areas of the Eastern Waterfront, including the Portland Company Complex. But it did not recommend that the Portland Company Complex be rezoned from WSUZ to B-6. Mixed use development on the Portland Company Complex can be accommodated within the existing WSUZ regulation.

Between the spring of 2002 and its adoption in December 2004, the Planning Board developed and forwarded to the City Council the proposed B-6 Eastern Waterfront Mixed Use Zone. It applied only to the properties east of India Street, north of Commercial Street and its extension, west of the Portland Company complex, and south of Fore Street. It did not include the Portland

Company Complex (See Exhibit B). This area was denoted the "Central Redevelopment District." In some documents the Shipyard Property, which was eventually developed as the Gateway Parking Garage and the Residence Inn, was included in the discussion as well. However, the B-6 zoning which was enacted in December 2004 applies only to the "Central Redevelopment Area," without the Shipyard properties.

2. THE B-6 ZONE MANDATES A VERY SPECIFIC FORM OF DEVELOPMENT WHICH IS A POOR FIT FOR THE PORTLAND COMPANY SITE

The B-6 zone is a variation of a form-based code. The attached Ultimate Build-out Scheme (Exhibit A) set the stage for a form of urban development that is woven throughout the zoning language. It is very specific to the three blocks that were rezoned to B-6.

The Ultimate Build-out is premised upon a re-connected grid of public streets and public sidewalks (Hancock St., Mountfort St. and an unnamed/unbuilt street adjacent to 58 Fore St.) The parking is directed to the interior of each block (light blue), with structures accommodating mixed uses wrapped around the parking (dark blue). There are virtually no provisions for the consideration of existing buildings, because the area of the Ultimate Build-out is composed of vacant land, surface parking lots, and metal industrial structures which will be razed in the event of development. The B-6 ordinance incorporates unique dimensional requirements to produce this Ultimate Build-out -- e.g., "built to lines," 10 foot maximum setbacks from "build to lines," minimum street wall lengths, and minimum heights -- and requires for ground floor retail space to create new, very dense urban space.

Poor Fit: Already Existing Structures: In contrast to the 3 blocks of B-6, the Portland Company Complex is already significantly occupied by historic buildings. The majority of these buildings are of the character which should be adaptively reused, as stated in the Master Plan and the Design Guidelines. Contrary to assuming a virtually blank slate, as the B-6 does, the Design Guidelines state:

Historically and architecturally significant structures and sites should be inventoried and protected from demolition and carefully rehabilitated in a way that is consistent with their original architectural intent. The challenge and opportunity is to adaptively reuse significant structures while retaining their historic character (Design Guidelines, p.7).

The form-based code approach of the B-6 zone is inconsistent with the goals for the important buildings already occupying a portion of this site.

Poor Fit: No Street Grid: There is no street grid proposed for 58 Fore which will produce the basic building blocks of the B-6 zone -- blocks surrounded on four sides by public streets. The only streets proposed are the existing Fore Street (which is well above the grade of most of the

existing buildings and the "Portland Company Alignment" where no buildings will be allowed. Presumably the no build area will serve as a street, but it is not clear whether it will be public. The B-6 zone relies upon public streets and public sidewalks on both sides of the streets to make the land publicly accessible, thus securing a benefit for the general public. There is no such similar street grid proposed on the Portland Company site.

The rest of the circulation pattern on the Portland Company site has yet to be determined, and may consist of private lanes. This is the opposite of the B-6 zone which relies upon a grid of public streets and sidewalks to assure public access.

Poor Fit: Build-to Lines Nonsensical: In the existing B-6 zone, the dashed lines are "key building envelopes." The B-6 zone states:

New structures located in the blocks located south of Fore Street and north of Commercial Street and its extension, shall build to the key building envelopes [sic] shown on the *Eastern Waterfront Building Height Overlay Map*. (14-272(c)(3))

These build-to lines are tied to the building envelopes, not to streets. The Overlay Map which the applicant proposed to apply to 58 Fore Street has 9 building envelopes. There are eight "built to" lines that do not abut streets or the edge of the parcel. It is unclear what the zoning intends to accomplish by requiring build-to lines in the eight locations where build-to lines are in the middle of a parcel, not bounded by a street. Similarly the impact of overlaying this grid of build-to lines on top of historic structures is unclear.

Poor Fit: High-Density Urban Pattern of Development: The type of development that would be produced by the B-6 standards is similar to the Ocean Gateway Garage and the Residence Inn. Even beyond the question of whether the provisions are effective to generate ground floor active uses (given that the "retail space" in the Gateway Garage has been vacant since it was constructed), it is important to ask whether this is, in fact, the type of development desired at 58 Fore St. It may make more sense to first settle the issue of whether the 58 Fore Street site, or some portion of it, is going to be designated a local historic district before casting the form of new development in stone as do the very detailed standards in the B-6 zone.

Poor Fit: Brew Pubs, Restaurants, etc. Incompatible with Immediately Adjacent Residential Neighborhood: The B-6 zone was designed to abut other commercial uses. Extending that zone to 58 Fore Street gives no consideration to the established residential neighborhood which, for over 100 years, has overlooked, but not interacted with, the 58 Fore Street property except at its single entrance. The substantial change in grade has acted as a buffer between the industrial use and the residences. The proposed extension of the B-6 to 58 Fore St. completely disregards this traditional buffer.

Except for the Portland Company site itself, both sides of Fore Street in the vicinity of 58 Fore St. are occupied by residential uses, mostly in small scale 1-3 family structures, with the exception of the Portland House. There are no existing non-residential uses except for one small insurance office, which may be a home occupation. The Munjoy Hill neighborhood moving north from Fore Street is of a similar, entirely residential, character.

In contrast, if the entire 58 Fore St. site is rezoned to B-6 as proposed, it would allow a developer to build, as of right, on the south side of Fore Street hotels, retail space, offices, restaurants, brew pubs and any number of other uses facing the residential neighborhood. It would require at least 75% of the street wall of whatever use to be built out to within 10 feet of Fore Street. And, in a provision that is inconsistent with how the maximum height limits should be applied to this site, it would require that uses facing Fore Street not have less than three (3) floors of habitable space above the average adjacent grade. This scale and range of permitted uses is completely out of character and incompatible with the existing, long-standing residential uses.

While these non-residential uses might belong in the area where the existing B-6 is located and on the filled land portion of 58 Fore Street, they are completely inappropriate on the upper portion of Fore Street. A rezoning to allow the incursion of this type of commercial use into a residential area that has no such similar uses would be unprecedented.

3. THE EXISTING B-6 ZONE REFLECTS CAREFUL PLANNING OF PUBLIC VISTAS WHICH HAS NOT YET BEEN UNDERTAKEN IN RELATION TO THE PORTLAND COMPANY SITE.

The B-6 Building Height Overlay & Building Envelopes evidences a level of planning to preserve public views and vistas from public streets that has not yet taken place on the 58 Fore Street site. In the overlay, the building envelopes are pulled back from street lines and the street space is splayed out to enhance public views. If serious consideration is being given to a B-6 rezoning for 58 Fore Street, that same level of detailed vista analysis needs to be done for that site. The Height Study just assumes that the existing buildings will remain on the site, and that the vistas over the existing buildings will remain. The study did not look at the impacts of new construction on the vistas.

4. THE CIRCULATION PATTERN WITHIN THE PORTLAND COMPANY COMPLEX, PARTICULARLY FOR WATER-DEPENDENT USES, NEEDS TO BE CONSIDERED PRIOR TO ADOPTION OF THE HEIGHT OVERLAY.

The B-6 dimensional requirements appear to allow limited space for driveways between buildings which are arranged around the build-to lines. But it is unclear whether these will be private or public within the 58 Fore Street site. It is also unclear whether they will be sufficient to provide the circulation patterns to allow continued existence of marine uses under the WSUZ.

The preface to the Eastern Waterfront Master Plan states: "the water's edge is the most precious resource we have" (p. 2). Similarly, the Design Guidelines note that the challenge is to preserve the value and marine utility of the water's edge while stimulating appropriate upland development for the benefit of the general population (p. 14). The Community Development Committee of the City Council, prior to recommending approval, added a section to the Master Plan noting the challenges of implementing the Master Plan. It reemphasized the importance of the working waterfront and full utilization of deep-water berthing resources, stating:

The challenge will be to maximize the benefits of mixed-use non-marine development, while retaining the function and future flexibility of the Eastern Waterfront as a pivotal intermodal hub in Maine's transportation system. Transportation utility of the Eastern Waterfront will require constant and vigilant protection (Master Plan, p. 21).

The circulation pattern within the 58 Fore Street site is critical to maintaining the functionality of the water's edge. The current circulation pattern does not allow for any obvious vehicular access to the water's edge. The building envelopes do not suggest any circulation pattern. As protection of the utility of the water's edge has been identified as a primary goal, it should be addressed as part of any rezoning.

5. THE "PORTLAND COMPANY ALIGNMENT" NEEDS TO BE CONSISTENT WITH THE ORIGINAL HEIGHT STUDY RECOMMENDATION

Illustration 33 of the Height Study (Exhibit C) shows a "Portland Company Alignment" (a no-build area) that was carefully located to preserve views from the B-6 area into the Portland Company Complex and line up to avoid the existing historic buildings. Building envelopes in the B-6 zone were pulled back to preserve the view into the heart of the historic buildings. However, in the applicant's proposed overlay map (Exhibit D), the no-build area has been moved so that views from the B-6 zone are not preserved. It also cuts across existing buildings.

It is unclear whether shifting this alignment is intentional or an oversight. If it is intentional, the applicant should make it clear that it is asking for an amendment to the height overlay and explain the basis for the change in the alignment. However, as it was carefully located as part of the Height Study design process, it would seem that there is good reason for keeping the original alignment.

6. THE APPLICANT'S POSITION THAT HEIGHTS AT 58 FORE SHOULD BE MEASURED FROM AVERAGE GRADE IS INCORRECT, AND WOULD RESULT IN A DEVELOPMENT WHICH IS OUT OF SCALE WITH THE RESIDENTIAL NEIGHBORHOOD

One of the primary goals of the Eastern Waterfront Height Study was to balance the needs of the study area against the surrounding "impact areas", including the Munjoy Hill residential

neighborhood. As part of that balancing, it identified three "shadow areas" where development could be located that would not negatively impact the adjacent areas. The upper Fore Street shadow area was identified to justify a height of 65 feet, due to the large change in grade.

Obviously, the large change in grade would not be cited as a reason to allow that extra height if it was anticipated that the extra height would be located at the top of the slope, as is contended should be allowed by the applicant. As is clear in the Building Height Study, it was intended that the resulting extra-tall structure would be located on the filled land portion of the site.

The November 2004 graphic, prepared by the height consultant after the adoption of the Building Height Study as part of the Master Plan (Exhibit E), includes as General Note 2:

The height of buildings and tower masses east of Mountfort Street or its extension shall be measured from 2' above the flood plain elevation for the site based on the National Geodetic Vertical Datum. Where allowed, building mass above 4 floors shall not be wider than 70 feet parallel with the waterfront nor longer than 140 feet perpendicular with the waterfront. [Emphasis added]

This graphic applies to the entire study area, including the Portland Company site.

This method of calculating height was carried over one month later into the December 2004 Council-adopted B-6 Building Height Overlay & Building Envelopes, which states in Note 4:

For buildings located east of Mountfort Street (extension), building heights shall be measured from feet above flood plain, not from average grade (Exhibit B). [Emphasis added]

Thus, not only does it make sense for heights for the entire area east of Mountfort Street extension to be measured from flood plain based upon the substance of the height study, but it is also consistent with what the City actually enacted in the B-6 zone.

CONCLUSION: EXTENSIVE MODIFICATIONS TO B-6 OR OTHER ALTERNATIVES

The B-6 zone is not an appropriate zone to import to the heart of residential Munjoy Hill unless it is very significantly modified to keep the impact and uses down on the filled land. Moreover, the urban form the B-6 tries to create is incompatible with the existing historic structures and protection of the water's edge for the working waterfront.

If the City is still considering importing the B-6 zone to 58 Fore Street, the zoning text for the B-6 would require multiple modifications, including, but not limited to:

- (1) there should be a very substantial mandatory minimum setback from Fore Street (greater than 150 feet) for all new construction which would override the otherwise required build-to line and keep commercial uses from being developed on the southern side of Fore Street;
- (2) the building height overlay should specify, as it does for the block of B-6 adjacent to 58 Fore Street, that "the heights shall be measured from feet above flood plain, not from average grade";
- (3) the minimum height requirement of 3 stories should be deleted for this portion of the B-6 zone as being inconsistent with the historic buildings; and
- (4) the circulation pattern established as part of the height overlay and the dimensional requirements in the B-6 text, particularly the built-to lines, should be re-examined and modified as necessary to respond to the Master Plan goals of adaptive reuse of historic structures, protection of the utility of the water's edge for water-dependent uses, and preservation of public visual access to the water.

Much additional study is required to determine what pattern of development is appropriate for this site and how successfully the form-based code developed for the three blocks in the "Ultimate Build-Out Scenario" translates to an entirely different location.

In lieu of essentially rewriting the B-6 zone text to make numerous exceptions for 58 Fore Street, it would be better to leave the B-6 text alone and not expand its scope. That would leave the applicant with two options: applying for some form of contract zone under the existing WSUZ, or proposing text amendments to the WSUZ.

The WSUZ as written anticipates that any new mixed use development over 5,000 square feet will be reviewed as a contract zone, using the standards contained in the existing WSUZ text. In the past, the City has required very detailed plans to accompany any conditional rezoning. However, there is nothing in the enabling legislation or in the City's own ordinance pertaining to contract zones that requires that level of detail.

The applicant has made it clear that it does not want to invest in developing plans to the level of detail previously required by the City in order to pursue a contract zone. If the City finds that reasoning compelling, the applicant and the City should explore whether there is a more conceptual way to approve a conditional rezoning that clarifies, in general terms, what each will get in exchange for agreeing to a conditional rezoning, without requiring a site plan level of detail. Perhaps conditions more in the nature of performance standards would provide a way for the City to give the applicant the certainty it says it needs to proceed while still enacting a conditional rezoning that will run with the land to any new owner.

Chair O'Brien & Board
February 5, 2015
Page Eight

In the alternative, now that the Farley-Marino site has been rezoned to B-6, 58 Fore Street is the only property remaining in the WSUZ. That fact offers the opportunity for carefully crafted amendments to the text of the WSUZ which are designed to allow a thoughtful version of the proposed development. It would obviate the need to comply with the precedent set by the City for conditional rezonings.

The applicant would have to reveal enough of its concepts and plans to allow discussion of text amendments. The amendments would likely identify sub-areas of the site for different treatment, such as permitting a certain range of uses only on the filled land. Similarly it could allow for new construction in locations and meeting dimensional requirements that are not incompatible with the existing historic structures. It could be in the nature of form based code, but designed for this particular location.

There is no reason to make tortured amendments to the B-6 or have portions of the B-6 apply only to the 58 Fore Street site when, due to the geographic scope of the existing WSUZ, the City can amend that zoning text directly to allow the development it wants to permit.

The applicant bought the property with the WSUZ in place. The burden is on the applicant to show that it will be in the best interest of the City to modify the zoning requirements. The Master Plan does lend support for upland mixed uses, provided they are balanced with protecting the water's edge for marine uses. But moving the B-6 zone over to encompass 58 Fore Street is like trying to jam a square peg in a round hole. As there are at least two viable better alternatives, I urge you to recommend that request for rezoning to B-6 not be approved.

Very truly yours,



Barbara A. Vestal

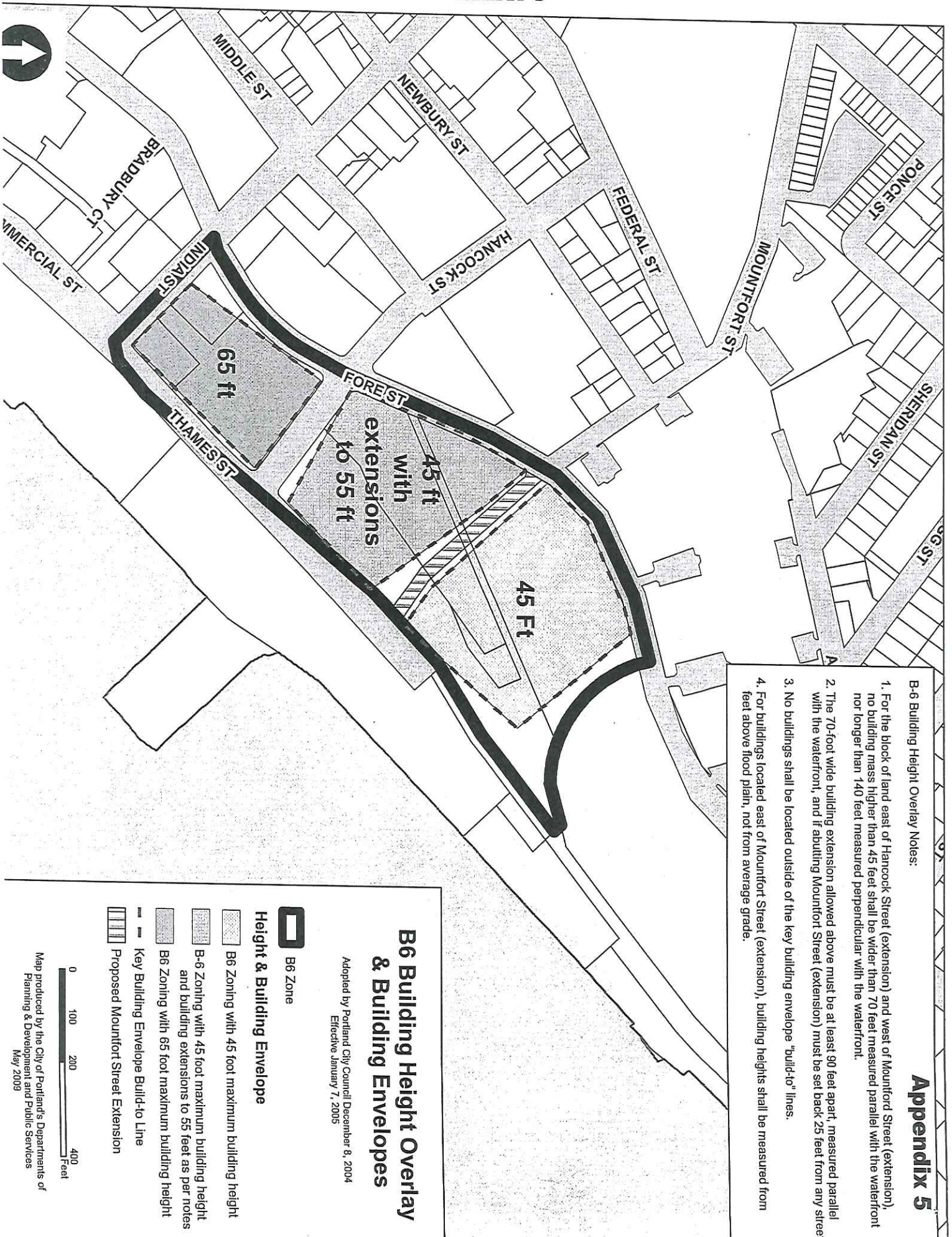
BAV/om
Enclosures
cc: Christine Grimando

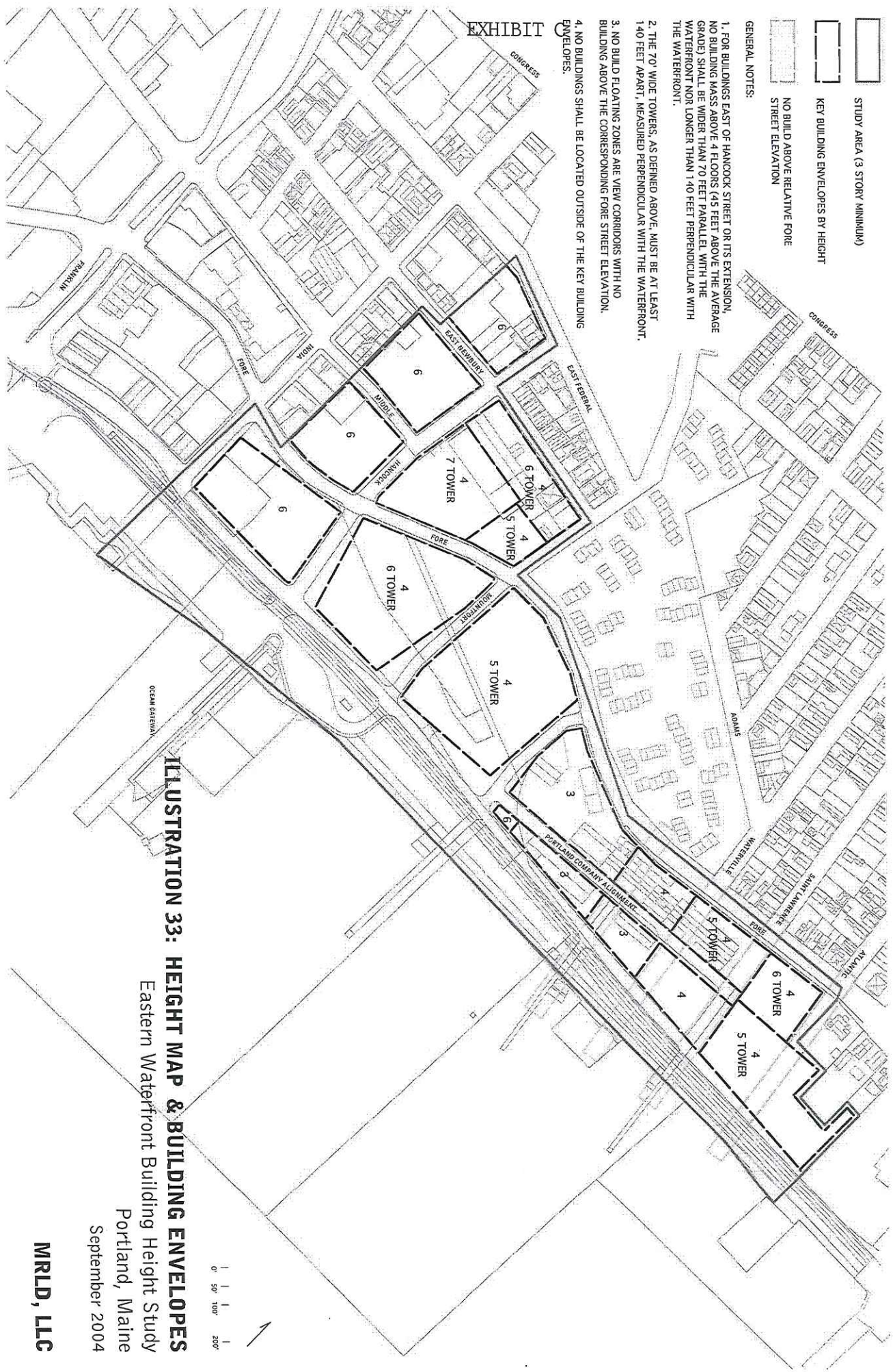


Appendix 5

B-6 Building Height Overlay Notes:

1. For the block of land east of Hancock Street (extension) and west of Mountfort Street (extension), no building mass higher than 45 feet shall be wider than 70 feet measured parallel with the waterfront nor longer than 140 feet measured perpendicular with the waterfront.
2. The 70-foot wide building extension allowed above must be at least 90 feet apart, measured parallel with the waterfront, and if abutting Mountfort Street (extension) must be set back 25 feet from any street.
3. No buildings shall be located outside of the key building envelope "built-to" lines.
4. For buildings located east of Mountfort Street (extension), building heights shall be measured from feet above flood plain, not from average grade.





EXHIBIT

- STUDY AREA (3 STORY MINIMUM)
- KEY BUILDING ENVELOPES BY HEIGHT
- NO BUILD ABOVE RELATIVE FORE STREET ELEVATION

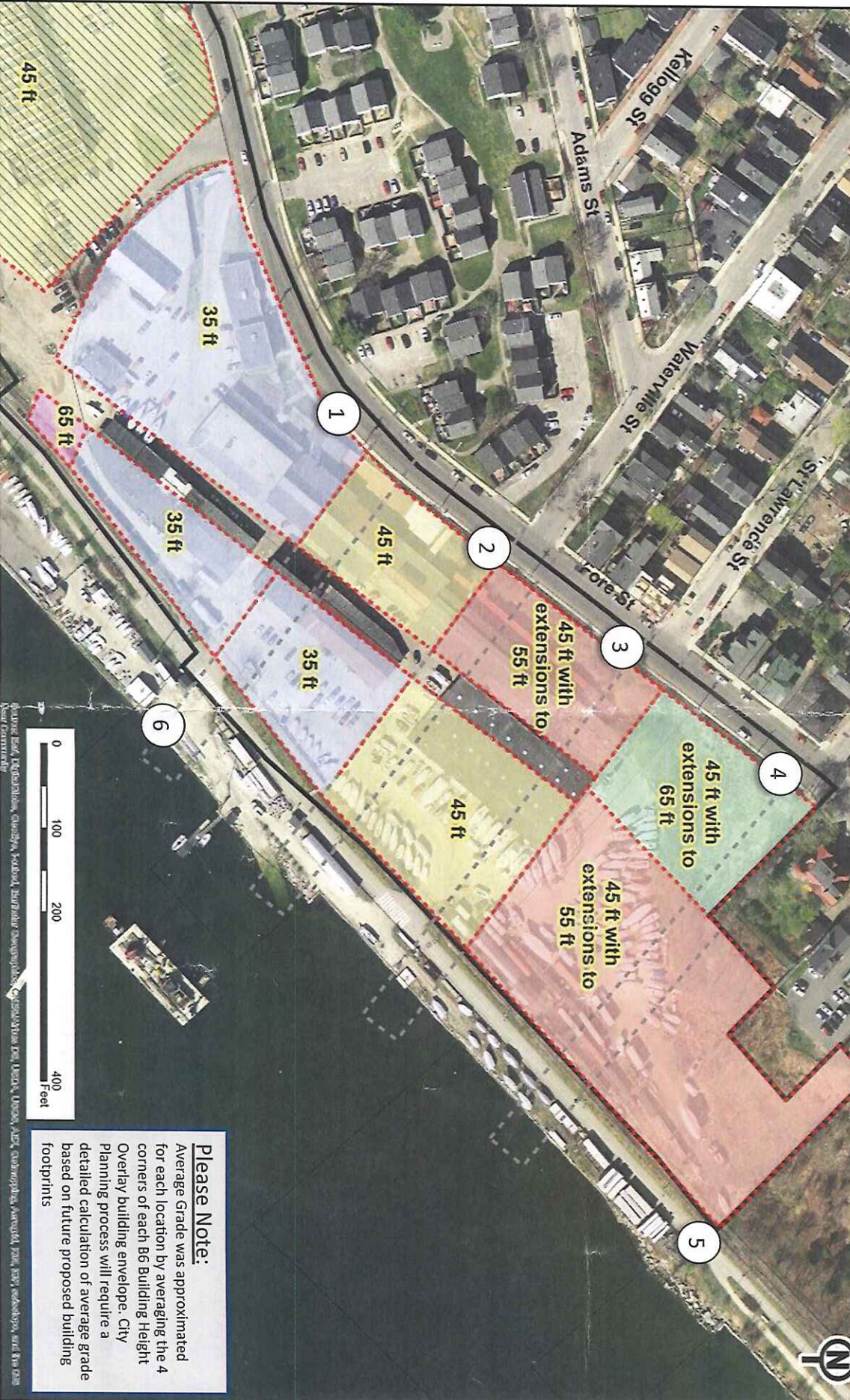
- GENERAL NOTES:
1. FOR BUILDINGS EAST OF HANCOCK STREET OR ITS EXTENSION, NO BUILDING MASS ABOVE 4 FLOORS (45 FEET ABOVE THE AVERAGE GRADE) SHALL BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.
 2. THE 70' WIDE TOWERS, AS DENIED ABOVE, MUST BE AT LEAST 140 FEET APART, MEASURED PERPENDICULAR WITH THE WATERFRONT.
 3. NO BUILD FLOATING ZONES ARE VIEW CORRIDORS WITH NO BUILDING ABOVE THE CORRESPONDING FORE STREET ELEVATION.
 4. NO BUILDINGS SHALL BE LOCATED OUTSIDE OF THE KEY BUILDING ENVELOPES.

ILLUSTRATION 33: HEIGHT MAP & BUILDING ENVELOPES

Eastern Waterfront Building Height Study
 Portland, Maine
 September 2004

MRLD, LLC

EXHIBIT D



- 1**
- Maximum Building Height Above Average Grade: 35'
 - Average Fore Street Elevation: 33'
 - Approximate Average Grade of Building Envelope: 24'
 - Average Height above Fore Street: 26'
 - Max Height above Fore Street: 29'

- 2**
- Maximum Building Height Above Average Grade: 45'
 - Average Fore Street Elevation: 45'
 - Approximate Average Grade of Building Envelope: 30'
 - Average Height above Fore Street: 30'
 - Max Height above Fore Street: 34'

- 3**
- Maximum Building Height Above Average Grade: 45' - 55'
 - Average Fore Street Elevation: 61'
 - Approximate Average Grade of Building Envelope: 38'
 - Average Height above Fore Street: 27'
 - Max Height above Fore Street: 35'

- 4**
- Maximum Building Height Above Average Grade: 45' - 65'
 - Average Fore Street Elevation: 80'
 - Approximate Average Grade of Building Envelope: 50'
 - Average Height above Fore Street: 25'
 - Max Height above Fore Street: 35'

Please Note:
Average Grade was approximated for each location by averaging the 4 corners of each B6 Building Height Overlay building envelope. City Planning process will require a detailed calculation of average grade based on future proposed building footprints

- STUDY AREA (3 STORY MINIMUM)
- KEY BUILDING ENVELOPES BY HEIGHT
- NO BUILD ABOVE RELATIVE FORE STREET ELEVATION

GENERAL NOTES:

1. FOR BUILDINGS EAST OF HANCOCK STREET OR ITS EXTENSION, BUILDING MASS ABOVE 4 FLOORS (45 FEET ABOVE THE AVERAGE GRADE) SHALL NOT BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.
2. THE HEIGHT OF BUILDINGS AND TOWER MASSES EAST OF MOUNTFORT STREET OR ITS EXTENSION SHALL BE MEASURED FROM 2' ABOVE THE FLOOD PLAIN ELEVATION FOR THE SITE BASED ON THE NATIONAL GEODETIC VERTICAL DATUM, WHERE ALLOWED, BUILDING MASS ABOVE 4 FLOORS SHALL NOT BE WIDER THAN 70 FEET PARALLEL WITH THE WATERFRONT NOR LONGER THAN 140 FEET PERPENDICULAR WITH THE WATERFRONT.
3. THE 70' WIDE TOWERS, AS DEFINED ABOVE, MUST BE AT LEAST 140 FEET APART, MEASURED PERPENDICULAR WITH THE WATERFRONT.
4. NO BUILD FLOATING ZONES ARE VIEW CORRIDORS WITH NO BUILDING ABOVE THE CORRESPONDING FORE STREET ELEVATION.
5. NO BUILDINGS SHALL BE LOCATED OUTSIDE OF THE KEY BUILDING ENVELOPES.

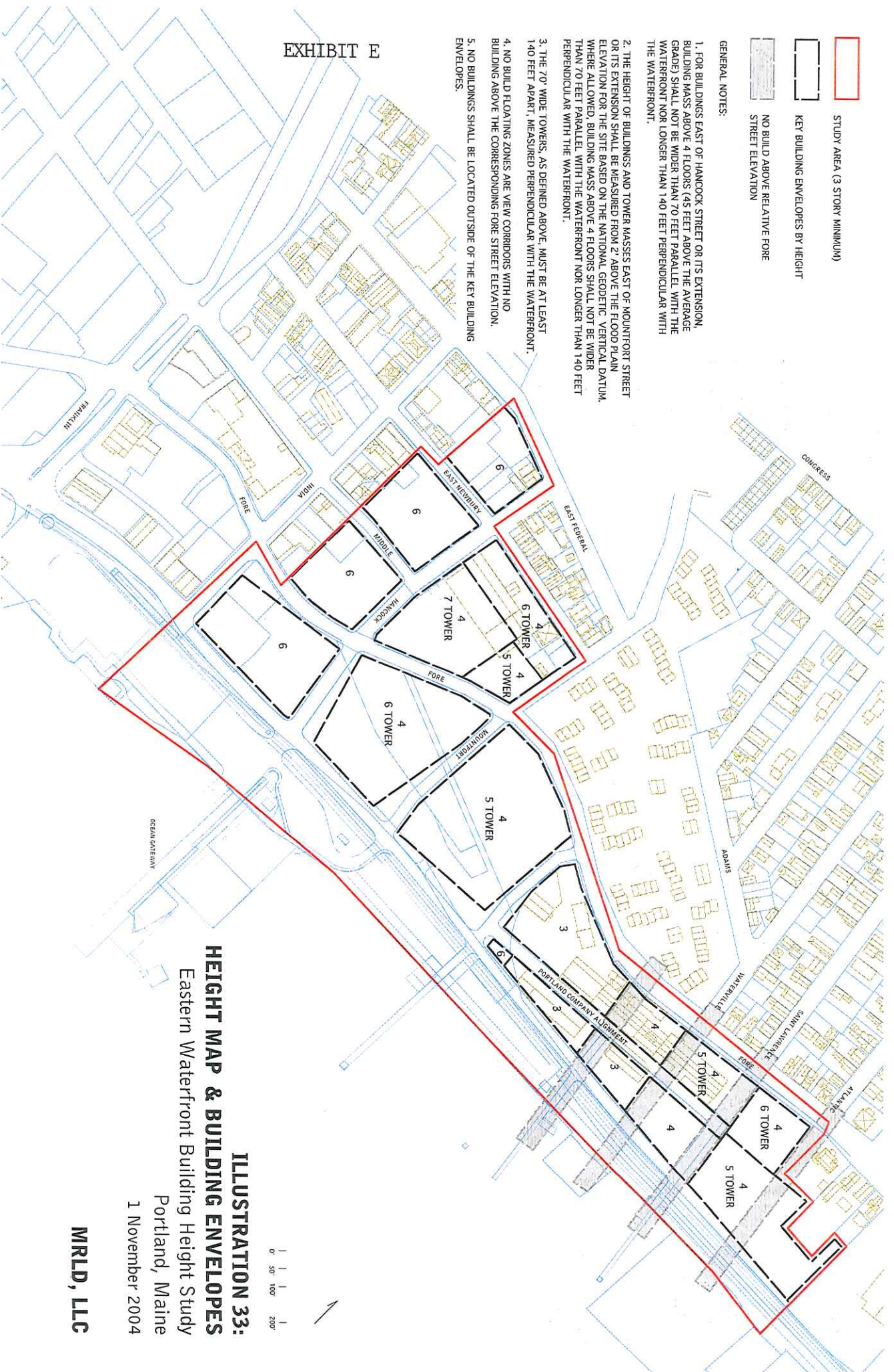


EXHIBIT E

ILLUSTRATION 33:
HEIGHT MAP & BUILDING ENVELOPES
 Eastern Waterfront Building Height Study
 Portland, Maine
 1 November 2004
MRLD, LLC



SOUL OF PORTLAND
SOULOFPORTLAND.ORG

FORE STREET & MUNJOY SOUTH
HEIGHTS ABOVE AVERAGE GRADE



SOUL OF PORTLAND
SOULOFPORTLAND.ORG

FORE STREET & MUNJOY SOUTH
HEIGHTS ABOVE FLOOD PLAIN





P.O. Box 7602
Portland ME 04112
October 2, 2014

Deb Andrews, Historic Preservation Mgr.
Planning Division
City Hall, 4th flr.
389 Congress St.
Portland ME 04101

Ms. Andrews:

We are writing in support of Greater Portland Landmarks request to designate the Portland Company site at 58 Fore St. an historic district.

The Portland Company buildings have had a strong impact on marine and industrial work and they have impacted industry nationwide,

This is an opportunity to preserve the last of historical businesses in Portland. We have learned from the demolition of Union Station how deeply that loss has been felt and regretted in this town.

Lets not do it again.

Sincerely,
Everett and Susan Ingalls

October 8, 2014

Paula Guillemette Agopian
98 Monument St
Portland, Me 04101

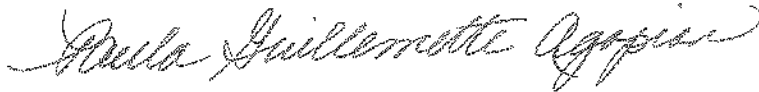
Deb Andrews, Historic Preservation Program Mgr.
City of Portland
389 Congress St
Portland, Me 04101

Dear Deb,

I was in attendance September 25th for the presentation of Sutherland Conservation Consultant's report on the historic significance of The Portland Co. property at 58 Fore St. I found it informational and thought provoking. It conjured up thoughts of Union Station, The Portland Co. is the East End's Union Station. I was aware that the property was of historic significance but was unaware of the far reaching implications on so many levels. I would like to see a presentation of this caliber done for our neighborhood, and will present that to The Munjoy Hill Neighborhood Organization's next Board Meeting on the 13th. This study could prove pivotal and key to the redevelopment of this site. I would hope at all levels of approval that the powers that be let this report weigh heavily in the decision making process. It deserves great consideration. The presenter's words "building removal will have an adverse impact on this site" are still ringing in my ears.

P.S. If there is a tour of the site I would love to participate before it is disturbed!

Sincerely, Paula Guillemette Agopian



Cc. Historic Preservation Chair, Rick Romano and Board Members
City of Portland Planning Board Chair, Stuart G. O'Brien and Board Members
City of Portland Planning Dept. Alex Jaegerman
Greater Portland Landmarks Hillary Bassett, Director
MHNO Board
CPB2 LLC, Jim Brady

Deb Andrews - 58 Fore Historical Significance Concerns

From: Karen Snyder <karsny@yahoo.com>
To: "dga@portlandmaine.gov" <dga@portlandmaine.gov>
Date: 10/12/2014 6:47 AM
Subject: 58 Fore Historical Significance Concerns
Attachments: 58ForeStreetHistoricBuildings.JPG; 58ForeStreetSeaWall.JPG

Dear Ms. Andrews,

I am voicing my concern as many others regarding the 58 Fore street proposed development.

There is a large amount of historical significance to this site, and there are concerns that the developer will destroy the original sea wall of Portland or buildings that are late 1900's that are over the sea wall.

I have attached historical buildings and the original sea wall photos.

There is additional concern by the proposal to change zone ordinances in order for this developer to build an inappropriate height for this area besides blocking the water views of all the residents of Waterville Street.

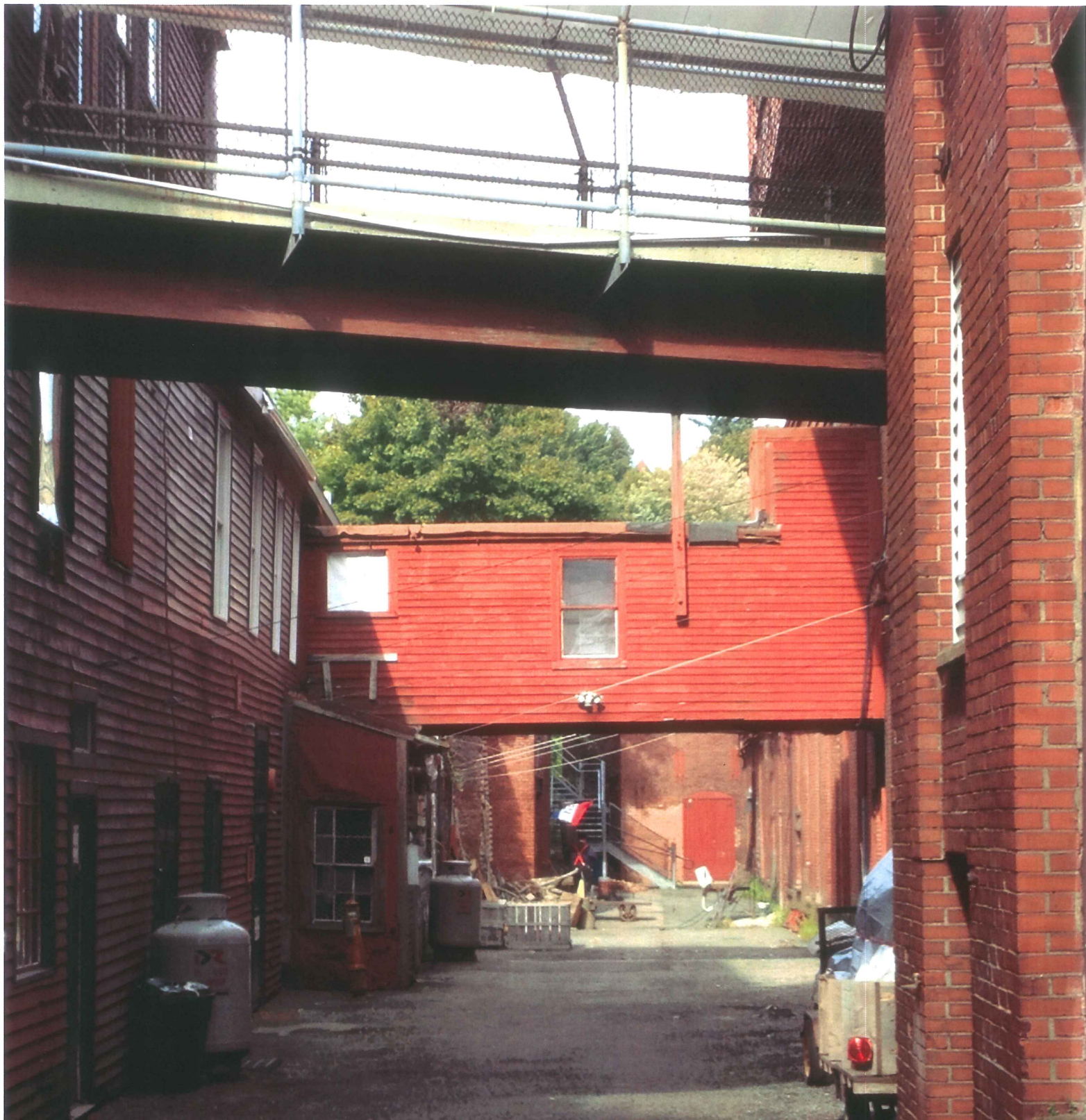
The Historical Preservation board was specifically created as a direct result of the travesty of allowing Union Station to be destroyed to allow a developer to put up a seedy strip mall.

It is up to the Historical Preservation board to PROTECT historical significant structures against the scourge of developers.

Please keep this in mind.

Regards,
K.Snyder
Munjoy Hill Resident





From: Karen Snyder <karsny@yahoo.com>
To: "cdg@portlandmaine.gov" <cdg@portlandmaine.gov>
Date: 10/12/2014 6:57 AM
Subject: Fw: Legal Ads for 10-14 and 10-21
Attachments: PB Lgl Ad 10-14-14.pdf; PB Lgl Ad 10-21-14.pdf

Dear Christine,

I am writing to voice my concerns with the 58 Fore Street zone amendment proposal.

There is concern by many Munjoy Hill residents in regards to this developer destroying the historical significance of the buildings as well as building height concerns for this area in regards to blocking the current water views of all the residents on Waterville Street.

When will the planning board finally respect and listen to the opposition of the local residents regarding all these developers that are trying (with success) in changing ordinances so their profit margins are large at the cost and inconvenience of local residents and the quality of life for the residences?

Regards,
K. Snyder
Munjoy Hill Resident

On Sunday, October 12, 2014 6:50 AM, Karen Snyder <karsny@yahoo.com> wrote:

Hi Helen,

What is the content of the B1 and B2 zoning amendments? Is this specific to 89 Anderson?

The attachment is quite generic.

Thanks.

K. Snyder
Munjoy Hill Resident

On Friday, October 10, 2014 8:44 AM, Jennifer Munson <JMY@portlandmaine.gov> wrote:

Good Moring,

Please see the attached.

Jennifer Munson, Office Manager
Planning and Urban Development
City of Portland
389 Congress St., 4th Floor
Portland ME 04101
jmy@portlandmaine.gov
(207)874-8719
(207)756-8258 (fax)

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

--

Greater Portland Landmarks

Planning Board – comments re: Portland Company Complex, 58 Fore Street

10/21/2014

Greater Portland Landmarks is especially interested in the proposed plans to redevelop the Portland Company Complex at 58 Fore Street. Recent research conducted by Sutherland Consulting has clearly established the local, state and national historic significance of the Complex as the only intact historic locomotive manufacturing complex remaining in the country. The City is now proceeding with a peer review of the developer's engineering study regarding structural integrity of the historic buildings. These materials are essential to a future consideration of the potential for historic designation of the complex.

Landmarks has several questions we would like to ask.

- a) We understand that what is being proposed is to adopt the zoning and related recommendations from the Eastern Waterfront Master Plan. As part of the documentation in the Mitchell Rasor Landscape Design map of 2004 there was inclusion on the map which shows the "Portland Company alignment" that recognizes the "alleyway typology" "like Wharf Street" between the major buildings of the Complex. We believe that the alleyway is an essential character defining element because it reflects the relationship of the Complex to the rail lines and to the manufacturing process associated with the Portland Company. The alignment shown on more recent maps appears to be different than the earlier maps? Has it been changed and if so why has it been changed?
- b) We would like to be sure that any zoning change or presentation of a potential plan for the site will not prejudice or limit historic preservation board consideration of the potential for historic designation. For this reason we urged the Historic Preservation Board to move more quickly to request designation. At the request of staff, the Preservation Board is moving more cautiously. What assurances will the city and the developers provide to support the historic preservation board's requests outlined in their memo of Oct. 15, 2014 that zoning changes not prejudice the review and findings of the Historic Preservation Board as it considers the potential for historic designation of the property?
- c) Building heights are important to us, especially with respect to views of the Complex from the water and views of the harbor from the Portland Observatory. How will the height overlay map apply, and from what level with building heights be measured?

The Guiding Principles of the Eastern Waterfront Master plan specifically call for development to be "Compatible with the surrounding areas, neighborhoods, natural environment and maritime uses, with objectives to "Encourage historic preservation and adaptive reuse of historic structures", "Encourage compatible architecture," and "Preserve significant public view corridors to and from the water and along the waterfront."

Thank you for your consideration.

Hilary Bassett
Executive Director
Greater Portland Landmarks

Lannie Dobson - Fwd: Planning Board Workshop on Portland Co.

From: Christine Grimando
To: Dobson, Lannie
Date: 2/20/2015 1:30 PM
Subject: Fwd: Planning Board Workshop on Portland Co.

One more, which came in on the 10th, but that I hadn't gotten into the folder.

Christine Grimando, AICP
Senior Planner
Planning & Urban Development Department
389 Congress Street
Portland, Maine 04101
cdg@portlandmaine.gov
Ph: (207) 874-8608

>>> <bristolchrismal@aol.com> 2/10/2015 9:47 AM >>>

Dear Christine,

I was planning to attend this meeting, but it now looks very unlikely that I can. So I would be very grateful if you would put this question for the Board's attention.

I was going to say something about the extraordinary value of the Portland Company complex, including its entire extant layout, in terms of industrial history, and indeed the history of the resurgence of Portland as a port city in the 19th century. But the report commissioned by the City from Sutherland Conservation and Consulting says all that needs to be said. Just reading the Executive Summary alone, especially the Findings, is enough to elevate the importance of the site to a national level in one's awareness.

I presume the Board members are all familiar with the Report. Two quotes from the Findings are worth restating here:

"All of the buildings constructed over 50 years ago contribute to the historic significance and integrity of the Portland Company complex;" and ...

"The removal of any of the historic buildings ... will diminish the ability of the complex to demonstrate the historic manufacturing process of the Portland Company."

So I am asking the Board for reassurance that they will be guided by this report and its findings in making decisions on this current planning application, or any revision of it.

Thank you,

Chris Small,

Freeport, Maine,

(Volunteer 1996-2010, and one-time Board member, at the Maine Narrow Gauge Railroad)

From: <dpreisse@maine.rr.com>
To: <cdg@portlandmaine.gov>
Date: 11/11/2014 11:43 AM
Subject: 58 Fore Street
Attachments: photo-19 copy.JPG; photo-19.JPG; SO2.JPG; Cruise ship.JPG

Dear Christine,

I am emailing you to share my thoughts in regards to the 58 Fore Street zoning change and in particular the site plan that has not yet been seen. I have attended the open forum with the developer as well as the city hall meeting for public comment. It is hard for me to support a zoning change without seeing the site plan that demonstrates the building heights above Fore Street. I can not attend the site walk or the public comment meeting on the 18th so wanted to share my thoughts with you to share with Council and Developers.

I do live on Munjoy Hill and each day I am in awe of the panoramic active harbor view that is seen now freely from the overlook driving/walking/biking on Fore Street between Waterville and St. Lawrence. I have observed hundreds of people and the tour/trolly buses as they stop for a short glance traveling this street. I know there are many who appreciate the unique beauty yet do not take part in civic action to save what could be lost.

Development of the property and all the ideas generally presented by the developers sound interesting to me and others I have spoken to. I am very concerned with the zoning approval of the height and the height overlay plans. It is so confusing to me even after all the dialogue. I believe at one time I heard in a presentation by the developer that the buildings could be 14-22 feet ABOVE Fore Street. That scares me to death and I can vision another mass half the height of the Portland House blocking the suns warmth and birds eye views so breathtakingly wonderful now. I am well aware of snake oil sales pitches and asking for zoning changes and getting something that was not wanted or expected but is allowed with these changes. I strongly support saving all the historical buildings (the Flower Show building was not marked in the developers presentation to save) and promoting this site as a historical district with the guidance and expertise of Portland Landmarks and the Historical Society.

The scaffolding view from the water to the residential area to the Observatory are just as vital as those looking down the hill to the vitality on the water. I have included a couple of pictures to express this greatness that occurs in Casco Bay that some may not have seen. Preserving this one last bit of scenic overview is vital and not to be lost for myself, my neighbors, Portlanders, tourists or for future generations. Please keep this point in mind as you make recommendations to the City Council.

I would encourage the City Council to not only walk the actual site but also take a stroll up the hill on Fore Street to experience this feeling of being on top of the world, a stop to catch one's breath, and savor the breathtaking beauty of the working/recreational waters of Casco Bay.

Best,
Denise Preisser







From: Brian Burwell <burwell@maine.edu>
To: <cdg@portlandmaine.gov>
Date: 11/14/2014 8:56 AM
Subject: Planning Board, 58 Fore Street, Protecting Pedestrian Views

Dear Planning Board members,

I am writing to defend existing pedestrian "key views of the harbor....a community resource to be preserved and protected...." ("Design Guidelines for the Eastern Waterfront", p.12, Adopted by Comprehensive Plan, 2002)

I appreciate the wonderful views along Adams and elsewhere, but am most familiar with the two blocks of Fore Street sidewalks between Waterville and Atlantic Streets.

While working on a three family residence at the corner of Waterville and Fore, I observe large numbers of neighborhood people walking these sidewalks to and from downtown and "around the block". In nice weather multiple small groups of downtown office workers walk up and down the Fore Street sidewalks during their lunch breaks. Many visiting tourist often stop in wonder and take pictures of the sailing schooners, ferries etc. and of themselves in front of the wire fence.

The existing four story Portland Company buildings situated along these two blocks do not interfere with sidewalk views because of the high elevation of Fore Street relative to the level land below. The cover and last page illustration (Section E Existing and Proposed East/West with Congress Street and Fore Street Elevations) of the "Eastern Waterfront Building Height Study" (adopted by the Comprehensive Plan in 2004) show how existing and anticipated four story structures preserve those sidewalk views.

The "Eastern Waterfront Building Height Study" allows for 70 foot wide towers separated by 140 feet. Such a tower in front of the Waterville to St. Lawrence Street block would interfere with the existing wonderful view of harbor activities. During the decade since this detailed height study was adopted, significant changes have occurred and continue to trend which strongly argue for preservation of unobstructed views and therefore against towers which would depreciate these views:

- * Increasing resident population in the neighborhood as a result of "infill" development and additions.
- * People walking and jogging more for healthy exercise.
- * Increasing numbers of tourists.
- * Increasing recognition of the value of pedestrian views of important natural elements. Many cities including Seattle, San Diego, Austin and Portland, Oregon incorporate preservation of such views into their development design criteria.
- * Blockage of pedestrian views by new construction to the west of Mountfort St.

To what extent these views, unique to Portland, are to be forever lost by a large public to be replaced by private structures (residences?) for a relatively few, is before you. I request that you consider the developers' opportunities for substantial development on these ten acres with little or no obstruction of current views.

Lastly, resident evaluations of developer plans for the site could provide valuable inputs to Planning Board and City Council members tasked with melding CPBE's rights and citizen interests. Award of B-6 zoning would provide substantial value to CPBE and could follow, not precede, resident vetting. Lack of a site plan for the "Neighborhood Meeting" of September left residents frustrated and distrustful. Without a site plan, residents are left jousting windmills like Don Quixote. I request that the Planning Board require a site plan from CPBE and obtain public input, both positive and negative, before deciding whether or not to recommend a zoning change from Waterfront Special Use Zone to B-6.

Thank you.

Brian Burwell
Owner, 31 Fore Street

burwell@maine.edu

From: Barbara Barhydt
To: Grimando, Christine; Jaegerman, Alex; Munson, Jennifer
Date: 11/14/2014 7:58 AM
Subject: Fwd: 58 Fore Street site visit and workshop

public comment

>>> Peter Macomber <pbm@macomber.com> Friday, November 14, 2014 7:16 AM >>>

Dear Chair O'Brien, Planning Board members, Planning Director Jaegerman and staff:

My name is Peter Macomber and my wife, Pam, and I live on Munjoy Hill. We have been residents of Portland since 1979, the last two on the Hill. I will be out of town next week during the scheduled site visit and the hearing, so I am sending this lieu of attending and commenting.

The purpose of your site visit and workshop is to review the building height overlay as it applies to the proposed zoning change. Because it also relates to building heights, it is also very important that you take into consideration the breathtaking pedestrian viewshed of Portland harbor from Fore Street between Atlantic and Waterville streets. This is to my knowledge the only publicly-accessible elevated viewpoint in the entire city that encompasses such a magnificent panorama of the inner working harbor, including the Gateway terminal and visiting cruise ships, the South Portland waterfront and the never-ending ship traffic.

This viewpoint has always been there throughout the history of the city, never blocked by any buildings and always freely accessible to all who walk by.

As a property owner in this area, I can attest to the surprising number of people who abruptly stop as they walk up or down Fore Street and are mesmerized by the view, sometimes for minutes at a time. Or to the cars that suddenly pull over to the side of the street, people piling out and excitedly taking pictures of the panorama or of the cruise ships.

And when the sun is low and illuminates the entire harbor with a quality of light that's unique to Maine, the scene is nothing short of magical.

This awesome landscape and seascape is part of the soul of Munjoy Hill and truly belongs to all of Portland. It must be preserved by ensuring that any development does not impinge on that entire view. Keeping the maximum building height of any development at or below the grade of Fore Street would do it.

(A thought about the so-called "view corridors" that are part of the Eastern Waterfront Height Study: they're a ridiculous sop to the public and are tantamount to telling people to look through the wrong end of a telescope with blinders on; those corridors only compartmentalize and minimize the view and conceal more than they reveal. The only real "view corridor" is the one that fully encompasses the entire viewshed, not tiny slivers of it!)

—

The B-6 zone as it currently exists requires that the minimum new building height within 25 feet of a street is 3 stories. This requirement is quite appropriate in the current B-6 zone, but obviously not appropriate in the proposed development. The developer's refrain is that they merely want to "drag over the existing B-6 zone" to the Portland Company property, but to "drag over" all requirements of that zone without closely examining how they'd impact the unique conditions of the property would be inappropriate.

But there's at least one aspect that would be appropriate: at the last public meeting, some questions were asked about the current B-6 Height Overlay map and the phrase "feet above the flood plain, not from average grade" as it applied to building heights on one particular lot of land. But it actually makes a lot of sense if you think about it. Fore Street begins to climb steeply as it passes to the east of Mounfort Street, so calculating the building heights from the flood plain instead of the average grade takes that steep climb into consideration. Because otherwise an envisioned 45-foot maximum building height could translate into 55 or even 65 feet if the average grade was used instead.

It is very important to follow the same reasoning as you consider building heights in the proposed development. Fore Street climbs even more steeply beyond Waterville Street while the Portland Company property is primarily on that same flood plain. Average grade calculations could result in buildings that ludicrously not only tower over Fore Street, but are the equivalent of 80-90 feet

above the flood plain. Using average grade calculations on what is basically a cliff edge is highly inappropriate, and would be a flawed methodology for this zoning. And since about 85-90% of the Portland Company land is at the flood plain level, using that as a basis for building heights makes far more sense.

I humbly suggest that during the site visit next week you include a short walk up Fore Street between Waterville and Atlantic streets so you can see for yourselves what I'm writing about. Enjoy that view!

—

The Planning Board's work will be very difficult in the weeks ahead. I thank you for your time and energy as you consider this zoning change. Please know that Pam and I are both very much in favor of a vibrant, yet thoughtful development of the property. But surely there is a way to keep this very special public viewshed forever open as well as provide the developers an opportunity to maximize their returns. I ask that you keep in mind these comments as you preserve this precious asset for the future of the city and its inhabitants and visitors.

Respectfully,
Peter & Pam Macomber
Saint Lawrence St.

From: Jeff Levine
To: Caitlin Cameron; Christine Grimando; Tammy Munson
Date: 11/19/2014 3:09 PM
Subject: Fwd: outdoor seating and height restrictions

On outdoor seating and 58 Fore Street.

Jeff

Jeff Levine, AICP
Director
Planning & Urban Development Department
389 Congress Street 4th Floor
Portland, Maine 04101
Phone (207)874-8720
Fax (207)756-8258
<http://www.portlandmaine.gov/planning>
@portlandplan
(<http://www.portlandmaine.gov/>)
>>> Nancy <nkacatalyst@msn.com> 11/19/2014 2:35 PM >>>

Hi Jeff- I saw your name from a recent PPH article. As a Portland resident (15 years on Little Diamond Island) and almost 8 years on Craigie Street) I would like to share my opinion on two recent issues.

1. As someone who LOVES to eat and cherishes the warm weather when we can eat outside in Portland, I do enjoy the outdoor cafes and seating areas at many of Portland's restaurants. My concern though is when the dining tables and robe dividers stretch onto the sidewalks pushing people to the road. It seems antithetical to the idea of a side "walk". All summer and fall we walk down Commercial street from our Parking spot on Widgery Wharf to the Casco Bay Lines. This year, I particularly noted (not just at Cruise ship times) that it was very difficult to walk down the sidewalks. It was the sidewalk cafes, food and craft vendors. and even the lines for the Trolley and day-time boats that cause multiple bottlenecks. While I support the tourist industry and want Portland small businesses to thrive, I just worry about how many times, we and others have to walk in the street because the sidewalks are too crowded. I also noticed people in wheelchairs and the elderly having a difficult time getting by. I am an able-bodied person, but pulling our luggage down the sidewalk has been very difficult because the sidewalk space is so limited. So I hope you will consider the safety of "walkers" as well as the diners when determining the line on the sidewalks for outdoor dining.

2. In today's paper there is discussion about increasing the height of new building at the bottom of Munjoy Hill/Fore Street. While I don't live in that part of town, I do appreciate the view not just from the mainland but looking at the city from the water as well. I know "view" might be less motivating than "business revenue" and potential tax, but I travel enough to other towns/cities to recognize that this is one of the unique features of Portland. I hope you and Portland will think long and hard about extending the heights and variances, as once it's gone, it's gone. I do believe one of the reasons Portland has been featured in so many articles and magazines polls lately is because of its unique character and balanced growth. Hope we can keep it that way.

Thank you very much for reading my email and considering my opinion when you make your decisions.

Nancy

Nancy Ansheles
186 Craigie Street
Portland, ME 04102
207-774-3634
207-272-5009 (Cell)
nkacatalyst@msn.com

CHESTER & VESTAL

A PROFESSIONAL ASSOCIATION

ATTORNEYS AT LAW

107 Congress Street, Portland, Maine 04101
Telephone (207) 772-7426 Fax (207) 761-5822

EDWIN P. CHESTER
BARBARA A. VESTAL
MICHAEL P. DIXON

chester@chesterandvestal.com
vestal@chesterandvestal.com
dixon@chesterandvestal.com

February 19, 2015

Chair O'Brien and Members of the Planning Board
c/o Christine Grimando
Planning Department
City of Portland
389 Congress Street
Portland, Maine 04101

Re: Portland Company Complex

Dear Chair O'Brien and Members of the Planning Board:

At the February 10th Planning Board workshop, some members of the Board seemed to indicate that the abutting neighborhood's concerns would be addressed during the master planning process by reference to the publication "Design Guidelines for the Eastern Waterfront." That document was adopted in October 2004 as Appendix C of the Master Plan for Redevelopment of the Eastern Waterfront.

I want to make sure that those Guidelines really will apply if the Portland Company site is rezoned to B-6. And I also want to make sure that what is contained in those Guidelines will make sense when applied to the site.

I am concerned that these Design Guidelines will not apply unless proper text amendments are adopted as part of the zone change. This should be taken care of by the Planning Board before it goes to the City Council.

14-526(d) Site Design Standards (9) Zoning Related Design Standards (a) states that certain development "as specified below" is subject to design standards in addition to the regular site plan standards. Subsection (i) includes B6 in the heading but omits B6 in the text. The applicant has proposed to put it in. (See attachment with applicant's proposed amendment.) That text amendment is necessary but does not go far enough.

That provision goes on to say that the development "shall be designed to support the development of dense, mixed-use neighborhoods with attractive, safe and convenient street level pedestrian environments **as demonstrated by compliance with all applicable design standards listed in the [City of Portland] Design Manual** (emphasis added)."

The Design Guidelines for the Eastern Waterfront are not included in the City of Portland Design Manual. Other design standards are quoted in full in the text or are incorporated by reference to a numbered appendix and then attached in full in multiple numbered appendices. For example, appendices include the Downtown Urban Design Guidelines (48 pages), the USM Design Principles and Standards (7 pages) and B-7 Design Guidelines (23 pages).

In contrast, the entire treatment of the EWPZ and B6 is as follows:

"(1) **STANDARD.** Eastern Waterfront design standards: All major and minor development reviewed under the provisions of the eastern waterfront zones shall be designed to support the development of this urban neighborhood as a dense, mixed use, pedestrian friendly neighborhood."

It does not incorporate the 23 pages of the Design Guideline document in any way. It does not say that development should be consistent with the Design Guidelines for the Eastern Waterfront. That document is not included in an appendix to the Design Manual. The only appendix that appears to be related is Appendix 5, the one-page B-6 Building Height Overlay & Building Envelopes map.

This could be easily fixed in multiple ways, one of which would be to add in the site plan ordinance after "Design Manual" the language "or contained in Design Guidelines for the Eastern Waterfront."

I am also concerned that these Design Guidelines for the Eastern Waterfront will not make sense when the Board tries to apply them to the Portland Company site because they are premised upon a PUBLIC street and sidewalk grid. The applicant has yet to propose any circulation pattern within the site. It has said that it is not its intent to create a gated community. I believe many members of the public would be against a gated community as well.

However, it is my understanding from the applicant that the City staff has told the applicant that, for a variety of reasons, it does not want the internal circulation grid to consist of public streets. It is my understanding that the applicant and City staff are envisioning that this might be developed using private roads, perhaps subject to an easement for use by the general public. I think it is important to provide for this possibility as part of the zone change.

If these are to be private roads rather than public streets, it would be problematic for the Board to apply a statement such as the following in a master plan context if there are, in fact, no "streets":

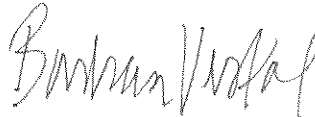
Sidewalks are key to defining streets as civic places. Sidewalks should be provided along both sides of all streets and should be wide enough to accommodate visiting and residential pedestrians comfortably and safely. (p. 3)

Chair O'Brien and Planning Board Members
February 19, 2015
Page Three

There are numerous references throughout the design guidelines to street corridors, street hierarchies, treatment of street frontages, etc. The determination of public streets vs. public easements may be a question for a later day. But if the Design Guidelines are to be successfully applied as intended, this possibility needs to be anticipated. Site Plan Design Standards 14-526(d)(9)(a)(i) should be amended to further add after "or Design Guidelines for the Eastern Waterfront" (as proposed above) **"and further, in the B6 and EWPZ, if the Planning Board votes to accept private roads with public easements in lieu of public streets, the Design Guidelines shall be applied and interpreted as if the private roads were public streets."**

Finally, the applicant has proposed an amendment to this same site design standard to address permeability. It is responsive to neighborhood concerns to address that. However, the applicant's proposed amendment would "promote permeability through and within the development at a scale compatible with the existing street network of the Eastern Waterfront." Instead of using the massive-block, street network of the current Eastern Waterfront. I believe it is much more in keeping with the Design Guidelines for the Eastern Waterfront to promote a scale compatible with the central waterfront and the Munjoy Hill neighborhood.

Very truly yours,



Barbara A. Vestal

BAV/om
Enclosure
cc: Christine Grimando

maintained to ensure stable, safe and attractive site conditions.

Sec. 14-526. Site plan standards.

14-526(d) *Site Design Standards*

9. *Zoning Related Design Standards:*

a. Development of certain types and/or proposed in certain zones, as specified below, are subject to design standards in addition to the provisions of Section 14-526 (a) in order to ensure designs that contribute to and enhance the goals and policies for specific districts of the City. The City of Portland Design Standards is listed in the City of Portland Design Manual, which is included by reference. If the development is located in a historic district or associated with a historic landmark, City of Portland Historic Preservation standards shall supersede:

- (i) B3, B5, B5-b, B7 Zones, and B6 and EWPZ Waterfront Zones: Development in the B3, B5, B5-b, B7 business zones and in the B6 and EWPZ waterfront zones shall be designed to support the development of dense, mixed-use neighborhoods with attractive, safe and convenient street level pedestrian environments as demonstrated by compliance with all applicable design standards listed in the Design Manual. ^{VESTAL AMENDMENT} ~~** New~~ ^{BELOW} development along the Eastern Waterfront should avoid large monolithic massing along all street frontages and should promote permeability through and within the development at a scale compatible with the existing street networks of the Eastern Waterfront. Where new structures are larger than buildings characteristically found in Portland's waterfront, horizontal and vertical variation should be used to break large expanses of building into components that are in scale with the context to which they most closely relate.

b. *Master Development Plan Design Standards:* A Master Plan shall comply with the design and development standards of the zone in which it is located, and shall achieve a

** or contained in Design Guidelines for the Eastern Waterfront, and further, in the B6 and EWPZ, if the Planning Board votes to accept private roads with a public easement in lieu of public streets, the Design Guidelines shall be applied and interpreted as if the private roads were public streets.

February 19, 2015

To: Portland Planning Board
Re: Portland Company Re-zoning
From: Paul Stevens
21 Thomas St
Portland

In May of 2012, my architect great grandfather, John Calvin Stevens, wrote in an op-ed to the Evening Express: "Portland has by nature been granted exceptional opportunities. These opportunities have been in many cases sadly neglected by her citizens. They have sat quietly by and seen the finest chances for beautiful development ignored and spoiled". I too have sadly and often observed this in my nearly 50 years as an architect and Portland resident.

The re-zoning of the Portland Company is the "exceptional opportunity". Many citizens spent years developing a thoughtful plan for the Eastern Waterfront. That plan was partially implemented with new B-6 zoning and the Eastern Waterfront Design Guidelines. The Portland Company site was exempted at the time although it was fully intended to be included. It is now time to follow through and pave the way for what can be a significant development at our front door on the Atlantic. It is significant for its promise of adaptive reuse of the historic structures, opportunity for new construction and contribution to our property tax base. The owners of the property have signaled their intent to embrace the planning and vision for this property established by our citizens. They will have to opportunity to demonstrate this in the master planning process that will follow the re-zoning.

It is way past time for Portland to say "yes" to such an opportunity. To say "no" will relegate the Portland Company site to inappropriate under use and eventual loss of its historic structures.



Portland Company Re-zoning; The PSA statement of support.

The PSA supports the re-zoning of the Portland Company for mixed use. The development of this, the most important site in Portland, will be of significant benefit to our citizens both economically and environmentally. The applicant has embraced the vision set forth by the Eastern Waterfront Master Planning Committee and memorialized in the existing B-6 zoning ordinance and the Eastern Waterfront Design Guidelines. The re-zoning will create the opportunity for adaptive re-use of the historic buildings, exciting new architecture and increased public access to a renewed landscape on the harbor's edge. We urge the Planning Board to support this important initiative.

Portland Society for Architecture

PO BOX 5321

Portland, Maine 04101

www.portlandarchitects.org

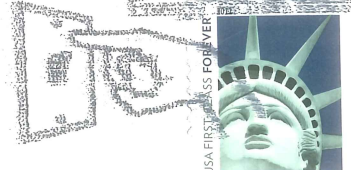
Save the valued view.

Please share your thoughts
about building height and site
plan views with the City
Council members and
developers of 58 Fore Street.

*I frequently walk on the
bike/pedestrian path along the
waterfront between the Old
Port and the Eastern Prom.
The sight of the Observatory
on the crest of Munjoy
Hill, and the historic architecture
on the slopes are a very
important part of the
character of the East End.
Any additional height will
block that view including
the Observatory. Do not
let that happen.*

Card design by portlanddenise@gmail.com

*Sincerely,
Maggie Wolff
Saint Lawrence St. 04101*



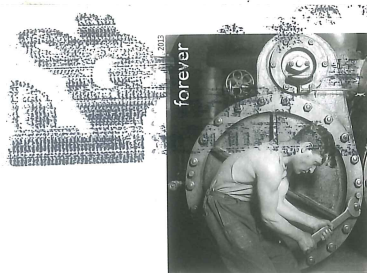
Christine Grimando
To: Senior Planner
Planning Division
City Hall
4th Floor
389 Congress Street
Portland, Maine 04101

Save the valued view.

Please share your thoughts
about building height and site
plan views with the City
Council members and
developers of 58 Fore Street.

*While our views
will not be blocked
substantially, The
Pedestrian views &
"Feel" of Fore Street
will be severely
damaged if they build on
Fore Street.*

Card design by portlanddenise@gmail.com



Christine Grimando
To: Senior Planner
Planning Division
City Hall
4th Floor
389 Congress Street
Portland, Maine 04101

USA | Building a Nation

*This van stole
a waterfront*


September 1, 2014

Good day.

In Portland, there is talk that the city officials are considering rezoning for the owners of the Portland Company, who have purchased 10 acres on the ocean at 58 Fore Street in Portland, Maine. They want to add thirteen acres of "submerged" land, enabling them to turn their ~~ten~~ acres into twenty-three acres,

If this is acceptable, then I, as an owner of two acres on the ocean, should be able to use "submerged" land to add another 2.6 acres to my land.

They are increasing their land by 130%, and I should be able to do the same.

Why not?!!

A very concerned citizen

SEP - 3 2014

Dept. of Building Inspections
City of Portland Maine



Save the valued view.

Please share your thoughts
about building height and site
plan views with the City
Council members and
developers of 58 Fore Street.

AS PORTLAND
RESIDENTS, WE
ARE CONCERNED
ABOUT LOSING
A UNIQUE VIEW,
WHICH IS A
RESOURCE FOR
ATTRACTING
TOURISTS.

Steve Schick
Lisa Schiffman

Card design by portlanddenise@gmail.com



Christine Grimando
To: Senior Planner
Planning Division
City Hall
4th Floor
389 Congress Street
Portland, Maine 04101

Save the valued view.

Please share your thoughts
about building height and site
plan views with the City
Council members and
developers of 58 Fore Street.

1/12/15
please, please, please don't
let a zoning change
happen that benefits a
few and that will ruin
the feel of an entire
neighborhood of Portland
and block a connection
with the water.

Thank you for your

consideration
Sincerely,
Jeremy Wintosteen
9 Waterville St #4C

Card design by portlanddenise@gmail.com



Christine Grimando
To: Senior Planner
Planning Division
City Hall
4th Floor
389 Congress Street
Portland, Maine 04101

Save the valued view.

Please share your thoughts
about building height and site
plan views with the City
Council members and
developers of 58 Fore Street.

Honestly? I feel that the
city is prostituting
itself for the almighty
dollar and a claim to
game - tall game. This
with all we realized when
it is too late. How sad.
Where is preservation of
that that is good? Soon we'll
look like any other city.
Tyler

Card design by portlanddenise@gmail.com



Christine Grimando
To: Senior Planner
Planning Division
City Hall
4th Floor
389 Congress Street
Portland, Maine 04101