

CITY OF PORTLAND, MAINE

PLANNING BOARD



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

AGENDA PORTLAND PLANNING BOARD MEETING

The Planning Board will hold a remote meeting on Wednesday, January 26, 2021, 5:30 p.m. This meeting will take place using Zoom.

Virtual meetings are allowed using emergency legislation approved by LD 2167; 1 M.R.S. §403-A, that authorizes cities and towns to conduct meetings online.

Allow your computer to install the free Zoom app to get the best meeting experience.

For public comment, you will need to use the "raise your hand" feature. To raise your hand via the telephone, please hit *9. You will be un-muted by the host when it is time for public comment.

ZOOM MEETING INSTRUCTIONS

You are invited to a Zoom webinar.

When: Jan 26, 2021 05:30 PM Eastern Time (US and Canada)

Topic: Planning Board Workshop 01/26/2021

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/84304514118>

Or iPhone one-tap :

US: +13017158592,,84304514118# or +13126266799,,84304514118#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 301 715 8592 or +1 312 626 6799 or +1 929 205 6099 or +1 253 215 8782 or +1 346 248 7799
or +1 669 900 6833

Webinar ID: 843 0451 4118

International numbers available: <https://us02web.zoom.us/j/84304514118>

For more information on how to use Zoom, please go to:

<https://www.portlandmaine.gov/remotePUD>

Public comments will be taken for each item on the agenda and written comments should be submitted to planningboard@portlandmaine.gov

PUBLIC HEARING - 5:30 PM

1. ROLL CALL AND DECLARATION OF QUORUM

2. COMMUNICATION AND REPORTS

3. REPORT OF ATTENDANCE AT THE MEETING HELD ON JANUARY 12, 2021 Attendance will be added as soon as it is received.

4. REPORTS OF DECISIONS AT THE MEETING HELD ON JANUARY 12, 2021

- i. **Decisions will be added as soon as they are received.**

5. NEW BUSINESS

- i. Map Amendment to Downtown Height Overlay Map and Zoning Text Amendment; 200 and 201 Federal Street; Redfern Downtown, LLC., Applicant. (estimated time 5:30 – 7:00 p.m.) The Planning Board will hold a public hearing to consider a proposal by Redfern Downtown LLC, owner of 201 Federal Street W, to modify the Downtown Height Overlay Map, along with an associated zoning text amendment. Parcels located within the proposed map amendment area include 200 and 201 Federal Street W. The map and text amendment is subject to review and recommendation from the Planning Board to the City Council.
- ii. Text Amendment to B-1 Neighborhood Business Zone; 163 Washington Avenue; Newsclapes, Inc., Applicant. (estimated time 7:00 – 8:00 p.m.) The Planning Board will hold a public hearing to consider a text amendment to permitted uses within the B-1 Neighborhood Business Zone as shown on Table 6-C Permitted and Conditional Uses in Mixed-Use Zones in the City of Portland Land Use Code. The text amendment, if approved, would amend the code to allow brewery and distillery uses less than 3,500 square feet in size as permitted uses in the B-1 Neighborhood Business zone under the low impact industrial use category. The sponsor of this text amendment is Newsclapes, Inc., located at 163 Washington Avenue. The text amendment is subject to review and recommendation from the Planning Board to the City Council.
- iii. Amendment to Conditional Zone Agreement; 32 Thomas Street; 32 Thomas Street, LLC., Applicant. (estimated time 8:00 p.m.) The Planning Board will hold a public hearing to consider a proposal to amend and restate Conditional Zone Agreement (CZA) 57 that is currently in place for the Williston West Church property at 32 Thomas Street. CZA 57 will be amended to allow for additional residential density, to require off-street parking as per Article 19 of the Land Use Code, to amend setback requirements, and to limit the permitted uses at the property. The CZA amendment is sponsored by 32 Thomas Street, LLC.

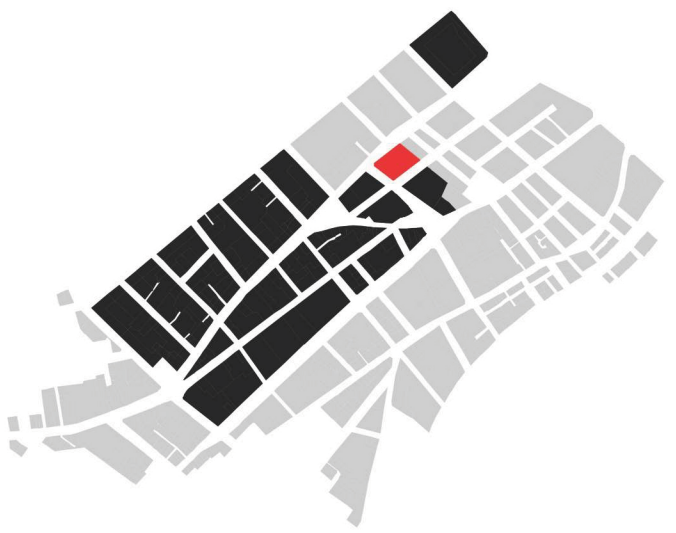
Downtown Height Overlay

Portland, Maine

As amended xxxx xx, xxxx

Areas Eligible for Architectural Cap***

Eligible areas are represented in black below



Height Overlay Zone Legend

Maximum Height (ft.)

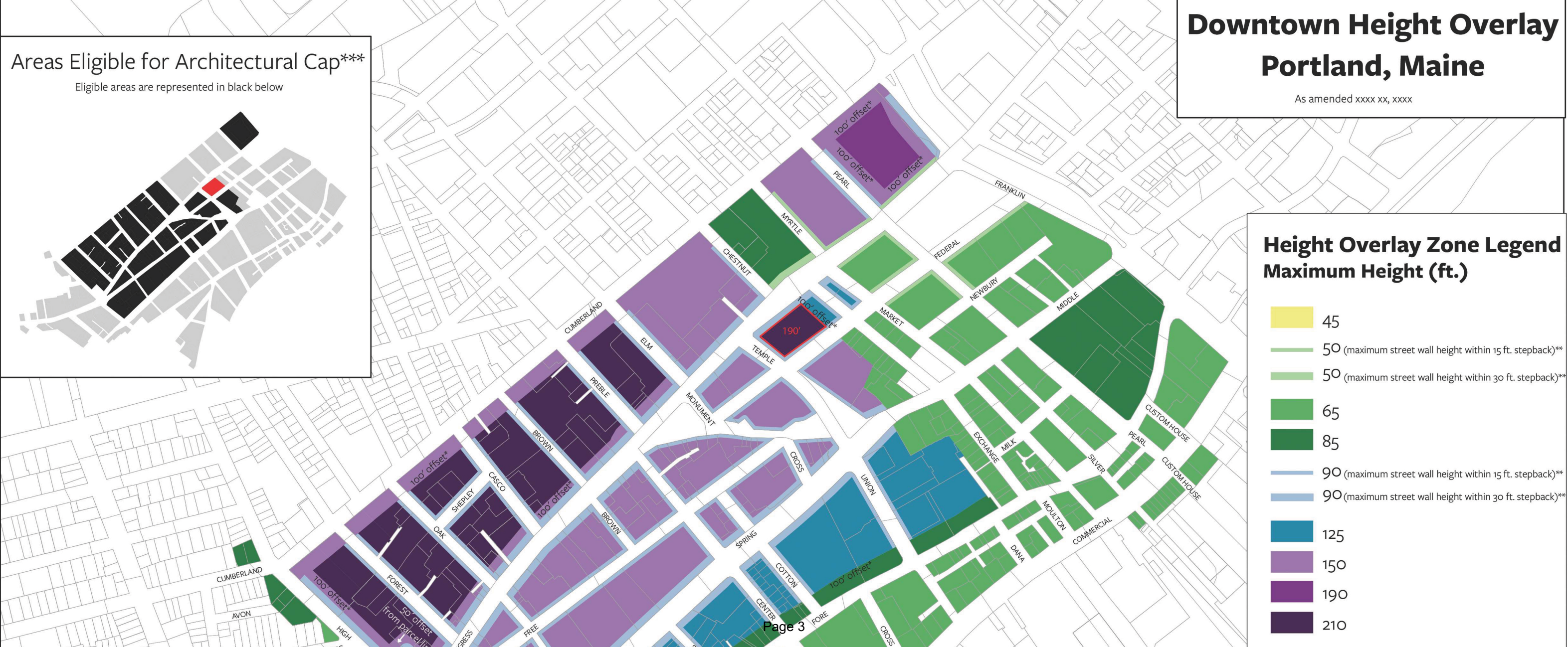
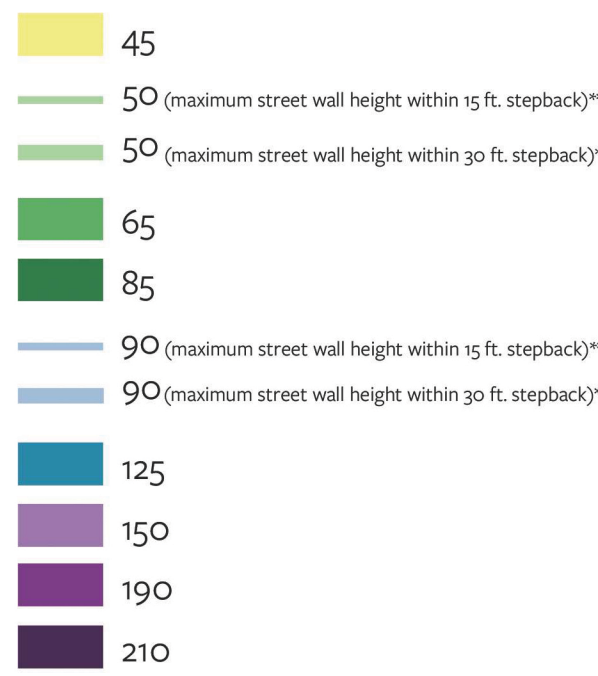


TABLE 7-E (CONT.): MIXED-USE ZONE DIMENSIONAL STANDARDS

	B-1/B-1b	B-2/B-2b/B-2c	B-3/B-3b/B-3c	B-4	B-5/B-5b	B-6	B-7
Structure height (max.)	On-Peninsula: 45 ft., except 50 ft. along Congress Street if commercial first floor and residential above ²	45 ft., except: 50 ft. if first floor is in commercial use and 65 ft. in B-2 and B-2c on lots >5 ac. if required side and rear setbacks are increased by 1 foot for each foot of height over 45 ft.	See Downtown Height Overlay Map	65 ft.	65 ft., except in B-5b along W. Commercial St. south of Danforth St. ⁵ and 120 ft. on Thompson's Point ⁶	65 ft. or as otherwise governed by the B-6 Building Height Overlay Map	See Bayside Height Overlay Map
Lot coverage (max.)			25% of lot area for portions of structures exceeding 125 ft. in height ⁴				
Impervious surface ratio (max.)	90%	Residential: None Other uses in B-2 and B-2c: 80% Other uses in B-2b: 90%		80%			

¹ Uses in structures which existed prior to the date of enactment of the B-1/B-1b zones are exempt.

² The commercial first floor uses shall utilize at least 75 % of the first-floor frontage along Congress Street and shall have an average depth of at least 20 ft.

³ A building will be determined to have an active street frontage upon meeting the following guidelines to the greatest extent practicable: the primary building façade shall be within 10 ft. feet of the front lot line; there shall be no parking on the lot within 35 ft. of the front lot 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 ft. for residential or commercial uses; and all primary ground floor entries to multi-family buildings must orient to street, not to interior blocks or parking lots.

⁴ Except that no floor area shall be required to be less than 10,500 SF, gross.

⁵ For parcels of land in the B-5b zone located along W. Commercial St. south of Danforth St.: West of the projection of the centerline of the Fletcher St. right-of-way, the maximum building height shall be 45 ft.; and, east of the projection of the centerline of the Fletcher St. right-of-way and west of the projection of the centerline of the Emery St. right-of-way, the maximum building height shall be 55 ft. 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 W. Commercial St. Furthermore, notwithstanding Subsection 7.5.1, no rooftop structure located between the projections of the centerlines of Emery St. and Fletcher St., as described above, shall exceed a height of 62 ft as measured from average grade of the building at its foundation.

⁶ Applies only to parcels subject to an approved master development plan. 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 accessed from Hobart and Osgood Streets are not included.

⁷ Does not apply to parking garages and public transportation facilities. Notwithstanding required setbacks, 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 area east of the Fore Street Connector 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, be 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.

⁸ 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 ft. Buildings in the area east of the Fore Street Connector shall not be subject to this requirement.

⁹ Does not apply to additions to or relocations of designated historic structures or structures determined to be eligible by the Historic Preservation Board.

Memorandum

Department of Planning and Development

Historic Preservation Program



To: Caitlin Cameron, Urban Designer
From: Deb Andrews, Historic Preservation Program Manager
Date: January 12, 2021
Re: 200 Federal Street - Historic Preservation staff comments re: request for height map amendment

I understand that the Planning Board has requested input from this office on a requested amendment to the Downtown Height Overlay Map that would allow a building height of 190' for the property at 200 Federal Street. As I understand it, Planning Board members are interested to know if there are concerns about a building of 190 feet on a site immediately adjacent to historic Exchange Street, which is characterized by considerably lower-scale structures.

Currently, the Downtown Height Overlay Map allows for a 150' tall building on this site, with the allowance of an additional 40' architectural "cap" of unoccupied space. Given that most of the historic structures that line Exchange Street are about four stories (six to seven stories on the uppermost block between Congress and Federal), a building of 150 feet would already represent a significant jump in scale from that of Exchange Street. The question becomes, then, whether an additional 40 feet would significantly increase any negative impact of this height disparity.

As viewed from Exchange Street, especially from the corner of Exchange and Federal, the proposed new building will be viewed against buildings of considerable height. Two Monument Square and One City Center, while not as tall as the proposed structure, are 11 and 14 stories respectively. With these buildings as a backdrop, the proposed 190' structure will not appear unduly anomalous in terms of building height and overall scale. Additionally, the provision of a 100' setback from Exchange Street and the 90' maximum streetwall height will help mitigate any impacts.

It is also worth noting that the 200 Federal Street property is located within the boundaries of the Congress Street Historic District. When the Congress Street Historic District was created, the historic preservation ordinance was amended to ensure that the heights allowed per the underlying B3 zone would rule and not be superseded by the otherwise-applicable height standards of the historic preservation ordinance.

Sec. 17.8.3. A.6. In the Congress Street Historic District, for new construction within the B-3 zone, the Historic Preservation Board shall not impose conditions more restrictive than the dimensional requirements of the B-3 zone.

As staff recalls, this amendment was adopted to ensure that the more generous heights established for new construction in the B3 zone would be honored notwithstanding the area's designation as a historic district. (It also recognized that the Congress Street is noteworthy for its significant variety of building heights and scale.) This policy decision may be instructive as the Planning Board considers the request for additional height on this site.

Staff does note that little information has been provided by the applicant to assess the visual impact of a 190' tall building in this context, particularly as viewed from Exchange Street. The only perspective view provided, to staff's knowledge, is the view from Temple Street looking north toward the First Parish Church. That view would suggest that the proposed 190' building is similar to that of the buildings across the street. Staff questions the accuracy of this view.

P.O. Box 8816
Portland, ME 04104
Office: 207-776-9715
www.redfernproperties.com

Planning and Urban Development Department
Planning Division
City of Portland, Maine
389 Congress Street, 4th Floor
Portland, ME 04101

July 24, 2020

Subject: Zoning Map & Text Amendment Application – 200 Federal Street

To Whom It May Concern,

Redfern Downtown, LLC, dba Redfern Properties is pleased to submit the accompanying package of submission materials for the proposed Zone Map and Text amendment related to the property located at 200 Federal Street.

The project is an 18-story residential building with ground level retail will include roughly 264 rental apartments, including 27 onsite Workforce Housing Units as required by the City's Inclusionary Zoning Ordinance.

We seek modest zoning relief through a Map Amendment and a Text Amendment. Currently, the Downtown Height Overlay Map allows for a 150' tall main structure with a 40' 'appurtenance' for an overall height limit of 190'. However, per current Zoning, the 'appurtenance' cannot be used exclusively for housing, a concept based on a more than 30 year-old study. The building we propose is 190' to the roof beam, and thus the change we seek to the Downtown Height Overlay Map is subtle.

The Text Amendment refers to calculation of floor area and is similarly minor. Chapter 14 limits floor area above 125' in height to 10,000sf. Depending on the method of calculation, the floor plate for our proposed building is between 9,905sf and 10,490sf, and our text amendment attempts to clarify to ensure our compliance.

As you will see in the attached analysis, the proposal is entirely consistent with the City's comprehensive plan. First and foremost, the project provides badly needed rental housing in precisely the right place, within walking distance to downtown jobs and amenities. The aforementioned 27 units that would be deed-restricted as Workforce Housing would be the most meaningful contribution of Workforce Housing since the City's Inclusionary Zoning Ordinance was adopted in 2015.

This submission package is intended to meet the City's Submission Requirements for Map and Text Amendment applications. The following documents and drawings are to be uploaded onto the City's electronic submission site per the procedure outlined in the application:

Documents:

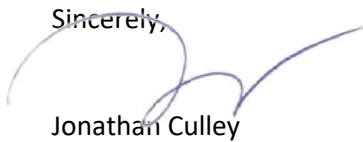
- A. Project Description
- B. Consistency with Comprehensive Plan
- C. Proposed Text Amendment
- D. Right, Title, and Interest (Land Option Agreement)

Drawings:

- E. Vicinity Map
- F. Proposed Map Amendment
- G. Civil Site Plan
- H. Architectural Elevations

Redfern Properties, LLC and the design team look forward to your review of this project. If you have any questions regarding these materials or the completeness of the application materials, please contact us within the next five (5) days.

Sincerely,

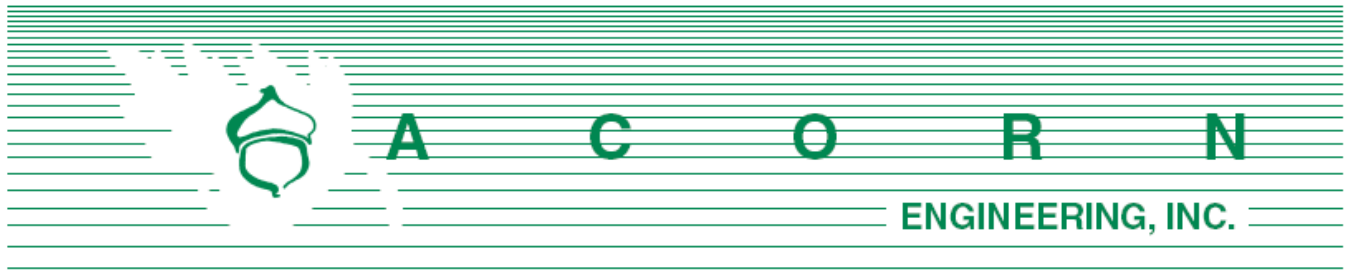


Jonathan Culley
Redfern Properties LLC
Redfern Downtown LLC

Cc (Cover Letter Only): Christine Grimando
Mayor Kate Snyder
Councilor Belinda Ray

Attachment A

Project Description



Planning and Urban Development Department
Planning Division
City of Portland, Maine
389 Congress Street, 4th Floor
Portland, ME 04101

August 20, 2020

Subject: Project Description – 200 Federal Street

To Whom It May Concern,

The proposed project site is comprised of a single parcel, Chart 32, Block G, Lot 1, encompassed by Congress, Temple, Federal, and Exchange Streets. The property is located in the B3 Downtown Business Zoning District, Downtown Entertainment Overlay Zone, Downtown Height Overlay and Congress Street Historic District. The site is currently comprised of two existing mixed-use buildings, which will remain, surface parking and underutilized patio area.

The project proposes to redevelop the surface parking and patio area into an 18-story, predominately residential building with ground level retail and enclosed parking. The 18-story building will include 118 studio units, 146 one-bedroom units, 2 two-bedroom units, with associated common areas, office, and fitness area. On the ground floor, the project proposes a 2000+ sf retail space.

The property has been surveyed by Owen Haskell, Inc., geotechnical engineering explorations performed by Summit Geoengineering Services and traffic studies by Traffic Solutions & Cushman Transportation Consulting, which includes a robust Transportation Demand Management Plan.

Sincerely,

William H. Savage, P.E.
Principal
Acorn Engineering, Inc.

Attachment B

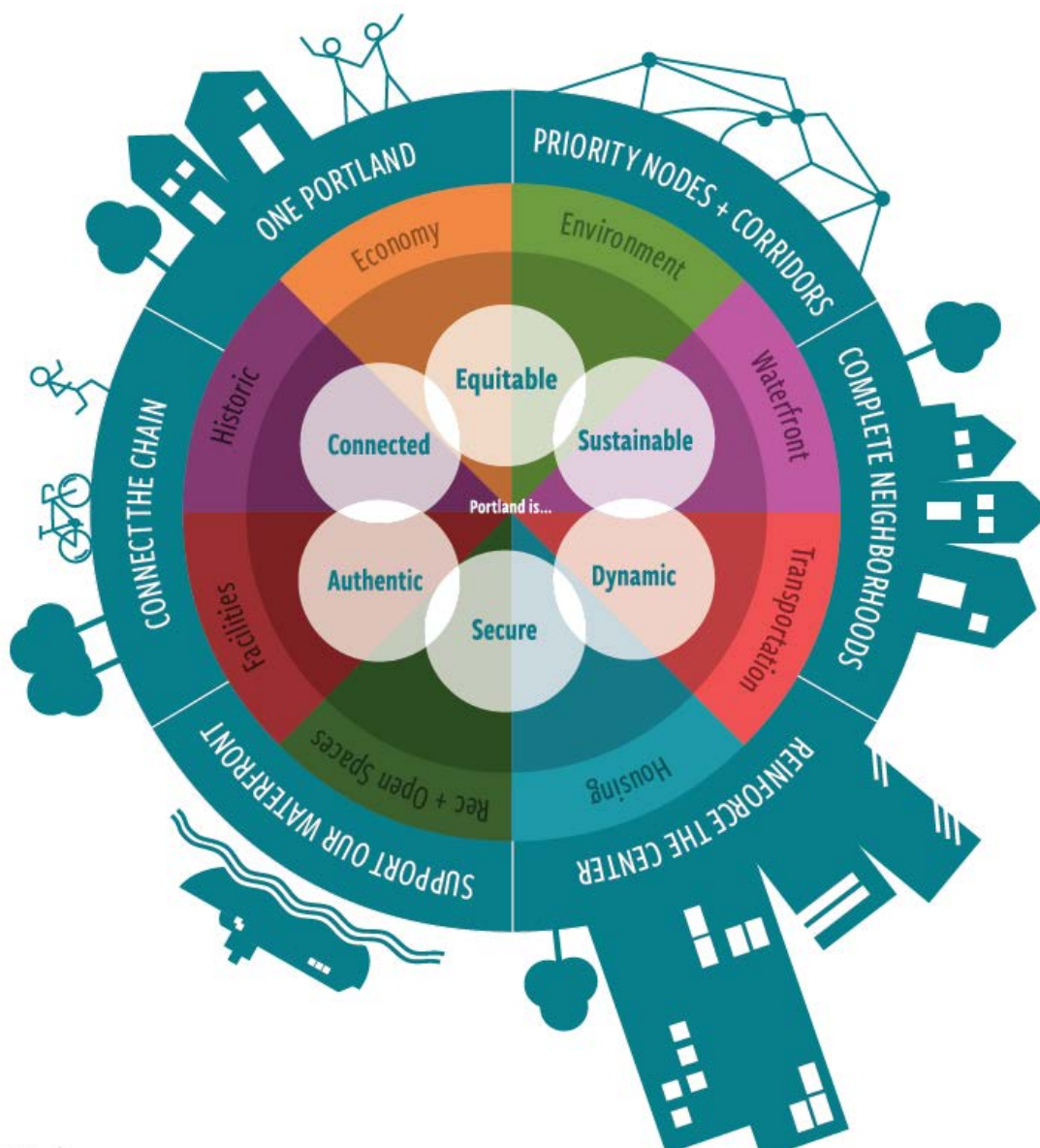
Consistency with Comprehensive Plan

The 2017 Comprehensive Plan has a number of policy goals related to sustainable development and housing. This request to revise the height limits in this downtown location helps meet those goals.

The Plan's Executive Summary emphasizes the need to "Reinforce the Center" through better housing and transportation. This location, right in the heart of downtown Portland and one block from the METRO Pulse, is extremely well located for housing that takes advantage of multimodal transportation options. By locating housing near job opportunities and other commercial activities, it also emphasizes downtown walkability. This strategy is emphasized later in the Future Land Use section as well.

This proposal also meets specific goals in the Plan's policy guides.

Plan Structure



MEETING THE CITY'S HOUSING PRODUCTION GOALS

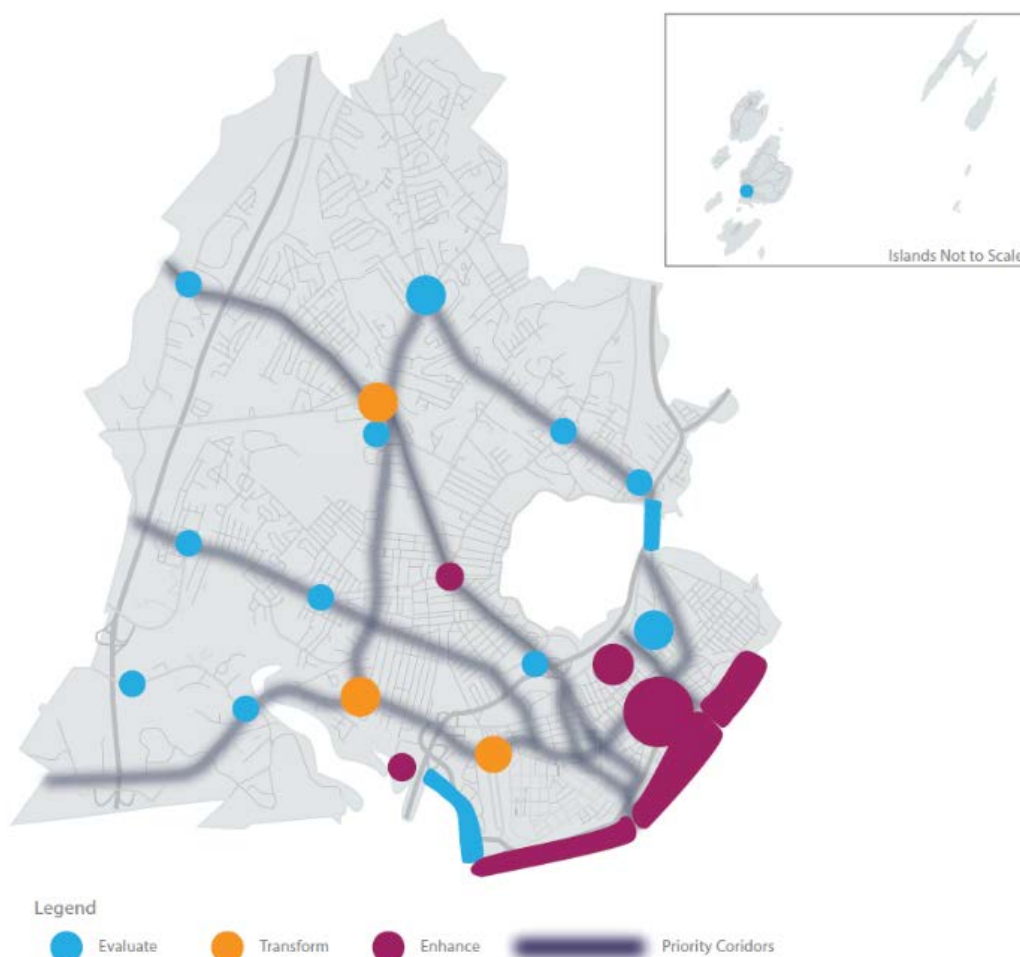
At the core of Portland's Plan is housing production. The Plan calls for production of a variety of housing types and locations, with a focus on key nodes and corridors. The largest node of development is Downtown Portland. The Plan further sets a specific, but achievable, goal of reaching a population of 72,000 by 2027. That target will require production of 2,557 housing units, or almost 300 per year. While a change in the height allowance in this location will not meet that goal by itself, it is part of an overall strategy to produce housing in a sustainable way that supports this primary development node.

OTHER POLICY GOALS

Economy: A Vibrant City

The Economy Policy Guide says that the City actions should: *"Evaluate zoning and the condition of existing infrastructure in priority areas — downtown, identified neighborhood nodes, and along transit corridors — to ensure that employment and housing growth can be supported."*

The current zoning in this area, while allowing for some height, falls a little short of the heights needed to make housing developments viable with private financing. By moving the height limit up slightly, the economics of a project change and a significant housing development can be supported.



Housing: A Livable City

The Housing Policy Guide similarly calls for City actions to: *“Evaluate whether current zoning allows for new development consistent with historic patterns of form, density, and/or use, as well as whether it allows for priority growth areas.”* In order to support the priority growth area of downtown Portland with private financing, some additional height is needed. This policy guide also states that those who work in Portland should be able to live in Portland. Production of housing at this location will make this goal economically feasible by allowing for production of new units immediately downtown, near employment opportunities.

OTHER PLANS

The requested map change is also generally consistent with planning related to downtown heights.

Downtown Height Study (1989)

The existing downtown height overlay is generally based on the *Downtown Height Study*, by Carr, Lynch and Sandell, as further reiterated in the *Downtown Vision: A Celebration of Urban Living and a Plan for the Future of Portland*, Maine’s Center for Commerce and Culture (1991). The height study used early computer models to estimate the impacts of three height scenarios for downtown Portland, evaluated in terms of urban design factors.

The Height Study is over 30 years old, but remains the basis for the downtown height overlay district. The study suggested a specific height regime using a hybrid of the “Growth District” and “High Spine” scenarios.



25 Projected Skyline with Recommended Height Limits

Since that time, changes have been made to this overall regimen. Most notably, the heights permitted in the West Bayside area were significantly increased from the 65’ proposed in this study. That change was based on further planning in the 2000 “New Vision for Bayside” that called for additional development that was financially feasible and allowed for infill development in this redevelopment district.

Other changes were made in the area around City Hall and to the east on the “Top of the Old Port” site. Those changes were made as thinking progressed on best practices and further study was done in those areas.

On this particular site, the study suggested a height of 150' with an additional 40' allowance for an "architectural cap," for an overall height of 190'. In the current height overlay, the additional height is subject to these limits:

"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 ... and provided that such floor area is incidental to the primary design intent of the space to achieve the standards of this section." (14-220 (i) 3)

These goals, while laudable, eliminate the financial feasibility of providing this additional space. Such "caps" work on much taller buildings, such as the cap on 111 Huntington Avenue in Boston (a 36 story, 550-foot-tall residential building completed in 2002, capped by an open-frame dome and crown.) However, the economics of providing such a cap on a 10 to 12 story building are very challenging, and generally it is not feasible to construct such a cap on a building of this size without public subsidy.

The height study also suggests limiting the size of floorplates over a certain height in order to allow buildings to "taper" as they get taller. Specifically, it suggests that the upper floors of buildings should be limited to 25% of the parcel size, or 10,000 square feet, whichever is greater. It does not specify whether those 10,000 square feet are net or gross, however. Nor does it outline how to view a building on a larger parcel, as is the case in this project. This suggestion was carried forward in section 14.220 (j) of the current code, again, without clarification as to whether the 10,000 sf. is net or gross, and without guidance on how to view larger parcels.

We believe that the intent was for the 10,000 sf. to be net of stairs and elevators, which would be the case for our proposed project. Further, it seems that in a case such as this one, with a 56,000 sf. parcel, it seems that we would not be limited to 10,000 sf. regardless. However, in order to clarify the language, we are suggesting that, if needed, the 10,000 sf. be refined as "net of elevator shafts and stairways." Providing livable space at those heights will not be feasible without netting out these areas, which do not contribute to leasable space. We are not proposing netting out other circulation areas.

Downtown Vision (1991)

The 1991 *Downtown Vision: A Celebration of Urban Living and A Plan For The Future of Portland - Maine's Center For Commerce And Culture* outlines a multi-pronged strategy for downtown development beyond the physical recommendations in the height study.

The Vision promotes downtown housing as having a beneficial effect on downtown's businesses and overall vitality:

“Promote a mix of housing options within the Downtown and surrounding neighborhoods relative to cost, ownership, unit type and size. ... Existing building codes and zoning ordinances should be evaluated to assure adequate support for residential uses. Amendments should be proposed that increase housing opportunity without compromising basic health and safety concerns.”

Interestingly, in addition to reiterating the height study findings, the Downtown Vision suggests that taller buildings should not always follow a clean set of height guidelines:

“As the City evolves, a bold urban statement can be made with larger-scaled buildings representing a strong business climate. ... The variation of building forms and heights that currently exists should continue to be encouraged. This includes slender elements which pierce the skyline as well as blockier background elements, providing a rhythm of light and building.”

CONCLUSION

The current height limit on this site, developed in 1989, does not factor in policies and goals more recently outlined in current plans. *Portland’s Plan 2030* makes urban design as an important public goal. For example, in the Transportation Policy Guide, it says to *“Invest in a walkable city through sidewalk maintenance, accessibility improvements, trail and path connections, snow clearance, lighting, landscaping, traffic calming, enhanced street crossings, strong urban design, artistic elements, and wayfinding.”*

There is also a sidebar that emphasizes the goal of density through quality design. However, at no point does *Portland’s Plan* suggest that heights should continue to be limited solely through the recommendations of the 1989 study.

The specific housing production and sustainability goals of the 2017 Plan, which were not factors in the 1989 study, deserve serious consideration as the City looks at its overall height limits, especially downtown. Some additional height is needed to meet those goals, both due to space limitations and financial feasibility.

In order to make housing development downtown feasible, we proposed replacing the 40’ allowance for an architectural cap on this site with a simple 190’ height limit, retaining the 90’ street wall limit and the limits on height within 100’ of Exchange Street. This change will make workforce housing production economically feasible. If the current language restricts rooftop appurtenances, such as elevator overrides, we request that they explicitly be permitted above that additional 40’, provided they are adequately screened and designed to fit in with a high-quality overall building design.

We are not suggesting that the limits created in 1989 be entirely dismissed. Instead, they should be thoughtfully modified in the context of the newer goals, as all good planning goals should be.

Fortunately, the 2017 Plan provides guidance on how to look at plans developed prior to 2017, and how to reconcile potential disparities:

“There are a number of neighborhood, subject area, and hybrid plans that have been adopted over time as elements of the previous comprehensive plan. Some are quite recent, some decades old, some may be partially implemented and some are not be entirely current, but they each retain valuable information as previously adopted plans. Previously adopted plans are not incorporated into the new comprehensive plan but remain adopted policy and will continue to provide valid guidance for the City. ... Existing plans should always be considered in the context of their date of adoption and their

anticipated role in guiding City planning and policies. Portland's Plan is the prevailing policy document and shall provide guidance as to how to resolve any inconsistencies that may arise between these various plans." (p. 14.)

In other words, while the Downtown Height Study provides some useful policy guidance, it is not part of the Comprehensive Plan. The recommendations of the Study need to be viewed in light of the much more recent policy goals of Portland's Plan regarding housing production and sustainable development.

For these reasons, there is a solid planning argument to be made for allowing for a variation from the strict numerical recommendations made in 1989. In this case, the variations being requested are minor – going from 190' including an architectural cap to 190' including livable space, permitting mechanicals to be on the roof, and clarifying the language in 14.220 (j) related to upper story floorplates. The policies outline in the 1989 study need to be updated to allow for the achievement of current policy goals related to housing production.

Attachment C

Proposed Text Amendment

Text Amendment

Sec. 14-220. Dimensional requirements.

...

(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, net of elevator shafts and stairways.
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.

Attachment D
Right, Title & Interest;
Land Option Agreement

**QUITCLAIM DEED
(WITH COVENANT)**

MAINE REAL ESTATE TAX PAID

KNOW ALL PERSONS BY THESE PRESENTS, That **A & M PARTNERS, INC.**, a Maine corporation, whose mailing address is 120 Exchange Street, Portland, Maine 04101, (Grantor) does hereby remise, release, bargain, sell and convey, and forever **quitclaim with covenants** to **PO SQUARE BUILDING LLC**, a Maine Limited Liability Company, whose mailing address is 120 Exchange Street, Portland, Maine 04101 (Grantee) the land and buildings located in Portland, Cumberland County, Maine, described as follows:

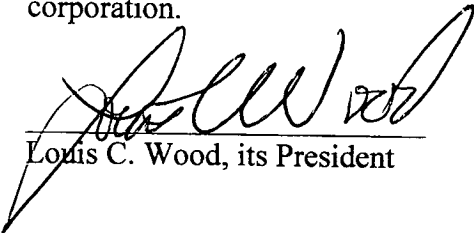
See Attached Exhibit "A"

Being the same premises conveyed to Grantor by deed dated March 16, 1993, and recorded in the Cumberland County Registry of Deeds in Book 10603, Page 113.

IN WITNESS WHEREOF, the undersigned has caused this instrument to be signed and sealed on 13th May, 2019

A & M PARTNERS, INC. a Maine corporation.

Witness

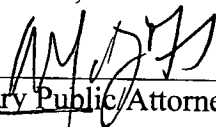

Louis C. Wood, its President

State of Maine
County of Cumberland, ss

May 13, 2019

Then personally appeared before me the above named Louis C. Wood in his said capacity and acknowledged the foregoing to be his free act and deed and the free act and deed of said corporation, A & M PARTNERS, INC.

Before me,


Notary Public/Attorney at Law

Martin J. Foley

EXHIBIT A
396 Congress Street a/k/a 400 Congress Street, Portland

A certain parcel of land situated on the southerly side of Congress Street, the westerly side of Exchange Street, the northerly side of Federal Street and the easterly side of Temple Street in the City of Portland, County of Cumberland, and State of Maine, bounded and described as follows:

Beginning at the point of intersection of the assumed easterly sideline of Temple Street and the assumed southerly sideline of Congress Street;

Thence, N 63° 04' 40" E by Congress Street 325.52 feet to the westerly side of Exchange Street;

Thence, S 38° 44' 13" E by Exchange Street 180.90 feet to the northerly side of Federal Street;

Thence, S 64° 10' 36" W by Federal Street 313.07 feet to the easterly side of Temple Street;

Thence, N 43° 04' 34" W by Temple Street 178.09 feet to the point of beginning.

The above description is based on an ALTA/NSPS Land Title Survey prepared by Owen Haskell, Inc. entitled "396 Congress Street (aka 400 Congress Street), Portland, Cumberland County, Maine" made for PO Square Portland LLC and its assigns, dated April 4, 2019 and revised through May 8, 2019.

SUBJECT TO THE FOLLOWING:

Cable Television Installation Agreement by and between Public Cable d/b/a Time Warner Cable and A&M Partners, Inc. dated October 21, 1999 and recorded in Book 15936, Page 274.

Received
Recorded Register of Deeds
May 13, 2019 02:46:50P
Cumberland County
Nancy A. Lane

OPTION AGREEMENT

200 Federal Street, Portland Maine

OPTION granted as of this 24th day of July, by **PO Square Building LLC**, a Maine limited liability company whose mailing address is 120 Exchange Street, Portland Maine (hereinafter called "Optionor or Owner"), to **Redfern Downtown LLC**, a Maine limited liability company whose mailing address is PO Box 8816, Portland Maine 04104 (hereinafter called "Optionee").

RECITALS

WHEREAS, Optionor presently is the owner of certain property in the vicinity of 200 Federal Street, Portland Maine as shown on the sketch or map attached as Exhibit A (the "Premises"), being a portion of the property acquired by Owner from A & M Partners by Quitclaim Deed with Covenant dated May 13, 2019 and recorded in the Cumberland County Registry of Deeds as Book 35640, Page 071; and

WHEREAS, Optionor desires to grant, and Optionee desires to acquire, an option on the terms provided by this Option Agreement to acquire the Premises.

AGREEMENT

1. **Grant.** Optionor hereby grants to Optionee the exclusive right and option to purchase the Premises, together with such easements and parking arrangements between the parties and over the remaining property of Owner as may be necessary for office building tenants, pedestrian and vehicular access.

2. **Option Price and Purchase Price.** Within ten (10) days from the date of this Agreement, Optionee shall pay Optionor the Option Price in the amount of [REDACTED]. The Purchase Price, upon exercise of this Option and full execution of other documents associated with the sale transfer, shall be equal to the sum of [REDACTED]. All payments from Optionee to Optionor shall be payable at closing, unless otherwise agreed upon between the parties. The Option Price shall be credited towards the Purchase Price in the event Optionee exercises this option.

3. **Term.** Optionee may exercise this option by notice delivered in the manner described below on or before [REDACTED].

4. **Notice of Exercise.** This Option may be exercised by Optionee giving written notice to Optionor in person or by U.S. mail, fax or overnight delivery service prior to the expiration of the option term, at the address set forth above.

5. **Closing.** Specific closing terms to be more further defined in a Purchase and Sale Agreement and shall occur at a date and time reasonably specified by Optionee, and subject to written agreement by Optionor. Title shall be conveyed by Optionor by Quitclaim Deed with Covenant and any other assignment documents required, conveying good and marketable title to the Premises free from all encumbrances and claims of others. In the event that it is necessary for the Premises to be conveyed as a condominium unit as a result of the physical configuration of the Premises, Optionee and Optionor agree to enter into all necessary condominium documentation on commercially reasonable terms at or prior to Closing. Real estate taxes shall be pro-rated. Unless Optionee shall waive any defect in title, Optionor shall make reasonable efforts to remove such defect in title. In case Optionor, after 45 days, or such greater period that Optionee may permit, shall have failed to do so, Optionee may elect to (a) terminate, in which case Optionor shall return the Option Price without further recourse to either party, or (b) waive such defect by notice in writing. In the event Optionee exercises this Option and fails to close for reasons not attributable to default by Optionor, Optionor shall, as Optionor's sole remedy, be entitled to retain the Option Price as liquidated damages without further recourse.

6. **Parking.** If Optionee exercises this Option, Optionor agrees to enter into a lease or other arrangement of parking spaces on other property owned by Optionor on commercially reasonable terms to provide sufficient parking to meet municipal and other governmental parking requirements for the use to be made of the Premises by Optionee.

7. **Failure to Exercise.** If Optionee fails to exercise this Option, any payments made under this Option Agreement shall be retained by Optionor, and neither party shall have any further rights or claims against the other. The Optionee may fail or refuse to exercise this Option for any reason whatsoever, including without limitation that the Optionee determines, or is notified that, the Property is not able to be permitted and approved for a residential multi-family development of a size, scale and cost acceptable to Optionee, or other due diligence investigations prove unsatisfactory.

8. **Inspections.** Optionee shall have reasonable access to the Premises to conduct such surveys, tests, and inspections as it may deem necessary during the Option term or after exercise of the Option. Optionee shall provide reasonable notice to Optionor, shall enter at its sole risk and shall restore the premises substantially to its prior condition.

9. **Successors and Assigns.** This Agreement is binding upon and shall inure to the benefit of the parties hereto and their personal representatives, heirs, successors and assigns. This Agreement may not be assigned by Optionee without the written approval of Optionor.

IN WITNESS WHEREOF, the undersigned have executed this Option Agreement as of the day and year first above stated.

WITNESS:



PO Square Building LLC



By: Drew Sigfridson
Its: Manager

Redfern Downtown, LLC



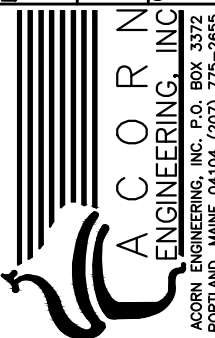
By:
Its: Jonathan Culley, Manager

EXHIBIT A

1. PLAN REFERENCES BOUNDARY & TOPOGRAPHIC SURVEY PREPARED BY OWEN HASKELL, INC. OF FALMOUTH MAINE, DATED 11/12/2019.

-
- CONGRESS STREET
- EXCHANGE STREET
- FEDERAL STREET
- TEMPLE STREET
- MULTI-STORY
BRICK BUILDING
BUILDING FOOTPRINT = 27,100 ± SF.
- PROPOSED BUILDING
EXTERIOR WALL FACE, TYP
- TO BE CONVEYED TO
REDFERN DOWNTOWN LLC
AREA: 17,003 SF
- REMAINDER OF
PO SQUARE BUILDING LLC
32-G-1
- N: 300718.32
E: 2928649.53
- N: 300920.85
E: 2928904.37
- N: 300615.23
E: 2928794.75
- N: 300805.28
E: 2929043.54
- S52°37'23"W
193.28'
- 10.50'
- 10.50'
- 5.6'
- 8.2'
- 10.5'
- N45°13'12"W
36.91'
- N52°37'23"E
18.67'
- S37°22'37"E
50.83'
- N52°37'26"E
189.85'
- S54°37'44"E
91.51'
- MANHOLE
BOLT HYDRANT
CL. 66.95
- MANHOLE
BOLT HYDRANT
CL. 66.95

DRAWING NAME:	EXHIBIT A
PROJECT NAME:	200 FEDERAL STREET REDEVELOPMENT
CLIENT:	REDFERN DOWNTOWN LLC



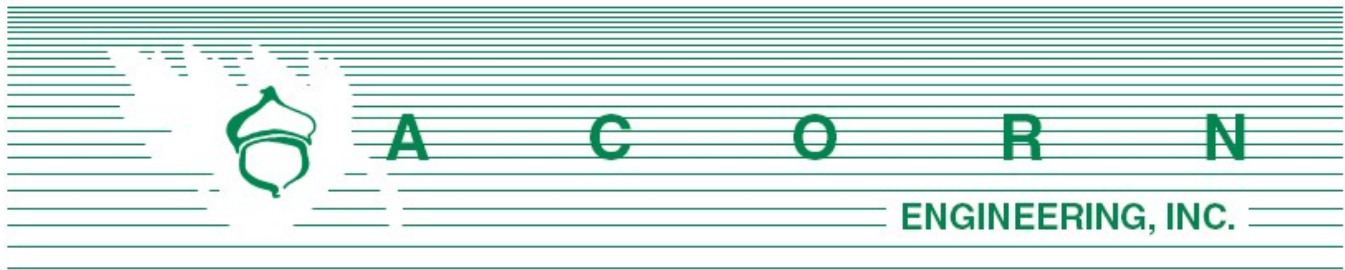
FILE:	1129_CM
DATE:	7/24/2021
JN:	1122
SCALE:	1":50'
DESIGN BY:	FR
DRAWN BY:	FR
CHECKED BY:	WH

THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM ACORN ENGINEERING, INC. ANY ALTERATIONS, AUTHORIZED OR OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO ACORN ENGINEERING, INC.

DRAWING NO.
EX-A

Attachment E

Vicinity Map



Planning Division
City of Portland, Maine
389 Congress Street, 4th Floor
Portland, ME 04101

October 7, 2020

Subject: 200 Federal Street (ZN-1230-2020) Neighborhood Meeting

I, Will Savage, hereby certify that a remote neighborhood meeting was held on October 6, 2020 via Zoom at 5:30 pm.

I also certify that on September 24, 2020, invitations were mailed to the following:

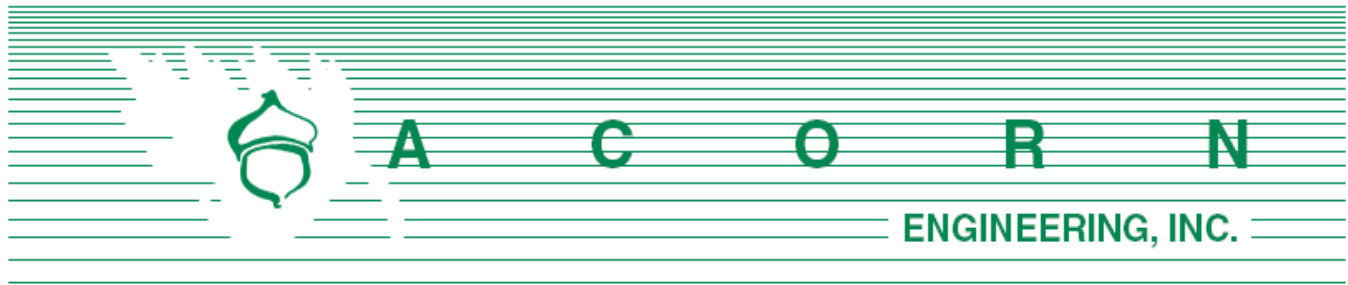
1. All addresses on the mailing list provided by the Planning Division which includes property owners within 500 feet of the proposed development.
2. Residents on the “interested parties” list.

Sincerely,

Will Savage, P.E.
Principal-Project Manager
Acorn Engineering, Inc.

Included with this certification are as follows:

1. Copy of the invitation sent
2. Attendee sign-in sheet
3. Meeting Minutes



Dear Neighbor:

September 22, 2020

On behalf of Redfern Downtown LLC, we are pleased to invite you to a virtual neighborhood meeting to discuss a proposed Zoning Map & Text Amendment related to the property located at 200 Federal Street (Chart 32, Block G, Lot 1). The proposed project is an 18-story residential building with ground level retail & 266 rental apartments, including 27 onsite Workforce Housing Units as required by the City's Inclusionary Zoning Ordinance. Currently, the Downtown Height Overlay Map allows for a 150' tall main structure with a 40' 'appurtenance' for an overall height limit of 190'. However, per current Zoning, the 'appurtenance' cannot be used exclusively for housing, a concept based on a more than 30 year-old study. The building proposed is 190' to the roof beam, and thus the change sought is subtle.

Meeting: Held **remotely & recorded via Zoom** according to state and local requirements regarding social distancing and will be available for public viewing and participation. **To attend, please email admin@acorn-engineering.com to request a link or phone number to join the meeting.** You may also call the office line (listed below) to request this information.

Date/Time: Tuesday, October 6, 2020 at 5:30 p.m.

The City code requires that property owners within 500 feet of the proposed development and residents on an "interested parties list" be invited to participate in a neighborhood meeting. Both the sign-in sheet and recorded meeting minutes will be submitted to the Planning Board. If you have any questions, please do not hesitate to call the office at (207) 775-2655. We look forward to seeing you at the meeting.

Sincerely,

William H. Savage, P.E. - Acorn Engineering, Inc..



Sign-In Sheet

10/6/2020

200 Federal Street Portland, ME 04101

Members of the Public in Attendance:

NAME

EMAIL

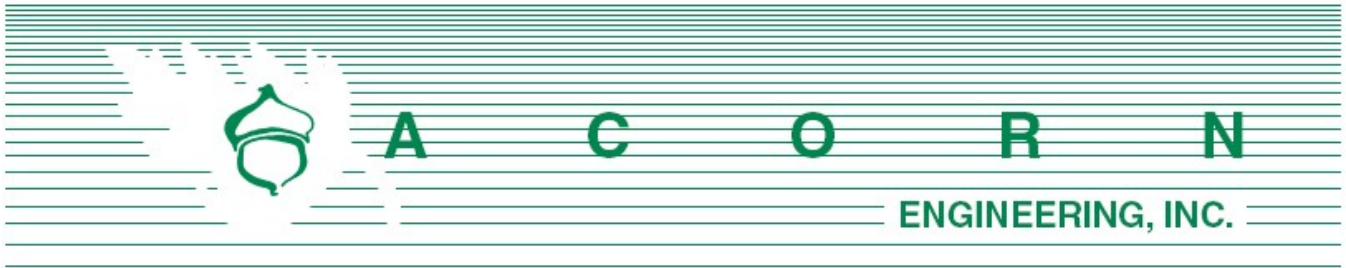
1. None

Developer and Consultant Team in Attendance:

NAME

EMAIL

- | | |
|---|--------------------------------|
| 1. Jonathan Culley – Redfern Properties | jonathan@redfernproperties.com |
| 2. Ryan Senatore – Ryan Senatore Architecture | ryan@senatorearchitecture.com |
| 3. Will Savage – Acorn Engineering, Inc. | wsavage@acorn-engineering.com |
| 4. Faith Thomas – Acorn Engineering, Inc. | fthomas@acorn-engineering.com |
| 5. Faye Johnson – Acorn Engineering, Inc. | admin@acorn-engineering.com |



200 Federal Street Redevelopment Zoning Map & Text Amendment

Neighborhood Meeting Minutes

October 6, 2020 / 5:30 pm

Remote meeting via Zoom

Project Team Attendees:

Jonathan Culley: Developer (Redfern Properties)

Will Savage: Civil Engineer (Acorn Engineering)

Faith Thomas: Civil Engineer (Acorn Engineering)

Faye Johnson: Office Administrator (Acorn Engineering)

Ryan Senatore: Architect (Ryan Senatore Architecture)

Meeting started at 5:30 pm and ended at 5:37 pm.

Presentation:

One member of the public RSVP'd but subsequently declined prior to the meeting, resulting in no public attendees or meeting minutes.

Recorded by,

A handwritten signature in black ink, appearing to read 'Faith Thomas'.

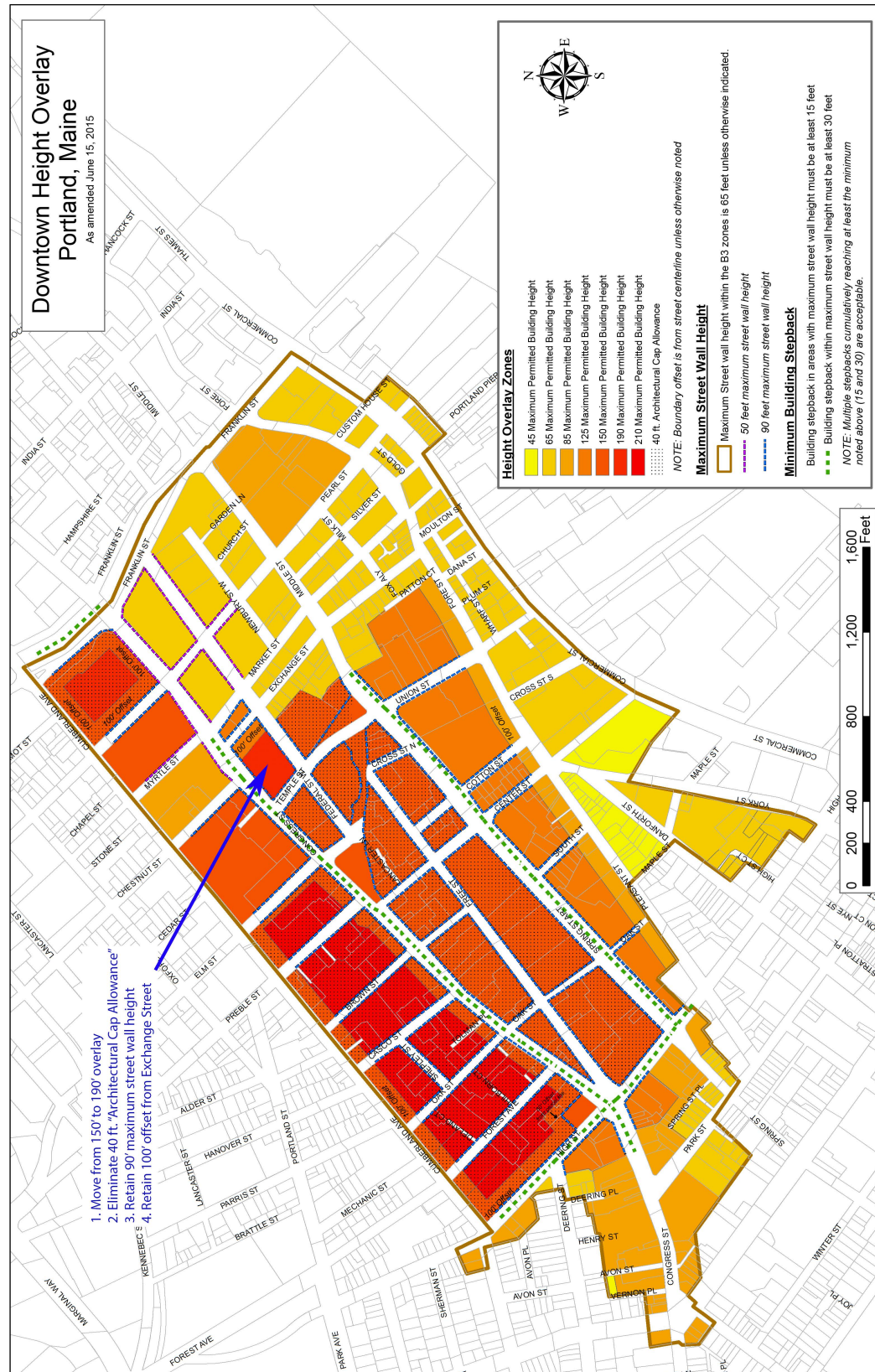
Faith Thomas, E.I.

Project Engineer

Acorn Engineering, Inc.

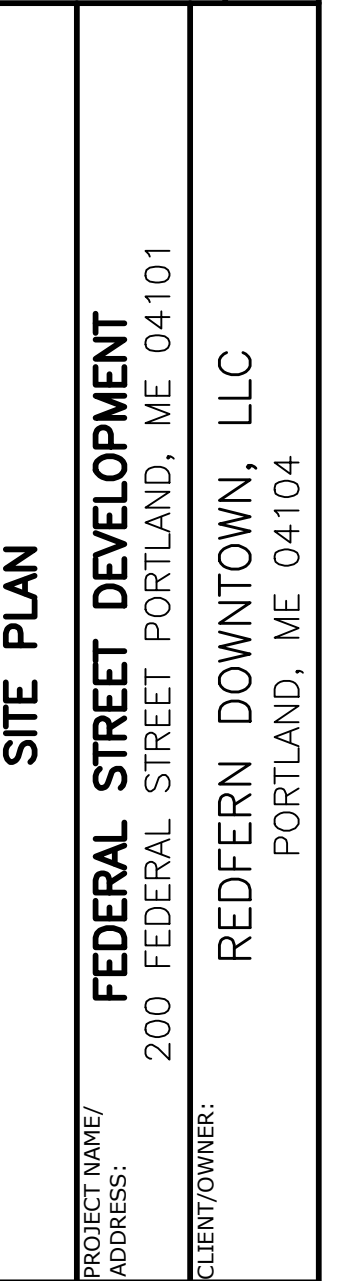
ftomas@acorn-engineering.com

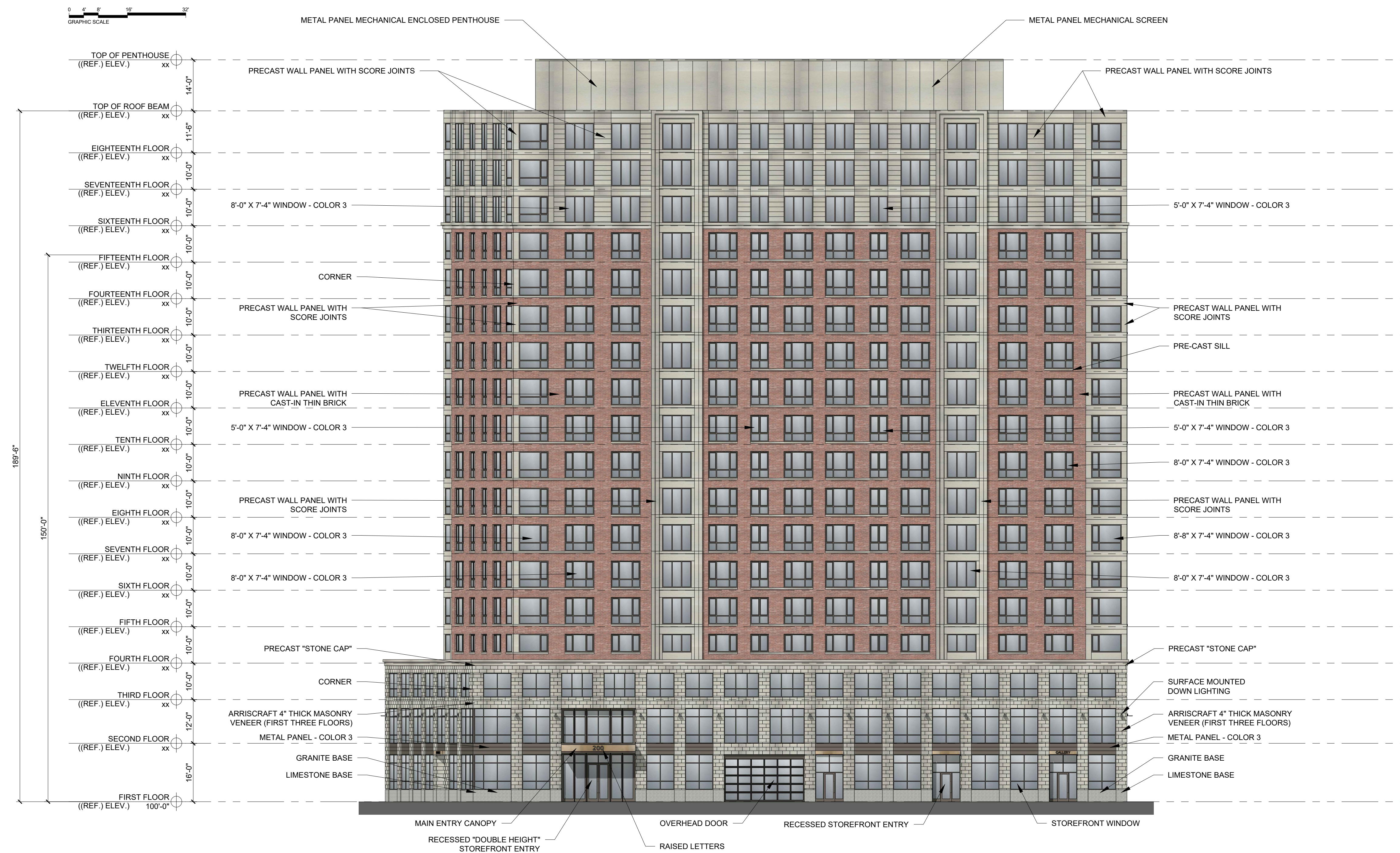
Map Amendment



1. BRICK SIDEWALK AND VERTICAL GRANITE CURB TO BE REPLACED SHALL BE REBUILT TO CITY OF PORTLAND STANDARD.
2. PAVEMENT STRIPING AND MARKINGS SHALL COMPLY TO CITY OF PORTLAND STANDARDS.
3. CURB TO BE REMOVED, STOCKPILED AND RESET IN ACCORDANCE WITH DETAIL. BROKEN CURB SHALL BE PROPERLY DISPOSED OF AND SHALL BE REBUILT AT THE PERMANENCE.
4. RUMPS MUST CONFORM TO ADA GUIDELINES. SLOPE SHALL NOT EXCEED 1 INCH PER FOOT FOR A MAXIMUM RISE OF 30-INCHES.
5. SITE SIGNAGE TO COMPLY WITH MUTCD STANDARDS. CONTRACTOR TO COORDINATE AND INSTALL.
6. FOLLOWING COMPLETION OF CONSTRUCTION, THE OWNER SHALL BE RESPONSIBLE FOR THE MAINTENANCE AND MANAGEMENT OF DRIVEWAYS, SITE LIGHTING, TRASH REMOVAL AND SNOW REMOVAL.
7. PAVEMENT JOINTS MUST BE SAWCUT & TACK COATED PRIOR TO PAVING TO PROVIDE A DURABLE & UNIFORM JOINT

SPACE AND BULK STANDARDS			
B3 DOWNTOWN BUSINESS, DOWNTOWN ENTERTAINMENT OVERLAY ZONE, DOWNTOWN HEIGHT' OVERLAY, CONGRESS' STREET HISTORIC DISTRICT	REQUIRED	EXISTING	PROPOSED
MINIMUM LOT SIZE	NONE	1.27 AC	1.27 AC
MINIMUM STREET FRONTAGE	15'	998'	998'
MAXIMUM STREET WALL BUILD-TO LINE	5'	NA	0'
MINIMUM YARD DIMENSIONS	NONE	NA	NA
MINIMUM LOT WIDTH	NONE	NA	NA
MAXIMUM LOT COVERAGE	100%	91.4%	96.0%
MINIMUM BUILDING HEIGHT	35'	NA	>35', SEE MAX. HEIGHT
MAXIMUM STREET WALL HEIGHT	90'	NA	38'±
MAXIMUM BUILDING HEIGHT*	190'	NA	190'
BICYCLE PARKING	7 EXTERIOR 106 INTERIOR	2 EXTERIOR	16 EXTERIOR 106 INTERIOR
*WHEN UTILIZING 40' ARCHITECTURAL CAP ALLOWANCE, PER "DOWNTOWN HEIGHT OVERLAY PORTLAND MAINE" MAP & SEC. 14-220(I)(3), PROPOSED MAP & TEXT AMENDMENT (PLAN ZN-001230-2020) TO ALLOW FOR RESIDENTIAL UNITS WITHIN THE "APURDENCE,"			

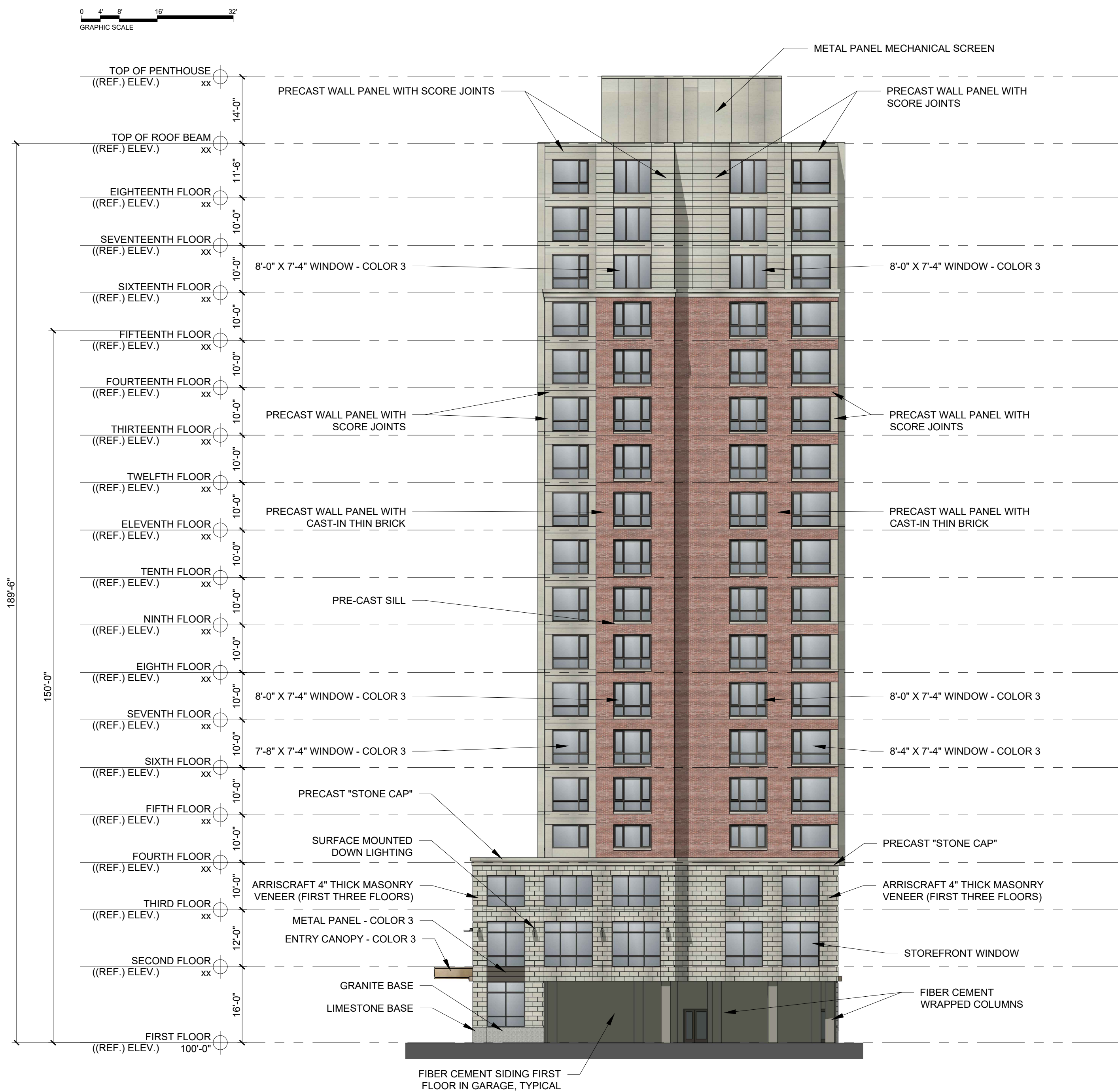
[illegible]



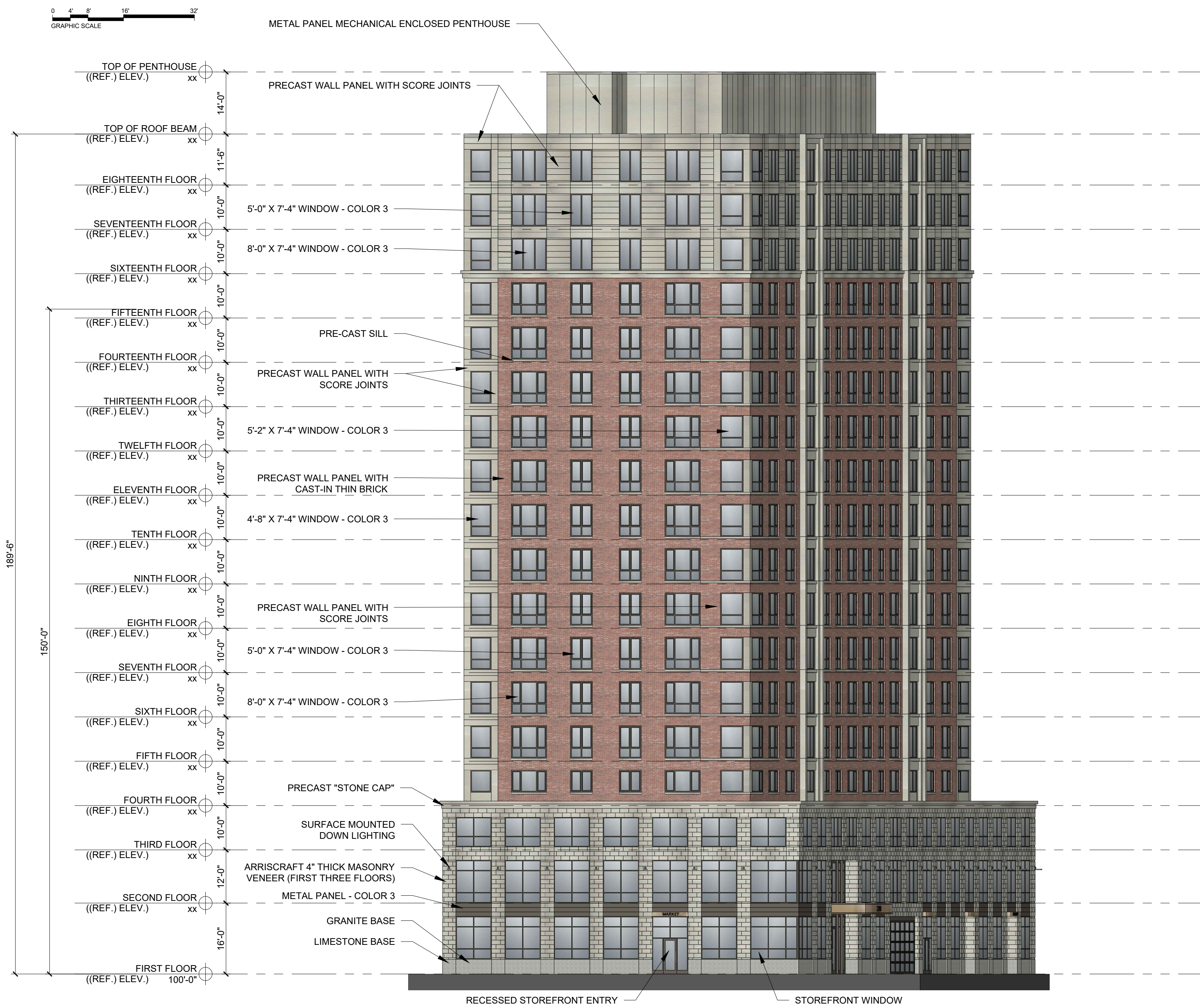
1 SOUTH ELEVATION
1/16" = 1'-0"

PROGRESS PRINT ONLY
Not for Construction





1 EAST ELEVATION
1/16" = 1'-0"



1 WEST ELEVATION
1/16" = 1'-0"

PROGRESS PRINT ONLY
Not for Construction

PLANNING BOARD REPORT PORTLAND, MAINE

200 Federal Street

ZN-001230-2020

CBL: 032 G001001

Redfern Downtown, LLC, Applicant



Submitted to: Portland Planning Board
Public Hearing Date: January 26, 2021

Prepared by: Caitlin Cameron, Urban Designer
Date: January 22, 2021

I. INTRODUCTION

Redfern Downtown, LLC. (dba Redfern Properties) seeks a B-3 Downtown Business Zone text amendment and Downtown Height Overlay Map amendment for the block at 200 Federal Street. These actions would facilitate the development of an 18-story, 180,000 square foot mixed use building with 266 residential units, ground-floor commercial space, amenity spaces for the residents, and 21 surface parking spaces at 201 Federal St W; site plan approval for this project is sought under a related Level III Site Plan, Subdivision, and Inclusionary Zoning Conditional Use application. This application has been filed and, should these zoning actions be approved, it will advance to the Board for additional review.

The public hearing was noticed to 96 neighbors and interested parties, and the public notice appeared in the *Portland Press-Herald* on January 15th and 16th 2021. The applicant held a Neighborhood Meeting on October 6, 2020 for the zoning application, application ZN-001230-2020, with notes included with this report. As of the writing of this report, staff had not received any public comment.

Applicant: Redfern Downtown LLC (represented by Jonathan Culley)

Agent and Civil Engineer: Acorn Engineering (Faith Thomas)

Architect: Ryan Senatore Architecture, LLC (Ryan Senatore)



Figure 1: Zoning Map (applicant's property outlined)

The zoning map and text amendment application requests the following regarding the parcel within their ownership and the adjoining parcels that comprise the block:

- Amendment to the Downtown Height Overlay Map to remove the architectural cap designation and increase the maximum height to 190 feet
- B-3 Text amendment to *Chapter 14 Sec. 14-7 Table 7-E Mixed-Use Zone Dimensional Standards* clarifying how to define maximum floor area allowed above 125 feet in height

During the workshop held November 10, 2020, Planning Board members supported the concept of the amendments and agreed the proposed height is appropriate for this location and in accordance with the Comprehensive Plan. Members requested input from Historic Preservation staff on the amendments and height given the location within the historic district. Additional revisions to the text amendment language were suggested to clarify intent. No public comment was given.

II. BACKGROUND AND EXISTING CONDITIONS

a. Current Land Uses and Zoning

The site is at the heart of Portland's walkable downtown, proximate to some of the tallest structures in the city. An existing parcel is being divided to create the new property at 201 Federal Street W at the corner of Temple and Federal streets behind the existing USPS building. The site is located in the B-3 Downtown Business zone. The B-3 zone is a high-density commercial, residential, and mixed-use district mapped throughout the City's downtown. Maximum building heights are regulated by the Downtown Height Overlay Map and vary between 45 feet up to 210 feet. In certain locations, an architectural cap allowance is permitted and allows for an additional 40 feet above the designated height limit.

The applicant's property currently includes a plaza space, surface parking, and an entrance to the USPS facility. Within the same block is the 1950 USPS building facing Congress Street and two historic office buildings fronting on Exchange Street. The surrounding blocks below Congress Street within the same streetscape as this proposal include more recent buildings such as the high rise office buildings One City Center and Two Monument Square, and the Temple Street Parking Garage; the maximum height allowed in these blocks is 150 feet plus up to 40 feet for an architectural cap (Figure 5). The site is not located immediately adjacent to the historic, smaller-scale streetscapes of Congress or Exchange streets and instead has a more immediate relationship to taller, more contemporary structures.



Figure 2: Overall Context

b. Historic Resources

The block being considered is also within the Congress Street Historic District. The proposed new construction will be reviewed by the Historic Preservation Board for design. The block includes three existing buildings, two of which are contributing structures facing Exchange Street. Exchange Street is an important historic street in the downtown with smaller scale, historic buildings and a high volume of tourist foot traffic. The Downtown Height Overlay map protects the historic scale of Exchange Street with a 100 foot offset limiting heights to a 125 foot maximum immediately adjacent to the more sensitive streetscape.

Historic Preservation staff has these additional comments ([Attachment 3](#)):

Given that most of the historic structures that line Exchange Street are about four stories (six to seven stories on the uppermost block between Congress and Federal), a building of 150 feet would already represent a significant jump in scale from that of Exchange Street. The question becomes, then, whether an additional 40 feet would significantly increase any negative impact of this height disparity.

As viewed from Exchange Street, especially from the corner of Exchange and Federal, the proposed new building will be viewed against buildings of considerable height. Two Monument Square and One City Center, while not as tall as the proposed structure, are 11 and 14 stories respectively. With these buildings as a backdrop, the proposed 190' structure will not appear unduly anomalous in terms of building height and overall scale. Additionally, the provision of a 100' setback from Exchange Street and the 90' maximum streetwall height will help mitigate any impacts.

In addition, the Congress Street Historic District, when created, gave deference to the B-3 zone's height and scale recognizing that downtown Portland has historically and continues to be the location of its tallest buildings and with varying scales.

Sec. 17.8.3. A.6. In the Congress Street Historic District, for new construction within the B-3 zone, the Historic Preservation Board shall not impose conditions more restrictive than the dimensional requirements of the B-3 zone.

From Deb Andrews, Historic Preservation Program Manager ([Attachment 3](#)):

... this amendment was adopted to ensure that the more generous heights established for new construction in the B-3 zone would be honored notwithstanding the area's designation as a historic district. (It also recognized that the Congress Street is noteworthy for its significant variety of building heights and scale.) This policy decision may be instructive as the Planning Board considers the request for additional height on this site.



Figure 3: View of proposed height from Temple Street

III. PROPOSED DEVELOPMENT

The proposed building facilitated by the requested actions is shown in the plan set and described in the applicant's submittal. The new construction includes an 18-story high-rise building to include rental apartments, ground floor commercial/retail, tenant amenity spaces, and surface parking to be maintained for the USPS use. The proposed project would also reduce the existing open space and construct a new plaza that will include landscaping and benches between the new tower and the USPS building. The rendering below and attached elevations (Plan H) show the Federal Street facade.



Figure 4: Proposed Development with rooftop appurtenances (applicant)

The contemplated development will include:

- 266 rental apartments
 - 27 workforce housing units are required by Inclusionary Zoning – provided on-site
- Parking for 21 vehicles (surface) on-site
- Residential parking off-site
- Ground floor commercial space less than 2,000 sf
- Tenant amenities – fitness, community room, lounges, storage, and work space
- Urban plaza

IV. DOWNTOWN HEIGHT OVERLAY MAP AMENDMENT PROPOSAL

The applicant's property will be a new parcel created within the block at 200 Federal Street behind the USPS building. The Downtown Height Overlay Map would be modified to remove the 40 foot Architectural Cap (described below in staff analysis) and increase the maximum building height to 190 feet. The 90 foot street wall maximum would be maintained along with the requirement to step back the building 15 feet after that 90 foot height is met. The 100 foot offset preserving lower heights on the more sensitive Exchange Street would remain. The applicant's submittal describes the rationale for requesting the ability to build occupied floor space up to 190 feet (Attachment A). The applicant provided plans for the project in its context to provide a sense of scale in comparison with the existing built environment.

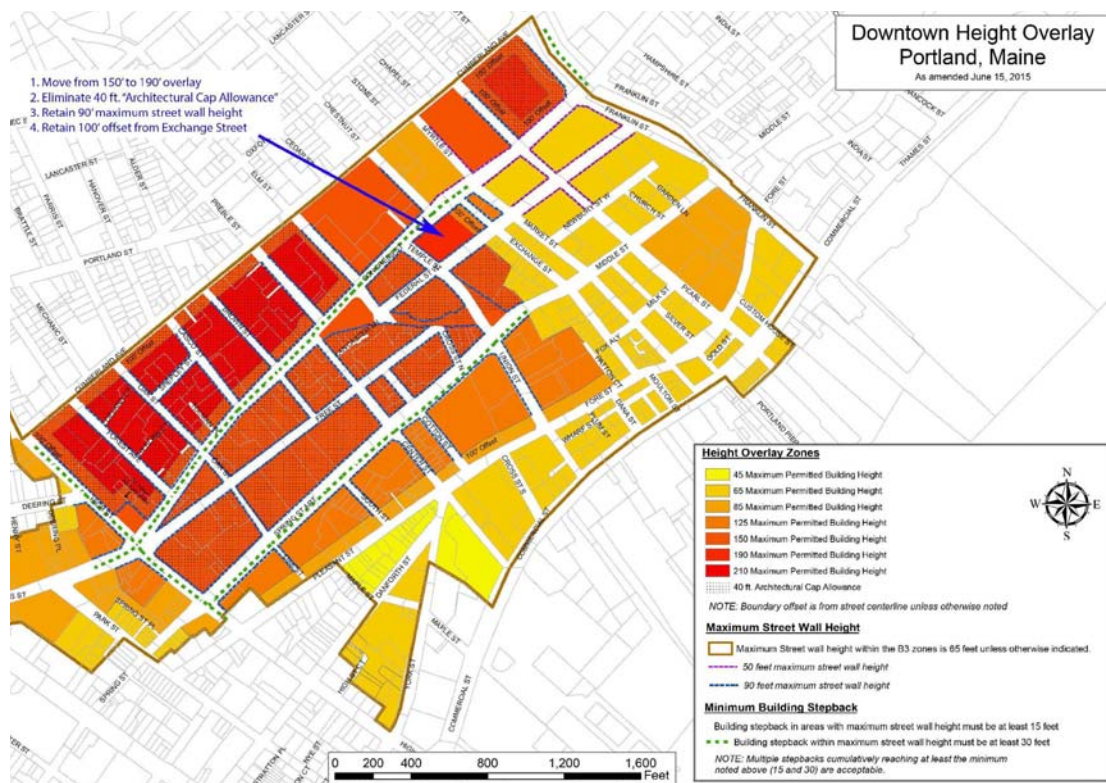


Figure 5: Proposed Height Map Overlay Amendment (applicant's proposal)

Staff Policy Analysis

The overall maximum height and massing allowed on this block will not change. Currently on this block, buildings may occupy floor area up to 150 feet in height with the ability to build as tall as 190 feet by incorporating a 40 foot architectural cap above and beyond a 150 foot maximum height. The 40 foot

architectural cap is intended for these purposes (from the *Downtown Height Overlay Map ***Architectural Cap Allowance*):

- 1) Providing a distinctive graduated design for an architectural building top
- 2) To enclose rooftop appurtenances

The architectural cap may include habitable space in the following circumstances as a public good:

Downtown Height Overlay Map - 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.

Potential implications of the height amendments:

- Scale: The overall scale and massing implications do not change with this proposed amendment. The maximum building wall of 90 feet remains the same, producing the same sense of scale of the building at the pedestrian level. The overall height to which a building structure can rise also remains the same – totaling 190 feet.
- Rooftop Appurtenances: The intent of the architectural cap is to integrate the design of rooftop systems and appurtenances with the overall building form. However, Chapter 14 dimensional exemptions currently exempts rooftop appurtenances from height maximums. Staff do not find any language within the B-3 zone or the Downtown Height Overlay Map that override this exemption. Therefore, though the stated intent of the cap is to house rooftop appurtenances, they are currently and would continue to be allowed above and beyond the maximum height allowance.
- Provision of Housing: The height amendment allows for potential additional housing to be provided on the site. Approximately sixty-four (64) additional housing units are proposed within the applicant's Level III site plan proposal as a result of being able to occupy the floor area above 150 feet. However, the amendment does not guarantee additional housing will be provided because a future building proposal could potentially occupy that floor space with any use allowed in the B-3 zone.
- Parking: The proposed zoning amendments would allow additional habitable floor area in a physically constrained urban infill lot. The increase in habitable floor area also means an increase in required parking. This will need to be accommodated off-site or through the fee-in-lieu given the physical limitations of the site. Traffic and parking implications should be considered. At this time, the applicant proposes to reduce the parking requirement and provide residential parking off-site in an existing garage. Additionally, in December 2020, the City Council adopted parking provisions that allow developments within a ¼ mile radius of fixed route transit to waive out of off-street parking requirements. Any project choosing to take advantage of this exception in lieu of the parking requirements is required to provide a Transportation Demand Management Plan.

Several of the above items are not within the scope of the zoning application before the Board for this hearing and will be reviewed under the Level III Site Plan application.

V. ZONING TEXT AMENDMENT PROPOSAL

The applicant proposes to amend *Land Use Code Chapter 14 Sec. 14-7 Table 7-E Mixed-Use Zone Dimensional Standards*. The text in the application reflects the previous version of the Chapter 14 Land Use Code which has since been revised and adopted.

(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, **net of elevator shafts and stairways**.*
- 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.*

Staff Policy Analysis

Staff support the addition of the clarifying language. Reference is made to gross floor area – to remain consistent with the area of measurement, staff propose introducing the word “gross” to footnote 4 for lot coverage. Gross floor area includes exterior walls. The interpreted intent of these standards is to mitigate the scale impacts of buildings above 125 feet in height; if the intent is to regulate building scale and footprints, elevators and stairways should be included in the calculation as they contribute to the footprint area. By specifying gross floor area, the intent of the code is more easily interpreted in the future for staff or applicants and creates a consistent reference to how floor area should be measured.

In the case of the project proposed at 201 Federal Street W, the new lot will have an area of 17,003 sf. 25% of that land area is 4,250 sf. Therefore, the proposal relies on the minimum floor area set by paragraph (j)1.

Staff recommend the following revision to the proposed text amendment to not exclude elevators and stairs from the calculated floor area so that 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, **five-hundred (10,500) square feet, gross**.

Chapter 14 Sec. 14-7 Table 7-E Mixed-Use Zone Dimensional Standards to modify lot coverage as presented in Attachment 2:

⁴ *Except that no floor area shall be required to be less than **10,500 SF, gross**.*

VI. COMPREHENSIVE PLAN ANALYSIS

Portland's Plan 2030

Comprehensive Plan goals and policies (state and local) relevant to the proposed map and text amendments are included below. The map and text amendments align with these vision statements and goals by adding infill, residential units within a dense, downtown location currently on an under-developed surface parking lot. The increase in height allows for an increase in dwelling units within a walking and transit-oriented site. Increasing the viability



of downtown, infill sites potentially reduces new construction in green field or outlying areas. In addition, the map amendment would allow for a higher number of residential units providing more housing; in this instance, the units are proposed to be market-rate rental apartments and the required workforce units will be provided on-site.

Vision Statements

- Equity: We will be a state and national leader in achieving a more equitable city.
- Equity: We will incorporate the needs of all our residents in planning for our future.
- Sustainable: Portland has been built and rebuilt to endure; we will balance our historic fabric, sound infrastructure, and the best of new technology and design for the future.
- Sustainable: Portland will grow in order to sustain our community, infrastructure, and economy.
- Sustainable: Growth should respect and seek to preserve our spectacular natural resources.
- Secure: We will be committed to accessible housing and healthy food for all our residents.

Environment

- Adopt sustainable land use and transportation policies that support connectivity, walkable neighborhoods, and multi-modal transportation.
 - o Continue to develop land use policies which support complete neighborhoods.

An Enduring City – Historic Preservation

- Stabilize and enhance historic areas of the city by ensuring quality investment in existing structures and compatible infill development.
- Ensure an appropriate balance of continuity and change as Portland grows and evolves.

A Livable City: Housing

- Increase, preserve, and modify the overall supply of housing city-wide to meet the needs, preferences and financial capabilities of all Portland residents
- Encourage additional contextually appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods.
- Pursue policies to enable people who work in Portland to have the option to live in Portland.
- Encourage quality, sustainable design in new housing development.
 - o Remove housing barriers
 - o Leverage underused properties
 - o Adapt affordable housing

An Accessible City – Transportation

- Promote multi-modal accessibility, enabling residents and visitors of all ages and abilities to participate fully in the social and economic life of the community.
 - o Enhance the pedestrian realm

Future Land Use

- Complete Neighborhoods
- Reinforce the Center

VII. PUBLIC COMMENT

As of the writing of this memo, no public comments have been submitted concerning the zone amendments. The Neighborhood Meeting for ZN-001230-2020 had no attendance (Attachment K, L).

VIII. REQUISITE COUNCIL ACTION

Any proposed rezoning, regardless of whether it is recommended by the Planning Board, must be approved by City Council vote in order to take effect.

IX. MOTIONS FOR THE PLANNING BOARD TO CONSIDER

- On the basis of materials submitted by the applicant, the City of Portland Land Use Code, Portland's Comprehensive Plan, public comment, and the information provided in public hearing on January 26, 2021 for the application ZN-001230-2020 (200 Federal Street), and/or other findings, the Planning Board finds that the proposed Downtown Height Overlay map amendment located at 200 and 201 Federal Street W to raise the height maximum from 150 feet to 190 feet and removal from the area eligible for the Architectural Cap [is/is not] consistent with the Comprehensive Plan for the City of Portland; and therefore, the Planning Board [recommends/does not recommend] to the City Council adoption of the Downtown Height Overlay map amendment for the area of land as shown.



- On the basis of materials submitted by the applicant, the City of Portland Land Use Code, Portland's Comprehensive Plan, public comment, and the information provided in public hearing on January 26, 2021 for the application ZN-001230-2020, (200 Federal Street) and/or other findings, the Planning Board finds that the proposed text amendment to Chapter 14 Sec. 14-7 Table 7-E Mixed-Use Zone Dimensional Standards to modify lot coverage as presented in Attachment 2:

⁴ Except that no floor area shall be required to be less than 10,500 SF, gross.

[is/is not] consistent with the Comprehensive Plan for the City of Portland.

Therefore, the Planning Board **[recommends/does not recommend]** to the City Council adoption of the zoning text amendment.

ATTACHMENTS

ZN-001230-2020

1. Downtown Height Overlay amendment
2. Chapter 14 Sec. 14-7 Table 7-E Mixed-Use Zone Dimensional Standards amendment

Staff Memoranda

3. Historic Preservation Comments

Applicant Submittals

- o. Cover Letter
- A. Project Description
- B. Consistency with Comprehensive Plan
- C. Text Amendment
- D. Right, Title, and Interest
- E. Vicinity Map
- F. Proposed Map Amendment
- G. Civil Site Plan
- H. Architectural Elevations
- I. Neighborhood Meeting Packet

Public Comment



Kevin Kraft <kkraft@portlandmaine.gov>

Public Comment: 200 Federal Street Map Amendment

George Rheault <george.rheault@gmail.com>

Fri, Jan 22, 2021 at 10:04 AM

To: planningboard@portlandmaine.gov, jmy <jmy@portlandmaine.gov>, Christine Grimando <cdg@portlandmaine.gov>, Caitlin Cameron <ccameron@portlandmaine.gov>, Kevin Kraft <kkraft@portlandmaine.gov>, jrather@portlandmaine.gov

I am opposed to the zoning amendments being contemplated here as they solely benefit the applicant versus the entirety of the B-3 district.

It is apparent that this is an inappropriate effort to spot zone a single block - most of which has virtually no chance of being built up (except the applicant's subset parcel identified in the proposed site plan). The developer clearly has carefully canvassed the local powers-that-be and found a fairly innocuous location that is less likely to ruffle many feathers and has been instructed to ask for only the bare minimum of height allowance (is there any objective reason why this cannot be a 22-story building versus 18-stories?).

The entire effort should be converted to a contract zone OR, in the alternative, the planning staff should be required to go back and do a thorough analysis of downtown heights (throughout the peninsula and perhaps in other parts of the city where growth is anticipated) so the entire B-3 benefits from this effort rather than just the shareholders of Redfern's special purpose entity and their contractors.

The 1989 Downtown Height Study was a product of its time and place and appears to have been undertaken (like most "planning" efforts) to HANDICAP development and perhaps even stop it (the Lincoln Square project was obviously the anxiety-producing obsession that prompted the study).

Our community has not revisited the particulars of that study in any systematic way since then (to my knowledge) and the underlying thesis that gets brought forward from it today is that the "Congress Street spine" is where height is "appropriate" which seems absurd and irrational especially considering how much of the central business district has been placed under highly restrictive historic protective status resulting in a small number of parcels available for redevelopment under even the best economic circumstances.

The Planning Board therefore should carefully review the 1989 study in detail rather than making mere passing references to it: [Downtown-Height-Study \(portlandmaine.gov\)](http://portlandmaine.gov/Downtown-Height-Study)

A meaningful effort should be made to update the various explorations in the 1989 study for today's conditions and environment rather than engage in a patently obvious drive-by spot zoning exercise. It is quite a shame this effort has not already been conducted as part of the mostly failing "ReCode" effort.

In addition, there are numerous aspects of the height adjustment that remain unexamined by the Planning Board in their initial perfunctory workshop including:

1) Shadow analysis: The blockiness of the proposed building, especially its long expanse along Federal Street, may have shadow-casting implications for the historic First Parish Church (its front and sideyards), historic City Hall plaza and Exchange Street (afternoon year round as the sun begins setting in the western sky) and may even extend further (Portland High environs). Such an analysis may allay concerns if it is determined that the shadows cast are fast-moving and not particularly impactful or deleterious, but there is no question the intent of the "architectural cap" was in some way to force designers to narrow their building's upper floors in a manner that would be less likely to impact surrounding vistas, aesthetically as well as to avoid basic sun-blocking (a pyramidal or other severely tapered shape allows much more light in than a blocky cube and is less by definition less visually intrusive). So the Planning Board has an obligation to inquire how changing the "cap" space to make way for fully built out floor area may impact the project's surroundings.

2) Parking analysis: It is clear that good infill is badly needed to make Portland successful and competitive for the future. Unfortunately, the politics of development have made it impossible for Portland to move forward except via incestuous incrementalism given via special favor for certain special interests while good policy for the city as a whole remains stillborn. Here we have one site given all the applause and benefits of getting to be fully "urban" in look, feel and function while being entirely dependent on shifting the auto-centric anti-urban impacts to other parts of the area and likely permanently condemning those parcels to further blight. The Chestnut Street garage was one of the most egregious examples of urban planning in Portland's development history and instead of creating momentum for it to go away someday, the Planning Board is further embedding its horribleness to help a single parcel elsewhere. This is not confronting the equitable challenges of urban life in an auto-dependent region but rather side-stepping them completely in

order to give one party an opportunity while denying it completely elsewhere. The current occupancy of the Chestnut Street garage should also be analyzed in the record - especially since we can determine somewhat readily the demands already being made on this garage including the 75 Chestnut Street condo building which has been before the Planning Board very recently and routine usage by City Hall employees (perhaps even planning staff) on the upper level.

I will also note in passing that the allowance of the site plan application to be included in the initial workshop was a ridiculous and patently transparent attempt to avoid having this project be impacted by the recently enacted inclusionary zoning rule change (from 10% to 25%). It was obvious site plan materials were not ripe for analysis and the fact that both staff and the Planning Board members spent virtually no time on the site plan aspects makes it very clear that the planning staff orchestrated this with the applicant in order to remove the burden of 40 more affordable housing units being added to the applicant's IZ obligations.

On this question, can the planning staff identify other instances in the past 5-10 years where a major project of this scale and scope (or any for that matter) had their site plan application taken up simultaneously with their zoning amendment package?

I don't recall this being done for example with the Elks Lodge project on Outer Congress or the Camelot Farms subdivision.

PLANNING BOARD REPORT PORTLAND, MAINE



B-1 Neighborhood Business Zone Text Amendment
163 Washington Avenue
ZN-000540-2019
Jeffrey Curran, Newspapers, Inc., Applicant

Submitted to: Portland Planning Board	Prepared by: Shukria Wiar, Planner
Public Hearing Date: January 26, 2021	Date: January 22, 2021

I. INTRODUCTION

Jeffrey Curran, applicant and owner of 163 Washington Avenue, seeks City zoning actions to facilitate the legalization of a brewery and distillery use at the subject property, which is located on the easterly side of Washington Avenue between East Cove Street and the I-295 interchange. Prior to the September 8, 2020 Planning Board workshop, the applicant had applied for a rezoning from B-1 to B-2b to facilitate the operation of a brewery/distillery use at this location; this use is not permitted under B-1, but is allowed in the B-2b zone. At the workshop for this application on September 8, 2020, the Planning Board requested that Planning staff look into a text amendment to facilitate the desired use in lieu of the applicant's original map amendment request. In coordination with the applicant, staff developed a text amendment to help facilitate the brewery/distillery use under the low-impact industrial use category, which includes this use within its definition. The parcel on which the brewery/distillery use is proposed is 5,660 square feet in size, is currently occupied by a two-story, 950 square foot two-family residence, and is zoned B-1 Neighborhood Business.

Figure 1: Zoning map – site outlined in red



Owner/ Applicant: Jeffery Curran, Newspapers, Inc.

Applicant Representative: Marshall Tinkle, Esq., Thompson, MacColl & Bass, LLC

II. PROJECT DATA

Current Zoning:	B-1 Neighborhood Business
Current Use(s) at Site:	Two Family Residential
Proposed Uses at Site:	Mixed Use (ground-floor brewery and upper floor residential)
Total Parcel Area:	± 5,660 SF

III. BACKGROUND

A. Location of the Proposed Site:

The 163 Washington Avenue site consists of three parcels with a total area of 5,660 SF. The subject property contains a two-story, two-unit building of 1,872 SF in size on the eastern half of the site. The remainder of the site is dedicated to surface parking. The building has approximately 40 feet of frontage on Washington Avenue, is 103 feet deep, and was constructed in 1890, according to the City Assessor's records.

Figure 2: Photo of the Property in 1924



Washington Avenue is characterized by a mixture of uses, building types and scales, including single family, two-family, and multi-family residential, and a wide range of non-residential uses such as restaurants, retail, offices, a bicycle shop, a redemption center, and light industrial uses in an approximately half mile stretch. The corridor contains a mixture of residential and commercial on both sides of the street. Commercial uses in this section include the newly constructed bathhouse (145 Washington Avenue) and Northern Burner Supply building (185 Washington Avenue). The Avesta-operated Thomas Heights Apartments at 134 Washington Avenue, an 18-unit multifamily building housing a veteran population, is in the vicinity of the proposed site, as are numerous other neighborhood scale residential and commercial buildings.

Figure 3: Street Level View of Existing Property



Prior Zoning Actions:

1. 2014 Rezoning from R-6 to B-1 for the Proposed Site and Surrounding Abutters

In October 2014, the Planning Board voted to recommend a zoning map amendment from R-6 to B-1 to the City Council for a mixed-use development consisting of commercial uses along Washington Avenue, and residences in the form of apartments and townhomes. The Planning Board had determined that the easterly side of Washington Avenue between the I-295 interchange and Walnut Street warranted rezoning in connection with a development proposal and recommended the B-1 zone in lieu of the initial proposal for a B-2b zone. The choice of B-1 over B-2b was driven by the range of allowable uses and development intensity permitted by the former over the latter. Both B-1 and B-2 permit medium-level residential and neighborhood-scale commercial uses by right, but the uses allowed by the B-1 zone facilitate commercial development at a smaller scale than B-2b. At the time, the Board also felt that the B-1 zone was the more contextual choice of zone for this specific section of the street, due to the nearby residential development along Walnut Street, East Cove Street, and Sheridan Street. The rezoning was approved by the City Council in January of 2015.

2. 2006 Rezoning from R-3 to B1-b from Gould Street to I-295 Ramp:

In 2006, the parcels from Gould Street to the I-295 ramp on the west side of Washington Avenue were rezoned from R-3 to B1-b. Planning staff examined the B1-b, B2-b or B2-c zones for this location, and ultimately recommended B1-b because it would allow for mixed-use development while also maintaining residential development that would complement existing patterns of density in the vicinity. The report noted concern over the potential for use conflicts between the successful neighborhood businesses - many of which were located within small commercial lots - and the need for vehicle access to the nearby I-295 interchange.

B. Current Zoning and Uses in the Vicinity

The area surrounding 163 Washington Avenue is an urban mix of residential and commercial uses. Washington Avenue and the East Bayside neighborhood in general are emerging as areas of mixed-use redevelopment. The subject property lies at the intersection of several zones. The property itself is zoned B-1; as such, it is surrounded on two sides by mostly residential uses, including some large multi-family housing to the east. Most of the adjacent housing is of a scale characteristic of the city's East End. A B-2b zone lies across Washington Avenue and includes restaurant, retail, office, and residential uses. To the northwest (also across the street), about a block away, is the B-1b zone.

B-1 Zone: As previously stated, the subject block was rezoned from R-6 to B-1 in 2014. At that time, the City Council approved the extension of the B-1 zone along the east side of Washington Avenue from the intersection of Washington Avenue and Walnut Street (with the exception of the first three lots) to the Resource Open Space (ROS) zone near the I-295 on-ramp at exit 5. As a result of that rezoning, two projects have been approved for two of these lots, one of which is being constructed at 145 Washington Avenue and consists of a mixed-use residential and commercial development.

B1-b Zone: The B-1b zone extends along the western side of Washington Avenue between Gould Street and the I-295 ramp

at Tukey's Bridge. This area is comprised of single and multi-family residential development. Residential uses within this zone must conform to the zoning requirements of the abutting or nearest residential zone. In this case, the nearest residential zone is R-6 Residential. Within this zone multifamily dwellings are permitted above the first floor for any structure with a commercial use on the first floor.

B-2b and R-6: The western side from Gould Street and eastern side of Washington Avenue is a mix of R-6 residential and B-2b business. Surrounding non-residential uses include the Oil Burner Supply Company across Washington Avenue, facing Gould Street. In the B-2b zone, surrounding uses include the AM- VET VFW Post, a screen-printing business and the East End Redemption Center. Single and multi-family residential dwellings are interspersed throughout the area.

ROS: North of the site along Washington Avenue is City owned property, which is part of the Eastern Promenade parkland and is zoned ROS- Resource Open Space.

Figure 4: Aerial view of Washington Avenue

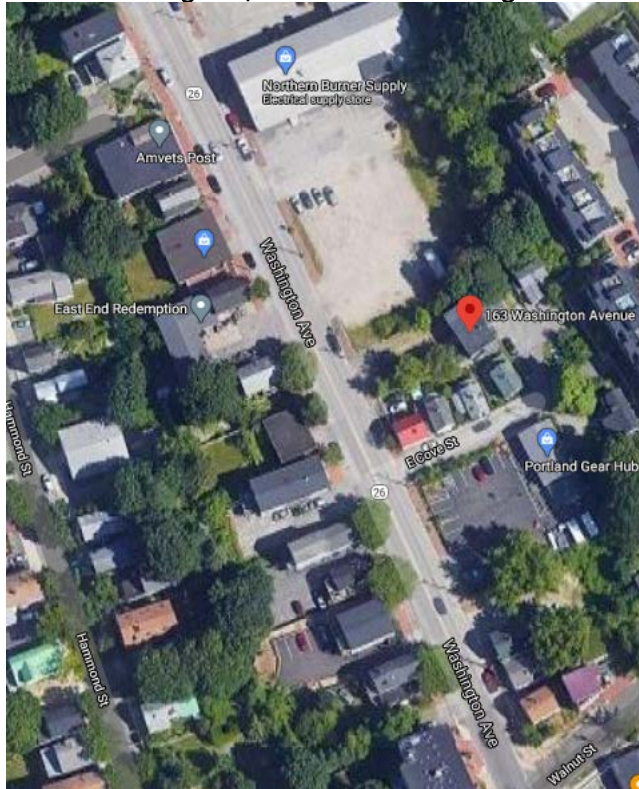
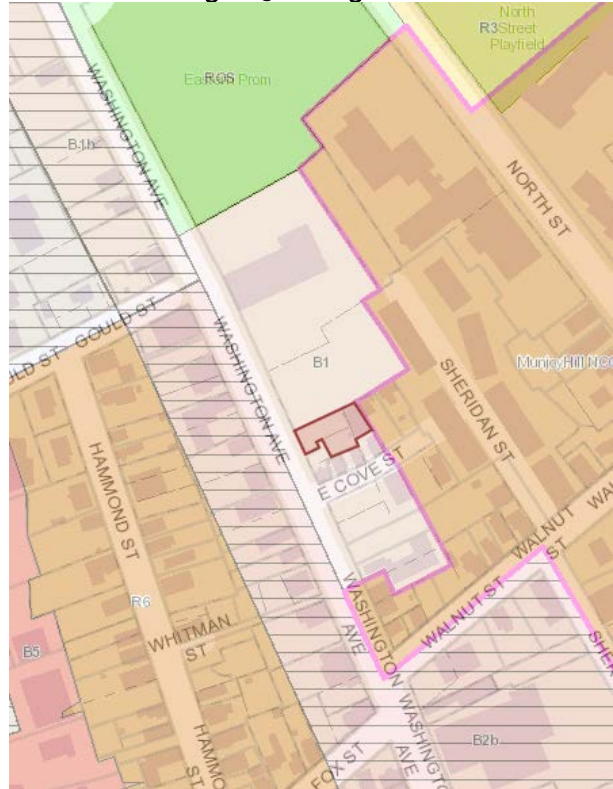


Figure 5: Zoning Context



IV. CONCEPTUAL FUTURE DEVELOPMENT

The applicant seeks zoning actions by the City to allow the conversion of the first-floor residential unit in the existing building at 163 Washington Avenue into a brewery use. In addition, the applicant envisions patio space and picnic tables for patrons and a tasting area on the property. While the applicant has not submitted any conceptual site plan materials, the future use at the subject property will be required to meet City site plan, technical, and design standards.

V. PROPOSED TEXT AMENDMENT

The mixed-use element of the applicant's proposal, with a proposed brewery use on the ground floor, is prohibited in the B-1 zone. For this reason, the applicant originally requested a rezoning to the B-2b zone, which allows both higher residential density (1 unit/435 SF), and, a broad range of commercial uses, including retail and restaurant uses, distilleries, and breweries by right. At the last workshop, the Planning Board felt that text amendments to the B-1 zone would be more appropriate and requested that Planning staff work with the applicant to amend the permitted uses within the B-1 zone instead, which grants the same dimensional flexibility, the potential for mixed-use developments, and use of breweries and distilleries. In

the newly adopted Chapter 14 of the City Ordinance, the use of brewery and distillery is included in the definition of industrial, low impact uses, see below:

Industrial, low-impact. *Industrial activity involving the manufacturing, packaging, assembly, or distribution of finished products from previously prepared material, including but not limited to the following: artist studios, bakeries; **breweries; distilleries**; bottling; coffee roasters; commercial kitchens; pharmaceuticals; machine shops; watchmakers; makers of precision instruments, 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; plant and tree nurseries; 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 generally compatible, due to their size and nature of impact, with residential, commercial and other low impact industrial uses.*

Currently, industrial, low impact uses are not allowed in the B-1 zone. However, under this text amendment, industrial, low impact uses would be permitted in the B-1 zone but the square footage would be limited to 3,500 square feet or less. The size limitation would be included within footnote #15 of Table 6-C, as shown below:

TABLE 6-C (CONT.): PERMITTED AND CONDITIONAL USES IN MIXED USE ZONES

	B-1/B-1b	B-2/B-2b/B-2c	B-3/B-3b/B-3c ¹¹	B-4	B-5/B-5b	B-6	B-7	Use Standards
		●	●	●			●	6.4.10
		●	●	●	●	●	●	
		●		●			●	
		●	●	●	●	●	●	
		● ⁷		●				
							○	6.5.6(D)
					●	●	●	
		○		●		○	●	6.5.6(E)
	● ^{2, 15}	● ⁸	○	●	●	●	● ⁸	6.5.6(E)
		● ⁸		●	○			
				●				
				●				6.4.10
				●				
		○ ⁹	●	●	●	●	○	
		●	●	●	●	●	●	
Industrial	●	●	●	●	●	●	●	
				●				6.4.17
		○ ¹⁰		●	● ¹⁰	○ ^{10, 14}	○ ^{10, 14}	6.5.6(E)
					●	●		6.4.11
				●				6.4.7
			●/○ ¹²		●	○	○	6.5.6(H)
	●	●	●	●	●	●	●	
	●	●	●	●	●	●	●	6.4.16
				○				
Other	●	●	○	●	●	●	○	6.5.6(L)
		○	○	○	○	○	○	6.4.18

¹⁵ Only Industrial, Low-Impact Uses of 3,500 SF or less are permitted in the B-1 and B-1b zones, subject to standards of Subsection 6.4.6.

Accordingly, Section 6.4.6 (A) Commercial uses and (B) Hours of operations in the B-1/B-1b zones will be amended to include industrial, low impact uses of 3,500 SF or less:

A. Commercial uses and industrial, low-impact use of 3,500 SF or less shall be permitted provided that such uses generate less than 100 peak hour vehicle trips per 2,000 square feet of floor area and less than 100 peak hour vehicle trips in total.

B. Retail, restaurant, and low-impact industrial uses shall not operate between the hours of 11 p.m. and 6 a.m., and shall not accept deliveries or services between the hours of 10 p.m. and 7 a.m. For restaurants, food service and consumption shall be the primary function.

VI. ZONING ANALYSIS

The B-1 zone is intended to “provide limited areas for the location of small-scale commercial establishments.... [which are] complimentary, quiet, and generally do not disturb the comfort and enjoyment of the adjoining neighborhood” (*Section 14-167*). It should be noted that the B-1 business zone explicitly encourages mixed-use buildings which allow for commercial development and high residential density.

B-1 Neighborhood Business Purposes

Purpose	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.

Permitted Uses

The 163 Washington Avenue site is located within an existing B-1 zone near Tukey’s Bridge and within a compact, neighborhood-oriented development context. The B-1 limits development almost exclusively to residential neighborhood uses, with an exception for low-intensity, compatible nonresidential uses such as cemeteries, parks, bed and breakfasts, and lodging houses. Some slightly more intense uses, including schools, extended care facilities, places of assembly, and hospitals, are allowed under a conditional use permit. The B-1 allows residential density under the regulations of the nearest residential zone (in the case of 163 Washington Avenue, the R-6 zone). The B-1 zone does not require that residential uses be located on the upper stories within this zone, however, in any structure that has commercial uses in the first floor, multi-family dwellings are permitted above the first floor. The proposed text amendment would allow industrial, low-impact uses within the B-1 zone. Although the industrial, low impact use category allows a wider range of uses than the current B-1, including brewery/distillery uses, this specific use will be limited to a maximum of 3,500 square feet of floor area in size.

TABLE 6-C: PERMITTED AND CONDITIONAL USES IN MIXED-USE ZONES

		B-1/B-1b	B-2/B-2b/B-2c	B-3/B-3-b/B-3c ¹¹	B-4	B-5/ B-5b	B-6	B-7	Use Standards
Residential	Single-family dwellings	●	●	●		●	●	●	
	Two-family dwellings	●	●	●		●	●	●	
	Multi-family dwellings	● ¹	●	●		●	●	●	

Institutional	Handicapped family units			●		●	●	●	
	Combined living/working spaces	● ²	●	●		●	●	●	
	Lodging houses	● ²	●	●	●	●		●	6.4.9
	Clinics	● ²	●	●		●		●	
	Cultural facilities			●		●	●	●	
	Elementary, middle, and secondary schools	● ²	●	●		●	●	●	
	Emergency shelters			⓪	⓪	⓪			6.5.6(B)
	Governmental uses	● ²	●	●	●	●		●	
	Intermediate care facilities		●						
	Long-term and extended care facilities		●						
	Places of assembly (< 10,000 SF)	● ²	●	●	●	●	●	●	
	Places of assembly (> 10,000 SF)		●	●	●	●	●	●	
	Preschool facilities	● ²	●	●	●	●	●	●	
	Post-secondary schools		●	●	●	●	●	●	
Commercial /Service	Adult business establishments		● ³	● ³					6.4.2
	Auto, boat, and related dealerships		⓪		●				6.5.6(A)
	Auto service stations		⓪ ⁴		●	●			6.5.6(A)
	Bars		● ⁵	● ⁵	●	●	●	●	6.4.3
	Bed and breakfasts	●	●	●				●	6.4.4
	Exhibition, meeting, and convention halls			●		●	⓪	●	
	Funeral homes		●		●				
	General offices (<5,000 SF)	● ²	●	●	●	●	●	●	6.4.6
	General offices (>5,000 SF)		●	●	●	●	●	●	
	General services (<5,000 SF)	● ²	●	●	●	●	●	●	6.4.6
	General services (>5,000 SF)		●	●	●	●	●	●	
	Hostels	●		●		●		●	6.4.6, 6.4.8
	Hotels		●	●	●	●	● ¹³	●	
	Marijuana retail store		●/⓪ ⁶	●	●			●	6.4.10
	Recreation and amusement centers				●	●		●	
	Registered marijuana dispensary		●/⓪ ⁶	●	●			●	6.4.10
	Restaurants	● ²	●	●	●	●	●	●	6.4.3, 6.4.6
	Retail (< 5,000 SF)	● ²	●	●	●	●	●	●	6.4.6, 6.4.15
	Retail (5,000 – 25,000 SF)		●	●	●	●	●	●	6.4.15
	Retail (>25,000 SF)		●	●	●	●	●	●	6.4.15

TABLE 6-C (CONT.): PERMITTED AND CONDITIONAL USES IN MIXED USE ZONES

	B-1/B-1b	B-2/B-2b/B-2c	B-3/B-3b/B-3c ¹¹	B-4	B-5/B-5b	B-6	B-7	Use Standards
Small-scale marijuana caregiver		●	●	●			●	6.4.10
Theaters and performance halls		●	●	●	●	●	●	
Veterinary services		●		●			●	
Communication studios		●	●	●	●	●	●	
Dairies		● ⁷		●				
High-tech manufacturing							⓪	6.5.6(D)
Intermodal transportation facilities					●	●	●	
Laboratory and research facilities		⓪		●		⓪	●	6.5.6(E)
Low-impact industrial (<10,000 SF)	● ²	● ⁸	⓪	●	●	●	● ⁸	6.5.6(E)
Low-impact industrial (>10,000 SF)		● ⁸		●	⓪			
Marijuana testing facilities				●				6.4.10

Other	Marijuana manufacturing facilities						●	
	Marijuana cultivation facilities (<7,000 SF plant canopy)						●	
	Printing and publishing	● ⁹	●	●	●	●	●	6.4.17
	Repair services	●	●	●	●	●	●	
	Studios for artists and craftspeople	●	●	●	●	●	●	
	Tow lots						●	6.4.17
	Warehousing, storage, and distribution	● ¹⁰		●	● ¹⁰	● ^{10, 14}	● ^{10, 14}	6.5.6(E)
	Marine uses				●	●		6.4.11
	Correctional pre-release facilities						●	6.4.7
	Off-street parking			●/● ¹²		●	●	6.5.6(H)
	Parks and open spaces	●	●	●	●	●	●	
	Solar energy system (minor)	●	●	●	●	●	●	
	Solar energy system (major)				●			6.4.16
	Utility substations	●	●	●	●	●	●	6.5.6(L)
	Wind energy system (minor)	●	●	●	●	●	●	6.4.18

¹ Permitted if permitted in the adjacent or nearest residential zone. In other cases, permitted if located above first floor commercial, or on first floor where a minimum depth of 25 ft. along the principal frontage is maintained for commercial use.

² Permitted on the ground floor only in the B-1b zone.

³ Permitted in the B-2 and B-3 zones only.

⁴ Permitted as a conditional use in the B-2 only. Expansion of auto service stations in existence as of 11/15/99 permitted as a conditional use in the B-2b and B-2c zones.

⁵ Not permitted in the B-2c and B-3c zones.

⁶ Permitted in the B-2 zone. Conditional in the B-2b and B-2c.

⁷ Permitted only if an expansion of an existing dairy.

⁸ Permitted with a retail component only. Low-impact industrial uses greater than 10,000 SF are permitted in the B-2 only.

⁹ Printing and publishing of 10,000 SF or less, or expansion of printing and publishing establishments greater than 10,000 SF in existence as of 4/4/88, shall be treated as a conditional use.

¹⁰ Permitted in the B-2/B-2b/B-2c as a conditional use if 10,000 SF or less. Self-storage permitted in the B-4 zone. Self-storage permitted as a conditional use in the B-5 zone (on-peninsula locations only) in buildings existing as of 12/16/15. Self-storage not permitted in the B-2/B-2b/B-2c, B-6, and B-7 zones.

¹¹ See PAD Overlay for additional use regulations.

¹² Structured parking shall be permitted. Surface parking shall be treated as a conditional use.

¹³ Hotels shall be limited to no more than 150 rooms.

¹⁴ Wholesale is allowed as conditional use, providing the wholesale operation is associated with an onsite retail establishment and occupies less than 15,000 SF.

VII. LAND USE POLICY ANALYSIS

The applicant has submitted their analysis of the project's conformance with the Comprehensive Plan (refer to [Attachment D](#)). Staff have identified the following goals and policies which are relevant to the proposed text amendment to the B-1 zone and finds the proposal in conformance with both the housing and economic development goals of the Comprehensive Plan, as well as the future land use vision.

The central vision of Portland's Plan 2030 is represented by the Venn diagram demonstrating the integral interrelation of the community's core belief that Portland is equitable, sustainable, connected, dynamic, authentic and secure. The vision conveys the message of the City's need to balance many competing needs to assure the advance of the vision as a unified concept. In this instance, that the City's goals for job growth and transforming Portland through orderly growth and development be balanced with needs for connectivity of the street grid, sustainability of infrastructure and the ability to maintain that infrastructure, and security in the sense of public safety. Applicable policy includes the following:



A Vibrant City

Promote an economic climate that increases job opportunities and overall economic well-being.

2. SUPPORT LOCAL BUSINESS RETENTION AND RECRUITMENT

- Pursue policies that create, nurture, and retain local businesses.
- Support job creation and business growth through public initiatives and private, institutional, and regional partnerships.
- Strengthen City programs and services that support business development.

5. TARGET AREAS FOR JOB GROWTH

- Ensure that new employment can be accommodated in priority growth areas across the City.
- Evaluate zoning and the condition of existing infrastructure in priority areas - downtown, in identified neighborhood nodes, and along transit corridors - to ensure that employment and housing growth can be supported.
- Expand possibilities for live/work spaces - residential living space with integrated creative work space.
- Modify ordinances and make strategic investments to better promote business development and job creation in priority areas.

FUTURE LAND USE

Portland's plan for Future Land Use places emphasis on areas most important to its growth over the next ten years. It includes three maps: a map depicting current dominant land use patterns, a map showing a connected network of trails and open spaces, and a map of corridors and nodes that are poised to accommodate additional growth. These maps are best understood in the context of the plan's principles for future growth. The Washington Avenue area is one of the priority corridors identified in the plan as an area for transformation.

Priority growth areas include the following elements:

1. Priority Nodes: These are areas with concentrated mixed-use activity, which can occur at varying scales and serve varying catchment areas - Portland's downtown supports a large successful node, for example, but nodes can also be found at smaller convergences and intersections throughout the City. As mapped, nodes are not meant to sharply delineate boundaries, but to indicate general areas in need of further planning or investment. The nodes identified by the map may have seen disinvestment, grown in sprawling patterns, or simply have the potential to serve as focal points for change in density or, height, streetscape, or uses to better serve neighborhood needs. These nodes are placed into three broad categories that correspond with their respective stage of planning or investigation at the present time.

- Evaluate: Areas as diverse as East Bayside and Allen's Corner, where the City recognizes the need to review existing conditions and develop a strategy for future change. These nodes should be assessed for their ability to address neighborhood needs and serve as centers for complete neighborhoods;
- Transform: Areas such as Morrill's Corner, which have been previously recognized as areas of significant potential transformation, but which need comprehensive revisioning; and
- Enhance: Areas such as Woodford's Corner, or the Eastern, Central and Western Waterfronts, which have been studied and are awaiting or in the midst of plan implementation.



2. Priority corridors: The Priority Nodes & Corridors Map identifies key corridors - those that connect major nodes and neighborhoods and therefore serve as major commuter routes - as areas for additional planning and investment. Priority corridors are major arterials that often see heavy vehicular traffic, but also have the capacity to improve mobility by capitalizing on their potential for increased walking, bicycling, and transit use. Priority corridors can also serve as areas of additional mixed-use, higher density growth to take advantage of the transit benefits and services that well-designed, diverse corridors can offer. The Washington Avenue Corridor on the Peninsula is one of Portland's priority corridor.

The proposed action originally included within this application was a zoning map amendment from B-1 to B-2b, as B-2b allows the desired brewery/distillery use and B-1 does not. Deliberation by the Board at the September 8, 2020 workshop emphasized a desire to examine zoning along the Washington Avenue corridor in a broader fashion than would be possible under a single, piecemeal zoning action focused on the subject property and its immediate surrounding area, and, responsive to public comment, the desire to limit the potential impacts to residential abutters that a rezoning of the subject property and adjacent parcels to B-2b could create. By allowing low impact industrial uses less than 3,500 square feet in size via a text amendment to the B-1 zone, the zone can provide additional flexibility for the siting of such uses within a wider geography than is currently allowed thus enabling corridors to evolve as conditions and retail environments change. This approach avoids the introduction of B-2b and its higher intensity of use and dimensional allowances into the immediate neighborhood. As B-1 zones are frequently mapped proximate to residential uses, the size limitation of 3,500 square feet is intended to limit the potential impacts on residential uses by ensuring that any business seeking to operate under this use definition will be small in scale, with a limited number of employees and limited space for operations. This is consistent with the definition of low-impact industrial uses within the Land Use Code, which states *Low-impact industrial uses are generally compatible, due to their size and nature of impact, with residential, commercial and other low impact industrial uses.*

VIII. PUBLIC COMMENT/NEIGHBORHOOD MEETING

Notices were sent to a hundred and fifty-two (152) residents and the interested citizen list. The notice also appeared in the Portland Press Herald on January 15 and January 16, 2021, as well as being posted on the City's web page. The City has received written public comments from five abutters as well as a signed petition from the neighborhood. Ron Gan and Christian MilNeil are in support of the original application for a map amendment, but the rest of the neighbors have concerns about a brewery and the related concerns, such as noise, light pollution, screening, and hours of operation for the proposed business. The owner of Northern Burner Supply has also inquired about the proposed rezoning. He does not oppose the proposal but wanted to express that he does not plan on providing parking spaces to the development.

As the recommended zoning action is now a text amendment in lieu of the original zoning map amendment, a neighborhood meeting is no longer required. Shortly after the Planning Board workshop held in September and prior to the drafting of the proposed text amendment, the applicant did conduct a neighborhood meeting on December 10, 2020, where 13 members of the public attended, voicing the same concerns as mentioned in the above paragraph.

IX. STAFF RECOMMENDATION

Planning staff recommends the proposed text amendment to the B-1 Neighborhood Business Zone for the Planning Board's consideration.

X. PROPOSED PLANNING BOARD MOTION

On the basis of materials submitted by the applicant, the City of Portland Land Use Code, Portland's Comprehensive Plan, public comment, and the information provided during the public hearing on January 26, 2021 for application ZN-000540-2019, the Planning Board finds that the proposed text amendment to Land Use Code Section 6.4.6 (A) and (B), and Table 6-C Permitted and Conditional Uses in Mixed Use Zones in order to allow low impact industrial uses less than 3,500 square feet in size in the B-1 Neighborhood Business Zone, as presented herein **[is or is not]** consistent with Portland's Comprehensive Plan and **[recommends or does not recommend]** adoption of the amendment to the City Council.

XI. ATTACHMENTS

A. MEMO ATTACHMENT

1. Comments Letter to Applicant

B. PUBLIC COMMENTS

PC1 Christian MilNeil	04.02.2020
PC2 Ron Gan	02.25.2020
PC2aRon Gan	09.02.2020

PC3 Ramon and Ruby Anastacio	09.14.2020
PC4 Robert Morse	09.10.2020
PC5 Mary Morse	09.15.2020
PC5 a 09.08.2020	
PC6 Page Nichols	10.14.2020
PC7 Petition	

C. APPLICANT'S ATTACHMENTS

- A. Check List
- B. Project Description
- C. Anne Torregossa 3.17.20 (Cover letter)
 - C1. Anne Torregossa 4.10.20 (Cover letter)
- D. Consistency with Comprehensive Plan
 - D1. Comprehensive Plan Consistency
- E. Deed p.1
 - E1. Deed p.2
- F. Neighborhood Meeting Packet

D. PLANS

Plan 1	163 Washington Ave Vicinity Map
Plan 2	Vicinity Map

CITY OF PORTLAND
Planning & Urban Development Department

MAP AMENDMENT SUBMISSION CHECKLIST Please submit each document as a separate PDF file Please confirm by electronically checking the boxes to the left	
GENERAL APPLICATION DOCUMENTS	
☒	Project Description Cover Letter with detailed project description
☒	Consistency with Comprehensive Plan Analysis of the consistency of the zone change request with the goals, policies and land use plan of Portland's Comprehensive Plan.
☒	Completed Checklist – Map Amendment Application (this document)
☒	Right, Title and Interest Deeds, leases, or purchase and sales agreements
PLANS	
☒	Vicinity Map NA.
☒	Proposed Map Amendment (please use the Portland zoning map as a reference)
☒	Site Plan (if applicable) NA Provide a site plan of the property showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries.

NEWSCAPES, INC.
163 Washington Ave.
Portland, ME. 04101

November 22, 2019

Mayor and Members of the City Council

I am excited to apply for a map amendment from the B-1 zone to a B-2 zone. Shown on the included vicinity map, outlined in red. It includes sections of Washington Avenue and East Cove street.

Sincerely,

Jeffrey A. Curran

THOMPSON, MACCOLL & BASS, LLC, P.A.
COUNSELORS AT LAW

EDWARD S. MacCOLL *
MARSHALL J. TINKLE *
JOHN R. BASS, II
OF COUNSEL
* ALSO ADMITTED IN NH & MA

15 MONUMENT SQUARE, 4th Floor
P.O. BOX 447
PORTLAND, MAINE 04112-0447
TELEPHONE (207) 774-7600
FACSIMILE (207) 772-1039

BENJAMIN THOMPSON
(1857-1918)
NATHAN W. THOMPSON
(1895-1969)
BENJAMIN THOMPSON
(1921-2002)

March 17, 2020
Via email

Anne M. Torregrossa, Esq.
Associate Corporation Council
City of Portland
389 Congress Street, Room 211
Portland, Maine 04101

RE: Newsclapes Brewing – Zone change application

Dear Anne:

I am writing in response to your email of February 28, 2020. Although Newsclapes Brewing has previously addressed all of the City's inquiries in connection with its application for a zoning amendment in 2019 (I note that the application passed the completeness check on January 19, 2020), please consider this letter as Newsclapes' supplementation of its 2019 application and of its subsequent submissions to the City. The information you requested is as follows:

1. Project Description: The background to this application has previously been discussed at length. After obtaining all necessary state and federal permits and licenses, and after checking with the City's planning and zoning departments, Newsclapes began operating a brewery at 163 Washington Avenue, which is also the location of the residence of Newsclapes' principal, Jeffrey Curran, in early 2018. However, after applying for a tasting room license in February 2019, Newsclapes was advised by the City for the first time that its brewery was not permitted in the B-1 zone. City officials encouraged Newsclapes to apply for a zoning change in order to resolve the land use issue.

Existing use: In compliance with the City's instructions, the property has not been used as a brewery or for any other commercial purpose since early 2019. It

continues to be used as Mr. Curran's residence, as it has been for the past 17 years.

Proposed use of property: Newsapes proposes to use the property as a brewery, as it was used until early 2019, and also proposes adding a small tasting room. Traffic, parking, olfactory conditions and decibel levels are expected to be no different than in 2018. Newsapes previously had no issues with noise, smell, traffic or parking. The brewery was and will be entirely contained within the building. Startup of the brewery did not entail any new construction in 2018; and no remodeling is anticipated at this time. At some later date, there may be a possible addition of a deck with steps and picnic tables, as outlined on the site plan drawing attached hereto as Exhibit A (previously submitted in February 2019 to Christopher Beaumont, Life Safety Plan Reviewer). Newsapes uses a simple "home-brewing" procedure, involving no industrial equipment. This would be a small-scale, low-impact craft brewery. It would have no adverse impact on abutters or on the general neighborhood.

2. **Survey or Site Plan:** Drawings of the site (as previously submitted to the City) are attached hereto as Exhibit A. A map showing the locus of the proposed zone change, which was previously submitted as part of the application, is attached hereto as Exhibit B.

3. **Comprehensive Plan Consistency:** The proposed zoning map amendment is consistent with the comprehensive plan, applicable regulations, and the character of the surrounding neighborhood for the following reasons. The property is situated in a small block currently designated as "B-1," across from and nearly adjacent to a larger B-2b zone along inner Washington Avenue. The differences between the B-1 and B-2/B-2b zones are relatively minor. A variety of business uses are permitted in the B-1 zone, including beverage dealers, restaurants (with some restrictions), professional and business offices, business services, and retail establishments. The B-2/B-2b zones allow greater flexibility in business uses and specifically permit breweries, distilleries, bakeries and similar establishments.

The latest iteration of Portland's Comprehensive Plan notes with approval that new businesses are appearing on inner Washington Avenue. *See* Portland's Plan 2030 at 39. Applauding the City's entrepreneurial environment, the plan states: "Our food and maker

economies continue to thrive as we explore ways to grow our value-added industries *such as brewing* and distilling, seafood processing, farm-to-table restaurants, and other food producers....” *Id.* at 40. Challenges to face include “a scarcity of office, industrial, and commercial space to meet current demand.” *Id.* Hence, any zoning modification that facilitates brewery entrepreneurship in emerging commercial centers like Washington Avenue actively furthers the comprehensive plan. *See also id* at 39 (“Portland provides a welcoming environment for current and future employers and entrepreneurs both large and small” and its “commercial activity is dynamic and multi-nodal”), 40 (most critical element of City’s future “is tapping the nascent energy of current and future entrepreneurs”), 41 (core economic development focus areas included “growing the economy” and “supporting business”), 42 (manufacture of comestible and value-added products “are an increasingly important part of the local economy”), 43 (local goals include growing employment base and valuing and nurturing Portland-based businesses), 44 (future strategies include supporting and retaining local businesses and evaluating zoning to ensure that employment growth can be supported).

Please see also Newsclapes’ discussion of comprehensive plan compatibility in its initial application and in the letter of Jeffrey Curran to James J. Rather dated December 27, 2019.

4. Neighborhood Meeting: As noted in Mr. Curran’s email to the City dated January 21, 2020, he received an email from the planning department on January 19, 2020 indicating that developments requiring a neighborhood meeting consisted of (1) proposed map amendments that would result in major development, (2) subdivision of five or more units/lots, (3) master development plans, and (4) level III site plans. Because this zone change amendment does not involve a major development, it is our impression that a neighborhood meeting is not required. If this is not the case, please call me at your earliest convenience to discuss what steps need to be taken to hold a neighborhood meeting and why it is necessary.

Anne M. Torregrossa, Esq.
March 17, 2020
Page 4

You have also recommended that Newsapes change its application to request a zone amendment to B-2b instead of B-2. Newsapes will be happy to revise its request, as long as no additional fees are involved and its proposed use will not in any way be prejudiced. The brewery will not have a total floor area of 10,000 square feet or greater. Therefore, it appears that a brewery would be equally permissible in the B-2 and B-2b zones. If you disagree, please advise.

Please let me know if you have any questions or need any further information. Thank you for your consideration.

Sincerely,

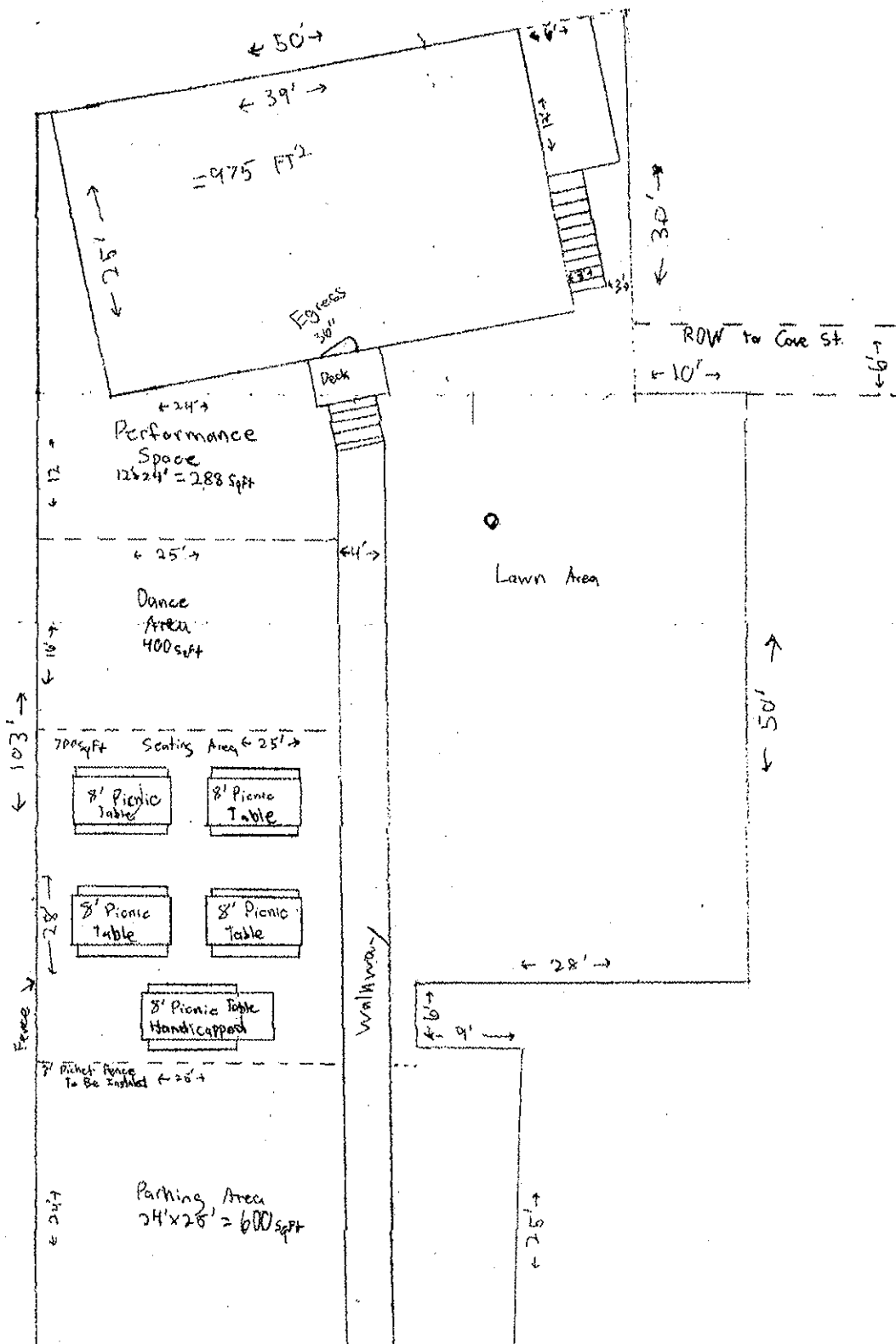
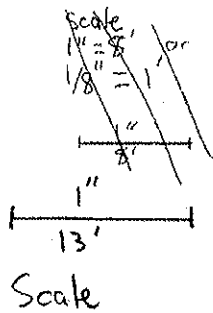


Marshall J. Tinkle (MBN 2833)

MJT/II
cc: Jeffrey Curran

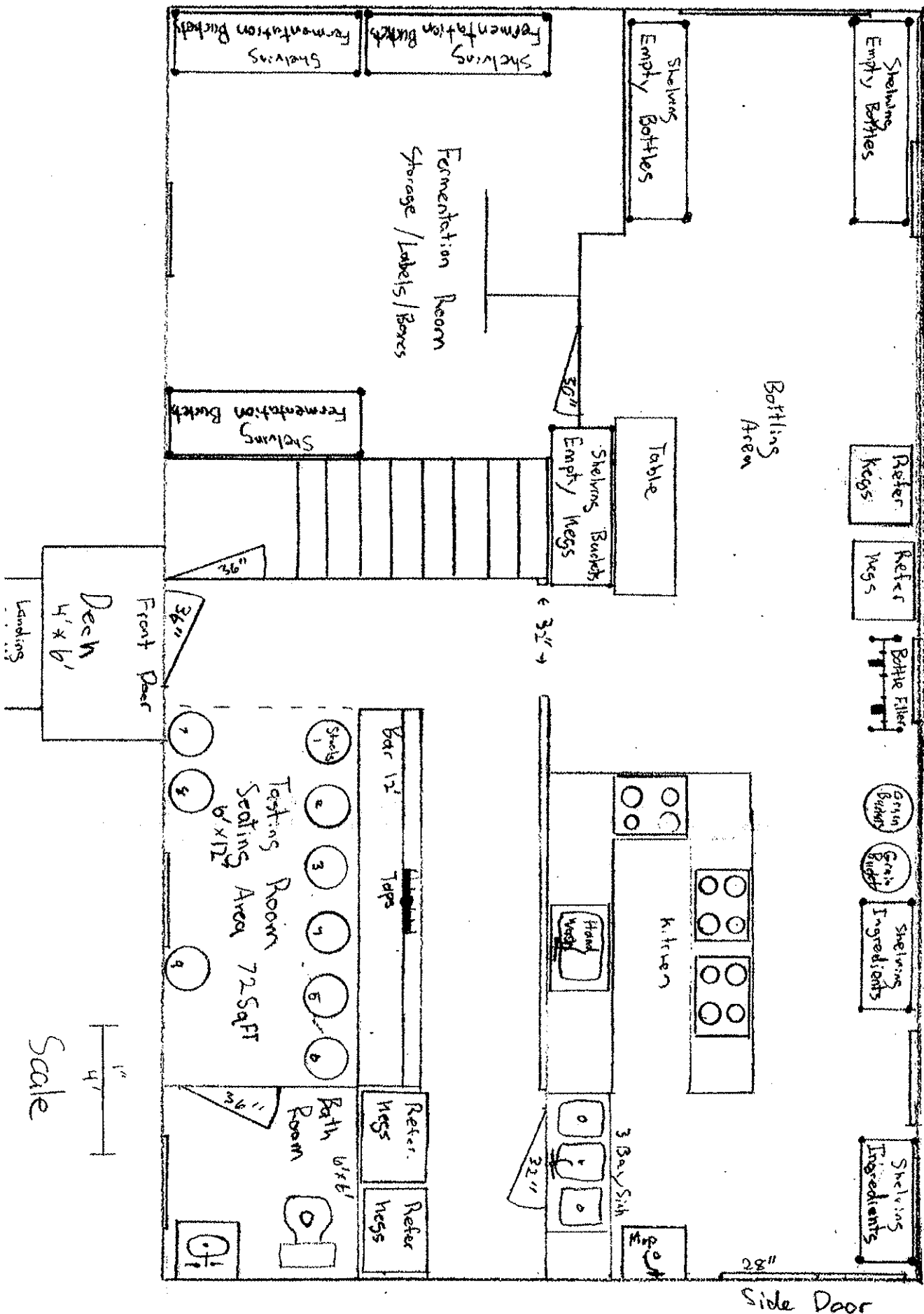
tabbies*

A



Washington Ave

← 24' →



← 39' →

Scale



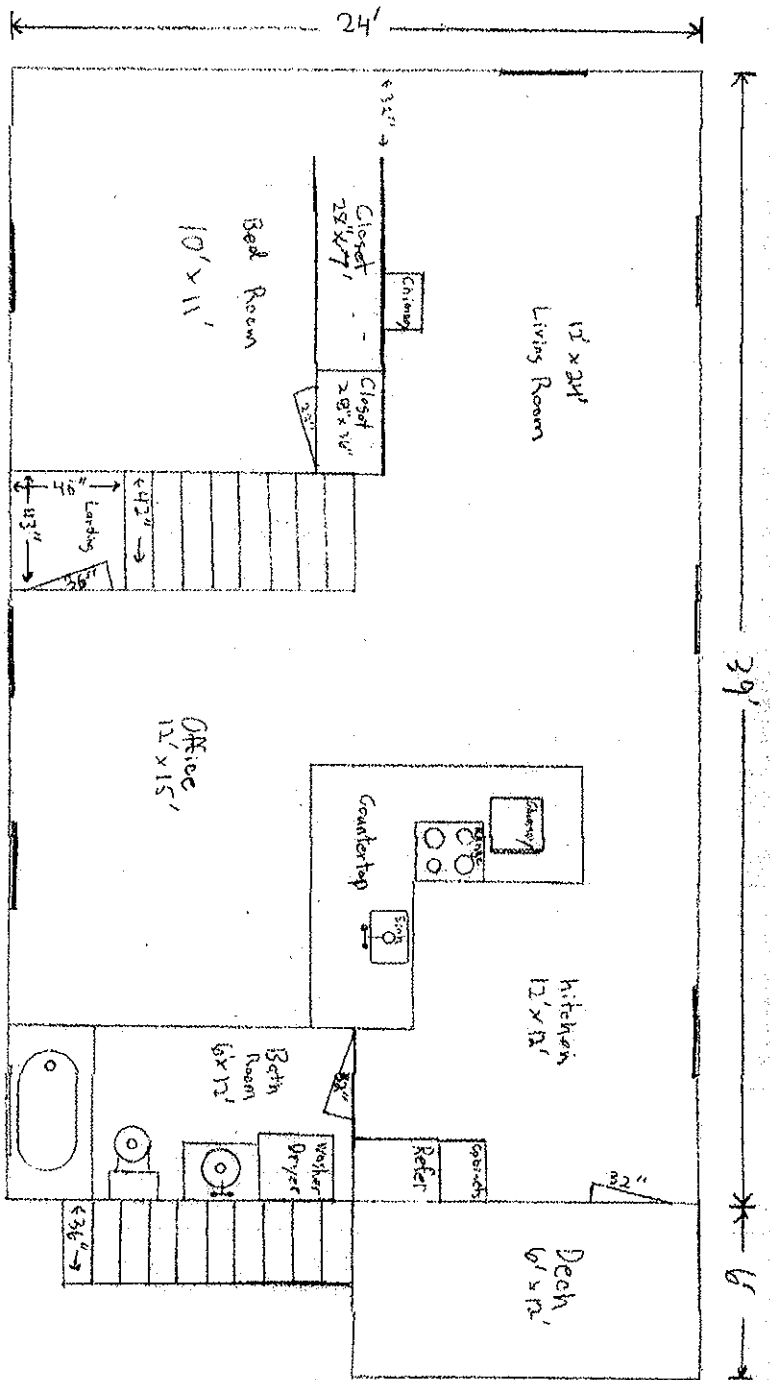


Exhibit C
2nd Floor Plan

1. Occupancy is residential on the 2nd floor

Scale
1" = 4'
1/4" = 1'

Proposed
B-2 Zone

B1

R6

E COLE ST

WHITMAN ST

HAMMOND ST

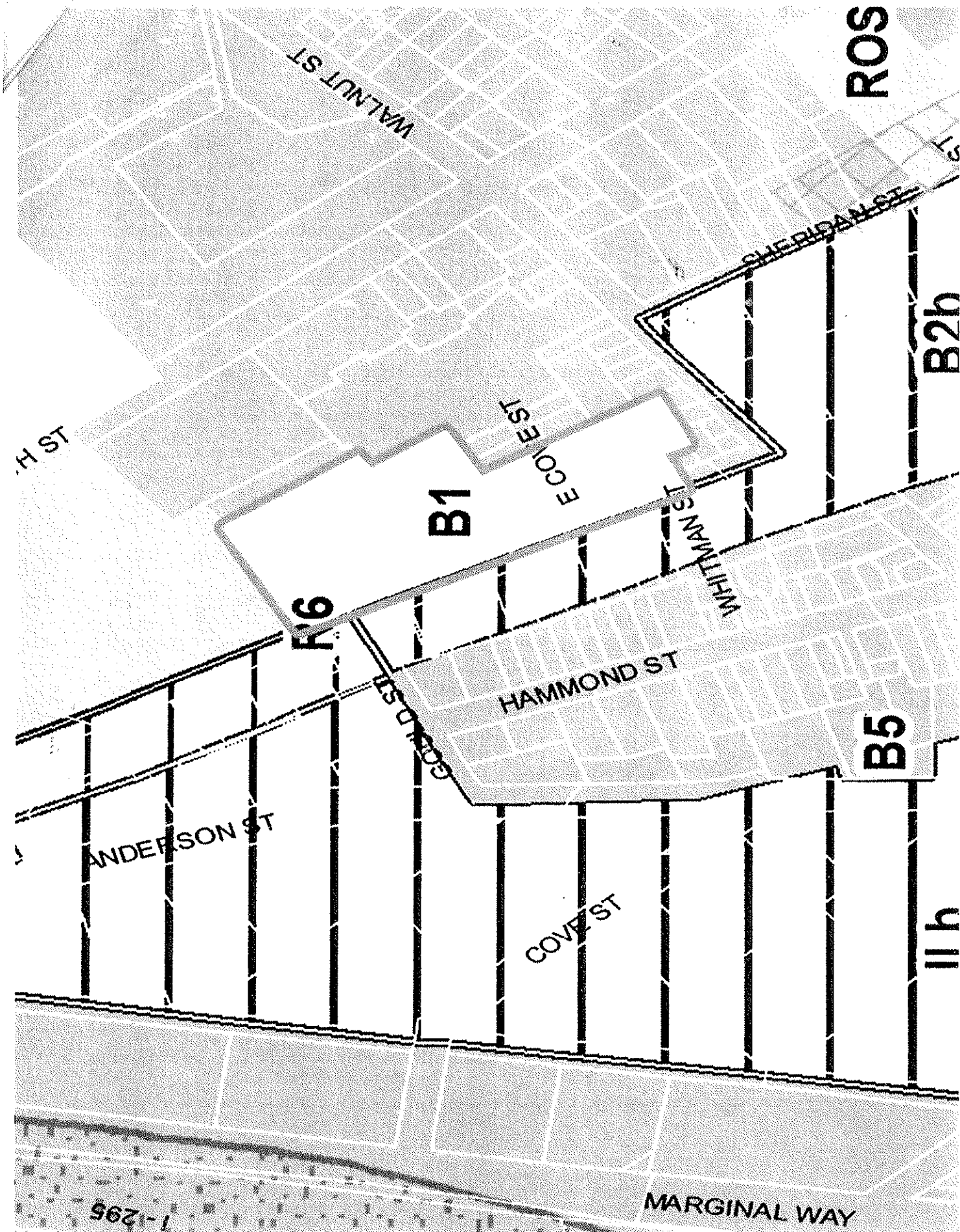
GOLD ST

PERSON ST

ROVE ST

100 200

Scale



1-295

THOMPSON, MACCOLL & BASS, LLC, P.A.
COUNSELORS AT LAW

EDWARD S. MACCOLL *
MARSHALL J. TINKLE *
JOHN R. BASS, II
OF COUNSEL

* ALSO ADMITTED IN NH. & MA

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BENJAMIN THOMPSON
(1857-1918)
NATHAN W. THOMPSON
(1895-1969)
BENJAMIN THOMPSON
(1921-2002)

April 10, 2020
Via email

Anne M. Torregrossa, Esq.
Associate Corporation Council
City of Portland
389 Congress Street, Room 211
Portland, Maine 04101

RE: Newsclapes Brewing – Zone change application

Dear Anne:

In response to your email of April 6, 2020, in which you requested a fuller description of the proposed use of the applicant's property should the rezoning be approved, I'm writing to further supplement Newsclapes Brewing's 2019 zone amendment application, its follow-up submissions to the City, and my letter to you dated March 17, 2020.

Newsclapes proposes to once again use the first floor of the building at 163 Washington Avenue as a small craft brewery. The physical set-up of the brewery will be as shown in the drawings attached to my letter of March 17th. The brewing equipment will consist of a residential stove, a five-gallon stainless-steel pot, a bucket and a keg. No commercial or industrial equipment will be utilized, and no alteration will be made to the building.

The beer or ale produced at the premises will be transported by motor vehicle to restaurants and stores for sale. The beverages will be transported by Newsclapes' employees, though Newsclapes may also work with a distributor. Newsclapes has reason to believe that a number of restaurants and stores are eager to purchase its products. There is an ever-growing demand in the Portland area for locally-crafted beers and ales; and Newsclapes can help fill that demand.

Anne M. Torregrossa, Esq.
April 10, 2020
Page 2

Additionally, Newsclapes wishes to use an existing room on the first floor of the building as a tasting room. No new construction will be required. The room will contain up to nine chairs or stools so that individual customers may order and sample Newsclapes' products within the building. A bathroom will be available on the same floor. Again, the layout is shown on the plans attached to my prior letter.

In the summer months, Newsclapes may add five picnic tables outside the building, so as to increase the total available seating, weather permitting, for forty or so (but fewer than fifty) customers. The layout of the outdoor seating, with a small performance space and dance area, is again shown on the plans attached to my March 17th letter.

Newsclapes will focus on serving the immediate community and will cater to foot traffic. To the extent parking is needed, it will have four paved parking spaces available on its premises, immediately off Washington Avenue and, should it ever become necessary, is prepared to make arrangements for additional parking. The proposed use will cause no measurable increase in traffic on this otherwise busy thoroughfare.

No odor from the brewing process will escape the building. No noises from the building will be audible outside the premises. To the extent outdoor seating is utilized, any noise will not be disruptive, in that the outdoor activities will be at least twenty-five feet from the street and even farther from any other buildings. All activity will be in keeping with the general character of inner Washington Avenue and environs.

I trust this information is sufficient for purposes of the current application. Newsclapes is anxious to move forward with its application, so please let me know immediately if you need anything further. You have indicated that a neighborhood meeting is necessary. Again, please let me know immediately if Newsclapes needs to take any further steps in order to schedule that meeting. I'll be happy to work with toward that end.

Thank you for your assistance.

Sincerely,



Marshall J. Tinkle (MBN 2833)

MJT/II
cc: Jeffrey Curran

Consistency with Comprehensive Plan

I believe my requested map amendment is consistent with the city comprehensive plan and Vision statement because of the following.

Future land-use adopts a focused approach to growth in target areas like Washington Avenue and others across the city. The future land-use section is organized around five key principles

1. One Portland: spreading the *benefits* and *challenges* of sustainable growth fairly across the community. I am a member of the community. And my company Newsclapes brewing deserves a fair chance at this *benefit* because I've had the *challenge* of paying property tax in excess of \$75,000 in the 15+ years I have resided here.

2. Complete neighborhoods: improving livability while retaining the key characteristics that make that neighborhood unique. My home is an old home and it is a very unique home and is very much part of this neighborhood it's been here for more than 100 years.

3. Reinforce the center: recognize that downtown Portland Maine remains a predominant focus of arts and culture, economic, and civil health. At times Portland downtown experiences an overwhelming amount of business some of which It cannot handle allowing for some of the surrounding business zones to fill the need. Newsclapes brewing would be another business that would help to accommodate the overflow of the center down town area. We would also embrace the local arts by working with a verity of local artists to showcase their work for Portland's first Friday art walks, as well as supporting the local musicians by recording high quality live recordings for them while they are being employed to entertain our patrons.

4. Support our waterfront; identify the waterfront as a resource central to the identity, economy, ecology, recreational life of Portland. And where do you think all the fishermen go when they get off the boat, to the bar to have a drink! Maybe they'll come to Newsclapes brewing. Also, I might serve a lobster role.

5. Connect the chain; connecting and strengthening our open space and transportation networks. Newsclapes brewing would be the second new business along with Portland Gear Hub to help rejuvenate this stretch of Washington Ave. which is a priority corridor identified in the city's comprehensive plan.

land-use planning will guide new growth to downtown, key nodes, and corridors.

Sincerely

Jeffrey A. Curran

Newsclapes Brewing

Jeffrey Curran
163 Washington Avenue
Portland, Maine 04101

Mr. James J. Rather, AICP
Development Review Manager
Planning & Urban Development Department
389 Congress Street
Portland, ME 04101

December 27, 2019

Re: 163 Washington Ave Zoning Map Amendment-Items Needed

Dear Mr. Rather

I am writing in response to your email correspondence to my attorney dated 12/23/19 seeing additional information concerning my zoning change application. Please accept this letter as my supplement to that application.

Currently I, Jeff Curran, do not have any plans for development of my property with the exception of a possible addition of a deck with new steps and some picnic tables (as outlined on February 2019 site plan drawings submitted to Christopher Beaumont, Life Safety Plan Reviewer and the CSS System).

The reason I'm requesting a map amendment is to allow my business Newsclapes Brewing, a small mom and pop craft beer brewery start-up, to continue operation as it did before the zoning issue surfaced. My brewery was 100% contained inside my property. It had no issues with noise, smell, traffic or parking; and to my knowledge met all zoning codes. The only employees were myself, my mother and my father. No structural changes to the building were made or need to be made to function as a brewery.

Before starting this brewery I asked the Zoning, Planning and Business Licensing Departments about all necessary licenses and permits required. I was informed by all three departments that what I was planning was acceptable and within the code. I assumed that the information given to me from all three departments was correct and accurate and I proceeded accordingly. I was confident there were no issues, and that if any issues arose I would be notified and we could work together to remedy the situation promptly. It appears now that I should have gotten all information in writing.

In regard to "Consistency with Comprehensive Plans" – I offer the following comments:

1. The comprehensive plan states that the code will embrace the entrepreneur and small businesses; that the zoning code will not remain stagnant and will allow for change for the individual to allow business models of all types.
2. The comprehensive plan states that it intends to develop priority corridors like my part of Washington Avenue. This was pointed out to me by Christine Grimando at the same meeting with her on December 31, 2018 when she brought out the comprehensive plan because I asked her if my plan to start a craft brewery there was consistent with what the planning department wanted to see. Christine pointed to the map that showed my stretch of Washington Ave. and it was highlighted as a "priority corridor" intended for development by the City.

3. Everything about my craft brewery business and my business model is consistent with what the city's comprehensive plan sets forth, and I see no conflicts with the comprehensive plan.

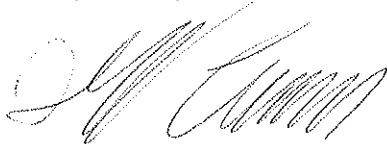
4. Per my discussion with Belinda Rae on May 9, 2019 in regards to this issue, she stated to me that she did check with the zoning dept. and was informed by them that this was consistent with what they are trying to accomplish in the next city-wide re-zoning. On May 16, 2019 I received an email from Belinda Ray where she stated that:

“Changing the small section of B-1, where you are located, is something that appears to be possible during this process. That's good news for you in terms of the fee. However, the re-code process would take a significant amount of time and there is no guarantee as to exactly when this change could take place. I would guess it could happen in the next year to 18-months.”

I am simply trying to get this done now because I was ordered to stop my business after I was allowed to start and operate for an entire year. This interruption has cost me several thousands of dollars in revenue, not to mention financial and emotional hardship. There were no complaints during the year I operated as a brewery – which I believe is further evidence that a change to explicitly allow such use would be consistent with the comprehensive plan.

In closing I look forward to hearing back from you regarding the advancement of my application. I would like to start operating again as soon as possible.

Thank you for your time,

A handwritten signature in black ink, appearing to read 'Jeffrey Curran', with a stylized, cursive script.

Jeffrey Curran

Cc: Marshall J. Tinkle, Esq

Order No: 1066258 (25-0792MCJS)

EXHIBIT 'A'

A certain lot or parcel of land situated on the easterly side of Washington Avenue, in Portland, County of Cumberland and State of Maine. Said lot being thirty (30) feet on said avenue and extending back at right angles to said avenue a distance of eighty (80) feet; being lot numbered six (6) on a Plan of Lots made for William H. Baxter by Anderson and Bonnell & Company and recorded in the Cumberland County Registry of Deeds in Plan Book 2, Page 54.

Also another parcel of land, with the buildings thereon, situated in the rear of Cove Street in said Portland, bounded and described as follows: Beginning at a stake standing forty (40) feet from the northerly side line of said Cove Street and on the westerly line of lot numbered eight (8) as shown on the Plan of W.H. Baxter, recorded in said Registry of Deeds for Cumberland County in Book 2, Page 54; thence running northerly on the line of said lot numbered eight (8), fifty (50) feet to a stake and to the rear line of said lot numbered eight (8); thence easterly twenty-three (23) feet; thence southerly about fifty (50) feet to a stake; thence westerly about thirty (30) feet to first bounds.

Also the privilege of a passageway in common on the most westerly side of said lot numbered eight (8), six (6) feet in width to said Cove Street, being the rear part of said lot numbered eight (8) with a passageway thereto over the front part of said lot.

Also another parcel of land being shown as lot numbered five (5) on a Plan made by Anderson, Bonnell & Co. for William H. Baxter, recorded in the Cumberland County Registry of Deeds in Plan Book 2, Page 54 and bounded and described as follows:

Commencing at a point thirty feet (30) north of the point formed by the northerly line of Cove Street and the easterly line of Washington Avenue, thence running northerly by said Washington Avenue thirty (30) feet and from these two points running easterly at right angles with said Washington Avenue, eighty (80) feet, holding the width of thirty (30) feet, the entire length of said lot, meaning and intending to convey the said parcel as set out in the deed from Thomas A. McDonough recorded in Cumberland Registry of Deeds in Book 1177, Page 153.

Excepting from this conveyance a certain lot or parcel of land as described in a deed from Carmela Thurston and Gaitana Puopolo to Thomas V. King dated August 10, 1987 recorded in the Cumberland County Registry of Deeds in Book 7919, Page 284.

Also conveying a certain lot or parcel of land, with any buildings there, situated in the City of Portland, County of Cumberland and State of Maine and being more particularly bounded and described as follows:

Beginning at an iron pipe found located on the easterly sideline of Washington Avenue and the northwestern corner of Lot 6 as shown on a certain Plan of Property of W.H.. Baxter, Esq., of Portland, Maine dated July 1866 by Anderson Bonnell & Co. recorded in the Cumberland County Registry of Deeds, Plan Book 2, Page 54; thence S 1° 55' 30" E a distance of forty (40) feet to an 5/8 rebar with survey cap #2133 located along said easterly sideline of Washington Avenue; thence N 88° 4' 30" E a distance of twenty-five (25) feet to a 3/8 rebar with survey cap #2133 set in the ground; thence North a distance of forty (40) feet parallel to the first course; thence West a distance of twenty-five (25) feet parallel to the second course, to the point of beginning.

Also hereby conveying all rights, casements, privileges and appurtenances, belonging to the premises hereinabove described.

Being the same premises conveyed to Jeffrey A Curran by deed of Michael Ogastino recorded on August 31, 2004 in the Cumberland County Registry of Deeds as Book 21726, Page 121.

Jeffrey Curran
163 Washington Ave
Portland, ME 04101

I, Jeffrey Curran, hereby certify that a neighborhood meeting was conducted on December 10, 2020, remotely via Zoom, at 6:00 p.m. for the proposed brewery and tasting room located at 163 Washington Avenue.

I also certify that on 11/25, 2020, invitations were mailed to the following:

1. All addresses on the mailing list provided by the Planning Division which included property owners within 500 feet of the proposed development or within 1000 feet of a subdivision within an industrial or industrial zone change.
2. Residents on the "interested parties" list.

Signed,

Jeffrey Curran

Date: 1/19/2021

Attached to this certification are:

1. Copy of the invitation sent
2. Sign-in sheet
3. Meeting minutes

Jeffrey Curran
163 Washington Ave
Portland, ME 04101

November ____, 2020

Dear Neighbor:

Please join us for a neighborhood meeting to discuss plans for a small brewery and tasting room located at 163 Washington Avenue, Portland. We are seeking either a map amendment or text amendment to specifically permit a small brewery in this zone.

Meeting Location: Online via Zoom platform

Date: December 10, 2020

Time: 6:00 p.m.

(The City code requires that property owners within 500 feet (1000 feet for proposed industrial subdivisions and industrial zone changes) of the proposed development and residents on an "interested parties list", be invited to participate in a neighborhood meeting. A sign-in sheet will be circulated and minutes of the meeting will be taken. Both the sign-in sheet and minutes will be submitted to the Planning Board.)

Due to COVID-19, the neighborhood meeting will be conducted remotely using Zoom as its platform. A sign-in sheet will be filled out using Zoom's chat feature. If you would like to join this meeting, please contact me at (207) 419-9933 or via email at: newscapesbrewing@gmail.com for the direct zoom link information.

If you have any questions, please call Marshall J. Tinkle, Esq. at 207-774-7600.

Sincerely,

Jeffrey Curran

Note:

Under Section 14-32(C) and 14-524(a)d of the City Code of Ordinances, an applicant for a Level III development, subdivision of over five lots/units, or zone change is required to hold a neighborhood meeting within 30 days of submitting a preliminary applications or 21 days of submitting a final site plan applications, if a preliminary plan was not submitted. The neighborhood meeting must be held at least seven days prior to the Planning Board public hearing on the proposal. Should you wish to offer additional comments on this proposed development, you may contacts the Planning Division at 874-8721 or send written correspondence to the Planning and Urban Development Department, Planning Division, 4th Floor, 389 Congress Street Portland, ME 04101 or by email: to bab@portlandmaine.gov

Attendants:

Thomas Bloom, Sarah Coburn, Carolyn Treat, Patricia Flynn, Leslie Hart, Robert Morse, Jehuda Reinharz, Terry Robins, Brendan O'Neil, Chad Robertson, Peter Bloom. Page Nichols, Patty Walton, Jeff Curran, and Marshall Tinkle.

Minutes of meeting: The meeting was called to order at approximately 6:05 pm. Initially, Marshall Tinkle and Jeff Curran outlined the plans for the project and explained that at that point Jeff was seeking either a text amendment or a map amendment to allow breweries in his zone. It was then opened up to questions. Several questions were posed about potential plans for outdoor seating and musical entertainment and how much noise would be generated, particularly at night. It was explained that no entertainment license had been applied for or was contemplated in the near future; that it was contemplated that the establishment would not stay open much past 8 pm; that Jeff had obtained a restaurant license with the ability to serve liquor so that the only thing new if the current application were granted was that he could brew beer on the premises, which would not create any noise or other inconvenience; and that even if part of the operation was moved outdoors in the summer, the noise level would not be any greater than the noise currently existing in the neighborhood. A couple of attendees expressed the view that they were opposed to the operation of any new businesses in the vicinity. After those in attendance had run out of questions, the meeting concluded at about 7:10 pm. A couple of participants remarked that the meeting was very civil compared with other neighborhood meetings.



Shukria Wiar <shukriaw@portlandmaine.gov>

163 Washington Ave.

Marshall Tinkle <mtinkle@thomport.com>

Tue, Dec 15, 2020 at 4:26 PM

To: "jrather@portlandmaine.gov" <jrather@portlandmaine.gov>, Shukria Wiar <shukriaw@portlandmaine.gov>

Cc: Jeff Curran <newscapes@msn.com>

Hi James and Shukria,

Following up on our discussion yesterday and by way of reporting on the neighborhood meeting held on Dec. 10, 2020, below is a list of participants:

Thomas Bloom, Sarah Coburn, Carolyn Treat, Patricia Flynn, Leslie Hart, Robert Morse, Jehuda Reinharz, Terry Robins, Brendan O'Neil, Chad Robertson, Peter Bloom, Page Nichols, Patty Walton, Jeff Curran, and Marshall Tinkle.

Summary of meeting: The meeting was called to order at approximately 6:05 pm. Initially, Marshall Tinkle and Jeff Curran outlined the plans for the project and explained that at that point Jeff was seeking either a text amendment or a map amendment to allow breweries in his zone. It was then opened up to questions. Several questions were posed about potential plans for outdoor seating and musical entertainment and how much noise would be generated, particularly at night. It was explained that no entertainment license had been applied for or was contemplated in the near future; that it was contemplated that the establishment would not stay open much past 8 pm; that Jeff had obtained a restaurant license with the ability to serve liquor so that the only thing new if the current application were granted was that he could brew beer on the premises, which would not create any noise or other inconvenience; and that even if part of the operation was moved outdoors in the summer, the noise level would not be any greater than the noise currently existing in the neighborhood. A couple of attendees expressed the view that they were opposed to the operation of any new businesses in the vicinity. After those in attendance had run out of questions, the meeting concluded at about 7:10 pm. A couple of participants remarked that the meeting was very civil compared with other neighborhood meetings.

Please let me know if you have any questions.

Regards,

Marshall

Marshall J. Tinkle, Esq.

THOMPSON, MACCOLL & BASS, LLC, P.A.

15 Monument Square, 4th Floor

PO Box 447

Portland ME 04112

Main: (207) 774-7600

Direct: (207) 619-6270

Fax: (207) 772-1039

mtinkle@thomport.com



Shukria Wiar <shukriaw@portlandmaine.gov>

Washington Ave. rezoning proposal (ZN-000540-2019)

1 message

Christian MilNeil <c.neal.milneil@gmail.com>

Tue, Feb 4, 2020 at 2:42 PM

To: "Shukria Wiar (shukriaw@portlandmaine.gov)" <shukriaw@portlandmaine.gov>

Hi Shukria,

Can you give me any information about why the landowner is seeking a rezoning of 163 Washington Ave? I'm mostly curious about why a B2b zone – which would be more consistent with the rest of the street – isn't being pursued?

My chief concern with the B2 zone is that it could legalize an auto-oriented, strip-mall type of development, which is inappropriate for the site and a poor use for a transit-accessible parcel next to a school and the Eastern Prom. I'd be wholly supportive of a taller mixed-use building here, on the other hand.

Can you also fill me in on whether the B2 zone still allows drive-through businesses (like banks and fast food restaurants)? I seem to recall there being some conversation about ending those uses for the B2 zone.

Thanks!

Christian MilNeil

double u double u double u dot christianmilneil dot com



September 1, 2020

Brandon Mazer Planning Board Chair
 Planning Board Members
 Christine Grimando Planning Director
 Nell Donaldson

Dear Staff and Board

We have upon us an opportunity to finally do something positive regarding zoning.

On Sept 8th you will be hosting a workshop for a spot zone on Washington from B1b to B2b. Just a few weeks ago you did a spot zone on Congress, now there are a number of new proposals that are requesting spot zoning changes or contract zoning. We are right back to where we were 10 years ago.

If I am elected my goal is to change the re-code process. I believe that we should put our energies in areas that are primed for growth and where that growth is welcomed by property owners. I think we should focus on fixing the zoning in 5 neighborhoods: Inner Washington Ave, East Bayside, Riverside, Forest Ave and Warren Ave.

These areas are virtually indistinguishable from each other and the three beer areas are where we have the most available land for expansion.

We already have the template which is the B5 Urban Commercial Mixed Use Zone. This zone encourages a mixture of all forms of uses whether it be industrial, commercial or residential.

Think about this; one side of the bayside trail is B5 in which we can do anything we want, no setbacks, reduced parking, no limits on residential units, in essence everything that the comprehensive plan is talking about. Perhaps a 6 story building with Uhaul as the anchor tenant.

The other side of the trail which is where we have substantial vacant land, buildings perfectly suited for building up on and a thriving beer and beverage scene, the city is intent on keeping the area fallow. How does keeping land or buildings vacant create economic development?

It's time now for Portland to progress and recognize where our current economic development lies. While most people think food is what drives Portland it is actually

202 WASHINGTON AVE. PORTLAND, ME 04101 - (207) 233-3753

ITSTIMEPORTLAND.COM - ITSTIMEPORTLAND@GMAIL.COM



Ron Gan

CANDIDATE FOR AT-LARGE
PORTLAND CITY COUNCILOR

our Beer industry. Allagash is the 7th largest tourist attraction in the state, drawing over 150,000 people to their tasting room annually. To put that in a perspective, only fast food restaurants draw more. There is not a single restaurant in Portland that draws that many people. AND YET, devoid of all common sense and without any actual knowledge of the area, the city of Portland continues to try and drive home the narrative that we need to keep retail, restaurants and housing out of our best economic areas.

I have spoken with quite a few of my neighbors on Washington, East Bayside and Riverside and without question there is support for this type of change.

We are at the intersection of chaos and chaos and this is no time to keep the lid on development in these areas because someone in some department thinks there is going to be a resurgence of industrial users who wish to relocate to Portland.

East Bayside, Washington Ave and Riverside are the most natural areas for expansion for a wide variety of housing and industry. The future lies with millennials and boomers and they all want some type of cool living.

I have given a number of tours around East Bayside and it doesn't take even a lay person but 15 minutes to ask the question, why does the city resist development in this area. No changes to our land use code can be made without walking our neighborhoods. It cannot be done using maps or embracing old narratives.

I have spoken with Christine and Nell and they have agreed to do a walk around East Bayside so they can better understand what is going on and I am extending that same invitation to all members of the planning board.

Respectfully,
Ronald Gan
Candidate At Large City Council

202 WASHINGTON AVE. PORTLAND, ME 04101 - (207) 233-3753

ITSTIMEPORTLAND.COM - ITSTIMEPORTLAND@GMAIL.COM

Portland Maine Planning Board
Re: 163 Washington, Map Amendment

Dear Planning Board Members,

An application for a map amendment for 163 Washington will soon come before the board. This amendment is to change the zone for this one piece of property from B1b to B2b.

The majority of Washington Avenue is already zoned either B2b or B4. Washington is one of the main arteries into Portland and the current level of development indicates that this strip has become more of a destination than a local shopping street. The B1b zone which is designed to be a neighborhood business district, is more suited to smaller locations like Stevens Ave near Deering High School.

The majority of the open land for development lies between Tukeys Bridge and Walnut Street and most of that land is zoned B1b. The B1b zone does not provide the flexibility needed for future growth in that it limits uses above the ground level to residential only.

I support this idea for a number of reasons not the least is that I own 202 Washington and would also like to be included in this re-zoning.

A 40 unit market rate condo building is going up next to me at 218 Washington. As the abutter I would like to have the flexibility to develop a project that compliments not necessarily competes with my neighbors.

I am currently developing a 40 unit workforce project for that location, with a restaurant on the ground level, 4 floors of workforce housing and two floors of market rate. This cannot be accomplished in the B1b as the density bonus in height is limited to 15' as opposed to 25' in the B2b.

I think this is an opportune time to not just fix the zoning on Washington, but to examine the entirety of the B2b and make any necessary changes that will enhance and promote development in those zones. From a zoning point of view, this is one of the lowest hanging fruits we have and the easiest to accomplish.

Respectfully,

Ronald Gan

Google Groups

Jeffery Curran, Newsclapes, Inc.

ruby anastacio <rubyanastacio2001@yahoo.com>

Sep 14, 2020 10:30 PM

Posted in group: **Planning and Urban Development**

Hello Shukria Wiar,

We, Ramon and Ruby Anastacio - neighbors of Jeffery Curran, are living at 159 Washington. We know that he would like to operate a brewery in his property at 163 Washington Ave. We are supporting Jeffery in his business. Please give him an opportunity.

Thank you,

Ramon and Ruby Anastacio

Google Groups

Fw: 163 Washington Street

Robert Morse <rmorse52@yahoo.com>

Sep 10, 2020 12:47 PM

Posted in group: **Planning Board**

Planning Board, Belinda Ray:

Please consider the items noted below:

1. It occurs to me that the issues surrounding the 163 Washington Street zoning change initially appear complex, but are actually quite simple. Review the other permitted uses allowed by B2 zoning. It's not even remotely appropriate to consider B2 zoning for an urban residential neighborhood under this proposal. There is a reason the B1 designation was originally assigned - it is far more appropriate for the area and lot.
2. 163 Washington is bordered on three sides by residential housing. The housing on East Cove Street would literally sit 10 feet from a late night music venue accommodating up to 50 people. Residential housing is situated across the street and the 29 unit condo complex at Munjoy Heights is a mere 40 feet away. A grade between 163 Washington and Munjoy Heights will not resolve the issues.
3. It defies logic to even suggest that an outdoor music venue allowed to continue well into the night will not completely disrupt the neighborhood. You are literally allowing outdoor music and groups of up to 50 people to be dropped into a residential neighborhood. Would you allow this sort of zoning next to where you live?
4. Once B2 is granted, what's next? Of course Washington Street reasonably supports a number of businesses. Business development is needed and should be encouraged. The suggested B2 re-zoning here is not appropriate for this site.
5. I do not understand some of the comments to expand the B2 designation where it is now B1 and R6. Take a minute to think about the proposal, a live, late-night, music venue next to numerous residential units. This area is heavily residential as Munjoy Hill residences dominate this end of Washington Ave. Also, this change is (arguably) permanent.
6. Parking and people walking up East Cove street and through the Munjoy Hill property is also an issue. There is an easement through Munjoy Heights to the Eastern Promenade. Where will people go at 11 p.m.?
7. Please be clear that allowing a change from B1 to B2 is significant. That is why the Applicant wants it. Outdoor music and the drinking of alcohol is a significant escalation in usage. It seems to me to also be a mistake to treat all of Washington Ave. as having the exact same issues. The Master Plan must reflect and recognize the disparities.

All in all, this does not seem to be an overly complicated issue. Please do not allow this change.

Thank you for your time.

Robert Morse, 208 Sheridan St.

163 Washington Ave

mary morse <mrs1359@outlook.com>

Posted in group: **Planning Board**

September 15, 2020

To Whom It May Concern:

My husband and I attended the Zoom Workshop for 163 Washington Ave. on 9/8/2020. We live at 208 Sheridan Street at Munjoy Heights.

Mr. Curran wants to reopen his brewery that has some indoor seating for tasting (was closed because it was not allowed in his current B1 zone). He is re-changed to a B2b zone that will permit this. Additionally, he plans to add a deck and outdoor tables for about 50 people as well as a performance space. Portland Brew Pub.

He maintains that all his neighbors on East Cove Street are "happy" for him and that he's received no negative feedback. He also stated that they all would be B2 as well. Oddly enough no East Cove Street residents spoke up if they were at the meeting nor did he have anything in writing to support this. We sent a letter to the city and found this not to be entirely true.

He also has another parcel with buildings at the back of Cove Street which are R6. I have been unable to determine which these are. I have emailed Shu-mei a plot plan. She offered to meet this coming week to answer questions which we appreciate and will do.

During the meeting 2 members seemed to have more reservations about the noise and effect on the neighborhood. They were David Austin and Maggie. They were better areas to put a brew pub'. Curiously enough, any critical comments seemed to be quickly walked back in such a way that it appeared the Board was in support of the proposal. Given the nature of the proposal and its proximity to many residences, B2 for this site is simply in error. You are considering allowing a performance venue mere feet from numerous residences. Others appeared to be leaning towards more business development with changes in zoning. Brandon Mazer the Chair. Shukria Wiar (city planner) brought up changing the B1 and the R6 at the end of East Cove Street to all be a B2. We don't know if this was requested by the applicant. She also said that the noise of the brew pub wouldn't really affect MJH as there is a "buffer" because we're up a slope. The brew pubs much further down the hill. Our bedrooms and living areas at Munjoy Heights all face Washington Street. Mr. Mazer didn't see much of a difference. B2 allows more types of business options whereas B1 is limited to smaller businesses more suited to residential areas.

We support small businesses consistent with B1 zoning. Changing B1 to B2 and even considering changing a R6 to a B2 is outrageous. Portland maintains the character of the area by changing this area they could potentially eliminate at least 6 residences. The noise, music, hours, foot and vehicle traffic, and parking would be an issue. Homeowners would experience decreasing property values, difficulty renting, and poor livability. We would imagine a lot of loud late night foot traffic on East Cove Street. Anyone that has been in or near a brew pub especially at night, is aware of this. There is already a high concentration of brew pubs in our area. location.

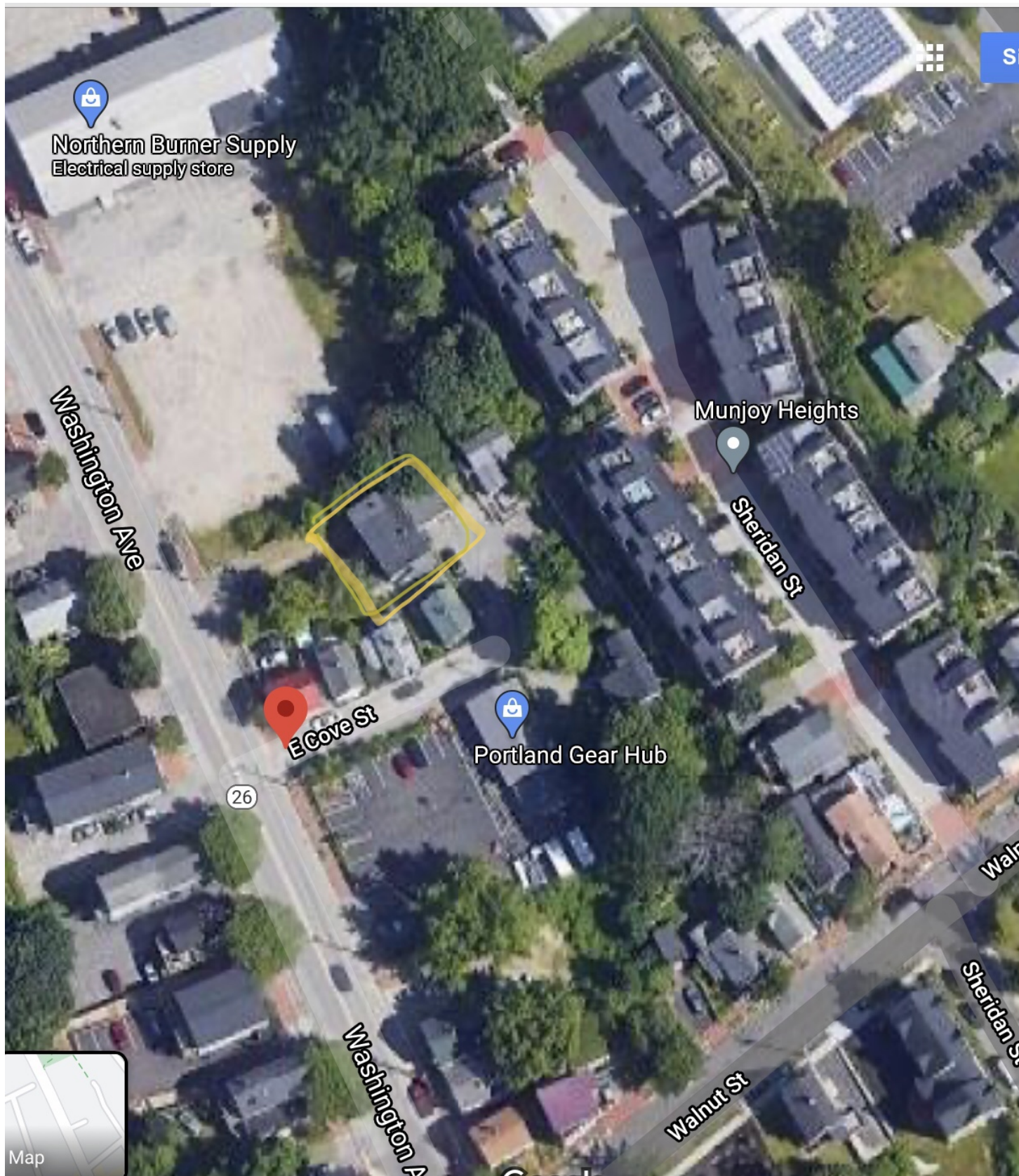
The proposed business is very close to the on and off ramp of 295 which can get quite congested as can Fox and Washington Street during rush hour. Traffic comes off and goes on this ramp. The brew pubs down the hill have significant foot traffic. People often jaywalk, are inattentive and walk in the street. The site is on Washington. Given the proximity to the 295 ramp this is a disaster waiting to happen. This is also close to the East End Elementary School and many children. East Cove Street and Walnut Street cross over Washington Street.

The 2030 Portland Plan Vision Statement states "The uniqueness and integrity of our neighborhoods will be maintained and enhanced." The Executive Summary states "The Plan will retain the key characteristics that make neighborhoods unique." The Plan further states that "new neighborhood plans should be tailored to the context and unique qualities of the neighborhoods they pertain to". Changing the zoning and going forward with the 163 Washington proposal that in an effort to promote business development the needs of residents to have a livable neighborhood are not ignored. The leaning of most of the Plan workshop appeared to be to change this area of Washington Ave. to a B2 zone and promote business growth with little regard for the impact on homeowners. Some photos that show how close this is to abutters. 163 Washington is highlighted in yellow. I hope you take the time to visit the site so you can appreciate the area as well as recognizing the need for this neighborhood to remain a B1 zone.

Thank you, Mary and Robert Morse 208 Sheridan St.







Google Groups

Re: Plan number ZN-000540-2019. 163 Washington St

Shukria Wiar <shukriaw@portlandmaine.gov>

Sep 8, 2020 1:26 PM

Posted in group: **Planning Board**

Good afternoon,

The applicant now is proposing B2-b, which a less intensive zone than B2. The address is 163 Washington Avenue; this property fronts Washington Avenue so I am not sure what he means "another parcel of land, with buildings there on, situated in the rear of Cove Street....". We do not have an application for that. His property at 163 Washington Ave is consists of 3 lots and the house sits back of the property but does not have frontage on E. Cove Street. I hope this helps.

Thank you.

Shukria

On Tue, Sep 8, 2020 at 10:43 AM mary morse <mrs1359@outlook.com> wrote:

I live behind 163 Washington St at 208 Sheridan St and have been reviewing the project online. We are quite concerned about the proposed change to a B2 and all the possibilities that opens up. Mr. Curran makes mention of "another parcel of land, with buildings there on, situated in the rear of Cove Street....". What is the actual address of this other parcel? It would abut Munjoy Heights. The map provided made it difficult to determine which Cove Street property he is referring to. Thank you, Mary Morse

Sent from my iPad

--

Shukria Wiar, Planner
 Planning & Urban Development Department
 389 Congress Street 4th Floor
 Portland, ME 04101
 Phone 207.756.8083
 Fax 207.756.8258
<http://www.portlandmaine.gov/planning>

abutter concerns about 163 Washington Ave proposal

Page Nichols <page.nichols@gmail.com>

Oct 14, 2020 9:24 AM

Posted in group: **Planning Board**

City of Portland Planning Board,

Please see the attached and signed letter from four direct abutters of 163 Washington Ave.

I've also attached photos to show how close the proposed project is to my property (15 East Cove). One photo is through my bathroom window, one is from the steps/entrance to my house, and the other is an aerial to show where my property is located in relation to the proposed project. The property owners to the right and left of my property have also signed the attached letter.

Thank you for considering our concerns.

Sincerely,

Page Nichols
(15 East Cove St.)

--

Page Nichols - Co-Founder, CPI
(207) 272-2255
page.nichols@gmail.com









Petition opposing the proposal by Newsclapes, Inc. to rezone 163 Washington Ave. from a B1 Business zone to a B2 or B2b Business zone as well as the proposal to open a brew pub in this location. We are also opposed to changing the B1 and R6 zoning on the odd side of Washington Ave. that runs from Gould to Walnut Street as shown on the attached map.

We the undersigned are opposed to Mr. Curran (Newsclapes) proposal to rezone his property with the plan to establish a brew pub with a deck and outdoor tables for 50 people as well as a performance area. We also oppose the suggestion of Shukria Wiar in the Workshop on 9/8/2020 to rezone the surrounding B1 and R6 area to B2(see map). Any change to the zoning would permit businesses not consistent with the character of the neighborhood and severely compromise livability. The following concerns support our opposition.

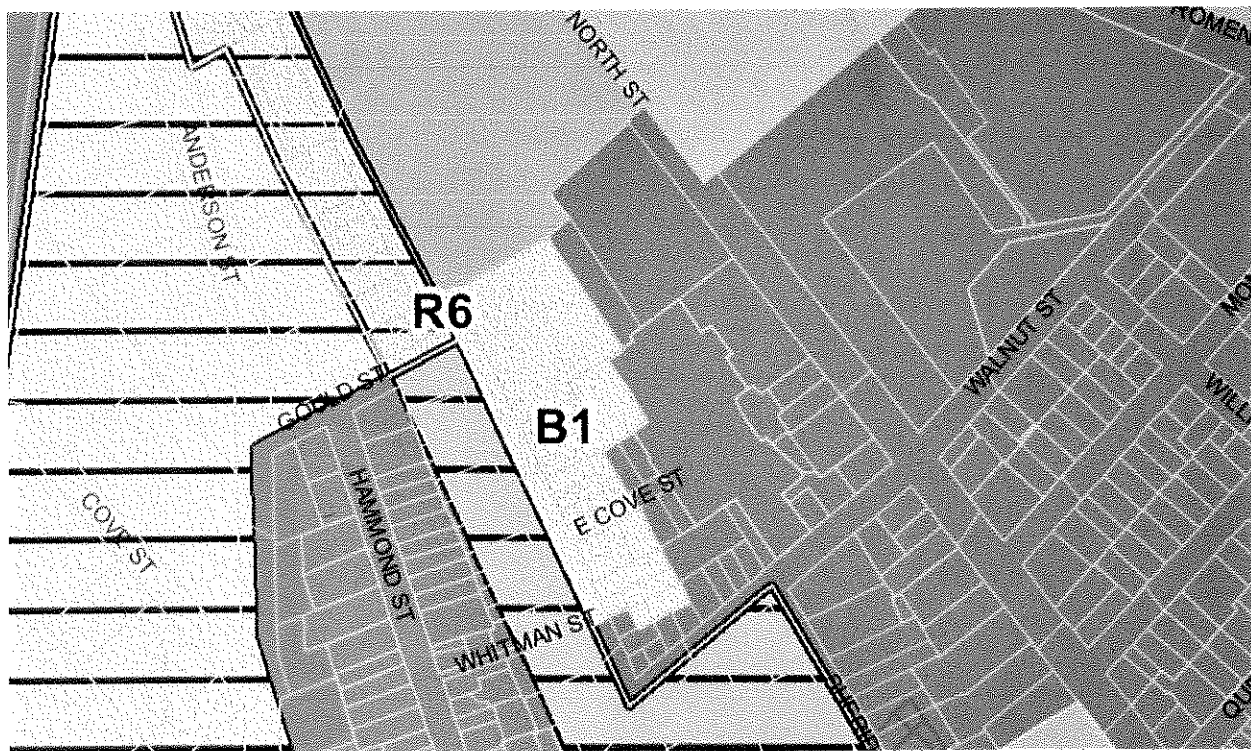
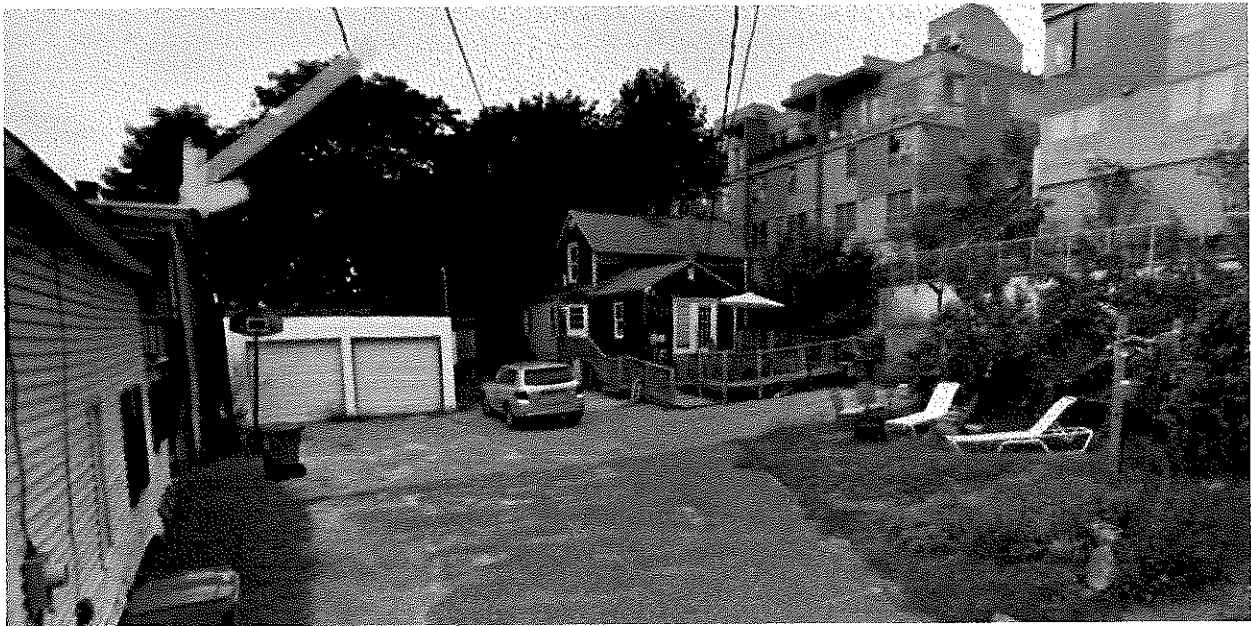
1. The proposed brew pub closely abuts homes on East Cove St., Washington Ave. and Sheridan St. The effects of noise from customers, performances, foot and vehicle traffic, and parking congestion would be felt by at the very least, Washington, Hammond, Walnut, Fox, Sheridan and especially E. Cove Street residents. We already have a high concentration of brew pubs, bars and distilleries to contend with. One more is not needed nor desirable in this location.
2. The 163 Washington Ave. lot is very close to the on/off ramp to 295 at this end of Washington. Cars often speed getting on and off 295 and traffic congestion during the evening hours on Washington Ave., Fox and Walnut Streets is already problematic. Safety is a concern. Such establishments have significant vehicle and foot traffic. People often jaywalk, walk in the street in groups and are inattentive and/or impaired. The sidewalks at this end of Washington Street are very narrow and dark at night. This is an accident waiting to happen. The East End Elementary School is just up the hill. To go to and from school children often use the odd side of Washington, E. Cove Street, Walnut Street and Jack's Path.
3. Jack's Path and community gardens are above this proposed brew pub. These are areas accessed thru Munjoy Heights from E. Cove and Walnut Streets. Children, adults, dog walkers, cyclists, joggers, gardeners and more enjoy fresh air, nature and the views. The noise and foot traffic consistent with a brew pub would be detrimental to the purpose and benefit of such a community space.
4. We are not opposed to business development. Businesses consistent with B1 zoning are appropriate and welcomed. The 2030 Portland Plan Vision Statement states "The uniqueness and integrity of our neighborhoods will be maintained and enhanced." The Executive Summary talks about "improving livability while retaining the key characteristics that make neighborhoods unique." The Plan further states that "new neighborhood plans should set to advance Portland's Plan as specifically tailored to the context and unique qualities of the neighborhoods they pertain to". Changing the zoning and going forward with the 163 Washington Ave. proposal would be counter to this. We hope that in an effort to promote business development the needs of residents to have a livable

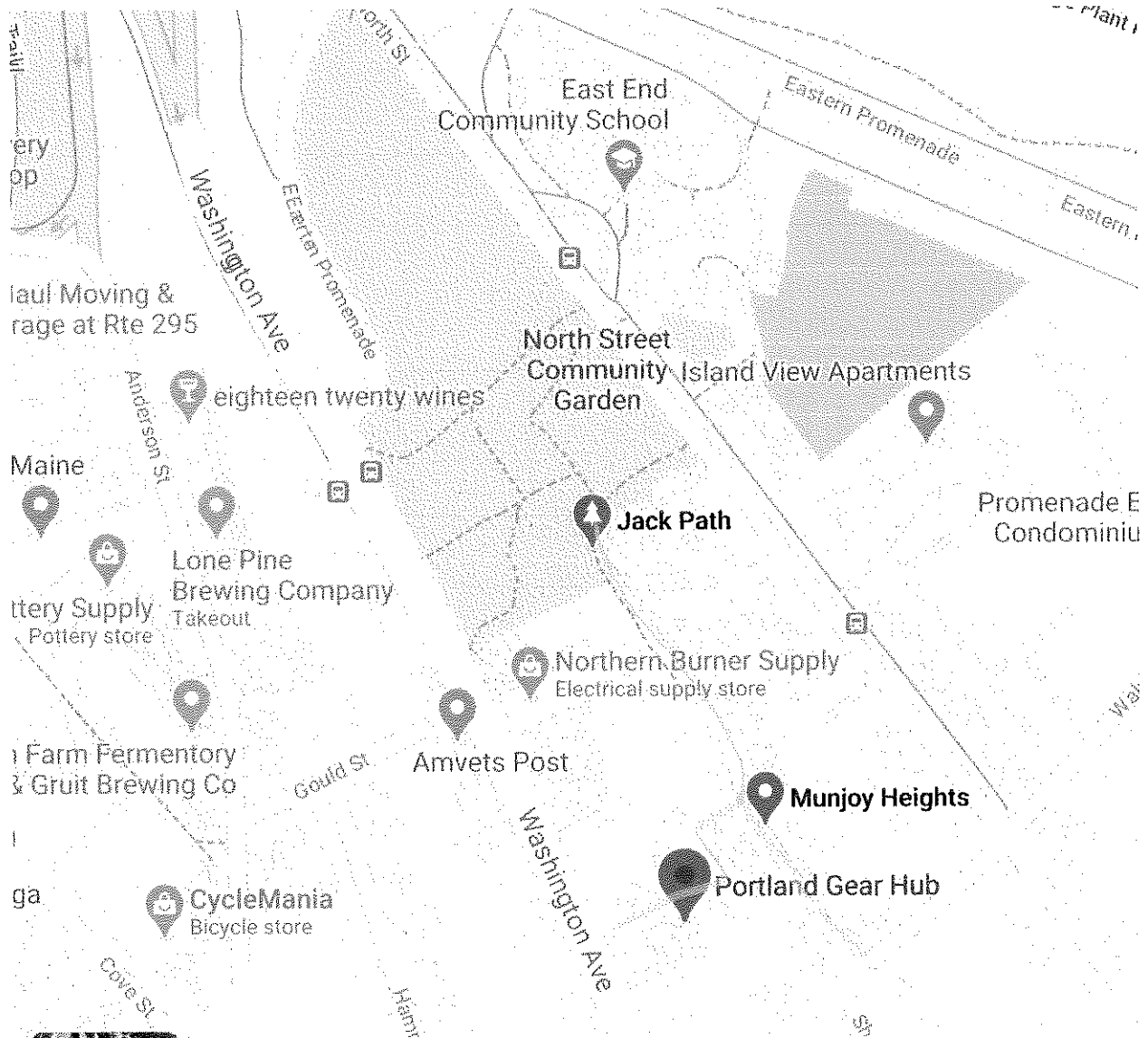
neighborhood are not ignored. The leaning of most of the Planning Board during the 9/8/2020 workshop appeared to be to change this area of Washington Ave. to a B2 zone and promote business growth with little regard for the impact on homeowners and residents. We believe the City needs to advocate for residents and tax paying homeowners with equal determination.

We ask that you look at the photos provided and actually visit the site before making your decision. Highlighted in yellow is 163 Washington Ave. and Jack's Path and its access is also highlighted in yellow. Thank you.





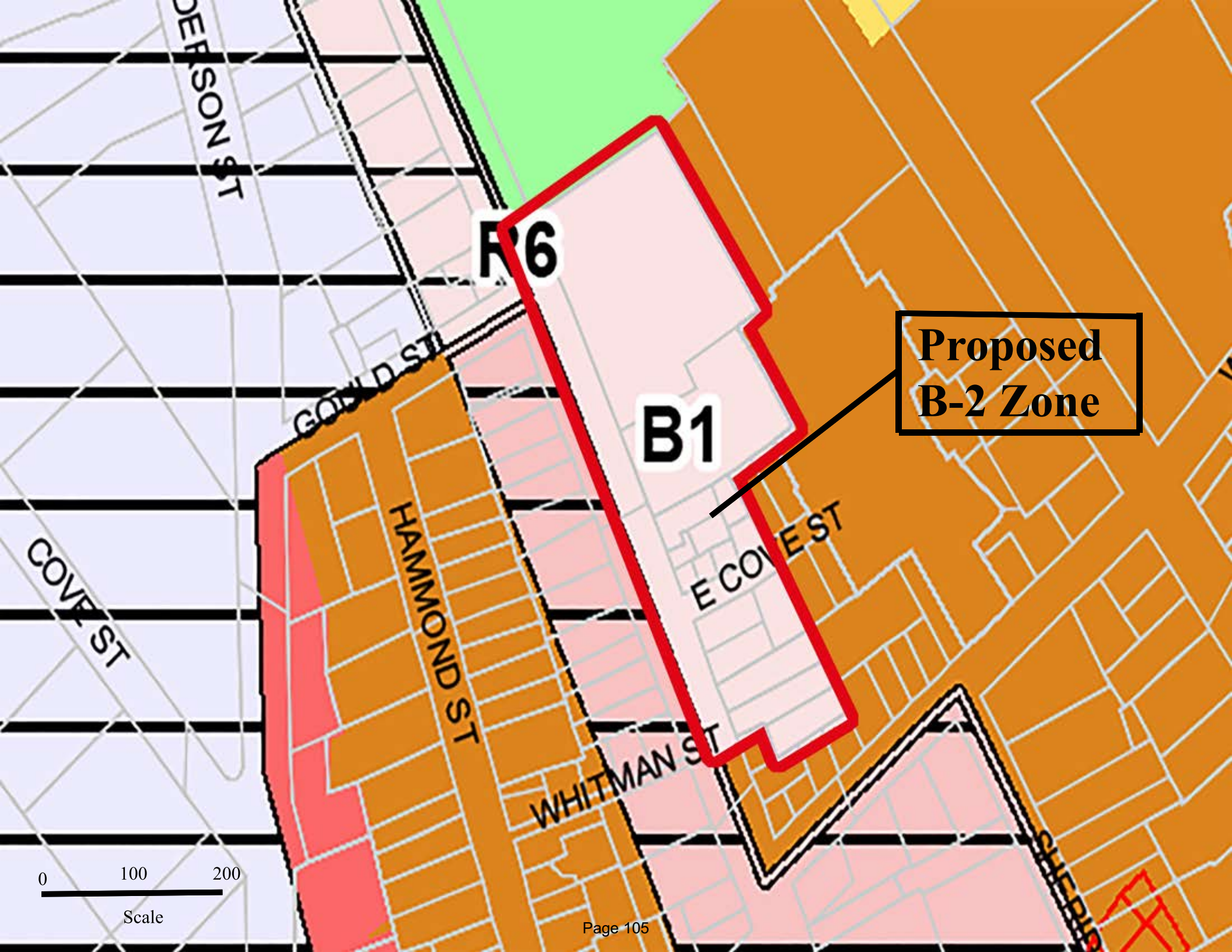




SIGNATURE	FULL NAME	ADDRESS	EMAIL
9/18/20 Mary Morse	Mary Morse	208 Sheridan St. 04101	mrsm.1359@outlook.com
Andrew Marsters	Andrew Marsters	210 Sheridan St.	andrewmarsters@me.com
Kevin R. Schuchat	Kevin R. Schuchat	215 Sheridan St.	Kevin@KevinSchuchat.com
Leslie Hatt	Leslie Hatt	215 Sheridantt.	lesliehatt@gmail.com
JANET GREENFIELD	JANET GREENFIELD	220 SHERIDAN	janetgreenfield57@
PETER BLOOM	PETER BLOOM	220 Sheridan St.	pbloom22@gmail.com
Susanne Robins	Susanne Robins	206 Sheridan St	suerobins@tuc.com

Enn Dunn	222 Sheridan Portland	enndunn23@aol.com	
Chad Robertson	222 Sheridan St Portland	chad.Robertson33@gmail.com	
Terrell Robins	206 Sheridan Portland	trpbins9630@gmail.com	
James Trainer	204 Sheridan St. Portland, ME	jamesmtrainer@gmail.com	
Yael Reinharz	"	yael.reinharz@gmail.com	
ANN CASADY	205 SHERIDAN Portland, ME 04101	anncasady@yahoo.com	
Peter Pitegoff	205 Sheridan St Portland ME 04101	ppitegoff@gmail.com	
Munira Naqui	203 Sheridan Portland ME 04101	munira_naqui@yahoo.com	
Ali Naqui	203 Sheridan - Portland ME 04101	Ali.Naqui@yahoo.com	
	218 Sheridan Portland, ME 04101	gritter@clarkinsurance.com	
Natanna Pratt	224 " " " 04101	natannapratt@hotmail.com	
Bethy Orber	225 " Portland ME 04101	Bethy Orber	
GARY NIELSEN	79 Walnut St Portland ME 04101	Gary Nielsen	
Nancy Mackesey	213 Sheridan St Portland ME 04101	Nancy Mackesey	
DAVID MACKESY	213 SHERIDAN PORTLAND ME 04101	David Mackesy	
Linda Engleht	193 Sheridan St Portland ME 04101	Linda Engleht	
Michel Engleht	193 Sheridan St Portland ME 04101	Michel Engleht	
Bernard Pollak	225 Sheridan St Portland ME 04101	Bernard Pollak	
PETER BAGG	199 SHERIDAN ST PORTLAND, ME 04101	Peter Bagg	
PATRICIA L. BAGG	199 SHERIDAN PORTLAND 04101	Patricia L. Bagg	
Steve Stankin	197 Sheridan Portland 04101	Steve Stankin	
SITAWNEE SAMP	229 SHERIDAN ST. PORTLAND, ME 04101	Sitawnee Samp	
Mark Filla	191 Sheridan St Portland 04101	Mark Filla	
Doug Sax	229 SHERIDAN ST PORTLAND ME 04101	Doug Sax	
Robert Morse	208 Sheridan St Portland ME 04101	Robert Morse	

9/23/20



R6

B1

**Proposed
B-2 Zone**

JEFFERSON ST

GOULD ST

HAMMOND ST

WHITMAN ST

E COVE ST

COVE ST

0 100 200

Scale

City of PORTLAND, MAINE ZONING



TOWN of FALMOUTH

CITY of
WESTBROOK

Subject

BACK
COVE

PORTLAND
HARBOR

CITY of
SOUTH PORTLAND

Legend

- IR-1 Island Residential
- IR-2 Island Residential
- IR-3 Island Residential
- I-B Island Business
- I-TS Island Transfer Station
- R1 Residential
- R2 Residential
- R3 Residential
- R4 Residential
- R5 Residential
- R-5A Residential
- R6 Residential
- R-6A Residential
- RP Residential Professional
- AB Airport Business
- OP Office Park
- B3* Downtown Business
- B3c Downtown Business
- B4 Commercial Business
- B5 Urban Commercial Business
- B5b Urban Commercial Business
- B6 Urban Commercial Business
- B7 Urban Commercial Business
- IS-FBC India St Farm Based
- IL Industrial - Low Impact
- IM Industrial - Moderate Impact
- MB Industrial - Moderate Impact
- PI Industrial - High Impact
- RPZ Resource Protection
- RIG Recreation Open Space
- WPOL Waterfront

Map Sheet	Map Sheet	Map Sheet
1	2	3
4	5	6
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100	101	102

Legend

- Shoreland Zoning
- Shore Protection District
- Overseas Entertainment (OEOZ)
- MMC 302
- Murphy Hill Neighborhood Conservation Overlay District
- Residential (R-1)
- Residential (R-2)
- University of Southern Maine (USM)
- Wayville Core Subdistrict
- Wayville Edge Subdistrict

The depiction of the Shoreland Zoning and the Stream Protection Districts are illustrative of the general location of such zones. The actual boundaries of these zones shall be determined by the measurement of the distance indicated on the maps from the normal high water line of the water body or the upland edges of the wetland vegetation. Where the measurement is not the same as the location of the boundary on the zoning maps, the measurement shall control, unless the zoning map indicates that the zoning boundary shall follow an existing property line.

The information contained on this map is compiled from past zoning maps, City Council orders and other documentation as depicted on the Map Summary of Zoning Documentation map on file in Portland's City Engineer's Archives Vault presently located at 212 Casco Rd and at the Department of Planning and Development located at 380 Congress Street.

Adopted by Portland City Council
January 17, 2001
Effective February 17, 2001
Last revised February 12, 2019

This Zoning Map of the City of Portland, Maine is provided for informational purposes only.

The current official zoning map is on file and available for reference in the Department of Planning and Development 874-8703.



Shukria Wiar <shukriaw@portlandmaine.gov>

Williston West Amended and Restated CZA

Erin Cooperrider <erin@newheightgroup.com>

Mon, Dec 7, 2020 at 9:37 AM

To: Shukria Wiar <shukriaw@portlandmaine.gov>

Cc: James Rather <jrather@portlandmaine.gov>, Christine Grimando <cdg@portlandmaine.gov>

Hi Shukria:

After further conversations with the neighborhood and Portland Landmarks, we have agreed to pursue the original application to amend and restate the Conditional Zone Agreement that is currently in place for Williston West. Christine and I have discussed the reasons for this approach, and determined that the meeting we previously requested is not necessary.

Attached is a draft of an Amended and Restated CZA that meets our needs and is acceptable to the WPNA for your review. We look forward to advancing this application.

Best Regards,

Erin Cooperrider
NewHeight Group
erin@newheightgroup.com
207.720.0181

Verdante at Lincoln Park. 29 homes. 22 plans. Endless Possibilities. verdantecondos.com

NewHeight Group. Development for Today's Lifestyles. newheightgroup.com



Amended and Restated Conditional Zone Agreement_Final.docx

25K

AMENDED AND RESTATED
CONDITIONAL ZONE AGREEMENT

RE:
WILLISTON-WEST CHURCH

THIS AMENDED AND RESTATED CONDITIONAL ZONE AGREEMENT is made this ____ day of _____, 2020 by 32 Thomas Street, LLC, a Maine limited liability company, having an address of _____, Portland, Maine (“Developer”), and its successors and assigns. This Amended and Restated Conditional Zone Agreement (“Agreement”) amends and replaces in its entirety an existing Conditional Zone Agreement dated July 13, 2012, and recorded in the Cumberland County Registry of Deeds, Book 29784, Page 123 (the “Original CZA”).

WITNESSETH

WHEREAS, the Developer owns real property located at 32 Thomas Street, consisting of the parcel shown on the City’s Tax Map 62, Block E, Lot 5, being more particularly described in a deed recorded in Cumberland County Registry of Deeds in Book 29217, Page 171 (collectively the “Property”); and

WHEREAS, the existing building complex located on the Property was formerly used as the Williston-West Church; and

WHEREAS, the building complex located on the Property is comprised of two principal portions, the former sanctuary and the former parish house; and

WHEREAS, the Property, located within the West End Historic District, is currently zoned R-4 Residential; and

WHEREAS, the building complex is listed in the National Register of Historic Places, the sanctuary is a designated local landmark as defined by Article ~~17IX~~ of the Portland City Code and the Parish house is a contributing structure within the West End Historic District under Article ~~17IX~~; and

WHEREAS, the former sanctuary and the former parish hall are important large-scale non-residential historic structures that were designed by noted architects Francis Fassett and John Calvin Stevens respectively; and

WHEREAS, the building complex significantly contributes to the architectural fabric of the neighborhood and distinctive sense of place that defines Portland and therefore requires special consideration with regard to its rehabilitation and preservation; and

WHEREAS, historically appropriate and neighborhood compatible adaptive re-use of historic religious structures is often challenging, and reasonable use flexibility may enable

economically viable rehabilitation and productive use of such buildings for their long-term preservation; and

WHEREAS, the Property is currently improved with 5 residential units in the former parish hall, and Developer proposes to create up to an additional 6 units in the building complex and make other improvements and modifications as contemplated in this Agreement; and

WHEREAS to create this additional number of units the current R-4 zoning requirement of 3,000 square feet of land area per dwelling unit needs to be modified pursuant to and using this Agreement to 1,500 square feet per dwelling unit; and

WHEREAS, the Portland City Council previously re-zoned the Property pursuant to the “Original CZA”; and

WHEREAS, the underlying R-4 zoning and the Original CZA have dimensional requirements that the existing building complex does not meet, but is lawfully nonconforming, and may require additional setback modifications to accommodate minor exterior modifications; and

WHEREAS, the Developer has requested a rezoning in the form of an Amended and Restated Conditional Zone Agreement for the Property in order to permit the proposed residential development of the Property which will facilitate funding the comprehensive rehabilitation and long-term maintenance of the historic structures; and

WHEREAS, the Planning Board, after notice and hearing and due deliberation thereon, recommend the rezoning of the Property as aforesaid, subject, however, to certain conditions contained in this Agreement; and

WHEREAS, the City, by and through the Portland City Council, pursuant to 30-A M.R.S.A. § 4352(8) and §§ ~~14-60 to 14-62~~ 5.3-4 of the Code, after notice, hearing and due deliberation thereon, has determined that because of the unique and historical nature of the Property, the proposed development:

- Contributes a desirable, unique type of housing to the peninsula stock;
- Promotes sustainability by allowing for rehabilitation of an existing historic building to provide new housing development consistent with the medium and high density urban residential development pattern typically found on the peninsula;
- Makes improvements to below-grade infrastructure, including parking, to accommodate new growth;
- Accommodates well-designed density, which is integral to healthy, walkable city neighborhoods; and therefore

it is necessary and appropriate to impose, by agreement, the conditions and restrictions set forth herein, in order to insure that said rezoning is consistent with the City’s comprehensive land use plan; and

WHEREAS, the Portland City Council has on _____, 2020 approved this Agreement in its entirety, by City Council Order No. _____, a true copy of which is attached hereto as an Attachment 1 (the "Order");

NOW, THEREFORE, in consideration of the rezoning, the Developer covenants and agrees as follows:

1. Pursuant to the Order, the City shall amend the Zoning Map of the City of Portland, Dated September, 2000 (as amended from time to time and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by § ~~14-49-1.2~~ of the Code) by adopting the map change amendment shown below to zone the Property conditional R-4, subject to the conditions contained below.

If this Agreement is not recorded within sixty (60) days after the effective date of the City Council's approval of the Order, then the conditional rezoning shall become null and void and the zoning of the Property shall revert to the underlying R-4 zone, but shall remain subject to and with the benefit of the Original CZA.

2. Permitted uses:

- a. All uses allowed in the R-4 Zone, as adjusted, modified or limited herein.
- b. Modifications and limitations: The existing land area requirement of 3,000 square feet per dwelling unit shall be reduced for the Property to a minimum of
 - i. One thousand five hundred (1,500) square feet of land area per dwelling unit;
 - ii. On-site parking shall be required as specified in Article 19 (off-street parking) of the Land Use Code, for the combined uses of the site;
 - iii. The project shall be subject to Article 14 (site plan) of the Land Use Code for site plan review and approval and the following additional standards:
 1. 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 existing structures;
 2. The scale and surface area of parking, driveways, car lifts, mechanical car parking systems, or car parking structures, and paved areas shall be arranged and landscaped to be compatible in size and scale with the neighboring properties in the area and where feasible to properly screen vehicles from adjacent properties and streets; and
3. Pre-existing dimensions of the structure existing as of January 1, 1984

shall be considered conforming. Existing setbacks may be further reduced by up to three (3) feet, or 50%, whichever is less, to accommodate minor exterior modifications.

- iv. Use of the former sanctuary as a community hall as set forth in Section ~~14-103(b)(2)(a)~~ Table 6-A of the Code is prohibited;
- v. No part of the Property shall be used as a bed and breakfast, hotel, treatment facility, congregate care facility, office, or commercial or business enterprise, excepting a home occupation as currently permitted in ~~§14-102(b)(4)~~ Table 6-A.

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3. Any increase in the volume or footprint of either the parish house or the sanctuary shall be prohibited, except as necessary to accommodate any improvements, such as ramps or stairs, required in order for the Property to comply with the American With Disabilities Act, Maine Human Rights Act, or similar laws, ordinances or regulations governing access for the disabled.

4. The provisions of this Agreement are intended to replace and/or supersede the associated provisions of the underlying R-4 zone and the Original CZA. As stated above, to the extent not otherwise altered or limited herein, the zoning requirements for the R-4 zone shall otherwise apply to the Property.

5. Under no circumstances shall the Developer be permitted to convert the residential dwellings as may be allowed by this Agreement to an institutional or business use.

6. This AGREEMENT may also be enforced pursuant to the land use enforcement provisions of state law including, but not limited to, 30-A M.R.S.A §4452 and the Portland City Code.

7. The above stated restrictions, provisions, and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit the Developer, any entity affiliated with the Developer that takes title to the Property, its or their successors and assigns, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the City of Portland, by and through its duly authorized representatives. The Developer shall file a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

8. If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision and such determination shall not affect the validity of the remaining portions hereof.

9. Except as expressly modified herein, the Property shall be governed by and comply with the provisions of the Portland City Code, including but not limited to, the maintenance requirements of historic structures set forth in section Article 17 of the Code, and any applicable amendments thereto or replacement thereof.

[Signature to Follow on Next Page]

WITNESS: _____

32 THOMAS STREET, LLC

By:

STATE OF MAINE
CUMBERLAND, ss

Personally appeared before me the above-named _____ in
his/her capacity as _____ of 32 Thomas Street, LLC, and acknowledged the
foregoing instrument to be his/her free act and deed in his/her said capacity and the free act and
deed of said corporation.

Before me,

Notary Public/Attorney-at-Law

September 22, 2020

Planning and Urban Development Department
Planning Division
City of Portland, Maine
389 Congress Street, 4th Floor
Portland, ME 04101

Subject: Map and Text Amendment Application
26 - 32 Thomas Street ("Williston-West Church")

To Whom it May Concern:

West End, LLC, which owns the membership interests in 32 Thomas Street, LLC, owner of 26 - 32 Thomas Street, is seeking map and text amendments to enable an adaptive reuse of the property.

The project site is comprised of eight parcels, Chart 062, Block E00, Lot 5001 (26 Thomas St Unit 1), Chart 062, Block E00, Lot 5002 (26 Thomas St Unit 2), Chart 062, Block E00, Lot 5003 (26 Thomas St Unit 3), Chart 062, Block E00, Lot 5004 (26 Thomas St Unit 4), Chart 062, Block E00, Lot 5005 (26 Thomas St Unit 5), Chart 062, Block E00, Lot 5006 (26 Thomas St Unit 6), Chart 062, Block E00, Lot 5007 (26 Thomas St Unit 7), and the Williston-West Church. The lot(s) that constitute 26 - 32 Thomas Street are currently improved with the historic Williston West Church a/k/a West-End Church sanctuary, and the historic parish house containing five residential condominium units and two commercial condominium units.

The parish house and the sanctuary are connected by a modern addition. Five residential units are built and currently occupied, while the commercial condominium in the parish house and the sanctuary sit empty.

The proposed map and text amendments would make the adaptive reuse project financially feasible by allowing for the construction of additional residential density, while returning the property to the R-4 zone, making it more compatible with the surrounding neighborhood. In addition, the proposed text amendments draw from existing language regarding alterations in other residential zones in Portland. Our thinking here is that this approach may help the City to unify its policy on adaptive reuse across several zones.

The property is currently subject to a Conditional Zoning Agreement which includes commercial space. We are seeking to dissolve the Conditional Zoning Agreement and return the property to the R-4 zone, subject to approval of the proposed text amendments.

September 22, 2020

Planning and Urban Development Department
Map and Text Amendment Application for Williston-West Church
Page 2

1. Text amendments to the R-4 zone to allow for adaptive reuse of buildings in non-residential use as of 1984, as is currently permitted in the R-3 and R-5 zones; and
2. Dissolution of Conditional Zone Agreement C57, which was required due to the nonconforming uses proposed in the previous plan, and return of the property to the R-4 zone.

We look forward to further discussing the project and this request for map and text amendments both with staff and the Planning Board.

Sincerely,

A handwritten signature in black ink, appearing to be 'Shawn Lyden', with a long horizontal line extending to the right.

Shawn Lyden
Principal, West End LLC

CITY OF PORTLAND
Planning & Urban Development Department

MAP AND TEXT AMENDMENT SUBMISSION CHECKLIST	
* Please submit each document <u>and</u> drawing as a separate PDF file * Please submit all drawings in a <u>24 x 36 sheet size</u> * Please confirm each item by electronically checking the boxes to the left for each document/drawing	
GENERAL APPLICATION DOCUMENTS	
☒	Project Description Cover Letter with detailed project description
☒	Consistency with Comprehensive Plan Analysis of the consistency of the zone change request with the goals, policies and land use plan of Portland's Comprehensive Plan.
☒	Proposed Text Amendment Provide proposed language for text amendment(s) and cite the relevant sections to be revised in the Land Use code.
☒	Completed Checklist – Map and Text Amendment Application (this document)
☒	Right, Title and Interest Deeds, leases, or purchase and sales agreements
PLANS	
☒	Vicinity Map
☒	Proposed Map Amendment (please use the Portland zoning map as a reference)
☒	Site Plan (if applicable) On a separate sheet, please provide a site plan of the property showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries.

Zoning Amendments

32 Thomas Street (“Williston-West”)

Overview

Our team is proposing to an adjustment to the current zoning to allow for adaptive reuse of the property located at 26 - 32 Thomas Street. While the previous redevelopment plan for this site included commercial space, the current proposal seeks to rezone the project for an entirely residential use. Toward that end, we are seeking two amendments to the City’s zoning code:

1. Text amendments to the R-4 zone to allow for adaptive reuse of buildings in non-residential use as of 1984, as is currently permitted in the R-3 and R-5 zones; and
2. Repeal of Conditional Zone Agreement C57, which was required because of the nonconforming uses proposed in the previous plan.

While the immediate purpose for these amendments is to allow for the completion of the long-delayed adaptive reuse for this historic property, the amendments have other benefits as well:

- They bring consistency across similar residential zoning districts to allow for adaptive reuse of former churches, schools, and similar buildings;
- They eliminate a conditional zoning agreement, creating more consistent rules across properties in the same zoning district; and
- They bring the proposed reuse of 32 Thomas Street in line with the residential character of the R-4 zone.

Further information about the previous redevelopment effort on this site, this proposal, alternatives considered, and its consistency with City plans are below. We look forward to working with City staff, the Planning Board, and the City Council on these changes.

Previous Proposal

The original church building was constructed in 1888 and the Parish Hall in 1914. The site is an individually-designated landmark property and is also on the National Register of Historic places. After the Williston-West Church merged with Immanuel Baptist in 2011, the property was sold. The new owners proposed an adaptive reuse of the former church and Parish Hall. This reuse involved creating approximately 2,500 square feet of office space as well as residences and a possible community space.

In order to allow this redevelopment plan to go forward, the City Council approved a Conditional Zoning Agreement (C57) that outlined the permitted uses, dimensional standards, and performance requirements for the redevelopment of the site. While work commenced on

the residential portion of the project, the Conditional Zoning Agreement was the subject of a legal challenge, partially related to consistency with the City's previous Comprehensive Plan and the commercial uses. In the end, the C57 agreement was upheld. However, the project stalled and eventually the site was sold at auction.

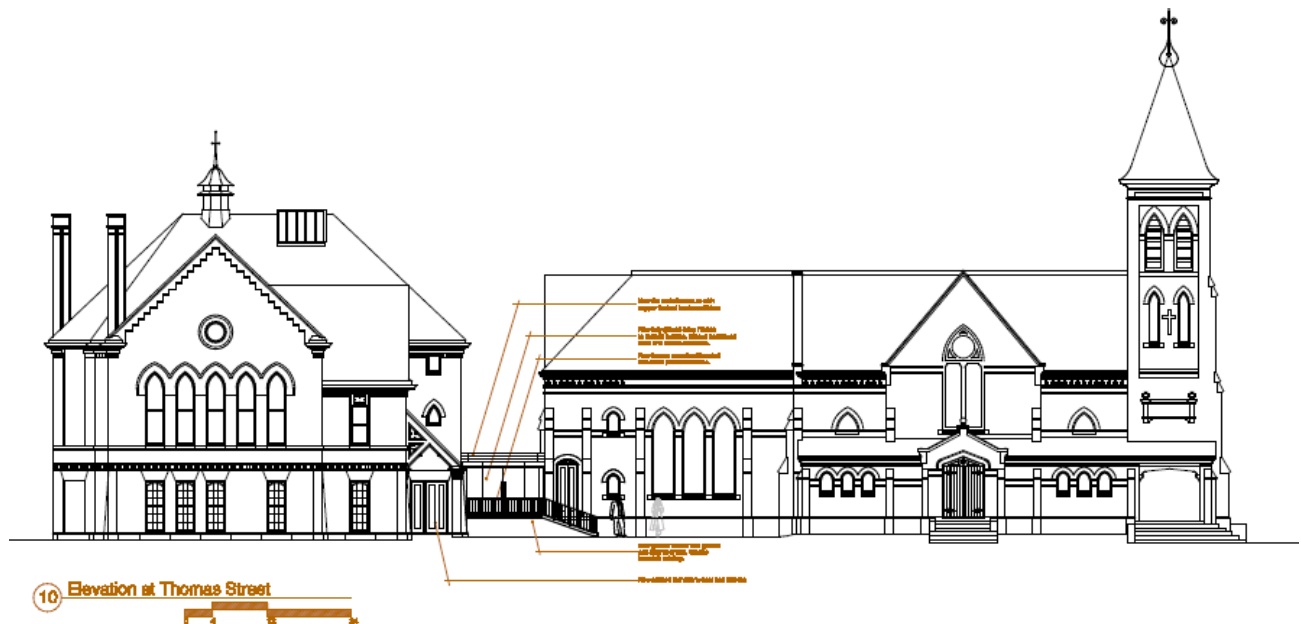


Figure 1: Elevation of the Buildings from Thomas Street (Garrison Consulting)

Current Proposal

Our team proposes to complete redevelopment of the buildings with additional residences rather than commercial space. We plan for a total of 11 units on the site. The exact configuration of the units is still under development, but the only primary use on the site would be housing. The plan includes completing renovation of the building's exterior, with some possible modifications to accommodate the revised plan and accessory parking needs.

Given the primarily residential nature of our development proposal, we have explored zoning options that are in keeping with City plans, the current ReCode Portland effort, and other local concerns and interests. We want to create an economically feasible project that fits in with the surrounding neighborhood as much as possible.

Adaptive reuse of an existing building is a different enterprise than new development, creating a need for zoning allowances that differ from the base zoning. We have explored several options that might meet various stakeholders' interests as much as possible, and have developed a proposal we believe does so.

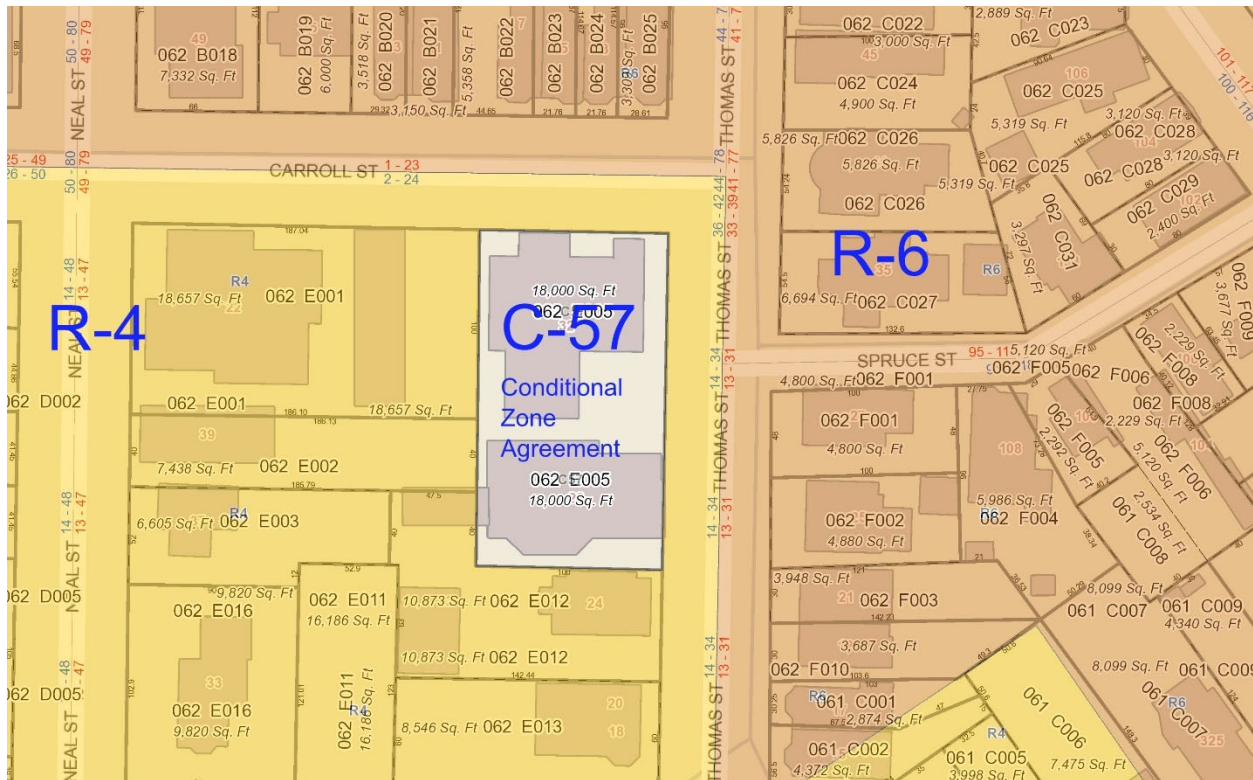


Figure 2: Existing Zoning around 32 Thomas Street

Limitation of the Existing R-4 Base Zone

The purpose of the existing R-4 zone is:

“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.”

We consider this site to be “compatible development,” as redevelopment would be residential and would allow for preservation and restoration of an existing historic structure. However, the language of the R-4 zone would not, by itself, permit this redevelopment.

Commercial uses on the site under our plan would be limited to home occupations and other uses permitted in the R-4 zone. However, there are other limits in the base zone that would make our project infeasible. Most importantly, the R-4 zone requires 3,000 square feet of land for each of the first three dwelling units, and then 6,000 square feet of land for each additional unit. Those requirements would limit redevelopment of this site to four units, less than the five already on the site.

The existing zone also creates limitations with respect to setbacks. While we don’t plan to significantly modify the exterior of the buildings, we may need to make some minor changes to

accommodate modern building codes or other factors. Much of the existing building is dimensionally nonconforming, making modifications very challenging.

Alternatives Considered

We explored several zoning options before setting on our proposed approach, focusing on three possibilities:

- *Amend the Existing C57 Conditional Zoning Agreement:* This approach has some appeal as being based on the existing zoning for the site. In fact, this was our original proposal earlier this year. After further consideration, however, we determined that this approach is not the best way to move forward. From the City's perspective, it retained a conditional zoning agreement while staff, the Planning Board, and the City Council are looking to simplify the zoning code and reduce site specific zoning allowances. From our perspective, this approach did not give us the flexibility we need in designing an economically viable reuse of the site. From the neighborhood's perspective, while this approach might seem to provide the most certainty, the reality is that the bulk of the restoration work required in the C57 agreement is already complete. There is a risk that tying the site to a specific redevelopment proposal would result in additional delays in project completion.
- *Propose a Map Amendment to R-6:* This approach would provide our team with the density and dimensional standards needed to complete redevelopment of the site. It would potentially be consistent with City goals to keep contiguous zoning districts, as the R-6 zone is right across the street. However, this approach is opposed by some in the neighborhood who are concerned about moving properties from R-4 to R-6. For this reason, we sought another approach.
- *Add Existing Language regarding Adaptive Reuse to the R-4 zone:* For some time, in Section 14-118 (3), the R-5 zone has allowed for adaptive reuse of structures that were in non-residential use as of January 1, 1984 into three or more dwelling units as a conditional use. The planning objective in this language is presumably to permit economically viable use of these structures, consistent with the residential character of the zone. This section was adapted for the R-3 zone in Section 14-88 (3) in 2018, with some adjustments to the language to acknowledge the differences between the R-5 and R-3 zones. This R-3 amendment permitted adaptive reuse of the former Reed School site.

We believe this final option is the best approach, and can replace the existing C-57 Conditional Zoning Agreement. This approach works for our team, as it gives us the ability to redevelop the site in an economically feasible way. It works for the City in that it takes an existing zoning tool – designed to accomplish goals outlined in City plans with respect to reuse of existing historic structures as well as housing production goals- and simply adapts it for use in an additional

zone. Finally, it works for the neighborhood, as it allows for existing permitted uses while also restoring historic structures.

Proposed Language

The specific amendments to the R-4 zone we are proposing are as follows:

Adding a new section 14-103 (a):

"14-103 (a)

4. 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. If there has been previous alteration of part of the structure for residential use after January 1, 1984, it was consistent with zoning in effect at the time altered;

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. One thousand five hundred (1,500) 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.

3. Pre-existing dimensions of the structure existing as of January 1, 1984 shall be considered conforming. Existing setbacks

may be further reduced by up to three (3) feet, or 50%, whichever is less, to accommodate minor exterior modifications."

In addition, we propose amending 14.105 (b) to allow for this new section:

"14.105. (b) Minimum lot area per dwelling unit: Three thousand (3,000) square feet, except as provided for ~~a multiplex~~ elsewhere this section. This requirement may be reduced by up to twenty (20) percent for a special needs independent living unit."

The proposed language in 14-103(a) is very similar to the language in the R-5 and R-3 zones, but contains three slightly different elements:

1. It clarifies that a partial alteration of a non-residential building to residential uses does not eliminate the ability to utilize this section. This language is advisable because the Williston-West site has been partially converted to five residential units.
2. It uses a different lot area minimum per dwelling unit. While the R-3 and R-5 zones use 3,000 square feet per unit, the minimum proposed would be 1,500 square feet of lot area per unit. This reflects the generally higher densities in the area, and the economics of redevelopment on the Peninsula.
3. It reduces setback requirements for existing buildings, and further allows for minor reductions in setback requirements to allow for changes such as those that might be required to meet current building code. While such an allowance is not as important in the R-3 and R-5 zones, where there is more space on most sites, it is essential in an urban site where the existing building is already very close to existing lot lines.

The proposed language still requires that the project be reviewed as a conditional use, in order to ensure that these standards are met.

The change to 14.105 (b) simply replaces the term "a multiplex" with the term "elsewhere in this section." While currently the only time lot area per dwelling unit varies from the district's base is in the case of multiplexes, adding 14-103(a) would create a second variation.

Alternatively, the phrase "or in 14-103(a)" could be added after "multiplex."

Applicability Elsewhere in the R-4 Zone

As a general text amendment, this would apply to any properties in the R-4 zone. While this is slightly more expansive than a conditional zoning agreement, we believe this opens up opportunities for other non-residential structures in the zone to be converted to residential uses with certainty. This change would therefore encourage non-conforming uses to come into conformance with the primarily residential nature of the R-4 zone.

One concern raised by neighbors is whether this amendment would encourage division of larger apartments into smaller spaces, by increasing the number of units that can be built on a

site. However, as this language only applies to buildings in non-residential use prior to 1984, it does not apply in many cases in the zone. We are not aware of any such buildings where a partial conversion to residential space has occurred since 1984, which are the only properties where there may be some risk of units being divided into smaller spaces.

Consistency with City Plans

These proposed amendments are consistent with City plans. In particular, they will help accomplish three long-stated City goals:

- Additional housing production;
- Adaptive reuse of historic buildings; and
- Streamlining and clarifying of City land use code.

In particular, these changes are consistent with the city's Comprehensive Plan. At the core of that plan is housing production. The Plan calls for production of a variety of housing types and locations, with a specific, but achievable, goal of reaching a population of 72,000 by 2027. That target will require production of 2,557 housing units, or almost 300 per year. While this project by itself will not accomplish this goal, it will help in achieving that level of housing production.

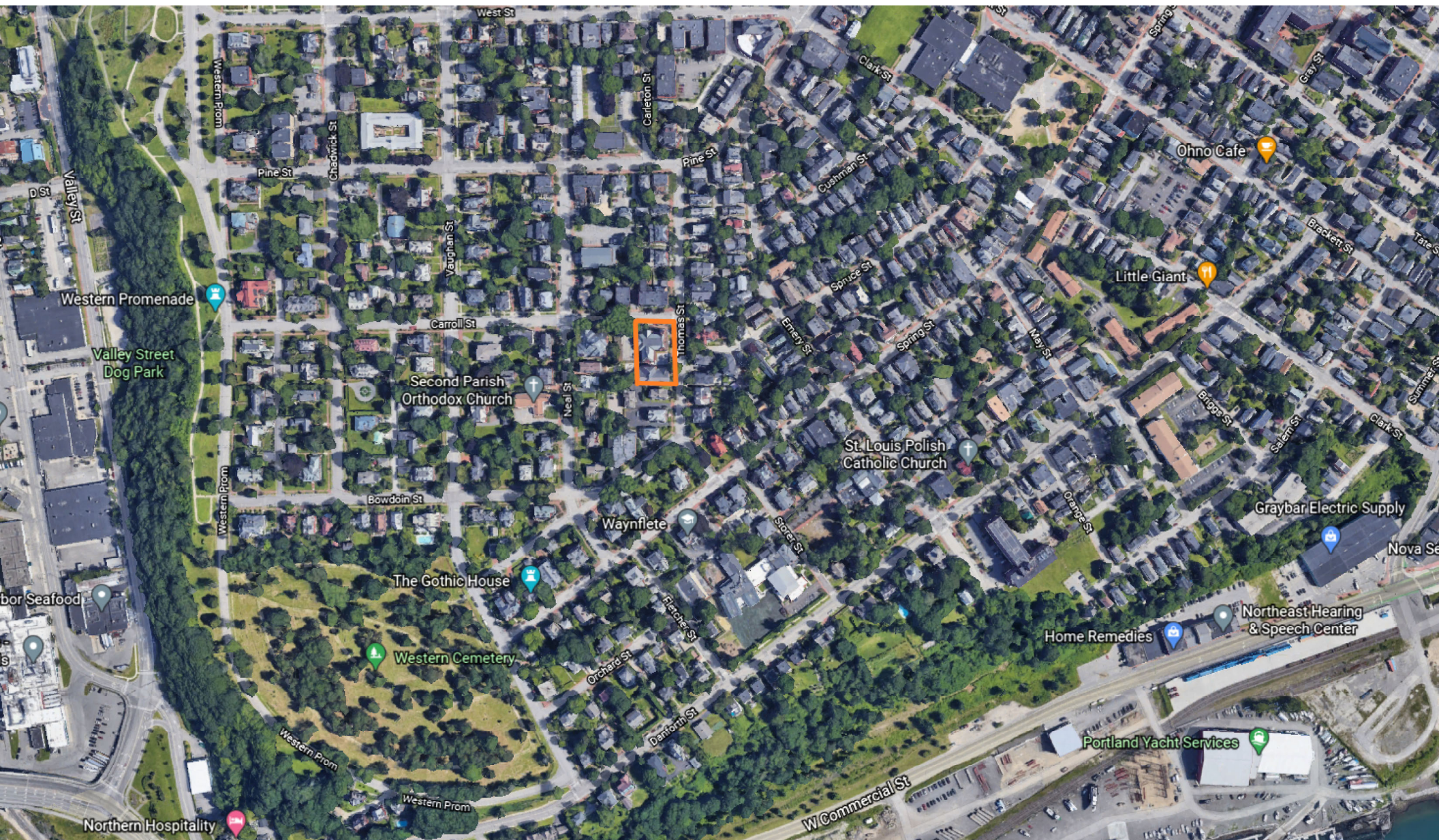


Portland's Plan also calls for adaptive reuse of historic structures, calling for the City to "[s]tabilize and enhance historic areas of the city by ensuring quality investment in existing structures and compatible infill development." This proposed adaptive reuse will allow for such a quality investment in an existing historic structure in a way that does not require public subsidy.

Conclusion

Our team is excited to continue the work that began in 2011 to preserve the former Williston-West Church and Parish Hall. By adopting these zoning amendments, the City will allow for adaptive reuse of this site consistent with City policies, while also cleaning up and simplifying City land use code. We look forward to discussing these changes with staff, the Planning Board and the City Council.

Vicinity Map



WARRANTY DEED
Maine Statutory Short Form

KNOW ALL BY THESE PRESENTS, that **WILLISTON-WEST CHURCH, a/k/a Williston-West United Church of Christ, successor in interest to Williston Church**, a Maine non-profit corporation having a place of business at Portland, County of Cumberland, and State of Maine, for consideration paid, grants to **32 THOMAS STREET, LLC**, a Maine limited liability with a place of business in Portland, County of Cumberland and State of Maine, whose mailing address is 477 Congress Street, Suite 601, Portland, Maine 04101, with **WARRANTY COVENANTS**, the land, together with any improvements thereon, located in the City of Portland, County of Cumberland and State of Maine, and more particularly described in Exhibit "A" attached hereto and made a part hereof.

IN WITNESS WHEREOF, said WILLISTON-WEST CHURCH has caused this instrument to be signed and sealed by Patrick Costin, its duly-authorized Chairman of the Board of Trustees this 19TH day of December, 2011.

WITNESS:

WILLISTON-WEST CHURCH,
a/k/a Williston-West United Church of
Christ, successor in interest to Williston
Church

By: Patrick Costin
Its: Chairman of Board of Trustees

STATE OF MAINE
COUNTY OF CUMBERLAND

December 19, 2011

Personally appeared before me the above-named Patrick Costin, Chairman of the Board of Trustees, and acknowledged the foregoing to be his free act and deed in said capacity and the free act and deed of said church.

Notary Public/Attorney at Law

Peter L. Murray
Printed Name

MAINE REAL ESTATE TAX PAID

**EXHIBIT A
TO
WARRANTY DEED**

Two certain lots or parcels of land, together with any improvements thereon, situated in the City of Portland, County of Cumberland and State of Maine and further described as follows:

PARCEL 1: A certain parcel of land located in said Portland bounded as follows. Beginning at the corner made by the intersection of the Westerly side of Thomas Street unto the Southerly side of Carroll Street; thence Southerly by said Westerly side of Thomas Street one hundred and five (105) feet to a point; thence Westerly on a line parallel with said Southerly side of Carroll Street one hundred (100) feet to a point; thence Northerly on a line parallel with said Westerly side of Thomas Street one hundred and five (105) feet to said Carroll Street; thence Easterly by said Carroll Street to the point begun at. Being the same premises described in two certain agreements between Abby A. Steele and John H. True. Being the premises described in a deed from Abby A. Steele to Williston Church dated April 13, 1886 and recorded in the Cumberland County Registry of Deeds in Book 525, Page 221.

PARCEL 2: Property located in said Portland, being the premises described in a deed from Edward P. Chase to Williston Church dated September 9, 1897 and recorded in the Cumberland County Registry of Deeds in Book 652, Page 460.

Also hereby conveying all of the Grantor's right, title and interest in and to the fee underlying all public or private rights-of-way, easements, streets and alleys over, contiguous, benefitting or appurtenant to the premises.

The above described property is conveyed subject to an Easement from Williston Church to Central Maine Power and New England Telephone and Telegraph dated November 11, 1970 and recorded in said Registry of Deeds in Book 3157, Page 51.

By acceptance of this deed, Grantee agrees, for itself and its successors and assigns, that should the Grantee, its successors or assigns, at any time desire to demolish or alter the building on the property conveyed herein as to result in material damage to or removal of the stained glass windows, pipe organ and church bell, the Grantor shall have the right to remove and repossess the affected stained glass windows, pipe organ and church bell, without charge, but at its own expense, for preservation, recycling and/or re-use by Grantor, its successors and assigns, at Grantor's other location or elsewhere; provided, however, that Grantor, its successors or assigns, shall at its own expense reasonably restore any portion of the property disturbed by such removal activities.

Meaning and intending to describe the same property as described in a deed from Abby Steele to Williston Church, dated April 13, 1886 and recorded in said Registry of Deeds in Book 525, Page 221 and in a deed from Edward Chase to Williston Church, dated September 9, 1897 and recorded in said Registry of Deeds in Book 652, Page 460.

The above-described premises were surveyed by Northeast Civil Solutions as shown on a "Boundary Survey of 26 Thomas Street, Portland, Maine" dated December 13, 2011, and the Grantor conveys all right, title and interest in and to the metes and bounds description as follows:

A certain lot or parcel of land, together with any improvements thereon, located on the southerly side of Carroll Street and on the westerly side of Thomas Street, in the City of Portland, County of Cumberland, State of Maine, being more particularly bounded and described as follows:

BEGINNING at a #5 rebar w/cap stamped "NCS, INC PLS 1314" at the intersection of the southerly right-of-way line of Carroll Street and the westerly right-of-way line of Thomas Street. Said rebar being shown on a plan entitled "Boundary Survey of 26 Thomas Street, Portland, Maine" by Northeast Civil Solutions, dated December 13, 2011;

THENCE S 17°46'20" W along the westerly right-of-way line of said Thomas Street 180.00' to a #5 rebar w/cap stamped "NCS, INC PLS 1314". Said rebar being the northeasterly corner of land now or formerly of McKee Associates LLC as recorded in a deed recorded in the Cumberland County Registry of Deeds in Book 15262, Page 140;

THENCE N 72°58'37" W along the northerly line of land now or formerly of said McKee Associates LLC, 100.00' to a #5 rebar w/cap stamped "NCS, INC PLS 1314";

THENCE N 17°46'20" E along the easterly line of said McKee Associates LLC, land now or formerly of Sidney Tripp as recorded in a deed recorded in said Registry of Deeds in Book 15671, Page 307 and land now or formerly of McLellan School Houses Condominiums 180.00' to a #5 rebar w/cap stamped "NCS, INC PLS 1314". Said rebar being on the southerly right-of-way line of Carroll Street;

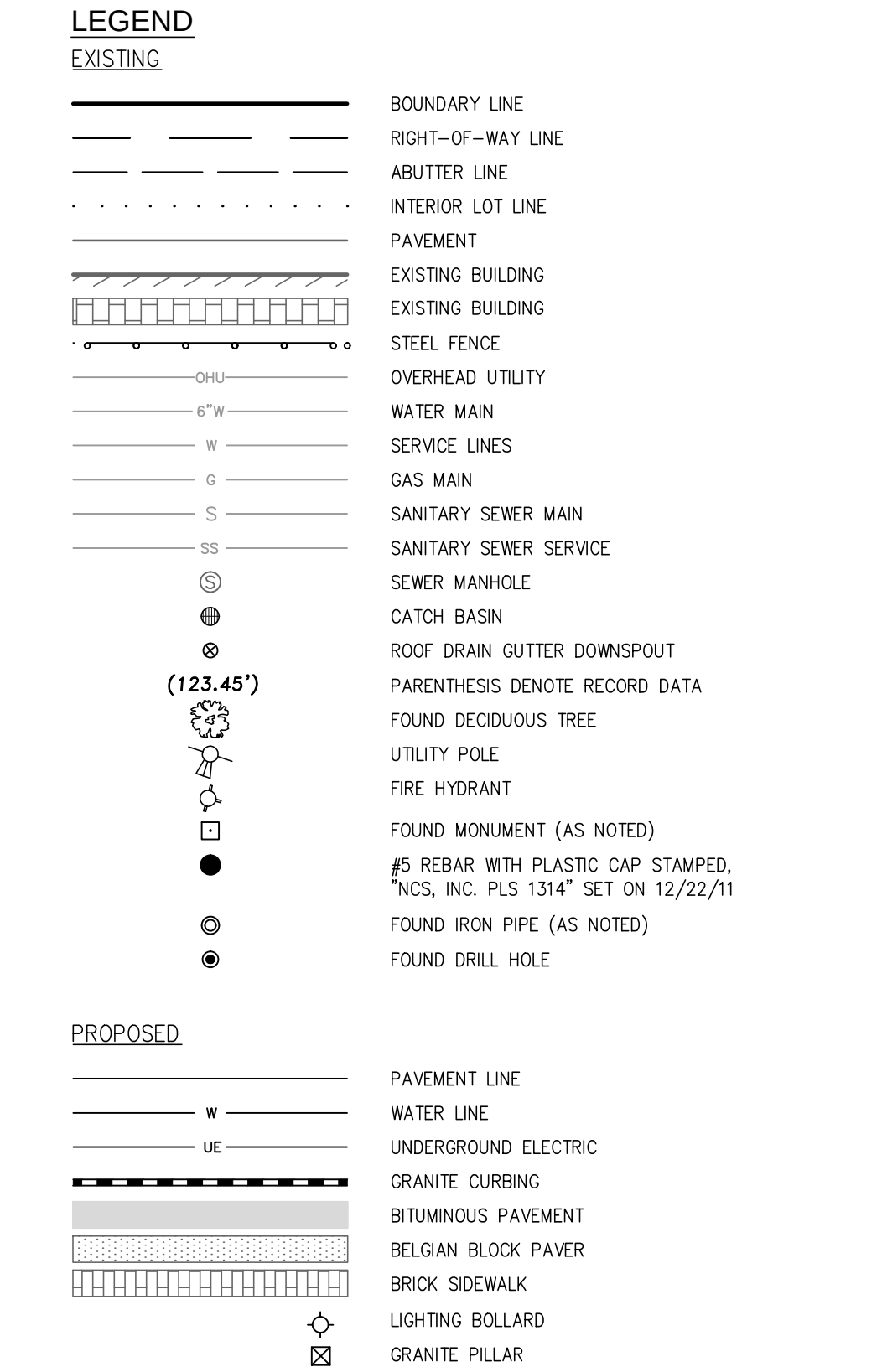
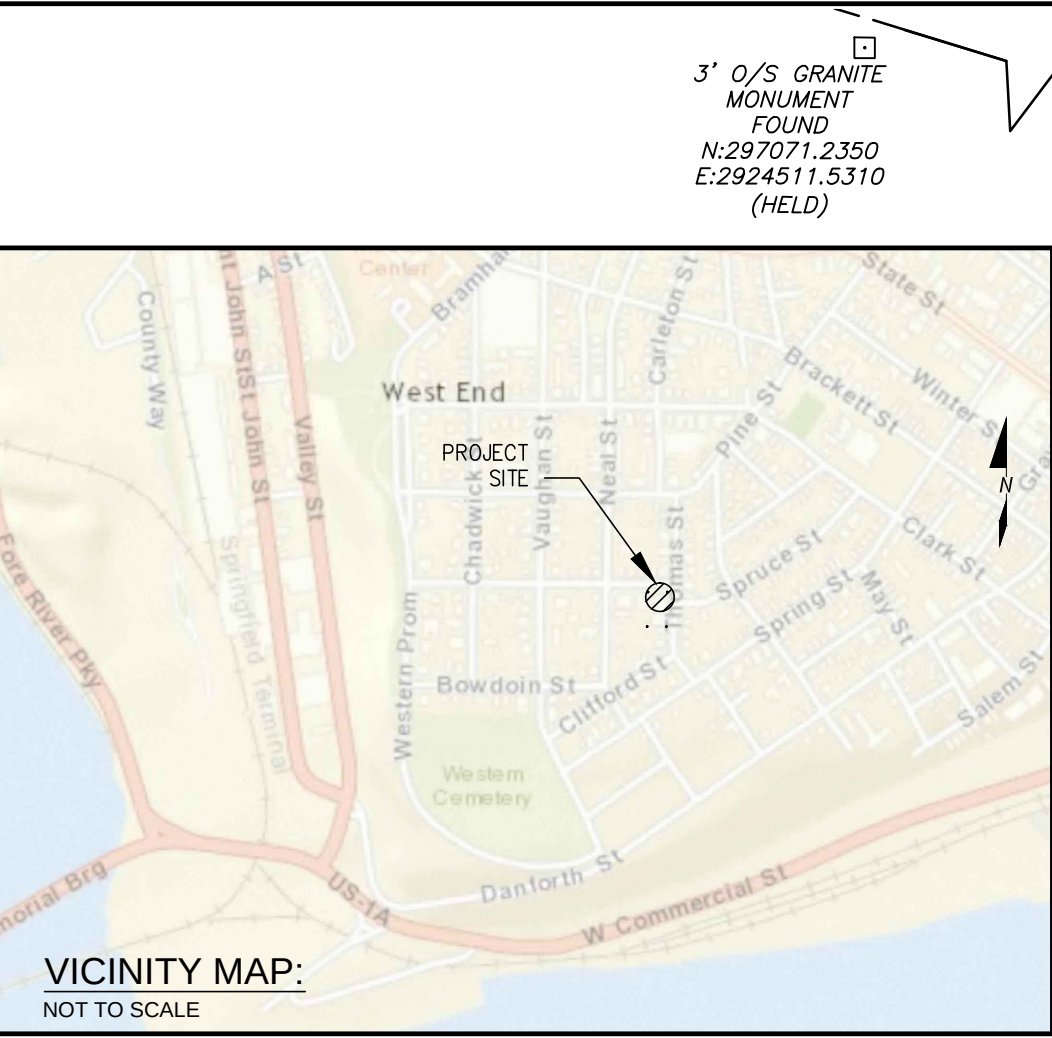
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The above described parcel contains 17,998 square feet, more or less.

The basis of bearing for the above described parcel is Magnetic 1980.

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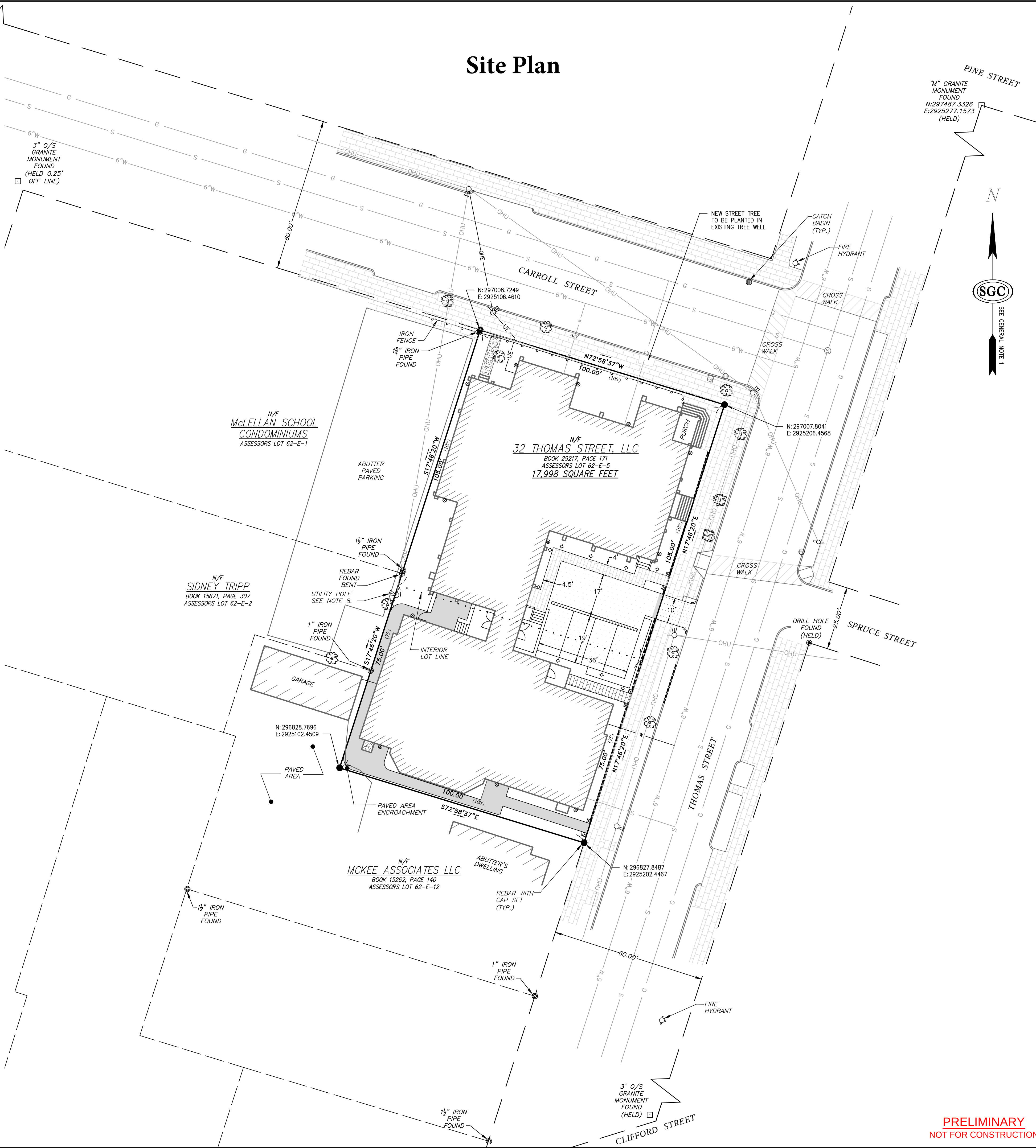


- SURVEY NOTES:**
- THE BASIS OF BEARING FOR THIS SURVEY IS MAGNETIC 1980 AND FROM PLAN REFERENCED IN NOTE 4.A. COORDINATES FOR PROPERTY CORNERS ARE BASED ON COORDINATES PROVIDED BY CITY OF PORTLAND FOR CONCRETE MONUMENTS IN MAINE STATE PLANE COORDINATE SYSTEM (2-ZONE PROJECTION), WEST ZONE USING THE NAD 1983 (HARN) DATUM AND THE U.S. SURVEY FOOT AS THE UNIT OF MEASURE.
 - DEED AND PLAN BOOK REFERENCES ARE TO THE CUMBERLAND COUNTY REGISTRY OF DEEDS.
 - RECORD OWNERSHIP OF THE PARCELS SURVEYED CAN BE FOUND IN THE FOLLOWING DEEDS OF RECORD:
 - DEED FROM ABBY STEEL TO WILLUSTON CHURCH DATED APRIL 13, 1886 AND RECORDED IN DEED BOOK 525, PAGE 221
 - DEED FROM EDWARD CHASE TO WILLUSTON CHURCH DATED SEPTEMBER 9, 1987 AND RECORDED IN DEED BOOK 652, PAGE 460.
 - REFERENCE IS MADE TO THE FOLLOWING PLANS:
 - PLAN OF LAND ON NEAL AND CARROLL STREETS PORTLAND, MAINE FOR MCLELLAN SCHOOL HOUSES, BY OWEN HASKELL, INC., DATED DECEMBER 15, 1982 AND RECORDED IN PLAN BOOK 97, PAGE 1.
 - CLIFFORD STREET CONDOMINIUM AT 15 CLIFFORD STREET, PORTLAND, MAINE FOR WILLIAM HAMIL, BY OWEN HASKELL, INC., DATED SEPTEMBER 10, 1980 AND RECORDED IN PLAN BOOK 37, PAGE 1.
 - PLAN OF REVALUATION PLAN OF PORTLAND, DATED OCTOBER 24, 1884 AND RECORDED IN PLAN BOOK 5, PAGE 62.
 - VARIOUS RIGHT-OF-WAY PLANS OBTAINED FROM THE CITY OF PORTLAND ENGINEERING DEPARTMENT
 - THE PARCEL SURVEYED IS IDENTIFIED ON THE CITY OF PORTLAND TAX ASSESSOR'S MAP 62, BLOCK E, PARCEL 5.
 - THE PARCEL SURVEYED IS LOCATED IN THE R-4 ZONE/DISTRICT. PORTIONS OF BULK AND SPACE REQUIREMENTS ARE AS FOLLOWS:

MIN. STREET FRONTAGE	50 FT
MIN. FRONT YARD	25 FT
MIN. SIDE YARD	10 FT*
MIN. REAR YARD	25 FT

* SIDE YARD IS DETERMINED BY HEIGHT OF STRUCTURE AND CAN INCREASE TO 16 FT
 - THE WIDTH AND LAYOUT OF CARROLL AND THOMAS STREETS IS 60 FT AND FROM PLANS REFERENCED IN NOTES 4.D.
 - REFERENCE IS MADE TO THE FOLLOWING EASEMENTS OF RECORD:
 - SUBJECT TO THE RIGHT OF CENTRAL MAINE POWER AND NEW ENGLAND TELEPHONE AND TELEGRAPH COMPANY TO CONSTRUCT, ERECT, REBUILD, OPERATE, MAINTAIN AND REMOVE ELECTRIC DISTRIBUTION AND COMMUNICATION LINES AS DESCRIBED IN DEED BOOK 3157, PAGE 51.
 - THE UTILITIES SHOWN ON THIS PLAN WERE FROM FIELD OBSERVATION ONLY. THERE MAY BE OTHER UTILITIES EXISTING THAT ARE NOT SHOWN. CONTACT DIG-SAFE (888) DIG-SAFE PRIOR TO ANY EXCAVATION WORK.
 - THERE IS MENTION OF AN UNDERGROUND OIL STORAGE FACILITY IN DEED BOOK 9824, PAGE 156. THE LOCATION OF THIS FACILITY IS UNKNOWN.
 - BOUNDARY AND EXISTING CONDITIONS SURVEY CONDUCTED BY NORTHEAST CIVIL SOLUTIONS, INC., DATED DECEMBER 13, 2011.

Site Plan



ZONING, BULK & SPACE REQUIREMENTS:

- REFERENCE CONDITIONAL ZONING AGREEMENT RECORDED IN CUMBERLAND COUNTY REGISTRY OF DEEDS AT BOOK 29784 PAGE 123 AND R4 ZONING REQUIREMENTS.
- PERMITTED USES:
 - ALL USES IN THE R-4 ZONE
 - PROFESSIONAL OFFICES, INCLUDING COMPUTER SOFTWARE PROGRAMMING AND MARKETING, AND EXCLUDING PERSONAL SERVICES, RETAIL SERVICES AND VETERINARIANS SUBJECT TO THE FOLLOWING LIMITATIONS:
 - PROFESSIONAL OFFICES SHALL BE LOCATED ON THE FIRST FLOOR OF THE PARISH HOUSE AND SHALL OCCUPY NO MORE THAN 2,800 SF OF FLOOR AREA.
 - THE TOTAL NUMBER OF INDIVIDUALS WORKING IN THE PROFESSIONAL OFFICES SHALL NOT EXCEED FOURTEEN (14) NON-RESIDENT EMPLOYEES REGULARLY SCHEDULED TO OCCUPY THE PREMISES AT ANY ONE TIME.
 - THE BUSINESS UTILIZING THE OFFICE SPACE SHALL BE A SINGLE TENANT OFFICE USER OWNED BY OR AFFILIATED WITH THE OWNER OF THE BUILDING COMPLEX.
 - THE OFFICE USE SHALL NOT GENERATE FREQUENT DAILY VISITATION BY CLIENTS CUSTOMERS, OR THE GENERAL PUBLIC.
 - THE OWNER OR OPERATOR OF THE BUSINESS SHALL SECURE AND PROVIDE TO ITS EMPLOYEES ONE (1) OFF STREET PARKING SPACE FOR EACH EMPLOYEE WHO COMMUTES TO THE OFFICE BY HIS OR HER AUTOMOBILE.
- THIS PROJECT INCLUDES AN OFFICE USE ON THE FIRST FLOOR OF THE PARISH HOUSE THAT OCCUPIES APPROXIMATELY 2,500 SF OF FLOOR AREA. THE UNDERLYING DIMENSIONAL REQUIREMENTS FOR THE UNDERLYING R4 ZONE APPLY BUT FOR THE FOLLOWING MODIFICATIONS AS PER THE CONDITIONAL REZONING AGREEMENT. THESE INDIVIDUAL REQUIREMENTS ARE LISTED BELOW ALONG WITH THE ESTABLISHED COMPLIANCE TO THOSE REQUIREMENTS:
 - MINIMUM LOT SIZE FOR PLACES OF ASSEMBLY AND PROFESSIONAL OFFICE USES COMBINED 17,500 SF. THE LOT SIZE OF THE SUBJECT PROPERTY IS 17,998SF AND IS DOCUMENTED AS SUCH ON THE BOUNDARY SURVEY BY NORTHEAST CIVIL SOLUTIONS DATED DECEMBER 13, 2011.
 - MINIMUM YARD DIMENSIONS:
 - FRONT YARD: 3 FEET. THE EXISTING FRONT YARD OF PARISH HOUSE IS 4'-0".
 - REAR YARD: 3 FEET. THE EXISTING STRUCTURE OF SANCTUARY IS 2'-9" AND AT THE EXISTING STRUCTURE AT THE REAR OF THE PARISH HOUSE IS 3'-9".
 - SIDE YARD: 4 FEET. THE SIDE OF THE EXISTING PARISH HOUSE STRUCTURE AT THE SIDE YARD IS 5'-0".
 - SIDE YARD ON SIDE STREETS: 8 FEET.
 - MAXIMUM LOT COVERAGE: 90%. THE EXISTING FOOTPRINT OF THE STRUCTURES ON THE PROPERTY IS APPROXIMATELY 12,000 SF PROVIDING A LOT COVERAGE OF 67%.
 - MAXIMUM STRUCTURE HEIGHT (SANCTUARY): 37 FEET. THE EXISTING HEIGHT OF THE SANCTUARY IS APPROXIMATELY 37 FEET.
 - MAXIMUM STRUCTURE HEIGHT (PARISH HOUSE): 47 FEET. THE EXISTING HEIGHT OF THE PARISH HOUSE IS APPROXIMATELY 47 FEET.
 - MAXIMUM STRUCTURE HEIGHT (BELL TOWER): 70 FEET. THE EXISTING HEIGHT OF THE BELL TOWER IS APPROXIMATELY 70 FEET.
 - MAXIMUM FLOOR AREA FOR PLACES OF ASSEMBLY: 6,000SF. THIS PROJECT DOES NOT INCLUDE ANY PROVISION OR CONSIDERATION FOR THE USE OF THE SANCTUARY AS A COMMUNITY HALL AT THIS TIME.
 - RESIDENTIAL DWELLINGS WITHIN THE EXISTING STRUCTURES SHALL BE GOVERNED BY THE PROVISIONS OF SECTION 14-103(A)(2) OF THE UNDERLYING R-4 ZONE. DENSITY CALCULATIONS FOR RESIDENTIAL USE SHALL BE BASED ON THE LOT SIZE OF THE PARCEL WITHOUT LAND AREA DEDUCTIONS FOR OTHER NON-RESIDENTIAL USES ON THE SITE. THIS PROJECT PROPOSES 5 RESIDENTIAL DWELLING UNITS WITHIN THE EXISTING STRUCTURE OF THE PARISH HOUSE. THE R-4 ZONE REQUIRES A MINIMUM LOT AREA OF 3,000SF PER UNIT AND A MINIMUM FLOOR AREA OF 700SF PER UNIT. THE PROPOSAL OF 5 UNITS REQUIRES 15,000SF OF LAND AREA. THE EXISTING AND AREA OF THE SITE IS 17,998 SF. THE SMALLEST OF THE 5 PROPOSED UNITS IS APPROXIMATELY 1,100 SF.
 - THE CONDITIONAL REZONING AGREEMENT PROHIBITS THE INCREASE IN VOLUME OR FOOTPRINT OF EITHER THE PARISH HOUSE OR THE SANCTUARY. THE SUBMISSION INCLUDES THE RENOVATION OF THE EXISTING PORTICO CONNECTOR BETWEEN THE PARISH HOUSE AND THE TRANSEPT OF THE SANCTUARY AS THE MAIN ENTRANCE TO THE RESIDENCES IN THE PARISH HOUSE. THESE MODIFICATIONS WILL NOT INCREASE THE FOOTPRINT OR THE VOLUME OF THE PRIMARY STRUCTURES ON THE PROPERTY.
 - THE CONDITIONAL REZONING AGREEMENT INCLUDED A REHABILITATIONS SCHEDULE. THAT WORK HAS COMMENCED AND IS UNDERWAY AS NOTED. THIS PROJECT DOES NOT INTEND TO SEEK A CERTIFICATE OF OCCUPANCY FOR THE OFFICE USE IN THE PARISH HOUSE UNTIL ALL OF THE WORK ON THE REHABILITATION SCHEDULE HAS BEEN COMPLETED.
 - THE 4 ON-SITE PARKING SPACES ARE DEDICATED FOR USE BY THE OCCUPANTS OF THE RESIDENTIAL UNITS ONLY.
 - EXISTING OVERHEAD UTILITY SERVICES SHALL BE REMOVED. NEW UTILITY SERVICES SHALL BE INSTALLED UNDERGROUND.
 - PRECISE CONSTRUCTION DETAILS SHALL MEET HISTORIC PRESERVATION AND SITE PLAN CONDITIONS OF APPROVAL AND CITY OF PORTLAND TECHNICAL STANDARDS, WHERE APPLICABLE.

UNIT SQUARE FOOTAGE TABLE:

UNIT #	DESCRIPTION	SQUARE FOOTAGE (SF)
1	GROUND FLOOR CARETAKERS	1,115
2	OVERLOOKING THOMAS STREET	2,161
3	CENTER OF BUILDING	1,768
4	SOUTHWEST CORNER	1,627
5	REAR NORTHWEST CORNER	1,507

WAIVER:

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 APPLICATION ON DECEMBER 8, 2015 FOR APPLICATION #2015-131 (26-32 THOMAS STREET) RELEVANT TO PORTLAND'S TECHNICAL AND DESIGN STANDARDS AND OTHER REGULATIONS, AND THE TESTIMONY PRESENTED AT THE PLANNING BOARD HEARING, THE PLANNING BOARD VOTED 6-0 TO WAIVE THE TECHNICAL MANUAL STANDARD SECTION 1.14. PARKING LOT AND PARKING SPACE DESIGN, WHICH REQUIRES A DRIVE AISLE OF 24 FEET WIDTH FOR 90 DEGREE PARKING, TO ALLOW A PARKING AISLE OF 21 FEET AS SUPPORTED BY THE TRAFFIC ENGINEERING REVIEWER.

CONDITIONS OF APPROVAL:

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 8, 2015 FOR APPLICATION #2015-131 (26-32 THOMAS STREET) RELEVANT TO THE SUBDIVISION REGULATIONS, AND THE TESTIMONY PRESENTED AT THE PLANNING BOARD HEARING, THE PLANNING BOARD VOTED 6-0 TO FIND THAT THE PLAN IS IN CONFORMANCE WITH THE SUBDIVISION STANDARDS OF THE LAND USE CODE AND TO APPROVE THE APPLICATION, SUBJECT TO THE FOLLOWING CONDITION OF APPROVAL:

- THE APPLICANT SHALL FINALIZE THE SUBDIVISION PLAT TO ADDRESS PLANNING BOARD AND STAFF COMMENTS, AND TO CONFIRM THAT THE 4 ON-SITE PARKING SPACES ARE FOR THE USE OF THE OCCUPANTS OF THE PROPOSED RESIDENTIAL UNITS ONLY; THE FINAL PLAT TO BE SUBMITTED FOR REVIEW AND APPROVAL BY CORPORATION COUNSEL, DEPARTMENT OF PUBLIC WORKS, AND THE PLANNING AUTHORITY PRIOR TO SIGNATURE BY THE PLANNING BOARD.

APPROVED BY CITY OF PORTLAND PLANNING BOARD

NAME	DATE

REVISIONS:	DATE	CITY OF PORTLAND PRELIM SUBDIVISION SUBMITTAL
	NO.	CITY OF PORTLAND FINAL SUBDIVISION SUBMITTAL
RECORD OWNER:	DATE	PROJECT: 1309001
	NO.	CHECK: EDW
TITLE:	DATE	DESIGN: TDD
	NO.	FILE: 1309001_RECORDING PLAT.DWG
SHEET:	DATE	SCALE: 1" = 20'
	NO.	SCALE: 1" = 20'

MAJELLA GLOBAL TECHNOLOGY
DEVELOPMENT
1200 MIDDLE STREET
PORTLAND, MAINE

RECORDING PLAT
WILLISTON CHURCH
26 THOMAS STREET
PORTLAND, MAINE

1

CITY OF PORTLAND
Planning & Urban Development Department

MAP AND TEXT AMENDMENT SUBMISSION CHECKLIST	
* Please submit each document <u>and</u> drawing as a separate PDF file * Please submit all drawings in a <u>24 x 36 sheet size</u> * Please confirm each item by electronically checking the boxes to the left for each document/drawing	
GENERAL APPLICATION DOCUMENTS	
☒	Project Description Cover Letter with detailed project description
☒	Consistency with Comprehensive Plan Analysis of the consistency of the zone change request with the goals, policies and land use plan of Portland's Comprehensive Plan.
☒	Proposed Text Amendment Provide proposed language for text amendment(s) and cite the relevant sections to be revised in the Land Use code.
☒	Completed Checklist – Map and Text Amendment Application (this document)
☒	Right, Title and Interest Deeds, leases, or purchase and sales agreements
PLANS	
☒	Vicinity Map
☒	Proposed Map Amendment (please use the Portland zoning map as a reference)
☒	Site Plan (if applicable) On a separate sheet, please provide a site plan of the property showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries.

WARRANTY DEED
Maine Statutory Short Form

KNOW ALL BY THESE PRESENTS, that **WILLISTON-WEST CHURCH, a/k/a Williston-West United Church of Christ, successor in interest to Williston Church**, a Maine non-profit corporation having a place of business at Portland, County of Cumberland, and State of Maine, for consideration paid, grants to **32 THOMAS STREET, LLC**, a Maine limited liability with a place of business in Portland, County of Cumberland and State of Maine, whose mailing address is 477 Congress Street, Suite 601, Portland, Maine 04101, with **WARRANTY COVENANTS**, the land, together with any improvements thereon, located in the City of Portland, County of Cumberland and State of Maine, and more particularly described in Exhibit "A" attached hereto and made a part hereof.

IN WITNESS WHEREOF, said WILLISTON-WEST CHURCH has caused this instrument to be signed and sealed by Patrick Costin, its duly-authorized Chairman of the Board of Trustees this 19TH day of December, 2011.

WITNESS:

WILLISTON-WEST CHURCH,
a/k/a Williston-West United Church of
Christ, successor in interest to Williston
Church

By: Patrick Costin
Its: Chairman of Board of Trustees

STATE OF MAINE
COUNTY OF CUMBERLAND

December 19, 2011

Personally appeared before me the above-named Patrick Costin, Chairman of the Board of Trustees, and acknowledged the foregoing to be his free act and deed in said capacity and the free act and deed of said church.

Notary Public/Attorney at Law

Peter L. Murray
Printed Name

MAINE REAL ESTATE TAX PAID

**EXHIBIT A
TO
WARRANTY DEED**

Two certain lots or parcels of land, together with any improvements thereon, situated in the City of Portland, County of Cumberland and State of Maine and further described as follows:

PARCEL 1: A certain parcel of land located in said Portland bounded as follows. Beginning at the corner made by the intersection of the Westerly side of Thomas Street unto the Southerly side of Carroll Street; thence Southerly by said Westerly side of Thomas Street one hundred and five (105) feet to a point; thence Westerly on a line parallel with said Southerly side of Carroll Street one hundred (100) feet to a point; thence Northerly on a line parallel with said Westerly side of Thomas Street one hundred and five (105) feet to said Carroll Street; thence Easterly by said Carroll Street to the point begun at. Being the same premises described in two certain agreements between Abby A. Steele and John H. True. Being the premises described in a deed from Abby A. Steele to Williston Church dated April 13, 1886 and recorded in the Cumberland County Registry of Deeds in Book 525, Page 221.

PARCEL 2: Property located in said Portland, being the premises described in a deed from Edward P. Chase to Williston Church dated September 9, 1897 and recorded in the Cumberland County Registry of Deeds in Book 652, Page 460.

Also hereby conveying all of the Grantor's right, title and interest in and to the fee underlying all public or private rights-of-way, easements, streets and alleys over, contiguous, benefitting or appurtenant to the premises.

The above described property is conveyed subject to an Easement from Williston Church to Central Maine Power and New England Telephone and Telegraph dated November 11, 1970 and recorded in said Registry of Deeds in Book 3157, Page 51.

By acceptance of this deed, Grantee agrees, for itself and its successors and assigns, that should the Grantee, its successors or assigns, at any time desire to demolish or alter the building on the property conveyed herein as to result in material damage to or removal of the stained glass windows, pipe organ and church bell, the Grantor shall have the right to remove and repossess the affected stained glass windows, pipe organ and church bell, without charge, but at its own expense, for preservation, recycling and/or re-use by Grantor, its successors and assigns, at Grantor's other location or elsewhere; provided, however, that Grantor, its successors or assigns, shall at its own expense reasonably restore any portion of the property disturbed by such removal activities.

Meaning and intending to describe the same property as described in a deed from Abby Steele to Williston Church, dated April 13, 1886 and recorded in said Registry of Deeds in Book 525, Page 221 and in a deed from Edward Chase to Williston Church, dated September 9, 1897 and recorded in said Registry of Deeds in Book 652, Page 460.

The above-described premises were surveyed by Northeast Civil Solutions as shown on a "Boundary Survey of 26 Thomas Street, Portland, Maine" dated December 13, 2011, and the Grantor conveys all right, title and interest in and to the metes and bounds description as follows:

A certain lot or parcel of land, together with any improvements thereon, located on the southerly side of Carroll Street and on the westerly side of Thomas Street, in the City of Portland, County of Cumberland, State of Maine, being more particularly bounded and described as follows:

BEGINNING at a #5 rebar w/cap stamped "NCS, INC PLS 1314" at the intersection of the southerly right-of-way line of Carroll Street and the westerly right-of-way line of Thomas Street. Said rebar being shown on a plan entitled "Boundary Survey of 26 Thomas Street, Portland, Maine" by Northeast Civil Solutions, dated December 13, 2011;

THENCE S 17°46'20" W along the westerly right-of-way line of said Thomas Street 180.00' to a #5 rebar w/cap stamped "NCS, INC PLS 1314". Said rebar being the northeasterly corner of land now or formerly of McKee Associates LLC as recorded in a deed recorded in the Cumberland County Registry of Deeds in Book 15262, Page 140;

THENCE N 72°58'37" W along the northerly line of land now or formerly of said McKee Associates LLC, 100.00' to a #5 rebar w/cap stamped "NCS, INC PLS 1314";

THENCE N 17°46'20" E along the easterly line of said McKee Associates LLC, land now or formerly of Sidney Tripp as recorded in a deed recorded in said Registry of Deeds in Book 15671, Page 307 and land now or formerly of McLellan School Houses Condominiums 180.00' to a #5 rebar w/cap stamped "NCS, INC PLS 1314". Said rebar being on the southerly right-of-way line of Carroll Street;

THENCE S 72°58'37" E along the southerly right-of-way line of said Carroll Street 100.00' to the POINT OF BEGINNING.

The above described parcel contains 17,998 square feet, more or less.

The basis of bearing for the above described parcel is Magnetic 1980.

S:\SANG01\Williston West Church\Deed.doc

Received
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Dec 20, 2011 02:21:24P
Cumberland County
Pamela E. Lovley

**REAUTHORIZATION OF
AMENDMENT TO CITY CODE
SEC. 14-49 (ZONING TEXT AMENDMENT)
RE: Conditional Zoning Agreement
Williston-West Church**

ORDERED, that the zoning text of the City of Portland, dated December 2000 as amended and on file in the Department of Planning & Development, and incorporated by reference into the Zoning Ordinance by Sec. 14-49 of the Portland City Code, is hereby amended to reflect a conditional rezoning as detailed below.

**AMENDED CONDITIONAL ZONE AGREEMENT
RE: WILLISTON-WEST CHURCH**

AGREEMENT (the “Agreement”) made this ____ day of _____, 2020 by 32 Thomas Street, LLC, a Maine limited liability company having a mailing address _____, Maine ____ (“Developer”), and its successors and assigns.

W I T N E S S E T H

WHEREAS, the Developer owns real property located at 32 Thomas Street, consisting of the parcel shown on the City’s Tax Map 62, Block E, Lot 5, being more particularly described in a deed recorded in Cumberland County Registry of Deeds in Book 29217, Page 171 (collectively the “Property”); and

WHEREAS, the existing building complex located on the Property was formerly used as the Williston-West Church; and

WHEREAS, on June 18, 2012, the City of Portland (hereinafter “City”) granted a conditional rezoning agreement (the “Original CZA”), which Original CZA was recorded in the Cumberland County Registry of Deeds on July 26, 2012 in Book 29784, Page 123; and

WHEREAS, prior to the Original CZA, the Property was zoned R-4 Residential; and

WHEREAS, the properties on the opposite sides of Thomas and Carroll Streets, directly across from the Property, are zoned R-6 Residential; and

WHEREAS, the building complex located on the Property is comprised of two principal portions, the sanctuary and the parish house; and

WHEREAS, the building complex is listed in the National Register of Historic Places, the sanctuary is a designated local landmark as defined by Article IX of the Portland City Code and the parish house is a contributing structure within the West End Historic District under Article IX; and

PROPOSED DRAFT

WHEREAS, the sanctuary and the parish hall are important, unique, large-scale, non-residential historic structures that were designed by noted architects Francis Fassett and John Calvin Stevens, respectively; and

WHEREAS, the building complex significantly contributes to the architectural fabric of the neighborhood and distinctive sense of place that defines Portland and therefore requires special consideration with regard to its rehabilitation and preservation; and

WHEREAS, the standards of review for alterations of historic structures set forth in Portland City Land Use Code (the “Code”) §14-650 include the following: (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; and (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;

WHEREAS, prior to the Original CZA, the building complex located on the Property was falling into a state of disrepair; and

WHEREAS, pursuant to the Original CZA, the Developer has invested significant time and resources into restoring the building located on the Property, including without limitation rehabilitation of the parish house and the development of five (5) residential condominium units therein; and

WHEREAS, the Original CZA allowed for use of a portion of the first floor of the parish house for office use, which uses, particularly in the R-4 zone, have been limited; and

WHEREAS, the Original CZA provided for the Developer to maintain the sanctuary and to use the building as a community hall for limited community uses; and

WHEREAS, historically appropriate and neighborhood compatible adaptive re-use of historic religious structures is often challenging, and reasonable use flexibility may enable economically viable rehabilitation and productive use of such buildings for their long term preservation; and

WHEREAS, development of the Project in accordance with the Original CZA, and specifically of the maintenance of the sanctuary for use as a community hall for limited community uses has not proved to be economically viable; and

WHEREAS, the Developer proposes and intends to develop the portion of the parish house that was intended to be developed for office use under the Original CZA into two (2) additional residential units, as illustrated in Exhibit A-1, A-2 and A-3 attached hereto; and

PROPOSED DRAFT

WHEREAS, the Developer proposes and intends to develop the sanctuary into four (4) additional residential units, as illustrated in Exhibits A-1, A-2 and A-3 attached hereto; and

WHEREAS, the Developer proposes and intends to install underground parking to accommodate the additional residential units as illustrated in Exhibit B attached hereto; and

WHEREAS, the Developer has requested an amendment to the Original CZA to allow for development of six (6) additional residential units as described above, which requires a reduction of the permitted level of density within the R-4; and

WHEREAS, the proposed addition of six (6) additional residential units provide the necessary economic value for the feasibility of the productive use of the building complex and the associated rehabilitation investments; and

WHEREAS, the additional six (6) residential units cannot be accommodated under dimensional requirements of the R-4 zone; and

WHEREAS, the Developer has completed the schedule of rehabilitation improvements to the building complex to address immediate needs to ensure the soundness and integrity of the building envelope and structural elements in accordance with the Original CZA; and

WHEREAS, the Developer intends to continue to maintain the historic character of the structures and Property and intends to perform additional improvements to the building complex to prolong its useful life and preserve the historic character, all with the goal of extending the useful life of the building complex for a time period approaching fifty (50) years or longer; and

WHEREAS, the Developer has requested a rezoning of the Property in order to permit the proposed development of the Property, which will facilitate funding the long-term maintenance of the historic structures; and

WHEREAS, the proposed uses of the Property are consistent with and more conforming to the existing and permitted uses in the neighborhood than were allowed under the Original CZA; and

WHEREAS, the Original CZA provides for the Property to be subject to the R-4 dimensional requirements, except to the extent that the existing building complex does not meet, but is lawfully nonconforming with the same; and

WHEREAS, since entering into the Original CZA, the Developer has determined that the provides for the Property to be subject to, except to the extent that the existing building complex does not meet the rear yard setback requirements as amended by the Original CZA; and

PROPOSED DRAFT

WHEREAS, the Planning Board, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however, to certain conditions contained in this Agreement; and

WHEREAS, the City, by and through the Portland City Council, pursuant to 30-A M.R.S.A. § 4352(8) and §§ 14-60 to 14-62 of the Code, after notice, hearing and due deliberation thereon, has determined that because of the unique and historical nature of the Property, the proposed development:

- Contributes a desirable, unique type of housing to the peninsula stock;
- Promotes sustainability by allowing for rehabilitation of an existing historic building to provide new housing development consistent with the medium and high density urban residential development pattern typically found on the peninsula;
- Makes improvements to below-grade infrastructure, including parking, to accommodate new growth;
- Accommodates well-designed density, which is integral to healthy, walkable city neighborhoods; and therefore

it is necessary and appropriate to impose, by agreement, the conditions and restrictions set forth herein, in order to insure that said rezoning is consistent with the City's comprehensive land use plan; and

WHEREAS, the City Council of the City authorized the execution of the Original CZA on June 18, 2012 by City Council Order No. 214-11/12 and reauthorized the execution of this Agreement on _____ by way of this Order, a true copy of which is attached hereto as Exhibit ____; and

WHEREAS, the Developer has agreed to enter into this Agreement, with its concomitant terms and conditions, which shall hereinafter bind the Developer, its successors or assigns;

NOW, THEREFORE, in consideration of the rezoning of the Property, the Developer contracts to be bound by the following terms and conditions:

1. Pursuant to the Order, the Property shall remain within a Conditional Rezone C-57, subject to the conditions contained below. If this Agreement is not recorded within sixty (60) days after the effective date of the City Council's approval of the Order, then the reauthorization of the conditional rezoning shall become null and void and the zoning of the Property shall revert to the Original CZA.
2. Permitted uses:
 - a. All uses allowed in the R-4 zone.
 - b. Alteration of an existing structure to accommodate one (1) or more dwelling units, subject to the requirements of 14-103(a)(2), which are modified as follows:

14-103(a)(2)(f): 2,000 square feet of land area per dwelling unit shall be required.

3. The underlying dimensional requirements of the R-4 zone shall apply and are modified as follows:

b. Minimum Yard Dimensions:

1. Front yard: 3 feet.
2. Rear Yard: 1 foot.
3. Side Yard: 4 feet.
4. Side Yard on Side Streets: 8 feet.

c. Maximum Lot Coverage: 90%.

d. Maximum Structure Height (Sanctuary): 37 feet.

e. Maximum Structure Height (Parish House): 46 feet.

f. Maximum Structure Height (Bell Tower): 70 feet.

g. Residential dwellings within the existing structures shall be governed by the provisions of Section 14-103(a)(2) of the underlying R-4 zone, except that 1,500 square feet of land area per dwelling unit shall be required.

h. Minimum lot area per dwelling unit: one thousand five hundred (1,500) square feet.

5. Any increase in the volume or footprint of either the parish house or the sanctuary shall be prohibited.

6. Developer shall develop the Property in accordance with the plans attached hereto and in keeping with the standards of Article IX, Historic Preservation, of the Portland City Code and as shall be reviewed and approved by the Historic Preservation Board or staff under the terms of the Portland City Code.

8. The provisions of this Agreement are intended to replace and/or supersede the associated provisions of the Original CZA. As stated above, to the extent not otherwise altered herein, the zoning requirements for the R-4 zone shall otherwise apply to the Property.

9. For a period of five (5) years from _____, Developer shall submit an annual report to the Planning Authority which shall include the number of employees working at the premises, the location and number of secured off street parking spaces, and other items pertaining to compliance with provisions of this Agreement as required by the Planning Authority. Thereafter, to the extent the Planning Authority requires additional information/report(s) the Developer shall provide the Authority with any such additional information/report(s).

10. In the event of a breach by the Developer or its successors or assigns of the provisions contained herein (whether the Zoning Administrator, the Zoning Board of Appeals or a Court determines such breach), the Planning Board, after notice and hearing, may review the circumstances of the breach and recommend to the City Council that this Agreement be amended or be rescinded and determine that such rescission should result in the termination of this Agreement and a reversion of the Property to the R-4 zone requirements in place before the execution of this Agreement.

11. This Agreement may also be enforced pursuant to the land use enforcement provisions of state law including, but not limited to, 30-A MRSA § 4452 and the Portland City Code.

12. The above stated restrictions, provisions, and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit the Developer, any entity affiliated with the Developer that takes title to the Property, its successors and assigns, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the City of Portland, by and through its duly authorized representatives. The Developer shall file a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

13. The Planning Authority shall be notified of any potential and/or pending sale of the Property (which most likely will be evidenced by a Purchase & Sales Agreement or its equivalent), and prior to closing the sale of the Property shall meet with the buyer and verify that he/she/it has read, understood and agrees to be bound by the terms, conditions, limitations and provisions of this Agreement, and said buyer shall so state in a signed affidavit to be kept on file with the Planning Authority.

14. If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision and such determination shall not affect the validity of the remaining portions hereof.

15. Except as expressly modified herein, the development shall be governed by and comply with the provisions of the Portland City Code, including but not limited to, the maintenance requirements for historic structures set forth in section 14-690 of the Code, and any applicable amendments thereto or replacement thereof.

[Signatures to Follow on Next Page]

WITNESS: _____

32 THOMAS STREET, LLC

BY:

STATE OF MAINE
CUMBERLAND, ss.

_____, 2020

Personally appeared before me the above-named _____, in his capacity as _____ of 32 THOMAS STREET, LLC, and acknowledged the foregoing instrument to be his/her free act and deed in his/her said capacity and the free act and deed of said corporation.

Before me,

Notary Public/Attorney at Law

Brandon Mazer, Chair, PPB
c/o Christine Grimando, Director
Portland City Hall
389 Congress Street
Portland, Maine, 04101

Re: Williston West Site and Residential Re-use

Dear Chairman Mazer

I listened to the workshop discussion and public comment concerning Williston West, and I felt it is necessary to provide some further history and perspective about the West End. I would request that you provide this submission to the other members of the PB. The thoughts and reflections I express here arise from living in the West End for 51 years, and being actively engaged in the politics and civic issues that touch upon this area of Portland. In that regard, perhaps they represent my idiosyncratic views, but I thought the information might be of some help as the Planning Board and the City address issues in the area, including the Williston project. (To avoid any confusion about Williston, I am supportive of the move to make appropriate revisions/changes to the existing CZA to eliminate the business office use and to allow expanded residential re-use of this site, and support in the main the current concept plan of the current applicant. However I do not favor adding amendments to an entire zone for a single project. Amending a zone for the benefit of a single project is, in effect, a CZA by other means, with broader possible downsides.)

Truncated History of the Western Prom From The Late 1960's

The period of the late 60's and early 70's was a period of intense social reexamination. This included, primarily among a younger generation, approaches to different lifestyles—everything from communes, to more rural relocations, particularly in Maine to rural area and communities surrounding Portland. However for some of us, we wanted to make our stand in urban living, close to the city's life and center. To this end, our family bought and restored a house on Thomas Street, mostly with our own labor, while both working full-time jobs. At that time, even the more architecturally interesting homes in the West End were very inexpensive, as demand for this type of housing was minimal. To understand this fact and what that meant, in 1969-1970, Portland was at a low point in its seeming collapse, except for the off-peninsula areas. Perhaps the last place to which any one wanted to move was the peninsula, whose housing stock was deteriorated and moving in the wrong direction, and adjoined a downtown which itself was in serious decline. (We were able to obtain low-interest Model Cities loans for renovations, because the West End, including the Western Prom, was considered a blighted urban area.)

As it happens, we were not alone, and a number of younger families with children began to see the possibilities of the Western Prom area and bought into the area. However, from my perspective, the City administration at that moment in time did not appreciate what was happening. Its focus was to discount the area as a residential area, and to foster and promote conversions of the housing to medical offices and uses adjunct to Maine Medical. Thus ensued a nearly ten year battle between the residents of the area and the City, during which the Western Prom Neighborhood Association was formed, contesting the City's limited vision. (This may help explain why allowing a business office use in the R-4 as part of a contract zone was such a flash point for the neighborhood.)

At this later point in time, things had started to change in terms of attitudes toward urban possibilities generally in the American culture. Here is where the Western Prom area played an important role for Portland's urban revitalization. Because of its location and housing stock, it presented and crystalized the unique opportunities of peninsula residential living, and was a catalyst over the next nearly two decades for what is now the resurgent demand for residential living on the peninsula. (It was to take nearly 15-20 years before interest in the East End development to mushroom.) The attitude and understanding of the West End's value, as well as other peninsula areas, also grew and expanded in the City administration.

Planning tends to focus on the here and now. If one takes a longer view, is the current interest in the peninsula and Portland in general to continue at its current intensity? Maybe the Covid decimation of the bars and restaurants and urban businesses will change Portland's trajectory. Maybe Portland is at an apex. I hope not. That said, the continuation of protections for the West End R-4 area and its housing stock could in the future once again be vital and more centrally important.

I don't know the answers to these questions, but I do believe one needs to be careful and not casual about this area, its history, its zoning, and its importance for Portland to the concept of urban living alongside the downtown. I can provide witness, from my personal experience, that assertions that it has always been an area solely of privilege and exclusion are simply incomplete and historically inaccurate.

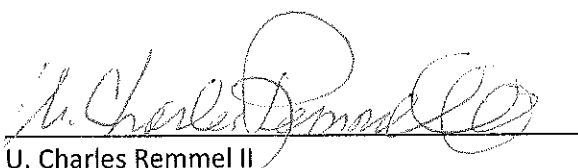
R-4 verses R-6

The discussion about the R-4 boundary lines and perhaps moving the Williston site into the R-6, was not well considered. In my judgment, it was looking at the boundary lines from entirely the wrong perspective and vantage point. The proper question is why aren't both sides of Thomas Street in the R-4, because both sides are almost exclusively residential homes and consistent with the housing stock, purposes, and residential uses in the R-4? Why is the dividing line in the middle of the street? The same could be said of Carroll and Neal Street (out to West Street).. The attention should be on where the R-4 should be expanded and properly redrawn to make certain that areas not now in the R-4, but consistent with its uses and goals, are included. The mistake is the current location of the R-6 line.

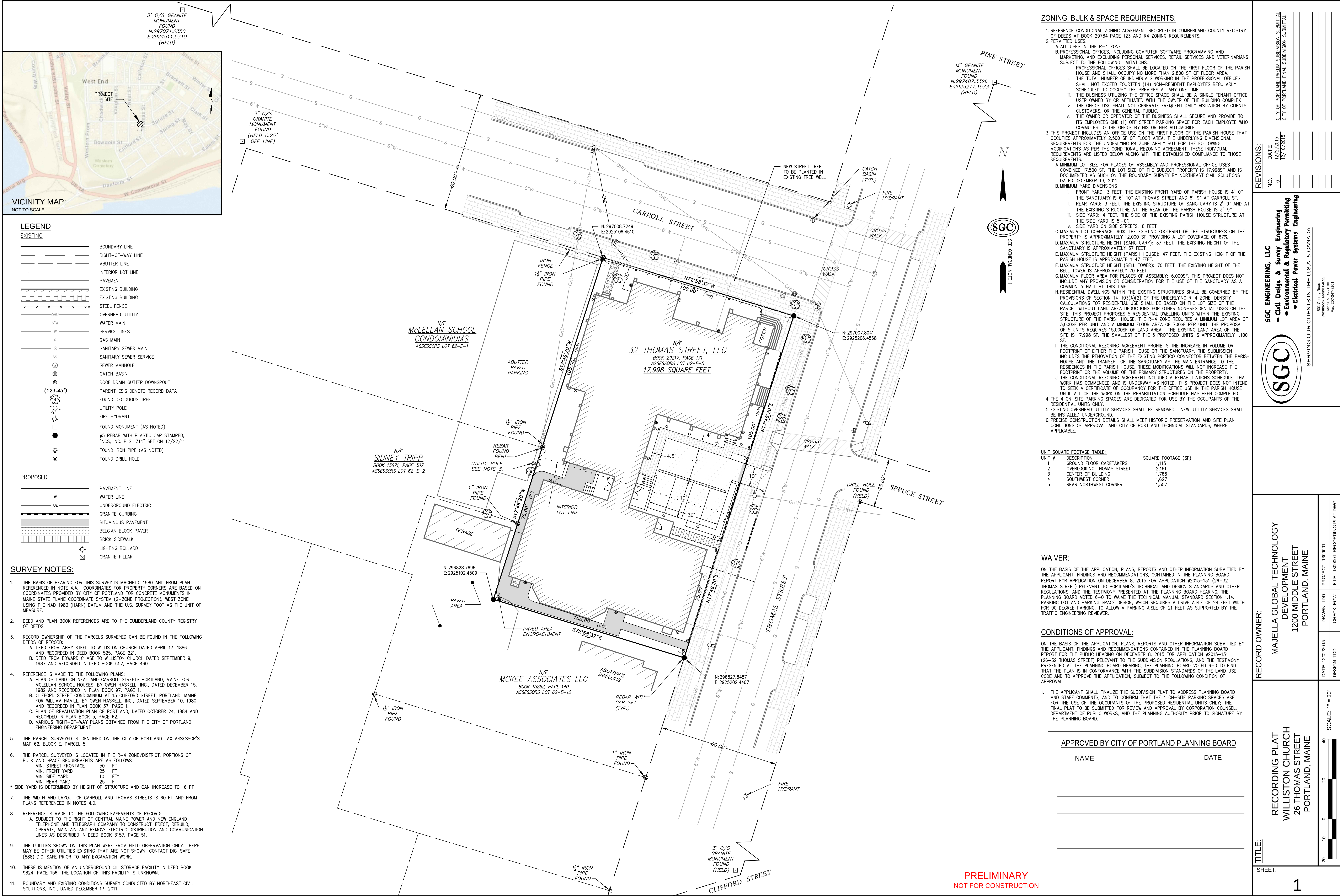
To return to the theme of the prior discussion, the Western Prom area is a unique asset. Thought needs to be given to its enhancement.

Density Consideration

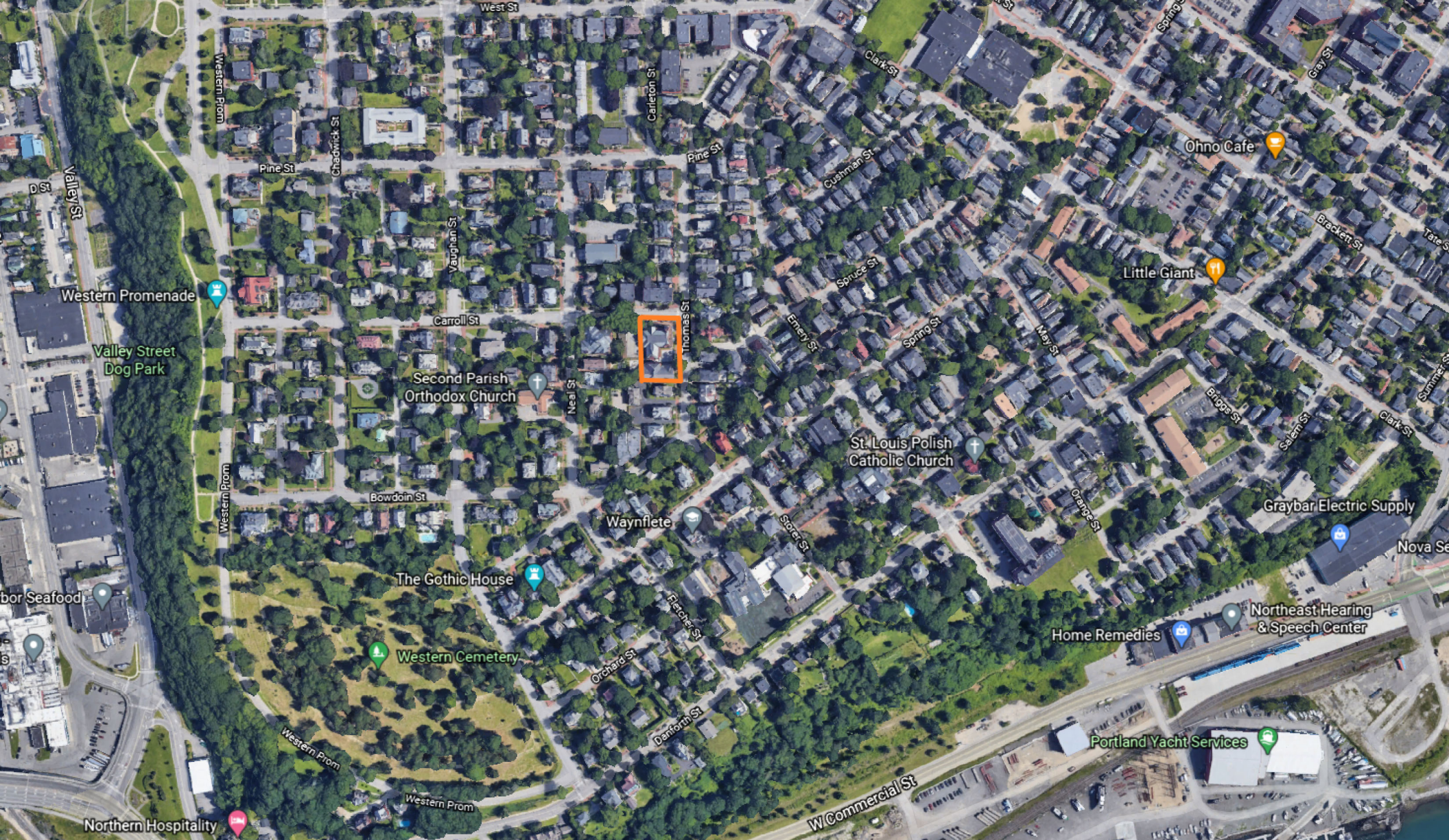
I am not oblivious to the problem of density, and affordable housing. It is very challenging to increase each of these on the peninsula, which is now among the most, if not the most, expensive real estate in Maine. The Western Prom area is a beneficiary and a victim of high real estate values. Because of pricing, it is not now an entry point for beginning families with children as it was in 1969-1970. Because of its valuations, and current use, it is an unlikely candidate to resolve the density and affordable housing concerns, no matter what enthusiasm one might bring to the housing issues of Portland. Each section of Portland is unique and has its own issues and possibilities. As to the West End in and around the R-4, it has been a success story over the last 50 years, and its uses and advantages to the overall City should be recognized, and the area not be forced into becoming something else through misplaced zoning initiatives.

A handwritten signature in dark ink, appearing to read "U. Charles Remmel II", is written over a horizontal line.

U. Charles Remmel II
41 Thomas Street
Portland, Maine
cremmel@krz.com



Vicinity Map





PLANNING BOARD REPORT PORTLAND, MAINE

Conditional Zoning Agreement
32 Thomas Street
ZN-0001309-2020
32 Thomas Street LLC, Applicant

Submitted to: Portland Planning Board:
Public Hearing Date: January 26, 2021

Prepared by: Shukria Wiar
Date: January 22, 2021

I. INTRODUCTION

32 Thomas Street in the West End is located in an area of the City generally zoned R-4. The existing building complex located on the parcel was formerly used as the Williston-West Church. At the request of a prior owner, and because of the unique nature of the parcel and the historic buildings located on it, the City of Portland altered the zoning for this parcel under the terms of a conditional zoning agreement dated July 13, 2012 (the “Original CZA”). Since that date, some, but not all of the improvements contemplated and authorized by the Original CZA have been completed.

Figure 1: 32 Thomas Street – Subject Property



In 2019, ownership of the subject property was transferred to the Applicant. Although the Applicant’s development plan for the site is largely consistent with the provisions of the Original CZA, the Applicant does propose some deviations from the prior owner’s proposals – many of which will more closely align with the underlying R-4 zoning. In order to facilitate its development of the site, the applicant initially proposed that the City dissolve the Original CZA in order to allow the dimensional and use standards governing the parcel to return to the underlying R-4 zone, with text

amendments to the R-4 zone that would allow the proposed programmatic changes at the site, including reducing the R-4 lot area per dwelling unit requirements for sites meeting specific criteria. The Board considered this proposal at its October 16 workshop. However, following that workshop, and in recognition of concerns raised by abutters over the implications of the proposed R-4 text amendment to other sites in the area, the applicant is now withdrawing its request for a broadly applicable text amendment. Instead, the Applicant is proposing that the subject property continued to be governed by a conditional zoning agreement so that any deviations from the usual R-4 requirements are limited to this parcel alone. Specifically, the Applicant is proposing to update some of the contextual provisions of the Original CZA in order to more accurately reflect the current status of the Property. The Applicant also proposes some substantive changes to the terms of the Original CZA in order to permit the proposed programmatic changes to the site and to facilitate the adaptive reuse of the property.

Currently, and consistent with the Original CZA, the subject property includes five residential condominium units and two commercial condominium units housed within the parish house and the sanctuary. The pending application proposes to reconfigure the interior floor area of the structures to remove the commercial spaces approved in the Original CZA and add six more dwelling units, yielding a total of eleven units.

If approved, the site would continue to be identified on the City's zoning map as CZA-57, and the Original CZA approved by the City in 2012 would be amended and superseded by a new agreement substantially in the same form as the draft attached to this report.

II. PROJECT DATA

Current Zoning:	Conditional Zone Agreement
Proposed Zoning:	New Conditional Zone Agreement (boundaries to remain as-is)
Current Uses:	Residential and Commercial (six units + 2 commercial spaces)
Proposed Uses:	Residential (11 units)
Parcel Area:	17,798 square feet
Area to be Rezoned:	17,798 square feet

III. BACKGROUND AND EXISTING CONDITIONS

a. History of the Site and Buildings

The Williston West Church was designed by Francis Fassett, Portland's leading architect in the 1870s, in the High Victorian Gothic Style. The building's form is defined by the large three-story bell tower and it originally had a slate roof which was replaced with asphalt shingles in 1957. Some of the stained-glass windows were created by well-known artists. The Parish Hall was added by John Calvin Stevens in 1905 and included a wing to connect to the church. Its architecture harmonizes with the church, and the Parish Hall is notable for the stained-glass windows on the upper floors. It also has historic interest as the meeting place of the Young People's Society of Christian Endeavor (a national organization that led to the Sunday School movement) which started there in 1881.

b. Existing Conditions

The building complex comprises two existing buildings (church and Parish Hall) that are linked via a connecting structure, and a courtyard area is located between the connector and Thomas Street. The site is 17,798 square feet in area and is located at the corner of Thomas Street and Carroll Street on the periphery of the underlying R-4 Residential zone, with the R-6 zone located immediately to the north and east.

Figure 2: Site in 1902



The Church and Parish Hall (the latter designed by John Calvin Stevens in 1905) are located within the West End Historic District and are both listed on the National Register of Historic Places, recognizing both the architectural and historical significance of the buildings. Additionally, both structures are landmarked by the City of Portland under its historic preservation ordinance.

The aerial photograph in Figure 4 illustrates that the existing buildings are very close to the lot boundaries. The parking lot to the west of the church is owned by the abutter and serves the adjacent condominiums.

c. Previously Approved Development

The original church building was constructed in 1888 and the Parish Hall in 1914. When the Williston-West Church merged with Immanuel Baptist

Figure 3: Existing Conditions



Figure 4: Subject Property



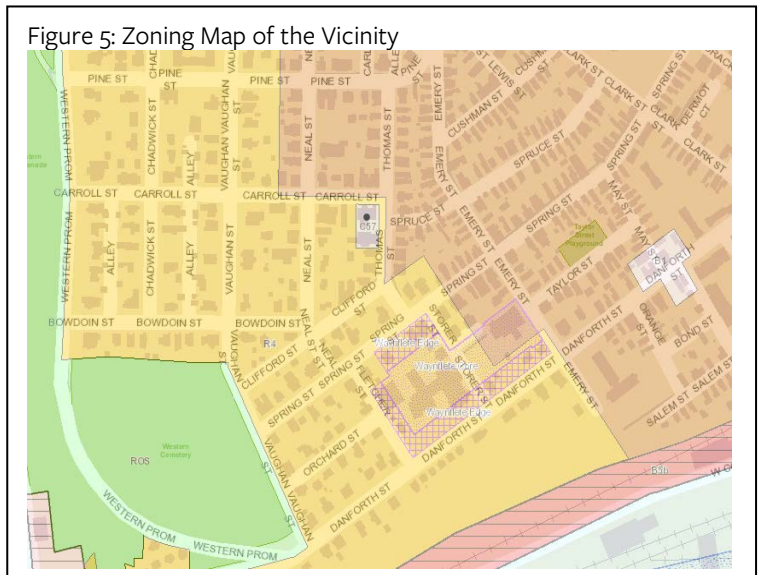
Church in 2011, the property was sold and the adaptive reuse of the former church and Parish Hall was proposed. The reuse involved creating approximately 2,500 square feet of office space, a use that was not allowed in the R-4 zone. Other uses proposed at the time included an accessory unit on the first floor of the Parish Hall, a family residence and possibly one other dwelling on the second and third floors of the Parish Hall, and rehabilitation and use of the Williston West Church sanctuary as a residential space.

In order to allow the proposed uses within the 2012 redevelopment plan, the City Council approved the Original CZA, which outlined the permitted uses, dimensional standards, and performance requirements for the redevelopment of the site. According to the applicant, the work on the residential portion of the project was started, but the Conditional Zoning Agreement was the subject of a legal challenge, partially related to whether the commercial uses authorized under the agreement were consistent with the City's previous Comprehensive Plan. In the end, the CZA was upheld and is still in effect today. However, the adaptive reuse project stalled and the site was sold at auction in 2019.

IV. ANALYSIS OF PROPOSED CZA AMENDMENT

The applicant proposes to amend and reinstate the Original CZA to allow for the conversion of interior floor area into six additional dwelling units, yielding a total of eleven units. In order to permit higher residential densities via reduction in the minimum lot area per dwelling unit requirement from 3,000 square feet of lot area per dwelling unit to 1,500 square feet per dwelling unit. Below is a relevant excerpt from the proposed CZA; refer to [Attachment B](#) for the complete proposed language.

Figure 5: Zoning Map of the Vicinity



....

WHEREAS, the Property is currently improved with 5 residential units in the former parish hall, and Developer proposes to create up to an additional 6 units in the building complex and make other improvements and modifications as contemplated in this Agreement; and

WHEREAS to create this additional number of units the current R-4 zoning requirement of 3,000 square feet of land area per dwelling unit needs to be modified pursuant to and using this Agreement to 1,500 square feet per dwelling unit; and

....

WHEREAS, the City, by and through the Portland City Council, pursuant to 30-A M.R.S.A. § 4352(8) and §§ 14-60 to 14-62 of the Code, after notice, hearing and due deliberation thereon, has determined that because of the unique and historical nature of the Property, the proposed development:

- Contributes a desirable, unique type of housing to the peninsula stock;*
- Promotes sustainability by allowing for rehabilitation of an existing historic building to provide new housing development consistent with the medium and high density urban residential development pattern typically found on the peninsula;*
- Makes improvements to below-grade infrastructure, including parking, to accommodate new growth;*
- Accommodates well-designed density, which is integral to healthy, walkable city neighborhoods; and therefore it is necessary and appropriate to impose, by agreement, the conditions and restrictions set forth herein, in order to insure that said rezoning is consistent with the City's comprehensive land use plan; and*

....

According to the applicant, the underlying R-4 zone creates limitations with respect to density and setbacks that would make the adaptive reuse project infeasible. The R-4 zone requires 3,000 square feet of land for the first three dwelling units, and then 6,000 square feet of land for each additional unit thereafter. This density requirement would limit development on this site to four residential units in the event of a new construction project; currently there are five units housed within the existing structures, facilitated by the CZA – thus, in order for the project as-built to remain in conformance with zoning standards, zoning relief is required, whether via a CZA or via a text amendment. Future expansion of the number of dwelling units at the site, as per the applicant's business plans, would not be possible under the terms of the current CZA. Should the CZA amendment be approved by the Planning Board and City Council, the applicant is proposing to add six additional residential units to yield a total of eleven units, and this would be reviewed by the Planning Board under a future Major Site Plan application.

V. ZONING ANALYSIS

The applicant is requesting this conditional rezoning primarily to allow the higher density of residential units to be introduced into the existing building. Consideration of the request for conditional rezoning is guided by State Statute (Title 30-A Section 4352) which requires that all conditional or contract zoning must:

30-A M.R.S.A. section 4352(8): *A municipal zoning ordinance may provide for any form of zoning consistent with this chapter, subject to the following provisions . . . A zoning ordinance may include provisions for conditional or contract zoning. All rezoning under this subsection must:*

- A. Be consistent with the growth management program adopted under this chapter;*
- B. Establish rezoned areas that are consistent with the existing and permitted uses within the original zones; and*
- C. Only include conditions and restrictions that relate to the physical development or operation of the property. The municipal reviewing authority shall conduct a public hearing before any property is rezoned under this subsection. Notice of this hearing must be posted in the municipal office at least 13 days before the public hearing. Notice must also be published at least 2 times in a newspaper having general circulation in the municipality. The date of the first publication must be at least 7 days before the hearing. Notice must also be sent to the owner or owners of the property to be rezoned and to the owners of all property abutting the property to be rezoned at the owners' last known addresses. Notice also must be sent to a*

public drinking water supplier if the area to be rezoned is within its source water protection area. This notice must contain a copy of the proposed conditions and restrictions with a map indicating the property to be rezoned.

The City's Associate Corporation Counsel, Jennifer Thompson, has reviewed and approved the draft language of the proposed Conditional Zone Agreement. Ms. Thompson states that the proposed CZA meets the standards of the City's Code.

In addition, the amendment to the CZA must accord with the City's ordinance regarding conditional rezoning as stated below:

5.3.1 Authority and purpose Pursuant to 30-A M.R.S. § 4352(8), 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. The conditional or contract zoning must be consistent with the Comprehensive Plan, and rezoned areas must be consistent with the existing and permitted uses within the original zone. Nothing in this section shall authorize either an agreement to change or retain a zone or a rezoning which is inconsistent with the City's Comprehensive Plan.

5.3.4 Conditions and restrictions Conditions and restrictions imposed under the authority of this section 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.*
- H. Provisions for enforcement and remedies for breach of any condition or restriction.*

Additionally, staff have reviewed the land uses proposed in the amendment and find that they are consistent and in harmony with existing and permitted uses in the R-4 zone. The R-4 zone is mapped within the West End neighborhood of the city and is bound by the Western Prom ROS zone to the west, the R-6 zone that extends along Bramhall Street to the north, additional R-6 along Neal Street and Vaughn Street to the east, and the B-5b zone that extends along West Commercial Street to the south. R-4 includes a number of development controls intended to limit residential conversions and to control the form of development to limit impacts to neighborhood character by regulating floor to ceiling heights, fire escapes, and other aspects of the building envelope. Specifically, the R-4 currently contains a number of residential condominiums and rentals similar to those proposed by the Applicant, therefore with the proposed higher density the proposal is consistent with the purpose statement.

According to the applicant, the existing R-4 zone creates limitations with respect to density and setbacks that would make the adaptive reuse project infeasible. The R-4 zone requires 3,000 square feet of land for the first three dwelling units, and then 6,000 square feet of land for each additional unit thereafter. This density requirement would limit development on this site to four residential units in the event of a new construction project; currently there are five units housed within the existing structures, facilitated by the CZA. The applicant is proposing to add six additional residential units to yield a total of eleven units.

VI. CONSISTENCY WITH THE COMPREHENSIVE PLAN

As part of the review of the proposed CZA amendment, the applicant is required to demonstrate, and the Planning Board required to find, that the proposal is consistent with the City's Comprehensive Plan and with existing and permitted uses in the underlying R-4 zone. The applicant has submitted a Comprehensive Plan analysis (Attachment A). Staff have identified the following goals and policies which are relevant to the proposed text amendment and finds the proposal in conformance with both the housing, historic preservation, and sustainability goals of the Comprehensive Plan, as well as the future land use vision set forth within the Plan. As stated, the purpose of the R-4 Zone is:

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.

The central vision of Portland's Plan 2030 is represented by the Venn diagram demonstrating the integral interrelation of the community's core belief that Portland is equitable, sustainable, connected, dynamic, authentic and secure. The vision conveys the message of the City's need to balance many competing interests to assure the advance of the vision as a unified concept. In this instance, that the City's goals for increasing and modifying the overall housing supply in a walkable, urban neighborhood must be balanced with the desire to ensure an appropriate balance of continuity and change as Portland grows and evolves.



Housing: A Livable City

State Goals:

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

Local Goals:

- Increase, preserve, and modify the overall supply of housing City-wide to meet the needs, preferences and financial capabilities of all Portland households.
- Encourage additional contextually-appropriate housing density in and proximate to neighborhood centers, concentrations of services, and transit nodes and corridors as a means of supporting complete neighborhoods.
- Pursue policies to enable people who work in Portland to have the option to live in Portland.
- Encourage quality, sustainable design in new housing development.

Goals from Future Strategies:

3. Remove Housing Barriers

- Evaluate whether current zoning allows for new development consistent with historic patterns of form, density and/or use, as well as whether it allows for priority growth areas.
- Identify priority growth areas.
- Allow for a range of housing models in City codes, whether small units, co-housing, or others that may suit changing needs and demographics.

4. Promote Sustainability

- Encourage rehabilitation of existing historic buildings and materials.

An Enduring City

State Goals:

- To preserve the State's historic and archaeological resources.

Local Goals:

- Stabilize and enhance historic areas of the city by ensuring quality investment in existing structures and compatible infill development.
- Ensure an appropriate balance of continuity and change as Portland grows and evolves.

VII. PUBLIC COMMENT

The application was noticed to 100 neighbors and interested parties. Although the prior proposal to amend the broadly applicable R-4 zone did receive a fair amount of public comment, staff have not received any written public comment on this revised proposal. It is noteworthy that, after hearing neighborhood concerns about the initial text amendment proposal, this Applicant worked cooperatively with the neighborhood group on the details of this new proposal. It appears that the proposed language reflects an overall site development plan that satisfies the concerns articulated by interested parties. Staff did receive a phone call from Anne Pringle, President of the Western Promenade Neighborhoods Association, and from resident Charles Rimmel to express their support for the project. After the Planning Board workshop, the applicant met with the abutting neighbors in regard to the R-4 zone text amendment. The neighborhood expressed that they did not support the change. Though the text amendment was intended to be specific to this property by criteria intended to limit the universe of applicable parcels, the neighbors felt that it could have implications for other properties in the R-4 zone as well. Neighbors in attendance supported the alternative of a new or amended CZA in lieu of an R-4 text amendment. As an amendment and reinstatement of an existing CZA, it was determined that this application did not require a neighborhood meeting.

VIII. STAFF RECOMMENDATION TO THE PLANNING BOARD

Staff recommends that the Planning Board recommend the submitted CZA to the City Council for approval. This recommendation is based on staff's finding that the agreement achieves the comprehensive plan objectives related to encouragement of housing production, of historic preservation, and of adaptive reuse of historic structures. The proposed additional residential units result in minimal alterations to the character-defining features of the two church structures. The revised agreement has addressed staff's concerns. In addition, the applicant has worked and addressed the concerns raised by members of the West End neighborhood.

XI. MOTIONS FOR THE BOARD TO CONSIDER

On the basis of the application, plans, reports and other information submitted by the applicant, the policies and requirements of the R-4 zone, the Comprehensive Plan, public comment, recommendations contained in the application, and the testimony presented at the Planning Board Hearing on January 26, 2021 for the project ZN-001309-2020, the Planning Board finds:

1. That, because of the unusual nature and unique location of the proposed development and its minimal impact on and compatibility with the surrounding community, it is necessary and appropriate to recommend the rezoning of the Property as outlined in the proposed Conditional Zone Agreement;
2. That the proposed Conditional Zone Agreement for the reuse and rehabilitation of 32 Thomas Street as described in this Report [is or is not] consistent with the Comprehensive Plan of the City of Portland;
3. That the proposed Conditional Zone Agreement for the reuse and rehabilitation of 32 Thomas Street as described in this Report [is or is not] consistent with existing and permitted uses in the R-4 Zone;
4. That the proposed Conditional Zone Agreement for 32 Thomas Street [is or is not] in compliance with the standards of Article 5.3-4 Conditions and Restrictions of Conditional or Contract Zoning; and
5. That the Planning Board therefore [recommends or does not recommend] the approval of the Conditional Zone Agreement for 32 Thomas Street to the City Council.

ATTACHMENTS

PUBLIC COMMENTS

PC 1. Charles Remmel 11.06.2020

APPLICANT'S SUBMITTAL

- A. Cover Letter Email
- B. Amended and Restated Conditional Zone Agreement
- C. 32 Thomas Street Zoning Application_9.23.2020
- D. Map and Text Amendment Checklist
- E. Deed

PLANS

- Plan 1 Vicinity Map
- Plan 2 Recording Plat