

1. Legal Ad

Documents:

[PB LEGAL AD 8-9-16.PDF](#)

2. Agenda

Documents:

[PB AGENDA 8-9-16.PDF](#)

3. Solar Energy Generation

3.I. Memo

Documents:

[SOLAR ENERGY ORDINANCE \(MEMO AND ATTACHMENTS\).PDF](#)

4. Site Plan Ordinance Amendment To Revise Street Tree Waiver

4.I. Report And Attachments

Documents:

[STREET TREE WAIVER \(REPORT AND ATTACHMENTS\).PDF](#)

5. 66 Noyes Street

5.I. Report And Attachments

Documents:

[NOYES ST.-66 \(REPORT WITH ATTACHMENTS\)-REV.PDF](#)

5.II. Applicants Submittal

Documents:

[NOYES ST. - 66 \(APPLICANTS SUBMITTAL\).PDF](#)

5.III. Plans

Documents:

[NOYES ST. - 66 \(PLANS\).PDF](#)

6. Canal Plaza

6.I. Report And Attachments

Documents:

[CANAL PLAZA - 0 \(PB REPORT AND ATTACHMENTS\).PDF](#)

**LEGAL ADVERTISEMENT
PORTLAND PLANNING BOARD MEETING**

The Portland Planning Board will hold a meeting on Tuesday, August 9, 2016, Council Chambers, 2nd Floor, City Hall, 389 Congress Street. **Public comments will be taken at this meeting.**

Workshop - 4:30 p.m.

- i. Land Use Code, Solar Energy Generation, Proposed Section 14-775-785, City of Portland, Applicant. (4:30-5:30, estimated time). The Board will hold a workshop on the proposed text amendments to the Land Use Code to create a solar energy generation ordinance. The provisions are intended to allow for the construction and operation of public or private solar energy generation systems to produce energy for use on or off-site with related standards for review. The sections of the proposal include, but not limited to, purpose, applicability, definitions, permitting, performance standards, technical standards, submittal requirements abandonment, and appeals.
- ii. Site Plan Ordinance Amendments to Revise Street Tree Waiver, Sec. 14-526 (2) (b) (iii), City of Portland, Applicant. (5:30-6:00 estimated time) The proposal is to delete the waiver provision and substitute criteria for meeting the street tree requirement for new development where there is insufficient space within public street. The provisions include planting trees within 20 feet of the property line, the preservation of existing trees of a certain size, use of a green screen, or a payment in lieu to the street tree fund.

Public Hearing – 7:00 p.m.

- i. Conditional Use Application for a Community Hall, Portland Community Squash, 66 Noyes Street, Portland Community Squash, Applicant. (7:00 – 7:45 p.m. estimated time). The Planning Board will hold a public hearing on the conditional use application to establish a community hall at 66 Noyes Street. The current use is a religious institution with a day care. The proposal is to convert the synagogue into four single squash courts and the existing classroom space will be used by students in the Junior Squash League and Rally Portland. Parking for 10 vehicles is proposed on site. The property is in the R-5 zone.
- ii. Waiver of B-3 Build to Line for a Structure Accessory to the Plaza, 0 Canal Plaza, Cow Plaza 1, LLC, Applicant. (7:45 p.m.- 8:30 p.m., estimated time). The Planning Board will hold a public hearing on the applicant's request to set an accessory building to the more than 5 feet from the street line. The Board will review the waiver pursuant to the street wall build-to line standard in the B-3 zone (14-220 (c), the Site Plan Standard of 14-526 (d), and the Portland Design Manual. The accessory building along with the renovation of the plaza is being reviewed administratively as a Level II site plan.

ELIZABETH BOEPPLE, CHAIR - PORTLAND PLANNING BOARD

CITY OF PORTLAND, MAINE
PLANNING BOARD

Elizabeth Boepple, Chair
Sean Dundon, Vice Chair
Carol Morrisette
David Eaton
Kristien Nichols
Maggie Stanley
Lisa Whited

AGENDA
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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 FOLLOWING MEETING HELD ON JULY 26, 2016:**
Afternoon Workshop: All members were present.
Public Hearing: All members were present.
Evening Workshop: Boepple, Dundon, Eaton, Morrisette, Nichols and Stanley present. Whited recused.

4. **REPORT OF DECISIONS AT THE MEETING HELD ON JULY 26, 2016:**

- i. Level III Subdivision; Conversion to 3 Residential Units; 415 Cumberland Avenue; M & A Lowcountry Investments, LLC., Applicant. Dundon moved and Morrisette seconded a motion to approve the subdivision plan with two conditions of approval. Vote: 7-0. Dundon moved and Morrisette seconded a motion to approve the site plan with 9 conditions of approval, as amended for condition number 2. Vote: 7-0.
- ii. Technical Manual, Section 5 update with DEP's Chapter 500 Stormwater Regulations, City of Portland, Applicant. Dundon moved and Morrisette seconded a motion to find the proposed amendments consistent with the comprehensive plan and to approve the proposed amendments to Section V of Portland's Technical Manual. Vote: 7-0.

5. NEW BUSINESS

- i. Conditional Use Application for a Community Hall, Portland Community Squash, 66 Noyes Street, Portland Community Squash, Applicant. (7:00 – 7:45 p.m. estimated time). The Planning Board will hold a public hearing on the conditional use application to establish a community hall at 66 Noyes Street. The current use is a religious institution with a day care. The proposal is to convert the synagogue into four single squash courts and the existing classroom space will be used by students in the Junior Squash League and Rally Portland. Parking for 10 vehicles is proposed on site. The property is in the R-5 zone.
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Memorandum

Planning and Urban Development Department

Planning Division



To: Elizabeth Boepple , Chair and Members of the Portland Planning Board

From: Jean Fraser, Planner & Tuck O'Brien, Planning Director

Date: August 5, 2016

Re: New Ordinance division: Solar Energy Generation, City of Portland, Applicant

Meeting Date: August 9, 2016

Introduction

Solar energy has emerged as a potential option for residents and businesses interested in distributed generation in Portland. With this growth and future potential, there is a need to adapt the Land Use Ordinance to facilitate and regulate solar energy installations.

The Land Use Ordinance currently includes Article X. *Alternative Energy*, and the Wind Energy Generation Ordinance adopted in 2012 is the first division. It was anticipated at the time that a similar ordinance would be developed for Solar Energy. The impetus to move forward now with the Solar Energy ordinance has come from a number of fronts:

- *Environment Maine's* 2014 Report "*Shining Cities: At the Forefront of America's Solar Energy Revolution*" which compiled data on solar installations nationwide, and found Portland to be 44th out of the 57 major cities studied in terms of PV solar capacity installed;
- The City Council and Mayor have identified reduction of energy as a priority, and are also moving towards approving the installation of a large solar PV array at the former Ocean Avenue landfill;
- The Sierra Club and other non-profits and community groups are moving forward with proposals for community solar farms within Portland;
- Federal government initiatives to support solar eg US Dept. of Energy *Sun Shot* and *SolSmart*.

Portland has a good solar resource with an average of 4.71 hours per day of sunlight, with 7 months having an average between 5 and 6 hours a day- which is better or similar to most of the USA except the very southwest.

Objectives of a Solar Energy Ordinance

Best practice across the country suggests that the most user-friendly approach is to adopt a single ordinance that clearly sets out where and under what circumstances solar energy systems are permitted. The current Land Use Ordinance is not as supportive of solar as it could be because it does not allow solar energy generation as a use and is vague or silent in sections that might apply, such as:

- definition of utility substation – could be helpful for small systems, but refers to public utilities;
- exemptions from zoning height limits for rooftop appurtenances do not mention solar.

We propose to create a new separate solar energy ordinance (draft in [Attachment 1](#)) to provide clarity and predictability for the installation of solar systems by removing any omissions or vagueness in the ordinance, and to be as permissive as possible while limiting any potential foreseeable negative impacts and land use conflicts.

It is also intended to incorporate text that addresses some of the “myths” about PV solar energy, such as that PV panels are the source of significant glare, and that the structures/panels are not able to withstand the Maine climate.

The challenge is to broadly allow solar energy systems almost anywhere in Portland but ensure any potential adverse impacts are minimized. Different communities have different concerns and priorities as to how they define “adverse impacts” and this is likely to be the focus of discussion on this and future drafts of a solar energy ordinance.

Process for developing a Solar Energy Ordinance

The development of the ordinance has been informed by:

- Ongoing discussions on the Portland Comprehensive Plan and its climate change and energy efficiency policies;
- Reference to national and regional generic guides and specific ordinances in other comparable USA cities;
- Reference to several Maine solar ordinances particularly South Portland.

Unlike the Wind ordinance, there are not many solar energy ordinances in the country that are integrated into a land use/zoning ordinance context - and for those that exist, there is little commonality of standards. Therefore the proposed ordinance will need to be “customized” to relate to local Portland issues and priorities.

This Workshop is intended to clarify the framework for the proposed Solar Energy ordinance and provide draft text as a basis for discussion, but staff are seeking guidance from the Board on a number of key issues that will allow for the text to be fine-tuned.

Framework for the Solar Energy Ordinance

The review framework for the Wind Energy Ordinance was the Zoning Administrator and Zoning Board of Appeals. The proposed Solar Energy ordinance allows small solar energy systems with a Zoning Administrator review and a building permit, but the larger scale systems would be reviewed by Planning staff and the Planning Board within the site plan framework (see table below). This reflects the greater land area occupied by solar energy systems and the associated local impacts that are akin to those addressed under the site plan ordinance. There would need to be some amendments to other parts of the existing ordinance to be consistent, and these will be identified in future drafts.

The proposed Solar Energy ordinance includes some additional performance standards that are the focus of further discussion below.

As drafted, the ordinance intends that solar energy generation may be a principal use on sites in most zones. This would allow for community solar farms (usually ground mounted solar arrays up to about a quarter of an acre but may be larger in the future) which are an increasingly effective way for urban dwellers to invest in/benefit from solar energy.

The proposed ordinance also follows the format of the site plan ordinance in placing the technical, safety and maintenance standards in the Technical Manual. These have not been drafted but the recently adopted South Portland Solar Energy ordinance provides an idea of what subjects these would encompass ([Attachment 2](#)).

The following table and legend is included in the draft ordinance to clarify the basis of permitting:

Sec. 14-779 Permitting

- (a) Solar systems are allowed in most zones subject to permits/approvals as set out in the table below and subject to compliance with the associated standards in Section 14-780. The level of review relates to the scale of the proposed system, whether they comply with zoning, and the zoning context.

P = allowed as a **permitted** use if the system complies with zoning requirements and are located to rear and side of the site wherever possible; would require a building permit (and historic preservation review if a landmark or in an historic district*).

S = allowed subject to **site plan** review as indicated, to meeting performance standards in section 14-780, and to meeting the submittal requirements in 14-782 and the technical standards outlined in the Technical Manual; a building permit would also be required (and historic preservation review if a landmark or in an historic district*).

C = allowed as a **conditional** use reviewed by the Planning Board and subject to meeting performance standards in section 14-780, the submittal requirements in 14-782, and the technical standards outlined in the Technical Manual; a building permit would also be required (and historic preservation review if a landmark or in an historic district*).

Zone	Roof Mounted and Building Integrated	Small Scale Ground Mounted	"Dual Use" systems	Medium Scale Ground Mounted	Large Scale Ground Mounted
Rated electricity generation	Any size	≤ 20 kW	Any size	21 kW to 250kW	Over 250kW
Physical Size (based on airspace area over ground)	N/A	≤ 1000 sq ft	N/A	1001 to 9,999 sq ft	10,000 sq ft or greater
Residential; RP; Business zones except B4; waterfront zones	P	P	S (Level II)	S (Level II)	Not allowed
Industrial zones and B4 zone	P	P	S (Level II)	S (Level II)	S (Level III)
ROS, Shoreland	P	S (Level II)	S (Level II)	C (Planning Board)	C (Planning Board)
Historic Landscapes	P	S (Level II) & HP	S (Level II) & HP	S (Level II) & HP	Not allowed
Cemeteries	P	Not allowed	Not allowed	Not allowed	Not allowed
Stream Protection zones	Not allowed	Not allowed	Not allowed	Not allowed	Not allowed

**Historic Resource:* Where any part of the proposed solar energy system (including associated facilities) is within an historic district, such development shall be reviewed and approved by the planning authority (historic preservation) in accordance with article IX historic preservation prior to a review under this ordinance. Where any part of the proposed solar energy system (including support structures and associated facilities) is within one hundred (100) feet of any designated landmark, historic district or historic landscape district, such development shall meet the site plan Sections 14-526 (d) 5 regarding compatibility with the landmark or historic district.

Key Issues related to the development of performance standards for solar energy systems

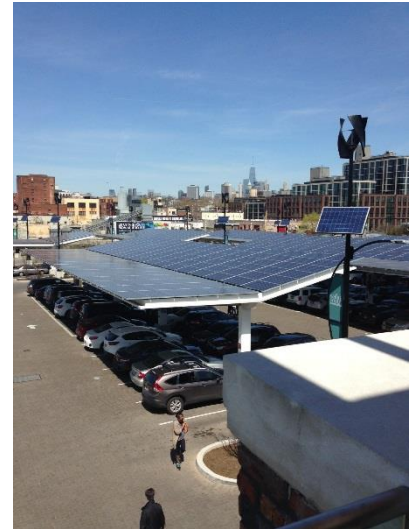
While the objective is to allow solar energy systems in most areas of Portland, the Board is requested to consider whether there are any issues that the Performance Standards should address. Several of the key issues are discussed below:

1. Solar Energy as principal land use: The draft ordinance would allow medium or large solar energy systems that could potentially cover most or all of a site except in residential, B1, B2, B3, B7 and waterfront zones. The thinking behind these provisions is that while we would want to encourage community solar farms, that in residential areas, along arterials and in the more dense urban parts of the City solar energy systems should be integrated or alongside other uses that form part of the streetscene and the community.

The large systems in business and industrial zones are proposed to be limited to areas that are already paved or built upon or difficult to develop. The objective of this provision is to retain land for employment generating uses and encourage the solar energy systems to utilize more brownfield or undevelopable areas.

2. Visual considerations: What performance standards/policies are appropriate: do we want to see small ground mounted solar energy systems in front yards in residential and business/commercial areas? Are roof-mounted solar energy systems in historic districts a concern? Should the electrical wiring/grid connections be underground? What screening of medium and large systems is needed? The draft generally uses terminology such as “wherever possible” or “to minimize impacts” where such issues are referenced.

3. Dual Use systems: The draft ordinance text introduces this category of system because of the increasing provision of solar PV panels on posts over parking spaces, on a large scale (see photo right). Other versions are anticipated to evolve and the potential impacts are somewhat unknown. It is proposed that this category be subject to site plan review (rather than “permitted” with a building permit).



4. Solar access- do we want subdivision standards to address the question of solar access? Many municipalities include requirements that new subdivisions lay out the streets and lots to maximize solar access. The proposed ordinance for Portland highlights that *Solar Access Easements* are an option for any one proposing a solar array (using wording from the City of Minneapolis Solar Energy Systems Ordinance) but does not address the question of new subdivisions.

Attachments:

1. Draft text Solar Energy Generation Ordinance for Portland
2. Technical Standards from City of South Portland’s adopted Solar Energy Ordinance

8.5.16 (FOR PB WORKSHOP)

DRAFT : DIVISION 2. SOLAR ENERGY GENERATION



Division 2. Solar Energy Generation

Sec. 14-775. Purpose.

The purpose of this division is to allow for the construction and operation of public or private solar energy generation systems to produce energy for use on site or off site, by establishing appropriate standards to ensure safe, effective and efficient use of solar energy systems compatible with surrounding uses.

Sec. 14-776. Applicability.

- (a) The installation of all solar energy systems or devices, expansion of any existing solar energy system, or installation of any associated facilities, shall be approved under this ordinance and obtain a building permit and any other necessary state or city approvals prior to its installation. Solar energy generation systems determined to be permitted uses shall be reviewed and approved by the Permitting and Inspections Department; solar energy systems determined to be subject to site plan review by the Planning Authority and Planning Board shall be reviewed and approved as outlined in section 14-779 and obtain a building permit through the Permitting and Inspections Department.
- (b) Any physical modification to an existing and permitted solar energy system which alters the total rated capacity, the size, type or location of the system or its associated equipment shall require approval under this ordinance. Like-kind replacements or non-structural maintenance and repair shall not require approval under this ordinance but shall require a building permit.
- (c) Solar energy systems may be an accessory or principle use in all zones where allowed subject to 14-779 and subject to the performance standards in Section 14-780.

Sec. 14-777. Definitions. *[may be merged with definitions from other divisions in final vesion]*

For the purposes of this division, the following words and phrases shall have the following meanings:

Abandonment: The date at which a solar energy system has been out of service for a continuous period of 12 months.

Building integrated solar energy system: a solar energy system that is an integral part of a principal or accessory building and include, but are not limited to, photovoltaic or hot water systems that are contained within roofing materials, windows, walls, skylights and awnings.

“Dual-Use Systems”: solar energy systems where photo-voltaic panels are attached to structures or buildings without any impact on the primary use eg photo-voltaic panels on structures cantilevered over parked cars or benches; solar panels located on a piece of infrastructure such as a sign or light. These tend to include “emerging technologies” and are considered to require site plan review as they could be extensive in ground coverage or size.

Ground mounted solar energy system (also known as free-standing solar energy systems): A solar energy system that is structurally mounted to the ground. The panels may be stationary or revolving and of any size.

Operations and Maintenance Plan: A plan outlining the operation and maintenance of a solar energy system, to include safety measures and procedures for maintenance.

Public industrial, utility or highway facility: A facility operated by a public entity that contains industrial or utility operations or is an unused part of such a facility.

Roof-mounted solar system: A solar energy system in which solar panels are mounted on top of the structure of a roof either as a flush-mounted system or as modules fixed to frames which can be tilted toward the south at an optimal angle.

Solar Access: Space open to the sun and clear of overhangs or shade, including orientation of streets and lots to the sun, so as to permit the use of active and/or passive solar energy systems on individual properties.

Solar Energy System: A complete assembly consisting of one or more solar collectors and associated mounting hardware or equipment, intended to provide for the collection, storage and distribution of solar energy for heating or cooling, electricity generation, or solar/thermal hot water systems.

Total height of solar energy system: The total vertical distance as measured from the average elevation of the finished grade adjacent to the fixed base of the support structure, to the highest part of the system.

Total rated capacity: The maximum rated output of electrical power production of the photovoltaic system in watts of Direct Current (DC)

Sec. 14-779 Permitting

- (a) Solar systems are allowed in most zones subject to permits/approvals as set out in the table below and subject to compliance with the associated standards in Section 14-780. The level of review relates to the scale of the proposed system, whether they comply with zoning, and the zoning context.

P = allowed as a **permitted** use if the system complies with zoning requirements and are located to rear and side of the site wherever possible; would require a building permit (and historic preservation review if a landmark or in an historic district*).

S = allowed subject to **site plan** review as indicated, to meeting performance standards in section 14-780, and to meeting the submittal requirements in 14-782 and the technical standards outlined in the Technical Manual; a building permit would also be required (and historic preservation review if a landmark or in an historic district*).

C = allowed as a **conditional** use reviewed by the Planning Board and subject to meeting performance standards in section 14-780, the submittal requirements in 14-782, and the technical standards outlined in the Technical Manual; a building permit would also be required (and historic preservation review if a landmark or in an historic district*).

Zone	Roof Mounted and Building Integrated	Small Scale Ground Mounted	"Dual Use" systems	Medium Scale Ground Mounted	Large Scale Ground Mounted
Rated electricity generation	Any size	≤ 20 kW	Any size	21 kW to 250kW	Over 250kW
Physical Size (based on airspace area over ground)	N/A	≤ 1000 sq ft	N/A	1001 to 9,999 sq ft	10,000 sq ft or greater
Residential; RP; Business zones except B4; waterfront zones	P	P	S (Level II)	S (Level II)	Not allowed
Industrial zones and B4 zone	P	P	S (Level II)	S (Level II)	S (Level III)
ROS, Shoreland	P	S (Level II)	S (Level II)	C (Planning Board)	C (Planning Board)
Historic Landscapes	P	S (Level II) & HP	S (Level II) & HP	S (Level II) & HP	Not allowed
Cemeteries	P	Not allowed	Not allowed	Not allowed	Not allowed
Stream Protection zones	Not allowed	Not allowed	Not allowed	Not allowed	Not allowed

**Historic Resource:* Where any part of the proposed solar energy system (including associated facilities) is within an historic district, such development shall be reviewed and approved by the planning authority (historic preservation) in accordance with article IX historic preservation prior to a review under this ordinance. Where any part of the proposed solar energy system (including support structures and associated facilities) is within one hundred (100) feet of any designated landmark, historic district or historic landscape district, such development shall meet the site plan Sections 14-526 (d) 5 regarding compatibility with the landmark or historic district.

Sec. 14-780. Performance Standards

All solar energy systems where subject to site plan or conditional review (Planning Board), shall meet the following performance standards (section numbers are including to allow for reference):

	Roof Mounted and Building Integrated	Small Scale Ground Mounted	"Dual Use" systems	Medium Scale Ground Mounted	Large Scale Ground Mounted
Rated electricity generation	Any size	≤ 20 kW	Any size	21 kW to 250kW	Over 250kW
Physical Size (based on airspace area over ground)	N/A	≤ 1000 sq ft	N/A	1001 to 9,999 sq ft	10,000 sq ft or greater
14-780 (1) All scales of solar energy systems subject to site plan or Conditional Use (PB) review	a) <i>Application requirements:</i> All applications for approval under this ordinance shall address the submittal requirements set out in section 14-782 <i>Submittal Requirements</i>. b) <i>Conditions:</i> The Planning Authority may impose conditions to ensure compliance with the standards and purposes set out in this ordinance, including but not limited to post-construction certification of compliance by a licensed professional engineer or authorized factory representative. c) <i>Technical and Safety:</i> All solar energy systems shall meet the technical, safety and maintenance standards as set out in the City of Portland Technical Manual. d) <i>Impact of construction and connection to the grid:</i> The applicant shall minimize impacts resulting from construction and maintenance of the solar energy system, including from lighting, security measures, traffic, and grid connections. e) <i>Glare:</i> Solar panels are designed to absorb (not reflect) sunlight and are generally less reflective than other varnished or glass exterior materials. However, solar panel placement should minimize or negate any solar glare impacting nearby properties or roadways, without unduly impacting the functionality or efficiency of the solar energy system. <i>(from South Portland ordinance)</i> f) <i>Solar Access:</i> all applicants are encouraged to ensure the maximum solar energy generation from their system by obtaining solar access easements. Solar access easements may be filed consistent with Maine State law. Any property owner may purchase an easement across nearby properties to protect access to sunlight. The easement would be purchased or granted by owners of nearby properties and can apply to buildings, trees, or other structures that would diminish solar access. <i>(from City of Minneapolis)</i>				
	Roof Mounted and Building Integrated	Small Scale Ground Mounted	"Dual Use" systems	Medium Scale Ground Mounted	Large Scale Ground Mounted
14-780 (2) Additional performance standards for particular systems subject to site plan or Conditional Use (PB) review		a) Meet 14-780 (1) above	a) Meet 14-780 (1) above b) Demonstrate that the energy generation is not the principal use of the site; c) Demonstrate that scale of the installation does not create any adverse impacts.	a) Meet 14-780 (1) above b) Designed to avoid safety impacts; c) Located in side or rear yards, wherever possible; d) A maximum of 20 ft in height; e) Set back 50 feet from residential, RP, B1 and B2 zones	a) Meet 14-780 (1) above b) Designed to avoid safety impacts; c) Located in side or rear yards, wherever possible; d) A maximum of 20 ft in height; e) Set back 75 feet from residential, RP, B1 and B2 zones

				f) Located away and screened from public ways and nearby residential /institutional uses to extent possible; g) Co-locate with other land uses on lots in residential, B1, B2, B3, B7 & waterfront zones	f) Located away and screened from public ways and nearby residential /institutional uses to extent possible;
14-780 (4) Additional performance standards for solar energy systems located in ROS & Shoreland Zones				a) Meet 14-780 (1 and (2) above b) If over 10,000 sq ft, locate on landfills or co-terminus with public industrial, utility or highway facilities c) Be supported by Land Bank Commission and Parks Commission where applicable d) Screen from abutters and minimize impact on significant scenic views to the extent possible e) Not required to meet the conditional use requirements of the zone; for ROS see 14-156 f) Not within the 75 ft setback from High Water mark in Shoreland zones	
14-780 (4) Additional performance standards for solar energy systems in Business and Industrial Zones					a) Meet 14-780 (1) (2) and (3) above b) Shall be located on areas already paved or built upon, or subject to severe ground stability or geotechnical safety concerns.

Sec. 14-781. Reserved

Sec. 14-782 Submittal requirements for site plan and conditional use review of solar energy systems.

(a) The following information shall be submitted with an application for a review of a solar energy system and associated facilities under this ordinance:

1. A narrative describing the proposed solar energy system, including an overview of the project; the project location; the generating capacity of the solar energy system; dimensions of all components and respective manufacturers; and a description of associated facilities and how the system and associated facilities comply with the standards of this ordinance (including a plan or other graphics that demonstrate compliance with the required setbacks).
2. An accurate scaled site plan of the subject property showing the planned location of the proposed solar energy system and all associated facilities; property lines, adjoining streets and access; topographic contour lines; existing and proposed buildings; fencing; structures; potential shade from nearby trees and structures; vegetation; driveways, parking, and curb cuts on the subject property; and specifications for all proposed electrical

cabling/transmission lines, accessory equipment, and landscaping. The site plan shall show any proposed off-site modifications to provide grid connections, access the installation, or to maintain the proposed solar energy system.

3. A Boundary Survey for ground mounted solar energy systems.
4. Names and addresses of the owners of abutting properties and the location, dimensions, and types of all existing structures and uses within 100 feet of the property line, and zone boundaries.
5. A scaled elevation drawing showing the proposed solar energy system and all proposed structures, foundations, supports, fencing, vegetation and landscaping, indicating the size, color and materials of the system. For medium and large scale ground mounted systems the plans shall be signed by a Professional engineer licensed to practice in the State of Maine.
6. Information on any connections to the grid including evidence of meeting the local electric utility's transmission and distribution interconnection requirements (this may be a condition of approval if a copy of the application for interconnection with the electric utility provider is submitted).
7. Documentation that the solar generation equipment has been approved under a recognized certification program and that the system complies with all applicable local, state and Federal codes/regulations and with the standards regarding signal interference. Electrical component and connection information shall be in sufficient detail to allow for a determination that it meets Maine electrical codes.
8. Engineered drawings of associated structures, foundations and other facilities (stamped by a PE). In the case of medium and large ground mounted solar energy systems, the applicant shall provide a Operations and Maintenance Plan prepared and stamped by a licensed professional engineer with their application that certifies that the proposed solar energy system design is safe and appropriate in terms of strength, stability, security, and grounding.

Sec. 14-783 Abandonment and Removal of Medium and Large Scale Ground Mounted Solar Energy Systems

- (a) The Owner and Operator shall, at their expense, complete the removal of the solar energy system within 6 months of the end of the useful life of the solar energy system or within 6 months of the date of abandonment.
- (b) The City shall revoke any approvals and/or pursue removal of the solar energy system at the Owner and Operator's expense in the following circumstances:
 1. The solar energy system is not installed and functioning within 12-months from the date of approval under this ordinance; or
 2. The solar energy system is at any time left in an unsafe condition in respect to federal, state and local safety standards (as determined by the City); or
 3. The solar energy system has not been brought back to a safe condition/operation or removed from the site within required timeframe; or

4. The solar energy system is defective or abandoned and not been removed from the site within required timeframe.

14-784. Appeals.

- (a) Any aggrieved party may appeal a decision by the Permitting and Inspections Department or Planning Authority under the provisions of this ordinance by requesting in writing that it be referred to the Planning Board within 30 days of the decision being rendered. The date of the decision shall be the date of the letter from the Permitting and Inspections Department or Planning Authority documenting the decision.
- (b) Any aggrieved party may appeal a decision of the Planning Authority determination under provision 14-761 (b) 2 of this ordinance (compatibility if within 100 feet of a designated landmark, Historic District or Historic Landscape District) by requesting in writing that it be referred to the Historic Preservation Board within 30 days of the determination. The date of the determination shall be the date of the letter from the Planning Authority documenting the decision. Appeals shall be considered by the Historic Preservation Board as a de-novo review of the determination of compatibility.
- (c) Any aggrieved party may appeal the final decision of the Planning Board or the Historic Preservation Board to the superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure. The date of the final decision shall be the date of the Board Hearing or other Board meeting at which a final decision was taken.

Associated amendment to 14-430 (SEE PROPOSED UNDERLINED TEXT)

Sec. 14-430. Height limits.

(a) *Roof structure.* Roof structures for the housing of elevators, stairways, tanks, fans, or other building operating equipment not intended for human occupancy, skylights, steeples, roof signs, flag poles, chimneys, smokestacks, radio or television masts, water tanks, or silos may be erected above the height limitation herein prescribed for buildings. Roof-mounted solar energy systems shall not be considered to be roof structures for the purposes of Article X, Alternative Energy.

(b) *Public art.* Except in residential zones, public art that has been individually accepted by the city council for inclusion within the public art collection, pursuant to Article XI, Public Art Program of the Land Use Code, (Section 14-852(c)), shall not be subject to the height limitations for buildings within the underlying zone.

(c) *Temporary solar anemometer towers.* Temporary solar anemometer towers may be erected above the height limitation for buildings within the underlying zone, subject to receiving Board of Appeals approval and FAA approval, if necessary.

(a) *Solar energy systems.* Solar energy systems may be erected above the height limitation for principal buildings within the underlying zone, pursuant to Article X, Alternative Energy.

(b) Roof mounted solar energy systems: PV panels and thermal water heating panels may be erected above the height limitation for principal or accessory buildings, subject to historic preservation approval, as follows:

1. For all zones except B4 and Industrial zones: 2 feet above highest part of a pitched roof on principle structures; 1 foot above the highest part of a pitched roof for accessory structures; and no limit in the case of flat roofs.
2. For B4 and Industrial zones: 4 ft above the highest part of a pitched roof on principle structures; 2 ft above the highest part of a pitched roof for accessory structures; and no limit in the case of a flat roof;

Sec. 27-1590. Standards for Roof-Mounted and Small-Scale Ground-Mounted Solar Energy Systems.

- (a) Roof-mounted and building-mounted solar energy systems and equipment shall be permitted only if they are determined by the Code Enforcement Officer, with input from the City Engineer and the Fire Chief, not to present any unreasonable safety risks, including, but not limited to, the following:
 - (1) Weight load.
 - (2) Wind resistance.
 - (3) Ingress or egress in the event of fire or other emergency.
- (b) All solar energy system installations must be performed by a qualified solar installer.
- (c) All wiring must comply with the National Electrical Code, most recent edition, as amended and adopted by the City. For ground-mounted systems, all exterior electrical wiring must be buried below the surface of the ground.
- (d) Prior to operation, electrical connections must be inspected by the Electrical Inspector.
- (e) Any connection to the public utility grid must be inspected by the appropriate public utility.
- (f) Solar energy systems shall be maintained in good working order.
- (g) Roof-mounted and building-mounted solar collectors shall meet all applicable fire safety and building code standards.
- (h) The solar energy installation must include a thirty-six inch (36") wide pathway to be maintained along three sides of the solar roof. The bottom edge of a roof with a slope that exceeds 2:12 shall not be used as a pathway.
- (i) All pathways are located over a structurally supported area and measured from the edge of the roof and horizontal ridge to the solar array or any portion thereof. Pathways are not required on non-occupied accessory structures provided they are separated from occupied structures by a six foot (6') minimum separation distance or by a minimum two-hour fire rated assembly.

- (j) The rooftop array shall be wired directly from the array to a cut-off switch located as near as practical to the outside electrical meter box. This wiring shall be encased in metal conduit with markings every six feet (6') identifying the conduit as solar live electrical.
- (k) A label, provided to the installer, shall be placed on the electrical meter box to identify the structure as being supplied with solar electricity.
- (l) If solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the NFPA standards when in use and when no longer used shall be disposed of in accordance with the laws and regulations.
- (m) If a solar collector ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector, mount and associated equipment by no later than 90 days after the end of the twelve-month period.

Sec. 27-1591. Additional Standards for Medium- and Large-Scale Ground-Mounted Solar Energy Systems.

In addition to the standards in Sec. 27-1590, medium- and large-scale ground-mounted solar energy systems shall comply with the following:

- (a) Utility Connections - Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
- (b) Safety - The solar system owner shall provide a copy of the site plan review application to the Fire Chief. All means of shutting down the solar installation shall be clearly marked.
- (c) Visual Impact - Reasonable efforts, as determined by the Planning Board, shall be made to minimize visual impacts by

EXCLUDE

EXCLUDE preserving natural vegetation, screening abutting properties, or other appropriate measures.

EXCLUDE FROM THIS SECTION (d) Glare - Solar panels are designed to absorb (not reflect) sunlight; and, as such, solar panels are generally less reflective than other varnished or glass exterior housing pieces. However, solar panel placement should be prioritized to minimize or negate any solar glare onto nearby properties or roadways, without unduly impacting the functionality or efficiency of the solar system.

(e) Additional Standards for Large-Scale Solar Energy Systems

(1) Operations & Maintenance Plan - the project proponent shall submit a plan for the operation and maintenance of the large-scale ground-mounted solar energy system, which shall include measures for maintaining safe access to the installation as well as other general procedures for operational maintenance of the installation.

(2) Signage - Signs on large-scale ground-mounted solar energy systems shall comply with the regulations in Sec. 27-1561 et. seq. of this Chapter. A sign meeting those regulations shall be required to identify the owner and provide a 24-hour emergency contact phone number.

(3) Emergency Services - The large-scale ground-mounted solar energy system owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. Upon request the owner or operator shall cooperate with the Fire Department in developing an emergency response plan. All means of shutting down the system shall be clearly marked. the owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

(4) Installation Conditions - The large-scale ground-mounted solar energy system owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the Fire Chief. The owner or operator shall be responsible for the cost of maintaining the

solar energy system and any access road(s), unless accepted as a public way.

- (5) Removal - Any large-scale ground-mounted solar energy system which has reached the end of its useful life or has been abandoned consistent with this ordinance shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Code Enforcement Officer by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

(a) Physical removal of all solar energy systems, structures, equipment, security barriers and transmission lines from the site.

(b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

(c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Code Enforcement Officer may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

- (6) Abandonment, Guarantee.

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(a) Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, a large-scale ground-mounted solar energy system shall be considered abandoned when it fails to operate for more than one year without having first obtained the written consent of the Code Enforcement Officer.

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(b) At the time of approval, the applicant for a new large-scale ground-mounted solar energy system shall submit to the City an evergreen performance guarantee, to be approved by Corporation Counsel, in the amount of 150% of the estimated demolition cost of the system, such cost to be determined by the City Engineer or other duly designated person. The owner may apply to the Planning

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Board for release of the guarantee at such time that it or its assigns remove the system and associated abandoned structures, and such completed removal is found to be satisfactory by the City Engineer.

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- (c) If the owner or operator of the solar energy system fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the City retains the right to use the performance guarantee and all other available means to cause an abandoned, hazardous, or decommissioned large-scale ground-mounted solar energy system to be removed.



Memorandum

Planning and Urban Development Department

Planning Division

To: Elizabeth Boepple , Chair and Members of the Portland Planning Board

From: Jean Fraser, Planner

Date: August 5, 2016

Re: Street Tree Text Amendment; City of Portland, Applicant

Meeting Date: August 9, 2016

Introduction

1. The Site Plan Ordinance (Section 14-526 (b) 2. *Landscaping and Landscape Preservation*
 - b. *Site Landscaping* (iii) *Street Trees* requires applicants for development to plant street trees in the right-of-way (ROW) and provides a waiver where this is not feasible. In summary the waiver allows for three alternatives to a tree planted in the ROW:
 - Preserve existing trees near ROW;
 - Plant new trees near ROW;
 - Make a contribution to the City's Tree fund for any required street tree not provided (traditionally this has been \$200 per tree)

The existing text is quoted below:

(iii) *Street Trees:*

- (a) All development shall include street trees in numbers and locations as specified in Section 4 of the Technical Manual. Street trees shall be planted in the right of way, as specified in Section 4 of the Technical Manual. Street trees shall be of a species identified on the City of Portland Recommended Tree List, unless otherwise approved by the Portland City Arborist or his/her designee.
- (b) Waiver. Where the applicant can demonstrate that site constraints prevent the planting of required street trees in the City right of way, the Reviewing Authority may permit the planting of street trees in the front yard, within ten feet of the property line. Existing preserved healthy trees that are six (6) inches or more in caliper and are on the site within ten (10) feet of the property line may be counted towards this requirement. If planting street trees is neither feasible in the City right of way nor within the site, the applicant shall contribute to the City of Portland Tree Fund an amount proportionate to the cost of required street trees.

2. The waiver, particularly the contribution to the Tree Fund, has been increasingly requested because applicants are not able to plant required street trees in the ROW. This has become a frequent situation largely because:
 - In some parts of Portland the street trees are already closely spaced;
 - The zoning setback requirements in central Portland are often no setback or a setback of 5 feet, so any new building would crowd out new street trees, and preserved or new trees could not be placed in the setback;
 - In the more urban redevelopment locations it is difficult to achieve the 5 ft wide sidewalk to meet ADA requirements, while at the same time providing tree wells of sufficient size for tree health.
3. Where applicants have contributed to the Tree Fund this has been used by the City Arborist to facilitate ongoing investment to replace and expand the street tree network in the neighborhoods where development is occurring. The City Arborist suggests the contribution per tree be increased from \$200 to \$250 to better reflect the current costs of trees. This figure is proposed to be included in the Technical Manual and it could be updated in the future as appropriate.
4. Both the Board and staff have suggested that the requirement to treat this situation as a waiver is a cumbersome approach when the constraints are recognized and acceptable alternatives have been identified. It is suggested that the waiver be converted to a requirement that can be met in a number of specified ways and reviewed by staff, who would give comments and recommendations as with other site plan requirements.

Proposed Text Amendment

5. The proposed draft text amendment is intended to achieve the following:
 - Convert the waiver into a straightforward site plan requirement;
 - Set out clear alternatives where planting street trees in the ROW is not feasible;
 - Add in the provision of a “green screen” as another alternative, as these are often used in Portland to soften ground level blank walls and are acceptable to the City Arborist ([Attachment 1](#)). Where the ‘green screen’ is designed to be large and healthy, it may be an effective alternative to a street tree where setbacks are limited;
 - Refer to a specific cost for a contribution to the Tree Fund (which would be included in the Technical Manual) so that this is a known factor for applicants considering the options and avoids the term “proportionate”; and
 - Cross-reference a revised Technical Standard that amplifies on the alternatives (attached draft in [Attachment 2](#) to allow the Board to consider it alongside the Text Amendment, although it may not go forward to the City Council at the same time).
6. The City Arborist would continue to advise the Planning Board as to what proposed street tree alternatives are supported or recommended.
7. The proposed red-lined text amendment is inserted below, followed by the “clean” version:

Red-lined:

(iii) Street Trees:

- (a) All development shall include street trees in numbers and locations as specified in Section 4 of the Technical Manual. Street trees shall be planted in the right of way, as specified in Section 4 of the Technical Manual, ~~except~~except where section (b) below applies. Street trees shall be of a species identified on the City of Portland Recommended Tree List, unless otherwise approved by the Portland City Arborist or his/her designee.
- (b) ~~Waiver.~~ Where the applicant can demonstrate that site constraints prevent the planting of required street trees in the City right of way, the Reviewing Authority may permit the following to be counted towards the street tree requirement:
- ~~the~~• ~~The planting of street trees where visible from the right-of-way in the front yard, within thirty (30) ten-foot of the property line.;~~ and/or
 - ~~The preservation of e~~Existing ~~preserved~~ healthy trees that are six (6) inches or more in caliper, visible from the right-of-way and are on the site within thirtyten (4030) feet of the property line; may be counted towards this requirement. And/or
 - ~~Where the overall street tree requirement is greater than four (4) street trees, the planting of a green screen of at least 35 sq. ft. may be substituted for one street tree. The location, species and planting methods shall be in accord with Section 4 of the Technical Manual. A maximum of two (2) green screens per lot may be counted toward the street tree requirement; and/or~~
 - ~~A contribution for each required street tree into the City of Portland's Tree Fund where the other alternatives are If planting street trees is neither feasible in the City right of way nor within the site., the applicant shall contribute to the City of Portland Tree Fund an amount proportionate to the cost of required street trees. The amount of the contribution per street tree shall be as set out in Section 4 of the Technical Manual.~~

Clean and proposed for adoption:

(iii) Street Trees:

- (a) All development shall include street trees in numbers and locations as specified in Section 4 of the Technical Manual. Street trees shall be planted in the right of way, as specified in Section 4 of the Technical Manual, except where section (b) below applies. Street trees shall be of a species identified on the City of Portland Recommended Tree List, unless otherwise approved by the Portland City Arborist or his/her designee.
- (b) Where the applicant can demonstrate that site constraints prevent the planting of required street trees in the City right of way, the Reviewing Authority may permit the following to be counted towards the street tree requirement:
- The planting of street trees where visible from the right-of-way within thirty (30) feet of the property line; and/or
 - The preservation of existing healthy trees that are six (6) inches or more in caliper, visible from the right-of-way and are on the site within thirty (30) feet of the property line;

and/or

- Where the overall street tree requirement is greater than four (4) street trees, the planting of a green screen of at least 35 sq ft may be substituted for one street tree. The location, species and planting methods shall be in accord with Section 4 of the Technical Manual. A maximum of two (2) green screens per lot may be counted toward the street tree requirement; and/or
- A contribution for each required street tree into the City of Portland's Tree Fund where the other alternatives are neither feasible in the City right of way nor within the site. The amount of the contribution per street tree shall be as set out in Section 4 of the Technical Manual.

Attachments:

1. City Arborist comments
2. Draft Amendments to Technical Standards for Street Trees (extract from Section 4)

Fwd: Draft PB Memo (need urgent comments- going to PB 8.9.16) re revision to street tree waiver provision

1 message

Jean Fraser <jf@portlandmaine.gov>
To: "Fraser, Jean" <jf@portlandmaine.gov>

Thu, Aug 4, 2016 at 1:15 PM

From: **Jeff Tarling** <jst@portlandmaine.gov>
Date: Tue, Aug 2, 2016 at 8:10 AM
Subject: Re: Draft PB Memo (need urgent comments- going to PB 8.9.16) re revision to street tree waiver provision
To: Jean Fraser <jf@portlandmaine.gov>
Cc: "Barhydt, Barbara" <bab@portlandmaine.gov>, "Cameron, Caitlin" <ccameron@portlandmaine.gov>

Jean -

The revisions outline our suggested improvements for street-trees.

Green-screen / green wall standards need to be explored and improved. Concept wise green wall use is trending and although installation and maintenance cost are somewhat higher than traditional landscape features we should be encouraging the use in the restrictive site areas.

Jeff

4.5.10. LID strategies and practices relating to site landscaping requirements include but are not limited to bioretention, grassed filter strips, green roofs, rain gardens and vegetated swales.

4.6. STREET TREES:

Arrangement and spacing of trees proposed in the City Right of Way shall be coordinated with the Portland City Arborist or their designee. If it is determined by the City Arborist that there is not adequate space or conditions for street trees in the public right of way or if there is a conflict between the location of proposed street trees and the location of existing or proposed underground utilities, the required number of street trees shall be provided on private property or through a contribution to the City of Portland Tree fund as specified in para 4.6.4 ~~within 10 feet of the property line along the street frontage.~~ Tree species shall be selected according to the City of Portland recommended tree list (Figure IV-1). Trees proposed in the sidewalk shall be planted with approved tree grates, as shown in figure IV-6.

4.6.1. Residential Development:

Single-family residential: Single-family residential developments shall provide a minimum of two (2) street trees per unit, planted in the City right of way unless otherwise approved and spaced twenty-five (25) to thirty-five (35) feet on center.

Multi-family residential: Multi-family residential developments shall provide a minimum of one tree per unit, planted in the City right of way unless otherwise approved and spaced thirty (30) to forty five (45) on center.

Single-family residential subdivisions: Single-family residential subdivisions shall provide a minimum of two (2) trees per lot, planted in the City right of way unless otherwise approved and spaced thirty (30) to forty five (45) feet on center.

Standards for Manufactured Housing: Where manufactured housing is proposed within traditional single family subdivision or within a manufactured housing park, landscaping for such housing shall comply with the standards as set forth in Section 14-499.5 of the City Code- Additional Requirements for Manufactured Housing Parks.

Where a single family, single component manufactured house is sited in a residential zone, landscaping and street tree requirements shall correspond to the standards for single-family residential development of the City Code and of this section.

4.6.2. Planned Residential Unit Developments (PRUDs): Where a manufactured housing park or subdivision is also a planned residential unit development (PRUD), the development shall provide a minimum of two (2) street trees per unit, planted within 8-10 ft of the City right of way and/or private roadway proposed as part of the development.

- 4.6.3. Commercial, Industrial and Institutional Development: Commercial, industrial and institutional developments shall provide street trees thirty (30) to forty five (45) feet apart on center in the City right of way along all street frontages unless otherwise approved.

4.6.4 Street tree alternatives: The Site Plan Ordinance Section XXX states that where the applicant can demonstrate that site constraints prevent the planting of required street trees in the City right of way, the Reviewing Authority may permit the following to be counted towards the street tree requirement. The alternatives to a street tree in the ROW should help achieve the objectives of a street tree and contribute to the street environment. The following specifications are provided to guide the applicant; the acceptability of the alternative to a street tree shall be at the discretion of the City Arborist.

- a. New street trees may be planted where visible from the right-of way within thirty feet of the property line, subject to the species being appropriate to the location and from the Recommended Tree List (Figure IV-1). Applicants should note that trees planted within the site would be subject to the Performance Guarantee Defect Period provisions and should be documented on deed plans for future preservation.
- b. Existing healthy trees that are six (6) inches or more in caliper, visible from the right-of -way and are on the site within thirty (30) feet of the property line may be counted as street trees. Plans for the protection and preservation of these trees during construction shall be included as part of the development review.
- c. Where the overall street tree requirement is greater than four (4) street trees, the planting of a green screen of at least 35 sq ft may be substituted for one street tree (counting for up to a maximum of two street trees). Typically "green screens" (also known as vegetated walls) are installed to provide privacy or screen something behind it, and often are used against a non-window building wall. In this case they may be an acceptable alternative to a street tree, where the location is visible from the right-of way and able to support the plant material (eg with access to sunlight and water). The species selection would be based on the orientation and micro-climate, but shall generally include several species to ensure the maximum "green" season. The planting methods would depend on the location, but generally should include a planting base of at least 1 foot wide with suitable soils and drainage. The applicant shall demonstrate that the design is likely to be successful in the long term.
- d. Where the other alternatives are demonstrated to be not feasible in the City right-of-way nor within the site, a contribution of \$250 for each required street tree may be made into the City of Portland's Tree Fund. The Tree Fund is used by the City to provide street trees in the right-of - way in the vicinity or neighborhood of the project. This contribution would be considered a one-time "Infrastructure Contribution" and payable prior to the issuance of a building permit.

4.7. PLANT SELECTION:

- 4.7.1. All trees and shrubs shall comply with the standards set forth by the American Standard for Nursery Stock (ANSI Z60.1 - 2004). These standards are available through the Department of Public Services and at <http://anla.org/index.cfm?area=&page=Content&categoryID=260>

PLANNING BOARD REPORT PORTLAND, MAINE



Conversion to Community Hall
66 Noyes Street
Conditional Use in the Residential R-5 Zone
2016-183
Portland Community Squash, Applicant

Submitted to: Portland Planning Board: Public Hearing Date: August 9, 2016	Prepared by: Shukria Wiar, Planner Date: August 5, 2016
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I. INTRODUCTION

Portland Community Squash has requested a conditional use review and approval to convert a synagogue (place of assembly use) and daycare to a community hall (place of assembly) at 66 Noyes Street. The site is zoned Residential R-5. The proposed community hall will be used for community recreation and educational functions by the Portland Community Squash; adult squash, junior squash league, and classroom space for tutoring children on this property. There are also minor changes to the site. The proposed institutional use and associated functions will be reviewed by the Planning Board as a Conditional Use in the R-5 zone for conformance with the Land Use Code Section 14-118 (R-5 Conditional Uses) and 14-474 (Conditional Uses). There is also an Administrative Authorization application associated with the conversion, which will be reviewed by the Planning Authority (staff).

Applicant Name	Portland Community Squash
Agent Representative	Mary Costigan of Bernstein Shur

One hundred and sixty-five (165) notices were sent to area residents within 500 feet of the site and the interested party list. A notice also appeared in the August 1st and 2nd editions of the *Portland Press Herald*. As of the writing of this report, Alyson Maloy of 22 Holwell Street, called the Planning Division office. Ms. Maloy expressed concerns about the loss of a daycare in the neighborhood and how the ten proposed parking spaces are not supporting the new use. Rosie Lenehan on behalf of residents of Noyes Street has submitted written comments, [Attachment 2](#). They are requesting the safety measurements to be implemented: a crosswalk at Deering Ave and Noyes Street, preferably with flashing lights to alert drivers OR a 4-way stop with crosswalks at the intersection of Deering and Noyes. They also request speed bumps put on Noyes Street to discourage speeding. Laura Share submitted public comment seeking to maintain and improve a fence along the shared property boundary for privacy (Attachment 2).

II. REQUIRED REVIEWS

<i>Applicant's Proposal</i>	<i>Applicable Standards</i>
Synagogue to Community Hall	Administrative Authorization
Place of Assembly	Level III Conditional Use in the R-5 zone (§14-118)

III. SUMMARY OF FINDINGS:

Zone: R-5 Residential
Existing Use: Synagogue and Daycare
Proposed Use: Community Hall
Lot Size: .9058 acres
Building Area: 13,164 square foot

IV. SITE DESCRIPTION:

The property is located at 66 Noyes Street. The synagogue was built in 1955 to accommodate 208 adults in the main hall with an adjoining school. The school was a Hebrew School for approximately 120 children from K to 6th grade. The Hebrew School moved in 2004 and at that time, the YMCA daycare moved into the facility. At some point, YMCA moved out and Sherry Adams of Children's Adventure Center ran the daycare. There are currently five to seven onsite parking spaces at the southeasterly end of the site. The site also includes a courtyard and a

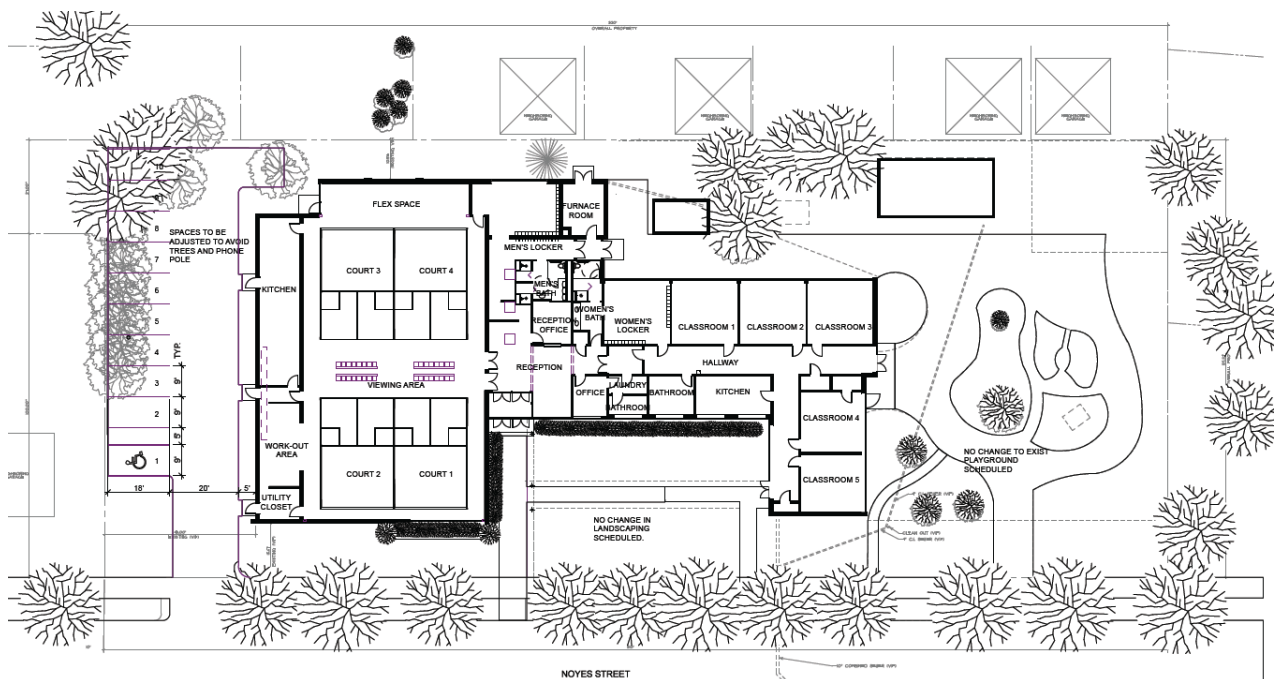
playground at the northern end of the property. The synagogue had between 100 to 200 members and the members primarily attended the facility on Friday evenings and Saturday mornings. According to the application, “at one time there could be up to 200 people with approximately 100 cars parked on the surrounding streets....Parking would spill from Noyes Street into Holwell Street and around Longfellow Park”. There has been a decline in the synagogue members and now approximately 100 people will attend on holidays and special events.



Currently, the daycare serves 50 students and has 5-6 employees. The hours of operation are from 6:00 AM to 6:00 PM with drops offs between 6:00 to 9:00 AM and pickups between 3:00 to 6:00 PM. Approximately 40 to 50 cars per day, park at the curb in front of the building to drop off and pickup children.

V. PROPOSED DEVELOPMENT

The applicant proposes to utilize the existing building as a community hall. The building will be renovated to have four squash courts, as well as the classroom spaces. The existing parking lot will be restriped to create 10 parking spaces. The proposed community hall will be used for recreation and educational functions by the Portland Community Squash. There will be three different programs in the building: adult squash, junior squash league, and Rally Portland and Learning Works. The adult squash program is a member-based program, which helps to support the youth programs. There are approximately 130 to 200 members and will have access to the



courts seven days a week except between 2:00 to 5:00 PM (this is the time for the youth league).

The junior league program, designed for middle and high schools students, will have approximately 60 to 150 students. The junior league will utilize the courts between 2:00 to 5:00 PM. The students will have matches on Saturdays and will involve 20 students at a time for a three hour period. The students will also have access to homework help sessions with PCS volunteers. Students will walk, carpool with parents, or take the bus.

The Rally Portland program is designed to offer academic support, squash lessons, community services, and travel opportunities to help city's most-at-risk students from fourth grade to college. At this community hall, Rally Portland is partnering with Learning Works to couple squash and Learning Works curriculum to work with students. Rally Portland will have 20 students, with additional 20 students to add to the program every year for slightly over 100 students. Middle School students will get to the site by a 14 passenger bus and high school students will ride the metro bus. This program will utilize the courts from 3:00 to 5:00 PM along the junior squash league and will access two classrooms very afternoon.

In addition to these three programs, summer weekday camps will be offered that will have approximately 12 to 20 students per session.

VI. STAFF REVIEW

This project is subject to conditional use review. Staff review includes the following subsections:

1. ZONING, RIGHT TITLE AND INTEREST, AND NEIGHBORHOOD MEETING

A. Zoning

CONDITIONAL USE REVIEW

The current use of the existing building is a religious place of assembly and a day care. In 2009, updated definitions of a place of assembly and dimensional standards were adopted, which included new dimensional standards for places of assembly. The current use of the building is allowed as a conditional use and there is sufficient land area for a medium sized facility, but the building exceeds the maximum floor area for a place of public assembly on a local street. The maximum floor areas are as follows:

16. *Maximum floor area for places of assembly not on a collector or arterial road:*

Large	4,500 sq. ft.
Medium	2,250 sq. ft.
Small	1,125 sq. ft.

The proposal to convert the current assembly space into the squash courts modifies roughly 4,700 square feet of the structure and classroom space is retained for the after school programs. The classrooms have been used for the former school and then day care center.

Ann Machado, Zoning Administrator has confirmed that the current use of the building is a legal non-conforming place of assembly (due to the dimensional standards for places of assembly) and that the proposed change of use to a community hall (another place of public assembly) is permissible. The use will remain as a legal nonconforming place of assembly, subject to the Planning Board's review of the conditional use application.

This project is considered a change of use of an institutional use in the R-5 zone and it is subject to the conditional use standards of Sections 14-118 and 14-474. The applicant has submitted an analysis of how the proposal meets the R-5 Conditional Use Standards (Attachment E) as follows:

Sec. 14-118. Conditional uses

The following uses 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:

(b) Institutional: Any of the following conditional uses provided that, notwithstanding section 14-474(a) (conditional uses) of this article, or any other provision of this Code, the Planning Board shall be substituted for the board of appeals as the reviewing authority:

1. Elementary, middle, and secondary school;
2. a. Long-term and extended care facilities; b. Intermediate care facility for thirteen (13) or more persons;
3. Places of assembly;
4. Reserved;
5. Hospital;
6. College, university, trade school.

Such uses shall be subject to the following conditions and standards in addition to the provisions of section 14-474:

- a. In the case of expansion of existing such uses onto land other than the lot on which the principal use is located, it shall be demonstrated that the proposed use cannot reasonably be accommodated on the existing site through more efficient utilization of land or buildings, and will not cause significant physical encroachment into established residential areas; and

Staff Comments: The principle use will be accommodated on this one property; therefore this standard does not apply. The proposal is replacing a religious place of assembly with a community hall place of assembly with no expansion of the structure.

- b. The proposed use will not cause significant displacement or conversion of residential uses existing as of June 1, 1983, or thereafter; and

Staff Comments: The renovations to the building and accompanying improvements will not cause the displacement or conversion of any residential units. The use of the site historically has been a place of religious assembly; thus this standard is met.

- c. In the case of a use or use expansion which constitutes a combination of the above-listed uses with capacity for concurrent operations, the applicable minimum lot sizes shall be cumulative; and

Staff Comments: The lot size for this property is approximately 39,456 square feet. The minimum lot size in the R-5 zone for a medium-scaled place of assembly is 21,780 sq. ft.; therefore this standard is being met.

- d. *Article V (site plan) sections 14-522 and 14-523 notwithstanding, in the case of places of assembly the proposed use shall be subject to the requirements of article V (site plan) of this chapter; and*

Staff comment: The applicant has submitted an administrative application which is being reviewed concurrently. The site plan is ready to be approved with conditions.

e. In the case of community halls:

i. The structure was in existence as of January 4, 2010;

Staff Comments: The structure was built in 1955; thus this standard is being met.

ii. The structure was built for institutional or other non-residential uses;

Staff Comments: The structure was used as a synagogue and school since it was built; thus this standard is being met.

iii. The structure is operated by, or operated subject to the control of, a not-for-profit entity in accordance with its not-for-profit purposes; and

Staff Comments: Portland Community Squash is a Maine not-for-profit corporation and will be used as such; thus this standard is being met.

iv. A parking management plan is submitted for review and approval by the planning board;

Staff Comments: A parking management plan was submitted. Based on the report, the traffic and parking created by the proposed community hall is expected to be less than what was generated by the synagogue and school. According to the report, "the ten spaces on the property, plus the available on-street parking is more than adequate to serve the needs of the Community Hall with no great impact on the neighborhood". Public comment from the neighborhood has been received regarding local traffic conditions and a request for safety measures at the Noyes and Deering intersection and traffic calming measures on Noyes Street. Tom Errico, Consultant Traffic Engineer, has reviewed the project and offers that following recommendation:

Given the data provided, I generally agree that the net change in traffic volumes between the prior and proposed uses appear to be a reduced condition. With that said, it is my recommendation that a parking and traffic monitoring study be conducted within 6 months of occupancy. The scope and timing of the monitoring study shall be coordinated with City staff. I would note that mitigation strategies may be required following the outcome of the monitoring study.

Sec. 14-474:

The following standards 14-474 apply to all conditional uses:

2. *Standards. The Board shall, after review of required materials, authorize issuance of a conditional use permit, upon a showing that the proposed use, at the size and intensity contemplated at the proposed location, will not have substantially greater negative impacts than would normally occur from surrounding uses or other allowable uses in the same zoning district. The Board shall find that this standard is satisfied if it finds that:*

a. *The volume and type of vehicle traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces required are not substantially greater than would normally occur at surrounding uses or other allowable uses in the same zone; and*

Staff comment: The site is in the R5 zone which allows schools, hospitals, colleges and universities, most of which would have greater traffic generation and parking requirements than the proposed use. When compared to the existing use of a synagogue and daycare, the weekly volume and maximum number of vehicles for the proposed use of community hall will be lower. Like the synagogue and daycare, and other uses in the area, vehicle traffic will be passenger vehicles, primarily in the morning and afternoon during the week, as well as some traffic on the weekend. According to the applicant, "[t]he hours of operation, expanses of pavement and required parking spaces will be the same as that required and used by the synagogue and is not greater than that for similar uses in the area". As mentioned above, Mr. Errico has reviewed the parking analysis for the project and recommends that a parking and traffic monitoring study be conducted with six months of occupancy. He also states that in addition to the new ten parking spaces, bicycle parking shall be provided for the project; he recommends a minimum of twenty (20) bicycle parking spaces shall be provided. The proposed aisle width in the parking area is not meeting the standard of 24 feet; the aisle width is 20 feet. Mr. Errico supports the waiver and will be part of the site plan review.

b. The proposed use will not create unsanitary or harmful conditions by reason of noise, glare, dust, sewage disposal, emissions to the air, odor, lighting, or litter; and

Staff comment: The proposal would not create harmful conditions, thus this standard is met.

c. The design and operation of the proposed use, including but not limited to landscaping, screening, signs, loading, deliveries, trash or waste generation, arrangement of structures, and materials storage will not have a substantially greater effect/impact on surrounding properties than those associated with surrounding uses or other allowable uses in the zone.

Staff comment: The design and operation of the proposed use is anticipated to have similar effects/impacts as the existing synagogue and daycare use, as well as the surrounding uses. The proposed parking will abut a residential home. There is an existing fence that runs along a portion of the paved area and the abutting property owner has asked about fence improvements to retain a privacy buffer. The staff is recommending a condition of approval to require fencing or an enhanced buffer between the parking area and the home in order to reduce the glare of vehicle headlights and retain privacy.

Section 14-474 (d) states:

(d) Conditions on conditional use permits. The board of appeals may impose such reasonable conditions upon the premises benefited by a conditional use as may be necessary to prevent or minimize adverse effects therefrom upon other property in the neighborhood. Such conditions shall be expressly set forth in the resolution authorizing the conditional use permit and in the permit. Violation of such conditions shall be a violation of this article.

Staff Comment: Planning staff recommends conditions of approval as suggested by Mr. Errico

B. Right, Title or Interest:

The applicant submitted a purchase and sale agreement, Attachment C.

C. Neighborhood Meeting:

This proposal is subject to administrative authorization and conditional use review (for place of assembly use in the R-5 zone). Section 14-32 (c) of the City Code requires only applicants for Level III site plan review or subdivisions of five or more units or lots to host a neighborhood meeting.

VII. PROPOSED MOTIONS

A. CONDITIONAL USE

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Planning Board Report for the public hearing on August 9, 2016 for application #2016-183 (Conditional Use), relevant to Portland's Conditional Use Standards and other regulations, and the testimony presented at the Planning Board hearing:

The Planning Board finds that the proposed conditional use of place of assembly use at 66 Noyes Street in the R-5 zone [**does/does not**] meet the standards of § 14-474 and the standards of §14-118 for the R-5 zone, subject to the following condition:

1. A parking and traffic monitoring study shall be conducted within six months of certificate of occupancy and the scope and timing of the monitoring study shall be coordinated with the Planning Authority and Department of Public Works. It shall be noted that mitigation strategies may be required following the outcome of the monitoring study if warranted by project specific impacts.
2. The applicant shall provide a minimum of twenty (20) bicycle parking spaces onsite and the details shall be depicted on the final site plan.
3. A fence or landscaped buffer to screen the parking area shall be installed along the proposed parking lot, and the plans for the screening shall be reviewed and approved by the Planning Authority prior to the issuance of a building permit.

ATTACHMENTS

PLANNING BOARD REPORT ATTACHMENTS

1. Traffic Review 08.04.2016 (email from Tom Errico)
2. Public Comment

APPLICANT'S SUBMITTAL

- A. Cover Letter, Mary Costigan of Bernstein Shur, dated 07.11.2016
- B. Application, dated 07.11.2016
- C. Purchase and Sale Agreement
- D. Prior and Proposed Uses of 66 Noyes Street
- E. Analysis of Condition Use Standards
- F. PCS Parking Management Plan
- G. Administrative Authorization Application

PLANS

- | | |
|-------|-----------------|
| Plan1 | Boundary Survey |
| Plan2 | Site Plan |

Portland Community Squash - Traffic Comments

Tom Errico <thomas.errico@tylin.com>

Thu, Aug 4, 2016 at 10:48 AM

To: Shukria Wiar <shukriaw@portlandmaine.gov>

Cc: Katherine Earley <kas@portlandmaine.gov>, Jeremiah Bartlett <JBartlett@portlandmaine.gov>, Jeff Tarling <jst@portlandmaine.gov>, Lauren Swett <lszett@woodardcurran.com>

Hi Shukria – I have reviewed the most recent site plan and parking management plan and offer the following traffic comments.

- I generally find the layout of the parking spaces to be acceptable. The proposed aisle width (20 feet versus 24 feet) does not meet City standards, but given use, I support a waiver.
- Given the data provided, I generally agree that the net change in traffic volumes between the prior and proposed uses appear to be a reduced condition. With that said, it is my recommendation that a parking and traffic monitoring study be conducted within 6 months of occupancy. The scope and timing of the monitoring study shall be coordinated with City staff. I would note that mitigation strategies may be required following the outcome of the monitoring study.
- Bicycle parking shall be provided for the project. As discussed, a minimum of 20 bicycle parking spaces shall be provided.

If you have any questions, please contact me.

Best regards,

Thomas A. Errico, PE
Senior Associate
Traffic Engineering Director
TYLIN INTERNATIONAL T.Y. Lin International

12 Northbrook Drive

Falmouth, ME 04105

207.781.4721 (main)

207.347.4354 (direct)

207.400.0719 (mobile)

207.781.4753 (fax)

thomas.errico@tylin.com

Visit us online at www.tylin.com

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"One Vision, One Company"

Portland Community Squash - Traffic Comments

Jeremiah Bartlett <jbartlett@portlandmaine.gov>

Thu, Aug 4, 2016 at 11:18 AM

To: Tom Errico <thomas.errico@tylin.com>

Cc: Shukria Wiar <shukriaw@portlandmaine.gov>, Katherine Earley <kas@portlandmaine.gov>, Jeff Tarling <jst@portlandmaine.gov>, Lauren Swett <lszett@woodardcurran.com>, Barbara Barhydt <bab@portlandmaine.gov>, Bruce Hyman <bhyman@portlandmaine.gov>

Hi All,

I don't know who is aware, but a number of residents, lead by Rosie Lenehan, are requesting some work be done as a result of this project.

Text of the email is as follows:

Dear Bruce and Jeremiah,

I hope this finds you both well. As per my conversation with Bruce on Tuesday, I am writing on behalf of the residents of Noyes Street with our traffic safety concerns and requests.

There are approximately 20 children under the age of 18 living on our block of Noyes Street (between Brighton and Deering Avenues). There are frequent speeding cars on our street which we believe endanger the safety of our children. Also, there is not a crosswalk to help children and pedestrians cross Deering Avenue at Noyes Street. Cars drive very fast on Deering Ave and it can be dangerous to cross the street, especially for children. The bus that takes children to and from Ocean Avenue Elementary School stops on the opposite side of Deering Ave, requiring kids to cross Deering Ave in order to get on and off the bus. In December, Portland Community Squash will open at 66 Deering Ave and we anticipate more foot and bike traffic as kids and adults visit the facility.

In order to keep the kids on our block and in our community safe, we would like to see the following safety measures implemented: ***a crosswalk at Deering Ave and Noyes Street, preferably with flashing lights to alert drivers OR a 4-way stop with crosswalks at the intersection of Deering and Noyes. We would also like to have speed bumps put on Noyes Street to discourage speeding.***

Thank you for looking into this matter and for considering our requests. Our neighborhood has changed considerably during the last five years and we have lots of young families who love to walk and bike with their children.

Sincerely,
The residents of Noyes Street

Rosie Lenehan and Andrew Gelman
Gibson and Renee Fay-LeBlanc
Seth Rigoletti and Gillian Schair
Jane and Dana Swenson
Zach Heiden and Alisha Goldblatt
Jeff and Monica Lopez
Barry Morgan

It should be noted that the City has no traffic calming budget at this time.

Thanks,
Jeremiah

Jeremiah J. Bartlett, PE, PTOE
Transportation Systems Engineer
Department of Public Works
City of Portland, Maine
jbartlett@portlandmaine.gov

[Quoted text hidden]

From: "Laura Share" <reservay12@gmail.com>
Date: Aug 4, 2016 8:38 PM
Subject: 66 Noyes St Community Hall
To: <shukriaw@portlandmaine.gov>
Cc: "Tanya Sweatt" <tanya.sweatt@gmail.com>, "Keith Bidwell" <bidwell78@gmail.com>

To the Planning Division:

I am an owner of the lot at 153 Dartmouth St, which abuts the property at 66 Noyes at the back side of both lots. We are not in opposition to the proposed repurposing of the synagogue.

We are concerned about the disrepair of the fence that currently separates our lots. We wonder what the plans are for the replacement or repair of the fence, its location, and the actual location of the property line. The fence currently in place provides a privacy barrier which we would like to see continued.

Thank you for your time.

Laura Share
153 Dartmouth St Unit 2
Portland, ME
04103
[207-239-7683](tel:207-239-7683)



**Bernstein, Shur,
Sawyer & Nelson, P.A.**
100 Middle Street
PO Box 9729
Portland, ME 04104-5029

T (207) 774-1200

F (207) 774-1127

Mary E. Costigan
(207) 228-7147 direct
mcostigan@bernsteinshur.com

July 11, 2016

Barbara Barhydt
Development Review Coordinator
City of Portland
389 Congress St.
Portland, ME 04101

RE: 66 Noyes Street - Application for Conditional Use Approval

Dear Barbara:

Enclosed please find an application for Conditional Use Approval for a Community Hall proposed by my client, Portland Community Squash, at 66 Noyes Street. Enclosed with the application form is a copy of the purchase and sale agreement for the property to establish right, title and interest; a copy of the articles of incorporation to establish my client's status as a non-profit corporation; an application for administrative review for site plan to demonstrate compliance with site plan requirements; a stamped boundary survey; a parking management plan; and an analysis of the conditional use criteria.

As discussed, this application will be considered by the planning board on August 9th. Please let me know if you need any more information.

Sincerely,

A handwritten signature in black ink, appearing to be "Mary E. Costigan", with a long horizontal flourish extending to the right.

Mary E. Costigan

cc: Barrett Takesian



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

Planning and Urban Development Department
Planning Division

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

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

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

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

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

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

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

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

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

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

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

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

PROJECT NAME: PORTLAND COMMUNITY SQUASH

PROPOSED DEVELOPMENT ADDRESS: 66 NOYES STREET

ASSESSOR'S CHART/BLOCK/LOT (s): MAP 118, BLOCK E, LOTS 3 to 8 & 24-25

Applicable Zone: R-5

CONTACT INFORMATION:

Applicant – must be owner, Lessee or Buyer Name: PORTLAND COMMUNITY SQUASH (BUYER) Business Name, if applicable: Address: PO BOX 10412 City/State : PORTLAND, ME Zip Code: 04104	Applicant Contact Information: Barrett Takesian Work # Home# Cell # (617) 842-8023 Fax# e-mail: barrett@portlandcommunitiesquash.com
Owner – (if different from Applicant) Name: Address: City/State : Zip Code:	Owner Contact Information Work # Home# Cell # Fax# e-mail:
Billing Information – Same as above Name: Address: City/State : Zip Code:	Billing Information – Same as above Work # Cell # Fax# e-mail:

RIGHT, TITLE OR INTEREST:

SEE THE ATTACHED PURCHASE AND SALE AGREEMENT DATED MAY 6, 2016.

(Please identify the status provide documentary evidence, attached to this application, of the applicant's right, title, or interest in the subject property (ex: deed, option or contract to purchase or lease the property.)

VICINITY MAP: (Please attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use.)

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

CURRENT USE IS PLACE OF ASSEMBLY / RELIGIOUS INSTITUTION AND SCHOOL. SEE THE ATTACHED NARRATIVE REGARDING EXISTING AND PRIOR USE OF THE PROPERTY BY SHAAREY TPHILO SYNAGOGUE.

PROPOSED USE: Describe the proposed use of the subject property

SEE THE ATTACHED NARRATIVE.

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

PLACE OF ASSEMBLY / COMMUNITY HALL - Section 14-118(b)(3)

SITE PLAN: Submit a separate site plan application for the proposal that provides a site plan for the property, showing existing and proposed improvements, which meets the submission requirements of the applicable level of site plan review.

CONDITIONAL USE STANDARDS AND CONDITIONS – 14-474

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

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

CONDITIONAL USE AUTHORIZED BY: SECTION 14- 118(B)(3)

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

APPLICATION FEES:

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

☒ Conditional Use Review (\$100.00) (Please submit a separate application for the applicable site plan review. Fees and charges are listed within the application)	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.
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APPLICATION SUBMISSION:

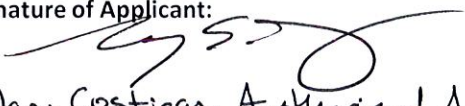
1. All site plans and written application materials must be submitted electronically on a CD or thumb drive with each plan submitted as separate files, with individual file which can be found on the Electronic Plan and Document Submittal page of the City's website at
<http://me-portland.civicplus.com/764/Electronic-Plan-and-Documents-Submittal>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

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

APPLICANT SIGNATURE:

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

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

Signature of Applicant:  Mary Costigan, Authorized Agent	Date: 7-11-16
---	------------------

CONTRACT FOR THE SALE OF COMMERCIAL REAL ESTATE

RECEIVED from PORTLAND COMMUNITY SQUASH, a Maine non-profit corporation, whose mailing address is PO BOX 10412, Portland ME 04104 (hereinafter called "Purchaser"), this 5th day of May, 2016, the sum of Twenty-Five Thousand Dollars (\$25,000.00) as an earnest money deposit toward the purchase and sale of certain real estate owned by CONGREGATION SHAAREY TPHILOH (hereinafter called the "Seller") and located at 66 Noyes Street in the City of Portland, County of Cumberland, State of Maine, described as follows: Land and improvements located at 66 Noyes Street, Portland, Maine containing a building of approximately 13,164 square feet with approximately .9058 acres of land (Map 118, Lots 3-8, 24&25), and being more fully described at the Cumberland County Registry of Deeds in Book 15935, Page 42, with all facilities and improvements thereon EXCEPT the items of religious or historical significance listed on Exhibit A attached hereto and incorporated herein, which items shall be removed from the property by Seller within 10 days after closing and shall be excluded from the sale. The Seller will replace the stained glass window in the small sanctuary with a replacement satisfactory to the Purchaser and will cap any plumbing as necessary in the mikvah outbuilding. The purchase and sale of the real estate shall be upon the terms and conditions indicated below.

1. **PERSONAL PROPERTY:** The following items of personal property are included in this sale (if applicable): Those items on the premises and not included on Exhibit A attached hereto.
2. **PURCHASE PRICE:** The total Purchase Price is One Million Fifty Thousand Dollars (██████████), with payment made as follows:

Earnest money to be delivered on the Effective Date of this Contract:	\$ ██████████
Additional deposit (collectively "the Deposit") to be delivered at expiration of Due Diligence Period	\$ ██████████
Balance due at closing, in immediately-available funds:	\$ ██████████
3. **EARNEST MONEY/ACCEPTANCE:** The Dunham Group/Frank O'Connor ("Escrow Agent") shall hold the earnest money in a non-interest bearing account and act as escrow agent until closing. This offer shall be valid until May 6, 2016 at 5:00 PM. In the event of Seller's non-acceptance of this offer, any earnest money received by Seller shall be returned promptly to Purchaser.
4. **TITLE:** Within ninety (90) days of the Effective Date (the "Title Review Period"), Purchaser shall notify Seller in writing (the "Title Objection Notice") of any matters affecting title to the property that are objectionable to Purchaser in Purchaser's sole discretion ("Title Defects"). Purchaser shall be deemed to have waived the right to object to any matter affecting title as of the Effective Date, except for any mortgage, tax lien, mechanics' lien, judgment lien, or other liens encumbering the property (for which no objection is required), if Purchaser fails to specifically identify such matters in the Title Objection Notice (each matter not objected to being a "Permitted Encumbrance"). Within seven (7) days of Seller's receipt of the Title Objection Notice, Seller shall notify Purchaser in writing whether or not Seller elects to cure any of the matters identified in the Title Objection Notice. If Seller elects to cure certain Title Defects, Seller shall use good faith efforts to cure such Title Defects and shall have a period of not more than forty-five (45) days after notice of Seller's election within which to cure any such Title Defects (the "Title Cure Period"), and the Closing Date shall be extended until five (5) days after the expiration of the Title Cure Period. Seller agrees that, after the Effective Date, it shall not permit or suffer encumbrance of the property with any liens, easements, leases or other encumbrances or to modify any existing leases or tenancies without Purchaser's prior written consent. On or before the Closing Date, Seller shall remove at its sole cost any such matters affecting the title to the property suffered or created by or consented to by Seller after the Effective Date that are not approved in writing by Purchaser. If Seller elects not to cure any Title Defects or if Title Defects which Seller elects to cure are not cured within the Title Cure Period, then Purchaser shall elect, by written notice to Seller on or before the Closing Date, as the same may be extended, either (i) to accept title to the property subject to such uncured Title Defects without reduction of the purchase price and without any liability on the part of Seller therefor, in which case such Title Defects shall be Permitted Encumbrances, or (ii) to terminate this Contract, whereupon the earnest money immediately shall be returned to Purchaser and neither party shall have any further obligations under this Contract.
5. **DEED:** In return for payment in full of the purchase price, Seller shall convey the property on that date which is thirty (30) days after the expiration of Purchaser's Due Diligence Period (as hereinafter defined), as the same may be extended by agreement of the parties, but which date shall not occur prior to August 1, 2016 (the "Closing Date") to Purchaser by Maine Statutory Short-Form Quitclaim with Covenant Deed (the "Deed"), subject to easements, conditions, encumbrances and restrictions of record, those leases listed in Section 11 below. The parties agree to execute and deliver on the Closing Date such other documents that are customary and/or reasonably necessary to complete the conveyance. It is a condition to Purchaser's obligations hereunder that title to the property shall be free and clear of all liens and encumbrances except for the following matters and otherwise in compliance with the requirements of this Contract: (i) zoning restrictions and land use laws and regulations and permits and approvals issued pursuant thereto; (ii) current taxes and assessments attributable to periods from and after the Closing, which Purchaser shall be liable to pay; (iii) leases and occupancies disclosed to Purchaser pursuant to Section 11 below; and (iv) any Permitted Encumbrance. To enable Seller to make conveyance as herein provided, Seller may, at the time of delivery of the deed and other transfer documents, use the purchase money

or any portion thereof to clear the title of any or all encumbrances or interests, provided that all instruments so procured are recorded simultaneously with the delivery of said deed and other transfer documents. The acceptance of the deed by Buyer shall be deemed to be a full performance and discharge of every agreement and obligation herein contained or expressed, except such as are, by the terms hereof, to be performed after the delivery of said deed or which are expressly stated to survive the Closing.

6. **LEASES/TENANT SECURITY DEPOSITS:** Seller agrees at closing to transfer to Purchaser, by proper Assignment and Assumption thereof, all Seller's rights under the current leases to the property and any and all security deposits held by Seller pursuant to said leases.
7. **POSSESSION/OCCUPANCY:** Possession/occupancy of property shall be given to Purchaser on the Closing Date subject only to the leases and tenancies disclosed to Purchaser pursuant to Section 11 below, unless otherwise agreed by both parties in writing.
8. **RISK OF LOSS:** Until transfer of title, the risk of loss or damage to the property by fire or otherwise is assumed by Seller unless otherwise agreed in writing. The property shall at closing be in substantially the same condition as of the Effective Date, excepting reasonable use and wear. If the property is materially damaged or destroyed prior to closing, Purchaser may either terminate this Contract and be refunded the earnest money deposit, or close this transaction and accept the property in its as-is condition without reduction of the purchase price.
9. **PRORATIONS:** The following items shall be prorated as of the Closing Date:
 - a. Real Estate Taxes based on the municipality's tax year. Seller is responsible for any unpaid taxes for prior years.
 - b. Fuel
 - c. Metered utilities, such as water and sewer, shall be paid by the Seller through the date of closing;
 - d. Purchaser and Seller shall each pay one-half of the transfer tax as required by the laws of the State of Maine.
 - e. Rents, estimated monthly common area maintenance charges, estimated monthly property tax payments, and all other additional revenue received by Seller pursuant to leases of the property.
10. **DUE DILIGENCE:** Purchaser is advised to seek information from professionals regarding any specific issue of concern. Neither Seller nor the Real Estate Licensees identified below make any representations or warranties regarding the condition, permitted use or value of Seller's real or personal property. Purchaser's obligation to close under this Contract is conditioned upon Purchaser's satisfaction with its investigations of the property and inspection of the building thereon, which may without limitation include survey, environmental assessment, engineering studies, wetlands or soils studies, zoning compliance or feasibility, and code compliance, all within ninety days (90) days of the Effective Date (the "Due Diligence Period"). Purchaser, and its agents and contractors, shall have the right to access the Property at all reasonable times and upon reasonable notice to the tenants pursuant to the leases listed in Section 11 below during the Due Diligence Period in order to conduct the above-described investigations and inspections.

All investigations will be done by professionals chosen and paid for by Purchaser. If the result of any investigation is unsatisfactory to Purchaser, Purchaser may declare this Contract null and void by notifying Seller in writing prior to the expiration of the Due Diligence Period (as the same may be extended as set forth above), and said earnest money shall be returned to Purchaser. Purchaser agrees to restore any disturbance to the property caused by Purchaser's investigations, and Purchaser agrees to indemnify and hold Seller harmless for any claims, damages, losses or costs, including without limitation reasonable attorneys' fees, incurred or suffered by Seller as a result of Purchaser's investigations of the property, which indemnification obligation shall survive termination or closing under this Contract.
11. **REVIEW OF LEASES AND INCOME AND EXPENSE INFORMATION:** Seller represents: (a) that below is a complete list of all tenants occupying the property under leases or other tenancy arrangements or agreements (the "Leases"), (b) that the Leases are in full force and effect, (c) that to Seller's knowledge, all tenants under the Leases are in full compliance therewith and (d) that Seller is not in violation of its obligations under the Leases. Seller agrees to provide Purchaser within five (5) days of the Effective Date of this Contract complete copies of all Leases, including any amendments, and income and expense information concerning the property. Purchaser shall have ten (10) business days from the date Purchaser has been provided all Leases and income and expense information to review same, and if the result of the review is unsatisfactory to Purchaser, Purchaser may declare the Contract terminated and the earnest money shall be immediately refunded to Purchaser and thereafter neither party shall have any further obligation under this Contract. Seller represents and warrants that income and expense information provided to Purchaser will be true, accurate and complete in all material respects when given. Seller shall use reasonable efforts to obtain a tenant estoppel certificate and a subordination, non disturbance and attornment agreement in form reasonably satisfactory to Purchaser and/or Purchaser's lender for each Lease within ten (10) days from delivery of forms therefor. Between the Effective Date and the closing, Seller shall not materially modify, voluntarily terminate, except for reason of nonpayment, or enter into new leases or tenancy arrangements or agreements and shall obtain Purchaser's written consent to any material modification or termination of Leases and to any new lease that Seller proposes to enter into with respect to the property, Purchaser's consent not to be unreasonably withheld, conditioned or delayed. In the event that Seller materially modifies terminates any Leases or enters into a new Lease without

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Purchaser's consent, Purchaser's sole remedy shall be to terminate this Contract and receive an immediate refund of the earnest money and thereafter neither party shall have any further obligation under this Contract. Failure of Purchaser to timely notify Seller of its termination of the Contract pursuant to any of its foregoing rights to do so under this Section 11 shall be deemed to be a waiver of the applicable right under this Section 11 to terminate the Contract. At the closing, Seller shall deliver written notice to the tenants and occupants of the property of the transfer of the property, and of the tenants' security deposits, to Purchaser. List tenants: The Children's Adventure Center.

12. **FINANCING:** Notwithstanding anything to the contrary contained in this Contract, Purchaser's obligation to close hereunder is conditioned upon Purchaser's obtaining within thirty days (30) days from the Effective Date of this Contract (the "Commitment Date") a written commitment (the "Commitment") from a lender for a mortgage loan of not less than fifty percent (50%) of the purchase price at an initial interest rate not to exceed 4.5% per annum, amortized over a period of not less than twenty years and otherwise on terms reasonably acceptable to Purchaser. In the event the Purchaser is unable to obtain the Commitment and Purchaser notifies Seller thereof by the Commitment Date, then Escrow Agent shall immediately return the earnest money to Purchaser, this Contract shall terminate, and neither party shall be under any further obligation under this Contract. It shall be a further condition of Purchaser's obligation to close hereunder that the Commitment shall not lapse, be terminated and/or withdrawn prior to the Closing Date for any reason whatsoever, including but not limited to the property failing to appraise at or above the Purchase Price, or any such other level acceptable to Purchaser's lender sufficient to support the Commitment. In the event the Commitment shall lapse, be terminated and/or withdrawn by Purchaser's lender for any reason (other than at the request of Purchaser) at any time prior to the Closing Date, Purchaser shall within five (5) business days of Purchaser's receipt of notice of lapse, termination and/or withdrawal notify Seller of same, and upon such notification Purchaser may, at Purchaser's option, elect to terminate this Contract and thereafter the earnest money immediately shall be returned to Purchaser and neither party shall have any further obligation under this Contract. If Purchaser does not timely notify Seller that it has failed to obtain the Commitment or that the Commitment has lapsed, terminated and/or been withdrawn, then Purchaser shall be in default of this Contract at the election of Seller. This contingency benefits Purchaser only, and only Purchaser may waive it by providing written notice to Seller specifically waiving this condition and contingency or any part thereof.
13. **AGENCY DISCLOSURE:** Purchaser and Seller acknowledge that they have been informed that John Robinson of RE/MAX Shoreline Commercial Brokerage is acting as a Purchaser's agent in this transaction and is representing Purchaser and that Frank O'Connor of NAI The Dunham Group is acting as Seller's agent in this transaction and is representing Seller (Said John Robinson and Frank O'Connor are referred to elsewhere herein as "Licensees"). Seller and Purchaser agree to indemnify and hold the other harmless from any claim by any broker or agent claiming compensation in respect of this transaction, alleging an agreement with Seller or Purchaser, as the case may be. This agreement to indemnify and hold harmless shall survive the closing.
14. **DEFAULT:** Upon Purchaser's default under this Agreement, for any reason other than those reasons specified in this Agreement as giving rise to a right in Purchaser to terminate the transaction contemplated by this Agreement, Seller shall retain the Deposit as liquidated damages in full and complete satisfaction of all claims against Purchaser, and not as a penalty, whereupon all obligations of the parties to one another shall cease and this Agreement shall be null and void without recourse to the parties hereto and shall not be the subject matter of any litigation between the parties.
- In the event that Seller is in default or fails to comply with any of the terms and conditions of this Agreement, Purchaser may either (i) pursue an action for specific performance against Seller or (ii) terminate this Agreement whereupon the Deposit promptly shall be returned to Purchaser, whereupon all obligations of the parties to one another shall cease and this Agreement shall be null and void without recourse to the parties hereto. Seller acknowledges and agrees that the property is unique and therefore Purchaser would not have an adequate remedy at law for Seller's default under this Agreement and that specific performance is an appropriate and fair remedy for Seller's default.
15. **MEDIATION:** Any dispute or claim arising out of or relating to this Contract or the property addressed in this Contract shall be submitted to mediation in accordance with the Maine Residential Real Estate Mediation Rules of the Maine Association of Dispute Resolution Professionals or its successor organization. This clause shall survive the closing of this transaction.
16. **PRIOR STATEMENTS:** This Contract sets forth the entire agreement between the parties, and there are no other representations, agreements or understandings with respect to the subject matter of this Contract. This Contract shall be construed according to the laws of the State of Maine.
17. **HEIRS/ASSIGNS:** This Contract shall extend to and be obligatory upon heirs, personal representatives, and successors of Seller. No party shall have the right to assign this Contract without the prior consent of the other party, provided, however, that Purchaser shall have the right, without the consent of Seller, to assign this Contract to an affiliated entity.
18. **COUNTERPARTS:** This Contract may be signed on any number of identical counterparts, including telefax copies and electronically transmitted copies with the same binding effect as if all of the signatures were on one instrument.

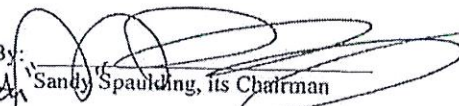
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19. **EFFECTIVE DATE:** This Contract is a binding contract when signed by both Seller and Purchaser and when that fact has been communicated to all parties or to their agents. Time is of the essence of this Contract. Seller or Licensees are given permission by the parties to complete the Effective Date blank below with the date of the last signature of the parties, and that date shall be the Effective Date for all purposes under this Contract, and if that blank is not completed, then the Effective Date shall be the date of the last signature of the parties. Except as expressly set forth to the contrary in this Contract, the use of the term "days" in this Contract, including all addenda made a part hereof, shall mean calendar days. Deadlines in this Contract, including all addenda, expressed as "within x days" or the like shall be counted from the Effective Date, unless another starting date is expressly set forth, beginning with the first day after the Effective Date, or such other established starting date, and ending at 5:00 pm, Eastern Time, on the last day counted.
20. **CONFIDENTIALITY:** Buyer and Seller authorize the disclosure of the information herein to the real estate licensees, attorneys, lenders, appraisers, inspectors, investigators and others involved in the transaction necessary for the purpose of closing this transaction. Buyer and Seller authorize the lender and/or closing agent preparing the closing statement to release a copy of the closing statement to the parties and their licensees prior to, at and after the closing.
21. Seller acknowledges that the laws of the State of Maine provide that every buyer of real property located in Maine must withhold a withholding tax equal to 2 1/2 % of the consideration unless Seller furnishes to Purchaser a certificate by the Seller stating, under penalty of perjury, that Seller is a resident of the State of Maine or the transfer is otherwise exempt from withholding.
22. **OTHER PROVISIONS:** Within seven (7) days of the Effective Date of this Contract, Seller shall deliver to Purchaser copies of any previously conducted inspections and tests (building and environmental), title insurance policies and surveys regarding the property and the building thereon.
23. This Contract shall be governed by and construed and enforced in accordance with the laws in effect in the State of Maine.
24. Representatives of the Purchaser and the Seller hereby certify that they have the authority to sign this document and bind their respective organizations to the terms of this Contract.

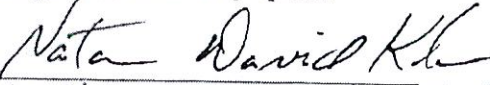
Purchaser:

Portland Community Squash

By: 
Alexa Sandy Spaulding, its Chairman

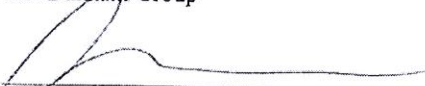
Seller:

The Congregation of Shaarey Tphiloh

By:  as
ND Kahn, its President

The Dunham Group, by its execution of this Contract, hereby agrees to hold and disburse the earnest money deposit in accordance with the terms and conditions hereof.

The Dunham Group


By: Frank O'Connor
Its: _____

EFFECTIVE DATE OF THIS CONTRACT: May 6, 2016.

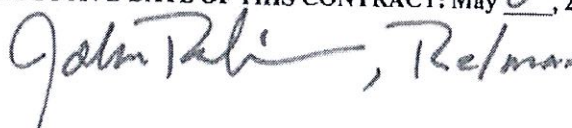

John P. Kelly, Realtor

EXHIBIT A

LIST OF ITEMS TO BE REMOVED FROM 66 NOYES STREET PROPERTY

Books/papers

Pews

Chandeliers

Religious items: (arks, plaques, *ner tamid*, Torahs/covers)

Stained glass in chapel

Stained glass in social hall

Stained glass-old in back hallway

Tables

Chairs

Moveable cabinets/shelves throughout building

File cabinets

Desks

Freezer chest in room next to stage

Office machines

Piano

Stoves

Mechizot

Mikvah fixtures, mikvah storage area: light fixtures, mirror, sink (new one still in box), stair rail, towel racks, vanity, sink, shower doors, dehumidification system, pumps, filters, etc.



DOMESTIC
NONPROFIT CORPORATION

STATE OF MAINE

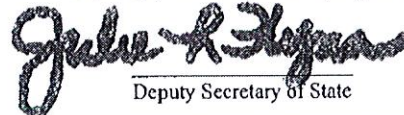
ARTICLES OF INCORPORATION

Filing Fee \$40.00

File No. 20130474ND Pages 3
Fee Paid \$ 40
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-----FILED-----
05/10/2013


Deputy Secretary of State

A True Copy When Attested By Signature


Deputy Secretary of State

Pursuant to 13-B MRSA §403, the undersigned incorporator(s) execute(s) and deliver(s) the following Articles of Incorporation:

FIRST: The name of the corporation is Portland Community Squash.

SECOND: ("X" one box only. Attach additional page(s) if necessary.)

☒ The corporation is organized as a public benefit corporation for the following purpose or purposes:

The corporation is organized for the purpose of operating public squash facilities.

☐ The corporation is organized as a mutual benefit corporation for all purposes permitted under Title 13-B or, if not for all such purposes, then for the following purpose or purposes:

THIRD: The Registered Agent is a: (select **either** a Commercial or Noncommercial Registered Agent)

☐ Commercial Registered Agent CRA Public Number: _____

(name of commercial registered agent)

☒ Noncommercial Registered Agent

Sandy Spaulding

(name of noncommercial registered agent)

26 Preservation Drive, Falmouth, ME 04105

(physical location, not P.O. Box – street, city, state and zip code)

(mailing address if different from above)

FOURTH: Pursuant to 5 MRSA §108.3, the registered agent as listed above has consented to serve as the registered agent for this nonprofit corporation.

FIFTH: The number of directors (not less than 3) constituting the initial board of directors of the corporation, if the number has been designated or if the initial directors have been chosen, is three (3).

The minimum number of directors (not less than 3) shall be three (3) and the maximum number of directors shall be twenty (20).

SIXTH: Members: ("X" one box only.)

- ☒ There shall be no members.
☐ There shall be one or more classes of members and the information required by 13-B MRSA §402 is attached.

SEVENTH: (Optional) ☒ (Check if this article is to apply.)

No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in or intervene in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office.

EIGHTH: (Optional) ☐ (Check if this article is to apply.)

Other provisions of these articles including provisions for the regulation of the internal affairs of the corporation, distribution of assets on dissolution or final liquidation and the requirements of the Internal Revenue Code section 501(c) are set out in Exhibit _____ attached hereto and made a part hereof.

Incorporators*

Dated May 9, 2013

Lynne D. Houle
(signature)

Street 6 Mountain View Road
(residence address)

Lynne D. Houle
(type or print name)

Cape Elizabeth, ME 04107
(city, state and zip code)

(signature)

Street _____
(residence address)

(type or print name)

(city, state and zip code)

(signature)

Street _____
(residence address)

(type or print name)

(city, state and zip code)

For Corporate Incorporators*

Name of Corporate Incorporator _____

By _____
(signature of officer)

Street _____
(principal business location)

(type or print name and capacity)

(city, state and zip code)

Name of Corporate Incorporator _____

By _____
(signature of officer)

Street _____
(principal business location)

(type or print name and capacity)

(city, state and zip code)

***Articles are to be executed as follows:**

If a corporation is an incorporator (13-B MRSA §401), the name of the corporation should be typed or printed and signed on its behalf by an officer of the corporation. The articles of incorporation must be accompanied by a certificate of an appropriate officer of the corporation, not the person signing the articles, certifying that the person executing the articles on behalf of the corporation was duly authorized to do so.

Please remit your payment made payable to the Maine Secretary of State.

Submit completed form to:

Secretary of State

Division of Corporations, UCC and Commissions

101 State House Station

Augusta, ME 04333-0101

Telephone Inquiries: (207) 624-7752

Email Inquiries: CEC.Corporations@Maine.gov

Prior and Proposed Uses of 66 Noyes Street

The proposed Community Hall by Portland Community Squash will be used for recreational and educational community functions. As described in more detail below, Portland Community Squash will use the existing building on the property for three different programs: 1) Adult Squash; 2) Junior Squash League; and 3) Rally Portland + LearningWorks.

Existing and Prior Use by Shaarey Tphiloh Synagogue

The synagogue was built in 1955 to accommodate 208 adults in the main hall with an adjoining school. The Hebrew School had approximately 120 kids from K – 6th grade. In approximately 2004, the Hebrew School moved to South Portland and the classroom space at 66 Noyes Street was occupied by the YMCA daycare. After the YMCA, there was another daycare operator, and for the last four years Sherry Adams has run the Children's Adventure Center at the property.

For many years, the synagogue had between 100-200 members in the congregation. The synagogue was and is used by its members and others primarily on Friday evenings and Saturday mornings, during high holidays and for life cycle events, such as births, circumcisions and funerals. At one time there could be up to 200 people with approximately 100 cars parked on the surrounding streets and 5 or 6 cars parked in the parking lot. Parking would spill from Noyes Street into Holwell Street and around Longfellow Park.

There has been a gradual decline in membership over the past 3-5 years, but high holidays and special events still attract approximately 100 people, most of whom drive to the synagogue and park on the public roads in the neighborhood. The synagogue's administrator is there daily and a janitor and bookkeeper on at the property a few days per week.

The Children's Adventure Center is a daycare that currently serves approximately 50 students and has 5-6 employees. Parents drop off their kids between 6:00 am and 9:00 am and pick them up between 3:00 pm and 6:00 pm. There are approximately 40-50 cars per day that park at the curb in front of the synagogue to drop off or pick up children.

Other historic uses of the property include acupuncture clinics for veterans and use of the ritual bath. The acupuncture clinic used the property every Tuesday night for the past three years. Approximately 30 people attended the clinic each week. The group stopped using the property in the spring. The ritual bath on the property is used by approximately 4-5 people, 5 nights per week.

Proposed Use by Portland Community Squash

Portland Community Squash ("PCS") is a non-profit organization dedicated to building a diverse and hardworking community, making squash available to everyone and creating educational opportunities for Maine students through three different programs: 1) Adult Squash; 2) Junior Squash League; and 3) Rally Portland + LearningWorks. PCS helped cultivate the squash community at the Portland YMCA for the past 3 years. There are now approximately 200 adults playing squash at the YMCA. 110 adults have signed membership

pledges so far for the PCS facility. PCS is relocating to its own space in order to grow its programs.

The main hall of the building at 66 Noyes St. will contain four singles squash courts. The classroom space will be used by the students in the Junior Squash League and Rally Portland. There are no exterior renovations or alterations being made to the building or the property. The existing parking lot will be striped to create approximately 10 parking spaces.

Adult Squash

The adult squash program is a member-based program that helps support the youth programs. Approximately 130 – 200 adult members will have access to the courts seven days a week, except from 2:00 pm – 5:00 pm when the youth programs are using the courts. Because there will only be four courts, only eight individuals can play squash at any given time. Members reserve courts through an online reservation called Club Locker, and therefore will only arrive at the property at the reserved time. Adults from the community can also pay a guest fee to play squash if they are not a member of the facility. Adults will also have access to a small gym and locker rooms.

Junior Squash League

PSC provides coaching and guidance to junior players from all over Greater Portland. The Junior Squash League is designed for any middle or high school student in Greater Portland. Approximately 60-150 students will participate in the PCS Junior Squash League, which currently operates with 50 students at the YMCA. The Junior Squash League will use the courts after school from 2:00 pm – 5:00 pm on weekdays. Students have two one-hour practices per week, and a squash match on Saturdays, either at PCS or another facility. The Saturday matches will involve 20 students at a time for a three hour period in the afternoon.

Students in the Junior Squash League also have access to homework help sessions with PCS volunteer tutors in a PCS classroom afterschool. Students are also encouraged to sign-up for a squash mentor, which pairs members of the adult squash community with PCS student athletes. Middle school students walk, carpool with parents, or take the bus to PCS after school. High school students walk or take the bus.

Rally Portland

Rally Portland is a program inspired by 22 urban squash programs around the country, designed to offer academic support, squash lessons, community service, and travel opportunities to help the city's most at-risk students navigate the road from fourth grade to college graduation. Rally Portland is partnering with LearningWorks to couple squash and the LearningWorks curriculum to work with students over a long time horizon. Rally Portland expects to launch with the opening of the new facility, and 20 students will join the program every year, allowing PCS to carry a capacity slightly over 100 students in an intense youth development program.

Rally Portland middle school students will get to 66 Noyes Street in a 14 passenger PCS bus. Rally Portland high school students will take the metro bus. Rally Portland will utilize the courts from 3:00 pm – 5:00 pm alongside the Junior Squash League and will also utilize two classrooms every afternoon.

In addition to the above youth programs there are summer weekday camps that typically include 12-20 students per session.

Total Anticipated Vehicle Use

Based upon the data from the historic use at the YMCA, plus the new programs and membership at the new facility the following automobile use is anticipated at 66 Noyes Street related to all three PCS programs:

- 1) During the week in the peak winter season, PCS expects a maximum of approximately 15 parked vehicles in the evening; approximately 4-8 parked vehicles in the morning and afternoon; and approximately 8-10 vehicles dropping off or picking up students in the afternoon.
- 2) During the weekends in the peak winter season, PCS expects a maximum of 10 parked cars and 5-6 cars dropping off and picking up students.
- 3) During the week in the summer, PCS expects a maximum of approximately 2-4 parked vehicles throughout the day; and approximately 4-6 vehicles dropping off or picking up students in the morning and afternoon.
- 4) During the weekends in the summer, PCS expects a maximum of 2-4 parked cars and 4-6 cars dropping off and picking up students in the morning and afternoon.

Analysis of Conditional Use Standards

Section 14-118

Because the proposed use is a community hall, Section 118 requires PCS to demonstrate that it meets the following conditions:

- 1) The structure was in existence as of January 4, 2010.
 - As noted above, the structure was built in 1955
- 2) The structure was built for institutional or other non-residential uses.
 - The structure was built for use as a synagogue and school and has been used for such purposes from 1955 until the present.
- 3) The structure is operated by, or operated subject to the control of, a not-for-profit entity in accordance with its not-for-profit purposes.
 - Portland Community Squash is a Maine not-for-profit corporation and the property will be used in accordance with its mission.
- 4) A parking management plan is submitted for review and approval by the planning board.
 - A parking management plan has been submitted to the Planning Board concurrent with this application.

In addition, Section 14-118 requires that places of assembly be subject to the site plan requirements. Because PCS will use the existing building on the property without any additions, demolitions or new curb cuts or driveways, PCS submitted an application to the Planning Staff for Administrative Authorization. In accordance with the application, the project is exempt from site plan review.

Section 14-474(3)(c)(2)

The following addresses the standards for set forth by Section 14-474(3)(c)(2) of the City of Portland Land Use Code for Conditional Uses. As set forth in more detail below, the proposed use by Portland Community Squash, at the size and intensity contemplated at 66 Noyes Street, will not have substantially greater negative impacts than would normally occur from surrounding uses or other allowable uses in the same zoning district.

- A. The volume and type of vehicle traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces required are not substantially greater than would normally occur at surrounding uses or other allowable uses in the same zone; and*

The volume and type of traffic will not be substantially greater than would normally occur at the surrounding uses, such as the existing Shaarey Tphilo Synagogue, Temple Beth-El on Dering Avenue, Portland Center for Assisted Living on Devonshire Street, and the Jewish Community Center on Ashmont Street; or other allowable uses in the zone, such as multiplex residential complexes, schools, churches and other places of assembly.

In comparison with the synagogue and daycare, the weekly volume and maximum number of vehicles at any one time will be lower for PCS. Similar to the synagogue and other similar uses in the area, vehicle traffic will be passenger vehicles, primarily in the morning and afternoon during the week, as well as some vehicle traffic on the weekend.

The hours of operation, expanse of pavement and required parking spaces will be the same as that required and used by the synagogue and is no greater than that for similar uses in the area.

B. The proposed use will not create unsanitary or harmful conditions by reason of noise, glare, dust, sewage disposal, emissions to the air, odor, lighting, or litter; and

It is not anticipated that the proposed community hall will create any objectionable or harmful conditions as described above. All PCS activity will take place indoors. PCS is installing CourtTech sand-filled courts, which are close to silent in comparison to typical panel courts. PCS has plans to add one shower in the women's bathroom, and two showers in the men's bathroom. All sewage disposal will be properly handled in accordance with applicable regulations. There will be no harmful emissions to the air, odor, lighting or litter created by the community hall use.

C. The design and operation of the proposed use, including but not limited to landscaping, screening, signs, loading, deliveries, trash or waste generation, arrangement of structures, and materials storage will not have a substantially greater effect/impact on surrounding properties than those associated with surrounding uses or other allowable uses in the zone.

The operation of the community hall is not anticipated to have a greater effect or impact on surrounding properties than the synagogue and daycare or other similar uses in the area. Landscaping, screening, signs, loading, deliveries and trash handling will all be the same or less impactful than that of the synagogue and other similar uses in the area.

Conclusion

Pursuant to the information and analysis provided, PCS respectfully requests that the Planning Board approve its application for a conditional use permit to use the property at 66 Noyes Street as a community hall.

Portland Community Squash Parking Management Plan for 66 Noyes Street

This Parking Management Plan is submitted to satisfy the requirement set forth in Section 14-118 of the Land Use Code for Conditional Use approval for Community Halls. The Community Hall proposed by Portland Community Squash will be located in the existing synagogue and school building and will include recreational and educational community functions. The existing parking lot will be striped to create approximately 10 parking spaces. There will be no exterior alterations made to the building or the site.

Portland Community Squash ("PCS") is a non-profit organization dedicated to building a diverse and hardworking community, making squash available to everyone and creating educational opportunities for Maine students through three different programs: 1) Adult Squash; 2) Junior Squash League; and 3) Rally Portland + LearningWorks. PCS helped cultivate the squash community at the Portland YMCA for the past 3 years.

This parking management plan was created by utilizing the historic data from 66 Noyes Street, which has been used as synagogue and school/daycare since 1955, as well as the data collected from the Portland Community Squash activity at the YMCA. Based upon a comparison of the data, the traffic and parking created by the Community Hall is expected to be less than traffic and parking historically generated by the synagogue and daycare uses. The ten spaces on the property, plus the available on-street parking is more than adequate to serve the needs of the Community Hall with no greater impact on the neighborhood.

The main hall of the building at 66 Noyes St. will contain four singles squash courts. Because there will only be four courts, only eight individuals can play squash at any given time. Members reserve courts through an online reservation called Club Locker, and therefore will only arrive at the property at the reserved time. Adults from the community can also pay a guest fee to play squash if they are not a member of the facility.

The Junior Squash League is designed for any middle or high school student in Greater Portland. Approximately 60-150 students will participate in the PCS Junior Squash League, which currently operates with 50 students at the YMCA. The Junior Squash League will use the courts after school from 2:00 pm – 5:00 pm on weekdays. Students have two one-hour practices per week, and a squash match on Saturdays, either at PCS or another facility. The Saturday matches will involve 20 students at a time for a three hour period in the afternoon.

Students in the Junior Squash League also have access to homework help sessions with PCS volunteer tutors in a PCS classroom afterschool. Middle school students

walk, carpool with parents, or take the bus to PCS after school. High school students walk or take the bus.

Rally Portland is partnering with LearningWorks to couple squash and the LearningWorks curriculum to work with students over a long time horizon. Approximately 20 students will join the program every year, allowing PCS to carry a capacity slightly over 100 students in an intense youth development program.

Rally Portland middle school students will get to 66 Noyes Street in a 14 passenger PCS bus. Rally Portland high school students will take the metro bus. Rally Portland will utilize the courts from 3:00 pm – 5:00 pm alongside the Junior Squash League and will also utilize two classrooms every afternoon.

In addition to the above youth programs there are summer weekday camps that typically include 12-20 students per session.

Parking Management Plan

Parking at 66 Noyes Street for Portland Community Squash will be available in the 10 on-site parking spaces in the existing 45' by 140' parking lot, as well as in the ample on-street parking spaces on Noyes Street and surrounding streets if necessary. A bike rack will also be on-site for those who ride their bicycle to the property. This is a significant improvement over the existing and historical conditions, which only provided 5 on-site parking spaces with the remainder of the parking demand, which at times exceeded 100 vehicles, being serviced by the area neighborhood streets.

The majority of the time, the ten on-site parking spaces will be sufficient to accommodate parents and members that need parking. At 5 pm during the busy winter months, one to four cars may need to park on the street. Based on our observations of existing traffic and parking operations on Noyes Street between Deering Avenue and Oakdale Street, there is plenty of available on-street parking to service parking demand by the proposed Portland Community Squash when it exceeds the amount provided on-site.

Portland Community Squash will continue the daycare's tradition of a drop-off zone in front of the synagogue. Noyes Street is one-way and the drop-off zone in front will be least intrusive to the flow of traffic. Our review of on-street parking demand confirms there are plenty of spaces available for use as a drop-off zone, without detriment to existing demands.

At this point in time, Portland Community Squash proposes to keep the existing playground area located at the east side of the building as is. Our review of existing traffic operations during the typical weekday AM and PM peak hours indicates that traffic operates satisfactory and safely utilizing drop-off and pick-up areas in front of the facility on Noyes Street. In addition Noyes Street is more than wide enough (36

ft.) to accommodate the existing one-way traffic pattern and on-street parking on both sides of the road.

Existing Traffic & Parking Data Collection and Observations

66 Noyes Street

Existing trip generation and parking data was collected for the current uses at 66 Noyes Street (Synagogue and Daycare). The Children's Adventure Center is a daycare that currently serves approximately 50 students and has 5-6 employees. Parents drop off their kids between 6:00 am and 9:00 am and pick them up between 3:00 pm and 6:00 pm. Data was collected for a typical weekday during the morning and afternoon peak commuter travel times. Staff members from Milone & MacBroom collected data and observed operations on Thursday July 7, 2016, for the time periods, 6 AM to 9 AM, and 3 PM to 6PM.

The observation of trips generated included arrival and departure of synagogue and daycare staff, drop-off and pick-up of daycare children, and any other miscellaneous trips generated. Additionally, MMI staff observed parking operations on Noyes Street in the vicinity of 66 Noyes Street. In this area, Noyes Street is a low volume, low speed, one-way roadway with on-street parallel parking located on both sides of the road. The road is approximately 36 ft. wide.

For the purposes of collection of parking data we limited our study on Noyes Street from Deering Avenue at the west end, easterly to Oakdale Street. This included approximately 540 ft. of Noyes Street. Subtracting side-streets and driveways located within this 540 ft. area, results in approximately 400 ft. of roadway available on each side for on-street parking. Based on a typical length of parallel space of 22 ft., this corresponds to approximately 18 spaces available on each side of the roadway, (36 total).

Data was collected in 15-minute intervals and included a breakdown of trips by use (daycare or synagogue) as well as by travel mode (vehicles, bikes, pedestrians). During each 15-minute interval we noted how many vehicles were parked on-street. This allowed us to quantify how parking spaces were being utilized and how many were not currently being utilized and would be available for potential use by activities related to the proposed Portland Community Squash.

The following summarizes the results of the data collection and observations.

Trip Generation Data

➤ AM (6 to 9 AM)

- A total of 59 trip-ends were counted during the AM time period.
- 50 trip-ends were vehicles and 9 trips were pedestrians.
- The daycare generated 59 total trip-ends and the synagogue 0 trip-ends.

- The peak hour occurred during the hour of 745 to 845 AM.
 - During the 745 to 845 AM peak hour, a total of 38 trip-ends were generated. 31 trips were vehicles and 8 pedestrians.
- PM (3 to 6 PM)
- A total of 66 trip-ends were counted during the PM time period.
 - 56 trip-ends were vehicles and 10 trips were pedestrians.
 - The daycare generated 66 total trip-ends and the synagogue 0 trip-ends.
 - The peak hour occurred during the hour of 430 to 530 PM.
 - During the 430 to 530 PM peak hour, a total of 40 trip-ends were generated. 32 trips were vehicles and 8 pedestrians.

Parking Observations

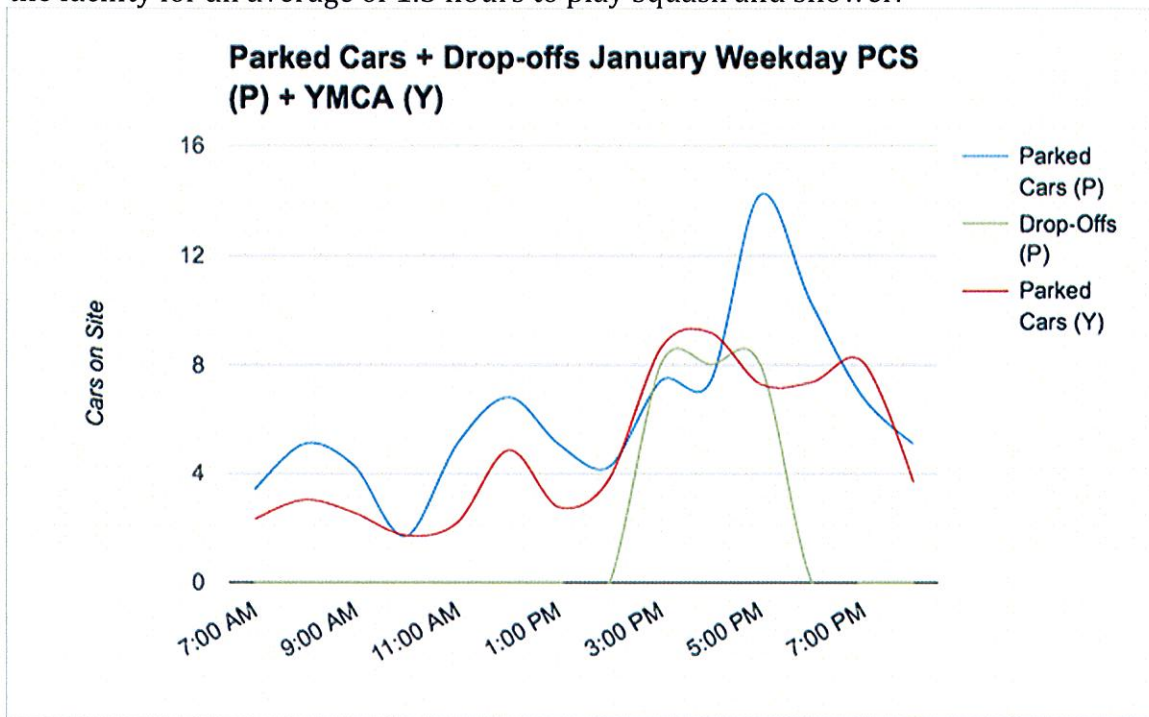
- AM (6 to 9 AM)
- During the morning observation time period we observed an average of 4 vehicles parked on Noyes Street between Deering Avenue and Oakdale Street.
 - There was a low of 2 vehicles parked on-street from 645 to 7 AM, and a high of 9 vehicles parked from 845 to 9 AM.
 - Based on approximately 36 total parking spaces available on Noyes Street within the study area, this results in an average occupancy of 11% and a peak occupancy of 25%.
 - During the morning study hours, there was an average of 32 spaces available for parking and during the peak usage there was 27 spaces available.
- PM (3 to 6 PM)
- During the afternoon observation time period we observed an average of 7 vehicles parked on Noyes Street between Deering Avenue and Oakdale Street.
 - There was a low of 2 vehicles parked on-street from 545 to 6 PM, and a high of 11 vehicles parked from 3 to 315 PM.
 - Based on approximately 36 total parking spaces available on Noyes Street within the study area, this results in an average occupancy of 11% and a peak occupancy of 31%.
 - During the afternoon study hours, there was an average of 29 spaces available for parking and during the peak usage there were 25 spaces available.

It should be noted that the collected on-street parking data, included: vehicles parked for drop-off/pick-up at the daycare, the synagogue, and other vehicles parked on-street not related to the daycare and synagogue. Also, although not specifically quantified, the existing parking demand on Noyes Street further away from the facility, and on nearby Oakdale Street and Longfellow Street, appeared to have similar parking demands as nearby Noyes Street exhibited. Therefore, in the

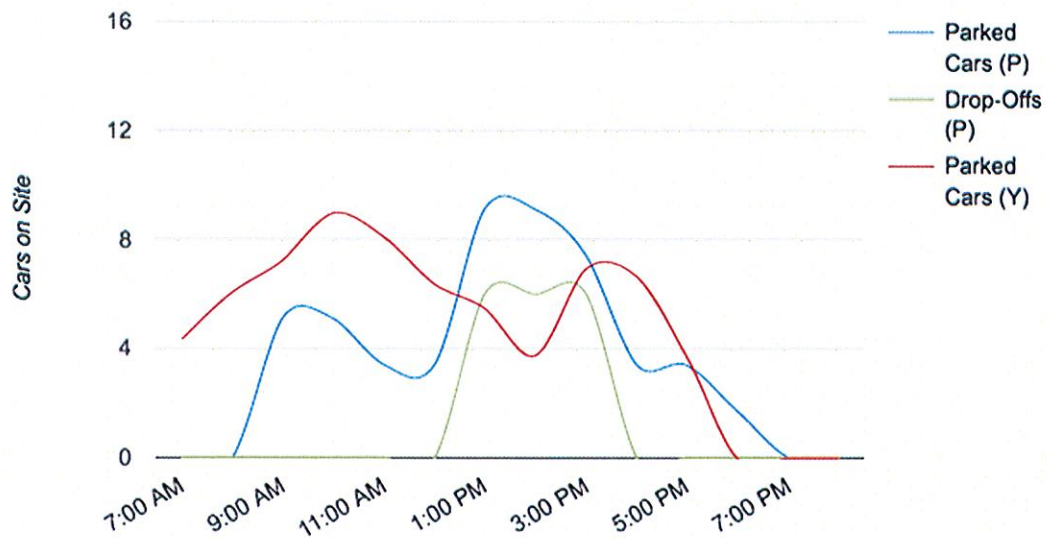
event of occasional higher parking demands, the area roadway network should be able to accommodate it.

Portland Community Squash Program at YMCA

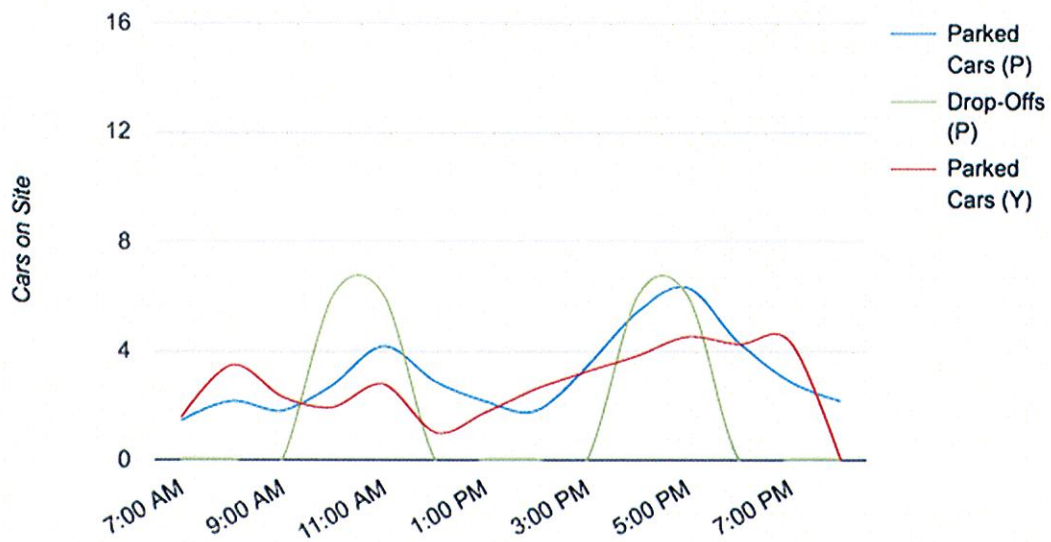
The graphs below depict the historic data from the YMCA and the anticipated use at 66 Noyes Street. YMCA court reservation data plus the addition of more youth programs was used to estimate the amount of trips per hour to 66 Noyes Street. As noted above, Rally Portland middle school students will be driven to the site with 14 passenger buses, middle school students in the junior squash league will be dropped off by parents, and high school students will take the #2 or #4 metro line. Two assumptions were made in the data below: 1) 85% of squash players drive their own car and will park at 66 Noyes Street for their matches; and 2) adults will park at the facility for an average of 1.5 hours to play squash and shower.

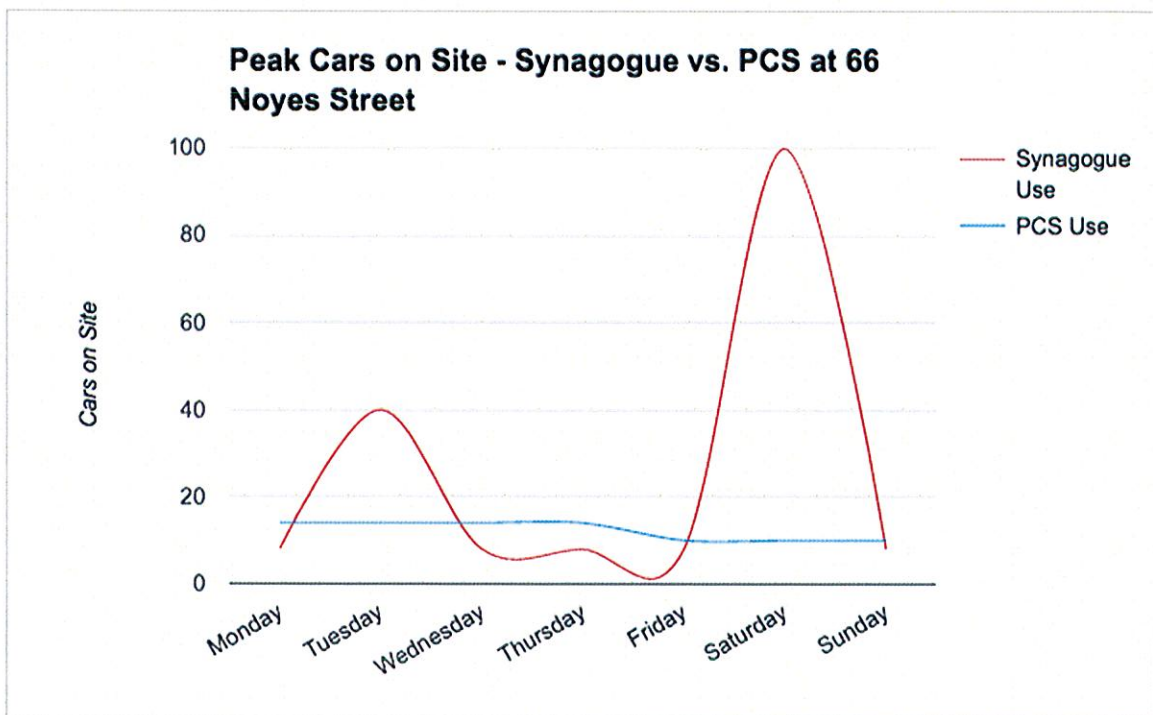
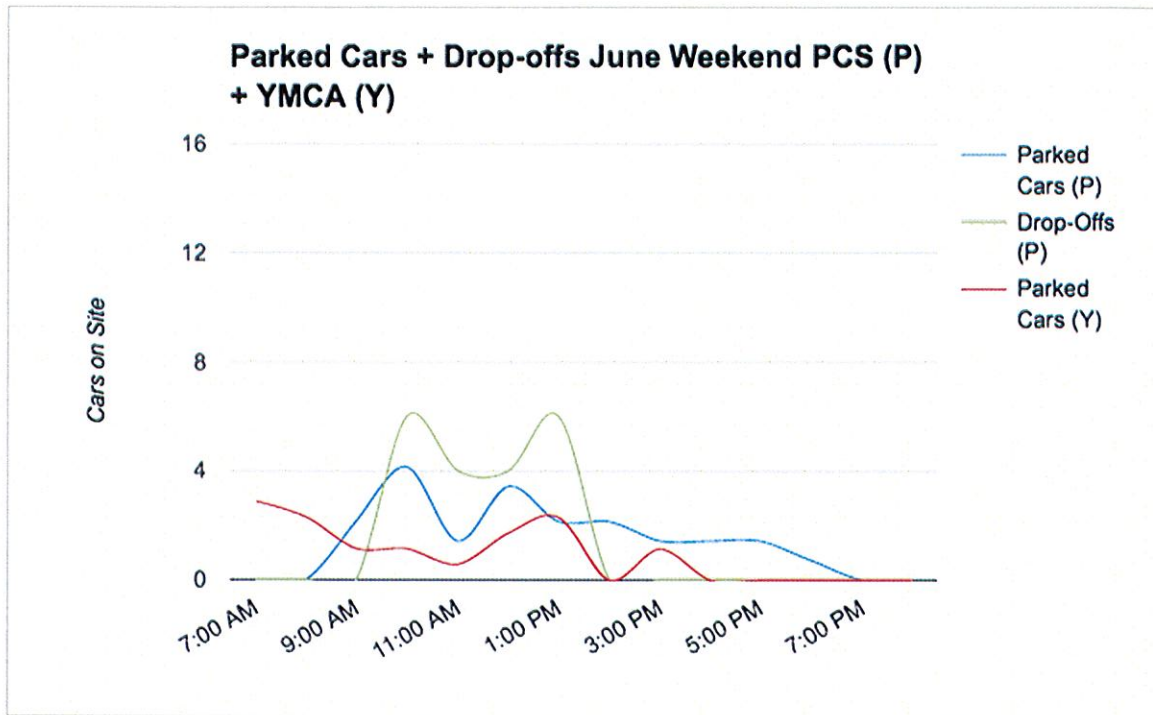


**Parked Cars + Drop-offs January Weekend PCS
(P) + YMCA (Y)**



**Parked Cars + Drop-offs June Weekday PCS (P)
+ YMCA (Y)**





Comparison and Conclusions

A comparison of current trip generation at the synagogue and daycare center indicates that the expected trip generation will typically be less during the existing weekday AM and PM peak hours. The data collected by MMI confirmed weekday AM and PM peak hour trip generation rates of 38 total trip-ends and 40 total trip ends respectively. Of these total trips ends, there were 31 AM and 32 PM total vehicle trip ends, respectively. A review of Portland Community Squash data indicates an expected AM peak hour total vehicle trips-ends of 12 (6 vehicles, entering and exiting), and during the PM peak hour total trip-ends should be 30 (15 vehicles entering and exiting). This conservatively assumes that all vehicles would arrive and leave during the same hour, which will not always be the case. Based on current operations, it is typical for many club members to spend a minimum of 1.5 hours at the facility.

The above data collected for the existing uses was performed on a weekday, primarily capturing the activity associated with the daycare. Based upon information received from the synagogue, weekend use historically generated up to 100 parked vehicles for Saturday service. Additional cars visited the site for life events that also would meet or exceed 100 vehicles. As the data above shows, the weekend use for the Community Hall would be significantly less and consist of approximately 4-8 parked vehicles.

Based on above data collected and projections regarding the parking use at 66 Noyes Street generated by the Community Hall, the ten on-site parking spaces, plus the available on-street parking spaces are sufficient to support the need generated by the Community Hall without negatively impacting the neighborhood and other parking needs generated by neighboring uses.



Jeff Levine, AICP, Director
Planning & Urban Development Department

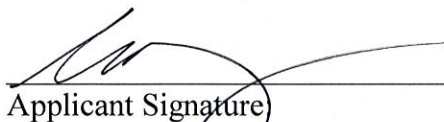
Electronic Signature and Fee Payment Confirmation

Notice: Your electronic signature is considered a legal signature per state law.

By digitally signing the attached document(s), you are signifying your understanding this is a legal document and your electronic signature is considered a **legal signature** per Maine state law. You are also signifying your intent on paying your fees by the opportunities below.

I, the undersigned, intend and acknowledge that no Site Plan or Historic Preservation Applications can be reviewed until payment of appropriate application fees are **paid in full** to the Inspections Office, City of Portland Maine by method noted below:

- ☐ Within 24-48 hours, once my complete application and corresponding paperwork has been electronically delivered, I intend to **call the Inspections Office** at 207-874-8703 and speak to an administrative representative and provide a credit/debit card over the phone.
- ☒ Within 24-48 hours, once my application and corresponding paperwork has been electronically delivered, I intend to hand-deliver a payment to **the Inspections Office**.
- ☐ I intend to deliver a payment method through the U.S. Postal Service mail once my application paperwork has been electronically delivered.


Applicant Signature

7/11/16
Date:

Mary Ceshgan, Authorized Agent
I have provided digital copies and sent them on:

7/11/16
Date:

NOTE: All electronic paperwork must be delivered to buildinginspections@portlandmaine.gov or by physical means i.e. a thumb drive or CD to the Inspections Office, City Hall, 3rd Floor, Room 315.



Administrative Authorization Application Portland, Maine

Planning and Urban Development Department, Planning Division

PROJECT NAME: PORTLAND COMMUNITY SQUASH

PROJECT ADDRESS: 66 NOYES STREET CHART/BLOCK/LOT: MAP 118, BLOCK E, LOTS 3 to 8 & 24-25

APPLICATION FEE: _____ (\$50.00)

PROJECT DESCRIPTION: (Please Attach Sketch/Plan of the Proposal/Development)

The project is a change of use from one type of public assembly (a synagogue) and a school/daycare to a different type of public assembly (community hall). Portland Community Squash will be using the existing synagogue building that was built in 1955. All renovations will be in the interior of the building and no changes or alterations will be made to the exterior of the building or the site. This application is provided as part of the application for a conditional use permit for the community hall. For more information regarding the prior use and proposed use, please refer to the conditional use application.

OWNER/APPLICANT

CONSULTANT/AGENT

Name: PORTLAND COMMUNITY SQUASH

Name: _____

Address: PO BOX 10412
PORTLAND, ME 04104

Address: _____

Work#: _____

Work#: _____

Cell# (617) 842-8023

Cell#: _____

Fax#: _____

Fax#: _____

Home #: _____

Home #: _____

Email: barrett@portlandcommunitysquash.com

E-mail: _____

Criteria for an Administrative Authorization:

(see section 14-523(4) on the next page)

Applicant's Assessment

Y(yes), N(no), N/A

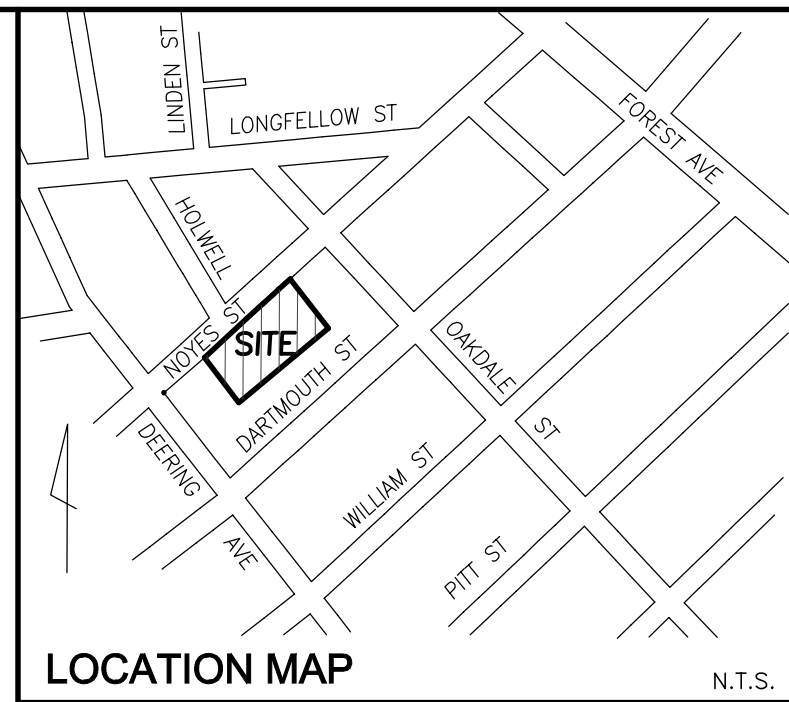
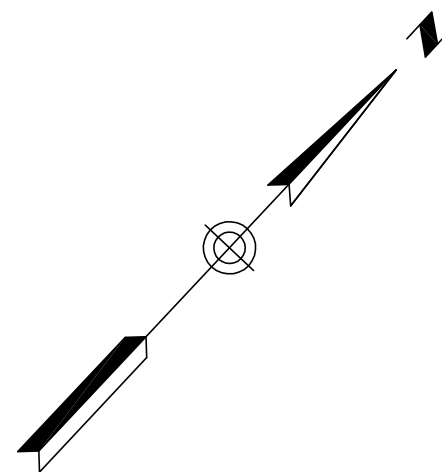
- | | |
|---|------------|
| a) Is the proposal within existing structures? | <u>Y</u> |
| b) Are there any new buildings, additions, or demolitions? | <u>N</u> |
| c) Is the footprint increase less than 500 sq. ft.? | <u>N/A</u> |
| d) Are there any new curb cuts, driveways or parking areas? | <u>N</u> |
| e) Are the curbs and sidewalks in sound condition? | <u>Y</u> |
| f) Do the curbs and sidewalks comply with ADA? | <u>Y</u> |
| g) Is there any additional parking? | <u>N</u> |
| h) Is there an increase in traffic? | <u>N</u> |
| i) Are there any known stormwater problems? | <u>N</u> |
| j) Does sufficient property screening exist? | <u>Y</u> |
| k) Are there adequate utilities? | <u>Y</u> |
| l) Are there any zoning violations? | <u>N</u> |
| m) Is an emergency generator located to minimize noise? | <u>N/A</u> |
| n) Are there any noise, vibration, glare, fumes or other impacts? | <u>N</u> |

Signature of Applicant:

Date:

	<u>7/11/16</u>
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Mary Costigan, Authorized Agent



CITY MONUMENT
T125-54-2095
HELD

DEERING AVENUE
PAVED - PUBLIC - 49.5' STREET WIDTH

OAKDALE STREET
PAVED - PUBLIC - 50 FEET WIDE

HOLWELL STREET

NOYES STREET
PAVED - PUBLIC - 60 FEET WIDE

DARTMOUTH STREET
PAVED - PUBLIC - 60 FEET WIDE

LEGEND

- IRON PIPE OR ROD FOUND
- MONUMENT FOUND
- UTILITY POLE
- MANHOLE
- ELECTRIC/GAS METER
- SIGN
- CATCH BASIN
- GAS VALVE
- WATER VALVE OR SHUTOFF
- DECIDUOUS TREE
- FENCE
- STONE WALL
- CURB
- OVERHEAD WIRES
- CAPPED IRON ROD FOUND
- IRON PIPE OR ROD FOUND
- CONCRETE
- LANDSCAPED AREA
- TAX MAP-BLOCK-LOT NO.
- NOW OR FORMERLY
- DEED BOOK AND PAGE

PLAN REFERENCES

- "PLAN OF PART OF THE DEERING ESTATE MADE BY E.C. JORDAN & CO. CIV. ENG'RS." DATED JULY 1921. THIS PLAN WAS COPIED FROM ONE MADE IN FEBRUARY 1892 WITH CHANGES ON PLAN MADE IN SEPTEMBER 1930. THE ORIGINAL PLAN RECORDED JULY 3, 1990 IN PLAN BOOK 186, PAGE 5, C.C.R.D.
- WORKSHEET OF THE BLOCK BOUNDED BY DEERING AVE., AND NOYES, OAKDALE, AND DARTMOUTH STREETS.
- CITY STREET "ROLLS" SHOWING MONUMENTS ON DEERING AVENUE.
- "STANDARD BOUNDARY SURVEY AT 83 NOYES STREET, PORTLAND, MAINE FOR PAUL OUELLETTE, OWNER / RESIDENT" DATED SEPTEMBER 27, 1993 BY OWEN HASKELL, INC.
- "BOUNDARY SURVEY AT 94 NOYES STREET, PORTLAND, MAINE MADE FOR CONGREGATION SHAAREY TPHILOH" DATED AUGUST 2, 2007 REV. 1 02-26-08 BY OWEN HASKELL, INC.
- CITY OF PORTLAND'S ASSESSOR'S MAPS.

GENERAL NOTES

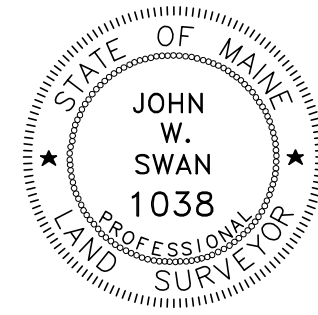
- OWNER OF RECORD: CONGREGATION SHAAREY TPHILOH
TAX MAP 118 BLOCK E LOT 3-8,24,25
C.C.R.D. BOOK 15935 PAGE 042
- BEARINGS ARE BASED ON MAINE STATE PLANE COORDINATE SYSTEM
WEST ZONE NAD1983. CITY POINTS T125-54-2095 (N:303126.5874
E:2922105.3774) & T125-54-2092 (N:303281.8333 E:2922738.9050)
HELD.
- THE PROPERTY IS LOCATED IN THE CITY OF PORTLAND R5 ZONE.

CERTIFICATE

OWEN HASKELL, INC. HEREBY CERTIFIES THAT THIS PLAN IS BASED ON, AND THE RESULT OF, AN ON THE GROUND FIELD SURVEY AND THAT TO THE BEST OF OUR KNOWLEDGE, INFORMATION AND BELIEF, IT CONFORMS TO THE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS CURRENT STANDARDS OF PRACTICE.

JUNE 23, 2016
DATE

JOHN W. SWAN, PLS NO. 1038



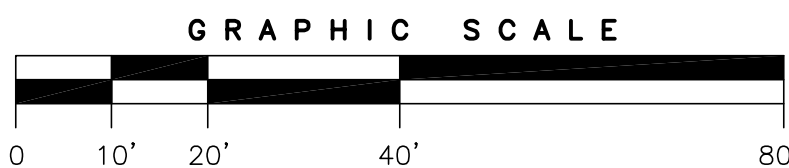
BOUNDARY SURVEY

AT
76 NOYES STREET, PORTLAND, MAINE
MADE FOR
CONGREGATION SHAAREY TPHILOH
76 NOYES STREET, PORTLAND, MAINE



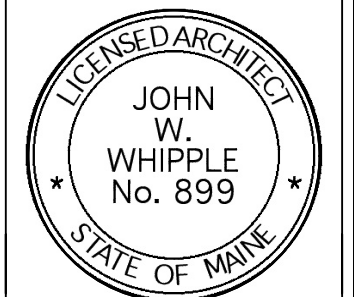
OWEN HASKELL, INC.
PROFESSIONAL LAND SURVEYORS
390 U.S. ROUTE ONE, FALMOUTH, ME 04105 (207) 774-0424

Drawn By RS	Date	Job No.
Trace By JLW	JUNE 23, 2016	2016-117P
Check By JWS	Scale	Drwg. No.
Book No. FILE	1" = 20'	1

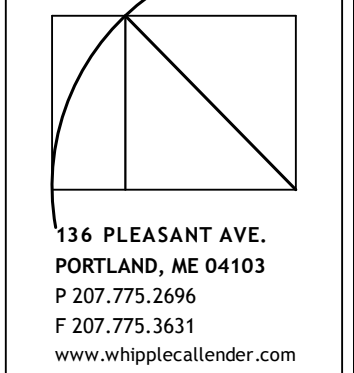


PORTLAND COMMUNITY SQUASH

58 ALDER ST. PORTLAND MAINE



WHIPPLE |
CALLENDER
ARCHITECTS



APPLICABLE CODES		SCOPE OF WORK	SHEET INDEX	
ALL CODES REFERENCED ARE TO BE USED AS AMENDED BY THE STATE OF MAINE AND LOCAL JURISDICTION. IBC 2009 LIFE SAFETY 101 2009 MAINE STATE PLUMBING CODE PORTLAND ZONING ORDINANCE PORTLAND ZONING ORDINANCE ZONE:R6 CURRENT USE: RELIGIOUS ASSEMBLY, DAYCARE (ALLOWED AS CONDITIONAL USE) PROPOSED: COMMUNITY CENTER (NO CHANGE) IBC 2009 OCCUPANCY: A-3: COMMUNITY HALL, INDOOR COURTS E: EDUCATION THROUGH 12TH GRADE SIZE: COURTS (A-3) 5680 S.F. CLASSROOMS + LOCKERS (E) 5900 S.F. SINGLE STORY CONSTRUCTION TYPE: IV (HEAVY TIMBER: MASONRY BEARING WALLS, TIMBER POSTS, TIMBER BEAMS, PLANK ROOF. ALLOWABLE BUILDING AREA (TABLE 503): 15,000 S.F.	NFPA 101R6 OCCUPANCY: EXIST. ASSEMBLY/EXIST EDUCATION OCCUPANT LOAD IN COURTS AREA VIEWING @ 7 S.F./PERS: 120 CONSTRUCTION TYPE IV SINGLE STORY 3 EXITS FOR COURTS AREA (EXCEEDING .22 " PER PERS.) 3 EXITS FOR EDUCATION AREA SPRINKLING NOT REQUIRED	INSTALL 4 SQUASH COURTS IN EXISTING SANCTUARY MODIFY MENS ROOM AND WOMANS ROOM ADDING SHOWERS AND MAKING THEM HANDICAPPED ACCESSIBLE. REPAIR ROOF, UPGRADE ELECTRICAL SERVICE, UPGRADE HVAC SYSTEM PAINT AND REPAIR WHERE NEEDED	ID	Name
			S-1	TITLE SHEET
			A-1.1	1ST FLOOR PLAN
			A-2.1	ELEVATIONS
			A-3.1	INTERIOR ELEVATIONS
			A-3.2	INTERIOR ELEVATIONS
			A-4.1	ELECTRICAL PLAN

[illegible]

DATE:	8/3/16
CHECKED BY:	JWW/NPC
DRAWN BY:	JWW/NPC
JOB:	PCS
SHEET TITLE:	

S-1

PLANNING BOARD REPORT PORTLAND, MAINE



Zero Canal Plaza Development
0 Canal Plaza
2016-162
Cow Plaza 1, LLC

Submitted to: Portland Planning Board Date: August 4, 2016 Public Hearing Date: August 9, 2016	Prepared by: Caitlin Cameron, Urban Designer CBLs: 032 1007 Project #: 2016-162
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I. INTRODUCTION

Cow Plaza 1, LLC has requested a review for a waiver request for a street build-to line setback increase for a structure accessory to the plaza at 0 Canal Plaza. The proposed 20,710 sf project includes the redesign and renovation of the existing plaza space with the addition of a structure accessory to the plaza as allowed in the B-3 zone (hereafter referred to as the “pavilion”). The B-3 zone exempts structures accessory to parks and plazas from the height dimensional standards of zoning, but not setbacks, therefore, the applicant is requesting that the proposed building be permitted to be constructed further from the property boundary (back edge of sidewalk on Middle Street) than the 5 feet that the ordinance requires.

This development is subject to Level II Site Plan for compliance with the standards of the B-3 Downtown Business Zone and Site Plan ordinance. The design review and approval includes Historic Preservation advisory review given that the site is within 100’ of a historic district. The Planning Board is only reviewing the waiver request for a Street Build-to Line Setback Increase as described in the *City of Portland Design Manual Sec (b) B-3 Downtown Business Zone (1) Standards e. Relationship to existing development 2. Standards for increasing setback beyond street build-to line.*

A total of 142 notices were sent to property owners within 500 feet of the site and a legal ad ran in the *Portland Press Herald* on August 1 and August 2, 2016.

The project is undergoing Level II Site Plan review at the staff level and will likely receive approval with conditions.

Applicant: Tim Soley and Denine Leeman, Cow Plaza 1, LLC

Consultants: Woodard & Curran, Lauren Swett; Northeast Civil Solutions; Canal 5 Studio, Timothy Hart

II. REQUIRED REVIEWS

Review	Applicable Standards
Site Plan Level II (staff review/approval)	Section 14-526

III. PROJECT DATA

Existing Zoning	B-3 Downtown Business Zone
Existing Use	Plaza
Proposed Use	Plaza with structure accessory to plaza
Proposed Development Program	Unknown – Condition of approval: That any future use of the structure accessory to parks and plazas, as allowed in the B-3 zone, shall enhance and accentuate the plaza uses.
Parcel Size	21,820 SF

	Existing	Proposed	Net Change
Building Footprint	n/a	1,536 SF	1,536 SF
Building Floor Area	n/a	1,314 SF	1,314 SF

Impervious Surface Area	19,770 SF	20,710 SF	940 SF
Parking Spaces (on-site)	n/a	n/a	n/a
Bicycle Parking Spaces	none	unknown	unknown
Estimated Cost of Project	\$5 million		

Canal Plaza

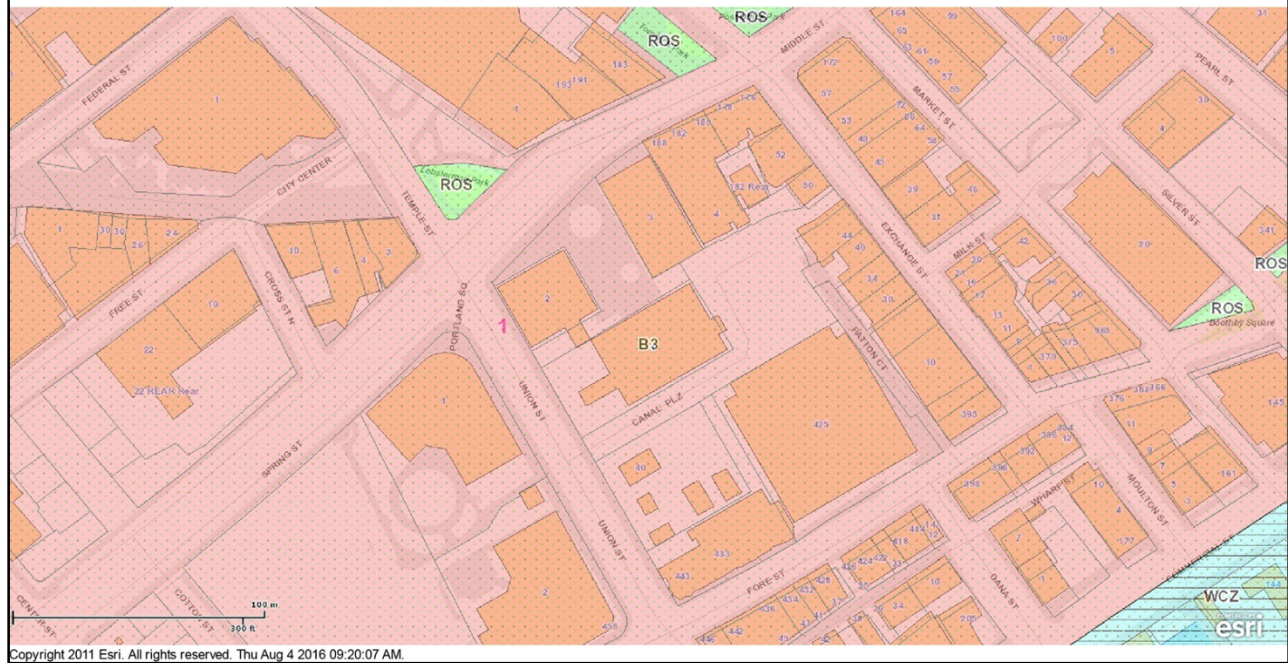


Figure 1 – Project Location

IV. BACKGROUND & EXISTING CONDITIONS

Canal Plaza lies at the corner of Middle and Temple/Union streets with Middle as the principal frontage for the plaza. The current plaza space will remain with a significant renovation that includes removing the existing tree planters and building a new, one-story pavilion. The new pavilion is in a similar location as the existing tree planter in terms of setback and position. The sidewalk was recently rebuilt and will not change. The plaza renovation will improve the quality of the surfaces, grading, and the ADA accessibility. The overall impervious surface is slightly increased with the removal of the tree planters.

V. PROPOSED DEVELOPMENT

Building Description (from the applicant): The proposed building has a footprint of approximately 1,500 square feet, with an internal floor area of 1,314 square feet. At 12'8" tall, the building has been designed as a pedestrian-scale structure that will be integrated into the plaza, between the 2 and 3 Canal Plaza building, approximately **11 feet back from the existing brick sidewalk on Middle Street (5' max is the zoning requirement)**. The new building has been designed to provide **ample circulation space between it and the adjacent structures**, and the curvilinear shape of the proposed new building encourages circulation into and through the plaza while relieving some of the rectilinear character of the existing office buildings. Concrete exterior wall segments contrast with a custom designed and fabricated glass wall system. The concrete will relate to the concrete elements of the existing office buildings. Low iron glass will make the glass wall system exceptionally transparent.

VI. PUBLIC COMMENT

No public comment has been received regarding this project or waiver request.

VII. WAIVER REQUEST REVIEW: BUILD-TO LINE SETBACK INCREASE

B-3 Zoning requirements – B-3 Structure accessory to parks and plazas

Use – Accessory to parks and plazas

Street Wall Build-to Line

Required: 5 feet from street frontage property lines

Proposed: 11 feet from Middle Street property line

Maximum Length of Blank Wall (PAD)

Required: 15 feet

Proposed: varies between 5 and 10 feet (approximate, curved walls)

Height

Required: 35 feet, Exempt from B-3 height requirement as an accessory structure

Proposed: 12'8"

City of Portland Design Manual Sec (b) B-3 Downtown Business Zone (1) Standards e. Relationship to existing development 2. Standards for increasing setback beyond street build-to line.

Standards for increasing setback beyond street build-to line: A proposed development may exceed maximum setbacks as required in section 14-220 c) only where the applicant demonstrates to the Planning Board that the introduction of increased building setbacks at the street level:

- i. *Provides substantial and viable publicly accessible open space or other amenity at the street level that supports and reinforces pedestrian activity and interest. Such amenities may include without limitation plazas, outdoor eating spaces and cafes, or wider sidewalk circulation areas in locations of substantial pedestrian congestion;*

The applicant states that the existing plaza will be improved by the proposed new building in the following ways. The proposed building is transparent, pedestrian-scaled, and positioned to create outdoor seating areas for public engagement. The space between the proposed new building and the public sidewalk is scaled to accommodate tables and chairs. The space behind the building in the plaza offers additional seating with trees for shade – all with the intention of creating amenity at the street level that supports pedestrian activity and interest at the sidewalk and into the plaza.

- ii. *Does not substantially detract from the prevailing street wall character by introducing such additional setback at critical building locations such as prominent form-defining corners, or create a sense of discontinuity in particularly consistent or continuous settings;*

The curvilinear shape of the proposed building will encourage circulation into and through the plaza, while relieving some of the rectilinear character of the existing office buildings. The proposed building has been designed to provide ample circulation space between it and the adjacent structures. The building will be approximately 22 feet from the existing 3 Canal Plaza Building (east) and 26 feet from the existing 2 Canal Plaza Building (west).

If you refer to the Site Plan (*Attachment 1*) and the Existing Conditions (*Attachment 2*), the setback, scale, and location of the pavilion is similar to the current tree planter. Also of note is the proposed setback for the pavilion is similar to the setback for 3 Canal Plaza and there is a consistent street wall presence and relationship to the sidewalk that is maintained by this setback which is still quite close to the sidewalk.

- iii. *Does not detract from existing publicly accessible open space by creating an excessive amount of open space in one (1) area of by diminishing the viability or liveliness of that existing open space; and*
 See also comments above. The shape and transparency of the pavilion are intended to encourage circulation. Circulation space and visual access are maintained around the proposed pavilion. The stated goal of the pavilion design and placement is to add to the user comfort within the plaza space and create a more inviting presence at the street to draw people into the open space. The future use within the pavilion will be required to enhance and activate the open space use with the following proposed Level II Site Plan condition of approval:
That any future use of the structure accessory to parks and plazas, as allowed in the B-3 zone, shall enhance and accentuate the plaza uses.
- iv. *The area of setback is of high quality and character of design and of acceptable orientation to solar access and wind impacts as to be attractive to pedestrian activity.*
 The one-story pavilion is placed at the North end of the plaza and does not create adverse shade or wind conditions for either the plaza or the public right-of-way. The area of increased setback will be a comfortable space for pedestrians and create an area proposed seating. The pavilion potentially provides a wind break within the plaza and the increased setback does not create adverse conditions either at the street or in the plaza in staff's estimation.
- v. *Roof top appurtenances: All mechanical equipment, ventilating and air conditioning and other building systems, elevators, stairways, radio or television masts or equipment, or other rooftop elements not intended for human occupancy shall be fully enclosed in a manner consistent with the character, shape and materials of the principal building, as described and illustrated in the Downtown Urban Design Guidelines (Appendix 1).*
 No rooftop appurtenances are proposed for the pavilion and a Level II Site Plan condition of approval is proposed as follows:
That no rooftop mechanicals shall be installed on the structure accessory to parks and plazas, as allowed in the B-3 zone.

VIII. DESIGN REVIEW

The project is subject to B-3 design standards and the pavilion was reviewed accordingly; the results of that preliminary design review are in *Attachment 6* and the pavilion is found to be consistent with the B-3 design standards. A few questions/suggestions were submitted by the review panel to resolve the design review process.

IX. STAFF RECOMMENDATION

Subject to the proposed motions listed below, Planning Division staff recommends that the Planning Board approve the Waiver Request for increasing the setback beyond the street build-to line for the pavilion as a structure accessory to the plaza as shown in *Attachment 1 Site Plan* for the plaza redevelopment at 0 Canal Plaza.

X. PROPOSED MOTIONS

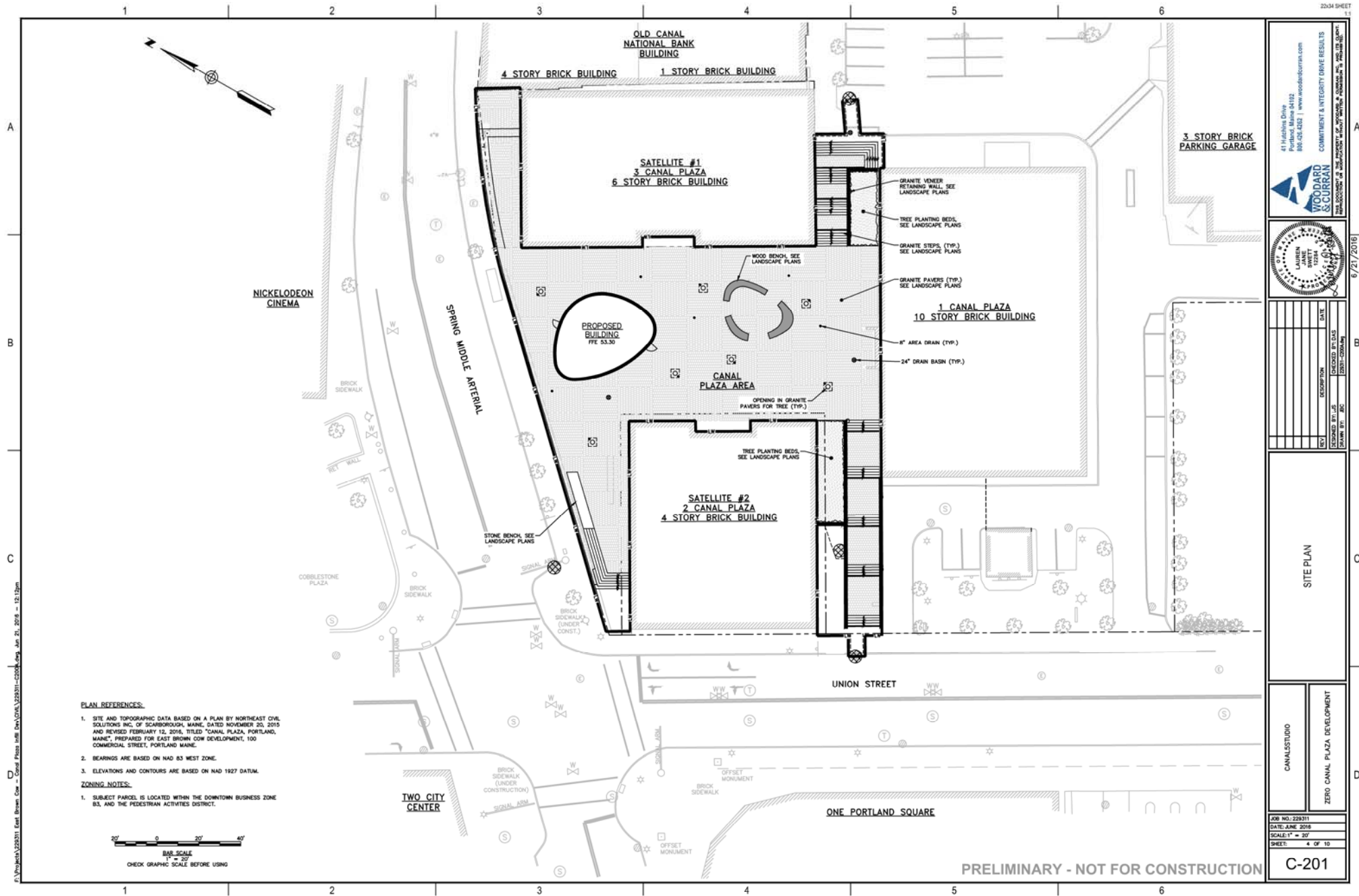
A. WAIVERS

On the basis of the application, plans, reports, and other information submitted by the applicant; findings and recommendations contained in the planning board report for the public hearing on August 9, 2016 for application 2016-162 relevant to the *City of Portland Design Manual B-3 Standards*; and the testimony presented at the planning board hearing, the planning board finds that the plan **is/is not** in conformance with *City of Portland Design Manual Sec (b) B-3 Downtown Business Zone (1) Standards e. Relationship to existing development 2. Standards for increasing setback beyond street build-to line* and **approves/does not approve** the waiver request.

XI. ATTACHMENTS

PLANNING BOARD REPORT ATTACHMENTS

1. Site Plan
2. Existing Conditions Plan
3. Renderings
4. Elevations
5. Section 6: Assessment of Zoning (memo from applicant)
6. Design Review (memo from Caitlin Cameron, 8/3/16)



22034 SHEET 1.1

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6/27/2016

REV	DESCRIPTION	DATE
1	ISSUED BY DATE	
2	DESIGNED BY DATE	
3	DRAWN BY DATE	
4	CHECKED BY DATE	
5	APPROVED BY DATE	

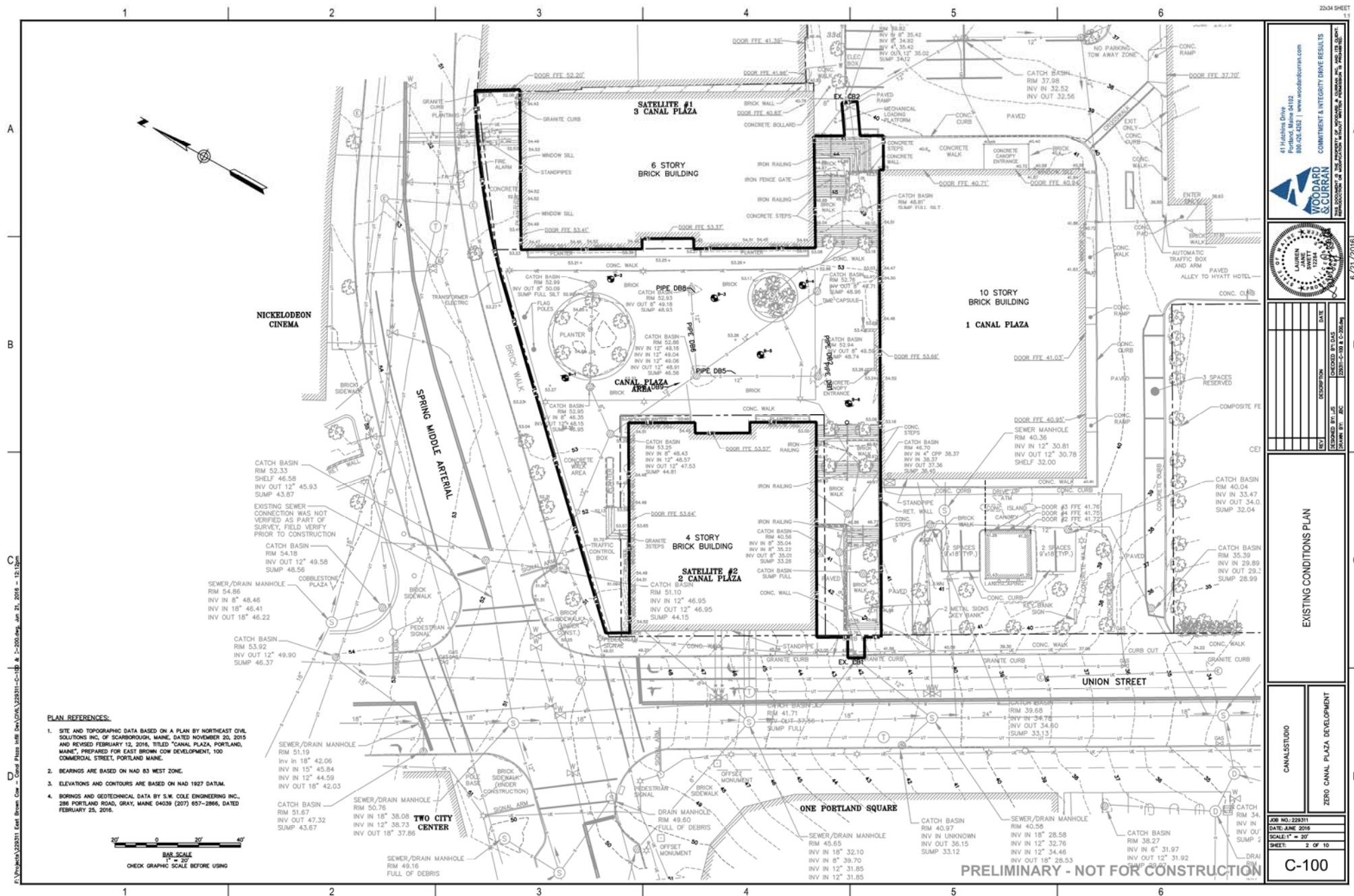
SITE PLAN

CANALSTUDIO

ZERO CANAL PLAZA DEVELOPMENT

JOB NO. 22034
DATE: JUNE 2016
SCALE: 1" = 20'
SHEET: 4 OF 10

C-201



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NO.	DATE	DESCRIPTION
1	06/27/2016	ISSUED FOR PERMIT
2	06/27/2016	ISSUED FOR PERMIT
3	06/27/2016	ISSUED FOR PERMIT
4	06/27/2016	ISSUED FOR PERMIT
5	06/27/2016	ISSUED FOR PERMIT
6	06/27/2016	ISSUED FOR PERMIT
7	06/27/2016	ISSUED FOR PERMIT
8	06/27/2016	ISSUED FOR PERMIT
9	06/27/2016	ISSUED FOR PERMIT
10	06/27/2016	ISSUED FOR PERMIT

EXISTING CONDITIONS PLAN

CANAL PLAZA DEVELOPMENT

C-100

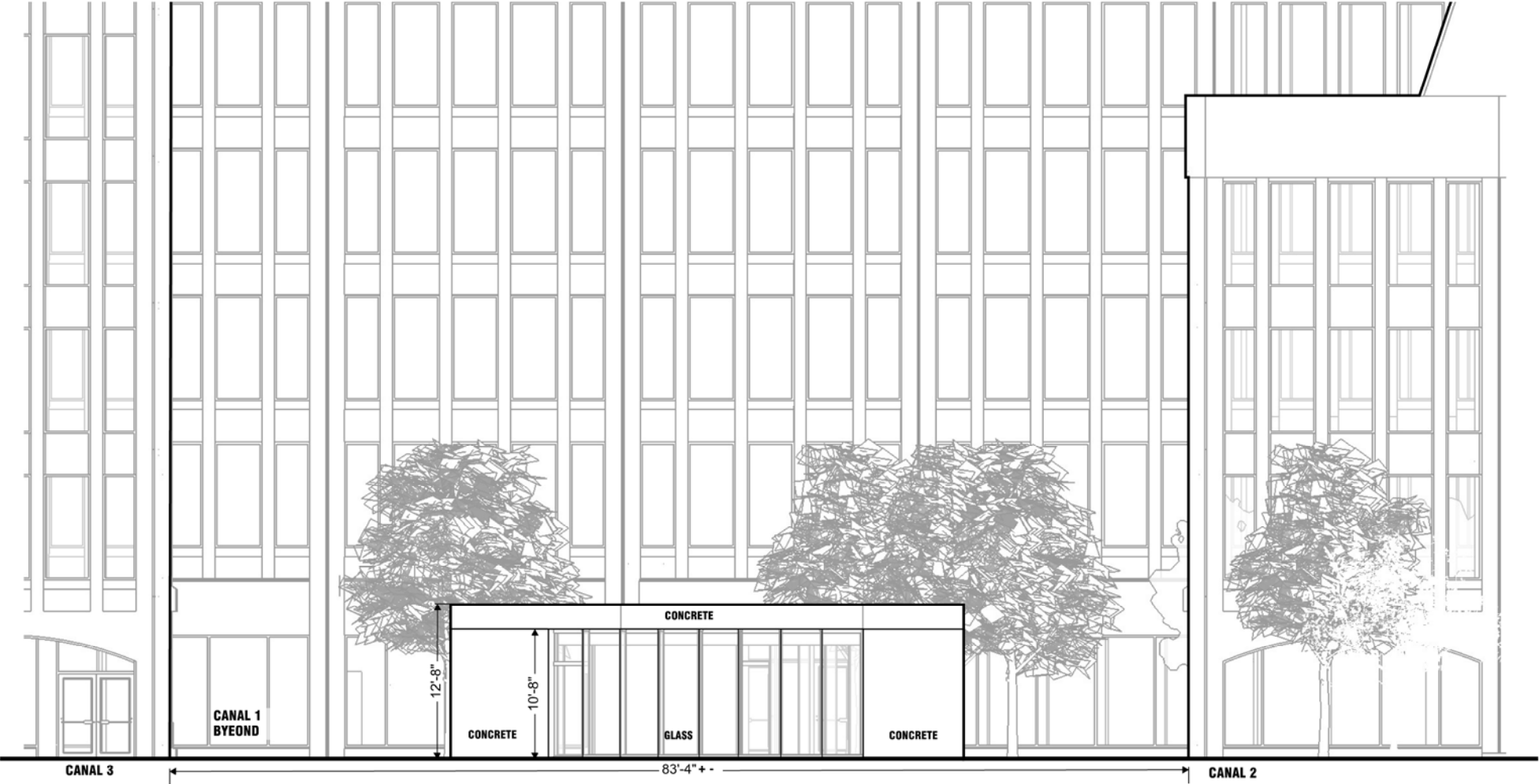
JOB NO: 220011
DATE: JUNE 2016
SCALE: 1" = 20'
SHEET: 2 OF 10

DATE: JUNE 2016
SCALE: 1" = 20'
SHEET: 2 OF 10

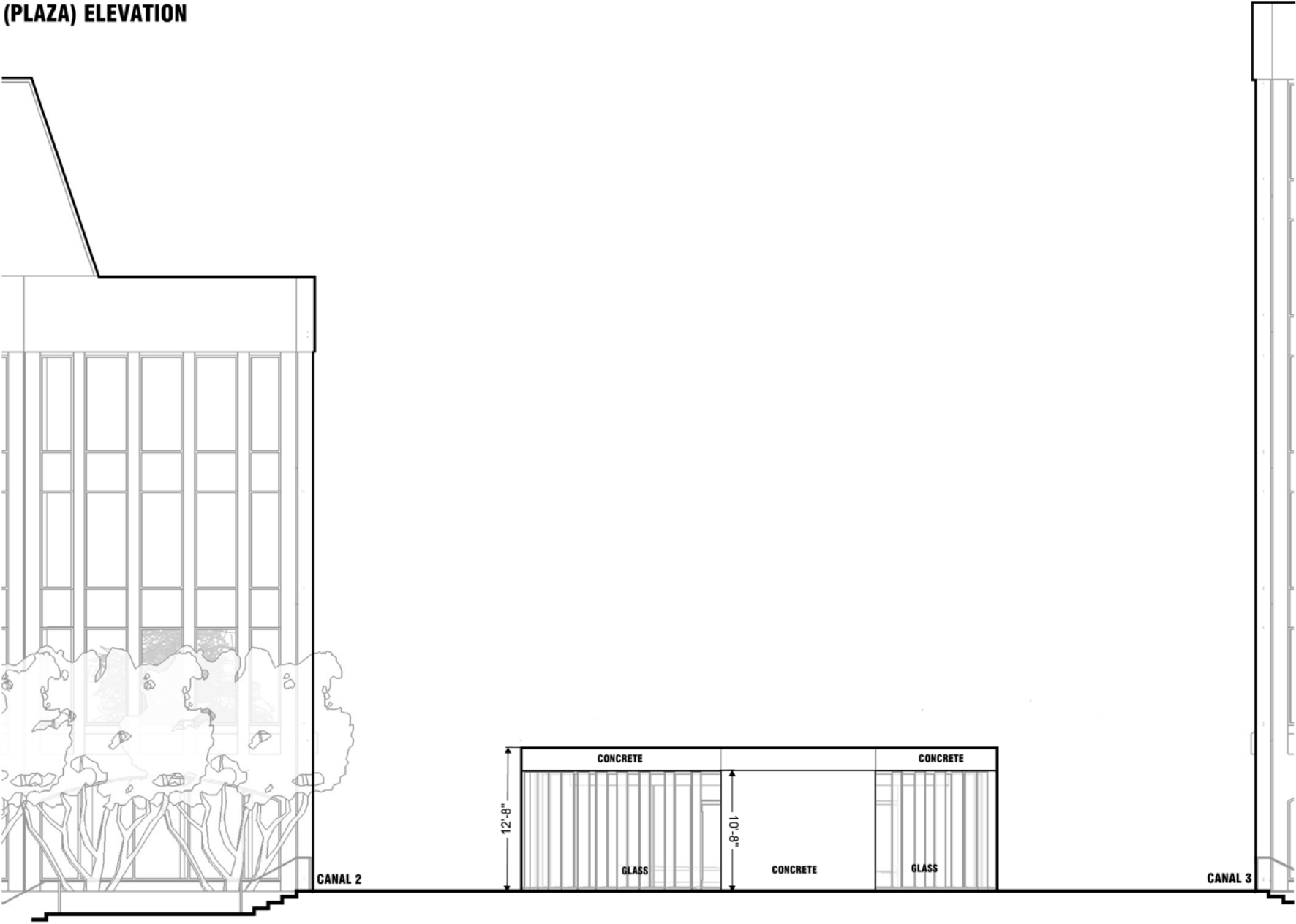




FRONT (MIDDLE STREET) ELEVATION



BACK (PLAZA) ELEVATION





6. ASSESSMENT OF ZONING

The proposed work is located within the B-3 Downtown Business Zone, and is subject to the requirements of the City of Portland Code of Ordinances, Chapter 14 Land Use, Division 12, B-3 Requirements. Some of the purposes of the Downtown Business Zone, as defined by the Ordinance, are to:

- “Enhance the pedestrian environment through the encouragement of intensive mixed-use activities, through the enhancement and maintenance of public and private open space, and through the enlivenment and increased attractiveness of the street environment;”
- “Reinforce the role of the downtown as a meeting place for community residents and visitors alike from all walks of life and all socio-economic groups;” and
- “In the pedestrian activities district (PAD) overlay zone, create continuity of pedestrian-oriented uses along streets where such uses predominate and along streets which, over time, will establish and maintain a strong retail and pedestrian-oriented use pattern.”

This project will help to accomplish all of these goals by enhancing the existing Canal Plaza to provide a space that is more attractive to pedestrians. This will be accomplished with aesthetic improvements to the plaza, the addition of seating, and the construction of a small building within the plaza space. Descriptions of the project’s compliance with the relevant sections of the City’s Code of Ordinances are provided below.

6.1 PERMITTED USE (14-217)

The current use of the Site is a publicly accessible plaza. Although not explicitly listed as a permitted use in Section 14-217, the B-3 zone purpose (as described above) implies that public and private open spaces are an important part of the zone. Additionally, section 14-220 of the City’s Code includes an exception to the building height requirement for “structures accessory to parks and plazas”, also implying that plaza spaces are allowed within the B-3 zone.

The existing plaza use will be maintained. The proposed building does not yet have a specific tenant identified, but the building will be accessory to the plaza and is anticipated to be a cafe or retail space. The building is transparent, pedestrian-scaled, and positioned to create outdoor seating areas for public engagement.

6.2 DIMENSIONAL REQUIREMENTS (14-220)

The dimensional requirements for the B-3 zone are defined in the ordinance as listed in the table below. A majority of the project includes the reconstruction of the plaza space located on Parcel 32-I-7. Improvements will also be made to the space in front of 3 Canal Plaza (Parcel 32-I-23), primarily consisting of the continuation of the proposed granite pavers into this space. Provided dimensions are provided below for both involved parcels where applicable.

Table 6-1: B3 Zone Dimensional Requirements vs. Canal Plaza Provided Conditions

	REQUIRED	PROVIDED
Minimum Lot Size	None	Parcel 31-I-7 – 0.42 acres Parcel 32-I-23 – 0.28 acres
Minimum Street Frontage	15 Feet	Parcel 31-I-7 – 193 feet Parcel 32-I-23 – 75 feet
Street Wall Build-To Line	Max 5 Feet	Minimum 11 feet (see below for description)
Minimum Yard Dimensions	None	N/A

	REQUIRED	PROVIDED
Minimum Lot Width	None	Parcel 31-I-7 – 80 feet Parcel 32-I-23 – 75 feet
Maximum length of undifferentiated blank wall along public street or publicly accessible pedestrian way	15 feet (in PAD)	20 feet (transparent – see below for description)
Maximum Lot Coverage	100%	8.4% Building Coverage Proposed
Minimum Building Height	35 feet	12'-8" Proposed Building (see below for description)
Maximum Height of Structures	125 feet	12'-8" Proposed Building

6.2.1 Street Build-To Line

The proposed building will exceed the maximum setback from the street build-to line. The ordinance defines this setback distance as five feet. The building will be at least 11 feet from the edge of the back edge of sidewalk on Middle Street. Standards are provided in the City of Portland Design Manual for increasing this setback. The proposed pedestrian-scaled structure will fit well into the existing plaza space, and will meet the standards allowing for a larger setback as follows:

1. *Provides substantial and viable publicly accessible open space or other amenity at the street level that supports and reinforces pedestrian activity and interest. Such amenities may include without limitation plazas, outdoor eating spaces and cafes, or wider sidewalk circulation areas in locations of substantial pedestrian congestion;*

The existing Canal Plaza space will be improved by the proposed plaza enhancements and the construction of the new building. The proposed new building is transparent, pedestrian-scaled, and positioned to create outdoor seating areas for public engagement. The space between the proposed building and the public sidewalk is scaled to accommodate tables and chairs. The space behind the building in the plaza offers additional seating with trees for shade.

2. *Does not substantially detract from the prevailing street wall character by introducing such additional setback at critical building locations such as prominent form-defining corners, or create a sense of discontinuity in particularly consistent or continuous settings;*

The proposed improvements will not detract from the existing character of the space. The space currently exists as a plaza, and the proposed building will serve to reduce the setback in the space, while still providing for pedestrian accessibility. The proposed building and plaza renovation offer high quality finishes, lighting, landscaping, and pedestrian-scaling absent in the existing plaza. The new granite pavers will offer a much higher quality finish than the existing hardscape materials. The curvilinear shape of the proposed building encourages circulation into and through the plaza, while relieving some of the rectilinear character of the existing office buildings.

3. *Does not detract from existing publicly accessible open space by creating an excessive amount of open space in one (1) area or by diminishing the viability or liveliness of that existing open space; and*

The proposed improvements will not detract from the existing accessibility of the space. The space currently exists as a plaza, and the building will serve to reduce the setback in the space, while still providing for pedestrian accessibility. The proposed new building and plaza renovation offer high quality finishes, lighting, landscaping, and pedestrian-scaling absent in the existing plaza. The proposed building has been designed

to provide ample circulation space between it and the adjacent structures. The space between the proposed building and the public sidewalk is scaled to accommodate tables and chairs. The space behind the building in the plaza offers additional seating with trees for shade.

4. *The area of setback is of high quality and character of design and of acceptable orientation to solar access and wind impacts as to be attractive to pedestrian activity.*

The proposed building and improvements will enhance the overall quality of the existing plaza space. The building is transparent, allowing for solar access into the space, while also providing a wind-break for pedestrians from the swirling winds within the plaza.

5. *Roof top appurtenances: All mechanical equipment, ventilating and air conditioning and other building systems, elevators, stairways, radio or television masts or equipment, or other rooftop elements not intended for human occupancy shall be fully enclosed in a manner consistent with the character, shape and materials of the principal building, as described and illustrated in the Downtown Urban Design Guidelines (Appendix 1).*

No visible roof-top appurtenances are proposed on the new building. The roof-top HVAC units required for this building will be installed on the adjacent 3 Canal Plaza building.

6.2.2 Maximum Length of Undifferentiated Wall

The maximum length of undifferentiated blank wall along a public street or publicly accessible pedestrian way in the Pedestrian Activities District is 15 feet. The proposed building is irregularly shaped, so there will not be a wall parallel to the adjacent Middle Street sidewalk. The curved section of wall that is immediately adjacent to the street includes a single segment that is approximately 20 feet in length. This wall segment will be transparent, constructed entirely of sections of glass. The architectural floor plan and renderings provided in Section 3 of this Report show the proposed wall orientation.

6.2.3 Minimum Building Height

In accordance with the dimensional requirements for the B-3 zone, the minimum building height in the zone is 35 feet. The proposed building will be shorter, at a height of 12'-8", and has been designed at a pedestrian-scale to enhance the Canal Plaza space. The ordinance specifies exceptions to the height restrictions, including an exception for "structures accessory to a park or plaza." The proposed building has been designed to be accessory to Canal Plaza.

6.3 OTHER REQUIREMENTS AND STANDARDS (14-522)

- a. *Downtown Urban Design Guidelines:* The project has been designed to be consistent with the Downtown Urban Design Guidelines. A description of the proposed design's conformance with these guidelines is provided in Section 17 of this Report.
- b. *Off-street Parking and Loading:* Off-street parking and loading for the Site will be accommodated by existing parking and loading areas around the Canal Plaza properties.
- c. *Signs:* Signage will be dependent on the tenant for the proposed building. Proposed signage will be submitted as part of a separate sign permit application.
- d. *Exterior Storage:* No exterior storage is proposed.
- e. *Storage of Vehicles:* No vehicle storage is proposed.
- f. *Shoreland and Flood Plain Management:* The project is not located within the Shoreland Zone.
- g. *Downtown Arts Program:* The project is not subject to the Downtown Arts Program.
- h. *Relocation of Displaced Residents:* The project will not displace any residences.
- i. *Historic Resources:* The project is not located within a Historic District and does not directly impact any historic landmarks. The Canal Plaza property is located adjacent to the western boundary of the Portland Waterfront (Old Port) Historic District. The District is separated from the proposed project area by the existing 3 Canal Plaza building. The proposed Canal Plaza improvements will not have a detrimental impact on the nearby

Historic District. The goal of the project is to improve conditions for pedestrians, in hopes of bringing more people to use the Canal Plaza space, in turn bringing more pedestrians to the surrounding area, including the nearby Historic District.

6.4 EXTERNAL EFFECTS (14-221.1)

- a. *Enclosed Structure:* The proposed building shall be an enclosed structure, but the plaza is a use that is "customarily operated in the open air." Outdoor furniture and appurtenances will be provided in the plaza. The space has been designed to accommodate pedestrian use.
- b. *Noise:* All noise requirements of the B-3 zone will be met. No loud equipment is proposed for the new building.
- c. *Vibration:* Any vibrations from standard equipment proposed for the new building will be imperceptible without instruments at lot boundaries.
- d. *Heat:* Any heat from standard equipment proposed for the new building will be imperceptible without instruments at lot boundaries.
- e. *Glare, Radiation or Fumes:* Any glare, radiation, or fumes from standard equipment proposed for the new building will be imperceptible without instruments at lot boundaries.
- f. *Smoke:* No smoke is anticipated to be generated by the proposed building.
- g. *Materials or Wastes:* No materials or wastes will be produced or stored on the lot in such a way that they may be transferred beyond the lot boundaries by natural causes or forces. Trash and recycling receptacles located in Canal Plaza will be secure and will be maintained on a regular basis by the Owner.

Planning and Urban Development Department Planning Division



Subject: B3 Design Review – 0 Canal Plaza

Written by: Caitlin Cameron, Urban Designer

Date of Review: Friday, July 22, 2016

The proposed accessory structure to the plaza was reviewed against the B-3 *Downtown Business Zone Standards* and *Downtown Urban Design Guidelines* (Appendix 1 of the Design Manual) by Caitlin Cameron, Urban Designer, Jean Fraser, Planner, Planning Division of the Department of Planning & Urban Development with additional coordination with Deb Andrews, Historic Preservation Program Manager (the plaza is within 100' of a historic district).

Design Review Criteria:

As an accessory structure, many of the B-3 Design Standards found in the *City of Portland Design Manual* are not applicable. Particular attention was paid to the relationship to the pedestrian environment since the project is in the Pedestrian Activity District.

B-3 Downtown Urban Design Standards

a) 1. Relationship to the Pedestrian Environment

i. Distinguish the lower 35 feet of building facades

1) Storefronts and building facades

- **Relationship to Context** – Pavilion design relates mostly to new aesthetic created for the plaza, which is acceptable as a structure accessory to the plaza. The surrounding retail context is eclectic and the pavilion is designed to be contrasting in style and scale from the surrounding buildings as a “folly.”
- **Pedestrian character** – The pavilion is small-scale and close to the sidewalk with activity created facing the street and in the plaza with extensive glazing and a street-facing entry.
- **Materials and detailing** – Material choices relate to the redesigned plaza more so than surrounding architecture. *Consider whether concrete of new structure should relate in color with granite pavers or concrete of surrounding Canal Plaza buildings. Review panel is not supportive of glazing that is flush with the plaza – for durability, plowing, and maintenance, a curb or otherwise elevated edge is suggested where glass is not directly on ground.*
- **Transparency** – High level of fenestration provided. *Glass transparency should be at a VT of .7 or close to. Interior shades should not be added to the design.*
- **Contemporary design** – Pavilion design is definitely contemporary in form and finish and is reviewed as a structure that should relate most to the plaza design and street experience of the plaza which is simple with durable materials. The fins of the structural glass and height of the building are referential to the Canal

Plaza buildings – Review Panel agreed that most important qualities of pavilion is the scale, transparency, street presence, and relationship to plaza.

2) Building entrances – Two entrances are shown – one facing the street and one facing into the plaza. *Will both entries be active?* Both entrances appear to be at grade and accessible.

3) Blank Facades – Length of blank walls are limited.

4) Special Features – Not applicable –

b) Pedestrian Activities District (PAD) – One entrance and windows are placed facing the street. Use will be active and must enhance the plaza use. Pavilion designed to be active to both the street and the plaza.

c) Pedestrian Activities District (PAD) Encouragement Areas – Not applicable

d) Sidewalk Areas and Open Space – The plaza space is a pause in the street wall and provides a different experience than that sidewalk. The pavilion is designed as an amenity to enhance the plaza by adding comfort and visual interest to the space but also adding activity and a high transparency so as not to be a physical or visual barrier. The curved form of pavilion is intended to direct pedestrians into plaza, visually and/or physically. Additional seating is proposed through movable tables and chairs – this is necessary, otherwise not enough seating is provided in plaza. *More information is requested about lighting levels, trash receptacles, and bike parking.*

e) Relationship to existing development: The project purposely contrasts in form and aesthetic from built environment surrounding as an anomalous element relating to the plaza experience. The pavilion placement is set further back than allowed by zoning and the Planning Board will review the five standards for increasing the setback.

f) Shadow impact on open space: No portion of the building is in excess of 65' in height and the structure is placed on the North end of the plaza.

g) Wind impacts: There is no concern about wind impacts for such a small structure.

h) Setbacks from existing structures: New development does not appear to impact the structural integrity or general safety of neighboring structures.

i) Building tops: No portion of the accessory structure exceeds 150' in height. Success of the design depends on its simplicity; currently no rooftop mechanicals are proposed at this time. The following condition of approval is proposed to ensure that rooftop mechanicals are not added at a future time:

That no rooftop mechanicals shall be installed on the structure accessory to parks and plazas, as allowed in the B-3 zone.

Signage/Awnings/Canopies – No information was provided regarding potential signage, awnings, or canopies. In developing any signage plans, keep the requirements of this standard in mind – Signage should be minimal and integrated into the architecture considering the pavilion is meant to be deferential to and part of the plaza.