

1. 01-05-17 - Agenda

Documents:

[01-05-17 AGENDA.PDF](#)

2. ZBA Application - 130 Vannah Avenue

Documents:

[130 VANNAH AVENUE - CONDITIONAL USE APPEAL.PDF](#)

3. ZBA Application - 31 Warren Avenue

Documents:

[31 WARREN AVENUE - VARIANCE APPEAL.PDF](#)
[MEMO TO ZBA.PDF](#)

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

Kent Avery, Chair
Donna Katsiaficas, Secretary
Chip Gavin
Eric Larsson
Brandon Mazer
Joseph Zamboni

APPEAL AGENDA

The Board of Appeals will hold a Public Hearing on Thursday, January 5, 2017, 6:30 p.m., Room 209, 2nd Floor, City Hall, 389 Congress Street, Portland, Maine, to hear the following appeals:

1. New Business:

A. Conditional Use Appeal:

130 Vannah Avenue (93 Clifton Street), Elizabeth and Kenneth Harrington-Howes, owners, Tax Map 128, Block D, Lot 003, R-3 Residential Zone: The applicants are seeking a Conditional Use Appeal under section 14-88(a)(2) to add an accessory dwelling unit to their existing single-family home. Representing the appeal are the owners.

B. Variance Appeal:

31 Warren Avenue, Harmonious Holdings, LLC, owner, Tax Map 292, Block D, Lot 010, B-4 Commercial Corridor Zone: The legal use of the property is a two family structure. Section 14-229.10 lists the uses allowed in the zone. Section 14-229.12 states “uses not expressly enumerated in section 14-229.11 as permitted uses are prohibited”. Residential uses are not listed as a permitted use; therefore this is a legal nonconforming use in the current zone. A third dwelling unit was added without a permit by a previous owner making the current use of the building nonconforming. The applicant is seeking a variance from section 14-382(c) which states in part: “no alterations, modifications or additions shall be made so as to increase...the degree of nonconforming use...” in order to legalize the third unit and change the legal use of the property to a three family. Representing the appeal is Sam Harmon, the sole member of Harmonious Holdings, LLC.

2. Other Business:

A. Election of Chair and Secretary for the Zoning Board of Appeals

3. Adjournment

Michael A. Russell, MS, Director
Permitting and Inspections Department

Ann Machado
Zoning Administrator

CITY OF PORTLAND ZONING BOARD OF APPEALS**Conditional Use Appeal Application****Applicant Information:**

NAME

Elizabeth & Kenneth Harrington-Howes
BUSINESS NAME

BUSINESS ADDRESS

93 Clifton St. Portland, ME 04103

BUSINESS TELEPHONE & E-MAIL

203-981-8099 bethharringtonhowes@gmail.com
APPLICANT'S RIGHT/TITLE/INTEREST

Residential
CURRENT ZONING DESIGNATION
R3

EXISTING USE OF THE PROPERTY:

Single Family residence

TYPE OF CONDITIONAL USE PROPOSED:

1 bedroom rental apartment on lower floor

Subject Property Information:

PROPERTY ADDRESS

130 Vannah Ave aka 93 Clifton St
CHART/BLOCK/LOT (CBL)

128 D003

PROPERTY OWNER (If Different)

ADDRESS (If Different)

PHONE # AND E-MAIL

CONDITIONAL USE AUTHORIZED BY
SECTION 14- 88 SECTION 2

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

1. 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
2. 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
3. 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 of other allowable uses in the zone.

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

The undersigned hereby makes application for a conditional use permit as described above, and certifies that the information herein is true and correct to the best of his OR her knowledge and belief.

SIGNATURE OF APPLICANT

December 16th, 2016

DATE

389 Congress Street * Portland Maine 04101-3509 * Phone: (207) 874-8703 * Fax: (207) 874-8716
<http://www.portlandmaine.gov/planning/buildinsp.asp> * E-Mail: buildinginspections@portlandmaine.gov

Kenneth & Elizabeth Harrington-Howes
93 Clifton Street
Portland, ME 04103
(203)554-0468
(203) 981-8099
bethharringtonhowes@gmail.com

December 16, 2016

Dear Zoning Board of Appeals,

We live in a single family residence which we have been renovating. During the renovation we noticed that the lower level would make a really nice apartment. Therefore, we would like to convert the space into a legal rental unit.

We believe we have met all of the qualifications set out in the paperwork sent to us by Ms. Stacy of your office. Please let us know if you need any additional information. We look forward to hearing from you.

Sincerely,



Kenneth Harrington-Howes



Elizabeth Harrington-Howes

93 CLIFTON STREET (AKA 130 VANNAH AVENUE)
ADDITIONAL DWELLING UNIT APPLICATION ADDENDUM

Our planned conversion from a single family dwelling to accommodate an additional dwelling unit meets the requirements outlined in the City of Portland Code of Ordinances, Section 14-88(a)(2)(a-j), as outlined below:

a. The gross floor area of the main floor of principal building is 2,108 sf. The gross floor area of the basement is 1,408 sf. The rear half of the basement is completely underground. The front half is almost completely at grade, and therefore meets the two-thirds of its floor-to-ceiling height above the average grade test. This adds 704 sf to the main floor's 2,108 sf, for a total of 2,812 sf of allowable gross floor area. The proposed accessory unit is 717 sf, or approximately 25% of the allowable gross floor area, and is therefore less than the allowed 30%. See attached elevations.

At 717 sf it is also larger than the required 400 sf of floor area.

b. There is no open outside stairway or fire escape.

c. There will be no changes to the exterior of the property. Therefore everything will remain compatible in style and the appearance of a single-family dwelling will be maintained.

d. The lot size of 0.2 acres (or 8,712 sf) exceeds the required minimum lot size of 6,500 sf.

e. – f. Not listed in Section 14-88.

g. The main dwelling unit's above grade space of 2,108 sf will not change and is well over the required minimum size of 1,000 sf.

h. Parking will include two spaces in the tandem Garage and four spaces in the driveway.

i. i. There will be no exterior alterations.

ii. There are no planned alterations to the parking surfaces or landscaping.

j. The owners, Elizabeth (Beth) and Kenneth (Obie) Harrington-Howes will occupy the principal unit.

Furthermore, in response to the three standards listed at the bottom of the application page:

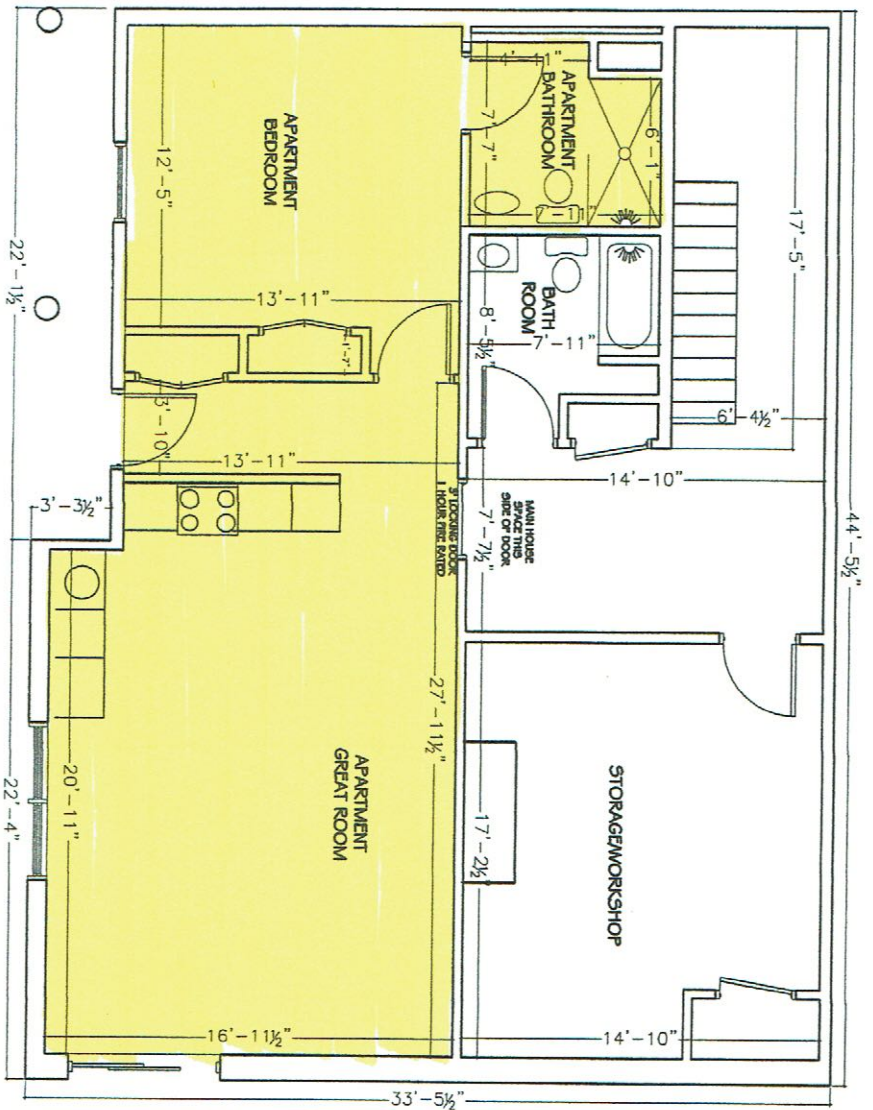
1. Our plan is to rent to a single individual with one car.

2. The unit will be rented exclusively as a residential space.

3. Again, the unit will be rented exclusively as a residential space.

If you have any questions or need any additional information, please contact Beth Harrington-Howes at 203-981-8099. Thank you.

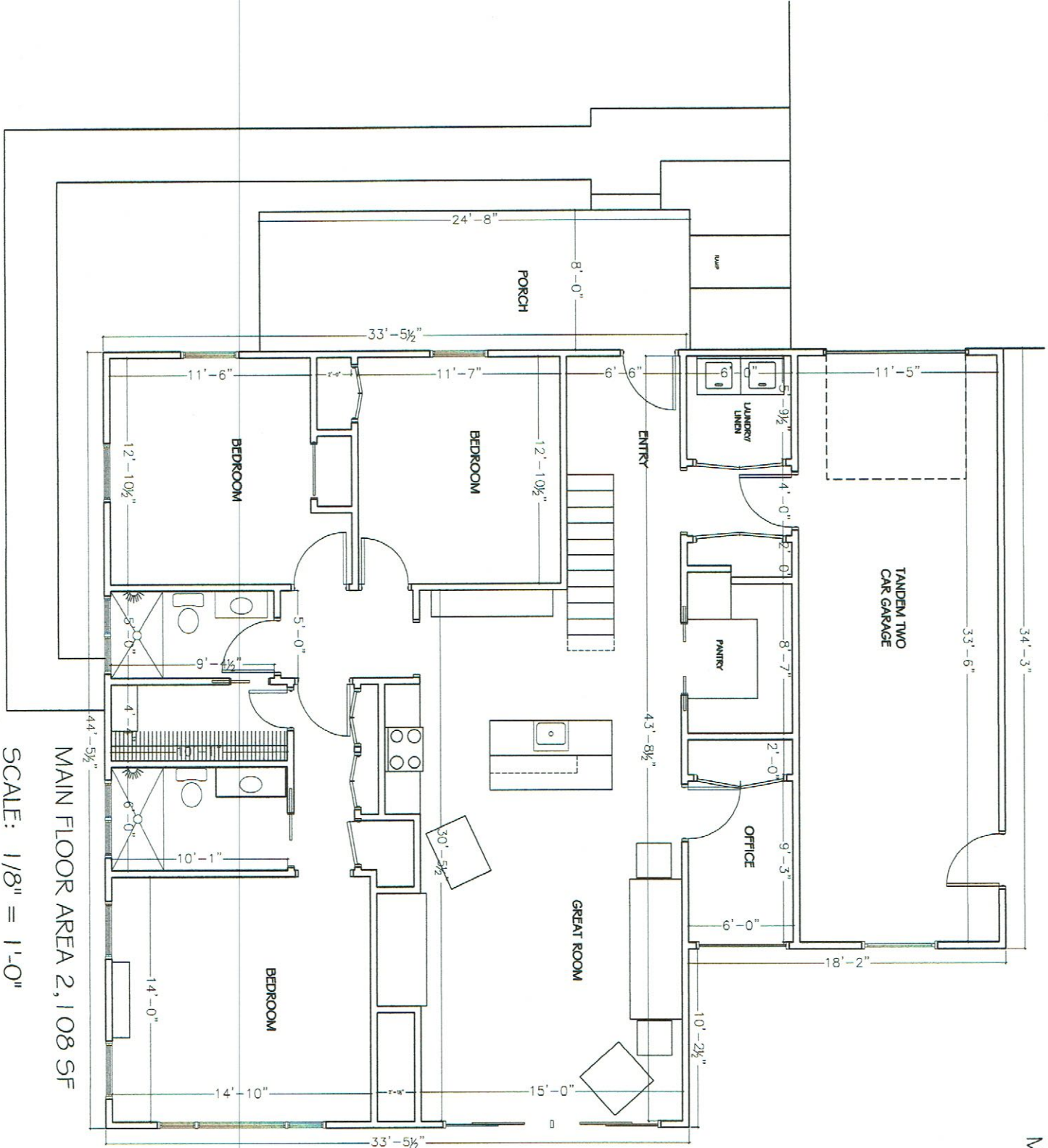
HARRINGTON-HOWES
93 CLIFTON STREET
BASEMENT PLAN



GROSS BASEMENT AREA 1,408 SF
ALLOWABLE BASEMENT AREA 704 SF
TOTAL ALLOWABLE AREA (MAIN FLOOR + 704 SF) 2,812 SF
APARTMENT AREA 717 SF OR 25%

SCALE: 1/8" = 1'-0"

HARRINGTON-HOWES
93 CLIFTON STREET
MAIN FLOOR PLAN



MAIN FLOOR AREA 2,108 SF

SCALE: 1/8" = 1'-0"

STATE OF MAINE
COUNTY OF MAINE
NOTARY PUBLIC
My Comm. Expires 12/31/2011
I hereby certify that the foregoing is a true and correct copy of the
original as the same appears in the records of the
Office of the Notary Public for the County of Maine.

CLIFTON ST.

WERSLEY ST
AUGUST 27 1904

**WANTING A BE
TTER WAY TO
GROW YOUR BUSINESS?**

SURE YOUR STATEMENT
 WAS CLEAR AND CONCISE. THE FBI WILL
 RE-READ YOUR STATEMENT TO
 MAKE SURE YOU HAVE NOT
 LEFT OUT ANY INFORMATION.
 IF YOU HAVE ANY QUESTIONS,
 ASK THEM NOW. IF YOU
 NEED MORE TIME, TELL THE
 AGENT. YOU WILL BE
 ALLOWED TO STOP FOR
 BREAKS AND TO RETURN
 TO THE INTERVIEW AT A
 LATER DATE.

[Signature]

2170011
 DATE
 TIME

DATE _____ TIME _____

$H = I - W$	$W = \frac{1}{N} \sum_{i=1}^N w_i$
-------------	------------------------------------

BOUNDARY SURVEY
OF:
LAND OF HARRINGTON
130 KIRKMAN AVENUE
PORTLAND, MAINE
FOR:
ELIZABETH HARRINGTON
130 KIRKMAN AVENUE
PORTLAND, MAINE

SEBAGO
TECHNICS
WWW.SEBAGOELECTRONICS.COM

To: John, Patricia, Ed,
Sally, &
Jim, Barbara, MS, DCS
200 Cuddard St.
June 8
Lewiston, ME, 04240

[illegible]

GENERAL RULES

SEAN P. DIERCKE, BUS 2017

[illegible]

TAX MAP
THIS IS NOT A BOUNDARY SURVEY

This copyrighted document expires 05-12-16. Reproduction and/or dissemination after this date is unauthorized.

MORTGAGE INSPECTION OF: DEED BOOK 27266 PAGE 100 COUNTY Cumberland
PLAN BOOK --- PAGE --- LOT ---

ADDRESS: 130 Vannah Avenue, Portland, Maine

Job Number: 876-45

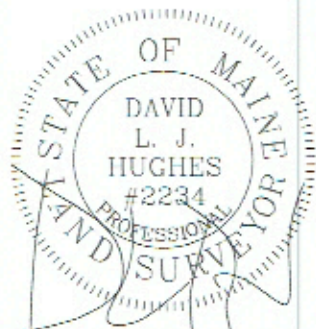
Inspection Date: 02-12-16

Scale: 1" = 25'

Client File #: 16RES11914

Buyers: Kenneth Harrington-Howes &
Elizabeth Harrington-Howes

Seller: Steven S. Shaw



NOTE: Lines of occupation are shown. A boundary survey may yield different results.

I HEREBY CERTIFY TO: H&D Title & Closing Services, LLC, Residential

Mortgage Services, Inc. and its title insurer.

Monuments found did not conflict with the deed description.

The dwelling setbacks do not violate town zoning requirements.

As delineated on the Federal Emergency Management Agency Community Panel 230051-0013B:

The structure does not fall within the special flood hazard zone.

The land does not fall within the special flood hazard zone.

A wetlands study has not been performed.

APPARENT EASEMENTS AND RIGHTS OF WAY ARE SHOWN. OTHER ENCUMBRANCES, RECORDED OR NOT, MAY EXIST. THIS SKETCH WILL NOT REVEAL ABUTTING DEED CONFLICTS, IF ANY.

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Livingston-Hughes

Professional Land Surveyors

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Kennebunkport, Maine 04046

207-967-9761 phone

207-967-4831 fax

www.livingstonhughes.com

THIS SKETCH IS FOR MORTGAGE PURPOSES ONLY

ASSESSOR'S MAP







MAINE REAL ESTATE TAX PAID

QUITCLAIM DEED WITH COVENANT

KNOW ALL PERSONS BY THESE PRESENTS that STEVEN S. SHAW of Portland, Maine grants to KENNETH HARRINGTON-HOWES and ELIZABETH HARRINGTON-HOWES whose mailing address is 138 5 Mile River Road, Darien, CT 06820-6236, as joint tenants, with Quitclaim Covenant, the land with any buildings thereon, situated in Portland, Cumberland County, Maine, bounded and described as follows:

SEE EXHIBIT A ATTACHED HERETO
AND INCORPORATED BY REFERENCE HEREIN

Meaning and intending to convey, and hereby conveying, the premises described in a Trustee's Deed dated September 18, 2009 from James A. Houle, Trustee of the Fernande H. Pio Revocable Trust dated July 31, 1992 to the Grantor herein and recorded in the Cumberland County Registry of Deeds in Book 27266, Page 100.

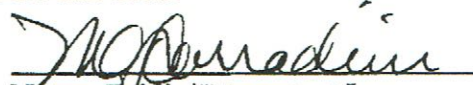
IN WITNESS WHEREOF, the said Steven S. Shaw has hereunto set his hand and seal this 24 day of March, 2016.


Steven S. Shaw

STATE OF MAINE
CUMBERLAND ss.

March 24, 2016

Then personally appeared before me the above-named Steven S. Shaw and made oath that the foregoing instrument is his free act and deed.


Notary Public/Attorney at Law

Typed or printed name

Marcia G. Corradini
Notary Public, Maine
My Commission Expires September 15, 2019

EXHIBIT A

A certain lot or parcel of land with the buildings thereon, located on Vannah Avenue, Portland, Cumberland County, Maine and more particularly described as follows:

Beginning at a point on the southeasterly side of Clifton Street, which point is the most southwesterly corner of a certain lot of land conveyed by Guiseppe Pio to Nicolina T. Martinez et als. by deed recorded in the Cumberland County Registry of Deeds in Book 2117, Page 317; thence southeasterly along the line of said Martinez land one hundred four (104) feet to a point, which is the most southeasterly corner of said Martinez land; thence on a southwesterly course and parallel to said Clifton Street to the northeasterly sideline of Vannah Avenue; thence northwesterly by Vannah Avenue to the intersection of said northeasterly side of Vannah Avenue with the southeasterly side of Clifton Street; thence northeasterly by said Clifton Street to the point of beginning.

Received
Recorded Register of Deeds
Mar 30, 2016 01:45:31P
Cumberland County
Nancy A. Lane

LEASE TO BE
DRAWN UPON
COMPLETION OF
APARTMENT



Michael A. Russell, MS, Director
Permitting and Inspections Department

Ann Machado
Zoning Administrator

CITY OF PORTLAND
ZONING BOARD OF APPEALS
Variance Appeal Application

Applicant Information:

Samuel Harmon
NAME

Harmonious Holdings LLC
BUSINESS NAME

15 Locust St. #3
ADDRESS

Westbrook, ME 04092

(207) 632-7527
TELEPHONE #

Owner
APPLICANT'S RIGHT, TITLE OR INTEREST
(eg; owner, purchaser, etc)

B-4
CURRENT ZONING DESIGNATION

Subject Property Information

31 Warren Avenue, Portland, ME
PROPERTY ADDRESS

292 0010001
CHART/BLOCK/LOT (CBL)

PROPERTY OWNER (if different)

SAME
NAME

SAME
ADDRESS

VARIANCE FROM
SECTION 14 - 473(c)1

EXISTING USE OF PROPERTY:

Used as a Three-Unit, however, only permitted as a
Two-Unit

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

The undersigned hereby makes application for a conditional use permit as described above, and certifies that the information herein is true and correct to the best of his OR her knowledge and belief.

[Signature]
SIGNATURE OF APPLICANT

12/15/16
DATE



Michael A. Russell, MS, Director
Permitting and Inspections Department

Ann Machado
Zoning Administrator

ZONING BOARD OF APPEALS

Variance Appeal Application

Except as specifically provided by the Ordinance, a variance may be granted by the Board of Appeals ONLY where strict application of the Ordinance, or a provision thereof, to the petitioner and his property would cause undue hardship. In order for the Board to find "undue hardship" the applicant must answer ALL of the following questions and provide supporting evidence. The Board will consider this evidence in deciding whether to grant the appeal.

1. The land in question cannot yield a reasonable return unless a variance is granted. [NOTE: "failure to yield a 'reasonable return' means 'the practical loss of all beneficial use of the land...Reasonable return DOES NOT mean maximum return" Rowe v. City of South Portland, 730 A.2d 673, 675 (ME 1999) (citations omitted.)]

Satisfied: _____

NOT Satisfied: _____

Reason & supporting facts: As seen in the attached "Expense Sheet" for the subject property 31 Warren Avenue, my invested dollar amount is approximately \$261,500. As a two-unit, not only would I have to spend another \$15,000-\$20,000 (which I don't have) to change the layout and reconfigure the building but I would also definitely be foreclosed on and forced to return the property to the bank due to it being a 6-month short-term "Hard Money" loan where I have to fix and re-sell in that term. This would likely cause both tenants currently residing there, who work and go to school in Portland, to vacate and render building vacant. Furthermore, the current layout of building and

2. The need for a variance is due to the unique circumstances of the property and NOT to the general conditions of the neighborhood.

Satisfied: _____

NOT Satisfied: _____

Reason & supporting facts:

This is a very unique case because the property has always been used as a three unit, confirmed by neighbors, prior owners, AND code file/inspections. The way the building is set up and designed is clearly for a three-family, with the back stair case that would literally divide the second floor in half if it were converted to a two-unit. The neighborhood is mostly commercial with some residences and rental property and would not be affected at all by the variance. Plenty of parking as well.

Convert into two-unit would cause building not to be sold and remain vacant for a long time.



Michael A. Russell, MS, Director
Permitting and Inspections Department

Ann Machado
Zoning Administrator

ZONING BOARD OF APPEALS

Variance Appeal Application

3. The granting of a variance will NOT alter the essential character of the locality.

Satisfied: _____ NOT Satisfied: _____

Reason & supporting facts:

The property has almost always been used as a three unit, so the essential character of the locality would be un-altered. Businesses on Warren Avenue would likely benefit from having working class residents residing just down the street from their store-fronts. The direct area in question is a mix between residential and commercial uses already.

4. The hardship is NOT the result of action taken by the applicant or a prior owner.

Satisfied: _____ NOT Satisfied: _____

Reason & supporting facts:

The use of this property has been a 3-unit for a very long time. Code Enforcement and other departments of the Inspections Division have been at the property a number of times with no violations noted against the number of units. It seems that the City Department should communicate amongst each other and be on the same page as to not create confusion or neglect to make proper assessments. As the purchaser, I did my due diligence to make sure it was a 3-unit above and

389 Congress Street * Portland Maine 04101-3509 * Phone: (207) 874-8703 * Fax: (207) 874-8716 (rev 06-14-12)

<http://www.portlandmaine.gov/planning/buildinsp.asp> * E-Mail: buildinginspections@portlandmaine.gov

beyond what the average citizen, or even Real Estate Agent, would do.

Zoning Board of Appeals—Portland, ME
Subject Property: 31 Warren Avenue

On August 24, 2016 I, Sam Harmon, purchased a property located at 31 Warren Avenue, Portland. The condition of the property was poor, due to lack of maintenance, and would not be financeable for most traditional loans because of the condition. Using Hard Money and an Equity Partner, I bought this building with intentions to Fix it Up It and either Re-Sell it OR Re-Finance it into a traditional loan and keep it myself to rent. Although I would love to keep it as a rental property for a long time, my new-entrepreneur financial situation and current Credit Score are forcing me to opt for Plan A—to resale.

When I bought this building it was my understanding that this was a legal three-family dwelling, as all three units were existing and had been used for decades according to prior owners and neighbors, the tax records showed it as a legal three family, and Code Enforcement told me in an email one month prior to the closing that their records showed it also as a legal three family dwelling. Although I would not have bought this building if it were in fact not a three family dwelling as I believed it was, I later found out just that. A month or so after I purchased this property I applied for a couple of permits, in good faith. One was an Electrical Permit to update the wiring, and bring all three units up to code with smoke/carbon monoxide detectors. The Electrical Permit was granted and the work was done. The second was a Building Permit to do a rather small Bathroom Expansion in that third unit, as all other repairs to the property were mostly cosmetic. However, at that point I was informed by Zoning that the property was in fact NOT permitted as a three unit and is currently a legally non-conforming two-unit. This was as much of a shock to me as it was to the neighbors and anyone else I talked to that was familiar with the history of the property. The fact of the matter is that this property has been used as a 3-unit for a long time. The layout of the building and floor plan (as you will see in this packet) is clearly designed for a three-unit. Furthermore, turning it into a two unit not only is not financially feasible for me but it would also be a very strange and dysfunctional flow to the space if the whole second floor was converted into one unit--no matter how you designed it the back staircase would be in the middle of the dwelling unit.

What I would like to do with this property is make it into that legal three family dwelling and get all necessary permits and certificates of occupancy to do so. To do so I am not altering anything to do with the floor plan, design, and layout of the building whatsoever, with the small exception of a 3-foot expansion of the Bathroom in the Third Unit to make it more functional. There are also no exterior alterations necessary for this to happen. The repairs that I have made to this building thus far have brought the property back to life. The neighbors are not only happy because they don't have to look at an eyesore anymore but they're also happy because their property(s) value will likely go up as well. This is a reasonable proposal that would not infringe on any neighboring property owners nor negatively impact The City. It's no secret that Portland is having a growth spurt, especially in demand for housing. Granting this variance would be a small yet positive step in the right direction for the City of Portland. Considering what some are calling the "housing crisis in Portland", and some of the main goals of Portland's Comprehensive Plan, I hope that this Board can understand my case and grant an Undue Hardship Variance so that I can continue on this project as planned and make another affordable/market rent apartment available to the People of Portland.....AND IT'S ON THE BUS LINE!!!

Thank You for Your Consideration.

Sincerely,

Sam Harmon

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Search Web



sam



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Collapse All

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31 Warren Ave-Sam Harmon (4)

Inbox (9999+)

Drafts (37)

Sent

Archive

Spam (78)

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Smart Views

Folders (5)

Recent

Sam Harmon <sam@mainerealtyllc.com>

Jul 19 at 12:20 PM

To: drm@portlandmaine.gov

Douglas,

My name is Sam Harmon and although I am a real estate agent I am contacting you today in regards to my own personal business/purchase of the above mentioned 3-unit property that I do currently have Under Contract.

I'm trying to figure out the legal use of this property, so I know what I'm getting into with this project, and I'm having a little trouble clarifying everything. It seems like the property is being "taxed" as a 3 unit (which I know doesn't really mean anything) and it is set up as a three unit so ideally that's what I want to buy it as. However, the code file doesn't reveal any building permits other than some electrical permits. So I was wondering if you were at all familiar with this property, knew any red flags off the top of your head that I should be concerned about in terms of Code, or might be able to take look into this property for me and help me determine if it is or can be a 3-unit AND/OR if you would recommend that I go ahead and apply for a "Zoning Determination" to move forward...even though I know that part isn't your business, I did also email Ann Machado. Just want to make sure I'm doing everything by the books and by the code..especially where I'm only 26 and have a lot to learn yet want to be doing projects like this and investing in Portland (my home city) for decades to come!

Please let me know your thoughts and thank you for your time and consideration.

Much Appreciated .

Cheers

Sam Harmon
Realtor & Owner
Maine Realty LLC
Sam@mainerealtyllc.com
(207) 632-7527 (text friendly)
www.mainerealtyllc.com

Sam Harmon
Realtor & Owner
Maine Realty LLC
Sam@mainerealtyllc.com
(207) 632-7527 (text friendly)
www.mainerealtyllc.com

Reply Reply to All Forward More

Douglas Morin <drm@portlandmaine.gov>

Jul 19 at 2:58 PM

To: sam Harmon

Good afternoon,

It appears in our records that this is a legal thee family dwelling. I would recommend following up with Anna Machado to verify the information is correct.

I hope this helps you,
Doug

Show original message

--
Douglas Morin CEO
City of Portland
Planning and Urban Development Dept
Inspection Services Division
389 Congress Street Rm 315
Portland, Maine 04101

Q All sam, search your mailbox

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Search Web

Home

sam



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Spam (78)

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Folders (5)

Recent

31 Warren avenue (2)

Sam Harmon <sam@mainerealtyllc.com>
To amachado@portlandmaine.gov

Jul 26 at 2:46 PM

Hi Anne

Sam Harmon here. Did you get my last email and/or voicemail about 31 Warren Ave and whether or not you currently had that zoned for a 3-unit residential property?? I'm sure you're busy as heck so I apologize if I do seem pesky...just starting out what is to be hopefully a long long career of investing in real estate in Portland Maine so I want to make sure I'm doing things the right way from the get-go. Small background: I'm 26, real estate agent and co-owner of Maine Realty LLC located at 415 congress street (we're neighbors!) and also do some side investing. I'm sure we'll be in touch quite a bit over the years to come! Thanks a bunch for your input in advance!!

Have a great day.

Cheers

Sam Harmon
Realtor & Owner
Maine Realty LLC
Sam@mainerealtyllc.com
(207) 632-7527 (text friendly)
www.mainerealtyllc.com

Reply Reply to All Forward More

Ann Machado <amachado@portlandmaine.gov>
To Sam Harmon

Aug 12 at 9:00 AM

Sam -

I apologize for not getting back to you sooner. When I get a request for the legal use of the property I can check our more recent files to see if we have a building permit that shows the legal number of units on the property. I just checked those files and there have been no recent permits. Our older records are on microfiche. You need to come into our office at room 315 at City Hall and look at the microfiche yourself.

Good luck with your real estate endeavors.

Ann

Ann Machado
Zoning Administrator
Permitting and Inspections Department
City of Portland, Maine
(207) 874-8709

Show original message

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

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Recent

31 Warren Ave-Sam Harmon (2)

People

Ann My name is Sam Harmon and although I am a real estate agent I am contacting you

Jul 19 at 12:15 PM

Ann Machado <amachado@portlandmaine.gov>

Aug 12 at 9:04 AM

To sam Harmon

Sam -

I just read your earlier email. If you have already checked the microfiche and did not find any building permits you can try another place. The assessor's office has cards from the early 1950s. If the card lists the use as three apartments and there are no later permits on the microfiche that state the use, the legal use would be what the early 1950s card says since that would have been the use when our ordinance went into effect. You can also check the street directory at the Portland Public Library for 1957 to see if three apartments were listed for the property.

Ann

Ann Machado
Zoning Administrator
Permitting and Inspections Department
City of Portland, Maine
(207) 874-8709

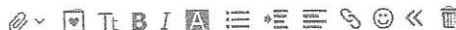
Show original message

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Reply Reply to All Forward More

Click to reply all

Send



To: Zoning Board of Appeals—Portland, ME

Subject Property: 31 Warren Avenue Legal use as a 3-unit appeal.

Hello to you all- I hope this special time of year finds you all blessed with great things.

My name is Paul Diou. I am a resident of Portland, a Realtor, and co-owner of a local Real Estate Brokerage Company named Maine Realty LLC—with my business partner Sam Harmon located on Congress St in Portland.

As soon as zoning and use of the subject property came to Sam's knowledge he immediately brought this information to me to me and explained the situation in hopes that I may be able to shed some light on it for him. He told me everything that had transpired, and then asked me for a small favor; to go back and do a search on the property just like I would have for any other client that I work with. He asked that I act accordingly with regards to Due Diligence in uncovering the correct legal use of the property as I would for any client whom I had a written relationship with and acting as their Realtor.

As I went through the records on the microfiche and computer system at town hall I soon came across a document from The City of Portland Inspection Services Division dated 1990. This document clearly stated that the # of Existing Units was 3. The Assessors desk also confirmed that the current assessment for the year 2016 was classified for tax purposes as a 3 unit- as it has for decades. I would note here that to the best of my knowledge Sam Harmon did the same due diligence and relied on an email confirmation that the unit was a legal three unit in the eyes of the city (please see attached copy of email in packet). At that point I stopped what I was doing and explained to Sam that this is where I would have likely extended my research being very careful in my search. I would then have made copies of all of the files in the computer and microfiche results. I would have read through the records and highlighted any potential issues that I might think could be a concern and I would recommend to my client to look through them with the assistance of a lawyer if they needed more info.

There was nothing substantial standing out that would lead me or any other person / Realtor to believe that this property's legal use was anything but a three family dwelling.

I believe that Sam going as far as to reach out to the code office for an update via email to confirm the legal use and was emailed back an email giving Sam confirmation from the city code office that they had it as a legal 3 unit was well above the due diligence that many citizens would accomplish on their own and that the city had a duty to inform Sam upon his request prior to his purchase. This information was crucial in Sam's decision to purchase the property- that is why acting in good faith and with great due diligence he felt comfortable that what he was told when he contacted their office prior to the purchase and consummated the purchase with the understanding that it was a legal three unit- which is how it has been run and maintained for decades with a long history of being identified and taxed as a legal and conforming three unit. Even today if you search www.portlandassessors.com or their office directly in city hall you will see that they as of today 12/28/2016 have the

address listed as being a legal 3 unit-. I think that from my professional standard that a proper and due diligent above what the average buyer would have investigated led Sam to believe the property he was purchasing was truly a 3 unit. I can tell you truly, I have been to the site- and the highest and best use for the property is as a legal 3 unit. Sam is willing to bring all systems up to code and is committed to adding back to the community and offering a new growth for the surrounding area.

Sam has only been a licensed Real Estate Agent for just under 3 years, yet he has done very well at educating and applying himself. Even with my 14+ years in the field I can honestly say that I think the average--or even above average--Realtor would have failed to discover this problem with the proper use of the property. Let alone any individual who was not a licensee purchasing this house in a Private Sale as this was.

Furthermore, I believe that granting this Variance is essential to maintaining this buildings highest and best use that it has already been using for decades and just happens to be in-line with the best interest of the city that I call home and all of its inhabitants with regards to some of the main goals of The City of Portland's Comprehensive Plan.

Sincerely,

 **ATTEST 12/28/2016**

Paul Diou
Designated Broker ~ Owner
Maine Realty LLC
Portland, Maine
www.sellwithpaul.com
Paul@mainerealtyllc.com
207-671-6604 (Text Friendly)

"Just Call Paul!"

REALTOR®
A Rough Ashlar

CITY OF PORTLAND
INSPECTION SERVICES DIVISION - WORKING PAPER

Complaint 5 year File Inspector's Name

Property Address: 21 Salmon St. C-B-D 25A-001

Name of Agent: Mr. David Webb

Address: 21 Salmon St.
Portland, Maine 04101

VIOLATION	Date	Ins.	Pl.	App.	LOCATION
1		X			Leaky Stairs
2		X			Leaky Stairs
3		X			Leaky Stairs
4		X			Leaky Stairs
5		X			Leaky Stairs
6		X			Leaky Stairs
7		X			Leaky Stairs
8		X			Leaky Stairs

Exist. Units: 3

N.O.N.C. 1

By Rock
Inspector
Unit

Exist. Units: 3 Stories: 3

N.O.N.C. X C.O.D. 1

3A 292 D005

70.3'

292 D011

134

44.3'

292 D010

11865

31

Driveway

12x102'

35'

Parking

32'

90

18'

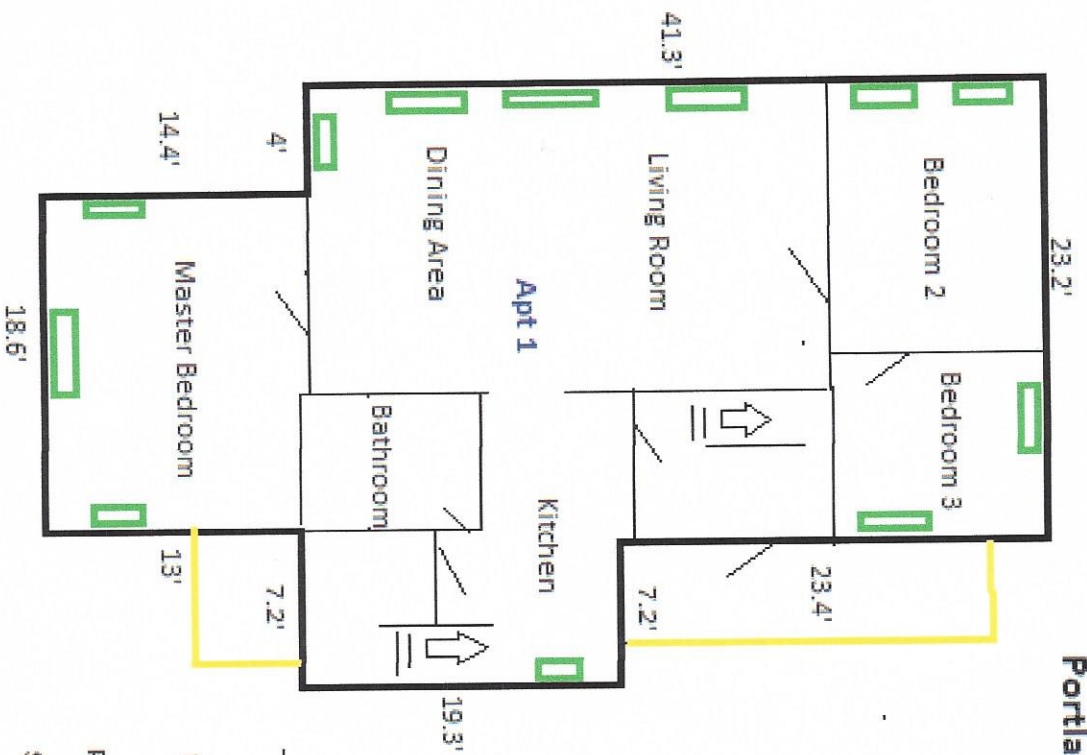
292 D009

14251

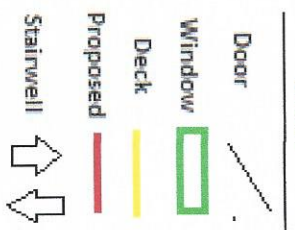
56

First Floor

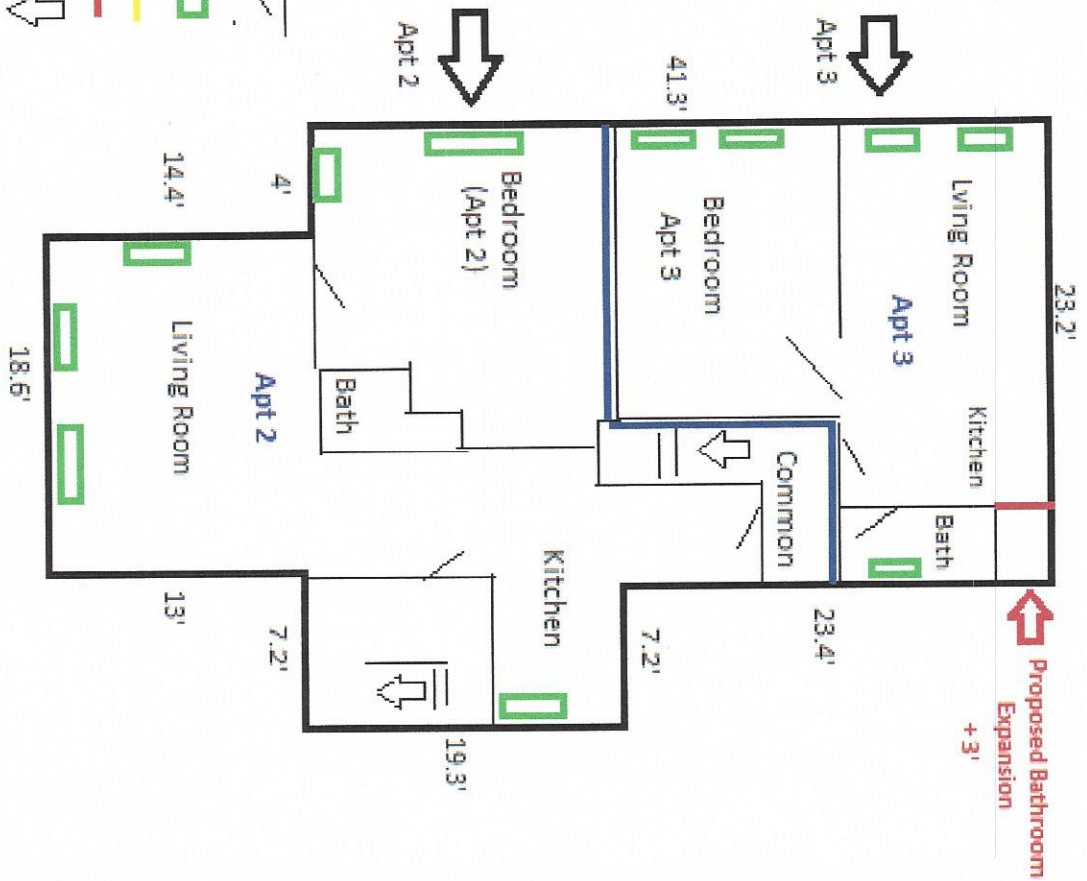
31 Warren Avenue
Portland, Maine



KEY



Second Floor





This page contains a detailed description of the Parcel ID you selected.

[New Search!](#)**Current Owner Information:****Services**[Applications](#)[Doing Business](#)[Maps](#)[Tax Relief](#)[Tax Roll](#)[Q & A](#)[browse city
services a-z](#)[browse facts and
links a-z](#)Best viewed at
800x600, with
Internet Explorer

CBL	292 D010001
Land Use Type	THREE FAMILY
Verify legal use with Inspections Division	
Property Location	31 WARREN AVE
Owner Information	HARMONIOUS HOLDINGS LLC 7 OCEAN ST SOUTH PORTLAND ME 04106
Book and Page	33385/010
Legal Description	292-D-10 WARREN AVE 29-35

11865 SF

Current Rental Registration

Acres	0.2724
--------------	--------

Current Assessed Valuation:

TAX ACCT NO.	32550	OWNER OF RECORD AS OF APRIL 2016
LAND VALUE	\$67,100.00	BUTT MICHAEL J &
BUILDING VALUE	\$173,300.00	BONNIE L BUTT JTS
NET TAXABLE - REAL ESTATE	\$240,400.00	31 WARREN AVE PORTLAND ME 04103
TAX AMOUNT	\$5,074.84	

Any information concerning tax payments should be directed to the
Treasury office at 874-8490 or [e-mailed](#).**Building Information:****Building 1**

Year Built	1930
Style/Structure Type	OLD STYLE
# Stories	2
# Units	3
Bedrooms	4
Full Baths	3
Total Rooms	9
Attic	UNFIN
Basement	FULL
Square Feet	2368

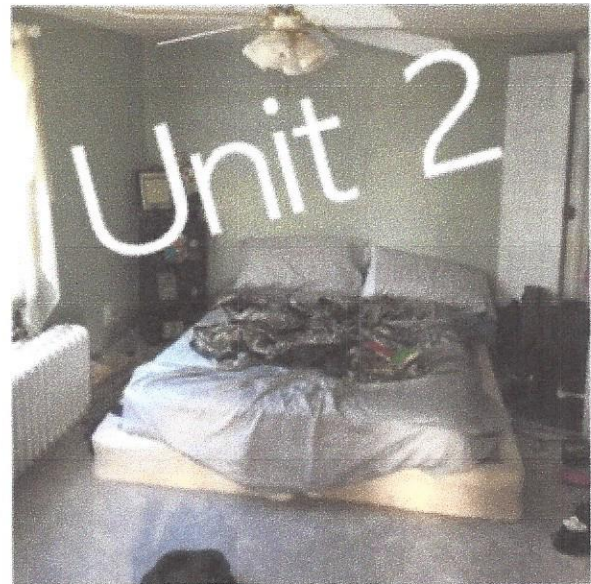
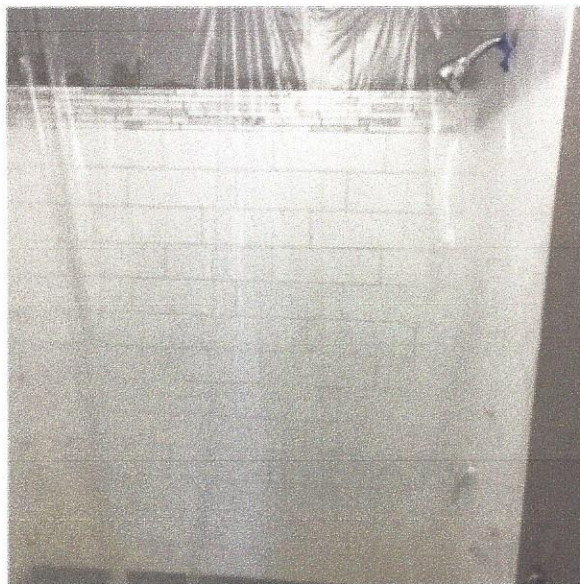
[View Sketch](#)
[View Map](#)
[View Map](#)
[View Picture](#)**Sales Information:**

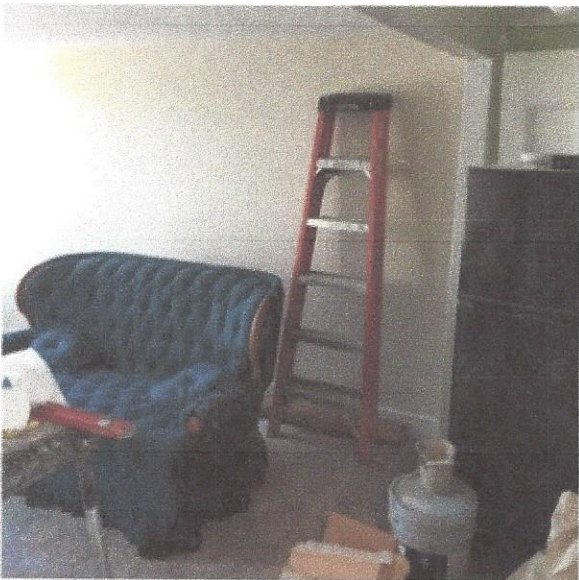
Sale Date	Type	Price	Book/Page
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8/24/2016	LAND + BUILDING	\$165,000.00	33385/010
11/20/2006	LAND + BUILDING	\$150,000.00	24585/225
4/23/1996	LAND + BUILDING	\$40,000.00	12464/163

New Search!







MAINE REAL ESTATE TAX-Paid

DLN100164009479

WARRANTY DEED

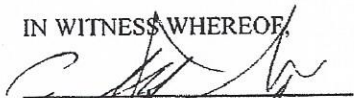
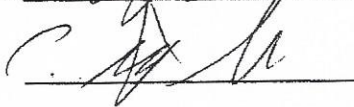
(Maine Statutory Short Form)

KNOW ALL PERSONS BY THESE PRESENTS, that We, Bonnie L. Butt and Michael J. Butt, of Portland, County of Cumberland and State of Maine, for consideration paid, **grants** to Harmonious Holdings LLC, a Maine limited liability company with its principal place of business in South Portland, Maine, whose mailing address is 7 Ocean Street, South Portland Maine 04106, with **Warranty Covenants**, the land with buildings thereon, in Portland, County of Cumberland and State of Maine, described as follows:

See Exhibit A attached hereto and made a part hereof.

Meaning and intending to convey the same premises conveyed to the Grantor by deed from David W. Webb and Joann E. Webb dated November 17, 2006 and recorded in the Cumberland County Registry of Deeds in Book 24585 Page 225

IN WITNESS WHEREOF,


 Bonnie L. Butt

 Michael J. Butt

State of Maine
 County of Cumberland

August 23, 2016

Then personally appeared before me the above Bonnie L. Butt and Michael J. Butt and acknowledged the foregoing instrument to be their free act and deed.

Before me, 
 Notary Public/ Attorney at Law

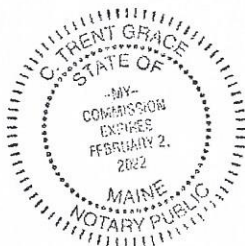


EXHIBIT "A"

File No.: S16-392C

31 Warren Avenue
Portland, Maine

A certain lot or parcel of land with the buildings thereon, situated on the northerly side of Warren Avenue in Portland, County of Cumberland and State of Maine, bounded and described as follows:

Beginning at an iron pin in the ground on the northerly side of said Warren Avenue, said pin being distant one hundred six (106) feet southwesterly from a stone monument standing in the northerly sideline of said Warren Avenue at the first angle in said Avenue from where said Avenue intersects Forest Avenue; thence southwesterly along the northerly side of said Warren Avenue seventy-five (75) feet; thence northerly at right angles to said Warren Avenue one hundred (100) feet; thence easterly parallel to Warren Avenue seventy-five (75) feet; thence southerly at right angles to said Warren Avenue one hundred (100) feet to the point of beginning.

Also, a certain other lot or parcel of land adjoining the premises hereinbefore described on the northerly side thereof, bounded and described as follows: Beginning at the northerly corner of said lot above described; thence southwesterly by said lot seventy-five (75) feet to the westerly corner thereof; and from these two points extending back northwesterly on lines in extension of the side lines of said lot first above mentioned, said extension side lines being about fifty-two (52) feet on the northeasterly side and about thirty-four (34) feet on the southwesterly side and extending to land now or formerly of Hiram Sawyer.

Also, a certain lot or parcel of land situated on the northerly side of said Warren Avenue at the southeasterly corner of the above described premises; thence northwesterly at right angles to said Warren Avenue by said above described land, one hundred fifty-two (152) feet, more or less, to land now or formerly of Hiram Sawyer; thence southeasterly by land now or formerly of Jack C. and Patricia A. Cohoon, one hundred fifty-two and seventy-four hundredths (152.74) feet, more or less, to a point in the northerly sideline of said Warren Avenue; thence westerly by said sideline of Warren Avenue, fifteen (15) feet to the point of beginning. Being a triangular lot with a frontage of fifteen (15) feet on said Warren Avenue.

31 Warren Avenue Expense Sheet

Purchase Price: \$165,000

Closing Costs: \$10,500

Cost of Repairs: \$47,000

Cost of Money: \$24,000

Holding Costs: \$5,000

Closing Costs (backend): \$10,000

\$261,500

Sale as Two-Unit: \$225,000 (Loss of \$36,500)

Sale as Three Unit: \$300,000 (Profit of \$38,500)

Difference of \$75,000

A Livable City

Portland embraces growth that supports strong neighborhoods, a vibrant economy, and a diverse and equitable housing stock for its citizenry.

WHILE PORTLAND HAS WELCOMED much needed new housing construction in recent years, both the lack of sufficient housing supply and the affordability of that housing for a healthy socio-economic cross-section of the population remain critical challenges. This phenomenon is not unique to Portland - cities across the nation have recently experienced renewed investment and shifting demographics as the preference for living in close proximity to urban centers, transportation hubs, and walkable neighborhoods continues to grow. Increasingly, stories of displacement and household instability have become more common as residents struggle to find decent, safe, and affordable housing.

The City of Portland is actively engaged in efforts to encourage housing preservation and creation for all income levels and household sizes, both through policy initiatives and through public/non-profit partnerships with agencies such as Portland Housing Authority, Community Housing of Maine, Avesta Housing, Preble Street, Shalom House, and the Maine Affordable Housing Coalition.

The city has a suite of existing tools and policies that remain important in supporting a more

equitable and diverse housing supply. To supplement ongoing efforts in this area, the City Council has established a Housing Committee to recommend new housing policies, promote balanced development, and make recommendations regarding available development tools, such as tax increment finance zones, the Affordable Housing Revolving Loan Fund, Community Development Block Grants, HOME Program, and zoning and policy changes. The committee engaged in a robust public process throughout the spring and summer of 2016 to not only identify housing issues, but develop creative solutions. The Committee identified two main, interrelated themes: 1) housing insecurity; and 2) lack of sufficient and suitable housing supply.

Today, Portland's population is far below its mid-20th century peak, but after decades of decline in the second half of the 20th century, Portland is growing. The city will continue to examine and approve substantive policy changes to accommodate those seeking the benefits of city life, and recognize that the city's vitality rests on the availability of diverse, secure housing options for existing residents, new arrivals, and all stages of life.



**SNAPSHOT:
HOUSING**

STATE GOAL

To encourage and promote affordable decent, housing opportunities for all Maine citizens

LOCAL GOALS

WE WILL:

Increase, preserve, and modify the overall supply of housing city-wide to meet the needs, preferences and financial capabilities of all Portland households.

Encourage additional contextually-appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods.

Pursue policies to enable people who work in Portland to have the option to live in Portland.

Collaborate with surrounding communities on regional housing solutions.

Encourage quality, sustainable design in new housing development.

FUTURE STRATEGIES

SNAPSHOT:
HOUSING

1. BUILD ON EXISTING PROGRAMS

- Reinforce existing housing tools, policies, and programs while continuing to explore emerging best practices.

2. ADOPT MEASURABLE OBJECTIVES

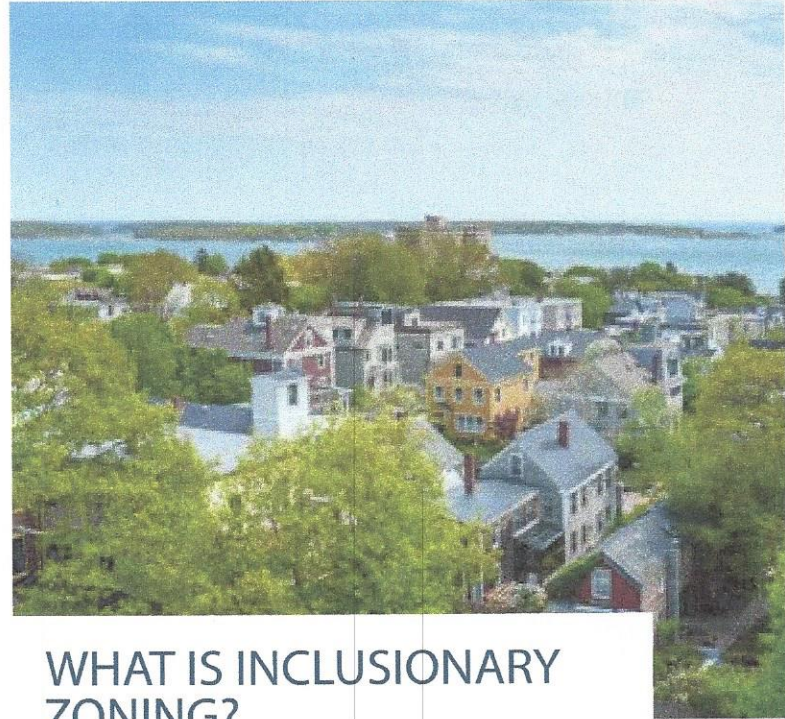
- Track performance on key housing objectives.
- Generate reports to keep staff and city leadership apprised of performance.
- Consider national best practices in developing metrics.

3. REMOVE BARRIERS

- Evaluate whether current zoning allows for new development consistent with historic patterns of form and use.
- Assess the impact of current parking requirements on housing development.
- Emphasize areas determined to be suitable for future growth, consistent with recommendations of the future land use plan.
- Coordinate linkages between accessible transportation and housing affordability.

4. PROMOTE SUSTAINABILITY

- Encourage energy efficiency in new construction and rehabilitation of our housing stock.



WHAT IS INCLUSIONARY ZONING?

Inclusionary Zoning (IZ) requires that residential development projects of a certain size provide a portion of their units as affordable to income qualified households. Portland's IZ ordinance requires that all new projects of ten or more units reserve 10% of the units as "workforce" housing for households earning at or below 100% -120% of the Area Median Income (AMI). Developers are given the flexibility to provide units on-site, in another building nearby, or pay a substantial fee in lieu of each required unit. Any funds received through the fee in lieu option are deposited in the City's Housing Trust Fund to be used to maintain or create additional affordable units throughout the city.

HOUSING INITIATIVES

I. INTRODUCTION

The implementation of the Housing: Sustaining Portland Future requires support and commitment from many individuals and organizations. The City Council, City Council Housing Committee and Planning Board are key to implementing the Plan through code revisions and development review. The Department of Planning and Development is the primary department designated to implement Housing: Sustaining Portland Future with the Housing and Neighborhood Services Division being the lead on production incentives and the Planning Division on zoning initiatives. Other potential collaborators include the Land Bank Commission, State delegations, Portland Housing Authority, State Planning Office, neighborhood organizations, developers, Portland Landmarks, local businesses, major institutions, Maine Association of REALTORS, and developers. Other funding partners include Housing and Urban Development (HUD), Maine State Housing Authority (MSHA), Department of Economic Development (DECD), HOME and Homeport.

The following actions are currently being undertaken by the City of Portland in response to the housing issues identified in the plan Housing: Sustaining Portland Future. The majority of the initiatives will be started or completed within the next 12 months. The longer term and on-going efforts are shown in the spreadsheet (Table 1).

II. PRODUCTION

Portland Seeks to Grow: Portland's population has remained stable over the past two decades while the rest of Cumberland County grew. Thus, Portland has experienced a decline in its share of the County's population and employment. Growth is a part of sustaining Portland as a healthy city and maintaining its role as the economic, cultural, and residential center for the region.¹ Appropriate growth is needed to provide housing near employment centers, support public transportation, attract families with children, expand the tax base, and stabilize neighborhoods.

Housing: Sustaining Portland's Future recommends that Portland seek to grow along with Cumberland County and maintain a 25% share of the County's population. The Plan seeks to retain families who might otherwise leave the city in the next decade. By retaining those households predicted to leave the city, Portland's estimated population could grow to roughly 24.5% of the County's population. The 25% target for growth is viewed as a reasonable goal to reverse the city's declining trends. An estimated moderate population growth rate over the next ten years shows Portland growing to 72,000 residents, representing 25% of Cumberland County. Roughly 4,267 new units of housing would be needed for this projection. As shown in the build out analysis in the Existing Land Use Chapter, there is sufficient land available to meet the desired goal under existing standards. Efforts to encourage production of housing and recommended revisions to the residential zoning will increase Portland's capacity for new development.

1. **Infill Housing:** Infill housing projects are designed to take advantage of smaller vacant lots that exist in developed neighborhoods. They make efficient use of land while adding needed housing. City, State, and Federal funding have been approved for 40 new units of affordable family rental housing on six different sites on the Portland peninsula to be developed by PROP with City assistance. All 40 units will be completed by 2004.

¹ Housing: Sustaining Portland's Future, Draft, April 2002, page 50.

2. **Rense of Existing Non-Residential Buildings for Housing:** Portland has a long tradition of adapting and converting vacant schools and other city owned buildings to housing. Funding has been approved for 12 units of affordable family rental housing within the former St. Dominic's Girls School on Gray Street, currently under conveyance from the City, to be developed by PROP and Portland West. Construction will begin in the December 2002.
3. **New Senior Citizen Housing:** A variety of housing opportunities are needed to assist Portland's senior citizens, including subsidized apartments. HUD funding has been approved for 12 units of affordable senior citizen housing Peaks Island Housing. The developer will be Volunteers of America Northern New England Inc. The City is donating the land. Construction will begin in the Spring 2003.
4. **Creation of Affordable Units:** There are several mixed income multifamily rental housing projects being planned that will provide needed affordable apartments to families in Portland. The City has expressed its support for each of these projects, and committed HUD funding to most in order to ensure their feasibility. The projects include:
 - PROP Scattered Sites Phase I and II** – 37 units on 6 sites on the Portland peninsula
 - St. Dominic's Family Housing Inc.** – 12 units on Gray Street
 - Wellesley Village** – 45 units at 1818 Forest Ave.
 - True Street** – 86 units to be built between Presumpscot Street and Ocean Ave.
 - Yale Court** – 30 units of affordable rental units and 10 market-rate single-family homes to be constructed off of Harvard Street.
5. **Permanent Housing for the Homeless:** Permanent housing opportunities are needed to move individuals out of emergency shelters. The City is using HUD funds and other assistance to support the development of a single room occupancy (SRO) facility with up to 30 beds. The non-profit developer is currently seeking a site.
6. **Housing Bayside:** New housing in Bayside is a critical component to the implementation of the Bayside Plan. The stated goal is for 300 new units in five years and another 500 new units over the long-term. New units in Bayside are to include rental and owner-occupied for all income levels. Unity Village in Bayside was a demonstration project, which was completed in 2001 with 32 units. The City donated the land and provided financial assistance in partnership with other financial mechanisms. The following projects and initiatives are currently underway:
 - Conducting a feasibility study for developing housing on the 4-acre Department of Public Works Site. Actual development is 4 to 5 years away.
 - Funding approved for new 3-unit PROP building at 49 Hanover Street.
 - Evaluating other in-fill development sites for new development.
7. **Pro-Active Role for City in Facilitating Housing - Partnerships & Capacity Building:** To ensure housing is developed and the City's Housing objectives are met, Portland will take a more active role in the development process. Depending on the site and the need, municipal options include property acquisition, and to undertake predevelopment tasks, such as property survey, environmental studies, concept plans, public notification, guiding projects through local approvals, and re-selling land for development.
8. **Encourage and Support Private Market Rate Development:** In addition to the need for affordable housing, there is also a critical need for market rate housing that serves middle and higher income households. Eliminating barriers to housing development and supporting market

rate projects through the approval process will assist in expanding the market rate housing stock. Currently, 217 housing units are being reviewed for development.

III. PLANNING AND REGULATION

1. **Zoning and Design Guidelines:** The key to eliminating barriers to housing development, while protecting the integrity of Portland's neighborhoods, is amending the zoning ordinance and establishing design guidelines for development. Three initiatives are currently underway:

- Bayside Urban Housing Overlay Zone (UHOZ);
- R-7 Infill Provisions; and
- Design guidelines for the Bayside Urban Housing Overlay Zone (UHOZ) and the R-7 Infill Provisions, which will guide projects and ensure neighborhood compatibility.

Following these zoning amendments, an analysis of each residential zone will be undertaken to identify opportunities to increase the capacity of all the neighborhoods to accommodate new housing. Citywide changes to the residential zoning text are anticipated, which each neighborhood will eventually participate in a planning process to determine appropriate locations for substantial additional housing units (see Neighborhood Based Planning below).

2. **Replacement Housing:** Due to the scarcity of housing and high costs, housing is an extremely valuable resource that is very difficult to replace once lost. The City Council enacted the Replacement Housing Ordinance in October 2002, which requires the replacement of housing units that are lost due to demolition, conversion to non-residential use, or elimination through consolidation of units. The provisions apply to three or more units lost within a 5-year period, including vacant residential buildings. The replacement units can be new construction or created within existing non-residential buildings and ready for occupancy within 18 months from approval. As an alternative, the applicant can deposit \$30,000 for each rooming unit or \$50,000 for each dwelling unit to be lost, into the City's Housing Development Fund. Implementation will be ongoing.

IV. FINANCIAL RESOURCES

Develop New Financial Sources: The private market will produce the bulk of new housing. Public financing will be needed to support housing for low and moderate income households. Major funding partners include the Federal department of Housing and Urban Development (HUD), Maine State Housing Authority (MSHA), State of Maine and other public and private resources that come available. The high cost of land and construction will require new financial resources to assist housing developers and ensure our objectives are met.

1. **Tax Increment Financing for Housing (TIF):** TIF's for housing are currently used in rare instances. To clarify the use of TIF's for housing, the City will work with the MSHA to prepare legislation for next session, and bring together a coalition of local developers and housing advocates supporting this effort.

V. OTHER HOUSING INITIATIVES: SHORT-TERM, LONGER TERM, AND ONGOING

The following chart shows the short-term, long-term, and on-going actions contained in Housing: Sustaining Portland's Future. The actions are in addition to the early achievable actions described above.



Permitting and Inspections Department
Michael A. Russell, MS, Director

Ann Machado, Zoning Administrator

TO: Zoning Board of Appeal Chair and Members

FROM: Ann Machado, Zoning Administrator 

SUBJECT: 31 Warren Avenue – 292 D010 – B-4 Commercial Corridor Zone

DATE: December 23, 2016

Based on the information from the Portland Maine Assessor's website, the building was built around 1930. The only building permit on file in the Permitting and Inspections Department is a building permit from 1938 which lists the "proposed use" of the building as a 2 family (Exhibit A).

When there are not more recent building permits on file, our office looks at the use of the building on the assessor's property card from the early 1950s. The current land use ordinance went into effect on June 5, 1957. A use that existed at that time as shown on the assessor's card from the early 1950s would be considered the legal use as of 1957. The second page of the 1951 property card for 31 Warren Avenue, CBL 292-D-010 lists the use as a two family (Exhibit B). Since there is no building permit on file after 1951, the legal use of the property is a two family.

The permitted uses in the B-4 Zone are listed in Section 14-229.10 (Exhibit C). Dwelling units are not listed as a permitted use. Section 14-229.12 states "uses not expressly enumerated in section 14-229.11 as permitted uses are prohibited" (Exhibit D). Since residential uses are not listed as a permitted use, the current use as a two family is a legal nonconforming use in the zone. Adding a third dwelling unit would increase the nonconforming use of the property. Section 14-382 is titled "Increase in nonconforming use of structures or alterations to nonconforming structures limited" (Exhibit E) Subsection (c) addresses the limitations on alterations which increase the degree of the nonconforming use. The applicant is seeking a variance from this section.



LOCAL BUSINESS ZONE PERMIT ISSUED

APPLICATION FOR PERMIT

MAR 20 1938

Class of Building or Type of Structure _____
 Portland, Maine. March 20, 1938

To the INSPECTOR OF BUILDINGS, PORTLAND, ME.

The undersigned hereby applies for a permit to erect after-install the following building structure equipment in accordance with the Laws of the State of Maine, the Building Code of the City of Portland, plans and specifications, if any, submitted herewith and the following specifications:

Location 21 Warren Avenue Ward 9 Within Fire Limits? NO Dist. No. _____
 Owner's or Lessee's name and address Mrs. E. A. McLaughlin, 21 Warren Ave. Telephone _____
 Contractor's name and address Simon Barry, 1314 Forest Ave. Telephone 2-2152
 Architect's name and address _____ No. families 2
 Proposed use of building dwelling house
 Other buildings on same lot _____ No. of sheets 1
 Plans filed as part of this application? yes Fee \$.80
 Estimated cost \$ 75.

Description of Present Building to be Altered

Material wood No. stories 2 1/2 Heat _____ Style of roof _____ Roofing _____
 Last use dwelling house No. families 2

General Description of New Work

To set 6" partition over about 5' to enlarge existing toilet room to provide new bath room, existing window for ventilation of same at least thirty square feet in area
vent shaft fifty six sq ft. thru roof

It is understood that this permit does not include installation of heating apparatus which is to be taken out separately by and in the name of the heating contractor.

Details of New Work

Size, front _____ depth _____ No. stories _____ Height average grade to top of plate _____
 To be erected on solid or filled land? _____ Height average grade to highest point of roof _____
 Material of foundation _____ Thickness, top _____ bottom _____
 Material of underpinning _____ Height _____ Thickness _____
 Kind of Roof _____ Rise per foot _____ Roof covering _____
 No. of chimneys _____ Material of chimneys _____ of lining _____
 Kind of heat _____ Type of fuel _____ Is gas fitting involved? _____
 Corner posts _____ Sills _____ Girt or ledger board? _____ Size _____
 Material columns under girders _____ Size _____ Max. on centers _____
 Studs (outside walls and carrying partitions) 2x4-16" O. C. Girders 6x8 or larger. Bridging in every floor and flat roof span over 8 feet. Sills and corner posts all one piece in cross section.
 Joists and rafters: 1st floor _____, 2nd _____, 3rd _____, roof _____
 On centers: 1st floor _____, 2nd _____, 3rd _____, roof _____
 Maximum span: 1st floor _____, 2nd _____, 3rd _____, roof _____
 If one story building with masonry walls, thickness of walls? _____ height? _____

If a Garage

No. cars now accommodated on same lot _____ to be accommodated _____
 Total number commercial cars to be accommodated _____
 Will automobile repairing be done other than minor repairs to cars habitually stored in the proposed building? _____

Miscellaneous

Will above work require removal or disturbing of any shade tree on a public street? NO
 Will there be in charge of the above work a person competent to see that the State and City requirements pertaining thereto are observed? YES
 Signature of owner Mrs. E. A. McLaughlin
Simon Barry

INSPECTION COPY

6321

Exhibit B

REAL ESTATE ASSESSMENT RECORD - CITY OF PORTLAND, MAINE

CURR. DESC.	LAND NOS.	STREET	BLDG. NO.	CARD NO.	DEVELOPMENT NO.	AREA	DIST.	ZONE	CHART	BLOCK	LOT	CURR. DESC.						
	31-35	Warren Ave.		OF			13		292	D	10							
TAXPAYER ADDRESS AND DESCRIPTION				RECORD OF TAXPAYER			YEAR	BOOK	PAGE	PROPERTY FACTORS								
McLAUGHLIN EMILY C 31 WARREN AVE. CITY LAND & BLDG. WARREN AVE. #31-35 ASSESSORS PLAN 292-D-10 AREA 10725 SQ. FT.										TOPOGRAPHY		IMPROVEMENTS						
										LEVEL		WATER						
										HIGH	✓	SEWER						
										LOW		GAS						
										ROLLING		ELECTRICITY						
										SWAMPY		ALL UTILITIES ✓						
										STREET		TREND OF DISTRICT						
										PAVED	✓	IMPROVING						
						SEMI-IMPROVED		STATIC										
						DIRT		DECLINING										
						SIDEWALK	✓											
						TILLABLE	PASTURE	WOODED	WASTE									
LAND VALUE COMPUTATIONS AND SUMMARY							LAND VALUE COMPUTATIONS AND SUMMARY							ASSESSMENT RECORD INCREASE DECREASE				
FRONTAGE	DEPTH	UNIT PRICE	DEPTH FACTOR	FRONT FT. PRICE	YEAR 1951	19	FRONTAGE	DEPTH	UNIT PRICE	DEPTH FACTOR	FRONT FT. PRICE	19	19	1950	LAND	100		
76	143.40	4.00	112	450	340									1951	BLDGS.	1725		
															TOTAL	1825		
															LAND	200		
															BLDGS.	2050		
															TOTAL	2250		
															LAND	200		
															BLDGS.			
															TOTAL			
															LAND			
															BLDGS.			
															TOTAL			
															LAND			
															BLDGS.			
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															TOTAL			
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															BLDGS.			
															TOTAL			
															LAND			
															BLDGS.			
															TOTAL			
YEAR	ORIG. COST		RENTAL		600													
YEAR	SALE PRICE		EXPENSE															
YEAR	U. S. R. S.		NET															

RECORD OF BUILDINGS GRADE DENOTES QUALITY OF CONSTRUCTION: A—EXCELLENT; B—GOOD; C—AVERAGE; D—CHEAP; E—VERY CHEAP

YEAR 19

YEAR 19

*1st 20720. pay gas light heat
 2nd 30720. owner eat pay W.B. pr
 9/15/54-1439-Coleman Floor Furnace @ 0.85 eq. pr.
 50 x 12 = 600 raph pipeless furn*

CONSTRUCTION		
FOUNDATION	FLOOR CONST.	PLUMBING
CONCRETE	WOOD JOIST	BATHROOM <i>2</i> ✓
CONCRETE BLOCK	STEEL JOIST	TOILET ROOM
BRICK OR STONE	MILL TYPE	WATER CLOSET
PIERS	REIN. CONCRETE	LAVATORY
CELLAR AREA FULL	FLOOR FINISH	KITCHEN SINK <i>2</i> ✓
1/4 1/2 3/4	B 1 2 3	STD. WAT. HEAT <i>2</i> ✓
NO. CELLAR	CEMENT ✓	AUTO. WAT. HEAT
EXTERIOR WALLS	EARTH	ELECT. WAT. SYST.
CLAPBOARDS	PINE	LAUNDRY TUBS
WIDE SIDING	HARDWOOD	NO PLUMBING
DROP SIDING	TERRAZZO	
NO SHEATHING	TILE	
WOOD SHINGLES		
ASBES. SHINGLES		
STUCCO ON FRAME	ATTIC FLR. & STAIRS ✓	
STUCCO ON TILE	INTERIOR FINISH	
BRICK VENEER	B 1 2 3	
BRICK ON TILE	PINE	
SOLID BRICK	HARDWOOD	
STONE VENEER	PLASTER	
CONC. OR CIND. BL.	UNFINISHED	
	METAL CLG.	
TERRA COTTA		
VITROLITE	RECREAT. ROOM	
PLATE GLASS	FINISHED ATTIC <i>W6</i>	
INSULATION	FIREPLACE	
WEATHERSTRIP	HEATING	
ROOFING	PIPELESS FURNACE	
ASPH. SHINGLES	HOT AIR FURNACE	
WOOD SHINGLES	FORCED AIR FURN.	
ASBES. SHINGLES	STEAM	
SLATE TILE	HOT WAT. OR VAPOR	
METAL	NO HEATING	
COMPOSITION	<i>Coleman Floor Furn</i>	
ROLL ROOFING	GAS BURNER	
	OIL BURNER <i>1-55</i>	
INSULATION	STOKER	

COMPUTATIONS			
UNIT	1951		
1160 S. F.	6020		
S. F.			
ADDITIONS	+380		
BASEMENT			
WALLS			
ROOF			
FLOORS			
ATTIC <i>44</i>	+230		
FINISH			
FIREPLACE			
HEATING	-430		
PLUMBING	+350		
TILING			
M.F.	+600		
TOTAL	7150		
FACT. +5%	+357		
REP. VAL.	7450		

SUMMARY OF BUILDINGS										Fees		
OCC'Y	TYPE	GR.	AGE	REMOD.	COND.	REP. VAL.	P. D.	PHY. VAL.	F. D.	SOUND VAL.	TAX VAL.	YR
DWNG	A 2 ⁵ /FR	C	50+		F	7450	50%	3730	10%	3360	2025	
SHED	B 1 ² /FR 8x6	C	8		-	-	-	-	-	40	25	
C												
D												
E												
F												
G												
YEAR	1951					1951 TOTAL BLDGS.				3400	2050	
TAX VAL.												
OLD VAL.												
CHANGE												

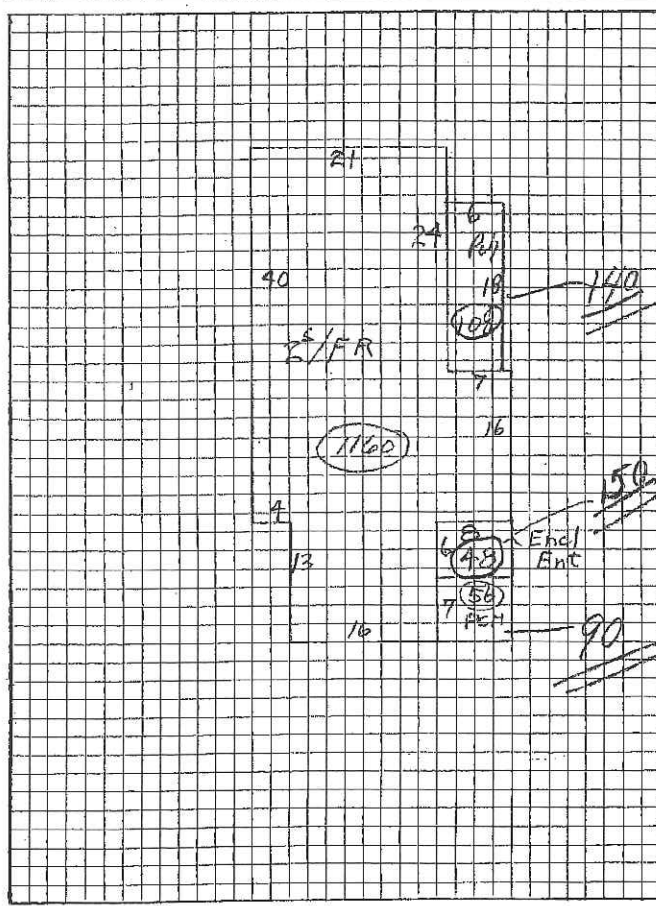


Exhibit C

City of Portland
Code of Ordinances
Sec. 14-227

Land Use
Chapter 14
Rev. 6-21-2010

flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

- (c) Storage of vehicles: Only one (1) unregistered motor vehicle may be stored outside on the premises and not for a period exceeding thirty (30) days.
- (d) Noise: The volume of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American Standards Association), generated shall not exceed sixty (60) decibels on the A scale between 7:00 a.m. and 9:00 p.m. and fifty-five (55) decibels on the A scale between 9:00 p.m. and 7:00 a.m., on impulse (less than one (1) second), at lot boundaries, excepting air raid sirens and similar warning devices.

(Ord. No. 30-85, § 1, 7-15-85; Ord. No. 15-92, § 16, 6-15-92; Ord. No. 15-04/05, 8-2-04; Ord. No. 240-09/10, 6-21-10)

Sec. 14-228 - Sec. 14-229.9. Reserved.

DIVISION 12.5. B-4 COMMERCIAL CORRIDOR ZONE

Sec. 14-229.10. Purpose.

The purpose of the B-4 commercial corridor zone is:

- (a) To provide appropriate locations in the city for the development and operation of businesses catering primarily to highway-oriented trade along major arterials. (Uses which have market areas which are primarily dependent on the regional highway network or serve a regional or larger market); or
- (b) To provide appropriate locations for large-scale commercial uses and commercial uses that require larger land areas to accommodate their operations.

(Ord. No. 296-88, 5-23-88)

Sec. 14-229.11. Permitted uses.

The following uses are permitted in the B-4 zone:

- (a) *Business:*
 - 1. General, business and professional offices, as defined in section 14-47;

2. Personal services, as defined in section 14-47;
3. Offices of building tradesmen;
4. Retail establishments;
5. Restaurants;
6. Drinking establishments;
7. Billiard parlors;
8. Major and minor gasoline service stations, as defined in section 14-47;
9. Mortuaries or funeral homes;
10. Miscellaneous repair services;
11. Health clubs and gymnasiums;
12. Hotels and motels;
13. New and used car dealerships;
14. Facilities for the maintenance and repair of automobiles, provided all repairs are performed in a fully enclosed structure;
15. Car washes;
16. Lumber and building materials dealers;
17. Communications studios and broadcast receiving facilities;
18. Veterinary hospitals but excluding outdoor kennels;
19. Auto body repair and paint shops provided all repairs are performed in fully enclosed structures;
20. Boat, trailer or recreational vehicle sales and service;

21. Theaters, entertainment and recreation services;
22. Self-storage facility;
23. Registered medical marijuana cultivation facilities.

(b) *Institutional:*

1. Governmental buildings and uses.
2. Colleges, universities and trade schools.
3. Places of assembly.
4. Correctional prerelease facilities for up to twelve (12) persons, plus staff, serving a primary clientele of parolees or persons in correctional prerelease programs, provided that:
 - a. No correctional prerelease facility shall be located within one thousand (1,000) feet of another, as measured in a radius from the center of the lot;
 - b. If a facility requires state or federal licensing, staffing of the facility shall be as required by such license. If a facility does not require state or federal licenses, there shall be a minimum of one (1) staff person for every ten (10) residents or fraction thereof; and
 - c. The facility shall provide twenty-four-hour supervision of program participants.

(c) *Other:*

1. Lodging houses;
2. Wholesale warehousing and distribution establishments;
3. Commercial bakeries and dairies;
4. Light manufacturing uses with not more than twenty-five thousand (25,000) square feet or less

Exhibit D

City of Portland
Code of Ordinances
Sec. 14-229.11.1

Land Use
Chapter 14
Rev.1-18-2012

cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

- (b) Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(Ord. No. 29-09/10, 8-3-09, emergency passage; Ord. No. 33-11/12, 1-18-12)

Sec. 14-229.12. Prohibited uses.

Uses not expressly enumerated in section 14-229.11 as permitted uses are prohibited.

(Ord. No. 296-88, 5-23-88)

Sec. 14-229.13. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, uses other than utility substations in the B-4 zone shall meet the following minimum requirements:

- (a) Minimum lot size: Ten thousand (10,000) square feet.
- (b) Minimum street frontage: Sixty (60) feet.
- (c) Minimum yard dimensions:

(Yard dimensions include setbacks of structures from property lines and setbacks of structures from one another. No structure shall occupy the minimum yard of another structure.)

Except as provided in subsection (5) below, the following setbacks shall be required:

1. Front yard:

- a. Principal or accessory structures: Twenty (20) feet, except that a front yard need not exceed the average depth of front yards on either side of the lot.
- b. The front yard of a lot existing as of May 23, 1988, and less than one hundred (100)

Exhibit E

City of Portland
Code of Ordinances
Sec. 14-375

Land Use
Chapter 14
Rev. 1-6-97

Sec. 14-376. - Sec. 14-380. Reserved.

DIVISION 23. NONCONFORMING USE AND NONCONFORMING BUILDINGS

Sec. 14-381. Continuation.

Any lawful use of buildings, structures, premises or parts thereof, existing on June 5, 1957, and made nonconforming by the provisions of this article or any amendment thereto may be continued although such use does not conform with the provisions of this article or amendment thereto.

(Code 1968, § 602.17.A)

Sec. 14-382. Increase in nonconforming use of structure or alterations to nonconforming structures limited.

(a) A lawful nonconforming non-residential structure may be maintained, repaired, or reconstructed in kind within a one (1) year period or within a two (2) year period for a nonconforming residential structure, but no alterations, modifications or additions shall be made to it, except as provided in this division.

(b) A building whose use is wholly nonconforming shall not be altered so as to increase the cubical content or the degree of nonconformity.

(c) No alterations, modifications or additions shall be made so as to increase the cubical content or the degree of nonconforming use, nor shall a nonconforming use be extended to any other part of such building, unless such part was clearly arranged and designed for such nonconforming use prior to June 5, 1957, or such extension of a nonconforming use is solely for the purpose of bringing the use into compliance with health or safety codes, or to correct a condition that may not technically be in violation but which is determined by the board of appeals to constitute a health or safety problem. In either case, the expansion shall be limited to the minimum necessary to accomplish that purpose.

(d) Alteration, modification or addition may be made to a building which is lawfully nonconforming as to space and bulk or any dimensional requirement where the proposed changes in existing exterior walls and/or roofs would be within the space occupied by the existing shell of the building, and would not create any new nonconformity nor increase any existing nonconformity. This subsection shall not apply to buildings located within shoreland zones and existing on June 15, 1992, which are nonconforming only as to setbacks from wetlands, tributary streams or other water