

1. 08-17-2017

Documents:

[08-17-17 AGENDA1.PDF](#)

1.I. ZBA Application - 11 Gertrude Avenue

Documents:

[11 GERTRUDE AVE - ZBA APPLICATION.PDF](#)

[11 GERTRUDE - ZONING MAP.PDF](#)

1.II. ZBA Application - 191 Marginal Way

Documents:

[191 MARGINAL WAY - ZBA APPLICATION.PDF](#)

[191 MARGINAL WAY - ZONING MAP.PDF](#)

CITY OF PORTLAND, MAINE

ZONING BOARD OF APPEALS

Kent Avery, Chair
Donna Katsiaficas, Secretary
Robert Bartels
Eric Larsson
Benjamin McCall
Joseph Zamboni

APPEAL AGENDA

The Board of Appeals will hold a Public Hearing on Thursday, August 17, 2017, at 6:30 p.m. on the Second Floor in Room 209 at Portland City Hall, 389 Congress Street, Portland, Maine, to hear the following appeals:

1. New Business:

- A. **Conditional Use Appeal:** 11 Gertrude Avenue, Sholeh Misaghian, owner, Tax Map 402, Block B, Lot 020, R-3 Residential Zone: The applicant is seeking a Conditional Use Appeal under section 14-88(d)(3) to operate a licensed child care center for up to 12 children at her existing single-family home. Representing the appeal is the owner.
- B. **Interpretation Appeal:** 191 Marginal Way, ConvenientMD LLC, lessee, Tax Map 24, Block C, Lot 021, B-7 Mixed Development District Zone: The applicant is challenging the Zoning Administrator's interpretation of the term "building identification sign," from an e-mail dated July 21, 2017 (Section 14-369.5). Representing the appeal is Natalie L. Burns, Esq.

2. Other Business: Final discussion to change start time of meeting.

3. Adjournment

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

Ann Machado
Zoning Administrator

RECEIVED
JUL 31 2017

CITY OF PORTLAND ZONING BOARD OF APPEALS

Conditional Use Appeal Application

Applicant Information:

Subject Property Information:

Dept. of Building Inspections
City of Portland Maine

NAME

sholeh Misaghian

BUSINESS NAME

Happy Garden Family childcare

BUSINESS ADDRESS

(207) 239-0955 Misaghian.sholeh@gmail.com

BUSINESS TELEPHONE & E-MAIL

11 Gertrude Ave Portland ME 04103

APPLICANT'S RIGHT/TITLE/INTEREST

R 3

CURRENT ZONING DESIGNATION

PROPERTY ADDRESS

11 Gertrude Ave portland ME 04103

CHART/BLOCK/LOT (CBL)

PROPERTY OWNER (If Different)

sholeh and Bahman saberi

ADDRESS (If Different)

(207) 239-0919

PHONE # AND E-MAIL

up to 12 kids daycare

CONDITIONAL USE AUTHORIZED BY

SECTION 14-86(1)(3)

EXISTING USE OF THE PROPERTY:

single family and Home daycare 5 children

TYPE OF CONDITIONAL USE PROPOSED:

single family and Home daycare 12 children

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

Sholeh Misaghian

DATE

7-27-17

Zoning Administrator
Department of Urban Development
City of Portland
389 Congress Street
Portland, Maine 04101

Dear Zoning Administrator:

I am requesting a conditional use permit allowing me the use of my residence at 11 Gertrude Avenue, Portland, ME 04103 to serve as a home day care for up to 12 children. I am the owner and deed holder of this property and my request is based on Section 14-88(d) (3) of the Portland Zoning Ordinance.

Attached you will find a copy of a floor plans showing my entire dwelling and area of the home daycare space, as well as an explanation on how my home day care meets the criteria listed under Section 14-88(d) (3).

Thank you for your assistance in this matter.
Sincerely,

Sholeh Misaghian

A handwritten signature in black ink, appearing to be 'Sholeh' with a stylized flourish above it.

7-30-17

The following is an explanation of how my home day care meets the criteria listed under Section 14-88(d) (3);

- 1) Traffic is only 12 additional cars 2 times a day. There is already a church lot that we have the permission to use as a drop off area. I have 4 parking spaces in my driveway which will be adequate for me and one staff person.
 - 2) I don't expect any unsanitary or harmful condition. Will live like in a residential building.
 - 3) I don't expect any commercial type effect. It will be for a residential use.
-
- a. I live at this residence.
 - b. I will not have more than 12 children.
 - c. Outdoor play area is fenced.
 - d. Solid waste is stored in covered bins.

As you can see, my home daycare is a secondary and incidental use of my residence. The external activity level and impact is negligible and in keeping with the residential character of the neighborhood.

Thank you for considering my application.

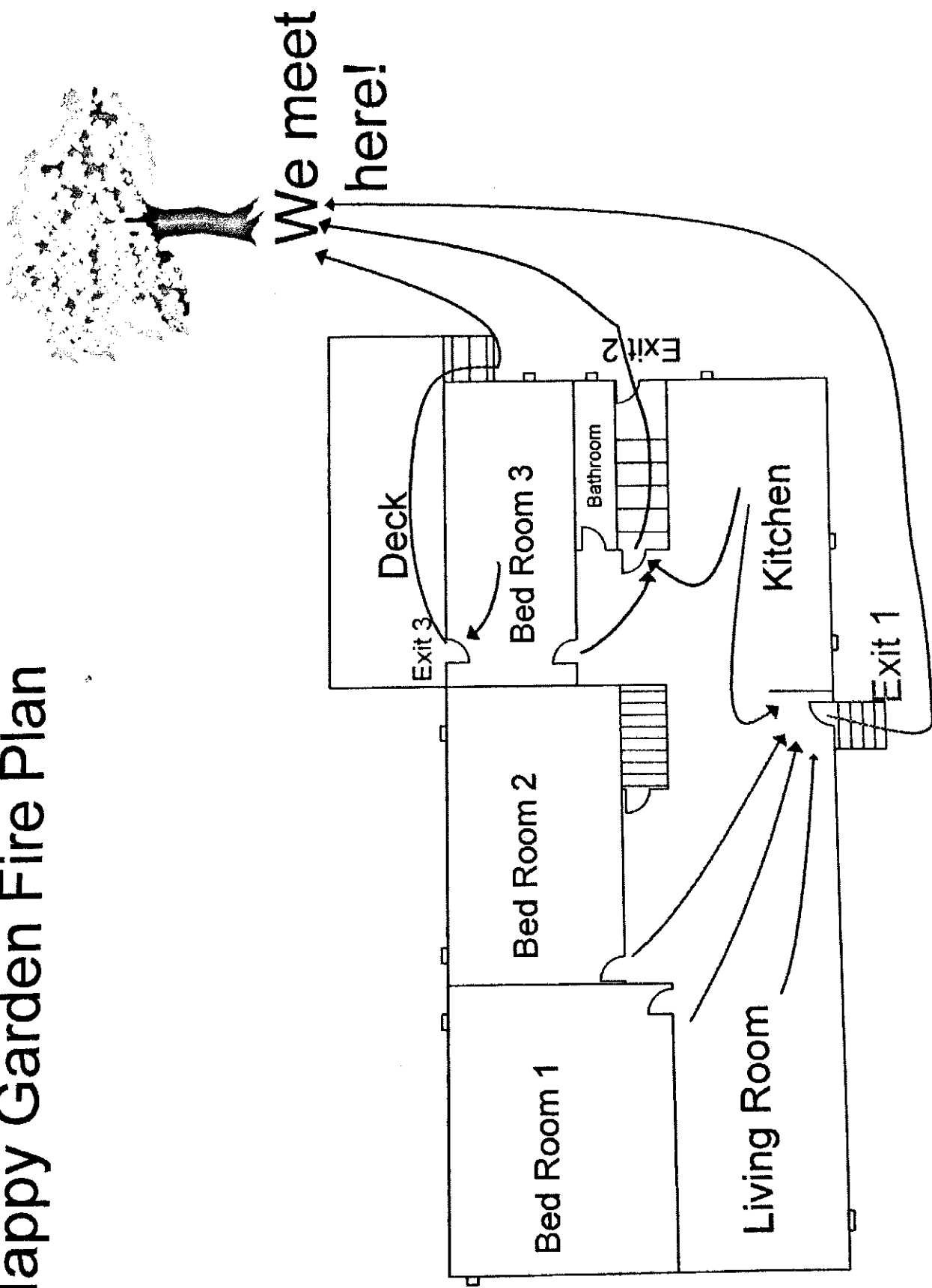
Sincerely,

Sholeh Misaghian

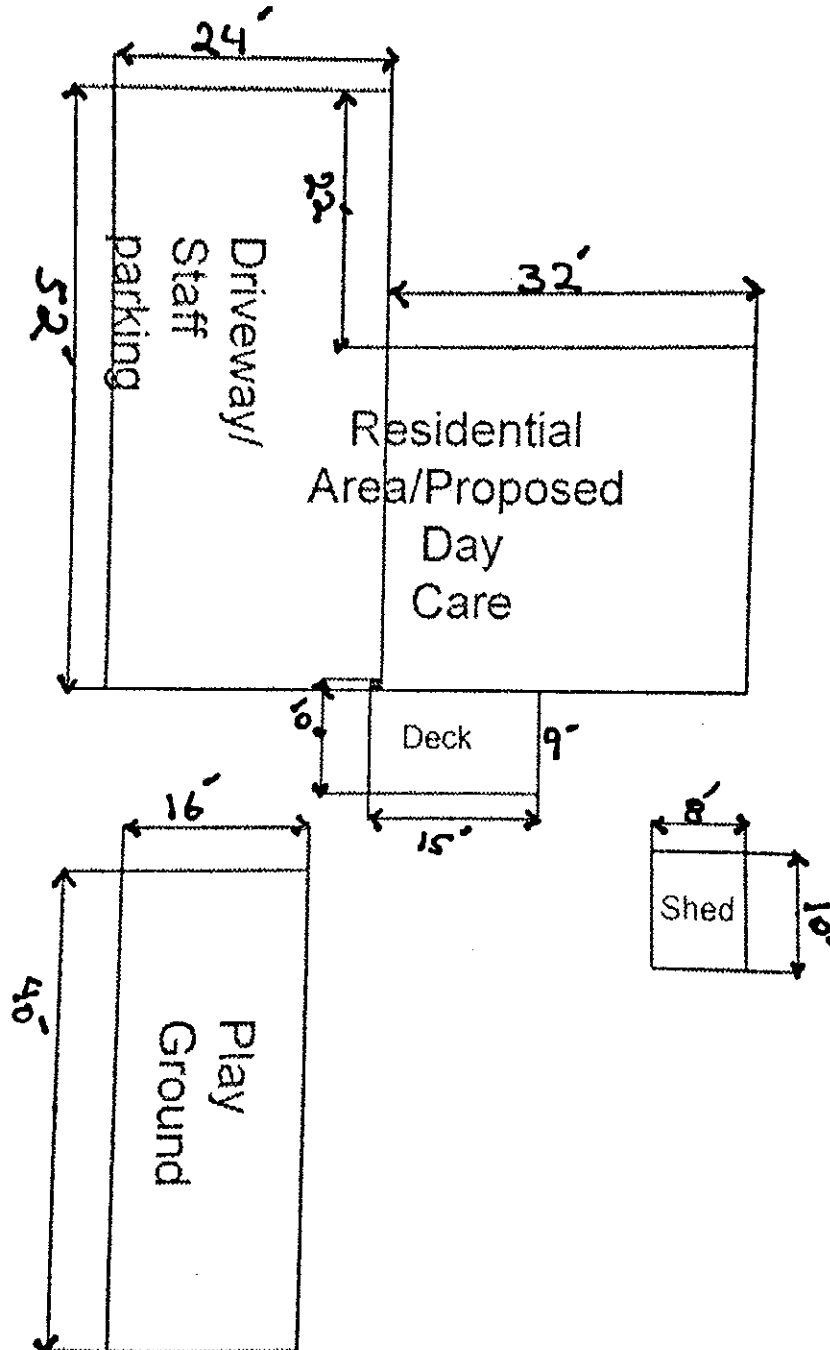
A handwritten signature in cursive script, appearing to be 'Sholeh', with a horizontal line drawn underneath it.

7-30-17

Happy Garden Fire Plan



Gertrude Avenue



Scale
1:10



NORTH DEERING ALLIANCE CHURCH

**1301 Washington Avenue
Portland, Maine 04103
(207) 797-2561**

February 26, 2017

To: Maine State Child-Care Licensing Department,

I am writing on behalf of Sholeh Misaghian. We are neighbors. Our church family is pleased to allow Sholeh and her business, the Happy Garden Family Child-care Center, to use our church parking lot for parents to park as they drop off and pick up their children each weekday.

Please let me know if there are questions I can answer. My email is (stevespling@gmail.com) and my cell phone is (207) 891-8264.

Sincerely,

Steve

Rev. Stephen Espling

Living the Call Together
Matthew 28:18-20

REO #0014907901

SPECIAL WARRANTY DEED
(Quitclaim Deed with Covenant)

Wells Fargo Bank, N.A. as Trustee for MASTR Asset Backed Securities Trust 2005-OPT1, a corporation duly organized and existing and having a place of business c/o Option One Mortgage Corporation, in the City of Irvine and State of California, for consideration paid, GRANTS to *Sholeh Misaghian and Bahman Sabeti*, whose mailing address is 246 Auburn Street, Apt. 44, Portland, ME 04103 hereinafter called "Grantees", and their heirs and assigns forever, AS JOINT TENANTS WITH QUITCLAIM COVENANT, the following described property, with the buildings thereon, and the appurtenances belonging thereto, situated in the City of Portland, in the County of Cumberland, in the State of Maine, and being more particularly described as follows:

A certain lot or parcel of land with the buildings thereon, situated in Portland, County of Cumberland, State of Maine being Lot numbered 16 on Gertrude Street, as shown on a plan of Wadco Park, recorded in the Cumberland County Registry of Deeds in Plan Book 12, Page 17, bounded and described as follows:

Bounded on the Northwest by said Gertrude Street; on the Northeast by Lot numbered 17 on said Plan; on the Southeast by Lots numbered 24 and 25 on said Plan; on the Southwest by land conveyed to Ellen G. Johnston et al by Charles E. Tenny by deed duly recorded in said Registry of Deeds.

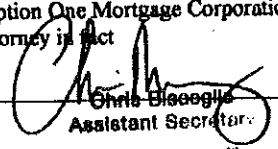
Reference is made to Judgment of Foreclosure and Sale recorded in Book 25215, Page 208 and docketed with Court on February 2, 2007 in an action titled Wells Fargo Bank, N.A. as Trustee for MASTR Asset Backed Securities Trust 2005-OPT1, vs Armando Deforte filed in the Cumberland County Superior Court, in Docket No. RE-06-146 for a mortgage recorded in Book 22146, Page 163, of the Cumberland County Registry of Deeds. Being the same premises conveyed to the Grantor herein by deed dated April 19, 2007 and recorded in Book 25215, Page 213, said Registry of Deeds (in which an Exhibit B was erroneously referred to as Exhibit A).

IN WITNESS WHEREOF, Wells Fargo Bank, N.A. as Trustee for MASTR Asset Backed Securities Trust 2005-OPT1, by Option One Mortgage Corporation, its attorney in fact under a certain Power of Attorney dated January 5, 2007 and recorded in March, 2007 of the Cumberland County Registry of Deeds has caused this instrument to be executed by Assistant Secretary, as Chris Bisceglia thereunto duly authorized, this 15th day of November 2007.

WITNESS:


Brooks Allen
STATE OF CALIFORNIA
COUNTY OF ORANGE

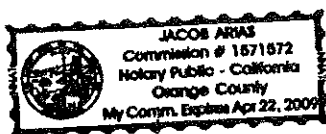
Wells Fargo Bank, N.A. as Trustee for MASTR
Asset Backed Securities Trust 2005-OPT1
By Option One Mortgage Corporation
Its attorney in fact

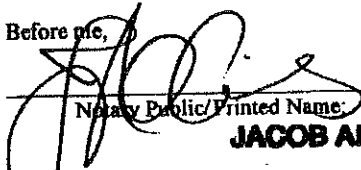
By: 
Assistant Secretary
Title: November 15th 2007

SEAL

Personally appeared the above-named Chris Bisceglia, Assistant Secretary of Option One Mortgage Corporation, attorney in fact for Wells Fargo Bank, N.A. as Trustee for MASTR Asset Backed Securities Trust 2005-OPT1, and acknowledged the foregoing instrument to be his/her free act and deed in his/her said capacity and the free act and deed of said Grantor.

Before me,

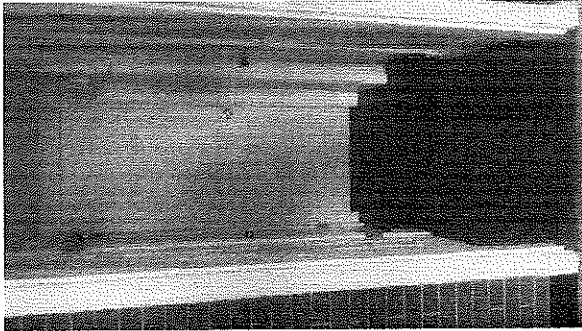



Notary Public/Printed Name: **JACOB ARIAS**

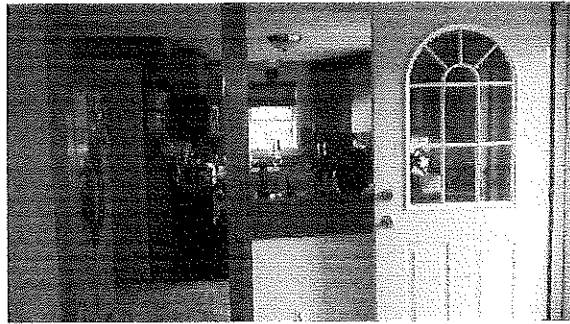
Received
Recorded/Registrar of Deeds
Nov 28, 2007 10:29:26A
Cumberland County
Pamela E. Lewis

MAINE REAL ESTATE TAX PAID

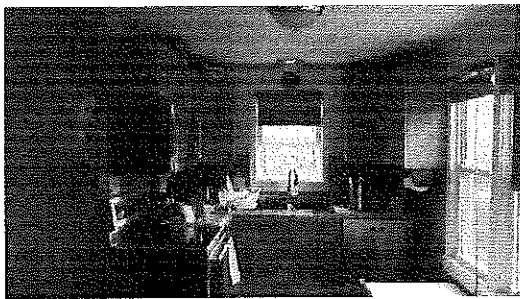
Front entry/hallway



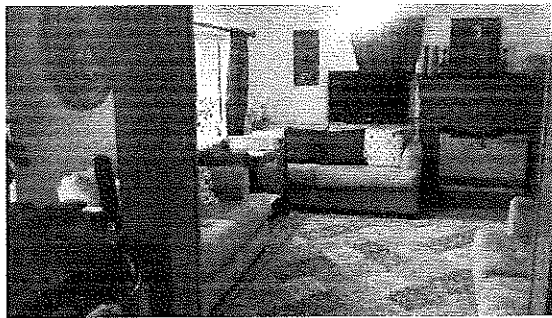
Kitchen view from Living room



Kitchen



Living room/front entry view from kitchen



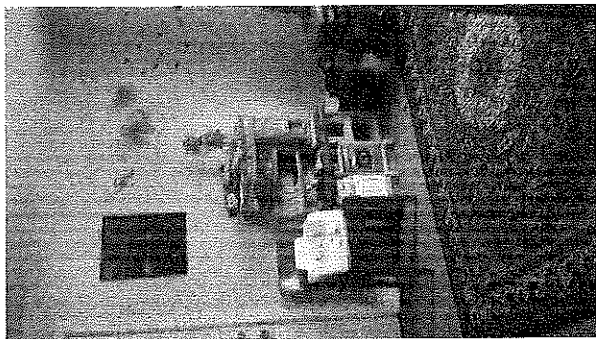
Exterior bedroom (proposed for nap/play)



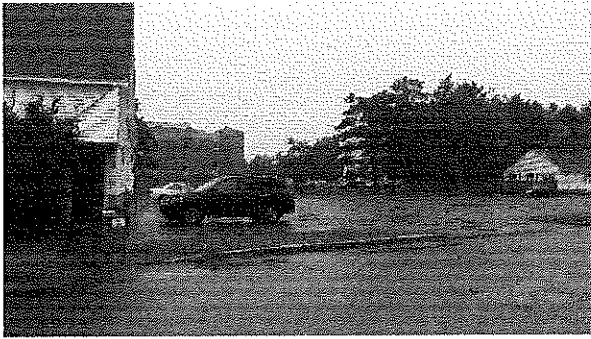
Interior bedroom (proposed for nap/play)



Playroom (existing)



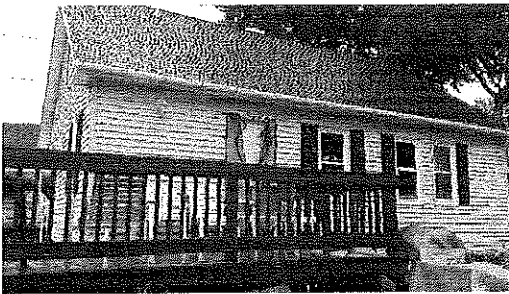
Neighbor/Church-written parking agreement for use



Front



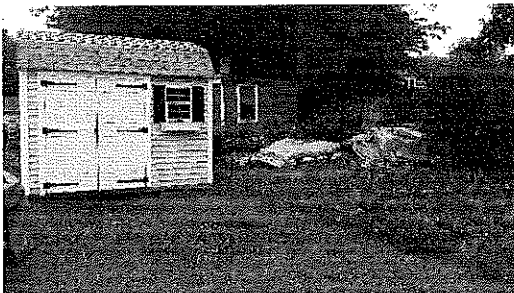
Back



Front/Residential parking (4) cars



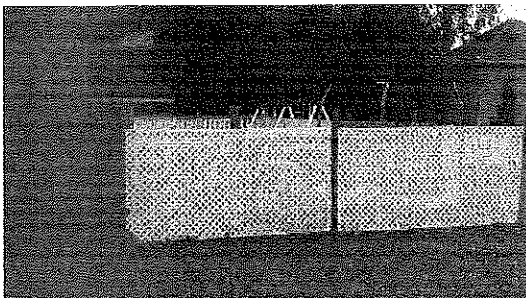
Garden/Storage shed



Fenced in Playground Interior



Fenced in playground



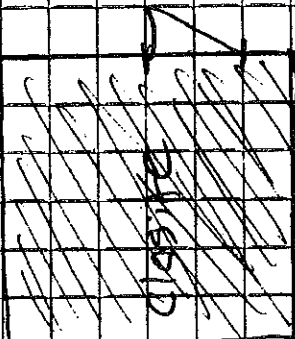
Bathroom (3/4)



second floor

12 shelf

small door



Barrel

D

toilet sink

100
8 ft 4

A

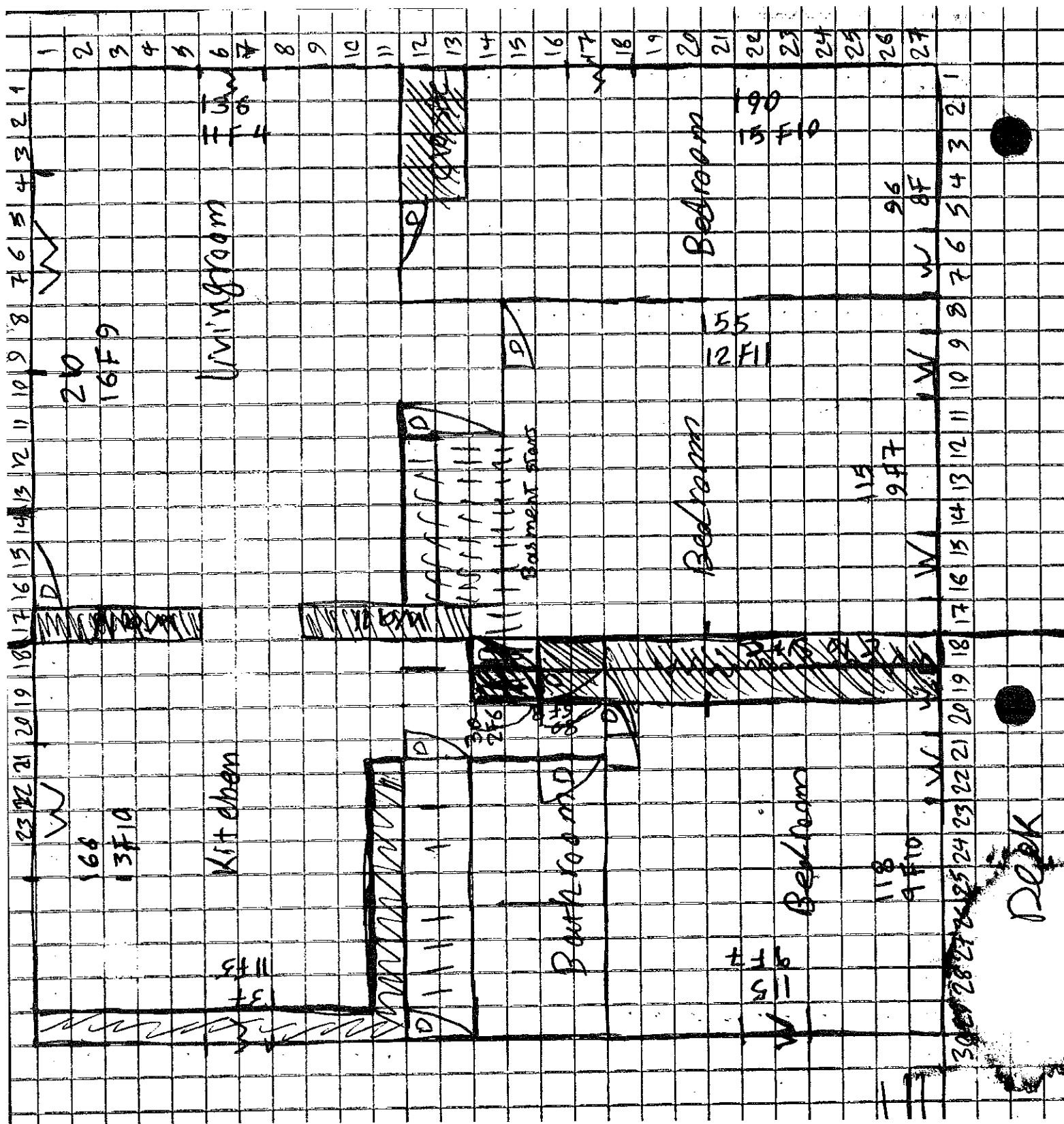
Door from first floor

226
1951

205
84 ft 7

7 shelf

small door
(exit for roof)



Contours

76.000001 - 101.000000

Coastal Buffer

Stream Overlay Zone

1

1:391

0	0.003	0.006	0.012 mi
1.031			

0	0.0035	0.007	0.014 km
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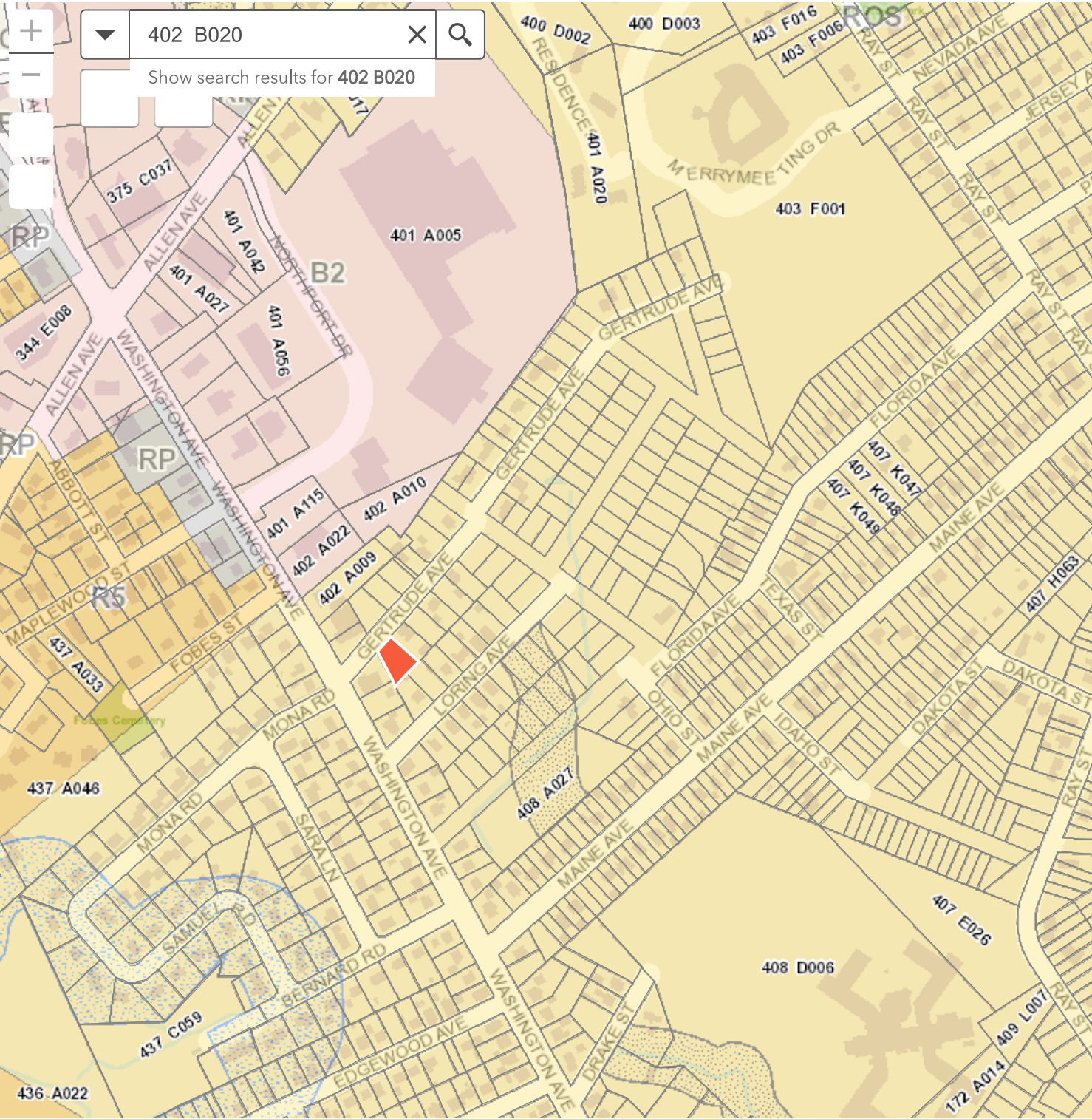
City of Portland, DPS

Shoreland Overlay Zone

Web App Builder for ArcGIS
City of Portland, DPS | City of Portland |

Web App Builder for ArcGIS

11 Gertrude Ave - Conditional Use



Portland, Maine



Yes. Life's good here.

Jeff Levine, AICP, Director
Planning & Urban Development Department

Ann Machado
Zoning Administrator

CITY OF PORTLAND ZONING BOARD OF APPEALS

Interpretation Appeal Application

Applicant Information:
ConvenientMD LLC

NAME

c/o Natalie L. Burns, Esq.

BUSINESS NAME

10 Free Street, Portland, ME 04101

BUSINESS ADDRESS

207-775-7271; nburns@jbgh.com

BUSINESS TELEPHONE & E-MAIL

Lease

APPLICANT'S RIGHT/TITLE/INTEREST

B-7

CURRENT ZONING DESIGNATION

Subject Property Information:

191 Marginal Way

PROPERTY ADDRESS

024 C021001

CHART/BLOCK/LOT (CBL)

Earl W. Noyes & Sons

PROPERTY OWNER (If Different)

P.O. Box 938, Portland, ME 04104

ADDRESS (If Different)

N/A

PHONE # AND E-MAIL

DISPUTED PROVISIONS FROM SEC 14- 369.5

EXISTING USE OF THE PROPERTY: Mixed Use Commercial

ORDER, DECISION, DETERMINATION OR INTERPRETATION UNDER DISPUTE: Zoning Administrator's July 21, 2017
interpretation of the above provision.

TYPE OF RELIEF REQUESTED Reversal of Zoning Administrator's interpretation.

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

Enclosed.

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.

Natalie L. Burns

July 31, 2017

SIGNATURE OF APPLICANT

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



DAVID J. JONES
RICHARD H. SPENCER, JR.
LAWRENCE R. CLOUGH
RONALD A. EPSTEIN
WILLIAM H. DALE
F. BRUCE SLEEPER
DEBORAH M. MANN
LESLIE E. LOWRY III
PATRICIA M. DUNN
MICHAEL J. QUINLAN
R. LEE IVY

NATALIE L. BURNS
SALLY J. DAGGETT
ROY T. PIERCE
BRENDAN P. RIELLY
NICHOLAS J. MORRILL
MARK A. BOWER
CHARLES M. KATZ-LEAVY
ALYSSA C. TIBBETTS
J. CASEY MCCORMACK
TUDOR N. GOLDSMITH

Attorneys at Law

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NICHOLAS S. NADZO
FRANK H. FRYE
MICHAEL A. NELSON
OF COUNSEL

RAYMOND E. JENSEN
(1908-2002)
KENNETH BAIRD
(1914-1987)
M. DONALD GARDNER
(1918-2003)

YORK COUNTY
OFFICE

11 MAIN STREET, SUITE 4
KENNEBUNK, MAINE 04043
(207) 985-4676 (Phone)
(207) 985-4932 (Fax)

July 31, 2017

HAND DELIVERED

Zoning Board of Appeals
City of Portland
389 Congress St.
Portland, ME 04101

RE: 191 MARGINAL WAY; INTERPRETATION APPEAL

Dear Sir or Madam:

I am writing on behalf of my client, ConvenientMD LLC, which does business as ConvenientMD Urgent Care (hereinafter, "ConvenientMD"). Enclosed please find eleven (11) copies of an interpretation appeal application with respect to property located at 191 Marginal Way, which is designated by the City Assessor as Map 24, Block C, Lot 1 and Map 25, Block B, Lot 9 (the "Property"). This is an interpretation appeal of the Zoning Administrator's July 21, 2017 interpretation of the City of Portland Land Use Ordinance ("Ordinance") as it relates to building identification signs. The Property is located in the B-7 Mixed Use Urban Zone.

Factual Background

This application relates to a construction project at the Property, which is owned by Earl W. Noyes & Sons (the "Owner"), the developer for Convenient MD LLC (d/b/a ConvenientMD Urgent Care). The building, which the Owner will name "ConvenientMD Urgent Care," will house several commercial tenants. ConvenientMD will be the anchor tenant in the building, operating an urgent medical care facility.

On August 16, 2016, ConvenientMD had its first meeting with planning staff about this project. At that meeting, ConvenientMD's representatives presented a proposed building identification signage plan. Although planning staff did not have authority to approve the plan, they agreed they did not see anything in the Ordinance that would prevent the building from being named "ConvenientMD Urgent Care" or otherwise prohibit the proposed signage. Based on that advice, ConvenientMD signed a lease with the Owner and proceeded with the project.

On January 17, 2017, the Owner received site plan approval from the Planning Board, which included an approved master signage plan that includes building identification signs on two sides of the building—on the east-facing wall and the north-facing wall.¹ The site plan approval contained the following condition of approval: “13. Prior to the issuance of a certificate of occupancy, the applicant shall provide specifications for proposed signs, meeting the standards of the B-7 zone and the City of Portland Design Manual, for review and approval by the Zoning Administrator.” On May 19, 2017, the City issued a building permit to the Owner for construction of a new building and renovation of the existing shell. The permit required separate permitting for “any new signage.”

On February 24, 2017, ConvenientMD submitted an application for a sign permit for three wall-type signs on the building—the two building identification signs and an additional wall sign for the south-facing wall. From March through July of 2017, the Applicant (through its representatives) has corresponded by e-mail with various members of the City’s zoning staff with regard to its sign permit application. This correspondence culminated in an e-mail from Ann Machado (Zoning Administrator) to the applicant’s attorney, Natalie Burns, dated July 21, 2017 (see **Attachment A**). In the e-mail, the Zoning Administrator provided the following interpretation of the Ordinance:

“I understand that the name of the tenant is ConvenientMD Urgent Care. It is my interpretation that a building identification sign identifies the name of the tenant in basic letters. What is being proposed represents the [] company’s branding and logo. It is a commercial message and not a building identification sign.”

ConvenientMD appeals from this interpretation of the ordinance and respectfully requests the Board to reverse the Zoning Administrator’s interpretation.

Argument

1. The Zoning Administrator’s interpretation related to building identification signage is not supported by any Ordinance provisions.

Despite having received Planning Board approval for the building identification signage as part of the master sign plan, the Zoning Administrator is now attempting to regulate the content of the proposed signage through her interpretation of the Ordinance. However, there is no basis in the Ordinance for an interpretation that a building identification sign must identify the name of the tenant in “basic letters” and not with the company’s logo, nor that a building identification sign in the B-7 zone cannot contain a “commercial message.” In fact, the Ordinance does not even provide a definition for a building identification sign.

¹ Interestingly, if the ConvenientMD building identification sign on the east façade of the building were changed to a tenant sign, it could be 208 square feet in size (104 lineal feet x 2 square feet). That would be considerably larger than the allowable sign area for a building identification sign for that façade (165 square feet, or 5% of the wall area). In addition, it is notable that the prior tenant of the building (AAA Car Care Center), had 144-square-foot signs on both the eastern and northern façades of the building.

Table 1 in Sec. 14-369.5 identifies the permitted sign types by zone. For the B-7 zone, Table 1 indicates that a building identification sign is allowed without a permit, subject to note (e), which provides: “Only address and name of occupant allowed on sign.” In addition, Sec. 14-368(a) provides: “If the notation ‘A’ appears for a sign type in a column, such sign is allowed without prior approval as provided in this division in the zoning district(s) represented by that column.” That section goes on to provide:

Although permitted under the previous paragraph, a sign designated by an “A” or “B” in Table 1 of section 14-369.5 shall be allowed only if:

1. The sum of the area of all building and freestanding signs on the lot conforms with the maximum permitted sign areas for such as determined by the formula for the zoning district in which the lot is located as specified in Table 2 of section 14-369.5; and
2. The size, location and number of signs on the lot conform to the requirements of Table 2 of section 14-369.5, which establish permitted sign dimensions by sign type, and to any additional limitations listed therein.

Portland Zoning Ordinance, Sec. 14-368(a).

The Zoning Administrator also infers, without basis, that a “commercial message” is not allowed on any building identification sign in the B-7 zone. The Ordinance defines “commercial message” as follows: “Any sign wording, logo or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.” Portland Zoning Ordinance, Sec. 14-367. Notes (c) and (d) to Table 1 do contain restrictions as to commercial messages, but those notes are not applicable to building identification signs in the B-7 zone; only note (e) applies as a restriction.

Table 2.8 contains the regulations for building signs in the B-7 Mixed Use Urban zone. According to that table, there are two limitations on building identification signs for multi-tenant buildings: (i) the provision allows only one building sign per façade and one sign per tenant; and (ii) the total signage cannot cover more than 5% of the total wall area. In addition, Table 2.8 allows one sign per ground-floor tenant, limited to 2 square feet per foot of the tenant’s building frontage.

Contrary to the Zoning Administrator’s interpretation, there is nothing in the Ordinance, including Tables 1 and 2.8 of Section 14-369.5, to suggest that building identification signs must be in “basic letters.” As shown in the plans included with this application, the proposed signage meets the applicable Ordinance requirements, as follows:

- Per Table 1, note (e), only the address and name of the occupant will be on the building identification signs on the east and north façades. The name of the occupant is

Jensen Baird
Gardner Henry

July 31, 2017
Page 4

ConvenientMD Urgent Care, and the sign will also display the address of the building, 191 Marginal Way.

- The proposed sign on the south façade is a tenant sign and therefore not implicated by the Zoning Administrator's interpretation.

Each of the three proposed signs meets the dimensional requirements (area) set forth in Table 2.8, which was not at issue in the Zoning Administrator's interpretation.

2. Any ambiguity in the Ordinance must be construed in favor of ConvenientMD.

Under Maine law, any ambiguity in an ordinance provision is to be construed in favor of the applicant, as ordinances are to be strictly construed. *See Town of Windham v. LaPointe*, 308 A.2d 286 (Me. 1973); *see also Home Builders Ass'n v. Town of Eliot*, 2000 ME 82, ¶ 9, 750 A.2d 566 (ordinance interpretation should defer to the plain meaning of the provision).

ConvenientMD does not perceive any ambiguity with regard to building identification signs; there simply is no regulation on lettering or commercial message for such signs in the B-7 zone. However, in accordance with the above rule, to the extent that the Board discerns any ambiguity in the provisions of the Ordinance at issue in this application, those provisions must be construed in favor of the Applicant's request for a sign permit.

The correspondence between ConvenientMD and the zoning staff included a March 23, 2017 e-mail from Zoning Specialist Christina Stacey (see **Attachment B**). In that e-mail, Ms. Stacey acknowledged that the Ordinance provisions in question are vague: "*I've talked with my supervisor and one of the planners who have expertise in the sign ordinance, and they both felt that the proposed signs stretch the intent of an 'identification' sign, despite the vagueness of the ordinance language.*" To the extent the Board agrees with the Zoning Specialist that the ordinance language regarding building identification signs is vague, any uncertainty in those provisions should be construed in favor of the applicant.

Conclusion

For the reasons set forth above, ConvenientMD respectfully requests that the Board reverse the Zoning Administrator's July 21, 2017 interpretation of the Ordinance as it relates to building identification signs.

Sincerely,



Natalie L. Burns

NLB/gw
Enclosures

Attachment A

From: Ann Machado [<mailto:amachado@portlandmaine.gov>]
Sent: Friday, July 21, 2017 2:08 PM
To: Natalie L. Burns
Cc: Christina Stacey; Ben Walter; Max Puyan
Subject: Re: Sign permit - Convenient MD Urgent Care; 191 Marginal Way

Natalie -

I understand that the name of the tenant is ConvenientMD Urgent Care. It is my interpretation that a building identification sign identifies the name of the tenant in basic letters. What is being proposed represents the the company's branding and logo. It is a commercial message and not a building identification sign.

Ann

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

Attachment B

From: Christina Stacey [<mailto:cstacey@portlandmaine.gov>]
Sent: Thursday, March 23, 2017 1:57 PM
To: Ben Walter <bwalter@cwsarch.com>
Subject: Re: Sign permit - Convenient MD

Ben,

I've talked with my supervisor and one of the planners who have expertise in the sign ordinance, and they both felt that the proposed signs stretch the intent of an "identification" sign, despite the vagueness of the ordinance language. I would recommend you simply apply for a waiver on the number of tenant signs, the square footage of the signs, and the style of the signs (individually-lit letters). The other option is to appeal our interpretation of this ordinance language to the Zoning Board of Appeals.

For the waiver, you just need to submit a letter requesting a waiver and addressing the waiver criteria that I attached in my first e-mail. There is no specific format required. The planner who is assigned to the waiver review will contact you if they have additional questions. The letter can be e-mailed to me directly.

Best,

Chris

SHORT FORM LEASE

STATUTORY MEMORANDUM OF LEASE

Pursuant to the provisions of 33 M.R.S. § 201, the following information is provided relative to a certain Lease dated December 12, 2016 (the "Effective Date")

1. **PARTIES.** The names of all of the parties to the Lease and their addresses are as follows:

LANDLORD: Earle W. Noyes & Son
127 Oxford Street
PO Box 932
Portland, ME 04104

TENANT: Convenient MD, LLC
111 New Hampshire Avenue
Portsmouth, New Hampshire 03801

2. **LEASED PREMISES.** The Leased Premises consists of approximately 5,044 square feet of rentable space in the building located at 191 Marginal Way, Portland, Maine. The Leased Premises are part of the premises conveyed to Landlord by deed dated ____ and recorded in the ____ County Registry of Deeds at Book ___, Page ____.

3. **TERM.** The Term of the Lease is ten (10) years, commencing on the Rent Commencement Date, as that term is defined in the Lease. Tenant has the right to extend the Lease for up to three (3) additional ten (10) year terms, subject to the terms of the Lease.

IN WITNESS WHEREOF, the parties to the said Lease have executed this instrument as of the 13 day of December 2016.

[signature pages follow]

LANDLORD:

EARLE W. NOYES & SON

Cheryl R Rand
Witness

By:

Peter L. Noyes
Peter L. Noyes (Print Name)
Its President
Duly Authorized

TENANT:

CONVENIENT MD, LLC

[Signature]
Witness

By:

Max Puyan
Max Puyan
Its CEO
Duly Authorized

STATE/Commonwealth of MAINE
COUNTY OF CUMBERLAND

The foregoing instrument was acknowledged before me this 14th day of DECEMBER,
2016, by PETER L. NOYES, as PRESIDENT of
EARLE W. NOYES & SONS, INC., on behalf of said CORPORATION.

[Signature]
Notary Public
My Commission Expires:
(SEAL)

STEVEN L. MICKIEWICZ
Notary Public
My Commission Expires March 30, 2020

Earle W. Noyes & Sons
Moving Specialists, Inc.

P.O. Box 938 127 Oxford Street Portland, ME 04104
Phone: (207) 775-5876 Toll Free: (800) 341-7576 FAX: (207) 775-5715

July 31, 2017

To Whom It May Concern:

I hereby confirm that Earle W. Noyes and Son, d/b/a Earle W. Noyes & Sons Moving Specialists, Inc., is the owner of record of a parcel of land located at 191 Marginal Way (Parcel ID 025 C021001). I also confirm that a lease has been executed between Noyes and ConvenientMD, LLC, granting ConvenientMD permission to represent us as Landlord in their application for an interpretation appeal concerning proposed building signage.

Sincerely,



Brent E. Noyes, Esq.
Vice President of Operations/General Counsel
Earle W. Noyes & Sons Moving Specialists, Inc.
Agent for United Van Lines
127 Oxford Street
Portland, ME 04101
(800) 341-7576 x 216
(207) 347-5031 direct
(207) 775-5715 fax
bnoyes@noyesmoving.com
www.noyesmoving.com

Think of Noyes when you think of moving.

www.noyesmoving.com



Quality Service Since 1923

August 2, 2017

Ann Machado
Zoning Administrator
Permitting and Inspections Department
City of Portland, Maine

Dear Ann,

Natalie Burns of the firm Jensen Baird Gardner & Henry is representing ConvenientMD in our application for an interpretation appeal concerning proposed building signage at our new building located at 191 Marginal Way. Natalie is authorized to act as our legal counsel before the Board.

Should you have any questions regarding this letter please do not hesitate to contact me at 603-339-9234.

Sincerely,



Max Puyan
Co-CEO
ConvenientMD Urgent Care



CITY OF PORTLAND, MAINE - SPACE AND BULK REGULATIONS FOR ZONE B-7	
191 MARGINAL WAY	
Dimensional Requirements	Required
Minimum Lot Size	None
Minimum Frontage	None
Minimum Front Yard Setback	None required except as provided in maximum street setback below
Minimum Side Yard Setback	None Required
Minimum Rear Yard Setback	None Required
Maximum Street Setback	Ten (10) feet
Minimum Building Wall Length	1. Minimum seventy-five (75%) of lot street frontage within ten (10) feet of the street; or 2. Minimum twenty-five (25%) of building perimeter within ten (10) feet of the street.
Maximum Building Lot Coverage	One hundred (100) percent
Maximum Residential Density	None
Maximum Building Height	105'
Minimum Building Height	Minimum of 3 Floors



Stantec
482 Payne Road Scarborough Court
Scarborough, Maine 04074-8929
Tel. 207.883.3355
www.stantec.com

Copyright Reserved

The Contractor shall verify and be responsible for all dimensions. DO NOT scale the drawing - any errors or omissions shall be reported to Stantec without delay.
The Copyrights to all designs and drawings are the property of Stantec. Reproduction or use for any purpose other than that authorized by Stantec is forbidden.

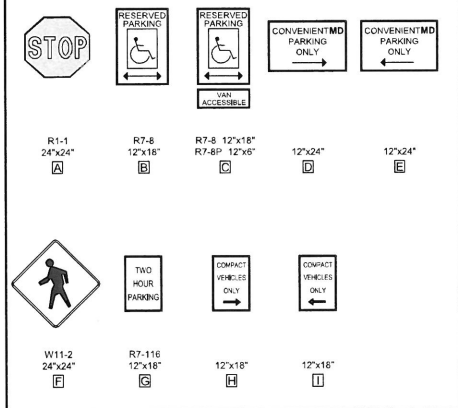
Consultants

Notes

NOTE:

SECTION 14-299
(g) BUILDING ENTRANCES:
ALL BUILDINGS SHALL HAVE A MINIMUM OF ONE (1) PUBLIC PEDESTRIAN ENTRANCE FACING THE STREET FRONTAGE OF THE LOT. SUCH BUILDING ENTRANCES SHALL ALSO BE REVIEWED UNDER THE B-7 BAYSIDE DESIGN STANDARDS

SIGN LEGEND



PROPOSED BUILDING PLANS ARE PROVIDED
BY CWS ARCHITECTS DATED 11.11.2016

PROPOSED TOTAL PARKING SPACES: 90

PLAN REFERENCE:

BACK COVE SOUTH STORAGE CONDUIT PAVEMENT MARKING PLAN
STATIONS 34+00 TO 46+00 - CONTAINED IN BAYSIDE TRANSPORTATION
MASTER PLAN REPORT

FLOOD ZONE NOTE

BY GRAPHIC PLOTTING ONLY, THIS PROPERTY IS IN ZONE C OF THE
FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 230051 13B,
WHICH BEARS AN EFFECTIVE DATE OF JULY 17, 1986 AND IS NOT IN A
SPECIAL FLOOD HAZARD AREA.

N/F
CITY OF PORTLAND
19057/107
24-C-10 & 25-B-6

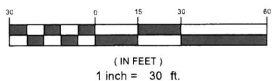
IN SATISFACTION OF CONDITION 14 OF "CONDITIONS OF
APPROVAL" CONTAINED IN 1/17/17 REDEVELOPMENT APPROVAL
LETTER FROM STUART O'BRIEN TO APPLICANT, APPLICANT WILL
PROVIDE A VEHICULAR INGRESS / EGRESS EASEMENT FOR AN
INTERPARCEL CONNECTION BETWEEN APPLICANT'S PROPERTY
SHOWN ON THIS PLAN (BOOK 8575 PAGE 92 OF THE CORD) AND
THE ADJACENT PROPERTY (MARGINAL WAY PROPERTIES, INC.
BOOK 8575, PAGE 92) IF SUCH A CONNECTION IS REQUIRED BY
THE CITY OF PORTLAND FOR SUCH ADJACENT PROPERTY.
(DASHED AREA SHOWS APPROVED DESIGN)

N/F
MARGINAL WAY
PROPERTIES, INC.
8575/92
24-C-1

REMOVE / RESET CURB AS PART OF
NEW RAMP CONSTRUCTION, TYP
TO FRANKLIN ARTERIAL

NOTE:

1. THE OWNER SHALL BE RESPONSIBLE FOR THE CONTROL OF LIGHT LEVELS ON THE
PROPERTY TO MAINTAIN A MAXIMUM COVERAGE OF 5.0 FC IN ACCORDANCE WITH
THE CITY OF PORTLAND SITE LIGHTING TECHNICAL STANDARDS. THIS MAY
INCLUDE THE USE OF DIMMER CONTROLS TO ACHIEVE COMPLIANCE.
2. THE SIDEWALK SHALL BE CONSTRUCTED WITH A MINIMUM CLEARANCE OF 5' ON
ONE SIDE OF THE UTILITY POLE.



REVISION	BY	DATE
1	SRB	17.04.12
2	SRB	17.02.12
3	SRB	17.02.03
4	SRB	16.12.15
5	SRB	16.11.10
6	SRB	16.10.12
7	SRB	16.07.22
8	SRB	16.07.22
9	SRB	16.07.22
10	SRB	16.07.22
11	SRB	16.07.22
12	SRB	16.07.22
13	SRB	16.07.22
14	SRB	16.07.22
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96	SRB	16.07.22
97	SRB	16.07.22
98	SRB	16.07.22
99	SRB	16.07.22
100	SRB	16.07.22

File Name: 195350354 SP	DED	SRB	SRB	16.07.19
	DWN	CHKD	DSGN	DATE

Permit-Seal



P.E. STEPHEN R. BUSH
LIC. #7429

Client/Project

EARL W. NOYES & SONS

191 MARGINAL WAY REDEVELOPMENT

PORTLAND, MAINE

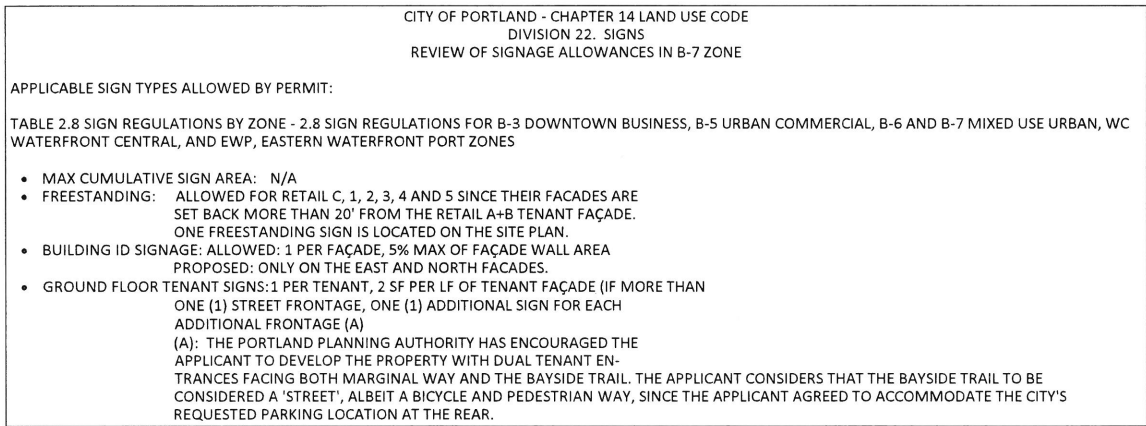
Title
SITE LAYOUT PLAN

Project No. 195350354 Scale 1" = 30'

Sheet

C-3.0





A2 SITE SIGNAGE ELEVATION

Architectural elevation drawing of a building facade. The drawing is divided into two main sections: a left section labeled 'RETAIL A + B FACADE: 43'-9"' and a right section labeled 'RETAIL 5 FACADE: 77'-2"'. The total 'EAST-FACING BUILDING LENGTH: 118'-9"'. The drawing includes various callouts and annotations:

- Top Annotations:**
 - Grid lines G, F.7, F.6, F.4, F.2, F.
 - LOCATE PVC TRIM JOINTS AS SHOWN - ALIGNED WITH METAL PANEL SIDING JOINTS & W/ FACE OF CORNER TRIM AT BUILT-OUT PIERS. REFERENCE D2/A7.23 FOR DETAIL, TYPICAL.
- Left Section (Retail A + B):**
 - Callouts A1, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z.
 - JOINT TRIM - INSTALL AS RECOMMENDED BY SIDING MANUFACTURER - TYP.
 - CORNER TRIM - INSTALL AS RECOMMENDED BY SIDING MANUFACTURER - TYP.
 - TYP. T.O. FLOOR SLAB ELEVATION: 12.50' +/- DATUM ELEV: 0'-0"
- Right Section (Retail 5):**
 - Callouts A1, A2, A3, A4, A5, A6, A7, A8, A9, A10, A11, A12, A13, A14, A15, A16, A17, A18, A19, A20, A21, A22, A23, A24, A25, A26, A27, A28, A29, A30, A31, A32, A33, A34, A35, A36, A37, A38, A39, A40, A41, A42, A43, A44, A45, A46, A47, A48, A49, A50, A51, A52, A53, A54, A55, A56, A57, A58, A59, A60, A61, A62, A63, A64, A65, A66, A67, A68, A69, A70, A71, A72, A73, A74, A75, A76, A77, A78, A79, A80, A81, A82, A83, A84, A85, A86, A87, A88, A89, A90, A91, A92, A93, A94, A95, A96, A97, A98, A99, A100.
 - EXTERIOR LIGHTING - REFERENCE ELECTRICAL DRAWINGS. PROVIDE PVC BACKER PANEL & INSULATION, W/ FLASHING AND EDGE TRIM APPROPRIATE TO EXTERIOR WALL FINISH ASSEMBLY, TYP. COORD DETAILING WITH ARCHITECT.
 - JOINT TRIM - INSTALL AS RECOMMENDED BY SIDING MANUFACTURER - TYP.
 - HOSE BIB - REFERENCE MECHANICAL DRAWINGS FOR MORE INFO. PROVIDE SEALANTS AND SUPPLEMENTAL INSULATION AT WALL PENETRATION
 - CORNER TRIM - INSTALL AS RECOMMENDED BY SIDING MANUFACTURER - TYP.
- Bottom Annotations:**
 - ORIGINAL T.O. FLOOR SLAB ELEVATION: EST. 11.66' +/- DATUM F.F.V: -0'-10"

(1) Sec. 14-369 - Computation of individual signs: "... the area of the sign face shall be computed by means of the smallest square, circle, rectangle, triangle or simple polygon that will encompass the extreme limits of the writhing, representation, emblem or other display, together with any material or color forming and integral part of the background of the display, but not any supporting framework, bracing or decorative fence or wall when such fence is clearly incidental to the display itself."

(2) Combined Retail Space Example (if one tenant takes multiple spaces)

A3	SIDE (WEST) ELEVATION
	REFERENCED FROM: PLANS



 CWS ARCHITECTS ARCHITECTURE INTERIOR DESIGN		264 US Route One Scarborough ME 04074 OFFICE: 207 774 4441 CWSARCH.COM	
DESIGNER		CWS ARCHITECTS ARCHITECTURE INTERIOR DESIGN 264 U.S. ROUTE ONE BOX 6, SUITE 100-2A SCARBOROUGH, MAINE 04074T: 207 774 4441 F: 207 774 4016 WWW.CWSARCH.COM	
OWNER		EARL W. NOYES & SONS C/O PAUL URENECK 4600 MAYFLOWER HILL WATERVILLE, ME 04901 T: 207-857-4617	
PROJECT		191 MARGINAL WAY RETAIL CENTER 191 MARGINAL WAY PORTLAND, MAINE 04101	
DRAWING		BUILDING ELEVATIONS & MASTER SIGNAGE PLAN CWS PROJECT NUMBER: 15.063	
REVISIONS		03/24/2017 RE: CITY OF PORTLAND COND. OF APPROVAL	
DRAWING NUMBER A3.00		SCALE: AS NOTED DATE: 03/15/2011	

- MAX CUMULATIVE SIGN AREA: N/A
- FREESTANDING: ALLOWED FOR RETAIL C, 1, 2, 3, 4 AND 5 SINCE THEIR FAÇADES ARE SET BACK MORE THAN 20' FROM THE RETAIL A+B TENANT FAÇADE. ONE FREESTANDING SIGN IS LOCATED ON THE SITE PLAN.
- BUILDING ID SIGNAGE: ALLOWED: 1 PER FAÇADE, 5% MAX OF FAÇADE WALL AREA PROPOSED: ONLY ON THE EAST AND NORTH FAÇADES.
- GROUND FLOOR TENANT SIGNS: 1 PER TENANT, 2 SF PER LF OF TENANT FAÇADE (IF MORE THAN ONE (1) STREET FRONTAGE, ONE (1) ADDITIONAL SIGN FOR EACH ADDITIONAL FRONTAGE (A)
(A): THE PORTLAND PLANNING AUTHORITY HAS ENCOURAGED THE APPLICANT TO DEVELOP THE PROPERTY WITH DUAL TENANT ENTRANCES FACING BOTH MARGINAL WAY AND THE BAYSIDE TRAIL. THE APPLICANT CONSIDERED A "STREET", ALBEIT A BICYCLE AND PEDESTRIAN WAY, SINCE THE REQUESTED PARKING LOCATION AT THE REAR.

CODE	MATERIAL	MANUFACTURER	PRODUCT, STYLE AND COLOR	FINISH	REMARKS / NOTES
A-1	UNINSULATED HORIZ METAL PANELS	REF SPEC. SECT.: 074213	EXPOSED FASTENER HORIZONTAL METAL WALL PANELS; COLOR TO BE SELECTED BY ARCHITECT FROM MFR STANDARD COLOR OPTIONS	FACTORY	-
A-2	INSULATED HORIZ METAL PANELS	REF SPEC. SECT.: 074214	INSULRIB 7.2	FACTORY	-
B	METAL PANELS	REF SPEC. SECT.: 074215	CF ARCHITECTURAL WALL PANEL; 2'X8' REVEAL PATTERN, PANEL SIZE TBD; COLOR: SW7565 "OYSTER BAR"	FACTORY	-
C	PVC SHEET FASCIA	TBD	PVC PANEL, AS DETAILED; REF ELEVATIONS FOR JOINT LAYOUT; COLOR: WHITE, TBD	PAINT	-
D	METAL ROOF PANELS	REF SPEC. SECT.: 074113	PRE-FINISHED STANDING SEAM METAL PANEL ROOFING SYSTEM; COLOR: "CARDINAL RED"	FACTORY	-
E	ALUMINUM FRAME FABRIC AWNING	TBD	TBD	FACTORY	-
F-1	ALUMINUM STOREFRONT	KAWNEER	451T; COLOR: "BONE WHITE" WITH PPG SOLARBAN 60, LVT=70% (SEE SPEC)	FACTORY	-
F-2	ALUMINUM STOREFRONT	KAWNEER	451T; COLOR: "BONE WHITE" WITH PPG SOLARBAN 60, LVT=70% (SEE SPEC)	FACTORY	-
G-1	ALUMINUM STOREFRONT	KAWNEER	451T; COLOR: "MEDIUM BRONZE" WITH PPG SOLARBAN 60, LVT=70% (SEE SPEC)	FACTORY	-
G-2	NOT USED	-	-	-	-
H-1	EXTERIOR DOORS	TBD	INSULATED HOLLOW METAL - REF DOOR SCHEDULE; COLOR: MATCH "MEDIUM BRONZE"	PAINT, GLOSS	-
J	BREAK METAL FASCIA AND CORNICE	TBD	COLOR: "BONE WHITE"	FACTORY	-
K	EXPOSED STRUCTURAL STEEL	TBD	COLOR: TBD	TNEMIC PAINT	-
L	METAL SOFFIT PANELS	REF SPEC. SECT.: 074216	CONCEALED FASTENER METAL SOFFIT PANEL; REF RCP FOR JOINT LAYOUT; COLOR: WHITE - TO BE SELECTED BY ARCHITECT, FROM MFR STANDARD COLOR OPTIONS	FACTORY	-

CWS ARCHITECTS
ARCHITECTURE | INTERIOR DESIGN

264 US Route One Box 6, Suite 100-2A
Scarborough ME 04074
OFFICE: 207 774 4441 CWSARCH.COM

DESIGNER

CWS ARCHITECTS
ARCHITECTURE | INTERIOR DESIGN

264 U.S. ROUTE ONE
BOX 6, SUITE 100-2A
BOROUGH, MAINE 04074
207-774-4441
F: 207-774-4016
WWW.CWSARCH.COM

EARL W. NOYES & SONS
C/O PAUL LIBENECK

4600 MAYFLOWER HILL
WATERVILLE, ME 04901
T: 207-859-4617

191 MARGINAL WAY
RETAIL CENTER

191 MARGINAL WAY
PORTLAND, MAINE 04101

BUILDING ELEVATIONS

PLAN

CWS PROJECT NUMBER: 15063

REVISIONS

RE: CITY OF PORTLAND COND. OF APPROVAL	03/24/2017
---	------------

DRAWING NUMBER

A3.01

AS NOTED

03/15/201

A3 SIDE (EAST) ELEVATION

	REFERENCED FROM: 1 BARS
---	-------------------------

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

E3 EXTERIOR LEGENDS AND TABLES
REFERENCED FROM: BUILDING ELEVATIONS

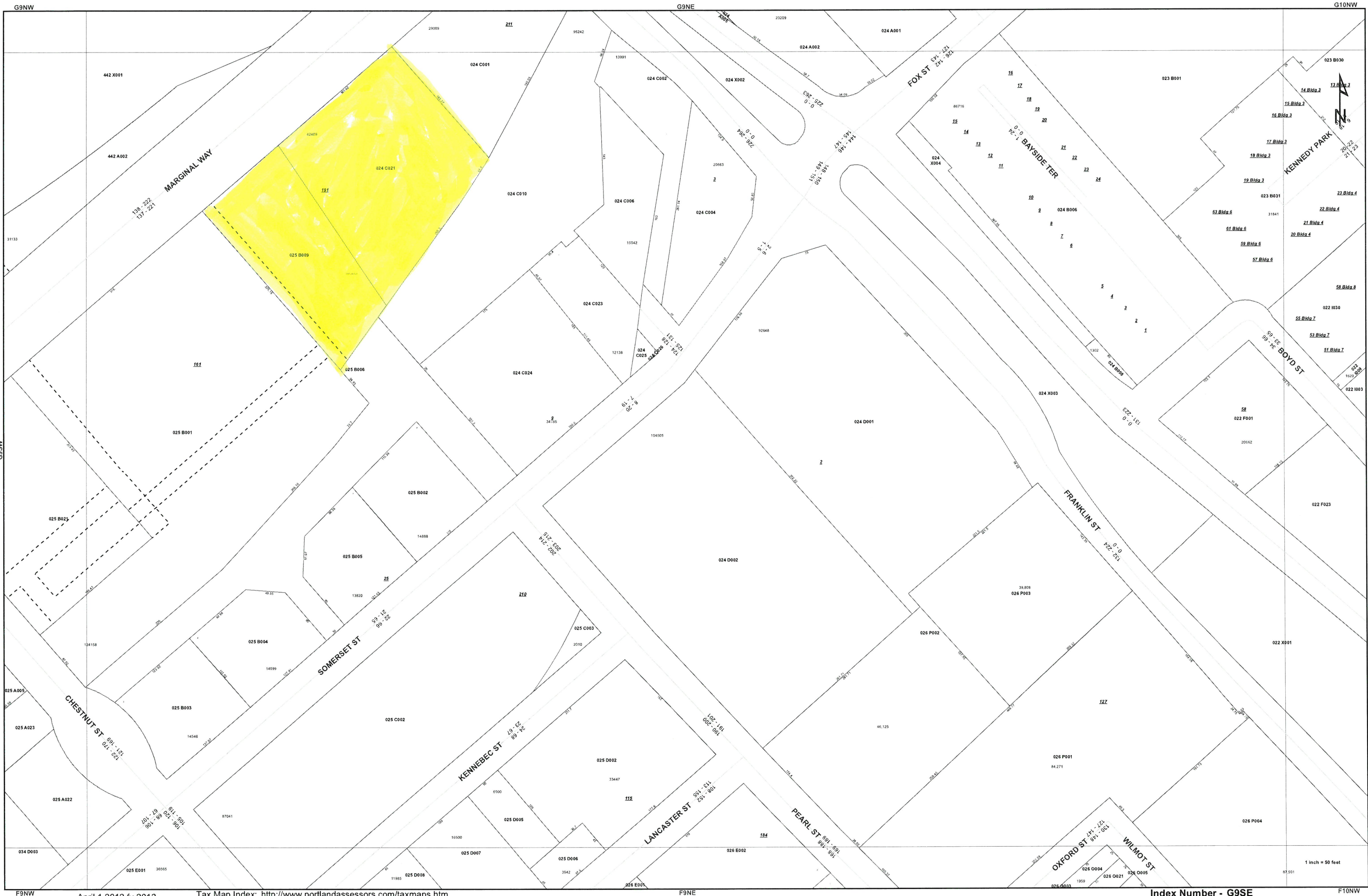
REFERENCED FROM: BUILDING ELEVATIONS

SCALE: N/A

A5	REAR (SOUTH) ELEVATION
	REFERENCED FROM: PLANS

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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SCALE: 1/8" = 1'-0"



191 Marginal Way - Interpretation Appeal

