

PLANNING BOARD

Tuesday, November 14, 2023 at 4:30 PM
Hybrid Meeting, Room 24 (Basement
Level of City Hall) and Zoom



MEMBERS

Brandon Mazer, Chair
Justin Barker, Vice Chair
Marpheen Chann
Sean Murphy
David Silk
Austin Smith
Maggie Stanley

The Planning Board invites the public to attend the meeting in person or Zoom pursuant to the Remote Meeting Policy adopted by the Planning Board. Prior to the meeting, please check the Agenda Center (<https://portlandme.portal.civicclerk.com>) to view memos and reports which will be posted by the end of the day on the Friday before the Planning Board meeting as well as start times for each item as placement on the agenda can change. To submit written public comment on an agenda item, email planningboard@portlandmaine.gov. Submissions must be received by 12:00 pm the day before the Planning Board meeting to guarantee their inclusion in the agenda packet. All submissions must include the commenter's name and legal address. To help ensure your comment is submitted for the correct item, please include the name of the agenda item (see below).

REMOTE PARTICIPATION

Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend either in person or via Zoom, a recording will be available in the [Agenda Center](#), following the meeting.

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Webinar ID: 856 2801 1627

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AGENDA:

WORKSHOP - 4:30 PM

- i. Major Site Plan; 19 West Street; Carleton West, LLC, Applicant. The Planning Board will hold a hybrid workshop to consider a proposal to redevelop an 8,360 square foot medical office building as a five-unit residential building, and construct two separate duplex structures on a 0.86-acre property addressed at 19 West Street, with frontage on Carleton Street. The project also involves the construction of 10 new parking spaces, and would further retain 23 existing parking spaces for use by neighborhood residents. The property is zoned R-6 residential, and is also located within the West End Historic District. A project and plan summary are available for viewing on the city's CSS Portal (<https://css.portlandmaine.gov/>) by referencing Plan Number PL-002614-2023.

PUBLIC HEARING - 5:00 PM

1. **ROLL CALL AND DECLARATION OF QUORUM**
2. **COMMUNICATION AND REPORTS**

3. **REPORT OF ATTENDANCE AT THE MEETING HELD ON OCTOBER 24, 2023**

Public Hearing

LD-2003: Barker, Chann, Mazer, Murphy, Silk, Smith and Stanley present.

89 Elm Street: Barker, Chann, Mazer, Murphy, Silk, Smith and Stanley present.

533 Summit Street: Barker, Chann, Mazer, Murphy, Silk, Smith and Stanley present.

426 Presumpscot Street: Barker, Chann, Mazer, Murphy, Silk, Smith and Stanley present.

4. **REPORTS OF DECISIONS AT THE MEETING HELD ON OCTOBER 24, 2023**

- i. Zoning Text Amendments, LD-2003, City of Portland, Applicant. Barker motioned, and Stanley seconded a motion to recommend to the City Council the adoption of the zoning text amendments as prepared by staff to bring the City into compliance with State Law LD-2003. Vote 7-0.
- ii. Major Site Plan; 89 Elm Street; Reveler Development, Applicant. Barker motioned, and Stanley seconded a motion to waive Technical Manual Standard Section 1.10.3 related to drive aisle dimensions, to permit a deviation from the City's minimum requirement of 24 feet for a two-way driveway aisle, and allow two-way driveway aisle widths of 18 feet and 22 feet. Vote 7-0. Barker motioned, and Stanley seconded a motion to waive Technical Manual Standard Section 1.6.1, Appendix A, related to sidewalk materiality, to permit a mixture of brick, concrete and raised granite tree wells within the public sidewalk area. Vote 7-0. Barker motioned, and Stanley seconded a motion to waive Technical Manual Standard Section 1.5.1 related to the number of driveways permitted based upon development characteristics, to permit a total of five separate driveways. Vote 7-0. Barker motioned, and Stanley seconded a motion to waive Technical Manual Standard Section 1.5.1., which requires that drive aisles intended for two-way traffic be 24 feet, to permit driveway aisle widths of 18 feet and 22 feet respectively. Barker motioned, and Stanley seconded a motion to waive Technical Manual Standard Section 1.5.1 which requires a minimum separation of 35 feet between driveways and intersections, to allow a reduced separation of 29.4 feet. Vote 7-0. Barker motioned, and Stanley seconded a motion to waive Ch. 25, Sec. 25-138 to permit a reduced limit of pavement repair. Vote 7-0. Barker motioned, and Stanley seconded a motion to approve the Traffic Movement Permit. Vote 7-0. Barker motioned, and Stanley seconded a motion to approve the major site plan application. Vote 7-0. Barker motioned, and Stanley seconded a motion to adopt the draft approval letter with included attachments as the record of decision of the Planning Board, and to authorize the Planning Board Chair to sign the approval letter as drafted and amended by the Planning Board. Vote 7-0.
- iii. Zoning Map Amendment; 426 Presumpscot Street; Backyard ADUs, LLC, Applicant. Barker motioned, and Stanley seconded a motion to recommend to the City Council adoption of the proposed map amendment as presented by staff. Vote 7-0.

5. **NEW BUSINESS**

- i. Major Site Plan; 2 West Commercial Street; MDOT Port Authority, Applicant. **At the request of the Applicant, this item is being tabled.** The Planning Board will hold a hybrid public hearing to consider a major site plan and site location of development application intended to facilitate the redevelopment of a portion of the International Marine Terminal site to allow for the installation of twelve, 50-foot tall, refrigerated container racking systems (reefer racks). The project will result in approximately five acres of site disturbance, which will involve removal of existing bituminous and pervious pavement, and resurfacing in a new heavy-duty pavement to accommodate heavier traffic volumes. The subject property totals 18.6 acres and is zoned Waterfront Port Development Zone (WPDZ) and is located within the Shoreland

Zone. A project and plan summary are available for viewing on the city's CSS Portal (<https://css.portlandmaine.gov/>) by referencing Plan Number PL-002443-2023.

- ii. Major Site Plan and Conditional Use; 246 Eastern Promenade; ECK Realty, LLC, Applicant. **At the request of the applicant, this item is being tabled.** The Planning Board will hold a hybrid public hearing to consider a major site plan and conditional use application for inclusionary zoning to facilitate the redevelopment of 246 Eastern Promenade and 15 Turner Street. The project would involve demolition of a 12-unit residential building and the construction of two new buildings; an 11-unit residential building and a separate three-unit residential building along with 27 off-street parking spaces. The subject property is 27,706 square feet in area, and is zoned R-6 Residential. A project and plan summary are available for viewing on the city's CSS Portal (<https://css.portlandmaine.gov/>) by referencing Plan Number PL-002490-2023.
- iii. Major Site Plan; 19 Willis Street (Formerly 33 Montreal Street); 37 Montreal Street, LLC, Applicant. The Planning Board will hold a hybrid public hearing to make additional findings of fact pursuant to orders from the Maine Supreme Judicial Court and Maine Superior Court related to height, setback, and design review requirements in connection with the approved application for a four-story, 12-unit residential building at 19 Willis Street. The development site is located within an R-6 zone. The application associated with the remand order, PL-000807-2019, was originally approved by the Planning Board at its December 14, 2021 meeting. No public comment will be taken for this item.

Memorandum
Planning & Urban Development Department



To: Chair Mazer & Members of the Planning Board
From: Maya Balassa
Date: November 10, 2023
Re: Major Site Plan
Project ID: PL-002614-2023, CU-002693-2023
CBL: 055 B013000, 055 B013001, 055 B013002, 055 B013003
Meeting Date: November 14, 2023

I. INTRODUCTION

Carleton West, LLC has submitted a Major Site Plan and Conditional Use application to facilitate the development of two 2-unit townhomes, the renovation of an existing building into a three story, 5-unit building, and the renovation of a parking lot on a 37,361 square foot lot. The townhomes along Carleton Street will each have a garage, accessed from the rear. Each of the five units in the renovated building are proposed to have two surface parking spaces per unit, for a total of 10 spaces. The existing parking lot, accessed off of West Street, is proposed to be repaved, and will provide 23 condo parking spaces for nearby residents.

This application is being referred to the Planning Board for compliance with the City of Portland's Land Use Code Site Plan Standards, Section 14.1 and Conditional Use Standards, Section 6.5.2.

The Planning and Urban Development Department mailed 422 notices advertising this meeting to property owners within 500 feet of the site. A legal advertisement ran in the November 4 and 7, 2023 editions of the *Portland Press Herald*.

Applicant: Jack Soley and Ali Malone, Carleton West, LLC.
Applicant Terradyn Consulting, LLC
Representatives:

II. REQUIRED REVIEWS

<i>Review</i>	<i>Applicable Standards</i>
Site Plan	Section 14.6
Conditional Use Review	General Conditional Use standards Section 6.5.2 and/or Supplemental conditional use standards 6.5.6

<i>Waiver Requests</i>	<i>Applicable Standards</i>
The applicant is requesting a two-way parking lot drive aisle width of 20' in the parking lot located on the east side of the site.	Technical Manual Section 1.10.3 requires a minimum two-way drive aisle width of 24 feet for standard right-angle parking.
The applicant is requesting an 18' wide driveway to serve the proposed parking lot off West Street.	Technical Manual Section 1.5.1.B requires a 20-foot minimum width.

III. PROJECT DATA

Existing Zoning	R-6 Residential
Historic District	West End Historic District
Property Size	37,361 square feet
Existing Use	Office/Parking
Proposed Use	Residential/Parking Lot

	<i>Existing</i>	<i>Proposed</i>	<i>Net Change</i>
Building Footprint	3,930 square feet	8,250 square feet	+4,320
Building Floor Area	11,790 square feet	27,589 square feet	+15,799
Impervious Surface Area	33,230 square feet	32,281 square feet	-949
Parking Spaces	62	33	-29
Bicycle Parking Spaces	0	9	+9

IV. BACKGROUND AND EXISTING CONDITIONS

The parcel is located along Carleton Street and West Street in the West End neighborhood. The site comprises existing off-street parking, with an existing two-story, approximately 30-foot tall office building. There are two existing driveways, with one located off of West Street and the other off of Carleton Street. There are two active easements on the property including a sewer easement and a common use easement with the adjoining property for the “purposes of passage, light and air, and is never to be obstructed in any way or to be made a place of storage or deposit” (Book 691, Page 284). The site is located less than 500 feet from a bus stop for METRO Line 8. The nearby properties are largely residential, however there are commercial businesses nearby, including Chaval Restaurant, the Ronald McDonald House, Seracare Life Sciences, and the Cumberland Farms gas station.

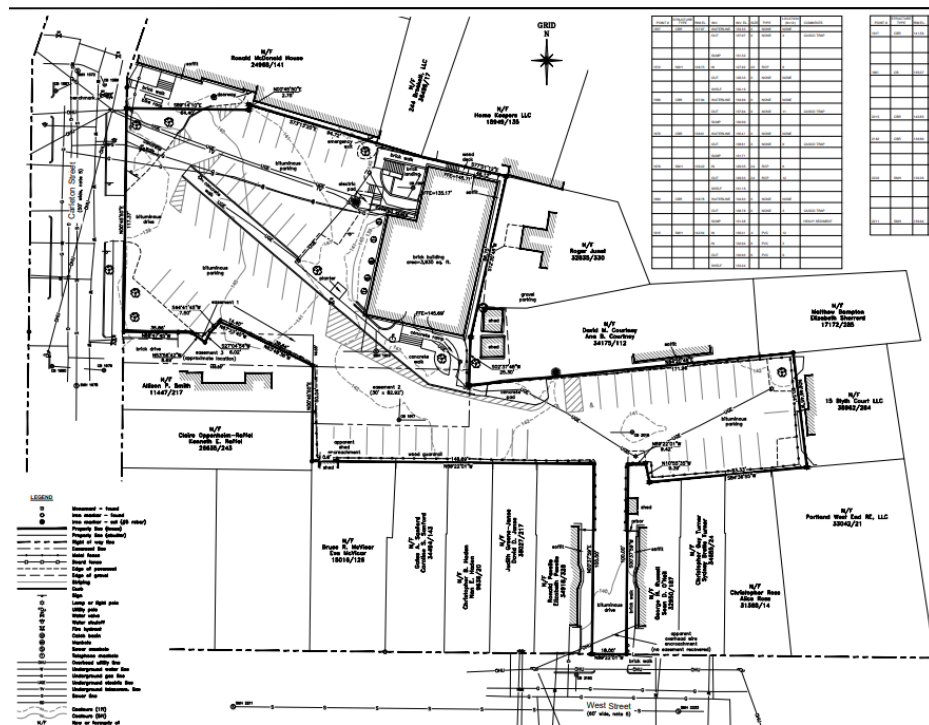


Figure 1 Existing conditions plan of 19 West Street

V. PROPOSED DEVELOPMENT

The proposed Major Site Plan application would facilitate the development of two new two-unit townhouses along Carleton Street and the redevelopment of an existing two-story building into a three story, five-unit apartment building. Each townhouse will have a two-car garage, accessed from the rear, and there are ten proposed surface parking spaces proposed as well. All vehicular traffic associated with the proposed residential development will access the site via Carleton Street. Additionally, the existing parking lot accessed off of West Street will remain and is proposed to be repaved, with the 23 remaining parking spaces being sold. Vehicular and pedestrian access between the residential portion of the site, and 23-space parking area being reserved for area-wide residents, is proposed to be restricted by a small landscaped area with raised granite curbing and gate.



Figure 2 Carleton St elevation of the two townhouses

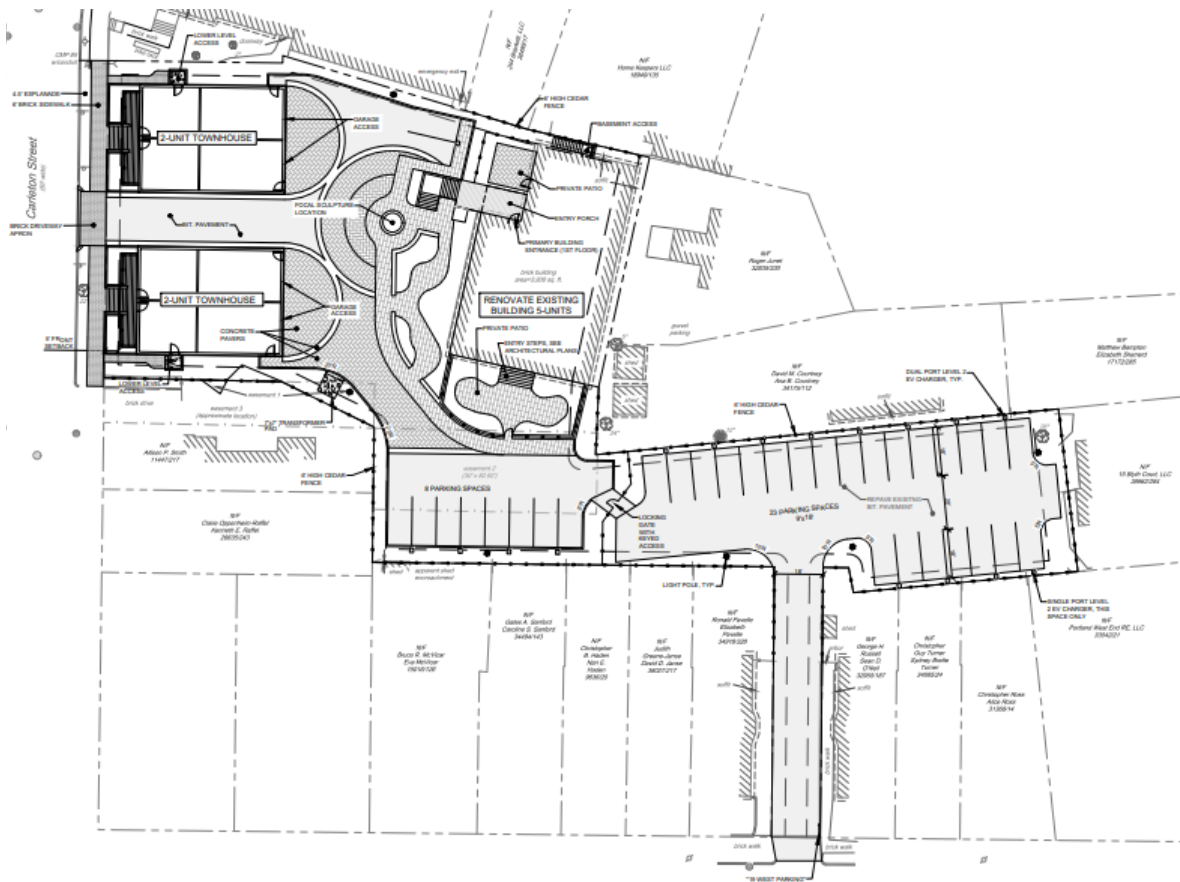


Figure 3 Proposed Site Plan

VI. RIGHT, TITLE, & INTEREST

The deed has been submitted showing Carlton West LLC as the owners of the property. Titcomb Associates completed an existing conditions survey, dated March 15, 2023. Three easements were identified and are shown on the survey. The first easement was released. There is also a second easement encumbering the parcel with a common use easement with adjoining property owners for the purpose of passage, light, and air, which cannot be obstructed in any way or used for storage. Parking is proposed in the easement area. Cooperation Council reviewed the easement and has noted that parking would not be acceptable within the easement area. According to the applicant the third easement for the existing building will no longer be used after redevelopment of the site.

VII. FINANCIAL & TECHNICAL CAPACITY

A letter from Norway Savings Bank has been submitted to demonstrate financial capacity. Technical capacity has been provided through the applicant team of Archetype Architecture, Terradyn Consultants, and Titcomb Associates.

VIII. ZONING ANALYSIS

The project is located in the R-6 Residential zone and is also located in the West End Historic District. Per Table 6-A, single-family, two-family, and multi-family dwellings are permitted uses in the R-6 zone. According to Table 6-A and Section 6.5.6(H)(2) off-street parking for passenger cars for uses permitted in the R-6 zone is listed as a conditional use in the R-6 zone and is required to meet the general conditional

use standards in Section 6.5.2. The applicant has submitted a conditional use application for the off-street parking proposed off of West Street for 23 condo parking spaces.

The R-6 zone limits residential density by requiring a minimum of 725 square feet of lot area per dwelling unit and further requires a minimum lot area of 2,000 square feet for residential uses. Maximum height in the R-6 zone is 45 feet. Buildings that are over 35 feet in height are required to have a 10-foot stepback from side property lines and 15-foot stepback from a rear property line. Minimum street frontage and lot width is 20 feet. The minimum front setback is five feet or the average depth of adjacent front yards. For the purposes of this review, staff have identified Carleton Street as the property's frontage, which is considered the basis for applicable front, side and rear setback requirements. The minimum rear setback is 10 feet and the minimum side setback is five feet except that a side setback in the R-6 zone may be reduced to zero, provided that the cumulative side yards are not less than 10 ft. Maximum lot coverage is 60% and the minimum landscaped open space ratio is 20%. The minimum off-street parking requirement is calculated as one space per dwelling unit as specified in Table 19-A. However, within the R-6 zone, no off-street parking is required for the first three dwelling units as described in Table 19-B. Therefore, the minimum zoning requirement for the proposed project is six parking spaces.

According to the applicant's submitted plans the two townhouse buildings are proposed to be 39' 10" in height. Further, the applicant is proposing to have outdoor decks with stairwell access associated with the townhomes. The renovated building is proposed to have a new height of 39' 6-1/4" after the addition of a third story. The third story is proposed to be stepped back 12 feet from the east side of the building to meet rear setback requirements, since Carleton is designated as the front yard.

There were several zoning comments provided in the most recent round of city comments to the applicant (Report Attachment 1). The applicant has resubmitted to address comments concerning the proposed rooftop walls dividing the rooftop decks on both townhouses, the stair towers to the townhouse roofs, clarity on step backs for both the existing building and proposed townhouses, and the conditional use of the off-street parking. While staff are still reviewing the updated materials, there are a few outstanding concerns to note.

Staff are continuing to review conformance with zoning in regards to the open space requirement, step backs, and front setbacks.

Zoning Summary Table		
Zoning Requirements	R-6 Residential	Proposed
Minimum Lot Size	2,000 square feet	37,361 square feet
Front Yard	5 feet. or avg	5 feet
Minimum Side Yard	5 feet	8.5 feet
Minimum Rear Yard	10 feet	3.7 feet (existing)
Open Space	20%	18.4%
Maximum Height	45 feet	39.83 feet
Step Back	15 feet rear, 10 feet side	Left: 10 feet Right: Unknown Rear: 15 feet
Parking	9 spaces	18 residential spaces 23 condo spaces

IX. SITE PLAN REVIEW STANDARDS (Section 14.6)

The proposed development has been reviewed by staff for conformance with the relevant review standards of the City of Portland's Site Plan Ordinance, Section 14.6. Staff comments are below.

1. Transportation Standards (Section 14.6.1)

A. Impact on surrounding street systems

The applicant proposes to retain the existing driveways off of Carleton Street and West Street. Residents of the proposed buildings will access their units from the driveway off of Carleton Street. The separate 23-space parking area will be accessed from the existing driveway off of West Street. The proposal includes renovating the sidewalk along the entire Carleton Street frontage.

In the last round of comments, the applicant was asked to show that the sidewalk was compliant with city standards in regards to cross slope and running slope. Further the applicant was asked to show the dimensions of existing and proposed conditions in the City right-of-way. The applicant has responded to staff comments in the most recent submission (Received 11.8.23) (Applicant Submittal M)- however the City is still reviewing this information.

B. Access and circulation

All proposed off street parking for the townhomes and apartments will be accessed off of Carleton Street via a 20-foot-wide driveway. All proposed parking for off-site condos will be accessed off of West Street via an 18-foot-wide driveway.

In response to City comments, the applicant is proposing a 12-foot wide travel lane and 4-foot wide flush pavers along either side of the driveway for pedestrian movement.

C. Public transit access

Not applicable. The site is less than 500 feet from a METRO bus stop on Line 8, and therefore no additional improvements are required to comply with this site plan standard

D. Parking

Table 19-A of the Land Use Code sets the parking minimum for single/two/multi- family units as 1 space/ dwelling unit. The minimum number of parking spaces per this table for the site is 6 spaces. The site is providing 2 spaces per unit for a total of 18 spaces (10 surface parking spaces and 8 garage parking spaces).

Per 14.6.1.D.1.C. "Developments proposing to exceed minimum parking requirements by 10% or more must demonstrate through a parking study that the amount of parking is appropriate for the proposed use of the site." Since the development is proposing 200% more parking than is required, the applicant has been asked to provide a parking study.

There is also a provision that would permit the site to provide no off-street parking since the site is within a quarter mile of transit.

A parking condominium association, made up of the parking space owners, will manage and maintain the 23-space parking lot.

E. Transportation demand management (TDM)

Not applicable. A transportation demand management plan is not required.

2. **Environmental Quality Standards (Section 14.6.2)**

A. Preservation of significant natural features

No significant natural features have been identified on site.

B. Landscape preservation

An existing conditions and demolition site plan show five trees within the property line proposed to be removed with Diameter at Breast Height (DBH) measurements larger than 10 inches, one as large as 38 inches. The applicant is required to preserve 30% of the trees within the setback that have a 10-inch DBH or greater. As the site is located in a historic district, city staff are confirming whether the Heritage Tree Ordinance in Chapter 29 of the City Code is applicable.

In response to City comments, the applicant has identified the location, species, size, and dripline of trees onsite and trees on abutting properties that have root systems within the parcel. The City is still reviewing what measures may be necessary to meet landscape preservation standards in regards to removal of existing trees and protection of remaining trees during construction for both trees on and off site.

C. Site landscaping and buffers

A total of nine street trees are required for the development, at a ratio of one tree per unit. The applicant is proposing to plant five street trees along Carleton Street. The applicant has submitted an updated landscaping plan that identifies tree placements, and provides a list of species being proposed. This updated plan is still be reviewed by City staff. The applicant will need to pay into the street fund for the four additional street trees needed.

D. Water quality/storm water management/erosion control

The development is required to comply with Maine DEP Chapter 500 and City of Portland Technical Manual Section 5 standards. Post development drainage is proposed to remain, with added catch basins. The site currently drains into the combined sewer/stormwater system in Carleton Street. To approve discharge into the combined system within Carleton Street the DPW Water Resources is requiring on-site detention equal of 1" rainfall over the entire redeveloped area being proposed on the parcel, or the projected average 24 hour daily sanitary sewer flow being added to the combined sewer system by the project.

In the most recent comments sent to the applicant, the City requested more detail on calculations of non-roof redeveloped area to assess compliance with stormwater treatment thresholds.

The City is waiting on a response to stormwater comments.

3. **Public Infrastructure and Community Safety Standards (Section 14.6.3)**

A. Consistency with City Master Plans

The nine residential units being added to the area are in line with zoning and therefore is consistent with the City's master plan.

B. Public safety and fire prevention

The project is located within proximity to a fire hydrant at the corner of Carleton Street. The proposed buildings will be fully sprinkled.

C. Availability and capacity of public utilities

The applicant and City are waiting on ability to serve letters from utility providers.

4. **Site Design Standards (Section 14.6.4)**

A. Massing, ventilation, and wind impact

The HVAC is proposed to be located on the roof of each building. Rooftop HVAC equipment is required to be screened and compliance is still being reviewed.

B. Shadows

There are no shadow impacts anticipated on a significant public resource.

C. Snow and ice loading

Snow storage is proposed in landscaped areas on-site. The impact of the snow on proposed vegetation is currently being evaluated, and the City will provide future feedback on the proposed colocation of snow storage and landscaped areas.

D. View corridors

Not applicable. The site is not located in a view corridor in the Downtown Vision View Corridor Protection Plan.

E. Historic resources

This project is located within the West End Historic District and is being reviewed by the Historic Preservation Board. The applicant had an initial workshop for the proposed project with the Historic Preservation Board on May 17, 2023.

F. Exterior lighting

A photometric plan has been provided that shows conformity with the City's site lighting standards related to foot candle ratio, maximum illumination, and the use of full cut-off light fixtures. There is lighting proposed at the rear and side of the townhouses, as well as the entrances of the 5-unit residential building. One light is proposed for the 8 parking spaces associated with the 5-unit building. Three lights are proposed for the 23 condo parking spaces.

G. Noise and vibration

Adverse noise and vibration impacts are not anticipated to result from this development.

H. Signage and wayfinding

Any proposed signage will be reviewed by Historic Preservation staff as well as the Office of Permitting and Inspection as part of a separate sign permit application.

I. Zoning-related design standards

This project is within the West End Historic District and is being reviewed by the Historic Preservation Board for a certificate of appropriateness. The applicant had an initial workshop for the proposed project with the Historic Preservation Board on May 17, 2023.

X. CONDITIONAL USE STANDARDS

Off-street parking is a conditional use in the R-6 Residential zone and will be reviewed against the General Condition Use Standards specified in Section 6.5.2 of the Land Use Code.

General Conditional Use Standards Section 6.5.2

- A. **The volume and type of vehicle traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces required are not substantially greater than would normally occur at surrounding uses or other allowable uses in the same zone.**
The proposed off-street parking spaces will serve the existing uses within the neighborhood. The applicant has proposed for the spaces to be sold individually as condo spaces to existing residents of the neighborhood.
- B. **The proposed use will not create unsanitary or harmful conditions by reason of noise, glare, dust, sewage disposal, emissions to the air, odor, lighting, or litter.**
The site is currently a parking lot that serves a medical office building. The parking will not create unsanitary or harmful conditions of noise, glare, dust, sewage disposal, emissions to the air, odor, lighting, or litter. The proposed site lighting for the parking lot meets Tech Manual lighting standards for light trespass and full cut-off. All gas vehicles create emissions to the air, but unsanitary or harmful conditions are not anticipated more than any other car use allowed in the City or R-6 Residential zone.
- C. **The design and operation of the proposed use, including but not limited to landscaping, screening, signs, loading, deliveries, trash or waste generation, arrangement of structures, and materials storage will not have a substantially greater effect/impact on surrounding properties than those associated with surrounding uses or other allowable uses in the zone.**
The parking lot will be managed and maintained by a condo association made up of the owners. Landscaping is proposed around the perimeter of the parking lot and the lot is screened with a six-foot-high fence. A small sign is proposed at the driveway entrance on West Street.
No deliveries, loading, or materials storage will take place on the site, and no trash or waste will be generated. Snow may be hauled from the site if needed, as it is from other residential parking areas throughout the neighborhood.
- D. **The proposed use will meet any additional zone or use-specific standards identified in Tables 6A to 6-F and Subsections 6.5.6 and 6.5.7.**
Per the supplemental use-specific conditional use standards, Section 6.5.6.H(2), it is stated that “In the R-6 zone, off-street parking shall be for passenger cars for uses permitted in the R-6 zone”. According to the applicant the proposed off-street parking spaces will be sold individually. Residential uses are a permitted use in the R-6 zone, therefore this standard is met. A condition of approval for the conditional use will be added for the public hearing stipulating that the parking spaces will be sold for uses permitted in the R-6 Residential zone.

XI. NEIGHBORHOOD MEETING & PUBLIC COMMENT

The applicant held a neighborhood meeting on September 27th at the Reiche School. The meeting notes and attendance documentation has been submitted. There has been one public comment submitted to the city with concerns around the easement and proposed parking.

XII. NEXT STEPS

The city will complete its review of the most recent submission, email the applicant any remaining comments to be addressed in order to prepare a final submission, and then the city will schedule and hold a planning board public hearing.

XIII. ATTACHMENTS

Applicant Submittal

- A. Development Description
- B. Title, Right, Interest
- C. State-Federal Permits
- D. Land Ordinance Review
- E. Easements
- F. Natural Features
- G. Stormwater Management
- H. Master Plans
- I. Utilities
- J. Fire Safety
- K. Site Plan Standards
- L. HVAC
- M. Comment Response Letter
- N. Financial Capacity Letter
- O. Major Site Plan Checklist
- P. Zoning Analysis Table
- Q. Neighborhood Meeting
- R. Redevelopment and stormwater Standards
- S. Waiver Table
- T. Conditional Use Standards

Plans

- 1. Survey
- 2. Cover Sheet
- 3. Gen Notes and Legend
- 4. EC Demo
- 5. Overall Site Plan
- 6. Detailed Site plan
- 7. Overall Grading Plan
- 8. Detailed Grading Plan
- 9. Utility Plan
- 10. Photometric plan
- 11. Photometric Details
- 12. Site Details
- 13. Utility Details
- 14. Utility Details
- 15. Erosion Control Details
- 16. Parking Turning Analysis
- 17. Landscape Plan

18. Landscape Plan
19. Townhouse Floor Plans
20. 19 West New Floor Plans
21. Townhouse Elevations
22. 19 West New Elevations
- 23.

Report Attachments

1. City Staff Comment Letter

Public Comment

- PC 1. Trevor Watson 9.6.23

City Staff and Third-Party Peer Reviewers have completed the latest review of this application based off of the most recent submissions. Comments below have been provided to the Planning & Urban Development Department from the Department of Public Works, Water Resources, Zoning, and Third-Party Consulting Engineers (Stormwater + Traffic).

Please submit a written response to the comments below and upload the response, revised submissions, and new material to Project Dox (make sure all submissions maintain the same file naming format to allow for versioning). Once uploaded, please send an email to mbalassa@portlandmaine.gov notifying the planner of the resubmission.

Be advised that additional comments may be forthcoming and other changes may still be required if the comments are not addressed adequately. If you have any questions, please do not hesitate to ask.

Green signifies that the standard is being met, red signifies the standard is not yet met.

General Review Comments		
Review	Discussion	Status
RTI	Overview: The deed has been submitted showing Carlton West LLC as the owners of the property.	
	Comments: The site plan shows parking in Easement 2, please explain how you feel the easement is being met.	
Financial & Technical Capacity	Overview: A letter has been submitted from to show financial capacity from the Norway Savings Bank. Technical capacity has been provided through the applicant team of Archetype Architecture, Terradyn Consultants, and Titcomb Associates.	
	Comments:	
Permits / Other Requirements	Overview:	
	Comments:	
Zoning	Overview: The site resides in the R-6 zone. A zoning summary has been submitted and shows relationship with dimensional zoning standards. Off-street parking, not associated with the proposed residential units, is proposed.	
	Comments: - The 20% open space zoning requirement is not being met. - Please clarify which street is being considered the “front yard” for zoning review. <u>Proposed townhouses</u> 1. With Carleton as the front yard, the front setback is 5’. The front porch and the principal part of each townhouse are meeting the 5’ setback but the front steps are not. There is the potential to average the front yards of the buildings (principal structures) at 59 Carleton and 41 & 43 Carleton to get closer to the front property line but the front steps need to be within this setback. 2. The maximum height in the R-6 zone is 45’ but the height needs to be stepped back if the abutting property is a residential zone. The side setback is 10’ from the side property line, so within 10’ of the side property line the building can’t be higher than 35’. The elevations for the townhouses show the buildings above the third floor stepping in	

for the fourth floor. The setbacks are quite tight, and it is hard for me to scale the amount that the fourth floor set back from the property line to confirm that the 10' setback is being met. Please submit a revised front elevation sheet (A2.0) that shows the vertical line of the side property line and the distance from it to the fourth floor wall.

3. As stated above the maximum height for a building in the R-6 zone is 45' which is measured to the roof beam in a flat roof. The top of the fourth floor is given as 39'10", so it is below the maximum height of 45'. The concern is the proposed stair tower and partition wall between the two rooftop decks on each building. Section 7.5.1.G list certain appurtenances that can exceed the maximum height. We understand that you are proposing a stairway to access the decks from the fourth floor. A stair tower is allowed to exceed the maximum height but the area of the stair tower on the roof exceeds what is necessary to access the deck from the top stair. More than half of the enclosed area could be considered habitable space. The size of the stair tower needs to be reduced to include the smallest, code compliant landing at the top of the stairs to open the door and step on to the roof. Please submit a revised rooftop drawing that is compliant. The other concern is the wall that is shown that divides the two roof decks. the top of the wall may not exceed 45'. In addition to adding the vertical lines on the front elevation drawings. Please also include a line that shows the maximum height of 45' and the that the wall between the two decks does not exceed 45'.

Existing Building

There are similar concerns with the addition and rooftop structures to the existing building.

1. The existing building is legally nonconforming to the rear and side setbacks. The proposed third floor addition needs to meet the side property line setback of 10' and the rear property line setback of 15'. Please submit a revised south elevation sheet (A2.21) that shows the vertical line of the rear property line and the distance from it to the third floor wall and a revised west elevation sheet (A2.22) that shows the vertical line of the side property line to the fourth floor wall.

2. The proposed stairway enclosure on the rooftop plan not only exceeds the necessary area for a code compliant landing at the top of the stairs to open the door and step on to the roof; it also includes habitable space. Please submit a revised rooftop top plan that reduces the enclosed stair tower on the roof to include the smallest, code compliant landing at the top of the stairs to open the door and step on to the roof.

Use of the West End of Property.

Parking is considered accessory to the principal residential use of the property. The applicant is proposing to sell 23 parking spaces to residents in the neighborhood for residential uses not located on this property.

The property is located in the R-6 Residential Zone. Table 6-A lists off-street parking as a conditional use in the R-6 zone. Since the Planning Board is reviewing the site plan, under section 6.5.1.A.2, the Planning Board will review the Conditional Use appeal for off-street parking. Section 6.5.2 outlines the general conditional use standards that need to be met for the conditional use appeal. The criteria in section 6.5.6.H,2 also needs to be met.

	The applicants need to submit a conditional use application to the Planning Board to allow the off-street parking use they are proposing.	
<u>Additional Submissions Requested:</u>		

14.6.1: Transportation Standards		
Standard	Discussion	Status
Impact on Surrounding Street Systems	<u>Overview:</u> The site proposes to retain the existing driveways off of Carleton Street and West Street. Residents will access their units from the driveway off of Carleton Street. The West Street driveway will be how the condo parking spaces will be accessed. The proposal includes renovating the sidewalk along the Carleton Street frontage of the property.	
	<u>Comments:</u> - The limited spot grades provided does not allow me to confirm that the proposed sidewalks are compliant (meet the min. cross slope and running slope). The applicant shall update the plans to provide spot grades and slopes at grade breaks for the proposed sidewalks, driveways and at the end of the limits of the proposed improvements for the property. - Confirm that the existing sidewalk grades at the property line are compliant. If not, then the limits of sidewalk replacement shall be extended to include a 5-foot minimum transition zone from the proposed 2% to the existing sidewalk slope. - Proposed improvements and existing conditions in the City ROW shall be dimensions on the plan view sheets. For example, ROW, street, lanes sidewalk, esplanade driveways (and other improvements) widths as well as when a width changes. - The finish floor elevation for all buildings shall be shown on the plan - Note on the plans that the existing signs shall be protected in place.	
Access and Circulation	<u>Overview:</u> All proposed off street parking for the townhomes and apartments will be accessed off Carleton Street. Proposed pedestrian routing from the entryway to Carleton is not delineated.	
	<u>Comments:</u> The main driveway is 20 feet wide but lacks a designated pedestrian facility into and out of the site. Please show safe pedestrian routing from Carleton Street to the entryway of the apartments. The third party traffic engineer and city staff would suggest the two 2-foot concrete pavers be combined to allocate a 4-foot-wide pedestrian pathway.	
Public Transit Access	<u>Overview:</u> The site is within 500 feet of a transit stop at the corner of West Street and Carleton Street.	
Parking	<u>Overview:</u> Two spaces are proposed per dwelling unit. There are ten surface parking spaces proposed for the renovated building with five units and eight garage spaces provided for the four townhomes along Carleton. All spaces will be accessed off of Carleton Street.	

	An existing parking lot accessed from West Street is proposed to be renovated to contain 23 condo spaces. The existing drive aisle connecting the parking lot off of West Street from the proposed residential will be gates for solely pedestrian access. 20% of the parking spaces will have Level 2 EV chargers installed, with 100% EV ready.	
	Comments: • Since the project is proposing more than 10% of the required parking spaces, a transportation study is required. • All parking lot dimensions for the existing lot shall be provided and a formal request for waivers from the city's technical standards shall be provided. • The applicant should note how parking spaces will be allocated and managed. • The driveway to the existing parking lot does not meet city standards and accordingly a formal request for a waiver shall be provided. • Vehicle turning templates shall be provided for vehicle movements into and out of the garage access. If trucks are anticipated, turning templates shall be provided for those vehicles.	
Transportation Demand Management	Overview: Not applicable.	
Additional Submissions Requested: •		

14.6.2: Environmental Quality Standards

Standard	Discussion	Status
Preservation of Significant Natural Features	Overview: No significant natural features have been identified.	
Landscape Preservation	Overview: A existing conditions and demolition site plan show five trees within the property line proposed to be removed with DBH's larger than 10 inches, one as large as 38 inches. Comments: • General comment - per chapter 4, section 4.3 of the technical manual, please update plans to show species of trees on plans and include trees in abutting properties that have drip lines along, within, or adjacent to project demolition and work areas. • EC / Demo sheet - Several existing trees shown on plans that appear to fall under chapter 29 guidelines and requirements for the Heritage Tree ordinance in Portland Historic districts. Species is important to show on plans to verify if tree removal permit and approval process will be required. Applicant is advised to be in coordination with the Historic preservation manager AND the city of Portland Forestry department for these removals and any impact fees. • EC/ Demo Sheet - Note that two trees in particular are not shown on butting properties to the south of the town homes (I believe either Smith or Oppenheim - Raffel property, and south of the existing brick building parking lot (McVicar or Sanford or Holden property) The silver	

	maple south of the existing brick building is an extremely large tree that merits particular attention to preservation measures. Confirm that silver maple is NOT listed in the Big Tree list as defined in section 4.1 of technical manual, and City Arborist, or their designee, is consulted about appropriate actions to take around the existing silver maple. • EC/ Demo sheet - 24" tree at south east corner of existing structure on abutting property has high likelihood of construction impacts from fence and light pole removals, as does the two existing trees on abutting properties not shown on the EC plan. Please show protection measures on plan for all existing tree species being preserved, and ensure appropriate detailing for tree protection is followed in compliance with chapter 4 of the technical manual requirements (including prohibition of stockpiling and parking in dripline/feeder root zone of preserved trees) • EC / Demo sheet - Ensure any overhanging branches of preserved trees within construction areas and travel lanes are pruned appropriately to prevent damage by equipment in work areas. For existing fence, existing fence footing removals, trenching and utility work within existing drip lines, applicants are strongly encouraged to utilize air spade excavation techniques in coordination with a certified arborist to minimize damage to feeder roots and structural root areas of existing trees in abutting properties growing adjacent to existing fence areas. • EC/Demo / site plans - Please clarify if applicant anticipates / intends to demo and replace existing brick walk along Carleton Street, and if new walk will be on impervious subbase (eg bituminous base, etc.) If a walkway is being replaced, for areas / portions of walkway within existing preserved tree drip line or feeder roots, applicants are encouraged to excavate removal walkway and associated materials with air spade or other low impact methods that will preserve root structure to the extent possible. Further coordination with the Forestry department is requested for rebuilt pathway materials that would be made over these existing root areas. Similar treatment is requested for underground trenching or utility impacts within preserved tree driplines. •	
Site Landscaping and Buffers	Overview: Nine street trees are required for the nine units proposed. Five street are proposed along Carleton Street. A landscaping plan has been provided with species list.	
	Comments: • Site plans - update all plans with location of existing silver maple and other significant existing trees along south of project work area line and property boundary. • L1.1 landscape plan - Applicant shows cornus mas species planted in proposed light area. • L1 and L 1.1. - applicant is strongly encouraged to provide root barrier materials between proposed tree and large shrub species and adjacent electrical and other utility line conditions on site. • L1.o - switch grass plantings appear to be shown within paved area, please clarify intent of plantings shown, eg: plantings to be in containers? • L1.o - Viburnum planting on north boundary between townhouse and renovated brick building patio area is planted on proposed light	

	element, please adjust plantings to not be on or immediately adjacent to footings or large site elements that will impact either elements or performance of the plant material. • L1.0 - Street tree rhythm - while applicant is showing additional trees within 20' of the public R.O.W along Carlton, department encourages applicant to consider enhancing the rhythm and character of the existing neighborhood and street trees by utilizing esplanade area for an additional street tree in esplanade between walk and road in northern most town house unit, if utility conditions allow and in coordination with city arborist. • 50% of the proposed plantings are required to be native, please confirm that the landscaping plan is meeting this requirement.	
Water Quality, Stormwater Management and Erosion Control	Overview: Post development drainage is proposed to remain, with added catch basins. The site drains into the combined sewer/stormwater system in Carleton Street.	
	Comments: • The project is required to meet the requirements of Maine DEP Chapter 500 and City of Portland Technical Manual Section 5 for stormwater management. The project includes the redevelopment of an existing site. • Basic Standard – The plans should show locations of erosion control measures. A detail sheet was provided, but I did not see a sheet with the locations shown. • Redevelopment Standard – The City's Section 5 standards for redevelopment require stormwater treatment for 50% of redeveloped non-roof impervious surface over 5,000 SF. While the project notes it is reducing redeveloped non-roof area on the site, there are areas that would be considered redeveloped (and not simply maintenance), and would need to be considered for stormwater treatment. I would suggest that the southeast parking area could be considered maintenance, but other areas internal to the site that are being regraded and constructed with different surfaces should be considered towards the redeveloped non-roof impervious surface area – the applicant should evaluate these areas to determine what treatment may be required. • The demolition plan accounts for sawcuts for utility installation. The site plan should similarly show locations of required paving and curbing replacement for utility installations. • The plans provide for covered parking for the townhomes. If any internal drainage is provided for these parking areas, oil water separators should be utilized, and this should be connected to the sewer. • Section 2.2.3 of the City's Technical Manual requires DPW Water Resources approval when rain water is being proposed to discharge into a sewer which conveys sanitary waste. Prior to authorizing a new stormwater connection into the combined sewer, DPW will require that the applicant provide an on-site stormwater detention volume equal to the greater of: 1" of rainfall over the entire project redeveloped area being proposed on the parcel, or the projected average 24 hour daily sanitary sewer flow being added to the combined sewer system by the project.	

	- Stormwater discharge rates into the combined sewer system must be controlled to a maximum flow rate of 0.1 CFS per acre of watershed drainage area draining through the system until the design storage capacity is reached. Once the design storage is maximized, excess flow rates can be directed to the combined sewer through the use of a flow control structure or device. - New connections into the combined sewer system shall be equipped with backflow prevention in accordance with Section 2.6.10 of the City's Technical Manual - DPW would recommend and prefer that an inserta tee be utilized to connect the proposed 6" sewer service into the public 24" RCP combined sewer line in Carleton Street. This is allowable under technical manual standard 2.6.7. - ESC devices should be depicted on the grading plan or on a dedicated ESC plan sheet.	
Transportation Demand Management	<u>Overview:</u> Not applicable	
<u>Additional Submissions Requested:</u>		
•		

14.6.3: Public Infrastructure + Community Safety Standards		
Standard	Discussion	Status
Public Safety and Fire Prevention	<u>Overview:</u> The project is located within proximity to a fire hydrant at the corner of Carleton Street. The proposed buildings will be fully sprinkled.	
Public Utilities	<u>Overview:</u> Ability to serve letters from utilities have not been provided.	
	<u>Comments:</u> The Applicant has noted utility requirements and proposed locations. Confirmation of ability to serve will be required.	
<u>Additional Submissions Requested:</u>		

14.6.4: Site Design Standards		
Standard	Discussion	Status
Massing, Ventilation and Wind Impact	<u>Overview:</u> Negative impacts not expected	
Shadow	<u>Overview:</u> Not applicable.	

Snow and Ice Loading	<u>Overview:</u> Snow storage is proposed to be clumped in landscaped areas.	
View Corridors	<u>Overview:</u> Not applicable.	
Historic Resources	<u>Overview:</u> The project is subject to Historic Preservation Board Review. The project has gone to workshop. <u>Comments:</u>	
Exterior Lighting	<u>Overview:</u> A photometric plan has been provided that show conformity to ratio, max illumination, and full cutoff standards.	
Noise and Vibration	<u>Overview:</u> <u>Comments:</u> Please show HVAC on the elevations for review against standards.	
Signage and Wayfinding	<u>Overview:</u> <u>Comments:</u> Please be advised that any proposed signage is reviewed by Permitting.	
Design Standards	<u>Overview:</u> The design is being reviewed by the Historic Preservation Department and Board.	
<u>Additional Submissions Requested:</u>		



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August 4, 2023

Project #23-020

City of Portland
 Planning & Urban Development
 389 Congress Street
 Portland, ME 04101

**Major Site Plan Application
 West Street Redevelopment
 19 West Street, Portland, Maine**

1 DEVELOPMENT DESCRIPTION

1.1 OVERVIEW

Carleton West, LLC intends to construct two 2-unit townhouses and renovate an existing building into 5 residential units on a 0.86 acre parcel located at 19 West Street in Portland's R-6 Zone. The project site is depicted on the City of Portland's Parcel map as 55-B-13. The site is currently developed with a vacant 2-story brick office building and paved parking. Driveways enter the site from both West Street and Carleton Street. The paved parking on the eastern portion of the site is currently leased.

1.2 EXISTING CONDITIONS

The existing site is located on both West and Carleton Streets abutting other residential buildings in Portland's R-6 zone. The site surface is primarily pavement and building roof. An 18' wide paved driveway enters the southeastern portion of the site from West Street extending to the paved parking area behind lots fronting on West Street. The western portion of the site fronts on Carleton Street where there is second driveway. Underground utilities in Carleton Street include water, gas, and combined storm/sewer. Overhead power and telecom services are on poles located on Carleton Street. Existing underground utilities extend onto the site from Carleton Street.

Street Name	Description	On-street Parking	Sidewalk	Notes
Carleton Street	Approximately 27' wide paved public way. One-way traffic in one lane.	Both sides	Brick both sides, granite curb	

Single or multi-family residences abut the site to the east, south and west. The Ronald McDonald House abuts the site to the north. West Street is south of the site beyond residential properties, and Carleton Street is west of the site. The site's frontage is on Carleton Street.

The site has a high point in the center of the site adjacent to the existing building and slopes approximately 4' towards Carleton Street and approximately 3' towards West Street. Drainage infrastructure exists on the site. The site is fully developed.

1.3 PROPOSED DEVELOPMENT

The development program includes the following components:

1.3.1 ON-SITE

Two new 2-unit townhouse buildings are proposed along the Carleton Street frontage. Each building will have a 2,379 square foot footprint and include four-stories plus a roof deck. The first floor includes basement space and a garage accessed from the back of the building. The second, third and fourth floors are living space and each unit has roof access to a roof deck. A driveway is located between the townhouses to access the rest of the site and the parking. Each townhouse unit has 2 parking spaces in a basement level garage.

The existing 2-story building will be renovated, and a third story will be added. The building footprint is 4,180 square feet and contains five units. The existing building will contain a basement, two units on the first floor, two units on the second floor, and one unit on the third floor with a roof deck. Each unit has outdoor space in the form of a patio or deck. An elevator and stairwell will access each floor from the residential lobby on the first floor. The basement contains unit storage, an exercise room and mechanical space. Each of the units will have 2 on site parking spaces.

The driveway from Carleton Street provides access to a central courtyard with shared pedestrian and vehicle use. The townhouse garages and 10 residential parking spaces will be accessed from this shared courtyard. The majority of the courtyard will be hardscaped with pavers with pockets of landscaping.

The western portion of the site contains a paved parking lot accessed from West Street. This parking lot will be re-paved and will contain 23 condo parking spaces to be sold to residents in the neighborhood. This parking lot will not provide vehicle or pedestrian access to the residential development on the rest of the site except with a gated walkway for residents.

1.4.2 OFF-SITE IMPROVEMENTS

The Carleton Street sidewalk along the parcel frontage will be reconstructed with a 6' wide brick sidewalk and 4.5' wide esplanade. There will be a brick driveway apron and the one existing street tree will be protected. Four additional trees will be planted along the sidewalk on site in front of the townhouses. Pavement repair in Carleton Street will also be necessary to install new utilities.

1.5 TRAFFIC

The minimal amount of traffic that will be generated by the project is not expected to have a significant effect on the surrounding street network.

1.6 PARKING

1 Space/dwelling unit is required for the R-6 Zone, with the first 3 units exempt. The residential portion of the project includes 10 surface parking spaces (2 space/existing building dwelling unit) and 8 garage spaces (2 spaces/townhouse dwelling unit). This parking is accessed by the proposed driveway from Carleton Street.

The parking lot portion of the project includes 23 surface parking spaces to be sold to residents in the neighborhood and be structured as a parking condominium.

1.7 UTILITIES AND STORMWATER

The proposed project will include the installation of new utility services to the proposed buildings. All new utility services will be provided from the existing utilities available within Carleton Street. The proposed locations of the new utility services are shown on the Utility Plan (Sheet C-6.0).

Post-development stormwater runoff will closely follow existing runoff patterns. Runoff will be captured in a series of on-site catch basins and connected to the City's combined storm/sewer in Carleton Street. The proposed redevelopment of the site will result in a reduction in impervious area, a reduction in non-roof impervious area, and a reduction in peak stormwater flows leaving the site.

2 RIGHT, TITLE and INTEREST

2.1 OVERVIEW

The applicant and owner is Carleton West, LLC by deed recorded in the Cumberland County Registry of Deeds in book 39876 page 44. A copy of the property deed is attached in attachment 2-A.

2.2 ATTACHMENTS

Attachment 2-A – Property Deed

ATTACHMENT 2-A

Title, Right, or Interest Documentation

DLN: 1002240219866**SHORT FORM QUITCLAIM DEED WITH COVENANT**

MAINEHEALTH f/k/a MAINE MEDICAL CENTER, a Maine nonprofit corporation having a mailing address of 22 Bramhall Street, Portland, Maine 04102 ("Grantor"), FOR CONSIDERATION PAID, grants to CARLETON WEST LLC, a Maine limited liability company having a mailing address of 9 Gould Road, Lewiston, ME 04240 ("Grantee"), WITH QUITCLAIM COVENANTS, condominium units Nos. 1, 2, 3, 4 and 5, in the Nineteen West Street Office Condominium located in the City of Portland, County of Cumberland, State of Maine more particularly described on Exhibit A attached hereto and made a part hereof.

Dated this 30th day of November, 2022.

WITNESS:

MAINEHEALTH
f/k/a MAINE MEDICAL CENTER

Erica P. Thompson

By: Lugene A. Inzana
Its: CFO, Maine Medical Center
Assoc. CFO, MaineHealth

STATE OF MAINE
CUMBERLAND, SS.

November 30, 2022

Personally appeared the above-named Lugene A. Inzana, Chief Financial Officer of MaineHealth f/k/a Maine Medical Center and Associate Chief Financial Officer of MaineHealth as aforesaid, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said MaineHealth f/k/a Maine Medical Center.

Before me,

Judith C. Goldman
Notary Public/Attorney-at-Law

Print Name: Judith C. Goldman
My commission expires: 12/03/26

MAINE REAL ESTATE TAX-Paid

EXHIBIT A

Unites No. 1, 2, 3, 4 and 5 (hereinafter referred to as the "Units") in NINETEEN WEST STREET OFFICE CONDOMINIUM (hereinafter referred to as the "Condominium") situated on West and Carleton Streets in the City of Portland, County of Cumberland and State of Maine, as more particularly described in the Declaration of Nineteen West Street Office Condominium dated October 22, 1991, and recorded in the Cumberland County Registry of Deeds in Book 9761, Page 53, as the same may be amended from time to time in accordance with its terms and the Act (herein referred to as the "Declaration"), and on the Plat and Plans incorporated into the Declaration and recorded in the Cumberland County Registry of Deeds in Plan Book 191, Pages 153 and 154, as the same may be amended from time to time in accordance with the Declaration and the Act (herein referred to as the "Plat and Plans"), by virtue of the recording of which Declaration, Plat and Plans, West Street Medical Associates, as Declarant, created the Condominium pursuant to the Maine Condominium Act, Title 33 of the Maine Revised Statutes of 1964, as amended, Chapter 31, Sections 1601-101, et seq., as amended (hereinafter referred to as the "Act");

TOGETHER WITH an undivided interest in the Common Elements of the Condominium, the liability for Common Expenses of the Condominium, and Votes in the Association of Unit Owners of the Condominium allocated to the Units pursuant to the Declaration;

TOGETHER WITH the rights to use the Limited Common Elements allocated to the Units as described, specified and allocated pursuant to the Declaration;

TOGETHER WITH an easement in common with the Owners of other units, to use the Common Elements of the Condominium for purposes of ingress and egress in accordance with the Declaration and the exclusive right and easement for the use, occupancy and enjoyment of the Units;

TOGETHER WITH an easement in common with all other unit Owners to use all pipes, wires, ducts, cables, conduits, public utility lines and other Common Elements serving the Units and located in any of the other units;

TOGETHER WITH an easement, to the extent necessary, for structural and subjacent support over every other unit and over the Common Elements;

TOGETHER WITH all other rights, easements, rights-of-way, interests, Allocated Interests, privileges and appurtenances as more particularly described, located, defined, allocated or referred to in the Declaration, the Plat and Plans, and the By-Laws described in the Declaration, as the said By-Laws may be amended from time to time in accordance with the Declaration and the Act (herein referred to as the "By-Laws"), all of which are incorporated herein by reference thereto;

SUBJECT TO the matters affecting title described in the Declaration and the Plat and Plans and the terms, covenants, agreements, easements and provisions of the Declarations and

By-Laws, which terms, covenants, agreements, easements and provisions shall constitute covenants running with the land and shall bind the Grantee and any person having at any time any interest or estate in the Units, as though such provisions were recited and stipulated at length herein;

SUBJECT ALSO TO an easement in common with the Owners of other units to use all pipes, wires, ducts, cables, conduits, public utility lines and other Common Elements serving the other units and located in the Units and to an easement for structural and lateral support in favor of every other unit.

AND, by the recording of or by acceptance of this deed, the Grantee does accept and agree for itself, its heirs and assigns, to be bound by and subject to all of the provisions, terms, covenants, agreements, easements and provisions of the Act, the Declaration, the By-Laws and the Plat and Plans.

Being the same premises conveyed to Maine Medical Center by deed of Cardiovascular Consultants Real Estate Partnership, dated May 31, 2000 and recorded in the Cumberland County Registry of Deeds in Book 15505, Page 91 and deed of Kathleen H. Nowicki dated May 31, 2000 and recorded in the Cumberland County Registry of Deeds in Book 15505, Page 88.

Being the same premises conveyed to MMC Realty Corp. by deed of Maine Medical Center, dated March 28, 2001 and recorded in the Cumberland County Registry of Deeds in Book 16145, Page 285.

Being the same premises conveyed to Maine Medical Center by deed of MMC Realty Corp., dated March 7, 2005 and recorded in the Cumberland County Registry of Deeds in Book 22473, Page 287.

3 STATE AND FEDERAL PERMITS

The development is subject to Major Site Plan approval by the City of Portland and Building Permit(s) are also required. No additional State or Federal Permits are required.

4 LAND ORDINANCE REVIEW

4.1 OVERVIEW

The property currently lies within the City of Portland R-6 Zone. The following Space and Bulk requirements apply to the R-6 Zone:

R-6 Zone Summary Dimensional and Parking Requirements Applied to 19 West Street		
Zoning Requirements	R-6	Provided
Minimum Lot Size	2,000 sf	37,361 sf
Minimum Street Frontage	20 ft	135 ft
Front Yard	5 ft, or avg.	5 ft
Minimum Side Yard	5 ft	8.5 ft
Minimum Rear Yard	10 ft	3.7 ft (existing)
Maximum Lot Coverage	60%	24%
Open Space	20%	14%
Maximum Structure Height	45 ft	39.83 ft
Step Back	15 ft rear, 10 ft side	N/A rear, 10 ft side
Parking	6 spaces	18 residential spaces 23 condo spaces (for sale)

4.2 SHORELAND ZONING

The site is not located within the Shoreland Zoning District.

5 EASEMENTS OR OTHER BURDENS

5.1 OVERVIEW

Titcomb Associates completed an existing conditions survey, most recently dated March 15, 2023. Three easements were identified and are shown on the survey. The first easement was released. The second is applicable and outlined below. The third is a sewer easement for the existing building that will no longer be used after redevelopment of the site.

2) Parcel is subject to a common use easement "with the owners of adjoining property for the purposes of passage, light and air, and is never to be obstructed in any way or to be made a place of storage or deposit" as described in a deed to James C. Hamlen and Jeremiah W. Tabor recorded in Book 691, Page 284.

6 NATURAL FEATURES

6.1 OVERVIEW

The development site is currently fully developed and does not contain any significant natural features including wetlands, vernal pools or other protected resources or wildlife habitats.

7 STORMWATER MANAGEMENT

The following information is provided in accordance with the City of Portland Code of Ordinances Chapter 14 Land Use, Section 14.6.2.D.

7.1 OVERVIEW

The existing project site is fully developed and has a surface primarily of pavement and building roof. The site slopes from a central high point adjacent to the existing building down towards Carleton Street and West Street. Stormwater runoff from the project site primarily drains to on-site catch basins that are connected to the City's combined storm/sewer network. Existing impervious area on site is approximately 33,230 SF (29,300 SF non-roof impervious).

Post development stormwater runoff will generally follow existing patterns. Stormwater runoff from the buildings and site areas will be captured in new on-site catch basins and directed to the City's combined storm/sewer network in Carleton Street. The proposed post-development impervious area is 32,281 SF (23,441 non-roof impervious). Redevelopment of the site is expected to result in a decrease in impervious area by approximately 950 SF, and a decrease in non-roof impervious area by approximately 5,859 SF.

Redevelopment projects resulting in a decrease in non-roof impervious area are not required to meet the Maine DEP Chapter 500 general or flooding standards, but must meet the basic erosion and sedimentation control standards required for all development. An erosion and sedimentation control plan is included directly on the plan set, along with Housekeeping documentation.

The project is not expected to cause ponding, flooding, or erosion problems on or downstream of the site. The amount of runoff entering the city's storm drain network is expected to be reduced as a result of the project. A Stormwater Management Plan is included in Attachment 7-A.

7.2 ATTACHMENTS

Attachment 7-A – Stormwater Management Plan

ATTACHMENT 7-A

Stormwater Management Plan

STORMWATER MANAGEMENT REPORT

19 West Street

The following information is provided in accordance with the City of Portland Code of Ordinances Chapter 14 Land Use, Section 14.6.2.D.

1. OVERVIEW

Carleton West, LLC intends to redevelop the project site located at 19 West Street in Portland, Maine. The project includes redevelopment of an existing 2-story building and the construction of two new residential townhouse buildings with associated site and utility improvements. This narrative describes the stormwater runoff patterns and methods of stormwater management for the existing (pre-development) and proposed (post-development) conditions.

2. EXISTING CONDITIONS

The project site is 37,361 square feet in area and is currently developed with an existing vacant 2-story building and a 61-space (+/-) surface parking lot. The existing site has 3,3230 square feet of impervious surface comprised of roof and paved areas.

246 Eastern Prom Existing Conditions	
Total Site Area	37,361 sf
Impervious Area	33,230 sf
Roof Area	3,930 sf
Non-Roof Impervious	29,300 sf

The lot has frontage on Carleton Street and a driveway connect to West Street in Portland. The site generally slopes from a central high point adjacent to the existing building towards Carleton Street and West Street. Catch basins exist on site and capture a portion of the parking lot runoff and direct it to the City's combined storm/sewer in Carleton Street. Some stormwater runoff also currently drains overland towards Carleton Street, and the 18'-wide driveway in the southeast portion of the site drains directly to West Street. All site runoff is ultimately tributary to the public storm drain network in Carleton Street.

The NRCS Medium Intensity Soil Survey identifies native soils on the site as Hinkley Loamy Sand, an excessively drained, HSG A soil.

3. PROPOSED PROJECT

The proposed project includes a residential development on the western portion of the site and a surface parking lot in the eastern portion of the site. The residential development includes the redevelopment of the existing building and construction of two new buildings with associated site improvements. The two new townhouse buildings include covered parking on the ground level. A 20' wide driveway will enter the site from Carleton Street and provide access to a central hardscaped and landscaped courtyard, the buildings, and the parking areas. This portion of the site redevelopment results in a reduction of impervious area and a reduction of non-roof impervious area.

The existing surface parking lot on the eastern portion of the site will remain a similar size and be repaved to create 23 condo parking spaces. The proposed post-development condition will have 32,281 square feet of impervious area.

246 Eastern Prom Proposed Conditions	
Total Site Area	37,361 sf
Impervious Area	32,281 sf
Roof Area	8,840 sf
Non-Roof Impervious	23,441 sf

Stormwater runoff in the proposed condition will continue to ultimately drain to the public stormdrain system in Carleton Street. The three buildings will feature flat roofs and will drain by internal roof drains. A new on-site storm drain network will collect runoff from the surface parking area and will convey it into the existing public combined storm/sewer system in Carleton Street. The two driveways will continue to drain overland towards the surrounding street ROWs.

The proposed development will result in a reduction in non-roof impervious area by approximately 5,859 square feet. Overall impervious area will also be reduced by approximately 949 square feet. Per Section 5.II.D of the City of Portland Technical Manual, the project is not required to provide stormwater treatment in accordance with the General Standard.

4. FLOODING STANDARD

Stormwater Quantity control is required as part of city requirements for this project. The proposed development has been designed to minimize stormwater runoff from the site in excess of the natural pre-development conditions. A hydrologic analysis of pre-development and post-development conditions was conducted based upon the methodology contained in the USDA Soil Conservation Service's Technical Releases No. 20 and 55 (SCS TR-20 and TR-55). For Cumberland County, Maine a 24-hour SCS Type III Storm distribution was used for the analysis using the following storm frequencies and rainfall amounts, per Maine DEP Chapter 500:

Storm Event	24-Hour Rainfall
2-Year Storm	3.1 inches
10-Year Storm	4.6 inches
25-Year Storm	5.8 inches

Runoff curve numbers, time of concentration, and travel time data were established based on methods outlined in the USDA TR-55 manual. A minimum time of concentration of 5 minutes and a maximum sheet flow distance of 150 linear feet was used in the models.

4.1 Pre-Development Conditions

The pre-development HydroCAD model includes one sub-catchment, draining to a single Study Point representing the existing public combined storm/sewer system in Carleton Street.

The Pre-Development Watershed Map (Sheet WS-1) shows the sub-watershed boundaries and study point. A minimum time of concentration of 5 minutes was used due to the paved site conditions. The watershed map is attached in Appendix 1.

The Pre-Development HydroCAD model is attached in Appendix 3.

Pre-Development peak rates of runoff at the Study Point are listed in the table below.

Pre-Development Peak Rates of Runoff (cfs)	
Storm Event	Peak Rate of Runoff
2-Year Storm	2.38
10-Year Storm	3.62
25-Year Storm	4.61

4.2 Post-Development Conditions

The post-development HydroCAD model includes one sub-catchment, tributary to the same Study Point described in Section 4.1. The Post-Development Watershed Map (Sheet WS-2) and HydroCAD model are attached in Appendix 2 and 4, respectively.

Post-Development peak rates of runoff at the Study Point are listed in the table below.

Post-Development Peak Rates of Runoff (cfs)	
Storm Event	Peak Rate of Runoff
2-Year Storm	2.32
10-Year Storm	3.58
25-Year Storm	4.57

4.3 Peak Flow Analysis

In order to determine the impact of the proposed site re-development on the peak rate of runoff leaving the project site, the results of the pre-development and post-development stormwater models were directly compared and are compiled in the table below.

Peak Runoff Flow Rates Comparison		
Storm Event	Pre-Development (cfs)	Post-Development (cfs)
2-Year	2.38	2.32
10-Year	3.62	3.58
25-Year	4.61	4.57

The peak rate of runoff entering the municipal combined storm/sewer network in Carleton Street is expected to decrease slightly as a result of the proposed re-development project.

5. CONCLUSIONS

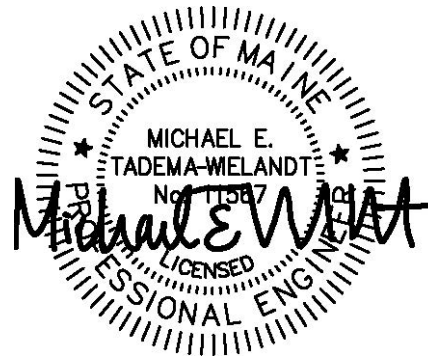
The proposed redevelopment project will reduce the impervious area by approximately 949 square feet and reduce non-roof impervious area by approximately 5,859 square feet. A stormwater management system was designed to ensure:

- Stormwater draining onto or across the project site in the pre-development condition will not be impeded or redirected so as to create ponding on, or flooding of, adjacent lots.
- The decrease in volume or rate of stormwater draining from the project site into the city's combined storm/sewer system may be accommodated in the system without creating downstream problems or exceeding the capacity of the storm sewer system.

Appendices

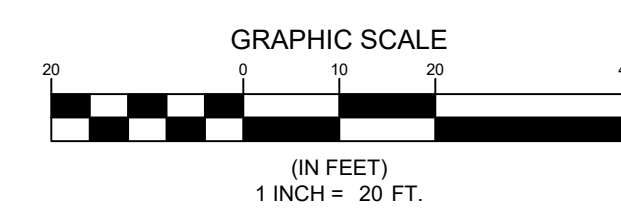
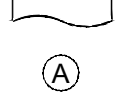
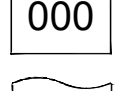
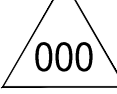
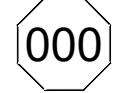
- 1 Pre-Development Watershed Map
- 2 Post-Development Watershed Map
- 3 Pre-Development HydroCAD Model
- 4 Post-Development HydroCAD Model

Prepared By:
Michael Tadema-Wielandt, P.E.
Maine License #11567
TERRADYN CONSULTANTS, LLC



APPENDIX 1

Pre-Development Watershed Map



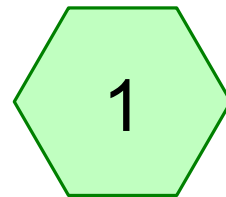
STATE OF MAINE
MICHAEL E. TADEMA-WELANDT
No. 15087
MECHANICAL ENGINEERING
LICENSED

APPENDIX 2

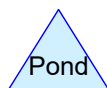
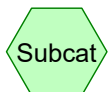
Pre-Development HydroCAD Model



End



PRE-WS



Routing Diagram for 23-020 PRE

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23-020 PRE

Prepared by Terradyn Consultants LLC

Printed 8/4/2023

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Page 2

Area Listing (all nodes)

Area (acres)	CN	Description (subcatchment-numbers)
0.113	80	Grass (1)
0.703	98	Impervious (1)

23-020 PRE

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West Street Stormwater Analysis

Type III 24-hr 2-yr Rainfall=3.10"

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Page 3

Summary for Subcatchment 1: PRE-WS

Runoff = 2.38 cfs @ 12.07 hrs, Volume= 0.170 af, Depth> 2.50"
 Routed to Link SP1 : End

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 5.00-20.00 hrs, dt= 0.05 hrs
 Type III 24-hr 2-yr Rainfall=3.10"

	Area (sf)	CN	Description
*	4,926	80	Grass
*	30,614	98	Impervious
	35,540	96	Weighted Average
	4,926		13.86% Pervious Area
	30,614		86.14% Impervious Area

Tc (min)	Length (feet)	Slope (ft/ft)	Velocity (ft/sec)	Capacity (cfs)	Description
5.0					Direct Entry, A-B

Summary for Link SP1: End

Inflow Area = 0.816 ac, 86.14% Impervious, Inflow Depth > 2.50" for 2-yr event
 Inflow = 2.38 cfs @ 12.07 hrs, Volume= 0.170 af
 Primary = 2.38 cfs @ 12.07 hrs, Volume= 0.170 af, Atten= 0%, Lag= 0.0 min

Primary outflow = Inflow, Time Span= 5.00-20.00 hrs, dt= 0.05 hrs

23-020 PRE

Prepared by Terradyn Consultants LLC

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West Street Stormwater Analysis

Type III 24-hr 10-yr Rainfall=4.60"

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Page 4

Summary for Subcatchment 1: PRE-WS

Runoff = 3.62 cfs @ 12.07 hrs, Volume= 0.264 af, Depth> 3.89"
 Routed to Link SP1 : End

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 5.00-20.00 hrs, dt= 0.05 hrs
 Type III 24-hr 10-yr Rainfall=4.60"

	Area (sf)	CN	Description
*	4,926	80	Grass
*	30,614	98	Impervious
	35,540	96	Weighted Average
	4,926		13.86% Pervious Area
	30,614		86.14% Impervious Area

Tc (min)	Length (feet)	Slope (ft/ft)	Velocity (ft/sec)	Capacity (cfs)	Description
5.0					Direct Entry, A-B

Summary for Link SP1: End

Inflow Area = 0.816 ac, 86.14% Impervious, Inflow Depth > 3.89" for 10-yr event
 Inflow = 3.62 cfs @ 12.07 hrs, Volume= 0.264 af
 Primary = 3.62 cfs @ 12.07 hrs, Volume= 0.264 af, Atten= 0%, Lag= 0.0 min

Primary outflow = Inflow, Time Span= 5.00-20.00 hrs, dt= 0.05 hrs

23-020 PRE

Prepared by Terradyn Consultants LLC

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West Street Stormwater Analysis

Type III 24-hr 25-yr Rainfall=5.80"

Printed 8/4/2023

Page 5

Summary for Subcatchment 1: PRE-WS

Runoff = 4.61 cfs @ 12.07 hrs, Volume= 0.339 af, Depth> 4.99"
 Routed to Link SP1 : End

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 5.00-20.00 hrs, dt= 0.05 hrs
 Type III 24-hr 25-yr Rainfall=5.80"

	Area (sf)	CN	Description
*	4,926	80	Grass
*	30,614	98	Impervious
	35,540	96	Weighted Average
	4,926		13.86% Pervious Area
	30,614		86.14% Impervious Area

Tc (min)	Length (feet)	Slope (ft/ft)	Velocity (ft/sec)	Capacity (cfs)	Description
5.0					Direct Entry, A-B

Summary for Link SP1: End

Inflow Area = 0.816 ac, 86.14% Impervious, Inflow Depth > 4.99" for 25-yr event
 Inflow = 4.61 cfs @ 12.07 hrs, Volume= 0.339 af
 Primary = 4.61 cfs @ 12.07 hrs, Volume= 0.339 af, Atten= 0%, Lag= 0.0 min

Primary outflow = Inflow, Time Span= 5.00-20.00 hrs, dt= 0.05 hrs

APPENDIX 3

Post-Development Watershed Map



POST DEVELOPMENT

- | | |
|---|--------------------|
|  | WATERSHED BOUNDARY |
|  | Tc FLOWPATH |
|  | REACH PATH |
|  | SOILS BOUNDARY |
|  | SUBCATCHMENT |
|  | POND |
|  | REACH |
|  | STUDY POINT |
|  | Tc LABEL |
|  | GRASS AREA |

DEVELOPMENT AREAS

Pre-Development Areas	
Grass	4,926
Impervious	30,614
Total	35,540
Post-Development Areas	
Grass	6,263
Impervious	29,277
Total	35,540



DATE:	8/4/2023
PE:	MICHAEL TADEMA-WIELANDT

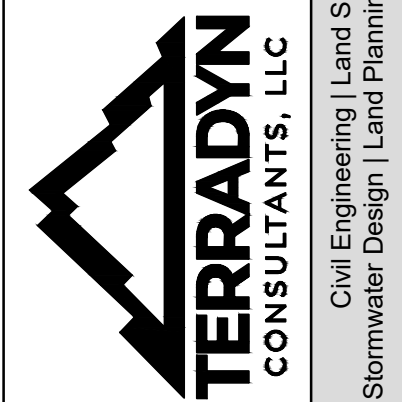
[illegible]

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WEB SITE:
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Surveying | Geomatics
| Environmental Permitting



PERMIT DRAWING
NOT FOR CONSTRUCTION

PROJECT:
WEST STREET REDEVELOPMENT
19 WEST STREET, PORTLAND, ME

SHEET TITLE:
POST-DEVELOPMENT WATERSHED MAP

CLIENT: CARLETON WEST, LLC

DATE:	8/4/2023
SCALE:	1" = 20'
JOB NO:	23-020
SHEET:	W-2

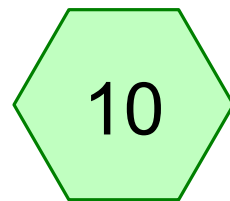
WS-2

APPENDIX 4

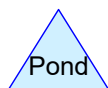
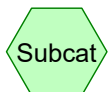
Post-Development HydroCAD



End



POST-WS



Routing Diagram for 23-020 POST

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23-020 POST

Prepared by Terradyn Consultants LLC

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Page 2

Area Listing (all nodes)

Area (acres)	CN	Description (subcatchment-numbers)
0.144	80	Grass (10)
0.672	98	Impervious (10)

23-020 POST

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West Street Stormwater Analysis

Type III 24-hr 2-yr Rainfall=3.10"

Printed 8/4/2023

Page 3

Summary for Subcatchment 10: POST-WS

Runoff = 2.32 cfs @ 12.07 hrs, Volume= 0.164 af, Depth> 2.41"
 Routed to Link SP10 : End

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 5.00-20.00 hrs, dt= 0.05 hrs
 Type III 24-hr 2-yr Rainfall=3.10"

	Area (sf)	CN	Description
*	6,263	80	Grass
*	29,277	98	Impervious
	35,540	95	Weighted Average
	6,263		17.62% Pervious Area
	29,277		82.38% Impervious Area

Tc (min)	Length (feet)	Slope (ft/ft)	Velocity (ft/sec)	Capacity (cfs)	Description
5.0					Direct Entry, A-B

Summary for Link SP10: End

Inflow Area = 0.816 ac, 82.38% Impervious, Inflow Depth > 2.41" for 2-yr event
 Inflow = 2.32 cfs @ 12.07 hrs, Volume= 0.164 af
 Primary = 2.32 cfs @ 12.07 hrs, Volume= 0.164 af, Atten= 0%, Lag= 0.0 min

Primary outflow = Inflow, Time Span= 5.00-20.00 hrs, dt= 0.05 hrs

23-020 POST

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West Street Stormwater Analysis
Type III 24-hr 10-yr Rainfall=4.60"

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Page 4

Summary for Subcatchment 10: POST-WS

Runoff = 3.58 cfs @ 12.07 hrs, Volume= 0.258 af, Depth> 3.79"
 Routed to Link SP10 : End

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 5.00-20.00 hrs, dt= 0.05 hrs
 Type III 24-hr 10-yr Rainfall=4.60"

	Area (sf)	CN	Description
*	6,263	80	Grass
*	29,277	98	Impervious
	35,540	95	Weighted Average
	6,263		17.62% Pervious Area
	29,277		82.38% Impervious Area

Tc (min)	Length (feet)	Slope (ft/ft)	Velocity (ft/sec)	Capacity (cfs)	Description
5.0					Direct Entry, A-B

Summary for Link SP10: End

Inflow Area = 0.816 ac, 82.38% Impervious, Inflow Depth > 3.79" for 10-yr event
 Inflow = 3.58 cfs @ 12.07 hrs, Volume= 0.258 af
 Primary = 3.58 cfs @ 12.07 hrs, Volume= 0.258 af, Atten= 0%, Lag= 0.0 min

Primary outflow = Inflow, Time Span= 5.00-20.00 hrs, dt= 0.05 hrs

23-020 POST

Prepared by Terradyn Consultants LLC

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West Street Stormwater Analysis

Type III 24-hr 25-yr Rainfall=5.80"

Printed 8/4/2023

Page 5

Summary for Subcatchment 10: POST-WS

Runoff = 4.57 cfs @ 12.07 hrs, Volume= 0.333 af, Depth> 4.90"
 Routed to Link SP10 : End

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 5.00-20.00 hrs, dt= 0.05 hrs
 Type III 24-hr 25-yr Rainfall=5.80"

	Area (sf)	CN	Description
*	6,263	80	Grass
*	29,277	98	Impervious
	35,540	95	Weighted Average
	6,263		17.62% Pervious Area
	29,277		82.38% Impervious Area

Tc (min)	Length (feet)	Slope (ft/ft)	Velocity (ft/sec)	Capacity (cfs)	Description
5.0					Direct Entry, A-B

Summary for Link SP10: End

Inflow Area = 0.816 ac, 82.38% Impervious, Inflow Depth > 4.90" for 25-yr event
 Inflow = 4.57 cfs @ 12.07 hrs, Volume= 0.333 af
 Primary = 4.57 cfs @ 12.07 hrs, Volume= 0.333 af, Atten= 0%, Lag= 0.0 min

Primary outflow = Inflow, Time Span= 5.00-20.00 hrs, dt= 0.05 hrs

8 CONSISTENCY WITH CITY MASTER PLANS

8.1 OVERVIEW

Our office is not aware of any applicable Master Plans created for the project site.

9 UTILITIES

9.1 OVERVIEW

The proposed project will involve installation of new utility services to the proposed building. All new utility services will be provided from the franchise utilities available within Carleton Street. The proposed locations of the new utility services are shown on the Utility Plan (Sheet C-6.0).

9.2 WATER SUPPLY

The proposed project will receive its water supply from the Portland Water District's (PWD) public water supply system. Separate fire and domestic services will be installed to each of the three buildings from PWD's existing main in Carleton Street.

9.3 WASTEWATER DISPOSAL

The proposed project will be connected to the Portland Water District's and City of Portland's wastewater collection and conveyance systems.

9.5 STORMWATER MANAGEMENT

The proposed project will have a stormwater management system requiring a pipe connection to the Carleton Street combined sewer network. The site has a stormwater connection today and we will be replacing it with new infrastructure as part of this project. Impervious area on site is expected to decrease as a result of this redevelopment and stormwater flows are expected to be similar to existing conditions.

9.4 ELECTRICITY SUPPLY

CMP currently maintains overhead utilities in the area. Electric utilities for the proposed buildings are expected to be installed underground from the Carleton Street pole at the northwestern corner of the property. A new transformer is expected to be installed on site to serve the three buildings.

9.5 NATURAL GAS SUPPLY

Natural gas services are proposed for each of the three new buildings from the natural gas line in Carleton Street.

10 FIRE SAFETY

10.1 OVERVIEW

The applicant and project team will provide the Portland Fire Department with the information required in the PFD Site Review Checklist, as well as a basic review of NFPA 1 and City of Portland Technical Standards related to public safety.

The residential project site will be accessed from Carleton Street, which is improved with a 27' paved surface. The site driveway is 20' wide. There is one nearby fire hydrant; located near the site's northwestern corner on Carleton Street. The parking lot development is accessed from the 18' wide driveway from West Street.

The front side of the proposed townhouses will be fully accessible from Carleton Street. One side of each townhouse and the rear of both townhouses will be accessible from the project driveway. The existing building will be accessible on two sides from the site driveway. The proposed building will be fully sprinkled in compliance with all applicable codes.

11 CONFORMITY WITH APPLICABLE DESIGN STANDARDS

11.1 OVERVIEW

This project conforms to all applicable Site Plan Review Standards of Section 14.6 of the city's Land Use Ordinance as described in the following narrative.

14.6.1 Transportation Standards

A. Impact on Surrounding Street Systems:

The project will not have a significant impact on the surrounding street system. Vehicles will access the residential project site from an existing driveway location on Carleton Street, and vehicles will access the parking lot condo site from an existing driveway location on West Street. The estimated number of new vehicle trips generated by the project is insignificant compared to existing trips on surrounding streets.

B. Access and Circulation:

1. In General

- a. Vehicular access to the residential development will be at the proposed driveway from Carleton Street and vehicles will circulate in the 20' wide driveway providing access to the residential parking spaces. Pedestrian access is directly from the Carleton Street sidewalk to the townhouse front porches or along the shared 20' wide driveway to the existing redeveloped building at the center of the site. Vehicle and pedestrian access to the parking lot condo site will be at the existing 18' wide driveway from West Street.
- b. Walkways connect the townhouse doors to the Carleton Street sidewalk. The 20' wide shared driveway provides pedestrian connection to the parking spaces and existing redeveloped building.
- c. Points of access and egress have been designed to avoid conflicts with turning movements and traffic flows.
- d. The only vehicular access to the residential portion of the site is for the 18 residential parking spaces so stacking is not applicable. The driveway into the parking lot condo can provide stacking if necessary for the parking use.

2. Loading and Servicing

The development is not expected to be served by delivery or other service vehicles. It is a residential use.

3. Curb and Sidewalks.

- a. The existing Carleton Street sidewalk along the site frontage will be reconstructed with brick and granite curb as part of this project.
- b. The reconstructed sidewalk will meet the design standards of the Technical Manual.
- c. NA
- d. NA

C. Public Transit Access:

Metro Bus Route 8 runs along West Streets in the vicinity of the project site with a stop at the intersection of Carleton and West Streets. The project does not meet the minimum threshold to require a new transit facility.

D. Parking:

1. Vehicular Parking:

- a. The residential project requires 6 parking space per R-6 Zone requirements. 18 residential parking spaces are proposed for the 9 residential units. The parking lot condo project contains 23 parking spaces.
- b. A parking study is not required for this project.
- c. The project includes 2 parking spaces per residential unit. The townhouses contain 3-5 bedrooms and the 2 parking spaces per unit are located in basement level garages. The existing building units are 2-3 bedrooms and the 2 parking spaces per unit are located on the site adjacent to the building. Street parking is limited due to the volume of surrounding single and multi-family residential uses.
- d. The proposed parking spaces meet the dimensional standards as detailed in the street design standard of the technical manual. The proposed on-site parking will be constructed of bituminous pavement.

2. Bicycle Parking Spaces:

- a. Bicycle parking spaces are located in the townhouse garages and in the basement of the existing redeveloped building.

3. Snow Storage:

- a. Snow will be stored in landscaped areas adjacent to the paved parking and driveways on the project site as shown on the project site plans.

- b. Snow storage does not encroach on parking or pedestrian area, nor does it adversely impact the functionality of stormwater management systems.

4. Electric Vehicle (EV) Charging:

- a. All of the 18 residential parking spaces will be EV ready and at least 4 spaces (20% of the spaces) will have Level 2 EV chargers installed. All of the 23 parking condo spaces will be EV ready and at least 5 spaces (20% of the spaces) will have Level 2 EV chargers installed. EV charger locations are shown on the project site plans.

E. Transportation Demand Management (TDM):

A TDM plan is not required for this project.

14.6.2 Environmental Quality Standards

A. Preservation of Significant Natural Features:

1. Preserve and protect significant natural features
 - a. No endangered or threatened plants have been identified on the project site.
 - b. No habitat for endangered or threatened species have been identified on the project site.
 - c. No waterfowl and wading bird habitat is located on the project site.
 - d. NA
 - e. No wetlands, watercourses, SVPs or floodplains are located on the project site.
2. NA
3. NA

B. Landscape Preservation:

1. An existing street tree will be preserved on Carleton Street. An existing 26" tree adjacent to the parking lot on the eastern portion of the site will be preserved.
2. The majority of the site was previously developed and contains pavement and building roof.
3. Parking lots and buildings currently exist in the majority of on-site setback areas.
4. Waiver: The majority of the existing trees on site will be impacted by building and site construction and preservation would compromise the development of the site. We anticipate that five trees over 10" DBH will be removed from the project site for the construction of the townhouse buildings and internal circulation areas.
5. One street tree on Carleton Street exists today and will be preserved. Four new street trees along the Carleton Street frontage but on the project site are proposed. Additional trees and landscaping will be provided on site. The project landscape plan indicates location and species for street trees and other plantings.

C. Site Landscaping

1. Landscaped beds including four street trees are proposed in front of the townhouse buildings along Carleton Street. Interior site plantings include an extensive program of trees, shrubs and perennials along the perimeter of the site and within the hardscaped areas at the center of the site. Plantings and new trees are also proposed surrounding the parking lot condo on the eastern portion of the site. The project landscape plan prepared by the landscape architect indicates location and species.
2. Buffers
 - a. NA
 - b. NA
 - c. NA
3. Parking and vehicle display lot landscaping
 - a. All of the parking is screened from the public ROWs. The residential parking is broken up on site with landscaping adjacent to parking areas. The parking lot condo includes existing and proposed tree and shrub landscaping.
 - b. Uninterrupted pavement does not exceed forty parking spaces.
 - c. NA
4. Street Trees
 - a. There is one (1) existing street tree on Carleton Street that will be preserved. Four (4) new street trees are proposed along the site frontage.
 - b. The project includes nine (9) residential units and only five (5) street trees are provided, so the applicant will make a contribution for four (4) street trees to the City's Tree Fund.

D. Water Quality, Stormwater Management and Erosion Control:

1. Stormwater:

The existing project site is fully developed with approximately 30,614 SF of impervious area (26,684 SF non-roof impervious). Redevelopment of the project site will result in a decrease of approximately 174 SF of impervious area and a decrease in non-roof impervious area by approximately 5,182 SF. The post-development impervious area is approximately 30,440 SF (21,502 SF non-roof impervious). The project is a Major Site Plan so it is required to meet the Basic Standards of the MDEP Chapter 500 Rules for Stormwater Management.

Post development stormwater runoff will generally follow existing patterns. Stormwater runoff from the buildings and hardscape areas will be captured in on-site catch basins and directed to the City's combined storm/sewer system in Carleton Street. Post-development stormwater volumes entering the City's system are expected to be less than in existing conditions. A Stormwater Management Plan is included in Section 7.

- a. Stormwater runoff patterns and volumes are expected to be less than in existing conditions. Ponding on or flooding of adjacent lots is not expected as a result of this project.

- b. Volumes and rates of stormwater runoff leaving the site are expected to be less than in existing conditions. The project is not expected to result in ponding, flooding, or other drainage problems within Carleton Street, West Street, or the abutting parcels.
 - c. Volumes and rates of stormwater runoff into the city's storm drain network are expected to be less than existing volumes and rates. The project is not expected to result in problems downstream or exceed the capacity of the system.
- 2. The stormwater management system was designed to meet the requirements of the Technical Manual.
- 3. The development is not expected to pose a risk to groundwater contamination during or post-construction. Housekeeping notes are included on the project plan set.

14.6.3 Public Infrastructure and Community Safety Standards.

- A. Consistency with City Master Plans:
 - 1. The project has been designed to be consistent with the City of Portland Land Use Ordinance and off-premises infrastructure.
 - 2. Not applicable.
- B. Public Safety and Fire Prevention:
 - 1. The site has been designed to promote safety and security for the residents. Site lighting will provide added security. Access to the townhouse units will be through the front entrances for each individual residence. Access to the existing redeveloped building will be controlled with appropriate access controls for a multi-family residential building. The site includes fencing at many of the property lines and is not publicly accessible. The residential portion of the site will not be accessible from the parking lot condo portion of the site.
 - 2. Emergency vehicle access for the residential development will be via Carleton Street and the project's 20' wide driveway between the townhouse buildings. Emergency vehicle access for the parking lot condo will be via West Street and the existing 18' wide parking lot driveway.
- C. Public Utilities:
 - 1. The project will be served by new water and sewer utilities.
 - 2. Overhead electrical and telecommunications utilities exist along Carleton Street. The buildings will be served by underground electrical and telecommunication utilities. A new ground mounted transformer is proposed on site and will be served from an existing pole on Carleton Street.
 - 3. All new utility infrastructure will meet the provisions of the Technical Manual.

4. The proposed building will be connected to the public sewer system within Carleton Street.
5. NA

14.6.4 Site Design Standards

A. Massing, Ventilation and Wind Impact:

1. The bulk, location and height of the proposed building will not result in adverse impacts to abutting properties.
2. The bulk, location and height of the proposed building will not substantially reduce the value or utility of adjacent structures.
3. The HVAC equipment will be located on the building roofs and exhaust away from adjacent residential properties.

B. Shadows:

The project is not expected to cause shadows on publicly available open space, or have an adverse effect on vegetation as a result of shadows cast from the proposed building.

C. Snow and Ice Loading:

Accumulated snow and ice will not fall onto adjacent properties or public ways.

D. View Corridors:

The project site is located outside of any protected view corridors.

E. Historic Resources:

1. The development is located within the West End historic district.
2. The development is generally compatible with the major character-defining elements of the West End historic district.
3. There are no known archaeological resources on the site.

F. Exterior Lighting:

1. Site Lighting

- a. Exterior site lighting will be provided by building mounted lights along the exterior of the three buildings. The light fixtures are full cutoff. Additional pedestrian scale site lighting will be provided along walkways with downlights recessed in the proposed 18" tall stone walls.
- b. The photometric plan in the project plan set shows how the exterior site lighting meets the standards of the Technical Manual.

2. Architectural and Specialty Lighting: NA – there is no architectural or specialty lighting or up-lighting proposed.

3. Street Lighting: existing cobra head style street light are located on two nearby utility poles located on Carleton Street along the site's frontage. An existing cobra head style street light is located on a utility pole at the parking lot driveway entrance on West Street. No street lighting is proposed.

G. Noise and Vibration:

Noise levels are expected to meet the permitted levels for the R-6 Zone.

HVAC and Mechanical Equipment: All heating, ventilation and air conditioning equipment (HVAC), air handling units (AHU), and similar equipment shall meet applicable state and federal emissions requirements and shall be located on the roof, away from abutting residential properties. No emergency generator is proposed for this project.

H. Signage and Wayfinding:

Not Applicable.

I. Design Standards:

1. Developments of certain types and/or proposed in certain zones, as specified below, are subject to the design standards of the City of Portland Design Manual:
 - a. NA
 - b. NA
 - c. NA
 - d. NA
 - e. Residential developments shall integrate with and respect the character of the surrounding residential developments – the proposed 19 West Street building integrates with the surrounding buildings in terms of architectural form, landscaping and open space, façade materials, roof pitch, massing, and height.

12 VERIFICATION OF PROPOSED HVAC EQUIPMENT

12.1 OVERVIEW

All heating, ventilation and air conditioning equipment (HVAC), air handling units (AHU), emergency generators, and similar equipment shall meet applicable state and federal emissions requirements and shall be located on the building roofs, away from abutting residential properties.



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October 20, 2023
 REVISED NOVEMBER 8, 2023

RESPONSE TO REVIEW COMMENTS

**PL-002614-2023 | 19 West Street
 Portland, Maine 04101
 Project #23-020**

Maya Balassa, Planner
 389 Congress Street, 4th Floor
 Portland, ME 04101

Dear Maya:

We have received and reviewed the staff comments on the proposed redevelopment of 19 West Street (City of Portland Project #PL-002614-2023), dated September 22, 2023. The project design team has prepared the following responses to the comments. For clarity, each comment is repeated below, followed by our response in **bold text**.

GENERAL REVIEW COMMENTS

RTI:

- The site plan shows parking in Easement 2, please explain how you feel the easement is being met.

Applicant Response: The easement located south of the existing brick building, identified as “Easement 2” on the Existing Conditions Survey prepared by Titcomb Associates is for “the purposes of passage, light and air, and is never to be obstructed in any way or to be made a place of storage or deposit.” The applicant has been advised that parking of vehicles does not obstruct the easement and is not considered storage or deposit. Vehicles will come and go on a regular basis.

Zoning:

- The 20% open space zoning requirement is not being met.

Applicant Response: The existing site is legally non-conforming relative to the 20% open space requirement in the R-6 Zoning District. The proposed project will result in an increase in open space on the site. Existing and proposed open space areas are tabulated below.

	Existing Site	Proposed Site
Total Site Area	37,408 S.F.	37,408 S.F.
Landscaped Area (Open Space)	5,821 S.F.	6,875 S.F.
Open Space Percentage	15.6%	18.4%

Revised Drawing: C-1.1

- Please clarify which street is being considered the “front yard” for zoning review.

Applicant Response: The Carleton Street frontage is the “front yard” of the site.

Proposed townhouses:

- 1. With Carleton as the front yard, the front setback is 5'. The front porch and the principal part of each townhouse are meeting the 5' setback but the front steps are not. There is the potential to average the front yards of the buildings (principal structures) at 59 Carleton and 41 & 43 Carleton to get closer to the front property line but the front steps need to be within this setback

Applicant Response: Section 7.5.5.C of the Land Use Code allows for certain porches to project into required setback areas. The code allows for a one-story entrance porch not enclosed, with or without a roof, if the area of the porch does not exceed 50 square feet nor the projection from the building exceed six feet. The proposed porch stairs projecting into the front setback meet these criteria.

- 2. The maximum height in the R-6 zone is 45' but the height needs to be stepped back if the abutting property is a residential zone. The side setback is 10' from the side property line, so within 10' of the side property line the building can't be higher than 35'. The elevations for the townhouses show the buildings above the third floor stepping in for the fourth floor. The setbacks are quite tight, and it is hard for me to scale the amount that the fourth floor set back from the property line to confirm that the 10' setback is being met. Please submit a revised front elevation sheet (A2.0) that shows the vertical line of the side property line and the distance from it to the fourth floor wall.

Applicant Response: Updated elevation drawings that demonstrate how the proposed design meets the setback requirements have been prepared and submitted.

Revised Plans: A2.01

- 3. As stated above the maximum height for a building in the R-6 zone is 45' which is measured to the roof beam in a flat roof. The top of the fourth floor is given as 39'10", so it is below the maximum height of 45'. The concern is the proposed stair tower and partition wall between the two rooftop decks on each building. Section 7.5.1.G list certain appurtenances that can exceed the maximum height. We understand that you are proposing a stairway to access the decks from the fourth floor. A stair tower is allowed to exceed the maximum height but the area of the stair tower on the roof exceeds what is necessary to access the deck from the top stair. More than half of the enclosed area could be considered habitable space. The size of the stair tower needs to be reduced to include

the smallest, code compliant landing at the top of the stairs to open the door and step on to the roof. Please submit a revised rooftop drawing that is compliant. The other concern is the wall that is shown that divides the two roof decks. the top of the wall may not exceed 45'. In addition to adding the vertical lines on the front elevation drawings. Please also include a line that shows the maximum height of 45' and the that the wall between the two decks does not exceed 45'.

Applicant Response: The access to the roof has been revised to address the size of the interior access and the access for the two units has been separated so there is no center wall exceeding the allowable height.

Revised Plans: A1.05

Existing Building:

There are similar concerns with the addition and rooftop structures to the existing building.

- 1. The existing building is legally nonconforming to the rear and side setbacks. The proposed third floor addition needs to meet the side property line stepback of 10' and the rear property line stepback of 15'. Please submit a revised south elevation sheet (A2.21) that shows the vertical line of the rear property line and the distance from it to the third floor wall and a revised west elevation sheet (A2.22) that shows the vertical line of the side property line to the fourth floor wall.

Applicant Response: Proposed Elevations for the existing building have been revised to meet the setback requirements.

Revised Plans: A2.21, A2.24

- 2. The proposed stairway enclosure on the rooftop plan not only exceeds the necessary area for a code compliant landing at the top of the stairs to open the door and step on to the roof; it also includes habitable space. Please submit a revised rooftop top plan that reduces the enclosed stair tower on the roof to include the smallest, code compliant landing at the top of the stairs to open the door and step on to the roof.

Applicant Response: The stairway enclosure on the rooftop has been revised accordingly.

Revised Plans: A1.25

Use Of the West End of Property:

- The property is located in the R-6 Residential Zone. Table 6-A lists off-street parking as a conditional use in the R-6 zone. Since the Planning Board is reviewing the site plan, under section 6.5.1.A.2, the Planning Board will review the Conditional Use appeal for off-street parking. Section 6.5.2 outlines the general conditional use standards that need to be met for the conditional use appeal. The criteria in section 6.5.6.H,2 also needs to be met.

Applicant Response: Conditional Use Standards for the off-street parking have been submitted through E-Plan.

- The applicants need to submit a conditional use application to the Planning Board to allow the off-street parking use they are proposing.

Applicant Response: A conditional use application has been submitted through the Citizen Self Service Portal.

14.6.1: TRANSPORTATION STANDARDS

Impact on Surrounding Street Systems:

- The limited spot grades provided does not allow me to confirm that the proposed sidewalks are compliant (meet the min. cross slope and running slope). The applicant shall update the plans to provide spot grades and slopes at grade breaks for the proposed sidewalks, driveways and at the end of the limits of the proposed improvements for the property.

Applicant Response: Additional spot grades and notes have been added to the Detailed Grading Plan.

Revised Plans: C-5.1

- Confirm that the existing sidewalk grades at the property line are compliant. If not, then the limits of sidewalk replacement shall be extended to include a 5-foot minimum transition zone from the proposed 2% to the existing sidewalk slope.

Applicant Response: The existing sidewalk cross slopes at the property lines are believed to be in compliance with the maximum slope requirement (<2% cross slope). Spot grades have been added to the Detailed Grading Plan in these two areas.

Revised Plans: C-5.1

- Proposed improvements and existing conditions in the City ROW shall be dimensions on the plan view sheets. For example, ROW, street, lanes sidewalk, esplanade driveways (and other improvements) widths as well as when a width changes.

Applicant Response: Additional dimensions of existing and proposed improvements in the Carleton Street ROW have been added to the plans.

Revised Plans: C-3.0, C-4.0, C-4.1

- The finish floor elevation for all buildings shall be shown on the plan

Applicant Response: Finished floor elevations are shown for all buildings on Sheets C-5.0 and C-5.1.

- Note on the plans that the existing signs shall be protected in place.

Applicant Response: A sign protection note has been added to the plans as requested.

Revised Plans: C-3.0

Access and Circulation:

- The main driveway is 20 feet wide but lacks a designated pedestrian facility into and out of the site. Please show safe pedestrian routing from Carleton Street to the entryway of the apartments. The third party traffic engineer and city staff would suggest the two 2-foot concrete pavers be combined to allocate a 4-foot-wide pedestrian pathway.

Applicant Response: The strips of concrete pavers have been widened on both sides of the driveway from 2' to 4'. The proposed driveway now consists of a 12'-wide bituminous travel lane with 4'-wide flush paver strips on both sides.

Revised Drawing: C-4.1

Parking:

- Since the project is proposing more than 10% of the required parking spaces, a transportation study is required.

Applicant Response: The existing site includes approximately 64 surface parking spaces. The paved parking on the east side of the site will be repaved and 23 parking spaces will be restriped and sold individually to the public. This off-street parking is an existing use that will be continued as part of the proposed plan.

The 4 proposed townhouse units adjacent to Carleton Street will feature 8 parking spaces within garages under the buildings, accessed from the rear of the buildings. Each unit will have 2 garage parking spaces.

Ten surface parking spaces will be created on the site for the 5 proposed units in the existing brick building. Each of the 5 units will be allocated 2 parking spaces.

Sales data suggest that, due to the relatively large size of the proposed units, it is important to provide 2 off-street parking spaces for each unit. Fewer parking spaces will hamper the developers' ability to sell the units.

The project will result in a net decrease in off-street surface parking of 31 spaces. The design team made efforts to incorporate surface parking into the plan in a way that screens the parking from abutters and the surrounding public rights-of-way. The 8 surface parking spaces located south of the existing brick building are located where existing parking is currently located.

In summary, it is important for the applicant to provide two parking spaces for each new residential unit to meet the demands of the current market. Surface parking on the site is located in areas where parking exists today and in areas where additional building development is infeasible.

- All parking lot dimensions for the existing lot shall be provided and a formal request for waivers from the city's technical standards shall be provided.

Applicant Response: Dimensions of the existing parking lot in the eastern part of the site have been added to the Existing Conditions & Demolition Plan. Additional dimensions for the rebuilt parking lot have been added to the Overall Site Plan.

Parking space and drive aisle dimensions will remain unchanged from the existing condition. A formal waiver request for reduced access aisle width will be submitted.

Revised Drawings: C-3.0, C-4.0

- The applicant should note how parking spaces will be allocated and managed.

Applicant Response: Townhouse residents will utilize garage parking within their building. Each of the five residential units proposed within the existing building will be allocated two surface parking spaces as limited common elements (10 parking spaces for the 5 units). The residential condominium association will manage and maintain the 10 surface parking spaces.

The twenty-three parking spaces on the east side of the property, accessed from West Street, will be sold individually to residents of the surrounding neighborhood or anyone wishing to own a parking space on the site. A parking condominium association, made up of parking space owners, will manage and maintain the 23-space parking lot.

- The driveway to the existing parking lot does not meet city standards and accordingly a formal request for a waiver shall be provided.

Applicant Response: The existing parking area in the eastern part of the site is accessed through an 18' wide strip of land, which is entirely paved. This condition will remain as part of the proposed project. A formal waiver request for this condition will be submitted.

- Vehicle turning templates shall be provided for vehicle movements into and out of the garage access. If trucks are anticipated, turning templates shall be provided for those vehicles.

Applicant Response: A Parking Turning Analysis drawing has been created to show how passenger vehicles will access the townhouse garages.

New Drawing: C-9.0

14.6.2: ENVIRONMENTAL QUALITY STANDARDS

Landscape Preservation

- General comment - per chapter 4, section 4.3 of the technical manual, please update plans to show species of trees on plans and include trees in abutting properties that have drip lines along, within, or adjacent to project demolition and work areas.

Applicant Response: The revised plans show the plant species and drip lines with added off-site tree locations.

Revised Drawings: C-3.0, C-4.0, C-4.1

- EC / Demo sheet - Several existing trees shown on plans that appear to fall under chapter 29 guidelines and requirements for the Heritage Tree ordinance in Portland Historic districts. Species is important to show on plans to verify if tree removal permit and approval process will be required. Applicant is advised to be in coordination with the Historic preservation manager AND the city of Portland Forestry department for these removals and any impact fees.

Applicant Response: The City Forester/arborist has met on site with the project landscape architect and applicant and discussed the tree removal process. The applicant is aware of the required permits for tree removal and will work with the City as required.

- EC/ Demo Sheet - Note that two trees in particular are not shown on butting properties to the south of the town homes (I believe either Smith or Oppenheim - Raffel property, and south of the existing brick building parking lot (McVicar or Sanford or Holden property) The silver maple south of the existing brick building is an extremely large tree that merits particular attention to preservation measures. Confirm that silver maple is NOT listed in the Big Tree list as defined in section 4.1 of technical manual, and City Arborist, or their designee, is consulted about appropriate actions to take around the existing silver maple.

Applicant Response: Trees on abutting properties have been added to the project drawings, and the project landscape architect has met with the city arborist to discuss the trees in question. Although the large silver maple may not be on the Big Tree list, the owner has agreed to do what is necessary to protect the tree.

Revised Drawings: C-3.0, C-4.0, C-4.1

- EC/ Demo sheet - 24" tree at south east corner of existing structure on abutting property has high likelihood of construction impacts from fence and light pole removals, as does the two existing trees on abutting properties not shown on the EC plan. Please show protection measures on plan for all existing tree species being preserved, and ensure appropriate detailing for tree protection is followed in compliance with chapter 4 of the technical manual requirements (including prohibition of stockpiling and parking in dripline/feeder root zone of preserved trees)

Applicant Response: Tree protection measures have been added to the project drawings.

Revised Drawings: C-1.1, C-3.0, C-3.1

- EC / Demo sheet - Ensure any overhanging branches of preserved trees within construction areas and travel lanes are pruned appropriately to prevent damage by equipment in work areas. For existing fence, existing fence footing removals, trenching and utility work within existing drip lines, applicants are strongly encouraged to utilize air spade excavation techniques in coordination with a certified arborist to minimize damage to feeder roots and structural root areas of existing trees in abutting properties growing adjacent to existing fence areas.

Applicant Response: The revised drawings show the drip lines of all the trees including the off-site trees directly abutting the site. The project team discussed

existing tree protection both on and adjacent to the site during a meeting with the city of Portland arborist. Tree protection notes have been added to the project drawings.

Revised Drawings: C-1.1, C-3.0, C-3.1

- EC/Demo / site plans - Please clarify if applicant anticipates / intends to demo and replace existing brick walk along Carleton Street, and if new walk will be on impervious subbase (eg bituminous base, etc.) If a walkway is being replaced, for areas / portions of walkway within existing preserved tree drip line or feeder roots, applicants are encouraged to excavate removal walkway and associated materials with air spade or other low impact methods that will preserve root structure to the extent possible. Further coordination with the Forestry department is requested for rebuilt pathway materials that would be made over these existing root areas. Similar treatment is requested for underground trenching or utility impacts within preserved tree driplines.

Applicant Response: The public sidewalk on Carleton Street will be replaced. The typical city detail, including a bituminous base, is proposed. Tree protection notes have been added to the project drawings.

Revised Drawings: C-3.0, C-1.1

Site Landscaping and Buffers:

- Site plans - update all plans with location of existing silver maple and other significant existing trees along south of project work area line and property boundary.

Applicant Response: The site plans have been updated to show species for all on-site trees as well as those off-site to the south, including the silver maple.

Revised Drawings: C-3.0, C-4.0, C-4.1, C-5.0, C-5.1, C-6.0

- L1.1 landscape plan - Applicant shows cornus mas species planted in proposed light area.

Applicant Response: The planting plan has been revised/corrected by moving the proposed plant.

Revised Drawings: L-1.1

- L1 and L 1.1. - applicant is strongly encouraged to provide root barrier materials between proposed tree and large shrub species and adjacent electrical and other utility line conditions on site.

Applicant Response: Root barrier has been specified as recommended.

Revised Drawing: C-1.1

- L1.0 - switch grass plantings appear to be shown within paved area, please clarify intent of plantings shown, eg: plantings to be in containers?

Applicant Response: The proposed switch grass will be located within a planting bed. The patio design has been revised on the project drawings.

Revised Drawings: C-4.1, L-1.0

- L1.0 - Viburnum planting on north boundary between townhouse and renovated brick building patio area is planted on proposed light element, please adjust plantings to not be on or immediately adjacent to footings or large site elements that will impact either elements or performance of the plant material.

Applicant Response: The proposed plantings have been adjusted.

Revised Drawings: L-1.0

- L1.0 - Street tree rhythm - while applicant is showing additional trees within 20' of the public R.O.W along Carlton, department encourages applicant to consider enhancing the rhythm and character of the existing neighborhood and street trees by utilizing esplanade area for an additional street tree in esplanade between walk and road in northern most town house unit, if utility conditions allow and in coordination with city arborist.

Applicant Response: An additional street tree has been added in the esplanade, as suggested.

Revised Drawings: L-1.0

- 50% of the proposed plantings are required to be native, please confirm that the landscaping plan is meeting this requirement.

Applicant Response: The project landscape architect confirms that more than 50% of the proposed plantings are native.

Water Quality, Stormwater Management & Erosion Control

- The project is required to meet the requirements of Maine DEP Chapter 500 and City of Portland Technical Manual Section 5 for stormwater management. The project includes the redevelopment of an existing site.

Applicant Response: The project was designed to meet the referenced standards.

- Basic Standard – The plans should show locations of erosion control measures. A detail sheet was provided, but I did not see a sheet with the locations shown.

Applicant Response: Erosion control measures are shown on the Construction Management Plan (Sheet C-3.1)

- **Redevelopment Standard** – The City's Section 5 standards for redevelopment require stormwater treatment for 50% of redeveloped non-roof impervious surface over 5,000 SF. While the project notes it is reducing redeveloped non-roof area on the site, there are areas that would be considered redeveloped (and not simply maintenance), and would need to be considered for stormwater treatment. I would suggest that the southeast parking area could be considered maintenance, but other areas internal to the site that are being regraded and constructed with different surfaces should be considered towards the redeveloped non-roof impervious surface area – the applicant should evaluate these areas to determine what treatment may be required.

Applicant Response: A stormwater treatment system has been designed in accordance with the Section 5 redevelopment standards. Information on the system is in a separate document, entitled “Redevelopment & Stormwater Standards”, which has been uploaded to E-Plan.

Revised Drawings: C-5.0, C-5.1

- The demolition plan accounts for sawcuts for utility installation. The site plan should similarly show locations of required paving and curbing replacement for utility installations.

Applicant Response: Limits of pavement repair and curb replacement have been added to the Site Plans.

Revised Drawings: C-4.0, C-4.1

- The plans provide for covered parking for the townhomes. If any internal drainage is provided for these parking areas, oil water separators should be utilized, and this should be connected to the sewer.

Applicant Response: No internal drainage is proposed within the townhouse garages.

- Section 2.2.3 of the City's Technical Manual requires DPW Water Resources approval when rain water is being proposed to discharge into a sewer which conveys sanitary waste. Prior to authorizing a new stormwater connection into the combined sewer, DPW will require that the applicant provide an on-site stormwater detention volume equal to the greater of: 1” of rainfall over the entire project redeveloped area being proposed on the parcel, or the projected average 24 hour daily sanitary sewer flow being added to the combined sewer system by the project.

Applicant Response: A stormwater detention system has been designed in accordance with the DPW's requirements. Information on the system is in a separate document, entitled “Redevelopment & Stormwater Standards”, which has been uploaded to E-Plan.

Revised Drawings: C-5.0, C-5.1

- Stormwater discharge rates into the combined sewer system must be controlled to a maximum flow rate of 0.1 CFS per acre of watershed drainage area draining through the system until the design storage capacity is reached. Once the design storage is maximized, excess flow rates can be directed to the combined sewer through the use of a flow control structure or device.

Applicant Response: Additional stormwater management comments will be addressed under separate cover.

- New connections into the combined sewer system shall be equipped with backflow prevention in accordance with Section 2.6.10 of the City's Technical Manual

Applicant Response: A backflow preventer has been specified on the Utility Plan.

Revised Drawing: C-6.0

- DPW would recommend and prefer that an inserta tee be utilized to connect the proposed 6" sewer service into the public 24" RCP combined sewer line in Carleton Street. This is allowable under technical manual standard 2.6.7.

Applicant Response: An inserta tee connection has been specified on the Utility Plan.

Revised Drawing: C-6.0

- ESC devices should be depicted on the grading plan or on a dedicated ESC plan sheet.

Applicant Response: Erosion & Sedimentation Control BMP locations are shown on the Construction Management Plan.

14.6.3: PUBLIC INFRASTRUCTURE + COMMUNITY SAFETY STANDARDS

Public Utilities

- The Applicant has noted utility requirements and proposed locations. Confirmation of ability to serve will be required.

Applicant Response: The Department of Public Works has provided a letter confirming that the public sewer system has the capacity to convey the estimated wastewater flows from the project. A copy of the letter is attached.

Terradyn consultants is continuing to work with the Portland Water District on the water supply design for the project. Final approval and confirmation of ability to serve the project will be provided when it is received.

14.6.4: SITE DESIGN STANDARDS

Noise and Vibration

- Please show HVAC on the elevations for review against standards.

Applicant Response: HVAC equipment has been added to the applicable elevation views.

Revised Drawings: A2.01, A2.24

The project team is looking forward to forward to the upcoming Planning Board Workshop. In the interim, please contact me with additional questions or comments.

Sincerely,

TERRADYN CONSULTANTS, LLC



Michael Tadema-Wielandt, P.E.

Vice President

cc. Jack Soley

Tim Hebert

Ali Malone

David Lloyd, Archetype

Katherine Lermond, Archetype

Attachments:

Wastewater Capacity Letter

Updated Plans:

A1.05 Townhouses Roof Plan

A1.25 19 West New Roof Plan

A2.01 Townhouses Front Elevations

A2.21 19 West New South Elevation

A2.24 19 West New East Elevation

C-1.1 General Notes & Legend

C-3.0 Existing Conditions & Demolition Plan

C-3.1 Construction Management Plan

C-4.0 Overall Site Plan

C-4.1 Detailed Site Plan

C-5.0 Overall Grading Plan

C-5.1 Detailed Grading Plan

C-6.0 Utility Plan

C-9.0 Parking Turning Analysis

L-1.0 Landscape Plan

L-1.1 Landscape Plan

Date: September 12, 2023
Re: Wastewater Capacity Authorization
Address: 19 West Street
Applicant: Carleton West, LLC
Planner: Maya Balassa

Estimate of Anticipated Wastewater Flows				
Development	Unit Size	Number of Units	Gallons per Day per Unit	Total Gallons per Day
Existing Flow to be Removed				
Vacant				
Proposed Flow				
Multiple Family Dwelling Units	2-Bedroom	4	180	720
Multiple Family Dwelling Units	3-Bedroom	1	270	270
Multiple Family Dwelling Units	5-Bedroom	4	450	1800
Net Change				+ 2,790
*Values based on STATE OF MAINE: SUBSURFACE WASTEWATER DISPOSAL RULES, most recent edition				

Comments:

The Department of Public Works, which includes the Water Resource Division, have reviewed and determined that the downstream sewers from the project address have the capacity to convey the estimated dry weather wastewater flows which will be generated from this development.

However, storm drainage and sanitary sewer flows in this project area drain to the City's combined sewer system. Lack of wet weather capacity results in frequent system wide combined sewer overflows. City wide mitigation of combined sewer overflows is required as part of the City's CSO consent decree administered by the EPA and Maine DEP.

Section 2.2.3 of the City's Technical Manual requires DPW Water Resources approval when rain water is being proposed to discharge into a sewer which conveys sanitary waste. Prior to authorizing a new stormwater connection into the combined sewer, DPW will require that the

applicant provide an on-site stormwater detention volume equal to the greater of: 1” of rainfall over the entire project redeveloped area being proposed on the parcel, or the projected average 24 hour daily sanitary sewer flow being added to the combined sewer system by the project.

You are also reminded that new connections into the combined sewer system shall be equipped with backflow prevention in accordance with Section 2.6.10 of the City’s Technical Manual.

If the City can be of further assistance, please contact me at all 874-8840 or brad@portlandmaine.gov

Sincerely,

A handwritten signature in dark ink, reading "Bradley A. Roland", is displayed on a light gray rectangular background.

Bradley A. Roland, P.E.,
Senior Project Engineer



August 7, 2023

Christine Grimando
Planning Director
City of Portland, Maine
389 Congress Street St. 4th Floor
Portland, ME 04101

Re: Carleton West Project – Financial Capacity

Dear Christine:

On behalf of Norway Savings Bank, I am pleased to provide this letter of support of Carleton West LLC on their plans to develop the property at 19 West Street, Portland, Maine. Based on our review of financials and our understanding of the project, I believe Jack Soley and Tim Hebert have the financially capacity and technical expertise to successfully complete this project.

While this letter is not a commitment to lend, Carleton West LLC and its principals have been customers of Norway Savings Bank for over 12 years. We have worked successfully with them on similar projects in the past and believe they have the financial capacity and management skills to develop this site and complete the project.

With permission from our client, I am happy to provide additional information you may require. I can be reached at ldarcy@NorwaySavingsBank.com or at (207)482-7959.

Norway Savings Bank looks forward to working with Carleton West LLC as this project moves forward in the development process.

Sincerely,

A handwritten signature in blue ink that reads "Larissa Darcy".

Larissa Darcy
Vice President
Commercial Lending

cc: Jack Soley
Tim Hebert

CITY OF PORTLAND
Planning & Urban Development Department

MAJOR SITE PLAN GENERAL DOCUMENT AND DRAWINGS CHECKLIST Please submit each document as a separate PDF file. Please confirm by electronically checking the boxes in the left-hand column. ** PLEASE FILL OUT AND UPLOAD THE ZONING ASSESSMENT TABLE AND WAIVER TABLE SEPARATELY AS NOTED BELOW ** At the time of application submission, please contact the Department of Public Works regarding E-911 addressing for your project.		
GENERAL APPLICATION DOCUMENTS		
☒	NA	Project Description Cover letter with detailed project description
☒	NA	Completed Checklist (this document)
☒	NA	Evidence of Right, Title, and Interest Deeds, leases, or purchase and sales agreements
Yes	☒	Evidence of State or Federal Approvals Permits or letters of non-jurisdiction, if applicable
☒	NA	Zoning Assessment (see Zoning Assessment Table) Summary of compliance with use and dimensional standards of the land use code
☒	NA	Site Plan Standards Assessment (see Section 14.6 of the land use code) Summary of project compliance with site plan standards of the land use code
☒	NA	Summary of Existing and/or Proposed Easements or Covenants, applicable. Evidence of existing easements and any proposed easements, covenants, public or private rights-of-way
Yes	☒	Waiver Requests (see Waiver Table) Written request for waiver describing request and compliance with applicable waiver standards
☒	NA	Financial Capability Letter or evidence from a financial institution or third party verifying financial capacity to undertake project
☒	NA	Technical Capability Evidence of technical capability of applicant and consultants – resumes and/or examples of past projects

MAJOR SITE PLAN STANDARDS AND SUBMISSION CHECKLIST

**Provide assessment of compliance with standards and include supplemental documentation, as applicable.
Please submit each document as a separate PDF file.**

TRANSPORTATION		
Yes	NA	Impact on Surrounding Street Systems (14-14.6.1(A)) Describe incremental volume of traffic impacts and mitigation measures. If needed
Yes	NA	Access and Circulation (14-14.6.1(B)) Identify and describe the following: - Site access and internal circulation, including ADA access - Drive-up features, if applicable - Loading and servicing needs, routes, and geometry, providing turning templates for delivery vehicles, if applicable - Sidewalks and condition along street frontages and internal walkways - Engineered details for ADA ramps and public sidewalks, meeting sidewalk material policy and construction requirements (Technical Manual, Section 1)
Yes	NA	Public Transit (14-14.6.1(C)), if applicable Identify and describe the following: Existing available transit service and proposed transit improvements, including design details, such as easement, pad base, and shelter
Yes	NA	Off-Street Parking (14-14.6.1(D)), if applicable Identify and describe the following: - Proposed vehicular and bicycle parking supply (including ADA-compliant parking) in relation to applicable parking requirements in Article 19 of the land use code - Curb cut separation and parking layout (Technical Manual, Section 1) - Construction details for bicycle racks - Management plan for snow storage and removal
Yes	NA	Transportation Demand Management (TDM) (14-14.6.1(E)), if applicable Provide TDM plan drafted in accordance with Technical Manual Section 1 requirements

ENVIRONMENTAL		
Yes	NA	Preservation of Significant Natural Features (14-14.6.2(A)), if applicable Identify and describe the following: • High and moderate value waterfowl and wading habitat • Aquifers (for Casco Bay Islands) • Waterbodies (including wetlands, watercourses, significant vernal pools and floodplains) • Proposed preservation areas and protection measures • Documentation from environmental compliance consultants and determinations from applicable state and federal agencies
Yes	NA	Landscape Preservation (14-14.6.2(B)) Identify and describe the following: • Measures to preserve trees, including within required zoning setbacks (Technical Manual, Section 4) • Measures to protect existing vegetation during construction
Yes	NA	Site Landscaping and Buffers (14-14.6.2(C)) Identify and describe the following: • Overall landscaping approach and consistency with standards • The use of screening and buffering of service areas and between non-residential and residential uses • Existing Heritage or Feature Trees on site and measures to preserve • Compliance with street tree requirements
Yes	NA	Water Quality, Stormwater Management, and Erosion Control (14-14.6.2(D)) Identify and describe the following: • Erosion and sedimentation control plan and measures • Evidence of compliance with Urban Impaired Stream Standards pursuant to DEP Chapter 500 stormwater law, as applicable • Subsurface sanitary sewage disposal and groundwater protection measures

PUBLIC INFRASTRUCTURE AND COMMUNITY SAFETY		
Yes	NA	Consistency with City Master Plans (14-14.6.3(A)) Describe proposed easements, rights and improvements to connect or continue off-premises public infrastructure, as applicable
Yes	NA	Public Safety and Fire Prevention (14-14.6.3(B)) Identify and describe the following: - Compliance with Crime Prevention through Environmental Design (CPTED) requirements (Technical Manual, Section 3) - Emergency vehicle access - Consistency with public safety standards (Technical Manual, Section 3)
Yes	NA	Availability and Adequacy of Public Utilities (14-14.6.3(C)) (Technical Manual, Sections 2 & 9) Identify and describe the following: - Electrical services, including providing underground services - Existing and proposed connections for public utilities and required public utility upgrades - Sewer line connections
SITE DESIGN		
Yes	NA	Massing, Ventilations and Wind Impact (14-14.6.4(A)) Identify and describe the following: - Wind and ventilation impacts on adjoining structures and/or adjacent public spaces, including wind study, if applicable - Bulk, location, or height impacts on adjoining structures
Yes	NA	Shadows (14-14.6.4(B)), if applicable Provide shadow analysis of impacts on publicly accessible open space (Technical Manual, Section 11)
Yes	NA	Snow and Ice Loading (14-14.6.4(C)) Describe building design measures to prevent snow and ice from loading or falling onto adjacent properties or public ways
Yes	NA	View Corridors (14-14.6.4(D)), if applicable Describe any protection of designated view corridors (Portland Design Manual, Appendix. 1)
Yes	NA	Historic Resources (14-14.6.4(E)), if applicable Identify and describe the following: - The site's status as a designated landmark, within a historic district or historic landscape district, or within 100 feet of any designated landmark, historic district, or historic landscape district - Compliance with standards for preservation and documentation of archaeological resources

Yes	NA	Exterior Lighting (14-14.6.4(F)) Describe how the proposed site lighting will adhere to photometrics requirements as it relates to light trespass and full cutoff fixture design, pursuant to Technical Manual Section 12
Yes	NA	Noise and Vibration (14-14.6.4(G)) Provide data on noise levels for HVAC and other mechanical equipment, such as design specifications, to demonstrate consistency with state and federal noise emissions requirements as well as City code
Yes	NA	Signage and Wayfinding (14-14.6.4(H)), if applicable - Provide signage plan showing the location, dimensions, height and setback of all existing and proposed signs - Provide drawings of all commercial and directional signage on site
Yes	NA	Zone-Related Design Standards (14-14.6.4(I)) Address any applicable design review standards by zone, including compliance with Design Manual

MAJOR SITE PLAN DRAWINGS CHECKLIST

Please upload the following **DRAWINGS** with the listed details into e-Plan as separate pdfs.

All drawings must be submitted in a 24 x 36 sheet size.

BOUNDARY SURVEY (stamped by a Maine Licensed Surveyor and drawn as per Technical Manual Sec. 13)

SITE PLAN(s) (stamped by a Maine Licensed Professional Engineer) including:

All sheets – Include a title block with project title and the following information:

- Project street address
- Name and address of property owner & applicant
- Licensed design professional, incl firm that produced plans
- North arrow
- Date of preparation and revision history block
- Tax parcel (chart, block, and lot) number

Existing Conditions Plan with the following:

- Existing structures, with distance from primary building façade(s) to the property line
- Approximate location of structures on abutting properties
- All streets and intersections adjacent to the site
- Existing driveways, pedestrian ways, and bicycle infrastructure, including dimensions and materials
- Existing public transit infrastructure
- Existing vehicle & bicycle parking areas
- Existing utilities on site and within adjacent rights-of-way
- Existing grades (two-foot contours preferred)
- Location of water courses, wetlands, and vegetation, or other significant natural features
- Existing soil conditions and location of test pits and borings
- Zoning boundary lines, including overlays
- Location of all existing easements and rights-of-way

Proposed Site Plan with the following:

- Proposed structures, including distance from primary building façade(s) to property lines
- Ground floor area, and finished floor elevations for all buildings
- Any proposed geometric modifications to streets and intersections adjacent to site
- Location, dimensions and materials of all proposed driveways, vehicle, bicycle, & pedestrian access ways with corresponding curb lines
- Engineered specifications/ cross-sections for proposed driveways, sidewalks & paved areas
- Location and dimensions of proposed loading areas, including turning templates
- Proposed transit infrastructure with dimensions/ engineering specifications
- Location of vehicle and bicycle parking with dimensions and engineering specifications
- Location of all snow storage areas
- Exterior lighting (please see Technical Manual Sec. 12 for photometrics requirements)

• Location of fire hydrants • Location of solid waste management receptacles • Location of all proposed HVAC and mechanical equipment, including proposed screening, where applicable • Location of proposed easements and rights-of-way, including dimensions • Please utilize color-coding and/or hatches and shading to delineate changes between the pre and post development condition as needed
UTILITY PLAN including:
• Proposed electrical infrastructure • Location, sizing and directional flows of all proposed sewer and stormwater infrastructure • Location and dimensions of off-premises public or publicly accessible infrastructure adjacent to site • Electric utility infrastructure
GRADING AND DRAINAGE PLAN including:
• Proposed grades • Proposed stormwater management measures meeting Technical Manual (Section 5) standards • Any proposed alteration of a watercourse or wetlands • Any groundwater protection measures • Proposed buffers and preservation measures for wetlands or significant natural features
LANDSCAPE PLAN including:
• Existing vegetation to be preserved and preservation measures • Proposed landscaping, screening, and street trees, including caliper widths for trees • Planting schedule, including street trees
ARCHITECTURAL PLANS AND RENDERINGS including:
• Exterior building elevations, color renderings, illustrations of all sides • Axonometric and street-level views for structures greater than three stories in height • Provide context drawings, if applicable (Design Manual, page 1) • Floor plans
CONSTRUCTION MANAGEMENT PLAN including:
• Specifics on traffic control, sidewalk sheds, and pedestrian rerouting • Include a drawing and written narrative
OTHER
• Details and cross-sections, as necessary

Portland, Maine



Yes. Life's good here.

Planning & Urban Development Department

ZONING ANALYSIS Relevant Zone(s) R6

All Projects:

	Required	Proposed
Lot Size	2,000 SF	37,361 SF
Area Per Dwelling Unit	725 SF	4,151 SF
Minimum Street Frontage	20 FT	135 FT
Front Yard Minimum	5 FT	5 FT
Front Yard Maximum	-	-
Rear Yard	10 FT	3.7 FT. (EXIST)
Yard Right	5 FT	9 FT
Yard Left	5 FT	8.5 FT
Side Street Setback	0 FT	-
Step Back	10 FT / 15 FT	10 FT / NA
Maximum Lot Coverage	60%	24%
Minimum Lot Coverage	-	-
Maximum Height	45 FT	
Open Space	20%	14%
Maximum Impervious Area	-	-
Pavement Setback	-	-
Floor Area Ratio	-	-
Off Street Parking Spaces	6	18
Loading Bays	N/A	
Other 1		
Other 2		
Other 3		

Planned Residential Unit Developments (PRUD) Requirements

	Required	Proposed
Minimum Lot Size		
Minimum Lot Area per Dwelling		
Maximum # Units per Building		
Maximum Building Length		
Maximum Accessory Building Length		
Minimum Setbacks		
Minimum Building Separation		
Minimum Open Space		

Affordable Housing Density Bonuses (if applicable)

	Bonus Increase or Decrease	Maximum Allowable With Bonus	Proposed
Density			
Height			
Setback Reduction			
Recreation Space			
Maximum Accessory Building Length			
Minimum Setbacks			
Minimum Building Separation			
Minimum Open Space			
Explanatory Text 1 (optional):			
Explanatory Text 2 (optional):			
Explanatory Text 3 (optional):			

Neighborhood Meeting Sign-In Sheet

Date of Meeting: September 27, 2023 from 6-7 PM

Location of Meeting: Reiche School, Portland

Project Name/Address: Carleton West LLC redevelopment at 19 West St, Portland

Developer and Consultant Team in Attendance:

Name:	Email:	Organization:
Ali Malone	ali.malone@gmail.com	Carleton West LLC
Jack Soley	jsoley@easttownrows.com	Carleton West LLC
Tim Hebert	thebert@hebertconstruction.com	Carleton West LLC
Bethina Reece	bethina@waypointbrokers.com	Carleton West LLC

Members of the Public in Attendance:

Name	Email:	Address (optional):
Will Groves	willgroves@cmhcmaine.org	250 Brackett St Ronald McDonald House
Mary Doughty	marydoughty@maine.rr.com	28 Carleton Street

NAME	EMAIL	ADDRESS
ANNE PENKIE - WANA	ANNE.PENKIE.MO@gmail.com	44 NEAR ST
DEREK JASKULSKI	DEREKJ@USA.NET	50 Carleton St
E. B.		72 Pine St
Bethna Leese	Bethna.leese@gmail.com	15117 Blyth
EVA McVICAR	evamcvicar@gmail.com	29 WEST
Clara Dymhryn	Dfeliwy6@gmail.com	41 Carleton St.
MICHAEL NAPLES		129 PINE STREET
ERZABETH & RON FARKAS		21 WEST ST
AD Farkas	farkas.ada@gmail.com	6 Houlton
Georg Russell	grussel@yaho.com	17 West
Tom Richards	Tom	54-56 Carleton
Kiran Mahal	Kiran Mahal@gmail.com	285 Graceth → Eastmont copy please
MONTY FAKES	Monty hagen@gmail.com	17 West. Stnd

Carleton West LLC Neighborhood Meeting
September 27th, 2023
Reiche School
6pm-7:30pm

Jack, Ali and Tim, Kathryn, Bettina

Jack reviewed overall site plan

Betty Pervell- 21 West Street – Asked about the easement from West Street to Carleton Street. Jack spoke about a “light and air” easement where they cannot build so parking will be there instead. We will send her the easements. It has been submitted as public record as well, but hard to find.

George Russel- 17 West Street- Fire access rules between 17/19 for fire access. CW-According to survey they have 18 feet right now. 20 is standard. He needs to take it up with an attorney, as George believes it is 16 feet, but their fence encroaches on 19 West property.

Will Gross- House manager- Ronald McDonald- Asking how far off from the property line does the building sit. CW-There will be 10 feet from the pins. If RMD is 3 feet from pin that is 13 feet from the RMD. Top portion of town house will be plus 5 feet, so a total of 18 feet. Will it be an alley way, will it be cut off? There are some emergency exits they are concerned with blocking. Minimum 5-foot path.

Pam Richards 56 Carleton- What is going to be on top of the 3rd floor on the town house? CW- Small roof deck, with stair access. There will be a structure for the stairs only. The deck is getting smaller per zoning.

Derek J – 50 Carleton- Why can't there be a gate between the parking area close to Carlton Street. CW-Working with emergency services. We don't want it to feel like a road where people are driving or walking through the new residence yards.

George Russell- Traffic will be concentrated between 17 and 19 coming through that new entrance to the parking area, he's concerned. CW- There will be 23 spaces. Some percentage of that will be electric charging stations, so however much traffic that will amount to. Likely in the morning and evening.

Andrew Farkas- 6 Houlton St.- Pedestrians walking through the property to go from Carleton and West. CW- The parking will be a condo association so they will need to be the ones that make the decision.

Jack addressed: No issue with vagrants using the property. Put up no trespassing signs and motion sensor lights. Hasn't had any complaints in a week or so.

Kathryn discussed the design and plans for the existing building. 5 units total in the existing building. Jack discussed the landscaping plan. Trying to create a courtyard oasis. Sculptures

Anne Pringle: Can you show the access to the parking for the existing building. 10 spots – 2 spaces per unit for the 5 units in the existing building.

George Russell- Confused about the safety. Turning radius for the fire truck. Civil engineer will work with the fire department to make sure the turning radius will work. There will a study done.

Monty – 5 West Street – What will the impact to the people coming in on West Street? 23 Spaces total, so how often will people use that.

George Russell- Snow removal, in years past the snow was plowed to the end of the parking near Houlton and Blyth Ct. CW-We will have to have a snow dump area, which will be outlined in the civil plan. Snow will have to be removed, not just piled up in the spaces as it has been in the past. The condo association will be handling the cost of snow removal.

Anne Pringle- Asking about the prices of the condo'd parking spaces. No answers yet.

George Russell- If there is a tremendous demand how will you determined who gets the parking spots? CW-We can keep a list, please reach out if you are interested in getting a space. We can do reservations prior to the groundbreaking.

Eva McVicar- 29 West- Question about the time frame when will construction begins? Hoping to start in the Spring/Summer. We hope to start it all at once. June start- 12 -13 months

Monty- Are the buildings going to add to the neighborhood, are the buildings going to be more modern? What makes them more modern. We are contributing building beautiful buildings. Using top notch materials, bricks, detailed with historic references, trying our best to make the landscape a beautiful one in the West End.

Andrew Farkas- Will this be one association or multiple, one per building? CW-Likely to have an overarching association for landscaping and building maintenance. Working through that right now. Probably will have mini associations.

Will Gross- Asking about the parking for free for RMD house. This will eliminate all the parking for our patients and for our staff, and volunteer. CW will need to continue to discuss how this might work. Currently donating spaces to the RMD. We are supporters of the RMD. We can relocate some spots as we go through construction.

September 15th, 2023

Dear Neighbor:

Please join us for a neighborhood meeting to discuss our plans for Carleton West LLC located at 19 West Street.

Meeting Location: Reiche School
Meeting Date: September 27th, 2023
Meeting Time: 6-7pm

(The Land Use Code requires that neighboring property owners and residents on an “interested parties list” be invited to participate in this neighborhood meeting. A sign-in sheet will be circulated and a record of the meeting will be taken. Both the sign-in sheet and record will be submitted to the Planning Board.)

If you have any questions, please call (207) 772-6022
carletonwestllc@gmail.com

Signed,
Carleton West Team
9/15/23

Note: Under the City of Portland land use code, an applicant for a major site plan, master development plan, subdivision of over five lots, or zoning map amendment is required to hold a neighborhood meeting within 30 days of an application being deemed complete and no less than seven calendar days before a public hearing. Should you wish to offer additional comments on this proposed development, you may forward them by e-mail to planning@portlandmaine.gov or by mail to the Planning and Urban Development Department, Planning Division, 4th Floor, 389 Congress Street Portland, ME 04101.

Neighborhood Meeting Certification

I, Alessandra Malone, for Carleton West LLC, hereby certify that a neighborhood meeting was held on September 27th, 2023, at Reiche School from 6-7pm for the proposed project located at 19 West Street. I also certify that on Friday September 15th notices were mailed to the following:

1. All addresses on the mailing list provided by the Planning Division which includes property owners within 500 feet of the proposed development (1,000 feet for subdivisions within an industrial zone or industrial zone changes).
2. Residents on the “interested parties” list.

Signed,

DocuSigned by:
Alessandra Malone
F8177C55D8774EC...

November 7th, 2023

Attachments:

1. Copy of the notice sent
2. Sign-in sheet
3. Record of feedback



Redevelopment & Stormwater Management Standards 19 West Street

We received water quality and stormwater management comments relating in the 9/22/23 site plan review comment memo. The proposed Center West Condos development triggers the City's Section 5 standards for redevelopment and Section 2.2.3 of the City's Technical Manual requires on-site stormwater detention. The following narrative describes how the proposed stormwater management system meets these requirements and satisfies the comments received from City staff. Each comment is listed below in *italics*, followed by the response.

Redevelopment Standards – Water Quality

The City's Section 5 standards for redevelopment require stormwater treatment for 50% of redeveloped non-roof impervious surface over 5,000 SF.

The proposed project includes the redevelopment of over 5,000 SF of non-roof impervious area so stormwater treatment is required. The majority of the project site is being redeveloped; however, the easterly parking lot and the westerly site driveway areas are considered maintenance and not redevelopment. These areas are impervious today and will be repaired at similar elevations to the existing condition and remain impervious. The existing building will also remain.

The total redeveloped area of the site is 20,460 SF. Approximately 4,068 SF of this redeveloped area is redeveloped into landscaped area. Approximately 4,880 SF of this redeveloped area is redeveloped into roof. This results in 11,512 SF of redeveloped non-roof impervious area. These areas are shown on the attached redevelopment figure.

50% of the redeveloped non-roof impervious area requires stormwater treatment, so we must treat at least 5,756 SF of impervious area. We are proposing to treat 7,020 SF of impervious surface with a filter cartridge storm basin designed to treat the 1" storm event.

Redevelopment Calculations		
Total Redeveloped Area	20,460	SF x 1" rainfall for stormwater detention
Redeveloped into Landscaped Area	4,068	SF
Redeveloped into Roof	4,880	SF
Redeveloped Non-Roof Impervious	11,512	SF
50% Redeveloped Non-Roof Impervious	5,756	SF requires stormwater treatment
Impervious Area Treated	7,020	SF impervious receiving treatment
Required Detention Volume	1,705	CF of stormwater storage
Provided Storage Volume	1,889	CF of stormwater storage provided

Stormwater Management Standards

Section 2.2.3 of the City's Technical Manual requires DPW Waer Resources approval when rain water is being proposed to discharge into a sewer which conveys sanitary waste. Prior to authorizing a new stormwater connection into a combined sewer, DPW will require that the applicant provide an on-site stormwater detention volume equal to 1" of rainfall over the entire project redeveloped area.

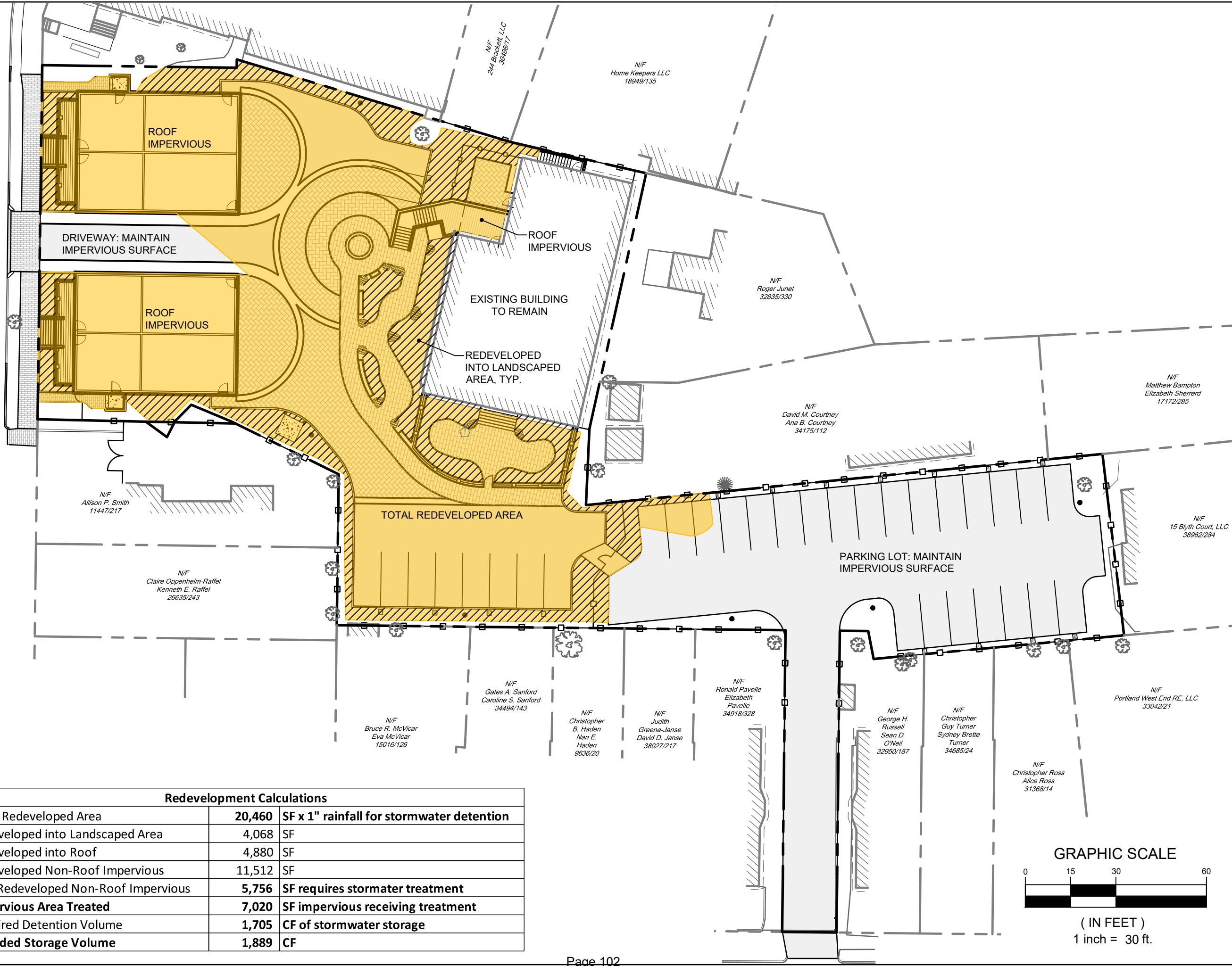
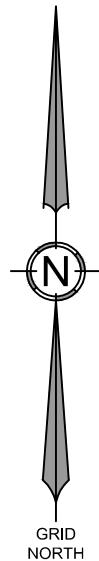
The proposed development includes a stormwater connection into the combined sewer in Carleton Street. We have designed a stormwater detention system with a volume equal to 1" of rainfall of the 20,460 SF project redeveloped area. After stormwater is treated in the storm basin, it will be routed to underground stormwater storage in an R-tank system with a treatment row. The required volume is 1,705 CF and we are providing 1,889 CF of storage. This system is shown on the revised Grading & Drainage Plan C-5.0.

Stormwater discharge rates into the combined sewer system must be controlled to a maximum flow rate of 0.1 CFS until the design storage capacity is reached.

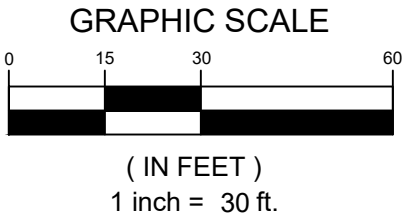
The R-tank storage system will outlet into an outlet control manhole with a weir wall to control discharge rates from the system. The outlet control structure includes a weir wall with a 0.9" orifice, which allows stormwater to leave the system at a rate of 0.1 CFS until the R-tank storage capacity of 1,889 CF is reached. The weir wall elevation is set to maximize the R-tank storage before flow rates increase beyond 0.1 CFS. This structure is shown on the revised Grading & Drainage Plan C-5.0 and an outlet control structure detail will be added to the plan set. The outlet control structure HydroCAD summary showing orifice sizing to control the flow rate is attached.

Enc.

Redevelopment Figure
Outlet Control Structure Sizing



Redevelopment Calculations			
Total Redeveloped Area	20,460	SF x 1" rainfall for stormwater detention	
Redeveloped into Landscaped Area	4,068	SF	
Redeveloped into Roof	4,880	SF	
Redeveloped Non-Roof Impervious	11,512	SF	
50% Redeveloped Non-Roof Impervious	5,756	SF requires stormater treatment	
Impervious Area Treated	7,020	SF impervious receiving treatment	
Required Detention Volume	1,705	CF of stormwater storage	
Provided Storage Volume	1,889	CF	



ADDRESS:
41 CAMPUS DRIVE, SUITE 301
NEW GLOUCESTER, ME 04260
PHONE:
(207) 926-5111
WEB SITE:
www.terradync consultants.com

TERRADYN
CONSULTANTS, LLC

Civil Engineering | Land Surveying | Geomatics
Stormwater Design | Land Planning | Environmental Permitting

SHEET DESCRIPTION:
REDEVELOPMENT FIGURE
19 WEST STREET, PORTLAND, ME

PREPARED FOR:
CARLETON WEST, LLC
9 GOULD ROAD
LEWISTON, ME 04240

JOB NO:
23-020

DATE:
11-08-2023

SCALE:
1" = 30'

SHEET:
1

OF:
1

23-020 POST

Type III 24-hr 1 inch Rainfall=1.00"

Prepared by {enter your company name here}

Printed 11/8/2023

HydroCAD® 10.10-5a s/n 11715 © 2020 HydroCAD Software Solutions LLC

Summary for Pond 6P: OCS

[57] Hint: Peaked at 139.68' (Flood elevation advised)

[81] Warning: Exceeded Pond 5P by 4.38' @ 12.10 hrs

Inflow Area = 0.161 ac, 100.00% Impervious, Inflow Depth = 0.69" for 1 inch event
 Inflow = 0.10 cfs @ 12.15 hrs, Volume= 0.009 af
 Outflow = 0.10 cfs @ 12.15 hrs, Volume= 0.009 af, Atten= 0%, Lag= 0.0 min
 Primary = 0.10 cfs @ 12.15 hrs, Volume= 0.009 af

Routing by Stor-Ind method, Time Span= 0.00-48.00 hrs, dt= 0.05 hrs

Peak Elev= 139.68' @ 12.15 hrs

Device	Routing	Invert	Outlet Devices
#1	Primary	135.06'	12.0" Round Culvert L= 54.5' CPP, square edge headwall, Ke= 0.500 Inlet / Outlet Invert= 135.06' / 134.65' S= 0.0075 ' / ' Cc= 0.900 n= 0.012 Corrugated PP, smooth interior, Flow Area= 0.79 sf
#2	Device 1	135.06'	0.9" Vert. Orifice/Grate X 2.00 C= 0.600 Limited to weir flow at low heads
#3	Device 1	139.68'	5.0' long Sharp-Crested Vee/Trap Weir Cv= 2.62 (C= 3.28)

Primary OutFlow Max=0.09 cfs @ 12.15 hrs HW=139.68' (Free Discharge)

1=Culvert (Passes 0.09 cfs of 7.36 cfs potential flow)

2=Orifice/Grate (Orifice Controls 0.09 cfs @ 10.31 fps)

3=Sharp-Crested Vee/Trap Weir (Weir Controls 0.00 cfs @ 0.20 fps)

Standard to be Waived: Cite Ordinance or Technical Manual Standard	Cite Standard Language: Cite specific language of applicable Ordinance or Technical Manual Standard	Waiver Being Sought: Describe waiver being sought. Ex. – We are requesting a two-way parking lot drive aisle width of 20' feet.	Justification for Waiver: Address specific waiver criteria, if applicable, and document reasons for the waiver request.
Technical Manual Section 1.10.3	The minimum two-way drive aisle width is 24' for standard, right-angle parking	The applicant is requesting a two-way parking lot drive aisle width of 20' in the parking lot located on the east side of the site.	This is an existing parking lot that is being repaved. Existing dimensions will be maintained. Lot dimensions and constraints do not allow for a full 24' drive aisle. Spaces will be owned and used by the same individuals, not a transient population
Technical Manual Section 1.5.1.B	For two-way driveways (preferred): 20 feet minimum, 24 feet maximum for residential / commercial uses	The applicant is requesting an 18' wide driveway to serve the proposed parking lot off West Street.	The 18' wide driveway is existing, and will continue to serve the same purpose it does today. The width of the project parcel along the driveway is only 18' wide, so a wider driveway is not possible.



Conditional Use Standards

Off Street Parking, 19 West Street

The following narrative describes how the proposed off-street parking meets the applicable Conditional Use Standards of the Land Use Code. Each applicable standard is listed below in *italics*, followed by the explanation of how the proposed use meets the standard.

6.5.2 General Conditional Use Standards

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

The proposed off-street parking lot will serve the existing uses within the neighborhood. Spaces will be sold individually and are expected to be used by existing residents of the neighborhood. The parking itself will not generate traffic, but the volume and type of vehicles using the parking spaces will be typical of what occurs in the neighborhood because it will be used by existing neighborhood uses.

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

The proposed off-street parking lot is located on an existing parking lot that once served the old medical office use on the site. The lot will be repaved, landscaped, and appropriately lit with site lighting. The lot will also be actively managed and maintained by a condominium association. The use will not create unsanitary or harmful conditions. The parking of vehicles will not create excessive noise, dust, air emissions, odors, or litter. Site lighting has been designed to prevent glare, and no sewage will be generated by the use.

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

The proposed off-street parking lot is located behind existing residential buildings on West Street. The perimeter of the parking lot will be thoughtfully landscaped and screened with a solid 6'-high fence around its perimeter. The majority of the parking lot will not be visible from any surrounding public rights of way. A small sign is proposed at the driveway entrance on West Street to identify the site and prevent mistaken entry. No deliveries, loading, or materials storage will take place on the site, and no trash or waste will be generated. Snow may be hauled from the site if needed, as it is from other residential parking areas throughout the neighborhood.

D. The proposed use will meet any additional zone or use-specific standards identified in Tables 6-A to 6-F and Subsections 6.5.6 and 6.5.7.

See below.

6.5.6 Supplemental Use-Specific Conditional Use Standards

H.2 Off Street Parking in the R-6 zone: Off-street parking shall be for passenger cars for uses permitted in the R-6 zone.

The proposed parking spaces will be limited to passenger vehicles and will be used by residents of the neighborhood.

On Wed, Sep 6, 2023 at 10:50 AM Trevor Watson <trevor.watson@knickerbockergroup.com> wrote:

Ann,

I'm emailing you in a personal capacity. I've met with the owners of 19 West a few times and I am very supportive and excited of its conversion to residential, it will add to the neighborhood as well as liven up that area in off hours, which has become a bit of a nuisance.

That said, and I've raised this multiple times to parties involved, I don't believe their proposal works given an existing easement burdening the lot (Easement #2). I could be wrong, however nobody has followed up to tell me the resolution as well as the fact the easement is graphically represented on the current survey leads me to believe it was never abandoned and in fact, still burdening the parcel. We'd need to find the recorded deed unburdening the easement and it would be nearly impossible to track down the owners and heirs of the benefitting parcels to verify they have no claim, so I believe the easement stands as drawn.

I've attached the site plan I downloaded from CSS. I attached my edited version highlighting the area of encroachment and I've attached the deed where I highlighted the relevant portion.

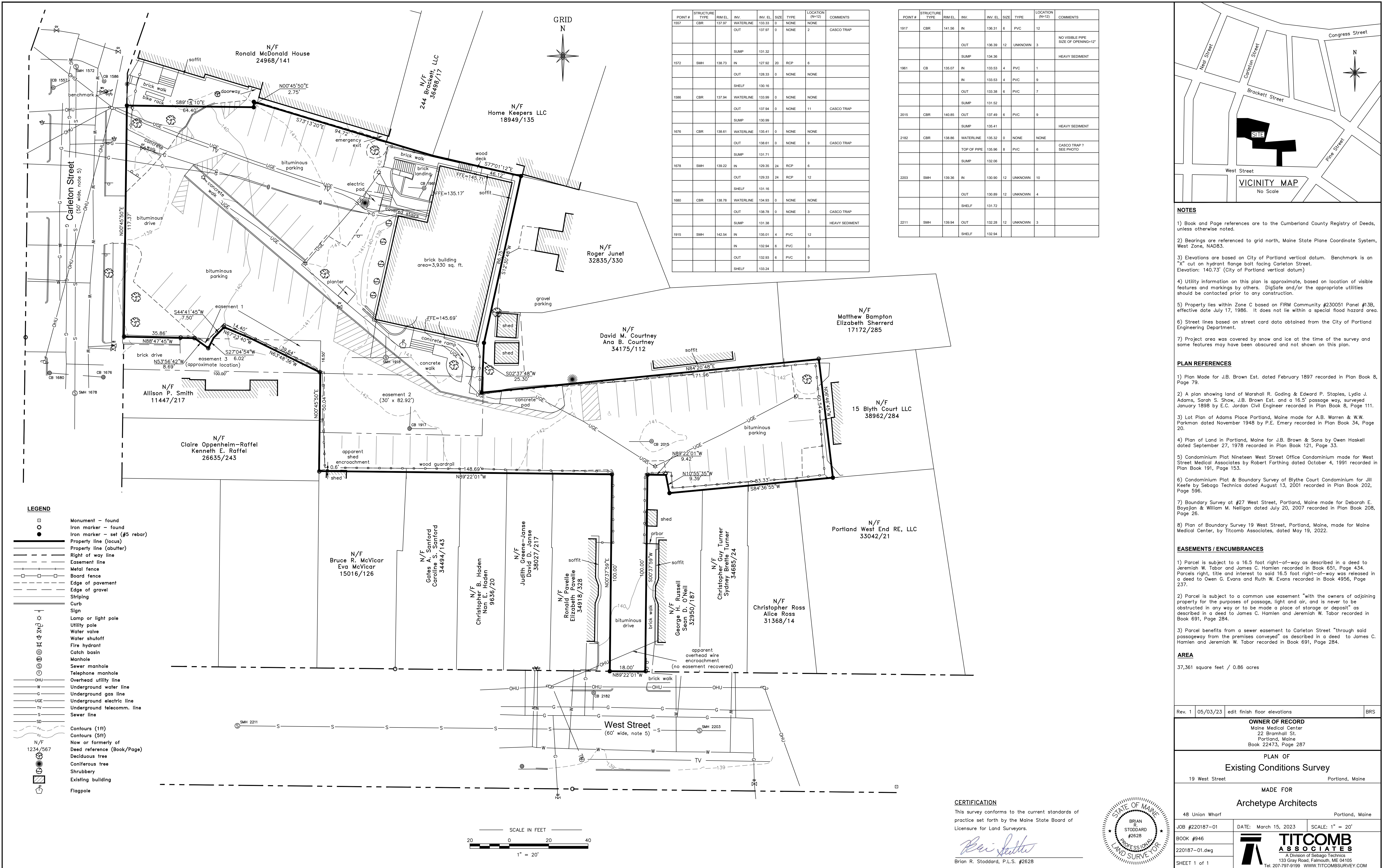
Parking a car is 'storing' or 'depositing' as such it violates the easement.

Thanks!

Trevor E Watson
Design Studio Leader, Architecture

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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.



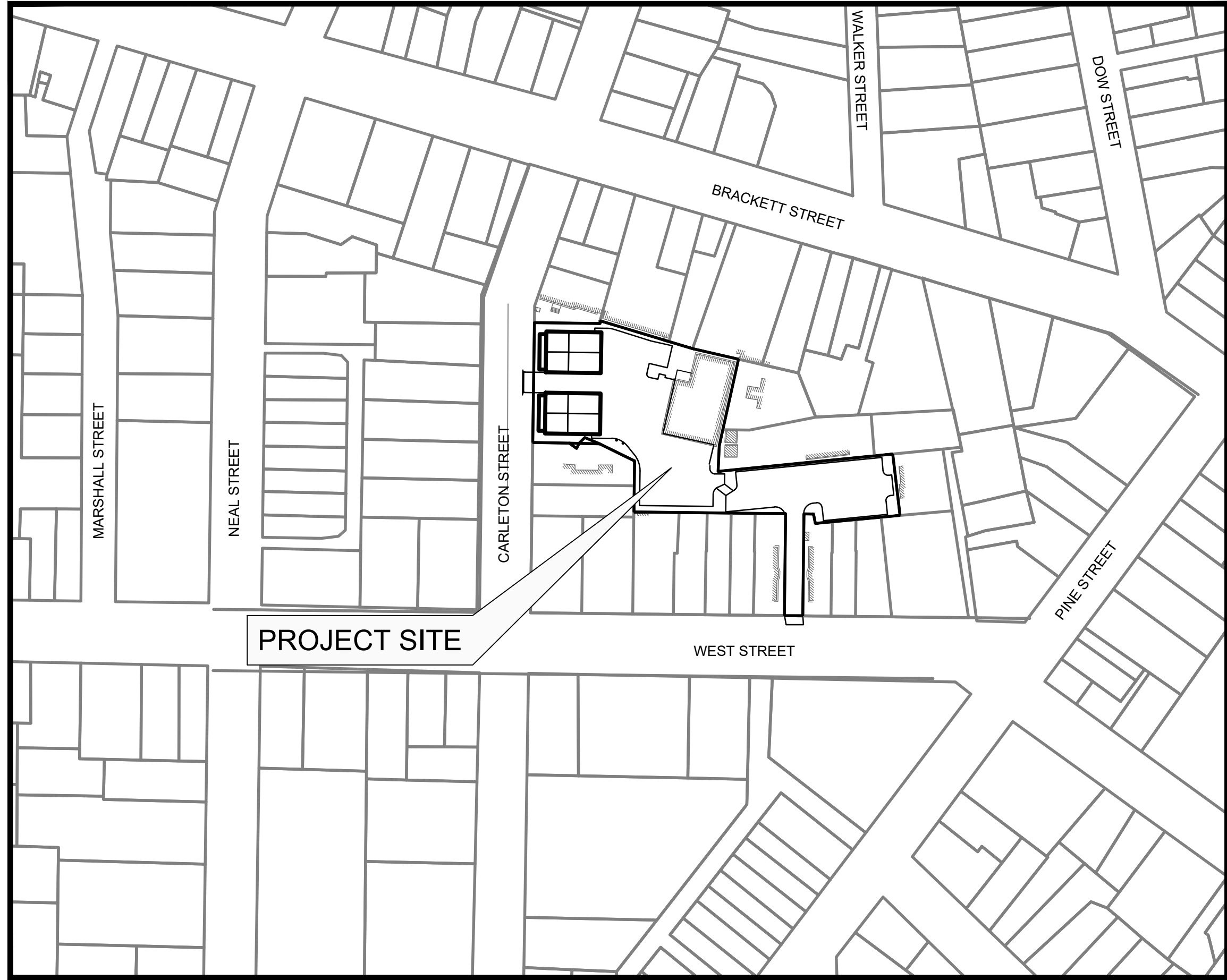
APPLICANT:
CARLETON WEST, LLC
150 MILL STREET
LEWISTON, MAINE 04240

PROJECT PARCEL

CITY OF PORTLAND TAX ASSESSOR'S MAP, BLOCK, & LOT NUMBERS

<u>MAP</u> 55	<u>BLOCK</u> B	<u>LOT</u> 13	CURRENT OWNER CARLETON WEST, LLC
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C-1.0	COVER SHEET AND LOCATION MAP
C-1.1	GENERAL NOTES AND LEGEND
1	BOUNDARY AND TOPOGRAPHIC SURVEY - BY OTHERS
C-2.0	RECORDING PLAT - IN PROGRESS
C-3.0	EXISTING CONDITIONS AND DEMOLITION PLAN
C-3.1	CONSTRUCTION MANAGEMENT PLAN
C-4.0	OVERALL SITE PLAN
C-4.1	DETAILED SITE PLAN
C-5.0	OVERALL GRADING AND DRAINAGE PLAN
C-5.1	DETAILED GRADING AND DRAINAGE PLAN
C-6.0	UTILITY PLAN
C-7.0	PHOTOMETRIC PLAN
C-7.1	PHOTOMETRIC DETAILS
C-8.0	SITE DETAILS
C-8.1	UTILITY DETAILS
C-8.2	UTILITY DETAILS
C-8.3	EROSION & SEDIMENTATION CONTROL DETAILS
L-1.00	LANDSCAPE PLAN
L-1.01	LANDSCAPE PLAN



SCALE: 1" = 100'

TYPE OF PERMIT	GOVERNING BODY	STATUS
MAJOR SITE PLAN	CITY OF PORTLAND PLANNING AUTHORITY CITY HALL, 389 CONGRESS STREET PORTLAND, ME 04101 TEL. 207.874.8722	SUBMITTED 8/4/2023
BUILDING PERMIT	CITY OF PORTLAND CODE ENFORCEMENT OFFICE CITY HALL, 389 CONGRESS STREET PORTLAND, ME 04101 TEL. 207.874.8900	TO BE SUBMITTED BY BUILDING CONTRACTOR
UTILITY/STREET OPENING	CITY OF PORTLAND PUBLIC SERVICES DIVISION 55 PORTLAND STREET PORTLAND, ME 04101 TEL. 207.874.8801	TO BE FILED BY SITE CONTRACTOR

1. THIS PROJECT IS SUBJECT TO THE TERMS AND CONDITIONS OF ALL REGULATIONS ADMINISTERED BY THE LOCAL UTILITY COMPANIES AND THE CITY OF PORTLAND.
2. THE CONTRACTOR SHALL REFER TO THE ARCHITECTURAL PLANS FOR EXACT LOCATIONS AND DIMENSIONS OF THE ENTRANCES, EXITS, PRECISE BUILDING DIMENSIONS, AND EXACT BUILDING UTILITY ENTRANCE POINTS.
3. ALL REQUIRED AND NECESSARY INSPECTIONS AND/OR CERTIFICATIONS REQUIRED BY CODES AND/OR UTILITY SERVICE COMPANIES SHALL BE PERFORMED PRIOR TO ANNOUNCED BUILDING POSSESSION AND THE FINAL SERVICE CONNECTIONS.
4. THE CONTRACTOR IS SPECIFICALLY CAUTIONED THAT THE LOCATION AND/OR THE ELEVATION OF THE EXISTING UTILITIES AS SHOWN ON THESE PLANS IS BASED ON RECORDS OF THE VARIOUS UTILITY COMPANIES AND, WHERE POSSIBLE, MEASUREMENTS TAKEN IN THE FIELD. THIS INFORMATION IS NOT TO BE RELIED ON AS BEING EXACT OR COMPLETE. THE CONTRACTOR MUST CALL THE APPROPRIATE UTILITY COMPANY AND DIG SAFE (1-888-DIGSAFE). IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO RELOCATE ALL EXISTING UTILITIES WHICH CONFLICT WITH THE PROPOSED IMPROVEMENTS SHOWN ON THE PLANS, AT NO EXTRA EXPENSE TO THE OWNER.
5. MAINTENANCE OF EROSION CONTROL MEASURES IS OF PARAMOUNT IMPORTANCE TO THE OWNER AND THE CONTRACTOR IS RESPONSIBLE FOR COMPLYING WITH ALL EROSION CONTROL MEASURES SHOWN ON THE PLANS. ADDITIONAL EROSION CONTROL MEASURES SHALL BE INSTALLED IF DEEMED NECESSARY BY ONSITE INSPECTIONS OF THE OWNER OR THEIR REPRESENTATIVES AT NO ADDITIONAL COST TO THE OWNER.
6. ALL MATERIAL SCHEDULES SHOWN ON THE PLANS ARE FOR GENERAL INFORMATION ONLY. THE CONTRACTOR SHALL PREPARE HIS OWN MATERIAL SCHEDULES BASED UPON HIS PLAN REVIEW. ALL SCHEDULES SHALL BE VERIFIED IN THE FIELD BY THE CONTRACTOR PRIOR TO ORDERING MATERIALS OR PERFORMING WORK.
7. ALL MATERIALS AND CONSTRUCTION METHODS SHALL CONFORM TO PROJECT CONTRACT SPECIFICATIONS, AND THE CITY OF PORTLAND TECHNICAL MANUAL STANDARDS, WHICHEVER IS MORE STRINGENT.
8. TOPOGRAPHIC AND BOUNDARY INFORMATION IS BASED ON A PLAN ENTITLED "EXISTING CONDITIONS SURVEY 19 WEST STREET PORTLAND, MAINE" BY TITCOMB ASSOCIATES WITH A LATEST REVISION DATE OF MAY 3, 2023.
9. FEMA MAP COMMUNITY PANEL NUMBER 230051 0013 B. THE SITE IS LOCATED IN A C ZONE.
10. THE PROPERTY SHOWN ON THIS PLAN MAY BE DEVELOPED AND USED ONLY AS DEPICTED IN THIS APPROVED PLAN. ALL ELEMENTS AND FEATURES OF THE PLAN AND ALL THE PROPERTY WHICH APPEARS IN THE RECORD OF THE PLANNING BOARD PROCEEDINGS ARE CONDITIONS OF THE APPROVAL. NO CHANGE FROM THE CONDITIONS OF APPROVALS IS PERMITTED UNLESS AN AMENDED PLAN IS FIRST SUBMITTED TO AND APPROVED BY THE PLANNING AUTHORITY.
11. ALL SIGNAGE SHALL CONFORM TO THE STANDARDS FOR SIZE, HEIGHT, LOCATION AND REFLECTIVITY SET FORTH IN THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD).
12. ALL CURB SHALL CONFORM TO THE FOLLOWING SPECIFICATIONS AS NOTED ON THE PLANS: GRANITE CURB SHALL MEET THE REQUIREMENTS OF MaineDOT SPECIFICATIONS 609.03 AND CITY OF PORTLAND TECHNICAL STANDARDS.
13. ALL DIMENSIONING UNLESS OTHERWISE NOTED IS TO THE FACE OF CURB OR FACE OF BUILDING.
14. THE FACILITY IS SERVICED BY PUBLIC WATER, SEWER, AND UNDERGROUND POWER. THE PROJECT INCLUDES UPDATES TO THE POWER SERVICE INCLUDING THE INSTALLATION OF NEW UNDERGROUND SYSTEM. SEE SITE ELECTRICAL PLANS FOR DETAILS.
15. THE CONTRACTOR IS REQUIRED TO NOTIFY THE CITY OF PORTLAND PUBLIC WORKS INSPECTION SERVICES DIVISION (874-8300 EXT. 8838), CODE ENFORCEMENT OFFICE AND DEVELOPMENT REVIEW COORDINATOR IN WRITING THREE (3) DAYS PRIOR TO THE BEGINNING OF CONSTRUCTION. A PRE-CONSTRUCTION MEETING MAY BE REQUIRED TO INCLUDE THE PUBLIC WORKS AUTHORITY OR DEVELOPMENT REVIEW COORDINATOR.
16. AN APPROVED SET OF PLANS AND ALL APPLICABLE PERMITS MUST BE AVAILABLE AT THE CONSTRUCTION SITE.
17. WARNING SIGNS, MARKERS, BARRICADES OR FLAGMEN MUST BE EMPLOYED ON ADJACENT STREETS AS NECESSARY. THE CONTRACTOR SHALL COORDINATE AND SEEK APPROVAL FROM THE PUBLIC SERVICE DIVISION FOR THE PLACEMENT/PARKING OF EQUIPMENT WITHIN THE PUBLIC RIGHT OF WAY.
18. CONSTRUCTION DEBRIS SHALL BE CONTAINERIZED AND DISPOSED OF IN ACCORDANCE WITH THE CITY OF PORTLAND'S SOLID WASTE ORDINANCE CHAPTER 12. ALL DEMOLITION MATERIAL FROM THE PROJECT SITES SHALL BE TAKEN TO THE RIVERSIDE RECYCLING FACILITY OR AS OTHERWISE DIRECTED PENDING THE RESULTS OF A HAZARDOUS BUILDING MATERIALS SURVEY AS AUTHORIZED AND COORDINATED BY THE OWNER. ALL SALVAGED MATERIAL WITHIN THE PUBLIC R.O.W.(SIDEWALKS, BRICKS, GRANITE CURB) NOT REUSED SHALL BE DISPOSED OF AS DIRECTED BY THE PORTLAND PUBLIC SERVICES DEPARTMENT AT NO EXTRA COST TO THE OWNER.
19. ANY DAMAGE TO PUBLIC OR PRIVATE PROPERTY RESULTING FROM CONSTRUCTION ACTIVITIES SHALL BE REPAIRED BY THE CONTRACTOR AT THEIR EXPENSE.
20. PROPERTY MARKERS AND STREET LINE MONUMENTS SHALL BE PROPERLY PROTECTED AT ALL TIMES DURING CONSTRUCTION TO INSURE INTEGRITY. IF DISTURBED THEY SHALL BE REPLACED BY A SURVEYOR REGISTERED IN THE STATE OF MAINE AT THE CONTRACTOR'S EXPENSE.
21. A STREET OPENING PERMIT MUST BE OBTAINED FROM THE CITY OF PORTLAND PUBLIC WORKS DEPARTMENT PRIOR TO BEGINNING ANY WORK WITHIN THE CITY RIGHT-OF-WAY. ALL WORK WITHIN THE PUBLIC RIGHT OF WAY SHALL BE COMPLETED IN CONFORMANCE TO THE CITY'S RULES AND REGULATIONS FOR EXCAVATION ACTIVITIES IN PUBLIC RIGHT OF WAYS.
22. CONTRACTOR MUST MAINTAIN THROUGH TRAFFIC ON ADJACENT STREETS AT ALL TIMES.
23. ALL METHODS AND MATERIALS USED IN THE CONSTRUCTION OF THE IMPROVEMENTS IDENTIFIED HEREIN SHALL CONFORM TO THE CITY OF PORTLAND CONSTRUCTION AND TECHNICAL STANDARDS AND SPECIFICATIONS AND/OR CURRENT MaineDOT STANDARDS AND SPECIFICATIONS, WHICHEVER IS MORE STRINGENT.
24. SITE WORK FOR BUILDING SHALL INCLUDE GRADING THE BUILDING PAD AREA (DEFINED AS THE BUILDING FOOTPRINT PLUS 5'-0" BEYOND THE EXTERIOR WALL) TO A GRADE 18" BELOW THE GROUND FLOOR FINISH ELEVATION. ALL WORK SHALL INCLUDE EXCAVATION (INCLUDING ROCK REMOVAL AND EXISTING FOUNDATION DEMOLITION) AND BACKFILL OF ALL FOOTINGS AND FOUNDATIONS, INSTALLATION OF PERIMETER FOUNDATION DRAINS, EXCAVATION AND BACKFILL OF ALL UNDERSLAB UTILITIES AND PLACEMENT OF ALL AGGREGATES BELOW THE FLOOR SLAB AND ADJACENT FOUNDATION WALLS IN ACCORDANCE WITH THE CONTRACT PLANS AND SPECIFICATIONS. (SEE ARCHITECTURAL AND STRUCTURAL PLANS FOR ADDITIONAL DETAILS PERTAINING TO ANY BUILDING RELATED FOUNDATION WORK).
25. RECORD DRAWINGS MUST INCLUDE ALL BURIED UTILITIES INCLUDING, BUT NOT LIMITED TO, BENDS, APPURTENANCES, AND OTHER FEATURES, TO BE LOCATED IN THE FIELD BY GIS AND RECORDED AS AN AS-BUILT PLAN BY THE CONTRACTOR AT THE END OF THE PROJECT. THIS PLAN SHALL ALSO BE PROVIDED TO THE OWNER.

- THE CONTRACTOR SHALL REFER TO THE ARCHITECTURAL DRAWINGS PREPARED BY ARCHETYPE ARCHITECTS FOR EXACT LOCATIONS AND DIMENSIONS OF THE ENTRANCES, EXIT PORCHES, PRECISE BUILDING DIMENSIONS AND EXACT BUILDING UTILITY ENTRANCE POINTS.
27. ALL REQUIRED AND NECESSARY INSPECTIONS AND/OR CERTIFICATIONS REQUIRED BY CODES AND/OR UTILITY SERVICE COMPANIES SHALL BE PERFORMED PRIOR TO ANNOUNCED BUILDING POSSESSION AND THE FINAL SERVICE CONNECTIONS.
28. CONTRACTORS SHALL NOTIFY OPERATORS WHO MAINTAIN UNDERGROUND UTILITIES IN THE AREA OF PROPOSED EXCAVATION OR BLASTING AT LEAST THREE (3) BUT NOT MORE THAN (30) DAYS PRIOR TO COMMENCEMENT OF EXCAVATION OR DEMOLITION. CONTRACTORS SHALL BE RESPONSIBLE FOR COMPLIANCE WITH THE REQUIREMENTS OF 23 MRSA 3360-A.
- ## GRADING AND DRAINAGE NOTES:
- ELEVATIONS ON THE PLAN ARE BASED ON THE CITY OF PORTLAND VERTICAL DATUM. BENCHMARK IS AN "X" CUT ON HYDRANT FLANGE BOLT FACING CARLETON STREET. ELEVATION: 140.73 (CITY OR PORTLAND VERTICAL DATUM)
 - ALL STORM DRAIN PIPE SHALL BE SMOOTH BORE INTERIOR PROVIDING A MANNINGS ROUGHNESS COEFFICIENT OF $n = 0.013$ OR LESS. UNLESS A SPECIFIC PIPE MATERIAL IS CALLED FOR ON THE CONTRACT DRAWINGS. PVC PIPING SHALL NOT BE USED IN AREAS OF EXPOSED SUNLIGHT.
 - SLOPE PROTECTION IS TO BE PROVIDED PER THE DESIGN PLANS AND MAY INCLUDE RIPRAP, SOD OR MULCH.
 - THE CONTRACTOR SHALL EXERCISE EXTREME CAUTION DURING EARTHWORK OPERATIONS TO INSURE THAT DISTURBANCE TO ANY STEEP SLOPE AREAS ARE MINIMIZED TO THE EXTENT PRACTICABLE.
 - THE CONTRACTOR IS HEREBY CAUTIONED THAT ALL SITE FEATURES SHOWN ARE BASED ON FIELD OBSERVATIONS BY THE SURVEYOR AND BY INFORMATION PROVIDED BY OTHERS. THE INFORMATION IS NOT TO BE RELIED ON AS BEING EXACT OR COMPLETE. THE CONTRACTOR SHALL CONTACT DIG SAFE (1-888-DIGSAFE) AT LEAST THREE (3) BUT NOT MORE THAN THIRTY (30) DAYS PRIOR TO COMMENCEMENT OF EXCAVATION OR DEMOLITION TO VERIFY HORIZONTAL AND VERTICAL LOCATION OF ALL UTILITIES.
 - ALL PAVING WITHIN THE PUBLIC R.O.W. SHALL BE PERFORMED IN ACCORDANCE WITH THE CITY OF PORTLAND RULES AND REGULATIONS FOR EXCAVATION ACTIVITIES IN THE PUBLIC R.O.W.
 - NO HOLES, TRENCHES OR STRUCTURES SHALL BE LEFT OPEN OVERNIGHT IN ANY EXCAVATION ACCESSIBLE TO THE PUBLIC OR IN PUBLIC RIGHTS-OF-WAY.
 - THE CONTRACTOR SHALL TAKE FULL RESPONSIBILITY FOR ANY CHANGES AND DEVIATION OF APPROVED PLANS NOT AUTHORIZED BY THE ARCHITECT/ENGINEER AND/OR CLIENT/OWNER.
 - CONTRACTOR SHALL INCORPORATE PROVISIONS AS NECESSARY IN CONSTRUCTION TO PROTECT EXISTING STRUCTURES AND PHYSICAL FEATURES THAT ARE OUTSIDE THE SCOPE OF WORK. THE CONTRACTOR SHALL MAINTAIN SITE STABILITY DURING CONSTRUCTION TO AVOID EROSION AND SEDIMENT TRANSPORT. CONTRACTOR SHALL RESTORE ALL AREAS TO A FINAL STABILIZED CONDITION AS DIRECTED BY DESIGN DRAWINGS.
 - CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND CONDITIONS IN THE FIELD PRIOR TO FABRICATION AND ERECTION OF ANY MATERIAL. ANY UNUSUAL CONDITIONS SHALL BE REPORTED TO THE ENGINEER.
 - EXTERIOR GRADES AROUND PROPOSED STRUCTURE SHALL BE COORDINATED WITH FINAL BUILDING PLANS AND PROVIDE FOR ALL ACCESS OPENINGS.

3. ELEVATIONS ON THE PLAN ARE BASED ON THE CITY OF PORTLAND VERTICAL DATUM. BENCHMARK IS AN "X" CUT ON HYDRANT FLANGE BOLT FACING CARLETON STREET. ELEVATION: 140.73 (CITY OR PORTLAND VERTICAL DATUM)
2. ALL STORM DRAIN PIPE SHALL BE SMOOTH BORE INTERIOR PROVIDING A MANNINGS ROUGHNESS COEFFICIENT OF $n = 0.013$ OR LESS. UNLESS A SPECIFIC PIPE MATERIAL IS CALLED FOR ON THE CONTRACT DRAWINGS. PVC PIPING SHALL NOT BE USED IN AREAS OF EXPOSED SUNLIGHT.
3. SLOPE PROTECTION IS TO BE PROVIDED PER THE DESIGN PLANS AND MAY INCLUDE RIPRAP, SOD OR MULCH.
4. THE CONTRACTOR SHALL EXERCISE EXTREME CAUTION DURING EARTHWORK OPERATIONS TO INSURE THAT DISTURBANCE TO ANY STEEP SLOPE AREAS ARE MINIMIZED TO THE EXTENT PRACTICABLE.
5. THE CONTRACTOR IS HEREBY CAUTIONED THAT ALL SITE FEATURES SHOWN ARE BASED ON FIELD OBSERVATIONS BY THE SURVEYOR AND BY INFORMATION PROVIDED BY OTHERS. THE INFORMATION IS NOT TO BE RELIED ON AS BEING EXACT OR COMPLETE. THE CONTRACTOR SHALL CONTACT DIG SAFE (1-888-DIGSAFE) AT LEAST THREE (3) BUT NOT MORE THAN THIRTY (30) DAYS PRIOR TO COMMENCEMENT OF EXCAVATION OR DEMOLITION TO VERIFY HORIZONTAL AND VERTICAL LOCATION OF ALL UTILITIES.
6. ALL PAVING WITHIN THE PUBLIC R.O.W. SHALL BE PERFORMED IN ACCORDANCE WITH THE CITY OF PORTLAND RULES AND REGULATIONS FOR EXCAVATION ACTIVITIES IN THE PUBLIC R.O.W.
7. NO HOLES, TRENCHES OR STRUCTURES SHALL BE LEFT OPEN OVERNIGHT IN ANY EXCAVATION ACCESSIBLE TO THE PUBLIC OR IN PUBLIC RIGHTS-OF-WAY.
8. THE CONTRACTOR SHALL TAKE FULL RESPONSIBILITY FOR ANY CHANGES AND DEVIATION OF APPROVED PLANS NOT AUTHORIZED BY THE ARCHITECT/ENGINEER AND/OR CLIENT/OWNER.
9. CONTRACTOR SHALL INCORPORATE PROVISIONS AS NECESSARY IN CONSTRUCTION TO PROTECT EXISTING STRUCTURES AND PHYSICAL FEATURES THAT ARE OUTSIDE THE SCOPE OF WORK. THE CONTRACTOR SHALL MAINTAIN SITE STABILITY DURING CONSTRUCTION TO AVOID EROSION AND SEDIMENT TRANSPORT. CONTRACTOR SHALL RESTORE ALL AREAS TO A FINAL STABILIZED CONDITION AS DIRECTED BY DESIGN DRAWINGS.
10. CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND CONDITIONS IN THE FIELD PRIOR TO FABRICATION AND ERECTION OF ANY MATERIAL. ANY UNUSUAL CONDITIONS SHALL BE REPORTED TO THE ENGINEER.
11. EXTERIOR GRADES AROUND PROPOSED STRUCTURE SHALL BE COORDINATED WITH FINAL BUILDING PLANS AND PROVIDE FOR ALL ACCESS OPENINGS.

1. ALL CONSTRUCTION SHALL COMPLY WITH 2009 NFPA 1 CHAPTER 16 SAFE GUARDS DURING BUILDING CONSTRUCTION, ALTERATION AND DEMOLITION OPERATIONS.
2. ANY CUTTING AND WELDING WORK PERFORMED ONSITE SHALL REQUIRE A "HOT WORK" PERMIT FROM THE PORTLAND FIRE DEPARTMENT.
3. THE GENERAL CONTRACTOR SHALL POST EMERGENCY CONTACT INFORMATION ON THE PROJECT SITE PROPERTY DURING CONSTRUCTION IN THE EVENT OF AN AFTER HOURS EMERGENCY. THIS CONTACT INFORMATION SHALL ALSO BE PROVIDED TO THE PORTLAND FIRE DEPARTMENT.
4. IF THE SITE IS SECURED BY TEMPORARY OR PERMANENT FENCING WITH LOCKED GATES, THEN THE APPLICANT OR ASSIGNED REPRESENTATIVE SHALL PURCHASE A KNOX PADLOCK FROM THE PORTLAND FIRE DEPARTMENT TO ALLOW ACCESS BY THE PORTLAND FIRE DEPARTMENT.
5. STREETS SHALL MAINTAIN A 20' WIDTH FOR FIRE DEPARTMENT ACCESS AT ALL TIMES.
6. FIRE HYDRANTS SHALL NOT BE BLOCKED OR ENCLOSED BY FENCING. A 3' CLEARANCE SHALL BE MAINTAINED AT ALL TIMES AROUND FIRE HYDRANTS.

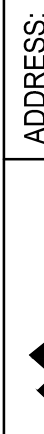
1. EXISTING TREES TO BE PRESERVED ARE SHOWN ON THE EXISTING CONDITIONS AND DEMOLITION PLAN.
2. FENCING OR OTHER PROTECTIVE BARRIERS AND SIGNAGE SHALL BE ERECTED OUTSIDE THE DRIPLINE OF INDIVIDUAL, GROUPINGS OF OR PERIMETER TREES TO BE PRESERVED.
3. NO STORAGE OF CONSTRUCTION EQUIPMENT OR MATERIALS SHALL BE PERMITTED WITHIN THE DRIP-LINE OF TREES TO BE PRESERVED.
4. AREAS OF TREES OR OTHER VEGETATION TO BE PRESERVED SHALL NOT BE USED FOR TEMPORARY STORMWATER RUNOFF STORAGE DURING CONSTRUCTION.
5. ROOT BARRIER SHALL BE USED BETWEEN NEW UTILITY TRENCHES AND EXISTING LARGE TREES.
6. THE CONTRACTOR IS ENCOURAGED TO USE AIR SPADE EXCAVATION TECHNIQUES IN COORDINATION WITH A CERTIFIED ARBORIST FOR TRENCHING OR EXCAVATION WITHIN THE TREE PROTECTION AREAS TO MINIMIZE DAMAGE TO FEEDER ROOTS AND STRUCTURAL ROOT AREAS.
7. PROTECTIVE BARRIERS AND SIGNAGE SHALL REMAIN IN PLACE UNTIL COMPLETION OF THE PROJECT.

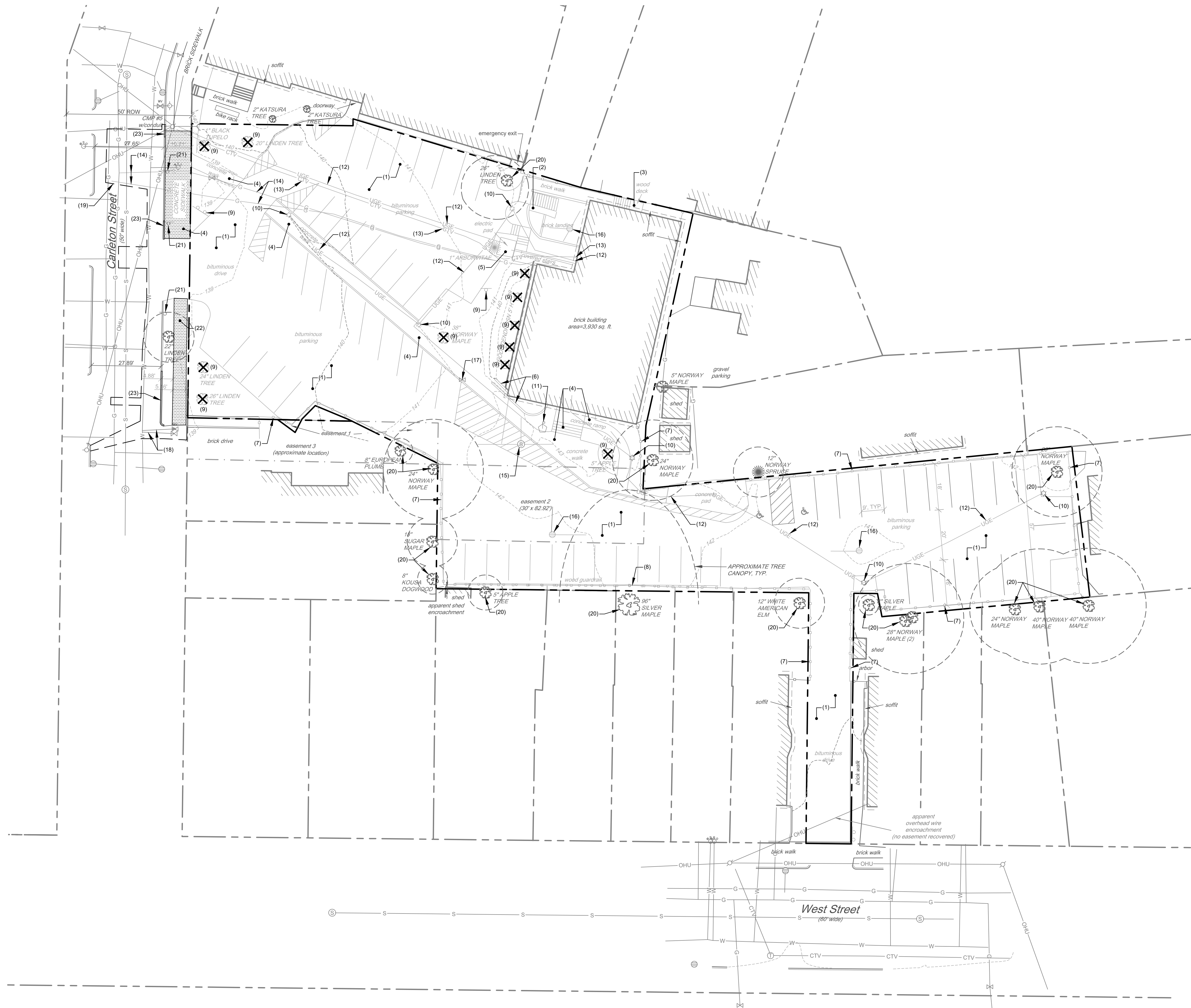
3. ALL REQUIRED UTILITIES SERVING THE PROJECT SHALL BE COORDINATED BETWEEN THE SITE WORK CONTRACTOR AND DIVISION 22/26 CONTRACTOR(S). THE SITE WORK CONTRACTOR SHALL BE RESPONSIBLE TO EXTEND ALL PROPOSED UTILITIES TO WITHIN FIVE (5) FEET OF THE BUILDING TO A LOCATION COORDINATED WITH THE MECHANICAL AND ELECTRICAL SUBCONTRACTORS. THE BUILDING CONTRACTOR SHALL BE RESPONSIBLE FOR ALL UTILITIES WITHIN FIVE (5) FEET AND INSIDE THE BUILDING OR UNDER SLAB.
2. THE CONTRACTOR SHALL COORDINATE THE INSTALLATION OF AND/OR RELOCATION OF OVERHEAD AND UNDERGROUND TELEPHONE WITH CONSOLIDATED COMMUNICATIONS. CONTRACTOR SHALL BE RESPONSIBLE FOR CONDUITS, PULL WIRES, TRENCHING AND BACKFILLING NECESSARY TO COMPLETE THE WORK.
3. THE CONTRACTOR SHALL COORDINATE THE INSTALLATION OF ELECTRIC SERVICE WITH CENTRAL MAINE POWER, THE TELECOMMUNICATIONS SERVICE WITH CONSOLIDATED COMMUNICATIONS, AND THE CABLE SERVICE WITH SPECTRUM. ALL WORK SHALL CONFORM TO THE PROJECT SPECIFICATIONS OR UTILITY COMPANY STANDARDS, WHICHEVER IS MORE STRINGENT.
4. ADJUST ALL MANHOLES, CATCH BASINS, CURB BOXES, ETC. WITHIN LIMITS OF WORK TO FINISH GRADE AT NO ADDITIONAL EXPENSE TO THE OWNER.
5. ALL UNDERGROUND CONDUITS SHALL HAVE NYLON PULL ROPES TO FACILITATE PULLING CABLES.
6. THE CONTRACTOR SHALL OBTAIN, PAY FOR, AND COMPLY WITH ALL REQUIRED PERMITS, ARRANGE FOR ALL INSPECTIONS, AND SUBMIT COPIES OF ACCEPTANCE CERTIFICATES TO THE OWNER PRIOR TO COMPLETION OF THE PROJECT.
7. THE CONTRACTOR SHALL PROVIDE AND INSTALL ALL BOXES, FITTINGS, CONNECTORS, COVER PLATES AND OTHER MISCELLANEOUS ITEMS NOT NECESSARILY DETAILED ON THE DRAWINGS TO RENDER INSTALLATION OF UTILITIES COMPLETE AND OPERATIONAL, AT NO EXTRA EXPENSE TO THE OWNER.
8. THE CONTRACTOR SHALL PROVIDE TEMPORARY SERVICES AS REQUIRED TO PROVIDE CONTINUOUS SERVICE TO THE JOBSITE. TEMPORARY SERVICES SHALL COMPLY WITH ALL FEDERAL, STATE, LOCAL AND UTILITY COMPANY STANDARDS. COORDINATE ALL TEMPORARY SERVICES WITH UTILITY COMPANY, OWNER, AND AFFECTED BUSINESSES.
9. CONTRACTOR SHALL PROVIDE AND INSTALL ALL NECESSARY ELECTRICAL SERVICES IN CONDUIT TO SITE LIGHTING, COMPLYING WITH APPLICABLE CODES. COORDINATE WITH OWNER, SITE ELECTRICAL, ARCHITECTURAL AND CMP PLANS.
10. ALL SANITARY SERVICES AND APPURTENANCES SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE CURRENT STANDARDS AND SPECIFICATIONS OF THE CITY OF PORTLAND PUBLIC WORKS DEPARTMENT. ALL SANITARY SERVICES AND APPURTENANCES TO BE ABANDONED SHALL BE PROPERLY RECORDED WITH PORTLAND PUBLIC WORKS ENGINEERING DEPARTMENT. A DIGITAL VIDEOTAPE SHALL BE MADE OF SANITARY SEWER SYSTEMS TO BE UTILIZED PRIOR TO CONSTRUCTION; UPSTREAM PIPES INTENDED FOR ABANDONMENT SHALL BE INSPECTED TO VERIFY THAT THEY NO LONGER SERVE OTHER FACILITIES.
11. THE PORTION OF THE 4" AND 6" WATER SERVICES WITHIN THE RIGHT OF WAY SHALL BE DUCTILE IRON WITH RESTRAINED JOINTS IN ACCORDANCE WITH PORTLAND WATER DISTRICT STANDARDS.
12. THE 2" WATER SERVICES SHALL BE TYPE K COPPER TUBING

1. THIS PROJECT IS SUBJECT TO THE TERMS AND CONDITIONS OF THE SITE PLAN REVIEW PERMIT FROM THE CITY OF PORTLAND WHICH WILL BE MADE A PART OF THE CONTRACT BID DOCUMENTS. THE CONSTRUCTION WILL BE GOVERNED BY THE ZONING ORDINANCES WHICH ARE AVAILABLE FOR VIEWING AT THE OFFICE OF THE ENGINEER OR THE MUNICIPAL OFFICE.

DIMENSIONAL REQUIREMENTS (R-6 ZONE)		
STANDARD	R-6 ZONE REQUIRED	PROVIDED
MIN. LOT SIZE	NONE	37,361 SF
MIN. LOT AREA PER DWELLING UNIT	725 SF	4,151 SF
MAX. LOT COVERAGE	60%	24.00%
STREET FRONTAGE	20 FT	135 FT
FRONT YARD	5 FT	5 FT
MIN. SIDE YARD	5 FT	8.5 FT
MIN. REAR YARD	10 FT	3.7 FT (EXISTING CONDITION)
MAX. BUILDING HEIGHT	45 FT	40.65 Ft
STEP BACK	15 FT REAR, 10 FT SIDE	10 FT SIDE
OPEN SPACE	20%	15.6% (EXISTING CONDITION) 18.4% PROPOSED
PARKING	1 SPACE PER UNIT, FIRST 3 UNITS EXEMPT (6 SPACES)	41
BICYCLE PARKING	2 SPACES FOR EVERY 5 UNITS (4 SPACES)	9 SPACES

	EXISTING PROPERTY LINE
	PROJECT SITE BOUNDARY
	SETBACK LINE
	PROPOSED EASEMENT
	EXISTING MINOR CONTOUR
	EXISTING MAJOR CONTOUR
	PROPOSED CONTOUR
	EXISTING STORMDRAIN
	PROPOSED STORMDRAIN
	EXISTING SANITARY SEWER
	PROPOSED SANITARY SEWER
	EXISTING WATER LINE
	PROPOSED WATER LINE
	EXISTING GAS
	PROPOSED GAS
	EXISTING OVERHEAD ELECTRIC & TELEPHONE
	EXISTING UNDERGROUND ELECTRIC
	PROPOSED UNDERGROUND ELECTRIC
	EXISTING UNDERGROUND TELEPHONE
	PROPOSED UNDERGROUND TELEPHONE & CABLE TV
	EXISTING EDGE OF PAVEMENT
	PROPOSED EDGE OF PAVEMENT
	EXISTING EDGE OF GRAVEL
	PROPOSED EDGE OF GRAVEL
	EXISTING CURB
	PROPOSED CURB
	PROPOSED DECORATIVE METAL FENCE
	PROPOSED PRIVACY FENCE
	SILT FENCE
	TEST PIT
	EXISTING VALVE
	PROPOSED VALVE
	EXISTING HYDRANT
	EXISTING LIGHT POLE
	PROPOSED BUILDING LIGHT
	EXISTING UTILITY POLE
	EXISTING CATCH BASIN
	PROPOSED CATCH BASIN
	EXISTING DRAIN MANHOLE
	PROPOSED DRAIN MANHOLE
	EXISTING SEWER MANHOLE
	EXISTING SPOT GRADE
	PROPOSED SPOT GRADE
	SURVEY CONTROL POINT
	EXISTING MONUMENT
	EXISTING IRON PIPE
	EXISTING SIGN
	PROPOSED SIGN
	EXISTING BUILDING
	PROPOSED BUILDING
	PROPOSED CONCRETE
	PROPOSED PAVEMENT
	PROPOSED BRICK

		DATE: 10/20/2023 PE: MICHAEL TADEMA-WIELANDT	
PROJECT:	WEST STREET REDEVELOPMENT	ADDRESS:	41 CAMPUS DRIVE, SUITE 301 NEW GLOUCESTER, ME 04260
SCALE:		PHONE:	(207) 926-5111
JOB NO:	23-020	WEB SITE:	www.terradynconsultants.com
SHEET:	C-1.1		
DATE: 8/4/2023		CLIENT: CARLETON WEST, LLC 9 GOULD ROAD LEWISTON, ME 04240	
SHEET TITLE: GENERAL NOTES AND LEGEND		PERMIT DRAWING NOT FOR CONSTRUCTION	
SCALE: N.T.S.		CIVIL ENGINEERING LAND SURVEYING GEOMATICS STORMWATER DESIGN LAND PLANNING ENVIRONMENTAL PERMITTING	
JOB NO: 23-020		REVISED IN RESPONSE TO STAFF REVIEW COMMENTS	
SHEET:		NO. DATE REVISIONS	
1 10/20/2023		REVISED IN RESPONSE TO STAFF REVIEW COMMENTS	



EXISTING	DESCRIPTION
	LOCUS PROPERTY LINE
	PROPERTY LINE
	SETBACK LINE
	EASEMENT LINE
	STREET / SITE SIGN
	BUILDING
	BUILDING OVERHANG
	BITUMINOUS PAVEMENT
	CURBING
	CONCRETE PAVEMENT
	CHAIN LINK FENCE
	STOCKADE FENCE
	WOOD GUARDRAIL
	STORM DRAIN
	CATCH BASIN
	DRAINAGE MANHOLE
	SANITARY SEWER
	SANITARY MANHOLE
	WATER LINE
	WATER VALVE
	HYDRANT
	OVERHEAD UTILITY
	UNDERGROUND ELECT.
	TRANSFORMER
	LIGHT POLE
	UTILITY POLE
	GUY WIRE
	ELECTRIC METER
	HVAC UNIT
	ELECTRICAL MANHOLE
	TELEPHONE MANHOLE
	GAS LINE
	GAS METER
	GAS VALVE
	GAS MANHOLE

- (1) REMOVE ALL PAVEMENT ON SITE
- (2) REMOVE BRICK LANDING, WALKWAY AND STAIRS
- (3) REMOVE WOOD DECK AND STEPS
- (4) REMOVE CONCRETE WALK, RAMP AND STAIRS
- (5) REMOVE ELECTRIC PAD
- (6) REMOVE WALL
- (7) REMOVE PERIMETER FENCE
- (8) REMOVE WOOD GUARDRAIL
- (9) REMOVE TREE/SHRUB
- (10) REMOVE LIGHT/POWER POLE
- (11) REMOVE FLAGPOLE TO REMAIN
- (12) REMOVE UNDERGROUND ELECTRIC LINE
- (13) REMOVE UNDERGROUND CABLE TV LINE
- (14) REMOVE UNDERGROUND GAS LINE
- (15) REMOVE SEWER MANHOLE AND SEWER LINE
- (16) REMOVE CATCH BASIN AND DRAINAGE LINE
- (17) REMOVE GATE VALVE
- (18) RETIRE EXISTING WATER SERVICES IN ACCORDANCE WITH PORTLAND WATER DISTRICT REQUIREMENTS
- (19) SAWCUT PAVEMENT
- (20) EMPLOY TREE PROTECTION MEASURES
- (21) PROTECT EXISTING STREET SIGNS
- (22) REMOVE EXISTING BRICK SIDEWALK. STOCKPILE BRICK FOR REUSE
- (23) REMOVE AND RESET GRANITE CURB FOR UTILITY INSTALLATION



DATE:	10/20/2023
PE: MICHAEL TADEMA-WIELANDT	

[illegible]

ADDRESS:
41 CAMPUS DRIVE, SUITE 301
NEW GLOUCESTER, ME 04260

PHONE:
(207) 926-5111

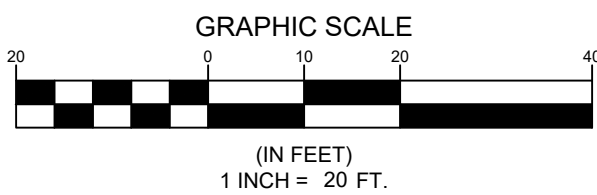
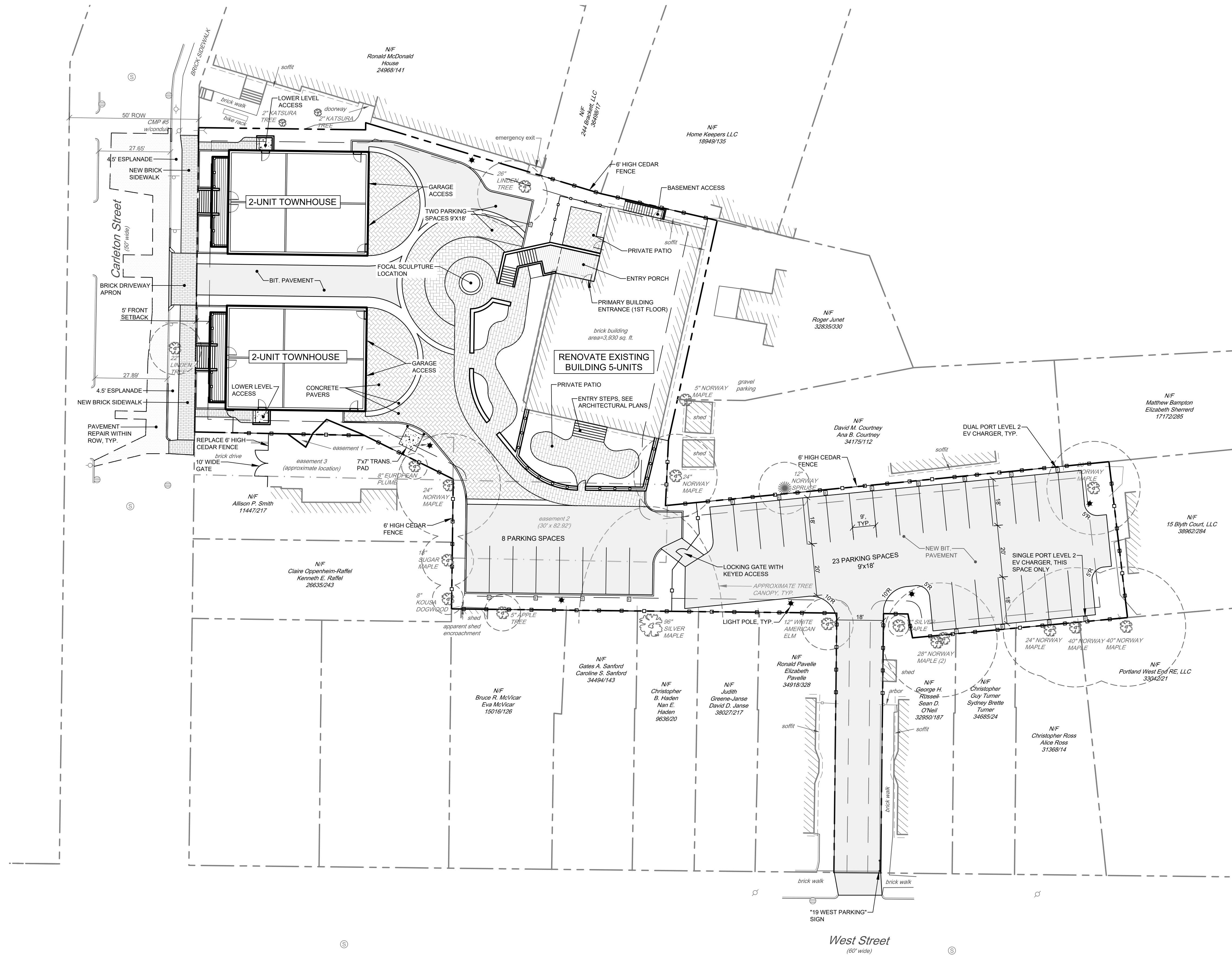
WEB SITE:
www.terradyneconsultants.com

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g | Environmental Permitting



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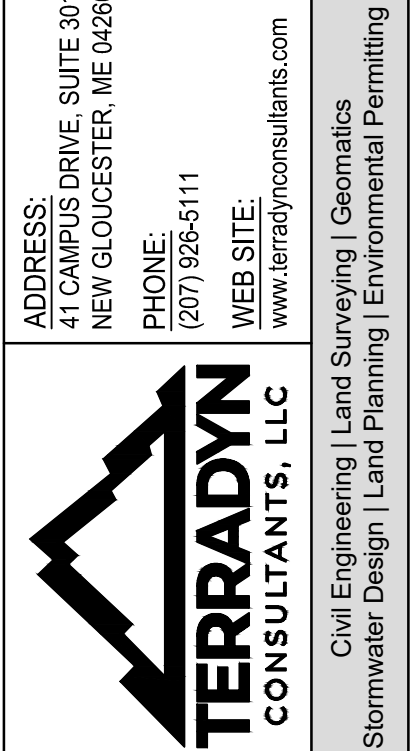
PROJECT:	WEST STREET REDEVELOPMENT 19 WEST STREET, PORTLAND, ME
SHEET TITLE:	EXISTING CONDITIONS & DEMOLITION
CLIENT:	CARLETON WEST, LLC 9 GOULD ROAD LEWISTON, ME 04240
DATE:	8/4/2023
SCALE:	1" = 20'
JOB NO.	23-020
SHEET:	



DATE: 10/20/2023
PE: MICHAEL TADEMA-WIELANDT

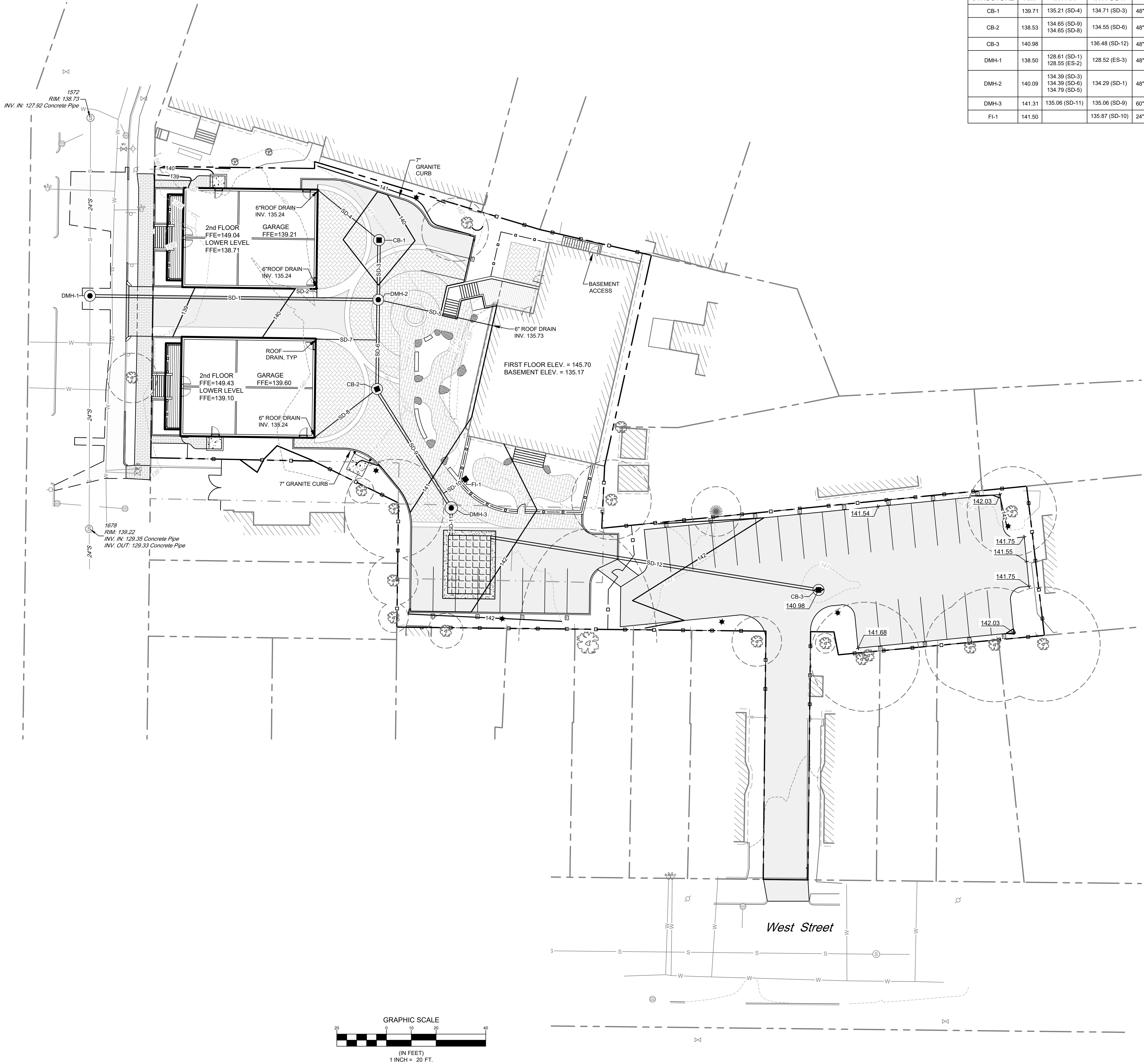
NO.	DATE	REVISIONS
1	10/20/2023	REVISED IN RESPONSE TO STAFF REVIEW COMMENTS

ADDRESS:	41 CAMPUS DRIVE, SUITE 301 NEW GLOUCESTER, ME 04260
PHONE:	(207) 926-5111
WEB SITE:	www.terradynconsultants.com

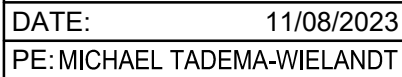


PERMIT DRAWING
NOT FOR CONSTRUCTION

PROJECT:	WEST STREET REDEVELOPMENT 19 WEST STREET, PORTLAND, ME
SHEET TITLE:	OVERALL SITE PLAN
CLIENT:	CARLETON WEST, LLC 9 GOULD ROAD LEWISTON, ME 04240
DATE:	8/4/2023
SCALE:	1" = 20'
JOB NO:	23-020
SHEET:	C-4.0



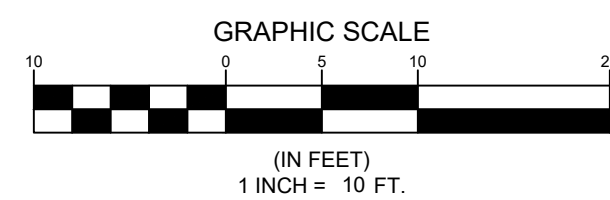
STORM DRAIN PIPE DATA			
NAME	SIZE	LENGTH	SLOPE
SD-1	12"	112'	5.06%
SD-2	6"	4'	56.49%
SD-3	12"	20'	1.60%
SD-4	6"	30'	2.00%
SD-5	6"	45'	2.09%
SD-6	12"	32'	0.50%
SD-7	6"	24'	3.23%
SD-8	6"	30'	2.00%
SD-9	12"	52'	0.79%
SD-11	12"	9'	0.94%
SD-12	12"	132'	1.02%

[illegible]

Civil Engineering | Land Surveying
Stormwater Design | Land Planning

PERMIT DRAWING
NOT FOR CONSTRUCTION

PROJECT:	WEST STREET REDEVELOPMENT
	19 WEST STREET, PORTLAND, ME
SHEET TITLE:	OVERALL GRADING & DRAINAGE PLAN
CLIENT:	CARLETON WEST, LLC
	9 GOULD ROAD
	LEWISTON, ME 04240
DATE:	8/4/2023
SCALE:	1" = 20'
JOB NO.:	23-020
SHEET:	C-5.0



1. SEE GRADING & DRAINAGE PLANS FOR STORM DRAIN INFORMATION

SANITARY SEWER PIPE DATA			
NAME	SIZE	LENGTH	SLOPE
SS-1	6"	51'	1.37%
SS-2	6"	107'	3.31%

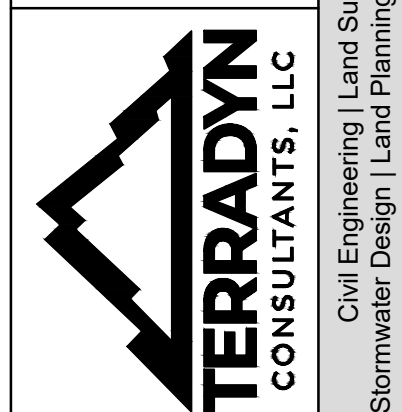
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ADDRESS:
41 CAMPUS DRIVE, SUITE 301
NEW GLOUCESTER, ME 04260

PHONE:
(207) 926-5111

WEB SITE:
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PROJECT:
WEST STREET REDEVELOPMENT
19 WEST STREET, PORTLAND, ME

SHEET TITLE:
UTILITY PLAN

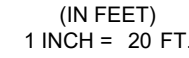
CLIENT: CARLETON WEST, LLC
9 GOULD ROAD
LEWISTON, ME 04240

DATE:	8/4/2023
SCALE:	1" = 10'
JOB NO:	23-020
SHEET:	



NOTES:
1. LIGHTING PLAN PREPARED USING DESIGN MASTER PHOTOMETRICS SOFTWARE
2. DEPRECIATION FACTOR FOR LED IS 0.90

PORTLAND LIGHTING STANDARDS



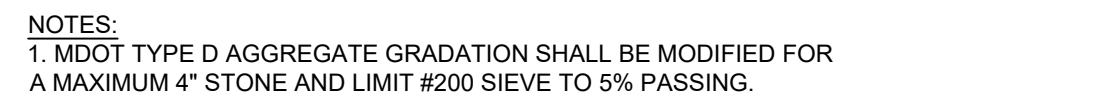
TERRADYN
CONSULTANTS, LLC

ADDRESS:
41 CAMPUS DRIVE, SUITE 301
NEW GLOUCESTER, ME 04260

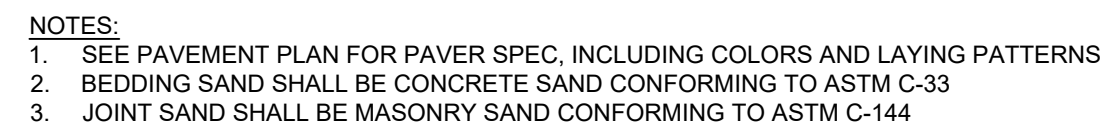
PHONE:
(207) 936-5111

WEB SITE:
www.terradynconsultants.com

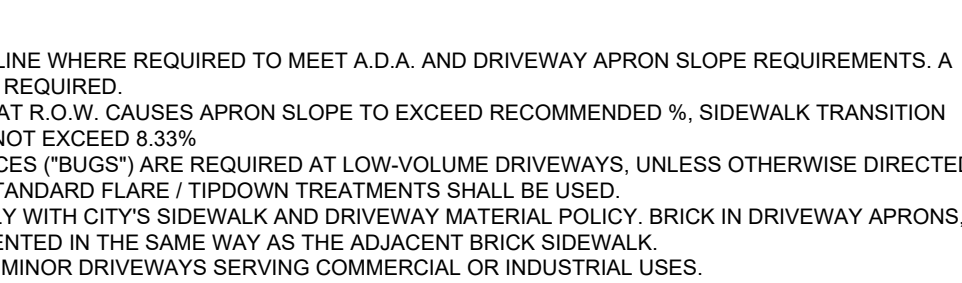
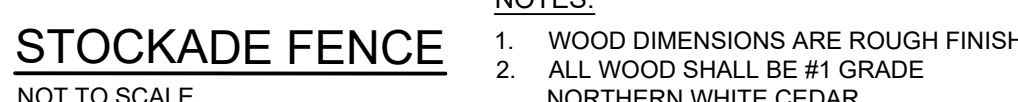
Civil Engineering | Land Surveying | Geomatics
Stormwater Design | Land Planning | Environmental Permitting



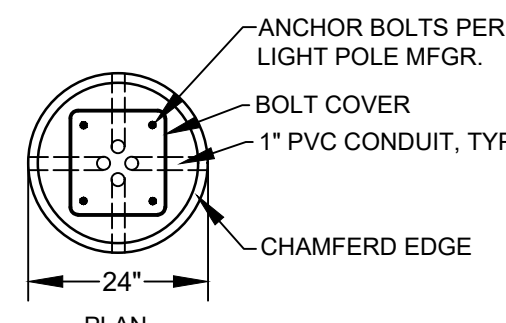
TYP. DRIVEWAY PAVEMENT SECTION



TYPICAL PAVER DETAIL

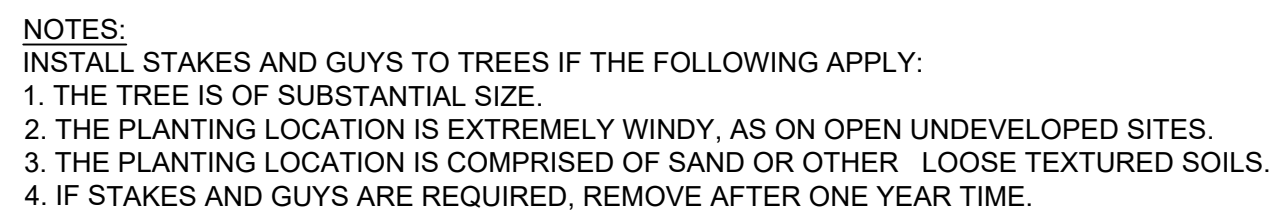


BRICK DRIVEWAY APRON



1. CONCRETE $f_c=4000$ psi.
2. REINF. STEEL GRADE 60 NEW BARS.
3. CONCRETE 34" AGG. 6-H, 1% ENTRAINED AIR.
4. PROVIDE 2 COATS BITUMINOUS DAMPROOFING FOR ALL CONCRETE BELOW GRADE.
5. EXPOSED CONCRETE TO BE PAINTED WITH 2 COATS OF ACRYLIC PAINT COLOR TO MATCH POLE COLOR.
6. INSTALL BASE 3'-0" ABOVE FINISH GRADE IN LOCATIONS WHERE POLES ARE IN PARKING LOT PAVEMENT.

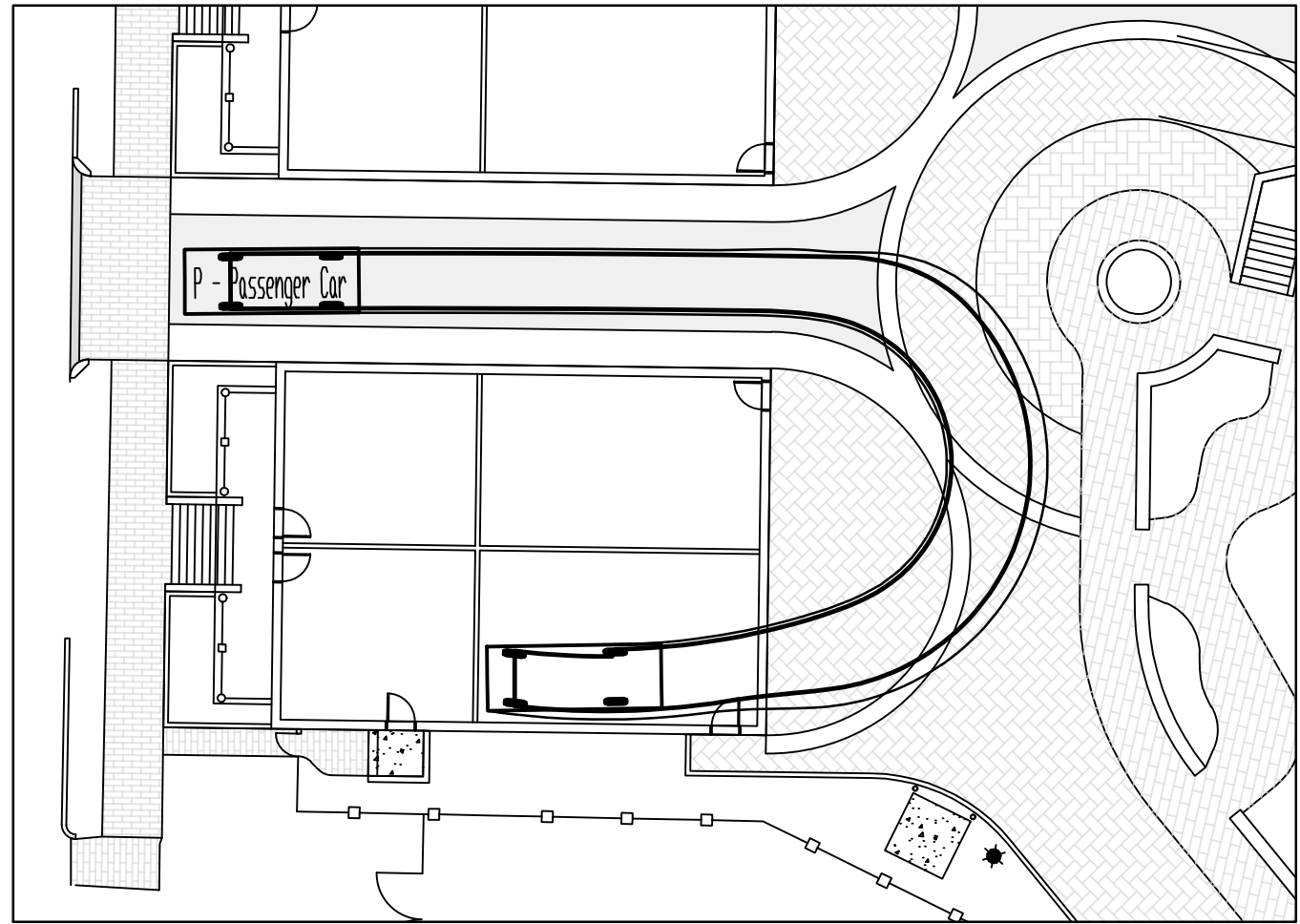
LIGHT POLE BASE



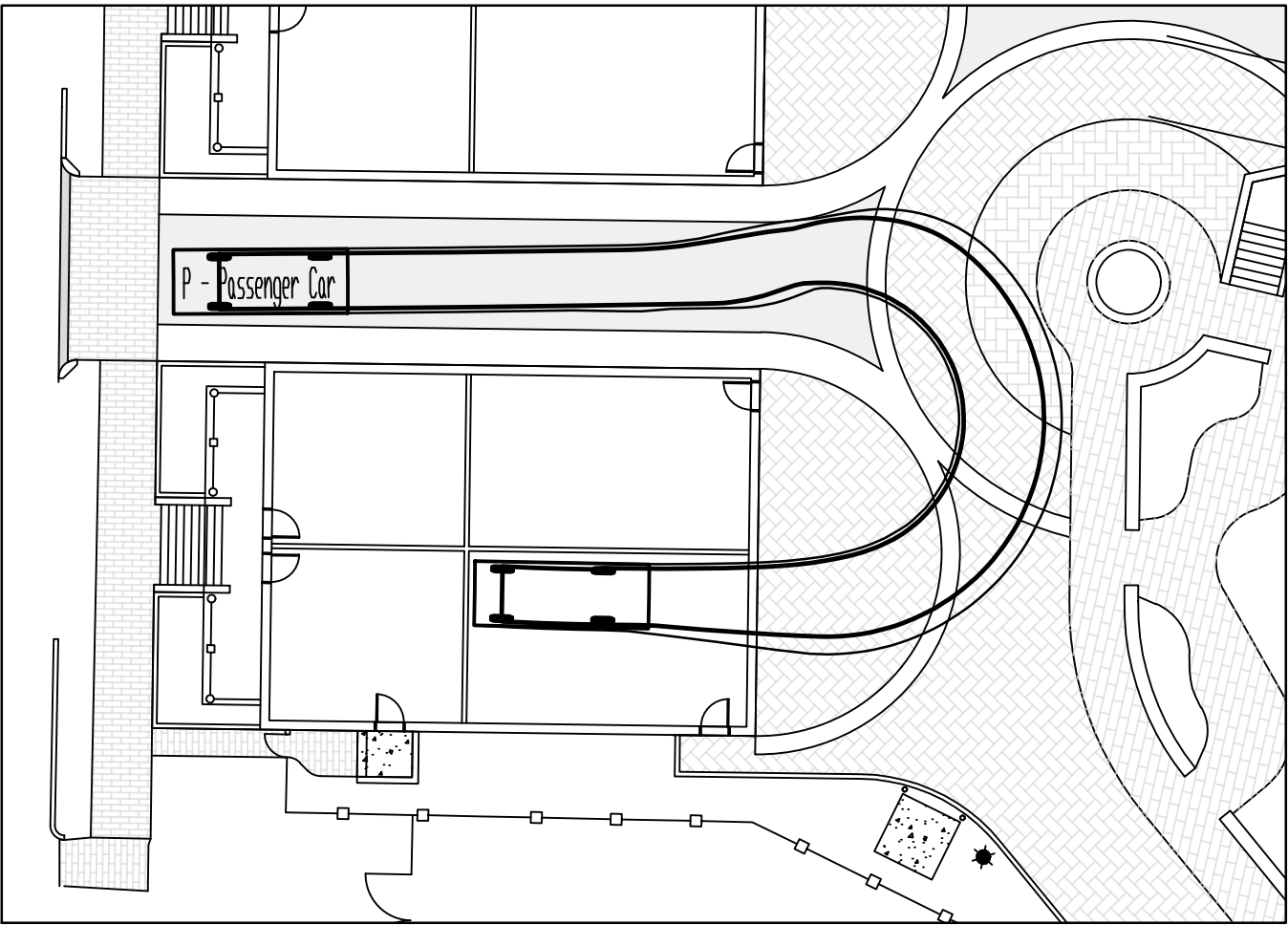
DECIDUOUS TREES



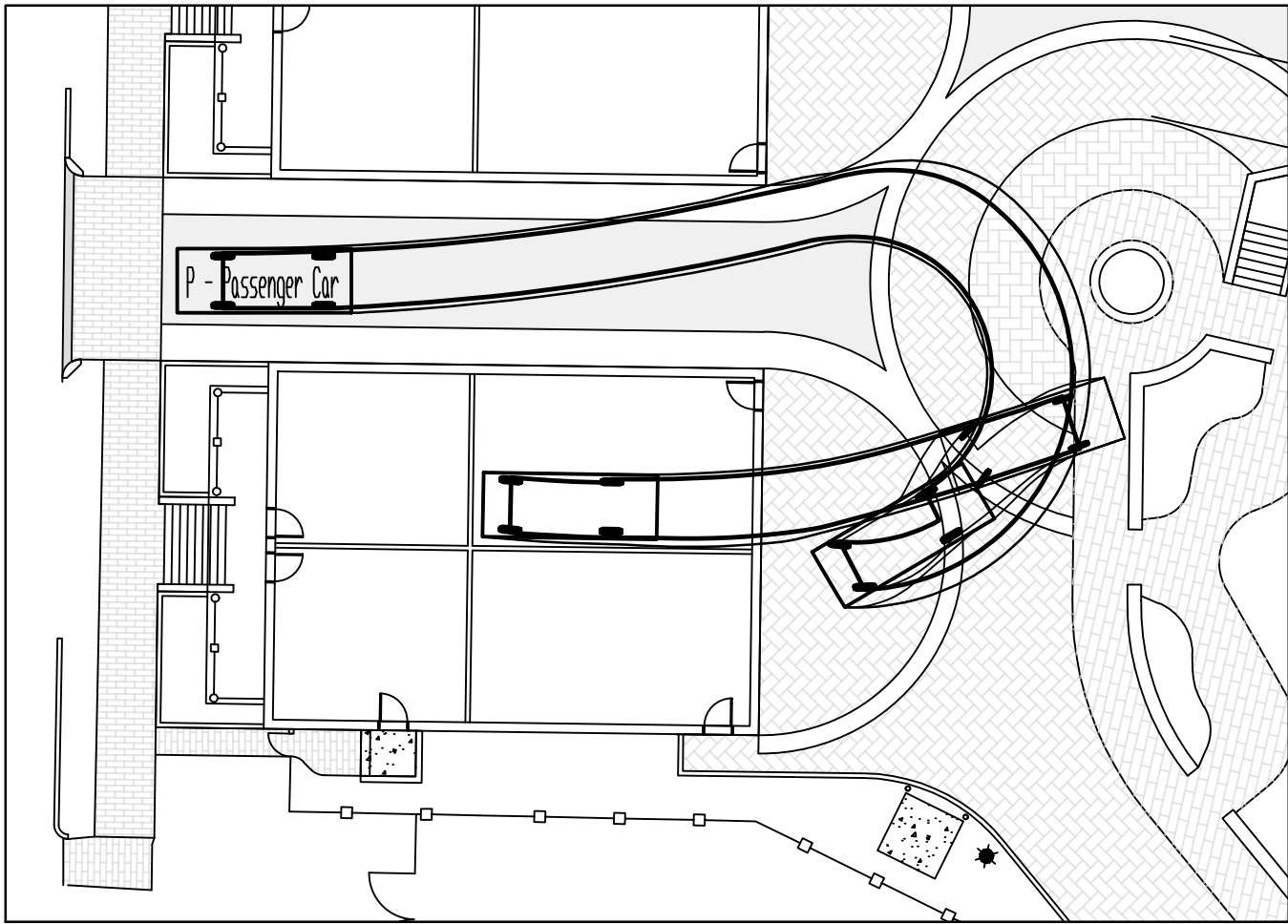
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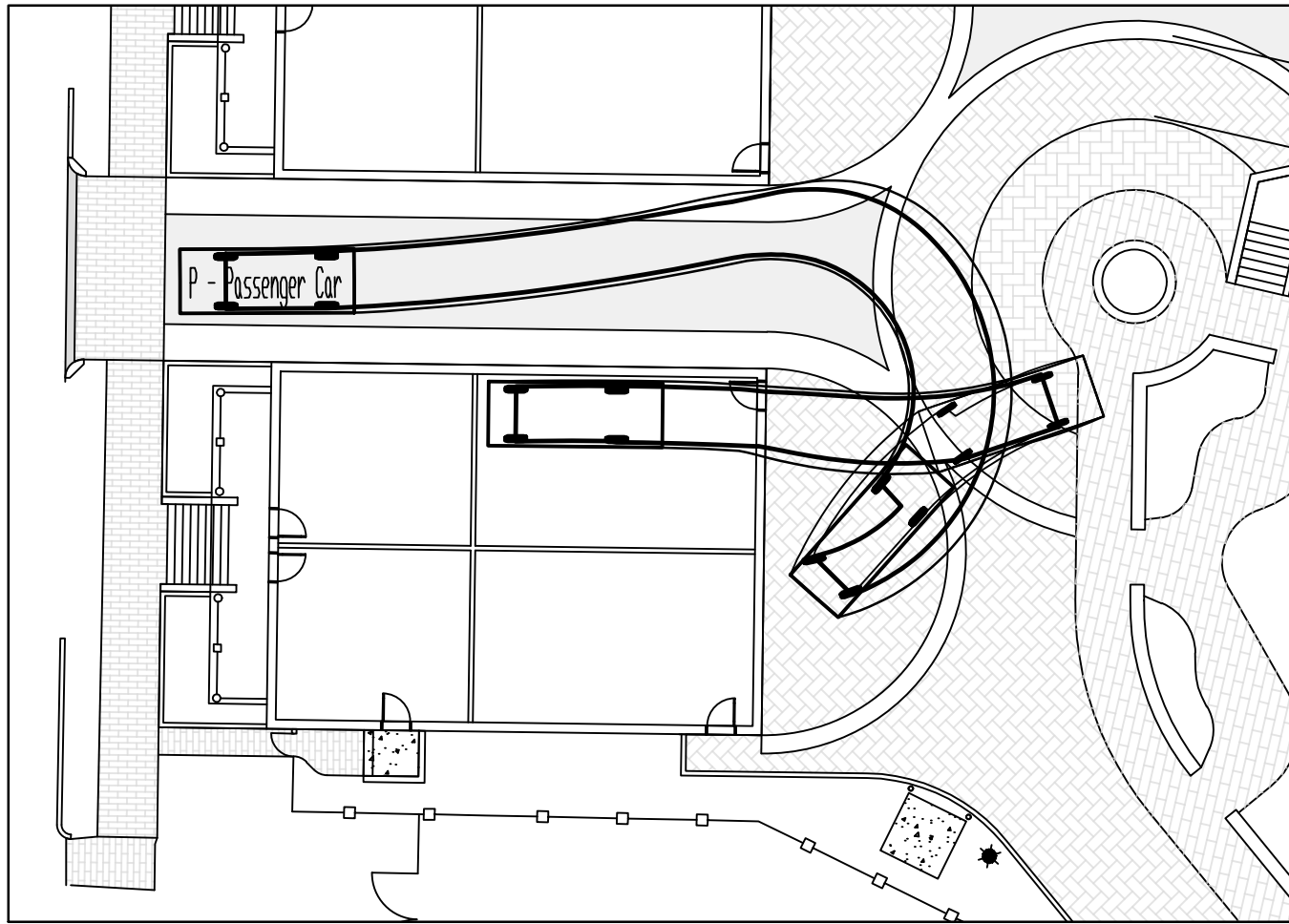
VEHICLE ENTERING SPOT 1



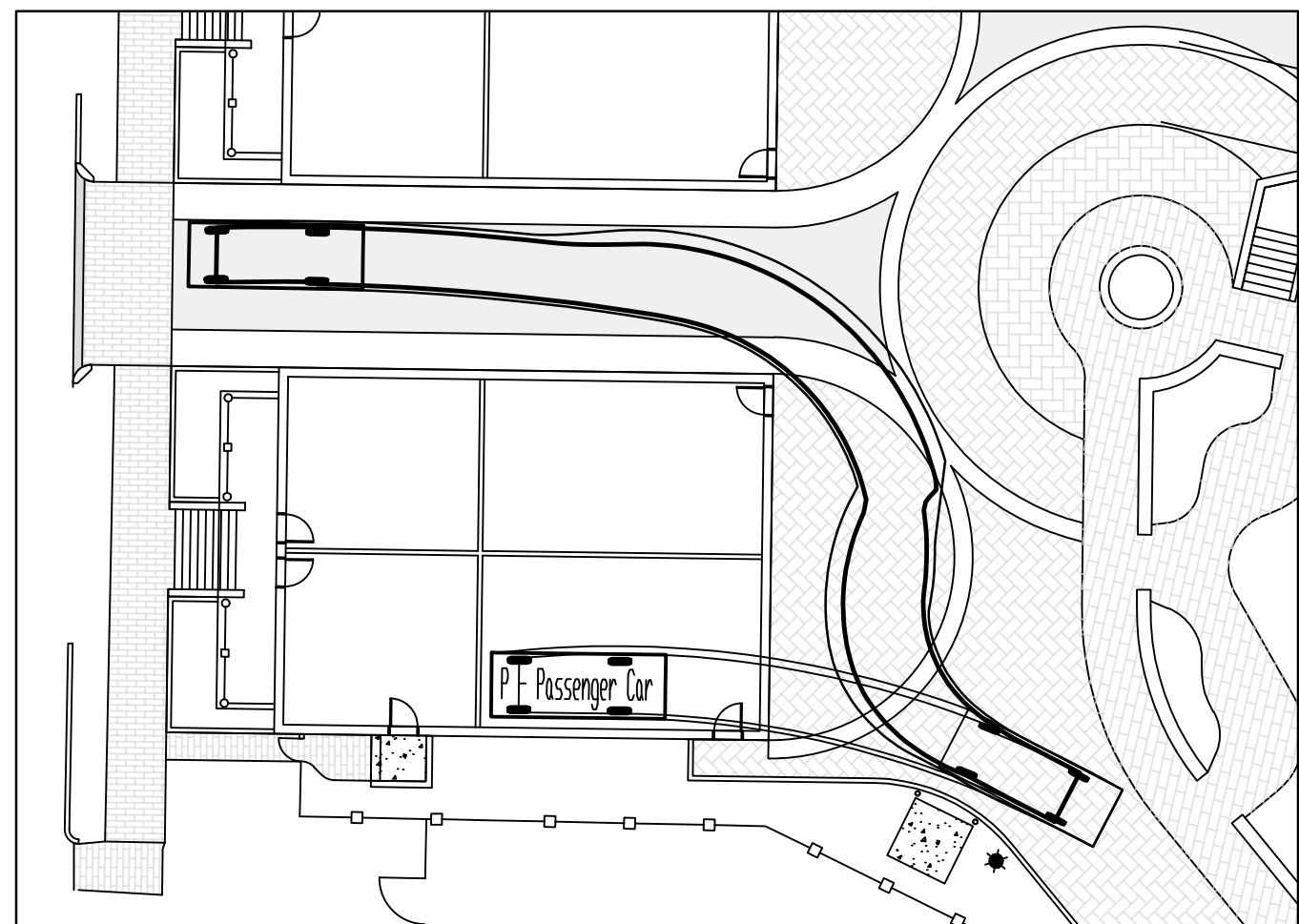
VEHICLE ENTERING SPOT 2



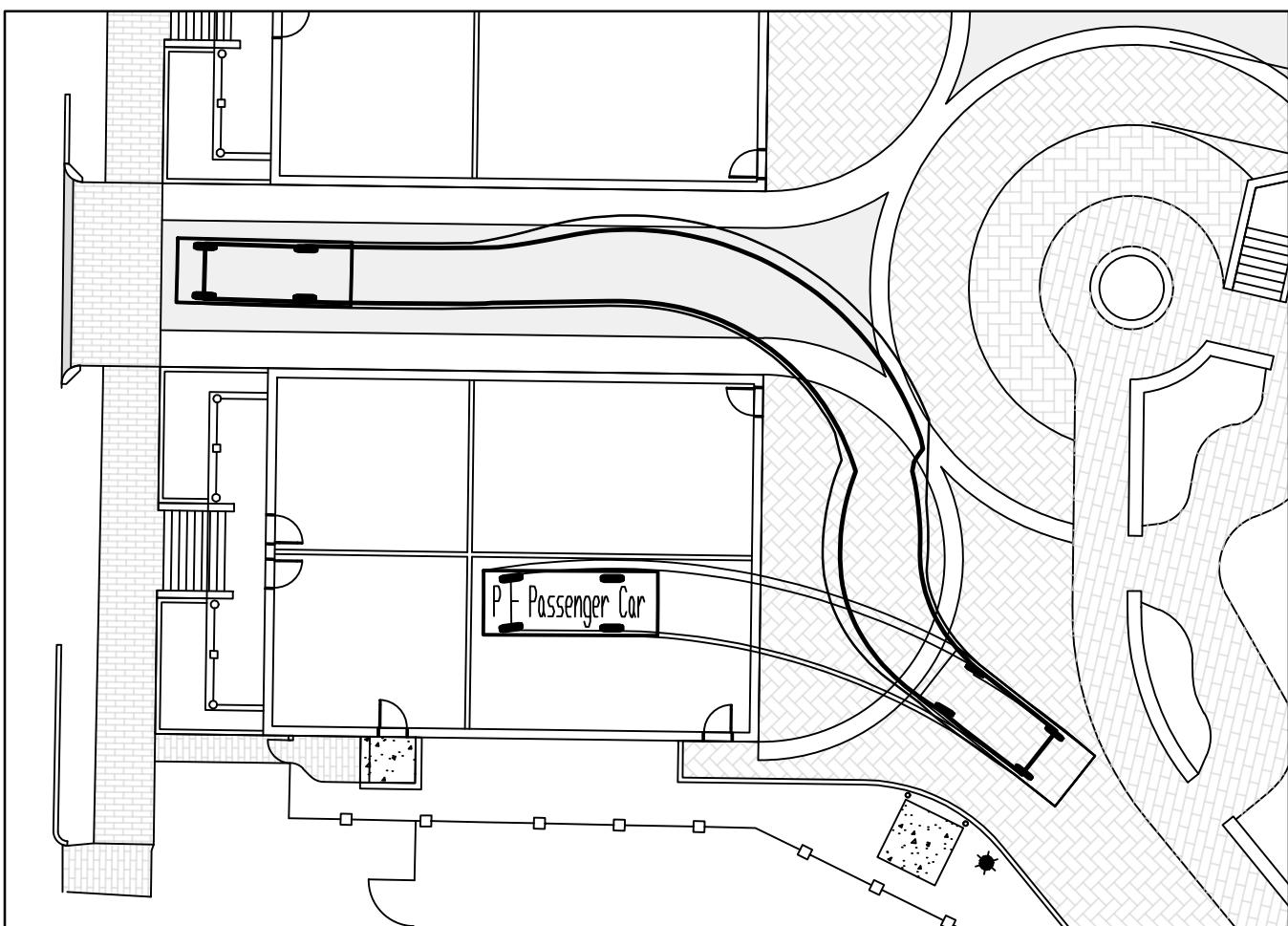
VEHICLE ENTERING SPOT 3



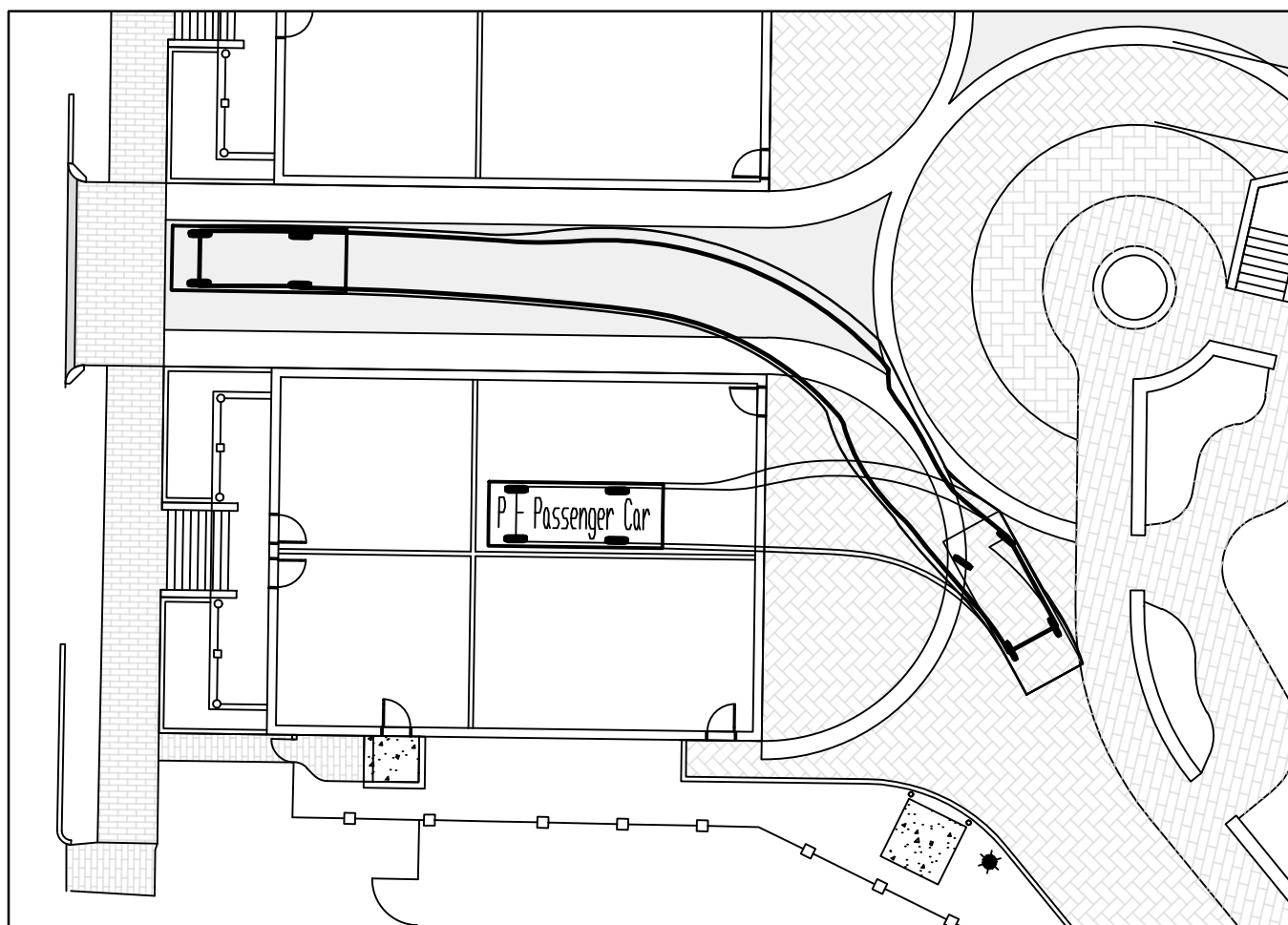
VEHICLE ENTERING SPOT 4



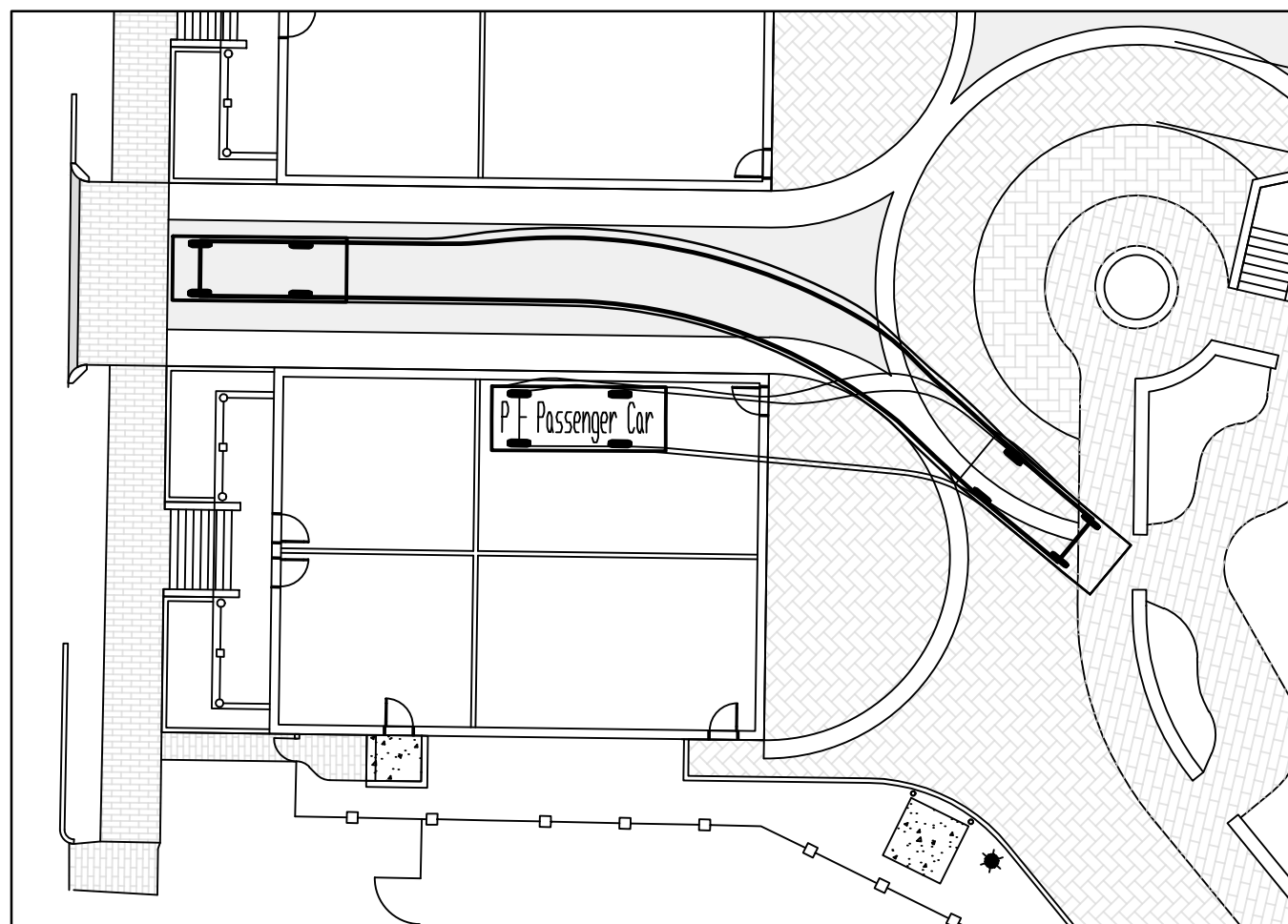
VEHICLE LEAVING SPOT 1



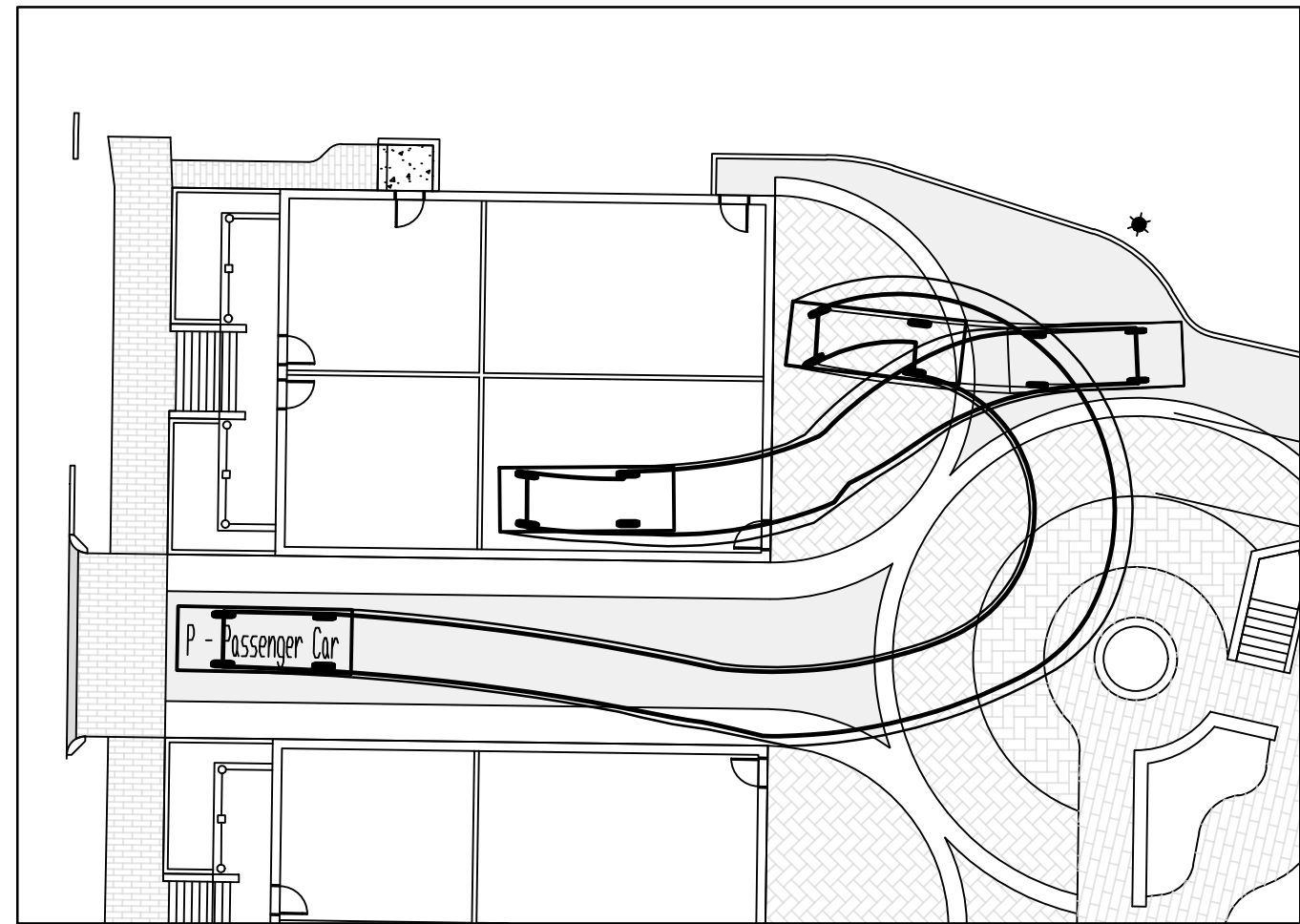
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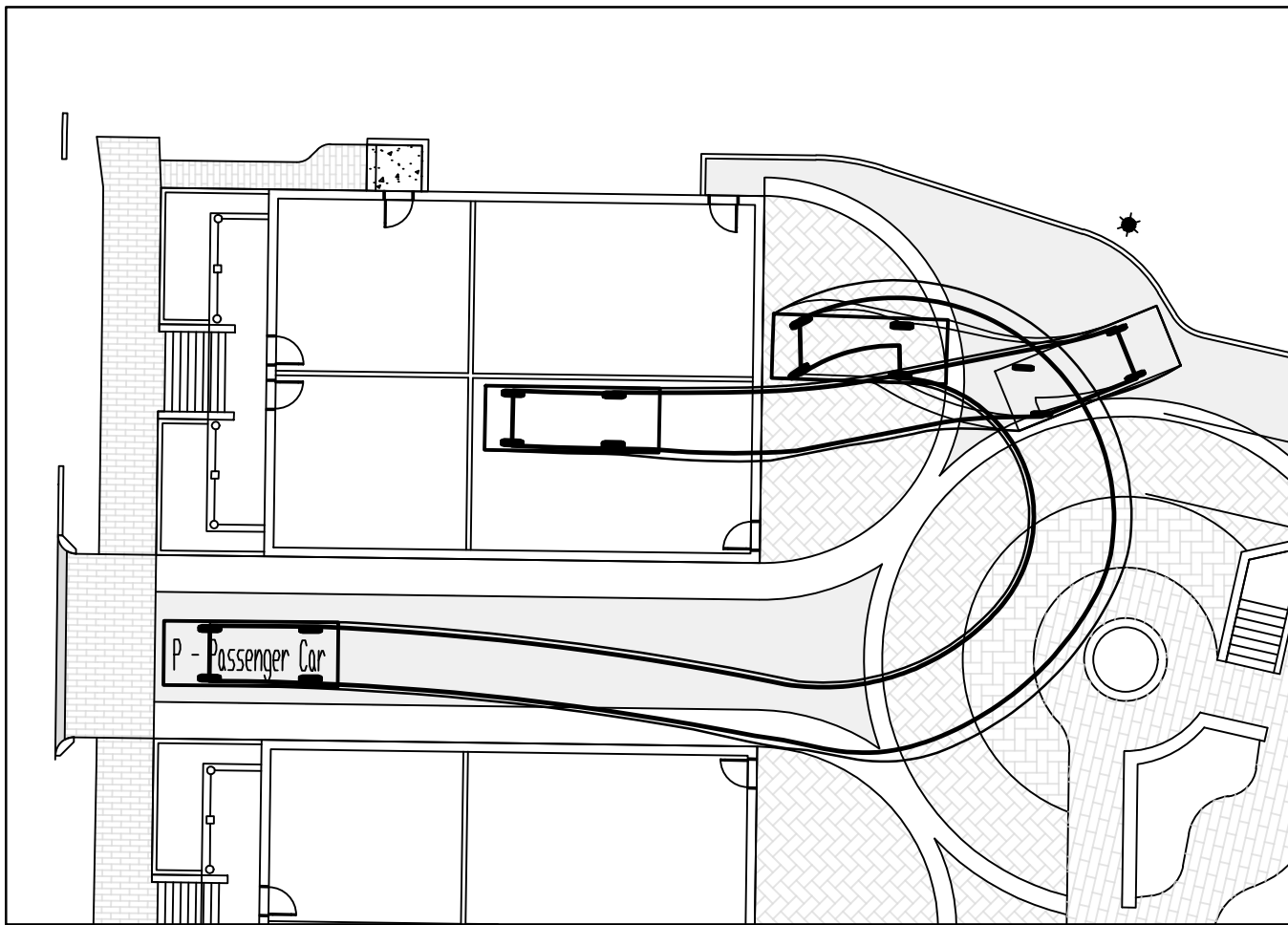
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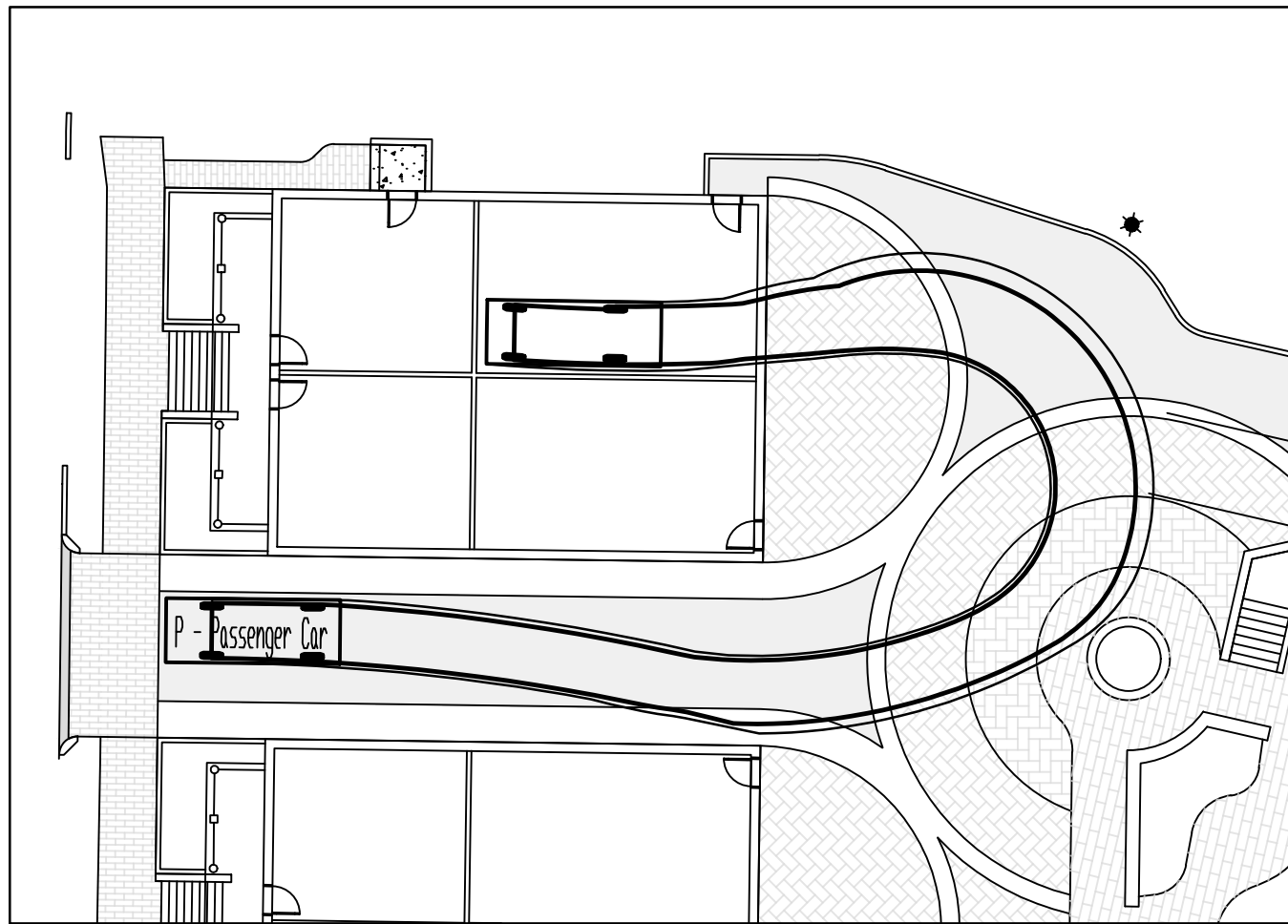
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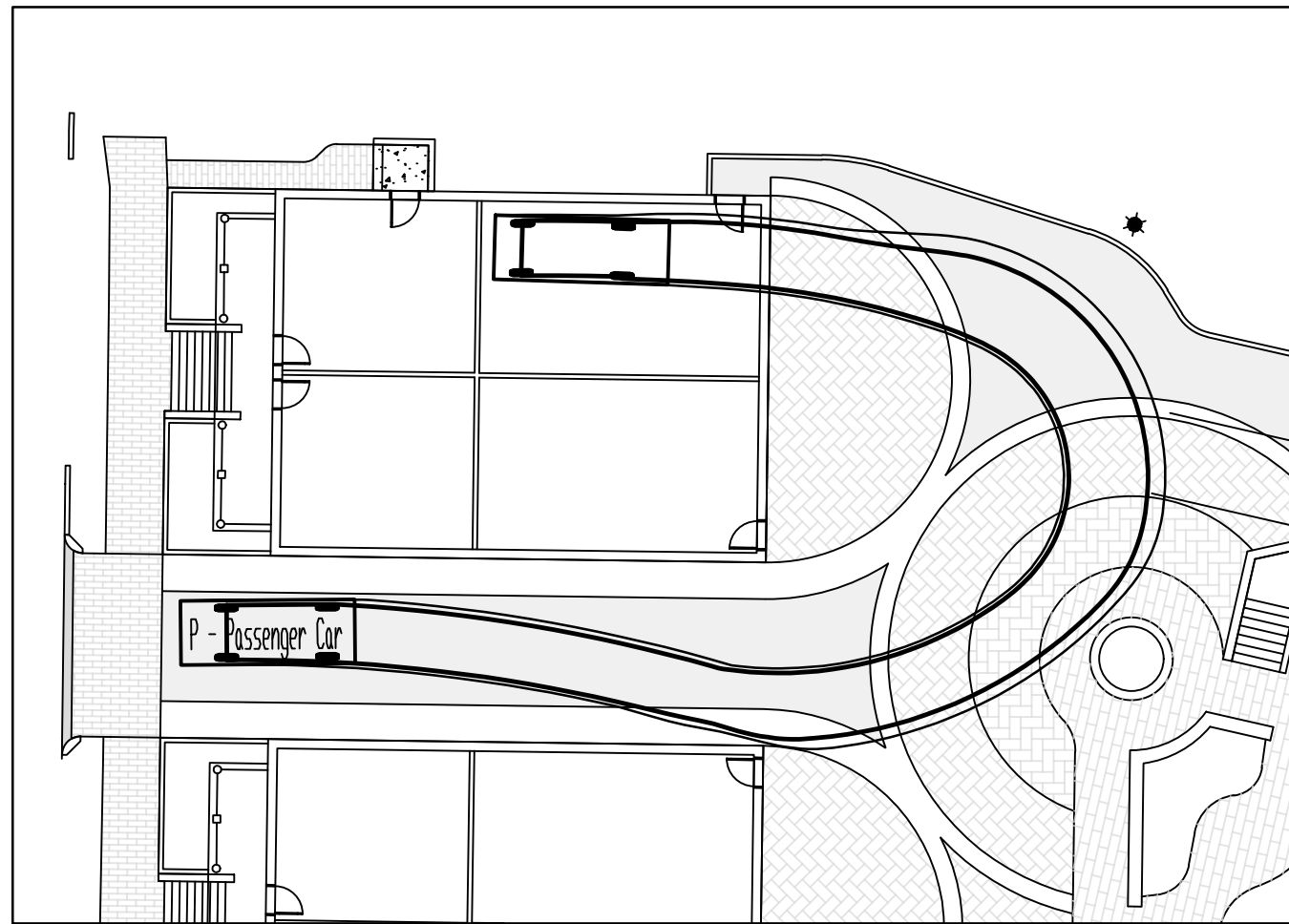
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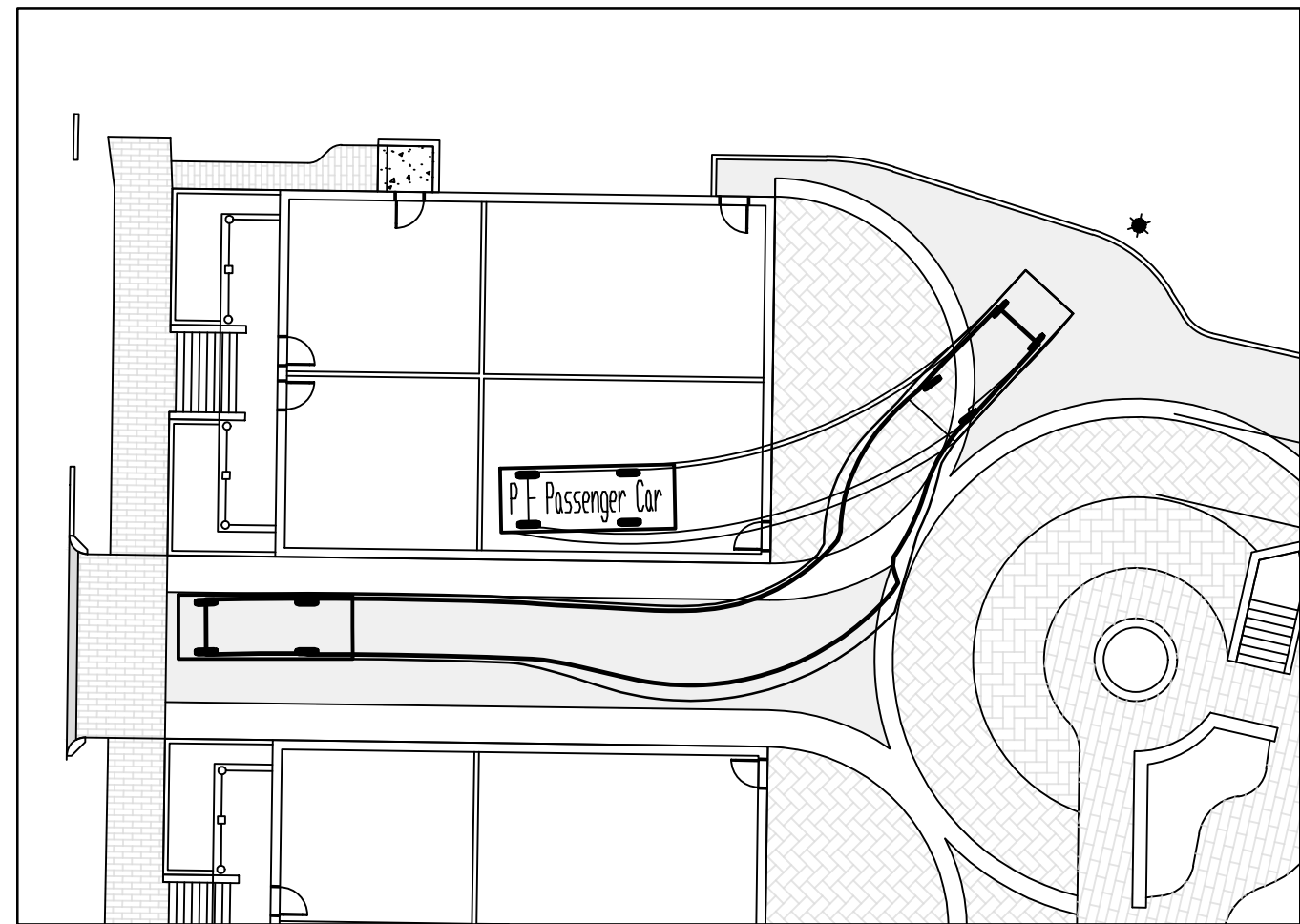
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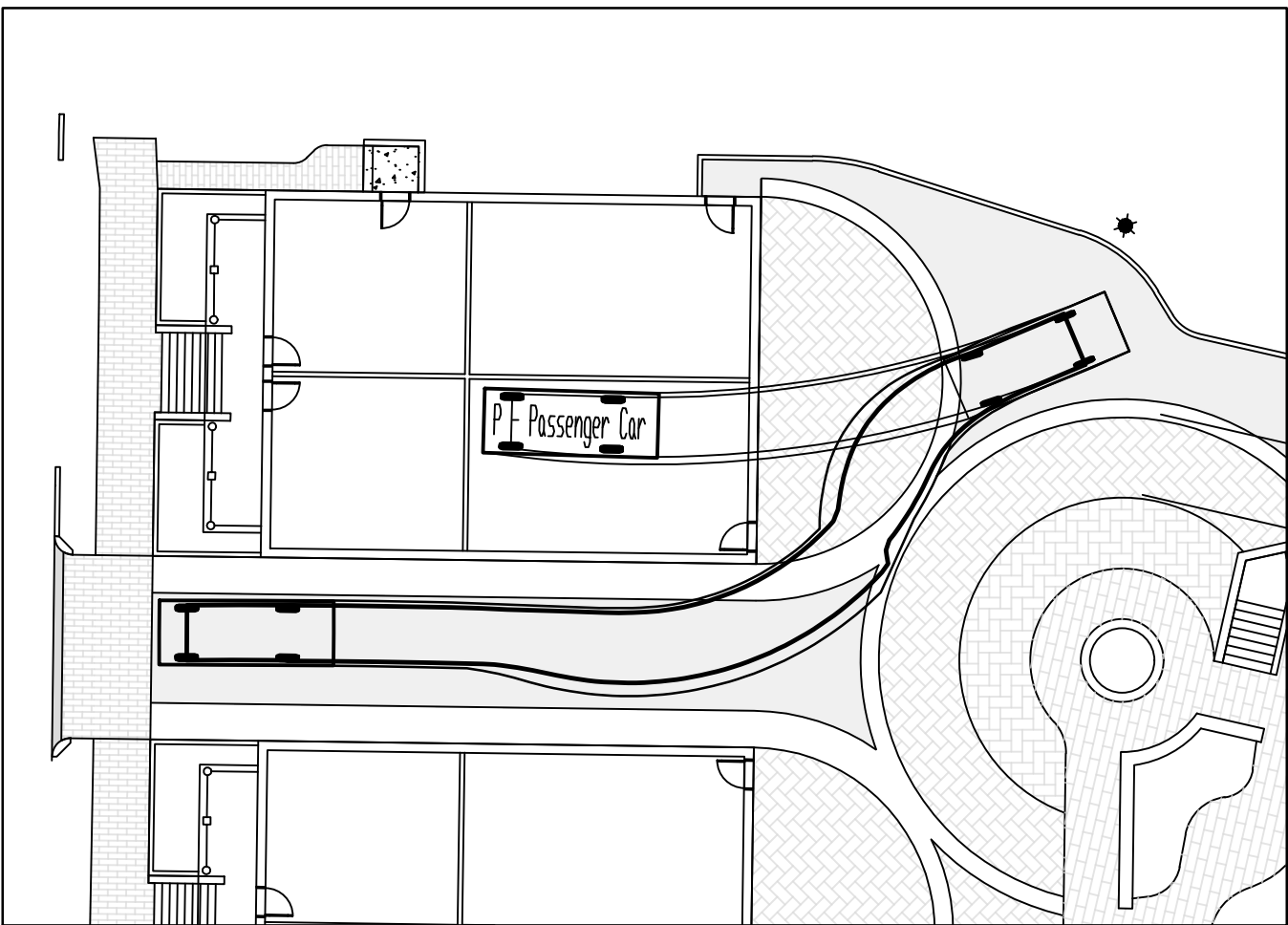
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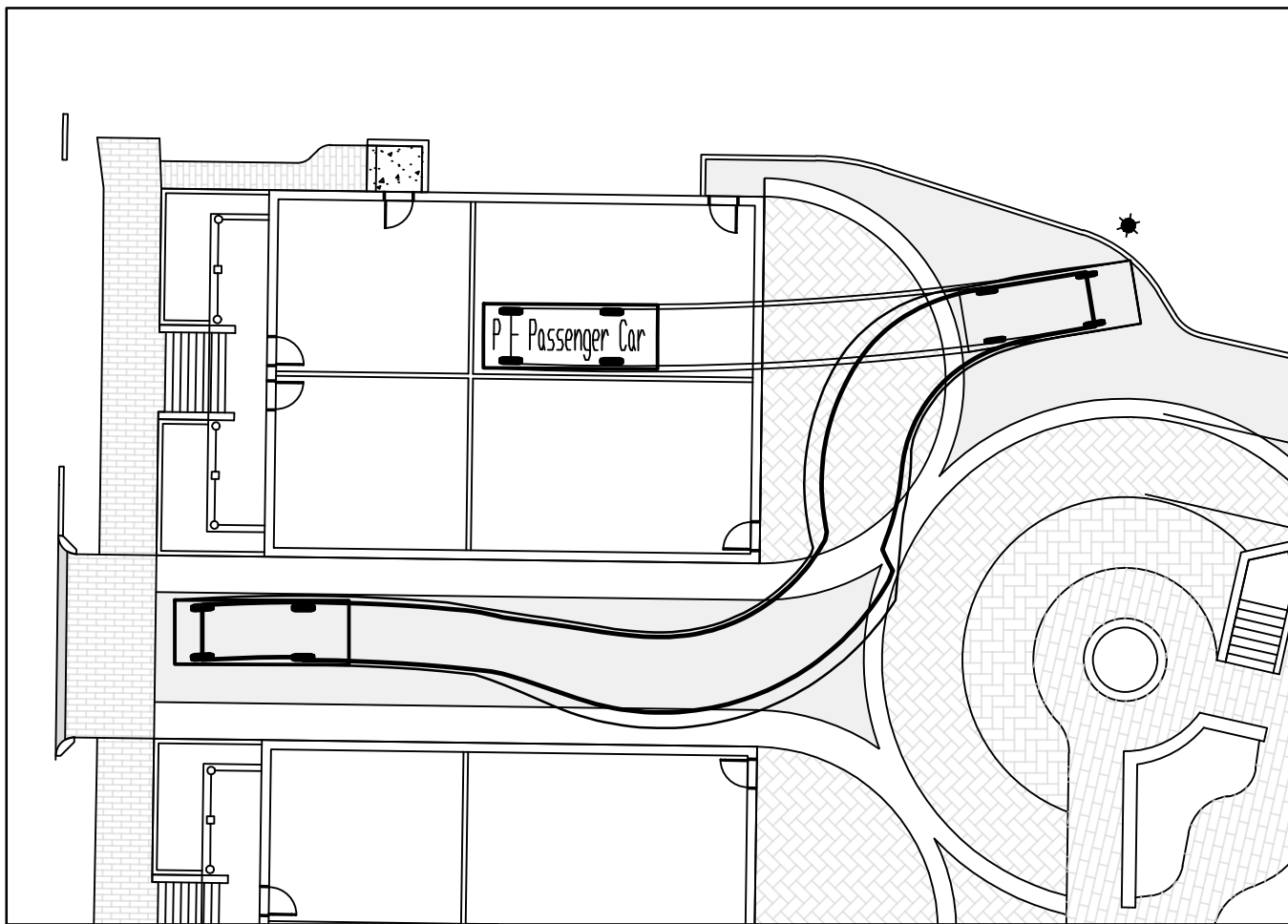
VEHICLE ENTERING SPOT 8



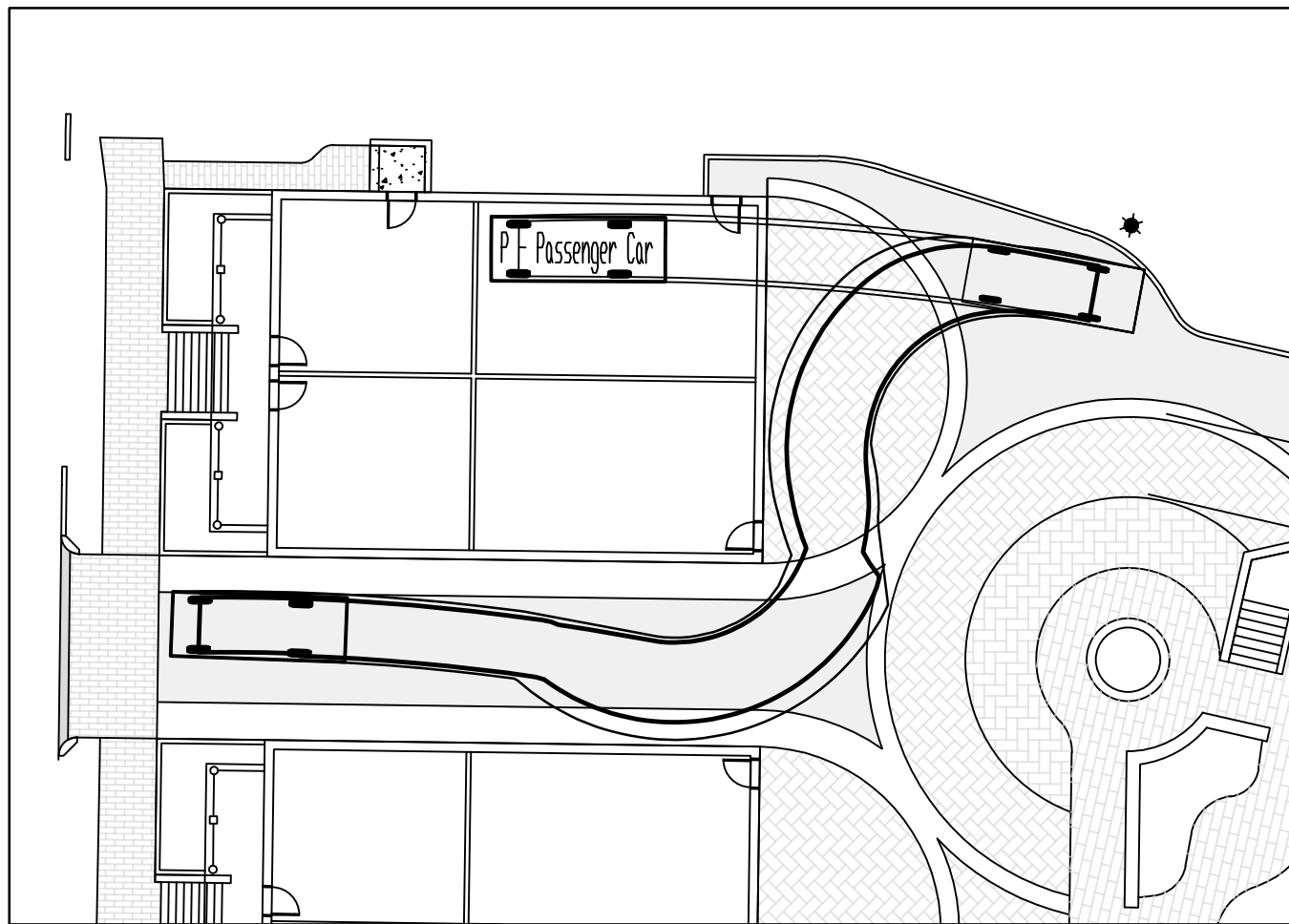
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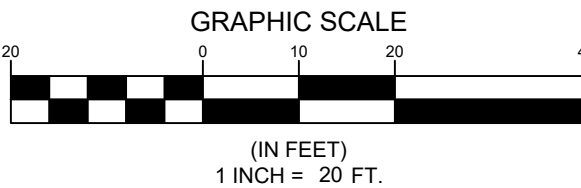
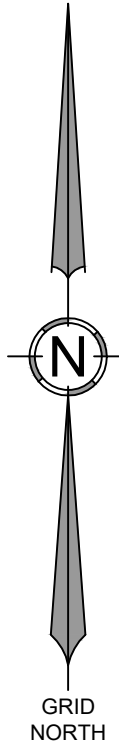
VEHICLE LEAVING SPOT 6



VEHICLE LEAVING SPOT 7



VEHICLE LEAVING SPOT 8



STATE OF MAINE

MICHAEL E. TADEMA-WIELANDT

REGISTERED PROFESSIONAL ENGINEER

DATE: 10/20/2023
PE: MICHAEL TADEMA-WIELANDT

PROJECT:
WEST STREET REDEVELOPMENT
19 WEST STREET, PORTLAND, ME

SHEET TITLE:
PARKING TURNING ANALYSIS

CLIENT:
CARLETON WEST, LLC
9 GOULD ROAD
LEWISTON, ME 04240

ADDRESS:
41 CAMPUS DRIVE, SUITE 301
NEW GLOUCESTER, ME 04260
PHONE:
(207) 926-5111
WEB SITE:
www.terradynconsultants.com

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CONSULTANTS, LLC
Civil Engineering | Land Surveying | Geomatics
Stormwater Design | Land Planning | Environmental Permitting

PERMIT DRAWING
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DATE: 8/4/2023
SCALE: 1" = 20'
JOB NO: 23-020
SHEET: C-9.0

REVISED IN RESPONSE TO STAFF REVIEW COMMENTS

10/20/2023

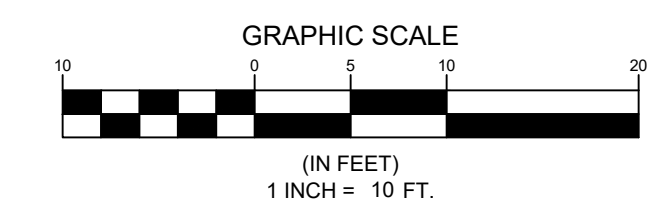
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DATE

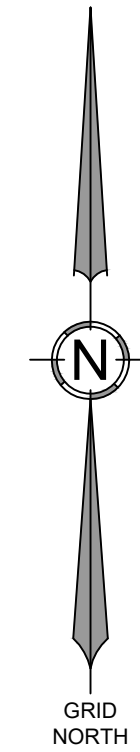
REVISIONS

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Page 123



Key	Common & Botanical Name	Size	Root	Qty	Notes
A.	'Katsura Tree Cercidiphyllum Japonicum	1.75" Cal.	B&B		Single trunk 7 1/2" clear under- story
B.	Street Keeper Honey Locust Gleditsia Triacanthos var. inermis 'Street Keeper'	2 1/4 " Cal.	B&B		Single trunk 7 1/2" clear under- story
C.	Cockspur Thornless Hawthorn Crataegus Crusgalli var. 'Inermis'	6'-8" Ht.	B&B		Single trunk 7 1/2" clear under- story
D.	Arrowwood Viburnum V. Dentatum	3'-4' Ht.	B&B		
E.	Mapleleaf Viburnum V. Acerifolium	#3	Cont.		
F.	Blackhaw Viburnum V. Prunifolium	4'-5" Ht.	B&B		
G.	Summer Snowflake Viburnum [Shasta] V. Plicatum var. Tomentosum 'summer snowflake'	#5	Cont.		
H.	Cornelian Cherry Cornus Mas	1.5 " Cal.	B&B		Tree Form 3 trunk
I.	Northern Bayberry Myrica Pennsylvanica	#5	Cont.		
J.	Bush Honeysuckle Diervilla Lonicera	18"-24"	Cont.		
K.	Virginia Creeper Parthenocissus Quinquefolia	2 yr. ptd	Cont.		
L.	Climbing Hydrangea H. Anomala Petiolaris	#5	Cont.		
M.	Switch Grass Panicum Varieties	-----	Cont.		
N.	Hydrangea 'Little Quickfire' Hydrangea Paniculata 'Little Quickfire'	#5	Cont.		
O.	Red Maple Acer Rubrum	2 1/4 " Cal.	B&B		8' clear understory
P.	Upright Basswood Tilia Americana 'Fastigiata'	2 1/4 " Cal.	B&B		
PB.	Planting Beds for Assorted Perennials @ 15" deep -- prepared planting soil				



DATE:	10/20/2023
PE: MICHAEL TADEMA-WIELANDT	

[illegible]

10/20/2023
DATE

[illegible]

ADDRESS:
41 CAMPUS DRIVE, SUITE 301
NEW GLOUCESTER, ME 04260

PHONE:
(207) 926-5111

WEB SITE:
www.terradynconsultants.com

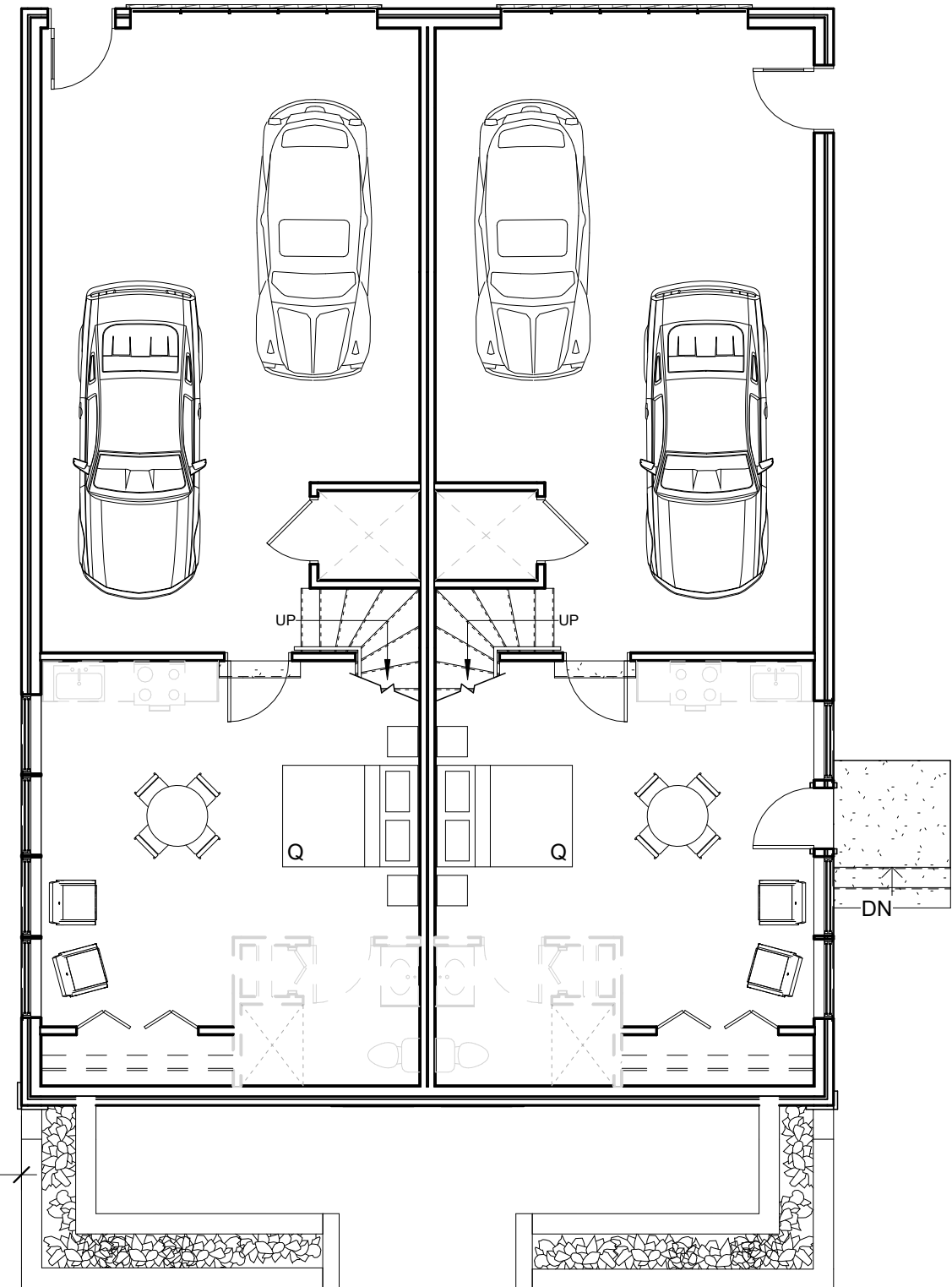
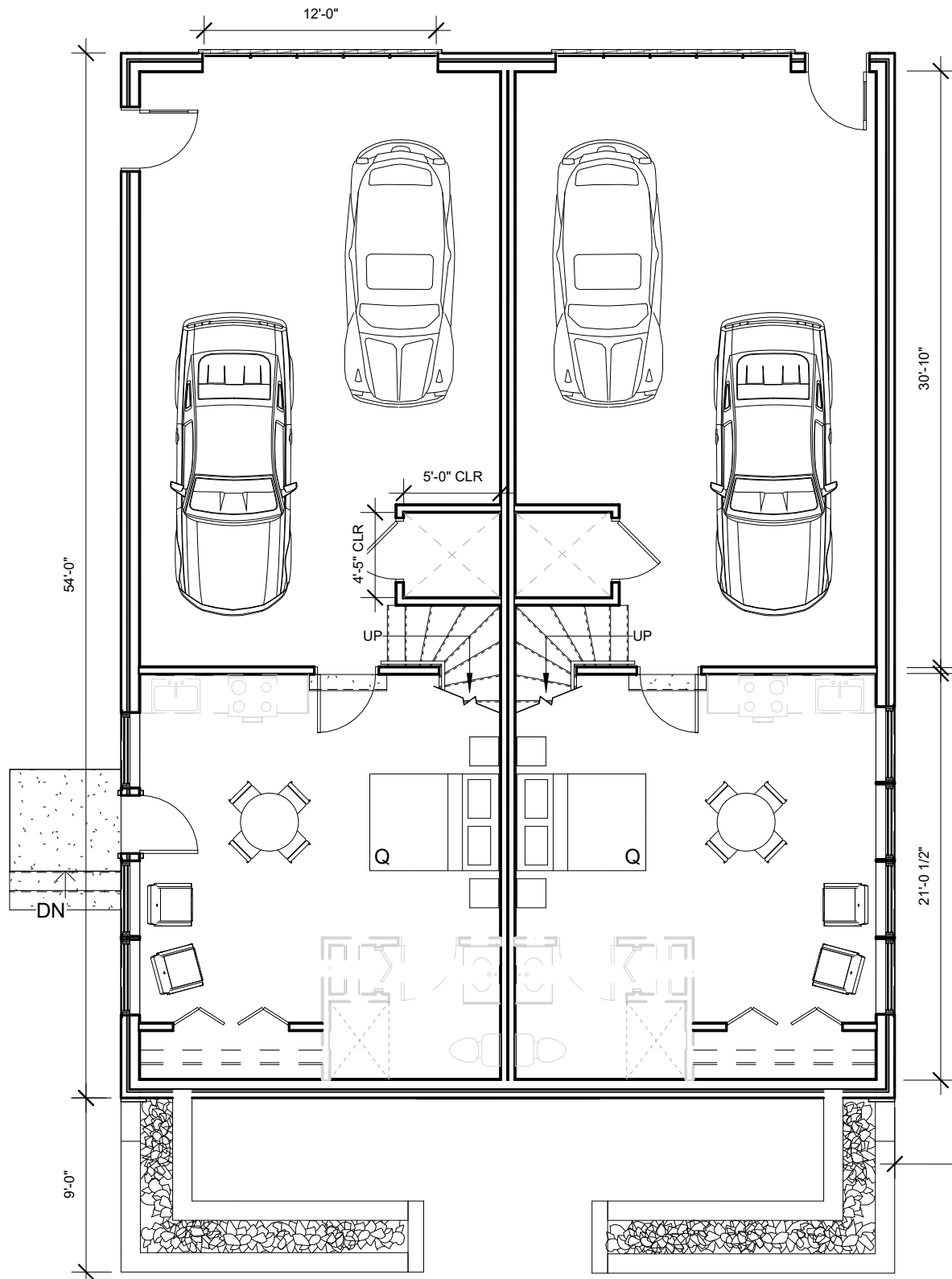
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--

PROJECT:	WEST STREET REDEVELOPMENT
	19 WEST STREET, PORTLAND, ME
SHEET TITLE:	LANDSCAPE PLAN
CLIENT:	CARLETON WEST, LLC
	9 GOULD ROAD
	LEWISTON, ME 04240
DATE:	8/4/2023
SCALE:	1" = 10'
JOB NO:	23-020
SHEET:	

L-1.01



CARLETON STREET ▼

FIRST FLOOR SQUARE FOOTAGE PER UNIT:
GARAGE - 638 SQ.FT.
ROOM - 442 SQ.FT.

1 | FIRST FLOOR

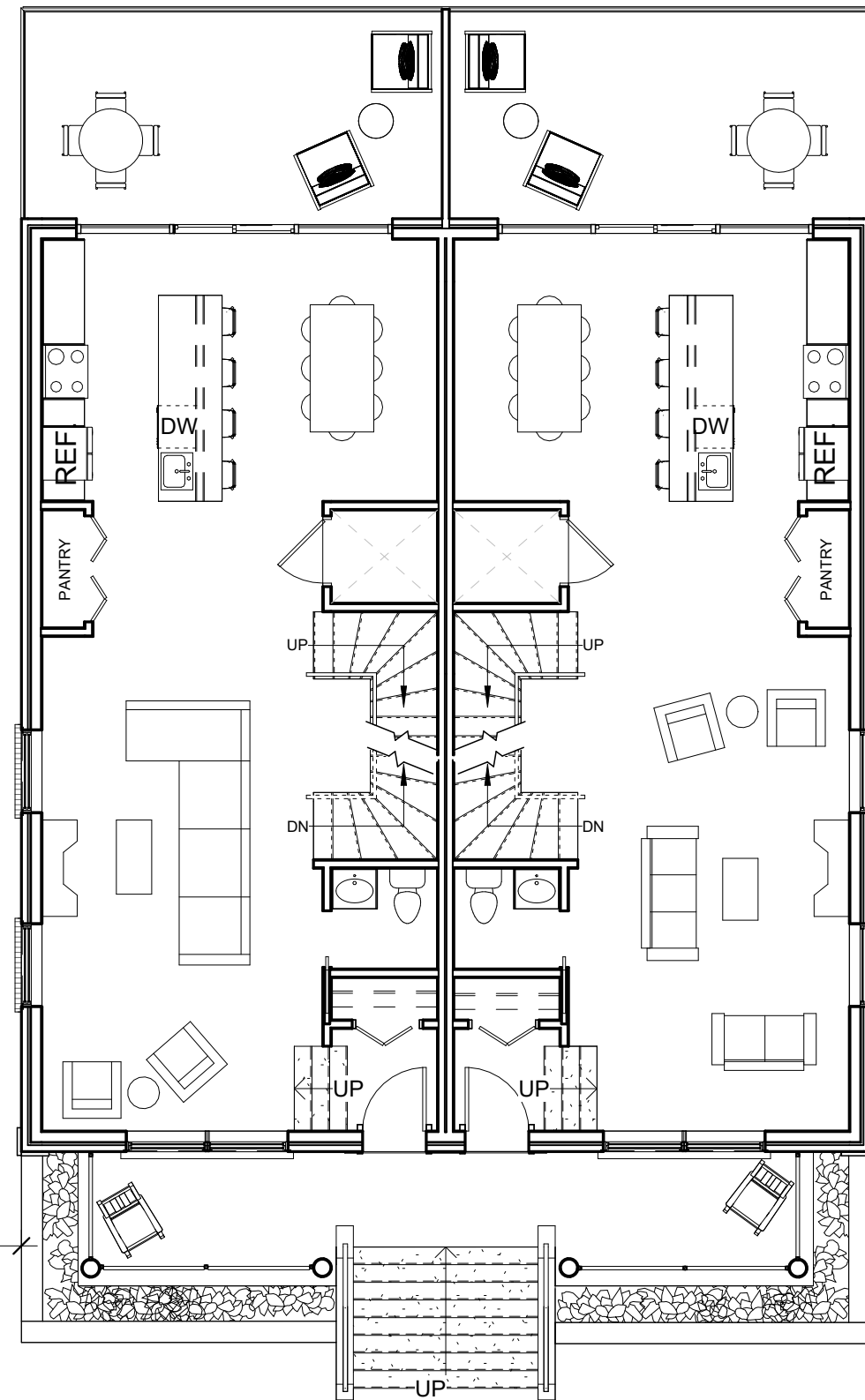
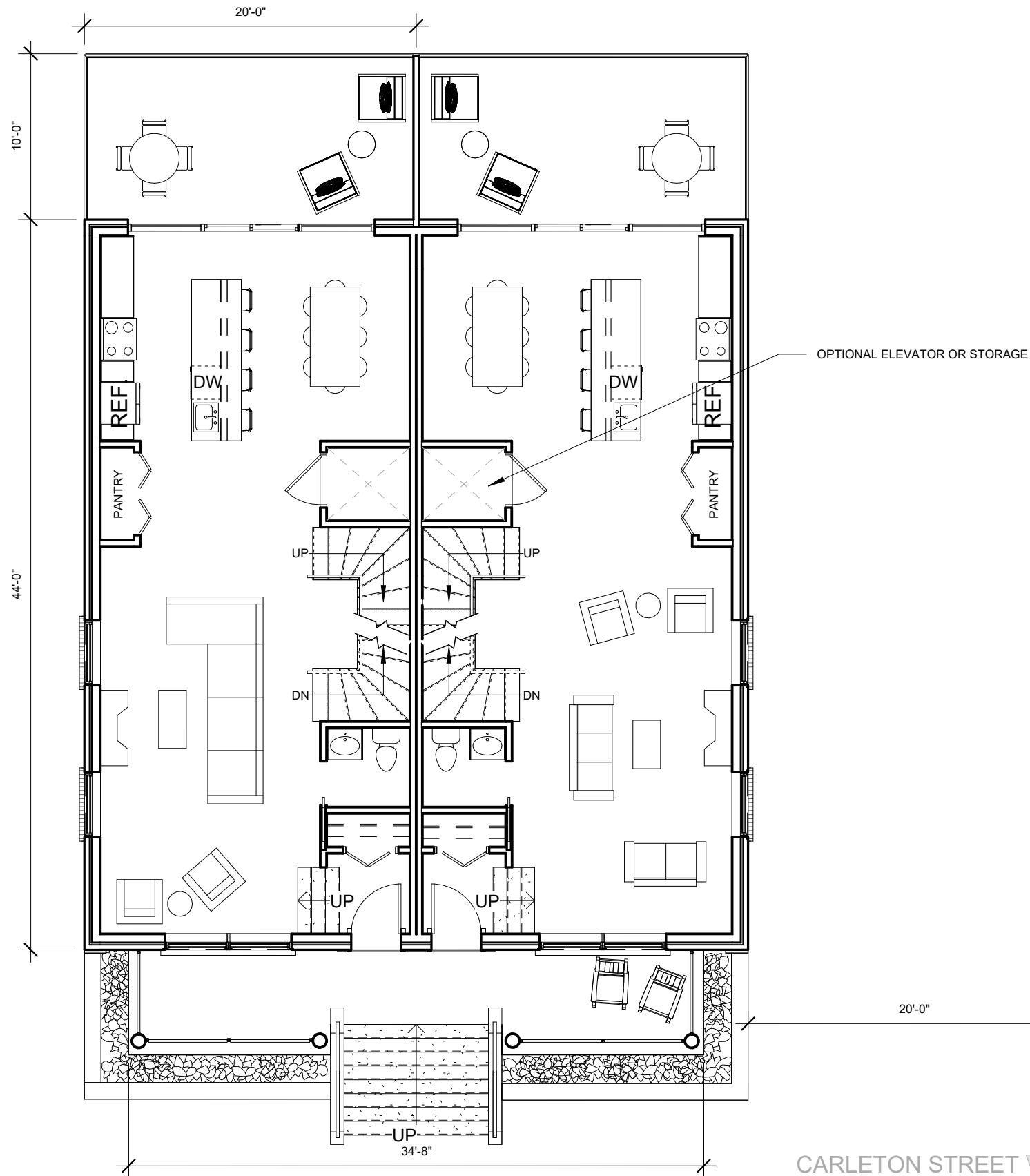
1/8" = 1'-0"

Architect:
ARCHETYPE
architects
48 Union Wharf Portland, Maine 04101
(207) 772-6022 Fax (207) 772-4056

Date: 7-19-2023
Scale: 1/8" = 1'-0"
TOWNHOUSES FIRST
FLOOR PLAN

Project:
19 WEST ST.
PORTLAND, MAINE

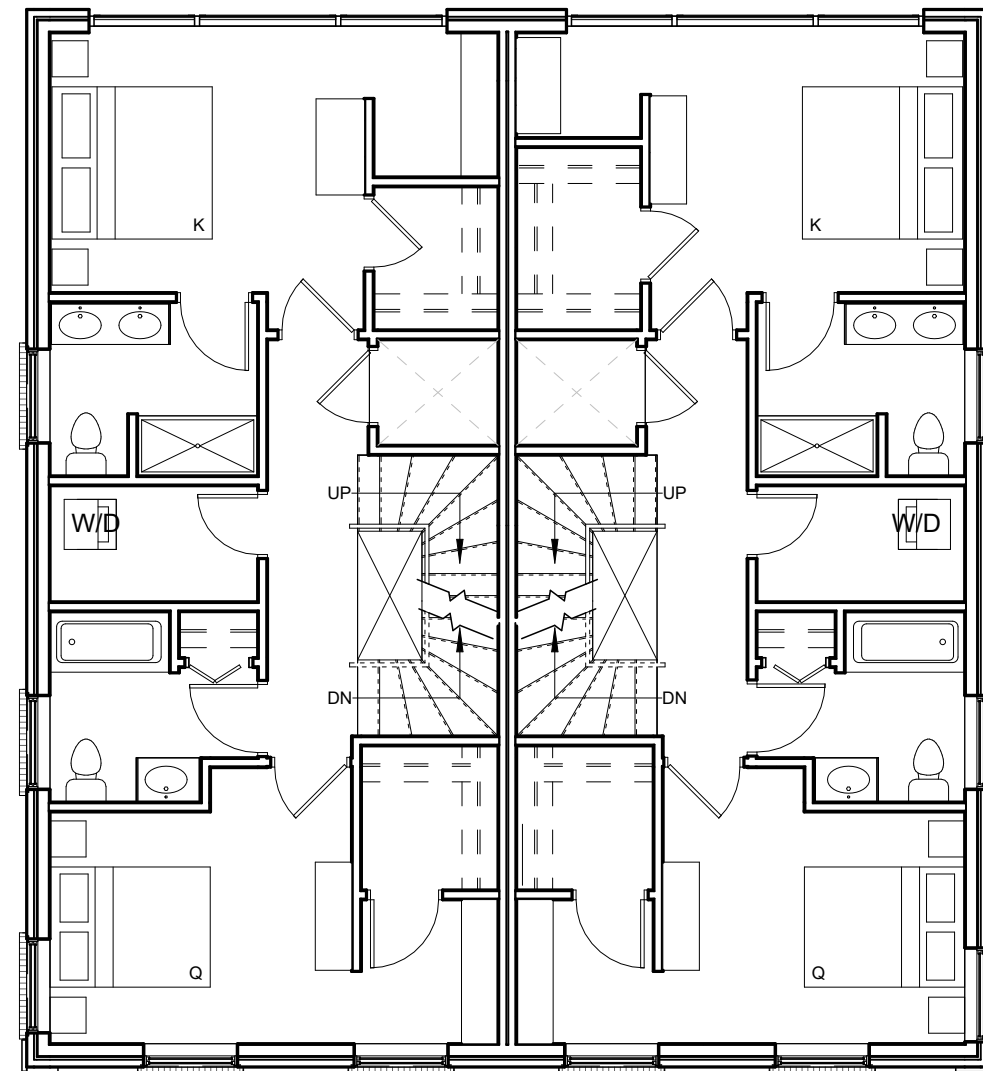
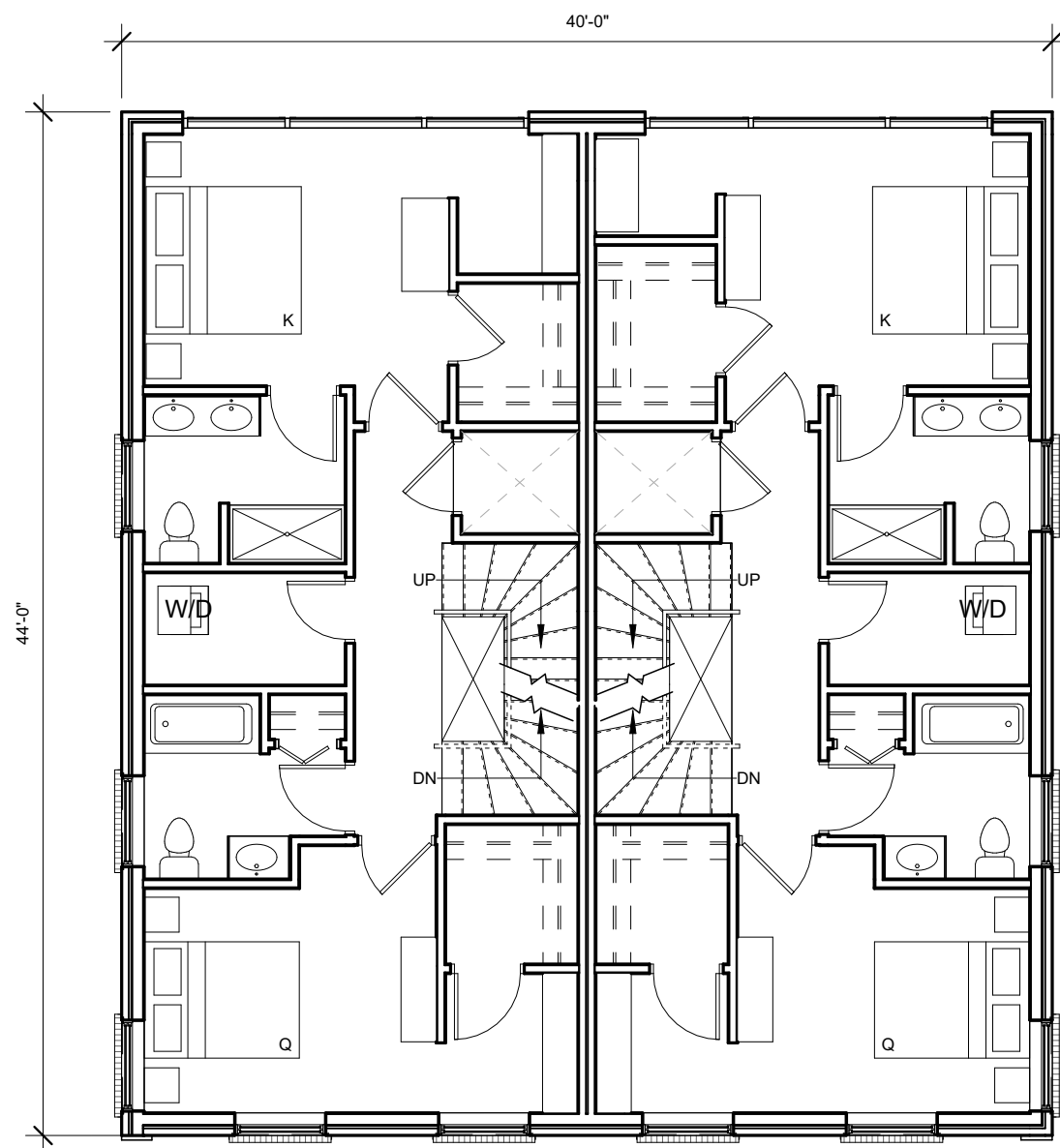
A1.01



SECOND FLOOR SQUARE FOOTAGE PER UNIT:
DECK - 200 SQ.FT.
FLOOR - 880 SQ.FT.

1 | SECOND FLOOR

1/8" = 1'-0"



CARLETON STREET ▼

THIRD FLOOR SQUARE FOOTAGE PER UNIT:
880 SQ.FT.

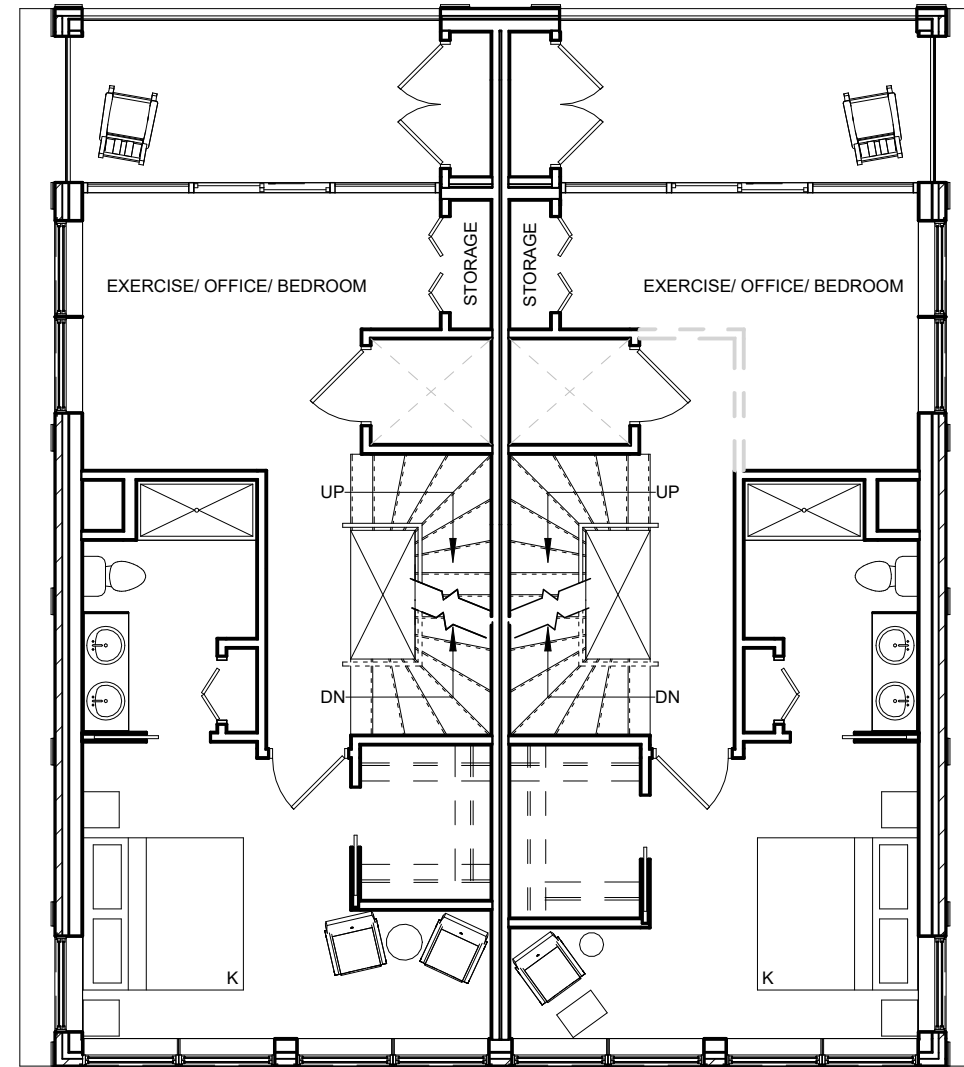
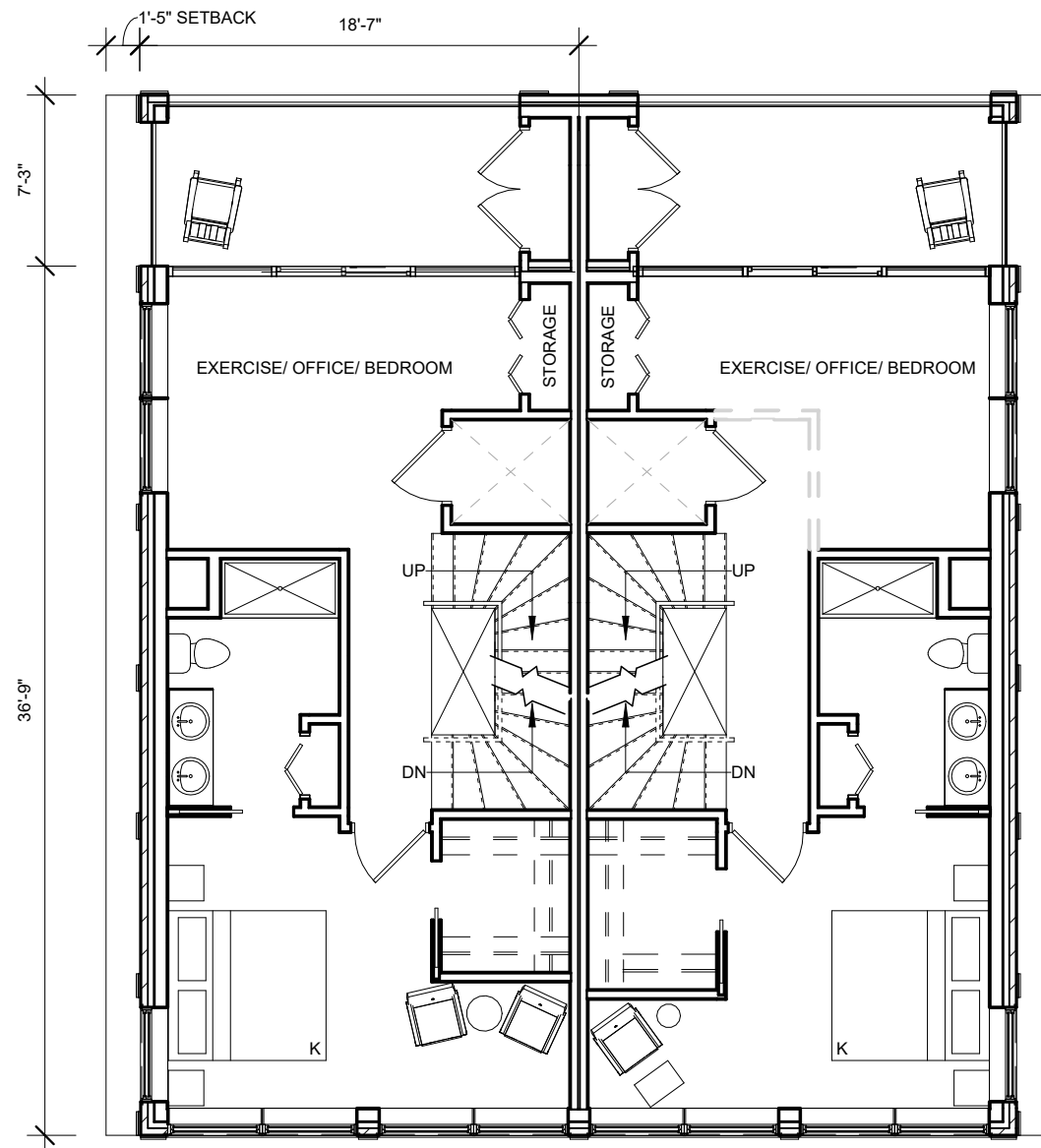
1 | THIRD FLOOR

1/8" = 1'-0"

Architect:
ARCHETYPE
architects
48 Union Wharf Portland, Maine 04101
(207) 772-6022 Fax (207) 772-4056

Date: 06/28/2023
Scale: 1/8" = 1'-0"
Project: 19 WEST ST.
PORTLAND, MAINE
TOWNHOUSES THIRD
FLOOR PLAN

A1.03



CARLETON STREET ▼

FOURTH FLOOR SQUARE FOOTAGE PER UNIT:
DECK - 134 SQ.FT.
FLOOR - 681 SQ.FT.

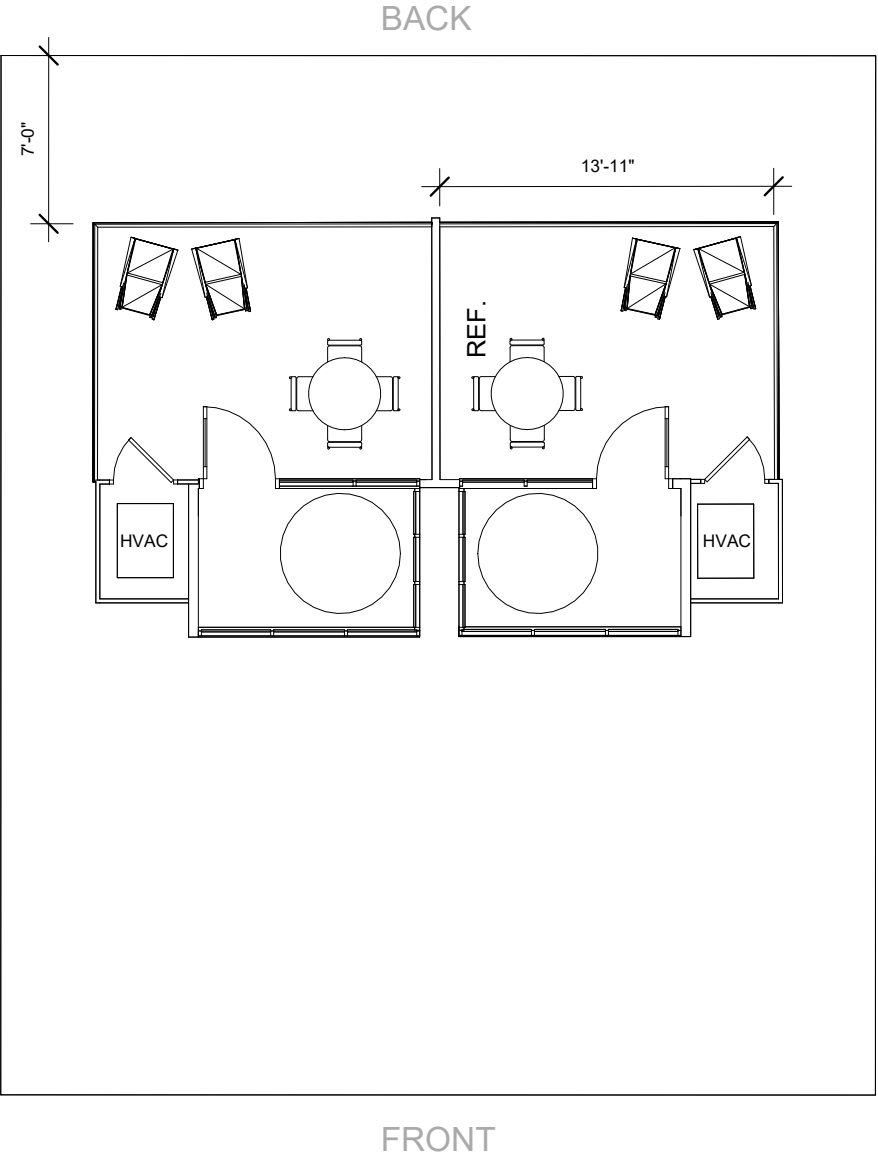
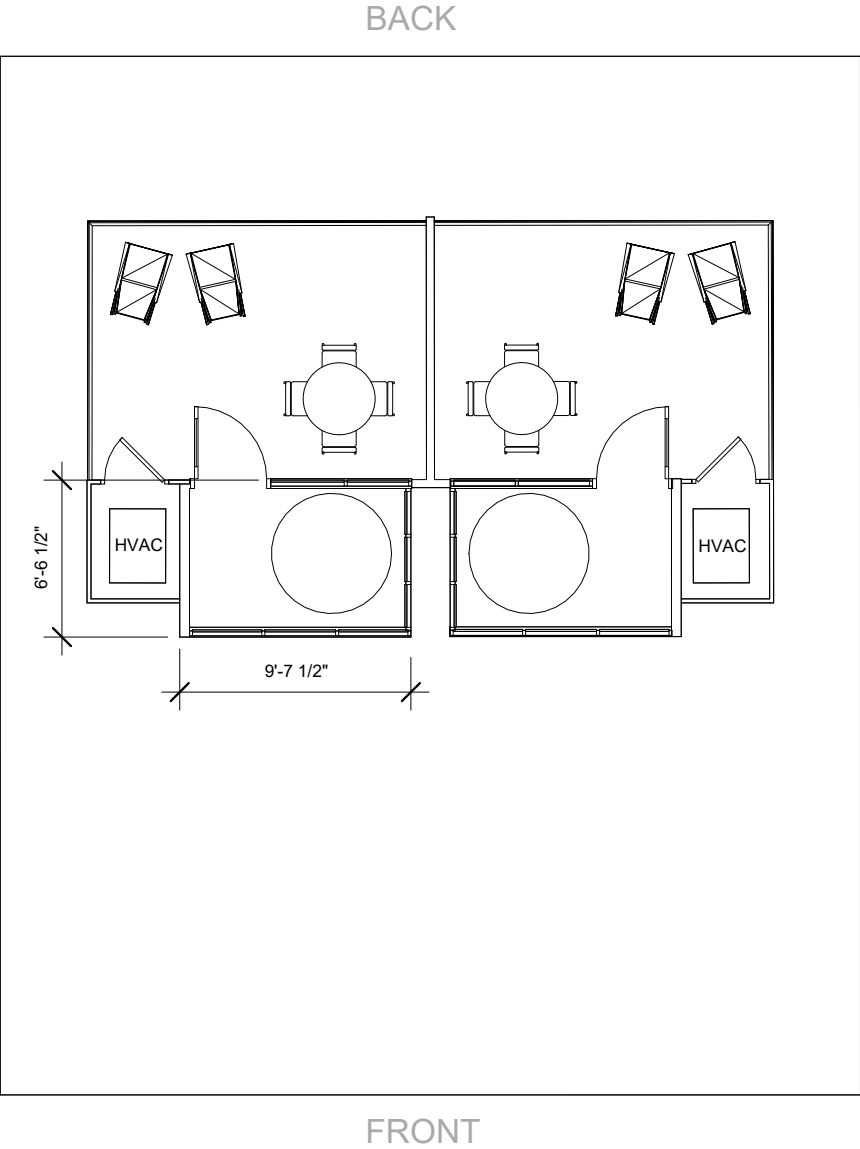
1 | FOURTH FLOOR

1/8" = 1'-0"

Architect:
ARCHETYPE
Architects
48 Union Wharf Portland, Maine 04101
(207) 772-6022 Fax (207) 772-4056

Date: 06/28/2023
Scale: 1/8" = 1'-0"
Project: 19 WEST ST.
PORTLAND, MAINE
TOWNHOUSES
FOURTH FLOOR PLAN

A1.04



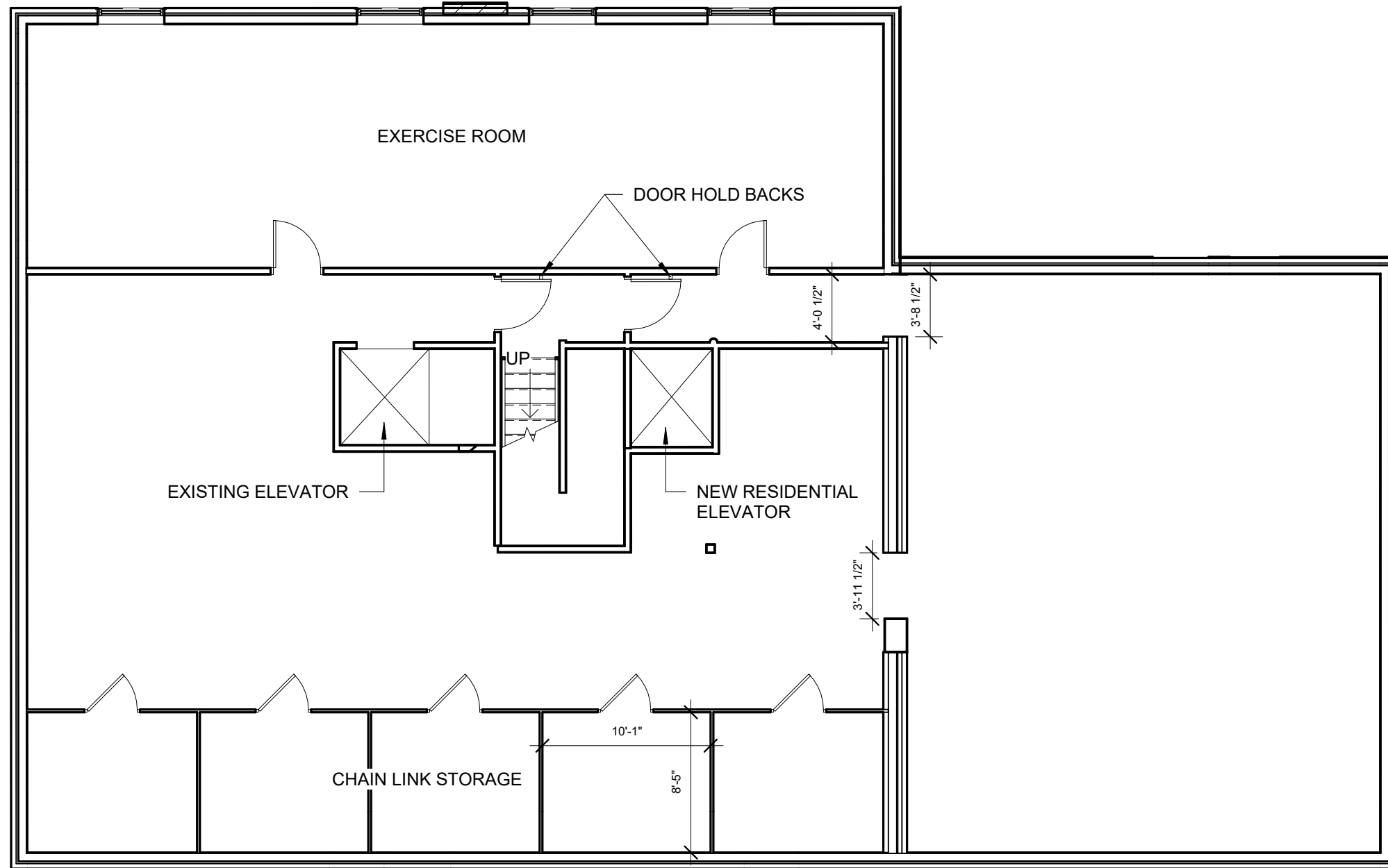
CARLETON STREET ▼

1 | ROOF PLAN
1/8" = 1'-0"

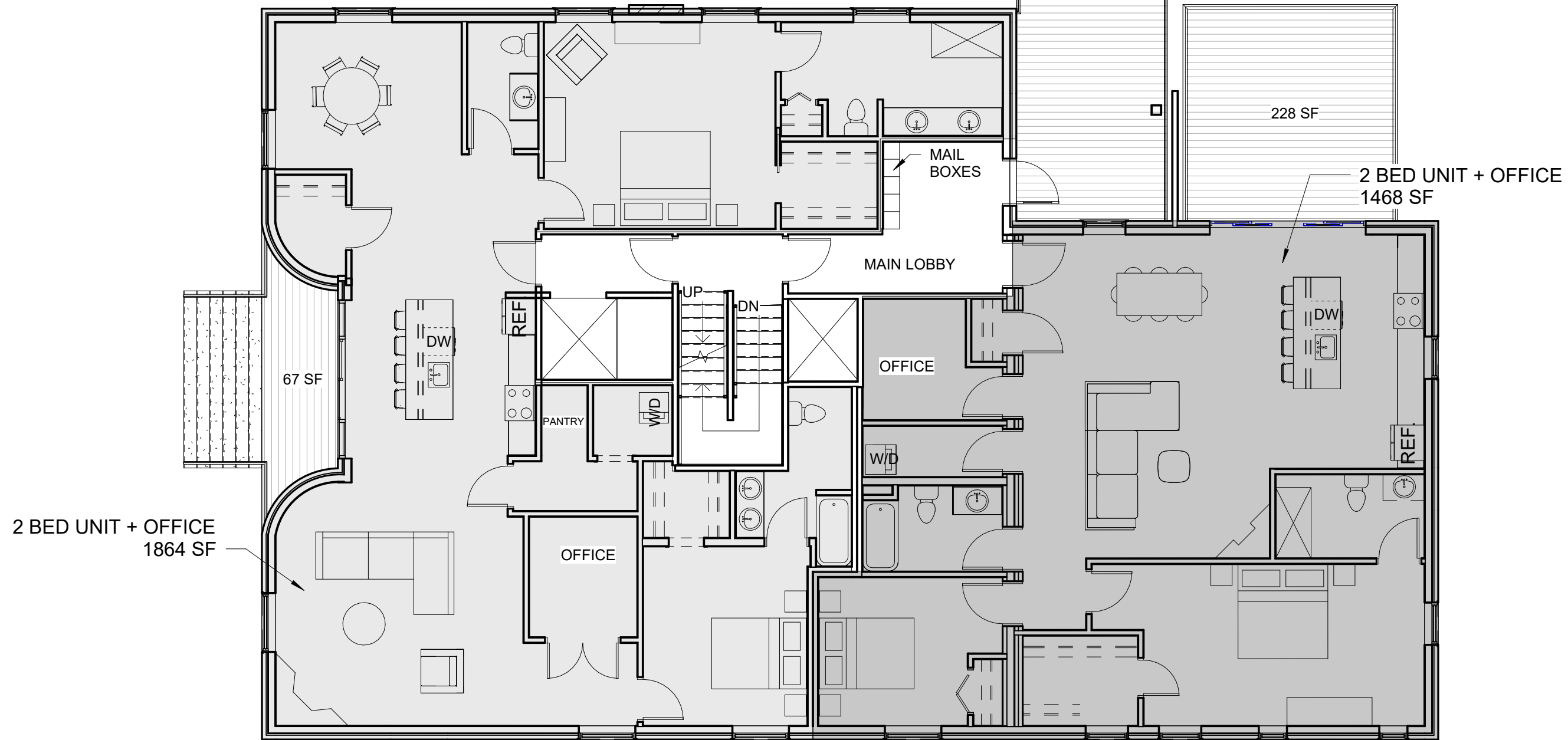
Architect: **ARCHETYPE** architects
48 Union Wharf Portland, Maine 04101
(207) 772-6022 Fax (207) 772-4056

Date: 06/28/2023 Scale: 1/8" = 1'-0"
TOWNHOUSES ROOF PLAN
Project: 19 WEST ST.
PORTLAND, MAINE

A1.05



1 | 19 WEST NEW BASEMENT FLOOR PLAN
1/8" = 1'-0"



1 | 19 WEST NEW FIRST FLOOR PLAN

1/8" = 1'-0"

GROSS SQ. FT. SHOWN

Architect: **ARCHETYPE**
architects
48 Union Wharf Portland, Maine 04101
(207) 772-6022 Fax (207) 772-4056

Date: 06/28/2023
Scale: 1/8" = 1'-0"

19 WEST NEW FIRST
FLOOR PLAN

19 WEST ST.

PORTLAND, MAINE

A1.22



GROSS SQ. FT. SHOWN

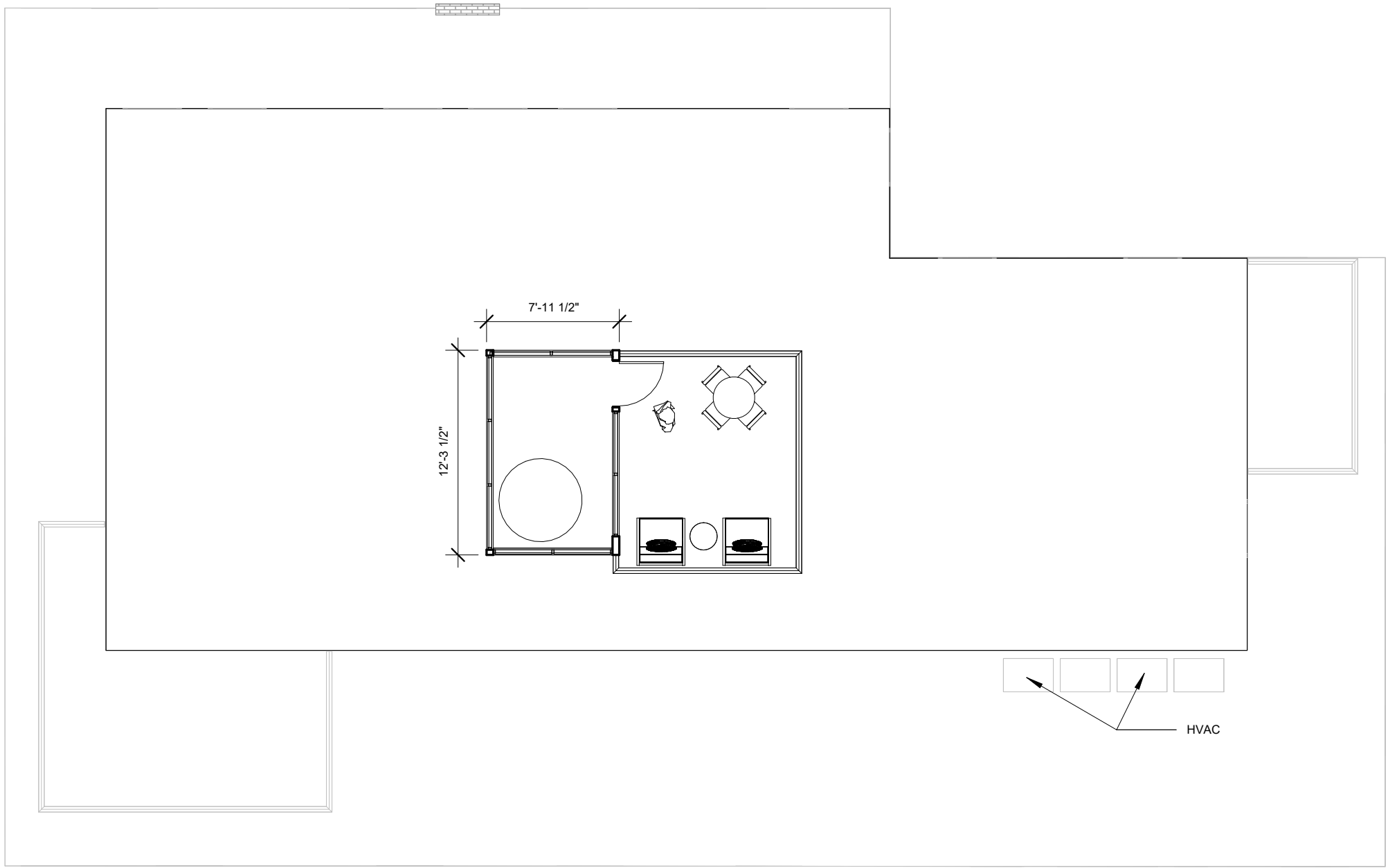
1 | 19 WEST NEW THIRD FLOOR PLAN
1/8" = 1'-0"

Architect: **ARCHETYPE** architects
48 Union Wharf Portland, Maine 04101
(207) 772-6022 Fax (207) 772-4056

Date: 06/28/2023 Scale: 1/8" = 1'-0"
19 WEST NEW THIRD FLOOR PLAN

Project: 19 WEST ST.
PORTLAND, MAINE

A1.24

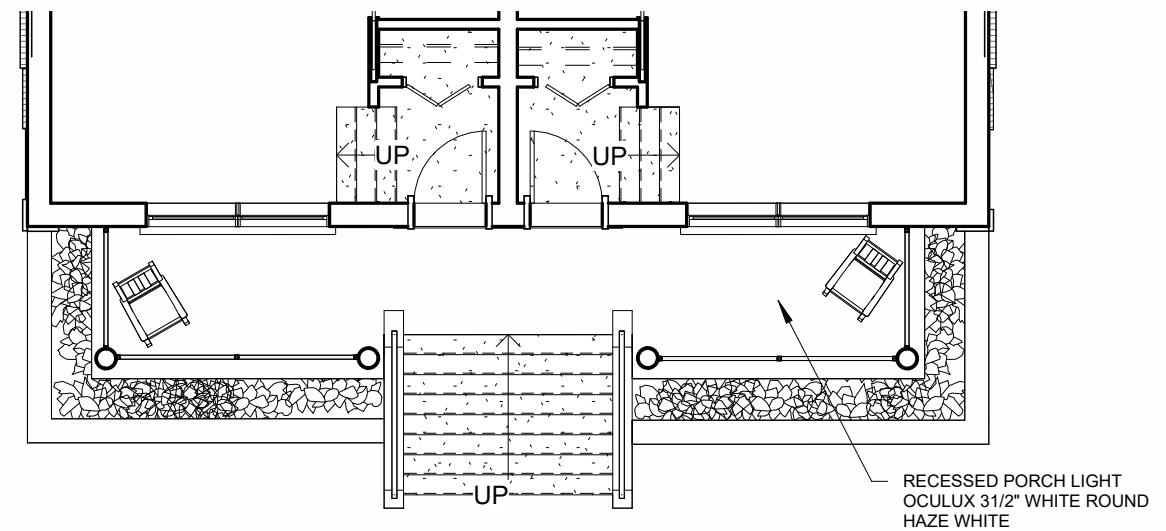
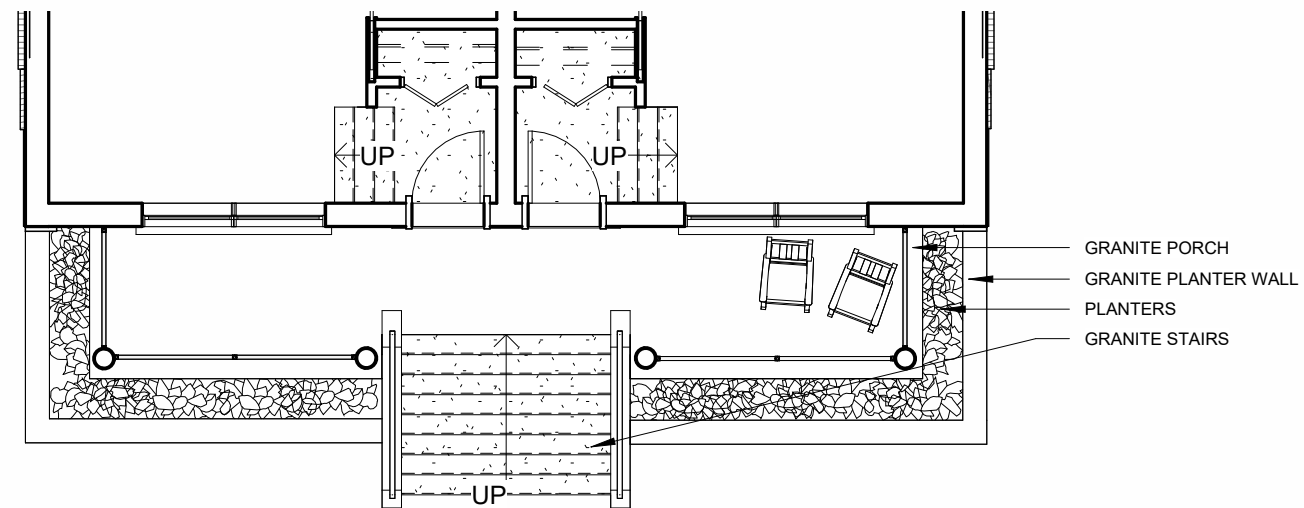


1 | 19 WEST NEW ROOF PLAN
1/8" = 1'-0"

ARCHITECT
A architects
48 Union Wharf Portland, Maine 04101
(207) 772-6022 Fax (207) 772-4056

Date: 06/28/2023 Scale: 1/8" = 1'-0"
Project: 19 WEST ST.
PORTLAND, MAINE
19 WEST NEW ROOF
PLAN

A1.25



1 | TOWNHOUSES FRONT ELEVATIONS

1/8" = 1'-0"

Architect: **ARCHETYPE** architects
48 Union Wharf Portland, Maine 04101
(207) 772-6022 Fax (207) 772-4056

Date: 06/28/2023
Scale: 1/8" = 1'-0"
TOWNHOUSES FRONT ELEVATIONS

Project: **19 WEST ST.**
PORTLAND, MAINE

A2.01



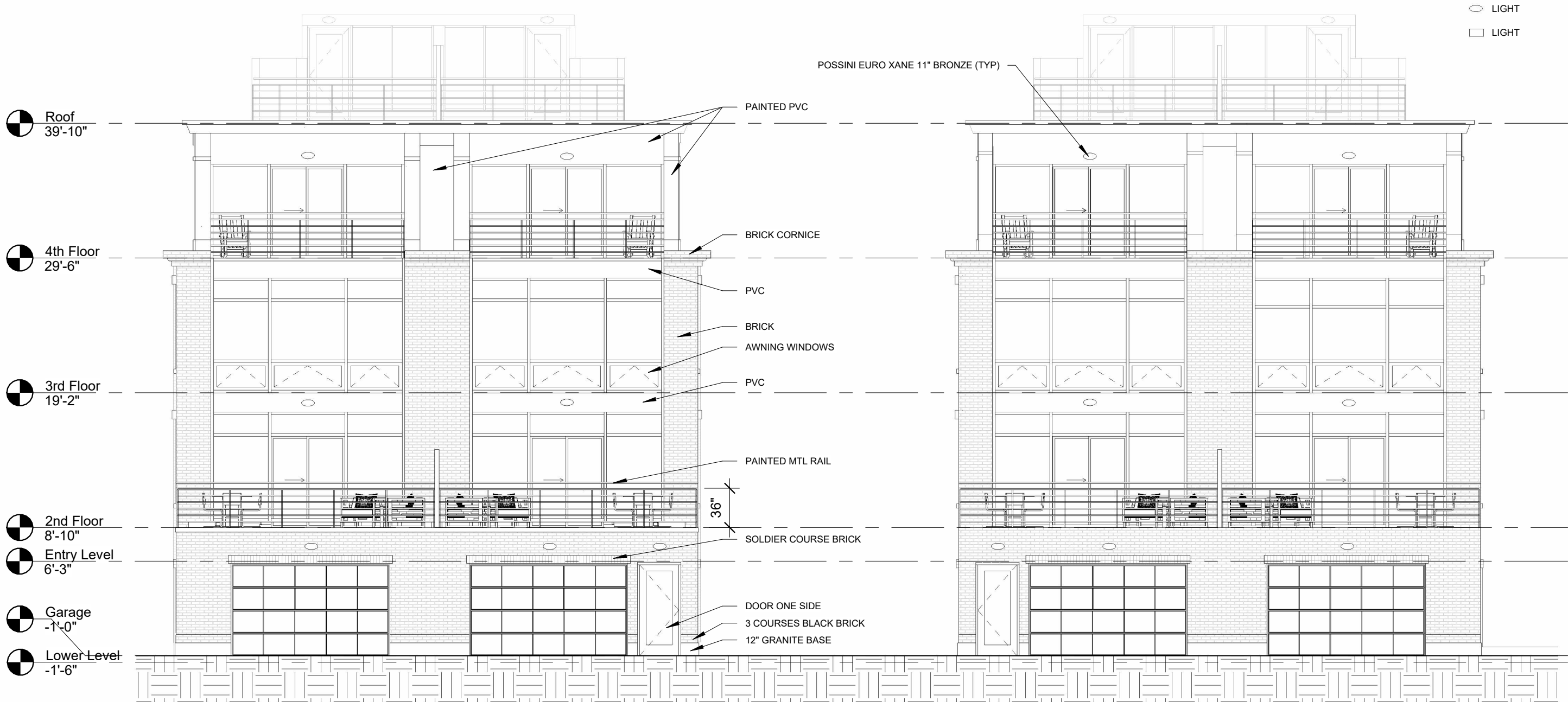
1 | CARLETON STREET ELEVATION
1/16" = 1'-0"

Architect: **ARCHETYPE**
architects
48 Union Wharf Portland, Maine 04101
(207) 772-6022 Fax (207) 772-4056

Date: 06/28/2023 Scale: 1/16" = 1'-0"
CARLETON STREET
ELEVATION

Project: 19 WEST ST.
PORTLAND, MAINE

A2.02



1 | TOWNHOUSES REAR ELEVATIONS

1/8" = 1'-0"

Architect: **ARCHETYP**

architects
48 Union Wharf Portland, Maine 04101
(207) 772-6022 Fax (207) 772-4056

Date: 06/28/2023 Scale: 1/8" = 1'-0"

TOWNHOUSES REAR
ELEVATIONS

Project: 19 WEST ST.

PORTLAND, MAINE

A2.03



1 | TOWNHOUSE DRIVE SIDE ELEVATION
1/8" = 1'-0"

Architect: **ARCHETYPE**
a r c h i t e c t s
48 Union Wharf Portland, Maine 04101
(207) 772-6022 Fax (207) 772-4056

Date: 06/28/2023
Scale: 1/8" = 1'-0"
TOWNHOUSE DRIVE
SIDE ELEVATION

Project: 19 WEST ST.
PORTLAND, MAINE

A2.04



1 | TOWNHOUSE SIDE ELEVATION
1/8" = 1'-0"

Architect: **ARCHETYPE** architects
48 Union Wharf Portland, Maine 04101
(207) 772-6022 Fax (207) 772-4056

Date: 06/28/2023 Scale: 1/8" = 1'-0"
TOWNHOUSE SIDE ELEVATION

Project: 19 WEST ST.
PORTLAND, MAINE

A2.05



1 | 19 WEST NEW SOUTH ELEVATION
1/8" = 1'-0"



1 | 19 WEST NEW WEST ELEVATION
1/8" = 1'-0"

Architect: **ARCHETYP**
Architects
48 Union Wharf Portland, Maine 04101
(207) 772-6022 Fax (207) 772-4056

Date: 06/28/2023
Scale: 1/8" = 1'-0"
19 WEST NEW WEST
ELEVATION

Project: 19 WEST ST.
PORTLAND, MAINE

A2.22



1 | 19 WEST NEW NORTH ELEVATION
1/8" = 1'-0"

Architect: **ARCHETYPE**
architects
48 Union Wharf Portland, Maine 04101
(207) 772-6022 Fax (207) 772-4056

Date: 06/28/2023
Scale: 1/8" = 1'-0"
19 WEST NEW NORTH
ELEVATION

Project: 19 WEST ST.
PORTLAND, MAINE

A2.23



1 | 19 WEST NEW EAST ELEVATION
 1/8" = 1'-0"

Architect: **ARCHETYPE**
Architects
 48 Union Wharf Portland, Maine 04101
 (207) 772-6022 Fax (207) 772-4056

Date: 06/28/2023
 Scale: 1/8" = 1'-0"
 19 WEST NEW EAST
 ELEVATION

Project: 19 WEST ST.
 PORTLAND, MAINE

A2.24

Planning Board

2024 Meeting Schedule



All meetings are held in person at City Hall while also providing Zoom meeting information to those that want to attend remotely. (unless otherwise noted in red below)

Meetings are typically held on the 2nd and 4th Tuesdays of each month with workshops beginning at 4:30 pm and public hearing at 7:00 pm.

Generally, only one meeting is held in August and December. Please refer to the [Agenda Center](#) for any updates.

Meeting Dates for 2024

January 9, 2024
January 23, 2024
February 13, 2024
February 27, 2024
March 12, 2024
March 26, 2024
April 9, 2024
April 23, 2024
May 14, 2024
May 28, 2024
June 11, 2024
June 25, 2024
July 9, 2024
July 23, 2024
August 13, 2024
September 10, 2024
September 24, 2024
October 8, 2024
October 22, 2024
November 12, 2024
November 26, 2024
December 10, 2024

Planning and Urban Development

Kevin Kraft, AICP

Deputy Director



From: Matthew Grooms, AICP – Development Review Services Manager

To: Chair Mazer and the Portland Planning Board

Date: 11/9/2023

Subject: 2 West Commercial Street – Major Site Plan - Tabling

The applicant, Maine DOT Port Authority, has requested that the Major Site Plan for 2 West Commercial Street be removed from the November 14, 2023 Planning Board agenda and tabled to a date certain, Tuesday, November 28, 2023.

Planning and Urban Development

Kevin Kraft, AICP

Deputy Director



From: Matthew Grooms, AICP – Development Review Services Manager

To: Chair Mazer and the Portland Planning Board

Date: 11/9/2023

Subject: 246 Eastern Promenade – Major Site Plan - Tabling

The applicant, ECK Realty, LLC, has requested that the Major Site Plan for 246 Eastern Promenade be removed from the November 14, 2023 Planning Board agenda and tabled indefinitely to allow for significant design revisions to the project. Once the applicant resubmits the application, Planning Staff will work with the applicant to determine a new meeting date. Once a new meeting date is confirmed, Planning staff will re-notice the meeting in the Newspaper of Record, and will resend abutter notifications in advance of the new meeting date.

19 Willis Street (formerly 33 Montreal Street)
Level III Site Plan and Subdivision
PL-000807-2019 | CBL: 015 B022
37 Montreal Street LLC, Applicant

Submitted to:	Portland Planning Board	Prepared By:	Kevin Kraft
Public Hearing Date:	November 14, 2023	Date:	November 10, 2023

I. INTRODUCTION

At its December 14, 2021 meeting, the Planning Board unanimously voted 6-0 (Smith absent) to approve an application for a new 12-unit multi-family residential building totaling 22,900 square feet in floor area including a basement level of approximately 5,800 square feet containing 13 parking spaces at 19 Willis Street (Attachment 1).

On August 22, 2023, after a series of appeals, the Maine Supreme Judicial Court (“Law Court”) concluded that the Planning Board’s findings were insufficient to enable meaningful appellate review and issued instructions to the Cumberland County Superior Court to remand the matter to the Planning Board to make further findings of fact related to the development’s height and setback requirements and historic preservation design review requirement (Attachment 3). The Superior Court issued an Order remanding this matter to the Planning Board on September 18, 2023. The application is therefore back before the Planning Board on remand for further fact finding on those three separate issues.

A total of 208 notices were sent to property owners within 500 feet of the site and a legal notice ran in the November 4 and November 7 2023 editions of the *Portland Press Herald*.

II. BACKGROUND

At its December 14, 2021 meeting, the Planning Board unanimously voted 6-0 (Smith absent) to approve an application for a new 12-unit multi-family residential building totaling 22,900 square feet in floor area including a basement level of approximately 5,800 square feet containing 13 parking spaces at 19 Willis Street located in the R-6 zone and Munjoy Hill Neighborhood Conservation Overlay District (MHNCO). The Planning Board held a workshop open to the public on September 24, 2019 (Attachment 2) and a public hearing was held on December 14, 2021 (Attachment 1).

On January 15, 2022, neighbors (Peter L. Murray, Deborah D. Murray, Carol Connor, Michael Hoover, and Jean McManamy) (“Petitioners”) filed a Rule 80B petition for review of the Planning Board’s decision. In the appeal, Petitioners challenged the Board’s decision to approve 19 Willis Street on three main grounds alleging : (1) The Board erred by improperly calculating the height of the Property from average post development grade; (2) The Board erred when it determined that retaining walls were not “conforming structures” for setback compliance purposes; and (3) The Board erred in deciding not to commission a standalone report from the City’s Historic Preservation Board regarding character and building patterns of the Munjoy Hill neighborhood and in failing to find the project compatible with such character and building patterns. On August 1, 2022, Justice John O’Neil Jr. of the Maine Superior Court issued an order (Attachment 4) denying Petitioners’ Petition for Review of Governmental Action filed pursuant to M.R. Civ. P. 80B.

Subsequently, Petitioners appealed the Superior Court's judgment denying their Rule 80B petition for review of government action to the Law Court. On August 22, 2023, the Law Court issued its decision which vacated the Superior Court's August 1, 2022 judgment and remanded the matter to the Superior Court with instructions to remand to the City of Portland Planning Board for further findings of fact related to the proposed development's height and setbacks, and historic preservation design review requirement. In its decision, the Law Court determined that the Planning Board's findings were insufficient to enable meaningful appellate review of the issue of height calculation, setback and historic preservation design.

As this project was filed and received its initial Planning Board workshop prior to the December 1, 2020 adoption of the current Land Use Code, it is subject to the previous code (Attachment 5), and all code citations within this report have been made accordingly.

III. PROPOSED PROJECT

The development site is located on the northern corner of Montreal and Willis streets in Portland's Munjoy Hill neighborhood and is currently improved with two existing vacant single-family homes. The site is bordered by the MacArthur Gardens Apartment complex to the northeast, with single-family homes to the east, south, and west. Promenade East Condominiums Tower, a 14-story residential building is located approximately 200 feet north of the development site, across Walnut Street, and abuts the Island View Apartment Complex. Eastern Promenade, a 78-acre city-owned park, is less than a quarter mile north of the site. Fort Sumner Park is less than a quarter mile to the south of the site. Two community gardens, Casco Bay Community Garden and the North Street Community Garden are located to the northeast and west of the site, respectively. The site and the immediate area are accessible to public transit. METRO Bus Route 1 stops along North Street and the Eastern Promenade roughly two blocks west and one block north of the development site, respectively.



Figure 1: Development Site (19 Willis Street) outlined in red

The applicant is proposing to develop a new approximately 22,900 square foot, four-story residential building with 12 total dwelling units, including one workforce housing unit. The new building would include an approximately 5,800 square foot basement-level constructed parking garage with 13 parking spaces. The

parking area would be accessed via a new driveway off Montreal Street, located at the rear of the building. The ground floor is proposed to include three two-bedroom units, one three-bedroom unit, an entrance lobby, and package room. Floor two is proposed to have one one-bedroom unit, one two-bedroom unit, and two three-bedroom units. Floors three and four are each proposed to include two three-bedroom units. A series of retaining walls and terraced planters are proposed to address the grade change on site. A landscape plan illustrates the planting pallet to be incorporated with the terraces.



Figure 2: Proposed Building Renderings - Source: Kaplan Thompson Architects

IV. ISSUES ON REMAND

1. Maximum Height Requirements

The proposed project is located within the R-6 Residential zone and Munjoy Hill Neighborhood Conservation Overlay District (MHNCD). Section 14-139 specifies dimensional standards for buildings in the R-6 zone. Maximum height in the R-6 zone is 45-feet, and in the case of lots where the property line abuts a residential zone, buildings above 35 feet are required to stepback 10 feet from side property lines and 15 feet from the rear property line.

Section 14-140.5(c) of the Land Use Code specifies the dimensional standards for buildings in the MHNCD. The MHNCD contains standards for building form and dimensional requirements for new construction, with specific standards for maximum building height, roof forms, setbacks, parking placement, rooftop appurtenances, and front façade standards that vary from the base R-6 zone requirements. The maximum permitted height in the MHNCD is up to 35-feet, or 45-feet for buildings with three or more units on lots over 2,000 square feet that include at least one workforce housing unit on-site. Workforce housing units shall be no smaller than 50% of the average size of the other units in the development, must meet the definition for such units and only be sold or rented to a household at or below the applicable income levels. These requirements shall be deed restricted for affordability for the longest term possible under state and federal law. Unlike the base R-6 zone requirements, buildings that rise above 35 feet in areas governed by the MHNCD are not required to provide a stepback.

The applicant is proposing to develop a new approximately 22,900 square foot four-story, approximately 45-foot tall building with 12 total dwelling units, including one workforce housing unit on an approximately 10,800 square foot corner lot. The proposed building would have a flat roof with a continuous parapet/cornice at the outer perimeter edges. In order to qualify for the maximum permitted height of 45 feet within the MHNCD the applicant has elected to provide Unit 14, a two-bedroom unit that is 1,059.27 square feet as their required workforce unit.

Section 14-47 of the Land Use Code defines “height” as the “vertical measurement from grade, or the pre-development grade on the islands, to the highest point of the roof beams on flat roofs.” The term “grade” is not defined in the Land Use Code. There is, however, a distinction made in the definition of height between measurements applicable to the mainland and those applicable to the islands. “Pre-development grade,” which is applicable on the City’s islands, is defined as “average grade, existing on October 1, 2000 at the corners of the foundation of the proposed structure.” Therefore, noting the distinction between measuring from pre-development grade on the islands, the City’s longstanding practice has been to calculate allowable height on the mainland from average finished grade.

Acceptable methods for calculating average finished grade include averaging the elevation of the abutting ground surface at consistent intervals around the perimeter of the building or by averaging the elevation of the proposed abutting ground surface at the building corners. The applicant calculated the average finished grade in this instance by utilizing 23 grade points around the base of the building resulting in an average grade of 138’-.09” (rounded to 138’ -1”) as shown on the applicant’s submitted plan labeled C2.1 Average Grade Calculation (Attachment 6). The method the applicant used to determine the average grade for the building is consistent with the acceptable methods for averaging grade.

Based on the applicant’s submitted plans, the development is in conformance with the applicable zoning regulations for buildings located in the R-6 zone and MHNCD. The applicant’s lot is approximately 10,800 square feet, which is greater than the minimum 2,000 square feet required for lots to be permitted to reach a maximum height of 45 feet. Additionally, the proposed building would contain 12 total dwelling units and would include one workforce unit on-site. As shown on applicant’s Plans C-2, the average grade for the site is 138’-1” and the maximum building height to the top of the roof beams is 182’-6” ¼” resulting in a building height of 44’- 5¼” which is less than 45 feet.

2. Setback Requirements

In addition to the standards that are applicable to properties in the R-6 zone, all properties within the MHNCD have to meet the standards of Section 14-140.5(c) of the Land Use Code. The R-6 zone requires buildings to have a front setback of five feet or the minimum depth of the immediately abutting street-facing yard, whichever is less. Buildings in the MHNCD that are over 35 feet in height are required to have a rear yard setback of 15 feet and 10 feet for all side yards, except that a side yard no less than five feet is permitted when used to continue a documented built pattern of the surrounding streetscape, in which case a proportional increase in another side yard must be provided. Also, buildings in the MHNCD are required to have a side setback on a side street of five feet or the minimum depth of the immediately abutting street-facing yard, whichever is less and no side setback on a side street is required when demonstrated that reduced setbacks are necessary to facilitate the provision of underground parking.

Proposed Building’s Applicable Setback Requirements			
Dimensional Requirements	R-6 Zone	MHNCD	Proposed
Min Front Yard	5 feet	N/A	5 feet

Min Side Yard	5 feet	10 feet (Bldg. over 35' height), except that a side yard no less than 5 feet is permitted when used to continue a documented built pattern of the surrounding streetscape, in which case a proportional increase in another side yard must be provided.	10.3 feet
Min Side Street Setbacks	N/A	5 feet or the minimum depth of the immediately abutting street-facing yard, whichever is less.	5 feet
		None when demonstrated that reduced setbacks are necessary to facilitate the provision of underground parking.	
Min Rear Yard	10 feet	15 feet (Bldg. over 35' height)	31.5 feet

Based on the applicant's submitted plans and documents the proposed development is in conformance with the applicable zoning regulations for buildings located in the R-6 zone and MHNCD. According to the applicant's submitted proposed site plan drawing C1.0 and Zoning Assessment Table the proposed building would have a minimum front setback of five feet, minimum side yard setbacks of approximately 10.3 feet, a minimum side setback on a side street of five feet, and a minimum rear yard setback of approximately 31.5 feet.

In addition to the building, the applicant's proposed development includes a series of landscaped terraces and landscaped planters supported by a retaining wall located within the required setback areas. Section 14-47 defines "setback" as "[t]he required distance and the land resulting therefrom between a street line and the closest possible line of conforming structure." Additionally, Section 14-47 defines "structure" as "[a]nything constructed or erected of more than one (1) member which requires a fixed location on the ground or attached to something having a fixed location on the ground." However, for setback purposes, certain miscellaneous auxiliary structures such as retaining walls that are not part of the foundational support for a building, landscaped terraces, landscaped planters, raised garden beds, fences, flagpoles, and other similar structures are not considered "conforming structures" which need to be setback from the street or lot line and are therefore exempt from setback dimensional requirements. According to the applicant's submitted plans, including drawings C1.0, C2.1, and A-1.1 (Attachment 7), the proposed building and its foundation meet the minimum setback requirements. Plans also show landscaped terraces and planters encircling the building that are supported by a retaining wall which facilitates the provision of underground parking and establishes a level development site on a sloped parcel. Because these features on the plan are all components of the landscaping or site preparation, and not part of the foundational support for the building, they are not conforming structures that are otherwise required to meet applicable setback requirements. Therefore, the applicant's proposed development meets the applicable setback requirements.

3. Design Review Requirements

Because the development site's lot is over 10,000 square feet, the proposed project was reviewed against the *Multiple-Family* Standards of the City of Portland Design Manual.

The proposed development is not located in a historic district. However, the development site is within 100 feet of the Munjoy Hill Historic District. According to Land Use Code Section 14-526(d)(5)(b), when any part of a proposed development is within 100 feet of a designated landmark, historic district, or historic landscape district, such development shall be generally compatible with the major character-defining elements of the portion of the district in the immediate vicinity of the proposed development. For the purposes of this provision, "compatible" design is defined as design which respects the established building patterns and visual characteristics that exist in a given setting and, at the same time, is a distinct product of its own time. To aid the Planning Board in its deliberations, historic preservation staff are required to provide a written analysis of the proposed development's immediate context, identifying the major character-defining elements.

To aid in the Planning Boards review and findings of the proposed project, a design review was performed by Urban Designer, Caitlin Cameron, Planner, Andrew Tufts, and Historic Preservation Program Manager, Deb Andrews (Attachment 8). Included in the design review memo is an analysis of the proposed development's immediate context, major character-defining elements and any established built patterns that characterize the context. Specifically, the design review memo noted the following as it related to the project:

- The proposal is on a transitional site between a more recent context of Promenade Towers and MacArthur Gardens – two large/mid-scale apartment complexes – compared with the predominant, traditional fabric found a block away.
- The predominant, character-defining elements of residential architecture in the neighborhood context include vertical proportion massing, simple roof forms, vertical windows with local symmetry, two or three-bay façade composition, and simple material palettes – predominantly clapboard with masonry foundation.
- The overall massing and form of the building is a simple box with flat roof consistent with the simple forms and massing found in neighborhood multi-family buildings. The building has a clear primary and secondary façade – also a predominant characteristic of corner buildings in this context. These design elements are consistent with and complement the nearest residential neighborhood by referencing common patterns and elements while remaining a contemporary expression.
- The project uses a simple material palette of shingle and panel applied consistently throughout the building creating a simple, cohesive design. This is typical of the context and staff agree this contributes to complementing and enhancing the neighborhood. The fine grain of the material is appropriate for a residential building and is compatible with the materials in this context.
- The façades generally relate to the context through the regular pattern/rhythm of windows; the window types are limited and placed in a regular rhythm consistent with the traditional residential buildings.
- The building placement is consistent with residential structures in the neighborhood – placed near the street with a small setback with planted edge.

Based on the drawings and plans submitted and the staff analysis provided in the final design review memo, including input from the City's Historic Preservation Program Manager, Deb Andrews, the proposed project is consistent with the design review standards for multi-family projects and is compatible with the major character-defining features of the surrounding neighborhood. For all of these reasons, the written memorandum dated December 14, 2021 is a sufficient written analysis from contributing Historical Preservation staff member, Deb Andrews, to satisfy Section 14-526(d)(5)(b).

V. PLANNING BOARD MOTIONS

Site Plan Review

On the basis of the application, plans, reports and other information submitted by the applicant, the Board hereby adopts the findings and conclusions contained in the Planning Board Report for the public hearing on November 14, 2023 for application #PL-000807-2019 as supplemental findings of fact and conclusions to its December 14, 2021 decision approving the plan and finding it is in conformance with the site plan standards of the Land Use Code.

VI. ATTACHMENTS

REPORT ATTACHMENTS

Attachment 1 – Willis St. – 19 App. Ltr. 12-14-2021 & Willis St. – 19 PB Hearing Report 12-14-2021.pdf
 Attachment 2 – 33 Montreal Street PB Workshop Memo.pdf
 Willis St. – 19 PB Hearing Report 12-14-2021.pdf
 Attachment 3 – Order of Remand 2023 09 18.pdf
 Attachment 4 – Order 2022 08 01.pdf
 Attachment 5 – Chapter 14 Land Use Code 2020.pdf
 Attachment 6 – C2.1 Average Finished Grade.pdf
 Attachment 7 – Setback Compliance Drawings.pdf
 Attachment 8 – Final Design Review 12-14-2021.pdf
 Attachment 9 – Response to Design Review.pdf
 Attachment 10 – Housing Program Manager Memorandum
 Attachment 11 – September 24 2019 Workshop – Memo Attachments
 Attachment 12 – 12/14/2021 Willis St. – 19 (Applicants Submittal)
 Attachment 13 – 12/14/2021 Willis St. – 19 (Plans)
 Attachment 14 – 12/14/2021 Willis St. – 19 (Report Attachments)
 Attachment 15 – 12/14/2021 Willis St. – 19 (Report)

APPLICANT'S SUBMITTAL

A_Application Checklist
 B_Project Description
 C_Right, Title and Interest
 D_Financial and Technical Capability
 E_Zoning Assessment
 F_Transportation
 G_Stormwater
 H_Uilities
 I_Solid Waste
 J_Public Infrastructure and Safety

K_Design Review_Site Design
L_Design Review _R6 Design Principles
M_Ability to Serve Determination
N_Wastewater Capacity Authorization
O_Verification of Posted Public Meeting Notice

PLANS

Plan 1_Boundary Survey
Plan 2_Design Review_Context
Plan 3_Neighborhood Context
Plan 4_Architectural Drawings
Plan 5_Architectural Renderings
Plan 6_Revised Civil Drawings
Plan 7_Landscape Plan
Plan 8_Construction Management Plan

12/14/2021 PUBLIC COMMENT

Pc 1 – pc23

CITY OF PORTLAND, MAINE

PLANNING BOARD

Brandon Mazer, Chair
 Maggie Stanley, Vice Chair
 Marpheen Chann
 Sean Dundon
 Bob Dunfey
 David Silk
 Austin Smith

December 17, 2021

Tim Wells
 Saint John's Valley, LLC.
 8 Drew Road
 South Portland, ME 04106

Richard Lo
 Kaplan Thompson Architects
 102 Exchange St. 2nd floor
 Portland, ME 04101

Project Name: Multifamily Building
Address: 19 Willis Street
Applicant: 37 Montreal Street, LLC.
Planner: Austen Torres Davis

Project ID: PL-000807-2019
CBL: 015 B015001
 015 B022001

Dear Mr. Wells:

On December 14, 2021, the Planning Board approved a Level III Site Plan, Subdivision, and Inclusionary Zoning Conditional Use application for 19 Willis Street, 12-unit multi-family residential building totaling 23,400 square feet in floor area. This project is in the R-6 Residential Zone and the Munjoy Hill Neighborhood Conservation Overlay District. The decision is based upon the application, documents and plans as submitted. The Planning Board reviewed the proposal for conformance with the standards of the Site Plan, Subdivision, and Inclusionary Zoning Ordinances. The Planning Board voted unanimously to approve the application with the following conditions as presented below.

Inclusionary Zoning Conditional Use

The Planning Board voted 6-0 (Smith absent) to find the proposed conditional use for workforce housing meets the standards of Land Use Code Sections 14-484 and 14-487 with the following condition(s):

PRIOR TO ISSUANCE OF A BUILDING PERMIT

1. For the Munjoy Hill Neighborhood Conservation Overlay District height density bonus, the Applicant and the City shall enter into an Affordable Housing Agreement for Unit 14 at 19 Willis Street.

PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY

2. The Affordable Housing Agreement shall outline the details of the affordability restrictions placed on the workforce unit and shall be filed as a covenant to the 19 Willis Street property deed with the Cumberland County Registry of Deeds; and
3. The applicant will pay a fee-in-lieu of \$132,586.80 into the City's Housing Trust Fund. Should at a later date any change in total unit count be considered, a revised proportional fee-in-lieu payment will also be required.

The Planning Board voted 6-0 (Smith absent) that the plan is in conformance with the subdivision standards of the Land Use Code Section 14-496, subject to the following condition(s) of approval:

PRIOR TO THE SUBMISSION OF THE PLAT FOR PLANNING BOARD SIGNATURE

1. The subdivision plat shall be finalized to the satisfaction of the Planning Authority, Corporation Counsel and Department of Public Works and include clear descriptions of the number, location, type and size of all subdivided units, along with relevant notes and conditions.

PRIOR TO ISSUANCE OF A BUILDING PERMIT

2. The signed subdivision plat shall be recorded at the Cumberland County Registry of Deeds.

Site Plan Review

The Planning Board voted 6-0 (Smith absent) to find that the plan is in conformance with the site plan standards of the Land Use Code Section 14-527, subject to the following condition(s) of approval:

PRIOR TO APPLICATION FOR A BUILDING PERMIT

1. The applicant shall update the plan set to include street tree and tree well details for review and approval by the Planning Authority and City Arborist.

PRIOR TO ISSUANCE OF A BUILDING PERMIT

2. A financial contribution totaling \$3,200, to be paid into the City's street tree fund, shall be provided for the required eight street trees not provided on-site. The applicant may also choose to pursue a street tree alternative as listed in the City's site plan ordinance, Section 14-526.

The approval is based on the submitted plans and findings related to site plan review and subdivision review as contained in the Planning Board report dated December 10, 2021 for application # PL-000807-2019 which is attached.

Standard Procedures

Note: The following standard procedures and requirements apply to all approved site plans:

1. Subdivision Recording Plat A final recording plat, listing all conditions of subdivision approval, must be submitted to the Planning and Urban Development Department for review. Once approved, the plat shall be signed by the Planning Board. A performance guarantee must be issued prior to release of the recording plat for recording at the Cumberland County Registry of Deeds. One mylar copy of the recording plat with signatures and the recorded book and page must be returned to the Planning and Urban Development Department.

2. Subdivision Waivers Pursuant to 30-A MRSA section 4406(B)(1), any waiver must be specified on the subdivision plan or outlined in a notice. The plan or notice must be recorded in the Cumberland County Registry of Deeds within two (2) years of the final subdivision approval.
3. Site Plan Expiration The site plan approval will be deemed to have expired unless work has commenced within one (1) year of the approval or within a time period up to three (3) years from the approval date as agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the one (1) year expiration date.
4. Subdivision Expiration Subdivision approval is valid for up to three (3) years from the date of Planning Board approval.
5. Separate Building Permits Are Required This approval does not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Permitting and Inspections Department.
6. Performance Guarantee and Inspection Fees A performance guarantee covering the site improvements and an inspection fee payment of 2.0% of the guarantee amount and three (3) final sets of plans must be submitted to and approved by the Planning and Urban Development Department and Public Works Department prior to the release of a building permit, street opening permit or certificate of occupancy for site plans.
7. Construction Management Plans The applicant, contractor and subcontractors are required to conform to the approved Construction Management Plan, and all conditions contained within the project's approval, for the entire duration of the project. Any amendments to the approved Construction Management Plan shall be reviewed and approved by the Department of Public Works prior to the execution. The Planning Authority and the Department of Public Works have the right to seek revisions to an approved Construction Management Plan. The applicant shall coordinate the project's construction schedule with the timing of nearby construction activities to avoid cumulative impacts on a neighborhood and prevent unsafe vehicle and pedestrian movements. Accordingly, nearby construction activities could involve a delay in the commencement of construction.
8. Preconstruction Meeting Prior to the release of a building permit and scheduling of a preconstruction meeting, a hard copy set of approved plans shall be submitted to the Development Review Coordinator. A pre-construction meeting shall be held at the project site with the contractor, Development Review Coordinator, Public Works representative, and owner to review the construction schedule and critical aspects of the site work. At that time, the Development Review Coordinator will confirm that the contractor is working from the approved site plan and the approved Construction Management Plan. The site/building contractor shall provide one (1) copy of a detailed construction schedule to the attending City representative. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.

9. Department of Public Works Permits If work or obstructions will occur within the public right-of-way, such as utilities, curb, sidewalk, driveway construction, site deliveries and equipment siting, a Street Opening and/or Occupancy Permits are required for your site. Please contact the Department of Public Works Permit Clerk at (207) 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)
10. Develop Site According to Plan The site shall be developed and maintained as depicted on the site plan and in the written submission of the applicant. Any modifications of an approved site plan or alteration of a parcel, or of any approved exterior elevations, which were the subject of site plan approval after May 20, 1974, shall require the prior approval of an amended site plan by the Planning Board or Planning Authority pursuant to the terms of Chapter 14, Land Use, of the Portland City Code.
11. Stormwater Management The owner/operator of an approved stormwater management system, and all assigns shall comply with the conditions of Chapter 32, Stormwater including Article III, Post Construction Stormwater Management, which specifies the annual inspections and reporting requirements.

A maintenance agreement for the stormwater drainage system, as attached, or in substantially the same form, shall be submitted for review by Corporation Counsel. Once approved, the document shall be signed and recorded at the Cumberland County Registry of Deeds prior to the issuance of a building permit. Final copies shall be submitted to both the Department of Planning and Urban Development and the Department of Public Works.
12. Defect Guarantee A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
13. As-Built Final Plans Final sets of as-built plans shall be submitted digitally to the Planning and Urban Development Department, on a CD or DVD, in AutoCAD format (.dwg), release AutoCAD 2005 or greater.
14. Mylar Copies Mylar copies of the as-built drawings for the public streets and other public infrastructure in the subdivision must be submitted to Public Works prior to the issuance of a certificate of occupancy.

The Development Review Coordinator must be notified five (5) working days prior to the date required for final site inspection. The Development Review Coordinator can be reached at the Planning and Urban Development Department at (207)874-8901. All site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If there are any questions, please contact Austen Torres Davis at (207) 874-8936 or via austentd@portlandmaine.gov.

Sincerely,

A handwritten signature in black ink that reads "Brandon Mazer". The signature is written in a cursive, flowing style.

Brandon Mazer, Chair

Attachments:

1. 19 Willis Street – Planning Board Hearing Report (12-14-2021)
2. Portland City: Chapter 32
3. Sample Stormwater Maintenance Agreement
4. Performance Guarantee Packet

PLANNING BOARD REPORT PORTLAND, MAINE



19 Willis Street (formerly 33 Montreal Street)
Level III Site Plan and Subdivision
37 Montreal Street LLC, Applicant
PL-000807-2019 CBL: 015 B022

Submitted to: Portland Planning Board
Public Hearing Date: December 14, 2021

Prepared by: Austen Torres Davis, Planner
Date: December 10, 2021



Figure 1: Parcel Outline in Neighborhood Context - Source: CONNECTexplorer

I. INTRODUCTION

37 Montreal Street LLC., has submitted a Level III Site Plan, Subdivision and Inclusionary Zoning application for the development of a four story, twelve-unit residential building of 23,400 square feet in size at 19 Willis Street. The subject property is a 10,804 square foot parcel located at the corner of Montreal Street and Willis Street. Since the application was first submitted the address was updated to 19 Willis Street, as confirmed by the Portland Fire Department.

The subject property is zoned R-6 Residential, is within the Munjoy Hill Neighborhood Conservation Overlay District (MHNCO), and seeks to utilize the provisions within Sec. 14-140.5 of the Legacy Land Use Code to

allow for an additional ten feet of building height via the provision of a workforce housing unit onsite for projects located within the MHNCD.

The Planning Board held a public workshop for this application on September 24, 2019. At that meeting, the project was presented to the Board by the Planner, Urban Designer, and the applicant team, which was followed by Board questions. Public testimony was then provided, primarily focusing on issues of scale, massing, and neighborhood compatibility. Board deliberation concurred with staff's assessment that the neighborhood scale is transitional, which affords greater interpretation in the building's mass and form. The Board appreciated the efforts made to conceal the garage entrance while preserving first floor privacy. One area of concern was the building entrance along Willis Street. The Board requested that the applicant explore ways to humanize the space, which the applicant has since accomplished in their updated plans. Following the workshop, the project experienced a delay and period of dormancy while the applicant explored ways to incorporate the required workforce housing unit into the building in a manner that comports with the City's minimum square footage requirements for workforce units while meeting their development objectives.

As this project was filed and received its initial Planning Board workshop prior to the December 1, 2020 adoption of the current Land Use Code, it is subject to the previous code, and all code citations within this report have been made accordingly.

A total of 208 notices were sent to property owners within 500 feet of the site and a legal notice ran in the December 3rd & December 4th 2021 editions of the *Portland Press Herald*.

Applicant: 37 Montreal Street LLC

Consultants:

- Richard Lo, AIA (Kaplan Thompson Architecture)
- Dustin Roma, P.E. (DM Roma Consulting Engineers)
- John Swan, Surveyor (Owen Haskell Inc.)

II. REQUIRED REVIEWS

<i>Review</i>	<i>Applicable Standards</i>
Site Plan	<i>Section 14-527</i>
Subdivision	<i>Section 14-496</i>
Inclusionary Zoning multi-family >10 units	<i>Section 14-487</i>

III. PROJECT DATA

Existing Zoning	R-6 Residential; Munjoy Hill Neighborhood Conservation Overlay District
Existing Use	Two single-family homes
Proposed Use	12-unit multi-family building
Bedroom Mix	8 three-bedroom units, 2 two-bedroom units, 2 two-bedroom units

Parcel Size	10,804 sf
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	<i>Existing</i>	<i>Proposed</i>	<i>Net Change</i>
Building Footprint	2,240 sf	5,800 sf	+ 3,560 sf
Building Floor Area	3,775 sf	29,200 sf	+ 25,425 sf
Impervious Surface Area	4,724 sf	8,000 sf	+ 3,276 sf
Parking Spaces	4	13	+ 9
Bicycle Parking Spaces	0	14	+ 14



Figure 2: Existing Axonometric Perspective - Source: CONNECTexplorer

IV. BACKGROUND & EXISTING CONDITION

The development site is located on the northern corner of Montreal and Willis streets in Portland's Munjoy Hill neighborhood and is developed with two existing single-family homes. All of the existing buildings are currently vacant. The site is bordered by the MacArthur Gardens Apartment complex to the northeast, with single-family homes to the east, south, and west. Additionally, the 14-story Promenade East Condominiums Tower is located approximately 200 feet to the north, across Walnut Street, which neighbors the Island View Apartment complex. Both are large-scale residential developments. The sidewalks along both Montreal and Willis streets are in need of repair. There are four street trees along Montreal and Willis

streets; these include Sweet Gum, Honey Locust, and Sugar Maple varieties. The nearest open space is the Eastern Promenade, an approximately three-minute walk down Montreal Street. Fort Sumner Park is an approximately four-minute walk to the southwest. There are two community gardens: the Casco Bay Community Garden, located to the northeast, and the North Street Community Garden to the west; both are an approximately five-minute walk from the development site. METRO Bus Route 1 has stops along North Street and the Eastern Promenade roughly two blocks west and one block north of the development site, respectively.



Figure 3: Conceptual Renderings - Source: Kaplan Thompson Architects

V. PROPOSED DEVELOPMENT

The proposed development is a four-story, 12-unit residential building approximately 23,400 square feet in size. To facilitate this development, two existing vacant single-family structures would be demolished. The new building would include a basement-level structured parking garage of approximately 5,800 square feet in size, and would contain 13 parking spaces, storage, mechanical rooms, trash room, and bike storage. The garage would be accessed via a new driveway off Montreal Street, located at the rear of the building. The ground floor is proposed to include three two-bedroom units, one three-bedroom unit, an entrance lobby, and package room. Floor two is proposed to have one one-bedroom unit, one two-bedroom unit, and two three-bedroom units. Floors three and four are each proposed to include two three-bedroom units. A series of terraced planters are proposed to address the grade change on site. A landscape plan illustrates the planting pallet to be incorporated with the terraces.

The proposed project seeks to take advantage of a 10-foot height bonus from 35 feet up to 45 feet. This bonus is pursuant to Land Use Code Section 14-140.5(c), *Munjoy Hill Neighborhood Conservation Overlay District*, which includes a provision for eligible projects of three units or more that include at least one “workforce housing unit for rent.” The unit intended to qualify as rental workforce housing is Unit 14, a two-bedroom unit.



Figure 4: Proposed Elevation - Front Façade – Source: Kaplan Thompson Architects

VI. RIGHT, TITLE, & INTEREST AND FINANCIAL & TECHNICAL CAPACITY

The owner of the property is 37 Montreal Street, LLC. The applicant has provided a copy of the warranty deed, recorded at the Cumberland County Registry of Deeds (Book 8708, Page 61), which demonstrates their right, title and interest in the property.

As evidence to demonstrate sufficient financial and technical capacity, the applicant has provided a letter from Camden National Bank indicating that between the applicant's funds and bank financing, the applicant has sufficient financial capacity to complete the proposed project. Similarly, information has been provided on the development team demonstrating the capacity to design and construct the project.

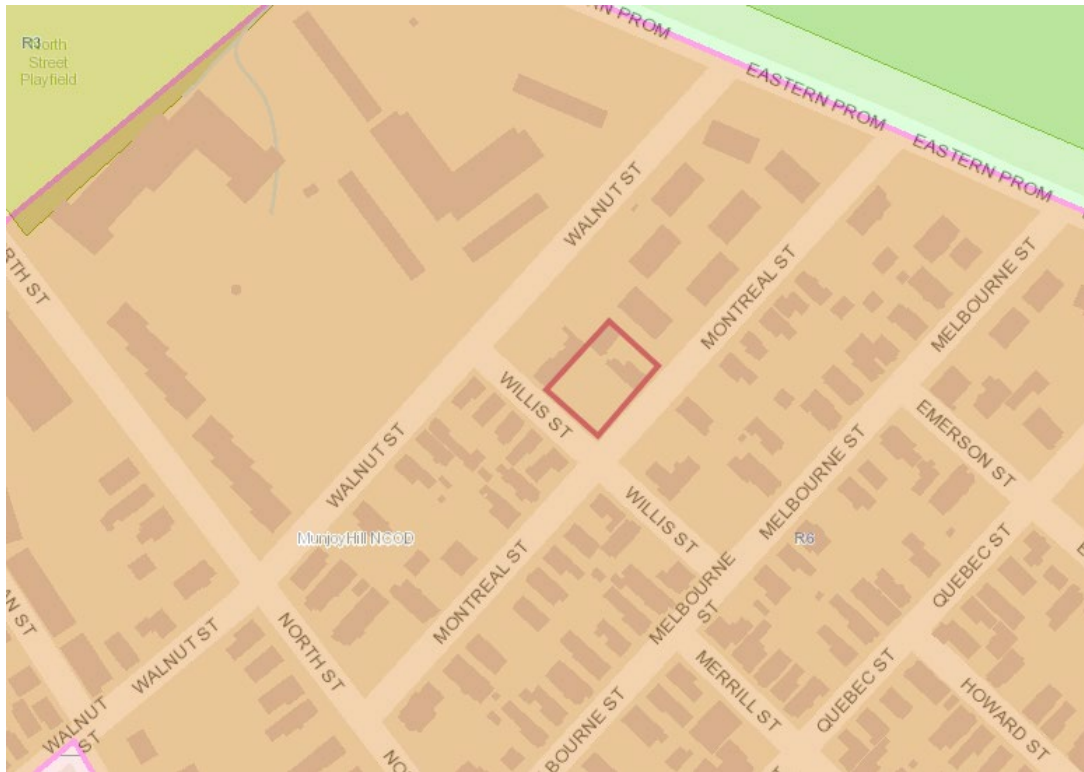


Figure 5: Site in MHNCO and R-6 Zone Context - Source: City's Internal Map Viewer

VII. ZONING ANALYSIS

The property lies within the R-6 Residential zone and within the Munjoy Hill Neighborhood Conservation Overlay District. The following dimensional and parking requirements apply to the R-6 zone:

R-6 Summary of Dimensional and Parking Requirements Applied to 19 Willis St		
	Required	Proposed
Minimum Lot Size	2,000 sf	10,800 sf
Area Per Dwelling Unit	725 sf	900 sf
Minimum Street Frontage	20 ft	90 ft (Willis St)
Front Yard Minimum	5 ft	5 ft
Rear Yard Minimum	15 ft	30 ft
Yard Left Minimum	10 ft	10 ft
Side Street Setback	5 ft (>35 height)	5 ft/ 3 ft
Step Back	15 ft rear/ 10 ft side	>30 ft rear/ 10 ft side
Maximum Lot Coverage	60%	53%
Maximum Height ¹	45 ft above avg. grade	45 ft
Landscape Open Space	20%	26%
Off-Street Parking	1 space per unit	1.1 per unit

¹ Maximum height: 45 feet for developments of 3 units or more on lots over 2,000 sf. that include at least one workforce housing unit. Workforce units shall be no smaller than 50% of the average size of the other units in the development.

VIII. MHNCOD & WORKFORCE HOUSING REQUIREMENTS

The applicant proposes the creation of twelve residential units within the Munjoy Hill Neighborhood Conservation Overlay District. The height of the building will be greater than 35 feet. Subsequently, the project triggers Land Use Code Section 14-140.5 (c), *Maximum Height*, and is required to include one workforce housing unit for rent or sale on-site. The workforce unit shall be no smaller than 50% of the average size of the other units in the development and shall be deed restricted for affordability for the longest term possible under state and federal law. For this project, a minimum workforce unit size of 854 square feet is needed to meet City standards. The applicant proposes to provide a 1,059 sf two-bedroom unit within the building, Unit 14, as their deed-restricted workforce housing unit, meeting the workforce housing requirements. Staff recommend as a condition of approval that the applicant and the city enter into an Affordable Housing Agreement (AHA for unit 14 located at 19 Willis Street) before a building permit may be issued. The Affordable Housing Agreement will outline the details of the affordability restrictions placed on the workforce units and will be filed as a covenant to the 19 Willis Street property deed with the Cumberland County Registry of Deed before certificate of occupancy may be issued. A memorandum from the Housing Program Manager with additional details has been included within the report attachments.

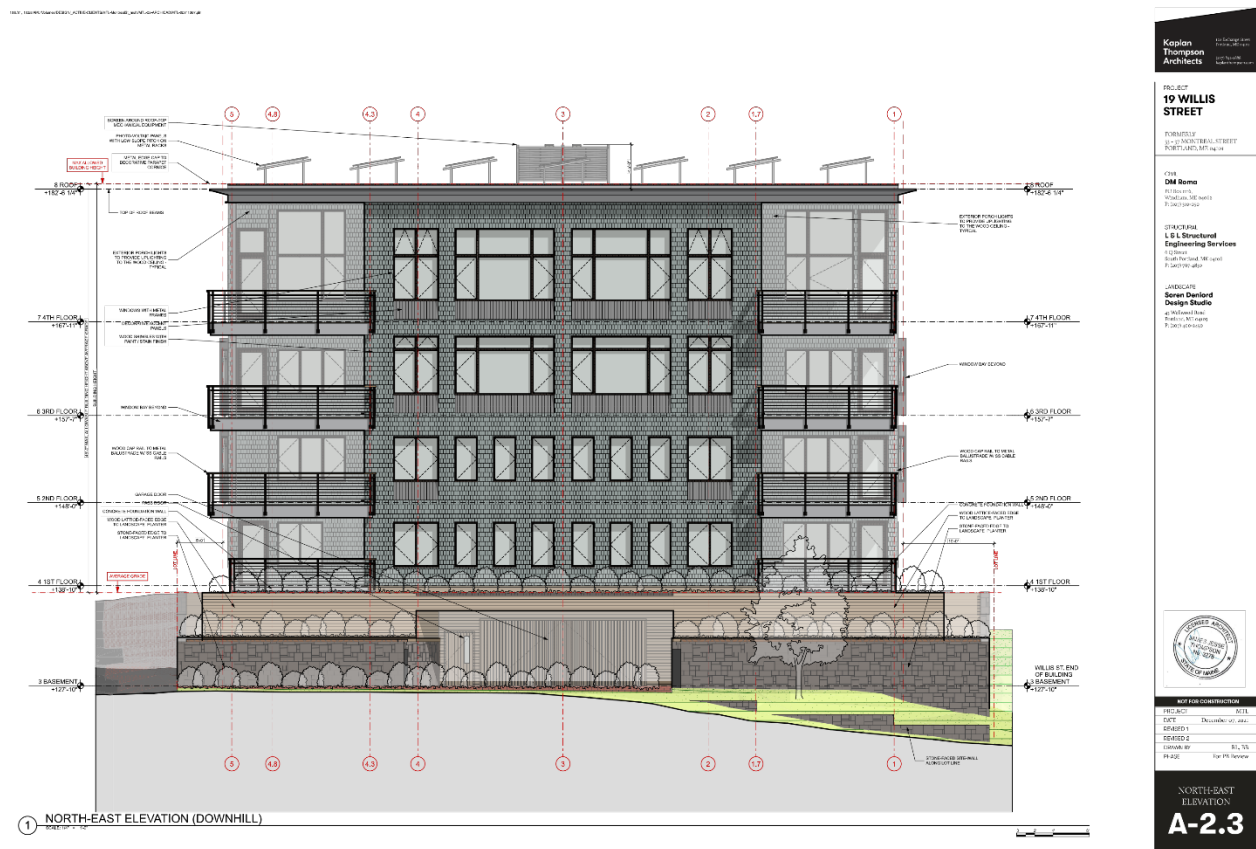


Figure 6: Proposed Elevation - Northeast (Downhill) - Source: Kaplan Thompson Architects

IX. INCLUSIONARY ZONING

Division 30, Section 14-487, Ensuring Workforce Housing, requires at least ten percent (10%) of the dwelling units in the development shall meet the definition of Workforce Housing units for sale or for

rent. The number of units required is rounded down to a whole number whether the Workforce Units are provided on or off-site. A fractional fee-in-lieu would result when the calculation of a project's inclusionary obligation results in a fractional unit. The fractional unit obligation will be provided in the form of a proportional fee-in-lieu. The ordinance under Section 14-487 e 4 also requires the number of bedrooms in the Workforce units shall be at least 10% of the total number of bedrooms made available as part of the development.

As an alternative to providing workforce housing units, developers shall pay a fee-in-lieu of some or all of the units. The fee for affordable units not provided shall be \$100,000 per unit, adjusted annually in the same way as the fee under Division 29 for Housing Replacement.

The project located at 19 Willis Street (formerly 33 Montreal Street) proposes the creation of 12 dwelling units. The applicant has chosen to fulfill the inclusionary zoning requirements by paying a fee-in-lieu. The proposed project would thus be required to pay a total fee of \$132,586.80 (1.2 X \$110,489) into the City's Housing Trust Fund in-lieu of creation of actual housing units for workforce households. As such, the project has met the minimum requirements set forth in Section 14-487.

Staff recommends the agreed upon fee-in-lieu of \$132,586.80 be paid into the City's Housing Trust Fund prior to issuance of the certificate of occupancy for 19 Willis Street. Should at a later date any change in total unit count be considered, a revised proportional fee-in-lieu payment will also be required.

X. DEVELOPMENT REVIEW

A. SITE PLAN SUBMISSION REQUIREMENTS (Section 14-527) and SUBDIVISION PLAT AND RECORDING PLAT REQUIREMENTS (Section 14-496)

The applicant has submitted a recording plat. The final plat will need to be revised to reflect any waivers and conditions of approval that relate to the subdivision plan. Any waivers granted must be recorded at the Registry of Deeds within two years of a Planning Board decision.

B. SUBDIVISION (Section 14-496)

The proposed development has been reviewed by staff for conformance with the relevant review standards of Portland's Subdivision Ordinance and applicable regulations. Staff comments are listed below.

1. Will Not Result in Undue Water and Air Pollution (Section 14-497 (a) 1), and Will Not Result in Undue Soil Erosion (Section 14-497 (a) 4)

The existing site is approximately 44% developed and slopes from the south side of the property (Willis Street) to the north side of the property (MacArthur Gardens Apartments). Stormwater runoff from the project site drains either to the northeast along the curb line in Montreal Street or to the north to the abutting property. The existing site contains approximately 4,724 square feet of impervious surface, with three separate roof lines. Redevelopment of the project site

would result in an increase of approximately 3,276 square feet of impervious area and a total impervious surface of 8,000 square feet.

The stormwater management plan includes the construction of an underground storage and treatment system that consists of a Stormtech Chamber System designed to infiltrate the required water quality volume. The system has been designed to effectively collect, infiltrate and provide treatment of approximately 97% of the total new impervious area and approximately 88% of the total new developed area, exceeding the requirement as indicated in the General Standards of MDEP Chapter 500.

Lauren Swett, P.E. of Woodard and Curran Engineering, Third-Party Reviewer, has reviewed the erosion and sediment control plans and details, as well as the proposed stormwater inspection and maintenance measures, and found the updated plans to be in conformance with the Land Use Code.

2. *Sufficient Water Available (Section 14-497 (a) 2 and 3)*

An ability to serve letter from the Portland Water District has been received and provided.

3. *Will Not Cause Unreasonable Traffic Congestion (Section 14-497 (a) 5)*

The proposed development is not adding significant vehicular traffic to the streets surrounding the development site and a traffic analysis is not required.

4. *Will Provide for Adequate Sanitary Sewer and Stormwater Disposal (Section 14-497 (a) 6), and Will Not Cause an Unreasonable Burden on Municipal Solid Waste and Sewage (Section 14-497 (a) 7)*

The applicant is proposing to utilize the existing combined storm sewer main lines in both Montreal and Willis streets. If the services are to be combined, this should be done within the right of way. This will allow for future separation within the street. The applicant has designed these connections accordingly. The applicant has provided a Wastewater Capacity Authorization Letter.

5. *Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or by the City, rare and irreplaceable natural areas, or any public rights for physical or visual access to the shoreline (Section 14-497(a)(8))*

The site is proximate to the Munjoy Hill historic district. Development on the subject property, which is a previously-developed infill site within an urban neighborhood context located upland from the water's edge, will not adversely affect any significant wildlife habitat, rare or irreplaceable natural areas, or any public access to the shoreline.

6. **Comprehensive Plan (Section 14-497 (a) 9)**

The proposed project supports a number of goals identified in *Portland's Plan 2030*, particularly in the Housing section. Those goals include the Plan's stated desire to increase the overall supply of housing city-wide to meet the needs, preferences and financial capabilities of all Portland residents, to encourage contextually appropriate housing density proximate to neighborhood centers, concentrations of services and transit nodes and corridors, and to enable people who work in Portland to have the option to live in Portland. The Plan also highlights the importance of the City's growth in order to sustain our community, infrastructure, and economy, ensuring growth respects and seeks to preserve of our natural resources, and sensitivity to neighborhood context, which emphasizes the uniqueness of neighborhoods in the Vision Statement (pg. 6). The Comprehensive Plan also outlines goals to ensure an appropriate balance of continuity and change as Portland grows and evolves.



Figure 7. Vision Statement from Portland's Plan 2030

C. **SITE PLAN STANDARDS (Section 14-526)**

The proposed development has been reviewed by staff for conformance with the relevant review standards of Portland's site plan ordinance and applicable regulations. Staff comments are listed below.

1. **Transportation Standards**

a. **Impact on Surrounding Street Systems and Access and Circulation**

ADA compliance is provided at all door locations. The parking will be accessed from Montreal Street by a driveway between the proposed building and the adjacent property. The residential lobby for the proposed building will be located at the ground level on the southern side and would be accessed from the Willis Street sidewalk.

b. **Public Transit Access**

All residential developments consisting of 20 or more dwelling units shall provide a transit shelter adjacent to or within the public right-of-way along its frontage. The proposed project provides twelve dwelling units and therefore this standard is not applicable.

c. **Parking**

Per ordinance requirements in the R-6 zone, the proposed project is required to have a total of 12 parking spaces. The applicant is proposing to include 13 internal parking spaces within the garage, thus meeting the requirement.

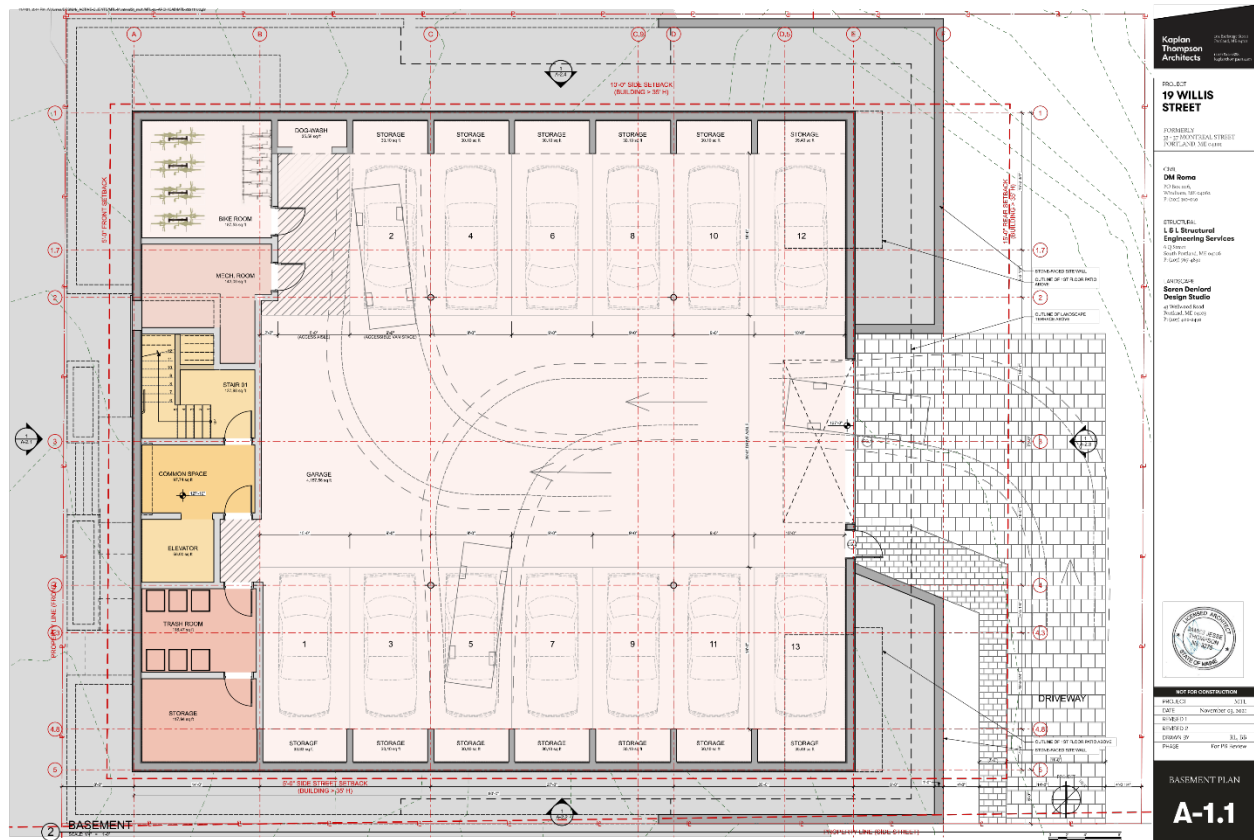


Figure 8: Basement Parking Plan - Source: Kaplan Thompson Architects

d. **Bicycle Parking**

Basement Plan A-1.1 shows 14 bicycle parking spaces are proposed for the project, meeting the minimum requirement of 4.8 spaces.

e. **Snow Storage**

The project design and layout provides an area of approximately 300 square feet located adjacent to the proposed driveway near the northwesterly corner of the site. Snow storage will not conflict with pedestrian access or parking requirements. Snow melt runoff will be treated with the subsurface chamber system. Staff finds this standard to have been met.

2. **Environmental Quality Standards**

a. **Preservation of Significant Natural Features**

The site was formerly development with residential buildings and there are no known significant natural features on the site. There are no anticipated impacts.

b. Landscaping and Landscape Preservation

A landscaping plan was submitted as part of the application. The plan shows a variety of trees, shrubs, and perennials, all listed in the City of Portland Recommended Tree List.

There are four established street trees along Montreal and Willis Streets. The applicant has not proposed the removal of street trees, though if the need to do so arises the applicant will work



Figure 9. Existing Street Trees – Source: Austen Torres Davis

with the City Arborist to explore ways to mitigate the impact of construction and utility connections and preserve trees where possible.

City Arborist Jeff Tarling has commented that, if removal of trees for site access is necessary, removing the smallest tree near the existing driveway on Willis Street would give the applicant adequate construction access. This option would be preferable as the remaining three trees are mature and in good condition. Staff are in favor of preserving these three mature street trees.

Based upon the City's street tree requirements, a total of eight trees are required. The applicant intends to preserve the existing four street trees and will contribute \$3,200 (\$400/tree x eight trees) to the City's Street Tree Fund to address the eight additional required trees that will not be planted.

c. Water Quality, Storm Water Management and Erosion Control

The stormwater management plan includes the construction of an underground storage and treatment system that consists of a Stormtech Chamber System designed to infiltrate the required water quality volume. The system has been designed to effectively collect, infiltrate and provide treatment of approximately 97% of the total new impervious area and approximately 88% of the total new developed area, exceeding the requirement as indicated in the General Standards of MDEP Chapter 500.

Lauren Swett, P.E., Consulting Peer Reviewer, and staff have reviewed the applicant's plans and project details. Both find that the proposed stormwater management measures meet the applicable standards of the Land Use Code and Technical Manual.

3. Public Infrastructure and Community Safety Standards

a. Public Safety and Fire Prevention

Mike Thompson, former Division Chief of the Fire Prevention and Community Outreach Division, reviewed the submitted plans and found them to be acceptable, noting the following points (Attachment 1):

- *The correct address for this property shall be determined by the City E-911 Addressing Officer. Since this comment was received, the applicant has received the correct address for this property (19 Willis St).*
- *The street address shall be marked at the main building entrance.*

b. Availability and Adequate Capacity of Public Utilities

The project will be served by Central Maine Power, the Portland Water District, and City Department of Public Works. Evidence of utility capacity has been provided by the applicant.

4. Site Design Standards

a. Snow and Ice Loading

The project design and layout provides an area of approximately 300 square feet located adjacent to the proposed driveway near the northwesterly corner of the site. Snow storage will not conflict with pedestrian access. Snow melt runoff will be treated with the subsurface chamber system. Staff finds this standard to have been met.

b. View Corridors

This site is not within a Protected View Corridor as per the “View Corridor Protection Plan” approved by the Portland City Council in 2001. This standard does not apply.

c. Historic Resources

Previous iterations of this application went to the Historic Preservation Board as the applicant sought to demolish a building classified as *preferably preserved*, within the Munjoy Hill Neighborhood Conservation Overlay District. The Historic Preservation Board’s review at that time helped inform the evolution of the building’s design and informed Historic Preservation staff during their advisory review.



Demolition was halted by a temporary stay that applicants attempted to have lifted by the Historic Preservation Board. Upon conclusion by the Historic Preservation Board that the

proposed project conformed to the new construction standards of the historic preservation ordinance the structure was demolished.

The property is within 100 feet of the Munjoy Hill Historic District, and underwent an historic preservation advisory review. Historic Preservation Program Manager, along with the City's Urban Designer, and lead project Planner reviewed the proposal against the *Multiple-Family Standards (City of Portland Design Manual)*.

d. **Exterior Lighting**

The applicant has submitted a lighting and photometric plan which was reviewed by staff and found to be in conformance with the lighting standards.

e. **Noise and Vibration**

The HVAC system will meet the applicable state and federal emissions requirements and will also be screened and directed away from abutters.

f. **Signage and Wayfinding**

All street and wayfinding signage shall meet the requirements of the Manual on Uniform Traffic Devices (MUTCD) and Division 22 of the City Code. Staff has reviewed the proposed signage and finds it to be in conformance with the standards.

g. **Zoning Related Design Standards**

A design review for the proposed new construction of a multi-family project at 19 Willis Street was performed by Planning and Urban Development staff including the City's Urban Designer, Historic Preservation Program Manager, and lead Planner. Because the lot is greater than 10,000 sf in size, the project was reviewed against the *Multiple-Family Standards (City of Portland Design Manual)*. The original design review found that a number of the principles and standards had not been met by the proposed design and that the applicant needed to amend the plans accordingly. A second round of design review comments were provided to the applicant following the submission of updated architectural drawings. The applicant responded to staff comments, and at this time, the project is found to conform to the relevant design guidelines. Potential modifications were suggested by staff for consideration (listed below). These suggested modifications were addressed by the applicant (in Italics).

- **Bays:** Staff request more information about the accent material used on the bays – ideally, this material would have the same character and finish as the shingle but with a different texture, orientation and/or scale.

Applicant Response: The bays are to be clad in material that matches the decorative accent panels below the windows, to provide continuity and a visual connection between the accent elements. At an earlier Planning Board workshop the team presented samples of possible textured metal for the accent panels. Material samples can be presented at the Planning Board hearing.

- **Planters/Terraces:** Staff request more information about the stone proposed for the planters/terraces.

Applicant Response: Exterior landscape materials are to be as follows:

Stone Veneer Retaining Walls: Regionally quarried fieldstone / granite (gray tones)

Wood Clad Exterior Retaining Walls: Weathered cedar (or equal)

Entry Masonry Walkway and Steps: Regionally quarried monolithic saw-cut granite slab steps and dimensional pavers (gray tones)

Drive Aisle Paving: Concrete unit paver (Techo-bloc 80 ml. or equal)

In addition, the project was reviewed for compliance with the additional design standards for buildings located in the Munjoy Hill Conservation Overlay District Section 14-140.5.a(d) and was found to meet the standards.

Section 14-140.5(d)(a): All buildings shall use simple, traditional roof forms as illustrated in Diagrams 14-140.5.c-f., except that flat roofs are permitted in buildings of 3 or more units.

- **Staff Comment:** The proposed project is a 12 unit apartment building. Flat roofs are permitted in buildings of three or more units. This standard is adequately addressed.

Section 14-140.5(d)(b): The first floor shall contain active living space, such as a living room or bedroom, with windows for at least 50% of the width of the front façade in total.

- **Staff Comment:** The proposed building's first floor contains active living space for greater than 50% of the building façade, this standard is considered adequately met.

Please see Attachment 3, Design Review, for the full urban design memorandum. Please see attachment 4, Response to Design Review, for the applicant's responses to the suggested modifications above.

h. Construction Management Plan

The applicant has submitted a construction management plan which was reviewed by staff and found to meet the applicable standards.

XI. PUBLIC COMMENT AND NEIGHBORHOOD MEETING

A total of 208 notices were sent to property owners within 500 feet of the site and a legal notice ran in the December 3rd & December 4th 2021 editions of the *Portland Press Herald*.

The required neighborhood meeting was held on Friday, September 13, 2019 from 5:30-6:45 pm at the East End Community School. Thirteen members of the public were in attendance along with Tim Wells, representing the applicant, and Jesse Thompson and Richard Lo from Kaplan Thompson Architects. The majority of comments received were in response to the proposed building's design, scale and neighborhood context.

In advance of this Public Hearing, staff has received 16 written comments from the public, mostly in opposition and expressing concerns about building height and mass.

XII. STAFF RECOMMENDATION

Subject to the proposed motions and conditions of approval listed below, Planning and Urban Development Department staff recommend that the Planning Board approve the proposed development at 19 Willis Street.

XIII. MOTIONS FOR THE BOARD TO CONSIDER

A. INCLUSIONARY ZONING CONDITIONAL USE

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Planning Board Report for the public hearing on December 14, 2021 for application #PL-000807-2019 relevant to Portland's Inclusionary Zoning Conditional Use Standards and other regulations, and the testimony presented at the Planning Board hearing, the Planning Board **[finds/does not find]** the proposed conditional use for workforce housing meets the standards of Land Use Code Section 14-487 with the following condition(s):

PRIOR TO ISSUANCE OF A BUILDING PERMIT

1. The Applicant and the City shall enter into an agreed upon Affordable Housing Agreement (AHA) for one workforce unit integrated with the development, or as an alternative to providing the workforce housing unit, the applicant may pay a fee-in-lieu for the required unit.

PRIOR TO ISSUANCE OF A CERTIFICATE OF OCCUPANCY

2. An Affordable Housing Agreement will be filed as a covenant to the property's deed with the Cumberland County Registry of Deeds.

B. SUBDIVISION REVIEW

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in the Planning Board Report for the public hearing on December 14, 2021 for application #PL-000807-2019 relevant to the subdivision regulations, and the testimony presented at the Planning Board hearing, the Planning Board **[finds/does not find]** that the plan is in conformance with the subdivision standards of the Land Use Code subject to the following conditions of approval:

PRIOR TO THE SUBMISSION OF THE PLAT FOR PLANNING BOARD SIGNATURE

1. The subdivision plat shall be finalized to the satisfaction of the Planning Authority, Corporation Counsel and Department of Public Works and include clear descriptions of the number, location, type and size of all subdivided units, along with relevant notes and conditions.

PRIOR TO ISSUANCE OF A BUILDING PERMIT

2. The signed subdivision plat shall be recorded at the Cumberland County Registry of Deeds.

C. SITE PLAN REVIEW

On the basis of the application, plans, reports and other information submitted by the applicant; findings and recommendations contained in the Planning Board Report for the public hearing on December 14, 2021, for application #PL-000807-2019, relevant to the site plan regulations; and the testimony presented at the Planning Board hearing, the Planning Board **[finds/does not find]** that the plan is in conformance with the site plan standards of the Land Use Code, subject to the following condition of approval:

PRIOR TO ISSUANCE OF A BUILDING PERMIT

1. A financial contribution totaling \$3,200, to be paid into the City's street tree fund, shall be provided for the required eight street trees not provided on-site. The applicant may also choose to pursue a street tree alternative as listed in the City's site plan ordinance, Sec. 14-526.

**XIV. ATTACHMENTS
PLANNING BOARD REPORT ATTACHMENTS**

1. Design Review Memo (Final)
2. Applicant Response to Design Review
3. Housing Program Manager Memorandum
4. Grade Calculations
5. September 24, 2019 Workshop – Memo Attachments

APPLICANT'S SUBMITTALS

- A. Application Checklist
- B. Project Description
- C. Right, Title and Interest
- D. Financial and Technical Capability
- E. Zoning Assessment
- F. Transportation
- G. Stormwater
- H. Utilities
- I. Solid Waste
- J. Public Infrastructure and Safety
- K. Design Review - Site Design
- L. Design Review - R-6 Design Principles
- M. Ability to Serve Determination
- N. Wastewater Capacity Authorization
- O. Verification of Posted Public Meeting Notice

PLANS

- Plan 1. Boundary Survey
- Plan 2. Design Review Context
- Plan 3. Neighborhood Context
- Plan 4. Architectural Drawings
- Plan 5. Architectural Renderings
- Plan 6. Revised Civil Drawings
- Plan 7. Landscape Plan
- Plan 8. Construction Management Plan

PUBLIC COMMENT

- PC1. Barbara vestal

PC2. Carol Connor
PC3. Carol Connor
PC4. Carol Connor
PC5. Erna Koch
PC6. Karen Snyder
PC7. Mike Hoover
PC8. Peter Murray
PC9. Wayne Valzania
PC10. Wayne Valzania
PC11. Wayne Valzania
PC12. Barbara Vestal
PC13. Peter Murray
PC14. Jean McManamy and Others
PC15. Carolyn Swartz
PC16. Karen Snyder

CHAPTER 32 STORM WATER

Art. I. Prohibited Discharges, §§ 32-1--32-15

Art. II. Prohibited Discharges, §§ 32-16--32-35

Art. III. Post-Construction Stormwater Management, §§32-36-32-40

ARTICLE I. IN GENERAL

Sec. 32-1. Definitions.

For the purposes of this article, the terms listed below are defined as follows:

Applicant. "Applicant" means a person with requisite right, title or interest or an agent for such person who has filed an application for a development project that requires a post-construction stormwater management plan under this article.

Best management practices ("BMP"). "Best management practices" or "BMPs" means schedules or activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the state. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

Clean Water Act. "Clean Water Act" means the federal Water Pollution Control Act (33 U.S.C. § 1251 *et seq.*, also known as the "Clean Water Act"), and any subsequent amendments thereto.

Discharge. "Discharge" means any spilling, leaking, pumping, pouring, emptying, dumping, disposing or other addition of pollutants to "waters of the state." "Direct discharge" or "point source" means any discernable, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft, from which pollutants are or may be discharged.

Enforcement authority. "Enforcement authority" means the person(s) or department authorized under section 32-3 of this article to administer and enforce this article.

Exempt person or discharge. "Exempt person or discharge" means any person who is subject to a multi-sector general permit for industrial activities, a general permit for construction activity, a general permit for the discharge of storm water from the Maine department of transportation and the Maine turnpike authority

municipal separate storm sewer systems, or a general permit for the discharge of storm water from state or federally owned authority municipal separate storm sewer system facilities; and any non-storm water discharge permitted under a NPDES permit, waiver, or waste discharge license or order issued to the discharger and administered under the authority of the U.S. environmental protection agency ("EPA") or the Maine department of environmental protection ("DEP"). City of Portland

Municipality. "Municipality" means the city of Portland.

Municipal separate storm sewer system, or MS4. "Municipal separate storm sewer system" or "MS4," means conveyances for storm water, including, but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, human-made channels or storm drains (other than publicly owned treatment works and combined sewers) owned or operated by any municipality, sewer or sewage district, fire district, state agency or federal agency or other public entity that discharges directly to surface waters of the state.

National pollutant discharge elimination system (NPDES) storm water discharge permit. "National pollutant discharge elimination system (NPDES) storm water discharge permit" means a permit issued by the EPA or by the DEP that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

Non-storm water discharge. "Non-storm water discharge" means any discharge to an MS4 that is not composed entirely of storm water.

Person. "Person" means any individual, firm, corporation, municipality, quasi-municipal corporation, state agency or federal agency or other legal entity which creates, initiates, originates or maintains a discharge of storm water or a non-storm water discharge.

Pollutant. "Pollutant" means dredged spoil, solid waste, junk, incinerator residue, sewage, refuse, effluent, garbage, sewage sludge, munitions, chemicals, biological or radiological materials, oil, petroleum products or by-products, heat, wrecked or discarded equipment, rock, sand, dirt and industrial, municipal, domestic, commercial or agricultural wastes of any kind.

Post-construction stormwater management plan. "Post-construction stormwater management plan" means BMPs employed by a development project to meet the stormwater standards of Section V of the department of planning and urban development's Technical and Design Standards and Guidelines.

Premises. "Premises" means any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking strips, located within the municipality from which discharges into the storm drainage system are or may be created, initiated, originated or maintained.

Qualified post-construction stormwater inspector. "Qualified post-construction stormwater inspector" means a person who conducts post-construction stormwater best management practice inspections for compensation and who has received the appropriate training for the same from DEP or otherwise meets DEP requirements to perform said inspections.

Regulated small MS4. "Regulated small MS4" means any small MS4 regulated by the State of Maine "general permit for the discharge of storm water from small municipal separate storm sewer systems" dated July 1, 2008 ("general permit") or the general permits for the discharge of storm water from the Maine department of transportation and Maine turnpike authority small MS4s or state or federally owned or operated small MS4s, including all those located partially or entirely within an urbanized area (UA).

Small municipal separate storm sewer system, or small MS4. "Small municipal separate storm sewer system", or "small MS4," means any MS4 that is not already covered by the phase I MS4 storm water program including municipally owned or operated storm sewer systems, state or federally-owned systems, such as colleges, universities, prisons, Maine department of transportation and Maine turnpike authority road systems and facilities, and military bases and facilities.

Storm drainage system. "Storm drainage system" means the City of Portland's regulated small MS4 and other conveyances for storm water located in areas outside the UA that drain into the regulated small MS4.

Storm water. "Storm water" means any storm water runoff, snowmelt runoff, and surface runoff and drainage; "Stormwater" has the same meaning as "storm water".

Urbanized area ("UA"). "Urbanized area" or "UA" means the areas of the State of Maine so defined by the latest decennial (2000) census by the U.S. Bureau of Census.
(Ord. No. 85-08/09, 10-20-08; Ord. No. 35-09/10, 8-17-09)

Sec. 32-2. Reserved.

Sec. 32-3. Reserved.

Sec. 32-4. Reserved.

Sec. 32-5.	Reserved.
Sec. 32-6.	Reserved.
Sec. 32-7.	Reserved.
Sec. 32-8.	Reserved.
Sec. 32-9.	Reserved.
Sec. 32-10.	Reserved.
Sec. 32-11.	Reserved.
Sec. 32-12.	Reserved.
Sec. 32-13.	Reserved.
Sec. 32-14.	Reserved.
Sec. 32-15.	Reserved.

ARICLE II. PROHIBITED DISCHARGES

Sec. 32-16. Applicability.

This Article shall apply to all persons discharging storm water and/or non-storm water discharges from any premises into the storm drainage system.

(Ord. No. 85-08/09, 10-20-08; Ord. No. 35-09/10, 8-17-09)

Sec. 32-17. Responsibility for administration.

The department of public services is the enforcement authority who shall administer, implement, and enforce the provisions of this article.

(Ord. No. 85-08/09, 10-20-08; Ord. No. 35-09/10; 8-17-09)

Sec. 32-18. Prohibition of non-storm water discharges.

(a) *General prohibition.* Except as allowed or exempted herein, no person shall create, initiate, originate or maintain a non-storm water discharge to the storm drainage system. Such non-storm water discharges are prohibited notwithstanding the fact that the city may have approved the connections, drains or conveyances by which a person discharges un-allowed non-storm water discharges to the storm drainage system.

(b) *Allowed non-storm water discharges.* The creation, initiation, origination and maintenance of the following non-storm water discharges to the storm drainage system is allowed:

- (1) Landscape irrigation; diverted stream flows; rising ground waters; uncontaminated flows from foundation drains; air conditioning and compressor condensate; irrigation water; flows from uncontaminated springs; uncontaminated water from crawl space pumps; uncontaminated flows from footing drains; lawn watering runoff; flows from riparian habitats and wetlands; residual street wash water (where spills/leaks of toxic or hazardous materials have not

occurred, unless all spilled material has been removed and detergents are not used); hydrant flushing and fire fighting activity runoff; water line flushing and discharges from potable water sources; individual residential car washing; and de-chlorinated swimming pool discharges.

- (2) Discharges specified in writing by the enforcement authority as being necessary to protect public health and safety.
- (3) Dye testing, with verbal notification to the enforcement authority prior to the time of the test.

(c) *Exempt person or discharge.* This article shall not apply to an exempt person or discharge, except that the enforcement authority may request from exempt persons and persons with exempt discharges copies of permits, notices of intent, licenses and orders from the EPA or DEP that authorize the discharge(s).

(Ord. No. 85-08/09, 10-20-08; Ord. No. 35-09/10, 8-17-09)

Sec. 32-19. Suspension of access to the city's small MS4.

The enforcement authority may, without prior notice, physically suspend discharge access to the storm drainage system to a person when such suspension is necessary to stop an actual or threatened non-storm water discharge to the storm drainage system which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the storm drainage system, or which may cause the city to violate the terms of its environmental permits. Such suspension may include, but is not limited to, blocking pipes, constructing dams or taking other measures, on public ways or public property, to physically block the discharge to prevent or minimize a non-storm water discharge to the storm drainage system. If a person fails to comply with a suspension order issued in an emergency, the enforcement authority may take such steps as deemed necessary to prevent or minimize damage to the storm drainage system, or to minimize danger to persons.

(Ord. No. 85-08/09, 10-20-08; Ord. No. 35-09/10, 8-17-09)

Sec. 32-20. Monitoring of discharges.

In order to determine compliance with this article, the enforcement authority may enter upon and inspect premises subject to this article at reasonable hours to inspect the premises and connections thereon to the storm drainage system; and to conduct monitoring, sampling and testing of the discharge to the storm drainage system.

(Ord. No. 85-08/09, 10-20-08; Ord. No. 35-09/10, 8-17-09)

Sec. 32-21. Enforcement.

It shall be unlawful for any person to violate any provision of or to fail to comply with any of the requirements of this article. Whenever the enforcement authority believes that a person has violated this article, the enforcement authority may enforce this article in accordance with 30-A M.R.S.A. § 4452.

- (a) *Notice of violation.* Whenever the enforcement authority believes that a person has violated this article, the enforcement authority may order compliance with this article by written notice of violation to that person indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation:
- (1) The elimination of non-storm water discharges to the storm drainage system, including, but not limited to, disconnection of the premises from the MS4.
 - (2) The cessation of discharges, practices, or operations in violation of this article.
 - (3) At the Person's expense, the abatement or remediation (in accordance with best management practices in DEP rules and regulations) of non-storm water discharges to the storm drainage system and the restoration of any affected property; and/or
 - (4) The payment of fines, of the city's remediation costs and of the city's reasonable administrative costs and attorneys' fees and costs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement or restoration must be completed.
- (b) *Penalties/fines/injunctive relief.* In addition to the imposition of any other costs or penalties provided for herein, any person who violates this section shall be subject to fines, penalties and orders for injunctive relief and shall be responsible for the city's attorney's fees and costs, all in accordance with 30-A M.R.S.A. § 4452. Each day such violation continues shall constitute a separate violation. Moreover, any person who violates this section also shall be responsible for any and all fines, penalties, damages and costs, including, but not limited to attorneys' fees and costs, incurred by the city for violation of federal and State environmental laws and

regulations caused by or related to that person's violation of this article; this responsibility shall be in addition to any penalties, fines or injunctive relief imposed under this section.

- (c) *Consent agreement.* The enforcement authority may, with the approval of the city manager, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this article for the purposes of eliminating violations of this article and of recovering fines, costs and fees without court action.
- (d) *Appeal of notice of violation.* Any person receiving a notice of violation or suspension notice may appeal the determination of the enforcement authority to the city manager or his or her designee. The notice of appeal must be received within 30 days from the date of receipt of the notice of violation. The city manager shall hold a hearing on the appeal within 30 days from the date of receipt of the notice of appeal, except that such hearing may be delayed by agreement of the city manager and the appellant. The city manager may affirm, reverse or modify the decision of the enforcement authority. A suspension under Section 32-5 of this article remains in place unless or until lifted by the city manager or by a reviewing court. A party aggrieved by the decision of the city manager may appeal that decision to the Maine superior court within 45 days of the date of the city manager's decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.
- (e) *Enforcement measures.* If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or, in the event of an appeal to the city manager, within 45 days of a decision of the city manager affirming the enforcement authority's decision, then the enforcement authority may recommend that the corporation counsel's office file an enforcement action in a Maine court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure.
- (f) *Ultimate responsibility of discharger.* The standards set forth herein are minimum standards; therefore this article does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into waters of the U.S. caused by said person. This article shall not create liability on the part of the city, or any officer agent or employee thereof for any damages that

result from any person's reliance on this article or any administrative decision lawfully made hereunder.
(Ord. No. 85-08/09, 10-20-08; Ord. No. 35-09/10, 8-17-09)

Sec. 32-22. Severability.

The provisions of this article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions, clauses, sentences, or paragraphs or application of this article.

(Ord. No. 85-08/09, 10-20-08; Ord. No. 35-09/10, 8-17-09)

Sec. 32-23. Reserved.
Sec. 32-24. Reserved.
Sec. 32-25. Reserved.
Sec. 32-26. Reserved.
Sec. 32-27. Reserved.
Sec. 32-28. Reserved.
Sec. 32-29. Reserved.
Sec. 32-30. Reserved.
Sec. 32-31. Reserved.
Sec. 32-32. Reserved.
Sec. 32-33. Reserved.
Sec. 32-34. Reserved.
Sec. 32-35. Reserved.

ARTICLE III. POST-CONSTRUCTION STORMWATER MANAGEMENT.

Sec. 32-36. Applicability.

This article applies to all development projects that require a stormwater management plan pursuant to section V of the department of planning and urban development's Technical and Design Standards and Guidelines.

(Ord. No. 35-09/10, 8-17-09)

Sec. 32-37. Post-construction stormwater management plan approval.

Notwithstanding any ordinance provision to the contrary, no applicant for a development project to which this article is applicable shall receive approval for that development project unless the applicant also receives approval for its post-construction stormwater management plan and for the best management practices ("BMPs") for that development project.

(Ord. No. 35-09/10, 9-17-09)

Sec. 32-38. Post-construction stormwater management plan compliance.

Any person owning, operating, or otherwise having control over a BMP required by a post construction stormwater management plan shall maintain the BMPs in accordance with the approved plan and shall demonstrate compliance with that plan as follows:

- (a) *Inspections.* The owner or operator of a BMP shall hire a qualified post-construction stormwater inspector to at least annually, inspect the BMPs, including but not limited to any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures, in accordance with all municipal and state inspection, cleaning and maintenance requirements of the approved post-construction stormwater management plan.
- (b) *Maintenance and repair.* If the BMP requires maintenance, repair or replacement to function as intended by the approved post-construction stormwater management plan, the owner or operator of the BMP shall take corrective action(s) to address the deficiency or deficiencies as soon as possible after the deficiency is discovered and shall provide a record of the deficiency and corrective action(s) to the department of public services ("DPS") in the annual report.
- (c) *Annual report.* The owner or operator of a BMP or a qualified post-construction stormwater inspector hired by that person, shall, on or by June 30 of each year, provide a completed and signed certification to DPS in a form provided by DPS, certifying that the person has inspected the BMP(s) and that the year adequately maintained and functioning as intended by the approved post-construction stormwater management plan, or that they require maintenance or repair, including the record of the deficiency and corrective action(s) taken.
- (d) *Filing fee.* Any persons required to file an annual certification under this section shall include with the annual certification a filing fee established by DPS to pay the administrative and technical costs of review of the annual certification.
- (e) *Right of entry.* In order to determine compliance with this article and with the post-construction stormwater management plan, DPS may enter upon property at reasonable hours with the consent of the owner, occupant or agent to inspect the BMPs.

Sec. 32-39. Enforcement.

It shall be unlawful for any person to violate any provision of or to fail to comply with any of the requirements of this article or of the post-construction stormwater management plan. Whenever the enforcement authority believes that a person has violated this article, DPS may enforce this article in accordance with 30-A M.R.S.A. § 4452. Each day on which a violation exists shall constitute a separate violation for purposes of this section.

- (a) *Notice of violation.* Whenever DPS believes that a person has violated this article or the post-construction stormwater management plan, DPS may order compliance by written notice of violation to that person indicating the nature of the violation and ordering the action necessary to correct it, including, without limitation:
 - (1) The abatement of violations, and the cessation of practices or operations in violation of this article or of the post-construction stormwater management plan;
 - (2) At the person's expense, compliance with BMPs required as a condition of approval of the development project, the repair of BMPs and/or the restoration of any affected property; and/or
 - (3) The payment of fines, of the City's remediation costs and of the City's reasonable administrative costs and attorneys' fees and costs.
 - (4) If abatement of a violation, compliance with BMPs, repair of BMPs and/or restoration of affected property is required, the notice shall set forth a deadline within which such abatement, compliance, repair and/or restoration must be completed.
- (b) *Penalties/fines/injunctive relief.* In addition to the imposition of any other costs or penalties provided for herein, any person who violates this section shall be subject to fines, penalties and orders for injunctive relief and shall be responsible for the city's attorney's fees and costs, all in accordance with 30-A M.R.S.A. § 4452. Each day such violation continues shall constitute a separate violation. Moreover, any person who violates this section also shall be responsible for any and all fines, penalties, damages and costs, including, but not limited to

attorneys' fees and costs, incurred by the city for violation of federal and state environmental laws and regulations caused by or related to that person's violation of this article; this responsibility shall be in addition to any penalties, fines or injunctive relief imposed under this section.

- (c) *Consent agreement.* The enforcement authority may, without approval of the city manager, enter into a written consent agreement with the violator to address timely abatement of the violation(s) of this article for the purposes of eliminating violations of this article and of recovering fines, costs and fees without court action.
- (d) *Appeal of notice of violation.* Any person receiving a notice of violation or suspension notice may appeal the determination of the enforcement authority to the city manager or his or her designee. The notice of appeal must be received within 30 days from the date of receipt of the notice of violation. The city manager shall hold a hearing on the appeal within 30 days from the date of receipt of the notice of appeal, except that such hearing may be delayed by agreement of the city manager and the appellant. The city manager may affirm, reverse or modify the decision of the DPS. A party aggrieved by the decision of the city manager may appeal that decision to the Maine superior court within forty-five (45) days of the date of the city manager's decision pursuant to Rule 80B of the Maine Rules of Civil Procedure.
- (e) *Enforcement measures.* If the violation has not been corrected pursuant to the requirements set forth in the notice of violation, or , in the event of an appeal to the city manager, within forty-five (45) days of a decision of the city manager affirming the enforcement authority's decision, then the enforcement authority may recommend that the corporation counsel's office file an enforcement action in a Maine court of competent jurisdiction under Rule 80K of the Maine Rules of Civil Procedure.

(Ord. No. 35-09/10, 8-17-09)

Sec. 32-40. Severability.

The provisions of this article are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions, clauses, sentences, or paragraphs or application of this article.

(Ord. No. 35-09/10, 8-17-09)

STORMWATER DRAINAGE SYSTEM MAINTENANCE AGREEMENT

For SUBDIVISIONS

IN CONSIDERATION OF the site plan and subdivision approval granted by the Planning Board of the City of Portland to the proposed _____ (name of developments and project number) shown on the Subdivision Plat (Exhibit A) recorded in Cumberland Registry of Deeds in Plan Book ____, Page ____ submitted by _____, and associated Grading, Drainage & Erosion Control Plan (*insert correct name of plan*) (Exhibit B) prepared by _____ (engineer/agent) of _____(address) dated and pursuant to a condition thereof, _____ (name of owner), a Maine limited liability company with a principal place of business in Portland, Maine, and having a mailing address of _____, the owner of the subject premises, does hereby agree, for itself, its successors and assigns (the “Owner”), as follows:

Maintenance Agreement

That it, its successors and assigns, will, at its own cost and expense and at all times in perpetuity, maintain in good repair and in proper working order the _____ (*details of the system such as underdrained subsurface sand filter BMP system, rain gardens, storm drain pipes, underdrain pipes, catch basins*), (hereinafter collectively referred to as the “stormwater system”), as shown on the _____ Plan in Exhibit B and in strict compliance with the approved Stormwater Maintenance and Inspection Agreement (*insert correct name of document*) prepared for the Owner by _____ (copy attached in Exhibit C) and Chapter 32 of the Portland City Code.

Owner of the subject premises further agrees, at its own cost, to keep a Stormwater Maintenance Log. Such log shall be made available for inspection by the City of Portland upon reasonable notice and request.

Said agreement is for the benefit of the said City of Portland and all persons in lawful possession of said premises and abutters thereto; further, that the said City of Portland and said persons in lawful possession may enforce this Agreement by an action at law or in equity in any court of competent jurisdiction; further, that after giving the Owner written notice and a stated time to perform, the said City of Portland, by its authorized agents or representatives, may, but is not obligated to, enter upon said premises to maintain, repair, or replace said stormwater system in the event of any failure or neglect thereof, the cost and expense thereof to be reimbursed in full to the said City of Portland by the Owner upon written demand. Any funds owed to the City under this paragraph shall be secured by a lien on the property.

This Agreement shall also not be construed to allow any change or deviation from the requirements of the subdivision and/or site plan most recently and formally approved by the Planning Board of the City of Portland.

This agreement shall bind the undersigned only so long as it retains any interest in said premises, and shall run with the land and be binding upon the Owner's successors and assigns as their interests may from time to time appear.

The Owner agrees to record a copy of this Agreement in the Cumberland County Registry of Deeds within thirty (30) days of final execution of this Agreement. The Owner further agrees to provide a copy of this Agreement to any successor or assign and to forward to the City an Addendum signed by any successor or assign in which the successor or assign states that the successor or assign has read the Agreement, agrees to all its terms and conditions and the successor or assign will obtain and forward to the City's Department of Public Services and Department of Planning and Urban Development a similar Addendum from any other successor or assign.

For the purpose of this agreement and release "Owner" is any person or entity who is a successor or assign and has a legal interest in part, or all, of the real estate and any building. The real estate shown by chart, block and lot number in the records on file in the City Assessor's office shall constitute "the property" that may be entered by the City and lienied if the City is not paid all of its costs and charges following the mailing of a written demand for payment to the owner pursuant to the process and with the same force and effect as that established by 36 M.R.S.A. §§ 942 and 943 for real estate tax liens.

Any written notices or demands required by the agreement shall be complete on the date the notice is attached to one or more doors providing entry to any buildings and mailed by certified mail, return receipt requested or ordinary mail or both to the owner of record as shown on the tax roles on file in the City Assessor's Office.

If the property has more than one owner on the tax rolls, service shall be complete by mailing it to only the first listed owner. The failure to receive any written notice required by this agreement shall not prevent the City from entering the property and performing maintenance or repairs on the stormwater system, or any component thereof, or lienied it or create a cause of action against the City.

Dated at Portland, Maine this _____ day of _____, 2014.

(*name of company*)

(*representative of owner, name and title*)

STATE OF MAINE
CUMBERLAND, ss.

Date: _____

Personally appeared the above-named _____ (*name and title*), and acknowledged the foregoing instrument to be his free act and deed in his said capacity.

Before me,

Notary Public/Attorney at Law

Print name: _____

Exhibit A: Subdivision Plat as recorded

Exhibit B: Approved Grading and Drainage Plan (*name of the plan showing the Stormwater System in detail*)

Exhibit C: Approved Stormwater Maintenance and Inspection Agreement



CITY OF PORTLAND
Planning & Urban Development

**Performance Guarantee, Inspection Fee, and Infrastructure Financial
Contribution Packet**

A. Site Plan/Subdivision Performance Guarantees Required

Portland's Land Use Code requires all developers with approved site plan and/or subdivision applications to submit a performance guarantee to the City prior to the start of any construction or site improvements. The performance guarantee represents 100% of the total cost of site improvements, as determined by the City.

The code further requires developers to pay an inspection fee of 2% of the performance guarantee amount to the City for the administrative costs associated with inspecting construction activity to ensure that it conforms with plans and specifications.

(Portland's Land Use Code, Sections 14-501 and 14-530)

B. Cost Estimate Form and Inspection Fee

The performance guarantee covers major site improvements related to site plan and subdivision review, such as paving, roadway, utility connections, drainage, landscaping, lighting, etc.

Please submit an itemized cost estimate form to determine the detailed costs of both public and private site improvements to the Planning Division for review and approval. The cost estimate form (excel format) can be downloaded from the city's website here:

<http://portlandmaine.gov/costestimate> The approved amount on the Cost Estimate form is the amount to be covered by the performance guarantee and is the basis for calculating the 2% inspection fee.

C. Acceptable Types of Performance Guarantees

The accepted forms of a performance guarantee, covering the amount approved on the Cost Estimate form, must be one of the following options consistent with the attached templates, with **NO** exceptions. The templates and instructions be located on our website

at: <https://www.portlandmaine.gov/2157/Performance-Guarantee>

1. A letter of credit from a bank/credit union
2. A deposit into a bank-held escrow account
3. A deposit into a City-held escrow account

NOTE: No land use application of any kind shall be processed, reviewed or issued, no signed subdivision plat shall be released or recorded, and no building permit of any kind shall be issued unless all fees have been paid and every aspect of the proposed development is in compliance with City Codes as determined by the Development Review Coordinator in the Planning Division.

The developer is eligible to receive up to three reductions from the performance guarantee in a calendar year equal to the estimated cost of the completed improvements. In no case, however, shall any performance guarantee be reduced 1) in any line item where improvements remain to be completed; or 2) to a value which is less than the estimated cost of completing all remaining required improvements; or 3) to a value less than 10% of the Performance Guarantee. *(The Cost Estimate Form can also be used during the construction phase to submit reductions of fully completed site work items)*

At the conclusion of the project, the City will release 90% of the performance guarantee after the Development Review Coordinator determines that site improvements have been satisfactorily completed at the time of the final inspection. The City will then retain a 10% defect guarantee to cover the workmanship and durability of materials used in construction. The defect guarantee will be released one

(1) year from date of acceptance, subject to the Development Review Coordinator inspecting the site and finding it in compliance with the approved site plan.

D. Housing Replacement Performance Guarantees

For those projects that are subject to Portland's Housing Preservation and Replacement Ordinance (Section 24-483) and have an approved plan, then a performance guarantee is required for housing replacement. An owner or developer must post a performance guarantee in the form of a letter of credit in the amount equivalent to the amount the applicant would have been required to contribute to the City's Housing Fund, if the applicant had chosen that option. The guarantee shall be valid for no more than three years, after which the full amount shall be provided to the City's Housing Trust Fund, if replacement units meeting the code do not have certificates of occupancy. The guarantee can be released upon the issuance of a certificate of occupancy for the replacement units. A suggested template for a Housing Replacement Performance Guarantee is included as Attachment 4.

E. Infrastructure Accounts

Contributions to infrastructure accounts may be required as part of the conditions of site plan approval. The contributions must be submitted prior to the issuance of any permits, unless stated otherwise in the approval. The form for submitted required contributions is included as Attachment 5.

F. Administrative Process for Submitting Performance Guarantee

- **Step 1 – Submit a Cost Estimate for Review**

Submit completed cost estimate form to the Planning Division for review and approval. Once approved, use this total amount as the performance guarantee amount in Step 2.

- **Step 2 – Drafting a Performance Guarantee**

Complete a draft of 1 of the 3 attached performance guarantee templates, inputting project specific information (Reference [Guide for Drafting](#) for help) into blank and bracketed areas, and submit to the Planning Division for final approval. Submit a draft to **planning@portlandmaine.gov** to

ensure fields are correctly entered. Once staff approved the draft, the applicant shall submit the official signed original performance guarantee document, which for option 1) or 2) must be on Bank/Credit Union letterhead with original signatures.

- **Step 3 - Submit Performance Guarantee, Inspection Fee, and Infrastructure Contributions** Submit the final original Performance Guarantee, the required inspection fee, and any infrastructure contributions (Include Attachment 6 form) to the Planning Division. The Planning Division will confirm that the final documents are accurate and acceptable.
- **Step 4 - Release of Recording Plat and Permits**
Only after the performance guarantee is issued, fees paid, and all other conditions of site plan approval and compliance are met, will the recording plat be released for recording at the Cumberland County Registry of Deeds and/or City permits issued.

Contact: Please email the Cost Estimate Form to Jodie Keene at **jkeene@portlandmaine.gov** After the cost estimate is approved, all Performance Guarantees and Infrastructure Contributions can be submitted by mail to: **City of Portland Planning Division, 389 Congress Street, 4th Floor, Portland, ME 04101**. Please call our office with any questions: 207-874-8632



Memorandum

Planning and Urban Development Department

Planning Division

To: Sean Dundon, Chair and Members of the Portland Planning Board
 From: Andrew Tufts, Planner
 Date: September 20, 2019
 Re: Redevelopment, 33 Montreal Street, 37 Montreal, LLC
 Project #: PL-000807-2019 CBL: 015 B022
 Meeting: September 24, 2019



Figure 1: Parcel outline - Source: CONNEXplorer

I. INTRODUCTION

37 Montreal Street LLC., has submitted a Level III Site Plan, Subdivision, and Conditional Use application for the development of a four (4) story, nine (9) unit residential building with basement level structured parking at 33-37 Montreal Street. The subject property is a 10804 square foot parcel located at the corner of Montreal Street and Willis Street. The immediate surrounding neighborhood is predominantly residential, is zoned R-6 and is within the Munjoy Hill Neighborhood Conservation Overlay District.

A total of 213 notices were sent to property owners within 500 feet of the site and a legal notice ran in the September 14th & September 15th 2019 editions of the Portland Press Herald.

Applicant: 37 Montreal Street LLC

Consultants:

- Richard Lo, AIA (Kaplan Thompson Architecture)
- Dustin Roma, P.E. (DM Roma Consulting Engineers)
- John Swan, Surveyor (Owen Haskell Inc)

II. REQUIRED REVIEWS

<i>Review</i>	<i>Applicable Standards</i>
Site Plan	<i>Section 14-526</i>
Subdivision	<i>Section 14-497</i>
Inclusionary Zoning (IZ)	<i>Section 14-474, Section 14-487</i>

III. PROJECT DATA

Existing Zoning	R-6 Zone & Munjoy Hill Conservation Overlay District
Existing Use	3 single family homes
Proposed Use	9-unit multi-family building
Bedroom Mix	8 three-bedroom units, 1 two-bedroom unit
Parcel Size	10,804 sf

	<i>Existing</i>	<i>Proposed</i>	<i>Net Change</i>
Building Footprint	2,240 sf	5,800 sf	+ 3,560 sf
Building Floor Area	3,775 sf	29,200 sf	+ 25,425 sf
Impervious Surface Area	4,724 sf	8,000 sf	+ 3,276 sf
Parking Spaces	4	13	+ 9
Bicycle Parking Spaces	0	5	+ 5



Figure 2: Existing axonometric perspective - Source: CONNECTexplorer

IV. BACKGROUND & EXISTING CONDITIONS

The proposed development site is located on the northern corner of Montreal and Willis Streets in Portland's Munjoy Hill neighborhood and is developed with three (3) existing single-family homes. All of the existing buildings are currently vacant. The site is bordered by the MacArthur Gardens Apartment complex (NE), and single-family homes (ESW). Additionally, the Promenade East Condominiums Tower is located approximately 200' ft to the north, across Walnut Street, which neighbors the Island View Apartment complex. Both are large-scale developments. The sidewalks along both Montreal and Willis Streets are in need of repair. There are three established street trees along Montreal and Willis Streets; these include, Sweet Gum, Honey Locust, and Sugar Maple varieties. A fourth street tree exists along Willis Street, but is in poor condition and should be replaced. The nearest open space is the Eastern Promenade, an approximately 3-minute walk down Montreal Street. Fort Sumner Park is an approximately 4-minute walk South-West. There are two community gardens: the Casco Bay Community Garden (NE), and the North Street Community Garden (W), both an approximately 5-minute walk. METRO Bus Route 1 has a stop on the corner of the East End Community School, an approximately 6-minute walk.

Owen Haskell, Inc. completed a boundary and topographic survey of the site in August of 2017. There were no existing or proposed easements identified.



Figure 3: Conceptual rendering - Montreal Street looking west - Source: Kaplan Thompson Architects

V. PROPOSED DEVELOPMENT

The proposed development is a four-story, nine-unit residential building approximately 23,400 square-feet in size. To facilitate this development, three existing single-family structures would be demolished. The building would include a basement-level structured parking garage of approximately 5,800 square-feet in size, and would contain 13 parking spaces, storage, mechanical rooms, trash room, and bike storage. The garage would be accessed via a driveway off Montreal Street, at the rear of the building. The driveway would replace an existing driveway. The proposed building would contain (9) nine dwelling units with a total enclosed area of approximately 23,400 SF. The ground floor is proposed to include one 2-bedroom unit, two 3-bedroom units, an entrance lobby, and package room. Floors 2-4 are each proposed to include two 3-bedroom units. A series of terraces are proposed to address the grade change on site. A landscape plan illustrates the planting pallet to be incorporated with the terraces.

VI. PUBLIC COMMENT AND NEIGHBORHOOD MEETING

The neighborhood meeting was held on Friday, September 13, 2019 at 5:30-6:45 pm at the East End Community School. Thirteen members of the public were in attendance along with Tim Wells, representing the applicant, along with Jesse Thompson and Richard Lo from Kaplan Thompson Architects. The majority of comments received were in response to the proposed building's design, scale and neighborhood context.



Figure 4: Proposed elevation - front of building – Source: Kaplan Thompson Architects

VII. RIGHT, TITLE, & INTEREST AND FINANCIAL & TECHNICAL CAPACITY

The owner of the property is 37 Montreal Street, LLC. The applicant has provided a copy of the warranty deed, recorded at the Cumberland County Registry of Deeds (Book 8708, Page 61), which demonstrates their right, title and interest in the property.

As evidence to demonstrate sufficient financial and technical capacity, the applicant has provided a letter from Camden National Bank indicating that between the applicant's funds and bank financing, the applicant has sufficient financial capacity to complete the proposed project. Similarly, information has been provided on the development team demonstrating the capacity to design and construct the project.

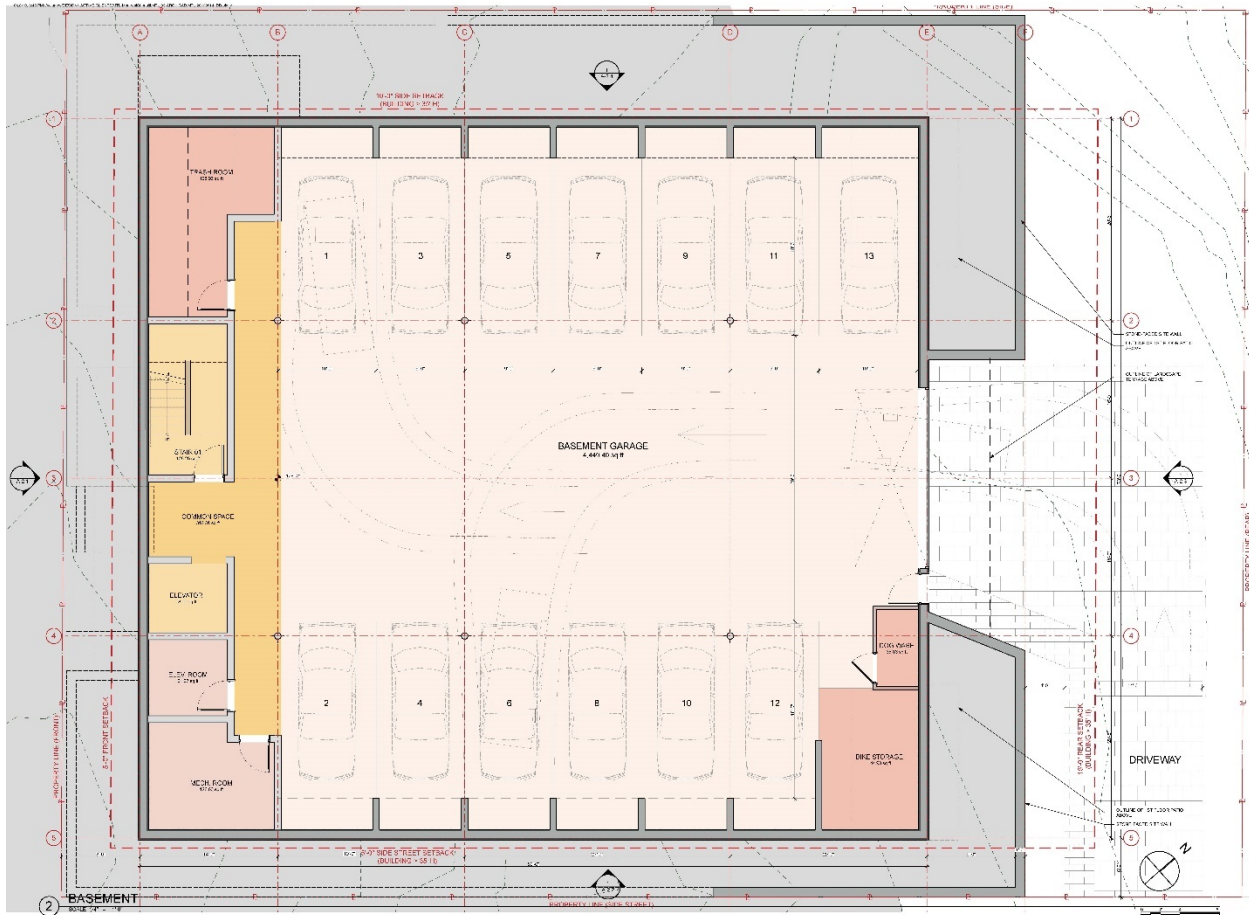


Figure 5: Plan - basement parking garage - Source: Kaplan Thompson Architects

VIII. ZONING ANALYSIS

The property lies within the R-6 zone and within the Munjoy Hill Neighborhood Conservation Overlay District. The following dimensional and parking requirements apply to the R-6 Zone:

R-6 Zone Summary Dimensional and Parking Requirements Applied to 33 Montreal Street		
	Required	Proposed
Minimum Lot Size	2000 sf	10,800 sf
Area Per Dwelling Unit	725 sf	1,200 sf
Minimum Street Frontage	20' ft	90' ft Willis St
Front Yard Minimum	5' ft	5' ft
Rear Yard Minimum	15' ft	30' ft
Yard Left Minimum	10' ft	10' ft
Side Street Setback	5' ft (>35' height)	5' ft/ 3' ft
Step Back	15' ft rear/ 10' ft side	>30' ft rear/ 10' ft side
Maximum Lot Coverage	60%	53%
Maximum Height	45' ft above avg. grade	44'-6"
Landscape Open Space	20%	26%
Off-Street Parking	1 space per unit	1.4 per unit



Figure 6: Proposed elevation - northeast (downhill) - Source: Kaplan Thompson Architects

IX. DEVELOPMENT REVIEW

A. SITE PLAN SUBMISSION REQUIREMENTS (Section 14-527) and SUBDIVISION PLAT AND RECORDING PLAT REQUIREMENTS (Section 14-496)

The applicant has submitted a recording plat. The final plat will need to be revised to reflect any waivers and conditions of approval that relate to the subdivision plan. Any waivers granted must be recorded at the Registry of Deeds within two years of a Planning Board decision.

B. SUBDIVISION (Section 14-496)

The proposed development has been reviewed by staff for conformance with the relevant review standards of Portland's Subdivision Ordinance and applicable regulations. Staff comments are listed below.

1. Will Not Result in Undue Water and Air Pollution (Section 14-497 (a) 1), and Will Not Result in Undue Soil Erosion (Section 14-497 (a) 4)

The existing site is approximately 44% developed and slopes from the south side of the property (Willis Street) to the north side of the property (MacArthur Gardens Apartments). Stormwater runoff from the project site drains either to the northeast along the curbside in Montreal Street or to the north to the abutting property. The existing site contains approximately 4,724 square feet of impervious surface, with three separate roof lines. Redevelopment of the project site would result

in an increase of approximately 3,276 square feet of impervious area and a total impervious surface of 8000 square feet.

The stormwater management plan includes the construction of an underground storage and treatment system that consists of a Stormtech Chamber System designed to infiltrate the required water quality volume. The system has been designed to effectively collect, infiltrate and provide treatment of approximately 97% of the total new impervious area and approximately 88% of the total new developed area, exceeding the requirement as indicated in the General Standards of MDEP Chapter 500.

Lauren Swett, P.E. of Woodard and Curran Engineering, Third-Party Reviewer, has reviewed the erosion and sediment control plans and details, and inspection and maintenance requirements and offers the following comments:

- Typically, to meet the General Standards using a subsurface chamber system, additional treatment measures are required. For example, a filter sand layer could be installed beneath the subsurface chambers. When a treatment measure is added, the Applicant should provide information from the chamber manufacturer to verify that the system is adequately designed per the manufacturer's requirements. We suggest that the applicant review the methodology for modeling the subsurface filter. No flow is indicated to be discarded as infiltration. As the system is modeled, the only discharge out of the subsurface system is over the weir.
- A proposed foundation drain is shown discharging directly onto an adjacent property, with no surface improvements proposed to mitigate impacts of flow that may come from this pipe. While flows from a foundation drain are generally low, consideration of the impact of discharge onto the abutter should be made. The Applicant should also consider whether flow directly out of the retaining wall may impact the wall itself.
- The need for a field inlet at the northern corner of the site should be considered. It appears based on the grading that the corner of the site will drain towards the retaining wall, but the wall will extend above grade by over a foot, preventing the surface flow of water over the wall.

2. Sufficient Water Available (Section 14-497 (a) 2 and 3)

Ability to serve letter from Portland Water District has been received and provided.

3. Will Not Cause Unreasonable Traffic Congestion (Section 14-497 (a) 5)

The proposed development is not adding significant vehicular traffic to the site, and a traffic analysis is not required.

4. Will Provide for Adequate Sanitary Sewer and Stormwater Disposal (Section 14-497 (a) 6), and Will Not Cause an Unreasonable Burden on Municipal Solid Waste and Sewage (Section 14-497 (a) 7)

The applicant is proposing to utilize existing combined storm sewer main lines in both Montreal and Willis Streets. If the services are to be combined, this should be done within the right of way. This will allow for future separation within the street.

The applicants have received and submitted a Wastewater Capacity Authorization Letter.

5. Comprehensive Plan (Section 14-497 (a) 9)

The development has been designed to be consistent with the City's Master Plan, adopted in June of 2017. The development has been designed to be consistent with the City's Master Plan, adopted in June of 2017. Sited in the Housing section of the City's Policy Guide's Local Goals, it states: *Increase, preserve, and modify overall supply of housing city-wide to meet the needs, preferences and financial capabilities of all Portland residents.*

C. **SITE PLAN STANDARDS** (Section 14-526)

The proposed development has been reviewed by staff for conformance with the relevant review standards of Portland's site plan ordinance and applicable regulations. Staff comments are listed below.

1. Transportation Standards

a. Impact on Surrounding Street Systems and Access and Circulation

ADA compliance is provided at all door locations. The parking will be accessed from Montreal Street by a driveway between the proposed building and the adjacent property. The residential lobby for the proposed building will be located at the ground level on the southern side and be accessed from the Willis Street sidewalk.

Mike Tremblay P.E., Senior Engineer, has provided the following comment:

- The curb ramp at the corner of Montreal and Willis Street along the project frontage must be reconstructed per ADA and City of Portland standards. The existing ramp is non-conforming as it does not have a sufficient level landing at the top of the ramp; there may be other deficiencies as well. It is not likely that this ramp will be able to be replaced in its current orientation and achieve compliance; a blended transition ramp (detail attached) or another design will likely be required. The ramp shall be reconstructed in brick per the City's sidewalk material policy.

b. Public Transit Access

The public transit requirements do not apply to this project.

c. Parking

Per ordinance requirements in the R6 Zone, the proposed project is required to have a total of 9 spaces. The applicant is proposing to include 13 internal parking spaces within the garage, thus meeting the requirement.

d. Bicycle Parking

Five bicycle parking spaces are proposed for the project, meeting the minimum requirement of four spaces.



Figure 7: Photo - existing street trees – Source: Andrew Tufts

2. Environmental Quality Standards

a. Preservation of Significant Natural Features

There are no known significant natural features on the site.

b. Landscaping and Landscape Preservation

A landscaping plan was submitted as part of the application. The plan shows a variety of trees, shrubs, and perennials, all listed in the City of Portland Recommended Tree List.

There are three well established and significant street trees along Montreal and Willis Streets. The applicant is currently exploring ways to mitigate the impact of utility connections and is working with the city arborist.

Based upon the city's street tree requirements, a total of nine (9) trees are required. The applicant will contribute to the City's Street Tree Fund in place of the five (5) trees that will not be planted.

c. Water Quality, Storm Water Management and Erosion Control

The stormwater management plan includes the construction of an underground storage and treatment system that consists of a Stormtech Chamber System designed to infiltrate the required water quality volume. The system has been designed to effectively collect, infiltrate and provide treatment of approximately 97% of the total new impervious area and approximately 88% of the total new developed area, exceeding the requirement as indicated in the General Standards of MDEP Chapter 500.

Lauren Swett has reviewed the applicants plans and project details, and comments are included in the attachments.

3. Public Infrastructure and Community Safety Standards

a. Public Safety and Fire Prevention

Mike Thompson, Division Chief of the Fire Prevention and Community Outreach Division, has reviewed the submitted plans and found them to be acceptable, noting the following points (Attachment 1):

- *The correct address for this property shall be determined by the City E-911 Addressing Officer.*
- *The street address shall be marked at the main building entrance.*

b. Availability and Adequate Capacity of Public Utilities

The project will be served by Central Maine Power, the Portland Water District, City Department of Public Works. Evidence of utility capacity has been provided by the applicant.

4. Site Design Standards

a. Snow and Ice Loading

The project design and layout provides an area of approximately 300 square feet located adjacent to the proposed driveway near the northwesterly corner of the site. Snow storage will not conflict with pedestrian access. Snow melt runoff will be treated with the subsurface chamber system.

b. View Corridors

This site is not within a Protected View Corridor as per the "View Corridor Protection Plan" approved by the Portland City Council in 2001.

c. Historic Resources

The project site is not within 100' feet of a historic district and therefore is not subject to a historic preservation review.

d. Exterior Lighting

The applicant has submitted a lighting and photometric plan.

e. Noise and Vibration

The HVAC system will meet the applicable state and federal emissions requirements and will also be screened and directed away from abutters.

f. Signage and Wayfinding

All street and wayfinding signage shall meet the requirements of the Manual on Uniform Traffic Devices (MUTCD) and Division 22 of the City Code.

g. Zoning Related Design Standards

A preliminary design review for the proposed new construction of a multi-family project at 33 Montreal Street was performed by Planning and Urban Development staff. The project, because the lot is over 10,000 sf, was reviewed against the *Multiple-Family* Standards (City of Portland Design Manual). The design review finds that a number of the principles and standards have not been met by the proposed design and the applicant will need to amend the plans accordingly.

h. Construction Management Plan

The applicant has submitted a construction management plan which is undergoing review by staff.

X. **CONDITIONAL USE**

33-37 Montreal Street proposes the creation of 9 residential units within the Munjoy Hill Neighborhood Conservation Overlay District. The height of the building will be greater than 35'. Subsequently, the project triggers Section 14-140.5 (c), Maximum Height and is required to include one workforce housing unit for rent or sale. The workforce unit shall be no smaller than 50% of the average size of the other units in the development and shall be deed restricted for affordability for the longest term possible under state and federal law. The applicant is currently working with staff to meet the requirements.

XI. NEXT STEPS

1. Address staff comments
2. Address additional comments of the Planning Board
3. Prepare final plan submission, including subdivision and site plan submittal for review by the Planning Authority and Planning Board
4. Schedule Public Hearing

XII. ATTACHMENTS

PLANNING BOARD REPORT ATTACHMENTS

1. 33 Montreal Street Review Comment Letter
2. Public Comment
3. Design Review Workshop
4. Neighborhood Meeting Notes

APPLICANT'S SUBMITTALS

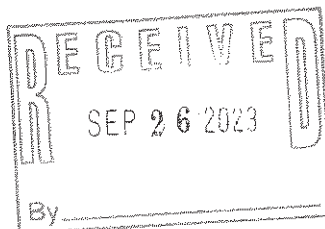
- A. Application Checklist
- B. Project Description
- C. Right, Title & Interest
- D. Financial & Technical Capacity
- E. Zoning Assessment
- F. Construction Management Plan
- G. Transportation
- H. Stormwater
- I. Utilities
- J. Solid Waste Disposal
- K. Public Infrastructure and Safety
- L. Design Review Site Design
- M. 15_Design Review_R6 Design Principles
- N. Wastewater Capacity

PLANS

- Plan 1. Boundary Survey
- Plan 2. Design Review Context
- Plan 3. Architectural Drawings
- Plan 4. Architectural_A1.1_BasementPlan_20190828
- Plan 5. Existing Conditions & Demolition Plan
- Plan 6. Site Plan
- Plan 7. Subdivision Plan
- Plan 8. Grading & Utility Plan
- Plan 9. Details – 1
- Plan 10. Details – 2
- Plan 11. Details – 3
- Plan 12. Watershed Map – Existing Conditions
- Plan 13. Watershed Map – Developed Conditions
- Plan 14. Construction Management Plan
- Plan 15. Landscape Plan

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STATE OF MAINE
CUMBERLAND, SS.



SUPERIOR COURT
Docket No. AP-2022-3

Peter Murray et als.,
Plaintiff,

v.

City of Portland et als,
Defendant.

Order of Remand

Pursuant to the Law Court's mandate and instructions, this matter is remanded to the Planning Board to make factual findings and legal conclusions as set out in the Law Court opinion in this matter.

The clerk may incorporate this order by reference.

Dated: 9/18, 2023



JUSTICE, MAINE SUPERIOR COURT

REC'D CUMB CLERKS OFI
SEP 18 '23 PM1:44

Decision: 2023 ME 57
Docket: Cum-22-271
Argued: May 9, 2023
Decided: August 22, 2023

Panel: STANFILL, C.J., and JABAR, HORTON, and LAWRENCE, JJ., and HJELM, A.R.J.

PETER L. MURRAY et al.

v.

CITY OF PORTLAND et al.

STANFILL, C.J.

[¶1] Peter L. Murray, Deborah D. Murray, Carol Connor, Michael Hoover, and Jean McManamy (collectively, the neighbors) appeal from a judgment of the Superior Court (Cumberland County, *O’Neil, J.*) denying their Rule 80B petition for review of government action, *see* M.R. Civ. P. 80B, and thus affirming the Portland Planning Board’s decision that approved 37 Montreal LLC’s application to construct a multi-unit residential building. The neighbors contend the Planning Board erred in approving the application because the proposed development fails to meet the height, setback, and design-review requirements of the City’s Code of Ordinances (Code). Because we conclude that the Planning Board’s findings are insufficient to enable meaningful

appellate review, we vacate the Superior Court’s judgment and remand with instructions to remand the matter to the Planning Board for findings of fact.

I. BACKGROUND

[¶2] “We draw the following facts from the administrative record before the Planning Board, the municipal body that issued the operative decision.” *Friends of Lamoine v. Town of Lamoine*, 2020 ME 70, ¶ 2, 234 A.3d 214; *see* M.R. Civ. P. 80B(f).

[¶3] In August 2019, 37 Montreal LLC filed an initial site plan, subdivision, and inclusionary-zoning application with the Planning Board. In its application, 37 Montreal LLC proposed to replace what had been three single-family houses with a four-story, multi-unit residential building at 19 Willis Street.¹ The property is located in the R-6 residential zone and the Munjoy Hill Neighborhood Conservation Overlay District as established in the Code. *See* Portland, Me., Code § 14-140.5(a) (May 4, 2015). The Planning Board accepted comments and provided its feedback on the proposal a month later, during a workshop.²

¹ 37 Montreal LLC combined two pre-existing lots into a single parcel.

² Although the Planning Board indicated that the City had adopted a new version of the Code on December 1, 2020, the Planning Board applied the prior version to 37 Montreal LLC’s application because that was what was in effect at the time of the workshop.

[¶4] After a pause in activity, 37 Montreal LLC filed a new set of plans with the Planning Board in April 2021. The City’s urban designer, lead planner, and historic preservation program manager conducted a design review of the proposed development, issuing a memorandum authored by the urban designer on May 18, 2021. Soon after 37 Montreal LLC responded to the memorandum, the Planning Board held a public hearing on July 13, 2021. Before the hearing, residents from the area submitted comments that focused primarily on the proposed development’s height, character, and setbacks.

[¶5] By early December 2021, 37 Montreal LLC submitted its final application and plans to construct a four-story, twelve-unit residential building.³ The proposed building would be forty-five feet in height as measured from a finished grade created by adding fill to the sloping lot.⁴ The building itself would meet the Code’s setback requirements. *See* Portland, Me., Code § 14-140.5(c) (June 5, 2018) (requiring a five-foot side-street setback and a

³ There is a discrepancy in the record about the building’s size. 37 Montreal LLC’s first application indicated the building would be 23,400 square feet, but its final application stated it would be 22,900 square feet. The Planning Board concluded that the building would be 23,400 square feet.

⁴ The maximum allowable height is forty-five feet because the proposed development has “3 units or more . . . that include at least one workforce housing unit.” Portland, Me., Code § 14-140.5(c) (June 5, 2018) (quotation marks omitted).

ten-foot side-yard setback). Walls, however, would be constructed within the setbacks to contain the fill upon which the building would sit.

[¶6] Planning and urban development staff issued a report to the Planning Board on December 10, 2021, concluding that the development satisfied all zoning requirements and recommending that the Planning Board approve the application subject to certain conditions.

[¶7] The Planning Board held its final hearing on December 14, 2021. Comments submitted before and during the hearing focused on three primary concerns: the development's compliance with the Code's height requirement, the development's compliance with the setback requirements, and the Planning Board's compliance with the Code's historic-preservation design-review requirement.

[¶8] Specifically, the neighbors argued that the building would exceed the maximum height allowed by the Code of forty-five feet above grade. *See* Portland, Me., Code § 14-140.5(c). The Code defines the height of a building as “[t]he vertical measurement from grade, or the predevelopment grade on the islands, to the highest point” of the building. Portland, Me., Code § 14-47 (Feb. 20, 2019). The neighbors asserted that this provision requires a building's height to be measured from the natural, unfinished grade, which

means that the proposed building's height would exceed forty-five feet from grade. In contrast, as noted above, 37 Montreal LLC's final plan measured the building's height from the finished grade created by the imported fill.

[¶9] The neighbors also maintained that the proposed development would violate the Code's setback requirements. The Code defines "setback" as "[t]he required distance and the land resulting therefrom between a street line and the closest possible line of conforming *structure*." Portland, Me., Code § 14-47 (emphasis added). The Code defines "structure" as "[a]nything constructed or erected of more than one (1) member which requires a fixed location on the ground or attached to something having a fixed location on the ground." Portland, Me., Code § 14-47. The Code does not define "member." The neighbors argued that the setbacks should be measured from the proposed "retaining walls,"⁵ and not from the building, because the walls are "structures" as that term is defined by the Code. The neighbors contended that although the building itself would meet all setback requirements, the retaining walls would not, and the development therefore would not comply with the Code.

⁵ 37 Montreal LLC characterized the walls as "retaining walls," a characterization with which the neighbors disagree. We use the phrase for ease of reference without suggesting whether the walls are structures under the Code.

[¶10] Finally, the neighbors argued that the Planning Board could not approve the application because it had not received a written analysis from historic preservation staff as required by the Code’s design-review standards. *See* Portland, Me., Code § 14-526(c)(5)(b) (Nov. 7, 2016) (requiring an advisory, historic-preservation design review when a property falls within 100 feet of the Munjoy Hill Historic District.)

[¶11] At the close of the hearing, the Planning Board unanimously voted to approve 37 Montreal LLC’s application. The Planning Board issued a written decision on December 17, 2021.⁶ The Planning Board stated that its decision was “based upon the application, documents and plans as submitted” as well as the findings in the December 10 report that planning and urban development staff prepared. Although the Planning Board concluded generally that the proposed development met the Code’s site plan, subdivision, and inclusionary-zoning standards, the Planning Board did not include any specific findings related to the challenges that the neighbors raised.

[¶12] On January 14, 2022, the neighbors filed a Rule 80B petition for review of the Planning Board’s decision, naming 37 Montreal LLC as a party in

⁶ The Planning Board cited section 14-527 for the site plan standards, but section 14-526 appears to be the applicable section. *See* Portland, Me., Code § 14-526 (Nov. 7, 2016).

interest.⁷ *See* M.R. Civ. P. 80B. The neighbors asserted that the Planning Board erred because 37 Montreal LLC's proposed development failed to meet the height, setback, and historic-preservation design-review requirements under the Code. In a judgment issued on August 5, 2022, the Superior Court concluded that the Planning Board did not err and affirmed the Planning Board's decision. The neighbors timely appealed to us. *See* M.R. App. P. 2B(c)(1); M.R. Civ. P. 80B(n); 14 M.R.S. § 1851 (2023).

II. DISCUSSION

[¶13] We review the Planning Board's decision directly because the Superior Court acted in an intermediate appellate capacity. *See Fitanides v. City of Saco*, 2015 ME 32, ¶ 8, 113 A.3d 1088; *Friends of Cong. Square Park v. City of Portland*, 2014 ME 63, ¶ 7, 91 A.3d 601. "We review the Planning Board's decision for error of law, abuse of discretion or findings not supported by substantial evidence in the record." *Fitanides*, 2015 ME 32, ¶ 8, 113 A.3d 1088 (quotation marks omitted). Because the Planning Board did not make findings

⁷ All the neighbors live near the development's location and participated in the administrative process. The neighbors' standing has not been challenged in this appeal. *See generally Sahl v. Town of York*, 2000 ME 180, ¶¶ 8-9, 760 A.2d 266.

of fact sufficient for us to determine the basis for its approval, however, we cannot meaningfully review its decision.

[¶14] The Planning Board was required to make findings of fact adequate for judicial review. *See Christian Fellowship & Renewal Ctr. v. Town of Limington*, 2001 ME 16, ¶¶ 15-16, 769 A.2d 834. The Code itself directs that “[e]very final decision of the planning board . . . shall include written findings of fact, and shall specify the reason or reasons for such decision.” Portland, Me., Code § 14-27(b) (Aug. 7, 1989). We have also explained that

[m]eaningful judicial review of an agency decision is not possible without findings of fact sufficient to apprise the court of the decision’s basis. In the absence of such findings, a reviewing court cannot effectively determine if an agency’s decision is supported by the evidence, and there is a danger of judicial usurpation of administrative functions. Adequate findings also assure more careful administrative considerations, help parties plan cases for rehearing or judicial review and keep agencies within their jurisdiction.

Chapel Rd. Assocs. v. Town of Wells, 2001 ME 178, ¶ 10, 787 A.2d 137 (alteration, citations, and quotation marks omitted); *see also Mills v. Town of Eliot*, 2008 ME 134, ¶¶ 18-20, 955 A.2d 258.

[¶15] Here, because the Planning Board’s decision does not contain any of the required findings, meaningful judicial review is impossible. The Planning Board did not explain its conclusions or reasoning related to the

proposed development's height or setbacks. Further, its decision does not mention or discuss the historic-preservation design-review requirement.

[¶16] Although the parties argue the facts to us as though the Planning Board made certain findings, “this is not a case in which the facts are obvious from the record.” *Widewaters Stillwater Co. v. Bangor Area Citizens Organized for Responsible Dev.*, 2002 ME 27, ¶ 12, 790 A.2d 597; *see Chapel Rd. Assocs.*, 2001 ME 178, ¶ 12, 787 A.2d 137. For example, it is not obvious whether the Planning Board found that the retaining walls are not “structures” within the meaning of the Code. Absent some illumination of the Planning Board’s reasoning, we cannot determine in this appeal whether its ultimate conclusion was supported by both the record evidence and a correct construction of the applicable provisions of the Code.

[¶17] We also cannot treat the comments that individual Planning Board members made during the hearing as factual findings of the whole Planning Board. *See Carroll v. Town of Rockport*, 2003 ME 135, ¶ 28, 837 A.2d 148 (“[F]indings, whether in writing or stated orally, must be a statement of the decision-maker’s findings, not the views of individual members of the decision-making agency.”); *Fair Elections Portland, Inc. v. City of Portland*, 2021 ME 32, ¶ 37, 252 A.3d 504 (“[W]e can neither infer that any particular comment

represents the decision of the City Council nor deduce the City Council's reasoning based on the comments as a whole.").

[¶18] In short, we cannot "review the matter by implying the findings and grounds for the decision from the available record." *Chapel Rd. Assocs.*, 2001 ME 178, ¶ 13, 787 A.2d 137.

[¶19] "The remedy for an agency's failure to make sufficient and clear findings of fact is a remand to the agency for findings that permit meaningful judicial review." *Id.* (alterations and quotation marks omitted); *see Fair Elections Portland, Inc.*, 2021 ME 32, ¶ 38, 252 A.3d 504. Accordingly, we must remand this case to the Superior Court with instructions to further remand to the Planning Board for findings of fact.

The entry is:

Judgment vacated. Remanded to the Superior Court with instructions to remand to the City of Portland Planning Board for findings of fact.

Elizabeth A. Boepple, Esq., and Michael D. Traister, Esq. (orally), Murray, Plumb & Murray, Portland, for appellants Peter L. Murray, Deborah D. Murray, Carol Connor, Michael Hoover, and Jean McManamy

Natalie L. Burns, Esq. (orally), and Mark A. Bower, Esq., Jensen Baird, Portland, for appellee 37 Montreal LLC

Amy R. McNally, Esq. (orally), City of Portland, Portland, for appellee City of Portland

Cumberland County Superior Court docket number AP-2022-03
FOR CLERK REFERENCE ONLY

STATE OF MAINE
CUMBERLAND, ss.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. AP-22-03 ✓

PETER L. MURRAY et. al.

Petitioners

v.

CITY OF PORTLAND

Respondent

and

37 MONTREAL, LLC

Party-in-Interest

ORDER

Before the Court is Peter L. Murray, Deborah D. Murray, Carol Connor, Michael Hoover and Jean Mcmanamy's (collectively "Petitioners") fully briefed Rule 80B petition for review of governmental action. Also before the Court is Party-in-Interest 37 Montreal, LLC ("37 Montreal") and Respondent City of Portland's (collectively "Respondents") motion to supplement the administrative record. For the reasons set forth herein, both are DENIED.¹

¹ For the Court's ruling on the motion to supplement the administrative record, *see infra*, n.3.

FACTUAL BACKGROUND

A review of the administrative record filed with the Court as part of this administrative appeal gives rise to the following factual background:

This litigation concerns the City of Portland Planning Board's ("Board") decision to approve a Level III Site Plan for a four-story apartment complex in Portland's East End. (Certified Record ("CR") 267.) The Site Plan was filed with the City by Party-in-Interest 37 Montreal, LLC ("37 Montreal"). (CR 267.) The approval allows for the demolition of two vacant single-family houses and the construction of the apartment building in their place ("The Property"). (CR 273.) The new building will be located at the address of 19 Willis Street, in Portland, Maine. (CR 273.) The Petitioners who are challenging the Board's approval of The Property's construction are five individuals who own property in the vicinity of The Property. The Property is in the City's R-6 Zoning district as well as the Munjoy Hill Neighborhood Conservation Overlay District ("MHNCO"). (CR 314.)

On August 12th, 2019, 37 Montreal filed their initial application for a Level III Site Plan.² (CR. 1.) Following submission of the site plan application, the planning board held a public workshop on September 24th, 2019. (CR 273). At that meeting, the Board accepted public comment and provided its initial feedback on the project including recommendations that have since been incorporated into the design plan. (CR 273.)

Comments from the public generally focused on the scale of the project and its compatibility with the neighborhood. (CR 335-350.) Common objections to the project included its overbearing size and 37 Montreal's "failure" to respect the scale and character of the surrounding neighborhood. (CR 273.) After this meeting, there was a lull in project activity

² In the City, a "Level III Site Plan Review" is required for any project involving the "construction of any new structures having a total floor area of 10,000 square feet" that is "located in the R-6 zoning district. (CR 533.)

which persisted until April of 2021 when 37 Montreal filed a new set of plans with the City. (CR 200-210.) A public hearing was scheduled to address these plans on July 13th, 2021. (CR 199.) Ahead of that hearing, the Petitioners and several other Munjoy Hill residents submitted written statements reiterating their objections to the project's plans. (CR 335-340, 342-345, 347.) The thrust of these comments was that the proposal failed to respect the architectural character of the neighborhood; violated the maximum height threshold for structures located within the MHNCO; and ran afoul of the applicable setback requirements. (CR 335-340, 342-345, 347.)

The maximum height of a structure located within the MHNCO is thirty five feet, with a potential extension up to forty five feet in the event a project proposal meets certain criteria which offer a "bonus" ten feet. (CR 484.) Portland's municipal code defines the height of a building with a flat roof as "the vertical measurement from grade . . . to the highest point of the roof." (CR 439.) Portland's municipal code also provides for a minimum side street setback of five feet and a minimum side yard setback of ten feet. (CR 314.)

37 Montreal submitted final plans for the project in November and early December of 2021. (CR 2-129.) The Board then scheduled a final hearing on the project for December 14th, 2021. (CR 728.) At that meeting, the Board held a public hearing on the application, which included a presentation by 37 Montreal's consultants, questions from members of the Board and public comment. (CR 728-787.) At meeting close, six members of the planning board voted unanimously, to approve 37 Montreal's development of the Property. (CR 782-786.)

On January 15th, 2022, the Petitioners filed a timely appeal of the Board's approval pursuant to M.R. Civ. P. 80B. On March 25th, 2022, 37 Montreal filed a reply brief in which the City joined. The Petitioners filed their opposition to the reply on April 14th, 2022, and the

Respondents answered on May 3rd, 2022. Petitioners' 80B appeal, now fully briefed, awaits this Court's decision.

80B STANDARD OF REVIEW

The Court reviews Board decisions for errors of law, abuse of discretion, or findings not supported by substantial evidence in the record. 5 M.R.S. § 11007(4)(C) (2022); *Sproul v. Town of Boothbay Harbor*, 2000 ME 30, ¶8, 746 A.2d 368. Judicial review of a city council's decision shall be limited to "the record of the proceedings before [it]". M.R. Civ. P. 80B(f). When review of a government decision is sought pursuant to M.R. Civ. P. 80B, the court "may not substitute its judgment for that of the [municipality] on questions of fact." 5 M.R.S. § 11007(3) (2022); *Tarason v. Town of S. Berwick*, 2005 ME 30, ¶ 6, 868 A.2d 230. On review, the court may affirm the decision, remand the case for further proceedings, or reverse or modify the decision. *Murray v. Lincolnville*, 462 A.2d 40, 44 n. 6 (Me. 1983); 5 M.R.S. § 11007(4)(A-C) (2022). A petitioner who brings a Rule 80B appeal carries the burden of proof. *See Tompkins v. City of Presque Isle*, 571 A.2d 235, 236 (Me. 1990).

DISCUSSION

The Petitioners challenge the Board's decision on three grounds: (1) The Board erred by improperly calculating the height of the Property for ordinance compliance purposes; (2) The Board erred in its interpretation of the Code because it determined that retaining walls were not "structures" for setback compliance purposes; and (3) The Board erred in deciding not to commission a separate report from the City's Historic Preservation Board ("HPB") regarding the character and build patterns of the Munjoy Hill neighborhood and in failing to find the project compatible with such character and build patterns.³

³ The Respondents have moved to supplement the administrative record with documents which pertain to the HPB's review of 37 Montreal's earlier application for demolition of a structure which had been tagged by the City's

I. Height Calculation

Petitioners' first assignment of error is that the Board improperly approved 37 Montreal's development proposal because it misinterpreted the City's ordinance providing the allowable height of structures in the MHNCOB. The relevant ordinance provides that the maximum height for a structure within the MHNCOB is 35', but that maximum can be extended to 45' for developments of three or more units if the buildable lot is over 2,000 square feet and the plan includes at least one "workforce housing unit." (CR 484.) Here, the operative site plans triggered the 45' measurement. (CR 439.)

The Petitioners contend that, when determining compliance with the 45' maximum, the Board erred in their interpretation of the word "grade." They claim that the word "grade," as used in this ordinance, means the "ground level around the building." The Respondents accept that the word "grade" can be limited to the ground level around the building but challenge the meaning of "ground level." Thus, the Court must determine whether, given that definition of the word "grade," the record supports the City's finding that 37 Montreal's site plans were compliant with the MHNCOB height restriction.

The interpretation of municipal ordinance is a question of law. *See Gensheimer v. Town of Phippsburg*, 2007 ME 85, ¶ 8, 926 A.2d 1168, 1170. When interpreting the language of a municipal ordinance, the Court must first evaluate the plain meaning of the Ordinance and, if the meaning is clear, "need not look beyond the words themselves." *Wister v. Town of Mt. Desert*, 2009 ME 66, ¶ 17, 974 A.2d 903. A Court construes the terms of an ordinance reasonably,

preservation office as preferably preserved. While the documents may be relevant to addressing the Petitioners' arguments, the Historic Preservation Board is not the Planning Board. The proposed supplemental administrative record consists of documents that were not before the City of Portland's Planning Board when the operative, reviewable, and challenged decision was made. *See* M.R. Civ. P. 80B(e)(2). Moreover, none of those documents were before the Planning Board when they made their decision. *See* M.R. Civ. P. 80B(f) ("review shall be based upon the record of the proceedings before the governmental agency"). Accordingly, the motion is DENIED.

considering its purposes and structure and to avoid absurd or illogical results. *See Dickau v. Vt. Mut. Ins. Co.*, 2014 ME 158, ¶ 21, 107 A.3d 621; *Stewart v. Town of Sedgwick*, 2002 ME 81, ¶ 6, 797 A.2d 27. An interpreting court should give terms not otherwise defined "their common and generally accepted meaning unless indicated otherwise by their context in the ordinance." *DeSomma v. Town of Casco*, 2000 ME 113, ¶ 9, 755 A.2d 485, 488.

The main issue presented by is whether the "ground area" from which the grade measurement is taken must be calculated from natural, terrestrial features, or may be measured from artificial features which have been added to the site on top of the natural land. While relatively complex conceptually, the Court understands the Petitioners to be arguing for the "grade" measurement to be taken from "pre-development" grade. Consequently, it understands the Respondents to be arguing for the "grade" measurement to be taken from "post-development grade."⁴

The Petitioners claim that measuring height from post-development grade would lead to absurd or illogical results because it would allow any prospective developer to "heap mounds of earth into the sky" and then claim the right to build on top of them. The Respondents, for their part, claim that such an absurd result would not occur because of the various other approvals and controls needed to get full site approval from the Board. Thus, they claim that the City's interpretation of its ordinance's height restriction as being measured, at the ground level, from the average of various post-development data points, is reasonable. The Court agrees.

⁴ The Court uses the modifiers "pre-development" and "post-development" because it thinks that is the best way to characterize the parties' competing interpretations. The Petitioners object to the height of a structure being calculated from any artificial structure, fill, or modification added to the site. The Respondents advocate for calculating height based on the average grade of the site, as determined by averaging multiple different measurements. Under the Respondents approach, the data points used for measurement would be taken regardless of any artificial additions to the area. Accordingly, the Petitioners desired methodology involves determining height from the natural, undeveloped land, while the Respondents' chosen process contemplates the measurements being taken from land that has, in some way, been developed.

The text of the ordinance itself distinguishes between the terms “grade” and “pre-development grade” by indicating their alternative applicability. The use of “pre-development grade” for calculating a structure’s height is only done “on the islands.” The Ordinance itself provides a definition for the term “pre-development grade” which is distinguished as the “average grade, existing on October 1, 2000, at the corners of the foundation of the proposed structure.” (CR 454.) If the “pre-development grade” was intended for use in a MHNCO height calculation and not just “on the islands” then it is curious why the Ordinance would not impose such a mandate. Accordingly, the term “grade,” as used in the ordinance, must carry a different meaning than the term “pre-development grade.” The Board defines the term “grade” as the “average” of multiple different data points taken from the site. In order for this definition to pass muster under this Court’s review, such a definition must not render the Ordinance’s effects “absurd” or “illogical” in light of its “purposes and structure.” *See Dickau*, 2014 ME 158, ¶ 21, 107 A.3d 621. The Court determines it does not.

While the Court understands the Petitioners point regarding the potential for limitless fill and other mounds of earth to be added to an existing development site, the Court finds the countervailing considerations raised by the Respondents to be more persuasive. If the Court were to determine that the word “grade,” as used in the ordinance means “post-development grade” then it may render many of the site permits issued by the Board invalid.

As was noted at the December 14th hearing, it has been the City’s practice “for years” to calculate the height of a structure in the MHNCO by using its “average grade” methodology.⁵

⁵ At the December 14th hearing, David Silk, a board member, asked the planning staff how the grade, for height calculation purposes, is calculated. Deputy Planning Director Kevin Kraft replied as follows:

[T]he average grade is calculated by averaging either the four sides of the building or four points of the building or various points around the building and it’s at the discretion of the applicant to choose whether they’d rather do four points or a variety of points around the perimeter of the building. And that’s been the city’s practice consistently for a number of years.

(CR 743.)

While no exact figures have been submitted, there likely would be a number of structures that would fall out of compliance with the MHNCOd's height requirements if the Court were to reject the City's practice now. Additionally, the Court finds persuasive the Respondents' assertions that other provisions of City's land use code would prevent a structure from reaching the limitless heights feared by Petitioners.

The administrative record submitted as part of this appeal reflects that the Board reasonably interpreted the City's structural height restriction in the MHNCOd and discerns no error in their decision to approve 37 Montreal's proposed design. Accordingly, the Court affirms the Board's finding that the proposed structure meets the forty five foot height limitation mandated by the ordinance.⁶ There is ample record evidence to support this finding.

II. Retaining Walls

The Petitioners next assert that the Board erred when it determined that the proposed retaining walls were not "structures" for the purpose of applying the City land use code's setback provisions. Specifically, the Petitioners challenge the Board's findings that 37 Montreal's site plans complied with the MHNCOd's "minimum side yard setback" and "minimum side yard setback on a side street."

As the Respondents point out, the Petitioners do not contend that the four story, 19 Willis Street property itself violates the setback provisions. Instead, they claim that the retaining walls which exist outside the building's main structure must also comply with the MHNCOd's setback provisions.

The City's land use code defines the term "setback" as the "required distance and the land resulting therefrom between a street line and the closest possible line of conforming

⁶ The forty-five foot restriction is applicable here because the proposal included at least one workforce unit in a complex of three total units or more. This adds ten "bonus" feet to the default thirty-five foot restriction.

structure.” (CR 456.) It also defines a “side yard” as “a yard adjoining a side lot line extending from the front yard to the rear yard, the width of which shall be the shortest horizontal distance between the side lot line and any structure.” (CR 462.) And, most importantly, it defines the term “structure” as “anything constructed or erected of more than one member which requires a fixed location on the ground.” (CR 458.)

Unlike the term “grade,” discussed *supra* 6, which was ambiguous and undefined, the term “structure” which is the keystone of this analysis, is defined in the ordinance. The argument here is over whether a retaining wall fits that definition. As is clear from the record, if the retaining walls on 37 Montreal’s proposed site plan do meet the definition of a “structure,” then their site plan is not in compliance with MHNCO’s setback provisions.⁷

The Petitioners invite the Court to perform a two step analysis. First, they say the Court must determine what the definition of the term “structure” means, and second they say that, given that meaning, the Court must determine if the retaining walls are “structures.” However, the Court will not seek to redefine a term when an ordinance clearly proscribes its meaning. *See 21 Seabran, LLC v. Town of Naples*, 2017 ME 3, ¶ 12, 153 A.3d 113. Thus, the only operative question here is whether the “retaining wall” is an object that is “constructed of more than one member which requires a fixed location on the ground.”

In this case, the Board found that they were not and that 37 Montreal’s proposed development was compliant with each one of the dimensional requirements imposed by the applicable zoning provisions — including side yard and side street setbacks. (CR 277.) This

⁷ The way the Court reads the City’s land use ordinance, the MHNCO’s specific setback provisions impose additional requirements upon a developer seeking site plan approval within that district. The definitions of the term “setback” and “side yard” found elsewhere in the ordinance still govern the analysis. MHNCO’s “side yard” and “side street” setbacks — ten and five feet respectively — are still measured from the nearest “conforming structure.” Although the MHNCO specific provisions utilize the term “building,” the Court interprets that term’s usage as being referential in nature. The term’s usage helps distinguish between alternatively applicable setback distances which turn on the height of a project’s main structure — a “building.”

affirmative finding was made despite having renderings before it which clearly showed the retaining walls being violative of the ordinance's setback distances.

After thoroughly reviewing the 788 page record, the Court cannot say this finding was not amply supported. After Petitioner Murray raised his setback compliance concerns to the Board at the December 14th meeting, the City's planning staff were clear that "retaining walls are not considered a structure for setback purposes in the City." (CR 767.) Accordingly, the Court refuses to disturb the Board's conclusion that the 19 Willis Street site plan conformed with all applicable setback requirements. *See Balano v. Town of Kittery*, 2017 ME 110, ¶ 2, 163 A.3d 144 ("We accord substantial deference to local characterizations or fact-findings as to what meets ordinance standards.").

III. Historic Preservation Board

The third error the Petitioners assign to the Board is their apparent failure to commission a report from the City's HPB regarding the character and build patterns of the Munjoy Hill neighborhood and their failure to find the project compatible with such character and build patterns. The Respondents' assert that no such separate report was required and that the Board properly found the site plan to be in compliance with all applicable site design standards, including ones which address development adjacent to historic districts.⁸ (CR 571.)

The Petitioners base their argument on Section 14-526(d)(5)(b), which provides, in pertinent part:

When any proposed development is within one hundred feet of any designated historic district . . . such development shall be generally compatible with the major character defining elements of the landmark or portion of the district in the immediate vicinity of the proposed development To aid the planning board in its deliberations, historic preservation staff shall provide a written analysis of the proposed development's

⁸ Because 19 Willis Street is located within 100 feet of the Munjoy Hill Historic District, a historic preservation advisory review was done as part of the approval process. (CR 285.)

immediate context, identifying the major character-defining elements and any established building patterns that characterize the context.

(CR 571-572.) The Petitioners claim that the written analysis required by this ordinance section is separate and distinct from the design review process and, therefore, the historic preservation advisory review of the site plan cannot satisfy this requirement. The Respondents counter that, despite what the text of the ordinance says, the Board was provided with sufficient written materials to aid in their review of the 19 Willis Street site design.

Although no specific, separate, written analysis exists in the record which satisfies the technical requirements of Section 14-526(d)(5)(b), the Court finds that there was ample record evidence to support the Board's conclusion that 19 Willis Street's Site Design was consistent with its immediate historical context.

The Planning Board Report itself notes that the site plan underwent historic preservation review by the Historic Preservation Program Manager, the City's Urban Designer, and the lead project Planner. (CR 285.) This review culminated in a design review memorandum authored by Caitlin Cameron who is an urban designer for the City. That report clearly considers, in detail, the site plan's "compatibility with the surrounding buildings and the general character of the established neighborhood." (CR 327.) It also notes, prior to its conclusions, that the project is "on a transitional site" situated between a newer, modern development and a more historic neighborhood; and lists the "predominant, character defining elements" of the immediate neighborhood. (CR 327.) The report then goes on to make multiple conclusions that the site's design is consistent with the neighborhood's character.

Even though this is not a separate, written report concerning the site plan's harmonization with the characteristics and features of the Munjoy Hill Historic District, the Court agrees with the Respondents that the historic preservation manager's participation in the design review —

and the subsequent written findings produced from that review — did constitute a written analysis that “aided” the planning board in its deliberations. Accordingly, the Court finds that there is also ample record support for the Board’s finding that the 19 Willis Street design plan complied with the Munjoy Hill Neighborhood’s major character defining elements. The Board’s approval of the site plan without a separate written report from the HPB was not reversible error.

Entry Is:

Petitioners’ Petition for Review of Governmental Action filed pursuant to M.R. Civ. P.

80B is Denied.

Respondent’s Motion to Supplement the Administrative Record is Denied.

The clerk is directed to incorporate this order into the docket by reference pursuant to M.R. Civ. P. 79(a).

Dated:

8/1/22



John O’Neil Jr.
Justice, Maine Superior Court

Entered on the Docket: 8/5/22 022

Chapter 14 LAND USE*

 *Cross reference(s)--Buildings and building regulations, Ch. 6; parks, recreation and public buildings, Ch. 18; sewers, Ch. 24; streets, sidewalks and other public places, Ch. 25; vegetation, Ch. 29.

State law reference(s)--Planning, zoning and development, 30 M.R.S.A. Sec. 4501 et seq.

Art. I.	In General, § 14-1--14-15
Art. II.	Planning Board, § 14-16--14-45
Art. III.	Zoning, § 14-46--14-490
Div. 1.	Generally, § 14-46--14-59
Div. 1.5	Conditional or Contract Zoning, §
14-60--14-65	
Div. 2.	R-1 Residential Zone, § 14-66--14-75
Div. 3.	R-2 Residential Zone, § 14-76--14-85
Div. 4.	R-3 Residential Zone, § 14-86--14-93
Div. 4.5.	FH Flexible Housing Zone, § 14-94--14-100
Div. 5.	R-4 Residential Zone, § 14-101--14-115
Div. 6.	R-5 Residential Zone., § 14-116--14-125
Div. 6.5.	R-5A Residential Zone, §14-126--14-134
Div. 7.	R-6 and R-6A Residential Zone, § 14-135--14-140.5
Div. 7.01	R-7 Compact Urban Residential Overlay Zone, § 14-141--14-144
Div. 7.1.	IR-1 Island Residential Zone, § 14-145.1--14-145.6
Div. 7.2.	IR-2 Island Residential Zone, § 14-145.7--14-145.12
Div. 7.3.	IR-3 Island Residential Zone, § 14-145.13--14-145.19
Div. 7.5.	Island Transfer Station Overlay Zone, § 14-145.20--14-145.22
Div. 8.	R-P Residence-Professional Zone, § 14-146--14-152
Div. 8.1	USM University of Southern Maine Overlay Zone 14-152--14-152.9
Div. 8.5.	R-OS Recreation and Open Space Zone, § 14-153--14-160
Div. 9.	B-1 and B-1b Neighborhood Business Zones, § 14-161--14-180
Div. 10.	B-2 and B-2b Community Business Zone, § 14-181--14-195
Div. 11.	A-B Airport Business Zone, § 14-196--14-215
Div. 12.	B-3, B-3b and B-3c Downtown Business Zones, §

		14-216--14-221.1
	Div. 12.1.	I-B Island Business Zone, § 14-222--14-229.9
	Div. 12.5.	B-4 Commercial Corridor Zone, § 14-229.10--14-229.30
	Div. 12.6.	B-5 Urban Commercial Mixed Use Zone, § 14-230--14-230.9
	Div. 12.7.	O-P Office Park Zone, § 14-230.10--14-230.16
	Div. 13.	I-L and I-Lb Industrial Zones, §14-231--14-
245	Div. 14.	I-M, I-Ma and I-Mb Industrial Zones, § 14-246--14-260
267	Div. 15.	I-H and I-Hb Industrial Zones, § 14-261--14-
	Div. 15.1.	B-6 Eastern Waterfront Mixed Zone § 14-268--14-275
	Div. 15.2	India Street Form-Based Code Zone (IS-FBC) § 14-275.1--14-275.7
	Div. 16.	Waynflete School Overlay Zone, § 14-276--14-276.10
	Div. 16.1.	Institutional Overlay Zone (IOZ), § 14-277--14-293
	Div. 17.	B-7 Mixed Development District Zone, § 14-294--14-304
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ARTICLE I. IN GENERAL

Sec. 14-1. Reserved.
Sec. 14-2. Reserved.
Sec. 14-3. Reserved.
Sec. 14-4. Reserved.
Sec. 14-5. Reserved.
Sec. 14-6. Reserved.
Sec. 14-7. – 14-15 Reserved.

ARTICLE II. PLANNING BOARD*

*Cross reference(s)--Administration, Ch. 2; boards generally, § 2-31 et seq.; limitation on term of service on boards, commissions, § 2-32 et seq.

Sec. 14-16. Created.

There is hereby created a planning board.
(Code 1968, § 601.1; Ord. No. 158-68, 5-6-68; Ord. No. 671-75, 12-15-75; Ord. No. 242-76, 5-17-76; Ord. No. 149-79, § 1, 8-6-79)

Sec. 14-17. Composition.

There shall be a planning board of seven (7) members. Members of the planning board shall be residents of the city and shall not be officers or employees of the city or any other agencies or department.
(Code 1968, § 601.1; Ord. No. 158-68, 5-6-68; Ord. No. 671-75, 12-15-75; Ord. No. 242-76, 5-17-76; Ord. No. 149-79, § 1, 8-6-79)

Sec. 14-18. Appointment; terms.

The members of the planning board shall be appointed by the city council for terms of three (3) years. Such members shall serve until their successors are duly elected and qualified. Such terms shall be staggered so that the terms of not more than three (3) members shall expire in any calendar year; providing, however, such service shall not extend to over one hundred twenty (120) days after expiration of their term.
(Code 1968, § 601.1; Ord. No. 158-68, 5-6-68; Ord. No. 671-75, 12-15-75; Ord. No.

242-76, 5-17-76; Ord. No. 149-79, § 1, 8-6-79; Ord. No. 277-83, 11-7-83)

Sec. 14-19. Vacancies.

Permanent vacancies on the planning board shall be filled by the city council, in the same manner as other appointments hereunder, for the unexpired term of the former member.

(Code 1968, § 601.1; Ord. No. 158-68, 5-6-68; Ord. No. 671-75, 12-15-75; Ord. No. 242-76, 5-17-76; Ord. No. 149-79, § 1, 8-6-79)

Sec. 14-20. Removal of members.

Any member of the planning board may be removed for cause by the city council at any time; provided, however, that before any such removal, such member shall be given an opportunity to be heard in his or her own defense at a public hearing.

(Code 1968, § 601.1; Ord. No. 158-68, 5-6-68; Ord. No. 671-75, 12-15-75; Ord. No. 242-76, 5-17-76; Ord. No. 149-79, § 1, 8-6-79)

Sec. 14-21. Compensation.

Members of the planning board shall serve without compensation.

(Code 1968, § 601.1; Ord. No. 158-68, 5-6-68; Ord. No. 671-75, 12-15-75; Ord. No. 242-76, 5-17-76; Ord. No. 149-79, § 1, 8-6-79)

Sec. 14-22. Chair and vice-chair.

(a) The members of the planning board shall annually elect one (1) of their number as chair to preside at all meetings and hearings and to fulfill the customary functions of that office, and another of their number as vice-chair. The chair may administer oaths. The chair shall have the right, upon request, to designate any person or organization as a specially interested party for purposes of offering evidence and conducting cross-examination at hearings.

(b) In the absence of the chair, the vice-chair shall act as chair and shall have all the powers of the chair. The vice-chair shall have such other powers and duties as may from time to time be provided by the rules of the planning board.

(Code 1968, § 601.2; Ord. No. 158-68, 5-6-68; Ord. No. 671-75, 12-15-75)

Sec. 14-23. Staff secretary; minutes, public records.

The planning director shall designate a member of his or her staff who shall serve as staff secretary of the planning board and attend all of its proceedings. The staff secretary

shall provide for the keeping of minutes of the proceedings of the board, showing the vote of each member on every question, or his or her absence or failure to vote, and shall maintain the permanent records and decisions of all board meetings, hearings and proceedings and all correspondence of the board, as required by statute. Such records shall be public records open to inspection during working hours upon reasonable notice.
(Code 1968, § 601.3; Ord. No. 158-68, 5-6-68; Ord. No. 671-75, 12-15-75)

Sec. 14-24. Quorum and necessary vote.

As to any matter requiring a hearing, no business shall be transacted by the planning board without a quorum, consisting of four (4) members, being present. The concurring vote of at least four (4) members shall be necessary to authorize any action by the board. If less than a quorum is present, the hearing may be adjourned from time to time for a period not exceeding three (3) weeks at any one time. The staff secretary shall notify in writing all members of the date of the adjourned hearing and shall notify such other interested parties as may be directed in the vote of adjournment.

(Code 1968, § 601.4; Ord. No. 158-68, 5-6-68; Ord. No. 671-75, 12-15-75; Ord. No. 242-76, 5-17-76)

Sec. 14-25. Meetings, hearings and procedures.

(a) Regular meetings of the planning board shall be held at the call of the chair or as provided by rule of the board. Special meetings may be called by the chair or any four (4) members of the board or at the request of the city council. Except as otherwise provided in section 14-26, all meetings, hearings and deliberations of the planning board and its committees shall be open to the public in accordance with Title 1, M.R.S.A., Section 401 et seq. Testimony at any hearing may be required by the planning board to be given under oath.

(b) The planning board shall adopt its own rules for the conduct of its business not inconsistent with the statutes of the state and this article. Such rules shall be filed with the staff secretary of the board and with the city clerk. Any and all rule changes shall be placed on a city council public agenda as a communication requiring a public hearing. Any rule may be vetoed, in whole or in part, by order of the council within forty-five (45) days of the date of filing with the city clerk. No rules change shall take effect until that time period has elapsed. If a part of a rule is vetoed, the remainder shall continue in effect. Any rule so adopted, which is not required

by the statutes of the state or by this article, may be waived by the chair upon good cause being shown.

(Code 1968, § 601.5; Ord. No. 158-68, 5-6-68; Ord. No. 671-75, 12-15-75, 12-15-75; Ord. No. 242-76, 5-17-76; Ord. No. 78-89, 8-7-89)

Sec. 14-26. Workshop or informational meetings.

Informal meetings or workshops of the planning board or any of its committees may be held at the call of the board or committee chairperson, as the case may be, for the presentation of information by the planning director, his or her staff, the applicant or others. These meetings will be open for public comment according to the Rules of the Portland planning board. Such meetings, unless open to the public as provided in Title 1, M.R.S.A., Section 401 et seq. (Freedom of Access Act), shall be informational only and shall not be deliberative in nature; shall not be used by the board or committee for the weighing of positions or reasons for or against a proposition; and shall not be used by the board or committee for the formulation of tentative or final decisions on any matter.

(Code 1968, § 601.6; Ord. No. 158-68, 5-6-68; Ord. No. 671-75, 12-15-75; Ord. No. 227-01, 4-2-01)

Sec. 14-27. Record and decisions.

(a) The minutes of the staff secretary, and the transcript if one (1) is made, and all exhibits, papers, applications and requests filed in any proceeding before the planning board and the decision of the board shall constitute the record.

(b) Every final decision of the planning board and every recommendation of the planning board to the city council shall include written findings of fact, and shall specify the reason or reasons for such decision or recommendation.

(c) The staff secretary shall mail notice of any decision of the planning board to the applicant and any designated interested parties within five (5) business days of such decision.

(Code 1968, § 601.7; Ord. No. 158-68, 5-6-68; Ord. No. 671-75, 12-15-75)

Sec. 14-28. Conflicts.

No member of the planning board shall participate in the hearing or disposition of any matter in which he or she has an interest. Any question of whether a member has a conflict of interest sufficient to disqualify the member shall be decided by

a majority vote of the members present, except the member whose possible conflict is being examined; where such vote results in a tie, the subject member shall be disqualified.

(Code 1968, § 601.8; Ord. No. 158-68, 5-6-68; Ord. No. 671-75, 12-15-75)

Sec. 14-29. Appeals.

An appeal from any final decision of the planning board as to any matter over which it has final authority may be taken by any party or by any authorized officer or agent of the city to the superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure. No appeal shall lie concerning any matter as to which the power of the board is limited to the making of a recommendation.

(Code 1968, § 601.9; Ord. No. 158-68, 5-6-68; Ord. No. 671-75, 12-15-75)

Sec. 14-30. Jurisdiction and authority.

In addition to the jurisdiction conferred on it by other provisions of state law and the ordinances of the city and in accordance therewith, the planning board shall have the following jurisdiction and authority:

- (a) To prepare and recommend a comprehensive plan to the city council, which plan, upon its adoption by the city council, shall be known as the "Land Development Plan of the City of Portland";
- (b) To prepare and recommend to the city council changes in and amendments to the land development plan;
- (c) To aid and assist the city council and departments and agencies of the city in implementing general plans and in planning, developing and completing specific projects;
- (d) To hear, review and approve, conditionally approve or disapprove level III site plans, subdivisions and conditional use applications;
- (e) To hear, review and approve or deny applications for subdivision approval;
- (f) To hear, review and offer its recommendations to the city council on applications for zoning changes and amendments to, or revisions of, the zoning ordinance, and to initiate recommendations for zoning changes and

amendments to, or revisions of, the zoning ordinance;

- (g) To review and offer its recommendations to the city council on public projects;
- (h) To review and approve, conditionally approve, or disapprove site plans for regulated projects in shoreland areas;
- (i) To prepare and offer its recommendations to the city council with regard to the city's annual capital improvements program;
- (j) To review and approve, conditionally approve, or disapprove urban renewal plans;
- (k) Upon reasonable request, to make its special knowledge and expertise available to any official, department, board or agency of the city, county, state or federal governments to aid them in the performance of their respective duties relating to the planning and development of the city and its region, including request from the City Council to review proposed developments in which the developer does not have the right, title or interest in all the property necessary for the proposed development because some or all of that property is owned by the City;
- (l) To make such investigations, maps and reports, and recommendations in connection therewith, relating to the planning and development of the city as seem desirable;
- (m) To employ or contract with such experts and other assistants as may be necessary or convenient to carry out its duties hereunder and to pay for their services and for such other expenses as may be necessary and proper; provided, however, that such expenditures shall not exceed such funds as may be appropriated for such purposes from time to time by the city council;
- (n) To hear, review and offer its recommendations to the city council on petitions for street vacations and discontinuances.
- (o) To hear, review and decide appeals where it is alleged

there is an error in any decision, requirement, or determination made by the planning authority.

(Code 1968, § 601.10; Ord. No. 158-68, 5-6-68; Ord. No. 671-75, 12-15-75; Ord. No. 86-88, 7-19-88; Ord. No. 137-03/04, 1-21-04; Ord. No. 278-09/10, 7/19/10)

*Editor's Note--Ord. No. 86-88, adopted July 19, 1988, amended this section by adding subsection (14) to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 86-88.

Sec. 14-31. Committees.

The chair of the planning board shall from time to time assign the members of the board to such regular and special committees as may be established by the board. Such committees shall have no final authority but shall assist the board in the conduct of its business by making recommendations to it concerning such specific items as may be assigned to them for study and report. The board shall adopt such rules as it shall deem appropriate to govern the organization and operation of its committees. Committee meetings deliberative in nature shall be open to the public in accordance with Title 1, M.R.S.A., Section 401 et seq.

(Code 1968, § 601.11; Ord. No. 158-68, 5-6-68; Ord. No. 671-75, 12-15-75)

Sec. 14-32. Notice.

(a) Applications:

1. *Level I, level II and level III site plans.* All public notices will be sent according to the section 14-525 of article V (site plan) of this chapter.
2. Subdivision, Zoning Map Amendments. When an application for subdivision or a request for a zoning map amendment is received or generated by the planning authority, it shall give a dated receipt to the applicant and shall notify, by mail, the following, where applicable.
 - a. All property owners within five hundred (500) feet of the proposed subdivision and the clerk and the reviewing authority of municipalities that abut or include any portion of the subdivision. In

addition, the planning authority shall notify a public drinking water supplier if the subdivision is within its source water protection area;

- b. All property owners within five hundred (500) feet of the proposed subdivision or proposed zone change site, except that for subdivisions within industrial zones or proposed map amendments for a site within an industrial zone the notice range shall be one thousand (1000) feet;
- c. All property owners within the limits of the proposed zoning map amendment and all property owners five hundred (500) feet beyond said area, except that for map amendments to a site located within industrial zone designations the notice range shall be one thousand (1000) feet.

The notice hereunder shall include a brief description of the application, the address or location of the property involved and a telephone number at the City where additional information may be obtained. The cost of said notice shall be charged to the applicant.

(b) Workshops and hearings:

Except for notice of public hearings concerning conditional or contract zoning (which notice is governed by section 14-61), the planning authority shall give notice of public workshops and hearings in the form and manner and to the persons herein specified. The notice shall include the time and place of such workshop or hearing, a brief description of the application and the address or location of the property involved. Where notice by mail is required, such notice shall be mailed at least ten (10) calendar days in advance of the workshop or hearing date by regular United States mail. The cost of said noticing shall be charged to the applicant.

1. Subdivision:

- a. To the general public. In the case of workshops and public hearings, notice as described above shall be given to the general public by publication in a newspaper of general circulation in the City of Portland at least two (2) times, the date of the first publication to be at least ten (10) calendar days prior to the hearing.

- b. To the applicant and the owners of the subject property, and other property owners; In the case of workshops and public hearings, notice shall be sent by regular United States mail to the applicant, to the owner(s) of the subject property and to all owners of property located within five hundred (500) feet of the subject property, except that for subdivisions within industrial zones the notice range shall be one thousand (1000) feet.

2. Zoning Map Amendment:

- a. To the general public: Except for notice of public hearings concerning conditional or contract zoning (which notice is governed by section 14-61), the notice of public hearing for zoning map amendments must be posted in the municipal office at least 13 days before the public hearing on such application. In addition, notice of said public hearing must be published at least two times in a newspaper of general circulation in the City of Portland. The date of the first publication must be at least twelve days prior to any public hearing and the date of the second publication must be at least seven days prior to the public hearing.
- b. To property owners within the proposed area proposed for rezoning: Except for notice of public hearings concerning conditional or contract zoning (which notice is governed by section 14-61), in the case of workshops and public hearings on zoning map amendments, notice shall be sent by regular United States mail to all property owners within the area proposed for rezoning and all property owners five hundred (500) feet beyond said area, except that rezoning to industrial zone designations the notice range shall be one thousand (1000) feet.

3. Zoning Text Amendment.

- a. To the general public: Notice of any zoning text amendment shall be published in a newspaper of general circulation in the City of Portland at

least seven days prior to the public hearing on
the proposed amendment.

(c) Required Neighborhood Meeting

An applicant for (a) the subdivision of five or more units or lots or (b) for level III site plan review or (c) a private applicant for rezoning that would permit a Level III development as defined in Section 14-523 (required approvals and applicability), shall conduct a neighborhood meeting according to section 14-524 of article V (site plan) of this chapter.

(Code 1968, § 601.12; Ord. No. 158-68, 5-6-68; Ord. No. 671-75, 12-15-75; Ord. No. 79-89, 8-7-89; Ord. No. 00-51, §1, 8-7-00; Ord. No. 227-01, 4-2-01; Ord. No. 278-09/10, 7-19-10; Ord. No. 25 11/12, 8-15-11)

Sec. 14-33. Public hearings.

Public hearings shall be held as required by the various statutes, codes and ordinances pursuant to which matters are brought before the planning board and shall be conducted in accordance with relevant state law, this code and the rules of the board.

Code 1968, § 601.13; Ord. No. 671-75, 12-15-75)

Sec. 14-34. - 14-45. Reserved.

ARTICLE III. ZONING*

***Editor's note--**Ord. No. 109-88, adopted July 19, 1988, provided that Ord. No. 79-88 through Ord. No. 99-88, all adopted July 19, 1988, which amended various sections within this chapter, "shall take effect immediately as an emergency, pursuant to Article II, § 8 of the Portland City Charter, to avoid a gap between the expiration of the moratorium ordinance previously controlling residential development and the implementation of the new development standards and map as adopted" and further provided that "notwithstanding the provisions of 1 M.R.S.A. § 302, this amendment and items 79 through 99 shall be applicable to applications for permits filed on or after July 19, 1988." Ord. No. 99-88 has not been set out herein but is on file in appropriate city offices. The specific amendments effected by Ord. No. 79-88 through Ord. No. 98-88 are too extensive to enumerate herein; for the specific disposition of such ordinances, see the Comparative Table following this Code.

It should be noted that the zoning ordinance, as set out in this article, does not include the text of conditional rezonings enacted as amendments to the zoning map adopted in § 14-49 herein.

Cross reference(s)--Ordinances pertaining to rezoning saved from repeal, § 1-4(13).

State law reference(s)--Zoning ordinances, 30 M.R.S.A. §

DIVISION 1. GENERALLY

Sec. 14-46. Purpose.

This article, made in accordance with a comprehensive plan, is enacted for the purpose of decreasing congestion in streets; securing safety from fire, panic and other dangers; providing adequate light and air; preventing the over-crowding of land; avoiding undue concentration of population; facilitating the adequate provision of transportation, sewerage, schools, parks and other community facilities and utilities; thus promoting the health, safety, convenience and general welfare of the citizens of the city. This article is made with reasonable consideration, among other things, to the character of each zone and its peculiar suitability for particular uses and with a view to conserving and stabilizing the value of property and encouraging the most appropriate use of land throughout the community.
(Code 1968, § 602.1.A)

Sec. 14-47. Definitions.

The following words shall be defined as set forth below for use in this article. Definitions set forth in the building code of the city shall apply to words not herein defined:

Accessory uses: Uses which are customarily incidental and subordinate to the location, function and operation of permitted uses.

Adult day care facility: A facility which provides a regular program of care and protection for persons over the age of sixteen (16), for consideration, for any part of the day.

Apartment: See "dwelling unit."

Apartment house: See "multifamily dwelling."

Arcade: A covered passageway, generally occurring at the street level of a building, running parallel and adjacent to the street or as a through-block pedestrian connection, which is intended to provide sheltered access to directly adjoining commercial or other uses. Arcades are provided physical definition by the regular placement of structural elements throughout their length which support enclosed building uses above.

Assembly: A joining together of completely fabricated parts to create a finished product.

Back office use: An office-related use providing support services to a primary or headquarter use, with minimal public visitation and no direct in-person sales or services to the general public. Back office uses may include data processing, or other clerical uses relying heavily on a telecommunications infrastructure and may also include support services to educational institutions or social service agencies as long as no direct in-person services to the general public are provided.

Bed and breakfast: A building in which more than two (2) but not more than nine (9) guest rooms are used to provide or offer overnight accommodations for transient guests. An owner, manager, or operator shall live in the building as a permanent resident. No cooking facilities shall be permitted in any of the guest rooms. The only meal which may be offered is breakfast, which shall be offered only to overnight guests. No owner, operator, director, employee, shareholder, partner, corporate officer or agent of a bed and breakfast facility, hostel, hotel, inn, lodging house, motel, or tourist home (as defined in this code) may, for direct or indirect economic remuneration, arrange for or provide any housing accommodations including but not limited to long term, short term or overnight accommodations for an actual or potential guest, customer, or patron of the business at any off-premises site in the City, unless such a facility is authorized, under the applicable provisions of Portland's Land Use Code, to offer such accommodations as a bed and breakfast, hotel, inn, lodging house, motel or tourist home.

Billboard: A structure, either freestanding or attached to a building, the surface of which is available for hire for advertising purposes.

Biotechnology: The use of biological processes, particularly cellular and molecular to solve problems and/or make useful products for applications in medicine, agriculture and environmental management.

Building, height of: The vertical measurement from grade, or the predevelopment grade on the islands, to the highest point of the roof beams in flat roofs; to the highest point of the roof beams or the highest point on the deck of mansard roofs; to a level midway between the level of the eaves and highest point of pitched roofs or hip roofs; or to a level two-thirds of the

distance from the level of the eaves to the highest point of gambrel roofs. For this purpose the level of the eaves shall be taken to mean the highest level where the plane of the roof intersects the plane of the outside wall on a side containing the eaves.

Business service: Establishments primarily engaged in rendering services to other business establishments on a fee or contract basis such as advertising, mailing services, building maintenance services, employment services, management and consulting services, protective services, personnel services and similar businesses.

Chemical-free night club: An alcohol-free commercial establishment that offers live entertainment, amplified music, and/or dancing, where the primary source of income for such alcohol-free commercial establishment is derived from the entertainment and/or any admission or cover charge.

Clinics: Any establishment where patients are admitted for examination and treatment by one (1) or more professionals such as, but not limited to, physicians, dentists, psychologists or social workers.

Coastal wetland: All tidal and subtidal lands; all lands with vegetation present that is tolerant of salt water and that occurs primarily in a salt water or estuarine habitat; and/or any swamp, marsh, bog, beach, flat or other contiguous low land that is subject to tidal action during the highest tide level for the year in which an activity is proposed as identified in tide tables published by the National Ocean Service. Coastal wetlands may include portions of coastal sand dunes.

Cold Storage Facility: Refrigerated facility used for the storage of perishable freight awaiting shipment or wholesaling.

Collector or arterial road: A roadway which is classified as a collector or minor, principal or other arterial by the federal functional road classification for Portland, Maine, a map of which is on file with the department of planning and urban development.

Commercial vessel: Any watercraft used principally in a business or trade, including common carriers of passenger or freight, whether for governmental, nonprofit or emergency purposes; but not including pleasure craft used principally for recreational purposes.

Common areas: Portions of a lodging house which are available for use by all residents of the lodging house. Common areas shall include, but are not limited to, one (1) or more of the following: kitchens, living rooms, recreation rooms, improved basements, and finished porches. Bathrooms, stairways, hallways and storage areas shall not be counted as common areas.

Community Hall: A building or portion of an existing building built for institutional or other non-residential uses and used for social, recreational, artistic, civic, or educational community functions. Such a facility would be open to the public for such functions, which, for example, could include but not be limited to performances, dance, exhibitions, cultural exchange, training programs and workshops, neighborhood meetings or gatherings. As part of these functions and activities, it shall be permissible to serve food, subject to other applicable codes and ordinances. In the R-6 residential zone only, the building can also be used for a farmer's market pursuant to chapter 21 of this code and the requirements set forth therein.

Community living arrangements: A state approved, authorized, certified or licensed group home for eight (8) or fewer mentally handicapped or developmentally disabled persons.

Congregate care facility: A residential development which provides individual living or dwelling units with support services which provide assistance to residents. Services to be provided shall include:

- (a) Transportation for essential support activities. This service shall be included in the base rent;
- (b) Provision of at least one (1) meal per day;
- (c) Programmed social activities which are facilitated by staff. This service shall be included in the base rent;
- (d) Provision of personal care services including, but not limited to, housekeeping, laundry, and minimal health monitoring; and
- (e) Installation of emergency call buttons or systems in each congregate care living unit.

The population of a congregate care facility shall consist of persons fifty-five (55) years of age or older and their spouses and/or disabled persons and their spouses.

Day care facility: A facility which provides a regular program of care and protection for children under the age of sixteen (16), for consideration, for any part of the day.

Drinking establishment: Means and includes any establishment required to be licensed to sell alcoholic beverages for on-premises consumption, which is not regularly used for the purpose of providing full-course meals, as defined in Title 28-A of the Maine Revised Statutes, on the premises.

Drive-through facility: A commercial facility which provides a service directly to a motor vehicle occupant and where the customer drives a motor vehicle onto the premises and to a window or mechanical device through or by which the customer is served with or without exiting the vehicle. Drive-throughs do not include major or minor auto service stations.

Drive-through features: Features associated with drive-throughs including but not limited to designated travel or stacking lanes, intercom systems, menu boards, service windows, kiosks, mechanical devices, etc.

Dwelling: A building or portion thereof used exclusively for residential occupancy, including single-family, two-family and multifamily dwellings, but not including hotels, lodging houses, sheltered care group homes or tourist homes. Occupancy of dwellings for periods of less than thirty (30) days are subject to the requirements of Portland City Code Chapter 6, Article VI.

Dwelling, one-family: A detached building used exclusively for occupancy by one (1) family.

Dwelling, two-family: A single building containing two dwelling units used exclusively for occupancy by two (2) families living independently of each other.

Dwelling, multifamily: A building or portion thereof containing three (3) or more dwelling units.

Dwelling unit: One (1) or more rooms with private bath and

kitchen facilities comprising an independent self-contained dwelling unit.

Earth moving activity means any removal or placement, excavation, filling, stockpiling or grading of soil, earth, loam, sand, gravel, rock and other mineral deposits.

Emergency operations: Emergency operations shall include operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings and livestock from the threat of destruction or injury.

Emergency shelter: A facility providing temporary overnight shelter to homeless individuals in a dormitory-style or per-bed arrangement.

Essential services: The construction, alteration or maintenance of gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Fabrication: Manufacturing, excluding the refining or other initial processing of basic raw materials such as metal ores, lumber or rubber. Fabrication relates to stamping, cutting, or otherwise shaping the processed materials into useful objects.

Family: Not more than sixteen (16) individuals living together in a dwelling unit as a single nonprofit housekeeping unit. A group occupying a hotel, fraternity house or sorority house shall not be considered as a family. The family may include necessary servants.

Family amusement centers: Any structure, open to the public, which may contain coin-operated games and similar entertainment and amusement devices.

Fill. Soil, earth, loam, sand, gravel, rock and other mineral deposits.

Filling. The placement of soil, earth, loam, sand, gravel, rock and other mineral deposits. Filling shall include stockpiling as defined herein.

Floor area: A floor space enclosed by exterior or standard fire walls, exclusive of vent shafts and courts.

Floor area ratio: The proportion of total floor area in a development to the total land area. The ratio is calculated as follows:

$$\frac{8,000 \text{ square feet (total floor area)}}{20,000 \text{ square feet (total land area)}} = .040 \text{ floor area ratio}$$

Foundation: The supporting substructure of a building or other structure, excluding wooden sills and post supports, but including basements, slabs, frost walls, or other base consisting of concrete, block, brick or similar material.

Freshwater wetland: Freshwater swamps, marshes, bogs and/or similar areas which are:

- (a) Of ten (10) or more contiguous acres or of less than ten (10) contiguous acres and adjacent to a surface water body except for any river, stream or brook such that, in a natural state, the combined surface area is in excess of ten (10) acres or of less than ten (10) acres that is depicted on the Shoreland Zoning Map; and
- (b) Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Gross area: Square footage of land area excluding areas of special flood hazard as defined in section 14-450.5 of this chapter.

Handicapped family unit: A dwelling which provides living facilities for handicapped persons. A handicapped family unit may also provide counseling and support services. Staff members may also be included in the population.

Handicapped person: A person with a physical or mental impairment which substantially limits one (1) or more of such person's major life activities, a person with a record of having such an impairment, or a person who is regarded as having such an impairment. This term does not include current, illegal use of or addiction to a controlled substance as defined in 21 U.S.C. ' 802.

Health care practitioner: A professional providing medical, therapeutic or other services relating to the diagnosis, treatment or prevention of physical or psychological disabilities.

High impact industrial uses: Industrial activity involving the manufacturing, packaging, assembly, or distribution of finished products from either raw materials or previously prepared material which are generally incompatible with residential, commercial and lower impact industrial uses and sensitive natural areas due to their high generation of traffic, noise levels, emissions, lighting and odors.

Home occupation: A home occupation is a secondary and incidental use of a dwelling unit, conducted entirely within the dwelling unit by one (1) or more persons residing in the dwelling unit.

Hospital: An institution providing health services, primarily for in-patients, and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, out-patient departments, training facilities, central service facilities and staff offices.

Hostel: An overnight lodging facility for transient guests that provides sleeping rooms and common areas for cooking. A hostel shall not be used as an emergency shelter. No owner operator, director, employee, shareholder, partner, corporate

officer or agent of a bed and breakfast facility, hostel, hotel, inn, lodging house, motel, or tourist home (as defined by this code) may, for direct or indirect economic remuneration, arrange for or provide any housing accommodations including but not limited to long term, short term or overnight accommodations for an actual or potential guest, customer or patron of the business at any off-premises site in the City, unless such a facility is authorized, under the applicable provisions of Portland's Land Use Code, to offer such accommodations as a bed and breakfast, hostel, hostel, inn, lodging house, motel or tourist home.

Hotel: A building used for more or less temporary occupancy of individuals who are lodged with or without meals, having ten (10) or more guest rooms. No owner, operator, employee, shareholder, partner, corporate officer or agent of a bed and breakfast facility, hostel, hotel, inn, lodging house, motel, or tourist home (as defined in this code) may, for direct or indirect economic remuneration, arrange for or provide any housing accommodations including but not limited to long term, short term or overnight accommodations for an actual or potential guest, customer, or patron of the business at any off-premises site in the City, unless such a facility is authorized under the applicable provisions of Portland's Land Use Code, to offer such accommodations as a bed and breakfast, hotel, inn, lodging house, motel or tourist home.

Impervious surface: Means any surface which does not absorb rain and includes all buildings, roads, sidewalks, parking areas, and any area paved with bricks, concrete or asphalt.

Impervious surface ratio: The proportion of a site covered by impervious surfaces. Landscaping islands of strips of two hundred (200) square feet or less shall be included in the calculations as impervious surfaces. The ratio is calculated as follows:

$$\frac{5,000 \text{ square feet (impervious surfaces)}}{10,000 \text{ square feet (gross land area)}} = 0.50 \text{ impervious surface ratio}$$

Indoor amusement and recreation centers: Facilities which limit admission either to members or to persons paying an entrance fee and which offer one (1) or more of the following activities: indoor athletics, including exercise and practice facilities, or games of skill or games of chance licensed either

by the city or by the State of Maine.

Inn: A building used for more or less temporary occupancy of individuals, who are lodged with or without meals, having ten (10) but no more than fifty (50) rooms. Guest rooms shall not contain separate kitchen facilities. No owner, operator, director, employee, shareholder, partner, corporate officer or agent of a bed and breakfast facility, hostel, hotel, inn, lodging house, motel, or tourist home (as defined in this code) may, for direct or indirect economic remuneration, arrange for or provide any housing accommodations including but not limited to long term, short term or overnight accommodations for an actual or potential guest, customer, or patron of the business at any off-premises site in the City, unless such a facility is authorized, under the applicable provisions of Portland's Land Use Code, to offer such accommodations as a bed and breakfast, hotel, inn, lodging house, motel or tourist home.

Intermediate care facility: A facility which provides, on a regular basis, health-related care and services to individuals who do not require the degree of care and treatment which a hospital or extended care facility is designed to provide but who, because of their mental or physical condition, require such care and services above the level of room and board. Said facility must be licensed as a board care, residential care facility or equivalent pursuant to the regulations promulgated by the State of Maine Department of Health and Human Services.

Kitchen facilities: Facilities used for the preparation of meals, including refrigerators and devices used for the cooking and preparation of food.

Light manufacturing use: The fully enclosed assembly or fabrication of materials but excluding basic processes such as smelting, refining, distilling, forging, brewing, and similar processes involving converting raw materials to a finished or semifinished product.

Living Unit: An independent self-contained dwelling unit that does not include full kitchen facilities.

Lodging house: A house, building or portion thereof containing two (2) or more rooming units and providing such units, with or without meals, to individuals on not less than a weekly or monthly basis for compensation. A lodging house, except for lodging houses located in the IR-2, IR-3 and I-B

zones, shall contain common areas for use by all residents, including a kitchen. A kitchen need not be available as part of the common areas where all meals are provided on a daily basis. No owner, operator, director, employee, shareholder, partner, corporate officer or agent of a bed and breakfast facility, hostel, hotel, inn, lodging house, motel, or tourist home (as defined in this code) may, for direct or indirect economic remuneration, arrange for or provide any housing accommodations including but not limited to long term, short term or overnight accommodations for an actual or potential guest, customer, or patron of the business at any off-premises site in the City, unless such a facility is authorized, under the applicable provisions of Portland's Land Use Code, to offer such accommodations as a bed and breakfast, hotel, inn, lodging house, motel or tourist home.

Long term or extended care facility: An institution or a distinct part of an institution that is licensed or approved to provide full-time convalescent or chronic care, or health care under medical supervision for twenty-four (24) or more consecutive hours, to nine (9) or more individuals who, by reason of advanced age, illness, or infirmity are unable to care for themselves, and who are not related to the governing authority by marriage, blood, or adoption.

Lot: A parcel or area of land that is designated as an individual unit for use, development or ownership that is either a) a lot of record, recorded in the Cumberland County Registry of Deeds; or b) a contiguous combination of such lots of record under common ownership; or c) a newly established parcel meeting all the dimensional requirements of the zone in which it is located.

Lot area: The area of land enclosed within the boundary lines of a lot.

Lot width: The distance parallel to the front of the building measured between side lot lines through that part of the principal building where the lot is narrowest.

Low impact industrial uses: Industrial activity involving the manufacturing, packaging, assembly, or distribution of finished products from previously prepared material, including but not limited to the following: bakeries, breweries, bottling, printing and publishing, pharmaceuticals, machine shops, precision instruments, watchmakers, musical instruments, toys

and sporting goods, pottery and ceramics using only previously pulverized clay, wood products, jewelry, assembly of electrical components, canteen services, tool and die shops, and the packaging of foods. Low impact industrial uses do not include the processing of raw materials or salvaging operations. Low impact industrial uses are compatible, due to their size and nature of impact, with residential, commercial and other low impact industrial uses because of the level of traffic generated, emissions levels, lighting and odors generated.

Major auto service station: A business selling gasoline, diesel or propane fuel, with more than two (2) pump islands or with a capacity to fuel more than eight (8) vehicles simultaneously or providing repair services including, but not limited to, tune-ups, engine repair, brake work, muffler replacement, tire repair or similar activities.

Minor auto service stations: A business selling gasoline, diesel or propane fuel with not more than two (2) pump islands, provided that no more than a total of eight (8) vehicles may be fueled simultaneously. Repair services including but not limited to tune-ups, engine repair, brake work, muffler replacement, tire repair or similar activities shall be permitted provided that there shall be no more than two (2) service bays. Such businesses shall not include car washes or vacuums.

Manufactured housing: A structural unit or units designed for residential occupancy, and constructed in a manufacturing facility and then transported by the use of its own chassis or placement on an independent chassis to a building site. The term includes any type of building which is constructed at a manufacturing facility and then transported to a building site where it is utilized for housing and may be purchased or sold by a dealer in the interim. For purposes of this article, two (2) types of manufactured housing are included. They are:

- (a) Those units constructed after June 15, 1976, which the manufacturer certifies are constructed in compliance with the standards required by the United States Government Department of Housing and Urban Development, as such standards are from time to time revised or amended, meaning structures, transportable in one (1) or more sections, which in the traveling mode are fourteen (14) body feet or more in width and are seven hundred fifty (750) or more square feet, and which are built on a permanent chassis and designed to

be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air-conditioning and electrical systems contained therein. This term also includes any structure which meets all the requirements of this subparagraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401 et seq.; and

- (b) Those units constructed after June 15, 1976, which the manufacturer certifies are constructed in compliance with the state's Manufactured Housing Act and regulations, meaning structures, transportable in one (1) or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained therein.

Any unit which does not fall within the definitions of this section and which is legally sited within the city on December 18, 1989, may be relocated to any location in the city in which manufactured housing is allowed.

Manufactured housing park: A parcel of land under unified ownership approved by the Planning Board under 30-A M.R.S.A. Section 4358 for the placement of single-component manufactured housing.

Manufactured housing park unit space: The area of land on which an individual home is situated within a manufactured housing park and which is reserved for use by the occupants of that home.

Manufactured housing subdivision or development: A parcel of land approved by the Planning Board under 30-A M.R.S.A. Section 4358 for the placement of single-component manufactured housing on individual owned lots.

Marijuana cultivation facility: A cultivation facility required to be licensed pursuant to 22 M.R.S. § 201 or any other facility engaged primarily in the business of planting, propagation, growing, harvesting, drying, curing, grading, trimming or other processing of marijuana, including mature marijuana plants, immature marijuana plants, seedlings and marijuana seeds, for use or sale.

Marijuana manufacturing facility: A manufacturing facility required to be licensed pursuant to 22 M.R.S. § 2423-F or 28-B M.R.S. § 201.

Marijuana product: As defined by 22 M.R.S.A. §2422 or 28-B M.R.S.A., §102.

Marijuana retail store: A retail establishment licensed to sell marijuana, marijuana products, immature marijuana plants and seedlings to adult use or medical marijuana customers. A marijuana retail store is only authorized as a principal use, and is not permitted as an accessory use. A marijuana retail store may not exceed a maximum gross floor area of 2,000 square feet. A marijuana retail store shall not include a registered dispensary.

Marijuana testing facility: A facility licensed to develop, research and test marijuana, marijuana products and other substances as defined by 22 M.R.S.A. §2422 or 28-B M.R.S.A., §102.

Marina: Commercial operation providing floats, slips and piers intended primarily for berthing of noncommercial vessels and the provision of related services such as supplies, fuel, equipment and repairs, which may be provided both to tenants and non-tenants.

Military personnel berthing: A building, or portion thereof, which is primarily used as, and intended for, temporary living quarters for military personnel.

Minor business: A business with not more than two (2) pump islands, provided that no more than a total of eight (8) vehicles may be fueled simultaneously. Such businesses shall not include car washes or vacuums. Repair services shall be permitted, provided that there shall be no more than two (2) service bays.

Motel: A building or group of attached or detached buildings containing guest rooms or dwelling units most of which have separate outside entrances and parking space hereby intended to be used principally by automobile transients for compensation. Motels include tourist courts, motor lodges or cabins. No owner, operator, director, employee, shareholder, partner, corporate officer or agent of a bed and breakfast facility, hostel, hotel, inn, lodging house, motel, or tourist home (as defined in this code) may, for direct or indirect economic remuneration, arrange for or provide any housing accommodations including but not limited to long term, short term or overnight accommodations for an actual or potential guest, customer, or patron of the business at any off-premises site in the City, unless such a facility is authorized, under the applicable provisions of Portland's Land Use Code, to offer such accommodations as a bed and breakfast, hotel, inn, lodging house, motel or tourist home.

Multiple-component manufactured housing: Manufactured housing which is constructed and transported in two (2) or more sections of substantially similar size that must be mated to form a habitable dwelling. For purposes of planned residential unit development and multiplex development, multiple-component manufactured housing shall be considered a dwelling unit.

Nanotechnology: The creation of functional materials, devices and systems through control of matter on the nanometer scale.

Neighborhood Center: A building or portion of a building used for recreational, artistic, social, educational, health, culture, or similar activities and services, usually owned and operated by a public or nonprofit group or agency. A neighborhood center is 10,000 square feet or less.

Net land area: Net land area, as set forth in sections 14-90, 14-120 and 14-130 of this article, shall be calculated by subtracting from gross area the square footage of the following:

- (a) Reserved.
- (b) Existing watercourses, as defined in this section, measured by the area between the top of the banks at the normal high water mark, as defined in this section.

- (c) Reserved.
- (d) Wetlands, as defined in this section;
- (e) Reserved.
- (f) Slopes of twenty-five (25) percent or greater. Where a slope of twenty-five (25) percent or greater was altered to less than twenty-five (25) percent within the two (2) years immediately preceding the submission of the application for development, such slope shall also be subtracted from the gross area;

Noncommercial vessel berthing: The use of berthing space for berthing of watercraft other than commercial vessels. Berthing space used in the following manner shall not be counted in computing the number of linear feet under this use category:

- (a) Space used principally for sale or repair of vessels;
- (b) Commercial vessel tenant space used by a noncommercial vessel for a period not exceeding ten (10) consecutive days while the primary commercial vessel tenant is conducting its business or trade.

Normal high water line: That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to rivers, the normal high water line is the upland edge of the wetland, and not the edge of the open water.

Office complex: Separate office buildings planned, constructed or managed on an integrated coordinated basis.

On-peninsula: Includes all land located south of I-295.

Off-peninsula: Includes all land located north of I-295.

Personal service: Establishments engaged in providing services involving the care of the person or his apparel, such as laundries, dry cleaning establishments, photographic studios, beauty and barber shops but not including commercial or industrial laundries.

Piers, docks, wharves, bridges and other structures and uses extending over or beyond the normal high water line or within a wetland:

- (a) Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.
- (b) Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months.

Place of assembly: A building or portion of a building used as a community hall, neighborhood center, private and fraternal organization or place of religious assembly. This definition shall not include buildings or portions of buildings used as a community hall, neighborhood center, private and fraternal organization or place of religious assembly where fifteen (15) or fewer people, not including the permanent residents of a single family dwelling, assemble.

Place of religious assembly: A building or portion of a building used for religious worship or instruction including, but not limited to, churches, synagogues, masjids, mosques and other places of worship.

Plant canopy: As defined by 28-B M.R.S., §102.

Pre-development grade. Pre-development grade is defined as average grade, existing on October 1, 2000, at the corners of the foundation of the proposed structure.

Principal building: The building occupied by the chief or principal use on the premises. When a garage is attached to the principal building in a substantial manner as by a roof or common wall, it shall be considered as a part of the principal building.

Private club or nonprofit social and recreational facility: A private club, or nonprofit social and recreational facility, is open exclusively to members and to their bona fide guests accompanying them, in order to promote fellowship, social living, proper recreation, civic responsibility, neighborhood responsibility, community welfare or other endeavors. It shall be permissible to serve food and meals on such premises provided adequate dining room space and kitchen facility are available

and are provided within all regulations of this article and other applicable codes and ordinances.

Processing: Any operation changing the nature of material or materials such as chemical composition or physical qualities. Does not include operations described as fabrication.

Professional office: The office of a doctor, dentist, optometrist, psychologist, accountant, lawyer, architect, engineer or similar professional.

Recent flood plain soils: Recent flood plain soils include the following soil series as described and identified by the National Cooperative Soil Survey:

Alluvial	Medomak
Charles	Ondawa
Cornish	Podunk
Fryeburg	Rumney
Hadley	Saco
Limerick	Suncook
Lovewell	Winooski

Recreation facilities: Any establishment designed or equipped for the conduct of sports or indoor leisure-time recreational activities.

Registered dispensary: A registered medical marijuana dispensary as defined by 22 M.R.S. §2422.

Registered patient: As defined by 22 M.R.S. §2422.

Restaurant: Any food service establishment, as defined by section 11-16 of this Code, with indoor seating capacity for ten (10) or more patrons.

Retail: Sale to the ultimate consumer for direct consumption and not for resale; however, retail, combined with gasoline, diesel or propane fuel sales shall be considered a single use for zoning purposes and shall constitute a major or minor auto service station.

Retail establishment: Means (1) any food service establishment as defined by section 11-16 of this Code, with indoor seating capacity for nine (9) or fewer patrons; or (2) any shop or store offering goods or merchandise to the general public for direct consumption and not for resale, but does not include temporary freestanding stands in either case; however, retail establishments combined with gasoline, diesel or propane fuel sales shall be considered a single use for zoning purposes and shall constitute a major or minor auto service station.

Rooming unit: A room or suite of rooms in a house, building or portion thereof rented as living and sleeping quarters, but without full kitchens or bathrooms. In a suite of rooms, each room which provides sleeping accommodations shall be counted as one (1) rooming unit for the purpose of this article. Each rooming unit in a lodging house shall have kitchen privileges unless all meals are provided on a daily basis. There shall be no more than two (2) persons residing in each rooming unit.

Self-storage facility: Fully enclosed buildings with individual, secured units (accessed with or without supervision) used for the exclusive purpose of storage of non-hazardous business or personal materials.

Setback: The required distance and the land resulting therefrom between a street line and the closest possible line of conforming structure.

Sheltered care group home: A facility which, in addition to providing food and shelter to a defined population, provides guidance or counseling services. Such services are a primary function of the facility.

Shore frontage: The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

Shoreland zone: The land area located within two hundred fifty (250) feet, horizontal distance, of the normal high water

line of any river; within two hundred fifty (250) feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high water line of a stream.

Sign: Signs shall be as defined in section 14-367.

Single-component manufactured housing: Manufactured housing which is constructed and transported in one (1) section that is a habitable dwelling unit. For purposes of planned residential unit development and multiplex development, single-component manufactured housing shall not be considered a dwelling unit, except in the FH Flexible Housing Zone.

Small-scale marijuana caregiver: A registered caregiver who sells or dispenses marijuana to no more than five individual registered patients in any one calendar month; does not process or manufacture marijuana using chemicals or solvents; and cultivates no more than 1) 250 square feet of plant canopy where located in a single-family dwelling or commercial space; or 2) 125 square feet of plant canopy where located in a dwelling unit within a two-family or multi-family building.

Special needs independent living unit: A dwelling unit developed and managed by a nonprofit organization for habitation by persons with special social, physical or mental needs beyond strictly economic needs. Such persons shall be provided required levels of supervision, care and/or counseling services appropriate to their special needs, and the services shall be provided by either the sponsoring nonprofit agency or through another entity with which the agency has entered into a contractual arrangement.

Sports complex: One or more facilities located on the same parcel of land where athletic events are held and with a combined seating capacity of at least six thousand (6,000) seats.

Stockpiling. Any placement or creation of piles or loads of soil, loam, sand, gravel, rock or other mineral deposits upon a site for the purpose of storage, warehousing or reserving for future use. Stockpiles shall be considered structures for purposes of dimensional requirements under the Land Use Code.

Stormwater detention area: A storage area for the temporary storage of stormwater runoff which does not contain water during non-storm conditions.

Storm water retention area: A pond or basin used for the permanent storage of stormwater runoff.

Story: That portion of a building included between the surface of any floor and the surface of the floor, or the roof, next above. A half story is a story situated under a sloping roof, the area which at a height four (4) feet above the floor does not exceed two-thirds of the floor area of the story immediately below it and which does not contain an independent apartment or dwelling unit. A story which exceeds eighteen (18) feet in height shall be counted as two (2) stories. A basement shall be counted as a story for the purpose of height measurement where more than one-half of its height is above the average level of the adjoining ground.

Stream: A free-flowing body of water from the outlet of the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5-minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river or flows to another water body or wetland within a shoreland area, or any stream designated within a Stream Protection Zone.

Street: A public way established by or maintained under public authority, or a way dedicated to the use of the public and appearing on the official map of the city.

Street line: The line of demarcation between a street and the abutting land.

Structure: Anything constructed or erected of more than one (1) member which requires a fixed location on the ground or attached to something having a fixed location on the ground.

Studios for artists and craftspeople: A facility for the production of arts and crafts products such as paintings, sculpture or other arts, or the practice of arts such as music or dance, or the production of custom handcrafted, or limited production of products such as furniture, wood, clay and metal products, publications and similar low impact arts and crafts activities.

Temporary wind anemometer tower: A temporary structure which may be installed for no more than two (2) years for data collection purposes and which supports devices for measuring wind speed, direction and other characteristics to assess wind energy potential and design issues for any permanent wind energy installation; often termed "meteorological towers" or "met towers".

Theaters: Any establishment devoted to showing motion pictures, or for dramatic, musical or live performances.

Tourist home: A building in which more than one (1) but not more than nine (9) guest rooms are used to provide or offer overnight accommodations for transient guests. No owner, operator, director, employee, shareholder, partner, corporate officer or agent of a bed and breakfast facility, hostel, hotel, inn, lodging house, motel, or tourist home (as defined in this code) may, for direct or indirect economic remuneration, arrange for or provide any housing accommodations including but not limited to long term, short term or overnight accommodations for an actual or potential guest, customer, or patron of the business at any off-premises site in the City, unless such a facility is authorized, under the applicable provisions of Portland's Land Use code, to offer such accommodations as a bed and breakfast, hotel, inn, lodging house, motel or tourist home.

Transient guest: A person who occupies a facility offering accommodations on an overnight basis for compensation and whose actual occupancy is limited to no more than fifteen (15) days out of any sixty-day period.

Tributary stream: means a channel between defined banks created by the action of surface water, which is characterized by the lack of terrestrial vegetation or by the presence of a bed, devoid of topsoil, containing waterborne deposits or exposed soil, parent material or bedrock; and which is connected hydrologically with other water bodies. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.

Truck terminal: A facility primarily for handling and storage of goods transported by tractor trailers, including the fueling, servicing, and storage of those vehicles (except body repairs, frame straightening and painting), as well as facilities

for drivers, such as food, restrooms and showers, lodging, and retail related to truck supply. This definition does not apply to truck activity incorporated into or ancillary to an Intermodal Transportation Facility.

Upland edge of a wetland: the boundary between upland and wetland. For purposes of a coastal wetland, this boundary is the line formed by the landward limits of the salt tolerant vegetation and/or the maximum spring tide level, including all areas affected by tidal action. For purposes of a freshwater wetland, the upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation but such vegetation is dominated by woody stems that are six (6) meters approximately.

Use: The purpose for which land or structures thereon is designed, arranged or intended to be occupied or used, or for which it is occupied, maintained, rented or leased. The use of a property is not altered solely as the result of the property being rented, leased, or let, on a transient or long-term basis, by an individual or entity other than the owner, for purposes of engaging in the same use.

Utility substation: Any sewage or water pumping station, electric power substation, transformer station, telephone equipment enclosures, or other similar structures owned or operated by a public utility.

Vegetation: All live trees, shrubs, ground cover, and other plants including, without limitation, trees both over and under four (4) inches in diameter, measured at four and one-half (4 1/2) feet above ground level.

Warehousing: The storage of goods, wares and merchandise in a warehouse.

Water body: Any river or stream.

Watercourse: Any natural or artificial stream, river, creek, ditch, channel, swale, canal, conduit, culvert, drain, waterway, gully, ravine or wash in which water flows in a definite direction or course, either continuously or intermittently, or which has a definite channel, bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow or floodwater.

Water-dependent uses: Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal or inland waters and which cannot be located away from these waters.

Wetlands associated with shoreland zones: a freshwater or coastal wetland.

Wetlands: Those areas which have two (2) or more of the following:

- (a) A water table at or near the surface during the growing season;
- (b) Very poorly drained soils, including Sebago mucky peat; or
- (c) Obligate wetland vegetation.

For purposes of this definition, "very poorly drained soils" and "obligate wetland vegetation" shall be as defined and illustrated in the United States Department of Interior, Fish and Wildlife Service publication of Wetland Plants of the State of Maine (1986), a copy of which is on file with the planning authority.

Wholesale: Sale for resale, not for direct consumption.

Yard: A space on a lot which is required by this article to be maintained open, unoccupied and unobstructed between lot lines and any structure, except as permitted in this article. In determining the front, rear or side of any accessory building, the orientation of the principal building shall be controlling.

In measuring a yard, the building line shall be deemed to mean a line parallel to the lot line drawn through the point of a building or the point of a group of buildings nearest to such lot line. This measurement shall be taken at right angles from the building to the nearest lot line.

Yard, front: A yard adjoining the front lot line, extending between side lot lines, the depth of which shall be the shortest horizontal distance between the front lot line and any structure.

Yard, rear: A yard adjoining the rear lot line, extending between side lot lines, the depth of which shall be the shortest

horizontal distance between the rear lot line and any structure.

Yard, side: A yard adjoining a side lot line extending from the front yard to the rear yard, the width of which shall be the shortest horizontal distance between the side lot line and any structure.

(Code 1968, § 602.27; Ord. No. 625-70, 12-21-70; Ord. No. 499-74, § 11, 8-19-74; Ord. No. 276-77, 5-16-77; Ord. No. 431-82, §§ 3, 4, 2-22-82; Ord. No. 610-82, § 3, 7-7-82; Ord. No. 94-83, 8-3-83; Ord. No. 540-84, 5-7-84; Ord. No. 259-84, § 1, 12-17-84; Ord. No. 548A-85, § 1, 5-6-85; Ord. No. 33-85, §§ 1--3, 7-15-85; Ord. No. 385-87, 4-6-87; Ord. No. 363-88, 5-4-88; Ord. No. 300-88, 5-31-88; Ord. No. 87-88, § 1, 7-19-88; Ord. No. 129-88, 9-7-88; Ord. No. 311-89, 1-30-89; Ord. No. 164-89, 12-11-89; Ord. No. 199-89, 12-18-89; Ord. No. 33-90, § 1, 1-23-91; Ord. No. 33A-91, § 1, 4-17-91; Ord. No. 15-92, § 1, 6-15-92; Ord. No. 168-93, § 1, 1-4-93; Ord. No. 252-94, § 1, 4-4-94; Ord. No. 39-96, § 1, 10-7-96; Ord. No. 164-97, § 1, 1-6-97; Ord. No. 125-97, § 1, 3-3-97; Ord. No. 46-97, § 1, 8-4-97; Ord. No. 164-97, § 1, 12-1-97; Ord. No. 232-99, §1, 3-15-99; Ord. No. 81-99, §2, 10-18-99; Ord. No. 94-99, 11-15-99; Ord. No. (Substitute)189-00, §1, 4-24-00; Ord. No. 295-01, § 1, 6-4-01; Ord. No. 187-01/02, § 1, 4-17-02; Ord. No. 77, § 3, 10-21-02; Ord. No. 96-04/05, 11-29-04; Ord. No. 144-05/06, 1-4-06 emerg. Passage; Ord. No. 149-05/06, 1-18-06; Ord. No. 300-05/06, 7-17-06; Ord. No. 296-08/09, 6-15-09; Ord. No. 29-09/10, 8-3-09 emergency passage; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 283, 09/10, 7-19-10 emergency passage; Ord. No. 278-09/10, 7-19-10; Ord. No. 77-10/11, 12-6-10, emergency passage; Ord. No. 149-10/11, 3-7-11; Ord. No. 279-09/10, 6-6-11; Ord. No. 53-14/15, 9-15-2014; Ord. No. 209-14/15, 5/4/2015; Ord. No. 276-14/15, 6-15-2015; Ord. No. 179-16/17, 3-27-2017; Ord. No. 33-17/18, 9-6-2017; 140-18/19, 2-20-2019)

*Editor's note--Ord. No. 87-88, adopted July 19, 1988, amended the definitions for gross area, intermediate care facility and principal building to read as herein set out and added definitions for net land area, stormwater detention area and stormwater retention area. The definition of net land area was subsequently amended by Ord. No. 129-88, adopted Sept. 7, 1988, to read as herein set out. See the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 87-88.

The amendments passed in Order 144-05/06, 1-4-06 applies retroactively to yard measurements made under the Portland Land Use Code at any time after June 5, 1957, and applies notwithstanding any adverse order or decree.

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 14-48. Establishment of zones.

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

- (a) R-1 Residential zone
- (b) R-2 Residential zone
- (c) R-3 Residential zone
- (d) FH Flexible housing zone
- (e) R-4 Residential zone
- (f) R-5 Residential zone
- (g) R-5A Residential zone
- (h) R-6 Residential zone
- (i) R-7 Residential zone
- (j) IR-1 Island residential zone
- (k) IR-2 Island residential zone
- (l) IR-3 Island residential zone
- (m) Island transfer station overlay zone
- (n) R-P Residence-professional zone
- (o) R-OS Recreation and open space zone
- (p) B-1 and B-1b Neighborhood business zones
- (q) B-2 and B-2b Community business zone
- (r) A-B Airport business zone
- (s) B-3, B-3b and B-3c downtown business zones
- (t) I-B Island business zone
- (u) B-4 Commercial corridor zone
- (u-1) B-5 Urban commercial mixed use zone
- (v) O-P Office park zone

- (w) I-L and I-Lb Industrial zones
- (x) I-M, I-Ma and I-Mb Industrial zones
- (y) I-H and I-Hb Industrial zones
- (z) B-6 Eastern Waterfront Mixed Zone
- (aa) Reserved
- (bb) Waterfront central zone
- (cc) Waterfront port development zone
- (dd) Reserved
- (ee) R-P Resource protection zone
- (ff) Helistop overlay zone
- (gg) Shoreland zone
- (hh) Flood plain
- (ii) S-P Stream protection zone.

(jj) IS-FBC India Street Form-based Code zone.
(Code 1968, § 602.1.B; Ord. No. 499-74, § 1, 8-19-74; Ord. No. 536-74, § 1, 8-19-74; Ord. No. 334-76, § 1, 7-7-76; Ord. No. 15-92, § 2, 6-15-92; Ord. No. 101-93, 9-20-93; Ord. No. 164-97, § 2, 1-6-97; Ord. No. 156-01, §1, 1-17-01; Ord. 184-14/15, 6-1-2015; Ord. 83-15/16, 11-2-2015)

*Editor's note--Although not expressly amended by the ordinances enacted subsequent to 1976 which created the several classes of zones, § 14-48 has been expanded to encompass all zoning classifications in the city at the discretion of the editor in consultation with the corporation counsel.

Sec. 14-49. Zoning maps.

The zones in section 14-48 are shown upon a map entitled "City of Portland, Maine, Zoning, dated December 2000 and produced by the City of Portland's Department of Planning and Urban Development and the GIS Workgroup" and filed in the office of the Director of Planning and Urban Development, City of Portland, Maine. Such zoning map, with amendments, is hereby

adopted as the official zoning map of the City of Portland and as part of this article and incorporated in and made a part of this article.

(Code 1968, § 602.1.C; Ord. No. 213-84, 10-1-84; Ord. No. 15-92, § 3, 6-15-92; Ord. No. 156-01, §2, 1-17-01)

Sec. 14-50. Zone boundaries when uncertain.

Where uncertainty exists with respect to the boundaries of the various zones, as shown on the zoning maps, the following rules shall apply:

- (a) Unless otherwise indicated, zone boundary lines are the center lines of streets, alleys, parkways, waterways or rights-of-way of public utilities and railroads or such lines extended. Unless otherwise shown, lines within blocks less than two hundred (200) feet wide are median lines between their sides, and lines within blocks two hundred (200) feet or more wide are one hundred (100) feet distant from the less restricted side of the block.
- (b) The depictions of the shoreland zoning districts and stream protection districts on the Shoreland Zoning Maps are illustrative of the general location of such zones. The actual boundaries of these zones shall be determined by measurement of the distance indicated on the maps from the normal high water line of the water body or the upland edge of wetland vegetation. Where such measurement is not the same as the location of the boundary on the Shoreland Zoning Maps, the measurement shall control, unless the Shoreland Zoning Map indicates that the zone boundary shall follow an existing property line.

(Code 1968, § 602.20.A; Ord. No. 15-92, § 4, 6-15-92)

Sec. 14-51. Extension of zone lines.

Where a zone boundary line divides a lot in single or joint ownership of record at the time such line is established, the provisions of this article for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion, provided that the lot has at least twenty (20) feet of street frontage in the less restricted zone when taken together with adjacent premises which are under the same or equivalent ownership or control. If such boundary line divides a business or industrial zone from a residence zone, no frontage on a street other than the principal business street in

the less restricted zone may be taken into consideration in connection with the right herein granted. This section shall not apply to differing dimensional requirements, including height, within a zoning district.

(Code 1968, § 602.20.B; Ord. No. 35-89, 6-28-89)

Sec. 14-52. Conformity required.

No building or structure shall be erected, altered, enlarged, rebuilt, moved or used, and no premises shall be used unless in conformity with the provisions of this article.

(Code 1968, § 602.1.D)

Sec. 14-53. Minimum requirements established.

In interpreting and applying the provisions of this article, they shall be held to be minimum requirements for the promotion of health, safety, convenience and welfare of the citizens of the city; for reducing the danger from fires; and for improving the city.

(Code 1968, § 602.1.E)

Sec. 14-54. Zone change/zone map fees.

(a) One or more of the following fees will be charged by the city for applications for changes of zone according to the following major zoning classifications and pertinent data relating to the specific zone change:

- (1) Zoning Map Amendments: \$7,500.00
- (2) Zoning Text Amendments: \$7,500.00
- (3) Combination Zoning Map and Text Amendments: \$10,000.00
- (4) Conditional Rezoning: \$10,000.00
- (5) Applicant shall pay a fee to cover the professional and administrative costs for review and analysis associated with the zoning amendment, including but not limited to planning, legal, engineering or other services. The fee shall be based on the hours of review and processing time and prevailing hourly rate for reimbursement of city costs. The city shall periodically invoice the applicant for such costs incurred by the city, which invoice shall be paid promptly by the applicant.

- (6) Applicant shall assume payment of cost of all notices, including newspaper publication.

All ordinances that would cost more than the maximum to publish should be printed in separate pamphlet form and advertised only by reference.

- (7) Waiver of fees: The fee for zone change applications may be waived or reduced by the Planning Authority in the case of an application submitted by any governmental body or where an applicant can establish financial hardship.

- (8) Withdrawal of application: If a zone change application is withdrawn by an applicant prior to the submission of the advertisement copy to the newspaper to announce the public hearing, a refund of one-half of the amount of the application fee will be made to the applicant by the city provided that all costs incurred by the city have been paid in full by the applicant.

(b) The following schedule of fees will be charged by the City for zone maps:

Paper maps:	Large \$20.00 per sheet	Small (11X17) \$5.00 per sheet
Digital Zone Map	\$20.00	

(Code 1968, § 602.1.F; Ord. No. 589-75, § 1, 10-20-75; Ord. No. 590-75, § 1, 11-19-75; Ord. No. 693-81, 5-18-81; Ord. No. 523-87, 5-18-87; Ord. No. 327-98, § 2, 5-18-98; Ord. No. 328-98, § 1, 5-18-98; Ord. No. 227-00, §1, 5-15-00; Ord. No. 119-01/02, § 2, 12-3-01; Ord. No. 222-09/10, 5-17-10; Ord. No. 253-15/16, 7/1/2016; Ord. No. 217-17/18, 7-1-2018)

Sec. 14-55. Relation to other ordinances.

This article shall not repeal the provisions of any other ordinance relating to the use of buildings or premises; provided, however, that where this article imposes greater restrictions, it shall control.

(Code 1968, § 602.26.A)

Sec. 14-56. Enforcement.

The building authority is authorized to institute or cause to be instituted by the corporation counsel in the name of the

city any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this article; provided, however, that this section shall not prevent any person entitled to equitable relief from enjoining any act contrary to the provisions of this article.

(Code 1968, § 602.26.C)

Sec. 14-57. Violations.

Any person being the owner or occupant of, having control of or the use of any building or premises or part thereof, who violates any of the provisions of this article, shall be guilty of an offense.

(Code 1968, § 602.26.D; Ord. No. 157-76, 4-21-76)

Sec. 14-58. Reserved.

Sec. 14-59. Reserved.

DIVISION 1.5. CONDITIONAL OR CONTRACT ZONING

Sec. 14-60. Authority and purpose.

Pursuant to 30-A M.R.S.A. Section 4503(9), conditional or contract zoning is hereby authorized for rezoning of property where, for reasons such as the unusual nature or unique location of the development proposed, the city council finds it necessary or appropriate to impose, by agreement with the property owner or otherwise, certain conditions or restrictions in order to ensure that the rezoning is consistent with the city's comprehensive plan. Conditional or contract zoning shall be limited to where a rezoning is requested by the owner of the property to be rezoned. Nothing in this division shall authorize either an agreement to change or retain a zone or a rezoning which is inconsistent with the city's comprehensive plan.

(Ord. No. 31-85, 7-15-85; Ord. No. 88-88, 7-19-88; Ord. No. 62-89, 7-17-89)

Sec. 14-61. Notice and hearing.

The Planning Board shall conduct a public hearing prior to any property being rezoned under this division. Notice of this hearing shall be posted in the city clerk's office at least fourteen (14) days prior to the public hearing and shall be published in a newspaper of general circulation within the city at least two (2) times, the date of the first publication to be at least seven (7) days prior to the hearing. Notice shall also be sent to the owners of all property abutting the property to be rezoned at their last known address. This notice shall

contain a copy of the proposed conditions and restrictions, with a map indicating the property to be rezoned.
(Ord. No. 31-85, 7-15-85)

Sec. 14-62. Conditions and restrictions.

Conditions and restrictions imposed under the authority of this division shall relate only to the physical development and operation of the property and may include, by way of example:

- (a) Limitations on the number and types of uses permitted;
- (b) Restrictions on the scale and density of development;
- (c) Specifications for the design and layout of buildings and other improvements;
- (d) Schedules for commencement and completion of construction;
- (e) Performance guarantees securing completion and maintenance of improvements, and guarantees against defects;
- (f) Preservation of open space and buffers, and protection of natural areas and historic sites;
- (g) Contributions toward the provision of municipal services required by the development; and
- (h) Provisions for enforcement and remedies for breach of any condition or restriction.

(Ord. No. 31-85, 7-15-85)

Sec. 14-63. Amendments.

Except as expressly modified in any contract or conditional rezoning agreement, the use and occupancy of any property within the City of Portland used or occupied pursuant to a contract or conditional rezoning agreement otherwise shall be governed by and comply with the provisions of the Land Use Code of the City of Portland and any applicable amendments thereto or replacement thereof.

(Ord. No. 96-04/05, 11-29-04)

Sec. 14-64. Reserved.

Sec. 14-65. Enforcement.

Notwithstanding language in any contract or conditional zoning to the contrary, any violation of a conditional or contract zone shall be enforced pursuant to 30-A M.R.S.A. §4452, as may be amended from time to time, or in any other manner available by law. No alleged violation of a contract or conditional rezoning may be prosecuted until the City has delivered written notice of the alleged violation(s) to the owner or operator of the property that is subject to the contract or conditional rezoning and given the owner or operator an opportunity to cure the violation(s) within thirty (30) days of receipt of the notice.

In addition, if such an enforcement action should result in a finding that the terms of the conditional or contract zone have been violated, then the City may act to modify or rescind the conditional or contract zone and to rezone the property.
(Ord. No. 96-04/05, 11-29-04)

DIVISION 2. R-1 RESIDENTIAL ZONE*

*Editor's note--Ord. No. 532-84, adopted May 7, 1984, repealed Div. 2, s;§ 14-66--14-69, and enacted a new Div. 2, §§ 14-66--14-71. The division was formerly derived from Code 1968, § 602-2.2A--D; Ord. No. 499-74, § 2, adopted Aug. 19, 1974; Ord. No. 610-82, § 1, adopted July 7, 1982; and Ord. No. 88-83, §§ 1, 2, adopted Aug. 3, 1983.

Sec. 14-66. Purpose.

The purpose of the R-1 residential zone is:

To provide for lower density residential development characterized by single-family homes on individual lots in outlying areas of the city and along traffic corridors with limited additional traffic capacity.

(Ord. No. 532-84, 5-7-84)

Sec. 14-67. Permitted uses.

The following uses are permitted in the R-1 residential zone:

(a) Residential:

1. Single-family detached dwellings.
2. Handicapped family unit, as defined in section 14-47 (definitions) of this article, for handicapped persons plus staff.
3. Single-family, multiple-component manufactured housing, as defined in section 14-47 (definitions) of this article, except in a National Register Historic District.
4. Single-family, single-component manufactured housing, as defined in section 14-47 (definitions) of this article, on individual lots under separate and distinct ownership, except in a National Register Historic District and until May 1, 1985, on the islands, provided that each unit meets the performance standards listed below:
 - a. More than half of the roof area of each unit shall be a double pitched Class C rated shingled roof with a minimum pitch of 3/12.
 - b. Each unit shall be installed on a full foundation or a concrete frost wall in accordance with all applicable codes and regulations. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation or frost wall. In the case of a frost wall, vermin proof skirting shall be installed on all sides of the unit. The skirting may consist of either (a) concrete or masonry block or (b) manufactured skirting. If concrete or masonry block skirting is installed, either the exterior siding of the unit shall extend within one (1) foot of grade or decorative masonry siding shall be applied. If manufactured skirting material is installed, the color shall be identical to or compatible with the exterior siding of the unit.
 - c. Each unit shall have exterior siding that is residential in appearance, including but not

limited to natural materials such as wood clapboards or shakes, or exterior materials which simulate wood. Clapboards or simulated clapboards shall have less than eight (8) inches of exposure and sheet metal type siding shall not be permitted.

- d. Each unit shall have the long side of the unit parallel to the street line where the required street frontage is met.
- e. Each unit shall be provided with at least two (2) trees meeting the city's arboricultural specifications and which are clearly visible from the street line and are located so as to visually widen the narrow dimension or proportion of the unit.
- f. Each unit shall have all fuel oil supply systems constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.
- g. No unit shall be horizontally or vertically attached to any other unit or other structure, provided, however, that this provision shall not be deemed to prohibit additions such as porches, garages, room additions or solar greenhouses.

(b) Other:

- 1. Agriculture, including nurseries, greenhouses, and truck gardens, provided that there is no sale of products not produced on the premises; a single stand with no more than two hundred (200) square feet in floor area, for the sale of agricultural products produced on the premises shall be permitted;
- 2. Parking and storage of agricultural equipment used on the premises, but not within any front yard;
- 3. Reserved;

4. Parks and other active and passive noncommercial recreation spaces;
5. Accessory uses customarily incidental and subordinate to the location, function and operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article;
6. Home occupations subject to the provisions of section 14-410 (home occupation) of this article;
7. Municipal uses, excluding those specifically set forth in section 14-68 of this division.
8. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(Ord. No. 532-84, 5-7-84; Ord. No. 260-84, § 1, 12-17-84; Ord. No. 34-85, § 1, 7-15-85; Ord. No. 79-88, § 1, 7-19-88; Ord. No. 86A-89, § 1, 8-21-89; Ord. No. 33-91, § 2, 1-23-91; Ord. No. 33-11/12, 1-18-12)

*Editor's note--Ord. No. 79-88, adopted July 19, 1988, amended this section by adding subsection 14-67(2)g. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 79-88.

Sec. 14-68. Conditional uses.

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

(a) Residential:

1. Sheltered care group homes, as defined in section 14-47 of this article, for up to twelve (12) individuals, plus staff, and serving a primary population which is not handicapped persons, parolees, persons involved in correctional prerelease programs, or current illegal drug users, provided that:
 - a. A sheltered care group home shall not be located within five hundred (500) feet of another, as measured along street lines to

the respective property lines;

- b. There shall be no open outside stairways or fire escapes above the ground floor;
- c. The facility shall make provision for adequate on-site staffing in accordance with applicable state licensing requirements. If a facility is not licensed by the state, there shall be a minimum of one (1) staff person for every ten (10) residents or fraction thereof.

The board of appeals may impose conditions upon a conditional use permit concerning the creation or operation of a sheltered care group home including but not limited to the following: site and building maintenance; lighting, fencing, and other appropriate security measures; screening and buffering of parking areas; compatibility of any additions or alterations with the existing residential structure; compatibility of new structures with the architectural character of the surrounding area; and limitation on the duration of a sheltered care group home permit.

- 2. Alteration or construction of a single-family detached dwelling to accommodate an accessory dwelling unit within the building and clearly subordinate to the principal dwelling for the benefit of homeowners or tenants provided that:
 - a. The accessory unit shall be no more than thirty (30) percent of the gross floor area of the principal building and shall have a minimum floor area of four hundred (400) square feet; gross floor area shall exclude any floor area that has less than two-thirds of its floor-to-ceiling height above the average adjoining ground level; gross floor area may include attic space if such space shall be included as habitable space within either dwelling unit;
 - b. Lot area shall be ten thousand (10,000) square feet for single-family dwellings in

existence as of May 1, 1984, and lot area shall be fifteen thousand (15,000) square feet for single-family dwellings constructed after May 1, 1984;

- c. There shall be no open, outside stairways or fire escapes above the ground floor;
 - d. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the single-family appearance of the building;
 - e. The project shall be subject to article V (site plan) of this chapter for site plan review and approval and the following additional standards:
 - i. Any additions or exterior alterations, such as façade materials, building form and roof pitch shall be designed to be compatible with the architectural style of the building and preserve the single-family appearance of the building.
 - ii. The scale and surface area of parking, driveways and paved areas shall be arranged and landscaped to properly screen vehicles from adjacent properties and streets.
 - f. Either the accessory unit or the principal dwelling shall be occupied by the owner of the lot on which the principal building is located, except for bona fide temporary absences; and
 - g. Parking shall be provided as required division 20 of this article.
- (b) Institutional: Any of the following conditional uses provided that, notwithstanding section 14-474(a) (conditional uses) of this article or any other provision of this Code, the Planning Board shall be

substituted for the board of appeals as the reviewing authority:

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

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

- a. In the case of expansion of existing such uses onto land other than the lot on which the principal use is located, it shall be demonstrated that the proposed use cannot reasonably be accommodated on the existing site through more efficient utilization of land or buildings, and will not cause significant physical encroachment into established residential areas; and
- b. The proposed use will not cause significant displacement or conversion of residential uses existing as of June 1, 1983, or thereafter; and
- c. In the case of a use or use expansion which constitutes a combination of the above-listed uses with capacity for concurrent operations, the applicable minimum lot sizes shall be cumulative; and
- d. Article V (site plan) sections 14-522 and 14-523 notwithstanding, in the case of places of assembly the proposed use shall be subject to the requirements of article V (site plan) of this chapter; and
- e. In the case of community halls:
 - i. The structure was in existence as of

January 4, 2010;

- ii. The structure was built for institutional or other non-residential uses;
 - iii. The structure is operated by, or operated subject to the control of, a not-for-profit entity in accordance with its not-for-profit purposes; and
 - iv. A parking management plan is submitted for review and approval by the planning board; and
- f. In the case of private club or fraternal organizations: any such establishment serving alcoholic beverages or in possession of a license for serving alcoholic beverages shall be located on a large lot, as specified in the minimum lot size provisions of this division.

(c) Other:

- 1. Utility substations, including sewage and water pumping stations and standpipes, electric power substations, transformer stations, telephone electronic equipment enclosures, and other similar structures, provided that such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood;
- 2. Cemeteries;
- 3. Raising of domestic animals, excluding pigs and reptiles, for noncommercial purposes with no animals kept on any lot less than three (3) acres or closer than one hundred (100) feet to any street or lot line, except domesticated chickens as regulated in Chapter 5, and provided that:
 - a. The housing, feeding, exercise, and waste disposal areas of the animals will not create undue odor, noise, nuisance, health, or safety hazards to neighboring properties.

4. Day care facilities or home babysitting services not permitted as a home occupation under section 14-410, and nursery schools and kindergartens, subject to the following conditions:
 - a. The facility shall be located in a structure in which there is one (1) or more occupied residential units or in an existing accessory structure, unless the facility is located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use, a nursery school or a kindergarten, or in a nonresidential structure accessory to the principal nonresidential use.
 - b. The maximum capacity shall be twelve (12) children for facilities located in residential or existing structures accessory thereto, unless the additional standards in subsection v. are met. There shall be no maximum limit on the number of children in a facility located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use, a nursery school or a kindergarten, or in a nonresidential structure accessory thereto, provided that any such structure that serves more than twelve (12) children shall be subject to review under article V of this chapter.
 - c. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.
 - d. Solid waste shall be stored in covered containers. Such containers shall be screened on all four (4) sides.

- e. Day care facilities, nursery schools and kindergartens located either in structures that have been in residential use within the past five (5) years or in existing accessory structures and that serve between thirteen (13) and twenty-four (24) children shall meet the following additional standards:
 - i. The facility shall provide a minimum of seventy-five (75) square feet of outdoor play area per child;
 - ii. The play area shall be located in the side and rear yards only and shall not be located in front yards;
 - iii. Outside play areas shall be separated from abutting properties by a fence at least forty-eight (48) inches in height;
 - iv. A ten-foot wide landscaped buffer shall be required outside of the fenced play area, and shall be established in accordance with the landscaping standards of the City's Technical Standards and Guidelines;
 - v. The minimum lot size for a day care facility, home babysitting service, nursery school or kindergarten located in a residential or existing accessory structure and serving more than twelve (12) children shall be twenty thousand (20,000) square feet;
 - vi. *Off-street parking:* Off street parking is required as provided in division 20 (off-street parking) of this article.
 - vii. The maximum number of children in a day care facility located in a residential or existing accessory structure shall be twenty-four (24); and
 - viii. Any additions or exterior alterations such as facade materials, building form,

roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the residential appearance of the building.

5. Temporary wind anemometer towers, as defined in sec. 14-47, are permitted provided the following standards are met in addition to sec. 14-430:
 - a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a certificate of occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
 - b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and
 - c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
 - d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
 - e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and

- f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
- g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
- h. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, of the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

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

(Ord. No. 534-84, 5-7-84; Ord. No. 260-84, § 2, 12-17-84; Ord. No. 76-85, § 2, 7-1-85; Ord. No. 79-88, § 2, 7-19-88; Ord. No. 235-91, § 1, 2-4-91; Ord. No. 118-93, § 1, 10-18-93; Ord. No. 133-96, § 1, 11-18-96; Ord. No. 154-96, § 1, 12-16-96; Ord. No. 222-99, §1, 3-01-99; Ord. No. 199-04/05, 4-4-05; Ord. 153-08/09, 2-18-09; Ord. No. 29-09/10, 8-3-09 emergency passage; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 240 09/10, 6-21-10; Ord. No. 9 10/11, 8-2-10; Ord. No. 149-10/11, 3-7-11; Ord. No. 33-11/12, 1-18-12)

Sec. 14-69. Prohibited uses.

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.
(Ord. No. 532-84, 5-7-84)

Sec. 14-70. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the R-1 zone shall meet or exceed the following minimum requirements:

- (a) Minimum lot size:

1. Residential: Fifteen thousand (15,000) square feet except as provided for lots of record in section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article. A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. Section 4807, or the applicable zoning lot size, whichever is larger.
2. Long-term, extended, or intermediate care facility: Three (3) acres.
3. School: Two (2) acres.
4. Places of assembly:

Large	Two (2) acres
Medium	One (1) acre
Small	Half (1/2) acre

5. Municipal use: Fifteen thousand (15,000) square feet.
6. Animal raising: Three (3) acres.
7. All other uses: Fifteen thousand (15,000) square feet.

Provided that for uses specified in section 14-70(a)2 through 6 above, no minimum lot area shall be required in the following cases:

- a. Uses existing as of June 1, 1983;
- b. Expansion onto land abutting the lot on which the principal use is located;
- c. Expansion onto land other than the lot on which the principal use is located to the extent that such expansion consists of the reuse of surface parking area or nonresidential structures existing and in nonresidential use as of June 1, 1983, provided that such reuse is contained within

the lot of record of such structure or parking area as of June 1, 1983;

- d. Expansion onto land other than the lot on which the principal use is located of no more than fifteen (15) percent of the total contiguous land area of the existing use, or one (1) acre, whichever is less, within any five-year period.
- (b) Minimum lot area per dwelling unit: Fifteen thousand (15,000) square feet.
 - (c) Minimum street frontage: Seventy-five (75) feet.
 - (d) 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.)

1. Front yard:

Principal or accessory structures: Twenty-five (25) feet.

2. Rear yard:

- a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Twenty-five (25) feet.
- b. Accessory detached structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.

Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.

3. Side yard:

- a. Principal or accessory structures with ground coverage greater than one hundred (100) feet:

Height of Structure Required Side Yard

1 story	12 feet
1 1/2 stories	12 feet
2 stories	14 feet
2 1/2 stories	16 feet

The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than twelve (12) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than twelve (12) feet.

b. Accessory detached structure with ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.

4. Side yard on side streets:

a. Principal or accessory structures: Twenty (20) feet.

(e) Maximum lot coverage: Twenty (20) percent of lot area.

(f) Minimum lot width: One hundred (100) feet.

(g) Maximum structure height:

1. Principal or accessory attached structure: Thirty-five (35) feet.

2. Accessory detached structure: Eighteen (18) feet.

(h) Maximum floor area for places of assembly on a collector or arterial road:

Large	Not limited
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Medium	9,000 sq. ft.
Small	5,000 sq. ft.

- (i) Maximum floor area for places of assembly not on a collector or arterial road:

Large	9,000 sq. ft.
Medium	4,500 sq. ft.
Small	2,500 sq. ft.

(Ord. No. 532-84, 5-7-84; Ord. No. 79-88, § 3, 7-19-88; Ord. No. 235-91, § 2, 2-4-91; Ord. No. 118-93, § 2, 10-18-93; Ord. No. 154-96, § 2, 12-16-96; Ord. No. 131-08/09, 12-15-08; Ord. No. 127-09/10, 1-4-10 emergency passage)

*Editor's note--Ord. No. 79-88, § 3, adopted July 19, 1988, amended this section to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 79-88.

Sec. 14-71. Other requirements.

Other requirements are as follows:

- (a) Off street parking: Off-street parking is required as provided in division 20 (off-street parking) of this article.
- (b) Shoreland and flood plain management regulations: Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.
- (c) Storage of vehicles: Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.

(Ord. No. 532-84, 5-7-84; Ord. No. 15-92, § 5, 6-15-92)

Sec. 14-72 - 14-75. Reserved.

DIVISION 3. R-2 RESIDENTIAL ZONE*

*Editor's note--Ord. No. 533-54, adopted May 7, 1984, repealed Div. 3, §§ 14-76--14-79, and enacted a new Div. 3, §§ 14-76--14-81. The division was formerly derived from Code 1968,

§ 602.3.A--D; Ord. No. 499-74, § 2, adopted Aug. 19, 1974; Ord. No. 610-82, § 1, adopted July 7, 1982; and Ord. No. 89-83, §§ 1, 2, adopted Aug. 3, 1983.

Sec. 14-76. Purpose.

The purpose of the R-2 residential zone is:

To provide for low-density residential development characterized by single-family homes on individual lots in outlying areas of the city and along traffic corridors with limited additional traffic capacity.

(Ord. No. 533-84, 5-7-84)

Sec. 14-77. Permitted uses.

The following uses are permitted in the R-2 residential zone:

(a) Residential:

1. Single-family detached dwellings.
2. Handicapped family unit, as defined in section 14-47 (definitions) of this article for handicapped persons plus staff.
3. Single-family, multiple-component manufactured housing, as defined in section 14-47 (definitions) of this article, except in a National Register Historic District.
4. Single-family, single-component manufactured housing, as defined in section 14-47 (definitions) of this article, on individual lots under separate and distinct ownership, except in a National Register Historic District and until May 1, 1985, on the islands, provided that each unit meets the performance standards listed below:
 - a. More than half of the roof area of each unit shall be a double pitched Class C rated shingled roof with a minimum pitch of 3/12.
 - b. Each unit shall be installed on a full foundation or a concrete frost wall in accordance with all

applicable codes and regulations. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation or frost wall. In the case of a frost wall, vermin proof skirting shall be installed on all sides of the unit. The skirting may consist of either (a) concrete or masonry block or (b) manufactured skirting. If concrete or masonry block skirting is installed, either the exterior siding of the unit shall extend within one (1) foot of grade or decorative masonry siding shall be applied. If manufactured skirting material is installed, the color shall be identical to or compatible with the exterior siding of the unit.

- c. Each unit shall have exterior siding that is residential in appearance, including but not limited to natural materials such as wood clapboards or shakes, or exterior materials which simulate wood. Clapboards or simulated clapboards shall have less than eight (8) inches of exposure and sheet metal type siding shall not be permitted.
- d. Each unit shall have the long side of the unit parallel to the street line where the required street frontage is met.
- e. Each unit shall be provided with at least two (2) trees meeting the city's arboricultural specifications and which are clearly visible from the street line and are located so as to visually widen the narrow dimension or proportion of the unit.
- f. Each unit shall have all fuel oil supply systems constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.
- g. No unit shall be horizontally or vertically attached to any other unit or other structure, provided however, that this provision shall not be deemed to prohibit building additions, such as porches, garages, room additions or solar greenhouses.

(b) Other:

1. Reserved;
2. Parks and other active and passive noncommercial recreation spaces;
3. Agriculture, including nurseries, greenhouses, and truck gardens, providing that there is no sale of products not produced on the premises; a single stand with no more than two hundred (200) square feet in floor area, for the sale of agricultural products produced on the premises shall be permitted;
4. Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory uses) of this article;
5. Home occupations, subject to the provisions of section 14-410 (home occupation) of this article;
6. Municipal uses, excluding those specifically set forth in section 14-78 of this division.
7. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(Ord. No. 533-84, 5-7-84; Ord. No. 261-84, § 1, 12-17-84; Ord. No. 35-85, § 1, 7-15-85; Ord. No. 80-88, § 1, 7-19-88; Ord. No. 86A-89, § 2, 8-21-89; Ord. No. 33-91, § 3, 1-23-91; Ord. No. 33-11/12, 1-18-12)

*Editor's note--Ord. No. 80-88, § 1, adopted July 19, 1988, amended this section by adding subsection 14-77(b)6. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 80-88.

Sec. 14-78. Conditional use.

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

(a) Residential:

1. Sheltered care group home, as defined in section 14-47 of this article, for up to twelve (12) individuals, plus staff, and serving a primary population which is not handicapped persons, parolees, persons involved in correctional prerelease programs, or current illegal drug users, provided that:
 - a. A sheltered care group home shall not be located within five hundred (500) feet of another, as measured along street lines to the respective property lines;
 - b. There shall be no open outside stairways or fire escapes above the ground floor;
 - c. The facility shall make provision for adequate on-site staffing in accordance with applicable state licensing requirements. If a facility is not licensed by the state, there shall be a minimum of one (1) staff person for every ten (10) residents or fraction thereof.

The board of appeals may impose conditions upon a conditional use permit concerning the creation or operation of a sheltered care group home including but not limited to the following: site and building maintenance; lighting, fencing, and other appropriate security measures; screening and buffering of parking areas; compatibility of any additions or alterations with the existing residential structure; compatibility of new structures with the architectural character of the surrounding area; and limitation on the duration of a sheltered care group home permit.

2. Alteration or construction of a single-family detached dwelling to accommodate an accessory dwelling unit within the building and clearly subordinate to the principal dwelling for the benefit of homeowners or tenants provided that:
 - a. The accessory unit shall be no more than thirty (30) percent of the gross floor area of the principal building and shall have a minimum floor area of four hundred (400) square feet; gross

floor area shall exclude any floor area that has less than two-thirds of its floor-to-ceiling height above the average adjoining ground level; gross floor area may include attic space if such space shall be included as habitable space within either dwelling unit;

- b. Lot area shall be eight thousand (8,000) square feet for single-family dwellings in existence as of May 1, 1984, and lot area shall be ten thousand (10,000) square feet for single-family dwellings constructed after May 1, 1984;
- c. There shall be no open, outside stairways or fire escapes above the ground floor;
- d. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the single-family appearance of the building;
- e. The project shall be subject to article V (site plan) of this chapter for site plan review and approval and the following additional standards:
 - i. Any additions or exterior alterations, such as façade materials, building form and roof pitch shall be designed to be compatible with the architectural style of the building and preserve the single-family appearance of the building.
 - ii. The scale and surface area of parking, driveways and paved areas shall be arranged and landscaped to properly screen vehicles from adjacent properties and streets.
- f. Either the accessory unit or the principal dwelling shall be occupied by the owner of the lot on which the principal building is located, except for bona fide temporary absences; and
- g. Parking shall be provided as required by division 20 of this article.

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

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

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

- a. Any new institutional use shall demonstrate that it has a lot size of sufficient area to accommodate all proposed and foreseeable future activities and programs, including parking, and to absorb the impacts and growth needs of the institution. Such new use established after April 19, 2012 shall not be eligible for expansion under the provisions of paragraph b below;
- b. In the case of expansion of existing such uses onto land other than the lot on which the principal use is located, it shall be demonstrated that the proposed use cannot reasonably be accommodated on the existing site through more efficient utilization of land or buildings, and will not cause significant physical encroachment into established residential area; and
- c. The proposed use will not cause significant displacement or conversion of residential uses existing as of June 1, 1983, or thereafter; and

- d. In the case of a use or use expansion which constitutes a combination of the above-listed uses with capacity for concurrent operations, the applicable minimum lot sizes shall be cumulative; and
 - e. Article V (site plan) sections 14-522 and 14-523 notwithstanding, in the case of places of assembly (including places of religious assembly, community halls and private club or fraternal organizations) and college, university, trade school, the proposed use shall be subject to the requirements of article V (site plan) of this chapter; and
 - f. In the case of community halls:
 - i. The structure was in existence as of January 4, 2010.
 - ii. The structure was built for institutional or other non-residential uses;
 - iii. The structure is operated by, or operated subject to the control of, a not-for-profit entity in accordance with its not-for-profit purposes; and
 - iv. A parking management plan is submitted for review and approval by the planning board; and
 - g. In the case of private club or fraternal organizations: any such establishment serving alcoholic beverages or in possession of a license for serving alcoholic beverages shall be located on a large lot, as specified in the minimum lot size provisions of this section.
- (c) Other:
- 1. Utility substations, including sewage and water pumping stations and standpipes, electric power substations, transformer stations, telephone electronic equipment enclosures, and other similar structures, provided that

such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood;

2. Cemeteries.
3. Day care facilities or home babysitting services not permitted as a home occupation under section 14-410, and nursery schools and kindergartens, subject to the following conditions:
 - a. The facility shall be located in a structure in which there is one (1) or more occupied residential units or in an existing accessory structure, unless the facility is located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use or in a nonresidential structure accessory to the principal nonresidential use.
 - b. The maximum capacity shall be twelve (12) children for facilities located in residential or existing structures accessory thereto, unless the additional standards in subsection v. are met. There shall be no maximum limit on the number of children in a facility located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care use or home babysitting use, nursery school or kindergarten, or in a nonresidential structure accessory thereto, provided that any such structure that serves more than twelve (12) children shall be subject to review under article V of this chapter.
 - c. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.
 - d. Solid waste shall be stored in covered containers. Such containers shall be screened on all four (4) sides.

- e. Day care facilities, home babysitting uses, nursery schools or kindergartens located either in structures that have been in residential use within the past five (5) years or in existing accessory structures and that serve between thirteen (13) and twenty-four (24) children shall meet the following additional standards:
 - i. The facility shall provide a minimum of seventy-five (75) square feet of outdoor play area per child;
 - ii. The play area shall be located in the side and rear yards only and shall not be located in front yards;
 - iii. Outside play areas shall be separated from abutting properties by a fence at least forty-eight (48) inches in height;
 - iv. A ten-foot wide landscaped buffer shall be required outside of the fenced play area, and shall be established in accordance with the landscaping standards of the City's Technical Standards and Guidelines;
 - v. The minimum lot size for a day care facility, home babysitting use, nursery school or kindergarten located in a residential or existing accessory structure and serving more than twelve (12) children shall be twenty thousand (20,000) square feet;
 - vi. Off-street parking: Off-street parking is required as provided in division 20 (off-street parking) of this article.
 - vii. The maximum number of children in a day care facility, home babysitting service, nursery school or kindergarten located in a residential or existing accessory structure shall be twenty-four (24); and
 - viii. Any additions or exterior alterations such as facade materials, building form, roof

pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the residential appearance of the building.

4. Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:
 - a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
 - b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and
 - c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
 - d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
 - e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
 - f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and

- g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
- h. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, of the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

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

(Ord. No. 533-84, 5-7-84; Ord. No. 261-84, § 2, 12-17-84; Ord. No. 76-85, § 3, 7-1-85; Ord. No. 80-88, § 2, 7-19-88; Ord. No. 235-91, § 3, 2-4-91; Ord. No. 118-93, § 3, 10-18-93; Ord. No. 133-96, § 2, 11-18-96; Ord. No. 154-96, § 3, 12-16-96; Ord. No. 222-99 §2, 3-01-99; Ord. No. 199-04/05, 4-4-05; Ord. No. 29-09/10, 8-3-09, emergency passage; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 240-09/10, 6-21-10; Ord. No. 9 10/11, 8-2-10; Ord. No. 149-10/11, 3-7-11; Ord. No. 33-11/12, 1-18-12; Ord. No. 131-11/12, 3-19-12)

Sec. 14-79. Prohibited uses.

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

(Ord. No. 533-84, 5-7-84)

Sec. 14-80. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations) of this article, lots in the R-2 zone shall meet or exceed the following minimum requirements:

(a) Minimum lot size:

- 1. Residential: Ten thousand (10,000) square feet except as provided for lots of record in section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article. A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. Section 4807, or the applicable zoning lot size, whichever is the larger.

2. Long-term, extended, or intermediate care facility: Three (3) acres.
3. School: Two (2) acres.
4. Places of assembly:

Large	Two (2) acres
Medium	One (1) acre
Small	Half (1/2) acre

5. Municipal use: Ten thousand (10,000) square feet.
6. College, university, trade school: Two (2) acres.
7. All other uses: Ten Thousand (10,000) square feet.

Provided that for uses specified in section 14-80(a)2 through 7 above, no minimum lot area shall be required in the following cases:

- a. Uses existing as of June 1, 1983;
- b. Expansion of uses onto land abutting the lot on which the principal use is located;
- c. Expansion onto land other than the lot on which the principal use is located to the extent that such expansion consists of the reuse of surface parking area or nonresidential structures existing and in nonresidential use as of June 1, 1983, provided that such reuse is contained within the lot of record of such structure or parking area as of June 1, 1983;
- d. Expansion onto land other than the lot on which the principal use is located of no more than fifteen (15) percent of the total contiguous land area of the existing use, or one (1) acre, whichever is less, within any five-year period.

(b) Minimum area per dwelling unit: Ten thousand (10,000) square feet.

(c) Minimum street frontage: Fifty (50) feet.

(d) 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.)

1. Front yard:

Principal or accessory structures: Twenty-five (25) feet.

2. Rear yard:

a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Twenty-five (25) feet.

b. Accessory detached structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.

Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.

3. Side yard:

a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet:

<i>Height of Structure</i>	<i>Required Side Yard</i>
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1 story	12 feet
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1 1/2 stories	12 feet
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2 stories	14 feet
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2 1/2 stories	16 feet
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The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than twelve (12) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than twelve (12) feet.

- b. Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.

4. Side yard on side streets:

Principal or accessory structures: Twenty (20) feet.

(e) Maximum lot coverage: Twenty (20) percent of lot area.

(f) Minimum lot width: Eighty (80) feet.

(g) *Maximum structure height:*

- 1. Principal or accessory attached structure: Thirty-five (35) feet.
- 2. Accessory detached structure: Eighteen (18) feet.

(h) Maximum floor area on a collector or arterial road:

1. Places of public assembly:

Large	Not limited
Medium	9,000 sq. ft.
Small	5,000 sq. ft.

2. College, university, trade school:

Lot area of 6 acres or larger: 24,000 sq. ft.
Lot area of 4 acres to 5.99 acres: 18,000 sq. ft.

Lot area of 2 acres to 3.99 acres: 12,000 sq. ft.

(i) Maximum floor area not on a collector or arterial road:

1. Places of public assembly:

Large	9,000 sq. ft.
Medium	4,500 sq. ft.
Small	2,500 sq. ft.

2. College university, trade school:

Not a permitted use.

(Ord. No. 533-84, 5-7-84; Ord. No. 80-88, § 3, 7-19-88; Ord. No. 235-91, § 4, 2-4-91; Ord. No. 118-93, § 4, 10-18-93; Ord. No. 154-96, § 3, 12-16-96; Ord. No. 131-08/09, 12-15-08; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 131-11/12, 3-19-12)

*Editor's note--Ord. No. 80-88, § 3, adopted July 19, 1988, amended this section to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 80-88.

Sec. 14-81. Other requirements.

Other requirements are as follows:

- (a) Off-street parking: Off-street parking is required as provided in division 20 (off-street parking) of this article.
- (b) *Shoreland and flood plain management regulations:* Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.
- (c) Storage of vehicles: Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.

(Ord. No. 533-84, 5-7-84; Ord. No. 15-92, § 6, 6-15-92)

Sec. 14-82 - 14-85. Reserved.

DIVISION 4. R-3 RESIDENTIAL ZONE*

*Editor's note--Ord. No. 534-84, adopted May 7, 1984, repealed Div. 4, §§ 14-87--14-90, and enacted a new Div. 4, §§ 14-86--14-91. Formerly, Div. 4 was derived from Code 1968, § 602.4.A--D, and the following ordinances: Ord. No. 49-74, 372-75, 406-75, 34-76, 145-79, 145-81, 303-81, 90-83, and 499-74.

Sec. 14-86. Purpose.

The purpose of the R-3 residential zone is:

To provide for medium-density residential development characterized by single-family homes on individual lots and also to provide for planned residential unit developments on substantially sized parcels. Such development shall respond to the physical qualities of a site and complement the scale, character and style of the surrounding neighborhood.

(Ord. No. 534-84, 5-7-84; Ord. No. 81-88, § 1, 7-19-88)

***Editor's note**--Ord. No. 81-88, § 1, adopted July 19, 1988, amended § 14-86 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 81-88.

Sec. 14-87. Permitted uses.

The following uses are permitted in the R-3 residential zone:

(a) Residential:

1. Single-family detached dwellings.
2. Planned residential unit development (PRUD) consisting of horizontally attached dwelling units or a series of such dwelling units. No dimensional requirements contained in section 14-90 shall apply with respect to such development, except for those requirements specifically denoted for PRUD. There shall be no open outside stairways or fire escapes above the ground floor. All land shall be owned and used in common and shall be governed and maintained as set forth in section 14-498(i)(3) of article IV (subdivisions) of

this chapter. Such development shall be subject to review and approval by the Planning Board with respect to the requirements of article V (site plan) and article IV (subdivisions) of this chapter, whether or not such development is a subdivision within the meaning of article IV of this chapter, as now enacted or as hereafter amended.

3. Handicapped family unit, as defined in section 14-47 (definitions) of this article, for handicapped persons plus staff.
4. Single-family, multiple-component manufactured housing, as defined in section 14-47 (definitions) of this article, except in a National Register Historic District.
5. Single-family, single-component manufactured housing, as defined in section 14-47 (definitions) of this article, on individual lots under separate and distinct ownership, except in a National Register Historic District and until May 1, 1985, on the islands, provided that each unit meets the performance standards listed below.
 - a. More than half of the roofed area of each unit shall be a double pitched Class C rated shingled roof with a minimum pitch of 3/12.
 - b. Each unit shall be installed on a full foundation or a concrete frost wall in accordance with all applicable codes and regulations. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation or frost wall. In the case of a frost wall, vermin proof skirting shall be installed on all sides of the unit. The skirting may consist of either (a) concrete or masonry block or (b) manufactured skirting. If concrete or masonry block skirting is installed, either the exterior siding of the unit shall extend within one (1) foot of grade or decorative masonry siding shall be applied. If manufactured skirting material is installed, the color shall be identical to or compatible with the exterior siding of the unit.

- c. Each unit shall have exterior siding that is residential in appearance, including but not limited to natural materials such as wood clapboards or shakes, or exterior materials which simulate wood. Clapboards or simulated clapboard shall have less than eight (8) inches of exposure and sheet metal type siding shall not be permitted.
 - d. Each unit shall have the long side of the unit parallel to the street line where the required street frontage is met.
 - e. Each unit shall be provided with at least two (2) trees meeting the city's arboricultural specifications and which are clearly visible from the street line and are located so as to visually widen the narrow dimension or proportion of the unit.
 - f. Each unit shall have all fuel oil supply systems constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.
 - g. No unit shall be horizontally or vertically attached to any other unit or other structure, provided however, that this provision shall not be deemed to prohibit building additions, such as porches, garages, room additions or solar greenhouses.
- (b) Other:
- 1. Reserved;
 - 2. Parks, and other active and passive noncommercial recreation spaces;
 - 3. Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory uses) of this article;
 - 4. Home occupation, subject to the provisions of section 14-410 (home occupation) of this article;

5. Municipal uses, excluding those specifically set forth in section 14-88 of this division.

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

(Ord. No. 534-84, 5-7-84; Ord. No. 262-84, § 1, 12-17-84; Ord. No. 36-85, § 1, 7-15-85; Ord. No. 81-88, §§ 2, 3, 7-19-88; Ord. No. 86A-89, § 3, 8-21-89; Ord. No. 33-91, § 4, 1-23-91; Ord. No. 165-97, § 1, 12-1-97; Ord. No. 33-11/12, 1-18-12)

*Editor's note--Ord. No. 81-88, §§ 2 and 3, adopted July 19, 1988, amended subsections 14-87(a)2 and (b)5 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 81-88.

Sec. 14-88. Conditional uses.

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

(a) Residential:

1. Sheltered care group homes, as defined in section 14-47 of this article, for up to twelve (12) individuals, plus staff, and serving a primary population which is not handicapped persons, parolees, persons involved in correctional prerelease programs, or current illegal drug users, provided that:

- a. A sheltered care group home shall not be located within five hundred (500) feet of another, as measured along street lines to the respective property lines;
- b. There shall be no open outside stairways or fire escapes above the ground floor;
- c. The facility shall make provision for adequate on-site staffing in accordance with applicable state licensing requirements. If a facility is not licensed by the state,

there shall be a minimum of one (1) staff person for every ten (10) residents or fraction thereof.

The board of appeals may impose conditions upon a conditional use permit concerning the creation or operation of a sheltered care group home including but not limited to the following: site and building maintenance; lighting, fencing, and other appropriate security measures; screening and buffering of parking areas; compatibility of any additions or alterations with the existing residential structure; compatibility of new structures with the architectural character of the surrounding area; and limitation on the duration of a sheltered care group home permit.

2. Alteration or construction of a detached single-family dwelling to accommodate one (1) additional dwelling unit for the benefit of homeowners or tenants, provided that:
 - a. The accessory unit shall be no more than thirty (30) percent of the gross floor area of principal building and shall have a minimum floor area four hundred (400) square feet; gross floor area shall exclude any floor area that has less than two-thirds of its floor-to-ceiling height above the average adjoining ground level; gross floor area may include attic space if such space shall be included as habitable space within either dwelling unit;
 - b. There shall be no open outside stairways or fire escapes above the ground floor;
 - c. Any building additions or exterior alterations such as facade materials, building form, or roof pitch shall be designed to be compatible with the architectural style and to maintain the single-family appearance of the dwelling;
 - d. A minimum lot size of six thousand five hundred (6,500) square feet of land area

shall be required;

- g. No dwelling unit shall be reduced in size to less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement or attic;
 - h. Parking shall be provided as required by division 20 of this article;
 - i. The project shall be subject to article V (site plan) of this chapter for site plan review and approval and the following additional standards:
 - i. Any additions or exterior alterations such as facade materials, building form and roof pitch shall be designed to be compatible with the architectural style of the building;
 - ii. The scale and surface area of parking, driveways and paved areas shall be arranged and landscaped to properly screen vehicles from adjacent properties and streets.
 - j. Either the accessory unit or principal unit shall be occupied by the lot owner, except for bona fide temporary absences.
3. Alteration of a structure existing and not in residential use as of January 1, 1984, to three (3) or more dwelling units, provided that:
- a. No open outside stairways or fire escapes above the ground floor shall be constructed or have been constructed in the immediately preceding five (5) years;
 - b. A lower level dwelling unit shall have a minimum of one-half of its floor-to-ceiling height above the average adjoining ground level;
 - c. Three thousand (3,000) square feet of land

area per dwelling unit shall be required;

- d. On-site parking shall be required as specified in division 20 (off-street parking) of this article, for the combined uses of the site;
- e. The project shall be subject to article V (site plan) of this chapter for site plan review and approval and the following additional standards:
 - i. Any addition or exterior alterations such as façade materials, building form, and roof pitch shall be designed to be compatible with the architectural style of the structure and, subject to the dimensional requirements of this zone, shall be limited to a gross floor area equal to or less than 25% of the total existing floor area as of [insert date of adoption].
 - ii. The scale and surface area of parking, driveways, and paved areas shall be arranged and landscaped to be compatible in size and scale with neighboring properties in the area and to properly screen vehicles from adjacent properties and streets.

(b) Commercial:

- 1. Reserved.

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

- 1. Elementary, middle, and secondary school;
- 2. a. Long-term and extended care facilities;

- b. Intermediate care facility for thirteen (13) or more persons;
- 3. Places of assembly;
- 4. Hospital.

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

- a. In the case of expansion of existing such uses onto land other than the lot on which the principal use is located, it shall be demonstrated that the proposed use cannot reasonably be accommodated on the existing site through more efficient utilization of land or buildings, and will not cause significant physical encroachment into established residential areas; and
- b. The proposed use will not cause significant displacement or conversion of residential uses existing as of June 1, 1983, or thereafter; and
- c. In the case of a use or use expansion which constitutes a combination of the above-listed uses with capacity for concurrent operations, the applicable minimum lot sizes shall be cumulative; and
- d. Article V (site plan) sections 14-522 and 14-523 notwithstanding, in the case of places of assembly the proposed use shall be subject to the requirements of article V (site plan) of this chapter; and
- e. In the case of community halls:
 - i. The structure was in existence as of January 4, 2010.
 - ii. The structure was built for institutional or other non-residential uses;

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

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

f. In the case of private club or fraternal organizations: any such establishment serving alcoholic beverages or in possession of a license for serving alcoholic beverages shall be located on a large lot, as specified in the minimum lot size provisions of this section.

(d) Other:

1. Off-street parking of passenger cars as provided in section 14-344 (board of appeals may authorize parking in certain residence zones) of this article;

2. Utility substations, including sewage treatment plants, sewage and water pumping stations and standpipes, electric power substations, transformer stations, and telephone electronic equipment enclosures and other similar structures, provided that such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood;

3. Day care facilities or home babysitting services not permitted as a home occupation under section 14-410, and nursery schools and kindergartens subject to the following conditions:

a. The facility shall be located in a structure in which there is one (1) or more occupied residential units or in an existing accessory structure, unless the facility is located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately

preceding the application for a day care use, home babysitting use, nursery school or kindergarten, or in a nonresidential structure accessory to the principal nonresidential use.

- b. The maximum capacity shall be twelve (12) children for facilities located in residential or existing structures accessory thereto, unless the additional standards in subsection v. are met. There shall be no maximum limit on the number of children in a facility located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use, or in a nonresidential structure accessory thereto, provided that any such structure that serves more than twelve (12) children shall be subject to review under article V of this chapter.
- c. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.
- d. Solid waste shall be stored in covered containers. Such containers shall be screened on all four (4) sides.
- e. Day care facilities, home babysitting uses, nursery schools and kindergartens located either in structures that have been in residential use within the past five (5) years or in existing accessory structures and that serve between thirteen (13) and twenty-four (24) children shall meet the following additional standards:
 - i. The facility shall provide a minimum of seventy-five (75) square feet of outdoor play area per child;
 - ii. The play area shall be located in the

side and rear yards only and shall not be located in front yards;

- iii. Outside play areas shall be separated from abutting properties by a fence at least forty-eight (48) inches in height;
 - iv. A ten-foot wide landscaped buffer shall be required outside of the fenced play area, and shall be established in accordance with the landscaping standards of the City's Technical Standards and Guidelines;
 - v. The minimum lot size for a day care facility, home babysitting services, nursery school, or kindergarten located in a residential or existing accessory structure and serving more than twelve (12) children shall be twenty thousand (20,000) square feet;
 - vi. *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
 - vii. The maximum number of children in a day care facility, home babysitting service, nursery school or kindergarten located in a residential or existing accessory structure shall be twenty-four (24); and
 - viii. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the residential appearance of the building.
4. Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:
- a. Towers may be installed for the purpose of wind data collection for no more than two

(2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and

- b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and
- c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
- d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
- e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
- f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
- g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose;

and

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

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

(Ord. No. 534-84, 5-7-84; Ord. No. 262-84, § 2, 12-17-84; Ord. No. 76-85, § 4, 7-1-85; Ord. No. 36-85, § 2, 7-15-85; Ord. No. 67-87, § 1, 11-2-87; Ord. No. 81-88, § 4, 7-19-88; Ord. No. 235-91, § 5, 2-4-91; Ord. No. 118-93, § 5, 10-18-93; Ord. No. 133-96, § 3, 11-18-96; Ord. No. 154-96, § 5, 12-16-96; Ord. No. 222-99, § 3, 3-01-99; Ord. No. 199-04/05, 4-4-05; Ord. No. 29-09/10, 8-3-09 emergency passage; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 240-09/10, 6-21-10; Ord. No. 9 10/11, 8-2-10; Ord. No. 149-10/11, 3-7-11; Ord. No. 33-11/12, 1-18-12; Ord. No. 205-17/18, 5-14-2018)

Sec. 14-89. Prohibited uses.

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.
(Ord. No. 534-84, 5-7-84)

Sec. 14-90. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the R-3 zone shall meet the following minimum requirements:

(a) Minimum lot size:

1. Residential: Sixty-five hundred (6,500) square feet except as provided for lots of record in section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article. A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. Section 4807 et seq., or the applicable zoning lot size, whichever is larger.
2. Alteration of a detached single-family dwelling

to a two-family dwelling: Ten thousand (10,000) square feet.

3. Long-term, extended, or intermediate care facilities: Two (2) acres.

4. School: Two (2) acres.

5. Places of assembly:

Large	Two (2) acres
Medium	One (1) acre
Small	Half (1/2) acre

6. Municipal use: Sixty-five hundred (6,500) square feet.

7. Hospital: Ten (10) acres.

8. Planned residential unit development (PRUD): Three (3) acres gross area, as defined in section 14-47 (definitions) of this article, of continuous land.

9. All other uses: Sixty-five hundred (6,500) square feet.

Provided that for uses specified in section 14-90(a)3 through 8 above, no minimum lot area shall be required in the following cases:

- a. Uses existing as of June 1, 1983;
- b. Expansion onto land abutting the lot on which the principal use is located;
- c. Expansion onto land other than the lot on which the principal use is located to the extent that such expansion consists of the reuse of surface parking area or nonresidential structures existing and in nonresidential use as of June 1, 1983, provided that such reuse is contained within the lot of record of such structure or parking area as of June 1, 1983;

- d. Expansion onto land other than the lot on which the principal use is located of no more than fifteen (15) percent of the total contiguous land area of the existing use, or one (1) acre, whichever is less, within any five-year period.

(b) Minimum lot area per dwelling unit:

PRUD: Sixty-five hundred (6,500) square feet of net land area as defined in section 14-47 (definitions) of this article. As part of a site plan and subdivision application, the applicant shall provide a calculation of those factors deducted to determine net land area. In addition, such net area factors shall be delineated on a site plan.

Other uses: Sixty-five hundred (6,500) square feet.

- (c) Minimum street frontage: Fifty (50) feet, except that lots located in a subdivision approved after the effective date of Ord. No. 165-97 pursuant to section 14-497.5 shall meet the street frontage requirements approved as part of the subdivision plan under the terms of that section.

(d) 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.)

1. Front yard:

Principal or accessory structures: Twenty-five (25) feet.

A front yard need not exceed the average depth of front yards on either side of the lot. A lot of record existing as of June 5, 1957, and less than one hundred (100) feet deep need not be deeper than twenty (20%) percent of the depth of the lot.

2. Rear yard:

- a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Twenty-five (25) feet.
- b. Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.

Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.

3. Side yard:

- a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet:

<i>Height of Structure</i>	<i>Required Side Yard</i>
----------------------------	---------------------------

1 story	8 feet
1 1/2 stories	8 feet
2 stories	14 feet
2 1/2 stories	16 feet

The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than eight (8) feet in width. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than eight (8) feet.

- b. Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.

4. Side yard on side street:

- a. Principal or accessory structures: Twenty (20) feet.
- (e) Maximum lot coverage: Thirty-five (35) percent of lot area.
- (f) Minimum lot width: Sixty-five (65) feet.
- (g) Maximum structure height: Principal or accessory attached structure: Thirty-five (35) feet.
- Accessory detached structure: Eighteen (18) feet.*
- (h) 1. *Maximum number of units in a building (PRUD of five (5) acres or more):* Six (6) units.
2. Maximum number of units in a building (PRUD of less than five (5) acres): Two (2) units.
- (i) Maximum average number of units in a building (PRUD of five (5) acres or more): Five (5) units.
- (j) Maximum length of building (PRUD): One hundred (100) feet for buildings without garages; one hundred forty (140) feet for buildings with integral garages.
- (k) Minimum building setback from external subdivision property lines (PRUD):
 - 1. Three (3) or fewer dwelling units in building: Twenty-five (25) feet.
 - 2. Four (4) or more dwelling units in building: Thirty-five (35) feet.
- (l) Minimum distance between detached PRUD dwelling unit: Sixteen (16) feet.
- (m) Reserved.
- (n) Minimum recreation open space area (PRUD): Three hundred (300) square feet per dwelling unit of common area designated on the site for recreation purposes. Such recreation areas shall be level graded, dry, accessible and properly drained. At a minimum, a

contiguous area of six thousand (6,000) square feet with a minimum dimension of fifty (50) feet shall be provided and shall include one (1) or more of the uses set forth in section 14-526 (d) 9. and the planned residential unit development standards in the City of Portland Design Manual but shall at least provide usable recreation space. Such recreation areas shall be located at least twenty-five (25) feet from dwelling units.

- (o) No habitable space in a PRUD shall be below grade, except basements that are a part of and below ground units.
- (p) Maximum floor area for places of assembly on a collector or arterial road:

Large	Not limited
Medium	9,000 sq. ft.
Small	5,000 sq. ft.

- (q) Maximum floor area for places of assembly not on a collector or arterial road:

Large	9,000 sq. ft.
Medium	4,500 sq. ft.
Small	2,500 sq. ft.

(Ord. No. 534-84, 5-7-84; Ord. No. 81-88, § 5, 7-19-88; Ord. No. 385-89, §§ 1, 2, 4-3-89; Ord. No. 235-91, § 6, 2-4-91; Ord. No. 118-93, § 6, 10-18-93; Ord. No. 154-96, § 6, 12-16-96; Ord. No. 165-97, § 2, 12-1-97; Ord. No. 95-04/05, 11-15-04; Ord. No. 131-08/09, 12-15-08; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 40-12/13, 9-5-12)

*Editor's note--Ord. No. 81-88, § 5, adopted July 19, 1988, amended § 14-90 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 81-88.

Sec. 14-91. Other requirement.

Other requirements are as follows:

- (a) Off-street parking: Off-street parking is required as provided in division 20 (off-street parking) of this article.

(b) Shoreland and flood plain management regulations: Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

(c) Storage of vehicles: Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.

(Ord. No. 534-84, 5-7-84; Ord. No. 15-92, § 7, 6-15-92)

Secs. 14-92. Reserved.

Secs. 14-93. Reserved.

DIVISION 4.5. FH FLEXIBLE HOUSING ZONE

Sec. 14-94. Purpose.

The intention of this division is to establish an overlay zone in which manufactured housing development is permitted in addition to those uses permitted in the underlying residential zone. The purpose of this division is to accommodate additional housing types in appropriate areas of the city, while protecting the value and integrity of established residential neighborhoods and ensuring a balanced and orderly pattern of residential development.

(Ord. No. 610-82, § 2, 7-7-82; Ord. No. 130-82, § 1, 9-20-82; Ord. No. 200-89, § 1, 12-18-89)

Sec. 14-95. Manufactured housing park or subdivision.

Notwithstanding any other provision of this article, no manufactured housing park or subdivision shall be permitted in any zone except as provided in this section.

(a) Manufactured housing park or subdivision, as defined in section 14-47, shall be permitted in the flexible housing zone, the Planning Board shall be the reviewing authority. Such development shall be in accordance with the space and bulk and other requirements applicable to similar uses permitted in the underlying zone, except those standards set forth in section 14-96, and shall also meet the following additional requirement:

1. Reserved.

2. Such development shall be subject to approval by the Planning Board with respect to each and every requirement of article VI of this chapter, including the special requirements of section 14-499.5, whether or not such development is a subdivision within the meaning of article IV of this chapter, as now enacted or as hereafter amended and shall also be subject to article V of this chapter.
3. Whether or not the underlying zone permits planned residential unit development, a manufactured housing park shall be a planned residential unit development, subject to the provisions of this section, section 14-499.5 and section 14-526 9. All land, including but not limited to private streets, private driveways, utility location areas, common parking areas and common recreation open space, shall be owned and used in common. Manufactured housing parks shall not be subject to the net land area calculations set forth in section 14-47.
4. Single-component manufactured housing shall be prohibited from being horizontally or vertically attached to any other unit or structure. (Provided, however, that this provision shall not be deemed to prohibit building additions, such as porches, garages, room additions or solar greenhouses.)

(Ord. No. 610-82, § 2, 7-7-82; Ord. No. 130-82, § 1, 9-20-82; Ord. No. 263-84, § 1, 12-17-84; Ord. No. 200-89, § 2, 12-18-89; Ord. No. 278-09/10, 7-19-10)

Sec. 14-96. Additional dimensional requirements and performance standards for manufactured housing parks.

Notwithstanding the provisions of section 14-95 and the dimensional requirements for underlying zones, the following dimensional requirements shall apply to manufactured housing parks:

- (a) Minimum manufactured housing park unit space size: Four thousand five hundred (4,500) square feet. A manufactured housing park unit space in an unsewered residential district shall meet the provisions of 12 M.R.S.A. 4807 et seq., or the applicable zoning lot size, whichever is larger.

- (b) Maximum manufactured housing park unit space coverage: Fifty (50) percent.
- (c) Minimum street frontage for manufactured housing park: Fifty (50) feet.
- (d) Minimum open space requirement: Ten (10) percent of the combined area of the individual unit spaces within the manufactured housing park.

(e) Minimum yard dimensions:

(Yard dimensions include setbacks from unit space boundaries and setbacks of structures from one another. No structure shall occupy the yard of another structure.):

- 1. Front yard: Principal or accessory structures: Twenty (20) feet.
 - 2. Rear yard:
 - a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Twenty (20) feet.
 - b. Accessory detached structures with ground coverage of one hundred (100) square feet or less: Five (5) feet.
 - 3. Side yard: Principal or accessory structures: Ten (10) feet.
 - 4. Unit spaces located within a shoreland zone shall meet the lot area and lot width requirements for the underlying zone and shall also meet all applicable shoreland zoning standards.
- (f) All manufactured housing park unit spaces within a manufactured housing park shall be shown on a manufactured housing plan showing unit space boundaries, unit space sizes, and unit space dimensions. Such unit spaces shall be under unified ownership with all other unit spaces within the manufactured housing park. The manufactured housing park plan shall also contain a note that city services

shall not be provided on private streets within the manufactured housing park. Individual leases for unit spaces shall disclose that city services shall not be provided on private streets within the manufactured housing park.

- (g) All single-family single-component manufactured housing units in a manufactured housing park shall meet the following performance standards:
1. More than half of the roof area of each unit shall be a double-pitched Class C rated shingled roof with a minimum pitch of 3/12.
 2. Each unit shall be installed on a full foundation, a concrete frost wall, or a reinforced floating concrete pad which shall be certified by an engineer if it is to be placed on soil with high frost susceptibility, in accordance with all applicable codes and regulations. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation or frost wall. In the case of a frost wall, vermin-proof skirting shall be installed on all sides of the unit. The skirting may consist of either (a) concrete or masonry block or (b) manufactured skirting. If concrete or masonry block skirting is installed, either the exterior siding of the unit shall extend within one (1) foot of grade or decorative masonry siding shall be applied. If manufactured skirting material is installed, the color shall be identical to or compatible with the exterior siding of the unit.
 3. Each unit shall have exterior siding that is residential in appearance, including but not limited to natural materials such as wood clapboards or shakes, or exterior materials which simulate wood. Clapboard or simulated clapboards shall have less than eight (8) inches of exposure, and sheet metal type siding shall not be permitted.
 4. Each unit shall be provided with at least two (2) trees meeting the city's arboricultural specifications and which are clearly visible from

the street line and are located so as to visually widen the narrow dimension or proportion of the unit.

5. Each unit shall have all fuel oil supply systems constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.
6. No unit shall be horizontally or vertically attached to any other unit or other structure, provided, however, that this provision shall not be deemed to prohibit building additions, such as porches, garages, room additions or solar greenhouses.

(Ord. No. 200-89, § 3, 12-18-89)

Sec. 14-97 - 14-100. Reserved.

DIVISION 5. R-4 RESIDENTIAL ZONE*

*Editor's note--Ord. No. 535-84, adopted May 7, 1984, repealed former Div. 5, §§ 14-101--14-104, and enacted a new Div. 6, §§ 14-101--14-106. The result of this action was that this Art. III contained no division designated 5. The editor has, therefore, in agreement with the city, retained the division designation 5. Formerly §§ 14-101--14-104 were derived from Code 1968, § 602.5.A--D; Ord. No. 499-74, § 2, adopted Aug. 19, 1974; and Ord. No. 91-83, §§ 1, 2, adopted Aug. 3, 1983.

Sec. 14-101. Purpose.

The purpose of the R-4 residential zone is:

- (a) To preserve the unique character of the Western Promenade area of the city by controlling residential conversions and by allowing the continued mix of single-family, two-family, and low-rise multifamily dwellings and other compatible development at medium densities.

(Ord. No. 535-84, 5-7-84)

Sec. 14-102. Permitted uses.

The following uses are permitted in the R-4 residential

zone:

(a) Residential:

1. Single-family detached dwellings;
2. New construction of two-family dwellings;
3. Reserved;
4. Handicapped family unit, as defined in section 14-47 (definitions) of this article, for handicapped persons plus staff;
5. Single-family, multiple-component manufactured housing, as defined in section 14-47 (definitions) of this article, except in a National Register Historic District;
6. Single-family, single-component manufactured housing, as defined in section 14-47 (definitions) of this article, on individual lots under separate and distinct ownership, except in a National Register Historic District, provided that each unit meets the performance standards listed below:
 - a. More than half of the roof area of each unit shall be double pitched Class C rated shingled roof with a minimum pitch of 3/12.
 - b. Each unit shall be installed on a full foundation or a concrete frost wall in accordance with all applicable codes and regulations. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation or frost wall. In the case of a frost wall, vermin proof skirting shall be installed on all sides of the unit. The skirting may consist of either (a) concrete or masonry block or (b) manufactured skirting. If concrete or masonry block skirting is installed, either the exterior siding of the unit shall extend within one (1) foot of grade or decorative masonry siding shall be applied. If manufactured

skirting material is installed, the color shall be identical to or compatible with the exterior siding of the unit.

- c. Each unit shall have exterior siding that is residential in appearance, including but not limited to natural materials such as wood clapboards or shakes, or exterior materials which simulate wood. Clapboards or simulated clapboards shall have less than eight (8) inches of exposure and sheet metal type siding shall not be permitted.
- d. Each unit shall have the long side of the unit parallel to the street line where the required street frontage is met.
- e. Each unit shall be provided with at least two (2) trees meeting the city's arboricultural specifications and which are clearly visible from the street line and are located so as to visually widen the narrow dimension or proportion of the unit.
- f. Each unit shall have all fuel oil supply systems constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.
- g. No unit shall be horizontally or vertically attached to any other unit or other structure, provided however, that this provision shall not be deemed to prohibit building additions, such as porches, garages, room additions or solar greenhouses.

(b) Other:

- 1. Cemeteries;
- 2. Parks, and other active and passive noncommercial recreation spaces;
- 3. Accessory uses customarily incidental and subordinate to the location, function, and

operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article;

4. Home occupations subject to the provisions of section 14-410 (home occupation) of this article;
5. Municipal uses, excluding those specifically set forth in section 14-103 of this division.
6. Special needs independent living units, provided that a building housing special needs independent living units shall not house other types of residential or other permitted uses. The owner of a special needs independent living unit building shall file in the Cumberland County Registry of Deeds a statement under oath that the building is a special needs independent living unit building and that any future change of use to a permitted residential use shall require a change in use review by the City of Portland and a decrease in the number of units in the building in accordance with the Portland City Code, chapter 14. The owner shall file proof of such recording with the building inspections division prior to the issuance of any certificates of occupancy for the new uses.
7. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(Ord. No. 535-84, 5-7-84; Ord. No. 264-84, § 1, 12-17-84; Ord. No. 67-87, § 2, 11-2-87; Ord. No. 82-88, § 1, 7-19-88; Ord. No. 86A-89, § 4, 8-21-89; Ord. No. 33-91, § 5, 1-23-91; Ord. No. 33A-91, § 2, 4-17-91)

***Editor's note--**Ord. No. 82-88, § 1, adopted July 19, 1988, amended § 14-102 by adding subsection (b)5 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 82-88.

Sec. 14-103. Conditional uses.

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

(a) Residential:

1. Sheltered care group homes, as defined in section 14-47 of this article, for up to twelve (12) individuals, plus staff, and serving a primary population which is not handicapped persons, parolees, persons involved in correctional prerelease programs, or current illegal drug users, provided that:
 - a. A sheltered care group home shall not be located within five hundred (500) feet of another, as measured along street lines to the respective property lines;
 - b. There shall be no open outside stairways or fire escapes above the ground floor;
 - c. The facility shall make provision for adequate on-site staffing in accordance with applicable state licensing requirements. If a facility is not licensed by the state, there shall be a minimum of one (1) staff person for every ten (10) residents or fraction thereof.

The board of appeals may impose conditions upon a conditional use permit concerning the creation or operation of a sheltered care group home including but not limited to the following: site and building maintenance; lighting, fencing, and other appropriate security measures; screening and buffering of parking areas; compatibility of any additions or alterations with the existing residential structure; compatibility of new structures with the architectural character of the surrounding area; and limitation on the duration of a sheltered care group home permit.

2. Alteration of an existing structure to accommodate one (1) or more dwelling units provided that:
 - a. No additional dwelling unit shall have less than six hundred (600) square feet of floor area, exclusive of common hallways and

- storage in basement and attic;
 - b. No open outside stairways or fire escapes above the ground floor shall be or have been constructed in the immediately preceding five (5) years;
 - c. The alteration will not result in a total cubic volume increase of more than ten (10) percent within the immediately preceding five (5) years;
 - d. A lower level dwelling unit shall have a minimum of one-half of its floor-to-ceiling height above the average adjoining ground level;
 - e. No existing dwelling unit shall be decreased to less than one thousand (1,000) square feet of floor area;
 - f. Three thousand (3,000) square feet of land area per dwelling unit shall be required;
 - g. The project shall be subject to article V (site plan) of this chapter for site plan review and approval.
 - h. Parking shall be provided as required in division 20 of this article.
3. Multiplex development with three (3) or more horizontally or vertically attached, or a series of such attached dwelling units and the construction of at least one (1) building, provided that:
- a. No open outside stairways or fire escapes above the ground floor shall be constructed;
 - b. No habitable space in a dwelling unit shall be below grade, except basements that are a part of and below aboveground units.
 - c. Three thousand (3,000) square feet of land area per dwelling unit shall be required for

the first three (3) dwelling units with a requirement of six thousand (6,000) square feet of land area per dwelling unit for additional dwelling units;

- d. No dwelling unit shall have less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic;

The project shall be subject to article V (site plan) of this chapter for Planning Board site plan review and approval.

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

1. Elementary, middle, and secondary school (except as otherwise provided in section 14-276.10);
2. Places of assembly;

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

- a. In the case of expansion of existing such uses onto land other than the lot on which the principal use is located, it shall be demonstrated that the proposed use cannot reasonably be accommodated on the existing site through more efficient utilization of land or buildings, and will not cause significant physical encroachment into established residential areas: and
- b. The proposed use will not cause significant displacement or conversion of residential uses existing as of June 1, 1983, or thereafter; and
- c. In the case of a use or use expansion which

constitutes a combination of the above-listed uses with capacity for concurrent operations, the applicable minimum lot sizes shall be cumulative; and

- d. Article V (site plan) sections 14-522 and 14-523 notwithstanding, in the case of places of assembly the proposed use shall be subject to the requirements of article V (site plan) of this chapter; and
- e. Community halls:
 - i. The structure was in existence as of January 4, 2010;
 - ii. The structure was built for institutional or other non-residential uses;
 - iii. The structure is operated by, or operated subject to the control of, a not-for-profit entity in accordance with its not-for-profit purposes; and
 - iv. A parking management plan is submitted for review and approval by the planning board; and
- f. Private club or fraternal organizations: any such establishment serving alcoholic beverages or in possession of a license for serving alcoholic beverages shall be located on a large lot, as specified in the minimum lot size provisions of this section.

(c) Other:

- 1. Off-street parking of passenger cars as provided in section 14-344 (board of appeals may authorize parking in certain residential zones) of this article;
- 2. Utility substations, including sewage and water pumping stations and standpipes, electric power substations, transformer stations, and telephone electronic equipment enclosures and other similar

structures, provided that such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood;

3. Day care facilities or home babysitting services not permitted as a home occupation under section 14-410, and nursery schools and kindergartens, subject to the following conditions:
 - a. The facility shall be located in a structure in which there is one (1) or more occupied residential units or in an existing accessory structure, unless the facility is located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use or in a nonresidential structure accessory to the principal nonresidential use.
 - b. The maximum capacity shall be twelve (12) children for facilities located in residential or existing structures accessory thereto, unless the additional standards in subsection v. are met. There shall be no maximum limit on the number of children in a facility located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care use, home babysitting use, nursery school, or kindergarten or in a nonresidential structure accessory thereto, provided that any such structure that serves more than twelve (12) children shall be subject to review under article V of this chapter.
 - c. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.
 - d. Solid waste shall be stored in covered containers. Such containers shall be

screened on all four (4) sides.

- e. Day care facilities, nursery schools and kindergartens located either in structures that have been in residential use within the past five (5) years or in existing accessory structures and that serve between thirteen (13) and twenty-four (24) children shall meet the following additional standards:
 - i. The facility shall provide a minimum of seventy-five (75) square feet of outdoor play area per child;
 - ii. The play area shall be located in the side and rear yards only and shall not be located in front yards;
 - iii. Outside play areas shall be separated from abutting properties by a fence at least forty-eight (48) inches in height;
 - iv. A ten-foot wide landscaped buffer shall be required outside of the fenced play area, and shall be established in accordance with the landscaping standards of the City's Technical Standards and Guidelines;
 - v. The minimum lot size for a day care facility, home babysitting service, nursery school, or kindergarten located in a residential or existing accessory structure and serving more than twelve (12) children shall be twenty thousand (20,000) square feet;
 - vi. *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
 - vii. The maximum number of children in a day care facility, home babysitting service, nursery school, or kindergarten located in a residential or existing accessory structure shall be twenty-four (24); and

viii. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the residential appearance of the building.

4. Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:
 - a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
 - b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and
 - c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
 - d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
 - e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting

from construction, operation or dismantling of any part of the temporary wind anemometer tower; and

- f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
- g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
- h. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

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

(Ord. No. 535-84, 5-7-84; Ord. No. 264-84, § 2, 12-17-84; Ord. No. 76-85, § 5, 7-1-85; Ord. No. 67-87, § 3, 11-2-87; Ord. No. 82-88, §§ 2, 3, 7-19-88; Ord. No. 235-91, § 7, 2-4-91; Ord. No. 118-93, § 7, 10-18-93; Ord. No. 133-96, § 4, 11-18-96; Ord. No. 154-96, § 7, 12-16-96; Ord. No. 222-99, § 4, 3-01-99; Ord. No. 29-09/10, 8-3-09 emergency passage; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 240-09/10, 6-21-10; Ord. No. 9 10/11, 8-2-10; Ord. No. 138-09/10, 1-20-10; Ord. No. 149-10/11, 3-7-11; Ord. No. 33-11/12, 1-18-12)

*Editor's note--Ord. No. 82-88, §§ 2, 3, adopted July 19, 1988, amended this section by amending subsection 14-103(a) and by deleting subsection (b)3, municipal use. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 82-88.

Sec. 14-104. Prohibited uses.

Uses that are not expressly enumerated herein as either

permitted uses or conditional uses are prohibited.
(Ord. No. 535-84, 5-7-84)

Sec. 14-105. Dimensional requirements.

In addition to the provisions of division 25 of this article (space and bulk regulations and exceptions), lots in the R-4 zone shall meet the following requirements:

(a) Minimum lot size:

1. Residential: Six thousand (6,000) square feet except as provided for lots of record in section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article.
2. Multiplex: Nine thousand (9,000) square feet.
3. School: Thirty thousand (30,000) square feet.
4. Places of assembly:

Large	30,000 sq. ft.
Medium	15,000 sq. ft.
Small	7,500 sq. ft.

5. Municipal use: Six thousand (6,000) square feet.
6. All other uses: Six thousand (6,000) square feet.

Provided that for uses specified in section 14-105(a)3 through 5 above, no minimum lot area shall be required in the following cases:

- a. Uses existing on June 1, 1983;
- b. Expansion onto land abutting the lot on which the principal use is located;
- c. Expansion onto land other than the lot on which the principal use is located to the extent that such expansion consists of the reuse of surface parking area or nonresidential structures existing and in nonresidential use as of June 1, 1983, provided that such reuse is contained within the lot of record of such structure or

parking area as of June 1, 1983;

7. Expansion onto land other than the lot on which the principal use is located of no more than fifteen (15) percent of the total contiguous land area of the existing use, or one (1) acre, whichever is less, within any five-year period.
- (b) Minimum lot area per dwelling unit: Three thousand (3,000) square feet, except as provided for a multiplex. This requirement may be reduced by up to twenty (20) percent for a special needs independent living unit.
- (c) Minimum street frontage: Fifty (50) feet.
- (d) 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.)
 1. Front yard:

Principal or accessory structures: Twenty-five (25) feet.

A front yard need not exceed the average depth of front yards on either side of the lot. A lot of record existing as of June 5, 1957, and less than one hundred (100) feet deep need not be deeper than twenty (20) percent of the depth of the lot.
 2. Rear yard:
 - a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Twenty-five (25) feet.
 - b. Accessory detached structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.

Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this

article.

3. Side yard:

- a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet:

<i>Height of Structure</i>	<i>Required Side Yard</i>
1 story	10 feet
1 1/2 stories	10 feet
2 stories	14 feet
2 1/2 stories	16 feet

The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than ten (10) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than ten (10) feet.

- b. Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.

4. Side yard on side streets:

Principal or accessory structures: Twenty (20) feet.

A side yard on a side street need not exceed the average depth of front setback directly abutting the lot.

- (e) Maximum lot coverage: Thirty (30) percent of lot area.

- (f) Minimum width of lot: Sixty (60) feet.

(g) Maximum structure height:

1. Principal structure: Thirty-five (35) feet.
2. Accessory detached structure: Eighteen (18) feet.

(h) Maximum floor area for places of assembly on a collector or arterial road:

Large	Not limited
Medium	4,500 sq. ft.
Small	2,250 sq. ft.

(i) Maximum floor area for places of assembly not on a collector or arterial road:

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

(Ord. No. 535-84, 5-7-84; Ord. No. 82-88, § 4, 7-19-88; Ord. No. 235-91, § 9, 2-4-91; Ord. No. 33A-91, § 3, 4-17-91; Ord. No. 118-93, § 8, 10-18-93; Ord. No. 154-96, § 8, 12-16-96; Ord. No. 131-08/09, 12-15-08; Ord. No. 127-09/10, 1-4-10 emergency passage)

*Editor's note--Ord. No. 82-88, § 4, adopted July 19, 1988, amended § 14-105 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 82-88.

Sec. 14-106. Other requirements.

[Other requirements are as follows:]

- (a) Off-street parking: Off-street parking is required as provided in division 20 (off-street parking) of this article.
- (b) Shoreland and flood plain management regulations: Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

(c) Storage of vehicles: Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.
(Ord. No. 535-84, 5-7-84; Ord. No. 15-92, § 8, 6-15-92)

Sec. 14-107 - 14-115. Reserved.

DIVISION 6. R-5 RESIDENTIAL ZONE*

*Editor's note--Ord. No. 536-84, adopted May 7, 1984, repealed former Div. 6, §§ 14-116--14-119, and enacted in lieu thereof a new Div. 7, §§ 14-116--14-121. However, in order to avoid duplication of subsequent division numbers and in consultation with the city, the provisions have been retained as Div. 6. Sections 14-116--14-119 were formerly derived from Code 1968, § 602.5.A--D, and Ord. Nos. 207-72, 499-74, 193-82, 92-83, 422-83.

Sec. 14-116. Purpose.

The purpose of the R-5 residential zone is:

To provide appropriate areas of the city for medium-density residential development characterized by single-family and low-intensity multifamily dwellings on individual lots; to ensure the stability of established medium-density neighborhoods by controlling residential conversions; and to provide for planned residential unit development on substantially sized parcels. Such PRUD development shall respond to the physical qualities of a site and complement the scale, character and style of the surrounding neighborhood.
(Ord. No. 536-84, 5-7-84; Ord. No. 83-88, § 1, 7-19-88)

*Editor's note--Ord. No. 83-88, § 1, adopted July 19, 1988, amended § 14-116 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 83-88.

Sec. 14-117. Permitted uses.

The following uses are permitted in the R-5 residential zone:

(a) Residential:

1. Single- and two-family dwellings; except that development of two (2) or more two-family

dwellings on contiguous lots within any two-year period shall be subject to review as specified under the provisions of 14-117(a)2e if such lots were under single ownership at any time within the two-year period immediately prior to development of the first such lot. No building reviewed as a two-family dwelling in accordance with article V (site plan) of this chapter or not reviewed under article V shall be altered or enlarged to include any additional dwelling unit within five (5) years from the date of issuance of the building permit. Any building reviewed as a two-family dwelling in accordance with article V (site plan) which is altered or enlarged to include any additional dwelling unit after this five-year period shall be reviewed as a level I site plan pursuant to article V of this chapter.

2. Multiplex development with three (3) or more horizontally or vertically attached dwelling units or a series of such attached dwelling units and the construction of at least one (1) building on a parcel of less than two (2) acres, provided that:
 - a. The land area requirement for a multiplex shall be six thousand (6,000) square feet of land area per dwelling unit; except that a multiplex with two hundred fifty (250) feet or more of street frontage needs only forty-five hundred (4,500) square feet of land area per dwelling unit;
 - b. No dwelling unit shall have less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic;
 - c. No open outside stairways or fire escapes above the ground floor shall be constructed;
 - d. No habitable space in a dwelling unit shall be below grade, except basements that are a part of and below aboveground units;
 - e. Such development shall be subject to article

V (site plan) of this chapter for site plan review approval and shall conform to the R-5 Design Standards.

3. Planned residential unit development (PRUD) consisting of horizontally or vertically attached dwelling units, or a series of such dwelling units. No dimensional requirements contained in section 14-120 shall apply with respect to such development, except for those requirements specifically denoted for PRUD. There shall be no open outside stairways or fire escapes above the ground floor. All land shall be owned and used in common and shall be governed and maintained as set forth in section 14-498(i)(3) of this chapter. Such development shall be subject to review and approval by the Planning Board with respect to the requirements of article V (site plan) and article IV (subdivisions) of this chapter, whether or not such development is a subdivision within the meaning of article IV of this chapter, as now enacted or as hereafter amended.
4. Handicapped family unit, as defined in section 14-47 (definitions) of this article, for handicapped persons plus staff.
5. Single-family, multiple-component manufactured housing, as defined in section 14-47 (definitions) of this article, except in a National Register Historic District.
6. Single-family, single-component manufactured housing, as defined in section 14-47 (definitions) of this article, on individual lots under separate and distinct ownership, except in a National Register Historic District, provided that each unit meets the performance standards listed below:
 - a. More than half of the roof area of each unit shall be a double pitched Class C rated shingled roof with a minimum pitch of 3/12.
 - b. Each unit shall be installed on a full

foundation or a concrete frost wall in accordance with all applicable codes and regulations. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation or frost wall. In the case of a frost wall, vermin proof skirting shall be installed on all sides of the unit. The skirting may consist of either (a) concrete or masonry block or (b) manufactured skirting. If concrete or masonry block skirting is installed, either the exterior siding of the unit shall extend within one (1) foot of grade or decorative masonry siding shall be applied. If manufactured skirting material is installed, the color shall be identical to or compatible with the exterior siding of the unit.

- c. Each unit shall have exterior siding that is residential in appearance, including but not limited to natural materials such as wood clapboards or shakes, or exterior materials which simulate wood. Clapboards or simulated clapboards shall have less than eight (8) inches of exposure and sheet metal type siding shall not be permitted.
- d. Each unit shall have the long side of the unit parallel to the street line where the required street frontage is met.
- e. Each unit shall be provided with at least two (2) trees meeting the city's arboricultural specifications and which are clearly visible from the street line and are located so as to visually widen the narrow dimension or proportion of the unit.
- f. Each unit shall have all fuel oil supply systems constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.
- g. No unit shall be horizontally or vertically attached to any other unit or other structure, provided however, that this

provision shall not be deemed to prohibit building additions, such as porches, garages, room additions or solar greenhouses.

(b) Other:

1. Parks, and other active and passive noncommercial recreation spaces;
2. Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article;
3. Home occupation, subject to the provisions of section 14-410 (home occupation) of this article;
4. Municipal uses, excluding those specifically set forth in section 14-118 of this division.
5. Special needs independent living units on lots of less than two (2) acres, provided that a building housing special needs independent living units shall not house other types of residential or other permitted uses. The owner of a special needs independent living unit building shall file in the Cumberland County Registry of Deeds a statement under oath that the building is a special needs independent living unit building and that any future change of use to a permitted residential use shall require a change in use review by the City of Portland and a decrease in the number of units in the building in accordance with the Portland City Code, chapter 14. The owner shall file proof of such recording with the building inspections division prior to the issuance of any certificates of occupancy for the new uses.
6. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(Ord. No. 536-84, 5-7-84; Ord. No. 265-84, § 1, 12-17-84; Ord. No. 98-86, § 1, 10-6-86; Ord. No. 83-88, §§ 2, 3, 7-19-88; Ord. No. 387-89, 4-3-89; Ord. No. 86A-89, § 5, 8-21-89; Ord. No. 95-89, § 1, 9-6-89; Ord. No. 279-90, § 1, 3-10-90; Ord. No. 33-91, § 6, 1-23-91; Ord. No. 33A-91, § 4, 4-17-91; Ord. No. 220-95,

4-3-95; Ord. No. 165-97, § 3, 12-1-97; Ord. No. 56-08/09, 9-3-08; Ord. No. 278-09/10, 7-19-10; Ord. No. 33-11/12, 1-18-12)

*Editor's note--Ord. No. 83-88, §§ 2, 3, adopted July 19, 1988, amended subsections 14-117(a) and (b)4 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 83-88. Ord. No. 95-89, § 1, adopted Sept. 6, 1989, amended subsection (a)1 of § 14-117 to read as set out and, as amended, further ordained "that the prohibition upon unit additions contained in this ordinance shall not apply where a building permit has been issued. Additions proposed to such buildings shall require major site plan review and all other reviews required by this chapter."

Sec. 14-118. Conditional uses.

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

(a) Residential:

1. Reserved.
2. Sheltered care group homes, as defined in section 14-47 of this article, for up to twelve (12) individuals, plus staff, and serving a primary population which is not handicapped persons, parolees, persons involved in correctional prerelease programs, or current illegal drug users, provided that:
 - a. A sheltered care group home shall not be located within five hundred (500) feet of another, as measured along street lines to the respective property lines;
 - b. There shall be no open outside stairways or fire escapes above the ground floor;
 - c. The facility shall make provision for adequate on-site staffing and supervision of residents in accordance with applicable state licensing requirements. If a facility

is not licensed by the state, there shall be a minimum of one (1) staff person for every ten (10) residents or fraction thereof.

The board of appeals may impose conditions upon a conditional use permit concerning the creation or operation of a sheltered care group home including but not limited to the following: site and building maintenance; lighting, fencing, and other appropriate security measures; screening and buffering of parking areas; compatibility of any additions or alterations with the existing residential structure; compatibility of new structures with the architectural character of the surrounding area; and limitation on the duration of the sheltered care group home permit.

3. Alteration of a structure existing and not in residential use as of January 1, 1984, to three (3) or more dwelling units, provided that:
 - a. Reserved.
 - b. No open outside stairways or fire escapes above the ground floor shall be constructed or have been constructed in the immediately preceding five (5) years;
 - c. A lower level dwelling unit shall have a minimum of one-half of its floor-to-ceiling height above the average adjoining ground level;
 - d. Three thousand (3,000) square feet of land area per dwelling unit shall be required;
 - e. On-site parking shall be required as specified in division 20 (off-street parking) of this article, for the combined uses of the site;
 - f. The project shall be subject to article V (site plan) of this chapter for site plan review and approval and the following additional standards:

1. Any addition or exterior alterations such as facade materials, building form, and roof pitch shall be designed to be compatible with the architectural style of the structure;
2. The scale and surface area of parking, driveways, and paved areas shall be arranged and landscaped to be compatible in size and scale with neighboring properties in the area and to properly screen vehicles from adjacent properties and streets.
4. Conversions of existing two-family or multiplex structures into lodging houses, provided that a lodging house shall not be located within five hundred (500) feet of another as measured along street lines to the respective property lines.
5. Use of space existing as of September 3, 2008 to accommodate additional dwelling units under the following conditions:
 - a. This section shall under no conditions permit more than four dwelling units on a lot and shall not allow more than two additional dwelling units on a lot above what would otherwise be permitted;
 - b. Any units created under this section may not be sold as condominium units or otherwise separated from the ownership of at least one of the pre-existing units on the site ;
 - c. Any units created under this section must be affordable to households earning up to 80% of AMI and are subject to income verification as further outlined in implementing regulations ;
 - d. The additional units shall have a minimum floor area of four hundred (400) square feet and may not involve removing more than ten percent of the gross floor area of an existing dwelling unit into a new dwelling

unit. Gross floor area shall exclude any floor area that has less than two-thirds of its floor-to-ceiling height above the average adjoining ground level and may include the attic if such space is habitable.

- e. Modifications to existing structures shall be minimal, and be limited to new doors, windows and other openings;
 - f. Parking shall be provided as required by Division 20 of this article;
 - g. There shall be no open, outside stairways or fire escapes above the ground floor; and
 - h. The project shall be subject to Article V for site plan review and approval and the following additional standards:
 - i. Any additions or exterior alterations such as façade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the single family appearance of the building; and
 - ii. The scale and surface area of parking, driveways and paved areas shall be arranged and landscaped properly to screen vehicles from adjacent properties and streets.
- (b) Institutional: Any of the following conditional uses provided that, notwithstanding section 14-474(a) (conditional uses) of this article, or any other provision of this Code, the Planning Board shall be substituted for the board of appeals as the reviewing authority:
- 1. Elementary, middle, and secondary school;
 - 2. a. Long-term and extended care facilities;

- b. Intermediate care facility for thirteen (13) or more persons;
- 3. Places of assembly;
- 4. Reserved;
- 5. Hospital;
- 6. College, university, trade school.

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

- a. In the case of expansion of existing such uses onto land other than the lot on which the principal use is located, it shall be demonstrated that the proposed use cannot reasonably be accommodated on the existing site through more efficient utilization of land or buildings, and will not cause significant physical encroachment into established residential areas; and
- b. The proposed use will not cause significant displacement or conversion of residential uses existing as of June 1, 1983, or thereafter; and
- c. In the case of a use or use expansion which constitutes a combination of the above-listed uses with capacity for concurrent operations, the applicable minimum lot sizes shall be cumulative; and
- d. Article V (site plan) sections 14-522 and 14-523 notwithstanding, in the case of places of assembly the proposed use shall be subject to the requirements of article V (site plan) of this chapter; and
- e. In the case of community halls:
 - i. The structure was in existence as of January 4, 2010;

- ii. The structure was built for institutional or other non-residential uses;
 - iii. The structure is operated by, or operated subject to the control of, a not-for-profit entity in accordance with its not-for-profit purposes; and
 - iv. A parking management plan is submitted for review and approval by the planning board; and
- f. In the case of private club or fraternal organizations: any such establishment serving alcoholic beverages or in possession of a license for serving alcoholic beverages shall be located on a large lot, as specified in the minimum lot size provisions of this section.
- d. A college, university or trade school may build principal structures to a height of fifty-five (55) feet, not including the USM overlay zone, if the following standards can be met:
- (i) Lot size: 10 acres which may include adjacent land owned by the institution on both sides of a public street.
 - (ii) Minimum setback between buildings on-site: 20 feet.
 - (iii) Minimum setback from external property boundary: 30 feet, except that parking garages over 35 feet in height must be located 50 feet from external property boundaries when adjacent to an adjoining residential use.
 - (iv) The area between the structure and adjoining residential uses must be adequately screened with appropriate landscaping or other features to buffer

the building and effects thereof (i.e. noise, light, etc) from abutting properties.

(c) Other:

1. Off-street parking of passenger cars as provided in section 14-344 (board of appeals may authorize parking in certain residential zones) of this article;
2. Utility substations such as water and sewage pumping stations and standpipes, electric power substations, transformer stations, and telephone electronic equipment enclosures and other similar structures, provided that such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood;
3. Day care facilities or home babysitting services not permitted as a home occupation under section 14-410, and nursery schools and kindergartens subject to the following conditions:
 - a. The facility shall be located in a structure in which there is one (1) or more occupied residential units or in an existing accessory structure, unless the facility is located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use or in a nonresidential structure accessory to the principal nonresidential use.
 - b. The maximum capacity shall be twelve (12) children for facilities located in residential or existing structures accessory thereto, unless the additional standards in subsection v. are met. There shall be no maximum limit on the number of children in a facility located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care use,

home babysitting use, nursery school, or kindergarten, or in a nonresidential structure accessory thereto, provided that any such structure that serves more than twelve (12) children shall be subject to review under article V of this chapter.

- c. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.
- d. Solid waste shall be stored in covered containers. Such containers shall be screened on all four (4) sides.
- e. Day care facilities, nursery schools and kindergartens located either in structures that have been in residential use within the past five (5) years or in existing accessory structures and that serve between thirteen (13) and twenty-four (24) children shall meet the following additional standards:
 - i. The facility shall provide a minimum of seventy-five (75) square feet of outdoor play area per child;
 - ii. The play area shall be located in the side and rear yards only and shall not be located in front yards;
 - iii. Outside play areas shall be separated from abutting properties by a fence at least forty-eight (48) inches in height;
 - iv. A ten-foot wide landscaped buffer shall be required outside of the fenced play area, and shall be established in accordance with the landscaping standards of the City's Technical Standards and Guidelines;
 - v. The minimum lot size for a day care facility, home babysitting service, nursery school, or kindergarten located

in a residential or existing accessory structure and serving more than twelve (12) children shall be twenty thousand (20,000) square feet;

- vi. *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
 - vii. The maximum number of children in a day care facility, home babysitting service, nursery school or kindergarten located in a residential or existing accessory structure shall be twenty-four (24); and
 - viii. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the residential appearance of the building.
4. Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:
- a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
 - b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and
 - c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and

- d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
- e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
- f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
- g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
- h. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

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

(Ord. No. 536-84, 6-7-84; Ord. No. 265-84, § 2, 12-17-84; Ord. No. 76-85, § 6, 7-1-85; Ord. No. 83-88, § 4, 7-19-88; Ord. No. 235-91, § 10, 2-4-91; Ord. No. 118-93, § 9, 10-18-93; Ord. No. 133-96, § 5, 11-18-96; Ord. No. 154-96, § 9, 12-16-96; Ord. No. 222-99, §5, 3-01-99; Ord. No. 94-07/08, 11-5-07; Ord. No.

56/08/09, 9-3-08; Ord. No. 29-09/10, 8-3-09 emergency passage; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 240-09/10, 6-21-10; Ord. No. 9 10/11, 8-2-10; Ord. No. 149-10/11, 3-7-11; Ord. No. 33-11/12, 1-18-12; Ord. 82-15/16, 10-19-2015; Ord. No. 205-17/18, 5-14-2018)

*Editor's note--Ord. No. 83-88, § 4, adopted July 19, 1988, amended § 14-118 by deleting subsection (b)5. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 83-88.

Sec. 14-119. Prohibited uses.

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.
(Ord. No. 536-84, 5-7-84)

Sec. 14-120. Dimensional requirements.

(a) In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the R-5 zone shall meet the following minimum requirements:

1. Minimum lot size:
 - a. Residential: Six thousand (6,000) square feet except as provided for lots of record in section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article. A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. section 4807, or the applicable zoning lot size, whichever is larger.
 - b. Reserved.
 - c. Long-term, extended, or intermediate care facility: Two (2) acres.
 - d. School: Thirty thousand (30,000) square feet.
 - e. Places of assembly:

Large	43,560 sq. ft.
Medium	21,780 sq. ft.
Small	10,890 sq. ft.

- f. Municipal use: Six thousand (6,000) square feet.
- g. Hospital: Five (5) acres.
- h. College, university, trade school: Two (2) acres.
- i. Multiplex: Nine thousand (9,000) square feet.
- j. Planned residential unit development (PRUD): Two (2) acres gross area, as defined in section 14-47 (definitions) of this article, of contiguous land.
- k. All other uses: Six thousand (6,000) square feet.
- l. Lodging houses: Nine thousand (9,000) square feet.

Provided that for uses specified in section 14-120 (1)(c) through (i) above, no minimum lot area shall be required in the following cases:

- i. Uses existing as of June 1, 1983;
 - ii. Expansion of uses onto land abutting the lot on which the principal use is located;
 - iii. Expansion onto land other than the lot on which the principal use is located to the extent that such expansion consists of the reuse of surface parking area or nonresidential structures existing and in nonresidential use as of June 1, 1983, provided that such reuse is contained within the lot of record of such structure or parking area as of June 1, 1983;
 - iv. Expansion onto land other than the lot on which the principal use is located of no more than fifteen (15) percent of the total contiguous land area of the existing use, or one (1) acre, whichever is less, within any five-year period.
2. Minimum lot area per dwelling unit:

PRUD: Three thousand (3,000) square feet of net land area as defined in section 14-47 (definitions) of this article. As part of a site plan and subdivision application, the applicant shall provide a calculation of those factors deducted to determine net land area. In addition, such net area factors shall be delineated on a site plan.

Special needs independent living units: Four thousand eight hundred (4,800) square feet; except that special needs independent living units with two hundred fifty (250) feet or more of frontage shall require three thousand six hundred (3,600) square feet.

Other uses: Three thousand (3,000) square feet, except as provided for a multiplex.

3. Minimum street frontage: Fifty (50) feet.
4. Minimum yard dimension:

(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.)

a. Front yard:

Principal or accessory structures: Twenty (20) feet.

A front yard need not exceed the average depth of front yards on either side of the lot. A lot of record existing as of June 5, 1957, and less than one hundred (100) feet deep need not be deeper than twenty (20) percent of the depth of the lot.

b. Rear yard:

- i. Principal or attached accessory structures with ground coverage greater than one hundred (100) square feet: Twenty (20) feet.
- ii. Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.

Setbacks from swimming pools shall be as provided in section 14-432 (swimming pools) of this article.

c. Side yard:

- i. Principal or accessory structures with ground coverage greater than one hundred (100) square feet:

<i>Height of Structure</i>	<i>Required Side Yard</i>
1 story	8 feet
1 1/2 stories	8 feet
2 stories	12 feet
2 1/2 stories	14 feet

The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than eight (8) feet in width. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than eight (8) feet.

- ii. Accessory detached structures with ground coverage of one hundred and forty-four(144) square feet or less: Five (5) feet.

d. Side yard on side street:

Principal or accessory structures: Fifteen (15) feet.

5. Maximum lot coverage: Forty (40) percent of lot area.
6. Minimum lot width:

Multiplex: Ninety (90) feet.

Other uses: Sixty (60) feet.

7. Maximum structure height:

Principal or attached accessory structure: Thirty-five (35) feet.

Accessory detached structure: Eighteen (18) feet.

Principal and accessory attached structure (PRUD):
Thirty-five (35) feet.

8. a. *Maximum number of units in a building (PRUD):*
Twelve (12) units

b. Maximum number of units in a multiplex building:
Six (6) units.

9. Maximum length of building (PRUD): One hundred forty (140) feet.

10. Maximum length of accessory garage structure (PRUD):
Sixty (60) feet.

11. Minimum building setback from external subdivision
property lines (PRUD):

a. Building length of one hundred (100) feet or
less: Twenty-five (25) feet.

b. Building length greater than one hundred (100)
feet: Thirty-five (35) feet.

12. Minimum recreation open space area (PRUD): Three
hundred (300) square feet per dwelling unit of common
area designated for recreation purposes. Such
recreation areas shall be level graded, dry,
accessible and properly drained. At a minimum, a
contiguous area of six thousand (6,000) square feet,
with a minimum dimension of fifty (50) feet, shall be
provided and shall include one (1) or more of the uses
set forth in section 14-526(d) 9. and the planned
residential unit development standards in the City of
Portland Design Manual, but shall at least be usable

as a multipurpose game field. Such recreation areas shall be located at least twenty-five (25) feet from dwelling units.

13. No habitable space in a PRUD shall be below grade, except basements that are part of and below aboveground units.
14.
 - a. *Minimum rooming unit area for lodging houses:* Two hundred (200) square feet of combined rooming unit and common area per rooming unit. Each individual rooming unit shall be a minimum of eighty (80) square feet.
 - b. *Minimum land area per lodging house rooming unit:* One thousand (1,000) square feet.
15. Maximum floor area for places of assembly on a collector or arterial road:

Large	Not limited
Medium	4,500 sq. ft.
Small	2,250 sq. ft.

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

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

(b) *Small residential lot development:* Single family homes may be built on small lots located in the R-5 and may use the dimensional requirements below if one of the following conditions is met:

The lot is:

Vacant as of (date of enactment); or used exclusively for parking; or contains structure(s) not used for residential purposes; or created from a single lot division of a developed lot and results in a lot meeting the dimensional requirements of § 14-120(b) with the remaining developed portion meeting the dimensional requirements of §14-120(a)(1)-(14) except as expressly provided in Section 14-120(b).

1. *Minimum lot size:* Five thousand (5,000) square feet.
2. *Maximum lot size:*
 - a. Lots that are vacant as of September 3, 2008, used exclusively for parking, or contain structure(s) not used for residential purposes: Six thousand (6,000) square feet.
 - b. Original developed lot prior to the single lot division that results in a lot meeting the dimensional requirements of §14-120(b) with the remaining developed portion meeting the dimensional requirements of §14-120(a)(1)-(14): Thirteen thousand (13,000) square feet.
3. *Yard dimensions:*
 - a. *Side yard:*
 - i. Principal or attached accessory structures with ground coverage greater than one hundred (100) square feet: Seven (7) feet.

The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than four (4) feet in width.
 - ii. Side yard on side street: Ten (10) feet.
4. *Minimum lot width:* Forty (40).
5. *Minimum street frontage:* Forty (40).
6. *Maximum lot coverage: Fifty (50) percent.*

(Ord. No. 536-84, 5-7-84; Ord. No. 98-86, § 2, 10-6-86; Ord. No. 83-88, § 5, 7-19-88; Ord. No. 386-89, §§ 1, 2, 4-3-89; Ord. No. 235-91, § 11, 2-4-91; Ord. No. 33A-91, § 5, 4-17-91; Ord. No. 118-93, § 10, 10-18-93; Ord. No. 154-96, § 10, 12-16-96; Ord. No. 165-97, § 4, 12-1-97; Ord. No. 56-08/09, 9-3-08; Ord. No. 131-08/09, 12-15-08; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 278-09/10, 7-19-10; Ord. No. 275-10/11, 10-18-10)

*Editor's note--Ord. No. 83-88, § 5, adopted July 19, 1988, amended § 14-120 to read as herein set out. See also the

editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 83-88.

Sec. 14-121. Other requirements.

- (a) Off-street parking: Off-street parking is required as provided in division 20 (off-street parking) of this article.
- (b) Shoreland and flood plain management regulations: Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.
- (c) Storage of vehicles: Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.
- (d) Small residential lot development shall conform to the site plan standards of § 14-526.

(Ord. No. 536-84, 5-7-84; Ord. No. 15-92, § 9, 6-15-92; Ord. No. 56-08/09, 9-3-08)

Sec. 14-122 - 14-125. Reserved.

DIVISION 6.5. R-5A RESIDENTIAL ZONE*

*Editor's note--Ord. No. 537-84, adopted May 7, 1984, repealed a nonexistent Div. 6.5 and enacted a new Div. 8. However, in order to avoid duplication of division numbers and in consultation with the city, the provisions have been included as a new Div. 6.5, §§ 14-126--14-131.

Sec. 14-126. Purpose.

The purpose of the R-5A residential zone is:

- (a) To provide for moderate-density residential development in off-peninsula sections that can provide a unique residential living experience with a high degree of natural site amenities; and to provide areas of the city in the general proximity of the peninsula that have the capability for adequate municipal

services, including traffic corridors with adequate traffic capacity, that can appropriately accommodate a more intensive use of land than other lower-density zoned land and be compatible with surrounding neighborhoods; and to increase affordable housing opportunities in off-peninsula locations by providing a moderate-density zone.

(Ord. No. 537-84, 5-7-84; Ord. No. 84-88, § 1, 7-19-88)

*Editor's note--Ord. No. 84-88, § 1, adopted July 19, 1988, amended § 14-126 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 84-88.

Sec. 14-127. Permitted uses.

The following uses are permitted in the R-5A residential zone:

(a) Residential:

1. Single-, two-and three-family dwellings.
2. Planned residential unit development (PRUD) consisting of horizontally or vertically attached dwelling units or a series of such dwelling units. No dimensional requirements contained in section 14-130 shall apply with respect to such developments except for those requirements specifically denoted for PRUD. There shall be no open outside stairways or fire escapes above the ground floor. All land shall be owned and used in common and shall be governed and maintained as set forth in section 14-498(i)(3) of article IV (subdivisions). Such development shall be subject to review and approval by the Planning Board with respect to the requirements of article V (site plan) and article IV (subdivisions) of this chapter, whether or not such development is a subdivision within the meaning of article IV of this chapter, as now enacted or as hereafter amended.
3. Handicapped family unit, as defined in section 14-47 (definitions) of this article, for

handicapped persons plus staff.

4. Single-family, multiple-component manufactured housing, as defined in section 14-47 (definitions) of this article, except in a National Register Historic District.
5. Single-family, single-component manufactured housing, as defined in section 14-47 (definitions) of this article, on individual lots under separate and distinct ownership, except in a National Register Historic District, provided that each unit meets the performance standards listed below:
 - a. More than half of the roof area of each unit shall be a double pitched Class C rated shingled roof with a minimum pitch of 3/12.
 - b. Each unit shall be installed on a full foundation or a concrete frost wall in accordance with all applicable codes and regulations. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation or frost wall. In the case of a frost wall, vermin proof skirting shall be installed on all sides of the unit. The skirting may consist of either (a) concrete or masonry block or (b) manufactured skirting. If concrete or masonry block skirting is installed, either the exterior siding of the unit shall extend within one (1) foot of grade or decorative masonry siding shall be applied. If manufactured skirting material is installed, the color shall be identical to or compatible with the exterior siding of the unit.
 - c. Each unit shall have exterior siding that is residential in appearance, including but not limited to natural materials such as wood clapboards or shakes, or exterior materials which simulate wood. Clapboards or simulated clapboards shall have less than eight (8) inches of exposure and sheet metal type siding shall not be permitted.

- d. Each unit shall have the long side of the unit parallel to the street line where the required street frontage is met.
- e. Each unit shall be provided with at least two (2) trees meeting the city's arboricultural specifications and which are clearly visible from the street line and are located so as to visually widen the narrow dimension or proportion of the unit.
- f. Each unit shall have all fuel oil supply systems constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.
- g. No unit shall be horizontally or vertically attached to any other unit or other structure, provided however, that this provision shall not be deemed to prohibit building additions, such as porches, garages, room additions or solar greenhouses.

6. Multifamily dwellings.

7. Congregate care.

(b) Other:

- 1. Parks and other active and passive noncommercial recreation spaces;
- 2. Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article;
- 3. Home occupation, subject to the provisions of section 14-410 (home occupation) of this article;
- 4. Municipal use;
- 5. Intermediate, extended and long-term care

facilities.

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

(Ord. No. 537-84, 5-7-84; Ord. No. 266-84, § 1, 12-17-84; Ord. No. 84-88, §§ 2, 3, 7-19-88; Ord. No. 86A-89, § 6, 8-21-89; Ord. No. 33-91, § 7, 1-23-91; Ord. No. 58-97, § 1, 8-18-97; Ord. No. 33-11/12, 1-18-12)

*Editor's note--Ord. No. 84-88, §§ 2, 3, adopted July 19, 1988, amended § 14-127 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 84-88.

Sec. 14-128. Conditional use.

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

(a) Residential:

1. Sheltered care group homes, as defined in section 14-47 of this article, for up to twelve (12) individuals, plus staff, and serving a primary population which is not handicapped persons, parolees, persons involved in correctional prerelease programs, or current illegal drug users, provided that:
 - a. A sheltered care group home shall not be located within five hundred (500) feet of another, as measured along street lines to the respective property lines.
 - b. There shall be no open outside stairways or fire escapes above the ground floor.
 - c. The facility shall make provision for adequate on-site staffing in accordance with applicable state licensing requirements. If a facility is not licensed by the state, there shall be a minimum of one (1) staff person for every ten (10) residents or fraction thereof.

The board of appeals may impose conditions upon a conditional use permit concerning the creation or operation of a sheltered care group home including but not limited to the following: site and building maintenance; lighting, fencing, and other appropriate security measures; screening and buffering of parking areas; compatibility of any additions or alterations with the existing residential structure; compatibility of new structures with the architectural character of the surrounding area; and limitation on the duration of the sheltered care group home permit.

(b) Other:

1. Utility substations, including water and sewage pumping stations and standpipes, electric power substations, transformer stations and telephone electronic equipment enclosures, and other similar structures, provided that such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood.
2. Nursery schools and kindergartens.
3. Day care facilities or home babysitting services not permitted as a home occupation under section 14-410, subject to the following conditions:
 - a. The facility shall be located in a structure in which there is one (1) or more occupied residential units or in an existing accessory structure, unless the facility is located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use or in a nonresidential structure accessory to the principal nonresidential use.
 - b. The maximum capacity shall be twelve (12) children for facilities located in residential or existing structures accessory thereto, unless the additional standards in

subsection v. are met. There shall be no maximum limit on the number of children in a facility located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use, or in a nonresidential structure accessory thereto, provided that any such structure that serves more than twelve (12) children shall be subject to review under article V of this chapter.

- c. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.
- d. Solid waste shall be stored in covered containers. Such containers shall be screened on all four (4) sides.
- e. Day care facilities, nursery schools and kindergartens located either in structures that have been in residential use within the past five (5) years or in existing accessory structures and that serve between thirteen (13) and twenty-four (24) children shall meet the following additional standards:
 - i. The facility shall provide a minimum of seventy-five (75) square feet of outdoor play area per child;
 - ii. The play area shall be located in the side and rear yards only and shall not be located in front yards;
 - iii. Outside play areas shall be separated from abutting properties by a fence at least forty-eight (48) inches in height;
 - iv. A ten-foot wide landscaped buffer shall be required outside of the fenced play area, and shall be established in accordance with the landscaping standards

of the City's Technical Standards and Guidelines;

- v. The minimum lot size for a day care facility located in a residential or existing accessory structure and serving more than twelve (12) children shall be twenty thousand (20,000) square feet;
 - vi. *Off-street parking*: Off-street parking is required as provided in division 20 (off-street parking) of this article.
 - vii. The maximum number of children in a day care facility located in a residential or existing accessory structure shall be twenty-four (24); and
 - viii. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the residential appearance of the building.
4. Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:
- a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
 - b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and
 - c. Towers shall be set back from habitable

buildings by a distance equal to 1.1 times the tower height; and

- d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
- e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
- f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
- g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
- h. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

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

(Ord. No. 537-84, 5-7-84; Ord. No. 266-84, § 2, 12-17-84; Ord. No. 76-85, § 7,

7-1-85; Ord. No. 235-91, § 12, 2-4-91; Ord. No. 133-96, § 6, 11-18-96; Ord. No. 29-09/10, 8-3-09 emergency passage; Ord. No. 240-09/10, 6-21-10; Ord. No. 33-11/12, 1-18-12)

Sec. 14-129. Prohibited uses.

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.
(Ord. No. 537-84, 5-7-84)

Sec. 14-130. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the R-5A zone shall meet or exceed the following requirements:

Minimum Lot Size	Residential(Single-, two-and three-family dwellings): 6,000 SF and a maximum lot size up to 2 acres ¹
	Planned residential unit development (PRUD), multifamily development of 4 or more dwelling units, and Congregate Care: 2 acres gross area
	Intermediate, extended or long-term care facilities: 1 1/2 acres.
Min. Lot Area per D.U.	Single-, two-and three-family dwellings: 1,600 SF.
	Planned residential unit development (PRUD), Congregate Care and Multifamily development of 4 or more dwelling units: 1600 SF of net land area.
Min. Lot Area per Resident	<i>Minimum land area per intermediate care facility resident: 8,000 SF gross land area for the first thirty-five (35) residents, plus three hundred fifty (350) square feet for each additional resident.</i>
Min. Street Frontage	50 feet.

¹ A lot in an unsewered residential district shall meet the provisions of the state Minimum Lot Size Law, 12 M.R.S.A. Section 4807-A, or the applicable zoning lot size, whichever is the largest. Except as provided for lots of record in section 14-433 (lots of record and accessory structure setbacks for existing buildings) of this article.

Min. Yard Dimensions for Single-, two-and three-family dwellings²	1. <i>Front yard</i>: Principal or accessory structures: 25 feet. 2. <i>Rear yard</i>: a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: 25 feet. b. Accessory detached structures with a ground coverage of one hundred and forty-four (144) square feet or less: 5 feet. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article. (continued) 3. <i>Side yard</i>: a. Principal or accessory structures with ground coverage greater than one hundred (100) square feet: <table border="0"> <thead> <tr> <th style="text-align: left;"><i>Height of Structure</i></th><th style="text-align: left;"><i>Required Side Yard</i></th></tr> </thead> <tbody> <tr> <td>1 story</td><td>10 feet</td></tr> <tr> <td>1 1/2 stories</td><td>10 feet</td></tr> <tr> <td>2 stories</td><td>14 feet</td></tr> <tr> <td>2 1/2 stories</td><td>16 feet</td></tr> </tbody> </table> The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than ten (10) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than ten (10) feet. b. Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: 5 feet. 4. <i>Side setback on side streets</i>: Principal or accessory structures: 20 feet.	<i>Height of Structure</i>	<i>Required Side Yard</i>	1 story	10 feet	1 1/2 stories	10 feet	2 stories	14 feet	2 1/2 stories	16 feet
<i>Height of Structure</i>	<i>Required Side Yard</i>										
1 story	10 feet										
1 1/2 stories	10 feet										
2 stories	14 feet										
2 1/2 stories	16 feet										

² 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.

Maximum Structure Height	Principal residential (single, two and three-family) or attached accessory structure: 35 feet.
	Accessory detached structure: 18 feet.
	Principal or attached accessory structure for PRUD, Multifamily development of 4 or more dwelling units, Congregate Care and Intermediate, extended or long-term care facilities: 55 feet.
Max. Lot Coverage	30%
Minimum Lot Width	60 feet
Minimum building setback from external subdivision property lines	PRUD, multifamily development of 4 or more dwelling units, Congregate Care, and Intermediate, extended or long-term care: a. Building length of one hundred (100) feet or less: 25 feet. b. Building length of greater than one hundred (100) feet: 35 feet.
Minimum recreation open space area	PRUD, multifamily development of 4 or more dwelling units, and Congregate Care: 200 SF per dwelling unit or living unit of common area designated on the site for recreation purposes.

(Ord. No. 537-84, 5-7-84; Ord. No. 84-88, § 4, 7-19-88; Ord. No. 58-97, § 2, 8-18-97; Ord. No. 165-97, § 5, 12-1-97; Ord. No. 131-08/09, 12-15-08; Ord. No. 278-09/10, 7-19-10; Ord. 276-14/15, 6-15-2015)

*Editor's note--Ord. No. 84-88, § 4, adopted July 19, 1988, amended § 14-130 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 84-88.

Sec. 14-131. Other requirements.

[Other requirements are as follows:]

- (a) Off-street parking: Off-street parking is required as provided in division 20 (off-street parking) of this article.
- (b) Shoreland and flood plain management regulations: Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

- (c) Storage of vehicles: Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.

(Ord. No. 537-84, 5-7-84; Ord. No. 15-92, § 10, 6-15-92)

Sec. 14-132. Reserved.

Sec. 14-133. Reserved.

Sec. 14-134. Reserved.

DIVISION 7. R-6 AND R-6A RESIDENTIAL ZONES*

*Editor's note--Ord. No. 538-84, adopted May 7, 1984, repealed Div. 7, §§ 14-131--14-134, and enacted a new Div. 9, §§ 14-135--14-139, 14-145. However, in order to avoid duplication of division numbers and in consultation with the city, the provision has been included as Div. 7.

Sec. 14-135. Purpose.

The purpose of the R-6 residential zone is:

(a) To set aside areas on the peninsula for housing characterized primarily by multifamily dwellings at a high density providing a wide range of housing for differing types of households; and to conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other nonresidential uses.

(b) In cases of qualifying small, vacant, underutilized lots located in the urban residential and business zone, to encourage new housing development consistent with the compact lot development pattern typically found on the peninsula.

The purpose of the R-6A residential zone is:

(c) To encourage neighborhood livability with higher density multi-family housing on large parcels located off the peninsula. The zone is appropriate in areas that are along major public transportation routes, near service areas, and in redevelopment (underutilized) or infill areas.

(Ord. No. 538-84, 5-7-84; Ord. No. 78-03/04, 10-20-03; Ord. No. 73-14/15, 10-20-2014)

Sec. 14-136. Permitted uses.

The following uses are permitted in the R-6 and R-6A residential zones:

(a) Residential:

1. Single- and two-family dwellings. No building reviewed as a two-family dwelling in accordance with section article V (site plan) of this chapter shall be altered to include any additional dwelling unit within five (5) years from the date of issuance of the building permit. Any building reviewed as a two-family dwelling in accordance with article V (site plan) of this chapter or not reviewed under article V, which is altered or enlarged to include any additional dwelling unit after this five-year period, shall be reviewed as a pursuant to article V of this chapter.
2. Multifamily dwellings.
 - a. Parking shall be provided as required by division 20 of this article;
 - b. No open outside stairways or fire escapes above the ground floor shall be constructed;
 - c. A below-grade dwelling unit shall be permitted only if access is provided directly to the outside of the building;
 - d. Such development shall be subject to article V (site plan) of this chapter for site plan review and approval.
3. Handicapped family unit, as defined in section 14-47 (definitions) of this article, for handicapped persons plus staff.
4. Single-family, multiple-component manufactured housing, as defined in section 14-47 (definitions) of this article, except in a National Register Historic District.

5. Single-family, single-component manufactured housing, as defined in section 14-47 (definitions) of this article, on individual lots under separate and distinct ownership, except in a National Register Historic District, provided that each unit meets the performance standards listed below:
 - a. More than half of the roof area of each unit shall be a double pitched Class C rated shingled roof with a minimum pitch of 3/12.
 - b. Each unit shall be installed on a full foundation or a concrete frost wall in accordance with all applicable codes and regulations. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation or frost wall. In the case of a frost wall, vermin proof skirting shall be installed on all sides of the unit. The skirting may consist of either (a) concrete or masonry block or (b) manufactured skirting. If concrete or masonry block skirting is installed, either the exterior siding of the unit shall extend within one (1) foot of grade or decorative masonry siding shall be applied. If manufactured skirting material is installed, the color shall be identical to or compatible with the exterior siding of the unit.
 - c. Each unit shall have exterior siding that is residential in appearance, including but not limited to natural materials such as wood clapboards or shakes, or exterior materials which simulate wood. Clapboards or simulated clapboards shall have less than eight (8) inches of exposure and sheet metal type siding shall not be permitted.
 - d. Each unit shall have the long side of the unit parallel to the street line where the required street frontage is met.
 - e. Each unit shall be provided with at least two (2) trees meeting the city's

arboricultural specifications and which are clearly visible from the street line and are located so as to visually widen the narrow dimension or proportion of the unit.

- f. Each unit shall have all fuel oil supply systems constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.
- g. No unit shall be horizontally or vertically attached to any other unit or other structure, provided however, that this provision shall not be deemed to prohibit building additions, such as porches, garages, room additions or solar greenhouses.

(b) Other:

- 1. Lodging house;
- 2. Cemeteries;
- 3. Parks, and other active and passive noncommercial recreation spaces;
- 4. Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article;
- 5. Home occupation subject to the provisions of section 14-410 (home occupation) of this article;
- 6. Municipal uses, excluding those specifically set forth in section 14-137 of this division;
- 7. Special needs independent living units, provided that a building housing special needs independent living units shall not house other types of residential or other permitted uses. The owner of a special needs independent living unit building shall file in the Cumberland County Registry of Deeds a statement under oath that the building is

a special needs independent living unit building and that any future change of use to a permitted residential use shall require a change in use review by the City of Portland and a decrease in the number of units in the building in accordance with the Portland City Code, chapter 14. The owner shall file proof of such recording with the building inspections division prior to the issuance of any certificates of occupancy for the new uses.

8. Conversion of a structure existing on March 3, 1997, into a bed and breakfast with up to four (4) guest rooms, subject to the standards of article V (site plan).
9. Hostels, provided the applicant submits a site plan and operations plan demonstrating compliance with the following conditions:
 - a. No more than ten (10) overnight transient guests shall be permitted in the facility at any one time.
 - b. All applicable provisions of Article V of this chapter shall be met.
 - c. Parking shall be provided in compliance with Division 20 of this Article.
 - d. No unaccompanied minors under the age of eighteen (18) shall be permitted in the facility.
 - e. The length of stay for transient guests shall not exceed fifteen (15) days out of any sixty-day period.
 - f. An owner, manager or operator shall live in the building as a permanent resident.
 - g. The building shall meet the applicable occupant load requirements as defined by the International Building Code and the NFPA Life Safety Code, as such codes are amended or adopted by the city.

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

(Ord. No. 538-84, 5-7-84; Ord. No. 267-84, § 1, 12-17-84; Ord. No. 67-87, § 4, 11-2-87; Ord. No. 85-88, §§ 1, 2, 7-19-88; Ord. No. 86A-89, § 7, 8-21-89; Ord. No. 95-89, § 2, 9-6-89; Ord. No. 279-90, § 2, 3-19-90; Ord. No. 33-91, § 8, 1-23-91; Ord. No. 33A-91, § 6, 4-17-91; Ord. No. 125-97, § 2, 3-3-97; Ord. No. 278-09/10, 7-19-10; Ord. No. 279-09/10, 6-6-11; Ord. No. 33-11/12, 1-18-12; Ord. No. 73-14/15, 10-20-2014; Ord. 209-14/15, 5/4/2015)

***Editor's note--**Ord. No. 85-88, §§ 1, 2, adopted July 19, 1988, amended § 14-136 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 85-88. Ord. No. 95-89, § 2, adopted Sept. 6, 1989, amended subsection (1)a of § 14-136 to read as set out and, as amended, further ordained "that the prohibition upon unit additions contained in this ordinance shall not apply where a building permit has been issued. Additions proposed to such buildings shall require major site plan review and all other reviews required by this chapter."

Sec. 14-137. Conditional uses.

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

(a) Residential:

1. Reserved.
2. Sheltered care group homes, as defined in section 14-47 of this article, for up to twelve (12) individuals, plus staff, and serving a primary population which is not handicapped persons, parolees, persons involved in correctional prerelease programs, or current illegal drug users, provided that:
 - a. A sheltered care group home shall not be located within five hundred (500) feet of another, as measured along street lines to the respective property lines.
 - b. There shall be no open outside stairways or fire escapes above the ground floor.
 - c. The facility shall make provision for

adequate on-site staffing and supervision of residents in accordance with applicable state licensing requirements. If a facility is not licensed by the state, there shall be a minimum of one (1) staff person for every ten (10) residents or fraction thereof.

The board of appeals may impose conditions upon a conditional use permit concerning the creation or operation of a sheltered care group home including but not limited to the following: site and building maintenance; lighting, fencing, and other appropriate security measures; screening and buffering of parking areas; compatibility of any additions or alterations with the existing residential structure; compatibility of new structures with the architectural character of the surrounding area; and limitation on the duration of the sheltered care group home permit.

3. Conversion of a structure existing on March 3, 1997, into a bed and breakfast with five (5) to nine (9) guest rooms.
- (b) Institutional: Any of the following conditional uses provided that, notwithstanding section 14-474(a) (conditional uses) of this article or any other provision of this Code, the Planning Board shall be substituted for the board of appeals as the reviewing authority:
1. Elementary, middle, and secondary school except as otherwise provided in section 14-276.10;
 2.
 - a. Long-term and extended care facilities;
 - b. Intermediate care facility for thirteen (13) or more persons;
 3. Intermediate care facility;
 4. Places of assembly;
 5. Hospital;
 6. College, university, trade school.

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

- a. In the case of expansion onto land of existing such uses other than the lot on which the principal use is located, it shall be demonstrated that the proposed use cannot reasonably be accommodated on the existing site through more efficient utilization of land or buildings, and will not cause significant physical encroachment into established residential areas; and
- b. The proposed use will not cause significant displacement or conversion of residential uses existing as of June 1, 1983, or thereafter; and
- c. In the case of a use or use expansion which constitutes a combination of the above-listed uses with capacity for concurrent operations, the applicable minimum lot sizes shall be cumulative; and
- d. Article V (site plan) sections 14-522 and 14-523 notwithstanding, in the case of places of assembly the proposed use shall be subject to the requirements of article V (site plan) of this chapter; and
- e. In the case of community halls:
 - i. The structure was in existence as of January 4, 2010.
 - ii. The structure was built for institutional or other non-residential uses;
 - iii. The structure is operated by, or operated subject to the control of, a not-for-profit entity in accordance with its not-for-profit purposes; and

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

f. In the case of private club or fraternal organizations: any such establishment serving alcoholic beverages or in possession of a license for serving alcoholic beverages shall be located on a large lot, as specified in the minimum lot size provisions of this section.

(c) Other:

1. Utility substations, such as water and sewage pumping stations and standpipes, electric power substations, transformer stations, and telephone electronic equipment enclosures and other similar structures, provided that such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood;
2. Professional offices of a member of a recognized profession maintained for the conduct of that profession. Professional office uses exclude personal services, retail services, and veterinarians.

The illustrative examples that follow indicate the type of professional offices permitted: health care practitioner, attorney, social worker, engineer, architect, accountant, real estate agent, insurance agent.

Professional office uses shall meet the following standards in addition to provisions of section 14-474, except that subsections a., b., c. and d. of this section 14-137(c)2 shall not apply to the use of any building not designed or constructed for residential use, which was not in actual use as a residence on April 18, 1984, or thereafter.

- a. A professional office shall not be located within five hundred (500) feet of another as measured along the street line to the respective property lines.

- b. A building with one (1) or more professional offices shall have at least fifty (50) percent of the total floor area of the building devoted to residential uses.
 - c. The total number of individuals working in a building of professional offices shall not exceed the equivalent of four (4) full-time employees.
 - d. Any additions or exterior alterations shall be compatible with the architecture of the building and maintain the residential appearance of the building. Construction of a new building shall be compatible with the architectural character of the surrounding area.
 - e. The scale and surface area of parking, driveways, and paved areas shall be arranged and landscaped to be compatible in size and scale with neighboring properties in the area and to properly screen vehicles from adjacent properties and streets.
 - f. Off-street parking is required as provided in division 20 (off-street parking) of this article.
- 3. Chancellery.
 - 4. Nursery school and kindergarten.
 - 5. Off-street parking for passenger cars for uses permitted in the R-6 zone.
 - 6. Day care facilities or home babysitting services not permitted as a home occupation under section 14-410, subject to the following conditions:
 - a. The facility shall be located in a structure in which there is one (1) or more occupied residential units or in an existing accessory structure, unless the facility is located in a principal structure that has not been used as a residence in whole or in

part within the five (5) years immediately preceding the application for a day care or home babysitting use or in a nonresidential structure accessory to the principal nonresidential use.

- b. The maximum capacity shall be twelve (12) children for facilities located in residential or existing structures accessory thereto, unless the additional standards in subsection v. are met. There shall be no maximum limit on the number of children in a facility located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use, or in a nonresidential structure accessory thereto, provided that any such structure that serves more than twelve (12) children shall be subject to review under article V of this chapter.
- c. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.
- d. Solid waste shall be stored in covered containers. Such containers shall be screened on all four (4) sides.
- e. Day care facilities, nursery schools and kindergartens located either in structures that have been in residential use within the past five (5) years or in existing accessory structures and that serve between thirteen (13) and twenty-four (24) children shall meet the following additional standards:
 - i. The facility shall provide a minimum of seventy-five (75) square feet of outdoor play area per child;
 - ii. The play area shall be located in the side and rear yards only and shall not be

located in front yards;

- iii. Outside play areas shall be separated from abutting properties by a fence at least forty-eight (48) inches in height;
 - iv. A ten-foot wide landscaped buffer shall be required outside of the fenced play area, and shall be established in accordance with the landscaping standards of the City's Technical Standards and Guidelines;
 - v. The minimum lot size for a day care facility located in a residential or existing accessory structure and serving more than twelve (12) children shall be twenty thousand (20,000) square feet;
 - vi. *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
 - vii. The maximum number of children in a day care facility located in a residential or existing accessory structure shall be twenty-four (24); and
 - viii. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the residential appearance of the building.
7. Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:
- a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and

removed from the site within sixty (60) days; and

- b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and
- c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
- d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
- e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
- f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
- g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
- h. A performance guarantee shall be required for the cost of removal of the tower, guy

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

8. Hostels, provided the applicant submits a site plan and operations plan demonstrating compliance with the following conditions:
 - a. No more than twenty (20) overnight transient guests shall be permitted in the facility at any one time.
 - b. All applicable provisions of Article V of this chapter shall be met.
 - c. Parking shall be provided in compliance with Division 20 of this Article.
 - d. No unaccompanied minors under the age of eighteen (18) shall be permitted in the facility.
 - e. The length of stay for transient guests shall not exceed fifteen (15) days out of any sixty-day period.
 - f. An owner, manager or operator shall live in the building as a permanent resident.
 - g. The building shall meet the applicable occupant load requirements as defined by the International Building Code and the NFPA Life Safety Code, as such codes are amended or adopted by the city.

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

(Ord. No. 538-84, 5-7-84; Ord. No. 267-84, § 2, 12-17-84; Ord. No. 76-85, § 8, 7-1-85; Ord. No. 85-88, § 3, 7-19-88; Ord. No. 235-91, § 13, 2-4-91; Ord. No. 118-93, § 11, 10-18-93; Ord. No. 133-96, § 7, 11-18-96; ; Ord. No. 154-96, § 11, 12-16-96; Ord. No. 125-97, § 3, 3-3-97; Ord. No. 232-99, §2, 3-15-99; Ord. No. 77-02/03, § 2, 10-21-02; Ord. No. 29-09/10, 8-3-09 emergency passage; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 138-09/10, 1-20-10; Ord. No. 240-09/10, 6-21-10; Ord. No. 9 10/11, 8-2-10; Ord. No. 149-10/11, 3-7-11; Ord. No.

279-09/10, 6-6-11; Ord. No. 33-11/12, 1-18-12)

Sec. 14-138. Prohibited uses.

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.
(Ord. No. 538-84, 5-7-84)

Sec. 14-139. Dimensional requirements.

(a) In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the R-6 and R-6A zones shall meet or exceed the following minimum requirements:

R-6 Dimensional Requirements	
Minimum Lot Size	Residential Uses: 2,000 sf, except that in R-6A the min. residential lot size is four (4) acres.
	Long-term and extended care facilities: Ten thousand (10,000) square feet for the first nine (9) residents plus seven hundred fifty (750) square feet for each additional resident, up to a total of two (2) acres.
	Intermediate care facility: One (1) acre.
	School: Thirty thousand (30,000) square feet.
	Places of assembly: Large, 15,000 sf; Medium, 10,000 sf; Small, 5,000 sf.
	Hospital: Two (2) acres
	All other uses: 2,000 sf
Min. Lot Area/Dwelling Unit	725 s.f.
Minimum Lot Area/Lodging House Rooming Unit	250 s.f
Minimum land area per intermediate care facility resident	250 s.f

Minimum land area per permitted hostel guest when maximum permitted guests is greater than 10	250 s.f
Street Frontage	20 feet
Minimum Front Yard Setback for Principal and Accessory Structures	5 ft, or the average depths of adjacent front yards.
Minimum Rear Yard Setback for Principal and Accessory Structures	10 feet, except that accessory structures with a ground coverage of one hundred and forty-four (144) square feet or less: Five (5) feet.
	All setbacks for swimming pools shall be as provided for in section 14-432, Swimming pools, of this article.
Minimum Side Yard Setback for Principal and Accessory Structures	5 ft, except that a side yard in the R-6 zone may be reduced to zero, provided that the cumulative side yard setbacks are not less than 10 ft. A permanent maintenance easement a minimum of 5 ft. in width shall be provided on the parcel adjacent to the lot line with the reduced side setback.
	Side yards in R-6A shall be 10 ft. for principal structures up to 45 ft. in height and 15 ft. for principal structures greater than 45 ft.in height.
Side Yard on Side Street	None
Structure Stepbacks	Portions of a structure above 35 ft shall be no closer than 10 ft from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone. <i>Does not apply to side yards on side streets.</i>
Maximum Lot Coverage	60%
Minimum Lot Width	20 feet

Maximum Height	Principal and attached accessory structure: 45 ft except as provided under the Fort Sumner Park Height Overlay (Sec. 14-139 (d)).
	Detached accessory structure: 18 ft
	In R-6A the maximum principal and attached accessory structure height shall be 65 ft.
Landscaped Open Space	20%. This area shall not include parking areas or other impervious surfaces as defined in section 14-47.
Minimum gross floor area for bed and breakfasts	Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.
Maximum floor area for places of Assembly	<i>On a collector or arterial road:</i>
	Large: Not limited
	Medium: 4,500 s.f.
	Small: 2,250 s.f.
	<i>Not on a collector or arterial road:</i>
	Large: 4,500 s.f.
	Medium: 2,250 s.f.
Maximum Garage Opening	Small: 1,125 s.f.
	Garage openings on front façades shall not exceed the greater of nine (9) feet or forty (40) percent of the front façade, and in no case shall a garage opening on a front façade exceed 20 feet.

(b) Townhouse Subdivisions.

Subdivisions consisting of horizontally attached dwellings on individual lots are not required to have side yards between such dwellings where a party wall condition will exist. Horizontally attached dwellings located within a single lot shall be required to meet the applicable side yard requirements at the external lot boundaries of the subdivision and internal lot boundaries between such dwellings that are not attached to each other. No minimum lot size width shall be required for

individual lots underlying townhouse (horizontally attached) dwelling types. The applicable minimum lot area per dwelling shall apply to each lot.

(c) Alterations to Single-family, two-family, and multi-family dwellings in existence as of June 15, 2015 shall not result in the creation of any additional dwelling unit of less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic; and Shall not result in any existing dwelling unit being reduced in size to less than one thousand (1,000) square feet of floor area, exclusive of common areas and storage in basement and attic.

(d) Fort Sumner Park Height Overlay: This Overlay is established to protect the public interest by limiting the impact of development on the quintessential views of natural resources and the changing Portland skyline from Fort Sumner Park. There is established a key apex point in Fort Sumner Park at 43° 40' 2.3359"N. 70° 15' 4.3687"W. The Fort Sumner Park Height Overlay includes all land within 200 feet, or the R-6 zone boundary, whichever is closer, of this key apex point that is located closer to the middle line of Sheridan Street than said apex point.

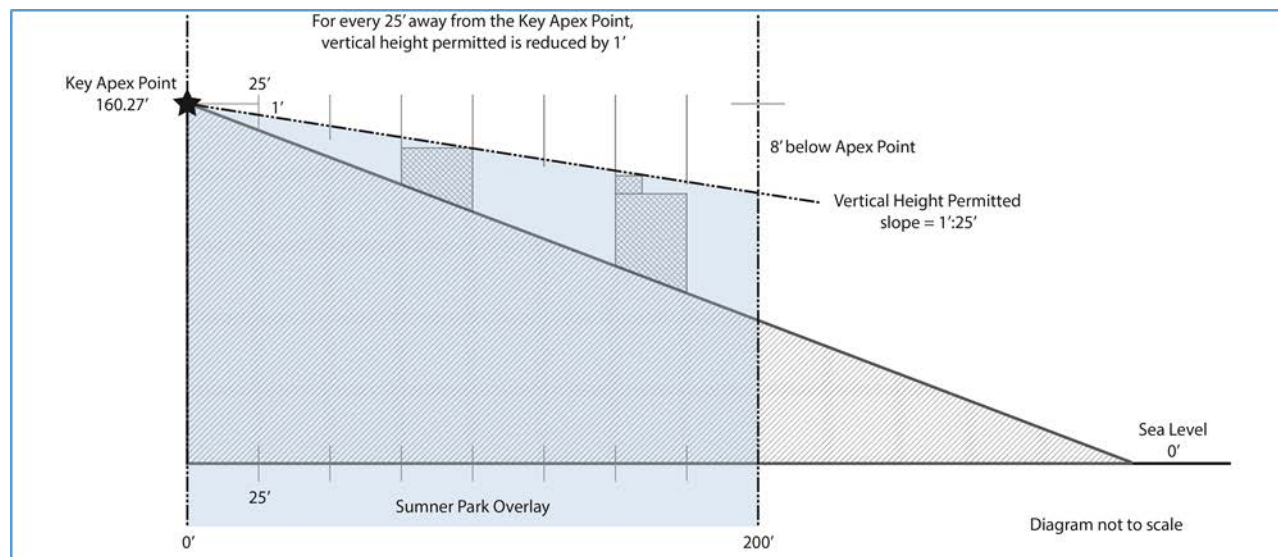
Notwithstanding any other section of this Ordinance, development in the Overlay shall be subject to the following additional provisions:

(1) The top of structures, including rooftop appurtenances, within the Overlay shall not exceed the baseline vertical height of the apex point (160.27' City of Portland Datum (Mean Tide)). For each 25' radially away from the apex point, the vertical height permitted in the Overlay is reduced by 1 foot (see Figure below, Ordinance Height graphic); and

(2) The minimum building setback from the park property shall be 15 feet.

Any project within this Overlay shall also go to the Parks Commission for a recommendation to the Planning Board regarding potential impacts on Fort Sumner Park.

Table 14-139 Fort Sumner Park Overlay Permissible Height



e. Notwithstanding the provisions of 1 M.R.S. § 302, Sec. 14-139 (d)).shall apply retroactively and include any and all actions and proceedings pending on February 7, 2017 or thereafter.

(Ord. No. 538-84, 5-7-84; Ord. No. 634-86, § 1, 7-7-86; Ord. No. 264-87, § 1, 3-16-87; Ord. No. 85-88, § 4, 7-19-88; Ord. No. 230-90, § 1, 3-5-90; Ord. No. 33-91, § 9, 1-23-91; Ord. No. 235-91, § 14, 2-4-91; Ord. No. 33A-91, 4-17-91; Ord. No. 118-93, § 12, 10-18-93; Ord. No. 154-96, § 12, 12-16-96; Ord. No. 125-97, § 4, 3-3-97; Ord. No. 245-97, §§ 1, 2, 4-9-97; Ord. No. 232-99; §3, 3-15-99; Ord. No. 78-03/04, 10-20-03; Ord. No. 21-04/05, 8-2-04, Ord. No. 145-04/05, 2-23-05; Ord. No. 254-05/06, 6-5-06; Ord. No. 131-08/09, 12-15-08; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 65-10/11, 10-18-10; Ord. No. 73-14/15, 10-20-2014; Ord. 209-14/15, 5/4/2015; Ord. No. 128-16/17, 2/22/2017)

*Editor's note--Ord. No. 85-88, § 4, adopted July 19, 1988, amended § 14-139 to read as herein set out, as subsequently amended. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 85-88.

Sec. 14-140. Other requirements.

(a) Off-street parking: Off-street parking is required as provided in division 20 (off-street parking) of this article.

(b) Storage of vehicles: Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.

(c) Shoreland and flood plain management regulations: Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

(Ord. No. 538-84, 5-7-84; Ord. No. 85-88, § 5, 7-19-88; Ord. No. 15-92, § 11, 6-15-92; Ord. No. 37-98, § 1, 5-4-98; formerly §14-145--renumbered per Ord. No. 122, 12-20-99; Ord. No. 78-03/04, 10-20-03; Ord. No. 254-05/06, 6-5-06; Ord. No. 240-09/10, 6-21-10; Ord. 209-14/15, 5/4/2015)

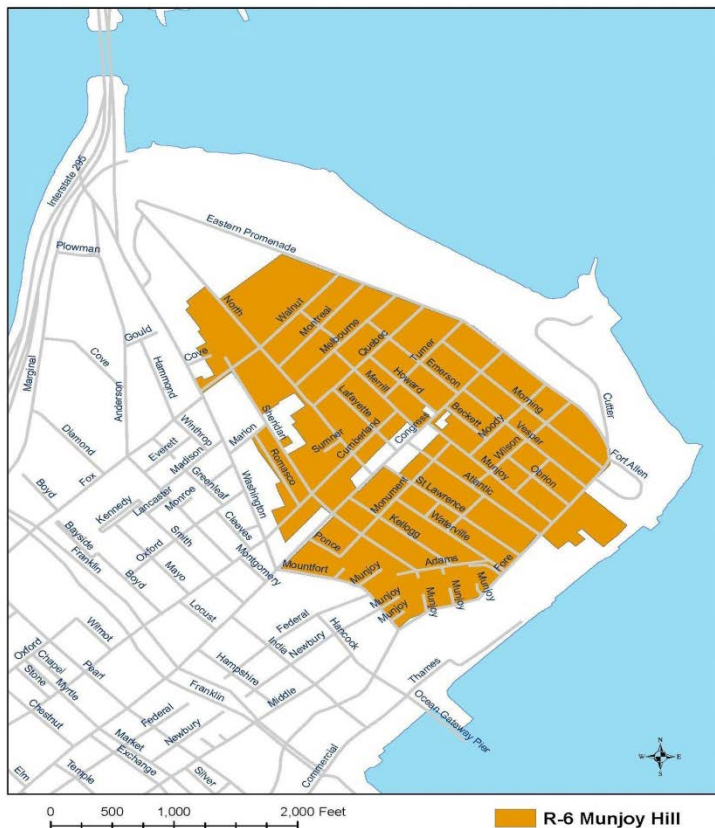
Sec. 14-140.5. Munjoy Hill Neighborhood Conservation Overlay District.

The residential neighborhoods on Munjoy Hill are experiencing specific development pressures related to its location and the nature of the existing building stock, further documented in work by the City's Planning & Urban Development Department in the winter of 2018. In order to address the negative impacts of these pressures and create a positive framework for investment in the area, there shall be a Munjoy Hill Neighborhood Conservation Overlay District (the "District").

(a) Area of Effect.

This District will apply in the highlighted area depicted on the map below and includes all properties in the R-6 zoning district in an area east of Washington Avenue and Mountfort Street, north of Fore Street, and west of the Eastern Promenade.

Diagram 14-140.5.a.: Munjoy Hill Neighborhood Conservation District Boundaries



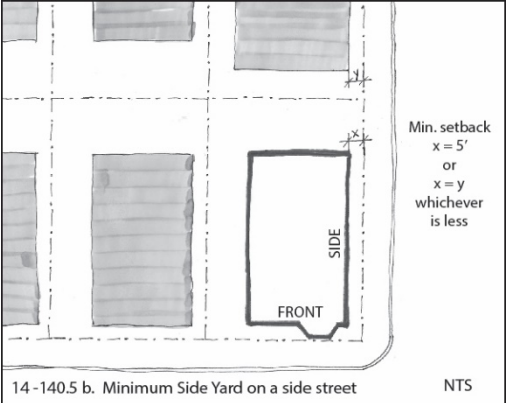
(b) Effect of the District.

In addition to the standards contained in Chapter 14, Division 7 of the Portland City Code that are applicable to properties in the R-6 zone all properties within this District shall meet the standards in this Section 14-140.5. Where this Section imposes a standard that differs from the standards contained in Articles III, IV, and V of Chapter 14, the *City of Portland Design Manual* or *City of Portland Technical Manual*, the standards in this Section shall control.

(c) Dimensional Standards.

Within the District, the following dimensional standards requirements supersede those dimensional standards outlined elsewhere in Chapter 14:

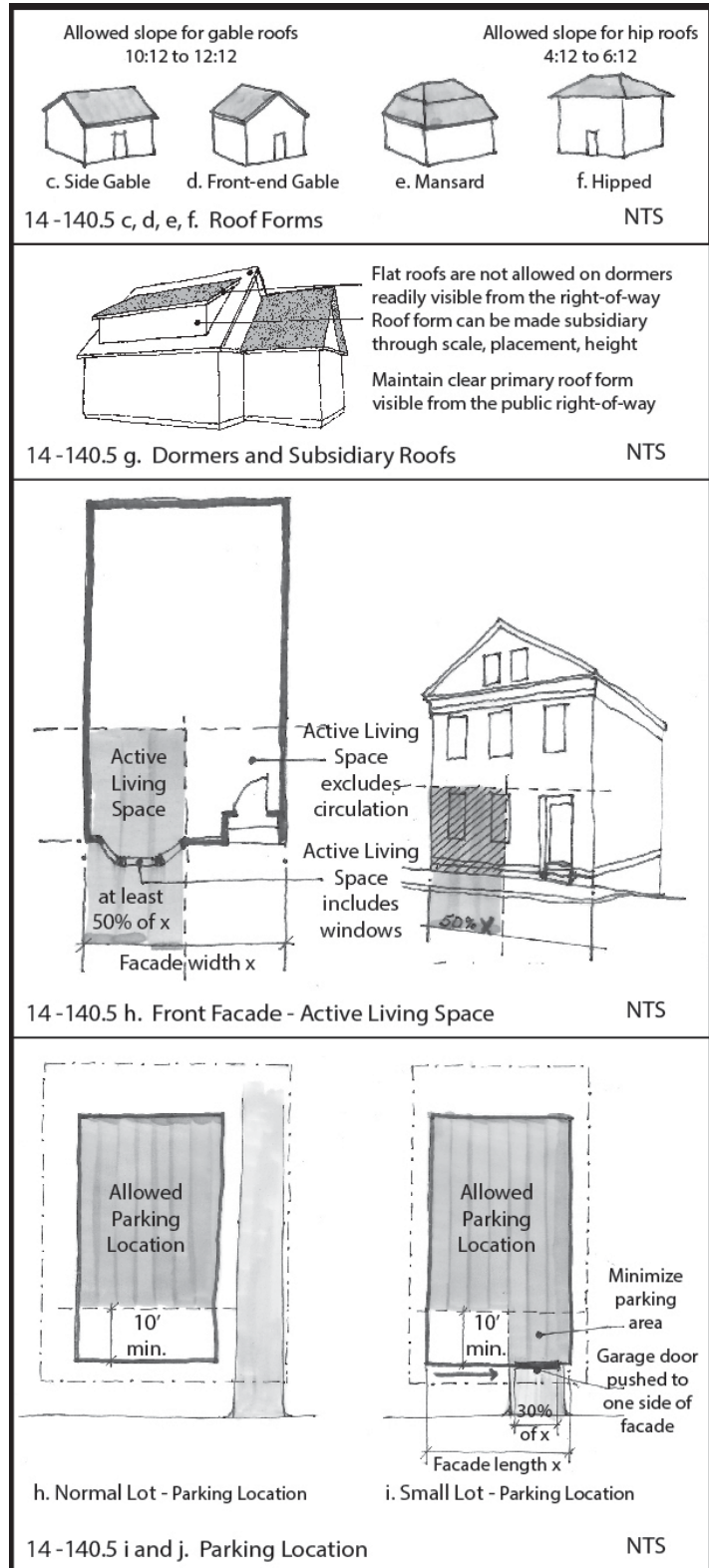
Maximum Height	35'; 45' for developments of 3 units or more on lots over 2000 sf. that include at least one "workforce housing unit for rent" or "workforce housing unit for sale", defined elsewhere in this ordinance. Workforce units shall be no smaller than 50% of the average size of the other units in the development, must meet the definition for such units and only be sold or rented to a household at or below the applicable income levels. These requirements shall be deed restricted for affordability for the longest term possible under state and federal law. Rooftop appurtenances other than chimneys shall not exceed permitted heights, except that HVAC equipment is permitted for up to 5' above these maximum heights if (a) out of view from public rights-of-way, screened adequately, and integrated with the building design and (b) set back at least 5' from the building edge. In addition, height limits and placement of alternative energy equipment is permitted as specified in 14-430, Height Limits, and as specified in Article X, Alternative Energy.
Minimum Side Yard Setback	Buildings of height up to 35': As per the underlying zoning Buildings more than 35': 10' for all side yards, except that a side yard no less than 5' is permitted when used to continue a documented built pattern of the surrounding streetscape, in which case a proportional increase in another side yard must be provided.
Stepbacks	None

Minimum Side Yard Setback on a side street	5'; or the minimum depth of the immediately abutting street-facing yard (see Diagram 14-140.5.b.), whichever is less. 0' when demonstrated that reduced setbacks are necessary to facilitate the provision of underground parking.  14-140.5 b. Minimum Side Yard on a side street NTS
Minimum Rear Yard Setback	Buildings of height up to 35': 10' Buildings more than 35': 15' As measured from rear decks, porches, or similar unenclosed space: 7.5' As measured from accessory structures with a ground coverage of 144 square feet or less: 5'

(d) Design Standards.
1. In addition, the following design standards shall apply in the District and shall supersede any conflicting design standards:

a. All buildings shall use simple, traditional roof forms as illustrated in Diagrams 14-140.5.c-f., except that flat roofs are permitted in buildings of 3 or more units. This requirement may also be modified through (d)2 below. Dormers and cross gables are allowed but where readily visible from the public right-of-way shall be clearly subsidiary to the primary roof form (see Diagram 14-140.5.g);

b. The first floor shall contain active living space, such as a living room or bedroom, with



windows for at least 50% of the width of the front façade in total (see Diagram 14-140.5.h). Active living space does not include space intended primarily for circulation or storage;

c. Use of tandem spaces to meet desired parking levels, consistent with the built pattern of the neighborhood, is strongly preferred. Parking shall be located on the side or in the rear of a building, and not within the front 10' depth of the building. The only exception shall be for lots smaller than 2,000 sf., which shall be permitted one garage door on the front façade no wider than 30% of the building width, but no less than 9'. In that case, the garage door shall (1) be of high quality design, consistent with the character and pattern of the rest of the façade, including windows as appropriate; and (2) be located on one side of the façade (see Diagrams 14-140.5.i-j).

2. Within the District, developments are only eligible for the R-6 "Alternative Design Review" as outlined by the following process, which shall supersede the process in the *City of Portland Design Manual* in cases of conflict:

a. Any use of Alternative Design Review must be approved by a majority of the Historic Preservation Board after a required public hearing;

b. Alternative Design Review does not permit waivers of the additional design requirements in section (d)1 above except as explicitly stated; and

c. Alternative Design Review is a privilege and is granted at the discretion of the Historic Preservation Board. The applicant has the burden of demonstrating that their proposal meets the criteria for Alternative Design Review Design Certificate.

(e) Demolition Review.

1. The purpose of this section is to preserve and protect buildings within the District that contribute significantly to one's understanding and appreciation of the

architectural, cultural, and/or social history and development pattern of Munjoy Hill and which are outside any designated historic district ("Preferably Preserved Buildings") encouraging owners of such Preferably Preserved Buildings to explore alternatives to demolition. To achieve this purpose, the issuance of demolition permits for Preferably Preserved Buildings is regulated and may be delayed as provided below.

2. Definitions: For the purposes of this section, the following words and phrases shall have the meanings set forth below:

Demolition: Removal of more than 10% of the front façade of any building, removal of the primary roof line, or removal of 50% or more of the building surface, determined cumulatively over a three year period. In kind replacement or similar replacement (such as new windows or siding that may differ from the original) is not considered demolition.

Preferably Preserved Building: Any building which is determined to be in the public interest to be preserved or rehabilitated rather than demolished based on findings that the building meets the following criteria:

- a. It was constructed prior to 1930;
- b. It is representative of a building type and/or architectural style that contributes to the identifiable historic visual character of Munjoy Hill; and
- c. It retains sufficient integrity of design, materials, condition and craftsmanship that adaptive reuse is a viable option.

Voluntarily Demolished: Any act(s) done by design or intention, which is proposed, intended, or not accidental, that result in demolition. Results of weather events or natural hazards are not considered voluntary demolition. For the purposes of this chapter, the destruction of a preferably preserved building for failure to properly secure it or by neglect shall be considered voluntary demolition.

3. Exclusions: This section shall not apply to (a) any building either individually designated as a local landmark or located within the boundaries of any designated historic district; (b) accessory structures with a ground coverage of 144 square feet or less; (c) buildings that the Building Authority has determined are dangerous to life or property due to fire, accidental catastrophic damage, or a natural disaster; and (d) buildings that have received a previous determination that they are not Preferably Preserved.

4. Procedure: When the Building Authority receives a demolition permit application for a building within the District, s/he shall, within three business days, notify the Planning Authority in writing that a demolition permit application has been received.

a. Determination of Preferably Preserved.

- i. Initial Determination: The Planning Authority shall make an initial written determination as to whether the building that is the subject of the demolition permit application is a Preferably Preserved Building within thirty days of receiving a copy of the application. In making this determination, the Planning Authority may request additional information from the applicant, including photos of the existing building and the surrounding context or other data that s/he determines may be relevant to making an initial determination. If the Planning Authority determines that the building is not Preferably Preserved, this determination shall be transmitted to the Building Authority and the applicant of record. The applicant will not be required to take any further steps and the permit may be reviewed by the Building Authority under the standards in Chapter 6.
- ii. If the Planning Authority makes an initial determination that the building is Preferably Preserved, it shall notify the Building Authority and the applicant.

- iii. If the Planning Authority fails to act in accordance with this section or within the prescribed time periods, the Building Authority may grant the demolition permit, provided that the applicant has met all other required by Chapter 6 for a permit, and shall notify the Planning Authority that the permit has been granted.
- iv. Right to Appeal Planning Authority Determination: After the Planning Authority's initial determination that a demolition permit application involves a Preferably Preserved Building, the applicant for a demolition permit may appeal the determination to the Historic Preservation Board with any background information regarding the structure and its context that may be deemed relevant to or appropriate for that review. Such material shall include plans for any replacement use of the parcel that may assist in making a determination. Such appeal must be made within thirty days of the initial determination.
- v. Public Hearing: The Historic Preservation Board shall conduct a hearing on the appeal and the initial determination within forty-five days of the Planning Authority's initial determination. The Board shall give the public notice of the hearing at least fourteen days prior to the hearing. The Board shall also mail a notice of the public hearing to the applicant, the building owner and all property owners within 100 feet of the subject property at least ten days prior to the hearing.
- vi. Final Determination of Preferably Preserved Building: Within twenty-one days following the date of the public hearing, the Historic Preservation Board shall file a final determination with the Building Authority. If the Board determines that the demolition of the building would be detrimental to the architectural, cultural, or social heritage of Munjoy Hill, it must uphold the initial

determination of the Planning Authority of a Preferably Preserved Building. In a case where the initial determination of the Planning Authority is not appealed, that determination shall be considered a final determination upon lapse of the appeal period in 4., above, in which case the Planning Authority shall forward a final determination to the Building Authority.

5. Upon the final determination of Preferably Preserved status, the Building Authority shall not issue a demolition permit for a period of up to 12 months except as specified in b. below. During this period, the applicant and the owner should actively pursue alternatives to demolition of the Preferably Preserved Building. Should the Historic Preservation Board determine that the building is of sufficient historic and/or architectural significance that it should be designated a landmark or otherwise gain historic designation, that process will proceed as it would for any other building.

a. Upon a determination of Preferably Preserved status, the owner shall be responsible for properly securing the building.

b. Notwithstanding the preceding, the Building Authority may issue a demolition permit for all or any portion of subject building at any time upon authorization from the Planning Authority in the event the Historic Preservation Board approves a development for the site as consistent with the Historic Resource Design Standards as applied to a new building prior to the conclusion of the 12-month delay period. Examples of such proposals may include but are not limited to:

- Demolition of a portion of the building while maintaining the principal structure and/or most architecturally significant portion of the building;
- Demolition of the Preferably Preserved Building but with a replacement proposal that is acceptably contextual in the surrounding neighborhood. In

this case, the Board may condition demolition on construction of a project substantively consistent with the approved replacement proposal, and any substantive variation from that plan would be treated as a violation under 7. below; or

- Notwithstanding the initial determination, demonstration by the applicant, substantiated by the written opinion of a licensed engineer with experience in renovation, restoration or rehabilitation and confirmed by the Building Authority, that the structural condition of the building is so severe as to make it infeasible to rehabilitate.

6. Emergency demolition: Nothing in this article shall interfere with the ability of the Building Authority to permit demolition of buildings determined dangerous to life or property due to a condition that pre-dates the effective date of this section or is the result of fire, accidental catastrophic damage, or a natural disaster.

7. Enforcement.

a. The Planning Authority and Building Authority are each specifically authorized to institute any and all actions and proceedings, in law or in equity, as they deem necessary and appropriate to obtain compliance with the requirements of this article, or to prevent a threatened violation thereof.

b. No building permit shall issue for a new building on any premises where a significant building is voluntarily demolished in violation of this ordinance for a period of two years after the date of demolition.

8. A demolition review shall be reported to the City Council annually as a Communication.

(Ord. No. 141-17/18, 2-5-2018, expired on June 5, 2018; Order 221-17/18, 6-4-2018)

DIVISION 7.01. R-7 COMPACT URBAN RESIDENTIAL OVERLAY ZONE

Section 14-141. Purpose.

The purpose of the R-7 Compact Urban Residential Overlay Zone is to encourage and accommodate compact residential development on appropriate locations on the Portland peninsula, pursuant to the New Vision for Bayside element of the comprehensive plan and housing plans of the City of Portland. Sites suitable for in-city living should be within walking distance of downtown or other work places, shopping and community facilities and have access to public or private off-site parking or transit service. The intent of this zone is to foster increased opportunities for compact in-city living for owners and renters representing a variety of income levels and household types.

Locations for siting the R-7 Zone are intended to be located on the peninsula of Portland, in the area encompassed in the Bayside plan, and other peninsula R-6 locations characterized by moderate to high density multi-family housing in a form and density exceeding that allowed in the R-6 Zone and where infill development opportunities exist; and areas on the peninsula with mixed business and residential zoning and uses which can accommodate higher density infill residential development without negatively impacting the existing neighborhood or adjacent properties. It may be appropriate in some cases to rezone to R-7 overlay through conditional or contract zoning to ensure that the new development is architecturally appropriate and compatible with the surrounding neighborhood.

(Ord. No. 122, 12-20-99)

Sec. 14-142. Permitted Uses.

Permitted uses in the R-7 Compact Urban Residential Overlay Zone, shall be the uses permitted in the R-6 Zone, except that:

(a) Residential uses shall comply with the following dimensional requirements:

1. Minimum Lot Size: None
2. Minimum Frontage: None
3. Minimum Yard Dimensions:
 - a. Front yard: None
 - b. Rear and side yard: Five (5) feet.

c. Side yard on side street: None

4. Maximum Lot Coverage: 100%

5. Maximum Residential Density: Four hundred thirty five (435) square feet of land area per dwelling unit is required.

6. Maximum Building Height: Fifty (50) Feet

(b) Off-street parking is required as provided in division 20 (off-street parking) of this article;

(c) Residential development in the R-7 Zone shall be reviewed by the Planning Board for compliance with Article IV, Subdivisions, and Article V, Site Plan;

(d) Any new dwelling unit constructed in the R-7 Zone shall contain a minimum of 400 square feet of habitable floor area;

(e) All other uses in the R-7 Zone shall observe the requirements of the R-6 Zone.
(Ord. No. 122, 12-20-99; Ord. No. 84-08/09, 10-20-08; Ord. No. 240-09/10, 6-21-10)

Sec. 14-143. Design Standards.

Residential development in the R-7 Zone shall be reviewed by the Planning Board under Article V, Site Plan. Such development shall also comply with the following development standards. The general intent of these development standards is to achieve an attractive and comfortable city neighborhood environment. Varied and human-scaled building facades are key to making a place "pedestrian-oriented." Building designs should provide a high level of visual interest, without creating a chaotic image. Residences should include design elements that enhance the streetscape and address the street.

(a) Porches and bays should face the street.

(b) Primary ground floor residential entries to multi-family buildings must orient to street, not to interior blocks or parking lots. Secondary and upper-floor entries from the interior of a block are acceptable. The front door to single-family homes, duplexes, and townhouses must be visible from the street.

- (c) The design approach shall provide an architecture that will be a visible and permanent expression of the character of the neighborhood;
 - (d) The facade shall be varied and articulated to provide visual interest to pedestrians;
 - (e) Reinforce the public realm of the public open space, sidewalks and streets through appropriately scaled entries, porches, fenestration, landscaping, and architectural details;
 - (f) Provide visual and acoustical privacy between units;
 - (g) Maximize natural light and ventilation within units.
- (Ord. No. 122, 12-20-99)

Sec. 14-144. Reserved.

Sec. 14-145. Reserved.

(Ord. No. 122, 12-20-99)

DIVISION 7.1. IR-1 ISLAND RESIDENTIAL ZONE

Sec. 14-145.1. Purpose.

The purpose of the IR-1 island residential zone is to provide for low intensity residential, recreational, and rural uses in the less developed areas of the islands in order to preserve the rustic character of the islands, to protect groundwater resources and natural and scenic areas, and to permit only appropriate low intensity development in areas lacking adequate public facilities and services.

(Ord. No. 27-85, § 1, 7-15-85)

Sec. 14-145.2. Permitted uses.

The following uses are permitted in the IR-1 island residential zone:

- (a) Single-family detached dwellings.
- (b) Planned residential unit development with a minimum gross area, as defined in section 14-47 (definitions) of this article, of at least five, (5) acres of contiguous land, consisting of detached dwellings. Minimum yard dimensions (section 14-145.5(c)), street

frontage (section 14-145.5(b)), and lot width (section 14-145.5(e)) shall be reduced up to fifty (50) percent of what would otherwise be required. Minimum lot area (section 14-145.5(a)) shall be reduced up to fifty (50) percent provided there is an equivalent corresponding increase in common or public open space that is usable for passive or active recreational opportunities or that serves as a buffer between buildings or between the development and the surrounding neighborhood.

All area in such a development which is to be owned or used in common shall be governed and maintained as set forth in section 14-498(i)(3), article IV (subdivisions) of this chapter.

The density for a planned residential unit development shall not exceed one (1) dwelling unit per forty thousand (40,000) square feet of net area. Net area shall be determined by subtracting from the gross area of the site the area of street rights-of-way, slopes of fifteen (15) percent or greater, wetland.

Such development shall be subject to review and approval by the Planning Board with respect to the requirements of article V (site plan) and article IV (subdivisions) of this chapter, whether or not such development is a subdivision within the meaning of article IV of this chapter as now enacted or as hereafter amended.

- (c) Agriculture.
- (d) Boat houses and store houses for fishing equipment.
- (e) Parking and storage of equipment related to agriculture or commercial fishing.
- (f) Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article, including but not limited to (a) home occupations, (b) temporary private tenting with one (1) tent accessory to a principal residential use provided that adequate water supplies and sanitation facilities are available in connection with the principal residential use, and (c) road side

stands less than two hundred (200) square feet in floor area for the sale of agricultural products produced on the premises and the sale of fish and shellfish caught by the occupant of the dwelling or principal structure.

(g) Handicapped family unit, as defined in section 14-47, for handicapped persons, plus staff.

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

(Ord. No. 27-85, § 1, 7-15-85; Ord. No. 160-89, § 1, 12-11-89; Ord. No. 33-91, § 10, 1-23-91; Ord. No. 33-11/12, 1-18-12)

Sec. 14-145.3. Conditional uses.

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

(a) *Residential:*

1. Accessory dwelling unit within and clearly subordinate to a principal single-family detached dwelling or legal multi-family dwelling, provided that:

- a. The accessory unit shall be no more than thirty-five (35) percent of the gross habitable floor area of the building and shall have a minimum floor area of three hundred (300) square feet;
- b. Lot area shall be seventy thousand (70,000) square feet, or on Peaks Island be an existing lawfully non-conforming lot as of May 1, 2015;
- c. There shall be no open outside stairways or fire escapes above the ground floor;
- d. Any additions or exterior alterations such as facade materials, building form, roof pitch and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the

single-family appearance of the building. The exterior design of new construction including facade materials, building form, roof pitch and exterior doors shall have a single-family appearance;

- e. A lower level dwelling unit shall have a minimum two-thirds of its floor-to-ceiling height above the average adjoining ground level;
- f. Except on Peaks Island, the accessory unit or the principal dwelling shall be occupied by the owner of the lot on which the principal building is located, except for bonafide temporary absences. On Peaks Island, neither the accessory unit or the principal dwelling unit shall be used for short-term rentals as defined under Sec. 6-150.1;
- g. All sanitary waste shall be disposed of by a public sewer, subsurface sewerage system or other method in compliance with state and local regulations; and
- h. Accessory units created on Peaks Island on existing lawfully non-conforming lots as of May 1, 2015:
 - i. Shall remain under common ownership with the primary unit on the lot;
 - ii. Shall not be sold as condominium units or otherwise separated from the ownership of the pre-existing unit on the site;
 - iii. Shall be rented to households earning up to 100% of AMI and be subject to income verification as further outlined in implementing regulations for Division 30;
 - iv. Shall be rented on an annual basis and may not be used for seasonal rentals; and

- v. Shall be built within the principal building or as an attachment in accordance with subsection (d); and
 - vi. Shall not be rented for more than the rent permitted at 80% of Area Median Income under the Inclusionary Zoning Implementation Guidelines for Developers of Rental Housing or policy; and
 - vii. Shall be subject to an Affordable Housing Agreement as set forth in the City's Inclusionary Zoning Implementation Guidelines for Developers of Rental Housing for a term of not less than twenty (20) years; and
 - viii. The occupant of the affordable unit shall be provided with a written description of the occupancy requirements for the unit.
- (b) Institutional: Any of the following uses provided that, notwithstanding section 14-474(a) (conditional uses) of this article or any other provision of this Code, the Planning Board shall be substituted for the board of appeals as the reviewing authority:
- 1. Schools and other educational facilities including seasonal camps other than campgrounds;
 - 2. Places of assembly, excluding yacht clubs and marinas;
 - 3. Municipal uses, provided that outside storage and parking areas are suitably screened and landscaped to ensure compatibility with the surrounding neighborhood;
- Such uses shall be subject to the following standards if the total land area is two (2) acres or more:
- a. In the case of expansion of existing such uses onto land other than the lot on which the principal use is located, it shall be demonstrated that the proposed use cannot

reasonably be accommodated on the existing site through more efficient utilization of land or buildings, and will not cause significant physical encroachment into established residential area;

- b. The proposed use will not cause significant displacement or conversion of residential uses existing as of July 15, 1985, or thereafter; and
- c. In the case of a use or use expansion which constitutes a combination of the above listed uses with capacity for concurrent operations, the applicable minimum lot sizes shall be cumulative.
- d. Article V (site plan) sections 14-522 and 14-523 notwithstanding, in the case of places of assembly the proposed use shall be subject to the requirements of article V (site plan) of this chapter; and
- e. In the case of community halls:
 - i. The structure was in existence as of January 4, 2010.
 - ii. The structure was built for institutional or other non-residential uses;
 - iii. The structure is operated by, or operated subject to the control of, a not-for-profit entity in accordance with its not-for-profit purposes; and
 - iv. A parking management plan is submitted for review and approval by the planning board; and
- f. In the case of private club or fraternal organizations: any such establishment serving alcoholic beverages or in possession of a license for serving alcoholic beverages shall be located on a large lot, as specified in the

minimum lot size provisions of this section.

(c) Other:

1. Utility substations including sewage and water pumping stations and standpipes, electric power substations, transformer stations, telephone electronic equipment enclosures, and other similar structures, provided that such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood;
2. Nursery schools and kindergarten;
3. Cemeteries;
4. Raising of domesticated animals, excluding pigs and reptiles, with no animals kept on any lot less than three (3) acres or closer than one hundred (100) feet to any street or lot line, except domesticated chickens as regulated in chapter 5, and provided that such use will not create any odor, noise, health or safety hazards, or other nuisance to neighboring properties;
5. Wharves, piers, docks, or landing ramps;
6. Campgrounds, excluding recreational vehicles, licensed by the State of Maine Department of Human Services provided that:
 - a. No tent shall be located within seventy-five (75) feet of the perimeter of site;
 - b. The land area of the park shall not be less than the equivalent of five thousand (5,000) square feet of land area per tent site exclusive of the roadway network;
 - c. Site plan review and approval by the Planning Board shall be required.
7. Day care facilities or home babysitting services not permitted as a home occupation under section 14-410, subject to the following conditions:

- a. The facility shall be located in a structure in which there is one (1) or more occupied residential units or in an existing accessory structure, unless the facility is located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use or in a nonresidential structure accessory to the principal nonresidential use.
- b. The maximum capacity shall be twelve (12) children for facilities located in residential or existing structures accessory thereto, unless the additional standards in subsection v. are met. There shall be no maximum limit on the number of children in a facility located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use, or in a nonresidential structure accessory thereto, provided that any such structure that serves more than twelve (12) children shall be subject to review under article V of this chapter.
- c. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.
- d. Solid waste shall be stored in covered containers. Such containers shall be screened on all four (4) sides.
- e. Day care facilities, nursery schools and kindergartens located either in structures that have been in residential use within the past five (5) years or in existing accessory structures and that serve between thirteen (13) and twenty-four (24) children shall meet the following additional standards:

- i. The facility shall provide a minimum of seventy-five (75) square feet of outdoor play area per child;
 - ii. The play area shall be located in the side and rear yards only and shall not be located in front yards;
 - iii. Outside play areas shall be separated from abutting properties by a fence at least forty-eight (48) inches in height;
 - iv. A ten-foot wide landscaped buffer shall be required outside of the fenced play area, and shall be established in accordance with the landscaping standards of the City's Technical Standards and Guidelines;
 - v. The minimum lot size for a day care facility located in a residential or existing accessory structure and serving more than twelve (12) children shall be twenty thousand (20,000) square feet;
 - vi. *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.
 - vii. The maximum number of children in a day care facility located in a residential or existing accessory structure shall be twenty-four (24); and
 - viii. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the residential appearance of the building.
8. Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:

- a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
- b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and
- c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
- d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
- e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
- f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
- g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction,

frequency) and related meteorological data, but shall not be used for any other purpose; and

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

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

(Ord. No. 27-85, § 1, 7-15-85; Ord. No. 160-89, § 2, 12-11-89; Ord. No. 133-96, § 8, 11-18-96; Ord. No. 153-08/09; Ord. No. 29-09/10, 8-3-09 emergency passage; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. 240-09/10, 6-21-10; Ord. No. 9 10/11, 8-2-10; Ord. No. 33-11/12, 1-18-12; Ord. 82-15/16, 10-19-2015; Ord. 141-18/19, 2-4-2019)

Sec. 14-145.4. Prohibited uses.

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.
(Ord. No. 27-85, § 1, 7-15-85)

Sec. 14-145.5. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the IR-1 zone shall meet the following minimum requirements:

(a) *Minimum lot size*

1. Residential: Forty thousand (40,000) square feet for lots with public water; sixty thousand (60,000) square feet for lots without public water; except as provided in section 14-433 (lots of record and accessory structure setbacks for existing buildings) and section 14-145.3(a)1 of this article.
2. Schools and other educational facilities: Forty thousand (40,000) square feet.

3. Places of assembly:

Large	30,000 sq. ft.
Medium	15,000 sq. ft.
Small	7,500 sq. ft.

4. Seasonal camps and campgrounds: Ten (10) acres.
5. Animal raising: Three (3) acres.
6. In issuing any permit for new development, the building or planning authority shall require that any lot located in the IR-1 zone shall be at least forty thousand (40,000) square feet in area when the lot is to be serviced by a subsurface wastewater disposal system, except those lots which are located in a subdivision approved by the Planning Board after June 8, 1968, and excluding Peaks Island.
7. Excluding Peaks Island from this subsection h., any property owner whose lot does not meet the minimum lot size requirements outlined in subsection g. of this section may, for purposes of this section only, merge two (2) or more separate lots on the same island in order to meet these requirements. Where the lots so merged are not contiguous, the property owner shall grant to the city as holder a conservation easement upon the lot or lots which will not contain the principal structure. The conservation easement shall contain both an existing legal description and a city assessor's chart, block and lot description. The Planning Authority shall be authorized to accept such conservation easements on behalf of the city. Said easement shall be recorded by the applicant in the registry of deeds. A copy of the recorded easement and copies of the deeds for both lots shall be submitted to the Planning Authority prior to issuance of a building permit. The property over which the conservation easement has been granted shall be used for passive recreational and conservation purposes only, and shall be subject to the following restrictions:

- a. No structure shall be permitted on this property.
- b. No parking or storage of vehicles or machinery shall be permitted on this property at any time.
- c. No area of this property shall be paved.
- d. No exterior storage for commercial use shall be permitted on this property.
- e. The easement deed shall reference the lot which is benefited by this conservation easement. No conservation easement shall be used to benefit more than one (1) lot.

Conservation easements shall only be granted over lots which conform either to the provisions of section 14-433 or to the minimum lot sizes set forth in (a)1 of this section. Conservation easements shall not be granted over any lot which is encumbered by any other easement which prohibits all construction on that lot. A conservation easement may also name as a holder or grant a third-party right of enforcement to a nonprofit corporation or charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic or open space values of real property; assuring the availability of real property for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining or enhancing air or water quality of real property.

Nothing in this section shall be construed to allow an owner of a currently existing and developed lot to convey or permit a portion of that lot to be used to fulfill the requirements of this section if such conveyance would render the existing lot nonconforming under the terms of this chapter. The lot upon which a building is to be constructed shall meet the minimum lot size requirements of section 14-433.

8. Where an existing subsurface wastewater disposal

system serving an existing structure requires replacement, the replacement system shall meet the applicable requirements of CMR 241 Section 2-E. The land area requirements in subsection g. of this section shall not apply to such a replacement system.

For purposes of this subsection, the mean high tide mark shall be considered to be the shoreline lot line.

(b) Minimum street frontage:

One hundred (100) feet, except that a lot of record as described in section 14-433 (lots of record and accessory structure setbacks for existing buildings) and lots created after July 15, 1985, which are not part of a subdivision need not provide street frontage if access is available by means of a permanent easement or right-of-way which existed as of July 15, 1985. Such easement or right-of-way shall have a minimum width of sixteen (16) feet and a minimum travel width of eight (8) feet except that an easement or right-of-way providing access for three (3) or more lots or providing the only means of access to a parcel or parcels of three (3) acres or more, shall conform to the requirements contained within the City of Portland Technical Manual and meet the construction requirements of article III of chapter 25 (street acceptances) of this Code. Such easement or right-of-way shall be sufficient to permit municipal service delivery.

(c) Minimum yard dimensions:

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

1. Front yard: Principal or accessory structures: Thirty (30) feet.
2. Rear yard: Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Thirty (30) feet.

Accessory detached structures with ground

coverage of one hundred and forty-four (144) square feet or less: Ten (10) feet.

3. Side yard: Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Twenty (20) feet.

Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: Fifteen (15) feet, except that the minimum distance from a principal structure may be five (5) feet.

4. Side yard on side streets: Principal or accessory structures: Twenty (20) feet.

(d) Maximum lot coverage: Twenty (20) percent of lot area.

(e) *Minimum lot width*: One hundred (100) feet.

(f) Maximum structure height:

1. Principal or accessory attached structure: Thirty-five (35) feet.
2. Accessory detached structure: Eighteen (18) feet.

(g) Maximum floor area for places of assembly on a collector or arterial road:

Large	Not limited
Medium	4,500 sq. ft.
Small	2,250 sq. ft.

(h) Maximum floor area for places of assembly not on a collector or arterial road:

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

(Ord. No. 27-85, § 1, 7-15-85; Ord. No. 160-89, § 3, 12-11-89; Ord. No. 218-04/05, 5-2-05; Ord. No. 131-08/09, 12-15-08; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 278-09/10, 7-19-10; Ord. No. 165-15/16, 3-7-2016)

Sec. 14-145.6. Other requirements

Other requirements include the following:

- (a) Off-street parking shall be required as provided in division 20 (off-street parking) of this article.
- (b) Shoreland and flood plain management regulations: Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.
- (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.
(Ord. No. 27-85, § 1, 7-15-85; Ord. No. 15-92, § 12, 6-15-92)

DIVISION 7.2. IR-2 ISLAND RESIDENTIAL ZONE

Sec. 14-145.7. Purpose.

The purpose of the IR-2 island residential zone is to protect the character of existing developed residential neighborhoods on the islands and to allow infill where there are adequate public services available. Expansion or extension of an existing IR-2 zone should be strictly limited, generally focused toward areas adjacent to existing village IR-2 areas, and restricted by such factors as adequacy of access, whether adequate water will be available for private use and for fire protection, and whether soils in the area are adequate for subsurface water disposal or whether public sewers are available. IR-2 rezoning on substantially sized parcels should not be considered for those sites that should be more appropriately zoned I or IR-3.

(Ord. No. 28-85, § 1. 7.15-85)

Sec. 14-145.8. Permitted use.

The following uses are permitted in the IR-2 island residential zone:

- (a) Single-family detached dwellings.
- (b) Planned residential unit development with a minimum gross area, as defined in section 14-47 (definitions) of this article, of at least five (5) acres of contiguous land, consisting of detached dwellings. Minimum yard dimensions (section 14-145.11(c)), street frontage (section

14-145.11(b)), and lot width (section 14-145.11(e)) shall be reduced up to fifty (50) percent of what would otherwise be required. Minimum lot area (section 14-145.11(a)) shall be reduced up to fifty (50) percent, provided there is an equivalent corresponding increase in common or public open space that is usable for passive or active recreational opportunities or that serves as buffer between the buildings or between the development and the surrounding neighborhood.

All area in such a development which is to be owned or used in common shall be governed and maintained as set forth in section 14-498(i)(3), article IV (subdivisions) of this chapter.

The density for a planned residential unit development shall not exceed one (1) dwelling unit per twenty thousand (20,000) square feet of net area. Net area shall be determined by subtracting from the gross area of the site the area of street rights-of-way, slopes of fifteen (15) percent or greater, wetlands.

Such development shall be subject to review and approval by the Planning Board with respect to requirements of article V (site plan) and article IV (subdivisions) of this chapter, whether or not such development is a subdivision within the meaning of article IV of this chapter as now enacted or as hereafter amended.

- (c) Boathouses and storehouses for fishing equipment.
- (d) Parking and storage of equipment related to commercial fishing.
- (e) Accessory uses customarily incidental and subordinate to the location, function and operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article including but not limited to (a) home occupations, (b) private temporary tenting with one (1) tent accessory to a principal residential use, provided that adequate water supplies and sanitation facilities are available in connection with the principal residential use, and (c) roadside stands less than two hundred (200) square feet in floor area for the sale of agricultural products produced on the premises, and the sale of fish and shellfish caught by the occupant of the

dwelling or principal structure.

(f) Handicapped family unit, as defined in section 14-47, for handicapped persons plus staffs.

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

(Ord. No. 28-85, § 1, 7-15-85; Ord. No. 161-89, § 1, 12-11-89; Ord. No. 33-91, § 11, 1-23-91; Ord. No. 33-11/12, 1-18-12)

Sec. 14-145.9. Conditional uses.

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

(a) Residential:

1. Accessory dwelling unit within and clearly subordinate to a principal single-family detached dwelling or legal multi-family dwelling provided that:
 - a. The accessory unit shall be no more than thirty-five (35) percent of the gross floor area of the principal building and shall have a minimum floor area of three hundred (300) square feet;
 - b. Lot area shall be thirty thousand (30,000) square feet, or on Peaks Island be an existing lawfully non-conforming lot as of May 1, 2015;
 - c. There shall be no open outside stairways or fire escapes above the ground floor;
 - d. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the single-family appearance of the building. The exterior design of new construction including facade materials, building form, roof pitch and exterior doors shall have a

single-family appearance;

- e. A lower level dwelling unit shall have a minimum two-thirds of its floor-to-ceiling height above the average adjoining ground level;
- f. Except on Peaks Island, the accessory unit or the principal dwelling shall be occupied by the owner of the lot on which the principal building is located, except for bona fide temporary absences. On Peaks Island, neither the accessory unit nor the principal unit shall be used for short-term rentals as defined under Sec. 6-150.1;
- g. All sanitary waste shall be disposed of by a public sewer, subsurface sewerage system or other method in compliance with state and local regulations; and
- h. Accessory units created on Peaks Island on existing lawfully non-conforming lots as of May 1, 2015:
 - i. Shall remain under common ownership with the primary unit on the lot;
 - ii. Shall not be sold as condominium units or otherwise separated from the ownership of the pre-existing unit on the site;
 - iii. Shall be rented to households earning up to 100% of AMI and are subject to income verification as further outlined in implementing regulations for Division 30;
 - iv. Shall be rented on an annual basis and may not be used for seasonal or weekly rentals; and
 - v. Shall be built within the principal building or as an attachment in accordance with subsection (d) ; and
 - vi. Shall not be rented for more than the rent permitted at 80% of Area Median

Income under the Inclusionary Zoning
Implementation Guidelines for
Developers of Rental Housing or policy;
and

- vii. Shall be subject to an Affordable Housing Agreement as set forth in the City's Inclusionary Zoning Implementation Guidelines for Developers of Rental Housing for a term of not less than twenty (20) years; and
- viii. The occupant of the affordable unit shall be provided with a written description of the occupancy requirements for the unit.

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

- 1. Schools and other educational facilities;
- 2. Places of assembly, excluding yacht clubs and marinas;
- 3. Municipal uses, provided that outside storage and parking areas are suitably screened and landscaped to ensure compatibility with the surrounding neighborhood;

Such uses shall be subject to the following standards if the total land area of the use is two (2) acres or more:

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

- b. The proposed use will not cause significant displacement or conversion of residential uses existing as of July 15, 1985, or thereafter; and
- c. In the case of a use or use expansion which constitutes a combination of the above-listed uses with capacity for concurrent operations, the applicable minimum lot sizes shall be cumulative; and
- d. Article V (site plan) sections 14-522 and 14-523 notwithstanding, in the case of places of assembly the proposed use shall be subject to the requirements of article V (site plan) of this chapter; and
- e. In the case of community halls:
 - i. The structure was in existence as of January 4, 2010.
 - ii. The structure was built for institutional or other non-residential uses;
 - iii. The structure is operated by, or operated subject to the control of, a not-for-profit entity in accordance with its not-for-profit purposes; and
 - iv. A parking management plan is submitted for review and approval by the planning board; and
- f. In the case of private club or fraternal organizations: any such establishment serving alcoholic beverages or in possession of a license for serving alcoholic beverages shall be located on a large lot, as specified in the minimum lot size provisions of this section.

(c) Other:

- 1. Utility substations including sewage and water pumping stations and standpipes, electric power

substations, transformer stations, telephone electronic equipment enclosures, and other similar structures, provided that such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood;

2. Nursery schools and kindergartens;
3. Cemeteries;
4. Wharves, piers, docks, or landing ramps;
5. Lodging houses, with more than two (2) but not more than nine (9) lodging rooms.
6. Day care facilities or home babysitting services not permitted as a home occupation under section 14-410, subject to the following conditions:
 - a. The facility shall be located in a structure in which there is one (1) or more occupied residential units or in an existing accessory structure, unless the facility is located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use or in a nonresidential structure accessory to the principal nonresidential use.
 - b. The maximum capacity shall be twelve (12) children for facilities located in residential or existing structures accessory thereto, unless the additional standards in subsection v. are met. There shall be no maximum limit on the number of children in a facility located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use, or in a nonresidential structure accessory thereto, provided that any such structure that serves more than twelve (12) children shall be subject to review under article V of this chapter.

- c. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.
- d. Solid waste shall be stored in covered containers. Such containers shall be screened on all four (4) sides.
- e. Day care facilities, nursery schools and kindergartens located either in structures that have been in residential use within the past five (5) years or in existing accessory structures and that serve between thirteen (13) and twenty-four (24) children shall meet the following additional standards:
 - i. The facility shall provide a minimum of seventy-five (75) square feet of outdoor play area per child;
 - ii. The play area shall be located in the side and rear yards only and shall not be located in front yards;
 - iii. Outside play areas shall be separated from abutting properties by a fence at least forty-eight (48) inches in height;
 - iv. A ten-foot wide landscaped buffer shall be required outside of the fenced play area, and shall be established in accordance with the landscaping standards of the City's Technical Standards and Guidelines;
 - v. The minimum lot size for a day care facility located in a residential or existing accessory structure and serving more than twelve (12) children shall be twenty thousand (20,000) square feet;
 - vi. *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article.

- vii. The maximum number of children in a day care facility located in a residential or existing accessory structure shall be twenty-four (24); and
 - viii. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the residential appearance of the building.
- 7. Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:
 - a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
 - b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and
 - c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
 - d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
 - e. The applicant shall provide evidence of

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

- f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
- g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
- h. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

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

(Ord. No. 28-85, § 1, 7-15-85; Ord. No. 161-89, § 2, 12-11-89; Ord. No. 235-91, § 15, 2-4-91; Ord. No. 133-96, § 9, 11-18-96; Ord. No. 29-09/10, 8-3-09 emergency passage; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 240-09/10, 6-21-10; Ord. No. 9 10/11, 8-2-10; Ord. No. 149-10/11 3-7-11; Ord. No. 33-11/12, 1-18-12; Ord. 82-15/16, 10-19-2015; Ord. 141-18/19, 2-4-2019)

Sec. 14-145.10. Prohibited uses.

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

(Ord. No. 28-85, § 1, 7-15-85)

Sec. 14-145.11. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in an

IR-2 zone shall meet the following minimum requirements:

(a) *Minimum lot size:*

1. Residential: Twenty thousand (20,000) square feet, except as provided in section 14-433 (lots of record and accessory structure setbacks for existing buildings) and section 14-145.9(a)1 of this article.
2. Schools and other educational facilities: Twenty thousand (20,000) square feet.
3. Places of assembly:

Large	30,000 sq. ft.
Medium	15,000 sq. ft.
Small	7,500 sq. ft.
4. Lodging houses: Thirty thousand (30,000) square feet for three (3) lodging rooms, plus ten thousand (10,000) square feet for each additional lodging room in excess of three (3).
5. In issuing any permit for new development, the building or planning authority shall require that any lot located in an IR-2 zone shall be at least twenty thousand (20,000) square feet in area when the lot is to be serviced by a subsurface wastewater disposal system, except those lots which are located in a subdivision approved by the Planning Board after June 8, 1968, [and excluding Peaks Island].
6. [Excluding Peaks Island from this subsection 7.,] any property owner whose lot does not meet the minimum lot size requirements outlined in subsection f. of this section may, for purposes of this section only, merge two (2) or more separate lots on the same island in order to meet these requirements. Where the lots so merged are not contiguous, the property owner shall grant to the city as holder a conservation easement upon the lot or lots which will not contain the principal structure. The conservation easement shall contain both an existing legal description

and a city assessor's chart, block and lot description. The Planning Authority shall be authorized to accept such conservation easements on behalf of the city. Said easement shall be recorded by the applicant in the registry of deeds. A copy of the recorded easement and copies of the deeds for both lots shall be submitted to the Planning Authority prior to issuance of a building permit. The property over which the conservation easement has been granted shall be used for passive recreational and conservation purposes only, and shall be subject to the following restrictions:

- a. No structure shall be permitted on this property.
- b. No parking or storage of vehicles or machinery shall be permitted on this property at any time.
- c. No area of this property shall be paved.
- d. No exterior storage for commercial use shall be permitted on this property.
- e. The easement deed shall reference the lot which is benefited by this conservation easement. No conservation easement shall be used to benefit more than one (1) lot.

Conservation easements shall only be granted over lots which conform either to the provisions of section 14-433 or to the minimum lot sizes set forth in (a)1 of this section. Conservation easements shall not be granted over any lot which is encumbered by any other easement which prohibits all construction on that lot.

A conservation easement may also name as a holder or grant a third-party right of enforcement to a nonprofit corporation or charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic or open space values of real property; assuring the availability of real property for agricultural,

forest, recreational or open space use; protecting natural resources; or maintaining or enhancing air or water quality of real property.

Nothing in this section shall be construed to allow an owner of a currently existing and developed lot to convey or permit a portion of that lot to be used to fulfill the requirements of this section if such conveyance would render the existing lot nonconforming under the terms of this chapter. The lot upon which a building is to be constructed shall meet the minimum lot size requirements of section 14-433.

7. Where an existing subsurface wastewater disposal system serving an existing structure requires replacement, the replacement system shall meet the requirements of CMR 241 Section 2-E. The land area requirements in subsection f. of this section shall not apply to such a replacement system.

For purposes of this subsection, the mean high tide mark shall be considered to be the shoreline lot line.

(b) *Minimum street frontage:*

Seventy (70) feet, except that a lot of record as described in section 14-433 (lots of record and accessory structure setbacks for existing buildings) and lots created after July 15, 1985, which are not part of a subdivision need not provide street frontage if access is available by means of a permanent easement or right-of-way which existed as of July 15, 1985. Such easement or right-of-way shall have a minimum width of sixteen (16) feet and a minimum travel width of eight (8) feet except that an easement or right-of-way providing access for three (3) or more lots or providing the only means of access to a parcel or parcels of three (3) acres or more, shall be a minimum thirty-two (32) feet wide and meet the construction requirements of article III of chapter 25 (street acceptances) of this Code. Such easement or right-of-way shall permit municipal service delivery.

(c) *Minimum yard dimensions:*

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

1. Front yard: Principal or accessory structures: Twenty-five (25) feet except that a front yard need not exceed the average depth of front yards on either side of the lot.

2. Rear yard: Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Twenty-five (25) feet.

Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: Ten (10) feet.

3. Side yard: Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Twenty (20) feet.

Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: fifteen (15) feet, except that the minimum distance from a principal structure may be five (5) feet.

4. Side yard on side streets: Principal or accessory structures: Twenty (20) feet.

5. Notwithstanding the foregoing, the width of one side-yard may be reduced to not less than ten feet in the case of a lot of record, existing as of June 5, 1957, and which contained a structure in use at that time and at all times subsequent thereto as a year-round, single-family residence, and which is served by public sewer and water, at the time of any expansion permitted by this section, where the reduction is necessary either to bring the use into compliance with health and safety codes or to improve a condition which the Board of Appeals determines constitutes a health or safety problem. Any alteration or expansion

authorized by this section may only be situated in the rear yard and shall not encroach into the required setback more than the existing building does prior to the construction of such alteration or expansion. Any such alteration or expansion will be subject to the maximum lot coverage requirements applicable to this zone; and, cumulatively, during the lifetime of the structure, may not exceed forty percent (40%) of the combined floor area of the habitable rooms existing at the time of the first expansion permitted by this section. For the purposes of this section "floor area" and "habitable room" shall have the same meaning ascribed to them in Portland Municipal Code, §6-106, et seq., Housing Code, as it may be amended from time to time.

(d) *Maximum lot coverage:* Twenty (20) percent of lot area.

(e) *Minimum lot width:* Eighty (80) feet.

(f) Maximum structure height:

1. Principal or accessory attached structure:
Thirty-five (35) feet. For Little Diamond Island only: Twenty (27) feet.

2. Accessory detached structure: Eighteen (18) feet.

(g) Maximum floor area for places of assembly on a collector or arterial road:

Large	Not limited
Medium	4,500 sq. ft.
Small	2,250 sq. ft.

(h) Maximum floor area for places of assembly not on a collector or arterial road:

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

(Ord. No. 28-85, § 1, 7-15-85; Ord. No. 161-89, § 3, 12-11-89; Ord. No. 215-02, 4-17-02; Ord. No. 76-03/04, 10-20-03; Ord. No. 131-08/09, 12-15-08; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 165-15/16, 3-7-2016)

Sec. 14-145.12. Other requirements.

Other requirements include the following:

(a) Off-street parking: Off-street parking shall be required as provided in division 20 (off-street parking) of this article.

(b) Shoreland and flood plain management regulations: Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

(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.

(Ord. No. 28-85, § 1, 7-15-85; Ord. No. 15-92, § 13, 6-15-92)

DIVISION 7.3. IR-3 ISLAND RESIDENTIAL ZONE

Sec. 14-145.13. Purpose.

The purpose of the IR-3 island residential zone is to allow for a planned unit development in a manner compatible with both the natural and built environment, which provides for adequate circulation and waterfront access, adequate water supply for private use and fire protection, and safe and clean disposal of solid and septic wastes. The following guidelines shall be considered, among others, in establishing an IR-3 zone:

- (a) An IR-3 zone should have a minimum land area of twenty (20) acres;
- (b) A site for an IR-3 zone should be able to accommodate a higher density of development by providing buffers from surrounding areas on a substantially sized parcel for which natural amenities are capable of being conserved in a development plan for the site;
- (c) IR-3 zones should not be established unless issues of municipal services, including infrastructure, education, and police and fire services and other municipal services can be appropriately and adequately addressed;
- (d) The differences in scale and intensity of uses between existing development and the IR-3 zone, and the

cumulative impact on the overall density of the island, should be mitigated by appropriate open space and buffer areas; and

- (e) The development plan should have the capability of meeting the development review standards of section 14-145.16.

(Ord. No. 29-85, § 1, 7-15-85)

Sec. 14-145.14. Permitted uses.

The following uses are permitted in the IR-3 island residential zone:

- (a) Planned unit development, including:
1. Single-family detached dwellings;
 2. Single-family attached dwellings provided that new construction shall be limited to no more than six (6) attached dwellings per building;
 3. Lodging houses, with more than two (2) but not more than nine (9) lodging rooms;
 4. Inns, provided that the total number of rooms does not exceed fifty (50);
 5. Restaurants;
 6. Retail businesses or services;
 7. Campgrounds, excluding recreation vehicles, licensed by the State of Maine Department of Human Services provided that:
 - a. No tent shall be located within seventy-five (75) feet of the perimeter of the site;
 - b. The land area of the site shall not be less than the equivalent of five thousand (5,000) square feet of land area per tent site, exclusive of the roadway network;
 8. Recreation facilities excluding amusement park;
 9. Wharves, docks, piers, landing ramps, boat

houses, store houses for fishing equipment, marinas, and yacht clubs;

10. Municipal uses, provided that outside storage and parking areas are suitably screened and landscaped so as to ensure compatibility with surrounding neighborhood;
11. Private clubs, fraternal organizations;
12. Utility substations including sewage and water pumping stations and standpipes, electric power substations, transformer stations, telephone electronic equipment enclosures, and other similar structures, provided that such uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood;
13. Nursery schools, kindergartens, and day care facilities for seven (7) or more children;
14. Schools;
15. Churches or other places of worship;
16. Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article including but not limited to home occupations; and
17. Handicapped family unit, as defined in section 14-47, for handicapped persons plus staff.

Such development shall have a minimum gross area, as defined in section 14-47 (definitions) of this article, of at least twenty (20) acres of contiguous land. No dimensional requirements shall apply with respect to such development except for the following:

- a. Density requirements;
- b. Height requirements;

- c. Minimum front, rear and side yards adjoining any external property boundary;
- d. Minimum street frontage except where the Planning Board finds that the development has an adequate street network sufficient to permit access for pedestrians and emergency and service vehicles.

All area in such a development which is to be owned, used in common, or is proposed for open space shall be governed and maintained as set forth in section 14-498(i)(3), article IV (subdivisions) of this chapter.

The maximum density for a planned unit development shall be based on the applicable minimum lot size for each use as measured in terms of net area. Net area shall be determined by subtracting from gross area the area of street rights-of-way, slopes of fifteen (15) percent or greater, wetland, and otherwise undevelopable area, unless such areas, excluding street rights-of-way, are dedicated to public recreational use or public pedestrian access and are usable as such. For purposes of calculating density, if separately described lots exceed the applicable minimum lot size, the excess area shall not be credited toward the minimum lot size for any other use.

Such development shall be subject to review and approval by the Planning Board with respect to the requirements of article V (site plan) and article IV (subdivisions) of this chapter, whether or not such development is a subdivision within the meaning of article IV of this chapter as now enacted or as hereafter amended. A planned unit development shall be approved by the Planning Board if, in addition to the above standards, it also finds that the development meets the following standards:

- (i) *Design relationship to site.* The development demonstrates a reasonably

unified response to the design possibilities of the site, by virtue of such elements as the design and layout of buildings and lots, circulation plan, open space, drainage, and orientation to achieve energy conservation or solar access, to form a functionally integrated whole.

(ii) *Design relationship to surrounding neighborhood.* The design and layout of the development and buildings are reasonably compatible with the surrounding neighborhood by virtue of such features as architectural style, exterior finish, scale, circulation, open space, landscaping and preservation of natural site amenities.

(iii) *Open space.* All open spaces on the site are functionally integrated into the development plan by virtue of such features as accessibility to residents, recreation, conserving existing public rights of access to shoreland areas and scenic natural areas, orientation to achieve energy conservation or solar access, preservation of natural site amenities, and use as a buffer between the development and the surrounding neighborhood.

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

(Ord. No. 29-85, § 1, 7-15-85; Ord. No. 33-91, § 12, 1-23-91; Ord. No. 33-11/12)

Sec. 14-145.14.1. Conditional uses.

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

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

1. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
2. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and
3. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
4. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
5. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
6. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
7. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
8. A performance guarantee shall be required for the

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

- (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. 14-145.15. Prohibited uses.

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

(Ord. No. 29-85, § 1, 7-15-85)

Sec. 14-145.16. Development review.

In addition to other applicable requirements, no development shall occur nor shall any new use be established unless the Planning Board finds that the final development plan for the site is in compliance with the following development standards:

- (a) Transportation: The development shall be designed primarily with a pedestrian orientation to minimize the use of and dependency on private motor vehicles. Appropriate areas on the site shall be designated, as necessary, for parking of common service vehicles, golf carts or bicycles to serve the transportation needs of residents and visitors. The internal circulation plan shall also be coordinated with the existing island street network to ensure adequate access for emergency and service vehicles.

A project construction plan shall be developed indicating the anticipated number and types of vehicles such as construction equipment, supply-delivery and service vehicles needed for undertaking the construction of the project. Documentation shall be provided as to the proposed transportation route such as roads, piers, beaches, sand bars and the impact of construction related activities on the routes.

The development shall not have a substantial adverse

impact on the capacity of existing island docking facilities. The developer shall demonstrate that an adequate water transportation system, including docking facilities, exists or will be provided.

- (b) *Solid waste*: Adequate provision for off-island solid waste disposal shall be demonstrated such that the impact on municipal solid waste disposal is minimized. A development shall incorporate methods such as the following to reduce the amount of solid waste generated by the project: compaction and reduction in waste volume, recycling, incineration or baler system, and private collection and transfer to an off-island location. It shall be demonstrated that there will be no significant environmental impacts from the solid waste disposal system.
- (c) *Sanitary waste*: All sanitary waste from the development shall be disposed of by a public sewer, private community sewer system providing at least secondary treatment, or subsurface sewerage system, in compliance with federal, state and local regulations. The developer shall demonstrate that the project will comply with all applicable federal, state and local water quality and groundwater standards.
- (d) *Water*: The proposed development shall have sufficient water for the reasonably foreseeable needs of the development and shall not cause an unreasonable burden on existing water supply nor adversely affect groundwater resources. Unless the development is to be served entirely by public water and secondary treatment sewer systems, the determination of compliance with this provision shall be based upon one (1) or more comprehensive groundwater analyses and reports prepared by qualified professionals and including assessment of current groundwater aquifer conditions, the impact of the proposed development on the groundwater aquifer, and recommendations for mitigation of potential impacts caused by the development.
- (e) *Shoreland areas*: The development shall preserve the natural features of the shoreland area by minimizing the disturbance of existing vegetation and slopes, avoiding development in areas subject to erosion and

sedimentation, and conserving scenic views and vistas to and from the site.

- (f) Environmentally sensitive areas: The development plan shall preserve significant resources of the site by integrating open space into the development plan and by conserving such features as scenic vistas, historic man-made or natural features, existing vegetation, wetland areas, shoreland areas, ground water, natural wildlife habitat, and recommended or registered State of Maine Critical Land Areas, as well as other environmentally sensitive areas.
- (g) Recreation and open space: All open spaces on the site shall be functionally integrated into the development plan by virtue of such features as passive and active recreational opportunities, accessibility to residents, preservation of natural site amenities and resources, orientation to achieve energy conservation or solar access, use as a buffer between housing clusters and to screen the development from surrounding areas.
- (h) Financial and technical capability: The applicant shall demonstrate sufficient financial and technical capability for undertaking the proposed project. Financial capability shall include a cost estimate of the proposed improvements, proposed construction and permanent financing, and terms of sale or lease of dwellings and commercial space. Technical capacity shall include the experience and expertise of the developer in implementing projects of similar scope.
- (i) Environmental impact analysis: The applicant shall develop an environmental impact analysis including an inventory of existing environmental conditions at the project site and in the surrounding area with an assessment of the development's probable impact upon the environment. The inventory shall include such resources as air, water quality, water supply, surface water and shoreline, geology, soils, topography, wildlife, botanical and aquatic, including rare and endangered species, historic, archeological and aesthetic. The analysis shall include the direct and cumulative adverse impacts of the project on these resources. The analysis shall also include what steps

the applicant proposes to take to identify and minimize adverse environmental impacts during construction, management and use of the property and whether there are alternatives for the project which would decrease the impact of the development.

(j) Development phasing: If the project is to be completed in phases, the applicant shall indicate the schedule for completing and implementing infrastructure improvements as well as other improvements, agreements or services required for compliance with the development standards of this section, planned unit development standards, and site plan and subdivision review requirements.

(k) Emergency services: The development shall not place an unreasonable burden on the ability of the city to provide police, fire and other emergency services.

(Ord. No. 29-85, § 1, 7-15-85)

Sec. 14-145.17. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the IR-3 zone shall meet the following minimum requirements:

(a) *Minimum lot size:*

1. Residential: Forty-two thousand five hundred (42,500) square feet per dwelling unit, except that the minimum lot size per dwelling unit shall be reduced by the amounts specified below, to a minimum lot size of thirty-five thousand (35,000) square feet per dwelling unit, provided that the Planning Board finds that the development meets the following criteria:

a. The minimum lot size per dwelling unit shall be reduced by five thousand (5,000) square feet if a public off-island water source provides seventy-five (75) percent of the water needs of the development.

b. The minimum lot size per dwelling unit shall be reduced by two thousand five hundred (2,500) square feet if the development provides appropriate permanent restrictions

or other agreements precluding the use, maintenance and parking of all private motor vehicles exclusive of construction and common service vehicles.

2. Inn: Ten thousand (10,000) square feet for each lodging room.
3. Restaurant: Thirty-five thousand (35,000) square feet.
4. Campground: Five thousand (5,000) square feet per campsite, but not less than ten (10) acres.
5. Private clubs, fraternal organizations, or seasonal camp: Thirty-five thousand (35,000) square feet.
6. Lodging houses: Thirty thousand (30,000) square feet for three (3) lodging rooms, plus ten thousand (10,000) square feet for each additional lodging room in excess of three (3).
7. Other uses: Thirty-five thousand (35,000) square feet.
8. In issuing any permit for new development, the building or planning authority shall require that any lot located in an IR-3 zone shall be at least twenty thousand (20,000) square feet in area when the lot is to be serviced by a subsurface wastewater disposal system, except those lots which are located in a subdivision approved by the Planning Board after June 8, 1968, [and excluding Peaks Island].
9. [Excluding Peaks Island from this subsection i.,] any property owner whose lot does not meet the minimum lot size requirements outlined in subsection h. of this section may, for purposes of this section only, merge two (2) or more separate lots on the same island in order to meet these requirements. Where the lots so merged are not contiguous, the property owner shall grant to the city as holder a conservation easement upon the lot or lots which will not contain the

principal structure. The conservation easement shall contain both an existing legal description and a city assessor's chart, block and lot description. The Planning Authority shall be authorized to accept such conservation easements on behalf of the city. Said easement shall be recorded by the applicant in the registry of deeds. A copy of the recorded easement and copies of the deeds for both lots shall be submitted to the Planning Authority prior to issuance of a building permit. The property over which the conservation easement has been granted shall be used for passive recreational and conservation purposes only, and shall be subject to the following restrictions:

- a. No structure shall be permitted on this property.
- b. No parking or storage of vehicles or machinery shall be permitted on this property at any time.
- c. No area of this property shall be paved.
- d. No exterior storage for commercial use shall be permitted on this property.
- e. The easement deed shall reference the lot which is benefited by this conservation easement. No conservation easement shall be used to benefit more than one (1) lot.

Conservation easements shall only be granted over lots which conform either to the provisions of section 14-433 or to the minimum lot sizes set forth in (a)1 of this section. Conservation easements shall not be granted over any lot which is encumbered by any other easement which prohibits all construction on that lot.

A conservation easement may also name as a holder or grant a third-party right of enforcement to a nonprofit corporation or charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic or open space

values of real property; assuring the availability of real property for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining or enhancing air or water quality of real property.

Nothing in this section shall be construed to allow an owner of a currently existing and developed lot to convey or permit a portion of that lot to be used to fulfill the requirements of this section if such conveyance would render the existing lot nonconforming under the terms of this chapter. The lot upon which a building is to be constructed shall meet the minimum lot size requirements of section 14-433.

10. Where an existing system subsurface wastewater disposal serving an existing structure requires replacement, the replacement system shall meet the requirements of CMR 241 Section 2-E. The land area requirements in subsection h. of this section shall not apply to such a replacement system.

For purposes of this subsection, the mean high tide mark shall be considered to be the shoreline lot line.

The minimum lot size for buildings containing both residential and nonresidential uses shall be cumulative. Where there are two (2) or more residential uses contained in a building, the minimum lot size shall be the larger of the applicable minimum lot sizes.

(b) *Minimum street frontage:* Seventy (70) feet.

(c) *Minimum yard dimensions:*

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

1. Front yard: Principal or accessory structures:
Twenty-five (25) feet.

2. Rear yard: Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Twenty-five (25) feet.

Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: Ten (10) feet.

3. Sideyard: Principal or accessory structures with ground coverage greater than one hundred (100) square feet: Twenty (20) feet.

Accessory detached structures with ground coverage of one hundred and forty-four (144) square feet or less: Fifteen (15) feet.

4. Side yard on side street: Principal or accessory structures: Twenty (20) feet.

(d) *Maximum lot coverage:* Twenty (20) percent of lot area.

(e) *Minimum lot width:* Eighty (80) feet.

(f) Maximum structure height: Principal or accessory attached structure: Thirty-five (35) feet.

Accessory detached structure: Eighteen (18) feet.

(Ord. No. 29-85, § 1, 7-15-85; Ord. No. 162-89, 12-11-89; Ord. No. 131-08/09, 12-15-08; Ord. No. 165-15/16, 3-7-2016)

Sec. 14-145.18. Other requirements.

[Other requirements include the following:]

(a) Shoreland and flood plain management regulations: Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

(b) Off-street parking: Off-street parking is required as provided in division 20 (off-street parking) of this article.
(Ord. No. 29-85, § 1, 7-15-85; Ord. No. 15-92, § 14, 6-15-92; Ord. No. 240-09/10, 6-21-10)

Sec. 14-145.19. Reserved.

DIVISION 7.5. ISLAND TRANSFER STATION OVERLAY ZONE

Sec. 14-145.20. Purpose.

The purpose of the Island Transfer Station Overlay Zone is to establish an appropriate location for a transfer station for municipal solid waste and municipal public works activities. This zone shall be established through a conditional rezoning process in order to ensure the imposition of appropriate conditions for the protection of neighboring properties.

(Ord. No. 50-98, 7-20-98)

Sec. 14-145.21.1 Permitted uses.

The following uses shall be permitted in the Island Transfer Overlay Zone:

- (a) Municipal solid waste facilities, including compactors and storage bins, provided that the compactor shall be located within a fully enclosed structure.
- (b) Recycling facilities, provided that all recycling areas shall be buffered and screened from neighboring properties.
- (c) Municipal garages, material storage, and parking for vehicles.
- (d) Maintenance of municipal vehicles and equipment.
- (e) Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(Ord. No. 50-98, 7-20-98; Ord. No. 33-11/12, 1-18-12)

Sec. 14-145.21.2. Conditional uses.

The following use is permitted only upon the issuance of a conditional use permit, subject to the provisions of section n14-474 (conditional uses) of this article and any special provisions, standards or requiremetns specified below:

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

1. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a certificate of occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
2. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the board of appeals with the application; and
3. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
4. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the board of appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
5. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to corporation counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
6. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
7. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
8. A performance guarantee shall be required for the cost of removal of the tower, guy wires and

anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, of 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. 33-11/12, 1-18-12)

Sec. 14-145.22. Conditional rezoning.

Requirements for setbacks and any operational limitations shall be established as part of the conditional rezoning process.
(Ord. No. 50-98, 7-20-98)

DIVISION 8. R-P RESIDENCE-PROFESSIONAL ZONE*

***Editor's note**--Ord. No. 291-88, adopted Apr. 4, 1988, with an effective date of July 1, 1988, repealed §§ 14-146--14-151 of Div. 8, R-P Residence-Professional Zone, of this article and enacted similar new provisions in lieu thereof as set out in §§ 14-146--14-151. Formerly, such sections derived from §§ 602.7A, 602.7A.A and 602.7A.B of the city's 1968 Code and from Ord. No. 49-73, adopted Jan. 3, 1973; Ord. No. 499-74, § 3, adopted Aug. 19, 1974; and Ord. No. 312-85, §§ 1--3, adopted Dec. 2, 1985.

Sec. 14-146. Purposes.

The purposes of the R-P residence-professional zone are:

(a) To provide appropriate location for the development and operation of low-intensity business uses, including professional offices on or near major arterials, that are compatible in scale, density and use with surrounding and adjacent residential neighborhoods; or

(b) To serve as a transition or buffer zone between residential and more intensive nonresidential zones.
(Ord. No. 291-88, 4-4-88)

Sec. 14-147. Permitted uses.

The following uses are permitted in the R-P district:

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

(b) *Business:*

1. Professional offices, including the offices and facilities of health care and related laboratory and pharmacy services and health care administration, but excluding personal services, retail establishments and veterinarians.
2. Business services, as defined in section 14-47, except copy services.
3. Adult day care services.
4. Mortuaries or funeral homes.

(c) *Other:*

1. Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan), sections 14-522 and 14-523 notwithstanding.
2. Accessory uses as provided in section 14-404.
3. Wind energy systems, as defined and allowed in Article X, Alternative Energy.

(Ord. No. 291-88, 4-4-88; Ord. No. 149-05/06, 2-18-06; Ord. No. 166-08/09, 3-3-09; Ord. No. 10 10/11, 8-2-10; Ord. No. 33-11/12, 1-18-12)

Sec. 14-147.5. Conditional uses.

The following uses are permitted as provided in section 14-474 (conditional uses) if they meet the following requirements:

- (a) Such other offices which have characteristics similar to but no more objectionable than those generally associated with professional offices. In determining appropriateness, the zoning board shall consider the quality of building design and materials, signage, and

landscaping, and their general compatibility with the surrounding residential development. Such uses shall also be shown to have vehicular patterns, including parking and storage of motor vehicles, similar to those associated with professional offices. Noise levels and hours of operation shall also be considered. An approval granted under this section shall be issued to a specific user and shall not run with the land to subsequent users. A new conditional use approval shall be required when the user changes. A new conditional use approval may be issued by the zoning authority if it determines that the new user will maintain the same use as the original user and that such use will not have substantially different external effects, including, but not limited to, parking, vehicular traffic on and off the site, noise levels, hours of operation, and visual characteristics such as signage or changes to building design.

- (b) With the exception of daycare facilities below, any conditional use that is allowed as a conditional use in any residential zone abutting the lot. If there is no abutting residential zone, any conditional use that is allowed as a conditional use in the nearest residential zone to the lot. Any such conditional use shall be subject to all conditions required in the residential zone.
- (c) Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:
 - 1. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
 - 2. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and
 - 3. Towers shall be set back from habitable buildings

by a distance equal to 1.1 times the tower height; and

4. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
 5. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
 6. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
 7. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
 8. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.
- (d) Daycare facilities or home babysitting services not otherwise permitted as a home occupation under section 14-410, and nursery schools and kindergartens for up to twelve (12) children shall be allowed as a conditional use:
1. Proof of licensing with the Maine Department of

Human Services is submitted to the city prior to issuance of a certificate of occupancy.

2. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.

3. Solid waste shall be stored in covered containers. Such containers shall be screened on all four (4) sides.

(e) Daycare facilities, home babysitting services, nursery schools and kindergartens that serve more than 12 children shall meet the following additional standards:

1. Proof of licensing with the Maine Department of Human Services is submitted to the city prior to issuance of a certificate of occupancy.
2. The facility shall provide a minimum of seventy-five (75) square feet of outdoor play area per child.
3. The play area shall be located in the side and rear yards only and shall not be located in front yards.
4. Outside play areas shall be separated from abutting properties by a fence at least forty-eight (48) inches in height.
5. A ten-foot (10') wide landscaped buffer shall be required outside of the fenced play area, and shall be established in accordance with the landscaping standards of the city's Technical Standards and Guidelines.
6. The minimum lot size for a daycare facility, home babysitting service, nursery school or kindergarten serving more than twelve (12) children shall be six thousand (6,000) square feet.
7. Off-street parking: Off-street parking is required as provided in division 20 (off-street

parking) of this article.

8. Any additions or exterior alternations such as façade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building or preserve the residential appearance of the building.

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

(Ord. No. 201-92, § 1, 1-6-92; Ord. No. 133-96, § 10, 11-18-96; Ord. No. 29-09/10, 8-3-09 emergency passage; Ord. No. 312-08/09, 7-20-09; Ord. No. 33-11/12, 1-18-12)

Sec. 14-148. Prohibited uses.

Uses not enumerated in section 14-147 as permitted uses or in section 14-147.5 as conditional uses are prohibited.

(Ord. No. 291-88, 4-4-88; Ord. No. 201-92, § 2, 1-6-92)

Sec. 14-149. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, the following requirements shall apply. Residential uses permitted under section 14-147(a) shall meet the requirements of such abutting or nearest residential zone. Nonresidential uses in the R-P zone shall meet the following minimum requirements:

(a) *Minimum lot size:* Six thousand (6,000) square feet.

(b) *Minimum street frontage:* Sixty (60) feet.

(c) *Minimum yard dimensions:*

1. *Front yard:*

a. Principal or accessory structures: Twenty (20) feet, except that:

i. The front yard need not exceed the average depth of immediately abutting front yards; and

ii. The front yard of a lot existing as of April 4, 1988, which lot is less than one

hundred (100) feet deep, need not be deeper than ten (10) percent of the depth of the lot.

2. *Rear yard:*

- a. Principal structures: Twenty (20) feet.
- b. Accessory structures (detached): Seven (7) feet.

3. *Side yard:*

- a. Principal structures:

Number of Stories	Required Side Yard
1 story	10 feet
2 stories	12 feet
3 or more stories . .	14 feet

The width of one (1) side yard may be reduced one (1) foot for each foot that the other side yard is correspondingly increased, provided, however, no side yard shall be reduced to less than seven (7) feet in width.

- b. Accessory structures (detached): Seven (7) feet.
- c. Side yards on side streets (corner lot): For both principal or accessory structures:
 - i. One (1) or two (2) stories: Fifteen (15) feet; and
 - ii. Three (3) or more stories: Eighteen (18) feet.

(d) Minimum lot width: Sixty (60) feet.

(e) Maximum structure height: Forty-five (45) feet. Where the lot abuts an R-6 residential zone, the maximum permitted height shall be the maximum permitted height

of the R-6 zone. If there is a difference in height between abutting R-6 zones, the least restrictive height limitation shall apply.

- (f) Maximum impervious surface ratio: The maximum impervious surface ratio is established according to the abutting residential zone. If there is no abutting residential zone to the lot in question, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the least restrictive such zone. The ratios are as follows:

Maximum Impervious

Residential Zone	Surface Ratio
------------------	---------------

R-1/R-2	0.60
-------------------	------

R-3	0.70
---------------	------

R-4/R-5/R-5A/R-6	0.80
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- (g) Floor area ratio (F.A.R.): The maximum floor area ratio is established according to the abutting residential zone. If there is no abutting residential zone to the lot in question, the nearest residential zone to the lot. In the case of two (2) or more abutting residential zones, the least restrictive such zone. The ratios are as follows:

Residential	Floor Area Ratio
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R-1/R-2	0.45
-------------------	------

R-3	0.55
---------------	------

R-4/R-5/R-5A/R-6	0.65
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(Ord. No., 291-88, 4-4-88; Ord. No. 149-05/06, 1-18-06)

Sec. 14-150. Other requirements.

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

- (a) Landscaping and screening: The site shall be suitably

landscaped for parking, surrounding uses and accessory site elements, including storage and solid waste receptacles where required by article IV (subdivisions) and article V (site plan).

- (b) Curbs and sidewalks: Curbs and sidewalks as specified in article VI of chapter 25.
- (c) Off-street parking and loading: Off-street parking and loading are as required by division 20 and division 21 of this article.
- (d) Front yard parking: There shall be no parking in the front yard between the street line and the required minimum setback line. A maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the front yard, provided that for a lot of three (3) acres or more this limitation does not apply.
- (e) Signs: Signs shall be subject to the provisions of division 22 of this article.
- (f) Exterior storage: There shall be no exterior storage with the exception of receptacles for solid waste disposal. Such receptacles shall be shown on the approved site plan.
- (g) Storage of vehicles: Storage of vehicles is subject to the provisions of section 14-335.
- (h) Shoreland and flood plain management regulations: If the lot is located in a shoreland zone or in a flood hazard zone, the requirements of division 26 and/or division 26.5 apply.

(Ord. No. 291-88, 4-4-88; Ord. No. 149-05/06, 1-18-06)

Sec. 14-151. External effects.

Every use in a R-P zone shall be subject to the following requirements:

- (a) Enclosed structure: The use shall be operated within a completely enclosed structure, except for those customarily operated in the open air.
- (b) Noise: The volume of sound, measured by a sound level

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

- (c) Vibration and heat: Vibration inherently and recurrently generated and heat shall be imperceptible without instruments at lot boundaries.
- (d) Glare, radiation or fumes: Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.
- (e) Smoke: Smoke shall not be emitted at a density in excess of twenty (20) percent opacity level, as classified in Method 9 (Visible Emissions) of the Opacity Evaluation System of the U.S. Environmental Protection Agency.
- (f) Materials or wastes: No materials or wastes shall be deposited on any lot in such form or manner that they may be transferred beyond the lot boundaries by natural causes or forces. All material which might cause fumes or dust, or constitute a fire hazard if stored out-of-doors, shall be only in closed containers. Areas attracting large numbers of birds, rodents or insects are prohibited.
- (g) The hours of operation of funeral homes (including processions) may be restricted and/or traffic management measures may be required, in order to avoid impacts to the public street system, if so recommended by the city traffic engineer or comparable professional.

(Ord. No. 291-88, 4-4-88; Ord. No. 166-08/09, 3-3-09)

DIVISION 8.1 USM, UNIVERSITY OF SOUTHERN MAINE OVERLAY ZONE

Sec. 14-152. Purpose.

The intention of this division is to establish an overlay zone in which an existing university campus can be continued and reasonably expanded within defined boundaries, in addition to those uses permitted in the underlying zone or zones. The purpose of this division is to recognize the unique qualities of

a university campus while at the same time protecting the value and integrity of established neighborhoods.
(Ord. No. 171-05/06, 3-20-06)

Sec. 14-152.1. Location and applicability of University of Southern Maine overlay zone.

The University of Southern Maine overlay district, as shown on the zoning map is intended to encompass and define the University of Southern Maine campus westerly of Forest Avenue. Properties in the University of Southern Maine overlay zone shall continue to be governed by the regulations applicable to the underlying zoning districts except as specifically modified by this division.
(Ord. No. 171-05/06, 3-20-06)

Sec. 14-152.2. Permitted uses.

In addition to the permitted uses allowed in the underlying zoning districts and notwithstanding anything to the contrary in the use regulations for the underlying zoning districts, the following uses are permitted uses in the University of Southern Maine overlay zone.

University uses including, but not limited to, the following:

1. Classrooms;
2. Laboratory facilities;
3. Research facilities;
4. Student unions;
5. Dining halls;
6. Bookstores;
7. Auditoriums;
8. Concert halls;
9. Lecture halls;
10. Gymnasiums;
11. Libraries;
12. Outdoor use areas, such as "quads", greens, parks,

gardens, art installations, and other active and passive noncommercial recreation spaces;

13. Faculty housing;
14. Student housing;
15. Parking lots;
16. Parking garages;
17. Community meeting spaces;
18. Administrative offices;
19. Faculty offices;
20. Transportation facilities;
21. Maintenance facilities;
22. Utility buildings;
23. Student health services;
24. Daycare facilities, nursery schools and kindergartens operated in conjunction with university programs or serving students, faculty or employees of the university and their families, with associated outside play areas;
25. Other buildings, structures and uses customarily incidental to a university.

Except that, on lots fronting on Chamberlain Avenue and Exeter Street, university uses shall be limited to faculty housing, graduate student housing, faculty offices and administrative offices, and buildings containing such uses shall be designed and maintained so as to complement the residential character of the street as required in §14-152.7.

No change of use permit under section 14-463 shall be required for any of the above uses in actual existence as of the date of enactment of the University of Southern Maine overlay zone.
(Ord. NO. 171-05/06, 3-20-06)

Sec. 14-152.2.1. Conditional uses.

The following uses are permitted as provided in section 14-474 (conditional uses) if they meet the following requirements:

- (a) Wind energy systems, as defined and allowed in Article X, Alternative Energy.
(Ord. No. 33-11/12, 1-18-12)

Sec. 14-152.3 Dimensional requirements.

University buildings and structures shall be subject to the applicable dimensional requirements of the underlying zoning districts, except as follows:

- (a) Minimum yard dimensions shall be the same as in the underlying zone, except as shown on the university campus overlay setback map, incorporated herein by reference. Side and rear yards shall not be required between buildings on contiguous lots owned by the university on the condition that such contiguous lots shall be considered merged and shall not be separately conveyed unless required yard dimensions in the underlying zones are provided.
- (b) Maximum building height shall be the same as in the underlying zone, except as shown on the university campus overlay height map, incorporated herein by reference, depicting the following height zones:
 - 1. Height zone A, maximum building height 45 feet.
 - 2. Height zone B, maximum building height 75 feet.
 - 3. Height zone C, maximum building height 85 feet.
- (c) Minimum building height. All new freestanding buildings in height zone B and height zone C must be built to a height of at least 35 feet or designed and constructed so that they can be expanded to 35 feet or higher. As used in this paragraph, the term "new freestanding building" means any building which is not an addition to or expansion of a building which existed on the date of enactment of the University of Southern Maine overlay zone.
- (d) Maximum impervious surface ratio shall be 66% of the total land area within the University of Southern Maine

overlay zone exclusive of public streets.

- (e) Maximum coverage by buildings shall be 40% of the total land area within the University of Southern Maine overlay zone exclusive of public streets.

(Ord. No. 171-05/06, 3-20-06)

Sec. 14-152.4. Parking.

Off-street parking: Off-street parking is required as provided in division 20 (off-street parking) of this article.

(Ord. No. 171-05/06, 3-20-06; Ord. No. 240-09/10, 6-21-10)

Sec. 14-152.5. Loading.

The requirements of section 14-351 shall not apply to university buildings. Instead, the amount of loading area required for any university building shall be determined by the planning board during site plan review, based on a campus-wide analysis, treating all contiguous lots owned by the university as one lot. In determining the amount of loading space required for any university building, the planning board may take into account such factors as:

- (a) The use of centrally located on-campus loading facilities so situated that vehicles making deliveries can load and unload in the central facilities, provided no single location is overburdened with loading facilities.
- (b) Shared use of a single loading facility by two or more buildings.
- (c) Impacts of the loading area on adjacent uses outside the University of Southern Maine overlay zone.

(Ord. No. 171-05/06, 3-20-06)

Sec. 14-152.6. Signage.

Signs comply with the requirements of Division 22, except as those regulations are modified or augmented below:

- (a) Signs shall be designed in accordance with signage standards promulgated by the university, providing for a unified, apparent and ADA-compliant campus-wide system for identification, orientation and regulatory signage.

(b) Banners are allowed as follows:

1. Generic banners containing the logo and colors of the university, used for decorative purposes.
2. Banners used for advertising university events, which can be displayed for a maximum of four weeks prior to and one week following the event.

(Ord. No. 171-05/06, 3-20-06)

Sec. 14-152.7. University overlay zone design principles and standards.

All minor and major development in the University of Southern Maine overlay zone conform to the requirements of chapter 14, article V (site plan review) and the requirements contained within the planning and development design manual, which is incorporated therein by reference.

(Ord. No. 171-05/06, 3-20-06)

Sec. 14-152.8. Campus housing.

For any development requiring level III site plan review, the university shall submit to the planning board a campus housing analysis. The analysis shall include a description of housing demand and supply at the time of the application, a projection of housing demand expected to arise from the proposed development and/or as a result of program changes anticipated to occur concurrently with the proposed development, and a description of how the university intends to meet any increased housing demand through on-campus housing, off-campus housing developed by the university, and/or off-campus housing developed by others.

(Ord. No. 171-05/06, 3-20-06; Ord. No. 278-09/10, 7-19-10)

Sec. 14-152.9. Required review for change of use, additions and renovations.

In the case of properties fronting Chamberlain Avenue, Exeter Street and the northerly side of Bedford Street from Surrender Street to Deering Avenue, level II site plan review shall be required of: (1) all changes of use; and (2) all building additions and renovations affecting an area equivalent to 25% or more of the existing floor area of a structure, unless level III site plan review is otherwise required under chapter 14, article V.

(Ord. NO. 171-05/06, 3-20-06)

DIVISION 8.5. R-OS RECREATION AND OPEN SPACE ZONE

Sec. 14-153. Purpose.

(a) The purpose of this division is:

1. To preserve and protect open space as a limited and valuable resource;
2. To permit the reasonable use of open space, while simultaneously preserving and protecting its inherent open space characteristics to assure its continued availability for public use as scenic, recreation, and conservation or natural resource area, and for the containment and structuring of urban development;
3. To coordinate with and carry out federal, state, regional, and city recreation and open space plans;
4. To provide a suitable location for large-scale regional sports and athletic facilities; and
5. To develop a open space system throughout the downtown, which provides the highest quality parks, plazas, and pedestrian environment.

(b) The recreation open space zone may include parcels of public property, and private property legally restricted from intensive use or development through deed, covenant, or otherwise.

(Ord. No. 232-81, § 602.7B.1, 11-16-81; Ord. No. 187-01/02, § 2, 4-17-02; Ord. No. 221-13/14, 6-2-14)

Sec. 14-154. Permitted uses.

The following uses are permitted uses within the recreation and open space zone, subject to the development standards contained herein:

- (a) Municipal parks, public open spaces, picnic areas, playgrounds and play lots;
- (b) Cemeteries;
- (c) Arboretums;
- (d) Golf courses, excluding miniature golf;

- (e) Boat landings, beaches, and marinas for public uses;
- (f) Outdoor ballfields and public athletic fields;
- (g) Swimming pools and tennis courts;
- (h) Picnic groves and areas;
- (i) Natural parks and scenic overlooks;
- (j) Hiking, walking, bicycling or cross-country ski trails;
- (k) Community gardens for cultivation by and for city residents;
- (l) Sewage pumping stations and sewage treatment facilities;
- (m) Sports complexes;
- (n) Accessory uses, including structures or buildings of less than two thousand five hundred (2,500) square feet of floor area;
- (o) Wind energy systems, as defined and allowed in Article X, Alternative Energy;
- (p) Street vendors licensed pursuant to Chapter 19; and
- (q) Events, activities, and uses licensed by the city, including but not limited to markets, festivals, café seating, concerts, and other gatherings.

(Ord. No. 232-81, § 602.7B.2, 11-16-81; Ord. No. 60-91, § 1, 8-5-91; Ord. No. 187-01/02, § 3, 4-17-02; Ord. No. 33-11/12, 1-18-12; Ord.No. 10-12/13, 7-16-12; Ord. No. 221-13/14, 6-2-14; Ord. 322-15/16, 7-6-2016)

Sec. 14-155. Conditional uses.

The following uses are conditional uses in the recreation and open space zone, subject to approval by the board of appeals.

- (a) Accessory uses with structures or buildings of two thousand five hundred (2,500) square feet or more of floor area;
- (b) Other recreational facilities and uses that are open to the public;

- (c) Water pumping stations.
- (d) Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:
 - 1. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
 - 2. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and
 - 3. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
 - 4. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
 - 5. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
 - 6. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
 - 7. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics

(speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and

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

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

(Ord. No. 232-81, § 602.7B.3, 11-16-81; Ord. No. 67-89, § 1, 8-7-89; Ord. No. 60-91, § 2, 8-5-91; Ord. No. 29-09/10, 8-3-09, emergency passage; Ord. No. 33-11/12, 1-18-12)

Sec. 14-156. Standards for conditional uses.

In addition to the criteria listed in section 14-474(c), the board of appeals shall consider the following criteria when reviewing conditional uses specified in section 14-155(a), (b) and (c):

- (a) The use shall be in conformity with or satisfy a deficiency identified in a federal, state, regional, or city recreation and open space plan, including but not limited to the state comprehensive outdoor recreation plan, as such plans may from time to time be created or revised.
- (b) Buildings and structures shall not obstruct significant scenic views presently enjoyed by nearby residents, passersby, or users of the site.
- (c) Indoor recreation or nonrecreational uses shall serve a significant public purpose that cannot reasonably be accommodated outside of the recreation and open space zone.

(Ord. No. 232-81, § 602.7B.4, 11-16-81; Ord. No. 29-09/10, 8-3-09, emergency passage)

Sec. 14-157. Space and bulk requirements.

No building or structure of a permanent nature shall be erected, altered, enlarged, rebuilt, or used unless it meets the

following requirements, except that public open spaces that are less than 2 acres and are on the peninsula are not required to meet the following space and bulk requirements:

(a) *Minimum front yard:*

1. Principal buildings or structures: Twenty-five (25) feet.
2. Accessory buildings or structures: Twenty-five (25) feet.

(b) *Minimum rear yard:*

1. Principal buildings or structures: Twenty-five (25) feet.
2. Accessory buildings or structures: Twenty-five (25) feet.

(c) *Minimum side yard:*

1. Principal buildings or structures: Twelve (12) feet.
2. Accessory buildings or structures: Twelve (12) feet.

(e) Maximum building height: Thirty-five (35) feet, unless more than one thousand (1,000) feet from a shoreland zone. The maximum building height for buildings located more than one thousand (1,000) feet from a shoreland zone shall be forty-five (45) feet.

(f) Maximum coverage of lot by buildings, structures and other impervious site improvements such as paved sidewalks, drives and parking lots:

1. Sewage treatment facilities: No limit on maximum coverage.
2. Sports complexes: Seventy-five (75) percent of lot area.
3. All other uses: Twenty-five (25) percent of lot area.

(g) Maximum floor area ratio: Five-tenths (0.5).

(Ord. No. 232-81, § 602.7B.5, 11-16-81; Ord. No. 67-89, § 2, 8-7-89; Ord. No. 205-93, 2-2-93; Ord. No. 187-01/02, § 4, 4-17-02; Ord. No. 221-13/14, 6-2-14)

Sec. 14-158. Development standards for recreation and open space zone.

All development in the recreation and open space zone shall comply with the following development standards, and shall be reviewed under the site plan ordinance, as applicable:

- (a) All ground areas not used for parking, loading, vehicular or pedestrian areas and not left in their natural state shall be suitably landscaped and designed with quality materials that are consistent with adopted city policy or master plans, and which provide a comfortable, durable, accessible, readily maintainable, and aesthetically pleasing environment.
- (b) Natural features, such as mature trees and natural surface drainageways, shall be preserved to the greatest possible extent consistent with the uses of the property.
- (c) Loading areas shall be screened and parking areas shall be screened and landscaped so as to avoid a large continuous expanse of paved area.
- (d) Buildings and structures shall be sited to avoid obstructing significant scenic views presently enjoyed by nearby residents, passersby, and users of the site.
- (e) Storage of commodities and equipment shall be completely enclosed within buildings or provided with screening by a fence, wall, or landscaping.
- (f) The outer perimeter of playfields, play lots, and other active recreational areas shall be screened, or shall be located a reasonable distance from any residential use.
- (g) Off-street parking: Off-street parking is required as provided in division 20 (off-street parking) of this article.

(Ord. No. 232-81, § 602.7B.6, 11-16-81; Ord. No. 240-09/10, 6-21-10; Ord. No. 221-13/14, 6-2-14)

Sec. 14-159. Shoreland and flood plain management regulations.

Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

(Ord. No. 232-81, § 602.7B.7, 11-16-81; Ord. No. 15-92, § 15, 6-15-92)

Sec. 14-160. Reserved.

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

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

Sec. 14-161. Purpose.

(a) B-1 Neighborhood Business Zone

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

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

(b) B-1b Neighborhood Business Zone

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

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

(Ord. No. 292-88, 4-4-88; Ord. No. 133-93, § 1, 11-15-93; Ord. No. 94-99, 11-15-99; Ord. No. 281-10/11, 7-18-11; Ord. 90-14/15, 11/17/2014; Ord. No. 170-17/18, 3-5-2018)

Sec. 14-162. Permitted uses.

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

1. *Residential*

- a. Any residential use permitted in the residential zone abutting the lot is permitted. If there is no abutting residential zone, any residential use permitted in the nearest residential zone to the lot is permitted. In the case of two (2) or more abutting residential zones, any residential use permitted in the most restrictive such zone is permitted.
- b. In any structure with commercial use on the first floor, multifamily dwellings are permitted:
 - i. Above the first floor; and
 - ii. On the first floor where a minimum building depth of 25 feet along the principal street frontage is maintained for commercial uses.

- c. Combined living/working spaces including, but not limited to, artist residences with studio space are permitted on the first floor and within the commercial space along the principal street frontage.
- 2. Business: Business uses listed below are permitted, provided that such use which generates in excess of a ratio of 100 peak hour vehicle trips per 2000 sq.ft. of space, and generates in excess of 100 peak hour vehicle trips is prohibited. As set forth in the City of Portland Technical Manual, section I, the city traffic engineer shall require a traffic study when it calculates the proposed use will generate in excess of a total of 50 peak hour vehicle trips.
 - a. Professional, business, and general offices , but excluding veterinarians.
 - b. Business services, as defined in section 14-47, but excluding beverage container redemption centers.
 - c. Personal services, as defined in section 14-47.
 - d. Offices of building tradesmen, provided there is no exterior storage of building materials.
 - e. Retail establishments, provided such do not include drive-through sales or services and do not operate between the hours of eleven (11) p.m. and six (6) a.m. and do not accept deliveries or services between the hours of ten (10) p.m. to seven (7) a.m.
 - f. Beverage dealers (as defined in 32 M.R.S.A. 1862) provided they meet the following requirements:
 - i. Maximum total floor area for beverage container redemptions, including the storage of spent beverage containers, shall be no greater than five hundred (500) sq. ft. or ten (10) percent of the total floor area of the facility, whichever is less;
 - ii. Beverage container redemption is an

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

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

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

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

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

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

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

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

3. *Institutional:*

a. Places of religious assembly;

b. Municipal offices;

c. Elementary, middle and secondary schools;

- d. Nursery schools and kindergarten;
 - e. Clinics of less than three thousand (3,000) square feet of total floor space.
4. *Other:*
- a. Lodging houses;
 - b. Utility substations, as defined in section 14-47, subject to the standards of article V (site plan), sections 14-522 and 14-523 notwithstanding;
 - c. Day care facilities or babysitting services;
 - d. Accessory uses as provided in section 14-404;
 - e. Bed and breakfast, subject to the standards of article V (site plan), sections 14-522 and 14-523 notwithstanding.
 - f. Hostels, provided the applicant submits a site plan and operations plan demonstrating compliance with the following conditions:
 - i. No more than twenty (20) overnight transient guests shall be permitted in the facility at any one time.
 - ii. All applicable provisions of Article V of this chapter shall be met.
 - iii. Parking shall be provided in compliance with Division 20 of this Article.
 - iv. No unaccompanied minors under the age of eighteen (18) shall be permitted in the facility.
 - v. The length of stay for transient guests shall not exceed fifteen (15) days out of any sixty-day period.
 - vi. The building shall meet the applicable occupant load requirements as defined by the

International Building Code and the NFPA Life Safety Code, as such codes are amended or adopted by the city.

- g. Neighborhood center.
5. Uses permitted above the ground floor level of buildings in the B-1b zone:
- a. Any residential use set forth in section 14-162(a)(1);
 - b. Bed and breakfast, subject to the standards of article V (site plan), sections 14-522 and 14-523 notwithstanding.
 - c. Hostels, provided the applicant submits a site plan and operations plan demonstrating compliance with the following conditions:
 - i. No more than twenty (20) overnight transient guests shall be permitted in the facility at any one time.
 - ii. All applicable provisions of Article V of this chapter shall be met.
 - iii. Parking shall be provided in compliance with Division 20 of this Article.
 - iv. No unaccompanied minors under the age of eighteen (18) shall be permitted in the facility.
 - v. The length of stay for transient guests shall not exceed fifteen (15) days out of any sixty-day period.
 - vi. The building shall meet the applicable occupant load requirements as defined by the International Building Code and the NFPA Life Safety Code, as such codes are amended or adopted by the city.
6. Wind energy systems, as defined and allowed in Article X, Alternative Energy.
- (Ord. No. 292-88, 4-4-88; Ord. No. 133-93, § 2, 11-15-93; Ord. No. 125-97, §

5, 3-3-97; Ord. No. 94-99, 11-15-99; Ord. No. 74-06/07, 12-4-06; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 278-09/10, 7-19-10, Ord. 10 10/11, 8-2-10; Ord. No. 279-09/10, 6-6-11; Ord. No. 33-11/12, 1-18-12; Ord. No. 162-12/13, 4-1-13; Ord. 90-14/15, 11-17-2014; Ord. No. 170-17/18, 3-5-2018)

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

Sec. 14-163. Conditional uses.

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

1. Temporary wind anemometer towers, as defined in sec. 14-47, are permitted provided the following standards are met in addition to sec. 14-430:
 - a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a certificate of occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
 - b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the board of appeals with the application; and
 - c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
 - d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
 - e. The applicant shall provide evidence of commercial general liability insurance, such

insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and

- f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
- g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
- h. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

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

(Ord. No. 292-88, 4-4-88; Ord. No. 133-93, § 3, 11-15-93; Ord. No. 94-99, 11-15-99; Ord. No. 74-06/07, 12-4-06; Ord. No. 29-09/10, 8-3-09, emergency passage; Ord. No. 278-09/10, 7-19-10; Ord. No. 33-11/12, 1-18-12; Ord. 90, 11-17-2014)

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

Sec. 14-164. Prohibited uses.

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

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

Sec. 14-165. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, residential uses in off-peninsula locations, permitted under section 14-162(a)(1)(a) shall meet the requirements of such abutting or nearest residential zone. Residential uses in on-peninsula

locations, as defined in Section 14-47, residential uses in mixed-use buildings in off-peninsula locations, as defined in Section 14-47 and nonresidential uses in the B-1 and B1-b zones shall meet the following minimum requirements:

Min. Lot Size	School: 20,000 SF Place of Assembly: 10,000 SF Other Non-Res Uses: None Residential: None
Min. Lot Area per D.U.	On-peninsula: 435 SF Off-peninsula: min. lot area of nearest residential zone, except 1,000 SF in a mixed-use building.
Min. Street Frontage	20 ft.
Min. Lot Width	None
Min. Front Yard	None
Max. Front yard	10 ft., or the maximum front yard setback shall not exceed the average depth of nearest developed lots if that average depth is less than 10 ft.
Min. Rear Yard	Principal: None, except 10 ft. if abutting a residential zone. Accessory: None, except 5 ft. if abutting a residential zone
Min. Side Yard	Principal: None, except 5 ft. if abutting residential zone. Accessory: None, except 5 ft. if abutting a residential zone
Max. Side Yard on Side Street	10 ft., except that this requirement applies to only one side street in cases where a lot has more than one side street
Structure Stepbacks	Portions of a structure above 35 ft shall be no closer than 10 ft from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone.

Max. Structure Height¹	Off- peninsula: 35 ft., except where abutting R-6, where max. height shall be the max. height of R-6. ² On-peninsula: 45 ft. except 50 ft. along Congress Street if commercial first floor & residential upper floors.
Max. Floor Area	Total maximum first floor area for non-residential uses per structure: 10,000 SF ³ Total maximum floor area per retail establishment: 5,000 SF
Max. Impervious Surface	90%

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

(Ord. No. 292-88, 4-4-88; Ord. No. 52-96, § 1, 7-15-96; Ord. No. 94-99, 11-15-99; Ord. No. 281-10/11, 7-18-11; Ord. No. 118-13/14, §165 (e), 1-15-14; Ord. 90-14/15, 11-17-2014; Ord. No. 170-17/18, 3-5-2018)

Sec. 14-166. Other requirements.

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

- (a) Landscaping and screening: The site shall be suitably landscaped for parking, surrounding uses and accessory site elements, including storage and solid waste receptacles where required by article IV (subdivisions) and article V (site plan).
- (b) Curbs and sidewalks: Curbs and sidewalks as specified in article VI of chapter 25.
- (c) Off-street parking and loading: Off-street parking and loading are required as provided in division 20 and division 21 of this article.
- (d) Front yard parking: There shall be no off street parking in the front yard between the street line and

the required maximum setback line. Where an existing building setback exceeds the maximum front yard setback, a maximum of ten (10) percent of the total parking provided on the site may be located between the principal structure and the street.

- (e) Signs: Signs shall be subject to the provisions of division 22 of this article.
- (f) Exterior storage: There shall be no exterior storage with the exception of fully enclosed containers or receptacles for solid waste disposal. Such containers or receptacles shall be shown on the approved site plan. In no event shall vehicles, or truck trailers with or without wheels, be used for on-site storage. Truck load sales shall not be considered outside storage provided that such activity does not extend beyond three (3) consecutive days nor occur more frequently than three (3) times a calendar year.
- (g) Storage of vehicles: Storage of vehicles is subject to the provisions of section 14-335.
- (h) Shoreland and flood plain management regulations: If the lot is located in a shoreland zone or in a flood hazard zone, then the requirements of division 26 and/or division 26.5 apply.

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

Sec. 14-167. External effects.

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

- (a) Enclosed structure: The use shall be operated within a completely enclosed structure, except for those specific open air activities licensed by the City, including but not limited to outdoor seating, sidewalk sales, etc.
- (b) Noise: The volume of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American Standards Association), generated shall not exceed fifty-five (55) decibels on the A scale, on impulse (less than one (1) second), at lot boundaries, excepting air raid sirens and similar warning devices.

- (c) Vibration and heat: Vibration inherently and recurrently generated and heat shall be imperceptible without instruments at lot boundaries.
- (d) Glare, radiation or fumes: Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.
- (e) Smoke: Smoke shall not be emitted at a density in excess of twenty (20) percent opacity level as classified in Method 9 (Visible Emissions) of the Opacity Evaluation System of the U.S. Environmental Protection Agency.
- (f) *Materials or wastes*: No materials or wastes shall be deposited on any lot in such form or manner that they are clearly visible from neighbors' properties or may be transferred beyond the lot boundaries by natural causes or forces. All solid waste disposal, including materials which might cause fumes or dust, or constitute a fire hazard if stored out-of-doors, shall be only in fully enclosed containers or receptacles. Areas attracting large numbers of birds, rodents or insects are prohibited.

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

Sec. 14-168 – Sec. 14-180 Reserved.

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

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

Sec. 14-181. Purpose.

- (a) B-2 Community Business Zone

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

1. To provide appropriate locations for the development and operation of community centers offering a mixture of commercial uses, housing and services serving the adjoining neighborhoods and the larger community.
2. The variety, sites and intensity of the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1 neighborhood business zone.
3. The B-2 zone will provide a broad range of goods and services and general businesses with a mixture of large and small buildings such as grocery stores, shops and services located in major shopping centers and along arterial streets. Such establishments should be readily accessible by automobile, by pedestrians and by bicycle. Development in the B-2 zone should relate to the surrounding neighborhoods by design, orientation, and circulation patterns.
4. The B-2 and B-2b will provide locations for moderate to high density housing in urban neighborhoods along arterials.

(b) B-2b Community Business Zone

The B-2b zone is intended to provide neighborhood and community retail, business and service establishments that are oriented to and built close to the street. The B-2b zone is appropriate in areas where a more compact urban development pattern exists such as on-peninsula or in areas off-peninsula where a neighborhood compatible commercial district is established which exhibits a pedestrian scale and character. Such locations may include the peninsula and other arterials and intersections with an existing urban or neighborhood oriented building pattern.

(c) B-2c Community Business Zone

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

(Ord. No. 293-88, 4-4-88; Ord. No. 25, 7-07-99: emergency enactment of 120-day moratorium, effective 7/07/99 thru 11/04/99; Ord. No. 94A, 11-01-99: emergency

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

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

Sec. 14-182. Table of uses.

Group ¹	Use	B-2 ²	B-2b	B-2c
R	Single family home	Y	Y	Y
R	Two family home	Y	Y	Y
R	Three family home	Y	Y	Y
R	Multifamily housing	Y	Y	Y
R	Combined live/work spaces provided the living space is at least 33% of the total net floor area	Y	Y	Y
B	General business and professional offices, as defined in section 14-47, and offices of trades	Y	Y	Y
B	Personal services, as defined in section 14-47	Y	Y	Y
B	General retail establishments	Y	Y	Y
B	Pharmacies with retail sales	Y	Y	Y
B	Banking Facilities	Y	Y	Y
B	Restaurants, except that restaurants shall close for all purposes including the service of alcohol no later than 11:00 p.m. unless otherwise authorized by the City Council	Y	Y	Y
B	Drinking establishments, as defined in section 14-47	Y	Y	N
B	Billiard parlors	Y	Y	Y
B	Funeral homes	Y	Y	Y
B	Miscellaneous repair services, excluding motor vehicle repair services	Y	Y	Y
B	Communication studios or broadcast and receiving facilities	Y	Y	Y

Group ¹	Use	B-2 ²	B-2b	B-2c
B	Health clubs and gymnasiums	Y	Y	Y
B	Veterinary hospitals and clinics provided there is no outdoor kennel	Y	Y	Y
B	Theaters and performance halls	Y	Y	Y
B	Hotels, Motels and Inns	Y	Y	Y
B	Bakeries, breweries, distilleries, commercial kitchens and similar uses with a retail component and with a total floor area under 10,000 net sf.	Y	Y	Y
B	Bakeries, breweries, distilleries, commercial kitchens and similar uses with a retail component and with a total floor area of 10,000 net sf. or greater	Y	N	N
B	Expansion of existing dairies	Y	Y	Y
B	Marijuana retail store	Y	C	C
B	Registered dispensary	Y	C	C
B	Small-scale marijuana caregiver	Y	Y	Y
I	Long term, extended and intermediate care facility	Y	Y	Y
I	Clinics, as defined in section 14-47	Y	Y	Y
I	Places of assembly	Y	Y	Y
I	Kindergarten, elementary, middle and secondary schools	Y	Y	Y
I	College, university, trade schools	Y	Y	Y
I	Municipal buildings and uses	Y	Y	Y
O	Lodging houses	Y	Y	Y
O	Day care facilities	Y	Y	Y
O	Accessory uses, as provided in section 14-404 ³	Y	Y	Y
O	Bed and breakfast, subject to the standards of article V (site plan), sections 14-522 and 14-523 notwithstanding. A bed and breakfast may include a meeting facility if for weddings, seminars, receptions, business meetings and the like and if the facility is less than 4,000 net sf.	Y	Y	Y
O	Studios for artists and craftspeople, less than 4,000 net sf.	Y	Y	Y

Group ¹	Use	B-2 ²	B-2b	B-2c
	per space			
W	Wind energy systems, as defined and allowed in Article X, Alternative Energy	Y	Y	Y
U	Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan), sections 14-522 and 14-523 notwithstanding	Y	Y	Y
A	Drive-throughs associated with a pharmacy or banking facility use ⁴	C	C	C
A	Auto service stations	C	N	N
A	Expansion of auto service stations in existence as of November 15, 1999	C	C	C
A	<u>Car washes</u>	C	C	C
A	<u>Automobile dealerships</u>	C	C	C
M	Printing and publishing establishments of 10,000 gross sf. or less	C	C	C
M	Expansion of existing printing and publishing establishments of greater than 10,000 gross sf. in existence since April 4, 1988	C	C	C
M	Wholesale distribution establishments of 10,000 gross sf. or less	C	C	C
M	Research and development and related production establishments of 10,000 gross sf. or less	C	C	C

¹ Uses within the same group lettering may be substituted without being considered a change of use under zoning, provided all dimensional and other requirements of this section are met. Other reviews may be required under City regulations, including but not limited to building permit, subdivision and site plan reviews. However, no additional parking shall be required for changes within the same use group for a change in total floor area up to 10,000 sf, except for the provision of additional housing units.

Use Groups include the following:

- R = Residential
- B = Business
- I = Institutional
- O = Other
- U = Utility
- A = Auto related
- M = Manufacturing/Processing/and other Industrial

2 Y-Permitted N-Not Permitted

C-Conditional use, see section 14-183 for specific standards in addition to the general conditional use standards

3 Expansion of accessory uses into space used by a permitted use shall not be considered a change of use

4 See conditional use standards for drive-throughs. Drive-throughs are not permitted for restaurant, bakery, or other food or beverage service uses

(Ord. No. 293-88, 4-4-88; Ord. No. 39-96, § 2, 10-7-96; Ord. No. 125-97, § 6, 3-3-97; Ord. No. 164-97, § 2, 12-1-97; Ord. No. 25, 7-07-99: emergency enactment of 120-day moratorium, effective 7/07/99 thru 11/04/99; Ord. No. 94A, 11-01-99: emergency enactment of 44-day extension of moratorium enacted on 7-07-99, effective date 11/01/99 thru 12/15/99; Ord. No. 94-99, 11-15-99; Ord. No. 118-00, 11-20-00; Ord. No. 151-03/04, 02/23/04; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 244-09/10, 6-21-10; Ord. No. 283-09/10, 7-19-10 emergency passage; Ord. 10 10/11, 8-2-10; Ord. No. 279-09/10, 6-6-11; Ord. No. 33-11/12, 1-18-12; Ord. No. 113-11/12, 2-22-12; Ord. No. 41-12/13, 9-5-12; Ord. No. 263-13/14, 6-16-14; Ord. 90-14/15, 11-17-2014; Ord. 100-15/16, 11-16-2015; Ord. 159-16/17, 3-20-2017; 140-18/19, 2-20-2019; Ord. No. 162-18/19, 12-16-2019)
)

Sec. 14-183. Conditional uses.

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

- (a) "A" group conditional uses. Notwithstanding section 14-474(a) of this article or any other provision of this code, the Planning Board shall be substituted for the Board of Appeals as the reviewing authority and shall apply the following standards in addition to the provisions of section 14-474:
 - 1. Signs: Signs shall not adversely affect visibility at intersections or access drives. Such signs shall be constructed, installed and

maintained so as to ensure the safety of the public. Such signs shall advertise only services or goods available on the premises.

2. Circulation: No ingress and egress driveways shall be located within thirty (30) feet from an intersection. No entrance or exit for vehicles shall be in such proximity to a playground, school, church, other places of public assembly, or any residential zone that the nearness poses a threat or potential danger to the safety of the public.
3. Conditions specific to major or minor auto service stations, car washes and automobile dealerships:
 - a. A landscaped buffer, no less than 5 feet wide, shall be located along street frontages (excluding driveways). The buffer shall consist of a variety of plantings in accordance with the City of Portland Technical Manual; and
 - b. Car washes shall be designed to avoid the tracking of residual waters into the street.
4. Reserved.
5. Reserved.
6. Drive-throughs: Notwithstanding section 14-474(a) of this article or any other provision of this code, the Planning Board shall be substituted for the Board of Appeals as the reviewing authority and shall apply the following standards in addition to the provisions of section 14-474:
 - a. Location of Drive-throughs: Drive-throughs are only permitted in buildings of 3 or more stories where a majority of the upper stories is devoted to 3 or more dwelling units. The drive-through shall be screened as much as practical from the front of the building and shall be no closer than 40 feet from abutting residential zones and 25 feet from the street line. Adequate stacking

capacity much be provided on site without impeding vehicular circulation or creating hazards to pedestrian or vehicle circulation on or off site.

- b. Noise: Any speakers, intercom systems, or other audible means of communication shall not play prerecorded messages. Any speakers, intercom systems, audible signals, computer prompts, or other noises generated by the drive-through services or fixtures shall not exceed 55 dB or shall be undetectable above the ambient noise level as measured by a noise meter at the property line, whichever is greater.
- c. Lighting: Drive-through facilities shall be designed so that site and vehicular light sources shall not unreasonably spill over or be directed onto adjacent residential properties and shall otherwise conform to the lighting standards set forth in 14-526.
- d. Screening and Enclosure: Where automobiles may queue, waiting for drive-through services, their impacts must be substantially mitigated to protect adjacent residential properties from headlight glare, exhaust fumes, noise, etc. As deemed necessary by the reviewing authority, mitigation measures shall consist of installation of solid fencing with landscaping along any residential property line which is exposed to the drive-through or the enclosure of the drive-through fixtures and lanes so as to buffer abutting residential properties and to further contain all associated impacts; and
- e. Pedestrian access: Drive-through lanes shall be designed and placed to minimize crossing principal pedestrian access-ways or otherwise impeding pedestrian access.
- f. Hours of Operation: The Board, as part of its review, may take into consideration the impact hours of operation may have on

adjoining uses.

(b) "M" group conditional uses: Notwithstanding section 14-474(a) of this article or any other provision of this code, the Planning Board shall be substituted for the Board of Appeals as the reviewing authority and shall apply the following standards in addition to the provisions of section 14-474:

1. Traffic circulation: The site shall have an adequate traffic circulation pattern designed to avoid hazards to vehicular circulation on adjoining streets. All stacking of motor vehicles shall be on site, and loading facilities shall be located to the rear of the building and shall not be visible from the street; and
2. Building and site design: The exterior design of the structures, including architectural style, facade materials, roof pitch, building form, established setbacks and height, shall be of a commercial rather than industrial character. The site shall contain screening and landscaping which shall meet the requirements of section 14-526 for screening between land uses and the City of Portland Technical Manual.

(c) Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the same conditional use standards as listed in Section 14-163 for temporary wind anemometer towers are met in addition to Sec 14-430.

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

(Ord. No. 293-88, 4-4-88; Ord. No. 16-92, 6-15-92; Ord. No. 39-96, § 3, 10-7-96; Ord. No. 25, 7-07-99: emergency enactment of 120-day moratorium, effective 7/07/99 thru 11/04/99; Ord. No. 94A, 11-01-99: emergency enactment of 44-day extension of moratorium enacted on 7-07-99, effective date 11/01/99 thru 12/15/99; Ord. No. 94-99, 11-15-99; Ord. No. 151-03/04, 02-23-04; Ord. No. 29-09/10, 8-3-09, emergency passage; Ord. No. 276 -09/10, 7-19-10; Ord. No. 278-09/10, 7-19-10; Ord. No. 10 10/11, 8-2-10; Ord. No. 33-11/12, 1-18-12; Ord. 90, 11-17-2014; Ord. 159-16/17, 3-20-2017; Ord. No. 162-18/19, 12-16-2019)

Sec. 14-184. Prohibited and Performance-based uses.

Uses not expressly permitted as provided in section 14-182 and

14-183 are prohibited unless the use may be permitted subject to meeting the following performance-based conditions and standards:

- (a) The proposed use is consistent with the purposes of this zone;
- (b) The proposed use is similar to a permitted use; and
- (c) The proposed development is designed and operated so that it will prevent undue adverse environmental impacts, substantial diminution of the value or utility of neighboring structures, or significant hazards to the health or safety of neighboring residents by controlling noise levels, emissions, traffic, lighting, odor, and any other potential negative impacts of the proposal.

The Planning Authority shall determine whether the uses not listed as permitted or conditional uses meet the above conditions and standards. The Planning Authority may impose reasonable conditions of approval on the proposed use to ensure that it is similar in character and impact to a use on the table.

If it is determined that the use does not meet the above criteria, it shall not be permitted. The determination of the Planning Authority may be appealed within 30 days of the written determination by the property owner, lessee of the space, or property owner within 100 feet of the proposed use. That appeal shall be heard by the Planning Board in a public hearing.

(Ord. No. 293-88, 4-4-88; Ord. 159-16/17, 3-20-2017)

Sec. 14-185. Dimensional requirements.

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

Minimum Lot Size	None
Minimum Street Frontage	20 feet
Front Yard Setback Minimum	None
Rear Yard Setback Minimum	10 feet, except as provided for below: a. 5 feet for accessory structures

Side Yard Setback Minimum	None required, except as provided for below: a. 5 feet for accessory structures
Side Yard on Side Street Setback Minimum	None
Front Yard Maximum 1, 2	No more than 10 feet, except that the Planning Board or Planning Authority may approve a different amount for irregularly shaped lots or lots with frontage less than 40 feet provided this standard is met to the maximum extent practicable. 3
Structure Stepbacks	Portions of a structure above 35 feet shall be no closer than 5 feet from the side property line and no closer than 15 feet from the rear property line when such property line abuts a residential zone.
Height maximum	45 feet except as provided for below: a. 50 feet if first floor is partially or wholly occupied by a commercial use. b. 65 feet in B-2 and B-2c zones on lots >5 acres provided that all setbacks, except for front yard setbacks and side yard on side street setbacks, increase by 1 foot for each foot of height over 45 feet. c. 65 feet within 65 feet of Franklin St.
Maximum Impervious Surface Ratio	a. For residential uses: None b. For all other permitted uses: 80% in B-2 and B-2c c. For all other permitted uses: 90% in B-2b
Minimum Lot Area per Dwelling Unit	a. Off-peninsula locations, as defined in section 14-47: 1,500 square feet, except as provided for in (b) below. b. On-peninsula locations (as per 14-47) and projects with active street frontages, as defined in section 14-188, below: 435 square feet.

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

(Ord. No. 293-88, 4-4-88; Ord. No. 52-96, § 2, 7-15-96; Ord. No. 94-99, 11-15-99; Ord. No. (Substitute)189-00, §3, 4-24-00; Ord. No. 151-03/04, 02/23/04; Ord. No. 244-09/10, 6-21-10; Ord. No. 41-12/13, 9-5-12; Ord. No. 163-13/14, 6-16-14; Ord. 90-14/15, 11-17-2014; Ord. 159-16/17, 3-20-2017)

Sec. 14-186. Other requirements.

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

- (a) Landscaping and screening: The site shall be suitably landscaped for parking, surrounding uses and accessory site elements, including storage and solid waste receptacles where required by article IV (subdivisions) and article V (site plan).
- (b) Curbs and sidewalks: Curbs and sidewalks as specified in article VI of chapter 25.
- (c) Off-street parking and loading: Off-street parking and loading are required by division 20 and division 21 of this article;
- (d) Front yard parking:

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

may be located between the principal structure and the street.

- (e) Signs: Signs shall be subject to the provisions of division 22 of this article.
- (f) Exterior storage: There shall be no exterior storage with the exception of fully enclosed containers or receptacles for solid waste disposal. Such containers or receptacles shall be shown on the approved site plan. Vehicles or truck trailers with or without wheels shall not be used for on-site storage (1) except where such storage is located in a designated loading zone identified on an approved site plan; or (2) such storage is not visible from the street or adjacent residences during winter months and such storage area is identified on an approved site plan. Truck load sales shall not be considered outside storage provided that such activity does not extend beyond three (3) consecutive days nor occurs more frequently than three (3) times a calendar year.
- (g) Storage of vehicles: Storage of vehicles is subject to the provisions of section 14-335.
- (h) Shoreland and flood plain management regulations: If the lot is located in a shoreland zone or in a flood hazard zone, then the requirements of division 26 and/or division 26.5 apply.

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

Sec. 14-187. External effects.

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

- (a) Enclosed structure: The use shall be operated within a completely enclosed structure except for those specific open air activities licensed by the City, including but not limited to outdoor seating, sidewalk sales, etc.
- (b) Noise: Except as provided in 14-183(1)(iii)(2) (relating to Drive-throughs), the volume of sound, measured by a sound level meter with frequency

weighting network (manufactured according to standards prescribed by the American Standards Association), generated shall not exceed sixty (60) decibels on the A scale between 7:00 a.m. and 9:00 p.m. and fifty-five (55) decibels on the A scale between 9:00 p.m. and 7:00 a.m., on impulse (less than one (1) second), at lot boundaries, excepting air raid sirens and similar warning devices.

- (c) Vibration and heat: Vibration inherently and recurrently generated and heat shall be imperceptible without instruments at lot boundaries.
- (d) Glare, radiation or fumes: Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.
- (e) Smoke: Smoke shall not be emitted at a density in excess of twenty (20) percent opacity level as classified in Method 9 (Visible Emissions) of the Opacity Evaluation System of the U.S. Environmental Protection Agency.
- (f) Materials or wastes: No materials or wastes shall be deposited on any lot in such form or manner that they may be transferred beyond the lot boundaries by natural causes or forces. All material which might cause fumes or dust, or constitute a fire hazard if stored out-of-doors, shall be only in closed containers. Areas attracting large numbers of birds, rodents or insects are prohibited.

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

Sec. 14-188. Active street frontages

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

(Ord. No. 263-13/14, 6-16-14)

Sec. 14-189.- 14-195. Reserved.

DIVISION 11. A-B AIRPORT BUSINESS ZONE*

*Editor's note—Ord. No. 295-88, adopted Apr. 4, 1988, repealed §§ 14-196–14-202 of Div. 11, A-B Business Zone, of this article and enacted in lieu thereof similar new provisions as set out in §§ 14-196–14-202. Formerly, such sections derived from §§ 62.9A.A–602.9A.G of the city's 1968 Code and from Ord. No. 348-71, § 2, adopted Aug. 2, 1971; Ord. No. 499-74, § 4, adopted Aug. 19, 1974; Ord. No. 334-76, § 6, adopted July 7, 1976; and Ord. No. 275-77, adopted May 16, 1977.

Sec. 14-196. Purpose.

The purpose of the A-B airport business zone is:

To provide an area for the development of airport-related enterprises. Appropriate uses permitted in this district are those customarily associated with the operation of the airport terminal and individual airlines and accessory uses to provide for the comfort and convenience of the airport's patrons and employees.

(Ord. No. 295-88, 5-23-88)

Sec. 14-197.1. Permitted uses.

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

- (a) Administration;
- (b) Airline terminal including, but not limited to:
 - 1. Administration;
 - 2. Concessions including, but not limited to, newsstands, florists, pharmacies and sundries, parcel storage, insurance sales, vending machines and video games;
 - 3. Reservations and ticket sales;
 - 4. Air freight operations;
 - 5. Travel agency;

6. Physical plant service, repair and storage;
 7. Cocktail lounges; and
 8. Public waiting area.
- (c) Charter flight service;
 - (d) Airport carrier operations, including ground support and fueling;
 - (e) Aircraft and aircraft accessory sales and services;
 - (f) Flying school;
 - (g) Ground transportation;
 - (h) Car rental operations, including vehicle storage;
 - (i) Hotel or motel;
 - (j) Restaurant, coffee shop;
 - (k) Bank;
 - (l) Parking lots and garages; and
 - (m) Accessory buildings and uses, including use of temporary structures within the boundaries of the Portland International Jetport for not longer than five (5) years, provided the owner demonstrates to the planning authority the intention and ability to discontinue or replace the temporary use with a permanent structure within five (5) years.
 - (n) Wind energy systems, as defined and allowed in Article X, Alternative Energy.
- (Ord. No. 295-88, 5-23-88; Ord. No. 33-11/12, 1-18-12)

Sec. 14-197.2. Conditional uses.

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

- (a) Temporary wind anemometer towers, as defined in section 14-47, are permitted provided the following standards are met in addition to section 14-430:
1. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a certificate of occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
 2. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the board of appeals with the application; and
 3. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
 4. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the board of appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
 5. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to corporation counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
 6. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
 7. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and

8. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the city, of 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. 33-11/12, 1-18-12)

Sec. 14-198. Prohibited uses.

Uses not expressly enumerated in section 14-197 as permitted uses are prohibited.

(Ord. No. 295-88, 5-23-88)

Sec. 14-199. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, uses in the A-B zone shall meet the following:

- (a) *Minimum lot size:* Twenty thousand (20,000) square feet.
- (b) Minimum street frontage: Fifty (50) feet, except as described in section 14-201(b).
- (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.)

1. Front yard:

Principal or accessory structures: None, except that every property having frontage on Westbrook Street shall have a minimum front yard of twenty (20) feet.

2. Rear yard:

- a. Principal or accessory structures: None,

except where a rear yard abuts a residence zone or use, in which case it must be fifty (50) feet. No structure may extend beyond the building line established for any runway or taxiway. If provided, rear yards must not be less than five (5) feet in width.

3. Side yard:

Principal or accessory structures: None, except where a side yard abuts a residential zone or use, in which case it must be twenty-five (25) feet in width. If provided, side yards must not be less than five (5) feet in width.

(d) *Minimum lot width:* Fifty (50) feet.

(e) Maximum structure height: Seventy-five (75) feet, except within one hundred (100) feet of the private property line on Westbrook Street or within one hundred (100) feet of the boundary of the A-B airport business zone in which the height limit shall be forty-five (45) feet. No structure or tree, however, shall be erected, altered, allowed to grow or maintained to a height in excess of that allowed by applicable Federal Aviation Administration (FAA) regulation.

(f) *Maximum impervious surface ratio:* Seventy (70) percent.
(Ord. No. 295-88, 5-23-88)

Sec. 14-200. Other requirements.

In addition to the above, the following requirements are applicable to all uses in the A-B zone:

- (a) Landscaping and screening: The site shall be suitably landscaped for parking, surrounding uses and accessory site elements, including storage and solid waste receptacles where required by article IV (subdivisions) and article V (site plan).
- (b) Curbs and sidewalks: Curbs and sidewalks as specified in article VI of chapter 25.
- (c) Off-street parking and loading: Off-street parking and loading are required as provided in division 20 and

division 21 of this article.

- (d) Signs: Signs shall be subject to the provisions of division 22 of this article. Temporary freestanding advertising signs are not permitted.
- (e) Exterior storage: There shall be no exterior storage within the district, with the exception of receptacles for solid waste disposal. Such receptacles shall be shown on the approved site plan.
- (f) Storage of vehicles: Storage of vehicles is permitted as provided in section 14-335.
- (g) Shoreland and flood plain management regulations: If the lot is located in a shoreland zone or a flood plain zone, the requirements of division 26 and/or division 26.5 apply.

(Ord. No. 295-88, 5-23-88)

Sec. 14-201. Special provisions as to restricted access areas.

(a) Runways, taxiways and other areas of the jetport accessible to aircraft, whether access is restricted by the Federal Aviation Administration or not, shall be known as "restricted access areas" and must be subject to the special provisions of this section.

(b) Lots in restricted access areas shall not be subject to the provisions of section 14-199(b) and (f) as to frontage and maximum impervious surface ratio; and shall not be subject to the provision of section 14-200(a) landscaping or the requirements of section 14-202.

(c) Use of lots in restricted access areas shall be limited to uses which do not require or encourage access or visits by the public and which provide technical administrative or other support to airport operations.

(Ord. No. 295-88, 5-23-88)

Sec. 14-202. External effects.

(a) *Reserved.*

(b) Enclosed structure: The use shall be operated within a completely enclosed structure, except for those customarily operated in the open air.

(c) 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, on impulse (less than one (1) second at lot boundaries), excepting air raid sirens and similar warning devices.

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

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

(f) Smoke: Smoke shall not be emitted at a density in excess of forty (40) percent opacity level as classified in Method 9 (Visible Emissions) of the Opacity Evaluation System of the U.S. Environmental Protection Agency.

(g) Materials or wastes: No materials or wastes shall be deposited on any lot in such form or manner that they may be transferred beyond the lot boundaries by natural causes or forces. All materials which might cause fumes or dust, or constitute a fire hazard if stored out-of-doors, shall be only in closed containers. Areas attracting large numbers of birds, rodents or insects are prohibited.
(Ord. No. 295-88, 5-23-88)

Sec. 14-203 - Sec. 14-215. Reserved.

DIVISION 12. B-3, B-3b AND B-3c DOWNTOWN BUSINESS ZONES*

***Editor's note**—Ord. No. 241-91, adopted Mar. 11, 1991, repealed former Div. 12 of this article, §§ 14-216–14-221, relative to B-3 and B-3b Business Zones, and enacted new provisions in lieu thereof as Div. 12, §§ 14-216–14-221.1. Formerly, Div. 12 derived from §§ 602.10.A–602.10.F of the city's 1968 Code as amended by the following legislation:

Ord. No.	Section	Date	Ord. No.	Section	Date

452-72	2	7-17-72	364-88		5- 4-88
499-74	5	8-19-74	294-88		5-23-88
344-76	6	7- 7-76	34-89		6-28-89
429-83	1	4-25-83	153-89	2-7	11-20-89
173-87	1	3- 4-87	235-91	16	2- 4-91

Cross reference(s)—Public arts program, § 14-851 et seq.; relocation of displaced tenants, § 14-861 et seq.

Sec. 14-216. Purpose.

(a) The purposes of the B-3 and B-3b downtown business zones are to:

- (1) Maintain and enhance the role of the downtown as the business and commercial center of the region;
- (2) Enhance and promote the orderly expansion of retail and service businesses downtown, satisfying the related needs of the city's resident, working and visitor populations;
- (3) Encourage increased housing opportunity downtown for a diverse residential population;
- (4) Enhance the pedestrian environment through the encouragement of intensive mixed-use activities, through the enhancement and maintenance of public and private open space, and through the enlivenment and increased attractiveness of the street environment;
- (5) Encourage excellence in urban design;
- (6) Preserve and capitalize on the unique character and historic fabric of the downtown through the encouragement of reuse of significant existing structures;
- (7) Provide opportunity for an enhanced presence and integration of the arts and cultural activities downtown;

- (8) Reinforce the role of the downtown as a meeting place for community residents and visitors alike from all walks of life and all socio-economic groups;
- (9) Provide adequate parking and transportation facilities which promote accessibility, enhance and encourage development opportunity, and enhance and protect the pedestrian environment;
- (10) In the pedestrian activities district (PAD) overlay zone, create continuity of pedestrian-oriented uses along streets where such uses predominate and along streets which, over time, will establish and maintain a strong retail and pedestrian-oriented use pattern; and
- (11) Provide for the relocation of residents who are displaced by development.

(b) The B-3c downtown business zone recognizes that the business uses appropriate in this zone are constrained by the proximity of multi-unit elderly housing. In addition to the purposes of the B-3 and B-3b zones, the purpose of the B-3c zone is to promote the safety, quiet enjoyment, and general welfare of citizens residing in a dense urban neighborhood by decreasing the conflicts between residential uses and loud, uncontrolled late night activities.

(Ord. No. 241-91, 3-11-91; Ord. No. 46-97, § 2, 8-4-97)

Sec. 14-217. Permitted uses.

(a) The following uses are permitted in the B-3, B-3b and B-3c zones:

1. *Residential:*

- a. Attached single-family, two-family and multifamily dwellings;
- b. Handicapped family units;
- c. Lodging houses;
- d. Combined living/working spaces including, but not limited to, artist residences with studio space.

2. *Business:*

- a. General and business offices;
- b. Professional offices;
- c. Personal services;
- d. Offices of building tradesmen;
- e. Retail establishments, excluding gasoline sales, wholesale and bulk purchase lumber and construction supply sales;
- f. Restaurants, excluding drive-through or drive-in restaurants;
- g. Drinking establishments, except that drinking establishments and chemical-free night clubs, as defined in section 14-47, shall not be permitted in any location in the B-3c zone, including but not limited to the PAD overlay area;
- h. Billiard parlors;
- i. Miscellaneous repair services, excluding motor vehicle repair services;
- j. Communication studios or broadcast and receiving facilities;
- k. Health clubs and gymnasiums;
- l. Theaters and performance and exhibition halls;
- m. Convention and meeting facilities;
- n. Hotels;
- o. Business services;
- p. Parking garages;
- q. Galleries;
- r. Registered dispensary;
- s. Marijuana retail store;

- t. Small-scale marijuana caregiver.

3. *Institutions:*

- a. Museums;
- b. Public or private schools of any type;
- c. Clinics;
- d. Places of assembly;
- e. College, university, trade school;
- f. Nursery schools, kindergartens, and day care facilities or home babysitting services.
- g. Governmental offices. As used in this section, governmental office means a place of business of a federal, state, count or municipal governmental entity when professional or clerical duties are performed, including but not limited to back office uses as defined in Section 14-47 and judicial functions.

4. *Other:*

- a. County and municipal uses;
- b. Studios for artists and craftspeople including, but not limited to, carpenters, cabinetmakers and silk screeners;
- c. Printing, publishing and related manufacture of cardboard or paper boxes, provided that these activities are conducted wholly within a building.
- d. Bed and breakfast, subject to the standards of article V (site plan), sections 14-522a nd 14-523 not withstanding. A bed and breakfast may include a meeting facility if the facility meets the following standards:
 - i. The meeting facility shall be limited to the following types of uses:

- (a) Private parties.
 - (b) Business meetings.
 - (c) Weddings.
 - (d) Receptions.
 - (e) Seminars.
 - (f) Business and educational conferences.
- ii. The building in which the bed and breakfast and the meeting facility will be located was in existence on March 3, 1997, and was greater than four thousand (4,000) square feet in floor area on that date.
- e. Hostels, provided the applicant submits a site plan and operations plan demonstrating compliance with the following conditions:
 - i. All applicable provisions of Article V of this chapter shall be met.
 - ii. Parking shall be provided in compliance with Division 20 of this Article.
 - iii. No unaccompanied minors under the age of eighteen (18) shall be permitted in the facility.
 - iv. The length of stay for transient guests shall not exceed fifteen (15) days out of any sixty-day period.
 - v. The building shall meet the applicable occupant load requirements as defined by the International Building Code and the NFPA Life Safety Code, as such codes are amended or adopted by the city.
 - f. Wind energy systems, as defined and allowed in Article X, Alternative Energy.
- (b) The following additional restrictions shall apply in the PAD overlay zone, which shall be located on the streets

listed below and as further delineated on the [PAD overlay zone](#) map, a copy of which is on file in the office of planning and urban development:

Center Street, from Fore Street to Commercial Street.

Commercial Street, north side, from Foundry Lane to Pearl Street.

Commercial Street, south side, from Carroll Block to Thomas Block, inclusive.

Congress Street, from Longfellow Square to Monument Square.

Dana Street.

Exchange Street, from Federal Street to Fore Street.

Fore Street, north side, from one hundred ten (110) feet west of Center Street to two hundred seventy-five (275) feet west of Pearl Street.

Fore Street, south side, from Center Street to Pearl Street.

Free Street, north side, from Congress Square to Temple Street.

Free Street, south side, from Congress Square to four hundred twenty-three (423) feet east of Oak Street and from Center Street to Temple Street.

Middle Street, north side, from Monument Square to sixty (60) feet east of Garden Lane.

Middle Street, south side, from Monument Square to two hundred fifty (250) feet east of Pearl Street.

Milk Street, from Exchange Street to Pearl Street.

Moulton Street.

Pearl Street, from Middle Street to Fore Street.

Wharf Street.

York Street, south side, from Center Street to Dunphy's

Frontages of the following areas: Longfellow, Congress, and Monument Squares; Tommy's and Post Office Parks.

1. *Ground floor uses:*

- a. Subject to the following limited uses, at least seventy-five (75) percent of the street level frontage of a building on a street located within the PAD overlay zone must be utilized, and, at minimum, the floor area to be occupied shall be seventy-five percent (75%) of the street level frontage multiplied by a twenty (20) foot depth:
 - i. Retail establishments as permitted in 14-217(a)(2)e;
 - ii. Personal services;
 - iii. Hotels;
 - iv. Copying centers;
 - v. Restaurants as permitted in 14-217(a)(2)f;
 - vi. Drinking establishments;
 - vii. Theaters, provided that only ticket and refreshment sales, lobbies, lounges and entrances shall be located within this area;
 - viii. Travel agencies;
 - ix. Real estate sales;
 - x. Visitor information services;
 - xi. Museums;
 - xii. Libraries;
 - xiii. Banks, financial and other business services, provided that only tellers and spaces primarily used for customer services shall be located in this area;

- xiv. Municipal or county uses;
- xv. Galleries and studios for artists and craftspeople including, but not limited to, carpenters, cabinetmakers and silk screeners;
- xvi. Performing arts studios which attract and allow for public, pedestrian observation from the adjacent sidewalks (including dance studios, music conservatories, and the like);
- xvii. Other uses where the applicant can demonstrate to the zoning administrator that the proposed use will not differ substantially from a required ground floor retail use in its effect on the continuity of pedestrian-oriented use and that the proposal establishes a ground floor use that generates pedestrian interest and activity.

For those buildings which have frontage on more than one (1) street located within the PAD overlay zone, the street level area of each such frontage shall meet the above requirements.

- b. For those buildings which have forty (40) feet or less of frontage on a street within the PAD overlay zone, the above restrictions shall be reduced to fifty (50) percent of the frontage where required to accommodate a service entrance. For buildings which have frontage on more than one (1) street located within a PAD overlay zone, only one (1) such frontage shall be permitted to reduce the required retail area to fifty (50) percent of the frontage.
- c. In no event shall any required retail frontage area be used for any of the following:
 - i. Storage;
 - ii. Service entrances, including loading docks, dumpsters and compactors, except as provided in subsection b; or

- iii. Food preparation areas, unless such preparation areas are visually oriented toward pedestrians on streets located within a PAD overlay zone.

(Ord. No. 241-91, 3-11-91; Ord. No. 200-95, § 1, 3-20-95; Ord. No. 126-97, § 7, 3-3-97; Ord. No. 46-97, § 3, 8-4-97; Ord. No. 226-98, §§ 1, 2, 3-2-98; Ord. No. 51-00, §2, 8-7-00; Ord. No. 205-06/07, 6-4-07; Ord. No. 226-07/08, 5-19-08; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 283-09/10 emergency passage; Ord. No. 10-10/11, 8-2-10; Ord. No. 279-09/10, 6-6-11; Ord. No. 33-11/12, 1-18-12; Ord. No. 113-11/12, 2-22-12; 140-18/19, 2-20-2019)

***Editor's Note:** Pursuant to Order 164-06/07 passed on April 4, 2007 Section 14-217.5 (*Old Port Overlay Zone*) was repealed in its entirety and Division 19.8 (*Downtown Entertainment Overlay Zone*) was enacted.

***Editor's Note:** Pursuant to Order No. 48-06/07 passed on September 18, 2006 Section 14-217.6 (Moratorium on Formula Restaurants in Old Port Historic District and Arts District) expired on November 19, 2006.

Sec. 14-218. Conditional uses.

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

1. Ground floor uses in the mandated pedestrian-oriented use area of the PAD overlay zone: Any use permitted in the B-3 and B-3b zone, provided that such uses shall meet the following conditions and standards:
 - a. The applicant can prove by competent evidence (including but not limited to reliable documentation of advertising, real estate brokerage efforts, and other sales mechanisms) that the space has been actively marketed for permitted uses in the PAD overlay zone for a period of six (6) months and that it has been unable to market the space for a permitted use in accordance with section 14-217(b)(1); and
 - i. For existing structures, evidence that the

space has been actively marketed for permitted uses for a period of six (6) months and, in the case of new construction, evidence that the space has been actively marketed and available for use for a period of six (6) months; and

- ii. Evidence of market, advertising, or real estate brokerage efforts to attract permitted uses.
- b. The approval of any conditional use under this section shall be for the specific tenant proposed for the conditional use approval and shall not run with the space to subsequent tenants. A conditional use approval shall expire at the end of each tenant's use, and a new approval shall be required for new tenants. However, where a conditional use has been approved under this subsection and the term of the effected tenancy is five (5) years or less, the tenant may sublet the area for the approved conditional use which approval may run with said lease but may not be extended without review by the planning authority; and
- c. The planning authority may impose reasonable conditions concerning the design, appearance, use and extent of use of the space along the street frontage to ensure maximum pedestrian compatibility and interest; and
- d. Notwithstanding the above, the Planning Board zoning board of appeals may authorize a reduction in the percentage of required ground floor pedestrian-oriented uses where the physical limitations of an existing building so require. Any such reduction shall be the least necessary to provide relief and shall include mitigating design factors.

The Planning Board shall adopt rules and regulations governing the planning authority's review of an applicant's marketing efforts under this subsection.

An appeal to the Planning Board shall be had from

the planning authority's written decision under this subsection. Such appeal shall be filed no later than thirty (30) days from the planning authority's decision.

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

1. Utility substations, such as water and sewage pumping stations and standpipes, electric power substation transformer stations, and telephone electronic equipment enclosures and other similar structures, provided that such uses are suitably located, screened and landscaped so as to ensure compatibility with the surrounding neighborhood.
2. Drive-up banking services, provided that drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street line. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicular or pedestrian circulation on adjoining streets. Such uses shall also be in compliance with the applicable standards contained in the Downtown Urban Design Guidelines, a copy of which is on file in the department of planning and urban development. No other type of drive-up use shall be permitted.
3. Light industrial uses, subject to the following requirements:
 - a. The use shall not include any use prohibited in the I-L zone;
 - b. Glare, radiation, fumes or smoke shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries;
 - c. The floor area devoted to industrial use shall not exceed ten thousand (10,000) square feet; for a building in existence on March 11, 1991, the floor area shall not exceed ten thousand (10,000)

square feet or fifty (50) percent of the total floor area, whichever is greater;

- d. The use shall be operated within a completely enclosed structure;
- e. No materials or wastes shall be deposited on any lot in such form or manner that they may be transferred beyond the lot boundaries by natural causes or forces. All materials which might cause fumes or dust or constitute a fire hazard if stored out-of-doors shall be stored only in closed containers. Areas attracting large numbers of birds, rodents or insects are prohibited;
- f. All truck parking and loading shall be accommodated off-street;
- g. The associated vehicular loading, unloading, parking, circulation and traffic volumes on the site and on adjacent public streets will not have a more intensive impact than any use on the site within the last five (5) years;
- h. Any buildings located in a PAD overlay zone shall be subject to the requirements of that zone in addition to the requirements of this section.

The following additional requirements shall apply to buildings that either were not in existence on March 11, 1991, or were in existence on that date but were either in use for any use set forth in section 14-217(a) subsections (1), (2) or (3) or were designed or constructed for any such use:

- i. No tractor-trailer trucks or longer vehicles shall be associated with the proposal;
 - ii. The proposal shall exclude warehousing and storage as a principal use;
 - iii. The use shall not generate more than six (6) delivery or service trips per day between 7:00 a.m. and 7:00 p.m.
4. Emergency shelters, subject to the following conditions, in addition to the provisions of section 14-474 and the

use specific standards of Section 14-474(c)3.

5. Surface parking provided that:

- a. In the case of lot undergoing level I or level II site plan review, no new surface parking spaces, parking aisles, or vehicle lanes shall be allowed within thirty-five (35) feet of any street, except for driveway(s) located perpendicular to the street and providing access to the site;
- b. In the case of a lot undergoing level III site plan review, no new or existing surface parking spaces, parking aisles, or vehicle lanes shall be allowed within thirty-five (35) feet of any street, except for driveway(s) located perpendicular to the street and providing access to the site; and
- c. No surface parking spaces shall be encumbered by lease or other use commitment exceeding twenty-four (24) month term.

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

1. Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:
 - a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
 - b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and
 - c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower

height; and

- d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
- e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
- f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
- g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
- h. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

(Ord. No. 241-91, 3-11-91; Ord. No. 36-93, 7-7-93; Ord. No. 46-97, § 4, 8-4-97; Ord. No. 51-00, §3, 8-7-00; Ord. No. 205-06/07, 6-4-07; Ord. No. 29-09/10, 8-3-09, emergency passage; Ord. No. 278-09/10, 7-19-10; Ord. No. 252-16/17, 6-5-2017)

***Editors Note:** Section 14-218(b)(5), subparagraphs a-c shall apply to all applications filed on or after February 13, 2007

Sec. 14-219. Prohibited uses.

Uses not enumerated in sections 14-217 and 14-218 as either

permitted uses or conditional uses are prohibited.
(Ord. No. 241-91, 3-11-91)

Sec. 14-220. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the B-3, B-3b and B-3c zones shall meet the following requirements:

- (a) Minimum lot size: None.
- (b) Minimum street frontage: Fifteen (15) feet.
- (c) Street wall build-to line: All buildings or structures shall be located within five (5) feet of the property line along street frontages, unless the Planning Board requires or approves an additional distance to comply with the requirements of section 14-526 (d)9 and the City of Portland Design Manual.
- (d) Minimum yard dimensions: None required.
- (e) Minimum lot width: None required.
- (f) Maximum length of undifferentiated blank wall along a public street or publicly accessible pedestrian way:
 - 1. [PAD overlay zone](#): Fifteen (15) feet.
 - 2. All other areas: Thirty (30) feet.
- (g) Maximum lot coverage: One hundred (100) percent.
- (h) Minimum building height: No new construction of any building shall be less than thirty-five (35) feet in height within fifty (50) feet of any street frontage, except that this provision shall not apply to:
 - 1. Accessory building components and structures such as truck loading docks covered parking, mechanical equipment enclosures and refrigeration units.
 - 2. Information kiosks and ticketing booths.
 - 3. Public transportation facilities of less than 10,000 square feet, or additions of less than

5000 square feet to existing public transportation facilities provided that the cumulative additions as of June 4, 2007 do not exceed 10,000 square feet.

4. Additions to buildings existing as of June 4, 2007 provided that the cumulative additions since June 4, 2007 do not exceed ten percent (10%) of the building footprint on June 4, 2007, except building additions on those portions of the lot located closer to the street line than the building footprint existing as of June 4, 2007 shall not be included in this 10% limitation.
5. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures.
6. Additions to and/or relocation of designated historic structures or structures determined by the historic preservation committee to be eligible for such designation.
7. Parking attendant booths or bank remote teller facilities.
8. Structures accessory to parks and plazas.
9. Buildings or building additions of less than 2,500 square feet footprint, on lots or available building sites of less than 3,000 square feet.

(i) Maximum height of structures:

1. The overall maximum permitted height of structures shall be as depicted on the [downtown height overlay map](#), a copy of which is on file in the department of planning and urban development.
2. Maximum height along street frontages and minimum step-back dimensions shall be as depicted on the downtown maximum street wall height and minimum step-back map, a copy of which is on file in the department of planning and urban development.

3. Where the [downtown height overlay map](#) depicts a height plus forty (40) feet, the building form may extend up to forty (40) feet above the designated height limit for the purpose of providing a distinctive graduated design for an architectural building top and to enclose rooftop appurtenances as required by section 14-526(d) 9 of article V (site plan) and the City of Portland Design Manual. No habitable floor area shall be developed within the building envelope permitted by the additional forty (40) feet, unless at least fifty (50) percent of such habitable floor area is devoted exclusively to one (1) or more publicly accessible uses, such as eating or drinking establishments, an observatory, community meeting rooms or halls available to the public or such other uses that make reasonable accommodation for public use at reasonable times, on a nonmembership basis at no cost or at a cost that will not exclude use by the general public, and provided that such floor area is incidental to the primary design intent of the space to achieve the standards of this section. Notice of such public use and how it may be accessed by the general public must be given on the first floor of the building in a manner reasonably located to inform the general public of the availability of the public use.
- (j) Maximum building area and floor area for buildings which exceed one hundred twenty-five (125) feet in height:
1. For portions of structures which exceed one hundred twenty-five (125) feet in height, the maximum horizontal building coverage at one hundred twenty-five (125) feet or higher shall not exceed twenty-five (25) percent of the site area, except that no floor area shall be required to be less than ten thousand (10,000) square feet.
 2. The maximum gross floor area for each floor located above one hundred twenty-five (125) feet in height shall not exceed fifteen thousand (15,000) square feet.

- (k) [Uses in PAD overlay zone:] All uses established in the PAD overlay zone shall meet the requirements of section 14-526(a)(16).

(Ord. No. 241-91, 3-11-91; Ord. No. 46-97, § 5, 8-4-97; Ord. No. 205-06/07, 6-4-07; Ord. No. 278-09/10, 7-19-10)

Sec. 14-221. Other requirements and standards.

(a) Downtown urban design guidelines: All development as defined in article V, all building and site alterations, and all provision of landscaping or other pedestrian amenities shall be consistent with the Downtown Urban Design Guidelines. Amendments to the Downtown Urban Design Guidelines may be made by the Planning Board and shall be filed with the city clerk. Such amendments shall become effective forty-five (45) days after the date of filing with the city clerk, unless vetoed in whole or in part by the city council within that time.

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

(c) Signs: Signs shall be subject to the provisions of division 22 of this article. In addition, signs within the pedestrian activities district (PAD) overlay zone or in areas designated as PAD encouragement areas, as shown on the pedestrian activities district map, a copy of which is on file in the department of planning and urban development, shall be consistent with the Downtown Urban Design Guidelines.

(d) Exterior storage: There shall be no exterior storage, with the exception of receptacles for solid waste disposal which are not visible from a public street. Such receptacles shall be shown on the approved site plan.

(e) Storage of vehicles: No more than one (1) unregistered vehicle shall be stored outside for a period in excess of thirty (30) days.

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

(g) Downtown arts program: All new development subject to section 14-851 shall make provision for participation in the public arts program.

(h) Relocation of displaced residents: Any development which results in the displacement of residents of dwelling units currently located on the development site shall meet the requirements of sections 14-861 through 14-864.

(i) Historic resources: The exterior design of proposed or renovated structures located within historic districts shall be subject to the provisions of article IX (historic preservation) of this chapter. The exterior design of proposed or renovated structures located adjacent to historic districts or historic resources shall be subject to section 14-526(d) 5, b.

(Ord. No. 241-91, 3-11-91; Ord. No. 240-09/10, 6-21-10; Ord. No. 278-09/10, 7-19-10)

Sec. 14-221.1. External effects.

Every use in the B-3, B-3b and B-3c zones shall be subject to the following requirements:

- (a) Enclosed structure: The use shall be operated within a completely enclosed structure, except for those uses customarily operated in the open air.
- (b) Noise: The level of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American National Standards Institute, Inc.), inherently and recurrently within the B-3 and B-3b zones shall not exceed fifty-five (55) decibels on the A scale between the hours of 9:00 p.m. and 7:00 a.m., and sixty (60) decibels on the A scale between 7:00 a.m. and 9:00 p.m. at the boundaries of any lot nor within publicly accessible pedestrian open space, except for sound from construction activities, sound from traffic on public streets, sound from temporary activities such as festivals, and sound created as a result of, or relating to, an emergency, including sound from emergency warning signal devices. In measuring sound levels under this section, sounds with a continuous duration of less than sixty (60) seconds shall be measured by the maximum reading on a sound level meter set to the A weighted scale and the fast meter response (L maxfast). Sounds with a continuous duration of sixty (60) seconds or more shall be measured on the basis of the energy average sound level over a period of sixty (60) seconds (LEQ1).

- (c) Vibration: Vibration inherently and recurrently generated shall be imperceptible without instruments at lot boundaries.
- (d) Heat: Heat shall be imperceptible without instruments at lot boundaries. Heating elements which are intended to melt snow and ice shall be placed within sidewalk paving only when approved by the department of parks and public works.
- (e) Glare, radiation or fumes: Glare, radiation or fumes shall be imperceptible without instruments at lot boundaries.
- (f) Smoke: Smoke shall not be emitted at a density in excess of twenty (20) percent opacity level as classified in Method 9 (Visible Emissions) of the Opacity Evaluation System of the U.S. Environmental Protection Agency.
- (g) Materials or wastes: No materials or wastes shall be deposited on any lot in such form or manner that they may be transferred beyond the lot boundaries by natural causes or forces. All material which might cause fumes or dust, or constitute a fire hazard if stored out-of-doors, shall be only in closed containers and in accordance with section 14-221(d). Areas attracting large numbers of birds, rodents or insects are prohibited.

(Ord. No. 241-91, 3-11-91; Ord. No. 46-97, § 6, 8-4-97)

DIVISION 12.1. I-B ISLAND BUSINESS ZONE

Sec. 14-222. Purpose.

The purpose of the I-B island business zone is to provide limited areas on the islands for retail and service establishments that serve primarily the needs of the local island market area.

(Ord. No. 30-85, § 1, 7-15-85)

Sec. 14-223. Permitted uses.

The following uses are permitted in the I-B island business zone:

- (a) Single-family detached dwellings;

(b) Retail or service establishments, excluding those listed below:

1. Automobile service stations;
2. Inns;

(c) Marinas and yacht clubs;

(d) Lodging houses, with more than two (2) but not more than nine (9) lodging rooms;

(e) Wharves, piers, docks, or landing ramps;

(f) Off-street parking;

(g) Accessory uses customarily incidental and subordinate to the location, function, and operation of principal uses, subject to the provisions of section 14-404 (accessory use) of this article including but not limited to home occupations;

(h) Handicapped family unit, as defined in section 14-47, for handicapped persons plus staff.

(i) Peaks Island only: Bed and breakfast, subject to the standards of article V (site plan), sections 14-522 and 14-523 notwithstanding.

(j) Studios for artists and craftspeople, provided that the area of such studios does not exceed one thousand (1,000) square feet for each studio space.

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

(Ord. No. 30-85, § 1, 7-15-85; Ord. No. 33-91, § 13, 1-23-91; Ord. No. 125-97, § 8, 3-3-97; Ord. No. 164-97, § 3, 12-1-97; Ord. No. 10-10/11, 8-2-10; Ord. No. 33-11/12, 1-18-12)

Sec. 14-224. Conditional uses.

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

(a) Two-, three- or four-family dwelling, provided that:

1. No open outside stairways or fire escapes above ground floor shall be constructed or have been constructed in the immediately preceding five (5) years;
2. A below-grade dwelling unit shall be permitted only if access is provided directly to the outside of the building;
3. Density shall be determined by the most restrictive abutting residential zone, except for those lots which are served by public water and sewer, where density shall be determined by the least restrictive abutting residential zone. If no residential zone is abutting, density shall be determined by the nearest residential zone. Residential uses shall meet the requirements of such abutting or nearest residential zone;
4. Any additions or exterior alterations shall be compatible with the original architecture of the building. The exterior design of new construction, including the architectural style, facade materials, roof pitch, building form, and height shall be compatible with neighboring properties;
5. No existing dwelling unit shall be decreased to less than one thousand (1,000) square feet of floor area;
6. No additional dwelling unit shall have less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic;
7. All sanitary waste shall be disposed of by a public sewer, subsurface sewerage system or other method in compliance with all applicable federal, state and local regulations;
8. The proposed conversion has sufficient water for the needs of the dwellings and will not cause an unreasonable burden on an existing water supply nor adversely affect groundwater resources;

- (b) Automobile service stations;
- (c) Inns;
- (d) Schools;
- (e) Nursery schools, kindergartens and day care centers for seven (7) or more children;
- (f) Municipal uses, provided outside storage and parking area uses are suitably screened and landscaped so as to ensure compatibility with the surrounding neighborhood.
- (g) Places of religious assembly;
- (h) Private clubs, fraternal organizations.
- (i) Temporary wind anemometer towers, as defined in section 1-47, are permitted provided the following standards are met in addition to section 14-430:
 - 1. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a certificate of occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
 - 2. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the board of appeals with the application; and
 - 3. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
 - 4. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the board of appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and

5. The applicant shall provide evicence of commercial general liability insurance, such insurance to be satisfactory to corporation counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
6. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
7. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any otherp upose; and
8. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the city, of the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

(j) Wind energy systems, as defined and allowed in Article X, Alternative energy.

(Ord. No. 30-85, § 1, 7-15-85; Ord. No. 435-89, 5-15-89; Ord. No. 163-89, § 1, 12-11-89; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 33-11/12, 1-18-12)

Sec. 14-225. Prohibited uses.

Uses that are not expressly enumerated herein as either permitted uses or conditional uses are prohibited.

(Ord. No. 30-85, § 1, 7-15-85)

Sec. 14-226. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulation and exceptions) of this article, lots in the I-B zone shall meet the following minimum requirements:

(a) Minimum lot size:

1. Residential: Lot size shall be determined by the most restrictive abutting residential zone, except for those lots which are served by public water and sewer, where lot size shall be determined by the least restrictive abutting residential zone. If no residential zone is abutting, density shall be determined by the nearest residential zone. Residential uses shall meet the requirements of such abutting or nearest residential zone.
2. Retail or service establishments: Twenty thousand (20,000) square feet, except that no minimum lot size shall be required if served by public water and sewer.
3. Restaurants and drinking establishments: Twenty thousand (20,000) square feet, except that ten thousand (10,000) square feet shall be required if served by public water and sewer.
4. Schools and other educational facilities: Twenty thousand (20,000) square feet.
5. Churches and other places of worship: Twenty thousand (20,000) square feet.
6. Private clubs, fraternal organizations: Twenty thousand (20,000) square feet.
7. Lodging houses: Thirty thousand (30,000) square feet for three (3) lodging rooms, plus ten thousand (10,000) square feet for each additional lodging room in excess of three (3), unless served by public water and public sewer. Five thousand (5,000) square feet for three (3) lodging rooms, plus five thousand (5,000) square feet for each additional lodging room in excess of three (3) if served by public water and public sewer.
8. Inns or bed and breakfasts: Ten thousand (10,000) square feet for each guest room, unless served by public water and public sewer. Five thousand (5,000) square feet for three (3) guest rooms, plus five thousand (5,000) square feet for each additional guest room in excess of three (3) if

served by public water and public sewer.

9. Municipal uses: Twenty thousand (20,000) square feet.
10. Automobile service station: Twenty thousand (20,000) square feet.
11. In issuing any permit for new development, the building or planning authority shall require that any lot located in an I-B zone shall be at least twenty thousand (20,000) square feet in area when the lot is to be serviced by a subsurface wastewater disposal system, [excluding Peaks Island].
12. [Excluding Peaks Island from this subsection 12,] any property owner whose lot does not meet the minimum lot size requirements outlined in subsection 11 of this section may, for purposes of this section only, merge two (2) or more separate lots on the same island in order to meet these requirements. Where the lots so merged are not contiguous, the property owner shall grant to the city as holder a conservation easement upon the lot or lots which will not contain the principal structure. The conservation easement shall contain both an existing legal description and a city assessor's chart, block and lot description. The Planning Authority shall be authorized to accept such conservation easements on behalf of the city. Said easement shall be recorded by the applicant in the registry of deeds. A copy of the recorded easement and copies of the deeds for both lots shall be submitted to the Planning Authority prior to issuance of a building permit. The property over which the conservation easement has been granted shall be used for passive recreational and conservation purposes only, and shall be subject to the following restrictions:
 - a. No structure shall be permitted on this property.
 - b. No parking or storage of vehicles or machinery shall be permitted on this

property at any time.

- c. No area of this property shall be paved.
- d. No exterior storage for commercial use shall be permitted on this property.
- e. The easement deed shall reference the lot which is benefited by this conservation easement. No conservation easement shall be used to benefit more than one (1) lot.

Conservation easements shall only be granted over lots which conform either to the provisions of section 14-433 or to the minimum lot size provisions set forth in (a)1 of this section. Conservation easements shall not be granted over any lot which is encumbered by any other easement which prohibits all construction on that lot.

A conservation easement may also name as a holder or grant a third-party right of enforcement to a nonprofit corporation or charitable trust, the purposes or powers of which include retaining or protecting the natural, scenic or open space values of real property; assuring the availability of real property for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining or enhancing air or water quality of real property.

Nothing in this section shall be construed to allow an owner of a currently existing and developed lot to convey or permit a portion of that lot to be used to fulfill the requirements of this section if such conveyance would render the existing lot nonconforming under the terms of this chapter. The lot upon which a building is to be constructed shall meet the minimum lot size requirements of section 14-433.

- 13. Where an existing subsurface disposal system serving an existing structure requires replacement, the replacement system shall meet the requirements of CMR 241 Section 2-E. The land area requirements in subsection 11 of this section shall not apply to such a replacement

system.

For purposes of this subsection the mean high tide mark shall be considered to be the shoreline lot line.

(b) Minimum street frontage: Forty (40) 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.)

1. Front yard:

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.

2. Rear yard:

Principal or accessory structures: Ten (10) feet.

3. Side yard:

Principal structures: Ten (10) feet.
Accessory structures: Ten (10) feet except that the minimum distance from a principal structure may be five (5) feet.

4. Side yard on side streets:

Principal or accessory structures: Ten (10) feet.

(d) Maximum lot coverage: Fifty (50) percent of lot area.

(e) Minimum lot width: Forty (40) feet.

(f) Maximum structure height:

Principal or accessory attached structure: Thirty-five (35) feet.

Accessory detached structure: Eighteen (18) feet.

(Ord. No. 30-85, § 1, 7-15-85; Ord. No. 163-89, § 2, 12-11-89; Ord. No. 125-97, § 9, 3-3-97; Ord. No. 165-15/16, 3-7-2016)

Sec. 14-227. Other requirements.

Every use in a I-B zone shall be subject to the following requirements:

- (a) Off-street parking: Off-street parking is required as provided in division 20 (off-street parking) of this article.
- (b) Shoreland and flood plain management regulations: Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.
- (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. Marijuana cultivation facility (maximum 7,000 square feet of plant canopy);
24. Marijuana manufacturing facility;
25. Marijuana testing facility;
26. Marijuana retail store;
27. Registered dispensary;
28. Small-scale marijuana caregiver.

(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 of gross floor area. Exterior assembly of materials or products is prohibited. Activity defined as a high hazard by chapter 6 of this Code (building code) is also prohibited;
- 5. Printing and publishing establishments;
- 6. Research and development and related production establishments;
- 7. Utility substations, as defined in section 14-47, subject to the requirements of article V (site plan), sections 14-522 and 14-523 notwithstanding; and
- 8. Day care facilities;
- 9. Studios for artists and craftspeople;
- 10. Accessory uses, as provided in section 14-404; and

11. Storage lots for towed or impounded vehicles, provided that such lots are located at least 300 feet from any residential zone or existing conforming residential use. For the purposes of this section, "existing conforming residential use" does not include a legally nonconforming residential use as described in division 23 of this chapter.

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

(Ord. No. 296-88, 5-23-88; Ord. No. 285-95, 6-7-95; Ord. No. 154-96, § 13, 12-16-96; Ord. No. 164-97, § 3, 1-6-97; Ord. No. 164-97, § 4, 12-1-97; Ord. No. 81-99, § 1, 10-18-99; Ord. No. 97-06/07, 11-20-06; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 283-09/10 7-19-10, emergency passage; Ord. No. 10-10/11, 8-2-10; Ord. No. 90-11/12, 1-4-12; Ord. No. 33-11/12, 1-18-12; 140-18/19, 2-20-2019
)

Sec. 14-229.11.1. Conditional uses.

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

- (a) Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:
 1. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
 2. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and
 3. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
 4. The applicant shall provide a safety report

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

5. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
 6. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
 7. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
 8. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.
- (b) Wind energy systems, as defined and allowed in Article X, Alternative Energy.
- (c) Emergency shelters, subject to the provisions of section 14-474 and the use specific standards of section 14-474(c)3.

(Ord. No. 29-09/10, 8-3-09, emergency passage; Ord. No. 33-11/12, 1-18-12; Ord. No. 252-16/17, 6-5-2017)

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) feet deep need not be deeper than twenty (20) percent of the depth of the lot.

2. *Rear yard:*

- a. Principal structures: Twenty (20) feet.
- b. Accessory structures (detached) with a total floor area of one hundred (100) square feet or less: Seven (7) feet.

3. *Side yard:*

- a. Principal structures:

Number of Stories Required Side Yard

1 or 2 stories 10 feet

3 or more stories 12 feet

b. Accessory structures (detached) with a total floor area of one hundred (100) square feet or less: Five (5) feet.

c. Side yards on side streets (corner lot):

Principal or accessory structures:

i. One (1) or two (2) stories: Ten (10) feet.

ii. Three (3) or more stories: Twelve (12) feet.

(d) Minimum lot width: Sixty (60) feet.

(e) Maximum height: Sixty-five (65) feet; except that on lots in excess of five (5) acres, ninety (90) feet is permitted if each of the setbacks required under subsection (3) above is increased by one (1) foot in distance for each foot of height above sixty-five (65) feet.

(f) Maximum impervious surface ratio: Eighty (80) percent.

(g) Maximum Floor Area Ratio (F.A.R.): The maximum floor area ratio is established according to the abutting residential zone. If there is no abutting residential zone to the lot in question, the F.A.R. may be a maximum of 0.65. In the case of two (2) or more abutting residential zones, the F.A.R. shall be the F.A.R. of the least restrictive such zone. The ratios are as follows:

<i>Residential</i>	<i>Floor Area Ratio</i>
R-1/R-2	0.45
R-3	0.55

R-4/R-5/R-5A/R-6
(Ord. No. 296-88, 5-23-88)

0.65

Sec. 14-229.14. Other requirements.

In addition to the above, the following requirements are applicable to all uses in the B-4 zone:

- (a) Landscaping and screening: The site shall be suitably landscaped for parking, surrounding uses and accessory site elements including storage and solid waste receptacles where required by article IV (subdivisions) and article V (site plan).
- (b) Curbs and sidewalks: Curbs and sidewalks as specified in article VI of chapter 25.
- (c) Off-street parking and loading: Off-street parking and loading are as required by division 20 and division 21 of this article.
- (d) Signs: Signs shall be subject to the provisions of division 22 of this article.
- (e) Exterior storage:
 - 1. Any storage of new materials, finished products, or related equipment must be suitably screened from the public way and from abutting properties by a solid fence at least five (5) feet in height, or by a solid evergreen planting strip.
 - 2. All waste shall be stored in covered containers that do not leak or otherwise permit liquids or solids to escape from the container.
 - 3. Outdoor storage of refuse, debris, or material awaiting reuse shall be in an appropriate container or located within a designated, screened area.
 - 4. Any permitted outdoor storage of materials shall be done in such a manner as to prevent the breeding and harboring of insects or vermin, to prevent the transfer of such materials from the site by natural causes or forces and to contain fumes, dust, or other materials which constitute

a fire hazard. This storage shall be accomplished within enclosed containers or by one (1) or more of the following methods: raising materials above ground, separating materials, preventing stagnant water, or by some other means. No outdoor storage shall be permitted in the required yard between the front of any building on the site and the street, except for storage for plant and tree nurseries.

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

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

(Ord. No. 296-88, 5-23-88; Ord. No. 164-97, § 4, 1-6-97)

Sec. 14-229.15. External effects.

Every use in a B-4 zone shall be subject to the following requirements:

- (a) Enclosed structure: The use shall be operated within a completely enclosed structure, except for those customarily operated in the open air.
- (b) Noise: The volume of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American Standards Association), generated shall not exceed sixty-five (65) decibels on the A scale between 7:00 a.m. and 9:00 p.m. and sixty (60) decibels on the A scale between 9:00 p.m. and 7:00 a.m., on impulse (less than one (1) second), off premises at source of complaint, excepting air raid sirens and similar warning devices.
- (c) Vibration and heat: Vibration inherently and recurrently generated and heat shall be imperceptible without instruments at lot boundaries.
- (d) Glare, radiation or fumes: Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.

- (e) Smoke: Smoke shall not be emitted at a density in excess of thirty (30) percent opacity level as classified in Method 9 (Visible Emissions) of the Opacity Evaluation System of the U.S. Environmental Protection Agency.

(Ord. No. 296-88, 5-23-88; Ord. No. 164-97, § 5, 1-6-97)

Sec. 14-229.16. - Sec. 14-229.30. Reserved.

DIVISION 12.6. B-5 URBAN COMMERCIAL MIXED USE ZONE

Sec. 14-230. Purpose.

The purpose of the B-5 and B-5b zones is to provide zones in areas of the peninsula near the central business district where a mixture of uses, including marine, industrial, commercial, and residential, is encouraged. The B-5 and B-5b zones are characterized by larger underdeveloped lots with great potential for denser, clustered, urban mixed use development and more efficient reuse of existing land and buildings.

It is anticipated that such denser, mixed uses would rely on a shared infrastructure system, including service alleys, parking lots, public transportation facilities, stormwater management, and driveways.

(Ord. No. 168-93, § 3, 1-4-93; Substitute Ord. No. 164-97, § 1, 5-19-97)

*Editor's Note: The text changes adopted in Ord. No. 215-04/05 Section 14-230.1 (a)8 and 13 and (g) 3 shall remain in effect for six (6) months from the effective date (6-2-05) of the changes. By Council Order No. 94-05/06 passed on 11/7/05 the effective date of the amendments were extended through and including March 2, 2006. By Council Order No. 170-05/06 passed as an emergency on 2/22/06 the effective date of the amendments were extended through and including September 30, 2006 and thereafter shall cease to exist unless the Portland City Council takes action to extend the applicability of such changes.

Sec. 14-230.1. Permitted uses.

The following uses are permitted in the B-5 and B-5b urban commercial mixed use zones:

- (a) Commercial:

1. Professional, business and general offices;
2. Restaurants and other eating and drinking establishments;
3. Meeting and convention halls;
4. Hotels and motels;
5. Craft and specialty shops, including the on-premises production of handcrafted goods;
6. Retail and service establishments except convenience stores with gas pumps;
7. Theaters and places of public assembly;
8. Banking services, except that any drive-up banking service shall be a conditional use;
9. Laundry and dry cleaning services;
10. Cabinet and carpentry shops;
11. Indoor recreation and family amusement establishments;
12. Intermodal transportation facilities;
13. Off-street parking lots and garages except in the B-5 zoning district between Forest Avenue and Franklin Street surface parking lots shall be considered a conditional use;
14. Cold storage facilities;
15. Lumber and building materials dealers (in existence on date of passage);
16. Major and minor gasoline service stations, as defined in section 14-47. Major and minor gasoline service stations shall be located at least two thousand (2,000) feet from each other;
17. Personal services;
18. Business services;

19. Billiard parlors;
20. Offices of business tradespeople;
21. Miscellaneous repair services;
22. Communication studios, broadcast and receiving facilities;
23. Theaters;
24. Exhibition halls;
25. Indoor amusement and recreation centers.
26. Hostels, provided the applicant submits a site plan and operations plan demonstrating compliance with the following conditions:
 - a. All applicable provisions of Article V of this chapter shall be met.
 - b. Parking shall be provided in compliance with Division 20 of this Article.
 - c. No unaccompanied minors under the age of eighteen (18) shall be permitted in the facility.
 - d. The length of stay for transient guests shall not exceed fifteen (15) days out of any sixty-day period.
 - e. The building shall meet the applicable occupant load requirements as defined by the International Building Code and the NFPA Life Safety Code, as such codes are amended or adopted by the city.

(b) Industrial:

1. Warehousing and wholesaling;
2. Low impact industrial uses with total floor area of less than ten thousand (10,000) square feet

and which meet the performance standards of the
I-L zone;

3. Breweries, including associated bottling activities.

(c) Marine:

1. Marine products wholesaling and retailing;
2. Marine repair services and machine shops;
3. Harbor and marine supplies and services and ship supply;
4. Reserved;
5. Shipbuilding and facilities for construction, maintenance and repair of vessels;
6. Marine museums and aquariums;
7. Reserved;
8. Boat repair yards;
9. Boat storage facilities;
10. Seafood processing for human consumption;
11. Seafood packing and packaging;
12. Seafood distribution;

(d) Residential:

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

(e) Public:

1. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures;
2. Museums and art galleries;
3. Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces.

(f) Institutional:

1. Public or private schools of any type;
2. Clinics;
3. Places of assembly;
4. Colleges, universities or trade schools;
5. Governmental buildings and uses;
6. Nursery schools, kindergartens, and day care facilities or home babysitting services.

(g) Other:

1. Studios for artists and craftspeople including but not limited to, carpenters, cabinetmakers, and silk screeners;
2. Printing and publishing establishments;
3. Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses, excluding in the B-5b all drive-up services for retail, banking, or automotive repair uses. In the B-5 zoning district between Forest Avenue and Franklin Street, all drive-up services for all retail or drive-up automotive repair uses are prohibited. In the B-5 zone between Forest Avenue and Franklin Street, surface parking lots shall be considered a conditional use subject to the conditional use section of the B-5 zone.

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

(Ord. No. 168-93, § 3, 1-4-93; Ord. No. 39-96, § 4, 10-7-96; Substitute Ord. No. 164-97, § 2, 5-19-97; Ord. No. 164-97, § 5, 12-1-97; Ord. No. 80, 12-8-04; Ord. No. 215-04/05, 5-2-05; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 279-09/10, 6-6-11; Ord. No. 33-11/12, 1-18-12; Ord. No. 113-11/12, 2-22-12)

*Editor's Note: The text changes adopted in Ord. No. 215-04/05 Section 14-230.1 (a)8 and 13 and (g) 3 shall remain in effect for six (6) months from the effective date (6-2-05) of the changes. By Council Order No. 94-05/06 passed on 11/7/05 the effective date of the amendments were extended through and including March 2, 2006. By Council Order No. 170-05/06 passed as an emergency on 2/22/06 the effective date of the amendments were extended through and including September 30, 2006 and thereafter shall cease to exist unless the Portland City Council takes action to extend the applicability of such changes.

Sec. 14-230.2. Conditional uses.

(a) The following uses shall be permitted as conditional uses in the B-5 and B-5b urban commercial mixed use zones, provided that, notwithstanding section 14-471(c), section 14-474(a), or any other provision of this Code, the Planning Board shall be substituted for the board of appeals as the reviewing authority, and further provided that, in addition to the provisions of section 14-474(c)(2), they shall also meet the requirements set forth below:

1. Commercial:

- a. Self-storage facilities in B-5 zone (on-peninsula locations only) in buildings existing as of December 16, 2015; and
- b. Outdoor storage of rental and moving equipment in B-5 zone (on-peninsula locations only) on sites with buildings existing of [enactment date]; and
 - i. Outdoor storage of rental and moving equipment shall be located on the site and not within a public right-of-way or sidewalk. A curb, guard rail or other barrier shall be provided to contain such equipment and storage on the site as well as out of landscape buffer areas; and

- ii. A landscape buffer shall be provided in accordance with the landscape and buffer requirements of the City of Portland Technical and Design Manual.

2. Industrial:

- a. Low impact industrial uses over ten thousand (10,000) square feet provided that they meet the following requirements:
 - i. Truck loading and access and vehicle parking shall be located in the rear or side yard of the site where possible.
 - ii. Street frontage shall be designed for pedestrian scale or interest.
 - iii. Shared infrastructure to the extent practicable, including, but not limited to, service alleys, parking areas, stormwater treatment, public transportation facilities and driveways, shall be utilized.

3. *Surface Parking:*

- a. In the B-5 zoning district located between Forest Avenue and Franklin Street, surface parking lot provided the following requirements are met.
 - i. No new surface parking lot shall be developed within thirty-five (35) feet of any street except in the case of a property in which eighty percent (80%) of the property frontage has a building within ten (10) feet of the street.
 - ii. No surface parking lot shall be encumbered by lease or other use commitment to an off-site use exceeding a twenty-four month term.
 - iii. For surface parking lots of 20,000 sq. ft or greater in area, lease or other use agreements for surface parking shall not preclude the relocation of such parking for more than a twenty-four (24) month term.

- iv. Any such parking shall in its lease stipulate that developer/owner reserves the right to relocate said parking or convert surface parking to structured parking as long as the relocated parking is located within a reasonable distance from the use.
- v. Surface parking shall be laid out in a manner conducive to development of future buildings and/or structured parking.

4. *Drive Up Banking Services:*

- a. In the B-5 zoning district located between Forest Avenue and Franklin Street, drive up banking services provided the following requirements are met:
 - i. The drive up banking services are attached to a building which houses banking services other than, or in addition to, automated banking machines; and
 - ii. The drive up banking services are attached to a building with a minimum floor area of 20,000 square feet; and
 - iii. Any service window or automated teller machine shall not extend nearer than twenty-five (25) feet to the street; and the site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicles or pedestrians on adjoining streets; and
 - iv. There shall be no more than a total of two (2) vehicle lanes for both the service window and automated teller machine.

5. *Emergency shelters*, subject to the provisions of section 14-474 and the use specific standards of section 14-474(c)3.

- (b) The following use shall be permitted only upon the

issuance of a conditional use permit by the Board of Appeals, subject to the provisions of section 14-474 (conditional uses), and any special provisions, standards or requirements specified below:

1. Temporary wind anemometer towers, as defined in sec. 14-47, are permitted provided the following standards are met in addition to sec. 14-430:
 - a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
 - b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and
 - c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
 - d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
 - e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
 - f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
 - g. Towers shall be used for installing anemometers

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

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

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

(Ord. No. 168-93, § 3, 1-4-93; Ord. No. 39-96, § 5, 10-7-96; Substitute Ord. No. 164-97, § 3, 5-19-97; Ord. No. 215-04/05, 5-2-05; Ord. No. 29-09/10, 8-3-09, emergency passage; Ord. 33-11/12, 1-18-12; Ord. 101-15/16, 11/16/2015; Ord. No. 252-16/17, 6-5-2017)

*Editor's Note: The text changes adopted in Ord. 215-04/05 Section 14-230.2 (c) and (d) shall remain in effect for six (6) months from the effective date (6-2-05) of the changes. By Council Order No. 94-05/06 passed on 11/7/05 the effective date of the amendments were extended through and including March 2, 2006. By Council Order No. 170-05/06 passed as an emergency on 2/22/06 the effective date of the amendments were extended through and including September 30, 2006 and thereafter shall cease to exist unless the Portland City Council takes action to extend the applicability of such changes.

Sec. 14-230.3. Prohibited uses.

Uses which are not enumerated in either section 14-230.1 as permitted uses or in section 14-230.2 as conditional uses are prohibited.

(Ord. No. 168-93, § 3, 1-4-93)

*Editor's Note: The text changes adopted in Ord. 215-04/05 Section 14-230.2 (c) and (d) shall remain in effect for six (6) months from the effective date (6-2-05) of the changes. By Council Order No. 94-05/06 passed on 11/7/05 the effective date of the amendments were extended through and including March 2,

2006. By Council Order No. 170-05/06 passed as an emergency on 2/22/06 the effective date of the amendments were extended through and including September 30, 2006 and thereafter shall cease to exist unless the Portland City Council takes action to extend the applicability of such changes.

Sec. 14-230.4. Dimensional requirements.

In addition to the provisions of article III, division 25 of this Code, lots in the B-5 and B-5b urban commercial mixed use zones shall meet the following requirements:

- (a) Minimum lot size: None.
- (b) Minimum frontage: None.
- (c) Yard dimensions:
 - 1. Minimum yards in the B-5 and B-5b zones:
 - Front setback: None required.
 - Side setback: None required.
 - Rear setback: None required.
 - 2. Maximum front yard setback in the B-5b zone: Ten (10) feet.
 - 3. Maximum street setback: In the B-5 zoning district located between Forest Avenue and Franklin Street the following street setbacks shall apply:
 - a. Ten (10) feet except for parking structures, public transportation facilities and secondary building components such as truck loading docks, mechanical equipment enclosures and refrigeration units. The setback can be increased more than ten (10) feet if all of the conditions are met below:
 - i. Seventy-five (75) percent of the total building wall length facing the abutting streets shall be setback no greater than ten (10) feet.

- ii. The increased setback area includes a functional public pedestrian entrance into the building that faces the street.
 - iii. The increased setback is not used for surface parking.
 - b. For any new construction on a lot abutting three (3) or more streets, the maximum setback shall apply only to two (2) streets.
 - c. Lots having frontage on streets in which the curve of the street frontage precludes a rectangular shaped building along the street line, for purposes of calculating the setback, the average setback of the building from the street line may be used, but in no event shall the average setback along the length of the building edge exceed an average setback of fifteen (15) feet nor shall the maximum setback exceed twenty (20) feet. The increased setback shall not be used for surface parking, vehicular loading or vehicular circulation.
 - d. Additions to and relocations of designated historic structures or structures determined to be eligible by the Historic Preservation Committee shall be exempt from this provision.
- (c) *Maximum lot coverage:* One hundred (100) percent.
- (e) Maximum building height: Sixty-five (65) feet; except as follows:
- 1. For parcels of land in the B-5b located along West Commercial Street south of Danforth Street, maximum building heights shall be as follows:

West of the projection of the centerline of the Fletcher Street right-of-way, the maximum building height shall be forty-five (45) feet; and, east of the projection of the centerline of the Fletcher Street right-of-way and west of the projection of the centerline of the Emery Street right-of-way, the maximum building height shall

be fifty-five (55) feet.

For purposes of this section, a projection of the centerline of a street is defined by extending the centerline of the referenced street right of way along its most southerly block to the centerline of West Commercial Street.

Furthermore, notwithstanding the exception of roof top structures from building height regulations in Section 14-430(a), no rooftop structure located between the projections of the centerlines of Emery Street and Fletcher Street, as described above, shall exceed a height of sixty-two (62) feet as measured from the average grade of the building at its foundation.

2. For parcels of land located on Thompson's Point and also subject to an approved Master Plan Development: one hundred twenty (120) feet. Thompson's Point is defined as the contiguous parcels of upland occupying the peninsula bounded on the east by Route 295, on the north by the

Mountain Division Rail Right of way, and on the south and west by the Fore River and its associated wetlands. Nearby lands that are accessed from Hobart and Osgood Streets are, for the purposes of this provision, not considered part of Thompson's Point.

(f) Minimum building height:

1. In the B-5 zoning district between Forest Avenue and Franklin Street, within thirty-five (35) feet of any public street, no new construction of any building shall have less than three (3) floors of occupiable or habitable space above the average adjacent grade. This provision shall not apply to:
 - a. Accessory building components such as truck loading docks, mechanical equipment enclosures, refrigeration units;
 - b. Information kiosks and ticketing booths;

- c. Parking garages;
- d. Public transportation facilities;
- e. Additions to buildings existing as of March 9, 2005 provided that the cumulative additions since March 9, 2005 does not exceed 25% of the building footprint on March 9, 2005 except that such restriction shall not apply to those portions of the building addition that are constructed closer to the street line than the building footprint existing as of March 9, 2005;
- f. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic enclosures and other similar structures; and
- g. Additions to and relocations of designated historic structures or structures determined by the Historic Preservation Committee to be eligible for such designation.

(Ord. No. 168-93, § 3, 1-4-93; Substitute Ord. No. 164-97, § 4, 5-19-97; Ord. No. 215-04/05, 5-2-05; Ord. No.112-11/12, 2-22-12; Ord. No. 119-13/14, §230.4, 1-15-14)

*Editor's Note: The text changes adopted in Order 215-04/05 Section 14-230.4 I3 and (g) shall remain in effect for six (6) months from the effective date (6-2-05) of the changes. By Council Order No. 94-05/06 passed on 11/7/05 the effective date of the amendments were extended through and including March 2, 2006. By Council Order No. 170-05/06 passed as an emergency on 2/22/06 the effective date of the amendments were extended through and including September 30, 2006 and thereafter shall cease to exist unless the Portland City Council takes action to extend the applicability of such changes.

Sec. 14-230.5. Performance standards.

All uses shall comply with the following standards:

(a) Storage: Any storage of new materials, finished products, or related equipment must be suitably screened from the public way and from abutting properties by a solid fence at least five (5) feet in height, or by a solid evergreen planting strip. All waste shall be stored in covered containers that do not leak or otherwise permit liquids or solids to escape from the container. All food processing waste shall be stored within a completely enclosed structure and if not refrigerated shall be removed from the site in an enclosed container within forty-eight (48) hours of its generation. All enclosed and exterior areas shall be cleaned and sanitized on a regular basis. Outdoor storage of refuse or debris shall be in an appropriate container or located within a designated, screened area.

(b) Noise:

1. Definitions:

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

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

the energy average sound level over a period of sixty (60) seconds (LEQ1).

3. Maximum permissible sound levels: The maximum permissible sound level of any continuous, regular or frequent source of sound produced by an activity shall be as follows:
 - a. Sixty (60) dBA between the hours of 7:00 a.m. and 10:00 p.m.
 - b. Fifty (50) dBA between the hours of 10:00 p.m. and 7:00 a.m., as measured at or within the boundaries of any residential zone.

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

4. Exemptions:
 - a. Noises created by construction and maintenance activities between 7:00 a.m. and 10:00 p.m. are exempt from the maximum permissible sound levels set forth in subsection (a)3 of this section. Construction activities on a site abutting any residential use between the hours of 10:00 p.m. of one (1) day and 7:00 a.m. of the following day shall not exceed fifty (50) dBA.
 - b. The following uses and activities shall also be exempt from the requirements of subsection (a)3 of this section:
 - i. The noises of safety signals, warning devices, emergency pressure relief valves, and any other emergency devices.
 - ii. Traffic noise on public roads or noise created by airplanes and railroads.

- iii. Noise created by refuse and solid waste collection, provided that the activity is conducted between 6:00 a.m. and 7:00 p.m.
 - iv. Emergency construction or repair work by public utilities, at any hour.
 - v. Noise created by any recreational activities which are permitted by law and for which a license or permit has been granted by the city, including but not limited to parades, sporting events, and fireworks displays.
- (c) Vibration: Vibration inherently and recurrently generated shall be imperceptible without instruments at lot boundaries.
- (d) Federal and state environmental regulations: All uses shall comply with federal and state environmental statutes and regulations regarding emissions into the air, except where provisions of this Code are more stringent.
- (e) Storage of vehicles: Storage of any unregistered automotive vehicle on the premises for more than sixty (60) days, and outdoor storage of any used automotive tires on the premises shall not be permitted.
- (f) Off-street parking and loading: Off-street parking and loading are required as provided in division 20 and division 21 of this article.
- (g) Shoreland and flood plain management regulations: Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.
- (h) Glare, radiation or fumes: Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.
- (i) Enclosure of uses: All uses shall be operated within a fully enclosed structure, except for those customarily operated in open air.

- (j) Materials or wastes: Any permitted outdoor storage of materials shall be done in such a manner as to prevent the breeding and harboring of insects or vermin, to prevent the transfer of such materials from the site by natural causes or forces and to contain fumes, dust, or other materials which constitute a fire hazard. This storage shall be accomplished within enclosed containers or by one (1) or more of the following methods: raising materials above ground, separating materials, preventing stagnant water, or by some other means. Any areas used for permitted outdoor storage of materials shall be screened from view of any adjoining properties and public rights-of-way. No outdoor storage shall be permitted in the required yard between the front of any building on the site and the street.
- (k) Odor: It shall be a violation of this chapter to create an odor nuisance.
 - 1. Determination of odor nuisance: An odor nuisance shall be considered to exist when ten (10) confirmed complaints occur in an area within two (2) separate twenty-four-hour periods. The ten (10) confirmed complaints must originate from ten (10) different households in an area zoned residential or from ten (10) different individuals in a commercial or industrial facility. The building authority shall only respond to a complainant who confirms that the odor is detectable at the time of the actual complaint. In order to confirm a complaint, the building authority or its designee shall first determine that an odor is detectable in the area of the complaint. The building authority or its designee shall interview the complainant to verify that the detectable odor is in fact the odor that resulted in the complaint. If the complainant verifies the odor as the source of the complaint, then the building authority shall notify the owner or operator of the alleged odor source either in person or by telephone within one (1) working day, with a written confirmation within seven (7) working days of the complaint. In the event that the building authority is unable to contact the owner or operator of the alleged odor source in person or by telephone

within one (1) working day, then the building authority shall send written notice to the operator within seven (7) working days of the complaint.

In the event that ten (10) complaints are confirmed as set forth in subsection 1. in two (2) separate twenty-four-hour periods within a ninety-day period, the building authority shall cause a certified odor inspector to investigate any odor complaints received in the next thirty (30) days following the receipt of the tenth confirmed complaint from the second twenty-four-hour period. If the odors remain under the ambient intensity standard as established in this subsection for the next thirty (30) days, then a new odor nuisance must be established after that time in accordance with the requirements of this section. The certified odor inspector shall do the following in response to a complaint under this section:

- a. Verify that an odor is detectable in the area of the complaint and confirm that it is the odor that resulted in the complaint;
- b. Quantify the intensity of the odor on the eight-point n-butanol intensity scale as defined in regulations promulgated by the director of the planning authority to establish training and technical standards to support this section; and
- c. Track the odor to its source.

When the certified odor inspector determines that a violation has occurred because an odor has exceeded the maximum ambient odor levels set forth in this section, the building authority shall notify the owner or operator either by telephone or in person of the violation within one (1) working day of the violation. The building authority shall confirm this notification in writing within seven (7) working days of this initial notice. In the event that the building authority is unable to contact the owner or operator by telephone or in person

within the required time period, then it will send written notification within seven (7) working days of the violation.

Upon receipt of the written notice of violation, the owner or operator of the odor source shall do the following:

- a. Implement odor reduction procedures immediately upon notification by the building authority that the facility has violated this section wherever odor reduction can be achieved by operational or procedural changes at the facility;
 - b. Submit to the building authority, within thirty (30) days of the written notice of violation, an odor reduction plan which is designed to reduce ambient odors attributable to emissions from that source to the maximum allowable intensity for that zone. The plan shall include a detailed summary of the measures that the owner or operator will take to mitigate the community annoyance and estimated dates for completion of those measures. In the event that it will take longer than thirty (30) days to develop the odor reduction plan, the owner or operator of the facility shall submit within the thirty-day time period a schedule for the development of the odor reduction plan. The building authority shall review this plan to determine whether it will be adequate to resolve the odor nuisance in a reasonable time period; and
 - c. Implement the plan in accordance with the schedule approved by the building authority.
2. Ambient odor limits: The maximum ambient intensity standard for odors generated by uses located in the I-L zone shall not exceed the following levels when the odor is measured in the zone indicated:
- 4.0 in any industrial or business zone for odors resulting from any use in the B-5 zone.

3.0 in any residential zone for odors resulting from any use in the B-5 zone.

- (l) Smoke: Discharges of smoke shall not exceed opacity percentage of forty (40) percent or number 2 on the Ringelman chart.
- (m) Discharge into sewers: No discharge shall be permitted at any point into any private sewage disposal system, or stream, or into the ground, of any materials in such a way or of such nature or temperature as to contaminate any water supply, or otherwise cause the emission of dangerous or objectionable elements, except in accordance with standards approved by the health authority or by the public works authority.
- (n) Lighting: All lighting shall be designed and installed with cut-off fixtures to direct illumination onto the site and to prevent illumination from such fixtures on neighboring properties.

(Ord. No. 168-93, § 3, 1-4-93; Substitute Ord. No. 164-97, § 5, 5-19-97; Ord. No. 240-09/10, 6-21-10)

*Editor's Note: The text changes adopted in Order 215-04/05 Section 14-230.4 I3 and (g) shall remain in effect for six (6) months from the effective date (6-2-05) of the changes. By Council Order No. 94-05/06 passed on 11/7/05 the effective date of the amendments were extended through and including March 2, 2006. By Council Order No. 170-05/06 passed as an emergency on 2/22/06 the effective date of the amendments were extended through and including September 30, 2006 and thereafter shall cease to exist unless the Portland City Council takes action to extend the applicability of such changes.

Sec. 14-230.6. thru 14-230.9 Reserved.

DIVISION 12.7. O-P OFFICE PARK ZONE

Sec. 14-230.10. Purpose.

The purpose of the O-P zone is to provide substantial areas for integrated development of professional offices in a park- or campus-like setting which are of the highest quality, are well designed and maintained and are compatible with their natural

surroundings.
(Ord. No. 297-88, 5-23-88)

Sec. 14-230.11. Permitted uses.

The following uses are permitted in the O-P zone:

Office park (O-P) with a minimum gross area, as defined in section 14-47 (definitions) of this article, of at least three (3) acres of contiguous land, consisting of either an Office Park Planned Unit Development (OPPUD) on one (1) lot with one (1) or more buildings and with driveways and open areas to be owned and maintained in common, or a subdivision (OPS) on one (1) parcel with two (2) or more lots intended for separate ownership, and including any of the following uses:

- (a) Professional offices and office complexes;
- (b) Research and development establishments;
- (c) Printing and publishing establishments;
- (d) Reserved;
- (e) Day care facilities;
- (f) Uses incidental and subordinate to the office park as a whole, which may include sales and services for employees and visitors; including, but not limited to; parking structures, health clubs, gymnasiums and recreational facilities, day care centers and cafeterias.

An Office Park Planned Unit Development (OPPUD) shall be subject to review and approval by the Planning Board with respect to the requirements of article V (site plan) and article IV (subdivisions) and the development standards of this chapter, article V sections 14-522 and 14-523 notwithstanding, and whether or not such development is a subdivision within the meaning of article IV of this chapter as now enacted or as hereafter amended. An Office Park Subdivision (OPS) shall be subject to review and approval by the Planning Board with respect to the requirements of article IV (subdivision) and article V (site plan), sections 14-522 and 14-523 notwithstanding, as each subdivided lot is developed. All areas in such a development that are to be owned or used in common shall

be governed and maintained as set forth in section 14-498(i)(3) of article VI (subdivisions) of this chapter.

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

(Ord. No. 297-88, 5-23-88; Ord. No. 10-10/11, 8-2-10; Ord. No. 33-11/12, 1-18-12)

Sec. 14-230.11.1. Conditional uses.

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

- (a) High technology manufacturing of biotechnology, pharmaceutical, and nanotechnology products provided that:
1. Manufacturing, including the warehousing therewith, shall occupy a gross floor area no greater than 20,000 square feet.
 2. A minimum of one-third of the total square footage devoted to manufacturing is conducted in a laboratory environment, i.e. in a controlled environment with specialized air handling systems that exceed levels for pressurization and filtration found in office environments and traditional manufacturing facilities.
 3. Truck traffic serving a single manufacturing business or institution shall not exceed, on a regular basis, more than two (2) tractor-trailer truck deliveries per week and provided that no deliveries are accepted between 7:00 p.m. and 7:00 a.m.
 4. Rooftop equipment shall be integrated into the overall building design and shall be screened as necessary.
- (b) Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:

1. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
2. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and
3. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
4. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
5. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
6. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
7. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
8. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by

surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

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

(Ord. No. 300-05/06, 7-17-06; Ord. No. 29-09/10, 8-3-09, emergency passage; Ord. No. 33-11/12, 1-18-12)

Sec. 14-230.12. Prohibited uses.

Uses not enumerated in section 14-230.11 as permitted uses are prohibited.

(Ord. No. 297-88, 5-23-88)

Sec. 14-230.13. Development standards.

An office park (O-P) shall be approved by the Planning Board only if, in addition to the dimensional and other requirements of this article and the applicable provisions of article IV (subdivisions) and article V (site plan), the development meets the following development standards:

- (a) Master plan: Development proposals shall include a master plan of the office park. The master plan shall include the following:
 - 1. For an OPPUD proposal: The location of the building(s) on the site; infrastructure of the site; identification of common areas; traffic circulation, architectural character and treatment of the building(s); proposed building envelopes; phasing and timing of the development; private development restrictions; and such other information necessary and sufficient to ensure compliance with the standards in this section; and
 - 2. For an OPS proposal: Delineation of the subdivision of land; infrastructure of the site; identification of common areas, if any; traffic circulation; desired architectural character, including private development restrictions to ensure compatibility of architectural character of future buildings with each other; phasing and timing of the development; private development

restrictions; and such other information as necessary and sufficient to ensure compliance with the standards in this section.

- (b) Design relationship to site: Development proposals shall demonstrate a reasonably unified design of the site, including the architecture, the layout of the buildings, pedestrian and vehicular circulation plan, open space, drainage, and the topography, soil conditions, vegetation and other natural features of the site. Integration of open spaces and natural features shall be achieved by incorporation of outdoor amenities for the benefit of users of the site, such as jogging and walking trails, gardens and benches.
- (c) Landscaping: Development proposals shall include a landscape program. All land areas not covered by structures, parking areas or circulation facilities shall be landscaped and maintained. In order to soften the visual impact of large expanses of pavement in parking lots, vegetation shall be planted or retained in islands or planting strips where required by article IV (subdivisions) and article V (site plan).
- (d) Impervious surface ratio: Development proposals may have an impervious surface ratio of up to sixty (60) percent and shall meet the following criteria:
 - 1. No pavement may be located closer than fifteen (15) feet from the property line and from a public street right-of-way, excepting approved entrance drives;
 - 2. Parking may not be located in the required front yard setback. If parking is provided in the area between the building and minimum setback line, the parking area must be adequately screened with landscaping materials and permanently maintained.
- (e) Sidewalks: Development proposals shall include internal sidewalks, illustrating the manner in which the developer will provide this amenity to take advantage of the topography and natural features of the site.
- (f) Buffers and screens: Development proposals shall include buffering yard areas abutting a residential

zone or residential use and to screen parking lots and driveways from public view, identifying the location, composition and maintenance of the buffer. The buffer and screening shall be of a dense and continuous nature and shall incorporate trees, shrubs, fencing, berms and related elements deemed necessary.

- (g) Preservation of natural features: Development proposals shall identify the extent to which the developer shall preserve natural features including, but not limited to, existing vegetation, flood plains, rock outcroppings, surface water bodies, drainage swales and courses, and wetlands; provided any such program shall consider and be sensitive to the need to preserve such natural features.
- (h) Traffic: Development proposals shall identify all proposed traffic controls, parking areas, interior traffic circulation, and demonstrate that additional traffic generated by the project itself can be reasonably accommodated on existing public streets.
- (i) Architectural design: All buildings shall be designed or approved by a registered architect in the State of Maine and shall be in conformance with the proposed master plan. The scale, texture, color and massing of the buildings shall be coordinated. The full range of high-quality, permanent, and traditional or contemporary building materials and technology may be incorporated in a manner so that the development as a whole embodies distinguishing attributes that achieve the developer's desired degree of excellence and are in conformance with the architectural guidelines provided in the private development restrictions. Particular emphasis shall be placed on the appearance of building facades from public streets, from driveway and parking areas, and from other nearby buildings. Building elevation drawings shall be submitted which indicate architectural style, exterior finishes and color, building height and scale, and location and scale of window and door openings. Samples of exterior building materials shall also be submitted.
- (j) Lighting: Development proposals shall identify the location and style of lighting to be used in the development. All light fixtures shall be hooded or shielded so that the light shines downward.

- (k) Signs: Development proposals shall identify all proposed signage. Signs shall be designed in proportion and character with the building facades. All signs shall be constructed of permanent materials and shall be coordinated with the building and landscaping design through the use of appropriate materials and finishes.

(Ord. No. 297-88, 5-23-88)

Sec. 14-230.14. Dimensional requirements.

In addition to the provisions of division 25 (space and bulk regulations and exceptions) of this article, lots in the O-P zone shall meet the following minimum requirements:

- (a) Minimum lot size: One and one-half (1.5) acres.
- (b) Minimum street frontage: One hundred (100) feet.
- (c) Minimum lot width: One hundred fifty (150) feet.
- (d) Minimum yard dimensions:
 - 1. Front yard: Fifty (50) feet.
 - 2. Rear yard: Fifty (50) feet.
 - 3. Side yards: Twenty-five (25) feet, except where a side yard abuts a residential zone or use, in which case it shall be forty (40) feet.

The Planning Board can reduce by up to fifty (50) percent the minimum yard setback if another yard within the lot is correspondingly increased so that the combined minimum setbacks on all four (4) sides equal one hundred fifty (150) feet. If two (2) or more buildings are located on one (1) lot, only the requirements of the front, rear or side yards that adjoin any external property boundary must be met, provided a sufficient fire line is provided.

- (e) Maximum structure height: Fifty-five (55) feet, except that on lots or within office-park subdivisions which are composed of over fifty (50) acres in total land area, seventy-five (75) feet is permitted, including roof appurtenances, if each of the required minimum yard dimensions is increased by one (1) foot in

distance for each one (1) foot of height above
fifty-five (55) feet.

(Ord. No. 297-88, 5-23-88; Ord. No. 223-92, 1-22-92)

Sec. 14-230.15. Other requirements.

[In addition to the above, the following requirements are
applicable to all uses in the O-P zone:]

- (a) Off-street parking and loading: Off-street parking and loading are required as provided in division 20 (off-street parking) and division 21 (off-street loading).
- (b) Signs: Signs shall be subject to the provisions of division 22 of this article. Temporary freestanding advertising signs are not permitted.
- (c) Curbs and sidewalks: Curbs and sidewalks as specified in article VI of chapter 25.
- (d) Shoreland and flood plain management regulations: If the lot is located in a shoreland zone or in a flood hazard zone, the requirements of division 26 and/or division 26.5 apply.

(Ord. No. 297-88, 5-23-88)

Sec. 14-230.16. External effects.

Every use in a O-P zone, unless expressly exempted, shall
be subject to the following limitations:

- (a) Enclosed structure: The use shall be operated within a completely enclosed structure, except for those customarily operated in the open air.
- (b) Noise: The volume of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American Standards Association), generated shall not exceed sixty (60) decibels on the A scale, on impulse (less than one (1) second), at lot boundaries, excepting air raid sirens and similar warning devices.
- (c) Vibration: Vibration inherently and recurrently generated shall be imperceptible without instruments at lot boundaries.

- (d) Heat, glare, radiation or fumes: Heat, glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.
- (e) Smoke: Smoke shall not be emitted at a density in excess of twenty (20) percent opacity level as classified in Method 9 (Visible Emissions) of the Opacity Evaluation System of the U.S. Environmental Protection Agency.
- (f) Materials or wastes: No materials or wastes shall be deposited on any lot in such form or manner that they may be transferred beyond the lot boundaries by natural causes or forces. All material which might cause fumes or dust, or constitute a fire hazard if stored out-of-doors, shall be only in enclosed containers. Areas attracting large numbers of birds, rodents or insects are prohibited.

(Ord. No. 297-88, 5-23-88)

DIVISION 13. I-L AND I-Lb INDUSTRIAL ZONES*

*Editor's note—Ord. No. 164-97, § 6, passed Jan. 6, 1997, repealed div. 13, §§ 14-231–14-236 of this article and enacted new provisions as herein set out. Formerly, such division pertained to the I-1 industrial zone and derived from §§ 602.11.A–602.11.F of the 1968 Code as amended by the following legislation:

Ord. No.	Sec.	Date	Ord. No.	Sec.	Date
570-71	--	11-16-71	330-90	1	5-7-90
327-71	--	7- 7-71	17-90	--	6-18-90
499-74	5	8-19-74	112-90	--	10- 1-90
334-76	6	7- 7-76	15-92	17	6-15-92
430-85	--	3- 4-85	193A-93	1	2-17-93
633-86	1	6- 2-86	89A-94	--	9-19-94

578-87	1	6-15-87	154-96	14	12-16-96
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Sec. 14-231. Purpose.

The low impact industrial zone is intended to provide areas in which low impact industrial uses and limited other uses serving employees and residents of the surrounding neighborhood will be compatible with adjacent residential uses, will provide a buffer between residential neighborhoods and the I-M or I-H industrial zones, or will stand alone as a smaller scale industrial district.

The I-L zone is located adjacent to residential neighborhoods, business uses and other industrial uses where the low intensity nature of the uses, as well as their strict performance standards, will ensure the compatibility of the uses with other adjacent industrial and nonindustrial uses.

Performance standards for uses in the I-L zone are designed to maintain compatibility between low impact industrial uses and neighboring nonindustrial and industrial uses. Performance standards include full enclosure of uses and requirements for buffers and screening from adjacent properties.
(Ord. No. 164-97, § 6, 1-6-97; Ord. No. 149-10/11, 3-7-11)

Sec. 14-232. Permitted uses.

The following uses are permitted whether provided by private or public entities in the low impact industrial zone and the I-Lb zone:

- (a) Low impact industrial uses, including, but not limited to, bakeries, breweries, bottling, printing and publishing, pharmaceuticals, machine shops, musical instruments, precision instruments, watchmakers, toys and sporting goods, wood products, jewelry, assembly of electrical components, tool and die shops and the packaging of food.
- (b) Research and development.
- (c) Indoor amusement and recreation centers.
- (d) Plant and tree nurseries, including associated recycling activities.

- (e) Lumber yards.
- (f) Commercial kitchens or other food preparation, provided that the food is not prepared for service on the premises.
- (g) Building contractors and outside storage of related construction equipment, provided that there shall be no outside storage of materials and supplies.
- (h) Repair services, including all types of automotive repair.
- (i) Day care facilities, provided that:
 - 1. Proof of licensing with the Maine Department of Human Services is submitted to the city prior to issuance of a certificate of occupancy;
 - 2. Off-street parking: off-street parking is required as provided in division 20 of this article;
 - 3. Off-street loading shall be located in a safe location;
 - 4. There shall be an on-site outdoor play area with seventy-five (75) feet of land area per child; and
 - 5. The outdoor play area shall be fenced and screened with a landscaped buffer.
- (j) Dairies.
- (k) Dog training services, including but not limited to obedience, guide, and service training, but not including boarding or kennel services.
- (l) Intermodal transportation facilities.
- (m) Utility substations.
- (n) Marinas.
- (o) Distribution centers, warehouses and wholesale businesses under ten thousand (10,000) square feet in

total building area, with no outside storage permitted.

(p) Back office uses.

(q) Accessory uses.

1. Incidental accessory uses.

2. In the Ilb zone, the following additional accessory uses shall also be permitted:

a. Makers' markets, including periodic, seasonal, or temporary sales of handcrafted and limited production products for final consumption, which may include prepared or raw foods, provided that:

i. Such sales are located within a lawfully conforming principal permitted use;

ii. Such sales occupy an area no larger than 45% of the floor area devoted to the principal use;

iii. Such sales by any single vendor or group of vendors shall occur for no more than a total of 28 hours a week collectively;

iv. Such products are produced or permitted to be produced in the IL zone; and

v. Such products are sold by the producer of the product or their designee.

Such sales shall be subject to any other applicable city ordinances. Food trucks are exempt from the limitations contained in this provision, but are subject to Chapter 19 of the City Code and any regulations promulgated pursuant thereto.

b. Temporary events associated with a principal use, such as concerts, lectures, exhibitions of the local production of handcrafted and limited production products, fundraisers, and other similar gatherings, provided that

they occur no more than a total of 16 hours a week, subject to the performance standards of this zone and any other applicable city ordinances.

- (r) Marijuana cultivation facility (maximum 2,000 square feet of plant canopy).
- (s) Neighborhood centers.
- (t) Places of religious assembly, limited to facilities of 10,000 square feet or less.
- (u) Wind energy systems, as defined and allowed in Article X, Alternative Energy.
- (v) Street vendors licensed pursuant to Chapter 19.
- (w) Studios for artists, photographers, and craftspeople, including but not limited to painters, sculptors, dancers, graphic artists, and musicians.
- (x) Marijuana manufacturing facility.

(y) Marijuana testing facility.

(Ord. No. 164-97, § 6, 1-6-97; Ord. No. 22-97, § 1, 7-7-97; Ord. No. 137-97, § 1, 11-3-97; Ord. No. 106-04/05, 12-8-04 enacted as an emergency; Ord. No. 240-09/10, 6-21-10; Ord. No. 283-09/10, 7-19-10 emergency passage; Ord. No. 149-10/11, 3-7-11; Ord. No. 33-11/12, 1-18-12; Ord. No. 10-12/13, 7-16-12; Ord. No. 265-12/13, 7-15-13; 140-18/19, 2-20-2019)

Sec. 14-232.1. Conditional uses.

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

- (a) Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:
 - 1. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty

(60) days; and

2. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and
3. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
4. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
5. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
6. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
7. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
8. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

- (b) Emergency shelters, subject to the provisions of section 14-474 and the use specific standards of section 14-474(c)3.

(Ord. No. 29-09/10, 8-3-09, emergency passage; Ord. No. 252-16/17, 6-5-2017)

Sec. 14-233. Prohibited uses.

Uses that are not expressly enumerated herein as permitted uses are prohibited. Those uses that are prohibited shall include, but are not limited to, the following:

- (a) Residential uses.
- (b) Retail trade and restaurants that are not accessory to a permitted use.
- (c) Junk yards and scrap metal reprocessing and recycling.
- (d) Amusement parks.
- (e) Crematoriums.
- (f) Mining and drilling operations.
- (g) Refining of petroleum or its products, including tar distillation.
- (h) Commercial petroleum storage yards.
- (i) Commercial excavation of building or construction materials other than in the normal course of building or construction or site preparation.
- (j) Distillation of bones; fat rendering; glue, soap, or fertilizer manufacture.
- (k) Dumping, disposal, incineration, or reduction of garbage, sewage, offal, dead animals, or refuse.
- (l) Stockyard or slaughtering of animals.
- (m) Smelting of iron, copper, tin, zinc, or any other ore.
- (n) Manufacture of primary chemicals.
- (o) Manufacture of cement, lime, gypsum, or plaster of

paris.

(p) Manufacture of bleaching powder, matches, paper, or rubber.

(q) Manufacture and storage of explosives or fireworks.

(r) Tanning, curing or storage of raw hides or skins.

(s) Coal distillation or coke ovens.

(t) Foundries.

(u) Creosote treatment.

(v) Drop forging.

(w) Steel mills or furnaces.

(x) Coal- or coke-fired kilns.

(y) Used tire storage.

(z) Outdoor sales or outdoor display.

(aa) Extraction of raw materials.

(bb) Concert halls or dance halls.

(cc) Banquet facilities.

(dd) Office uses other than back offices or offices that are accessory to a permitted use.

(Ord. No. 164-97, § 6, 1-6-97; Ord. No. 137-97, § 2, 11-3-97)

Sec. 14-234. Dimensional requirements.

(a) *Minimum lot size:* None.

(b) Maximum impervious surface ratio: I-L zone: Sixty-five (65) percent. I-Lb zone: One hundred (100) percent.

(c) *Maximum building height:* Forty-five (45) feet.

(d) Minimum side yards: Principal and accessory structures in the I-L zone: Twenty-five (25) feet, except that the minimum side yard shall be forty (40) feet when the side property line

abuts a residential zone. Principal and accessory structures in the I-Lb zone: None, except that the minimum side yard shall be twenty-five (25) feet when the side property line abuts a residential zone.

(e) Minimum rear yards: Principal and accessory structures in the I-L zone: Twenty-five (25) feet, except that the minimum rear yard shall be forty (40) feet when the rear property line abuts a residential zone. Principal and accessory structures in the I-Lb zone: None, except that the minimum rear yard shall be twenty-five (25) feet when the rear property line abuts a residential zone.

(f) Minimum front yard: Principal and accessory structures in the I-L zone: Twenty-five (25) feet. Principal and accessory structures in the I-Lb zone: None.

(g) *Minimum street frontage:* Sixty (60) feet.

(h) Pavement setback from lot boundary: Driveways, parking lots and other paved circulation areas: Fifteen (15) feet.
(Ord. No. 164-97, § 6, 1-6-97)

Sec. 14-235. Other requirements.

(a) Off-street parking shall meet the requirements of division 20 of this article.

(b) Off-street loading shall meet the requirements of division 21 of this article.

(c) Signs shall be subject to the provisions of division 22 of this article.

(d) Shoreland and floodplain management regulations: Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5 of this article.

(e) All uses shall be operated within a fully enclosed structure, except for those customarily operated in open air.

(f) Any storage of new materials, finished products, or related equipment must be suitably screened from the public way and from abutting properties by a solid fence at least five (5) feet in height, or by a solid evergreen planting strip.

(g) All waste shall be stored in covered containers that do not leak or otherwise permit liquids or solids to escape from the container.

(h) All food processing waste shall be stored within a completely enclosed structure and if not refrigerated shall be removed from the site in an enclosed container within forty-eight (48) hours of its generation. All enclosed and exterior food processing waste storage areas shall be cleaned and sanitized on a regular basis.

(i) Outdoor storage of refuse, debris, or material awaiting reuse shall be in an appropriate container or located within a designated, screened area.

(j) Any permitted outdoor storage of materials shall be done in such a manner as to prevent the breeding and harboring of insects or vermin, to prevent the transfer of such materials from the site by natural causes or forces and to contain fumes, dust, or other materials which constitute a fire hazard. This storage shall be accomplished within enclosed containers or by one (1) or more of the following methods: raising materials above ground, separating materials, preventing stagnant water, or by some other means. No outdoor storage shall be permitted in the required yard between the front of any building on the site and the street, except for storage for plant and tree nurseries. (Ord. No. 164-97, § 6, 1-6-97)

Sec. 14-236. Performance standards.

Uses in the I-L and I-Lb zones shall comply with the following standards:

(a) Noise:

1. Definitions:

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

one (1) second.

2. Measurement: Sound levels shall be measured with a sound level meter with a frequency weighting network manufactured according to standards prescribed by the American National Standards Institute (ANSI) or its successor body. Measurements shall be made at all major lot lines of the site, at a height of at least four (4) feet above the ground surface. In measuring sound levels under this section, sounds with a continuous duration of less than sixty (60) seconds shall be measured by the maximum reading on a sound level meter set to the A weighted scale and the fast meter response (L maxfast). Sounds with a continuous duration of sixty (60) seconds or more shall be measured on the basis of the energy average sound level over a period of sixty (60) seconds (LEQ1).
3. Maximum permissible sound levels: The maximum permissible sound level of any continuous, regular or frequent source of sound produced by an activity shall be as follows:
 - a. Sixty (60) dBA between the hours of 7:00 a.m. and 10:00 p.m.
 - b. Fifty (50) dBA between the hours of 10:00 p.m. and 7:00 a.m., as measured at or within the boundaries of any residential zone.

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

4. Exemptions:
 - a. Noises created by construction and maintenance activities between 7:00 a.m. and 10:00 p.m. are exempt from the maximum permissible sound levels set forth in subsection (a)3 of this section.

Construction activities on a site abutting any residential use between the hours of 10:00 p.m. of one (1) day and 7:00 a.m. of the following day shall not exceed fifty (50) dBA.

- b. The following uses and activities shall also be exempt from the requirements of subsection (a)3 of this section:
 - i. The noises of safety signals, warning devices, emergency pressure relief valves, and any other emergency devices.
 - ii. Traffic noise on public roads or noise created by airplanes and railroads.
 - iii. Noise created by refuse and solid waste collection, provided that the activity is conducted between 6:00 a.m. and 7:00 p.m.
 - iv. Emergency construction or repair work by public utilities, at any hour.
 - v. Noise created by any recreational activities which are permitted by law and for which a license or permit has been granted by the city, including but not limited to parades, sporting events, and fireworks displays.
- (b) Electromagnetic interference: There shall be no electromagnetic interference that adversely affects the operation of any equipment other than that belonging to the creator of such interference, or that does not conform to the regulations of the Federal Communications Commission.
- (c) Vibrations: Vibrations inherently and recurrently generated shall be imperceptible without instruments at lot boundaries.
- (d) Glare, heat: Any use shall be in an enclosed structure in such a manner that glare and heat shall be imperceptible from neighboring properties.
- (e) Discharge of toxic or noxious matter: All discharges

of toxic or noxious matter shall be made in accordance with all applicable state and federal regulations.

- (f) Odor: It shall be a violation of this chapter to create an odor nuisance.
1. Determination of odor nuisance: An odor nuisance shall be considered to exist when ten (10) confirmed complaints occur in an area within two (2) separate twenty-four-hour periods. The ten (10) confirmed complaints must originate from ten (10) different households in an area zoned residential or from ten (10) different individuals in a commercial or industrial facility. The building authority shall only respond to a complainant who confirms that the odor is detectable at the time of the actual complaint. In order to confirm a complaint, the building authority or its designee shall first determine that an odor is detectable in the area of the complaint. The building authority or its designee shall interview the complainant to verify that the detectable odor is in fact the odor that resulted in the complaint. If the complainant verifies the odor as the source of the complaint, then the building authority shall notify the owner or operator of the alleged odor source either in person or by telephone within one (1) working day, with a written confirmation within seven (7) working days of the complaint. In the event that the building authority is unable to contact the owner or operator of the alleged odor source in person or by telephone within one (1) working day, then the building authority shall send written notice to the operator within seven (7) working days of the complaint.

In the event that ten (10) complaints are confirmed as set forth in subsection (1) in two (2) separate twenty-four-hour periods within a ninety-day period, the building authority shall cause a certified odor inspector to investigate any odor complaints received in the next thirty (30) days following the receipt of the tenth confirmed complaint from the second twenty-four-hour period. If the odors remain

under the ambient intensity standard as established in this subsection for the next thirty (30) days, then a new odor nuisance must be established after that time in accordance with the requirements of this section. The certified odor inspector shall do the following in response to a complaint under this section:

- a. Verify that an odor is detectable in the area of the complaint and confirm that it is the odor that resulted in the complaint;
- b. Quantify the intensity of the odor on the eight-point n-butanol intensity scale as defined in regulations promulgated by the director of the planning authority to establish training and technical standards to support this section; and
- c. Track the odor to its source.

When the certified odor inspector determines that a violation has occurred because an odor has exceeded the maximum ambient odor levels set forth in this section, the building authority shall notify the owner or operator either by telephone or in person of the violation within one (1) working day of the violation. The building authority shall confirm this notification in writing within seven (7) working days of this initial notice. In the event that the building authority is unable to contact the owner or operator by telephone or in person within the required time period, then it will send written notification within seven (7) working days of the violation.

Upon receipt of the written notice of violation, the owner or operator of the odor source shall do the following:

- a. Implement odor reduction procedures immediately upon notification by the building authority that the facility has violated this section wherever odor reduction can be achieved by operational or procedural changes at the facility;

- b. Submit to the building authority, within thirty (30) days of the written notice of violation, an odor reduction plan which is designed to reduce ambient odors attributable to emissions from that source to the maximum allowable intensity for that zone. The plan shall include a detailed summary of the measures that the owner or operator will take to mitigate the community annoyance and estimated dates for completion of those measures. In the event that it will take longer than thirty (30) days to develop the odor reduction plan, the owner or operator of the facility shall submit within the thirty-day time period a schedule for the development of the odor reduction plan. The building authority shall review this plan to determine whether it will be adequate to resolve the odor nuisance in a reasonable time period; and
 - c. Implement the plan in accordance with the schedule approved by the building authority.
- 2. Ambient odor limits: The maximum ambient intensity standard for odors generated by uses located in the I-L zone shall not exceed the following levels when the odor is measured in the zone indicated:
 - 4.0 in any industrial or business zone for odors resulting from any industrial use.
 - 3.0 in any residential zone for odors resulting from any industrial use.
- (g) Smoke: Discharges of smoke shall not exceed opacity percentage of forty (40) percent or number 2 on the Ringelmann chart.
- (h) Emissions: All emissions shall be made in accordance with all applicable state and federal regulations.
- (i) Radiation: Radiation at a site shall comply with all applicable state and federal regulations.

(j) Discharge into sewers: No discharge shall be permitted at any point into any private sewage disposal system, or stream, or into the ground of any materials in such a way or of such nature or temperature as to contaminate any water supply, or otherwise cause the emission of dangerous or objectionable elements, except in accordance with standards approved by the health authority or by the public works authority.

(k) Lighting: All lighting shall be designed and installed with cut-off fixtures to direct illumination onto the site and to prevent illumination from such fixtures on neighboring properties.

(Ord. No. 164-97, § 6, 1-6-97)

Sec. 14-237. thru 14-245. Reserved.

DIVISION 14. I-M, I-Ma AND I-Mb INDUSTRIAL ZONES*

*Editor's note—Ord. No. 164-97, § 7, passed Jan. 6, 1997, repealed div. 14, §§ 14-246–14-251 of this article and enacted new provisions as herein set out. Formerly, such provisions pertained to the I-2 and I-2b industrial zones and derived from §§ 602.12.A–602.12.F of the 1968 Code as amended by Ord. No. 499-74, § 5, adopted Aug. 19, 1974; Ord. No. 334-76, §§ 2, 3, adopted Jul. 7, 1976; Ord. No. 234-88, adopted Feb. 1, 1988; Ord. No. 330-90, § 2, adopted May 7, 1990; Ord. No. 15-92, § 18, adopted Jun. 15, 1992; Ord. No. 193A-93, § 2, adopted Feb. 17, 1993; and Ord. No. 154-96, § 15, 12-16-96.

Sec. 14-246. Purpose.

The moderate impact industrial zones are intended to provide zones in areas of the city in which light and moderate impact industries and transportation-related uses will coexist.

The moderate impact industrial (I-M and I-Ma) zones are located on arterials or collectors. The I-Mb zones are similarly located on the peninsula. These locations provide for direct access onto arterials, thereby protecting residential neighborhoods from drive-through traffic.

The I-M, I-Ma and I-Mb industrial zones are intended to provide for larger industrial buildings and for the limited or

controlled use of areas outside of structures for storage of materials and machinery. These facilities often require large volumes of imported materials and products which result in large volumes of shipping and receiving. Often uses may be highway-oriented and transportation-related, thus relying on citywide and regional transportation infrastructure.

Industrial uses in the moderate impact industrial zones may require separation from higher impact uses, which should be directed to the high impact industrial zone.
(Ord. No. 164-97, § 7, 1-6-97)

Sec. 14-247. Permitted uses.

The following uses are permitted whether provided by private or public entities in the I-M moderate impact industrial zone, the I-Ma and the I-Mb zone:

- (a) Low impact industrial uses, including but not limited to bakeries, breweries, bottling, printing and publishing, pharmaceuticals, machine shops, musical instruments, precision instruments, watchmakers, toys and sporting goods, wood products, jewelry, assembly of electrical components, tool and die shops and the packaging of food.
- (b) Research and development and back office uses.
- (c) Building contractors and construction and engineering services.
- (d) Wholesale trade.
- (e) Warehousing and distribution facilities, including outdoor storage.
- (f) Intermodal transportation facilities and transportation terminals.
- (g) Repair services, including all types of automotive repair services.
- (h) Indoor amusement or recreational centers.
- (i) Plant and tree nurseries, including associated recycling activities.

- (j) Lumber yards.
- (k) Commercial kitchens or other food preparation, provided that the food is not prepared for service on the premises.
- (l) Recycling facilities, provided that all storage and recycling operations occur within a fully enclosed structure.
- (m) Food and seafood processing for human consumption.
- (n) Municipal or regional solid waste disposal facilities, provided that all disposal activities are carried out within an enclosed structure.
- (o) Day care facilities, provided that:
 - 1. Proof of licensing with the Maine Department of Human Services is submitted to the city prior to issuance of a certificate of occupancy;
 - 2. Off-street parking: Off-street parking is required as provided in division 20 (off-street parking) of this article;
 - 3. Off-street loading shall be located in a safe location;
 - 4. There shall be an on-site outdoor play area with seventy-five (75) feet of land area per child; and
 - 5. The outdoor play area shall be fenced and screened with a landscaped buffer.
- (p) Dairies.
- (q) Utility substations.
- (r) 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:
 - 1. 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;

2. Such facilities shall not be permitted in the I-Ma or I-Mb zones;
 3. 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
 4. The facility shall provide twenty-four-hour supervision of program participants.
- (s) Incidental accessory uses.
- (t) General, business and professional offices.
- (u) Storage lots for towed or impounded vehicles, provided that such lots are located at least 300 feet from any residential zone or existing conforming residential use. For the purposes of this section, "existing conforming residential use" does not include a legally nonconforming residential use as described in division 23 of this chapter.
- (v) Marijuana cultivation facility (maximum 7,000 square feet of plant canopy).
- (w) Wind energy systems, as defined and allowed in Article X, Alternative Energy.
- (x) Street vendors licensed pursuant to Chapter 19.
- (y) Intermediate care facilities on any property with existing structures provided they were not designed constructed or used for any amusement, industrial, warehouse or manufacturing use on September 15, 2014 or thereafter. Properties with such structures may be reused and expanded to establish an intermediate care facility for no more than 30 persons plus staff.
- (z) Marijuana manufacturing facility.

(aa) Marijuana testing facility.

(Ord. No. 164-97, § 7, 1-6-97; Ord. No. 137-97, § 3, 11-3-97; Substitute Ord. No. 72-01/02, § 1, 10-1-01; Ord. No. 97-06/07, 11-20-06; Ord. No. 240-09/10, 6-21-10; Ord. No. 283-09/10, 7-19-10 emergency passage; Ord. No. 33-11/12, 1-18-12; Ord. No. 10-12/13, 7-16-12; Ord. 53-14/15, 9-15-2014; 140-18/19, 2-20-2019)

Sec. 14-248. Performance based uses.

Uses not expressly permitted as provided in section 14-247 or expressly prohibited in section 14-249 may be permitted if they meet the following conditions and standards:

- (a) The proposed development is consistent with the purposes of this zone.
- (b) The proposed development is designed and operated so that it will prevent undue adverse environmental impacts, substantial diminution of the value or utility of neighboring structures, or significant hazards to the health or safety of neighboring residents by controlling noise levels, emissions, traffic, lighting, odor, and any other potential negative impacts of the proposal.

(Ord. No. 164-97, § 7, 1-6-97)

Sec. 14-248.1. Conditional uses.

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

- (a) Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:
 - 1. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
 - 2. Towers shall be constructed according to plans and specifications stamped by a licensed

professional engineer, which shall be provided to the Board of Appeals with the application; and

3. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
 4. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
 5. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
 6. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
 7. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
 8. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.
- (b) Wind energy systems, as defined and allowed in Article X, Alternative Energy.

- (c) Emergency shelters, subject to the provisions of section 14-474 and the use specific standards of section 14-474(c)3.

(Ord. No. 29-09/10, 8-3-09, emergency passage; Ord. No. 33-11/12, 1-18-12; Ord. No. 252-16/17, 6-5-2017)

Sec. 14-249. Prohibited uses.

Uses that are not expressly enumerated herein as permitted uses are prohibited. Those uses that are prohibited shall include, but are not limited to, the following:

- (a) Residential uses.
- (b) Retail trade that is not ancillary to a permitted use.
- (c) Restaurant uses.
- (d) Junk yards.
- (e) Amusement parks.
- (f) Crematoriums.
- (g) Mining and drilling operations.
- (h) Refining of petroleum or its products, including tar distillation.
- (i) Petroleum tank farms.
- (j) Commercial excavation of building or construction materials other than in the normal course of building or construction or site preparation.
- (k) Distillation of bones; fat rendering; glue, soap, or fertilizer manufacture.
- (l) Dumping, disposal, incineration, or reduction of garbage, sewage, offal, dead animals, or refuse.
- (m) Stockyard or slaughtering of animals.
- (n) Smelting of iron, copper, tin, zinc, or any other ore.
- (o) Manufacture of primary chemicals.

- (p) Manufacture of cement, lime, gypsum, or plaster of paris.
- (q) Manufacture of bleaching powder, matches, paper, or rubber.
- (r) Manufacture of explosives or fireworks. Bulk storage of explosives or fireworks is also prohibited unless such storage is done as an accessory use to a permitted use located on the same site and all required state and local permits have been acquired.
- (s) Tanning, curing or storage of raw hides or skins.
- (t) Coal distillation or coke ovens.
- (u) Creosote treatment.
- (v) Drop forging.
- (w) Steel mills or furnaces.
- (x) Coal- or coke-fired kilns.
- (y) Used tire storage.
- (z) Extraction of raw materials.
- (aa) Concert halls or dance halls.
- (bb) Banquet facilities.

(Ord. No. 164-97, § 7, 1-6-97; Ord. No. 137-97, § 4, 11-3-97; Substitute Ord. No. 72-01/02, § 2, 10-1-01)

Sec. 14-250. Dimensional requirements.

(a) *Minimum lot size:*

1. Correctional prerelease facilities: Ten thousand (10,000) square feet.
2. Other uses: None.

(b) Maximum impervious surface ratio: I-M and I-Ma zone: Seventy-five (75) percent. I-Mb zone: One hundred (100) percent.

(c) Maximum building height: I-M and I-Mb zones: Seventy-five (75) feet. I-Ma zone: Forty-five (45) feet.

(d) Minimum side yards: Principal and accessory structures in the I-M and the I-Ma zone: Each structure shall be set back one (1) foot from each side property line for each one (1) foot of building height, up to twenty-five (25) feet, except that the minimum side yard shall be thirty-five (35) feet when the side property line abuts a residential zone.

Principal and accessory structures in the I-Mb zone: None, except that the minimum side yard shall be twenty-five (25) feet when the side property line abuts a residential zone.

(e) Minimum rear yards: Principal and accessory structures in the I-M and I-Ma zone: Each structure shall be set back one (1) foot from the rear property line for each one (1) foot of building height, up to twenty-five (25) feet, except that the minimum rear yard shall be thirty-five (35) feet when the rear property line abuts a residential zone.

Principal and accessory structures in the I-Mb zone: None, except that the minimum rear yard shall be twenty-five (25) feet when the rear property line abuts a residential zone.

(f) Minimum front yard: Principal and accessory structures in the I-M and I-Ma zone: Each structure shall be set back one (1) foot from the front property line for each one (1) foot of building height.

Principal and accessory structures in the I-Mb zone: None.

(g) Minimum street frontage: Sixty (60) feet.

(h) Pavement setback from lot boundaries: Ten (10) feet.
(Ord. No. 164-97, § 7, 1-6-97)

Sec. 14-251. Other requirements.

(a) Off-street parking shall meet the requirements of division 20 of this article.

(b) Off-street loading shall meet the requirements of division 21 of this article.

(c) Signs shall be subject to the provisions of division 22 of this article.

(d) Shoreland and floodplain management regulations: Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5 of this article.

(e) All uses shall be operated within a fully enclosed structure, except for those customarily operated in open air.

(f) Any storage of new materials, finished products, or related equipment must be suitably screened from the public way and from abutting properties by a solid fence at least five (5) feet in height, or by a solid evergreen planting strip.

(g) All waste shall be stored in covered containers that do not leak or otherwise permit liquids or solids to escape from the container.

(h) All food processing waste shall be stored within a completely enclosed structure and if not refrigerated shall be removed from the site in an enclosed container within forty-eight (48) hours of its generation. All enclosed and exterior food processing waste storage areas shall be cleaned and sanitized on a regular basis.

(i) Outdoor storage of refuse, debris or previously used materials awaiting reuse shall be either in an appropriate container or located within a designated, screened area.

(j) Any permitted outdoor storage of materials shall be done in such a manner as to prevent the breeding and harboring of insects or vermin, to prevent the transfer of such materials from the site by natural causes or forces and to contain fumes, dust, or other materials which constitute a fire hazard. This storage shall be accomplished within enclosed containers or by one (1) or more of the following methods: raising materials above ground, separating materials, preventing stagnant water, or by some other means. No outdoor storage shall be permitted between the front of any building on the site and the street, except for storage for plant and tree nurseries or lumber yards. (Ord. No. 164-97, § 7, 1-6-97)

Sec. 14-252. Performance standards.

Uses in the I-M, I-Ma, and I-Mb zones shall meet the following standards:

(a) Noise:

1. Definitions:

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

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

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

- a. Seventy (70) dBA between the hours of 7:00 a.m. and 10:00 p.m.
- b. Fifty-five (55) dBA between the hours of 10:00 p.m. and 7:00 a.m., as measured at or within the boundaries of any residential zone.

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

4. Exemptions:

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

- (b) Electromagnetic interference: There shall be no electromagnetic interference that adversely affects the operation of any equipment other than that belonging to the creator of such interference, or that does not conform to the regulations of the Federal Communications Commission.
- (c) Vibrations: Any use creating earthshaking vibrations shall be controlled in such a manner as to prevent transmission beyond lot lines of vibrations causing a displacement of .003 or greater on one (1) inch, as measured by a vibrograph or similar instrument at the property boundaries.
- (d) Glare, heat: Any use shall be in an enclosed structure in such a manner that glare and heat shall be imperceptible from neighboring properties.
- (e) Discharge of toxic or noxious matter: All discharges of toxic or noxious matter shall be made in accordance with all applicable state and federal regulations.
- (f) Odor: It shall be a violation of this chapter to create an odor nuisance.
 - 1. Determination of odor nuisance: An odor nuisance shall be considered to exist when ten (10) confirmed complaints occur in an area within two (2) separate twenty-four-hour periods. The ten (10) confirmed complaints must originate from ten (10) different households in an area zoned residential or from ten (10) different individuals in a commercial or industrial facility. The building authority shall only respond to a complainant who confirms that the odor is detectable at the time of the actual complaint. In order to confirm a complaint, the building authority or its designee shall first determine that an odor is detectable in the area of the complaint. The building authority or its designee shall interview the complainant to verify that the detectable odor is in fact the odor that resulted in the complaint. If the complainant verifies the odor as the source of the complaint, then the building authority shall

notify the owner or operator of the alleged odor source either in person or by telephone within one (1) working day, with a written confirmation within seven (7) working days of the complaint. In the event that the building authority is unable to contact the owner or operator of the alleged odor source in person or by telephone within one (1) working day, then the building authority shall send written notice to the operator within seven (7) working days of the complaint.

In the event that ten (10) complaints are confirmed as set forth in subsection (1) in two (2) separate twenty-four-hour periods within a ninety-day period, the building authority shall cause a certified odor inspector to investigate any odor complaints received in the next thirty (30) days following the receipt of the tenth confirmed complaint from the second twenty-four-hour period. If the odors remain under the ambient intensity standard as established in this subsection for the next thirty (30) days, then a new odor nuisance must be established after that time in accordance with the requirements of this section. The certified odor inspector shall do the following in response to a complaint under this section:

- a. Verify that an odor is detectable in the area of the complaint and confirm that it is the odor that resulted in the complaint;
- b. Quantify the intensity of the odor on the eight-point n-butanol intensity scale as defined in regulations promulgated by the director of the planning authority to establish training and technical standards to support this section; and
- c. Track the odor to its source.

When the certified odor inspector determines that a violation has occurred because an odor has exceeded the maximum ambient odor levels set forth in this section, the building authority

shall notify the owner or operator either by telephone or in person of the violation within one (1) working day of the violation. The building authority shall confirm this notification in writing within seven (7) working days of this initial notice. In the event that the building authority is unable to contact the owner or operator by telephone or in person within the required time period, then it will send written notification within seven (7) working days of the violation.

Upon receipt of the written notice of violation, the owner or operator of the odor source shall do the following:

- a. Implement odor reduction procedures immediately upon notification by the building authority that the facility has violated this section wherever odor reduction can be achieved by operational or procedural changes at the facility;
- b. Submit to the building authority, within thirty (30) days of the written notice of violation, an odor reduction plan which is designed to reduce ambient odors attributable to emissions from that source to the maximum allowable intensity for that zone. The plan shall include a detailed summary of the measures that the owner or operator will take to mitigate the community annoyance and estimated dates for completion of those measures. In the event that it will take longer than thirty (30) days to develop the odor reduction plan, the owner or operator of the facility shall submit within the thirty-day time period a schedule for the development of the odor reduction plan. The building authority shall review this plan to determine whether it will be adequate to resolve the odor nuisance in a reasonable time period; and
- c. Implement the plan in accordance with the schedule approved by the building authority.

2. Ambient odor limits: The maximum ambient intensity standard for odors generated by uses located in the I-M zones shall not exceed the following levels when the odor is measured in the zone indicated:

4.0 in any industrial or business zone for odors resulting from any industrial use.

3.0 in any residential zone for odors resulting from any industrial use.

- (g) Smoke: Discharges of smoke shall not exceed opacity percentage of forty (40) percent or number 2 on the Ringelmann chart.
- (h) Emissions: All emissions shall be made in accordance with all applicable state and federal regulations.
- (i) Radiation: Radiation at a site shall comply with all applicable state and federal regulations.
- (j) Discharge into sewers: No discharge shall be permitted at any point into any private sewage disposal system, or stream, or into the ground of any materials in such a way or of such nature or temperature as to contaminate any water supply, or otherwise cause the emission of dangerous or objectionable elements, except in accordance with standards approved by the health authority or by the public works authority.
- (k) Lighting: All lighting shall be designed and installed with cut-off fixtures to direct illumination onto the site and to prevent illumination from such fixtures on neighboring properties.
- (l) Traffic: Development in the I-M, I-Ma and I-Mb zones shall utilize to the greatest extent possible arterial streets as delineated on the Maine Department of Transportation Map, a copy of which is on file in the Department of Planning and Urban Development.

(Ord. No. 164-97, § 7, 1-6-97)

Sec. 14-253 - Sec. 14-260. Reserved.

DIVISION 15. I-H AND I-Hb INDUSTRIAL ZONES*

***Editor's note**—Ord. No. 164-97, § 8, passed Jan. 6, 1997, repealed div. 15, §§ 14-261–14-266 of this article and enacted new provisions as herein set out. Formerly, such provisions pertained to the I-3 and I-3b industrial zones and derived from §§ 602.13.A–602.13.F of the 1968 Code as amended by Ord. No. 499-74, § 5, adopted Aug. 19, 1974; Ord. No. 334-76, §§ 4–6, adopted Jul. 7, 1976; Ord. No. 198-88, adopted Nov. 21, 1988; Ord. No. 201-88, adopted Nov. 21, 1988; Ord. No. 330-90, § 3, adopted May 7, 1990; Ord. No. 15-92, § 19, adopted Jun. 15, 1992; and Ord. No. 193A-93, §§ 3, 4, adopted Feb. 17, 1993.

Sec. 14-261. Purpose.

The high impact industrial zones are intended to provide areas suitable for higher impact industrial uses than are permitted in other industrial zones and other uses including hospital campuses that are capable of demonstrating, through design, layout and topography, their compatibility with, or non-intrusion on, existing or future higher impact industrial uses on adjacent or neighboring I-H zoned properties.

Due to the intensity of use, the I-H zones are intended for uses which may require extensive outdoor storage and usage and may utilize heavy equipment. Processes may require separation from residential or sensitive environmental areas. The I-H zones are separated from other nonindustrial uses as well as natural or constructed features.

High impact industrial uses will be of a higher intensity, with a greater lot coverage, than the other zones. Due to the intensity of uses, the performance standards will allow for the higher intensity of use.

(Ord. No. 164-97, § 8, 1-6-97; Ord. No. 106-01/02, § 1, 12-3-01)

Sec. 14-262. Permitted uses.

The following uses are permitted whether provided by private or public entities in the I-H zone and the I-Hb zone:

- (a) Low impact industrial uses, including but not limited to bakeries, breweries, bottling, printing and publishing, pharmaceuticals, machine shops, musical instruments, precision instruments, watchmakers, toys and sporting goods, wood products, jewelry, assembly of electrical components, tool and die shops and the packaging of food.

- (b) Research and development.
- (c) Wholesale trade.
- (d) Warehousing and distribution facilities.
- (e) Intermodal transportation facilities and transportation terminals.
- (f) Repair services, including all types of automotive repair services.
- (g) High impact industrial uses.
- (h) Building contractors and construction services.
- (i) Plant and tree nurseries, including associated recycling activities.
- (j) Lumber yards.
- (k) Fish waste processing facility, provided that it has received all required licenses and is in compliance with all applicable licensing requirements.
- (l) Commercial kitchens or other food preparation, provided that the food is not prepared for service on the premises.
- (m) Recycling facilities.
- (n) Food and seafood processing.
- (o) Dairies.
- (p) Municipal or regional solid waste disposal facilities, provided that all disposal activities are carried out within an enclosed structure.
- (q) Utility substations.
- (r) 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:

1. 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;
 2. Such facilities shall not be permitted in the I-Hb zone;
 3. If a facility requires a state or federal license, 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
 4. The facility shall provide twenty-four-hour supervision of program participants.
- (s) Storage lots for towed or impounded vehicles.
- (t) Registered medical marijuana cultivation facilities.
- (u) wind energy systems, as defined and allowed in Article X, Alternative Energy.
- (v) Street vendors licensed pursuant to Chapter 19.
- (x) Marijuana manufacturing facility.
- (y) Marijuana testing facility.

(Ord. No. 164-97, § 8, 1-6-97; Ord. No. 137-97, § 5, 11-3-97; Ord. No. 97-06/07, 11-20-06; Ord. No. 283-09/10, 7-19-10 emergency passage; Ord. No. 33-11/12, 1-18-12; Ord.No. 10-12/13, 7-16-12; 140-18/19, 2-20-2019)

Sec. 14-262.1. Conditional uses.

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

- (a) Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:
 1. Towers may be installed for the purpose of wind data collection for no more than two (2) years

after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and

2. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and
3. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
4. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
5. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
6. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
7. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
8. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or

by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

- (b) Wind energy systems, as defined and allowed in Article X, Alternative Energy.
- (c) Emergency shelters, subject to the provisions of section 14-474 and the use specific standards of section 14-474 (c)3.

(Ord. No. 29-09/10, 8-3-09, emergency passage; Ord. No. 252-16/17, 6-5-2017)

Sec. 14-263. Prohibited uses.

Uses that are not expressly enumerated herein as permitted uses are prohibited. Those uses that are prohibited shall include, but are not limited to, the following:

- (a) Junk yards.
- (b) Amusement parks.
- (c) Refining of petroleum or its products, including tar distillation.
- (d) Distillation of bones; fat rendering; glue, soap, or fertilizer manufacture, except that fish waste processing may be permitted as set forth in section 14-262.
- (e) Dumping, disposal, incineration, or reduction of garbage, sewage, offal, dead animals, or refuse.
- (f) Stockyard or slaughtering of animals.
- (g) Smelting of iron, copper, tin, zinc, or any other ore.
- (h) Manufacture of explosives or fireworks.
- (i) Coal distillation or coke ovens.
- (j) Creosote treatment.
- (k) Drop forging.

- (l) Steel mills or furnaces.
- (m) Coal- or coke-fired kilns.
- (n) Used tire storage.
- (o) Extraction of raw materials.
- (p) Concert halls or dance halls.
- (q) Banquet facilities.

(Ord. No. 164-97, § 8, 1-6-97; Ord. No. 137-97, § 6, 11-3-97; Ord. No. 106-01/02, § 2, 12-3-01)

Sec. 14-264. Contract or conditional zoning.

A conditional or contract rezoning shall only be approved if, after public hearing and opportunity for public comment, the reviewing body finds that the applicant has carried the burden of proof to show that the proposed development meets the following standards:

- (a) The proposed development is consistent with the comprehensive plan.
- (b) The proposed development is consistent with the purposes of this zone.
- (c) The proposed development is designed and operated so that it will prevent undue adverse environmental impacts, substantial diminution of the value or utility of neighboring structures, or significant hazards to the health or safety of neighboring residents by controlling noise levels, emissions, traffic, lighting, odors, and any other potential negative impacts of the proposal.
- (d) All plans must include complete information of processes, materials or methods of storage to be used by the development and shall specify how hazardous impacts to neighboring properties will be prevented.

(Ord. No. 164-97, § 8, 1-6-97)

Sec. 14-265. Dimensional requirements.

- (a) *Minimum lot size:*

1. Correctional prerelease facilities: Ten thousand (10,000) square feet.

2. Other uses: None.

(b) Maximum impervious surface ratio: I-H zone: Eighty-five (85) percent. I-Hb zone: One hundred (100) percent.

(c) Maximum building height: Seventy-five (75) feet.

(d) Minimum side yards: Principal and accessory structures in the I-H zone: Thirty-five (35) feet. Principal and accessory structures in the I-Hb zone: None.

(e) Minimum rear yards: Principal and accessory structures in the I-H zone: Thirty-five (35) feet. Principal and accessory structures in the I-Hb zone: None.

(f) Minimum front yard: Principal and accessory structures in the I-H zone: Twenty-five (25) feet. Principal and accessory structures in the I-Hb zone: None.

(g) *Minimum street frontage*: Sixty (60) feet.

(h) *Pavement setback from lot boundaries*: Ten (10) feet.
(Ord. No. 164-97, § 8, 1-6-97)

Sec. 14-266. Other requirements.

(a) Off-street parking shall meet the requirements of division 20 of this article.

(b) Off-street loading shall meet the requirements of division 21 of this article.

(c) Signs shall be subject to the provisions of division 22 of this article.

(d) Shoreland and floodplain management regulations: Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5 of this article.

(e) All uses shall be operated within a fully enclosed structure, except for those customarily operated in open air.

(f) Any storage of new materials, finished products, or related equipment must be suitably screened from the public way and from abutting nonindustrial use properties by a solid fence at least five (5) feet in height, or by a solid evergreen planting strip.

(g) All waste shall be stored in covered containers that do not leak or otherwise permit liquids or solids to escape from the container.

(h) All food processing waste shall be stored within a completely enclosed structure and if not refrigerated shall be removed from the site in an enclosed container within forty-eight (48) hours of its generation. All enclosed and exterior food processing waste storage areas shall be cleaned and sanitized on a regular basis.

(i) Outdoor storage of refuse, debris or material awaiting reuse shall be in an appropriate container or located within a designated, screened area.

(j) Any permitted outdoor storage of materials shall be done in such a manner as to prevent the breeding and harboring of insects or vermin, to prevent the transfer of such materials from the site by natural causes or forces and to contain fumes, dust, or other materials which constitute a fire hazard. This storage shall be accomplished within enclosed containers or by one (1) or more of the following methods: raising materials above ground, separating materials, preventing stagnant water, or by some other means. No outdoor storage shall be permitted between the front of any building on the site and the street, except for storage for plant and tree nurseries or lumber yards. (Ord. No. 164-97, § 8, 1-6-97)

Sec. 14-267. Performance standards.

Uses in the I-H and I-Hb zones shall meet the following standards:

(a) Required landscaping: Where a front yard abuts an arterial or a major collector street, it shall be landscaped. Rear yards, side yards and the perimeter of any parking area for greater than fifteen (15) vehicles shall be landscaped if visible from a street, public open space or residential zone.

(b) Noise:

1. Definitions:

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

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

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

- a. Seventy-five (75) dBA between the hours of 7:00 a.m. and 10:00 p.m.
- b. Fifty-five (55) dBA between the hours of 10:00 p.m. and 7:00 a.m., as measured at or within the boundaries of any residential zone.

In addition to the sound level standards

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

4. Exemptions:

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

(b) Electromagnetic interference: There shall be no

electromagnetic interference that adversely affects the operation of any equipment other than that belonging to the creator of such interference, or that does not conform to the regulations of the Federal Communications Commission.

- (c) Vibrations: Any use creating earthshaking vibrations shall be controlled in such a manner as to prevent transmission beyond lot lines of vibrations causing a displacement of .003 or greater on one (1) inch, as measured by a vibrograph or similar instrument at the property boundaries.
- (d) Glare, heat: Any use shall be in an enclosed structure in such a manner that glare and heat shall be imperceptible from neighboring properties.
- (e) Discharge of toxic or noxious matter: All discharges of toxic or noxious matter shall be made in accordance with all applicable state and federal regulations.
- (f) Odor: It shall be a violation of this chapter to create an odor nuisance.
 - 1. Determination of odor nuisance: An odor nuisance shall be considered to exist when ten (10) confirmed complaints occur in an area within two (2) separate twenty-four-hour periods. The ten (10) confirmed complaints must originate from ten (10) different households in an area zoned residential or from ten (10) different individuals in a commercial or industrial facility. The building authority shall only respond to a complainant who confirms that the odor is detectable at the time of the actual complaint. In order to confirm a complaint, the building authority or its designee shall first determine that an odor is detectable in the area of the complaint. The building authority or its designee shall interview the complainant to verify that the detectable odor is in fact the odor that resulted in the complaint. If the complainant verifies the odor as the source of the complaint, then the building authority shall notify the owner or operator of the alleged odor source either in person or by telephone within

one (1) working day, with a written confirmation within seven (7) working days of the complaint. In the event that the building authority is unable to contact the owner or operator of the alleged odor source in person or by telephone within one (1) working day, then the building authority shall send written notice to the operator within seven (7) working days of the complaint.

In the event that ten (10) complaints are confirmed as set forth in subsection (a) in two (2) separate twenty-four-hour periods within a ninety-day period, the building authority shall cause a certified odor inspector to investigate any odor complaints received in the next thirty (30) days following the receipt of the tenth confirmed complaint from the second twenty-four-hour period. If the odors remain under the ambient intensity standard as established in this subsection for the next thirty (30) days, then a new odor nuisance must be established after that time in accordance with the requirements of this section. The certified odor inspector shall do the following in response to a complaint under this section:

- a. Verify that an odor is detectable in the area of the complaint and confirm that it is the odor that resulted in the complaint;
- b. Quantify the intensity of the odor on the eight-point n-butanol intensity scale as defined in regulations promulgated by the director of the planning authority to establish training and technical standards to support this section; and
- c. Track the odor to its source.

When the certified odor inspector determines that a violation has occurred because an odor has exceeded the maximum ambient odor levels set forth in this section, the building authority shall notify the owner or operator either by telephone or in person of the violation within

one (1) working day of the violation. The building authority shall confirm this notification in writing within seven (7) working days of this initial notice. In the event that the building authority is unable to contact the owner or operator by telephone or in person within the required time period, then it will send written notification within seven (7) working days of the violation.

Upon receipt of the written notice of violation, the owner or operator of the odor source shall do the following:

- a. Implement odor reduction procedures immediately upon notification by the building authority that the facility has violated this section wherever odor reduction can be achieved by operational or procedural changes at the facility;
- b. Submit to the building authority, within thirty (30) days of the written notice of violation, an odor reduction plan which is designed to reduce ambient odors attributable to emissions from that source to the maximum allowable intensity for that zone. The plan shall include a detailed summary of the measures that the owner or operator will take to mitigate the community annoyance and estimated dates for completion of those measures. In the event that it will take longer than thirty (30) days to develop the odor reduction plan, the owner or operator of the facility shall submit within the thirty-day time period a schedule for the development of the odor reduction plan. The building authority shall review this plan to determine whether it will be adequate to resolve the odor nuisance in a reasonable time period; and
- c. Implement the plan in accordance with the schedule approved by the building authority.

2. Ambient odor limits: The maximum ambient

intensity standard for odors generated by uses located in the I-H zones shall not exceed the following levels when the odor is measured in the zone indicated:

4.0 in any industrial or business zone for odors resulting from any industrial use.

3.0 in any residential zone for odors resulting from any industrial use.

- (g) Smoke: Discharges of smoke shall not exceed opacity percentage of forty (40) percent or number 2 on the Ringelmann chart.
- (h) Emissions: All emissions shall be made in accordance with all applicable state and federal regulations.
- (i) Radiation: Radiation at a site shall comply with all applicable state and federal regulations.
- (j) Discharge into sewers: No discharge shall be permitted at any point into any private sewage disposal system, or stream, or into the ground of any materials in such a way or of such nature or temperature as to contaminate any water supply, or otherwise cause the emission of dangerous or objectionable elements, except in accordance with standards approved by the health authority or by the public works authority.
- (k) Lighting: All lighting shall be designed and installed with cut-off fixtures to direct illumination onto the site and to prevent illumination from such fixtures on neighboring properties.

(Ord. No. 164-97, § 8, 1-6-97)

DIVISION 15.1. B-6 EASTERN WATERFRONT MIXED ZONE

Sec. 14-268. Purpose.

The purpose of the B-6, eastern waterfront mixed zone is to establish a zoning district for the upland portion of the eastern waterfront area. The B-6 zone encourages this district to acquire a distinctly urban form through development that emphasizes a quality pedestrian experience, promotes public transit, and demonstrates exemplary urban design. The zone

promotes a range of uses to achieve twenty-four urban vitality and shared use of parking infrastructure as recommended in the eastern waterfront master plan for redevelopment.

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

(Ord No. 80-04/05, 12-8-04)

Sec. 14-269. Permitted uses.

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

(a) *Commercial*:

1. Professional, business and general offices;
2. Restaurants and other eating and drinking establishments, except that no drinking establishments as defined in section 14-47 that are located east of Waterville Street shall be permitted within fifty feet (50') of Fore Street, and provided that restaurants that are located east of Waterville Street and within fifty feet (50') of Fore Street must meet the following requirements:
 - a. The hours of operation shall be limited to between 5:00 a.m. and 11:00 p.m. each day; and
 - b. Food service and consumption are the primary function of the restaurant;
3. Hotels and inns limited to no more than 150 rooms;
4. Craft and specialty shops, including the on-premises production of handcrafted goods;
5. Retail and retail service establishments, excluding those with gas pumps;

6. Theatres;
7. Banking services, excluding vehicular drive-up services;

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

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

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

- a. No taller than 15 feet above the highest structural steel of the building roof; and
 - b. Set back no less than 15 feet from the building perimeter; and
 - c. Integrated into the architecture of the building in placement, form, color, and material so as to screen or camouflage such equipment from public view.
14. Brew pubs and microbreweries without associated bottling facilities; and brewpubs and microbreweries with associated bottling

facilities limited to 5,000 bottles per year output, except that no brew pubs or microbreweries that are located east of Waterville Street shall be permitted within fifty feet (50') of Fore Street;

15. Electronic data storage;
16. Marine products wholesaling and retailing;
17. Harbor and marine supplies and services, chandlery and ship supply;
18. Underground marine fuel storage provided that fuel storage structures shall be used solely for the purpose of fueling vessels;
19. Bakeries, coffee roasters, and commercial kitchens with building footprints limited to fifteen thousand (15,000) square feet of contiguous building space.
20. Printing establishments.

(b) *Residential:*

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

(c) *Public:*

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

3. Pedestrian and multi-use trails;

(d) *Other:*

1. Studios for artists, photographers and craftspeople including but not limited to, painters, sculptors, dancers, graphic artists and musicians;
2. Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses, except that parking lots shall not be considered a permitted accessory use and such parking is subject to the conditional use section of the B-6 zone.
3. Health clubs, martial arts and meditation facilities.
4. Intermodal transportation facilities.
5. Nursery schools, kindergartens, and daycare facilities or home babysitting services.
6. Private clubs or nonprofit social and recreational facilities, as defined in 14-47.
7. Educational facilities.
8. Temporary events, provided that all such events on a lot do not exceed a combined total of (60) days per year and that the total floor area utilized for such uses does not exceed seventy thousand (70,000) square feet at any one (1) time.
9. Museums and art galleries.

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

(Ord. No. 33-11/12, 1-18-12; Ord. 184-14/15, 6-1-2015)

Sec. 14-270. Conditional uses.

(a) The following uses shall be permitted as conditional uses in the B-6 zone as provided in 14-474 (conditional uses),

provided that, notwithstanding section 14-474(a) or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority:

(1) *Commercial*:

- a. Meeting and exhibition facilities limited to a total of 20,000 gross square feet of interior floor area.
- b. Wholesaling, providing the wholesale operation is associated with an onsite retail establishment and that the wholesaling component of the facility occupies a building footprint of less than 15,000 square feet.
- c. Drive-up banking facilities located in the interior of parking structures, subject to the following criteria:
 - i. All drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street line;
 - ii. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicular or pedestrian circulation on adjoining streets;
 - iii. Drive-up vehicle circulation shall not create an impediment for retail or mixed-use development for the first floor of the subject garages along any adjacent public streets.
- d. Research and development and related production facilities, including but not limited to biotechnology, subject to the following conditions:
 - i. Associated manufacturing and warehousing uses combined are not to exceed 15,000 square feet.

- ii. Biotechnology facilities must demonstrate approvals by all applicable regulatory authorities prior to commencement of operations.

(2) *Parking:*

- a. All surface parking lots shall meet the applicable conditions outlined below.

Editor's note: These conditions promote parking development in a manner that creates an urban street form with streetscapes dominated by buildings, not surface parking. This code recognizes that many parcels will develop incrementally over time and a phased approach may be needed to fully achieve the goals of this provision.

- i. No surface parking lot shall be encumbered by lease or other use commitment exceeding a twenty-four month term.
- ii. Any such parking shall in its lease stipulate that developer/owner reserves the right to relocate said parking (to a parking structure) or convert surface parking to structured parking as long as the replacement parking is located a reasonable distance from the associated use.
- iii. Surface lots shall be laid out in a manner conducive to development of future buildings, and/or structured parking.
- b. All structured parking, including multi-level parking garages shall meet the applicable conditions outlined below.
 - i. Parking garages shall incorporate first floor retail space or other mixed use (an active use other than parking) along all street frontages unless the applicant requests from the planning board a waiver of this provision subject to the following criteria:
 - ii. Waivers: the planning board may waive the

requirement for first floor mixed use upon demonstration that the project meets one or more of the criteria listed under provisions a, b, and c below.

Where the board allows a waiver of first floor mixed use, garages shall display architecture that enhances the pedestrian experience and disguises the parking use to the extent possible.

Editor's note: Use of traditional storefront design concepts and traditional building materials is encouraged. Developers should look to the eastern waterfront design guidelines for additional direction in meeting these standards.

Standards for waiving first floor mixed use:

- a. That the applicant demonstrates that steepness of grade or the character of the adjacent street will not support retail or first-floor mixed use in the foreseeable future.
- b. That the first floor of the garage is set back a minimum of 35 feet from the street right of way and its design does not provide an impediment for development of such space for mixed use in the future. Such space (between the garage and the street) shall, in the interim, not be used for surface parking.
- c. Where the applicant can demonstrate to the satisfaction of the Planning Board that a market for first floor mixed uses currently does not exist, the Planning Board may grant a waiver of this condition, provided that the structure of the garage is designed to accommodate retail and or mixed uses in the future.

The Planning Board will need to find that on the street level deck of a proposed parking garage a minimum of

twenty (20) feet horizontal distance of depth from the street and nine (9) feet finished floor to finished ceiling clearance could in future house retail and or mixed use. The applicant will further need to demonstrate that the garage design anticipates the future development of utilities and circulation necessary for non-parking uses.

Where a parking garage fronts on more than one public street and where there is a existing change in grade elevation of over 5% across the footprint of the garage, the nine foot floor to ceiling requirement of this section only applies to the primary (higher traffic volume) street.

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

- (1) Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:
 - a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
 - b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and
 - c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and

- d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
- e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
- f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
- g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
- h. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

(Ord. No. 80-04/05, 12-8-04; Ord No.200-04/05, 4-4-05; Ord. No. 29-09/10, 8-3-09, emergency passage)

Sec. 14-271. Prohibited uses.

Uses, which are not enumerated as permitted or conditional uses in the B-6 zone are prohibited. Those uses that are prohibited shall include, without limitation:

- (a) Ground-mounted telecommunication towers, antennas, discs, transmitting and receiving equipment and the

like;

- (b) Waste, scrap, and/or byproduct storage and processing facilities;
- (c) Major or minor auto service stations including all types of automotive repair;
- (d) Drive-up facilities, except banking drive-up services in the interior parking structures, as allowed in the conditional use section 14-270.

Sec. 14-272. Dimensional requirements.

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

- (a) Minimum lot size: None.
- (b) Minimum frontage: None.
- (c) Yard dimensions:
 - 1. Minimum yards in the B-6 zone:
 - Front setback: None required except as provided in 3. below:
 - Side setback: None required.
 - Rear setback: None required.
 - 2. Maximum building setback from street line except for parking garages, public transportation facilities and provided in 3. below: 10 feet.
 - a. For lots fronting on more than one street, the setback can be increased more than ten (10) feet if all of the following conditions are met:
 - i. The increased setback occurs at the intersection of the streets;
 - ii. The increased setback area is the primary

pedestrian entrance to the building;

- iii. Seventy-five (75) percent of the total building wall length facing the abutting streets shall be setback no greater than ten (10) feet; and
- iv. All building wall segments, which make up the increased setback shall be included in the calculation of the total building wall length noted in subsection iii above.

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

3. View Corridors and Key Street Wall Development

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

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

requirement).

- i. 70% of lot street frontage; or
 - ii. 25% of building perimeter,
 - iii. For buildings fronting on two or more streets, the minimum building wall on one street may be decreased so long as the frontage is proportionally increased on other streets in so far that the building wall on the secondary street is not reduced to less than 25 feet.
- (e) Maximum lot coverage: One hundred (100) percent.
- (f) Maximum building height: 65 feet, or as otherwise governed by a Building Height Overlay map (for example, in the Eastern Waterfront). Building Height Overlay maps are found in the Planning and Development Department Office.
- (g) Minimum building height: No new construction of any building shall have less than three (3) floors of habitable space above the average adjacent grade within twenty five (25) feet of any public street (except that buildings located in the easternmost key building envelope, as shown on the B6 Building Height Overlay & Building Envelopes map, shall not be subject to a minimum building height).

This provision shall not apply to:

- i. Parking attendant booths,
- ii. Information kiosks and ticketing booths,
- iii. Parking garages,
- iv. Public transportation facilities,
- v. Additions to buildings existing as of December 8, 2004 provided that the cumulative additions since December 8, 2004 does not exceed 25% of the building footprint on December 8, 2004 except that such restriction shall not apply to those

portions of the building addition that are constructed closer to the street line than the building footprint existing as of December 8, 2004,

- vi. Buildings or building additions of less than 2,000 square feet footprint, on lots or available building sites of less than 2,000 square feet,
- vii. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures, and
- viii. Additions to and/or relocations of designated historic structures.

Ord. 184-14/15, 6-1-2015

Sec. 14-273. Performance standards.

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

- (a) Storage: Any storage of new materials, finished products, or related equipment must be suitably screened from the public way and from abutting properties by a solid fence at least five (6) feet in height. All waste shall be stored in covered containers that do not leak or otherwise permit liquids or solids to escape from the container. All food processing waste shall be stored within a completely enclosed structure and if not refrigerated shall be removed from the site in an enclosed container within forty-eight (48) hours of its generation. All enclosed and exterior areas shall be cleaned and sanitized on a regular basis. Outdoor storage of refuse or debris shall be in an appropriate container or located within a designated, screened area.
- (b) Noise:
 - 1. Definitions:
 - a. Tonal sounds are defined as sound waves

usually perceived as a hum or whine because their instantaneous sound pressure varies essentially as a simple sinusoidal function of time.

- b. Impulse sounds are defined as sound events characterized by brief excursions of sound pressure, each with duration of less than one (1) second.
2. Measurement: Sound levels shall be measured with a sound level meter with a frequency weighting network manufactured according to standards prescribed by the American National Standards Institute (ANSI) or its successor body. Measurements shall be made at all major lot lines of the site, at a height of at least four (4) feet above the ground surface. In measuring sound levels under this section, sounds with a continuous duration of less than sixty (60) seconds shall be measured by the maximum reading on a sound level meter set to the A weighted scale and the fast meter response (L maxfast). Sounds with a continuous duration of sixty (60) seconds or more shall be measured on the basis of the energy average sound level over a period of sixty (60) seconds (LEQ1).
3. Maximum permissible sound levels: The maximum permissible sound level of any continuous, regular or frequent source of sound produced by an activity shall be as follows:
 - a. Sixty (60) dBA between the hours of 7:00 a.m. and 10:00 p.m.
 - b. Fifty (50) dBA between the hours of 10:00 p.m. and 7:00 a.m., as measured at or within the boundaries of any residential zone.

In addition to the sound level standards established above, all uses located within this zone shall employ best practicable sound abatement techniques to prevent tonal sounds and impulse sounds or, if such tonal and impulse sounds cannot be prevented, to minimize the

impact of such sounds in residential zones.

4. Exemptions:

- a. Noises created by construction and maintenance activities between 7:00 a.m. and 10:00 p.m. are exempt from the maximum permissible sound levels set forth in subsection (a)3 of this section. Construction activities on a site abutting any residential use between the hours of 10:00 p.m. of one (1) day and 7:00 a.m. of the following day shall not exceed fifty (50) dBA.
- b. The following uses and activities shall also be exempt from the requirements of subsection (a)3 of this section:
 - i. The noises of safety signals, warning devices, emergency pressure relief valves, and any other emergency devices.
 - ii. Traffic noise on public roads or noise created by airplanes and railroads.
 - iii. Noise created by refuse and solid waste collection, provided that the activity is conducted between 6:00 a.m. and 7:00 p.m.
 - iv. Emergency construction or repair work by public utilities, at any hour.
 - v. Noise created by any temporary activities which are permitted by law and for which a license or permit has been granted by the city, including but not limited to parades, sporting events, fireworks displays, festivals, events and concerts.
- (c) Vibration: Vibration inherently and recurrently generated shall be imperceptible without instruments at lot boundaries.
- (d) Federal and state environmental regulations: All uses

shall comply with federal and state environmental statutes and regulations regarding emissions into the air, except where provisions of this Code are more stringent.

- (e) Storage of vehicles: Outdoor storage of any unregistered automotive vehicle on the premises for more than ten (10) days, and outdoor storage of any used automotive tires on the premises shall not be permitted.
- (f) Off-street parking and loading: Off street parking is required as provided in division 20 (off-street parking) of this article. Division 21 (off-street loading) of this article shall not apply.
- (g) Shoreland and flood plain management regulations: Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.
- (h) Glare, radiation or fumes: Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.
- (i) Enclosure of uses: All uses shall be operated within a fully enclosed structure, except for those customarily operated in open air.
- (j) Materials or wastes: Any permitted outdoor storage of materials shall be done in such a manner as to prevent the breeding and harboring of insects or vermin, to prevent the transfer of such materials from the site by natural causes or forces and to contain fumes, dust, or other materials which constitute a fire hazard. This storage shall be accomplished within enclosed containers or by one (1) or more of the following methods: raising materials above ground, separating materials, preventing stagnant water, or by some other means. Any areas used for permitted outdoor storage of materials shall be screened from view of any adjoining properties and public rights-of-way. No outdoor storage shall be permitted between the front of any building on the site and the street.

- (k) Odor: Uses in the B-6 zone shall adhere to the odor regulations of the IL zone.
- (l) Smoke: Discharges of smoke shall not exceed opacity percentage of forty (40) percent or number 2 on the ringelman chart.
- (m) Discharge into sewers: No discharge shall be permitted at any point into any private sewage disposal system, or surface drain, or into the ground, of any materials in such a way or of such nature or temperature as to contaminate any water supply, or the harbor, or otherwise cause the emission of dangerous or objectionable elements, except in accordance with standards approved by the health authority or by the public works authority.
- (n) Lighting: All lighting shall be designed and installed with cut-off fixtures to direct illumination onto the site and to prevent illumination from such fixtures on neighboring properties and as otherwise governed by the site lighting standards of the City of Portland Technical Manual.

(Ord. No. 80-04/05, 12-8-04; Ord. NO. 240-09/10, 6-21-10; ORd. No. 278-09/10, 7-19-10; Ord. 284-14/15, 6-1-2015)

Sec. 14-274. Affordable Housing

Amendments to Division 30 related to affordable housing that are enacted prior to April 1, 2016 shall apply to any site plan review application on the Portland Company (58 Fore Street) portion of this zone received after April 1, 2015.

(Ord. 284-14/15, 6-1-2015)

DIVISION 15.2. INDIA STREET FORM-BASED CODE ZONE (IS-FBC)

Sec. 14-275.1 Purpose.

The India Street Form-based Code is different than traditional zoning, placing the primary emphasis on a building's physical form and its relationship to the street, and de-emphasizing land use. The intent of the India Street Form-based Code Zone is to establish a zoning district that encourages a vibrant, walkable, mixed-use urban district, preserves and values the existing historic neighborhood fabric, and fosters and supports local businesses and residential areas. The components of a Form-Based

Code include the Guiding Principles, REGULATING PLAN, Subdistricts, General Development Standards, Dimensional Requirements, BUILDING DESIGN STANDARDS, Diagrams, and Definitions.

The goal of the India Street Form-based Code is the creation and preservation of an active and human-scale public realm and the reinforcement of existing neighborhood character through good street space design.

(a) GENERAL GUIDING PRINCIPLES: The General Guiding Principles set forth here shall be applicable to all subdistricts within the India Street Form-based Code Zone.

1. The street is a coherent space, with consistent building and streetscape character on both sides of the street. This agreement of buildings and streetscape across the street contributes to a clear public space and district identity.
2. The street wall is visually well defined. Land should be clearly public or private. Buildings contribute to the vital and safe public space while providing a clear boundary to the private, protected realm.
3. Street walls are engaged with the street environment. Buildings are inviting places that interact with and contribute to the street vitality. Inactive edges, vehicle storage, garbage, and mechanical equipment should be kept away from the street. Shared infrastructure, to the extent practicable, including, but not limited to, service alleys, parking areas, stormwater treatment, public transportation facilities, and driveways, shall be utilized.
4. Buildings are designed for the urban environment. Buildings must be designed for the urban situation within the subdistrict which often includes mixed-uses. Buildings are positioned near the street and FACADES are oriented to the street.
5. Respect historic character. If a property is within the India Street Historic District, Article IX Historic Preservation is applicable. New

construction, BUILDING ADDITIONS, or alterations in the India Street Historic District shall reflect and complement the character defining features and elements of the existing historic development to which it is visually related.

(Ord. 83-15/16, 11-2-2015; Ord. No. 49-17/18, 9-18-2017)

Sec. 14-275.2. Applicability.

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

(b) A partial waiver of the requirements of this Division listed below may be granted if it can be demonstrated to the satisfaction of the Planning Authority that the requirements in subsection (c) below have been met:

1. Building orientation;
2. BLANK FAÇADE length (max);
3. Fenestration, ground floor facade area;
4. Building entry frequency, orientation, or elevation;
5. Garage door setback or width; and/or
6. Additional Building Length – ground floor partition or module requirements.

(c) A partial waiver request must meet the following requirements:

1. The intent of the ISFBC zone as stated in Sec. 14.27.1 Purpose and Sec. 14-275.7 Subdistrict dimensional requirements;
2. Be the least adjustment necessary to satisfy the practical, programmatic, or functional needs of the proposed development; and
3. At least one (1) of the following applies:

- i. The proposed zoning alternative better achieves the zone and subdistrict intent;
- ii. The zone or subdistrict intent will not be met by applying the requirement in this particular circumstance;
- iii. There is a legal or practical necessity or unique conditions; or
- iv. Unique site factors make the zoning requirement impractical or cost prohibitive.

(Ord. 83-15/16, 11-2-2015; Ord. No. 49-17/18, 9-18-2017)

Sec. 14-275.3. Establishment of subdistricts.

The India Street Form-based Code Zone as shown on the REGULATING PLAN is divided into three subdistricts:

- (a) Urban Neighborhood (UN) Subdistrict;
 - (b) Urban Transitional (UT) Subdistrict; and
 - (c) Urban Active (UA) Subdistrict.
- (Ord. 83-15/16, 11-2-2015)

Sec. 14-275.4. Definitions.

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

BUILDING ADDITION means any increase to footprint or volume of an existing structure. See Table 14.275.4c. Building – Principal & Accessory

BUILDING, ACCESSORY means detached structure that is incidental and subordinate in area and extent, and/or use to the principal building(s) on the property. A lot may have more than one accessory building. See Table 14.275.4c. Building – Principal & Accessory.

BUILDING, PRINCIPAL means the main structure(s) on a lot having the predominant area and extent, and/or use. A lot may have more than one principal building. See Table 14.275.4c. Building - Principal & Accessory.

BUILDINGS, ATTACHED means two or more independent buildings that share at least one common PARTY WALL but have full building separation and independent PRINCIPAL ENTRIES; not free-standing. Attached buildings may or may not have common ownership.

BUILDING DESIGN STANDARD (BDS) means the basic design parameters governing building form, including intent, guidelines, and standards for architectural elements such as proportion, articulation, fenestration, entries, roof lines, and materials.

ELEVATION means an exterior wall of a building not along a frontage line. See FAÇADE and Table 14.275.4e. Frontage & Lot Lines.

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

FAÇADE means any exterior wall of a structure exposed to public view from a public right-of-way. See ELEVATION and Table 14.275.4d. Frontage & Lot Lines.

FAÇADE, BLANK means a building façade that contains expanses of wall area with no windows, no entrances, no articulation, and no other elements or features, or is otherwise undifferentiated.

GREEN ROOF means a roof of a building that is partially or completely covered with vegetation and designed to meet the Maine Stormwater Best Management Practices Manual standards and recommendations. A green roof installation must serve the purpose of reducing stormwater runoff through retention or slowing and consist of an assembly that at a minimum includes a root repellent system, a drainage system, a filtering layer, a growing medium and plants, and shall be installed on a waterproof membrane. The vegetated area of a green roof may be considered pervious for zoning impervious calculations.

MID-BLOCK PERMEABILITY means a continuous, open-air corridor at least 20' in width that connects two streets or public rights-of-way and physically provides a break in the street wall. The

corridor must be unobstructed and open to the sky for the majority of its length.

PARTY WALL means any partition wall common to two adjacent or attached buildings.

REGULATING PLAN means a zoning map that shows the boundary of the area and subdistricts subject to regulation by the India Street Form-based Code.

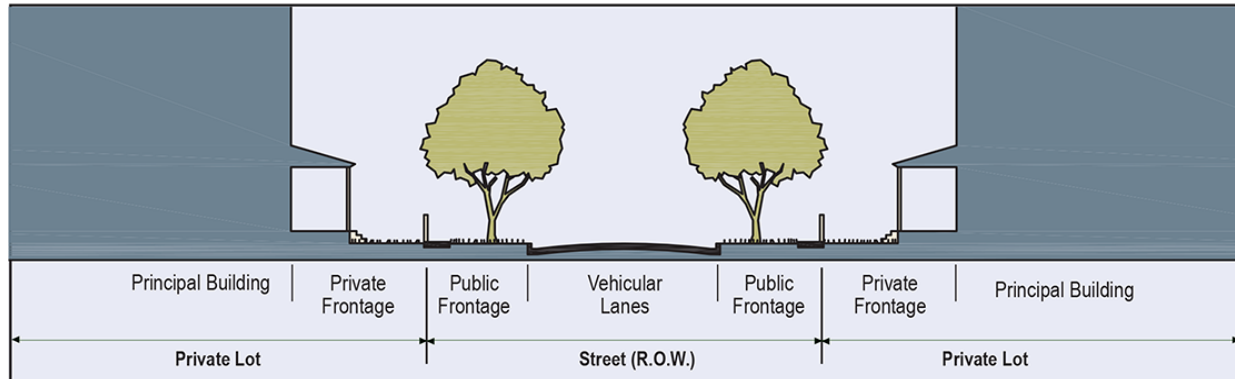
STEPBACK means a building setback of a specified distance measured from the ground floor building face that occurs at a prescribed number of stories or height above the ground and excludes the minimum necessary housing of elevators, stairways, tanks, fans, or other building operating equipment not intended for human occupancy.

YARD, SIDE means a yard adjoining a side lot line extending from the front yard to the rear yard, the width of which shall be the shortest horizontal distance between the side lot line and any structure. On corner lots, non-frontage yards shall be considered side yards. See Table 14.275.4b. Setback Designations.

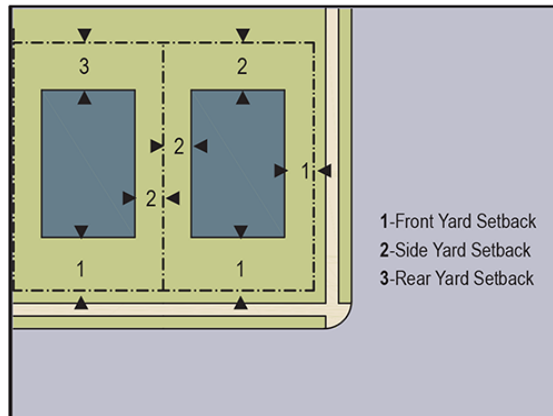
ZERO LOT LINE means the location of a structure on a lot such that one or more of the structure sides rests directly on a lot line. See Table 14.275.4d. Frontage & Lot Lines.

TABLE 14.275.4 DEFINITIONS ILLUSTRATED

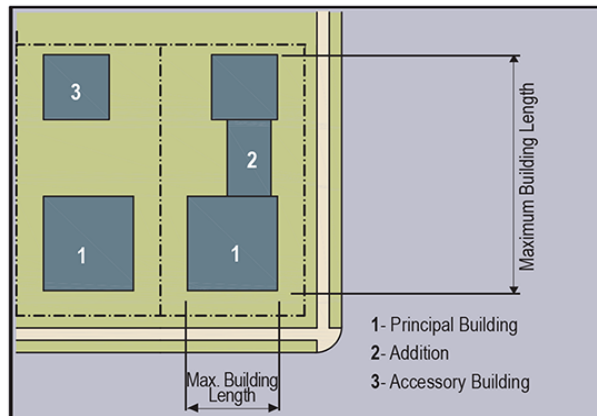
a. STREETS & FRONTAGES



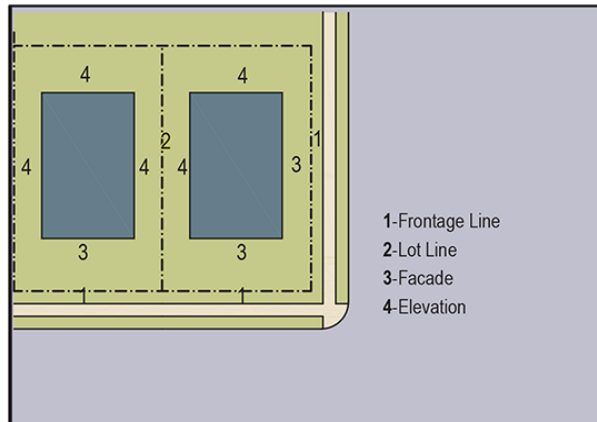
b. SETBACK DESIGNATIONS



c. BUILDING - PRINCIPAL & ACCESSORY



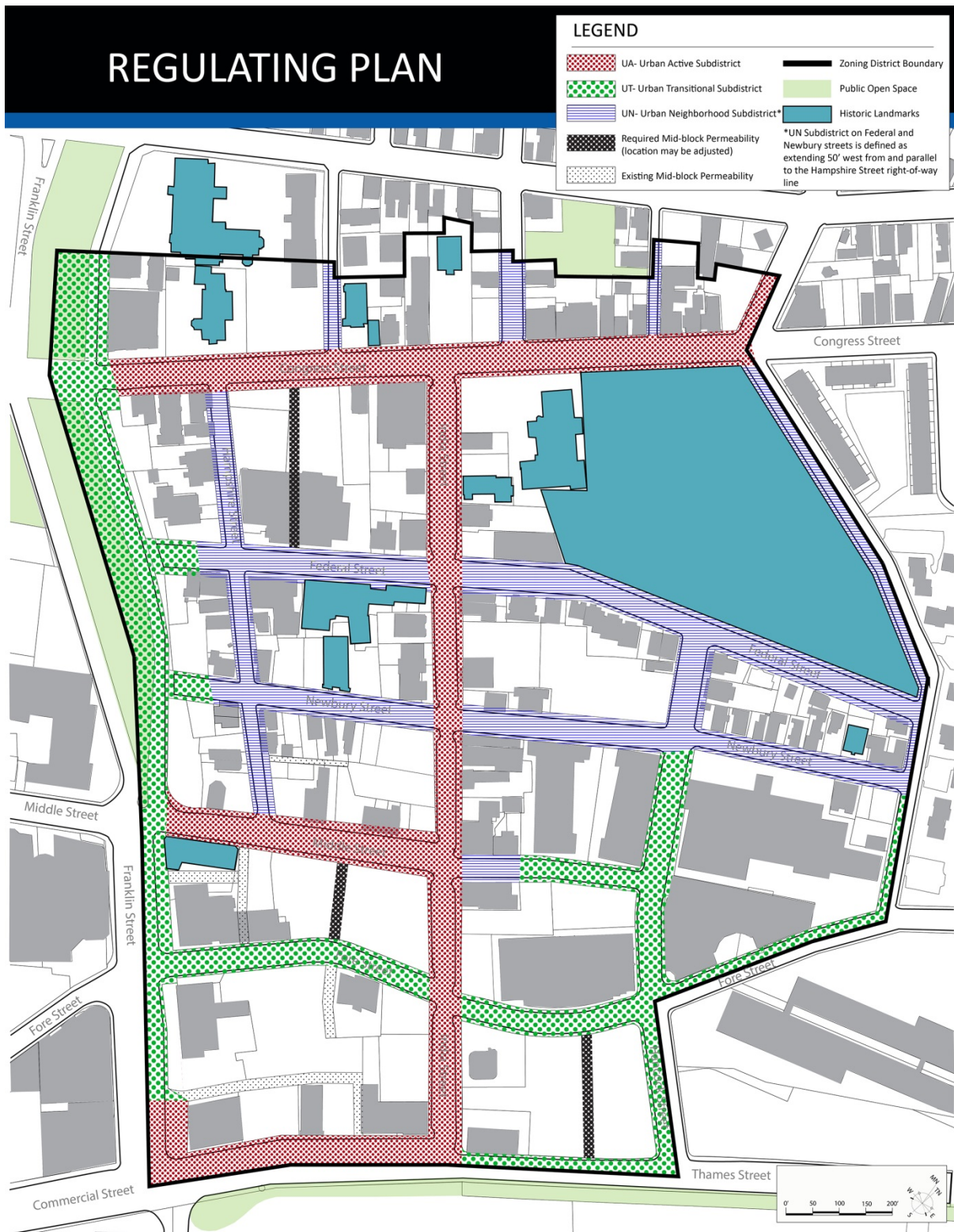
d. FRONTAGE & LOT LINES



(Ord. 83-15/16, 11-2-2015; Ord. No. 49-17/18, 9-18-2017)

Sec. 14-275.5. Regulating Plan.

The REGULATING PLAN shows the location of the zone boundary and subdistricts subject to regulation by the IS-FBC zone.



Sec. 14-275.6. General development standards.

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

(a) *Prohibited uses* – uses not to be established in the India Street Form-based Code Zone include:

1. Correctional facilities;
2. Cremation facilities;
3. Drive-through facilities;
4. High-impact industrial uses, including industrial uses that are prohibited in the IL zone, specifically Section 14-233(c), (e – y), (aa);
5. Major/minor auto-service station;
6. Truck terminals;
7. Waste related services; and
8. Storage and parking facilities for Class 1 flammable and combustible liquids (having an aggregate total of more than 100 gallons) but excluding storage that is part of a motorized vehicle or pleasure craft facility.

(b) *Siting standards.*

1. MID-BLOCK PERMEABILITY.
 - a. Lots with frontage on two streets roughly parallel to Commercial/Thames Street, for each and every 200 feet in street line length of lot, a full break between structures of at least 20 feet in width shall be provided roughly perpendicular to Commercial/Thames Street and within the middle third of the applicable street frontage. (see Table 14.275.7a. Mid-Block Permeability)
 - b. Is encouraged in any location that connects existing public or private alleys, passages, or streets.

- c. Any development providing MID-BLOCK PERMEABILITY with public access between two streets is eligible for one (1) additional story of up to 12' in height (see Sec. 14-275.6(c) Height Standards). Public access shall be defined through a legal agreement such as an easement or license.
- d. Refer to REGULATING PLAN for identified required MID-BLOCK PERMEABILITY locations.

2. Frontage requirements.

- a. Minimum street frontage = 30'
- b. Building length measurement shall not include porches, decks, or balconies that are appended to the principal structure.
- c. In the case of a corner lot or lot bounded by at least three streets, maximum building lengths may not be exceeded in order to meet front yard setbacks.
- d. Additional Building Length is allowed beyond the maximum building length under the following circumstances and according to the table below:
 - i. ATTACHED BUILDINGS: An unlimited number of ATTACHED BUILDINGS having up to 30' street-facing building length is allowed. A PARTY WALL condition is required at least every 30' and for the entire height of each building. (see Table 14.275.7d Additional Building Length - ATTACHED BUILDINGS).
 - ii. Ground Floor Partitions: Additional building length is permitted with the provision of ground floor partitions where the following conditions are met: (see Table 14.275.7f Additional Building Length - Ground Floor Partitions)

- a. Partitions must extend from the FAÇADE at least 2/3rds of the building depth.
- b. Partitions must be architecturally expressed on the building exterior.
- c. Each module created by partition must have at least one functional, street-facing entry.
- d. Modules created by partition shall be sized to have reasonable function and proportion in relation to overall building length.
- e. In the UA subdistrict, number of modules are required based on building length:
 - Building length >50' but <100' = at least 2 modules
 - Building length >100' but ≤150' = at least 3 modules
- f. Massing Variation: Additional building length is permitted where at least 30% and up to 40% of the total FAÇADE building length is set back at least 20' (see Table 14.275.7e Additional Building Length – Massing Variation).
- g. Structured Parking Exception: Additional building length for one FAÇADE without partition walls is allowed for the use of ground-level structured parking.

Additional Building Length				
Subdistrict	ATTACHED BUILDINGS	Ground Floor Partitions	Massing Variation	Structured Parking Exception
UN	unlimited run	Not allowed	Not allowed	Not allowed
UT	unlimited run	200' max.	200' max.	200' max.

		length; 2 modules	length	length
UA	unlimited run	150' max. length; 3 modules	Not allowed	150' max. length

3. Setbacks.

- a. Side Yard Setbacks for Small Lots – Lots with a street frontage of less than 35' are exempt from providing side yards but only where required yard is perpendicular to the frontage that is less than 35'.
- a. Where new construction or BUILDING ADDITIONS creates a side yard of less than 5', a maintenance easement is required where a combination of the side yard and easement must be at least 5'. PARTY WALL conditions are exempt from providing a maintenance easement. Corner lots may only apply the side yard reduction to one required side yard.
- b. Building FACADES within 10' of a corner are exempt from setback requirements in order to allow special corner architectural treatments.
- c. ATTACHED BUILDINGS on Individual Lots - Subdivision developments consisting of horizontally attached buildings on individual lots are not required to have side yards between buildings where a PARTY WALL condition will exist, but shall be required to meet the applicable side yard requirements at the external and internal subdivision lot boundaries between buildings that are not attached to each other.

4. Landscaping and screening.

- a. Surface parking areas shall be screened from view from sidewalks, public-right-of-ways, and public open spaces using landscaping, walls, fencing, or a combination thereof.
- b. Wall/Fence Dimensional Requirements

Wall/Fence Dimensional Requirements		
LOCATION	Height	Visual Permeability
Within front yard	6' max.	Required above 2' from sidewalk grade
Side or rear yard	8' max.	n/a

5. BUILDING ADDITIONS.

- a. BUILDING ADDITIONS which exceed the footprint of the existing building to which it is an addition or which exceeds 50,000 square feet shall be subject to Level III Site Plan review.

b. Exemptions

- i. Building Length: A BUILDING ADDITION may not cause the building to exceed the maximum building length requirement except in the case that the BUILDING ADDITION is located between a street frontage and an existing building with a legally non-conforming length. In such an instance, a BUILDING ADDITION length may match but not exceed the legally non-conforming length of the existing building to which it is an addition. (See Table 14.275.7b. Addition)
- ii. Building Height in Stories: BUILDING ADDITIONS are exempt from story minimums or maximums in order to match existing building in number of stories. All other Subdistrict Height Standards shall apply including height minimum and maximums in feet.

(c) Height standards.

1. Height bonus.

- a. Applicability:

- i. If a frontage faces a UT street, UN street, or Congress Street, then the portion of the building facing that street is eligible for a height bonus. For lots with multiple frontages where a frontage faces an ineligible street, bonus story must be stepped back at least 35' from ineligible street line (see Sec. 14-275.7 (d) Corner conditions diagram *UA intersects UT* for illustration).
 - ii. Only one height bonus may be applied per structure.
- b. One (1) additional story of up to 12 feet in height is allowed if one of the following provisions is met:
 1. For residential development with residential density equal to or greater than 150 dwelling units per acre (density may be achieved with the bonus floor);
 2. For any development providing a GREEN ROOF, where:
 - i At least 50% of the cumulative lot area is pervious; and
 - ii At least 50% of the cumulative roof area is a GREEN ROOF. GREEN ROOF area may be applied towards the 50% lot area requirement.
 3. For residential development where 20% of the units meet the definition of either "Workforce Housing Unit for Sale" or "Low-income Housing Unit for Rent" as per Section 14-485.

Sub-district	Height Bonuses						
	Max. Pre-bonus Height	MID-BLOCK PERMEABILITY (publicly accessible)	Res. Density	GREEN ROOF	Afford. Housing	Max. Height w/ Bonus	Min. Bonus Floor Stepback *
UN	45' and 4 stories	n/a	n/a	n/a	1 story Up to 12'	57' up to 5 stories	15'
UT	65' and 6 stories	1 story Up to 12'	1 story Up to 12'	1 story Up to 12'	1 story Up to 12'	77' up to 7 stories	15'
UA (Congress Street only)	50' and 4 stories	1 story Up to 12'	1 story Up to 12'	1 story Up to 12'	1 story Up to 12'	62' up to 5 stories	15'

*measured from the ground floor building edge facing any public right-of-way

(d) Parking standards.

1. Parking shall be provided as per Division 20 Off-Street Parking of Chapter 14 Land Use Code.
2. Structured parking must meet the BDS for *Structured Parking* (see *City of Portland Design Manual*).
3. In the case of a BUILDING ADDITION, non-conforming existing surface parking may remain. In the case of new construction, surface parking must be brought into conformance with IS-FBC standards.

(Ord. 83-15/16, 11-2-2015; Ord. No. 49-17/18, 9-18-2017)

Sec. 14-275.7. Subdistrict dimensional requirements.

(a) Urban Neighborhood (UN) subdistrict.

Intent: The intent of this subdistrict is to maintain and promote a small-scale, less active urban fabric. Buildings may be more private in character and have smaller footprints with building types including, but not limited to, single-family, rowhouses, duplexes, triple-deckers, and double-triples. Building frontages may be less transparent and entries may be

raised above sidewalk level with frontage types including raised, recessed doorways, porches, and stoops. The streetscape has variable setbacks and landscaping with many buildings within one block and streets tend to be narrow.

UN

SITING STANDARDS

Orientation - Principal Frontage	determined by applicant
Lot Coverage	90% max

FRONTAGE REQUIREMENTS

Building Length - Principal facade	50' max.
Building Length - Secondary fac.	50' max.
BLANK FACADE length (max)	15'
Additional Building Length	(see also Table 14.275.7)
ATTACHED BUILDINGS	unlimited run
Ground Floor Partitions	not allowed
Massing Variation	not allowed
Structured Parking Exception	not allowed

SETBACKS

Principal Building	
(a) Front Yard	5' max.
Setback Applicability (see Table 14.275.7 c.)	75% of total building length must meet front yard setback
(b) Side Yard*	5' min. - May be reduced provided that the cumulative side yards are not less than 10'
(c) Rear Yard	10' min.
Accessory Building	
Front Yard	5' min.
Side Yard	5' min.
Rear Yard	5' min.

BUILDING ENTRIES (SEE ALSO BDS)

Frequency at frontage	at least 35'
Principal Entries	
Orientation	any orientation allowed
Elevated Stoop (> 1 step)	allowed

HEIGHT STANDARDS

Principal Building	
Building Height Min.	25', at least 2 stories
Building Height Max.	45', up to 4 stories
Accessory Building	
Building Height Max.	25'

PARKING STANDARDS

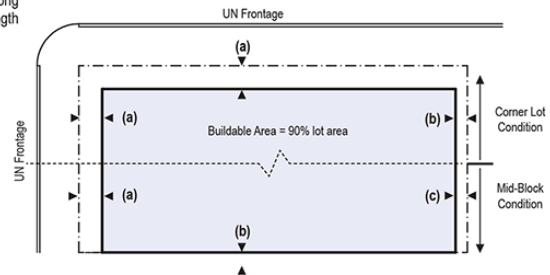
Surface Parking Location	35' min. setback from street
Within Side Yard	20' max in width per lot; may not exceed 50% of frontage length
Garage at frontage (attached or detached)	
Garage Door Setback (min)	5'
Garage Door Opening (max)	9' up to 40% of facade length
	20' max. limit

Notes and Exceptions

* Reduced side yards and zero lot lines are allowed under certain conditions (see Sec. 14.275.6(b) 3. Setbacks)

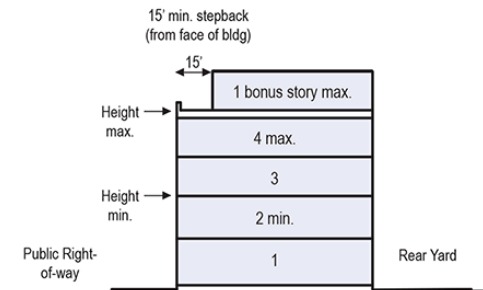
SITING STANDARDS

1. The FACADES and ELEVATIONS of Principal Buildings shall be distanced from the lot lines as shown.
2. FACADES shall be built along the frontage lines to the length specified in the table.



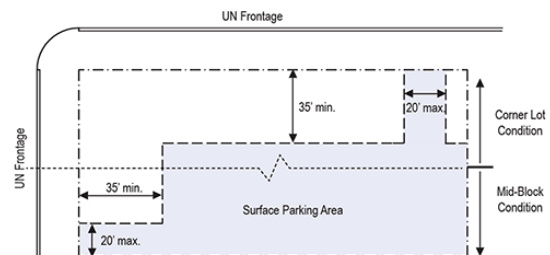
HEIGHT STANDARDS

1. Height shall be measured as specified in Sec. 14-47 Definitions "Building, height of."
2. Number of Stories excludes attics and raised basements.



PARKING STANDARDS

1. Surface parking areas may be provided within the shaded area shown.



(b) Urban Transitional (UT) subdistrict.

Intent: The intent of this subdistrict is to encourage higher density, mixed-use building types that accommodate any use. Building frontages are a mix of activity level, have larger footprints, and the most flexibility of height and scale. Building ground floor spaces tend to accommodate flexible and changing uses with frontage types including doorways, forecourts, arcades, and storefronts. The streetscape may be less active than the UA subdistrict with wide sidewalks, street trees, and setbacks and stepbacks providing relief from large building masses.

UT

SITING STANDARDS

Orientation - Principal Frontage	determined by applicant
Lot Coverage	90% max

FRONTAGE REQUIREMENTS

Building Length	100' max.
BLANK FACADE length (max)	30'
Additional Building Length	(see also Table 14.275.7)
ATTACHED BUILDINGS	unlimited run
Ground Floor Partitions	200' max., 2 modules
Massing Variation	200' max.
Structured Parking Exception	200' max.

SETBACKS

Principal Building	
(a) Front Yard	10' max.
Setback Applicability (see Table 14.275.7 c.)	75% of total building length must meet front yard setback
(b) Side Yard*	10' min. - May be reduced provided that the cumulative side yards are not less than 20'
(c) Rear Yard	10' min.
(d) STEPBACK (adjacent to UN)	10' min. setback after 45' height
Accessory Building	
Front Yard	5' min.
Side Yard	5' min.
Rear Yard	5' min.

BUILDING ENTRIES (SEE ALSO BDS)

Frequency at frontage	at least 95'
Principal Entries	
Orientation	any allowed
Elevated Stoop (>1 step)	allowed

HEIGHT STANDARDS

Principal Building	
Building Height Min.	3 stories
Building Height Max.	65', up to 6 stories
Ground Story Height	n/a
Accessory Building	
Building Height Max.	25'

PARKING STANDARDS

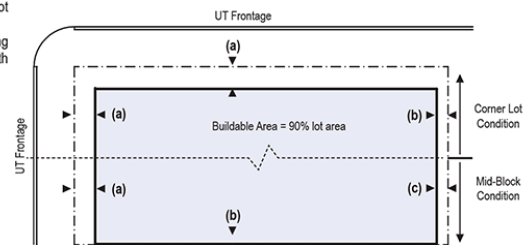
Surface Parking Location	35' min. setback from street
Garage at frontage (attached or detached)	
Garage Door Setback (min)	10'
Garage Door Opening (max)	9' up to 40% of facade length
	20' max. limit

Notes and Exceptions

* Reduced side yards and zero lot lines are allowed under certain conditions (see Sec. 14.275.6(b) 3. Setbacks)

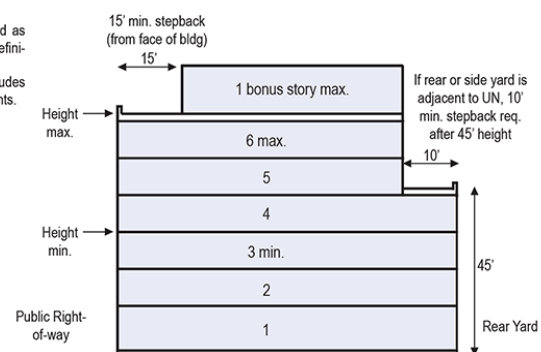
SITING STANDARDS

1. The FACADES and ELEVATIONS of Principal Structures shall be distanced from the lot lines as shown.
2. FACADES shall be built along the frontage lines to the length specified in the table.



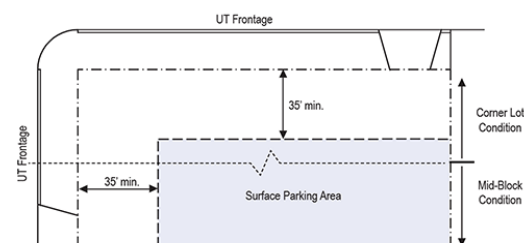
HEIGHT STANDARDS

1. Height shall be measured as specified in Sec. 14-47 Definitions "Building, height of."
2. Number of Stories excludes attics and raised basements.



PARKING STANDARDS

1. Surface parking areas may be provided within the shaded area as shown.



(c) Urban Active (UA) subdistrict.

Intent: The intent of this subdistrict is to maintain and promote a moderate-scale, diverse, mixed-use neighborhood with vibrant streets and active ground floor spaces. Buildings are more active and engage the street at the ground level. Building frontages are transparent and entries are at sidewalk level with frontage types including storefronts and recessed doorways. The streetscape has steady street planting, and buildings set close to the street providing a consistent street wall.

UA

SITING STANDARDS

Orientation - Principal Frontage	face a UA street
Lot Coverage	90% max

FRONTAGE REQUIREMENTS

Building Length	50' max.
BLANK FACADE length (max)	15'
Additional Building Length	(see also Table 14.275.7)
ATTACHED BUILDINGS	unlimited run
Ground Floor Partitions	150' max., up to 3 modules
Massing Variation	not allowed
Structured Parking Exception	150' max.
Fenestration, ground floor	60-90% (see BDS) facade area

SETBACKS

Principal Building

(a) Front Yard*	5' max.
Setback Applicability (see Table 14.275.7 c.)	75% of total building length must meet front yard setback
(b) Side Yard**	5' min. - May be reduced provided that the cumulative side yards are not less than 10'
(c) Rear Yard	10' min.

Accessory Building

Front Yard	5' min.
Side Yard	5' min.
Rear Yard	5' min.

BUILDING ENTRIES (SEE ALSO BDS)

Frequency at frontage	at least 40'
Principal Entries	
Orientation	at least 1 facing UA street or corner
Elevated Stoop (>1 step)	not allowed

HEIGHT STANDARDS

Principal Building	
Building Height Min.	3 stories
Building Height Max.	50', up to 4 stories
Accessory Building	
Building Height Max.	25'

PARKING STANDARDS

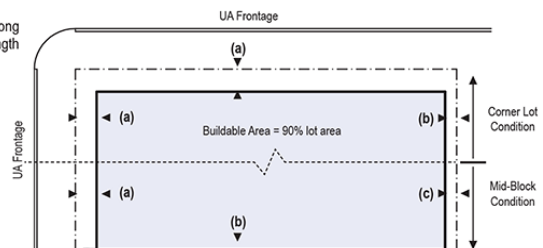
Surface Parking Location	35' from street
Garage at frontage (attached or detached)	
Garage Door Setback	20' min. from street
Garage Door Opening (max)	n/a
Notes and Exceptions	

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

** Reduced side yards and zero lot lines are allowed under certain conditions (see Sec. 14.275.6(b) 3. Setbacks)

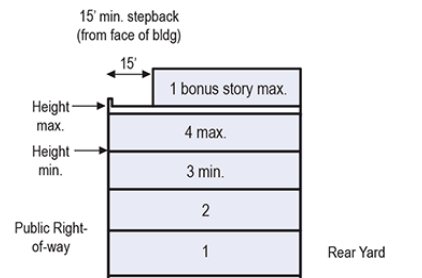
SITING STANDARDS

- The FACADES and ELEVATIONS of Principal Buildings shall be distanced from the lot lines as shown.
- FACADES shall be built along the frontage lines to the length specified in the table.



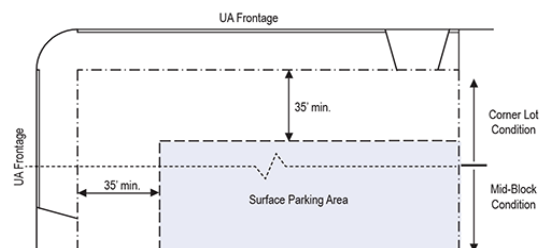
HEIGHT STANDARDS

- Height shall be measured as specified in Sec. 14-47 Definitions "Building, height of."
- Number of Stories excludes attics and raised basements.



PARKING STANDARDS

- Surface parking areas may be provided within the shaded area as shown.



(d) Corner conditions.

For corner lots where two subdistricts intersect at a street corner, the *Dimensional Requirements* and *Building Design Standards* of the "dominant" subdistrict shall apply 35 feet deep into the lot measured from the dominant lot line along its associated street frontage or public ways including required mid-block permeability. Otherwise, *Dimensional Requirements* shall be according to the subdistrict onto which the building FAÇADE faces.

CORNER

ORIENTATION

- Corner lots shall be treated as having street frontage on all streets regardless of building orientation
- Principal Building shall designate a Principal Frontage and Secondary Frontage*
- In the case of a corner lot having UA frontage, the Principal Frontage must face a UA street*

SETBACKS

(a) Front Yard	according to subdistrict
(b) Side Yard	according to subdistrict
Building facades within 10' of a corner are exempt from setback requirements in order to allow special architectural treatments.	

UA INTERSECTS UT

Dominant Subdistrict (35' deep)	UA
Orientation - Principal Frontage	UA street
Dominant Building Design Standards (applicable 35' deep)	
Entry, Frequency at frontage	at least 40'
Entry, Orientation	at least 1 facing UA street or corner
Entry, Elevated Stoop (>1 step)	not allowed on principal UA entry
BLANK FACADE, max. length	15'
Fenestration, ground floor	60-90% (see BDS) facade area
(measured as a percentage of the FACADE that is 2' above sidewalk grade)	

UA INTERSECTS UN

Dominant Subdistrict (35' deep)	UA
Orientation - Principal Frontage	UA street
Building Length - UN FACADES	100' max.
Dominant Building Design Standards (applicable 35' deep)	
Entry, Frequency at frontage	at least 40'
Entry, Orientation	at least 1 facing UA street or corner
Entry, Elevated Stoop (>1 step)	not allowed on principal UA entry
BLANK FACADE, max. length	15'
Fenestration, ground floor	60-90% (see BDS) facade area
(measured as a percentage of the FACADE that is 2' above sidewalk grade)	

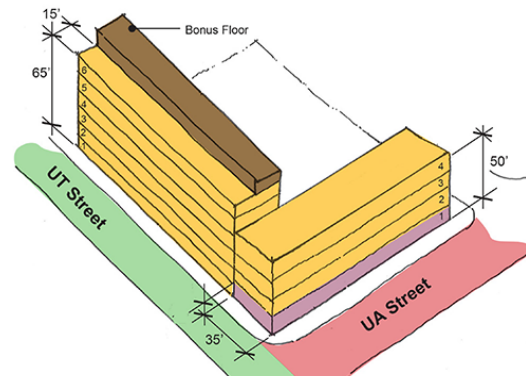
UT INTERSECTS UN

Dominant Subdistrict (35' deep)	UN
Orientation - Principal Frontage	determined by applicant
• Corner lots shall be treated as having street frontage on all streets regardless of building orientation	

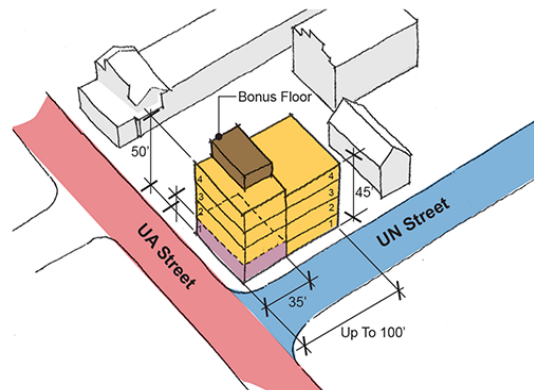
Notes and Exceptions

- * Does not have to correspond to legal building address

UA INTERSECTS UT
(example only)



UA INTERSECTS UN
(example only)



UT INTERSECTS UN
(example only)

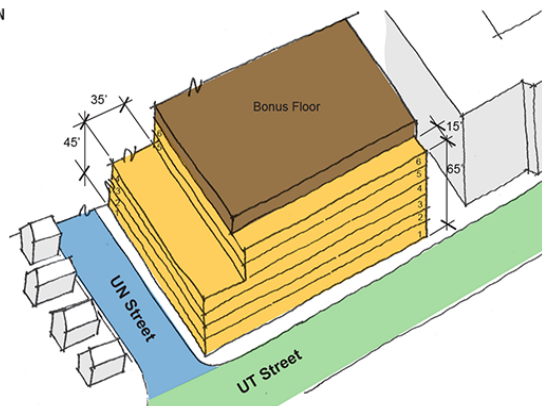
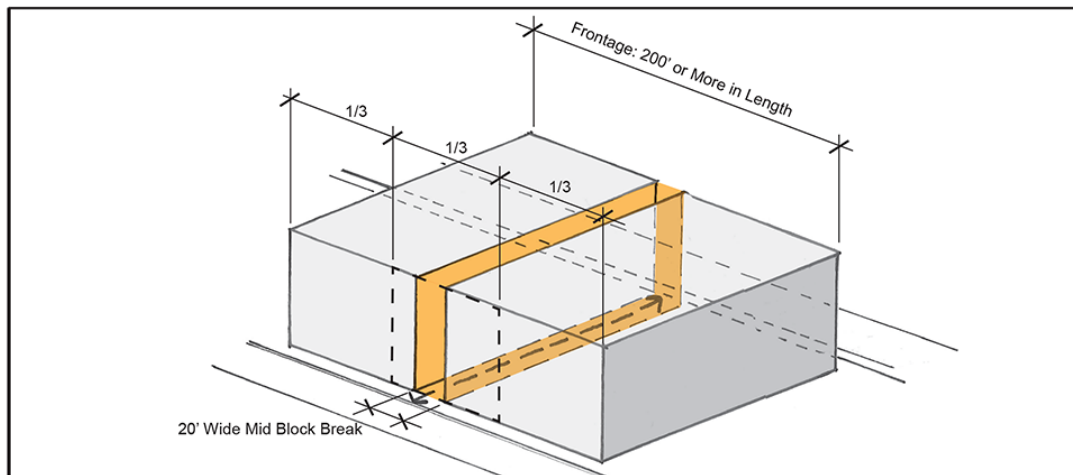
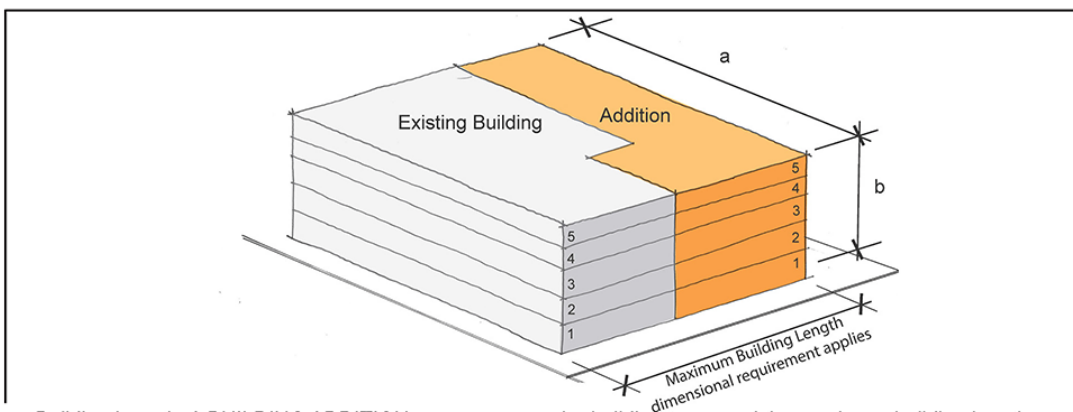


TABLE 14.275.7 DIMENSIONAL REQUIREMENTS ILLUSTRATED

a. MID-BLOCK PERMEABILITY

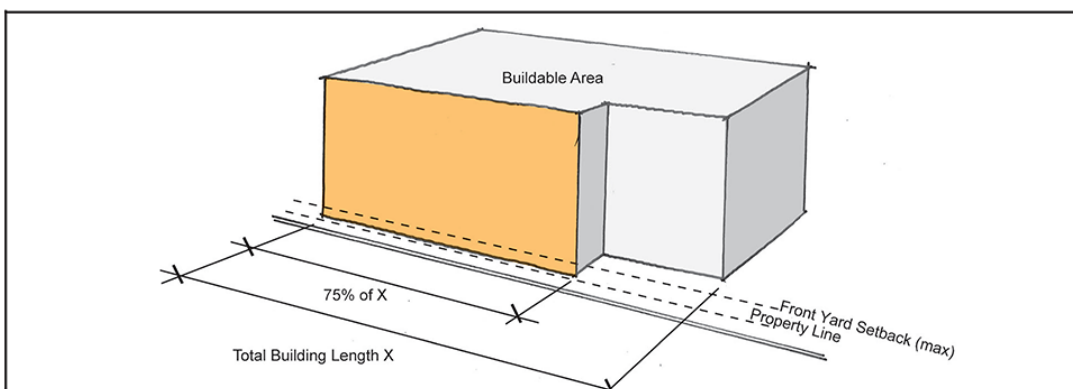


b. BUILDING ADDITION EXEMPTIONS



a - Building Length: A BUILDING ADDITION may not cause the building to exceed the maximum building length requirement except in the case that the BUILDING ADDITION is located between a street frontage and an existing building with a non-conforming length. In such an instance, a BUILDING ADDITION length may match but not exceed the legally non-conforming length of the existing building to which it is an addition.
b - Building Height in Stories: BUILDING ADDITIONS are exempt from story minimums or maximums in order to match existing building in number of stories. All other Subdistrict Height Standards shall apply including height minimum and maximums in feet.

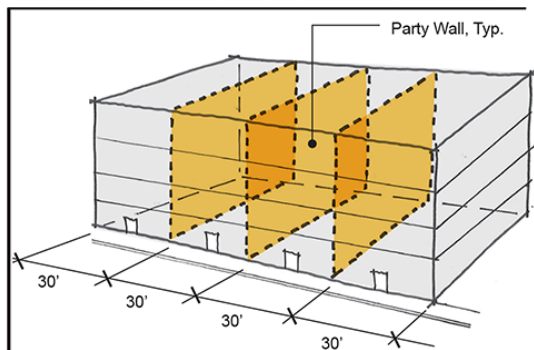
c. BUILDING LENGTH



At least 75% of the total building length must meet the front yard setback dimensional requirements.

TABLE 14.275.7 DIMENSIONAL REQUIREMENTS ILLUSTRATED (CONTINUED)

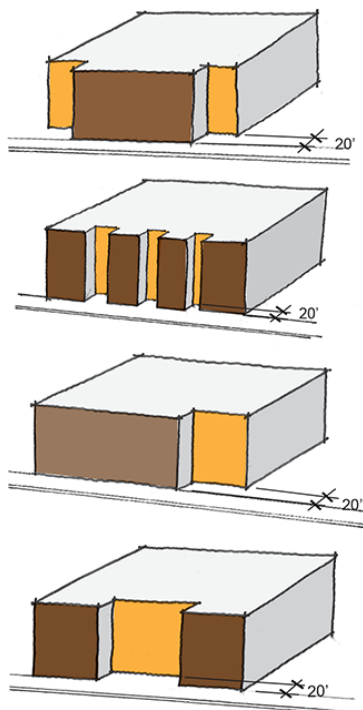
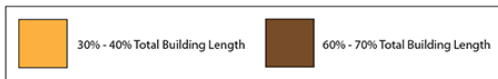
d. ADDITIONAL BUILDING LENGTH - ATTACHED BUILDINGS



An unlimited number of ATTACHED BUILDINGS having up to 30' street-facing building length is allowed.

A PARTY WALL condition is required at least every 30' and for the entire height of each building.

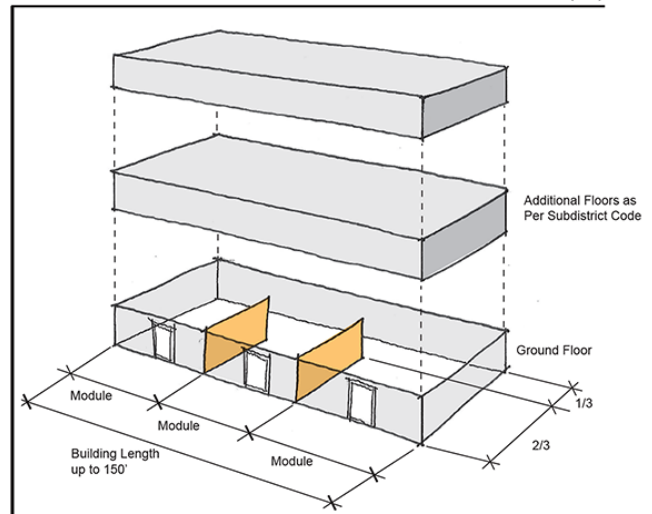
e. ADDITIONAL BUILDING LENGTH - MASSING VARIATION (UT)



Additional building length is permitted where at least 30% and up to 40% of the total building length is setback at least 20'.

(Ord. 83-15/16, 11-2-2015; Ord. No. 49-17/18, 9-18-2017)

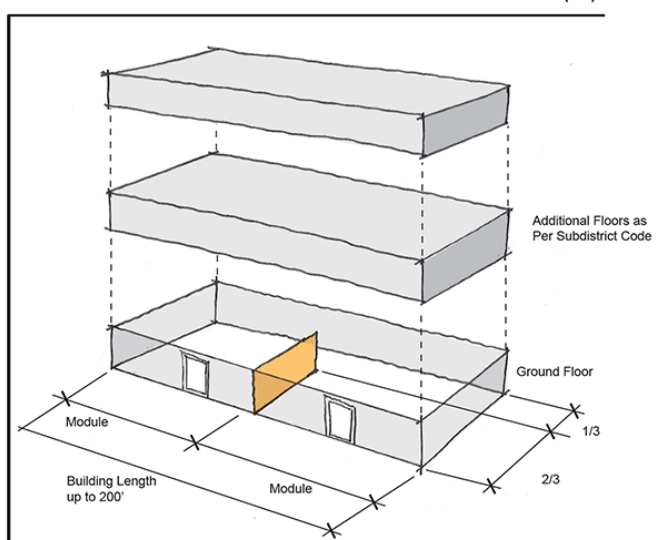
f.1. ADDITIONAL BUILDING LENGTH - GROUND FLOOR PARTITIONS (UA)



Additional Building Length is permitted up to 150' with the provision of a least two Ground Floor Partitions

See General Development Standards and BDS for additional requirements.

f.2. ADDITIONAL BUILDING LENGTH - GROUND FLOOR PARTITIONS (UT)



Additional Building Length is permitted up to 200' with the provision of at least one Ground Floor Partition.

See General Development Standards and the BDS for additional requirements.

DIVISIONS 16. WAYNFLETE SCHOOL OVERLAY ZONE*

Editor's note—Ord. No. 164-97, § 9, passed Jan. 6, 1997, repealed divs. 16 and 17 of this article, which pertained to the I-4 industrial zone and the I-P industrial park zone, respectively. Formerly, such divisions consisted of substantive §§ 14-276–14-282, 14-291–14-297 and derived from 602.13B.A–602.13B.F, 602.13B.H, 602.10A.A–602.10A.E and 602.10A.H of the 1968 Code as amended by Ord. No. 536-74, § 2, adopted Aug. 19, 1974; Ord. No. 334-76, §§ 6, 7, adopted Jul. 7, 1976; Ord. No. 159-87, adopted Nov. 2, 1987; Ord. No. 235-88, adopted Feb. 1, 1988; Ord. No. 330-90, §§ 4, 5, adopted May 7, 1990; Ord. No. 15-92, §§ 20, 21, adopted Jun. 15, 1992; and Ord. No. 193A-93, § 5, adopted Feb. 17, 1993; pursuant to Order 138-09/10 passed on 1/20/10 Division 16 (Waynflete School Overlay Zone) was adopted in its entirety.

Sec. 14-276. Purpose.

The intention of this division is to establish an overlay zone which protects the value and integrity of established residential neighborhoods, establishes clearly defined boundaries beyond which residential conversions cannot occur and results in no net loss of dwelling units, while allowing Waynflete School, an existing private day school, to continue and reasonably augment its existing uses and programs, thereby maintaining compatible development at medium densities appropriate to the existing neighborhood patterns. As used in this division, the term "Waynflete School" includes any successor institution that operates as a private day school.
(Ord. No. 138 - 09/10, 1-20-10)

Sec. 14-276.1. Location and applicability of Waynflete School Overlay Zone.

The Waynflete School Overlay Zone, as shown on the zoning map, is intended to encompass and define Waynflete School's principal campus on the Portland peninsula. Properties in the Waynflete School Overlay Zone shall continue to be governed by the regulations applicable to the underlying zoning districts except as specifically modified by this division.
(Ord. No. 138-09/10, 1-20-10)

Sec. 14-276.2. Overlay Zone sub-districts.

The Waynflete School Overlay Zone consists of two sub-districts, as shown on the Waynflete School Overlay Zone sub-district map, incorporated herein by reference, as follows:

- (a) The Campus Core sub-district defines the interior core of the campus and is intended to allow compact development of school uses, with specific space and

bulk regulations designed to accommodate school uses.

- (b) The Campus Edge sub-district is intended to preserve residential character along the streets bordering the campus, by limiting the amount of residential space which can be converted to school uses, by maintaining a number of dwelling units within the sub-district which equals the number of dwelling units existing in the sub-district at the time of enactment of this Overlay Zone and by encouraging mixed use buildings along the street frontages. The space and bulk regulations of the R-4 district continue to apply within the Campus Edge sub-district.

Except where otherwise specified in this division, all provisions of this Waynflete School Overlay Zone apply in both sub-districts.

(Ord. No. 138-09/10, 1-20-10)

Sec. 14-276.3. Permitted uses.

In addition to the permitted uses allowed in the underlying zoning districts and notwithstanding anything to the contrary in the use regulations for the underlying zoning districts, the following uses are permitted uses in the Waynflete School Overlay Zone.

- (a) School uses. Elementary, middle and secondary school uses including, but not limited to, the following:
 - 1. Classrooms;
 - 2. Laboratory facilities;
 - 3. Dining halls;
 - 4. Auditoriums;
 - 5. Concert halls;
 - 6. Lecture halls;
 - 7. Gymnasiums;
 - 8. Libraries;
 - 9. Outdoor use areas, such as "quads", greens,

parks, gardens, art installations, and other
active and passive recreation spaces;

10. Parking lots;
11. Parking structures;
12. Community meeting spaces;
13. Administrative offices;
14. Faculty offices;
15. Transportation facilities;
16. Maintenance facilities;
17. Utility buildings;
18. Student health services;
19. Bookstores;
20. Accessory uses which are customarily incidental
and subordinate to the location, function and
operation of a private day school.

(b) Residential uses.

1. Faculty or staff housing, which shall be
considered a residential use, and not a school
use, for all purposes under this overlay zone.

(Ord. No. 138-09/10, 1-20-10)

Sec. 14-276.4. Prohibited uses.

(a) Boarding schools;

(b) Dormitories.

(Ord. No. 138-09/10, 1-20-10)

Sec. 14-276.5. Residential conversions prohibited.

(a) Conversions of existing residential buildings within the
Waynflete School Overlay zone shall be prohibited.

(b) The existing houses at 11 Fletcher Street, 3 Storer

Street, 305 Danforth Street and 299 Danforth Street shall not be relocated from their locations existing as of January 20, 2010. This provision shall not apply to garages.

(c) At no time shall the number of dwelling units within the Waynflete School Overlay Zone be reduced below the four (the number existing at the time of enactment of this Overlay Zone).
(Ord. No. 138-09/10, 1-20-10)

Sec. 14-276.6. Dimensional requirements.

Buildings and structures in the Waynflete School Overlay zone shall be subject to the applicable dimensional requirements of the underlying zoning districts, except as follows:

- (a) *Minimum yard dimensions* shall be the same as in the underlying zone, except that side and rear yards shall not be required between buildings on contiguous lots owned or occupied by Waynflete School on the condition that such contiguous lots shall be considered merged and shall not be separately conveyed unless required yard dimensions in the underlying zones are provided.
- (b) *Minimum street frontage* shall be the same as in the underlying zone, except that all the land within the Waynflete School Overlay Zone owned or occupied by Waynflete School shall be considered a single lot for the purpose of complying with minimum street frontage.
- (c) *Maximum coverage by buildings* shall be the same as in the underlying zone, except that in the Campus Core sub-district the maximum coverage by buildings shall be 40% and all the land within the Campus Core sub-district owned or occupied by Waynflete School shall be considered a single lot for the purpose of calculating maximum coverage by buildings.

(Ord. No. 138-09/10, 1-20-10)

Sec. 14-276.7. Parking.

The amount of parking required for any change of use, new building or building addition within the zone shall be determined during site plan review, based on an analysis of school-wide demand and supply, pursuant to a comprehensive school-wide Transportation Demand Management Plan (TDM), and treating all land owned by Waynflete School within the Waynflete School Overlay Zone as one lot. Any existing parking management or TDM plan approved

as part of a previous approval shall remain in effect until revised or updated pursuant to this section. In determining the amount of parking required for any building within the Waynflete School Overlay Zone, the Planning Authority or the Planning Board may take into account such factors as:

- (a) The use of centrally located on-campus parking facilities so situated that students, faculty, staff and visitors arriving on campus can reasonably be expected to park in the central facilities and walk to their various on-campus destinations during the course of a school day.
- (b) Shared use of a single parking facility by two or more buildings when the peak parking demand periods for such buildings do not overlap.
- (c) Development and implementation of a parking management plan which discourages on-street parking.
- (d) Development and implementation of a TDM plan subject to the review and approval of the planning authority or the planning board. The TDM plan shall employ elements such as public transit initiatives, parking cash-out, car sharing, car and van pooling incentives, provision of bicycle and pedestrian commuting accommodations, guaranteed ride home programs, employee surveys, newsletters and alternative transportation information sharing and other such strategies that reduce single occupancy vehicle trips to and from Waynflete school. Waynflete School shall follow the standards and guidelines for developing a TDM plan found in the TDM section of the City of Portland Technical and Design Standards and Guidelines.

(Ord. No. 138-09/10, 1-20-10)

14-276.8. Loading.

The requirements of section 14-351 shall not apply to buildings within the Waynflete School Overlay zone. Instead, the amount of loading area required for any building within the zone shall be determined by the planning board during site plan review, based on a campus-wide analysis, treating all land owned by Waynflete School within the Waynflete School Overlay Zone as one lot. In determining the amount of loading space required for any building within the Waynflete School Overlay zone, the planning board may take into account such factors as:

- (a) The use of centrally located on-campus loading facilities so situated that vehicles making deliveries can load and unload in central facilities, provided no single location is overburdened with loading facilities.
 - (b) Shared use of a single loading facility by two or more buildings.
 - (c) Impacts of the loading area on adjacent uses outside the Waynflete School Overlay Zone.
- (Ord. No. 138-09/10, 1-20-10)

Sec. 14-276.9. Signage.

Signs shall comply with the requirements of Division 22.

(Ord. No. 138-09/10, 1-20-10)

Sec. 14-276.10. Restrictions outside the Waynflete School Overlay Zone.

Notwithstanding the provisions of section 14-103(b)(1) or section 14-137(b)(1), Waynflete School cannot locate a school use listed in section 14-276.3(a) on any lot in the R-4 or R-6 Districts outside the boundaries of the Waynflete School Overlay Zone that was occupied by a residential use or structure on or after January 20, 2010. This restriction does not prevent Waynflete School from seeking a conditional use permit for a school use, where otherwise allowed by the zoning district regulations, on lots outside the Waynflete School Overlay Zone that were not occupied by a residential use or structure on or after January 20, 2010.

(Ord. No. 138-09/10, 1-20-10)

DIVISION 16.1. INSTITUTIONAL OVERLAY ZONE (IOZ)

14-277. Purpose of the Institutional Overlay Zone

The Institutional Overlay Zone (IOZ) designation provides a regulatory mechanism available to the city's four major medical and higher education campuses where an improved regulatory structure is needed to facilitate a consistent, predictable, and clear growth management process. The purposes of the Institutional Overlay Zone are to:

- (a) Acknowledge that the city's major academic and medical institutions play a prominent role in the health and well-being

of the local and regional community, and in order to sustain that role, these institutions need flexibility to change and grow;

(b) Encourage proactive planning for institutional change and growth which identifies and addresses likely long-term institutional needs and cumulative impacts while leveraging potential benefits at the neighborhood, city, and regional level;

(c) Ensure that institutional change and growth both complements and, as appropriate, integrates adjacent or surrounding neighborhoods through carefully planned transitions;

(d) Support the formation and continuation of mutually beneficial public-private cooperation;

(e) Support an ongoing public engagement process that benefits both the institutions and nearby neighborhoods;

(f) Reflect Comprehensive Plan and other policy objectives; and

(g) Provide a consistent regulatory approach to all major institutions which allows unique regulatory requirements that balance the particular needs of institutions with the needs of the surrounding neighborhood and wider community.

(Ord. No. 221-16/17, 5-1-2017)

Sec. 14-278. Location and Applicability

The city's four primary medical and higher education institutions are eligible to apply for designation as Institutional Overlay Zones. The Eligible Institutions are the two major hospital institutions of Maine Medical Center and Mercy Hospital and the two major academic institutions of University of Southern Maine and University of New England, their successors and assigns. Designation as an IOZ is the preferred mechanism where the Eligible Institution's proposed development is inconsistent with the existing zoning.

(Ord. No. 221-16/17, 5-1-2017)

14-279. Establishment of an Institutional Overlay Zone

(a) *Application for an Institutional Overlay Zone.* Where the Eligible Institution seeks designation as an IOZ, they shall submit a zone change application consisting of two components:

1. An Institutional Development Plan (IDP) (see Section 14-280).
2. A Regulatory Framework (see Section 14-281) that would, when and if adopted, be the text and map amendment to the City's Land Use Code and Zoning Map.

(b) *Required Public Involvement.* At least two neighborhood meetings shall be required. The first shall be held prior to the formal submission of a zone change application for an Institutional Overlay Zone and the second shall be held during the City's review. Meetings shall identify the concerns, if any, of affected residents and property owners, and inform the development of the Institutional Development Plan (IDP) and Regulatory Framework. Meetings shall be held in a convenient location proximate to the institution. The applicant shall provide written notification to property owners of record within 500 feet of the proposed IOZ boundary at least ten days prior to the meeting dates and maintain written records of the meetings.

(c) *Required Scoping Meeting.* The Eligible Institution shall meet with the Planning Authority after the first required neighborhood meeting and prior to submission of the zone change application to confirm the focus of the Institutional Development Plan (IDP) and Regulatory Framework, including associated study areas that may be outside of the proposed IOZ boundary. The IDP and Regulatory Framework will vary in detail and focus depending on the Eligible Institution and its particular context. The content requirements in Sections 14-280 and 14-281 and the comments from neighborhood meeting(s) shall provide direction for the content of the IDP. The Planning Authority or Planning Board may require additional information or modify content requirements as is relevant to the Eligible Institution (see Section 14-280(c)).

(d) *Reviewing Authority.*

1. The Planning Board shall review the zone change application, including the IDP and Regulatory Framework. At least one public workshop and a public hearing before the Planning Board are required.
2. Upon recommendation of the Planning Board, the City Council shall review and consider adoption of the

Institutional Overlay Zone and the accompanying Regulatory Framework as an amendment to the city's code of ordinances.

(e) *Future Institutional Development.*

1. All new development by the Eligible Institution within the boundary of the IOZ shall be compliant with the IOZ and accompanying Regulatory Framework, consistent with the IDP, consistent with the Comprehensive Plan, and meet applicable site plan standards, unless such standards are superseded by the Regulatory Framework.
2. Any use/development proposed by the Eligible Institution outside the IOZ boundary that complies with the zoning for permitted uses in that location shall be reviewed under the standards of that zone. Any use/development proposed by an Eligible Institution outside of the IOZ boundary that is proposed in a residential zone and is functionally related to the operations within the IOZ shall be addressed by the IDP and require an amendment to the IDP.

(Ord. No. 221-16/17, 5-1-2017)

14-280. Institutional Development Plan (IDP)

(a) *Purpose.* Any use conducted by an Eligible Institution and any construction by an Eligible Institution in an Institutional Overlay Zone shall be consistent with an Institutional Development Plan (IDP) approved by the Planning Board in accordance with this ordinance. The purpose of the IDP is to establish baseline data about institutional land uses, facilities, and services and measure, analyze, and address the anticipated or potential impacts of planned institutional growth and change. The IDP shall serve as a background document that supports the proposed Regulatory Framework and frames subsequent site plan review(s).

(b) *Planning Horizon.* An IDP shall provide the city and abutting neighborhoods with a clear outline of the anticipated or potential growth and change of the Eligible Institution for the short- to medium-term (e.g. 1-5 and 5-10 years respectively), as well as a conceptual growth plan for the long-term (e.g. 10 years

or more); however, the specific planning horizons for each institution will be determined as part of the IDP approval process.

(c) *Content.* The IDP submission shall address the following elements unless specifically modified by the Planning Authority or Planning Board, with the scope and level of detail to be clarified at the required Scoping Meeting.

1. Context Information, including:
 - a. The institution's adopted mission, vision, or purpose statement;
 - b. A summary of relevant baseline data on the institution, including:
 - i. A neighborhood context plan;
 - ii. An inventory of current programs and services;
 - iii. A current census of the number of people using the institution (e.g., employees, enrollment, patients), with an indication of maximums and minimums over time;
 - iv. An inventory and/or plan of all existing property holdings within the main campus and within the City of Portland, including an indication of functional land use links between off-campus properties and the main campus (e.g. remote parking); and
 - v. An inventory and/or plan of existing facilities, including data on use, floor area, and any existing functional connections between facilities; and
 - c. A summary of the baseline characteristics of the existing campus and context of the institution, based on identified study areas, including:

- i. A summary of existing resources, such as historic, open space, and natural resources;
 - ii. A summary of the existing transportation system, including vehicular, pedestrian, transit, bicycle, and parking supply, demand, and utilization;
 - iii. A summary of existing public infrastructure supporting the institution, including demand, utilization and any capacity issues; and
 - iv. Relevant municipal plans, projects, and studies that may influence the IDP study area and opportunities for integrating institutional growth; and
 - d. A summary of public involvement in the development of the IDP, including major areas of public concern.
- 2. Assessment of Future Institutional Growth and Change, including:
 - a. A description of institutional needs and areas of future institutional growth and change, with:
 - i. A projected census of users (e.g., enrollment /employment/patient/visitor figures and anticipated variations over time);
 - ii. Institutional objectives for property both within and outside the IOZ boundary (e.g. acquisition and/or disposition), including an indication of any functional land use connection for sites outside the IOZ boundary to the main campus; and
 - iii. A Development Plan addressing anticipated or potential institutional needs and physical improvements, including the proposed boundary

of the IOZ and any phasing of the development; and

- b. Analysis and associated plans that address the following elements in terms of anticipated growth or potential impacts within the identified study area, and support the development parameters as set out in the Regulatory Framework, including:

- i. Transportation and access, with;

- a. An analysis of the projected changes in parking demand, supply, and impacts to the off-street and on-street parking capacity, including an explanation of the proposed parking plan;
- b. An analysis of the projected changes in vehicular, pedestrian, transit, and bicycle access routes and facilities, their capacity, and safety; and
- c. A transportation, access, and circulation plan, representing the synthesis of the analysis, and including a program of potential improvements or set of guidelines to address access deficiencies to and within the IOZ. The plan should outline proposed mechanisms and potential strategies to meet transportation objectives, including transportation demand management, phasing, and when a Traffic Movement Permit (TMP) may be required; and

- ii. Environment, with;

- a. An analysis of potential cumulative impacts on natural resources and open spaces;
- b. An analysis of projected energy consumption, hazardous materials

generation, noise generation, and similar issues as relevant; and

- c. An environmental plan, representing the synthesis of the analysis and including a proposed program or set of guidelines for future preservation, enhancement, conservation, and/or mitigation; and

iii. Infrastructure, with;

- a. An analysis of projected public utility demand and the capacity of associated infrastructure;
- b. An analysis of projected public safety needs and projected impacts to the capacity of these services; and
- c. An infrastructure plan, representing the synthesis of the analysis and including a proposed program or set of guidelines to support sustainable growth; and

iv. Design, with;

- a. An analysis of projected impacts to neighboring properties and public spaces, including potential shadow, wind, and lighting impacts, impacts of height and massing, and impacts to historic resources;
- b. An analysis of transition areas between the institution and adjoining neighborhoods, including identification of key character defining components of the surrounding context;
- c. An analysis of existing Crime Prevention Through Environmental Design issues and identification of how these principles would be addressed as part of the

proposed campus development; and

- d. A conceptual built environment/public realm plan, representing the synthesis of the analysis and including a set of guidelines for urban design, landscape, open space, and streetscape treatments, with particular attention to the treatment of edges (both within and abutting the IOZ boundary) to achieve compatible transitions; and
- v. Neighborhood Engagement, with;
 - a. A plan for ongoing community engagement that represents best practices, promotes collaborative problem solving around community concerns, fosters transparency, and identifies mechanisms for neighborhood feedback and institutional accountability;
 - b. A property management framework that identifies the institution's process for handling operational property issues with neighbors;
 - c. Strategies for assuring communication pertaining to property acquisition and disposition in surrounding neighborhoods; and
 - d. A set of construction management principles to apply to all institutional construction, that represent best practice, aim to minimize short- and long-term construction impacts on surrounding residents and businesses, and ensure a clear communication strategy is in place in advance of construction.

(d) *Standards of Review.* The IDP shall:

1. Address all content requirements, unless explicitly modified by the Planning Authority or Planning Board;
2. Reflect the issues/topics identified in the required public process;
3. Demonstrate consistency with the city's Comprehensive Plan and the purpose of this ordinance;
4. Demonstrate how the property ownership, proposed growth, and requested Regulatory Framework relate to the institution's mission;
5. Demonstrate that traffic and parking impacts have been anticipated and that the proposed parking provision is justified as based on an assessment of options for reducing traffic and parking demands;
6. Outline an approach to open space, natural, and historic resources that supports preservation and enhancement.
7. Demonstrate that potential cumulative environmental impacts have been anticipated and can be minimized or satisfactorily mitigated;
8. Demonstrate that utility impacts have been anticipated and can be minimized or satisfactorily mitigated;
9. Reflect a comprehensive design approach that ensures appropriate transitions with the existing or future scale and character of the neighboring urban fabric;
10. Promote compatibility with existing or future uses in adjacent neighborhoods, maintain housing, and support local amenities;
11. Anticipate future off-site improvements that would support the integration of the institution into the community and city-wide infrastructure;

12. Conform with Portland's Historic Preservation Ordinance standards for designated landmarks or for properties within designated historic districts or designated historic landscapes, if applicable. When proposed adjacent to or within one hundred (100) feet of designated landmarks, historic districts, or historic landscapes, the IDP shall be generally compatible with the major character-defining elements of the landmark or portion of the district in the immediate vicinity; and
13. Incorporate strategies to support clear communication and ongoing public engagement between institutions and nearby neighbors.

(e) *Approval.* Upon finding that an Eligible Institution's IDP meets the standards of review, the Planning Board shall approve, approve with conditions, or deny an IDP.

(f) *Monitoring.* The IDP shall establish a schedule for reporting on IDP implementation at regular intervals of not more than ten years from the date of approval of the initial or amended IDP, and identify thresholds for IDP amendments;

(g) *Amendments.* An approved IDP shall guide campus development unless and until amended. If at any time the Eligible Institutions request minor amendments to an approved IDP, the Planning Authority may approve such minor amendments, provided that they do not constitute a substantial alteration of the IDP and do not affect any condition or requirement of the Planning Board. The applicant shall apply with a written statement of the proposed amendment and proposed amended IDP to the Planning Authority, whose decision as to whether the amendment is minor shall be final. Major amendments shall be reviewed by the Planning Board. When the IDP is amended, the baseline data in the IDP shall be updated as appropriate.

(Ord. No. 221-16/17, 5-1-2017)

14-281. Regulatory Framework

(a) *Purpose.* The Regulatory Framework translates the IDP into a set of clear and specific zoning requirements for the IOZ that constitute the text and map amendments to the City's Land Use Code and Zoning Map. The zoning requirements are anticipated

to include parameters that guide the growth and change of the institution as well as broad strategies to address potential impacts, with plans and details to be developed under site plan review.

(b) *Applicability.* The Regulatory Framework shall apply only to properties that are within the IOZ boundary and to which the Eligible Institution holds right, title, or interest. For these properties, the Institutional Overlay Zone shall supersede the underlying zoning, and all new institutional development shall be conducted in compliance with the Regulatory Framework and the approved Institutional Development Plan. Properties located within the Institutional Overlay Zone not subject to right, title, or interest of the Eligible Institution shall continue to be governed by the regulations of the underlying zoning designation.

(c) *Uses.* Institutional uses, including hospitals and higher education facilities, shall be permitted, as shall uses that are functionally integrated with, ancillary to, and/or substantively related to supporting the primary institutional use, consistent with the applicable approved IDP.

(d) *Content.* The Regulatory Framework shall reflect the information and analysis of the IDP. The content shall be tailored to address the particular issues associated with the institution and its neighborhoods. The Regulatory Framework should be succinct and use tables and graphics as possible to address the following, if applicable:

1. *Zoning boundary of the IOZ:* The area to which the regulations apply, as shown on the zoning map, subject to other provisions of this ordinance (i.e. the map amendment to the City's Zoning Map);
2. *Phasing and schedules:* Requirements that relate to particular proposed phases; a chart showing the schedule or thresholds for submitting an amended IDP (or elements of an IDP, such as a Transportation Demand Management (TDM) Plan);
3. *Uses:* Clarification, as necessary, on permitted uses;

4. *Dimensional Requirements:* Graphics, sketches, or standards, including details for transition zones within the IOZ boundary;
 5. *Transportation:* Elements such as Transportation Demand Management Plan (TDM) trip reduction targets or contribution to area-wide TDM measures; broad parameters for ensuring pedestrian, vehicular, bicycle and transit access and safety; parking ratios and management strategies; thresholds for access improvements;
 6. *Environment:* The approach to the inclusion of open space and preservation of environmentally-sensitive areas;
 7. *Mitigation measures:* The broad approach to identified mitigation measures, which would be addressed in greater detail in the site plan review process; thresholds for addressing deficiencies; goals for preservation/protection;
 8. *Design:* Graphics and standards to clarify building placement and envelope (height and massing); guidelines for integration of site features; required treatments for transition zones and treatment for all edges (both within and abutting the IOZ boundary); guidelines for establishing campus identity;
 9. *Neighborhood Integration:* Thresholds and strategies for neighborhood engagement; mitigation of impacts on neighboring properties, including construction impacts; buffering requirements; objectives for pedestrian linkages and safety; other requirements that address community concerns; and
 10. *Monitoring:* A schedule for regular monitoring reports on IDP implementation in accordance with the IDP.
- (e) *Standards of Review:* The Regulatory Framework shall:
1. Be consistent with the Comprehensive Plan and the Institutional Development Plan;

2. Provide a clear zoning framework, using graphics and tables as appropriate, to apply to future site plan reviews;
3. Provide specific regulatory statements as appropriate that respond to concerns raised during the required public involvement; and
4. Outline measurable goals and thresholds for improvements or other actions identified in the IDP to be advanced in subsequent site plan applications.

(f) *Approval/Adoption.* The Planning Board shall review the proposed Regulatory Framework against the standards of review and make a recommendation on the institution's IOZ designation and Regulatory Framework to the City Council for adoption as part of this zoning ordinance.

(g) *Amendments.* A Regulatory Framework and IOZ boundary as adopted by the City Council shall remain in force unless and until amended. Amendments to a Regulatory Framework and/or IOZ boundary may be brought forth by the city or Eligible Institution. Proposed amendments to the IOZ boundary or Regulatory Framework shall be reviewed by the Planning Board and adopted by the City Council subject to the provisions of this ordinance.

(Ord. No. 221-16/17, 5-1-2017)

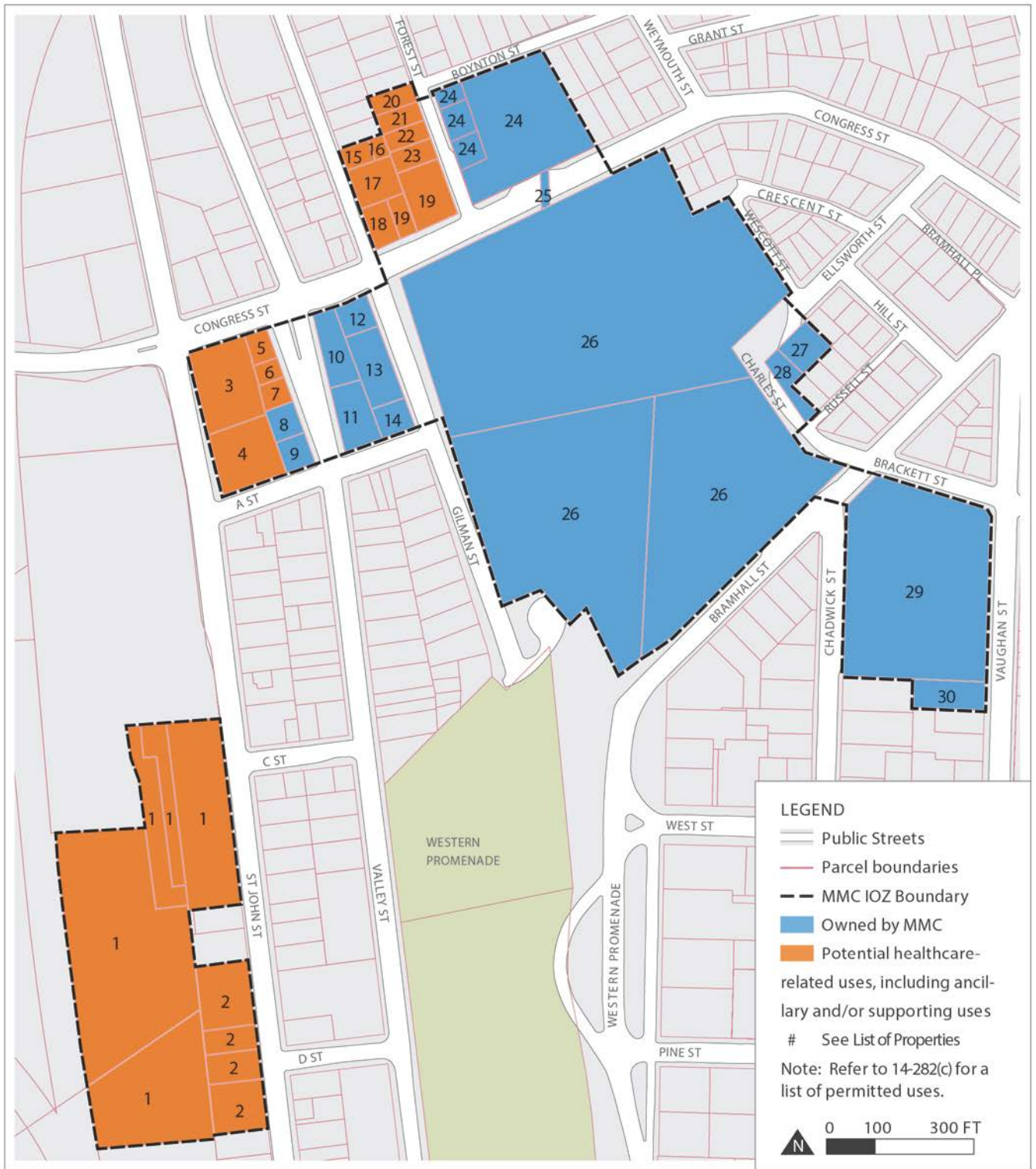
14-282. Maine Medical Center Institutional Overlay Zone Regulatory Framework.

(a) *Applicability.* All development proposed by Maine Medical Center (MMC) within the boundary of the Institutional Overlay Zone (IOZ) shall be consistent with the approved Institutional Development Plan (IDP), consistent with the Comprehensive Plan, and meet applicable standards of the land use code, unless such standards are superseded by the following Regulatory Framework. This Regulatory Framework shall govern future development by MMC within the IOZ unless amended by the Portland City Council upon formal application of MMC.

1. The MMC Institutional Overlay Zone shall have the boundaries depicted in the map, below, and shall

include the properties listed in the table, below.

MMC IOZ Boundary



List of Properties Included in the MMC IOZ

Map#	Legal Description	Address	Acreage	Ownership
1	64-A-2-8-9-11 74-A-7 / 75-A-6	222 St John St	4.6516	Owned by others
2	68-D-1-3-13-14-16	180 St John St	0.9494	Owned by others
3	65-G-1	950 Congress St	0.4628	Owned by others
4	64-B-1	275 St John St	0.4163	Owned by others
5	65-G-2	942 Congress St	0.0659	Owned by others
6	65-G-3	940 Congress St	0.0482	Owned by others
7	65-G-4	274 Valley St	0.0667	Owned by others
8	65-G-5	268-270 Valley St	0.0978	MMC
9	64-B-2	262-266 Valley St	0.0895	MMC
10	65-H-1	932 Congress St	0.1864	MMC
11	65-H-9	261 Valley St	0.2185	MMC
12	65-H-2	930 Congress St	0.1040	MMC
13	65-H-5	52 Gilman St	0.2384	MMC
14	65-H-8	44 Gilman St	0.1128	MMC
15	65-E-22	85 Gilman St	0.0565	Owned by others
16	65-E-32	85 Gilman St	0.0282	Owned by others
17	65-E-24	81 Gilman St	0.1653	Owned by others
18	65-E-28	919 Congress St	0.1059	Owned by others
19	65-E-29-30	909 Congress St	0.3233	Owned by others
20	65-E-19	22 Forest St	0.0826	Owned by others
21	65-E-21	18 Forest St	0.0831	Owned by others
22	65-E-23	14 Forest St	0.0826	Owned by others
23	65-E-25	12 Forest St	0.0883	Owned by others
24	53-I-1-2-3-12	887 Congress St	1.3400	MMC
25	53-X-1	Congress St Air Rights and Pedestrian Walkway	---	MMC
26	53-D-7 54-H-1 64-C-1	22 Bramhall St	12.563	MMC
27	54-C-6	34 Ellsworth St	0.1341	MMC
28	54-C-10	40 Ellsworth St	0.1155	MMC
29	54-I-1	308 Brackett St	2.5200	MMC
30	63-B-8	214 Vaughan St	0.1983	MMC

Notes:

- Properties owned by MMC are listed under MMC or MMC Realty Corp.
- MMC will not extend its functionally-related Bramhall campus hospital operations beyond the boundary of the IOZ within the City of Portland without further amendment to the IDP. This includes any expansion of functionally-related operations that displace residential uses outside of the IOZ boundary. A functional relationship is defined as uses or activities that are traditionally or customarily linked to the day-to-day operations of the MMC Bramhall Campus that would relocate a significant proportion of the total employee population or activities.

(b) Updates and amendments.

1. It is intended that the IDP will be updated on a regular basis to ensure that the data is current and that the document remains accurate. Accordingly, monitoring reports will be filed every three years and shall include a summary of progress on IDP implementation and of acquisitions and divestment since the date of IDP approval. At the time of the submission of the monitoring report, MMC shall identify any updates to the IDP which may result from updated master planning, changes in baseline information, or changes in the adjacent neighborhoods which affect MMC, to allow the IDP to remain current. Updates and minor amendments not described below shall be reviewed administratively by the Planning Authority.
2. Minor amendments that impact phasing of the long-term development blocks or change the approach to parking, transportation, neighborhood engagement or design shall be reviewed by the Planning Board for consistency with the objectives of the IDP. In addition to consistency with the objectives of the IDP, review of phasing and development program amendments shall focus on integration with the campus and impacts on transportation or infrastructure. This review may occur simultaneously with the site plan review of an anticipated project.
3. Major amendments shall be reviewed by the Planning Board and are required under the following circumstances:
 - a. A change to the Regulatory Framework is required;
 - b. The IDP is no longer representative of the institutional mission or approach to community as a result of redevelopment in the area or City upgrades to neighborhood planning (such as roadway changes, infrastructure upgrades, community design, lighting, etc.); or
 - c. Development proposed by MMC is inconsistent with the master facility plan, transportation plan intent, design plan intent, or environment and

infrastructure plan intent identified in the IDP.

4. Annual monitoring reports will be submitted for MMC's Transportation Demand Management (TDM) Plan. TDM monitoring reports shall include a summary of progress toward targets established in the TDM Plan.

(c) Uses. In addition to the uses permitted in the underlying zone, the following uses are permitted as a matter of right.

List of Uses Permitted by Right within the IOZ	
Healthcare facilities including but not limited to the following ancillary and/or supporting uses: • Hospital • Medical Office / Clinic • Laboratory Center / Services • Research and Development (R&D) Laboratory or Facility • Educational Facility / Conference Center • Administrative / Business Office • Accessory Service or Trade Uses • Guest House • Multi-family Housing for Healthcare Staff and Students • Rehab / Skilled Nursing Facility	• Retail Facility • Restaurant / Cafe • Employee Service Amenities • Day Care Center • Fitness Center or Gymnasium • Parking Lot • Parking Garage • Bicycle Storage • Heliport • Antenna Station • Outdoor use areas, such as green areas, parks, gardens, art installations, and other active and passive non-commercial recreation spaces

1. **Mixed Uses:** In recognition that Maine Medical Center is part of a mixed-use area of the City, with important existing services and businesses that serve the local and wider community, healthcare facility development fronting onto Congress Street and St. John Street shall activate the public realm, to the extent able, with uses such as service and retail/restaurant, landscaping, active building entrances, pocket parks, etc., on the ground or other publicly accessible level, consistent with the design intent contained in

the approved Institutional Development Plan (IDP). In areas identified in the IDP as "Priority zone for commercially oriented/retail uses," usable ground floor retail, restaurant, or comparable community-oriented use that provides services to local residents and employees both during the day and evening hours is required. In areas labeled "Street activation through location of windows, entrances, etc.," usable ground floor retail, restaurant, or community oriented use is encouraged to the extent practicable. Such uses, where constructed or facilitated as part of a healthcare related development, are expressly permitted whether ancillary or supporting the healthcare facility or not, and shall be open and welcoming to the general public in addition to employees or visitors of Maine Medical Center.

(d) Dimensional requirements. The MMC Institutional Overlay Zone shall have the dimensional requirements listed in the table and depicted in the maps, below.

Dimensional Requirements	
Max. Building Heights	Max. building heights for new buildings within the IOZ shall be governed by the Maximum Building Heights Map, or by the Transition Zones clause of this table (see below) for those buildings located in Transition Zones. Refer to IDP "Chapter 5. Design" for methodology on determining heights.
Minimum Building Heights	Three stories, except in transition zones, where the minimum building height shall be two stories. Minimum building heights shall not apply to building awnings, associated kiosks, pavilions or similar building components.
Maximum Building Length	Length of proposed parking garage at 222 St John St shall not exceed 500 feet as measured roughly parallel to St John St.
Minimum Building Setbacks	Minimum building setbacks shall be governed by the Minimum Setbacks Map. Additional requirements are listed in the Transition Zones and Congress Street Build-to-Zone sections of this table.
Congress Street Build-to-Zone*	A Build-to-Zone is identified for some properties that abut Congress Street. See Minimum Setbacks Map for the location of Build-to-Zone. i. The Congress Street Build-to-Zone extends between 0 to 40 feet from the right-of-way boundary. ii. Buildings located in these parcels must have a minimum of 70% of the façade facing Congress Street located within the

Transition Zones

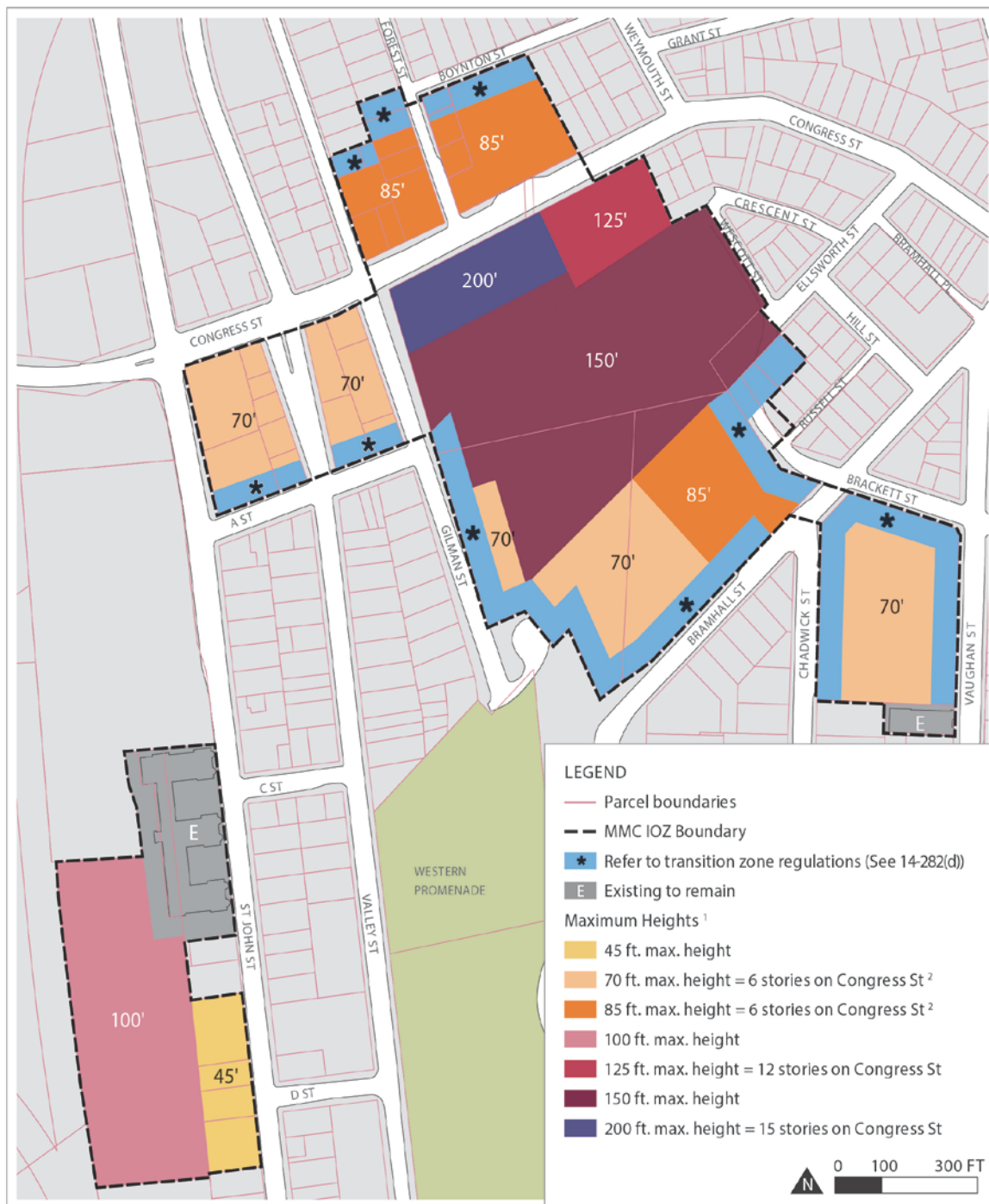
Transition zones are identified inside the IOZ boundary in areas where the IOZ abuts or is located across a public right-of-way from a residential zone or a historic-designated district.

See Maximum Building Heights Map for location of transition zones.

- i. Transition zones shall extend 50 feet into the parcel from the parcel boundary.
- ii. Transition zones that abut a Residential zone with or without an intervening public right-of-way shall have a maximum height limit that matches the maximum height permitted within that Residential zone.
- iii. In areas where the IOZ abuts a Residential zone without an intervening public right of way, minimum side and rear yard requirements of the abutting Residential zone apply within the IOZ boundary, unless noted otherwise in Minimum Setbacks Map.

*A "build-to zone" is the area on the lot where all or a portion of the street-facing building facade must be located, measured as a minimum and max. yard (setback) range from the public right-of-way boundary.

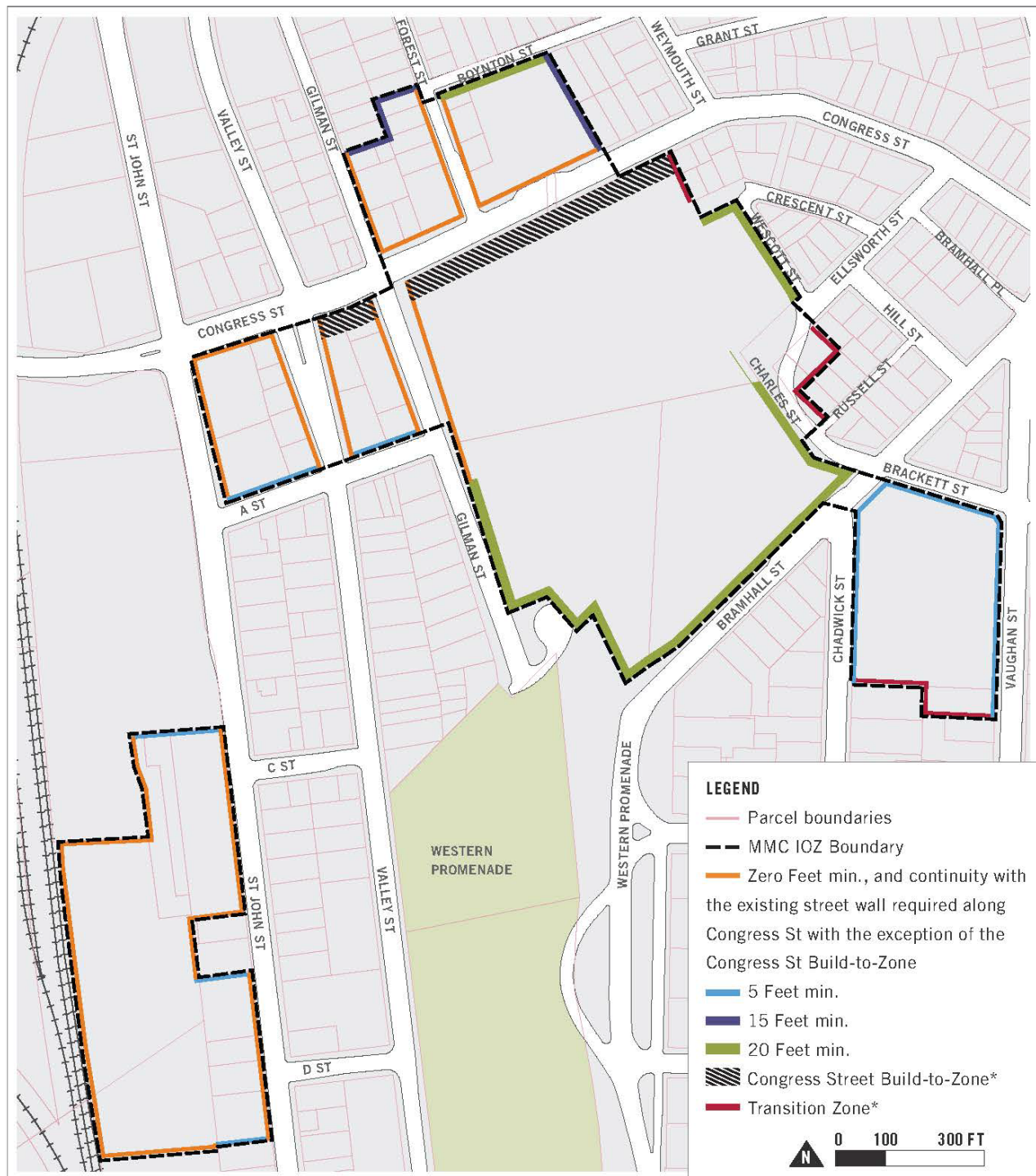
Maximum Building Heights



Notes: 1. Minimum building heights also apply. Refer to 14-282(d).

2. For buildings with residential use above the ground floor, the following height maximums apply:
70 ft. maximum height = 7 stories, and 85 ft. maximum height = 8 stories.

Minimum Setbacks



* **Note:** See Table 4.1 Dimensional Requirements.

(e) Design. New buildings within the IOZ shall adhere to

the Design Guidelines set forth in Chapter 5: Design of the IDP and the site plans standards of the City of Portland.

(f) Signs.

1. At the time of first site plan review following IDP approval, a unified campus-wide Signage Plan shall be submitted for review and approval by the Planning Authority. Any update to such plan due to a change in name or logo shall not require amendment to the IDP.
2. Signs shall be designed in accordance with the campus-wide Signage Plan. All signs shall be designed in proportion and character with building facades and adjacent street typology. All signs shall be coordinated with the building and landscaping design and be constructed of appropriate permanent, high quality materials and finishes.

(g) Transportation.

1. Transportation Demand Management (TDM):
 - a. At the time of the first site plan review following IDP approval, MMC shall submit a campus- wide TDM Plan substantially in accordance with those TDM objectives and strategies identified in the approved Institutional Development Plan. The TDM Plan may be phased into short-,mid-, and long-term actions to allow for progressive implementation over time.
 - b. The TDM Plan shall be designed to provide transportation choice with the goal of reducing parking demand and single-occupancy vehicle trips to and from MMC by employees and visitors.
 - c. The TDM Plan shall establish parking and trip reduction targets associated with the short-term (0-2 years), mid-term (2-5 years), and the long-term (5+ years), as well as a data collection plan.
2. Parking:
 - a. Parking requirements in the IOZ shall be

established at the time of site plan review based on a parking study that includes a campus-wide analysis of demand and supply. The parking demand study shall determine parking requirements and shall be sufficient to alleviate parking pressure on surrounding neighborhoods.

- b. Parking studies developed by MMC shall integrate parking and trip reduction achievements and data contained in the TDM Plan.

(h) Environment. Development proposed by MMC shall be designed to integrate with the surrounding context, including open space and pedestrian networks and infrastructure.

(i) Mitigation measures. MMC shall mitigate site plan impacts to off-premise infrastructure in a manner proportionate to those impacts. Mitigation may include financial or in-kind contributions to existing or planned City projects focused on mitigating the impacts of MMC development. Mitigation contribution shall be determined based on the City's standard procedure in effect at the time of site plan review.

(j) Neighborhood Integration and neighborhood engagement.

1. For the purpose of keeping surrounding residential areas apprised of its future development plans, and to address any neighborhood issues related to the operations of the MMC Bramhall campus, MMC shall adhere to the ongoing community engagement principles identified in the approved Institutional Development Plan.
2. MMC shall conduct ongoing community engagement, including the formation of a Neighborhood Advisory Committee comprised of representatives of MMC, the Parkside neighborhood, the West End neighborhood, the Western Promenade Neighborhood Association, the St. John Valley neighborhood, the Libbytown neighborhood, and the City.

(k) Construction management.

1. At the time of site plan review, MMC shall submit a Construction Management Plan substantially in accordance with those construction management

principles identified in the approved Institutional Development Plan for review and approval by the Planning Authority.

2. The Construction Management Plan shall include a construction schedule, as well as strategies for managing neighborhood communication and noise, air quality, traffic, and parking impacts associated with the construction as set forth on the Construction Management Template developed by the City and attached and incorporated to the IDP as Appendix A.

(l) Other requirements.

1. Helipad. MMC shall be governed by the provisions of the Helistop Overlay Zone with the following exceptions:
 - a. Setback requirements of Section 14-327(3); and
 - b. Fencing requirements of Section 14-327(4).
2. Snow Ban Parking. When the City of Portland declares a Snow Parking Ban, MMC shall make parking available to neighbors in a designated parking area on or near its campus upon the following condition:
 - a. Hours: Due to the patterns of patient flow in the hospital, the hours of snow ban parking for registered vehicles during an announced City of Portland Snow Parking Bans are 6:00 p.m. until 6:00 p.m. Vehicles that are not moved out of these parking areas by the applicable time each morning are subject to towing at the owner's expense.
3. Healthy Communities- Recognizing that a stable residential and commercial environment is key to the health of any neighborhood, MMC commits to supporting its existing and future neighbors in the St. John Valley, Parkside, West End, Western Prom and Libbytown neighborhoods. Accordingly, MMC shall implement and participate in the healthy communities programs as described below.
 - a. Caring Community Grants- MMC shall develop an

annual grant program with available funds of up to \$30,000. Goals, priorities, eligibility requirements, program guidelines and allocation approach will be developed by the MMC Neighborhood Council, as described in Chapter 6 of the IDP approved on September 26, 2017. Neighborhood associations or other entities located or operating in the St. John Valley, Parkside, West End, Western Promenade and Libbytown neighborhoods may apply for grant funding relating to the following initiatives:

- i. Neighborhood Investment and Infrastructure- focused on creating strong, safe, accessible and vibrant neighborhoods;
 - ii. Quality of life- Focused on improving access to recreation, arts or cultural experiences in the neighborhoods;
 - iii. Diversity and Inclusion- Focused on fostering the building of relationships and understanding among diverse groups, including capacity building and outreach activities;
 - iv. Public Safety- Focused on supporting public safety programs through training programs, equipment or other means in the neighborhoods; and
 - v. Environmental sustainability- Focused on preventing waste, increasing recycling or supporting other programs that work to improve the environment.
- b. Healthy Neighborhoods Program- MMC shall initiate and adopt a memorandum of understanding (MOU) by and between the MMC, the City of Portland, an identified Community Housing Development Organization and any other community partners that may be identified later establishing a Healthy Neighborhoods program. Such a program shall be designed to fund and execute housing and community improvement and development programs in St. John Valley and the other neighborhoods surrounding MMC's Bramhall Campus.

(Ord. No. 112-17/18, 11-20-2017)

* Editor's note. Order No. 221-16/17, adopted May 1, 2017, provided that the Regulatory Frameworks, as they are adopted by the City Council for each Eligible Institution, shall be codified within these sections.

Sec. 14-283. Reserved.
Sec. 14-284. Reserved.
Sec. 14-285. Reserved.
Sec. 14-286. Reserved.
Sec. 14-287. Reserved.
Sec. 14-288. Reserved.
Sec. 14-289. Reserved.
Sec. 14-290. Reserved.
Sec. 14-291. Reserved.
Sec. 14-292. Reserved.
Sec. 14-293. Reserved.

DIVISION 17. B-7 MIXED DEVELOPMENT DISTRICT ZONE

Sec. 14-294. Purpose.

The purpose of the B-7, mixed development district zone is to establish a zoning district for urban areas in which the city has adopted master plans for redevelopment. Certain districts, including but not limited to bayside, lie at the perimeter of the established downtown and contain significant redevelopment opportunities. The B-7 zone encourages these districts to acquire a distinctly urban form through dense development featuring a mix of uses such as housing, retail, offices, research and development, and artisan studios and that emphasizes a quality pedestrian experience, promotes public transit, and demonstrates exemplary urban design. Utilization of transportation, other than the automobile is strongly encouraged and is advanced by the installation of bicycle amenities, such as bicycle racks and storage areas. The zone promotes a wide range of uses in high quality structures and public open spaces to achieve twenty-four (24) hour urban vitality and shared parking infrastructure.

The following regulatory framework is intended to promote the mixed-use development pattern envisioned on Portland's peninsula. District-specific design standards and overlay maps can be found at the city planning and development office.
(Ord. No. 201-05/06, 4-19-06)

Sec. 14-295. Permitted uses.

The following uses are permitted in the B-7 zone:

(a) *Commercial:*

1. Professional, business, and general offices;
2. Restaurants and other eating and drinking establishments;
3. Hotels, inns, and bed and breakfasts;
4. Craft and specialty shops, including the on-premises production of handcrafted goods;
5. Retail and retail service establishments, excluding those with fuel pumps;
6. Theaters, concert halls, dance halls, meeting facilities, and exhibition halls;
7. Banking services, excluding vehicular drive-up services (see also conditional use section, [c][3];
8. Cabinetry and carpentry and mill working shops;
9. Indoor amusement and recreation centers;
10. Personal services;
11. Business services;
12. Billiard parlors;
13. Offices of business trades-people;
14. Miscellaneous repair services, excluding all types of automotive repair.
15. Telecommunication and broadcast and receiving facilities, except as prohibited in section 14-297 (prohibited uses);

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

- a. No taller than fifteen (15) feet above the highest structural steel of the building

roof; and

- b. Set back no less than fifteen (15) feet from the building perimeter; and
 - c. Integrated into the architecture of the building as described in the City of Portland Design Manual;
- 16. Brew pubs and microbreweries without associated bottling facilities, and brewpubs and microbreweries with associated bottling facilities limited to five-thousand (5,000) bottles per year output;
 - 17. Studios for performance or training in dance, music, or similar pursuits;
 - 18. Electronic data storage;
 - 19. Research and development including laboratories;
 - 20. Studios for artists, photographers and craftspeople including but not limited to, painters, sculptors, cabinet makers, dancers, graphic artists, and silk screeners and musicians;
 - 21. Health clubs, martial arts personal health and wellness facilities;
 - 22. Registered dispensary;
 - 23. Hostels, provided the applicant submits a site plan and operations plan demonstrating compliance with the following conditions:
 - a. All applicable provisions of Article V of this chapter shall be met;
 - b. Parking shall be provided in compliance with Division 20 of this Article;
 - c. No unaccompanied minors under the age of eighteen (18) shall be permitted in the facility;

- d. The length of stay for transient guests shall not exceed fifteen (15) days out of any sixty-day period; and
 - e. The building shall meet the applicable occupant load requirements as defined by the International Building Code and the NFPA Life Safety Code, as such codes are amended or adopted by the city;
24. Surface parking existing as of March 9, 2005 and in continuous existence thereafter, including the reorganization of parking spaces and maneuvering aisles. This section shall apply to surface parking accessory to a principle use and a parking lot as a principal use. Existing surface parking that does not comply with the standards of Sec. 14-299(f) may continue, provided that any modifications to the site layout, development constituting a site plan, or building renovations exceeding a value of thirty (30) percent of the assessed value of the building on file at the City of Portland Assessor's Office, shall require the parking to be upgraded to meet the standards of Sec. 14-299(f) to the extent practicable;
25. Surface parking created after March 9, 2005, provided that the spaces (and newly created maneuvering aisles) are thirty-five (35) feet or greater from a street and further that the standards below (a to c) are also met. This section shall apply to surface parking accessory to a principal use or a parking lot as principle use. The thirty-five (35) foot setback need not apply in the case of a property in which eighty percent (80%) of the property frontage has a building within ten (10) feet of the property frontage and or a driveway located perpendicular to the site. The parking area shall meet the standards of Sec. 14-299 (f):
- a. No surface parking shall be encumbered by lease or other use commitment to an off-site use exceeding a twenty-four month term;

- b. For surface parking areas of twenty-thousand (20,000) square feet or greater in area, lease or other use agreements for surface parking shall not preclude the relocation of such parking for more than twenty-four (24) month terms; and
 - c. Any such parking shall in its lease stipulate that developer/owner reserves the right to relocate said parking or convert surface parking to structured parking as long as the replacement parking is located a reasonable distance from the associated use;
26. Notwithstanding Sections 14-295(a)(24) and (25) above, surface parking that does not meet the 35-foot parking setback, provided that:
- a. All or a portion of the 35-foot setback area had a gravel surface on September 29, 2015;
 - b. The total gravel surface area on the lot and any contiguous lots did not exceed 15,000 square feet on September 29, 2015;
 - c. The parking spaces provide parking to a principle building on the same lot and or a principle building on a contiguous lot;
 - d. One of the buildings described in paragraph c above meets the minimum height requirements of the Bayside Height Overlay Map and/or a building on the site has a floor area of 25,000 square feet or greater;
 - e. The total number of spaces within 35-foot setback in combination with other spaces on the lot does not exceed the minimum parking spaces required in Sec. 14-526(a)(4)(a)(1);
 - f. The proposed parking spaces meet the landscape and buffer requirements of 14-299(f); and

- g. Parking spaces within the 35-foot setback shall provide stormwater quality treatment if required by the City of Portland Stormwater Management Standards and the Maine DEP Chapter 500 Stormwater Management Standards. If not required, an alternative low impact development treatment system approved by the Planning Board shall be provided;
- 27. Bakeries, coffee roasters and commercial kitchens provided such uses include retail sales or a tasting room within the principle building;
- 28. Marijuana retail store;
- 29. Small-scale marijuana caregiver; and
- 30. Veterinary hospitals and clinics provided there is no outdoor kennel.

(b) *Residential:*

- 1. Attached housing including row houses, condominiums, two-family and multifamily dwellings but not planned residential unit developments;
- 2. Handicapped family units;
- 3. Lodging houses;
- 4. Combined living/working spaces, including but not limited to artist residences with studio space;

(c) *Public:*

- 1. Utility substations, including wastewater collection and pumping stations, transformer stations, telephone electronic equipment enclosures, electric transmission and distribution substations and other similar structures, provided such facilities occupies up to one-hundred (100) square feet (see also conditional use section);
- 2. Museums, art galleries, and educational

exhibition space;

3. Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces;
4. Pedestrian and multi-use trails;
5. Emergency or safety facilities;
6. Municipal offices;
7. Active recreation parks and facilities, including but not limited to ball fields, skateboard parks, and basketball courts.

(d) *Institutional*:

1. Public or private schools;
2. Medical and mental health clinics but not methadone or other controlled substance addiction treatment centers;
3. Places of assembly;
4. Colleges, universities, or trade schools;
5. Governmental buildings and uses;
6. Nursery and pre-schools, kindergartens, and child day care facilities or home babysitting services;
7. Educational, research, and laboratory facilities;
8. Adult day care center.

(e) *Other*:

1. Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses. All drive-up services for all retail or drive-up repair facilities are prohibited except that bank drive-up services, where permitted, area conditional use.

2. Intermodal transportation facilities.

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

(Ord. No. 201-05/06, 4-19-06; Ord. No. 283-09/10, 7-19-10 emergency passage; Ord. No. 278-09/10, 7-19-10; Ord. No. 149-10/11, 3-7-11; Ord. No. 240-10/11, 6-6-11; Ord. No. 279-09/10, 6-6-11; Ord. No. 33-11/12, 1-18-12; Ord. No. 113-11/12, 2-22-12; Ord. 100-15/16, 11-16-2015; 140-18/19, 2-20-2019; Or. No. 44-20/21, 9-9-2020)

Sec. 14-296. Conditional uses.

(a) The following uses shall be permitted as conditional uses in the B-7 zone as provided in section 14-474 (conditional uses), provided that, notwithstanding section 14-474 (a) or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority:

1. Commercial use:

- a. Meeting, convention and exhibition halls limited to a total of twenty-five thousand (25,000) gross square feet of interior floor area.
- b. Wholesaling, providing that the wholesale operation is associated with an onsite retail establishment and that the wholesaling component of the facility occupies a building gross floor area of less than fifteen thousand (15,000) square feet.
- c. Drive-up banking provided that:
 - i. The drive-up is accessory to a banking service occupying a minimum floor area of four thousand (4,000) square feet; and
 - ii. The drive-up is attached to or included within a building with a minimum floor area of twenty thousand (20,000) square feet, except that for lots of less than 20,000 square feet and in existence as of March 9, 2005, a drive-up may be included in a building of less than 20,000 sq ft.; and

iii. The drive-up facility is attached or included within a building and/or addition meeting the minimum height of four

stores in the Bayside Height District A and three stories in the Bayside Height Districts B and C. For the purposes of this conditional use, the minimum height exceptions contained in Section 14-298 (h) 5, 7, and 8 shall not apply; and

- iv. The first floor of the building shall include banking or other retail storefront uses with storefront windows, entries, and interior public space oriented to and visible from the street, with front entry access facing the street and directly accessible from the public sidewalk; and
 - v. All drive-up features, such as automated teller machines and service windows, shall not extend nearer than twenty-five (25) feet to the street right-of-way line; and
 - vi. The site must have adequate stacking capacity for vehicles waiting to use these service features without impeding vehicular or pedestrian circulation or creating hazards to vehicular or pedestrian circulation on adjoining streets; and
 - vii. Drive-up vehicle circulation shall not be located between the building and any adjacent public streets; and
 - viii. The drive-up shall be limited to two vehicle drive-up lanes; and
 - ix. The location of any drive-up shall be limited to the geographic area between Somerset/Kennebec Streets/ I-295/Franklin Street/Forest Avenue.
- d. The expansion of automotive repair facilities existing as of March 9, 2005, but in no case shall such expansion over the life of the building exceed fifty percent (50%) of the gross floor area existing on March 9, 2005.

2. *Industrial uses:*

- a. High technology manufacturing of biotechnology,

pharmaceutical, and nanotechnology products,
including accessory warehousing, provided that:

- i. A minimum of one-third of the total square footage devoted to manufacturing is conducted in a laboratory environment, in a controlled environment with specialized air handling systems that exceed levels for pressurization and filtration found in office environments and traditional manufacturing facilities; and
- ii. Rooftop equipment shall be integrated into the overall building design and shall be screened as necessary; and
- iii. Where warehousing cannot be located on the same lot because the land area is too small to accommodate the warehousing on the same lot, one remote warehouse may be located within six-hundred (600) feet of the principle use referenced above.

b. Breweries including associated bottling activities;

c. Reserved.

d. Printing and publishing establishments having no retail sales within the principal structure;

e. Machine and tool and die shops;

All industrial uses listed above must also conform to the following additional requirements. Where redundant or contradictory performance standards exist, the more restrictive standard applies:

a. Glare, radiation, fumes, noise or smoke shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries; and

b. The building footprint devoted to industrial use shall not exceed fifteen thousand (15,000) square feet of contiguous building space except for uses contained in 14-296(2)(a); and

- c. The use shall be operated within a completely enclosed structure; and
 - d. No materials or wastes shall be stored outside; and
 - e. Truck loading and access shall be located in the rear or side yard where possible; and
 - f. Industrial uses shall conform to the performance standards of the I-L zone; and
 - g. Industrial uses shall conform to the B-7 mixed development district design standards.
3. Structured parking provided that:
- a. Parking structures located in the B-7 zone shall adhere to the following conditions:
 - i. The first floor of any parking structure shall contain one or more permitted uses (not conditional uses) found in §14-295 along all primary street frontages (excluding frontage dedicated to entrances, lobbies, and stair towers). Such first floor space shall be provided with a minimum of nine (9) foot floor to ceiling clearance height and a minimum twenty-five (25) foot depth (measured from the exterior building wall); or
 - ii. The parking structures shall be set back at least thirty-five (35) feet from the primary street right-of-way. The land located between the parking structure and the street right-of-way may not be occupied by surface parking, and shall be designated for future use development. Such land between the garage and the street shall not by lease or other prohibition be encumbered against future development. The land shall be provided with all stubbed utilities and other provisions needed to accommodate further development; or

- iii. The parking structures shall be designed with a façade (to a height of the first two floors) that enhances the pedestrian experience as described in the City of Portland B-7 bayside design standards.
4. Utility substations including wastewater collection and pumping stations, water pumping stations, transfer stations, telephone electronic equipment enclosures, electrical transmission and distribution substations and similar structures larger than one-hundred (100) square feet of floor area are permitted provided the following standards are met:
- a. Notwithstanding sec. 14-298 (maximum setback) utility substations shall be setback no less than thirty-five (35) feet from the street right-of-way except in the case of a lot having frontage on Marginal Way and I-295 provided the minimum thirty-five (35) foot setback is met along Marginal Way; and
 - b. The applicant demonstrates that the structure is as small in size as practicable; and
 - c. The remainder of the lot not consumed by the utility substation and its related access; and shall be designed and designated for future development; and
 - d. The substation equipment is fully enclosed within a structure.
5. Buildings in the bayside gateway urban height district A greater than one-hundred twenty-five (125) feet but no more than one-hundred sixty-five (165) feet in height provided that:
- a. Such buildings shall be sited to minimize encroachment into designated view corridors and visual landmarks to and from the downtown or that do not substantially further obstruct such corridors blocked by existing development as referenced in the Bayside Height Study Map and the B-7 design standards; and

- b. Portions of such buildings higher than one hundred twenty-five (125) feet shall be stepped back at upper levels to provide light and air to adjacent streets, trails, and open spaces, with a ratio of no less than at least to the extent that the ratio of building height to width of adjacent streets, trails and open spaces is equivalent to 1.5 to 1 except that the Planning Board may modify this requirement as provided for in Section 14-526(d)(9)(viii); and
- c. Such buildings provide publicly accessible and usable open space, meeting the B-7 urban design standards, of at least ten (10) percent of the building lot area; and
- d. If located on lots including or adjacent to planned or proposed street or pedestrian way connections, land dedication to such street or connection shall be credited toward the ten (10) percent open space requirement. Buildings over one hundred and twenty-five (125) feet in height that are being reviewed as separate phases of a Master Development plan shall be entitled to meet the ten (10%) percent open space requirement of Section 14-296(a)(5)(c) in aggregate for all such buildings over one hundred and twenty-five (125) feet in height, provided that the open space shall not fall below ten (10%) percent at any built phase or combination of built phases; and
- e. Such development shall comply with all other zoning requirement and B-7 urban design standards as required by this article.

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

- 1. Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:
 - a. Towers may be installed for the purpose of wind

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

- b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and
- c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
- d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
- e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
- f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
- g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
- h. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by

surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

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

(Ord. No. 201-05/06, 4-19-06; Ord. 29-09/10, 8-3-09, emergency passage; Ord. No. 240-10/11, 6-6-11; Ord. No. 33-11/12, 1-18-12; Ord. No. 175-12/13, 4-22-13; Ord. 255-14/15, 6-15-2015; Ord. 100-15/16, 11-16-2015)

Sec. 14-297. Prohibited uses.

Uses which are not enumerated as permitted or conditional uses in the B-7 zone are prohibited. Prohibited uses include, without limitation:

- (a) Ground-mounted telecommunication towers, antennas, discs, transmitting and receiving equipment and the like;
- (b) Waste, scrap, and/or byproduct storage and processing facilities;
- (c) Major or minor auto service stations including all types of automotive repair except that automotive repair facilities existing as of March 9, 2005 are permitted;
- (d) Drive-up facilities, except banking drive-up services, as allowed in the conditional use section 14-296.
- (e) Major telecommunication substations over five-thousand (5000) square feet.

(Ord. No. 201-05/06, 4-19-06)

Sec. 14-298. Dimensional requirements.

In addition to the provisions of article III, division 25 of this code, lots in the B-7 mixed use urban district zone shall meet the following requirements:

- (a) *Minimum lot size:* None.
- (b) *Minimum frontage:* None.

(c) *Yard dimensions:*

1. Minimum yards in the B-7 zone:

Front setback: None required except as provided in 2 below.

Side setback: Non required.

Rear setback: None required.

2. Maximum street setback: Parking structures, public transportation facilities, utility substations, secondary building components such as truck loading docks, mechanical equipment enclosures and refrigeration units are not subject to the maximum setbacks contained herein. The following maximum street setbacks shall otherwise apply in the B-7 zone:

a. Ten (10) feet. The setback can be increased more than ten (10) feet if all of the conditions below are met:

i. Seventy-five (75) percent of the total building wall length of an individual building facing the abutting streets is setback no greater than ten (10) feet; and

ii. The increased setback area shall include a functional and accessible public pedestrian entrance into the building that faces the street unless a public pedestrian entrance already exists along the same street; and

iii. The increased setback is not used for surface parking.

b. For a corner lot having frontage on two (2) streets, the maximum setback shall apply to both streets. In the case of a lot having frontage on two or more street corners, newly constructed buildings shall be sited at street corners and meet the maximum setback requirement prior to other free-

standing buildings being constructed on the lot which shall also meet the maximum street setback. In the case of a corner lot having frontage on a third street (but not a corner) the maximum setback need not apply to the third street.

- c. In the case of a lot having frontage on two (2) streets but not on a corner, the maximum setback shall apply to all streets but in the case of a lot having frontage on three (3) streets but not on a corner, the maximum setback shall apply to only two streets. For purposes of this subsection, only, the first building on a lot shall meet the maximum setback on at least one street with future buildings required to meet the maximum setback on the remaining street(s).
- d. In the case of a lot in which a minimum seventy-five (75) percent of the total lot frontage has a building within ten (10) feet of the street, other buildings may be located on the lot more than ten feet from the street. In the case of a lot having frontage on Marginal Way and I-295, the property edge along I-295 shall not be considered street frontage.
- e. The maximum building setback shall not apply to vertical building expansions in the following cases:
 - i. The upper floors of a building in which the lower floors meet the maximum setback and the minimum height requirement.
 - ii. The building existed as of March 9, 2005 and meets the minimum height requirement.
 - iii. A building not meeting the maximum street setback and the minimum height requirement may vertically expand a total of one floor from March 9,

2005.

- iv. In the case of a building in which at least fifty (50%) of the building wall(s) abutting street(s) is within 20 feet of the street.
 - v. Additions to parking garages existing as of March 9, 2005.
 - f. Additions to buildings existing as of March 9, 2005 that re nonconforming as to the maximum setback need not conform to the maximum street setback provided the cumulative building footprint since March 9, 2005 does not exceed fifty percent (50%) of the existing building footprint. Such restriction shall not apply to those portions of the building addition that are constructed closer to the street line than the building footprint existing as of March 9, 2005 and to vertical expansions as provided for in Sec. 14-298(c)(2)(e).
 - g. Lots having frontage on streets in which the curve of the street frontage precludes a rectangular shaped building along the street line, for purposes of calculating the setback, the average setback of the building from the street line may be used, but in no event shall the average setback along the length of the building edge exceed an average setback of fifteen (15) feet nor shall the maximum setback exceed twenty (20) feet. The increased setback shall not be used for surface parking, vehicular loading or vehicular circulation.
 - h. Additions to and relocations of designated historic structures or structures determined to be eligible by the historic preservation committee shall be exempt from the maximum setback requirement.
- (d) Minimum length of building wall required to be located long street frontage of lot except that additions to

and relocations of designated historic structures or structures determined to be eligible by the historic preservation committee shall be exempt from this subsection.

1. Minimum seventy-five percent (75%) of lot street frontage within ten (10) feet of the street; or
 2. Minimum twenty-five percent (25%) of building perimeter within ten (10) feet of the street.
- (e) Maximum building lot coverage: One-hundred percent(100%).
- (f) *Maximum residential density:* None
- (g) Maximum building height: As detailed on the [bayside height overlay map](#) on file in the planning and development department office.
- (h) Minimum building height: Newly constructed buildings shall have the required minimum of floors as provided by the bayside height overlay map within fifty (50) feet of any street frontage. Such floors shall be occupiable or habitable and above the average grade of the abutting street.

This minimum floor provision shall not apply to:

1. Accessory building components such as truck loading docks, mechanical equipment enclosures and refrigeration units.
2. Information kiosks and ticketing booths.
3. Parking garages.
4. Public transportation facilities.
5. Additions to buildings existing as of (March 9, 2005) provided that the cumulative additions since (March 9, 2005) does not exceed fifty percent (50%) of the ground floor building footprint on (March 9, 2005) except that such restriction shall not apply to those portions of the building addition(s) that are constructed

closer to the street line than the building footprint existing as of (March 9, 2005).

6. Utility substations, including sewage collection and pumping stations, water pumping stations, transformer stations, telephone electronic equipment enclosures and other similar structures.
7. Additions to and/or relocation of designated historic structures or structures determined by the historic preservation committee to be eligible for such designation.
8. Portions of buildings more than fifty (50) feet from the street line.

(Ord No. 201-05/06, 4-19-06; Ord. No. 240-10/11, 6-6-11)

Sec. 14-299. Performance standards.

All uses in the B-7 mixed development district zone shall comply with the following standards. Standards 14-299(a),(f),(j),(m),(n) and (o) below shall be reviewed by the Planning Authority.

- (a) Storage: Any storage of new materials, finished products, or related equipment must be suitably screened from the public way and from abutting properties by a solid fence at least six feet in height. All waste shall be stored in covered containers that do not leak or otherwise permit liquids or solids to escape from the container. All food processing waste shall be stored within a completely enclosed structure and if not refrigerated shall be removed from the site in an enclosed container within forty-eight (48) hours of its generation. All enclosed and exterior areas shall be cleaned and sanitized on a regular basis. Outdoor storage of refuse or debris shall be in an appropriate container or located within a designated, screened area. All dumpsters shall be screened on all four (4) sides by a minimum six (6) foot high solid fence or shall otherwise be fully enclosed as approved by the planning board or the planning and urban development department.
- (b) Noise:

1. Definitions:

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

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

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

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

In addition to the sound level standards established above, all uses located within this

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

4. *Exemptions:*

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

(c) *Vibration:* Vibration inherently and recurrently

generated shall be imperceptible without instruments at lot boundaries.

- (d) Federal and state environmental regulations: All uses shall comply with federal and state environmental statutes and regulations regarding emissions into the air, except where provisions of this code are more stringent.
- (e) Storage of vehicles: Outdoor storage of any unregistered automotive vehicles on the premises for more than ten (10) days, and outdoor storage of any used automotive tires on the premises shall not be permitted.
- (f) Off-street parking and loading: Off-street parking is required as provided in division 20 (off-street parking) of this article. Division 21 (off-street loading) of this article shall not apply. Surface parking shall meet the following standards:
 - 1. None of the spaces shall occupy all or a portion of a sidewalk within a street right-of-way.
 - 2. Driveway entrances shall meet the City of Portland Technical Manual standards.
 - 3. The parking area shall meet the landscape and buffer standards of the City of Portland Technical and Design Manuals.
- (g) Shoreland and flood plain management regulations: Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5
- (h) Glare, radiation or fumes: Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.
- (i) Enclosure of uses: All uses shall be operated within a fully enclosed structure, except for those customarily operated in open air.
- (j) Materials or wastes: Any permitted outdoor storage of

materials shall be done in such a manner as to prevent the breeding and harboring of insects or vermin, to prevent the transfer of such materials from the site by natural causes or forces and to contain fumes, dust, or other materials which constitute a fire hazard. This storage shall be accomplished within enclosed containers or by one (1) or more of the following methods: raising materials above ground, separating materials, preventing stagnant water, or by some other means. Any areas used for permitted outdoor storage of materials shall be screened from view of any adjoining properties and public rights-of-way. NO outdoor storage shall be permitted between the front of any building on the site and the street.

- (k) Odor: Uses in the B-7 zone shall adhere to the odor regulations of the IL zone.
- (l) Smoke: Discharges of smoke shall not exceed opacity percentage of forty percent (40%) or number two (2) on the ringelman chart.
- (m) Discharge into sewers: No discharge shall be permitted at any point into any private sewage disposal system, or surface drain, or into the ground, of any materials in such a way or of such nature or temperature as to contaminate any water supply, or the harbor, or otherwise cause the emission of dangerous or objectionable elements, except in accordance with standards approved by the health authority or by the public works authority.
- (n) Lighting: All lighting shall be designed and installed with cut-off fixtures to direct illumination onto the site and to prevent illumination from such fixtures on neighboring properties and as otherwise governed by the site lighting standards of the City of Portland Technical Manual.
- (o) 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.

(Ord. No. 201-05/06, 4-19-06; Ord. No. 240-09/10, 6-21-10; Ord. No. 278-09/10, 7-19-10; Ord. No. 140-10-11, 6-6-11; Ord. No. 165-15/16, 3-7-2016)

DIVISION 17.5. EASTERN WATERFRONT PORT ZONE*

***Editor's Note-** Order No. 297-05/06 adopted on September 18, 2006, implemented a new Eastern Waterfront Port Zone for the Maine State Pier and Portland Ocean Terminal. The proposed changes for the Portland Ocean Terminal and the Maine State Pier would allow for a wider range of uses for the piers and properties of the Portland Ocean Terminal.

Sec. 14-300. Purpose.

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

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

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

Given the need to nurture and support deepwater-dependent uses and the need for non-deepwater dependent uses to complement the marine passenger industry and to support the maintenance and

repair of pier infrastructure, the Eastern Waterfront Port Zone recognizes the following hierarchy of uses:

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

(Ord. No. 297-05/06, 9-18-06)

Sec. 14-300.1. No adverse impact on marine uses.

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

- (a) The proposed use will displace an existing water-dependent use;
- (b) The proposed use will reduce existing commercial vessel berthing space;
- (c) The proposed use, structure or activities, including but not limited to access, circulation, parking, dumpsters, exterior storage or loading facilities, and other structures, will unreasonably interfere with the activities and operation of existing water-dependent uses or significantly impede access to vessel berthing or other access to the water by water-dependent uses; or
- (d) The siting of a proposed use will substantially reduce or inhibit existing public access to marine or tidal waters.

(Ord. No. 297-05/06, 9-18-06)

Sec.14-301. Permitted uses.

Subject to a determination that the proposed use meets the standards of section 14-300.1. (no adverse impact on marine uses), the following uses are permitted in the Eastern Waterfront Port Zone:

(a) *Marine passenger:*

1. Intermodal marine passenger facilities;
2. Cruise ship home port and port of call berthing and support;
3. International and domestic ferries.

(b) *Marine commercial:*

1. Transient and long-term commercial berthing;
2. Marine-related warehousing;
3. Marine related construction, manufacturing, fabrication, salvage and repair;
4. Storage and repair of fishing equipment;
5. Ship and other marine vessel construction, building, servicing, and repair;
6. Boat and marine equipment storage;
7. Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels;
8. Public, non-profit, or commercial marine transportation and excursion services, including captained charter services, sport fishing and water taxis;
9. Ship and off-shore support services, including but not limited to tug boats, pilot boats, and chandleries;

10. Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices;
11. Marinas located east of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26;
12. Marine office, including but not limited to offices of owners of marinas, wharves or their agents, and naval architects, and seafood brokers.

(c) *Commercial:*

1. Professional, business, government, and general office located in upper floors of structures existing as of September 18, 2006.

***Editor's Note**—On-site parking for non-marine commercial uses are permitted as conditional uses subject to the provisions of section 14-301.1. (conditional uses, parking) below.

2. Temporary events, except festivals as otherwise governed under section 14-301I3 below.

Buildings, piers and lands within the EWPZ may be used for temporary public and private events including but not limited to exhibitions, conferences, meetings, and trade shows under the following conditions:

- a. Temporary events occupying more than 10,000 square feet of building or outdoor space shall not exceed a combined total of sixty (60) days between May 1st to October 31st;
- b. No temporary event may continue for more than 14 days of continuous operation;
- c. Any temporary event that anticipates more than 5,000 people in attendance on any single day must provide and be subject to a parking management plan. The parking

management plan must be submitted for the review and approval of the public works authority at least 60 days prior to the first day of the event.

3. Festivals subject to City license.
4. Street vendors licensed pursuant to Chapter 19.

(d) *Public:*

1. Fire, police and emergency services;
2. Governmental agency emergency operations/crisis centers; 3. Research, military and visiting attraction vessel berthing;
4. Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces, including without limitation pedestrian and/or bicycle trails.

(e) *Other:*

1. Wind energy systems, as defined and allowed in Article X, Alternative Energy;
2. A facility for non-profit organizations whose facility may include offices, classrooms, equipment, equipment rentals, storage, and bathrooms for the public.

(Ord. No. 297-05/06, 9-18-06; Ord. No. 33-11/12, 1-18-12; Ord. No. 262-13/14, 6-16-14; Ord. 184-14/15, 6-1-2015; Ord. 322-15/16, 7-6-2016)

Sec. 14-301.1. Conditional uses.

(a) The following uses shall be permitted as conditional uses in the Eastern Waterfront Port Zone, provided that, notwithstanding section 14-471(c), section 14-474(a), or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority, and provided further that in addition to the provision of section 14-474(c)(2) such uses will not impede or preclude existing or potential water-dependent development within the zone, will allow for adequate right-of-way access to the water, are compatible with marine uses, and meet all additional standards set forth below:

1. Conditional use standard:

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

2. Conditional uses:

- a. *Marine:*
 - i. Marine products, wholesaling and retailing;
 - ii. Ice-making services;
 - iii. Marine freight facilities providing service for, and/or intermodal transfer of, container and breakbulk freight;
 - iv. Marine educational facilities;
 - v. Seafood retailing, wholesaling, packaging and shipping;
 - vi. Seafood processing for human consumption, subject to the performance standards of the IL zone set forth in section 14-236 in addition to the performance standards of

section 14-304;

vii. Commercial marinas serving commercial and recreation boats located west of the eastern boundary of the parcel of land owned by the City of Portland pursuant to a deed from the State of Maine dated February 1982 and recorded in the Cumberland County Registry of Deeds at Book 4916, Page 26, provided that such facilities are located in areas that do not conflict with the navigation and handling of deepwater dependent vessels accessing existing or potential deepwater berthing;

viii. Fish byproducts processing, provided that:

- a. Any fish byproducts processing facility has a valid rendering facility license under chapter 12 of the Portland city code; and
- b. Any fish byproducts facility shall employ current and appropriate odor control technology to eliminate or minimize detectable odors from such a process, and in no case shall odors exceed the odor limitation performance standards of the IM zone (section 14-252); and
- c. The processing other material wastes or byproducts shall not be deemed a lawful accessory use Permitted herein.

b. *Commercial:*

- a. Structured parking available to the general public;
- b. Professional, business, government and general offices uses in upper floors of structures constructed after September 18, 2006;
- c. Passenger support services supporting a marine passenger use listed under 14-

301(a)(marine passenger). The total ground floor area occupied by any combination of the following uses (regardless of ownership) shall not exceed 35% of the gross floor area of the principle associated marine passenger use and no more than 35,000 square feet cumulative within the EWPZ:

- i. Retail;
 - ii. Restaurants/food service other than street vendors;
 - iii. Retail service;
 - iv. Passenger information services.
- c. Industrial: The following industrial uses are permitted provided that such uses shall conform to the IM zone performance standards set forth in section 14-252 in addition to the performance standards of 14-304. Where redundant or contradictory performance standards exist, the more restrictive standard applies.
- i. Non-marine related warehousing in structures existing as of September 18, 2006;
 - ii. Facilities for combined marine and general construction;
 - iii. Low impact industrial uses as permitted in the IL zone in structures existing as of September 18, 2006, excluding all auto repair service facilities.
- d. *Public:*
- i. Utility substations: Public utility substations, including but not limited to electrical transformers, sewage and stormwater pumps and telecommunication switching stations, are permitted under the following conditions:
 - a. The facility is located more than 100 feet from the water's edge;

- b. The facility occupies no more than 50 square feet of structure above ground;
 - c. The facility provides no dedicated on-site parking and all subsurface elements of the facility are installed and operated such that land occupied by the facility is otherwise useable and made available for marine related uses, including but not limited to parking, travel ways, and/or storage; and
 - d. The facility shall be sized, sited and screened to minimize visual impact and prominence from public ways.
- ii. Maritime museums, limited to 5,000 square feet of ground floor footprint.

***Editor's Note**—On-site parking for non-marine commercial and industrial uses are permitted as conditional uses subject to the provisions of section 14-301.1. (conditional uses, parking) below.

- e. Parking for non-marine uses: Notwithstanding sections 14-304(h), 14-331, 14-334 (regarding off-street parking requirements) and article V (site plan) of this chapter, no parking shall be allowed in this zone for non-marine uses unless the applicant can demonstrate that the number of parking spaces on-site exceeds the number of parking spaces needed to accommodate the demand for marine and water-dependent uses that are permitted by section 14-301 (permitted marine uses) and 14-301.1. (conditional marine uses) which are or may be located on the subject property (see editor's note below). The remainder of parking Required, if any, for such non-marine uses shall be provided off-site.

***Editor's Note**—Vacant ground floor space should be considered to have a parking demand similar to other space housing an existing water-dependent use elsewhere on the subject property or on a comparable property.

(b) The following use shall be permitted only upon the issuance of a conditional use permit subject to the provisions

of section 14-474 (conditional uses), and any special provisions, standards or requirements specified below:

1. Temporary wind anemometer towers, as defined in Sec 14-47, are permitted provided the following standards are met in addition to Sec 14-430:
 - a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
 - b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and
 - c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
 - d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
 - e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
 - f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
 - g. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics

(speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and

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

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

(Ord. No. 297-05/06, 9-18-06; Ord. No. 29-09/10, 8-3-09, emergency passage; Ord. No. 33-11/12, 1-18-12; Ord. No. 262-13/14, 6-16-14; Ord. 184-14/15, 6-1-2015)

Sec.14-301.2. Prohibited uses.

Uses, whether floating or fixed to land, which are not enumerated in either section 14-301 or 14-301.1. as permitted or conditional uses are prohibited. Those uses that are specifically prohibited shall include, without limitation:

- (a) Residential uses;
- (b) Amusement/theme parks;
- (c) Bulk freight facilities;
- (d) On-site gambling casinos not accessory to and located aboard either a ferry or inter-port cruise ship.

(Ord. No. 297-05/06, 9-18-06)

Sec. 14-302. Contract or conditional rezoning.

In addition to those marine and non-marine uses authorized in section 14-301 (permitted uses) and 14-301.1(conditional uses) an applicant may apply to locate a non-marine use not otherwise permitted, if the reviewing body finds the applicant has met the standards of section 14-300.1 (no adverse impact), the performance standards of 14-304(a-o), and the applicable standards of contract/conditional rezoning contained in sections 14-60 to 14-63 and conforms to the following requirements:

- (a) *Standards for contract or conditional rezoning:*

1. All non-marine uses are either permitted or conditionally permitted in the B-5 zone, and are not specifically prohibited in section 14-301.2 (prohibited uses) above. Any hotel, inn, or other similar transient lodging establishment proposed must be located landward of the spring tide line and westerly of the extension of the India Street right-of-way; and
2. The aggregate ground floor area of any development permitted hereunder located within 100 feet of the pier edge or working edge of the hardened shoreline shall be occupied by at least 50% of one or more marine uses set forth in section 14-301 (permitted, marine uses) and 14-301.1 (conditional marine uses). Note: the circulation areas and areas occupied for accessory parking serving marine uses shall not be used as the basis for calculating the 50% provision above; and
3. The development is consistent with the comprehensive plan and without the non-marine use component authorized herein, the site could not otherwise support an economically viable water-dependent use; and
4. The project's public benefits outweigh its potential negative impacts, provided that such public benefits include one or more of the following: protection of existing water-dependent uses, preservation of future water-dependent use development opportunities, contribution to the development of and/or on-going maintenance of the marine infrastructure for commercial vessels, and visual and physical access to the waterfront for the general public; and
5. The non-marine portion of the development will not significantly restrict air or light for marine uses located in the immediate vicinity; will not create significant adverse local climatic effects on marine uses such as an undue increase of winds or shadowing; and will not adversely affect the efficient operation of marine uses, such as by producing less efficient

traffic, parking or circulation patterns; and

6. The rezoning contains adequate provisions and/or conditions to ensure that on-site water-dependent infrastructure remains occupied by commercial marine use(s) listed in section 14-301 (permitted uses) and 14-301.1 (conditional uses) and that said use is not abandoned after the project is developed; and
7. Notwithstanding section 14-304(h) (performance standard "Parking") and section 14-526 (a) 4.a.(i), all on-site parking constructed or used for non-marine uses allowed only by contract or conditional rezoning shall be subject to the conditional use provisions section 14-301.1 (e) (parking for non-marine uses).

Additionally, the total amount of parking shall be established by the city council in the conditional or contract rezoning agreement after consideration of the planning board's recommendation on the same.

(Ord. No. 297-05/06, 9-18-06; Ord. No. 278-09/10, 7-19-10)

Sec. 14-303. Dimensional requirements.

In addition to the provisions of article III, division 25 of this code, lots in the EWPZ shall be subject to the following requirements:

- (a) *Minimum lot size:* None.
- (b) *Minimum frontage:* None.
- (c) *Minimum yard dimensions:*
 1. Front setback: None.
 2. Side setback: None.
 3. Rear setback: None.
 4. Setback from pier line: Notwithstanding the above requirements, a minimum setback of twenty-five(25) feet from the edge of any pier, wharf or working edge of the hardened shoreline shall be required for any structure, provided that marine

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

- (d) Maximum impervious surface: One hundred (100%) percent.
- (e) Maximum building height: Forty-five (45) feet, except as follows:
 - 1. For purposes of this section only, moveable elements such as cranes and gantries, connection devices such as conveyors or bridges, and floating vessels shall not be subject to the space and bulk requirements, but shall be subject to a determination by the Federal Aviation Administration that the location of such equipment will not create a hazard to air traffic.
 - 2. Rooftop appurtenances may exceed the maximum height limits of forty-five (45) feet providing that their design and placement is either fully screened or integrated into the architecture of the structure on which they sit.
 - 3. The applicant must provide a determination from the Federal Aviation Administration that structures and equipment in excess of forty-five (45) feet will not exceed the applicable height guidelines for the runway approach and will not create a conclusive evidence that the proposed development will not create a hazard.

(Ord. No. 297-05/06, 9-18-06; Ord. No. 27-11/12, 8-15-11; Ord. 184-14/15, 6-1-2015)

Sec. 14-304. Performance standards.

Development in the Eastern Waterfront Port Zone shall

comply with the following standards:

- (a) Outdoor storage of materials: Outdoor storage of commodities and materials accessory to normal conduct of business shall be entirely contained, including runoff contaminants and residual material, within a designated area.
- (b) Noise:
 - 1. The level of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American National Standards Institute, Inc.), inherently and recurrently generated within the EWPZ between the hours of 7:00 p.m. and 7:00 a.m. from facilities or operations commenced on or after July 1, 1988, shall not exceed fifty-five (55) decibels on the A scale at or within the boundaries of any residential zone, except for sound from construction activities, sound from traffic on public streets, sound from temporary activities such as festivals, sound created as a result of, or relating to, an emergency, including sound from emergency warning signal devices, and maritime navigation signals.
 - 2. In measuring sound levels under this section, sounds with a continuous duration of less than sixty (60) seconds shall be measured by the maximum reading on a sound level meter set to the A weighted scale and the fast meter response (L maxfast). Sounds with a continuous duration of sixty (60) seconds or more shall be measured on the basis of the energy average sound level over a period of sixty (60) seconds (LEQ1).
 - 3. In addition to the sound level standards otherwise established, facilities or operations established or built in the EWPZ on or after July 1, 1988, shall employ best practicable sound abatement techniques to prevent tonal sounds and impulse sounds or, if such tonal and impulse sounds cannot be prevented, to minimize the impact of such sounds in residential zones. Tonal sound is defined as a sound wave usually

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

- (c) Vibration: Vibration inherently and recurrently generated shall be imperceptible without instruments at lot boundaries. This shall not apply to vibration resulting from activities aboard a vessel or from railroad vehicle activities, or from activities on a pile-supported pier.
- (d) Federal and state environmental regulations: All uses shall comply with federal and state environmental statutes and regulations regarding emissions into the air, except where provisions of this code are more stringent.
- (e) Discharges into harbor areas: No discharge into harbor water areas shall be permitted, unless permitted by the Maine Department of Environmental Protection under a waste discharge license and as approved by the department of public works in accordance with chapter 24, article III of this code. All private sewage disposal or private wastewater treatment facilities shall comply with the provisions of chapter 24, article II of this code and federal and state environmental statutes and regulations regarding wastewater discharges.
- (f) Storage of vehicles: Storage of any unregistered automotive vehicle on the premises for more than ten (10) days shall not be permitted.
- (g) Landfill of docking and berthing areas: Landfill of docking and berthing areas shall be governed by 38 M.R.S.A. § 471-478, and permitted only if the landfill does not reduce the amount of linear berthing areas or space, or berthing capacity. If approved, construction shall be undertaken using methods approved by the department of public works and shall be accomplished in accordance with the provisions of division 25 of this article and in a manner so as to ensure that a stable and impermeable wall of

acceptable materials will completely contain the fill material and will not permit any fill material to leach into docking areas or navigable waters.

- (h) Off-street parking: Off-street parking is required as provided in division 20 (off-street parking) of this article.
- (i) Off-street loading: Off-street loading is required as provided in division 21 of this article.
- (j) Shoreland and flood plain management regulations: Any lot or a portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.
- (k) Lighting: All lighting on the site shall be shielded such that direct light sources shall not interfere with vessels transiting the harbor, nor have an unreasonable adverse impact on adjacent residential zones, and shall be compliant with the Site Lighting Standards of the City of Portland Technical Manual.
- (l) Signs: Signs shall be permitted as set forth in division 22 of this article.
- (m) Storage of pollutants and oily wastes: On-premises storage of pollutants and oily wastes shall not be permitted for more than forty-five (45) days.
- (n) Compatibility of non-marine uses with marine uses: Non-marine uses, structures and activities, including but not limited to access, circulation, parking, dumpsters, exterior storage and loading facilities or other structures shall neither unreasonably interfere with the existence or operation of marine uses nor significantly impede access to vessel berthing or other access to the water by existing or potential marine uses.
- (o) Functional utility of piers and access to the water's edge: All development, whether for marine or non-marine uses, must anticipate current and future needs of water-dependent uses to functionally access the water's edge for the transfer of goods, materials, and

passengers between berthed vessels and land bound vehicles. Provisions for the storage and movement of goods, materials, and passengers must be designed into all waterside development and internal circulation routes must be maintained or otherwise provided as an element of any development.

(Ord. No. 297-05/06, 9-18-06; Ord. No. 240-09/10, 6-21-10; Ord. No. 278-09/10, 7-19-10)

DIVISION 18. WATERFRONT CENTRAL ZONE*

*Editor's note— Ord. No. 249-18/19 passed as an emergency on June 17, 2019, made substantial revisions to Division 18. Previously, Ord. No. 168-93, § 2, adopted Jan. 4, 1993, repealed former Divs. 18, 18.5 and 18.7, §§ 14-306–14-320.2, which pertained to waterfront zones, and enacted new provisions as Divs. 18, 18.5 and 18.7 to read as herein set out. Formerly, such provisions derived from Ord. No. 426-83, § 1, adopted Apr. 25, 1983; Ord. No. 427-83, § 1, adopted Apr. 25, 1983; Ord. No. 355-85, § 1, adopted Jan. 7, 1985; Ord. No. 438-86, § 1, adopted Apr. 7, 1986; Ord. No. 189-87, § 3, adopted Feb. 7, 1987; Ord. No. 174-87, 's; 1, 2, adopted Mar. 4, 1987; Ref. of May 5, 1987; Ord. No. 385-87, adopted Apr. 6, 1987; Ord. No. 36-89, §§ 1, 2, adopted June 28, 1989; and Ord. No. 15-92, §§ 22, 23, adopted June 15, 1992.

Order 184-14/15 repealed Division 18.7 on 6-1-2015.

Sec. 14-305. Purpose.

The Waterfront Central Zone was created to protect and nurture water-dependent and marine-related support uses so that they may grow and prosper in the present and into the future in an environment and area dedicated to this purpose. The following priority of uses is recognized:

(a) The first priority of this zone is to protect and nurture existing and potential water-dependent uses in a setting that enforces their continued economic viability;

(b) The second priority is to encourage other marine and marine-related support uses so long as they do not interfere with water-dependent uses, either directly by displacement or indirectly by placing incompatible demands on the zone's infrastructure;

(c) Non-marine uses are encouraged provided that they do not

interfere with and are not incompatible with first and second priority uses. Non-marine uses are beneficial to the waterfront economy because they provide the financial return to property owners necessary for the maintenance and improvement of the marine infrastructure.

Water-dependent and marine-related support uses by their nature have activities and operational needs that are unique to this area and are not shared by other commercial and industrial uses in the city. These first and second priority uses and related activities may result in noise, odor, dust, hours of operation, parking and traffic patterns and traffic control needs that are necessary for the convenient and successful conduct of such uses. Other uses may not be compatible with these types of effects. Other specified uses are permitted in the waterfront central zone, provided that they do not significantly interfere with the activities and operation of water-dependent and marine-related support uses. Such uses must be, and are assumed to be, aware of the impacts associated with marine uses and therefore must accept and be tolerant of them. Other specified uses in the zone shall accommodate to those patterns and needs of the higher priority uses so long as those higher priority uses are not detrimental to public health and safety and the higher priority activities are conducted in accordance with sound practices or practices customary in the trade.

Commercial Street is recognized as an important economic center for the city and region. Marine compatible uses are encouraged to locate and grow along Commercial Street while higher priority marine uses are protected on the waterfront.
(Ord. No. 168-93, § 2, 1-4-93; Ord. No. 193-05/06, 4-19-06; Ord.No. 103-10/11, 12-20-10; Ord. No 249-18/19, 6-17-2019)

*Editor's Note—Pursuant to Council Order 103-10/11 passed on 12/20/10 Section 14-306 *No adverse impact on marine uses* was repealed in its entirety and remaining sections were re-numbered accordingly.

Sec. 14-306. Definitions.

For the purposes of the Waterfront Central Zone only the following terms shall have the following definitions:

Common circulation drives: private driveways, roadways and circulation areas accessible to all on-site tenants and/or occupants of a lot within the waterfront central zone providing access from/to the public street network.

Lot: any abutting property under common ownership.

Commercial Street Overlay Zone (CSOZ): The Commercial Street Overlay Zone (CSOZ) is a portion of the Waterfront Central Zone, as described below, where new and existing development may be occupied with 100% non-marine use tenants listed under 14-307(b), subject to the standards and use limitations provided in section 14-311(b).

The geographic limits of the CSOZ are defined by parcels of land and piers within the Waterfront Central Zone located on the landward side of a line established one hundred twenty-five (125) feet south of the southerly sideline of Commercial Street and modified as follows: the seaward limit of the CSOZ extends to a line three hundred (300) feet south of the southerly sideline of Commercial Street in the area between the easterly and westerly sideline of Long Wharf. Additionally, all areas subject to this provision are set back landward at least twenty-five (25) feet from the average high tide line of Portland Harbor and associated coastal wetlands. Where the one hundred twenty-five (125) foot offset intersects with the footprint of a building existing as of May 2019 and such intersection leaves 75% or more of the building within the CSOZ, the entire building shall be considered included in the CSOZ. All offset distances are measured horizontally.

All applicants for development within the CSOZ are responsible for demonstrating their location within the CSOZ according to the findings of a site-specific land survey conducted by a professional land surveyor licensed by the State of Maine. The limits of the CSOZ shall be shown on all site plans and subdivision plats for proposed development within the CSOZ.

On-Site shall mean that portion of any lot included within or directly impacted by a proposed development.

(Ord. No. 193-05/06, 4-19-06; Ord. No. 103-10/11, 12-20-10; Ord. No 249-18/19, 6-17-2019)

Sec. 14-307. Permitted uses.

Subject to a determination that the proposed use meets the standards of section 14-311, as applicable, the following uses listed under 14-307 (a), (b), (c) and (d) are permitted anywhere in the Waterfront Central Zone. Uses listed under 14-307(e) are only permitted in the CSOZ.

(a) Marine:

1. Marine products wholesaling, distribution and retailing;
2. Marine repair services and machine shops;
3. Tugboat, fireboat, pilot boat and similar services;
4. Harbor and marine supplies and services, chandleries, and ship supply such as fueling and bunkering of vessels;
5. Marine industrial welding and fabricating;
6. Shipbuilding and facilities for construction, maintenance and repair of vessels;
7. Commercial marine transport and excursion services, including ferries, captained charter services, sport fishing and water taxis;
8. Cargo handling facilities, including docking, loading and related storage;
9. Boat repair yards;
10. Boat storage facilities, excluding rack storage facilities; (Boat rack storage facilities are included in conditional use, section 14-308(b)(3) below);
11. Seafood processing and retailing;
12. Seafood packing and packaging;
13. Seafood loading and seafood distribution;
14. Fabrication, storage and repair of fishing equipment;
15. Ice-making services;
16. Facilities for marine construction and salvage;
17. Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices;

18. Fabrication of marine-related goods;
19. Fishing and commercial vessel berthing;
20. Non-commercial berthing of a maximum of fifty (50) linear feet per pier. A non-commercial berth may not displace a commercial berth.

Parking for any non-commercial berthing is subject to the provisions of section 14-311(d)8.

21. Marine office, including but not limited to offices of owners of wharves or their agents, and naval architects, and seafood brokers;
22. Public landings;
23. Marine research, education, and laboratory facilities;
24. Bait sales and processing;
25. Harbor security and emergency response services including but not limited to Harbor Master, Marine Patrol and Coast Guard.
26. Commercial parking for water-dependent use business owners and employees.

(b) Non-marine commercial and industrial uses: Non-marine uses permitted by this section are subject to the standards listed in section 14-311.

1. Professional, business, government, and general offices, except for offices for health care practitioners or health clinics which are only permitted in the CS0Z;
2. Cabinet and carpentry shops, studios for artists and crafts people;
3. Intermodal transportation facilities;
4. Cold storage facilities;

5. Commercial kitchens; and
6. Outside accessory activities.

(c) Public:

1. Landscaped pedestrian parks, plazas and other similar outdoor pedestrian spaces, including without limitation pedestrian and/or bicycle trails;

(d) Other:

1. Accessory uses:

- a. Interior accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses. Food service establishments, newsstands and other similar retail and service support uses shall only be permitted as accessory uses if they are part of and located within the lot lines of a use set forth in section 14-307(a)(1), (a)(7), (a)(11), or (a)(22); that such uses do not exceed two-thousand (2,000) square feet in total floor area of the building, or twenty-five percent (25%) of the total floor area of the building, whichever is less, and that each individual accessory use does not exceed one-thousand (1,000) square feet in total floor area of the building; and further provided that such accessory uses provide goods or services that are supportive of the principal use and its clientele. Exterior accessory uses shall be otherwise subject to the provision of 14-311(a); and
- b. Interior meeting or classroom space accessory to uses permitted in section 14-307(a)(23) (marine research, education, and laboratory facilities) may be rented out for meeting use by marine-related or non-marine related groups or organizations, or the general public, and such accessory uses shall not be subject to the limitations contained in paragraph b, but shall only be permitted as accessory uses if the total of all support uses, including

interior meeting or classroom space, does not exceed three-thousand (3,000) square feet in total floor area per building, or fifteen percent (15%) of the total floor area per building, whichever is less.

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

(e) Uses permitted only within the Commercial Street Overlay Zone. Uses permitted by this section are subject to the standards listed in section 14-311(b).

1. Retail and service establishments, including craft and specialty shops;
2. Restaurants provided that full course meal food service and consumption shall be the primary function of the restaurant, and full course meal service shall be continued up until the hours of closing;
3. Banking services without drive-up services;
4. Museums and art galleries;
5. Street vendors licensed pursuant to chapter 19.
6. Offices of health care practitioners or health care clinics.

7. Personal service establishments.

(Ord. No. 168-93, § 2, 1-4-93; Ord. No. 131-01/02, § 1, 1-23-02; Ord. No. 309-01/02, § 1, 7-15-02; Ord. No. 38-02/03, § 1, 9-4-02; Ord. No. 193-05/06, 4-19-06; Ord. No. 103-10/11, 12-20-10; Ord. No. 33-11/12, 1-18-12; Ord. No 249-18/19, 6-17-2019)

Sec. 14-308. Conditional use.

The uses listed herein shall be permitted as conditional uses in the waterfront central zone, provided that, notwithstanding section 14-471 and section 14-474(a), or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority, and further provided that in addition to the provisions of section 14-474(c)(2), they shall also meet the applicable Waterfront Central Zone development standards in section 14-311:

(a) Commercial marine conditional uses:

1. Fish by-products processing, provided that:
 - a. Any fish by-products processing facility has a valid rendering facility license under chapter 12;
 - a. Any existing fish by-products facility shall employ current and appropriate odor control technology (and any new fish by-product use shall employ current, available odor control technology) to eliminate or minimize detectable odors from such a process, and in no case shall odors exceed the odor limitation performance standards of the I-M zone; and
 - b. The processing of other material wastes or by-products shall not be deemed a lawful accessory use under any other provision of this article.
2. Boat rack storage facilities, provided that:
 - a. Parking shall be provided for one-hundred percent (100%) of the demand generated by the use (notwithstanding 14-311(d)7, performance standard for parking), and such parking shall be provided off-site, in another zone permitting such use.
 - b. Boat rack structures shall not exceed ten thousand (10,000) square feet of building footprint.

(b) Utility substations: Public utility substations, including but not limited to electrical transformers, sewage and stormwater pumps, and telecommunication switching stations, are permitted under the following conditions:

1. The facility is located more than one-hundred (100) feet from the water's edge;
2. The facility occupies no more than fifty (50)

square feet of structure above ground;

3. The facility provides no dedicated on-site parking and all subsurface elements of the facility are installed and operated such that land occupied by the facility is otherwise usable and made available for marine uses, including but not limited to parking, travel ways, and/or storage; and
4. The facility shall be sized, sited and screened to minimize visual impact and prominence from public ways.

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

1. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a Certificate of Occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
2. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the Board of Appeals with the application; and
3. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
4. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the Board of Appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
5. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to Corporation Counsel and cover damage or injury resulting from construction,

operation or dismantling of any part of the temporary wind anemometer tower; and

6. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
7. Towers shall be used for installing anemometers and similar devices at a range of heights from the ground to measure wind characteristics (speed, direction, frequency) and related meteorological data, but shall not be used for any other purpose; and
8. A performance guarantee shall be required for the cost of removal of the tower, guy wires and anchors. This requirement may be satisfied by surety bond, letter of credit, escrow account or by evidence, acceptable to the City, or the financial and technical ability and commitment of the applicant or its agents to remove the facility at the end of the use period.

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

(Ord. No. 168-93, § 2, 1-4-93; Substitute Ord. No. 00-42, 8-7-00; Ord. No. 73-01/02, § 1, 10-15-01, Ord. No. 131-01/02, § 2, 1-23-02; Ord. No. 193-05/06, 4-19-06; Ord. No. 29-09/10, 8-3-09, emergency passage; Ord. No. 240-09/10, 6-21-10; Ord. No. 278-09/10, 7-19-10; Ord. No. 103-10/11, 12-20-10; Ord. No. 33-11/12, 1-18-12; Ord. No. 249-18/19, 6-17-2019)

Section 14-309. Prohibited uses.

Uses which are not enumerated in either section 14-307 or 14-308 as permitted or conditional uses are prohibited. Uses enumerated in section 14-307(e) shall be considered prohibited uses outside of the CSOZ. Those uses that are prohibited shall include, without limitation:

- (a) Residential Uses;
- (b) Hotels, motels, hostels, bed and breakfasts, inns, lodging houses, tourist homes, short-term rentals or boatels;
- (c) Auditoriums, civic centers, convention centers, or other meeting facilities not accessory to an otherwise permitted use;
- (d) Drinking establishments, private clubs, or non-profit

social and recreational facilities;

(e) Ground mounted telecommunication towers, antennas, and/or disks; and

(f) Drive-up services for any use other than a permitted use listed under 14-307(a) or 14-308(a)(1).

(g) Major and minor auto service stations.

(h) Laundry and dry-cleaning services.

(i) Convenience stores with gas pumps.

(j) Commercial parking for non-marine uses.

(Ord. No. 168-93, § 2, 1-4-93; Ord. No. 73-01/02 § 2, 10-15-01; Ord. No. 193-05/06, 4-19-06; Ord. No. 103-10/11, 12-20-10)

Sec. 14-310. Dimensional requirements.

In addition to the provisions of division 25 of this article, lots in the Waterfront Central Zone shall be subject to the following requirements:

(a) Minimum lot size: None.

(b) Minimum frontage along Commercial Street: Seventy-five (75) feet.

(c) Minimum lot width within the CSOZ: Fifty (50) feet measured parallel with Commercial Street and such lot width shall be continuous for the full depth of the lot located within the CSOZ.

(d) Minimum yard dimensions:

1. Front setback: None.

2. Side setback: None

3. Rear setback: None.

4. Setback from pier edge: Notwithstanding the aboverequirements, a minimum first-floor setback of ten (10)feet from the edge of any pier, wharf or bulkhead shall be required for any structure, (exclusive of structurally necessary posts supporting upper floors, and deck mounted equipment for loading and unloading vessels.

The edge of any pier, wharf or bulkhead shall include any attached apron(s). Floats, rafts, and or barges not structurally integral to the pier, wharf or bulkhead may not be used to satisfy this requirement. Parking for non-marine uses shall not occupy the 10-foot setback.

(e) Maximum lot coverage: One-hundred (100) percent.

(f) Maximum building height: Fifty (50) feet. Except as provided in (h) below, a structure in the Waterfront Central Zone shall provide no more than three habitable floors; however, typical rooftop appurtenances and/or enclosed or open mechanical installations shall be allowed over the third floor.

(g) Minimum ground floor clearance: Any new building proposed to be larger than three-hundred (300) square feet, and located more than 35 feet from the southerly sideline of Commercial Street, shall provide no less than fifteen (15) feet of first floor to ceiling vertical clearance to promote marine industrial use potential. New buildings less than three-hundred (300) square feet or additions to existing multistory buildings are exempt from this provision but shall provide the maximum ground floor clearance practicable.

(h) New non-marine use building exception for usable floors and minimum ground floor clearance: Notwithstanding provisions (f) and (g) above, for new non-marine use buildings permitted within the CSOZ, four (4) usable floors are allowed and ground floor clearance minimums do not apply.

(Ord. No. 168-93, §2, 1-4-93; Ord. No. 309-01/02, § 2, 7-15-02; Ord. No. 193-05/06, 4-19-06, Ord. No. 103-10/11, 12-20-10; Ord. No 249-18/19, 6-17-2019)

Sec. 14-311. Development standards.

(a) Standards for non-marine uses located outside of the CSOZ: Non-marine uses listed above in Sec. 14-307(b) and 14-308(b) that are located outside of the CSOZ shall be subject to the performance standards listed in 14-311(d) as well as the following standards:

1. 55% marine use required on ground floors: At least 55% of the leasable ground floor area of all buildings on a lot (defined in 14-306 above), shall be occupied by marine uses, as listed under 14-307(a) or 14-308(a)(1).
2. 55% marine use required for all open areas: After subtracting areas used for common circulation drives

(defined in 14-306 above), at least 55% of un-built area (meaning area not occupied by a building) on the lot, when calculated using the aggregate of all such un-built areas, shall be occupied by marine uses, as listed under 14-307(a) or 14-308 (a)1.

3. Ground floor vacancies and change of occupancy offered to water dependent/marine uses: Ground floor vacant space and areas proposed for a change of occupant outside of the CSOZ shall not be filled with any non-marine use without adequate opportunity for marine uses to occupy the space.

- a. *Ground floor vacancy and change of occupant outside of the CSOZ advertised to marine users:* In any lot or portion of lot outside of the CSOZ, each time a ground floor occupant departs or gives notice to depart from the lot, the space, along with any associated parking spaces to be vacated, must be made available to new marine occupants.

Prior to renting to a non-marine user the property owner shall advertise for a new marine occupant for not less than a one hundred eighty(180) day period in targeted media and by other means reasonably calculated to reach marine users (e.g. local marine trade publications, marine trade websites, waterfront bulletins .) Should one or more marine users apply, the property owner shall make the space available to a marine occupant, in accordance with terms and rates generally consistent with comparable space in the 55% marine use portion of the zone (outside of the CSOZ). The property owner may stop advertising sooner than the end of the 180-day period if a lease is signed with a marine user. Should no marine user apply by the end of the 180-day period, the owner may fill the space with a non-marine user provided that the new non-marine occupant will not cause the lot to exceed the non-marine use occupancy maximum of 45% of the ground floor area or open area.

- b. *Uses inventoried:* To demonstrate adherence to the 55% marine use requirement, the applicant shall submit to the planning authority, upon request, an inventory which lists each occupant (tenant or

otherwise), as well as a map which depicts the location of each occupant. The map shall show all ground level space, including buildings, parking, open areas and submerged lands associated with the subject lot. For each occupant, the property owner must indicate the square footage of area occupied and whether the occupant is a marine use as defined herein. For vacant space, the last previous occupant shall be listed, along with the date of departure.

- c. Prior to changes of occupancy and/or as part of applications for new development outside of the CSOZ, the property owner or applicant shall provide proof of compliance with the requirements of this section as a condition of approval.

4. Pier or bulkhead edge reserved for marine uses: Notwithstanding any provision of this ordinance to the contrary, excepting only the portion of any pier which might be used for non-commercial berthing pursuant to 14-307(a)(20), all berthing and/or dockage space and associated floats plus the entire linear edge of that portion of every pier or bulkhead which is adjacent to greater than zero feet of water depth at mean low water, to a minimum setback line of at least ten (10) feet from the edge of the pier, bulkhead, or engineered shoreline may only be used or occupied by one or more marine uses as defined in 14-307(a)) or 14-308(a). Said edge shall be the seaward extent of any engineered shoreline or working deck of any pier or wharf.

(b) CSOZ standards: Non-marine uses listed under 14-307(b), 14-307(e) and 14-308 located within the CSOZ , as defined in 14-306, shall be subject to the performance standards listed in 14-311(d) as well as the following standards:

1. Vessel access: Non-marine uses allowed under this provision shall not disrupt or block access to vessel berthing and shall otherwise adhere to the performance standards of this zone described in Sec. 14-311(d).
2. *Maximum setback for new development on lots with seventy-five (75) or more feet of Commercial Street frontage:* Any new non-marine development constructed subject to this provision which is located on a lot with seventy-five (75) or more feet of frontage along the

Commercial Street right of way shall be located with its front façade no further than thirty-five feet (35) from the southerly sideline of the Commercial Street right of way. Furthermore, any such development shall orient its front façade and its primary pedestrian entrance toward Commercial Street and no vehicular circulation or parking may occupy the land or pier area between the front façade of the building and Commercial Street.

Non-marine development subject to this provision on lots with fewer than seventy-five (75) feet of frontage along the Commercial Street right-of-way, changes of use within existing buildings, and/or building additions of less than 5,000 square feet of new development to existing buildings are exempt from the maximum setback provisions established herein.

3. *Investment in marine infrastructure:* All applicants for site plan review or a change of use permit for non-marine development in the CSOZ are required to invest in marine infrastructure as a condition of development, provided that the total project costs exceed \$250,000. The value of the investment shall be not less than five percent (5%) of total project costs over \$250,000 for constructing non-marine space and associated site improvements in the CSOZ.

Required investment may occur by one or both the following methods:

- a. *Direct investment in marine infrastructure* located on the same lot: Investment shall be for the benefit of marine uses listed in 14-307(a) within the same lot as the proposed non-marine development. Investment may include dredging, pile replacement, new or replaced structural decking (but not pavement resurfacing), new or replaced fendering systems, new or replaced floats, pier expansions, permanent conversions of recreational berthing to commercial berthing, bulkhead or seawall repair or improvements, or any combination of similar improvements. Plans for the marine infrastructure investment shall be submitted to the planning authority with the application for site plan review or change of use permit and shall include details and a commitment as to how the marine infrastructure will be utilized by marine

users. The marine infrastructure improvements shall be completed prior to the issuance of a certificate of occupancy for the non-marine development project.

- b. Financial contribution: If direct investment in marine infrastructure is not made, the developer shall make a financial contribution to the city's waterfront loan and investment fund.

(c) No Contract or Conditional Rezoning Permitted

This section is intended to accomplish goals from Portland's Plan 2030. Specifically, these changes will:

- Prioritize and promote Portland's unique mix of water-dependent, marine-related uses and compatible non-marine uses;
 - Recognize and reinforce the respective roles of the Eastern, Central and Western Waterfronts; and
 - Celebrate, promote and protect Portland's lobster and fishing industry as a foundation of the region's economy and a feature of civic pride.
1. In light of this purpose and the significance of the central waterfront to the City's future, no contract or conditional rezoning applications may be approved in the Waterfront Central Zone.

(b) Performance standards: All uses in the waterfront central zone shall comply with the following standards. The Operations and Access Management Plan (standard 13) shall be reviewed by the planning authority:

1. Outdoor storage of materials: Outdoor storage of commodities and materials accessory to normal conduct of business, except pilings and/or cranes, shall be permitted to a maximum height of forty-five (45) feet, and such materials shall be entirely contained, including runoff contaminants and residual material, within a designated area within the lot boundaries.
2. Noise: The level of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American

National Standards Institute, Inc.), inherently and recurrently generated within the waterfront central zone shall not exceed seventy-five (75) decibels on the A scale at the boundaries of any lot, except for sound from construction activities, sound from traffic on public streets, sound from temporary activities such as festivals, and sound created as a result of, or relating to, an emergency, including sound from emergency warning signal devices. In measuring sound levels under this section, sounds with a continuous duration of less than sixty (60) seconds shall be measured by the maximum reading on a sound level meter set to the A weighted scale and the fast meter response (L maxfast). Sounds with a continuous duration of sixty (60) seconds or more shall be measured on the basis of the energy average sound level over a period of sixty (60) seconds (LEQ1).

3. Vibration: Vibration inherently and recurrently generated shall be imperceptible without instruments at lot boundaries. This shall not apply to vibration resulting from activities aboard a vessel or from railroad vehicle activities, or from activities on a pile supported pier.
4. Discharges into harbor areas: No discharge into harbor water areas shall be permitted, unless permitted by the Maine Department of Environmental Protection under a waste discharge license and as approved by the department of public works in accordance with chapter 24, article III of this code. All private sewage disposal or private wastewater treatment facilities shall comply with the provisions of chapter 24, article II of this code and federal and state environmental statutes and regulations regarding wastewater discharges.
5. Storage of vehicles: Storage of any unregistered automotive vehicle on the premises for more than sixty (60) days shall not be permitted.
6. Landfill of docking and berthing areas: Landfill of docking and berthing areas shall be governed by 38 M.R.S.A. sections 480-A through 480-HH, and permitted only if the landfill does not reduce the amount of linear berthing areas or space, or berthing capacity. If approved, construction shall be undertaken using methods approved by the department of public works and shall be accomplished in accordance with the provisions of division 25 of this article and in a manner so as to

ensure that a stable and impermeable wall of acceptable materials will completely contain the fill material and will not permit any fill material to leach into docking areas or navigable waters.

7. Off-street parking and loading: Division 20 (off-street parking) and division 21 (off-street loading) of this article shall not apply.
8. Lighting: All lighting on the site shall be shielded such that direct light sources shall not unreasonably interfere with vessels transiting the harbor nor have an unreasonable adverse impact on adjacent residential zones. Lighting: All lighting on the site shall be shielded such that direct light sources shall not unreasonably interfere with vessels transiting the harbor nor have an unreasonable adverse impact on adjacent residential zones
- . Storage of pollutants and oily wastes: On-premises storage of pollutants and oily wastes shall not be permitted for more than forty-five (45) days.
10. Urban design: Construction of new structures located within thirty-five (35) feet of the southerly edge of Commercial Street between Maine Wharf and the easterly property line of the city fish pier shall conform to the guidelines set forth in the downtown urban design guidelines, unless such structures are also located within one-hundred (100) feet of the water. Such structures that are also located within one-hundred (100) feet of the water shall conform to the extent practicable to the downtown urban design guidelines.
11. Pier and wharf expansions: In addition to meeting Harbor Commission and Coast Guard requirements for navigation, any expansion or extension of a pier and or wharf in the waterfront central zone shall demonstrate its compatibility with fixed route ferry service and emergency vessel operations.
12. Public view protection: Any new development in the waterfront central zone shall perform a public view impact analysis for review and approval by the planning board or planning authority as a condition of site plan approval. The analysis shall: (a) demonstrate the

project's adherence to the Portland View Corridor Protection Plan (City of Portland Comprehensive Plan, 2002) to the extent practicable; and (b) promote the public's visual access to the water through sensitive building placement.

The planning board or planning authority shall find at a minimum that the proposed development (a) retains street corridor views as extended across Commercial Street from the Portland peninsula; (b) retains panoramic views of the water from Commercial Street to the extent practicable; and (c) where loss of existing public views to the water is shown to be necessary for the reasonable development of the site, the developer provides alternative public views to the water through newly established view corridors or publicly accessible pedestrian ways. Such pedestrian ways shall not interfere with existing or potential water-dependent uses, nor shall they endanger the public through uncontrolled proximity to industrial activity.

3. Operations and Access Management Plan: Any new development, including changes of use or expansion of uses in the Waterfront Central Zone shall submit a scaled plan and accompanying narrative that demonstrates waterfront access and functional accommodation for water-dependent uses. In accordance with Portland's Plan 2030, the plan shall demonstrate consistency with the hierarchy of waterfront uses, as further detailed in Sec. 14-305 (Purpose), with non-marine and marine-related uses being subordinate in placement and disposition to water-dependent uses, and designed so as not to impede access to the pier edge and vessel berthing nor interfere with marine operations.

- a. Submission Requirements. The plan shall, at a minimum, illustrate the following information:

- i. Location of all existing and proposed structures, rights-of-way, common circulation drives as defined in Sec. 14-306, access-ways, sidewalks, pier edges, floats and docks, showing the entire lot in the context of its respective pier.

- ii. Existing and proposed off-street parking, labeled with associated uses.
 - iii. Facilities for the loading and unloading of goods and materials.
 - iv. Regularly occurring exterior activities including but not limited to the storage of material, equipment and vehicles, yard area, outdoor seating and on-site waste management.
 - v. Signage showing parking use, wayfinding, and posted operational restrictions.
 - vi. Plan narrative detailing how the standards listed below are achieved, tenant/landlord communication protocols, private enforcement actions to be employed to ensure plan compliance, and the responsible parties representing the property owner.
- b. Review Standards. In addition to the information above, the plan shall demonstrate compliance with the following standards:
- i. Off-street parking is subject to the limitations described in Sec. 14-311(a) ("55% Rule"). Off-street parking spaces intended for use by water-dependent uses shall be sited as close as reasonably possible to associated vessels and/or ground-floor lease area.
 - ii. Proposals for new non-marine parking, accessory to an otherwise permitted use in the WCZ, shall submit a parking analysis for all uses on the subject lot, justifying the number of non-marine spaces based upon the proposed use and demonstrating sufficient parking supply for marine uses. If sufficient parking is not available to marine uses, off-street parking for non-marine uses shall not be permitted.
 - iii. Off-street parking, loading facilities and access ways designated for water-dependent uses shall be exclusive to such uses, except that, if not being occupied by water-dependent

tenants, such parking may be made available to non-marine uses between the hours of 5:00 p.m. and 2:00 a.m. Any such shared parking arrangements shall be documented in the Operations and Access Management narrative described above, and clearly signed on-site.

- iv. All properties providing commercial berthing shall demonstrate reasonable opportunities to load and unload vessels from the subject lot.
- v. Facilities for the loading and unloading of goods shall account for the frequency of use and vehicle type and, to the extent possible, minimize impacts to pedestrian and vehicle circulation patterns.
- vi. Provisions for the storage and movement of goods and materials shall be designed into all pier edge development. Circulation routes must be maintained or otherwise provided as an element of all development. The siting, design, and circulation of non-marine uses, particularly those allowed on first floors, shall accommodate reasonable access for pedestrians, vehicles, and freight transfer to and from berthed vessels.
- vii. Non-marine uses shall provide a dedicated pedestrian route between the proposed use and Commercial Street, and shall seek to minimize conflict with vehicle traffic.

(Ord. No. 103-10/11, 12-20-10; Ord. 108-15/16, 11-16-2015; Ord. No 249-18/19, 6-17-2019)

Sec. 14-312 thru Sec. 14-317. Reserved.

DIVISION 18.5. WATERFRONT PORT DEVELOPMENT ZONE*

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

Sec. 14-318. Purpose.

Transport of goods by water to and from Portland is an

important component of both the local and regional economy. This commerce is dependent upon land with direct access to the dredged deep-water channel of the Fore River and Portland Harbor.

The Port of Portland is integral to the city's economic, cultural and fiscal health. This zone exists to ensure the continued viability of the Port of Portland. Uses in the port development zone, while governed by the similar performance standards as other industrial zones, are primarily limited to those uses which are dependent upon deep water and which contribute to port activity.

Nonmarine activity may be allowed to the extent it will not have any adverse impact on marine uses.
(Ord. No. 168-93, § 2, 1-4-93; Ord. No. 33-17/18, 9-6-2017)

Sec. 14-318.5. No adverse impact on marine uses.

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

- (a) The proposed nonwater-dependent use will displace an existing water-dependent use;
- (b) The proposed use will reduce existing commercial vessel berthing space;
- (b) The proposed nonwater-dependent use, structure or activities, including but not limited to access, circulation, parking, dumpsters, exterior storage or loading facilities, and other structures, will unreasonably interfere with the activities and operation of existing water-dependent uses or significantly impede access to vessel berthing or other access to the water by water-dependent uses; or
- (d) The siting of a proposed nonwater-dependent use will substantially reduce or inhibit existing public access to marine or tidal waters.

(Ord. No. 168-93, § 2, 1-4-93; Ord. No. 33-17/18, 9-6-2017)

Sec. 14-319. Permitted uses.

Subject to a determination that the proposed use meets the standards of section 14-318.5 (no adverse impact on marine

uses), the following uses are permitted in the waterfront port development zone:

Group	Use	Use Category
Marine	Marine repair services and machine shops	P
Marine	Tugboat, fireboat, pilot boat and similar services	P
Marine	Harbor and marine supplies and services and ship supply such as fueling and bunkering of vessels	P
Marine	Shipbuilding and facilities for construction, maintenance and repair of vessels	P/C ¹
Marine	Marine cargo handling facilities, including docking, loading and related storage	P/C ¹
Marine	Boat repair yards	P/C ¹
Marine	Facilities for marine construction and salvage	P/C ¹
Marine	Facilities for marine pollution control, oil spill cleanup, and servicing of marine sanitation devices	P
Marine	Marine Retail and Wholesale Sales, including Yacht Brokerage	C
Marine	Boat storage facilities	P/C ¹
Marine	Seafood processing	C
Marine	Seafood packing and packaging	C
Marine	Fabrication, storage and repair of fishing equipment	C

Group	Use	Use Category
Marine	Icemaking services	C
Marine	Fabrication of marine- related goods	C
Marine	Fish by-products processing, provided that; i. Any fish by-product processing facility has a valid rendering facility license under chapter 12; and ii. The processing of other material wastes or by-products shall not be deemed a lawful accessory use under any other provision of this article.	C
Marine	Commercial Berthing	P
Industrial	Intermodal transportation facilities principally for vessels with regularly scheduled destination service or for railroad transportation service	P/ C ¹
Industrial	Marine cargo container and chassis maintenance and repair	P
Industrial	Facilities for combined marine and general construction	C ¹
Industrial	Cold storage facility, warehousing, and storage of goods which are awaiting shipment via cargo carriers	C ¹

Group	Use	Use Category
Industrial	Low impact industrial uses, including but not limited to bakeries, breweries, bottling, printing and publishing, pharmaceuticals, machine shops, manufacture of products, assembly of electrical components, tool and die shops, and the packaging of food, provided that such uses shall be subject to the performance standards set forth in §14-252	C
Public	Public uses including pedestrian and bicycle trails	P
Public	Utility substations, including sewage collection and pumping stations, water pumping stations, transfer stations, telephone electronic equipment enclosures and other similar structures, provided that such structures are located more than one hundred (100) feet from the water.	C
Commercial	Off- street parking lots, excluding parking structures	C

Group	Use	Use Category
Other	Accessory uses customarily incidental and subordinate to the location, function and operation of permitted uses. Food service establishments, including food trucks and other similar retail and service support uses shall only be permitted as accessory uses if all such uses do not exceed two thousand (2,000) square feet in total floor area of the building and each individual use does not exceed one thousand (1,000) square feet in total floor area of the building; and further provided that such accessory uses provide goods or services that are supportive of the principal use and its clientele.[m2]	P
Other	Renewable energy systems, as defined and allowed in Article X, Alternative Energy	C

1. Uses that may be located in buildings that exceed the maximum permitted height. Uses marked P/C will be considered Permitted Uses when occupying buildings with a maximum height equal to or less than the maximum applicable height allowable under the permitted use dimensional standards, and Conditional Uses when above that height.

(Ord. No. 168-93, § 2, 1-4-93; Ord. No. 38-02/03, § 2, 9-4-02; Ord. No. 33-11/12, 1-18-12; Ord. No. 33-17/18, 9-6-2017)

Sec. 14-320. Conditional use standards.

(a) Conditional uses shall be permitted in the Waterfront Port Development Zone, provided that, notwithstanding section 14-471(c), section 14-474(a), or any other provision of this Code, the Planning Board shall be substituted for the Board of Appeals as the reviewing authority.

In addition to the provisions of section 14-474(c)(2) such uses will:

- not impede or preclude existing or potential water-

dependent development on other lots;

- allow for adequate access to the water;
- be compatible with water dependent and marine uses;
- operationally support one or more water dependent use(s), or be located in a building or structure that is physically adaptable or relocatable to make way for future development of water-dependent uses; and
- meet any additional performance and dimensional standards set forth below.

(Ord. No. 168-93, § 2, 1-4-93; Ord. No. 149-01/02, 2-4-02; Ord. No. 29-09/10, 8-3-09, emergency passage; Ord. No. 33-11/12, 1-18-12; Ord. No. 33-17/18, 9-6-2017)

Sec. 14-320.1. Prohibited uses.

Uses which are not enumerated in either section 14-319 or 14-320 as permitted or conditional uses are prohibited. Those uses that are prohibited shall include, without limitation:

- a. Residential uses.
- b. Hotels, motels or boatels.
- c. Auditoriums, civic centers, convention centers or other meeting facilities.
- d. Restaurants and drinking establishments.
- e. Marinas, including marina associated boat storage facilities.
- f. Truck Terminals.

(Ord. No. 168-93, § 2, 1-4-93; Ord. No. 33-17/18, 9-6-2017)

Sec. 14-320.2. Dimensional requirements.

In addition to the provisions of article III, division 25 of this Code, lots in the waterfront port development zone shall be subject to the following requirements:

(a) Dimensional Table

For additional bulk, height and location standards, see Section 14-320.2(b) below.

	Permitted Use Dimensional Standards	Conditional Use Dimensional Standards
Minimum Yard Setbacks	N/A	N/A
Minimum Lot Size	N/A	5 acres, limited to 1 building greater than the maximum applicable height allowed under the permitted use dimensional standards.
Minimum Setback from Pier Line, wharf, or bulkhead, including any attached aprons. (See note 1)	5ft	5ft
Max. Lot Coverage	50% east of a line projected due south from the centerline intersections of West Commercial Street and the easterly most Cassidy Point Drive. 100% west of a line projected due south from the centerline intersections of West Commercial Street and the easterly most Cassidy Point Drive.	50% east of a line projected due south from the centerline intersections of West Commercial Street and the easterly most Cassidy Point Drive. 100% west of a line projected due south from the centerline intersections of West Commercial Street and the easterly most Cassidy Point Drive.
Max. Building Height (Inclusive of Roof Forms and Rooftop Appurtenances) (See Note 2)	55ft east of a line projected due south from the centerline intersections of West Commercial Street and the easterly most Cassidy Point Drive and west of Casco Bay Bridge. 60ft west of a line	60ft west of the Casco Bay Bridge (See Note 7), except as follows: 75ft in the area east of a line projected due south from the centerline intersections of West Commercial Street and the easterly most Cassidy Point Drive and west of Casco Bay

	Permitted Use Dimensional Standards	Conditional Use Dimensional Standards
	projected due south from the centerline intersections of West Commercial Street and the easterly most Cassidy Point Drive. In no case may any permitted heights exceed 50ft within 100ft of West Commercial Street and all area of the WPDZ east of the Casco Bay Bridge. (See Note 5)	Bridge, on lots 5 contiguous acres or larger. (See Note 4) 130ft for bulk storage (See note 3) facilities west of the projection of the westerly most Cassidy Point Drive segment. In no case may any conditionally permitted heights exceed 50ft within 100ft of West Commercial Street and all area of the WPDZ east of the Casco Bay Bridge. (See Note 5)
Maximum Building Length (See Note 6)	450ft 300ft within 100ft of West Commercial Street and all area of the WPDZ east of the Casco Bay Bridge.	450ft 300ft within 100ft of West Commercial Street and all area of the WPDZ east of the Casco Bay Bridge. 300ft for buildings or portions of buildings exceeding the maximum applicable height allowed under the permitted use dimensional standards.

1. The setback area may be utilized for activities related to the principal uses carried on in the structure, but shall not be utilized for off-street parking.
2. Buildings and/or structures shall be limited to an absolute height measured from average grade with no portion of the structural roof system or roof top appurtenances exceeding the limits set forth under Sec. 14-320.2(a) with the exception of moveable elements or connection devices as listed under Section 14-320.2(b)(1)(a).
3. Bulk storage dedicated to materials delivered or awaiting transportation to a site by waterborne transportation.
4. A projection of the street centerline shall consist of an extension

of the centerline to the water side boundary of the waterfront port development zone.

5. Height limitations east of the Casco Bay Bridge are intended to protect vistas of the harbor from public open space.
6. As measured by a line parallel with the southern edge of the West Commercial Street ROW.
7. Only those conditional uses so designated in Note 1 of the Waterfront Port Development Zone Use Table, Sec. 14-319, may be located in buildings taller than 60 feet.

(b) Additional bulk, height and location standards:

1. For structures exceeding the maximum applicable height allowed under the permitted use dimensional standards:
 - a. Moveable elements such as cranes and gantries, and connection devices such as conveyors or bridges shall not be subject to the space and bulk requirements, but shall be subject to a determination by the Federal Aviation Administration that the location of such equipment will not create a hazard to navigation.
 - b. The applicant must provide a determination from the Federal Aviation Administration that structures and equipment will not exceed the applicable height guidelines for the runway approach and will not create a hazard to navigable airspace. Such a determination shall be accepted as conclusive evidence that the proposed development will not create a hazard.
2. For each lot, at least one view corridor of at least ninety (90) feet in width shall be left unbuilt to preserve a clear line of sight between West Commercial Street and the water.

(Ord. No. 168-93, § 2, 1-4-93; Ord. No. 33-17/18, 9-6-2017)

Sec. 14-320.3. Performance standards.

Proposals in the Waterfront Port Development Zone that qualify for Site Plan review shall submit, in addition to the submission requirements of section 14-527, an impact mitigation narrative summarizing how the project intends meets the applicable performance standards.

All uses in the waterfront port development zone shall comply with the following standards:

(a) Outdoor storage of materials: Outdoor storage of commodities and materials accessory to normal conduct of business, except pilings and/or cranes, shall be permitted to a maximum height of forty-five (45) feet, and such materials shall be entirely contained, including runoff contaminants and residual material, within a designated area within the lot boundaries.

(b) Noise:

1. The level of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American National Standards Institute, Inc.), inherently and recurrently generated within the waterfront port development zone between the hours of 7:00 p.m. and 7:00 a.m. from industrial facilities or operation commenced on or after July 1, 1988, shall not exceed fifty-five (55) decibels on the A scale at or within the boundaries of any residential zone, except for sound from construction activities, sound from traffic on public streets, sound from temporary activities such as festivals, and sound created as a result of, or relating to, an emergency, including sound from emergency warning signal devices.
2. In measuring sound levels under this section, sounds with a continuous duration of less than sixty (60) seconds shall be measured by the maximum reading on a sound level meter set to the A weighted scale and the fast meter response (L maxfast). Sounds with a continuous duration of sixty (60) seconds or more shall be measured on the basis of the energy average sound level over a period of sixty (60) seconds (LEQ1).
3. In addition to the sound level standards otherwise established, facilities or operations established or built in the waterfront port development zone on or after July 1, 1988, shall employ best practicable sound abatement techniques to prevent tonal sounds and impulse sounds or, if such tonal and impulse sounds cannot be prevented, to minimize the impact of

such sounds in residential zones. Tonal sound is defined as a sound wave usually perceived as a hum or which because its instantaneous sound pressure varies essentially as a simple sinusoidal function of time. Impulse sounds are defined as sound events characterized by brief excursions of sound pressure, each with a duration of less than one (1) second.

- (c) Vibration: Vibration inherently and recurrently generated shall be imperceptible without instruments at lot boundaries. This shall not apply to vibration resulting from activities aboard a vessel or from railroad vehicle activities, or from activities on a pile supported pier.
- (d) Federal and state environmental regulations: All uses shall comply with federal and state environmental statutes and regulations regarding emissions into the air, except where provisions of this Code are more stringent.
- (e) Discharges into harbor areas: No discharge into harbor water areas shall be permitted, unless permitted by the Maine Department of Environmental Protection under a waste discharge license and as approved by the department of parks and public works in accordance with chapter 24, article III of this Code. All private sewage disposal or private wastewater treatment facilities shall comply with the provisions of chapter 24, article II of this Code and federal and state environmental statutes and regulations regarding wastewater discharges.
- (f) Storage of vehicles: Storage of any unregistered automotive vehicle on the premises for more than sixty (60) days shall not be permitted.
- (g) Landfill of docking and berthing areas: Landfill of docking and berthing areas shall be governed by 38 M.R.S.A. Sections 471 through 478, and permitted only if the landfill does not reduce the amount of linear berthing areas or space, or berthing capacity. If approved, construction shall be undertaken using methods approved by the department of parks and public works and shall be accomplished in accordance with the provisions of division 25 of this article and in a

manner so as to ensure that a stable and impermeable wall of acceptable materials will completely contain the fill material and will not permit any fill material to leach into docking areas or navigable waters.

- (h) Off-street parking: Off-street parking is required as provided in division 20 (off-street parking) of this article.
- (i) Off-street loading: Off-street loading is required as provided in division 21 of this article.
- (j) Shoreland and flood plain management regulations: Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.
- (k) Lighting: All lighting on the site shall be shielded such that direct light sources shall not unreasonably interfere with vessels transiting the harbor nor have an unreasonable adverse impact on adjacent residential zones.
- (l) Signs: Signs shall be permitted as set forth in division 22 of this article.
- (m) Storage of pollutants and oily wastes: On-premises storage of pollutants and oily wastes shall not be permitted for more than forty-five (45) days.
- (n) Compatibility of nonmarine uses with marine uses: Nonmarine uses, structures and activities, including but not limited to access, circulation, parking, dumpsters, exterior storage and loading facilities or other structures shall neither unreasonably interfere with the existence or operation of marine uses nor significantly impede access to vessel berthing or other access to the water by existing or potential marine uses.
- (o) Design and Visual Character shall:
 - 1. In building design, including placement and screening of mechanical equipment, take into consideration long views to minimize negative

visual impact and provide visual interest, and architecturally integrate exposed industrial systems and equipment where practical;

2. Organize massing to emphasize certain parts of the building such as entries, corners, or different uses;
3. Treat all facades, including the roof, with equal level of detail, and articulation;
4. Vary and articulate building facades to add scale and avoid large monotonous walls. Treatments such as texture, color, material changes, or shadow lines or murals must be used to add visual interest and avoid dull, flat, repetitive facades; and
5. Use a scaling or articulation element such as stepback, canopy, or fenestration, as required for any street-facing façade within fifty (50) feet of West Commercial Street.

(Ord. No. 168-93, § 2, 1-4-93; Ord. No. 240-09/10, 6-21-10; Ord. No. 33-17/18, 9-6-2017)

DIVISION 18.7. Reserved

DIVISION 19. R-P RESOURCE PROTECTION ZONE

Sec. 14-321. Use.

No building shall be erected, altered, enlarged, rebuilt or used, and no premises shall be used, in a R-P resource protection zone except for the following uses:

- (a) Nonintensive recreational uses not requiring structures, such as fishing and hiking;
- (b) Motorized and nonmotorized vehicular traffic on existing roads, trails and rails, as appropriate;
- (b2) Bikeways, pedestrian trails and walkways;
- (c) Fire prevention activities;
- (d) Wildlife management activities;
- (e) Soil and water conservation activities;

- (f) Surveying and natural resource analysis;
- (g) Emergency operations as defined in section 14-47;
- (h) Harvesting of wild crops;
- (i) Nonresidential structures for educational, scientific or nature interpretation purposes, containing a maximum floor area of not more than ten thousand (10,000) square feet;
- (j) Public and private parks and recreational areas, including one (1) or more structures containing a total maximum floor area of not more than ten thousand (10,000) square feet;
- (k) Permanent and temporary piers, docks, wharves, bridges and uses projecting into water bodies, as allowed in section 14-449(b);
- (l) Reserved;
- (m) Storehouses for fishermen's gear;
- (n) Reserved;
- (o) Essential services as defined in section 14-47 accessory to the uses permitted herein;
- (p) Signs, as allowed in division 22 of this article;
- (q) Road construction, in accordance with the provisions of section 14-449;
- (r) Parking facilities for uses permitted under this section;
- (s) Reserved;
- (t) Landfill and other earth-moving activity, as allowed in section 14-449(d).
- (u) The following uses are permitted in the R-P zone only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) of this article and any special provisions, standards or requirements specified below.

1. Temporary wind anemometer towers, as defined in section 14-47, are permitted provided the following standards are met in addition to section 14-430:
 - a. Towers may be installed for the purpose of wind data collection for no more than two (2) years after the issuance of a certificate of occupancy for the tower. At the conclusion of the aforementioned two (2) years, the tower must be dismantled and removed from the site within sixty (60) days; and
 - b. Towers shall be constructed according to plans and specifications stamped by a licensed professional engineer, which shall be provided to the board of appeals with the application; and
 - c. Towers shall be set back from habitable buildings by a distance equal to 1.1 times the tower height; and
 - d. The applicant shall provide a safety report prepared and stamped by a licensed professional engineer to the board of appeals with their application for conditional use, which demonstrates how the proposed temporary wind anemometer tower is safe in terms of strength, stability, security, grounding, icing impacts and maintenance; and
 - e. The applicant shall provide evidence of commercial general liability insurance, such insurance to be satisfactory to corporation counsel and cover damage or injury resulting from construction, operation or dismantling of any part of the temporary wind anemometer tower; and
 - f. Towers and associated guy wires shall be sited to minimize their prominence from and impacts on public ways (including pedestrian ways); and
 - g. Towers shall be used for installing

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

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

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

(Code 1968, § 602.13A.A; Ord. No. 499-74, § 6, 8-19-74; Ord. No. 15-92, § 24, 6-15-92; Ord. No. 33-11/12, 1-18-12)

Sec. 14-322. Space and bulk.

No building or structure shall be erected, altered, enlarged, rebuilt, or used in a R-P resource protection zone which does not comply with the following requirements:

- (a) Minimum rear yards: Principal building or structure, other than a boathouse or storehouse for fishermen's gear: Seventy-five (75) feet.
- (b) Minimum side yards:
 - 1. Principal building or structure: Fifteen (15) feet.
 - 2. Accessory building or structure: Five (5) feet.
- (c) Minimum side yard on side streets:
 - 1. Principal building or structure: Twenty (20) feet.
 - 2. Accessory building or structure: Twenty (20) feet.
- (d) Minimum front yards:

1. Principal building or structure: Twenty-five (25) feet.
 2. Accessory building or structure: Twenty-five (25) feet.
- (e) Maximum height:
1. Principal building or structure: Two (2) stories or twenty-five (25) feet.
 2. Accessory building or structure: One (1) story or fifteen (15) feet.
- (f) Maximum building area: Principal building or group of buildings: Ten (10) percent of lot area.
- (g) Minimum lot area: Twenty thousand (20,000) square feet.
- (h) Minimum width of lot: One hundred (100) feet.
- (i) Minimum lot frontage on street or shoreline: One hundred (100) feet.
- (j) Minimum shoreline setback: All principal structures other than permitted piers, docks, wharves, breakwaters, causeways, bridges, boathouses and storehouses for fishermen's gear: Seventy-five (75) feet.

(Code 1968, § 602.13A.B; Ord. No. 499-74, § 6, 8-19-74)

Sec. 14-323. Off-street parking.

Any off-street parking in a R-P resource protection zone is required as provided in division 20 of this article.

(Code 1968, § 602.13A.B; Ord. No. 499-74, § 6, 8-19-74)

Sec. 14-324. Shoreland and flood plain management regulations.

Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

(Ord. No. 15-92, § 25, 6-15-92)

DIVISION 19.5. HELISTOP OVERLAY ZONE

Sec. 14-325. Purpose.

The intent of this zone is to create an overlay zone in which helicopter landing areas are permitted on individual sites in addition to those uses permitted in the underlying zone. The purpose of this zone is to protect the public health and safety by allowing helicopters serving medical needs to land in certain areas, while protecting surrounding areas from any negative effects associated with such a use.

(Ord. No. 48-93, 7-19-93)

Sec. 14-326. Helistop defined.

A helistop, for purposes of this division, shall be defined as an area used for the landing of helicopters at any location other than an airport. Such area shall include a landing area or pad, and may include parking required for access to the landing area or pad, a loading and unloading area for emergency vehicles, and other related facilities other than maintenance and repair facilities.

(Ord. No. 48-93, 7-19-93)

Sec. 14-327. Regulations for helistops.

(a) Helistops which have more than five landings per month:

- (1) All such helistops must comply with all applicable Federal Aviation Association regulations, including those for marking of landing areas.
- (2) All take-off, landing and parking areas at such a helistop site shall be surfaced with grass or with a dust-proof material.
- (3) Each landing pad shall be set back at least two hundred (200) feet from any residence, school or church. Each landing pad shall be set back at least fifty (50) feet from any commercial or industrial structure. All setbacks shall be measured from the edge of the landing pad.
- (4) The area in which a landing pad is located shall be enclosed by a fence or other barrier of not less than three (3) feet in height or shall be secured by a locked gate, as approved by the fire department.
- (5) All such helistops shall be subject to review under article V of this chapter.

(b) Helistops which have five or fewer landings per month:

(1) All such helistops must comply with all applicable Federal Aviation Association regulations.

(2) All such helistops shall be subject to approval by the zoning administrator and the fire department.

(3) Such helistops shall not be subject to review under article V of this chapter.

(Ord. No. 48-93, 7-19-93)

Sec. 14-328 - Sec. 14-330. Reserved.

DIVISION 19.7. RESERVED.

Sec. 14-330.1. - Sec. 14-330.5 Reserved.

***Editor's Note-** Pursuant to Order 142-06/07 passed on 2/21/07 repealed Division 19.7.(Formula Businesses) Sections 14-330.1.-14-330.5. in its entirety and established a task force on business diversity to develop a strategy for preserving and enhancing the economic health of Portland's downtown business district related to its unique character, business diversity, economic vitality, and quality of life. As part of its charge, the Task Force shall undertake the following actions:

1. Study and report on the strengths and challenges of various regulatory tools used in other municipalities to maintain business diversity, including community impact review; formula business restrictions; local purchasing preferences; site plan review standards; Tax Increment Financing; and District Improvement Financing.
2. Consider the legality of the various regulatory tools noted in paragraph 1.
3. Consider the potential economic impact of the various regulatory tools noted in paragraph 1 on the downtown business district, including but not limited to consideration of measured impacts of the Formula Business Ordinance adopted in November of 2006; development patterns in and surrounding the downtown business district; review of lease rates and real estate values within the downtown business zone; and a review of openings and closings of establishments within the zone in the recent past.
4. Upon completion of its review, the Task Force will prepare a report summarizing its research and findings, including any recommendations needed to maintain the economic health of Portland's downtown business district. Such report shall be submitted to the Council and Planning Board for review and consideration.

The Task Force shall consist of 15 individuals appointed by the Mayor representing the following groups:

Portland City Council: Two City Councilors who shall be Co-chairs.
One representative nominated by the Maine Real Estate and Developers Association.
One representative nominated by the Portland Community Chamber of Commerce.
One representative nominated by Portland Buy Local.
One representative nominated by the Bayside Community Development Corporation.
One representative nominated by the Portland Downtown District.
One District One resident.
One District Two resident.
One District Three resident.
One District Four resident.
One District Five resident.
One representative of formula businesses.
One representative of small independent businesses.
One representative of downtown Portland property owners.

DIVISION 19.8. DOWNTOWN ENTERTAINMENT OVERLAY ZONE

Sec. 14-330.11. Purpose.

The purpose and intent of this section is to regulate the location of businesses with entertainment licenses in order to maintain and improve public safety and the quality of life of Portland residents by preventing an over concentration of businesses with entertainment licenses, particularly those which also have liquor licenses, and the public safety problems that have and will be experienced when too many of these businesses are located too close to each other. These problems include large late-night crowds within which fights and assaults, disorderly conduct and other breaches of the peace occur and that are difficult to effectively police and that expose not only innocent bystanders but also police officers to danger and personal injury.

(Ord. No. 164-06/07, 4-4-07)

Sec. 14-330.12. Definitions.

(a) *After-hours entertainment license.* For the purpose of the after-hours entertainment prohibition in section 14-330.15, "after-hours entertainment license" means any of the music, dancing and special entertainment licenses required or authorized by article III, chapter 4 of this Code.

(b) *Downtown entertainment overlay zone.* For the purposes of this section, the "downtown entertainment overlay zone" includes and is defined by the boundaries of the following zones

as shown on the attached downtown entertainment overlay zone map: B-3, B-3(c) and WCZ zones, a copy of which is on file in the department of planning and urban development.

Any property that lies partly within the overlay zone and partly outside it shall be subject to this ordinance.
(Ord. No. 164-06/07, 4-4-07)

Sec. 14-330.13. Dispersal requirement for facilities with entertainment license in downtown entertainment overlay zone.

A business with an entertainment license as required or authorized by section 4-51(a) of this code located within the downtown entertainment overlay zone may not be located within 100 feet of another business with an entertainment license, as measured along or across public ways from the main entrance or entrances of each.
(Ord. No. 164-06/07, 4-4-07)

Sec. 14-330.14. Exemption.

(a) A business with an entertainment license located in the downtown entertainment overlay zone on or before January 3, 2006 shall not have to comply with the requirements of this section and if located within 100 feet of another licensee shall be considered a non-conforming use controlled by chapter 14, division 23 of this code. Such a business is considered an entertainment business for the purpose of calculating dispersion requirements under section 14.330.13 for a new or relocating entertainment business in the downtown entertainment overlay zone.

(b) A business with an entertainment license that does not allow amplified entertainment shall not have to comply with the dispersal requirement of section 14-330.13.
(Ord. No. 164-06/07, 4-4-07; Ord. No. 68-09/10, 10-19-09)

Sec. 14-330.15. Separate business entities.

Where two or more entertainment businesses operate on one site, and where each business entity requires or has a separate business license, or displays in a manner visible from public property separate business trademarks, logos, service marks or other mutually identifying names or symbols, each business entity shall be counted as a separate entertainment business for the purpose of this section.
(Ord. No. 164-06/07, 4-4-07)

Sec. 14-330.16. Conditions on after-hours food service in the downtown entertainment overlay zone.

(a) Following a hearing held pursuant to chapter 15, section 15-10, the clerk may impose conditions to maintain or improve public safety on the food service license of any business in the downtown entertainment overlay zone that operates between 1:00 a.m. and 4:00 a.m., following a written recommendation from the Portland police department that such conditions are necessary.

(b) The clerk's decision may be appealed to the city manager pursuant to section 15-9 of this code.

(c) Nothing in this section shall be construed to limit the clerk's authority in chapter 15 to deny, suspend or revoke any license pursuant to the standards and process in that chapter.

(Ord. No. 164-06/07, 4-4-07)

DIVISION 20. OFF-STREET PARKING

Sec. 14-331. Defined.

Off-street parking, either by means of open-air spaces or by garage spaces which meet the standards set forth in the City of Portland Technical Manual, as hereafter amended, in addition to being a permitted use in certain zones, shall be considered as an accessory use when required or provided to serve conforming uses in any zone.

(Code 1968, § 602.14.A; Ord. No. 272-77, 5-16-77; Ord. No. 389-89, § 1, 4-3-89; Ord. No. 278-09/10, 7-19-10)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 14-332. Uses requiring off-street parking.

Except as provided in Section 14-332.1, 14-332.2 (exceptions) and 14-345 (fee in-lieu of parking) of this division, for the uses listed below the following minimum off-street parking requirements shall be provided and maintained in the case of new construction, alterations which increase the number of units, and changes of use:

(a) Residential structures:

1. For new construction, two, (2) parking spaces for each dwelling unit.

2. For alterations or changes of use in existing structures, which create new or additional dwelling units in such structures, and for accessory units pursuant to §§14-68,78,88, one (1) additional parking spaces for each such unit. Existing parking spaces shall not be used to meet the parking requirements of this paragraph, unless the existing parking spaces exceed one (1) space for each dwelling unit.
3. For residential development in the B-2, B-2b, B-2c zones:
 - a. One (1) parking space per dwelling unit.
 - (b) Motel: One (1) parking space for each sleeping room.
 - (c) Hotels: One (1) parking space for each four (4) guest rooms.
 - (d) Schools providing instruction for students up to and including those fifteen (15) years of age: One (1) parking space for each room used for purposes of instruction.
 - (e) Schools providing instruction for students sixteen (16) years of age and over: One (1) parking space for each ten (10) seats or major fraction thereof, used for purposes of instruction; if no fixed seats, one (1) parking space for each one hundred (100) square feet or major fraction thereof used for purposes of instruction.
 - (f) Hospitals: One (1) parking space for each five hundred (500) square feet or major fraction thereof, of floor area, exclusive of cellar.
 - (g) Auditoriums, theaters, assembly halls, funeral homes: One (1) parking space for each five (5) seats or for each one hundred (100) square feet, or major fraction thereof, of assemblage space if no fixed seats.
 - (h) Retail stores: One (1) parking space for each two hundred (200) square feet of first floor area in excess of two thousand (2,000) square feet not used for bulk storage and one (1) parking space for each seven hundred (700) square feet, or major fraction

thereof, for each floor above the first floor not used for bulk storage.

- (i) Restaurants or establishments constructed and intended for the dispensing of food and drink as the principal activity: One (1) parking space for each one hundred fifty (150) square feet, or major fraction thereof, of floor area not used for bulk storage or food preparation.
- (j) Offices; professional and public buildings: One (1) parking space for each four hundred (400) square feet, or major fraction thereof, of floor area exclusive of cellar not used for bulk storage.
- (k) Places of assembly (which includes private club and fraternal halls, places of religious assembly, and community halls): One (1) parking space for each one hundred and twenty five (125) square feet, or major fraction thereof, of floor area used for assembly area not including bathrooms, bulk storage, stairways, closets or other non-assembly areas.
- (l) For that part of every business, manufacturing, and industrial building not catering to retail trade and with floor area over three thousand (3,000) square feet: One (1) parking space for each one thousand (1,000) square feet of floor area, or major fraction thereof.
- (m) Hostels: One (1) parking space for each eight (8) beds, or major fraction thereof. This requirement may be reduced to one (1) parking space for each twelve (12) beds if the site is within one quarter (1/4) mile of a public transit stop.
- (n) Long-term, extended care and intermediate care facilities: One (1) parking space for each five (5) beds, or major fraction thereof, plus one (1) parking space per each employee normally present during one (1) weekday morning shift.
- (o) Lodging houses: One (1) parking space for each five (5) rooming units, except in the R-5 zone; in the R-5 zone, one (1) parking space for every two (2) rooming units.

- (p) Sheltered care group homes and emergency shelters: One (1) parking space for every two (2) employees.
- (q) Congregate care facilities: One (1) parking space for every three (3) living units.
- (r) Special needs independent living units: One (1) parking space per every four (4) living units, plus one (1) parking space for each staff member, if any, normally present at any one time.
- (s) Bed and breakfast:
 - 1. Except in the I-B zone: One (1) parking space for each two (2) guest rooms or fraction thereof for the first four (4) guest rooms; one (1) parking space for each additional guest room in excess of four (4).
 - 2. In the I-B zone: No off-street parking required.
- (t) Day care facilities: Off-street parking shall be provided on the site for all staff of the facility. Parking for the facility shall not interfere with access to or use of play areas. In residential zones parking spaces may be stacked or placed side by side in order to less their impact on the residential character of the lots and the neighborhood, and shall not be located closer than five (5) feet from the property line of any abutting residential use or residentially zoned site.
- (u) Private clubs: One (1) parking space for each one hundred fifty (150) square feet, or major fraction thereof, of floor area.
- (v) Neighborhood Centers: One (1) parking space for each 150 square feet, or major fraction thereof, of floor area, except for neighborhood centers which serve primarily clientele from the surrounding neighborhood, the parking requirement shall be one (1) parking space per 1,000 square feet, or major fraction thereof, of floor area.

(Code 1968, § 602.14.B; Ord. No. 268-77, 5-16-77; Ord. No. 431-82, § 2, 2-22-82; Ord. No. 575-86, §§ 1, 2, 5-19-86; Ord. No. 65-87, 11-2-87; Ord. No. 230-90, § 2, 3-5-90; Ord. No. 33-91, § 14, 1-23-91; Ord. No. 243-91, § 1, 3-11-91; Ord. No. 33A-91, § 8, 4-17-91; Ord. No. 125-97, § 10, 3-3-97; Ord. No. 232, §4, 3-15-99; Ord. No. 94-99, 11-15-99; Ord. No. 77-02/03, § 1, 10-21-02; Ord. No. 199-04/05,

4-4-05; Ord. No. 84-08/09, 10-20-08; Ord. No. 36-09/10, 8-17-09; Ord. No. 127-09/10, 1-4-10 emergency passage; Ord. No. 240-09/10, 6-21-10; Ord. No. 241-09/10, 11-15-10; Ord. No. 149-10/11, 3-7-11; Ord. No. 279-09/10, 6-6-11; Ord. No. 73-14/15, 10-20-2014; Ord. 209-14/15, 5/4/2015)

Sec. 14-332.1. Zone specific off-street parking exceptions and modifications.

The off-street parking requirements established for uses, established above in section 14-332 of this division, are hereby modified for the following zones according to the provisions described below.

- (a) IR-3, Island Residential Zone, Off-street parking: Off-street parking shall not be required irrespective of the requirements of division 20 (off-street parking) of this article.
- (b) USM Overlay Zone, parking: The parking requirements of section 14-332 (division 2) shall not apply to university buildings. Instead, the amount of parking required for any university building or building addition shall be determined by the planning board during site plan review, based on an analysis of campus-wide parking demand and supply, pursuant to a comprehensive university parking management plan, and treating all contiguous land (including land on opposite sides of the street) owned by the university as one lot. In determining the amount of parking required for any university building, the planning board may take into account such factors as:
 - 1. The availability of off-campus parking and shuttle transportation to and from such off-campus facilities.
 - 2. The ratio of commuter students to resident students.
 - 3. The use of centrally located on-campus parking facilities so situated that students, faculty, staff and visitors arriving on campus can reasonably be expected to park in the central facilities and walk to their various on-campus destinations during the course of a school day.
 - 4. Shared use of a single parking facility by two or

more buildings when the peak parking demand period for such buildings do not overlap.

5. Development and implementation of a parking management plan which discourages on-street parking. On-street parking shall not be used to satisfy the university's parking demand.
 6. Development and implementation of programs designed to reduce the number of automobiles parking on campus, such as ride share programs and incentives for use of bicycles and public transportation.
- (c) *Recreation open space zone:* Off-street parking adequate to serve projected employee and visitor needs shall be provided. Parking needs projections provided by the applicant or the planning department should be considered in the review.
- (d) Change of use in the B-2b or IS-FBC zone:
1. A change of use of 10,000 sq. ft. or less of floor area of a building or a portion of a building need not provide parking for non-residential uses, provided that if the number of existing parking spaces serving the site is less than the requirements of this division, that number of parking spaces may not be reduced lower than the required amount prior to the change of use except:
 - a. To the extent necessary to meet the requirements of the Americans with Disability Act; or
 - b. To the extent it is a requirement or a condition of site plan review; or
 - c. To the extent the change of use requires less parking than the previous use and the total number of parking spaces serving the site exceeds the parking requirements of this division for all uses on the site including the change of use.
 2. A newly constructed building, a building addition

or a change of the use of a building exceeding 10,000 sq. ft. of floor area, shall provide the parking required by this division.

- (e) B-3 Zone: No off-street parking is required for changes of use.
- (f) I-R1, Island Business Zone: Off-street parking shall be required at twenty-five (25%) percent of the required number of parking spaces for specified uses as provided in division 20 (off-street parking) of this article, except that residential uses shall meet the full parking requirement.
- (g) B-5 Zone: No off-street parking shall be required.
- (h) B-6 Eastern Waterfront Mixed Use Zone: Off-street parking for all projects regardless of size shall be governed by 14-332.2(c) of this article.
- (i) B-7, Mixed Development District Zone: Off-street parking for all projects regardless of size, shall be governed by 14-332.2(c) of this article.
- (j) Waterfront Zone parking requirements; Eastern Waterfront Port Zone; Waterfront Central Zone; Waterfront Port Development Zone; Waterfront Special Use Zone: Off-street parking is required at fifty (50%) percent of the required number of parking spaces for specified uses as otherwise provided in division 20 of this article.
- (k) Residential development on the peninsula and in the R-6 and R-6A Zones, including new construction, alterations that increase the number of units, and changes of use:
 - 1. Except as provided below, there shall be one (1) space per unit
 - 2. The required parking for multi-unit residential buildings may be partially met through provision of shared-use vehicles, which are vehicles owned and maintained by the owner/manager of the building and available for use on a fee basis to the residents of the building. One shared use vehicle shall be deemed to satisfy eight (8) required car spaces,

but in no case shall more than 50% of the parking requirement be satisfied by shared vehicle use.

3. The planning board may establish a parking requirement that is less than the normally required number of spaces upon a finding of unique conditions that result in a lesser parking demand, such as housing for persons who cannot drive, housing that participates in a travel demand management program, availability of transit, or housing which includes permanent restrictions on automobile usage, and which is permanently restricted from utilizing resident on-street parking stickers.
4. No parking shall be required for the first three units in the R-6 Residential Zone or the IS-FBC Zone.
5. For alterations of buildings containing three or more dwelling units in the R-6 zone no parking shall be required for the creation of one additional dwelling unit above existing conditions as of June 3, 2015. This exemption may be utilized one time.

(Ord. No. 240-09/10, 6-21-10; Ord. 209-14/15, 5/4/2015; (Ord. 83-15/16, 11-2-2015; Ord. No. 192-15/16, 4-4-2016)

Sec. 14-332.2. Categorical exceptions and modifications to off-street parking requirements.

Regardless of which zone a project of use is located, the following exceptions to the off-street parking requirements listed above in section 14-332 are additionally hereby established.

- (a) Home occupations, Section 14-410: Any need for parking generated by the conduct of a home occupation allowed under section 14-410 of this article shall be met off the street and other than in a required front yard.
- (b) Incentives for affordable housing- parking reductions: For each low-income or workforce housing unit for rent or sale within an eligible project under the Affordable Housing Ordinance established in Division 30 of this article, no more than one (1) parking space

shall be required. The planning board may establish a parking requirement for affordable housing units for rent or sale within an eligible project that is less than one (1) parking space per affordable housing unit, regardless of the size of the structure.

- (c) Site plans over 50,000 square feet and projects in the B-6, B-7, and USM Overlay Zones: Where construction is proposed of new structures having a total floor area in excess of fifty thousand (50,000) square feet, the planning board shall establish the parking requirement for such structures. The parking requirement shall be determined based upon a parking analysis submitted by the applicant and upon the recommendation of the city transportation engineer.
- (d) Exception for historic structures: No parking in excess of that existing on or servicing the lot as of March 15, 1999 shall be required for any structure under Article IX of this chapter, as a contributing structure in a local or National Register historical district, or as a locally designated or National Register landmark building; however, parking may not be decreased from that existing on or servicing the lot on March 15, 1999 except to the extent necessary to meet the requirements of the Americans with Disabilities Act.

(Ord. No. 240-09/10, 6-21-10; Ord. 82-15/16, 10-19-2015)

Sec. 14-332.3. Uses requiring off-street bicycle parking.

In all zones where off-street motor vehicle parking is required, minimum off-street bicycle parking requirements shall be provided and maintained in the case of new construction, alterations and changes of use as specified in Section 14-526(a)(2) (Site Plan Standards).

(Ord. NO. 134-07/08, 2-4-08)

Sec. 14-333. To be located on lot with principal use in residential zones; exceptions.

Required off-street parking in all residential zones and accessory off-street parking in R-1 through R-5 zones shall be located on the same lot with the principal building or use, except that the Board of Appeals may permit such off-street parking to be located at a distance of not more than three hundred (300) feet from the principal building or use, measured along lines of public access where it cannot reasonably be

provided on the same lot if the premises to be used for parking are held under the same ownership or lease as the building or use served and if said premises are located in the same or a less restricted zone as the building or use served. Evidence of such control, either deed or lease, shall be required. The Planning Board may be substituted for the Board of Appeals only where an applicant is otherwise before the Planning Board for site plan approval.

Whenever any exception to the parking requirements under this section has been finally denied on its merits by either the Zoning Board of Appeals or the Planning Board, a second request for an exception seeking essentially the same relief, whether or not in the same form or on the same theory, shall not be brought before either body within one (1) year of such denial unless, in the opinion of the board before which it was initially brought, substantial new evidence is available or a mistake of law or fact significantly affected the prior denial.
(Code 1968, § 602.14.C; Ord. No. 94-99, 11-15-99)

Sec. 14-334. To be located on lot with principal use in nonresidential zones; exceptions.

Required off-street parking in all nonresidential zones shall be located on the same lot with the principal building or use, or within one hundred (100) feet measured along lines of public access, except the Board of Appeals, or Planning Board when applicable, may permit off-street parking located further than one hundred (100) feet from the principal building or use upon finding that such off-street parking meets the following standards:

(a) Distance from principal building or use site: Off-street parking shall be located no more than 1500 ft. from the principal building or use site measured along lines of public access.

(b) Control by ownership or lease: The premises to be used for parking shall be held under the same ownership as the principal building or use or by lease with a term of not less than five (5) years with an option to renew. Evidence of such control, shall be required by showing for review and approval by City Corporation Counsel, at a minimum, a signed letter of intent, purchase and sale agreement, or option for sale or lease at the time of approval, and an executed deed or lease prior to issuance of any certificate of occupancy.

The Planning Board may be substituted for the Board of Appeals only where an applicant is otherwise before the Planning Board for site plan approval.

Whenever any exception to the parking requirements under this section has been finally denied on its merits by either the Zoning Board of Appeals or the Planning Board, a second request for an exception seeking essentially the same relief, whether or not in the same form or on the same theory, shall not be brought before either body within one (1) year of such denial unless, in the opinion of the board before which it was initially brought, substantial new evidence is available or a mistake of law or fact significantly affected the prior denial.

(Code 1968, § 602.14.D; Ord. No. 430-83, § 1, 4-25-83; Ord. No. 94-99, 11-15-99; Ord. No. 241-10/11, 11-15-10)

Sec. 14-335. Off-street parking restricted.

Off-street parking shall not include:

- (a) More than one (1) commercial motor vehicle in any residence zone, the R-P zone or any B-1 zone;
- (b) More than six (6) commercial motor vehicles in any B-2 zone;
- (c) Loading, sales, dead storage, repair, or servicing of any kind, except when customarily incidental or accessory to a conforming principal building or use when located in an I-2, I-2b, I-3 zone and I-3b zone;
- (d) Except in the case of a car dealer, more than one (1) unregistered motor vehicle stored outside for a period in excess of thirty (30) days in any residence zone, the R-P zone or any business zone;
- (e) Notwithstanding (1) above, any truck body, commercial trailer or similar commercial vehicles in any residence zone or the R-P zone.

(Code 1968, § 602.14.E; Ord. No. 298-88, 5-31-88)

Sec. 14-336. Location in residence zones for six or fewer vehicles.

- (a) Where off-street parking for six (6) or fewer vehicles is required or provided in any residence zone, it shall not be located closer than fifty (50) feet to any street line if less than five (5) feet from any lot line and shall not be closer to any street line than the required depth of the front yard for

the same lot, except on a corner lot where the minimum depth from the line of the side street shall be the minimum width of the side yard on the side street. Lots in the R-6 zone shall not be required to provide the five-foot setback required by this section, but parking in the R-6 zone shall meet the front yard setbacks set forth in this section.

(b) Parking shall be prohibited in the front yard of lots containing two (2) or more dwelling units, except within one (1) driveway on the lot. "Driveway," as used in this paragraph, shall not include any turnaround area.

(Code 1968, § 602.14.F; Ord. No. 231-90, § 1, 3-5-90; Ord. No. 310-98, § 2, 5-4-98)

Sec. 14-337. Location in residence zones for more than six vehicles.

Where off-street parking for more than six (6) vehicles is required or provided for nonresidential uses in residence zones, it shall not be located closer than twenty-five (25) feet to any residential structure on an adjoining lot.

(Code 1968, § 602.14.G)

Sec. 14-338. When located within required open yard areas in residence zones.

(a) Where off-street parking for more than six (6) vehicles is required or provided on a lot in a residence zone and vehicles are to be or may be parked within the area otherwise required to be kept open and unoccupied for front, side and rear yards in the zone in which such parking is located, the following requirements shall be met:

- (1) A continuous curb guard, rectangular in cross-section, at least six (6) inches in height and permanently anchored, shall be provided and maintained at least five (5) feet from the street or lot line between such off-street parking and that part of the street or lot line involved; or a continuous bumper guard of adequate strength, the top of which shall be at least twenty (20) inches in height, shall be provided and maintained between such off-street parking and that part of the street or lot line involved so that bumpers of vehicles cannot project beyond its face toward the street or lot line involved, either above or below the impact surface.

- (2) Where such off-street parking shall abut a lot in

residential use or an unoccupied lot which is located in a residence zone, a chain link, picket or sapling fence, not less than forty-eight (48) inches in height, shall be provided and maintained between such off-street parking and that part of the lot line involved.

(b) Notwithstanding the provisions of subsection (a) of this section, parking shall be prohibited in the front yard of lots containing two (2) or more dwelling units, except within one (1) driveway on the lot. "Driveway," as used in this paragraph, shall not include any turnaround area.

(Code 1968, § 602.14.H; Ord. No. 231-90, § 2, 3-5-90)

Sec. 14-339. When located adjacent to a street or a residential use.

Where off-street parking for more than six (6) vehicles is required or provided on a lot in any business zone, the following requirements shall be met:

(a) Where vehicles are to be or may be parked within ten (10) feet of any street line, a continuous curb guard, rectangular in cross-section, at least six (6) inches in height and permanently anchored, shall be provided and maintained at least five (5) feet from the street line between such off-street parking and that part of the street line involved; or a continuous bumper guard of adequate strength, the top of which shall be at least twenty (20) inches in height, shall be provided and maintained between such off-street parking and that part of the street line involved so that bumpers of vehicles cannot project beyond its face toward the street line involved either above or below the impact surface.

(b) Where such off-street parking shall abut a lot in a residence zone or a lot in residential use, a chain link, picket or sapling fence, not less than forty-eight (48) inches in height, shall be provided and maintained between such off-street parking and that part of the lot line involved.

(Code 1968, § 602.14.1)

Sec. 14-340. Construction requirements when more than six vehicles parked.

Where off-street parking for more than six (6) vehicles is

required or provided, the following construction requirements shall apply:

- (a) Appropriate driveways from streets or alleys, as well as maneuvering areas, shall be provided. Location and width of approaches over public sidewalks shall be approved by the traffic engineer.
- (b) The surface of driveways, maneuvering areas and parking areas shall be uniformly graded with a subgrade consisting of gravel or equivalent materials at least six (6) inches in depth, well compacted, and with a wearing surface equivalent in quantities of compaction and durability to fine gravel.
- (c) A system of surface drainage shall be provided in such a way that the waste run-off shall not run over or across any public sidewalk or street.
- (d) Where artificial lighting is provided, it shall be shaded or screened so that no light source shall be visible from outside the area and its access driveways.

(Code 1968, § 602.14.J; Ord. No. 96-88, § 1, 7-19-88)

*Editor's note—Ord. No. 96-88, § 1, adopted July 19, 1988, amended subsection (a) of this section to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 96-88.

Sec. 14-341. Aisles required for six or more spaces.

In parking facilities containing six (6) or more parking spaces, there shall be provided vehicular access by one (1) or more aisles. Aisle widths shall be in conformance with the standards set forth in the City of Portland Technical Manual, as hereafter amended.

(Code 1968, § 602.14.A; Ord. No. 272-77, 5-16-77; Ord. No. 389-89, § 2, 4-3-89; Ord. No. 278-09/10, 7-19-10)

Sec. 14-342. Reserved.

*Editor's note—Section 1 of Ord. No. 354-85, adopted Jan. 7, 1985, repealed § 14-342, relative to a reduction of requirements by the board of appeals, which derived from Code 1965, § 602.14.K.

Sec. 14-343. Either the Board of Appeals or the Planning Board may approve joint use.

(a) Except as provided in subsection (b) below, the Board of Appeals may approve the joint use of a parking facility by two (2) or more principal buildings or uses where it is clearly demonstrated that the parking facility will substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees among such establishments. This section shall apply to residential uses in the B-1, B-1b, B-2, B-2c and B-3 zone which propose joint use of a parking facility with another principal use in the B-1, B-1b, B-2 and B-3 zone. The Planning Board may be substituted for the Board of Appeals only where an applicant is otherwise before the Planning Board for site plan approval.

Whenever any exception to the parking requirements under this section has been finally denied on its merits by either the Zoning Board of Appeals or the Planning Board, a second request for an exception seeking essentially the same relief, whether or not in the same form or on the same theory, shall not be brought before either body within one (1) year of such denial unless, in the opinion of the board before which it was initially brought, substantial new evidence is available or a mistake of law or fact significantly affected the prior denial.

(b) Requests for joint use of parking in the B-2b zone shall be reviewed and approved by the Zoning Administrator only in the following circumstances:

1. Residential uses above the first (1st) floor in buildings in the B-2b zone shall be permitted to share parking spaces with commercial uses located in the same building; and
2. It is clearly demonstrated that the joint parking arrangement will substantially meet the intent of the parking requirements by reason of a variation in the probable time of maximum use by patrons or employees of the commercial establishment and tenants of the residential dwelling units; and
3. Parties involved in the joint use of parking shall provide evidence of a binding agreement for the joint use of parking. Any subsequent modifications to the structure or change in the tenant occupancy of the

commercial use(s) shall require review by the Zoning Administrator for conformance with this section.

Any decision by the Zoning Administrator on shared parking requests may be appealed to the Zoning Board of Appeals as an interpretive appeal pursuant to 14-471(a).
(Code 1968, § 602.14.L; Ord. No. 243-91, § 2, 3-11-91; Ord. No. 94-99, 11-15-99; Ord. No. 36-09/10, 8-17-09)

Sec. 14-344. Either the Board of appeals or the Planning Board may authorize parking in certain residence zones.

In R-3 through R-5 zones, the Board of Appeals may permit off-street parking for passenger cars only accessory to a use located in and conforming with the provisions of a nearby business or industrial zone (except B-1 zones) if the lot on which the use is proposed is located wholly within three hundred (300) feet, measured along lines of public access, of the principal building of the use to which the proposed use would be accessory and provided further that:

- (a) The lot where the parking use is proposed shall be under the control of the owner of the use to which the parking use would be accessory. Evidence of such control by deed or lease shall be required before the certificate of occupancy is issued. If such control should be abrogated, the parking use thus allowed shall automatically revert to a nonconforming use in violation of this article and shall be terminated forthwith.
- (b) The Board of Appeals may impose such conditions as deemed necessary to insure development compatible with that of the immediate neighborhood notwithstanding the provisions of any other section of this article and may at its discretion limit the period of such use.
- (c) The Planning Board may be substituted for the Board of Appeals only where an applicant is otherwise before the Planning Board for site plan approval.

Whenever any exception to the parking requirements under this section has been finally denied on its merits by either the Zoning Board of Appeals or the Planning Board, a second request for an exception seeking essentially the same relief, whether or not in the same form or on the same theory, shall not be brought before either body within one (1) year of such denial unless, in the opinion of the board before which it was initially brought,

substantial new evidence is available or a mistake of law or fact significantly affected the prior denial.
(Code 1968, § 602.14.M; Ord. No. 541-84, 5-7-84; Ord. No. 94-99, 11-15-99)

Sec. 14-345. Peninsula fee-in-lieu of parking.

Any major or minor development subject to site plan review located in a non-residential zone or the IS-FBC zone on the Portland Peninsula shall either provide the required parking or pay a fee according to the provisions of (a) and (b) below.

- (a) Provide the number of off-street parking spaces according to the provisions of section 14-332 (uses requiring off-street parking) and section 14-334 (off-site parking) of this division; or,
- (b) Pay a fee-in-lieu of parking of not less than \$5,000.00 as adjusted annually per (c) below, per space not provided. Fees shall be deposited into the Sustainable Transportation Fund, as established in section 14-346 of this division.
- (c) The value of the fee shall be adjusted annually according to the Engineer's News Record construction index as published on January 1st of the current calendar year. The fee adjustment shall be calculated by taking the index amount published on January 1st, of the current year, divided by the index amount published on January 1, 2010 (8660), multiplied by (the fee amount from (b) above). The base fee, the adjustment index, or the calculation method may be otherwise amended by action of the city council from time to time.
- (d) The fee shall be paid on or before the date upon which a certificate of occupancy is issued. Payment shall be secured by a bond at the time the amount of the fee is set.

(Ord. No. 241-09/10, 11-15-10; Ord. 83-15/16, 11-2-2015)

Sec. 14-346. Sustainable transportation fund established.

By act of the Portland City Council, the Sustainable Transportation Fund is hereby established.
(Ord. No. 241-09/10, 11-15-10)

Sec. 14-346.1 Sustainable transportation fund purpose.

The purpose of the fund is to implement those provisions of the Peninsula Transit Study Report, and Action Plan, as adopted by the Portland City Council on August 3, 2009 as a component of the city's Comprehensive Plan, which recommended creation of a Sustainable Transportation Fund. The Peninsula Transit Study Report and Action Plan establish a goal to reduce the number and impact of single occupancy vehicle trips to and from the Portland Peninsula. Achieving this goal requires transportation choice for residents, businesses, and visitors to the Portland Peninsula. This ordinance establishes a funding source for broadening transportation choice and facilitating development with lower traffic impacts and reduced parking requirements.

The mechanism and protocol for collecting fees and spending funds are consistent with state requirements for utilizing transportation related impact fees.
(Ord. No. 241-09/10, 11-15-10)

Sec. 14-346.2. Deposits and expenditures for the Sustainable Transportation Fund.

(a) Deposits

1. The city shall establish a Sustainable Transportation Fund to be set up as a separate account within the city. Deposits into the fund shall include:
 - a. 100% of the revenue generated by the fee in-lieu of parking program, as established in section 14-345 of the city Land Use Code;
 - b. Funds appropriated for deposit into the fund by vote of the city council;
 - c. Voluntary contributions of money or other liquid assets to the fund; and,
 - d. Any federal, state or private grant or loan funds provided to the fund.
2. Accounting of deposits by project and sub-district: Funds from the fee in-lieu of parking program, as established in section 14-345 above, shall be individually collected and accounted for by project and the geographic fee in-lieu of parking sub-district in which it is located, as

shown on the Portland Peninsula fee in-lieu of parking sub-district map on file with the Department of Planning and Urban Development.

3. Funds to be used within 10 years of deposit: Funds collected under the fee in-lieu of parking ordinance shall be spent on eligible infrastructure and/or capital improvements or expenses, as outlined in (b) and (c) below, within 10 years of the date of collection. Any funds which are not so utilized and which exceed the City's actual costs of implementing the infrastructure improvement or improvements for which such fees were collected shall be refunded. Refunds shall be paid to the owner of records of the property for which the funds were collected, determined as of the date the refund is made.
4. Use of funds by sub-district: Funds collected under the fee in-lieu of parking ordinance shall be spent on permitted expenditures of the fund, as outlined in (b) below, within the same geographic fee in-lieu of parking sub-district as the contributing project as depicted on the Portland Peninsula Fee In-Lieu of Parking Sub-district Map on file with the Department of Planning and Urban Development. However, for projects located within two hundred fifty (250) feet of an abutting sub-district, contributed fees can be used for eligible infrastructure projects in either abutting sub-district.

(b) Permitted expenditures of the fund.

The Sustainable Transportation Fund may only be expended on the activities as described below:

1. Funds collected as fees in-lieu of parking shall be expended toward capital transportation improvements on the Portland Peninsula. Such capital improvements shall include but are not limited to the following:
 - a. Parking Infrastructure
 - i. Shared-use, publicly accessible parking facilities;

- ii. Publicly accessible bicycle racks and bicycle parking shelters;
 - b. Transit Capital Improvements and Expenses
 - i. Bus shelters, bus turnouts, transit signage and other transit amenities;
 - ii. Buses and transit vehicles;
 - iii. Transit and transportation information systems;
 - iv. Fixed guide way and/or rail transit systems;
 - c. Pedestrian and Bicycle Infrastructure
 - i. Multi-use trails, and non-vehicular transportation corridors;
 - ii. Pedestrian infrastructure and amenities located on publicly accessible rightsof way including, but not limited to cross walks, signalization, landscaping, street furniture, wayfinding signage, traffic calming, and lighting;
 - iii. New publicsidealksa nd new bicycle lanes along publicly accessible rights of way or corridors where such facilities are not previously provided;
 - d. Other such improvements intended to enhance transportation choice and promote transit and non-automotive transport on the Portland Peninsula.
- 2. Funds collected or appropriated by means other than from a fee in-lieu of parking may be used for any of the capital transportation improvements listed above in (b)(1), and for any of the following uses:
 - a. Transportation Demand Management Program administration;

- b. On or off-peninsula transit and/or non-automotive transportation capital or operating expenses;
- c. Transit and/or non-automotive transportation promotion and education material; and
- d. Other such programs or improvements intended to enhance transportation choice and promote transit and non-automotive transport for the City of Portland.

(c) Annual Sustainable Transportation Plan and Appropriations Schedule:

Annually, the city manager shall submit to the city council a recommended sustainable transportation plan and appropriations schedule, utilizing the revenues of the Sustainable Transportation Fund. The Transportation Committee of the city council or such other committee as the council shall designate shall recommend and refer the plan and appropriations schedule to the city council for action.

(Ord. No. 241-09/10, 11-15-10)

*Editor's Note—The effect of Section 14-346.2(a)(iv) above is to establish the western boundary of the central sub-district as State Street, no High Street.

Sec. 14-347. – Sec. 14-350 Reserved.

DIVISION 21. OFF-STREET LOADING

Sec. 14-351. Minimum loading bays or loading berths.

In those zones where off-street loading is required, the following minimum off-street loading bays or loading berths shall be provided and maintained in the case of new construction, alterations and change of use:

- (a) Office buildings and hotels with a gross floor area of more than one hundred thousand (100,000) square feet: One (1) bay.
- (b) Retail, wholesale and industrial operations with a gross

floor area of more than five thousand (5,000) square feet:

1. 5,000 to 40,000: 1 bay;
2. 40,001 to 100,000: 2 bays;
3. 100,001 to 160,000: 3 bays;
4. 160,001 to 240,000: 4 bays;
5. 240,001 to 320,000: 5 bays;
6. 320,001 to 400,000: 6 bays;
7. Each 90,000 over 400,000 square feet: 1 additional bay.

- (c) Hospitals and nursing and convalescent homes: Two (2) off-street loading areas shall be provided whereby one (1) service area for ambulance and other emergency vehicles shall be separate from one (1) service area accommodating supply vehicles, and whereby both off-street loading areas shall be separate from parking and entrance locations.

(Code 1968, § 602.15.A; Ord. No. 49-74, 1-7-74)

Sec. 14-352. Dimensions.

Each loading bay shall have minimum dimensions of fifty (50) feet by fourteen (14) feet and may be located either within a building or outside and adjoining an opening in the building, except that in the case of hospitals and nursing homes and convalescent homes, the off-street loading area provided for ambulance and other emergency vehicles shall be exempt from the minimum dimension requirement but shall be of sufficient width and depth to permit expeditious access and egress from the loading area. Every part of such loading bay shall be located completely off the street. In case trucks, trailers, or other motor vehicles larger than the dimensions of the minimum loading bay habitually serve the building in question, additional space shall be provided so that such vehicle shall park or stand completely off the street.
(Code 1968, 602.15.B; Ord. No. 49-74, 1-7-74)

Sec. 14-353. Requirements to be met for additional bays and for alterations or modifications.

Any additional loading bays which are provided in excess of

the requirements of this article or any loading bays otherwise established shall meet the requirements of section 14-352, and no alterations or modifications shall be made in an existing building or structure whereby loading openings or platforms are constructed or established unless the provisions of section 14-352 are met.
(Code 1968, § 602.15.C)

Sec. 14-354. Reserved.

***Editor's note**—Section 2 of Ord. No. 354-85, adopted Jan. 7, 1985, repealed § 14-354, relative to variance prohibited, exception, which derived from Code 1968, § 602.15.D.

Sec. 14-355. – Sec. 14-365. Reserved.

DIVISION 22. SIGNS*

***Editor's note**—Ord. No. 252-94, § 2, passed Apr. 4, 1994, repealed Div. 22 of this article, §§ 14-366–14-368, relative to signs and billboards, and added new provisions relative to signs as set forth in §§ 14-366–14-372.5. Formerly, such provisions derived from §§ 602.10A.G, 602.13B and 602.16.A–602.16.C of the 1968 Code as amended by the following legislation:

Ord. No.	Section	Date	Ord. No.	Section	Date
499-74	7	8-19-74	538-81	1	2-18-81
536-74	2	8-19-74	39-85	1	7-15-85
334-76	7	7- 7-76	284-88		12-12-88
269-77		5-16-77	371-91	1	6- 5-91
270-77		5-16-77			

Cross reference(s)—Signs prohibited in cemeteries, § 7-137.

Sec. 14-366. Purpose.

The purpose of this division is to balance the need for adequate identification, communication and advertising for all land

uses with the need to protect the public safety and welfare and to maintain and enhance the aesthetic environment of the City of Portland. The following policies shall apply in regulating signs:

- (a) To allow for the orderly advertisement and identification of goods and services by public and private establishments in the city;
- (b) To enhance public awareness of and access to goods, services and attractions by promoting visual order and clarity on city streets;
- (c) To promote traffic safety by controlling the location, design and placement of signs on city streets; and
- (d) To protect property values by ensuring the appropriate location, size, number and use of signs in neighborhoods and business districts.

(Ord. No. 252-94, § 2, 4-4-94)

Sec. 14-366.5. Applicability.

A sign may be erected, placed, established, painted, created or maintained in the city only in conformance with the standards, procedures, exemptions and other requirements of this division.

All signage of a commercial nature, whether or not exempt from the receipt of a permit hereunder, shall be removed within thirty (30) days from the earlier of: vacancy of the advertised space by the applicable owner and/or tenant, or the cessation of the commercial enterprise so advertised. This subsection shall not apply to signs which have acquired historic significance, such as painted wall signs, as so determined by the Historic Preservation Program Manager. The owner of the building and/or any tenant advertising through the use of such signage each shall be responsible for adhering to this requirement.

(Ord. No. 252-94, § 2, 4-4-94; Ord. No. 187-02/03, 4-7-03)

Sec. 14-367. Definitions.

For the purposes of this division, the following definitions shall apply, in addition to the provisions of section 14-47:

Animated sign: Any sign that uses movement or change of lighting to depict action or create a special effect or scene.

Awning sign: Any sign that is a part of or attached to an awning, canopy or other fabric, plastic or structural protecting

cover over a door, entrance, window, storefront or outdoor service area or any internally illuminated awning sign. A marquee shall not be considered an awning.

Banner: Any sign of lightweight fabric or similar material that is permanently mounted to a pole or a building by a permanent frame at one (1) or more edges. National, state and municipal flags or the official flag of any institution or business shall not be considered banners.

Beacon: Any light with one (1) or more beams directed into the atmosphere or directed at one (1) or more points not on the same lot as the light source or any light with one (1) or more beams that rotate or move.

Building marker: Any sign indicating the name of a building, date of construction, or other incidental information about its construction and/or history.

Building sign: Any wall sign, projecting sign, suspended sign, or any sign attached to any exterior part of a building. Interior window signs shall not be considered building signs and shall not be included in the calculation of maximum cumulative sign area or maximum number of permitted signs.

Bus shelter signs: as specified in 23 M.R.S.A. § 1908-A, a bus shelter sign is any outdoor sign visible to the traveling public from a public way that is affixed to a publicly owned bus shelter where a public transport bus stops for the purpose of allowing passengers to board and/or leave the bus.

Changeable copy sign: A sign or portion thereof with characters, letters or illustrations that can be changed or rearranged without altering the face or the surface of the sign. A sign on which the message changes more than eight (8) times per day shall be considered an animated sign and not a changeable copy sign for the purposes of this division. A sign on which the only copy that changes is an electronic or mechanical indication of time or temperature shall be considered a time and temperature portion of a sign and not a changeable copy sign for purposes of this division.

Commercial message: 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.

Community/cultural banner: Banners located in the public

right-of-way intended to serve a community purpose or convey information of community-wide interest.

Department: The department of planning and urban development.

Directory sign: A sign located at or near the entrance of a multi-tenant building, lot or park, the sole purpose of which is to provide a listing of names of individual tenants located thereon.

Flag: Any fabric, banner or bunting containing distinctive colors, patterns or symbols, used as a symbol of a government, political subdivision or other entity.

Freestanding sign: Any sign supported by structures or supports that are placed on or anchored in the ground and that are independent from any building or other structure.

Incidental sign: A sign, generally informational, that has a purpose secondary to the use of the lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives. Directional signs indicating the location of a building, tenant or entrance shall also be considered incidental signs. No sign with a commercial message legible from a position off the lot on which the sign is located shall be considered incidental.

Internally illuminated awning sign: An awning that is translucent and lighted from within and which either incorporates any commercial message, trademark or symbol or is readily concurrently visible with another internally illuminated awning sign that incorporates a commercial message, trademark or symbol.

Landmark sign: An existing sign determined by the department to have attained a high degree of community, cultural, aesthetic or historic significance.

Marquee: Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.

Marquee sign: Any sign attached to in any manner, or made part of, a marquee.

Multi-tenant lot: Any lot with more than one (1) business or more than one (1) use with exterior signs.

Nonconforming sign: Any sign that does not comply with the requirements of this division.

Pennant: Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire or string, usually in a series, designed to move in the wind.

Portable sign: Any sign not permanently attached to the ground or some type of permanent structure, or a sign designed to be transported including, but not limited to, signs designed to be transported by means of wheels; signs converted to or located on A- or T-frames; menu and sandwich board signs; inflatable signs or large-scale tethered balloons; and/or signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

Principal facade: Any facade or facades that constitute the primary visual and functional orientation of the building or tenant space, characterized by a combination of such features as principal entry, storefront and visibility from streets or parking areas.

Projecting sign: Any sign affixed to a building or wall in such a manner that its leading edge extends more than twelve (12) inches beyond the surface of the building or wall. A projecting sign may be either perpendicular or parallel to a wall and may have a message on more than one (1) face.

Readily concurrently visible signs: Any combination of signs that can be clearly and simultaneously viewed by an individual from any publicly accessible vantage point.

Residential sign: Any sign located in a district zoned for residential uses that contains no commercial message except advertising for goods and services offered on the premises where the sign is located, provided that offering such goods or services conforms with all requirements of this article.

Roof sign: Any sign erected and constructed wholly on and over the roof of a building, including attachment to a rooftop mechanical parapet supported by the roof structure, and extending vertically above the highest portion of the roof.

Roof sign, integral: Any sign incorporated as an integral or essentially integral part of a normal roof structure of any design,

including attachment to a rooftop mechanical parapet, where no part of the sign extends vertically above the highest portion of the roof and such that no part of the sign is separated from the rest of the roof by a space of more than six (6) inches.

Security sign: Any sign that is placed upon a lot or a building to inform of the location of a security or other alarm system located upon the lot or within the building.

Sign: Any device, fixture, placard or structure that uses any color, form, graphic, illumination, symbol or writing to advertise, announce the purpose of, or identify the purpose of a person or entity, or to communicate information of any kind to the public.

Street frontage: The distance for which a lot line of a lot adjoins a public street, from one (1) lot line intersecting said street to the furthest distant lot line intersecting the same street.

Suspended sign: A sign that is suspended from the underside of a horizontal plane surface and is supported by that surface.

Temporary sign: Any sign, except for a window sign, that is used for a period of not more than thirty (30) days and that is not permanently mounted.

Wall area: The area of a wall within a single plane.

Wall sign: Any sign parallel and attached to a wall, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one (1) sign surface.

Window sign: Any sign, pictures, symbol or combination thereof, designed to communicate information about an activity, business, commodity, event, sale or service, that is placed inside a window or upon the interior face of window panes or glass, and is visible from the exterior of the window.

(Ord. No. 252-94, § 2, 4-4-94; Ord. No. 37 06/07, 9-6-06; Ord. No. 91-11/12, 5-21-12)

Sec. 14-368. Regulations.

(a) *Signs allowed on private property with and without permits.* Signs shall be allowed on private property in the city in accordance with, and only in accordance with, Table 1 of section 14-369.5. 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. If the notation "B" appears for a sign type in a column, such sign is allowed only with prior permit approval in the zoning district(s) represented by that column. Special conditions may apply in some cases. If the notation "D" appears for a sign type in a column, such a sign is not allowed in the zoning district(s) represented by that column under any circumstances.

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 with the requirements of Table 2 of section 14-369.5, which establish permitted sign dimensions by sign type, and with any additional limitations listed therein.

(b) *Permits required.* If a sign requiring a permit under the provisions of this division is to be placed, constructed, erected or modified on a lot, the owner of the lot shall secure a sign construction permit prior to the construction, placement, erection or modification of such a sign in accordance with the requirements of section 14-368.5. In addition, the property owner shall maintain in force at all times a sign construction permit for such sign in accordance with section 14-368.5.

No signs shall be erected in the public right-of-way except in accordance with subsection (e) of this section and the permit requirements of section 14-368.5.

No sign permit of any kind shall be issued for an existing or proposed sign unless such sign is in compliance with the requirements of this division, including those protecting existing signs.

(c) *Design, construction and maintenance.* All signs shall be designed, constructed and maintained in accordance with the following standards:

1. All signs shall comply with applicable provisions of the

building code and the electrical code of the city at all times;

2. Except for banners, flags, temporary signs, portable signs and window signs conforming in all respects with the requirements of this division, all signs shall be constructed of permanent materials and shall be permanently attached to the ground, a building or another structure by direct attachment to a rigid wall, frame or structure; and
3. All signs shall be maintained in good structural condition, in compliance with all building and electrical codes, and in conformance with this Code, at all times;
4. Signs located in or adjacent to residential zones shall not cause light spillover or glare into properties within the residential zone.

(d) *Signage plan.* No permit shall be issued for an individual sign requiring a sign construction permit unless and until a signage plan for the lot on which the sign will be erected has been submitted to the department.

For any lot on which the owner proposes to erect one (1) or more signs requiring a permit, the owner shall submit to the department a signage plan containing the following:

1. A sketch plan of the lot. The sketch plan should indicate the location of buildings and driveways on the lot, as well as any abutting streets. Length of building frontages and street frontage(s) should also be noted;
2. An indication on the sketch plan of the proposed location of each existing and proposed sign of any type, except that incidental, portable, temporary and window signs need not be shown. For building signs, a sketch or a photograph of each building wall shall be provided indicating wall and sign dimensions; and
3. Computations of the following:
 - a. A listing of each building sign (existing and proposed), identifying the location of each such sign and its sign area;
 - b. A listing of each freestanding sign (existing and

proposed), indicating the area, height and setback of each such sign; and

4. A sketch of proposed signs, indicating dimensions, materials, source of illumination and construction method.

For purposes of this section, a sketch plan shall not require a stamp by a licensed professional such as an engineer or an architect. Measurements may be estimated. For multi-tenant lots or buildings, individual tenants shall be required to submit only those measurements applicable to their individual frontage or as otherwise required to review their application. Once a sketch plan has been filed for a property, the department shall keep a record of such plan so that a new sketch plan shall not be required for later changes to signage on a site for which a sketch plan has been previously submitted.

(e) *Signs in the public right-of-way.* No signs shall be allowed in the public right-of-way, except for the following:

1. Permanent signs, limited to the following: Public signs erected by or on behalf of a governmental body to post legal notices, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic, including parking regulatory signs; bus stop signs erected by a public transit company; informational signs of a public utility regarding its poles, lines, pipes or facilities.
2. Signage meeting the requirements of section 14-370.
3. Emergency warning signs erected by a governmental agency, a public utility company or a contractor doing authorized or permitted work within the public right-of-way.
4. Community/cultural banners.
5. Permanent directional signs retail/accessory retail in residential zones. A lawfully existing retail business, existing as of March 1, 2008 and located in a residential zone, qualifies for an off-premise sign if it meets the following requirements: 1) the establishment is not a home occupation; 2) the establishment is not located within 500 feet of a major or minor arterial; 3) the sign would be no larger than 12 inches x 48 inches and would otherwise adhere to the requirements set out by

MDOT/MUTCD in their standard sign manual. Such establishment may qualify for one, two-sided, or two one-sided, off-premise signs to be located on a major or minor arterial in a location determined safe by the city traffic engineer and upon the payment of an initial fee of \$300.00, with an annual renewal fee of \$30.00. In the event the sign is damaged or destroyed, the replacement of any sign shall be the sole responsibility of the permittee. The permittee shall be required to obtain a permit for said sign from the building inspections department, after securing \$400,000 insurance for said sign, naming the City of Portland as an additional insured.

6. Bus shelter signs as provided for in section 14-371 (k).

(f) *Signs in historic districts, in historic landscape districts, or on individual landmark properties.* Signs in historic districts, in historic landscape districts, or on individual landmark properties shall also be subject to the provisions of article IX of this chapter. Where the regulations of article IX are either more or less stringent than those set forth in this division, the more stringent standard shall apply.

(g) *Signs in Pedestrian Activities District (PAD) overlay zone and PAD encouragement areas.* Signs in PAD overlay zone and PAD encouragement areas of the B-3 zone shall also be subject to the standards set forth in the Downtown Urban Design Guidelines. Where those standards are either more or less stringent than the regulations set forth in this division, the more stringent standard shall apply.

(Ord. No. 252-94, § 2, 4-4-94; Ord. No. 143-07/08, 5-19-08; Ord. No. 91-11/12, 5-21-12)

Sec. 14-368.5. Permits.

The procedures set forth below shall govern the application for, and issuance of, all sign permits under this division, unless a sign is also subject to review under any other division or section of this chapter or any other chapter of this Code, including site plan and historic preservation ordinances. Where a sign requires such other review, the time periods set forth in the ordinance for that review process shall control.

(a) *Applications.* All applications for sign permits of any kind shall be submitted to the department on an application form or in accordance with application specifications published by the department.

- (b) *Fees.* Each application for a sign permit shall be accompanied by the applicable fees, which shall be established by the council order.
- (c) *Action on sign permit application.* Within ten (10) working days of receipt of a complete application, the department shall either:
 - 1. Issue the sign permit, if the sign that is the subject of the application conforms in every respect with the requirements of this division; or
 - 2. Deny the sign permit if the sign that is the subject of the application fails in any way to conform with the requirements of this division. In the event of a denial, the department shall set forth in writing the reasons for the denial.
- (d) *Permits to construct or modify signs.* Signs identified with the notation "B" on Table 1 shall be erected, installed or created only in accordance with a duly issued and valid sign construction permit issued by the department. Such permits shall be issued only in accordance with the requirements and procedures of subsection (f) of this section.
- (e) *Application for new sign or for sign modification.* An application for construction, creation or installation of a new sign or for modification of an existing sign shall be accompanied by drawings to show the dimensions, design, source of illumination, construction method and location of each particular sign. One (1) application and construction permit may include more than one (1) sign on the same lot.
- (f) *Assignability of sign permits.* A current and valid sign permit issued under this division shall be freely assignable to a successor as owner of the property or operator of the premises. The assignment shall not require approval by the department. This provision shall also apply to signs lawfully in existence on April 4, 1994, which are further subject to the provisions of section 14-372.
- (g) *Issuance pursuant to level II site plan review.* An applicant for a permit or other approval under this

division whose application has been denied for failure to meet the regulations contained in section 14-369.5 may apply to the planning authority for review of the denied signage pursuant to the standards set forth in section 14-526(d)8, provided, however, that no site plan fee shall be required for this review and no site plan submission materials shall be required beyond those necessary to allow review under this section.

(Ord. No. 252-94, § 2, 4-4-94; Ord. No. 278-09/10, 7-19-10)

Sec. 14-369. Computations.

Sign area, sign height and number of signs shall be computed in accordance with the following principals:

- (a) *Computation of area of individual signs:* For all signs other than awning signs, the area of a 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 writing, representation, emblem or other display, together with any material or color forming an 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.
- (b) *Computation of area of multifaced signs:* The sign area for a sign with more than one (1) face shall be computed by adding together the area of all sign faces visible from any one (1) point. When two (2) identical sign faces are placed back to back so that both faces cannot be viewed from any point at the same time and when such sign faces are part of the same sign structure and are not more than forty-two (42) inches apart, the sign shall be computed by the measurement of one (1) of the faces.
- (c) *Computation of area of awning signs:*
 - 1. For opaque awnings, only those sections which incorporate writing, symbols, emblems or other types of graphics used for the purposes of identification or advertisement shall be included in computing sign area. The methods set forth in subsection (1) of this section shall be utilized in measuring sign area on opaque awnings. Street names and numbers on opaque awnings shall not be considered to be signs for purposes of this section, unless a business located within the

building has the street name and/or the street number as its name.

2. For awnings that are translucent and internally illuminated and that incorporate any commercial message, trademark or symbol, the sign area shall be computed as the two-dimensional projection of the awning onto the face of the building on which the awning is to be installed. Such awnings which wrap around building corner(s) shall be treated as separate awnings on each respective building face and shall be considered as signs if they include any message, trademark or symbol. Internally illuminated bands shall be permitted across the building face without being included in the calculations under this subsection, provided that such bands do not include any message, trademark or symbol and that the bands do not exceed three (3) feet in height.
 3. Where only a portion of the awning is translucent and internally illuminated, only the area of the translucent illuminated portion shall be included in computing sign area, unless commercial message content appears on other opaque portion(s) of the awning. Opaque portions of these types of awnings shall be computed in accordance with subsection a. above.
- (d) *Computation of height:* The height of a sign shall be computed as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. Normal grade shall be considered the lower of either existing grade prior to construction or the newly established grade after construction excluding any filling, berming, mounding or excavating accomplished solely for the purpose of locating the sign. In cases where the normal grade cannot reasonably be determined, sign height shall be computed based upon the assumption that the elevation of the normal grade at the base of the sign is equal to the elevation of the nearest point of the crown of a public street or the grade of the land at the principal entrance to the principal structure on the lot, whichever is lower.
- (e) *Computation of number of signs:* For purposes of computing

the number of signs, a single sign shall be considered either enclosed within a single frame or composed of modular parts with identical frame elements designed to be joined together to form a single composite sign.

(Ord. No. 252-94, § 2, 4-4-94)

Sec. 14-369.5. Tables.

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

Note: The following legend applies for Table 1 below:

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

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

	<i>IS-FBC UN R-1/R-6 IR-1/IR-3 Residential</i>	<i>Institutional Uses in Residential Zones (a)</i>	<i>RP Residence Zones</i>	<i>ROS/RPZ Open Space</i>	<i>B-1 Neighborhood Business</i>	<i>B-2/IS-FBC UA/UT Regional Business</i>
Freestanding	D	B	B	B	B	B
In general(b)						
ResidentialI	A	A	A	E	A	A
Residential(d)	D	A	A	A	A	A
Temporary/ Portable (b)	D	D	D	D	D	B
Building	D	D	D	B	B	B
Commercial						
Banner						
Building	A	A	A	A	A	A
Marker(f)						
Awning	D	D	D	B	B	B
Identification(e)	A	A	A	A	A	A
Incidental(d)	A	A	A	A	A	A
Marquee(g)	D	D	D	D	D	B
Projecting	A	D	D	B	B	B
Residential(b)	A	D	A	E	A	A
Roof	D	D	D	D	D	D
Roof Integral	D	D	D	D	D	D
Suspended(g)	A	D	D	B	B	B
Temporary(h)	D	D	D	B	B	B
Wall	A	B	D	B	B	B
Window(I)	D	D	A	A	A	A
Miscellaneous	D	A	A	A	A	A
Community, Cultural Banner Directory(j)	D	A	A	D	A	A

Flag(k)	A	A	A	A	A	A
Pennant	D	D	D	D	D	D
Portable-in						
City right-of-way (A-frame)	D	D	D	D	C	C
<i>Mixed-use Urban B-6/B-7</i>						
	<i>AB Airport Business</i>	<i>Downtown Business(B-3) & Urban Com- mercial(B-5)</i>	<i>I-B Island Business</i>	<i>B-4 Commercial Corridor</i>	<i>O-P Office Park</i>	<i>I-L, I-Lb Industrial</i>
Freestanding	B	B	D	B	B	B
In general(b)						
ResidentialI	A	A	A	A	E	A
Residential(d)	A	A	A	A	A	A
Temporary/ Portable (b)	D	D	D	B	D	D
Building	B	B	B	B	D	B
Commercial						
Banner						
Building	A	A	A	A	A	A
Marker(f)						
Awning	B	B	B	B	B	B
Identification(e)	A	A	A	A	A	A
Incidental(d)	A	A	A	A	A	A
Marquee(g)	B	B	D	B	B	B
Projecting	B	B	B	B	B	B
Residential(b)	A	A	A	A	E	A
Roof	D	D	D	D	D	D
Roof Integral	D	D	D	D	D	D
Suspended(g)	B	B	B	B	B	B
Temporary(h)	B	B	B	B	D	B
Wall	B	B	B	B	B	B
Window(I)	A	A	A	A	A	A
Miscellaneous	A	A	A	A	A	A
Community,						
Cultural Banner						
Directory(j)	A	A	A	A	A	A
Flag(k)	A	A	A	A	A	A
Pennant	D	D	D	D	D	D
Portable-in	C	C	C	C	D	D
City right-of-way (A-frame)						
<i>Eastern Waterfront Port Waterfront Central Waterfront Special Use</i>						
	<i>I-M, I-Ma, I-Mb Industrial</i>	<i>I-H, I-Hb Industrial</i>		<i>Waterfront Port Development</i>		
Freestanding	B	B	B	B		
In general(b)						
ResidentialI	A	A	A	A		
Residential(d)	A	A	A	A		

Temporary/ Portable (b)	D/D	B/D	D	D
Building	B	B	B	B
Commercial Banner				
Building	A	A	A	A
Marker(f)				
Awning	B	B	B	B
Identification(e)	A	A	A	A
Incidental(d)	A	A	A	A
Marquee(g)	B	B	B	B
Projecting	B	B	B	B
Residential(b)	A	A	A	A
Roof	D	D	D	D
Roof Integral	D	D	D	D
Suspended(g)	B	B	B	B
Temporary(h)	B	B	B	B
Wall	B	B	B	B
Window(I)	A	A	A	A
Miscellaneous	A	A	A	A
Community, Cultural Banner				
Directory(j)	A	A	A	A
Flag(k)	A	A	A	A
Pennant	D	D	D	D
Portable-in City right-of-way (A-frame)	D	D	C	D

Notes for Table 1 (Permitted Sign Types by Zone).

- (a) This column does not represent a zoning district. It applies to institutional uses permitted under the zoning ordinance in residential zoning districts. Such uses may include, but are not necessarily limited to, churches, schools and hospitals.
- (b) The following limiting provision shall apply to freestanding signs in the B-1, B-2, B-3, and IS-FBC zones on the Portland Peninsula (except for the B-2 zone in the vicinity of St. John Street): Such signs shall be allowed only if the front facade of the building (or individual tenant's/tenants' frontage in the case of a multi-tenant building) is set back a distance of at least twenty (20) feet from either of the front facades of the abutting buildings (or other tenants' frontage in the same multi-tenant building). Notwithstanding the limitations of this section, freestanding signs shall be permitted for gas stations provided that all signage for such gas stations conform to the requirements of this division.

- (c) No commercial message allowed on sign, except for a commercial message drawing attention to an activity legally offered on premises.
 - (d) No commercial message of any kind allowed on a sign if such message is legible from any location off the zone lot on which the sign is located.
 - (e) Only address and name of occupant allowed on sign.
 - (f) May include only building name, date of construction, or historical data on historical site.
 - (g) If such a sign is suspended or projects above a public right-of-way, the issuance and continuation of a sign permit shall be conditioned on the sign owner obtaining and maintaining in force liability insurance for such a sign.
 - (h) The provisions governing portable/temporary signs shall apply. See section 14-370.
 - (i) Window signs shall be allowed without a permit and shall not be included when calculating cumulative sign area. However, in no event shall more than fifty (50) percent of window area be obscured.
 - (j) Directory signs, freestanding or on buildings, shall be allowed without a permit and shall not be included when calculating cumulative sign area, provided the sign area for each tenant does not exceed one and one-half (1.5) square feet.
 - (k) Flags used as a symbol of a government, political subdivision or other entity. Any flag not meeting this description shall be considered a banner sign or pennant and shall be subject to regulation as such.
- (b) *Table 2. Sign regulations by zone.* Table 2 is comprised of fourteen (14) individual charts outlining sign regulations for each zone in the city. Regulations are for permanent freestanding and building signs and shall not apply to portable/temporary signs, special sign types, incidental signs, directory signs or exempt signs. See applicable sections of this division for regulations governing such

signs.

Other applicable regulations:

- * Signs in historic districts, in historic landscape districts, or on individual landmark properties shall also be subject to the provisions of article IX of this chapter. Where the regulations of article IX are more stringent than those set forth in this division, the more stringent standard shall apply.
- * Signs associated with projects otherwise subject to site plan review shall also be subject to the provisions of article V of this chapter.
- * Signs located in the Pedestrian Activities District (PAD) overlay zone and in PAD Encouragement Areas within the B-3 zone shall also be subject to the standards set forth in the Downtown Urban Design Guidelines.

Contents of Table 2:

2.1 Sign Regulations for R-1–R-7, IR-1–IR-3, IS-FBC UN Residential Zones

2.2 Sign Regulations for Institutional Uses in Residential Zones

2.3 Sign Regulations for RP Residence-Professional Zone

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

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

2.6 Sign Regulations for B-2 Regional Business Zone, IS-FBC UT or UA zone – Single Tenant Lots

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

2.8 Sign Regulations for B-3 Downtown Business, B-5 Urban Commercial, B-6 and B-7 Mixed Use Urban, WC Waterfront

Central, and EWP, Eastern Waterfront Port Zones

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

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

2.11 Sign Regulations for OP Office Park Zones

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

2.13 Sign Regulations for B-1, B-2, AB, IB, and B-4 Business Zones, and IS-FBC zone UT or UA – Multi-Tenant Lots

2.14 Sign Regulations for Gas Stations – All Zones Where Permitted

TABLE 2.1 R1 – R6, IR1 – IR3, IS-FBC UN: RESIDENTIAL AND ISLAND RESIDENTIAL ZONES

Freestanding Signs

	<i>Single-Family Lots</i>	<i>PRUDs, Single-Family Subdivisions & Multifamily Developments – Development Identification Signs</i>
Area	2 sq. ft.	15 sq. ft.
Height	5 feet	5 feet

Setback	5 feet	5 feet
Number freestanding signs per lot	1(a)	1 per major entrance

- (a) A maximum of one (1) sign is allowed per lot. Such sign may be either a freestanding or a building sign.

Building Signs

	<i>Single-Family Lots</i>	<i>PRUDs, Single-Family Subdivisions & Multifamily Developments – Development Identification Signs</i>
Maximum permitted sign area	2 sq. ft.	10 sq. ft.
Number building signs permitted per lot	1(a)	1(b)

- (a) A maximum of one (1) sign is allowed per lot. Such sign may be either a freestanding or a building sign.

- (b) One (1) allowed per street frontage, provided there are no freestanding signs on the lot or development.

TABLE 2.2 INSTITUTIONAL USES IN RESIDENTIAL ZONES

(Regulations apply to institutions permitted as conditional uses in residential zoning districts. Such uses may include, but are not necessarily limited to, churches, schools, private clubs, fraternal organizations and hospitals.)

Freestanding Signs

	<i>Street Frontage < 100'</i>	<i>Street Frontage 100' to 250'</i>	<i>Street Frontage > 250'</i>
Area	15 sq. ft.	25 sq. ft.	50 sq. ft.
Height	6 feet	8 feet	8 feet
Setback	5 feet	5 feet	5 feet
Number freestanding signs per lot	1/st. frontage(a)(b)	1/st. frontage(a)(b)	1/st. frontage(a)(b)

- (a) Lots fronting on two (2) or more streets are allowed one (1) freestanding sign for each frontage. However, the area of each sign shall correspond to the length of the applicable frontage. Freestanding signs shall be positioned such that they are not readily concurrently visible.
- (b) Where one (1) lot contains more than one (1) affiliated use, each use shall be allowed one (1) sign per street frontage.

Note: Pertinent directional information shall, to the extent possible, be included on the principal freestanding sign. Additional directional signs shall be allowed only in the event that necessary information cannot fit reasonably within the permitted sign area. The size of additional signs shall be the minimum necessary to achieve the informational objective.

Building Signs (a)

Maximum permitted sign area	na
Percent of wall area on which sign is to be placed	5%
Number building signs permitted per lot	1/building face(b)

- (a) Building signs shall be reviewed for compliance with sign standard(s) included in site plan ordinance and shall under no circumstances be internally illuminated.
- (b) One (1) sign is allowed per building face, provided such signs are not readily concurrently visible.

TABLE 2.3 RESIDENCE-PROFESSIONAL (R-P) ZONE

Freestanding Signs

Area	30 sq. ft.
Height	8 feet
Setback	5 feet
Number permitted per lot	1(a)

- (a) Lots fronting on two (2) or more streets are allowed one (1) freestanding sign of equivalent size for each street frontage with vehicular entry, provided such signs are not readily concurrently visible.

Building Signs

None allowed, other than incidental and/or directory signs.

TABLE 2.4 ROS & RPZ OPEN SPACE ZONES AND SIGNS IN ALL MUNICIPAL PARKS

These regulations shall not apply to municipal stadiums with a seating capacity of greater than six thousand (6,000) seats.

See also section 14-370.7 (special sign types) for regulation of signs associated with seasonal sales/markets, special events, fairs/festivals, etc. Signs in designated historic landscape districts shall also be subject to the provisions of article IX of this chapter.

Freestanding Signs(a)

	<i>General Park Identification Sign</i>	<i>Concession/Facility Signs(b)</i>
Area	20 sq. ft.	16 sq. ft.
Height	5 feet	8 feet
Setback	5 feet	5 feet
Number freestanding signs per lot	1 per major vehicular entry	1 per concession or facilityI

- (a) All signs shall be integrated with existing landscape features or shall be visually related to existing architecture in terms of materials, color, scale, etc., as determined by the planning authority.
- (b) Product trademarks shall be limited to not more than five (5) percent of the total sign area.
- (c) Concession stands or other facilities located within an RPZ or ROS zone shall be allowed one (1) freestanding sign or building sign, not both.

Building Signs(a)

	<i>Concession/Facility Signs</i>
Maximum permitted sign area	20 sq. ft.
Square feet per linear foot of building facade on which sign will be placed	1 sq. ft.
Number building signs permitted per lot	1 per concession or facility(b)

- (a) Building signs shall be visually related to the building on which they are located in terms of materials, color, scale, etc., as determined by the planning authority. Product trademarks shall be limited to not more than five (5) percent of the total sign area.
- (b) Concession stands or other facilities located within an RPZ or ROS zone shall be allowed one (1) freestanding sign or building sign, not both.

Scoreboards

Scoreboard size shall correspond to the size and type of facility in which it is to be located, as determined by the recreation director. Commercial sign content shall not exceed fifteen (15) percent of surface area of scoreboard.

Ballfield Booster or Sponsor Signs

Such signs shall be exempt from regulation, provided they remain in place only for the applicable season and do not exceed thirty-two (32) square feet in area each.

TABLE 2.5 NEIGHBORHOOD BUSINESS (B-1) ZONE—SINGLE TENANT LOTS

Freestanding Signs

Area	32 sq. ft.
Height	16 feet
Setback	5 feet
Number freestanding signs permitted per lot	1

Building Signs

	As of Right
Maximum cumulative area of all building signs	100 sq. ft.
Square feet per linear foot of building facade on which sign will be placed	1 1/2 feet
Number building signs permitted per lot	1 per building facade facing on abutting st. + 1 additional

TABLE 2.6 REGIONAL BUSINESS (B-2) ZONE, IS-FBC UT or UA ZONE –
SINGLE TENANT LOTS

Freestanding Signs

	<i>Facing Street Frontage < 200'</i>	<i>Facing Street Frontage > 200'</i>
Area	65 sq. ft.	100 sq. ft.
Height	18 feet	18 feet
Setback	5 feet	5 feet
Number permitted per lot	1(a)	1(a)

- (a) If lot fronts on more than one (1) street, one (1) freestanding sign is permitted for each additional frontage, but at one-half the maximum allowable area for the original, except in those instances where the freestanding signs are not concurrently visible. In such an instance, additional freestanding signs shall be permitted the full area allowance.

Building Signs

	<i>Building Face < 150 Linear Feet</i>	<i>Building Face > 150 Linear Feet</i>
Maximum cumulative area of all building signs (b)	150 square feet (a)	225 (a)
Square feet per linear foot of building facade on which sign will be placed	2 feet	Same
Number of building signs permitted per lot	1 per building facade facing an abutting street + 1 additional	Same

- (a) If any one (1) building face on which a sign is to be placed exceeds one hundred fifty (150) linear feet, then the maximum allowable sign area for the building as a whole is increased to two hundred twenty-five (225) square feet. However, the limit of two (2) square feet per linear foot of building frontage still applies for purposes of calculating maximum sign area for each building face.
- (b) Where a building features two (2) principal entry facades facing parallel streets, each such entry facade shall be eligible for the full amount of signage relative to its frontage, notwithstanding the maximum cumulative sign area.

TABLE 2.7 AIRPORT BUSINESS (AB) ZONE

Freestanding Signs

	<i>Facing Street Frontage < 200'</i>	<i>Facing Street Frontage > 200'</i>
Area	32	65

Height	16	16
Setback	5	5
Number permitted per lot	1(a)	1(a)

- (a) If lot fronts on more than one (1) street, one (1) freestanding sign is permitted for each additional frontage, provided such signs are not readily concurrently visible.

Building Signs

Maximum cumulative area of all building signs	na
Square feet per linear foot of building facade on which sign will be placed – or -	2 sq. ft.; or
Maximum percent of wall area on which sign(s) is(are) to be placed	6%
Number building signs permitted per lot	1 per building facade facing an abutting street + 1 additional

TABLE 2.8 SIGN REGULATIONS BY ZONE

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

- * Signs located on individual landmark properties or within historic districts, PAD overlay districts or PAD encouragement areas shall, in addition to the provisions herein, be subject to article IX of this Code or the Downtown Urban Design Guidelines, as applicable. Where the design guidelines are more restrictive than these regulations, the design guidelines

shall supersede the otherwise applicable dimensional standards.

- (o) Freestanding signs shall be allowed only if the front facade of the building (or individual tenant's/tenants' frontage in the case of a multi-tenant building) is set back a distance of at least twenty (20) feet from either of the front facades of the abutting buildings (or other tenants' frontage in the same multi-tenant building).

Freestanding Signs

	<i>Single & Multi-Tenant Buildings</i>
Area	16 sq. ft.
Height	6 ft.
Minimum setback	5 ft.
Number of freestanding signs per lot	1 per abutting street

Building Signs

		<i>Multi-Tenant Buildings</i>	
	<i>Single Tenant Buildings</i>	<i>Building ID Sign and/or Upper Floor Tenant Signs</i>	<i>Ind. Ground Floor Tenant Signs</i>
Maximum cumulative permitted area of all building signs	Na	Na	na

Square feet per linear feet of building facade on which sign will be placed	2 sq. ft.	na	2 sq. ft. per ft. of tenant's building frontage
Maximum percent of wall area on which sign(s) is(are) to be placed	Na	5%	na
Number of building signs permitted per lot	1 per facade + 1	1 per facade + 1 per tenant	1 per tenant (a)

- (a) If individual tenant fronts on more than one (1) street, one (1) additional building sign is permitted for each additional frontage.

TABLE 2.9 ISLAND BUSINESS (IB) ZONE

Freestanding: None allowed, except for marine-related uses serving vessel traffic. Such signs shall not exceed twenty (20) square feet in area and ten (10) feet in height. One (1) such sign is allowed per use.

Building

Maximum permitted sign area	40 sq. ft.
Square feet per linear feet of building facade on which sign will be placed	1 sq. ft.
Number of building signs permitted per lot	1 per building facade facing an abutting street + 1 additional

TABLE 2.10 COMMERCIAL CORRIDOR (B-4) ZONE – SINGLE TENANT LOTS

Freestanding Signs

	<i>Facing Street Frontage < 200'</i>	<i>Facing Street Frontage > 200'</i>
Area	65 sq. ft.	100 sq. ft.
Height	25 ft.	35 ft.
Setback	5 ft.	Same
Number permitted per lot	1 (a)	Same

- (a) If lot fronts on more than one (1) street, one (1) freestanding sign is permitted for each additional frontage, provided such signs are not readily concurrently visible.

Building Signs

	<i>Building Face < 150 Linear Feet</i>
Maximum cumulative area of all building signs	na
Square feet per linear feet of building facade on which sign will be placed –or–	2 sq. ft. –or–
Maximum percent of wall area on which sign(s) is(are) to be placed	6%

Number of building signs permitted per lot	1 per bldg. facade facing an abutting street and 1 additional
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TABLE 2.11 OFFICE PARK (O-P) ZONE

Freestanding Signs

	<i>Joint Identification Sign (a)</i>	<i>Individual Tenant Signs (a)</i>
Maximum permitted area	50 sq. ft.	15 sq. ft.
Height	8 ft.	5 ft.
Setback	5 ft.	5 ft.
Number of freestanding signs per lot	1 per major vehicular entry	1 per tenant

- (a) In the case of multi-tenant office parks, individual tenants may be identified on joint identification sign at park entranceway, on directory signs within the office park development, and/or on individual signs located immediately in front of individual business establishment, but shall not be allowed additional freestanding signs at the principal entryway(s) into the development.

Building Signs

	<i>Single Tenant Buildings</i>	<i>Multi-Tenant Buildings</i>
Maximum permitted sign area	na	na

Maximum percent of wall area on which sign(s) is(are) to be placed	6%	8%
Number of building signs permitted per lot	1	1 per tenant

TABLE 2.12 INDUSTRIAL I-L, I-Lb, I-M, I-Ma, I-Mb, I-H, I-Hb AND WATERFRONT PORT DEVELOPMENT ZONES

Freestanding Signs

	<i>Single Tenant Buildings</i>	<i>Multi-Tenant Buildings</i>
Maximum permitted area	35 sq. ft.	70 sq. ft.
Height	10 ft.	15 ft.
Setback	5 ft.	5 ft.
Number of freestanding signs per lot	1 (a)	1 (a)

- (a) If lot fronts on more than one (1) street, one (1) freestanding sign of equivalent permitted sign area is allowed for each additional frontage, provided such signs are not readily concurrently visible.

Building Signs

	<i>Single Tenant Buildings</i>	<i>Multi-Tenant Buildings</i>
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Maximum permitted sign area	Na	na	
Maximum percent of wall area on which sign(s) is(are) to be placed	6%	Principal facade(s) 8%	All other facade(s) 2%
Number of building signs permitted per lot	2/building face	1/tenant plus 1 additional per building face (a)	

(Editor's note: "TABLE 2.12 (CONTINUED) SPECIAL PROVISION FOR ZONES WITHIN 800 FEET OF I-295" repealed by Ord. No. 15-00, 6-7-00, retroactive to 6/01/00)

TABLE 2.13 MULTI-TENANT LOTS – B-1, B-2, AB, B-4, IB, AND IS-FBC
UT or UA ZONES

Freestanding Signs (a)

	<i>B-1, B-2, AB, B-4, IB, IS-FBC UT/UA Zones</i>		
	<i>Land Area</i>		
	< 1 acre	1–2.5 acres	> 2.5 acres
Area	Same as single	100	140
Height	Tenant	Same as for single tenant lots in applicable zones	
Number permitted per lot (b)	lots	1	1

- (a) Freestanding signs shall be for purposes of joint identification. Individual tenants shall not be permitted their own freestanding sign. Such sign may identify name

of center and may also include names of individual tenants.

- (b) Lots fronting on two (2) or more streets are allowed an additional freestanding sign of one-half the area of the first for each frontage which includes a vehicular entry point, provided signs are not readily concurrently visible. Such signage cannot be accumulated and used on one (1) street in excess of that allowed for lots with only one (1) street frontage.

Building Signs

- a. *Joint identification sign (a):*

	<i>B-1, IB</i>	<i>B-2, AB, B-4, I, IS-FBC UT/UA</i>
Maximum area	na	250 sq. ft. I
Number permitted per lot (b)	not allowed	1 (b)

(a) Sign identifying name of building or shopping center only. Unused sign area cannot be applied to area allowances for other freestanding or individual tenant signs. Where name of shopping center is the same as or incorporates name of one (1) or more of the businesses located within the center, such business(es) shall elect between a joint identification sign and an individual business sign and shall not be allowed both.

- (b) See (a) above.

(c) Allowed only on shopping centers featuring four (4) or more tenants and occupying a land area in excess of two and one-half (2.5) acres.

TABLE 2.13, CONTINUED

- b. *Individual business signs:*

Alternative 1

	<i>B-1, B-2, AB, B-4, IB, IS-FBC UT/UA Zones</i>	
	<i>Tenant's Frontage < 150 linear ft.</i>	<i>Tenant's Frontage 150 linear ft.</i>
Maximum area	150 sq. ft.	Na
Square feet per linear feet of building front	1.5 sq. ft.	na
Maximum percent of wall area on which sign(s) is(are) to be placed	na	5%
Number permitted per business (a)	1	1

(a) If individual tenant fronts on more than one (1) street, one (1) additional building sign is permitted for each additional frontage, but at one-half the maximum allowable area of the first.

Alternative 2

Note: Alternative 2 is available as an option to proprietors of multi-tenant lots needing greater flexibility in allocating signs to tenants. This option requires the submission of a signage plan as described in section 14-368(d) as evidence that all building signs on the subject lot comply with the provisions of this division, including the size and number limits of this table. All nonconforming building signs must be brought into compliance to be eligible for the Alternative 2 option.

Maximum permitted sign area	na
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Maximum percent of wall area on which signs are to be placed	Principal facade(s) 5%	All other facade(s) 2%
Number of building signs permitted per lot	1 per tenant plus 1 additional per building face	

TABLE 2.14 GAS STATIONS – ALL ZONES WHERE PERMITTED

Freestanding Signs

	<i>B-1, IB</i>	<i>B-4</i>	<i>All Other Zones</i>
Area	32 sq. ft./10 sq. ft./20 sq. ft. (a)	60 sq. ft./20 sq. ft./30 sq. ft. (a)	40 sq. ft./15 sq. ft./24 sq. ft. (a)
Height	16 feet	35 feet	18 feet
Setback	5 feet	5 feet	5 feet
Number permitted per lot	1/major principal and auxiliary use + 1 price sign (a)(b)	Same	Same

- (a) Area limits are broken down according to sign types, as follows: Sign area for principal use/sign areas for additional major auxiliary use(s) on site (for example, car wash, repair garage, convenience store)/sign area for gas prices. In the B-1 and IB zones, for example, the maximum permitted sign area for the principal use is twenty-five (25) square feet. The maximum permitted sign area for each auxiliary use is ten (10) square feet and the maximum permitted area for the gas price sign is

twenty (20) square feet.

(b) All signs shall be mounted on the same base.

Building/Canopy Signs

	<i>All Zones</i>
Maximum permitted area	30 sq. ft. for principal building sign/10 sq. ft. for each additional major activity/20 sq. ft. for canopy sign
Square feet per linear foot of building facade on which sign will be placed	Na
Maximum vertical dimension	2 feet
Number permitted per lot	1 building sign for each major activity/2 canopy signs (a)

(a) Maximum two (2) signs allowed on large canopy; one (1) each on opposite facing planes.

Miscellaneous Signs

Signs placed on individual pumps shall be considered incidental signs and shall not be calculated in total allowable sign area. Incidental signs shall not be limited in number. However, no individual sign shall exceed one (1) square foot. (Ord. No. 252-94, § 2, 4-4-94; Ord. No. 164-97, § 10, 1-6-97; Ord. No. 37-06/07, 9-6-06; Ord. No. 192-15/16, 4-4-2016)

Sec. 14-369.6. Signs prohibited under this division.

All signs not expressly permitted under this division or exempt from regulation hereunder in accordance with section 14-371 are prohibited. (Ord. No. 252-94, § 2, 4-4-94)

Sec. 14-370. Portable/temporary signs.

(a) *On private property.* Portable and temporary signs shall meet, in addition to the other requirements of this division, the following requirements:

1. *Number of signs.* There shall be no more than one (1) portable or one (1) temporary sign on any lot.
2. *Term.* A portable or temporary sign permit shall allow the use of a portable or temporary sign for a specified thirty-day period.
3. *Number of permits.* No more than two (2) portable or temporary sign permits shall be issued to each business on the same lot in any calendar year. In no event shall any lot have a portable or temporary sign for more than sixty (60) days in one (1) calendar year.
4. *Other conditions.* A portable or a temporary sign shall be allowed only in those districts indicated on Table 1 of section 14-369.5.
5. *Permit sticker.* Each portable sign and each temporary sign shall display a permit sticker issued by the building authority. The sticker shall contain the expiration date of the permit.

(b) *Additional requirements for freestanding portable or temporary signs.* In addition to the requirements of subsection (a) of this section, freestanding portable or temporary signs on private property shall meet the following requirements:

1. No portable or temporary sign shall interfere with the sight distance of traffic passing the site. The determination of sight distance shall be made by the traffic engineer.
2. Portable and temporary signs shall be set back a minimum of five (5) feet from the side line of the city right-of-way and a minimum of five (5) feet from any property line.
3. No portable or temporary sign shall exceed four (4) feet by eight (8) feet in size.

(c) *Portable signs in the city right-of-way.* Portable signs

to be located in the city right-of-way shall receive a license from the building authority and shall be subject to the regulations promulgated by the building authority.

(d) *Calculations.* Portable and temporary signs shall not be included in calculations for other types of signage permitted by this division.

(Ord. No. 252-94, § 2, 4-4-94)

Sec. 14-370.7. Special sign types.

(a) *Window signs.* Window signs shall be permitted without a permit and shall not be included when calculating cumulative sign area. In no event, however, shall window signs cover more than fifty (50) percent of the area of any window.

(b) *Real estate/construction/for sale or lease signs.* Such signs shall be permitted without a permit, provided that in residential zones there shall be no more than one (1) such sign for each residential unit offered for sale or lease and such sign shall not exceed fifteen (15) square feet in area. In commercial and industrial zones, there shall be no more than one (1) such sign per unit offered for sale or lease for each street frontage of the property and the area of such signs shall not exceed sixty-four (64) square feet in the aggregate for each frontage.

(c) *Works of art containing signage.* Decorative murals, outdoor paintings, sculpture or other bona fide works of art that contain any commercial message, trademark or symbol are permitted in all zones except residential zones, provided that such commercial message, trademark or symbol does not comprise more than ten (10) percent of the total area of the artwork. Works of art containing a commercial message, trademark or symbol shall be permitted in residential zones only where such signage is ornamental in nature and does not serve any type of advertising function for the site upon which it is located or for any other site owned or controlled by the residential property owner or tenant.

(d) *Building marker.* Building markers shall be permitted without a permit.

(e) *Seasonal sales/special activities signs.* Signs associated with special events or activities that are licensed or authorized by the city council or its designee, such as seasonal sales or markets, special events, fairs and festivals, shall be permitted subject to applicable conditions or limitations that are imposed as

part of the licensing or authorization process.

(f) *Directory signs.* Except where prohibited by section 14-369.5, directory signs, freestanding or attached to buildings, shall be allowed without a permit and shall not be included when calculating cumulative sign area, provided that the sign area for each tenant does not exceed one and one-half (1.5) square feet.
(Ord. No. 252-94, § 2, 4-4-94)

Sec. 14-371. Exemptions.

The following signs shall be exempt from regulation under this division and shall not be included when calculating cumulative sign area:

- (a) Any public notice or warning required by a valid and applicable federal, state or local law, regulation or ordinance;
- (b) Any sign inside a building that is not attached to a window or door;
- (c) Works of art that do not include a commercial message;
- (d) Holiday lights and decorations with no commercial message;
- (e) Traffic control signs on private property, such as stop, yield and similar signs, the face of which meets department of transportation standards and which contains no commercial message of any sort;
- (f) Public signs erected by or on behalf of a governmental body to post legal notices, convey public information, and direct or regulate pedestrian or vehicular traffic, including parking regulatory signs; bus stop signs erected by a public transit company; informational signs of a public utility regarding its poles, lines, pipes or facilities;
- (g) Political signs, subject to the provisions of 23 M.R.S.A. § 1913;
- (h) Signs inside office park developments with a single tenant, where such signs are not visible from any public street or public open space;

- (i) Landmark signs; and
- (j) Security signs, except that no commercial message of any kind shall be allowed on a sign if such message is legible from any location off the lot on which the sign is located.
- (k) Bus shelter signs, as defined in section 14-367, subject to the provisions of Section 1 of the Technical Manual concerning the placement and permitted dimensions of bus shelter signs.

(Ord. No. 252-94, § 2, 4-4-94; Ord. No. 91-11/12, 5-21-12)

Sec. 14-372. Nonconforming signs.

(a) All signs lawfully existing on April 4, 1994, that do not conform to the terms of this division may be continued, subject to subsection (b) of this section.

(b) Notwithstanding subsection (a) of this section, lawfully nonconforming signs shall be made to conform or shall be removed if any of the following occurs, unless such improvements are required to achieve compliance with applicable federal, state or local regulations, other than the provisions of this division, and such improvements do not require replacement of the nonconforming sign:

1. Level III site plan review is sought for any new structures or building additions on the site, except as provided in subsection (5).
2. A building permit is sought for a rehabilitation of a building where the value of the rehabilitation exceeds fifty (50) percent of the assessed value of the building, or one hundred thousand dollars (\$100,00.00), whichever is less, provided that where rehabilitation is of a multi-tenant building, only the tenant or tenants whose building or area is being rehabilitated shall be required to come into conformance with this division.
3. An application is filed for a new sign permit, except as provided in subsection (5), in accordance with the following:
 - a. When an application is filed for a new building sign, all building signs on the lot shall be required to come into compliance with all requirements of this division for building signs.

- b. When an application is filed for a new freestanding sign, all freestanding signs on the lot shall be required to come into compliance with all requirements of this division for freestanding signs.
4. A sign is modified in any way, except for routine maintenance or repair of sudden and accidental damage, or for a change in the message panel only, unless otherwise required to conform under this section. Repair of sudden and accidental damage shall not include replacement of the entire sign, which shall be treated as a modification under this subsection. Letters on nonconforming signs designed for changeable messages may be changed without triggering the terms of this subsection as long as no other change is made to the sign. Replacement of an awning covering with substantially the same material and text shall also not be considered a modification.
5. In the case of nonconforming freestanding joint identification signs for multi-tenant properties, signs may be added or modified to reflect a change in individual tenants without triggering the terms of this subsection, provided that the degree of nonconformity is not increased. In the case of building signs on multi-tenant properties, this subsection shall apply only to the individual business tenant that is adding or modifying a sign or seeking level III site plan review and shall not trigger the conformance requirement for other tenants' building signs, unless the building owner(s) elects to proceed under alternative 2 of Table 2.13- of section 14-369.5. In that case, all building signs on the subject lot shall be made to conform to the provisions of this division or shall be removed.
6. In no event shall the degree of nonconformity of any sign or type of signage on any lot be increased.
(Ord. No. 252-94, § 2, 4-4-94; Ord. No. 278-09/10, 7-19-10)

Sec. 14-372.5. Violations and enforcement.

Failure to perform any act required by this division or by any permit issued hereunder or performance of any act prohibited by this division shall constitute a violation and shall be subject to penalties as set forth in 30-A M.R.S.A. § 4452. Each day on which a violation exists shall constitute a separate violation for purposes

of this section. The building authority shall be responsible for enforcement of this division.

(Ord. No. 252-94, § 2, 4-4-94)

DIVISION 22.5. ADULT BUSINESS ESTABLISHMENTS*

*Cross reference(s)—Amusements, Ch. 4.

Sec. 14-373. Findings and purpose.

The council hereby finds that, because of their unique and potentially offensive nature, adult business establishments can have a blighting influence on the surrounding neighborhood if permitted at all in certain zones, or if allowed to concentrate in certain other zones, within the city. Moreover, such establishments are incompatible with uses characterized by family and youth-related activities. The purpose of this division is, therefore, to prevent such deleterious effects and, thus, protect the public health, safety, and general welfare by regulating the location and certain other aspects of adult business establishments.

(Ord. No. 187-81, § 602.16A(1), 9-21-81; Ord. No. 356-82, 1-18-82)

Sec. 14-374. Definitions.

Except as provided herein or in section 14-47, all words used in this division shall have their common meanings unless the context clearly implies otherwise.

Adult business establishment means and includes any retail business, including but not limited to any bookstore, newsstand, novelty store, nightclub, bar, cabaret, amusement arcade, or theater, which:

- (a) Keeps for public patronage or permits or allows the operation of any adult amusement device as defined in section 4-16; or
- (b) Customarily exhibits motion pictures or displays any other visual representation described or advertised as being "X-rated" or "for adults only," or which customarily excludes persons from any portion of the premises by reason of immaturity of age by the use of such, or similar, phrases; or
- (c) Is adjudged to be in violation of 17 M.R.S.A. §§ 2911, 2912.

Customarily means more often than an average of one (1) calendar week during any calendar month of operation.

Sexually explicit means the display or depiction of sex organs during actual or simulated sexual intercourse or sexual acts as defined in 17-A M.R.S.A. § 251.
(Ord. No. 187-81, § 602.16A(2), 9-21-81; Ord. No. 356-82, 1-18-82)

Cross reference(s)—Definitions and rules of construction generally, § 1-2.

Sec. 14-375. Adult business establishments permitted; special requirements.

(a) Notwithstanding any other provision of this article, adult business establishments shall be permitted only in the B-2 and B-3 zones, provided that such establishments, but for this division, would otherwise be permitted therein, and subject to the following special requirements:

1. Such establishment shall be at least one thousand (1,000) feet from any other adult business establishment, and at least five hundred (500) feet from any residential zone, as measured in a straight line, without regard to intervening structures or objects;
2. No sexually explicit materials, entertainment, or activity shall be visible from the exterior of the premises.

(b) Except as expressly provided herein, nothing in this division shall be construed to waive or otherwise affect any other provision of this article.

(Ord. No. 187-81, § 602.16A(3), 9-21-81; Ord. No. 356-82, 1-18-82; Ord. No. 54-85, 6-17-85; Ord. No. 164-97, § 11, 1-6-97)

Sec. 14-376. – Sec. 14-380. Reserved.

DIVISION 23. NONCONFORMING USE AND NONCONFORMING BUILDINGS

Sec. 14-381. Continuation.

Any building, structure, lots, or use, that were legally existing at the time of its creation and made nonconforming by the provisions of this ordinance or any amendment thereto may be continued although such use does not conform with the provisions of this ordinance.

(Code 1968, § 602.17.A; Order No. 222-17/18, 6-4-2018)

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 lawful nonconforming residential structure, but no alterations, modifications or additions shall be made to it, except as provided in this division, and as permitted in 14-436, Building extensions.

(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, except as provided in this Division, and as permitted under 14-436, Building extensions. 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 bodies, which shall be regulated in accordance with subsection (f) of this section.

(e) Except as expressly provided herein, any alteration, modification or addition permitted under this section shall be in compliance with all other applicable sections of this chapter. Nothing within this section shall be construed to permit an increase in the number of nonconforming units in a building which is nonconforming as to the number of dwelling units or will become nonconforming as a result of such alteration, modification or

addition.

(f) *Expansions.* A non-conforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with the sections below.

1. After January 1, 1989, if any portion of a structure is less than the required setback from the normal high water line of a water body or tributary stream or the upland edge of a wetland that portion of the structure shall not be expanded, as measured in floor area or volume, by thirty (30%) percent or more, during the lifetime of the structure. If a replacement structure conforms with the requirements of section 14-382, and is less than the required setback from a water body, tributary stream or wetland, the replacement structure may not be expanded if the original structure existing on January 1, 1989 had been expanded by thirty (30%) percent in floor area and volume since that date.
2. Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by building authority, basing its decision the criteria specified in subsection (3) below. If the completed foundation does not extend beyond the exterior dimensions of the structure, except for expansion in conformity with section (f) above, and the foundation does not cause the structure to be elevated by more than three (3) additional feet as measured from the uphill side of the structure (from original ground level to the bottom of the first floor sill), it shall not be considered to be an expansion of the structure.
3. A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located, provided that the site of the relocation conforms to all setback requirements to the greatest practical extent as determined by the building authority, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of state law, the State of Maine Subsurface Wastewater Disposal Rules (Rules), or that a new system

can be installed in compliance with state law, such rules, and all applicable sections of this Code. In no event shall a structure be relocated in a manner that causes the structure to be more nonconforming. In determining whether the building relocation meets the setback requirements to the greatest practical extent, the building authority shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of septic system and other on-site soils suitable for septic systems, the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback are in order to relocate a structure, the building authority shall require replanting of native vegetation to compensate for the destroyed vegetation. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

- a. Trees removed in order to relocate a structure must be replanted with at least one native tree, three (3) feet in height, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than fifty (50%) percent of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

- b. Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.
4. Buildings in existence on January 1, 1989, and located in shoreland zones may be expanded once during the lifetime of the structure up to twenty-five (25) feet toward a

freshwater wetland or tributary stream, provided that a minimum setback of forty (40) feet is maintained and that the existing floor area or volume is not increased by more than thirty (30%) percent, and shall not create any undue environmental impact or flood prone condition.

(Code 1968, § 602.17.B; Ord. No. 271-89, 2-22-89; Ord. No. 96-89, § 2, 9-18-89; Ord. No. 15-92, § 26, 6-15-92; Ord. No. 284-99, §1, 5-17-99, enacted as an emergency; Ord. No. 296-08/09, 6-15-09; Ord. No. 139-12/13, 2-4-13; Order No. 222-17/18, 6-4-2018)

Sec. 14-383. Extension of nonconforming use of land prohibited.

A lawful nonconforming use existing on premises outside of a building shall not be extended to or allowed to occupy any part or parts of such premises outside of the building.

(Code 1968, § 602.17.C; Ord. No. 354-85, § 3, 1-7-85)

Sec. 14-384. Change of nonconforming use.

A lawful nonconforming use in a structure designed for a use permitted in the zone in which it is located shall not be changed to any use other than a use permitted in the zone in which the structure is located. When a nonconforming use in such a structure has been changed to a permitted use, it shall not thereafter be changed back to any non-permitted use. For purposes of this section, a use shall be deemed to have been so changed when an existing nonconforming use shall have been terminated and a permitted use shall have commenced and continued for a period of seven (7) days. Any change of use in violation of this division shall be deemed to be an abandonment of the lawfully existing nonconforming use. A lawful nonconforming use in a structure not designed for a use permitted in the zone in which it is located shall not be changed to any use other than a use permitted in the zone in which the use is located or to any use other than a nonconforming use of a more restricted zone, as set forth in the following schedule, provided that in no such case shall any structural alterations be made in any building except those required by law, ordinance or other regulations:

- (a) In a business zone, from any use permitted in an industrial zone to any use permitted in a business zone.
- (b) In a B-1 zone, from any use permitted in a B-3 zone to any use permitted in a B-2 zone.
- (c) In a residence zone, from any use permitted in a B-2 zone to any use permitted in a B-1 zone.

- (d) In a residence zone, from any use permitted in any other residence zone to any use permitted in a more restricted residence zone. For the purpose of this subsection, an R-6 zone shall be deemed the least restricted and an R-2 zone shall be deemed the most restricted, with the intervening zones restricted in order of zone number.

(Code 1968, § 602.17.D; Ord. No. 499-74, § 8, 8-19-74)

Sec. 14-385. Restoration or reconstruction within an existing footprint of damaged nonconforming structure.

A nonconforming structure damaged by fire, explosion, flood, riot, act of the public enemy, accident of any kind, decay or otherwise may be restored or rebuilt only where:

- (a) The restoration or reconstruction is of a building which is nonconforming only as to land area, setbacks or any other dimensional requirements; and
- (b) Where the restoration or reconstruction will occur entirely within the existing footprint and previous shell of the building and will not create a new nonconformity; and
- (c) Restoration or reconstruction occurs within one (1) year for a nonconforming non-residential structure, or two (2) years for a nonconforming residential structure, of the initial damage where such damage is sudden and accidental. Note that for buildings in SHoreland zones, stte regulations may also govern and provide for a shorter period for restoration or reconstruction of non-conforming structures; and
- (d) Restoration or reconstruction necessitated by decay must be completed within one (1) year of the demolition of the building or the commencement of the restoration or reconstruction, whichever occurs first; and
- (e) Any reconstruction, under this provision, in the residential R-6 zone on a lot with 10,000 square feet or less, other than the exact restoration of a previously existing building on the site, shall comply with the applicable standards contained within the Planning and Development Design Manual; and
- (f) A nonconforming building located in the R-6 which is

destroyed by fire, explosion, flood, riot, act of the enemy, or accident may be rebuilt under the small residential lot development provisions of the R-6 zone as if the lot were vacant as of January 1, 2005 and such reconstruction shall meet the setback requirements contained therein to the extent practicable; otherwise the building shall be reconstructed within the footprint of the previously existing building such that any nonconformity will not be enlarged.

For the purpose of this section, the footprint of a building is the perimeter of the foundation supporting a structure.

(Code 1968, § 602.17.E; Ord. No. 89-88, 7-19-88; Ord. No. 284-99, §2, 5-17-99, enacted as an emergency; Ord. No.254-05/06, 6-5-06; Ord. No. 61-07/08, 10-1-07; Ord. No. 240-09/10, 6-21-10; Ord. No. 139-12/13, 2-4-13)

***Editor's note**—Ord. No. 89-88, adopted July 19, 1988, amended this section to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 89-88.

Sec. 14-386. Discontinuance of use of land for ninety days.

A nonconforming use of land where no buildings or only incidental or accessory buildings are employed together with such use shall not be changed to any other nonconforming use, and if such use is discontinued for a period of ninety (90) days, it shall not be reestablished.

(Code 1968, § 602.17.G)

Sec. 14-387. Discontinuance of use of property.

If a legally nonconforming non-residential use is discontinued for a period of twelve (12) months or if a legally nonconforming residential use is discontinued for a period of twenty-four (24) months, such discontinuance shall constitute an abandonment of the use and the property shall not thereafter be occupied or used except in conformity with the provisions of this article. In cases of foreclosure or similar situations involving a legally nonconforming residential structure, the Planning Authority shall be authorized to extend the aforementioned period up to an additional five (5) years provided that the extension is for good cause and the minimum length considered necessary to resume the legally nonconforming use of the structure. A nonconforming use of land which is incidental or accessory to such nonconforming structure shall be considered as being discontinued at the same time as the nonconforming use of the structure. Note that for buildings in SHoreland zones, state regulations may also govern and

provide for a shorter period of time for nonconforming properties.
(Code 1968, § 602.17.F; Ord. No. 499-74, § 9, 8-19-74; Ord. No. 139-12/13, 2-4-13)

Sec. 14-388. Reserved.

***Editor's Note**—Per Council Order 125-09/10 passed on January 4, 2010
Section 14-388 (Nonconformity as to the area of dwelling) was repealed in its
entirety.

Sec. 14-389. Nonconformity as to off-street parking.

A building or structure which is nonconforming as to the requirements for off-street parking shall not be enlarged or altered to create additional dwelling units, or seats as in the case of places of public assembly, or floor area as in the case of industrial, business, manufacturing, institutional or recreational buildings, or accommodations as in the case of hotels, tourist homes and tourist courts, unless required off-street parking is provided for such addition or enlargement.

(Code 1968, § 602.17.I)

Sec. 14-390. Nonconformity as to off-street loading.

A building which is nonconforming as to the requirements for off-street loading shall not be enlarged or added to, unless off-street loading is provided sufficient to satisfy the requirements of this article for both the addition or enlargement and the original building or structure.

(Code 1968, § 602.17.J)

Sec. 14-391. Nonconformity as to number of dwelling units.

(a) Purpose. The purpose of this provision is to establish a process whereby certain dwellings which contain more dwelling units than the number permitted by the applicable provisions of the Land Use Code may be recognized as legal, nonconforming uses. This provision shall not apply to rooming units.

(b) Approval by Zoning Administrator.

1. Application. Application for validation of such nonconforming dwelling units shall be on a form provided by the Division of Housing and Neighborhood Services, Inspection Services Office. The application fee will be \$300.00 for each dwelling unit which is the subject of the application, and will be accompanied by: (i) a

plan, drawn to scale, which shows the location of the building(s) on the lot, parking, easements, dumpsters, fencing, public ways and any other significant feature and (ii) a floor plan for each unit in the dwelling, whether or not it is the subject of the application.

(c) Eligibility. In order for a nonconforming dwelling unit to be validated by administrative action of the Zoning Administrator as authorized herein, the Zoning Administrator must find, based on competent evidence, supported by public records, that:

1. The nonconforming dwelling units were either in existence April 1, 1995, or the structure in which they are located was originally designed to accommodate more than the number of such units presently in use.
2. The applicant neither constructed nor established the non-conforming dwelling units.
3. The nonconforming dwelling units comply with or can be made to comply with current standards of the National Fire Protection Association Life Safety Code (§16-1) and the National Fire Protection Association 1: Fire Prevention Code (§10-16), as amended.
4. Each of the nonconforming dwelling units complies with provisions of the City's Housing Code or can be made to conform with, as amended, including, but not limited to, the requirements of §6-110, Minimum Standards for Space and Occupancy and §6-111, Minimum Plumbing Standards, and §6-112 Minimum Ventilation Standards.
5. The structure containing the nonconforming dwelling units is located in the R-3, R-4, R-5, R-6 or R-7 Zones; or the B-1, B-1(b), B-2, B-2(b) or B-3 Zones.
6. In the absence of legally competent evidence, supported by records, (such as, but not limited to, Assessor's records, purchase and sale agreements, affidavits, deeds, mortgages, as well as reliable secondary sources, such as the Portland Director), that the conditions of subsections c(1), c(2), c(3), c(4), or c(5) can be met, the Zoning Administrator may not approve the application, but shall advise the

applicant that the matter may be appealed to the Board of Appeals.

- (d) Notice to Abutters. Upon receipt of a completed application, the Zoning Administrator will provide both the owners of abutting properties as well as the owners of property situated within 300 feet of the structure of the essential information contained in the application, along with a notice that they may object to the Zoning Administrator's acting on the application and require the applicant to appeal to the Board of Appeals. The notice shall be in conspicuous type and advise the abutters and owners of property within 300 feet that any objection must be submitted in writing to the Zoning Administrator within ten (10) days of the date of the notice sent to them.

The failure of any property owner to receive the notice described above shall not invalidate any action by the Zoning Administrator. The Zoning Administrator shall promptly notify the applicant of receipt of the objection, that the Zoning Administrator is without authority to proceed and advise the applicant that, within 30 days from receipt of the letter, an application may be filed to have the matter reviewed by the Board of Appeals as a conditional use.

- (e) Approval of Application.

1. The Zoning Administrator may approve the application, provided: (i) the evidence presented satisfies all of the requirements of this section; (ii) the Office of Inspection Services and Fire Prevention Bureau have certified that the nonconforming units conform with or can be made to conform with the applicable codes; and (iii) no abutter nor person entitled to notice has requested that the application be referred to the Board of Appeals, instead of the Zoning Administrator.
2. Upon approval of the application and receipt of an additional fee in the amount of \$75.00 for each nonconforming dwelling unit which has been recognized as a lawful, nonconforming use, the Zoning Administrator will issue a certificate of occupancy.

- (f) Disapproval of Application. In the event the application is not approved by the Zoning Administrator or in the event of a timely objection filed by a person qualified herein to

file such an objection, the applicant, within (30) days from the decision of the Zoning Administrator or objection, may appeal the matter to the Board of Appeals as a conditional use.

- (g) Action by Board of Appeals. The Board of Appeals shall treat applications filed under this section as an application for a conditional use (§14-474) applying the standards applicable to conditional uses as well as the requirements of this section.
- (h) Dimensional and Parking Requirements. In marking decisions under this section neither the Zoning Administrator nor the Board of Appeals shall apply the dimensional or parking requirements which would otherwise apply in the zones where the nonconforming dwelling units are situated.
- (i) Exclusions.
 - 1. The provisions of this section shall not apply to rooming units (§14-47), but shall apply to efficiency apartments (§6-110(b)).
 - 2. The Board of Appeals is without jurisdiction to grant any relief (including, but not limited to, variances) which would recognize the particular dwelling units which are the subject of this section as legal, nonconforming uses, except in strict compliance with each requirement of this section.
- (j) Prior Judicial and Administrative Action. Decisions of any court or administrative body, including but not limited to, the Zoning Administrator, the Planning Board or the Board of Appeals made prior to the effective date of this section and which addressed the number of nonconforming dwelling units in a particular structure, will not bar relief under this section.

(Ord. No. 153-03/04, 02/23/04)

***Editor's note**—Section 4 of Ord. No. 354-85, adopted Jan. 7, 1985, repealed the pre-2004 version of § 14-391, relative to the Board of Appeals permitting temporary nonconforming uses, which derived from Code 1968, § 602.17.K.

Sec. 14-392. – Sec. 14-400. Reserved.

DIVISION 24. USE REGULATIONS AND EXCEPTIONS

Sec. 14-401. Generally.

The requirements of this article shall be subject to the use regulations and exceptions of this division.
(Code 1968, § 602.18)

Sec. 14-402. Relationship of buildings to lots.

Every building hereafter erected shall be located on a lot as defined in section 14-47.
(Code 1968, § 602.18.A)

Sec. 14-403. Street access.

(a) *In general.* No building intended for use as a habitation shall be erected on a lot which has its only street frontage on a street less than thirty-five (35) feet wide. No building shall be erected on a lot, except on the islands in Casco Bay, which does not abut a street meeting the minimum requirements for street improvements set forth in this section. For purposes of this section, street shall be as defined in section 14-47, except that a dedicated street which may no longer be accepted due to lapse of time and an accepted street which may have been discontinued by abandonment shall also be deemed to be streets, provided that an applicant for a building permit respecting any lot abutting such street shall, without compensation or claim for damages, and at his own cost and expense, first submit to the building authority (a) a deed from the owner of such lot conveying to the city all his right, title and interest in and to such street or any portion thereof; and (b) an agreement by such owner forever releasing the city from any and all claims for damages for the laying out and taking of such street and indemnifying the city against any and all other such claims, both such instruments to be executed and in recordable form acceptable to the corporation counsel and to encumber and run with the land.

(b) *Minimum requirements for street improvements on unimproved and improved but unpaved streets.* For a lot abutting any portion of a street which is unimproved or improved but not permanently paved, that portion which abuts the lot, and any like portion between such portion and the nearest permanently paved street or portion which is the principal access to such lot, shall be improved, including sewers, storm drains, pavements, curbs and, if located on a designated school walking route, sidewalks, in accordance with the minimum technical standards promulgated by the

public works authority pursuant to section 14-498(a) of article IV of this chapter. Where the nearest permanently paved street does not have granite curbing, the public works authority may waive the requirement of curbing under this section, if it determines that an acceptable alternative drainage plan will be provided. Prior to the issuance of a building permit for erection of a building on a lot abutting any portion of a street which is unimproved or improved but not permanently paved, the following shall occur: (1) A plan of the street improvements required by this section shall be submitted to the public works authority; and (2) upon determination by the public works authority that the plan meets the street improvement requirements established by this subsection, a performance guarantee and inspection fee for said improvements shall be submitted to the city as set forth in section 14-501. Also as set forth in section 14-501, a one-year defect bond shall be tendered to the city prior to release of the performance guarantee required hereby. The provisions of this subsection (b) shall not apply to the erection of any single-family dwelling on any lot where the owner of the lot establishes that he or she was the owner of that same lot on November 19, 1984, and at all times thereafter, and states his or her intention under oath to make the structure his or her personal residence.

I *Exceptions.* The requirements of this section shall not apply to the following city streets upon their construction by the public works authority to such standards as are determined by the authority to be the most feasible:

1. Dingley Court;

2. Morgan Court.

(Code 1968, § 602.18.B; Ord. No. 193-84, § 1, 11-19-84; Ord. No. 178-87, 11-2-87; Ord. No. 372-89, 3-20-89; Ord. No. 273-90, 3-19-90)

Sec. 14-404. Accessory use.

The term "accessory use" shall include only the following:

- (a) A subordinate use of land or building which is customarily incidental to the main building or to the principal use of the land and which is located on the same lot with the principal building or use. No "garage sale," "lawn sale," "attic sale," "rummage sale," or other similar casual sale of tangible personal property which is advertised by any means whatsoever whereby the public at large is or can be made aware of such sale, shall be deemed to be "customarily incidental" if such

sale occurs after sales have been conducted on the same premises for six (6) or more days previously during the calendar year.

Except where the principal use consists of the sale of alcoholic beverages for consumption on premises or where the principal structure is an airline terminal, pinball machines or amusement devices shall not be considered to be accessory uses whenever there are more than a total of two (2) such machines or devices on the premises.

- (b) Off-street parking when serving conforming uses located in any zone.
- (c) Home occupations as defined in section 14-47 and section 14-410.
- (d) Signs as defined in division 22 of this article.
- (e) The letting of rooms within an existing dwelling unit in any residential zone, provided that:
 - 1. There shall be no more than two (2) persons occupying such room or rooms;
 - 2. There shall be not more than two (2) rooms per dwelling unit occupied for such use; and
 - 3. There shall be no increase in the bathroom and/or kitchen facilities in the dwelling, and no such facility shall have been constructed in the immediately preceding two (2) years.

(Code 1968, § 602.18.C; Ord. No. 574-81, 4-6-81; Ord. No. 66-87, § 1, 11-2-87; Ord. No. 240-09/10, 6-21-10)

Sec. 14-405. Business entrances.

In any business zone which abuts a residence zone in such a manner that the dividing line between the zones is one hundred (100) feet or less from the main business street of such business zone, no building of nonconforming use in such residence zone shall be built and no such existing building shall be altered so as to have its front or any entrance door or any part thereof used for a nonconforming use in such residence zone facing upon any other street than the main business street unless such entrance is at a distance greater than sixty (60) feet from the nearest residence zone.

(Code 1968, § 602.18.D)

Sec. 14-406. Garages.

No building in any zone shall be erected, altered or used as a garage for the storage of more than three (3) motor vehicles or for the business of repairing motor vehicles, if any part of either old or new building when completed would be closer than five (5) feet to any part of any church, public or private hospital or school; or if any part of either old or new building when completed would be less than fifteen (15) feet from the boundary line of any lot upon which any part of any church, public or private hospital or school is located. No existing garage used for the storage of more than three (3) motor vehicles or for the business of repairing motor vehicles shall be deemed to become a nonconforming use through the subsequent erection of such church, hospital or school closer than the aforesaid distance to such a garage.

(Code 1968, § 602.18.E)

Sec. 14-407. Temporary stands.

(a) No premises shall be used for business purposes consisting of temporary stands, booths, platforms or vehicles intended for the sale of merchandise or other mercantile purposes, if any part of such stand, booth, platform or vehicle is proposed to be located nearer than one hundred twenty-five (125) feet to any residence zone, except that stands for the sale of agricultural products shall be permitted as specified in division 2 of this article.

(b) A single produce stand shall be permitted on the premises of a community garden for the sale of flowers, vegetables, herbs or fruit produced on the premises; provided that the stand is no more than one hundred (100) square feet in floor area or open table area and is located a minimum of five feet from any property line; and that sales are limited to two days per week between the hours of 9:00 a.m. and 6:30 p.m. during the growing season from May 25 through October 31 and that the stand has received all necessary permits. The use of produce stands shall be seasonal and temporary. Any properly permitted structure may remain on the premises year round. If the community garden is owned or operated by a non-profit organization, sales of flowers, vegetables, herbs or fruit produced in other gardens or farms in Maine owned or operated by said organization shall be permitted within the same limitations listed above. For purposes of this section, community garden means a parcel of open land used for the cultivation of flowers, vegetables, herbs, or fruit by a group of city residents either jointly as a single plot or through individual garden plots

(c) A single produce stand shall be permitted on the premises of a non-profit organization with the permission of the owner and on the premise of public schools with the permission of the school department; provided that the stand is for the sale of local fruit, vegetables, flowers, seedlings and plants produced by the seller; that the stand is no more than one hundred (100) square feet in floor area or open table area and is located a minimum of five feet from any property line; that sales on the premises are limited to two days per week between the hours of 9:00 a.m. and 6:30 p.m. during the growing season from May 25 through October 31; and that the stand has received all necessary permits. The use of produce stands shall be seasonal and temporary. Any properly permitted structure may remain on the premises year round.

(d) For purposes of this Section, non-profit organization shall mean a non-profit organization incorporated pursuant to the laws of the State of Maine.

(Code 1968, § 602.18.F; Ord. No. 75-10/11, 11-15-10;Ord. No. 59-12/13, 9-19-12)

Sec. 14-408. Exceptions to performance standards.

The operation on public streets, airports and railroad rights-of-way of motor vehicles and other vehicles for the transportation of goods or persons shall be excepted from the limitations of the sections entitled "external effects."

(Code 1968, § 602.18.G)

Sec. 14-409. Heliports.

Heliports shall meet the following minimum specifications, subject to regulations of the Civil Aeronautics Administration when such regulations are greater:

(a) *Roof heliport:*

1. Take-off area: Two hundred (200) feet by two hundred fifty (250) feet minimum.
2. Parking area: Thirty (30) feet by ninety (90) feet minimum.

(b) *Ground heliport:*

1. Take-off area: Three hundred (300) feet by seven hundred (700) feet minimum.

2. Parking area and station building shall be located out of flight area.

(c) *Maximum elevation of operational area above street:* One hundred (100) feet.

(d) *Minimum clearance from lateral obstruction:* One hundred (100) feet.

(e) *Minimum width of approach and departure path:* Five hundred (500) feet at landing area, tapering outward fifteen (15) degrees on each side to a width of one thousand (1,000) feet.

(f) *Slope:* With emergency landing areas: One (1) to eight (8): Without emergency landing areas: One (1) to twenty (20).

(g) *Curved approach:* Minimum radius to turn, six hundred fifty (650) feet.

(h) *Approach zone transition area:* Slope, one (1) in two (2).
(Code 1968, § 602.18.H)

Sec. 14-410. Home occupation.

Purpose. The purpose of home occupations is to allow the secondary and incidental use of a residence for the conduct of appropriate occupations whose external activity levels and impacts are so limited as to be compatible with the residential character of the neighborhood.

(a) In connection with the operation of a home occupation, within a dwelling unit, the following requirements shall be met:

1. A home occupation shall not occupy more than five hundred (500) square feet of floor area or more than twenty-five (25) percent of the total floor area of such a dwelling unit, whichever is less, or in the case of licensed family day care homes, or home babysitting services, to accommodate not more than six (6) children plus two (2) children after school and having no nonresidential employees;

2. There shall be no outside storage of goods and materials nor shall there be exterior displays, or

display of goods visible from the outside;

3. Storage of materials related to the home occupation shall count as a part of the occupancy limitations in subsection (a)1 above, but shall not constitute a dominant part of such occupancy provided, however, storage of such materials or products in garages or other accessory structures is prohibited;
 4. Exterior signs shall be limited to one (1) nonilluminated sign not exceeding a total area of two (2) square feet, affixed to the building and not projecting more than one (1) foot beyond the building;
 5. Any exterior alterations to the residence shall be compatible with the architecture of the building and maintain the residential appearance by virtue of exterior materials, lighting, and signs;
 6. *Off-street parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article;
 7. The home occupation shall not produce offensive noise, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare or other objectionable effects;
 8. There shall be no more than one (1) nonresident employed in the home occupation, provided, however, family day care or home babysitting services shall have no nonresident employees;
 9. No traffic shall be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood;
 10. No motor vehicle exceeding a gross vehicle weight of six thousand (6,000) pounds shall be stored on the property in connection with the home occupation.
- (b) No residence shall be occupied, altered or used for any home occupation except the following:

1. Accountants and auditors;
2. Answering services (telephone);
3. Architects;
4. Artists and sculptors;
5. Authors and composers;
6. Computer programming;
7. Custodial services;
8. Custom furniture repair and upholstery;
9. Dentists, doctors, therapists, and health care practitioners;
10. Direct mail services;
11. Dressmakers, seamstresses and tailors;
12. Engineers;
13. Family planning services;
14. Hairdressers (limited to no more than two (2) hair dryers);
15. Home crafts, such as model making, rug weaving, lapidary work, cabinet making, weaving, ceramics;
16. Interior decorators;
17. Lawyers, justices of the peace and notary publics;
18. Licensed family day care home or babysitting services;
19. Musicians or music teachers, including group instruction not to exceed six (6) students at any time but not including performances or band rehearsals, which shall meet the following requirements in addition to those set forth in subsection (a) of this section:

- a. Electronic amplification is prohibited;
 - b. The applicant shall demonstrate that noise attenuation is provided which minimizes perception of sound at property lines at all times during the use. Noise attenuation measures may include, but are not limited to, insulation, double-pane windows, air conditioners or any combination of these or similar noise attenuation measures;
 - c. Hours of operation shall be limited to 8:30 a.m. to 9:30 p.m.
- 20. Office facility of a minister, rabbi, or priest;
 - 21. Photographic studios;
 - 22. Professional counseling and consulting services;
 - 23. Professional research services;
 - 24. Sales persons provided that no retail or wholesale transactions are made on the premises;
 - 25. Small appliance repair;
 - 26. Snow plowing provided that only one (1) snow plow vehicle is stored on or generated from the site;
 - 27. Special tutoring or instruction (not to exceed three (3) pupils at any given time);
 - 28. Stenographic and other clerical services.
 - 29. Small-scale marijuana caregiver, except that no more than one small-scale caregiver may operate out of any one dwelling unit.
- (c) A home occupation that is not listed in paragraph (b) of this section but is similar to and no more objectionable than those home occupations listed in that paragraph, shall be permitted as a conditional use subject to the requirements of paragraph (a) of this section and section 14-474 (conditional use) of this article. This provision shall not include veterinarians, kennels, animal raising, funeral homes, retail uses including antique shops,

restaurants, dancing studios, towing services, repair and painting of automobiles as home occupations.
(Code 1968, § 602.18.I; Ord. No. 277-77, 11-7-77; Ord. No. 548-85, § 1, 5-6-85; Ord. No. 76-85, § 1, 7-1-85; Ord. No. 66-87, § 2, 11-2-87; Ord. No. 329-90, 5-7-90; Ord. No. 240-09/10, 6-21-10; 140-18/19, 2-20-2019)

Sec. 14-411. Marijuana Use Regulations.

The following standards apply to the following marijuana-related uses: Marijuana cultivation facilities, Marijuana manufacturing facilities, Marijuana product, Marijuana retail store, Marijuana testing facility, Small-scale marijuana caregiver and Registered dispensaries. Marijuana-related uses shall comply with all other applicable local and state requirements in addition to the standards below.

(a) Location Criteria

1. No marijuana cultivation facility, marijuana manufacturing facility, marijuana testing facility, small-scale marijuana caregiver, marijuana store or registered dispensary may be located within 500 feet of a preexisting public school, private school, or a public preschool program, as defined by 20-A M.R.S.A. §1. Distance shall be measured from nearest property line of the respective marijuana-related use and the property line of the lot containing the public school, private school, or public preschool program.
2. No marijuana cultivation facility, marijuana manufacturing facility, or marijuana testing facility may be located within 300 feet of the following residential zones: R-1, R-2, R-3, R-4, R-5, R-5A, R-6, R-6A, or R-7. Distance shall be measured from the nearest outer wall of the building housing the marijuana cultivation, manufacturing, or testing facility to the nearest applicable residential zone boundary. If the marijuana related facility leases a room or suite of rooms within a building, including, without limitation, individual units within a shopping plaza or shopping mall, the nearest outer wall of the room or suite of rooms within which the facility is located shall constitute the nearest outer wall of the building housing that facility.

(b) Supplemental Standards

1. Marijuana-related uses may only be permitted within a fully enclosed building.
2. No outside storage of marijuana, marijuana products, or related supplies is permitted.
3. No drive-through service is permitted for marijuana-related uses.
4. No marijuana or marijuana product shall be smoked, eaten or otherwise consumed or ingested on the premises where sold.
5. An operating plan for marijuana cultivation facilities and marijuana manufacturing facilities shall be provided that at a minimum addresses the following:
 - a. wastewater;
 - b. disposal of waste; and
 - c. security at the premises.
6. A ventilation plan shall be included for marijuana cultivation facilities, marijuana manufacturing facilities, and small-scale marijuana caregivers that provides for adequate ventilation so as to prevent pesticides, insecticides or other chemicals used in the cultivation or processing of marijuana or marijuana related products from being dispersed or released outside the premises. The plan shall further provide for resulting smoke, vapor, fumes, gases and particulate matter from marijuana or its processing or cultivation to be effectively confined to the premises.
7. Marijuana-related uses shall provide odor control measures so that odor generated on site is mitigated at the property line of the lot containing the marijuana-related use. Applications must demonstrate appropriate measures, such as carbon filtration, ventilation and exhaust systems, facility plans or other additional practices adequate to mitigate odors for the scale of operations for the uses proposed.

(Ord. No. 140-18/19, 2-20-2019)

Sec. 14-412. Approvals and required permits.

For purposes of Chapter 14, any approval issued for a marijuana cultivation facility, marijuana manufacturing facility, or marijuana testing facility operated pursuant to 22 M.R.S. § 2421 et seq. shall be deemed to constitute approval for the same corresponding marijuana cultivating, manufacturing or testing facility use operating under 28 M.R.S. § 101 et seq.

Notwithstanding the above, no marijuana cultivation facility, marijuana manufacturing facility, or marijuana testing facility may operate without the applicable state and city license.

(Ord. No. 140-18/19, 2-20-2019)

Sec. 14-413.–Sec. 14-420. Reserved.

DIVISION 25. SPACE AND BULK REGULATIONS AND EXCEPTIONS

Sec. 14-421. Generally.

The requirements of this article shall be subject to the space and bulk regulations and exceptions of this division.

(Code 1968, § 602.19.A)

Sec. 14-422. Reduction of lot area prohibited.

No lot shall be so reduced that yards, lot width, lot frontage, lot area, area per dwelling unit, and space for off-street parking and/or off-street loading shall be less than the minimum required under this article.

(Code 1968, § 602.19.A)

Sec. 14-423. Reserved.

*Editor's Note: Pursuant to Council Order No. 240-09/10, passed on June 21, 2010, Section 14-423 (Joint occupancy) was repealed in its entirety.

Sec. 14-424. Required open space.

No part of a yard or other open space required about any building under this article shall be included as a part of a yard or other open space required for another building.

(Code 1968, § 602.19.C)

Sec. 14-425. Projections in required yard areas.

Any yard may be occupied by a one-story entrance porch not enclosed, with or without a roof, if the area of the porch does not

exceed fifty (50) square feet nor the projection from the building exceed six (6) feet. A basement bulkhead of similar size, but not more than twenty four (24) inches in height, is also permitted. A cornice eave, sill, canopy, chimney, or other similar architectural feature, but not including a bay window, may project into any required yard a distance of not more than two (2) feet.

(Code 1968, § 602.19.D; Ord. No. 78-03/04, 10-20-03)

Sec. 14-426. Fences.

In residence zones no wall or fence along a street line or within twenty-five (25) feet of a street line shall be more than four (4) feet in height unless said fence is located in the side or rear yard and is reviewed by the public works authority and found not to be a traffic or public safety hazard, subject to the provisions of section 14-434.

(Code 1968, § 602.19.E; Ord. No. 247-97, 4-9-97)

Sec. 14-427. Enclosure of porches.

Any open porch existing with a roof over the same on June 5, 1957, and encroaching upon any yard required by this article may be enclosed if the major portion of the enclosure is of glass.

(Code 1968, § 602.19.F)

Sec. 14-428. Corner lots.

In case a dwelling house has its front yard upon the long side of a corner lot, the rear yard may be reduced to a depth not less than the width required for a side yard on the lot, provided the aggregate of the widths of both sides and depths of front and rear yards is not less than the similar aggregate of required dimensions of all yards required if the front yard were faced on the short side of the lot.

(Code 1968, § 602.19.G)

Sec. 14-429. Lot surrounded by streets or alleys.

Where a lot containing ten thousand (10,000) square feet or less is completely surrounded by streets or alleys, the building area may be increased twenty (20) percent.

(Code 1968, § 602.19.H)

Sec. 14-430. Height limits.

(a) *Roof structure.* Roof structures for the housing of elevators, stairways, tanks, fans, or other building operating equipment not intended for human occupancy, skylights, steeples,

roof signs, flag poles, chimneys, smokestacks, radio or television masts, water tanks, or silos may be erected above the height limitation herein prescribed for buildings. Roof-mounted wind and solar energy systems shall not be considered to be roof structures for the purposes of Article X, Alternative Energy.

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

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

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

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

1. For all residential zones: A solar energy system, whether parallel or angled to a pitched or gable roof, may be up to 3 feet above the maximum height allowed in the underlying zone on principal and accessory structures. In the case of flat roofs, the solar energy system may be up to 5 feet above the maximum height allowed in the underlying zone. All roof-mounted solar energy systems shall be set back from the edge of the roof by 1 foot for every 1 foot of solar energy system height.
2. For B4 and Industrial zones: A solar energy system, whether parallel or angled to a pitched or gable roof, may be up to 4 feet above the maximum height allowed in the underlying zone. In the case of flat roofs, there are no height limits.

3. For all other zones: A solar energy system, whether parallel or angled to a pitched or gable roof, may be up to 3 feet above the maximum height allowed in the underlying zone on principal and accessory structures. In the case of flat roofs, the solar energy system may be up to 8 feet above the maximum height allowed in the underlying zone. All roof-mounted solar energy systems shall be set back from the edge of the roof by 1 foot for every 1 foot of solar energy system height.

(Code 1968, § 602.19.I; Ord. No. 428-83, § 1, 4-25-83; Ord. No. 36-89, § 3, 6-28-89; Ord. No. 96-08/09, 11-17-08; Ord. No. 29-09/10, 8-3-09 emergency passage; Ord. No. 33-11/12, 1-18-12; Ord. No. 75-16/17, 11-7-2016)

Sec. 14-431. Yards.

The height in stories or feet of that part of the principal building adjoining a yard shall be used in determining the required width or depth of that yard.

(Code 1968, § 602.19.J; Order No. 222-17/18, 6-4-2018)

Sec. 14-432. Swimming pools.

Outdoor swimming pools accessory to dwellings, apartment houses, hotels or motels shall be permitted on lots, provided the following conditions are met:

- (a) No swimming pool shall be sited in the front yard.
- (b) No part of any swimming pool shall be located closer than ten (10) feet from the principal structure, nor closer than ten (10) feet from the side or rear lot lines.

(Code 1968, § 602.19.K; Ord. No. 271-77, 5-16-77; Ord. No. 90-88, 7-19-88)

***Editor's note**—Ord. No. 90-88, adopted July 19, 1988, amended § 14-432 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 90-88.

Sec. 14-433. Lots of record and accessory structure setbacks for existing buildings.

- (a) Lots of Record.

Lots of record that meet the minimum standards provided below shall be considered buildable lots.

1. Lots of record as of June 5, 1957, may be considered a buildable lot in any residential zone provided the applicable yard dimensions can be met; provided that a minimum street frontage of forty (40) feet can be met, or to which a means of access has been previously approved by the city council as provided elsewhere in this article; and provided such lots have a minimum lot size of five thousand (5,000) square feet, or the applicable minimum lot size and frontage in that zone, whichever is less .
2. A lot in the R-1, R-2, R-3, R-4, R-5, R-5A or R-6 zones that was described in a subdivision plat approved by the Planning Board after June 5, 1981, or a lot of record that conformed to the applicable lot size requirement, lot width and street frontage as of June 5, 1984, shall be considered a buildable lot, provided that the applicable yard dimensions can be met.
3. Any lot of record as of July 15, 1985, and held under separate and distinct ownership from adjacent lots and meeting the applicable street frontage requirements of that time may be considered a buildable lot in the IR-1 and IR-2 zones, provided that the applicable yard dimensions can be met and provided further that a lot in the IR-1 zone shall have a minimum area of ten thousand (10,000) square feet and a lot of the IR-2 zone shall have a minimum area of six thousand five hundred (6,500) square feet unless it is served by both public sewer and public water, in which case it shall have a minimum area of five thousand (5,000) square feet.4. A lot in the IR-1, IR-2 and I-B zones that was described in a subdivision plat approved by the Planning Board after July 15, 1982, shall be considered a buildable lot, provided that the applicable yard dimensions can be met.
5. Contiguous lots of record under common ownership shall be deemed to be separate lots, provided that they either meet the minimum lot area and minimum frontage of the zone in which they are located, or the minimum applicable standards of 14-433 (a-d).

(b) Accessory Structures and Building Additions.

Where such a lot has a principal structure which existed as of July 19, 1988, an accessory structure or building

addition may be located within the following side and rear yards, provided that the normal applicable yard requirements cannot be met:

1. *R-1, R-2:*

Rear yard: Ten (10) feet.

Side yard: Five (5) feet.

2. *R-3, R-4, R-5, R-5A, R-6:*

Rear yard: Five (5) feet.

Side yard: Five (5) feet.

(c) Conversion of Accessory Structures to Dwelling Units:

Any detached or accessory structure in the R-3, R-4, R-5 or R-6 zones, with a ground coverage exceeding two hundred fifty (250) square feet and which was in existence on January 1, 1940, may be converted to dwelling units without meeting front, side or rear yard setbacks, provided there is no enlargement of any nonconforming portion of the existing building footprint and provided the conversion will conform to the minimum land area per dwelling unit.

Any such conversion in the R-3 zone or on a nonconforming lot in the R-5 zone shall be a conditional use subject to the requirements of section 14-88(a)2 for lots in the R-3 zone, or to the requirements of section 14-118(a)5 for nonconforming lots in the R-5 zone, and shall be in lieu of any additional dwelling units authorized under sections 14-88 or 14-118.

(Code 1968, § 602.19.L; Ord. No. 539-84, 5-7-84; Ord. No. 32-85, § 1, 7-15-85; Ord. No. 91-88, 7-19-88; Ord. No. 310-89, 1-30-89; Ord. No. 166-89, 12-11-89; Ord. No. 78-03/04, 10-20-2003; Ord. No. 202-13/14, 4/28/2014; Ord. 209-14/15, 5/4/2015)

***Editor's note**—Ord. No. 91-88, adopted July 19, 1988, amended § 14-433 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 91-88. Subsequently, § 14-433 was amended by Ord. No. 310-89, adopted Jan. 30, 1989, to read as set out, which ordinance further provided that it be applicable to all pending proceedings and be enacted as an emergency.

Sec. 14-434. Corner clearance.

No obstruction higher than three and one-half (3 1/2) feet above the lowest elevation at the curblin shall be permitted on a corner lot within the area of a triangle formed by a line intersecting the street lines of the intersecting streets at points twenty-five (25) feet from the corner, unless said obstruction is located in the side or rear yard and is reviewed by the public works authority and found not to be a traffic or public safety hazard. For the purpose of this section, the word "obstruction" shall mean any shrub, wall, fence, temporary building, sign, a pile of material, but shall not include permanent buildings or structures where permitted elsewhere in this article.

(Code 1968, § 602.19.M; Ord. No. 247-97, 4-9-97; Ord. No. 56-08/09)

Sec. 14-435. Unsewered residential district.

Where a lot in a residence zone is not served by public sewers and septic tank disposal systems are required, the minimum lot area required shall be determined from the following table, except that on the islands in Casco Bay, such variation as shall be approved by the health officer may be permitted in the minimum required lot areas:

<i>Standard Percolation Test Rate of Percolation (minutes)</i>	<i>Lot Area Required (square feet)</i>
2	7,800
3	8,400
4	8,800
5	9,100
10	10,500
15....	11,800
30	13,800

45	15,500
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(Code 1968, § 602.19.N)

Sec. 14-436. Building extensions.

(a) Existing principal buildings which are lawfully nonconforming as to dimensional requirements may be enlarged subject to the following provisions:

1. No modification to an existing nonconforming building shall increase any existing nonconformity of a lot, use or structure.
2. No modification to an existing nonconforming building shall create new noncompliance with any provision of this Code.
3. Existing structures that are lawfully nonconforming as to required minimum yard setbacks may be vertically or horizontally expanded provided the area of expansion meets all current dimensional requirements, except as provided in 4. below.
4. A vertical expansion above a portion of a structure that is lawfully nonconforming as to minimum yard setbacks may be permitted a one-time increase of one additional story provided:
 - a. No portion of the expansion horizontally extends beyond the non-conforming portion of the first story of the structure.
 - b. Any portion of a vertical expansion above the permitted one additional story shall meet the required minimum yard setback.

(Ord. No. 61-97, 8-18-97; Ord. No. 284-99, §3, 5-17-99, enacted as an emergency to take effect immediately pursuant to Article II, Sec. 8 of the Portland City Charter; Ord. No. 222-17/18, 6-4-2018)

***Editor's note**—Ord. No. 61-97, adopted Aug. 18, 1997, repealed former § 14-436 and enacted similar new provisions as herein set out. Formerly, such section derived from § 602.19.0 of the 1968 Code as amended by Ord. No. 92-88, adopted July 19, 1988. Ord. No. 222-17/18, approved June 4, 2018, repealed almost all of the previous Section 14-436, and enacted new language i its place.

Sec. 14-437. Setback reductions.

(a) *Authority.* The zoning administrator may grant setback reductions to the extent provided by this section.

(b) *Procedure.* Application for a setback reduction shall be submitted to the building inspections division. A payment of a nonrefundable application fee, as established from time to time by order of the city council to cover administrative costs, shall accompany each application. The application shall be in such form as prescribed by the zoning administrator and shall contain at least the following information and documentation:

1. The name and address of the applicant and his or her interest in the subject property;
2. The name and address of the owner, if different from the applicant;
3. The address or location and the city assessor's chart, block and lot number of the subject property;
4. The present use and zoning classification of the subject property;
5. Plot plan showing sufficient information to indicate the location of all structures existing and proposed in relation to the lot lines. Such a plan must be prepared by a state registered land surveyor. If, in the opinion of the surveyor, sufficient monumentation is not available, then a standard boundary survey will be necessary to meet the requirements of this section.

(c) *Purpose.* The purpose of setback reductions is to validate the sites of mislocated single-family, owner-occupied residential structures and those structures accessory thereto, which are not otherwise legally sited and which were in existence on November 15, 1993.

(d) *Conditions for setback reductions.* Setback reductions which may be granted by the zoning administrator are subject to the following conditions:

1. The sole use of the property is (and, if the application should be granted, will remain) as a single-family detached dwelling.

2. The property is located in R-1, R-2, R-3, R-4, R-5, R-6, IR-1, IR-2, IR-3 or RP zones.
3. The reduction sought cannot be reduced by more than the following:

IR-1, IR-2, IR-3, R-3, RP, R-1, R-2, R-4 and R-5 zones:

Front yard: Ten (10) feet

Rear yard: Ten (10) feet

Side yard: Five (5) feet

R-6 zone:

Front yard: Five (5) feet

Rear yard: Ten (10) feet

Side yard: Five (5) feet

4. No relief may be granted under this section in cases where the building authority determines that the setback violation was the result of a willful act by either the applicant or a prior owner.
5. This section shall only apply to the inadvertent misplacement of a structure.
6. Recording of setback reduction: The zoning administrator shall provide a signed instrument in recordable form, indicating any setback reduction granted under the terms of this section. The applicant for such reduction shall be responsible for recording this instrument in the Cumberland County Registry of Deeds.

(Ord. No. 138-93, 11-15-93)

Sec. 14-438. Setback reductions for porches and other similar uses.

(a) Porches, decks and sheds which are accessory to single-family dwellings built five (5) years prior to the date of application will be eligible for setback reductions as provided in this section. Such structures are not subject to the limitations in

section 14-437, must be set back two (2) feet from the rear and side property lines, and must comply with the front yard setback required for the applicable zone. A reduced setback may be permitted only when the applicant can show that there will be no development within the setback required by the zoning ordinance on adjacent property which abuts the area for which a reduced setback is sought. The applicant will demonstrate compliance with the above requirement by providing an affidavit from the abutting property owner stating that the area in question will never be developed. Reduced setbacks will not be permitted when the area proposed for such setbacks abuts either city or state owned property. No setback reduction may be granted which would permit any structure on the lot which is the subject of the application to be within fifteen (15) feet of any existing residential structure on an adjacent lot.

(b) Recording of setback reduction. The zoning administrator shall provide a signed instrument in recordable form, indicating any setback reduction granted under the terms of this section. The applicant for such reduction shall be responsible for recording this instrument in the Cumberland County Registry of Deeds. The abutter's affidavit will also be recorded.
(Ord. No. 139-93, 11-15-93)

Sec. 14-439. Setback reductions in the industrial zones.

Where a setback is required in an industrial zone the Planning Board may grant a reduction of such setback upon the submission of a site plan meeting the requirements of article V of this chapter and as set forth below if at least one (1) of the following conditions exists:

- (a) The property is encumbered by an easement or right-of-way that substantially impedes or prohibits development;
- (b) The yard for which the setback reduction is sought abuts an easement or right-of-way area that prohibits buildings within the area of such easement or right-of-way; or
- (c) The yard for which the setback reduction is sought abuts an area whose natural features, such as slopes or drainage areas, prohibit development in such area.

The Planning Board may reduce the required setback to the extent necessary for development, but in no event shall any side or rear setback be reduced to less than ten (10) feet or any front setback be reduced to less than five (5) feet. The Planning Board may require increased buffering to mitigate the impacts of a

setback reduction under this section. This section shall not apply to reductions of setbacks required by division 26 of this chapter.

The planning authority shall be responsible for providing to the applicant for setback reduction an instrument signed by the chair or vice-chair of the Planning Board, indicating any setback reduction granted under the terms of this section. The applicant for such setback reduction shall be responsible for recording this instrument in the Cumberland County Registry of Deeds within sixty (60) days of the Planning Board's grant of the reduction. Failure to record such instrument within the required time period shall render the reduction null and void.

(Ord. No. 227-97, 3-17-97)

Sec. 14-440. Exterior egress.

Notwithstanding any other provision of this Code, the building authority may permit the installation of an exterior egress stair or an upgrade of an existing exterior fire escape for a conforming or lawfully nonconforming dwelling unit existing as of January 5, 1998, if such egress is required to meet current fire or other life safety codes, provided that the owner demonstrates to the building authority that:

- (a) There is no practical and economically reasonable way to provide such egress within the interior of the building, as demonstrated by the submission of detailed floor plans showing the projected cost of and the impact on the existing dwelling from an interior stair;
- (b) The stairway and associated landings and other building fixtures are designed and will be constructed to have a minimal visual impact upon the building, especially as viewed from any public way or public open space, as demonstrated by photographs of the front and any other affected facades of the building and plans or drawings of the proposed egress stairs;
- (c) Reductions to setbacks granted under this section shall be the least amount required to meet life safety code requirements; and
- (d) Exterior stairways on buildings subject to regulation under article IX of this chapter shall require review and approval under the provisions of that article.

(Ord. No. 181-98, 1-5-98)

Sec. 14-441. - Sec. 445. Reserved.

DIVISION 26. SHORELAND REGULATIONS

Sec. 14-446. Purposes.

The purposes of this division are to further the maintenance of safe and healthful conditions; prevent and control water pollution; protect fish spawning grounds, aquatic life, bird and other wildlife habitat; protect buildings and lands from flooding and accelerated erosion; protect archaeological and historic resources; protect commercial fishing and maritime industries; protect freshwater and coastal wetlands; control building sites, placement of structures and land uses; conserve shore cover, visual as well as actual points of access to inland and coastal waters and natural beauty, as appropriate in an urbanized environment; and to anticipate and respond to the impact of development in shoreland areas.

(Code 1968, § 602.19A.A; Ord. No. 499-74, § 10, 8-19-74; Ord. No. 15-92, § 27, 6-15-92)

Sec. 14-447. Applicability.

This division applies to all land areas, uses, structures and land use activities within two hundred fifty (250) feet, horizontal distance, of the normal high water line of any river; within two hundred fifty (250) feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal actions within two hundred fifty (250) feet, horizontal distances, of the upland edge of a freshwater wetland; and within seventy-five (75) feet, horizontal distance, of the normal high water line of a stream. This division also applies to any structure built on, over or abutting a dock, wharf or pier, or other structure extending beyond the normal high water line of a water body or within a wetland.

(Code 1968, § 602.19A.B; Ord. No. 499-74, § 10, 8-19-74; Ord. No. 15-92, § 28, 6-15-92; Ord. No. 296-08/09, 6-15-09)

Sec. 14-448. Zoning districts and shoreland regulations.

The regulations and controls of this division apply to all land areas, uses, structures and land use activities cited in section 14-447, in all zones of the city.

(Code 1968, § 602.19A.C; Ord. No. 499-74, § 10, 8-19-74)

Sec. 14-449. Land use standards.

All land uses and land use activities subject to this division shall conform to the following standards and regulations, as applicable:

(a) *Principal and accessory structures:*

1. All principal and accessory structures shall be set back at least seventy-five (75) feet horizontal distance, from the normal high water line of water bodies, the upland edge of a wetland or associated tributary streams within a shoreland zone, except that in the following zones the setback shall be as indicated below:
 - a. B-3, B-5, B-5b, I-L (south and east of I-295), and I-M (south and east of I-295): Twenty-five (25) feet.
 - b. W-C, W-PD, I-B, EWP: No setback required. Pier edge setbacks apply in EWP (Sec. 14-303(c)(4), W-C (Sec. 14-310(d)(4), and W-PD (Sec. 320.2(c)).

For the principle structures, setback measurements shall be taken from the top of a costal bluff that has been identified on Coastal Bluff maps as being "highly unstable" or "unstable" by the Maine Geological Survey pursuant "Classification of Coastal Bluffs", and published in the most recent Coastal Bluff Map as further referenced on the Zoning Map.

Notwithstanding this requirement, when a lot is a lot of record as defined in section 14-433 or cannot otherwise meet the setback requirement of this section due to physical limitations of the site, the Planning Board may approve a reduction of the setback requirement for a principal structure to the least amount necessary to achieve a building dimension of twenty-eight (28) feet, provided that the setback is not reduced to less than forty (40) feet. Structures in existence on June 15, 1992, may be expanded once during the lifetime of the structure up to twenty-five (25) feet toward a freshwater wetland, stream or tributary stream, provided that the setback is not reduced to less than forty (40) feet and the floor area or volume is not increased by more than thirty (30) percent. In no event shall the setback from a coastal wetland be reduced to less than seventy-five (75)

feet, except in the B-3, B-5, B-5b, EWP, W-C, W-PD, W-SU, I-B, I-L and I-M zones, where setbacks shall be as set forth above in this subsection.

In all cases, accessory detached structures of less than one hundred (100) square feet of floor area shall be permitted with no setback, provided that such structures shall be used only for the storage of fish, bait, and related equipment. No setback shall be required for piers, docks, retaining walls, or any other structures which require direct access to the water as an operational necessity.

2. Development activities within the shoreland zone are reviewed by the Zoning Administrator for compliance with required setbacks of this Division. Submission of plans for such development activity shall be prepared by competent professionals, based upon a boundary survey.
3. The lowest floor elevation or openings of all buildings and structures including basements shall be elevated at least one (1) foot above the elevation of the one hundred (100) year flood, the flood of record, or in the absence of these, the flood as defined by soil types identified as recent flood plain soils.
4. Notwithstanding the requirements of this section, stairways or similar structures may be allowed with a permit from the building authority to provide shoreline access in areas of steep slopes or unstable soils, provided that:
 - a. The structure is limited to a maximum of four (4) feet in width;
 - b. The structure does not extend below or over the normal high water line of a water body or upland edge of a wetland, unless permitted by the department of environmental protection pursuant to 38 M.R.S.A. Section 480-C; and
 - c. The applicant demonstrates that no reasonable access alternative exists on the property.

(b) *Piers, docks, wharves, bridges and other structures and*

uses extending over or below the normal high water line of a water body or within a wetland:

1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion;
2. The location shall not interfere with existing developed or natural beach areas;
3. The facility shall be located so as to minimize adverse effects on fisheries;
4. The facility shall be no larger in dimension than necessary to carry on the activity and shall be consistent with surrounding character and uses;
5. New permanent structures, and expansions thereof, projecting into or over water bodies shall require a permit from the Department of Environmental Protection pursuant to the national Resources Protection Act, 38 M.R.S.A. § 480-C. Permits may also be required from the Army Corps of Engineers if located in navigable waters.
6. Except in the W-C, EWP, W-PD, and I-B zones, no new structure shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high water line of a water body or within a wetland unless the structure requires direct access to the water as an operational necessity;
7. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high water line of a water body or within a wetland shall be converted to residential dwelling units in any zone.

(c) Clearing or removal of vegetation:

1. In all shoreland areas in resource protection zones, the cutting or removal of vegetation shall be limited to that which is necessary for uses expressly authorized in that zone.
2. The clearing or removal of vegetation standards of

this section shall not apply to the following zones: EWP, WCZ, WPD, B-3, B-5, B-5b, B-6, B-7, I-L (south and east of I-295) and I-M zones (south and east of I-295).

3. Other than cutting or removal of vegetation as provided for in this section, timber harvesting shall not be permitted. For purposes of this section, timber harvesting is defined as the cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than (2) acres within the shoreland zone shall not be considered timber harvesting. Cutting or removal of such trees shall be regulated pursuant to this section.
4. For purposes of this section, vegetation is defined as all live trees, shrubs and other plants including without limitation, trees both over and under 4 inches in diameter, measured at 4 ½ feet above ground level.
 - a. In all areas other than resource protection zones, a buffer strip of vegetation shall be preserved, except where clearance is required for development of permitted uses, within a strip of land extending seventy-five (75) feet, horizontal distance, from the normal high-water or upland edge of a coastal wetland, river, stream or tributary stream within a shoreland zone, in accordance with the following:
 - i. There shall be no cleared opening greater than two hundred fifty (250) square feet in the forest canopy or other existing vegetation if a forested canopy is not presented as measured from the outer limits of the tree or shrub crown. Notwithstanding this limitation, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.

- ii. Selective cutting of trees within the buffer strip is allowed provided that a well-distributed stand of trees and other vegetation is maintained. For the purposes of this section, a "well-distributed stand of trees" adjacent to a water body, tributary stream or wetland shall be defined as maintaining a minimum rating score of sixteen (16) or more in any twenty-five-foot by fifty-foot rectangle area as determined by the following rating system:

Diameter of tree at four and one-half (4 ½) feet above ground level

(Inches)

Points

2 ≤ 4	1
4 ≤ 8	2
8 – 12	4
12 in. or greater	8

The following shall govern in applying this point system:

- The 25-foot by 50-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- Each successive plot must be adjacent to, but not overlap a previous plot;
- Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this ordinance;
- Any plot containing the required points may have vegetation removed

down to the minimum points required or as otherwise allowed by this ordinance;

- e. Where conditions permit, no more than 50% of the points on any 25-foot by 50-foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of this section, "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one-half (4 ½) feet above ground level for each 25-foot by 50-foot rectangular area. If five samplings do not exist, no woody stems less than two (2) inches in diameter can be removed until 5 samplings have been recruited into the plot.

Notwithstanding the above provisions, no more than forty (40%) percent of the total volume of trees four (4) inches or more in diameter, measured at four and one-half (4 ½) feet above ground level may be removed in any ten-year period.

- iii. In order to protect water quality and wildlife habitat, existing vegetation under three (3) feet in height and other groundcover, including leaf litter and the forest duff layer, shall not be cut, covered, or removed, except to provide a footpath or other permitted uses as described in this section.
- iv. Pruning of tree branches on the bottom one-third of the tree is allowed.
- v. In order to maintain a buffer strip of vegetation when the removal of storm-damaged, diseased, unsafe or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless

existing new tree growth is present.

The provisions contained in subsection b. of this section shall not apply to those portions of public recreational facilities adjacent to public swimming areas. Cleared areas in these locations shall be limited to the minimum amount necessary.

2. Selective cutting of not more than forty (40%) percent of the volume of trees four (4) inches or more in diameter, measured four and one-half (4 1/2) feet above ground level, shall be allowed within any ten-year period at distances greater than seventy-five (75) feet, horizontal distance, from the normal high water line of any other water body, tributary stream, or the upland edge of a wetland, except to allow for the development of permitted uses. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards, volume may be considered to be equivalent to basal area. In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate twenty-five (25%) percent of the lot area within the shoreland zone, including land previously cleared.
3. Legally existing nonconforming cleared openings may be maintained but shall not be enlarged, except as allowed by this division.
4. Fields and other cleared openings which have reverted to primarily shrubs, trees, or other woody vegetation shall be regulated under the provisions of this section.

(d) *Erosion and sedimentation control:*

1. All activities which involve filling, grading, excavation or other similar activities which result in unstabilized soil conditions and which require a permit shall require a written soil erosion and sedimentation control plan in accordance with Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, published

by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection and the City of Portland Technical Manual. The plan shall be submitted to the permitting authority for approval and shall include, where applicable, provisions for:

- a. Mulching and revegetation of disturbed soil.
 - b. Temporary runoff control features such as hay bales, silt fencing or diversion ditches.
 - c. Permanent stabilization structures such as retaining walls or riprap.
2. In order to create the least potential for erosion, development shall be designed to fit with the topography and soils of the site. Areas of steep slopes where high cuts and fills may be required shall be avoided wherever possible, and natural contours shall be followed as closely as possible.
 3. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed ground area at every phase of construction shall be minimized to reduce the potential for erosion.
 4. Any exposed ground area shall be temporarily or permanently stabilized within one (1) week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases, permanent stabilization shall occur within nine (9) months of initial exposure. The following standards shall also be met:
 - a. Where mulch is used, it shall be applied at a rate of at least one (1) bale per five hundred (500) square feet and shall be maintained until a catch of vegetation is established.
 - b. Anchoring the mulch with netting, peg and twine or other suitable method may be required to maintain the mulch cover.

- c. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.
 - 5. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in accordance with the City of Portland Technical Manual.
- (e) *Soils:* All land uses shall be located on soils in or upon which the proposed uses or structures can be established or maintained without causing adverse environmental impacts, including severe erosion, mass soil movement, improper drainage, and water pollution, either during or after construction. Proposed uses requiring subsurface wastewater disposal and commercial or industrial development or other similar intensive land uses shall require a soils report based on an on-site investigation and prepared by state-certified professionals. Certified persons may include Maine Certified Soil Scientists, Maine Registered Professional Engineers, Maine State Certified Geologists and other persons who have training and experience in the recognition and evaluation of soil properties. The report shall be based upon the analysis of the characteristics of the soil and surrounding land and water areas, maximum ground water elevation, presence of ledge, drainage conditions, and other pertinent data which the evaluator deems appropriate. The soils report shall include recommendations for a proposed use to counteract soil limitations where they exist.
- (f) *Water quality:* No activity shall deposit on or into the ground or discharge to the waters of the state any pollutant that by itself or in combination with other activities or substances will impair designated uses or the water classification of the water body, tributary stream or wetland.
- (g) *Archaeological sites:* Any proposed land use activity involving structural development or soil disturbance on or adjacent to sites listed on, or eligible to be listed on, the National Register of Historic Places, as determined by the department of planning and urban development, shall be submitted by the applicant to the Maine Historic Preservation Commission for review and

comment at least twenty (20) days prior to action being taken by the Planning Authority. The Planning Authority shall consider comments received from the commission prior to rendering a decision on the application. Such sites shall also comply with all applicable provisions of article IX of this chapter.

(h) *Installation of public utility service:* No public utility of any kind shall install services to any new structure located in the shoreland zone unless written authorization attesting to the validity and currency of all local permits required under this Code has been issued by the appropriate municipal authorities. Following installation of service, the public utility shall forward the written authorization to the appropriate municipal authorities, indicating that installation has been completed.

(i) *Essential services:*

1. Where feasible, the installation of essential services shall be limited to existing public ways and existing service corridors.
2. The installation of essential services, other than road-side distribution lines and within existing service corridors, is not allowed in a Resource Protection or Stream Protection District, except where the applicant demonstrates that no reasonable alternative exists.
3. Damaged or destroyed public utility transmission and distribution lines, towers and related equipment may be replaced or reconstructed without a permit.

(j) *Roads and driveways:*

1. Roads and driveways shall be setback a minimum of seventy-five (75) feet from the normal high-water or upland edge of a coastal wetland, freshwater wetland, river or tributary stream within a shoreland zone, except:
 - a. In the EWP, WC, WPD, B-3, B-5, B-5b, I-L (south and east of I-295) and I-M (south and east of I-295) roads and driveways shall be

setback as established for structures in those zones; as specified in Sec. 14-449(a)1.

- b. Where the planning board determines that no other reasonable alternative exists. If no other reasonable alternative exists, the planning board may reduce the road and/or driveway setback requirement to no less than fifty (50) feet, horizontal distance, upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or effective use of additional ditch relief culverts and turnouts place so as to avoid sedimentation of the water body, tributary stream or wetland.
2. Existing public roads may be expanded within the legal road right of way regardless of their setback from a waterbody, tributary stream or wetland.
3. New roads and driveways are prohibited in a Resource Protection Zone except that the planning board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the planning board in a Resource Protection Zone, upon a finding that no reasonable alternative route or location is available outside the district. When a roadway or driveway is permitted in a Resource Protection District the road and/or driveway shall be setback as far as practicable from the normal high-water line of a water body, tributary stream, or upland edge of wetland.
4. Road and driveways banks shall be no steeper than slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in sec. 14-449(d).
5. Road and driveway grades shall be no grater than ten (10%) percent except segments of less than two

hundred (200) feet.

6. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads and driveways shall be designed, constructed, and maintained to empty onto an unscarified buffer strip at least (50) feet plus two times the average slope, in width between the outflow point of the ditch or culver and the normal high-water line of a water body, tributary stream or upland edge of a wetland. Surface drainage which is directed to an unscarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.

7. Ditch relief (cross drainage) culverts, drainage dips and water turnout shall be installed in a manner effective in directing drainage onto unscarified buffer strips before the flow gains sufficient volume or head to erode the road, driveway, or ditch. To accomplish this, the following shall apply:

- a. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road, or driveway at intervals no greater than indicated in the following table:

<u>Grade (percent)</u>	<u>Spacing (feet)</u>
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

- b. Drainage dips may be used in place of ditch relief culverts only where the grade is ten (10%) percent or less.
- c. On sections having slopes greater than ten (10%) percent, ditch relief culverts shall be placed at approximately a thirty (30)

degree angle downslope from a line perpendicular to the centerline of the road or driveway.

- d. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
8. Ditches, culverts, bridges, dips, water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.
- (k) *Parking areas:* Parking areas shall be set back a minimum of seventy-five (75) feet from the normal high-water or upland edge of a coastal wetland, freshwater wetland, river or tributary stream within a shoreland zone except:
 1. In the EWP, WC, WPD, B-3, B-5, B-5b, I-L and I-M zones, parking setbacks shall be as established for structures in those zones; as specified in Sec. 14-449(a)1.
 2. Parking setbacks in the S-P (stream protection) zones are as established in Division 26.7.
 3. Where the Planning Board finds that no other reasonable alternative exists further from the shoreline or tributary stream, the board may reduce the parking setback requirement to no less than fifty (50) feet in the R-OS, and I-B zones to the least amount necessary for construction, provided that the applicant proves by a preponderance of the evidence that appropriate techniques will be used to prevent sedimentation of the water body.

(l) *Septic waste disposal:*

All subsurface sewage disposal system shall be installed in conformance with the State of Maine Subsurface Wastewater Disposal Rules and the following:

- a. Clearing or removal of woody vegetation necessary to site a new system and any associated fill

extensions, shall not extend closer than seventy-five (75) feet, horizontal distance, from the normal high-water line of a water body or the upland edge of a wetland;

- b. A holding tank is not allowed for a first-time residential use in the shoreland zone.

(m) *Stormwater runoff:*

1. All new construction and development shall be designed to be in compliance with the City of Portland Technical Manual to minimize stormwater runoff from the site in excess of the natural predevelopment conditions. Where possible, existing natural runoff control features, such as berms, swales, terraces and wooded areas shall be retained in order to reduce runoff and encourage infiltration of stormwater.
2. Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.

(n) *Agriculture:*

1. All spreading or disposal of manure shall be accomplished in conformance with the *Manure Utilization Guidelines* published by the Maine Department of Agriculture on November 1, 2001, and the Nutrient Management Law (7 M.R.S.A. §§ 4201-4209).
2. Manure shall not be stored or stockpiled within seventy-five (75) feet, horizontal distance, of water bodies, tributary streams, or wetlands. All manure storage areas within the shoreland zone must be constructed or modified such that the facility produces no discharge of effluent or contaminated stormwater.
3. Agricultural activities involving tillage of soil greater than forty thousand (40,000) square feet in surface area within the shoreland zone shall require a conservation plan to be filed with the Planning Authority.

4. There shall be no new tilling of soil within seventy-five (75) feet, horizontal distance, from water bodies and coastal wetlands or within twenty-five (25) feet, horizontal distance, of tributary streams and freshwater wetlands when such new tilling, by itself or combined with all other contiguous tillage, shall exceed forty thousand (40,000) square feet in surface area. Operations in existence on the effective date of this section and not in conformance with these provisions may be maintained but shall not be expanded. When the new tilling, by itself or combined with all other contiguous tillage, shall total forty thousand (40,000) square feet or less, the tillage shall be set back a minimum of twenty-five (25) feet from all water bodies, tributary streams or wetlands.
 5. Newly established livestock grazing areas shall not be permitted within seventy-five (75) feet, horizontal distance, of water bodies and coastal wetlands or within twenty-five (25) feet, horizontal distance, of tributary streams and wetlands. Livestock grazing associated with ongoing farm activities and which are not in conformance with the above setback provisions may continue, provided such grazing is conducted in accordance with a soil and water conservation plan filed with the Planning Authority.
- (o) *General site plan features:* The Planning Board or planning authority shall approve a site plan located within a shoreland zone if it finds that the following standards, in addition to the standards set forth in section 14-526, are met:
1. The proposal will maintain safe and healthful conditions;
 2. The proposal will not result in water pollution, erosion, or sedimentation to surface waters;
 3. The proposal will adequately provide for the disposal of all wastewater;
 4. The proposal will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;

5. The proposal will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters;
6. The proposal will protect archaeological and historic resources;
7. The proposal will not adversely affect existing commercial fishing or maritime activities;
8. The proposal will avoid problems associated with flood plain development and use; and
9. The proposal is in conformance with the standards set forth in this section.

(Code 1968, § 602.19A.D; Ord. No. 499-74, § 10, 8-19-74; Ord. No. 38-85, § 1, 7-15-85; Ord. No. 15-92, § 29, 6-15-92; Ord. No. 164-97, § 12, 1-6-97; Ord. No. 296-08/09, 6-15-09; Ord. No. 278-09/10, 7-19-10; Ord. No. 27-11/12, 8-15-11; Ord. 184-14/15, 6-1-2015; Ord. No. 165-15/16, 3-7-2016)

Sec. 14-450. Reserved.

DIVISION 26.5. FLOOD PLAIN MANAGEMENT REGULATIONS*

***Editor's note**—Ord. No. 660-86, adopted July 7, 1986, amended Ch. 14, Art. III, by the addition of Div. 26A, §§ 14-450.1–14-450.8, which provisions have been included herein as Div. 26.5 at the discretion of the editor in order to conform with the existing numbering of divisions contained in this article.

Sec. 14-450.1. Establishment.

The City of Portland, Maine, elects to comply with the 42 USC Section 4001 et seq. requirements of the National Flood Insurance Act of 1968, as amended from time to time. The National Flood Insurance Program, established in the aforesaid act, provides that areas of the city having a special flood hazard be identified by the Federal Emergency Management Agency and that flood plain management measures be applied in such flood hazard areas. This division establishes a flood hazard development permit system and review procedure for development activities in the designated flood hazard areas of the city.

(Ord. No. 660-86, 7-7-86; Ord. No. 579-87, 6-15-87; Ord. No. 156-98, 11-16-98)

Sec. 14-450.2. Purposes.

The purposes of this division are to reduce future flood risks

and losses, protect against financial and human loss resulting from flood disasters, and to control the placement of structures, construction materials, and methods used to minimize potential property damage due to flooding.

(Ord. No. 660-86, 7-7-86; Ord. No. 579-87, 6-15-87; Ord. No. 156-98, 11-16-98)

Sec. 14-450.3. Applicability.

This division applies to all land areas, uses, structures, and land use activities lying in the special flood hazard areas as identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study – City of Portland, Maine, County of Cumberland," with accompanying "flood insurance rate map" and "flood boundary and floodway map," dated July 17, 1986. This Flood Insurance Study with accompanying maps, and any subsequent amendments thereto, is hereby adopted by reference and declared to be a part of this Code.

(Ord. No. 660-86, 7-7-86; Ord. No. 579-87, 6-15-87; Ord. No. 135-97, 11-3-97; Ord. No. 156-98, 11-16-98)

Sec. 14-450.4. Zoning districts and flood plain management regulations.

The regulations and controls of this division apply to all land areas, uses, structures, and land use activities cited in section 14-450.3, in all zones of the city.

(Ord. No. 660-86, 7-7-86; Ord. No. 579-87, 6-15-87; Ord. No. 156-98, 11-16-98)

Sec. 14-450.5. Definitions.

For the purpose of this division, the following terms and words shall have the meanings given herein:

Area of special flood hazard: The land in the flood plain having a one (1) percent or greater chance of flooding in any given year as specifically identified in the Flood Insurance Study cited in section 14-450.3.

Base flood: The flood having a one (1) percent chance of being hereof or exceeded in any given year (i.e., a one-hundred-year storm).

Building Authority: The Department of Permitting and Inspections.

Coastal high hazard area: The area subject to high velocity waters, including but not limited to, hurricane wave wash or tsunamis. The area is designated on the flood insurance rate map as zone V1-30.

Development: Any man-made change to improved or unimproved real estate, including but not limited to, the construction of, alteration or addition to, any buildings or other structures, mining, dredging, filling, grading, paving, excavation, drilling operations, or storage of equipment or materials.

Floodproofing: Any combination of structural or nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real estate, to water and sanitary facilities, structures and their contents.

Floodway: The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot as designated on the flood boundary and floodway map. When not designated on the flood boundary and floodway map, it is considered to be the channel of a river or other watercourse and the adjacent land areas to a distance of one-half (1/2) the width of the flood plain, as measured from the normal high water mark to the upland limit of the flood plain.

Flood boundary and floodway map: The official map issued by the Federal Emergency Management Agency (FEMA) on which the boundaries of the flood have been designated. (This may alternatively be referred to as a flood hazard boundary map.)

Flood insurance rate map: The official map (FIRM) on which the Federal Emergency Management Agency (FEMA) has delineated both the areas of special flood hazard and the risk premium zones applicable to the city.

Lowest floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this division.

Manufactured home or housing: As defined in section 14-47 (definitions) of this Code.

Mean high tide: The mean height of tidal high waters at a particular point or station over a period of time to such length that increasing its length does not appreciably change this mean. For tidal waters, the cycle of change covers a period of nineteen (19) years, and mean high tide is defined as the average of the high waters over a nineteen-year period.

Mean sea level: For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on the city's FIRM are referenced.

Structure: A walled and roofed building, including a gas or liquid storage tank, that is principally above ground, or manufactured housing. "Principally above ground," as used above, means either that at least two-thirds (2/3) of its floor-to-ceiling height is above the average adjoining ground level, or at least fifty-one (51) percent of the actual cash value of the structure, less land value, is above ground.

Substantial improvement: Any repair, reconstruction, addition to or other improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or for any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

(Ord. No. 660-86, 7-7-86; Ord. No. 579-87, 6-15-87; Ord. No. 156-98, 11-16-98; Ord. No. 165-15/16, 3-7-2016)

Sec. 14-450.6. Application for permit—Filing.

(a) *Permit required.* Before any development begins within any areas of special flood hazard, a flood hazard area development permit shall be obtained from the building authority. This permit shall be required prior to issuance of a building permit, if one is required, and shall be in addition to any other permits, and site plan and subdivision review, which may be required pursuant to the

Codes and ordinances of the city.

(b) *Submission.* The application for a flood hazard area development permit shall be submitted in writing to the building authority and shall include the following:

1. A final site plan, where applicable, showing information as required in section 14-527 (final site plan) for either a level I, II or III site plan as defined in section 14-523 (required approvals and applicability);
2. A final subdivision plat, where applicable, providing information as required in section 14-496 (plat requirements);
3. For any development which does not meet the minimum threshold as a development requiring site plan review as authorized by section 14-523 (required approvals and applicability), the following information shall be provided:
 - a. The name, address and phone number of the applicant, owner and contractor;
 - b. A map with address indicating the location of the development site;
 - c. A site plan showing the location of existing and proposed development, including but not limited to, specific dimensions of existing and proposed structure(s), wastewater disposal facilities, water supply facilities, areas to be developed and the dimensions of the lot;
 - d. A statement of the intended use of any structure and/or other development;
 - e. A statement of the cost of the development including all materials and labor; and
 - f. A statement of the type of wastewater disposal system proposed.
4. In addition to the foregoing, all applications for a permit shall include the following information:

- a. The elevation in relation to the National Geodetic Vertical Datum (NGVD), (or to a locally established datum for Zone A only) of the:
 - i. Base flood at the proposed site of all new or substantially improved structures, which is determined:
 - a. In Zones A1-30, AE, AO, AH, V1-30, and VE from data contained in the "Flood Insurance Study – City of Portland, Maine," as described in section 14-450.3; or
 - b. In Zone A, to be the elevation of the ground at the intersection of the flood plain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building;
 - ii. Highest and lowest grades at the site adjacent to the walls of the proposed building;
 - iii. Lowest floor, including basement; and whether or not such structures contain a basement; and
 - iv. Level, in the case of nonresidential structures only, to which the structure will be floodproofed;
- b. A description of an elevation reference point established on the site of all new or substantially improved structures;
- c. Either an elevation certificate (FEMA Form 81-31, 03/97, as amended) completed by a professional land surveyor, registered professional engineer or architect; or, for nonresidential structures to be floodproofed, a floodproofing certificate (FEMA Form 81-65, 05/93, as amended) completed by a registered professional engineer or architect. These certificates verify that the elevations shown on the application are accurate;
- d. Certifications by a registered professional engineer or architect that:

- i. Nonresidential structures will meet the floodproofing criteria of section 14-450.6(a)4a.; section 14-450.8(g); and other applicable standards in section 14-450.8;
- ii. Construction in coastal high hazard areas, Zones V1-30 and VE, will meet the criteria of section 14-450.8(p); and other applicable standards in section 14-450.8;
- iii. Engineered hydraulic openings in foundation walls will meet the standards of section 14-450.8(l)2;
- iv. Bridges will meet the standards of section 14-450.8(m);
- v. Containment walls will meet the standards of section 14-450.8(n);
- e. A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development; and
- f. A statement of construction plans describing in detail how each applicable development standard in section 14-450.8 will be met.
- g. Cross section(s) of the site acceptable to the public works authority.

(Ord.No. 660-86, 7-7-86; Ord. No. 579-87, 6-15-87; Ord. No. 156-98, 11-16-98; Ord. No. 278-09/10, 7-19-10)

Sec. 14-450.7. Same—Review.

(a) Upon determination by the building authority that an application is complete, the building authority shall transmit the application to the planning authority for review for compliance with this division. The planning authority shall coordinate review of the application by the city. No permit shall be issued by the building authority until the planning authority, or the Planning Board in the case of an application requiring subdivision or site plan review by said board, finds that the development proposal is in compliance with the standards of this division. Compliance with the provisions of this division shall be required prior to beginning any development as defined herein.

(b) The planning authority, and Planning Board when applicable, shall, when reviewing subdivisions and other proposed developments that require review under federal law, state law or local ordinances or regulations and all projects on five (5) or more acres, or in the case of manufactured home parks divided into two (2) or more lots, assure that:

1. All such proposals are consistent with the need to minimize flood damage.
2. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
3. Adequate drainage is provided so as to reduce exposure to flood hazards.
4. All proposals include base flood elevations, flood boundaries and, in a ravine flood plain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
5. Any proposed development plan must include a condition of plan approval requiring that structures on lots in the development be constructed in accordance with section 14-450.8 of this division. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or planning authority as part of the approval process.

(c) In the review of all flood hazard development permit applications for compliance with the standards herein:

1. The planning authority, or Planning Board as appropriate, shall utilize the base flood data contained in the Flood Insurance Study, Portland, Maine, Cumberland County, as described in section 14-450.3. In special flood hazard areas where base flood elevation data are not provided in the above-cited study, the planning authority, or Planning Board as appropriate, shall obtain, review and reasonably utilize any base flood elevation data available from federal, state or other reasonably

reliable sources in order to administer this section;

2. The public works authority shall make interpretations of the location of boundaries of special flood hazard areas shown on the maps described in section 14-450.3 herein;
3. Prior to approval of issuance of the flood hazard area development permit, the planning authority, or Planning Board as appropriate, shall determine that all necessary permits have been obtained from those federal, state and local authorities, from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1334 as may be amended from time to time); provided, however, that conditional approval may be granted pending proof of receipt of any required permits, but no flood hazard area development permit shall be finally issued until proof of issuance of all such other permits is received by the building authority; and
4. The building authority shall notify adjacent municipalities, the Maine Department of Environmental Protection and the Maine Flood Plain Management Program in the State Planning Office, prior to any alteration or relocation of a watercourse, and submit copies of such notifications to the Federal Emergency Management Agency.
5. The building authority shall maintain, as a permanent record, copies of all flood hazard development permit applications, corresponding permits issued, and data relevant thereto, including reports of the board of appeals on variances granted under the provisions of section 14-450.12 of this division, and copies of elevation certificates, floodproofing certificates, certificates of compliance and certifications of design standards required under the provisions of sections 14-450.6, 14-450.8, and 14-450.10.

(Ord.No. 660-86, 7-7-86; Ord. No. 579-87, 6-15-87; Ord. No. 156-98, 11-16-98; ORd. No. 278-09/10, 7-19-10)

Sec. 14-450.8. Standards.

When reviewing flood hazard area development permit applications hereunder, the planning authority or Planning Board, where applicable, shall approve the plans under this division only if the following standards are met:

- (a) *All development*: All development shall:
1. Be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
 2. Use construction materials that are resistant to flood damage;
 3. Use construction methods and practices that will minimize flood damage; and
 4. Use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during flooding conditions.
- (b) *Water supply*: All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- (c) *Sanitary sewage systems*: All new and replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the system into flood waters.
- (d) *On-site waste disposal systems*: On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during floods.
- (e) *Watercourse carrying capacity*: All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- (f) *Residential*: New construction or substantial improvement of any residential structure located within:
1. Zones A1-30, AE, and AH shall have the lowest floor (including basement) elevated to at least two (2)

feet above the base flood elevation.

2. Zones A0 and AH shall have adequate drainage paths around structures on slopes, to guide flood water away from the proposed structures.
 3. Zone A0 shall have the lowest floor (including basement) elevated above the highest adjacent grade:
 - a. At least two (2) feet higher than the depth specified in feet on the community's Flood Insurance Rate Map; or
 - b. At least three (3) feet if no depth number is specified.
 4. Zone A shall have the lowest floor (including basement) elevated to at least two (2) feet above the base flood elevation utilizing information obtained pursuant to section 14-450.6(b)4.a.ii.; section 14-450.7(b)4; or section 14-450.7(c)1.
 5. Zones V1-30 and VE shall meet the requirements of section 14-450.8(p).
- (f) *Nonresidential:* New construction or substantial improvement of any nonresidential structure located within:
1. Zones A1-30, AE, and AH shall have the lowest floor (including basement) elevated to at least two (2) feet above the base flood elevation, or together with attendant utility and sanitary facilities shall:
 - a. Be floodproofed to at least two (2) feet above the base flood elevation so that below that elevation the structure is watertight with walls substantially impermeable to the passage of water;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and

- c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a flood hazard development permit, as required by section 14-450.6(b)4d and shall include a record of the elevation above mean sea level to which the structure is floodproofed.
 2. Zones A0 and AH shall have adequate drainage paths around structures on slopes, to guide flood water away from the proposed structures.
 3. Zone A0 shall have the lowest floor (including basement) elevated above the highest adjacent grade:
 - a. At least two (2) feet higher than the depth specified in feet on the community's Flood Insurance Rate Map; or
 - b. At least three (3) feet if no depth number is specified; or
 - c. Together with attendant utility and sanitary facilities be floodproofed to meet the elevation requirements of this section and floodproofing standards of section 14-450.8(g).
 4. Zone A shall have the lowest floor (including basement) elevated to at least two (2) feet above the base flood elevation utilizing information obtained pursuant to section 14-450.6(b)4.a.ii.; section 14-450.7(b)4; section 14-450.7(c)1; or
 5. Zones V1-30 and VE shall meet the requirements of section 14-450.8(p).
- (h) *Manufactured homes:* New or substantially improved manufactured homes located within:
1. Zones A1-30, AE, and AH shall:

- a. Be elevated on a permanent foundation such that the lowest floor is at least two (2) feet above the base flood elevation; and
 - b. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
 - i. Over-the-top ties anchored to the ground at the four (4) corners of the manufactured home, plus two (2) additional ties per side at intermediate points (manufactured homes less than fifty (50) feet long require one (1) additional tie per side); or by
 - ii. Frame ties at each corner of the home, plus five (5) additional ties along each side at intermediate points (manufactured homes less than fifty (50) feet long require four (4) additional ties per side).
 - iii. All components of the anchoring system described in section 14-450.8(h)1.b.i. and ii. Shall be capable of carrying a force of four thousand eight hundred (4,800) pounds.
2. Zones A0 and AH shall have adequate drainage paths around structures on slopes, to guide flood water away from the proposed structures.
 3. Zone A0 shall have the lowest floor (including basement) elevated above the highest adjacent grade:
 - a. At least two (2) feet higher than the depth specified in feet on the community's Flood Insurance Rate Map; or
 - b. At least three (3) feet if no depth number is specified; and
 - c. Meet the requirements of section

14-450.8(h)1.b.

4. Zone A shall:
 - a. Be elevated on a permanent foundation such that the lowest floor is at least two (2) feet above the base flood elevation utilizing information obtained pursuant to section 14-450.6(b)4.a.ii; section 14-450.7(b)4; section 14-450.7(c)1; and
 - b. Meet the requirements of section 14-450.7(2)b.
 5. Zones V1-30 and VE shall meet the requirements of article VI.P.
- (i) *Recreational vehicles*: Recreational vehicles located within:
1. Zones A1-30, AH and AE shall either:
 - a. Be on the site for fewer than one hundred eighty (180) consecutive days;
 - b. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 - c. Be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in section 14-450.8(h)1a and b.
 2. Zones V1-30 and VE shall meet the requirements of either section 14-450.8(i)1.a. or b. or section 14-450.8(p).
- (j) *Accessory structures*: Accessory structures located within Zones A1-30, AE, AO, AH and A, shall be exempt from the elevation criteria required in section 14-450.8(f) and (g) above, if all other requirements of section 14-450.8 and all the following requirements are met. Accessory structures shall:

1. Be five hundred (500) square feet or less and have a value less than three thousand dollars (\$3,000.00);
2. Have unfinished interiors and not be used for human habitation;
3. Have hydraulic openings, as specified in section 14-450.8(l), in at least two (2) different walls of the accessory structure;
4. Be located outside the floodway;
5. When possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of flood waters and be placed further from the source of flooding than is the primary structure; and
6. Have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the special flood hazard area.

(k) *Floodways:*

1. In Zones A1-30 and AE, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in ravine areas, for which a regulatory floodway is designated on the community's Flood Insurance Rate Map or Flood Boundary and Floodway Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
2. In Zones A1-30 and AE riverine areas, for which no regulatory floodway is designated, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in the floodway as determined in section 14-450.8(11)3. unless a technical evaluation certified by a registered professional engineer is provided demonstrating that the cumulative effect

of the proposed development, when combined with all other existing development and anticipated development:

- a. Will not increase the water surface elevation of the base flood more than one (1) foot at any point within the community; and
 - b. Is consistent with the technical criteria contained in chapter 5 entitled "Hydraulic Analyses," *Flood Insurance Study – Guidelines and Specifications for Study Contractors*, (FEMA 37/January 1995, as amended).
3. In Zones A1-30, AE, and A riverine areas for which no regulatory floodway is designated, the regulatory floodway is determined to be the channel of the river or other watercourse and the adjacent land areas to a distance of one-half (1/2) the width of the flood plain as measured from the normal high water mark to the upland limit of the flood plain. Encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted unless a technical evaluation certified by a registered professional engineer is provided meeting the requirements of section 14-450.8(k)2.a. and b.
- (l) *Enclosed areas below the lowest floor:* New construction or substantial improvement of any structure in Zones A1-30, AE, AO, AH and A that meets the development standards of article VI, including the elevation requirements of section 14-450.8, paragraphs (f), (g) or (h) and is elevated on posts, columns, piers, piles, "stilts," or crawl spaces may be enclosed below the base flood elevation requirements provided all the following criteria are met or exceeded:
 1. Enclosed areas are not basements;
 2. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood water. Designs for meeting this requirement must either:
 - a. Be engineered and certified by a registered

professional engineer or architect; or

b. Meet or exceed the following minimum criteria:

(a) A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of the enclosed area;

(b) The bottom of all openings shall be no higher than one (1) foot above the lowest grade; and

I Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means;

3. The enclosed area shall not be used for human habitation; and

4. The enclosed areas are usable solely for building access, parking vehicles, or storing of articles and equipment used for maintenance of the building.

(m) *Bridges:* New construction or substantial improvement of any bridge in Zones A1-30, AE, A0, AH, A, V1-30 and VE shall be designed such that:

1. When possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least two (2) feet above the base flood elevation; and

2. A registered professional engineer shall certify that:

a. The structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of section 14-450.8(k); and

- b. The foundation and superstructure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.
- (n) *Containment walls*: New construction or substantial improvement of any containment wall located within:
 - 1. Zones A1-30, AE, AH, V1-30 and VE shall:
 - a. Have the containment wall elevated to at least two (2) feet above the base flood elevation;
 - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and
 - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this section. Such certification shall be provided with the application for a flood hazard development permit, as required by section 14-450.6(b)d.4.
 - 2. Zones A0 and AH shall have adequate drainage paths around containment walls on slopes, to guide flood water away from the proposed walls.
 - 3. Zone A0 shall have the top of the containment wall elevated above the highest adjacent grade:
 - a. At least two (2) feet higher than the depth specified in feet on the community's Flood Insurance Rate Map; or
 - b. At least three (3) feet if no depth number is specified.
 - 4. Zone A shall have the containment wall elevated to at least two (2) feet above the base flood

elevation utilizing information obtained pursuant to section 14-450.6(b)4.a.ii.; section 14-450.7(a)4; or section 14-450.7(c)1.

(o) *Wharves, piers and docks:* New construction or substantial improvement of wharves, piers, and docks are permitted in Zones A, A1-30, AE, AO, AH, V1-30, and VE, in and over water and seaward of the mean high tide if the following requirements are met:

1. Wharves, piers, and docks shall comply with all applicable local, state and federal regulations; and
2. Commercial wharves, piers, and docks involving fill shall adhere to the design and construction standards contained in the U.S. Army Corps of Engineers' *Shore Protection Manual*.

(p) *Coastal flood plains:*

1. All new construction located within Zones A1-30, AE, A, V1-30 and VE shall comply with all applicable local, state and federal regulations.
2. New construction or substantial improvement of any structure located within Zones V1-30 or VE shall:
 - a. Be elevated on posts or columns such that:
 - i. The bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to two (2) feet above the base flood elevation;
 - ii. The pile or column foundation and the elevated portion of the structure attached thereto is anchored to resist flotation, collapse, and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and
 - iii. Water loading values used shall be those associated with the base flood. Wind

loading values used shall be those required by applicable state and local building standards.

- b. Have the space below the lowest floor:
 - i. Free of obstructions; or
 - ii. Constructed with open wood lattice-work, or insect screening intended to collapse under wind and water without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting piles or columns; or
 - iii. Constructed with nonsupporting breakaway walls which have a design safe loading resistance of not less than ten (10) or more than twenty (20) pounds per square foot.
- 3. A registered professional engineer or architect shall:
 - a. Develop or review the structural design, specifications, and plans for the construction, which must meet or exceed the technical criteria contained in the *Coastal Construction Manual*, (FEMA-55/February, 1986); and
 - b. Certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the criteria of section 14-450.8(p)2.
- 4. The use of fill for structural support in Zones V1-30 and VE is prohibited.
- 5. Human alteration of sand dunes within Zones V1-30 and VE is prohibited unless it can be demonstrated that such alterations will not increase potential flood damage.
- 6. The enclosed areas may be used solely for parking

vehicles, building access, and storage.

7. Lobster sheds and fishing sheds located seaward of mean high tide shall be exempt from the elevation requirement in section 14-450.8(g) only upon review and approval by the planning authority or Planning Board and if all the following requirements of section 14-450.8(a), (k) and (l) are met:
 - a. The conditional use shall be limited to low value structures such as metal or wood sheds two hundred (200) square feet or less and shall not exceed more than one (1) story.
 - b. The structure shall be securely anchored to the wharf or pier to resist flotation, collapse and lateral movement due to the effect of wind and water loads acting simultaneously on all building components.
 - c. The structure will not adversely increase wave or debris impact forces affecting nearby buildings.
 - d. The structure shall have unfinished interiors and shall not be used for human habitation.
 - e. Any mechanical, utility equipment and fuel storage tanks must be anchored and either elevated or floodproofed to two (2) feet above the base flood elevation.

All electrical outlets shall be ground fault interrupt type. The electrical service disconnect shall be located on shore above the base flood elevation and when possible outside the special flood hazard area.

If a flood hazard permit application is granted, the applicant shall be notified in writing that flood insurance is not available for structures located entirely over water or seaward of mean high tide.

(Ord. No. 660-86, 7-7-86; Ord. No. 579-87, 6-15-87; Ord. No. 156-98, 11-16-98; Ord. No. 199-03/04, 4-21-04)

Sec. 14-450.9. Permit.

Upon determination that the development or substantial improvement plan is in compliance with this division, the building authority shall issue one (1) of the following Flood Hazard Area Development Permits based on the type of development:

- (a) Issue a two-part flood hazard development permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the code enforcement officer with a second elevation certificate completed by a professional land surveyor, registered professional engineer or architect based on the Part I permit construction, "as built," for verifying compliance with the elevation requirements of section 14-450.8(f), (g), (h) or (p). Following review of the elevation certificate data, which shall take place within seventy-two (72) hours of receipt of the application, or as soon as practicable thereafter, the code enforcement officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or
- (b) Issue a Flood Hazard Development Permit for Floodproofing of Nonresidential Structures that are new construction or substantially improved nonresidential structures that are not being elevated but that meet the floodproofing standards of section 14-450.8(g)1.a.-c. The application for this permit shall include a floodproofing certificate signed by a registered professional engineer or architect; or
- (c) Issue a Flood Hazard Development Permit for all level I and level II site plans that are not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than fifty (50) percent of the market value of the structure. Level I and level II site plans also include, but are not limited to: accessory structures as provided for in section 14-450.8(j), mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and nonstructural projects such as bridges, dams, towers,

fencing, pipelines, wharves, and piers.

(Ord. No. 660-86, 7-7-86; Ord. No. 579-87, 6-15-87; Ord. No. 156-98, 11-16-98; Ord. No. 278-09/10, 7-19-10)

Sec. 14-450.10. Certificate of compliance.

No land in an area of special flood hazard shall be occupied or used in violation of this division, and no structure in such an area which is developed or substantially improved shall be occupied until a Certificate of Compliance is issued by the building authority. Said Certificate of Compliance shall be issued only after an applicant files the following certifications of the "as-built" development with the building authority:

- (a) For new construction or substantial improvement of any structure the applicant shall submit to the building authority:
 - 1. An elevation certificate completed by a professional land surveyor, registered professional engineer, or architect, for compliance with applicable provisions of section 14-450.8; and
 - 2. For structures in Zones V1-30 and VE, certification by a registered professional engineer or architect that the design and methods of construction to be used are in compliance with applicable provisions of section 14-450.8(p)3.
- (b) The applicant shall submit written notification to the building authority that the development is complete and complies with the provisions of this division.
- (c) Within thirty (30) working days, the building authority shall:
 - 1. Review the elevation certificate and the applicant's written notification; and
 - 2. Upon determination that the development conforms with the provisions of this division, shall issue a certificate of compliance.

(Ord. No. 660-86, 7-7-86; Ord. No. 579-87, 6-15-87; Ord. No. 156-98, 11-16-98)

Sec. 14-450.11. Fee.

A nonrefundable flood hazard area development permit fee of

fifty dollars (\$50.00) shall be paid to the building authority, and a copy of a receipt for the same shall accompany the application. (Ord. No. 660-86, 7-7-86; Ord. No. 579-87, 6-15-87; Ord. No. 156-98, 11-16-98)

Sec. 14-450.12. Appeals and variance processes.

(a) The board of appeals shall hear and decide appeals from and review orders, decisions, determinations or interpretations or the failure to act of the building authority as authorized in section 14-472 (appeals).

(b) The board of appeals may authorize variances from the provisions of this division as authorized in section 14-473 (variances), except:

1. As otherwise expressly provided in section 14-473I(3); or
2. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

(c) Section 14-473 notwithstanding, variances from the requirements of this division shall be granted only upon:

1. A showing of good and sufficient cause; and
2. A determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public or conflict with existing local laws or ordinances; and
3. A showing that the issuance of the variance will not conflict with other state, federal or local laws or ordinances; and
4. A determination that failure to grant the variance would result in "undue hardship," which in this subsection means:
 - a. That the land in question cannot yield a reasonable return unless a variance is granted; and
 - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and

c. That the granting of a variance will not alter the essential character of the locality; and

d. That the hardship is not the result of action taken by the applicant or a prior owner.

(d) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(e) Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of historic structures upon the determination that:

1. The development meets the criteria of section 14-450.12(a) through (d); and
2. The proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(f) Variances may be issued for new construction, substantial improvements, or other development for the conduct of a functionally dependent use provided that:

1. The criteria of this section and section 14-450.8 are met; and
2. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(g) Any applicant who meets the criteria of this section shall be notified by the board of appeals in writing over the signature of the chairman of the board of appeals that:

1. The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as twenty-five dollars (\$25.00) per one hundred dollars (\$100.00) of insurance coverage;
2. Such construction below the base flood level increases

risks to life and property; and

3. The applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, assumes those risks and agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use land located in a flood plain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a flood plain.

(h) The above paragraph(s) shall be included with or on all applications for a variance hereunder, as well as the following statements:

1. The applicant understands and is fully aware of all of the risks inherent in the use of land subject to flooding and understands and agrees that he/she is fully assuming any potential or actual liability resulting therefrom. Applicant agrees to indemnify and defend the municipality against any claims filed against it that are related to the applicant's decision to use the land located in a flood plain and that the applicant individually releases the municipality from any claims the applicant may have against the municipality that are related to the use of land located in a flood plain. Applicant further understands and agrees that the city has no responsibility 685therefore, and in the event a variance is granted to applicant, applicant agrees to inform any purchaser, assignee or other transferee of applicant of the existence of said variance and of this agreement.
2. Applicant shall signify in writing that he/she has read, understands and agrees to all of the stipulations in this subsection and subsection (7) immediately above.

(i) The board of appeals shall submit to the building authority a report of all variance actions, including justification for the granting of the variance and an authorization for the building authority to issue a flood hazard development permit, which includes any conditions to be attached to said permit.
(Ord. No. 660-86, 7-7-86; Ord. No. 579-87, 6-15-87; Ord. No. 156-98, 11-16-98)

Sec. 14-450.13. Records; reports.

(a) The director of planning and urban development shall maintain, as a permanent record, copies of all flood hazard area development permits issued, certificates of compliance and data relevant thereto, including reports of the board of appeals on variances granted hereunder.

(b) The director of planning and urban development shall be responsible for filing such annual reports regarding participation in the National Flood Insurance Program as may be required by FEMA. Said annual reports shall include, but not be limited to, a report on implementation of this division and on any variances granted hereunder. A copy of such annual reports shall also be sent to the state planning office.

(Ord. No. 660-86, 7-7-86; Ord. No. 579-87, 6-15-87; Ord. No. 156-98, 11-16-98)

Sec. 14-450.14. Enforcement and penalties.

It shall be the duty of the building authority to enforce the provisions of this ordinance pursuant to Title 30-A M.R.S.A. § 4452. The penalties contained in Title 30-A M.R.S.A. § 4452 shall apply to any violation of this ordinance.

In addition to any other actions, the building authority, upon determination that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:

- (a) The name of the property owner and address or legal description of the property sufficient to confirm its identity and location;
- (b) A declaration that the property is in violation of a cited state or local law, regulation, or ordinance;
- (c) A clear statement that the public body making the declaration has authority to do so and a citation to that authority;
- (d) Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and
- (e) A clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

(Ord. No. 156-98, 11-16-98)

Sec. 14-450.15. Conflict with other ordinances.

This division shall not repeal, annul or in any way impair or remove the necessity of compliance with any other rules, regulations, permits or provisions of law. Where one (1) section of this Code imposes a greater restriction upon the use of land, buildings or structures than another section, the provisions of the stricter section shall control.

(Ord. No. 660-86, 7-7-86; Ord. No. 579-87, 6-15-87; Ord. No. 156-98, 11-16-98)

Sec. 14-450.16. Validity and severability.

If any section or provision of this division is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this division.

(Ord. No. 156-98, 11-16-98)

Sec. 14-450.17.- 14-450.30. Reserved.

DIVISION 26.7. S-P STREAM PROTECTION ZONE

Sec. 14-451. Purposes.

The purposes of the S-P stream protection zone are to preserve and protect significant streams as defined in 38 M.R.S.A. Section 438-A(1) by providing a buffer from land development activities in order to conserve stream channel capacity and to minimize siltation and stream bank erosion.

(Ord. No. 15-92, § 30, 6-15-92)

Sec. 14-452. Applicability.

The S-P stream protection zone includes all land areas within seventy-five (75) feet, horizontal distance, of the normal high water line of a stream as shown on the City of Portland Zoning Map. The regulations set forth in this division shall not apply to a stream and its associated shoreland area when they are also located in an area designated as a shoreland zone. Streams located within shoreland zones shall be subject to the provisions of division 26.

(Ord. No. 15-92, § 30, 6-15-92)

Sec. 14-453. Development standards.

(a) *Minimum building setback from normal high water line of stream:* Seventy-five (75) feet. Notwithstanding this requirement, when a lot is a lot of record as defined in section 14-433 or

cannot otherwise meet the setback requirement of this section due to physical limitations of the site, the Planning Board may approve a reduction of the setback requirement for a principal structure to the least amount necessary to achieve a building dimension of twenty-eight (28) feet, provided that the setback is not reduced to less than forty (40) feet. Structures in existence on June 15, 1992, may be expanded once during the lifetime of the structure up to twenty-five (25) feet toward a stream or tributary stream, provided that the setback is not reduced to less than forty (40) feet and the floor area or volume is not increased by more than thirty (30) percent.

(b) *Filling of material within a stream protection zone:* Filling of material within a stream protection zone shall require site plan review in accordance with article V of this chapter.

(c) *Minimum parking setback from normal high water line of stream:* Seventy-five (75) feet. Notwithstanding this requirement, the Planning Board may reduce the parking setback where the required setback cannot be met to the least extent necessary, provided that such setback shall not be less than the setback of the principal structure from the stream.
(Ord. No. 15-92, § 30, 6-15-92; Ord. No. 278-09/10, 7-19-10)

Sec. 14-454. - Sec. 14-460. Reserved.

DIVISION 27. ADMINISTRATION AND ENFORCEMENT*

*Cross reference(s)—Administration, Ch.2.

Sec. 14-461. Building authority to enforce article.

It shall be the duty of the building authority to enforce the provisions of this article. No permit or certificate of occupancy shall be issued for the construction, alteration, enlargement, moving, use or change of use of any building, structure, or part thereof, or for the use or change of use of any premises, unless the plans and intended use indicate that the building, structure or premises is to conform in all respects with the provisions of this article.

(Code 1968, § 602.22.A)

Sec. 14-462. Change to nonconforming use.

The use of any part of any building or structure for a

one-family dwelling house, two-family dwelling house, lodging house, hotel, tenement or apartment house, dormitory, educational use, club, church, farm use, hospital, sanitarium, institution, aviation facility, office or bank, place of amusement or assembly, retail business or service other than a filling station or garage, wholesale business, manufacturing or storage facility, warehouse, filling station, stable, minor garage for not more than one (1) commercial motor vehicle, minor garage for more than one (1) commercial motor vehicle, public garage, any use prohibited in an industrial zone, or for any other distinctive use shall not be changed to any other use in this list of uses or to any other distinctive use, whether alterations in the building or structure are involved or not, until a permit and certificate authorizing such change of use has first been secured from the building authority, unless the proposed use conforms with the requirements of this article for the zone in which the building or structure or part thereof is located. Failure to secure such a permit before such a change is made shall be a violation of this article.

(Code 1968, § 602.22.B)

Sec. 14-463. Certificate of occupancy required.

No building or part thereof shall be constructed, altered, enlarged or moved unless a permit for such action has been issued by the building authority. Applications for building permits and certificates of occupancy required by the building code shall also serve as applications for permits required by this article. After the building, structure or part thereof has been completed, altered, enlarged or moved, a certificate of occupancy shall be obtained for the proposed use before the same may be occupied or used. A certificate of occupancy shall be required for any of the following:

- (a) Any increase in the number of dwelling units in a building;
- (b) Establishment of any home occupation;
- (c) Change in the use of a nonconforming use, whether of land or buildings;
- (d) Occupancy and use, or change of use, of vacant land, except for the raising of crops;
- (e) Change in the use of an existing building, whether or not alterations are involved, from any use in the following list to any of the other uses on the list:

1. Manufacturing or processing;
2. Residential;
3. Retail;
4. Storage or warehouse;
5. Transportation;
6. Other industrial;
7. Institutional;
8. office;
9. Other commercial;
10. Water-dependent use;
11. Marine use.

(Code 1968, § 602.22.C; Ord. No. 293-84, § 1, 11-19-84; Ord. No. 168-93, § 4, 1-4-93)

Sec. 14-464. Plans to be submitted.

A site plan showing the dimensions of the lot and of all buildings, yards and parking spaces, existing or proposed, shall accompany each application to the building authority for a building permit or certificate of occupancy. Site plans of all off-street loading and off-street parking, whether or not such parking is located on the same lot with the building for which it is required or which it is to serve, shall be provided.

(Code 1968, § 602.22.D)

Sec. 14-465. Reserved.

(Ord. No. 224-00, 5-15-00; Ord. No. 119-01/02, § 3, 12-3-01; Ord. No. 253-15/16, 7/1/2016; Repealed by Order 158-16/17, 3-6-2017)

Sec. 14-466. – Sec. 14-470. Reserved.

DIVISION 28. JURISDICTION OF BOARD OF APPEALS*

*Cross reference(s)–Administration, Ch. 2; boards generally, § 2-31 et seq.; board of appeals, § 14-541 et seq.

Sec. 14-471. Jurisdiction and authority.

The board of appeals shall have the following jurisdiction and authority:

- (a) Subject to the provisions of section 14-472, to hear and decide appeals from, and review orders, decisions, determinations or interpretations made by the building authority;
 - (b) Subject to the provisions of section 14-473, to hear and grant or deny applications for variances from the terms of this article;
 - (c) Subject to the provisions of section 14-474, to hear and grant or deny applications for conditional uses, as specified in this article;
 - (d) To initiate changes and amendments to this article.
- (Code 1968, § 602.24.A; Ord. No. 437-74, 7-1-74; Ord. No. 354-85, § 5, 1-7-85)

Sec. 14-472. Appeals.

(a) *Authority.* The board of appeals shall hear and decide appeals from and review orders, decisions, determinations or interpretations or the failure to act of the building authority.

(b) *Procedure:*

1. *Notice of appeal.* An appeal may be taken to the board of appeals by any person affected by a decision of the building authority. Such appeal shall be taken within thirty (30) days of the action complained of by filing with the building authority a notice of appeal specifying the grounds thereof. A payment of a nonrefundable filing fee, as established from time to time by the city council to cover administrative costs and costs of hearing, shall accompany notice of appeal. The building authority shall forthwith transmit to the board of appeals all of the papers constituting the record upon which the action appealed from was taken.
2. *Public hearing.* A public hearing shall be set, advertised and conducted by the board of appeals in accordance with article VI of this chapter.
3. *Action by the board of appeals.* Within thirty (30) days

following the close of the public hearing, the board of appeals shall render a decision on the appeal in the manner and form specified in article VI of this chapter. The failure of the board to act within thirty (30) days shall be deemed an approval of the appeal unless mutually extended in writing by the appellant and the board. Within five (5) days of such decision or failure to act notice thereof shall be mailed by the secretary to each party.

4. *Right to grant variance in deciding appeals.* In any case where the notice is accompanied by an application for variance in accordance with section 14-473(b)(1), the board of appeals shall have the authority to grant, as part of the relief, a variance, but only in strict compliance with each provision of section 14-473 hereof.
5. *Conditions and limitations on rights granted by appeal.* Any right granted by the board of appeals on appeal shall be subject to the same conditions and limitations as if secured without the necessity of an appeal.

(Code 1968, § 602.24.B; Ord. No. 437-74, 7-1-74)

Sec. 14-473. Variances.

(a) *Authority.* Except as otherwise expressly provided in subsection (c)(3) and (c)(4), the board of appeals may authorize variances from the provisions of this article as meet the requirements of this division including but not limited to use variance, dwelling unit conversion, space and bulk such as lot size, density and side yard, parking, loading and signs.

(b) *Procedure:*

1. *Application.* Application for a variance shall be submitted to the building authority. A payment of a nonrefundable application fee, as established from time to time by the city council to cover administrative costs and costs of a hearing, shall accompany each application. The application shall be in such form as prescribed by the building authority and contain at least the following information and documentation:
 - a. The name and address of the applicant and his or her interest in the subject property;
 - b. The name and address of the owner, if different

from the applicant;

- c. The address or location of the subject property;
 - d. The present use and zoning classification of the subject property;
 - e. Where the site plan approval is required by article V of this chapter, a preliminary or final site plan as defined by article V of this chapter;
 - f. The relief sought from the board of appeals.
2. *Public hearing.* A public hearing shall be set, advertised and conducted by the board of appeals in accordance with article VI of this chapter.

A copy of each variance request pertaining to division 26 (shoreland regulations) including the application and all supporting information supplied by the applicant, shall be forwarded by the municipal officials to the Commission of the Department of Environmental Protection at least twenty (20) days prior to action by the board. Any comments received from the Commissioner prior to action by the board shall be made part of the record and shall be taken into consideration by the board.

3. *Action by board of appeals.* Within thirty (30) days following the close of the public hearing, the board of appeals shall render its decision granting or denying the variance, in the manner and form specified by article VI of this chapter. The failure of the board to act within thirty (30) days shall be deemed an approval of the variance unless mutually extended in writing by the applicant and the board. Within seven (7) days of such decision or the expiration of such period, the secretary shall mail notice of such decision or failure to act to the applicant.

(c) *Conditions for variances:*

1. *Undue hardship required; defined.* Except as provided in subsection (2) below, a variance may be granted by the board only where strict application of the ordinance, or a provision thereof, to the petitioner and his property would cause undue hardship. The words "undue hardship" as

used in this subsection mean:

- a. That the land in question cannot yield a reasonable return unless a variance is granted;
 - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
 - c. That the granting of a variance will not alter the essential character of the locality; and
 - d. That the hardship is not the result of action taken by the applicant or a prior owner.
2. *Disability variance:* Notwithstanding the provisions of subsection (c)(1) of this section, the board may grant a variance to an owner of a residential dwelling for the purpose of making that dwelling accessible to a person with a disability who resides in or regularly uses the dwelling. The board shall restrict any variance granted under this subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the dwelling by the person with the disability. The board may impose conditions on the variance, including limiting the variance to the duration of the disability or to the time that the person with the disability lives in the dwelling. The term "structures necessary for access to or egress from the dwelling" shall include railing, wall or roof systems necessary for the safety or effectiveness of the structure. For the purpose of this subsection, a disability has the same meaning as a physical or mental handicap under 5 M.R.S.A. Section 4553.
3. *Practical difficulty variance:*
 - a. Notwithstanding the provisions of subsections 14-473(c)(1) and (2) of this section, the board of appeals may grant a variance from the dimensional standards of this article when strict application of the provisions of the ordinance would create a practical difficulty, as defined herein, and when all the following conditions are found to exist:
 1. The need for a variance is due to the unique circumstances of the property, and not to the

general conditions in the neighborhood;

2. The granting of the variance will not produce an undesirable change in the character of the neighborhood and will not have an unreasonably detrimental effect on either the use or fair market value of abutting properties;
3. The practical difficulty is not the result of action taken by the applicant or a prior owner;
4. No other feasible alternative is available to the applicant, except a variance;
5. The granting of a variance will not have an unreasonably adverse effect on the natural environment; and
6. The property is not located, in whole or in part, within a shoreland area, as defined in 38 M.R.S.A. § 435, nor within a shoreland zone or flood hazard zone, as defined in this article.

b. The following words have the meanings set forth below:

1. *Dimensional standards*: Those provisions of this article which relate to lot area, lot coverage, frontage, and setback requirements.
2. *Practical difficulty*: A case where strict application of the dimensional standards of the ordinance to the property for which a variance is sought would both preclude a use of the property which is permitted in the zone in which it is located and also would result in significant economic injury to the applicant.
3. *Significant economic injury*: The value of the property if the variance were denied would be substantially lower than its value if the variance were granted. To satisfy this standard, the applicant need not prove that

denial of the variance would mean the practical loss of all beneficial use of the land.

- c. Except as modified above, the other provisions of section 14-473 will apply to practical difficulty variances, including, but not limited to, the provisions of section 14-473(b)(2) (public hearing), and section 14-473(d) (specified variances prohibited).
- d. A practical difficulty variance may not be used to grant relief from the provisions of section 14-449 (land use standards), to increase either volume or floor area, nor to permit the location of a structure, including, but not limited to, single-component manufactured homes, to be situated on a lot in a way which is contrary to the provisions of this article.

4. *Specified variances prohibited:*

- a. No use permitted in medium- and high-density residential districts shall be permitted in low-density residential districts. No use permitted in business districts shall be permitted in any residential district. No use permitted in industrial districts shall be permitted in any business or residential district. No use permitted in residential districts shall be permitted in any industrial district. The general use categories are listed below:
 - 1. Low-density residential: IR-1, IR-2, IR-3, R-1, R-2, R-3.
 - 2. Medium- and high-density residential: R-4, R-5, R-6.
 - 3. Business: R-P, B-1, B-2, B-3, A-B, B-4, B-5, I-B.
 - 4. Industrial: I-L, I-Lb, I-M, I-Ma, I-Mb, I-H, I-Hb.
- b. No variance shall be granted which would permit the creation of a lot or parcel that cannot be

developed in compliance with the zoning, subdivision and other regulations applicable thereto.

- c. No variance shall be granted which would result in a use or development of the lot or parcel in question which would not be in harmony with the general purpose and intent of this article or the land development plan of the city; which would be materially detrimental to the public welfare or materially injurious to the enjoyment, use or development of property or improvement permitted in the vicinity; or which would materially impair an adequate supply of light and air to properties and improvements in the vicinity, substantially increase congestion in the public streets, increase the danger of flood or fire, or endanger the public safety.
- d. No variance shall be granted which would be greater than the minimum variance necessary to relieve the undue hardship or the hardship of the applicant.
- e. Except for appeals concerning nonconforming dwelling units in existence and use prior to April 18, 1984, no variance shall be granted which would permit the alteration of a structure to accommodate any additional dwelling unit as a conditional use without meeting the requirements which would otherwise be a condition precedent to such conditional use treatment.
- f. No variance shall be granted which would permit the alteration of an existing residential structure in an R-4 or an R-5 zone to accommodate more than three (3) dwelling units. No such variance shall be granted unless:
 - 1. No additional unit shall have less than six hundred (600) square feet of floor area, exclusive of common hallways and storage in basement and attic;
 - 2. No open outside stairways or fire escapes above the ground floor shall be or have been constructed in the immediately preceding five (5) years;

3. A lower level dwelling unit shall have a minimum of one-half of its floor-to-ceiling height above the average adjoining ground level;
4. No existing dwelling unit shall be decreased to less than one thousand (1,000) square feet of floor area;
5. The building shall have been in existence prior to January 1, 1984;
6. A minimum of nine thousand (9,000) square feet of land area shall be required;
7. A minimum of four (4) on-site parking spaces shall be required;
8. A minimum of seventy-five (75) feet of street frontage shall be required; provided, further, before a building permit may be issued, site plan approval under article V of this chapter shall be required with the following additional review standards:
 - (i) Any addition or exterior alterations such as facade materials, building form and roof pitch shall be designed to be compatible with the architectural style of the structure;
 - (ii) The scale and surface area of parking, driveways, and paved areas shall be arranged and landscaped to be compatible in size and scale with neighboring properties in the area and to properly screen vehicles from adjacent properties and streets;

provided, further, that no variance shall be granted with respect to any of the preceding additional requirements.

- g. No variance shall be granted from the minimum lot sizes set forth in section 14-433 for lots in the IR-1, IR-2 and I-B zones.

- h. No variance shall be granted from the requirements in Section 14-403.

(d) *Conditions on variances; variances less than requested.* Reasonable conditions and safeguards relating to construction, character, location, landscaping, screening and other matters may be imposed upon the premises benefited by a variance as considered necessary to prevent injurious effects upon other property and improvements in the vicinity or upon public facilities and services. Such conditions shall be expressly set forth in the resolution granting the variance and in the notice informing the applicant thereof. Violation of such conditions and safeguards shall be a violation of this article. A variance less than or different from that requested may be granted when the record supports the applicant's right to some relief but not to the relief requested.

(e) *Limitations on variances.* No variance permitting the erection or alteration of a building shall be valid for a period longer than six (6) months, or such other time as may be fixed at the time granted not to exceed two (2) years, unless a building permit for such erection or alteration is issued and construction is actually begun within that period and is thereafter diligently pursued to completion. One (1) or more extensions of said expiration dates may be granted if the facts constituting the basis of the decision have not materially changed and the two-year period is not exceeded thereby. No variance relating to the establishment or maintenance of a use not involving a building or structure shall be valid for a period longer than six (6) months, or such other time as may be fixed at the time granted not to exceed two (2) years, unless an occupancy permit is issued and a use commenced within such period; provided, however, that one (1) or more extensions of said time may be granted if the facts constituting the basis of the decision have not materially changed, and the two-year period is not exceeded thereby.

(f) *Recording of variances.* No variance shall be valid unless, within thirty (30) days of final approval of the variance, a certificate describing the variance has been recorded by the applicant for the variance in the registry of deeds as required by 30 M.R.S.A. Section 4963.

(Code 1968, § 602.24.C; Ord. No. 437-74, 7-1-74; Ord. No. 467-83, § 1, 4-20-83; Ord. No. 563-84, 5-7-84; Ord. No. 357-84, § 1, 12-17-84; Ord. No. 354-85, § 6, 1-7-85; Ord. No. 40-85, § 1, 7-15-85; Ord. No. 67-87, § 5, 11-2-87; Ord. No. 93-88, 7-19-88; Ord. No. 167-89, 12-11-89; Ord. No. 324-92, 4-22-92; Ord. No. 164-97, § 13, 1-6-97; Ord. No. 208-98, §§ 1, 2, 2-2-98; Ord. No. 253-05/06, 7-17-06; Ord. No. 296-08/09, 6-15-09; Ord. No. 60-12/13, 11-19-12)

*Editor's note—Ord. No. 93-88, adopted July 19, 1988, amended § 14-473 by adding subsection (f) to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 93-88.

Sec. 14-474. Conditional uses.

(a) *Authority.* The board of appeals may, subject to the procedures, standards and limitations set out in this section, approve the issuance of a conditional use permit authorizing development of conditional uses listed in this article.

(b) *Procedure:*

1. *Application.* Applications for conditional use permits shall be submitted to the building authority. A nonrefundable application fee, as established from time to time by the city council to cover administrative costs and costs of a hearing, shall accompany each application. The application shall be in such form and shall contain such information and documentation as shall be prescribed from time to time by the building authority but shall in all instances contain at least the following information and documentation:
 - a. The applicant's name and address and his or her interest in the subject property;
 - b. The owner's name and address if different than the applicant;
 - c. The address, or chart, block and lot number as shown in the records of the office of the assessor of the subject property;
 - d. The zoning classification and present use of the subject property;
 - e. The particular provision of this article authorizing the proposed conditional use;
 - f. A general description of the proposed conditional use;
 - g. Where site plan approval is required by article V of this chapter, a preliminary or final site plan

as defined by article V of this chapter.

2. *Public hearing.* A public hearing shall be set, advertised and conducted by the board of appeals in accordance with article VI of this chapter.
3. *Action by the board of appeals.* Within thirty (30) days following the close of the public hearing, the board of appeals shall render its decision, in a manner and form specified by article VI of this chapter, granting the application for a conditional use permit, granting it subject to conditions as specified in subsection (d), or denying it. The failure of the board to act within thirty (30) days shall be deemed an approval of the conditional use permit, unless such time period is mutually extended in writing by the applicant and the board. Within five (5) days of such decision or the expiration of such period, the secretary shall mail notice of such decision or failure to act to the applicant and, if a permit is authorized, shall issue such permit, listing therein any and all conditions imposed by the board of appeals.

(c) *Conditions for conditional uses:*

1. *Authorized uses.* A conditional use permit may be issued for any use denominated as a conditional use in the regulations applicable to the zone in which it is proposed to be located.
2. *Standards.* The Board shall, after review of required materials, authorize issuance of a conditional use permit, upon a showing that the proposed use, at the size and intensity contemplated at the proposed location, will not have substantially greater negative impacts than would normally occur from surrounding uses or other allowable uses in the same zoning district. The Board shall find that this standard is satisfied if it finds that:
 - a. The volume and type of vehicle traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces required are not substantially greater than would normally occur at surrounding uses or other allowable uses in the same zone; and
 - b. The proposed use will not create unsanitary or

harmful conditions by reason of noise, glare, dust, sewage disposal, emissions to the air, odor, lighting, or litter; and

- c. The design and operation of the proposed use, including but not limited to landscaping, screening, signs, loading, deliveries, trash or waste generation, arrangement of structures, and materials storage will not have a substantially greater effect/impact on surrounding properties than those associated with surrounding uses or other allowable uses in the zone.
3. *Use Specific Standards.* The following additional standards of review apply to the specific uses.
- a. Emergency shelters are subject to the following conditions, in addition to the provisions of section 14-474 (c) 2. Notwithstanding section 14-474(a) or any other provision of this Code, the Planning Board shall be substituted for the Board of Appeals as the reviewing authority for any shelter also subject to Level III site plan review:
 - i. The facility shall provide adequate space for conducting security searches and other assessments;
 - ii. The facility shall be designed with a centralized shelter operations office on each level providing sight lines to sleeping areas;
 - iii. A Management Plan adequately outlining the following areas shall be provided: Management responsibilities; Process for resolving neighborhood concerns; Staffing; Access restrictions; On-site surveillance; Safety measures; Controls for resident behavior and noise levels; and Monitoring Reports.
 - iv. Adequate access to and from METRO service shall be provided. The facility shall be within a $\frac{1}{4}$ mile of a METRO line, or shall be within $\frac{1}{2}$ mile of a METRO line and provide adequate indoor space to permit all shelter guests day shelter, as well as implement

strategies to help residents utilize transit;

- v. The facility shall provide on-site services to support residents, such as case management, life skills training, counseling, employment and educational services, housing assistance, or other programs;
- vi. Suitable laundry, kitchen, pantry, bicycle storage, and secure storage facilities for shelter stayers shall be provided on-site; and
- vii. An outdoor area for guest use shall be provided on-site with adequate screening to protect privacy of guests.

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

(e) *Effect of issuance of a conditional use permit.* The issuance of a conditional use permit shall not authorize the establishment or extension of any use nor the development, construction, reconstruction, alteration or moving of any building or structure, but shall merely authorize the preparation, filing and processing of applications for any permits or approvals which may be required by the codes and ordinances of the city, including but not limited to a building permit, a certificate of occupancy, subdivision approval and site plan approval.

(f) *Limitations on conditional use permits.* No conditional use permit shall be valid for a period longer than six (6) months from the date of issue, or such other time as may be fixed at the time granted not to exceed two (2) years, unless the conditional use has been commenced or is issued and construction is actually begun within that period and is thereafter diligently pursued to completion; provided, however, that one (1) or more extensions of said time may be granted if the facts constituting the basis of the decision have not materially changed, and the two-year period is not exceeded thereby. A conditional use permit shall be deemed to

authorize only the particular use for which it was issued and such permit shall automatically expire and cease to be of any force or effect if such use shall for any reason be discontinued for a period of twelve (12) consecutive months or more.

(g) *Appeals from board decisions.* Appeals from any decision of the board of appeals or, where applicable, the Planning Board respecting a conditional use permit shall be to superior court.

(Code 1968, § 602.24.D; Ord. No. 437-74, 7-1-74; Ord. No. 407-83, 2-2-83; Ord. No. 467-83, § 2, 4-20-83; Ord. No. 237-83, 10-17-83; Ord. No. 222-13/14, 5-5-2014; Ord. No. 252-16/17, 6-5-2017)

Sec. 14-475. Reserved.

***Editor's note**—Section 7 of Ord. No. 354-85, adopted Jan. 7, 1985, repealed § 14-475, relative to nonconforming uses, which derived from Code 1968, § 602.24.E, and Ord. No. 437-74, adopted July 1, 1974.

Sec. 14-476. Successive applications.

Whenever any application, appeal or other request filed pursuant to this article has been finally denied on its merits, a second application, appeal or other request seeking essentially the same relief, whether or not in the same form or on the same theory, shall not be brought within one (1) year of such denial unless, in the opinion of the officer or board before which it is brought, substantial new evidence is available or a mistake of law or fact significantly affected the prior denial.

(Code 1968, § 602.24.F; Ord. No. 437-74, 7-1-74)

Sec. 14-477. Violations.

In addition to any other remedies available, the board of appeals after notice and hearing may revoke any variance or other relief granted under this article when the provisions of this article or the conditions under which the relief was granted have not been complied with.

(Code 1968, § 602.24.G; Ord. No. 437-74, 7-1-74)

Sec. 14-478. - 14-482. Reserved.

***Editor's Note**—Pursuant to Council Order 280-09/10 passed on 7/19/10 Division 29 (Preservation and Replacement of Housing Units) was repealed in its entirety and replaced with a new Division 29 (Housing Preservation and Replacement).

DIVISION 29. HOUSING PRESERVATION AND REPLACEMENT

Sec. 14-483. Housing preservation and replacement.

(a) *Purpose.* The purpose of these regulations is:

1. To promote and facilitate an adequate supply of housing, particularly affordable housing for all economic groups;
2. To limit the net loss of housing units in the city;
3. To preserve housing in zones where housing is permitted for in the city for all residents in order to promote the health, safety and welfare of its citizens.

(b) *Definitions.*

Dwelling unit. A dwelling unit is one (1) or more rooms with private bath and kitchen facilities comprising an independent self-contained dwelling unit. For purposes of this section only it also includes single family, two-family and multi-family dwellings and any dwelling units in those dwellings, or dwelling units, or rooms that people rent or sleep in within lodging houses, dormitories, shelters and sheltered care group homes.

Loss of dwelling unit for purposes of this section means the elimination or conversion to nonresidential use of a dwelling unit and dwelling units that remain vacant for three years or more or are lost due to demolition unless the vacancy or demolition results from accidents outside of the owner's control, fire, natural disasters, or acts of war.

Original site means the location where the demolition or conversion to non-residential use of dwelling units will take place.

(c) *Applicability.* Except as otherwise provided in this section, this section shall apply to the loss of three or more dwelling units in a five year period, provided that such dwelling units were a legally registered residential use as of July 1, 2002.

Except as otherwise provided in this section, this section shall also apply to proposals that (a) result in the loss of fewer than three (3) dwelling units which were legally registered

residential use as of July 1, 2002, and (b) creates surface parking.

Determination of number of the dwelling units within a structure or structures and the number of units lost will be based on records in the Department of Planning and Urban Development indicating the legal, registered use of the property since July 1, 2002 through the time of application. The actual use of the property for purposes of applicability of this section may be rebutted by the owner by proof of documentary evidence including but not limited to photographs, letters, and sworn affidavits. The Planning Authority may conduct its own investigation of the actual use and shall determine the applicability of this section based on the totality of the evidence.

(d) *Exemptions.*

This section does not apply to:

1. Consolidation, elimination or reconfiguration of one (1) or more dwelling units within an existing structure, as long as all the resulting units remain as dwelling units after such consolidation, elimination or reconfiguration, except as provided by subsection 5 below. Conversion of a dwelling unit to a hotel or motel room shall not qualify for the exemption provided by the paragraph.

The amendments to paragraph (d)(1) approved by the City Council on June 6, 2011 shall have an effective date of April 25, 2011 but not apply to any final determination regarding the applicability of this section made by the Planning Authority prior to April 25, 2011.

2. Proposals that result in a number of units equal to or greater than the number of units lost as determined by the Planning Authority; or
3. Grandfathered dwelling units existing in zones which no longer permit residential uses.
4. Property which has been ordered demolished by the City, pursuant to 17 M.R.S.A. §2851, et seq., as amended, except where it is determined by the Building Authority that the deterioration was caused by neglect or lack of maintenance.

5. Subparagraph 1, above notwithstanding, the conversion to a non-residential use of any dwelling units located on the ground floor of a building within a business zone.

(e) *Site plan administrative authorization or approval required.* Notwithstanding any other provision of this section, a person who proposes to demolish or to convert to a nonresidential use three or more dwelling units in the City, in a zone where such use is otherwise permitted, must first obtain administrative authorization or site plan approval from the City's Planning Authority or Planning Board pursuant to Sec. 14-521, et. seq.

In addition the requirements of 14-521, et. seq., where this section is applicable, the applicant must also submit a statement certifying the number of dwelling units to be demolished or converted to nonresidential use, as well as a description of the characteristics of each of those units.

(f) *Tenant Notification Requirements.* Prior to elimination as a result of demolition or conversion to non-residential use, the owner shall:

1. Provide the Planning Authority a list containing the name of each tenant currently residing in the dwelling units to be demolished or converted to non-residential use, as well as verification of compliance with tenant notice requirements of this section.
2. Deliver to each tenant who occupies such a dwelling unit a written notice to vacate the unit. The notice shall either be sent by certified mail, return receipt requested, or served in-hand. The notice will grant the tenant not less than ninety (90) days from the date of receipt of the notice to vacate the unit; and
3. File proof of service of the notice with the Planning Authority.

(g) *Housing Replacement Requirements.* In addition to the requirements of 14-521, et. seq, the Planning Authority shall require, as a condition of approval, that an owner shall replace any dwelling units that are demolished or converted to non residential use.

This section may be satisfied in any one of the following ways:

1. Construction of Units. The construction of housing units within a new structure or a new addition either on site or off-site;
2. Residential Conversion. The conversion of a nonresidential building to residential use; or

The applicant may use either of the two methods or a combination of the two to fulfill their replacement requirement.

(h) *Replacement Unit Requirement.* In addition to the foregoing, all replacement units built pursuant to sub-section (g)(1) or (2) above shall:

1. Be located within the same United States Census Block Group as the parcel from which the dwelling units are being removed or within 1,500 feet of the dwelling units being removed;
2. Not previously have been on the market as of the date of application;
3. Be situated within a development which has not been a candidate for site plan approval as of the date of the application; and
4. Be comparable in size to the units replaced; for the purpose of this section, "comparable in size" means that the aggregate size of the replacement units will be no less than 80% of the size of the aggregate of the original units.

(i) *Contribution to the Housing Trust Fund.*

1. The applicant may meet the requirements of this section by depositing \$50,000 for each dwelling unit into the City's Housing Trust Fund in section 14-489.
2. Beginning on January 1, 2004 and annually thereafter, the amount of the contribution shall be adjusted by multiplying this amount originally deposited for each unit by a fraction, the denominator of which shall be the "Consumer Price Index for Urban Wage Earners and Clerical Workers ("CPI-W"), U.S. City Average, "All Items Index," as published by the United States Bureau of Labor Statistics ("the Index") for

January 1, 2003 Year, and the numerator of which shall be the Index for the same month in each subsequent year. In the event that the Index is not then in existence, the parties shall use such equivalent price index as is published by any successor governmental agency then in existence; or, if none, then by such nongovernmental agency as may then be publishing an equivalent price index, in lieu of and adjusted to the Index. If the Index shall cease to use 1982-84 equals 100 as the basis of calculation, or if a substantial change is made in the terms or number of items contained in the Index, the Base Index shall be adjusted to conform to such change, using such computation thereof, if available, as shall be employed by the United States Department of Labor in computing same. Notwithstanding anything herein to the contrary, contributions made after January 1, 2004 shall not be less than the amount originally required to be deposited pursuant to sub-section (i)(1) for each rooming or dwelling unit.

(j) *Performance Guaranty/Letter of Credit.* Owners or affiliates must post a performance guaranty in the form of a letter of credit, or other security acceptable to the city attorney, in the amount equivalent to the amount the applicant would have been required to contribute to the City's Housing Trust Fund if the applicant had chosen that option pursuant to sub-section g. Such a performance guaranty shall be valid for no more than three years, after which the full amount due shall be provided to the City's Housing Trust Fund if replacement units satisfying the conditions of this Division 29 do not have Certificates of Occupancy.

(k) *Partial waiver of replacement requirements.* Any owner who has applied for site plan review for elimination or conversion to non-residential use of dwelling units may apply to the Zoning Board of Appeals for a partial waiver from the housing replacement requirements of this section. Such waiver may be a downward adjustment of up to fifty percent (50%) of the owner's housing replacement obligation if the owner establishes to the board's satisfaction that:

1. The proposed development is consistent with the comprehensive plan;
2. The proposed development provides significant value and benefit to the immediate and surrounding neighborhood, including, but not limited to, community enhancement,

social benefits or job creation;

3. The applicant demonstrates with objective evidence that the imposition of the requirements of this section would impose such an economic burden upon the project relative to its scope that it renders the project impossible to develop; and
4. The requested relief does not constitute a grant of a special privilege inconsistent with the limitations upon similar properties.

The Zoning Board of Appeals must make positive findings on each of the four (4) criteria above in order for any such adjustment to be valid. An applicant aggrieved of a decision of the Zoning Board of Appeals may appeal a decision under this subsection pursuant to Sec. 14-553 of the City Code.

(l) *Effect of Other City Ordinances.*

1. *Historic Preservation.* Nothing in this division shall permit the demolition or conversion to non-residential use, of dwelling units in residential property protected by the Historic Preservation Ordinance (Sections 14-601, et seq.), except as permitted by that ordinance.
2. *Conditional Zone.* A conditional zone may not be used to circumvent the application of this section. The terms of this section shall apply to any conditional zone which involves dwelling units affected by this section. Notwithstanding the foregoing, nothing herein shall be deemed to prevent the City and the applicant from agreeing to terms which exceed those imposed by this section by means of a conditional zone.

(m) *Appeals.* Any applicant aggrieved by a decision of the Planning Authority under this section may appeal to the Zoning Board of Appeals within 30 days of that decision.

(Ord. No. 27-02/03, 10-7-02; Ord. No. 280-09/10, 7-19-10; Ord. No. 241-10/11, 6-6-11; Order 133-15/16, 1-4-2016)

DIVISION 30. AFFORDABLE HOUSING

Sec.14-484. Purpose.

It is in the public interest to promote an adequate supply of affordable housing for the city's residents. The purpose of this division therefore is to offer incentives to developers to

include units of affordable housing within development projects, thereby mitigating the impact of market rate housing construction, or the demonstrated increase in affordable housing needs resulting from the creation of new lower-income jobs, on the limited supply of available land for suitable housing, and helping to meet the housing needs of all economic groups within the city. The city believes that this division will assist in meeting the city's comprehensive goals for affordable housing, in the prevention of overcrowding and deterioration of the limited supply of affordable housing, and by doing so promote the health, safety and welfare of its citizens.

(Ord. No. 98-06/07, 12-4-06; Ord. 82-15/16, 10-19-2015; Ord. No. 134-18/19, 1-23-2019)

Sec. 14-485. Definitions.

Affordable means that the percentage of income a household is charged in rent and other housing expenses or must pay in monthly mortgage payments (including condominium/HOA fees, mortgage insurance, other insurance and real estate taxes), does not exceed 30% of a household's income, or other amount established in city regulations that does not vary significantly from this amount.

Low-income housing unit for rent means a dwelling unit for which:

- (a) The rent is affordable to a household earning 80% or less of Area Median Income (AMI) as defined by the United States Department of Housing and Urban Development (HUD);
- (b) The unit is rented to a household earning 80% or less of AMI; and
- (c) The requirements of (a) and (b) above are limited by deed restriction or other legally binding agreement for the applicable length of time in this ordinance..

Low-income housing unit for sale means a dwelling unit for which:

- (a) The sale price is affordable to a household earning 100% or less of AMI;
- (b) The unit is sold to a household earning 100% or less of AMI; and

- (c) The requirements of (a) and (b) above are limited by deed restriction or other legally binding agreement for future sales for the applicable length of time in this ordinance.

Development fees means:

- (a) The following fees, as described in this chapter: site plan review and inspection fees; subdivision review and inspection fees; impact fees; and administrative fees; and
- (b) Construction and permit fees as described in Chapter 6. "Development fees" does not include any fees charged for reviews conducted by a party other than the city.

Dwelling unit has the same meaning as that term is defined in section 14-47.

Eligible project means a development project:

- (a) That is permissible under the provisions of this chapter in the zone in which it is proposed;
- (b) That will be a single-family or multi-family dwelling, or subdivision consisting of a group of dwellings, and will not be located in an R-1 or R-2 zone;
- (c) That creates new dwelling units, among which is at least one low-income or workforce housing unit for rent or sale, through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a non-residential use to residential use, or any combination of these elements. Affordable housing units for sale or rent may not differ in exterior design from other units within an eligible project; and
- (d) Projects shall not be considered "eligible projects" solely because they are subject to Section 14-487 ("Ensuring Workforce Housing").

Hotel Project means any hotel, inn or motel, as defined in Section 14-47 of Chapter 14 of the Portland City Code, consisting of 10 or more guest rooms for rent. Any such development that

exists prior to the effective date of this Section but expands by 10 or more rooms within any 5 year period will also be considered a hotel project.

Workforce housing unit for rent means a dwelling unit for which:

- (a) The rent is affordable to a household earning 100% or less than of AMI
- (b) The unit is rented to a household earning 100% or less of AMI; and
- (c) The requirements of (a) and (b) above are limited by deed restriction or other legally binding agreement for the applicable length of time in this ordinance.

Workforce housing unit for sale means a dwelling unit for which:

- (a) The purchase price is affordable to a household earning 120% or less of AMI;
- (b) The unit is sold to a household earning 120% or less of AMI; and
- (c) The requirements of (a) and (b) above are limited by deed restriction or other legally binding agreement for the applicable length of time in this ordinance.

(Ord. No. 98-06/07, 12-4-06; Ord. No. 84-08/09, 10-20-08; Ord. 82-15/16, 10-19-2015; Ord. No. 196-15/16, 3-21-2016; Ord. No. 247-17/18, 6-18-2018; Ord. No. 98-18/19, 11-19-2018; Ord. No. 134-18/19, 1-23-2019

Sec. 14-486. Reduction of fees.

Notwithstanding any other provision of this chapter or chapter 6 to the contrary, development fees shall be reduced by the city for an eligible project in the manner described in the following table:

Percentage of new units that are low-income or workforce units	Percentage discount of development fees	Cost of Work (Building Permit) Fees in lieu of Section 617 (a) 1 & 3
5% up to but not including 10%	5% reduction	\$10.50 per \$1,000

10% up to but not including 15%	10% reduction	\$9.90 per \$1,000
15% up to but not including 20%	15% reduction	\$9.35 per \$1,000
20% up to but not including 25%	20% reduction	\$8.80 per \$1,000
25% or more	25% reduction	\$8.25 per \$1,000

The planning and urban development department shall perform its review of an eligible project in as expedited a manner as is practical, without impairing the scope or thoroughness of the review. The planning and urban development department may adopt administrative procedures to prioritize review of eligible projects and facilitate this expedited review.

The planning board shall make its best efforts to give priority in scheduling workshops and public hearings related to any plans or applications required for an eligible project that are within the planning board's jurisdiction, without impairing the scope or thoroughness of its review. At the conclusion of these public meetings, the planning board shall promptly issue a decision on all such plans and applications before it for consideration.

(Ord. No. 98-06/07, 12-4-06; Ord. 82-15/16, 10-19-2015; Ord. No. 165-15/16, 3-7-2016; Ord. No. 196-15/16, 3-21-2016)

Sec. 14-487. Ensuring Workforce Housing.

(a) *Purpose.* Based on the city's Comprehensive Plan and the housing study completed in 2015, it is in the public interest to promote an adequate supply of housing that is affordable to a range of households at different income levels. The purpose of this section is to ensure that housing developments over a certain size provide a portion of workforce housing units and, by doing so, promote the health, safety, and welfare of Portland citizens.

(b) *Applicability.* This division shall apply to development projects that create ten or more new dwelling units for rent or for sale through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a non-residential use to residential use, or any combination of these elements.

(c) *All Developments of Ten Units or More Conditional Uses.* Notwithstanding any language to the contrary in Chapter 14, all developments of ten units or more are conditional uses subject to Planning Board review on the condition that they comply with the requirements of this section, 14-487 unless they are within the India Street Form Based Code district, in which case the review will be conducted administratively or by the Planning Board in accordance with the thresholds of site plan review for the district.

(d) *Workforce Housing Minimum.* At least ten percent (10%) of the units in the project shall meet the definition of workforce housing unit for sale or for rent. The project shall have the option of paying a partial fee-in-lieu as per (e)4 below for any fractional value or providing an additional unit on site.

(e) Standards.

1. Projects shall not be segmented or phased to avoid compliance with these provisions. In cases where projects are completed in phases, affordable units shall be provided in proportion to the development of market rate units unless otherwise permitted through regulations.
2. Workforce units are encouraged to be integrated with the rest of the development, should use a common entrance and should provide no indications from common areas that these units are workforce housing units.
3. Workforce units need not be the same size as other units in the development but the number of bedrooms in such units, either on- or off-site, shall be no less than 10 percent of the total number of bedrooms in the development. For the purposes of calculating the number of bedrooms in a development, every 400 square feet in each market rate unit will count as a bedroom if the Planning Authority determines this method is appropriate in lieu of counting actual bedrooms.
4. As an alternative to providing workforce housing units, projects may pay a fee in lieu of some or all of the units. In-lieu fees shall be paid into

the Housing Trust Fund as defined in Sec. 14-489. The fee for affordable units not provided shall be \$100,000 per unit, adjusted annually in the same way as the fee under Division 29 for Housing Replacement.

5. Workforce housing units for sale, if converted to workforce housing units for rent, shall become subject to the income limits and other requirements of such units.
6. If at least 33 percent of the units in a development are workforce units, the development is eligible for subsidy through an Affordable Housing TIF, subject to City Council approval.
7. The term of affordability for the required 10 percent workforce units provided shall be defined as follows:

Percentage of Workforce Units Provided	Minimum Term of Affordability for Required Workforce Units
10%	Longest term permitted under federal, state and local laws and ordinances
25%	30 years
50%	20 years
100%	10 years

(f) Implementing Regulations. Regulations to further specify the details of this section shall be developed, including, but not limited to:

1. Specific methodology for income verification;
2. Situations where less than permanent affordability might be considered; and
3. Guidelines for meeting the requirement that off-site units be "in the same neighborhood".

(g) Reporting to City Council. In conjunction with the annual report on the Housing Trust, city planning staff shall annually report on developments subject to this section, the number of units produced, the amount of fee-in-lieu collected, and the overall effectiveness of this section in achieving its

stated purpose.

(Ord. No. 98-06/07, 12-4-06; Ord. 82-15/16, 10-19-2015; Ord. No. 247-17/18, 6-18-2018)

Sec. 14-488. Density, parking and dimensional bonuses and reductions.

Notwithstanding any other provision of this chapter to the contrary, in order to encourage low income and workforce units in designated growth areas, eligible projects may avail themselves of the following options.

(a) *Density bonuses.* The maximum number of units that would otherwise be allowed under this chapter shall be increased for an eligible project in the manner described in the following table.

Eligible projects in all B-1, B-1b, B-2, B-2b, B-2c, B-3, B-3b, B-3c, B-5, R-7, and R-P Zones

Percentage Low Income Units for Sale/Rent	Percentage Workforce Units for Sale/Rent	Density Permitted*	Additional Height Permitted***	Setback Reductions**
10%	20%	1.1 x base	N/A	N/A
20%	40%	1.2 x base	10 feet	N/A
30%	60%	1.3 x base	10 feet	5'
50%	100%	2.0 x base	15 feet	5'
75%	N/A	2.5 x base	25 feet	10'

*: "Base" is the number of units allowed under the zoning without this bonus but with any other bonuses applied. In R-P zones, multifamily is permitted with a "base" no less than 1 unit per 1,500 sf. of land area. If an eligible project is providing both workforce and affordable housing units, the applicant shall have the option of utilizing applicable incentives, but not cumulatively.

**: Setback reductions are absolute reductions in front, side and/or rear yard setback requirements. The maximum setback reductions in the B-1, B-1b and R-P zones shall be 5 feet.

*** The maximum additional height permitted in the B-1 zones and the R-P zone shall be 15 feet. In addition, the maximum structure height is 50 feet within 750 feet of the Portland Observatory.

(b) *Off-street parking.* Off-street parking is required as

provided in Division 20 (off-street parking) of this article.

(c) *Reserved.*

(d) *Planned Residential Unit Developments (PRUDs).* In order to promote orderly development of low- and moderate-income development as PRUDs, any project in which more than 50% of the units are low-income or workforce units for rent or for sale may utilize the following dimensional bonuses and changes:

1. Minimum lot area per dwelling unit is reduced by 50%;
2. Maximum number of units and maximum length of buildings do not apply but may be set through site plan review;
3. Minimum building setbacks may be reduced to 10 feet;
4. The PRUD may cross public rights of way provided that the right of way does not count towards minimum lot size nor towards any open space requirements;
5. Minimum Recreation Open Space Area is reduced to 200 sf per dwelling unit of common area designated for recreational purposes by the residents. Minimum contiguous size and setbacks do not apply and shall be set through site plan review
6. The Planning Board's Design Manual, design standards and guidelines with respect to PRUDs shall apply in full to PRUDs utilizing this section.

(e) *Unit Size and Term of Affordability.* In order to be eligible for this section, the low income and workforce housing units must:

1. Meet Section 14-487 Ensuring Workforce Housing, subsection (e) *Standards* 1,2 and 3; and
2. Be affordable for the longest term permitted under federal, state and local laws.

(f) *Required Public Process.* The developer of the project must also commit to a good faith effort to communicate

openly with affected properties as their process moves forward. At a minimum, no less than 30 days prior to application for site plan review, any project that wishes to take advantage of this section must (1) hold a public meeting noticed to all properties within 500 feet of their site and (2) post a sign on the property in question describing the proposed project; intent to submit an application to the city in 30 days (cite anticipated submission date); and contact information for the developer and the Planning Authority (Department of Planning and Urban Development website link). The Planning Board may adopt regulations regarding the content and processes for noticing as part of the Technical Manual.

(g) *Projects under 14-487.* Projects that are subject to 14-487 that choose to provide the required workforce housing units on site are eligible for a 25% increase in total permitted units. If an eligible project is also subject to 14-487, the applicant shall have the option of utilizing either this bonus or any bonuses they are eligible for under 14-488.1 but not both.

(Ord. No. 98-06/07, 12-4-06; Ord No. 240-09/10, 6-21-10; Ord. 82-15/16, 10-19-2015; Ord. No. 31-17/18, 9/6/2017)

14-488.1 Inclusionary Zoning for Hotel Projects.

(a) *Purpose.* This section is based on City analysis, most specifically the analysis documented in the Greater Portland Council of Government study "Proposed Hotel Linkage Fee: Supportable Range" dated August 29, 2018, that finds that new hospitality developments create a need for new affordable housing. This need is the result of the fact that hospitality developments necessarily create a number of jobs that do not pay employees at a rate sufficient to allow those employees to afford market-rate housing in the City of Portland.

(b) *Hotel Projects Conditional Uses.* Notwithstanding anything to the contrary in Chapter 14, all hotel projects are conditional uses subject to Planning Board review on the condition that they comply with the requirements of this Section 14-488.1.

(c) *Low Income Housing Minimum.* All hotel projects shall provide one unit of Low Income Housing for rent in the City of Portland for every 28 rooms in the hotel project which shall meet the standards outlined in Section 14-487 and in the implementing regulations governing Low Income Units. This amount shall be

rounded up to the nearest increment of 28 rooms. These units shall be deed restricted for the longest period permitted by law; shall not be used for Short Term Rentals of less than 30 days; and must be provided with distinct entrances from the street to delineate them from the hotel itself.

(d) *Fee-in-Lieu Alternative.* As an alternative to providing Low Income Housing units under subsection (c) above, a Hotel Project may pay a fee-in-lieu of \$3,806 per hotel guest room. This amount shall be paid into the City's Housing Trust and used for the purposes set forth in the ordinance and regulations applicable to that trust.

(e) *Annual Adjustments.* The amounts in (d) above shall be adjusted annually in the same way as the fee under Division 29 for Housing Replacement.

(f) *Regulations.* The Planning Board may promulgate implementing regulations based on this ordinance.

(g) *Applicability.* Notwithstanding the provisions of 1 M.R.S. § 302, Sec. 14-488.1 shall apply retroactively and include any and all actions and proceedings pending on September 26, 2018 or thereafter.
(Ord. No. 134-18/19, 1-23-2019)

DIVISION 31. HOUSING TRUST FUND

Sec. 14-489. Housing trust fund.

(a) *Purpose.* The purpose of enacting this section is:

1. To establish a City of Portland housing trust fund for the promotion, retention and cration of an adequate supply of housing, particularly affordable housing, for all economic groups and to limit the net loss of housing units in the City.
2. To serve as a vehicle for addressing very low, low, and median income housing needs through a combination of funds as set out in section 14-483 of this chapter.

(b) *Definitions.*

Very low income household. A household having an income

not exceeding fifty (50%) percent of median income for area of residence as set forth in regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to 42 U.S.C. section 1437 et seq.

Low income household. A household having an income not exceeding eighty (80%) percent of median income for area of residence as set forth in regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to 42 U.S.C. sections 1437 et seq.

Moderate income household. A household having an income not exceeding one hundred twenty (120%) percent of median income for area of residence as set forth in regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to 42 U.S.C. sections 1437 et seq.

(c) *Establishment of the housing trust fund.* The city council shall establish a special revenue account under the name "City of Portland Housing Trust Fund." Deposits into the fund shall include:

1. Contributions from the city's housing replacement ordinance under 14-483(i);
2. Funds appropriated to be deposited into the fund by vote of the city council;
3. Voluntary contributions of money or other liquid assets to the fund;
4. Any federal, state or private grant or loan funds provided to the fund;
5. Interest from fund deposits and investments; and
6. Repayments of loans made from the fund.

(d) *Management of the trust fund.* The city manager, or his or her designee, shall serve as the manager of the housing trust fund. The responsibilities of the manager, subject to the orders of the city council, shall include:

1. Maintaining the financial and other records of the housing trust fund;
2. Disbursing and collecting housing trust fund monies in

accordance with the housing trust fund annual plan;
and

3. Monitoring the use of monies distributed to successful applicants for housing trust fund support to assure on-going compliance with the purposes of the fund and the conditions under which these monies were granted or loaned.

(e) *Housing trust fund annual plan.* Each fiscal year, the city council shall adopt a housing trust fund annual plan. The city manager shall submit to the city council a recommended housing trust fund annual plan, utilizing the revenues of the housing trust fund as well as any other funds the manager may propose as appropriate. The housing committee of the city council or such other committee as the council shall designate shall conduct public hearings on the recommended plan and refer the matter to the council for action.

The housing trust fund annual plan shall include:

1. A description of all programs to be funded in part or in full by the housing trust fund;
2. A description of how funds from the housing trust fund will be distributed among very-low-income, low-income and moderate income households; and
3. The amount of funds budgeted for programs funded in part or in full from the housing trust fund.

Priority for the expenditure of funds collected pursuant to the housing replacement ordinance (see Sec. 14-483) shall be given to the creation of new housing stock, through either new construction or conversion of non-residential buildings to residential use.

(f) *Distribution and use of the housing trust fund's assets.*

1. All distribution of principal, interest or other assets of the housing trust fund shall be made in furtherance of the public purposes set out in section 14-483.
2. During each year, the housing trust fund shall disburse as grants or loans so much of the housing

trust fund's assets as the city council in its discretion has approved in the housing trust fund annual plan.

3. Funds shall not be used for city administrative expenses.
4. Funds shall not be used for property operating expenses or supporting services.
5. No grants or loans shall be awarded by the housing trust fund to corporations, partnerships or individuals who are delinquent, at the time of application in the payment of property taxes or other fees to the city of Portland, who have been convicted of arson, who have been convicted of discrimination in the sale or lease of housing under the fair housing laws of the State of Maine, or who have pending violations of current city electrical, plumbing building or housing codes or zoning ordinances.

(g) *Term of affordability.*

1. Whenever funds from the housing trust fund are used for the acquisition, construction or substantial rehabilitation of an affordable rental or cooperative unit, the City of Portland shall impose enforceable requirements on the owner of the housing unit that the unit remain affordable for the remaining life of the housing unit, assuming good faith efforts by the owner to maintain the housing unit and rehabilitate it as necessary. The remaining life of the housing unit shall be presumed to be a minimum of thirty (30) years.
2. Whenever funds from the housing trust fund are used for the acquisition, construction or substantial rehabilitation of ownership housing, the city of Portland shall impose enforceable resale restrictions on the owner to keep the housing unit affordable for the longest feasible time, while maintaining and equitable balance between the interests of the owner and the interests of the city of Portland.
3. The affordability restriction requirements described in this section shall run with the land and the city of Portland shall develop appropriate procedures and documentation to enforce these requirements and shall record such documentation

in the Cumberland County Registry of Deeds.
(Ord. No. 281-09/10, 7-19-10)

Sec. 14-490. Reserved.

ARTICLE IV. SUBDIVISIONS*

*Cross reference(s)--Ordinances dedicating or accepting any plat or subdivision in the city saved from repeal, § 1-4(h).

State law reference(s)--Land subdivisions, 30-A M.R.S.A. § 4403.

Sec. 14-491. Authority and purpose.

This article is adopted pursuant to the terms and provisions of 30-A M.R.S.A. Sections 3001 and 4403, as amended. The purpose of this article is to provide for the harmonious and economic development of the city; for the orderly subdivision of land and its development; for the orderly development of the general area surrounding such subdivision; for the coordination of streets within the general area; for adequate provisions for drainage, flood control, light, air and other public purposes; for the adequate and proper installation of streets, drainage, sanitary sewers, water and other utilities and facilities; for the dedication to the city of land for streets, alleys or other public purposes or the transfer to the city of easements or other rights or privileges; for the reservation for the city of land to be acquired for public facilities; and to protect public safety.
(Code 1968, § 603.1; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 155-89, § 1, 11-20-89)

Sec. 14-492. Jurisdiction.

This article shall govern each and every subdivision of land within the limits of the city unless specifically exempted in section 14-508. When application is made for the resubdividing of a previously recorded subdivision under the provisions of these regulations, it shall be treated as a new subdivision provided the applicant is the owner of rights in the recorded subdivision.
(Code 1968, § 603.3; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79)

Sec. 14-493. Definitions.

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them:

Alley shall mean any way designed primarily for vehicular or utility access to the back or side of premises otherwise abutting on a street, except driveways unless officially designated otherwise.

Easement shall mean a right, privilege or liberty which one has in land owned by another for some special and definite purpose.

Engineer shall mean a registered professional engineer in good standing with the state board of registration for engineers.

Esplanade shall mean that portion of a street right-of-way which is located between the curbline and the edge of the sidewalk closest to the street.

Freshwater wetland shall mean freshwater swamps, marshes, bogs and similar areas which are:

- (a) Inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and
- (b) Not considered part of a great pond, coastal wetland, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection.

Land development plan shall mean any part or element of the land development plan for the city as adopted by city council resolution No. 540 of 1974, as amended.

Lot shall mean a parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision of record or survey map or by metes and bounds, for the purpose of sale or lease to another.

Nonresidential subdivision shall mean a subdivision which is not intended for human habitation, such as a commercial or industrial subdivision.

Performance guarantee shall mean a letter of credit or escrow account in an amount and form meeting the requirements of section 14-501.

Planned unit development shall mean a residential subdivision consisting of attached dwellings or a series of attached dwellings intended for separate ownership, with open spaces, recreational areas, access ways and buildings which are designed, built and controlled in accordance with a unified development plan.

Recording plat shall mean the completed subdivision plat in form for approval and recording.

Roadway shall mean that portion of a street between the regularly established curblines, or that part of a street or alley devoted to vehicular traffic.

Sidewalk shall mean that portion of a street not included in the roadway, and devoted in whole or part to pedestrian traffic.

Sketch plan shall mean a very simple layout to show the location of the subdivision to gain informal comments of city staff.

Street shall mean a public way for vehicular and pedestrian traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place or however otherwise designated, excepting, however, an alley.

- (a) *Arterial street* shall mean a heavily traveled street of considerable continuity used primarily as a traffic artery among large areas.
- (b) *Collector street* shall mean a nonarterial street which carries traffic from a minor street to arterial streets, including the principal entrance to streets of a residential development and streets for circulation within such a development.
- (c) *Marginal access street* shall mean a minor street which is adjacent to and substantially parallel with an arterial street and which provides access to abutting properties and protection from through traffic.
- (d) *Minor street* shall mean a street which services one (1) or more minor streets used primarily for access to abutting properties.
- (e) *Cul-de-sac or dead-end street* shall mean with only one (1) outlet.

Subdivider or applicant shall mean any individual, firm, association, syndicate, partnership, corporation, trust or any other legal entity commencing proceedings under these regulations to effect a subdivision of land hereunder for himself or for another.

Subdivision shall mean the division of a lot, tract or parcel of land into three (3) or more lots, including lots of forty (40) acres or more, within any five-year period whether accomplished by sale, lease, development, buildings or otherwise and as further defined in 30-A M.R.S.A. Section 4401. The term subdivision shall also include the division of a new structure or structures on a tract or parcel of land into three (3) or more dwelling units within a five-year period and the division of an existing structure or structures previously used for commercial or industrial use into three (3) or more dwelling units within a five-year period. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this paragraph. A dwelling unit shall include any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing condominiums, time-share units and apartments.

Subdivision plat shall mean a plan of the proposed subdivision for presentation to the Planning Board and the public.

Surveyor shall mean a qualified registered surveyor of good standing with the state board of registration.

Tract (or parcel) of land shall mean all contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

Vicinity sketch shall mean a sketch of the proposed subdivision location, not necessarily drawn to scale, showing the proximity of the subdivision to surrounding streets and highways. (Code 1968, § 603.5; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 127-87, § 1, 2-18-87; Ord. No. 247-88, 11-28-88; Ord. No. 155-89, § 2, 11-20-89; Ord. No. 25-11/12, 8-15-11)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 14-494. Guidance to subdivider.

The purpose of the preapplication procedure is to afford the

subdivider an opportunity to avail himself of the advice and assistance of the Planning Board, and to consult early and informally with the board staff before preparation of the subdivision plat and before formal application for its approval, to insure the development of a subdivision plan with mutual benefits for the subdivider and the city.

(Code 1968, § 603.2; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79)

Sec. 14-495. Procedure for approval of a subdivision.

(a) Application for approval:

1. To obtain approval of a proposed subdivision the subdivider or applicant shall prepare for the Planning Board a subdivision plat, a vicinity sketch, and a recording plat in accordance with the requirements and standards established by this article.
2. The sketch plan may be prepared for staff and Planning Board review if desired by the applicant prior to formal submission of the subdivision plat.
3. The subdivider shall supply and submit five (5) copies of the complete subdivision plat and the vicinity sketch to the office of the planning authority at least fifteen (15) days prior to a regularly scheduled meeting of the Planning Board, to be in order for consideration by the board at the meeting.
4. The planning authority shall forward a copy of the subdivision plat and vicinity sketch to the public works authority, parks authority, fire department and building authority, all of which shall submit recommendations to the planning authority by the time of the initial hearing on the subdivision plat.
5. Prior to the date upon which the planning authority meets to consider the subdivision plat the applicant shall pay all costs incurred in providing public notice. The planning authority shall determine the amount of this fee based on the actual costs incurred in newspaper advertising and postage, and shall also be responsible for collecting and accounting for such fee. Public notice in the form of newspaper advertisement shall be provided as required under 14-32.
6. Notice shall be provided in accordance with section

14-32. Notice shall also be sent to the clerk and the reviewing authority of municipalities that abut or include any portion of a proposed subdivision.

7. The city council may from time to time establish by order reasonable application fees to defray the costs of reviewing subdivisions.

(b) *Timing of subdivision review:* A public hearing shall be commenced within thirty (30) days following the receipt of a complete subdivision application. The staff shall notify the applicant in writing either that the application is complete or, if it is determined to be incomplete, the specific additional materials needed to make it a complete application. The Planning Board shall render its decision on any application submitted to it within sixty (60) days following receipt of a complete application, or such other time as may be mutually agreed to by the Planning Board and the applicant.

(c) *Engineering requirements:*

1. The applicant shall furnish the public works authority with all engineering data and plans necessary for the completion of the required improvements, as enumerated in section 14-496(b). Such plans may be furnished apart from but at the same time as the subdivision plat and vicinity sketch and shall be certified by a registered professional engineer.
2. The public works authority shall review the plans submitted as required in subsection (c)(1) above and shall approve, approve conditionally, or disapprove same within ten (10) days of submission as to whether such plans are in conformance with the standards set forth in this article.

(d) *Subdivision plat approval:* The Planning Board shall approve, approve conditionally or disapprove such subdivision plat at a public meeting. If approved conditionally, the conditions and reasons shall be stated and given in writing to the subdivider and, if necessary, the Planning Board may require the subdivider to submit a revised subdivision plat. If the Planning Board should disapprove the subdivision plat, the reasons for such action shall be stated and given in writing to the subdivider, and the board may state the conditions under which the proposed subdivision would be approved. One (1) copy of the subdivision plat as acted upon by the Planning Board shall be retained in its office, one (1) copy

forwarded to the public works authority and one (1) copy returned to the subdivider.

(e) *Effect of subdivision plat approval:* Receipt of the approved copy of the subdivision plat of the subdivider is not authorization that he may proceed with the construction of any improvements. No construction will proceed until the recording plat has been approved by the Planning Board and has been properly recorded as required hereinafter in subsection (g).

(f) *Recording plat approval:*

1. The applicant shall submit the recording plat and five (5) copies thereof to the planning authority at least fifteen (15) days prior to the date of the meeting of the Planning Board at which it is intended to be considered, which copies shall be distributed as hereinafter provided.
2. Consideration of the recording plat, however, shall not take place until approvals required in subsections (c) and (d) are obtained.

(g) *Recording:*

1. When the recording plat is approved, the subdivider shall pay the actual cost of recording and reproducing five (5) copies of the plat, one (1) of which shall be on mylar for the public works authority records.
2. The recording plat shall be recorded in the office of the county registry of deeds by the subdivider.
3. The registry book and page numbers will then be recorded on the five (5) copies of the plan, of which one (1) shall be kept at the office of the Planning Board, one (1) sent to the building authority, one (1) copy on mylar sent to the public works authority, one (1) to the assessor's office and one (1) to the subdivider.
4. Unless the subdivider shall record his or her approved recording plat within three (3) years after the Planning Board has approved the subdivision plat, the recording plat approval shall become null and void. The preceding sentence notwithstanding, if the Planning Board's initial approval of a subdivision is based in part upon the granting of a variance from any of the applicable

subdivision approval standards, no such variance shall be valid unless that fact shall be expressly noted on the face of the recording plat and shall be noted in a certificate, each of which shall conform to 30-A M.R.S.A. Section 4406, and such recording plat or such certificate or both of them are recorded in the Cumberland County Registry of Deeds within ninety (90) days of final subdivision approval.

(h) *Sectional recordings:* Following subdivision plat approval, the Planning Board may permit the subdivision to be divided into two (2) or more sections for recording purposes subject to any conditions that the board deems necessary in order to insure the orderly development of the plan. The applicant may seek approval of and record a sectional recording plat with the county registry of deeds only if the section constitutes at least twenty (20) percent of the total number of lots contained in the approval plat and, in addition, shows the entire tract or parcel. In these circumstances, if the first section of the plat has been recorded within three (3) years after Planning Board approval, subdivision plat approval of the remaining sections of the plat shall remain in effect for five (5) years after Planning Board approval.

(Code 1968, § 603.6; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 692-81, 5-18-81; Ord. No. 123-85, 10-7-85; Ord. No. 127-87, §§ 2--4, 2-18-87; Ord. No. 94-88, 7-19-88; Ord. No. 155-89, §§ 3, 4, 11-20-89; Ord. No. 227-01, 4-2-01)

*Editor's note--Ord. No. 94-88, adopted July 19, 1988, amended § 14-495(g)(4) to read as herein set out. See also the editors note to Art. III of this chapter for additional provisions relative to Ord. No. 94-88.

Sec. 14-496. Plat requirements.

Each and every modification of the information required to be shown on the plat in this section shall be applied for in writing by the subdivider. The decision of the Planning Board on such request shall be final.

(a) *Information on subdivision plat.* The following information shall be shown on one (1) subdivision plat unless otherwise indicated:

1. Date, north point, title and graphic scale. Scale shall not be more than sixty (60) feet to the inch unless lots are more than an acre, but in no event more than one hundred (100) feet to the inch;

2. Based on a recent survey by the subdivider, existing contours at two (2) feet intervals or as otherwise required by the public works authority. Existing structures which are to remain will be delineated;
3. Names of proposed streets, width of rights-of-way, and typical cross section reservation, and depth of construction materials;
4. Locations, widths and purposes of other rights-of-way or easements to be recorded;
5. All appropriate street curve information, including point of curvature, point of tangency, tangent distance, radii and interior angle, in standard engineering format;
6. Location of those utilities existing on or adjacent to the tract to be subdivided, including size and elevation of buried or underground utilities (may be shown on separate plan);
7. Tract boundary lines and property lines of lots, with accurate dimensions and either bearings or deflection angles. All lots shall be numbered;
8. Names of adjacent property owners with parcels over twenty-five thousand (25,000) square feet or names of adjacent subdivision;
9. Designation of flood hazard areas, as defined by the National Flood Insurance Program and shown on the city flood hazard boundary map, as well as any other areas in the subdivision subject to inundation by storm water or storm sewer overflow;
10. Existing historic sites and structures which either appear on the National Register or are nominated to the National Register by the state historic preservation officer;
11. Proposed private and public utility system including water, gas, telephone, fire hydrants, and any other services which shall supply the area (may be shown on separate plan);

12. Sanitary sewer and storm drain plans and profiles showing size, kind and slope of pipe, proposed manhole rim and invert elevations and catch basin locations and drains (may be shown on separate plan);
13. Lighting plan showing the location, design, height and spacing from each other of the support poles, in accordance with standards and specifications established by the public works authority (may be shown on separate plan);
14. Tree plan showing groups of existing, sizeable trees which the subdivider intends to preserve (may be shown on separate plan);
15. A detailed plan of the entire subdivision and the immediate vicinity showing all existing and proposed drainage both on and off-site including drainage swales, ditches, etc., with directional flow arrows and approximate slope grades, and showing proposed finished "spot elevations" around the perimeter of the subdivision. Proposed drainage shall be shown as it may affect or restrict development on individual lots and with reference to improvements for which a performance guarantee is required under this article. Where deemed feasible by the public works authority, proposed finished contours at intervals of two (2) feet shall be provided on the drainage plan upon request (may be shown on separate plat):
16. Location and designation of any zoning district boundaries affecting the subdivision;;
17. All future phases and sections of the subdivision proposed by the subdivider (may be shown on separate plat);
18. Proposed parks and school sites, or other public open space that the developer proposes to convey to the city;
19. Names and addresses of registered professional engineer, subdivider and owner:

20. At the option of the subdivider, any other information that may be necessary for the full and proper consideration of the subdivision shall be submitted in writing;
21. Streets and right-of-way monuments and property line markers;
22. Vicinity sketch, as defined in section 14-493 (may be shown on separate plan);
23. Total site data, including total area of the subdivision, total area in streets, total area in recreation or open space and number of house lots;
24. Additional submission items if required by the Planning Board and insofar as feasible (may be shown on separate sheets or by other appropriate method):
 - a. When private sewage systems are used, the results and supporting data of a soil test of each lot in the subdivision conducted by a soil evaluator licensed in the state;
 - b. When the adequacy of the subdivision's load bearing capacity is in question, the results and supporting data of test borings conducted by a professional engineer registered in the state;
 - c. When conditions warrant, a program which shall be implemented by the subdivider to control dust, erosion and sedimentation and/or vehicular traffic during construction;
 - d. Evidence of the applicant's financial capability to carry out all phases of the proposed development;
 - e. Evidence of state and federal approvals, licenses or permits required by law, or the status of applications therefor;
 - f. Price range of houses that will be built in the subdivision;

- g. Traffic impact analysis;
 - h. High intensity soil survey, if required by the planning authority;
 - i. Evidence of technical capacity to undertake the development;
 - j. Types and estimated quantities of solid waste to be generated by the development;
 - k. Construction plan outlining the anticipated sequence of construction of the major features of the project including without limitation roads, retention basins, sewer lines, seeding and other erosion and sedimentation control measures, and pollution abatement measures and also setting forth the approximate dates for commencement and completion of the project;
 - l. A narrative and a plan showing all proposed buffer strips, their dimensions, and maintenance plans and responsibilities; and
 - m. A description of any wetlands, wildlife and fisheries habitats, archaeological sites or unusual natural areas located on or near the project site and a description of the methods that will be used to protect such areas.
 - n. Where submission drawings are available in electronic form, the applicant shall submit any available electronic CADD.DXF files with final plans.
- (b) *Recording plat.* The recording plat shall be an original ink drawing on linen or mylar, or as necessary to be acceptable to the registry of deeds, and shall be tied to an accepted street or to a proposed street under construction and bonded to insure construction. This plat also shall show the following:
- 1. Title, date, graphic scale, north arrow, name, signature and registration number or seal of a registered land surveyor licensed in the state, name and address of developer and owner;

2. Tract boundary lines and property lines of lots, with accurate dimensions and either bearings or deflection angles. All lots shall be numbered;
 3. All appropriate street curve information, including point of tangency, tangent distance, radii and interior angles, in standard engineering form;
 4. Street names, width of street rights-of-way and typical cross section showing only surface dimensions of roadway pavement, esplanade and sidewalk reservation;
 5. Street and right-of way monuments and property markers. Iron pipes shall be designated by a small circle at the point of installation;
 6. Locations, dimensions and purposes of any easement or right-of-way;
 7. Purpose for which sites, other than residential lots, are dedicated or reserved; it being understood that any reservations of areas shall be subject to the proper zoning thereof;
 8. Reference to recorded subdivision plats of adjoining platted land by book and page number;
 9. Space for the signatures of the Planning Board and date of approval;
 10. Where required by 30-A M.R.S.A. Section 4406, the fact that initial approval or subsequent amendment of a subdivision is based in part upon the granting of a variance from any of the applicable subdivision approval standards.
- (c) *Alterations to an approved plat.* The planning authority may approve alterations to an approved recording plat when all of the following conditions are met; otherwise, a new subdivision plat must be submitted to the Planning Board:
1. The rearrangement of lot lines does not increase the number of lots within a block or other subdivision unit or area;

2. The alteration will not affect any street, alley, utility easement or drainage easement;
3. The alteration meets all of the minimum requirements of this article, article III of this chapter on zoning and other applicable state and local codes:
4. The alteration is approved by the public works authority and the fire department.

Such approved alterations shall be properly recorded in the registry within thirty (30) days thereof or they shall be null and void. Recording of approved alterations also shall be in accordance with the requirements of 30-A M.R.S.A. Section 4406.

(d) *Vacation of plats.* Any such plat recorded, or any portion thereof, may be vacated with the consent of the city council as follows:

1. At any time before the sale of any lot therein, by written instrument, signed by the city and the owners of such subdivision, declaring the same to be vacated and describing therein the part or portion to be so vacated.
2. At any time after the sale of any lot therein and by written instrument, signed by the city and all owners of record of lots shown on the plat, declaring the same to be vacated and describing therein the part or portion to be so vacated.

Any instrument so executed vacating all or a portion of any plat shall be duly filed and recorded in the county registry of deeds. The execution and recording of the instrument described in subsection (d)2 above shall vest fee simple title to the centerline of the street, alley or easement for public passage so vacated in the owners of abutting properties. Title to property located within the vacated streets, alleys or easements for public passage shall pass to abutting property owners free and clear of any rights of the public or other owners of lots shown in the plan, but subject to the rights of the owners of any public utility installations which have been previously erected therein.

(Code 1968, § 603.7; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 127-87, §§ 5, [12], 2-18-87; Ord. No. 95-88, §§ 1, 2, 7-19-88; Ord. No.

155-89, § 5, 11-20-89; Ord. No. 177-93, §§ 1, 2, 1-4-93; Ord. No. 165-97, 1-6-97)

***Editor's note--**Ord. No. 95-88, adopted July 19, 1988, amended subsections (b) and (c) of this section to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 95-88.

Sec. 14-497. General requirements.

(a) *Review criteria.* When reviewing any subdivision for approval, the Planning Board shall consider, among others, the following review criteria and before granting approval shall determine that the proposed subdivision:

1. Will not result in undue water or air pollution. In making this determination it shall at least consider the elevation of land above sea level and its relation to the flood plains, the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; the conformity to the applicable state and local health and water resources regulations;
2. Has sufficient water available for the reasonably foreseeable needs of the subdivision;
3. Will not cause unreasonable burden on an existing water supply;
4. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
5. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highway or public roads existing or proposed;
6. Will provide for adequate sanitary waste and storm water disposal and will not cause an unreasonable burden on municipal services if they are utilized;
7. Will not cause an unreasonable burden on the ability of the city to dispose of solid waste and sewage if municipal services are to be utilized;
8. Will not have an undue adverse effect on the scenic or

natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the department of inland fisheries and wildlife or by the city, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline. For subdivisions within historic districts designated pursuant to article IX of this chapter, the Planning Board shall apply the standards of section 14-651(c) of article IX. The Planning Board may request that the historic preservation committee prepare an evaluation of the proposed subdivision based upon the standards of section 14-651(c);

9. Is in conformance with the land development plan or its successor;
10. The subdivider has adequate financial and technical capacity to meet the standards of this section;
11. Whenever situated, in whole or in part, within the watershed of any pond or lake or within two hundred fifty (250) feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water;
12. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater;
13. Is or is not in a flood-prone area, based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one (1) foot above the 100-year flood elevation;
14. All potential wetlands within the proposed subdivision shall be identified on any maps submitted as part of the application, regardless of the size of those wetlands. Any mapping of wetlands may be done with the help of the

local soil and water conservation district; and

15. Any river, stream or brook within or abutting the proposed subdivision shall be identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38 M.R.S.A. Section 480-B, subsection 9.

(b) *Burden of proof.* In all instances the burden of proof shall rest upon the person proposing the subdivision.

(c) *Conformity with Code.* Any proposed subdivision shall be in conformity with all relevant provisions of this Code.

(d) *Reserved.*

(e) *Construction records and inspection.*

1. The project engineer and city engineer shall have the right to enter and inspect the construction site during all phases of the project to ensure compliance with this article.
2. After approval of the subdivision plat and prior to the construction of any of the subdivision's public improvements, the subdivider shall supply the city engineer with a complete set of engineering drawings on mylar or linen showing all streets, sanitary sewers and surface water drains and all appurtenant work within the subdivision.
3. The subdivider shall provide the project engineer with a complete and accurate list of any changes from the engineering drawings as approved by the Planning Board prior to the release of the performance bond.

(Code 1968, § 603.8; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 127-87, §§ 6, [13], 2-18-87; Ord. No. 155-89, § 6, 11-20-89; Ord. No. 15-92, § 31, 6-15-92; Ord. No. 221-93, 5-17-93)

Sec. 14-497.5. Adjustment of dimensional requirements for subdivisions in the R-3 zone.

Notwithstanding section 14-90 and any other section of this chapter, up to twenty-five (25) percent of the lots in a subdivision located in the R-3 zone may have reduced street frontage and/or lot widths, provided that the Planning Board finds as part of subdivision approval that the following standards are

- (a) The subdivision is approved for the first time on or after December 1, 1997;
- (b) The subdivision has a minimum land area of three (3) acres;
- (c) The fire department determines that the reduced street frontage is adequate to provide access required to provide emergency services to each lot; and
- (d) A lot with reduced lot width shall meet all required setbacks.

(Ord. No. 165-97, § 6, 12-1-97)

Sec. 14-498. Technical and design standards.

(a) *Adoption and amendment of standards:* The public works authority and the planning authority may promulgate technical and design standards for subdivisions and site plans. Such technical and design standards or any amendments thereto shall become effective only upon approval of the Planning Board following a public hearing before the Planning Board. In approving the technical and design standards, the Planning Board may direct staff to make changes with respect to format and text but, to the extent that standards are based upon sound engineering practice, shall not direct changes in the standards themselves. Such standards shall be additional to and consistent with the provisions of this article and shall be necessary and reasonable and shall be in accord with sound engineering practice. The public works authority and planning authority shall maintain for public inspection current copies of the effective standards.

(b) *Street plan:*

1. All streets shall be platted along contour elevations which result in minimum grades and greatest visibility whenever practicable, with consideration given for anticipated use of the land.
2. The proposed street layout shall be coordinated with the street system of the surrounding areas. All streets must provide for the continuation or appropriate projection of streets in surrounding areas and provide means of ingress and egress for surrounding acreage tracts.

When connecting streets within residential neighborhoods, new streets shall contribute to a neighborhood street system characterized by a network of interconnected streets, which minimizes through-traffic in residential neighborhoods. The layout of subdivision lots, streets, and pedestrian ways shall promote multiple paths of travel to get to destinations within and between neighborhoods by foot and bicycle, as well as auto.

The interconnection of new and existing streets is further subject to the following provisions to minimize and mitigate through-traffic in residential neighborhoods:

- a. Where a determination is made that a proposed street connection will result in substantial increases in traffic volume and speed on the effected public streets, the planning board may require appropriate traffic calming solutions as set forth in the traffic calming ordinance. (Section 28-250) The department of public works (DPW) may by regulation and amendment to the *Technical Manual* establish standards for determining what is a "substantial increase in traffic volume and speed"; and
- b. In any circumstances where a street connection is allowed, the planning board may condition subdivision approval to require the developer to monitor future traffic patterns to determine whether, using existing traffic calming standards, new or additional traffic calming measures should be employed. The extent and design of traffic calming shall be determined by the DPW to mitigate the post development impact of connecting new and existing streets.

In cases where post development monitoring shows that increased traffic volume and speed is such that further traffic calming would be insufficient to mitigate traffic negative impacts of through-traffic, the DPW may require that the connection be modified to exclude regular vehicular traffic, while retaining bicycle, pedestrian, and where needed, emergency vehicle connections. The DPW shall develop typical standards and specifications for bicycle, pedestrian, and emergency vehicle

connections and/or turnarounds.

- c. Where a determination is made by the DPW that a proposed street connection will result in substantial increases in traffic volume and speed on the affected public streets, the planning board may disallow a proposed street connection for vehicular purposes in favor of a connection for non-vehicular purposes in situations where a proposed residential street connection meets all of the following criteria:
 - i. the new street would result in the connection of two arterials; and
 - ii. the street would be located in a neighborhood where there is no existing public through-street network connecting the same arterials; and
 - iii. there is no likelihood that other public street connections will be developed in the future that would connect the arterials, whether because of topography limitations, existing development patterns, or other similar reason.

In circumstances where vehicular connections are disallowed per section (c) above, the planning board shall require that adequate right-of-way is reserved to permit the extension of the street for pedestrian, bicycle, emergency use, and potential vehicle connections as may develop in the future.

- 3. Reserve strips or spite strips for unspecified or unacceptable purposes are prohibited.
- 4. Street right-of-way widths shall not be less than:
 - a. Fifty (50) feet for marginal access street;
 - b. Fifty (50) feet for minor street;
 - c. Sixty (60) feet for collector street.

Proposed subdivisions along existing, or dedicated, or platted streets where rights-of-way are inadequate shall provide

additional land to meet the minimum standards.

5. Streets shall not occupy more land than needed to provide access nor create unnecessary fragmentation of the subdivision into small blocks. Streets will be designed to discourage outside traffic from traversing the development.
6. All dead-end streets shall provide for a cul-de-sac or, in the case of a dead-end street which will be extended, a temporary turn-around at the end of the street, subject to the approval of the public works authority.
7. The minimum roadway width including esplanades and sidewalks shall be:
 - a. Fifty (50) foot right-of-way, street pavement width, curbing, sidewalk width and esplanade width to conform to the requirements contained within the City of Portland Technical Manual.
 - b. Sixty (60) foot right-of-way, street pavement width, curbing, sidewalk width and esplanade width to conform to the requirements contained within the City of Portland technical and design standards and guidelines manual.
 - c. Street right-of-way on the islands in Casco Bay shall comply with article III of chapter 25.
8. Sidewalks and curbs:
 - a. Sidewalks shall be constructed on each side of each street in accordance with article III of chapter 25. Sidewalks to be used by pedestrians are to be so located as to minimize contacts with normal automotive traffic, with preference given to interior walks away from streets in common open space in block interiors.
 - b. Curbs shall be constructed on each side of each street. The curbing shall be constructed as provided in article VI of chapter 25.

(c) *Street design:*

1. Profiles of each street or way in the subdivision shall

be shown on the subdivision plat. They shall be drawn to a longitudinal scale of forty (40) feet to one (1) foot and a vertical scale of four (4) feet to one (1) inch. Such profiles shall include separate profiles of each side line and center line of the street or way. Any buildings abutting on the street shall be shown in standard engineering format as requested by the public works authority.

2. Street grades in all proposed subdivisions shall be subject to the approval of the public works authority.
3. The public works authority shall establish the sequence in which work is to be accomplished. Where it is determined by the public works authority that work has been completed prior to the receipt of all approvals required by this article or which is out of sequence or is not in compliance with the standards of this section and of chapter 25, the director of parks and public works or an inspector from the public works authority may issue a stop work order. Work shall recommence only after the stop work order has been lifted by the director of parks and public works or an inspector from the public works authority. Violation of the stop work order shall be considered an offense.

(d) *Street and subdivision names:*

1. Street names for all subdivisions shall appear on the subdivision plat and be subject to approval by the Planning Board.
2. Subdivision names for plats shall be subject to approval by the Planning Board and not duplicate the name of any plat already recorded.

(e) *Exception for private streets within PRUD's and manufactured housing parks.* Private streets within PRUD's and manufactured housing parks shall be exempt from the street right-of-way and roadway width requirements set forth above, provided that no such street shall be accepted by the city unless it is first improved to the standards set forth above at the expense of those persons requesting the street acceptance. Private streets within a PRUD or a manufactured housing park shall meet specifications established by the public works department. All private streets shall be designed by a professional engineer and shall be built according to accepted engineering standards.

(f) *Sewers and storm drains:*

1. The design of all sewers and storm drains shall be subject to approval by the public works authority.
2. All subdivisions shall be provided with adequate storm drain systems within the subdivision separate from any sanitary sewer system required in article III of chapter 25.
3. Any natural or manmade areas, systems or facilities designated for stormwater control purposes and intended for city maintenance shall, except for detention or retention ponds or basins and regularly free-flowing watercourses, be structurally enclosed in accordance with the standards of the public works authority, and shall be dedicated with sufficient land for maintenance purposes. Warranty deeds to such areas shall be submitted for acceptance by the city council at the same time as the acceptance of streets. All such areas as are not intended for city maintenance shall be permanently protected and maintained by private agreement, deed covenant or restriction, as appropriate, in form approved by the corporation counsel.
4. The approval of the plumbing inspector is required for all subdivisions involving the use of septic tanks and drainage fields for sewage disposal.
5. The subdivider shall be responsible for the construction of all sewers and storm drains including manholes, catch basins and any other appurtenances as may be deemed necessary by the public works authority. All work shall be in accordance with public works specifications.
6. The public works authority shall establish the sequence in which work is to be accomplished. Where it is determined by the public works authority that work has been completed prior to the receipt of all approvals required by this article or which is out of sequence or is not in compliance with the standards of this section and of chapter 24, the director of parks and public works or an inspector from the public works authority may issue a stop work order. Work shall recommence only after the stop work order has been lifted by the director of parks and public works or an inspector from the public works

authority. Violation of the stop work order shall be considered an offense.

(g) *Blocks:*

1. A maximum block length of eight hundred (800) feet, measured from the nearest street lines of intersecting streets, shall be observed except where, in the opinion of the Planning Board, conditions justify a departure from this standard. In general, block size should be the maximum consistent with the use and shape of the site and the convenience and safety of the occupants.
2. In blocks exceeding eight hundred (800) feet in length, measured from the nearest street lines of intersecting streets, the Planning Board may require where feasible the reservation of a twenty (20) foot wide easement to the city through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable and may further specify, at its discretion, that a four (4) foot wide paved foot path be included.
3. The length, width and shape of blocks shall be determined on the basis of:
 - a. Provision of adequate building sites suitable to the special needs of the type of use contemplated;
 - b. Zoning requirements as to lot sizes, setbacks and dimensions;
 - c. Needs for convenient access, circulation, control and safety of street traffic;
 - d. Limitations and opportunities of topography.
4. Blocks with lots having double frontage on streets shall be avoided.
5. The foregoing dimensions may be adjusted by the Planning Board where type of use or topography requires such modification.

(h) *Lots:*

1. Lot sizes shall conform to the zoning ordinance in article III of this chapter and the city health code.

2. Where easements for public utilities, storm or sanitary sewers are contemplated, the lot lines shall be located in such a manner as to facilitate construction of such facilities and the maintenance thereof.
3. Lots which are reserved or laid out for business, commercial or industrial purposes shall have sufficient width and depth to accommodate the off-street parking and loading facilities required for the type of use and development contemplated, as established in article III of this chapter.
4. Where feasible, side lot lines shall be at right angles to street lines (or radial to curving street lines).

(i) *Public open space:*

1. In all subdivisions open space may be provided for parks, recreational and other public areas. Where no public open space or recreational areas exist in close proximity to the subdivision, or where a lack of such areas in the subdivision would require its disapproval under section 14-497(a), general requirements, the Planning Board may require provision of land for park or recreational purposes. Such lands may be designated for public or private ownership in accordance with the conditions stated in this section, subject to the approval of the Planning Board.
2. If a tract or parcel is intended for public ownership and is so designated on the subdivision plat, the acceptance of such land shall be first recommended by the various departments and the Planning Board and sent to the city council for final determination.
3. If a tract or parcel is designed or intended to be owned and used in common for recreational or other public or semipublic purposes and such intent is so designated on the subdivision plat, appropriate documents in form approved by the corporation counsel shall be submitted to the Planning Board. Such documents shall clearly:
 - a. Set forth the nature of the permanent organization under which common ownership is to be established, including its purpose; how it shall be governed and administered; the provisions made for permanent

care and maintenance of the common property for its share of the cost of administering and maintaining such common property;

- b. Set forth the extent of common interest held by the owner of each individual parcel in the tract held in common with others.

(j) *Access to shoreline:*

1. In all subdivisions having shore frontage on the island of Casco Bay, existing legal rights of public access to the shoreline shall be preserved. The proposed street layout and circulation plan shall be suitably integrated with such existing public access in a manner that reasonably promotes the public use of such access. The proposed street layout and circulation plan shall also be designed to preserve any legal rights to any significant water views and scenic vistas from such rights-of-way.
2. In all subdivisions having any lots within the shoreland zone, legal rights of private access to waters shall, to the extent reasonably feasible, be established for the benefit of all lots within the subdivision not otherwise having such access.

(Code 1968, 603.9; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 41-84, § 1, 6-18-84; Ord. No. 98-85, § 1, 7-15-85; Ord. No. 127-87, §§ 7, 8, 2-18-87; Ord. No. 104-87, 10-19-87; Ord. No. 66-88, 7-18-88; Ord. No. 201-89, § 1, 12-18-89; Ord. No. 218-04/05, 5-2-05; Ord. No. 86-05/06, 10-17-05; Ord. No. 278-09/10, 7-19-10; Ord. 208-15/16, 11-16-2015)

***Editor's note**--Ord. No. 66-88, adopted July 18, 1988, amended § 14-498 by adding subsections (c)(3) and (f)(6). The ordinance further provided as follows:

Be it further ordained and determined by the city council that the above amendments are necessary in order to prevent further work being done which is not in accordance with City technical standards. Therefore, this enactment shall take effect immediately as an emergency pursuant to Article II, Section 8 of the Charter and shall further apply to all pending proceedings, applications, petitions and to all projects which have work that remains to be completed at the date of enactment of these amendments.

Sec. 14-499. Required improvements.

Prior to the release of the approved recording plat the subdivider shall file a guarantee as hereinafter provided, and prior to release of such guarantee the subdivider shall have completed all improvements as follows:

- (a) All streets shall be graded in conformity with the requirements set out in section 14-498 and in accordance with article III of chapter 25.
- (b) On all streets, side streets, and alleys, a suitable hard surfaced permanent pavement shall be installed meeting the requirements set forth in article III of chapter 25.
- (c) Water, gas and sanitary sewer mains and storm drains shall be constructed prior to the installation of paving with all mains being extended from all lots having sufficient stub outs to avoid subsequent breaking of pavement.
- (d) Sidewalks and curbs shall be constructed as required in section 14-498.
- (e) Adequate storm drains shall be constructed subject to the provisions of section 14-496 and in accordance with the department of public works specifications.
- (f) A total of two (2) trees per lot, which shall be street trees, shall be planted near the street line in full public view on private property, as directed by the city arborist pursuant to "Standards for Landscaping and Landscape Preservation" contained in the City of Portland Technical Manual. Existing healthy trees may be credited toward this requirement, subject to the approval of the city arborist.
- (g) Permanent markers will be set as prescribed by the public works authority.
- (h) All utility lines shall be placed underground unless otherwise approved by the Planning Board.
- (i) Street lighting shall be installed in accordance with the standards of the public works authority.
- (j) A public water supply shall be installed subject to the approval of the Portland Water District.
- (k) Erosion control measures shall be taken both during and after construction in accordance with the standards of the public works authority.

(Code 1968, § 603.10; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 127-87, § 9, 2-18-87; Ord. No. 105-87, § 1, 10-19-87; Ord. No. 278-

Sec. 14-499.5. Additional requirements for manufactured housing parks.

All manufactured housing parks and subdivisions as defined in section 14-47 shall meet the requirements for residential subdivisions established by this article, the site plan and the zoning ordinance, in addition to the following requirements for manufactured housing parks:

- (a) The entire development shall be properly screened from abutting neighborhoods and uses. Such screen shall consist of plantings, or a combination of earth berm and plantings, not less than three (3) feet in width and six (6) feet in height at the time of initial occupancy of such development, and shall be set back on corner lots so as to comply with section 14-434. Individual shrubs or trees, as approved by the city arborist, shall be planted so as to establish a dense visual screen year round. At least fifty (50) percent of the plantings shall consist of evergreens. Such screen shall thereafter be permanently maintained in a condition meeting the specifications and intent of this subsection. In cases where such screen areas are to be separately owned, the deed of conveyance shall contain a requirement that the grantee shall likewise maintain the screen area. Such requirement shall be in a form acceptable to the corporation counsel. Any area intended to be owned and used in common shall thereafter be maintained by a permanent organization as set forth in section 14-498(i)(3). Existing vegetation may substitute for new plantings if it forms an acceptable dense visual screen consistent with the intent of this subsection.
- (b) All manufactured housing units and any accessory structure within such development shall be located at least fifty (50) feet from any external property boundary of the development where the proposed park density is two (2) or more times greater than the density of residential development on adjacent parcels or the maximum permitted density of adjacent vacant parcels.
- (c) All units within such development shall be set back from any existing collector or arterial street, as defined in section 14-493, in accordance with the setback provisions for the underlying zone.

- (d) All fuel oil supply systems shall be constructed and installed within the foundation wall or underground in accordance with all applicable codes and regulations.
- (e) All trash containers, bottled gas tanks, storage sheds, utility meters, or other similar items or accessory structures except parking garages, shall be located and suitably screened by plantings or fencing so as not to be clearly visible from the street or abutting properties.
- (f) All manufactured housing units shall be placed either on a foundation which forms a complete enclosure under exterior walls, or on suitable blocks on a foundation pad, in which case the unit shall be boxed or skirted with suitable material designed for such use.
- (g) All manufactured housing units shall be properly installed, blocked and leveled or affixed to a foundation wall, so as to rest on the wheels used to transport the unit. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation.
- (h) Notwithstanding the provisions of sections 14-498 and 14-499, private roads within a manufactured housing park shall be a minimum of twenty-three (23) feet wide, with a minimum pavement width of twenty (20) feet.

(Ord. No. 611-82, § 1, 7-7-82; Ord. No. 358-84, § 1, 12-17-84; Ord. No. 201-89, § 2, 12-18-89)

Sec. 14-500. Additional requirements for nonresidential subdivisions.

All nonresidential subdivisions must meet the requirements for residential subdivisions established by this article, the site plan in article V of this chapter and the zoning ordinance in article III of this chapter, in addition to the following considerations, except as waived by the Planning Board due to the commercial or industrial nature of the development:

- (a) Proposed industrial parcels shall be suitable in area and dimensions to the commercial or industrial development anticipated.
- (b) Street rights-of-way and pavement shall be adequate to accommodate the type, weight and volume of traffic anticipated to be generated.

(c) The design and installation of public utilities including water, sewers and storm water drainage, shall be adequate to accommodate the anticipated usage.;

(d) Streets carrying truck traffic shall not normally be extended to the boundaries of adjacent existing or potential residential areas.

(Code 1968, § 603.11; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79)

Sec. 14-501. Performance and defect guarantees; engineering review, inspection fees and administrative fees.

(a) The performance guarantee shall be a letter of credit or escrow account with a responsible financial institution or the deposit, with the finance department of the city, of a sum required for the guarantee. (The city shall hold such funds in a noninterest bearing account until the completion of all of the improvements.) The performance guarantee shall be in the name of the city and shall be approved by the finance director as to financial sufficiency and the corporation counsel as to proper form and legal sufficiency.

(b) Performance guarantees shall be required to ensure the fulfillment of all improvements as required by section 14-499, as well as the requirement in article III of chapter 25 that the subdivider shall give to the city, prior to the release of the performance guarantee a warranty deed (with metes and bounds description) to the property within each street within the subdivision, as well as delivery to the city of the warranty deeds to all other improvements intended for city maintenance. Such guarantee shall specify the completion date of the improvements required in the subdivision and the delivery date to the city of such deed or deeds prior to the expiration of the performance guarantee. The performance guarantee shall be for a term not less than one (1) year. Furthermore, the performance guarantee shall be released only upon the completion, to the satisfaction of the city, of the public improvements and the tendering of a defect guarantee as required in subsections (e) and (f).

(c) The guarantee shall be equal in value to one hundred (100) percent of the estimated cost of the improvements as determined by the public works authority and the planning authority. The guarantor shall not be released from the guarantee except by a release in writing from the public works authority and the planning authority.

(d) Performance guarantees may be reduced periodically by the

public works authority and the planning authority in the manner provided herein. Upon request, but in no event more than three (3) times in any calendar year, the developer shall be eligible to receive reductions in the performance guarantee equal to the estimated cost of the completed improvements. In no case, however, shall any performance guarantee be reduced (1) by less than one hundred thousand dollars (\$100,000.00) or fifty (50) percent of the initial amount of the performance guarantee, whichever is less, at any one (1) time; or (2) in any line item where improvements remain to be completed; or (3) to a value which is less than the estimated cost of completing all remaining prescribed improvements for which a performance guarantee is required by section 14-530 as determined by the public works authority. Notwithstanding any other provision of this section, no performance guarantee shall be reduced to less than the amount of the defect guarantee to be posted upon completion of the improvements.

(e) Upon the satisfactory completion of the subdivision's prescribed improvements, excepting tree planting and other landscaping if in the opinion of the city arborist the installation of such plantings is not feasible due to weather conditions, and following the city's receipt of the warranty deeds referred to in (b) above, the subdivider shall file a defect guarantee with the city. The defect guarantee shall ensure the workmanship and the durability of all materials used in the construction of the roadways, curbing, esplanades, sidewalks, sanitary sewerage systems (including manholes and house drain laterals), storm drainage systems (including manholes, catch basins and catch basin drains), street lighting, tree planting, other appropriate landscaping and all other public improvements which may become defective within one (1) year period, all as determined by the public works authority. The defect guarantee shall also ensure the proper installation of any required tree plantings or landscaping which were not installed prior to the filing of the defect guarantee during the next appropriate planting season, as determined by the city arborist. The defect guarantee shall be filed prior to the release of the performance guarantee and it shall not expire between October 30 and April 15 of the following year.

(f) The defect guarantee shall be a letter of credit or escrow account with a responsible financial institution or the deposit, with the finance department of the city, of a sum required for the guarantee (the city shall hold such funds in a noninterest bearing account until the completion of all of the improvements), equal in value to ten (10) percent of the estimated cost of public improvements. It shall be in the name of the city and shall be approved by the finance director as to financial sufficiency and

the corporation counsel as to proper form and legal sufficiency. A guarantee which contains appropriate terms and conditions to cover both the performance and defect guarantee provisions as specified in subsections (a)--(e) above is an acceptable form of guarantee.

(g) A performance guarantee and defect guarantee shall also be required to ensure the completion of all improvements as required by section 14-499.5, as well as all improvements for the circulation, recreation, landscaping, light, air, drainage and service needs of a planned unit development which are not subject to section 14-501(b). For purposes of this subsection, sections 14-501(c) and (d) shall also apply. The planning authority may waive all or any portion of this requirement if it determines that the developer has a proven record of satisfactory performance and sufficient financial capability.

(h) At the same time that the developer posts a performance guarantee, the developer shall also pay to the city the subdivision inspection fee equal to two (2) percent of the estimated costs of improvements required by this article, with actual inspection costs in excess of two (2) percent invoiced by the city at the completion of the project or as deemed necessary by the city. If a performance guarantee is extended beyond its original expiration date, then an additional inspection fee in an amount to be determined by the city shall be required.

(i) The developer shall also pay a fee to cover the engineering review costs and administrative costs to be incurred by the city. The fee shall be based upon the actual hours of review time and prevailing hourly rate for reimbursement of city costs, and shall be invoiced periodically by the city.

No land use permits or applications of any kind shall be processed, reviewed or issued, no signed subdivision plats shall be released or recorded, and no building permits of any kind shall be issued, for any project whose permit fee is governed by this ordinance unless all charges due under this ordinance have been paid and the developer is otherwise in compliance with the city code. No performance guarantee shall be released until all fees generated by the project are paid to the city, including but not limited to engineering, inspection and administrative fees as provided in section 14-530.

(Code 1968, § 603.12; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 611-82, §§ 2, 3, 7-7-82; Ord. No. 127-87, § 10, 2-18-87; Ord. No. 524-87, §§ 1, 2, 5-18-87; Ord. No. 122-91, § 1, 9-16-91; Ord. No. 262-96, §§ 1, 2, 5-20-96; Ord. No. 227-00, §2, 5-15-00; Ord. No. 278-09/10, 7-19-10; Ord. 108-15/16, 11-16-2015)

Sec. 14-502. Extension of the guarantee period.

When the subdivider constructs improvements for which a performance guarantee is required and the public works authority has reasonable doubt concerning the stability or proper construction of such improvements, the subdivider shall be required to do such further work on the improvements as the public works authority shall order before the improvements will be accepted by the city. If the subdivider's current performance guarantee shall expire before the extent or necessity for such further work can be determined, the subdivider shall be required to extend his or her guarantee covering such improvements, or secure a new guarantee, for such further period and in such amount as the public works authority shall deem necessary.

(Code 1968, § 603.13; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 127-87, § 11, 2-18-87)

Sec. 14-503. Sale of partially completed subdivisions.

The purchasing party or other succeeding owner of a subdivision for which a recording plat has received prior approval shall assume full responsibility for completion of the subdivision's improvements until acceptance of such improvements by the city. The purchaser or other succeeding owner of an unaccepted subdivision shall be required to comply with all the provisions of this article as if he were the original subdivider, and shall become responsible for completing such improvements in the same manner as the original subdivider.

(Code 1968, § 603.14; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79)

Sec. 14-504. Enforcement, conveyance, markers and recording.

(a) No person may sell, lease, develop or build upon or convey for consideration, offer or agree to sell, lease, develop or build upon or convey for consideration any land in a subdivision unless the subdivision has been approved by the Planning Board, and unless a recording plat showing permanent marker locations at all lot corners has been recorded in the county registry of deeds.

(b) The term permanent marker is limited to the following: A granite monument for street monumentation and an iron pin or drill hole in ledge for property delineation, or as otherwise approved by the public works authority. No subdivision plan shall be recorded by the registry of deeds which has not been approved as required by this article. Approval for the purpose of recording shall appear in writing on the recording plat. No public utility, water district, sanitary district or any utility company of any kind shall install services to any lot in a subdivision which has not received

Planning Board approval.

(c) Any person who sells, leases, develops or builds upon or conveys for consideration any land in a subdivision which has not been approved as required by this article shall be punished by a fine of not more than five hundred dollars (\$500.00) for each such occurrence. The city may institute proceedings to enjoin any violation of this section.

(d) Notwithstanding the foregoing, alterations may be made to a site with a pending subdivision application if:

- (1) At minimum, a performance guarantee for the proposed site alterations has been posted and final site plans have been submitted to the planning authority; and
- (2) Written permission has been received from the director of planning and urban development or his designee that such site alterations may proceed pending subdivision approval. Such permission is solely within the discretion of the director of planning and urban development and shall be granted only after submission of a written request setting forth the work proposed to be done on the site. All such work shall be done in compliance with information provided with the subdivision application. An erosion control plan shall also be submitted when deemed necessary by the planning authority. Such written permission shall not be required when the only work proposed is the digging of test pits.

(Code 1968, § 603.15; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 95-01/02, 11-5-01)

Sec. 14-505. Appeals.

An appeal from any final decision of the Planning Board regarding subdivision approval may be taken by the applicant or his authorized agent to superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

(Code 1968, § 603.16; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79)

Sec. 14-506. Modifications.

(a) Except for the requirements set forth in sections 14-498 and 14-499 pertaining to the provision and construction of curbs and sidewalks, the Planning Board if it finds that extraordinary conditions exist or that undue hardship may result from strict compliance with these regulations may vary the regulations so that substantial justice may be done and the public interest secured;

provided that such variation will not have the effect of nullifying the intent and purpose of the land development plan and the regulations of this article.

(b) Where the Planning Board or planning authority finds that, for each of the requirements listed below, two or more of the conditions exist with respect to compliance with the requirements set forth in sections 14-498 and 14-499 pertaining to the provision and construction of curbs and/or sidewalks, it may waive, in whole or in part, the regulations so that substantial justice may be done and the public interest secured:

Sidewalks-

1. There is no reasonable expectation for pedestrian usage coming from, going to and traversing the site.
2. There is no sidewalk in existence or expected within 1000 feet and the construction of sidewalks does not contribute to the development of a pedestrian oriented infrastructure.
3. A safe alternative-walking route is reasonably and safely available, for example, by way of a sidewalk on the other side of the street that is lightly traveled.
4. The reconstruction of the street is specifically identified and approved in the first or second year of the current Capital Improvement Program or has been funded through an earlier CIP or through other sources.
5. The street has been constructed or reconstructed without sidewalks within the last 24 months.
6. Strict adherence to the sidewalk requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.

Curbing-

1. The cost to construct the curbing, including any applicable street opening fees, is in excess of 5% of the overall project cost.
2. The reconstruction of the street is specifically identified and approved in the first or second year of

the current Capital Improvement Program or has been funded through an earlier CIP or through other sources.

3. The street has been rehabilitated without curbing in the last 60 months.
4. Strict adherence to the curb requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.
5. Runoff from the development site or within the street does not require curbing for stormwater management.

In no event shall the waiver have the effect of creating potentially hazardous vehicle and pedestrian conflict or nullifying the intent and purpose and policies of the land development plan relating to transportation and pedestrian infrastructure and the regulations of this article.

At its discretion, the planning authority may refer any petition for a waiver from the curb and sidewalk requirement to the Planning Board for decision.

(c) The standards and requirements of this article may be modified by the Planning Board in the case of a plan and program for a planned unit development which in the judgment of the Planning Board provides adequate public spaces and improvements for the circulation, recreation, light, air and service needs of the tract when fully developed and populated, and which also provides such covenants or other legal provisions as will assure conformity to and achievement of the land development plan.

(d) If at any time before or during the construction of the required improvements the subdivider demonstrates to the satisfaction of the project engineer and the public works authority that unforeseen conditions make it necessary or preferable to modify the design of the required improvements, the public works authority may authorize modifications provided that the modifications do not amount to a waiver or substantial alteration of the function of any improvements required by the Planning Board. (Code 1968, § 603.17; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79; Ord. No. 41-84, §§ 2, 3, 6-18-84; Ord. No. 204-02/03, 5-29-03)

Sec. 14-507. Conditions.

In granting variances and modifications, the Planning Board and city council may require such conditions as will, in their

judgment, secure substantially the objectives of the standards or requirement so varied or modified.
(Code 1968, § 603.18; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79)

Sec. 14-508. Exemptions.

(a) This article does not apply to subdivisions approved prior to June 6, 1979, nor to subdivisions in existence prior to June 6, 1979, nor to subdivisions which have been legally recorded in the registry of deeds prior to June 6, 1979.

(b) A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption, unless the intent of such gift is to avoid the objectives of this article, or by transfer of any interest in land to the owner abutting thereon shall not be considered to create a lot or lots for purposes of this article.
(Code 1968, § 603.19; Ord. No. 158-68, § 10, 5-6-68; Ord. No. 149-79, 6-6-79)

Sec. 14-509. - Sec. 14-520. Reserved.

ARTICLE V. SITE PLAN*

***Editor's note--**Ord. No. 355-89, adopted July 17, 1989, amended Art. V, site plan, in its entirety, in effect repealing former §§ 14-521--14-530 and enacting similar new provisions in lieu thereof as §§ 14-521--14-528. The ordinance was enacted as an emergency in order for the Planning Board to have the necessary tools to protect the health, safety and welfare of the citizens and further provided that such amendments would be applicable to any alterations, modifications, revisions, amendments or filed changes to any previously approved site plan as provided in the article but would not be construed to invalidate any prior approval. Formerly, Art. V derived from §§ 604.1--604.6, 604.7.B, 604.8 and 604.9 of the city's 1968 Code, as amended by the following:

Ord. No.	Section	Date	Ord. No.	Section	Date
348-74		5-20-74	316-87	1	3- 4-87
442-78		8- 7-78	524-87	3-5	5-18-87
691-81		5-19-81	365-88		5- 4-88
88-84	2--6	7-16-84	301-88		5-31-88
292-84	1	11-19-84	67-88		7-18-88

294-84	1	11-19-84	96-88	2	7-19-88
359-84	1	12-17-84	97-88		7-19-88
370-85	1--3	1-21-85	98-88		7-19-88
128-87	1	2-18-87			

***Editor's Note**—Pursuant to Council Order 277-09/10, passed on 7-19-10 Article V, Site Plan was repealed in its entirety and replaced with a new Article V, Site Plan.

Sec. 14-521. Purposes.

Pursuant to Portland's Comprehensive Plan, the Site Plan Ordinance advances the vision for a sustainable City with shared goals for the environment, community and economy. The Site Plan Ordinance complements the regulations of the Zoning Ordinance in Article III of this chapter and the Subdivision Ordinance in Article IV of this chapter.
(Ord. No. 277-09/10, 7-19-10)

Sec. 14-522. Definitions.

For the purposes of this article all terms and words shall have their ordinary meanings, except as defined herein.

Approval by any board or department under this article shall include any approval with conditions.

Building addition: Any attached structure which increases the total floor area of the structure.

Building Authority: The Director of the Department of Permitting and Inspections or his or her designee.

Change of use: Any change in use of an existing building, whether or not alterations are involved, from any use in the following list to any other uses on the list:

1. Manufacturing or processing, storage and warehouse, and other industrial;

2. Residential
3. Transportation
4. Institutional
5. Retail and Commercial
6. Water-dependent use and marine use
7. Office

Development: Any construction, site alteration or change of use which is identified in Section 14-523, Required Approvals and Applicability.

Dwelling, two-family: A single building containing two dwelling units used exclusively for occupancy by two (2) families living independently of each other.

Final Plan: A site plan meeting the requirements of Section 14-527.

Master development plan: A Master Development Plan is a regulatory option for sites with one acre or more in cumulative lot area that's designed as a cohesive and integral development program consisting of multiple buildings and associated site improvements built in phases over an extended timeframe. This option shall not apply in residential zones, except for institutional uses, multifamily, congregate care, intermediate, extended and long-term care facilities in the R5A and R6A zones.

Multiple-family development; The construction or creation of three (3) or more dwelling units on any parcel of land or the addition of two (2) or more dwelling units cumulatively within a three-year period.

Owner: Any person that has any interest, legal or beneficial, in any parcel proposed for development.

Planning Authority: The Director of the Department of Planning and Urban Development or his/her designee.

Preliminary Plan: A site plan that provides an existing site inventory and analysis along with the potential design layout for a proposed development that meets the criteria of Section 15-527.

Public Works Authority: The Director of the Department of Public Works or his or her designee.

Site: All contiguous land under the same ownership or control, whether proposed for development or not, except where development is limited to a lot or lots within a subdivision.

Temporary parking: The parking of vehicles permitted by a temporary certificate of occupancy for a limited period of time not to exceed one (1) year in anticipation of future development.

(Ord. No. 277-09/10, 7-19-10; Ord. No. 176-12/13, 4-22-13; Ord. 108-15/16, 11-16-2015; Ord. No. 165-15/16, 3-7-2016; Ord. 276-14/15, 6-15-2015)

Sec. 14-523. Required Approvals and Applicability.

(a) *Required Approval.* An application for site plan approval shall be reviewed by the Planning Board or Planning Authority as specified below. The Planning Board or Planning Authority shall approve, approve with conditions or deny an application pursuant to the standards, procedures, technical criteria and design criteria contained in this article, as demonstrated by the applicant.

1. The Planning Authority shall administratively authorize developments that meet all of the requirements of Section 14 - 523 (c).
2. Level I Site Plan Review shall require the approval of the Planning Authority.
3. Level II Site Plan Review shall require the approval of the Planning Authority only, except as otherwise expressly provided by this article.
4. Level III Site Plan Review shall require the approval of the Planning Board, except as otherwise expressly provided by this article.
5. Master Development Plan Review shall require the Master Development Plan approval of the Planning Board as provided in Section 14-524(d)(9).

(b) *Applicability.* No person shall undertake development identified in Section 14-523 without obtaining a site plan improvement permit under this article.

(c) *Administrative Authorization.* Administrative Authorization means the Planning Authority may grant

administrative authorization to exempt a development proposal from complete or partial site plan review that meet the standards below, as demonstrated by the applicant.

1. The proposed development will be located within existing structures, and there will be no new buildings, external demolitions, or building additions other than those permitted by subsection 2 of this subsection;
2. Any building addition shall have a new building footprint expansion of less than five hundred (500) square feet;
3. The proposed site plan does not add any new curb cuts, driveways, or parking areas; the existing site has no more than one (1) curb cut and will not disrupt the circulation flows and parking on-site; and there will be no drive-through services provided;
4. The curbs and sidewalks adjacent to the lot are complete and in sound condition, as determined by the Public Works Authority, with granite curb with at least four-inch reveal, and sidewalks are in good repair with uniform material and level surface and meet accessibility requirements of the Americans with Disabilities Act;
5. The use does not require additional or reduce existing parking, either on or off the site, and the project does not significantly increase traffic generation;
6. There are no known stormwater impacts from the proposed use or any existing deficient conditions of stormwater management on the site;
7. There are no evident deficiencies in existing screening from adjoining properties;
8. Existing utility connections are adequate to serve the proposed development and there will be no disturbance to or improvements within the proposed right-of-way;
9. There are no current zoning violations;
10. Any emergency generators are to be located to minimize noise impacts to adjoining properties and

documentation that routine testing of the generators occur on weekdays between the hours of 9 a.m. to 5 p.m. Documentation pertaining to the noise impacts of the emergency generator shall be submitted; and

11. There are no anticipated noise, vibration, glare, fumes or other foreseeable impacts associated with the project.

(d) *Level I Site Plan Review*. Minor residential development and site alterations meeting the criteria below will undergo Level 1 Site Plan Review as follows.

1. Level I: Minor Residential Development:

- a. With respect to development of a single-family or a two-family building, excluding building additions, decks, or accessory structures, such development shall be deemed minor residential development for purposes of this article regardless of its size.
- b. The addition of one or two dwelling units to a two-family dwelling or multifamily structure shall be deemed a Level I minor residential development for purposes of this article, if the additional dwelling unit or units does not require subdivision review under Maine State Statutes and Portland's Subdivision Ordinance.

2. Level I: Site Alteration:

- a. Alteration of a watercourse or wetland as defined in Section 14-47 of the City Code.
- b. Alteration of a site. The disturbance of land areas of less than one (1) acre that are stripped, graded, grubbed, filled or excavated. The Planning Authority shall exempt from review the loam and seeding of lawns and the cumulative placement of less than fifteen (15) cubic yards of fill on any lot provided such loaming or placement does not alter a drainage course, swale, wetland or redirect water onto adjoining property and does not violate any other provision of the Portland City Code or state or federal law. "Disturbed area" does not include routine

maintenance, but does include re-development and new impervious areas.

- c. The construction of any temporary or permanent parking area, paving of existing unpaved surface parking areas between 1,000 and 7,500 square feet, or creation of other impervious surface areas between 1,000 and 7,500 square feet.
- d. The rehabilitation or reconstruction, but not new construction, of piers, docks, wharves, bridges, retaining walls, and other structures located within the shoreland zone.
- e. A site alteration in which vehicle access is proposed from more than one (1) street;

(e) *Level II Site Plan Review*. Development meeting the criteria listed below will undergo Level II Site Plan Review as follows:

- 1. The construction of any new structures having a total floor area of less than ten thousand (10,000) square feet in all zones except in the Industrial zones and the IS-FBC zone. In any Industrial zone, the construction of new structures having a total floor area of less than twenty thousand (20,000) square feet. In the IS-FBC zone, the construction of new structures having a total floor area of less than fifty thousand (50,000) square feet;
- 2. The construction of any new temporary or permanent parking area, paving of existing unpaved surface parking areas in excess of 7,500 square feet and serving less than 75 vehicles, or creation of other impervious surface area greater than 7,500 square feet;
- 3. The construction of any building addition(s) having a total floor area of less than ten thousand (10,000) square feet cumulatively within a three-year period in all zones except in the Industrial zones and the IS-FBC zone. In any Industrial Zone, the construction of building addition(s) having a total floor area of less than twenty thousand (20,000) square feet. In the IS-FBC zone, the construction of building

addition(s) having a total floor area of less than fifty thousand (50,000) square feet.

4. Park improvements consisting of new structures or buildings of less than 10,000 square feet and/or facilities encompassing an area of greater than 7,500 square feet and less than 20,000 square, excluding the rehabilitation or replacement in kind of existing facilities.
5. The new construction of piers, docks, wharves, bridges, retaining walls, and other structures located within the shoreland zone.
6. The disturbance of land areas of between one and three acres that are stripped, graded, grubbed, filled or excavated.
7. A change in the use of a total floor area of between ten thousand (10,000) and twenty thousand (20,000) square feet in any existing building cumulatively within any three-year period in all zones.
8. Lodging houses and bed and breakfast facilities;
9. Emergency shelters
10. Special needs independent living units;
11. Construction or installation of any signage for which approval is sought pursuant to section 14-526(d)8.a.(iv).
12. The construction of any new major or minor auto service station with a structure of less than ten thousand (10,000) square feet of building area in any permitted zone other than the B-2, or B-5 zones;
13. The creation of day care facilities or home babysitting services in a residential zone not permitted as a home occupation under section 14-410 in any principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home

babysitting use, where such facilities serve more than twelve (12) children;

14. Any drive-through facility that is not otherwise reviewed as a conditional use under Article III.

(f) *Level III Site Plan Review*. Development meeting the criteria listed below will undergo Level III Site Plan Review as follows:

1. The construction of any new structures having a total floor area of ten thousand (10,000) square feet or more in all zones except the Industrial zones and IS-FBC zone. In any Industrial zone, the construction of new structures having a total floor area of twenty thousand (20,000) square feet or more. In the IS-FBC zone, the construction of new structures having a total floor area of fifty thousand (50,000) square feet or more;
2. The construction of any new temporary or permanent surface parking area(s) or paving of existing unpaved surface areas for more than seventy-five (75) vehicles except in the case of temporary parking;
3. The construction of any building addition(s), cumulatively having a total floor area of ten thousand (10,000) square feet or more within any three-year period in all zones except in the Industrial zones and IS-FBC zone. In Industrial zones, for the construction of building addition(s) having a total floor area of twenty thousand (20,000) square feet or more. In the IS-FBC zone, for the construction of building addition(s) either having a total floor area of fifty thousand (50,000) square feet or more or having a total floor area exceeding that of the existing building to which it is an addition.
4. A change in the use of a total floor area of twenty thousand (20,000) square feet or more in any existing building cumulatively within any three-year period in all zones,
5. Multiple-family development except for in the IS-FBC zone;
6. The addition of one or two dwelling units to a building, if the additional dwelling unit or units requires subdivision review under Maine

State Statutes and Portland's Subdivision Ordinance;

7. The construction of any new major or minor auto business in the B-2 or B-5 zone, or the construction of any new major or minor auto business with a structure greater than ten thousand (10,000) square feet of building area in any other permitted zone; or
8. Correctional prerelease facilities.
9. Park improvements consisting of new structures greater than 10,000 square feet and/or facilities encompassing an area of 20,000 square feet or greater, excluding the rehabilitation or replacement of existing facilities. Any park improvements including the provision of new nighttime outdoor lighting or sports, athletic or recreation facilities not previously illuminated.
10. The disturbance of land areas of three (3) acres or more that are stripped, graded, grubbed, filled or excavated.

(g) *Master development plan:* A Master Development Plan meeting the criteria listed below will undergo a master development plan review as follows:

1. A Master Development Plan for a site with one acre or larger in a cumulative lot area that is designed as a cohesive and integral development program consisting of multiple buildings and associated site improvements proposed to be built in phases.
2. The Master Development Plan option shall not apply in residential zones, except for institutional uses, multifamily, congregate care, intermediate , extended and long term care facilities in the R5A and R6A zones.

(Ord. No. 277-09/10, 7-19-10; Ord. No. 25-11/12, 8-15-11; Ord. No. 176-12/13, 4-22-13; Ord. 276-14/15, 6-15-2015; Ord. 108-15/16, 11-16-2015; Ord. 83-15/16, 11-2-2015)

Sec. 14-524. Site plan review processes.

(a) The site plan review process for reach applicable development review type is listed below.

1. Administrative Authorization:
 - a. *Filing the Application.* An applicant seeking an administrative authorization under this subsection shall submit an administrative

authorization application for review, detailing the site plan with dimensions of proposed improvements and distances from all property lines, and stating that the proposal meets all of the provisions in standards a-k of Section 14-423 (b)1.

- b. *Review.* Upon receipt of such a complete application, the Planning Authority will process it and render a written decision of approval, approval with conditions or denial, with all associated findings.
- c. *Decision.* If a full administrative authorization is granted, the application shall be approved without further review under this article, and no performance guarantee shall be required. In the event that the Planning Authority determines that standards 1 and 2 of section 14-523 (c) and at least four (4) of the remaining standards have been met, the Planning Authority shall review the site plan according to all applicable review standards of Section 14-526 that are affected by the standards in this subsection that have not been met. If an exemption or partial exemption from site plan review is not granted, the applicant must submit a site plan application that will undergo a full review by the Planning Board or Planning Authority according to the standards of section 14-526.

2. *Level I site plan review:*

a. *Filing the application.*

- (i) Every application submitted to the building authority or planning authority for a level I minor residential development or site alteration shall include a digital set of the plans and documents that shall be uploaded to the City's designated web site for an electronic review of the material.

b. *Public notices.*

- (i) When an application for a level I: minor residential development is submitted, all

public notices will be sent according to the section 14-525.b of the site plan ordinance.

- (ii) When an application for a level I: site alteration is submitted, all public notices will be sent according to the section 14-525.b of the site plan ordinance.

c. *Review.*

- (i) The planning authority shall approve, approve with conditions or deny the level I: minor residential development plan and shall advise the building authority in writing of its action. Such decision shall be made part of the building authority's review.
- (ii) The planning authority shall approve, approve with conditions or deny the level I: site alteration plan with all associated findings and shall advise the applicant in writing of its action.

d. *Standards of review.*

- (i) Level I: Minor residential site plans shall only be subject to the following site plan standards, as applicable, as contained in Section 14-526:

- (a) Transportation Standards

- 2.a. Site Access and Circulation: (i) and (ii)
 - 2.c. Sidewalks: if site plan is a two-family or multi-family building only.
 - 4.a. Location and required number of vehicle parking spaces: (i) and (iv)

- (b) Environmental Quality Standards

- 1. Preservation of significant natural features.
 - 2.a. Landscaping and landscape preservation.
 - 2.b. Site landscaping: (iii)

Street trees.

- 3. Water quality, stormwater management and erosion control:
a.,d. e. and f.

(c) Public Infrastructure and Community Safety Standards

- 1. Consistency with city master plans.
- 2. Public safety and fire prevention.
- 3. Availability and adequate capacity of public utilities:
a.,c.,d., and e.

(d) Site Design Standards

- 5. Historic resources and 9. Zoning related design standards.

Except as provided in article III, or to conditions imposed under section 14-526(e) only, or to those submission requirements set forth in section 14-527 as relate solely thereto.

(ii) Level I: Site alteration plans shall only be subject to the following site plan standards, as applicable, as contained in section 14-526:

(a) Transportation standards

1. Impact on surrounding street systems,
2. Access and circulation, and 4 Parking.

(b) Environmental quality standards

- 1. Preservation of significant natural features, 2. Landscaping and landscape preservation, and 3. Water quality, stormwater management and erosion control.

(c) Public infrastructure and community safety standards.

- 1. Consistency with city master plans.

(d) Site design standards

- 5. Historic resources, 6. Exterior lightning, 8. Signage and wayfinding and 9. Zoning related design standards.

Except as provided in article III, or to conditions imposed under section 14-526(e) only, or to those submission requirements set forth in section 14-527 as relate solely thereto.

e. *Decisions.*

- (i) The planning authority shall approve, approve with conditions or deny a level I site plan application based upon the applicable review standards. All improvements are subject to the applicable standards of the Technical Manual and the Design Manual, incorporated herein by reference. In apply said standards, the planning authority, as applicable, may vary or modify them as provided in section 14-506.

f. *Performance Guarantees.*

- (i) Performance Guarantees for Level I: Site Alteration plans work shall be required subject to the provisions of Section 14-530 (b)4.d.
- (ii) Level 1: Minor residential development shall be subject to an inspection fee, but shall be exempt from the performance guarantee provisions set forth in section 14-525, except as provided by section 14-403 and 14-530 (c)4 as provided herein, such development shall otherwise be fully subject to the provisions of this article.

3. *Level II and level III site plan review:*

a. Pre-application Conference.

- (i) Applicants for site plan review for a Level II, Level III, or Master Development Plan applications are encouraged to schedule a pre-application conference with the Planning Authority or designated staff to introduce the development concept. The purpose of this meeting is to familiarize the applicant with the review procedures, application submission requirements and applicable review standards. A pre-application conference shall not cause the plan to be a pending application or proceeding under Title 1 MRSA 302. No decisions relative to the plan shall be made. Nor shall any advice or information provided by the city be construed as a decision.

b. Preliminary Plan.

- (i) Application Process: Applicants for Level II or Level III site plan reviews may submit an application for preliminary plan review prior to the submission of a final site plan. A preliminary plan must contain a preliminary site assessment for potential development.
- (ii) Filing the Application: Every application submitted to the Planning Authority for preliminary site plan review shall include a digital set of the plans and documents that shall be uploaded to the City's designated web site for an electronic review of the material. Any proposed revisions to that site plan and any amended statement(s) shall be filed in the same way as the original submission.
- (iii) Public Notices: All public notices will be sent according to the Section 14-525 of the Site Plan Ordinance.
- (iv) Complete Application: The Planning Authority shall determine whether the application contains all of the items required in (Sec

14-527) and the Zoning Administrator will conduct a preliminary zoning review for compliance with article III of this chapter. If the application is deemed incomplete or not in compliance with Chapter III, the applicant will be contacted in writing of the finding and the additional material required to complete the submission. A review of the application will not be conducted until the application is complete. These steps shall be repeated until the application is found to be complete.

(v) Staff Review: When the application meets the submittal requirements, the preliminary plan will be distributed to the City departments for review and comments.

(vi) Written review: Written comments from the reviewers shall be provided to the applicant, which will include a planning staff recommendation to submit a revised preliminary plan or to submit an application for a final site plan.

c. *Master Development Plan Review.*

(i) *Application process:* Applicants for Level III site plan reviews may submit a Master Development Plan for a large, multi-phase development program consisting of multiple buildings and associated site improvements on a site of one (1) acre or more of total land area, which is designed as a cohesive and integral development program. The purpose of a Master Development Plan is to provide for a mix of land development responsive to the assets of a site. A Master Development Plan is a well-integrated development in terms of land uses, functional activities, and major design elements such as buildings, roads, utilities, drainage systems and open space. The Master Development Plan is deemed appropriate to large scale mixed use projects that are intended to be developed in phases. The Master Development Plan shall be reviewed by the Planning Board and may be reviewed

independently or concurrently with review as a site plan for a phased development. A Master Development Plan must address the submission requirements of Section 14-527.

(ii) The site plan review process for a Master Development Plan shall proceed in the same manner as a Preliminary Site Plan, as detailed in Sec. 14-524 (3)(b) (ii)-(vi).

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

- a. A designated tract of land consisting of a parcel or parcels of contiguous land or land on both sides of a public street, totaling one (1) acre or more;
- b. Developed in a comprehensive, design-integrated manner, according to an overall master development plan;
- c. Consistent with the objectives of this ordinance;
- d. Consistent with the City's Comprehensive Plan and consistent with City Council approved master plans and facility plans for off-premise infrastructure, including but not limited to, trails, pedestrian and bicycle network, view corridors, environmental management, sewer and stormwater, streets, or other facilities (see Section 15 of the Technical Manual);
- e. Developed so as to locate buildings and improvements in a manner that provides usable open space, preserves significant natural features, as defined by the site plan ordinance standards, and preserves existing trees to the maximum extent possible;
- f. Developed so as to be in conformance with

Portland's Historic Preservation Ordinance standards for designated landmarks or for properties within designated historic districts or designated historic landscapes, if applicable. When proposed adjacent to or within one hundred (100) feet of designated landmarks, historic districts or historic landscapes, the Master Plan shall be developed so as to be generally compatible with the major character-defining elements of the landmark or portion of the district in the immediate vicinity of the proposed development;

- g. An efficient use of land which properly considers topography and protects significant natural features including, but not limited to, waterways, wetlands, floodplains and wildlife;
- h. An efficient use of land demonstrating full coordination of its own site development and surrounding context including, but not limited to, the land uses and functions contemplated, architecture, open space and pedestrian networks, vehicular access and circulation, and all other infrastructure;
- i. Linked and coordinated with surrounding land uses, infrastructure and off-site public facilities, including but not limited to the public school system, where appropriate, in a manner that is safe, efficient, non-injurious to the public, and an improvement or benefit to the public where possible;
- j. Designed with sizing of street and other infrastructure systems to accommodate the overall service demand of the Master Plan;
- k. Designed to create a street grid pattern that reflects average city block sizes of

the neighborhood for street connectivity;

- l. Designed as to create a cohesive identity through building scale, massing, and articulation; use of quality exterior materials, architectural detailing at pedestrian scale; consistency of design and materials for streetscape and pedestrian amenities; framing of outdoor open space and linkages; a clear conveyance of the function and significance of various buildings, entrances, and features; and to generally comply with design and development standards of the zone in which it is located;
 - m. Inclusive of provisions for the ownership and maintenance of usable open space as appropriate; and
 - n. For areas proposed as future development phase(s), the proposed interim conditions shall be managed and maintained to ensure stable, safe and attractive site conditions.
- (iv) *Phasing.* One or more phases of the Master Development Plan may be reviewed as a final level III site plan concurrently with the review and approval of the Master Development Plan.
- d. Neighborhood Meetings for Level III Site Plans and Master Development Plan Applications.
- (i) Neighborhood Meeting for Level III Site Plans:
Timing and location of meeting. An applicant for a subdivision of five or more units or lots and all other Level III site plan review categories shall conduct at least one neighborhood meeting within thirty (30) calendar days of filing a preliminary site plan, if applicable, or within twenty-one calendar days of filing a final site plan and the neighborhood meeting will be

held on a date no less than seven (7) calendar days before a public hearing, if no preliminary plan is submitted. The meeting shall be held at a convenient location within the City of Portland neighborhood surrounding the proposed site. All costs associated with the neighborhood meeting shall be borne by the applicant.

(ii) *Neighborhood Meeting Required for Master Development Plan:* An applicant for a Master Development Plan shall conduct at least one (1) neighborhood meeting within thirty (30) calendar days of filing a Master Development Plan application. The meeting(s) will be held on a date no less than seven (7) calendar days from a public workshop or public hearing. The neighborhood meeting for a Master Development Plan shall not be combined with any required neighborhood meeting for the Level III applications associated with the overall phased development. The meeting shall be held at a convenient location within the City of Portland neighborhood surrounding the proposed site. All costs associated with the neighborhood meeting shall be borne by the applicant. The workshop shall meet all other provisions of section 14-524 (d)(i).

(iii) *Procedures for the meeting.* The following procedures shall be followed in noticing and conducting the neighborhood meeting. At least ten (10) calendar days prior to the neighborhood meeting, the applicant shall do the following:

a. *Mail notice.* Mailed notice of said meeting to all property owners within five hundred (500) feet of the subject property lines, except that the notice range for subdivisions within industrial zones shall be one thousand (1000) feet, and to all others, including neighborhood organizations, as may be required by the Planning Authority.

b. *Digital Copy.* Provide the Planning

Authority with a digital copy of the neighborhood notice, which the City shall forward by e-mail to the City's list of interested citizens.

- c. *Notice Description.* Such notice shall contain a brief description of the application and the date, time and place of the neighborhood meeting.
 - d. *Attendance Sheet.* At the neighborhood meeting the applicant shall circulate a sign-in sheet for those in attendance who choose to sign. Such sheet shall be submitted to the Planning Authority and shall become part of the Planning Authority report submitted to the Planning Board.
 - e. *Minutes.* The applicant shall keep minutes of the meeting to be submitted to the Planning Authority and shall become part of the Planning Authority report submitted to the Planning Board. Any other individual or entity also may submit comments on the neighborhood meeting to the Planning Authority and said comments shall become part of the Planning Authority report submitted to the Planning Board.
 - f. *Presentation.* At the neighborhood meeting the applicant shall explain the pending proposal and provide an opportunity for public questions and comment.
- e. Planning Board Workshops.
- (i) Request a Workshop: The applicant may request a workshop(s) with the Planning Board for a Level III site plan. The workshop will be scheduled on a date that follows the scheduled date of the neighborhood meeting, if applicable. The proposal will be scheduled for the next available Planning Board meeting that meets all public noticing requirements contained

in Section 14-525.

(ii) *Required Workshop for Master Development Plan:* A workshop with the Planning Board is required for a Master Development Plan application. The workshop will be scheduled on a date that follows the scheduled date of the required neighborhood meeting. The proposal will be scheduled for the next available Planning Board meeting that meets all public noticing requirements contained in section 14-524.

(iii) *Workshop Procedures:* The Planning Board workshop shall be informational and shall not result in any formal approval or disapproval of the project. The Board shall review the submission to determine if the information provides a clear understanding of the site and identifies opportunities and constraints of the site and proposed development, air public comments questions and issues, and provide direction to the applicant regarding issues to be addressed during the final review process.

f. *Planning Board Master Development Plan Decisions.*

(i) *Review and approval:* An applicant proposing a Master Development Plan is seeking approval for an overall concept of development that may be brought for Final Plan approval in two or more phases and in a phase sequence that extends beyond the timeframes allowed above for Final Plan expiration of approvals. Master Development Plan approval may be sought separately or currently with the Phase I Final Level III site plan approval, and shall have an initial approval period of six (6) years, with potential extension periods as provided for in section 14-532(d).

(ii) *Review process.* The site plan review process for a Master Development Plan shall proceed in the same manner as a Preliminary Site Plan as detailed above, Sec. 14-524 (3)(b)(i)-(vi) and as a Master Development Plan as detailed

above, Sec. 14-524 (3)(c)(i)-(iii).

(iii) *Public hearing.* The Planning Board shall consider a Master Development Plan at a public hearing that meets all public noticing requirements contained in Section 14-32 and the Site Plan ordinance.

(iv) *Decisions.* The Planning Board shall approve, approve with conditions, or deny a Master Development Plan application based upon the applicable review standards. The Planning Board may waive site plan or technical standards related to the Master Development Plan application based upon the applicable review standards. An approval, including an approval of waivers, establishes the general parameters to be adhered to for the development, including the supporting documentation for floor area ratio and/or residential density, general types of uses, building coverage, generalized open space plans and infrastructure systems.

A Master Development Plan approval shall not be construed as final authorization of the development. Approval shall confer pending proceeding status upon the development with the effect of maintaining the applicability of regulations in effect at the time of approval for as long as the master Development Plan approval remains valid, including permissible extensions if granted.

All Level III site plans for each phase shall be in general conformance with the Master Development Plan.

g. Final Plan.

(i) Application Process: All applications for Level II or Level III site plans shall submit a final plan for review by the Planning Authority or the Planning Board.

(ii) Filing Application: Every application submitted to the Planning Authority for site

plan approval shall be submitted as required under Section 14-527. Any proposed revisions to that site plan and any amended statement(s) shall be filed in the same way as any original submission.

- (iii) Phased Development: A phased development plan may be proposed for a Level III site plan. The Planning Board may permit the Level III site plan to be divided into up to three (3) sections for phased development purposes and subject to any conditions that the board deems necessary in order to insure the orderly development of the plan. The applicant may seek approval of a phased development only if the section constitutes at least twenty (20) percent of the total development and in addition, shows the entire tract or parcel. Each phase of such project shall conform to all standards of this article in the event that subsequent phases do not go forward. The Planning Board may extend the site plan approval for all phases up to three years from the date of approval.
- (iv) Public Notices: All public notices will be sent according to the Section 14-525 of the Site Plan Ordinance.
- (v) Development Review Process for Final Plan:
 - (a) Complete Application. The Planning Authority shall determine whether the application contains all of the items required in (Sec 527) and the Zoning Administrator will conduct a zoning review for compliance with article III of this chapter. If the application is deemed incomplete or not in compliance with Chapter III, the applicant will be contacted in writing of the finding and the additional material required to complete the submission. A review of the application will not be conducted until the application is complete. These steps shall be repeated until the

application is found to be complete.

- (b) Plan Distribution. When the application is complete, the final plan will be distributed to the departments for review and comments.
- (c) Review. Written comments from the reviewers shall be provided to the applicant, which will include a planning staff recommendation to submit a revised final plan or to proceed to a public hearing with the Planning Board if it is a Level III site plan. The applicant may request that the Level III final site plan be submitted for a public hearing rather than submit a revised set of plans.
- (d) One Revised Plan Set. Only one set of revised plans may be submitted for review at the final plan stage. The revised plans undergo the same review steps as the original submittal.
- (e) Staff Recommendation. At the completion of the staff review of the final plans, the planning staff will make a recommendation to the Planning Authority or the Planning Board to approve, approve with conditions or deny the final site plan.
- (f) Referral of plans to Planning Board. If at any time before approval or disapproval of a site plan for Level II development by the Planning Authority, the applicant may request a referral to the Planning Board review and a decision. The application will be scheduled for the next available planning board meeting where all public noticing requirements contained in Section 14-32 and the site plan ordinance can be met.
- (g) Public Hearing. When a final site plan

for a Level III development is ready to proceed to a Planning Board public hearing, it will be scheduled for the next available Planning Board meeting that meets all public noticing requirements contained in Section 14-32 and site plan ordinance.

(h) Decisions. The Planning Authority or the Planning Board shall approve, approve with conditions or deny a final site plan application based upon the applicable review standards. All improvements are subject to applicable standards of the Technical Manual and Design Manual, incorporated herein by reference. In applying said standards, the Planning Board or authority, as applicable, may vary or modify them as provided in section 14-506.

1. Level II Site Plan. The Planning Authority shall not approve a Level II Site Plan until at least ten (10) days after the required public notice has been mailed. The Planning Authority shall render a written decision to approve, approve with conditions, or deny, with all associated findings, after receipt and review of a complete final site plan and accompanying statements for Level II development.

2. Level III Site Plan: When a site plan requires approval by the Planning Board, a public hearing shall be scheduled. The Planning Board shall notify the applicant in writing of its approval or disapproval of the project with all associated findings after the board's final vote to approve or disapprove the project.

4. Expiration of Application:

A site plan application must be diligently pursued from the date of submission. Notwithstanding the submission of a complete application, any applicant shall delineate on the plan or supply such other information, studies or reports from qualified professionals when determined by the Planning Board or the Planning Authority to be reasonably necessary to make any of the determinations required by this article. Failure to submit required information within one hundred twenty (120) days of the date upon which the written request was made shall cause the application to expire and be deemed null and void.

(Ord. No. 277-09/10, 7-19-10; Ord. No. 25-11/12, 8-15-11; Ord. No. 176-12/13, 4-22-13)

Sec. 14-525. Public notices.

(a) *Administrative authorization.* Administrative authorization applications are exempt from noticing requirements for section 14-525.

(b) *Level I site plan: minor residential development:*

1. *Receipt of Application.* When an application for Level I: Minor Residential Site Plan is submitted for review, the Planning Authority shall notify by mail the owners of all property abutting the proposed site and any property owners directly across the street from the site.
2. *Site Plans: Level I Site Alteration, Level II, Level III and Master Development Plan.*
 - a. *Receipt of Application.* When an application for Level I Site Alteration Level II or Level III development is submitted for site plan review, the Planning Authority shall notify, by mail the following, where applicable:
 - (i) Notice for Level I: Site Alteration and Level II Site Plans shall be sent to all property owners within five hundred (500) feet of the subject property lines and to all others, including neighborhood organizations, as may be required by the Planning Authority.
 - (ii) Notice for Level III Site Plans and Master

Development Plan applications shall be sent to all property owners within five hundred (500) feet of the subject property lines or within one thousand (1,000) feet if it is a subdivision within an industrial zone, unless the Planning Authority, in its discretion, chooses to notice a larger area and incur the additional expense for the expanded notification and notices shall be sent to all others, including neighborhood organizations, as may be required by the Planning Authority.

b. Planning Board Workshop or Public Hearing.

- (i) In the case of workshops and public hearings, notice as described above shall be given to the general public by publication in a newspaper of general circulation in the City of Portland at least two (2) times, the date of the first publication to be at least seven (7) days prior to the hearing. The legal notice shall appear on the City's web site.
- (ii) In the case of workshops and public hearings, notice shall be sent by regular United States mail to the applicant, to the owner(s) of the subject property and to all owners of property located within five hundred (500) feet of the subject property lines or within one thousand (1,000) feet if it is a subdivision within an industrial zone unless the Planning Authority, in its discretion, chooses to notice a larger area and incur the additional expense for the expanded notification and notices shall be sent to all others, including neighborhood organizations, as may be required by the Planning Authority.

c. Content of the Public Notice

- (i) The public notice shall contain a brief description of the proposed development the address or location of the property involved, and contact information for the

City where additional information may be obtained. The cost of said notice shall be charged to the applicant.

(Ord. No. 277-09/10, 7-19-10; Ord. No. 25, 11-12, 8-15-11; Ord. No. 176-12/13, 4-22-13)

Sec. 14-526. Site plan standards.

Requirements for approval. The Planning Board or Planning Authority shall not approve a site plan application unless the development proposal meets the following criteria:

(a) *Transportation Standards*

1. Impact on Surrounding Street Systems:

The provisions for vehicular loading and unloading and parking and for vehicular and pedestrian circulation on the site and onto adjacent public streets and ways; and the incremental volume of traffic will not create or aggravate any significant hazard to safety at or to and including intersections in any direction where traffic could be expected to be impacted; and will not cause traffic congestion on any street which reduces the level of service below Level "D" as described in the 1985 Highway Capacity Manual published by the Transportation Research Board of the National Research Council, a copy of which manual is on file with the public works authority, or substantially increase congestion on any street which is already at a level of service below Level "D";

2. Access and Circulation:

a. Site Access and Circulation.

(i) The development shall provide safe and reasonable access and internal circulation for the entire site for all users of the site and shall comply with the standards set forth in Sections 1 of the Technical Manual.

(ii) Points of access and egress shall be located to avoid conflicts with

existing turning movements and traffic flows.

(iii) Where drive up features such as gasoline pumps, vacuum cleaners and menu/order boards are permitted, they shall not extend nearer than twenty five (25) feet to the street line. The site must have stacking capacity for vehicles waiting to use these service features without impeding on-site vehicular circulation or creating hazards to vehicular circulation on adjoining streets.

b. Loading and Servicing.

(i) All developments served by delivery or other service vehicles shall provide a clear route and travel way geometric design that permits safe turning and backing for the maximum vehicle length that would service the development and does not impede site access, vehicle circulation, pedestrian movements or parking.

c. Sidewalks.

(i) All proposed developments shall provide sidewalks along all frontages in accordance with Sections 14-498 and 14-499 of the City Code, installed to City specifications as described in Section 1 of the Technical Manual. An applicant may request a waiver from curb and sidewalk installation requirements if they meet applicable waiver criteria listed in Section 14-506 (b) of the City Code.

(ii) Where sidewalks already exist but are in substandard condition, they shall be repaired or replaced in conformance with Chapter 25 of the City Code and Section 1 of the Technical Manual.

(iii) Continuous internal walkways shall be provided between existing or planned public sidewalks adjacent to the site, transit stops and street crossings and primary building entrances on the site.

3. *Public Transit Access:*

- a. For any residential development consisting of twenty (20) or more dwelling units or commercial or institutional development of at least 20,000 square feet gross floor area, a transit facility shall be constructed where the following criteria are met:
 - (i) The development is proposed along an existing public transit route on a local principal or minor arterial roadway, as shown in the Federal Street Classification Map provided in Section 1 of the Technical Manual.
 - (ii) The nearest existing transit shelter and/or bus pullout on the route is $\frac{1}{4}$ mile (1,320 feet) or more away from the closest primary building on the site, measured along rights-of-way.
- b. Transit facilities shall consist of a transit shelter and a transit pullout bay.
- c. Transit facilities shall be connected to the public sidewalk system.
- d. Waiver: All or some of this standard may be waived if the Reviewing Authority determines one or more of the following:
 - (i) That some or all of the required improvements cannot reasonably be made due to site constraints and/or insufficient right of way width; or
 - (ii) That the development is not anticipated to generate public transit usage due to particular characteristics or proposed

use of the development.

4. Parking:

a. Location and Required Number of Vehicle
Parking Spaces:

- (i) Off-street parking shall meet the applicable zoning requirements, except the Planning Board shall determine the parking requirement, based upon the applicant's parking study and a recommendation from the City Transportation Engineer, for new structures, building additions and changes of use with a total floor area of 50,000 sf or more and for projects, regardless of size, in the B-6, B-7 and USM Overlay zone.
- (ii) Where a parking study is required, the City encourages Transportation Demand Management (TDM) strategies to be employed.
- (iii) Developments proposing to exceed minimum parking requirements by 10% or more must demonstrate through a parking analysis that the amount of parking is appropriate for the proposed use of the site.
- (iv) Parking spaces and aisles shall meet applicable dimensional standards as detailed in Section 1 of the Technical Manual.
- (v) Parking lots, except for temporary lots to be used for less than one year, shall be constructed of a permanent and durable hard surface that is not subject to ponding or erosion.

b. Location and Required Number of Bicycle
Parking Spaces:

- (i) The site plan shall provide secure

bicycle parking in conformance with Section 1 of the Technical Manual and shall meet the following requirements:

- (a) Residential structures. Two (2) bicycle parking spaces for every five (5) dwelling units shall be required.
- (b) Non-residential structures. Two (2) bicycle parking spaces for every ten (10) vehicle parking spaces for the first one hundred (100) required vehicle parking spaces, plus one (1) bicycle parking space for every twenty (20) required motor vehicle parking space over one hundred (100) required vehicle parking spaces.
- (c) Development with zero (0) to ten (10) required vehicle parking spaces shall provide at least two (2) bicycle parking spaces.
- (ii) *Waiver:* The reviewing authority may reduce the required number of bicycle parking spaces if it is determined, based on evidence submitted by the applicant, that the proposed development is expected to generate reduced demand for bicycle parking due to characteristics or uses such as elderly or disabled persons housing or industrial uses located in outlying areas.

c. *Motorcycle and Scooter Parking.*

- (i) The site plan shall accommodate access and parking for two-wheeled motorized vehicles such as motorcycles and scooters.

d. *Snow Storage.*

- (i) The site plan shall include areas for

snow storage or shall include an acceptable snow removal plan.

- (ii) Snow storage areas may not encroach on areas designated to meet minimum parking requirements or on pedestrian walkways and shall not be located where they would adversely impact the functionality of bioretention or other stormwater management systems. Landscaping in designated snow storage areas shall be such that it can withstand the snow pile.

5. *Transportation Demand Management (TDM):*

- a. The following types of development shall design and implement a Transportation Demand Management (TDM) plan:
 - (i) All Level III development in the B7 zone;
 - (ii) All commercial or institutional uses of 50,000 sf or more total floor area;
 - (iii) All commercial or institutional uses designed to accommodate 100 or more employees and, for educational institutions, 100 or more students.
- b. The TDM Plan shall establish trip reduction targets and shall employ a combination of the following elements to achieve these targets:
 - (i) Public transit incentives;
 - (ii) Parking cash-out;
 - (iii) Car sharing;
 - (iv) Car and van pooling incentives;
 - (v) Guaranteed ride home programs;
 - (vi) Other such strategies that reduce single occupancy vehicle trips to and from the development.

- c. The development shall comply with the City of Portland TDM standards as described in Section 1 of the Technical Manual.

(b) *Environmental Quality Standards*

1. *Preservation of Significant Natural Features:*

- a. The site plan shall preserve and protect significant natural features by incorporating them into site design. Significant natural features shall be defined as:
 - (i) Populations of trees and plants listed on the Official List of Endangered and Threatened Plants in Maine, published by the Maine Natural Areas Program.
 - (ii) Habitat for species appearing on the official state of federal list of endangered or threatened animal species;
 - (iii) High and moderate value waterfowl and wading bird habitat including nesting and feeding areas, as defined by the Department of Inland Fisheries and Wildlife;
 - (iv) Aquifers on islands in Casco Bay, as identified in the City of Portland Island Groundwater Management Study and/or by the Maine Geological Survey;
 - (v) Waterbodies including wetlands, watercourses, significant vernal pools and floodplains. These features may also be regulated by Division 26, Shoreland Regulations, Division 26.5, Flood Plain Management Regulations and Division 26.7, Stream Protection Ordinance of the City Code, along with Sections 5 and 8 of the Technical Manual or other State regulations.
- b. Where areas set aside for preservation are part of a larger existing habitat block extending beyond the boundaries of the site, the contiguity of these features shall be preserved, where

possible.

- c. Waiver: Where complete preservation of significant natural features substantially compromises development of the site otherwise permitted by zoning, the Reviewing Authority may reduce the requirement to accommodate development provided that the applicant demonstrates compliance with applicable state and federal regulations and implements preservation measures to the extent practicable.

2. Landscaping and Landscape Preservation:

a. Landscape Preservation.

- (i) Site development shall be designed to incorporate, and limit disturbance to or removal of existing trees, as specified below. Preserved trees may be counted towards site landscaping requirements.
- (ii) All development subject to zoning setbacks shall preserve a minimum of 30% of existing trees ten (10) inches DBH or greater within the required setback area unless trees are non-native invasive species, as identified in Section 4 of the Technical Manual, or are deemed unsalvageable by the Portland City Arborist or their designee.
- (iii) Protection during Construction: The site plan shall include adequate measures to protect vegetation to be preserved from construction impacts, in accordance with the tree preservation standards listed in Section 4 of the Technical Manual.
- (iv) Waiver: Where the applicant can demonstrate that preservation of existing vegetation would compromise development of the site, the Reviewing Authority may permit the substitution of replacement landscaping in other areas of the site, and/or a financial contribution to the City of Portland Tree Fund for an amount proportionate to the cost of trees removed, as described below:

- (a) For each tree required to be preserved that is removed and is greater than 16" in caliper DBH, two (2) replacement trees of a species identified on the City of Portland Recommended Tree List shall be planted on the site as detailed in Section 4 of the Technical Manual).
- (b) For each tree required to be preserved that is removed and is between ten (10) and sixteen (16) inch DBH, one (1) replacement tree of a species identified on the City of Portland Recommended Tree List shall be planted on the site as detailed in Section 4 of the Technical Manual).
- (c) Where the planting of replacement trees on the site is not feasible, the applicant shall contribute an amount proportionate to the cost of required replacement trees to the City of Portland Tree Fund, as detailed in Section 4 of the Technical Manual.
- (v) In addition to the provisions of this section, all development within the Shoreland Zone shall meet the requirements of Division 26, Shoreland Regulations.

b. *Site Landscaping.*

- (i) Landscaped Buffers:
 - (a) Screening. Loading and servicing areas, dumpsters, storage areas and utility structures, except for renewable energy systems, shall be screened from view from public sidewalks, streets and adjacent properties by dense evergreen landscaping, fencing, masonry wall building walls, or a combination thereof.
 - (b) Understory Plantings. All development

subject to required zoning setbacks shall include a minimum of six (6) shrubs per forty five (45) linear feet of all frontages as measured along the property line. A shrub shall be defined as one shrub, one ornamental grass, and/or 3 perennials. Required shrubs may be installed anywhere on the site, including a green roof, if proposed, and may be planted in any arrangement. Existing vegetation to be preserved on the site may be counted towards this requirement as detailed in Section 4 of the Technical Manual.

- (c) Industrial and Commercial Zones. For non-residential development proposed in an industrial or commercial zone subject to required zoning setbacks and abutting a residential zone, an evergreen, densely landscaped buffer of not less than ten (10) ft wide and six (6) ft tall is required along the side abutting the residential zone. Where site constraints prevent such a buffer from being established, the width of the landscaped buffer may be reduced but shall include architectural quality fencing of not less than six (6) ft tall and a mix of evergreen and deciduous trees spaced no further than twenty (20) ft apart along the abutting the residential zone.

- (d) Buffer from Surrounding Development. All residential development shall provide and/or preserve evergreen vegetated buffers where necessary to buffer the development from detrimental impacts of existing surrounding development.

(ii) Parking Lot Landscaping:

- (a) Developments with five (5) or more parking spaces shall include at least two (2) trees (or one (1) tree and

three (3) shrubs) per five (5) parking spaces planted in landscaped islands to screen shade and break up parking. Trees and shrubs in parking lots may be in informal groups, straight rows, or concentrated in clusters as detailed in Section 4 of the Technical Manual.

- (b) Landscaped islands shall be distributed so that uninterrupted pavement does not exceed forty (40) parking spaces.
- (c) Landscaped islands shall be curbed and a minimum of eight (8) feet in width, not including curbing. The incorporation of bioretention into landscaped islands is strongly encouraged.
- (d) Vehicle display lots shall be subject to the parking lot landscaping standards of this section.
- (e) Waiver: Where site constraints prevent implementation of all or a portion of required parking lot landscaping, as determined by the Reviewing Authority, the requirements may be all or partially waived and the applicant shall contribute an amount proportionate to the cost of required parking lot trees to the City of Portland Tree Fund.

(iii) Street Trees:

- (a) All development shall include street trees in numbers and locations as specified in Section 4 of the Technical Manual. Street trees are intended to benefit public spaces by providing green and natural elements that contribute to the streetscape and the urban forest ecosystem, provide health benefits, and increase the tree canopy to maximize shade and reduce energy use. Street trees shall be planted in

the right-of-way, as specified in Section 4 of the Technical Manual, except where section (b) below applies.

Street trees shall be of a species identified on the City of Portland Recommended Tree List, unless otherwise approved by the City Arborist or his/her designee.

- (b) Where the applicant can demonstrate that site constraints prevent the planting of required street trees in the City right-of-way, the Reviewing Authority may permit the following to be counted towards the street tree requirement, subject to the detailed standards set out in the Technical Manual:
 - i. The planting of new street trees on public land or public facilities in the neighborhood where a reasonable chance of good health and longevity is documented;
 - ii. The provision of measures to enhance tree survival (such as raised planters, irrigation and structural soils, as recommended by the City Arborist) in association with a street tree will be counted towards the total street tree requirement, based on the cost of the measure divided by the current street tree contribution for a new tree;
 - iii. The preservation of existing healthy trees that are six (6) inches or more in caliper, visible from the right-of-way and on the site within twenty feet of the property line;
 - iv. The planting of street trees where visible from the right-of-way on

the site and within twenty feet of the property line;

- v. The installation of other planted features in the right-of-way or within 10 feet of the right-of-way and visible from the right-of-way, which are documented to the satisfaction of the City Arborist and Planning Authority to meet the objectives of street trees and to be feasible, viable and long-term street features;
 - vi. A contribution for each required street tree made to the City of Portland's Tree Fund as outlined in the Technical Manual where the other alternatives are not feasible. The contribution would primarily be for new trees in the neighborhood of the development, but would include an element of maintenance; and/or
 - vii. Where the proposed development includes the removal of an existing street tree determined by the City Arborist to be a Heritage or feature tree, the applicant shall be required to contribute to the Tree Fund at the designated rate in the Technical Manual so that the total replacement cost is significantly higher than planting a new street tree/contributing for a new street tree.
3. *Water Quality, Stormwater Management and Erosion Control:*
- a. All development must demonstrate that the proposed site improvements are designed to minimize the amount of stormwater leaving the site. This must include consideration of the design and location of improvements to minimize the total area of impervious surface on the site

and stormwater management techniques to minimize both the volume and rate of runoff from the lot. The stormwater management plan must demonstrate the following:

- (i) Any stormwater draining onto or across the lot in its pre-improvement state will not be impeded or re-directed so as to create ponding on, or flooding of, adjacent lots;
 - (ii) Any increase in volume or rate of stormwater draining from the lot onto an adjacent lot following the improvement can be handled on the adjacent lot without creating ponding, flooding or other drainage problems and that the owner of the lot being improved has the legal right to increase the flow of stormwater onto the adjacent lot;
 - (iii) Any increase in volume or rate of stormwater draining from the lot onto City property following the improvement can be handled without creating ponding, flooding or other drainage problems and that the owner of the lot being improved has the legal right to increase the flow of stormwater onto the City's property; and
 - (iv) Any increase in volume or rate of stormwater draining from the lot into the City's separate storm sewer system can be accommodated in the system without creating downstream problems or exceeding the capacity of the storm sewer system.
- b. All development, except Level I minor residential development, shall comply with the standards of Section 5 of the Technical Manual including basic, general and flooding standards, as applicable, to prevent and control the release of pollutants to waterbodies, watercourses, wetlands and groundwater, and reduce adverse impacts associated with increases or changes in flow, soil erosion and sedimentation.
 - c. All development, except Level I minor residential development, that are located within the

watershed of an Urban Impaired Stream shall comply with the Urban Impaired Stream standards pursuant to Maine DEP Chapter 500 Stormwater Management Rules, as described in Section 5 of the Technical Manual.

- d. Level I: minor residential development shall comply with basic erosion control standards, as described in Section 6 of the City of Portland Technical Manual.
- e. Development shall not pose a risk of groundwater contamination either during or post-construction, as described in Sections 5 and 9 of the Technical Manual.
- f. Development shall provide for adequate and sanitary disposal of sewage as described in Section 2 of the Technical Manual.

(c) *Public Infrastructure and Community Safety Standards.*

1. *Consistency with City Master Plans:*

- a. All developments shall be designed so as to be consistent with City Council approved master plans and facilities plans and with off-premises infrastructure, including but not limited to sewer and stormwater, streets, trails, pedestrian and bicycle network, environmental management or other public facilities (see Section 15 of the Technical Manual).
- b. The site plan shall include suitable easements, rights and improvements to connect or continue off-premises public infrastructure as may be required by the reviewing authority.

2. *Public Safety and Fire Prevention:*

- a. The development shall incorporate the following public safety principles for Crime Prevention through Environmental Design (CPTED) into site design to enhance the security of public and private spaces and to reduce the potential for crime:

- (i) Natural surveillance that promotes visibility of public spaces and areas.
 - (ii) Access control that promotes authorized and/or appropriate access to the site.
 - (iii) Territorial reinforcement that promotes a sense of ownership and responsibility through environmental design.
 - b. Provide adequate emergency vehicle access to the site in accordance with City standards for street widths and turning radii, as described in Section 1 of the Technical Manual.
 - c. Be consistent with City public safety standards, Section 3 of the City of Portland Technical Manual, including but not limited to availability and adequacy of water supply and proximity of fire hydrants to structures.
3. *Availability and Adequate Capacity of Public Utilities:*
- a. The development shall not overburden sanitary sewers and storm drains, water lines, or other public infrastructure and utilities. Development shall provide adequate utility capacity and distribution network on-site and in connection to surrounding locations and facilities.
 - b. Electrical service shall be underground unless otherwise specified for industrial uses, or if it is determined to be unfeasible due to extreme cost, the need to retrofit properties not owned by the applicant or complexity of revising existing overhead facilities.
 - c. Installation of new or upgrades to existing sanitary sewers, storm drains, water lines or other utilities shall meet the provisions outlined in Section 2 and Section 9 of the Technical Manual.
 - d. All development within 200 feet of a public sanitary collection and treatment system shall connect sanitary sewer lines into the nearest

available public sewer. If a public sanitary collection and treatment system is not available, a private wastewater system may be used according to the requirements of Chapter 24 of the City Code and Section 2 of the Technical Manual.

- e. All sanitary sewer and stormwater utilities proposed as part of the development shall be designed to City standards as specified in Section 2 and Section 4, Chapter 500 Stormwater Management Standards, of the Technical Manual.
- f. All residential development of 20 units or more, commercial development and industrial development shall provide for the temporary storage and timely removal of all trash and recyclable materials including, at a minimum, paper, corrugated cardboard, plastics and metals. Storage containers for recyclable materials shall be separated from trash containers. All exterior storage of trash and recyclables shall be screened from view from public sidewalks, streets and adjacent properties.

4. Reserved.

(d) *Site Design Standards*

1. *Massing, Ventilation and Wind Impact:*

- a. The bulk, location or height of proposed buildings and structures shall not result in health or safety problems from a reduction in ventilation to abutting structures or changes to the existing wind climate that would result in unsafe wind conditions for users of the site and/or adjacent public spaces.
- b. The bulk, location or height of proposed buildings and structure shall minimize, to the extent feasible, any substantial diminution in the value or utility to neighboring structures under different ownership and not subject to a legal servitude in favor of the site being developed.
- c. Development shall locate all HVAC venting

mechanisms to direct exhaust away from public spaces and residential properties directly adjacent to the site.

2. *Shadows:*

- a. All development outside the B3, B5, B6 and B7 zones shall be designed to avoid and/or mitigate the adverse impacts of shadows cast by new structures or building additions from falling on publicly accessible open space where such shadowing would adversely affects the viability of its use and/or the viability of existing vegetation. Examples of publicly accessible open spaces that may require direct sunlight for a portion of the day to maintain the viability of existing vegetation and/or use(s) include but shall not be limited to sitting or sunning areas, community gardens, grass sports fields, landscaped areas, children's play areas). For submittal requirements and additional information, please refer to Section 11 of the Technical Manual.

3. *Snow and Ice Loading:*

- a. The development shall be designed to prevent significant amounts of accumulated snow and ice from loading or falling onto adjacent properties or public ways.

4. *View corridors:*

- a. The massing, location and height of development shall not substantially obstruct public views corridors identified in the Downtown Vision View Corridor Protection Plan, as provided in the City of Portland Design Manual, Appendix 1.

5. *Historic Resources:*

- a. Developments affecting designated landmarks or within designated historic districts or historic landscape districts: Any proposed development required to obtain a certificate of appropriateness under article IX (historic preservation) of the land use code shall be

exempt from the following design standards, as described in the Design Manual:

- (i) Section (b) of the Design Manual (development in B-3 zone), except for (b) (1) e.2. (increasing setback beyond street build-to line), (b) (1)f. (shadow impact on open space), (b)(1)h. (wind impacts), and (b)(1)g. (setbacks from existing structures);
 - (ii) Section (c) of the Design Manual (development in B-5 and B-5b zones), except for (c)a. (shared infrastructure) and (c)d. (parking lot location);
 - (iii) Section (k) of the Design Manual (small residential lot development in R-6 zone);
 - (iv) Section (e) of the Design Manual (University of Southern Maine);
 - (v) Section (f) of the Design Manual (development in B-7 zone), except for (f)(1)a. (transportation demand management);
 - (vi) Section (g) of the Design Manual (development in Eastern Waterfront zone);
and
 - (vii) Section (l) of the Design Manual (IS-FBC Building Design Standards)
- b. Development adjacent to designated landmarks, historic districts or historic landscape districts: when any part of a proposed development is within one hundred (100) feet of any designated landmark, historic district, except the India Street historic district, or historic landscape district, such development shall be generally compatible with the major character-defining elements of the landmark or portion of the district in the immediate vicinity of the proposed development. Character-defining elements of landmarks and historic districts are identified in the historic resources inventory and respective historic district designation

reports For the purposes of this provision, "compatible" design shall be defined as design which respects the established building patterns and visual characteristics that exist in a given setting and, at the same time, is a distinct product of its own time. To aid the planning board in its deliberations, historic preservation staff shall provide a written analysis of the proposed development's immediate context, identifying the major character-defining elements and any established building patterns that characterize the context.

- c. Preservation and/or Documentation of Archaeological Resources. Where a state or local archaeological resource is known to exist or is discovered on the site, the developer shall inform the City and State and shall protect and/or document such resources.
 - (i) Protection shall include leaving archaeological resources untouched beneath a new development through adaptation of foundation design or architectural layout.
 - (ii) Where the applicant can demonstrate that complete protection is not feasible, the applicant shall excavate and document archeological resources. Such measures shall be conducted in consultation with the City Historic Preservation Program and Maine Historic Preservation Commission. For resources of state significance, excavation and documentation shall be conducted by a qualified professional, in coordination with Maine Historic Preservation Commission. Local archeological resources may or may not be recognized by the Maine Historic Preservation Commission as significant and shall include the following:
 - (a) Original seawall structure located landward of Commercial Street.
 - (b) Inactive historic family cemetery plots.

- (c) Historic railroad beds including but not limited to the Portland-Lewiston interurban railroad.
 - (d) Original structure and/or landforms associated with the Cumberland and Oxford Canal.
 - (e) Buried portions of colonial and post-colonial period structures or built features located on the Portland Peninsula predating the Great Fire of 1866.
 - (f) Pre-colonial occupation sites identified by shell middens or other evidence.
 - (g) Sites listed or eligible for listing on the National Register of Historic Places.
- (iii) Waiver Criteria: In order to preserve archeological resources, the Planning Authority may wave standards listed in the City of Portland Technical Manual where necessary if it is determined that such a waiver would not jeopardize the health, safety or welfare of the development's occupants, the public, or the natural environment.

6. *Exterior Lighting:*

a. *Site Lighting.*

- (i) All exterior site lighting, including lighting of building entrances, shall be full cutoff with no light emitted above the horizontal plane or spilled onto adjacent properties and streets. Illumination levels shall be adequate but not excessive for the safety, comfort and convenience of occupants and users of the site, and shall conform to applicable standards of Section 12 of the Technical Manual.
- (ii) For major or minor site plans within or abutting a residential use or zone where light from the proposed development may

adversely impact adjacent residential properties, exterior lighting shall employ house-side shielding.

b. *Architectural and Specialty Lighting.*

- (i) Architectural and specialty lighting, but not up-lighting, of such features as architectural details, monuments, public art or other site features shall be designed to illuminate specific details or attributes only and shall meet the standards of Section 12 of the Technical Manual.
- (ii) Up-lighting by any method is prohibited except for public buildings and parklands, clock towers and steeples, landscape features, designated historic landmarks, flags of state, federal or national jurisdictions, and public art. Such light fixtures, brackets, conduits and all other components shall be designed by a lighting professional and shall be scaled and placed to minimize their visibility and installed in accordance with the standards contained in Section 12 of the Technical Manual.

c. *Street Lighting.*

- (i) Municipal street lighting shall be adequate for the safety and comfort of pedestrians and motorists and, where applicable, shall conform to specific lighting district requirements, as specified in Section 10 of the Technical Manual.

7. *Noise and Vibration:*

Projected noise levels for all developments shall meet applicable zoning requirements.

a. *HVAC and Mechanical Equipment.*

- (i) All heating, ventilation and air conditioning equipment (HVAC), air handling units (AHU), emergency generators, and similar equipment shall meet applicable

state and federal emissions requirements and shall comply with the following:

- (a) Be located to the interior of the site, away from abutting residential properties;
 - (b) Be screened from view from any public street and from adjacent sites by structure walls, evergreen landscaping, fencing, masonry wall or a combination thereof.
- (ii) In addition to the requirements listed above, emergency generators shall not be activated for more than one hour per week for routine maintenance and testing. Noise levels shall not exceed City standards except in designated emergencies or for emergency generator testing. Emergency generator testing is permitted only between the hours of 9:00 a.m. and 5:00 p.m., Monday through Friday.

8. Signage and Wayfinding:

- a. All signage shall meet applicable requirements of Division 22 of the City Code, in addition to provisions listed below:
 - (i) Historic Preservation: Any new sign or change in appearance of an existing sign located on a designated Historic Landmark or in a Historic District or Historic Landscape District shall be subject to the standards of Article IX and shall require a Certificate of Appropriateness. If there is a conflict between the standards of Article IX and of Division 22 or other provisions of the City Code, the stricter standards shall apply.
 - (ii) Commercial Signage and Directional Traffic Signage: The size, scale, proportions, design, materials, placement and source and intensity of illumination of all permanent or freestanding building signs shall be

designed to complement the subject building and its immediate context, as follows:

- (a) Signage shall not conceal architectural features such as window sills, lintels or cornices from view.
 - (b) Signs shall be designed and sized to fit the scale and proportions of the building and the feature or area of the building to which it is affixed.
 - (c) Freestanding signs shall not adversely affect visibility at intersections or access drives.
 - (d) Sign lighting shall be downwardly directed, internally illuminated and/or shielded to avoid glare and light spillover towards the sky.
 - (e) Signs shall not be affixed to rooftop mechanicals, mechanical penthouses or other rooftop appurtenances unless those appurtenances have been screened and integrated into the architecture of the development.
- (iii) On-site directional traffic signage may be provided to enable users to safely and easily navigate into, around and out of the site. Directional signage shall not adversely affect visibility at intersections on or off the site.
- (iv) Waiver Criteria: An applicant for site plan review that was either denied for failure to comply with the requirements of or is seeking a waiver as part of their site plan application from Section 14-369.5 shall meet the following standards for approval:
- (a) Signs shall meet the requirements of Section 14-526 (e) 2. - Signage and Wayfinding;
 - (b) The size, scale, proportions, design,

materials, placement, quantity and source and intensity of illumination of any approved signage shall be designed to complement and enhance the architectural attributes of the building(s) to which they are attached or to which they are visually related. In addition, such signs shall be appropriate to the scale and character of the neighborhood in which it is located and shall be designed to suit the conditions from which it will be viewed, especially in relation to the distance, travel speed, and mode of travel of the viewing public;

- (c) The signage shall either be of special design merit or shall respond to unique circumstances or characteristics associated with the subject property;
- (d) The provisions of this subsection shall be limited to commercial uses in business or industrial zones, industrial uses or institutional uses.

9. Zoning Related Design Standards:

- a. Development of certain types and/or proposed in certain zones, as specified below, are subject to design standards in addition to the provisions of Section 14-526 (a) in order to ensure designs that contribute to and enhance the goals and policies for specific districts of the City. The City of Portland Design Standards is listed in the City of Portland Design Manual, which is included by reference. If the development is located in a historic district or associated with a historic landmark, City of Portland Historic Preservation standards shall supersede:
 - (i) B3, B5, B5-b, B7 Zones, and B6 and EWPZ Waterfront Zones: Development in the B3, B5, B5-b, B7 business zones and in the B6 and EWPZ waterfront zones shall be designed to support the development of dense, mixed-use neighborhoods with attractive, safe and

convenient street level pedestrian environments as demonstrated by compliance with all applicable design standards listed in the Design Manual. New development along the Eastern Waterfront should avoid large monolithic massing along all street frontages and should promote permeability through and within the development at a scale compatible with the existing street networks of the Eastern Waterfront. Where new structures are larger than buildings characteristically found in Portland's waterfront, horizontal and vertical variation should be used to break large expanses of building into components that are in scale with the context to which they most closely relate.

- (ii) RP Zone: Development in the RP Residential Professional zone where there is a discernable architectural style or character to existing structures in the immediate vicinity in which the development is proposed shall not be incongruous to that established style or character as demonstrated by compliance with all applicable design standards listed in the Design Manual.
- (iii) B1, B1-b, B2, B2-b Zones: Development in the B1, B1-b, B2 and B2-b business zones shall provide an established street wall with entrances and public portions of the building oriented to and directly accessible from the public sidewalk and shall be designed and scaled to be compatible with surrounding residential and commercial development as demonstrated by compliance with all applicable design standards listed in the Design Manual.
- (iv) USM Overlay Zone: Development in the University of Southern Maine (USM) Overlay Zone shall be designed to support a cohesive campus environment while integrating with and respecting the residential character of surrounding neighborhoods as demonstrated by

compliance with all applicable design standards listed in the Design Manual.

- (v) Residential Developments: Residential developments, as listed below, shall integrate with and respect the character of surrounding residential development in terms of architectural form, landscaping and open space, façade materials, roof pitch, massing and height as demonstrated by compliance with all applicable design standards as listed in the Design Manual.
- (vi) Residential Development in the following districts:
 - (a) Planned Residential Unit Developments (PRUDS) in the R3, R5 and R5a residential zones;
 - (b) Multiple family and multiplex developments in the R5 zone;
 - (c) Small residential lot development of single family homes in the R5 zone;
 - (d) All residential development in the R6 zone.
- (vii) Residential Development of the following types:
 - (a) Manufactured housing parks;
 - (b) Two-family and multiple family housing not already specified in (a) above;
 - (c) Special needs independent living units;
 - (d) Lodging houses;
 - (e) Bed and breakfasts;
 - (f) Emergency shelters.
- (viii) B-7 Design Standards for Additional Height in District A: In the B-7 zone, the Planning

Board, when conducting review of a Master Development Plan or a Level III Site Plan, as applicable, may modify the stepback provisions of Section 14-296(a)(5)(b), relating to buildings allowed as a conditional use to exceed one hundred and twenty-five (125) feet up to one hundred and sixty-five (165) feet in height, provided the following conditions are met:

- (a) Each building exceeding one-hundred and twenty-five (125) feet shall contain at least 20 dwelling units per building.
- (b) Building wall stepback requirements along public street frontage:
 - i. Building with frontage on one street: minimum ten (10) foot stepback between third and fifth stories and a minimum ten (10) foot stepback between the one hundred twenty-five (125) and one hundred forty-five (145) foot level.
 - ii. Building with frontage on multiple streets: Above paragraph (i) requirement along longest building façade street wall, and of the remaining street walls the same requirement as paragraph (i) or a 15 foot wide streetscape improvements area containing a public sidewalk, landscaping and other streetscape improvements within the abutting street right-of-way and/or private property along the remaining street frontage. A building with frontage on four streets shall meet the above requirement except that two of the streets shall have the stepback requirement.
 - iii. The Planning Board shall have the authority to waive one or more of the required stepbacks provided the following is met:
 - 1. The depth of the building lot

precludes a building having an average minimum lot depth dimension of one hundred seventy (170) feet; or

2. The proposed building has an architecturally significant design that is articulated to avoid a monolithic appearance and emphasizes slender, vertically-oriented proportions while employing a variety of scales, materials, fenestration, and massing to assure a rich visually interesting experience as viewed within the context of the downtown skyline and provide visual interest and human scale at the pedestrian level;
3. In the event such a waiver is granted the Planning Board may require the applicant to mitigate the impacts of the waiver by requiring the following:
 - a. Along all public street frontages and public open spaces, all buildings (regardless of height) shall meet the B-7 Design Standard E-4 Articulation to maintain a pedestrian scale through the use of building elements at the street level as listed in this standard along no less than 60% of the building's horizontal length.
 - b. Along all public street frontages and public open space for the building(s) over one hundred twenty-five (125) feet, a canopy, awning or similar permanent architectural feature to provide pedestrian protection

and wind mitigation shall be provided within the first thirty-five (35) feet of height.

- c. In order to preserve view corridors and to maintain a varied skyline, all buildings above one hundred twenty-five (125) feet within a single development site should be separated to avoid the appearance of a tall, solid block massing. In accordance with this policy, development sites of 500 feet or greater as measured parallel to Marginal Way, the aggregate building façade widths above 85 feet shall not exceed fifty percent (50% of the total development site distance parallel to Marginal Way. Buildings over one hundred twenty-five (125) feet in height that are being reviewed as separate phases of a Master Development Plan shall be entitled to meet the fifty percent (50%) building requirement in aggregate for all such buildings over one hundred twenty-five (125) feet in height in the Master Development Plan, provided that view corridors are retained as each phase is built.
 - d. The applicant shall demonstrate building design elements and location will reasonably mitigate downdraft effects of the proposed building or buildings.
- b. *Master Development Plan Design Standards: A Master*

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

10. Reserved.

(e) *Conditions*

1. Notwithstanding the provisions of subsections (a) through (d) of this section, the Planning Authority or Planning Board may impose any condition upon its approval of any site plan: (1) to minimize or abate any adverse impact of the proposed development on the value or utility of other private property, or on public property or facilities, to the extent feasible; or (2) to bring the development into compliance with the requirements of subsections (a) through (d); or (3) to minimize any other adverse environmental effects of the proposed development. Such conditions may include, but are not limited to, enclosing of equipment or operations, imposing limitations upon the hours of operation, or requiring the employment of specific design technologies, modes of operation, or traffic patterns, and may also include the construction of, or financial contribution to the construction of, on- or off-premises public facilities including, without limitation, streets and sewers impacted by the development. All such conditions shall be consistent with the purposes set forth in section 14-521.

(f) *General Waiver*

1. Except for the requirements set forth in Section 14-526 (a)-(d) for which individual waiver criteria are provided, the Reviewing Authority if it finds that extraordinary conditions exist or that undue hardship may result from strict compliance with these regulations may vary the regulations so that substantial justice may be done and the public interest secured; provided

that such variation will not have the effect of nullifying the intent and purpose of the land development plan and the regulations of this article.

(Ord. No. 277-09/10, 7-19-10; Ord. No. 175-12/13, 4-22-13; Ord. No. 176-12/13, 4-22-13; Ord. 209-14/15, 5/4/2015; Ord. 184-14/15, 6-1-2015; Ord. 83-15/16, 11-2-2015; Ord. No. 74-16/17, 11-7-2016)

Sec. 14-527. Content of site plan applications.

(a) *Level I General Submissions.* The applicant shall submit for review a packet of materials and submissions in a form and content as specified by the Department of Planning and Urban Development. Such submissions shall contain, at a minimum, the following elements:

1. Application Form;
2. Applicable Fees;
3. Project Description;
4. Evidence of Right, Title and Interest;
5. Evidence of State and/or Federal Approvals, if applicable;
6. Written assessment of project compliance with applicable zoning requirements;
7. Summary of existing and/or proposed easements, covenants, public or private rights-of-way, or other burdens on the site;
8. Written requests for waivers from the City's Site Plan or Technical Standards, if applicable;
9. Boundary survey stamped by a professional surveyor licensed to practice in the State of Maine, drawn to scale and tied into the State Plane Coordinates, NAD 1983, Maine West Zone, as specified in Section 13 of the Technical Manual.

(b) *Level I Site Plan Submissions.* Site plans submitted as part of a Level I site plan application for a minor residential or site alteration proposal shall include a site plan based upon the boundary survey showing the following information:

1. Existing and proposed structures, as applicable, and distance from property lines;
2. Existing and proposed paved areas, if applicable;
3. For minor residential only, proposed ground floor area and finish floor or sill elevation;
4. For minor residential only, exterior building elevation drawings (all sides);
5. Location of proposed utilities;
6. Identification and proposed protection measures for any significant natural features, as defined in Section 14-526 (b);
7. Identification and proposed protection for alterations of watercourses, if applicable;
8. Identification and, if applicable, proposed impacts and protection measures for wetlands;
9. For Level I minor residential projects only, soil type;
10. Existing and proposed grades and contours;
11. Location, dimensions and ownership of easements, public or private rights of way, both existing and proposed;
12. Proposed stormwater management control;
13. Soil erosion control plan;
14. Existing vegetation to be preserved, proposed site landscaping, screening and proposed street trees, if applicable;
15. Existing and proposed curb and sidewalk;
16. Location, area, and limits of the proposed site disturbance or alteration;
17. Proposed Pier, Dock, Wharf, Pier, or Slope Stabilization reconstruction in the Shoreland Zone, if

applicable.

(c) Level II, III, and Master Development Plan General Submissions. The applicant shall submit for review a packet of materials and submissions in a form and content as specified by the department of planning and urban development. Such submissions shall contain, at a minimum, the following elements.

1. Application form;
2. Applicable fees;
3. Project description;
4. Evidence of right, title and interest;
5. Evidence of state and/or federal approvals, if applicable;
6. Written assessment of project compliance with applicable zoning requirements;
7. Summary of existing and/or proposed easements, covenants, public or private rights-of-way, or other burdens on the site;
8. Written requests for waivers from the city's site plan or technical standards, if applicable;
9. Evidence of financial and technical capacity;
10. Boundary survey stamped by a professional surveyor licensed to practice in the State of Maine, drawn to scale and tied into the State Plane Coordinates, NAD 1983, Maine West Zone, as specified in section 13 of the Technical Manual. A boundary survey of the site, may be waived by the Planning Authority for a review of Master Development Plan, where an existing conditions plan is available. The Boundary Survey requirement shall be met for each phase of development.

(d) *Level II and Level III Preliminary Site Plan Submissions.* A preliminary site plan is an optional submittal as part of the Level II and III site plan application review process. If the applicant elects to submit a preliminary site plan for review, it shall include the following information:

1. Proposed grading and contours;
2. Existing structures with distances from property lines;
3. Proposed site layout and dimensions for all proposed structures, paved areas, and pedestrian and vehicle access ways;
4. Preliminary design of proposed stormwater management system in accordance with Section 5 of the Technical Manual;
5. Preliminary infrastructure improvements;
6. Preliminary Landscape Plan in accordance with Section 4 of the Technical Manual;
7. Location of significant natural features located on the site as defined in Section 14-526 (b)(1);
8. Proposed buffers and preservation measures for significant natural features, as defined in Section 14-526(b)(1);
9. Location, dimensions and ownership of easements, public or private rights of way, both existing and proposed.
10. Exterior building elevations.

(e) Master Development Plan. A Master Development Plan is an optional submittal as part of the Level III site plan application review process. If the applicant elects to submit a Master Development Plan for review, it shall include the following information in addition to the general submission requirements of Sec. 14-527 (c)(d):

1. A neighborhood context map, at a scale not less than one (1) inch equals one hundred (100) feet, providing a graphic description of the neighborhood in which the tract lies, including roads, utilities and other public facilities, major existing buildings and structures. There shall also be a statement and/or plan as to the general impact of the proposed Master Development Plan upon the area, indicating how the

Master Development Plan relates to surrounding properties and what measures will be taken to create appropriate transitions and access from the subject property to abutting public properties (i.e. parks, waterfront, etc.) or other neighboring tracts (if applicable).

2. A conceptual site plan drawn to a scale of not less than one (1) inch equaling fifty (50) feet, or series of drawings at the same scale, and any necessary supporting information, showing:
 - (i) The approximate boundary lines of existing and proposed lots within and immediately adjacent to the Master Development Plan, with approximate areas and dimensions. With respect to residential areas, the proposed density, lot configuration, circulation and a typical plot plan shall be included in the application.
 - (ii) An analysis of the natural features of the site, including existing and/or adjacent natural waterways, wetlands, floodplains, topography, soil conditions and other natural features requested or required by the Planning Authority.
 - (iii) An analysis of the designated view corridors, historic resources, and archeological resource associated with the site.
 - (iv) Existing/proposed buildings and other significant structures, building groupings, exterior building elevations and entrances, parking areas, and other significant physical features of the site.
 - (v) Context drawings, perspective renderings, photographic montages, or computer generated graphics depicting the proposed development within the surrounding building and environmental context. Building elevation drawings shall include the following:
 - a. Illustrations of all sides of the structures;
 - b. Views of major entries or prominent building features;

- c. Illustration of building articulation and elements;
- d. Building finish composition; and
- e. Pedestrian and streetscape elements of the Master Development Plan.

The submission shall include a digital three-dimensional model tied to a specific location that is submitted as a KML, KMZ, DXF, or DWG file on a CD or DVD or such format as approved by the Planning Authority. It is the applicant's responsibility that the model is complete and represents the proposed development accurately using best practice modeling techniques and layering standards.

- (vi) Major circulation patterns surrounding and serving the site, the existing and proposed lines of streets (including the street width), ways, easements and any public areas within or next to the site.
- (vii) Major landscaping elements, features, open space, and plans for preservation of natural features.
- (viii) An analysis of the public safety services needed to support the master plan.
- (ix) An analysis of the anticipated impacts on the public school system to support the Master Development Plan.
- (x) A generalized drainage plan for the site, indicating drainage ways, flow, points of outfall, and indicating impacts of development on affected drainage basins. The plan shall include contour information at not less than two-foot (2') contour intervals and document anticipated quantities of run-off characteristics. General statements concerning storm water management techniques shall also be submitted with the application.
- (xi) The plan shall clearly show Master Development

Plan boundaries, north arrow, date, scale, legend, the title "Master Development Plan Concept Site Plan" followed by the formal project name, and the name(s) of applicant(s), engineer(s), designer(s) and/or agent(s).

(xii) A traffic analysis and recommendations prepared by a registered professional engineer qualified to conduct such studies, including current traffic counts for streets surrounding the project, analysis of the existing capacity of those streets, projections of the amount of traffic that will be generated by the proposed development, and the ability of the street system to absorb the increased traffic without decreasing the level of service below an acceptable level - said level to be determined by the Planning Authority in concert with the Department of Public Works. In cases where the Master Development Plan is subject to a Traffic Movement Permit (TMP) for all phases, the TMP submissions and review shall supersede these requirements.

(xiii) A utilities analysis and recommendations prepared by a registered professional engineer qualified to conduct such studies. Said analysis shall contain an inventory of existing utilities including, but not limited to, storm sewers and drains, sanitary sewers, electrical lines, fire alarm boxes and lines, gas lines/mains, water mains, lighting, curb and gutter, etc. Said inventory shall illustrate utility locations, sizes, diameters, carrying capacity and present load on the system. The engineer's report shall state if the current system is capable of adequately serving the proposed development. If the current utility system is found to be inadequate for the proposed development, the report shall confirm the deficiencies and make recommendation(s) as to the infrastructure improvements necessary to properly service the proposed development and maintain the existing service. The report shall also present a formal plan for infrastructure improvements, documenting timing, funding mechanisms and coordination with the City; and

(xiv) Any other supportive information the applicant feels may be beneficial in the evaluation of the request.

(xv) The Planning Authority or Planning Board may reduce the level of information required at the Master Development Plan review stage, provided more detailed supportive documentation is provided at final Level III Site Plan Review of the Master Development Plan or phases thereof.

(f) *Level II and III Final Site Plans.* A final site plan for a Level II or III site plan application shall be based upon a standard stamped boundary survey meeting City of Portland standards, be stamped by a professional engineer licensed to practice in the State of Maine, shall be submitted with all required written submittals and shall include the following information:

1. Existing and proposed structures, as applicable, and distance from property lines;
2. Approximate location of structures on parcels abutting the site;
3. All streets and intersections adjacent to the site and any proposed geometric modifications to those streets or intersections;
4. Location, dimensions and materials of all existing and proposed driveways, vehicle and pedestrian access ways, and bicycle access ways, with corresponding curb lines;
5. Engineered construction specifications and cross-sectional drawings for all proposed driveways, paved areas, sidewalks;
6. Location and dimensions of all proposed loading areas including turning templates for applicable design delivery vehicles;
7. Existing and proposed public transit infrastructure with applicable dimensions and engineering specifications;

8. Location of existing and proposed vehicle and bicycle parking spaces with applicable dimensional and engineering information;
9. Location of all snow storage areas and/or a snow removal plan;
10. A traffic control plan as detailed in Section 1 of the Technical Manual;
11. Proposed buffers and preservation measures for significant natural features, where applicable, as defined in Section 14-526(b)(1);
12. Location and proposed alteration to any watercourse;
13. A delineation of wetlands boundaries prepared by a qualified professional as detailed in Section 8 of the Technical Manual;
14. Proposed buffers and preservation measures for wetlands;
15. Existing soil conditions and location of test pits and test borings;
16. Existing vegetation to be preserved, proposed site landscaping, screening and proposed street trees, as applicable;
17. A stormwater management and drainage plan, in accordance with Section 5 of the Technical Manual;
18. Grading plan;
19. Ground water protection measures;
20. Existing and proposed sewer mains and connections;
21. Location of all existing and proposed fire hydrants and a life safety plan in accordance with Section 3 of the Technical Manual;
22. Location, sizing, and directional flows of all existing and proposed utilities within the project site and on all abutting streets;

23. Location and dimensions of off-premises public or publicly accessible infrastructure immediately adjacent to the site;
24. Location and size of all on-site solid waste receptacles, including on-site storage containers for recyclable materials for any commercial or industrial property;
25. Plans showing the location, ground floor area, floor plans and grade elevations for all buildings;
26. A shadow analysis as described in Section 11 of the Technical Manual, if applicable;
27. A note on the plan identifying the Historic Preservation designation and a copy of the Application for Certificate of Appropriateness, if applicable, as specified in Section Article IX, the Historic Preservation Ordinance;
28. Location and dimensions of all existing and proposed HVAC and mechanical equipment and all proposed screening, where applicable;
29. An exterior lighting plan in accordance with Section 12 of the Technical Manual;
30. Signage: A signage plan showing the location, dimensions, height and setback of all existing and proposed signs;
31. Location, dimensions and ownership of easements, public or private rights of way, both existing and proposed.

(g) Level II and III Final Written Materials

1. Construction Management Plan;
2. A traffic study and other applicable transportation plans in accordance with Section 1 of the Technical Manual, where applicable;
3. A narrative describing any significant natural features, wildlife and fisheries habitats or archaeological sites subject to the provisions of

Section 14-526(a) that are located on or near the project site and a description of the methods that will be used to protect such areas or sites during and post construction;

4. A narrative describing site layout, on and off-site watershed hydrology, new and existing buildings and facilities, total impervious area, disturbed area and developed area created by the project;
5. Stormwater runoff calculations as described in Section 5 of the Technical Manual;
6. A narrative describing the development's consistency with applicable City Master Plans;
7. Evidence of Utility Capacity to Serve;
8. Estimated types and quantities of solid waste to be generated by the development. For new commercial and industrial development, a description of the estimated amount and type of recyclable material to be generated;
9. A code summary referencing NFPA 1 and all Fire Department technical standards;
10. Where applicable, an assessment of the development's consistency with any applicable design standards contained in Section 14-526(a) and/or in the City of Portland Design Manual;
11. Manufacturer's verification that all proposed HVAC and manufacturing equipment meets applicable state and federal emissions requirements.

(Ord. No. 277-09/10, 7-19-10; Ord. No. 25-11/12, 8-15-11; Ord. No. 176-12/13, 4-22-13; Ord. 108-15/16, 11-16-2015)

Sec. 14-528. Reserved.

Sec. 14-529. Appeals.

(a) When the planning authority has approved, approved with conditions, or denied a site plan, or has approved a request to extend the expiration date of a Master Development Plan, any person aggrieved may appeal the decision to the planning board within thirty (30) calendar days of the date of the written decision of the planning authority. Upon the taking

of such an appeal, the application or request for an extension shall be reviewed as a new application or request.

(b) When the planning board has finally approved, approved with conditions, or disapproved a site plan, any person aggrieved or the City may appeal the decision to the superior court, pursuant to Rule 80B of the Maine Rules of Civil Procedure within thirty (30) days of the vote on the original decision by the planning board.

(Ord. No. 277-09/10, 7-19-10; Ord. No. 25-11/12, 8-15-11; Ord. No. 176-12/13, 4-22-13)

Sec. 14-530. Development review fees and post approval requirements.

(a) Development Review Fees.

1. Payment of fees and costs: Prior to the issuance of permits of any kind or the release of a signed subdivision plat for recording for any project whose permit fee is governed by this ordinance, all current charges due under this ordinance shall be paid and the developer must otherwise be in compliance with the provisions of the City Code.
2. Development Review and administrative fees:
 - a. Review Fees. The developer shall pay the development review fees to cover the third-party review costs for engineers or other professional reviews and administrative costs for all Levels of review unless otherwise noted below, including but not limited to staff review, legal ads, plan duplication, and mailed public notices, incurred by the City. The fee shall be based upon the hours of review time and prevailing hourly rate for reimbursement of City costs. The City shall periodically invoice the developer for the development review and administrative costs incurred by the City, which invoice shall be paid promptly by the developer. Prior to the issuance of permits of any kind or the release of a signed subdivision plat for recording for any project whose permit fee is governed by this ordinance, all current charges due under this ordinance shall be paid. The balance of any remaining engineering and administrative costs invoiced or incurred after a permit has been issued shall be

paid promptly in full by the developer prior to the issuance of any temporary or permanent certificate of occupancy.

3. The City Council, shall, from time to time, establish by order, reasonable application and administrative fees to defray the costs of administering this article.
4. Site Plan Review Expenses.
 - a. Level I: Minor Residential \$300(flat fee)
 - b. Level I: Site Alteration \$600
 - c. Level II: Site Plan \$800
 - d. Level III: Site Plan
 - i. Under 50,000 sf \$2,750
 - ii. 50,000-100,000 sf \$3,000
 - iii. 100,000-200,000 sf \$4,000
 - iv. 200,000-300,000 sf \$5,000
 - v. Over 300,000 sf \$7,000
 - vi. Parking lots over 100 spaces \$1,600
 - e. Master Development Plan \$1,000
 - f. After the Fact Review \$2,000 plus application fee
 - g. Amendment to Site Plans
 - i. Planning Board Review \$1,500
 - ii. Administrative Review \$250
 - h. Other Site Plan Reviews
 - i. Administrative Authorization \$50
 - ii. Special Exception Sign Review \$75

iii. Section 14-403 Street Extensions \$400 plus
\$25 per lot

i. Fee for Development Review Services

i. Planning fee per hour \$54

ii. Legal fee per hour \$75

iii. Third-party Review Fees assessed by the
Third Party Professional

j. State Delegated Review Fees

i. Site Location of Development \$3,500, except
for residential projects which will be \$200
per lot.

ii. Traffic Movement Permit \$1,500

iii. Stormwater Quality Permit \$250

k. Performance Guarantee

1. As required in Section 14-530 (b)(4).

l. Inspection Fees, as required in Section 14-530
(b) (5)

i. Level I: Site Alteration, Level II and Level
III: 2% of the performance guarantee or as
assessed by Planning or Public Works
Engineer at \$54 an hour with minimum
inspection fee of \$300 Level I: Minor
Residential Inspection Fee \$100 (flat
fee).

m. Street vacation \$2,000

(b) *Post-approval submissions.*

1. Final Plans. Following final site plan approval and prior to issuance of any building permit, the developer shall submit final plans meeting all the conditions of the site plan approval, including without limitation all streets, sewers, drainage

structures and landscaping. Thereafter, limited and minor departures from the approved site plan shall be approved by the Public Works Authority as field changes pursuant to Section 14-532 below. Amendments or revisions to the approved site plan shall be reviewed by the Planning Authority pursuant to 14-532.

2. As-built plans. Upon completion of a Level II or Level III development, the applicant shall submit the as-built plans as specified in the Technical Manual.
3. Performance Guarantee and Defect Guarantee:
 - a. Performance Guarantee Required. Following approval of Level I, II and III site plan applications and prior to the issuance of a building permit, the developer shall post with the City a performance guarantee in the form and amount specified in section 14-501 specifying the completion of the required site plan improvements within two (2) years from the origination date of such guarantee. In no case shall the term of such guarantee be for a period of less than one (1) year, nor shall any performance guarantee expire between October 30 and April 15 of the following year.
 - b. Required site improvements. Development improvements include, but are not limited to, sanitary sewers, storm drains, drainage systems, erosion control, catch basins, manholes, other improvements constructed chiefly below grade, slope stabilization, curbing, paving, sidewalks, lighting, landscaping and buffers.
 - c. Phased Project. A project may be reviewed and approved for up to three (3) phases. A performance guarantee shall be posted for each phase. Each phase of such project shall be independent of subsequent phases and shall conform to all standards of this article in the event that subsequent phases do not go forward.
 - d. Exemptions.
 - i. Level I minor residential development is

exempt from performance guarantee requirements except for those projects that complete construction in the winter and the site work is incomplete due to weather conditions. A performance guarantee will be required that is sufficient to complete the remaining site work as approved on the site plan. The performance guarantee must be reviewed and approved by the Planning Authority prior to the release of a temporary certificate.

- e. Abandoned site. In the event that a development is abandoned or the site improvements do not meet City standards as approved in the site plan, the performance guarantee may be utilized to stabilize, secure, complete and/or restore the site as may be necessary, including, but not limited to, revegetation of areas, grading and fencing.
- f. Performance Guarantee Reductions. The developer shall be eligible to receive up to three reductions in the performance guarantee in a calendar year equal to the estimated cost of the completed improvements. The developer shall submit a written request for a reduction that reports what work has been done and what is left to complete along with the associated costs to complete that work. In no case, however, shall any performance guarantee be reduced:
 - i. In any line item where improvements remain to be completed; or
 - ii. To a value which is less than the estimated cost of completing all remaining prescribed improvements for which a performance guarantee is required by section 14-530(b)4.b.
- g. Notwithstanding any other provision of this section, no performance guarantee shall be reduced to less than the amount of the defect

guarantee to be posted upon completion of the improvements.

- h. Required One Year Defect Guarantee. Prior to the release of the performance guarantee, the developer shall provide an one-year defect guarantee, which shall not expire between October 30 and the following April 15. The amount of the defect guarantee shall be ten (10) percent of the initial amount of the performance guarantee.

4. Inspection fee:

- a. Inspection fees and costs. At the same time that the developer posts a performance guarantee, the developer shall also initially pay to the City a site plan improvement inspection fee equal to two (2) percent of the estimated costs of required site improvements for which a performance guarantee is to be posted. At the conclusion of the project, and before a temporary or permanent certificate of occupancy is issued, the developer shall pay to the City the balance of any inspection fees actually incurred by the City in its review of the project.
- b. The required inspection fee for all Level I Minor Residential Development plans minimum shall be one hundred dollars (\$100.00) and for all other development the minimum inspection fee shall be three hundred dollars (\$300.00).

5. Certificates of Occupancy:

- a. Temporary Certificates of Occupancy.
 - i. Notwithstanding sections 14-463, 14-524(b) or any other provision of this Code, a certificate of occupancy may be issued for a development or portion of a development which has otherwise been completed in accordance with final site plan approval and all applicable provisions of this Code where the applicant submits a written request therefore to the Planning Authority stating those improvements which remain to be completed, the reasons why such improvements

have not been completed, and the cost and time to complete the remaining work. In no event shall any temporary or permanent certificate of occupancy be issued where:

- (a) Conditions exist which would justify denial of a certificate of occupancy under chapter 6; or
 - (b) Required improvements to the City right-of-way remain to be completed by the developer; or
 - (c) All access roads and any other roads and driveways required for the building or building(s) for which the certificate(s) are requested have not been improved to a passable condition; or
 - (d) A remaining balance for fees incurred by the City exists; or
 - (e) The developer otherwise is in violation of the City Code.
- ii. Where a temporary certificate of occupancy is sought for a portion of any development prior to the completion of the entire development, the following standards shall be met, in addition to all applicable requirements set forth above, prior to the issuance of any certificate of occupancy:
- (a) Those parking areas required for the portion of the development for which a certificate of occupancy is sought shall be available for use. Alternative arrangements must be made on-site for parking for any periods during which such parking areas will not be available for use.
 - (b) All foundation plantings and other landscaping required for the portion of a development for which a certificate of occupancy is sought shall be installed prior to the issuance of a certificate of

occupancy. This requirement may only be waived where, in the opinion of the public works authority, landscaping improvements cannot practically be completed due to seasonal weather conditions.

- (c) A performance guarantee shall be in place and in an amount sufficient to cover all remaining required improvements and not less than 10% of the initial performance guarantee amount.
- iii. No temporary or permanent certificate of occupancy shall be issued to any portion of development where, in the opinion of the reviewing authority, the site conditions or work required to complete the development will endanger the health or safety of persons visiting or inhabiting the completed portion.
- b. Final Certificate of Occupancy.
 - i. Final Certificate.
 - (a) All improvements which are not completed prior to the issuance of any temporary certificate of occupancy must be completed prior to the completion date specified in the performance guarantee required by section 14-525(j) or by the temporary certificate of occupancy, whichever occurs first, in order for a final certificate of occupancy to be issued by the City.
- c. Non-compliance.
 - i. Non-compliance with temporary certificate of occupancy. Where any person accepts a temporary certificate of occupancy and does not complete the improvements as specified in the certificate, the City is authorized to enter upon such property itself or through its agents or contractors to complete such improvements with no liability

therefore and may recover the costs thereof through the mechanic's lien procedure for the improvement of real property to the extent that the performance guarantee may be inadequate.

(Ord. No. 277-09/10, 7-19-10; Ord. No. 25-11/12, 8-15-11; Ord. No. 176-12/13, 4-22-13; Ord. 108-15/16, 11-16-2015; Ord. No. 253-15/16, 7-1-2016; Ord. 245-16/17, 7-1-2017; Ord. No. 217-17/18, 7-1-2018)

Sec. 14-531. Reserved.

Sec. 14-532. General requirements and enforcement.

(a) Approved site plans and required permits.

1. An approved site plan is a prerequisite to issuance of building, street opening or certificate of occupancy permits for development subject to the provisions of this ordinance, except the Planning Authority may grant written authorization for the release of a demolition or interior building permit upon written request of the applicant describing the extent of proposed work. Any exterior demolition requires a performance guarantee for site stabilization.
2. Neither the acceptance of any application nor any determination or approval hereunder shall authorize the issuance of a permit under Chapter 6 (Building Code) for any use which would violate the provisions of Article III of this chapter.
3. No building permit, certificate of occupancy or street opening permit shall be issued until a final site plan, or applicable components thereof, has been approved under this article and such permit is determined to be consistent with the plan and any conditions of approval. In the event of any inconsistency between the approved site plan and any permit issued, the approved site plan shall control; provided, however, site plan approval shall not excuse failure to meet any independent requirement of any other law or ordinance.
4. The site shall be developed and maintained as depicted in the site plan and the written

submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or the Planning Authority pursuant to the terms of this article. Any such parcel lawfully altered prior to the enactment date of these revisions shall not be further altered without approval as provided herein. Modification or alteration shall mean and include any deviations from the approved site plan including, but not limited to, topography, vegetation and impervious surfaces shown on the site plan.

(b) *Revisions and amendments to Master Plans and approved site plans.*

1. Amendments to a Master Development Plan.

a. *Minor amendments.* A minor amendment to a Master Development Plan shall be defined as a change which is generally consistent with the approved Master Development Plan layout of buildings, circulation infrastructure, and open spaces, and:

- (i) Does not propose any new general type of use beyond those approved initially;
- (ii) Does not increase the building ground coverage, floor area ratio or residential density of the Master Development Plan;
- (iii) Does not decrease any specified area regulations or enumerated parking ratios; and
- (iv) Does not substantially change access, circulation, or infrastructure on or adjacent to the site.

The Planning Authority shall be authorized to approve such minor amendments to a Master Development Plan upon written application and explanation of the change(s) by the owner (or its agent) of the property. No further public

hearings shall be required.

2. *Approved site plan:* If at any time before or during development the applicant requests minor amendments to an approved plan for Level III development, the Planning Authority may approve such minor amendments under the procedures for minor development, provided that they do not amount to a waiver or substantial alteration of the site plan, and do not affect any condition or requirement of the Planning Board. The applicant shall supply an application and written statement of the proposed amendment(s) and proposed amended plans to the Planning Authority, whose decision as to whether the amendment is minor shall be final. The Planning Authority shall determine if a notice of amendment shall be required and the extent of such notice based on the extent and nature of the proposed amendment to plan and the demonstrated public interest related thereto.
3. *Limited In-Field Changes:* approved by the Public Works Authority must be in writing and submitted to the Planning Authority and are specifically limited to minor variation necessary to deal with unforeseen difficulties that arise during the course of construction involving such technical detail as utility location and substitution of equivalent plantings and shall not include any substantial alteration of the approved plan or change any condition imposed by the Planning Board or Planning Authority.

(c) *Expiration of site plan approval.*

1. A site plan approved under this article shall expire twelve (12) months from the date of approval unless:
 - a. Development has been undertaken in accordance with the approved plan and site work or building construction is ongoing. Any lapse in construction for a period in excess of twelve (12) months shall result in an expiration of the site plan; or
 - b. Prior to the expiration of the site plan, such other time period is agreed upon, in writing, by

the Planning Authority and the applicant, not to exceed three (3) years from the date of approval;

Provided that such extensions may not be granted if changes to the City's zoning ordinance would render the development nonconforming in any respect or if changes in the subdivision or site plan ordinance or in the Public Works Technical Standards Manual or Planning and Development Design Standards would otherwise significantly impact the approved site plan as determined by the Director of Planning and Urban Development.

2. Where the approval or any related land use approval granted to the same applicant by any agency of the City with respect to the same development is appealed to any court by an opponent of the development, the applicant shall be granted further extensions, beyond the expiration of said period, where the applicant has exercised due diligence with respect to defending such appeal, which extensions shall not last beyond one (1) year from entry of final judgment.

(d) *Expiration of Master Development Plan:*

1. A Master Development Plan approved under this article shall expire six (6) years from the date of approval unless:
 - a. Prior to the expiration of the Master Development Plan, an applicant may submit a written request to the Planning Authority for an extension of a Master Development Plan approval and associated waivers. Only two (2) such extensions may be granted by the Planning Authority, and each such extension shall be limited to two (2) years from the date of expiration of the Master Development Plan. Provided there have not been substantial changes to the underlying zoning or site plan standards since the date of the Master Development Plan approval that would have a substantial impact on the Master Development approval, the Planning Authority may grant an extension. The Planning Authority may condition the extension on an amendment of the Master Development Plan to comply with such applicable ordinance or site plan standard changes provided that the Planning Authority may not

require changes in the uses approved on the Master Development Plan or changes that would reduce the gross floor area of the buildings described or shown on the approved Master Development Plan. For the purposes of this provision, gross floor area includes the sum of the gross horizontal areas of each floor of each building or structure from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but excluding any space where the floor to ceiling height is less than six (6) feet. Any decision by the Planning Authority regarding the granting of an extension may be appealed to the Planning Board as provided for in Section 14-529;

- b. Approved major or minor amendments to a Master Development Plan do not alter the expiration date for the Master Plan that is based upon the original date of approval.

(e) *Enforcement.*

- 1. All construction or alterations to the site performed under authorization of building permits or certificates of occupancy issued for development within the scope of the article shall be in conformance with the approved final site plan or an amendment thereto under section 14-532. The Department of Planning and Urban Development shall institute or cause to be instituted any and all actions, legal or equitable, that may be appropriate or necessary for the enforcement of this article. Where work is required pursuant to the terms of chapters 24 or 25 as part of an approval granted under this article, such work shall be accomplished in the sequence established by the Public Works Authority. Where the Public Works Authority determines that work has been completed prior to the receipt of all approvals required by this article or which is out of sequence or is not in compliance with the standards of chapters 24 and 25, the Public Works Authority or an inspector from the Department of Planning and Urban Development may issue a stop work order. Work shall recommence only after such order has been lifted by the Department of Public Works or the Building Authority on the basis of an approved mitigation plan

or action by the developer.

2. No alterations shall be made to a site with a pending or approved site plan application until:
 - a. The performance guarantee has been posted and final site plans have been submitted to the Planning Authority.
 - b. Written permission has been received from the Director of Planning and Urban Development or his/her designee. Such permission shall be granted only after submission of a written request describing the proposed scope of work to be conducted on the site and the planning authority concludes that the request is reasonable, time is imperative and the work will not compromise any aspect of the ensuing review process. All such work shall be done in compliance with information provided with the site plan application including, but not limited to, an erosion control plan. Such written permission shall not be required if the only work proposed is the digging of test pits.
3. Where construction, alteration or modification to a site is performed without a valid site plan improvement permit, an after-the-fact permit shall be obtained from the Planning Board or Planning Authority, as applicable. The cost of an after-the-fact permit shall be as provided in section 6-18 of this code, plus the cost of engineering and administrative costs associated with the review and processing of the after-the-fact permit.

(Ord. No. 277-09/10, 7-19-10; Ord. No. 176-12/13, 4-22-13; Ord. 108-15/16, 11-16-2015)

Sec. 14-533. Reserved.
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Sec. 14-539. Reserved.

Sec. 14-540. Evaluation of article V.

Within five years from adoption of the site plan ordinance, the planning board will evaluate the effectiveness of the ordinance in advancing Portland's vision for a sustainable City and report their findings to the City Council along with any recommendations for site plan ordinance amendments.

(Ord. No. 277-09/10, 7-19-10)

ARTICLE VI. BOARD OF APPEALS*

*Cross reference(s)--Administration, Ch. 2; boards generally, § 2-31 et seq.; jurisdiction of board of appeals for zoning, § 14-471 et seq.

Sec. 14-541. Creation; composition.

There shall be a board of appeals of seven (7) members. Members of the board shall be residents of the city and shall not be officers or employees of the city or any of its agencies or departments.

(Code 1968, § 605.1; Ord. No. 438-74, 7-1-74; Ord. No. 107-76, § 1, 3-1-76; Ord. No. 545-76, § 1, 10-6-76; Ord. No. 147-79, § 1, 8-6-79)

Sec. 14-542. Appointment; terms.

The members of the board of appeals shall be appointed by the city council for terms of three (3) years. Terms shall be staggered so that the terms of no more than three (3) members shall expire in any calendar year. Such members shall serve until their successors are duly elected and qualified provided, however, that such service shall not extend to over one hundred twenty (120) days after expiration of their term.

(Code 1968, § 605.1; Ord. No. 438-74, 7-1-74; Ord. No. 107-76, § 1, 3-1-76; Ord. No. 545-76, § 1, 10-6-76; Ord. No. 148-79, § 1, 8-6-79; Ord. No. 278-83, 11-7-83; Ord. No. 122-85, 8-19-85)

Sec. 14-543. Compensation.

Members of the board of appeals shall serve without compensation.

(Code 1968, § 605.1; Ord. No. 438-74, 7-1-74; Ord. No. 107-76, § 1, 3-1-76; Ord. No. 545-76, § 1, 10-6-76; Ord. No. 148-79, § 1, 8-6-79)

Sec. 14-544. Vacancies.

Permanent vacancies on the board of appeals shall be filled by the city council, in the same manner as other appointments under this article, for the unexpired term of a former member whose place has become vacant.

(Code 1968, § 605.1; Ord. No. 438-74, 7-1-74; Ord. No. 107-76, § 1, 3-1-76; Ord. No. 545-76, § 1, 10-6-76; Ord. No. 148-79, § 1, 8-6-79)

Sec. 14-545. Removal of members.

Any member of the board of appeals may be removed for cause by the city council at any time; provided, however, that before any such removal, such member shall be given an opportunity to be heard in his own defense at a public hearing.

(Code 1968, § 605.1; Ord. No. 438-74, 7-1-74; Ord. No. 107-76, § 1, 3-1-76; Ord. No. 545-76, § 1, 10-6-76; Ord. No. 148-79, § 1, 8-6-79)

Sec. 14-546. Chair.

The members of the board of appeals shall annually elect one (1) of their number as chair to preside at all meetings and hearings and to fulfill the customary functions of that office. In the absence of the chair, the secretary shall act as chair and shall have all the powers of the chair. In the absence of both the chair and the secretary, the board shall elect a chair pro tempore from among its number and the chair pro tempore shall have all the powers of the chair during the chair's and the secretary's absence.

(Code 1968, § 605.2; Ord. 47-15/16, 8/3/2015)

Sec. 14-547. Secretary.

The members of the board of appeals shall annually elect one (1) of their number as secretary. The secretary shall act as chair in the absence of the chair and shall fulfill the duties provided by statute and this article and have such other duties as may from time to time be provided by the rules of the board. In the absence of the secretary, or when the secretary is serving as chair, the board shall elect a secretary pro tempore from among its number and the secretary pro tempore shall have all the powers of the secretary during the secretary's absence or service as chair

(Code 1968, § 605.3; Ord. 47-15/16, 8/3/2015)

Sec. 14-548. Quorum and necessary vote.

No business shall be transacted by the board of appeals without a quorum, consisting of four (4) members, being present. The concurring vote of at least four (4) members of the board shall be necessary to grant any request or application or to sustain any appeal. Any matter that receives fewer than four (4) votes shall be deemed to have been denied.

(Code 1968, § 605.4; Ord. No. 545-76, § 2, 10-6-76; Ord. No. 106-07/08, 12-17-07)

Sec. 14-549. Meetings, hearing, and procedures.

(a) Regular meetings of the board of appeals shall be held at the call of the chair or as provided by the rules of the board. Special meetings shall be called by the chair at the request of any two (2) members of the board or at the request of the city council. All meetings and hearings of the board shall be open to the public.

(b) The board of appeals shall adopt its own rules of procedure for the conduct of its business not inconsistent with the statutes of the state and this article. Such rules shall be filed with the secretary and with the city clerk. Any rule so adopted which relates solely to the conduct of hearings, and which is not required by the statutes of the state or by this article, may be waived by the board upon good cause being shown.
(Code 1968, § 605.5)

Sec. 14-550. Public hearings.

(a) *Setting hearing.* For all matters properly brought before the board of appeals, the board shall select a reasonable time and place for a public hearing following the submission of the subject application.

(b) *Notice.* The secretary shall give notice of such public hearings in the form and manner and to the persons herein specified. The notice shall include the time and place of such hearing, a description of the contents of the matter to be heard and the address or location of the property involved. Where notice by mail is required, it shall be mailed at least seven (7) days in advance of the hearing date by regular United States mail. Notices shall be given to each of the following as specified:

1. In all cases, to all residents of the city by publication in a newspaper of general circulation in the city at least once, not more than thirty (30) nor less than five (5) days before the date of the hearing, and by mail to each of the following persons, each of whom shall be made a party of record in each case: The applicant, the city council and the Planning Board;
2. In the case of hearings related to a use variance, nonconforming use, or a conditional use involving a particular parcel or tract of land, by mail to the owners of all the property within five hundred (500) feet of such parcel or tract;
3. In the case of hearings related to variances or appeals

other than use variances, by mail to the owners of property directly abutting, and directly across a street or alley from the subject property;

4. For purpose of this section, the owners of property shall be considered to be the parties listed by the assessor's department as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing and shall not invalidate any action of the board.

(c) *Conduct of hearings:*

1. *Rights of all persons.* Any person may appear and testify at a public hearing, either in person or by a duly authorized agent or attorney, and may submit documentary evidence, provided, however, that the board shall exclude irrelevant, immaterial and unduly repetitious evidence.
2. *Rights of parties.* The applicant and any interested party shall in addition have the following rights:
 - a. To present witnesses on their own behalf and offer rebuttal evidence;
 - b. To cross-examine all witnesses testifying in opposition to their position through the chair; and
 - c. To examine and introduce any documents produced at the hearing.
3. *Board rules to govern.* All other matters pertaining to the conduct of hearings shall be governed by the provisions of the relevant state statutes, this article, and the rules promulgated by the board of appeals.

(Code 1968, § 605.6; Ord. No. 349-78, 6-26-78)

Sec. 14-551. Records and decisions.

(a) The transcript of testimony, if any, together with the minutes of the secretary and all exhibits, papers, applications and requests filed in any proceeding before the board of appeals and the decision of the board shall constitute the record.

(b) Every decision of the board of appeals shall include findings of the fact, shall refer to the evidence in the record and the exhibits, plans or specifications upon which such decision is

based, shall specify the reason or reasons for such decision, and shall contain a conclusion or statement separate from the findings of fact setting forth the specific relief granted or denying relief.

(c) The secretary shall cause notice of any decision of the board to be delivered or mailed to the applicant, city council and Planning Board within five (5) days of such decision.
(Code 1968, § 605.7)

Sec. 14-552. Conflicts.

No member of the board of appeals shall participate in the hearing or disposition of any matter in which he has an interest. Any question of whether a member has a conflict of interest sufficient to disqualify him shall be decided by a majority vote of the members, except the member who is being challenged; where such a vote results in a tie, the challenged member shall be deemed disqualified.
(Code 1968, § 605.8)

Sec. 14-553. Appeals.

An appeal from any final decision of the board of appeals may be taken by any aggrieved party to the superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure.
(Code 1968, § 605.9)

Sec. 14-554. Reserved.
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ARTICLE VII. CONDOMINIUM CONVERSION

Sec. 14-565. Purpose.

The purpose of this article is to regulate the conversion of rental housing to condominiums; to minimize the potential adverse impacts of such conversion on tenants; to ensure that converted such housing is safe and decent; and to maintain a reasonable

balance of housing alternatives within the city for persons of all incomes. To these ends, this article shall be liberally construed.
(Ord. No. 213-81, § 608.1, 11-16-81)

Sec. 14-566. Applicability.

This article shall apply to the conversion of any rental unit to a condominium unit.
(Ord. No. 213-81, § 608.2, 11-16-81)

Sec. 14-567. Definitions.

For the purpose of this article, the following terms shall be defined as follows, unless otherwise clearly implied:

Condominium means any interest in real estate created pursuant to the Unit Ownership Act, 33 M.R.S.A. § 560 et seq., or its equivalent, as it may from time to time be amended.

Developer means and includes any person or other legal entity, but not including an established lending institution unless it is an active participant in a common promotional scheme, who, whether acting as principal or agent, records a declaration of condominium that includes real estate, any portion of which was previously a rental unit.

Tenant means and includes any occupant in lawful possession of a rental unit, whether by lease, sublease, or otherwise.

Unit means any building, or portion thereof, used or intended to be used primarily as a separate dwelling.
(Ord. No. 213-81, § 608.3, 11-16-81)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 14-568. Protection of tenants.

(a) *Notice of intent to convert.* A developer shall give to each tenant written notice of intent to convert at least one hundred twenty (120) days before the tenant is required by the developer to vacate. If a tenant has been in possession of any unit within the same building for more than four (4) consecutive years, the notice period shall be increased by thirty (30) additional days for each additional year, or fraction thereof, to a maximum of two hundred forty (240) additional days. The notice shall set forth specifically the rights of tenants under subsections (a) and (b) of this section and section 14-569, and shall contain the following statement:

If you do not buy your apartment, the developer of this project is required by law to assist you in finding another place to live and in determining your eligibility for relocation payments. If you have questions about your rights under the law, or complaints about the way you have been treated by the developer, you may contact the Building Inspection Division, Department of Planning and Urban Development, City of Portland, 389 Congress Street, Portland, Maine 04101 (telephone: 874-8703).

If the notice specifies a date by which the tenant is required to vacate, the notice may also serve as a notice of termination under the applicable law of forcible entry and detainer, if it meets the requirements thereof. The notice shall be hand-delivered to the tenant or mailed, by certified mail, return receipt requested, postage prepaid, to the tenant at the address of the unit or such other address as the tenant may provide. The notice shall be effective when actually received. No tenant may be required by a developer to vacate without having been given notice as required herein, except for the reasons specified in the applicable law of forcible entry and detainer, and in accordance with the procedures thereof. The terms of a tenancy, including rent, may not be altered during the notice period, except as expressly provided in a preexisting written lease. If, within one hundred twenty (120) days after a tenant is required by a developer to vacate, the developer records a declaration of condominium without having given notice as required herein, the developer shall be presumed to have converted in violation of this article.

(b) *Option to purchase.* For a sixty-day period following the giving of notice as required in subsection (a), the developer shall grant to the tenant an exclusive and irrevocable option to purchase the unit of which the tenant is then possessed, which option may not be assigned. If the tenant does not purchase or contract to purchase the unit during the sixty-day period, the developer may not convey or offer to convey the unit to any other person during the following one hundred eighty (180) days at a price or on terms more favorable than the price or terms previously offered to the tenant, unless the more favorable price or terms are first offered exclusively and irrevocably to the tenant for an additional sixty-day period. This subsection shall not apply to any rental unit that, when converted, will be restricted exclusively to nonresidential use. If, within two (2) years after a developer records a declaration of condominium, the use of any such unit is changed such that but for the preceding sentence, this subsection would have applied, the developer shall be presumed to have converted in violation of this article.

(Ord. No. 213-81, § 608.4, 11-16-81)

Sec. 14-569. Relocation payments.

If the tenant does not purchase the unit, the developer shall, before the tenant is required by the developer to vacate, make a cash payment to the tenant in an amount equal to the amount of rent paid by the tenant for the immediately preceding two (2) months; provided that this requirement shall not apply to any tenant whose gross income exceeds eighty (80) percent of the median income of the Portland SMSA, adjusted for family size, as determined by the U.S. Department of Housing and Urban Development at the time notice is given as required in section 14-568(a). Additionally, the developer shall, upon demand, provide assistance to the tenant in the form of referrals to other reasonable accommodations and in determining the tenant's eligibility for relocation payments as provided herein.

(Ord. No. 213-81, § 608.5, 11-16-81)

Sec. 14-570. Conversion permit.

Before conveying or offering to convey a converted unit, the developer shall obtain a conversion permit from the building inspection division of the department of planning and urban development. The permit shall issue only upon receipt of a completed application therefor in a form to be devised for that purpose, payment of a fee of one hundred and fifty dollars (\$150.00) per unit, and a finding, upon inspection, that each unit, together with any common areas and facilities appurtenant thereto, is in full compliance with all applicable provisions of article II of chapter 6 (building code), article III of chapter 6 (electrical installations), article V of chapter 6 (minimum standards for dwellings) and article II of chapter 10 (fire prevention code) of this Code, and the Life Safety Code as adopted by the state. The developer shall post a copy of the permit in a conspicuous place in each unit, and shall make copies available to prospective purchasers upon request.

(Ord. No. 213-81, § 608.6, 11-16-81)

Sec. 14-571. Variation by agreement.

No provision of, or right conferred by, this article may be waived by a tenant, by agreement or otherwise, and any such waiver shall be void. Any attempt to require, encourage, or induce a tenant to waive any provision hereof, or right conferred hereby, shall be a violation of this article. Nothing herein shall be construed to void any term of a lease which offers greater rights than those conferred hereby.

(Ord. No. 213-81, § 608.7, 11-16-81)

Sec. 14-572. - 14-582. Reserved.

ARTICLE VIII. REGULATION OF EXPLOSIVES*

***Editor's note--**Ord. No. 125-98, adopted Oct. 19, 1998, repealed Art. VIII, §§ 14-583--14-585, relative to moratorium on residential developments. Formerly, such provisions derived from Ord. No. 152-81, §§ 607.1--607.3, adopted Aug. 17, 1981, and Ord. No. 180-87, adopted Nov. 2, 1987. The new Article VIII, regarding regulation of explosives, was passed on March 17, 2003.

Sec. 14-583. Purpose.

The purpose of this ordinance is to protect the public's health, safety and general welfare by regulating and controlling blasting operations within the City.

(Ord. No. 177-02/03, 3-17-03)

Sec. 14-584. Applicability.

This ordinance shall apply to all blasting operations related to construction and development of real estate within the City. The City of Portland Technical Manual is incorporated into this section by reference. Standards listed in the Technical Manual shall be additional to the provisions of this article.

(Ord. No. 177-02/03, 3-17-03; Ord. No. 74-10/11, 11-15-10)

Sec. 14-585. Definitions.

For the purposes of this Article, the following words and phrases shall have the respective meanings ascribed to them:

Blasting plan means the detailed plan for conduct of any blasting operations, and any amendments thereto where over three hundred (300) cubic yards of material shall be removed, which plan has been reviewed by the Planning and Urban Development Department in accordance with the provisions of this ordinance.

Blasting operations means the use of explosives for purposes of breaking up and removing soil, rock and ledge, related to construction and development of real estate within the City.

Blasting permit means a permit issued by the City Fire Department in accordance with the provisions of this ordinance to allow blasting operations within the City.

Blasting submittal means the plan for conduct of any blasting operation where between fifty (50) and three hundred (300) cubic yards of material shall be removed, which plan has been submitted to the Planning and Urban Development Department in accordance with the provisions of this ordinance.

Explosives means any material or container containing a chemical compound or mixture that is commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustible materials or other ingredients in such proportions, quantities, or packaging that an ignition by fire, by friction, by compound or mixture may cause such a sudden generation of highly heated gasses that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects, but shall not mean the components for handloading rifle, pistol and shotgun ammunition, or fireworks. (Ord. No. 177-02/03, 3-17-03; Ord. No. 74-10/11, 11-15-10)

Sec. 14-586. Administration.

(a) This ordinance shall be administered by the Planning and Urban Development Department and the Fire Department, which departments shall have the ability to promulgate amendments to the standards listed in the City of Portland Technical Manual that implement this ordinance.

(b) City Council shall enact the initial Rules required for implementing this Article.

(c) The procedure for amendment of rules shall be as follows:

1. Department staff shall draft proposed rule amendments to the technical standards for presentation to the Planning Board.
2. The Planning Board shall hold a public hearing on the proposed rule amendments and provide interested parties an opportunity for comment, both written and oral, on the proposed rule amendments.
3. The department shall review comments made by the

Planning Board and interested parties and make changes to the proposed rule amendments at its discretion. The amendments to the rules shall go into effect within thirty (30) days of the public hearing held by the Planning Board.

(Ord. No. 177-02/03, 3-17-03; Ord. No. 74-10/11, 11-15-10)

Sec. 14-587. Permit Required.

No person may conduct blasting operations within the City without first obtaining a permit from the Fire Department, as required by the National Fire Protection Association 1 Fire Prevention Code, as adopted and amended in section 10-16 et seq. Of this Code. Fees for this permit shall be as established by Order of the City Council.

(Ord. No. 177-02/03, 3-17-03)

Sec. 14-588. Application Requirements.

Prior to the issuance of a permit pursuant to section 14-587 the following information shall be submitted to the City:

(a) A blasting plan shall be submitted by the applicant to the Planning and Urban Development Department for all projects where more than three hundred (300) cubic yards of material shall be removed. The blasting plan shall conform to the provisions of this section and of Section 3 of the City of Portland Technical Manual.

(b) A blasting submittal shall be submitted to the Planning and Urban Development Department where between fifty (50) and three hundred (300) cubic yards of material shall be removed. The blasting submittal shall conform to the provisions of this section and of Section 3 of the City of Portland Technical Manual.

(c) A blasting application shall be submitted to the Planning and Urban Development Department where less than fifty (50) cubic yards of material shall be removed, or where utility trench work in the accepted public right of way, including City or Portland Water District infrastructure is proposed. Small blasts where less than fifty (50) cubic yards of material shall be removed, are not required to submit either a blasting plan or blasting submittal. Such projects must conform to the National Fire Protection Association Fire Prevention Code and applicants shall submit a monitoring report upon request. Information provided in the blasting application shall confirm that the proposed small blast conforms to all applicable provisions of

this ordinance and of Section 3 of the City of Portland
Technical Manual.

(d) A blasting plan or blasting submittal may be required for any blasting operation at the discretion of the Planning and Urban Development Department when it determines that conditions at or near the site of the blasting operations warrant the provision of a plan.

(Ord. No. 177-02/03, 3-17-03; Ord. No. 74-10/11, 11-15-10)

Sec. 14-589. Storage and handling.

All explosives shall be stored and handled in accordance with the provisions of this code, the laws of the State of Maine and the National Fire Protection Association 1 Fire Prevention Code.

(Ord. No. 177-02/03, 3-17-03)

Sec. 14-590. Enforcement.

(a) This ordinance shall be enforced by the Planning and Urban Development Department and the Fire Department. Either department shall have the authority to issue a written stop work order in the event of a violation of this ordinance or a failure to follow the approved blasting plan.

(b) The issuance of a stop work order may be appealed to the Director of Planning and Urban Development within two (2) business days of its issuance. The decision of the Director of Planning and Urban Development on the appeal shall be final.

(Ord. No. 177-02/03, 3-17-03; Ord. No. 74-10/11, 11-15-10)

Sec. 14-591. Penalties.

(a) In addition to the stop work order which may be issued pursuant to section 14-590, the Permittee shall be subject to the following penalties:

1st offence	\$500.00
2nd offence	\$1,000.00
Subsequent offences	\$1,000.00.

(b) In the event that there are more than three documented violations of the blasting plan, blasting submittal, or blasting permit, the Planning and Urban Development Department and/or Fire Department shall have the right to issue a stop work order on all construction or development related to the permitted operation. The Permittee shall then be required to submit a

revised blasting plan to the Planning and Urban Development Department for review and approval. Work shall not be allowed to continue until the revised blasting plan is approved.
(Ord. No. 177-02/03, 3-17-03; Ord. No. 74-10/11, 11-15-10)

Sec. 14-592. Notice requirements.

(a) At least ten (10) days prior to the start of any blasting operation, notice shall be published in a newspaper of local publication and shall be mailed by first class mail to all property owners within the distance specified below of the perimeter of the blasting site:

Small blast (trench blast or under fifty (50) cubic yards of rock removed): All property owners within two hundred and fifty (250) feet of the perimeter of the blasting site.

Medium blast (removal of 50-300 cubic yards of rock material): All property owners within five hundred (500) feet of the perimeter of the blasting site.

Large blast (removal of over 300 cubic yards of rock material): All property owners within six hundred (600) feet of the perimeter of the blasting site.

(b) Notice shall conform to the model notice contained in Section 3 of the City of Portland Technical Manual and shall include a description of the proposed blasting operations, estimated schedule and duration of blasting operations, description of the blasting signals to be used during operations, the complaint protocol and the complete address, telephone numbers and email contact for the blasting contractor, Planning and Urban Development Department and Fire Department where neighbors and property owners may request further information and notification.

(c) For medium blasts where 50-300 cubic yards of rock material is to be removed, and large blasts where over 300 cubic yards of rock material is to be removed, additional notification requirements shall apply during construction, as detailed in Section 3 of the City of Portland Technical Manual.

(d) If blasting operations are to occur within two hundred and fifty (250) feet of any structure, additional notification requirements shall apply, as detailed in Section 3 of the City

of Portland Technical Manual, in order to prevent adverse public health and safety impacts due to blasting-related carbon monoxide migration.

(Ord. No. 74-10/11, 11-15-10)

Sec. 14-593. Hours of blasting.

Blasting shall occur Monday through Friday, between the hours of 9 a.m. and 4 p.m., unless otherwise approved by the Planning and Urban Development Department. Requests for extension of hours of blasting must be submitted by the applicant in writing.

(Ord. No. 74-10/11, 11-15-10)

Sec. 14-594. Waiver provision.

Upon written request by the applicant, the Planning and Urban Development Department, based on a positive recommendation by the Fire Department, may waive all or a portion of the blasting provisions of Section 3 of the City of Portland Technical Manual, provided that all waivers are consistent with the purposes set forth in Section 14-583.

(Ord. No. 74-10/11, 11-15-10)

Sec. 14-595. Suspension of blasting operations.

If it is determined that blasting operations pose any risk to public health, safety or general welfare, the Director of Planning and Urban Development or the Fire Chief or their designee shall have the authority to suspend the blasting permit at any time until they deem it safe for blasting operations to continue.

(Ord. No. 74-10/11, 11-15-10)

Sec. 14-596. - Sec. 14-600. Reserved.

ARTICLE IX. HISTORIC PRESERVATION

DIVISION 1. GENERALLY

Sec. 14-601. Purpose.

The purpose of this article is to promote the educational, cultural, economic and general welfare of the City of Portland by:

- (a) Creating a mechanism to identify, preserve and enhance distinctive areas, sites, structures and objects that

have historic, cultural, architectural and archeological significance;

- (b) Providing a resource of information and expertise to help those interested in rehabilitation or new construction in a district or restoring a landmark;
- (c) Applying design standards in a reasonable and flexible manner to prevent the unnecessary loss of the community's historical features and to ensure compatible new construction and rehabilitation in historic districts while not stifling change and development or forcing modern recreations of historic styles;
- (d) Fostering civic pride in the city's history and development patterns as represented in such distinctive areas, sites, structures and objects;
- (e) Protecting and enhancing neighborhood character;
- (f) Stabilizing and improving the values of designated properties and areas;
- (g) Protecting and enhancing the attractiveness of the city to its home buyers, home owners, residents, tourists, visitors, businesses and shoppers;
- (h) Fostering and encouraging preservation, restoration and rehabilitation that respects the historic, cultural, architectural and archeological significance of distinctive areas, sites, structures and objects.

(Ord. No. 235-90, 2-26-90; Ord. No. 165-08/09, 3-16-09)

Sec. 14-602. Definitions.

Alteration: Any act or process requiring a building permit and any other act or process not requiring a building permit but specifically listed in this article as a reviewable action, including without limitation the repair, reconstruction, demolition or relocation of any structure or object, or any part of a structure or object.

Applicant: A person who submits an application for issuance of a certificate of appropriateness.

Application: A form submitted for approval of alteration, construction, demolition or removal that requires issuance of a

certificate of appropriateness.

Business day: A day on which the department is open for business.

Certificate of appropriateness: A certificate issued by the department evidencing approval of specific plans for alteration of a structure or new construction on a site in accordance with this article.

Certificate of economic hardship: A certificate issued by the department evidencing a hardship variance approved by the board of appeals in accordance with division 8 of this article.

Certificate of non-applicability: A certificate issued by the department evidencing a determination that specific plans for alteration of a structure or new construction on a site do not require approval under this article.

Contributing: A classification applied to a site, structure or object within a historic district signifying that it contributes generally to the qualities that give the historic district cultural, historic, architectural or archeological significance as embodied in the criteria for designating an historic district, but without being itself a landmark.

Council: The city council.

Demolition: Any act or process that partially or totally destroys a structure or object.

Department: The department of planning and urban development.

Design guideline: Any design standard specified for alteration or new construction which is unique to a particular landmark, historic district or historic landscape district.

Design manual: The historic resources design manual described in section 14-675.

District: An historic district or historic landscape district.

Historic district: An area designated as an "historic district" by the council.

Historic landscape district: An area designated as an "historic landscape district" by the council.

Landmark: A property, site, structure or object designated as a "landmark" by the council as having a high degree of historical, cultural and/or architectural significance.

Level I site plan: As defined in article V of this chapter.

Level II site plan: As defined in article V of this chapter.

Level III site plan: As defined in article V of this chapter.

New construction: The adding to a structure by an addition; the erection or placement of any new structure on a lot or property; or the comprehensive redesign/renovation of an existing structure.

Noncontributing: A classification applied to a site, structure, object, or portion thereof, within a historic district signifying that 1) it does not contribute generally to the qualities that give the historic district cultural, historic, architectural or archaeological significance as embodied in the criteria for designating a historic district; 2) was built within 50 years of the date of district designation unless otherwise designated in the historic resources inventory; or 3) where the location, design, setting, materials, workmanship and association have been so altered or have so deteriorated that the overall integrity of the site, structure or object has been irretrievably lost. A portion of an otherwise contributing or landmark structure may be determined by the historic preservation board to be non-contributing if it meets one or more of the above conditions.

Object: Anything constructed, fabricated or created, the use of which does not require permanent or semi-permanent location on or in the ground.

Open space: Any park and any other area outside of a building open to the public.

Ordinary maintenance: Acts of maintenance or repair which do not include a change in the design, material or outer appearance of a structure, including without limitation repainting, replacement of materials or windows of the same scale, texture and color, and

landscaping other than within an historic landscape district.

Owner: The person or persons holding record title to the building, site or property; provided, however, the last previous tax roll in the records of the city assessor's office may be relied upon as showing record ownership in the absence of substantial evidence to the contrary.

Property: Land and improvements identified as a separate lot for purposes of subdivision, site plan, or zoning regulation.

Relocation: Any removal or relocation of a structure on its site or to another site.

Restoration: Any act which returns a structure or a feature of a structure to a prior state of historic significance.

Sign: As defined in section 14-47.

Site: The location of an event, activity, structure or object.

Street: The entire width between boundary lines of every way publicly owned and maintained or which way is open to the use of the public for purposes of vehicular or pedestrian traffic.

Structure: Anything constructed or erected, having a permanent or semi-permanent location on another structure or in the ground, including without limitation buildings, garages, fences, gazebos, advertising signs, billboards, antennas, satellite sending or receiving dishes, and swimming pools.

(Ord. No. 235-90, 2-26-90; Ord. No. 220-93, § 1, 5-17-93; Ord. No. 165-08/09, 3-16-09; Ord. No. 278-09/10, 7-19-10)

DIVISION 2. HISTORIC PRESERVATION BOARD

Sec. 14-603. Composition.

The historic preservation board shall consist of seven (7) voting members who shall serve without compensation. Members shall have demonstrated interest, knowledge, ability, experience or expertise in restoration, rehabilitation, or neighborhood conservation or revitalization and shall be residents of the city.
(Ord. No. 235-90, 2-26-90)

Sec. 14-604. Appointment and terms.

(a) Members shall be appointed by the council for terms of three (3) years. Appointments shall be staggered so that the terms of not more than three (3) members expire in any calendar year.

(b) Vacancies on the historic preservation board shall be filled within sixty(60) days. However, every member shall continue in office after expiration of the term until a successor has been appointed. Vacancies on the historic preservation board shall be filled for the unexpired term of the former member.

(Ord. No. 235-90, 2-26-90; Ord. No. 197-03/04, 9-8-04)

Sec. 14-605. Removal of historic preservation board member.

Members may be removed for cause by the council. Cause shall include, but is not limited to, the failure to attend meetings without good cause. Any member proposed to be removed shall be given written notice and an opportunity to be heard prior to final action.

(Ord. No. 235-90, 2-26-90)

Sec. 14-606. Officers.

(a) Officers of the historic preservation board shall consist of a chair and vice-chair.

(b) Officers shall be elected by the historic preservation board and shall serve a term of one (1) year and shall be eligible for re-election. No person shall serve as chair for more than two (2) consecutive years.

(c) The chair shall preside at all meetings and hearings and fulfill the customary functions of that office.

(d) In the absence of the chair, the vice-chair shall act as chair and shall have all the powers of the chair. The vice-chair shall have such other powers and duties as may from time to time be provided by the rules of the historic preservation board.

(e) The director of the department or his or her designated representative shall serve as staff secretary to the historic preservation board and shall attend all its meetings. The secretary shall provide for the keeping of tape recordings or minutes of the proceedings of the historic preservation board, showing the vote of each member on every question or his or her absence or failure to vote, and shall maintain the records and decisions of all meetings, hearings and proceedings and all correspondence of the historic preservation board. Copies of permanent records shall be filed with the city clerk. The secretary shall publish and distribute copies

of the minutes, reports and decisions of the historic preservation board to historic preservation board members and to others upon approval of the historic preservation board. The department shall assign necessary staff to assist the historic preservation board and the planning board in carrying out their responsibilities under this article.

(Ord. No. 235-90, 2-26-90)

Sec. 14-607. Meetings, hearing, procedures and decisions.

(a) Regular meetings of the historic preservation board shall be held no less frequently than monthly. Special meetings may be called by the chair or any four (4) members or at the request of the chair of the planning board.

(b) The historic preservation board may adopt procedural rules for the conduct of its business not inconsistent with this article, including the creation of a subcommittee structure to enhance efficiency in consideration of historic preservation board business. Such rules shall be filed with the secretary and with the city clerk. All such rules shall be subject to veto, in whole or in part, by the council within forty-five (45) days of such filing. The initial rules shall take effect when filed, subject to veto as provided above. Amendments to the rules shall take effect upon expiration of said veto period. Any rule may be waived by the chair upon good cause being shown.

(c) No final action shall be taken by the historic preservation board which could in any manner deprive or restrict the owner of a property in its use, alteration, maintenance, disposition or demolition, until such owner either has knowledge of the proceeding or is sent notice offering opportunity to be heard. This paragraph shall not affect the interim protection provisions of division 5.

(d) Every recommendation or recommended decision shall include written findings of fact and shall specify the reason or reasons for such action.

(e) The secretary shall mail notice of any final action of the historic preservation board to the applicant and any designated interested parties and send a copy thereof to the planning board within five (5) business days following such action.

(Ord. No. 235-90, 2-26-90)

Sec. 14-608. Conflicts of interest.

No member of the historic preservation board shall participate

in the hearing or disposition of any matter in which he or she has a pecuniary interest.
(Ord. No. 235-90, 2-26-90)

Sec. 14-609. Responsibilities.

The historic preservation board shall have the following responsibilities:

- (a) To conduct or administer an ongoing survey to identify historically, culturally, architecturally and archaeologically significant areas, sites, structures and objects.
- (b) To review all areas, sites, structures and objects listed in the National Register of Historic Places, including the boundaries of areas so listed, and make recommendations to the planning board and council for the adoption of ordinances designating those areas, sites, structures and objects as landmarks or districts.
- (c) To investigate and recommend to the planning board the adoption of ordinances designating areas, sites, structures and objects not listed in the National Register of Historic Places as landmarks and districts and to make recommendations to the planning board concerning sites, structures and objects that have contributing significance or are intrusions within nominated or designated districts.
- (d) To keep a register of all areas, sites, structures and objects that have been designated as landmarks or districts, including all information required as part of each designation.
- (e) To create an appropriate system of plaques for identification of individual landmarks and make recommendations for the design and implementation of specific marking of streets and routes leading from one (1) landmark or district to another.
- (f) Upon request, to advise and assist owners of landmarks and property, sites, structures or objects within districts on physical and financial aspects of preservation, renovation, rehabilitation and reuse and for procedures for inclusion on other registers of significant areas, sites, structures and objects,

including the National Register of Historic Places.

- (g) To recommend to the planning board the nomination of areas, sites, structures and objects to the National Register of Historic Places or to any State of Maine Register of Historic Places that may be established.
- (h) At the direction of the council, to prepare application for, and participate in, the "certified local government" program of the National Historic Preservation Act Amendments of 1980 and the Main Historic Preservation Commission; and carry out any responsibilities delegated to it under that program, including review and comment on any National Register nominations submitted to the historic preservation board; upon request of the council, participate in any review of federal actions or undertakings pursuant to Section 106 of the National Historic Preservation Act; attend informational and educational programs sponsored by the Maine Historic Preservation Commission; and prepare an annual report of the activities of the historic preservation board.
- (i) To inform and educate the citizens of Portland concerning the cultural, historic, architectural and archeological heritage of the city by publishing appropriate maps, newsletters, brochures and pamphlets and by sponsoring programs and seminars.
- (j) To hold meetings and public hearings to review applications for certificates of appropriateness affecting proposed or designated landmarks and districts; to recommend approval or disapproval of certificates of appropriateness.
- (k) To provide testimony to the board of appeals in connection with any application for a certificate of economic hardship.
- (l) To develop design guidelines affecting landmarks or districts for review and approval by the planning board.
- (m) To advise the planning board as to recommendations on any preservation or conservation easements that the City of Portland may have or be offered as a gift or otherwise.
- (n) To advise the planning board as to the administration of such gifts, grants and money as may be appropriated for

the purposes of this article upon authorization and approval by the council.

- (o) To provide comment, as appropriate, to the planning board and/or city council on matters pertaining to historic preservation in Portland.
- (p) To confer recognition upon the owners of landmarks or properties, sites, structures or objects within districts by means of certificates, plaques or markers.
- (q) To assist the planning board in the development of a preservation component in the comprehensive plan of the City of Portland.
- (r) To periodically review this Code and to make recommendations to the planning board concerning any amendments appropriate for the protection and continued use of landmarks or properties, sites, structures or objects within districts.
- (s) To annually report to the council with respect to the following matters:
 - 1. Survey work in progress or completed;
 - 2. The number of projects reviewed (by type);
 - 3. How many certificates of each type were issued.

(Ord. No. 235-90, 2-26-90; Ord. No. 165-08/09, 3-16-09)

DIVISION 3. CATEGORIES AND CRITERIA FOR DESIGNATION

Sec. 14-610. Minimum criteria for designation.

(a) The historic preservation board shall limit its consideration to the following criteria in making a determination on a proposed nomination of an area, site, structure or object for designation by ordinance as a landmark or district:

- 1. Its value as a significant example of the cultural, historic, architectural, archeological or related aspect of the heritage of the City of Portland, State of Maine, New England region, or the United States;
- 2. Its location as a site of a significant historic or

prehistoric event or activity which may have taken place within or which involved the use of any existing structure on the property;

3. Its identification with a person or persons who significantly contributed to the cultural, historic, architectural, archeological or related aspect of the development of the City of Portland, State of Maine, New England region, or the United States;
4. Its exemplification of a significant architectural type, style or design distinguished by innovation, rarity, uniqueness or overall quality of design, detail, materials or craftsmanship;
5. Its identification as the work of an architect, designer, engineer or builder whose individual work is significant in the history or development of the City of Portland, the State of Maine, the New England region, or the United States; or
6. Its representation of a significant cultural, historic, architectural, archeological or related theme expressed through distinctive areas, sites, structures or objects that may or may not be contiguous.

(b) In the case of a nominated historic district, the historic preservation board shall also determine whether a substantial number of the properties, sites, structures or objects have a high degree of cultural, historic, architectural or archeological significance and integrity, many of which may qualify as landmarks, and which may also have within its boundaries other properties, sites, structures or objects which, while not of such cultural, historic, architectural or archeological significance to qualify as landmarks, nevertheless contribute to the overall visual characteristics of the significant properties, sites, structures or objects located within it.

(c) In the case of a nominated historic landscape district, the historic preservation board shall also consider its significance as a geologic, natural or man-made landscape feature associated with the development, heritage or culture of the City of Portland, State of Maine, New England region, or the United States.

(d) The planning board and council shall apply the criteria of subsections (a), (b) and (c) but shall also consider the effect of such designation on other aspects of the comprehensive plan of

the city.
(Ord. No. 235-90, 2-26-90)

Sec. 14-611. Integrity of landmarks and historic districts.

Any area, structure or object that meets the criteria in section 14-610 must also have sufficient integrity of location, design, condition, materials and workmanship to make it worthy of preservation or restoration.
(Ord. No. 235-90, 2-26-90)

Sec. 14-612. Designation of historic landscape districts.

An historic landscape district may be nominated and considered for designation only if the entire area of the district is owned by a unit of federal, state or local government, or any combination of such ownership.
(Ord. No. 235-90, 2-26-90; Ord. No. 220-93, § 2, 5-17-93)

Sec. 14-613. Reserved.

DIVISION 4. NOMINATION, CONSIDERATION AND DESIGNATION

Sec. 14-614. Procedure.

The provisions of this division shall govern the nomination, consideration and designation of landmarks and districts.
(Ord. No. 235-90, 2-26-90)

Sec. 14-615. Initiation of nomination.

(a) Nomination of an area, site, structure or object for consideration of designation as a landmark, historic district or historic landscape district shall be submitted to the department, on a form provided by the department, by the following:

1. Any two (2) members of the historic preservation board on their own initiative, by written notice to the department; or
2. By written petition of any owner, in the case of a landmark; or
3. By written petition of one (1) or more owners of affected property in the case of a district; provided two (2) members of the historic preservation board must sponsor the petition.

(b) A nomination shall be completed and filed with the department with all required signatures and any fees specified therefor for the nomination to be pending.

(c) Upon nomination, the department shall notify the owner or owners of the nomination and shall transmit the nomination to the historic preservation board for its consideration at its next scheduled meeting, which in no event shall be held later than thirty (30) days following nomination.

(d) At any time after a complete nomination is filed for an historic district, the owner of a structure who seeks a permit for demolition may apply to the historic preservation board for a determination that the structure to be demolished is noncontributing and eligible for a demolition permit. The determination of the historic preservation board that the structure is eligible for a permit shall be conclusive.

(Ord. No. 235-90, 2-26-90; Ord. No. 165-08/09, 3-16-09)

Sec. 14-616. Notification of nomination and public hearing.

(a) A public hearing on the nomination shall be held by the historic preservation board within thirty (30) days following the first scheduled meeting referred to in section 14-615(c), but in no event later than sixty (60) days following receipt of the completed nomination form by the department. Notice of the nomination and of the public hearing shall be in accordance with the procedures for public hearings before the planning board for site plan approval.

(b) The hearing shall be conducted in accordance with procedures adopted by the historic preservation board. The historic preservation board shall consider all testimony or evidence relating to the designation criteria in division 3 from any person who makes written submissions or appears at the public hearing. Historic preservation board members may also present testimony or make submissions. The owner of a nominated landmark or of property within a nominated district shall be allowed reasonable opportunity to present testimony or evidence concerning the applicability of the designation criteria in division 3.

(Ord. No. 235-90, 2-26-90)

Sec. 14-617. Recommendation by historic preservation board.

Within thirty (30) days following the close of the public hearing, the historic preservation board shall make recommendation to the council in the case of a landmark, or to the planning board in the case of a district, upon the evidence as to whether the

nominated landmark or district meets the criteria for designation in division 3. Such recommendation shall be approved by at least four (4) members of the historic preservation board and shall be accompanied by a report to the council or planning board containing the following information:

- (a) Explanation of the significance or lack of significance of the nominated landmark or district as it relates to the criteria for designation.
- (b) Explanation of the integrity or lack of integrity of a nominated landmark or historic district.
- (c) Proposed design guidelines for review of alteration or construction. The specific design guidelines may provide explanation by text and/or schematic examples of visual compatibility for purposes of division 7.
- (d) Relationship of the nominated landmark or district to the ongoing effort by the committee to identify and nominate all potential areas, sites, structures and objects that meet the criteria for designation.
- (e) A map showing the location of the nominated landmark and the boundaries of the nominated district.
- (f) A list, including the address, of every site, structure and object in each nominated historic district indicating their degree of cultural, historic, architectural or archeological significance by classification as of a landmark or contributing significance.

Where a motion either in favor of a recommendation or in opposition to a recommendation results in a vote of fewer than four (4) members, the item shall automatically be tabled to the next regularly scheduled meeting.

(Ord. No. 235-90, 2-26-90; Ord. No. 220-93, § 3, 5-17-93)

Sec. 14-618. Reserved.

Sec. 14-619. Notification of historic preservation board recommendation.

(a) The recommendation of the historic preservation board, including a copy of the report, shall be transmitted to the city council in the case of a landmark and to the planning board in the case of a district. Notice of the recommendation shall be sent by

mail to the owner of a nominated landmark and to all owners within a nominated district within ten (10) business days following adoption of the recommendation and report.

(b) If the recommendation of the historic preservation board is that the property or district not be designated, the nomination process shall terminate and no new nomination shall be submitted for the identical property or area for a period of one (1) year from the date of termination, except upon a showing of substantial and material newly discovered information.

(Ord. No. 235-90, 2-26-90)

Sec. 14-620. Determination by planning board.

(a) The planning board, upon receipt of a recommendation and a report from the historic preservation board concerning nomination of a district, may hold a workshop meeting pursuant to the provisions of section 14-26. After review of the historic preservation board recommendation and report, the planning board shall hold a public hearing.

(b) All meetings, hearings and deliberations of the planning board to consider the recommendation and report of the historic preservation board shall be held in conformity with sections 14-24 through 14-28.

(c) The planning board may request the chair of the historic preservation board, or a member designated by the chair, to appear at any meeting, hearing or deliberation to explain any recommendation or report.

(d) The planning board shall make its final determination including written findings as to whether the nominated district meets the criteria for designation in division 3 within forty-five (45) days following receipt of the recommendation and report from the historic preservation board. A copy of the determination of the planning board shall be sent by regular mail to all owners within a nominated district within ten (10) business days following the determination.

(Ord. No. 235-90, 2-26-90)

Sec. 14-621. Planning board recommendation to city council.

The recommendation of the planning board regarding a nominated district shall be filed with the city clerk within ten (10) business days. It shall be accompanied by a copy of the report and recommendation of the historic preservation board and, in the case of a recommendation that the council designate a draft of a

proposed designation ordinance, including any proposed design guidelines for review of alteration, construction, removal or demolition. The recommendation of the planning board may include proposed changes in other city ordinances, policies, infrastructure, or recommendations with respect to the comprehensive plan of the city relating to the proposed designation.

(Ord. No. 235-90, 2-26-90)

Sec. 14-622. Action by city council.

(a) Within sixty (60) days after the filing of a recommendation on the nomination with the city clerk pursuant to section 14-620, the council shall designate the landmark or district or reject designation. Any designation ordinance may include design guidelines for the designated landmark or district.

(b) Designation of a district shall be accompanied by a list, including the address, of every site, structure and object in the district which is determined to be a landmark or considered to be contributing or noncontributing, indicating their degree of cultural, historic, architectural or archeological significance. This list may be amended thereafter by the council upon recommendation from the planning board under the same procedures as set forth above. Where there are no express findings by the council in the designation ordinance, there shall be a presumption that the council found that all requirements of sections 14-610 and 14-611 were met.

(c) Notice of the proposed action of the council shall be provided by mail to the nominator and the owner of the nominated landmark and/or of all properties adjacent thereto prior to council action. The notice shall include a copy of the resolution or designation ordinance and design guidelines.

(d) Notice of council action to the same persons shall be sent within ten business days following the council action. A copy of each designation ordinance and design guidelines shall be sent to the planning board, the historic preservation board and the department. A complete schedule of all landmarks and districts, including design guidelines and a listing of landmark and contributing structures, shall be maintained by the department as part of the design manual and shall be available for public inspection and copying during ordinary business hours.

(Ord. No. 235-90, 2-26-90; Ord. No. 165-08/09, 3-16-09)

Sec. 14-623. Amendment and rescission of designation.

Amendment and rescission of any designation shall be upon the request of a person or persons authorized to nominate the property or properties affected, or upon request of the council, and shall follow the procedure set forth in division 4 for designation. The council may rescind or amend a designation only after all of these procedures have been followed. The standards for rescission or amendment applied by the committee, planning board and council shall be limited to those provided in section 14-610(a) and section 14-611. Amendments may include refinement or correction of design guidelines, maps, and other parts of any designation ordinance.
(Ord. No. 235-90, 2-26-90)

Sec. 14-624.- Sec. 14-627. Reserved.

*Editor's note - Order No. 197-03/04 adopted 9/8/04, repealed §14-625 Projects of Special Merit in its entirety.

Sec. 14-628. Time limits.

(a) Any time limit specified for any step in the process for nomination or designation of a landmark may be extended with the consent of the property owner.

(b) Any time limit specified for any step in the process for nomination or designation of a district may be extended where at least ten (10) percent of the owners of property within the boundaries of the proposed district have given written consent to the extension.

(c) Failure to comply with any time limit in the nomination and designation process as provided in divisions 3 or 4 shall not affect the validity of any designation nor the interim protection provided by division 5.

(Ord. No. 235-90, 2-26-90)

Sec. 14-629. Reserved.

DIVISION 5. INTERIM PROTECTION FOR NOMINATIONS

Sec. 14-630. Nominated landmarks and districts.

(a) From the time of nomination until the historic preservation board acts upon such nomination, a site, structure, object or area nominated but not yet designated as a landmark or

district shall be subject to all of the provisions of divisions 8 and 10 governing demolition and minimum maintenance, to the same extent as if designated. Upon final action of the historic preservation board recommending designation, the site, structure, object or area nominated shall be subject to all of the protection of this article until a final decision on designation by the council becomes effective. If the council rejects designation or fails to designate a property, that property shall no longer be subject to the provisions of divisions 8 and 10 of this article.

(b) Alteration or new construction commenced pursuant to a building permit issued prior to nomination shall not require a certificate of appropriateness, unless such permit has expired, been canceled or revoked. No project for which any application is pending, and which has received substantive review by the planning board prior to nomination, shall be affected by nomination. Substantive review, as used in this paragraph, shall include workshop review of any completed application under articles IV or V of this chapter.

(Ord. No. 235-90, 2-26-90; Ord. No. 220-93, § 4, 5-17-93; Ord. No. 165-08/09, 3-16-09)

Sec. 14-631. National Register of Historic Places.

(a) Every property, landmark or district listed in the National Register of Historic Places prior to adoption of this article, as shown in the design manual, is hereby designated as a landmark or district and shall be subject to all of the protection of this article, until such time as such designation is amended or rescinded as provided by section 14-623. Listed properties which would qualify for designation as historic landscape districts shall be subject to the applicable provisions of this article. If there is any inconsistency between the boundaries of any landmark or district as shown in the designation ordinance, if any, the design manual and/or the National Register, such inconsistency shall be resolved in favor of such ordinance and the design manual in that order. A certificate of appropriateness shall be obtained for every alteration or new construction affecting said listed properties and districts.

(b) Upon notice to the city that a property or area has been listed in the National Register after the adoption of this article, a nomination shall be deemed submitted to the historic preservation board for designation of such property or area as a landmark, historic district or historic landscape district under this article, and the procedures of this division shall be applicable thereto.

(Ord. No. 235-90, 2-26-90; Ord. No. 165-08/09, 3-16-09)

Sec. 14-632. Properties eligible for listing on National Register or for local designation.

A certificate of economic hardship shall be obtained prior to demolition of any structure which has not been designated in accordance with this article but which is eligible for listing on the National Register of Historic Places under the criteria established by 16 U.S.C. Section 470(a) or its successor statute and/or regulations made thereunder or which is eligible for local listing under the criteria for designation of this article. The determination of eligibility for listing shall be made by the department, which may refer such a determination to the historic preservation board, and by the board of appeals if an appeal is taken. Upon determination of eligibility, the structure so determined shall also be subject to the provisions of division 10 until a final decision by the council on designation becomes effective. If the council rejects designation or fails to designate a structure which has been determined to be eligible under the terms of this section, that structure shall no longer be subject to the provisions of divisions 8 and 10 of this article.
(Ord. No. 235-90, 2-26-90; Ord. No. 220-93, § 5, 5-17-93)

Sec. 14-633. Reserved.

DIVISION 6. CERTIFICATES OF APPROPRIATENESS AND NONAPPLICABILITY

Sec. 14-634. Certificate of appropriateness required.

(a) Except as provided in sections 14-635 and 14-636, a certificate of appropriateness shall be required before the following actions affecting any landmark, contributing or noncontributing structures, objects, sites or property in a district may be undertaken and shall be a condition precedent to the issuance of any permit authorizing such work:

1. Any exterior alteration or new construction requiring a building permit from the City of Portland, including, but not limited to the following:
 - a. Removal and replacement of architectural detailing including, but not limited to, porch spindles and columns, railings, window moldings and cornices;
 - b. Moving of structures or objects on the same site or to another site;

- c. Construction of rooftop additions or decks;
 - d. Alteration of accessory structures such as garages;
 - e. Porch replacement or new construction of porches;
 - f. Installation of exterior access stairs;
 - g. Window or door replacement requiring enlargement of openings;
 - h. Installation of antennas and satellite receiving dishes;
 - i. Installation of solar collectors.
2. Any exterior alteration that does not require a building permit but which involves any one (1) of the following activities:
- a. Installation or replacement of either roofing or gutters where the roofing or gutters are a significant and integral feature of the structure including, but not limited to, mansard roofs, cupola roofs, ornamental slate roof features, and built-in gutter systems and the installation or replacement of siding;
 - b. Window and door replacement whether or not it requires enlargement of openings;
 - c. Masonry work including, without limitation, tuckpointing, sandblasting, chemical cleaning;
 - d. Site features other than vegetation including, without limitation, fencing, walls, paving and grading. However, required review for alterations to cemeteries designated under this article shall not include review of alterations to headstones made for the purpose of recognition of additional decedents or installation of grave markers and/or tombs;
 - e. Landscaping within an historic landscape district;
 - f. Exterior lighting where proposed in conjunction

with commercial and institutional signage or awnings, where placed on street-fronting facades of designated structures;

- g. Exterior utilities including mechanical, plumbing and electrical, where placed on street-fronting facades.
- 3. Installation or alteration of any exterior sign.
- 4. Any relocation of a landmark or contributing structure within a district.

(b) There shall be a rebuttable presumption that no structure within a district shall be noncontributing unless the design manual expressly identifies it as such. Where the department or the owner believes that the identification is erroneous, the historic preservation board shall determine whether the structure is noncontributing.

(Ord. No. 235-90, 2-26-90; Ord. No. 220-93, § 6, 5-17-93; Ord. No. 62-93, 8-2-93; Ord. No. 165-08/09, 3-16-09)

Sec. 14-635. Exceptions to requirement of certificate of appropriateness.

A certificate of appropriateness is not required:

- (a) Where a certificate of non-applicability has been issued within the previous twelve (12) months;
- (b) Where the work consists solely of ordinary maintenance and/or restoration, provided that there is no substitution of materials or alteration of architectural details;
- (c) Where the work consists solely of emergency repair of a temporary nature;
- (d) Where a certificate of economic hardship has been issued and remains valid;
- (e) In the case of either alteration of a structure (other than a landmark) or of new construction within a district, a certificate of appropriateness shall not be required where the department determines that the proposed exterior changes to a structure are not readily visible at pedestrian heights, when viewed at any height between four (4) and six (6) feet from any open space or

street. Where a certificate of appropriateness is required for such changes, it shall be limited to those portions of the structure or structures so visible.

(Ord. No. 235-90, 2-26-90; Ord. No. 197-03/04, 9-8-04; Ord. No. 165-08/09, 3-16-09)

Sec. 14-636. Exterior work within historic landscape districts.

A certificate of appropriateness shall be obtained before any alteration or new construction within an historic landscape district may be undertaken, except where a certificate of non-applicability has been issued or where construction or alteration is pursuant to a master plan approved by a prior certificate of appropriateness within five (5) years of commencement.

(Ord. No. 235-90, 2-26-90; Ord. No. 165-08/09, 3-16-09)

Sec. 14-637. Applications for certificate of appropriateness.

(a) Application for a certificate of appropriateness shall be made on a form prepared by the city and shall be submitted to the department along with the applicable fee. Upon receipt of a complete application, the item shall be scheduled for the next available historic preservation board meeting, provided that the notice requirements of this article can be met prior to that meeting. The department shall transmit a copy of the complete application to the Planning Board and the historic preservation board, as applicable, at least four (4) days prior to their next scheduled meeting. The department shall not issue or act upon the application until the historic preservation board and the planning board, as applicable, have completed their review and approval process.

(b) An application for a certificate of appropriateness shall be treated as an application for a certificate of economic hardship under division 8, whenever the historic preservation board or the Planning Board, as applicable, determines that the proposed alteration includes any demolition which would:

1. Have the effect of causing the structure to no longer meet the criteria for designation of division 3; or
2. Materially impair the significance and integrity of the structure.

(c) Where a determination under paragraph (b) is made by the historic preservation board, the planning board shall review that decision as a preliminary matter, whether the historic preservation board has taken final action with respect to the application or

not. Upon any final determination that an application for a certificate of appropriateness is required to be treated as an application for a certificate of economic hardship, no further action shall be taken with respect to the application until that certificate is applied for and is granted.

(d) Where the applicant has done work or caused work to be done on a structure or a property for which a certificate of appropriateness is sought and such work is either not done in compliance with an approval received under this article or was performed without the approvals required under this article, no application for such structure or property shall be considered by the department or by the historic preservation board until such work is brought into compliance with the requirements of this article. The historic preservation board may waive this requirement if the historic preservation board determines that the work does not alter the essential character of the structure or district and one (1) or more of the following standards are also met:

1. The work was needed to bring a building into conformance with any building or safety code;
2. The applicant can demonstrate a good faith belief that necessary approvals had been received for the work at issue prior to the commencement of the work; or
3. The applicant can demonstrate a good faith belief that the work done was not subject to review under this article.

Review of any application by the department or by the historic preservation board shall not constitute waiver of any future claims by the city concerning violations and shall not stop the city from prosecuting any violation.

(e) Once a completed application has been submitted, it shall be diligently pursued. Failure of an applicant to attend two (2) or more historic preservation board meetings at which an application is scheduled for review shall cause the application to expire and to be deemed null and void, unless the department determines that good cause is shown for the failure to attend. Where good cause is shown for a failure to attend, the historic preservation board shall table an application to a date mutually agreed upon in writing.

(Ord. No. 235-90, 2-26-90; Ord. No. 220-93, § 7, 5-17-93)

Sec. 14-638. Review process for certificate of appropriateness,

except as provided elsewhere in this division.

(a) The process for review of an application for a certificate of appropriateness shall be as follows, except to the extent specifically provided elsewhere in this division:

1. The department shall review the application and make a recommendation to the historic preservation board based upon the standards in division 7, except as provided in subsection (b) for historic plaques or markers. The recommendation of the department shall be made within (30) days of receipt of a complete application.
2. Whenever the recommendation of the department is that the application shall be approved, the application shall be placed upon the next consent agenda of the historic preservation board, except as provided in subsection (b). Any member of the historic preservation board may remove an application from the consent agenda for the purpose of giving it a public hearing.
3. Whenever the recommendation of the department is that the application not be approved or there is no timely recommendation, the application shall be scheduled for a public hearing at the next meeting of the historic preservation board which allows for adequate notice.
4. The historic preservation board shall either conduct a public hearing or make a decision on the application within thirty (30) days following receipt of the application from the department. The historic preservation board shall review the application and any negative recommendation of the department. If an item is scheduled for historic preservation board review, the historic preservation board shall cause notice of the application to be given to all property owners within one hundred (100) feet of the property at least seven (7) days prior to the date of the hearing.
5. The historic preservation board shall enter findings of fact concerning the relationship between the application and the applicable standards of division 7 immediately following a denial or conditional approval of any certificate of appropriateness.
6. Written notice of the determination of the historic preservation board on the application, including a copy

of the findings of fact, shall be sent by regular mail to the applicant and to the planning board within ten (10) business days following its determination.

7. The applicant and any owner of abutting property or of property located within the same district aggrieved by the decision may object to the proposed decision by filing a notice of objection with the department within thirty (30) days following the mailing of the notice of determination of the historic preservation board; provided, however, only the applicant may object where no building permit or site plan review is required for the work which requires the issuance of the certificate of appropriateness, and a proposed decision approving any such application shall be deemed final upon being reduced to writing and provided to the applicant. In the absence of filing of such objection, upon expiration of said thirty (30) days the proposed decision shall become final. If a timely objection is received, the application shall be placed on the planning board agenda and shall be disposed of in accordance with section 14-639. The planning board shall deny the appeal unless it finds that the action of the historic preservation board was arbitrary or capricious or was not based on substantial evidence. Review by the planning board under this section is intended to be appellate in nature. Except where the planning board determines that injustice would result, the planning board shall determine the appeal without considering any facts or arguments which were not presented to the historic preservation board. Where the planning board finds it necessary to consider such new evidence in order to do substantial justice, it shall remand the matter to the historic preservation board for further consideration, unless it determines that the resulting delay is likely to result in undue hardship to the applicant.

(Ord. No. 235-90, 2-26-90; Ord. No. 371-91, § 2, 6-5-91; Ord. No. 220-93, § 8, 5-17-93; Ord. No. 197-03/04, 9-8-04)

Sec. 14-639. Review process involving level III site plans.

The process for review of an application for alteration or new construction that is also a level III site plan as defined in Article V of this chapter shall be as follows:

- (a) Site plan review by the planning board and historic preservation review by the historic preservation board shall, to the extent feasible, proceed concurrently. Any

proposed level III site plan required to obtain a certificate of appropriateness under this article shall be exempt from the design standards included in article V as provided for in Sec. 14-526 (d)5a. of the site plan ordinance.

- (b) Upon receipt of the application for a certificate of appropriateness, the department shall review the application and schedule a workshop for preliminary review by the historic preservation board. The historic preservation board shall conduct a workshop on the application within thirty (30) days following receipt of the application from the department. The department shall prepare an analysis of the application based upon the standards in division 7 for consideration at the workshop. The historic preservation board shall cause notice of the workshop to be given to all property owners within five hundred (500) feet of the property at least seven (7) days prior to the date of the meeting.

Additional workshops may be scheduled by the historic preservation board with the consent of the applicant.

- (c) Following preliminary workshop(s) and upon determination by the historic preservation board that the application is complete, the historic preservation board shall conduct a public hearing and make a final decision on the application. The historic preservation board shall cause notice of the public hearing to be given consistent with the procedures outlined in (b) above.
- (d) If the historic preservation board finds that the application meets the applicable standards of division 7, it shall issue a certificate of appropriateness, with or without conditions. If the action by the historic preservation board is a denial or conditional approval, the historic preservation board shall make findings of fact concerning the relationship between the application and the applicable standards of division 7.
- (e) Written notice of the determination of the historic preservation board on the application, including a copy of the findings of fact, if any, shall be sent by regular mail to the applicant within ten (10) business days following its determination.
- (f) The applicant and any owner of abutting property or of

property located within the same district aggrieved by the decision may object to the proposed decision as provided in Section 14-638(7).

(Ord. No. 235-90, 2-26-90; Ord. No. 63-97, 8-18-97; Ord. No. 197-03/04, 9-8-04; Ord. No. 165-08/09, 3-16-09; Ord. No. 278-09/10, 7-19-10)

Sec. 14-640. Review process involving installation or alteration of any exterior sign; minor alterations; and temporary alterations, construction or improvements.

(a) An application for a certificate of appropriateness for installation or alteration of any exterior sign; minor alterations; and temporary alterations, construction or improvements shall be reviewed by the department for compliance with the standards of division 7 and the design manual. Where the department determines that such an application meets these requirements, the certificate of appropriateness shall be issued by the department without presentation to the historic preservation board for approval. The department shall provide the historic preservation board with written notice of such action at the next historic preservation board meeting.

(b) If the department approves an application with conditions, the applicant may request review by the historic preservation board. The application shall then be subject to review by the historic preservation board pursuant to section 14-638.

(c) If the department determines that the application does not meet the requirements of division 7 and the design manual, the application shall be scheduled for review by the historic preservation board pursuant to section 14-638, unless the applicant withdraws the application.

(d) For purposes of this section only, temporary is defined as either a one-time occurrence that does not exceed fourteen (14) days or as an annual occurrence that does not exceed one (1) fourteen-day period each year. Minor alterations are defined as incidental changes or additions to a building, site features or exterior utilities which require building permits but will neither result in substantial changes to any significant historic features nor obscure such features. In no event shall any change be deemed minor when, in the opinion of the department, such change shall alter the historic character of the building or site.

(Ord. No. 220-93, § 9, 5-17-93)

Sec. 14-641. Action by planning board.

Upon any appeal from the historic preservation board

determination pursuant to section 14-638, the planning board shall review the appeal and the decision of the historic preservation board and shall take final action appeal within sixty (60) days following receipt of appeal; provided, however, whenever the planning board also is considering a site plan for development of the site, it shall proceed in accordance with the time frames applicable to site plan review. The planning board shall notify the applicant by regular mail within ten (10) business days following its decision on appeal.

(Ord. No. 235-90, 2-26-90; Ord. No. 197-03/04, 9-8-04)

Sec. 14-642. Issuance of certificate of appropriateness.

(a) The department shall issue the certificate of appropriateness within ten (10) business days following a proposed affirmative decision by the historic preservation board becoming final.

(b) Unless work authorized by a certificate of appropriateness shall be commenced within six (6) months of the date of issuance of the certificate of appropriateness, the certificate of appropriateness shall expire and shall become null and void. The department may approve additional extensions of this six-month period, not to exceed a total of two (2) years, provided that a written request for extension is received prior to the expiration date of the certificate of appropriateness. In the event of litigation arising out of the granting of a certificate of appropriateness, the certificate shall remain valid until one (1) year after the entry of final judgment in the litigation or until the end of the two-year period, whichever is later.

(Ord. No. 235-90, 2-26-90; Ord. No. 220-93, § 10, 5-17-93; Ord. No. 197-03/04, 9-8-04)

Sec. 14-643. Certificate of non-applicability.

(a) The department shall issue a certificate of non-applicability as to property subject to this article when requested to do so when:

1. The department determines that none of the proposed work requires a certificate of appropriateness;
2. The department determines that all of the proposed work is ordinary maintenance, restoration, or a combination thereof;
3. In the case of the alteration of a structure other than a landmark or of new construction within a district, where

the department determines that the proposed exterior changes to a structure are not readily visible at pedestrian heights from any open space or street when viewed from any height between four (4) and six (6) feet above such space or street. Where a certificate of appropriateness is required for such changes, a certificate of non-applicability shall be issued upon request for those portions of the structure or structures not visible at such heights; provided, however, this paragraph shall not apply to alteration of a landmark or to any demolition; or

4. After any appeal where the historic preservation board, planning board or any court determines that paragraphs (1), (2) or (3) of this subsection are applicable.

(b) The department shall act upon any application for a certificate of non-applicability within five (5) business days of receiving a complete written description of all work to be undertaken.

(Ord. No. 235-90, 2-26-90)

Sec. 14-644. Amendments to approved certificates of appropriateness.

If at any time before or during work approved under the procedures set forth in this division the applicant requests minor amendments to approved work, the department may approve such minor amendments under the procedures set forth in section 14-638(b), provided that such amendments will not result in a waiver or substantial alteration of the approval or any condition attached to the approval. The applicant shall supply a written statement of the proposed amendment and amended plans or drawings to the department. The decision of the department as to whether an amendment may be reviewed under this section shall be final.

(Ord. No. 220-93, § 11, 5-17-93)

Sec. 14-645. Review process for demolition of landmarks or structures within a district.

(a) Any applicant seeking demolition of a landmark or contributing structure must apply for a certificate of economic hardship to the board of appeals in accordance with division 8 of this article. Said application must be approved by the board of appeals before a demolition permit can be issued.

(b) Any applicant seeking demolition of a noncontributing building as defined in this article may apply directly for a

demolition permit without receiving approval from the historic preservation board or a certificate of economic hardship from the board of appeals.

(c) Any applicant seeking demolition of a portion of a contributing or landmark structure may request that the historic preservation board make a determination as to whether such portion of the structure is non-contributing based on the definition of that classification contained in Sec. 14-602 of the ordinance. IF the board determines the portion to be noncontributing, the applicant may apply directly for a demolition permit.

(Ord. No. 165-08/09, 3-16-09)
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Sec. 14-646. - Sec. 14-649. Reserved.

DIVISION 7. STANDARDS FOR REVIEW OF APPLICATION FOR CERTIFICATE
OF APPROPRIATENESS

Sec. 14-650. Standards for review of alteration.

In considering an application for a certificate of appropriateness involving alteration, the historic preservation board and the Planning Board shall apply the following general standards, as further described in the design manual and any design guidelines in the ordinance designating the landmark or district:

- (a) Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration to the character-defining features of the structure, object or site and its environment or to use a property for its originally intended purpose.
- (b) The distinguishing original qualities or character of a structure, object or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
- (c) All sites, structures and objects shall be recognized as products of their own time, place and use. Alterations that have no historical basis or create a false sense of historical development, such as adding conjectural features or elements from other properties, shall be discouraged.

- (d) Changes which may have taken place in the course of time are evidence of the history and development of a structure, object or site and its environment. Changes that have acquired significance in their own right shall not be destroyed.
- (e) Distinctive features, finishes and construction techniques or examples of skilled craftsmanship which characterize a structure, object or site shall be treated with sensitivity.
- (f) Deteriorated historic features shall be repaired rather than replaced wherever feasible. Where the severity of deterioration requires replacement of a distinctive feature, the new feature should match the feature being replaced in composition, design, texture and other visual qualities and, where possible, materials. Repair or replacement of missing historic features should be based on accurate duplications of features, substantiated by documentary, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other structures or objects.
- (g) The surface cleaning of structures and objects, if appropriate, shall be undertaken with the gentlest means possible. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be undertaken.
- (h) Every reasonable effort shall be made to protect and preserve significant archeological resources affected by or adjacent to any project. If resources must be disturbed, mitigation measures shall be undertaken.
- (i) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant cultural, historical, architectural or archeological materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the size, scale, color, material and character of the property, neighborhood or environment.
- (j) Wherever possible, new additions or alterations to structures and objects shall be undertaken in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity

of the historic property would be unimpaired.
(Ord. No. 235-90, 2-26-90; Ord. No. 220-93, § 12, 5-17-93)

Sec. 14-651. Standards for review of new construction.

In considering an application for a certificate of appropriateness involving new construction, the historic preservation board and the planning board shall apply the following general standards as may be applicable to the context of the proposed construction. The intent and application of the following standards are further described in the historic resources design manual and shall guide the board in its review.

(a) Scale and form:

1. Height. In addition to the applicable requirements of articles III, IV and V of this chapter, the proposed height shall be visibly compatible with surrounding structures when viewed from any street or open space and in compliance with any design guidelines.
2. Width. The width of a building shall be visually compatible with surrounding structures when viewed from any street or open space and in compliance with any design guidelines.
3. Proportion of principal facades. The relationship of the width to the height of the principal elevations shall be visually compatible with structures, public ways and open spaces to which it is visually related.
4. Roof shapes. The roof shape of a structure shall be visually compatible with the structures to which it is visually related.
5. Scale of a structure. The size and mass of structures in relation to open spaces, windows, door openings, porches and balconies shall be visually compatible with the structures, public ways and places to which they are visually related.
6. Applicability to Congress Street historic district. In the Congress Street historic district, for new construction within the B3 zone, the historic preservation board shall not impose conditions more restrictive than the dimensional requirements (Sec 14-220) of the B3 zone.

7. Applicability to India Street historic district. For new construction within the India Street Historic District, the historic preservation board shall not impose conditions more restrictive than the dimensional requirements of the IS-FBC zone, except for in the case of a building addition which proposes to change the height of a contributing historic structure.

(b) Composition of principal facades:

1. Proportion of openings. The relationship of the width to height of windows and doors shall be visually compatible with structures, public ways and places to which the building is visually related.
2. Rhythm of solids to voids in facades. The relationship of solids to voids in the facade of a structure shall be visually compatible with structures, public ways and places to which it is visually related.
3. Rhythm of entrance porch and other projections. The relationship of entrances and other projections to sidewalks shall be visually compatible with the structures, public ways and places to which they are visually related.
4. Relationship of materials. The relationship of the color and texture of materials (other than paint color) of the facade shall be visually compatible with the predominant materials used in the structures to which they are visually related.
5. Signs. Any new sign, and any change in the appearance of an existing sign located on a landmark within an historic district or within an historic landscape district, which is readily visible from any street or open space shall not be incongruous to the historic character of the landmark or district and shall comply with the criteria and guidelines specified in the design manual.

(c) Relationship to street:

1. Walls of continuity. Facades and site structures, such as masonry walls, fences and landscape masses, shall,

when it is a characteristic of the area, form cohesive walls of enclosure along a street to ensure visual compatibility with the structures, public ways and places to which such elements are visually related.

2. Rhythm of spacing and structures on streets. The relationship of a structure or object to the open space between it and adjoining structures or objects shall be visually compatible with the structures, objects, public ways and places to which it is visually related.
3. Directional expression of principal elevation. A structure shall be visually compatible with the structures, public ways and places to which it is visually related in its directional character, whether this be vertical character, horizontal character or nondirectional character.
4. Streetscape, pedestrian improvements. Streetscape and pedestrian improvements and any change in the appearance thereof located adjacent to, or on a landmark, within an historic district or within an historic landscape district which is readily visible from any street or open space shall not be incongruous to the historic character of the landmark or district and shall comply with the criteria and guidelines specified in the design manual.

(d) Other standards:

1. Compatible uses. Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration to the character-defining features of the structure, object or site and its environment or to use a property for its originally intended purpose.
2. Distinguishing original character. The distinguishing original qualities or character of a structure, object or site and its environment shall not be destroyed. The alteration of any historic material or distinctive architectural features should be avoided when possible.
3. Archeological resources. Every reasonable effort shall be made to protect and preserve significant

archeological resources affected by or adjacent to any project. If resources must be disturbed, mitigation measures shall be undertaken.

4. Contemporary design. Contemporary design for additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant cultural, historical, architectural or archeological materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the size, scale, material and character of the property, neighborhood and environment.
5. Additions. Wherever possible, new additions to structures and objects shall be undertaken in such a manner that, if such additions were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

(Ord. No. 235-90, 2-26-90; Ord. No. 220-93, § 13, 5-17-93; Ord. No. 165-08/09, 3-16-09; Ord. 83-15/16, 11-2-2015)

Sec. 14-651.5. Standards for review of alternations to or redesign of noncontributing structures.

(a) In considering an application for a certificate of appropriateness involving alteration(s) to a noncontributing structure the standards for review of alterations set forth in section 14-650 shall apply as applicable. The intent of the review shall be to ensure no further erosion of any existing architectural character of the subject structure determined to be significant by the historic preservation board and, where practicable, to guide projects toward a more compatible relationship with the surrounding context.

(b) In considering an application for a certificate of appropriateness involving comprehensive redesign of a noncontributing structure, the standards for review of construction set forth in section 14-651 shall apply.
(Ord. No. 165-08/09, 3-16-09)

Sec. 14-652. Standards for review of relocation.

In acting upon an application for a certificate of appropriateness involving relocation, the historic preservation board and the planning board shall apply the following general standards and any design guidelines in the ordinance designating the landmark or district:

- (a) Whether the historic or urban design character and aesthetic interest of the structure or object contribute to its present setting.
- (b) If located within a district, whether there are definite plans for the area to be vacated and what the effect of those plans is on the character of the surrounding area. In such cases, consideration of additional design guidelines for construction to be imposed as a condition of approval is appropriate.
- (c) Whether the relocation of the structure or object can be accomplished without significant damage to its physical integrity.
- (d) Whether the proposed relocation area is compatible with the cultural, historical or architectural character of the structure or object.

(Ord. No. 235-90, 2-26-90)

Sec. 14-652.5. Standards for review of signage.

In considering an application for a certificate of appropriateness involving the installation or modification of sign(s), including awning(s) which incorporate signage, the following standard shall apply:

- (a) Signs shall be compatible with the subject building and its surrounding context as detailed in the signage design guidelines included in the historic resources design manual. If there is a conflict between this standard and the requirements of Article III, Division 22. Signs, the stricter standard shall apply.

(Ord. No. 165-08/09, 3-16-09)

Sec. 14-653. Qualification of applicant.

Prior to issuance of any certificate of appropriateness, any applicant shall demonstrate sufficient right, title or interest in the property, technical capacity and financial capacity to complete any change proposed to be undertaken under the certificate of appropriateness, upon reasonable request of the department. If the department determines that the applicant has failed or refused to demonstrate an ability to complete the proposed activity, it shall refer the issuance to the Planning Board, which shall make a final determination as to whether the applicant has demonstrated a

sufficient capability to complete the proposed activity. Notwithstanding any other provision of this article, the historic preservation board or Planning Board may include reasonable conditions, including the provision of adequate financial security, to ensure that actions taken under a certificate of appropriateness will be successfully prosecuted to completion, as approved, in a timely and workmanlike manner.
(Ord. No. 235-90, 2-26-90)

Sec. 14-654. - Sec. 14-659. Reserved.

DIVISION 8. CERTIFICATE OF ECONOMIC HARDSHIP

Sec. 14-660. Applicability.

(a) Any applicant denied a certificate of appropriateness by the planning board within thirty (30) days thereafter and any applicant seeking demolition of a landmark or a contributing structure within a district may make application for a certificate of economic hardship from the board of appeals. The application shall be submitted to the department, together with the applicable fee.

(b) The department shall transmit a copy of the application to the board of appeals, with copies to the Planning Board and the historic preservation board, within ten (10) business days following receipt of a properly completed application.
(Ord. No. 235-90, 2-26-90)

Sec. 14-661. Standard to be applied.

(a) The board of appeals shall approve an application for a certificate of economic hardship only upon a determination that the denial of approval of the proposed activity or of the proposed demolition will result in the loss of all reasonable use of the structure as required by sections 14-664 and 14-666.

(b) In applying this standard, the board of appeals shall consider among other things any evidence presented concerning the following:

1. Any opinions from a licensed engineer or architect with experience in renovation, restoration or rehabilitation as to the structural soundness of the structure and its suitability for continued use, renovation, restoration or rehabilitation.

2. Any estimates of the cost of the proposed alteration, construction, demolition or removal and an estimate of any additional cost that would be incurred to comply with the recommendations of the planning board for changes necessary for it to be approved.
3. Any estimates of the market value of the property in its current condition; after completion of the proposed alteration, construction, demolition or removal; after any expenditures necessary to comply with the recommendations of the planning board for changes necessary for it to approve a certificate of appropriateness; and in the case of a proposed demolition, after renovation of the existing structure for continued use.
4. In the case of a proposed demolition, any estimates from architects, developers, real estate consultants, appraisers or other real estate professionals experienced in rehabilitation as to the economic feasibility of restoration, renovation or rehabilitation of any existing structures or objects.

(Ord. No. 235-90, 2-26-90)

Sec. 14-662. Information to be supplied by applicant.

(a) The applicant shall submit by affidavit the following information for an application to be considered to be complete:

1. The assessed value of the property and/or the structure in the case of a demolition for the two (2) most recent assessments.
2. Real property taxes paid for the previous two (2) years.
3. The amount paid for the property by the owner, the date of purchase and the party from whom purchased, including a description of the relationship, if any, between the owner and the person from whom the property was purchased.
4. The current balance of any mortgages or any other financing secured by the property and the annual debt service, if any, for the previous two (2) years.
5. All appraisals obtained within the previous two (2) years

by the owner or applicant in connection with purchase, offerings for sale, financing or ownership of the property, or state that none were obtained.

6. All listings of the property for sale or rent, price asked and offers received, if any, within the previous four (4) years, or state that none were obtained.
7. All studies commissioned by the owner as to profitable renovation, rehabilitation or utilization of any structures or objects on the property for alternative use, or a statement that none were obtained.
8. For income-producing property, itemized income and expense statements from the property for the previous two (2) years.
9. Estimate of the cost of the proposed alteration, construction, demolition or removal and an estimate of any additional cost that would be incurred to comply with the recommendations of the planning board for changes necessary for it to approve a certificate of appropriateness.
10. Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture or other.

(b) In the event that the information required to be submitted by the applicant is not reasonably available, the applicant shall file with the affidavit a statement of the information that cannot be obtained and shall describe the reasons why such information is unavailable.

(c) Notwithstanding the submission of the above information, the board of appeals may require additional evidence as provided in section 14-680.

(Ord. No. 235-90, 2-26-90)

Sec. 14-663. Public hearing.

(a) The board of appeals shall hold a public hearing on the application within thirty (30) days following receipt of the completed application form. Where the application requests the demolition of a landmark or a contributing structure within a district, the public hearing shall not be held less than ninety (90) days following receipt of the completed application, unless

the applicant makes a clear showing that the delay will result in undue hardship of a unique or exceptional character which could not reasonably be or have been avoided. Upon such a showing, the department may waive all or any part of the ninety-day period and schedule the hearing before the board. Undue hardship shall not include mere inconvenience or incidental financial loss. No such waiver shall be granted without the department giving best practical notice to all persons entitled to notice of the hearing.

(b) Notice of the application and of the public hearing, and conduct of the hearing, shall be in accordance with the provisions of section 14-550. Where the application requests the demolition of a landmark or a contributing structure within a district, the department shall promptly notify any persons interested in historic preservation, who have registered in writing with him or her, give notice by mail to all owners of property within five hundred (500) feet of the structure, and shall require that the applicant immediately place a notice, to be supplied by the building official, in a prominent place on the structure and to maintain it there at all times during the pendency of the demolition application. The notice shall be substantially in the following form:

"This structure has been proposed to be demolished by its owner. For further information, contact Inspection Services of the City of Portland. 874-8300"

(c) The failure to give any notice required hereunder shall not affect the validity of any action taken by the department or the board of appeals.

(d) The Planning Board may provide a report or any other information, documentation or evidence or request the historic preservation board to assist the board of appeals in considering the extent of variance necessary, an appropriate incentive plan, or reasonable condition to be imposed.

(e) The board of appeals may continue a proceeding for such additional time as it reasonably takes an applicant, any other interested person, the historic preservation board or the planning board to comply with a request for additional information or evidence. The applicant shall be afforded the right to present rebuttal evidence.

(Ord. No. 235-90, 2-26-90)

Sec. 14-664. Determination by the board of appeals.

(a) The determination by the board of appeals shall be made within forty-five (45) days following close of the public hearing and submission of all information, documentation or evidence requested by the board. The determination shall be accompanied by findings of fact.

(b) The board of appeals shall not grant approval of an application involving demolition, unless the board determines, upon clear and convincing evidence, that one (1) or more of the following circumstances apply:

1. The structure is not subject to this article; or
2. Denial of a demolition permit would result in a hardship to the property owner so great that it would effectively deprive the owner of all reasonable use of the structure. The extent of any demolition permitted shall be limited to the amount necessary to allow reasonable use of the structure. Where the condition of the structure is claimed to prevent any reasonable use, the applicant shall establish that such condition is not the result of the acts or neglect of the owner or his predecessors in title occurring in whole or in part after August 1, 1988.

(Ord. No. 235-90, 2-26-90)

Sec. 14-665. Disapproval by board of appeals.

If the determination of the board of appeals is to disapprove the application for a certificate of economic hardship, the applicant shall be notified within five (5) business days. The notice shall include a copy of the findings of fact and report.

(Ord. No. 235-90, 2-26-90)

Sec. 14-666. Determination of no reasonable use.

(a) If the determination of the board of appeals is that the denial of the certificate of appropriateness has resulted in the denial of all reasonable use of the structure, or the entire property in the case of new construction, then the certificate of economic hardship shall be issued by the department ninety (90) days following the determination unless during that time the council approves an incentive plan pursuant to section 14-667.

(b) A copy of the determination of the board of appeals, together with the findings of fact, shall be mailed to the applicant and filed with the city clerk, the planning board and the historic preservation board within five (5) business days following the determination of economic hardship.

(Ord. No. 235-90, 2-26-90; Ord. No. 165-08/09, 3-16-09)

Sec. 14-667. Incentive plan.

The purpose of an incentive plan is to provide a mechanism to allow a reasonable use without the demolition of the complete structure or important architectural elements. The Planning Board, in cooperation with the historic preservation board and the owner, may prepare a report and recommend to the board of appeals an incentive plan to assure reasonable use of the structure. This incentive plan may include, but is not limited to, loans or grants from the City of Portland or other public or private sources, acquisition by purchase or eminent domain, building and safety code modifications to reduce cost of maintenance, restoration, rehabilitation or renovation, changes in applicable zoning regulations, including a transfer of development rights, or relaxation of the provisions of this article sufficient to allow reasonable use of the structure.

(Ord. No. 235-90, 2-26-90)

Sec. 14-668. City council consideration of incentive plan.

(a) Upon receipt of a report from the board of appeals recommending an incentive plan to assure reasonable use of the property, the council shall give prompt consideration to the determination of economic hardship and the report of the board, including the recommended incentive plan. The council shall approve or disapprove the incentive plan determined by the board of appeals to allow reasonable use of the structure within ninety (90) days following the determination by the board of appeals.

(b) A copy of the ordinance enacted by the council, together with the incentive plan, if any, shall be mailed to the applicant and transmitted to the board of appeals, the planning board and the historic preservation board within five (5) business days following the enactment of the ordinance.

(Ord. No. 235-90, 2-26-90)

Sec. 14-669. Issuance of certificate of economic hardship.

(a) Upon receipt by the board of appeals of a copy of council action disapproving an incentive plan, or upon failure of the council to act to either approve or disapprove an incentive plan within the time specified, the board of appeals shall approve a certificate of economic hardship to the applicant within thirty (30) days. The certificate may be subject to conditions including design guidelines for subsequent new construction not inconsistent with the standards set forth in this article and the design manual.

The certificate of economic hardship shall be valid for a period of one hundred twenty (120) days from approval by the board of appeals, except as provided in section 14-666 where an incentive plan has been proposed. Certificates of economic hardship shall not be transferable from the applicant to another subsequent owner of the same property.

(b) Upon presentation by the applicant of a valid certificate of economic hardship to the department, the certificate of appropriateness shall be issued to the applicant within five (5) business days.

(Ord. No. 235-90, 2-26-90; Ord. No. 165-08/09, 3-16-09)

Sec. 14-670. - Sec. 14-674 Reserved.

DIVISION 9. ADMINISTRATION

Sec. 14-675. Historic resources design manual.

(a) The historic preservation board may provide further guidance on how to meet the standards of this article in the historic resources design manual, which shall supplement this article, which may include but need not be limited to maps and descriptions of landmarks and districts, a listing of properties which have been determined to be eligible for listing on the National Register or for local designation, a glossary of terms and architectural styles, descriptions, and illustrations of how the standards of this article will be interpreted, and all designation ordinances, reports and design guidelines. All provisions of the design manual shall be consistent with the standards of this article and any designation ordinance adopted hereunder.

(b) Amendments to the design manual shall be forwarded to the council as a communication and shall become effective forty-five (45) days from the date on which said amendments are sent to the council, unless the council takes official action disapproving the amendments, in whole or in part, prior to the expiration of the 45-day period.

(c) The design manual shall be maintained by the department and available for inspection and copying during regular business hours.

(Ord. No. 235-90, 2-26-90; Ord. No. 220-93, § 14, 5-17-93; Ord. No. 165-08/09, 3-16-09)

Sec. 14-676. Reserved.

Sec. 14-677. Costs.

Any project may be subject to one or more of the following fees:

(a) Project Review.

1. Administrative review, \$65.00.
2. Historic Preservation board review: \$125.00.
3. Historic preservation board review for projects involving new construction or building additions exceeding 1000 square feet or comprehensive rehabilitation or redesign of existing structures: \$750.00
4. After-the-fact review \$1,000.00 plus applicable application fee.
5. Historic preservation sign review \$75.00
6. Applicant shall also pay a fee to cover the professional and administrative costs for review and analysis associated with project review, including but not limited to planning, legal, or other services. The fee shall be based on the hours of review and processing time and prevailing hourly rate for reimbursement of city costs. The city shall periodically invoice the applicant for such costs incurred by the city, which invoice shall be paid promptly by the applicant. No certificate of appropriateness, building, demolition, or other permit shall issue until all current charges due under this ordinance have been paid. The balance of any remaining review and administrative costs invoiced or incurred after a permit has been issued shall be paid in full by the developer prior the issuance of any temporary or permanent certificate of occupancy.

(b) Advertising expenses.

Every applicant shall bear the entire expense of giving notice by mail and publication in accordance with this article.

(Ord. No. 235-90, 2-26-90; Ord. No. 220-93, § 15, 5-17-93; Ord. No. 119-01/02, § 5, 12-3-01; Ord. No. 165-08/09, 3-16-09; Ord. No. 223-09/10, 5-17-10; Ord. No. 253-15/16, 7/1/2016)

Sec. 14-678. Notices and public comment.

(a) Except as provided in sections 14-638 and 14-639, notice of proceedings upon any application for a certificate of appropriateness shall be given only when the proposed activity otherwise constitutes level III site plan. Notice of such proceedings also shall be furnished to any persons interested in historic preservation who have registered with the department, and to the historic preservation board and/or the planning board when the proceeding is pending before a different body. The failure to give any notice required by this article shall not affect the validity of any action taken.

(b) The historic preservation board, the planning board, the board of appeals and the council shall each invite public comment at a public meeting in accordance with their respective rules, prior to any final action being taken under this article.

(c) The department shall advise the historic preservation board and the planning board of any demolition permit application received by the department as to structures or objects that are noncontributing within nominated or designated districts, but there shall be no historic preservation board review of such permit applications.

(Ord. No. 235-90, 2-26-90; Ord. No. 278-09/10, 7-19-10)

Sec. 14-679. Expiration of approval.

An approval shall expire and become null and void upon the expiration of the authorization for the work, or for the development, under the applicable provisions of chapter 6 or of articles IV or V of this chapter.

(Ord. No. 235-90, 2-26-90)

Sec. 14-680. Applicant to supply necessary evidence.

In determining the existence of the circumstances specified in this article, the historic preservation board, planning board or board of appeals may require such additional documentation or evidence as they may respectively determine to be necessary, including plans, drawings and elevations, and notwithstanding any time limit for action or decision specified in this article, it may continue a proceeding for such additional time as it reasonably takes an applicant or any other party to comply with the request for additional relevant documentation or evidence and may draw a negative inference with regard to the content of any material evidence not produced upon reasonable request.

(Ord. No. 235-90, 2-26-90)

Sec. 14-681. Appeals.

(a) The applicant, or any person who has participated in opposition to the application and demonstrates a particularized harm caused by the approval of the application, may appeal to superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure from:

1. Any final action of the planning board, provided, however, only the applicant may appeal where no building permit or site plan review is required for the work which requires the issuance of the certificate of appropriateness; or
2. Any final decision of the board of appeals. If the decision of the board of appeals is subject to an incentive plan, the decision shall not be considered final until final action on the incentive plan by the council becomes final.

(Ord. No. 235-90, 2-26-90; Ord. No. 197-03/04, 9-8-04)

Sec. 14-682. Reserved.
Sec. 14-683. Reserved.
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Sec. 14-687. Reserved.
Sec. 14-688. Reserved.
Sec. 14-689. Reserved.

DIVISION 10. MAINTENANCE

Sec. 14-690. Preservation of protected structures.

(a) Minimum maintenance requirement. All landmarks, and all contributing structures located in an historic district, shall be preserved against decay and deterioration by being kept free from the following structural defects by the owner and any other person or persons who may have legal custody and control thereof:

1. Deteriorated or inadequate foundation which jeopardizes its structural integrity;
2. Defective or deteriorated floor supports or any structural members of insufficient size to carry imposed loads with safety which jeopardize its structural integrity;

3. Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration which jeopardize its structural integrity;
4. Structural members of ceilings and roofs, or other horizontal structural members, which sag, split or buckle due to defective materials or deterioration or are of insufficient size to carry imposed loads with safety which jeopardize its structural integrity;
5. Fireplaces or chimneys which list, bulge or settle due to defective material or deterioration or are of insufficient size or strength to carry imposed loads with safety which jeopardize its structural integrity;
6. Lack of weather protection which jeopardizes the structural integrity of the walls, roofs or foundation.

(b) The owner or such other person shall repair such building, object or structure within a specified period of receipt of a written order to correct defects or repairs to any structure as provided by subsection (a) above, so that such structure shall be preserved and protected in accordance with the purposes of this article.

(c) Any such order shall be in writing, shall state the actions to be taken with reasonable particularity and shall specify dates for compliance, which may be extended by the department for reasonable periods to allow the owner to secure financing, labor or materials. Any such order may be appealed to the board of appeals within thirty (30) days. The board shall reverse such an order only if it finds that the department had no substantial justification for requiring action to be taken, that the measures required or time periods specified were not reasonable under all of the circumstances. The taking of an appeal to the board or to court shall not operate to stay any order requiring structures to be secured or requiring temporary support, unless the board or court expressly stays such order. The court of competent jurisdiction to enforce any order.

(Ord. No. 235-90, 2-26-90)

Sec. 14-691. Reserved.
Sec. 14-692. Reserved.
Sec. 14-693. Reserved.
Sec. 14-694. Reserved.

DIVISION 11. PENALTIES, ETC.

Sec. 14-695. Fines for violation.

Failure to perform any act required by this article or performance of any act prohibited by this article or of any conditions or any certificate issued hereunder shall constitute a violation and be subject to a fine as provided in 30-A M.R.S.A. Section 4452. Each day on which there is failure to perform a required act or on which a violation exists shall constitute a separate violation for purposes of this section.

(Ord. No. 235-90, 2-26-90)

Sec. 14-696. Additional penalties for willful violation or gross negligence.

(a) In addition to the penalties authorized by section 14-695, a violation which is intentional, or occurs through gross negligence, shall be subject to the following provisions:

1. No permit shall be issued under chapter 6 of this Code for any alteration or new construction affecting such property for a period of five (5) years following the last date of the violation, other than permits necessary to correct the violation. However, upon presentation of evidence satisfactory to the planning board that the violation has been corrected, any remaining portion of the five-year prohibition on issuance of a permit may be waived.
2. For a period of twenty-five (25) years, any alteration or new construction on the property shall be subject to this article, whether or not any remaining structure or object on the property continues to have the cultural, historical, architectural or archeological character and integrity that caused it to be nominated or designated as a landmark or part of a district.
3. As a condition for any new land use approval, the owner may be required to rebuild, reconstruct, restore or replicate the structure or object on the property.

(b) Paragraphs (1) and (2) of subsection (a) shall not apply to violations which are limited to noncontributing structures.

(Ord. No. 235-90, 2-26-90; Ord. No. 165-08/09, 3-16-09)

Sec. 14-697. Other remedies.

Notwithstanding the provisions of sections 14-695 and 14-696, the city may institute appropriate proceedings in law and equity to prevent or remedy any violation of this article.

(Ord. No. 235-90, 2-26-90)

Sec. 14-698. Liberal construction of article.

This article shall be liberally applied and construed to effectuate the purpose of preservation set forth in section 14-601.

(Ord. No. 235-90, 2-26-90)

Sec. 14-699. Exception for dangerous buildings.

This article shall not apply to any structure which has been ordered demolished by the municipal officers or a court, in accordance with 17 M.R.S.A. Section 2851 et seq., its equivalent, as it may be amended from time to time, or to any structure which has been partially destroyed and is determined by the department to represent an immediate hazard to the public health or safety, which hazard cannot be abated by reasonable measures specified by the department, including without limitation securing apertures and/or erecting fencing.

(Ord. No. 235-90, 2-26-90)

Sec. 14-700. Severability; effective date.

The provisions of section 1-14 shall apply to this chapter.

The provisions of this article shall be effective August 1, 1990.

(Ord. No. 235-90, 2-26-90)

DIVISION 12. LANDMARKS

Sec. 14-701. Structures designated as landmarks.

In addition to those structures designated as landmarks pursuant to section 14-631, the structures which are depicted as landmark buildings on the Map of Historic Districts with landmarks and historic landscape districts as adopted by the council and as amended from time to time shall be so designated.

(Ord. No. 42-91, 9-4-91; Ord. No. 165-08/09, 3-16-09)

Sec. 14-702. Historic landscape districts.

In addition to those areas designated as historic landscape districts pursuant to section 14-631, the areas which are depicted as historic landscape districts on the Map of Historic Districts with landmarks and historic landscape districts as adopted by the council and as amended from time to time shall be so designated.

(Ord. No. 61-93, 8-2-93; Ord. No. 165-08/09, 3-16-09)

Sec. 14-703. Historic districts.

In addition to those areas designated as historic districts pursuant to section 14-631, the following areas are depicted as historic districts on the Map of Historic Districts with landmarks and historic landscape districts as adopted by the council and as amended from time to time shall be so designated.

(Ord. No. 59-93, 8-2-93; Ord. No. 165-08/09, 3-16-09)

Sec. 14-704. Historic landmark sites.

In addition to those areas designated as historic landmark sites pursuant to section 14-631, the areas which are depicted as historic landmark sites on the Map of Historic Districts with landmarks and historic landscape districts as adopted by the council and as amended from time to time shall be so designated.

(Ord. No. 60-93, 8-2-93; Ord. No. 165-08/09, 3-16-09)

Sec. 14-705. Reserved.

Sec. 14-706. Reserved.

Sec. 14-707. Reserved.

Sec. 14-708. Reserved.

Sec. 14-709. Reserved.

Sec. 14-710. Reserved.

Sec. 14-711. Reserved.

Sec. 14-712. Reserved.

Sec. 14-713. Reserved.

Sec. 14-714. Reserved.

Sec. 14-715. Reserved.

Sec. 14-716. Reserved.

Sec. 14-717. Reserved.

Sec. 14-718. Reserved.

Sec. 14-719. Reserved.

Sec. 14-720. Reserved.

Sec. 14-721. Reserved.

Sec. 14-722. Reserved.

Sec. 14-723. Reserved.

Sec. 14-724. Reserved.

Sec. 14-725. Reserved.

Sec. 14-726. Reserved.

Sec. 14-727. Reserved.

Sec. 14-728. Reserved.
Sec. 14-729. Reserved.
Sec. 14-730. Reserved.
Sec. 14-731. Reserved.
Sec. 14-732. Reserved.
Sec. 14-733. Reserved.
Sec. 14-734. Reserved.
Sec. 14-735. Reserved.
Sec. 14-736. Reserved.
Sec. 14-737. Reserved.
Sec. 14-738. Reserved.
Sec. 14-739. Reserved.
Sec. 14-740. Reserved.
Sec. 14-741. Reserved.
Sec. 14-742. Reserved.
Sec. 14-743. Reserved.
Sec. 14-744. Reserved.
Sec. 14-745. Reserved.
Sec. 14-746. Reserved.
Sec. 14-747. Reserved.
Sec. 14-748. Reserved.
Sec. 14-749. Reserved.
Sec. 14-750. Reserved.

ARTICLE X. ALTERNATIVE ENERGY.

Sec. 14-751. Purpose.

The intent of this article is to allow the reasonable use of locally generated alternative sources of energy supply that help reduce greenhouse gas emissions consistent with the Sustainable Portland Report which was adopted on June 7, 2010. Alternative energy systems include but are not limited to wind, solar and geothermal energy generation.

(Ord. No. 33-11/12, 1-18-12)

Sec. 14-752. Reserved.

DIVISION 1. WIND ENERGY GENERATION.

Sec. 14-753. Purpose.

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

USES.

(Ord. No. 33-11/12, 1-18-12)

Sec. 14-754. Applicability.

(a) No wind energy system, expansion of any existing wind energy system, or installation of any associated facilities, shall be installed unless it has been approved under this ordinance and has obtained a building permit and any other necessary state or local approvals prior to its installation. Wind energy generation systems determined to be permitted uses shall be reviewed and approved by the Zoning Administrator; wind energy systems determined to be conditional uses shall be reviewed and approved by the Zoning Board of Appeals (ZBA).

(b) Any physical modification to an existing and permitted wind energy system which alters the total rated capacity, the size or type of the system or its associated equipment shall require approval under this ordinance. Like-kind replacements or non-structural maintenance and repair shall not require approval under this ordinance but shall require a building permit.

(Ord. No. 33-11/12, 1-18-12)

Sec. 14-755. Definitions.

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

Abandonment: The date at which a wind energy system has been out of service for a continuous period of 6 months.

DEP certification: Certification issued by the Maine Department of Environmental Protection (Maine DEP) pursuant to Title 35-A M.R.S.A. § 3456 for a wind energy development.

Horizontal wind energy system: A wind energy system that utilizes a generator shaft that is parallel to the ground and usually mounted on a tower.

Lattice tower: A tower constructed of vertical metal struts and cross braces forming a square or triangular structure in horizontal cross-section, which may or may not be supported by external guy wires and anchors.

Monitoring and maintenance plan: For permitted systems this would constitute the owner's manual requirements. For systems that may be allowed as a conditional use, this would constitute a more detailed and customized document.

Monopole tower: A tower constructed of a single, self-supporting metal tube, anchored to the foundation without guy wires.

Public industrial or utility facility: A facility operated by the City of Portland or Portland Water District that contains a major industrial or utility operation, such as a treatment plant, solid waste facility, materials storage yard or similar operation.

Residential building: A residence, nursing home/assisted living facility, or other building that is in use as an overnight residence but excluding hotels.

Total height of wind energy system: The vertical distance as measured from the average elevation of the finished grade adjacent to the fixed base of the support structure, to the tip of the wind generator blade or any other part of the system at its highest point. Where located on roof tops, the height shall be the total of the building and the wind energy system taken together.

Total rated capacity: The maximum rated output of electric power generation by the system in kilowatts (kW) as identified by the manufacturer.

Useful life of the wind energy system: The period for which the system has been designed by the manufacturer to operate in a safe manner, including the period during which new parts and refurbishment allow it to continue operating safely.

Vertical wind energy system: A wind energy system that utilizes a generator shaft that is positioned perpendicular to the ground.

Wind energy system: A wind energy generator and all associated facilities.

Wind energy system associated facilities: All elements of a wind energy system, other than its generating facilities, that are necessary for the proper operation and maintenance of the system, including but not limited to guy wires, remote electronic enclosures and fixtures, transformers, inverter, batteries, substations and similar equipment.

Wind energy generator: The device that converts kinetic wind energy into rotational energy that generates electricity, which may include components such as a base, blade, nacelle, rotor, tower, turbine, or vane.

(Ord. No. 33-11/12, 1-18-12)

Sec. 14-756. Reserved.

Sec. 14-757. Permitted uses.

(a) Freestanding wind energy systems that are accessory to the lawful principal use of the lot, primarily for the generation of energy for on-site consumption, and at or below 25 feet in total height, may be allowed as permitted uses in all residential, B1, I-B and residence-professional zones subject to the standards listed below in Section 14-761 (General Standards), 14-763 (Maintenance and Removal), and 14-765 (Submittal Requirements).

(b) Freestanding wind energy systems that are accessory to the lawful principal use of the lot, primarily for the generation of energy for on-site consumption, and meet the applicable height standards of the zone in which they are located and are no higher than 45 feet, may be allowed as permitted uses in all business zones except B1 and I-B, and in the office park, industrial zones, airport business zone, subject to the standards listed below in section 14-761 (General Standards), 14-763 (Maintenance and Removal), and 14-765 (Submittal Requirements).

(c) Roof mounted wind energy systems that are accessory to the lawful principal use of the lot, primarily for the generation of energy for on-site consumption, meet the applicable height standards of the zone in which they are located and are less than 10 feet above the highest part of the roof, may be allowed as permitted uses in all zones except stream protection zone and recreation open space zone, subject to the standards listed below in section 14-761 (General Standards), 14-763 (Maintenance and Removal), and 14-765 (Submittal Requirements).
(Ord. No.33-11/12, 1-18-12)

Sec. 14-758. Conditional uses.

(a) Wind energy systems that do not meet the requirements for a permitted system may be allowed as conditional uses in all zones (including overlay zones but excluding stream protection and resource protection zones), subject to the provisions of section 14-430 (height and bulk exceptions/use exceptions); section 14-474 (conditional uses); and to the requirements and performance standards listed below in section 14-761(general standards), 14-763 (maintenance and removal), and 14-765 (submittal requirements). For the purposes of this provision, wind energy may be an accessory use in all zones or a principal use in all zones except residential zones, B1 zone, I-B zone, residence-professional zone and resource protection zone.

(b) Wind energy systems within recreation open space zones (including the island transfer station overlay zone) are allowed as

a conditional use where they are co-located with public industrial or utility facilities as defined in section 14-755.
(Ord. No. 33-11/12, 1-18-12)

Sec. 14-759. Prohibited uses.

(a) Wind energy systems of any kind are prohibited in the stream protection and historic landscape districts [excepting the sewage treatment plan corner of Eastern Prom] and historic cemeteries.

(b) Wind energy systems are prohibited where they exceed the height limitations set out in Table 1 (below) and described in provision 14-761(c)(3).

Table 1: Summary Table of Permitting

Type and scale of wind energy system	Stream Protection, Historic Landscape Districts & Historic Cemeteries	Resource Protection Zone	All Residential Zones, and Residential Professional Zone; B1 Zone; I-B Zone	Historic Districts*, and within 1000 ft of specified landmarks (see**)	Water-front Zones and B6	Business Zones B2 & B5 Industrial Zones I-L, I-Lb and I-Ma	Business Zones B3 and B7	B4 Zone, Office -Park Zone	Recreation Open Space (ROS) Zone where Co-located with public industrial or utility facilities as per 14-758(b)	Industrial Zones I-M, I-Mb, I-H; Airport Bus. (w/FAA approval)
Roof mounted, accessory, <10 ft above roof) & below permitted height of zone	X	P	P	P	P	P	P	P	C	P
Freestanding; accessory; up to 25 ft	X	X	P	P	P	P	P	P	C	P
Freestanding or roof mounted: accessory; at or below permitted height of zone AND no higher than 45 ft	X	X	X if <.5 acre except C if .5 acre or larger	P	P	P	P	P	C	P
Freestanding or roof mounted; at or above permitted height of zone AND no higher than 45 ft	X	X	X Except C only where accessory & on institutional sites over 5 acres	C	C	C	C	C	C	C
Roof mounted or free-standing; at or below permitted height for that zone AND no higher than 65 ft	X	X	X Except C only in USM Overlay Area & for college, university or trade schools in the R5 zone	X Except C in B3 part Congress St. Historic District	C	C	C	C	C	C
Roof mounted or free-standing; above permitted height for that zone AND no higher than 65 ft	X	X	X	X Except C in B3 part Congress St. Historic District	C	C	C	C	C	C
Roof mounted; at or below permitted height for that zone AND no higher than 85 ft	X	X	X	X Except C in B3 part Congress St. Historic District	X	X	C	C	C	C
Freestanding; at or below permitted height for that zone AND no higher than 85ft	X	X	X	X Except C in B3 part Congress St. Historic District	X	X	X	C	C	C
Freestanding; above permitted height for that zone AND no higher than 85 ft	X	X	X	X	X	X	X	X	C	C
Roof mounted or freestanding; above 85 ft and no higher than 160 ft	X	X	X	X	X	X	X	X	C with increased setbacks (see 14-761(d)(6))	C with increased setbacks (see 14-761(d)(6))+

P= Permitted Use; needs Zoning Administrator approval plus building permit; if within 100 feet of a designated landmark, historic district or historic landscape district, also needs planning authority (HP) approval;

C=Conditional Use; needs ZBA approval plus building permit; if within 100 feet of a designated landmark, historic district or historic landscape district, also needs planning authority (HP) approval;

X=Prohibited

*Historic districts only (wind systems are prohibited in historic landscape districts and historic cemeteries); in historic districts if the maximum allowed height in this section is different from the allowable height associated with the underlying zone, the lower of the two height limits would apply regarding wind energy systems. Within the B3 part of the Congress Street Historic District, the height limits in this ordinance for the B3 zone shall apply.

**Specified landmarks are: Portland Observatory; Cathedral of Immaculate Conception; St Dominic's Cathedral; St Luke's Cathedral; State Street Church; and City Hall

Sec. 14-760. Reserved.

Sec. 14-761. General standards.

(a) General

1. Application requirements: All applications for approval under this ordinance shall address the submittal requirements set out in section 14-765 submittal requirements.
2. Approvals: All applicable state and local approvals shall be obtained prior to installation of any wind energy system, including FAA approval and MDEP certification for all systems 100kW and above in total rated capacity.
3. Conditions: The zoning administrator or zoning board of appeals (ZBA) may impose conditions to ensure compliance with the standards and purposes set out in this ordinance, including but not limited to post-construction certification of compliance by a licensed professional engineer or authorized factory representative.

(b) Historic Resource

1. Where any part of the proposed wind energy system (including associated facilities) is within an historic district, such development shall be reviewed and approved by the planning authority (historic preservation) in accordance with article IX historic preservation prior to a review under this ordinance by the zoning board of appeals.
2. Where any part of the proposed wind energy system (including tower base and associated facilities) is within one hundred (100) feet of any designated landmark, historic district or historic landscape district, such development shall be determined by the planning authority (historic preservation) to be generally compatible

with the major character-defining elements of the landmark or portion of the district in the immediate vicinity of the proposed system; such determination shall be made prior to a review under this ordinance by the zoning board of appeals. Character-defining elements of landmarks and historic districts are identified in the historic resources inventory and respective historic district designation reports.

An appeal of the planning authority (historic preservation) determination may be made in accordance with section 14-767 (appeals).

(c) Siting

1. Location on site: In residential zones, B1 zone, I-b zone and residence-professional zone where the lot is less than .5 acre, any vertical element of the wind energy system (tower/pole) shall be located in the rear yard or on the rear half of the existing building. Wind energy systems and associated facilities shall be sited to maximize existing vegetative or other screening from nearby residential buildings and public ways. The location shall minimize changes to existing topography and existing natural vegetation which would result from construction or maintenance of the system.
2. Number per lot: In residential zones, I-B zone and residence-professional zone and all business zones excluding B3, B4 and B7, a maximum of one (1) wind energy system shall be permitted per lot.
3. Overall height: The total height (including the supporting structure or building and the rotors or blades of the generator) of the wind energy system when operating shall be at or below the following maximum height limits.

These limits do not apply within historic districts (except the Congress Street historic district) or within 1000 feet of Portland Observatory; Cathedral of the Immaculate Conception; St Dominic's Cathedral; St Luke's Cathedral; State Street Church; and City Hall

where the overall height of wind energy systems may be no higher than 45 feet. Within the Congress Street historic district, the overall height of wind energy systems may be no higher than 45 feet in those areas outside of the B3 zone and within the B3 zone the height limits below shall apply.

In addition, the actual height of any roof mounted wind energy system, as measured above the roof from the point of attachment, where allowed as a conditional use shall not exceed 35% of the height of the building on which it is mounted.

a. Maximum of 45 feet:

- i. Roof mounted in R-6 zone if 10 feet or less above highest part of the roof and permitted by that zone.
- ii. Residential zones, B1 zone, I-B zone and residence-professional zone if lot is .5 acre or larger and height permitted by that zone.
- iii. Institutional uses in residential zones, B1 zone, I-B zone and residence-professional zone where lot is over 5 acres.
- iv. Resource protection zone (roof mounted and up to height permitted by zone).

b. Maximum of 55 feet: College, university or trade school in R5 zone where conditional use requirements of the zone are met (14-118(b)(6)(g)).

c. Maximum of 65 feet:

- i. Waterfront zones.
- ii. Business zones B2, B5 and B6.
- iii. Industrial zones I-L, IL-b and I-Ma
- iv. Freestanding in business zones B3 and

B7.

v. USM overlay zone if allowed by overlay heights.

d. *Maximum of 85 feet:*

i. Roof mounted in B3 and B7 if height permitted by overlay heights.

ii. Business zone B4 if height permitted by that zone.

iii. Office-park zone up to 75 feet where requirements of the zone are met (14-230.14(e)).

e. *Maximum of 160 feet (Increased setbacks if over 85 feet):*

i. *Industrial zones I-M and IMb and I-H.*

ii. *Airport business zone.*

iii. *Recreation open space zones* where allowed by 14-758(b).

(d) Safety

1. Generation equipment: All wind energy generation equipment shall be approved under a certification program certified by the US Department of Energy such as the Underwriters Laboratories, Germanishcer Lloyd Wind Energies, or other similar certifying organizations. Experimental, homebuilt, and prototype models shall not be permitted.
2. Design safety: Wind energy systems and associated facilities, including foundations and support structures, electrical connections and control equipment, associated site improvements and construction techniques, shall be designed, engineered and installed to comply with all applicable local, state and federal construction and electrical codes/regulations and Federal Aviation Administration regulations and

requirements.

3. Setbacks: Wind energy systems and associated facilities shall meet all setbacks for principal structures for the zone in which the wind energy system is located; where setbacks vary the largest setback shall apply. All parts of the wind energy system, including associated facilities and guy wires, shall be at least 10 feet from the property line (except where connecting to the grid), any utility line (in any direction) or other easement/ROW. The setback from utility lines, easements and ROW lines may be reduced where the owner/benefitted party provides written permission.
4. Safety setbacks (roof mounted systems): All roof mounted wind energy systems shall be set back from property boundaries and street right of way lines by a distance equal to or greater than 4 times the height of the system as measured from the roof surface at the point of attachment (including attachment structure to roof). For systems in and adjacent to waterfront zones, business zones (except B-1 and I-B), office park zone, industrial zones, island transfer station zone, and ROS zone, the setback from property boundaries and street right of way lines may be reduced to a minimum distance of 1.0 times the height of the system as measured from the roof surface at the point of attachment (including attachment structure to roof) where the system is incorporated into the architecture of the building and a certified engineer confirms that it would not present any public safety risk. The setback distance shall be measured to the center of the wind generator base.
5. Safety setbacks (freestanding systems no higher than 85 feet high): All freestanding wind energy systems with a total height of 85 feet or less shall be set back from property boundaries and street right of way lines by a distance equal to or greater than 1.1 times the total height of the system, and from residential buildings and hospitals on other properties by a distance equal to or greater than 2 times the total height of

the system. The setback distance shall be measured to the center of the wind generator base.

6. Safety setbacks (freestanding systems above 85 feet high): All freestanding wind energy systems with a total height above 85 feet shall be set back from property boundaries and street right of way lines by a distance equal to or greater than 2 times the total height of the system, and from residential buildings and hospitals on other properties by a distance equal to or greater than 4 times the total height of the system. For systems in and adjacent to waterfront zones, business zones (except B-1 and I-B), office park zone, industrial zones, island transfer station zone, and ROS zone, the setback from property boundaries and street right of way lines may be reduced to a minimum distance of 1.0 times the total height of the system where the Board determines it will be contrary to the public interest. The setback distance shall be measured to the center of the wind generator base.
7. Control of systems: Wind energy generators shall have automatic braking, governing or feathering systems to ensure rotational speeds remain within the design parameters of the proposed generator and its support structure and components and do not create intermittent high noise levels.
8. Security: The support structure (e.g. tower, pole) for freestanding wind generating systems shall not be climbable (no step bolts, ladder, or unshielded lattice structure readily accessible to the public) for a minimum height of twelve (12) feet above the surrounding ground level or accessible surface. All ground mounted electrical and control equipment shall be labeled and secured to prevent unauthorized access.
9. Clearances: All moving components of a wind energy system shall be a minimum of twelve (12) feet from ground level or accessible surface.
10. Wiring: All on-site electrical wiring associated with the proposed wind energy system shall be

located within the tower/pole/supporting structure and underground; above ground on-site connections near substations or to the electric grid shall be allowed.

11. Guy wires: The use of guy wires is discouraged; if required they shall be located away from pedestrian routes/access points and marked with visible, reflective, colored objects, such as flags, reflectors, or tape which shall be placed on the anchor points of guy wires and along the guy wires up to a height of ten feet from the ground.

(e) *Impacts*

1. Sound impacts: The audible sound levels generated by the wind energy system* shall comply with the requirements of the underlying zone, except that the method of measurement shall be in accordance with this provision and with technical standards set out in the City of Portland Technical Manual. In addition:
 - a. Where the underlying zone is residential and does not specify sound requirements, or where the system will be within 100 feet of a residential building, the audible sound levels generated by the wind energy system* shall not exceed forty-five (45) decibels on the A scale between the hours of 9:00 p.m. and 7:00 a.m., and fifty (50) decibels on the A scale between 7:00 a.m. and 9:00 p.m., as measured at the nearest property line in accordance with this provision and technical standards set out in the City of Portland Technical Manual.
 - b. For any system over 45 feet in total height not in the recreation open space, resource protection or island transfer station zones, the maximum sound levels allowed by this ordinance shall not be exceeded at the nearest property boundary and at the nearest point vertically above the property line that coincides with the maximum building height allowed in the abutting zone.

- c. Any system located within the recreation open space, resource protection or island transfer station zones and more than 100 feet from a residential building shall not exceed fifty-five (55) decibels on the A scale as measured 50 feet from the base of the tower.

*The audible sound levels of the wind energy system shall include sounds generated in all conditions including low and high winds (furling, yawing, and flutter) and power outages (free wheeling).

If after installation the system is determined to be operating at levels above these limits (as measured at the property lines in accordance with this provision and technical standards set out in the City of Portland Technical Manual) the owner shall take (at the owners cost) remedial action to ensure compliance with these limits. Required action may include relocation nor removal of the system.

2. Significant wildlife: The proposed wind energy system shall not be located within 250 feet of any significant wildlife habitat, as defined by MDEP/MDIFW under provisions of the Natural Resources Protection Act (Title 38, M.R.S.A. § 480, et seq.) including wildlife habitat for species appearing on the official state and federal list of endangered or threatened animal species.
3. MDIFW comments: For all wind energy systems over 45 feet in height above the ground (however supported) or over 100kw the applicant shall provide evidence that the environmental coordinator of the Maine Department of Inland Fisheries and Wildlife, and the Maine Natural Area Program, have been notified of the location, height and design of the proposed wind energy system at least 3 weeks prior to any final determination under this provision. Any comments received therefrom shall be addressed to the satisfaction of these state authorities prior to

any final determination under this provision.

4. Signal interference: Wind energy systems shall be designed to avoid electromagnetic interference with the transmission or reception of radio, telephone, television, microwave, navigational or similar signals to neighboring areas.
5. Appearance: The wind energy system and associated facilities shall use non-reflective materials and neutral colors and textures that blend in with the surrounding environment. Ground-mounted systems and associated facilities shall be landscaped to integrate the proposed wind energy system into the existing landscape/streetscape. In the case of conditional uses the system shall be screened with a vegetated buffer from public areas and residential buildings.
6. Lighting: No part of the system may be illuminated, except as required (in writing) by the Federal Aviation Administration (FAA) or other authorities for safety and security purposes. Where lighting is required, it shall be at the lowest intensity allowable with fixtures shielded and directed to minimize glare and visibility from the ground.
7. Signs and advertising: There shall be no signs, advertisements, flags or decorative items on a wind energy system or any associated facilities, except for the manufacturer's/installer's/owner's identification (not exceeding 1 sq foot in size), appropriate warning signs, or lights if required by the FAA.
8. Impact of construction: The applicant shall avoid adverse impacts resulting from construction and maintenance of the wind energy system and obtain site plan approval (Article V, Site Plan) where applicable.

(Ord. No. 33-11/12, 1-18-12)

Sec. 14-762. Reserved.

Sec. 14-763. Maintenance and removal.

(a) A satisfactory monitoring and maintenance plan shall be required to ensure that all aspects of operation remain safe and in accordance with the approved design, engineering and installation details. All buildings, structures, fences, and property used in connection with a wind energy system shall be regularly inspected and maintained, through the life of the system, so that they remain: in good condition; in compliance with the standards set out in this ordinance (e.g., meeting sound limits); in safe working order; and so that paint and other external materials remain as approved and free from corrosion.

(b) The owner and operator shall, at their expense, complete the removal of the wind energy system within 6 months of the end of the useful life of the wind energy system or within 6 months of the date of abandonment.

(c) The City shall revoke any approvals and/or pursue removal of the wind energy system at the owner and operator's expense in the following circumstances:

1. The wind energy system is not installed and functioning within 12-months from the date of the approval under this ordinance; or
2. The wind energy system is at any time left in an unsafe condition in respect to federal, state and local safety standards (as determined by the City); or
3. The wind energy system has not been brought back to a safe condition/operation or removed from the site within required timeframe; or
4. The wind energy system is defective or abandoned and not been removed from the site within required timeframe.

(Ord. No. 33-11/12, 1-18-12)

Sec. 14-764. Reserved.

Sec. 14-765. Submittal requirements.

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

1. A narrative describing the proposed wind energy system, including an overview of the project; the project location; the generating capacity of the wind energy system; dimensions and respective manufacturers, the sound levels generated by the wind energy system; and a description of associated facilities and how the system and associated facilities comply with the standards of this ordinance (including a plan or other graphics that demonstrate compliance with the required setbacks). Calculations of sound attenuation and anticipated sound levels shall be in accordance with technical standards set out in the City of Portland Technical Manual.
2. An accurate scaled site plan of the subject property showing the planned location of the proposed wind energy system and all associated facilities; property lines, adjoining streets and access; topographic contour lines; existing and proposed buildings, fencing, structures, substations, vegetation, driveways, parking, and curb cuts on the subject property; and specifications for all proposed electrical cabling/transmission lines, accessory equipment, and landscaping. The site plan shall show any proposed off-site modifications to access the installation and/or to maintain the proposed wind energy system. [Note: separate site plan applications may be required for some or all of the associated modifications; see Article V Site Plan]
3. A boundary survey where the location and dimensions of the wind energy system are determined to be uncertain by the Zoning Administrator.
4. Names and addresses of the owners of abutting properties and the location, dimensions, and types of all existing structures and uses within 100 feet of the property line.
5. A scaled elevation drawing showing the proposed wind energy system and all proposed structures, foundations, supports, fencing, vegetation and landscaping, indicating the height, color and materials of the system.
6. The wind energy system specifications, including manufacturer, model, dimensions of all components,

height, tower/support type, total rated capacity and information on any connections to the grid including a copy of the application for interconnection with the electric utility provider where to be connected to the grid.

7. Documentation that the wind generation equipment has been approved under a recognized certification program as set out in paragraph 14-761(d)1 of this ordinance and that the system complies with all applicable local, state and federal codes/regulations and with the standards regarding signal interference. Electrical component and connection information shall be in sufficient detail to allow for a determination that it meets Maine electrical codes.
8. Engineered drawings of the structure, its foundations and associated facilities (stamped by a PE). In the case of conditional uses, the applicant shall provide a Safety Report prepared and stamped by a licensed professional engineer with their application that certifies that the proposed wind energy system design is safe and appropriate in terms of strength, stability, security, grounding, icing impacts, and maintenance, given local soil and climate conditions.
9. Evidence of compliance or non-applicability with FAA requirements, MDEP Certification pursuant to 35-A M.R.S.A. § 3456 for wind energy development (applies to systems over 100kW) and other federal and state regulations regarding potential impacts on wetlands, wildlife and other resources.
10. For any wind energy system that will exceed the height limit for buildings on the subject property, the following shall be submitted:
 - a. A scaled vicinity map showing the subject property and the proposed wind energy system and fencing in the context of all property located within a distance from the wind energy system equal to three (3) times the height of the wind energy system (in the case of a system 85 feet or higher, ten (10) times the height), showing within this area: all streets and existing buildings; significant structures: uses of any buildings; and topographic contours at five foot

intervals.

- b. Color photographs showing the current view of the wind energy system site from any adjoining public street or any other street within 200 feet of the proposed wind energy system and from the closest groupings of residential buildings located within an area from the proposed wind energy system equal to three (3) times the height of the proposed structure (ten (10) times the height for systems 85 feet), plus a second set of color photographs showing the same views with the proposed wind energy system superimposed onto the photographs.
11. Where lighting of the wind energy system is proposed (due to FAA requirements), a lighting plan for the proposed wind energy system, indicating the location, color and intensity of the lighting, both as it will appear in daylight and at night, and indicating any mechanisms to prevent glare on adjacent properties and streets and to shield the lighting from residences.
12. Where the wind energy system manufacturer's sound level analysis does not clearly meet the sound standard of this ordinance, a statement by a professional engineer licensed in the State of Maine certifying that the proposed wind energy system will meet the sound standard of this ordinance. The technical standards set out in the City of Portland Technical Manual outline further information which may apply in this case.
13. A monitoring and maintenance plan in accordance with section 14-763(a).
14. The following information shall be submitted with an application for a wind energy system proposed to be attached to the roof of a building or onto another structure:
 - a. Elevation drawings and details of the building or structure to which the proposed wind energy system will be attached, showing the placement of the wind system and its supports, indicating the location of any enclosures in relation to the surface to which it will be attached, and showing

projection of the wind generator from the structure, marked with all necessary dimensions.

- b. Design and engineering information for roof-mounted systems shall demonstrate that the structure on which it will be mounted has the structural integrity to carry the weight and wind loads of the system with minimal vibration impacts on the structure.

(Ord. No. 33-11/12, 1-18-12)

Sec. 14-766. Reserved.

Sec. 14-767. Appeals.

(a) Any aggrieved party may appeal a decision by the zoning administrator under the provisions of this ordinance by requesting in writing that it be referred to the zoning board of appeals within thirty (30) days of the decision being rendered. The date of the decision shall be the date of the letter from the zoning administrator documenting the decision.

(b) Any aggrieved party may appeal a decision of the planning authority determination under provision 14-761(b)(2) of this ordinance (compatibility if within 100 feet of a designated landmark, historic district or historic landscape district) by requesting in writing that it be referred to the historic preservation board within thirty (30) days of the determination. The date of the determination shall be the date of the letter from the planning authority documenting the decision. Appeals shall be considered by the historic preservation board as a de-novo review of the determination of compatibility.

(c) Any aggrieved party may appeal the final decision of the zoning board of appeals or the historic preservation board to the superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure. The date of the final decision shall be the date of the board hearing or other board meeting at which a final decision was taken.

(Ord. No. 33-11/12, 1-18-12)

Sec. 14-768. Reserved.

Sec. 14-769. Reserved.

Sec. 14-770. Reserved.

Sec. 14-771. Reserved.

Sec. 14-772. Reserved.

Sec. 14-773. Reserved.

Sec. 14-774. Reserved.

Division 2. Solar Energy Generation

Sec. 14-775. Purpose.

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

Sec. 14-776. Applicability.

All applicants for the installation or replacement of all solar energy systems or devices, expansion of any existing solar energy system, or installation of associated facilities must obtain a building permit and, as determined by the Planning Authority, site plan approval as outlined in section 14-779.

Sec. 14-777. Definitions

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

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

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

Dual-Use Systems means solar energy systems where photo-voltaic panels are introduced in conjunction with a primary use eg photo-voltaic panels on structures cantilevered over parked cars in a parking lot. These tend to include emerging technologies and multiple systems with potential impacts, and would require site plan review.

Expansion of a Solar Energy System means any physical modification to an existing solar energy system which alters the total rated capacity, the size, type or location of the system or its associated equipment.

Ground mounted solar energy system (also known as free-standing solar energy systems) means a solar energy system that is structurally mounted to the ground. The panels may be

stationary or revolving and of any size.

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

Physical size of solar energy system means, for the purposes of this division, the size of the system will be based on the physical size of the panels based on total airspace occupied over the ground, or the grid area for ground mounted arrays. It should be noted that the physical size as defined here is different from the area that would be the basis for calculating the impervious surface associated with the system.

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

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

Small, Medium and Large solar energy systems means for the purposes of this division physical size as defined herein. Based on current technology the small systems are about 20 kW or less; medium systems are between about 20kW and 250kW; and large systems are over 250kW.

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

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

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

Total rated capacity means the maximum rated output of

electrical power production of the photovoltaic system in watts of Direct Current (DC)

(Ord. No. 75-16/17, 11-7-2016)

Sec. 14-778. Reserved.

Sec. 14-779. Permitting.

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

P = allowed as a **permitted** use if the system complies with zone requirements and section 14-780 of this Division, and are located to rear and side of the site wherever possible; would require a building permit (and historic preservation review if a landmark or in an historic district*).

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

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

Zone	Roof Mounted and Building Integrated	Small Scale Ground Mounted	"Dual Use" systems	Medium Scale Ground Mounted	Large Scale Ground Mounted
Physical Size (see Definitions)	N/A	< 1000 sq ft	Any size	1001 to 9,999 sq ft	10,000 sq ft or greater

Residential; RP; Business zones except B4; waterfront zones; mixed use zones	P	P	S (Level II)	S (Level II)	Not allowed
Industrial zones and B4 zone	P	P	S (Level II)	S (Level II)	C (Planning Board)
ROS, Shoreland; I-TS	P	S (Level II)	S (Level II)	C (Planning Board)	C (Planning Board)
Historic Landscapes	P	S (Level II) & HP	S (Level II) & HP	S (Level II) & HP	Not allowed
Cemeteries	P	Not allowed	Not allowed	Not allowed	Not allowed
Stream Protection zones	Not allowed (Unless on legally non- conforming structure)	Not allowed	Not allowed	Not allowed	Not allowed

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

Sec. 14-780. Performance Standards.

All solar energy systems shall meet the following performance standards as indicated (section numbers are included to allow for reference).

(a) Standards applicable to all solar energy systems, whether permitted, site plan or conditional use:

Roof Mounted and Building Integrated	Small Scale Ground Mounted	"Dual Use" systems	Medium Scale Ground Mounted	Large Scale Ground Mounted
N/A	< 1000 sq ft	N/A	1001 to 9,999 sq ft	10,000 sq ft or greater

i. Application requirements for permitted solar energy systems: All applications for permitted solar energy systems shall meet the submittal requirements as specified by the Permitting and inspections Department. Where systems are proposed in the front part of the site, the application shall include technical documentation as to why it is not possible to locate the system to the rear or side of the site.

ii. Application requirements for site plan and conditional use review of solar energy systems: submissions for approval under this ordinance shall address the submittal requirements set out in section 14-782 *Submittal Requirements*.

iii. Height: The maximum height for all solar energy systems shall be as specified in that zone's dimensional requirements. Where the total height of the support structure/building plus the solar energy system is equal to or below the zone-based height maximum (including any allowance under 14-430), the absolute height of the solar energy system shall be:

a. Ground mounted: 20 feet above the ground as measured from the base of the support.

b. Roof mounted (on any type of roof, and applies to systems that are parallel or angled to the roof):

- For all residential and RP zones: 5 feet above the roof and set back from the edge of the roof by 1 foot for every 1 foot of solar energy system height.
- For B4 and Industrial zones: no limit.
- For all other zones: 8 feet above the roof and set back from the edge of the roof by 1 foot for every 1 foot of solar energy system height.

For height limitations for roof-mounted solar energy systems that exceed the zone dimensional requirements for height, see 14-430(e).

iv. Technical and Safety: All solar energy systems shall meet the technical, safety and maintenance standards as set out in the City of Portland Technical Manual. These standards may include the prohibition of panels containing cadmium to minimize the potential for hazardous waste.

v. Impact of construction and connection to the grid: The applicant shall minimize impacts resulting from construction and maintenance of the solar energy system, including lighting, security measures, traffic, and grid connections.

vi. Conditions: The reviewing authority may impose conditions to ensure compliance with the standards and purposes set out in this ordinance, including but not limited to post-construction certification of compliance by a licensed professional engineer or authorized factory representative.

vii. Glare: Solar panels are designed to absorb (not reflect) sunlight and are generally less reflective than other varnished or glass exterior materials. However, solar panel placement should minimize or negate any solar glare impacting nearby properties or roadways, without unduly impacting the functionality or efficiency of the solar energy system.

viii. Solar Access: All applicants are encouraged to ensure the maximum solar energy generation from their system by obtaining solar access easements. Solar access easements may be filed consistent with Maine State law. Any property owner may purchase an easement across nearby properties to protect access to sunlight. The easement would be purchased or granted by owners of nearby properties and can apply to buildings, trees, or other structures that would diminish solar access.

(b) Additional performance standards for particular systems subject to site plan or conditional Use (PB) review

Roof Mounted and Building Integrated	Small Scale Ground Mounted	"Dual Use" systems	Medium Scale Ground Mounted	Large Scale Ground Mounted
N/A	< 1000 sq ft	N/A	1001 to 9,999 sq ft	10,000 sq ft or greater

Roof Mounted and Building Integrated	Small Scale Ground Mounted	"Dual Use" systems	Medium Scale Ground Mounted	Large Scale Ground Mounted
N/A	a) Meet 14-780 (a) above	a) Meet 14-780 (a) above b) Demonstrate that the energy generation is not the principal use of the site; c) Demonstrate that scale of the installation does not create adverse impacts.	a) Meet 14-780 (a) above b) Designed to avoid safety impacts; c) Located in side or rear yards, wherever possible; d) Set back 50 feet from residential, RP, B1 and B2 zones e) Located away and screened from public ways and nearby residential /institutional uses to extent possible; f) Co-locate with other land uses on lots in residential, B1, B2, B3, B7 & waterfront zones	a) Meet 14-780 (a) above b) Designed to avoid safety impacts; c) Located in side or rear yards, wherever possible; d) Set back 75 feet from residential, RP, B1 and B2 zones; e) Located away and screened from public ways and nearby residential /institutional uses to extent possible.

(c) Additional performance standards for solar energy systems located in *ROS & Shore-land* Zones.

Roof Mounted and Building	Small Scale Ground	"Dual Use" systems	Medium Scale Ground	Large Scale Ground Mounted
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Integrated	Mounted		Mounted	
N/A	< 1000 sq ft	N/A	1001 to 9,999 sq ft	10,000 sq ft or greater
			a) Meet 14-780 (a) and (b) above b) If over 10,000 sq ft, locate on landfills or co-terminus with public industrial, utility or highway facilities c) Be supported by Land Bank Commission and Parks Commission where applicable d) Layout and fencing to be integrated with the landscape to the extent possible e) Screen from abutters and minimize impact on significant scenic views to the extent possible f) Not required to meet the conditional use requirements of the zone; for ROS see 14-156 g) Prohibited within the 75 ft setback from High Water mark in Shoreland Zones and meeting other Shoreland Zone requirements	

(d) Additional performance standards for solar energy systems in Business and Industrial Zones.

Roof Mounted and Building Integrated	Small Scale Ground Mounted	"Dual Use" systems	Medium Scale Ground Mounted	Large Scale Ground Mounted
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Roof Mounted and Building Integrated	Small Scale Ground Mounted	"Dual Use" systems	Medium Scale Ground Mounted	Large Scale Ground Mounted
N/A	< 1000 sq ft	N/A	1001 to 9,999 sq ft	10,000 sq ft or greater
				a) Meet 14-780 (a) and (b) above b) Be located on areas already paved or built upon, or where other development is documented to be unlikely due to local conditions.

(Ord. No. 75-16/17, 11-7-2016)

Sec. 14-781. Reserved.

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

(a) The following information shall be submitted with a site plan application for a review of a solar energy system and associated facilities under this ordinance (S or C in 14-779) in addition to the submittal requirements set out in section 14-527 (a), (c), (d) and (e) of the Site Plan ordinance:

1. A narrative describing the proposed solar energy system, including an overview of the project; the project location; the generating capacity of the solar energy system; dimensions of all components and respective manufacturers; and a description of associated facilities and how the system and associated facilities comply with the standards of this ordinance (including a plan or other graphics that demonstrate compliance). Where systems are proposed in the front part of the site, the application shall include technical documentation as to why it is not possible to locate the system to the side or rear of the site.
2. An accurate scaled site plan of the subject property showing the planned location of the proposed solar

energy system and all associated facilities; property lines, adjoining streets and access; topographic contour lines; existing and proposed buildings; fencing; structures; potential shade from nearby trees and structures; vegetation; driveways, parking, and curb cuts on the subject property; and specifications for all proposed electrical cabling/transmission lines, accessory equipment, and landscaping.

3. A scaled elevation drawing showing the proposed solar energy system and all proposed structures, foundations, supports, fencing, vegetation and landscaping, indicating the size, color and materials of the system. Drawings of structures and foundations shall be stamped by a licensed Professional Engineer.
4. Information on any proposed connections to the grid including any proposed off-site modifications to provide grid connections, access the installation, or to maintain the proposed solar energy system and grid connections.
5. In the case of medium and large ground mounted solar energy systems, the applicant shall provide an Operations and Maintenance Plan prepared and stamped by a licensed Professional Engineer or other licensed professional as appropriate.

(Ord. No. 75-16/17, 11-7-2016)

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

(a) In the case of medium and large ground mounted solar energy systems, the submitted Operations and Maintenance Plan shall include an estimate of the life of the project and outline the anticipated options/action when it has reached the end of its estimated useful life.

(b) The Owner and Operator shall, at their expense, complete the removal of the solar energy system within 6 months of the end of the useful life of the solar energy system or within 6 months of the date of abandonment. "Removal" includes restoration of the site to its approximate original condition, unless a valid approved site plan is intended to be pursued in which case a performance guarantee for the restoration would be

required until the approved redevelopment has received a certificate of occupancy.

(c) The City shall revoke any approvals and/or pursue removal of the solar energy system at the Owner and Operator's expense in the following circumstances:

1. The solar energy system is not complete and operating within 24 months from the date of approval under this ordinance; or
2. The solar energy system is determined by the City to be in an unsafe condition in respect to federal, state and local safety standards and timeframes; or
3. The solar energy system has not been brought back to a safe condition/operation or removed from the site within the required timeframe; or
4. The solar energy system is defective or abandoned and has not been removed from the site within the required timeframe.

(Ord. No. 75-16/17, 11-7-2016)

14-784. Appeals.

For all appeals, the date of the decision shall be the date of the hearing, if an oral decision was made, or the date of the written decision.

(a) Any aggrieved party may appeal a decision by the Permitting and Inspections Department under the provisions of this ordinance by requesting in writing that it be referred to the Zoning Board of Appeals within 30 days of the decision being rendered.

(b) Any aggrieved party may appeal a decision by the Planning Authority under the provisions of this ordinance by requesting in writing that it be referred to the Planning Board within 30 days of the decision being rendered.

(c) Any aggrieved party may appeal a decision of the Planning Authority determination under provision 14-761(b)(2) of this ordinance (compatibility if within 100 feet of a designated landmark, Historic District or Historic Landscape District) by requesting in writing that it be referred to the Historic Preservation Board within 30 days of the determination. This appeal is de-novo.

(d) Any aggrieved party may appeal the final decision of the Planning Board or the Historic Preservation Board under provision 14-761 (b) 2 of this ordinance to the superior court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

(Ord. No. 75-16/17, 11-7-2016)

Sec. 14-785. Reserved.
Sec. 14-786. Reserved.
Sec. 14-787. Reserved.
Sec. 14-788. Reserved.
Sec. 14-789. Reserved.
Sec. 14-790. Reserved.
Sec. 14-791. Reserved.
Sec. 14-792. Reserved.
Sec. 14-793. Reserved.
Sec. 14-794. Reserved.
Sec. 14-795. Reserved.
Sec. 14-796. Reserved.
Sec. 14-797. Reserved.
Sec. 14-798. Reserved.
Sec. 14-799. Reserved.
Sec. 14-800. Reserved.
Sec. 14-801. Reserved.
Sec. 14-802. Reserved.
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Sec. 14-806. Reserved.
Sec. 14-807. Reserved.
Sec. 14-808. Reserved.
Sec. 14-809. Reserved.
Sec. 14-810. Reserved.
Sec. 14-811. Reserved.
Sec. 14-812. Reserved.
Sec. 14-813. Reserved.
Sec. 14-814. Reserved.
Sec. 14-815. Reserved.
Sec. 14-816. Reserved.
Sec. 14-817. Reserved.
Sec. 14-818. Reserved.
Sec. 14-819. Reserved.
Sec. 14-820. Reserved.
Sec. 14-821. Reserved.
Sec. 14-822. Reserved.
Sec. 14-823. Reserved.
Sec. 14-824. Reserved.

Sec. 14-825. Reserved.
Sec. 14-826. Reserved.
Sec. 14-827. Reserved.
Sec. 14-828. Reserved.
Sec. 14-829. Reserved.
Sec. 14-830. Reserved.
Sec. 14-831. Reserved.
Sec. 14-832. Reserved.
Sec. 14-833. Reserved.
Sec. 14-834. Reserved.
Sec. 14-835. Reserved.
Sec. 14-836. Reserved.
Sec. 14-837. Reserved.
Sec. 14-838. Reserved.
Sec. 14-839. Reserved.
Sec. 14-840. Reserved.
Sec. 14-841. Reserved.
Sec. 14-842. Reserved.
Sec. 14-843. Reserved.
Sec. 14-844. Reserved.
Sec. 14-845. Reserved.
Sec. 14-846. Reserved.
Sec. 14-847. Reserved.
Sec. 14-848. Reserved.
Sec. 14-849. Reserved.

ARTICLE XI. PUBLIC ART PROGRAM

----- *Editor's note—Ord. No. 174-00, passed 4-24-00, repealed §§14-851-14-860 of this article and enacted new provisions as herein set out.

Sec. 14-850. Preamble.

It shall henceforth be the policy of the City to provide on an annual basis regular funding for the preservation, restoration and enhancement of its public art collection. This ordinance and the funding contemplated are in recognition of the fact that only by instituting a steady stream of funding for this effort and standing by that commitment, will the City over time be able to fulfill its role as steward of its public art collection and help nurture and enrich thereby the quality of life in this City.
(Ord. No. 174-00, 4-24-00)

Sec. 14-851. Purpose.

The purpose of the public art ordinance is to promote the educational, cultural, economic and general welfare of the City of

Portland by providing the means to fund the acquisition and care of art works by the City of Portland, which shall be the city's public art collection. The public art program seeks to:

- (a) Care for and maintain the public art collection of the City of Portland by documenting, preserving and restoring and repairing the collection;
- (b) Commission or acquire works of public art, and to seek donations of art work for the city's public art collection;
- (c) Provide curatorial expertise and project management for the care of Portland's public art collection;
- (d) Enhance and enrich the lives of the city's residents, visitors and employees by incorporating the visual arts into public spaces;
- (e) Contribute to the city's civic pride and sense of identity;
- (f) Increase access to works of art for residents and visitors to the area;
- (g) Enhance Portland's growing reputation as a city which celebrates the arts;
- (h) Celebrate the multi-cultural and diverse character of Portland's communities with place specific art; and
- (i) Encourage collaboration between artists, landscape architects, urban planners, architects, engineers and other designers.

(Ord. No. 246-91, 3-11-91; Ord. No. 174-00, 4-24-00; Ord. No. 140-08/09, 1-21-09)

Sec. 14-852. Definitions.

- (a) For the purposes of this section, *art work* shall include:
 - 1. Sculpture, statues or monuments in any material or combination of materials;
 - 2. Painting;
 - 3. Graphic arts, printmaking and drawing;

4. Photography;
5. Crafts in clay, fiber and textiles, wood, metal, plastics, glass and other materials; and
6. Mixed media, any combination of forms or media, including collage.
- (7) Functional art such as street furniture, as defined on page two of the Portland public art committee guidelines.
- (8) Environmental art consisting of landforms and artistic landscape composition.
- (b) For the purposes of this ordinance *public art* shall not include:
 1. Reproductions by mechanical or other means of original works of art, except for limited editions, controlled by the artist, of original prints, cast sculptures, photographs or other works of art.
 2. Decorative, ornamental, or functional elements which are designed by the building architect or consultants engaged by the architect which are a traditional and typical element of architectural design.
 3. Those elements generally considered to be conventional components of a landscape architectural design including, but not limited to, plant materials, pools, paths, benches, receptacles, fixtures and planters except as allowed in subsection (a), paragraphs 7 and 8 above.
 4. "Art objects" which are mass produced or of a standard design, such as playground sculpture or fountains, except pieces of historical significance to the city.
 5. Directional or other functional elements, such as supergraphics, signage, color coding and maps, except where sculptural pieces are used to define gateways in the city.
 6. Electrical, water or mechanical service for activation of the work.
 7. Exhibitions and educational programs related to the work.

8. Performing Arts.

9. Art that displays slogans, logos, mascots or commercial advertising.

(c) *Public art collection*: Art objects that are owned by the City of Portland which are permanently installed in public, accessible locations. Permanent public art must be located in a public place with public visibility and impact, and shall have a permanence at least comparable to associated capital projects.

(d) *Public art guidelines*: The regulations adopted by the committee and approved by the city council which establish procedures to carry out the purpose of this ordinance. The guidelines shall include but not be limited to criteria for selection of artists and art works, maintenance of a file of interested artists, procedures for artistic competitions, and requirements for the maintenance of works of art.

(Ord. No. 246-91, 3-11-91; Ord. No. 174-00, 4-24-00; Ord. No. 140-08/09, 1-21-09)

Sec. 14-853. Funding.

(a) Establishment of Public Art Fund

1. The city shall establish a special revenue fund designated as the "public art fund" in the city treasury from which expenditures may be made in accordance with this ordinance. The public art fund shall contain a capital account to fund permanent public improvements in the form of the purchase, acquisition or commission of new public art, or major restorations, and an operations and maintenance account. Authorized expenditures include, but are not limited to, associated site installation costs such as lighting and landscaping, and costs associated with the commission engineering, contract administration, unveiling and dedication activities. Also authorized are expenditures associated with preservation, conservation and repair of existing public art. Capital funds may come from any source, including the sale of general obligation bonds. The city's capital improvement program shall contain an annual appropriation for the public art fund calculated in accordance with paragraph (b) below. Funds for the operation and maintenance account may come from any source except bonds.

(b) City Funded Projects.

1. A percentage of the city's capital improvement program (CIP) shall be calculated and appropriated annually to the Portland public art fund. The annual appropriation shall be .5% of the total annual CIP.
 2. Nothing contained herein shall preclude funding the acquisition of art for municipal property in other ways.
- (Ord. No. 246-91, 3-11-91; Ord. No. 174-00, 4-24-00; Ord. No. 140-08/09, 1-21-09)

Sec. 14-854. Administration.

(a) The city public art program shall be administered by the public art committee whose members shall be appointed by the city council, and shall have the following responsibilities:

1. Develop an annual art plan for Portland which shall be presented to the city council for approval.
2. Establish such guidelines as are necessary to carry out the purpose of the ordinance. The guidelines shall include but not be limited to criteria for selection of artists and art work, maintenance of a file of interested artists, review criteria for proposed gifts of art work to the city, procedures for artistic competitions, and requirements for the maintenance of art work. Any and all guidelines or changes to guidelines shall be placed on a city council agenda as a communication. The guideline shall take effect forty-five (45) days after the date of placement on the council agenda, unless the city council takes official action disapproving the guidelines, in whole or in part, prior to the expiration of the 45-day period. If a part of a guideline is vetoed, the remainder shall continue in effect. Any guideline adopted, which is not required by the statutes of the state or by this article, may be waived by the chair upon good cause being shown.
3. Recommend to the city council the expenditure of funds for the acquisition or commissioning of public art, for maintenance of public art and for administration of this program.
4. Seek private donations of funds and/or works of art for the purposes of expanding the public art collection, or

the maintenance of the collection.

5. Oversee the maintenance, care and repair of the public art collection.
6. Review the appropriateness of proposed public art which is intended to fulfill all or part of the contribution required by this article.
7. Review potential gifts of art to the city on city property, and assist in the development process of such gifts, in accordance with the *Guidelines for the City of Portland Public Art Committee*.
8. Recommend appropriate locations and accessibility to the public for permanent art, with suggestion as to the type of art which is appropriate.
9. Solicit advice from arts professionals, the business community, and from local residents on the appropriateness of proposed art.
10. Recommend revisions to policies and guidelines for the improved implementation of this program.
11. Develop an annual art plan for Portland.
12. Ensure that the use of funds collected under this program will increase the amount of art in the city that is available to the public.

(b) Public art committee - structure.

1. The public art committee shall be composed of eleven voting members who are appointed by the city council. The city council shall appoint one of its members, the city manager shall recommend a member, and the Portland arts and cultural alliance shall recommend one of its members to serve on the public art committee. The city council shall appoint the remaining six members who shall be volunteers and have interest and/or expertise in public art. Such experience may include, but shall not be limited to, education and experience as an architect, a landscape architect, a professional curator, a professional artist and/or an art educator. Persons appointed to the public art committee must live or work

in Portland and shall be appointed through the city's annual appointment process.

2. Each public art committee member shall serve for a period of three years. The appointments shall be staggered so that three appointments terminate each year.
3. Whenever a vacancy shall occur, the vacancy shall be filled by the city council.
4. The public art committee shall adopt its own rules for the conduct of its business not inconsistent with the statutes of the state and this article. Any and all rules or changes to rules shall be placed on a city council agenda as a communication. The rule or rules shall take effect forty-five (45) days after the date of placement on the council agenda, unless the city council takes official action disapproving the rules, in whole or in part, prior to the expiration of the 45-day period
5. The members of the public art committee shall annually elect one (1) of their members as a chair to preside at all meetings and hearings and to fulfill the customary functions of that office, and another of their members as vice-chair.

(Ord. No. 246-91, 3-11-91; Ord. No. 174-00, 4-24-00; Ord. No. 14-08/09, 1-21-09)

Sec. 14-855. Reserved.
Sec. 14-856. Reserved.
Sec. 14-857. Reserved.
Sec. 14-858. Reserved.
Sec. 14-859. Reserved.
Sec. 14-860. Reserved.

ARTICLE XII. RELOCATION OF DISPLACED TENANTS

Sec. 14-861. Purpose.

The purpose of this article is to encourage the retention of a diverse housing supply throughout the downtown and in areas readily accessible to the downtown; to ensure that persons displaced as the result of redevelopment of residential units to nonresidential uses within the B-3 downtown business zone are treated fairly and consistently; and to ensure that persons so displaced will be relocated at the reasonable expense of the developer to comparable

housing at a location providing comparable access to services and amenities.

(Ord. No. 246-91, 3-11-91)

Sec. 14-862. Notice and eligibility for relocation assistance.

When a proposed development will result in the displacement of residents of an existing structure, the developer of the property shall give all tenants written notice as set forth below and shall provide relocation assistance as set forth below for any tenant whose gross income is eighty (80) percent or less of the median income of the Portland SMSA, adjusted for family size, as determined by the U.S. Department of Housing and Urban Development at the time the developer gives the tenant written notice of intent to cause removal of the residential unit. Such written notice shall be given to the tenant at least one hundred twenty (120) days before the tenant shall be required to vacate the premises and shall contain the following statement:

The developer of this project is required by law to assist you in finding another place to live and in determining your eligibility for relocation payments. If you have questions about your rights under the law, or complaints about the way you have been treated by the developer, you may contact the Department of Planning and Urban Development, City of Portland, 389 Congress Street, Portland, Maine 04101 (telephone 874-8300).

(Ord. No. 246-91, 3-11-91)

Sec. 14-863. Relocation assistance for all tenants.

The developer shall provide, upon demand, assistance to all tenants who will be displaced by the development in the form of referrals to other reasonable accommodations and in determining the tenants' eligibility for relocation payments as provided herein.

(Ord. No. 246-91, 3-11-91)

Sec. 14-864. Relocation payments for eligible tenants.

The developer shall make relocation payments to eligible tenants in accordance with the schedule adopted by the city council.

(Ord. No. 246-91, 3-11-91)

***Editor's Note:** By separate order (Order 126-04/05, 6-6-05) the City Council passed the adoption of relocation payments for qualifying displaced tenants in the B-3 zone as follows:

WHEREAS, the Portland City Code §14-864 (adopted in 1991) requires a developer to provide financial and other assistance to relocate qualifying residential tenants in the B-3 zone, where such tenants are displaced due to the conversion of residential property to nonresidential property; and

WHEREAS, the Portland City Council was charged with adopting a schedule of relocation payments to be utilized in such circumstances; and

WHEREAS, the schedule, if any, adopted at that time cannot be located;

WHEREAS, the Housing Committee recommends the adoption of a payment schedule equal to two months rent paid by a qualifying tenant.

NOW THEREFORE, it is hereby ordered that the City Council hereby adopts the following schedule pursuant to §14-864 of the Portland City Code:

SCHEDULE OF RELOCATION PAYMENTS FOR ELIGIBLE TENANTS

The developer shall, before the tenant is required by the developer to vacate, make a cash payment to the tenant in an amount equal to the amount of rent paid by the tenant for the immediately preceding two (2) months.

Sec. 14-865.	Reserved.
Sec. 14-866.	Reserved.
Sec. 14-867.	Reserved.
Sec. 14-868.	Reserved.
Sec. 14-869.	Reserved.
Sec. 14-870.	Reserved.
Sec. 14-871.	Reserved.
Sec. 14-872.	Reserved.
Sec. 14-873.	Reserved.
Sec. 14-874.	Reserved.
Sec. 14-875.	Reserved.
Sec. 14-876.	Reserved.
Sec. 14-877.	Reserved.
Sec. 14-878.	Reserved.
Sec. 14-879.	Reserved.
Sec. 14-880.	Reserved.
Sec. 14-881.	Reserved.
Sec. 14-882.	Reserved.
Sec. 14-883.	Reserved.
Sec. 14-884.	Reserved.
Sec. 14-885.	Reserved.
Sec. 14-886.	Reserved.
Sec. 14-887.	Reserved.

Sec. 14-888. Reserved.
Sec. 14-889. Reserved.
Sec. 14-890. Reserved.
Sec. 14-891. Reserved.
Sec. 14-892. Reserved.
Sec. 14-893. Reserved.
Sec. 14-894. Reserved.
Sec. 14-895. Reserved.
Sec. 14-896. Reserved.
Sec. 14-897. Reserved.
Sec. 14-898. Reserved.
Sec. 14-899. Reserved.

ARTICLE XIII. RESERVED*

*Editor's note--Ord. No. 127-98, adopted Oct. 19, 1998, repealed Art. XIII, §§ 14-900, 14-901, relative to moratorium on correctional prerelease facilities, which derived from Ord. No. 26-96, adopted June 17, 1996.

Sec. 14-900. Reserved.
Sec. 14-901. Reserved.

ARTICLE XIV. MORATORIUM ON DEMOLITION OF HOUSING UNITS

*Editor's Note: Order No. 221-99 adopted February 1, 1999 enacted a moratorium on the demolition of buildings in the area of Bayside. The moratorium was in effect January 1, 1999 through May 1, 1999.

Sec. 14-902. Findings and declaration of emergency.

The city council hereby finds and declares:

- (a) The strong economy has increased the demand for housing beyond the supply available in the city and the surrounding area;
- (b) The rental vacancy rate in the city has been extremely tight (0 to 2%) for the last 3 years, well below the vacancy rate which is considered healthy for a community, allowing choice and maintaining moderate prices;
- (c) The lack of supply has pushed rent levels beyond the level which low and moderate income families and individuals can afford;

- (d) Due to high cost of construction and the lack of land, very few new affordable multifamily units are being built in the city;
- (e) The lack of supply of affordable housing and high rents hurt the vulnerable populations the most, e.g. those with disabilities, the working poor and the elderly;
- (f) Several pending developments in the City contemplate the demolition of residential property or its conversion to nonresidential use;
- (g) Housing, because of its scarcity and high costs, is an extremely valuable resource in the City of Portland. Once lost, it is very difficult to replace; and
- (h) The City currently has under consideration methods to preserve and expand existing housing as well as proposals to require the replacement of housing which is either demolished or converted to nonresidential use:

Now, therefore, in order to permit the development and implementation of methods which will preserve Portland's existing housing stock as well as to require replacement of dwelling units which are demolished or converted to nonresidential use, it is found and declared that a temporary moratorium is necessary to allow the City to accomplish those goals.

(Ord. No. 26-02/03, 8-5-02)

Sec. 14-903. Moratorium on demolition of housing units.

Notwithstanding any other provisions of this Code, including, but not limited to, the provisions of Chapters 6 and 14, no permit shall be issued or granted and no new applications shall be accepted by the Building Authority or the Planning Authority from and after August 5, 2002 up to and including Monday, October 7, 2002, for the demolition of any dwelling or dwelling units, including single-family, two-family, and multi-family dwellings, lodging houses, sheltered care group homes, and rooming units anywhere within the City of Portland.

It is further found and determined that it is necessary that this article take effect immediately as an emergency, pursuant to article II, section 8 of the City Charter.

(Ord. No. 26-02/03, 8-5-02)

Sec. 14-904. Exceptions.

(a) The moratorium hereunder shall not apply to any building found to be a dangerous building pursuant to 17 M.R.S.A. Secs. 2851 et seq.

(b) The moratorium hereunder shall not apply to property which, although designed and intended for residential use, is, at the time of adoption of this section, a legally grandfathered non-residential use.

(c) Any demolition or conversion approved by the Portland Planning Board under the Site Plan Review and Conditional Use Standards of Chapter 14 of the Portland Code prior to July 1, 2002, so long as such approval is valid and in effect on the date of this ordinance.

(Ord. No. 26-02/03, 8-5-02)

***Editor's Note:** Article XV., Sections 14-905 to 14-908 were repealed per council order 80-18/19 passed on 10/15/2018 in order to be updated and moved out of Chapter 14. An amended ordinance called the Waterfront Development Growth Area was enacted as Portland City Code Chapter 8.

***Editor's Note:** Sec. 14-909 *Waterfront economic development advisory committee* was repealed in its entirety per council order no. 116-08/09 and passed on 12/1/08.

Sec. 14-905. Reserved.
Sec. 14-906. Reserved.
Sec. 14-907. Reserved.
Sec. 14-908. Reserved.
Sec. 14-909. Reserved.
Sec. 14-910. Reserved.
Sec. 14-911. Reserved.
Sec. 14-912. Reserved.
Sec. 14-913. Reserved.
Sec. 14-914. Reserved.
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Sec. 14-998. Reserved.
Sec. 14-999. Reserved.

ARTICLE XVI. CITIZEN ADVISORY COMMITTEE

Sec. 14-1000. Purpose.

Pressures of growth in the community strain the relationship between neighborhoods and business and therefore a challenge exists to improve communication with, and timely participation by, Portland residents in the planning and development review process. There exists within Portland strong common ground and a desire to address the planning development challenges by constructively working and communicating with the public. The City desires a committee to meet on a quarterly basis that will 1) comment upon the integration and consistency of neighborhood plans with the Comprehensive Plan, 2) facilitate the exchange of information between existing and future planning

task forces, 3) collate proposed, revised or amended components of the Comprehensive Plan to ensure internal consistency, 4) submit comments upon updates of and additions to the Comprehensive Plan to the Planning Board for further review, and 5) respond to other undertakings as directed by the City Council.

(Sub. Ord. 222-01, 4-2-01; Ord. No. 93-03/04, 11-03)

Sec. 14-1001. Created.

There is hereby created a citizen advisory committee.

(Sub. Ord. 222-01, 4-2-01)

Sec. 14-1002. Composition.

The Citizen Advisory Committee shall be comprised of one (1) representative appointed by each City Councilor, as well as an individual representative of the Islands who shall be appointed by the Mayor.

Fourteen (14) additional members of the Citizen Advisory Committee, appointed by the mayor subject to Council approval, shall represent each of the following areas:

Housing	Business and Industry
Social Services	Youth
Parks and Recreation	Historic Preservation
Transportation	Education
Public Safety	Arts
Development	Waterfront
Open Space, Water Quality, and Trails	Residential Renter

All members of the Citizen Advisory Committee shall be Portland residents and all appointments shall be approved by the Council with the staggered terms of membership set by Council order.

(Sub. Ord. 222-01, 4-2-01; Ord. No. 93-03/04, 11-03-03)

Sec. 14-1003. Chair

The committee shall be chaired by a City Councilor and one (1) member of the Planning Board.

(Sub. Ord. 222-01, 4-2-01)

ARTICLE XVII. Impact Fees.

14-1004. Authority.

This article is enacted pursuant to the authority of 30-A M.R.S. § 4354 and 30-A M.R.S. § 3001.
(Ord. No. 98-18/19, 11-19-2018)

14-1005. Purpose.

The purpose of these impact fee provisions is to ensure that new development in the City of Portland bears a proportional or reasonably-related share of the cost of new, expanded, or replacement infrastructure necessary to service that development through:

(a) The payment of impact fees dedicated to funding improvements made necessary by development; or

(b) The construction of improvements as provided for herein.
(Ord. No. 98-18/19, 11-19-2018)

14-1006. Applicability.

The following shall be subject to impact fees, with the exception of municipal buildings, which shall be considered exempt:

(a) Any new building or addition to existing buildings which results in net new residential dwelling units, non-residential building square footage, or water/wastewater meters; and

(b) Any change of use which results in a net increase in impact fee per *Section 14-1007(f)*.
(Ord. No. 98-18/19, 11-19-2018)

14-1007. Calculation of Impact Fee.

(a) *In General.* Impact fees shall be calculated based on the impact fee schedule in effect at the time of submittal of a complete application for a building permit.

(b) *Determination of Use.* The determination of the applicable land use category in the impact fee schedule shall be made by the Department of Permitting and Inspections with reference to the City of Portland's most recent *Impact Fee Study*. If the proposed development is of a type not listed in the impact fee schedule, then the impact fees applicable to the most nearly comparable type of land use listed in the impact fee schedule shall be used.

(c) *Mixed Use Development.* In the event that there is more than one use within a building, impact fees shall be calculated separately for each use.

(d) *Redevelopment*. In calculating the impact fee for a new building that involves the full or partial demolition of a building housing an existing, legally established use or uses, such new building shall be credited with an amount equal to the fee that would have been charged to the use or uses which occupied the structure at the time of demolition permit. If the impact fee calculation for the post-development condition is greater than the credit, the applicant shall pay the difference. If the impact fee calculation for the post-development condition is less than the credit, then the applicant shall not be required to pay an impact fee. The City shall not grant credits for demolitions for which a permit was issued more than 12 months prior to the complete application for a building permit.
(Ord. No. 98-18/19, 11-19-2018)

TABLE 14-1007(e)1: Parks & Recreation and transportation impact fee schedule¹

Land Use Type	Unit Measure	of	Parks/Recreation Impact Fee	Transportation Impact Fee
Single-family/Two-family	per unit		\$1,126	\$2,159
Multi-family (3+ units)	per unit		\$752	\$1,023
Retail/Service	per 1,000 SF GFA		\$534	\$8,248
Office	per 1,000 SF GFA		\$677	\$2,800
Industrial	per 1,000 SF GFA		\$363	\$1,130
Institutional	per 1,000 SF GFA		\$645	\$3,082
Hotel/Motel	per room		\$875	\$2,404
Land use types included in the impact fee schedule correspond to those in the City's most recent <i>Impact Fee Study</i> .				

(e) *Building Additions.*

In calculating the impact fee for building additions, each developed property shall be credited with an amount equal to the fee that would have been charged to the existing use at the time of the addition of floor area. If the impact fee calculation for the post-development condition is greater than the credit, the applicant shall pay the difference. If the impact fee calculation for the post-development condition is less than the credit, then the applicant shall not be required to pay an impact fee.

TABLE 14-1007(e)2: WASTEWATER IMPACT FEE SCHEDULE

Meter Size	Capacity Ratio	Impact Fee
5/8 inch	1.00	\$1,886
3/4 inch	1.50	\$2,829
1 inch	2.50	\$4,715
1 1/2 inches	5.00	\$9,430
2 inches	8.00	\$15,088
3 inches	16.00	\$30,176
6 inches	50.00	\$94,300
8 inches	80.00	\$150,880

(f) *Changes of Use.* In calculating the impact fee for changes of use, each developed property shall be credited with an amount equal to the fee that would have been charged to the existing use at the time of application for building permit. If the impact fee calculation for the proposed use is greater than the credit, the applicant shall pay the difference. If the impact fee calculation for the proposed use is less than the credit, then the applicant shall not be required to pay an impact fee. The City shall not grant credits for uses which have been discontinued for a period of 12 months or more prior to the complete application for a building permit.

(Ord. No. 98-18/19, 11-19-2018)

14-1008. Annual Adjustment of Impact Fee.

To account for inflation, there shall be an automatic annual increase in the impact fee schedule reflected in this article every January 1 based on the change in the construction cost index as published by *Engineering News Record*. The fee adjustment shall be calculated by dividing the index amount published on January 1 of the current year by the index amount published on January 1, 2018 and multiplying the resulting ratio by each fee amount. Annual adjustments shall be made available for public reference.

(Ord. No. 98-18/19, 11-19-2018)

14-1009. Modification of Impact Fees.

(a) A required impact fee may be modified, in whole or in part, by formal vote of the Planning Board in cases when an applicant is otherwise before the Planning Board, or by the Planning Authority in all other cases, if the reviewing authority finds that:

1. The developer or property owner who would otherwise be responsible for the payment of the impact fee voluntarily agrees to make infrastructure improvements for which the impact fee would be collected or an equivalent improvement approved by the reviewing authority; or
2. The developer or property owner is required, as part of a development approval by the City or a state or federal agency, to make or to pay for infrastructure improvements for which the impact fee would be collected or an equivalent improvement.

Credit amounts shall be determined based on plans, details, and cost estimates for the proposed infrastructure improvements for which the credit is requested. Such plans, details, and cost estimates shall be prepared by a licensed professional engineer and submitted at the time of site plan, subdivision, or building permit application. The applicant shall pay for any third-party review of plans, details, or cost estimates. On-site or immediately adjacent improvements providing direct service to a site as required under subdivision or site plan regulations shall not be considered eligible under this section.

(b) The Planning Board may by formal vote modify the payment of a required impact fee, in whole or in part, if it finds that documentation is provided to demonstrate that a proposed use will impose no or substantially-reduced demands on capital facilities for which impact fees have been adopted. Such documentation shall be prepared by a licensed professional engineer and include a written analysis of the demand for capital facilities generated by the proposed use based on industry standards and the most recent *Impact Fee Study*. Documentation shall be submitted at the time of site plan, subdivision, or building permit application. The applicant shall pay for any third-party review of plans, details, or cost estimates.

(Ord. No. 98-18/19, 11-19-2018)

14-1010. Reduction in Fees For Affordable Housing.

Any residential development including low-income or workforce housing units and qualifying as an eligible project under Division

30 shall receive a reduction of fees in accordance with Section 14-486.

(Ord. No. 98-18/19, 11-19-2018)

14-1011. Collection of Impact Fee.

The City of Portland shall not issue any certificate of occupancy required under the Land Use Code until the applicant has paid any impact fees required by this article.

(Ord. No. 98-18/19, 11-19-2018)

14-1012. Segregation of Impact Fees from General Revenues.

Impact fees collected pursuant to this article shall be maintained in separate, non-lapsing impact fee accounts for each of the facilities for which impact fees are assessed, and shall be segregated from the City's general revenues. These accounts shall be dedicated for funding of the improvements for which the fee is collected, as determined through the City's most recent *Impact Fee Study*. Funds from these accounts shall be distributed to City departments solely for the purpose of capital projects identified in the City of Portland's most recent *Impact Fee Study*.

(Ord. No. 98-18/19, 11-19-2018)

14-1013. Use of Impact Fees.

Impact fees collected by the City pursuant to this article may be used only for financing facility improvements which the City Council, through the City of Portland's most recent *Impact Fee Study*, has determined are made necessary by new development. The City Council has determined that fees imposed by schedules in this article are reasonably related to the demands created by new development. Impact fees collected pursuant to this article shall be used exclusively for capital improvements, and the City of Portland shall expend funds collected from impact fees solely for the purposes for which they were collected.

(Ord. No. 98-18/19, 11-19-2018)

14-1014. Refund of Unused Impact Fees.

Impact fees collected pursuant to this article shall be used by the City according to the schedules for the completion of specific capital improvements as specified in the City of Portland's most recent *Impact Fee Study*, but in no event later than ten years after the date upon which the impact fee was collected. Any impact fees which are not so used and any impact fees collected which exceed the City's actual costs of implementing the infrastructure improvements for which such fees were collected shall be refunded.

Refunds shall be paid to the owner of record of the property for which the impact fee was collected, determined as of the date the refund is made.

(Ord. No. 98-18/19, 11-19-2018)

14-1015. Review and Revision.

The impact fees established in this article are based upon the best estimates of the costs of the construction of the facilities for which the fees are collected as determined through the City's most recent *Impact Fee Study*. The Council may, by amendments to this article, change the amounts of the impact fees from time to time as warranted by new information or changed circumstances.

(Ord. No. 98-18/19, 11-19-2018)

14-1016. Administrative Rules and Regulations.

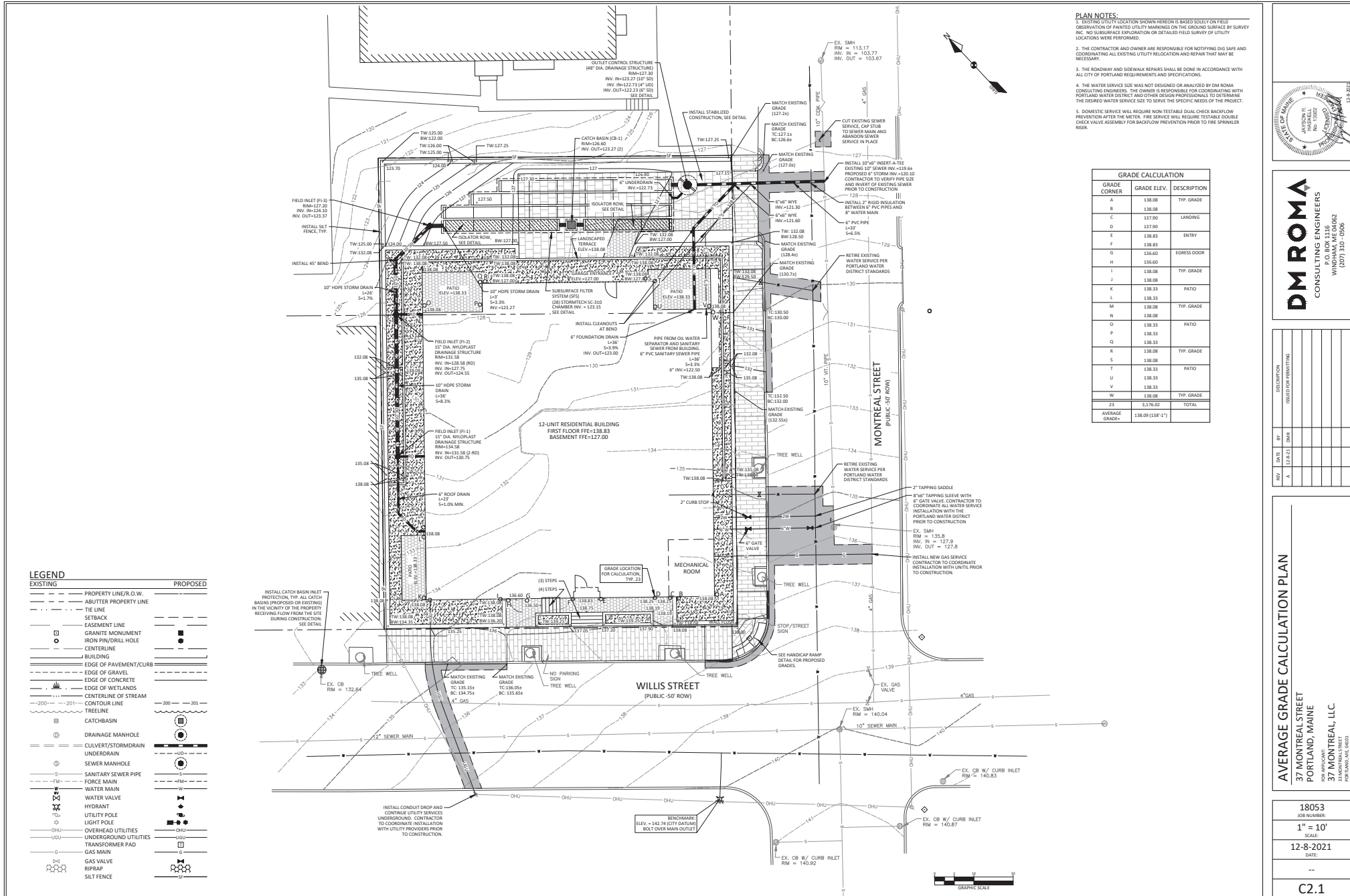
The Planning Board is hereby authorized to develop rules and regulations governing the administration of impact fees collected pursuant to this article.

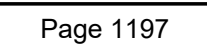
(Ord. No. 98-18/19, 11-19-2018)

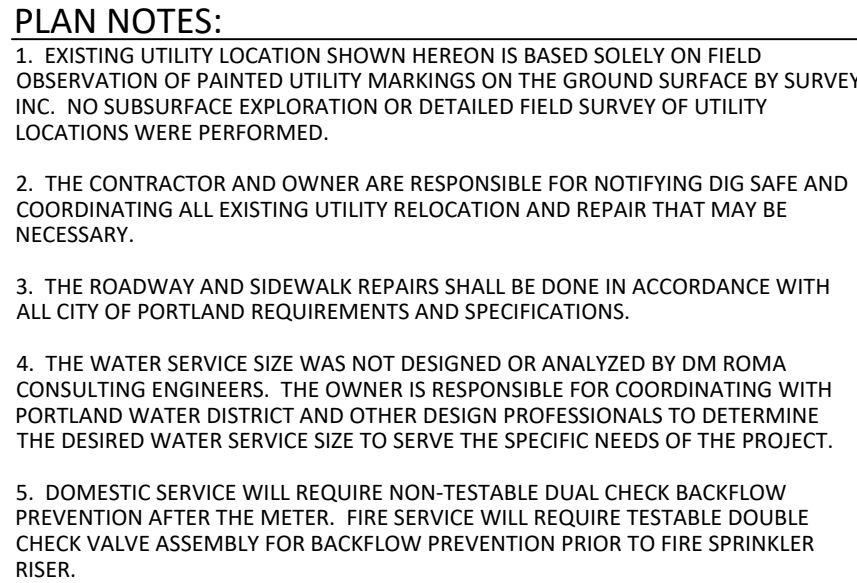
14-1017. Effective Date.

The provisions of this article shall apply to all building permit applications submitted following the effective date of this article, with the exception that any development for whom site plan approval has been granted at the time of the effective date of this article shall be considered exempt. Master Development Plan approval prior to the effective date shall not confer exempt status.

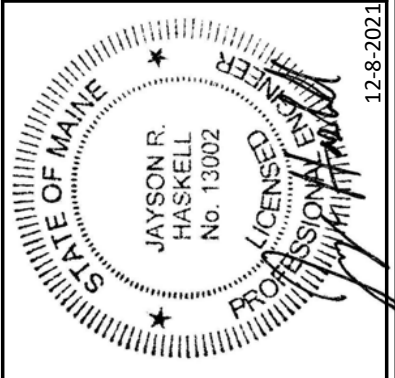
(Ord. No. 98-18/19, 11-19-2018)







GRADE CALCULATION		
GRADE CORNER	GRADE ELEV.	DESCRIPTION
A	138.08	TYP. GRADE
B	138.08	
C	137.90	LANDING
D	137.90	
E	138.83	ENTRY
F	138.83	
G	136.60	EGRESS DOOR
H	136.60	
I	138.08	TYP. GRADE
J	138.08	
K	138.33	PATIO
L	138.33	
M	138.08	TYP. GRADE
N	138.08	
O	138.33	PATIO
P	138.33	
Q	138.33	
R	138.08	TYP. GRADE
S	138.08	
T	138.33	PATIO
U	138.33	
V	138.33	
W	138.08	TYP. GRADE
23	3,176.02	TOTAL
AVERAGE GRADE=	138.09 (138'-1")	



DM ROMA
CONSULTING ENGINEERS
P.O. BOX 1116
WINDHAM, ME 04062
(207) 310 - 0506

[illegible]

AVERAGE GRADE CALCULATION PLAN

337 MONTREAL STREET
PORTLAND, MAINE

FOR APPLICANT:

337 MONTREAL, LLC.
333 MONTREAL STREET
PORTLAND, ME. 04101

3 / MON
PORTLAN
FOR APPLICANT:

18053
JOB NUMBER:

1" = 10'

12-8-2021
DATE:

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C2.1

Kaplan
Thompson
Architects

102 Exchange Street
Portland, ME 04101
(207) 842-1888
kaplanthompson.com

PROJECT

19 WILLIS
STREET

FORMERLY
33 - 37 MONTREAL STREET
PORTLAND, ME 04101

CIVIL

DM Roma

PO Box 1116,
Windham, ME 04062
P: (207) 310-050

STRUCTURAL

L & L Structural
Engineering Services

6 Q Street
South Portland, ME 04106
P: (207) 767-4830

LANDSCAPE

Soren Deniord
Design Studio

43 Wellwood Road
Portland, ME 04103
P: (207) 400-2450

LICENSED ARCHITECT

JAMES JESSE
THOMPSON
No. 3275

STATE OF MAINE

NOT FOR CONSTRUCTION

PROJECT MTL

DATE November 03, 2021

REVISED 1

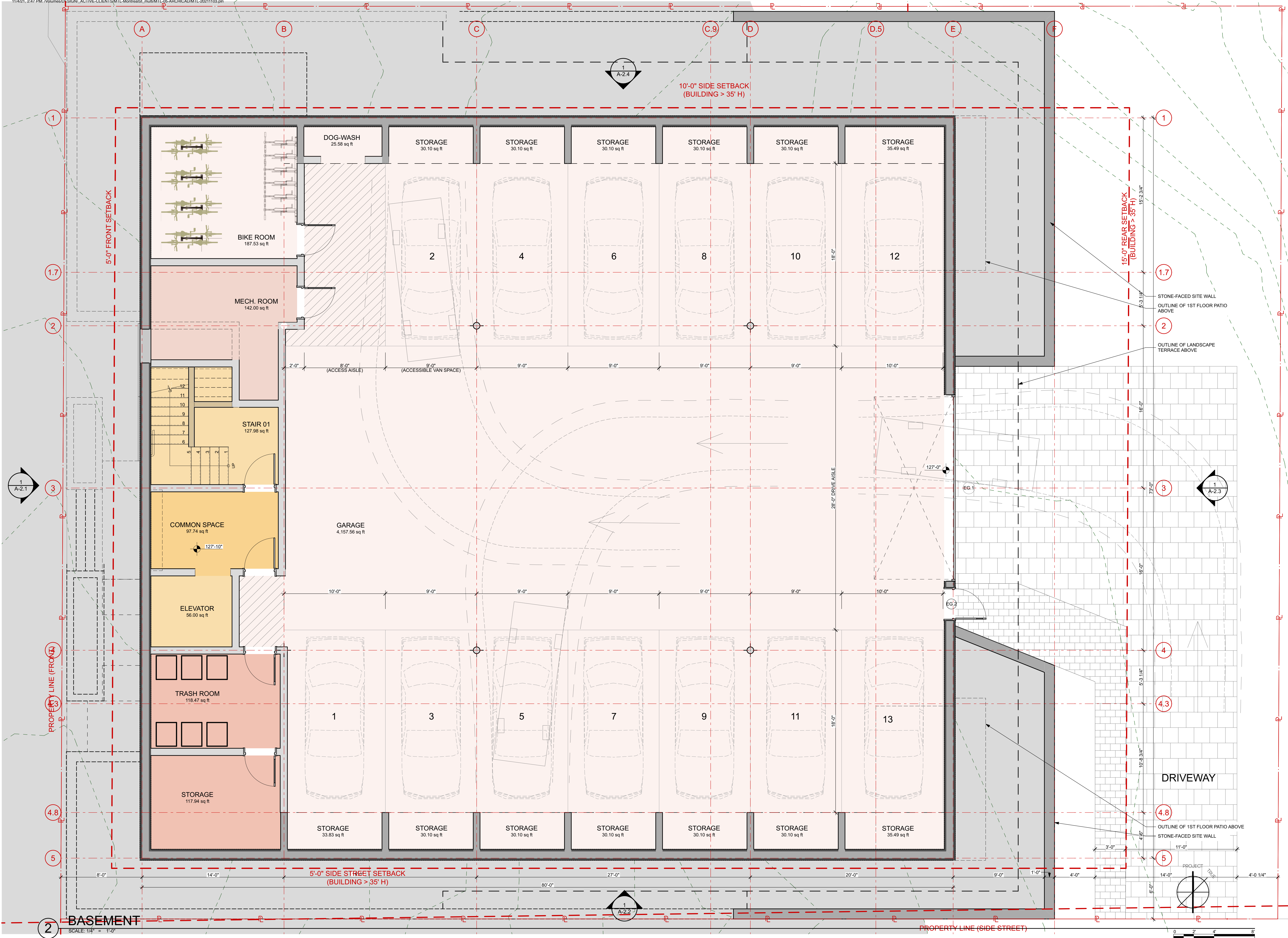
REVISED 2

DRAWN BY RL, BB

PHASE For PB Review

BASEMENT PLAN

A-1.1



Planning and Urban Development Department Planning Division



Subject: Multi-family Design Review – 33 Montreal Street

Written by: Caitlin Cameron, Urban Designer

Date of Review : Tuesday, May 18, 2021

A design review for the proposed new construction of a multi-family project at 33 Montreal Street was performed by Caitlin Cameron, Urban Designer, Andrew Tufts, Planner, and Deb Andrews, Historic Preservation Program Manager. The project, because the lot is over 10,000 sf, was reviewed against the *Multiple-Family* Standards (City of Portland Design Manual).

The design review authority is with the Planning Board as part of the Level III Site Plan process with an advisory Historic Preservation review (within 100' of a historic district).

Design Review takes into consideration:

- Compatibility with surrounding buildings and general character of the established neighborhood
- Building type and use
- Unique characteristics of the site

The proposal is on a transitional site between a more recent context of Promenade Towers and MacArthur Gardens – two large/mid-scale apartment complexes –compared with the predominant, traditional fabric found a block away.

The predominant, character-defining elements of residential architecture in the neighborhood context include vertical proportion massing, simple roof forms, vertical windows with local symmetry, two or three-bay façade composition, and simple material palettes – predominantly clapboard with masonry foundation.

Design Review Comments (*red text denotes principles or standards that are not met, request for more information or questions*):

Please provide the following information:

- Neighborhood context plan that shows the footprint of this building compared with those in the surrounding blocks
- Renderings showing the building in context with adjacent buildings
- Material samples or examples

Multiple-Family Design Standards

- 1) *The exterior design . . . shall be designed to complement and enhance the nearest residential neighborhood. The design of exterior facades shall provide positive visual interest by incorporating appropriate architectural elements.*

The project exemplifies a single design expression in its massing, form, material application, and fenestration and articulation elements.

The overall massing and form of the building is a simple box with flat roof consistent with the simple forms and massing found in neighborhood multi-family buildings. The building has a clear primary and secondary façade – also a predominant characteristic of corner buildings in this context. Scale and visual interest are created through contemporary versions of bays and balconies and articulation elements such as a strong cornice line, window panel details, and balcony railings. These design elements are consistent with and complement the nearest residential neighborhood by referencing common patterns and elements while remaining a contemporary expression.

The roof form is a simple, consistent flat roof – typical of multi-family buildings and not complex. The rooftop appurtenances are centralized, set back from the roof edge and screened. The grade and location of the site is such that views to the roof are unlikely from the street or long views.

The project uses a simple material palette of shingle and panel applied consistently throughout the building creating a simple, cohesive design. This is typical of the context and staff agree this contributes to complementing and enhancing the neighborhood. The fine grain of the material is appropriate for a residential building and is compatible with the materials in this context. **Staff request more information about the accent material used on the bays – ideally, this material would have the same character and finish as the shingle but with a different texture, orientation and/or scale.**

Staff would also like more information about the stone proposed for the planters/terraces.

The façades generally relate to the context through the regular pattern/rhythm of windows; the window types are limited and placed in a regular rhythm consistent with the traditional residential buildings. The window patterns also help to distinguish the front and side façades; as the project turns the corner, the façade composition is appropriately treated as a more secondary façade. The introduction of bays on the front and side add massing variation, articulation, and scale in a way that is appropriate for residential character in this context and that creates balance in the façades.

The entrance should have an approachable, residential character. The entryway is oriented to the street and was revised to provide emphasis as well as a transitional porch-like space. The steps from the sidewalk creates a relationship of the entrance to the sidewalk similar to a residential stoop or porch. The canopy was revised to be more substantial than the bay window overhang and posts add to a residential porch character.

Stacked balconies typically are aligned with the façade plane. **The balconies extend beyond the roofline and façade plane and exacerbate the scale on the downhill side of the building.** Staff recommend that the balconies be pulled in closer to the building or aligned with the façade plane on the side façade to mitigate the scale impact of the building and create relationships similar to those found in the context. This is also important to not conflict with the angled bays now located on the side elevations. The Planning Board and public also commented on the looming aspect of the side/rear of the building which is exacerbated by the over-extended porches.

- 2) *The proposed development shall respect the existing relationship of buildings to public streets. New development shall be integrated with the existing city fabric and streetscape including building placement, landscaping, lawn areas, porch and entrance areas, fencing, and other streetscape elements.*

The building placement is consistent with residential structures in the neighborhood – placed near the street with a small setback with planted edge. The garage is set back from the street and accessible from a side drive minimizing the impacts of parking on the streetscape.

The building's primary frontage is oriented to Willis Street with Montreal Street treated as a clearly secondary façade. It is typical for the secondary façade to be the longer façade, on the sloping street, and without access points.

The landscape buffer between the building and the sidewalk is appropriate to provide privacy and transition between the public and private realms. The grade change on Montreal Street is challenging and steps/ramp with a retaining wall and planter areas.

The building interface was modified on Willis to create a more approachable and residential character to the relationship between the building and sidewalk. The configuration of planters, steps, and ramp help provide a sense of privacy and transition without feeling institutional.

- 3) *Open Space*

Open space is provided primarily through balcony and terrace spaces for each unit.

- 4) *Ample light and air*

Adequately met

- 5) *Parking shall be arranged and landscaped to properly screen vehicles from adjacent properties and streets.*

Parking for this project is structured below the building and accessed by a side driveway. This driveway is visually screened from the neighboring property with a retaining wall.

- 6) *Multi-family dwellings shall not be converted to lodging houses.*

Not applicable

June 11 2021

Att. 9

RE: 33-37 MONTREAL STREET, PORTLAND

Attention: Andrew Tufts
Planner: Planning and Urban Development Department
City of Portland: 389 Congress Street 4th Floor, Portland, ME 04101

We have reviewed the City Staff comments of May 18, 2021, regarding our application for Multi-family Design Review for the above project.

Staff requests for information are noted below in italics. Project team responses are provided as follows.

Design Review Comments:

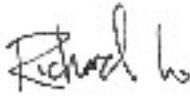
- *Please provide the following information:*
 - *Neighborhood context plan that shows the footprint of this building compared with those in the surrounding blocks*
 - *Renderings showing the building in context with adjacent buildings*
 - *Material samples or examples*
 - *Smaller file sizes for easier navigation*
- A context plan with the building footprint and a rendering-in-context were provided earlier for the previous building configuration. We are preparing revised versions with the current configuration for presentation at the next Planning Board hearing.
- Material samples can be presented at the Planning Board hearing.
- Smaller file sizes will be provided.

Multiple-Family Design Standards:

- *Staff request more information about the accent material used on the bays – ideally, this material would have the same character and finish as the shingle but with a different texture, orientation and/or scale.*
 - The bays are to be clad in material that matches the decorative accent panels below the windows, to provide continuity and a visual connection between the accent elements.
 - At an earlier Planning Board work shop the team presented samples of possible textured metal for the accent panels.
 - Material samples can be presented at the Planning Board hearing.
- *Staff would also like more information about the stone proposed for the planters/terraces.*
 - **Exterior landscape materials are to be as follows:**
 - **Stone Veneer Retaining Walls:** Regionally quarried fieldstone / granite (gray tones)
 - **Wood Clad Exterior Retaining Walls:** Weathered cedar (or equal)
 - **Entry Masonry Walkway and Steps:** Regionally quarried monolithic saw-cut granite slab steps and dimensional pavers (gray tones)
 - **Drive Aisle Paving:** Concrete unit paver (Techo-bloc 80 ml. or equal)

- *The balconies extend beyond the roofline and facade plane and exacerbate the scale on the downhill side of the building.*
 - The outer extent of the balconies generally follows the line of the roof cornice above. The projection beyond the cornice is less than 12” on the north-east side (facing the Eastern Promenade), & less than 4” on the Montreal Street side.
 - The apartments are designed as multi-bedroom family homes with balconies providing much needed exterior space for outdoor living by family groups, including family dining around a table, as well as more informal settings. Recent experience over the last 14 months has underscored how important it is to provide comfortable, well ventilated outdoor spaces for in-town apartment homes.

We trust that this information is helpful to the City Staff & Planning board members and look forward to an opportunity to present the revised project to the Planning Board.



Richard Lo
ASSOCIATE

Kaplan Thompson Architects
102 Exchange Street, Portland, ME 04101
office: (207) 842-2888 x206
kaplanthompson.com



Housing and Economic Development Department
Housing and Community Development Division

To: James Rather, Development Review Manager, Planning & Urban Development Department

From: Victoria Volent, Housing Program Manager, Housing & Community Development Division

Date: November 30, 2021

Subject: 33 Montreal Street– Inclusionary Zoning and Munjoy Hill Neighborhood Conservation Overlay District

Please note, 33 Montreal Street is entitled to consideration under Division 30 regulations in effect as of the date of the September 24, 2019 Planning Board Workshop further defined as follows.

All developments of ten (10) units or more are conditional uses subject to Planning Board review on the condition that they comply with the requirements set forth in Division 30, Section 14-487 of the Zoning Ordinance.

Division 30, Section 14-487: Inclusionary Zoning

Division 30, Section 14-487, Ensuring Workforce Housing, requires at least ten percent (10%) of the dwelling units in the development shall meet the definition of Workforce Housing units for sale or for rent. The number of units required is rounded down to a whole number whether the Workforce Units are provided on or off-site. A fractional fee-in-lieu would result when the calculation of a project's inclusionary obligation results in a fractional unit. The fractional unit obligation will be provided in the form of a proportional fee-in-lieu. The ordinance under Section 14-487 e 4 also requires the number of bedrooms in the Workforce units shall be at least 10% of the total number of bedrooms made available as part of the development.

As an alternative to providing workforce housing units, developers shall pay a fee-in-lieu of some or all of the units. The fee for affordable units not provided shall be \$100,000 per unit, adjusted annually in the same way as the fee under Division 29 for Housing Replacement. The project located at 33 Montreal Street proposes the creation of 12 dwelling units. The applicant has chosen to fulfill the inclusionary zoning requirements by paying a fee-in-lieu. The proposed project

would thus be required to pay a total fee of \$132,586.80 (1.2 X \$110,489) into the City's Housing Trust Fund in-lieu of creation of actual housing units for workforce households. As such, the project has met the minimum requirements set forth in Section 14-487.

Staff Recommendation

Staff recommends the agreed upon fee-in-lieu of \$132,586.80 be paid into the City's Housing Trust Fund prior to issuance of the certificate of occupancy for 33 Montreal Street. Should at a later date any change in total unit count be considered, a revised proportional fee-in-lieu payment will also be required.

Section 8.7

Section 8.7 Munjoy Hill Neighborhood Conservation Overlay District- height bonus, requires developments of three or more units on lots over 2000 sf, with a building height of greater than 35' to a maximum of 45' in height, include at least one workforce housing unit for rent or for sale. The Workforce unit shall be no smaller than 50% of the average size of the other units in the development and only be sold or rented to a household at or below the applicable income levels. The workforce unit shall be deed restricted for affordability for the longest term possible under state and federal law.

The development at 33 Montreal Street proposes the creation of a building that triggers the maximum height requirement within the Munjoy Hill Neighborhood Conservation Overlay District. Based on the requirements outlined in Section 8.7 the applicant is required to create a housing unit that is no smaller than 50% of the average size of the other units (or 853.96 sf). The Applicant has elected to provide Unit 14, a two-bedroom unit that is 1059.27 sf. As such, the project has met the minimum requirements set forth in Section 8.7.

Staff Recommendation

Staff recommends, should the Board Approve the Munjoy Hill Neighborhood Conservation Overlay District height density bonus, the Board require the Applicant and the City to enter into an Affordable Housing Agreement (AHA) for unit 14 located at 33 Montreal Street before a building permit may be issued.

The Affordable Housing Agreement will outline the details of the affordability restrictions placed on the workforce unit and will be filed as a covenant to the 33 Montreal Street property deed with the Cumberland County Registry of Deeds before a certificate of occupancy may be issued.

Sincerely,

Victoria Volent
Housing Program Manager

**Planning and Urban Development Department
Planning Division**



August 20, 2019

37 Montreal Street, LLC
Portland, Maine

Acorn Engineering, LLC
65 Hanover Street
Portland, Maine

RE: Comments for Proposed Development – Level III Review

Project Name: 33 Montreal Street – Multi-Family
Address: 33 Montreal Street
Applicant: Saint John's Valley, LLC
Planner: Andrew Tufts

Project ID: PL-000807-2019
CBL: 015 B022

Dear Kaplan Thompson,

Thank you for submitting a level III site plan and subdivision application for the demolition of three existing single-family homes and redevelopment of the site into a four-story, 9-unit multi-family building with 13 below grade parking spaces. The project is being reviewed subject to the following applicable Land Use Code provisions:

- R6 District
- Munjoy Hill Neighborhood Conservation Overlay District
- Conditional Use – Inclusionary Zoning

The proposed development is also subject to relevant standards in the City of Portland Technical Manual.

Current Review Comments

Andrew Tufts, Planner, Planning Department

- The file sizes of the uploaded plans are too large and need to be compressed. Staff are unable to efficiently review based on file size.

Mike Tremblay, DPW P.E. Senior Engineer

- The sidewalks on Willis and Montreal streets are in poor condition. All sidewalks should be reconstructed along the frontage of the site, as should the curb ramp at the corner of Montreal and Willis streets.
- Tipdowns are not needed with 2' radius pieces at driveways.
- Brick driveways should be reconstructed with bricks running widthwise, matching the adjacent sidewalk. Border courses are allowed. See attached detail. Note that bricks are shown in the incorrect orientation on the subdivision plat.
- The curb ramp at the corner of Montreal and Willis Street along the project frontage must be reconstructed per ADA and City of Portland standards. The existing ramp is non-conforming as it does not have a sufficient level landing at the top of the ramp; there may be other deficiencies as well. It is not likely that this ramp will be able to be replaced in its current orientation and achieve compliance; a blended transition ramp (detail attached) or another design will likely be required. The ramp shall be reconstructed in brick per the City's sidewalk material policy.
- The proposed driveway, is located adjacent to an existing driveway. Section 1.7.1 of the Technical Manual requires a 20-foot driveway separation. Due to the nonconforming nature of the adjacent driveway/parking area, DPW will consider supporting a waiver for driveway separation.
- The parking layout is acceptable; however, no handicap parking spaces are provided. Fair Housing Act requires accessible spaces for multi-family residential uses with elevators. For a parking area with <25 spaces, one 8'x18' space with an 8'x18' adjacent clear area is required. This space should be located as close to the elevator as possible.
- An underground electric connection is encouraged.
- The proposed overhead utility connection is required to be underground.

- The stormdrain and sewer from the site are proposed to be combined together on the property. If the services are to be combined, this should be done within the right-of-way. This will allow for future separation within the street.
- Drawn CM plans are required, and must be reviewed and approved before construction. The construction management plan document is not sufficient on its own.

Jeff Tarling, City Arborist

Pending

Robert Thompson - Fire

- The correct address for this property shall be determined by the City E-911 Addressing Officer.
- The street address shall be marked at the main building entrance.

Lauren Swett

In accordance with the Maine DEP Chapter 500 Regulations and Section 5 of the City's Technical Manual, the Applicant is required to meet the Basic, General, and Flooding Standards for Stormwater Management. The Applicant has proposed erosion and sedimentation control features to meet the Basic Standard and a subsurface chamber system to help meet the General and Flooding Standards. The following comments should be addressed on the proposed stormwater management plan:

Basic Standard:

- The plans should show the location of the stabilized construction entrance.

General Standard:

Typically, to meet the General Standards using a subsurface chamber system, additional treatment measures are required. For example, a filter sand layer could be installed beneath the subsurface chambers. When a treatment measure is added, the Applicant should provide information from the chamber manufacturer to verify that the system is adequately designed per the manufacturer's requirements.

We suggest that the applicant review the methodology for modeling the subsurface filter. No flow is indicated to be discarded as infiltration. As the system is modeled, the only discharge out of the subsurface system is over the weir.

Flooding Standard:

It is noted that the pre-development model considers a slightly larger total area than the post-development model. The Applicant should clarify; however, this likely will not have a significant impact on the final results.

Additional Comments:

- The Applicant has indicated that utility ability to serve letters pending.
- Pavement repair is proposed at the location of the existing sewer service connection to the main. It is assumed that this sewer service will be abandoned, but additional information should be provided.
- **The stormdrain and sewer from the site are proposed to be combined together on the property. If the services are to be combined, this should be done within the right-of-way. This will allow for future separation within the street.**
- A driveway paving repair detail has been provided. Separate details for roadway repair, sidewalk repair, and driveway apron should be provided in accordance with details in the City's Technical Manual.
- It is noted that on the construction management plan drawings, a dumpster is proposed on a steeply sloped area at the northern corner of the site. This should be reviewed, and if

the area needs to be leveled for placement of the dumpster, there may be impacts onto the adjacent property.

- A proposed foundation drain is shown discharging directly onto an adjacent property, with no surface improvements proposed to mitigate impacts of flow that may come from this pipe. While flows from a foundation drain are generally low, consideration of the impact of discharge onto the abutter should be made. The Applicant should also consider whether flow directly out of the retaining wall may impact the wall itself.
- The need for a field inlet at the northern corner of the site should be considered. It appears based on the grading that the corner of the site will drain towards the retaining wall, but the wall will extend above grade by over a foot, preventing the surface flow of water over the wall.
- A serviceberry tree is proposed on the northern corner of the site over the end of the proposed subsurface chambers and overlapping the area identified on the plans as snow storage.
- The landscape plan does not match the site plan relative to driveway shape and materials. Please clarify the propose intent.

Planning and Urban Development Department Planning Division



Subject: Multi-family Design Review – 33 Montreal Street

Written by: Caitlin Cameron, Urban Designer

Date of Review: Tuesday, September 10, 2019

A preliminary design review for the proposed new construction of a multi-family project at 33 Montreal Street was performed by Caitlin Cameron, Urban Designer, Andrew Tufts, Planner, and Deb Andrews, Historic Preservation Program Manager. The project, because the lot is over 10,000 sf, was reviewed against the *Multiple-Family* Standards (City of Portland Design Manual).

The project has been significantly revised since it was reviewed by the Historic Preservation Board during the Demolition review process. From the Site Plan application, it was determined that the lot is over 10,000 sf and therefore the applicable design standards are the Multi-family Standards. The design review authority is with the Planning Board as part of the Level III Site Plan process.

Design Review takes into consideration:

- Compatibility with surrounding buildings and general character of the established neighborhood
- Building type and use
- Unique characteristics of the site

The proposal is on a transitional site between a more recent context of Promenade Towers and MacArthur Gardens – two large/mid-scale apartment complexes –compared with the predominant, traditional fabric found a block away.

The predominant, character-defining elements of residential architecture in the neighborhood context include vertical proportion massing, simple roof forms, vertical windows with local symmetry, two or three-bay façade composition, and simple material palettes – predominantly clapboard with masonry foundation.

Design Review Comments (*red text denotes principles or standards that are not met, request for more information or questions*):

Please provide the following information:

- Neighborhood context plan that shows the footprint of this building compared with those in the surrounding blocks
- Renderings showing the building in context with adjacent buildings
- Material samples or examples
- Smaller file sizes for easier navigation

Multiple-Family Design Standards

- 1) *The exterior design . . . shall be designed to complement and enhance the nearest residential neighborhood. The design of exterior facades shall provide positive visual interest by incorporating appropriate architectural elements.*

The project exemplifies a single design expression in its massing, form, material application, and fenestration and articulation elements.

The overall massing and form of the building is a simple box with flat roof consistent with the simple forms and massing found in neighborhood multi-family buildings. The building has a clear primary and secondary façade – also a predominant characteristic of corner buildings in this context. Scale and visual interest are created through contemporary versions of bays and balconies and articulation elements such as a strong cornice line, window panel details, and balcony railings. These design elements are consistent with and complement the nearest residential neighborhood by referencing common patterns and elements while remaining a contemporary expression.

The roof form is a simple, consistent flat roof – typical of multi-family buildings and not complex. The rooftop appurtenances are centralized, set back from the roof edge and screened.

The project uses a simple material palette of shingle and panel applied consistently throughout the building creating a simple, cohesive design. This is typical of the context and staff agree this contributes to complementing and enhancing the neighborhood. The fine grain of the material is appropriate for a residential building and is compatible with the materials in this context.

The façades generally relate to the context through the regular pattern/rhythm of windows; the window types are limited and placed in a regular rhythm consistent with the traditional residential buildings. The window patterns also help to distinguish the front and side facades; as the project turns the corner, the façade composition is appropriately treated as a more secondary façade.

Staff found the **front façade composition to be awkward in regards to the circulation fenestration – some of which overlaps with the central bay – possible revision to this relationship of façade elements to the use.**

The entryway, though oriented to the street, is not adequately emphasized with appropriate design elements. The approach from the street could be opened up – for example, remove planters, wider steps. The canopy should be more substantial than the bay window overhang. The entrance should have an approachable, residential character.

Stacked balconies typically are aligned with the façade plane. **The balconies extend beyond the roofline and façade plane and exacerbate the scale on the downhill side of the building.** Staff recommend that the balconies be pulled in closer to the building or aligned with the façade plane on the side façade to mitigate the scale impact of the building and create relationships similar to those found in the context.

- 2) *The proposed development shall respect the existing relationship of buildings to public streets. New development shall be integrated with the existing city fabric and*

streetscape including building placement, landscaping, lawn areas, porch and entrance areas, fencing, and other streetscape elements.

The building placement is consistent with residential structures in the neighborhood – placed near the street with a small setback with planted edge. The garage is set back from the street and accessible from a side drive minimizing the impacts of parking on the streetscape.

The building's primary frontage is oriented to Willis Street with Montreal Street treated as a clearly secondary façade. It is typical for the secondary façade to be the longer façade, on the sloping street, and without access points.

The landscape buffer between the building and the sidewalk is appropriate to provide privacy and transition between the public and private realms. The grade change on Montreal Street is challenging and steps/ramp with a retaining wall and planter areas.

However, the introduction of an ADA ramp is a contemporary necessity not often found in the traditional building interface and brings a challenging relationship between the building and sidewalk. *The configuration of planters, steps, and ramp are creating a sense of separation and commercial character – revise the entrance design. The planter between the ramp and the sidewalk is of a different character than the other planters – use a consistent character.*

3) Open Space

Open space is provided primarily through balcony and terrace spaces for each unit.

4) Ample light and air

Adequately met

5) Parking shall be arranged and landscaped to properly screen vehicles from adjacent properties and streets.

Parking for this project is structured below the building and accessed by a side driveway. This driveway is visually screened from the neighboring property with a retaining wall.

6) Multi-family dwellings shall not be converted to lodging houses.

Not applicable

37-33 Montreal Street

Neighborhood Meeting Comments

These are the comments collected at the Neighborhood Meeting to discuss the 37-33 Montreal Street Residences. The meeting was held Friday, September 13th at 5:30-6:45 PM at the East End Community School. Thirteen (13) neighbors attended along with Tim Wells, representing the development team, Jesse Thompson and Richard Lo from Kaplan Thompson Architects.

Kirsten Platt- “I don’t find it unpleasant looking. It will dwarf other houses. Portland has been late to the game in figuring out how we want to develop.”

Vana Carmona – “Good that it is smaller but it is still too large and tall to fit into neighborhood”

Peter Murray – “I am very happy with my house designed by the same architects. I know they are capable of good design but they need to work more on this. Design is improved in one sense and worse in another. The last design made an effort to fit in contextually with the separate entrance townhomes along Willis Street. Looks like a prison with an unbroken façade and uninteresting window rhythm along Montreal Street. Windows are too small. Neighboring houses are being restored all around and this is too big. Level III site plan and design standards requires it to meet the context surrounding it in 2 blocks.”

Jean McManamy – “Unlike many of my neighbors, I like modern buildings. I really like the metallic siding on the project on Lafayette Street (Marquis) and I like jumble of styles that add excitement to a neighborhood. But this project is institutional looking and lacks excitement. I don’t want another box but a really nice, different building like you find in Sweden or France. Why can’t you add more definition to the façade along Montreal Street, make the windows bigger and more interesting, put some curves into the building or a glass elevator shaft on the outside of the building. I am also concerned about where trucks will be parking and dust control during demolition to reduce the effects of lead paint, etc. into the air.

Doris Healey – I agree with Mr. Murray. This building has no charm and doesn’t belong in this neighborhood.

Ann Deutsch – “No matter how much you do it is still mass and volume”

Carol Conner - “ You have done gorgeous houses but I really hate this building. It looks institutional. At least there is more space between it and McArthur Gardens.”

Peg Hillman – “I like the front better than the side along Montreal Street. The Montreal Street side needs more relief.. You can’t leave it as one big surface. It is ugly. Adding a bay or two or some side balconies would do a great deal for the beauty of the building. It is just too flat and looks like an old mill building. Windows could be larger. Look too small. The side towards the E. Prom has some visual interest. I like the old version better with the entrance along Montreal and separate entrances along Willis Street.

Jean McManamy – “Balconies along the side where people could grow plants would be nice.”

Peg Hillman – “I like the wrap around balconies. They add character to the building.”

Vana Carmona – “If you walk your dog 6 days a week you would see that the Montreal Street side doesn’t work.”

37-33 Montreal Street

Neighborhood Meeting Comments

Ann Landsberg – “Looks like a cheap industrial building. Can’t you add curved lines? How about making the balconies with curves. How do you break up all the straight lines?”

Patricia Ryan – “ How do you incorporate more design elements that reference the neighborhood?”

Tim Baehr – “Why do architects design buildings that a kid could draw and that look like they were made with lego blocks?”

Jean McManamy – “These look like low income housing. I want people to come and want to live there. That says, “welcome”. People who will live there year round. It just doesn’t have that “Come Live Here” look.”

Ann Landsberg –“ Could you add different color courses of shingles? What can you do to the roof edge to add more interest?”

Vana Carmona – “ Landscaping goes in last and will be the first thing that the HOA will cut out of the budget and then the side gardens will be dirt and gravel.”

Ann Landsberg – “I like Peter’s house. Why can’t you add a steep pitched roof?”

CITY OF PORTLAND
Planning & Urban Development Department

19 WILLIS ST
(FORMERLY 33-37 MONTREAL ST)
DEC. 09, 2021

Att. A

LEVEL II and LEVEL III SITE PLAN GENERAL DOCUMENT AND DRAWINGS CHECKLIST Please submit each document as a separate PDF file Please confirm by electronically checking the boxes to the left ** PLEASE FILL OUT AND UPLOAD SEPARATELY THE ZONING TABLE AND WAIVER TABLE AS NOTED BELOW **			
GENERAL APPLICATION DOCUMENTS			
1	Yes ☒	NA ☐	Project Description Cover Letter with detailed project description
	Yes ☒	NA ☐	Completed Checklist – Level I: Site Alteration (this document)
	Yes ☒	NA ☐	Right, Title and Interest Deeds, leases, or purchase and sales agreements
	Yes ☐	NA ☒	Evidence of State or Federal Approvals Permits or letters of non-jurisdiction, if applicable
	Yes ☒	NA ☐	Zoning Assessment Table listing required and proposed uses and dimensional standards Zoning Assessment Table
	Yes ☐	NA ☒	Existing and/or Proposed Easements or Covenants, applicable. Evidence of existing easements and any proposed easements
	Yes ☐	NA ☒	Waiver Requests Written request for waiver describing request and reason Waiver Table
	Yes ☒	NA ☐	Financial Capability Letter or evidence from a financial institution or third party verifying financial capacity to undertake project
	Yes ☒	NA ☐	Technical Capability Evidence of technical capability of applicant and consultants – resumes and/or examples of past projects

**LEVEL II AND LEVEL III SITE PLAN
STANDARDS AND SUBMISSION CHECKLIST**
Provide assessment of compliance with standards and include
supplemental documentation, as applicable
Please Submit each document as a separate PDF file

2	TRANSPORTATION	
Yes ☒	NA ☐	Transportation Analysis- Traffic Impact (14-526 (a) 1) - Provisions for pedestrian, bicycle, vehicle, and loading circulation and incremental volume of traffic impacts - Traffic Impact Study (Technical Manual, Section 1) if applicable
Yes ☒	NA ☐	Access and Circulation (14-526 (a) 2 a) - Access and internal circulation, addressing ADA access - Access and egress impacts on traffic flows - Description and use of drive-up features, if applicable
Yes ☐	NA ☒	Loading and Servicing (14-526 (a) 2 b) - Loading and servicing needs, route and travel way geometrics for deliveries - Turning templates for delivery vehicles, if applicable
Yes ☒	NA ☐	Sidewalks (14-526 (a) 2 c) - Sidewalks and condition along street frontages and internal walkways - Engineered details for ADA ramps and public sidewalk details meeting sidewalk materials policy and ADA ramp construction details as applicable (Technical Manual, Section 1)
Yes ☐	NA ☒	Public Transit (14-526 (a) 3), if applicable - Existing available transit services - Proposed site plan design details, such as easement, pad base, and shelter
Yes ☐	NA ☒	Off-Street Parking: Vehicle & Motorcycle/Scooter) (14-526 (a) 4 a and c) - Expected parking demand, proposed parking supply, ADA parking, and applicable Zoning Requirements - Address Technical Manual standards (Section 1) for curb cut separation and parking lot layout and locate on site plan
Yes ☒	NA ☐	Bicycle Parking (14-526 (a) 4 b) - Address bicycle parking requirements and identify locations on-site - Construction details for bike racks (Technical Manual, Section 1)
Yes ☒	NA ☐	Snow Storage (14-526 (a) 4 d) Management plan for snow removal and locate snow storage areas on plan
Yes ☐	NA ☒	Traffic Demand Management (TDM) (14-526 (a) 5), if applicable Develop TDM with Trip Reduction Targets and Strategies

3	ENVIRONMENTAL AND LANDSCAPE FEATURES		
	Yes ☐	NA ☒	Preservation of Significant Natural Features (14-526 (b) 1), if applicable - Trees, plants, habitats listed on State or Federal list of endangered or threatened - High and moderate value waterfowl and wading habitat - Aquifers on Casco Bay Islands - Waterbodies (including wetlands, watercourses, significant vernal pools and floodplains) - Proposed preservation areas and protection measures - Documentation from environmental consultants, determinations from applicable state agencies
	Yes ☒	NA ☐	Landscaping and Landscape Preservation (14-526 (b) 2 a) - Preservation of trees and preservation within required zoning setbacks (Technical Manual, Section 4) - Protection measures of existing vegetation during construction - Protection measures within Shoreland Zone, if applicable
	Yes ☒	NA ☐	Site Landscaping (14-526 (b) 2 b) - Screening and buffering of service areas and between non-residential and residential uses - Planting plans with plant schedule and sizes (Technical Manual, Section 4)
	Yes ☐	NA ☒	Parking Lot Landscaping (14-526 (b) 2 b ii), if applicable Landscaped islands within parking areas (Technical Manual, Section 4)
Yes ☒	NA ☐	Street Trees (14-526 (b) 2 b iii) - Existing Heritage or Feature Trees on site and measures to preserve - Identify street trees on the plan meeting the site plan and Technical Manual standards (Section 4) or identify alternative measures, if applicable	
4	ENVIRONMENTAL AND STORMWATER		
Yes ☒	NA ☐	Water Quality, Stormwater Management and Erosion Control (14-526 (b)3 a) - Stormwater report in compliance with Section 5 of Technical Manual and DEP Chapter 500 stormwater for basic, general and flooding standards, as applicable - Erosion control plan and measures - Evidence of compliance with Urban Impaired Stream Standards pursuant to DEP Chapter 500 stormwater, as applicable - Subsurface sanitary sewage disposal and groundwater protection	

5	PUBLIC INFRASTRUCTURE AND SAFETY	
	Yes ☒ NA ☐	Consistency with City Master Plans (14-526 (c) 1) - Identify consistency with master plans - Proposed easements, rights and improvements to connect or continue off-premises public infrastructure, as applicable
	Yes ☒ NA ☐	Public Safety and Fire Prevention (14-526 (c)) - Address Crime Prevention through Environmental Design (CPTED) (Technical Manual, Section 3) - Emergency vehicle access - Address consistency with public safety standards (Technical Manual, Section 3) - Submit a code summary referring NFPA 1 and all Fire Department standards (Technical Manual, Section 3) – Fire Checklist
	Yes ☒ NA ☐	Availability and Adequacy of Public Utilities (14-526 (c) 3) (Technical Manual, Sections 2 & 9) - Electrical services, including providing underground services - Identify existing and proposed connections for public utilities and required public utility upgrades - Sewer line connections are required, if there is a main within 200 feet - Proposed solid waste management facilities on-site and management for the site - Written evidence of the ability to serve from utility companies, as applicable
6	SITE DESIGN	
	Yes ☒ NA ☐	Massing, Ventilations and Wind Impact (14-526 (d) 1) NA • Wind and ventilation impacts on adjoining structures and/or adjacent public spaces. Wind study, if applicable NA • Bulk, location or height impacts on adjoining structures - Identify and locate HVAC equipment and venting away from public spaces and residential properties NA • Identify screening and manufacturing specifications for noise, if applicable
	Yes ☐ NA ☒	Shadows (14-526 (d) 2), if applicable Shadow analysis of impacts on publicly accessible open space (Technical Manual, Section 11)
	Yes ☒ NA ☐	Snow and Ice Loading (14-526 (d) 3) Building design to prevent snow and ice from loading or falling onto adjacent properties or public ways
	Yes ☐ NA ☒	View Corridors (14-526 (d) 4), if applicable Protection of designated view corridors (Portland Design Manual, Appen. 1)

Yes ☐	NA ☒	Historic Resources (14-526 (d) 5), if applicable - Identify developments within Historic Districts or affecting Designated Landmarks - Certificate of Appropriateness or other evidence - Identify Developments within 100 feet of Historic Districts or affecting Designated Landmarks. Advisory HP review may be required - Address preservation and documentation of Archaeological Resources
Yes ☐	NA ☒	Exterior Lighting (14-526 (d) 6) - Cut sheets of on-site light fixtures and any architectural or specialty lights (Technical Manual, Section 12) - Engineered details for any lights proposed in street right-of-way (Technical Manual, Section 10)
Yes ☐	NA ☒	Noise and Vibration (14-526 (d) 7) Evidence of noise levels for equipment, such as equipment specifications, to demonstrate consistency with zoning requirements
Yes ☐	NA ☒	Signage and Wayfinding (14-526 (d) 8), if applicable - Signage plan showing the location, dimensions, height and setback of all existing and proposed signs. Signs in Historic Districts are reviewed by Historic Preservation staff - Proposed commercial and directional signage on site
Yes ☒	NA ☐	Zone Related Design Standards (14-526 (d) 5) - Address Historic Preservation Design Review, if applicable - Address any applicable design review standards by zone - Address submission requirements from Design Manual, page 1, addressing neighborhood context - Description of exterior materials, color, finish, and samples
7 Construction Management Plan		
Yes ☒	NA ☐	Construction Management Plan Construction Management Document and Plan

**LEVEL II AND LEVEL III SITE PLAN
DRAWINGS CHECKLIST**

Please upload the following DRAWINGS with the listed details into e-Plan as separate pdfs

8

RECENT BOUNDARY SURVEY (stamped by Maine Licensed Surveyor)



Must be in compliance with Technical Manual, Section 13

9

SITE PLAN(s) (stamped by Maine Licensed Engineer) including:

Existing Conditions



Approximate location of structures on abutting property



Topography



Locate water courses



Delineate wetlands



Zone lines

Proposed Site Plan



Ground floor area, and grade elevations for all buildings

Access, Circulation, and Parking



Streets and intersections adjacent to site, any proposed geometric modifications



Location, dimensions and materials of all existing and proposed driveways, vehicle, bicycle, & pedestrian access ways with corresponding curb lines



Engineered specifications/ cross-sections for proposed driveways, sidewalks & paved areas



Location and dimensions of proposed loading areas



Existing and proposed transit infrastructure with dimensions/ engineering specifications



Location of vehicle and bicycle parking with dimensions and engineering specifications

Site Considerations

- ☐ Identify snow storage areas
- ☒ Location of fire hydrants
- ☐ Location of solid waste management facilities

10

UTILITY PLAN including:

- ☒ Existing utilities on site and within public streets
- ☒ Location, sizing and directional flows of all existing and proposed utilities
- ☐ Location and dimensions of off-premises public or publicly accessible infrastructure adjacent to site
- ☒ Electric utility infrastructure

11

GRADING AND DRAINAGE PLAN including:

- ☒ Existing grades and drainage
- ☒ Proposed grades
- ☒ Proposed stormwater management meeting Technical Manual (Section 5), standards
- ☐ Location and proposed alteration of a water course
- ☐ Preservation or alteration of wetlands

12

EROSION CONTROL

- ☒ Must be in compliance with Technical Manual, Section 5

13

LANDSCAPE PLAN including:

- ☒ Existing vegetation to be preserved and preservation measures
- ☒ Proposed landscaping and buffers
- ☒ Planting schedule

14

RECORDING PLAT, if applicable



If Subdivision, must be in compliance with requirements of Section 14-496 (b)

15

ARCHITECTURAL PLANS AND RENDERINGS including:



Exterior building elevations, color renderings, illustrations of all sides



Location and dimensions of all existing and proposed HVAC and mechanical equipment, all proposed screening



Provide context drawings, if applicable (Design Manual, page 1)



Floor plans

August 12, 2019 – Revised November 03, 2021

Att. B

19 WILLIS STREET, PORTLAND

(FORMERLY 33-37 MONTREAL STREET)

The following outlines how the proposed project has been designed to meet the applicable standards of the City of Portland associated with Level III: Residential Site Plan and Subdivision review.

GENERAL DOCUMENTS - PROJECT DESCRIPTION

The project site is located at the corner of Willis Street and Montreal Street, Munjoy Hill, on land that combines the two existing lots at 33 and 37 Montreal Street. (CBL 015 B015001 and CBL 015 B022001).

The new project address will become 19 Willis Street, as confirmed per Portland Fire Department E911 protocols in August 2021.

The new building will contain (12) twelve residential apartments, with a total enclosed gross area of approximately 22,900 square feet on four stories above grade for apartments and common spaces.

The residences will include the following unit mix:

1st floor: (4) units, comprising
 (1) 1 Bedroom unit
 (1) 2 Bedroom units
 (2) 3 Bedroom units

2nd floor: (4) units, comprising
 (1) 1 Bedroom unit
 (1) 2 Bedroom units
 (2) 3 Bedroom units

3rd floor: (2) 3 Bedroom units

4th floor: (2) 3 Bedroom units

A basement level of approximately 5,800 gross square feet will contain a parking garage with (13) car parking spaces, owner's storage areas, mechanical rooms, and common spaces.

The building will contain a commercial elevator and will be protected by an NFPA 13R sprinkler system.

Return to:

Saint John's Valley, LLC
33 Montreal Street
Portland, ME 04101

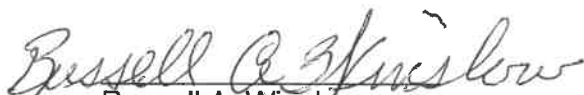
WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS: That I, **Russell A. Winslow**, of 33 Montreal Street, Portland, ME 04101, for consideration paid, grant to **Saint John's Valley, LLC**, of 8 Drew Road, South Portland, ME 04106, with WARRANTY COVENANTS:

SEE ATTACHED EXHIBIT A.

MEANING and INTENDING to describe and convey the same premises conveyed to the grantor herein by deed of Russell A. Winslow. Personal Representative of The Estate of Frances B, Winslow dated 9/13/2005 and recorded at Book 23150, Page 95 in the Cumberland County Registry of Deeds.

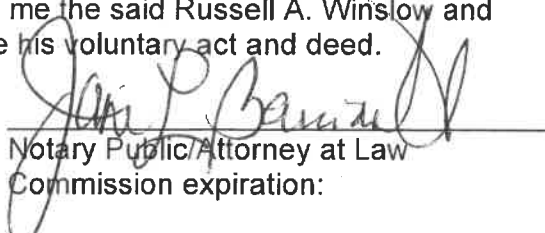
Executed this 7 day of October, 2016


Russell A. Winslow

State of Maine
County of Cumberland

10/7/2016

Then personally appeared before me the said Russell A. Winslow and acknowledged the foregoing to be his voluntary act and deed.


Notary Public/Attorney at Law
Commission expiration:

Jane Barriault Attorney at Law *Tcw*

EXHIBIT A

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

Beginning at a point in said northerly sideline of Montreal Street, distant eighty (80) feet northeasterly from the easterly side of Willis Street, and running northwesterly, parallel with said Willis Street, ninety (90) feet; thence northeasterly, parallel with said Montreal Street, forty (40) feet; thence southeasterly, parallel with the first line, ninety (90) feet to Montreal Street; thence southwesterly on Montreal Street, forty (40) feet to the starting point; being lot numbered fifty-four (54) on A. P. Marshall's Plan, recorded in the Cumberland County Registry of Deeds, Plan Book 1, Page 41.

Back 10/7/16
TLW

WARRANTY DEED
Maine Statutory Short Form

KNOW ALL MEN BY THESE PRESENTS, That **Anne-Marie O'Rourke** of Portland, in the County of Cumberland, and State of Maine, for consideration paid, grant(s) to **Kevin James Carter**, whose mailing address is 7029 Denison Road, Summerfield, NC 27358, with **WARRANTY COVENANTS**, the real property situated in **Portland**, County of **Cumberland**, and **State of Maine**, more particularly described in Exhibit A attached hereto and incorporated herein by reference.

IN WITNESS WHEREOF, this instrument has been executed this 31st day of August, 2017.

Cynthia Chadwick Granger Anne-Marie O'Rourke
Witness to all Anne-Marie O'Rourke

State of Maine
County of Cumberland, ss.

August 31, 2017

Personally appeared before me the above named **Anne-Marie O'Rourke** and acknowledged the foregoing instrument to be her free act and deed.

Cynthia Chadwick Granger
Notary Public/Attorney at Law

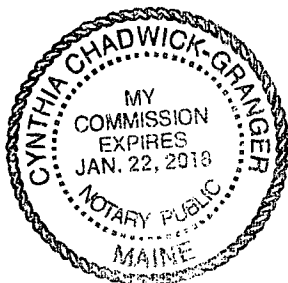


EXHIBIT A
(DEED)

A certain lot or parcel of land, situated in the City of Portland, County of Cumberland, and State of Maine, with the buildings and improvements thereon, and situated on the northerly corner of Montreal Street and Willis Street and bounded and described as follows:

Beginning at said corner formed by the northwesterly side of Montreal Street and the northeasterly side of Willis Street;

thence northeasterly by Montreal Street eighty (80) feet to a point and land now or formerly of Daniel K. Reed;

thence northwesterly by said Reed land ninety (90) feet and to lot numbered thirty-one (31) as shown on A. P. Marshall's Plan of Lots;

thence southwesterly by said lot numbered thirty-one (31) eighty (80) feet to Willis Street;

thence southeasterly by Willis Street ninety (90) feet to the point of beginning.

For title, reference may be had to a deed recorded in the Cumberland Registry of Deeds in Book 8708, Page 61. Mary C. O'Rourke deceased on September 21, 2012, leaving Anne-Marie O'Rourke as surviving joint tenant.

Received
Recorded Register of Deeds
Sep 01, 2017 10:56:24A
Cumberland County
Nancy A. Lane



PRIVATE BANK

380 Knollwood Street, Suite 201
Winston Salem, NC 27103
T 336.714.4880 F 980.233.7201 M 336.690.8812
Kyle.j.quinlivan@bofa.com

December 3rd, 2021

To Whom It May Concern:

I am writing this letter on behalf of 37 Montreal, LLC in reference to the upcoming development of 12 condominiums located on Montreal St in Portland, Maine.

Bank of America, N.A. has an ongoing lending and wealth relationship with several of the principals in 37 Montreal, LLC. Bank of America, N.A. is currently the lender of the property located at 37 Montreal St. To date, the principals of 37 Montreal, LLC have proven to be highly qualified, effective and professional team.

We are aware of the new development located at 33-37 Montreal St and would be pleased to entertain financing requests from 37 Montreal, LLC for this project and other projects in the future.

Should you have any questions, please feel free to contact me at 336-714-4880.

Sincerely,

A handwritten signature in black ink that reads "Kyle Quinlivan". The signature is written in a cursive, flowing style.

Kyle J. Quinlivan
Senior Vice President, Private Client Manager



MARK V. STASIUM
SENIOR VICE PRESIDENT
Direct Dial: 207.699.3392
mstasium@camdennational.com

July 22, 2019

City of Portland Planning Division
389 Congress Street, 4th Floor
Portland, ME 04101

Re: 37 Montreal Street LLC

Dear Planning Board Members:

I am writing regarding the proposed residential building being proposed by 37 Montreal Street LLC located at Montreal and Willis Street in Portland.

I have known the principal member of the LLC for 20+ years and have financed a number of real estate investments for the individual. The principal member is an experienced developer and commercial real estate owner and manager and exhibits strong financial capacity. We provide financing for a number of the individual's properties, and all loan obligations and deposit accounts with Camden have been handled in a fully satisfactory manner.

We have reviewed the preliminary information for the proposed project, and based on our review, Camden is highly interested in providing financing for the project. Our interest remains subject to full credit underwriting by Camden's credit department, approval from Camden's senior loan officers, and receipt of all municipal permits by the developer.

Please do not hesitate to contact me if you have further questions.

Very Truly Yours,

A handwritten signature in blue ink, appearing to read "Mark V. Stasium", is written over a faint, larger version of the signature.

Mark V. Stasium
Senior Vice President



Portland, Maine



Yes. Life's good here.

Planning & Urban Development Department

19 WILLIS ST
(FORMERLY 33-37 MONTREAL ST)
Aug. 12, 2019
Revised Nov.03, 2021

ZONING ANALYSIS Relevant Zone(s) R6

Munjoy Hill Neighborhood Conservation District Overlay

All Projects:

	Required	Proposed
Lot Size	2,000 sf min.	10,800 sf
Area Per Dwelling Unit	725 sf min.	900 sf
Minimum Street Frontage	20' min.	90' Willis St
Front Yard Minimum	5'-0"	5'-0"
Front Yard Maximum		
Rear Yard	15'-0" (>35' ht.)	>30'-0"
Yard Right		
Yard Left	10'-0" (>35' ht.)	10'-0"
Side Street Setback	5'-0" (>35' ht.)	5'-0" / 3'-0"
Step Back	15' rear / 10' side	>30' rear/10' side
Maximum Lot Coverage	60% max.	53%
Minimum Lot Coverage		
Maximum Height	45' above ave. gr.	45'-0"
Open Space	20% min.	26%
Maximum Impervious Area		
Pavement Setback		
Floor Area Ratio		
Off Street Parking Spaces	1 space per unit	1.1 per unit
Loading Bays		
Other 1		
Other 2		
Other 3		

Planned Residential Unit Developments (PRUD) Requirements

	Required	Proposed
Minimum Lot Size		
Minimum Lot Area per Dwelling		
Maximum # Units per Building		
Maximum Building Length		
Maximum Accessory Building Length		
Minimum Setbacks		
Minimum Building Separation		
Minimum Open Space		

Affordable Housing Density Bonuses (if applicable)

	Bonus Increase or Decrease	Maximum Allowable With Bonus	Proposed
Density			
Height			
Setback Reduction			
Recreation Space			
Maximum Accessory Building Length			
Minimum Setbacks			
Minimum Building Separation			
Minimum Open Space			
Explanatory Text 1 (optional):			
Explanatory Text 2 (optional):			
Explanatory Text 3 (optional):			



TRANSPORTATION

The following outlines how the proposed project at 33/37 Montreal Street has been designed to meet the applicable standards of the City of Portland associated with Level III: Residential Site Plan and Subdivision review.

Section 14-526 (a)(1) Transportation Analysis – Traffic Impact

The proposed project design and layout considered traffic impact and integrated provisions for traffic improvements through the design. The project site proposes to eliminate the existing curb cut for the driveway at 37 Montreal Street, and will utilize the existing curb cut with proposed driveway improvements at the same location of the existing curb cut for the driveway at 33 Montreal Street. The decision to abandon and eliminate the curb cut at 37 Montreal Street will effectively move the traffic egress and ingress for the site to the north approximately 108 linear feet north of the intersection at Willis Street & Montreal Street. Additionally, the curb cut in Willis Street, serving 37 Montreal Street will also be abandoned and sidewalk and curb will be installed in place.

The project design includes the improvements of a new 14-foot wide driveway, leading to underground parking areas. It is anticipated that the proposed driveway will provide adequate access to the site from Montreal Street and during peak traffic hours the project design should allow for traffic to exit from Montreal Street freely, as the proposed parking area and driveway will provide ample queuing such that Montreal Street will not be congested when vehicles try and enter the site. For vehicles leaving the site, the project layout and design will provide ample queuing on-site during peak traffic times with multiple vehicles trying to exit, and therefore should not impact traffic flow in Montreal Street. Additionally, with the proposed access to the site more than 100-ft from the intersection of Willis Street and Montreal Street, there will be less potential for conflicting turning movements with vehicles exiting the site and vehicles negotiating the four-way intersection.

Section 14-526 (a) (2) (c) – Sidewalks

The existing project site currently has existing sidewalk (brick with granite curbing) along the Willis Street and Montreal Street frontage. The existing sidewalk will be protected in place where possible and any disturbance due to improvements (driveways, site improvements, utility connections, etc.) will be conditioned to re-lay or re-construct the sidewalk in accordance with Section 14-498 and 14-499 of the City of Portland Code.

Additionally, on-site provisions for pedestrian access include extending sidewalk from Montreal Street at the proposed driveway location into the site and to the proposed lower level building entries and parking garage. Along Willis Street, the project proposes to construct the building

main entrance. Improvements along Willis Street include a main building entry stairway and integrated access ramp leading to the first level foyer, an entry/exit to the building's proposed stairwell, elimination of an existing curb cut, and construction of sidewalk to connect proposed improvements to existing sidewalk.

Section 14-526 (a) (4) (d) – Snow Storage

Snow storage for the project site appears adequate, and the project design and layout provide an area of approximately 300 sq. ft. located adjacent to the proposed driveway within the proposed flat yard area near the northwesterly corner of the site. The snow storage will not conflict with the project site access or pedestrian walkways. The snow storage area will be located of lawn/landscaped ground cover and will drain to the proposed catch basin, and will effectively treat any snow melt runoff with the subsurface chamber system (proposed StormTech SC-310 chamber system) prior to discharging from the site.



ENVIRONMENTAL AND STORMWATER

The following outlines how the proposed project at 33/37 Montreal Street has been designed to meet the applicable standards of the City of Portland associated with Level III: Residential Site Plan and Subdivision review.

Section 14-526 (b)(3) Water Quality, Stormwater Management and Erosion Control Standards

Watershed – The project site drains either to the northeast along the curblin in Montreal Street or to the north to the abutting property. To our knowledge this is a combined sewer and storm drain system. The project site is not tributary to an Urban Impaired Stream as defined by Maine DEP Chapter 502.

Sewage Disposal – The building will be connected to the public sewer in Montreal Street.

Soil Conditions – A Medium Intensity Soils Map is included as Attachment D. The soils are classified by the US Department of Agriculture Natural Resources Conservation Service as a Hinckley Loamy Sand, which has a Hydrologic Soil Rating of “A”. A geotechnical investigation was performed by Summit Geoengineering Services for the project site and is contained in Attachment C.

Flooding Standards - The project has been designed to incorporate a formal catch basin and storm drain collection system for stormwater management, which will flow into a Stormtech Chamber System and will retain the 1” storm event allowing the runoff to infiltrate into the ground slowly providing both stormwater treatment and quantity control. The flow generated by the larger storm events will spill over a concrete weir panel within the outlet control structure and will be conveyed in a relatively small storm drain, connecting into the existing sewer system which we believe is a combined system. The existing 10” sewer main should have the capacity to convey this flow due to the relatively steep slope and since it located at the beginning of the sewer main run.

An analysis was prepared to determine if there were any increases in overland peak rates of runoff onto abutting properties. There are two distinct locations of stormwater discharge from the property. Study Point 1 represents the discharge point at the north of the property. Study Point 2 is located along the gutter line of Montreal Street, just downstream of the projects proposed driveway location. As a result of the infiltration of the stormwater collection system and the overflow pipe of this system connecting into the combined sewer system, the peak rates of runoff have effectively been maintained or reduced from the pre-developed condition. The output data from the HydroCAD model has been included in Attachment A and the pre- and post-development watershed maps have been included in the design plan set.

Basic Standards – The plan set includes erosion control measures to be implemented temporarily during construction and permanently upon completion of the project. The erosion control plan was prepared based on the methodology outlined in the Maine Department of Environmental Protection publication titled “Maine Erosion and Sediment Control Best Management Practices Manual for Designers and Engineers” dated October 2016.

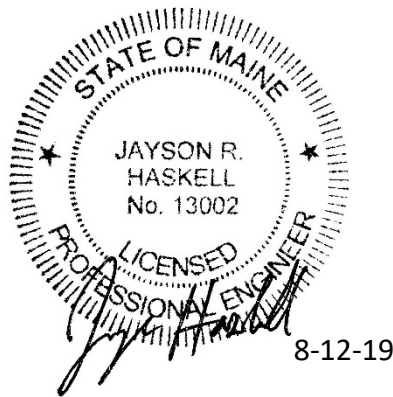
General Standards- The stormwater management plan includes the construction of an underground stormwater storage and treatment system that consists of a Stormtech Chamber System designed to infiltrate the required water quality volume. The system has been designed to effectively collect, infiltrate and provide treatment of approximately 97% of the total new impervious area and approximately 88% of the total new developed area, exceeding the requirement as indicated in the General Standards of MDEP Chapter 500. Calculations for the sizing of the stormwater components are included as Attachment B. Test pit analysis of the subsurface soils in the vicinity of the proposed Stormtech Chamber System is included as Attachment C. An Inspection, Maintenance and Housekeeping Plan has also been prepared for the project and has been included in this report as Attachment E.

Prepared by:

DM Roma Consulting Engineers

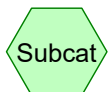
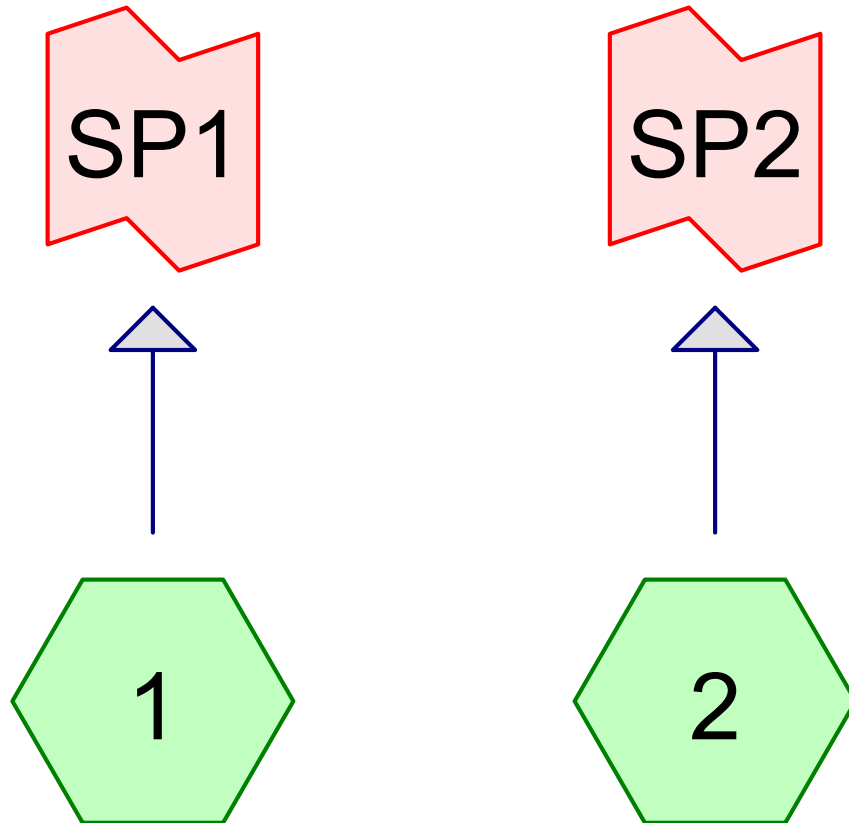


Jayson R. Haskell, P.E.
Southern Maine Regional Manager



ATTACHMENT A

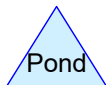
HYDROCAD MODEL OUTPUT



Subcat



Reach



Pond



Link

Routing Diagram for 18053-PRE

Prepared by DM Roma Consulting Engineers, Printed 8/12/2019
HydroCAD® 10.00-20 s/n 09237 © 2017 HydroCAD Software Solutions LLC

18053-PRE*Type III 24-hr 25-Year Rainfall=5.80"*

Prepared by DM Roma Consulting Engineers

Printed 8/12/2019

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Page 2

Time span=0.00-48.00 hrs, dt=0.05 hrs, 961 points
Runoff by SCS TR-20 method, UH=SCS, Weighted-CN
Reach routing by Stor-Ind+Trans method - Pond routing by Stor-Ind method

Subcatchment1:

Runoff Area=11,310 sf 49.04% Impervious Runoff Depth=2.47"
Flow Length=129' Tc=6.0 min CN=68 Runoff=0.73 cfs 2,326 cf

Subcatchment2:

Runoff Area=3,595 sf 92.16% Impervious Runoff Depth=4.99"
Flow Length=151' Tc=6.0 min CN=93 Runoff=0.44 cfs 1,494 cf

Link SP1:

Inflow=0.73 cfs 2,326 cf
Primary=0.73 cfs 2,326 cf

Link SP2:

Inflow=0.44 cfs 1,494 cf
Primary=0.44 cfs 1,494 cf

18053-PRE

Prepared by DM Roma Consulting Engineers

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Type III 24-hr 25-Year Rainfall=5.80"

Printed 8/12/2019

Page 3

Summary for Subcatchment 1:

Runoff = 0.73 cfs @ 12.10 hrs, Volume= 2,326 cf, Depth= 2.47"

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-48.00 hrs, dt= 0.05 hrs
Type III 24-hr 25-Year Rainfall=5.80"

	Area (sf)	CN	Description
*	3,540	98	Ex. roofs,
*	366	98	Ex. paved roads & sidewalk
*	1,640	98	Ex. paved driveways
	5,764	39	>75% Grass cover, Good, HSG A
	11,310	68	Weighted Average
	5,764		50.96% Pervious Area
	5,546		49.04% Impervious Area

Tc (min)	Length (feet)	Slope (ft/ft)	Velocity (ft/sec)	Capacity (cfs)	Description
3.4	40	0.1215	0.20		Sheet Flow, Seg A to Seg B Grass: Dense n= 0.240 P2= 3.10"
0.2	52	0.0991	5.07		Shallow Concentrated Flow, Seg B to Seg C Unpaved Kv= 16.1 fps
0.3	26	0.0068	1.67		Shallow Concentrated Flow, Seg C to Seg D Paved Kv= 20.3 fps
0.0	11	0.2052	7.29		Shallow Concentrated Flow, Seg D to Seg E Unpaved Kv= 16.1 fps
3.9	129	Total, Increased to minimum Tc = 6.0 min			

Summary for Subcatchment 2:

Runoff = 0.44 cfs @ 12.09 hrs, Volume= 1,494 cf, Depth= 4.99"

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-48.00 hrs, dt= 0.05 hrs
Type III 24-hr 25-Year Rainfall=5.80"

	Area (sf)	CN	Description
*	0	98	Ex. roofs,
*	3,313	98	Ex. paved roads & sidewalk
*	0	98	Ex. paved driveways
	282	39	>75% Grass cover, Good, HSG A
	3,595	93	Weighted Average
	282		7.84% Pervious Area
	3,313		92.16% Impervious Area

18053-PRE

Type III 24-hr 25-Year Rainfall=5.80"

Prepared by DM Roma Consulting Engineers

Printed 8/12/2019

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Page 4

Tc (min)	Length (feet)	Slope (ft/ft)	Velocity (ft/sec)	Capacity (cfs)	Description
0.4	47	0.0731	1.96		Sheet Flow, Seg A to Seg B Smooth surfaces n= 0.011 P2= 3.10"
0.1	62	0.0896	13.28	45.66	Trap/Vee/Rect Channel Flow, Seg B to Seg C Bot.W=0.00' D=0.50' Z= 0.1 & 27.4 ' Top.W=13.75' n= 0.013 Asphalt, smooth
0.0	21	0.0950	13.97	68.79	Trap/Vee/Rect Channel Flow, Seg C to Seg D Bot.W=0.00' D=0.50' Z= 13.0 & 26.4 ' Top.W=19.70' n= 0.013 Asphalt, smooth
0.0	21	0.0892	13.24	43.86	Trap/Vee/Rect Channel Flow, Seg D to Seg E Bot.W=0.00' D=0.50' Z= 0.1 & 26.4 ' Top.W=13.25' n= 0.013 Asphalt, smooth
0.5	151	Total, Increased to minimum Tc = 6.0 min			

Summary for Link SP1:

Inflow Area = 11,310 sf, 49.04% Impervious, Inflow Depth = 2.47" for 25-Year event
 Inflow = 0.73 cfs @ 12.10 hrs, Volume= 2,326 cf
 Primary = 0.73 cfs @ 12.10 hrs, Volume= 2,326 cf, Atten= 0%, Lag= 0.0 min

Primary outflow = Inflow, Time Span= 0.00-48.00 hrs, dt= 0.05 hrs

Summary for Link SP2:

Inflow Area = 3,595 sf, 92.16% Impervious, Inflow Depth = 4.99" for 25-Year event
 Inflow = 0.44 cfs @ 12.09 hrs, Volume= 1,494 cf
 Primary = 0.44 cfs @ 12.09 hrs, Volume= 1,494 cf, Atten= 0%, Lag= 0.0 min

Primary outflow = Inflow, Time Span= 0.00-48.00 hrs, dt= 0.05 hrs

18053-PRE*Type III 24-hr 2-Year Rainfall=3.10"*

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Page 1

Time span=0.00-48.00 hrs, dt=0.05 hrs, 961 points
Runoff by SCS TR-20 method, UH=SCS, Weighted-CN
Reach routing by Stor-Ind+Trans method - Pond routing by Stor-Ind method

Subcatchment1:

Runoff Area=11,310 sf 49.04% Impervious Runoff Depth=0.68"
Flow Length=129' Tc=6.0 min CN=68 Runoff=0.17 cfs 640 cf

Subcatchment2:

Runoff Area=3,595 sf 92.16% Impervious Runoff Depth=2.35"
Flow Length=151' Tc=6.0 min CN=93 Runoff=0.22 cfs 704 cf

Link SP1:

Inflow=0.17 cfs 640 cf
Primary=0.17 cfs 640 cf

Link SP2:

Inflow=0.22 cfs 704 cf
Primary=0.22 cfs 704 cf

18053-PRE*Type III 24-hr 10-Year Rainfall=4.60"*

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Page 2

Time span=0.00-48.00 hrs, dt=0.05 hrs, 961 points
Runoff by SCS TR-20 method, UH=SCS, Weighted-CN
Reach routing by Stor-Ind+Trans method - Pond routing by Stor-Ind method

Subcatchment1:

Runoff Area=11,310 sf 49.04% Impervious Runoff Depth=1.60"
Flow Length=129' Tc=6.0 min CN=68 Runoff=0.46 cfs 1,508 cf

Subcatchment2:

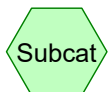
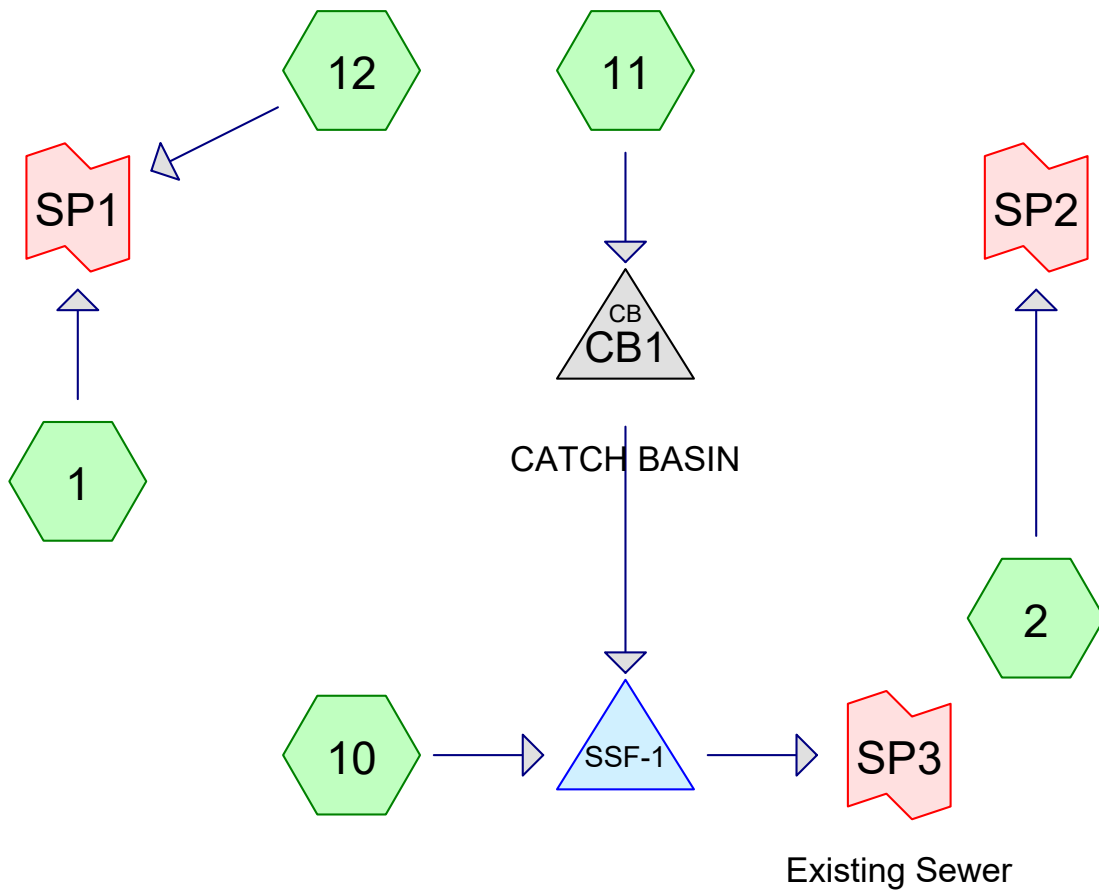
Runoff Area=3,595 sf 92.16% Impervious Runoff Depth=3.81"
Flow Length=151' Tc=6.0 min CN=93 Runoff=0.34 cfs 1,140 cf

Link SP1:

Inflow=0.46 cfs 1,508 cf
Primary=0.46 cfs 1,508 cf

Link SP2:

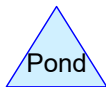
Inflow=0.34 cfs 1,140 cf
Primary=0.34 cfs 1,140 cf



Subcat



Reach



Pond



Link

Routing Diagram for 18053-POST

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18053-POST*Type III 24-hr 25-Year Rainfall=5.80"*

Prepared by DM Roma Consulting Engineers

Printed 8/12/2019

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Page 2

Time span=0.00-96.00 hrs, dt=0.05 hrs, 1921 points
Runoff by SCS TR-20 method, UH=SCS, Weighted-CN
Reach routing by Stor-Ind+Trans method - Pond routing by Stor-Ind method

Subcatchment 1:	Runoff Area=570 sf 56.32% Impervious Runoff Depth=2.83" Flow Length=83' Tc=6.0 min CN=72 Runoff=0.04 cfs 134 cf
Subcatchment 2:	Runoff Area=3,470 sf 95.48% Impervious Runoff Depth=5.21" Flow Length=151' Tc=6.0 min CN=95 Runoff=0.43 cfs 1,507 cf
Subcatchment 10:	Runoff Area=8,015 sf 81.78% Impervious Runoff Depth=4.33" Flow Length=72' Tc=6.0 min CN=87 Runoff=0.89 cfs 2,889 cf
Subcatchment 11:	Runoff Area=1,598 sf 72.72% Impervious Runoff Depth=3.80" Flow Length=45' Tc=6.0 min CN=82 Runoff=0.16 cfs 507 cf
Subcatchment 12:	Runoff Area=716 sf 5.31% Impervious Runoff Depth=0.55" Flow Length=23' Tc=6.0 min CN=42 Runoff=0.00 cfs 33 cf
Pond CB1: CATCH BASIN	Peak Elev=123.41' Inflow=0.16 cfs 507 cf 10.0" Round Culvert x 2.00 n=0.013 L=1.6' S=0.0437 '/' Outflow=0.16 cfs 507 cf
Pond SSF-1:	Peak Elev=124.93' Storage=938 cf Inflow=1.05 cfs 3,396 cf Discarded=0.00 cfs 956 cf Primary=0.92 cfs 2,439 cf Outflow=0.92 cfs 3,396 cf
Link SP1:	Inflow=0.05 cfs 167 cf Primary=0.05 cfs 167 cf
Link SP2:	Inflow=0.43 cfs 1,507 cf Primary=0.43 cfs 1,507 cf
Link SP3: Existing Sewer	Inflow=0.92 cfs 2,439 cf Primary=0.92 cfs 2,439 cf

18053-POST

Prepared by DM Roma Consulting Engineers

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Type III 24-hr 25-Year Rainfall=5.80"

Printed 8/12/2019

Page 3

Summary for Subcatchment 1:

Runoff = 0.04 cfs @ 12.09 hrs, Volume= 134 cf, Depth= 2.83"

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-96.00 hrs, dt= 0.05 hrs
Type III 24-hr 25-Year Rainfall=5.80"

Area (sf)	CN	Description
* 95	98	Existing Pavement
* 226	98	Proposed Concrete
* 179	39	Proposed Landscape A
* 70	39	Existing Landscape
570	72	Weighted Average
249		43.68% Pervious Area
321		56.32% Impervious Area

Tc (min)	Length (feet)	Slope (ft/ft)	Velocity (ft/sec)	Capacity (cfs)	Description
3.2	15	0.0199	0.08		Sheet Flow, Seg A to Seg B Grass: Dense n= 0.240 P2= 3.10"
0.6	68	0.0516	1.83		Sheet Flow, Seg B to Seg C Smooth surfaces n= 0.011 P2= 3.10"
3.8	83	Total, Increased to minimum Tc = 6.0 min			

Summary for Subcatchment 2:

Runoff = 0.43 cfs @ 12.09 hrs, Volume= 1,507 cf, Depth= 5.21"

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-96.00 hrs, dt= 0.05 hrs
Type III 24-hr 25-Year Rainfall=5.80"

Area (sf)	CN	Description
* 3,313	98	Existing Pavement
* 157	39	Proposed Landscape A
3,470	95	Weighted Average
157		4.52% Pervious Area
3,313		95.48% Impervious Area

Tc (min)	Length (feet)	Slope (ft/ft)	Velocity (ft/sec)	Capacity (cfs)	Description
0.4	47	0.0731	1.96		Sheet Flow, Seg A to Seg B Smooth surfaces n= 0.011 P2= 3.10"
0.1	62	0.0896	13.28	45.66	Trap/Vee/Rect Channel Flow, Seg B to Seg C Bot.W=0.00' D=0.50' Z= 0.1 & 27.4 ' Top.W=13.75' n= 0.013 Asphalt, smooth
0.0	21	0.0950	13.97	68.79	Trap/Vee/Rect Channel Flow, Seg C to Seg D Bot.W=0.00' D=0.50' Z= 13.0 & 26.4 ' Top.W=19.70' n= 0.013 Asphalt, smooth
0.0	21	0.0892	13.24	43.86	Trap/Vee/Rect Channel Flow, Seg D to Seg E Bot.W=0.00' D=0.50' Z= 0.1 & 26.4 ' Top.W=13.25' n= 0.013 Asphalt, smooth

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Type III 24-hr 25-Year Rainfall=5.80"

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0.5 151 Total, Increased to minimum Tc = 6.0 min

Summary for Subcatchment 10:

Runoff = 0.89 cfs @ 12.09 hrs, Volume= 2,889 cf, Depth= 4.33"

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-96.00 hrs, dt= 0.05 hrs
Type III 24-hr 25-Year Rainfall=5.80"

	Area (sf)	CN	Description
*	5,688	98	Proposed Rooftop
*	867	98	Proposed Concrete
*	1,460	39	Proposed Landscape A
	8,015	87	Weighted Average
	1,460		18.22% Pervious Area
	6,555		81.78% Impervious Area

Tc (min)	Length (feet)	Slope (ft/ft)	Velocity (ft/sec)	Capacity (cfs)	Description
0.0	7	0.0100	2.86	0.56	Pipe Channel, Seg A to Seg B 6.0" Round Area= 0.2 sf Perim= 1.6' r= 0.13' n= 0.013
0.1	36	0.0833	11.59	6.32	Pipe Channel, Seg B to Seg C 10.0" Round Area= 0.5 sf Perim= 2.6' r= 0.21' n= 0.013 Corrugated PE, smooth interior
0.1	26	0.0170	5.24	2.86	Pipe Channel, Seg C to Seg D 10.0" Round Area= 0.5 sf Perim= 2.6' r= 0.21' n= 0.013 Corrugated PE, smooth interior
0.0	3	0.0300	6.96	3.79	Pipe Channel, Seg D to Seg E 10.0" Round Area= 0.5 sf Perim= 2.6' r= 0.21' n= 0.013 Corrugated PE, smooth interior
0.2	72	Total, Increased to minimum Tc = 6.0 min			

Summary for Subcatchment 11:

Runoff = 0.16 cfs @ 12.09 hrs, Volume= 507 cf, Depth= 3.80"

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-96.00 hrs, dt= 0.05 hrs
Type III 24-hr 25-Year Rainfall=5.80"

	Area (sf)	CN	Description
*	1,033	98	Proposed Pavement
*	129	98	Proposed Concrete
*	436	39	Proposed Landscape A
	1,598	82	Weighted Average
	436		27.28% Pervious Area
	1,162		72.72% Impervious Area

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Type III 24-hr 25-Year Rainfall=5.80"

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Tc (min)	Length (feet)	Slope (ft/ft)	Velocity (ft/sec)	Capacity (cfs)	Description
0.9	5	0.0566	0.10		Sheet Flow, Seg A to Seg B Grass: Dense n= 0.240 P2= 3.10"
0.1	40	0.0600	4.97		Shallow Concentrated Flow, Seg B to Seg C Paved Kv= 20.3 fps
1.0	45	Total, Increased to minimum Tc = 6.0 min			

Summary for Subcatchment 12:

Runoff = 0.00 cfs @ 12.29 hrs, Volume= 33 cf, Depth= 0.55"

Runoff by SCS TR-20 method, UH=SCS, Weighted-CN, Time Span= 0.00-96.00 hrs, dt= 0.05 hrs
Type III 24-hr 25-Year Rainfall=5.80"

Area (sf)	CN	Description
* 678	39	Proposed Landscape A
* 38	98	Proposed Concrete
716	42	Weighted Average
678		94.69% Pervious Area
38		5.31% Impervious Area

Tc (min)	Length (feet)	Slope (ft/ft)	Velocity (ft/sec)	Capacity (cfs)	Description
0.6	11	0.3300	0.33		Sheet Flow, Seg A to Seg B Grass: Short n= 0.150 P2= 3.10"
1.8	12	0.0200	0.11		Sheet Flow, Seg B to Seg C Grass: Short n= 0.150 P2= 3.10"
2.4	23	Total, Increased to minimum Tc = 6.0 min			

Summary for Pond CB1: CATCH BASIN

Inflow Area = 1,598 sf, 72.72% Impervious, Inflow Depth = 3.80" for 25-Year event
 Inflow = 0.16 cfs @ 12.09 hrs, Volume= 507 cf
 Outflow = 0.16 cfs @ 12.09 hrs, Volume= 507 cf, Atten= 0%, Lag= 0.0 min
 Primary = 0.16 cfs @ 12.09 hrs, Volume= 507 cf

Routing by Stor-Ind method, Time Span= 0.00-96.00 hrs, dt= 0.05 hrs
 Peak Elev= 123.41' @ 12.09 hrs
 Flood Elev= 126.60'

Device	Routing	Invert	Outlet Devices
#1	Primary	123.27'	10.0" Round Culvert X 2.00 L= 1.6' CPP, square edge headwall, Ke= 0.500 Inlet / Outlet Invert= 123.27' / 123.20' S= 0.0437 '/' Cc= 0.900 n= 0.013 Corrugated PE, smooth interior, Flow Area= 0.55 sf

Primary OutFlow Max=0.16 cfs @ 12.09 hrs HW=123.41' (Free Discharge)

↑**1=Culvert** (Inlet Controls 0.16 cfs @ 1.28 fps)

Summary for Pond SSF-1:

Inflow Area = 9,613 sf, 80.28% Impervious, Inflow Depth = 4.24" for 25-Year event
 Inflow = 1.05 cfs @ 12.09 hrs, Volume= 3,396 cf
 Outflow = 0.92 cfs @ 12.13 hrs, Volume= 3,396 cf, Atten= 12%, Lag= 2.5 min
 Discarded = 0.00 cfs @ 7.20 hrs, Volume= 956 cf
 Primary = 0.92 cfs @ 12.13 hrs, Volume= 2,439 cf

Routing by Stor-Ind method, Time Span= 0.00-96.00 hrs, dt= 0.05 hrs / 2
 Peak Elev= 124.93' @ 12.13 hrs Surf.Area= 796 sf Storage= 938 cf

Plug-Flow detention time= 520.5 min calculated for 3,396 cf (100% of inflow)
 Center-of-Mass det. time= 520.2 min (1,318.2 - 798.0)

Volume	Invert	Avail.Storage	Storage Description
#1A	122.65'	146 cf	4.83'W x 38.80'L x 2.33'H Field A 438 cf Overall - 74 cf Embedded = 364 cf x 40.0% Voids
#2A	123.15'	74 cf	ADS_StormTech SC-310 +Cap x 5 Inside #1 Effective Size= 28.9"W x 16.0"H => 2.07 sf x 7.12'L = 14.7 cf Overall Size= 34.0"W x 16.0"H x 7.56'L with 0.44' Overlap
#3B	122.65'	86 cf	2.83'W x 45.92'L x 2.33'H Field B 304 cf Overall - 88 cf Embedded = 215 cf x 40.0% Voids
#4B	123.15'	88 cf	ADS_StormTech SC-310 +Cap x 6 Inside #3 Effective Size= 28.9"W x 16.0"H => 2.07 sf x 7.12'L = 14.7 cf Overall Size= 34.0"W x 16.0"H x 7.56'L with 0.44' Overlap
#5C	122.65'	198 cf	4.83'W x 53.04'L x 2.33'H Field C 598 cf Overall - 103 cf Embedded = 495 cf x 40.0% Voids
#6C	123.15'	103 cf	ADS_StormTech SC-310 +Cap x 7 Inside #5 Effective Size= 28.9"W x 16.0"H => 2.07 sf x 7.12'L = 14.7 cf Overall Size= 34.0"W x 16.0"H x 7.56'L with 0.44' Overlap
#7D	122.65'	172 cf	4.83'W x 45.92'L x 2.33'H Field D 518 cf Overall - 88 cf Embedded = 429 cf x 40.0% Voids
#8D	123.15'	88 cf	ADS_StormTech SC-310 +Cap x 6 Inside #7 Effective Size= 28.9"W x 16.0"H => 2.07 sf x 7.12'L = 14.7 cf Overall Size= 34.0"W x 16.0"H x 7.56'L with 0.44' Overlap
		955 cf	Total Available Storage

Storage Group A created with Chamber Wizard
 Storage Group B created with Chamber Wizard
 Storage Group C created with Chamber Wizard
 Storage Group D created with Chamber Wizard

Device	Routing	Invert	Outlet Devices
#1	Discarded	122.65'	0.200 in/hr Exfiltration over Surface area
#2	Primary	122.23'	6.0" Round Culvert-6" OCS outlet L= 33.0' CPP, projecting, no headwall, Ke= 0.900 Inlet / Outlet Invert= 122.23' / 120.10' S= 0.0645 ' /' Cc= 0.900 n= 0.013 Corrugated PE, smooth interior, Flow Area= 0.20 sf
#3	Device 2	124.25'	Custom Weir/Orifice, Cv= 2.62 (C= 3.28) Head (feet) 0.00 1.00 1.00 1.97 Width (feet) 0.50 0.50 4.00 4.00
#4	Device 3	122.73'	4.0" Vert. 4" Underdrain C= 0.600

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Type III 24-hr 25-Year Rainfall=5.80"

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#5 Device 3 123.27' **10.0" Vert. 10" Overflow Pipe From Chamber** C= 0.600**Discarded OutFlow** Max=0.00 cfs @ 7.20 hrs HW=122.69' (Free Discharge)↑ **1=Exfiltration** (Exfiltration Controls 0.00 cfs)**Primary OutFlow** Max=0.90 cfs @ 12.13 hrs HW=124.92' (Free Discharge)↑ **2=Culvert-6" OCS outlet** (Passes 0.90 cfs of 1.17 cfs potential flow)↑ **3=Custom Weir/Orifice** (Weir Controls 0.90 cfs @ 2.68 fps)↑ **4=4" Underdrain** (Passes < 0.34 cfs potential flow)↑ **5=10" Overflow Pipe From Chamber** (Passes < 2.15 cfs potential flow)**Summary for Link SP1:**

Inflow Area = 1,286 sf, 27.92% Impervious, Inflow Depth = 1.56" for 25-Year event

Inflow = 0.05 cfs @ 12.10 hrs, Volume= 167 cf

Primary = 0.05 cfs @ 12.10 hrs, Volume= 167 cf, Atten= 0%, Lag= 0.0 min

Primary outflow = Inflow, Time Span= 0.00-96.00 hrs, dt= 0.05 hrs

Summary for Link SP2:

Inflow Area = 3,470 sf, 95.48% Impervious, Inflow Depth = 5.21" for 25-Year event

Inflow = 0.43 cfs @ 12.09 hrs, Volume= 1,507 cf

Primary = 0.43 cfs @ 12.09 hrs, Volume= 1,507 cf, Atten= 0%, Lag= 0.0 min

Primary outflow = Inflow, Time Span= 0.00-96.00 hrs, dt= 0.05 hrs

Summary for Link SP3: Existing Sewer

Inflow Area = 9,613 sf, 80.28% Impervious, Inflow Depth = 3.05" for 25-Year event

Inflow = 0.92 cfs @ 12.13 hrs, Volume= 2,439 cf

Primary = 0.92 cfs @ 12.13 hrs, Volume= 2,439 cf, Atten= 0%, Lag= 0.0 min

Primary outflow = Inflow, Time Span= 0.00-96.00 hrs, dt= 0.05 hrs

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Type III 24-hr 2-Year Rainfall=3.10"

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Page 1

Time span=0.00-96.00 hrs, dt=0.05 hrs, 1921 points
Runoff by SCS TR-20 method, UH=SCS, Weighted-CN
Reach routing by Stor-Ind+Trans method - Pond routing by Stor-Ind method

Subcatchment 1:	Runoff Area=570 sf 56.32% Impervious Runoff Depth=0.87" Flow Length=83' Tc=6.0 min CN=72 Runoff=0.01 cfs 41 cf
Subcatchment 2:	Runoff Area=3,470 sf 95.48% Impervious Runoff Depth=2.55" Flow Length=151' Tc=6.0 min CN=95 Runoff=0.22 cfs 737 cf
Subcatchment 10:	Runoff Area=8,015 sf 81.78% Impervious Runoff Depth=1.83" Flow Length=72' Tc=6.0 min CN=87 Runoff=0.39 cfs 1,220 cf
Subcatchment 11:	Runoff Area=1,598 sf 72.72% Impervious Runoff Depth=1.46" Flow Length=45' Tc=6.0 min CN=82 Runoff=0.06 cfs 194 cf
Subcatchment 12:	Runoff Area=716 sf 5.31% Impervious Runoff Depth=0.01" Flow Length=23' Tc=6.0 min CN=42 Runoff=0.00 cfs 0 cf
Pond CB1: CATCH BASIN	Peak Elev=123.36' Inflow=0.06 cfs 194 cf 10.0" Round Culvert x 2.00 n=0.013 L=1.6' S=0.0437 '/' Outflow=0.06 cfs 194 cf
Pond SSF-1:	Peak Elev=124.35' Storage=751 cf Inflow=0.45 cfs 1,414 cf Discarded=0.00 cfs 919 cf Primary=0.05 cfs 496 cf Outflow=0.06 cfs 1,414 cf
Link SP1:	Inflow=0.01 cfs 42 cf Primary=0.01 cfs 42 cf
Link SP2:	Inflow=0.22 cfs 737 cf Primary=0.22 cfs 737 cf
Link SP3: Existing Sewer	Inflow=0.05 cfs 496 cf Primary=0.05 cfs 496 cf

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Type III 24-hr 10-Year Rainfall=4.60"

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Time span=0.00-96.00 hrs, dt=0.05 hrs, 1921 points
Runoff by SCS TR-20 method, UH=SCS, Weighted-CN
Reach routing by Stor-Ind+Trans method - Pond routing by Stor-Ind method

Subcatchment 1:	Runoff Area=570 sf 56.32% Impervious Runoff Depth=1.89" Flow Length=83' Tc=6.0 min CN=72 Runoff=0.03 cfs 90 cf
Subcatchment 2:	Runoff Area=3,470 sf 95.48% Impervious Runoff Depth=4.02" Flow Length=151' Tc=6.0 min CN=95 Runoff=0.34 cfs 1,163 cf
Subcatchment 10:	Runoff Area=8,015 sf 81.78% Impervious Runoff Depth=3.19" Flow Length=72' Tc=6.0 min CN=87 Runoff=0.66 cfs 2,132 cf
Subcatchment 11:	Runoff Area=1,598 sf 72.72% Impervious Runoff Depth=2.72" Flow Length=45' Tc=6.0 min CN=82 Runoff=0.11 cfs 363 cf
Subcatchment 12:	Runoff Area=716 sf 5.31% Impervious Runoff Depth=0.22" Flow Length=23' Tc=6.0 min CN=42 Runoff=0.00 cfs 13 cf
Pond CB1: CATCH BASIN	Peak Elev=123.39' Inflow=0.11 cfs 363 cf 10.0" Round Culvert x 2.00 n=0.013 L=1.6' S=0.0437 '/' Outflow=0.11 cfs 363 cf
Pond SSF-1:	Peak Elev=124.72' Storage=872 cf Inflow=0.78 cfs 2,495 cf Discarded=0.00 cfs 942 cf Primary=0.53 cfs 1,552 cf Outflow=0.54 cfs 2,494 cf
Link SP1:	Inflow=0.03 cfs 103 cf Primary=0.03 cfs 103 cf
Link SP2:	Inflow=0.34 cfs 1,163 cf Primary=0.34 cfs 1,163 cf
Link SP3: Existing Sewer	Inflow=0.53 cfs 1,552 cf Primary=0.53 cfs 1,552 cf

ATTACHMENT B

STORMWATER TREATMENT CALCULATIONS

Stormwater Treatment Table

33/37 Montreal Street

	Total Watershed Area (SF)	New Driveway and Road Impervious Area (SF)	New Landscaped Area (SF)	Existing/Offsite Impervious Area (SF)	Existing/Offsite Landscaped Area (SF)	Existing Undeveloped Area (SF)	Treatment Provided	New Impervious Area Treated In Treatment Device (SF)	New Landscaped Area Treated In Treatment Device (SF)	Treatment Device
WS-1	570	226	179	95	70	0	No	0	0	None
WS-10	8,015	6,555	1,460	0	0	0	Yes	6,555	1,460	Chamber Syst.
WS-11	1,598	1,162	436	0	0	0	Yes	1,162	436	Chamber Syst.
WS-12	716	38	678	0	0	0	No	0	0	None
WS-2	3,470	0	157	3,313	0	0	No	0	0	None
Total		7,981	2,910					7,717	1,896	

New Impervious Area = 7,981 sf
 Impervious Area Requiring Treatment (95%) = 7,582 sf
 Impervious Area Treatment Provided = 7,717 sf
 97% New Impervious Area Treated

New Developed Area = 10,891 sf
 Developed Area Requiring Treatment (80%) = 8,713 sf
 Developed Area Treatment Provided = 9,613 sf
 88% New Developed Area Treated

Subsurface Storage - 1

Tributary Impervious Area=	7,717 sf	(WS-10 & WS-11 Impervious Area)
Tributary Landscaped Area=	1,896 sf	(WS-10 & WS-11 Landscaped Area)

Water Quality Volume (WQV) Calculation

WQV (Required) = $1.0 \times \text{Impervious Area} + 0.4 \times \text{Landscaped Area}$

WQV (Required) = 706 cf

Chamber Size = SC-310

WQV (Provided)= 715 cf >Required

(See HydroCAD Stage Storage Calculation)

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Type III 24-hr 25-Year Rainfall=5.80"

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Stage-Area-Storage for Pond SSF-1:

Elevation (feet)	Surface (sq-ft)	Storage (cubic-feet)	Elevation (feet)	Surface (sq-ft)	Storage (cubic-feet)
122.65	796	0	125.30	796	955
122.70	796	16	125.35	796	955
122.75	796	32	125.40	796	955
122.80	796	48	125.45	796	955
122.85	796	64	125.50	796	955
122.90	796	80	125.55	796	955
122.95	796	96	125.60	796	955
123.00	796	111	125.65	796	955
123.05	796	127	125.70	796	955
123.10	796	143	125.75	796	955
123.15	796	159	125.80	796	955
123.20	796	187	125.85	796	955
123.25	796	216	125.90	796	955
123.30	796	244	125.95	796	955
123.35	796	271	126.00	796	955
123.40	796	299	126.05	796	955
123.45	796	327	126.10	796	955
123.50	796	354	126.15	796	955
123.55	796	381	126.20	796	955
123.60	796	407			
123.65	796	434			
123.70	796	460			
123.75	796	485			
123.80	796	511			
123.85	796	536			
123.90	796	560			
123.95	796	584			
124.00	796	608			
124.05	796	631			
124.10	796	653			
124.15	796	675			
124.20	796	696			
124.25	796	715			
124.30	796	734			
124.35	796	752			
124.40	796	769			
124.45	796	785			
124.50	796	801			
124.55	796	817			
124.60	796	833			
124.65	796	849			
124.70	796	865			
124.75	796	881			
124.80	796	897			
124.85	796	913			
124.90	796	929			
124.95	796	945			
125.00	796	955			
125.05	796	955			
125.10	796	955			
125.15	796	955			
125.20	796	955			
125.25	796	955			

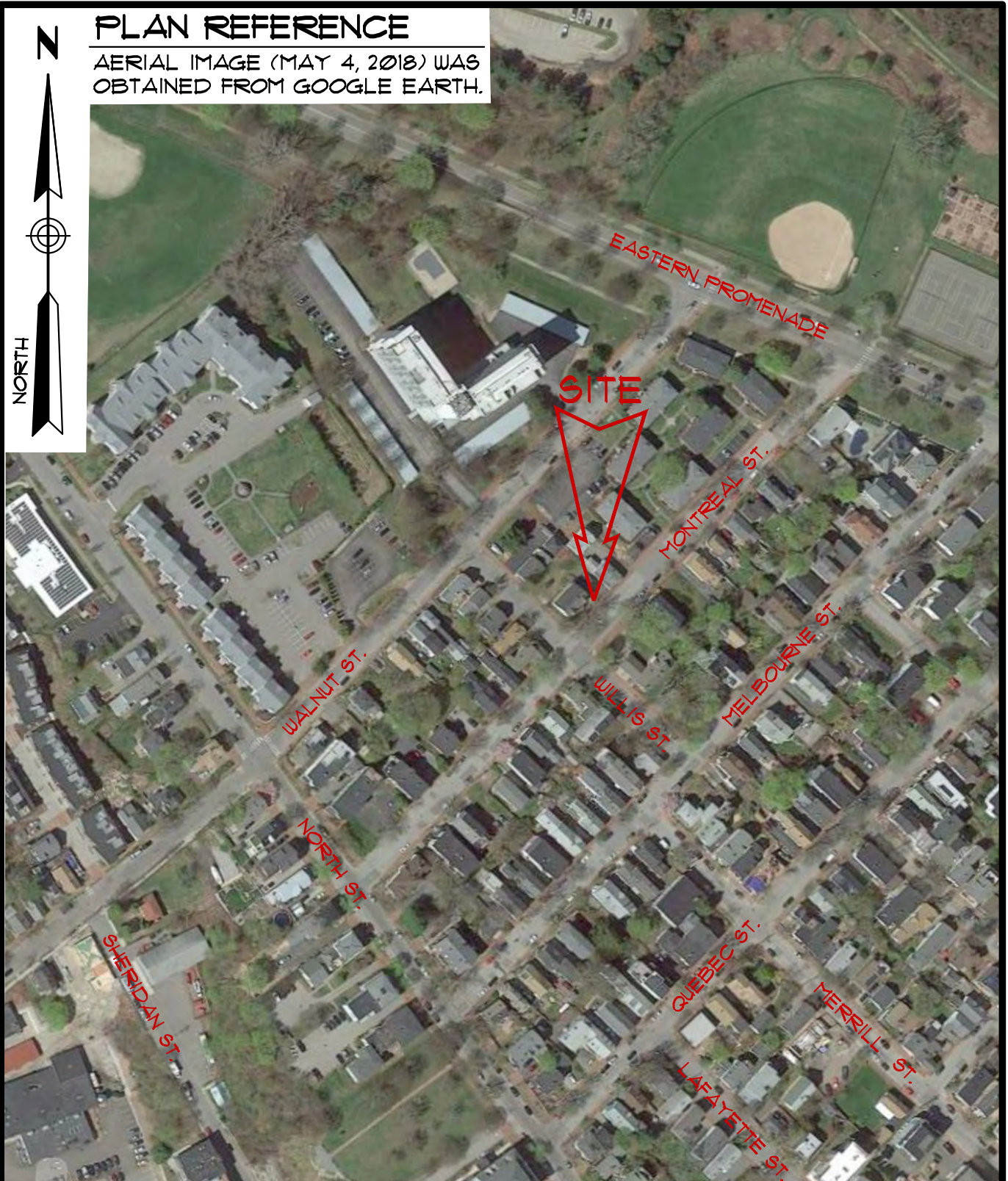
Water Quality Volume Required = 706 cf
 Provided Water Quality Volume = 715 cf

ATTACHMENT C

SOILS TEST PIT LOGS AND MAPS

PLAN REFERENCE

AERIAL IMAGE (MAY 4, 2018) WAS
OBTAINED FROM GOOGLE EARTH.



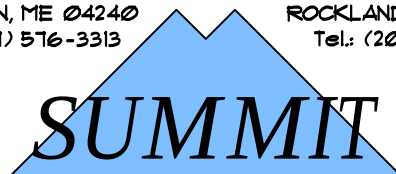
LOCATION MAP NEW RESIDENTIAL BUILDING

33 MONTREAL STREET - PORTLAND, MAINE

PREPARED FOR
TIM WELLS

145 LISBON ST. - SUITE 101
LEWISTON, ME 04240
Tel.: (207) 576-3313

173 PLEASANT STREET
ROCKLAND, ME 04841
Tel.: (207) 318-1161



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DATE: 4-15-2019	DRAWN BY: KRF	CHECKED BY: ELS
JOB: 17164	SCALE: 1" = 200'	FILE: 17164 BOR

N

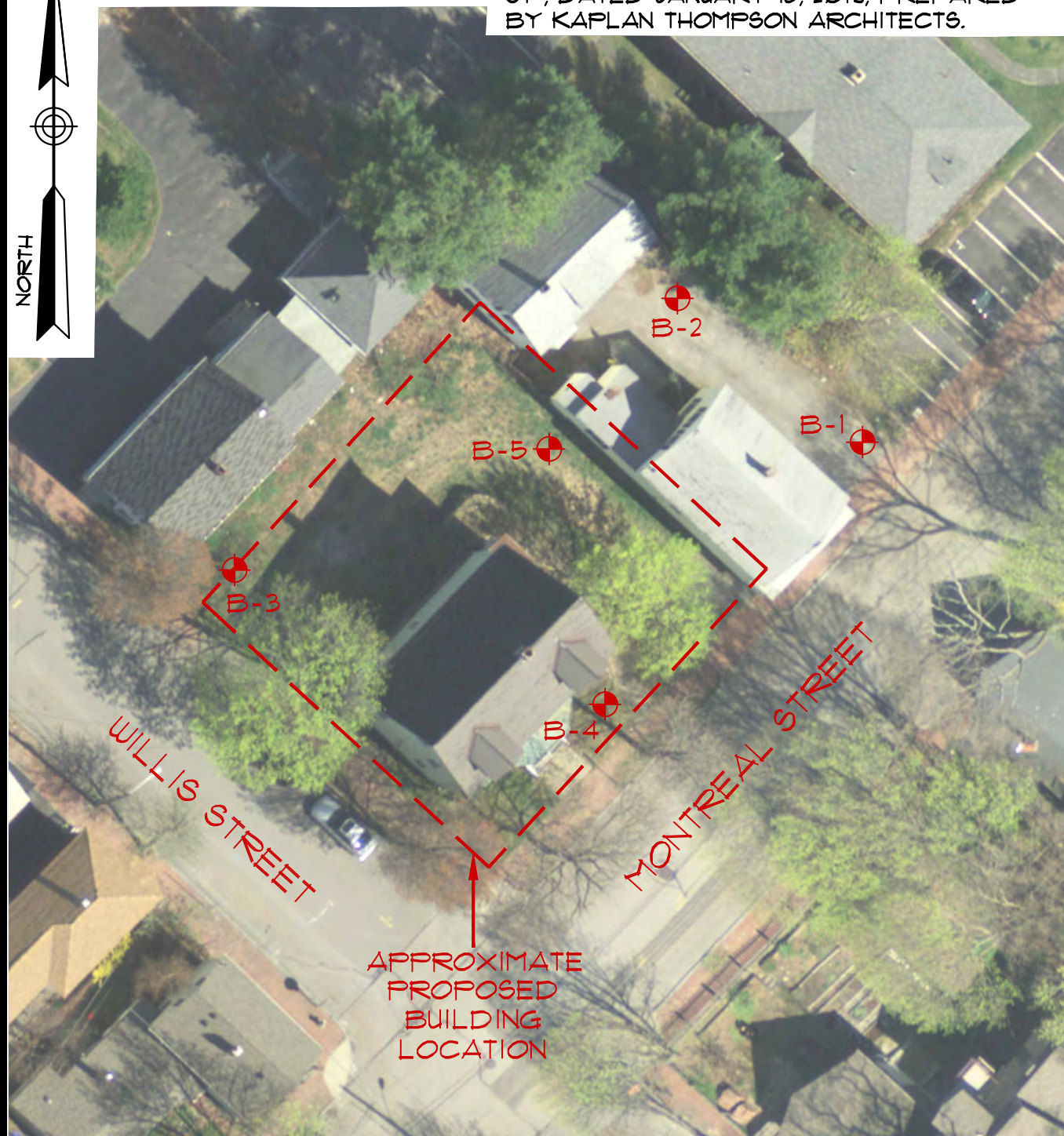
NORTH

LEGEND

⊕ B-1 SUMMIT TEST BORING
(APRIL 5, 2019)

PLAN REFERENCE

PROPOSED BUILDING LOCATION WAS TAKEN
FROM A PLAN SET ENTITLED "MONTREAL
ST", DATED JANUARY 15, 2019, PREPARED
BY KAPLAN THOMPSON ARCHITECTS.

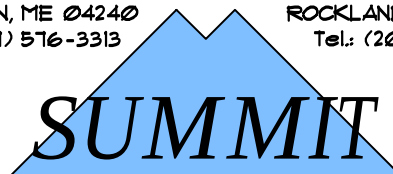


**EXPLORATION LOCATION PLAN
NEW RESIDENTIAL BUILDING**

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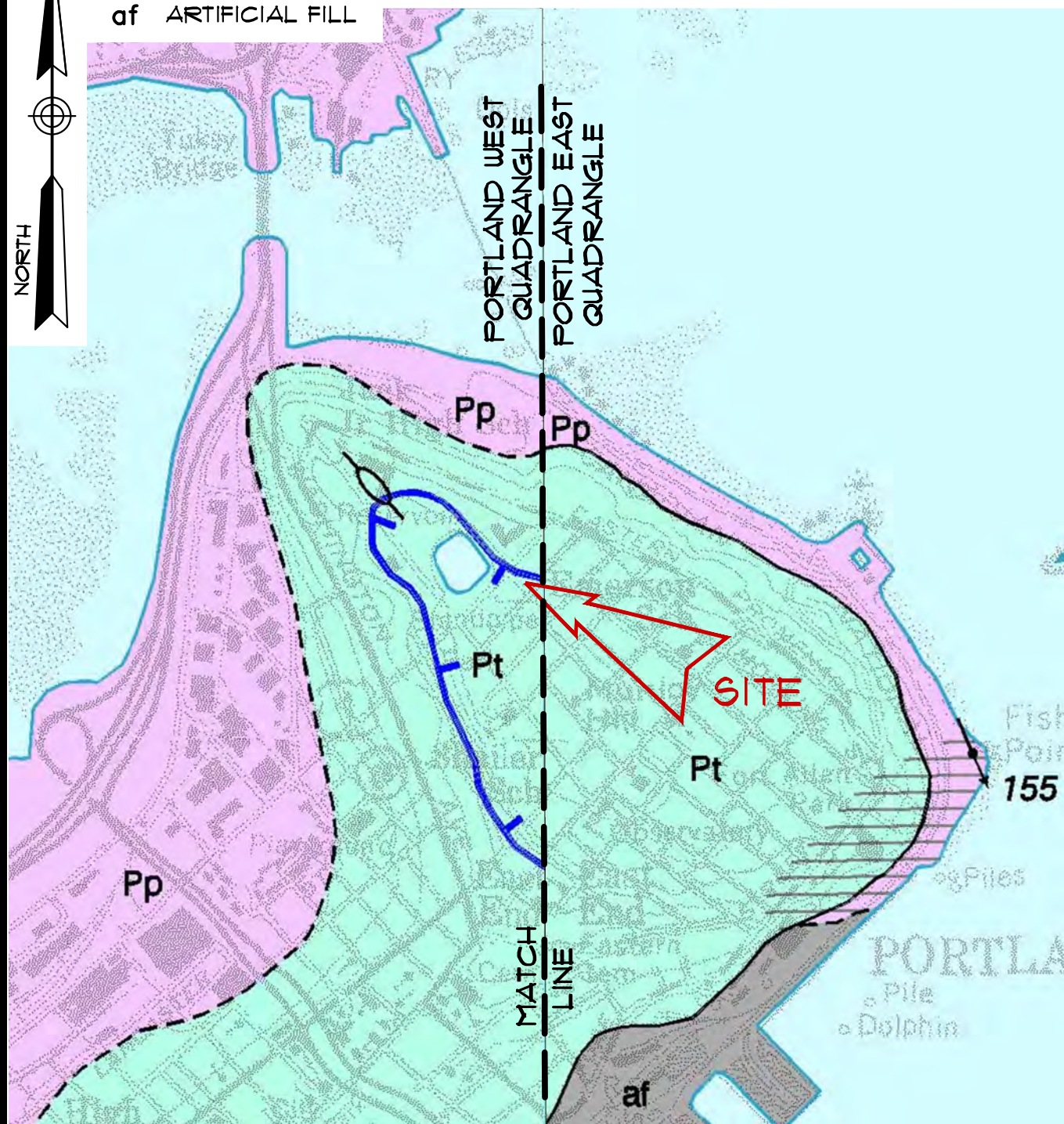


LEGEND

Pt TILL
 Pp PRESUMPTSCOT FORMATION
 af ARTIFICIAL FILL

PLAN REFERENCE

SURFICIAL GEOLOGY MAP, PORTLAND EAST
 & WEST QUADRANGLES, DATED 1999 & 2008,
 PREPARED BY MAINE GEOLOGICAL SURVEY.



SURFICIAL GEOLOGY MAP NEW RESIDENTIAL BUILDING

33 MONTREAL STREET - PORTLAND, MAINE

PREPARED FOR
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 Tel.: (207) 576-3313

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DATE: 4-15-2019

DRAWN BY: KRF

CHECKED BY: ELS

JOB: 17164

SCALE: 1" = 1000'

FILE: 17164 BOR

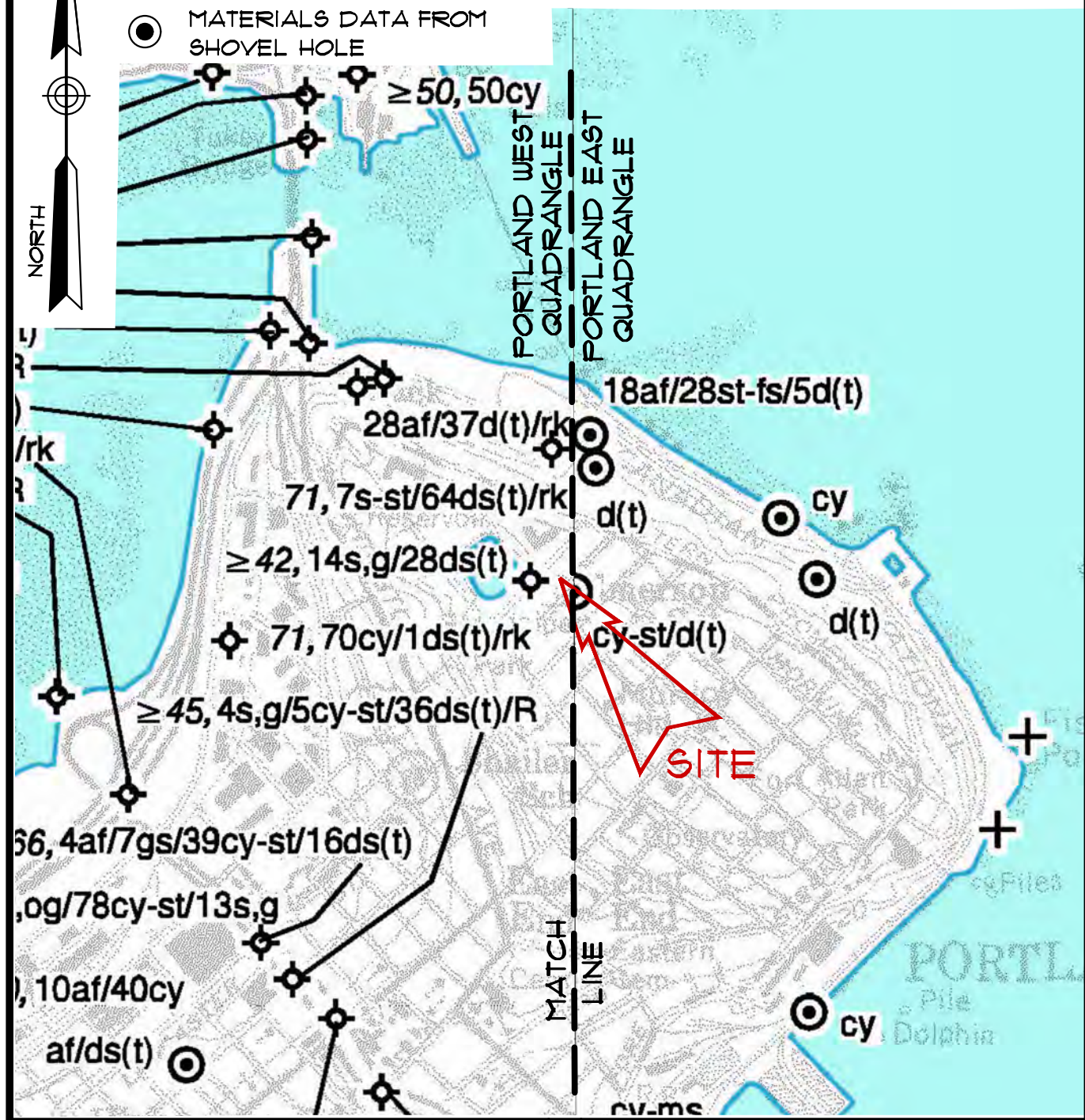


LEGEND

- ⊕ TEST BORING w/MATERIALS DATA
- ⊕ BEDROCK OUTCROP
- ⊙ MATERIALS DATA FROM SHOVEL HOLE

PLAN REFERENCE

BEDROCK MATERIALS, PORTLAND EAST & WEST QUADRANGLE, DATED 1999, PREPARED BY MAINE GEOLOGICAL SURVEY.



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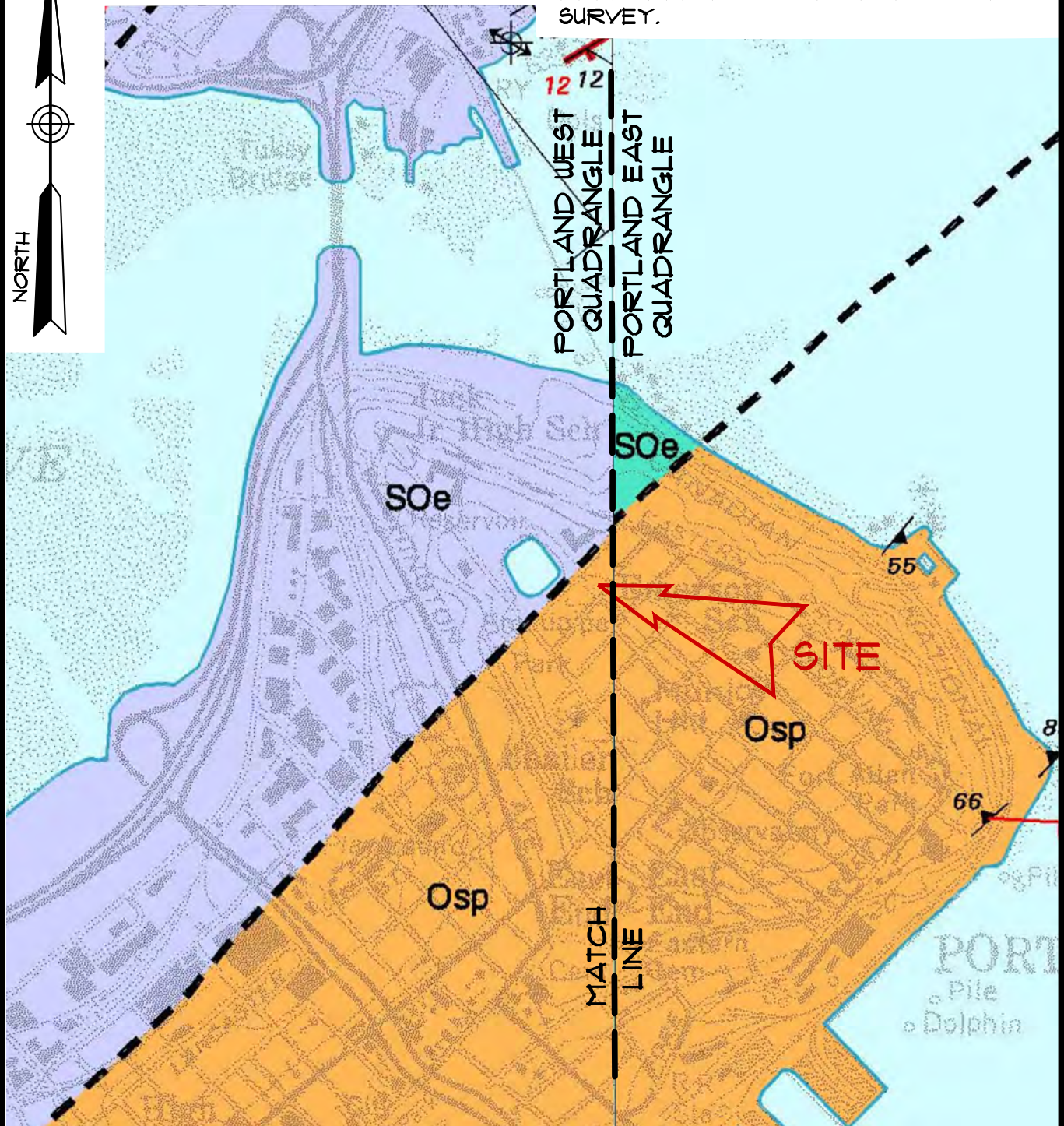
DATE: 4-15-2019	DRAWN BY: KRF	CHECKED BY: ELS
JOB: 17164	SCALE: 1" = 1000'	FILE: 17164 BOR

LEGEND

Osp SPRING POINT FORMATION
Soe ELLIOT FORMATION

PLAN REFERENCE

BEDROCK GEOLOGY, PORTLAND EAST & WEST QUADRANGLE, DATED 2003, PREPARED BY MAINE GEOLOGICAL SURVEY.



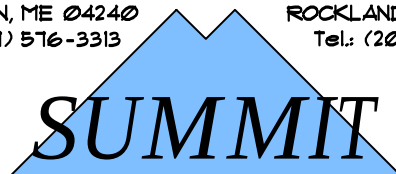
BEDROCK GEOLOGY MAP NEW RESIDENTIAL BUILDING

33 MONTREAL STREET - PORTLAND, MAINE

PREPARED FOR
TIM WELLS

145 LISBON ST. - SUITE 101
LEWISTON, ME 04240
Tel: (207) 576-3313

173 PLEASANT STREET
ROCKLAND, ME 04841
Tel: (207) 318-1161



GEOENGINEERING SERVICES
www.summitgeoeng.com

DATE: 4-15-2019	DRAWN BY: KRF	CHECKED BY: ELS
JOB: 17164	SCALE: 1" = 1000'	FILE: 17164 BOR

EXPLORATION COVER SHEET

The exploration logs are prepared by the geotechnical engineer from both field and laboratory data. Soil descriptions are based upon the Unified Soil Classification System (USCS) per ASTM D2487 and/or ASTM D2488 as applicable. Supplemental descriptive terms for estimated particle percentage, color, density, moisture condition, and bedrock may also be included to further describe conditions.

Drilling and Sampling Symbols:

S = Split Spoon Sample	Hyd = Hydraulic Advancement of Drilling Rods
UT = Thin Wall Shelby Tube	Push = Direct Push of Drilling Rods
SSA = Solid Stem Auger	WOH = Weight of Hammer
HSA = Hollow Stem Auger	WOR = Weight of Rod
RW = Rotary Wash	PI = Plasticity Index
SV = Lab Shear Vane (Torvane)	LL = Liquid Limit
PP = Pocket Penetrometer	MC = Natural Moisture Content
C = Rock Core Sample	USCS = Unified Soil Classification System
FV = Field Vane Shear Test	Su = Undrained Shear Strength
SP = Concrete Punch Sample	Su(r) = Remolded Shear Strength

Water Level Measurements:

Water levels indicated on the boring logs are the levels measured in the boring at the times indicated. In pervious soils, the indicated elevations are considered reliable groundwater levels. In impervious soils, the accurate determination of groundwater elevations may not be possible, even after several days of observations. Groundwater monitoring wells may be required to record accurate depths and fluctuation.

Gradation Description and Terminology:

Boulders:	Over 12 inches	Trace:	Less than 5%
Cobbles:	12 inches to 3 inches	Little:	5% to 15%
Gravel:	3 inches to No.4 sieve	Some:	15% to 30%
Sand:	No.4 to No. 200 sieve	Silty, Sandy, etc.:	Greater than 30%
Silt:	No. 200 sieve to 0.005 mm		
Clay:	less than 0.005 mm		

Density of Granular Soils and Consistency of Cohesive Soils:

CONSISTENCY OF COHESIVE SOILS		DENSITY OF GRANULAR SOILS	
SPT N-value blows/ft	Consistency	SPT N-value blows/ft	Relative Density
0 to 2	Very Soft	0 to 4	Very Loose
2 to 4	Soft	5 to 10	Loose
5 to 8	Firm	11 to 30	Compact
9 to 15	Stiff	31 to 50	Dense
16 to 30	Very Stiff	>50	Very Dense
>30	Hard		

						SOIL BORING LOG		Boring #: B-1	
Drilling Co: Summit Geoengineering Services, Inc.						Project: New Residential Building		Project #: 17164	
Driller: C. Coolidge, P.E.						Location: 33 Montreal Street		Sheet: 1 of 1	
Summit Staff: E. Stewart, P.E.						City, State: Portland, Maine		Chkd by: WMP	
Boring Elevation: Unknown						Reference: N/A			
Date started: 4/5/2019						Date Completed: 4/5/2019			
DRILLING METHOD			SAMPLER			ESTIMATED GROUND WATER DEPTH			
Vehicle: AMS			Length: 24" SS			Date	Depth	Elevation	Reference
Model: 9500 VTR			Diameter: 2"OD/1.5"ID			4/5/2019	NE	N/A	None observed
Method: 2 1/4-inch HSA			Hammer: 140 lb						
Hammer Style: Auto			Method: ASTM D1586						
Depth (ft.)	No.	Pen/Rec (in)	Depth (ft)	blows/6"	Elev. (ft.)	SAMPLE DESCRIPTION		Geological/ Test Data	Geological Stratum
	S-1	24/12	0 - 2	3		Dark brown SILT, little Sand & organics, loose, damp, ML			TOPSOIL
1				3		Dark brown to brown Gravelly SAND, little Silt, loose, damp, SP-SM			0.2' FILL
2				3					
	S-2	24/8	2 - 4	2		Same as above, loose, damp, SP-SM			
3				2		Dark brown to mottled brown Clayey SILT, little Sand, Gravel, and organics, soft, damp, ML			2.5'+/- FORMER TOPSOIL
4				9					
				6		Brown to olive brown and mottled Gravelly SAND, little Silt, compact, damp, SM to SP-SM			3'+/- MARINE NEARSHORE DEPOSIT
5									
	S-3	24/24	5 - 7	7		Same as above, compact, damp, SM to SP-SM (1" mottled sand seam at interface)			
6				17					
				10		Olive brown SILT, some Sand and Gravel, very stiff, damp, ML			6'+/- GLACIAL TILL
7				8					
8									
9									
10									
	S-4	24/24	10 - 12	12		Olive brown SILT-CLAY, some Sand and Gravel, very stiff, damp, ML		PP > 9,000 psf	
11				13					
				15					
12				15					
13									
14									
15									
	S-5	24/24	15 - 17	12		Gray SILT, some to little Sand, Gravel, and Clay, very stiff to hard, moist, ML		PP > 9,000 psf	
16				13					
				16					
17				15					
18									
19									
20									
	S-6	24/24	20 - 22	8		Gray SILT-CLAY, some to little Sand and Gravel, very stiff to hard, moist, ML-CL		PP = 8,000 psf	
21				13					
				16					
22				21					
						End of Exploration at 22', No Refusal			22'
Granular Soils		Cohesive Soils		% Composition		NOTES: PP = Pocket Penetrometer, MC = Moisture Content S = Split spoon sample, LL = Liquid Limit, PI = Plasticity Index			Soil Moisture Condition
Blows/ft.	Density	Blows/ft.	Consistency	ASTM D2487					
0-4	V. Loose	<2	V. soft			Boulders = diameter > 12 inches, Cobbles = diameter < 12 inches and > 3 inches Gravel = < 3 inch and > No 4, Sand = < No 4 and > No 200, Silt/Clay = < No 200			Dry: S = 0% Humid: S = 1 to 25% Damp: S = 26 to 50% Moist: S = 51 to 75% Wet: S = 76 to 99% Saturated: S = 100%
5-10	Loose	2-4	Soft	< 5% Trace					
11-30	Compact	5-8	Firm	5-15% Little					
31-50	Dense	9-15	Stiff	15-30% Some					
>50	V. Dense	16-30	V. Stiff	> 30% With					
		>30	Hard						

					SOIL BORING LOG		Boring #: B-2		
Drilling Co: Summit Geoengineering Services, Inc.					Project: New Residential Building		Project #: 17164		
Driller: C. Coolidge, P.E.					Location: 33 Montreal Street		Sheet: 1 of 1		
Summit Staff: E. Stewart, P.E.					City, State: Portland, Maine		Chkd by: WMP		
Boring Elevation: Unknown					Reference: N/A				
Date started: 4/5/2019					Date Completed: 4/5/2019				
DRILLING METHOD		SAMPLER			ESTIMATED GROUND WATER DEPTH				
Vehicle:	AMS	Length:	24" SS		Date	Depth	Elevation	Reference	
Model:	9500 VTR	Diameter:	2"OD/1.5"ID		4/5/2019	NE	N/A	None observed	
Method:	2 1/4-inch HSA	Hammer:	140 lb						
Hammer Style:	Auto	Method:	ASTM D1586						
Depth (ft.)	No.	Pen/Rec (in)	Depth (ft)	blows/6"	Elev. (ft.)	SAMPLE DESCRIPTION		Geological/ Test Data	
	S-1	24/10	0 - 2	1		1" Bituminous Pavement		PAVEMENT	
1				2		Dark brown SAND, some Silt and Gravel, loose, damp, SM		0.1' FILL	
				3					
2				5					
	S-2	24/10	2 - 4	2		Brown Gravelly SAND, little Silt, loose, damp, SM			
3				2					
				3					
4				2					
						Dark brown to mottled brown medium-fine SAND, some to little Silt and Gravel, trace organics at surface, loose, damp, SM		4' +/- MARINE NEARSHORE DEPOSIT	
5									
	S-3	24/18	5 - 7	4					
6				3					
				2					
7				5		Light olive brown to tan fine SAND-SILT, little to trace Gravel, stiff, moist, SM-ML		6' +/- GLACIAL TILL	
8									
9									
10									
	S-4	24/24	10 - 12	8		Olive brown SILT, some Sand, little Gravel and Clay, very stiff, damp, ML		PP > 9,000 psf	
11				9					
				11					
12				12					
13									
14									
15									
	S-5	24/8	15 - 17	6		Same as above, very stiff, damp to moist, ML (Pushed cobble, low recovery. Cobble fragments in spoon tip.)		PP > 9,000 psf	
16				11					
				15					
17				24					
18									
19									
20									
	S-6	24/24	20 - 22	12		Olive gray to gray SILT, some to little Sand, Gravel, and Clay, occasional cobbles, hard, moist, ML (3" cobble at 20.5')			
21				17					
				19					
22				20					
						End of Exploration at 22', No Refusal		22'	
Granular Soils		Cohesive Soils		% Composition		NOTES: PP = Pocket Penetrometer, MC = Moisture Content S = Split spoon sample, LL = Liquid Limit, PI = Plasticity Index Boulders = diameter > 12 inches, Cobbles = diameter < 12 inches and > 3 inches Gravel = < 3 inch and > No 4, Sand = < No 4 and > No 200, Silt/Clay = < No 200		Soil Moisture Condition	
Blows/ft.	Density	Blows/ft.	Consistency	ASTM D2487				Dry: S = 0% Humid: S = 1 to 25% Damp: S = 26 to 50% Moist: S = 51 to 75% Wet: S = 76 to 99% Saturated: S = 100%	
0-4	V. Loose	<2	V. soft	< 5% Trace					
5-10	Loose	2-4	Soft	5-15% Little					
11-30	Compact	5-8	Firm	15-30% Some					
31-50	Dense	9-15	Stiff	> 30% With					
>50	V. Dense	16-30	V. Stiff						
		>30	Hard						

						SOIL BORING LOG		Boring #: B-3	
Drilling Co: Summit Geoengineering Services, Inc.						Project: New Residential Building		Project #: 17164	
Driller: C. Coolidge, P.E.						Location: 33 Montreal Street		Sheet: 1 of 1	
Summit Staff: E. Stewart, P.E.						City, State: Portland, Maine		Chkd by: WMP	
Boring Elevation: Unknown						Reference: N/A			
Date started: 4/5/2019						Date Completed: 4/5/2019			
DRILLING METHOD			SAMPLER			ESTIMATED GROUND WATER DEPTH			
Vehicle: AMS			Length: 24" SS			Date	Depth	Elevation	Reference
Model: 9500 VTR			Diameter: 2"OD/1.5"ID			4/5/2019	NE	N/A	None observed
Method: 2 1/4-inch HSA			Hammer: 140 lb						
Hammer Style: Auto			Method: ASTM D1586						
Depth (ft.)	No.	Pen/Rec (in)	Depth (ft)	blows/6"	Elev. (ft.)	SAMPLE DESCRIPTION		Geological/ Test Data	Geological Stratum
1	S-1	24/12	0 - 2	1		Dark brown SILT, little Sand, rootlets, loose, damp, ML			PAVEMENT
				2		Light brown SAND, trace Silt, loose, damp, SP			0.1' FILL
				6		Brown SAND, some Silt, little Gravel, reclaim pavement, loose, damp, SM			
2				6					
3	S-2	24/6	2 - 4	3		Dark brown SILT, some organics, trace Sand, firm, moist, ML			2.5' FORMER TOPSOIL
4				4					
5									3.5'+/- GLACIAL TILL
6	S-3	24/24	5 - 7	12		Olive brown Sandy SILT, some Gravel, hard/dense, damp, ML		PP = 6,000 to 7,000 psf	
7				21		(Sandy lense/pocket at spoon tip)			
8				21					
9									
10									
11	S-4	24/24	10 - 12	10		Olive to olive brown SILT, some Sand and Gravel, little Clay, occasional cobbles, hard/dense, damp, ML		PP > 9,000 psf	
12				18					
13				20					
14				30					
15									
16	S-5	24/24	15 - 17	20		Olive gray SILT, some Sand and Gravel, little Clay, hard, damp, ML		PP > 9,000 psf	
17				24					
18				25					
19				41					
20						End of Exploration at 18', Auger Refusal in dense glacial till.			18'
21									
22									

Granular Soils		Cohesive Soils		% Composition ASTM D2487	NOTES: PP = Pocket Penetrometer, MC = Moisture Content S = Split spoon sample, LL = Liquid Limit, PI = Plasticity Index	Soil Moisture Condition
Blows/ft.	Density	Blows/ft.	Consistency			
0-4	V. Loose	<2	V. soft	< 5% Trace 5-15% Little 15-30% Some > 30% With	Boulders = diameter > 12 inches, Cobbles = diameter < 12 inches and > 3 inches Gravel = < 3 inch and > No 4, Sand = < No 4 and >No 200, Silt/Clay = < No 200	Dry: S = 0% Humid: S = 1 to 25% Damp: S = 26 to 50% Moist: S = 51 to 75% Wet: S = 76 to 99% Saturated: S = 100%
5-10	Loose	2-4	Soft			
11-30	Compact	5-8	Firm			
31-50	Dense	9-15	Stiff			
>50	V. Dense	16-30	V. Stiff			
		>30	Hard			

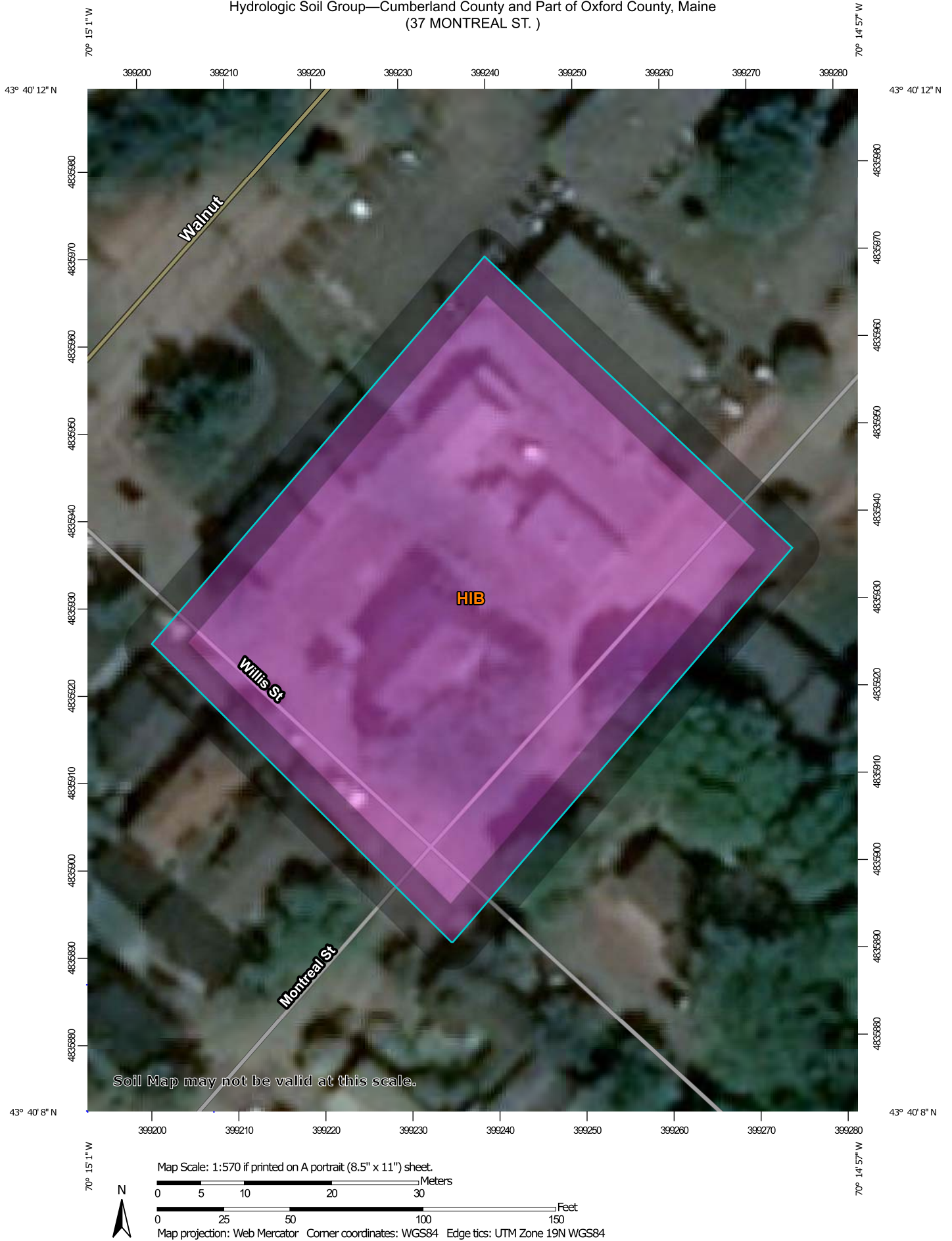
						SOIL BORING LOG		Boring #: B-4	
Drilling Co: Summit Geoengineering Services, Inc.						Project: New Residential Building		Project #: 17164	
Driller: C. Coolidge, P.E.						Location: 33 Montreal Street		Sheet: 1 of 1	
Summit Staff: E. Stewart, P.E.						City, State: Portland, Maine		Chkd by: WMP	
Boring Elevation: Unknown						Reference: N/A			
Date started: 4/5/2019						Date Completed: 4/5/2019			
DRILLING METHOD			SAMPLER			ESTIMATED GROUND WATER DEPTH			
Vehicle: AMS			Length: 24" SS			Date	Depth	Elevation	Reference
Model: 9500 VTR			Diameter: 2"OD/1.5"ID			4/5/2019	NE	N/A	None observed
Method: 2 1/4-inch HSA			Hammer: 140 lb						
Hammer Style: Auto			Method: ASTM D1586						
Depth (ft.)	No.	Pen/Rec (in)	Depth (ft)	blows/6"	Elev. (ft.)	SAMPLE DESCRIPTION		Geological/ Test Data	Geological Stratum
	S-1	24/18	0 - 2	2		Dark brown SILT, little Sand, rootlets, soft, damp, ML			TOPSOIL
1				6		Brown Silty SAND, some Gravel, trace reclaim, slate, and ash, loose, frozen to damp, SM			0.5'
				4					FILL
2				3					
	S-2	24/12	2 - 4	2		Same as above, trace brick, loose, damp, SM			
3				3					
				3		Brown fine SAND-SILT, trace Clay, loose, damp, SM-ML			3' +/-
4				5					
						Auger refusal on cobble or obstruction at 4.5', offset boring.			
5									
	S-3	24/24	5 - 7	5		Olive brown and mottled Sandy SILT, some Gravel, occasional Sandy lenses/pockets, very stiff, damp, ML (Cobble fragments in spoon tip; pushed cobble.)			5' +/-
6				9					GLACIAL TILL
				13					
7				25					
8									
9									
10									
	S-4	24/3	10 - 12	12		Olive brown Silty SAND to Sandy SILT, some Gravel, hard/dense, damp, SM to ML (Cobble in spoon tip; pushed cobble.)			
11				35					
				37					
12				32					
13									
14									
15									
	S-5	24/24	15 - 17	9		Olive brown to olive gray SILT, some Sand and Gravel, little Clay, hard, damp, ML		PP > 9,000 psf	
16				13					
				17					
17				22					
18									
19									
20									
	S-6	24/24	20 - 22	11		Gray SILT, some Sand and Gravel, little Clay, hard, damp, ML			
21				16					
				15					
22				21					
						End of Exploration at 22', No Refusal			22'
Granular Soils		Cohesive Soils		% Composition		NOTES: PP = Pocket Penetrometer, MC = Moisture Content S = Split spoon sample, LL = Liquid Limit, PI = Plasticity Index			Soil Moisture Condition
Blows/ft.	Density	Blows/ft.	Consistency	ASTM D2487					
0-4	V. Loose	<2	V. soft			Boulders = diameter > 12 inches, Cobbles = diameter < 12 inches and > 3 inches Gravel = < 3 inch and > No 4, Sand = < No 4 and >No 200, Silt/Clay = < No 200			Dry: S = 0% Humid: S = 1 to 25% Damp: S = 26 to 50% Moist: S = 51 to 75% Wet: S = 76 to 99% Saturated: S = 100%
5-10	Loose	2-4	Soft	< 5% Trace					
11-30	Compact	5-8	Firm	5-15% Little					
31-50	Dense	9-15	Stiff	15-30% Some					
>50	V. Dense	16-30	V. Stiff	> 30% With					
		>30	Hard						

						SOIL BORING LOG		Boring #: B-5	
Drilling Co: Summit Geoengineering Services, Inc.						Project: New Residential Building		Project #: 17164	
Driller: C. Coolidge, P.E.						Location: 33 Montreal Street		Sheet: 1 of 1	
Summit Staff: E. Stewart, P.E.						City, State: Portland, Maine		Chkd by: WMP	
Boring Elevation: Unknown									
Reference: N/A									
Date started: 4/5/2019						Date Completed: 4/5/2019			
DRILLING METHOD			SAMPLER			ESTIMATED GROUND WATER DEPTH			
Vehicle: AMS			Length: 24" SS			Date	Depth	Elevation	Reference
Model: 9500 VTR			Diameter: 2"OD/1.5"ID			4/5/2019	NE	N/A	None observed
Method: 2 1/4-inch HSA			Hammer: 140 lb						
Hammer Style: Auto			Method: ASTM D1586						
Depth (ft.)	No.	Pen/Rec (in)	Depth (ft)	blows/6"	Elev. (ft.)	SAMPLE DESCRIPTION		Geological/ Test Data	Geological Stratum
	S-1	24/12	0 - 2	3		Dark brown SILT, little Sand, rootlets, soft, damp, ML			TOPSOIL
1				5		Brown SAND, some Gravel, little Silt, compact, SP-SM			0.5'
				7		Dark brown SILT, little Sand, Gravel, and organics, firm/compact, damp, ML			FILL (Portions Reworked Native)
2				4					
3									
4						Brown medium-fine SAND, little Silt, loose, damp, SP to SP-SM			3' +/-
5									
	S-2	24/24	5 - 7	6		Olive SILT, some Sand, little Gravel and Clay, very stiff, damp, ML		PP = 7,000 to 9,000 psf	5' +/- GLACIAL TILL
6				9					
				13					
7				18					
8									
9									
10									
	S-3	24/24	10 - 12	10		Olive brown SILT, some Sand and Gravel, little Clay, occasional small cobbles, hard, damp, ML		PP > 9,000 psf	
11				16					
				20					
12				24					
13						(Cobble at 12.5' +/-)			
14									
15									
	S-4	24/24	15 - 17	15		Olive gray SILT, some Sand and Gravel, little Clay, hard, damp, ML		PP > 9,000 psf	
16				19					
				20					
17				26					
18									
19									
20									
	S-5	24/24	20 - 22	10		Gray SILT-CLAY, some Sand and Gravel, very stiff, damp to moist, ML		PP > 9,000 psf	
21				11					
				13					
22				18					
						End of Exploration at 22', No Refusal			22'
Granular Soils		Cohesive Soils		% Composition		NOTES: PP = Pocket Penetrometer, MC = Moisture Content S = Split spoon sample, LL = Liquid Limit, PI = Plasticity Index			Soil Moisture Condition
Blows/ft.	Density	Blows/ft.	Consistency	ASTM D2487					
0-4	V. Loose	<2	V. soft						Dry: S = 0%
5-10	Loose	2-4	Soft	< 5% Trace					Humid: S = 1 to 25%
11-30	Compact	5-8	Firm	5-15% Little					Damp: S = 26 to 50%
31-50	Dense	9-15	Stiff	15-30% Some					Moist: S = 51 to 75%
>50	V. Dense	16-30	V. Stiff	> 30% With					Wet: S = 76 to 99%
		>30	Hard						Saturated: S = 100%
Boulders = diameter > 12 inches, Cobbles = diameter < 12 inches and > 3 inches									
Gravel = < 3 inch and > No 4, Sand = < No 4 and >No 200, Silt/Clay = < No 200									

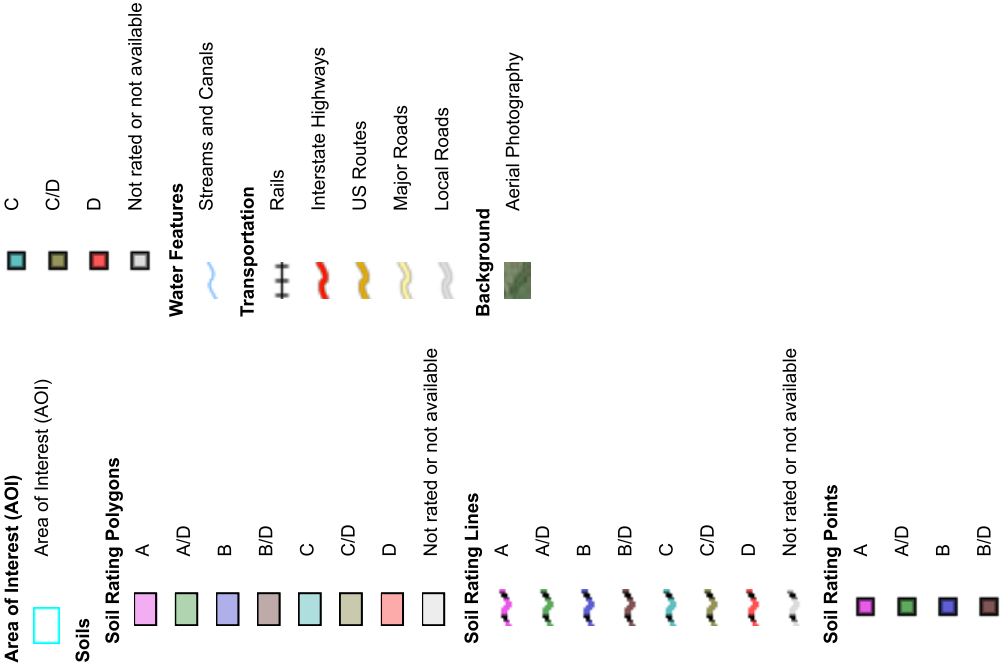
ATTACHMENT D

MEDIUM INTENSITY SOILS MAP

Hydrologic Soil Group—Cumberland County and Part of Oxford County, Maine
(37 MONTREAL ST.)



MAP LEGEND



MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:24,000.

Warning: Soil Map may not be valid at this scale.
Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL:
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Cumberland County and Part of Oxford County, Maine
Survey Area Data: Version 15, Sep 6, 2018

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Data not available.

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Hydrologic Soil Group

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
HIB	Hinckley loamy sand, 3 to 8 percent slopes	A	0.7	100.0%
Totals for Area of Interest			0.7	100.0%

Description

Hydrologic soil groups are based on estimates of runoff potential. Soils are assigned to one of four groups according to the rate of water infiltration when the soils are not protected by vegetation, are thoroughly wet, and receive precipitation from long-duration storms.

The soils in the United States are assigned to four groups (A, B, C, and D) and three dual classes (A/D, B/D, and C/D). The groups are defined as follows:

Group A. Soils having a high infiltration rate (low runoff potential) when thoroughly wet. These consist mainly of deep, well drained to excessively drained sands or gravelly sands. These soils have a high rate of water transmission.

Group B. Soils having a moderate infiltration rate when thoroughly wet. These consist chiefly of moderately deep or deep, moderately well drained or well drained soils that have moderately fine texture to moderately coarse texture. These soils have a moderate rate of water transmission.

Group C. Soils having a slow infiltration rate when thoroughly wet. These consist chiefly of soils having a layer that impedes the downward movement of water or soils of moderately fine texture or fine texture. These soils have a slow rate of water transmission.

Group D. Soils having a very slow infiltration rate (high runoff potential) when thoroughly wet. These consist chiefly of clays that have a high shrink-swell potential, soils that have a high water table, soils that have a claypan or clay layer at or near the surface, and soils that are shallow over nearly impervious material. These soils have a very slow rate of water transmission.

If a soil is assigned to a dual hydrologic group (A/D, B/D, or C/D), the first letter is for drained areas and the second is for undrained areas. Only the soils that in their natural condition are in group D are assigned to dual classes.

Rating Options

Aggregation Method: Dominant Condition

Component Percent Cutoff: None Specified

ATTACHMENT E

INSPECTION, MAINTENANCE AND HOUSEKEEPING PLAN



INSPECTION, MAINTENANCE, AND HOUSEKEEPING PLAN

33/37 MONTREAL STREET DEVELOPMENT PORTLAND, MAINE

Responsible Party

Owner: McTigue Construction
 184 Mountain Road
 Falmouth, Maine 04105

The owner is responsible for the maintenance of all stormwater management structures and related site components and the keeping of a maintenance log book with service records. Records of all inspections and maintenance work performed must be kept on file with the owner and retained for a minimum of five years. The maintenance log will be made available to the City upon request. At a minimum, the maintenance of stormwater management systems will be performed on the prescribed schedule.

The procedures outlined in this plan are provided as a general overview of the anticipated practices to be utilized on this site. In some instances, additional measures may be required due to unexpected conditions. *The Maine Erosion and Sedimentation Control BMP and Stormwater Management for Maine: Best Management Practices* Manuals published by the Maine Department of Environmental Protection (MDEP) should be referenced for additional information.

During Construction

- 1. Inspection and Corrective Action:** It is the contractor's responsibility to comply with the inspection and maintenance procedures outlined in this section. Inspection shall occur on all disturbed and impervious areas, erosion control measures, material storage areas that are exposed to precipitation, and locations where vehicles enter or exit the site. These areas shall be inspected at least once a week as well as 24 hours before and after a storm event and prior to completing permanent stabilization measures. A person with knowledge of erosion and stormwater control, including the standards and conditions in the permit, shall conduct the inspections.
- 2. Maintenance:** Erosion controls shall be maintained in effective operating condition until areas are permanently stabilized. If best management practices (BMPs) need to be repaired, the repair work should be initiated upon discovery of the problem but no later than the end of the next workday. If BMPs need to be maintained or modified, additional

BMPs are necessary, or other corrective action is needed, implementation must be completed within seven calendar days and prior to any rainfall event.

3. **Documentation:** A report summarizing the inspections and any corrective action taken must be maintained on site. The log must include the name(s) and qualifications of the person making the inspections; the date(s) of the inspections; and the major observations about the operation and maintenance of erosion and sedimentation controls, materials storage areas, and vehicle access points to the parcel. Major observations must include BMPs that need maintenance, BMPs that failed to operate as designed or proved inadequate for a particular location, and location(s) where additional BMPs are needed. For each BMP requiring maintenance, BMP needing replacement, and location needing additional BMPs, note in the log the corrective action taken and when it was taken. The log must be made accessible to City Staff, and a copy must be provided upon request. The owner shall retain a copy of the log for a period of at least three years from the completion of permanent stabilization.

Housekeeping

1. **Spill prevention:** Controls must be used to prevent pollutants from construction and waste materials on site to enter stormwater, which includes storage practices to minimize exposure of the materials to stormwater. The site contractor or operator must develop, and implement as necessary, appropriate spill prevention, containment, and response planning measures.
2. **Groundwater protection:** During construction, liquid petroleum products and other hazardous materials with the potential to contaminate groundwater may not be stored or handled in areas of the site draining to an infiltration area. An "infiltration area" is any area of the site that by design or as a result of soils, topography and other relevant factors accumulates runoff that infiltrates into the soil. Dikes, berms, sumps, and other forms of secondary containment that prevent discharge to groundwater may be used to isolate portions of the site for the purposes of storage and handling of these materials. Any project proposing infiltration of stormwater must provide adequate pre-treatment of stormwater prior to discharge of stormwater to the infiltration area, or provide for treatment within the infiltration area, in order to prevent the accumulation of fines, reduction in infiltration rate, and consequent flooding and destabilization.
3. **Fugitive sediment and dust:** Actions must be taken to ensure that activities do not result in noticeable erosion of soils or fugitive dust emissions during or after construction. Oil may not be used for dust control, but other water additives may be considered as needed. A stabilized construction entrance (SCE) should be included to minimize tracking of mud and sediment. If off-site tracking occurs, public roads should be swept immediately and no less than once a week and prior to significant storm events. Operations during dry months, that experience fugitive dust problems, should wet down unpaved access roads

once a week or more frequently as needed with a water additive to suppress fugitive sediment and dust.

4. **Debris and other materials:** Minimize the exposure of construction debris, building and landscaping materials, trash, fertilizers, pesticides, herbicides, detergents, sanitary waste and other materials to precipitation and stormwater runoff. These materials must be prevented from becoming a pollutant source.
5. **Excavation de-watering:** Excavation de-watering is the removal of water from trenches, foundations, coffer dams, ponds, and other areas within the construction area that retain water after excavation. In most cases the collected water is heavily silted and hinders correct and safe construction practices. The collected water removed from the ponded area, either through gravity or pumping, must be spread through natural wooded buffers or removed to areas that are specifically designed to collect the maximum amount of sediment possible, like a cofferdam sedimentation basin. Avoid allowing the water to flow over disturbed areas of the site. Equivalent measures may be taken if approved by the Department.
6. **Authorized Non-stormwater discharges:** Identify and prevent contamination by non-stormwater discharges. Where allowed non-stormwater discharges exist, they must be identified and steps should be taken to ensure the implementation of appropriate pollution prevention measures for the non-stormwater component(s) of the discharge. Authorized non-stormwater discharges are:
 - (a) Discharges from firefighting activity;
 - (b) Fire hydrant flushings;
 - (c) Vehicle washwater if detergents are not used and washing is limited to the exterior of vehicles (engine, undercarriage and transmission washing is prohibited);
 - (d) Dust control runoff in accordance with permit conditions and Appendix (C)(3);
 - (e) Routine external building washdown, not including surface paint removal, that does not involve detergents;
 - (f) Pavement washwater (where spills/leaks of toxic or hazardous materials have not occurred, unless all spilled material had been removed) if detergents are not used;
 - (g) Uncontaminated air conditioning or compressor condensate;
 - (h) Uncontaminated groundwater or spring water;
 - (i) Foundation or footer drain-water where flows are not contaminated;
 - (j) Uncontaminated excavation dewatering (see requirements in Appendix C(5));
 - (k) Potable water sources including waterline flushings; and
 - (l) Landscape irrigation.
7. **Unauthorized non-stormwater discharges:** Approval from the City does not authorize a discharge that is mixed with a source of non-stormwater, other than those discharges in compliance with Section 6 above. Specifically, the City's approval does not authorize discharges of the following:

- (a) Wastewater from the washout or cleanout of concrete, stucco, paint, form release oils, curing compounds or other construction materials;
- (b) Fuels, oils or other pollutants used in vehicle and equipment operation and maintenance;
- (c) Soaps, solvents, or detergents used in vehicle and equipment washing; and
- (d) Toxic or hazardous substances from a spill or other release.

Post construction

- 1. Inspection and Corrective Action:** All measures must be maintained by the owner in effective operating condition. A qualified third-party inspector hired by the owner shall at least annually inspect the stormwater management facilities. This person should have knowledge of erosion and stormwater control including the standards and conditions of the site's approvals. The inspector shall be certified through the City to inspect the stormwater infrastructure. The following areas, facilities, and measures must be inspected, and identified deficiencies must be corrected. Areas, facilities, and measures other than those listed below may also require inspection on a specific site.
 - A. Vegetated Areas:** Inspect vegetated areas, particularly slopes and embankments, early in the growing season or after heavy rains to identify active or potential erosion problems. Replant bare areas or areas with sparse growth. Where rill is evident, armor the area with an appropriate lining or divert the erosive flows to on-site areas able to withstand the concentrated flows.
 - B. Culverts:** Inspect culverts in the spring, late fall, and after heavy rains to remove any obstructions to flow; remove accumulated sediments and debris at the inlet, at the outlet, and within the conduit; and to repair any erosion damage at the culvert's inlet and outlet.
 - C. Catch Basins/Outlet Control Structure:** Inspect and, if required, clean out catch basins at least once a year, preferably in early spring. Clean out must include the removal and legal disposal of any accumulated sediments and debris at the bottom of the basin, at any inlet grates, at any inflow channels to the basin, and at any pipes between basins. If the basin outlet is designed to trap floatable materials, then remove the floating debris and any floating oils (using oil-absorptive pads).
 - D. Subsurface Chamber System:** The manufacturer recommends that at a minimum the that an annual inspection is conducted. Initially the system shall be inspected every 6 months for the first year of operation. If inspection indicates that sediment has accumulated, a measurement to determine the depth of sediment shall be performed. When an average depth of 3 inches is exceeded then clean-out shall be performed. The system should drain within 48 hours following a one-inch storm and if a larger storm fills the system to overflow, it shall drain within 72 hours.

- E. Regular Maintenance:** Clear accumulations of winter sand along roadway once a year, preferably in the spring. Accumulations on pavement may be removed by pavement sweeping. Accumulations of sand along pavement shoulders may be removed by grading excess sand to the pavement edge and removing it manually or by a front-end loader.
- F. Documentation:** Keep a log (report) summarizing inspections, maintenance, and any corrective actions taken. The log must include the date on which each inspection or maintenance task was performed, a description of the inspection findings or maintenance completed, and the name of the inspector or maintenance personnel performing the task. If a maintenance task requires the clean-out of any sediments or debris, indicate where the sediment and debris was disposed after removal. The log must be made accessible to City staff upon request. The permittee shall retain a copy of the log for a period of at least five years from the completion of permanent stabilization. Attached is a sample log.

Re-certification

In order to receive Stormwater Credit toward the City of Portland Stormwater Service Charge, the owner must submit an annual inspection report by June 30 of each year in accordance with Chapter 32, Article III and Chapter 24, Article V of the City of Portland's Code of Ordinances. A qualified 3rd party post-construction inspector must conduct an inspection of the stormwater control system, including all BMPs and associated features, and complete Form 4. If the credit holder does not submit a completed annual inspection report by June 30, or submits a failing inspection report, credits will be suspended.

Duration of Maintenance

Perform maintenance as described.

STORMWATER MAINTENANCE LOG

33/37 MONTREAL STREET DEVELOPMENT PORTLAND, MAINE

The following stormwater management and erosion control items shall be inspected and maintained as prescribed in the Maintenance Plan with recommended frequencies as identified below. The owner is responsible for keeping this maintenance log on file for a minimum of five years and shall provide a copy to the City upon request. Inspections are to be performed by a qualified third-party inspector and all corrective actions shall be performed by personnel familiar with stormwater management systems and erosion controls.

Maintenance Item	Maintenance Event	Date Performed	Responsible Personnel	Comments
Vegetated Areas	Inspect slopes and embankments early in Spring.			
Culverts	Inspect semiannually and after major rainfall.			
	Repair erosion at inlet or outlet of pipe.			
	Repair displaced riprap.			
	Clean accumulated sediment in culverts when >20% full.			
Catch Basins and Outlet Structure	Inspect to ensure that structure is properly draining.			
	Remove accumulated sediment semiannually.			
	Inspect grates/inlets and remove debris as needed.			
StormTech SC-310 Chambers	Inspect every six months and after major rain events to ensure that pond drains within 60 hours			
	Inspect annually for erosion or sediment accumulation and repair as needed.			
Regular Maintenance	Clear accumulation of winter sand in paved areas annually.			

19 WILLIS STREET, PORTLAND (FORMERLY 33-37 MONTREAL STREET)

UTILITIES – Ability to Serve letters are currently in process. From current services available in the area the project team does not foresee any issues with the service of any utilities.

OVERVIEW The proposed project will involve installation of new utility services to the building. All new utility services will be provided from the franchise utilities available within Montreal, Willis and Walnut Streets. The proposed locations of the new utility services are shown on the Utility Plan (Sheet C-5.0).

WATER SUPPLY The proposed project will receive its water supply from the Portland Water District's (PWD) public water supply system. Separate fire and domestic services will be installed to the building from PWD's existing main in Montreal Street.

The Portland Water District Ability to Serve letter, dated August 14, 2019 is included as part of this application package. This letter was provided by PWD in response to an Ability to Serve application for the earlier 9 unit project. The PWD has confirmed that the change to a 12 unit project will not affect either the service size or meter size, and that the Ability to Serve letter is still valid (PWD email dated July 20, 2021).

WASTEWATER DISPOSAL The proposed project will be connected to the Portland Water District's and City of Portland's wastewater collection and conveyance systems.

Total Project Water Usage. The total average daily water demand for the proposed project, based on design flows published in the most recent edition of the State of Maine Subsurface Wastewater Disposal Rules is as follows.

2 x 1 Bedroom Residential Units at 120 gpd/unit	=	240 gpd
2 x 2 Bedroom Residential Units at 180 gpd/unit	=	360 gpd
8 x 3 Bedroom Residential Units at 270 gpd/unit	=	<u>2,160 gpd</u>
Total		= 2,760 gpd

The anticipated daily design flow represents an increase of 1,770 gpd above the existing daily design flow to be removed due to the demolition of the existing structures on the property. The existing sewer system in the area has adequate downstream capacity to handle the anticipated projected flow amounts.

The City of Portland Wastewater Capacity Authorization, dated August 9, 2021 is provided as part of this application package.

ELECTRICITY SUPPLY CMP currently maintains overhead and underground utilities in the area including 3 phase power along Walnut Street that currently serves Promenade Towers.

SOLID WASTE

OVERVIEW The project will generate solid waste both during construction and on an on-going basis after construction is complete. Estimates of solid waste generation, recycling rates, and procedures for the transport and disposal of solid waste that will be generated by the operation of the proposed development are provided below.

The following amount of solid waste associated with the construction and operation of the development have been estimated:

- 147 cubic yards of construction debris related to the new building construction activities (excluding volume of recycled materials).
- 306 pounds per week of solid waste will be generated by the operation of the development. Assuming that 50% of the waste is recycled, it is estimated that the project will generate 7.95 tons of recyclable waste and 7.95 tons of nonrecyclable waste per year.

SOLID WASTE GENERATED DURING THE BUILDING CONSTRUCTION

Approximately 147 cubic yards of construction debris is expected to be generated during construction. Assuming that 80% of construction debris is recycled, construction of the project will generate approximately 83 c.y. of non-recyclable waste.

The waste stream will be transported and disposed of at the following locations:

Hazardous Materials: WMI Crossroads Facility in Norridgewock, Maine

Mixed Construction Material: Riverside Recycling Facility in Portland, Maine; WMI Crossroads Facility in Norridgewock, Maine or Juniper Ridge in Old Town, Maine (Contractor option)

Separated Wood Construction Debris: KTI Biofuels in Lewiston, Maine

Separated Metal/Ferrous Material: One Steel Recycling Inc. in Arundel or Oakland, Maine

The collection, transfer, disposal, and payment of all fees for solid wastes shall be the responsibility of the Contractor, with all waste transferred by a licensed non-hazardous waste transporter.

SOLID WASTE GENERATED FROM THE OPERATION OF THE DEVELOPMENT

Approximately 306 pounds of solid waste and recyclable material is expected to be generated every week by the residents of the project. The operational solid waste and recyclable material will be collected by the City of Portland in accordance with Chapter 12 of the City Code.

ATTACHMENTS Attachment 12-A – Computations of Types and Volumes of Solid Wastes for Construction Project.

ATTACHMENT

SOLID WASTES COMPUTATIONS AND DISPOSAL

A. NEW BUILDING CONSTRUCTION:

Basis of Estimate: 10 c.y./1,500 s.f. of finished space

Area: Approximately 22,000 square feet of finished space

Solid Waste: Approximately 147 c.y.

Other Wastes Associated with Other Site Construction: Cardboard from packaging etc.: Limited Quantity

Total: 147 c.y. before recycling

Net: 30 c.y. if 80% of the material is recycled

Disposition: Assume 10 percent is concrete and brick which can be sent to the approved aggregate recycling facilities operated by Shaw Bros. or R.J. Grondin and Sons for processing into recycled aggregate.

Assume 70 percent is wood or metal which can be transported to KTI Biofuels in Lewiston (for wood) or One Steel Recycling in Oakland, Maine for metals.

Approximately 30 cubic yards of mixed construction debris that will be hauled to the Riverside Recycling Facility in Portland, WMI Crossroads facility in Norridgewock, Maine or the Juniper Ridge Facility in Old Town, Maine.

The contractor should provide dumpsters designated by material type and identify recycling methods and disposal sites prior to construction. All haulers must have a current non-hazardous waste haul license.

B. OPERATIONAL SOLID WASTE:

RESIDENTIAL USE: Basis of Estimate: 17 pounds/wk per individual. Estimate of 2 individuals per residential unit. From Table 14-1 of the CEQR Technical Manual from January 2014 Edition; Source: New York City Department of Sanitation.

Number of individuals: 18

Solid Waste: Approximately 306 pounds/week



PUBLIC INFRASTRUCTURE AND SAFETY

The following outlines how the proposed project at 33/37 Montreal Street has been designed to meet the applicable standards of the City of Portland associated with Level III: Residential Site Plan and Subdivision review.

Section 14-526 (c) 2 – Public Safety and Fire Prevention

The project design and building architecture will provide view corridors along Montreal Street, Willis Street, between the proposed building and the existing residential building at 23 Willis Street, and along the northerly property limits looking through the site to the northwest (towards Walnut Street).

Site access will be limited to the proposed entry/exit doorways on Willis Street and the proposed driveway and parking garage. Site will be improved with landscaped terraces along Montreal Street, which are intended to serve as community areas for the residents and guests which will have access from the existing sidewalk. Along the westerly side of the building, residents and guests will have access to a built-up hardscape patio and additional landscaped terraces that will be accessed from the inside of the building.

The site design layout and landscaping will provide a visual break from the public ROW and the exclusive/community elements of the proposed project. Exclusive use areas will likely be established and will likely provide an opportunity for residents to customize their exclusive use areas, and promote a sense of ownership.

Emergency access to the site will be provided by the existing road frontage along Willis Street and Montreal, as well as via the proposed driveway. The 14-ft wide driveway may not be capable of providing access to larger emergency apparatus but the proposed driveway design (vertical and horizontal) should be adequate to most service level emergency apparatus and vehicles.

Existing facilities such as fire hydrants and water supply also are adequate, with the nearest existing fire hydrant located at the southwesterly corner of the intersection at Willis Street and Montreal.

Section 14-526 (c) (3) – Availability and Adequacy of Public Utilities (Technical Manual, Sections 2 & 9)

The project site location and existing public utility facilities, are available; with existing combined storm sewer main lines (2 separate) in both Montreal Street and Willis Street in the direct vicinity of the project site. Water mains are also located in both Montreal Street and Willis Street and the project will coordinate with the Portland Water District to ensure that the project will be

provided adequate domestic potable water service as well as any fire safety water services. Additionally, underground gas, and overhead electric/telephone/data services are available, and the project will provide new service connections for water, sewer, gas, and overhead electric/telephone/data services.

The project design does not utilize a connection to the existing storm drain system and the existing facilities (in consideration with the proposed storm water facilities on-site) appear adequate based on hydrologic/hydraulic modeling of the project site.

The project proposes less than 20 units and therefore no trash and recycling storage or dumpster areas are proposed. However, the proposed project site has several opportunities to include trash storage areas for the residents either within the proposed underground parking area on adjacent to the proposed driveway within a screened, secure dumpster enclosure.

August 12, 2019

Att. K

33-37 MONTREAL STREET, PORTLAND

The following outlines how the proposed project has been designed to meet the applicable standards of the City of Portland associated with Level III: Residential Site Plan and Subdivision review.

SITE DESIGN

Massing, Ventilation and Wind Impact - Section 14-526 (d) (1):

The bulk, location and height of the proposed building will comply with the minimum allowable setbacks and maximum allowable building height for the zone.

The proposed building will be > 10' away from the nearest existing adjacent structure (23 Willis Street), and > 50' away from the next nearest existing adjacent structure (MacArthur Gardens, on Montreal Street).

The proposed structure is not expected to cause a reduction in ventilation to abutting structures or unsafe wind conditions for users of the site or adjacent public spaces.

Exterior HVAC mechanical equipment will be located on the roof within a screened enclosure, as shown on the Roof Plan. The enclosure will be in the center of the roof to maximize the distance from adjacent properties and minimize the visibility from adjacent properties and public spaces.

The base of the equipment will be supported and raised up above the low-slope roof membrane on racks to minimize performance disruption & maintenance issues caused by winter conditions. A screened enclosure will be provided around the roof-top HVAC equipment, with adequate space around the equipment to allow for air movement.

A decorative parapet/cornice around the perimeter of the building will provide further visual screening from footpath level.

HVAC venting on the exterior of the proposed building will direct exhaust away from public spaces and adjacent residential properties.

Snow and Ice – Section 14-526 (d) (4):

The proposed building has a low slope roof, with internal roof drains. The outer perimeter edge of the roof includes a decorative parapet/cornice to direct snow and ice away from the adjacent properties and public ways.

Zone Related Design Standards – Section 14-526 (d) (5):

A previous version of the project was reviewed by the Historic Preservation Board, as part of the Alternative Design Review process under the Munjoy Hill Neighborhood Conservation Overlay District. That project design received approval from the Board, in December 2018, after a number of public hearings and related design revisions.

While the current project proposal is significantly smaller and less complex than the previous version (ie smaller foot print/lot coverage/overall square foot area, with fewer residential units), the following notes describe how the project addresses the relevant design standards in the MHNCO District.

Roof Forms and Active Living Space - Section 14-140.5 (d) 1:

The proposed building has a low-pitch “flat roof”, as is permitted for buildings with more than 3 units.

The first floor contains active living space with windows comprising 50.0% of the overall façade, and satisfies the minimum requirement for this standard. This active living space does not include common circulation (ie. elevator, entry foyer, or stairs), or storage space within the residential units (eg closets).

R6 Design Principles and Standards:

Refer to separate attachment: R6 Design Standards.

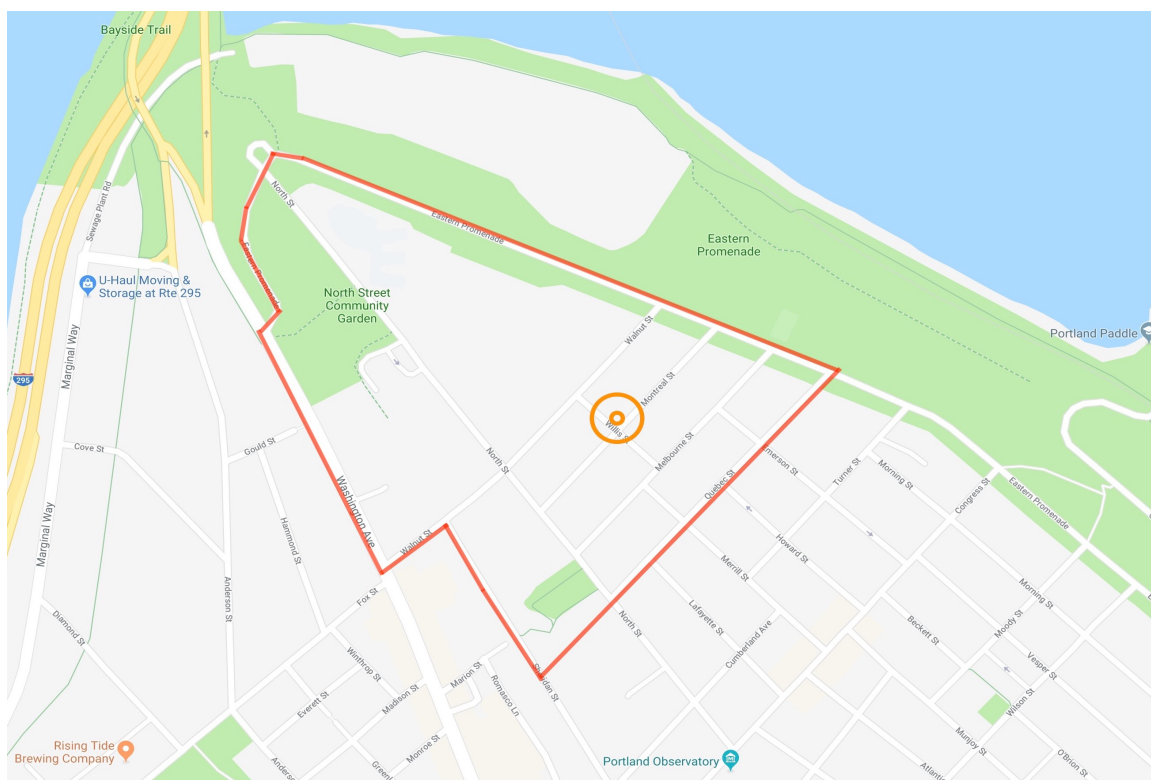
19 Willis Street Apartments**R6 Design Principles and Standards**

New Residential construction within the R6 zone are to relate to the predominant character of the neighborhood. Projects are reviewed for consistency with the R6 Infill Development Design Principles and Standards, which apply to the front façade, and those portions of the building that are readily visible from a public way.

The Review Authority may approve a design not meeting one or more of the individual standards provided that all the conditions listed below are met:

- A. The proposed design is consistent with all of the Principle Statements.
- B. The majority of the Standards within each Principle are met.
- C. The guiding principle for new construction under the alternative design review is to be compatible with the surrounding buildings in a two block radius in terms of size, scale, materials, and siting, as well as the general character of the established neighborhood, thus Standards A-1 through A-3 shall be met.
- D. The design plan is prepared by an architect registered in the State of Maine.

The following notes describe how the proposed building meets these criteria:

Neighborhood context - Two Block Radius Diagram

Principle A - Overall Context

The proposed multifamily residence at Montreal and Willis Streets is uniquely situated in one of the most architecturally and use diverse area on Munjoy Hill. Within a two block radius are three-family homes, single family residences, three major housing developments (including high-rise condos), numerous four story apartment buildings, a senior housing facility, the East End School and community garden, a ball field, parking lot, and the Portland Water District Treatment Facility. In order to understand how a building can act like a stitch between such different areas, while also reflecting the unique culture and architectural character of Munjoy Hill, we have considered the immediate community as well as other residential buildings located in similarly transitional areas in our analysis.

Standard A-1 Scale + Form

Within a two block radius of the site is a wide variety of housing scale including single-family, three-family, and larger-scale housing developments (like the MacArthur Gardens Apartments adjacent to the proposed building and which occupy the other half of the block, and the nearby 14-story Promenade Towers).

The proposed building is a 12-apartment residence at the corner of Willis and Montreal Streets, which will provide an alternative housing option for Munjoy Hill families, within a more intimate mid-scale community model.

The scale of the project is within that of other similarly-sized multifamily buildings within a two block radius such as:

80 North Street	9 Homes	
58 North Street	22 homes	Shailer School affordable housing
101 North Street	5 Homes	
158 North Street	60 units	Bayview Heights affordable senior housing
63 Emerson Street	5 Homes	
135 Sheridan Street	20 homes	

In addition the Munjoy Hill district includes other properties such as:

49 Morning Street	8 homes	
55 Morning Street	8 homes	
63 Morning Street	8 homes	
119 Morning Street	30 units	
13 Emerson Street	22 homes	Munjoy Commons affordable housing

The form of the proposed building has vertically proportioned massing, a simple roof form, vertical windows with local symmetry, a three-bay front facade composition, and simple material palette. This character is similar to the existing “three-decker” multi-family buildings within the two block radius context area (and the “four-deckers” in the wider Munjoy Hill District).

The building has shingled exterior walls capped by a low-pitch “flat roof” with a continuous parapet/cornice at the outer perimeter edges. Exposed concrete foundation walls provide a visual base to the building. Exterior space is provided to all units, with patios to 3 units on the first floor, and decks at the rear of the building for 6 units of the upper floor units.

Standard A-2 Composition of Principal Facades

Willis Street

The primary composition has an overall symmetrical appearance balanced with minor asymmetrical features. The main entrance to the building is prominently located in the center of the façade, using a traditional composition in the neighborhood context. A short flight of steps leads directly from the sidewalk and a ramp provides an ADA accessible route that meets the natural slope of grade. Projecting bay windows emphasize Willis Street as the front face of the building, with Montreal Street as the side-street elevation.

Montreal Street

Elements of the Willis Street facade are repeated as the building turns the corner and extends down Montreal Street. The repeated window rhythm and relative simplicity of the façade identifies it as the secondary face of the building. Exterior decks are located at the rear of the building, similar to the arrangement of the familiar three and four decker multifamily buildings in the district.

Standard A-3 Relationship to the Street

The Willis Street façade is set back enough to provide easy and direct access to the building via either a short flight of steps or a simple ramp arrangement. The steps follow a common arrangement for main entry paths in the neighborhood, being directly aligned between the sidewalk and the entry door. The steps rise approximately 21” in total, enough elevation rise to indicate a clear property threshold, while also being low enough to offer a welcoming entrance to the street.

The first floor has active living spaces with windows from living and bedroom spaces facing both Willis and Montreal streets.

The landscape design includes planted areas around all sides of the building. Street lot lines are defined by stone-faced site walls, with a simple arrangement of terraces in the intermediate space between the sidewalk and the building. The face of the intermediate terraces has a slatted wood lattice treatment that combines with the planted areas to form a continuous landscaped zone between the building and the property boundary.

Principle B - Massing

Standard B-1 Massing

The proposed building massing reflects the traditional character of the neighborhood and takes it's cues from the traditional multi-family buildings in the context area.

The narrow end of the building is clearly expressed as the front face, on Willis Street, using a three-bay composition. A central bay provides overhead weather protection above a slightly recessed main entrance. The primary central bay extends from second floor level up to roof level, while the secondary side bays stop short of the roof. All are vertically proportioned.

Exterior decks are located at the rear of the building and occupy an "eroded" corner of the building in a vertical arrangement, in common of the familiar multi-decker typology.

Standard B-2 Roof Forms

The building has a low pitch "flat" roof capped by a decorative parapet/cornice that follows the perimeter of the building, similar to other flat-roofed multi-family buildings in the context area.

Standard B-3 Main Roofs and Subsidiary Roofs

The building has a clear main roof form, without subsidiary roofs.

Standard B-4 Roof Pitch

NA

Standard B-5 Façade Articulation

The Standard requires the front façade and other portions of the building that are readily visible from the public way to use at least two architectural elements from a list provided. The proposed building employs more than two of the listed features including:

- 1) Balconies
- 2) Recessed entries
- 3) Covered porches
- 4) Bay windows

Standard B-6 Garages

Access to the basement garage is provided via a driveway off Montreal Street to a garage door and a pass door discretely located away from the street facade. The garage door is set back more than 30' from the street lot line, is recessed between flanking site walls, and is turned 90 degrees so it does not directly face a public way.

Principle C – Orientation to the street

Standard C-1 Entrances

The main entrance to the building is clearly articulated in the center of the principal façade and faces the street directly. Architectural features such as a covered and recessed entry, plus accent cladding material, are used to highlight the entry point and provide a welcoming and protected transition area between the exterior public realm and the interior private space.

Standard C-2 Visual Privacy

Building occupants are offered a sense of privacy by elevating the first floor at least 24” above the sidewalk elevation, and elevating the first floor window sills at least 48” above the sidewalk grade (the only exception to this is at the corner of Willis and Montreal streets where the first floor is 12” above the sidewalk and one window is 36” above the sidewalk due to the local slope of grade).

A planted buffer zone fills the intermediate space between the building and the sidewalk. A stone-faced landscape wall on the street lot line provides a clear definition of public space close to the building.

Standard C-3 Transition Spaces

Transition spaces are articulated between the sidewalk and the front door through use of architectural and landscaping elements.

- | Architectural features include a short flight of steps and a ramp, each with approximately 21” total rise to the front door.

Landscaping features include planted areas alongside the steps and ramp. In addition a low wall along the Willis Street lot line defines the edge of the entry ramp and offers an informal seating opportunity for a neighborly conversations.

Principle D - Proportion and Scale

Standard D-1 Windows

All windows are rectangular and vertically proportioned, to reflect the scale and aesthetics of the surrounding neighborhood homes. The majority of windows along both facades are proportionate to commonly used vertically oriented windows, typically measuring approximately 2'-8" wide x 5'-0" high.

Standard D-2 Fenestration

The fenestration in general has a similar proportion to the overall building massing as other neighborhood buildings.

Consistent with the R6 Design Standards, the total area of fenestration of each street-facing facades along Montreal and Willis Streets is greater than 12% of the relevant total facade area.

Standard D-3 Porches

The horizontal extent of the covered entry porch on Willis Street is approximately 28% of the overall façade width. The minimum depth is approximately 5'-2", with an area 120 sf.

All balconies have a depth of at least 6', and an area of at least 48 square feet.

Principle E - Balance

Standard E-1 Window and Door Height

The majority of doors and windows on all facades have a head height with a common horizontal datum line, including all primary window and doors.

Standard E-2 Window and Door Alignment

The majority of windows and doors are stacked with centerlines in vertical alignment.

Standard E-3 Symmetricality

Primary windows are composed with vertical symmetry around a discernable local centerline within each façade. The dominant window type is a pair of vertically orientated symmetrical window sashes, arranged symmetrically about a common centerline.

Principle F - Articulation

Standard F-1 Articulation

Primary surface articulation is provided with projecting bay windows on the Willis Street and Montreal Street façades, plus recessed exterior balconies on the Montreal Street façade.

Secondary articulation and shadow lines are provided by the decorative parapet/cornice, and changes in material texture at accent panels.

Standard F-2 Window Types

The building uses consistent window types throughout with a minimum of variation. There are two window types:

- 1) Rectangular operable casement sashes.
- 2) Rectangular fixed sashes.

The dominant window arrangement is a symmetrical pair of vertically proportioned operable casement sashes, with a number of casement sashes arranged in groups of three on the water facing north-east façade. A relatively small number of fixed transom sashes are used on the top floor and the central bay above the main entrance. The egress stair also has a number of fixed sashes.

Standard F-3 Visual Cohesion

The material choices help to further define the primary masses of the structure:

- 1) Wood shingles for the predominant material.
- 2) Accent cladding at the main entrance.
- 3) Accent spandrel panels below some of the windows as part of the overall articulation of the building facades.

Standard F-4 Delineation between Floors

Floors are articulated primarily through fenestration patterns and balconies.

Standard F-5 Porches, etc.

Exterior spaces and balconies are incorporated in to the overall design and building massing. Balustrade railings are provide articulation and add shadow lines to the façade.

Standard F-6 Main Entries

The main entry is emphasized by the arrangement of steps, the composition of projecting window bays and recessed entry alcove, plus some local material articulation.

Standard F-8 Articulation

Architectural articulation features include:

- 1) Projecting bays with an offset depth of approximately 2'-0"
- 2) Recessed balconies with a typical offset depth of approximately 8'-0"
- 3) A decorative parapet/cornice with a projecting depth of between 1'-6" and 2'-0".

Principle G Materials

Standard G-1 Materials

Materials for the exterior walls are similar to those found in the context area of the neighborhood.

The proposed building includes:

- 1) Concrete foundation wall.
- 2) Wood shingles with a paint color.
- 3) Aluminum clad windows with a charcoal grey color.

Standard G-2 Material and Façade Design

The selection of façade materials is consistent with the façade design, with concrete for the foundation wall and visually lighter wood shingle cladding for the upper stories.

Standard G-3 Chimneys

N/A

Standard G-4 Window Types

The building uses consistent window types throughout with a minimum of variation. There are two window types:

- 1) Rectangular operable casement sashes.
- 2) Rectangular fixed sashes.

Window detailing will be consistent throughout.

Standard G-5 Patios and Plazas

The first floor patios will be constructed of masonry unit pavers.



Portland Water District

FROM SEBAGO LAKE TO CASCO BAY

August 14, 2019

Jayson Haskell, P.E.
DM ROMA
P.O. Box 1116
Windham, ME 04062

Re: 33 Montreal Street, PO
Ability to Serve with PWD Water

Dear Mr. Haskell:

The Portland Water District has received your request for an Ability to Serve Determination for the noted site submitted on November 3, 2017. Based on the information provided per plans last revised August 12, 2019, we can confirm that the District will be able to serve the proposed project as further described in this letter. **Please note that this letter constitutes approval of the water system as currently designed. Any changes affecting the approved water system will require further review and approval by PWD.**

Conditions of Service

The following conditions of service apply:

- A new 2-inch domestic service with a 1.5-inch meter may be installed from the water main in Montreal Street. The service should enter through the properties frontage on Montreal Street at least 10-feet from any side property lines. An approved backflow prevention device must be installed on the service line directly after the meter prior to service activation. Please note that only one meter and one bill will be associated to each domestic service line. This one master meter would be located in a common space that all tenants could gain access to if necessary.
- A new 6-inch fire service may be installed from the water main in Montreal Street. The service should enter through the properties frontage on Montreal Street at least 10-feet from any side property lines. An approved backflow prevention device must be installed on the service line directly after the service enters the building prior to service activation.
- The existing buildings area currently served with a 3/4-inch domestic water services. These services must be terminated by shutting the corporation valve and cutting the pipe from the water main.
- The Portland Water District does not have record of any other existing infrastructure in public roads and recommends a survey and test pitting be performed by the development team prior to construction. Any conflicts that arise during construction are at the risk of the developer and may result in job shutdown until new plans are submitted by the developer and reviewed and approved by PWD.

Prior to construction, the owner or contractor will need to make an appointment to complete a service application form and pay all necessary fees. The appointment shall be requested through MEANS@pwd.org or by calling 207-774-5961 ext. 3199. Please allow (3) business days to process the service application paperwork. PWD will guide the applicant through the new development process during the appointment.



Existing Site Service

According to District records, the project site currently has two existing water services. Two 3/4-inch diameter copper domestic service lines provide water service to the site. Please refer to the “Conditions of Service” section of this letter for requirements related to the use of this service.

Water System Characteristics

According to District records, there is an 8-inch diameter cast iron water main in Montreal Street and a public fire hydrant located approximately 100 feet from the site. The most recent static pressure reading was 45 psi on August 5, 2019.

Public Fire Protection

The installation of new public hydrants to be accepted into the District water system will most likely not be required. It is your responsibility to contact the Portland Fire Department to ensure that this project is adequately served by existing and/or proposed hydrants.

Domestic Water Needs

The data noted above indicates there should be adequate pressure and volume of water to serve the domestic water needs of your proposed project.

Private Fire Protection Water Needs

You have indicated that this project will require water service to provide private fire protection to the site. Please note that the District does not guarantee any quantity of water or pressure through a fire protection service. Please share these results with your sprinkler system designer so that they can design the fire protection system to best fit the noted conditions. If the data is out of date or insufficient for their needs, please contact MEANS to request a hydrant flow test and we will work with you to get more complete data.

Should you disagree with this determination, you may request a review by the District’s Internal Review Team. Your request for review must be in writing and state the reason for your disagreement with the determination. The request must be sent to MEANS@PWD.org or mailed to 225 Douglass Street, Portland Maine, 04104 c/o MEANS. The Internal Review Team will undertake review as requested within 2 weeks of receipt of a request for review.

If the District can be of further assistance in this matter, please let us know.

Sincerely,
Portland Water District



Robert A. Bartels, P.E.
Senior Project Engineer



CITY OF PORTLAND
Department of Public Works
Christopher C. Branch, P.E., Director

Date: August 9, 2021 Revised

Re: Wastewater Capacity Authorization

Address: 37 Montreal Street

Applicant: Tim Wells

Planner: Caitlan Cameron

Anticipated Wastewater Flow:

Estimate of Anticipated Design Flows				
Development	Unit Size	Number of Units	Gallons per Day per Unit	Total Gallons per Day
Existing flow to be removed				
Single Family Dwelling Units	3-Bedroom	2	270	(540)
Single Family Dwelling Units	5-Bedroom	1	450	(450)
Proposed flow				
Multiple Family Dwelling Units	1-Bedroom	2	120	240
Multiple Family Dwelling Units	2-Bedroom	2	180	360
Multiple Family Dwelling Units	3-Bedroom	8	270	2160
Net Change				+ 1770
*Values based on STATE OF MAINE: SUBSURFACE WASTEWATER DISPOSAL RULES, most recent edition				

Comments:

The Department of Public Works, which includes the Water Resource Division, have reviewed and determined that the downstream sewers from the project address have the capacity to convey the estimated dry weather wastewater flows which will be generated from this development.

You are reminded that the sewers you are proposing to connect into convey both sanitary and stormwater (Combined Sewer) and therefore a backflow preventer is suggested.

The property has three existing buildings which will require that their individual sewer laterals be abandoned in accordance with City ordinance. This will require either: 1. Digging the lateral from the property line to the sewer main and capping the lateral at the main. Or 2. Using a plug inserted into the lateral and pushed to the interface

with the sewer main and then filling the sewer lateral with flowable fill. Either is acceptable.

If the City can be of further assistance, please contact me at all 874-8840 or brad@portlandmaine.gov

Sincerely,

A handwritten signature in dark ink, reading "Bradley A. Roland". The signature is written in a cursive style with a large, stylized "B" and "R".

Bradley A. Roland, P.E.
Senior Project Engineer

Notice of Public Meeting Certification

I, Tim Wells, hereby certify that a notice of neighborhood meeting sign was posted from 7 December to 15 December prior to the Planning Board hearing held on 14 December 2021 for the proposed project PL 000817-2019 located at 19 Willis Street.



Note that it is the applicant's responsibility to remove the notice of public meeting sign within three days following the date of the meeting.

Tim Wells

8 December 2021

Barbara Vestal <vestal@chesterandvestal.com>

to me

I got the message that Jennifer is out, so forwarding for your attention.

----- Forwarded message -----

From: **Barbara Vestal** <vestal@chesterandvestal.com>

Date: Mon, Jul 12, 2021, 7:59 AM

Subject: Fwd: 33-37 Montreal Street

To: Jennifer Dorr <jmy@portlandmaine.gov>, <planningboard@portlandmaine.gov>

My letter, forwarded below, was not included in the public comment on this proposal. Please advise.

Regards,
Barbara Vestal

----- Forwarded message -----

From: **Barbara Vestal** <vestal@chesterandvestal.com>

Date: Fri, Jul 9, 2021, 11:11 AM

Subject: 33-37 Montreal Street

To: <planningboard@portlandmaine.gov>, <atufs@portlandmaine.gov>, Christine Grimando <CDG@portlandmaine.gov>, Caitlin Cameron <CCameron@portlandmaine.gov>

Dear Planning Board Chair and Members:

I want to add my voice to that of Peter Murray as expressed in his letter to you dated July 8, 2021 in opposition to approval of the project at 33-37 Montreal Street as proposed. I agree with Atty. Murray's detailed and accurate analysis.

The most egregious elements of this proposal are its height and massing, which are completely out of scale with the surrounding neighborhood. In seeking approvals, it is asking the Planning Board to disregard two critical aspects of the height limits.

First, the maximum height per zoning is 35' in the Munjoy Hill Neighborhood Conservation Overlay District. There is an option for the Planning Board to allow up to 45' of additional height if one or more units of workforce housing are included. This is not intended to be an automatic 10 foot bonus for one unit of workforce housing. As explained by Planning Director Jeff Levine at the time the affordable housing bonus was enacted as part of the Overlay District, the Board is supposed to engage in an assessment of all of the factors, including the amount of workforce housing proposed, the degree to which it was adequately assured to be workforce housing in perpetuity, and the impact of the additional height upon the compatibility of the building to determine how much, if any, of the additional 10' foot allowance it should approve. The resulting building needs to not just meet the maximums allowed by zoning. It also needs to satisfy the design standards.

It does not seem like the applicant has offered the specific assurances which would be required for the Board to entertain this height bonus. I have not seen details about the specifics of the single proposed workforce housing unit. Nor does it seem like it is appropriate for the Planning Board to approve the full 10' bonus on this sloped site, where the building would effectively be perceived as a massive 5 story building in a neighborhood of 2 to 2.5 story buildings on small lots. The combination of the consolidation of lots, the sloped site, and the possible granting of a 10' height bonus produce a building that is completely incompatible with the surrounding neighborhood. Even if it meets the technical standards of the zoning, it clearly fails to meet the design standards. Both sets of standards need to be met before this proposal can be approved.

Second, the calculation of height on the site fails to meet even a straight face test. As far as I can tell, they are not proposing to raise the overall level of the site by trucking in massive amounts of fill (which would itself be an objectionable, but a more conventional, ploy). Instead it looks like they have constructed what seem to be elevated planters applied to the exterior of the building, put dirt in the planters and then said that dirt is where one should measure average grade for those corners of the lot. While both techniques result in an artificial measurement, it seems like their planter scheme has to be a bridge too far. There is nothing about the planters that is supporting any structure above them. The dirt is not weight-bearing. There is no dirt extending from the planters down into the ground.

The relevant points for measuring height should be the location where the weight-bearing foundation of the building intersects with the supporting ground. They should not be allowed to get around that by applying planters to the exterior of the building, which hang many feet above the ground and somehow claim that is the relevant dirt one should reference for calculating heights. This makes a mockery of the regulations and invites others to manipulate height calculations in the same way. If these applicants are allowed to skirt Portland's height regulations in this manner, it opens the floodgates for every other developer to manipulate and disregard height limits as well. Please do not allow this project to establish the precedent that completely guts already too lax height limits.

Regards,

Barbara Vestal

--

Barbara A. Vestal, Esq.
Chester & Vestal, PA
107 Congress Street
Portland, Maine 04101
(207) 772-7426 - phone
(207) 761-5822 - facsimile

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37-33 Montreal Street Level 3 Site Plan
 1 view
 Subscribe
 Carol Connor's profile photo
 Carol Connor,
 Jul 13, 2021, 10:23:22 AM (7 days ago)
 to planni...@portlandmaine.gov

Dear Chair and Members of the Portland City Planning Board,

RE: 33-37 Montreal Street Level 3 Site Plan
 July 13. 2021



What a joy it is living on Munjoy Hill in my humble family home that is now an official Portland Landmark. The James B and Almira E. Newell House at 12 Montreal Street is a working class home built in 1855. It holds the memories of all the people who ever lived here including Portland Co and railroad workers, long shore men, painters, teachers, joiners, craftsmen and more.

A lot has changed on the hill, but the simple joy of stepping out of one's yard and onto the sidewalk to meet friends and neighbors is still a wonderful part of community life here. There are many neighbors, visitors and past residents who value this unique part of Portland and wish to see development that does not destroy its unique character and appeal.

Please consider the negative impact that has already occurred related to this project and the unfortunate potential results of approving this plan.

37 Montreal, a preferably preserved home already demolished

Out of scale mass and height will overpower existing homes

Erosion of Munjoy Hill's architectural landscape

Built up grade and retaining wall will create visual and air flow impediments

Out of context with neighborhood homes and nearby Historic District (100ft. rule)

I respectfully request that you consider rejecting this project in its current iteration. The proposed building has changed minimally throughout the many planning and meeting stages in spite of specific suggestions by the board. An in-context, appropriately sized, well designed project could be an asset to the neighborhood and the owner.

Sincerely,
 Carol M. Connor
 12 Montreal Street
 Portland, ME 04101

Level 3 site plan 37-33 Montreal st

0 views

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Carol Connor

unread,

Jul 18, 2021, 7:42:41 AM (2 days ago)

to planni...@portlandmaine.gov, Carol Connor

Dear Chair and City of Portland Planning Board members,

Please accept my comments as part of your record. I am resending this because of a technical glitch that interfered with transmission last week.

Carol Connor
12 Montreal St
Portland, ME 04101

Dear Chair and Members of the Portland City Planning Board,

RE: 33-37 Montreal Street Level 3 Site Plan

July 13, 2021



What a joy it is living on Munjoy Hill in my humble family home that is now an official Portland Landmark. The James B and Almira E. Newell House at 12 Montreal Street is a working class home built in 1855. It holds the memories of all the people who ever lived here including Portland Co and railroad workers, long shore men, painters, teachers, joiners, craftsmen and more.

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Sincerely,
Carol M. Connor
12 Montreal Street
Portland, ME 04101

Carol Connor <balsamique@live.com>

1:29 PM (3 hours ago)

to Portland planning Board

December 8, 2021

To: Chair and Members of the City of Portland Planning Board
RE: Level 3 Site Plan for 19 Willis Street

The 19 Willis Street Proposal (formerly 33-37 Montreal Street), has plagued the Munjoy Hill neighborhood for the past 3 plus years. Though the plans have been studied, assessed, discussed, workshopped and tweaked, the overall impact of the design remains outsized for its context, institutional in appearance, and architecturally out of place.

Through the many meetings, workshops and neighborhood discussions, an overwhelming number of people have written and/or spoken out against the project.

The building site is located just across the street, approximately 50 feet away from a row of vintage homes that are within the recently established Munjoy Hill Historic District. These structures are roughly one tenth the size of the proposed condo building, and average 20-25 feet in height as compared to the 4 story plus project. A portion of the planned building is within 100 feet of the historic district. Its proximity brings to mind the 100 foot rule which should come into play as the structure is inconsistent within the context of existing neighborhood homes.

In light of the fact that the site plan has changed, and the Munjoy Hill Historic District has been established, It would be beneficial for the planning board to ask for the historic preservation staff to revisit the proposal and deliver a current and updated memo to the board. I request that you do this before making any decision regarding the plans.

As it relates to historic preservation, the City of Portland's zoning code 14.6.4(E)(2) states *..... such development shall be generally compatible with the major character-defining elements of the landmark or shall be defined as design which respects the established building patterns and visual characteristics that exist in a given setting and, at the same time, is a distinct product of its own time. To aid the review authority in its deliberations, Historic Preservation staff shall provide a written analysis of the proposed development's immediate context, identifying the major character-defining elements and any established building patterns that characterize the context.*

I respectfully request that you reject the level 3 site plan for 19 Willis Street.

1. It disrespects the character of the neighborhood by its out-sized scale and massing.
2. Its institutional design is out of place in this residential setting.
3. It lacks the character defining features and building patterns characterizing its context.
4. It would overshadow and diminish the historic importance of the vintage homes in the Munjoy Hill Historic District.

Sincerely,
Carol M. Connor
12 Montreal Street
Portland, Maine 04101
balsamique@live.com

Ejkoch Gmail

9:03 AM (4 hours ago)



to Planning Board, jmy

Dear Planning Board Members,

The 33-37 Montreal development project is not in compliance with the R6 Design Standards and R6 Zoning. There are good reasons for these design standards, and I am grievously upset that the Planning Board has ignored them in the past, and I hope they will change that now.

The character of Munjoy Hill is one of the things that attract people to it, as a visitor, or as a resident. We have been destroying that piece by piece by ignoring the requirements of our zoning and the comprehensive plan that new buildings conform to the neighborhood in scale, massing, and design.

According to the developers plans, it appears they add approximately 14 feet of height to the downhill slope - because of the "average grade" trick the developers use to increase their building height. There is No language in R-6 zoning that "average" grade is to be used.

This proposal continues to ignore that the R-6 design standards are to be interpreted at the same level of enforcement as zoning. This proposal essentially ignores the R -6 Design Standard basic design principles of neighborhood context, scale and massing - which specifically provide that new construction be compatible with buildings in a 2 block radius, with close attention to surrounding buildings.

As K. Snyder asks, **"How is the institutional looking building which is 12 times the massing and twice as high as any surrounding houses compatible" with the surrounding neighborhood in any regard?**

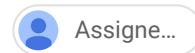
My question as well. I would like the city of Portland Planning Board to work on behalf of the people of the city of Portland, following its enacted design standards as well as the spirit of the standards, and of the comprehensive plan.

Erna koch

Meow, and the world meows with you.

Hiss and you hiss alone. 

7/13/2021 33-37 Montreal PB Meeting



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Karen Snyder

7:29 AM (6 hours ago)



to Planning Board, jmy

Dear Planning Board Chair and Members,

33-37 Montreal project is not in compliance with the R6 Design Standards and R6 Zoning for the following reasons.

1) It is not clear on the drawings but it appears approximately 14 feet to the height is added to downhill slope of this proposal because of the "average grade" trick the developers continue to use to increase their building height since there is NO language in R-6 zoning actually states that average grade is to be used.

2) This proposal continues to ignore that the R-6 design standards are to be held at the same level of enforcement as zoning. As such, this proposal glaringly goes against R-6 Design Standard basic design principles of neighborhood context, scale and massing which state specifically that houses should be compatible with buildings in a 2 block radius and to pay close attention to surrounding buildings.

Below are some houses across the street on Montreal.

How is the institutionalized looking building which is 12 times the massing and twice as high as any surrounding houses anywhere compatible?

Proof of this is with the scale and massing analysis provided below.

Ultimately, as long term residents of Munjoy Hill realize, the Planning Board will continue to ignore R-6 Design standards in order to continue to commoditize the housing on Munjoy Hill as much as possible in order for the wealthy to live part-time. R6 and specifically Munjoy Hill continues to be targeted by the City and the systems in place and has made Munjoy Hill unsustainable for long term residents to live. These actions go against the Portland Comprehensive Plan.



EXISTING CONTEXT: MONTREAL



How is 33 and 37 Montreal proposal compatible to Houses Across Montreal Street?

Scale and Massing Analysis of 33 and 37 Montreal to Surrounding Buildings on Willis and Montreal						
Street Address	Land Use	Stories	Store Height (ft)	Building Width (ft)	Building Length (ft)	Building Mass (Volume) LxWxStories Height
23 Willis	Single family	15	20	22	75	33,000
26 Willis	Single family	15	20	20	43	17,200 est
24 Willis	Single family	15	20	20	43	17,200
22 Willis	Single family	15	20	22	32	14,080
20 Willis	Two family	2	25	15	48	18,000
41 Montreal	Single family	2	25	22	51	28,050
42 Montreal	Single family	15	20	22	55	24,200
10 Willis	Two family	2.5	30	22	51	33,660
9 Willis	Two family	2.5	30	23	58	40,020
32 Montreal	Single family	15	20	22	56	24,640
24 Montreal	Single family	2	25	22	45	24,750
27 Montreal	Multi Unit	2	25	32	64	51,200 est
19 Montreal	Multi Unit	2	25	32	64	51,200 est
13 Montreal	Multi Unit	2	25	32	64	51,200 est
22 Montreal	Single family	15	20	18	34	12,240
16 Montreal	Single family	15	20	25	30	15,000
12 Montreal	Single family	15	20	18	36	12,960
Surrounding Bui		Average	2. Stories			27,565 cubic ft
33/37 Montreal		14 Unit	4 Stories			378,000 cubic ft
Assumptions: Column headings starting with "City", building length and width was gathered from City of Portland Maine Parcel Viewer						
Calculations: 1) I assumed 10 feet per story but if it is gabled or half story, I rounded up to next story.						
2) Massing is considered volume which the formula Volume = Length X Width x Height						
Conclusion: 1) 33 and 37 Montreal Proposal is Greater than 12 x SCALE and MASSING of surrounding properties						
2) 33 and 37 Montreal Proposal is Two (2) x (basically double) the HEIGHT of surrounding properties.						
1271.32% Average Scale and Massing Increase						

The Various Other Iterations of 33 and 37 Montreal Proposals

VERSION 1 - HPB Workshop: 8/15/2018



VERSION 2 - HPB Workshop: 9/05/2018



VERSION 3 - HPB Workshop: 10/17/2018



VERSION 4 - HPB Workshop: 12/19/2018



VERSION 5 - PB



Regards,
Karen Snyder
Munjoy Hill Resident

33-37 Montreal Street – Level 3 Site Plan

Application 7/13/21

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Mike Hoover

to planni...@portlandmaine.gov

4:45 AM (3 hours ago)



Dear Chair and Members of the Portland Planning Board:

As a resident of Munjoy Hill living on Melbourne Street, one block from the proposed development, I am writing to state my objection to the approval of this application due to its current status of not meeting standards required by the R-6 Zone and Munjoy Hill Overlay. This site plan application is simply not in compliance with the height requirements of R-6 Zone and the Conservation Overlay on Munjoy Hill and is also not in compliance with the applicable Design Standards. Given these deficiencies, the Site Plan Application should not be approved.

1. The height of the structure exceeds the current maximum height required by the R-6 Zoning standards. The declaration of an artificial grade by the development 14 FEET above existing grade makes a mockery of this standard, and as such clearly exceeds the R-6 standard.
2. The surrounding neighborhood consists predominantly of 19th century wood frame 1 and 2 family houses approximately 18-25 feet wide on small lots with side yards, and are 1½ - 2½ stories in height. The sides of the proposed building facing Willis and Montreal Streets, each approximately 50 feet by 90 feet simply dwarfs every surrounding structure. There is absolutely no compatibility of any possible aspect of this building to the existing neighborhood. It would ruin the fabric of the existing neighborhood.

The applicant has also not prepared the necessary documentation to address this concern. Firstly, staff's memo is factually incorrect (Section IX.B.4, page 8) by stating that the site is not in proximity of a Historic District. The current Munjoy Hill Historic District encompasses the homes on Willis Street immediately adjacent to the site. Proper analysis of this impact must be completed prior to the evaluation of this resource for this application. Secondly, staff has requested an analysis to include *"Neighborhood context plan that shows the footprint of this building compared with, those in the surrounding blocks, renderings showing the building in context with adjacent buildings"* Neither analysis has been included in this submission, and as such is incomplete.

This site plan application proposed a structure which does not meet current R-6 zoning criteria for building height, and shows absolutely no compatibility with the existing structures in the immediate vicinity of the site. For these reasons, the Planning Board must vote to reject this application for its failure to comply with specific the existing height and compatibility standards

Michael Hoover

Melbourne St

Portland ME 04101

33-37 Montral Street - Planning Board Meeting 7/13

0 views

[Skip to first unread message](#)

Subscribe



Peter Murray - GWI

unread,

Jul 8, 2021, 9:34:25 AM (yesterday)

to planni...@portlandmaine.gov, Peter L. Murray, Andrew Tufts, Barbara Vestal, Carol Connor, Wayne Valzania

Dear Planning Board -

Attached please find my written comments concerning the project scheduled for a public hearing on July 13, 2021. The proposed project makes a travesty of height regulation in the R-6 zone and should not be approved based on the plans submitted.

Can you please send me the link for the virtual meeting so that I can participate?

Thank you for considering these matters.

Sincerely,

PLM

104 North Street
Portland, Me 04101

July 8, 2021

Portland Planning Board
City Hall
Portland, ME 04101

Re: 33-37 Montreal Street – Level 3 Site Plan Proceedings

Dear Chair and Members of the Portland Planning Board:

This is in anticipation of your July 13 Public Hearing on the above project. The undersigned, who lives approximately one block away from the project site, has participated both through written submissions and oral presentations at prior Workshops and other proceedings with respect to this project. For the reasons set forth below, it is submitted that the project is not in compliance with the requirements of R-6 Zone and the Conservation Overlay on Munjoy Hill and is also not in compliance with the applicable Design Standards and the Site Plan Application and should not be approved.

The concerns set forth herein were brought up at the September 24, 2019 Workshop on this project. The relatively minor and cosmetic changes represented by the current revised submissions do not effectively meet these objections or the other objections raised by concerned residents at prior proceedings.

1. The Height of the Proposed Project Exceeds the Maximum Height Permitted by the Portland Zoning Ordinance.

The R-6 Zone and the Munjoy Hill Overlay require that any structure built in the Zone have a “height” of no more than 45 feet. (In the Munjoy Hill Overlay Zone the 45-foot height is available only to structures having at least two dwelling units, of which one must be a “workforce” housing unit – otherwise the maximum height is 35 feet). The Project is proposed to have one “workforce” unit and therefore claims the 45-foot height limitation.

The question raised by this proposal is, “From where the 45-foot height is to be measured?” The version of the Portland Zoning Ordinance in effect at the time the Site Plan Application was filed (and which therefore governs this Application) contains no specific mention of how or from where a building’s height is to be determined. As of that time the practice of the Portland Code Enforcement Officer was to measure a building’s height from the average land grade at the four corners of the structure (or at a number of

points along its perimeter at the developer's option). On the Portland islands, it was understood that the measurement was to be made from the grade levels that existed before the site had been disturbed by development activity. On the mainland, apparently measurements could be made from the grade of the site as improved by the project. This practice permitted mainland developers to fill or adjust site grades to some degree before determining the average grade from which their structures would be measured.¹

The project is proposed to be sited on a sloping site with existing land grades at the four corners of the proposed structure as follows:²

Northern Corner:	124.0'
Eastern Corner:	128.5'
Southern Corner:	137.9'
Western Corner:	134.0'

The average of the existing grades at the corners of the proposed condo block is 131 feet above datum. Based on the existing grades on the ground, the structure should extend no higher than 176.1 feet above datum.

The developer, however, claims a new artificial "average grade" around the entire building by heaping a fringe of earth around the entire structure and retaining it with retaining walls creating flower and landscaping boxes to a height of 138 feet above datum on all sides of the structure. This new "average grade" is above the existing natural grade at all four corners of the building. The increase ranges from less than a foot at the southern corner, to 4 feet at the western corner, to 9 ½ feet at the eastern corner and to 14 feet at the northern corner. The developer proposes to show its neighbor to the northwest a new artificial retaining wall extending from 4 to 14 feet above the grade of his immediately adjacent land. The new landscaping or flowerboxes would extend from 2 - 9.5 feet above the sidewalk on Montreal Street. It should be noted that the dirt in the flowerboxes is no part of the support of the building, but is a narrow strip added outside the foundation after construction in order to claim a fictitious grade that is totally out of synch with the land contours in the surrounding neighborhood. In fact, the "average grade" flowerboxes would be installed above the door to the garage and some 12 feet above the real ground in that area. All of this is shown rather clearly in the elevations most recently filed by the Applicant.

¹ This practice was codified in the Phase 1 Recode of the Portland Zoning Ordinance adopted by the City Council on November 9, 2020. The Phase 1 Recode was intended to reorganize and rationalize the structure of the ordinance without making substantive changes, which were reserved to Phase 2. The question of how grade should be determined for project height purposes is on the agenda for debate in the currently pending Phase 2 proceedings. One proposal is that throughout the City, building height should be measured from pre-construction grade as it is on the islands and in other municipalities such as Bangor and Boston.

² See measurements and contour lines on "Grading and Utility Plan" dated 9/24/19 as filed by the Applicant.

By measuring from this fake “average grade” the developer proposes to build to a height of 183 feet above datum, or nearly 7 feet above what the real grade would give it.

While the recent practice of the Portland Code Enforcement Officer to measure from post-construction grades may permit developers some modest filling and grade alterations, this is an egregious abuse of the practice to permit the developer to add, in effect, an additional story to its project thus increasing and compounding its overweening dissonance with the surrounding neighborhood as discussed below.

While the apparent current practice of measuring from post-construction grade is vague and inexact, it certainly does not permit something like this, where the developer seeks to take unfair advantage of this ambiguity to make a mockery of height restriction in the R-6 and the Munjoy Hill Overlay.

2. The Overall Size and Bulk of the Proposed 9-Condominium Block Does Not Comply With the Design Standards in the Context of its Surroundings.

The Montreal-Willis Street neighborhood is a relatively intact Munjoy Hill residential neighborhood consisting of 19th century wood frame 1 and 2 family houses on small lots. This building stock bespeaks the Hill’s history as a working- and middle-class residential quarter in 19th century Portland. Most of the houses are 1½ - 2½ stories in height.

The proposed project would combine two lots to make one large lot on which the developers propose to erect a 4½ story condominium block with 9 upscale dwelling units over a parking deck that would cover most of the combined lots. This structure would dwarf all of the nearby buildings and dominate the entire Montreal-Willis area. It would destroy the harmonious rhythm of the buildings on the streets.

The Level 3 Site Plan Application should be rejected because the building does not comply with the basic Design Standards requiring the height, size and mass of a new building relate positively to the surrounding building stock. This building is simply too big, too long, too institutional to fit on the corner where it is sited.

The proposed site is the northern corner of the intersection of Willis and Montreal Streets. On the other corners are 1) on the southern corner, a 1½ story small 19th century mansard cottage, recently restored to approximate its original appearance; 2) on the western corner a small 1½ story 19th century house recently improved with a long dormer in the ell; 3) on the eastern corner, a 2½ story 19th century frame house similar in size and type to the house that had stood on the proposed project site near the northern corner of the intersection, but which the developer recently demolished. There is no way that this full four story 9-unit condo block with parking underneath can reasonably resonate with housing stock of this kind.

The problem is exacerbated because the developer is not proposing to build on a single Munjoy Hill lot, which would by its small size tend to keep the project in relative

proportion with the buildings on the neighboring small lots. Here the developer has combined two existing lots to make a large lot, which will physically accommodate a much larger structure than either of its constituent parts. This physically permits a building of much greater scale than any of its surrounding structures.

Promenade East, cited by the developer as a comparable structure, is not a part of this neighborhood, but is off on a campus of its own where formerly the Munjoy Hill Reservoir was located. The buildings on Montreal and Willis do not in any way relate to this distant structure.

It is time to say “No.” The existing R-6 zone, even with the Munjoy Hill Overlay, affords developers great dimensional latitude in permitting buildings extending up to 45 feet above a real average grade. However multi-unit residential buildings must also comply the Design Standards, which require that new construction “be compatible with the predominant character defining architectural features of the neighborhood.” In some areas of the Hill a building of this height can “fit in” and resonate positively with the surrounding housing stock. Not on the corner of Montreal and Willis. In this part of the neighborhood the Design Standards require that new construction adhere more closely to the relative size and scale of the existing residential structures on all sides.

If this block is permitted to be built it will be one of those buildings of which people will say for years to come, “How did they let that be built!”

It is submitted that the application must be denied.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter L. Murray". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Peter L. Murray

w.valzania@munjoyhill.org <w.valzania@munjoyhill.o... Dec 8, 2021, 4:51:19 PM (15 hours ago)
to planningboard@portlandmaine.gov, Christine Grimando, austentd@portlandmaine.gov, Wayne Valzania, Barbara Vestal, Peter Murray

Chair Brandon Mazer and Planning Board Members

City of Portland

389 Congress Street

Portland, Maine 04101

Re: 19 Willis Street (f/k/a 33-37 Montreal Street)

Dear Chair Mazer and Planning Board Members:

The Board of the Munjoy Hill Neighborhood Organization has requested me to urge you on behalf of the Organization not to approve the 19 Willis Street development as proposed. This massive, luxury project is the opposite of development that would be appropriate for Munjoy Hill and specifically for the proposed location on Willis Street. It deviates from the existing regulatory framework in important regards, specifically:

- 1) It calculates allowable height using an artificial elevation that is contrary to the zoning ordinance. If permitted, due to the lot aggregation and sloped site, the improper height calculation would result in a building that is completely out of scale with the neighborhood. The use of applied building features (planters) to establish elevation is an egregious misinterpretation of the zoning ordinance and would set a dangerous precedent for future project proposals. The result is to claim a building height that is over 6 feet higher than would be allowed under a proper measurement of average grade of the site.
- 2) The scale and mass of the proposed building is completely out of context with the existing neighborhood and it does not meet R-6 design standards or site plan standards (14.6.4.E (2)). At least a portion of the proposed development is within 100' of the Munjoy Hill Historic District. It is far from compatible with the major character-defining elements of the portion of the Munjoy Hill Historic District in the immediate vicinity. As designed, it is 4 stories tall, and appears as 5 stories from the downhill perspective. As it is proposed to be built on two combined lots, it is a massive structure and would loom over the adjacent small-scale, mostly 1 and 1.5 story homes. From uphill, above this proposed project, the rooftop appurtenances, which are required to be hidden by roof edge setback and aesthetically pleasing barriers, will be in full view becoming a major component of the downhill landscape.
- 3) The combination of the proposed demolition of 3 housing units and the proposed inclusion of one "workforce" housing unit results in a net loss of affordable housing, setting yet another baseline upon which other proposals will use as a "prior built" rationale. If this project is allowed to go forward and the Planning Board is prepared to grant the full height bonus, to mitigate the impact to the extent possible, the conditions of approval should clearly require that the "workforce" housing unit actually be provided on site, that its sale or rental involve arms-length transactions, and that the unit be deed restricted for affordability for the longest term possible under State and Federal law.

Attached is a set of "Guiding Principles for Real Estate Redevelopment on Munjoy Hill", adopted by the Munjoy Hill Neighborhood Organization Board of Directors on February 4, 2020. These have provided the context for our

analysis of this proposed project. We feel compelled to raise our concerns about this proposed project because it involves potentially precedent-setting issues

Most of the land on Munjoy Hill involves sloped sites. The interpretation of height and application of height calculations are important benchmarks to see that in-fill development is respectful of its neighbors. The applicant should not be allowed to employ this tortured interpretation in calculating height.

The proposed development is completely out of scale with the immediate neighborhood, both under general R-6 design standards and under the site plan standard for development adjacent to a historic district. It is not sufficient for the proposed development to meet maximum dimensional standards pursuant to zoning. The proposal also has to be able to satisfy the R-6 design standards and site plan standards. We do not believe that the proposed development meets these standards.

The affordable housing issue is critical throughout the City. Granting a 10' height bonus for a single "workforce" unit is counterproductive, particularly as it encourages demolition of existing housing to create the building lot. The Planning Board should exercise its discretion to decline to grant that maximum height bonus, particularly as the applicant is already proposing to stretch the limits of this dimensional standard and the type of housing to be provided is not meeting the need for affordable housing.

33-37 Montreal Street Proposed Development

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0 views



w.val...@munjoyhill.org

8:40 AM (1 hour ago)



to planni...@portlandmaine.gov, Andrew Tufts, Christine Grimando, Caitlin Cameron, Barbara Vestal, Barbara Vestal, Carol M. Connor, Carolyn Swartz, Clare LaVergne, Karen Snyder, Maggy Wolf, Mary Casale, Mike Hoover, Ned Chester, Ned Chester, Peter Blackstone, Peter Murray, Wayne Valzania, Wa...@redhookdesignalliance.com

Members of the Portland City Planning Board, Andrew, Christine, and Caitlin,

I am writing on behalf of The Munjoy Hill Neighborhood Organization, our members, our friends, and the Munjoy Hill residents who will be directly affected by this development. I will also touch on the revaluation because developments of this scale are inextricable linked as cause and effect.

My colleagues, Barbara Vestal, and Peter Murray have presented arguments that are statute and code based. That having been covered, I will present an argument that examines aesthetics and the humanity of people living in neighborhoods. I encourage you to visit the location of this proposal as I did yesterday, and to stand on the street corner of Willis and Montreal, slowly turn three hundred and sixty degrees and to carefully and quietly absorb the context in which you stand. It is quiet, beautiful, and Munjoy Hill at its finest. It is a place where residents care about their homes and their neighborhood. There is scale that is comforting and familiar. These are homes that are built with materials that bespeak a New England coastal neighborhood.

The proposed project for 33-37 Montreal Street is none of this. It is large, it is box like, and it is incongruous in this setting. It detracts rather than adds to the aesthetic, and it forever alters a neighborhood that has grown organically and is loved by its residents. There will be no wood, eaves, gables, or any of that nonsense, just tall flat facades and rooftop appurtenances that if allowed will rise forty-five plus feet above the neighboring houses.

So, who are the winners and losers in this proposal? The winners are, of course, the developers who stand to gain additional wealth, and an enhanced reputation in their community of developers. There will be an overlay of new residents who may or may not appreciate, or even understand the essence of a small closely knit neighborhood. In either case the population of the neighborhood will increase significantly and they will get to live on Munjoy Hill.

The losers are the long-term residents living in the neighborhood. The folks who have lived there, worked on their houses, invested in their neighborhood, and for years and years, paid their taxes to the City of Portland. Traffic on Willis and Montreal streets will increase. Garbage trucks and service vehicles will service the development and will bring frequent truck traffic to the neighborhood. Not the least affront is that long time invested residents now will be living in the shadow of a behemoth structure that will totally replace the essence of all that they have held dear and have paid for. The final blow will be the increased taxes that they, and the rest of us on Munjoy Hill will be assessed because of the further increase in property value, that has and will continue to be, exacerbated by unfettered development such as this proposed project.

At some point one would hope that some-one, some-many, and ideally, some-in official capacity, would seek the moral high ground and take a moment to consider what is best for all the residents of Munjoy Hill, and our city at large. The re-valuation is a shocking wake-up call that more than at any time in the past, reveals the connection between development and the live-ability of our city. While development creates opportunity for a few, it disaffects many. What is at stake here, is the long-term viability of affordable housing, affordable taxes, the security of being able to age in place for our elderly, and the provision of affordable workforce housing. This may seem to be a stretch, but the reality is, these elements are inextricable related.

Please consider all of this, and prevent this project from being built as proposed. I ask you to cast your vote for our neighborhoods.

Thank You for the work that you do on our behalf, and for your careful consideration of this request.

Respectfully Submitted,

Wayne Valzania

Wayne Valzania, President

Munjoy Hill Neighborhood Organization

Celebrating 40 Years of Community Service

92 Congress Street

Portland, ME 04101

207-274-4918

www.facebook.com/MunjoyHillNeighborhoodOrganization

Join Us !! www.MunjoyHill.org



Wayne@redhookdesignalliance.com <Wayne@redhookdesignalliance.c... 8:35 AM (1 hour ago)
to planningboard@portlandmaine.gov, Christine Grimando, Wayne@redhookdesignalliance.com

Chair Brandon Mazer and Planning Board Members

City of Portland

389 Congress Street

Portland, Maine 04101

Re: 19 Willis Street (f/k/a 33-37 Montreal Street)

Dear Chair Mazer and Planning Board Members:

I have spent the last hour doing an online search of travel magazines and newspaper articles, New York Times, Boston Globe and others. When I search for Portland Maine, I am presented with photos of old buildings in the Old Port, the quaint neighborhood streets of Munjoy Hill and it's small, perfect scale New England style houses, a working waterfront, and reviews of what were once well staffed restaurants and bars. There is not one photo of a glass office building, a parking garage on the waterfront, or giant out of scale luxury condo cube misplaced in a lovely Munjoy Hill neighborhood.

I will refer you to letters and documentation that you have received from my friends and neighbors, Peter Murray, Barbara Vestal, and Karen Snyder for legal opinion and factual data arguing that the proposed 19 Willis Street project has no place on Munjoy Hill. While the aesthetics should seem obvious, with the behemoth mass and scale of this building being totally out of context with what is presented in travelogues touting Portland as a great place to visit, live, and work, it is not even part of the conversation.

To preserve what we have requires that it be appreciated, valued, and protected by your agency. Please do the right thing for Portland and prevent this project from destroying the Willis Street neighborhood. With enough damage, Portland will no longer appear in the list of great places to visit and live and work.

From the New York Times:

What to do in Portland Maine This Summer:

Streets lined with galleries and shops. A working harbor. Outdoor dining at award-winning restaurants. The fleeting summertime pleasures of Longfellow's childhood home await.

Hmmmmmm, no mention of high-rise expensive condos on quiet residential streets.



gettyimages

Nisian Hughes

From: **Barbara Vestal** <vestal@chesterandvestal.com>
 Date: Fri, Dec 10, 2021 at 10:35 AM
 Subject: 19 Willis Street, Portland, Maine
 To: <planningboard@portlandmaine.gov>, Christine Grimando <CDG@portlandmaine.gov>, Austen Torres Davis <austentd@portlandmaine.gov>

Chair Mazer and Planning Board Members:

I urge you not to approve the proposed development at 19 Willis Street as currently configured. I have four basic objections: 1) impermissible manipulation of the height properly address the site plan standard for compatibility with the adjacent historic district; 3) failure to justify the granting of the proposed 10 foot height bonus; and 4) fa standards.

HEIGHT MANIPULATION:

The calculation of height pursuant to Portland's land use code has always been somewhat problematic due to the absence of detailed regulations in the ordinance. This is steep slopes, which are present throughout Portland's peninsula. Some developers have taken advantage of the vagueness of the ordinance by bringing in fill to raise the ground level, stretching the ordinance by applying height calculations based upon post-development grade.

The proposal for 19 Willis Street is even more aggressive in trying to secure additional height. This applicant has pushed the height calculation to the breaking point, beyond the required test. Rather than measuring elevation at weight-bearing corners, where the foundation pierces the ground upon which the structure rests, the applicant is apparent height of applied, non-weight bearing ornamental planters. The only similarity between the planters and the ground is that both contain dirt. They are functionally not permitted to stand, would allow the applicant to gain several feet in height that should not otherwise be allowed pursuant to zoning dimensional standards. It would also allow developers to use to evade height standards.

IMPACT ON HISTORIC RESOURCES:

The proposed development at 19 Willis Street is immediately across Willis Street from the Munjoy Hill Historic District. There is a specific site plan standard, applicable to within 100 feet of a designated historic district. The standard is designed to ensure that the new development will be generally compatible with the adjacent historic resources. It does not yet seem to have been evaluated for compliance with that standard. I believe after proper evaluation it will be found not to satisfy that site plan standard.

This site plan standard for development adjacent to a historic district applies to this development. The Munjoy Hill Historic District was nominated on July 10, 2019. The application was not until August 12, 2019. The historic preservation ordinance provisions on interim protection for nominations only excepts from the impact of the nomination any development (which this was not) and which had received review by the Planning Board prior to nomination. The first Planning Board review of this application was not until September 2019, after the Hill Historic District nomination.

That site plan standard, 14.6.4.E(2) (formerly 14-526(d)(5), essentially identical) contains very specific guidance on how to determine whether a proposed development is character-defining elements of the landmark or portion of the district in the immediate vicinity of the proposed development. . . . For the purposes of this provision, 'com design which respects the established building patterns and visual characteristics that exist in a given setting and, at the same time, is a distinct product of its own time.'

Moreover, to aid the Planning Board in its evaluation and deliberations, the site plan ordinance specifies that the "Historic Preservation staff **shall** provide a written analysis of the immediate context, identifying the major character defining elements and any established building patterns that characterize the context."

The required Historic Preservation staff analysis has not been provided to the public or to the Planning Board. The Planning Board is not yet in a position to deliberate on a site plan standard. It is true that a prior version of the proposed development at 19 Willis Street, then known as 33-37 Montreal Street, was before the Historic Preservation Board in a very different context. Pursuant to the Munjoy Hill Neighborhood Conservation Overlay Zone (MHNCOZ), one of the three buildings the applicant proposed to demolish project was designated as "preferably preserved." That meant that the applicant could not demolish the building without waiting for one year unless the Historic Preservation Board determined the proposed replacement building would be "acceptably contextual in the surrounding neighborhood." Not wanting to wait a year, the applicant sought a determination from the structure that it sought to construct qualified for a reduction in the wait-time before demolition. The Historic Preservation Board made that decision, in a split 4-2 vote, to stay of demolition to be lifted on 37 Montreal Street, a preferably preserved building, provided that the applicant applied for a building permit consistent with the preliminary applicant demolished the building after waiting more than one year.)

This prior Historic Preservation Board review cannot substitute for the site plan review under 14.6.4.E(2) (or 14-526(d)(5) for several reasons:

- The standards that were applied under the MHNCOZ are different than the site plan standards for general compatibility with the adjacent historic district.
- The project reviewed then was different than the project proposed now; it included a primary entrance on Montreal Street.
- The review was done by the Historic Preservation Board, not the Historic Preservation staff.
- The Munjoy Hill Historic District designation had not then been finalized. In fact, the historic resources inventory, historic district designation report and precis to be considered under the site plan standard, were all finalized after December 19, 2018, the date of the Historic Preservation Board decision.
- The emphasis during the review was on the proposed structure rather than its broader compatibility with the adjacent historic district.

All of these differences require a fresh review by the Planning Board as part of this current review process, informed by a written analysis from Historic Preservation staff a issues outlined in the site plan ordinance.

10 FOOT HEIGHT BONUS:

Affordable housing is a major issue in Portland. The Munjoy Hill Neighborhood Conservation Overlay Zone (MHNCOZ) correctly reduced the general Munjoy Hill height limit to match the context of the existing environment. But then it unwisely included a provision allowing heights that could go up to 45 feet if the applicant included at least one

At the time of drafting, then Planning Director Jeff Levine explained that it was not intended to be an automatic 10 foot height bonus in exchange for one unit of workforce housing. The bonus was a maximum, and it would be up to the Planning Board to determine whether what the developer was proposing was sufficient to qualify for the bonus. The Planning Board would consider the number of workforce units to be included, the need for workforce units, and whatever similar factors it found to be relevant in deciding whether to grant the maximum.

As this provision has been used in a handful of projects, it is becoming very clear that this height bonus is producing a **net loss** of affordable housing. Housing, generally at the site, is being torn down to create the building lot for the proposed new construction. And then the new construction offers the bare minimum – one unit – to grab an extra

In this case, the applicant is proposing to demolish 3 housing units. The application is somewhat unclear on what is being proposed for the workforce housing unit. Specific questions will be rental or sold, what restrictions will keep it affordable and for what period, and what provisions are intended so that an eventual occupant will be determined through the transaction (or series of transactions).

I believe the Planning Board should consider whether what the applicant is proposing is sufficient to justify 10 feet of additional height, the maximum bonus. And even if it is reasonable to trade off 3 demolished units for one new workforce unit, it seems like the Board has a duty to make sure that the City's methodology is firmly established so that the unit will actually adhere to any deed restrictions, affordable housing covenants, standards for non-preferential treatment, and similar requirements necessary to produce the desired outcome.

FAILURE TO SATISFY DESIGN STANDARDS

I continue to have concerns about whether the proposed project, as originally proposed and as redesigned, meets the applicable Design Standards. The applicant asserts it is based upon a 2018 analysis, prior to the redesign currently before the Planning Board. Particular areas of concern are: the overall context (it is not compatible with predominant features of the neighborhood), massing (it looms over buildings to which it is supposed to relate rather than reflecting and reinforcing the traditional building character of the street (the new Willis Street entry is constricted and not welcoming, and the new absence of any entrance on Montreal Street makes that entire façade suffer from a lack of proportion and scale (given the massing and scale, the resulting individual building elements are not human scaled).

Additional scrutiny of these important design elements is required. The design standards in the City of Portland Design Manual are incorporated by reference as part of the ordinance. In addition, the design standards subsection of the site plan ordinance directs that all residential development in the R-6 zone "shall integrate with and respect the character of the neighborhood in terms of architectural form, landscaping and open space, façade materials, roof pitch, massing, and height." 14.6.4.1(1)(e)(iv). The R-6 Design Standards (Appendix A of the Design Manual) are a more detailed explanation of how this is to be accomplished. They note that in determining whether a design is in compliance, "[s]pecial attention shall be given to both sides of the street within the block of the proposed site. If the building is on a corner lot, then buildings on the adjoining block shall also be considered." (Id.)

CONCLUSION

To gain approval, every applicant must be able to satisfy the dimensional standards of the zoning ordinance (including height limits), must meet site plan standards for corner lots in the historic district, and must be able to meet the applicable design standards. These standards must be met simultaneously, with each being of equal importance. If it is not possible to meet compatibility standards while maximizing dimensional characteristics, the dimensional maximums need to be modified to bring it into compliance with the other standards. I do not approve the project proposed for 19 Willis Street as currently configured.

--
Barbara A. Vestal, Esq.
Chester & Vestal, PA
107 Congress Street
Portland, Maine 04101
(207) 772-7426 - phone
(207) 761-5822 - facsimile

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--
Austen Torres Davis
Planner
Planning & Urban Development Department

389 Congress Street
Portland, Maine 04101

12/10/21, 11:14 AM

Fwd: 19 Willis Street, Portland, Maine - jmy@portlandmaine.gov - City of Portland Mail

austentd@portlandmaine.gov | (207) 874-8632

Reply

Forward

Murray, Peter <pmurray@law.harvard.edu>

11:01 AM (1 hour ago)



to planningboard@portlandmaine.gov, Murray, Peter, Davis Austen

Dear Planning Board -

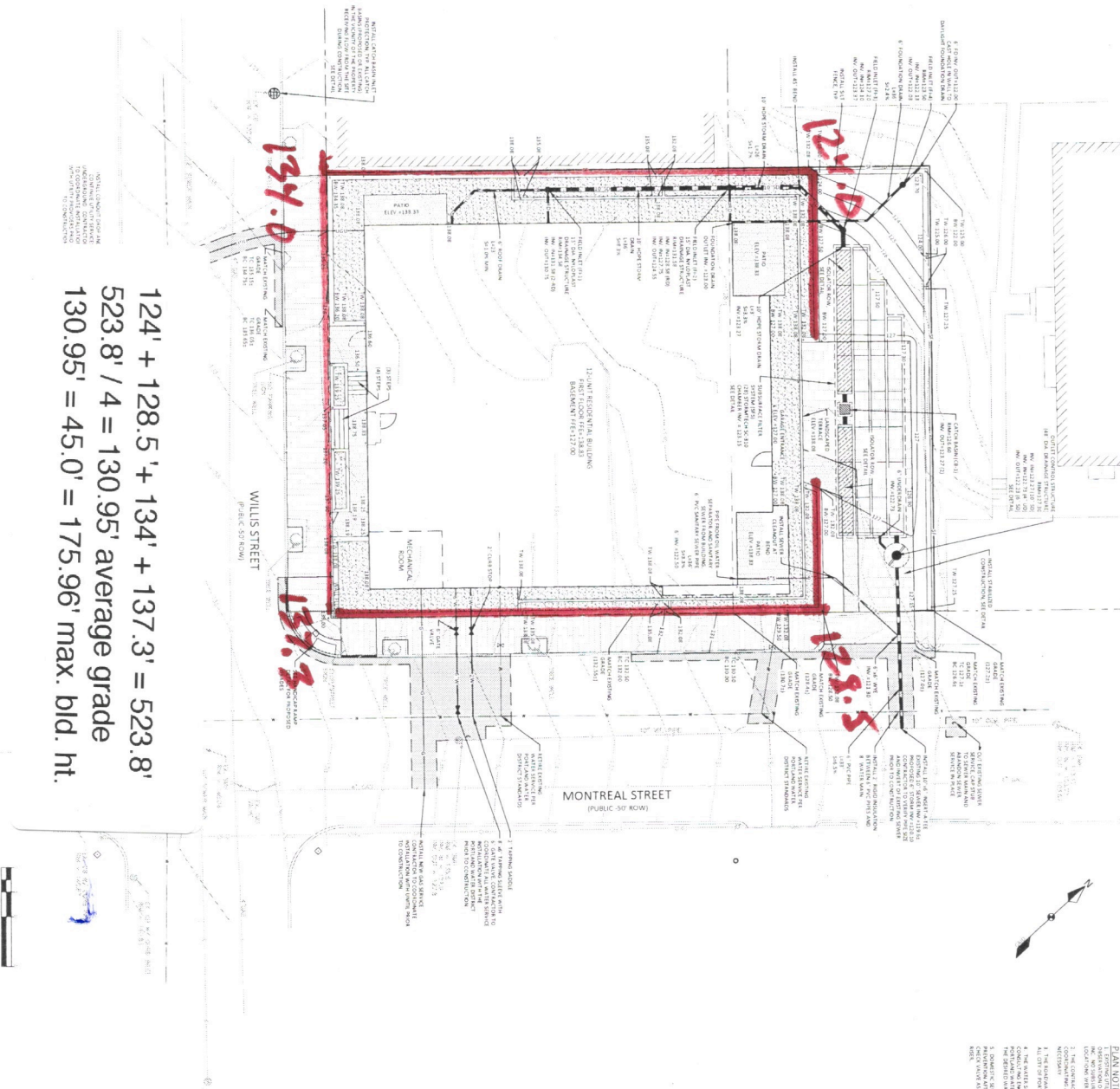
Attached please find my written comments for your consideration prior to the upcoming public hearing on the above project scheduled for December 14. Included are two diagrams and one photograph, also attached.

For the reasons stated in the comments, it is respectfully submitted that the application for a level 3 site plan should be denied.

Can you please acknowledge receipt of these materials? Can you also please arrange for the recording of the December 14 public hearing on this application?

Thank you,

PLM
Peter Murray
104 North Street
Portland, ME 04101
pmurray@zwi.net



PLAN AND DO

During implementation, implementers should follow the steps below to ensure that the program is implemented as intended. The steps are: (1) establish a steering committee, (2) establish a timeline for the implementation, (3) develop a communication plan, (4) develop a data collection plan, (5) develop a training plan, (6) develop a monitoring and evaluation plan, (7) develop a sustainability plan, (8) develop a dissemination plan, (9) develop a budget, and (10) develop a risk management plan.

1. **Establish a steering committee.** The steering committee is a group of people who are responsible for the overall implementation of the program. The steering committee should be composed of representatives from all of the organizations involved in the implementation. The steering committee should meet regularly to discuss the progress of the implementation and to make decisions about the implementation.

2. **Establish a timeline for the implementation.** The timeline is a schedule of the implementation activities. The timeline should be developed in consultation with the steering committee. The timeline should include the start and end dates for each activity, the duration of each activity, and the responsible person for each activity.

3. **Develop a communication plan.** The communication plan is a plan for how to communicate about the implementation. The communication plan should include the following information: (a) the purpose of the communication, (b) the target audience, (c) the communication channels, (d) the communication materials, and (e) the communication schedule.

4. **Develop a data collection plan.** The data collection plan is a plan for how to collect data on the implementation. The data collection plan should include the following information: (a) the purpose of the data collection, (b) the data to be collected, (c) the data collection methods, (d) the data collection schedule, and (e) the data collection personnel.

5. **Develop a training plan.** The training plan is a plan for how to train the implementation personnel. The training plan should include the following information: (a) the purpose of the training, (b) the training topics, (c) the training methods, (d) the training schedule, and (e) the training personnel.

6. **Develop a monitoring and evaluation plan.** The monitoring and evaluation plan is a plan for how to monitor and evaluate the implementation. The monitoring and evaluation plan should include the following information: (a) the purpose of the monitoring and evaluation, (b) the monitoring and evaluation indicators, (c) the monitoring and evaluation methods, (d) the monitoring and evaluation schedule, and (e) the monitoring and evaluation personnel.

7. **Develop a sustainability plan.** The sustainability plan is a plan for how to ensure the sustainability of the implementation. The sustainability plan should include the following information: (a) the purpose of the sustainability plan, (b) the sustainability indicators, (c) the sustainability methods, (d) the sustainability schedule, and (e) the sustainability personnel.

8. **Develop a dissemination plan.** The dissemination plan is a plan for how to disseminate the results of the implementation. The dissemination plan should include the following information: (a) the purpose of the dissemination, (b) the dissemination materials, (c) the dissemination channels, (d) the dissemination schedule, and (e) the dissemination personnel.

9. **Develop a budget.** The budget is a plan for how to allocate the resources for the implementation. The budget should include the following information: (a) the purpose of the budget, (b) the budget items, (c) the budget amounts, (d) the budget schedule, and (e) the budget personnel.

10. **Develop a risk management plan.** The risk management plan is a plan for how to manage the risks of the implementation. The risk management plan should include the following information: (a) the purpose of the risk management plan, (b) the risk management indicators, (c) the risk management methods, (d) the risk management schedule, and (e) the risk management personnel.

REV	DATE	BY	DESCRIPTION
A	8-12-19	DMR	ISSUED FOR PERMITTING
B	10-11-19	DMR	REVISED PER CITY REVIEW
C	10-22-19	DMR	REVISED PER CITY REVIEW
D	11-3-21	DMR	RE-ISSUED FOR CITY REVIEW

DM ROMA
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FOR APPLICANT
37 MONTREAL, LLC.
33 MONTREAL STREET
PORTLAND, ME 04101

C2.0

104 North Street
Portland, Me 04101

December 8, 2021

Portland Planning Board
City Hall
Portland, ME 04101

Re: 19 Willis Street (formerly 33-37 Montreal Street) – Level 3 Site Plan Proceedings

Dear Chair and Members of the Portland Planning Board:

This is in anticipation of your December 14 Public Hearing on the above project. The undersigned, who lives approximately one block away from the project site, has participated both through written submissions and oral presentations at prior Workshops and other proceedings with respect to this project and prior versions of the condominium development here proposed. For the reasons set forth below, it is submitted that the proposed project is not in compliance with the requirements of the R-6 Zone and the Conservation Overlay on Munjoy Hill and is also not in compliance with the applicable Design Standards and the Site Plan Review Ordinance. The Site Plan Application should not be approved.

The concerns set forth herein were brought up at prior Workshops on this project. The relatively minor and cosmetic changes represented by the current revised submissions do not effectively meet these objections or the other objections raised by concerned residents at prior proceedings.

1. The Height of the Proposed Project Exceeds the Maximum Height Permitted by the Portland Zoning Ordinance.

The R-6 Zone and the Munjoy Hill Overlay require that any structure built in the Zone have a “height” of no more than 35 feet. In the Munjoy Hill Overlay Zone a “bonus” of up to 10 feet, which would raise the maximum height to 45 feet, can be made available by the Planning Board to structures having at least two dwelling units, of which one must be a “workforce” housing unit – otherwise the maximum height is 35 feet. The Project is apparently proposed to have one “workforce” unit and therefore claims the 45-foot height allowance.¹

¹ It may be noted that the current submissions do not make reference to any workforce dwelling unit or the mechanisms by which the inclusion and maintenance of such a unit in the structure proposed will be assured. Without such a commitment and appropriate mechanisms, the project is not entitled to claim the 10’ height bonus over the otherwise applicable R-6 height maximum of 35’.

The question raised by this proposal is, “From where is the 45-foot height to be measured?” Section 14-47 of the Portland Zoning Ordinance in effect at the time the Site Plan Application was filed (and which therefore governs this Application) defined a building’s “height” as “[t]he vertical measurement from grade, or the predevelopment grade on the islands, to the highest point of the roof beams in flat roofs...” However the ordinance does not define “grade.” Apparently the practice of the Portland Zoning Administrator was to measure a building’s height from the average grade of the land at the four corners of the proposed structure (or at a number of points along its perimeter at the developer’s option). On the Portland islands, it was understood that the measurement was to be made from the grade levels that existed before the year 2000. On the mainland, apparently measurements could be made from the grade of the building site as adjusted for the project. This practice apparently permitted mainland developers to fill or adjust site grades to some degree before determining the average grade from which their structures would be measured.²

The project is proposed to be sited on a sloping site with existing land grades above datum at the four corners of the proposed structure as follows:³

Northern Corner:	124.0’
Eastern Corner:	128.5’
Southern Corner:	137.3’
Western Corner:	134.0’

The average of the existing grades at the corners of the proposed condo block is 131 feet above datum. Based on the existing grades on the ground, the structure should extend no higher than 175.9 feet above datum.

The developer, however, claims a new artificial “average grade” around the entire building by heaping a fringe of earth around the entire structure and retaining it with concrete retaining walls creating flower and landscaping boxes to a height of 138.1 feet above datum on all sides of the structure. This new “average grade” is higher than the existing natural grade at all four corners of the building. The increase ranges from less than a foot at the southern corner, to 4 feet at the western corner, to 9 ½ feet at the eastern corner and to *14 feet* at the northern corner. The developer proposes to show its neighbor to the northwest a new artificial retaining wall extending from 4 to 14 feet

² This practice was codified in the Phase 1 Recode of the Portland Zoning Ordinance adopted by the City Council on November 9, 2020. The Phase 1 Recode was intended to reorganize and rationalize the structure of the ordinance without making substantive changes, which were reserved to Phase 2. The question of how grade should be determined for project height purposes is on the agenda for debate in the currently pending Phase 2 proceedings. One proposal is that throughout the city building height should be measured from pre-construction grade as it is on the islands and in other municipalities such as Bangor and Boston.

³ See measurements and contour lines on “Grading and Utility Plan” dated 11/3/21 as filed by the Applicant. See also “Average Grade Calculation Plan” filed 12/3/21.

above the grade of the remainder of the project lot and the neighbor's immediately adjacent land.

The new landscaping or flowerboxes would extend from 2 - 9.5 feet above the sidewalk on Montreal Street. It should be noted that the dirt in the flowerboxes is no part of the support of the building, but is a narrow strip added outside the foundation after construction in order to claim a fictitious grade that is totally out of synch with the land contours in the surrounding neighborhood. In fact, the "average grade" flowerboxes would be installed above the door to the garage and some 12 feet above the real ground in that area. All of this is shown rather clearly in the elevations most recently filed by the Applicant.

By measuring from this fake "average grade" the developer proposes to build to a height of 183.1 feet above datum, or over 6 feet above what the real average grade would give it.

Attached is a markup of the Grading and Utility Plan highlighting the actual grades at the corner of the structure and the effect measuring from actual grade would have on the overall height of the structure in place.

While the recent practice of the Portland Zoning Administrator to measure from post-construction grades may permit developers some modest filling and grade alterations, this proposal is an egregious abuse of the practice to permit the developer to add, in effect, an additional story to its project thus increasing and compounding its overweening dissonance with the surrounding neighborhood as discussed below. The Site Plan Application should be denied based on the fact that the proposed building does not comply with the height allowed in the R-6 Munjoy Neighborhood Conservation Overlay Zone.

2. The Proposed Structure Does Not Comply with the Setback Requirements of the R-6 Zone and the Munjoy Hill Conservation Overlay

The current version of the plans for the proposed condominium block calls for the building to be girdled by a massive retaining wall extending around three of the four walls of the shell. This wall extends in places more than 13 feet above the grade of the lot and the neighboring property. This retaining wall is being built as part and parcel of the condominium block (and are being used to create an artificial "average grade" to impermissibly increase the allowable height claimed by the project – see above). According to the various site plans on file, these retaining walls are located right on northerly edge of the site lot without any discernable setback.

According to Section 14-47 of the Portland Zoning Code in force at the time the application was filed, the term "structure" comprises

Anything constructed or erected of more than one (1) member which requires a fixed location on the ground or attached to something having a fixed location on the ground.

Massive retaining walls clearly fit this definition. There is no exception in the Code for structures of this type.⁴

In the R-6 Munjoy Hill Neighborhood Conservation Overlay Zone, a 45' building is required to maintain a setback of 10 feet along the side boundary. See Portland Land Use Code Table 7-A. This means that no structure can be built within 10 feet perpendicular to the side boundary line.⁵ It is clear that the retaining walls portion of the proposed structure does not maintain this setback. The looming bulk of the building is brought right up to the lot line. It is a clear violation of the setback requirements of the Overlay Zone. The site plan application should be denied based on failure to comply with the dimensional requirements of the Zoning Ordinance.

3. The Overall Size and Bulk of the Proposed 9-Condominium Block Does Not Comply With Applicable Design Standards in the Context of its Surroundings.

The Montreal-Willis Street neighborhood is a relatively intact Munjoy Hill residential neighborhood consisting of 19th century wood frame 1 and 2 family houses on small lots. This building stock bespeaks the Hill's history as a working- and middle-class residential quarter in 19th century Portland. Most of the houses are 1½ - 2½ stories in height.

The proposed project would combine two lots to make one large lot on which the developers propose to erect a 4-5 story condominium block with 12 luxury dwelling units over a parking garage that would cover most of the combined lots. This structure would dwarf every one of the nearby buildings and dominate the entire Montreal-Willis area. It would destroy the harmonious rhythm of the buildings on the streets.

The Level 3 Site Plan Application should be rejected because the building does not comply with the basic Design Standards requiring the height, size and mass of a new building relate positively to the surrounding building stock. This building is simply too big, too long, too institutional to fit on the corner where it is sited.

⁴ The 2021 Recode is a little more explicit, defining "structure" as:

Anything constructed or erected of more than one member having a permanent or semi-permanent location on another structure or in or on the ground, including without limitation buildings, fences, gazebos, signs, antennas, satellite sending or receiving dishes, and swimming pools. Stockpiles shall be considered structures for the purposes of dimensional requirements.

⁵ See the definition of "Setback" which prohibits any kind of structure in the setback area, excepting only "fences, flagpoles, raised garden beds, and other similar structures." Concrete retaining walls extending up to 13 feet above the existing grade and that of the neighboring lots are scarcely "garden beds or other similar structures." Portland Code §14.7.2 "Setback."

The boundary of the Munjoy Hill Historic District located just across Willis and Montreal Streets and well within 100 feet from the site. According to §14.6.4(E)(2) of the City of Portland Zoning Code (as it existed at the time this application was filed and as it exists now):

When any part of a proposed development is within 100 feet of any designated landmark, historic district, except the India Street Historic District, or historic landscape district, such development shall be generally compatible with the major character-defining elements of the landmark or portion of the district in the immediate vicinity of the proposed development. Character-defining elements of landmarks and historic districts are identified in the historic resources inventory and respective historic district designation reports. For the purposes of this provision, “compatible” design shall be defined as design which respects the established building patterns and visual characteristics that exist in a given setting and, at the same time, is a distinct product of its own time. To aid the review authority in its deliberations, Historic Preservation staff shall provide a written analysis of the proposed development’s immediate context, identifying the major character- defining elements and any established building patterns that characterize the context.

Under this section, the proposed new structure “shall be” generally compatible with the “character defining elements of the portion of the district in the immediate vicinity of the proposed development.” The key character-defining element of the Munjoy Hill Historic District is its stock of modest 19th century wood frame worker houses that remain remarkably intact on the very corner at which the proposed block is to be built. Such structures line the other side Willis Street along the edge of the Historic District closest to the Project. A photograph of this block of Willis Street is submitted herewith. There is no way by which this proposed condo block can be said to be “generally compatible” with these historic structures. Moreover, Section 14.6.4(E)(2) of the Site Plan Ordinance requires that the review authority obtain from the Historic Preservation Staff a “written analysis of the proposed development’s immediate context, identifying the major character-defining elements and any established building patterns that characterize the context.” This analysis has not been requested, prepared or submitted.⁶

The proposed site is the northern corner of the intersection of Willis and Montreal Streets. On the other corners are 1) on the southern corner, a 1½ story small 19th century mansard cottage, recently restored to approximate its original appearance; 2) on the western corner a small 1½ story 19th century house recently improved with a long dormer in the ell; 3) on the eastern corner, a 2½ story 19th century frame house similar in size and

⁶ The developer cannot rely on the proceedings before the Historic Preservation Board in connection with the application to demolish the house at 37 Montreal Street as fulfilling this requirement. That application was for a different purpose and was based on a different standard. The requirements of Section 14.6.4(E)(2) are mandatory and must be complied with. Nor can the developer claim to be exempt from this requirement because the District was established by vote of the City Council after the developer’s application for a predecessor project was filed. Protections based on a Historic District are in force from the time that the proposed Historic District was nominated at the Historic Preservation Board level by vote of at least two Board members. That vote took place on July 10, 2019 well before the initial application for the prior version of this project was filed on August 12, 2019.

type to the house that had stood on the proposed project site near the northern corner of the intersection, but which the developer recently demolished. There is no way that this full four-five story 12-unit condo block with parking underneath can reasonably resonate with housing stock of this kind.

The problem is exacerbated because the developer is not proposing to build on a single Munjoy Hill lot, which would by its small size tend to keep the project in relative proportion with the buildings on the neighboring small lots. Here the developer has combined two existing lots to make a large lot, which will physically accommodate a much larger structure than either of its constituent parts.

Another way to consider this is to compare the contained volume of the proposed condominium block with that of each of the residential structures on the streets on which it fronts. According to an analysis of the approximate volume of a previous version of the current proposed condominium block as compared with the volumes of the 1½ - 2 story houses in its immediate neighborhood prepared by Karen Snyder, the volume of the proposed condominium block is 10 times as large as the average volume of the surrounding houses. A true elephant in a herd of zebras!

It is time to say “No.” The existing R-6 zone, even with the Munjoy Hill Overlay, affords developers great dimensional latitude in permitting buildings extending up to 45 feet above a real average grade. However multi-unit residential buildings must also comply with the Design Standards, which require that new construction “be compatible with the predominant character defining architectural features of the neighborhood.” Those same standards state that, “[s]pecial attention shall be given to the existing buildings on both sides of the street within the block of the proposed site.” All of the buildings on Willis and Montreal Streets within the block of the proposed site are 1½ and 2 story frame houses. In some areas of the Hill a building of this height can “fit in” and resonate positively with the surrounding housing stock. Not on the corner of Montreal and Willis. In this part of the neighborhood the Design Standards as well as the Site Plan Review provisions require that new construction adhere more closely to the relative size and scale of the existing residential structures on all sides.

If this block is permitted to be built it will be one of those buildings of which people will say for years to come, “How did they let that be built!”

It is submitted that the application must be denied.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter L. Murray". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Peter L. Murray



JEAN MC MANAMY <NINIMAIN@aol.com>

11:07 AM (1 hour ago)



to planningboard@portlandmaine.gov

Chair Mazer and members of the Portland Planning Board:

We are neighbors of the proposed project at 19 Willis St and we are writing to urge you to send this project backfire rework to conform with existing zoning and the city comprehensive plan. Although the project has a new name, it is just as massive as it was when called 33-37 Montreal St. It sits on top of a pseudo-foundation which contrives to create a new base grade for the building in order to allow construction which exceeds the allowed 45 feet in height. It has lost its courtyard entry and the townhouse porches which promised to lead to interactions between new condo residents and their neighbors. It flies in the face of the policy goals behind the Conservation Overlay and Historic Districts for the Hill (it is within 100 feet of the Historic District). The preamble to the Conservation Overlay is specified in the code: "Section 8.7, Portland Land Use Code: The residential neighborhoods on Munjoy Hill are experiencing specific development pressures related to its location and the nature of existing housing stock.....In order to address the negative impacts of these pressures and create a positive framework for investment." In no discernible way does this project meet the Comprehensive Plan's focus on the affordable housing emergency—it simply ratchets up the cost of living in the immediate neighborhood, including rentals.

At the end of the day, this project is still inappropriately massive for its site. Its adjacent neighbors are seven one-family homes of 1 1/2 to two stories in height, plus one three-story building. The city's Munjoy Hill Building Stock Survey, published in 2018 as part of the council-directed consideration of proposals for a historic district and zoning changes, found that the average building height on the Hill was 2.4 stories. On Montreal, Willis, and Walnut Streets, which bound the block where 19 Willis would be located, the average building height is less than 2 stories. The average building width on the Hill was found to be 30 feet. The proposed building vastly exceeds these measures, and even the large Portland Tower building on the next block, built before these zoning standards were adopted, is mitigated by very large setbacks and screening from the street by mature trees. (Building Stock Survey, https://www.portlandmaine.gov/DocumentCenter/View/20763/Presentation_Listening_Session_032418-Final?bidId=

This building could and should respect both city ordinances and its neighbors. It is the kind of forbidding and massive block which has led to recent zoning changes for the Hill. Design changes could produce a building more compatible with the streetscape and ordinances.

As near neighbors, we also have concerns about the construction process. The demolition carried out by the same developers released asbestos in the air and buried asbestos on the lot, necessitating a call by neighbors to the DEP and resulting in a stop-work order. Trees were also severely damaged. If and when you do determine the project is permit-ready, we request that you restrict contractor parking on our congested neighborhood streets, and that the developers provide for protection of the many children, including preschoolers, who walk on both the sidewalks and the street adjacent to the project. We also ask that you require removal of the contaminated soil and protection of existing mature trees. Finally, that HVAC equipment installed on the exterior be inaudible on adjacent properties and that no light spillage be permitted beyond the property line.

Respectfully,

Jean McManamy, 10 Willis Street
 Oliver Murray, 55 Montreal Street
 Kristina Minister, 101 North Street
 Ann Landsberg, 105 North Street
 Tim Baehr, 105 North Street

Carolyn Swartz <carolynswartz@gmail.com>

11:58 AM (2 minutes ago)



to planningboard@portlandmaine.gov, Christine Grimando

To Chair Brandon Mazer and members of the Portland Planning Board:

Living down-the-street from the proposed 19 Willis St development, I urge you not to allow grandfathered-in lack of zoning apply to this massive, deceptively measured project.

That this is yet another example of nearly identical, devoid-of-imagination buildings going up around Portland may be irrelevant. Taste is said to be negotiable, But other concerns are not:

- The building sits on top of faux grade, a baseline created by the developers with the express purpose of exceeding height restrictions.
- The building IS within 100 feet of the Historic District— thus flying the face of the Conservation Overlay code.
- In no way does the project fit the context of the neighborhood: not in style, massing or height.
- Nor does it respond to any emergency in affordable housing. In fact, it contributes to creating one.

That height has been calculated deceptively in order to exceed code should be reason enough for the Council to hit the "pause" button.

Sincerely,

Carolyn Swartz
27 Merrill Street

Maggy W <mwnola@gmail.com>

2:03 PM (4 minutes ago)



to Planning Board

Chair Mazer and members of the Planning Board,

I am asking you to vote against the latest proposal for the massive project at 19 Willis St. The building as currently presented exceeds height limitations and violates the standard of being compatible in mass and scale with the surrounding neighborhood. The developer may claim that he is adding housing units and urge you to turn a blind eye to these violations, but the type of housing that is proposed is not what Portland so desperately needs right now.

One of the major issues with this project is the artificial increase to the base grade from which height is calculated. It is one thing to add a retaining wall to stabilize a lot on a hillside; many properties on Portland's hills have utilized retaining walls to do exactly that - however this project spans several lots on a hill and is adding an entire story to the grade on the downhill side. This will be a monolithic eyesore for the downhill neighbors, above which the building will tower. With the current recode effort, many of us hillside residents of Portland will fight to get better restrictions on retaining walls, such as exist on the islands. But even with our current laws, a developer should not be granted this increase to grade. Even on the uppermost lot, the developer is proposing an above grade retaining wall, which is being called a "planter" to add even more height. This is an egregious cheat and if you allow it, it will set a precedent for any developer to disregard height limitations by erecting a "planter" to surround the building.

We all know we need more housing in Portland, but this is not a justification to allow developers to disregard current land-use ordinances.

Thank you,
Maggy Wolf
28 Saint Lawrence St.
Portland 04101

Karen Snyder <karsny@yahoo.com>

12:04 PM (1 minute ago)



to Planning Board, Planning and Urban Development

Dear Planning Board Members,

There continues to be many things wrong with this 19 Willis (formerly 33-37 Montreal) proposal.

This project should NOT be approved for the following reasons.

Point 1: Unidentified the Workforce Unit to Justify this Height Bonus to 45 ft.

If this latest proposal is now slotted for 12 units, it is NOT clear which unit will be workforce housing unit in order so they to build up to 45 ft since they are obviously going to take that 10 ft height bonus.

Point 2: The Incorrect Calculation of Building Height

It appears intentional by the City Planning Dept to NOT clarify the building height calculation which should be from pre-development grade (like Peaks Islands specificizes) rather than post-development grade manipulation. The developer is calculating an incorrect building height using false non-structural structures to inaccurately raise the height of the building.

Point 3: Unidentified the Required 2.4 Affordable Units Per Inclusionary Zoning

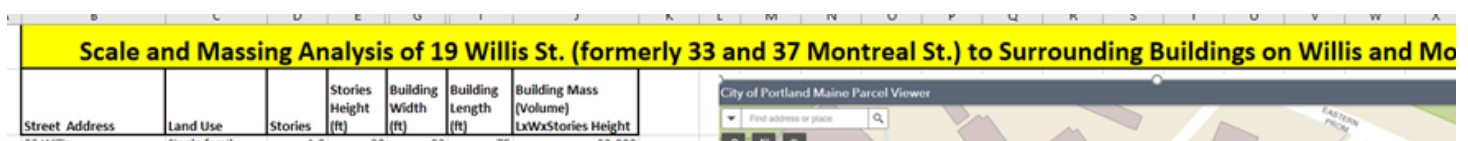
Because this latest proposal is 12 units, it is now under the inclusionary zoning that 20% of the project should have affordable units. In this case, 2.4 units are to be affordable housing. Is this developer planning to build another affordable unit or will they pay the paid in lieu instead to the Housing Trust? This is not clearly identified in their latest plans.

Point 4: Scale and Massing is incompatible to Neighborhood Context

In Zoning, it specifically references R6 Design Standards in Land Use Code Section 14.6.4.I(1).

As such, in the R6 Design Standards Appendix 7, it specifically states in Design Principles B-Massing, that the massing of the building reflects and reinforces the traditional building character of the neighborhood through a well composed form, shape, and volume? [City of Portland, Maine Design Manual \(portlandmaine.gov\)](https://www.portlandmaine.gov/design-manual)

How is a big, massive cube box which is 10 times greater than the 1.5 story gabled houses compatible with abutters? Someone from the Planning Board needs to explain this



26 Willis	Single family	1.5	20	20	43	17,200	est
24 Willis	Single family	1.5	20	20	43	17,200	
22 Willis	Single family	1.5	20	22	32	14,080	
20 Willis	Two family	2	25	15	48	18,000	
41 Montreal	Single family	2	25	22	51	28,050	
42 Montreal	Single family	1.5	20	22	55	24,200	
10 Willis	Two family	2.5	30	22	51	33,660	
9 Willis	Two family	2.5	30	23	58	40,020	
32 Montreal	Single family	1.5	20	22	56	24,640	
24 Montreal	Single family	2	25	22	45	24,750	
27 Montreal	Multi Unit	2	25	32	64	51,200 est	
19 Montreal	Multi Unit	2	25	32	64	51,200 est	
13 Montreal	Multi Unit	2	25	32	64	51,200 est	
22 Montreal	Single family	1.5	20	18	34	12,240	
16 Montreal	Single family	1.5	20	25	30	15,000	
12 Montreal	Single family	1.5	20	18	36	12,960	
Surrounding Building		Average		2 Stories		27,565 cubic ft (es	
33-37 Montreal:		vs		vs		vs	
HPB Version-2018		14 Unit	4	45	105	80	378,000 cubic ft (es
PB Version-2019		9 Unit	4	45	80	72	259,200 cubic ft
PB Version-12/14/2021		12 unit	4	45	80	73	262,800 cubic ft
As of: 12/9/2021		(Building Scale)		(Building Massing)			
How much larger??		2.222 times higher		9.5 times larger			
Assumptions: Column headings starting with "City", building length and width was gathered from Portland Appraisor site for each building.							
Calculations: 1) I assumed 10 feet per story but if it is gabled or half story, I rounded up to next story.							
2) Massing is considered volume which the formula Volume = Length X Width x Height							

Point 5: Required to go through HD review.

This project went to Historic Preservation Board in 2018 when it was NOT in the Historic District. This project for the last 3 years has gone through at least 9 different proposals. Below are the iterative design changes. This project is required to go to a public hearing in Historic Preservation Board since this project is a Level Site 3 plan and within 100 ft of the Munjoy Hill Historic District which was only implemented this past April 2021.



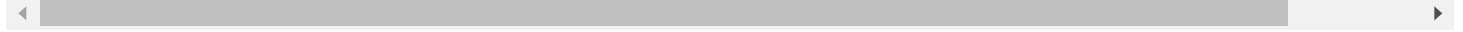
Conclusion:

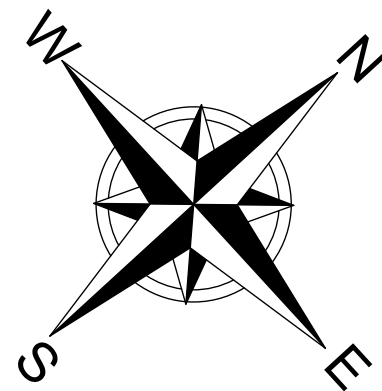
Both zoning and design standards are REQUIRED to be met in order to be approved. This project is NOT meeting these standards per above and many more reasons

Therefore, please tell this developer to go back to HD and rework this massive square building that has nothing to do with Munjoy Hill. When so many members of the neighborhood object to this proposal, the Planning Board should take notice.

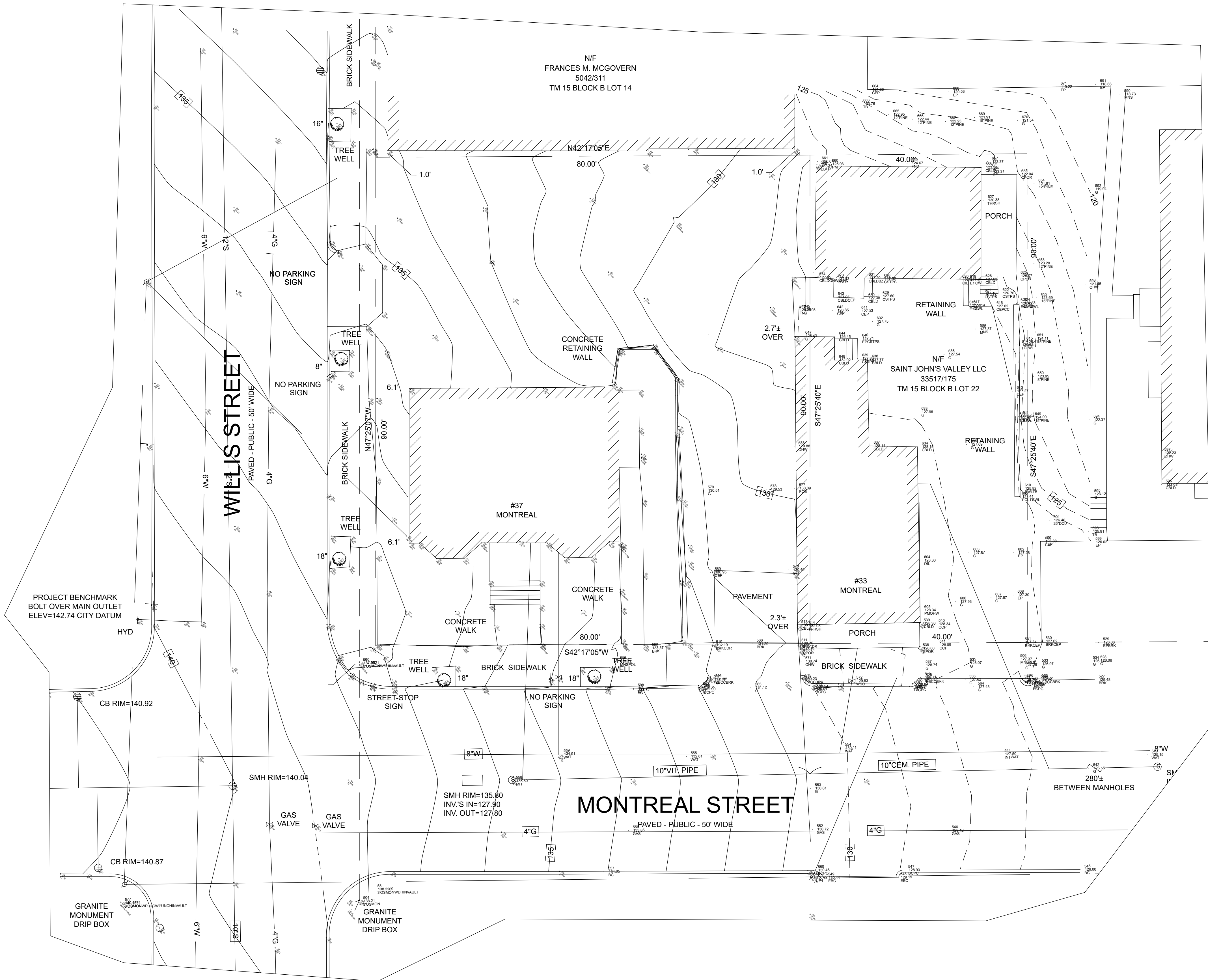
Regards,

Karen Snyder
72 Waterville St.





GRID NORTH
MAINE STATE PLANE
NAD 83, 1802 - MAINE
WEST



UTILITY NOTES:

PORTLAND WATER DISTRICT SKETCH OF 33 AND 37 MONTREAL STREET DATED FEBRUARY 20, 2018. 6 INCH CAST IRON WATER LINE (1913) IN WILLIS STREET AND 8 INCH CAST IRON WATER LINE (1913) IN MONTREAL STREET. 37 MONTREAL STREET HAS A 3/4 INCH COPPER WATER SERVICE LINE (1930) AND 33 MONTREAL STREET HAS A 3/4 INCH COPPER WATER SERVICE LINE (1941).

CITY OF PORTLAND DEPARTMENT OF PUBLIC WORKS SEWER TIE CARD FOR 37 MONTREAL STREET AND 31 MONTREAL STREET, 1882 CITY MAP SHEET 15 DEPICTS SEWER LINES IN MONTREAL STREET AS 10" VIT. AND 10" CEM. AS SHOWN. REFERENCE IS MADE TO PLANS ENTITLED "CITY OF PORTLAND, MAINE DEPARTMENT OF PUBLIC WORKS MONTREAL STREET SEWER AS-BUILT DATED 7-75" AND "CITY OF PORTLAND DEPARTMENT OF PUBLIC WORKS WILLIS STREET AS-BUILT" WHICH DEPICTS THE LOCATION OF THE SEWER LINE AND GAS LINE AS SHOWN HEREON.

THERE NO CATCH BASINS OBSERVED IN MONTREAL STREET AT THE TIME OF THE FIELD SURVEY EXCEPT THE TWO SHOWN ON THE OTHER SIDE OF WILLIS STREET.

GAS SERVICE IS PROVIDED BY UTILIT. THE

BOUNDARY SURVEY 37 MONTREAL STREET PORTLAND, MAINE

FOR: **MCTIGUE CONSTRUCTION**

184 MOUNTAIN ROAD
FALMOUTH, MAINE 04105
(CLIENT)

SURVEY BY: **SURVEY, INC.**

P.O. BOX 210
WINDHAM, ME 04062
(207) 892-2556
INFO@SURVEYINCORPORATED.COM

DWN: WCS
DATE: AUGUST 2017

JOB NO. 17111

CHK: BDK

PLAN REFERENCES:

- (1) A.P. MARSHALL'S PLAN OF LOTS DATED MAY 20, 1856 AND RECORDED IN PLAN BOOK 1 PAGE 41 IN THE CUMBERLAND COUNTY REGISTRY OF DEEDS.
- (2) BOUNDARY AND TOPOGRAPHIC SURVEY AT 33 MONTREAL STREET PORTLAND, MAINE MADE FOR TIMOTHY WELLS DATED MAY 22, 2017 BY OWEN HASKELL, INC.

SURVEY NOTES:

- (1) THE OWNERS OF RECORD ARE KEVIN JAMES CARTER AS DESCRIBED IN A DEED RECORDED IN BOOK 34283 PAGE 95 AND SAINT JOHN'S VALLEY LLC AS DESCRIBED IN A DEED RECORDED IN BOOK 33517 PAGE 175 IN THE CUMBERLAND COUNTY REGISTRY OF DEEDS.

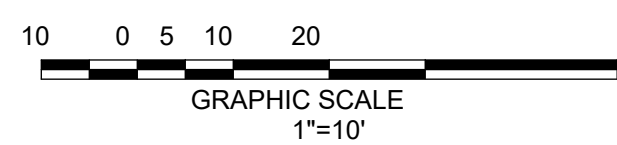
- (2) THE PARCELS ARE SHOWN AS LOTS 15 AND 22 BLOCK B

ON THE CITY OF PORTLAND'S ASSESSOR'S MAP 15.
Page 1343

CERTIFICATION:

I CERTIFY THAT THIS SURVEY CONFORMS TO THE STANDARDS OF THE MAINE BOARD OF LICENSURE FOR PROFESSIONAL LAND SURVEYORS AND IS CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

WILLIAM C. SHIPPEN P.L.S. 2118





1 NEIGHBORHOOD CONTEXT - 1 BLOCK

SCALE: 1" = 20'

0 10' 20' 40'

Kaplan
Thompson
Architects

102 Exchange Street
Portland, ME 04101
(207) 842-1888
kaplanthompson.com

PROJECT

MONTREAL ST

Montreal St
Portland, ME 04101

NOT FOR CONSTRUCTION

PROJECT	MTL
DATE	08/06/2018
REVISED 1	
REVISED 2	
DRAWN BY	JT - RL - BB
PHASE	ALTERNATIVE DESIGN REVIEW

NEIGHBORHOOD
CONTEXT

A-0.1



1 NEIGHBORHOOD CONTEXT - 3 BLOCKS

SCALE: 1" = 50'

0 20' 50' 100'

Kaplan
Thompson
Architects

102 Exchange Street
Portland, ME 04101
(207) 842-1888
kaplanthompson.com

PROJECT
MONTREAL ST

Montreal St
Portland, ME 04101

NOT FOR CONSTRUCTION

PROJECT	MTL
DATE	08/06/2018
REVISED 1	
REVISED 2	
DRAWN BY	JT - RL - BB
PHASE	ALTERNATIVE DESIGN REVIEW

NEIGHBORHOOD
CONTEXT

A-0.2



101 North Street
MONTREAL STREET ADJACENT West



MacArthur Gardens 13-27
MONTREAL STREET ADJACENT East



89 North Street
MONTREAL STREET FACING West



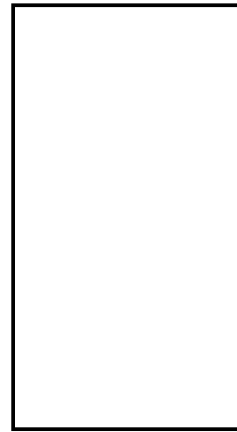
9 Willis Street
MONTREAL STREET FACING East



294 East Promenade



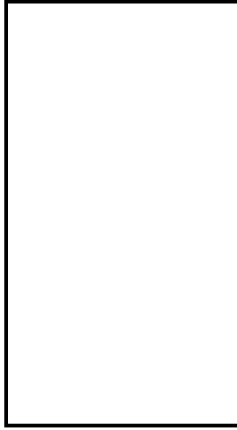
Promenade Towers 340 East Promenade
WILLIS STREET ADJACENT



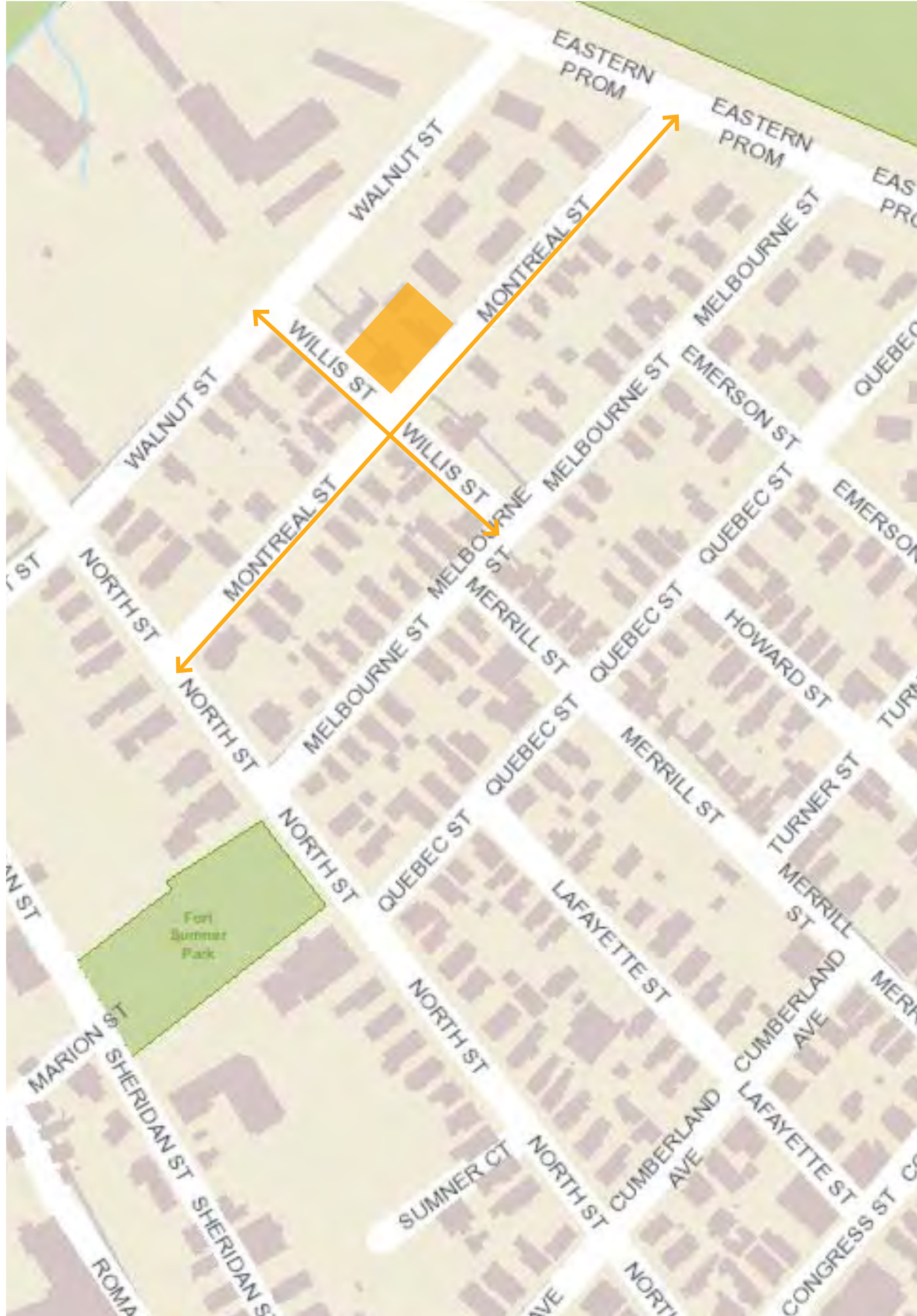
9



51 Melbourne Street
WILLIS STREET FACING



28



SITE LOCATION

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PROJECT
MONTREAL ST

Montreal St
Portland, ME 04101

NOT FOR CONSTRUCTION

PROJECT	MTL
DATE	08/06/2018
REVISED 1	
REVISED 2	
DRAWN BY	JT - RL - BB
PHASE	ALTERNATIVE DESIGN REVIEW

NEIGHBORHOOD
CONTEXT -
STREETSCAPE

A-0.3



97 Sheridan Street
71 Quebec Street
59 Lafayette Street
128 Sheridan Street

ROOF FORM PRECEDENTS



118 Congress Street
98 Congress Street
119 Morning Street
16 Emerson Street
16 Cleeve Street
135 Sheridan Street



49 Morning Street
63 Emerson Street
80 North Street
58 North Street
55 Morning Street
63 Morning Street



70 Morning Street
34 Lafayette Street
101 North Street

SCALE PRECEDENTS



PROJECT
MONTREAL ST

Montreal St
Portland, ME 04101

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NEIGHBORHOOD
CONTEXT -
PRECEDENTS

A-0.4



Owner: Bartley A. Connolly
Address: 33-37 Montreal Street, East End - Munjoy Hill, Portland, Maine
Use: Dwelling - Single family
Local Code: Block 15B Lot 15 Book 51 Page 1
MMN item number: 63893



1 37 MONTREAL STREET - 1924 TAX PHOTO & JULY 2018 PHOTOS

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PROJECT

MONTREAL ST

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EXISTING BUILDING
37 MONTREAL ST.

A-0.5

Page 1348



1 33 MONTREAL STREET - FEBRUARY 2018



2 33 MONTREAL STREET - 1924 TAX PHOTO



3 33 MONTREAL STREET - 1924 TAX PHOTO

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MONTREAL ST

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AERIAL VIEW

A-9.5



TWO BLOCK RADIUS



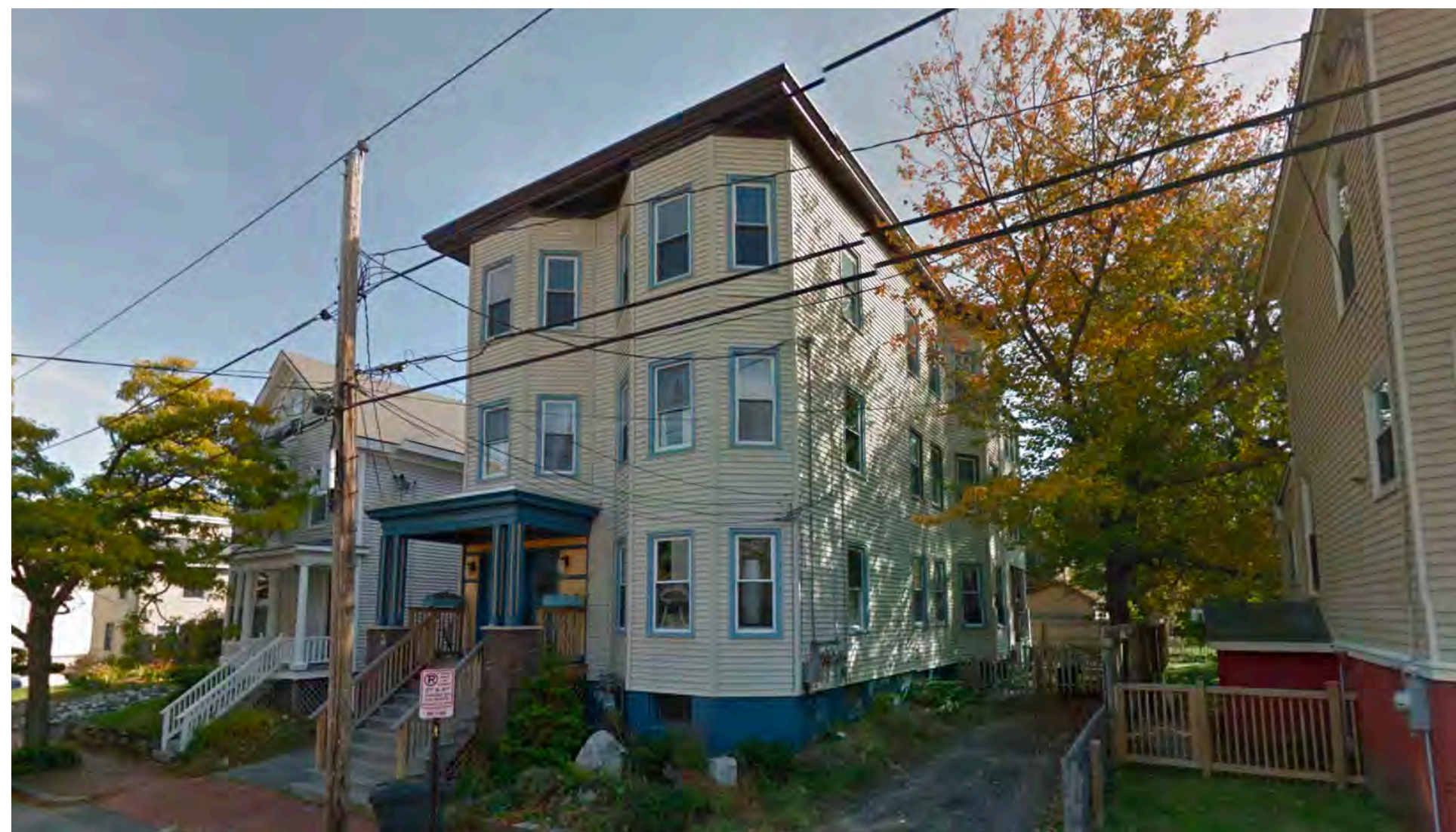
① TURNER STREET #19 & #17



② CORNER OF MONTREAL & WILLIS STREETS



③ MACARTHUR GARDENS & PROMENADE TOWERS



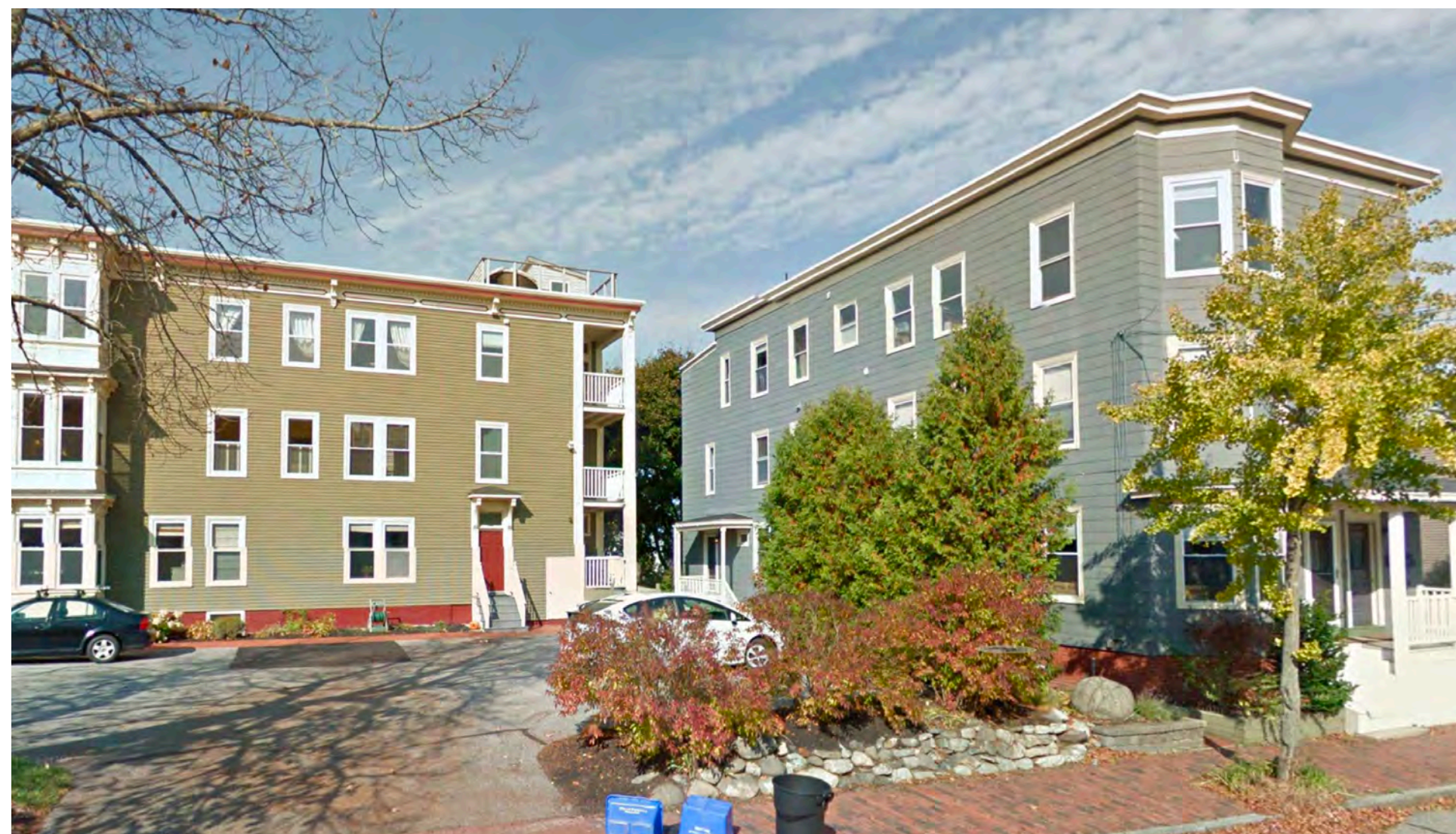
④ MONTREAL STREET #64



⑤ MONTREAL STREET #52 & #49



⑥ EMERSON STREET #60 & # 68



⑦ NORTH STREET #101 & MONTREAL STREET #61



⑧ WALNUT STREET #151 ISLAND VIEW APARTMENTS



⑨ ISLAND VIEW APARTMENTS



① MONTREAL STREET VIEW DOWNHILL



② MONTREAL STREET VIEW UPHILL

EXISTING CONTEXT: MONTREAL



1 WALNUT STREET PERSPECTIVE



2 MONTREAL STREET PERSPECTIVE UPHILL

EXISTING CONTEXT: WALNUT & MONTREAL ST



1 SITE PLAN
SCALE: 1" = 20'

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PROJECT
**19 WILLIS
STREET**

FORMERLY
33 - 37 MONTREAL STREET
PORTLAND, ME 04101

CIVIL
DM Roma
PO Box 1116,
Windham, ME 04062
P: (207) 310-050

LANDSCAPE
**Soren Deniord
Design Studio**
43 Wellwood Road
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P: (207) 400-2450

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NEIGHBORHOOD
CONTEXT

A-0.1

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STRUCTURAL

L & L Structural
Engineering Services

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LANDSCAPE

Soren Deniord
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LICENSED ARCHITECT

JAMES JESSE
THOMPSON
No. 3275

STATE OF MAINE

NOT FOR CONSTRUCTION

PROJECT MTL

DATE November 03, 2021

REVISED 1

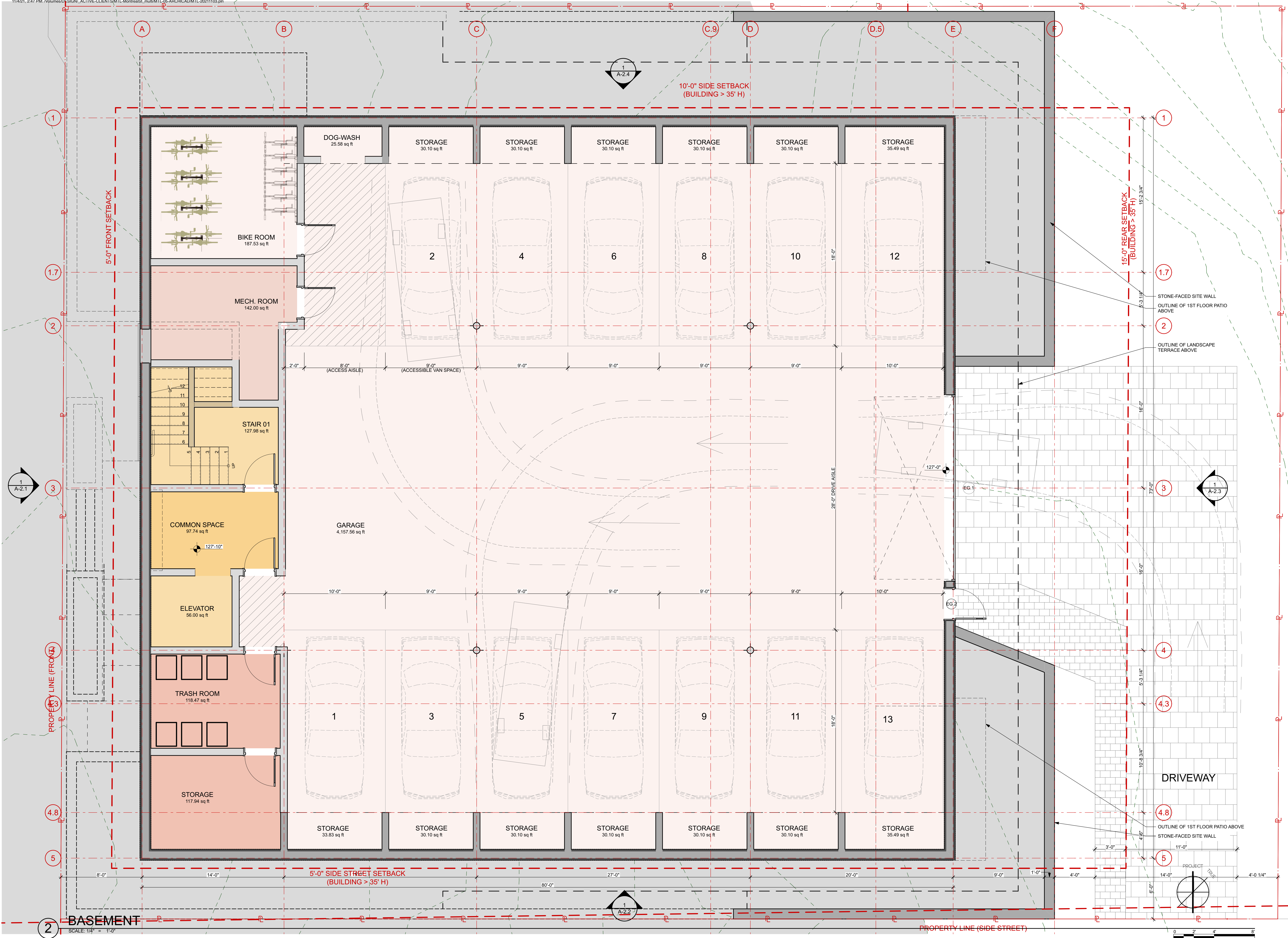
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PHASE For PB Review

BASEMENT PLAN

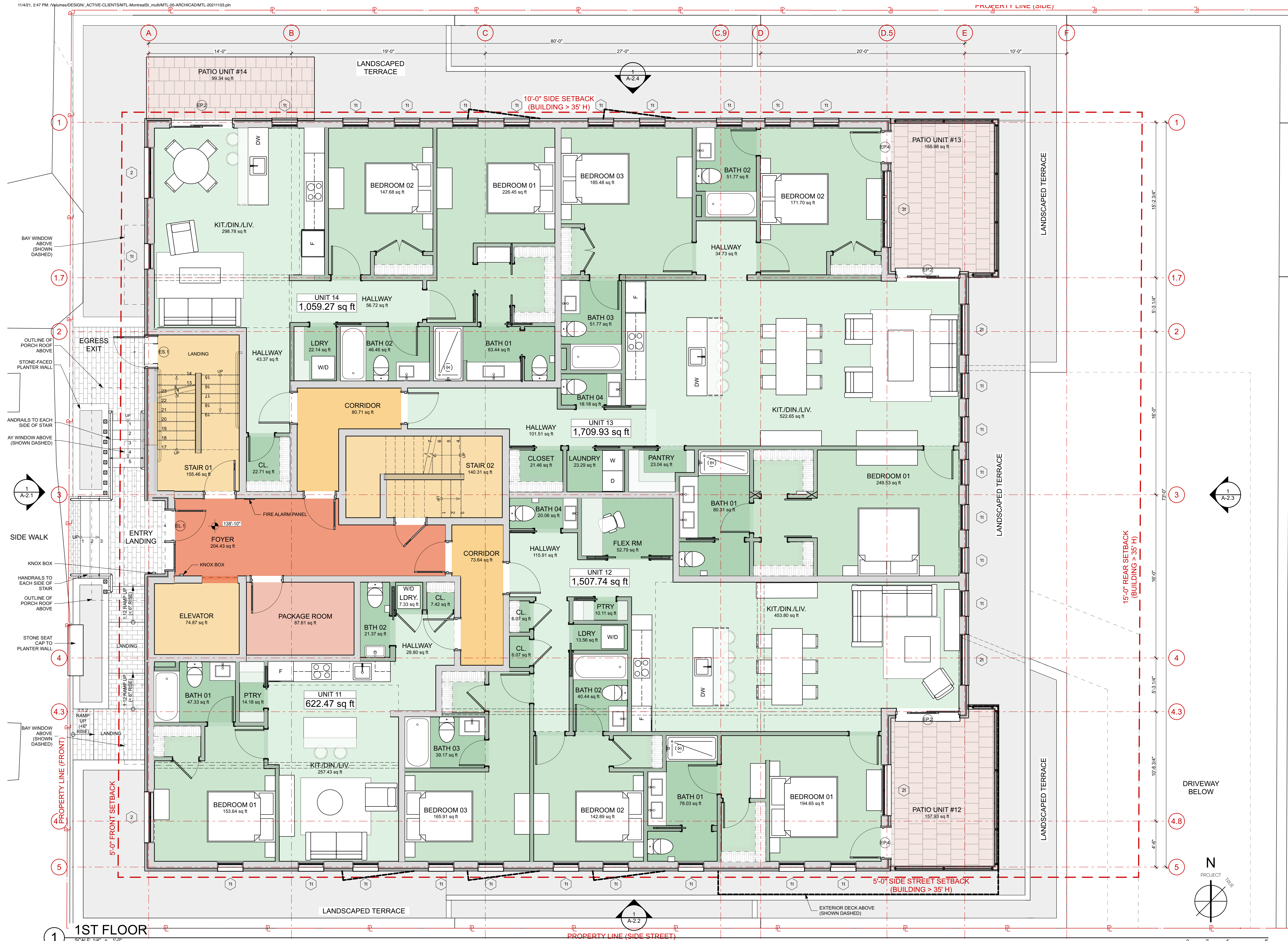
A-1.1



FORMERLY
33 - 37 MONTREAL STREET
PORTLAND, ME 04101

DM Roma

A-1.2



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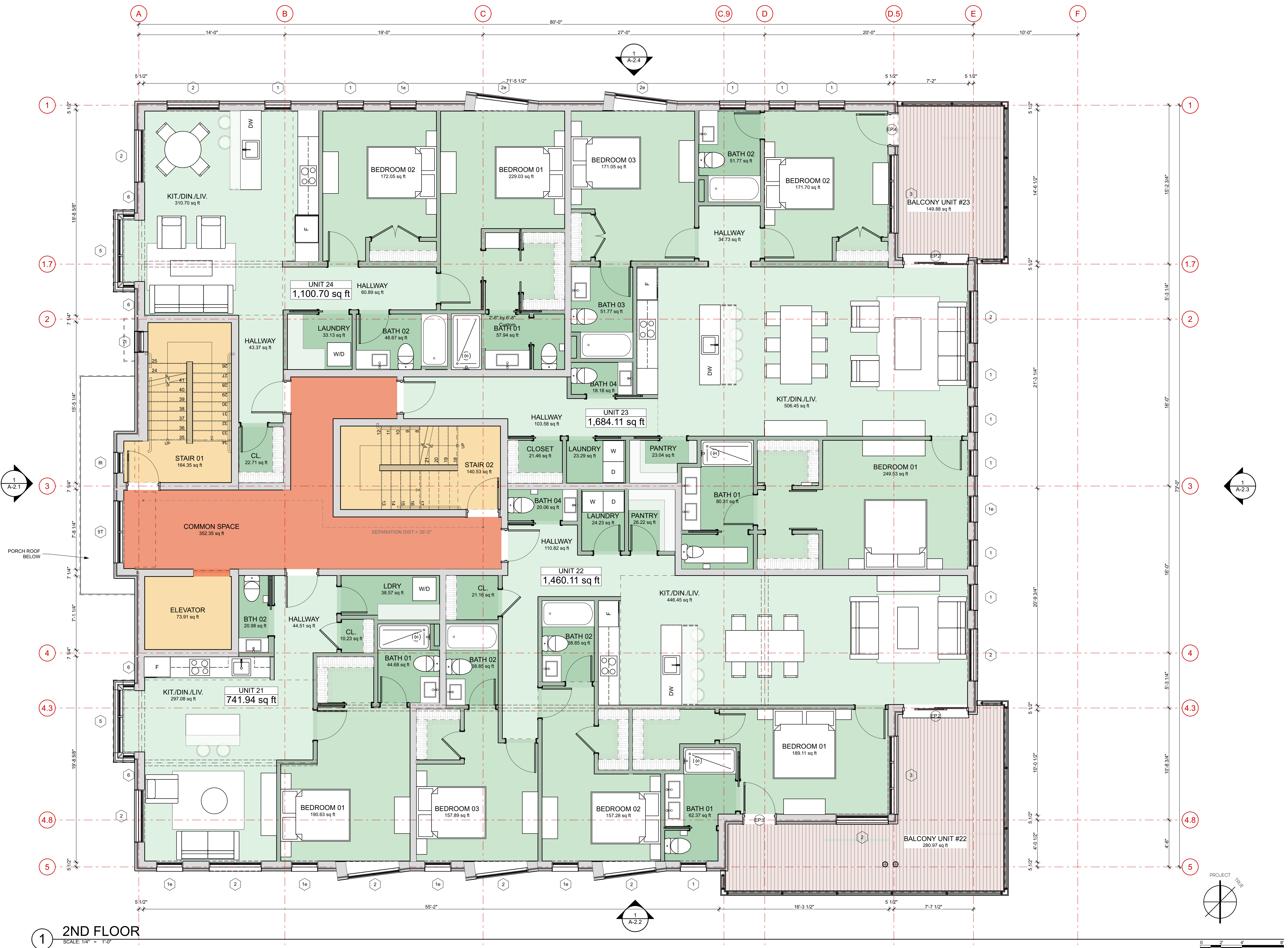
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SECOND FLOOR PLAN

A-1.3





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THIRD FLOOR PLAN

A-1.4

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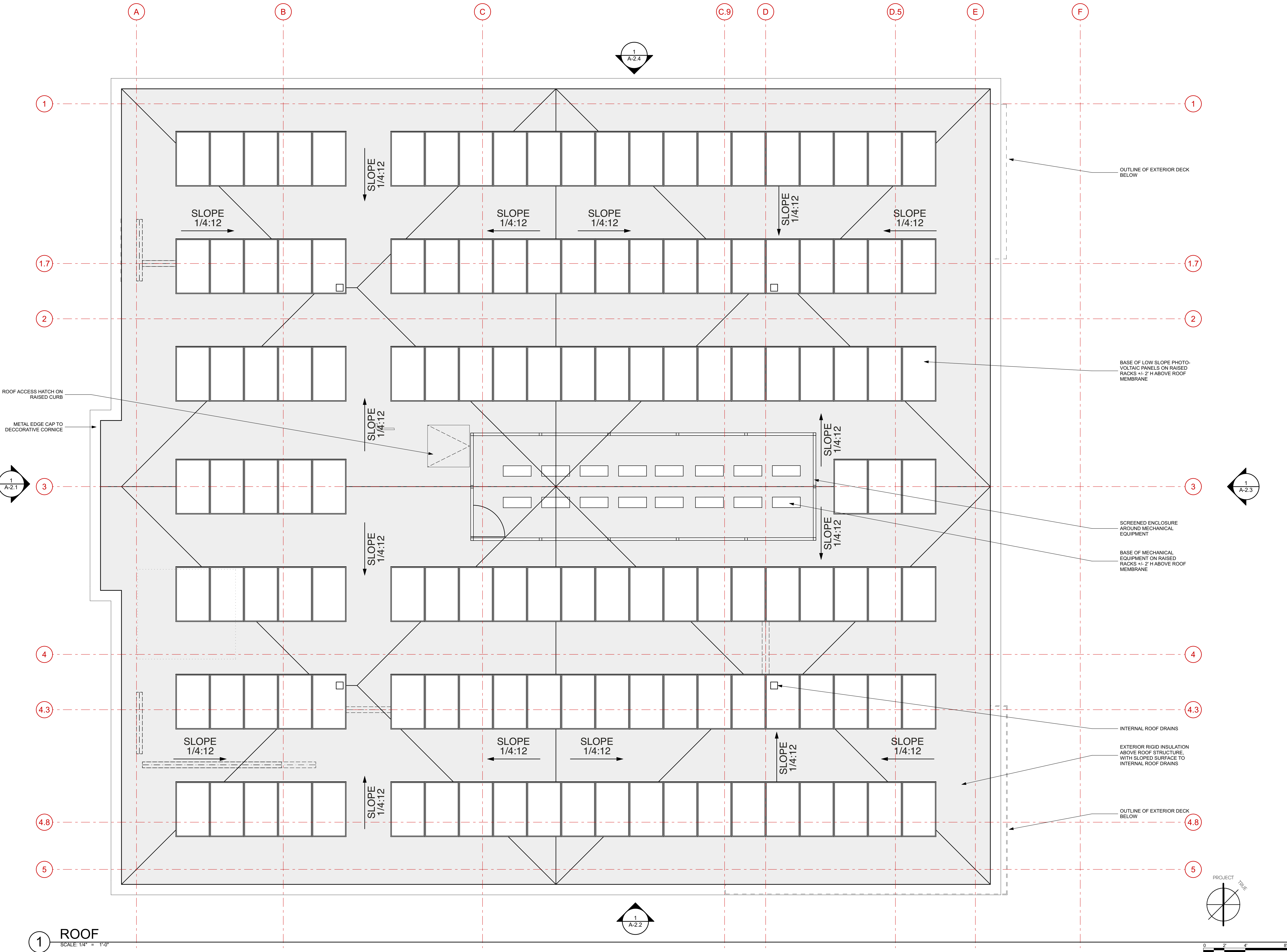
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A-1.5





1 ROOF
SCALE: 1/4" = 1'-0"

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ROOF PLAN

A-1.6

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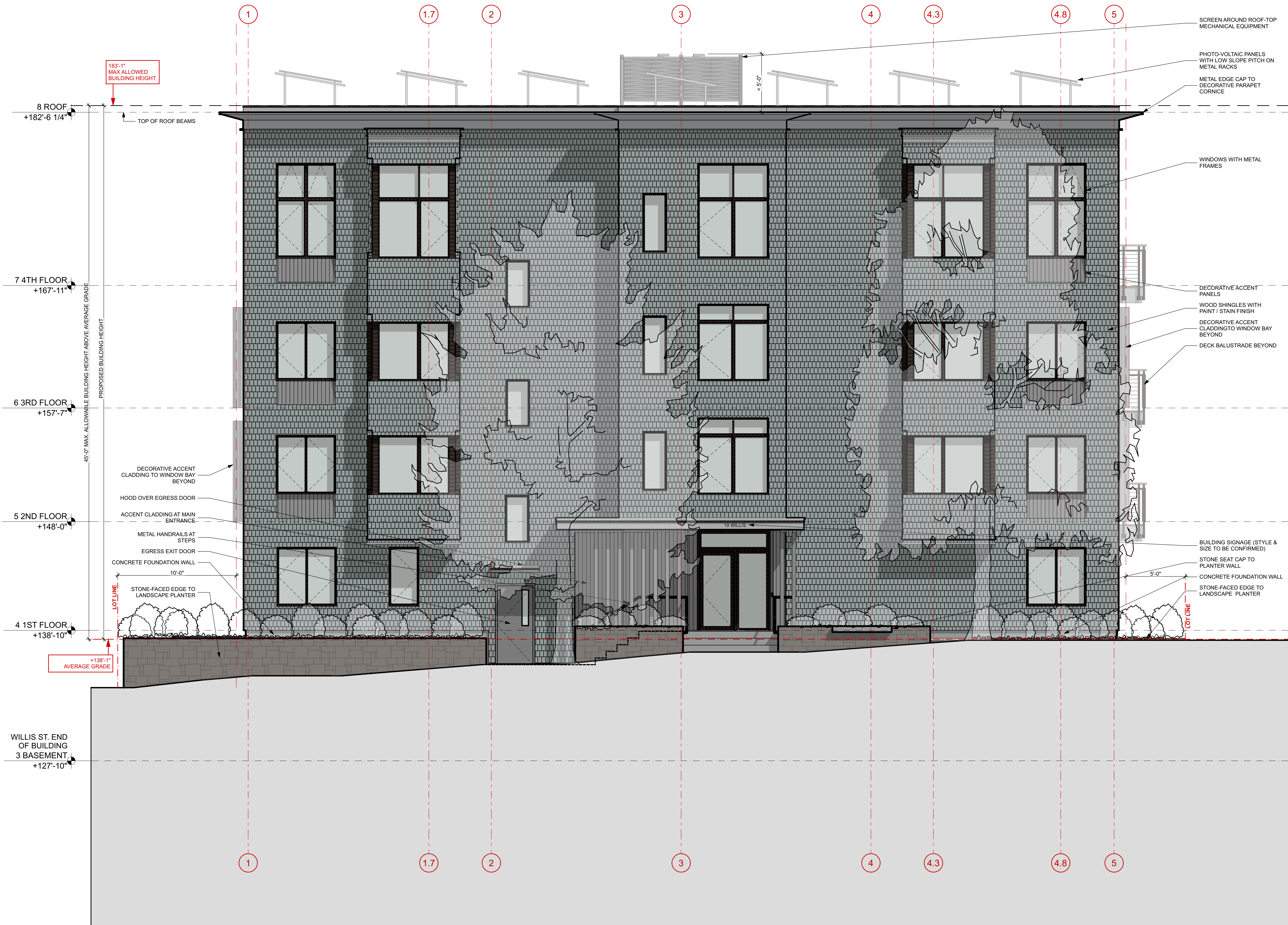


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WILLIS ST ELEVATION

A-2.1



1 WILLIS ST ELEVATION

SCALE: 1/4" = 1'-0"

PROJECT
19 WILLIS STREET

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MONTREAL ST
ELEVATION
A-2.2

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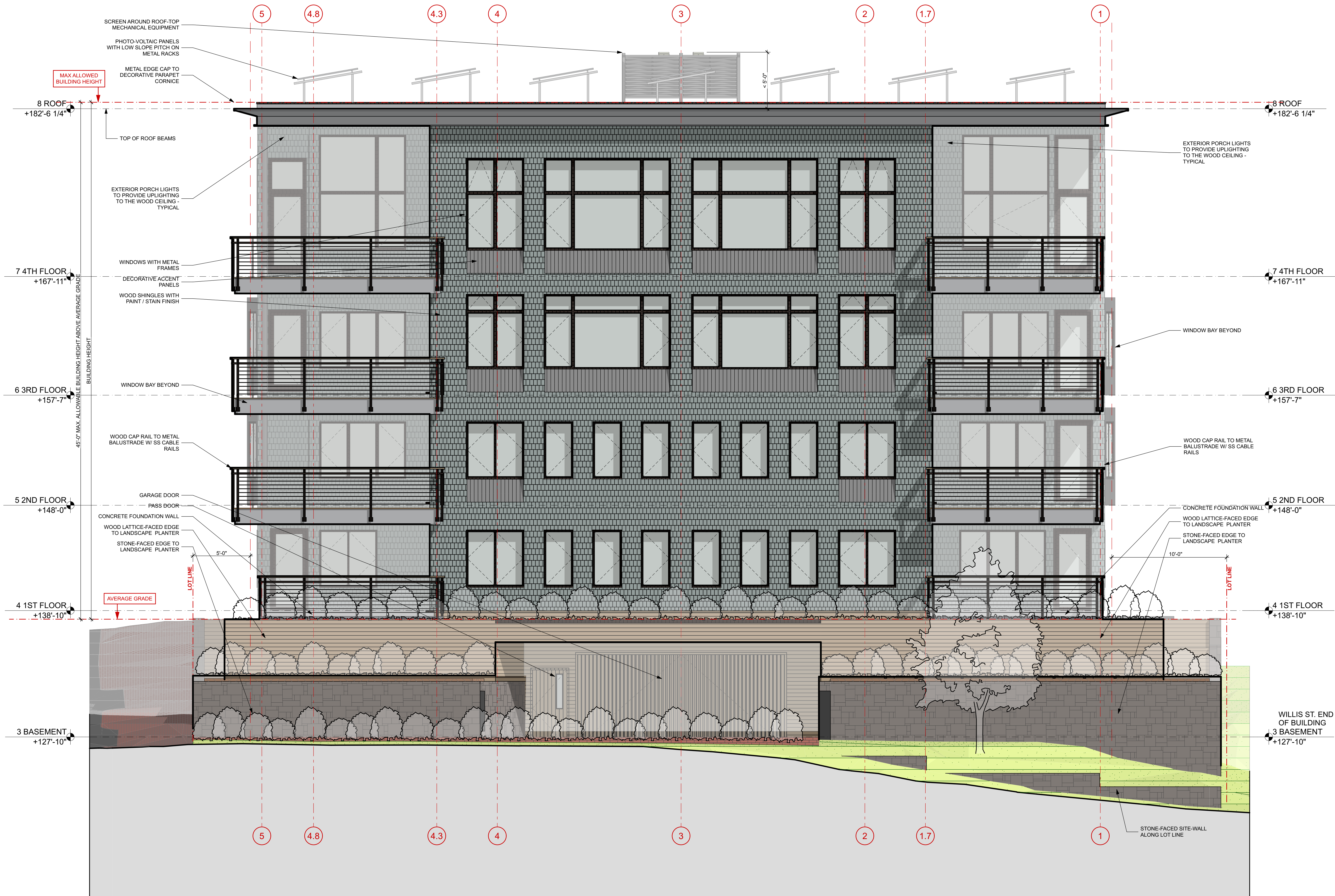


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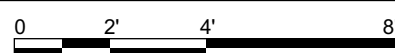
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NORTH-EAST
ELEVATION

A-2.3



1 NORTH-EAST ELEVATION (DOWNHILL)
SCALE: 1/4" = 1'-0"



PROJECT
19 WILLIS STREET

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1 NORTH-WEST ELEVATION (WALNUT STREET)
SCALE: 1/4" = 1'-0"

0 2' 4' 8'



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NORTH-WEST
ELEVATION

A-2.4



1 VIEW FROM WILLIS ST



2 VIEW FROM WILLIS & MONTREAL



3 VIEW FROM MONTREAL ST



4 VIEW OF SOUTH-EAST CORNER

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PERSPECTIVES

A-10.1



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CORNER OF MONTREAL
AND WILLIS
A-10.2



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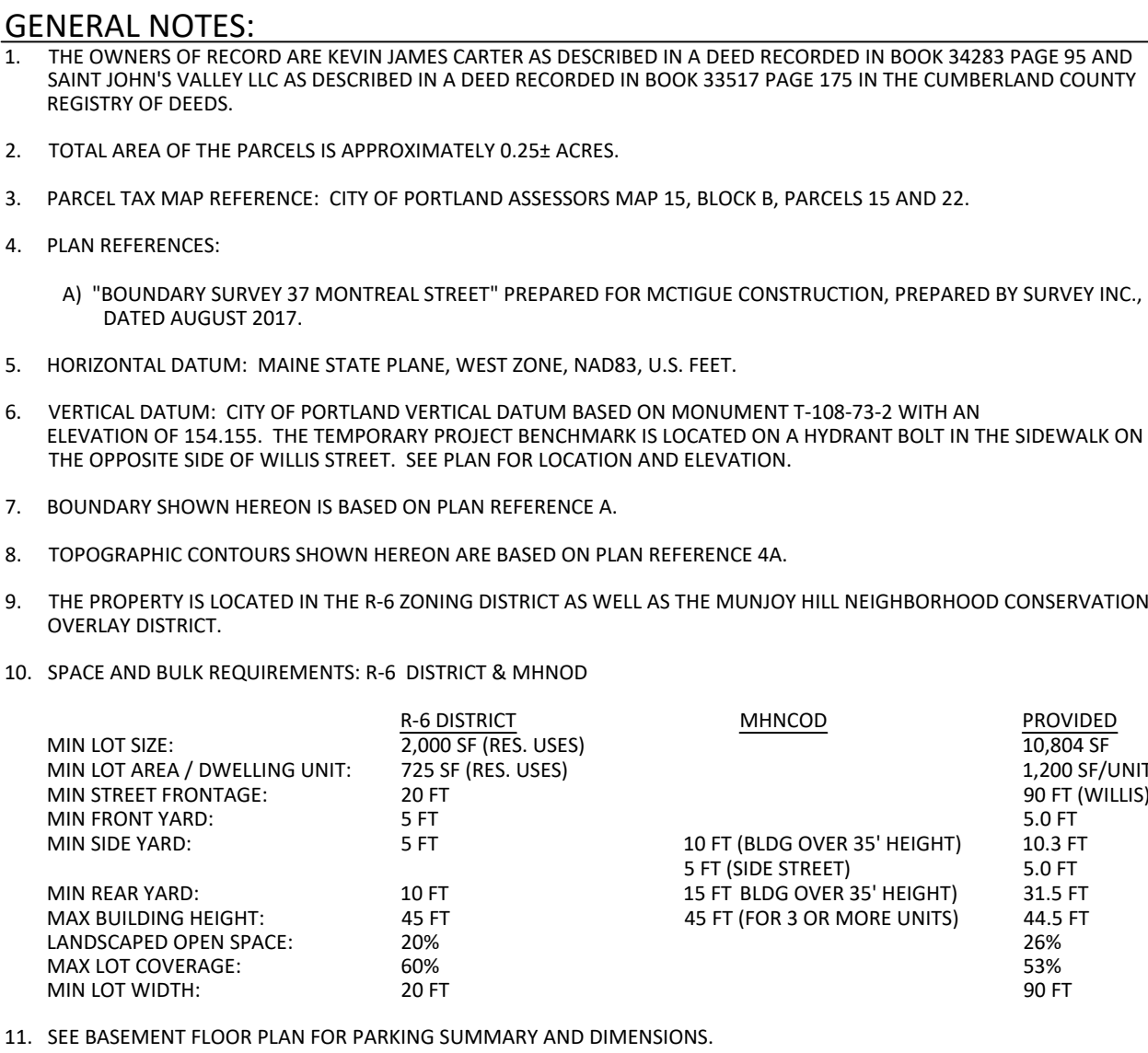
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MONTREAL STREET

A-10.3



	R-6 DISTRICT	MHNCOD	PROVIDED
MIN LOT SIZE:	2,000 SF (RES. USES)		10,804 SF
MIN LOT AREA / DWELLING UNIT:	72.5 SF (RES. USES)		1,200 SF/UNIT
MIN STREET FRONTAGE:	20 FT		50 FT (WILLIS)
MIN FRONT YARD:	5 FT		5.0 FT
MIN SIDE YARD:	5 FT	10 FT (BLDG OVER 35' HEIGHT)	5.0 FT
		5 FT (SIDE STREET)	5.0 FT
MIN REAR YARD:	10 FT	15 FT BLDG OVER 35' HEIGHT	31.5 FT
MAX BUILDING HEIGHT:	45 FT	45 FT (FOR 3 OR MORE UNITS)	44.5 FT
LANDSCAPED OPEN SPACE:	20%		20%
MIN LOT COVERAGE:	60%		53%
MIN LOT WIDTH:	20 FT		96 FT

11. SEE BASEMENT FLOOR PLAN FOR PARKING SUMMARY AND DIMENSIONS

APPROVED - PORTLAND PLANNING BOARD:

[illegible]

REV	DATE	BY	DESCRIPTION
A	8-12-19	DMR	ISSUED FOR PERMITTING
B	10-11-19	DMR	REVISED PER CITY REVIEW
C	10-22-19	DMR	REVISED PER CITY REVIEW
D	11-3-21	DMR	RE-ISSUED FOR CITY REVIEW
E	12-3-21	DMR	RE-ISSUED FOR CITY REVIEW
F	12-8-21	DMR	REVISED PER CITY REVIEW

SUBDIVISION PLAT

37 MONTREAL STREET

PORTLAND, MAINE

FOR APPLICANT:
37 MONTREAL, LLC.

33 MONTREAL STREET
PORTLAND, ME, 04101

18053
JOB NUMBER

JOB NUMBER

$$1'' = 10$$

12-8-2021

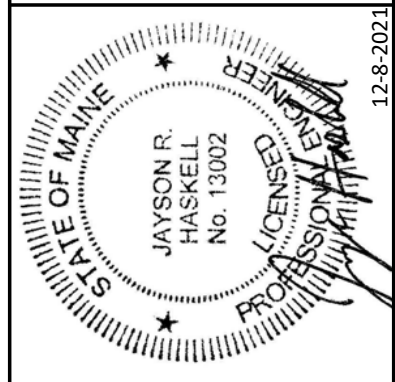
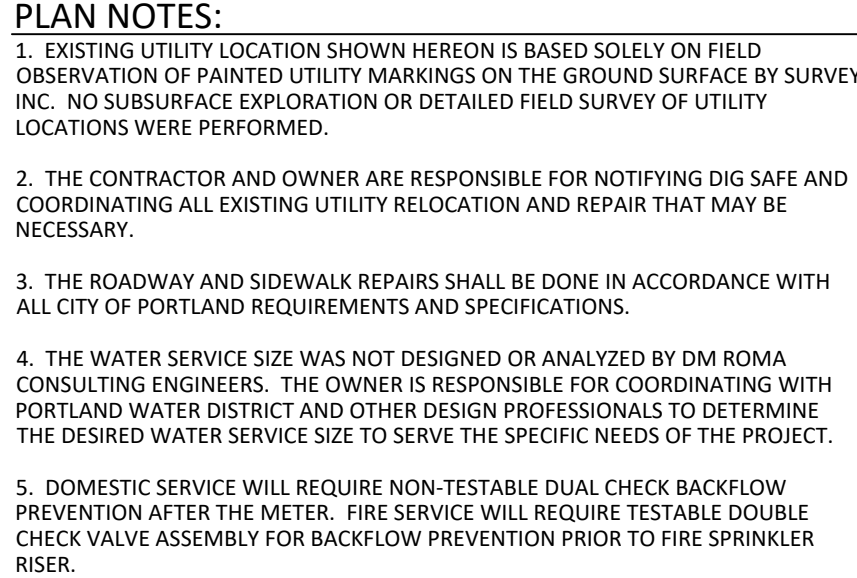
DATE:

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LEGEND

EXISTING		PROPOSED
— — —	PROPERTY LINE/R.O.W.	— — —
— — —	ABUTTER PROPERTY LINE	— — —
— — —	SETBACK	— — —
— — —	EASEMENT LINE	— — —
□	GRANITE MONUMENT	■
○	IRON PIN/DRILL HOLE	●
— — —	BUILDING	— — —
— — —	EDGE OF PAVEMENT/CURB	— — —
— — —	CONTOUR LINE	— — —
200'		200'
— — —	CATCHBASIN	— — —
⌘	SEWER MANHOLE	— — —
— — —	SANITARY SEWER PIPE	— — —
W	WATER MAIN	— — —
WV	WATER VALVE	— — —
H	HYDRANT	— — —
U	UTILITY POLE	— — —
OHU	OVERHEAD UTILITIES	— — —
G	GAS MAIN	— — —
GV	GAS VALVE	— — —



DM ROMA
CONSULTING ENGINEERS
P.O. BOX 1116
WINDHAM, ME 04062
(207) 310 - 0506

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A	8-12-19	DMR	ISSUED FOR PERMITTING
B	10-11-19	DMR	REVISED PER CITY REVIEW
C	10-22-19	DMR	REVISED PER CITY REVIEW
D	11-3-21	DMR	RE-ISSUED FOR CITY REVIEW
E	12-3-21	DMR	RE-ISSUED FOR CITY REVIEW
F	12-8-21	DMR	REVISED PER CITY REVIEW

GRADING AND UTILITY PLAN

337 MONTREAL STREET
PORTLAND, MAINE
FOR APPLICANT:
337 MONTREAL, LLC.
33 MONTREAL STREET

FOR APPLICA

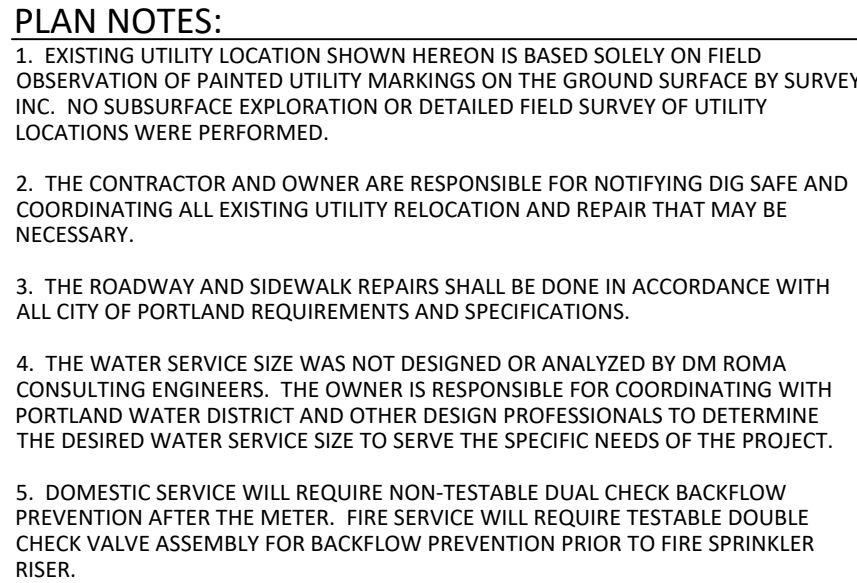
18053
JOB NUMBER:

$$1'' = 10$$

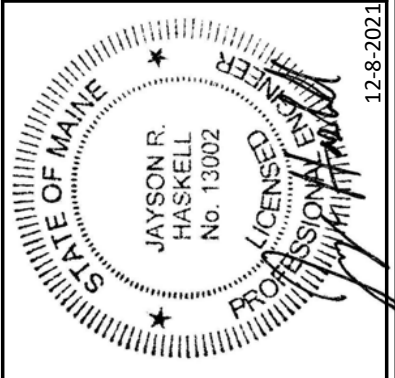
12-8-2021

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C2.0



GRADE CALCULATION		
GRADE CORNER	GRADE ELEV.	DESCRIPTION
A	138.08	TYP. GRADE
B	138.08	
C	137.90	LANDING
D	137.90	
E	138.83	ENTRY
F	138.83	
G	136.60	EGRESS DOOR
H	136.60	
I	138.08	TYP. GRADE
J	138.08	
K	138.33	PATIO
L	138.33	
M	138.08	TYP. GRADE
N	138.08	
O	138.33	PATIO
P	138.33	
Q	138.33	
R	138.08	TYP. GRADE
S	138.08	
T	138.33	PATIO
U	138.33	
V	138.33	
W	138.08	TYP. GRADE
23	3,176.02	TOTAL
AVERAGE GRADE=	138.09 (138'-1")	



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[illegible]

AVERAGE GRADE CALCULATION PLAN

37 MONTREAL STREET
PORTLAND, MAINE

FOR APPLICANT:

37 MONTREAL, LLC.
33 MONTREAL STREET
PORTLAND, ME, 04101

18053
JOB NUMBER:
1" = 10'
SCALE:
12-8-2021
DATE:
--
C2.1

EROSION AND SEDIMENTATION CONTROL NOTES:

EXCAVATION AND EARTHWORK SHALL BE COMPLETED SUCH THAT NO MORE THAN 1 ACRE OF THE SITE IS WITHOUT STABILIZATION AT ANY ONE TIME. LIMIT THE EXPOSED AREA TO THOSE AREAS IN WHICH WORK IS TO OCCUR DURING THE FOLLOWING 15 DAYS AND THAT CAN BE MULCHED IN ONE DAY.

IN ORDER TO EFFECTIVELY PREVENT AND CONTROL EROSION RELATED TO SOIL DISTURBANCE, THE FOLLOWING BEST MANAGEMENT PRACTICES (BMPs) SHALL BE EMPLOYED:

1. POLLUTION PREVENTION

MINIMIZE DISTURBED AREAS AND PROTECT NATURAL DOWNGRADIENT BUFFER AREAS TO THE EXTENT PRACTICABLE. CONTROL STORMWATER VOLUME AND VELOCITY WITHIN THE SITE TO MINIMIZE SOIL EROSION, MINIMIZE THE DISTURBANCE OF STEEP SLOPES. CONTROL STORMWATER DISCHARGES, INCLUDING BOTH PEAK FLOW RATES AND VOLUME, TO MINIMIZE EROSION AT OUTLETS. THE DISCHARGE MAY NOT RESULT IN EROSION OF ANY OPEN DRAINAGE CHANNELS, SWALES, STREAM CHANNELS OR STREAM BANKS, UPLAND, OR COASTAL OR FRESHWATER WETLANDS OF THE PROJECT SITE.

WHENEVER PRACTICABLE, NO DISTURBANCE ACTIVITIES SHOULD TAKE PLACE WITHIN 50 FEET OF ANY PROTECTED NATURAL RESOURCE. IF DISTURBANCE ACTIVITIES TAKE PLACE WITHIN 30 FEET OF ANY PROTECTED NATURAL RESOURCE, AND STORMWATER DISCHARGES THROUGH THE DISTURBED AREAS TOWARD THE PROTECTED NATURAL RESOURCE, PERIMETER EROSION CONTROLS MUST BE DOUBLED. IF DISTURBANCE ACTIVITIES TAKE PLACE LESS THAN 30 FEET FROM ANY PROTECTED NATURAL RESOURCE, AND STORMWATER DISCHARGES THROUGH THE DISTURBED AREAS TOWARD THE PROTECTED NATURAL RESOURCE, PERIMETER EROSION CONTROLS MUST BE DOUBLED AND DISTURBED AREAS MUST BE TEMPORARILY OR PERMANENTLY STABILIZED WITHIN 7 DAYS.

2. TEMPORARY SOIL STABILIZATION BMPs

TEMPORARY MULCHING SHALL BE APPLIED IMMEDIATELY TO ANY AREAS THAT HAVE BEEN TEMPORARILY OR PERMANENTLY SEEDED. ANY DISTURBED SOIL WITHIN 75' OF A STREAM, WATER BODY OR WETLAND MUST RECEIVE TEMPORARY MULCH WITHIN 48 HOURS FOLLOWING DISTURBANCE AND BEFORE ANY STORM EVENT. ALL OTHER AREAS SHALL RECEIVE TEMPORARY MULCH WITHIN 7 DAYS OF DISTURBANCE. AREAS WHICH CANNOT BE SEEDED DURING THE GROWING SEASON SHALL BE MULCHED FOR OVER-WINTER PROTECTION. THE FOLLOWING ARE ACCEPTABLE TEMPORARY SEEDING METHODS:

HAY OR STRAW MULCHES NEED TO BE AIR-DRIED, FREE OF UNDESIRABLE SEEDS AND COARSE MATERIALS. APPLICATION RATE MUST BE 2 BALES (70-90 POUNDS) PER 1000 SQ FT OR 1.5 TO 2 TONS (90-100 BALES) PER ACRE TO COVER 75-90% OF THE GROUND SURFACE. HAY OR STRAW CAN BE DRIVEN INTO THE GROUND WITH TRACKED EQUIPMENT IF SLOPES ARE LESS THAN 3%, OR CAN BE ANCHORED WITH JUTE, WOOD FIBER OR PLASTIC NETTING ON STEEPER SLOPES.

EROSION CONTROL MIX BERM MUST CONSIST PRIMARILY OF ORGANIC MATERIAL AND WILL INCLUDE ANY OF THE FOLLOWING: SHREDDED BARK, STUMP GRINDINGS, COMPOSTED BARK OR OTHER ACCEPTABLE PRODUCTS BASED ON A SIMILAR RAW SOURCE. WOOD OR BARK CHIPS, GROUND CONSTRUCTION DEBRIS OR PRODUCTS ARE NOT ACCEPTABLE. EROSION CONTROL MIX CAN BE USED AS A STAND-ALONE REINFORCEMENT ON SLOPES OF 2 HORIZONTAL TO 1 VERTICAL OR LESS AND DRAINING IN SHEET FLOW. IT CAN BE PLACED WITH A HYDRAULIC BUCKET, WITH A PNEUMATIC BLOWER OR BY HAND, AND MUST PROVIDE 100% SOIL COVERAGE.

EROSION CONTROL MIX SHALL MEET THE FOLLOWING SPECIFICATIONS:
-ORGANIC MATTER CONTENT SHALL BE BETWEEN 80-100%, DRY WEIGHT BASIS.
-PARTICLE SIZE BY WEIGHT SHALL BE 100% PASSING A #10 IN. SCREEN AND BETWEEN 70-85% PASSING 0.75 IN. SCREEN
-ORGANIC PORTION NEEDS TO BE FIBROUS AND ELONGATED
-LARGE PORTIONS OF SILTS, CLAYS OR FINE SANDS ARE NOT ACCEPTABLE IN THE MIX

WHEN USED AS MULCH, THE THICKNESS OF THE EROSION CONTROL MIX IS BASED UPON THE FOLLOWING:

LENGTH OF SLOPE	3:1 SLOPE OR LESS	BETWEEN 2:1 AND 3:1 SLOPE
LESS THAN 20 FT	2.0 IN.	4.0 IN.
BETWEEN 20 - 60 FT	3.0 IN.	5.0 IN.
BETWEEN 60 - 100 FT	4.0 IN.	6.0 IN.

CHEMICAL MULCHES AND SOIL BINDERS MAY BE USED AS DIRECTED BY THE ENGINEER. THE CONTRACTOR SHALL CONSULT WITH THE MANUFACTURER TO DETERMINE ADEQUATE APPLICATION RATES AND METHODS.

EROSION CONTROL BLANKETS AND MATS SHALL BE USED ON SLOPES STEEPER THAN 3:1 AND IN THE BOTTOM OF GRASSED WATERWAYS, OR AS OTHERWISE DIRECTED BY THE ENGINEER. THE MAT SHALL BE INSTALLED WITH FIRM CONTINUOUS CONTACT WITH THE SOIL AND STAPLED ACCORDING TO THE MANUFACTURER'S RECOMMENDATIONS.

TEMPORARY MULCH SHALL BE INSPECTED FOLLOWING ANY SIGNIFICANT RAINFALL EVENT. IF LESS THAN 90% OF THE SOIL SURFACE IS COVERED BY MULCH, ADDITIONAL MULCH SHALL BE IMMEDIATELY APPLIED. EROSION CONTROL MATS AND MULCH ANCHORING MUST BE INSPECTED AFTER RAINFALL EVENTS FOR DISLOCATION OR FAILURE, AND REPAIRED IMMEDIATELY. INSPECTIONS SHALL TAKE PLACE UNTIL 95% OF THE SOIL SURFACE IS COVERED WITH PERMANENT VEGETATION. WHERE MULCH IS USED WITH ORNAMENTAL PLANTINGS, INSPECT PERIODICALLY THROUGHOUT THE YEAR TO DETERMINE IF MULCH IS MAINTAINING COVERAGE OF THE SOIL SURFACE, AND REPAIR AS NEEDED.

TEMPORARY VEGETATION SHALL BE ESTABLISHED ON SOILS THAT WILL NOT BE BROUGHT TO FINAL GRADE FOR A PERIOD OF MORE THAN 30 DAYS. IF TEMPORARY VEGETATION CANNOT BE ESTABLISHED PRIOR TO OCTOBER 15, TEMPORARY MULCH SHALL BE APPLIED THROUGH THE WINTER AND TEMPORARY VEGETATION SHALL BE PLANTED AT THE BEGINNING OF THE GROWING SEASON THE FOLLOWING YEAR. TO PREPARE THE SEEDED, THE CONTRACTOR SHALL APPLY FERTILIZER AT A RATE OF 600 POUNDS PER ACRE OF 10-10-10 (N-P205-K20) OR EQUIVALENT AND LIMESTONE AT A RATE OF 3 TONS PER ACRE. IF NEARLY 2 INCHES DEPTH OF 2 INCHES IN AREAS THAT HAVE BEEN COMPACTED BY CONSTRUCTION ACTIVITIES, GRASS SEED SHALL BE SELECTED BASED UPON THE TIME OF YEAR THE PLANTING WILL TAKE PLACE AS SUMMARIZED IN THE FOLLOWING TABLE:

SEED	LB. PER ACRE	RECOMMENDED SEEDING DATES
WINTER RYE	112	8/15 - 10/1
OATS	80	4/1 - 7/1 8/15 - 9/15
ANNUAL RYEGRASS	40	4/1 - 7/1

TEMPORARY SEEDING SHALL BE PERIODICALLY INSPECTED TO MAINTAIN AT LEAST 95% VEGETATIVE COVER OF SOIL SURFACE. IF ANY EVIDENCE OF EROSION OR SEDIMENTATION IS APPARENT, REPAIRS SHALL BE MADE AND OTHER TEMPORARY MEASURES SHALL BE USED IN THE INTERIM SUCH AS TEMPORARY MULCH, FILTER BARRIERS, ETC.

3. SEDIMENT BARRIER BMPs

PRIOR TO CONSTRUCTION TEMPORARY SEDIMENT BARRIERS SHALL BE INSTALLED AT THE DOWNGRADIENT EDGE OF ANY AREA TO BE DISTURBED AND ADJACENT TO ANY DRAINAGE CHANNELS WITHIN THE DISTURBED AREA. SEDIMENT BARRIERS INCLUDE ANY OF THE FOLLOWING:

FILTER BARRIER FENCE, ALSO CALLED SILT FENCE, SHALL BE INSTALLED WHERE SHOWN ON THE PLANS AND IN ACCORDANCE WITH MANUFACTURERS RECOMMENDATIONS. THE FILTER FABRIC SHALL BE A PERVIOUS SHEET OF PROPYLENE, NYLON, POLYESTER OR ETHYLENE YARN AND SHALL PROVIDE A MINIMUM OF 6 MONTHS USABLE CONSTRUCTION LIFE INCLUDING PROTECTION AGAINST ULTRA-VIOLET LIGHT. THE HEIGHT OF THE FENCE SHALL NOT EXCEED 36 INCHES INSTALLED AND POST SPACING SHALL NOT EXCEED 6 FEET. JOINTS IN THE FENCE SHALL BE AVOIDED TO THE EXTENT POSSIBLE, AND IF NECESSARY SHALL BE SPLICED TOGETHER AT A SUPPORT POST WITH A MINIMUM 6 INCH OVERLAP. A TRENCH SHALL BE EXCAVATED APPROXIMATELY 4 INCHES WIDE AND 4 INCHES DEEP, AND THE BOTTOM 6-8 INCHES OF FABRIC SHALL BE "TOED-IN" TO THE TRENCH AND COMPACTED. THE TRENCH SHOULD BE UPHILL OF THE FABRIC PRIOR TO BURIAL.

STRAY/HAY BALES SHALL BE INSTALLED WHERE SPECIFIED ON THE PLANS IN A SINGLE ROW WITH THE ENDS OF ADJACENT BALES TIGHTLY ABUTTING ONE ANOTHER. ALL BALES SHALL BE EITHER WIRE-BOUND OR STRING-TIED. THE BARRIER SHALL BE ENTRENCHED AND BACKFILLED TO A DEPTH OF AT LEAST 4 INCHES, AND THE BALES SHALL BE SECURED WITH AT LEAST 17 LBS OF WOODEN STAKES OR STEEL REBAR PER BALE. STAKES SHALL BE DRIVEN IN A DIRECTION TO PUSH THE BALES TOGETHER. GAPS BETWEEN BALES SHALL BE CHINKED WITH HAY.

EROSION CONTROL MIX BERMS ARE LINEAR BARRIERS COMPOSED OF EROSION CONTROL MIX AS SPECIFIED ABOVE. THE BERM MUST BE A MINIMUM OF 12 INCHES TALL AND 24 INCHES WIDE AT THE BASE IF UPHILL SLOPES ARE LESS THAN 5%, STEEPER SLOPES OR SLOPES GREATER THAN 20 FEET LONG MAY REQUIRE A LARGER WIDTH BERM. EROSION CONTROL MIX BERMS AT THE BASE OF A LONG OR STEEP SLOPE MAY ALSO REQUIRE A FILTER FENCE TO BE INSTALLED ON THE DOWNHILL SIDE OF THE BERM TO PROVIDE ADDITIONAL STABILIZATION AGAINST HIGH RUNOFF FLOWS. EROSION CONTROL MIX BERM IS NOT INTENDED TO BE INSTALLED AT THE BOTTOM OF SLOPES 8% OR STEEPER OR WITH FLOWING WATER.

CONTINUOUS CONTAINED BERMS, WHICH ARE ALSO REFERRED TO AS A FILTER SOCK, PROVIDES ADDITIONAL STABILITY TO AN EROSION CONTROL MIX BERM AND SHOULD BE USED IN FROZEN GROUND CONDITIONS OR IN AREAS THAT RECEIVE CONCENTRATED FLOW.

SEDIMENT BARRIERS SHOULD BE INSTALLED DOWNGRADEMENT OF SOIL OR SEDIMENT STOCKPILES AND STORMWATER PREVENTED RUNNING ONTO THE STOCKPILE. SEDIMENT BARRIERS SHALL BE INSPECTED AFTER ANY SIGNIFICANT RAINFALL EVENT AND REPAIRED IMMEDIATELY IF THERE ARE ANY SIGNS OF EROSION OR SEDIMENTATION BELOW THE BARRIERS. IF THERE ARE SIGNS OF UNDERCUTTING AT THE CENTER OR EDGES OF THE BARRIER, OR IF LARGE VOLUMES OF WATER ARE IMPOUNDED BEHIND THE BARRIER, IT MAY BE NECESSARY TO REPLACE THE BARRIER WITH A TEMPORARY STONE CHECK DAM. SEDIMENT SHALL BE REMOVED ONCE IT REACHES HALF THE BARRIER HEIGHT. AFTER THE BARRIER IS REMOVED, ANY REMAINING SILT SHALL EITHER BE REMOVED OR GRADED TO CONFORM WITH THE EXISTING TOPOGRAPHY AND VEGETATED.

4. TEMPORARY CHECK DAMS

STONE CHECK DAMS SHALL BE INSTALLED IN SWALES OR DRAINAGE DITCHES TO REDUCE STORMWATER VELOCITIES AS SHOWN ON THE PLANS. STONE CHECK DAMS ARE NOT EFFECTIVE IN REMOVING SEDIMENT AND SHOULD BE USED IN CONJUNCTION WITH SEDIMENT BARRIERS IDENTIFIED ABOVE. TEMPORARY CHECK DAMS MAY BE LEFT IN PLACE PERMANENTLY IN MOST CASES. CHECK DAMS SHOULD BE NO HIGHER THAN 24 INCHES, AND THE CENTER OF THE CHECK DAM MUST BE AT LEAST 6 INCHES LOWER THAN THE OUTSIDE EDGES. CHECK DAMS SHOULD BE SPACED SUCH THAT THE CREST OF THE DOWNSTREAM CHECK DAM IS AT THE SAME ELEVATION AS THE TOE OF THE UPSTREAM CHECK DAM. CHECK DAMS IN A DRAINAGE DITCH OR WATERWAY SHOULD BE INSTALLED PRIOR TO DIRECTING RUNOFF TO THEM.

5. STORM DRAIN INLET PROTECTION

STORM DRAIN INLETS THAT ARE MADE OPERATIONAL BEFORE THEIR DRAINAGE AREA IS STABILIZED SHALL BE PROTECTED WITH A FILTER UNTIL THE DRAINAGE AREA IS EITHER PAVED OR STABILIZED WITH 95% VEGETATIVE GROWTH. THE FOLLOWING ARE ACCEPTABLE BMPs ASSOCIATED WITH STORM DRAIN INLET PROTECTION:

HAY BALE OR SILT FENCE INLET STRUCTURE CONSISTS OF HAY BALES OR SILT FENCE CONFIGURED AROUND A CATCH BASIN INLET FRAME AND INSTALLED ACCORDING TO THE METHODS OUTLINED ABOVE. THIS METHOD IS SUITABLE FOR OPEN PIPE (CULVERT) INLETS, FIELD INLETS OR ROAD INLETS THAT HAVE NOT YET BEEN PAVED.

MANUFACTURED SEDIMENT FILTERS ARE THE PREFERRED METHOD FOR PROTECTING CATCH BASIN INLETS IN PAVED OR GRAVEL ROADWAYS. THE FILTERS TYPICALLY CONSIST OF A FABRIC OR OTHER PERVIOUS MATERIAL THAT IS PLACED ABOVE OR BELOW THE GRATE THAT TRAPS SEDIMENT ON THE SURFACE AND ALLOWS WATER TO FLOW THROUGH THE GRATE. CONSIDERATIONS SUCH AS WEATHER CONDITIONS, SLOPES, TRIBUTARY WATERSHED AREA, AND EXPECTED SEDIMENT ACCUMULATION SHOULD BE FACTORED INTO MAKING A DECISION ON ANY PARTICULAR PRODUCT, AND THE MANUFACTURER'S RECOMMENDATIONS ON INSTALLATION AND MAINTENANCE SHALL BE STRICTLY ADHERED TO.

6. STABILIZED CONSTRUCTION ENTRANCE/EXIT

TO REDUCE THE TRACKING OF SEDIMENT ONTO ROADWAYS, A STABILIZED CONSTRUCTION EXIT SHALL BE INSTALLED AT ALL POINTS OF EGRESS WHERE VEHICLES MAY TRAVEL FROM THE PROJECT SITE TO A PUBLIC ROAD OR OTHER PAVED AREA. THE STONE PAD SHALL CONSIST OF A MINIMUM 6-INCH DEPTH OF 2-3 INCH CRUSHED STONE, AND SHALL BE PLACED ON A GEOTEXTILE FABRIC. THE PAD SHALL EXTEND AT LEAST 50 FEET INTO THE PROJECT SITE AND BE A MINIMUM OF 10 FEET WIDE. THE EXIT SHALL BE MAINTAINED IN A CONDITION THAT WILL PREVENT TRACKING OF SEDIMENT ONTO PUBLIC RIGHTS-OF-WAY, AND THE CONTRACTOR SHALL SWEEP PAVEMENT AT EXITS THAT HAVE EXPERIENCED ANY MUD-TRACKING. MAINTAIN THE PAD UNTIL ALL DISTURBED AREAS ARE STABILIZED. IF TRACKING OF SEDIMENT ONTO PUBLIC RIGHTS-OF-WAY OCCURS THE CONTRACTOR SHALL BE RESPONSIBLE FOR SWEEPING THE AFFECTED AREAS IMMEDIATELY, AND THEREAFTER WEEKLY AT A MINIMUM AND PRIOR TO ANY SIGNIFICANT RAINFALL EVENT.

7. DUST CONTROL

THE CONTRACTOR IS RESPONSIBLE FOR CONTROLLING DUST ON THE PROJECT SITE AND ON ADJACENT ROADWAYS. EXPOSED SOIL SURFACES SHALL BE MOISTENED PERIODICALLY WITH ADEQUATE WATER TO CONTROL DUST. GRAVEL SURFACES SHALL EITHER BE TREATED WITH AN APPLICATION OF CALCIUM CHLORIDE OR COVERED WITH CRUSHED STONE IF DUST CONTROL BECOMES DIFFICULT WITH NORMAL WATER APPLICATIONS.

8. LAND GRADING AND SLOPE PREPARATION

GRADING SHALL BE PLANNED SO AS TO MINIMIZE THE LENGTH OF TIME BETWEEN INITIAL SOIL EXPOSURE AND FINAL GRADING. ON LARGE PROJECTS THIS SHOULD BE ACCOMPLISHED BY PHASING THE OPERATION AND COMPLETING THE FIRST PHASE UP TO FINAL GRADING AND SEEDING BEFORE STARTING THE NEXT PHASE. ANY EXPOSED AREA THAT WILL NOT BE FINISH GRADED WITHIN 14 DAYS SHALL BE TREATED WITH MULCH OR PLANTED WITH TEMPORARY VEGETATION. PROVISIONS SHALL BE MADE TO SAFELY CONVEY SURFACE RUNOFF TO STORM DRAINS, PROTECTED OUTLETS OR TO STABLE WATER COURSES TO ENSURE THAT SURFACE RUNOFF WILL NOT DAMAGE SLOPES OR OTHER GRADED AREAS. CUT AND FILL SLOPES SHALL NOT EXCEED 1.5:1. CUT AND FILL SLOPES THAT ARE TO BE STABILIZED WITH GRASS SHALL NOT BE STEEPER THAN 3:1. CUT AND FILL SLOPES STEEPER THAN 3:1 SHALL BE STABILIZED WITH EROSION CONTROL BLANKETS OR MATS, CUT AND FILL SLOPES STEEPER THAN 2:1 SHALL BE STABILIZED WITH RIP RAP OR AN APPROVED EQUIVALENT. AREAS TO BE FILLED SHALL BE CLEARED, GRUBBED AND STRIPPED OF TOPSOIL TO REMOVE TREES, VEGETATION, ROOTS OR OTHER OBJECTIONABLE MATERIALS. AREAS SHALL BE SCARIFIED TO A MINIMUM DEPTH OF 3 INCHES PRIOR TO PLACEMENT OF TOPSOIL. ALL FILLS SHALL BE COMPACTED AS REQUIRED TO REDUCE EROSION, SURFACE SETTLEMENT, SUBSIDENCE OR OTHER RELATED PROBLEMS. FILL INTENDED TO SUPPORT BUILDINGS, STRUCTURES AND CONDUITS, ETC. SHALL BE COMPACTED IN ACCORDANCE WITH LOCAL REQUIREMENTS OR CODES. ALL FILLS SHALL BE PLACED AND COMPACTED IN LAYERS NOT TO EXCEED 8 INCHES IN THICKNESS. FILL MATERIAL SHALL BE FREE OF STUMPS, BUILDING DEBRIS AND OTHER OBJECTIONABLE MATERIALS THAT WOULD INTERFERE WITH OR PREVENT CONSTRUCTION OF SATISFACTORY LIFTS. FROZEN MATERIAL OR SOFT, MUCKY OR HIGHLY COMPRESSIBLE MATERIALS SHALL NOT BE INCORPORATED INTO FILL SLOPES OR SHOWN ON A FOUNDATION. STEPS OR SPRINGS ENCOUNTERED DURING CONSTRUCTION SHALL BE HANDLED APPROPRIATELY. ALL GRADED AREAS SHALL BE PERMANENTLY STABILIZED IMMEDIATELY FOLLOWING FINISHED GRADING.

9. TOPSOIL

IF POSSIBLE, TOPSOIL SHALL BE STOCKPILED ON THE PROJECT SITE AND REUSED. HIGH QUALITY TOPSOIL SHALL BE FRIABLE AND LOAMY (LOAM, SANDY LOAM, SILT LOAM, SANDY CLAY LOAM, CLAY LOAM), AND SHALL BE FREE OF DEBRIS, TRASH, STUMPS, ROCKS, ROOTS AND NOXIOUS WEEDS. AFTER THE AREAS TO BE TOPSOILED HAVE BEEN BROUGHT TO GRADE, AND IMMEDIATELY PRIOR TO SPREADING THE TOPSOIL, THE SUBGRADE SHALL BE LOOSENEED BY SCARIFYING TO A DEPTH OF AT LEAST 2 INCHES TO ENSURE BONDING WITH SUBSOIL. THE TOPSOIL SHALL BE UNIFORMLY DISTRIBUTED TO A MINIMUM COMPACTED DEPTH OF 4 INCHES. ANY IRREGULARITIES IN THE SURFACE RESULTING FROM TOPSOILING OR OTHER OPERATIONS SHALL BE CORRECTED IN ORDER TO PREVENT THE FORMATION OF DEPRESSIONS OR WATER POCKETS. IT IS NECESSARY TO COMPACT THE TOPSOIL ENOUGH TO ENSURE GOOD CONTACT WITH THE UNDERLYING SOIL, BUT UNDUE COMPACTION IS TO BE AVOIDED.

10. PERMANENT SOIL STABILIZATION

IF THE AREA WILL NOT BE WORKED FOR MORE THAN ONE YEAR OR HAS BEEN BROUGHT TO FINAL GRADE, THEN PERMANENTLY STABILIZE THE AREA WITHIN 7 DAYS BY PLANTING VEGETATION, SEEDING, SOD, OR THROUGH THE USE OF PERMANENT MULCH, OR RIPRAP, OR ROAD SUB-BASE. IF USING VEGETATION FOR STABILIZATION, SELECT THE PROPER VEGETATION FOR THE LIGHT, MOISTURE, AND SOIL CONDITIONS; AMEND AREAS OF DISTURBED SUBSOILS WITH TOPSOIL, COMPOST, OR FERTILIZERS; PROTECT SEEDED AREAS WITH MULCH OR, IF NECESSARY, EROSION CONTROL BLANKETS; AND SCHEDULE SODDING, PLANTING, AND SEEDING SO TO AVOID DIE-OFF FROM SUMMER DROUGHT AND FALL FROSTS. NEWLY SEEDED OR SODDED AREAS MUST BE PROTECTED FROM VEHICLE TRAFFIC, EXCESSIVE PEDESTRIAN TRAFFIC, AND CONCENTRATED RUNOFF UNTIL THE VEGETATION IS WELL-ESTABLISHED WITH 90% COVER BY HEALTHY VEGETATION. IF NECESSARY, AREAS MUST BE REWORKED AND RESTABILIZED IF GERMINATION IS SPARSE, PLANT COVERAGE IS SPOTTY, OR TOPSOIL EROSION IS EVIDENT. ONE OR MORE OF THE FOLLOWING MAY APPLY TO A PARTICULAR SITE.

SEEDED AREAS: TO PREPARE THE SEEDED, APPLY 10-20-20 FERTILIZER AT A RATE OF 800 POUNDS PER ACRE AND GROUND LIMESTONE AT A RATE OF 3 TONS PER ACRE. WORK THE FERTILIZER AND LIMESTONE INTO THE TOPSOIL TO A DEPTH OF 4 INCHES AND REMOVE ANY STONES, ROOTS OR OTHER VISIBLE DEBRIS. SELECT A SEED MIXTURE THAT IS APPROPRIATE FOR THE SOIL TYPE AND MOISTURE CONTENT AS FOUND AT THE SITE, AND FOR THE AMOUNT OF SUN EXPOSURE AND FOR LEVEL OF USE. REFER TO THE USDA SOIL CONSERVATION SERVICE OR THE LOCAL SOIL AND WATER CONSERVATION DISTRICT FOR APPROPRIATE SEED MIXTURES. APPLY SEED UNIFORMLY IN ACCORDANCE WITH SUPPLIER RECOMMENDATIONS AND IMMEDIATELY COVER WITH MULCH AS DESCRIBED IN THE TEMPORARY MULCHING SECTION OF THIS PLAN.

HYDROSEEDING SHALL BE DONE IN ACCORDANCE WITH SUPPLIERS RECOMMENDATIONS. FOR SEEDED AREAS TO BE PERMANENTLY STABILIZED, 90% OF THE DISTURBED SOIL SHALL BE COVERED WITH MATURE HEALTHY PLANTS WITH NO EVIDENCE OF WASHING OR RILLING OF THE TOPSOIL.

SOD STRIPS SHALL BE LAID AT RIGHT ANGLES TO DIRECTION OF SLOPE OR FLOW OF WATER STARTING AT LOWEST ELEVATION. JOINTS SHALL BE STAGGERED, AND ALL STRIPS SHALL BE ROLLED OR TAMPED INTO PLACE. ON SLOPES, SOD SHALL BE ANCHORED WITH STAPLES, WIRE OR PINS. IRRIGATE SODDED AREA IMMEDIATELY AFTER INSTALLATION. FOR SODDED AREAS TO BE PERMANENTLY STABILIZED, THE ROOTS OF THE SOD MUST BE COMPLETELY BOUND INTO THE UNDERLYING SOIL WITH NO SLUMPING OF THE SOD OR DIE-OFF.

PERMANENT MULCH IS A LONG TERM COVER THAT PROVIDES A GOOD BUFFER AROUND DISTURBED AREAS. THE EROSION CONTROL MIX SHALL CONSIST PRIMARILY OF ORGANIC MATERIAL AND MAY INCLUDE SHREDDED BARK, WOOD CHIPS, GROUND CONSTRUCTION DEBRIS, REPROCESSED WOOD PRODUCTS OR BARK CHIPS ARE NOT ACCEPTABLE. THE EROSION CONTROL MIX SHALL CONTAIN A WELL-GRADED MIXTURE OF PARTICLE SIZES AND MAY CONTAIN ROCKS LESS THAN 4 INCHES IN DIAMETER. EROSION CONTROL MIX MUST BE FREE OF REFUSE, PHYSICAL CONTAMINANTS AND MATERIAL TOXIC TO PLANT GROWTH.

RRAPRIP STONE SHALL CONSIST OF SUB-ANGULAR FIELD STONE OR ROUGH UNEVEN QUARRY STONE OF APPROXIMATELY RECTANGULAR SHAPE. THE DEPTH OF STONE SHALL BE A MINIMUM OF 2.2 TIMES THE MAXIMUM STONE DIAMETER. A GRAVEL OR GEOTEXTILE FILTER OR GRATE SHALL BE PLACED BETWEEN THE RIPRAP AND UNDERLYING SOIL SURFACE. GRAVEL FILTER BLANKET MUST BE MOOT TYPE-C UNDERDRAIN MATERIAL SPECIFICATIONS AND BE AT LEAST 6 INCHES THICK. GEOTEXTILE FILTER BLANKETS SHALL BE SPECIFIED BASED ON SITE CONDITIONS. RIPRAP SLOPES SHALL BE TOED INTO THE BASE OF THE EMBANKMENT BY EXCAVATING A TRENCH AT THE BOTTOM OF THE SLOPE AND INSTALLING A STABLE BASE OF RIPRAP TO GRADE.

DITCHES, CHANNELS AND SWALES ARE CONSIDERED PERMANENTLY STABILIZED WHEN THE CHANNEL HAS 90% COVER OF HEALTHY VEGETATION WITH A WELL GRADED RIPRAP LINING, EROSION CONTROL BLANKET, OR WITH ANOTHER NON-EROSIVE LINING SUCH AS CONCRETE OR ASPHALT PAVEMENT. THERE MUST BE NO EVIDENCE OF SLUMPING OF THE CHANNEL LINING, UNDERCUTTING OF THE BANKS, OR DOWNCUTTING OF THE CHANNEL.

11. STORMWATER CHANNELS

EACH CHANNEL SHOULD BE CONSTRUCTED IN SECTIONS SO THAT THE SECTION'S GRADING, SHAPING, AND INSTALLATION OF THE PERMANENT LINING CAN BE COMPLETED THE SAME DAY. IF A CHANNEL'S FINAL GRADING OR LINING INSTALLATION MUST BE DELAYED, THEN DISTURBED BERMS MUST BE USED TO DIVERT STORMWATER AWAY FROM THE CHANNEL, PROPERLY-SPACED CHECK DAMS MUST BE INSTALLED IN THE CHANNEL TO SLOW THE WATER VELOCITY, AND A TEMPORARY LINING INSTALLED ALONG THE CHANNEL TO PREVENT SCOURING.

12. INSPECTION & MAINTENANCE

THE CONTRACTOR SHALL BE RESPONSIBLE TO ENSURE ALL CONSTRUCTION OPERATIONS COMPLY WITH THE INSPECTION AND MAINTENANCE PROCEDURES FOR THE PROJECT, INCLUDING, BUT NOT LIMITED TO THOSE INCLUDED IN THIS PLAN SET, THE "INSPECTION, MAINTENANCE, AND HOUSEKEEPING PLAN", AND THE "MAINE EROSION AND SEDIMENTATION CONTROL PRACTICES FIELD GUIDE FOR CONTRACTORS".

INSPECTION SHALL OCCUR ON ALL DISTURBED AND IMPERVIOUS AREAS, EROSION CONTROL MEASURES, MATERIAL STORAGE AREAS, AND CONSTRUCTION VEHICLE ENTRANCE(S) AND OR EXITS(S). THESE AREAS SHALL BE INSPECTED AT LEAST ONCE PER WEEK, AS WELL AS 24 HOURS BEFORE AND AFTER A STORM EVENT, AND PRIOR TO COMPLETING PERMANENT STABILIZATION MEASURES. INSPECTIONS ARE TO BE CONDUCTED BY A PERSON WITH KNOWLEDGE OF EROSION AND STORMWATER CONTROL, INCLUDING STANDARDS AND CONDITIONS IN THE PERMIT.

MAINTENANCE MEASURES SHALL BE APPLIED AS NEEDED DURING THE ENTIRE CONSTRUCTION SEASON. AFTER EACH RAINFALL, SNOW STORM OR PERIOD OF THAWING AND RUNOFF, THE SITE CONTRACTOR SHALL PERFORM A VISUAL INSPECTION OF ALL INSTALLED EROSION CONTROL MEASURES AND PERFORM REPAIRS AS NEEDED TO INSURE THEIR CONTINUOUS FUNCTION. FOLLOWING THE TEMPORARY AND/OR FINAL SEEDING AND MULCHING, THE CONTRACTOR SHALL, IN THE SPRING, INSPECT AND REPAIR ANY DAMAGES AND/OR BARE SPOTS. AN ESTABLISHED VEGETATIVE COVER MEANS A MINIMUM OF 85% OF AREAS VEGETATED WITH VIGOROUS GROWTH.

WINTER EROSION AND SEDIMENTATION CONTROL NOTES:

THE WINTER CONSTRUCTION PERIOD TYPICALLY BEGINS IN EARLY NOVEMBER AND ENDS IN MID APRIL. IF A CONSTRUCTION SITE IS NOT STABILIZED WITH PAVEMENT, A ROAD GRAVEL BASE, 75% MATURE VEGETATION COVER OR RIPRAP BY NOVEMBER 15 THEN THE SITE NEEDS TO BE PROTECTED WITH OVER-WINTER STABILIZATION. WINTER EXCAVATION AND EARTHWORK SHALL BE COMPLETED SUCH THAT NO MORE THAN 1 ACRE OF EXPOSED EARTH SURFACE BE REMOVED FROM THE PROJECT SITE. THE EXPOSED AREA TO BE OCCUR DURING THE FOLLOWING 15 DAYS AND THAT CAN BE MULCHED IN ONE DAY PRIOR TO ANY SNOW EVENT. AN AREA SHALL BE CONSIDERED DENIED UNTIL THE SUBBASE GRADE IS INSTALLED IN THE ROADWAY AREAS OR THE AREAS OF FUTURE LOAM AND SEED HAVE BEEN LOADED, SEEDED AND MULCHED. A COVER OF EROSION CONTROL MIX IS THE PREFERRED TEMPORARY MULCH DURING WINTER CONDITIONS.

1. NATURAL RESOURCE PROTECTION

ANY AREAS WITHIN 75 FEET FROM ANY REGULATED NATURAL RESOURCES, IF NOT STABILIZED WITH A MINIMUM OF 75% MATURE VEGETATION CATCH, SHALL BE MULCHED BY DECEMBER 1 AND ANCHORED WITH PLASTIC NETTING OR OTHER PERVIOUS MATERIAL THAT IS PLACED ABOVE OR BELOW THE GRATE THAT TRAPS SEDIMENT ON THE SURFACE AND ALLOWS WATER TO FLOW THROUGH THE GRATE. CONSIDERATIONS SUCH AS WEATHER CONDITIONS, SLOPES, TRIBUTARY WATERSHED AREA, AND EXPECTED SEDIMENT ACCUMULATION SHOULD BE FACTORED INTO MAKING A DECISION ON ANY PARTICULAR PRODUCT, AND THE MANUFACTURER'S RECOMMENDATIONS ON INSTALLATION AND MAINTENANCE SHALL BE STRICTLY ADHERED TO.

2. SEDIMENT BARRIERS

DURING FROZEN CONDITIONS, SEDIMENT BARRIERS MAY CONSIST OF EROSION CONTROL MIX BERMS OR ANY OTHER RECOGNIZED SEDIMENT BARRIERS AS FROZEN SOIL PREVENTS THE PROPER INSTALLATION OF HAY BALES OR SILT FENCES.

3. MULCHING

ALL AREAS SHALL BE CONSIDERED TO BE DENUED UNTIL SEEDED AND MULCHED. HAY AND STRAW MULCH SHALL BE APPLIED AT A RATE OF 3 TONS PER ACRE (TWICE THE NORMAL ACCEPTED RATE) AND SHALL BE PROPERLY ANCHORED. EROSION CONTROL MIX MUST BE APPLIED WITH A MINIMUM 4 INCHES THICKNESS. MULCH SHALL NOT BE SPREAD ON TOP OF SNOW. SNOW MUST BE REMOVED DOWN TO A ONE-INCH DEPTH PRIOR TO APPLICATION. AFTER EACH DAY OF FINAL GRADING, THE AREA WILL BE PROPERLY STABILIZED WITH ANCHORED HAY OR STRAW OR EROSION CONTROL MATTING. AN AREA SHALL BE CONSIDERED TO HAVE BEEN STABILIZED EITHER WHEN EXPOSED EARTH SURFACE HAS EITHER BEEN PROPERLY ANCHORED OR ADDEDLY ANCHORED TO THE GROUND SURFACE IS NOT VISIBLE THROUGH THE MULCH. BETWEEN THE DATES OF NOVEMBER 1 AND APRIL 15, ALL MULCH SHALL BE ANCHORED BY EITHER MULCH NETTING, ASPHALT EMULSION CHEMICAL, TRACKING OR WOOD CELLULOSE FIBER. THE COVER WILL BE CONSIDERED SUFFICIENT WITH THE GROUND SURFACE IS NOT VISIBLE THROUGH THE MULCH. AFTER NOVEMBER 15TH, MULCH AND ANCHORING OF ALL EXPOSED SOIL SHALL OCCUR AT THE END OF EACH FINAL GRADING WORKDAY.

4. SOIL STOCKPILING

STOCKPILES OF SOIL OR SUBSOIL WILL BE MULCHED FOR OVER WINTER PROTECTION WITH HAY OR STRAW AT TWICE THE NORMAL RATE FOR WITH A FOUR-INCH LAYER OF EROSION CONTROL MIX. THIS WILL BE DONE WITHIN 24 HOURS OF STACKING AND RE-ESTABLISHED PRIOR TO ANY RAINFALL OR SNOWFALL. ANY SOIL STOCKPILE WILL NOT BE PLACED WITHIN 100 FEET FROM ANY REGULATED NATURAL RESOURCE.

5. SEEDING

BETWEEN THE DATES OF OCTOBER 15 AND APRIL 1, LOAM OR SEED WILL NOT BE REQUIRED. DURING PERIODS OF ABOVE FREEZING TEMPERATURES FINISHED AREAS SHALL BE FINE GRADED AND EITHER PROTECTED MULCH OR TEMPORARILY SEEDED AND MULCHED UNTIL SUCH TIME AS THE FINAL TREATMENT CAN BE APPLIED. IF THE DATE IS AFTER NOVEMBER 1 AND IF THE EXPOSED AREA HAS BEEN LOOEMD, FINAL GRADED WITH A UNIFORM SURFACE, THEN THE AREA MAY BE DORMANT SEEDED AT A RATE OF 3 TIMES HIGHER THAN SPECIFIED FOR PERMANENT SEED AND THEN MULCHED. IF DORMANT SEEDING IS USED, ALL DISTURBED AREAS SHALL RECEIVE 4 INCHES OF LOAM AND SEED AT AN APPLICATION RATE OF 5 LBS PER 1,000 S.F.. ALL AREAS INSUFFICIENTLY VEGETATED (LESS THAN 75%) IN THE SPRING SHALL BE REVEGETATED.

6. OVER-WINTER STABILIZATION OF DITCHES AND CHANNELS

ALL STONE-LINED DITCHES AND CHANNELS MUST BE CONSTRUCTED BY NOVEMBER 1. ALL GRASS-LINED DITCHES AND CHANNELS MUST BE CONSTRUCTED AND STABILIZED BY SEPTEMBER 1. IF A GRASS-LINED DITCH OR CHANNEL IS STABILIZED BY SEPTEMBER 1, THEN EITHER A SOD LINING SHALL BE INSTALLED PRIOR TO OCTOBER 1 OR THE DITCH MUST BE LINED WITH STONE RIPRAP BACKED BY AN APPROPRIATE GRAVEL BED OR GEOTEXTILE PRIOR TO NOVEMBER 1.

7. OVER-WINTER STABILIZATION OF DISTURBED SLOPES

ALL STONE-COVERED SLOPES MUST BE CONSTRUCTED AND STABILIZED BY NOVEMBER 15. ALL SLOPES TO BE VEGETATED MUST BE SEEDED AND MULCHED BY SEPTEMBER 1. ALL AREAS HAVING A GRADE STEEPER THAN 8% SHALL BE CONSIDERED A SLOPE. IF A SLOPE TO BE VEGETATED IS NOT STABILIZED BY SEPTEMBER 1, THEN EITHER A SOD LINING SHALL BE INSTALLED PRIOR TO OCTOBER 1 OR THE SLOPE MUST BE LINED WITH STONE RIPRAP BACKED BY AN APPROPRIATE GRAVEL BED OR GEOTEXTILE PRIOR TO NOVEMBER 1.

8. OVER-WINTER STABILIZATION OF DISTURBED SOILS

BY SEPTEMBER 15, ALL DISTURBED SOILS ON AREAS HAVING A SLOPE LESS THAN 15% MUST BE SEEDED AND MULCHED. IF THE DISTURBED AREAS ARE NOT STABILIZED BY THIS DATE, THEN THE AREA SHALL BE SEEDED AND MULCHED BY OCTOBER 1, SOD BY OCTOBER 1, OR MULCH BY NOVEMBER 15. SEE APPLICABLE SECTIONS UNDER EROSION AND SEDIMENTATION CONTROL NOTES FOR PROPER INSTALLATION METHODS.

INSPECTION & MAINTENANCE NOTES:

1. THE CONTRACTOR SHALL BE RESPONSIBLE TO ENSURE ALL CONSTRUCTION OPERATIONS COMPLY WITH THE INSPECTION AND MAINTENANCE PROCEDURES FOR THE PROJECT, INCLUDING, BUT NOT LIMITED TO THOSE INCLUDED IN THIS PLAN SET, THE "INSPECTION, MAINTENANCE, AND HOUSEKEEPING PLAN", AND THE "MAINE EROSION AND SEDIMENTATION CONTROL PRACTICES FIELD GUIDE FOR CONTRACTORS".

2. INSPECTION SHALL OCCUR ON ALL DISTURBED AND IMPERVIOUS AREAS, EROSION CONTROL MEASURES, MATERIAL STORAGE AREAS, AND CONSTRUCTION VEHICLE ENTRANCE(S) AND OR EXITS(S). THESE AREAS SHALL BE INSPECTED AT LEAST ONCE PER WEEK, AS WELL AS 24 HOURS BEFORE AND AFTER A STORM EVENT, AND PRIOR TO COMPLETING PERMANENT STABILIZATION MEASURES. INSPECTIONS ARE TO BE CONDUCTED BY A PERSON WITH KNOWLEDGE OF EROSION AND STORMWATER CONTROL, INCLUDING STANDARDS AND CONDITIONS IN THE PERMIT.

3. MAINTENANCE MEASURES SHALL BE APPLIED AS NEEDED DURING THE ENTIRE CONSTRUCTION SEASON. AFTER EACH RAINFALL, SNOW STORM OR PERIOD OF THAWING AND RUNOFF, THE SITE CONTRACTOR SHALL PERFORM A VISUAL INSPECTION OF ALL INSTALLED EROSION CONTROL MEASURES AND PERFORM REPAIRS AS NEEDED TO INSURE THEIR CONTINUOUS FUNCTION. FOLLOWING THE TEMPORARY AND/OR FINAL SEEDING AND MULCHING, THE CONTRACTOR SHALL, IN THE SPRING, INSPECT AND REPAIR ANY DAMAGES AND/OR BARE SPOTS. AN ESTABLISHED VEGETATIVE COVER MEANS A MINIMUM OF 85% OF AREAS VEGETATED WITH VIGOROUS GROWTH.

HOUSEKEEPING NOTES

1. SPILL PREVENTION: CONTROLS MUST BE USED TO PREVENT POLLUTANTS FROM CONSTRUCTION AND WASTE MATERIALS ON SITE TO ENTER STORMWATER, WHICH INCLUDES STORAGE PRACTICES TO MINIMIZE EXPOSURE OF THE MATERIALS TO STORMWATER. THE SITE CONTRACTOR OR OPERATOR MUST DEVELOP, AND IMPLEMENT AS NECESSARY, APPROPRIATE SPILL PREVENTION, CONTAINMENT, AND RESPONSE PLANNING MEASURES.

2. GROUNDWATER PROTECTION: DURING CONSTRUCTION, LIQUID PETROLEUM PRODUCTS AND OTHER HAZARDOUS MATERIALS WITH THE POTENTIAL TO CONTAMINATE GROUNDWATER MAY NOT BE STORED OR HANDLED IN AREAS OF THE SITE DRAINING TO AN INFILTRATION AREA. AN "INFILTRATION AREA" IS ANY AREA OF THE SITE THAT BY DESIGN OR AS A RESULT OF SOILS, TOPOGRAPHY AND OTHER RELEVANT FACTORS ACCUMULATES RUNOFF THAT INFILTRATES INTO THE SOIL. DIKES, BERMS, SUMPS, AND OTHER FORMS OF SECONDARY CONTAINMENT THAT PREVENT DISCHARGE TO GROUNDWATER MAY BE USED TO ISOLATE PORTIONS OF THE SITE FOR THE PURPOSES OF STORAGE AND HANDLING OF THESE MATERIALS. ANY PROJECT PROPOSING INFILTRATION OF STORMWATER MUST PROVIDE ADEQUATE PRE-TREATMENT OF STORMWATER PRIOR TO DISCHARGE OF STORMWATER TO THE INFILTRATION AREA, OR PROVIDE FOR TREATMENT WITHIN THE INFILTRATION AREA, IN ORDER TO PREVENT THE ACCUMULATION OF FINES, REDUCTION IN INFILTRATION RATE, AND CONSEQUENT FLOODING AND DESTABILIZATION.

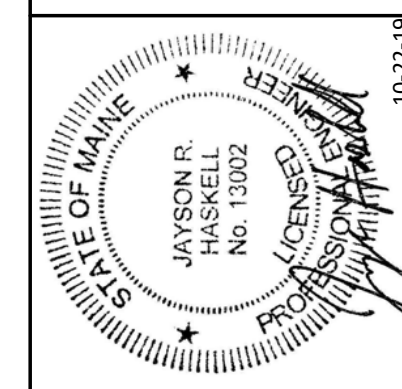
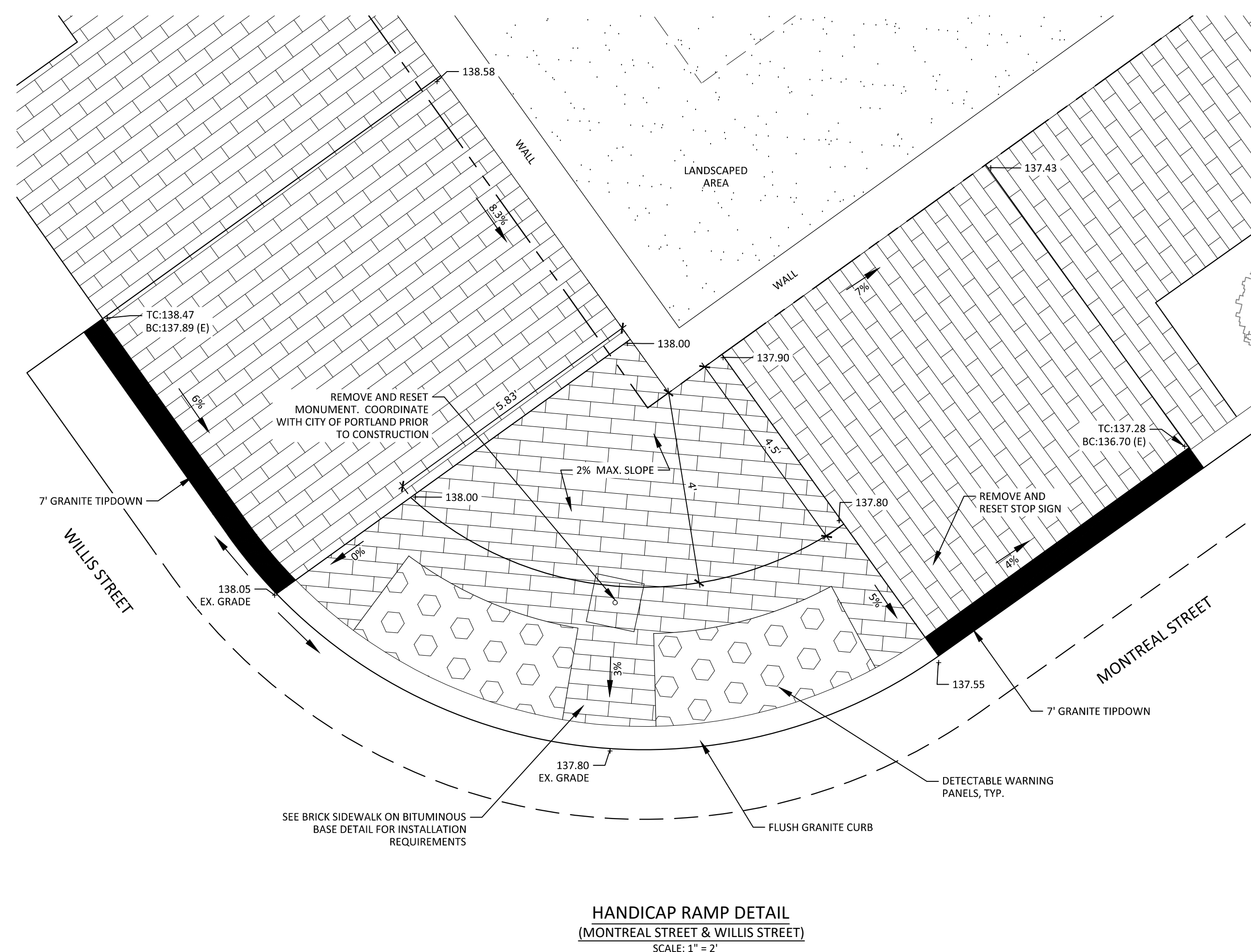
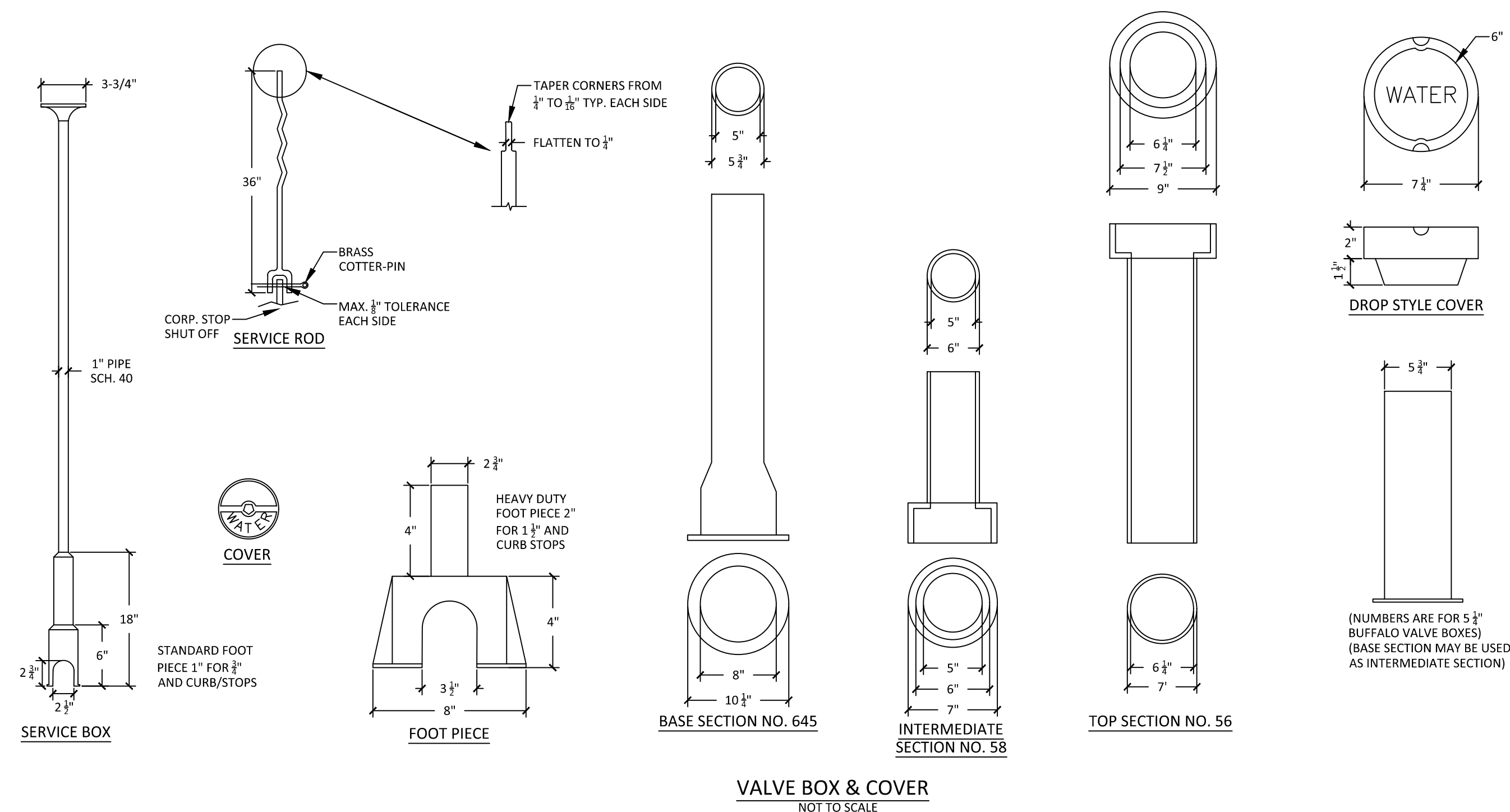
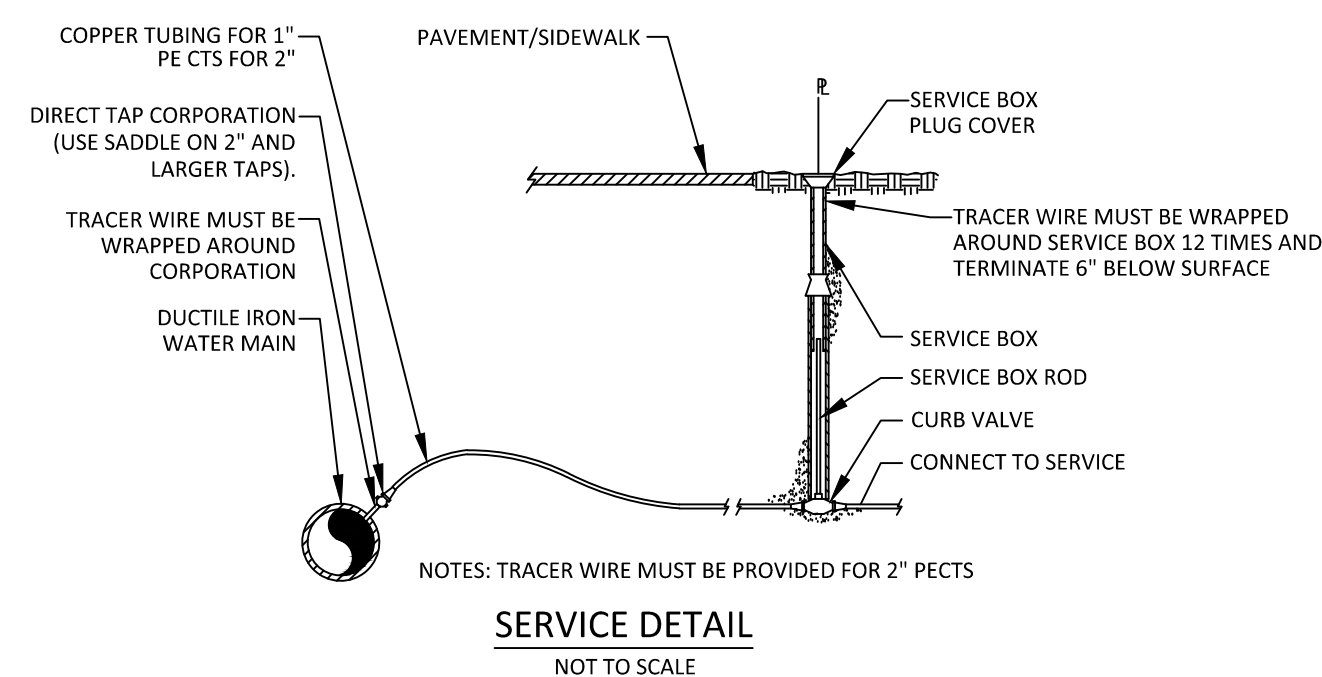
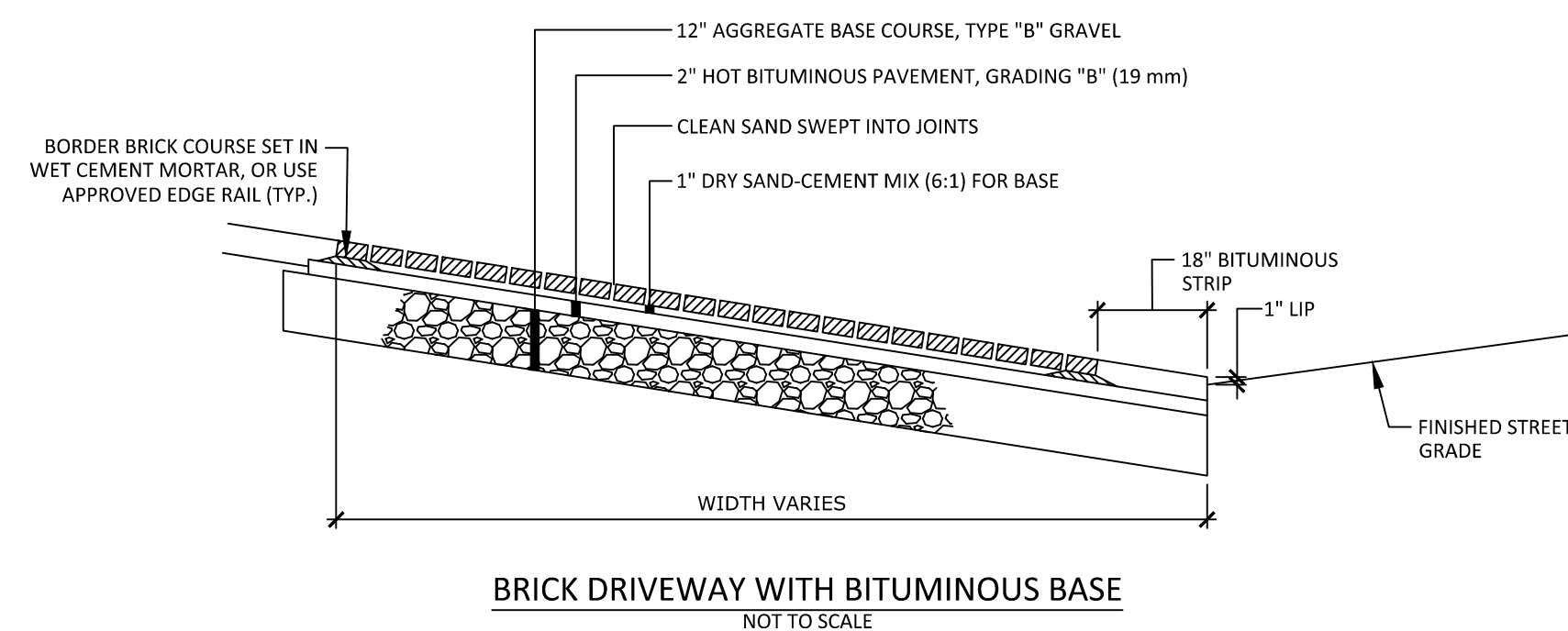
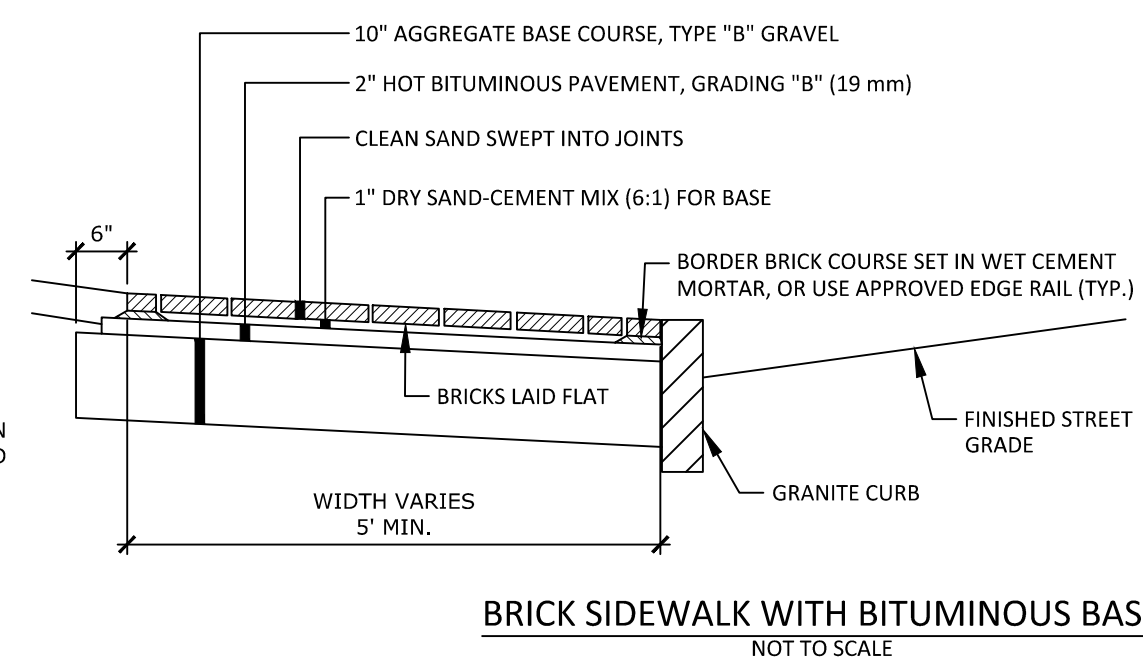
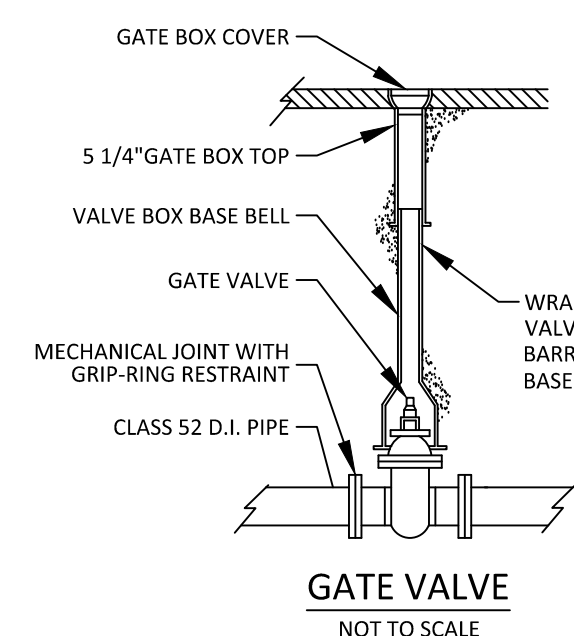
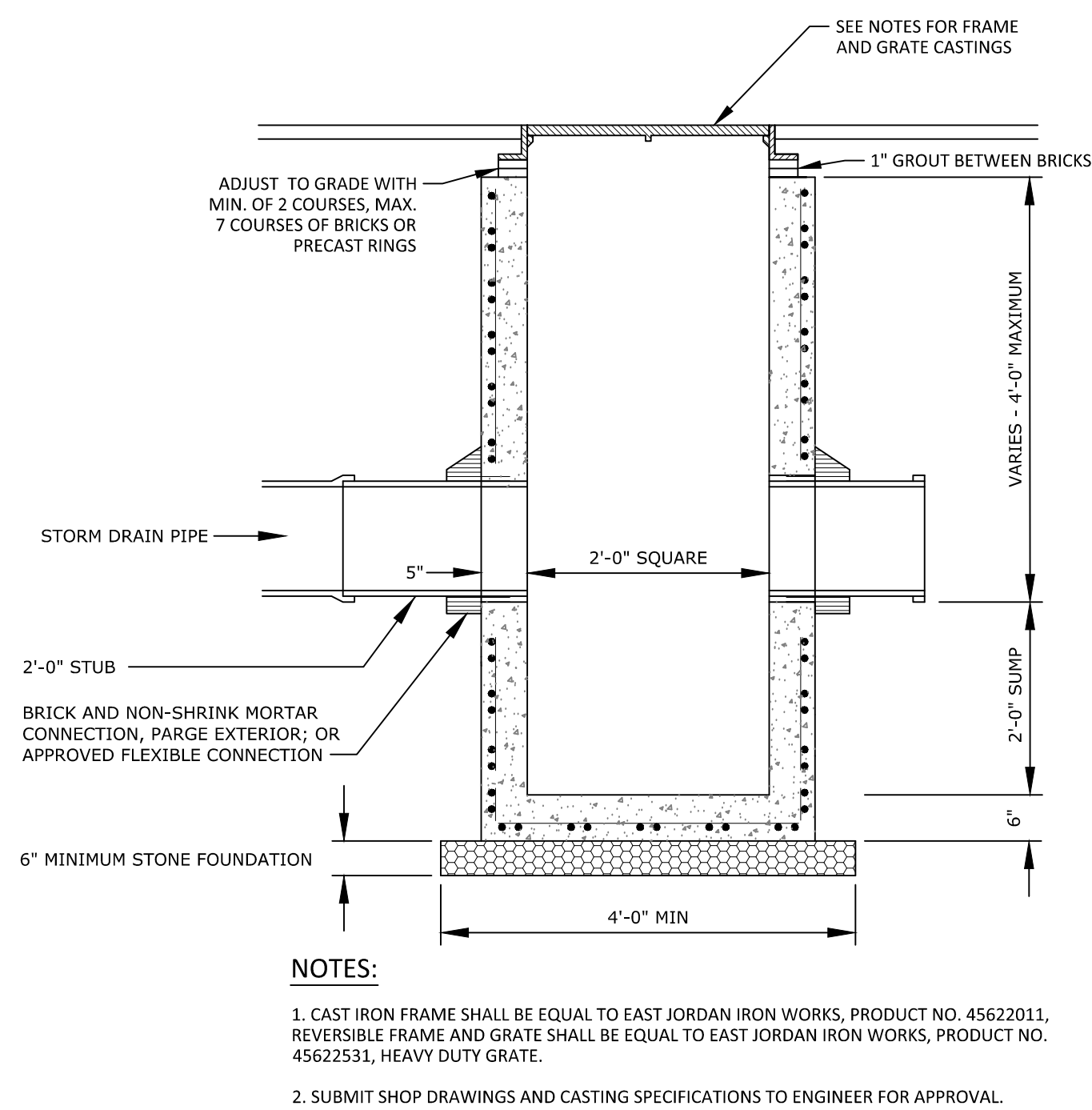
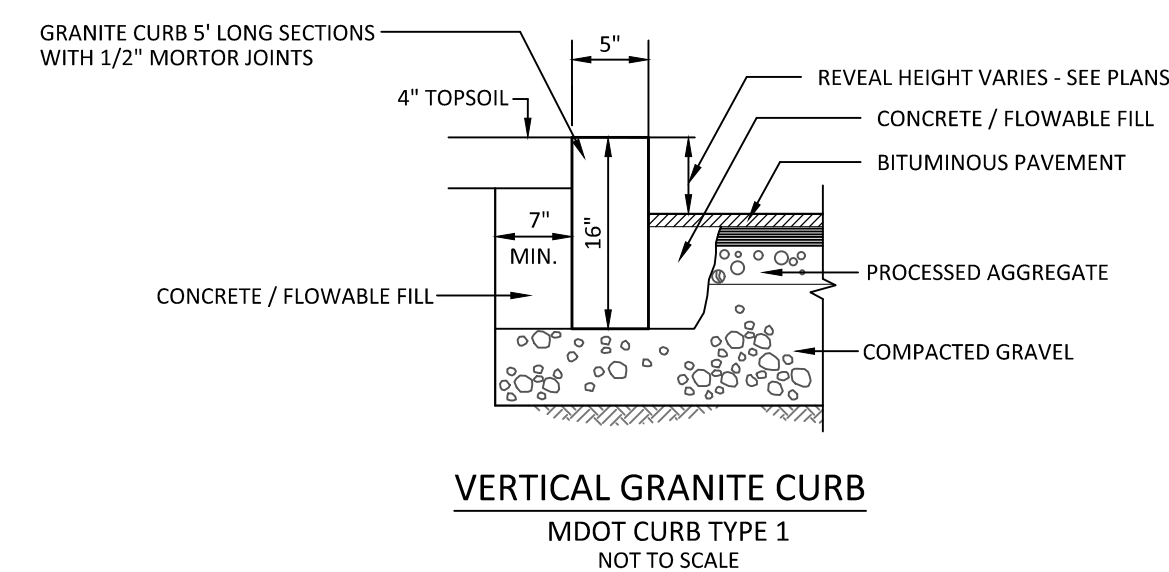
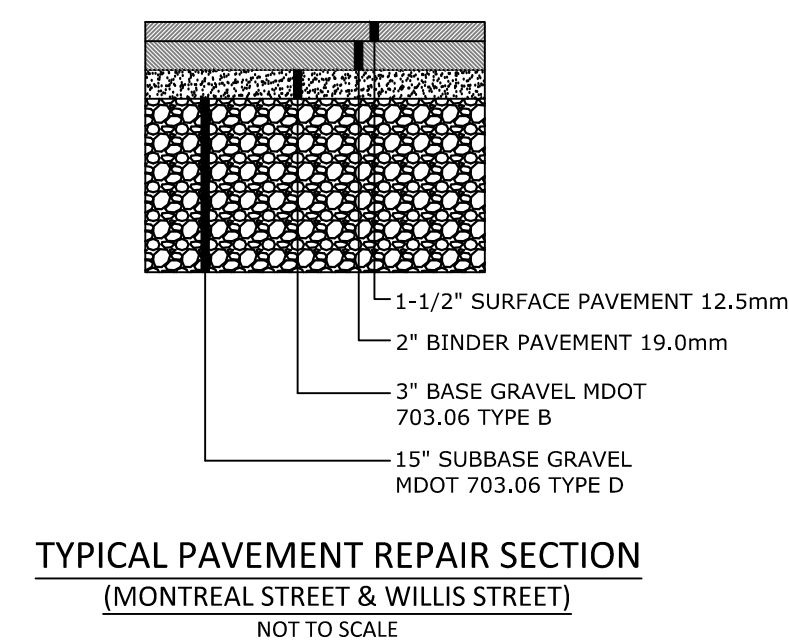
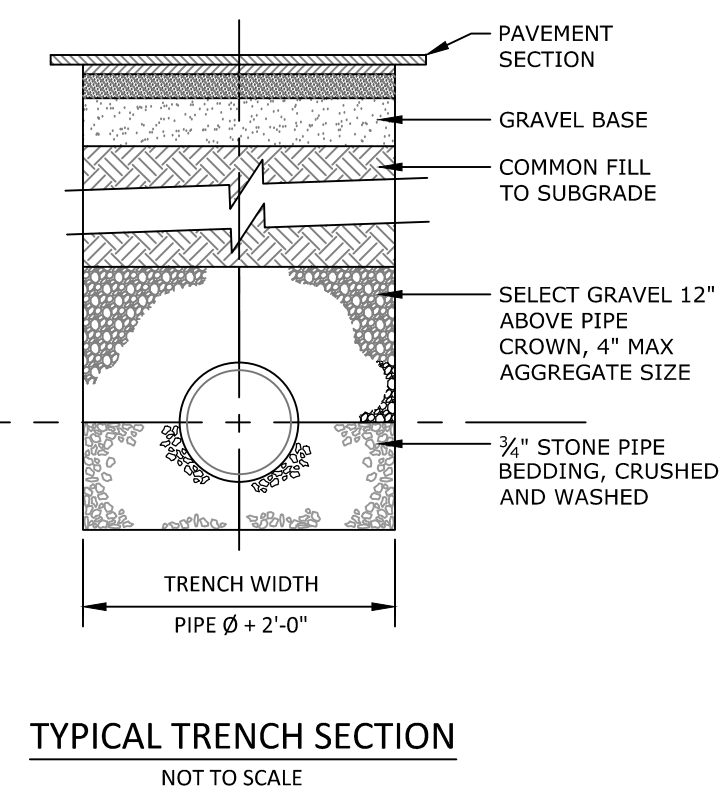
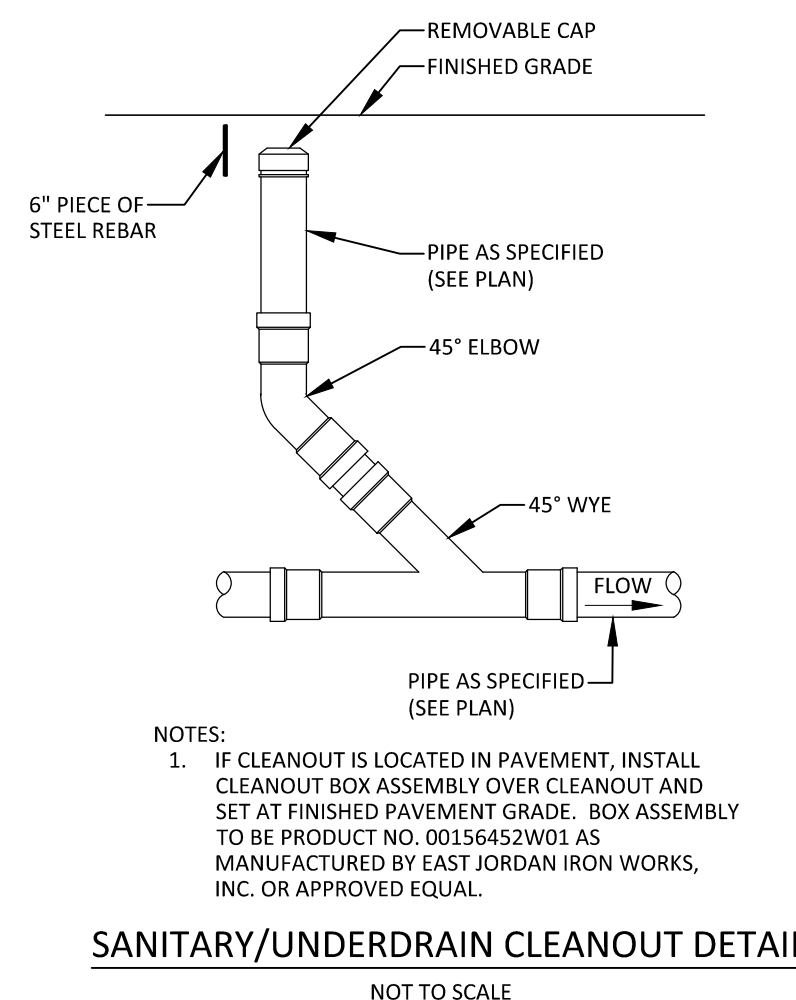
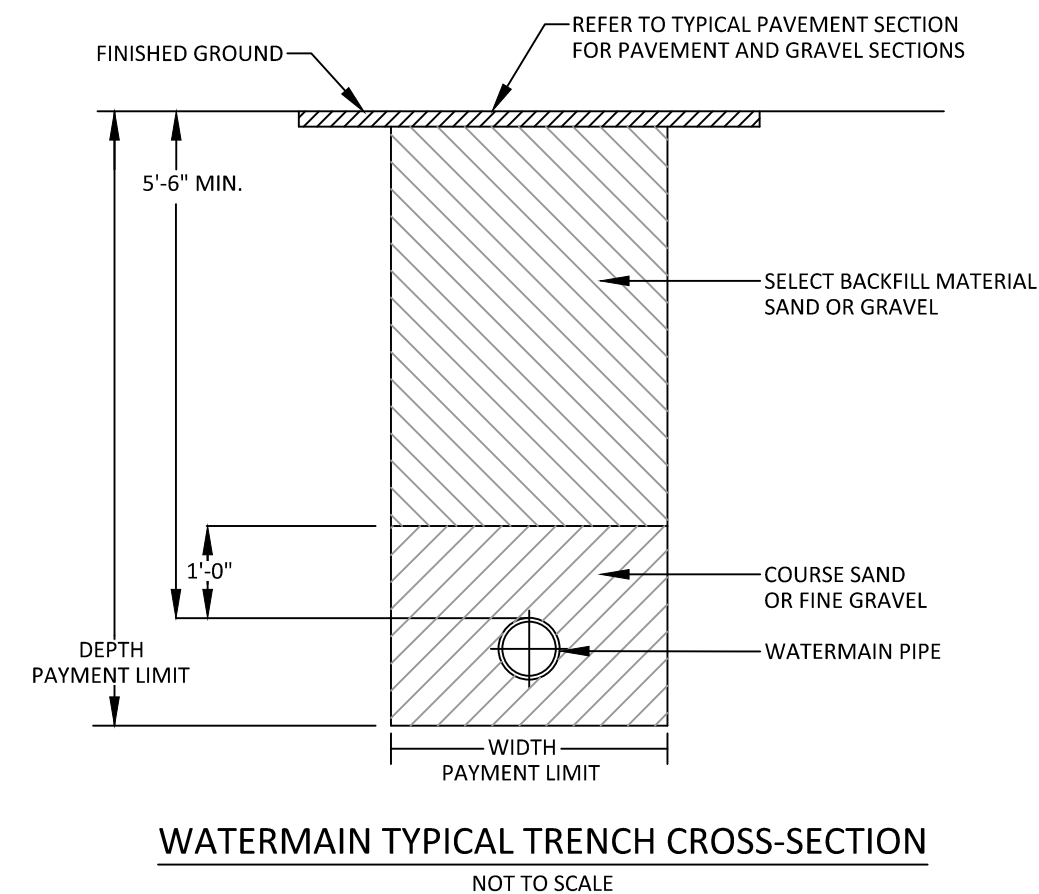
3. FUGITIVE SEDIMENT AND DUST: ACTIONS MUST BE TAKEN TO ENSURE THAT ACTIVITIES DO NOT RESULT IN NOTICEABLE EROSION OF SOILS OR FUGITIVE DUST EMISSIONS DURING OR AFTER CONSTRUCTION. OIL MAY NOT BE USED FOR DUST CONTROL, BUT OTHER WATER ADDITIVES MAY BE CONSIDERED AS NEEDED. A STABILIZED CONSTRUCTION ENTRANCE (SCE) SHOULD BE INCLUDED TO MINIMIZE TRACKING OF MUD AND SEDIMENT. IF OFF-SITE TRACKING OCCURS, PUBLIC ROADS SHOULD BE SWEEP IMMEDIATELY AND NO LESS THAN ONCE A WEEK AND PRIOR TO SIGNIFICANT STORM EVENTS. OPERATIONS DURING DRY MONTHS, THAT EXPERIENCE FUGITIVE DUST PROBLEMS, SHOULD BE STOPPED DOWN UNPAVED ACCESS ROADS ONCE A WEEK OR MORE FREQUENTLY AS NEEDED WITH A WATER ADDITIVE TO SUPPRESS FUGITIVE SEDIMENT AND DUST.

4. DEBRIS AND OTHER MATERIALS: MINIMIZE THE EXPOSURE OF CONSTRUCTION DEBRIS, BUILDING AND LANDSCAPING MATERIALS, TRASH, FERTILIZERS, PESTICIDES, HERBICIDES, DETERGENTS, SANITARY WASTE AND OTHER MATERIALS TO PRECIPITATION AND STORMWATER RUNOFF. THESE MATERIALS MUST BE PREVENTED FROM BECOMING A POLLUTANT SOURCE.

5. EXCAVATION DE-WATERING: EXCAVATION DE-WATERING IS THE REMOVAL OF WATER FROM TRENCHES, FOUNDATIONS, COFFER DAMS, PONDS, AND OTHER AREAS WITHIN THE CONSTRUCTION AREA THAT RETAIN WATER AFTER EXCAVATION. IN MOST CASES THE COLLECTED WATER IS HEAVILY SILTED AND HINDERS CORRECT AND SAFE CONSTRUCTION PRACTICES. THE COLLECTED WATER REMOVED FROM THE PONDED AREA, EITHER THROUGH GRAVITY OR PUMPING, MUST BE SPREAD THROUGH NATURAL WOODDED BUFFERS OR REMOVED TO AREAS THAT ARE SPECIFICALLY DESIGNED TO COLLECT THE MAXIMUM AMOUNT OF SEDIMENT POSSIBLE, LIKE A COFFERED INFILTRATION BASIN. AVOID ALLOWING THE WATER TO FLOW OVER DISTURBED AREAS OF THE SITE. EQUIVALENT MEASURES MAY BE TAKEN IF APPROVED BY THE DEPARTMENT.

6. AUTHORIZED NON-STORMWATER DISCHARGES: IDENTIFY AND PREVENT CONTAMINATION BY NON-STORMWATER DISCHARGES, WHERE ALLOWED NON-STORMWATER DISCHARGES EXIST, THEY MUST BE IDENTIFIED AND STEPS SHOULD BE TAKEN TO ENSURE THE IMPLEMENTATION OF APPROPRIATE POLLUTION PREVENTION MEASURES FOR THE NON-STORMWATER COMPONENT(S) OF THE DISCHARGE. AUTHORIZED NON-STORMWATER DISCHARGES ARE:

- (a) DISCHARGES FROM FIREFIGHTING ACTIVITY;
- (b) FIRE HYDRANT FLUSHINGS;
- (c) VEHICLE WASHWATER IF DETERGENTS ARE NOT USED AND WASHING IS LIMITED TO THE EXTERIOR OF VEHICLES (ENGINE, UNDERCARRIAGE AND TRANSMISSION WASHING IS PROHIBITED);
- (d) DUST CONTROL RUNOFF IN ACCORDANCE WITH PERMIT CONDITIONS AND APPENDIX (C)(3);
- (e) ROUTINE EXTERNAL BUILDING WASHDOWN, NOT INCLUDING SURFACE PAINT REMOVAL, THAT DOES NOT INVOLVE DETERGENTS;
- (f



REV	DATE	BY	DESCRIPTION
A	8-12-19	DMR	ISSUED FOR PERMITTING
B	10-11-19	DMR	REVISED PER CITY REVIEW
C	10-22-19	DMR	REVISED PER CITY REVIEW

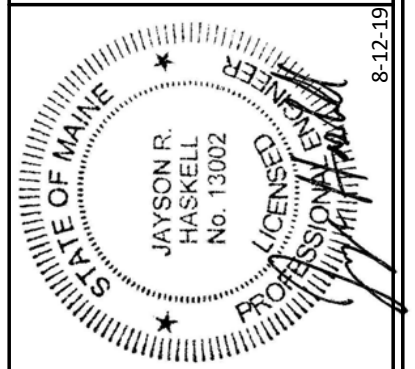
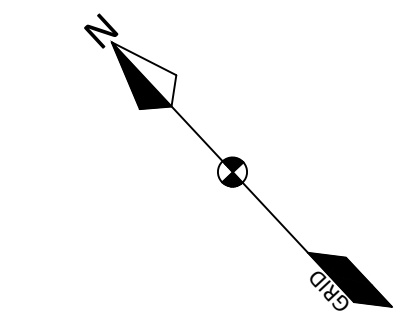
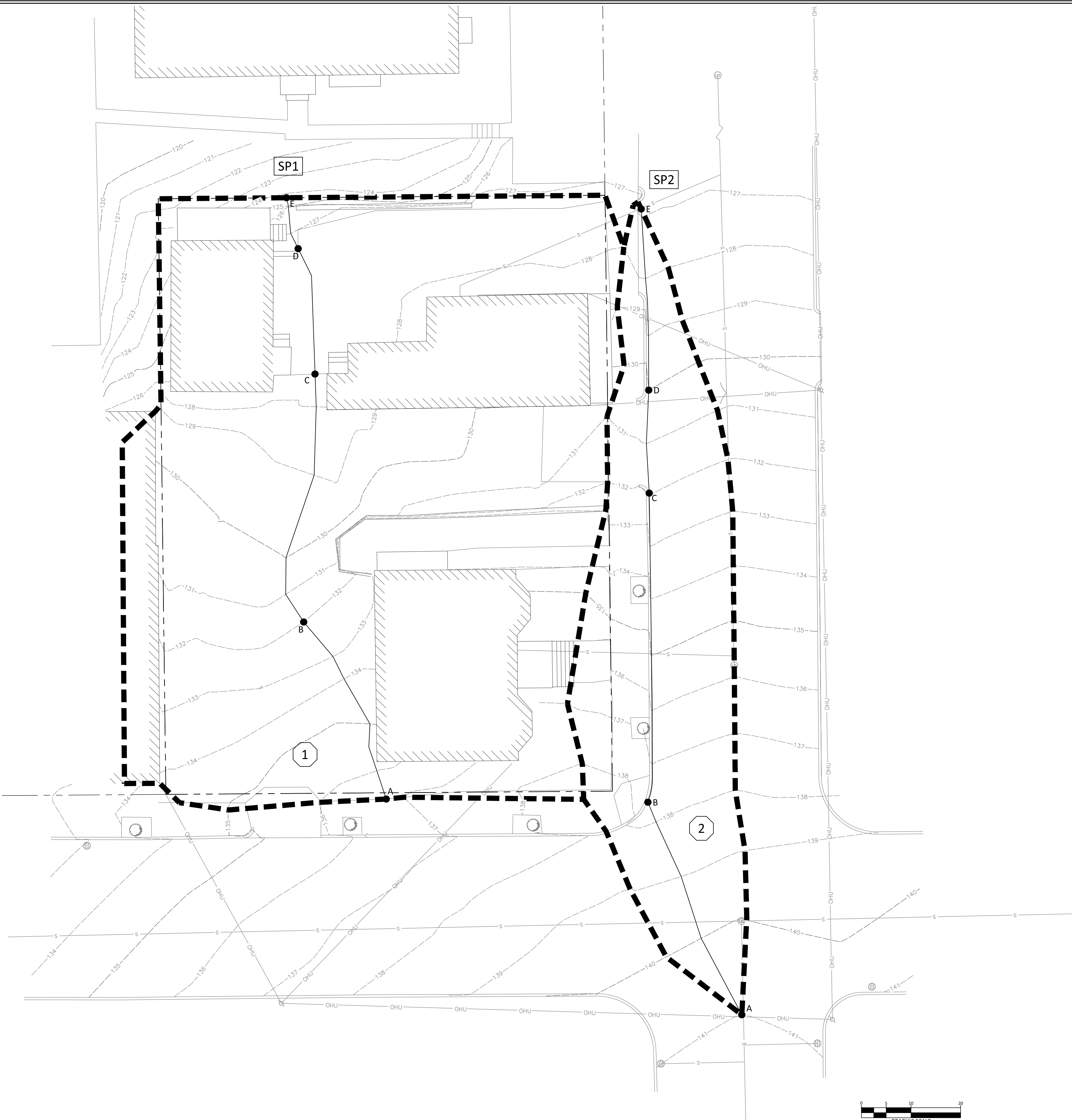
DETAILS

37 MONTREAL STREET
PORTLAND, MAINE

FOR APPLICANT:

37 MONTREAL, LLC.
37 MONTREAL STREET
PORTLAND, ME 04103

18053 JOB NUMBER:
AS NOTED SCALE:
10-22-2019 DATE:
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C3.2



DM ROMA 
CONSULTING ENGINEERS
P.O. BOX 11116
WINDHAM, ME 04062
(207) 310 - 0506

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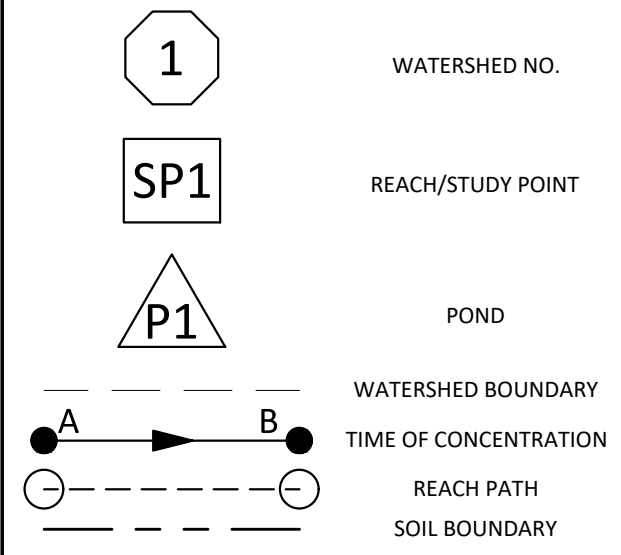
WATERSHED MAP - EXISTING CONDITION

37 MONTREAL STREET
PORTLAND, MAINE

FOR APPLICANT:
MCTIGUE CONSTRUCTION
184 MOUNTAIN ROAD
FARMINGTON, 04105

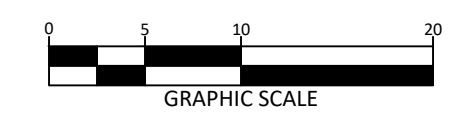
18053
JOB NUMBER:
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SCALE:
8-12-2019
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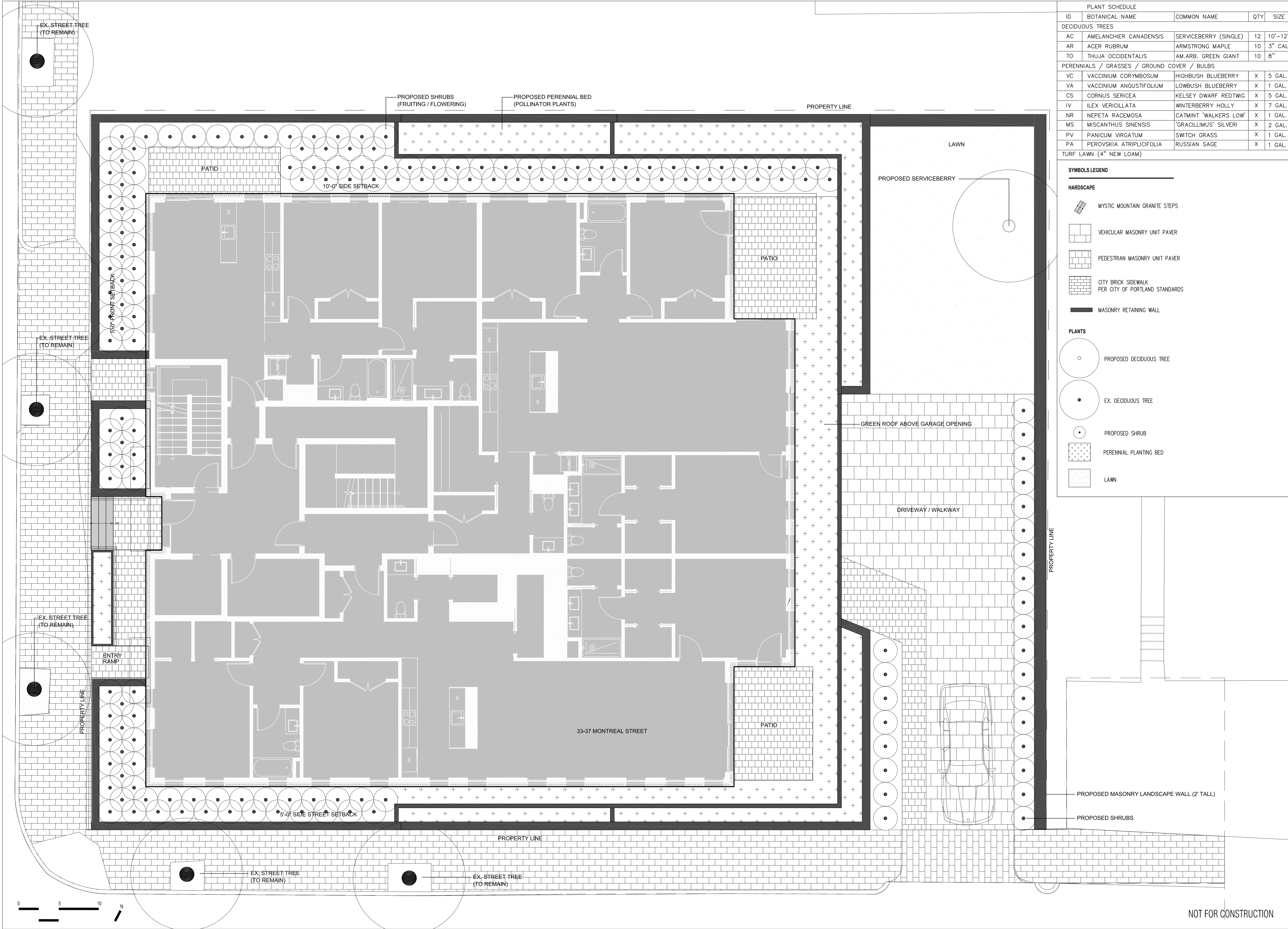
LEGEND



LEGEND

EXISTING		PROPOSED
---	PROPERTY LINE/R.O.W.	---
---	ABUTTER PROPERTY LINE	---
---	SETBACK	---
---	EASEMENT LINE	---
	GRANITE MONUMENT	
	IRON PIN/DRILL HOLE	
---	CENTERLINE	---
---	BUILDING	---
---	EDGE OF PAVEMENT/CURB	---
--200'-- --201'--	CONTOUR LINE	---
	CATCHBASIN	
	DRAINAGE MANHOLE	
===	CULVERT/STORMDRAIN	
---	UNDERDRAIN	
	SEWER MANHOLE	
---	SANITARY SEWER PIPE	---
---FM---	FORCE MAIN	---FM---
---	WATER MAIN	---
	WATER VALVE	
	HYDRANT	
	UTILITY POLE	
	LIGHT POLE	
---OHU---	OVERHEAD UTILITIES	---OHU---
---	UNDERGROUND UTILITIES	---
---	TRANSFORMER PAD	
---	GAS MAIN	---
	GAS VALVE RIPRAP	
---	SIU T FENCE	---





PLANT SCHEDULE				
ID	BOTANICAL NAME	COMMON NAME	QTY	SIZE
DECIDUOUS TREES				
AC	AMELANCHIER CANADENSIS	SERVICEBERRY (SINGLE)	12	10'-12'
AR	ACER RUBRUM	ARMSTRONG MAPLE	10	3" CAL
TO	THUJA OCCIDENTALIS	AM.ARB. GREEN GIANT	10	8"
PERENNIALS / GRASSES / GROUND COVER / BULBS				
VC	VACCINIUM CORYMBOSUM	HIGHBUSH BLUEBERRY	X	5 GAL.
VA	VACCINIUM ANGUSTIFOLIUM	LOWBUSH BLUEBERRY	X	1 GAL.
CS	CORNUS SERICEA	KELSEY DWARF REDTWIG	X	5 GAL.
IV	ILEX VERICILLATA	WINTERBERRY HOLLY	X	7 GAL.
NR	NEPETA RACEMOSA	CATMINT 'WALKERS LOW'	X	1 GAL.
MS	MISCANTHUS SINENSIS	'GRACILLIMUS' SILVERI	X	2 GAL.
PV	PANICUM VIRGATUM	SWITCH GRASS	X	1 GAL.
PA	PEROVSKIA ATRIPLICIFOLIA	RUSSIAN SAGE	X	1 GAL.
TURF LAWN (4" NEW LOAM)				
SYMBOLS LEGEND				
HARDSCAPE				
MYSTIC MOUNTAIN GRANITE STEPS				
VEHICULAR MASONRY UNIT PAVER				
PEDESTRIAN MASONRY UNIT PAVER				
CITY BRICK SIDEWALK PER CITY OF PORTLAND STANDARDS				
MASONRY RETAINING WALL				
PLANTS				
PROPOSED DECIDUOUS TREE				
EX. DECIDUOUS TREE				
PROPOSED SHRUB				
PERENNIAL PLANTING BED				
LAWN				

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33-37 MONTREAL STREET

MUNJOY HILL
PORTLAND, MAINE

PLANNING BOARD REVIEW

No: Revision / Submission Date:

SEPTEMBER 20, 2019

revisions:
date: AUGUST 07, 2019
scale: As Noted
drawn: XX
checked: XX

L1.0

LANDSCAPE PLAN

STATE OF MAINE

JAYSON R. HASKELL
No. 13002

PROFESSIONAL ENGINEER

8-12-19

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18053 JOB NUMBER:
1" = 10' SCALE:
8-12-2019 DATE:
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C2.0

CONSTRUCTION MANAGEMENT PLAN