

Historic Preservation Board

Wednesday, February 4, 2026 at 5:00 PM
Room 24 (Ground Level of City Hall) and
Zoom



MEMBERS

Brad Miller, Chair
Valerie Paquin-Gould, Vice Chair
Hilary Bassett
William DeSerras
Michael Hutchins
Kristina Sottery
Rob Whitten

The Historic Preservation Board invites the public to attend the meeting **in person or Zoom** pursuant to the Remote Meeting Policy adopted by the Historic Preservation 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 Historic Preservation Board meeting. Please note that the placement of each item on the agenda is subject to change. Please check the [Agenda Center](#) prior to the meeting for the item start time.

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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Please click the link below to join the webinar:

<https://portlandmaine-gov.zoom.us/j/88217096058>

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Join via audio:

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+1 309 205 3325 US

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+1 646 931 3860 US

+1 929 205 6099 US (New York)

+1 669 900 6833 US (San Jose)

+1 689 278 1000 US

+1 719 359 4580 US

+1 253 205 0468 US

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 360 209 5623 US

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Webinar ID: 882 1709 6058

International numbers available: <https://portlandmaine-gov.zoom.us/j/kcGckqtbiV>

PUBLIC COMMENT INFORMATION:

There will not be any public comments received for the item on the agenda this evening.

AGENDA:

1. ROLL CALL AND DECLARATION OF QUORUM

2. REPORT OF ATTENDANCE AT THE MEETING HELD ON DATE

i. HPBR-002814-2024 Appeal Update:

Bassett, DeSerres, Hutchins, Miller, Paquin-Gould, Sottery, and Whitten present.

Historic Resources Design Manual Public Review Draft Released on January 7, 2026:

Bassett, DeSerres, Hutchins, Miller, Paquin-Gould, Sottery, and Whitten present.

Historic Preservation Board 2025 Annual Recap:

Bassett, DeSerres, Hutchins, Miller, Paquin-Gould, Sottery, and Whitten present.

3. REPORTS OF DECISIONS AT THE MEETING HELD ON DATE

i. None.

4. PUBLIC HEARING

i. None.

5. UNFINISHED BUSINESS

i. Remand to issue findings of fact and conclusions of law for Certificate of Appropriateness for New Construction; 42 Atlantic Street; LB Atlantic LLC, Applicant. Plan Number: HPBR-002814-2024. NO PUBLIC COMMENT WILL BE TAKEN ON THIS ITEM.

**STAFF MEMORANDUM
HISTORIC PRESERVATION PROGRAM
PLANNING AND URBAN DEVELOPMENT**



TO: Chair Miller and Members of the Historic Preservation Board
FROM: Evan R. Schueckler, Historic Preservation Program Manager
DATE: January 30, 2026
RE: 42 Atlantic Street – REMAND – New Construction
PROJECT ID: HPBR-002814-2024
MEETING: February 4, 2026

Owner: Daniel Black, LB Atlantic LLC
Architect: Kyle Barker, Primary Projects

A sign announcing the Historic Preservation Board’s meeting on February 4, 2026 was posted at the property on January 28, 2026. 288 notices were sent to neighboring property owners within 500 feet of the subject property.

INTRODUCTION

On November 19, 2025, the Cumberland County Superior Court remanded application HPBR-002814-2024 to the Planning Board with instructions to remand the application to the Historic Preservation Board in order to issue findings of fact and conclusions of law adequate for judicial review.

On January 27, 2026, the Portland Planning Board voted 7-0 to remand the application to the Historic Preservation Board.

RECORD OF HISTORIC PRESERVATION BOARD REVIEW

March 6, 2024 – Historic Preservation Board Workshop:
<https://portlandme.portal.civicclerk.com/event/6705/files/agenda/14415> (Begins at 0:37)
April 17, 2024 – Historic Preservation Board Workshop:
<https://portlandme.portal.civicclerk.com/event/6718/files/agenda/14678> (Begins at 0:35)
May 29, 2024 – Historic Preservation Board Public Hearing:
<https://portlandme.portal.civicclerk.com/event/7227/files/agenda/14879> (Begins at 0:05)

SUBSEQUENT MEETINGS PERTAINING TO THE APPEAL

July 30, 2024 – Planning Board Public Hearing:

<https://portlandme.portal.civicclerk.com/event/7301/overview> (Begins at 3:28)

(Item was tabled to August 13 Meeting)

August 13, 2024 – Planning Board Public Hearing:

<https://portlandme.portal.civicclerk.com/event/6981/files/agenda/15102> (Begins at 0:06)

January 21, 2026 – Historic Preservation Board Communication:

<https://portlandme.portal.civicclerk.com/event/8444/files/agenda/17305> (Begins at 0:07)

January 27, 2026 – Planning Board review of Remand:

<https://portlandme.portal.civicclerk.com/event/8422/files/agenda/17334> (Begins at 1:01)

MOTION FOR CONSIDERATION

I move to adopt the attached findings of fact **[as written][as amended during the meeting on February 4, 2026]** to supplement the Board’s conditional approval of application HPBR-002814-2024 from May 29, 2024.

ATTACHMENTS

1. Court Order Re. Lewis v. City of Portland, NO. PORSC-AP-2024-00042
2. Corporation Counsel Communication from January 21, 2026
3. HPBR-002814-2024 Certificate of Appropriateness, June 6, 2024
4. HPBR-002814-2024 Approved Plans, June 6, 2024
5. HPBR-002814-2024 Draft Findings of Fact, January 30, 2026
6. Communication from Appellant’s Attorney, January 21, 2026
7. Communication from Applicant’s Attorney, January 21, 2026

STATE OF MAINE
CUMBERLAND, ss.

SUPERIOR COURT
CIVIL ACTION
NO. PORSC-AP-2024-00042

JOSEPH LEWIS,

Plaintiff

v.

CITY OF PORTLAND,

Defendant,

and

LB ATLANTIC, LLC,

Party in Interest

ORDER GRANTING MOTION TO
SUBSTITUTE AND REMANDING
TO HISTORIC PRESERVATION
BOARD

REC'D CUMBERLAND CLERKS OFFICE
NOV 21 '25 AM 9:56

Before the court is a fully briefed appeal pursuant to M.R. Civ. P. 80B and a motion to substitute brought by Maryellen Sullivan in her capacity as Personal Representative of the Estate of Joseph Lewis. After considering the parties' well-written briefs, the court grants the motion and remands this matter to the City of Portland Historic Preservation Board ("HPB") for issuance of findings of fact and conclusions of law adequate for judicial review.

BACKGROUND

This matter involves an appeal from the issuance of a certificate of appropriateness by the HPB to Party in Interest LB Atlantic, LLC for proposed new construction at 42 Atlantic Street, Portland, Maine. Following public hearing, the HPB voted on May 29, 2024, to approve LB Atlantic's application "on the basis of

submitted documentation, plans, and specifications; information provided in the staff memo; and findings by the [HPB] that the project meets Standards for Review of New Construction 17.83 A.1-8, B.1-5, C.1-4, & D.1-5.” R. 125. The certificate of appropriateness was issued on June 3, 2024. R. 179.

When this appeal was filed, Attorney Lewis and Attorney Sullivan resided at 33 Atlantic Street and owned the property as joint tenants. Sullivan Aff. ¶ 4. Attorney Lewis passed away on January 3, 2025. Attorney Sullivan filed the pending motion on April 2, 2025, seeking to substitute Attorney Sullivan as plaintiff in her capacity as Personal Representative as well as in her individual capacity.¹

DISCUSSION

A. Motion to Substitute

Maine Rule of Civil Procedure 25(a) provides that “[i]f a party dies and the claim is not thereby extinguished, the court may order substitution of the proper parties.” LB Atlantic and the City oppose the motion to substitute, arguing that the Estate and Attorney Sullivan lack standing to pursue the appeal because the Estate has no interest in 33 Atlantic Street, and Attorney Sullivan did not participate personally or through her attorney in the administrative process.

Generally, “[i]n order to have standing to file an 80B appeal in the Superior Court, the appellant must prove (1) that it was a party at the administrative proceeding, and (2) that it suffered a particularized injury as a result of the agency’s decision.” *Norris Fam. Assocs., LLC v. Town of Phippsburg*, 2005 ME 102, ¶ 11, 879

¹ The undersigned acknowledges the profound loss to Attorney Lewis’s family, friends, and colleagues, as well as the legal community.

A.2d 1007.

A party suffers a particularized injury when a judgment or order adversely and directly affects that party's property, pecuniary, or personal rights. *Nergaard v. Town of Westport Island*, 2009 ME 56, ¶ 18, 973 A.2d 735. A particularized injury is an injury that is distinct from the harm experienced by the public at large. *Id.* Because of an abutting landowner's proximity, an abutter need only demonstrate a "minor adverse consequence affecting the party's property, pecuniary or personal rights" to have standing. *Sproul v. Town of Boothbay Harbor*, 2000 ME 30, ¶ 7, 746 A.2d 368.

An appellant may have party status without having formally appeared as a party as long as it participated throughout the administrative proceeding. *Friends of Lincoln Lakes v. Town of Lincoln*, 2010 ME 78, ¶ 12, 2 A.3d 284. "Participation may be . . . in person or through an attorney." *Norris Fam. Assocs., LLC*, 2005 ME 102, ¶ 16, 879 A.2d 1007 (citation modified) (quoting *New Eng. Herald Dev. Grp. v. Town of Falmouth*, 521 A.2d 693, 696 (Me. 1987)).

The Estate clearly lacks standing because it has no interest in the property at 33 Atlantic Street. Attorney Sullivan argues that an estate may properly be substituted in an administrative appeal, citing *Estate of Pirozzolo v. Department of Marine Resources*, 2017 ME 147, ¶ 2 n.1, 167 A.3d 522. *Pirozzolo* is distinguishable from this matter, however, because the estate in *Pirozzolo* apparently had an interest in abutting property—there is no suggestion that title had passed to a third party during litigation. *See id.* ¶ 2 ("A group of property owners in the vicinity of the proposed lease site, including Jack Pirozzolo . . . , intervened in the Department

proceeding.” (footnote omitted)). As Attorney Sullivan acknowledges, Attorney Lewis’s joint tenancy interest was extinguished upon his passing; it did not pass to the Estate. *See Sullivan Aff.* ¶ 13. There can be no injury to the Estate.

On the other hand, Attorney Sullivan meets the particularized injury requirement as an individual because she owns property abutting the proposed project. *See Sullivan Aff.* ¶ 23 (“The development interferes with my quiet enjoyment of my home for several reasons, including inadequate provisions for access and parking”). The more substantial hurdle for Attorney Sullivan is demonstrating “party status.”

Attorney Sullivan admits that although Attorney Lewis appeared in proceedings before the City, Attorney Sullivan did not personally appear or participate in administrative proceedings. She avers that “Joe and I consulted on all of his submissions and other efforts in opposition to the proposed development of 42 Atlantic Street,” *Sullivan Aff.* ¶ 7, and that “our mutual interests as the owners of 33 Atlantic Street were represented by Joe” in the administrative proceedings, *Sullivan Aff.* ¶ 18.

Attorney Sullivan cites *Norris Family Associates, LLC v. Town of Phippsburg*, 2005 ME 102, 879 A.2d 1007, and *New England Herald Development Group v. Town of Falmouth*, 521 A.2d 693 (Me. 1987), to support her argument that she has party status. In *New England Herald Development Group*, the Law Court held that a partnership had party status when an individual partner and agent of the partnership was present and participated in every stage of the administrative

proceeding, even though the partnership was not a named plaintiff in the administrative proceeding. 521 A.2d at 694. In *Norris Family Associates, LLC*, the Law Court similarly held that one of several owners of an abutting property, Phillip Jermain, had party status when an attorney who appeared during administrative proceedings stated that he was representing the other owners, “the Norrises,” because it could be “fairly be inferred that [the attorney] appeared on behalf of all of the owners.” 2005 ME 102, ¶ 17, 879 A.2d 1007.

In this case, the court is convinced that Attorney Lewis and Attorney Sullivan intended for Attorney Lewis to represent both their interests before the HPB, as they were identical at that time. Although Attorney Lewis did not expressly state that he was participating in administrative hearings on his own behalf as well as on behalf of Attorney Sullivan, one could fairly infer that he represented the interests of both joint tenants of the property at 33 Atlantic Street. *See id.* In addition, the court finds that no party will be prejudiced if the court permits Attorney Sullivan to step into the shoes of Attorney Lewis for purposes of this appeal. Considering the unique circumstances of this case, the interests of justice would not be served by dismissing this appeal on a technicality. The court therefore grants the motion to substitute Attorney Sullivan in her personal capacity as Plaintiff and turns to the merits of the Rule 80B appeal.

B. Rule 80B Appeal

The Superior Court’s jurisdiction to hear Rule 80B appeals is a function of statute. 4 M.R.S. § 105(3)(A) (2025); *see* M.R. Civ. P. 80B(a); *Norris Fam. Assocs.*,

LLC, 2005 ME 102, ¶ 13, 879 A.2d 1007. The court reviews the operative decision of a municipality for errors of law, abuse of discretion, or findings not supported by substantial evidence in the record. *Grant v. Town of Belgrade*, 2019 ME 160, ¶ 8, 221 A.3d 112. As the Law Court recently explained,

[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.

Murray v. City of Portland, 2023 ME 57, ¶ 14, 301 A.3d 777 (alteration in original) (quoting *Chapel Rd. Assocs. v. Town of Wells*, 2001 ME 178, ¶ 10, 787 A.2d 137).

The court must remand this matter because the HPB did not make adequate findings, and this is not a case in which the facts are obvious from the record. *See id.* ¶ 16. As noted, the HPB voted to approve LB Atlantic's application "on the basis of submitted documentation, plans, and specifications; information provided in the staff memo; and findings by the [HPB] that the project meets Standards for Review of New Construction" R. 125. Although the HPB acknowledged that findings regarding multiple review standards were required under the City's Code, the record contains no statement of the HPB explaining its bases in fact for its conclusion that all standards were met, aside from a broad reference to the entire administrative record.

The City argues that, by referencing the staff memo in its vote, the HPB adopted the staff memo as its findings. The court does not construe the above vote as an adoption of the staff memo. Rather, the HPB stated only that it considered the

information in the staff memo among other information in reaching its decision. Because the record lacks clear findings of the HPB regarding the applicable standards under the Code, meaningful judicial review is impossible.

CONCLUSION

For the reasons stated above, the court grants the motion to substitute and remands this matter to the City.


The entry is:

1. The Motion to Substitute is GRANTED. Maryellen Sullivan, in her personal capacity, is hereby substituted for Josphe Lewis as Plaintiff; and
2. This matter is REMANDED to the City of Portland Planning Board to remand to the Historic Preservation Board for issuance of findings of fact and conclusions of law adequate for judicial review.

The clerk is directed to incorporate this order into the docket by reference. M.R.

Civ. P. 79(a).

Dated: 11/19/25



John O'Neil, Jr.
Justice, Maine Superior Court

Keith P. Richard, Archipelago Law, LLP, Portland, for Plaintiff
Amy R. McNally, City of Portland Office of Corporation Counsel, Portland, for Defendant
David M. Kallin & Oliver Mac Walton, Drummond Woodsum, Portland, for Party in Interest

Entered on the Docket: 12/9/25

Office of Corporation Counsel
Michael Goldman, *Corporation Counsel*
Amy R. McNally, *Associate Corporation Counsel*
Nicole M. Albert, *Associate Corporation Counsel*
Rachel L. Millette, *Associate Corporation Counsel*
Avery A. Novak, *Associate Corporation Counsel*
Mary C. Christie, *Associate Corporation Counsel*



MEMORANDUM

To: Chair Miller and Members of the Historic Preservation Board

From: Amy McNally, Associate Corporation Counsel

Date: January 16, 2026

Subject: Remand Order - 42 Atlantic Street - HPBR-002814-2024

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On May 29, 2024, this Board approved a Certificate of Appropriateness for new construction at 42 Atlantic Street. An abutter appealed that decision to the Planning Board pursuant to Section 2.2.11 (A) of the City's Land Use Code. The Planning Board affirmed, and the abutter thereafter appealed to Superior Court pursuant to Section 2.1.12 of the Land Use Code and Rule 80B of Maine Rules of Civil Procedure. On November 19, 2025, the Superior Court issued the attached order remanding the matter to this Board with instructions to issue "findings of fact and conclusions of law adequate for judicial review."

The City anticipates that this Board will meet on two occasions to address the Court's remand order. The purpose of the first meeting, currently scheduled on Wednesday, January 21, 2026, will be to review the order and discuss next steps. That meeting will be a good opportunity for any board members to ask questions about the process and the Board's responsibilities, but the Board will not engage in substantive deliberations or take any vote on the matter at that meeting.

The second meeting is currently scheduled on February 4, 2026. At that meeting, we expect Board members to review the Board's prior decision, the relevant standards and the evidence in the record and develop written findings which support the Board's 2024 decision. Please note that the Court's Order does not require the Board

to revisit the merits of its original decision, but instead directs the Board to expand on how and why it reached its decision to approve the Certificate of Appropriateness.

In order to participate in the hearing on February 4th, it will be important for each of the available Board members to review the entire record that was before the Board when it made its decision in 2024, including the relevant portions of the video of the workshops and public hearings which are all available on the City's website. Recordings, applicant materials, staff memos, and public comment from the relevant reviews can be found at the below links:

- March 6, 2024, Workshop:
<https://portlandme.portal.civicclerk.com/event/6705/files/agenda/14415>
- April 17, 2024, Workshop:
<https://portlandme.portal.civicclerk.com/event/6718/files/agenda/14678>
- May 29, 2024, Public Hearing:
<https://portlandme.portal.civicclerk.com/event/7227/files/agenda/14879>

I hope this is a helpful introduction to the process that lies ahead. I look forward to working with you at the upcoming meetings and answering any questions you may have.

Attachments:

1. Court Order Re. *Lewis v. City of Portland*, NO. PORSC-AP-2024-00042

June 3, 2024

Owner: Dan Black & Carl Lakari
LB Atlanitc, LLC
P.O. Box 10452
Portland, ME 04104

Applicant: Kyle Barker
Primary Projects
2330 Horton Street
North Dighton, MA 02764

Re: 42 Atlantic Street – New Construction

HPBR-002814-2024

Dan Black, Carl Lakari, and Kyle Barker,

The Historic Preservation Board has approved your application for a Certificate of Appropriateness for new construction at 42 Atlantic Street. Approval was based on the application materials submitted for the public hearing held on May 29, 2024, and stamped for approval on June 3, 2024, except as modified by the following conditions:

- Staff shall review details and/or mockups for installation of cobblestones along Gilbert Lane to ensure that the appearance after utility construction is complete is consistent with the historic appearance.

All improvements shall be carried out as shown on the materials submitted for the hearing on May 29, 2024, and stamped for approval on June 3, 2024, except as to comply with the conditions above. Changes to the approved plans or specifications, and any additional work that may be undertaken must be reviewed and approved by the Historic Preservation program prior to construction, alteration, or demolition. If, during the course of completing the approved work, conditions are encountered which prevent completing the approved work, or which require additional or alternative work, you must apply for and receive a Certificate of Appropriateness or Non-Applicability PRIOR to undertaking additional or alternative work.

This Certificate is granted upon condition that the work authorized herein is commenced within twelve (12) months after the original date of issuance. If the work authorized by this Certificate is not commenced within twelve (12) months after the original date of issuance or if such work is suspended in significant part for a period of one year after the time the work is commenced, such Certificate shall expire and be of no further effect; provided that, for cause, one or more extensions of time for periods not exceeding ninety (90) days each may be allowed in writing by the Department.

Sincerely,



Evan R. Schueckler
Historic Preservation Program Manager



Dan Black
PO Box 10452
Portland, ME 04104
(207) 831-2824
danblack@lbdevpartners.com

March 25, 2024 (*Revised April 1, 2024 & May 6, 2024*)

Re: Historic Preservation Application, Project Description V3 (*new changes in Italics*)

Dear City of Portland Planning & Urban Development Department,

The 42 Atlantic Street, Portland, ME 04101 parcel is a 0.23 acre (10,018 square feet) site on Munjoy Hill. It currently has a two-story structure on it that used to house the local American Legion chapter. It is a non-contributing property within the Munjoy Hill historic district.

The proposed structure will be four stories and 23,857 square feet (with an additional 2,981 square feet of basement space). After receiving feedback at the first Public Workshop on March 6th, we've revised the design to simplify the massing. The building is now a rectangle in plan.

Accessed via ramp or stair, the primary entrance is recessed 3 feet into the central bay of the Atlantic Street facade. To address feedback from the Board & the public we have:

- Added a projecting canopy at the entrance
- Rotated the entry stair to be perpendicular to the façade
- Relocated the basement egress stair to minimize the presence of its door and allow for two windows at the ground floor unit on the South
- Added a projecting cornice
- Added projecting vertical trim to zone the façade into two distinct materials: one that references the tone of the brick at 55 Atlantic and one that references the wood clapboard at 48 Atlantic
- Simplified the design of the wall enclosing the entry stairs & ramp

After our second Public Workshop on April 17th, we've revised the design to address feedback from the Board & the public. We have:

- *Increased the visual weight of the cornice*
- *Reduced the number of changes in the cladding (there are fewer "bands" now)*
- *Changed all cladding to clapboard*
- *Detailed the metal seaming pattern at the canopy*
- *Developed the planting plan*
- *Visualized the project with weathered siding (we are proposing a weathering finish to reduce the change over time)*

Gilbert Lane will have two additional doors: one for emergency egress, and one for bike storage access. We have added an exterior light & a vision panel to the door at the bike storage, per feedback.

The building will have a total of 30 units, consisting of 14 studio apartments, 8 two-bedroom units, and 8 three-bedroom units. All will be deed restricted as affordable. The building will also have a communal laundry, tenant storage, and a common room that meets the specification of MaineHousing's construction standards. The building will have an elevator and two stairs. Roof access will be limited to maintenance.

Recent changes to the city's land use code, in response to LD2003, allow for 2.5 times the base zoning density for affordable housing projects. This area is in the R-6 zone which allows multi-family use by right with a density of one unit for every 750 square feet of lot size—at 10,018 square feet, 42 Atlantic is permitted to have 13 units on site. The density boost allows density of up to 32 units on the site.

The attached packet provides the requested material. Please let us know if you have any additional questions.

Sincerely,

Daniel Black



42 Atlantic Street Housing Historic Preservation Public Hearing Submitted: May 6, 2024

Owner
LB Atlantic, LLC

Civil Engineer
Acorn Engineering, Inc

MEP-FP Engineer
BLW Engineers, Inc

Architect
Primary Projects, PLLC

Structural Engineer
Base Design Group, Inc

Lighting Designer
Pieszak Lighting Design, LLC





Fort Allen Park

Portland House

Munjoy's

The Hill Arts

The Front Room American \$\$\$

Jing Yan Tavern

Double Great Coffee

Donatelli's Custom Tailor Shop

Belleville

Portland Observatory temporarily closed

Yoga On Munjoy Hill

Curate Maine



PLANNING & URBAN DEVELOPMENT
HISTORIC PRESERVATION

CERTIFICATE OF APPROPRIATENESS

Project No:
 HPBR-002814-2024
 Public Hearing Date:
 5/29/2024
 Approved Drawings Date:
 6/3/2024
 Preservation Staff: Evan Schuckler

We heard the following feedback at the first Public Workshop on March 6th. Consider:

- Simplifying the building form at Atlantic St / Gilbert Lane
- Adding a cornice
- Adding horizontal or vertical banding
- Using two or more cladding materials
- Adding detail at the windows
- Adding detail at the entry
- Adding a projecting canopy at the entry
- Adding one or two windows at the southern unit on the first floor, facing Atlantic Street
- Reorienting the direction of the stairs at Atlantic Street
- Adding glazing at or near the door of the bike room
- Fleshing out the landscape approach

We heard the following feedback at the second Public Workshop on April 17th. Consider:

- Increasing the visual weight of the cornice
- Reducing the number of changes in the cladding
- Changing all cladding to clapboard
- Adding more detail to the concrete wall at the entry
- Detailing the metal seaming pattern at the canopy
- Developing the planting plan
- Visualizing the project with weathered siding
- Showing abutting neighbors on analysis slide



Context Photos of Existing Non-Contributing Property



Looking up Atlantic



Looking down Atlantic



From Gilbert



From Rear Parking
Page 19

	PLANNING & URBAN DEVELOPMENT
	HISTORIC PRESERVATION
CERTIFICATE OF APPROPRIATENESS	
Project No: <i>HPBR-002814-2024</i>	
Public Hearing Date: <i>5/29/2024</i>	
Approved Drawings Date: <i>6/3/2024</i>	
Preservation Staff: Evan Schueckler	



Common Attributes:

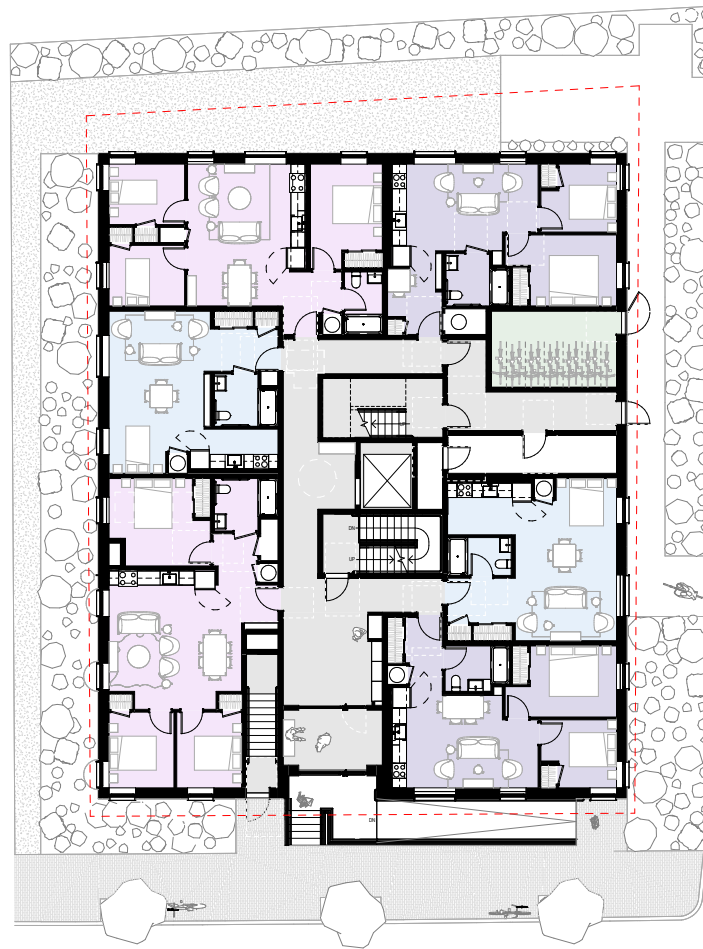
1. Street-Facing Porches
2. Vertically Oriented, Stacked Windows
3. Painted Wood Siding
4. Vertical Proportion (Building)

	PLANNING & URBAN DEVELOPMENT HISTORIC PRESERVATION
CERTIFICATE OF APPROPRIATENESS	
Project No: <i>HPBR-002814-2024</i>	
Public Hearing Date: <i>5/29/2024</i>	
Approved Drawings Date: <i>6/3/2024</i>	
Preservation Staff: Evan Schueckler	

Current Proposal Floor 1



- Studio
- 2-Bed Unit
- 3-Bed Unit
- Circulation
- Resident Amenity

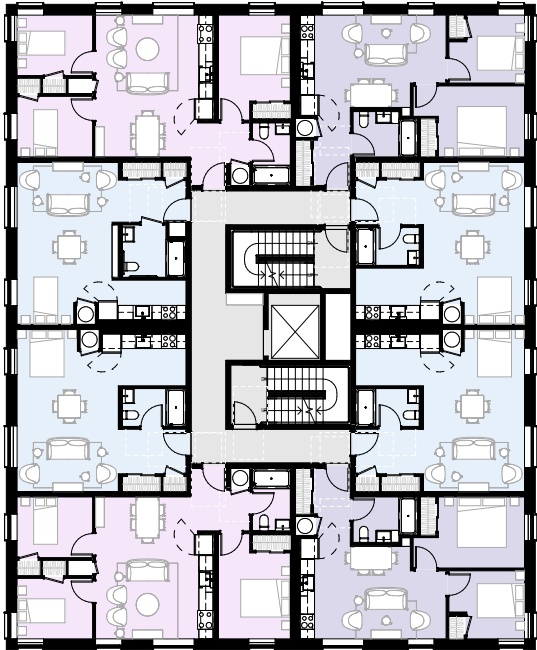


Gilbert Lane

	PLANNING & URBAN DEVELOPMENT
	HISTORIC PRESERVATION
CERTIFICATE OF APPROPRIATENESS	
Project No: HPBR-002814-2024	
Public Hearing Date: 5/29/2024	
Approved Drawings Date: 6/3/2024	
Preservation Staff: Evan Schueckler	



- Studio
- 2-Bed Unit
- 3-Bed Unit
- Circulation
- Resident Amenity

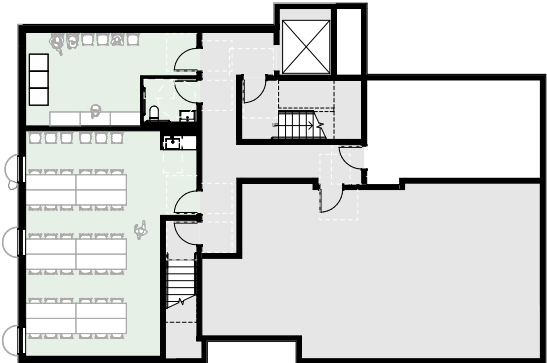


Gilbert Lane

	PLANNING & URBAN DEVELOPMENT
	HISTORIC PRESERVATION
CERTIFICATE OF APPROPRIATENESS	
Project No: <i>HPBR-002814-2024</i>	
Public Hearing Date: <i>5/29/2024</i>	
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Preservation Staff: Evan Schueckler	



- Studio
- 2-Bed Unit
- 3-Bed Unit
- Circulation
- Resident Amenity



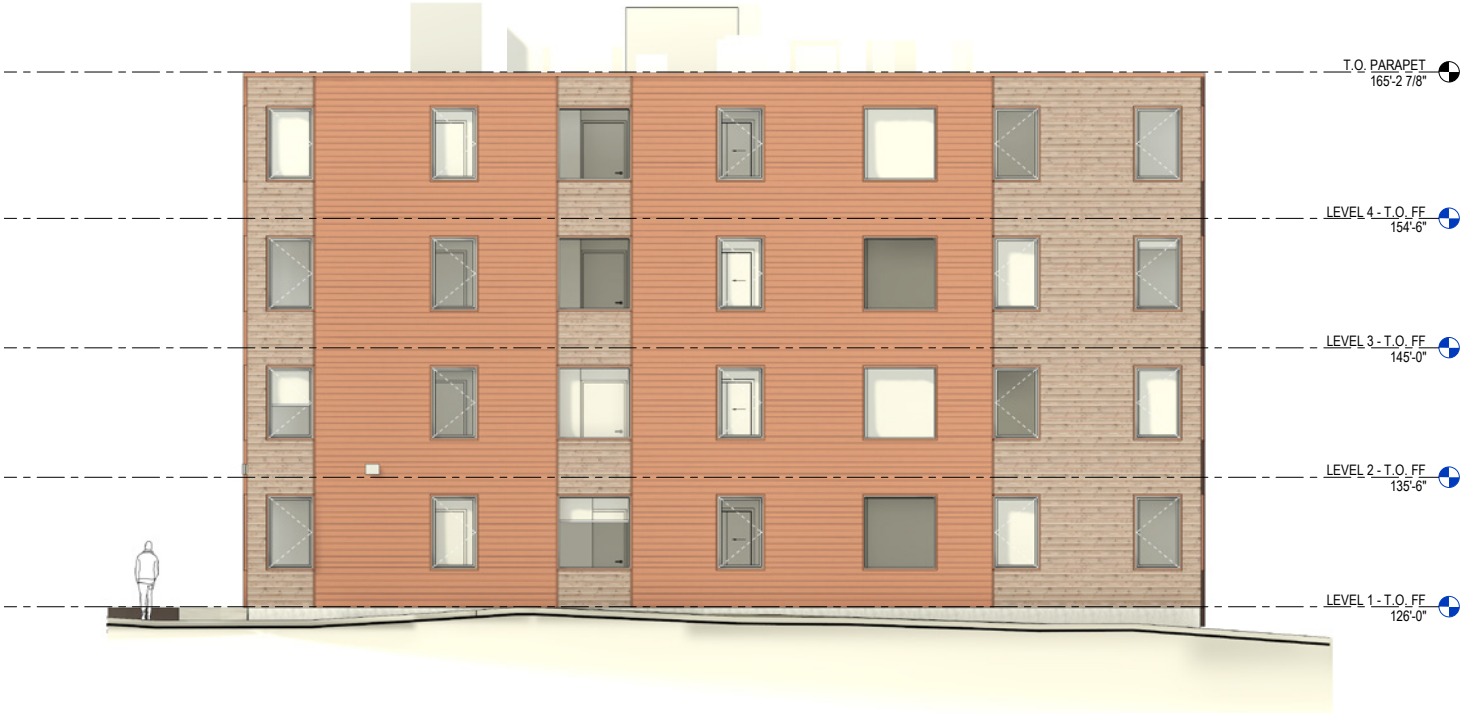
	PLANNING & URBAN DEVELOPMENT HISTORIC PRESERVATION
	CERTIFICATE OF APPROPRIATENESS Project No: <i>HPBR-002814-2024</i> Public Hearing Date: <i>5/29/2024</i> Approved Drawings Date: <i>6/3/2024</i> Preservation Staff: Evan Schueckler



	PLANNING & URBAN DEVELOPMENT HISTORIC PRESERVATION
	CERTIFICATE OF APPROPRIATENESS Project No: <i>HPBR-002814-2024</i> Public Hearing Date: <i>5/29/2024</i> Approved Drawings Date: <i>6/3/2024</i> Preservation Staff: Evan Schueckler



PLANNING & URBAN DEVELOPMENT
HISTORIC PRESERVATION
 CERTIFICATE OF APPROPRIATENESS
 Project No: *HPBR-002814-2024*
 Public Hearing Date: *5/29/2024*
 Approved Drawings Date: *6/3/2024*
 Preservation Staff: Evan Schueckler



	PLANNING & URBAN DEVELOPMENT HISTORIC PRESERVATION
	CERTIFICATE OF APPROPRIATENESS Project No: <i>HPBR-002814-2024</i> Public Hearing Date: <i>5/29/2024</i> Approved Drawings Date: <i>6/3/2024</i> Preservation Staff: Evan Schueckler



	PLANNING & URBAN DEVELOPMENT HISTORIC PRESERVATION
	CERTIFICATE OF APPROPRIATENESS
Project No: HPBR-00214-2024	
Public Hearing Date: 5/29/2024	
Approved Drawings Date: 6/3/2024	
Preservation Staff: Evan Schueckler	



 PLANNING & URBAN DEVELOPMENT
HISTORIC PRESERVATION

CERTIFICATE OF APPROPRIATENESS
Project No: HPBR-002314-2024
Public Hearing Date: 05/27/2024
Adopted Drawings Date: 05/2024
Preservation Staff: Eyal Schuecker



	<p>PLANNING & URBAN DEVELOPMENT HISTORIC PRESERVATION</p>
<p>CERTIFICATE OF APPROPRIATENESS</p>	
<p>Project No:</p>	
<p><i>HPBR-002814-2024</i></p>	
<p>Public Hearing Date:</p>	
<p><i>5/29/2024</i></p>	
<p>Approved Drawings Date:</p>	
<p><i>6/3/2024</i></p>	
<p>Preservation Staff: Evan Schueckler</p>	



PLANNING & URBAN DEVELOPMENT
HISTORIC
PRESERVATION

CERTIFICATE OF APPROPRIATENESS

Project No:
HPBR-202314-2024
Public Hearing Date:
5/29/2024
Approved Drawings Date:
1/25/2024
Preservation Staff: Evan Schueckler



PLANNING & URBAN DEVELOPMENT
HISTORIC PRESERVATION
CERTIFICATE OF APPROPRIATENESS
Project No: **HPBR-002814-2024**
Public Hearing Date: **5/29/2024**
Approved Drawings Date: **6/5/2024**
Preservation Staff: **Evan Schueckler**



42



PLANNING & URBAN DEVELOPMENT
**HISTORIC
PRESERVATION**

CERTIFICATE OF APPROPRIATENESS

Project No: **HPBR-002814-2024**

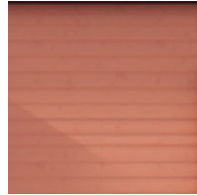
Public Hearing Date:

5/29/2024

Approved Drawings Date:

6/3/2024

Preservation Staff: **Evan Schueckler**



Painted Clapboard
Primary Cladding

- Clapboard
- 4.5" Exposed Face
- Quartersawn Pine
- Rusty Neutral Paint



Natural Clapboard
Accent Cladding

- Clapboard
- 4.5" Exposed Face
- Quartersawn Pine
- Clear Finish



Metal Fascia
Awning Surround

- Seaming as Shown
- Galvalume
- Warm Gray Powdercoat (to match window & hardware finish)

	PLANNING & URBAN DEVELOPMENT HISTORIC PRESERVATION
CERTIFICATE OF APPROPRIATENESS	
Project No: <i>HPBR-002814-2024</i>	
Public Hearing Date: <i>5/29/2024</i>	
Approved Drawings Date: <i>6/3/2024</i>	
Preservation Staff: Evan Schueckler	



Current Proposal:

Finish

Charcoal Gray uPVC
(Lighter than shown in images)

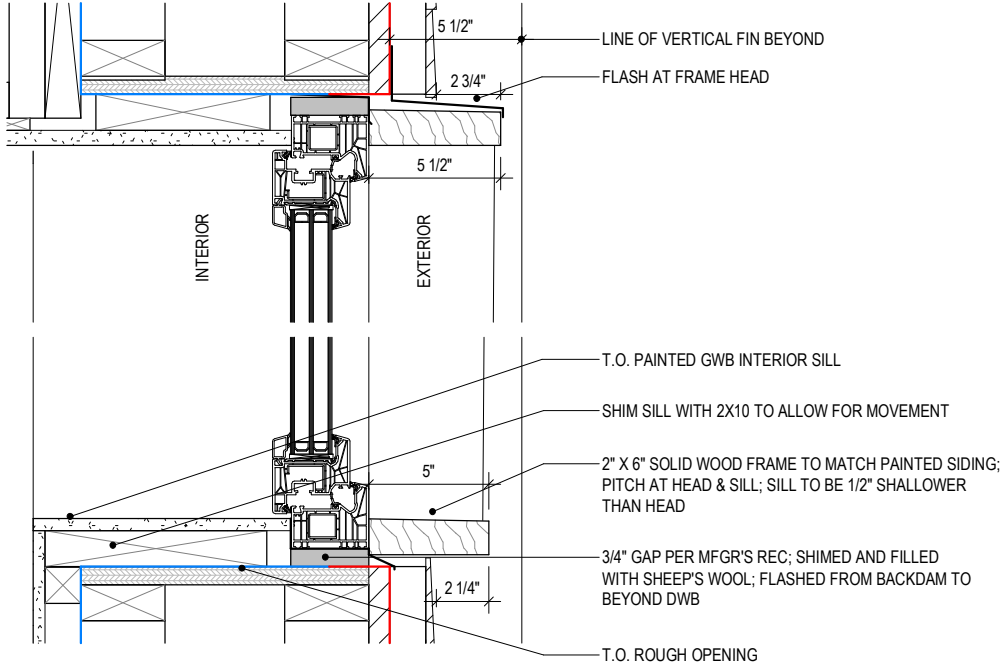
Operation

Windows: Picture & Tilt-Turn
Doors: Swinging

Features

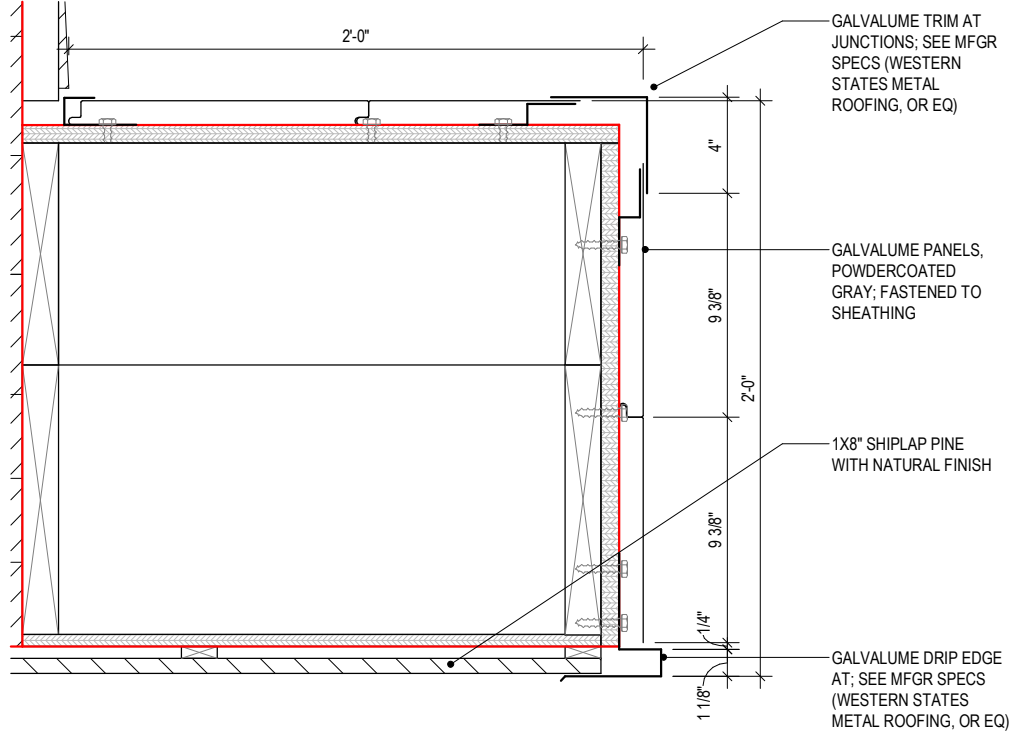
Triple-Glazed

	PLANNING & URBAN DEVELOPMENT HISTORIC PRESERVATION
	CERTIFICATE OF APPROPRIATENESS Project No: <i>HPBR-002814-2024</i> Public Hearing Date: <i>5/29/2024</i> Approved Drawings Date: <i>6/3/2024</i> Preservation Staff: Evan Schueckler



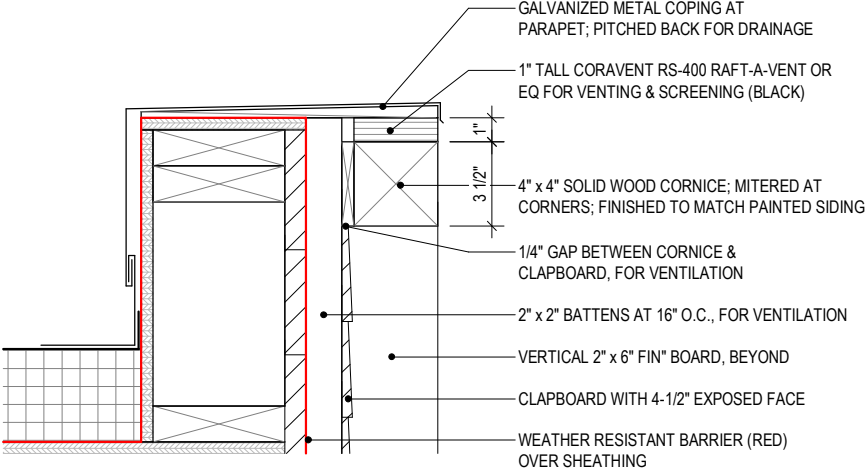
1 SECTION DETAIL - WINDOW HEAD & SILL
 1 1/2" = 1'-0"

	PLANNING & URBAN DEVELOPMENT HISTORIC PRESERVATION
	CERTIFICATE OF APPROPRIATENESS Project No: <i>HPBR-002814-2024</i> Public Hearing Date: <i>5/29/2024</i> Approved Drawings Date: <i>6/3/2024</i> Preservation Staff: Evan Schueckler



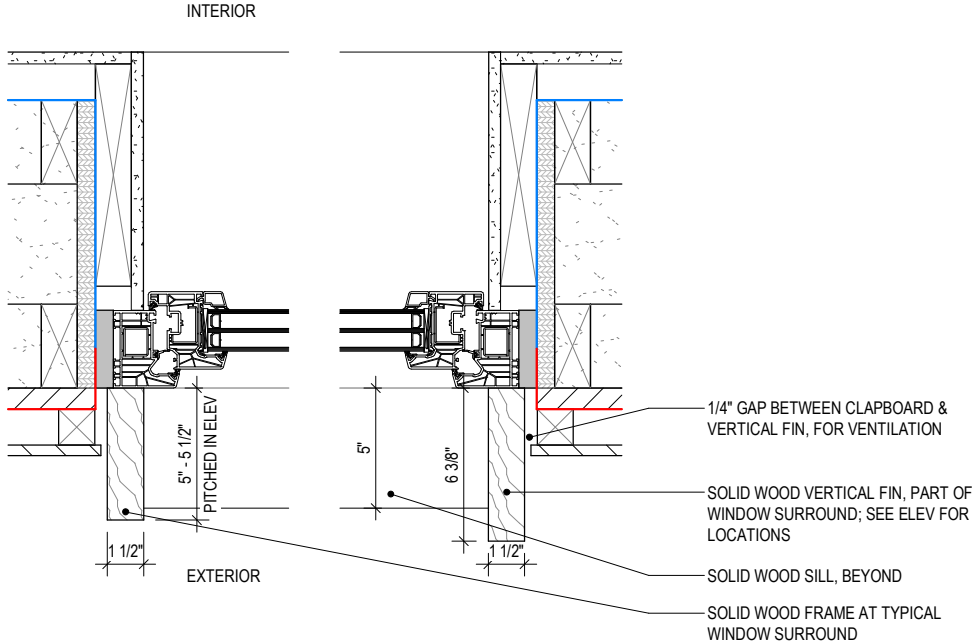
2 SECTION DETAIL - ENTRY CANOPY
 1 1/2" = 1'-0"

	PLANNING & URBAN DEVELOPMENT HISTORIC PRESERVATION
	CERTIFICATE OF APPROPRIATENESS Project No: HPBR-002814-2024 Public Hearing Date: 5/29/2024 Approved Drawings Date: 6/3/2024 Preservation Staff: Evan Schueckler



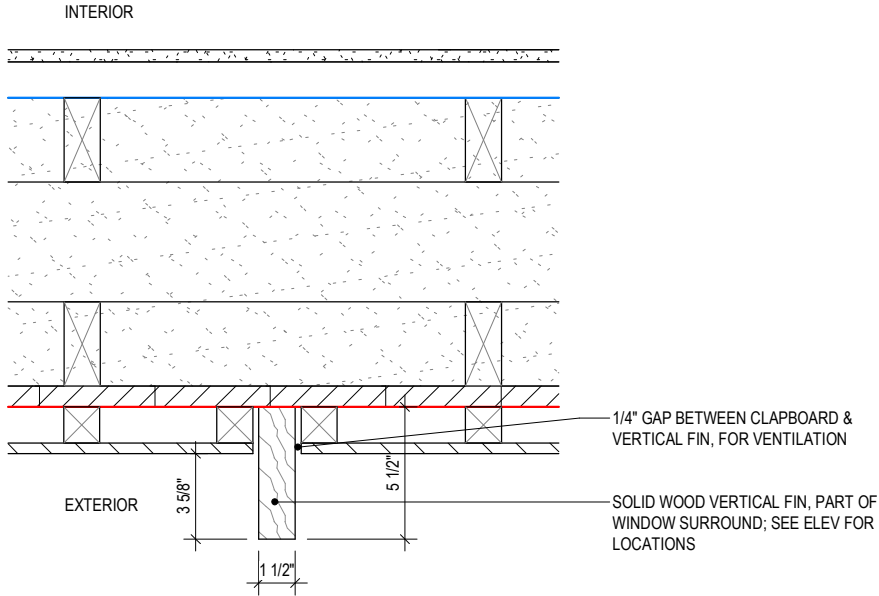
3 SECTION DETAIL - CORNICE
 1 1/2" = 1'-0"

	PLANNING & URBAN DEVELOPMENT HISTORIC PRESERVATION
	CERTIFICATE OF APPROPRIATENESS Project No: <i>HPBR-002814-2024</i> Public Hearing Date: <i>5/29/2024</i> Approved Drawings Date: <i>6/3/2024</i> Preservation Staff: Evan Schueckler



4 PLAN DETAIL - WINDOW
 1 1/2" = 1'-0"

	PLANNING & URBAN DEVELOPMENT HISTORIC PRESERVATION
	CERTIFICATE OF APPROPRIATENESS Project No: <i>HPBR-002814-2024</i> Public Hearing Date: <i>5/29/2024</i> Approved Drawings Date: <i>6/3/2024</i> Preservation Staff: Evan Schueckler



5 PLAN DETAIL - VERTICAL FIN
 1 1/2" = 1'-0"

	PLANNING & URBAN DEVELOPMENT
	HISTORIC PRESERVATION
CERTIFICATE OF APPROPRIATENESS	
Project No: <i>HPBR-002814-2024</i>	
Public Hearing Date: <i>5/29/2024</i>	
Approved Drawings Date: <i>6/3/2024</i>	
Preservation Staff: Evan Schueckler	

CITY OF PORTLAND
HISTORIC PRESERVATION BOARD
NOTICE OF DECISION



PROPERTY OWNER: Daniel Black, LB Atlantic LLC (“Applicant”)
PROPERTY LOCATION: 42 Atlantic Street (“Property”)
PROJECT ID: HPBR-002814-2024
HISTORIC DESIGNATION(S): Munjoy Hill Historic District

FINDINGS OF FACT & CONCLUSIONS OF LAW

1. On February 8, 2024, the Applicant applied for a Certificate of Appropriateness for new construction at the Property.
2. Pursuant to section 17.7 of the City of Portland Land Use Code in effect at the time of the application (“Land Use Code”), the application required review and approval by the Historic Preservation Board (“Board”) against the standards for review of subsection 17.8.3 (“Standards”).
3. Subsection 17.8.1 of the Land Use Code incorporates by reference the Historic Resources Design Manual, which provides additional guidance to this Board. Specifically, when discerning the “compatibility” of the proposed project, the Design Manual provides the following guidance:

“Broadly stated, compatibility refers to the recognition of patterns and characteristics which exist in a given setting, and a responsiveness in new design or renovation which respects these established patterns and characteristics. Although similarity of design is one way or achieving compatibility in a historic context, a creative and distinctly contemporary design response is both permitted and encouraged. The modern designer is allowed the freedom of individual expression - within parameters established by the new building’s context.” (Page 151)

And

“A new building in a historic district or adjacent to an individual landmark need not follow the pattern set by its neighbors in each and every category of compatibility. It should, however, relate to a number of them. Each infill project will have a unique context of surrounding structures and sites with some strong, unifying characteristics and some that are more subtle and less obvious. There will usually

be one or more definite and easily discernable traits, such as a uniform scale and rhythm of window openings, consistent roof shapes, or a uniform cornice line, that should serve as a basis for a design solution.” (Page 152)

4. The Board held two public workshops on March 6, 2024 and April 17, 2024.
5. On May 29, 2024 the Board held a Public Hearing and voted 5 to 1 (Whitten opposed, and Miller recused) to conditionally approve the application for new construction at the property under HPBR-002814-2024.
6. During the workshops and public hearing, the Board heard testimony from the applicant and their architect Kyle Barker of Primary Projects, received memoranda from Historic Preservation staff (“Staff”), and accepted public comment on the project.
7. On June 30, 2024, Joe Lewis (“Appellant”), who provided public comment in opposition to the project during the Board’s review, submitted an appeal of the Historic Preservation Board’s approval to the Planning Board, pursuant to Section 2.2.10 (A) of the Land Use Code.
8. On August 13, 2024, the Portland Planning Board reviewed the appeal during a Public Hearing and voted 5 to 1 (Silk opposed, and Chann Absent) to deny the appeal.
9. The Appellant appealed to the Cumberland County Superior Court pursuant to Section 2.1.12 of the Land Use Code and Rule 80B of Maine’s Rules of Civil Procedure.
10. On November 19, 2025, the Superior Court remanded the application to the Planning Board to remand to this Board with instructions to issue findings of fact and conclusions of law adequate for judicial review.
11. On January 27, 2026, the Planning Board voted 7 to 0 to remand the application to the Board.
12. On February 4, 2026, the Board held a public meeting to prepare findings of fact and conclusions of law consistent with the court order.
13. Based on the written materials, oral testimony, staff memoranda, and public comment received during the workshops held on March 6, 2024 and April 17, 2024, and the public hearing held on May 29, 2024, the Board finds as follows:

Standard A. Scale and Form - Subsection 17.8.3 (A)	
<u>1. Height</u>	
The proposed height shall be visually compatible with surrounding structures when viewed from any street or open space and in compliance with any design guidelines.	
Standard Met?	Board Findings
Yes	The applicant provided a context analysis that demonstrates that Atlantic Street is lined with a variety of structures ranging from one-and-a-half- to three-and-a-half-stories in height. Additionally, the Board notes that staff provided a memo including a summary of the historic context that indicates that three-and-a-half- and four-story buildings are present in the broader context of the Munjoy Hill Historic District. The Board further finds that the proposed four-story height is not significantly taller than is typical of the context, fits within the various height profiles of surrounding structures, and is therefore visually compatible with surrounding structures. Thus, the Board finds this standard has been met.
<u>2. Width</u>	
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.	
Standard Met?	Board Findings
Yes	The applicant provided site plans and elevation drawings that show the width of the proposed structure and the widths of its constituent design elements. The Board acknowledges that the overall width of the proposed structure is greater than some of the neighboring structures as demonstrated in the applicant's context analysis; however, the Board finds that the design of the façade uses changes in materials and trim details to visually break-down the width of the building to be more consistent with the widths typically found among surrounding structures along Atlantic Street. The Board further finds that the components of the building's façades are comparable to the widths of nearby structures, which make the wider facade compatible with the surrounding structures. Therefore, the Board finds this condition has been met.

<p><u>3. Proportion of principal facades</u> 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.</p>	
Standard Met?	Board Findings
Yes	<p>The applicant provided elevation drawings showing the proportions of the proposed principal elevations along Atlantic Street and Gilbert Lane. The Board acknowledges that the overall façades are proposed to have horizontal proportions, with their widths being greater than their heights; however, the Board finds that changes in material and the use of applied details interrupt the horizontality of those elevations and produce sections of façade that are vertically proportioned. Additionally, the Board further finds that the applicant’s context analysis shows that vertical proportions predominate along Atlantic Street, with some more horizontally proportioned buildings interspersed. The Board therefore finds that the vertically-proportioned components of the building’s primary facades make it visually compatible with surrounding structures. The Board finds this condition has been met.</p>
<p><u>4. Roof shapes</u> The roof shape of a structure shall be visually compatible with the structures to which it is visually related.</p>	
Standard Met?	Board Findings
Yes	<p>The applicant provided a context analysis that demonstrates that Atlantic Street is lined with a variety of roof forms, with flat roofs being common. Additionally, the Board notes that staff provided a memo including a summary of the historic context that indicates that flat roofs are typical of the Munjoy Hill Historic District. The Board therefore finds that the proposed structure, which will have a flat roof, is visually compatible with surrounding structures. The Board finds this condition has been met.</p>

<p>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.</p>	
Standard Met?	Board Findings
Yes	The applicant provided a context analysis that demonstrates the typical dimensional relationship between overall structure and their constituent windows, doors, porches, and open spaces along Atlantic Street, namely, that windows typically fill the majority of the height of each floor level and that porches typically only occupy a small portion of building widths. Additionally, the Board finds that the applicant provided elevation drawings showing the dimensional relationship between the overall structure and its constituent windows, doors, porches, and open spaces. The Board further finds that the proposed structure would have windows that similarly fill the majority of the height of each floor, and that the primary entrance porch occupies only a small portion of the building width. Therefore, the Board finds that the scale of the proposed building, in relation to its constituent elements, is visually compatible with surrounding structures. The Board finds this standard has been met.
<p>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 of the B-3 zone.</p>	
Standard Met?	Board Findings
Not Applicable	The Board finds that this standard is not applicable to the proposed scope of work because the Property is not located within the Congress Street Historic District.
<p>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.</p>	
Standard Met?	Board Findings
Not Applicable	The Board finds that this standard is not applicable to the proposed scope of work because the Property is not located within the India Street Historic District.

8. Applicability to the Portland Company Historic District	
For new construction within the Portland Company Historic District, the height requirements of the B-6 zone as shown on the B6 Building Height Overlay & Building Envelopes map shall be controlling and the historic preservation board shall not impose conditions more restrictive than the building height requirements of the B-6 zone.	
Standard Met?	Board Findings
Not Applicable	The Board finds that this standard is not applicable to the proposed scope of work because the Property is not located within the Portland Company Historic District.

Standard B. Composition of Principle Facades - Subsection 17.8.3 (B)	
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.	
Standard Met?	Board Findings
Yes	The applicant provided a context analysis that demonstrates that the properties along Atlantic Street predominantly feature windows with heights greater than their widths, though a number of buildings also feature windows or groupings of windows with heights and widths that are close to equal. Additionally, the Board finds that the applicant provided elevation drawings which show that the building will feature a mixture of vertically proportioned and more squarely proportioned windows. Therefore, the Board finds that the proposed window proportions are visually compatible with surrounding structures and that this standard for review has been met.
2. Rhythm of solids to voids in facades	
The relationship of solids to voids in the façade of a structure shall be visually compatible with structures, public ways, and places to which it is visually related.	
Standard Met?	Board Findings
Yes	The applicant provided a context analysis that demonstrates that the properties along Atlantic Street generally feature a higher ratio of solid wall to void and that voids, such as windows and doors, are typically stacked and arranged regularly across building facades. Additionally, the Board finds that the applicant provided elevation drawings which show that the proposed building facades are primarily solid with windows and doors stacked and arranged regularly. Therefore, the Board finds that the proposed rhythm of solids and voids is visually compatible with surrounding structures. Thus, the Board finds this standard has been met.

<p><u>3. Rhythm of entrance porch and other projections</u> 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.</p>	
Standard Met?	Board Findings
Yes	The applicant provided a context analysis that demonstrates that many properties along Atlantic Street generally feature a single entry with a narrow porch and steps projecting towards the street. Additionally, the Board finds that the applicant provided plans and elevation drawings showing that the proposed structure would feature a single central entry with a projecting canopy and raised landing at the top of street-facing stairs, and an accessible ramp. Therefore, the Board finds that the proposed rhythm of entrances is visually compatible with surrounding structures and meets this standard. Thus, the Board finds this standard has been met.
<p><u>4. Relationship of materials</u> 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.</p>	
Standard Met?	Board Findings
Yes	The applicant provided a context analysis that demonstrates that the majority of properties along Atlantic Street are clad in horizontal clapboard siding, historically wood. Additionally, the Board finds that the applicant provided elevation drawings and material details showing that the structure will be clad in wood horizontal clapboard siding with a similar reveal to those found on nearby historic buildings (4.5”). Therefore, the Board finds that the proposed primary cladding material is visually compatible with surrounding structures and meets this standard.
<p><u>5. Signs</u> Any new sign, and any change in the appearance of an existing sign located on a landmark, within a 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 Historic Resources Design Manual.</p>	
Standard Met?	Board Findings
Not Applicable	The Board finds that this standard is not applicable to the proposed scope of work because no signs are proposed as part of this project.

Standard C. Relationship to Street Subsection 17.8.3 (C)	
<p><u>1. Walls of continuity</u> 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.</p>	
Standard Met?	Board Findings
Yes	<p>The applicant provided a context analysis that demonstrates that the majority of properties along Atlantic Street are located close to the street, generally with facades aligned, and with spaces between each structure in the form of narrow side yards or driveways creating a consistent but diffuse street wall. Additionally, the Board finds that the proposed structure will be situated close to the street, while maintaining a narrow side yard to the south and a setback from Gilbert Lane. Therefore, the Board finds that the proposed structure will maintain the diffuse street wall along Atlantic Street and remain visually compatible with surrounding structures, meeting this standard.</p>
<p><u>2. Rhythm of spacing and structures on streets</u> 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</p>	
Standard Met?	Board Findings
Yes	<p>The applicant provided a context analysis that demonstrates that the majority of properties along Atlantic Street maintain spaces between each structure in the form of narrow side yards or driveways, creating a repeating pattern of building and space, with the width of the structures and spaces varying. Additionally, the Board finds that the applicant has provided site plans showing that the structure will maintain a narrow side yard to the south, and a setback from Gilbert Lane. The Board acknowledges that the overall width of the proposed structure is greater than some of the neighboring structures as demonstrated in the applicant's context analysis; however, the Board finds that the design of the façade uses changes in materials and trim details to visually break-down the width of the building to be more consistent with the widths typically found along Atlantic Street. Therefore, the Board finds that the proposed structure will maintain the rhythm of structures and spacing along Atlantic Street and is visually compatible with surrounding structures; thus meeting this standard.</p>

<p><u>3. Directional expression of principal elevation</u> 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.</p>	
Standard Met?	Board Findings
Yes	<p>The applicant provided a context analysis that demonstrates that the majority of properties along Atlantic Street feature vertically proportioned primary facades which are countered by horizontal siding, and prominent horizontal cornices on flat-roofed structures. Additionally, the Board finds that the applicant has provided elevation drawings that show the proposed structure will have a horizontal massing that is broken up by changes in material to create vertical masses. Further, the Board finds that the proposed structure will be clad in horizontal siding and be capped by a simple contemporary projecting cornice. Therefore, the Board finds that the structure will have a mixed directional expression of the primary facades that is visually compatible with surrounding structures and thus meets this standard.</p>
<p><u>4. Streetscape, pedestrian improvements</u> Streetscape and pedestrian improvements and any change in the appearance thereof located adjacent to or on a landmark, within a historic district, or within a 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 Historic Resources Design Manual.</p>	
Standard Met?	Board Findings
Yes	<p>The applicant provided a context analysis that demonstrates that Atlantic Street is generally lined with brick sidewalks, which include small tree wells. Additionally, the Board finds that the applicant has provided a site plan which shows that the project will include improved brick sidewalks and tree wells. The Board further finds that the project will include trenching and other utility work along Gilbert Lane, which is surfaced with historic granite cobblestones. The Board voted to include a condition of approval requiring that Gilbert Lane be restored to its pre-construction condition to preserve its historic appearance. Therefore, the Board finds that the brick sidewalks, tree wells, and restored cobblestone surface of Gilbert Lane are compatible with the surrounding context and satisfy this standard.</p>

Standard D. Other Standards Subsection 17.8.3 (D)	
1. Compatible use	
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.	
Standard Met?	Board Findings
Yes	The applicant provided plans showing that the proposed structure will have a residential use which is consistent with the typical uses in the Munjoy Hill Historic District. Additionally, the Board finds that the proposed development is located on a parcel classified as noncontributing to the Munjoy Hill Historic District and that the property therefore contains no structures, objects, or sites that could have character-defining features that could be affected by the project. Further, the Board finds that the only direct impacts will be to Gilbert Lane and that excavation is limited to what will be necessary to provide utilities to the site. The Board therefore finds these impacts to be minimal. The Board voted to include a condition of approval that Gilbert Lane be restored to an appearance consistent with its pre-construction condition to preserve its historic appearance, further minimizing the impacts. Therefore, the Board finds that the proposed use is compatible, and only minimal alterations to Gilbert Lane are necessary, and thus the project meets this standard.
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.	
Standard Met?	Board Findings
Yes	The proposed development is located on a noncontributing parcel within the Munjoy Hill Historic District and contains no structures, objects, or sites that could have distinguishing original qualities or character that could be affected by the project. The Board also finds that the project will involve excavation along Gilbert Lane, temporarily interrupting the historic cobblestone surface. The Board voted to include a condition of approval requiring restoration of Gilbert Lane to its pre-construction condition. The Board further finds that this condition would ensure that the historic appearance of Gilbert Lane would be restored, avoiding significant alterations to its appearance. Therefore, the Board finds that this project will not destroy any distinguishing original character of the environment, and thus meets this standard.

<u>3. Archeological resources</u> Every reasonable effort shall be made to protect and preserve significant archaeological resources affected by or adjacent to any project. If resources must be disturbed, mitigation measures shall be undertaken.	
Standard Met?	Board Findings
Not Applicable	The Board finds that this standard is not applicable to the proposed scope of work because there are no significant archaeological resources identified which could be affected by this project.
<u>4. Contemporary design</u> Contemporary design for additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant cultural, historical, architectural, or archaeological 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.	
Standard Met?	Board Findings
Yes	The Board finds that the proposed development is located on a parcel classified as noncontributing to the Munjoy Hill Historic District and will not require alterations to any significant historic materials. Additionally, the Board finds that the proposed structure has a clearly contemporary character through its simplified massing and minimal exterior details. The Board further finds that the compatibility of the design is detailed in its findings under subsections Subsection 17.8.3 (A-C) above. Therefore, the Board finds that this standard is met in the use of a contemporary design for the proposed building.
<u>5. Additions</u> 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.	
Standard Met?	Board Findings
Not Applicable	The Board finds that this standard was not applicable to the proposed scope of work as the project does not include any additions to any existing structures or objects.

DECISION

By a vote of ___ to ___, the Board adopts the above findings of fact to supplement its conditional approval of application HPBR-002814-2024 from May 29, 2024.

Valerie Paquin-Gould, Vice-Chair

Date



Keith P. Richard
Principal
krichard@archipelago.com

1 Dana Street
Portland, Maine 04101
(207) 558-0102

January 21, 2026

VIA EMAIL

City of Portland
Historic Preservation Board
hp@portlandmaine.gov

RE: Public hearing after remand in *Lewis v. City of Portland et al.*, AP-2024-42

Dear Chair and Members of the Board:

I represent Maryellen Sullivan of 33 Atlantic Avenue.¹ I am writing to request that the Board vote to re-open the public hearing on this application to follow the Superior Court's directive on remand.

The Superior Court remanded because the Board did not issue findings sufficient to permit meaningful judicial review and because the facts are not obvious from the existing record. (Order at 6). The Court also rejected the City's contention that the Board's vote implicitly adopted the staff memo as findings. (Order at 6). Under these circumstances, the most reliable and defensible way for the Board to comply with the remand is to re-open the public hearing in a limited manner focused on the specific standards requiring factual findings. Doing so will ensure the Board's additional findings are grounded in a clarified evidentiary record, responsive to the remand issues, and not vulnerable as post hoc rationalization—thereby producing a decision that is fully reviewable and consistent with due process and the purposes of administrative findings identified by the court.

The Board should vote to re-open the public hearing to address the deficiencies in the prior decision. Such a step would ensure a transparent and procedurally fair process, consistent with the Superior Court's order and the law. Thank you for your time and consideration and I look forward to addressing you at future meetings.

¹ Maryellen is the spouse of Joe Lewis, who brought the prior appeal regarding this Board's certificate of appropriateness issued after a vote at the May 29, 2024 meeting. Maryellen was substituted as the appellant by order of the Superior Court for the reasons stated in the Court's remand order.

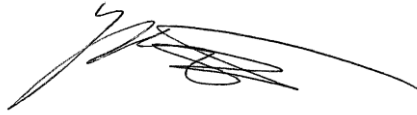
ARCHIPELAGO

LEWIS/HPB

January 21, 2026

Page 2 of 2

Sincerely,

A handwritten signature in black ink, appearing to read "Keith P. Richard". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Keith P. Richard

- c. Client
Amy McNally, Esq.
Mac Walton, Esq.



Evan Schueckler <evans@portlandmaine.gov>

Remand and request to reopen public hearing

Amy McNally <amcnally@portlandmaine.gov>
To: Evan Schueckler <evans@portlandmaine.gov>

Wed, Jan 21, 2026 at 11:04 AM

FYI.

Amy R. McNally
Associate Corporation Counsel
City of Portland
389 Congress Street
Portland, Maine 04101
207-874-8974
amcnally@PortlandMaine.gov
pronouns: she/her



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.

----- Forwarded message -----

From: **Oliver (Mac) Walton** <OWalton@dwmlaw.com>
Date: Wed, Jan 21, 2026 at 11:02 AM
Subject: RE: Remand and request to reopen public hearing
To: Keith Richard <krichard@archipelagona.com>
Cc: Amy McNally <amcnally@portlandmaine.gov>, Colin Hull <chull@archipelagona.com>

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Hi Amy and Keith,

I'm sure this won't come as a surprise, but I object to this last-minute request being taken up at tonight's meeting. For one thing, this application is not even back before the HPB at this point, as the Planning Board has not yet remanded it to the HPB. Additionally, the scope of Keith's request is profoundly unclear. Keith, you write that you are requesting to "re-open the public hearing in a limited manner focused on the specific standards requiring factual findings." However, as you know, all of the substantive standards require factual findings. That is not a "limited" reopening of the record – that's open season.

Finally, the Board should not be receiving public comment on this matter at tonight's meeting, and as a practical matter, the timing of this written request – just hours before the meeting – puts me and my client at a disadvantage. Due to the extremely limited nature of tonight's discussion, which had been previously been described to both of us as a simple "heads up" to the HPB, I had not planned to attend tonight's meeting and won't be able to.

I would propose that this letter be put in the HPB packet for the 2/4 meeting but object to it being presented for tonight's meeting.

Thanks,

Mac

From: Keith Richard <krichard@archipelagona.com>

Sent: Wednesday, January 21, 2026 10:11 AM

To: hp@portlandmaine.gov

Cc: Amy McNally <amcnally@portlandmaine.gov>; Oliver (Mac) Walton <OWalton@dwmlaw.com>; Colin Hull <chull@archipelagona.com>; Maryellen Sullivan <maryellen@portcitylegal.com>

Subject: Remand and request to reopen public hearing

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