

1. Regular City Council Agenda And Packet

Documents: [APRIL 1, 2013- REGULAR.PDF](#)

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES, JR. (A/L)

AGENDA
REGULAR CITY COUNCIL MEETING
EVENING SESSION
APRIL 1, 2013

The Portland City Council will hold a regular City Council Meeting at 7:00 p.m. in the City Council Chambers, City Hall. The Honorable Michael F. Brennan, Mayor, will preside.

PLEDGE OF ALLEGIANCE:

ROLL CALL:

APPROVAL OF MINUTES OF PREVIOUS MEETING:

(Tab 1) Regular City Council Meeting March 18, 2013
Special City Council Meeting March 27, 2013

ANNOUNCEMENTS:

RECOGNITIONS:

PROCLAMATIONS:

Proc 27-12/13 (Tab 2)	Proclamation Recognizing Deering High School Chess Club – Sponsored by Mayor Michael F. Brennan.
Proc 28-12/13 (Tab 3)	Proclamation Honoring Officer Joshua McDonald as Police Officer of the Month for February, 2013 – Sponsored by Mayor Michael F. Brennan.
Proc 29-12/13 (Tab 4)	Proclamation Proclaiming National Telecommunicators Week April 14-20, 2013 – Sponsored by Mayor Michael F. Brennan.
Proc 30-12/13 (Tab 5)	Proclamation Honoring the Department of Public Services – Sponsored by Mayor Michael F. Brennan.

**Proc 31-12/13
(Tab 6)**

**Proclamation Proclaiming National Public Health Week
April 1-7, 2013 – Sponsored by Mayor Michael F. Brennan.**

APPOINTMENTS:

**Order 164-12/13
(Tab 7)**

Order Appointing Warden and Ward Clerks – Sponsored by Katherine L. Jones, City Clerk.

This order appoints the following wardens and ward clerks for May 14 & November 5, 2013 elections.

<i>Warden</i>	<i>Ward Clerk</i>	<i>Precinct</i>
Denise Shames	Aurelia Scott	1-1
Carol Morrisette	Christopher Danse	1-2
James Carlson	Reta Morrill	1-3
MaryAnn O'Malley	Nancy Parker	2-1
Susan Lichtman	Priscilla Nelson	2-2
Elaine Spring	Katie Spring	3-1
Gail Hannon	Erlene Stuart	3-2
Elizabeth Cyr	Rosemary Malachowski	4-1
Diane Sbrega	Troy Moon	4-2
Sherwood Merrill	Wealthy Merrill	5-1
George Smythe	Charles Lane	5-2

Five affirmative votes are required for passage after public comment.

CONSENT ITEMS:

**Order 165-12/13
(Tab 8)**

Order Calling Special Election and Setting Time for Opening of Polls for Election on May 14, 2013 – Sponsored by Katherine L. Jones, City Clerk.

Pursuant to 20-A M.R.S.A. §1486, a Special City Election shall be held on May 14, 2013, to vote on the school budget.

Pursuant to 21-A M.R.S.A. §621-A, the hour of poll opening must be set by the municipal officers. This is done every election. The polls for the election shall open at 7:00 a.m. and close at 8:00 p.m.

**Order 166-12/13
(Tab 9)**

**Order Declaring Portland Sea Dogs Mother's Day 5K Race Day
Sponsored by Mark H. Rees, City Manager.**

This order declares Sunday May 12, 2013, as Portland Sea Dogs Mother's Day 5K Race Day.

Runners will congregate in front of the Expo and Ice Arena for the start of the race. Runners will travel west down Park Ave., continue out onto outer Congress Street, take a right onto Stevens Ave, take a right onto Brighton Ave., continue onto Deering Ave., then take a right into Fitzpatrick Stadium entrance gate and finish inside Hadlock Stadium on center field.

The race begins at 9:15 a.m.

Street closures are included in the agenda backup material.

**Order 167-12/13
(Tab 10)**

**Order Declaring Portland Sea Dogs Father's Day 5K Race Day –
Sponsored by Mark H. Rees, City Manager.**

This order declares Sunday June 16, 2013, as Portland Sea Dogs Father's Day 5K Race Day.

Runners will congregate in front of the Expo and Ice Arena for the start of the race. Runners will travel west down Park Ave., continue out onto outer Congress Street, take a right onto Stevens Ave, take a right onto Brighton Ave., continue onto Deering Ave., then take a right into Fitzpatrick Stadium entrance gate and finish inside Hadlock Stadium on center field.

The race begins at 9:15 a.m.

Street closures are included in the agenda backup material.

**Order 168-12/13
(Tab 11)**

**Order Declaring 2013 "Old Port Festival Day" – Sponsored by Mark
H. Rees, City Manager.**

This order declares the 40th Annual Old Port Festival day to be held on Sunday, June 9, 2013, from 11:00 a.m. to 5:00 p.m. The festival is bordered by Congress, Pearl, Commercial, Center, Union, and Temple Streets. There is no rain date. Interior streets (listed in the agenda backup) will be closed to vehicular traffic from approximately 6:00 a.m.-6:00 p.m.

**Order 169-12/13
(Tab 12)**

**Order Declaring Memorial Day Parade and Festival – Sponsored by
Mark H. Rees, City Manager.**

This order declares the Memorial Day Parade and Festival to be held on Monday, May 27, 2013, from 10:30 a.m. – 12:00 p.m. on Congress Street from Longfellow Square to Monument Square and approves closing Congress Street in order to hold the parade.

Streets and adjoining sidewalks and squares that are to be closed for the event are included in the agenda backup.

**Order 170-12/13
(Tab 13)**

Order Declaring “The Greek Heritage Festival” June 27, 2013 - June 29, 2013 Sponsored by Mark H. Rees, City Manager.

This order declares the Greek Heritage Festival to be held Thursday, June 27 through Saturday, June 29, 2013, on Holy Trinity Greek Orthodox Church grounds and a portion of Pleasant Street where a tent will be erected. The hours of the festival are 11:30 a.m. – 9:30 p.m.

Five affirmative votes are required for passage of the Consent Calendar.

LICENSES:

**Order 171-12/13
(Tab 14)**

Order Granting Municipal Officers’ Approval of Lafayette Portland LLC d/b/a Holiday Inn by the Bay at 88 Spring St. Application for Class IA Hotel 40+ Rooms with Entertainment with Dance – Sponsored by Katherine L. Jones, City Clerk.

Application filed 3/15/13. New City and State licenses. Corporate ownership change.

Five affirmative votes are required for passage after public comment.

**Order 172-12/13
(Tab 15)**

Order Granting Municipal Officers’ Approval of Food Factory Miyake LLC d/b/a Food Factory Miyake, 129 Spring St. Application for Class III & IV Wine & Beer License – Sponsored by Katherine L. Jones, City Clerk.

Application filed 3/12/13. New City and State licenses.

Five affirmative votes are required for passage after public comment.

**Order 173-12/13
(Tab 16)**

Order Granting Municipal Officers’ Approval of Rosemont Market, Inc. d/b/a Rosemont Market Productions, 559 Brighton Ave. Application for Class I Qualified Catering License – Sponsored by Katherine L. Jones, City Clerk.

Application filed 3/15/13. New City and State licenses.

Five affirmative votes are required for passage after public comment.

BUDGET ITEMS:

**Order 174-12/13
(Tab 17)**

Order Receiving and Referring City Manager's Fiscal Year 2014 Municipal Budget to the Finance Committee and Setting Date of Public Hearing on FY 2014 Municipal Budget and FY 2014 Appropriation Resolve – Sponsored by Mark H. Rees, City Manager.

Under this order the City Council receives the City Manager's proposed budget and refers it to the Finance Committee for review. The Finance Committee will review the budget starting on April 2, 2013 in Room 209 at City Hall.

The City Manager will present an overview of the budget followed by the Mayor's comments as required in the City Charter.

The Public Hearing on all municipal budget orders and the Appropriation Resolve will be held by the City Council on May 6, 2013, at 7:00 p.m. in City Council Chambers. A City Council workshop to discuss the municipal budget will be held on Monday, May 13, 2013 at 5:30 p.m., City Council Chambers.

Council action on the municipal budget will take place at the Council meeting on May 20, 2013 at 7:00 p.m.

The City Manager's proposed budget will be posted on the city's website on Monday, April 1st, after 4:00 p.m.

Five affirmative votes are required for passage after public comment.

COMMUNICATIONS:

RESOLUTIONS:

**Resolve 9-12/13
(Tab 18)**

Resolution Opposing Proposals to Shift Burden of Funding State Government to the Property Tax and Property Tax Payer – Sponsored by Councilor John M. Anton.

This Resolution expresses strong opposition to provisions included in the recently proposed state budget that would significantly shift the burden of funding state government to the property tax and property tax payer. These proposals will dramatically increase property taxes in Portland, taxes which often are unrelated to the ability of property owners to pay, and will require spending reductions which will call into question our ability to protect the health and welfare of our community and provide our residents with government services.

Five affirmative votes are required for passage after public comment.

UNFINISHED BUSINESS:

**Order 161-12/13
(Tab 19)**

**Order Approving Contract with the Animal Refuge League of
Westbrook – Sponsored by Mark H. Rees, City Manager.**

The City of Portland contracts annually with the Animal Refuge League (ARL) of Westbrook to meet the state-mandated obligation to provide an animal shelter for the disposition of stray animals or those that are surrendered by their owners.

The annual fee charged by the shelter is based on a per capita charge. In 2012 it was \$1.32 per person based on a population of 66,194 (according to the July 2010 estimated census) for a total charge of \$87,376.08. That charge remains the same for 2013.

In calendar year 2012 through December 31st, the ARL processed 1146 animals from Portland.

As part of its agreement with the city, the ARL charges owners seeking to redeem an impounded animal an impoundment fee plus the cost of boarding as set out in Chapter 5 of the Portland City Code. The ARL also requires the owner to pay all applicable fees including rabies, vaccination and municipal licensing fees prior to releasing a dog to its owner.

This item must be read on two separate days. It was given a first reading on March 18th. Five affirmative votes are required for passage after public comment.

**Order 162-12/13
(Tab 20)**

**Amendment to Zoning Map and Text Re: 155 Brackett Street from R6
Residential Zone to B-1 Neighborhood Business Zone – Sponsored by
the Planning Board, Carol Morrisette, Chair.**

The Portland Planning Board recommends to the City Council a zoning map amendment for the property at 155 Brackett Street (commonly referred to as the Peoples Building) from R6 Residential to B1 Neighborhood Business Zone.

The Board also recommends a map amendment to rezone the rear portion of lots along Brackett Street to the B1 zone. These lots are currently split between B1 and R6 zones.

The B1 map amendments are proposed in order to enable the existing grandfathered commercial uses at 155 Brackett Street including Fresh

Approach (a local specialty grocer, on the first floor); artist studios on the second floor and a dance and yoga studio with office space on the third floor to stay as permitted uses, and to incorporate the adjoining properties into the B1 zone.

Finally, a B1 zoning text amendment is proposed that adds studios for artists, photographers and craftspeople, including but not limited to, painters, sculptors, dancers, graphic artists and musicians, and neighborhood centers as permitted business uses.

On February 12th the Planning Board voted unanimously (6-0) to forward this item to the City Council with a recommendation for passage.

This item must be read on two separate days. It was given a first reading on March 18th. Five affirmative votes are required for passage after public comment.

ORDERS:

AMENDMENTS:

**Order 175-12/13
(Tab 21)**

**Amendment to Portland City Code Chapter 14. Land Use
Article III. Zoning (Division 17. B-7 Mixed Development District Zone)
and Article V. Site Plan – Sponsored by the Planning Board, Carol
Morrissette, Chair.**

The Federated Companies has requested certain amendments to the zoning and site plan ordinances to facilitate a proposed development in Bayside on the former rail yard property in the vicinity of Somerset Street. This project includes housing and a parking facility designed to serve both this project and the parking needs of the district generally.

The amendments include revisions to the zoning and site plan ordinances related to building height. The building height amendments are intended to provide more flexibility to an existing provision in the B-7 zone that allows building heights up to 165 feet. City staff has conducted a review of these provisions for the district generally and has advanced language that can accomplish both these goals and larger planning objectives for the B-7 zone.

Federated's development program includes four residential buildings (with 675 housing units) that exceed the base height (125 feet) of the A height district within the Bayside Height Overlay Zone. In addition, the development plan includes a parking garage that will include public parking spaces designed to reduce the need for surface parking lots in the district, therefore permitting those surface lots to be redeveloped over time.

The A height districts in the B-7 zone allow a building height up to 165 feet as a conditional use. However, the requirements that currently exist for the additional height have the effect, in this case, of making the additional height infeasible. An alternative review is being proposed with new standards to address this issue.

As part of this rezoning request, staff also looked at all the A and B height districts in the B-7 zone to see what adjustments are warranted. As part of that analysis, the A height district would be expanded, while preserving the view corridors identified in the Bayside planning efforts as lower-height B districts.

After holding a public hearing on March 21, 2013, the Planning Board voted to recommend that certain height related amendments be adopted by the City Council.

The Planning Board voted 4 to 1 (Boepple opposed; Dundon, Soley absent) to recommend that the Bayside Height Overlay May be amended.

The Planning Board voted 5 to 0 (Dundon, Soley absent) to recommend that the B-7 conditional use height section be amended.

The Planning Board voted 5 to 0 (Dundon, Soley absent) to recommend that the site plan ordinance be amended to incorporate B-7 height standards.

The Planning Board had a thorough discussion of the amendments including holding four workshops and two public hearings.

This item must be read on two separate days. This is its first reading.

**Order 176-12/13
(Tab 22)**

Amendment to Portland City Code Article V, Site Plan Amendments for Master Development Plan – Sponsored by the Planning Board, Carol Morrisette, Chair.

The current site plan ordinance does not offer a mechanism to review a master development plan in order to achieve a unified development scheme. The proposed text amendments recognize the need for projects on large sites to undergo an optional Master Development planning process in order to promote a cohesive and integrated development approach.

The Master Development Plan process addresses the expectation that these developments (given the size and complexity) will be built in phases over an extended time frame.

The proposed amendments address the need of the current financial market for a level of certainty in the review process, which accommodates the extended time needed to undertake complex projects. The Master Development Plan review process is, in part, designed to reduce the requests for contract or conditional zoning that often accompany large and complex projects

The proposed Master Development Plan process applies to development with over 1 acre of land in all non-residential zones. It is not applicable in residential zones, except for institutional uses such as schools, hospitals and universities.

An approval of a master development plan, including any approval of waivers, establishes the general parameters to be adhered to for the development. A Master Development Plan approval is not the final authorization of the development, but it will confer pending proceeding status upon the development with the effect of maintaining the applicability of regulations in effect at the time of approval for as long as the Master Development Plan approval remains valid. As proposed, an approved Master Development Plan would be valid for six (6) years with the Planning Authority able to grant two (2) two-year extensions under certain circumstances or to seek amended plans to address revised regulations. Each phase of development requires a Level III site plan review by the Planning Board for final approval.

At the March 12, 2013, public hearing the Planning Board voted unanimously (7-0) to recommend the proposed text amendment for the Master Development Plan with three revisions, which follow:

1. Require a separate neighborhood meeting for the Master Development Plan from any required Level III site plan requirements for a neighborhood meeting.
2. Make it a requirement that there is a Planning Board workshop for a Master Development Plan; and
3. Add a standard of review that addresses maintaining future phases in stable, safe and attractive site conditions.

This item must be read on two separate days. This is its first reading.

LICENSE RENEWALS:

Tab 1 4-1-13

IN COUNCIL REGULAR MEETING MARCH 18, 2013 VOL. 128 PAGE 70

ROLL CALL: Mayor Brennan called the meeting to order at 7:02 P.M. (Councilors Marshall and Anton arrived during recognitions; Councilor Coyne arrived during State of Schools Address.)

APPROVAL OF MINUTES OF PREVIOUS MEETING:

Motion was made by Councilor Mavodones and seconded by Councilor Leeman to approve the minutes of March 4, 2013. Passage 6-0.

ANNOUNCEMENTS:

RECOGNITIONS:

PROCLAMATIONS:

Proc 26-12/13 Proclamation Honoring Deanna Loring, Health and Human Services Department, Barron Center, as Employee of the Month for March, 2013 – Sponsored by Mayor Michael F. Brennan.

PRESENTATIONS:

State of the Schools Address - Jaimey Caron, School Board Chair.

APPOINTMENTS:

CONSENT ITEMS:

LICENSES:

Order 160-12/13 Order Granting Municipal Officers' Approval of Porthole Restaurant & Pub LLC d/b/a The Porthole Restaurant & Pub at 20 Custom House Wharf. Application for Class XI Restaurant/Lounge License with Entertainment with Dance and Outdoor Dining on Private Property – Sponsored by Katherine L. Jones, City Clerk.

Motion was made by Councilor Suslovic and seconded by Councilor Marshall for passage. Passage 9-0.

BUDGET ITEMS:

COMMUNICATIONS:

RESOLUTIONS:

UNFINISHED BUSINESS:

Order 156-12/13 Order Granting Municipal Officers' Approval of DataEntry 21, LLC d/b/a Outlier's Eatery, 231 York Street. Application for Class I Liquor License with Outdoor Dining on Private Property – Sponsored by Katherine L. Jones, City Clerk.

Motion was made by Councilor Suslovic and seconded by Councilor Duson for denial. Failed 2-7 (Duson, Mavodones, Coyne, Anton, Donoghue, Marshall, Leeman against)

Motion was made by Councilor Duson and seconded by Councilor Marshall for passage. Passage 7-2 (Suslovic, Brennan against)

Order 159-12/13 Amendment to Portland City Code Chapter 21 Farmers' Markets Chapter 19 Peddlers and Solicitors Chapter 15 Licenses and Permits – Sponsored by the Public Safety, Health and Human Services Committee, Councilor Edward J. Suslovic, Chair.

Motion was made by Councilor Suslovic and seconded by Councilor Coyne to postpone until April 22, 2013. Passage 9-0

ORDERS:

Order 161-12/13 Order Approving Contract with the Animal Refuge League of Westbrook – Sponsored by Mark H. Rees, City Manager.

This is its first reading

AMENDMENTS:

Order 162-12/13 Amendment to Zoning Map and Text Re: 155 Brackett Street from R6 Residential Zone to B-1 Neighborhood Business Zone – Sponsored by the Planning Board, Carol Morrisette, Chair.

This is its first reading.

LICENSE RENEWALS:

REQUEST FOR EXECUTIVE SESSION:

Motion was made by Councilor Marshall and seconded by Councilor Coyne to adjourn. Passage 9-0, 8:44 p.m.

A TRUE COPY.

Janice Gardner, Assistant City Clerk

IN COUNCIL SPECIAL MEETING MARCH 27, 2013 VOL. 128 PAGE 73

ROLL CALL: Mayor Brennan called the meeting to order at 6:55 P.M. (Councilor Leeman, Anton absent). (Councilor Marshall arrived during Order 163).

ANNOUNCEMENTS:

CDBG Annual Allocation Committee Presentation

PUBLIC HEARINGS:

Order 163-12/13 Order Holding Public Hearing FY 2014 Appropriations for Community Development Block Grant Program, Home Program and Emergency Solutions Grant Program – Sponsored by Mark H. Rees, City Manager.

Motion was made by Councilor Mavodones and seconded by Councilor Duson for passage. Passage 7-0.

RESOLUTIONS:

Resolve 8-12/13 Resolution Adopting the FY 2014 Consolidated Housing and Community Development Annual Action Plan Including Appropriations for Community Development Block Grant Program, Home Program, and Emergency Solutions Grant Program and Certifications Pertaining Thereto – Sponsored by Mark H. Rees, City Manager.

This is a first reading.

Motion was made by Councilor Donoghue and seconded by Councilor Duson to adjourn. Passage 7-0, 7:50 P.M.

A TRUE COPY.

Katherine L. Jones, City Clerk

IN COUNCIL REGULAR MEETING MARCH 18, 2013 VOL. 128 PAGE 73

ROLL CALL: Mayor Brennan called the meeting to order at 6:55 P.M. (Councilor Leeman, Anton absent). (Councilor Marshall arrived during Order 163).

ANNOUNCEMENTS:

CDBG Annual Allocation Committee Presentation

PUBLIC HEARINGS:

Order 163-12/13 Order Holding Public Hearing FY 2014 Appropriations for Community Development Block Grant Program, Home Program and Emergency Solutions Grant Program – Sponsored by Mark H. Rees, City Manager.

Motion was made by Councilor Mavodones and seconded by Councilor Duson for passage. Passage 7-0.

RESOLUTIONS:

Resolve 8-12/13 Resolution Adopting the FY 2014 Consolidated Housing and Community Development Annual Action Plan Including Appropriations for Community Development Block Grant Program, Home Program, and Emergency Solutions Grant Program and Certifications Pertaining Thereto – Sponsored by Mark H. Rees, City Manager.

This is a first reading.

Motion was made by Councilor Donoghue and seconded by Councilor Duson to adjourn. Passage 7-0, 7:50 P.M.

A TRUE COPY.

Katherine L. Jones, City Clerk

Dec 27-12/13
Tab 2 4-1-13

PROCLAMATION

RECOGNIZING

2013 Deering Chess Team

- WHEREAS,** Deering High School has a long standing reputation for excellence and is an integral part of our community; and
- WHEREAS,** The Portland community is proud of Deering High School and its dedicated club members, coaches, and administrators; and
- WHEREAS,** The Deering High School Chess Club of 2013 is composed of several extraordinary members:
- Hilal Ahmad, Thoalfakar Alsaady, Jason Cheng, Qutaiba Hassoon, Risopheak Lay, Orkhan Nadrili, Antonio Rodriquez-Perez, and Shervin Sabeti
- WHEREAS,** The Deering High School Chess Team recently captured their first State Championship in the Novice Division under the direction and guidance of **Coach Jeff Borland;** and
- WHEREAS,** The City of Portland wishes to acknowledge the impressive accomplishments of these students.

NOW, THEREFORE, BE IT RESOLVED, THAT I Michael F. Brennan, Mayor of the City of Portland and members of the City Council do hereby congratulate the 2013 Deering High School Chess Club.

Signed and sealed this 1st day of April, 2013



**Michael F. Brennan, Mayor
City of Portland, Maine**



Proc 28 12/13
Tab 3 4-1-13

PROCLAMATION

HONORING OFFICER

JOSHUA MCDONALD

WHEREAS: Officer Joshua McDonald joined the Portland Police Department in 2009, after working as a security officer for Maine Medical Center. **Officer McDonald** attended Deering High School, and holds an Associate's degree in Criminal Justice from Andover College; and

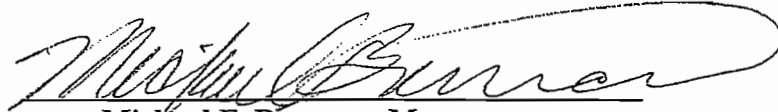
WHEREAS: Officer McDonald is currently assigned to the patrol division and his beat assignment is in-town Portland; and

WHEREAS: Officer McDonald is commended this month for identifying and focusing on a problem area in the City; his pro-active planning and the actions he took led to two drug-related arrests in February, one of which was the arrest of a fugitive wanted in the state of New York for robbery and the subsequent confiscation of a significant amount of drugs and money; and

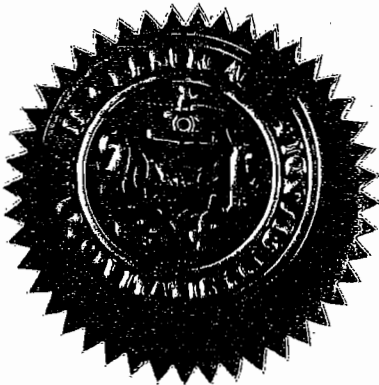
WHEREAS: Officer McDonald has received numerous Unit Commendations; he has received letters of appreciation from citizens and local organizations for the professional impression he presents as a representative of the Portland Police Department;

NOW, THEREFORE, BE IT RESOLVED, THAT I, Michael F. Brennan, Mayor of the City of Portland, Maine, and the members of the Portland City Council do hereby proclaim Joshua McDonald as Police Officer of the Month, February, 2013.

Signed and sealed this 1st day of April, 2013



Michael F. Brennan, Mayor
City of Portland, Maine



*Dec 29-12/13
Tab 4 4-1-13*

PROCLAMATION

PROCLAIMING NATIONAL TELECOMMUNICATORS WEEK APRIL 14-20, 2013

WHEREAS: Emergencies can occur at any time that require police, fire or emergency medical services; and

WHEREAS: When an emergency occurs, the prompt response of police officers, firefighters and paramedics is critical to the protection of life and preservation of property; and

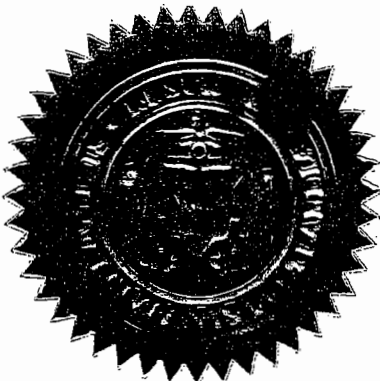
WHEREAS: The safety of our police officers, paramedics and firefighters is dependent upon the quality and accuracy of information obtained from citizens who telephone the Portland-South Portland-Cape Elizabeth emergency communications center; and

WHEREAS: The Public Safety Dispatchers are the single vital link for our police officers, paramedics and firefighters by monitoring their activities by radio, providing them information and insuring their safety; and

WHEREAS: Public Safety Dispatchers of the Portland-South Portland-Cape Elizabeth Emergency Communications Center have contributed substantially to the apprehension of criminals, suppression of fires and treatment of patients; and

WHEREAS: Each dispatcher has exhibited compassion, understanding, and professionalism during the performance of their job in the past year.

NOW, THEREFORE, BE IT RESOLVED, THAT I, Michael F. Brennan, Mayor of the City of Portland, Maine, and members of the Portland City Council do hereby proclaim the week of April 14-20, 2013, as National Telecommunicators Week, in honor of the men and women whose diligence and professionalism keep our communities and citizens safe.



Signed and sealed this 1st day of April, 2013

A handwritten signature in black ink, reading "Michael F. Brennan".
Michael F. Brennan, Mayor

Proc 30-12/13
Tab 5 4-1-13

PROCLAMATION

Honoring the Department of Public Services

WHEREAS: The City of Portland this year experienced more than 40 inches of snow fall in the month of February, including the blizzard named Nemo, which contributed to the third highest snow fall in that month on record; and

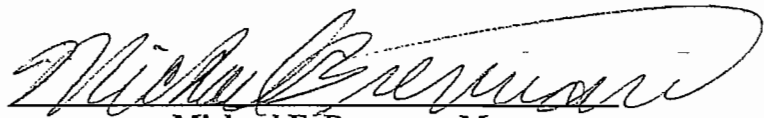
WHEREAS: Despite record snowfalls, thanks to the 24/7 dedicated efforts and expertise of the Public Services work crew and snow plowing team; businesses remained open, school operations were minimally impacted, and citizens were able to safely traverse the streets of Portland; and

WHEREAS: The health, safety and comfort of this community greatly depended and continues to depend on the efficient removal of snow and related hazards as provided by this outstanding group of municipal employees who left their own homes and families during severe weather to ensure adequate snow removal coverage and response; and

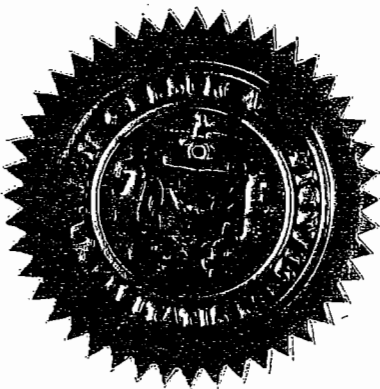
WHEREAS: The citizens of Portland wish to express their gratitude to this dedicated group of individuals.

NOW, THEREFORE, BE IT RESOLVED, THAT I, Michael F. Brennan, Mayor of the City of Portland, Maine and members of the Portland City Council do hereby recognize the contributions of the Department of Public Services and its employees for their dedication and hard work in effectively and efficiently responding to severe weather conditions during the month of February 2013.

Signed and sealed this 1st day of April, 2013



Michael F. Brennan, Mayor
City of Portland, Maine



*Proc 31- 12/13
Tab 6 4-1-13*

PROCLAMATION

PROCLAIMING NATIONAL PUBLIC HEALTH WEEK

April 1 – 7, 2013

WHEREAS: The City of Portland, Health and Human Services Department, Public Health Division has a rich tradition of providing a comprehensive range of public health services across seven programs at ten sites throughout the City; and

WHEREAS: National Public Health Week was established in 1995 to recognize the important contributions the field of public health has made to improving the health and safety of communities and individuals; and

WHEREAS: This year's theme for National Public Health Week is "Return on Investment: Save Lives, Save Money"; and

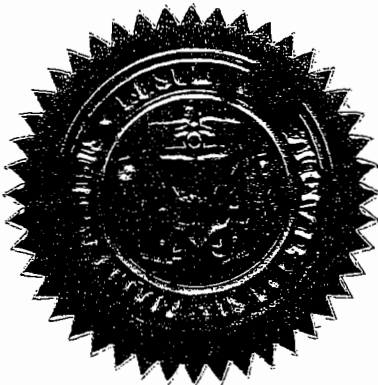
WHEREAS: The Trust for America's Health estimates a return of \$5.60 for every \$1 invested in proven community-based programs that help people increase their physical activity, eat better, and avoid tobacco use; and

WHEREAS: According the Centers for Disease Control and Prevention, for every infant who receives the seven vaccines given as part of the routine childhood immunization schedule, society saves \$9.9 million in direct health care costs, 33,000 lives are saved, and 14 million cases of disease are prevented; and

WHEREAS: Now more than ever public health programs and services are needed to help Portland's most vulnerable residents thrive, including those who lack health insurance, lack housing, or are newly arrived to the country;

NOW, THEREFORE, BE IT RESOLVED, THAT I, Michael F Brennan, Mayor of the City of Portland, Maine do hereby proclaim the week of **April 1- 7, 2013** as **NATIONAL PUBLIC HEALTH WEEK** in the City of Portland.

Signed and sealed this 1st day of April 2013



A handwritten signature in cursive script that reads "Michael Brennan".

Michael F. Brennan, Mayor
City of Portland, Maine

Order 164-12/13
Tab 7 4-1-13

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

ORDER APPOINTING WARDENS AND WARD CLERKS

ORDERED, that the following persons are hereby appointed as Wardens and Ward Clerks for the May 14th and November 5, 2013 elections:

<i>Warden</i>	<i>Ward Clerk</i>	<i>Precinct</i>
Denise Shames	Aurelia Scott	1-1
Carol Morrissette	Christopher Danse	1-2
James Carlson	Reta Morrill	1-3
MaryAnn O'Malley	Nancy Parker	2-1
Susan Lichtman	Priscilla Nelson	2-2
Elaine Spring	Katie Spring	3-1
Gail Hannon	Erlene Stuart	3-2
Elizabeth Cyr	Rosemary Malachowski	4-1
Diane Sbrega	Troy Moon	4-2
Sherwood Merrill	Wealthy Merrill	5-1
George Smythe	Charles Lane	5-2



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Office of the City Clerk

Katherine L. Jones, CCM, City Clerk

MEMORANDUM

TO: Mayor Michael Brennan and Members of the Portland City Council
FROM: Katherine L. Jones, City Clerk
DATE: March 18, 2013
RE: Appointing Ward Clerks

I recommend the following be appointed for May 14 & November 5, 2013
Elections

Denise Shames -Warden
Carol Morrisette -Warden
James Carlson -Warden
Maryann O'Malley -Warden
Susan Lichtman- Warden
Elaine Spring- Warden
Gail Hannon -Warden
Elizabeth Cyr-Warden
Diane Sbrega-Warden
Sherwood Merrill – Warden
George Smythe – Warden

Aurelia Scott- Ward Clerk
Christopher Danse- Ward Clerk
Reta Morrill - Ward Clerk
Nancy Parker -Ward Clerk
Priscilla Nelson -Ward Clerk
Katie Spring- Ward Clerk
Erlene Stuart -Ward Clerk
Rosemary Malachowski Ward Clerk
Troy Moon – Ward Clerk
Wealthy Merrill – Ward Clerk
Charles Lane – Ward Clerk

*Order 165-12/13
Tab 8 4-1-13*

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
NICHOLAS M. MAVODONES, JR. (A/L)
JILL C. DUSON (A/L)

**ORDER CALLING SPECIAL ELECTION AND SETTING TIME FOR OPENING
OF POLLS FOR ELECTION ON MAY 14, 2013**

ORDERED, that pursuant to 20-A M.R.S.A. § 1486, a Special City Election shall be held on May 14, 2013 to vote on the School Budget Referendum; and

BE IT FURTHER ORDERED, that pursuant to 21-A M.R.S.A. Sec. 621-A, the polls shall open at 7:00 a.m. and close at 8:00 p.m. on May 14, 2013.



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Office of the City Clerk

Katherine L. Jones, City Clerk

MEMORANDUM

TO: Mayor Brennan and Members of the
Portland City Council

FROM: Katherine L. Jones, City Clerk

DATE: March 8, 2013

RE: Setting the time for opening the polls on May 14, 2013

Pursuant to 21-A M.R.S.A. §621, the hour of poll opening must be set by the municipal officers. This is done for every election; the polls open at 7:00 A.M. and close at 8:00 P.M.

Notices are then posted in each district and at City Hall.

Order 166-12/13
Tab 9 4-1-13

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

**ORDER DECLARING PORTLAND SEA DOGS
MOTHER'S DAY RACE**

ORDERED, that the Portland Sea Dogs Mother's Day Race is hereby declared as a Festival on Sunday May 12, 2013 to be held in Portland. Runners will congregate in front of the Expo and Ice arena for the start of the race. Runners will travel west down Park Ave continuing onto outer Congress Street, take a right onto Stevens Ave; take a right onto Brighton Ave, continue onto Deering Ave then take a right into Fitzpatrick Stadium Entrance Gate and finish inside Hadlock Stadium on center field.

BE IT FURTHER ORDERED, that during the race, the following streets will be closed to vehicular traffic on Sunday, May 12, 2013:

- * Park Ave west-bound lanes (in front of ice arena) from 7:30 a.m. – 9:30 a.m.;
- * Park Ave from the Expo/Weymouth Street to St. John Street from 8:50 a.m. to 9:20 a.m.;

BE IT FURTHER ORDERED, that the City Manager is hereby authorized to issue a revocable permit under §§25-26 -- 25-30 of the Portland City Code to the Portland Sea Dogs subject to the following conditions:

- * Under no circumstances may alcoholic beverages be sold on City of Portland rights-of-way in the festival area during said event;
- * The Portland Sea Dogs shall defend and indemnify the City and hold it harmless from and against all claims arising out of activities during said event, and shall take out and maintain public liability insurance coverage in the amount of at least \$400,000 combined single limit for personal or bodily injury, death or property damage and naming the City as an additional insured thereon for said purposes;
- * Conditions for use of grounds, specified in a permit issued from the Recreation Office, shall be adhered to;

- * Race organizers shall have sole authority over participating vendors at the event and may charge a fee to vendors for the opportunity to vend at the races; and
- * Race organizer is responsible for paying associated city costs (such as police assistance, Medcu assistance, public services assistance, and City Clerk's license fees and recreation permit fees).

BE IT FURTHER ORDERED, that the City Manager is also authorized to issue such other temporary licenses, including licenses for food service establishments, as may be required by the Portland City Code, provided that all other applicable requirements of said Code have been met regarding the operation of said festival/event.

(continued)

The City Manager is authorized to issue a revocable permit under Sections 25-26 thru 25-30 of Portland City Code to the Portland Sea Dogs Race organizers subject to the following conditions:

- Under no circumstances may alcoholic beverages be sold or consumed on City of Portland right-of-ways during said event;
- Portland Sea Dogs shall indemnify the City and hold it harmless from and against all claims arising out of activities during said events, and shall take out and maintain public liability insurance coverage in the amount of at least \$400,000 combined simple limit for personal or bodily injury, death, or property for said purposes;
- Conditions for use of grounds, specified in a permit issued from Public Services Event Office, shall be adhered to;
- Race organizers shall have sole authority over participating vendors at the event and may charge a fee to vendors for the opportunity to vend at the races; and
- **Race organizer is responsible for paying associated city costs (such as Police assistance, Medcu assistance, Public Services assistance, and City Clerk's License Fees and Public Services Permit fees / "No Parking" sign fees).**

During the **Portland Sea Dogs Mother's Day 5K Race, Sunday, May 12, 2013**, and the **Portland Sea Dogs Father's Day 5K Race, Sunday, June 16, 2013**, streets listed below will be closed to vehicular traffic:

Park Ave. (from the Expo / Weymouth Street to St. John Street), 8:50am – 9:20am for the start of the races. The west-bound lanes of Park Ave. (in front of Portland Ice Arena), 7:30 – 9:30am.

The City Manager is also authorized to issue such other temporary licenses, including licenses for food service establishments, as may be required by the Portland City Code, provided that all other applicable requirements of said Code have been met regarding the operation of said Festival/Event.

Document prepared by Ted Musgrave, PS Event Coordinator

Order 167-12/13
Tab 10 4-1-13

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

**ORDER DECLARING PORTLAND SEA DOGS
FATHER'S DAY RACE**

ORDERED, that the Portland Sea Dogs Father's Day Race is hereby declared as a Festival on Sunday, June 16, 2013 to be held in Portland. Runners will congregate in front of the Expo and Ice arena for the start of the race. Runners will travel west down Park Ave continuing onto outer Congress Street, take a right onto Stevens Ave; take a right onto Brighton Ave, continue onto Deering Ave then take a right into Fitzpatrick Stadium Entrance Gate and finish inside Hadlock Stadium on center field.

BE IT FURTHER ORDERED, that during the race, the following streets will be closed to vehicular traffic on Sunday, June 16, 2013:

- * Park Ave west-bound lanes (in front of ice arena) from 7:30 a.m. – 9:30 a.m.;
- * Park Ave from the Expo/Weymouth Street to St. John Street from 8:50 a.m. to 9:20 a.m.;

BE IT FURTHER ORDERED, that the City Manager is hereby authorized to issue a revocable permit under §§25-26 -- 25-30 of the Portland City Code to the Portland Sea Dogs subject to the following conditions:

- * Under no circumstances may alcoholic beverages be sold on City of Portland rights-of-way in the festival area during said event;
- * The Portland Sea Dogs shall defend and indemnify the City and hold it harmless from and against all claims arising out of activities during said event, and shall take out and maintain public liability insurance coverage in the amount of at least \$400,000 combined single limit for personal or bodily injury, death or property damage and naming the City as an additional insured thereon for said purposes;
- * Conditions for use of grounds, specified in a permit issued from the Recreation Office, shall be adhered to;
- * Race organizers shall have sole authority over participating vendors at the event and may charge a fee to vendors for the opportunity to vend at the races; and

- * Race organizer is responsible for paying associated city costs (such as police assistance, Medcu assistance, public services assistance, and City Clerk's license fees and recreation permit fees).

BE IT FURTHER ORDERED, that the City Manager is also authorized to issue such other temporary licenses, including licenses for food service establishments, as may be required by the Portland City Code, provided that all other applicable requirements of said Code have been met regarding the operation of said festival/event.

Order 168-12/13
Tab 11 4-1-13

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

ORDER DECLARING 2013 "OLD PORT FESTIVAL DAY"

ORDERED, that Sunday, June 9, 2013 is hereby declared to be the 40th annual "Old Port Festival Day" from 11:00 a.m. to 5:00 p.m.;

BE IT FURTHER ORDERED, that the Festival area shall be bordered by Congress, Pearl, Commercial, Center, Union and Temple Street;

BE IT FURTHER ORDERED, that the following streets shall be closed to traffic:

6 a.m. to 6p.m.

Festival area interior streets;

Union Street (from Fore Street to Middle Street), with access maintained to and from Temple Street Garage;

Exchange Street (from Congress Street to Fore Street);

Market Street (from Congress Street to Commercial Street);

Federal Street (from Temple Street to Pearl Street);

Middle Street (from Temple Street to Pearl Street);

Fore Street (from Union Street to Pearl Street);

Wharf Street (all); Dana Street (all); Moulton Street (all); Milk St. (all);

Silver Street (all);

Newbury Street (from Market Street to Pearl Street);

The festival area will also include both sidewalks of Commercial Street;

BE IT FURTHER ORDERED, that the parade will begin at 11:00 a.m. on Federal Street (at intersection with Exchange). Line-up on Federal Street (between Temple and Exchange) begins at 10:30 a.m. Parade participants will march east-bound around the corner to Exchange Street and then march down Exchange, taking a left onto Fore Street, then a right onto Silver ending at the bottom of Silver Street – where the parade disbands. Spectators will mostly line the sidewalk areas of Exchange Street. The streets along the parade route will already be closed to traffic starting at 6:00 a.m.;

BE IT FURTHER ORDERED, that vehicles in violation of the "no parking" signs in the Festival Zone (interior roadways) shall be towed at owner's expense. City

Departments will provide in-kind services at no charge to the Portland's Downtown District for the day's event;

BE IT FURTHER ORDERED, that the Festival area shall be closed to licensed street vendors as provided in §19-17 of the City Code;

BE IT FURTHER ORDERED, that the City Manager is authorized to issue a revocable permit to Downtown Improvement District, d/b/a Portland Downtown District, under §25-27 of the City Code to conduct said Festival, subject to the direction and control of the City Manager and to the following specific conditions:

1. Portland's Downtown District shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the Festival and/or use of City streets and property for said Festival, and shall procure and maintain public liability insurance in the minimum amount of \$400,000 combined single limit for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. The District shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;
2. No alcoholic beverages may be sold on the streets or public property during the Festival within the area of the Festival;
3. Conditions for use of grounds and requirements for food service, vending sales, stages, and other items specified in a permit issued from the Recreation Office shall be adhered to;
4. City Clerk's Office will charge the usual fees for licensing food vendors, street goods vendors, and other needed licenses for the Festival.
5. Portland's Downtown District shall have sole authority over participating vendors at the festival and may charge a fee to vendors for the opportunity to vend at the Old Port Festival; and
6. In consideration of the City of Portland's support/in-kind services of the festival, Portland's Downtown District shall include the City of Portland logo on all festival publicity; and

BE IT FURTHER ORDERED, that the City Manager is authorized to issue such other temporary licenses, including licenses for food service establishments, as may be required by the City Code, provided that all other applicable Code requirements for the operation of the Festival have been met.

**CITY OF PORTLAND, MAINE
PUBLIC SERVICES
MEMORANDUM**

TO: Mark Rees, City Manager
FROM: Michael Bobinsky, Public Services Director
DATE: March 14, 2013
RE: Council Agenda Item
Portland's Downtown District's "Old Port Festival Day"

I am requesting that the following order be placed on the next City Council agenda:

Order declaring Sunday, June 9, 2013, as "Old Port Festival Day."

This will be the **40th** Annual Old Port Festival day. Portland's Downtown District is again organizing this year's Festival (it is now held on the 2nd Sunday in June, not the 1st Sunday). The Old Port Festival attracts thousands of people to the Old Port District; expected attendance at this year's event is estimated at 50,000. **The Festival will run Sunday, June 9, 2013, from 11:00 a.m. to 5:00 p.m.** and offers musical and visual entertainment, children's activities and delicious food and drink. There is no rain date.

In order for the Festival to be held, a portion of the Old Port District needs to be barricaded to traffic. The Festival area is bordered by Congress, Pearl, Commercial, Center, Union, and Temple Streets. Interior Streets will be closed to vehicular traffic from approximately 6:00 a.m. – 6:00 p.m., **on Sunday, June 9, 2013.**

Those streets include:

Union Street (from Fore Street to Middle Street). (The upper portion of Temple Street – between Congress and Spring Street, is being left open so that vehicles may access and exit the Temple Street Parking Garage.)

Exchange Street (from Congress Street to Fore Street);

Market Street (from Congress Street to Commercial Street);

Federal Street (from Temple Street to Pearl Street);

Middle Street (from Temple Street to Pearl Street);

Fore Street (from Union Street to Pearl Street);

Wharf Street (all); Dana Street (all); Moulton Street (all); Milk Street (all);

Silver Street (all);

Newbury Street (from Market Street to Pearl Street).

The Festival area will also include both sidewalks of Commercial Street.

PARADE:

This year's parade is similar to last year, and consists primarily of just marchers in the street (no floats). It begins at 11am on Federal Street (at intersection with Exchange). Line up on Federal Street (between Temple and Exchange) begins at 10:30am. At 11am, parade participants march east-bound around the corner to Exchange Street and then march all the way down Exchange Street, taking a left onto Fore Street, then a right onto Silver Street, ending at the bottom of Silver Street – where the parade disbands. Spectators will mostly line the sidewalk areas of Exchange Street. The streets along the parade route will already have been closed to traffic starting at 6am.

The Festival area will be closed to street vendors pursuant to Section 19-17 of the Portland City Code and is reserved for the use of Portland's Downtown District for the purpose of conducting the Festival, subject to the direction and control of the City Manager.

Vehicles in violation of the "no parking" signs in the Festival Zone (interior roadways) shall be towed (at owner's expense). City Departments will provide in-kind services at no charge to Portland's Downtown District for the day's event.

Also, the City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to Portland's Downtown District for the use of the above-described area for said Festival subject to the following conditions:

- Portland's Downtown District shall indemnify the city and hold it harmless from and against all claims arising out of activities during said parade and ceremony, and shall take out and maintain public liability insurance coverage in the amount of at least **\$400,000** combined single limit for personal or bodily injury, death or property damage for said purpose. This insurance certificate will also list the City of Portland as an additional insured in regards to the Old Port Festival and its activities,
- Under no circumstances may alcoholic beverages be sold on the streets of public property of said area during said parade and festival,
- Conditions for use of grounds and requirements for food service, vending sales, stages, and other items specified in a permit issued from Public Services Event Office, shall be adhered to,
- **City Clerk's Office will charge the usual fees for licensing food vendors, street goods vendors, and other needed licenses for the Festival,**
- **Portland's Downtown District shall have sole authority over participating vendors at the festival and may charge a fee to vendors for the opportunity to vend at the Old Port Festival, and**

- **In consideration of the City of Portland's support/in-kind services of the festival, Portland's Downtown District shall include the City of Portland logo on all festival publicity.**

The City Manager is also authorized to issue such other temporary licenses and temporary permits, including licenses for food service establishments and permits for sales of non-food related items, as may be required by the Portland City Code, provided that all applicable requirements of said code have been met regarding the operation of said Festival.

Document prepared by Ted Musgrave, PS Event Coordinator

*Order 169-12/13
Tab 12 4-1-13*

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

ORDER DECLARING MEMORIAL DAY PARADE AND FESTIVAL

ORDERED, that Monday, May 27, 2013 from 10:30 a.m. – 12:00 p.m. is hereby declared "Memorial Day Parade and Festival" and the City Manager is authorized to grant permits to the American Legion, Harold T. Andrews Post No. 17, pursuant to Sec. 25-27 of the Portland City Code for the following activities:

1. Use of Monument Square from 10:00 a.m. through 12:00 noon for a ceremony honoring those Americans who have died in service of their country.
2. Conducting a parade along the route set forth below.

BE IT FURTHER ORDERED, that the following streets shall be closed to traffic on May 27th for the parade and ceremony:

From 9:00 a.m.- 12:00 noon:

- Congress Street (from Mellen to State Street);
- State Street (from Cumberland to Congress Street);
- Dow Street (from Congress to Brackett Street);

The above streets may be posted "no parking" at the discretion of parade organizers so that the assembly area can be free of vehicles

From 10:15 a.m. to 12:00 noon:

- Congress Street (from State to Temple Street);
- High Street (from Spring to Deering Street);
- Forest Avenue (from Cumberland Avenue to Congress Street);
- Casco Street (from Shepley to Congress Street);
- Center Street (from Free to Congress Street);
- Preble Street (from Cumberland Avenue to Congress Street);

The above streets may be posted "no parking" at the discretion of parade organizers so that the assembly area can be free of vehicles

From 10:00 a.m. to 12:00 noon:

- Federal Street Extension (from Congress Square to Temple Street)
- Federal Street Extension posted “no parking”

BE IT FURTHER ORDERED, that the Harold T. Andrews Post shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the parade and festival activities and/or use of City streets and property for said parade and festival activities, and shall procure and maintain public liability insurance in the minimum amount of \$400,000 combined single limit for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. The Post shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance.

BE IT FURTHER ORDERED, that expenses incurred by City departments for said event, shall be waived; and

BE IT FURTHER ORDERED, that conditions for use of grounds (positioning volunteer flaggers at parade intersections) and requirements for food service, vending sales, and other items specified in a permit issued from Recreation shall be adhered to; and

BE IT FURTHER ORDERED, that under no circumstances may alcoholic beverages be sold on the streets of public property of said area during said parade and ceremony; and

BE IT FURTHER ORDERED, that Festival areas, including the Parade route and the ceremony at Monument Square, will be closed to street vendors pursuant to Section 19-17 of the Portland City Code and the City Manager is authorized to issue such other temporary licenses for the Festival, including licenses for food service establishments and permits for sale of non-food items, provided that all applicable requirements of the Code have been met.

**CITY OF PORTLAND, MAINE
PUBLIC SERVICES
MEMORANDUM**

TO: Mark Rees, City Manager
FROM: Michael Bobinsky, Public Services Director
DATE: March 14, 2013
RE: **Council Agenda Item – Memorial Day Parade**

I am requesting that the following order be placed on the next City Council agenda:

Order declaring Memorial Day Parade be held Monday, **May 27, 2013**, on Congress Street from Longfellow Square to Monument Square. Also, approving street closings for assembly area (from 9:00 a.m. – 12:00 p.m.) and along the parade route (from 10:30 a.m. – 12:00 p.m.)

Declare the parade and ceremony at Monument Square as a Festival.

For many years, the Harold T. Andrew, Post No. 17, has organized the Memorial Day Parade activities to honor the dead and those Americans who have died in battle. The City of Portland assists this group by providing police officers (2 officers: lead and tail car), barricades, and preparing Monument Square for the ceremony which follows the parade. The parade route is Longfellow Square to Monument Square. This year's parade is scheduled for Monday, **May 27, 2013**, from 10:30 a.m. to 12:00 p.m.

The parade route and Festival area will also be closed to street vendors pursuant to Section 19 -17 of the Portland City Code and is reserved for the use of the City's Public Services Event Office for the purpose of permitting vendors for the event, subject to the direction and control of the City Manager.

Streets and adjoining sidewalks and squares that are to be closed for the event (and will act as the Festival grounds) are as follows:

Staging Area – 9:00 a.m. – 12:00 p.m.

Congress Street (from Mellen Street to State Street)

State Street (from Cumberland Ave. to Congress Street)

Dow Street (from Congress Street to Brackett Street)

The above streets may be posted "no parking" at the discretion of parade organizers, so that the assembly area can be free of vehicles.

Parade – 10:15 a.m. – 12:00 p.m.

Congress Street (from State Street to Temple Street)

High Street (from Spring Street to Deering Street)

Forest Avenue (From Cumberland Avenue to Congress Street)

Casco Street (from Shepley Street to Congress Street)

Center Street (from Free Street to Congress Street)

Preble Street (from Cumberland Avenue to Congress Street)

The above streets may be posted "no parking" at the discretion of parade organizers.

Ceremony at Monument Square – 10:00 a.m. – 12:00 p.m.

Federal Street Extension (from Congress Square to Temple Street)

Federal Street Extension posted "no parking."

The City Manager is authorized to issue a revocable permit under Section 25-27 of the Municipal Code to the Harold T. Andrews Post for the use of the above-described area for said parade and ceremony, subject to the following conditions:

- The Harold T. Andrew Post shall indemnify the city and hold it harmless from and against all claims arising out of activities during said parade and ceremony, and shall take out and maintain public liability insurance coverage in the amount of at least **\$400,000** combined single limit for personal or bodily injury, death or property damage for said purpose. This insurance certificate will also list the City of Portland as an additional insured in regards to the Memorial Day Parade and Ceremony,
- Expenses incurred by City Departments for said event, shall be waived,
- Conditions for use of grounds (positioning volunteer flaggers at parade intersections) and requirements for food service, vending sales, and other items specified in a permit issued from Public Services Event Office, shall be adhered to, and
- Under no circumstances may alcoholic beverages be sold on the streets of public property of said area during said parade and ceremony.

The City Manager is also authorized to issue such other temporary licenses and temporary permits, including licenses for food service establishments and permits for sales of non-food related items, as may be required by the Portland City Code, provided that all applicable requirements of said code have been met regarding the operation of said event.

Document prepared by Ted Musgrave, PS Event Coordinator

*Order 170-12/13
Tab 13 4-1-13*

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

**ORDER DECLARING "THE GREEK HERITAGE FESTIVAL"
JUNE 27, 2013 - JUNE 29, 2013**

ORDERED, that Thursday, June 27, 2013 through Saturday, June 29, 2013, from 11:30 a.m. – 9:30 p.m., is hereby declared "Greek Heritage Festival" and the City Manager is hereby authorized pursuant to §25-27 of the Portland City Code to grant permits to the Holy Trinity Greek Orthodox Church ("Church") for said Festival, including but not limited to, the following activity:

The Church is authorized to locate tent stakes on the right-hand side of Pleasant Street during the period of the Festival, provided that the Church shall be solely responsible for filling in the stake holes at the close of the Festival, said work to be done to the satisfaction of the City; said tent may be erected on Wednesday, June 26 and will be taken down on Monday, July 1;

BE IT FURTHER ORDERED, that the Church shall defend, indemnify and hold harmless the City of Portland, its officers and employees, from and against all claims arising out of or resulting from the parade and festival activities and/or use of City streets and property for said parade and festival activities, and shall procure and maintain public liability insurance in the minimum amount of \$400,000 combined single limit for personal or bodily injury, death or property damage and covering the obligation of indemnification hereunder. The Church shall provide the City with a certificate showing evidence of such insurance and showing the City as an additional insured on said insurance;

BE IT FURTHER ORDERED, that under no circumstances may alcoholic beverages be sold or consumed on the streets or public property of said area during said Festival other than the areas approved by the City Clerk and subject to meeting all liquor licensing requirements; and

BE IT FURTHER ORDERED, that conditions for use of grounds, specified in a permit issued from Recreation, shall be adhered to; and

BE IT FURTHER ORDERED, that Festival areas will be closed to street vendors pursuant to §19-17 of the Portland City Code and the City Manager is authorized to issue such other temporary licenses for the Festival, including temporary food service licenses, as may be required by the Portland City Code, provided that all applicable requirements of the Code have been met.

**CITY OF PORTLAND, MAINE
PUBLIC SERVICES
MEMORANDUM**

TO: Mark Rees, City Manager
FROM: Michael Bobinsky, Public Services Director
DATE: March 14, 2013
RE: **Council Agenda Item – Greek Heritage Festival,
Thursday, June 27 – Saturday, June 29, 2013**

I am requesting that the following order be placed on the next City Council agenda:

Order declaring The Greek Heritage Festival to be held **Thursday June 27 – Saturday, June 29, 2013**, on Holy Trinity Greek Orthodox Church grounds and a portion of Pleasant Street.
Also approving use of a portion of Pleasant Street for a tent to be erected.

The Holy Trinity Greek Orthodox Church has held the Greek Heritage Festival for the past several years. The majority of events, entertainment and vending of food takes place on church grounds. However, one of the tents extends about 5 – 7 feet onto Pleasant Street. Therefore, the organizers are requesting permission to use the very right section of street beside church property. The tent will go up on **Wednesday, June 26** and will be taken down on **Monday, July 1**, so the church would like use of the street during these dates. The hours of the Greek Heritage Festival are **11:30 a.m. – 9:30 p.m., June 27 – 29, 2013**.

The City Manager is authorized to issue a revocable permit under Section 12-27 of the Municipal Code to the Holy Trinity Greek Orthodox Church for the use of the above-described area for said festival, subject to the following conditions:

- The Holy Trinity Greek Orthodox Church shall indemnify the city and hold it harmless from and against all claims arising out of activities during said parade and ceremony, and shall take out and maintain public liability insurance coverage in the amount of at least **\$400,000** combined single limit for personal or bodily injury, death or property damage for said purpose. This insurance certificate will also list the City of Portland as an additional insured in regards to the Greek Heritage Festival;
- The Holy Trinity Greek Orthodox Church shall be responsible for filling in the tent stake holes at the close of the festival and said work shall be completed to the satisfaction of the City;

(continued)

- Conditions for use of grounds, specified in a permit issued from Public Services Event Office, shall be adhered to; and
- Under no circumstances may alcoholic beverages be sold or consumed on the streets or public property of said area during said Festival, other than areas approved by the City Clerk.

The City Manager is also authorized to issue such other temporary licenses and temporary permits, including licenses for food service establishments and permits for sales of non-food related items, as may be required by the Portland City Code, provided that all applicable requirements of said code have been met regarding the operation of said Event.

Document prepared by Ted Musgrave, Public Services Event Coordinator

HOLY TRINITY GREEK ORTHODOX CHURCH

**133 PLEASANT STREET
PORTLAND, MAINE 04101
207-774-0281**

**City Council
Portland City Hall
389 Congress St.
Portland, ME 04101**

February 1, 2013

Dear Council Members:

Holy Trinity Greek Orthodox Church is once again seeking permission to hold its annual Greek food festival on June 27, 28, and 29, 2013. As always, we plan to open for lunch at approximately 11:30am and go through dinner to about 9:30pm.

The festival takes place under a large tent we rent and erect in the parking lot between the Church and our Parish House. We rent tables and chairs to seat about 250 people at one time. Several thousand guests typically visit the festival. Greek foods (lamb, chicken, moussaka, pastitso, grape leaves and spanikopita), hand made Greek pastries and beverages (soda, water, wine and beer) have been traditionally served. A small assortment of religious icons, T shirts and various souvenir items are also offered for sale. A Greek band will play from about 6 to 9:30pm. Greek dancing usually takes place in the evening.

This is the same format we have had for 31 years. Private security and Portland City police share security from 6pm to the next morning each day. The festival has never had any incidents or trouble. Our guests are mostly adults and families with children. We hope you will approve a liquor license for the festival and all our other needed licenses and permits and drop by to attend *"the best three day party in Portland"*. Thank you.

Yours truly,



**Gregory A. Tselikis
President, Parish Council**

Order 171-12/13
Tab 14 4-1-13

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
NICHOLAS M. MAVODONES (A/L)
JILL C. DUSON (A/L)

ORDER
GRANTING MUNICIPAL OFFICER'S
APPROVAL OF:

Lafayette Portland LLC d/b/a Holiday Inn by the Bay at 88 Spring St. Application for Class IA
Hotel 40+ Rooms with Entertainment with Dance

CITY CLERK
2013 MAR 15 11:10 AM

Lafayette

hotels

155 Littlefield Avenue * Bangor, Maine 04401 * 207-862-8000 * FAX 207-862-6465

March 14, 2013

To the City of Portland,

As the result of lengthy discussions with our legal and tax advisors, we have made the decision to modify the relative ownership structure of the Holiday Inn by the Bay in order to achieve a combination of accounting and operating efficiencies. Lafayette Inn by the Bay, Inc. transferred all of its business assets to Lafayette Portland, LLC, which became both owner and operator of the hotel property. In consideration of the contribution of assets Lafayette Portland, LLC issued to Lafayette Inn by the Bay, Inc. 100 Class B nonvoting limited liability company membership units.

This resulted in Lafayette Inn by the Bay, Inc. no longer being a lessee/operator of the hotel property – the role of Lafayette Inn by the Bay, Inc. is now that of an investor in Lafayette Portland, LLC through its ownership of Class B Units. The ownership of Lafayette Inn by the Bay, Inc. will remain unchanged, and except for the new Class B Units (which are nonvoting), the ownership of Lafayette Portland, LLC is unchanged.

Please call me at 207-862-8000 if you have any questions about this restructuring or if you need any further information.

Sincerely,



Jackie Rawcliffe, CFO
Lafayette Portland, LLC

PUBLIC NOTICE

Notice of
City of Portland
A Public Hearing will be
held on April 1, 2013 at
7:00 P.M., in City Coun-
cil Chambers, 389 Con-
gress St., on the appli-
cation for Lafayette
Portland LLC, d/b/a
Holiday Inn by the Bay
88 Spring St. Applica-
tion for Class 1A Hotel
Rooms with Enter-
tainment with Dance.
Sponsored by Katherine
L. Jones, City Clerk
#4795117

Office of the City Clerk

389 Congress Street

Portland, ME 04101

(207) 874-8557

Application for Food Service Establishment With Alcoholic Beverages

Type of Liquor License Applying for: CLASS 1A FSE 40⁺ ROOMS
ENTERTAINMENT w/ DANCEPlease check one: (Corporation/ LLC/ Non-profit org. ☒) (Sole Proprietor ☐) (Partnership ☐)Business Name (d/b/a): HOLIDAY INN BY THE BAY Phone: 207 775-2311Location Address: 88 SPRING ST PORTLAND ME ZIP 04101

If new, what was formerly in this location: _____

Mailing Address: 88 SPRING ST PORTLAND ME ZIP 04101Contact Person: GUSTAVE H. TILLMAN JR Phone: 207 775-2311Manager of Establishment: GUSTAVE H. TILLMAN, JR Home Phone # 207 775-2311Owner of Premises (landlord): LAFAYETTE PORTLAND LLCAddress of Premises Owner: 155 LITTLEFIELD AVE SAUGOR ME ZIP 04401Does the Issuance of this license directly or indirectly benefit any City employee(s)? Yes ☐ No ☒

If yes, list name(s) of employee(s) and department(s). _____

Have any of the applicants, including the corporation if applicable, ever held a business license with the City of
Portland? Yes ☒ No ☐. If yes, please list business name(s) and location(s):HOLIDAY INN BY THE BAY 88 SPRING ST PORTLAND ME 04101Is any principal officer under the age of 18? Yes ☐ No ☒Have applicant, partners, associates, or corporate officers ever been *arrested*, *indicted*, or *convicted* for any violation
of law? NO If yes, please explain: _____

SOLE PROPRIETOR / PARTNERSHIP INFORMATION: (if corporation, leave blank)

Name of Owner(s): _____ DOB _____ Residence Address _____

Name of Owner(s): _____ DOB _____ Residence Address _____

Name of Owner(s): _____ DOB _____ Residence Address _____

CORPORATE / LLC / NON-PROFIT ORGANIZATION APPLICANTS: (if sole proprietor, leave blank)

Corporation Name: LAFAYETTE PORTLAND LLCCorporation Mailing Address: 155 LITTLEFIELD AVE SAUGOR ME ZIP 04401Contact Person: Jackie Rawcliffe - Paper Discipline Phone Number: 207-862-8000

PRINCIPAL OFFICERS: (if more space is needed, please attach a separate page)

Name JOHN DANIEL LAFAYETTE Title MEMBER DOB 9/17/55 Residence Address HAMPDEN, ME 04444Name CARLA JOY LAFAYETTE Title MEMBER DOB 3/8/56 Residence Address HAMPDEN, ME

Name _____ Title _____ DOB _____ Residence Address _____

Name _____ Title _____ DOB _____ Residence Address _____

Name _____ Title _____ DOB _____ Residence Address _____

Name _____ Title _____ DOB _____ Residence Address _____

(Please see reverse side)

Type of Food Served: AMERICAN

Please check all that will be served: Beer ☒ Wine ☒ Liquor ☒

Percentage of sales – Generated from Food : 93 Generated from Alcohol: 7

Hours and Days of operation: 7 DAYS - 11Am - 1Am

Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open? Yes ☐ No ☒.

If no, please explain FOOD SERVICE STOPS AT 11 PM

Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment? Yes ☐ No ☒. If yes, give the distance _____.

Will you have entertainment on the premises? Yes ☒ No ☐ (If yes, a separate application is required.)

Will you permit dancing on the premises? Yes ☒ No ☐

Will you permit dancing after 1:00am? Yes ☐ No ☒

Will you have outside dining? Yes ☐ No ☒. If yes, please indicate location on diagram.

Also, will the outside dining be on PUBLIC ☐ or PRIVATE ☐ property?

Have you applied for an Outdoor Dining Permit? Yes ☐ No ☒

Will you have any amusement devices (pinball, video games, juke box)? Yes ☐ No ☒.

If yes, please list, # of pinball: _____ # of amusements: _____ # of pool tables: _____.

What is your targeted opening date? : _____

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto.

I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature Carla J Lafayette Title Member Date 3/14/13

Application attachment to other City license

\$485. With Dance
\$270. Without Dance
\$545. After Hours (1AM-3AM).
Total due: _____

Office of the City Clerk
389 Congress Street
Portland, ME 04101
207-874-8557

Supplemental Application for Dancing and Entertainment

Please attach a diagram of floor plan showing where in the facility the entertainment will be setup, the direction of any speakers and where dance floor, if any, will be located.

Business Name (d/b/a): Lafayette Portland, LLC DBA Holiday

Location Address: 88 Spring St ZIP 04101 Phone 775-2311

Will music be electric or acoustical or both? _____

Will amplification used? Yes ☒ No _____

If yes, where and at what level? Ballroom

Will you permit dancing on the premises? Yes ☒ No _____

Will you permit dancing or entertainment after 1:00AM? Yes _____ No ☒

Will recorded music be played: Inside ☒ Outside _____ Both _____

What is the distance to the nearest residential dwelling unit both inside and outside the building from where the entertainment will take place? 2 Blocks

Please describe in detail the type and nature of the business and proposed entertainment: _____

Hotel - Ballroom - Function Area

If new applicant, what is your targeted opening date? : _____

Does the issuance of this license directly or indirectly benefit any City employee? Yes _____ No ☒

If yes, list names of employee(s) and department(s). _____

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above license and further agrees that any misstatement of material fact may result in refusal of license or revocation, if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto.

I/ We hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/ We hereby waive any rights to privacy with respect thereto.

Signature Ron McCloy Title Food & Bev. Dir. Date 3-15-13

**Department of Public Safety
Division**

Liquor Licensing & Inspection

Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded.
To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.



BUREAU USE ONLY

License No. Assigned: _____

Class: _____

Deposit Date: _____

Amt. Deposited: _____

PRESENT LICENSE EXPIRES 4/30/13

INDICATE TYPE OF PRIVILEGE: ☐ MALT ☐ SPIRITUOUS ☐ VINOUS

INDICATE TYPE OF LICENSE:

☐ RESTAURANT (Class I,II,III,IV)

☐ HOTEL-OPTIONAL FOOD (Class I-A)

☐ CLASS A LOUNGE (Class X)

☐ CLUB (Class V)

☐ TAVERN (Class IV)

☐ RESTAURANT/LOUNGE (Class XI)

☒ HOTEL (Class I,II,III,IV)

☐ CLUB-ON PREMISE CATERING (Class I)

☐ GOLF CLUB (Class I,II,III,IV)

☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) –(Sole Proprietor, Corporation, Limited Liability Co., etc.) <u>LAFALETTE PORTLAND, LLC</u> DOB: _____			2. Business Name (D/B/A) <u>HOLIDAY INN BY THE BAY</u>		
DOB: _____			Location (Street Address) <u>88 SPRING STREET</u>		
DOB: _____			City/Town State Zip Code <u>PORTLAND MAINE 04101</u>		
Address <u>155 LITTLEFIELD AVENUE</u>			Mailing Address <u>88 SPRING STREET</u>		
City/Town State Zip Code <u>BANGOR MAINE 04401</u>			City/Town State Zip Code <u>PORTLAND MAINE 04101</u>		
Telephone Number Fax Number <u>207 862-8000 207 862-6465</u>			Business Telephone Number Fax Number <u>207 775-2311 207 761-8224</u>		
Federal I.D. # <u>26-4632269</u>			Seller Certificate #		

3. If premises are a hotel, indicate number of rooms available for transient guests: 239

4. State amount of gross income from period of last license: ROOMS \$ 716 mil FOOD \$ 24 mil LIQUOR \$ \$10,200

5. Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐

complete Supplementary Questionnaire ,If YES

6. Do you permit dancing or entertainment on the licensed premises? YES ☒ NO ☐

7. If manager is to be employed, give name: GUSTAVE H. TILLMAN, JR.

8. If business is NEW or under new ownership, indicate starting date: _____

Requested inspection date: _____ Business hours: _____

9. Business records are located at: 155 LITTLEFIELD AVE., BANGOR, ME 04401

10. Is/are applicants(s) citizens of the United States? YES ☒ NO ☐

11. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:
Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
JOHN DANIEL LAFAYETTE III	9/17/55	BANGOR
CARLA JOY (RAWCLIFFE) LAFAYETTE	2/8/56	BANGOR
PETER DAIGLE	1/20/48	FT. KENT
Residence address on all of the above for previous 5 years (Limit answer to city & state)		
LAFAYETTES - HAMPDEN, MAINE		
DAIGLE - DEDHAM, MAINE		

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☐ NO ☒

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?
Yes ☐ No ☒ If Yes, give name: _____

15. Has/have applicant(s) formerly held a Maine liquor license? YES ☒ NO ☐

16. Does/do applicant(s) own the premises? Yes ☒ No ☐ If No give name and address of owner: _____

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) HOTEL, RESTAURANT, LOUNGE, BANQUET ROOMS, EXHIBIT HALL, POOL AREA, LOBBY

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?
YES ☒ NO ☐ Applied for: _____

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 1/2 MILE Which of the above is nearest? SCHOOL

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☒ NO ☐

If YES, give details: MORTGAGE - BAR HARBOR BANK & TRUST

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: Hampden, Maine on 2-28, 2013
Town/City, State Date

Signature of Applicant or Corporate Officer(s)

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

STATE OF MAINE
Liquor Licensing & Inspection Unit
164 State House Station
Augusta, Maine 04333-0164
Tel: (207) 624-7220 Fax: (207) 287-3424

**SUPPLEMENTARY QUESTIONNAIRE FOR CORPORATE APPLICANTS, LIMITED LIABILITY COMPANIES AND
LIMITED PARTNERSHIPS**

1. Exact Corporate Name: LAFAYETTE PORTLAND LLC
Business D/B/A Name: HOLIDAY INN BY THE BAY
2. Date of Incorporation: APRIL 2009
3. State in which you are incorporated: MAINE
4. If not a Maine Corporation, date corporation was authorized to transact business within the State of Maine:

5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list percent of stock owned:

Name	Address Previous 5 Years	Birth Date	% of Stock	Title
JOHN DANIEL LAFAYETTE, III	HAMPDEN, ME	9/17/55	50%	Member
CARLA JOY LAFAYETTE	HAMPDEN, ME	2/8/56	50%	Member

6. What is the amount of authorized stock? _____ Outstanding Stock? _____
7. Is any principal officer of the corporation a law enforcement official? () YES (X) NO
8. Has applicant(s) or manager ever been convicted of any violation of the law, other than a minor traffic violation(s), of the United States? () YES (X) NO.

9. If yes, please complete the following: Name: _____

Date of

Conviction: _____ Offense: _____

Location: _____ Disposition: _____

Dated at: _____ On: _____
City/Town Date

Carla J. Lafayette
Signature of Duly Authorized Officer

Date: 2/28/12

CARLA J. LAFAYETTE
Print Name of Duly Authorized Officer

MAINE DEPT OF
PUBLIC SAFETY

STATE OF MAINE
Liquor Licensing & Inspection Division
164 State House Station
Augusta ME 04333-0164
Tel: (207) 624-7220 Fax: (207) 287-3424



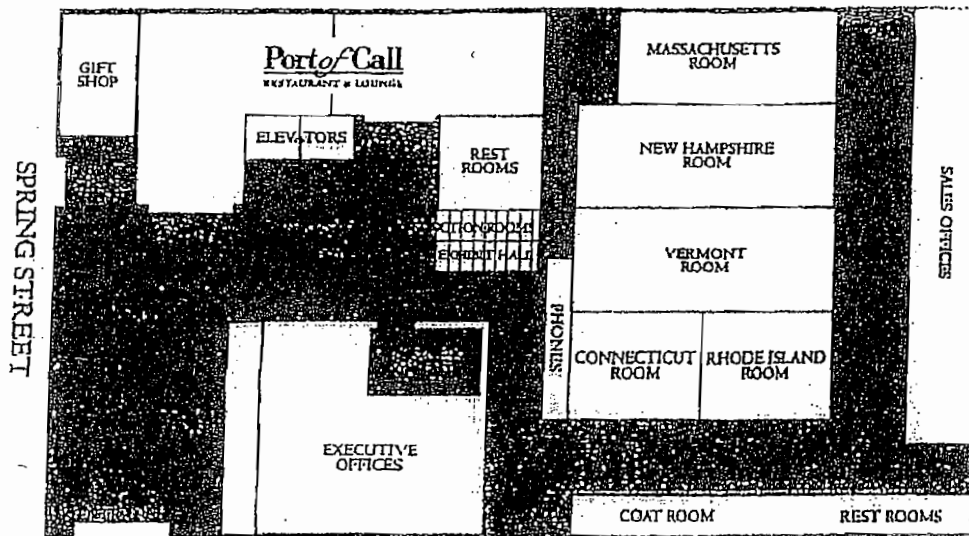
SUPPLEMENTAL APPLICATION FORM
ON-PREMISE DIAGRAM

In an effort to clearly define your license premise and the areas that consumption and storage of liquor is allowed, The Liquor Licensing & Inspection Division is requiring all applicants to submit a diagram of the premise to be licensed in addition to a completed license application.

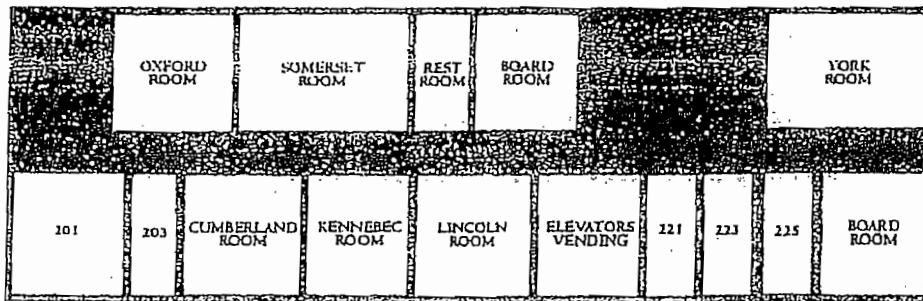
Diagrams should be submitted on this form and should be as accurate as possible. Be sure to label the areas of your diagram including entrances, office area, kitchen, storage areas, dining rooms, lounges, function rooms, decks and all areas that you are requesting approval from the Department for liquor consumption.

SEATING CAPACITIES AND PUBLIC
SPACE LAYOUTS ARE ATTACHED.
MORE DETAILED SKETCHES ARE AVAILABLE
IF REQUIRED.

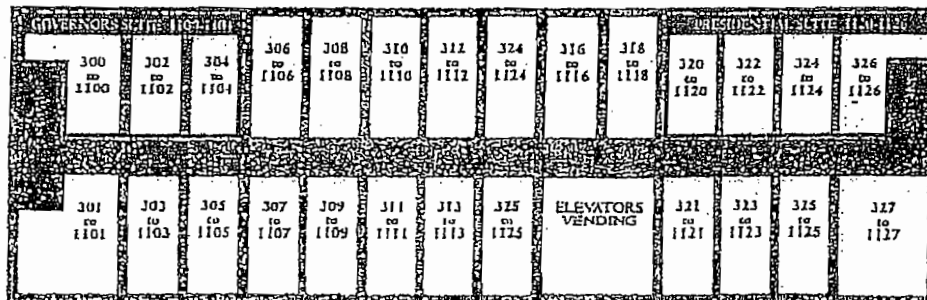
LOBBY & CONVENTION HALL LEVEL



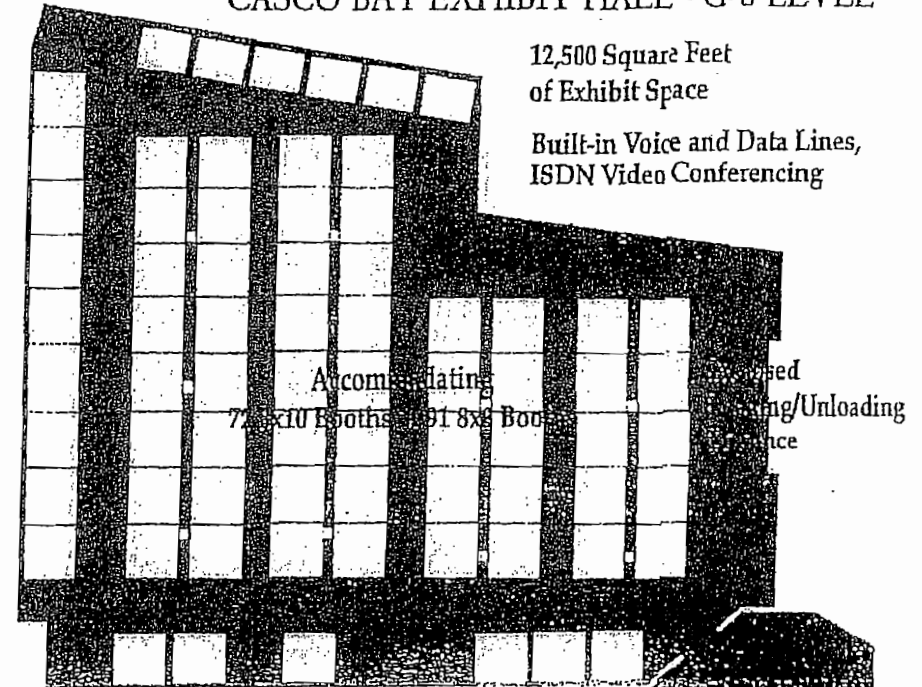
2ND FLOOR CASCO BAY FUNCTION ROOMS



FLOORS 3 THRU 11 LAYOUT



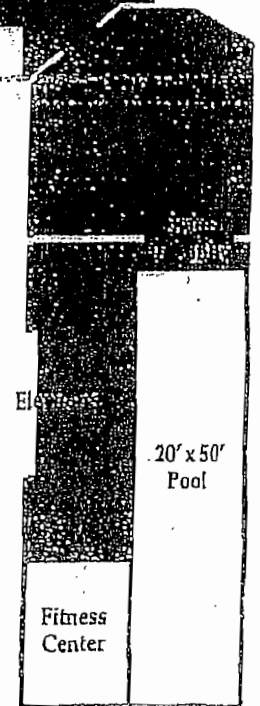
CASCO BAY EXHIBIT HALL - G-3 LEVEL



- 30,000 square feet of flexible meeting space including a state of the art 12,500 square foot exhibit hall
- Complimentary Secure high-speed wireless Internet access available in all rooms and conference areas
- Complimentary 24 hour Business Center
- Indoor pool, fitness center and sauna
- Complimentary parking for registered guests
- Free Indoor and Outdoor Parking in our three lots, valet parking also available

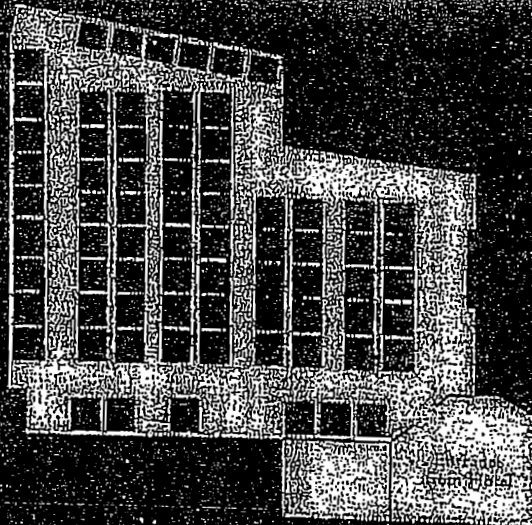


88 Spring Street
Portland Maine 04101-3924
(207) 775-2311 • 1 800-345-5070
www.innbythebay.com

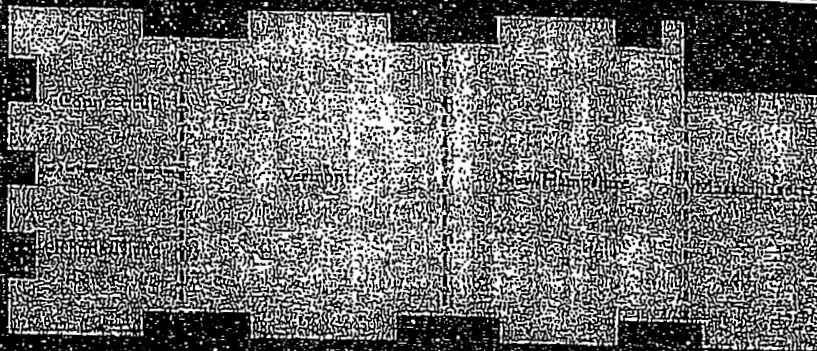


Casco Bay Exhibit Hall

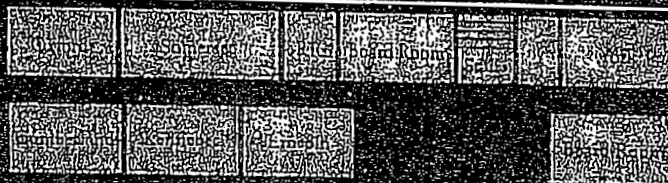
72 8x10 Booths
or 91 8x8 Booths



State of Maine Grand Ballroom



Second Floor



Location	Size	Area	Height	Capacity	Booths	Tables	Chairs
State of Maine	70'x152 1/2'	10,698	14'	1025	600	1200	600
Connecticut	35'x35 1/2'	1242	14'	60	40	80	50
Rhode Island	35'x35 1/2'	1242	14'	60	40	80	50
Connecticut/ Rhode Island	35'x70'	2450	14'	100	96	200	100
Vermont	50'x70'	3550	14'	340	200	400	200
New Hampshire	50'x70'	3550	14'	340	200	400	200
Massachusetts	24'x52'	1248	14'	110	72	125	50
Cambridge	18'x24'	432	8'	40	32	60	24
Kennebec	18'x24'	432	8'	40	32	60	24
Lincoln	18'x24'	432	8'	40	32	60	24
Oxford	20'x25'	500	8'	40	32	65	24
Somerset	20'x36'	720	8'	90	40	85	42
York	22'x24'	528	8'	40	32	60	24
Board Rooms (2)	16'x24'	384	8'	Board Rooms accommodate 8-14 people each			

Cambridge, Kennebec and Lincoln can be combined. Oxford and Somerset can be combined.



Directions

From the
for five li
turns into

From the
I-95 to I-
(Franklin
Franklin S
At fifth li
onto Mid
travel app
(Middle S
Spring Str
By the Bay



Hotel
HOTEL AND C

Holiday Inn by the Bay

38 Spring St.



Copyright 2011 Esri. All rights reserved. Tue Mar 26 2013 04:22:28 PM.

Business Licensing - Re: Holiday Inn by the Bay

From: Gary Hutcheson
To: Business Licensing
Date: 3/18/2013 2:53 PM
Subject: Re: Holiday Inn by the Bay

Approved.

>>> Business Licensing 3/18/2013 2:14 PM >>>
Hello,

For your approval:

Lafayette Portland LLC d/b/a Holiday Inn by the Bay at 88 Spring St. has submitted an application for a Class IA Hotel 40+ Rooms with Entertainment with Dance. This is a change of corporate ownership. They will go before Council on April 1st.

Corporate Info:

Lafayette Portland LLC, Bangor

Principal Officers:

John Daniel Lafayette, d.o.b. 9/17/55, of Hampden

Carla Joy Lafayette, d.o.b. 2/8/56, of Hampden

Owner of premises:

Lafayette Portland, LLC, Bangor

Contact: Gustave H. Tillman, Jr. or Ron McClay - 775-2311

Slips will go out today.

Thanks!

Janice

Business License Administrator

bl@portlandmaine.gov

207.874.8557



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE) (207) 624-4478 (TDD)

Transaction Response #: MIQ99B776637

Criminal History Record

Introduction

This rap sheet was produced in response to the following request (Produced on 2013-03-18) :

Inquiries Name(s) CARLA J LAFAYETTE (1956-02-08)

NO MATCH WAS FOUND FOR YOUR REQUEST.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE) (207) 624-4478 (TDD)

Transaction Response #: MIQ99B776639

Criminal History Record

Introduction

This rap sheet was produced in response to the following request (Produced on 2013-03-18) :

Inquiries Name(s) JOHN D LAFAYETTE (1955-09-17)

NO MATCH WAS FOUND FOR YOUR REQUEST.



PORTLAND MAINE

Strengthening a Remarkable City, Building a Community for Life • www.portlandmaine.gov

Office of the City Clerk

Katherine L. Jones, CCM
City Clerk

Carolyn M. Dorr
Deputy City Clerk

March 20, 2013

Lafayette Portland LLC
155 Littlefield Ave.
Bangor, ME 04401

RE: Lafayette Portland LLC d/b/a Holiday Inn by the Bay at 88 Spring St. Application for Class IA Hotel 40+ Rooms with Entertainment with Dance.

To Whom It May Concern,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Monday, April 1, 2013 at 7:00 P.M.** for the review of your Class IA Hotel 40+ Rooms with Entertainment with Dance application. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

You or a representative of the business must be present at this meeting in the event that the City Council has questions regarding the license application. If there is no representation and questions arise, the issue could be postponed.

Should you have any questions or concerns, please do not hesitate to contact me directly at (207) 874-8557 or by email, BL@portlandmaine.gov

Sincerely,

Janice Gardner
Business License Administrator

Order 172 - 12/13
Tab 15 4-1-13

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
NICHOLAS M. MAVODONES (A/L)
JILL C. DUSON (A/L)

ORDER
GRANTING MUNICIPAL OFFICER'S
APPROVAL OF:

Food Factory Miyake LLC d/b/a Food Factory Miyake, 129 Spring St. Application for Class III & IV Wine & Beer License.

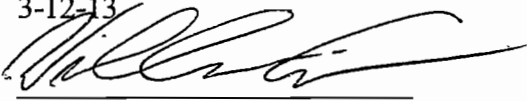
Dear Honorable Mayor Brennan and members of City Council,

I represent Masa Miyake and his interest in launching a new restaurant venture in the coming months. Masa has been a resident in Maine for the past six years and resides in Freeport with his wife and three children. On June 7th, 2007 Masa opened his first restaurant Food Factory Miyake located at 129 Spring Street. Since then we have also opened Pai Men Miyake located at 188 State Street and also moved our original location from 129 Spring Street down to Fore Street in early 2011. Both establishments have become both a popular neighborhood and tourist destination featured in the New York Times, Boston Globe, and Bon Appetit. It is now it is our intent to reopen an establishment in our original location at 129 Spring Street. This would allow us to elevate our current service and offer interesting options to our patrons. We would be serving food the entire time the space was open to avoid becoming considered a bar rather than a restaurant. There would be seating for sixteen patrons and we will offer only a dine in option. We believe that our vision will provide the citizens of Portland with a new food experience as well as provide benefits and stable jobs for our employees. Thank you for your time in reviewing our application for a liquor license.

Sincerely,

William Garfield & Masa Miyake

3-12-13



CITY CLERK

2013 MAR 12 AM 11:00

PUBLIC NOTICE

Notice of
Public Hearing
City of Portland
A Public Hearing will be
held on April 1, 2013 at
7:00 P.M. in City Coun-
cil Chambers, 389 Con-
gress St., on the appli-
cation for Food Factory
LLC d/b/a Food
Factory Miyake at 129
Spring St. Application
for Class III & IV Wine &
Beer License. Spon-
sored by Katherine L.
Jones, City Clerk.
#4795114

Office of the City Clerk

389 Congress Street

Portland, ME 04101

(207) 874-8557

Application for Food Service Establishment With Alcoholic Beverages

Type of Liquor License Applying for: CLASS III + IV (Beer + WINE)Please check one: (Corporation/ LLC/ Non-profit org. X) (Sole Proprietor) (Partnership)Business Name (d/b/a): Food Factory MIYAKE Phone: 541-9175Location Address: 129 Spring Street ZIP 04101If new, what was formerly in this location: Mailing Address: P.O. Box 4158 ZIP 04101Contact Person: William Garfield Phone: 272-3346Manager of Establishment: William Garfield Home Phone # 272-3346Owner of Premises (landlord): George + Jim SimasAddress of Premises Owner: 27 Alderbrook Road Topsham MA ZIP 01983Does the Issuance of this license directly or indirectly benefit any City employee(s)? Yes No X

If yes, list name(s) of employee(s) and department(s).

Have any of the applicants, including the corporation if applicable, ever held a business license with the City of
Portland? Yes X No . If yes, please list business name(s) and location(s):MIYAKE LLC @ 468 Fore Street and Ramen Factory Miyake @ 188 State StreetIs any principal officer under the age of 18? Yes X No Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation
of law? NO If yes, please explain:

SOLE PROPRIETOR / PARTNERSHIP INFORMATION: (if corporation, leave blank)

Name of Owner(s):	<u>William Garfield</u>	DOB	<u>7-1-88</u>	Residence Address	<u>134 Neal #2</u>
Name of Owner(s):	<u>Maschiko Miyake</u>	DOB	<u>7-2-63</u>	Residence Address	<u>51 Curtis Road, Portland ME 04102</u>
Name of Owner(s):	<u> </u>	DOB	<u> </u>	Residence Address	<u> </u>

CORPORATE / LLC / NON-PROFIT ORGANIZATION APPLICANTS: (if sole proprietor, leave blank)

Corporation Name: Food Factory Miyake LLCCorporation Mailing Address: P.O. Box 4158 ZIP 04101Contact Person: William Garfield Phone Number: 207-272-3346

PRINCIPAL OFFICERS: (if more space is needed, please attach a separate page)

Name	<u>William Garfield</u>	Title	<u>owner</u>	DOB	<u>7-1-88</u>	Residence Address	<u>134 Neal #2</u>
Name	<u>Maschiko Miyake</u>	Title	<u>owner</u>	DOB	<u>7-2-63</u>	Residence Address	<u>51 Curtis Road, Portland ME 04102</u>
Name	<u> </u>	Title	<u> </u>	DOB	<u> </u>	Residence Address	<u> </u>
Name	<u> </u>	Title	<u> </u>	DOB	<u> </u>	Residence Address	<u> </u>
Name	<u> </u>	Title	<u> </u>	DOB	<u> </u>	Residence Address	<u> </u>
Name	<u> </u>	Title	<u> </u>	DOB	<u> </u>	Residence Address	<u> </u>

(Please see reverse side)

Type of Food Served: Japanese comfort food

Please check all that will be served: Beer X Wine X Liquor _____

Percentage of sales – Generated from Food: 80 Generated from Alcohol: 20

Hours and Days of operation: Tuesday – SAT 4pm – 10pm

Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open? Yes X No _____

If no, please explain _____

Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment?

Yes X No _____. If yes, give the distance Approx 250 feet. TO BACK OF GREEK Church on Pleasant

Will you have entertainment on the premises? Yes _____ No X (If yes, a separate application is required.)

Will you permit dancing on the premises? Yes _____ No X

Will you permit dancing after 1:00am? Yes _____ No X

Will you have outside dining? Yes _____ No X. If yes, please indicate location on diagram.

Also, will the outside dining be on PUBLIC _____ or PRIVATE _____ property?

Have you applied for an Outdoor Dining Permit? Yes _____ No _____

Will you have any amusement devices (pinball, video games, juke box)? Yes _____ No X

If yes, please list, # of pinball: _____ # of amusements: _____ # of pool tables: _____

What is your targeted opening date? : 6-1-2013

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto.

I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature [Signature] Title owner Date 3-12-13

**Department of Public Safety
Division**



Liquor Licensing & Inspection

Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded. To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

BUREAU USE ONLY

License No. Assigned:

Class:

Deposit Date:

Amt. Deposited:

PRESENT LICENSE EXPIRES _____

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☐ SPIRITUOUS ☒ VINOUS

INDICATE TYPE OF LICENSE:

- ☒ RESTAURANT (Class I,II,III,IV)
☐ HOTEL-OPTIONAL FOOD (Class I-A)
☐ CLASS A LOUNGE (Class X)
☐ CLUB (Class V)
☐ TAVERN (Class IV)

- ☐ RESTAURANT/LOUNGE (Class XI)
☐ HOTEL (Class I,II,III,IV)
☐ CLUB-ON PREMISE CATERING (Class I)
☐ GOLF CLUB (Class I,II,III,IV)
☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) --(Sole Proprietor, Corporation, Limited Liability Co., etc.) <u>Food Factory Miyake LLC</u> DOB: <u>7-1-88</u>		2. Business Name (D/B/A) <u>Food Factory Miyake LLC</u>	
<u>Masahiko Miyake</u> DOB: <u>7-2-67</u>			
Address <u>134 Neal #2</u>		Location (Street Address) <u>129 Spring Street</u>	
City/Town <u>Portland</u> State <u>ME</u> Zip Code <u>04101</u>		City/Town <u>Portland</u> State <u>ME</u> Zip Code <u>04101</u>	
Telephone Number <u>207-272-7746</u> Fax Number _____		Business Telephone Number <u>207-541-9175</u> Fax Number _____	
Federal I.D. # <u>27-1518258</u>		Seller Certificate # <u>1145014</u>	

3. If premises are a hotel, indicate number of rooms available for transient guests: _____
4. State amount of gross income from period of last license: ROOMS \$ _____ FOOD \$ _____ LIQUOR \$ _____
5. Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐

complete Supplementary Questionnaire, If YES

6. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒
7. If manager is to be employed, give name: William Garfield
8. If business is NEW or under new ownership, indicate starting date: NA
 Requested inspection date: 6-1-13 Business hours: TUES-SAT 4PM-10PM
9. Business records are located at: 129 Spring Street
10. Is/are applicants(s) citizens of the United States? YES ☒ NO ☐

11. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:
Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
William Garfield	7-1-88	Portland, ME
Maschiko Miyake	7-2-63	JAPAN

Residence address on all of the above for previous 5 years (Limit answer to city & state)

Portland, ME
Freeport, ME

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☐ NO ☒

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?
Yes ☐ No ☒ If Yes, give name: _____

15. Has/have applicant(s) formerly held a Maine liquor license? YES ☒ NO ☐

16. Does/do applicant(s) own the premises? Yes ☐ No ☒ If No give name and address of owner: 70 Alderbrook
Route Topsfield, MA 01983 George Simas

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) 16 seat Japanese
restaurant

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?
YES ☐ NO ☒ Applied for: 3-12-13

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 250 feet Which of the above is nearest? Church

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☒ NO ☐

If YES, give details: CEI loan

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: Portland, ME on March 12, 2013
Town/City, State Date


Signature of Applicant or Corporate Officer(s)

William Garfield

Please sign in blue ink


Signature of Applicant or Corporate Officer(s)

William Garfield

STATE OF MAINE
Liquor Licensing & Inspection Unit
164 State House Station
Augusta, Maine 04333-0164
Tel: (207) 624-7220 Fax: (207) 287-3424

SUPPLEMENTARY QUESTIONNAIRE FOR CORPORATE APPLICANTS, LIMITED LIABILITY COMPANIES AND
LIMITED PARTNERSHIPS

1. Exact Corporate Name: Food Factory Miyake LLC
Business D/B/A Name: Food Factory Miyake
2. Date of Incorporation: 6-1-2011
3. State in which you are incorporated: Maine
4. If not a Maine Corporation, date corporation was authorized to transact business within the State of Maine:

5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list percent of stock owned:

Name	Address Previous 5 Years	Birth Date	% of Stock	Title
William Garfield	Portland, ME 134 New	7-1-88	49	owner
Nasahiko Miyake	81 Curtis Rd, Freeport	7-2-63	51	owner

6. What is the amount of authorized stock? 100 Outstanding Stock? NA
7. Is any principal officer of the corporation a law enforcement official? () YES (☒) NO
8. Has applicant(s) or manager ever been convicted of any violation of the law, other than a minor traffic violation(s), of the United States? () YES (☒) NO.
9. If yes, please complete the following: Name: _____

Date of
Conviction: _____ Offense: _____

Location: _____ Disposition: _____

Dated at: _____ On: _____
City/Town Date

Signature of Duly Authorized Officer

Date: 3-12-13

William Garfield

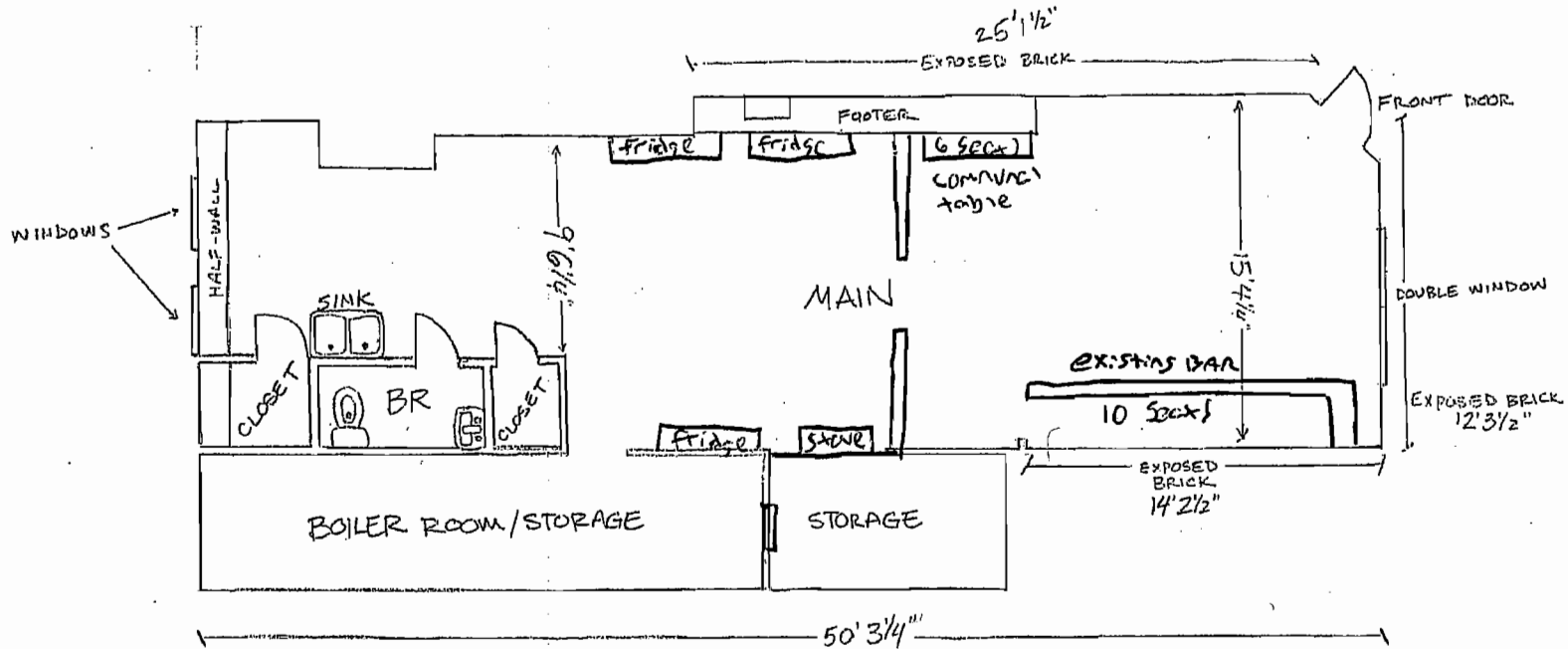
Print Name of Duly Authorized Officer

MIYAKE EXISTING CONDITION

3-12-13

- FLOOR -

SCALE: $\square$ 2'



SPRING STREET

Miyake Spring st. Menu

Soup

Miso Soup \$3

Buta Jiru \$6

Miyake Farm pork with burdock, yam cake, carrot, onion and daikon

Small Plates

Hijiki Umani \$7

Hijiki seaweed w/ mirin, soy, tofu, fish cake and carrot

Kimpira \$7

Burdock, carrot, braised soy, and sesame

Shiitake Yuba \$?

Tofu skin and shiitake mushrooms in dashi

Garlic shrimp \$9.50

Sautéed shrimp with garlic, olive oil and chili pepper

Braised eggplant \$7

Green pepper and sweet miso

Enoki mushrooms \$6

Sautéed with corn and soy

Soba Maki \$7

Buckwheat noodles wrapped in nori w/ celery, carrots, micro greens w/ sesame dressing

"Ji Do Ri" Chichuzen-ni \$8

Miyake Farm chicken braised in dashi w/ carrot, yam cake, burdock, shiitake

Shrimp and wakame sunomono \$8

Shrimp, wakame seaweed, cucumber and scallion w/ miso vin.

Rice

Rokobumai \$4

6 grain blend w/ brown rice

Genmai \$3

Brown rice

Japanese risotto \$12

Beets, goat cheese, spinach, and scallion

Salad

Gobo salad \$8.50

Julienned burdock in sesame marinade

Yuba salad \$8.50

Tofu skin w/ mixed greens and house dressing

Kake Chasoba—green tea noodles in dashi broth \$11

Bukake Sanuki Udon \$11

Main

Broiled Scottish salmon w/ ginger soy \$17

MF Pork grilled w/ koji salt marinade \$17

Broiled mackerel w/ sweet sake soy \$14

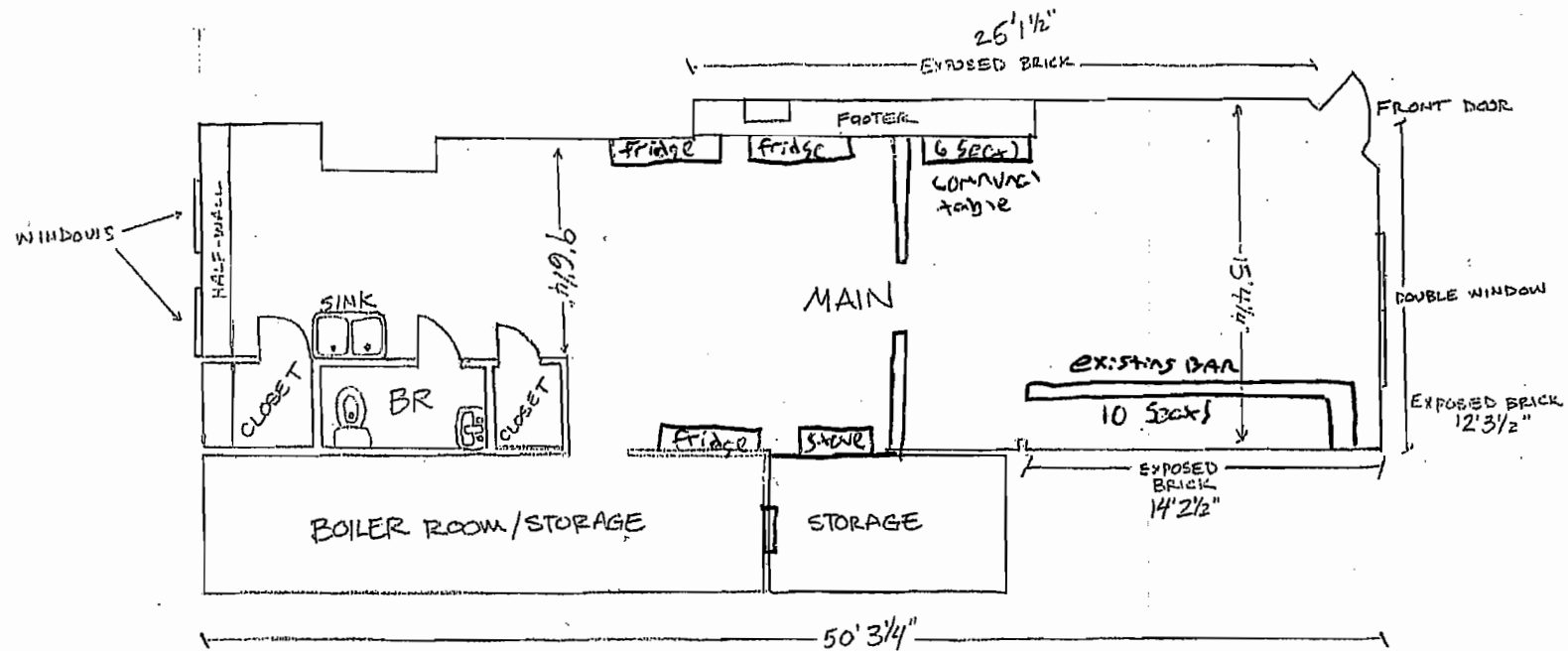
Braised mackerel w/ ginger miso \$14

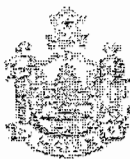
MIYAKE EXISTING CONDITIONS

3-12-13

- FLOOR -

SCALE: $\square$ 2'





MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE) (207) 624-4478 (TDD)

Transaction Response #: MIQ99B772602

Criminal History Record

Introduction

This rap sheet was produced in response to the following request (Produced on 2013-03-13) :

Inquiries Name(s) WILLIAM GARFIELD (1988-07-01)

NO MATCH WAS FOUND FOR YOUR REQUEST.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE) (207) 624-4478 (TDD)

Transaction Response #: MIQ99B772600

Criminal History Record

Introduction

This rap sheet was produced in response to the following request (Produced on 2013-03-13) :

Inquiries Name(s) MASAHIKO MIYAKE (1963-07-02)

NO MATCH WAS FOUND FOR YOUR REQUEST.

From: Gary Hutcheson
To: BL@portlandmaine.gov
Date: 3/18/2013 6:02 PM
Subject: Re: Food Factory Miyake

All set.

>>> Business Licensing 03/13/13 14:53 PM >>>
Hello,

For your approval:

Food Factory Miyake LLC d/b/a Food Factory Miyake at 129 Spring St. has applied for a Class III & IV FSE license. They will be offering Japanese comfort food. There will be no entertainment, dance, or outdoor dining. They are hoping to go before the April 1 Council meeting.

Corporate Info:

Food Factory Miyake, LLC, 129 Spring St., 541-9175

Owner & Contact:

William Garfield, d.o.b. 7/1/88, 134 Neal St. #2, Portland. 272-3346

Owner:

Masahiko Miyake, d.o.b. 7/2/63, Freeport

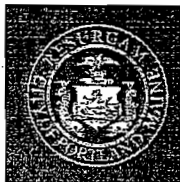
Landlord:

George & Jim Simas of MA

Slips going out shortly.

Best,
Janice

Business License Administrator
bl@portlandmaine.gov
207.874.8557



Strengthening a Remarkable City, Building a Community for Life • www.portlandmaine.gov

Office of the City Clerk
Katherine L. Jones, CCM
City Clerk

Carolyn M. Dorr
Deputy City Clerk

March 20, 2013

Food Factory Miyake LLC
P.O. Box 4158
Portland, ME 04104

RE: Food Factory Miyake LLC d/b/a Food Factory Miyake at 129 Spring St. Application for Class III & IV Liquor License.

Dear Mr. Garfield,

This letter shall serve as a reminder of the Public Hearing before the Portland City Council on **Monday, April 1, 2013 at 7:00 P.M.** for the review of your Class III & IV Liquor License application. The meeting will take place in Council Chambers on the 2nd floor of City Hall, 389 Congress Street, Portland, ME 04101.

You or a representative of the business must be present at this meeting in the event that the City Council has questions regarding the license application. If there is no representation and questions arise, the issue could be postponed.

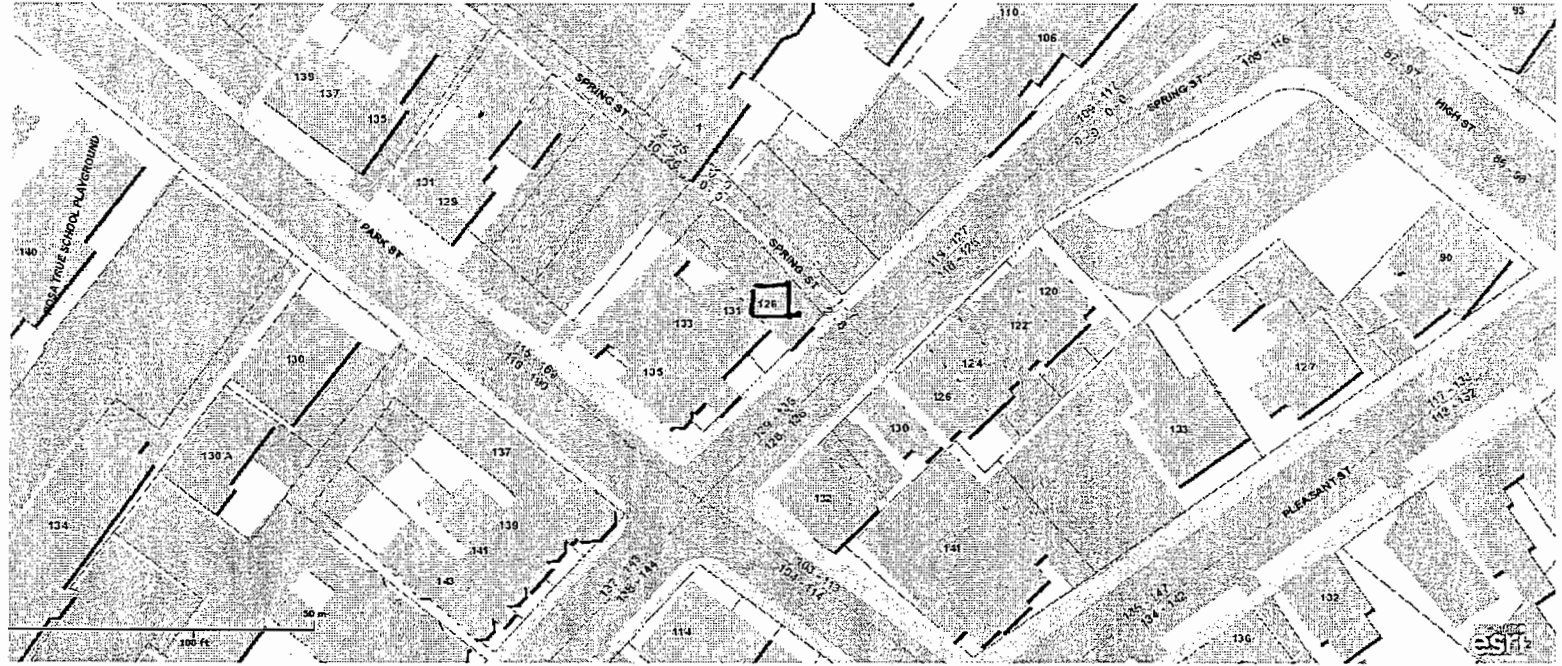
Should you have any questions or concerns, please do not hesitate to contact me directly at (207) 874-8557 or by email, BL@portlandmaine.gov

Sincerely,

Janice Gardner
Business License Administrator

Food Factory Miyake

129 Spring St.



Copyright 2011 Esri. All rights reserved. Tue Mar 26 2013 04:28:27 PM.

*Order 173-12/13
Tab 16 4-1-13*

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
NICHOLAS M. MAVODONES (A/L)
JILL C. DUSON (A/L)

**ORDER
GRANTING MUNICIPAL OFFICER'S
APPROVAL OF:**

**Rosemont Market, Inc. d/b/a Rosemont Market Productions, 559 Brighton Ave. Application for
Class I Qualified Catering license.**

15 March 2013

Dear Mr. Mayor and Members of the Portland City Council,

Rosemont Market and Bakery intends to open a catering business, named **Rosemont Market Productions**. We will use our existing production facility, at 559 Brighton Avenue in Portland, to prepare food for catering and food/wine education events we plan to hold in the Greater Portland area.

Rosemont Market has a strong reputation in the area for promoting the work of local producers. It is a business built on relationships. We have established, and continue to develop, a vast network of local growers, farmers, fishers and other producers whom we rely on for the majority of what we sell.

Rosemont Market Productions will continue and expand upon these relationships. We intend to provide food and beverages based on local ingredients for a variety of events, including private dinners and special events, wine and food education seminars, producer showcases at a number of local venues, and more.

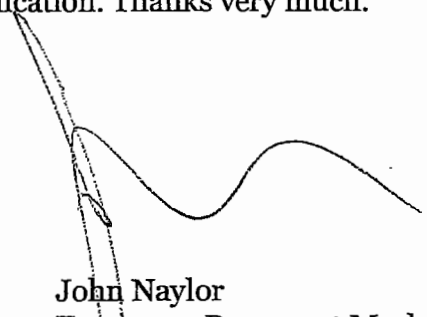
The emphasis will always be on Maine's unique small-scale producers, handmade food and wine, healthy living and eating.

We hope you will speedily approve this application. Thanks very much.

Sincerely,



Scott Anderson
President, Rosemont Market, Inc.



John Naylor
Treasurer, Rosemont Market, Inc.
Manager, A Side of Rosemont

2013 MAR 15 PM 1:07

CITY CLERK

To clarify: Rosemont Market Productions
is applying for a Class I Qualified Catering
~~license~~ license.

PUBLIC NOTICE
Notice of
Public Hearing
City of Portland
Public Hearing will be
held on April 1, 2013 at
10:00 P.M. in City Coun-
cil Chambers, 389 Con-
gress St., on the appli-
cation for Rosemont
Market, Inc. d/b/a
Rosemont Market Pro-
ductions at 559 Bright-
on Avenue, Portland, ME
04102. Application for
qualified Cater-
ing License. Sponsored
by Katherine L. Jones,
City Clerk.
#4795128

OFFICE OF THE CITY CLERK

389 Congress Street
Portland, ME 04101
(207) 874-8557

Application for Food Service Establishment With Alcoholic Beverages

Class of Liquor License Applying for: Class I w/ Catering

Business Name (d/b/a): Rosemont Market Productions Phone: 207.831.2553

Location Address: 559 Brighton Avenue, Portland ZIP 04102

If new, what was formerly in this location? _____

Failing Address: Same ZIP _____

Contact Person: Joe Appel Phone: 207.831.2553

Email: joe@rosemontmarket.com

Manager of Establishment: John Naylor Home Phone: 207.939-5053

Landlord of Premises: John Naylor

Address of Landlord: 45 Fleetwood St., Portland, ME ZIP 04102

Does the issuance of this license directly or indirectly benefit any City employee(s)? Yes _____ No ☒ If yes, list name(s) of employee(s) and department(s): _____

Have any of the applicants, including the corporation if applicable, ever held a business license with the City of Portland? Yes ☒ No _____. If yes, please list business name(s) and location(s): _____

Is any principal officer under the age of 18? Yes _____ No ☒

Have applicant, partners, associates, or corporate officers ever been arrested, indicted, or convicted for any violation of law? _____ If yes, please explain: _____

SOLE PROPRIETOR/PARTNERSHIP INFORMATION: (if corporation, leave blank)

Name of Owner(s): _____ DOB _____

Residence Address: _____

Name of Owner(s): _____ DOB _____

Residence Address: _____

CORPORATE/LLC/NON-PROFIT ORGANIZATION APPLICANTS: (if sole proprietor, leave blank)

Corporation Name: Rosemont Market, Inc.

Corporation Mailing Address: 559 Brighton Avenue, Portland ME ZIP 04102

Contact Person: John Naylor Phone Number: 939-5053

PRINCIPAL OFFICERS: (continued on back page; if more space is needed, please attach a separate page)

Name: John Naylor Title: Treasurer DOB: 5/19/56

Residence Address: 45 Fleetwood St Portland ME ZIP 04102

Payment Method for Business License and application fees:
Cash, Money Order or Bank Check, Visa or MasterCard

CITY CLERK

PRINCIPAL OFFICERS: (continued)

Name JOHN G. NOLAN Title TREASURER DOB 5/9/56
Residence Address 45 HESWOOD ST PORTLAND ME 04102
Name SCOTT ANDERSON Title PRESIDENT DOB 10/7/57
Residence Address 232 RAY ST PORTLAND ME 04103

Type of Food Served: casual, prepared foods, full suppers

Please check all that will be served: Beer ☒ Wine ☒ Liquor ☒

Percentage of Sales generated From Food: ± 70 From Alcohol: ± 30

Hours and Days of operation: This is primarily for catering. We will use our existing production facility to prepare meals whenever we secure contracts for catering events.

Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open? Yes ☐ No ☒

If no, please explain See above. This application is for catering.

Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment? Yes ☒ No ☐ If yes, give the distance St. Ansgar Lutheran Church, ± 300 feet

Will you have entertainment on the premises? Yes ☐ No ☒ (If yes, a separate application is required)

Will you permit dancing on the premises? Yes ☐ No ☒

Will you have after hours entertainment from 1:00A.M. to 3:00A.M.? Yes ☐ No ☒

Will you have outdoor dining? Yes ☐ No ☒ If yes, please indicate location on diagram.

Also, will the outdoor dining be on PUBLIC ☐ or PRIVATE ☐ property?

Have you applied for an (Public) Outdoor Dining Permit? Yes ☐ No ☐

Will you have any amusement devices (pinball, video games, juke box)? Yes ☐ No ☒

If yes, please list, # of pinball: _____ # of amusements: _____ # of pool tables: _____

What is your targeted opening date? April 15, 2013

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto.

I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature [Signature] Title TREASURER Date 2/1/13

ised 8-31-10

Payment Method for Business License and application fees:
Cash, Money Order or Bank Check, Visa or MasterCard

Department of Public Safety
Division



Liquor Licensing & Inspection

Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded. To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

BUREAU USE ONLY

License No. Assigned:

Class:

Deposit Date:

Amt. Deposited:

PRESENT LICENSE EXPIRES _____

INDICATE TYPE OF PRIVILEGE: ☐ MALT ☐ SPIRITUOUS ☐ VINOUS

INDICATE TYPE OF LICENSE:

☐ RESTAURANT (Class I,II,III,IV)

☐ HOTEL-OPTIONAL FOOD (Class I-A)

☐ CLASS A LOUNGE (Class X)

☐ CLUB (Class V)

☐ TAVERN (Class IV)

☐ RESTAURANT/LOUNGE (Class XI)

☐ HOTEL (Class I,II,III,IV)

☐ CLUB-ON PREMISE CATERING (Class I)

☐ GOLF CLUB (Class I,II,III,IV)

☒ OTHER: Off-premise Qualified Caterer

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) (Sole Proprietor, Corporation, Limited Liability Co., etc.) <u>Rosemont Market, Inc.</u> DOB: _____		2. Business Name (D/B/A) <u>Rosemont Market Productions</u>	
DOB: _____		Location (Street Address) <u>559 Brighton Ave</u>	
Address <u>559 Brighton Ave</u>		City/Town <u>Portland</u> State <u>ME</u> Zip Code <u>04102</u>	
DOB: _____		Mailing Address <u>- same -</u>	
City/Town <u>Portland</u> State <u>ME</u> Zip Code <u>04102</u>	City/Town _____ State _____ Zip Code _____		
Telephone Number <u>207-699-4336</u> Fax Number <u>699-4335</u>	Business Telephone Number <u>207-699-4336</u> Fax Number <u>699-4335</u>		
Federal I.D. # <u>20-1692319</u>	Seller Certificate # <u>2-270847</u>		

3. If premises are a hotel, indicate number of rooms available for transient guests: _____

4. State amount of gross income from period of last license: ROOMS \$ _____ FOOD \$ _____ LIQUOR \$ _____

5. Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐

complete Supplementary Questionnaire, If YES

6. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒

7. If manager is to be employed, give name: Joe Appel, 207-831-2553

8. If business is NEW or under new ownership, indicate starting date: _____

Requested inspection date: _____ Business hours: _____

9. Business records are located at: _____

10. Is/are applicants(s) citizens of the United States? YES ☒ NO ☐

11. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:
Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
John Naylor	5/9/56	NJ
Scott Anderson	10/7/57	NY

Residence address on all of the above for previous 5 years (Limit answer to city & state)

45 Fleetwood	Portland ME
232 Ray	Portland ME

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☐ NO ☒

Name: _____ Date of Conviction: _____

Offense: _____ Location: _____

Disposition: _____

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?
Yes ☐ No ☒ If Yes, give name: _____

15. Has/have applicant(s) formerly held a Maine liquor license? YES ☒ NO ☐

16. Does/do applicant(s) own the premises? Yes ☒ No ☐ If No give name and address of owner: _____

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) SEE ATTACHED

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?
YES ☒ NO ☐ Applied for: 3/12/2013

19. What is the distance from the premises to the NEAREST school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 300' Which of the above is nearest? St Ansgar Church

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☒ NO ☐

If YES, give details: Mortgages - Foxham Savings Bank

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: Portland, Maine on 15, 2013
Town/City, State Date

Please sign in blue ink

Signature of Applicant or Corporate Officer(s)

John G Naylor

Signature of Applicant or Corporate Officer(s)

Scott Anderson

Hand-drawn floor plan of a kitchen layout on graph paper. The plan shows two main food preparation areas, "FOOD PREP", and various storage and utility zones.

Right Side (Top to Bottom):

- WALK-IN COOLER
- 6-BURNER RANGE
- DOUBLE RANGE
- SINGLE RANGE

Top Wall (Left to Right):

- RAILER
- TRIPLE WARE SINK
- MIXER
- COOLER
- DRY STORAGE

Central Area:

- FOOD PREP (Large block)
- FOOD PREP (Medium block)

Left Side (Top to Bottom):

- WALK-IN COOLER
- COOLER
- HAND SINK
- DOUBLE WARE SINK
- FISH
- MIXER
- EQUIP. STORAGE

Bottom Wall (Left to Right):

- OVEN
- OVEN
- OVEN

Notes and Details:

- STAIRS TO BASEMENT (indicated by a hatched area and text)
- IN BASEMENT - toilet, laundry - storage - freezers
- DRY STORAGE (multiple locations)
- WALK-IN COOLER (multiple locations)

WALK-I
COOLER

STATE OF MAINE
Liquor Licensing & Inspection Unit
164 State House Station
Augusta, Maine 04333-0164
Tel: (207) 624-7220 Fax: (207) 287-3424

**SUPPLEMENTARY QUESTIONNAIRE FOR CORPORATE APPLICANTS, LIMITED LIABILITY COMPANIES AND
LIMITED PARTNERSHIPS**

1. Exact Corporate Name: Rosemont Market Inc
- Business D/B/A Name: Rosemont Market Productions
2. Date of Incorporation: 10/2005
3. State in which you are incorporated: ME
4. If not a Maine Corporation, date corporation was authorized to transact business within the State of Maine:

5. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list percent of stock owned:

Name	Address Previous 5 Years	Birth Date	% of Stock	Title
John Naylor	45 Fleecewood St Ptd ME	5/9/56	50	Treasurer
Scott Anderson	232 Ray St Ptd ME	10/7/56	50	President

6. What is the amount of authorized stock? _____ Outstanding Stock? _____
7. Is any principal officer of the corporation a law enforcement official? () YES (X) NO
8. Has applicant(s) or manager ever been convicted of any violation of the law, other than a minor traffic violation(s), of the United States? () YES (X) NO.
9. If yes, please complete the following: Name: _____

Date of
Conviction: _____ Offense: _____

Location: _____ Disposition: _____

Dated at: _____ On: _____
City/Town Date

Signature of Duly Authorized Officer

Date: 2/1/13

JOHN G NAYLOR
Print Name of Duly Authorized Officer

Rosemont Market Productions

Farm-based Food Excellence

Special Events

Wine Dinners

Wine and Food Education

Cool Pop-Up Events

DRAFT MENU

Tapas

Pipérade
Catalan Pork with Apricots and Plums
Seville Carrots
Eggplant and Boquerones
Spiced Olive Oil Beans
Roncal
Idiazabal



Huevos

Sparrow Farm Eggs
Spring Fava Beans
Frisée
Chicken Crackers
Sherry Vinaigrette



Bacalao

Casco Bay Salt Cod
Roasted New Crop Potatoes
Romesco
Preserved Lemon Aioli



Fideos

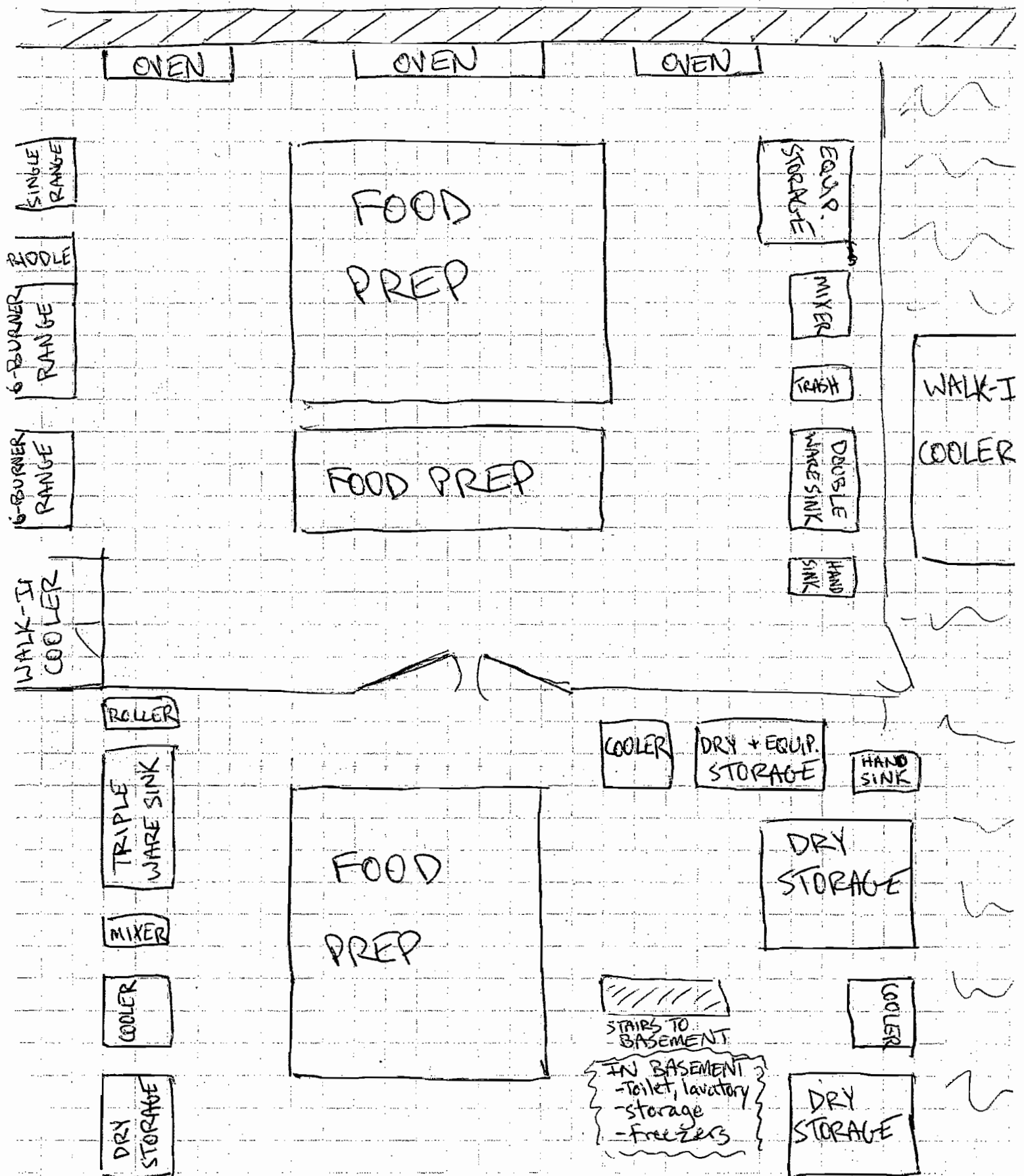
Slow-cooked Warren Maine Rabbit
Bangs Island Mussels
Saffron Pasta
Caramelized Onions



Albondigas

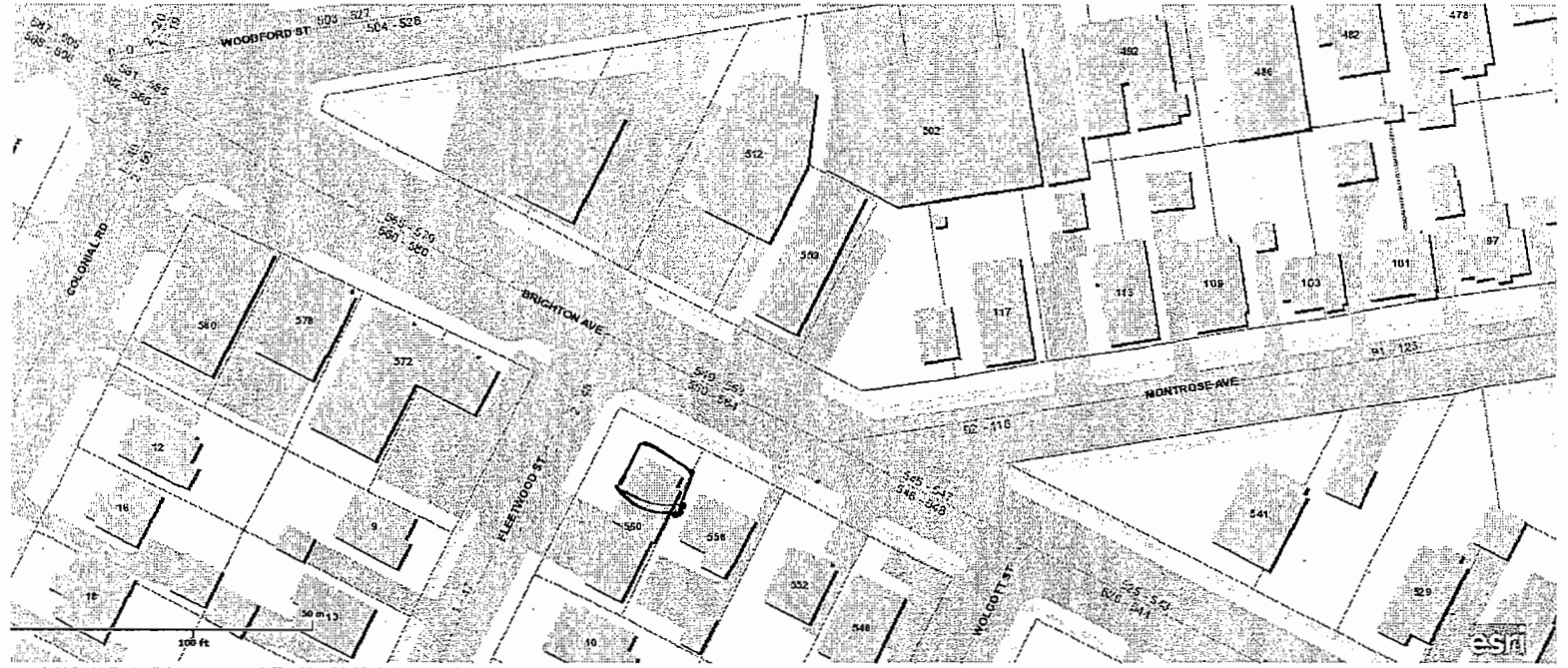
Caldwell Farm Beef
Straw Farm Lamb and Pork
Paprika-spiked Sauce
Carbanzos
Fishbowl Farm Spinach

Rosemont Market Productions: Food Preparation Area Plan



Rosemont Market Productions

359 Brighton Ave.



copyright 2011 Esri. All rights reserved. Tue Mar 26 2013 04:30:01 PM.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE) (207) 624-4478 (TDD)

Transaction Response #: MIQ99B776634

Criminal History Record

Introduction

This rap sheet was produced in response to the following request (Produced on 2013-03-18) :

Inquiries Name(s) JOHN NAYLOR (1956-05-09)

NO MATCH WAS FOUND FOR YOUR REQUEST.



MAINE STATE BUREAU OF IDENTIFICATION
45 Commerce Drive, Suite 1 / STATE HOUSE STATION # 42
AUGUSTA, ME 04333
(207) 624-7240 (VOICE) (207) 624-4478 (TDD)

Transaction Response #: MIQ99B776638

Criminal History Record

Introduction

This rap sheet was produced in response to the following request (Produced on 2013-03-18) :

Inquiries Name(s) SCOTT ANDERSON (1957-10-07)

NO MATCH WAS FOUND FOR YOUR REQUEST.

*Order 174-12/13
Tab 17 4-1-13*

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

**ORDER RECEIVING AND REFERRING CITY MANAGER'S
FISCAL YEAR 2014 MUNICIPAL BUDGET TO FINANCE COMMITTEE
AND SETTING DATE OF PUBLIC HEARING ON THE FY 2014 MUNICIPAL
BUDGET AND FY 2014 APPROPRIATION RESOLVE**

ORDERED, that the City Manager's Fiscal Year 2014 Municipal Budget is hereby received and referred to the Finance Committee for review; and

BE IT FURTHER ORDERED, that the City Council will hold a Public Hearing on the FY 2014 Municipal Budget and on the FY 2014 Appropriation Resolve on Monday, May 6, 2013, in City Council Chambers, 389 Congress Street at 7:00 p.m.

*Resolve 9-12/13
Tab 18 4-1-13*

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

**RESOLUTION OPPOSING BUDGET PROPOSALS TO
SHIFT BURDEN OF FUNDING STATE GOVERNMENT
TO THE PROPERTY TAX AND PROPERTY TAX PAYER**

WHEREAS, the Governor has submitted a proposed budget for the coming biennium that will dramatically shift the burden of funding state government to the property tax and property tax payers by eliminating or significantly modifying long-standing property tax relief programs; and

WHEREAS, the Governor's proposed budget would result in the City of Portland losing almost \$11.5 million dollars in funds as a result of proposals related to revenue sharing, teacher retirement, general assistance and the business equipment tax reimbursement (BETR) program; and

WHEREAS, the reductions in funding outlined in the proposed budget would significantly increase property taxes and compromise the City's ability to meet its resident's expectations and needs, as well as offer basic public services; and

WHEREAS, the City has always worked to maintain an effective partnership with state government; and

WHEREAS, this budget proposal significantly alters the City's partnership with the State and undermines the City's economic development and job creation efforts; and

WHEREAS, this budget proposal places a greater burden on Portland taxpayers to provide a quality education.

NOW, THEREFORE, BE IT RESOLVED, that the undersigned members of the Portland City Council strongly oppose the provisions in the Governor's recently proposed budget that would significantly shift the burden of funding state government to the property tax and property taxpayer. These proposals will dramatically increase property taxes in the City of Portland, taxes which often are unrelated to the ability of property owners to pay, and will require spending reductions which will call into question our ability to protect the health, safety and welfare of our community and provide our residents with government services; and

BE IT FURTHER RESOLVED, that the City Clerk shall forward a copy of this Resolution and the Council's action on it to the members of the Legislature representing the City of Portland, the members of the Appropriations and Taxation Committees, the Governor, the Speaker of the House, the President of the Senate and to Legislative leadership.

I, Katherine Jones, Clerk of the City of Portland, Maine do hereby certify that the foregoing Resolution, proposed by the City Council, was duly passed and adopted in the Council of the City of Portland, Maine at a meeting thereof assembled this 1st day of April, 2013, by the following vote:

Yes:

Nays:

Absent:

Seal:

Clerk, City of Portland, Maine

Resolution

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

Order 161-12/13
~~Tab 6~~ 3-18-13
Tab 19 4-1-13

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

**ORDER APPROVING CONTRACT WITH THE
ANIMAL REFUGE LEAGUE OF WESTBROOK**

ORDERED, that the City Manager is hereby authorized to execute a contract on behalf of the City with the Animal Refuge League of Westbrook in substantially the same form as Attachment 1 hereto.

**CITY OF PORTLAND
M E M O R A N D U M**

TO: Mayor and Council

FROM: Danielle West-Chuhta

DATE: March 4, 2013

RE: **Annual Contract with the Animal Refuge League of Westbrook**

The City of Portland contracts annually with the Animal Refuge League of Westbrook to meet our state mandated obligation to provide an animal shelter for the disposition of stray animals or those that are surrendered by their owners.

The annual fee charged by the shelter is based on a per capita charge. In 2012 it was \$1.32 per person based on a population of 66,194 (according to the July, 2010 estimated census) for a total of \$87,376.08

In calendar year 2012 through December 31st, the ARL processed 1146 animals from Portland of which 742 were cats.

As part of its agreement with the City (see paragraph 9) the ARL does charge owners seeking to redeem an impounded animal an impoundment fee plus the cost of boarding the animal. The ARL also requires the owner to pay all applicable fees including rabies, vaccination fees. It also requires them to pay municipal licensing fees prior to releasing a dog to its owner.

Given the volume of animals that come from the City of Portland and the location and service of the Animal Refuge League it is the recommendation of staff that the Council approve the proposed contract.



Letter of Transmittal

To: Danielle West-Chuta
City of Portland, Corporation Counsel
389 Congress Street
Portland, ME 04101

From: Joanne Majka

Date: February 27, 2013

Re: Town Contract Renewal 2014

CC: City of Portland, Emily Corday
File

Please find the enclosed Town Contract renewals in duplicate. Additionally, you will find animal statistics attached to the contracts.

To renew your contract with the ARLGP, enter the date on page 1 and sign on page 4 on each contract. Send one copy of the ARLGP Contract back to the ARLGP. Please return your contract no later than **June 1, 2013**.

Currently we collect and reimburse the City of Portland a \$20.00 Impound Fee (1st offense) from anyone who claims a dog or cat that was brought to us by the Portland ACO or a Portland officer, we collect \$40.00 Impound Fee (2nd offense), and a \$55.00 Impound Fee for each repeat offense. If you want to change this rate please notify us in writing.

In 2012, the ARLGP experienced increased amounts of highly conflicted animal issues including seized animals impacted by cruelty and neglect. It is each Municipality's responsibility to carry out enforcement activities required under the laws of the State of Maine and Ordinances of the Municipality.

If you have any questions or need additional information, please call Joanne Majka at 207-887-7217 x101 or Patsy Murphy at 207-887-7217 x104.

AGREEMENT

THIS AGREEMENT made and executed in duplicate this _____ (day) of _____ (month), 2013, by and between the City of Portland, a municipal corporation with a place of business located in the County of Cumberland, State of Maine (hereinafter "Municipality") and the Animal Refuge League of Greater Portland, a non-profit corporation organized and existing under the laws of the State of Maine, with a principal place of business located at 449 Stroudwater Street, in Westbrook, County of Cumberland, State of Maine, (hereinafter "ARLGP").

WITNESSETH:

WHEREAS, Municipality is required under the laws of the State of Maine to provide shelter at a State licensed animal control shelter (7 M.R.S.A. 3949) for stray and lost dogs, cats, and domesticated animals that are a problem in the community (hereinafter "Animals"); and

WHEREAS, Municipality is required under the laws of the State of Maine to provide services relating to the humane disposition of said Animals in the event they are not claimed by their owners; and

WHEREAS, ARLGP possesses both the expertise and facilities to provide these services;

NOW, THEREFORE, the parties hereby agree as follows:

1. Acceptance of Animals. Provided the ARLGP shelter is not under quarantine as imposed by State humane agent(s), State veterinarian(s), or contract veterinarian(s), ARLGP agrees that it will accept each and every stray, lost and confiscated domestic Animal delivered to it at the ARLGP shelter by a duly authorized Animal Control Officer, Police Officer or citizen of Municipality, provided the Animal was found within the territorial limits of Municipality. Said Animals shall be held for the legal impoundment period, after which the ARLGP will make such disposition as it, in its sole discretion, deems necessary and proper.
2. Delivery of Animals. Provided the ARLGP shelter is not under quarantine, all stray or lost Animals collected by the said Animal Control/Police Officer shall be delivered to ARLGP for the impoundment period provided the Animal Control/Police Officer cannot return the stray or lost Animal to its owner directly.
3. Delivery and Hours of Operation. ARLGP staff are regularly available between 7:00 a.m. and 5:00 p.m. Monday through Friday and between 7:00 a.m. and 4:00 p.m. Saturdays and Sundays. Whenever possible, delivery of said animals should be planned during those hours in order to ensure there is cage/kennel space available. After regular business hours, Animal Control/Police Officer(s) have access to limited temporary kenneling facilities at the ARLGP shelter.
4. Exclusive Rights and Custody. Municipality agrees that all Animals apprehended and seized within the boundaries of the Municipality and delivered to the ARLGP shall be under the exclusive control and custody of the ARLGP. Moreover, Municipality agrees that, so far as it is concerned, the ARLGP shall have the undisputed right, consistent with the laws of the State of Maine, to humanely dispose of every Animal given into its custody in accordance with State laws and the policies and procedures of the ARLGP.
5. Proper Care Required. ARLGP shall comply with animal care standards as required by State law for such Animals while they are in the ARLGP's possession.
6. Rabies Quarantine. The ARLGP shall quarantine on a space available basis for a period of at least ten (10) days, stray dogs and cats in the Municipality which have bitten residents of the

Municipality. Provision for rabies testing, and the costs therein, are the sole responsibility of the Municipality and/or its residents. The ARLGP is not obligated, nor does it have the space, to quarantine privately owned Animals.

7. Fees. For the services provided by the ARLGP, Municipality agrees to pay the ARLGP the total sum of \$87,376.08, which is based on 4 Quarters at the rate of \$1.32 per capita of the Municipality population 66194, from the 2010 Census. All money is payable in advance. Quarterly payments are in the amount of \$21,844.02 each for 4 quarters. The first installment is due on July 1st, 2013 and will be invoiced separately. It is mutually agreed that the fees provided herein may be renegotiated within ten (10) days written notice of either party, said renegotiated fees not to become effective until the annual renewal date, provided said fees are renegotiated not less than thirty (30) days prior to any renewal date.
8. Boarding of Confiscated Animals. The fees noted in Paragraph 7, above, shall cover all boarding for Animals delivered to the ARLGP and held other than those pending court proceedings. It is important to note that in the case of seizures due to cruelty and or neglect, costs and fees for animal care are the municipality's responsibility. The law does provide for the municipality's reimbursement from the animal's owner. ARLGP fee schedules are available upon request.
9. Impoundment Fee Collection and Licensing. The ARLGP agrees that it will require every owner seeking to redeem an impounded Animal to pay the appropriate municipal impoundment fee, plus the cost of board at a rate to be determined by the ARLGP for each day of impoundment from the date of impoundment. Further, the ARLGP will require the owner of every impounded Animal to pay all applicable fees, including veterinary medical and vaccination fees, of an impounded Animal. The ARLGP shall also require proof of licensure prior to releasing a dog into the custody of the owner in accordance with 7 M.R.S.A. 3913(3) (C), as may be amended or will provide owner with a ten (10) day temporary license and forward copies to Municipality.
10. Documentation. The ARLGP agrees to provide to Municipality an annual detailed record of the number of stray or lost Animals seized within the territorial limits of Municipality and received by the ARLGP.
11. Enforcement Activities. Municipality shall be fully responsible for carrying out all enforcement activities required under the laws of the State of Maine and the Ordinances of the Municipality, as may be amended. The ARLGP shall not be required to apprehend or seize any Animals found roaming at large.
12. Donations and Gifts. Any and all donations, contributions, or anything of value given to or received by the ARLGP as a result of any service performed in carrying out the provisions of the Agreement, including but not limited to payments received pursuant to Paragraph 7 above, shall be the exclusive property of the ARLGP, and Municipality shall have no claim or interest therein.
13. Adoption Authority. The ARLGP shall have the sole and exclusive right to determine the responsibility of persons offering to become the owners of unclaimed Animals and the suitability of homes offered, and shall have the sole and exclusive right to accept or reject such applicants for unclaimed Animals.
14. Veterinary Care. As prescribed by 7 M.R.S.A. § 3948, the municipality is responsible for providing proper medical attention to any injured stray companion animal. The ARL will not accept any injured stray animal that has not received proper veterinarian medical care. Municipality agrees that it shall obtain appropriate emergency veterinary care for injured Animals prior to delivery to the ARL shelter. In the event that Municipality delivers an injured Animal to the ARL without first obtaining appropriate emergency veterinary care, the ARL, in its sole

discretion, may elect either to refuse acceptance of such Animal or to accept delivery of such Animal and procure the veterinary care it deems necessary or appropriate. Municipality agrees to reimburse the ARL for the costs of emergency and required follow up care within ten (10) days from the receipt of an invoice.

At no time will the municipality drop off any injured stray companion animal to the ARL during closed hours unless prior arrangements have been made with an ARL representative.

15. Animal Control Officers. Municipality agrees that it shall notify the ARLGP, in writing, of the identities of all of its duly authorized Animal Control Officers. Municipality agrees that it will provide each Animal Control Officer with a copy of the animal control laws of the State of Maine contained in the booklet published by the Maine Animal Welfare Board, the sections of the Municipality's Codes or Ordinances which are pertinent to the performance of their duties, and the terms of this Agreement. Animal Control Officers must also be certified as required by Title 7 M.R.S.A. 3947.
16. Independent Capacity. The ARLGP, its officers, employees, agents and volunteers shall act in an independent capacity during the term of this Agreement and shall not act or hold themselves out as officers, employees, agents or volunteers of Municipality. Municipality, its employees, agents and representatives shall act in an independent capacity during the term of this Agreement and shall not act or hold themselves out as officers, employees, agents or volunteers of the ARLGP. Nothing in this Agreement shall be deemed by either party or by any third party as creating a joint venture or partnership between the ARLGP and Municipality.
17. Indemnity. The ARLGP shall, at its own expense, defend, indemnify and save Municipality harmless from and as to all demands, claims, causes of action or judgments as the extent that some loss or claim results from the error, omission, negligence or fault of the ARLGP, its officers, employees or agents.
18. Compliance. The ARLGP agrees to comply with applicable federal and state laws and regulations in the performance of this Agreement.
19. Assignment. This Agreement shall not be assigned by either party without the prior written approval of the other party.
20. Other Services. The ARLGP offers to provide the following services to Municipality at no additional cost to Municipality:
 - a. Cremation Services: The ARLGP will accept for cremation stray or lost Animals, dead on arrival, from animal control officers, or duly authorized law enforcement personnel.
 - b. Telephone Services: To avoid confusion, the ARLGP will take all telephone inquiries regarding reclaiming an Animal and adopting an Animal. Under special circumstances involving suspected abuse or neglect, the Animal Control/Police Officer(s) may request that they be contacted prior to an Animal being reclaimed by its owner.
 - c. Lost and Found Pet Services: ARLGP staff will take lost and found reports to facilitate the return of pets to their owners.
 - d. Education Services: ARLGP staff and volunteers will be available for conducting education programs upon request to any interested community group or organization, including schools, grades K through 12.
21. Term. The term of this Agreement shall be from July 1, 2013, to June 30, 2014.

22. End of Term. At or before the end of the term of this Agreement, the parties shall negotiate the terms and conditions of either an extension of this Agreement or a new Agreement. As long as Municipality is negotiating in good faith, the ARLGP agrees to continue to receive and care for stray and lost Animals pursuant to the terms and conditions of this Agreement as may be in effect at the end of the term. Provided, however, that such obligation shall not exceed three (3) months and that Municipality continues to make quarterly payments as were in effect at the end of the term.
23. Complete Agreement. This Agreement represents the entire agreement between the parties and no oral or prior written matter shall have any force or effect. No amendment shall be effective without prior express written approval signed by both parties hereto. Neither party shall be bound by any conditions not expressly stated in this Agreement.
24. Binding. This Agreement is binding upon, and shall inure to the benefit of the heirs, assigns and successors in interest of the parties hereto.
25. Severability. If any provisions of this Agreement shall be adjudged to be invalid or unenforceable by final judgment of a court of competent jurisdiction, such invalidity or unenforceability shall not affect the validity of the Agreement and the remaining provisions of the Agreement shall be construed as if not containing such provision and, thereafter, the rights and obligation of the parties shall be construed and enforced under the remaining provisions of the Agreement.
26. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Maine.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed on their behalf, in duplicate counterparts, as of the date first above written.

CITY OF PORTLAND

By: _____ Witness: _____

Printed Name: _____ Printed Name: _____

Its: _____

ANIMAL REFUGE LEAGUE OF GREATER PORTLAND

By: Patsy Murphy Witness: Joanne Majka

Printed name: Patsy Murphy Printed Name: Joanne Majka

Its: Executive Director

ANIMAL REFUGE LEAGUE KENNEL STATISTICS FOR PORTLAND

INTAKES BETWEEN 01/01/12 AND 12/31/12

	CAT	DOG	KITTEN	OTHER	RABBIT	TOTAL
BORN HERE	22	0	2	0	0	24
CONFISCATE	8	15	0	0	1	24
CREMAT REQ	3	3	0	1	1	8
DISPO REQ	5	2	0	0	0	7
EUTH REQ	2	7	0	3	0	12
FOSTER	103	0	18	1	6	128
FOUND	0	0	0	1	0	1
LITTERHELP	10	0	1	0	0	11
OWNER SUR	282	65	9	39	21	416
PAST PRGRM	4	0	0	0	0	4
RETURN	18	5	0	0	8	31
STRAY	266	135	13	17	4	435
TRANSFER	19	0	1	0	0	20
WILDLIFE	0	0	0	25	0	25
TOTAL	742	232	44	87	41	1146

ANIMAL REFUGE LEAGUE KENNEL STATISTICS FOR PORTLAND

OUTCOMES BETWEEN 01/01/12 AND 12/31/12

	CAT	DOG	KITTEN	OTHER	RABBIT	TOTAL
ADOPTION	524	80	14	15	24	657
CREMAT RTO	2	3	0	1	1	7
DIED	6	0	7	0	0	13
DISPOSAL	6	2	0	0	0	8
ENTRY ERRO	1	2	0	0	0	3
EUTH	19	23	0	17	0	59
FOSTER	99	1	22	2	7	131
RELOCATE	4	0	0	0	0	4
RTO	56	115	0	1	1	173
TNR	2	0	0	0	0	2
TRANSFER	39	11	1	54	0	105
TOTAL	758	237	44	90	33	1162

Animals on hand on December 31, 2012 = 46

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

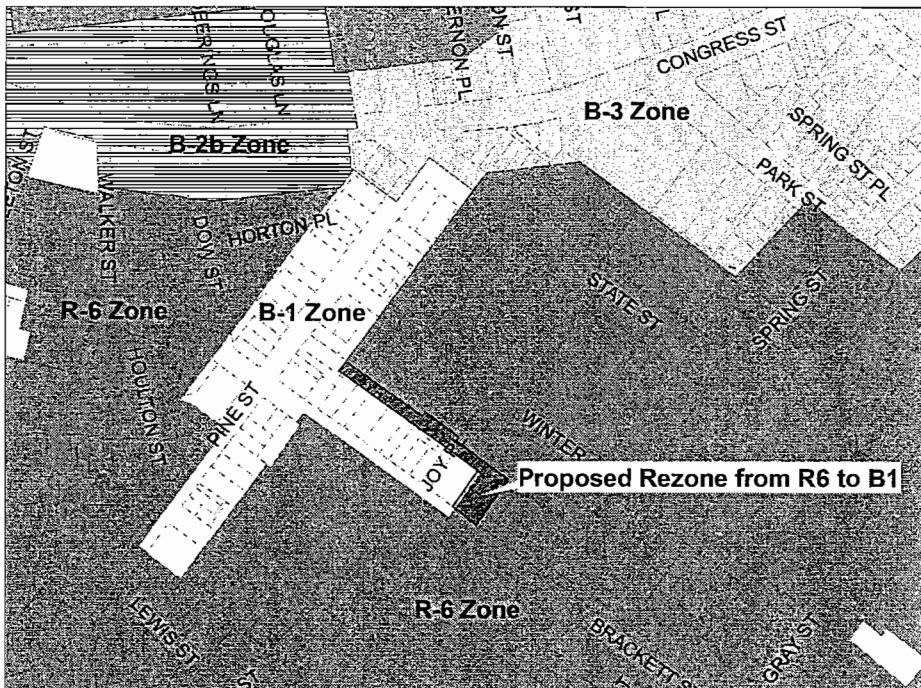
CITY OF PORTLAND
IN THE CITY COUNCIL

Order 162-12/13
~~Tab 7~~ 3-18-13
Tab 20 4-1-13
JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

AMENDMENT TO ZONING MAP AND TEXT
RE: 155 BRACKETT STREET FROM R6 RESIDENTIAL ZONE TO B-1
NEIGHBORHOOD BUSINESS ZONE

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:**

That the Zoning Map of the City of Portland, dated December 2000, as amended and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by §14-49, be and hereby is amended by adopting the following map change amendment depicted below.



Proposed Zoning Map Amendment
R6 Residential to B1 Neighborhood Community
November, 2012

Map produced by the City of Portland Planning Division using GIS Work Group data



and;

BE IT FURTHER ORDERED, that section 14-162(a)(2) and (4) of the Portland City Code is hereby amended to read as follows:

Sec. 14-162. Permitted uses.

(a) The following uses are permitted in the B-1 zone and on the ground floor level of buildings in the B-1b zone. For permitted uses in the upper stories of buildings in the B-1b zone, refer to subsection (5) below: in existence on November 15, 1993:

. . .

2. *Business:* Business uses listed below are permitted, provided that such use which generates in excess of a ratio of 100 peak hour vehicle trips per 2000 sq.ft. of space, and generates in excess of 100 peak hour vehicle trips is prohibited. As set forth in the City of Portland Technical Manual, section I, the city traffic engineer shall require a traffic study when it calculates the proposed use will generate in excess of a total of 50 peak hour vehicle trips.

...

(g) Studios for artists, photographers and craftspeople including but not limited to, painters, sculptors, dancers, graphic artists and musicians.

...

4. *Other:*

(g) Neighborhood center.

**City of Portland, Maine
City Council Agenda Request Form**

TO: Sonia Bean, Senior Administrative Assistant
FROM: Alexander Jaegerman, Planning Division Director
DATE: March 5, 2013
RE: Rezone from R6 to B1 and Text Amendment Vicinity of 155 Brackett St.

- 1) Council meeting at which action is requested:

1st reading: March 18, 2013

Final action: April 1, 2013

- 2) Can action be taken at a later date: X YES _____ NO
If not, why not: _____

- 3) This item is sponsored by: Carol Morrisette, Chair, Portland Planning Board
(If the item is sponsored by a Council Committee include the date the committee met and the outcome of the vote.)

cc: Mark Rees, City Manager
Mayor Brennan
Danielle West-Chuhta, Corporation Counsel
Terry Tucker, Administrative Assistant

If a memorandum addresses the following issues you may attach and reference the memorandum but please highlight it so staff can easily answer I-V.

I. SUMMARY OF ISSUE

The Portland Planning Board recommends to City Council a zoning map amendment for the property at 155 Brackett Street (commonly referred to as the Peoples Building) from R6 Residential to B1 Neighborhood Business zone. The Board also recommends a map amendment to rezone the rear portion of lots along Brackett Street to B1 zone, which are split between the B1 and R6 zones. The B1 map amendment is proposed in order to enable the existing grandfathered commercial uses at 155 Brackett Street to be permitted uses and to incorporate the entire lots of adjoining properties into the B1 zone. In addition, a B1 zoning text amendment is proposed that adds studios for artists, photographers and craftspeople, including but not limited to, painters, sculptors, dancers, graphic artists and musicians; and Neighborhood Centers as permitted business uses. The 155 Brackett Street parcel is owned by Youth in Action and includes the following businesses: Fresh Approach (a local specialty grocer, on the first floor); artist studios on the second floor and a dance and yoga studio with office space on the third floor. The B1 Neighborhood Business Zone would allow the current businesses as permitted uses.

II. REASON FOR SUBMISSION (What issue/problem will this address?)

155 Brackett Street has been used as a school, shirt factory and a mixed use building. At one time, it was located in the B1 business zone, but was rezoned to R6 in the 1970's. The objective of this B1 map amendment is to bring the building and the rear lots of adjoining property into the B1 zone. The proposed text amendments are intended to add specific uses (artist studio and dance studio) as permitted uses in the B1 zone.

III. INTENDED RESULT (How does it resolve the issue/problem?)

The proposed B1 map amendment encompasses the property located at 155 Brackett Street and the rear portions of the properties west of 155 Brackett Street and Joy Place, which are split between two zones, R6 and B1. The buildings located on the westerly side of the parcel are mostly commercial uses. The uses on the 155 Brackett Street site have historically been consistent with the B1 zone and this proposed text amendments will allow for other small-scaled commercial development to locate in the building and along the Brackett Street. These commercial uses provide services to the adjoining residential neighborhoods. The proposed text amendments will add studio uses and neighborhood centers to the B-1 zone, which are uses that are consistent with the purpose of the neighborhood business districts.

IV. FINANCIAL IMPACT

There is no financial impact due to this rezone and text amendment proposal

V. PLANNING BOARD RECOMMENDATION

On February 12, 2013 the Planning Board voted unanimously (6-0, O'Brien absent) that the map amendment is consistent with the Comprehensive Plan and the Board recommends to City Council adoption of the map amendment for 155 Brackett Street, along with the rear portions of the properties on Brackett Street and Joy Place from R6 Residential to B1 Neighborhood Business.

The Planning Board voted unanimously (6-0, O'Brien absent) that the proposed text amendments to the B-1 Neighborhood Business zone are consistent with the Comprehensive Plan and recommends to City Council adoption of the amendments to add studios and neighborhood centers as permitted uses:

- Studios for artists, photographers and craftspeople including but not limited to, painters, sculptors, dancers, graphic artists and musicians; and
- Neighborhood Centers

The Planning Board members supported the proposed rezoning of the properties. One Board member asked about the potential noise impacts of including 'musicians' as part of the list of permitted studios. The term 'musician' is not defined in the zoning ordinance, however, the B1 zone has a noise standard that limits levels to no more than fifty-five (55) decibels. Thus, all uses including music studios must comply with the noise limits of the zone.

Attachments:

1. Planning Board Report



CITY COUNCIL REPORT **PORTLAND, MAINE**

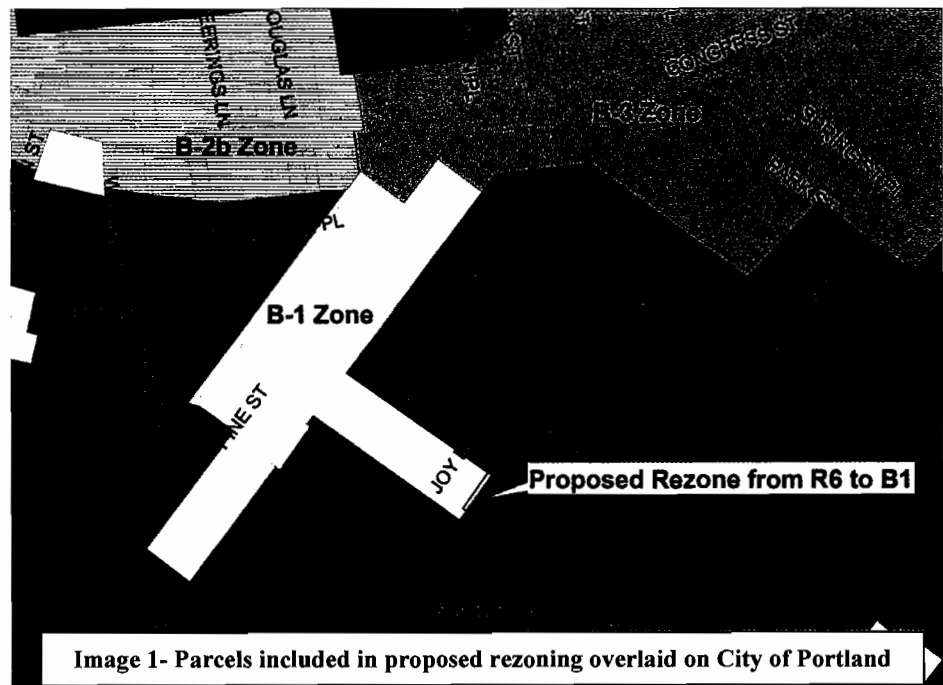
Rezone from R6 to B1 and Text Amendment
Vicinity of 155 Brackett Street
Neighborhood Business B1 Zoning Map and Text Amendment
Project ID #2012-642
City of Portland- Applicant

Submitted to: City Council	Prepared by: Shukria Wiar, Planner
First Reading: March 18 th , 2013	Date: February 13, 2013
Second Reading: April 1 st , 2013	City Council Report Number: 16-13

I. INTRODUCTION

The Portland Planning Board recommends to City Council a zoning map amendment for the property at 155 Brackett Street (commonly referred to as the Peoples Building) from R6 Residential to B1 Neighborhood Business zone. The Board also recommends a map amendment to rezone the rear portion of lots along Brackett Street to B1, which are split between the B1 and R6 zones, as shown on the map below. The Planning Board held a workshop meeting on this item on November 27, 2012 and a public hearing on February 12, 2013. At the hearing the Board recommended to the City Council the approval of the zoning map and text amendment.

The B-1 map amendment is proposed in order to enable the existing grandfathered commercial uses at 155 Brackett Street to be permitted uses and to incorporate the entire lots of adjoining properties into B-1. In addition, a B1 zoning text amendment is proposed that adds Studios for artists, photographers and craftspeople, including but not limited to, painters, sculptors, dancers, graphic artists and musicians; and Neighborhood Centers as permitted business uses. The 155 Brackett Street parcel is owned by Youth in Action and includes the following businesses: Fresh Approach (a local specialty grocer, on the first floor); artist studios on the second floor and a dance and yoga studio with office space on the



Proposed Zoning Map Amendment
R6 Residential to B1 Neighborhood Community
November, 2012

Map produced by the City of Portland Planning Division using GIS Work Group data



third floor. The B1 Neighborhood Business Zone would allow the current businesses as permitted uses. Unlike the R6 zone, which is intended for high density residential uses and does not permit commercial uses, the B1 Neighborhood Business Zone would allow the current businesses as permitted uses.

Councilor David Marshall requested a zoning evaluation for this site be conducted, see Attachment 4. Given the history of this property, the zoning has been a long-standing problem, but never resolved. The object of this effort is to correct a zoning deficiency with the B-1 map amendment and to clarify that specific uses (artist studio, dance studio and yoga studio) are allowed in the B1 zone.

I. PUBLIC COMMENT

The City Council Hearing will be noticed for the second reading to the area property owners within 1000 feet and the interested citizens list. A legal notice will appear in the *Portland Press Herald*.

As of the writing of this memo, no public comment has been submitted to the Planning Authority concerning this proposal.

II. PROJECT DATA

Current Zoning:	R6 Residential
Proposed Zoning:	B1 Neighborhood Business
Current Uses:	Community Center, offices, retail store, artists' studios, yoga/dance studio
Proposed Uses:	Uses to stay the same but intent is to permit more uses for the site.
Land Area:	8,250 sq. ft.

III. BACKGROUND AND EXISTING CONDITIONS

a. History of Uses and Zoning

The three-story brick building at 155 Brackett Street was built in 1852 as schoolhouse and operated as an education institute. A letter was written on December 12, 1968 from R. Lovell Brown, Director of Building Inspection Department to Model Cities classifying the use of the building as Type 'A', which confirms that the building was still being used as a school at that time. A memo from Model Cities to the Director of Building Inspection Department, dated December 11, 1970, articulated a proposal by Youth in Action to use the building as a Community Development building with three programs associated with it: youth, economic and community development. The Brackett Street building became known as the People's Building and it has been used for a number of different enterprises over the years. In 1974, Reiche School was opened across the street as the primary school for the neighborhood.

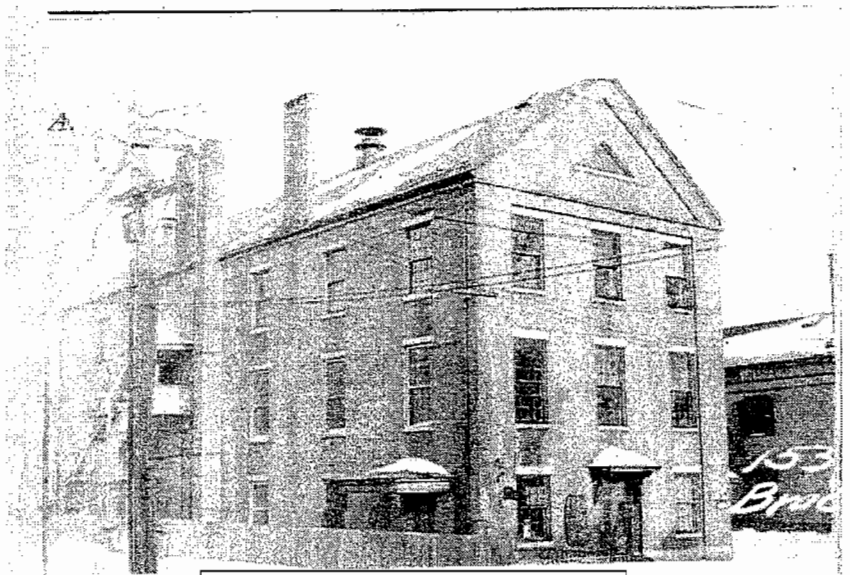


Image 2- 1924 Photo of the Building

Based upon research of building inspection records, it appears that the site was previously located within the B1 zone. The earliest permit on record was issued on October 1, 1971 for a change of use from a dress factory to a youth training center. The site was zoned B1 Business Zone at the time. On July 5, 1977, the owner, Youth in Action was issued a change of use permit to establish a 'store and youth organization'. All the permits issues since 1977 are to the retail space on the first floor and do not apply to the second and third floor, therefore the current use for these floors is 'youth organization'. It appears the site was rezoned from B-1 to R-6 in 1977 (Attachment 5); however, the planning staff has not found any documentation regarding the rezoning.

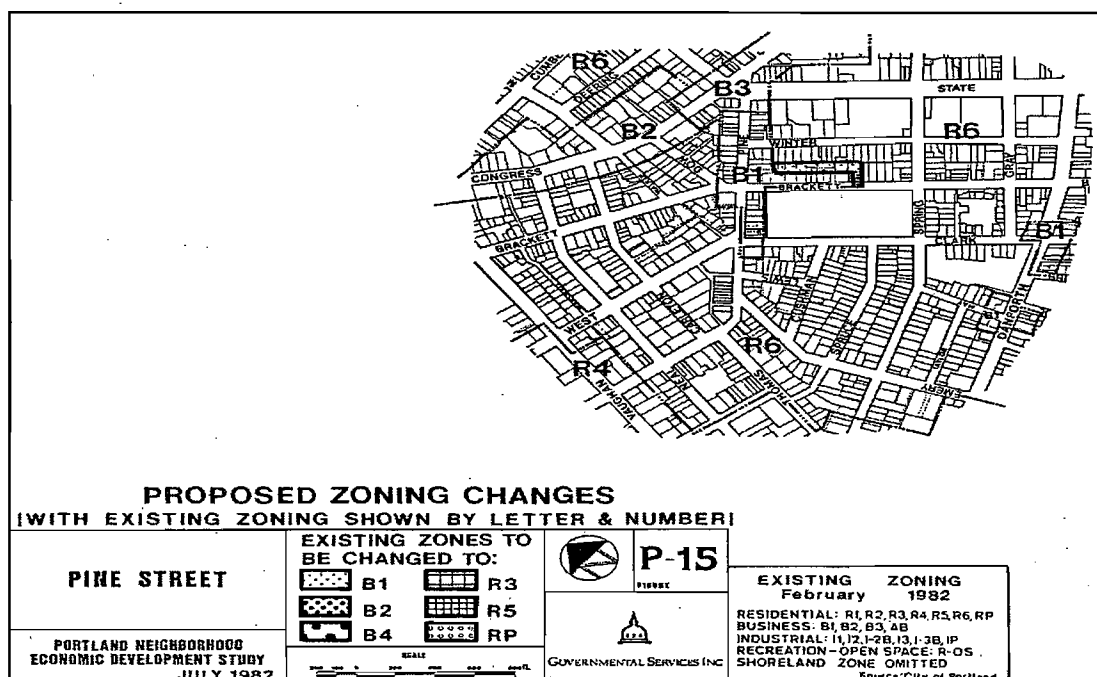
b. Current Land Uses and Zoning

Currently, the first floor of 155 Brackett Street is being used as retail space for Fresh Approach. The uses of the second and third floor include artist studios, and a dance and yoga studio with an office, respectively. The fourth floor is used for storage. According to the Inspection Division records, a change of use permit was never obtained for these uses, so the uses are non-conforming and not permitted under the R-6 zone. The use of community center, which falls under places of assembly, is a conditional use in the R6 zone.

In addition to the above property, development in the immediate vicinity includes a Cumberland Farms convenience store and gas station; multi-family residential; Reiche School; Brackett Street Veterinary Clinic; Caiola's; Bonobo Pizza; Portland West Neighborhood Planning Council; Mercy Hospital. The buildings located between 155 Brackett Street and Spring Street, are in the R-6 zone and are all in residential use as multi-family buildings.

The *Neighborhood Economic Development Study* was prepared in 1982 and was the basis for commercial goals and policies adopted in 1988 (Attachment 3). Both documents were included in the compilation that was adopted in 2005. The plan specifically identifies the vicinity of 155 Brackett Street as the Pine Street Commercial Center and lists this area as a possible candidate for rezoning from R6 to B1. Along with this parcel, the study also recommends that the back portions of the properties on Brackett Street (in the B1) and Joy Place also be rezoned to B1. It was the intention of the study to have this parcel as B1, but this specific rezoning was not implemented. The Planning staff cannot locate any documentation explaining why this recommendation was not implemented.

Image 3- Neighborhood Economic Development Study Rezoning Map of the Site.



IV. ZONING MAP AMENDMENT PROPOSAL

The proposed B-1 map amendment encompasses the property located at 155 Brackett Street and the rear portions of the properties west of 155 Brackett Street and Joy Place, which are split between two zones, R-6 and B-1. The buildings located on the westerly side of the parcel are mostly commercial uses. The buildings located to the east of 155 Brackett Street toward Spring Street, are in the R-6 zone and are all multi-family buildings. The proposal does not include these lots. In order to bring the proposed area into zoning compliance, the City is requesting that the area be rezoned to B1 zone, as shown on the map on page 1. The uses on the 155 Brackett Street site have historically been consistent with the B-1 zone and are inconsistent with R-6 zone. Rezoning the parcel to B1 zone would permit the existing business uses at 155 Brackett Street and allow for other small-scaled commercial development to locate in the building and along Brackett Street. These commercial uses provide services to the adjoining residential neighborhoods.

Image 4- Vicinity of Proposed Zoning Map Amendment: Areas under consideration for rezoning are outlined in red



V. ZONING TEXT AMENDMENT PROPOSAL

The proposed text amendment revises paragraph Section 14-162(a) (2) Business in order to add artist dance and yoga studios under the "business" category and to add neighborhood centers under the "other" category. The proposed text amendment is as follows:

2. *Business:* Business uses listed below are permitted, provided that such use which generates in excess of a ratio of 100 peak hour vehicle trips per 2000 square feet of space, and generates in excess of 100 peak hour vehicle trips is prohibited. As set forth in the City of Portland Technical Manual, section I, the city traffic engineer shall require a traffic study when it calculates the proposed use will generate in excess of a total of 50 peak hour vehicle-trips.

...
g. Studios for artists, photographers and craftspeople including but not limited to, painters, sculptors, dancers, graphic artists and musicians;

4. *Other:*

...
g. Neighborhood Center

VI. R-6 AND B-1 ZONING POLICY ANALYSIS

a. R6 Residential Zone

According to Section 14-116 of the City Code, the R6 zone allows for high-density residential development characterized by high-intensity multifamily dwellings on individual lots. R6 zones are located primarily on Peninsula with a few locations off-peninsula.

b. B-1 Neighborhood Business Zone

The purpose of the B-1 neighborhood business zone (Section 14-181) is as follows:

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.

The B-1 zone includes additional requirements concerning exterior storage and signage, landscaping, screening and front-yard parking. The current uses of the building on the site would be allowed in the B1 zone. According to the City of Portland GIS data, the parcel meets the dimensional requirements of the B1 zone.

VII. COMPREHENSIVE PLAN ANALYSIS

a. Portland Comprehensive Plan

Volume 1 of the Portland Comprehensive Plan includes references to all Portland strategic plans compiled as components of the comprehensive plan and how each addressees the state Growth Management Goals. Goals and policies of both the state and the city, as described in the strategic plans that comprise the Portland Comprehensive Plan, which are relevant to the proposed map amendment have been included below:

1. PORTLAND NEIGHBORHOOD ECONOMIC DEVELOPMENT STUDY, 1982

Goals

- *Restructure the City's zoning ordinances to accurately reflect the hierarchy of commercial centers. This would result in five commercial districts: R-P Residence- Professional to serve as a buffer district; B-1 Neighborhood Business District to provide limited areas for the location of small scale retail and service establishments; B-2 Community Business District to provide several major locations for a variety of retail, service and office uses; B-3 Downtown Business District; and B-4 Commercial Corridor District to provide locations for businesses that rely particularly on the regional highway network.*

2. COMMUNITY COMMERCIAL POLICIES AND LAND USE PLAN, 1987

Goals

- *The City shall seek to accommodate its commercial activity within a range of functionally and physically defined commercial centers.*
- *The City shall promote preservation and revitalization of its existing commercial centers and maintain a scale within then that is compatible and integrated with other land uses.*
- *The City shall maintain and promote a community which is attractive to both existing and prospective families and homeowners to help support the neighborhood commercial district*

3. HOUSING: SUSTAINING PORTLAND'S FUTURE – November 18, 2002

Goal

- *Portland's Comprehensive Plan encourages a manageable level of growth that will sustain the city as a healthy urban center in which to live and work and to achieve a shared vision for Portland. Portland should encourage sustainable development patterns and opportunities within the city by promoting efficient land use, conservation of natural resources, and easy access to public transportation, services, and public amenities.*

Housing Policies

- *Maximize development where public infrastructure and amenities, such as schools, parks, public alternative transportation, sewer lines, and roads, exist or may be expanded at minimal costs.*
- *Encourage neighborhood business centers throughout the city to reduce dependence on the car and to make neighborhood life without a car more practical.*

4. A TIME OF CHANGE: PORTLAND TRANSPORTATION PLAN - July 1993

Transportation Policies

- *Vibrant neighborhoods include nearby, small-scale commercial areas that provide both convenient service and natural meeting places. Provide routine, daily services within walking distance of residents of all neighborhoods, as long as the businesses providing the services are small-scale, are designed compatibly with residences, and fit into the fabric of the neighborhood.*

- *Allow development along transit corridors and near community commercial centers to evolve at a density sufficient to make public transit, walking, and biking viable options.*

b. Policy Analysis

The *Neighborhood Economic Development Study* specifically identifies the vicinity of 155 Brackett Street as the Pine Street Commercial Center ([Attachment 9](#)). The report describes this area as a gradually expanding neighborhood center catering primarily to the local residential neighborhood. This growth is described as limited and the success of the commercial center 'depends on establishing a stronger identity as the neighborhood's business center'. The report recommends that the B1 zone encompassing the Pine Street commercial center should be retained as a Neighborhood Business District; the City and neighborhood businesses should together undertake a comprehensive effort to strengthen this neighborhood center's identity, and rezoning a portion of the parcels off of Brackett Street, including 155 Brackett Street to B1 Neighborhood Community. This proposal is illustrated on a proposed zoning map contained in the report ([Attachment 1](#)). At the time of the report (1982) the parcel was zoned R6, as it is currently; however it was not rezoned during the comprehensive implementation of this that occurred in 1988 and staff cannot determine why this particular recommendation was not implemented.

Since 1988, commercial development has congregated along Pine Street and at the intersection with Brackett Street, with residential development located behind this site. Both *Housing: Sustaining Portland's Future* and the *Portland Transportation Plan* identify the establishment of neighborhood business centers within walking distance of residential neighborhoods as a priority. The uses on the site have historically been consistent with the B-1 zone and are inconsistent with R-6. Rezoning the parcel to B1 would allow the existing business uses at 155 Brackett and permit other small-scaled commercial development to be located in the building and along Brackett Street. These commercial uses provide amenities to the adjoining residential neighborhoods.

VIII. PLANNING BOARD RECOMMENDATIONS

On February 12, 2013 the Planning Board voted unanimously (6-0, O'Brien absent) that the map amendment is consistent with the Comprehensive Plan and the Board recommends to City Council adoption of the map amendment for 155 Brackett Street, along with the rear portions of the properties on Brackett Street and Joy Place from R6 Residential to B1 Neighborhood Business.

The Planning Board members supported the proposed rezoning of the properties and the text amendments. One Board member asked about the potential noise impacts of including 'musicians' as part of the list of permitted studios. The term 'musician' is not defined in the zoning ordinance; however, the B1 zone has a noise standard that limits levels to no more than fifty-five (55) decibels. Thus, all uses including music studios must comply with the noise limits of the zone.

The Planning Board voted unanimously (6-0, O'Brien absent) in favor of the following recommendations to City Council:

1. *Map Amendment from R6 Residential to B1 Neighborhood Business Zone*

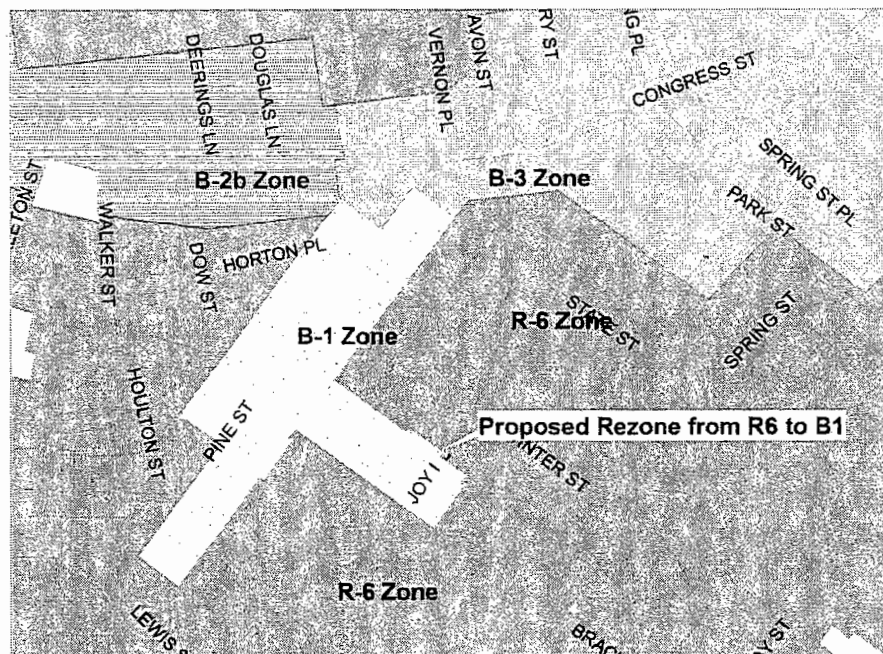
The Planning Board finds that the proposed rezoning for the a property located at 155 Brackett Street and the back portions of the properties on Brackett Street (in the B1 zone) and Joy Place is consistent with the Comprehensive Plan of the City of Portland and is consistent with the policies of the B1 Neighborhood Business Zone, Division 10 of the Land Use Code; and

That the Planning Board therefore recommends to the City Council approval of the zoning map amendment for 155 Brackett Street, along with the back portions of the properties on Brackett Street and Joy Place from R5 Residential Zone to B1 Neighborhood Business Zone (as shown on the map below).

2. Text Amendments to B1 Neighborhood Business Zone

That the proposed Text Amendments to add Studios for artists, photographers and craftspeople including but not limited to, painters, sculptors, dancers, graphic artists and musicians; and Neighborhood Centers in the B1 Neighborhood Business Zone as described in this are consistent with the Comprehensive Plan of the City of Portland; and

That the Planning Board therefore recommends to the City Council approval of the Text Amendments to add Studios for artists, photographers and craftspeople including but not limited to, painters, sculptors, dancers, graphic artists and musicians; and Neighborhood Centers in the B1 Neighborhood Business Zone to the City Council for its approval.

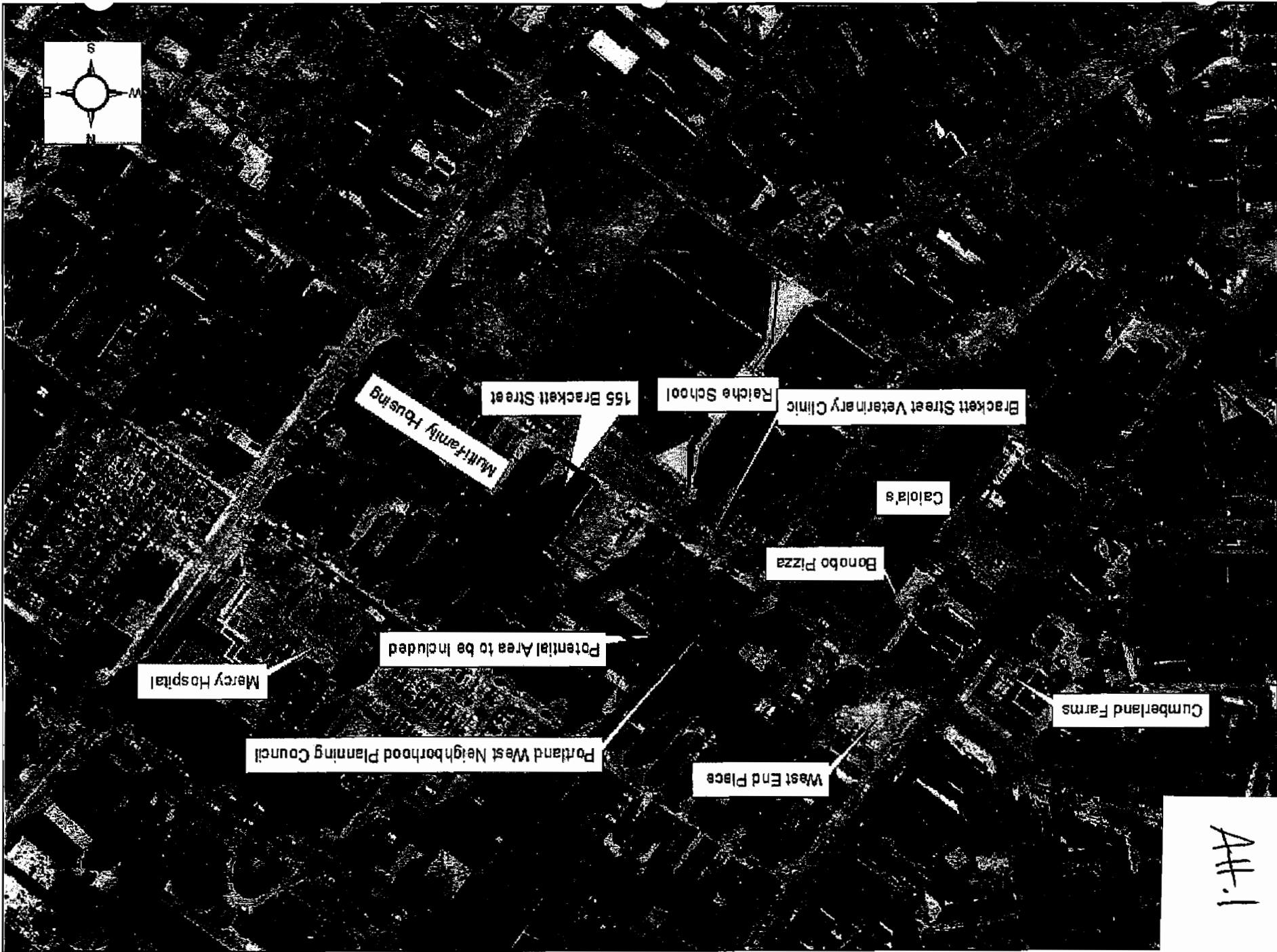


Proposed Zoning Map Amendment
R6 Residential to B1 Neighborhood Community
November, 2012

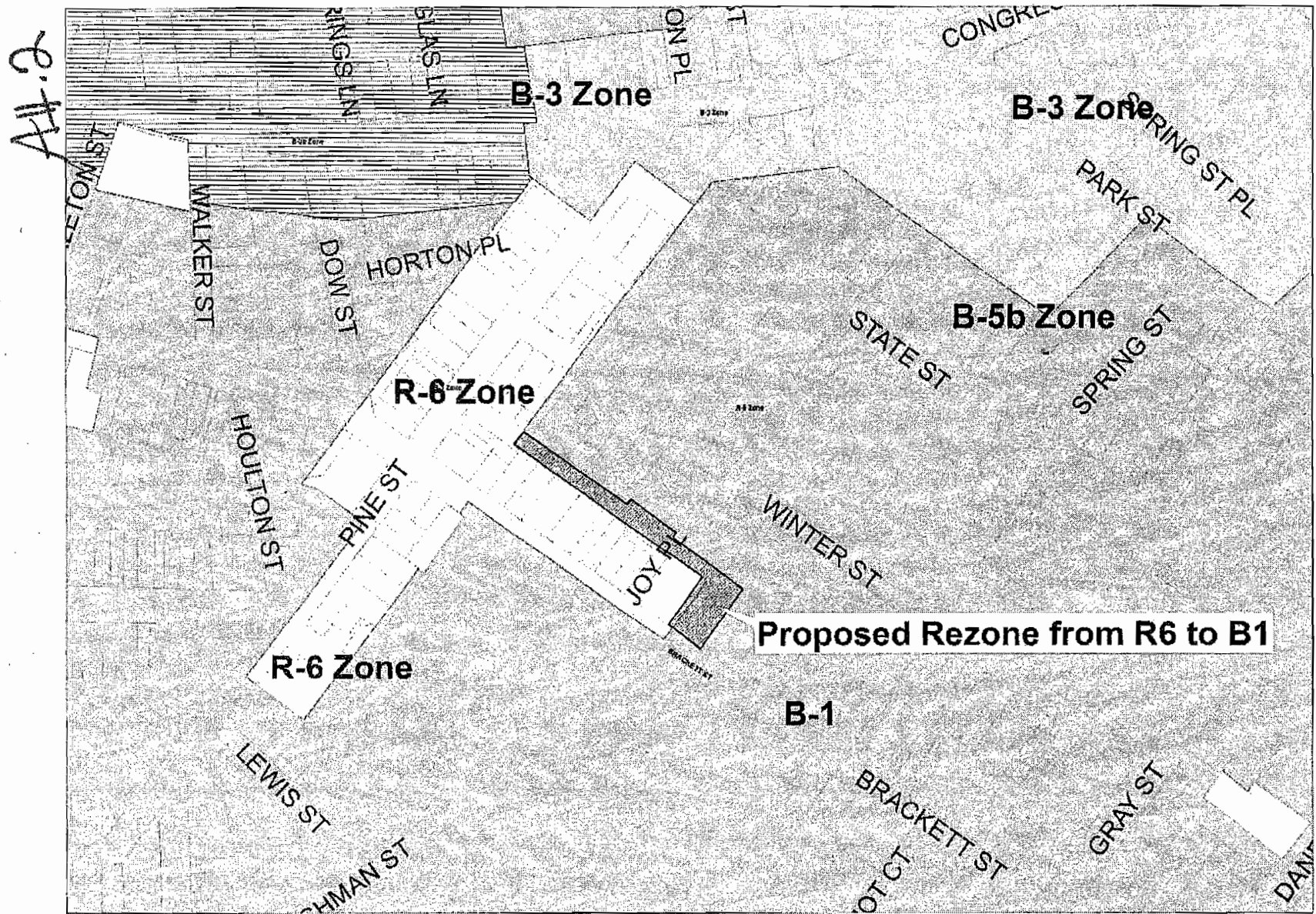
Map produced by the City of Portland Planning Division using GIS Work Group data

PLANNING BOARD MEMO ATTACHMENTS

1. Vicinity Map
2. Zoning Map
3. Council Order Amending Comprehensive Plan re: Neighborhood Commercial Land Uses, dated 03.07.1988
4. Marge Schmuckal email dated 12.22.2012
5. 155 Brackett Street- Recent History of Use by Ann Machado, Zoning Specialist
6. Letter from City staff (Earle Smith, Plan Examiner) to Youth in Action, dated 07.07.1977
7. Letter from Ann Machado, Zoning Specialist to Youth in Action, dated 12.02.2011
8. Letter from Shoestring Theater to City staff, dated 12.20.2011
9. Excerpt from Portland Neighborhood Economic



Att. 1



Proposed Zoning Map Amendment
R6 Residential to B1 Neighborhood Community
November, 2012

Map produced by the City of Portland Planning Division using GIS Work Group data

Att. 3

City Council Agenda
February 24, 1988
page 2

Copies of the Commercial Policies and Land Use Plan and the zoning text amendments to the Portland City Code listed above were provided to the Council on November 23, 1986 along with the Planning Board Report to the City Council. Additional memorandums (dated November 25, 1987, January 11, 1988, February 3, 1988, and February 23, 1988) that contained responses to the Councilors questions were also previously distributed to the City Council and staff.

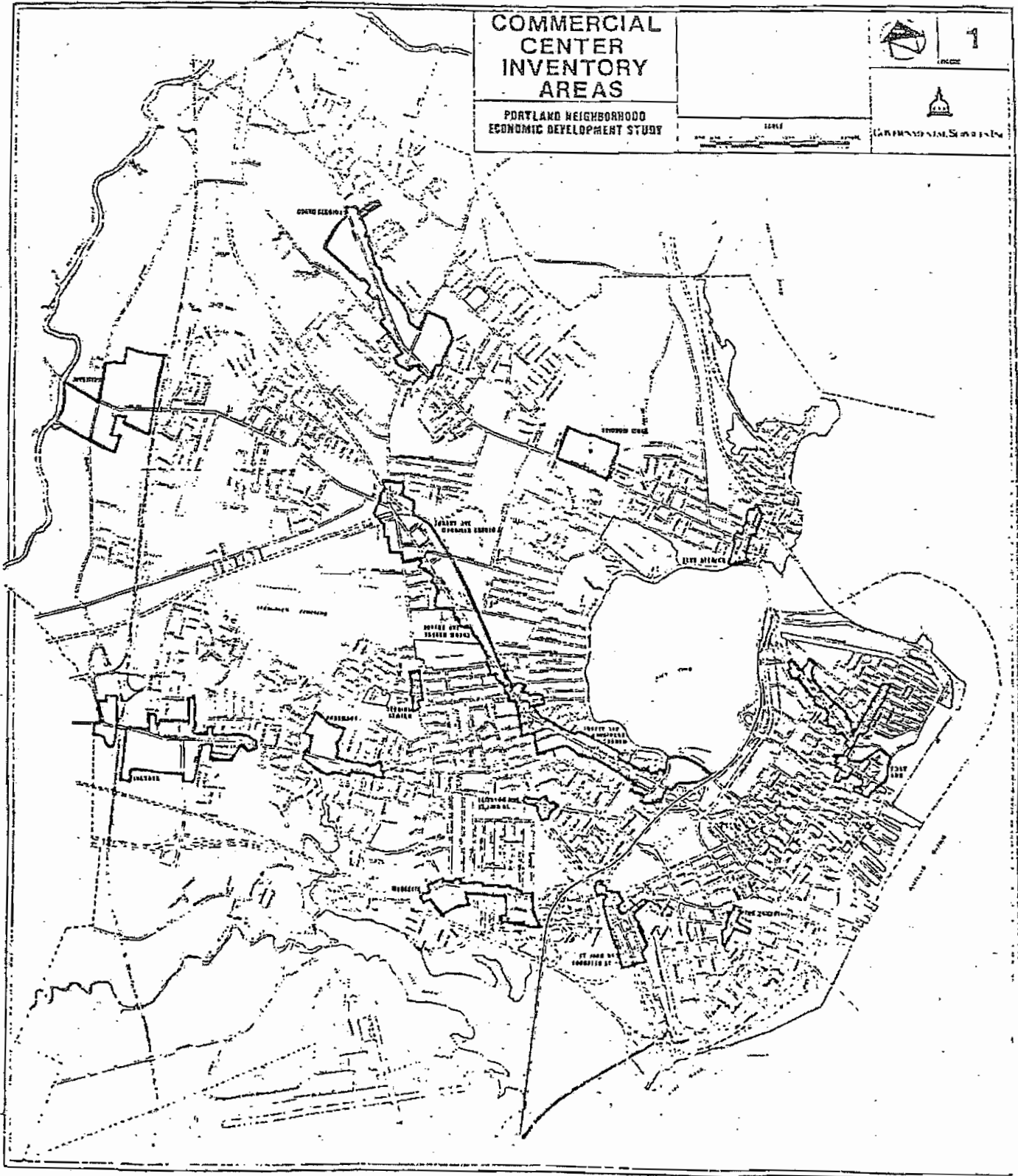
KC/ksc

cc: Ann Harnar, Assistant to the City Manager
David Lourie, Corporation Counsel
Jane Durgin, City Clerk
Alexander Jaegerman, Chief Planner
Kathleen Conner, Senior Planner

Attachment

PORTLAND NEIGHBORHOOD
ECONOMIC DEVELOPMENT STUDYPORTLAND NEIGHBORHOOD
ECONOMIC DEVELOPMENT STUDY

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I. INTRODUCTION

In Portland, the major existing tool for guiding development is the 1957 Zoning Ordinance. In the thirty years that have passed since the City of Portland adopted the ordinance, the City has experienced changes in its socioeconomic makeup. Households have become smaller, neighborhoods are older and more established, there are growing numbers of households that rent rather than own, and the population as a whole is aging. These population changes have had a significant impact upon the City's commercial offerings and on the types of commercial services required by the changing households. In addition, over the past 30 years there have been emerging technological and commercial trends and new forms of commercial services exemplified by the shift from corner gasoline and auto repair facilities to more specialized services such as brake and muffler shops, with gasoline sold at convenience retail outlets. The effects of time, population and technological shifts necessitate a new look at the City's land use regulations.

Just as the technology of commercial services has evolved, the practice of local zoning also has changed over the past twenty years. Every community with a comprehensive plan and zoning ordinance must periodically review and update the plan and implement regulations. The process of review in Portland began in 1974 with the Land Development Plan and continued with a review of the business sector in a 1982 study. The 1974 Land Development Plan (LDP)--a policy plan for the land uses in the City--identified several deficiencies including the lack of performance standards and the lack of a stated intent or purpose for each zone that would separate it from another. Following the 1974-76 Land Development Plan, renewed zoning and comprehensive plan revision efforts began in 1981 with accomplishments in the waterfront, residential, and island land use sectors. This report presents a comprehensive review of the commercial land use sector and includes land use goals and policies which serve as the basis for zoning to implement these policies.

In 1981, the City hired a consultant to examine the City's fifteen neighborhood business districts in order to determine how to effect orderly commercial development (see map, next page). The results of the study were presented in the 1982 "Portland Neighborhood Economic Development Study" by Governmental Services, Inc. (GSI).

According to the GSI study, approximately four of every five Portland residents live in the neighborhoods surrounding the 15 neighborhood commercial centers. These centers offer convenience for the consumer with a variety of goods and services and represent a significant existing community investment. The centers play an important role in the City's economic health and vitality and are a valuable resource to the City and need to be fostered and protected. The economic strength of Portland's commercial establishments depends on ability to capture a large portion of the purchasing market made up primarily of local neighborhood residents. This can best be accomplished by encouraging an appropriate mix of land uses at a given location which should be functionally and physically compatible. Concentration of uses to

Another significant trend has been development within the R-P Residence-Professional Zone. Following a period of relative dormancy, virtually all of the available vacant R-P zones have been developed, and there have been numerous requests for rezonings to R-P during the time period between 1982 and 1986. While the City has become increasingly protective of residential locations sought for R-P zoning, eight of the rezoning requests were in locations that met the criteria for rezoning to RP. Half of the rezonings to R-P are relatively large sites (one or more acres) with the opportunity for multiple buildings. The area along Sewall Street is a primary example, along with the property on Congress Street at the Fore River. This new use of R-P zoning indicates a need to reexamine the purpose of the R-P Zone, and to create of a new commercial zone for large sites that should be carefully developed with a limited range of uses, such specifically an office park zone. The office park zone is intended for substantial land areas, larger than an R-P zone, and incorporates development standards to encourage development of a campus environment, such as a low impervious surface ratio, significant landscaping, and open space.

In the following sections, background data on the fifteen neighborhood centers is provided, goals for the future commercial activity are stated, and policy issues relevant to the commercial zoning ordinance are discussed.

III. BACKGROUND DATA

Diversity is a key word to describe the commercial centers of Portland. Three of these centers are located on the peninsula, while the remaining twelve are off-peninsula. Their location in the City is detailed on Map 1. The centers range in size from 68,000 square feet to 825,000 square feet in gross floor area. Table 1 is a summary chart that lists the center, gives it size, number of years in business, and annual payroll in 1982. It demonstrates the diversity of the centers in terms of size, stability, and financial prosperity. Development of the centers has occurred in two distinct ways: (a) in a piecemeal fashion with centers forming as clusters of individual stores as exemplified by Forest Avenue or the East End Center, and (b) as planned centers with common parking areas such as Westgate or Pine Tree shopping centers.

The individual businesses within each of the centers are as diversified as the types of centers. Besides the customary retail uses, other uses represented in the centers include wholesalers, light manufacturing, transportation services, health services, and governmental offices. In 1982, a total of 813 businesses were located in the centers. These businesses can be grouped into the following three commercial sectors: Services including banking, finance, insurance, real estate, and services such as personal, businesses, repair, and health, and public administration; Retail including retail food sales, automobile-related sales, eating and drinking establishments, comparison goods, and miscellaneous retail; and Construction, Manufacturing, and Wholesale including agriculture, fishing, mining, construction, manufacturing, transportation, communication, utilities, and wholesale trade.

Table 2 summarizes the business mix in the centers by commercial sectors. The Services sector is the largest with 44% of the total businesses in the centers falling into this category. The Retail sector ranks second in size, encompassing 35% of the businesses. Ranked third, the Construction, Manufacturing, and Wholesale sector comprises approximately 10% of the total number of businesses in the centers.

While the Construction, Manufacturing, and Wholesale sector represents the sector with the fewest businesses in the commercial centers, this sector consumes 1.25 million square feet - or 35% of the 3.6 million square feet total gross floor area of the fifteen centers. The Retail sector comprises 28% of the total floor area which is relatively comparable to its 35% share of total number of businesses in the centers. Conversely, the Service sector utilizes only 24% of the gross business floor area, compared with its 44% share of the number of business establishments. In 1982, approximately one half million square feet (14% of total floor area) of commercial floor area was vacant.

The length of tenancy in the commercial centers varies considerably. Half the businesses were at their current location five years or less, one half of which (or one quarter overall) have been at their current location for 3-5 years. The other half had existed at a particular location more than five years, including more than one third of the businesses in the centers with a tenure of ten years or longer.

The length of tenancy, when viewed on a sector by sector basis, shows relative uniformity between sectors, and even division between younger and older establishments. Both the Retail and the Construction, Manufacturing, and Wholesale sectors are stable, with a majority of the businesses having been in their present locations more than five years (52% for the Retail sector and 56% of the Construction, Manufacturing, and Wholesale sectors). In the Services sector, roughly 53% of the service oriented businesses have emerged within the past five years.

This relative longevity for all three sectors combined is particularly notable since there are more businesses that rent space than own it. Overall, the ratio of renters to owners is 2:1 in the neighborhood centers. In the Construction, Manufacturing, and Wholesale sector and the Retail sectors, the renters outnumber the owners, but only by a slight margin. The Services sector, however, has more than twice the rented space to ownership of the space. In summary, there appears to be relatively long length of tenancy of business in Portland, regardless of the ownership factor.

The Retail Sector has the most employees with 39% of the total. The payroll for retail employees is the lowest, however, accounting for only 26% of the total payroll. The Services sector has the second highest number of employees (2,075 or 33%) and payroll (34% of total). Construction, Manufacturing, and Wholesale sector has the fewest employees (27% of total); however, this sector has the largest payroll (38%).

In the centers a trend toward a service-oriented economic base is emerging. This trend in Portland follows the national trend toward service economies. The local trend is evidenced by indicators such as the increase in service-related businesses as a part of the overall business centers, the fact that a majority of the businesses in the Service sector have started up in the last five years, and the large share of employees in this sector.

RELATED PLANNING STUDIES, REPORTS, AND DOCUMENTS

The four primary sources used to prepare of the Neighborhood Commercial Land Use Policy and Zoning Report are listed below. Each of the documents will be individually described.

1. "Portland Neighborhood Economic Development Study", Governmental Services, Inc., October, 1982;
2. "Land Development Plan", City of Portland, September, 1974;
3. "Housing Strategies for Portland, Maine", City of Portland, May, 1985; and
4. "Neighborhood Commercial District Revitalization Strategies", City of Portland, February, 1984.

"GSI STUDY"

The 1982 GSI report is the primary source used in the development of the neighborhood commercial policies and zoning ordinance. The report is comprised of both primary and secondary data. To gather primary data, GSI conducted interviews with realtors, bankers, business owners, and City officials, conducted a survey of businesses, building owners, and patrons. Secondary data sources included City tax and building records, U.S. census information, and Bureau of employment security.

For purposes of this study, GSI divided the city into fifteen neighborhood commercial centers. For each of the commercial centers, the location and access, public improvements, neighborhood characteristics, business profile, market share, business trends, zoning issues, and public issues are described to provide a comprehensive view of the centers. Recommendations to improve them and enhance their roles in the economy of the city were then made by the Consultants.

The narrative is accompanied by maps showing the study area under consideration, its market area, existing zoning, and proposed zoning changes.

In addition to the neighborhood analysis, the study includes a proposed neighborhood commercial zoning text that reflects the conclusions of the study. One new zone - the B-4 Corridor zone - has been added to the existing commercial zones which have been refined.

Technical data were included in the appendices. Comparison charts of the fifteen centers included demographic information, neighborhood business stability analysis and building permit analysis.

The GSI report was reviewed by the Planning Board and forwarded to and received by the City Council.

"1974 Land Development Plan"

The 1974 "Land Development Plan" by the City of Portland is a comprehensive guide to future growth and development in the City. The document includes a detailed inventory of existing conditions such as population, housing, income, employment, land use, topography, transportation, and community facilities. A series of maps showing existing conditions and future development reflect the recommendations made in the report.

The information gathered for the inventory was analyzed and categorized into three types of land development areas: 1) the preservation of stable areas; 2) development areas; and 3) areas of transformation. Land development policies were then formulated in the areas of transportation, land use, and community facilities for the three land development areas. Finally, both long and short range goals for the City were articulated in the LDP.

The LDP, which was adopted by the City Council in October, 1974, provided a blueprint for growth in the 1970's and 1980's. It is a foundation for the update of the comprehensive plan, which began in the early 1980's.

"Housing Strategies for Portland, Maine"

The "Housing Strategies for Portland, Maine" Report is a housing policy document. The goals, policies, and strategies to implement the goals and policies were formulated to offer guidance for providing a variety of housing opportunities in the City. Strategies for development of rental and ownership housing, the rehabilitation of existing housing, and affordable housing for rental and ownership were laid out. The foremost goal contained in the report is to have a community in which a mixture of housing types are available so that a variety of persons with varying income levels could choose to live in the City. The policy direction is to encourage growth in the city while maintaining residents and a spectrum of housing options.

The Housing Strategies Report drew from a wide range of sources including the U.S. Census, CIP and HCD documents, records from Planning and Urban Development, Portland Housing Authority reports, City departments - finance, assessors, building permit; "The Emergency Shelter Task Force Report," (1983) City of Portland, the 1983 "Technical Report - Portland Energy Action Plan" (upgrade energy efficiency of the housing stock) City of Portland; "Greater Portland Housing Location Study" (1980) (COG), and "Greater Portland: 1990, Keeping Livability in Mind" University of Southern Maine and the City 1984. The Housing Strategies report was adopted by the City Council in May, 1985, as part of the City's comprehensive plan.

"Neighborhood Commercial District Revitalization Strategies"

Upon the completion of the 1982 "Neighborhood Economic Development Study" by GSI, Inc., the City worked closely with the Chamber of Commerce and neighborhood business owners to devise an action plan for implementation of the recommendations contained in the GSI report.

The strategies to implement the revitalization effort include reorganization and refinement of the business zones; the continuation of the provision of a high level of municipal services to create a positive image of the centers; address the physical and economic deterioration of the centers by financial and technical assistance, site plan and design review, and the development of a housing strategies report to help stabilize the housing markets for residents who will patronize the centers. The strategies report was received by the City Council in February 1984.

TABLE 1

BUSINESS DATA BY COMMERCIAL CENTER

(SPRING 1982, GSI)

Commercial Center	Businesses				Years in Business						Annual Payroll
	#	(%)	SF(000)	(%)	0-1	1-2	3-5	6-9	10+	1982 \$	
East End	80	(11)	825.0	(27)	9	11	13	8	26	14,400,000	
East Deering	9	(1)	8.4	(nil)	0	2	2	0	5	400,000	
Rainbow Mall	21	(3)	102.4	(3)	4	1	9	2	4	1,200,000	
North Deering	85	(12)	247.8	(8)	12	8	24	16	23	8,200,000	
Forest Avenue- Woodfords Corner	178	(25)	723.9	(23)	12	16	43	38	56	17,700,000	
Forest Avenue- Baxter Woods	79	(11)	228.6	(7)	12	21	14	9	16	8,600,000	
Forest Avenue- Morrills Corner	52	(7)	118.6	(4)	10	5	14	5	12	3,100,000	
Riverton	13	(2)	32.3	(1)	0	2	3	3	5	600,000	
Deering Center	16	(2)	16.6	(1)	0	3	2	1	9	500,000	
Pine Tree	44	(6)	325.4	(10)	8	3	8	5	20	7,200,000	
Rosemont	35	(5)	30.3	(1)	1	4	10	3	11	1,300,000	
Brighton Avenue- St. John Street	7	(1)	6.8	(nil)	1	2	3	0	1	400,000	
St. John Street- Congress Street	47	(6)	197.8	(6)	4	0	11	3	26	3,900,000	
Westgate	38	(5)	196.3	(6)	6	1	6	9	11	4,300,000	
Pine Street	20	(3)	48.6	(2)	1	5	5	3	6	1,300,000	
All Centers	724	(100)	3107.0	(100)	80	84	167	111	236	\$73,100,000	

Source: Governmental Services, Inc.

TABLE 2
SUMMARY OF BUSINESS DATA BY COMMERCIAL SECTOR
(1982, GSI)

	Construction, Manufacturing, & Wholesale	Retail	Services	Total
# Businesses	81	287	356	813
(% Total)	(10%)	(35%)	(44%)	(100%)
# Sq. Ft. Fl. Area	1248.9	1003.8	854.3	3602.1
(% Total)	(35%)	(28%)	(24%)	(100%)
Yrs. in Bus.				
(% Total)				
0-5	33 (43%)	134 (48%)	175 (53%)	342 (50%)
6-10+	43 (56%)	141 (52%)	155 (45%)	339 (50%)
0-1	6 (8%)	35 (13%)	40 (12%)	81 (12%)
1-2	7 (8%)	28 (10%)	49 (15%)	84 (12%)
3-5	20 (26%)	71 (26%)	86 (26%)	177 (26%)
6-9	13 (17%)	39 (14%)	56 (17%)	108 (16%)
10+	30 (39%)	102 (37%)	99 (30%)	231 (34%)
Space				
(% Total)				
Own	37 (47%)	121 (41%)	107 (30%)	279 (36%)
Rent	41 (53%)	170 (59%)	244 (70%)	495 (64%)
No. # Employees	1711 (27%)	2438 (39%)	2075 (33%)	6224 (100%)
(% Total)				
Payroll - \$	28,332,000	19,504,000	25,403,000	73,239,000
(% Total)	38%	26%	34%	

IV. DEVELOPMENT GOALS

In the analysis and planning for the future of the commerce of land use sector, there are recurring themes of the community's objectives for the physical development of the commercial centers in the City. These themes are translated into development goals. The six goals are broad statements of what the community is seeking to achieve in the long range plan of the commercial sector and provide a conceptual underpinning for the zoning regulations. Each development goal listed below is followed by a brief explanation.

1. The City shall seek to accommodate its commercial activity within a range of functionally and physically defined commercial centers.

The fifteen commercial centers in Portland vary, from those specifically developed as shopping centers to those which have been developed as or evolved into identifiable centers. There is a need to achieve greater consistency between the function of the center and its zoning designation. The North Deering Center, for example, is designated as a use district consistent with its actual function as a community commercial center as opposed to its previous designation as a neighborhood business district. Other centers, such as the East End Center and Deering Center, which are comprised of individual buildings and are not confined by a physical setting or boundary as a shopping mall is confined, are subject to pressures for changing boundaries. Improved definitions of commercial zoning districts and functional criteria for determining the appropriate zoning district for a given location can avoid distortion of the form and shape of centers, thereby avoiding problems associated with fragmentation, sprawl, and a lack of cohesiveness and identity.

As part of the effort to define the function of a center and its physical boundaries, refinement of the commercial zoning regulations is necessary. The refinement of the regulations primarily focuses on defining the purpose and reassessing the types of uses permitted in a specific zone to closely reflect existing and desired patterns of commercial development. The zones are not so distinct as to inhibit flexibility for development within the zones, since sufficient flexibility is necessary to allow for market-driven development without being overly restricted by rigid and narrow regulations. Commercial zones which permit a variety of uses and varying levels of intensity within functionally and physically defined parameters foster a diverse and economically healthy environment.

2. The City shall promote preservation and revitalization of its existing commercial centers and maintain a scale within them that is compatible and integrated with other land uses.

Overall, there is a high degree of compatibility of uses within the centers. Expansion of commercial uses in well-defined commercial centers will help to preserve and protect residential and industrial areas in the City. Carefully designated areas for limited numbers and size of office development outside of the centers are appropriate commercial expansions. This type of development often serves as a transitional use between commercial and residential uses providing an appropriate end or anchor to commercial uses and avoiding subsequent sprawl expansion of the existing centers. The scale and character of new commercial development should be controlled to minimize conflict and maximize compatibility of various land uses.

The physical appearance of the centers plays an important role in their real and perceived economic vitality. Upgrading the centers' facades and surroundings will help to increase their overall attractiveness and stability. An investment has already been made in the centers by the business community, business patrons, and the City. Allowing these centers to decline in any way would be detrimental to Portland. A revitalization effort could firmly establish the centers' importance as critical links in the economic health of Portland.

3. The City shall encourage the development of new commercial enterprises within the existing neighborhood centers and CBD.

It is beneficial to target new business development to the existing centers to take advantage of the centers' community-wide benefits, such as convenience and the opportunity to use the infrastructure already in place. The centers also offer an opportunity for relatively intensive land uses. Short of "overloading" the sites with overly intensive development, there is room for redevelopment within the centers. There are several centers with site capacity for developing additional commercial buildings within the lot. There is also potential for upper story expansion of existing buildings for office use or other appropriate uses. In any development or redevelopment effort in a business zone, however, the development should be sensitive to the site and its vicinity so that it complements the surrounding land uses.

4. The City shall continue to provide for safe and efficient movement of people and goods, coordinated with existing and proposed development patterns.

The transportation facilities, including parking areas, provide accessibility to the commercial centers for the consumers. Safe and efficient transportation facilities such as streets, sidewalks, parking lots, and lighting can be borne by public and private joint partnerships. These partnerships enable more facilities to be constructed without a financial drain on the City CIP budget. The City, in conjunction with the Portland Area Comprehensive Transportation Study (PACTS), has a comprehensive analysis of the traffic conditions on all major arterials in greater Portland. The results of this study will help the city program highway improvement funds appropriately. Many communities have established development impact fee regulations to fairly allocate costs of upgrading the city infrastructure to accommodate increased development. Portland will have to consider such new funding sources to meet increasing needs, especially in the area of transportation improvements.

5. The City shall maintain and promote a community which is attractive to both existing and prospective families and homeowners to help support the neighborhood commercial district.

An economically sound community has a mixture of employment, shopping, services, and housing that is mutually supportive. An established neighborhood with an attractive environment contributes to economic stability since the neighborhood centers rely on the residential community for business. The City should continue to provide excellent City services, and public improvements to maintain the quality of life in Portland which in turn will encourage prospective residents to settle in the City. The City adopted in May of 1985 "Housing Strategies for Portland, Maine" that spells out what initiatives are planned to support the residential sector of the City.

The objective is to balance commercial and residential uses in order to accommodate the necessary growth that will realize in a diversified and healthy economy supported by a stable residential community. A key to the balance of commercial and residential interests to ensure reasonable coexistence through mutual sensitivity and respect. Efforts should be made to prevent encroachment of business uses into existing residential neighborhoods. Shop keepers should be good neighbors by undertaking continual maintenance and upkeep of the building(s) and site and by controlling litter and noise, and by appropriate site planning features such as landscaped buffers and screening.

A positive trend of late has been the development of offices above retail uses which has helped to enhance the character of commercial development. An office's image is often very important to the business person and more effort toward property maintenance and site planning is evident. Such efforts can send a positive message to residential property owners that commercial and residential uses can coexist.

6. The City shall promote new office park development of high quality in outlying areas for developments seeking a suburban-style setting.

The existing centers are in built-up areas of the City where there are few large vacant parcels. Most development within these centers will be infill, taking advantage of the existing infrastructure or making use of an existing vacant building.

For developments needing more land area or desiring a less intensively developed site, an office park may be a suitable alternative to traditional commercial zones. New commercial development parks have different characteristics than typical infill development. The planned developments are characterized by low building coverage, significant amounts of open space and landscaping, and an integration of the buildings with their natural surroundings. High quality architecture and site design are critical elements to the success of these new commercial areas, which will have a park or campus-like atmosphere.

Coupled with the existing centers, office parks on carefully selected sites can help improve the City's economic base by offering developers a choice of development opportunities.

V. ZONING ISSUES

The review and revision of the commercial zoning text is necessary to reflect current policies in the City and to shape future development in Portland. The revised text can protect our existing commercial resources while anticipating and providing new commercial development opportunities in the City. The zoning text is built around several principals: first, a statement of intent is included within every zone as a guide for future development; second, the language in the text is clear and comprehensible; third, each zone is self-contained without the pyramid system that relies on other zones for full information on the zoning standards; and fourth, the zones are refined to more closely reflect the existing patterns of commercial development as well as current commercial market trends which require the addition of commercial zones.

Each of the zones is discussed below. This discussion explains the purpose of each zone, and an analysis of how land use policies are incorporated within the new zoning regulations, and any zoning map considerations. Attached to this report are two appendices. The first appendix is the zoning text and the second appendix is the zoning map.

A. R-P RESIDENCE PROFESSIONAL

The R-P zone was created in 1968 to provide locations in the City in which professional offices could be developed in appropriate transitional areas between commercial and residential uses. Generally, the R-P zones are located along the City's major arterials. While the original intent of the R-P zone is still valid, the zone has evolved into a more complex one. Not only is the intent of the zone as a transition zone between residential and commercial, its broader intent is as a boundary anchor for commercial uses. As an anchor, the R-P zone signifies the containment of commercial activity and the end of encroachment and creep into a residential area. The R-P zone is also appropriate for sites with unique characteristics that make them less suitable for residential development. Such characteristics that might preclude future residential development are that the site might be an undeveloped "island" surrounded predominantly by commercial or high density residential uses, or that the site is on or near a major arterial or collector street, or that the site has relatively easy access to the freeway or major road networks. Sites with these characteristics could accommodate office infill development rather than retail or more intensive commercial development which would be inappropriate on these sites.

The character of the area is very important in determining the appropriate location of a R-P zone. Since both professional offices and residential uses are permitted, it is important that the intensity of development respects the surrounding area. The level of activity of permitted uses within the R-P zone should be high enough to sustain a business use, but not so high as to discourage residential development. Allowable R-P developments include professional offices, mixed office and residential uses and multifamily residential uses.

The original R-P developments were often located in converted houses. The trend of late in the R-P zones has been the development of free standing office buildings. Both types of buildings will work as long as the scale and character of the development is respectful of the context of the immediate vicinity.

Development in an RP zone should be designed in a manner that is sensitive to the context of the surrounding built environment, especially with respect to established residential neighborhoods. To achieve compatible coexistence of office development with existing residences, office design should avoid use of incongruous commercial architectural styles. Treatment of such features as doors, windows, signage, exterior materials, roof lines, cornice and eave detailing, etc., can be designed to relate to and enhance the style and character of the original structure or characteristics of the near vicinity. It is not the intent, however, to discourage contemporary architectural expression, such as thoughtfully integrated contrasting materials, in a manner that acknowledges its context without replicating existing structures in specific detail.

The scale of development in an RP zone should be correlated with the density of development in the adjacent residential zone. The theory behind this linkage is that a development in a R-P zone adjacent to a R-5 zone could be more intensively developed than one adjacent to a R-2 zone and achieve the desired compatibility between uses. The tools used to limit the intensity of development include limiting the impervious surface ratio (the total building coverage plus pavement coverage on a lot divided by the total land area of the lot) and limiting the building size with a maximum floor area ratio (the relationship of the total floor area in a building to the total site area). Correlating intensity of commercial development to reflect the adjacent residential density will result in appropriately scaled open space and buildings.

In addition to the intensity of development in a R-P zone, the site layout is also an important policy consideration. In keeping with the purpose and intent of the R-P zone the issue of compatibility with the surrounding neighborhoods is very important. The location of parking in front of a building in a R-P zone, for example, is limited and required to be suitably screened to provide a buffer from the adjacent uses and from the street and sidewalks. The underlying principal is to minimize any potential conflicts which may erupt due to two different land uses located side by side, and to promote a high caliber of site design.

Landscaping can be used to enhance a development and minimize potential conflicts. By incorporating flexibility into the standards, an adequate buffering effect is achieved based on individual site conditions. The intended landscaping effect is described via graphic and narrative examples and guidelines in the Technical and Design Standards and Guidelines. By referencing the landscaping standard in the Technical and Design Standards and Guidelines, flexibility is provided to the developer in realizing the actual intent of the guidelines.

In 1982, there were surplus properties and vacancies in buildings in the R-P zone that were gradually being absorbed by the market. Notwithstanding the resulting hesitancy of the recent past not to rezone to R-P. Also motivated by a continuing concern for preservation of existing residential areas, there will continue to be requests brought forward which must be evaluated on a case by case basis. It is difficult to anticipate all future requests or prospects for RP zoning to generate an exhaustive list. There are several possibilities for consideration that are noted below. Future requests must be evaluated individually against the purpose and intent of the R-P zone.

Possibilities for R-P zones:

- Washington Avenue between Fobes and Maplewood Streets, across from Northport Business Park;
- Northeast corner of Congress Street and Frost Street which is presently occupied by a gas station; and
- Northwest corner of Congress Street and Frost Street which is vacant but adjacent to a R-P development under construction which is also being considered for O-P zoning.

The purpose of the R-P Residence-Professional Zone is to provide appropriate locations for the development and operation of low intensity business uses on or near major arterials that are compatible in scale, density, and use with surrounding and adjacent residential neighborhoods to serve as a transition or buffer zone between residential and more intensive non-residential zones.
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B. B-1 Neighborhood Business Zone

The B-1 Business zone is a neighborhood commercial zone. This zone is designed to serve a convenience function to accommodate recurring needs of a neighborhood or local market with a geographical area that is generally small or cohesive. The establishments in a B-1 zone are usually of a small scale and serve as a nucleus of a neighborhood. Such small scale development is important for the preservation of the neighborhood's residential character that the commercial uses are intended to serve. Typical neighborhood business uses include personal services such as beauty and barber shops, dry cleaners, and tailors and retail services such as variety stores and bakeries. The proximity of the B-1 zones to residential neighborhoods encourages foot traffic, thus an important, but not exclusive, mode of transportation to utilize these uses is by foot.

Under the new B-1 zoning, restaurants are a permitted use. Prior to the enactment of the new zoning, the primary providers of food service were the variety stores sold sandwiches and had either take-out service or seating for a few patrons. Not only do full-fledged restaurants offer an eating alternative, they add to the diversity of neighborhoods. Neighborhood restaurants offer an opportunity for residents to eat within walking distance of their homes and enhance the level of activity in a neighborhood beyond the daylight hours. However important the role restaurants might have in a neighborhood, it is essential that they fit in well with the residential component that supports the commercial uses. This goal can be accomplished by limiting with conditions the size and the type of operation of the restaurants, including hours of operation limit the potential noise from the restaurant which would be a nuisance at night.

The scale of the commercial development in a residential neighborhood is important to ensure compatibility. Most existing B-1 development in the City is of a small and intensive scale. In a typical B-1 development, virtually an entire lot is covered without room for off-street parking or landscaping, as there have historically been few space and bulk standards in the existing ordinance. By including more explicit space and bulk standards, the new commercial development has the potential to be more visually pleasing and more complementary to the surrounding residential development. There would be, for example, room for a landscaped buffer which could help minimize the noise and litter problem.

The B-1 zones are scattered throughout the City and as a whole, serve the neighborhoods well. The B-1 zones, have been examined for consistency with the intent of the zone. Map changes for the B-1 zones should be considered on a case by case basis with emphasis placed on carefully drawn boundaries to retain a balance of residential and neighborhood commercial uses with no or minimal commercial encroachment into the residential areas. These map changes may include the extension of the B-1 zone boundary to encompass a changing area that is clearly destined for commercial use, reducing a B-1 zone boundary if the area is unmistakably residential in character and would be more appropriately zoned residential, and rezoning from B-1 to B-2 areas that are more intensively developed commercial shopping centers. (See B-2 zoning discussion.)

The purpose of the B-1 Neighborhood Business Zone is to provide limited areas for the location of small scale retail, service, and commercial establishments intended to serve a local, neighborhood market.

C. B-2 Community Commercial Zone

The B-2 zone is a community commercial zone in which a variety of comparison goods retail, offices, and services uses are permitted. Uses in a B-2 zone are typically found in planned shopping centers or cluster developments with at least one major business anchor along with smaller businesses. B-2 development can also occur incrementally with individual establishments locating on or near a major arterial, or locating in close proximity to other businesses without the confinement of a planned shopping center. The latter type of B-2 development might be intensively developed, but not in a cohesive or predictable manner as in a planned shopping center. For both types of B-2 development, easy access and high visibility are two key components to the success of the developments. Examples of businesses which fall into this category are hardware stores, grocery stores, professional and branch offices and restaurants. The market for the community business zone is drawn City-wide, and can, in fact, transcend City borders.

The business drawing power of businesses in a B-2 zone can be attributed to the variety, type and quality of available goods and services. The businesses are less dependent on local, neighborhood support than the smaller businesses found in the B-1 Zone. Because of their wider market, there are a smaller number of such individual businesses, e.g., there may be 5 or 6 major grocery stores in Portland, but over 30 variety stores which cater to neighborhood trade.

There are various types of uses which are appropriate in a B-2 zone. Gasoline service stations, car washes, new car dealerships, drive-in restaurants, wholesale distribution establishments, research and development production establishments, and printing and publishing establishments are acceptable with conditions and standards to ensure that the intent of the zone is met. Such conditions include site layout with particular attention focused on traffic circulation and parking, the scale and design of buildings to have commercial character as opposed to having an industrial character, and a design to respect and complement the surroundings. The intent of these conditional use standards is to enhance the sites and minimize visual incompatibility.

invite one stop or comparison shopping as well as concern with the aesthetic appearance of centers can do much to improve the attractiveness of the community.

The centralized location of the centers in neighborhoods distributed throughout the City contributes to an efficient and orderly land use pattern. It is desirable to focus expansion efforts primarily within the existing centers rather than promoting the development of scattered businesses or commercial sprawl which could jeopardize existing centers and create an unmanaged land use pattern for the City. Containment of the centers to prevent unnecessary encroachment into the surrounding neighborhoods will also help to maintain a positive relationship between the neighborhood residents and commercial property owners. Thus, a mutually beneficial relationship can be promoted with an end result being the improvement and continued neighborhood patronage of these centers.

Concepts of neighborhood center maintenance and improvement, their role as an economic resource of the community, and their dependency on the surrounding neighborhoods were restated in the City's 1984 "Neighborhood Commercial District Revitalization Strategies" report. The major issues facing the Centers were defined as parking, municipal services, and center improvements. The strategies report included policy and action recommendations formulated to address these issues.

While the scope of the fifteen (15) strategy recommendations in the Strategies report goes beyond policies related to land use and zoning, five (5) recommendations that can be implemented in the land use plan are as follows:

1. Revision of the commercial zones into newly defined districts.
2. Revision of parking standards.
3. Site plan review for major renovations.
4. Development of a housing strategies program.
5. Establishment of sign ordinance.

Two of the five zoning-related recommendations have been implemented by the City since the report was released. First, the City now requires site plan review for major renovations which helps to ensure that the renovations are compatible with the character of the neighborhood. Second, in May of 1985, the City Council adopted the "Housing Strategies for Portland, Maine" report which is intended to preserve the City's housing stock and offer a number of choices for housing so that Portland continues to be a diverse, socially balanced City.

Parking standards and the sign ordinance are under review by the Department of Planning and Urban Development, with recommendation for comprehensive revisions for the coming in the near future. In the near term, parking lot standards, signage provisions and some design standards will be incorporated within revised commercial zoning, within site plan and subdivision ordinances, and within the Technical and Design Standards and Guidelines.

II. RECENT TRENDS - 1982 - PRESENT

In the past five years since the GSI report was completed, there has been a tremendous amount of renovation and upgrading in the commercial centers. This investment in existing structures and the robust local economy have contributed to the attraction of new businesses to in the commercial centers. A related trend in the evolution of the centers is the conversion of some of the centers to business parks as demonstrated by the Rainbow Mall and Northport Shopping Center, now known as Washington Park and Northport Business Park, respectively. Redevelopment of portions of parking lots in some centers has occurred in the past two years resulting in such additions as automatic teller banking centers, a bank branch office, and fast food establishments. This redevelopment has helped improve the attractiveness and vitality of the respective centers, eliminating vacancies while preserving existing boundaries.

In the GSI Study it was noted that the fifteen centers were facing a period of readjustment in which more renovation and rehabilitation of the existing structures would occur. GSI strongly believed that the centers would show signs of increased viability, as evidenced in part by more businesses opening than closing. There does appear to be an emerging stability in the centers which is occurring along with the revitalization.

One of the most impressive improvements at a center is in the Portland Shopping Center - now called Union Station Plaza - in the St. John Street-Congress Street Center. In 1982, the center was showing signs of aging and had major spaces empty. Today there is nearly full occupancy due to the revitalization of the center. Burger King has located in the corner of the parking lot which has helped to increase the number of patrons shopping at the center. Other improvements in this commercial neighborhood can be seen along St. John Street: there are a number of new fast food establishments and a new garage for the Metro buses. The new buildings and site improvements such as landscaping have enhanced the appearance of the neighborhood center.

There have been a considerable number of building renovations, and an overall physical improvement of the appearance in the centers that border on Forest Avenue. In the Forest Avenue/Woodfords Corner Center, for example, a vacant building which formerly housed Andover College was recently converted to multi-family apartments. This has helped to upgrade the building and to increase the activity in the area beyond the daylight hours. Another noticeable change in the Woodfords corner center is the addition of the new Shop and Save Plaza, located on Forest Avenue/Preble Street Extension. This major new shopping and office center has contributed to the community-wide appeal and economic strength of this neighborhood. Less dramatic changes, yet still important contributions, are the numerous building additions and expansions and the emerging role of this area for comparison shopping, particularly with the proliferation of furniture stores. There are also many examples of exterior renovations ranging from a coat of paint to new siding.

In general, the existing B-2 zones are centrally located throughout the City and are consistent with the uses in them. There are map modifications to consider which would increase the amount of land area in the B-2 zone. The shopping centers (Westgate, Northport/Northgate, Washington Business Park), for example, are designated B-2 given their collective function as community commercial centers. Less cohesive areas which have the potential as B-2 zones should also be considered to increase the development opportunities in this zone and to increase the diversity of the City's commercial offerings.

The purpose of the B-2 Community Business Zone is to provide appropriate locations in the City for the development and operation of a mixture of commercial uses and services that have a community-wide market such as shopping centers or independent developments. The variety, sites, and intensity of the permitted commercial uses in the B-2 zone is intended to be greater than those permitted in the B-1, neighborhood zone.

D. B-4 Commercial Corridor Zone

In an effort to refine the zoning text and to establish zones that closely reflect existing patterns of commercial development, as called for in the 1974 LDP and the 1982 GSI study, a commercial corridor zone has been created. Portland recognizes that corridor-oriented businesses exist in the City and also recognizes the need to create an appropriate district for them. By creating a B-4 district, efforts are being made to contain the uses in a newly created district and limit the district's growth. Containment of this district and avoidance of commercial sprawl is encouraged. Recognition of the importance of highway and auto oriented uses and accommodation of such uses at appropriate locations is achieved by the B-4 zone.

The B-4 zone is an auto-oriented one in which the most intensive commercial uses are permitted. Typical uses in a B-4 zone have a major specialized function, and therefore, a large market area. The market area for a B-4 use might be Greater Portland in contrast to a specific neighborhood as the market area for a B-2

shopping center. Uses in the B-4 zone include such uses as hotels and motels, car dealerships, building material supply center, brake centers, and auto body repair centers. The B-4 zone also permits wholesale warehousing, printing and publishing establishments, and small scale, light manufacturing establishments. In general, other less intensive commercial uses would also be permitted uses.

Access to these zones would be by auto due to their tendency for businesses to locate on well-developed road systems. Not only are visible locations on arterials important, but proximity to the Turnpike and other major transportation routes is also important.

The scale and intensity of development in the B-4 zone is greater than in other commercial zones. It is important to minimize the impact of B-4 development on their surroundings with appropriate space and bulk standards. The intent is to provide flexibility for development of the site without jeopardizing the character of the surrounding area. Since many of the uses will be intensive commercial uses, the character of the area can be maintained by landscaping standards in addition to space and bulk standards. The buildings in the B-4 zones may need more buffering than in other zones, especially if they are adjacent to a residential zone.

There are a few areas of the City which are characteristically commercial corridor as described above and are designated B-4 zones:

- Riverside Street between Fiske Street and the railroad tracks (south of Brighton)
- Forest Avenue, east side between Woodfords Corner and Read Street
- Forest Avenue area I-295 to Falmouth Street

The purpose of the B-4 Commercial Corridor Zone is to provide appropriate locations in the City for the development and operation of businesses catering primarily to highway-oriented trade, along major arterials. Uses which have market areas that are primarily dependent on the regional highway network or serve a regional or larger market are appropriate in this zone as well as larger scale commercial uses and commercial uses that require larger land areas to accommodate their operations.

E. O-P Office Park Zone

Historically there has been one zone (R-P) in the City which permits, almost exclusively, professional offices and residential uses. Originally, the R-P Zone developments in the City were small-scale, and met the intent of the zone as a transitional or buffer district. Recently, however, approximately half the developments on the sites zoned to R-P are bigger in size (two acres or more) and scale than what was originally intended for the zone. While the professional office uses of these larger R-P zones are appropriate, the intensity of the development is higher than a typical transitional use might be.

The need exists for a zone that would allow larger scale office development on larger lots in what could be considered more suburban locations. The parcels, while suburban in character, might have limited potential for residential development, due in part, for example, by proximity to the Jetport, or to the topography of the site, or its physical boundaries such as a busy arterial. The creation of this zone offers an alternative development opportunity--one which is meant to work in conjunction with the existing commercial zones in the City, especially with the central business district. Land is more plentiful in these outlying locations, which may be a critical factor if a significant amount of parking is required for the development.

Development in the O-P zone are to be characterized by spacious and high quality development. Large lots, relatively low building coverage, low impervious surface area, significant open space and landscaping, and thoughtful building design are exemplary characteristics of O-P developments which are appropriate and beneficial to the City of Portland. This type of zone can accommodate single or multiple buildings on a site. Large scale or tall buildings are also appropriate. The key element of a planned office development is the integration of the buildings and the site, which takes advantage of the natural features of the site such as tree stands, streams and rivers, and rolling topography. A campus or park-like environment is a goal for this type of development. These settings provide a suitable location for a company headquarters or complex of office building serving several tenants. Access to the office parks is primarily from major arterials, although secondary roads may also provide access. The interior roads in an office park may be private.

The areas which may be considered for O-P zoning are as follows:

- Martin's Point
- Thompson's Point
- Washington Avenue Extension
- UNUM
- Congress Street/Cobb Avenue (in conjunction with AB zone)
- Canco Road, north of Read Street
- Northwest corner of Congress Street and Frost Street

The purpose of the O-P Office Park Zone is to provide substantial areas for integrated development of professional offices in a park or campus-like setting which are of the highest quality, are well designed and maintained, and are compatible with their natural surroundings.

F. A-B Airport Business

The Portland Jetport, which has been experiencing strong growth in the past five (5) years, is located in the A-B Airport Business zone. The A-B zone is located in the southwesterly corner of the City. All of the development in the zone has been aviation-related, which is the sole intent of the zone. The types of permitted uses fall into two categories: those intended for the general public such as jetport parking, car rentals, and airport restaurants; and those airport-dependent uses that have no direct public contact such as cargo transport and airport maintenance hangars.

The standards in the Airport Business zone need not be complex to address the second type of airport use as noted above. Since there is very little public interaction and the development may not even be accessible to the public, there are very few standards in the ordinance to regulate the development. There has been more development recently, however, that caters to the public and thus creates the need for relevant development standards. The jetport also serves as a gateway to the City and first impressions are important to establish a positive image of the City at first glance and continue it as a person drives toward the City center. A positive image can be achieved by having minimum development standards as required in other commercial districts.

The proximity of the historic Stroudwater neighborhood to the jetport is a sensitive issue. It is important to promote harmonious coexistence of potentially conflicting uses to minimize any negative impact the development may have on the neighborhood. Height is one such issue and steps can be taken to vary the height according to proximity to the residential uses and to Westbrook Street. Landscaping is another way to minimize potential conflicts between different land uses. Through the use of landscaping buffers to minimize the potential impact of different uses and to protect the aesthetics of the development.

There is currently a Jetport master planning effort underway. The master plan will take stock of the existing aviation facilities and will make suggestions for change based on the projected growth and increase in air traffic. Among the issues being discussed are the size and shape of the terminal and of the parking lot relative

to the terminal. In addition to the existing aviation facilities, there are approximately twenty-five (25) acres of vacant land in the AB zone. This land may be developed with a hotel or professional offices in conjunction with the O-P zone adjacent to the A-B zone, which has frontage on Congress Street. There are also development possibilities for aviation-dependent uses such as maintenance hangars or air cargo facilities on lots on Yellowbird Road or on other City-owned land.

At this time, there are no plans to expand the boundaries of the A-B zone. There appears to be an adequate amount of land area in the A-B zone in which to continue airport development activities. These development activities should be carefully selected to improve the efficiency of the airport and enhance its economic vitality through the expansion of airport dependent uses.

¶	The purpose of the A-B Airport Business Zone is to provide an	¶
¶	area for the development of airport-related enterprises. Appro-	¶
¶	priate uses permitted in this district are those customarily	¶
¶	associated with the operation of the airport terminal and	¶
¶	individual airlines, and accessory uses to provide for the	¶
¶	comfort and convenience of the airport's patrons and	¶
¶	employees.	¶

ORDER

ORDER AMENDING COMPREHENSIVE
PLAN RE: NEIGHBORHOOD COMMERCIAL
LAND USES -

(Planning Board)

IN THE CITY COUNCIL

March 7, 1988

Attest:

W. H. Morgan
City Clerk.

Yeas

Nays

Given first reading. Motion to table
to the April 4th City Council Meeting,
passed, 9 Yeas.
March 28, 1988-Public comments were heard.
April 4, 1988-Removed from the table.
Motion to table until such time as all
Zoning Amendments on this agenda are
completed, passed, 9 Yeas.
May 31, 1988-Adjourned Meeting- Removed
from the table. Councilor Cleriott's amend-
ment to change the word neighborhood to
community, passed, Yeas, and passed, as
amended, 6 Yeas, 1 Nay (MacWilliams).

A#4

From: Marge Schmuckal
To: ALEX JAEGERMAN; Greg Mitchell
CC: Barbara Barhydt
Date: 12/22/2011 3:56 PM
Subject: Peoples Building 155 Brackett Street

Hi Alex,

I wanted to up-date you on the issues concerning the Peoples Building on Brackett Street. Today I met with David Marshall, Harro Jakel of Youth in Action and their attorney, David Currier. The issue is that 155 Brackett Street is being used for many uses that have never been permitted and may not be permitted in the R-6 Zone (although the Community Center may be an option)..

Apparently 155 Brackett Street zoning was changed from a B-1 Zone in around 1977 to an R-6 zone. The reasoning for the zone change back then seems puzzling. David Marshall would like to sponsor a map change so 155 Brackett Street will be returned to the B-1 Zone status. He would also like to sponsor any text change so that the current uses can be legalized.

Can we meet after Christmas to discuss and begin the process? Will everyone be in next week after the holidays, or do you want to set something up after the first of the year? Let me know.

Marge

A4.5

155 Brackett Street – Recent History of Use – Ann Machado, Zoning Specialist

- December 12, 1968 Memo from R. Lovell Brown, Director of Building Inspection Department to Model Cities, Att: Mrs. Gleason:
- classifying the use of the building as School Type 'A'
- December 11, 1970 Memo from Jodine O'Brien, Model Cities to Mr. Robert Brown, Building Inspector Director
- Proposal by Concerned Adults & Youth in Action for use of 155 Brackett Street that was sent to Model Cities to establish a Community Development Building
 - three programs : youth, economic & community development
- October 1, 1971 Building Permit Issued
- Zone B-1 Business Zone
 - Owner: Youth in Action, Inc. c/o Prop
 - Proposed use: training center
 - Description : To change use from dress factory to Youth training center with alterations per plans
- July 12, 1972 Letter from Nelson F. Cartwright, Building Inspector to Youth in Action Inc.
- temporary certificate of occupancy for use of first floor only for youth activities
 - upper floors to be kept closed off during remodeling until inspected and approved
- October 29, 1976 Comprehensive Structure Data for Demolition Report from Fire Department
- unoccupied building
 - "In its present open condition, it is a fire hazard and dangerous to life and property".
- March 1, 1977 Letter from Laurence Connolly, Advisor Y.I.A. to Lyle Noyes , Housing Inspector
- recommendation for the People's Building
 - facility no longer serve as youth drop-in
 - space rented out to groups doing community service
- July 5, 1977 Building Permit applied for & issued
- Owner: Youth in Acton
 - Proposed use: store & youth organization
 - Description: Permit to make alteration to first two floor, and stairwell as per plans
- July 7, 1977 Letter to Youth in Action, Wm. E. Pezet from Earle S. Smith, Plan Examiner
- building not used for two year period so lost any rights for contemplated use

-in interim B-1 Business Zone has been changed to R-6 Residence Zone –
proposed use is prohibited

July, 1977	Building Permit (applied for July 5, 1977) issued to use building as store & youth organization
December 15, 1977	Removed from demolition list
July 31, 1978	Letter to Bill Herbert, Internal Auditor, Cumberland County C.E.T.A. from Marge Schmuckal, Building Inspector -Inspection 7-28-78 shows work near completion on 2 nd floor
December 8, 1978	Letter from Marge Schmuckal, Building Inspector to Youth In Action -confirmation of occupancy for 2 nd floor -understanding that continue to be brought up to date on finishing of 3 rd floor area
October 1, 1979	City of Portland, Maine – Community Development Program -Project People's Bldg. Renovation Project -concentrate on 3 rd floor, floor in attic for storage, restore heating system -community development funds - \$8500
October 17, 1979	Letter from Joseph Gray, Director of Neighborhood Conservation Program to Lionel Berube, Youth In Action -he has approved budget revision (October 16, 1979) to provide funds for People's Building Renovation Contract for PROP fiscal services for \$525.00
April 6, 1981	Letter from Joseph Gray, Director of Planning & Urban Development to Suzanne Murphy, Youth In Action -\$10,000 in Community Development Funds awarded for physical improvements to People's Building
February 17, 1982	Building Permit #00078 issued -Owner: Youth in Action -Proposed use: retail food store -To erect sign over door of store (Good Day Market)
July 17, 1990	Building Permit #000868 issued -Owner: Youth in Action -Proposed use: multi purpose bldg. -Description: change size of egress door & two windows
September 4, 1991	Building Permit #912989 issued -Use: multi purpose building -Description: change size & type of door as per plan (Good Day Market)

December 12, 1995

Building Permit #951299 issued

- Use: retail

- Description: make interior renovations (Fresh Approach II)

January 25, 1996

Amendment for Permit #960044 issued

- Use -retail

- enlarge cooler & Alter Area for Compressors (Fresh Approach II)

Att. 6

July 7, 1977

155 Brackett Street

Youth in Action
58 High Street, Att: Mr. Wm. E. Pezet

cc to: Planning Board
cc to: Thomas Valleau, Asst. City Mgr.

Dear Mr. Pezet:

Our records indicate that this building has not been used for a two-year period therefore it has lost any rights it may have had for the contemplated use.

In the interim the B-1 Business Zone has been changed to an R-6 Residence Zone in which the proposed use is prohibited. This department therefore cannot issue a permit for the intended alterations and use.

Very truly yours,

Earle S. Smith
Plan Examiner

ESS:m



AH-7

Strengthening a Remarkable City, Building a Community for Life • www.portlandmaine.gov

Greg Mitchell – Acting Director of Planning and Urban Development
Marge Schmuckal, Zoning Administrator

December 2, 2011

Harro Jakel
Youth in Action
155 Brackett Street
Portland, ME 04102

Re: 155 Brackett Street – 045-E-56 – R-6 – unpermitted uses

Dear Mr. Jakel,

As you know from our meeting on November 28, 2011, the current uses on the second and third floors of the property at 155 Brackett Street have never been permitted. There was a permit issued in 1977 to establish the use of the building as: "store and youth organization". The general description on that permit said: "permit to make alteration to first two floor, and stairwell as per plan". All the permits issued since then were for work done to the first floor for the retail space. Since there has not been a permit issued since 1977 for the use of the second floor or third floor, the current legal use of these floors is "youth organization".

When we met, you gave me floor plans that show the second floor is being used as artist studios, the third floor is being used as a dance and yoga studio with an office and storage for the Shoestring Theater, and the fourth floor is being used for storage. Since permits were never applied for to convert the second floor to artist studios and the third floor to a dance and yoga studio, the uses are not legal.

155 Brackett Street is located in the R-6 Residential Zone. Artist studios and a dance and yoga studio are not permitted uses in this zone [sections 14-136 & 14-137]. When we met on November 28, 2011, we talked about two conditional uses listed in section 14-137 that allow places of assembly, specifically a community hall, and a community center. You indicated to me in your email dated November 30, 2011 that the board of Youth in Action decided that the use of the building is a "community building", and that the board would like to get an occupancy permit for that use.

A community center is a conditional use in the R-6 zone. To be approved for a conditional use, you must file a Conditional Use Appeal Application with the Zoning Board of Appeals. The next Zoning Board of Appeals meeting is scheduled for Thursday, January 5, 2012. The deadline to file the application is Monday, December 19, 2011 at

noon. I have attached the Conditional Use Appeal Application and the Application Process for the Zoning Board of Appeals. It is important in your cover letter with the appeal application that you show exactly how the current uses fit the definition of a Community Center. If your Conditional Use Appeal is approved, then the next step is to file a change of use permit with the Building Inspections Division. When that is approved, you will be able to get your certificate of occupancy.

You have the right to appeal my decision. If you wish to exercise your right to appeal, you have thirty days from the date of this letter in which to file an appeal. If you should fail to do so, my decision is binding and no longer subject to appeal.

Please feel free to call me at 874-8709 if you have any questions.

Yours truly,

Ann B. Machado
Zoning Specialist
(207) 874-8709

12/22/11

Shoestring Theater
155 Bracket Street
Portland, Maine, 04102
Tel: 774 1502

AH.8

Portland, Dec. 20, 2011

RE: 3rd floor occupancy

To whom it may concern,

Since 1982 I have been the managing and artistic director of Shoestring Theater at 155 Brackett St. The Theater was first established at this address around 1976. We are a community based puppet theater working with neighborhood children, teens and adults. We offer workshops, performance and large-scale puppet parades. Our work has been showcased in numerous festivals and events throughout Maine for over 30 years including the Old Port Festival, the Maine Festival and The International Puppetry Festival.

Our space at 155 Brackett St. has been the sight of countless workshops over the years. These include but are not limited to stilt walking, printmaking, mask making, and puppet building. This space also serves as a rehearsal space for community theater shows that are then performed elsewhere. We have over the years developed a strong working relationship with Reiche School and Portland West Neighborhood Planning Council.

We have consistently and continuously used our workshop space to prepare and create community theater and art. Being in the People's Building and integrated in the neighborhood is an important part of our mission. We are proud to be a working member of Portland and the West End Art community.

Sincerely,
Nance Parker

7/25/98
Youth In Action
155 Bracket Street
Portland, Maine 04102

12/22/0

Re: 2nd floor Peoples Building, List of users / tenants since 1976:

Past Organizations:

Portland West Neighborhood Planning Council (original founding member)

- has moved out 1998 and became Learning Works 3 houses down the street)

Islamic Society of Portland Maine (first mosque in Portland)

Smokers Anonymous

Shoestring Theater (original founding member)

Neighborhood Action Coalition

We Who Care

Committee to Organize the Unemployed

Maine Movement (original founding member)

Community Alliance of Neighbors

Community Meeting space for :

Smokers Anonymous, Brownies, Cub Scouts, neighborhood groups,

Community involvement and participation of the planning of the Casco Bay Bridge,

committees that initiated the St. Patrick's Day Parades, and Take Back the Night marches,

neighborhood groups that worked on neighborhood parks and playgrounds e.g. Harbor View

Park, Clark St. Park, Taylor St Park.

Youth In Action (original founding member)

Past Programs:

Americorps

Youth Build

Youth Works

Foster Grandparent Program

NAC Nutrition Program

Portland West Low Income Housing Development Program

Neighborhood Arts Access

Youth Boat Building Program

Portland West Health Promotion Program

Neighborhood Weatherization Program

Portland Safe Neighborhoods Program (our new Mayor Brennan worked for this organization)

Educational Opportunities Center

Summer Youth Employment

Tyng & Tate St Neighborhood Organization

Maine Summer Campership Program

Neighborhood Improvement Program

Community Bail Project

Building Alternatives

Phone Me Campaign

Portland Wood Cooperative

Neighborhood Revitalization Oral History Project

Working Class Women's History Project

Sincerely,

Patricia Waldron, boardmember YIA

Order 175 -12/13
Feb 21 4-1-13

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14. LAND USE
ARTICLE III. ZONING
(DIVISION 17. B-7 MIXED DEVELOPMENT DISTRICT ZONE)
AND
ARTICLE V. SITE PLAN

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:

1. *That Chapter 14, Article III, Division 17 (B-7 Mixed Development District Zone) of the Portland City Code is hereby amended to read as follows:*

Sec. 14-296. Conditional uses.

(a) The following uses shall be permitted as conditional uses in the B-7 zone as provided in section 14-474 (conditional uses), provided that, notwithstanding section 14-474 (a) or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority:

. . .

5. *Buildings in the bayside gateway urban height district A greater than one-hundred twenty-five (125) feet but no more than one-hundred sixty-five (165) feet in height provided that:*

- a. Such buildings shall be sited to minimize encroachment into designated ~~do not obstruct~~ view corridors and visual landmarks to and from the downtown or that do not substantially further obstruct such corridors blocked by existing development as identified referenced in the Bayside Height Study Map and the B-7 design standards; and
- b. Portions of such buildings higher than 125 feet shall be stepped back at upper levels to provide light and air to adjacent streets, trails, and open spaces, with a ratio of no less than at

least to the extent that the ratio of building height to width of adjacent streets, trails and open spaces is equivalent to 1.5 to 1 except that the Planning Board may modify this requirement as provided for in Section 14-526 (d)(9)(viii); and

- c. Such buildings provide publicly accessible and usable open space, meeting the B-7 urban design standards, of at least ten (10) percent of the building lot area; and
- d. If located on lots including or adjacent to planned or proposed street or pedestrian way connections, land dedication to such street or connection shall be credited toward the ten (10) percent open space requirement. Buildings over one hundred and twenty-five (125) feet in height that are being reviewed as separate phases of a Master Development Plan shall be entitled to meet the ten (10%) percent open space requirement of Section 14-296(a)(5)(c) in aggregate for all such buildings over one hundred and twenty-five (125) feet in height, provided that the open space shall not fall below ten (10%) percent at any built phase or combination of built phases; and
- e. Such development shall comply with all other zoning requirement and B-7 urban design standards as required by this article.

2. That Chapter 14, Article V, (Site Plan) of the Portland City Code is hereby amended to read as follows:

Sec. 14-526. Site plan standards.

Requirements for approval. The Planning Board or Planning Authority shall not approve a site plan application unless the development proposal meets the following criteria:

. . .

(d) *Site Design Standards*

. . .

9. *Zoning Related Design Standards:*

- a. Development of certain types and/or proposed in certain zones, as specified below, are subject to design standards in addition to the provisions of Section 14-526 (a) in order to ensure designs that contribute to and enhance the goals and policies for specific districts of the City. The City of Portland Design Standards is listed in the City of Portland Design Manual, which is included by reference. If the development is located in a historic district or associated with a historic landmark, City of Portland Historic Preservation standards shall supersede:

. . .

(viii) B-7 Design Standards for Additional Height in District A: In the B-7 zone, the Planning Board, when conducting review of a Master Development Plan or a Level III Site Plan, as applicable, may modify the stepback provisions of Section 14-296(a)(5)(b), relating to buildings allowed as a conditional use to exceed one hundred and twenty-five (125) feet up to one hundred and sixty-five (165) feet in height, provided the following conditions are met:

a) Each building exceeding one-hundred and twenty-five (125) feet shall contain at least 20 dwelling units per building.

b) Building wall stepback requirements along public street frontage:

i. Building with frontage on one street: Minimum ten (10) foot stepback between third and fifth stories and a minimum ten (10) foot stepback between the one hundred twenty-five (125) and one hundred forty-five (145) foot level.

ii. Building with frontage on multiple

streets: Above paragraph (i) requirement along longest building façade street wall, and of the remaining street walls the same requirement as paragraph (i) or a 15 foot wide streetscape improvements area containing a public sidewalk, landscaping and other streetscape improvements within the abutting street right-of-way and/or private property along the remaining street frontage. A building with frontage on four streets shall meet the above requirement except that two of the streets shall have the stepback requirement.

iii. The Planning Board shall have the authority to waive one or more of the required stepbacks provided the following is met:

1. The depth of the building lot precludes a building having an average minimum lot depth dimension of one hundred seventy (170) feet: or

2. The proposed building has an architecturally significant design that is articulated to avoid a monolithic appearance and emphasizes slender, vertically-oriented proportions while employing a variety of scales, materials, fenestration, and massing to assure a rich visually interesting experience as viewed within the context of the downtown skyline and provide visual interest and human scale at the pedestrian level.

3. In the event such a waiver is granted the Planning Board may require the applicant to

mitigate the impacts of the
wiaver by requiring the
following:

a. Along all public street
frontages and public open
spaces, all buildings
(regardless of height) shall
meet the B-7 Design Standard
E-4 Articulation to maintain
a pedestrian scale through
the use of building elements
at the street level as listed
in this standard along no
less than 60% of the
building's horizontal length.

b. Along all public street
frontages and public open
spaces for the buildings(s)
over one hundred twenty-five
(125) feet, a canopy, awning
or similar permanent
architectural feature to
provide pedestrian protection
and wind mitigation shall be
provided within the first
thirty-five (35) feet of
height.

c. In order to preserve view
corridors and to maintain a
varied skyline, all buildings
above one hundred twenty-five
(125) feet within a single
development site should be
separated to avoid the
appearance of a tall, solid
block massing. In accordance
with this policy, development
sites of 500 feet or greater
as measured parallel to
Marginal Way, the aggregate
building façade widths above
85 feet shall not exceed
fifty percent (50% of the
total development site

distance parallel to Marginal Way. Buildings over one hundred twenty-five (125) feet in height that are being reviewed as separate phases of a Master Development Plan shall be entitled to meet the fifty percent (50%) building requirement in aggregate for all such buildings over one hundred twenty-five (125) feet in height in the Master Development Plan, provided that view corridors are retained as each phase is built.

d. The applicant shall demonstrate building design elements and location will reasonably mitigate downdraft effects of the proposed building or buildings.

II. BE IT FURTHER ORDERED that the zoning map 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 the height standard changes in the B-7 zone specifically identified/highlighted on the map attached hereto as Exhibit A.

Exhibit A

1255 North
1255 North

A 125'

C 125'

Marginal Way

Marginal Way

B7

A 125'

Bayside Trail

A 125'

B 105'

A 125'

Somerset Street

Somerset Street

B 105'

B 105'

Hornbeck Street

Hornbeck Street

B 105'

B 105'

Lansdowne Street

Lansdowne Street

B 105'

B 105'

Oxford Street

Oxford Street

B3

C 15'

D 15'

B2

C 15'

A 125'

Cumberland Avenue

R6



**City of Portland, Maine
City Council Agenda Request Form**

TO: Sonia Bean, Senior Administrative Assistant
FROM: Jeff Levine, Director of Planning and Urban Development
DATE: March 26, 2013
Re: Federated Related Zoning and Site Plan Amendments

1) Council meeting at which action is requested:

1st reading: April 1, 2013
Final action: April 22, 2013

2) Can action be taken at a later date: x YES NO
If not, why not:

3) This item is sponsored by: Mark Rees, City Manager

cc: Mark Rees, City Manager
Mayor Brennan
Danielle West-Chuhta, Corporation Counsel
Jeff Levine, Director of Planning and Urban Development
Terry Tucker, Administrative Assistant

I. SUMMARY OF ISSUE

The Federated Companies has requested certain amendments to the zoning and site plan ordinances to facilitate a proposed development in Bayside on the former rail yard property in the vicinity of Somerset Street. This project includes housing and a parking facility designed to serve both this project and the parking needs of the district generally. The Planning Board is forwarding a positive recommendation on the amendments.

The amendments include revisions to the zoning and site plan ordinances related to building height. The building height amendments are intended to provide more flexibility to an existing provision in the B-7 zone that allows building heights up to 165 feet. City staff has conducted a review of these provisions for the district generally and has advanced language that can accomplish both these goals and larger planning objectives for the B-7 zone.

II. REASON FOR SUBMISSION (What issue/problem will this address?)

Federated seeks amendments to the zoning and site plan ordinances to enable them to develop a mixed use development on the Bayside rail yard property. Federated's

development program includes four residential buildings (with 675 housing units) that exceed the base height (125 feet) of the A height district within the Bayside Height Overlay Zone. In addition, the development plan includes a parking garage that will include public parking spaces designed to reduce the need for surface parking lots in the district, therefore permitting those surface lots to be redeveloped over time.

The A height districts in the B-7 zone allow a building height up to 165 feet as a conditional use. However, the requirements that currently exist for the additional height have the effect, in this case, of making the additional height infeasible. An alternative review is being proposed with new standards to address this issue. As part of this rezoning request, staff also looked at all the A and B height districts in the B-7 zone to see what adjustments are warranted. As part of that analysis, the A height district would be expanded, while preserving the view corridors identified in the Bayside planning efforts as lower-height B districts.

III. INTENDED RESULT (How does it resolve the issue/problem?)

The proposed amendments are intended to address site plan and zoning issues identified by City staff as obstacles to the proposed development program and the concurrent development of the public-private parking structure.

IV. FINANCIAL IMPACT

The proposed development project will significantly increase the taxable value of the Bayside rail yard property. Phase 1 of the project alone will generate an estimated \$1 million in additional tax revenue annually once the City's Section 108 loan is paid off in 2028. In addition, these zoning changes will spur additional development in the area, including future phases of this project, that could have tax benefits to the City in a shorter time frame.

V. STAFF ANALYSIS & RECOMMENDATION

After holding a public hearing, the Planning Board voted to recommend that certain height related amendments be adopted by the City Council.

The Planning Board voted 4 to 1 (Boepple opposed; Dunton, Soley absent) to recommend that the Bayside Height Overlay Map be amended.

The Planning Board voted 5 to 0 (Dunton, Soley absent) to recommend that the B-7 conditional use height section be amended.

The Planning Board also voted 5 to 0 (Dunton, Soley absent) to recommend that the site plan ordinance be amended to incorporate B-7 height standards.

The Planning Board had a thorough discussion of the amendments including holding four workshops and two public hearings. Attached is the Planning Board Report.

Note that City Council approval of revised easements within the property or land transfers may be required in the future.

Attachments:

1. Planning Board Report



PLANNING BOARD REPORT PORTLAND, MAINE

B-7 Height Zoning and Site Plan Amendments
Midtown, vicinity of Somerset, Chestnut and Elm Streets
The Federated Companies, Applicant

Submitted to: Portland City Council: April 1, 2013 Public Hearing Date: April 22, 2013 Project #: 2012-636 CBL: 34-B-2-3-4-5; 34-D-3-8-10	Prepared by: Richard Knowland, Senior Planner Date: March 28, 2013 Planning Board Report Number: 15-13
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I. INTRODUCTION

The Planning Board is forwarding a recommendation to the City Council to approve a variety of zoning and site plan amendments related to a proposed mixed use development on the former Bayside rail yard property in the vicinity of Somerset Street, Chestnut Street and Elm Street. The project is called "midtown" and is proposed by The Federated Companies in response to a request for a development of this type from the City. The development includes a parking garage designed to replace some of the surface lots in Bayside. On March 21, 2013, the Planning Board voted to recommend the zoning and site plan amendments to the City Council.

Several zoning and site plan amendments related to building height are needed to accommodate the development program. The building height amendments are intended to provide more flexibility to an existing provision in the B-7 zone that allows building heights up to 165 feet. The development program as proposed requires some modification of the existing standards.

The proposed amendments include:

Amending the Bayside Height Overlay Map (zoning)...Expands the "A" height district, which allows building height to exceed 125 feet up to a maximum of 165 feet, in an area that is not part of a view corridor.

Amending the existing Conditional Use section [sec. 14-296(a)(5)] of the B-7 zone that presently allows building height in the Bayside Gateway Urban Height District to exceed 125 feet up to 165 feet (zoning)...This provision allows for an alternative review in the Site Plan Ordinance for buildings exceeding 125 feet (see below).

Amending the Site Plan Ordinance providing new standards for reviewing B-7 conditional use height exceptions... This provision allows for an alternative review for buildings exceeding 125 feet.

Attachments 1, 2, 3, and 4 include the existing Bayside Height Overlay Map, proposed revisions to the overlay map, proposed Zoning Amendments and the Site Plan Ordinance Amendments, respectively. Attachment 5 depicts the constraints of the existing height regulations in relation to the Federated development proposal.

Attachment 6 is an excerpt from the Planning Staff memo which provides background information on the Bayside height system, including the rationale and planning for existing building height regulations, the Bayside Height Overlay Map and a description of the individual height districts. Please review this material in context with the proposed height amendments.

Development Program Summary:

Housing: 675 market rate housing units in 4 buildings. (Phase 1: 196 units)

Retail: 93,220 sf of ground floor retail in all buildings. (Phase 1: 43,660 sf)

Parking: Free-standing 700 space parking garage (Phase 1) designed in part to serve the Bayside development district as a whole; 400 space parking garage (Phase 2) attached to two residential buildings designed to serve those buildings.

Height: Tallest residential building (165 feet); tallest parking garage (70 to 75 feet).

II. Proposed Height Related Zoning and Site Plan Amendments

A. Amending Bayside Height Overlay Map (Zoning)

The Bayside Height Overlay Map amendment is requested because one of the proposed residential buildings is located in height district B (maximum height of 105 feet) rather than height district A (maximum height up to 165 feet).

The Planning Board's recommended map amendment is shown on Attachment 2.

The Bayside Height Overlay Map divides Bayside into four (4) height districts, with maximum height ranging from District A (125 feet base height with 165 feet possible) to District D (55 feet), see Attachment 1. Midtown is split by District A (Gateway Urban Height District) and District B (Intermediate Height Urban Height District), which has a maximum height of 105 feet. Along the northerly side of Somerset Street most of the properties are in District A but a significant portion of the Midtown property (east of Chestnut Street) is located in District B. This poses a concern because one of the residential buildings (proposed at 165 feet) is in District B.

The Board's evaluation included a comprehensive review of the entire Bayside Height Overlay Map.

This comprehensive review resulted in the following recommendations:

Districts A and B:

- a. Change a portion of District B to A between Somerset Street and Marginal Way approximately 175' in width, west of the extension of Pearl Street. This accommodates the need to include one of the residential buildings in the A zone while preserving designed view corridors to and from the downtown. This change also includes a portion of the DHS building property but does not include all of District B along Marginal Way which avoids the concern of a continuous wall of tall buildings blocking views of the downtown skyline and Back Cove.
- b. The block along Franklin Street between Somerset Street and Lancaster Street has a B district designation. Given its gateway location along Franklin Street and proximity to other District A zones along Franklin Street, the Board is recommending that the District A be extended through this property running on a line through the old Wilmot Street right-of-way. The affected property is a portion of the Whole Foods site.

Districts C and D: In the 2006 Bayside height review, a lot of attention was given to areas near the traditional residential neighborhoods of Bayside. For that reason District D (traditional neighborhood) and District C (transitional neighborhood) were created to protect the existing two and three story buildings found in the core residential areas of Bayside roughly described as the Cumberland Avenue and Portland Street area. The map was fine-tuned (lot by lot in some cases) during this process to make sure proposed heights were compatible with the established neighborhood. In re-reviewing the map and in the context of the height district purpose sections, there was no compelling reason to adjust these districts.

Summary: The Board's height recommendation adjusts two portions of the District B to District A in response to an overall audit of the existing Districts A and B. One of these changes accommodates the development program involving one of the residential buildings. The other change is not directly related to this development proposal, but was seen as an appropriate modification. In arriving at this recommendation, the Board reviewed five different height map alternatives including changing all of the District B to District A district between the block of Chestnut Street and Franklin Street. The Board's recommendation is consistent with the original intent of the Bayside Height Overlay Map, preserves view corridors to and from the downtown and avoids the specter of a long continuous wall along Marginal Way that would "wall off" the city.

B. Amending the Conditional Use section [sec. 14-296(a)(5)] of the B-7 zone that presently allows building height in the Bayside Gateway Urban Height District (District A) to exceed 125 feet up to 165 feet (Zoning)

Section 14-296(a)(5) of the B-7 zoning text allows a height increase above 125 feet to a maximum 165 feet as a conditional use (Planning Board) in District A provided certain standards are met. The standards include preservation of view corridors, compliance with B-7 design standards, setbacks related to adjacent street width, and provisions for open space.

All of midtown's residential buildings exceed 125 feet and therefore must take advantage of this provision. One of the standards, Section 14-296(a)(5)(b) states: "Portions of such buildings higher than 125 feet shall be stepped back at upper levels to provide light and air to adjacent streets, trails and open spaces, with a ratio of no less than at least to the extent that the ratio of building height to width of adjacent streets, trails and open space is equivalent to 1.5 to 1."

This language would limit the floorplates of the upper stories of the proposed residential buildings to the point where they are not feasible floors. This is in large part due to the shallow lots on which this development is proposed, created by the railyard subdivision plat which includes development of the Bayside Trail. A diagram illustrating this impact may be seen on Attachment 5. The Intermed building on Marginal Way (135 feet) was able to take advantage of this provision without upper floor step backs primarily because Marginal Way has a very wide street right-of-way (100 feet). Somerset Street is only 50 feet wide.

The purpose of this section (b) is to mitigate the impact of taller buildings by reducing the potential for "canyon effect" and promoting light and air. Such measures promote a more pleasant environment for pedestrians in a densely developed urban environment. This is accomplished by locating taller buildings on wide streets (such as on Marginal Way) and or stepping back the upper stories of taller buildings by reducing the apparent scale of building mass above 125 feet.

The existing zoning text with proposed revisions is shown below. As previously discussed the proposed project is unable to meet one of the standards specifically the height to street and open space ratio. Therefore paragraph b below is recommended to be revised to allow a project to meet alternative standards that are proposed in the Site Plan Ordinance and described in section C below.

Sec. 14-296(5) Conditional Use

Buildings in the Bayside gateway urban height district A greater than one-hundred twenty-five (125) feet but no more than one-hundred sixty-five (165) feet in height provided that:

- a. Such buildings shall ~~do not obstruct~~ be sited to minimize encroachment into designated view corridors and visual landmarks to and from the

downtown or that do not substantially further obstruct such corridors blocked by existing development as referenced identified in the Bayside Height Study Map and the B-7 design standards; and

Comment: The revisions recognize that certain view corridors such as Elm Street (Intermed building) already block views to and from the downtown. Without this clarification a new building would need to meet this standard even though the corridor is already blocked.

- b. Portions of such buildings higher than 125 feet shall be stepped back at upper levels to provide light and air to adjacent streets, trails, and open spaces, with a ratio of no less than at least to the extent that ratio of building height to width of adjacent streets, trails and open space is equivalent to 1.5 to 1 except that the Planning Board may modify this requirement as provided for in Section 14-526(d)(9)(vii); and

Comment: This section allows a modification to this section by providing an alternative review using new standards in the Site Plan Ordinance which are described in the next section.

- c. Such buildings provide publicly accessible and usable open space, meeting the B-7 urban design standards, of at least ten (10) percent of the building lot area; and
- d. If located on lots including or adjacent to planned or proposed street or pedestrian way connections, land dedication to such street or connection shall be credited toward the ten (10) percent open space requirement. Buildings over 125 feet in height that are being reviewed as separate phases of a Master Plan Development shall be entitled to meet the ten (10) percent open space requirement of Section 14-296(a)(5)(c) in aggregate for all such buildings over 125 feet in height, provided that the open space shall not fall below ten (10) percent at any built phase or combination of built phases.

Comment: This provision allows the open space requirement to be calculated in the aggregate for all buildings over 125 feet tall that are reviewed as a master plan development.

- e. Such development shall comply with all other zoning requirement and B-7 urban design standards as required by this article.

C. Amending the Site Plan Ordinance providing standards for reviewing conditional use height exceptions (see #B) above.

Proposed site plan standards for reviewing proposals exceeding the normal 125 foot District A height requirements (up to 165 feet) would be located in the Zoning Related Design Standards section. [sec. 14-526 (d) (9) (viii)].

Sec. 14-526(d)(9) (viii) B-7 Design Standards for Additional Height in District A: In the B-7 Zone, the Planning Board, when conducting review of a Master Plan Development Plan or a Level III site plan, as applicable, may modify the stepback provisions of Section 14-296 (a) (5) (b), relating to buildings allowed as a conditional use to exceed 125 feet up to 165 feet in height, providing the following conditions are met:

- (a) Each building exceeding 125 feet shall contain at least 20 dwelling units per building.

Comment: This reflects the Bayside Plan policy of encouraging a dense urban mixed use neighborhood with 24 hour a day activity. If a developer wishes to build a tall building they must meet this standard or build a building that meets the normal conditional use standards that doesn't have a residential requirement.

- (b) Building wall stepback requirements along public street frontage:

- i. Building with frontage on one street: Minimum ten (10) foot stepback between third and fifth stories and a minimum ten (10) foot stepback between the 125 and 145 foot level.

Comment: Stepbacks help mitigate the impact of taller buildings by reducing apparent building mass at the pedestrian level and downdraft wind impacts. This requires a lower stepback than the existing regulations but allows more building mass at the upper stories of the building. A review of planning literature indicates most cities require stepbacks to be a minimum of 10 feet because it is considered to be the minimum distance for stepbacks to be effective. The B-3 has a minimum stepback of 15 feet.

- ii. Building with frontage on multiple streets: Above paragraph (i) requirement along longest building façade street wall, and for the remaining street walls the same requirement as paragraph (i) or a 15 foot wide streetscape improvements area containing a public sidewalk, landscaping and other streetscape improvements within the abutting street right-of-way and/or private property along the remaining street frontage. A building with frontage on three or four streets shall meet the above requirement except that two of the streets shall have the stepback requirement.

Comment: This provides section provides flexibility in meeting the stepback requirement for buildings having frontage on more than one street. The stepback must be provided along the longest building façade but the remaining facades may utilize a stepback or a 15 foot wide streetscape improvement area within public or private property. Two stepbacks are required for a building having frontage on three or four (4) streets.

- iii. The Planning Board shall have the authority to waive one or more of the required stepbacks provided the following is met:
1. The depth of the building lot precludes a building having an average minimum depth dimension of 170 feet;
or
 2. The proposed building has an architecturally significant design that is articulated to avoid a monolithic appearance and emphasizes slender, vertically-oriented proportions while employing a variety of scales, materials, fenestration, and massing to assure a rich and visually interesting experience as viewed within the context of the downtown skyline and provide visual interest and human scale at the pedestrian level.
 3. In the event a waiver is granted the Planning Board may require the applicant to mitigate the impacts of the waiver by requiring the following:
 - A. Along all public street frontage and public open spaces, all buildings (regardless of height) shall meet the B-7 Design Standard E-4 Articulation to maintain a pedestrian scale through the use of building elements at the street level as listed in this standard along no less than 60% of the building's horizontal length.
 - B. Along all public street frontages and public open spaces for the building(s) over 125 feet, a canopy, awning or similar permanent architectural feature to provide pedestrian protection and wind mitigation shall be provided within the first thirty-five feet of height.
 - C. In order to preserve view corridors and to maintain a varied skyline, all buildings above 125 feet within a single development site should be separated to avoid the appearance of a tall, solid block massing. In accordance with this policy, development sites of 500 feet or greater as measured parallel to Marginal Way, the aggregate building façade widths above 85 feet shall not exceed fifty percent (50%) of the total development site distance parallel to Marginal Way. Buildings over 125 feet in height that are being reviewed as separate phases of a Master Development Plan shall be

entitled to meet the fifty percent building requirement in aggregate for all such buildings over 125 feet in height in the Master Development Plan, provided that view corridors are retained as each phase is built.

4. The applicant shall demonstrate building design elements and location will reasonably mitigate downdraft effects of the proposed building or buildings.

III. 'midtown' Development Concept

Zoning: B-7
Land Area: 3.24 acres
Existing Use: Vacant land plus a former scrap metal site
Proposed Uses: Housing (675 market rate housing units) (196 in Phase 1)
Retail (93,220 sf ground floor retail in all buildings) (43,660 sf in Phase 1)
Parking Garage (1100 spaces)
Buildings: 4 residential and 2 parking garages
Building Height: Tallest residential building...165 feet
Parking garage....70 to 75 feet
Parking Spaces: Phase one: 700 space parking garage
Phase two: 400 space parking garage
Parking Garage Footprint: 40,176 sf (phase one) and 23,920 sf (phase two)
Residential Building Footprint/Floor Area:
phase one (15,148 sf and 193,000 sf)
phase two (13,152 sf and 170,000 sf)
phase two (16,286 sf and 170,000 sf)
phase three (11,143 sf and 142,000 sf)

a. 'midtown' Proposal

The applicant's conceptual development scheme is shown starting on Attachment A. This plan serves as the in-progress conceptual master plan for the future development of the property. The current plan features four residential towers as contrasted with the original submission that had seven towers. Although the number of housing units remains the same, a reduction in the number of towers allows the building mass to be reshaped providing the opportunity for a more visually interesting building form (L-shaped configuration with varying height) rather than seven monolithic towers. The building form for three of the buildings incorporates a 15 story height with a variation down to 13 stories.

A chart summarizing development phasing, housing unit count, floor area, and other project statistics is shown on Attachment A.

The project is divided into three phases. The first phase comprises development between Pearl Street (extension) and Chestnut Street on Somerset Street, the second phase between Elm Street and Chestnut Street on Somerset Street with the third phase incorporating the lone building behind Trader Joes having frontage on Elm Street.

1. Pearl Street to Chestnut Street Block:

The current plan indicates a residential building at the corner of Somerset Street and Pearl Street with a parking garage (700 spaces) filling the remainder of the block to Chestnut Street. To mitigate the visual impact of a parking garage at the Chestnut Street corner, the plan has been revised to include a two story retail structure along Chestnut Street.

2. Elm Street to Chestnut Street Block:

The original elevated block long platform with four towers has been revised. The project now features a building on the corner of Elm Street with a second building on the corner Chestnut Street. The parking structure situated between the two towers is six stories high with 400 spaces and retail on the first floor. A third residential building is located behind Trader Joes. All buildings are shown with retail uses on the first floor.

3. Perspective Views of the Project:

The applicant has submitted a number of computer simulated perspective views of the current project including massing models, photo-simulations and eye level view drawings. See Attachment A.

4. Bayside Trail:

The footprint of the Bayside Trail was established as part of the 2008 subdivision of the Bayside Rail Yard Subdivision. Construction was initiated in 2009 and it was completed in 2010. The assumption at that time was the parking garage would likely be built west of Chestnut Street on the former Bayco site. Federated has proposed to build a parking garage east of Chestnut Street where lots are not as deep as the prior site.

The original parking garage concept plan occupied the mid-block area of the Chestnut to Pearl Street block. The garage has now been shifted further west to Chestnut Street where the building lots have less depth. The latest concept plan shows a 10 foot building setback from Somerset Street for the parking garage which would require the Bayside Trail to be relocated from its existing foot print (to a point closer to the Department of Human Services parking lot chain link fence) near Chestnut Street. The applicant's rationale in relocating the trail is providing an extra wide sidewalk (20 feet) along Somerset Street for retail uses, and to mitigate grading issues. This issue will be explored more fully with the applicant during the site plan review process with a goal of minimizing disturbance to the existing trail footprint.

5. Somerset Street Grade Elevations:

Bayside in the vicinity of the project site is not presently designated by FEMA as a flood hazard zone, but there are indications it might be designated as such in the future. The Back Cove flood hazard zone elevation is 10 feet. In the interests of addressing potential coastal flooding concerns, the applicant is proposing a first floor building elevation of 12 feet. Since Somerset Street has an existing elevation in the 9 to 10 feet range there is a significant grade difference to overcome in providing handicap access into the first floor of each building.

The City recently commissioned Haley & Aldrich geotechnical consultants to undertake a feasibility study of raising the grade of Somerset Street to address flooding conditions and accommodate the needed first floor elevation.

Haley & Aldrich has concluded it is feasible to raise the grade of Somerset Street to address most of the grade difference. This issue will be explored more in detail during the site plan review process. The potential for raising the street grade will be of benefit to the site design and could alleviate the need for an extended parking garage setback (discussed above) from Somerset Street and minimize intrusions into the trail corridor while providing an appropriately wide sidewalk along Somerset Street. Regardless of the resolution of this issue, Federated is proposing to have the first floor elevation of the buildings at elevation 12 above the flood hazard elevation of 10.

6. Development Review Process

Assuming approval of the zoning and site plan amendments, the development will be subject to Planning Board site plan and master development plan review including the B-7 Design Principles and Standards and a Traffic Movement Permit. Subdivision review will also be required including a reconfiguration of the original 2006 rail yard subdivision modifying the layout to fit the midtown footprint and some changes in access points that connect the Bayside Trail to Somerset Street.

IV. Consistency with Comprehensive Plan

A New Vision For Bayside ("the Bayside Plan") was adopted by the City Council as an element of the City's Comprehensive Plan in 2000. The plan outlines the critical development principles to revitalize Bayside including its role as an extension of the downtown and as a dense mixed-use urban district. A number of these development principles have a direct relationship to the proposed building height and amendments in supporting a dense urban district. The Planning Board during their deliberations determined that the proposed amendments were consistent with the Comprehensive Plan. The Bayside Plan policies relevant to the proposed amendments are highlighted below.

Principle One...Urban Gateway:

"Bayside will be an attractive urban gateway and extension of the downtown business district for the City of Portland. The district will create a new front face

of the City and present the character of Portland that will encourage people to stop, visit and enjoy all that the downtown has to offer. A fully functioning urban district and neighborhood will reconnect with and add to the fabric of the peninsula from downtown to the adjacent neighborhoods. A compact blend of uses fosters lively daily interaction and a sense of community spirit...”

The B-7 height provisions help facilitate infill development so that future development on vacant or underutilized properties is of sufficient size and scale to contribute to Bayside’s role as a dynamic urban mixed-use neighborhood and gateway.

Principle Two...Economic and Employment Opportunities:

“Bayside’s location between downtown and I-295 presents a significant economic and market opportunity to be planned and managed to create the best value for development and quality of life improvements for the community, generate a broad range of employment opportunities and improve the tax base. Bayside represents prime real estate development prospects to expand the central business district...”

The Bayside Plan calls for 940 housing units, 950,000 sq. ft. of new office space and 230,000 sq. ft. of retail space. The B-7 zone provides a minimum scale of development and a more flexible upper limit of development than the previous ordinance which will result in significantly more building space within Bayside than if single story suburban development were promoted. This policy will result in significantly more jobs and property tax revenue since land is being more intensively used. The height revisions are consistent with and support this goal.

Principle Four...A Critical Mass of Dwellings:

“An urban district must have a mix of residences to be truly vital. The Bayside Plan will fill in, extend and enhance the existing residential fabric with a substantial amount of new housing units...”

The B-7 zoning and proposed height amendments support an infusion of new housing by providing higher building heights and no limitation on residential density. The Bayside Plan has a goal of 940 housing units. To qualify for the B-7 height exception a building must have a minimum 20 housing units per building.

Principle Five...Transit-Oriented Development:

“Mixed use, compact and intensive land development, and quick and convenient transit service makes Bayside a neighborhood that has genuine mobility choice...”

The B-7 facilitates mixed use and dense development with higher heights (including the proposed amendments) in supporting this principle.

Principle Six...Multi-Level Parking Structures:

“Strategically located parking structures will serve multiple functions, connect with transit services, facilitate the flow of traffic with minimal impact on neighborhood residents, and avoid extensive land consumption by surface parking lots...”

The B-7 discourages surface parking so it can be reserved for buildings rather than parking. Multi-level parking structures conserve land for other dense development rather than to be consumed by expansive surface parking lots. Mixed use allows daytime use of parking garage for workers and nighttime use for residents in parking garages a very efficient use of spaces and resources. Higher building height supports density.

Principle Ten...Environmental Remediation

“Bayside redevelopment projects will clean up the soil and recycle these underutilized parcels into productive resources for the future of the Portland Community. Redevelopment of brownfields in Bayside counters the trend toward sprawl development in this region, adding the vigorous urban center of Portland.”

The B-7 dense development pattern including higher building heights provides an incentive to clean up and redevelop brownfields properties.

V. Public Process

The Planning Board held four workshops and two public hearings on the amendments. An initial workshop on November 27, 2012 provided a general introduction to the Federated project. The second workshop (January 29, 2013) focused on the proposed zoning and site plan amendments. At the third workshop (February 12, 2013) Planning Staff provided an overview of the master plan amendments and background on the existing Bayside height system. A fourth workshop on February 26, 2013 included discussion of the height amendments and revisions to the Federated concept development plan.

An initial public hearing was held on March 12, 2013. After the public comment portion of the meeting, the Board took action on the Master Development Plan amendments but deferred action on the height related amendments until a special Board meeting held on March 21, 2013. After providing the opportunity for additional public comment at the second public hearing, the Planning Board voted to recommend approval of the proposed amendments as noted in the next section below.

Notice of the initial public hearing consisted of 88 notices mailed to property owners as well as the item appearing on the Legal Ad which ran in the Press Herald on February 25 and March 4, 2013.

Written public comment during the Planning Board review process is shown as Attachment 8.

The applicant held a neighborhood meeting on December 20, 2012 at the Avesta office building (307Cumberland Avenue). Details of the meeting including meeting notes and attendees are shown as Attachment C.

Written public comment is shown as Attachment 8.

VI. Planning Board Recommendation

At a public hearing held on March 21, 2013 the Planning Board voted on the following motions.

Bayside Height Overlay Map Amendments: The Planning Board voted 4 to 1 (Boepple against; Dundon and Soley absent) that the amendments to the Height Map are consistent with the comprehensive plan of the City of Portland, and therefore recommends the proposed Height Map amendments to the City Council.

The majority of the Board found that the proposed height amendment is consistent with the New Vision for Bayside Plan and is a reasonable adaptation of the zoning heights to accommodate the type and scale of development envisioned in the plan. Board member Boepple noted that her opposition was based on the need to change the zoning height in response to a specific development proposal, although she noted that the proposed new standards and the limited additional "A" height zone were helpful if the amendment goes through. Board member Soley was not present for the vote, but provided a written statement (included in attachment 8) in opposition to the height amendment on the basis that the plans should be further refined to meet the present standards, and that the current proposal in his view is over scaled to the immediate pedestrian environment.

Zoning Amendment to Section 14-296 (a) (5): The Planning Board voted 5 to 0 (Dundon and Soley absent) that the amendments to Section 14-296 (a) 5 of the Zoning Ordinance are consistent with the comprehensive plan of the City of Portland, and therefore recommends the proposed amendments to the City Council;

Site Plan Ordinance Amendments for the B-7 District A Height Standards (Section 14-526 d. 9 viii): The Planning Board voted 5 to 0 (Dundon and Soley absent) that the amendments to Section 14-526 (d) (9) (viii) of the Site Plan Ordinance are consistent with the comprehensive plan of the City of Portland, and therefore recommends the proposed amendments to the City Council.

Attachments:

Staff Submissions

1. Bayside Height Overlay Map
2. Proposed Revisions to the Bayside Height Overlay Map
3. Proposed B-7 Zoning Height Amendment
4. Proposed Site Plan Amendments
5. Implications of Existing Height Regulations on Federated Project
6. History and Policy of Bayside Height Overlay Zone
7. Memo from Greg Mitchell, Director, Economic Development Department
8. Written Public Comment

Applicant Submissions

- A. Concept Master Plan and Layout (3-14-13)
- B. Zoning/Site Plan Application
- C. Neighborhood Meeting
- D. Applicant Responses to Questions

Height Districts

A. Gateway Urban Height District

min. 4 floors, max. ht. 125' except as a conditional use [Sec. 14-296 (a)(5)] buildings may have a maximum height of 165'

B. Intermediate Urban Height District

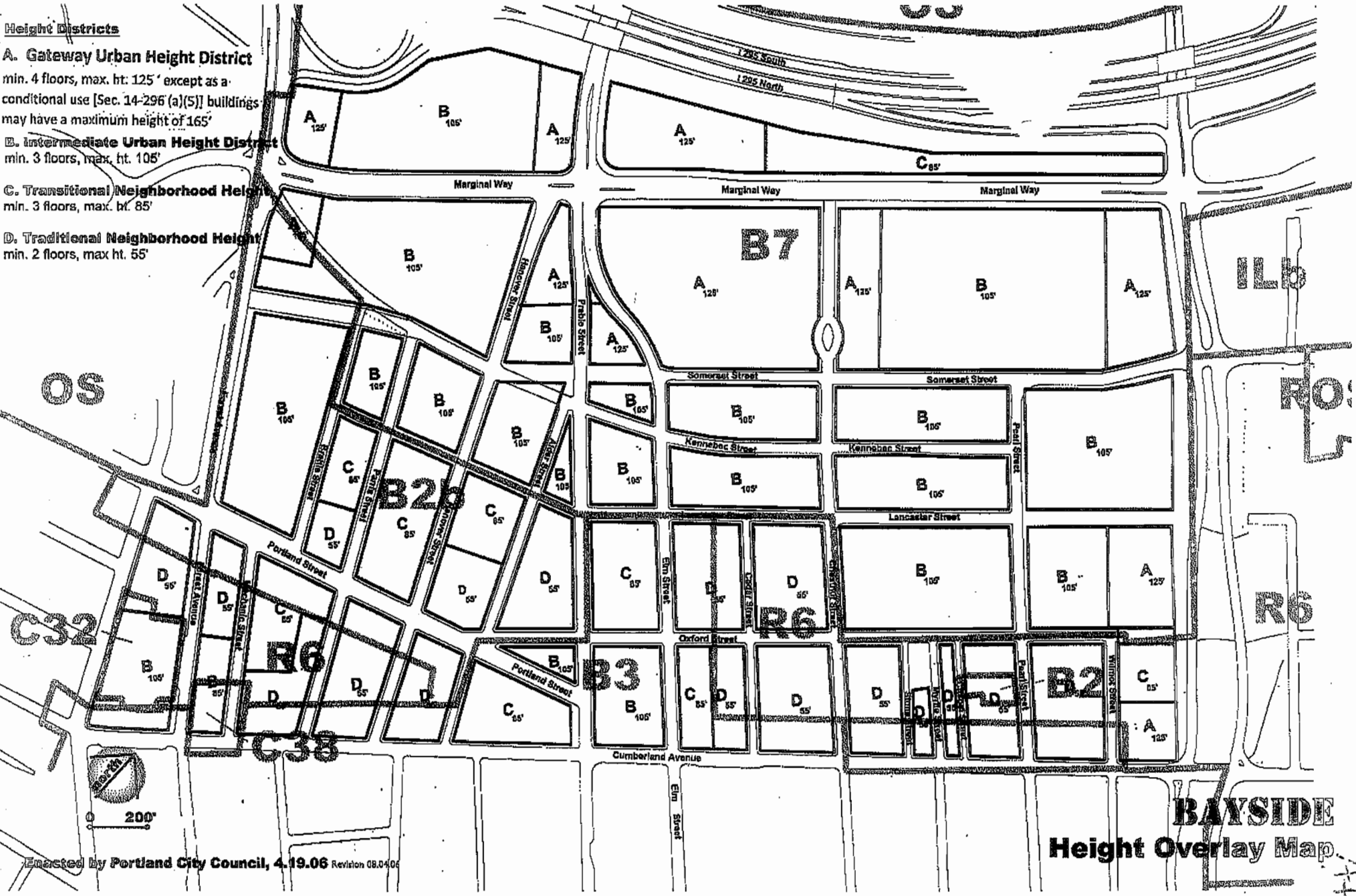
min. 3 floors, max. ht. 105'

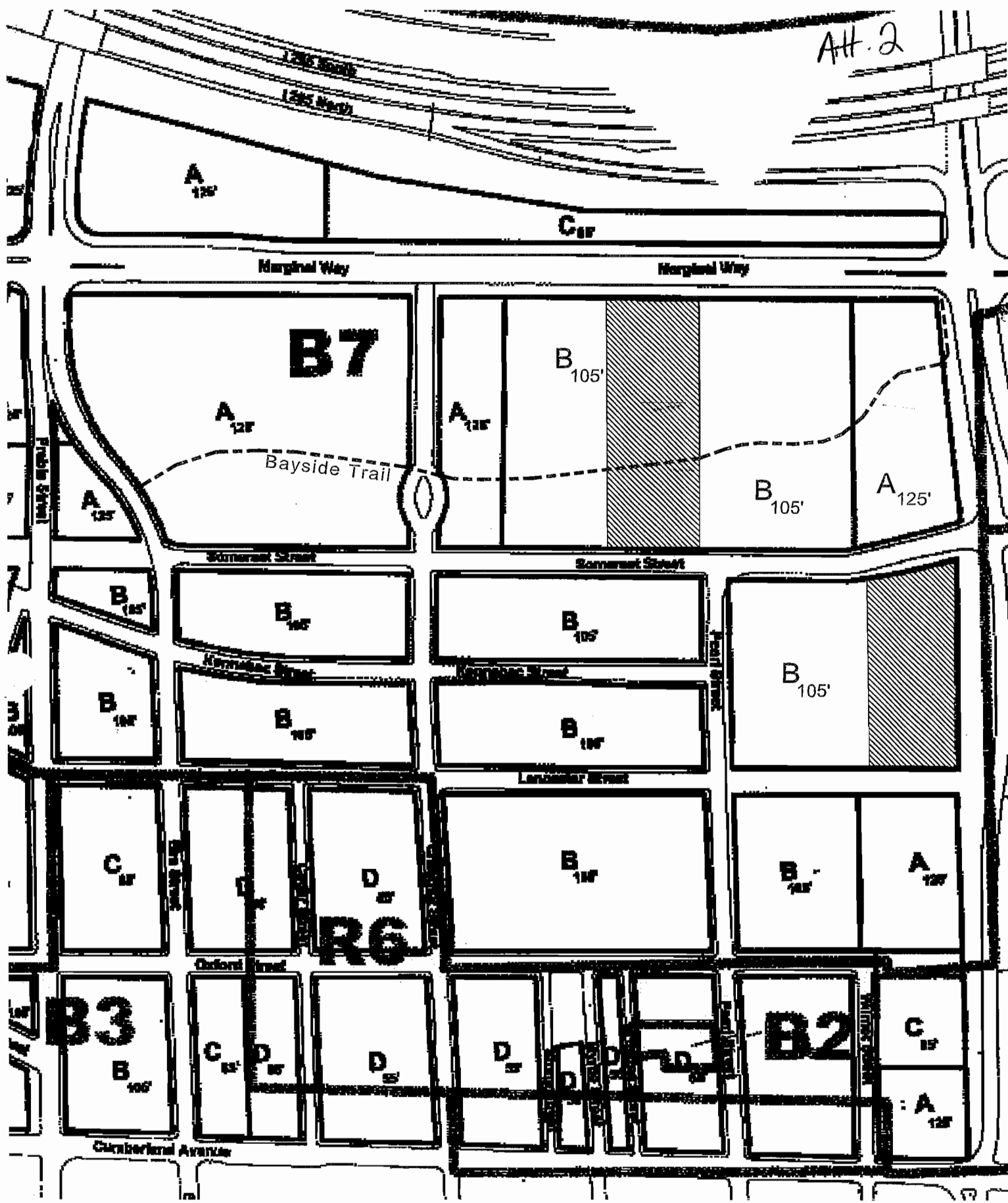
C. Transitional Neighborhood Height District

min. 3 floors, max. ht. 85'

D. Traditional Neighborhood Height District

min. 2 floors, max ht. 55'

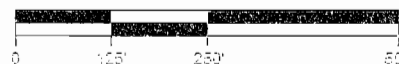




Bayside Height Overlay: Proposed Zone Change

March, 2013

Denotes Zone
change from B to A



Att. 3

DIVISION 17. B-7 MIXED DEVELOPMENT DISTRICT ZONE

EXCERPT

Sec. 14-296. Conditional uses.

(a) The following uses shall be permitted as conditional uses in the B-7 zone as provided in section 14-474 (conditional uses), provided that, notwithstanding section 14-474 (a) or any other provision of this code, the planning board shall be substituted for the board of appeals as the reviewing authority:

(1-4 NOT INCLUDED)

5. *Buildings in the bayside gateway urban height district A greater than one-hundred twenty-five (125) feet but no more than one-hundred sixty-five (165) feet in height provided that:*

- a. Such buildings shall ~~do not obstruct~~ be sited to minimize encroachment into designated view corridors and visual landmarks to and from the downtown or that do not substantially further obstruct such corridors blocked by existing development as identified-referenced in the Bayside Height Study Map and the B-7 design standards; and
- b. Portions of such buildings higher than 125 feet shall be stepped back at upper levels to provide light and air to adjacent streets, trails, and open spaces, with a ratio of no less than at least to the extent that the ration of building height to width of adjacent streets, trails and open spaces is equivalent to 1.5 to 1 except that the Planning Board may modify this requirement as provided for in Section 14-526 (d) (9) (viii); and
- c. Such buildings ~~provide~~ publicly accessible and usable open space, meeting the B-7 urban design standards, of at least ten (10) percent of the building lot area; and
- d. If located on lots including or adjacent to planned or proposed street or pedestrian way connections, land dedication to such street or connection shall be credited toward the ten (10) percent open space requirement. Buildings over 125 feet in height that are being reviewed as separate phases of a Master Plan Development Plan

shall be entitled to meet the ten (10) percent open space requirement of Section 14-296 (a) (5) (c) in aggregate for all such buildings over 125 feet in height, provided that the open space shall not fall below 10% at any built phase or combination of built phases;-and

- e. Such development shall comply with all other zoning requirement and B-7 urban design standards as required by this article.

AH.4

ARTICLE V. SITE PLAN

(EXCERPT)

Section 14-526. Site Plan Standards

(d) *Site Design Standards*

9. *Zoning Related Design Standards:*

- a. Development of certain types and/or proposed in certain zones, as specified below, are subject to design standards in addition to the provisions of Section 14-526 (a) in order to ensure designs that contribute to and enhance the goals and policies for specific districts of the City. The City of Portland Design Standards is listed in the City of Portland Design Manual, which is included by reference. If the development is located in a historic district or associated with a historic landmark, City of Portland Historic Preservation standards shall supersede:

(i through vii omitted from this draft)

(viii) B-7 Design Standards for Additional Height in

District A: In the B-7 zone, the Planning Board, when conducting review of a Master Development Plan or a Level III site plan, as applicable, may modify the stepback provisions of Section 14-296 (a) (5) (b), relating to buildings allowed as a conditional use to exceed 125 feet up to 165 feet in height, providing the following conditions are met:

a) Each building exceeding 125 feet shall contain at least 20 dwelling units per building.

b) Building wall stepback requirements along public street frontage:

i. Building with frontage on one street:

Minimum ten (10) foot stepback between third and fifth stories and a minimum ten (10) foot stepback between the 125 and 145 foot level.

ii. Building with frontage on multiple streets:

Above paragraph (i) requirement along longest building façade street wall, and of the remaining street walls the same

4.1

requirement as paragraph (i) or a 15 foot wide streetscape improvements area containing a public sidewalk, landscaping and other streetscape improvements within the abutting street right-of way and/or private property along the remaining street frontage. A building with frontage on four streets shall meet the above requirement except that two of the streets shall have the stepback requirement.

iii. The Planning Board shall have the authority to waive one or more of the required stepbacks provided the following is met:

1. The depth of the building lot precludes a building having an average minimum lot depth dimension of 170 feet; or

2. The proposed building has an architecturally significant design that is articulated to avoid a monolithic appearance and emphasizes slender, vertically-oriented proportions while employing a variety of scales, materials, fenestration, and massing to assure a rich visually interesting experience as viewed within the context of the downtown skyline and provide visual interest and human scale at the pedestrian level.

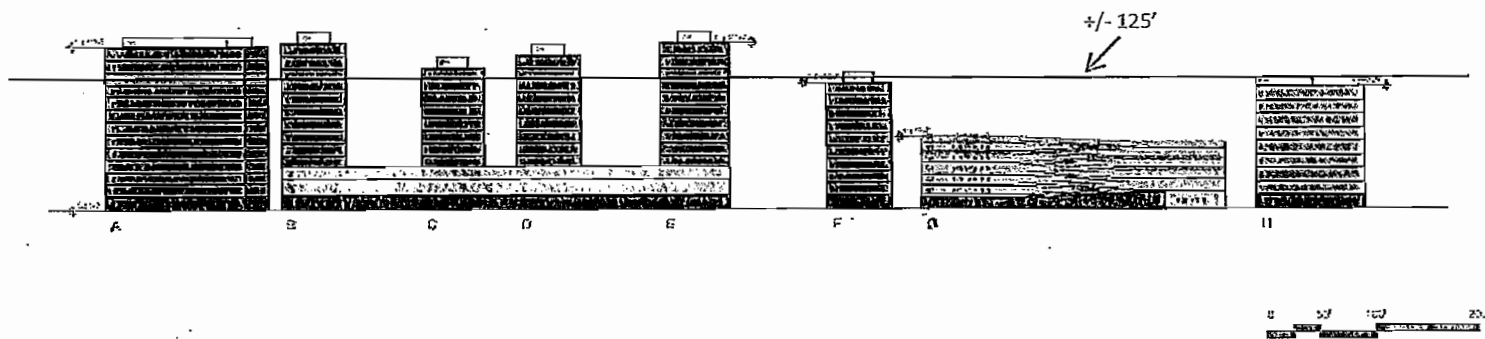
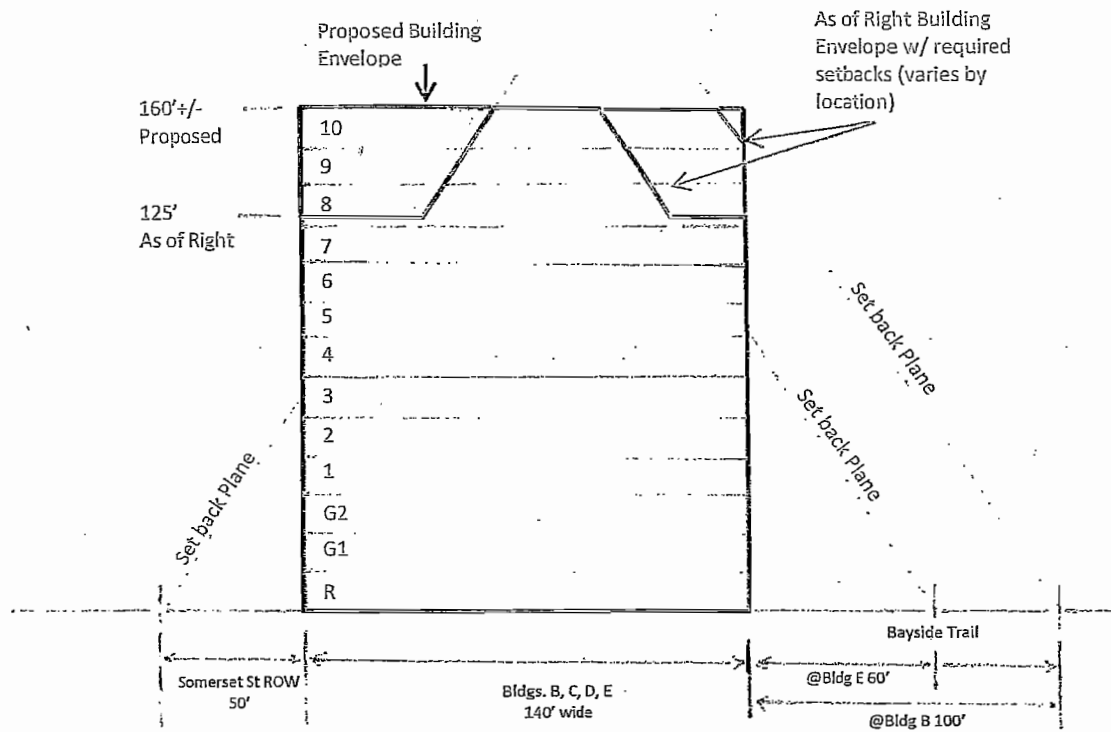
3. In the event such a waiver is granted the Planning Board may require the applicant to mitigate the impacts of the waiver by requiring the following:

a) Along all public street frontages and public open spaces, all buildings (regardless of height) shall meet the B-7 Design Standard E-4 Articulation to maintain a pedestrian scale through the use of building elements at the street level as listed in this standard along no less than 60% of the building's horizontal length.

- b) Along all public street frontages and public open spaces for the building(s) over 125 feet, a canopy, awning or similar permanent architectural feature to provide pedestrian protection and wind mitigation shall be provided within the first thirty-five feet of height.
- c) In order to preserve view corridors and to maintain a varied skyline, all buildings above 125 feet within a single development site should be separated to avoid the appearance of a tall, solid block massing. In accordance with this policy, development sites of 500 feet or greater as measured parallel to Marginal Way, the aggregate building façade widths above 85 feet shall not exceed fifty percent (50%) of the total development site distance parallel to Marginal Way. Buildings over 125 feet in height that are being reviewed as separate phases of a Master Development Plan shall be entitled to meet the fifty percent building requirement in aggregate for all such buildings over 125 feet in height in the Master Development Plan, provided that view corridors are retained as each phase is built.
- d) The applicant shall demonstrate building design elements and location will reasonably mitigate downdraft effects of the proposed building or buildings.

Implications of Existing B-7 Height Height Provisions on Maritime Landing

Att. 5



HISTORY AND POLICY OF BAYSIDE HEIGHT OVERLAY ZONE

The B-7 Bayside height system was conceived as a way to support the development principles of the Bayside Plan as a dense urban mixed use district. The previous B-5 zoning allowed a maximum height of 65 feet which was deemed insufficient to create the dense urban environment anticipated in Bayside. Although the Bayside Plan didn't recommend a specific height program, a common theme in the plan is Bayside's role as an extension of the downtown and as dense urban district. For example the plan has a goal of 940 housing units and 950,000 sq. ft. of office space which can only be achieved by a dense development pattern.

The height system was developed within the context of the Bayside Plan and was enacted as part of a comprehensive review of Bayside zoning which resulted in the enactment of the B-7 Mixed Use Development District.

This section will discuss the genesis of the Bayside Height Overlay Zone system including factors and considerations reflected in the enacted height program.

A. Rationale for Bayside Height System

The Bayside height system is intended to support the revitalization of Bayside as a dense urban mixed-use neighborhood and to provide a more visually interesting cityscape. In order for Bayside to succeed as a dense urban neighborhood it needs a critical mass of people (residents, workers and visitors).

Density is critical in achieving and sustaining the dynamic synergies that support urban districts. It supports a broad range of private and public infrastructure/facilities and services such as public transportation, retail businesses, employment opportunities, pedestrian walkways/amenities, and other services that are the backbone of a dense urban area.

There was a concern the previous building height system (65 feet high in the B-5 zone) would impede the formation of that critical mass because it limits the amount of building space that can be developed on a given parcel. Bayside has an opportunity to develop into a dynamic mixed use urban neighborhood, but people density is critical in achieving this. For example, a six or seven story building does not create the scale of density anticipated in Bayside nor does surface parking, which is strongly discouraged. An efficient use of land would be integration of an office or housing building stacked over structured parking, such as the Intermed building. A lower building height works against this efficiency because dense urban development by definition becomes more vertical.

Building height is a key ingredient for urban density. The reality is (like the downtown) not all parcels will be developed to their maximum potential so its important that height be flexible to accommodate the overall density needed to support this critical mass. Because of its current land uses (large parcels that are undeveloped) Bayside is an appropriate place to allow for greater density of housing to serve the city and the region as it grows in the

future. Carefully located nodes of high density will help fulfill the objectives for urban and transit oriented development.

Height plays such a critical element in creating density, the B-7 zone includes minimum building heights (up to 4 stories high) which is one of the few zones aside from the B-3 that has that requirement.

In a memo to the Planning Board (dated 08/01/05) Carrie Marsh, Urban Designer, stated the purposes of the Bayside Height Overlay Map.

Provide for higher buildings in a proposed B-7 Mixed Use Urban District Zone that supports the goals outlined in A New Vision for Bayside.

Establish a defined area in the city in which greater height can be provided.

Accentuate Bayside as a "front door" or gateway to the City by providing height along major corridors and street corners.

Provide for smart growth by providing high-density, mixed-use development that serves the needs of the neighborhood, the city and the region and goes up not out.

Provide a hierarchy of heights that respects residential neighborhoods and allows greater density adjacent to the traffic and other infrastructure that can support it.

Create space for a critical mass of people (residents, workers and visitors) that is needed to make a new urban neighborhood successful.

Provide opportunities for high-density housing that is adjacent to infrastructure, highways, jobs and educational opportunities.

Create a high density, transit and pedestrian-oriented, mixed use neighborhood which enhances the experience of those who live, work, learn and recreate there.

Provide opportunities for good design by allowing for a shift in building mass in order to create visually inspiring, less bulky buildings, on smaller footprints.

Preserve views looking from the south toward Back Cove and the mountains, as well as views looking both toward the spine of the Portland peninsula.

B. Downtown Height Study (1989)

6.2

To provide context to the current Bayside height plan, below is a summary of the Downtown Height Study which was commissioned by the City in 1989 to review heights for the entire peninsula.

The study recommended a concentration of the tallest buildings along the Congress Street "spine", reinforcing the historic form of the City. The study indicated "the interest of the skyline is enhanced when the massing of structures is not completely uniform and when buildings have distinct profiles".

The enacted downtown height overlay map allows a 150 to 210 foot height along much of Congress Street (between Franklin Street and High Street) with lower height as one progresses down the hill to Bayside and the waterfront. Attachment 2 is the current height map for the B-3 zone.

The Downtown Height Study also introduces the need for building setbacks to reinforce a comfortable pedestrian scale along streets and sidewalks and to allow taller portions of buildings to be sited in interior portions of lots where they will not impede sunlight and air to the streets and sidewalks. Various ratios of street width to building height are employed to derive compatible street edges with appropriate tower massing. This allows tall buildings to be built compatible with a comfortable pedestrian environment and fit with existing building fabric avoiding canyon-like streets and windswept plazas centered with gigantic building forms. The plan calls for modest scaled building meeting the sidewalk, with taller building portions stepped back onto the interior of the building lot. The setback concept was incorporated into the B-3 zoning as reflected on the current B-3 height map.

The Downtown Height Study presents the highest allowable heights along the Congress Street spine, with lower heights graduating down toward the waterfront and Bayside. The southern area of the peninsula, encompassing the Old Port and Waterfront districts, is characterized by these historic districts and is highly developed. Bayside, by contrast, is largely undeveloped, characterized by industrial and vacant brownfields. As such it provides a unique opportunity to create a new policy for taller buildings along Marginal Way and I-295. Current theory about building heights and density suggest that high density supports transit, and that a varied skyline is more dynamic and visually interesting than a static skyline.

C. Bayside Height Planning Process

Initial ideas for the Bayside height program were generated from meetings with the Bayside Development Committee which recommended higher heights to accomplish the urban density and architectural variety envisioned in the Bayside Plan. A number of the meetings were held with the Height Subcommittee of the BDC including a joint meeting with the Community Development Committee to help shape the height concept. Several Planning Board workshops were held as part of a larger series of workshops on B-7 zoning. Terrence Dewan and Associates served as the City's consultant on the height issue which included a computer simulation of the proposed height system. Images of that study as well as other height related analysis by the consultant will be provided at Tuesday's workshop. The City also consulted with Architect Winton Scott on building design and height issues.

6.3

The Downtown Height Overlay Map was viewed as too restrictive for the level of urban density required for Bayside so other height regulation concepts were considered. Various ideas were explored to ensure a reasonable build-out potential. Building height concepts were extensively explored and discussed particularly in District A. Among the concepts explored included the following;

Establishing zones of height classifications (4) with individual blocks designated accordingly.

Establishing view corridors which include streets and street extensions.

Minimum building heights.

A view shed regulation that would be less than 50% occupied by buildings at the upper levels as the target, with up to 2/3 of the sky visible.

Wedding cake height regulations for individual blocks with stepbacks.

Maximum floor area ratio.

Dimensional limitations including a maximum 100-foot building dimension parallel to Marginal Way for taller portions of the buildings.

Stepbacks from designated view corridors.

A floor plate limitation of 15,000 square feet for taller portions of buildings.

A 200 foot separation distance between portions of taller buildings.

Designated stepbacks from the Bayside Trail.

Most of the discussion during this process focused on District A in particular an appropriate maximum height as well as related provisions that would regulate massing. The Planning Board among the interested parties involved seemed less enthusiastic about a 165 foot maximum height. Also, the Board was not comfortable with concepts to mitigate height, such as mapped stepbacks, required separation distances between tall buildings and floor plate limitations, which were viewed as too complicated and prescriptive. A computer simulation model of proposed building heights generated the Board's concern. Therefore at the Board's April 4, 2006 public hearing on the B-7 zoning amendments, staff prepared two alternatives for District A, 1) a maximum height of 165 feet and 2) a maximum height of 125 feet. The Board voted 5 to 1 (Silk) to recommend a 125 foot height.

When the City Council enacted the new B-7 zoning the Council amended the text by incorporating a base height in District A of 125 feet with a conditional use provision allowing a height exceeding 125 feet up to a maximum of 165 feet providing a series of

6.4

standards were met. These standards include a setback formula from trails/open space and streets that are now part of a zoning and site plan amendment discussed at the last workshop.

The height map, as enacted by the City Council, included a setback system shown on the map along the Bayside Trail. Later that feature was amended and removed from the map because it would have posed significant limitation on building lots adjacent to the trail.

D. Bayside Height Overlay Map (enacted 2006)

Height limits were increased in key blocks where development has taken place or is likely to take place while blocks occupied by traditional residential neighborhoods are in the lower height category. The lower height category intends to preserve the existing neighborhood fabric where it exists by not providing an incentive (through higher height) to level the remaining traditional residential neighborhood.

The enacted Downtown Height Overlay Map along Cumberland Avenue (northerly side) consists of an 85-foot (maximum) height district from Forest Avenue to Chestnut Street. The remainder of Cumberland Avenue from Chestnut Street to Franklin Street followed the R-6 requirements. The proposed Bayside Height Overlay Map lowers the height in four blocks along Cumberland Avenue (within the 85 foot district) to 65 feet (now 50 feet) within the block, occupied by the traditional residential neighborhood. Higher height districts were created on certain blocks along Cumberland Avenue, such as Franklin Towers, Waterview, Back Bay Towers and Public Market parking garage.

As the topography descends from Cumberland Avenue and moves away from the traditional neighborhood, the building height of the Bayside Height Overlay Map increases. The highest heights (A District) are found in gateways and major streets such as Marginal Way, portions of Franklin Street, and Forest Avenue. In other areas south of Marginal Way such as Somerset Street and Kennebec Street (B District), the height limit is 105 feet.

The proposed Bayside Height Overlay Map differs in several ways from the Downtown Height Study:

- Height has been determined on a block- by- block basis which relates to such issues as views, land use and traffic volume rather than topography as the sole factor in determining height. The high spine along Cumberland Avenue will still have taller buildings (as referenced earlier) but concerns of protecting the existing residential neighborhood have lowered heights along certain blocks of Cumberland Avenue.
- The highest height (165 feet) will be available in certain gateway areas such as along Marginal Way and Franklin Street. This offers the opportunity to shape and highlight key gateways and major arterials into

Bayside and Downtown that are intended to complement the high spine skyline of the Downtown.

- A defining element of the peninsula is the change in topography. The high spine policy developed in the Downtown Height Study works very well at the top of the hill and along the descending contours of the hill. However in the area from Marginal Way to about Lancaster Street, the Bayside topography is very flat (near sea level). This flat area extends about 800 feet deep from Marginal Way, which is over half the distance between Marginal Way and Cumberland Ave. Given the relatively large size of this area and with little or no topographic change, this area has the potential to have a very uniform and monotonous building profile without some height flexibility.

Enacted Bayside Height Districts

The enacted Bayside Height Districts are outlined below. See Attachment 3. Note that the B-7 Design Principles and Standards provide design standards regarding massing, articulation and other factors and were crafted with higher building heights in mind. Although these heights represent the upper limit of height in these districts, a developer needs to meet the appropriate design standards.

Gateway Urban Height District...District A (min. 4 floors; max of 125 feet or as a conditional use up to 165 feet)

District A is located within gateway and redevelopment areas near I-295 and other blocks along Cumberland Avenue adjacent to the downtown. An A district offers the opportunity to frame major gateways into Bayside and the Downtown while providing appropriate redevelopment opportunities near I-295. This zone allows the highest building heights in Bayside and includes standards to encourage a more visually interesting skyline. The base height of this district allows a base height of 125 feet with a maximum height of 165 feet as a conditional use.

The A district standards have been integrated with designated view corridors so that views are preserved and enhanced by variations in individual building profiles. By allowing a higher height, the A district intends to create opportunities for concentrated nodes of higher density development than the existing B-5 height limits while encouraging a more sculpted and visually interesting cityscape. The taller height limit allows building mass to be reshaped providing the opportunity for more variety and flexible building design in gateway areas, along arterials or major streets.

The minimum building height is 4 floors.

Intermediate Urban Height District...District B (min. 3 floors; max. 105 feet)

6.6

District B areas offer significant opportunities for redevelopment. Most of the B areas are north of Lancaster Street and are commercially oriented in terms of existing uses. District B includes much of the vacant land in Bayside (part of the rail yard, Oakhurst Dairy parking lot) and all three of the scrap yards. The redevelopment potential of this area is evident in that there are only three existing buildings (DHS, Schlotterbeck & Foss and Noyes brick warehouse) north of Lancaster Street that are three stories or higher.

Like District A, District B is intended to avoid monolithic rectangular block buildings while encouraging a more sculpted and visually interesting cityscape. By increasing the present B-5 height limit, the density of Bayside may be increased while providing aesthetic variation.

Transitional Neighborhood Height District...District C (min. 3 floors; max. 85 feet)

District C areas are generally adjacent to the traditional neighborhood blocks, but offer the potential for infill development at a height compatible with the surrounding blocks. C areas include several sub-block areas near or adjacent to the Public Works complex. There are a number of non-residential properties in this zone having surface parking lots, or underutilized properties that when redeveloped could help re-knit the Bayside neighborhood.

Traditional Neighborhood Height District...District D (min. 2 floors; max. 55 feet)

District D is located within the traditional residential neighborhood of Bayside within one or two blocks from Cumberland Avenue. This neighborhood consists primarily of one, two and three story buildings built during the 1800's and early part of the 1900's. The height standards are intended to conserve the existing height, scale and character of the traditional neighborhood residential structures while providing some opportunities for compatible R-6 zone scaled infill development.

6.7

CITY OF PORTLAND, MAINE
MEMORANDUM

TO: Chair Cloutier and Member of the Community Development Committee

FROM: Alexander Jaegerman, Planning Division Director

DATE: April 6, 2006

SUBJECT: Planning Board Recommendations on Bayside Zoning

On April 4, 2006, the Planning Board voted to recommend the Bayside zoning package to the City Council. Attached is the Planning Report #21-06, which presents the zoning package as reviewed by the Planning Board, as well as a redline version of the text showing the specific text being recommended by the Board. The zoning amendments include the proposed new B-7 zone text, the map change from B-5 to B-7, a site plan amendment to enact design standards for the B-7 zone, and a height map of the Bayside area bounded by I-295, Forest Ave, Franklin Street, and Cumberland Avenue. Given the request by the CDC at the last meeting to adhere to an April timetable for this zoning, we placed the proposed zoning on the City Council agenda on April 3, so the Board's recommended zoning will need to be moved as an amended substitute motion. As you read Report #21-06, you will see numerous locations where we had presented alternative language choices to the Board. The Board has made selections from among these alternatives, has done some clean-up amendments from the original text, and has made some recommendations for changes to the text based on their considered judgment. In two cases involving exemptions to minimum heights, we bring some issues to the CDC's attention below for further discussion.

The CDC has also requested that an open space provision be included in the proposed zoning. At the last workshop, the Planning Board was not supportive of the concept of an open space requirement, so it was not drafted as part of the zoning package reviewed by the Board. Included within this memo is an open space concept that the CDC may want to consider adding to the B-7 zone in the CDC recommendations to the City Council.

Minimum Height Exemptions

We have some minor issues regarding one aspect of the Planning Board's recommendation having to do with the exemptions to minimum height that the CDC might want to consider. In specific, the Board rejected proposed exemptions from the minimum heights for parking structures and intermodal transportation facilities. We are anticipating the possibility of a very modest train stop in Bayside that would include a platform and some minimal waiting facility, and probably an automated ticket kiosk. While this could conceivably be placed within a larger, multi-story building, there is little likelihood of such a building being constructed on the minute land area available for the station stop. We therefore suggest that the CDC might want to recommend restoration of

this exemption. Similarly, the staff had recommended that parking structures be exempt from the minimum height to encourage even one or two level parking decks, similar to the Chestnut Street garage. We have also envisioned the possibility of a single level of parking covered by a green roof open space deck. There is strong interest in open space and park resources in Bayside, and if it proves possible to construct a layer of parking below a constructed green space, that might be a more efficient use of land, that would be frustrated by a three or four story minimum building requirement for parking structures. So even a limited exemption for this particular combination of uses might allow for such development in the future. While we do not typically recommend matters contrary to the Planning Board's recommendations, we do want to bring these possibilities to the attention of the CDC for consideration. I did inform the Board that we would be presenting these particular issues to the City Council.

Open Space Requirement Concept

In discussing the possibility of an open space requirement, we suggest that it be required only for larger projects. We are recommending that on parcels of one acre or larger, on which new building is proposed of 40,000 square feet or more, that 10% open space shall be required. Such open space to be green space or paved pedestrian plaza, to serve as buffer, landscape area, or recreation area for the site. We suggest that an option of a fee in lieu of such open space could be useful, based on current land values, and that if the site is in a location where a street extension is planned (such as Pearl Street), that dedication of street right-of-way could satisfy the open space requirement. We are still evaluating the specific sizes and percentages, and will attempt to have available examples of existing developments and their open space requirements under this concept. We would welcome feedback from the CDC on this open space concept, and we will develop formal language if so directed.

Planning Board Recommended Height Map

At the recommendation of the Bayside Development Committee's Height Subcommittee, after consultation with the full Bayside Development Committee and the CDC, we had spent considerable energy developing a height map with maximum heights at 165'. The Planning Board appropriately requested that a 3-dimensional model or simulation be developed to help understand the implications of this height. Upon seeing the simulation, the support for the highest height seemed to evaporate. Nonetheless, we continued to develop zoning regulations that would have made such heights possible and would have tempered the heights with step-backs and view corridors. At the Planning Board workshop on March 14, the Board was clear that the complicated restrictions on view corridors and step-backs were not supported at the Board level. We therefore prepared two very simplified alternatives for the Board's consideration on April 4, one with the proposed 165' height zone (the A zone), and the other with the A zone reduced to 125'. The first alternative eliminated all view corridors and all step-backs except for along the trail corridor and the bottom end of Chestnut Street. (The CDC had previously suggested that the Chestnut Street corridor be enlarged with an expanded setback.) The second alternative, at 125', further eliminated the step-back on Chestnut Street. The Board selected the second alternative with the 125' A-zone. Only one Board member, David Silk, voted against this option in preference for the taller (165') A-zone.

We are quite comfortable with the Planning Board's recommendations on height. While the view corridors and step-backs could produce a very pleasing streetscape, they are complex and prescriptive, and could frustrate some creative architecture. Our strategy is to salvage much of these concepts within the B-7 Design Standards, which are still under development. Once the Council adopts the B-7 and related site plan standard, the design standards will return to the Planning Board for adoption. We will propose that building massing be designed to avoid canyon like conditions, secure light and air to surrounding streets and open spaces, and avoid blocking views down street extension when possible. These provisions under design standards are inherently flexible and allow for site-specific solutions. Furthermore, if a developer is eager to build above 125', we can suggest a conditional rezoning for such height. So far, no one is lining up for such heights.

We look forward to presenting the Planning Board's recommendations to the CDC, and securing your recommendations to the full City Council scheduled for April 19.



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Economic Development Department
Gregory A. Mitchell, Director

AH.7

MEMORANDUM

To: Portland Planning Board
From: Greg Mitchell, Economic Development Director
Date: February 22, 2013
Re: Midtown Project – City Goals

This memorandum will provide you information related to City economic development goals associated with the Midtown Project, which is a public-private partnership in support of Bayside neighborhood economic growth.

BAYSIDE VISION

The Bayside neighborhood is a priority redevelopment area for the city which has received a lot of attention from preparation of the Bayside Plan (A New Vision for Bayside) to securing funding sources to support neighborhood economic growth.

Bayside zoning and height overlay regulations were established to restrict the amount of surface parking in recognition of the need for dense redevelopment, centralized parking structures and improved mass transit services to support Bayside neighborhood economic growth.

The Bayside Plan includes plans for five (5) appropriately placed parking structures averaging 600 spaces each to support economic growth in the entire Bayside neighborhood bounded by I-295, Franklin Street, Cumberland and Forest Avenues.

FUNDING SOURCES AND CITY REAL ESTATE

Funding sources to support Bayside economic growth include:

- ***Bayside Tax Increment Financing (TIF) District.***
- ***Housing and Urban Development (HUD) 108 Loan Program and Brownfield Economic Development Initiative (BEDI) Grant Programs.*** A total of \$12 million was secured to invest in public infrastructure, relocation assistance for two scrap yards and \$9 million to invest in one large parking structure.
- ***City Capital Improvements investment*** in annual public infrastructure.
- ***Federal funding sources*** of over \$2 million were secured to invest in the Bayside Trail along with funds to extend Somerset Street which is under design.

City owned real estate includes 3.25 acres of property along Somerset Street between Trader Joe's and Whole Foods adjacent to the Bayside Trail. This property was acquired from the Maine Department of Transportation which was originally owned by Pan Am.

7.1

PARKING STRUCTURE OPTIONS

The history of the city's involvement in Bayside parking structure partnerships include:

- **City owned Parking Structure.** In 2005/2006, the City Council and Planning Board approved construction of a 700+ space parking structure to be owned and managed by the city. The location for this planned parking structure was the former New England Metal Recycling Scrap Yard property. The city decided not to pursue this option and instead sought to partner with a private sector partner.
- **Public-Private partnership with Maine Health.** In 2008/2009, the City Council approved investment of \$9 million, in the form of a grant, in a privately owned 700+ parking structure with associated 98,000 square foot office building located on Bayside Subdivision Lot 3 located at the intersection of Somerset Street and Chestnut Street adjacent to Bayside Trail. This project was approved by the Planning Board, but Maine Health made the decision not to proceed.
- **Public-Private partnership with Federated Companies in the Midtown Project.** In 2011/2012, the City Council approved investment, in the form of a \$9 million dollar grant, in a privately owned parking structure to leverage a phased residential and commercial mixed use project.

MIDTOWN PROJECT PUBLIC-PRIVATE PARTNERSHIP OVERVIEW

An overview of the partnership documents include:

- **Purchase and Sale Agreement** to sell the city owned 3.25 acres. Default provisions are included in this Agreement in the case of nonperformance to allow the city to repurchase any undeveloped real estate at its sale price.
- **Job Creation Agreement** to satisfy use of HUD funding.
- **Parking Contribution Agreement** requiring the construction of a minimum 700 space parking structure; 24 hour "key card" access; restrictions on hourly/monthly rates; participation in the Park and Shop Program; parking availability for snow ban parking; special event parking; public 24 hour 7 day a week access; minimum 200 hourly turn-over spaces; acceptance of cash and credit card payments; adherence to parking structure maintenance standards; and requiring the parking structure to remain as a public garage for a minimum of thirty (30) years. Default provisions are included, in the case of nonperformance, to allow Federated to convey to the City the Garage and related property under certain terms and conditions.
- **Federated Corporate Guarantee** to construct Phase 1 of the Project within a specified time period at a projected municipal taxable value of \$38 million. If the projected taxable value is not achieved, the Corporate Guarantee requires Federated to fund the difference between the Phase 1 Project actual taxable and projected values annually for 17 years.

Midtown CITY PARTNERSHIP GOALS

There are many public goals and benefits associated with the Midtown Project from transforming a city gateway, increasing the supply of housing to support on Peninsula population growth to expanding Portland's vibrant downtown.

Two goals which I will focus upon include:

Parking. Large scale appropriately placed parking structures, called for in the Bayside Plan, is needed to support the Midtown Project and the redevelopment of many underutilized Bayside neighborhood properties. Construction of large parking structures is expensive. It is felt that a few large scale parking structures constructed to their maximum size, at time of construction, is the best approach to satisfy all existing and future parking demands of the Bayside neighborhood.

Tax Base. The projected tax base for Phase 1 of the Midtown Project is \$38 million dollars. Achieving this taxable value is important to the city in order to retire HUD loan debt associated with the city investment in the parking structure. Relaxation of the height restrictions associated with this Project was discussed at time of partnership document approval in order to achieve the projected taxable value.

I will be attending the February 26th Planning Board workshop on the Midtown Project and would be happy to discuss this with you or respond to your questions.

From: Jack Soley <jsoley@eastbrowncow.com>
 Subject: FW: PLANNING BOARD MEETING POSTPONED TO MARCH 21ST.
 Date: March 21, 2013 11:12:40 AM EDT
 To: Carol Morrisette <resdesstudio@me.com>

From: Jack Soley
Sent: Thursday, March 21, 2013 11:12 AM
To: Carol Morrisette (mailto:resdesstudio@me.com)
Subject: PLANNING BOARD MEETING POSTPONED TO MARCH 21ST.

Thank you Carol. Please confirm receipt of this:

This is clearly a difficult site which merits compromise to current ordinances in order to facilitate development, and further growth is critical to the ongoing revitalization of Bayside. However, is the current plan as good as possible? Does this plan deserve zoning changes and/or text amendments, or could the proposal be further refined in order to create a development better suited to the site? I understand the urgency of this project. We are all anxious to move forward with a plan that does not jeopardize the great effort to secure a HUD grant/loan to the City and creates higher tax assessments necessary to cover that new debt service. But should the prospective construction of a parking garage drive a development site? Does the push for the garage merit taller and denser construction than may be reasonable?

The current proposal is the second iteration we have seen at the Planning Board from this applicant. It would appear that we still have time to revisit the plan once more in order to get closer to the criteria mandated in our ordinance, without risking this development. In general, the overall massing and scale seems inappropriate for this part of the City and I believe imperils the "livability" that the "New Vision for Bayside" specifically seeks. This project cannot meet; 1. the current B7 zoning for heights, 2. guidelines for building height to width of adjacent streets, or 3. mandated step backs. All of these important guidelines were intended to create a more intimate relationship between pedestrians and their built environment. According to the Planning Board Report prepared by senior planning staff:

"The purpose of the [building height] section is to mitigate the impact of taller buildings by reducing the potential for "canyon effect" and promoting light and air. Such measures promote a more pleasant environment for pedestrians in a densely developed urban environment. This is accomplished by locating taller buildings on wide streets (such as Marginal Way) and or stepping back the upper stories of taller buildings by reducing the apparent scale of building mass above 125 feet."

We are being asked to approve a structure taller than zoning allows while simultaneously making significant compromises to all of those factors which mitigate its monolithic appearance.

This development will be here for many generations to come. We have a responsibility to get it as close to right as possible, without creating insurmountable hurdles that forestall growth. Compromises are necessary and I believe that we should continue to work hard to get a project built on this land, but let's not relax standards in a manner that may handicap future good development in Bayside. Please consider sending this plan back to the developer in an effort to craft a design more appropriate for this site.

Jack Soley

8.1

Rick Knowland - Fwd: Midtown Project

From: Barbara Barhydt
To: Knowland, Rick
Date: 3/19/2013 12:02 PM
Subject: Fwd: Midtown Project

>>> "Brian Knoblock" <bknoblock@maine.rr.com> Tuesday, March 19, 2013 11:56 AM >>>

I would like to express my opposition to the request by the Bayside/Midtown developer to raise the height of the tallest buildings to 165 feet.

Although there has been some attempt to provide view corridors I think that overall the number, size and mass of the buildings will create a huge wall

across the Bayside neighborhood. They will cut Portland off from the Back Cove and cut the Back Cove off from the rest of the city. We already have enough examples of "sore thumb" buildings in the city – the low income housing building at Franklin and Cumberland, the monstrosity apartment building next to Ft. Allen Park and even the Intermed building. Intermed is a prime example of a too-tall building in that area and the mistake should not be repeated. While the developer should be applauded for his willingness to invest in the Bayside neighborhood, he should also respect the neighborhood and existing regulations and make the project work within those guidelines. The size and number of parking spaces and the parking structure should also be re-examined. There are too many parking spaces for the project and the garages only add to the bulk of the project. Walling off a downtown area by building huge structures on the outer edges is a mistake repeated too many times in too many cities – the west side of New York City in particular. We should not replicate those mistakes here in Portland. We are often described as a "right sized" city and our urban development projects should also be "right sized."

Brian Knoblock
60 Stonecrest Drive
Portland, ME 04103

TO THE PLANNING BOARD -- MARCH 12, 2013

The Portland Society for Architecture agrees that the Bayside neighborhood should to be renewed with a dense mix of housing and retail, and that it is good to assure that 200 new parking spaces are made available to the public. Tall buildings have a role to play in the hearts of vibrant cities, and Bayside should become a more vibrant quarter of the city.

PSA is in favor of the development plan concept that is proposed for the zoning ordinance, but under a different name as is now proposed and with shorter extension possibilities. Neighborhood Visions (formerly known as master plans) should be updated—not redone, but revisited and adjusted for newer conditions and planning strategies—before large, multi-year projects and their ‘master plans’ are considered. The word “current” in the language you are now considering should be defined—possibly as no more than five years old.

PSA also believes that significant zoning changes for major projects should only be approved after a visualization model has been developed that allows any resident or City official to readily appreciate its many impacts. It is worth noting that a previous Planning Board rejected a height of 165 feet for this part of Bayside—**after** seeing a computer model of its effect. 165 feet was added-in as a conditional option by the City Council—not a planning body. Now 165 feet is effectively becoming the new height with vastly stripped-out conditions and with no considered review of its effects—let alone a 3-dimensional view of it within the context of the city. A birds-eye ‘view corridor’ diagram does not provide a real picture of the impact of the buildings for people on the streets. Pictures of sun-drenched cafes from Mediterranean climes as stand-ins for Somerset Street are misleading. All this would be revealed with proper modeling.

PSA opposes granting the Federated Midtown Development Plan approval for many reasons: because the underlying Bayside Vision is now out-of-date—it does not consider sea level rise in the context of neighborhood nor the best thinking about parking and heights.

Even though the City is in control of this land and what happens to it, the development that is being proposed here creates superblock ‘blockades’—not unlike the effect of the Spring Street divided highway, which many are now trying to undo. PSA supports the standard in the proposed language saying that the development plans should be “designed to create a street grid pattern that reflects average city block sizes of the neighborhood for street connectivity”.

With reference to sea level rise, the City is responsible for assuring that the Bayside street and utility infrastructure meet the challenges of re-development. It is shortsighted to pass this off to developers on a building-by-building or entry-by-entry basis.

The city should be in control of this process, not the developer. There is reference in the staff report that “We have taken the applicant’s language and drafted revised language.”—while this precise example may be trivial, it speaks of a process that does not represent the best land use interests of the City of Portland, which is what zoning is supposed to do.

Approval of this plan will set a pattern for profoundly questionable development that will go with the land well into the future. The Portland Society for Architecture hopes you will send this back to the drawing boards. Thank you.

March 12, 2013

To: Planning Board, Public Hearing

From: Peter Monro, ASLA, 32 May St. 04102; ofc. 565 Congress St., 04101

Although I favor dense residential and retail development for Bayside, the current Federated proposal seeks exemptions to reasonable requirements, exemptions that will lead to buildings oversized in every dimension that will violate the spirit and letter of the Bayside vision, create unpleasant conditions on nearby streets and trails, and set precedents for inappropriate design elsewhere on the peninsula.

The Midtown scheme ignores what was best about the Bayside Vision, that Pearl and Myrtle streets would be extended/constructed between Somerset Street and Marginal Way, that fine-grained development would be placed along them, and that the results would be pedestrian friendly. This lateral expansion of Federated's proposed development has several significant negative impacts:

- It prevents through traffic in car and on foot. The fact that Mr. Quesada can maintain a continuous chainlink-fence barrier between the Bayside Trail and the social services building and Trader Joes is another negative impact of this failure to complete even a partial street grid in this area. Without true public ways, private landowners dictate who can go where, or nowhere.
- It limits on-street parking, forcing almost all visitors to pay parking garage rates
- It prevents driving to the fronts of stores and eliminates the active mix of motorists and walkers that puts the most eyes and liveliness on the street
- It blocks view corridors that the Bayside Vision specifically says should be kept open. The current zoning standard is straightforward, reasonable, and enforceable. Buildings "shall not obstruct" the designated corridors. The standard proposed by the applicant (3/4/13, Drummond Woodsum, paragraph (d)) , that "buildings will be sited to minimize encroachment into designated corridors" is too vague to be meaningful or enforceable. For instance, I assume Federated believes adopting that language would lead to approving their proposed six-story parking garages that obstruct the view corridors. If so, what meaning could possibly be attached to the term "view corridor?"

The over-expansion of the buildings in the opposite direction, fore and aft, causes other negative impacts brought up at the workshops: too narrow sidewalks on Somerset Street and narrowing—and moving—the Bay Side Trail and its corridor. However, the applicant's suggestion that the sidewalk width requirement can be eliminated all together because of "landscaping and other improvements" is inappropriate. Large streetfront buildings in the downtown need to have a sidewalk on a single level at least 10-12' wide.

As to the vertical oversizing of these buildings, the latest proposed language (in the same 3/4/13 memo) fails to adequately or appropriately address earlier objections, and it—like the other dimensional oversizings—strikes at the heart of the Bayside vision of a

neighborhood developed to be pedestrian friendly.

Specifically, I urge you to oppose paragraph b(i) that would allow a second setback as high as 145 feet. That means in the case of this development allowing an exposed façade of the building more than 100 feet above neighboring buildings with only a single setback of as little as seven feet. If the developers wish to maintain that such a minimal setback will protect people on the street from horrific downdrafts and eddies, they should be required to demonstrate it with a proper wind study.

The developers seem to concede this point in the final proposed paragraph (e), where “The applicant shall demonstrate that the building design elements and locations will reasonably mitigate downdraft effects of the proposed Building(s),” but the vagueness of “reasonably mitigate,” the lack of inclusion of eddies as well as downdrafts, and the lack of any description of the proposed demonstration make it a poor choice of verbiage. Approved language should require a full modeling or wind tunnel study that occurs *before* any Master Plan is approved or any exemptions are offered.

The developers’ proposed Paragraph b (ii) compounds the insufficiency of these standards to protect pedestrians. That paragraph if applied to this project would allow Federated to make “improvements” to the Bayside Trail—put in lights and benches, say—and escape the requirement to put any setback on the north side of these buildings. The paragraph then says that since they would have satisfied the requirements for two sides—Somerset Street and the Trail side—they don’t need to have any other setbacks.

In short, this draft language sleight-of-hand would allow Federated to have only the inadequate setbacks currently required on the longest street frontage side. I urge you to adopt instead revised language that requires setbacks on any side that will have streets or public walkways, a minimum of eight feet wide, with a second setback at or below 100 feet of façade exposed above neighboring buildings (neighboring meaning adjacent or directly across the street) or at or below 100 feet above the ground, whichever is greater.

Their proposed Paragraph b(iii) must be considered risible. The setbacks which protect street life should not be waived for any reason. The suggestion that the designation of “architecturally significant buildings” forms a meaningful or enforceable standard for doing so does not warrant discussion.

Overall, in the case of this project, is it not already clear from the applicant’s repeated use of the words “commercially viable templates” to describe the reasons for the shape and size of these buildings regardless of their poor site fit or impacts on the ground that we are talking about cookie-cutter design “from away?” Indeed, we are effectively talking about new Franklin Towers in relative location (stand-alone towers away from the real midtown) and in massing (essentially vertical boxes), and design (clearly generic, unrelated to the City of Portland or their sites). I hope you will review the project not in the rearview light of a barren Bayside in need of any proposed development but in the light of a near future Bayside that is vibrant and clearly part of the peninsula pattern.

Thank you for your thoughtful consideration of this precedent-setting project.

8.5

Thomas E. Blackburn
14 Hanover Street, Portland, Maine 04101
teblkbrn@maine.rr.com

March 12, 2013

Members of the Planning Board
City Hall
384 Congress Street
Portland, Maine

Re: Downton Crossing

Dear Ms. Morrisette, and members of the Planning Board;

I have been a resident of Bayside for over 15 years, and have seen the development potential of this neighborhood languish in relation to the other areas.

I am currently the treasurer of the Bayside Community Development Corporation, as well as the former treasurer of the Bayside Neighborhood Association, and a current board member of Creative Portland, and the Executive Director of Creative Space. However in this case I speak for myself, with the knowledge there are many others with similar views who are not here tonite.

Portland needs new housing to complement it's older housing stock, which for the most part has a low vacancy rate and Bayside needs development.

Creative Portland as part of it's mission and as part of the city's Economic Development Plan has committed to bringing 10,000 skilled workers and entrepreneurs to Portland in 10 years. Where are they going to live? Most of the other areas of the peninsula have been developed while Bayside remains available.

This is the opportunity for Bayside to fulfill a critical need for housing in Portland, and realize it's potential. Whole Foods, Trader Joes, Intermed, Drummond and Woodsum, Winxnet, Avesta, Community Counseling, and Gorham Savings, have all invested in Bayside. And now Federated will too, if the Planning Board moves this project forward.

8.6

I strongly support this project, and the associated master plan and text amendments, which will allow Federated Properties to proceed with this critical project for the following reasons:

- The purchase and sale agreement with the city contemplated the height adjustment necessary for this project to proceed
- The project is consistent with the Bayside Vision and Plan
- The railroad lots are narrow, presenting significant challenges to a developer
- Federated has assembled a national team who combined with excellent local professionals have successfully addressed these challenges working closely with the city's planning staff, especially Rick Knowland.
- A master plan will allow this project to proceed on an overall project approach rather than on a building by building basis. This approach benefits everyone, including future developers, Portland and Bayside.
- The details of the project have been thoroughly vetted as the result of compromise and are reasonable
 - Building height
 - Step backs
 - Setbacks
 - View corridors
 - Bayside trail impacts
- In order to meet flood zone issues the finished floor elevation of the building must be raised by 2 feet, this presents challenges in terms of access, thus necessitating a further set back from the street right of way. That is absolutely essential, especially in light of the recent water main break and flooding that we all know is present in this section of the city
- The railroad lots are narrow and while it does pinch the trail, it is only minimally impacted and based on the overall positive impact of the project this is an acceptable trade off.
- This project with 800 market rate apartments for young urban professionals is a demographic this city and its businesses need as the skilled work force of the future.

This project and those that will follow will change the skyline of Portland, and repopulate Bayside while affording the advantages of newer housing, and additional retail near the existing Whole foods and Trader Joes.

Thank you
Thomas E. Blackburn



BAYSIDE NEIGHBORHOOD ASSOCIATION

P.O. Box 1563, Portland, ME 04104 • 207.523.0602 • bnaportland@gmail.com • www.facebook.com/BaysideNeighborhoodAssociation

March 11, 2013

Dear Chair Morrisette and members of the Planning Board,

Board members of the Bayside Neighborhood Association are excited about the development that The Federated Companies has proposed for our neighborhood. The Board has voted, however, to oppose any changes to the Bayside Height Overlay Zone.

Sincerely,

Stephen Hirshon
President

21 Chestnut Street
Portland, ME 04101

Portland Planning Board
City Hall
Portland ME 04101

March 8, 2012

Dear Portland Planning Board,

This letter contains the views of residents of the Chestnut Street Lofts (21 Chestnut Street) whose names are signed at the bottom. We do not speak for the board of the association or for any other residents.

We welcome the proposed midtown development to the Bayside neighborhood. The addition of market rate units, mixed uses and pedestrian and bicycle accessibility will be a good fit and also a welcome change from the current uses on the property. We do not oppose the development but we do have comments on the proposed rezoning of the Bayside neighborhood. The proposed midtown development will introduce a new urban design for the Bayside neighborhood that will set the standard for years to come. Therefore, we think the Planning Board should only make zoning changes that are in the best interest of the entire Bayside neighborhood over the long run. We make these comments not only with the midtown development in mind but also other developments that may come under the new zoning in the future.

Site Plan Review Changes:

We do not have any comments on the proposed changes to the site plan review process to enable master plan review.

Height Changes:

1. Changes from District B to District A: We support the rezoning of the Whole Foods site from "B" to "A." We prefer that the current zoning be retained for the other "B" parcel that is proposed to be changed to "A," but if the Planning Board intends to make a change then we offer these comments. We think that the block bounded by Marginal Way, Franklin Avenue, Somerset Street and Chestnut Street is really two blocks divided by the Bayside Trail, a public right of way. We do not oppose (although it is not our preference) changing the block bounded by Marginal Way, Franklin Avenue, Bayside Trail and Chestnut Street to "A." The width of Marginal Way makes this street better suited to taller buildings than other narrower streets within the Bayside neighborhood. We do not think the other block (Bayside Trail, Franklin Ave, Somerset Street and Chestnut Street) should be changed from the current zoning. Across Somerset Street from the site

of the midtown development there is a "B" District. The look and feel of Somerset Street would be more cohesive with similar heights on both sides. Somerset is narrower than Marginal Way and allowing buildings up to 165 feet will contribute to a "canyon" effect along this road. Retaining the "B" District in this area will also help protect Bayside Trail from being "canyoned" by tall buildings on both sides.

2. Percentage of District A that is 165' in height. We would like the Planning Board to consider limiting the percentage of District A that is allowed to go to 165 feet in height. (We note that this was a consideration when the Bayside rezoning was last altered.) Such a limitation would avoid monotony in the development pattern and insure a variety of heights in Bayside that would result in a more interesting skyline. It would also help to limit the buildings in the district from walling off views from Marginal Way to the city skyline and from the downtown back to Back Cove. (Please see photo below as evidence).

PHOTO: View from the roof of the Chestnut Street Lofts to the Proposed Midtown Project



Source: Chris Gignoux, former architecture student, Washington University, and Clyde McCully, Photographer. Graphic software: Autodesk Map 3D and Rhino 3D primarily.

3. Mandate Shadow Studies for all Projects: Federated has submitted shadow studies for all public rights of way under its development. We believe that this is good practice and should be required of all applicants in District A.

Standards Under Which 165' Heights Would be Allowed (Sec. 14-526(d)(10)(ii):

Because the zoning changes are essentially giving a height bonus to property owners whose designation changes from District B to A, we feel that the City should get some additional protections in return. The amendments proposed by planning staff to this section would help to do that. In addition, we feel that in return for the right to go to a taller building (up to 165') there must be better protections for the pedestrian character of the streets and the view corridors. Therefore, we recommend the following for all public rights of way not just one street as currently proposed: should shadow studies show shadows on streets for a large share of the day, require larger stepbacks and/or a lower stepback than that at the 13th story level. Alternatively, a larger building setback from the street could be required.

Bayside Trail Protection:

The Bayside Trail is a newly completed city-wide asset that should not be compromised by private development. We believe there should be a minimum setback between any buildings in the Bayside neighborhood and the trail and if a shadow study (mentioned above) illustrates long periods of darkness on the trail, then additional building setbacks or stepbacks should be required.

Parking:

We support the use of structured vs. surface parking. However, we think that the number of parking spaces should be minimized to the extent possible. Because the Bayside Plan calls for the neighborhood to be a "transit-oriented" development and a walkable neighborhood, we think the city's standards for parking, which currently require a minimum number of parking spaces, should be changed to maximums, so that no more than the city standards can be provided. We live in a nearby new housing development from which we can walk to shop, eat, work and recreate in Portland's compact downtown. We recommend adding this change to the zoning for Bayside.

Maximum Block Length:

To promote a connected and walkable neighborhood we support the midtown development's maximum block length of 900 feet and think this should be required of all developments in the neighborhood and written into the zoning changes. No block should be greater than 900 feet in length between two public rights of way.

Conditional Use Review:

We urge the Planning Board to retain the conditional use review for projects that request exceeding the 125' height in District A. The standards for conditional use review require some flexibility on the part of the Planning Board as to how each project will be reviewed. We do not think that a permitted use review is appropriate for such cases.

Thank you for the opportunity to comment on these zoning changes.

Sincerely,

Aurelia Scott
Beth Humstone
Joanne Ogden
Sue McCulley
Dan Nygaard
Deborah Van Hoewyk
Charlotte Fullam
Sara Yindra
Clyde McCulley
Bonnie McInnis
Nancy Greenleaf
Leslie Anderson
Bob Krug
Sybil R. McCarthy
Edward A. McCarthy
Sally Williams
Nan Sawyer
Larry Hamm
Dory Hamm
Avner Eisenberg
M. Jean McDevitt

8.12

March 8, 2013

Ms. Morrisette
389 Congress Street
Portland Maine. 04101

Dear Ms. Morrisette,

I'm the general manager here at Whole Foods Market and have been here since we opened in 2007. Managing 30,000 customers a week plus over 350 team members through this building and neighborhood has been one of my main concerns over the years.

I'm writing on behalf of Whole Foods Market to show support for the project known as Midtown Phase one. This includes a parking structure on Somerset Street in Portland across the street from Whole Foods Market. I am excited to see the development and provisions for all the cars that come through here. We currently rent two offsite parking lots for our own team members, and I'm sure this is going to disappear when this area gets developed eventually. I may have to explore renting the garage as well. It's also going to be useful for the hundreds of vendors that visit this store, if not for the convenience of some customers depending on exactly where it is on the street.

I plan on being here personally at this store for many more years and have a vested interest in the store development as well as the neighborhood. One of the most popular comments I get from my customers is for additional parking and a safer pedestrian way.

If I can be of any assistance please don't hesitate to call.

Kind Regards,

Marissa Perry
Store Team Leader
Portland Maine
Marissa.perry@wholefoods.com
207 774 7711

Rick Knowland - PB workshop comments re: Bayside zoning amendments

8.13

From: Christian MilNeil <c.neal.milneil@gmail.com>
 To: Rick Knowland <RWK@portlandmaine.gov>, Jeff Levine <jlevine@portlandmaine.gov>
 Date: 2/26/2013 12:56 PM
 Subject: PB workshop comments re: Bayside zoning amendments
 CC: <whoffman@delucahoffman.com>, <m_jeffries@federatedcompanies.com>

Hi Jeff, Rick, and Greg,

As a neighbor in East Bayside and as an advocate for new housing in Portland, I'd like to offer my wholehearted support for Federated Co.'s project and working process, and request that the Planning Board move forward with a public hearing and approval for the proposed zoning amendments.

Like several of you, I do remain concerned that the developers are overbuilding parking, and that this will be an unneeded financial burden to an otherwise good project. As you are aware, the most recent large market-rate residential projects in our city — the Bay House, under construction, and West End Place, pending final PB approval — both only provide parking at a ratio of 0.8 spaces per unit, even with intense retail activity in their surrounding neighborhoods.

Contrast that with the last project to propose parking at the full 1-to-1 ratio, the "Newbury Street Lofts", which proved to be financially unworkable. Buyers and renters are generally unwilling to pay the rents necessary to finance this level of parking in Portland, a city where substantial market demand is coming from households looking to unload their cars. So I'd hate to see a similar fate befall this project due to unreasonable parking expenses.

That said, my concerns are somewhat allayed by the possibility of reducing the parking planned for Phase II. It still strikes me as a bad financial decision to build dubious infrastructure up front, but ultimately it's up to Federated to assess those risks and deal with their consequences.

My only other concern has been the "pinch point" in the Bayside Trail. I thank the applicants for their flexibility on this point and in reducing the width of the garage. But I implore planners not to let these concerns impede the zoning amendments and the execution of the purchase and sale. I'd note that, if the developers are willing to add right of way to Somerset Street, then the city's gain in new public space on the street may outweigh the loss of some trail corridor width.

I'd also encourage the planners and developers to negotiate with the abutting parking lot, where a reasonable deal might be struck for a similar conversion to compact spaces, netting another 2' of trail width in the crucial section. The City might even consider sweetening the pot for such a deal with matching funds from the P&S proceeds. As you know, these are issues that can be hashed through in the site plan review.

A final question for the planners — I'm curious to know about the ideas in the works for rebuilding Somerset Street and raising its elevation. Are there any public planning documents related to this project? What would the new cross-section look like? Would there be opportunities for stacking the new street above a new stormwater storage facility that could serve new development in the neighborhood?

Thanks for all your work on this project. Please feel free to share these thoughts with the Planning Board if it's not too late to get them included in today's workshop.

Environmental impacts militate for denial of Federated Building height exemptions

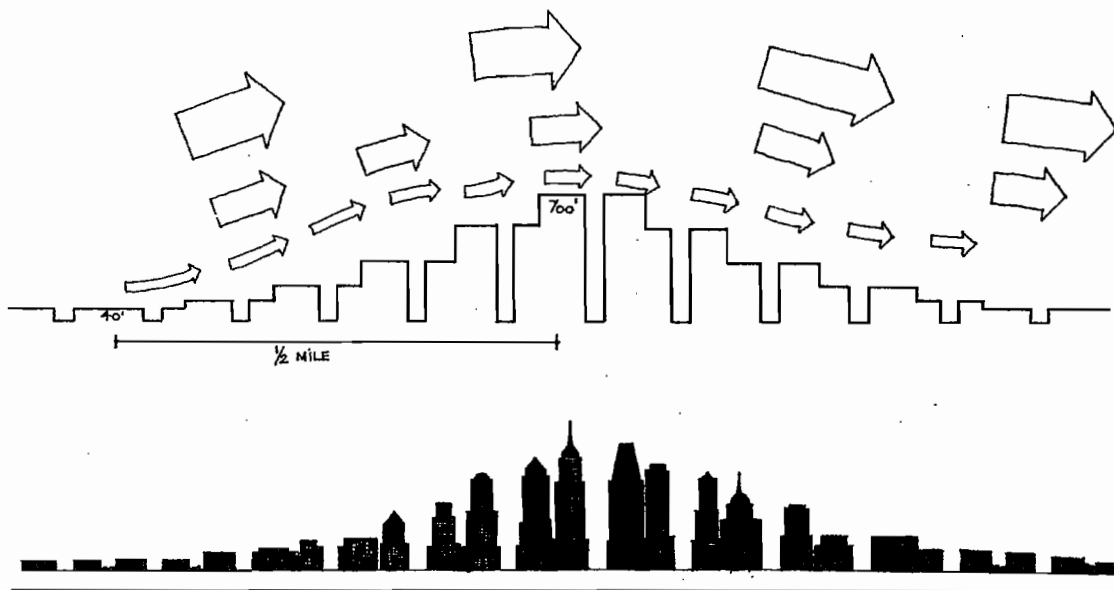
— Peter Monro, 32 May St., 04102

Among other things, tall buildings should fit with the overall urban fabric and should encourage life on the street. Because of their proposed height, location and massing, Federated's proposed buildings will distort Portland's urban fabric and will discourage street life, so exemptions to allow greater height should be denied.

Now tall buildings accentuate the peninsula's ridge as is natural and intentional, by lining up along Congress Street from the cathedral past the Monument Square buildings up to the Eastland Hotel. Zoning for tall development still centers there. Height on the ridge is part of a larger pattern that tends to create the best street conditions amidst tall buildings.

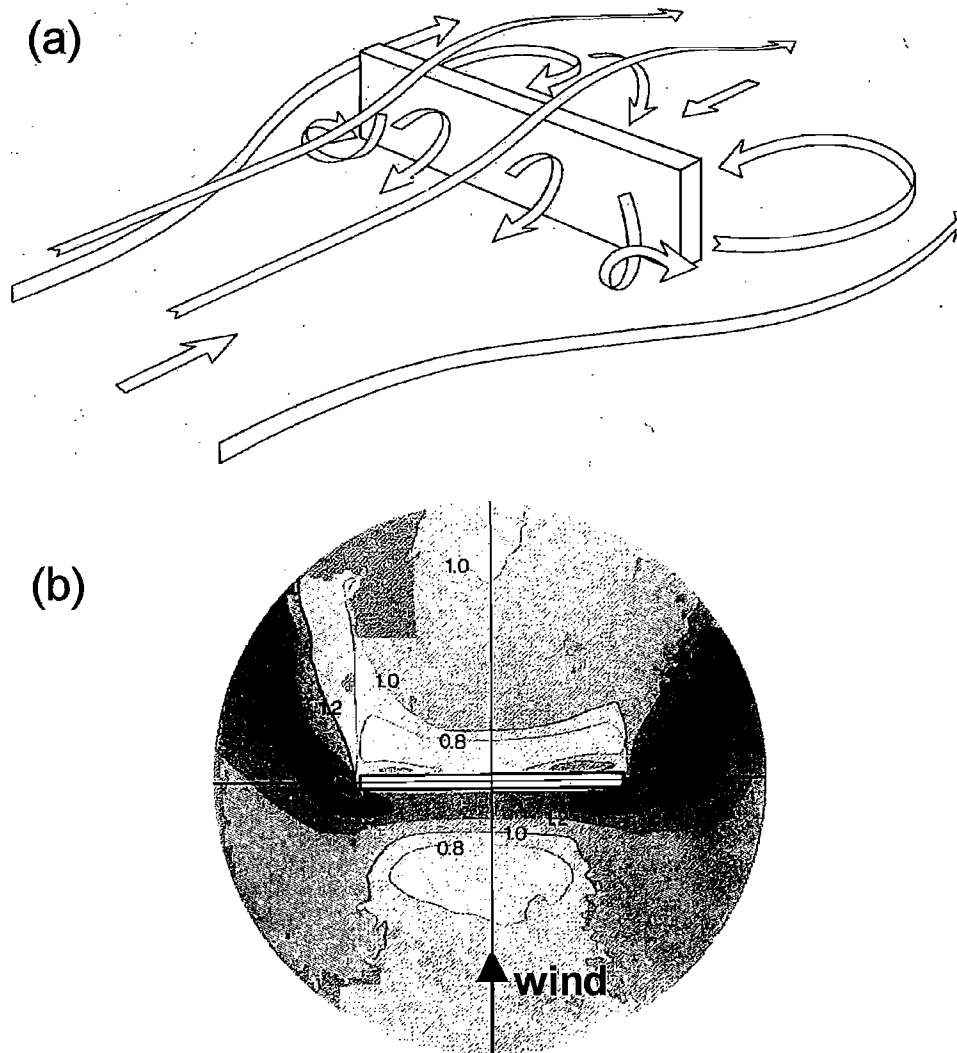
The larger pattern involves lower buildings downslope either side of the Congress Street ridge. That rise of buildings draped over rising topography achieves several purposes. It announces the uniqueness of the peninsular place that is central Portland. It also signals the spiritual and commercial heart of downtown. It permits the greatest number of users of downtown buildings to see out to either Back Cove or the harbor. And it causes winds from every direction, and thus in every season, to tend to ride up and over the peninsula, saving pedestrians on the streets below from its full impact. Only this careful organization of tall buildings creates this "shelter effect." This last reason for clustering tall buildings—to create the best possible street environment—is critical for a vibrant future Bayside and will be my focus.

Wind



The "shelter effect" depicted in a study of building and wind effects in San Francisco.

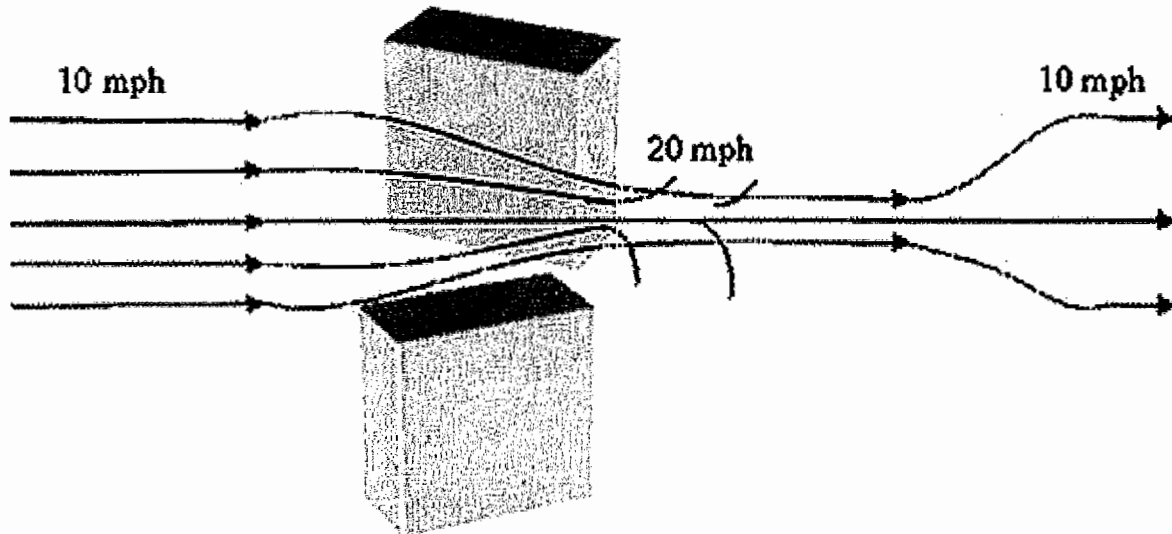
The shelter effect disappears where there are wide gaps among buildings and is reversed where an isolated tall building rises like a flat-iron hand signaling “Stop.” On the windward side of such tall isolated buildings winds are magnified, increased by downdrafts a third to a half faster than the originating wind. At the windward corners of isolated towers, winds can whip past at up to twice the speed of the originating wind. These effects are exacerbated by the building’s height because winds “captured” at the top of the building is almost always going faster than winds near the base, which are slowed by friction with the ground.



Tall isolated buildings (a) cause upper winds to speed down the windward wall, whip around the corners, and eddy on the leeward side. Increased wind speeds (b) are found at the base of the windward wall and the windward corners. [Blocken and Carmaliet. 2004]

The towers Federated is proposing on these two Bayside parcels are isolated. They would rise from the ground with almost no intermediate height buildings between them and winds coming from the east, west, or north. Winds from those three quadrants are dominant fall through spring and will produce downdrafts and whipping effects that will make walking past the towers in almost any season unpleasant.

Winds can also funnel between two tall buildings angled toward one another, roughly doubling the initial wind speed. Since two of Federated's proposed towers angle toward one another across the Bayside Trail, walkers there can be expected to experience serious winds as they reach Chestnut Street.

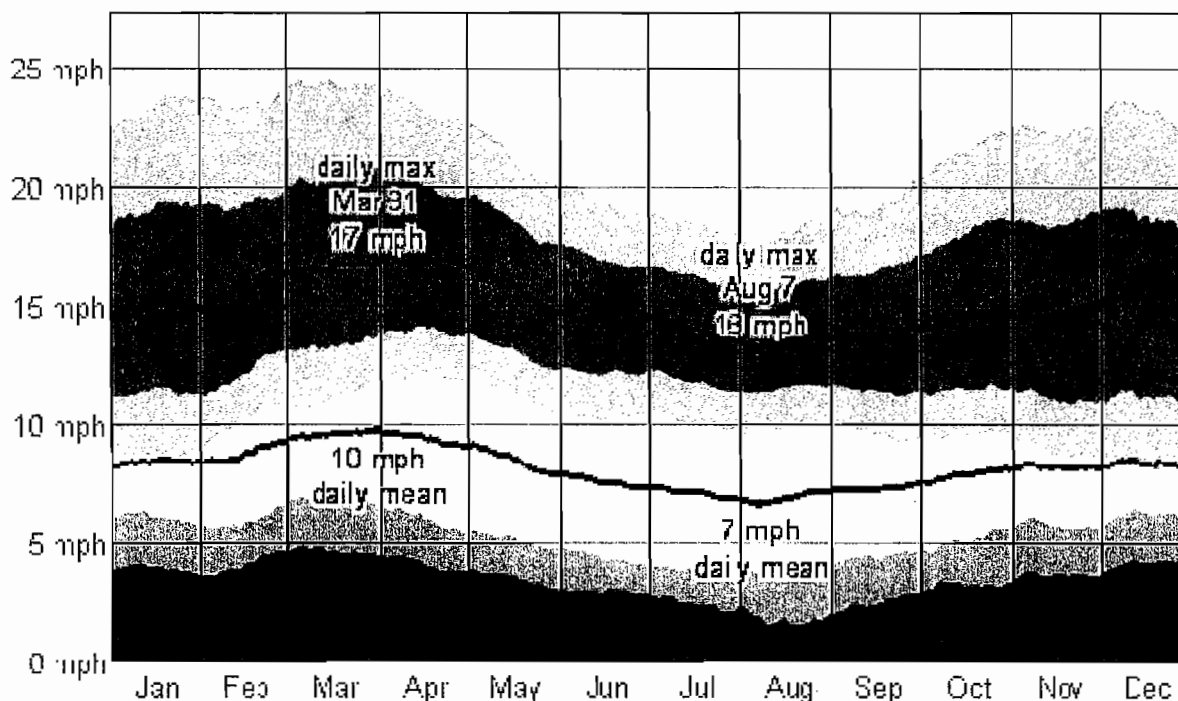


To experience magnified winds near an existing building on the scales being proposed, walk behind Franklin Towers almost any day of the year. Better yet stand there for a few minutes. This will reproduce the effect of sitting in the patio Federated is proposing behind its first-phase tower. I have stood behind Franklin Towers, on a breezy day in late April carrying out a survey, and I have seldom been so pummeled by wind or so chilled, even in midwinter.

On the south side of the proposed towers, wind eddies will occur, and will be at highest speeds from east/north/west winds whipping around the buildings' corners. In winter these winds will combine with snow and ice, the shade from these buildings or from the Noyes building across the street, and the narrow upper and lower sidewalks with connecting steps being proposed along Somerset Street to create unpleasant if not treacherous walking.



On the Somerset Street side, shade, windchill, steps, and narrow upper and lower sidewalks would challenge walkers much as they are challenged by the same arrangement at Union Station Plaza, which at least has the advantage of a protective overhang.



The average daily winds in Portland: Fifty percent of all winds occur within the dark bands, 80% within the light bands. Top wind gusts are not depicted. (Weatherspark.com)

Overall, the effects of these magnified winds would be consequential. In late March with the average maximum daily wind in Portland at 17 mph, people walking at the base of the windward side of one of these towers would be hit by 25 mph winds, and passing by the corners would be subjected to 35 mph flows. They could expect to encounter similar winds sometime each day throughout March and April. These kinds of winds can make being outdoors unpleasant and will make walking challenging.

Storms and wind gusts accentuate the issue. The record gust in Portland was 78 mph recorded three years ago, and 74 mph was recorded last month (Jan. 31, 2013). Winds at all times of the year are becoming more intense, both for average and peak, and the intensification is expected to grow as an outgrowth of climate change.

Allowing isolated towers that magnify these winds to 100 mph and beyond means accepting pedestrian injuries as part of the buildings' approval.

Building shape can be used to mitigate these wind impacts. Rounding the mass, creating holes through the building, and articulating facades can lower expected wind speeds. However, Federated is offering no such wind-modifiers so the heightened wind impacts will be unadulterated.

Wind effects

Wind speed m/sec (mph)	Effects
2 (4.5)	wind felt on face
4 (9)	newspaper reading difficult; dust and paper raised; hair disarranged
6 (13)	begins to affect control of walking
8 (18)	clothing flaps; progress into wind slowed
10 (22)	difficult to use umbrella
12 (27)	difficult to walk steadily; unpleasant noise on ears
14 (31)	almost halted into wind; tottering downwind
16 (36)	difficulty with balance
18 (40)	grabbing at supports
20 (45)	people blown over
22 (50)	cannot stand

Two researchers summarizing literature about pedestrian wind environment around buildings concluded: “Uncomfortable wind conditions have proven detrimental to the success of new buildings. A.F.E. Wise, for one, reports about shops that are left untenanted because of the windy environment that discouraged shoppers. Lawson and Penwarden report dangerous wind conditions to be responsible for the death of two elderly ladies in 1972 after being blown over by sudden wind gusts near a high-rise building. Recognizing the importance of the outdoor wind climate, many urban authorities nowadays require studies of the pedestrian wind environment for large construction projects.” (*Bert Blocken and Jan Carmeliet. 2004. http://sts.bwk.tue.nl/UrbanPhysics/pdf/JTEBS_WINDreview_preprint.pdf*)

Conclusion

Since the wind impacts from isolated towers on nearby pedestrians are relatively continuous, typically negative, and often significant, and since they increase with the height of the building, the height exemptions Federated is seeking for the towers currently proposed should be denied. The responses to denial—whether moving the easternmost tower toward Chestnut Street, lowering the towers, or reconsidering the proposal overall—will be an improvement over the current proposal for life on the trails and streets of Bayside.

#####

Portland Society of Architects

8.19

FOR DISTRIBUTION TO MEMBERS OF THE PLANNING BOARD (February 26, 2013 Workshop)

Master Plan and Zoning Changes Midtown Development Proposal

Master Plan

The Portland Society of Architects submitted written testimony for last workshop favoring the inclusion of a Master Plan standard in the city's site plan ordinance, with certain provisions. One recommendation is that its name be changed (we'll call it 'Area Development Plan'), to avoid confusion with existing Master Plans. Another is that a digital model of any project and its context be included -- a model of sufficient geographic extent, quality, and detail to be able to assess the project's impacts.

This project should be eligible for Area Development Plan (ADP) consideration because of its scale, but we do not believe that it should be granted ADP/MP approval in its current configuration for several reasons, including that neither the developer nor the city has yet produced a 3-D digital model allowing the project to be reasonably appraised. As a single example of this deficiency, the developer has alleged that the development as proposed will maintain visual corridors down existing streets when in fact three of six corridors will apparently be blocked by building facades six stories or higher. The considerable impacts of these blockages, the fact that this thwarts the intention of the Bayside Vision, has not been made apparent by the developer's submissions thus far.

Another reason for not granting ADP/MP status is that this development proposal is not based on a current city master plan, another factor we mentioned in last week's memo. The Bayside Vision was completed in 1999, uninformed by considerations of climate change, evolving transportation choices, shifting views of pedestrian-friendly urban form, etc. For example, Chestnut Street was to be a city gateway because of a railroad station at its base that was never built. The Bayside Vision needs to be revisited before text changes or approval of this are considered.

Height Text Changes

The Portland Society of Architects is opposed to the granting of a change to the height standard for Zone B-7 for this project for two substantial reasons.

Here again, inadequate visual representation has been offered to adequately assess the impact of the building of this scale on the surrounding neighborhood.

Second, the Bayside Vision premised the greater heights in this neighborhood on the idea that Chestnut Street would serve as a gateway spine within Bayside and leading to downtown. This was a weak argument to begin with, considering that the primary street between Franklin Street and Forest Avenue connecting the downtown to the rest of the city is Preble Street, not Chestnut Street.

(Incidentally, that gateway is already adequately represented by the Intermed and AAA towers facing each other across Preble Street.) As a result, extending these height allowances sideways along Somerset Street violates even the weak original premise in the Bayside Vision.

Zoning should be changed when there is a clearly demonstrated need and when the changes or exemptions result in demonstrable benefits to the community in exchange. We do not believe this proposal meets such reasonable tests. In fact, in this case the city-initiated text changes may actually create a harsher environment on the street.

Portland Society of Architects

8.20

FOR DISTRIBUTION TO MEMBERS OF THE PLANNING BOARD (February 12, 2013 Workshop)

The Portland Society of Architects has reviewed the concepts contained within the proposed "Text Amendments to the Site Plan Ordinance (Article V) for Master Plans and an Overview of Bayside Vision Plan" introduced by the Planning Department.

The proposal provides flexibility within an extended time-frame that may ease some of the uncertainty faced by developers contemplating larger scale projects. In that regard, PSA supports the impetus behind the text changes.

PSA suggests the following modifications/additions to the concepts.

1. Do not refer to this device as a 'Master Plan'. The use of this term will produce continuing confusion with other community-based efforts to devise plans for neighborhoods and districts; it will haunt the public process. In addition, what is asked of the developer in this proposal is only the barest skeleton of what the term 'master plan' implies. For the sake of our comments, we offer the term 'area development plan', but there are many other choices.
2. Area Development Plans should be based on 'current' city master plans. By extending the approval to 6 or 8 years, a proposed development could be locked into ideas that no longer reflect the best thinking in urban planning, and then turn them into brick and mortar. For example, work on the 'The Vision for Bayside' started in 1998. An Area Development Plan based on that vision might not be completely built-out until 23 years after the Bayside Task Force started its work. Had that Vision been informed by climate change, it is likely that the particulars of the plan would be different. The same can be said of other vital considerations like urban form, evolving transportation choices, the realities of retail occupancy, etc. We are suggesting that city-initiated master plans should be re-visited, not that they need to be recreated from scratch.
3. The Planning Board must have adequate tools with which to identify and evaluate the impact of the Area Development Plan. Height, massing, skyline, view corridors must be presented in a way that demonstrates a plan's effect on the ground. Currently, the best way to do this is with digital 3-dimensional renderings that are easily within the range of any developer. (The City needs to develop its own digital or physical representation of the city; all the information necessary for such a production is within the existing GIS system. A city-authorized model would guarantee that any proposal could be evaluated with confidence in the underlying dimensional data.) In the meantime, Area Development Plans need to include the development area plus its surroundings. In the case of Bayside and the Midtown proposal, the graphics offered thus far fall short of being adequate to evaluate the proposal.
4. Area Development Plans must indicate the impact on city services as well as infrastructure. For example, the Portland School Department would need to plan for the impact of an additional 650-700 dwelling units on the nearby schools.

The Portland Society of Architects looks forward to reviewing the precise language of the text amendment as it evolves, but for the moment supports the concept of the amendment with the provisos described above.

The Advocacy Committee of the Portland Society of Architects

1.29.2013

2nd Planning Board Workshop, Federated proposal, Phase I

As a resident of Portland and a landscape architect, I share the vision to extend Portland's dense downtown fabric to Bayside. My design practice on Congress Street focuses on issues that make for liveable cities, as expressed in my blog, DesignForWalking.com. This project is so large and so linked to the City of Portland and its development guidelines that the way it is designed and built will affect most future outcomes in Bayside and beyond. Today's hearing is critical for that future because it addresses key precedents for developing this major extension of the city's downtown.

Unfortunately, there are two major problems with the way this project has been thought about so far. First, where a vibrant city life—such as found along Congress Street and in the Old Port—depends on foot traffic, this project is driven by cars and directed to motorists. And second, where city streets should be extended and connected to make vibrant city life possible, here it is proposed that they be blocked, dead-ended, deadening street life precisely where we want to activate it.

These two issues are linked, but I'll consider each separately.

Point One: Parking drives this project. Proof? More than half the building space being proposed in Phase One is going into parking garages. The 5½ acres of parking in this phase pushes these buildings upward, beyond any reasonable limit, which is one reason for this workshop.

Parking is generally thought of as a positive thing, allowing people to come and go for working and shopping. But that is an increasingly dated and misguided model of development, urban or suburban. This proposal is coming at just the historic moment when car use in our area and across the US has for the first time in a century begun to decline. It's the wave of the future because it is being led by young people, the 25- to 34-year-old cohort. (Portland Press Herald July 29, 2012. *Portland at forefront of decline in car ownership.*)

Sheltered parking not only drives these buildings upward, it also drives up their cost. The taller buildings in turn deaden streets, by creating more shadow, more powerful downdrafts and more wind funneling. It also creates façade length that is not designed for pedestrians. Because the cost of parking will largely be hidden from garage users, it will encourage car use, as multiple studies have shown (See, for example, Julie Campoli's *Made for Walking: Density and Neighborhood Form*, 2012.)

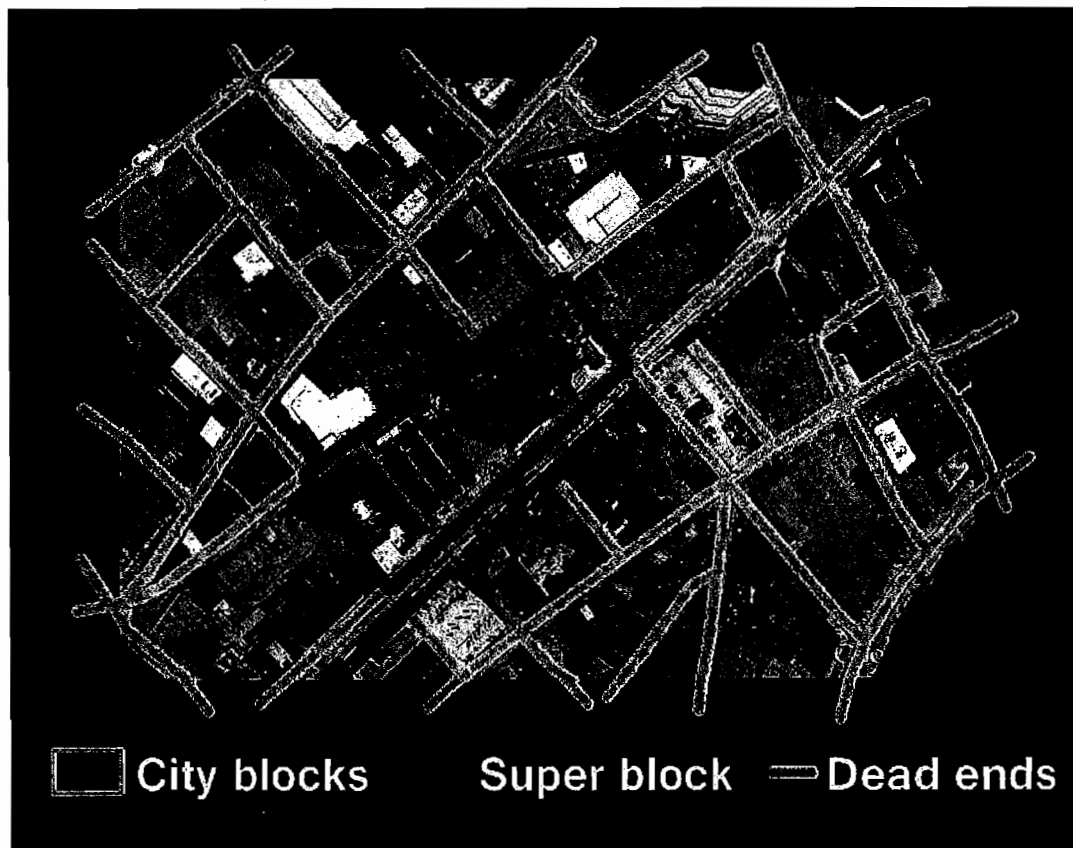
The costs will be passed onto the buyers of the apartments, skewing the occupant profile upward, as the proposed rents of more than \$1500 a month indicate. It will also be paid for, in this case, by all Portland residents. The city's \$9 million donation is specifically for parking.

Point Two: To eliminate these costs and improve street life, the streets in this area should be extended and connected to one another. The only way to create the diversity of street frontage, density of destinations and access to them, minimum distance to transit, and well designed street fronts that promote life on the street is by starting with lots of street frontage and lots of street connections.

So far, this project does just the opposite: It proposes to create two of the largest superblocks in the city. (Map below.) Of the six streets that start downhill from Oxford Street down toward the project site, only two—Preble Street and the recently extended Chestnut Street—actually reach Marginal Way. The buildings as proposed will permanently block these through routes. The proposed extension of Pearl Street is not a public street at all, but a service entrance for Tower One. (Applicant submission, p. 2-B-30) The one courtyard amenity proposed doesn't even face the street. (Applicant submission, p. 2-B-3) This is anti-street and anti-street life design by any standard.



The city has tried this before, and has been so sorry about the result that now, 30 years later we are still trying to fix it. I'm referring to the Civic Center superblock on the other side of the peninsula's spine. Its creation and related development stubbed four streets and created a dead zone just two blocks from Congress Street. (Map below)



Meanwhile, the recent Intermed and Bayside Village complex along Marginal Way is a pretty good representation—or should I say bad representation? — for what's being proposed here. Like this proposal, Intermed/Bayside Village is a combination of office, retail, residential and parking garage with a tower at one end.

A simple look at it suggests the problems. A solid wall to the street. No public cross streets. One true view corridor in the middle. Lengths of parking garages and car access points as street façade. Retail reachable primarily by car.



The Intermed complex on Marginal Way and the adjacent Bayside Village building.
FEDERATED / MONRO

So how much street life does this residential/commercial complex generate? Almost none. Why? Because unless you are a resident of Bayside Village and even then unless you are mailing a box or filling a prescription, you use a car to come and go.

Of course, you drive. Can you imagine even walking from Intermed or Trader Joes to Whole Foods? I have cycled there, but I'll bet no one else in this room has walked or biked anywhere along Marginal Way or any other street in the new Bayside. I don't blame you. It is a sea of parking lots, long blocks that encourage motorists to drive fast and requires walkers to walk long distances to any transit or retail.

This project is more of the same. Tall building facades are effectively 550 feet long and more than 600 feet long, capturing winds and blocking the sun. Sunshine will only reach the street level when the sun is precisely aligned with Somerset Street. A new Stonehenge in Portland. Three of six existing view corridors will be blocked by six-story garage or taller towers under Federated's currently proposed massing. For lack of cross streets, to walk from the corner of Somerset and Chestnut Street along the proposed buildings and around Trader Joes to its entrance is almost a quarter of a mile.

In any case, instead of view corridors, we need real public streets extending downhill at regular intervals from Somerset Street to Marginal Way. Many of the obvious routes are already on undeveloped land, public land, or along travelways through parking lots. Making these connections to extend the city should be a no-brainer. (Map below.)



Overall, then, to extend vibrant city life to this area, the City should rethink where its investment of \$9 million can do real good. I would suggest that it go to extending Bayside's streets. (And raising them to cope with the sea level rise that is already causing salt water to pond on Franklin Arterial beside Whole Foods.) These street extensions will provide cars, emergency vehicles, and pedestrians more direct access to more streetside places in the now and future Bayside.

And, importantly, they will provide more parking. Extending the uphill street pattern will provide roughly the 200 parking spaces the city has been asking the developer to build for the city—at a much lower cost. The City can still extend a subsidy to the developers, granting them permission NOT to build 200 additional parking spots. That, by the way, is what an increasing number of progressive cities like our namesake Portland, Oregon, are doing these days—setting parking maximums, instead of parking minimums.

Only with such a street grid and reduced sheltered parking will we actually extend to this area the downtown Portland fabric and street life that we have come to cherish.

At the least, at this hearing, the height exemptions sought should be denied, the setback requirements tabled, and any language that seeks to make permanent waivers or exemptions granted during this Master Planning process should also be denied because the proposals thus far are the wrong way forward.

Thank you for your consideration of these critical issues.

—Peter Monro, 32 May St., Portland, ME 04102
Landscape Architect, Principal, Monro Associates, 565 Congress St.

8.26

January 25, 2013

Dear Chair Morrisette and Members of the Planning Board;

We have a few initial questions about the revised conceptual plans for the "Midtown" development proposed between Somerset Street and the Bayside Trail. We are enthusiastically supportive of this project, and its potential to enliven the Bayside neighborhood by adding residential housing units and retail opportunities. The construction of mixed-use housing adjacent to the trail is exactly the type of development we have hoped for, and we are confident that the presence of more people and more activity in this area will benefit the health of the trail and the entire City.

We were invited by the development team to a meeting several months ago at Avesta Housing's office, and we look forward to continuing to work with them to ensure that the trail and the proposed development compliment each other to the greatest extent possible. As some of the details have begun to emerge from the planning process we do have some concerns that we wanted to voice at this time.

It appears that the elevation of Somerset Street is prompting a re-location of the parking garage footprint further into the trail corridor. As you know, this part of the trail is already somewhat constrained by the property boundary to the north. We offer the following comments and questions, for your consideration.

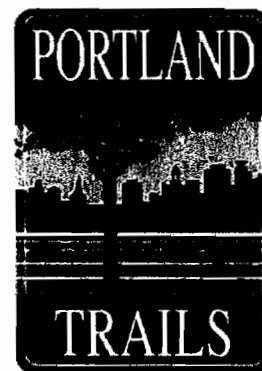
- In the area of the Chestnut Street parking garage, it seems that the trail experience may be compromised because of the tight corridor. With a chain-link fence on one side and a 6 or 7-story wall on the other, will it feel like a tunnel? Could the garage be cantilevered (and the first floor recessed)?
- If Somerset Street can be raised, will the garage not encroach into the trail corridor?
- In the same area, will there be room for amenities as depicted (lights, benches, trees...)?
- What will the Chestnut Street experience be - an active building? a blank wall? a "living" wall?
- If the retail and garage are to be accessed from the trail, as we would hope in order to maintain a vibrant public space, what will the interface look like? With only 18-20 ft, it looks like the opening of a door would impact foot /cycle traffic on the trail.
- Chestnut Street is currently a challenging interface between cars and trail users because the opaque fence makes it difficult to see/be seen by cars on Chestnut Street. How will sight lines be affected by this project?
- Is there any room for snow storage on the edge of the trail, and how will surface water be directed?
- Will the trail, or sections of the trail, remain open during construction?

We look forward to continuing the conversation with the development team and the City, and trust that the eventual outcome will be a vibrant, healthy community asset.

Sincerely,

Kara Wooldrik

Kara Wooldrik
Executive Director, Portland Trails



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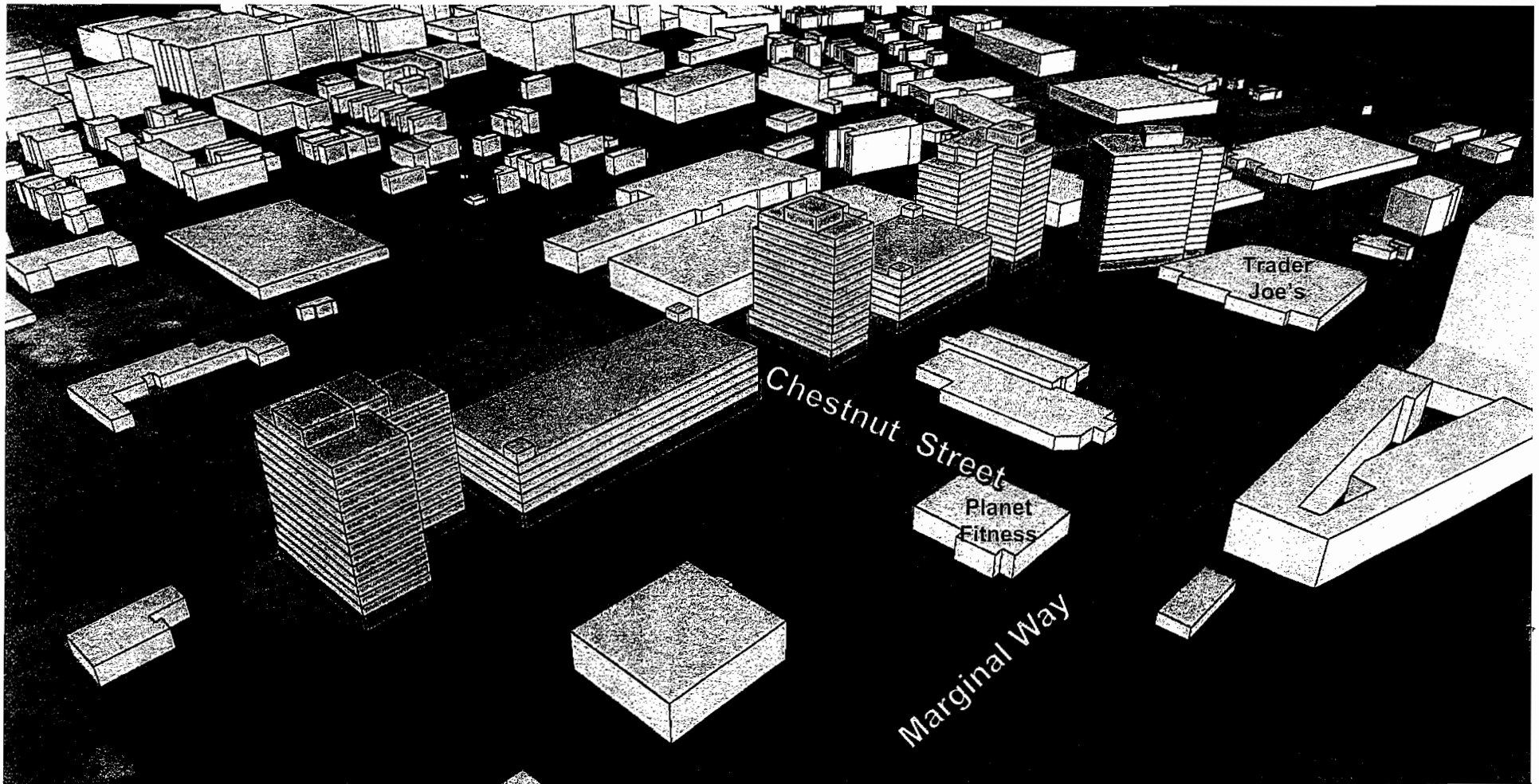
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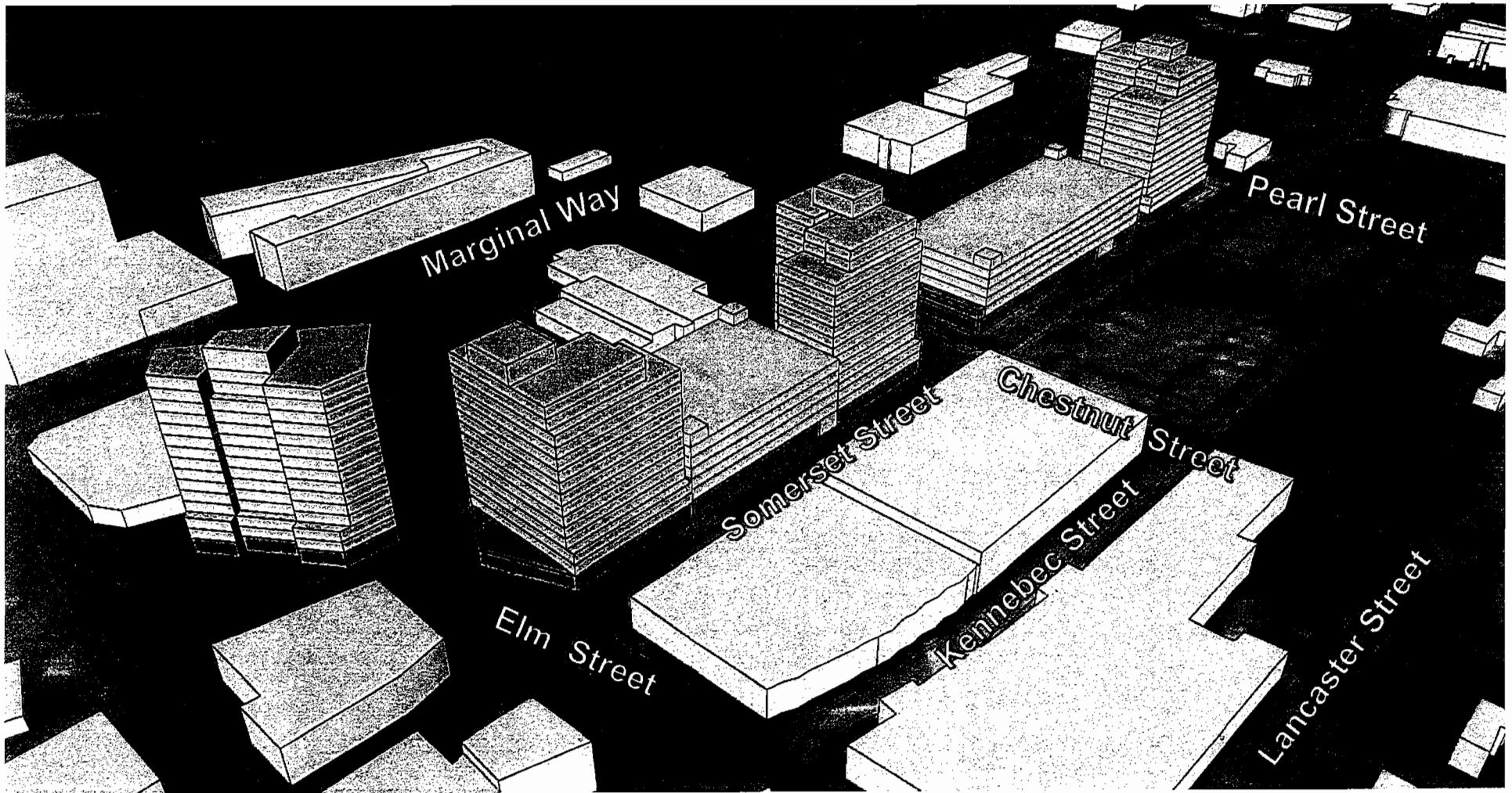
Kara Wooldrik

Current Plan – Aerial View from Northeast

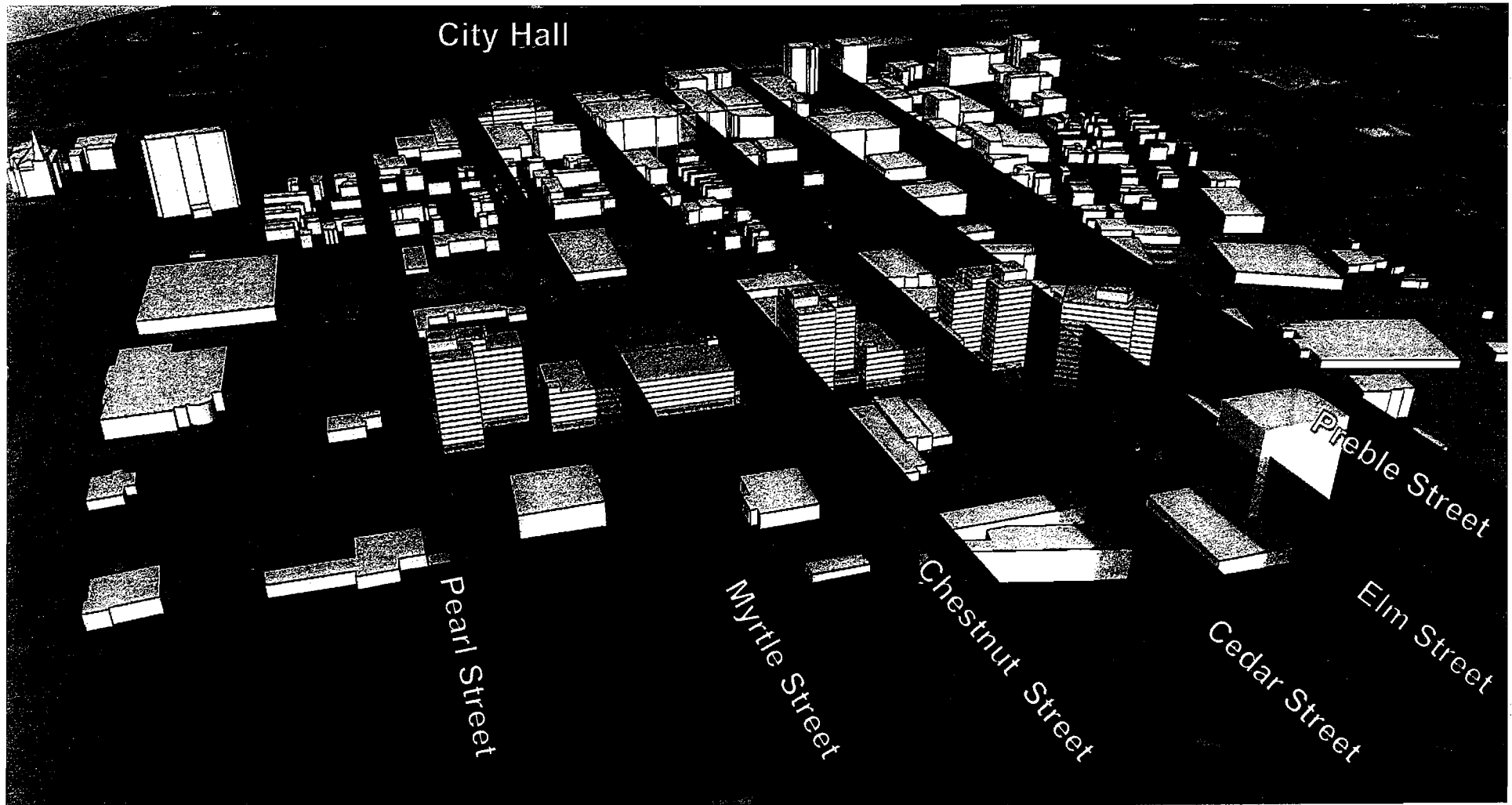


Att. A

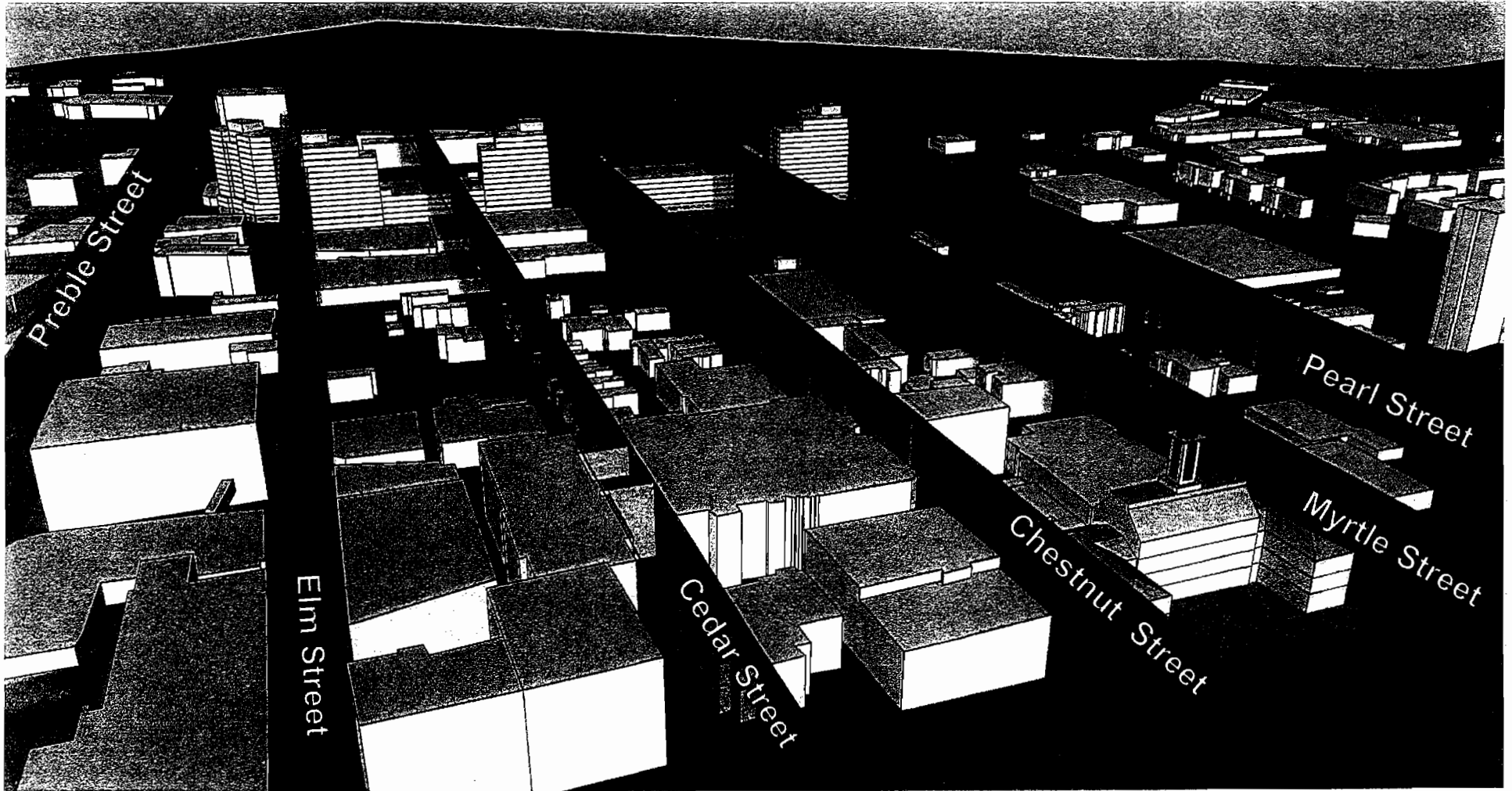
Current Plan – Aerial View from Southwest



Current Plan – Aerial View Towards Downtown with View Corridors



Current Plan – Aerial View Towards Back Cove with View Corridors



View from Back Cove



Existing View



Development View

View 2 from Back Cove



Existing View



Development View

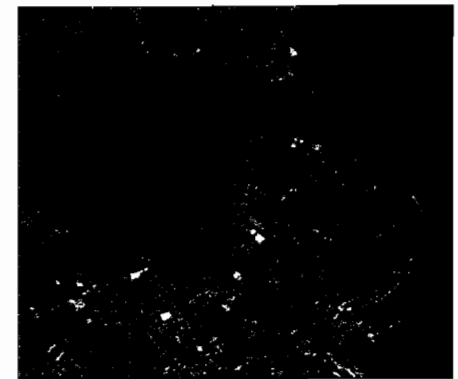
View from Interstate 295



Existing View



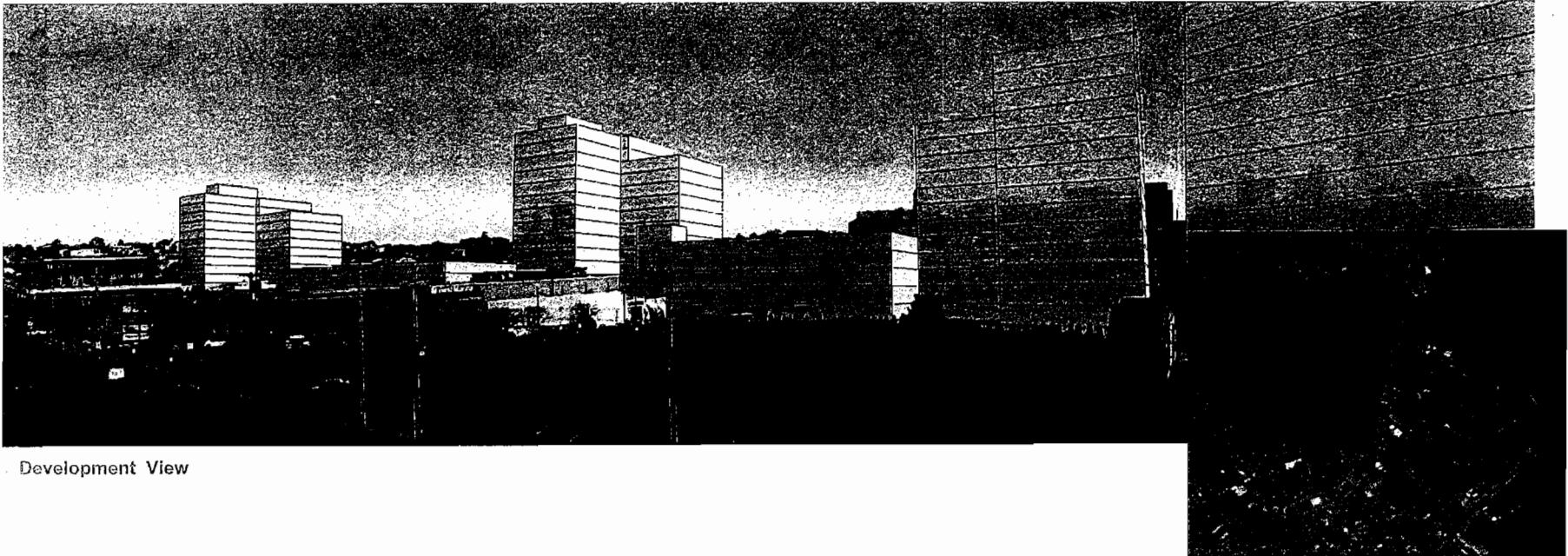
Development View



View from Marginal Way

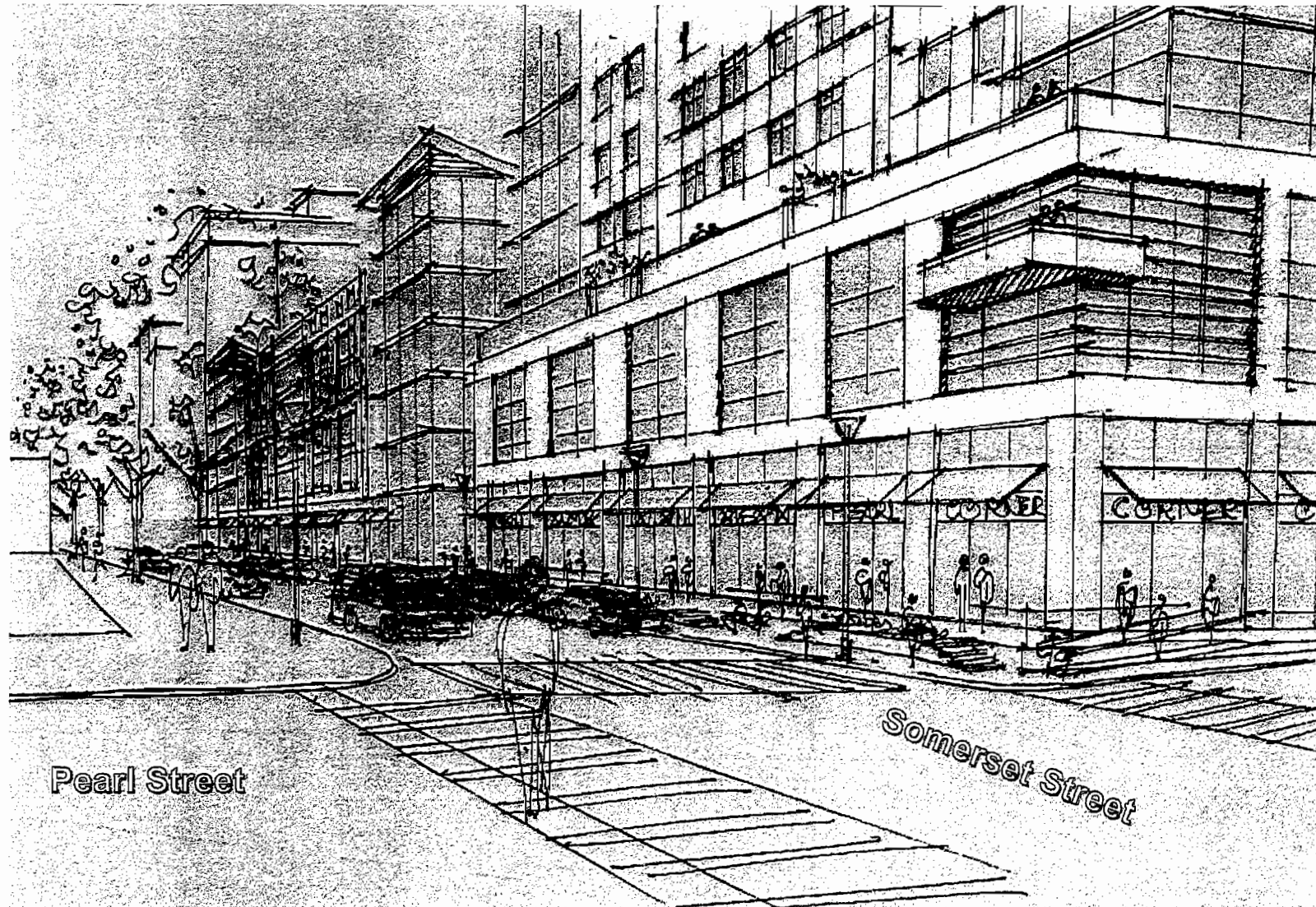


Existing View

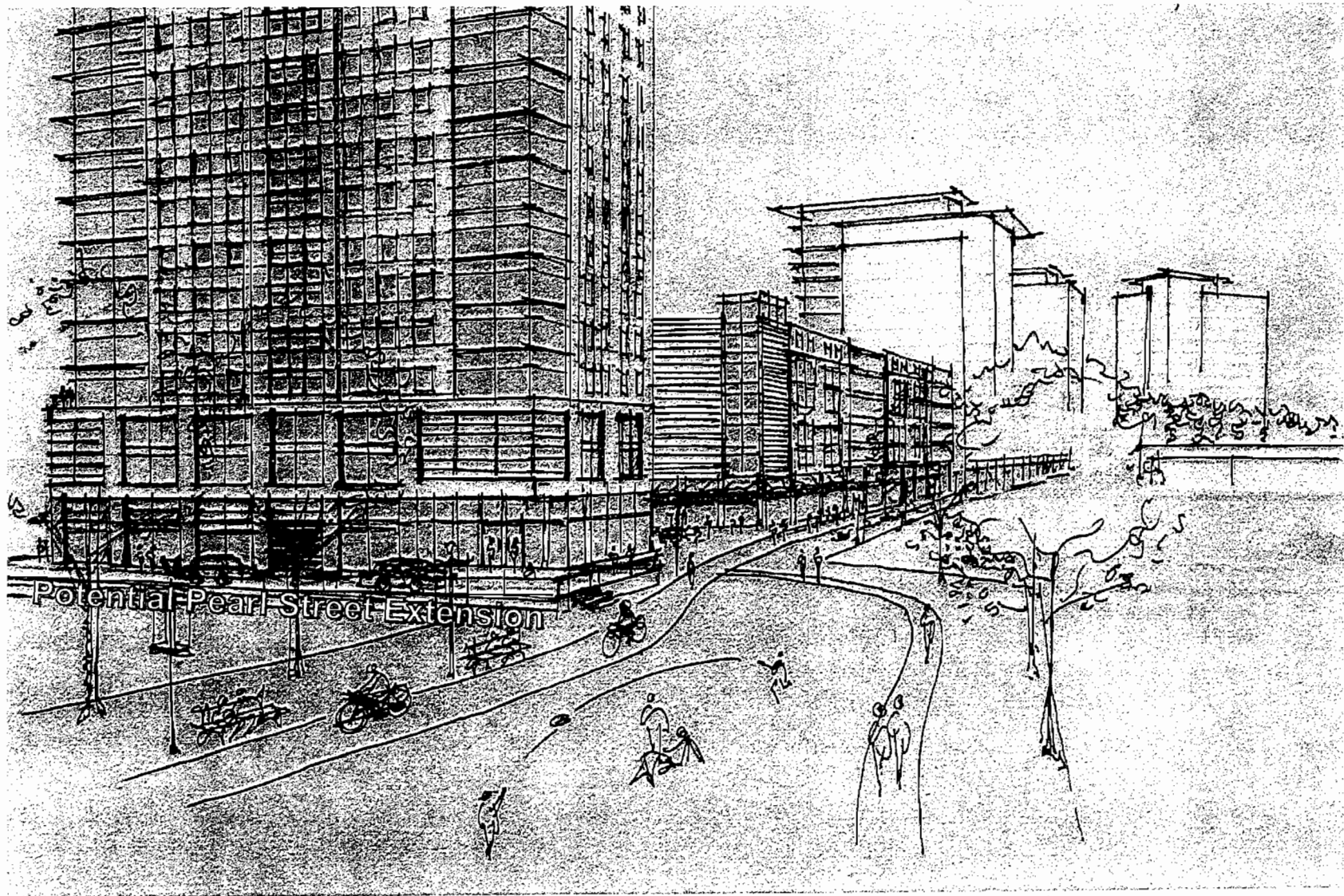


Development View

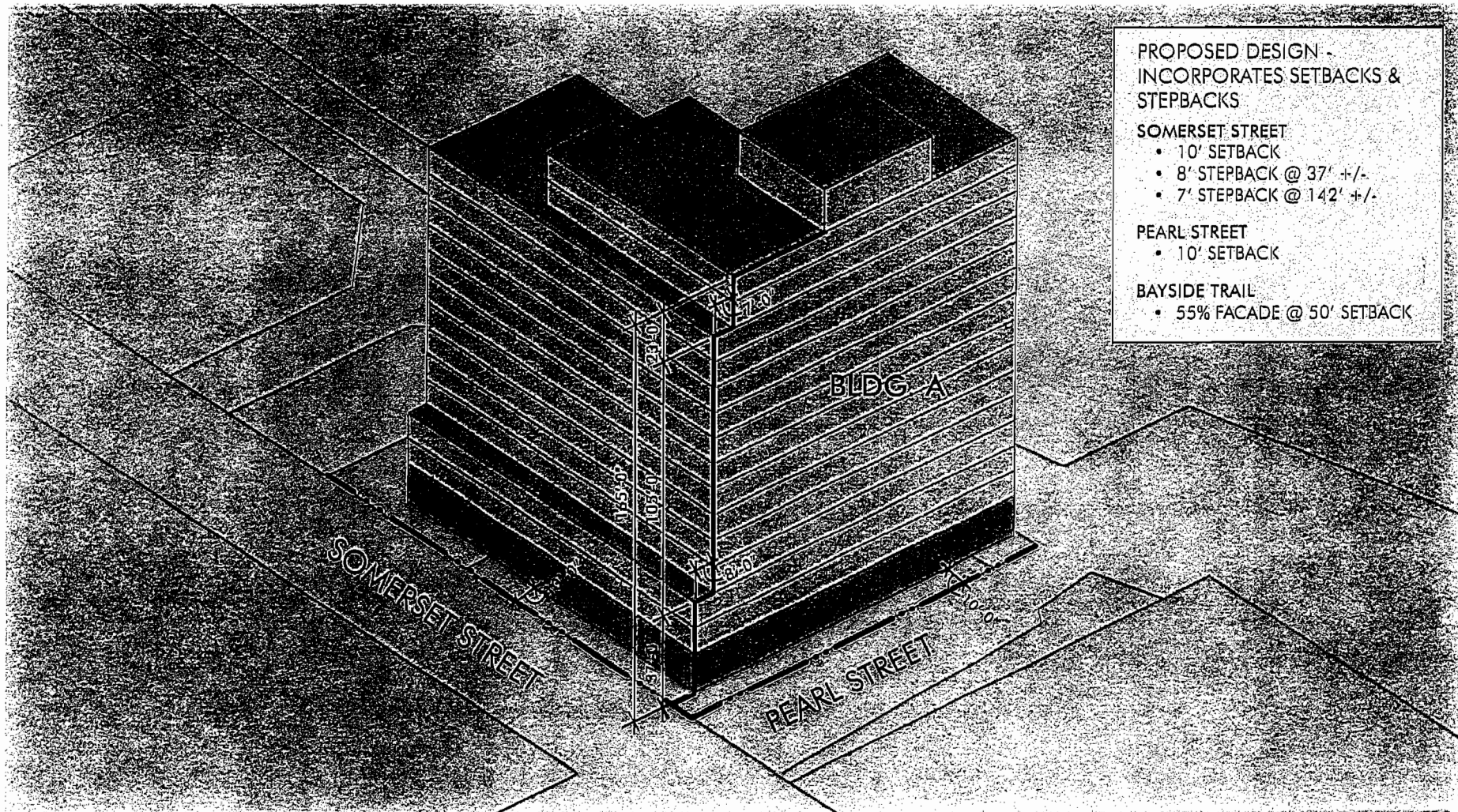
Somerset Retail View



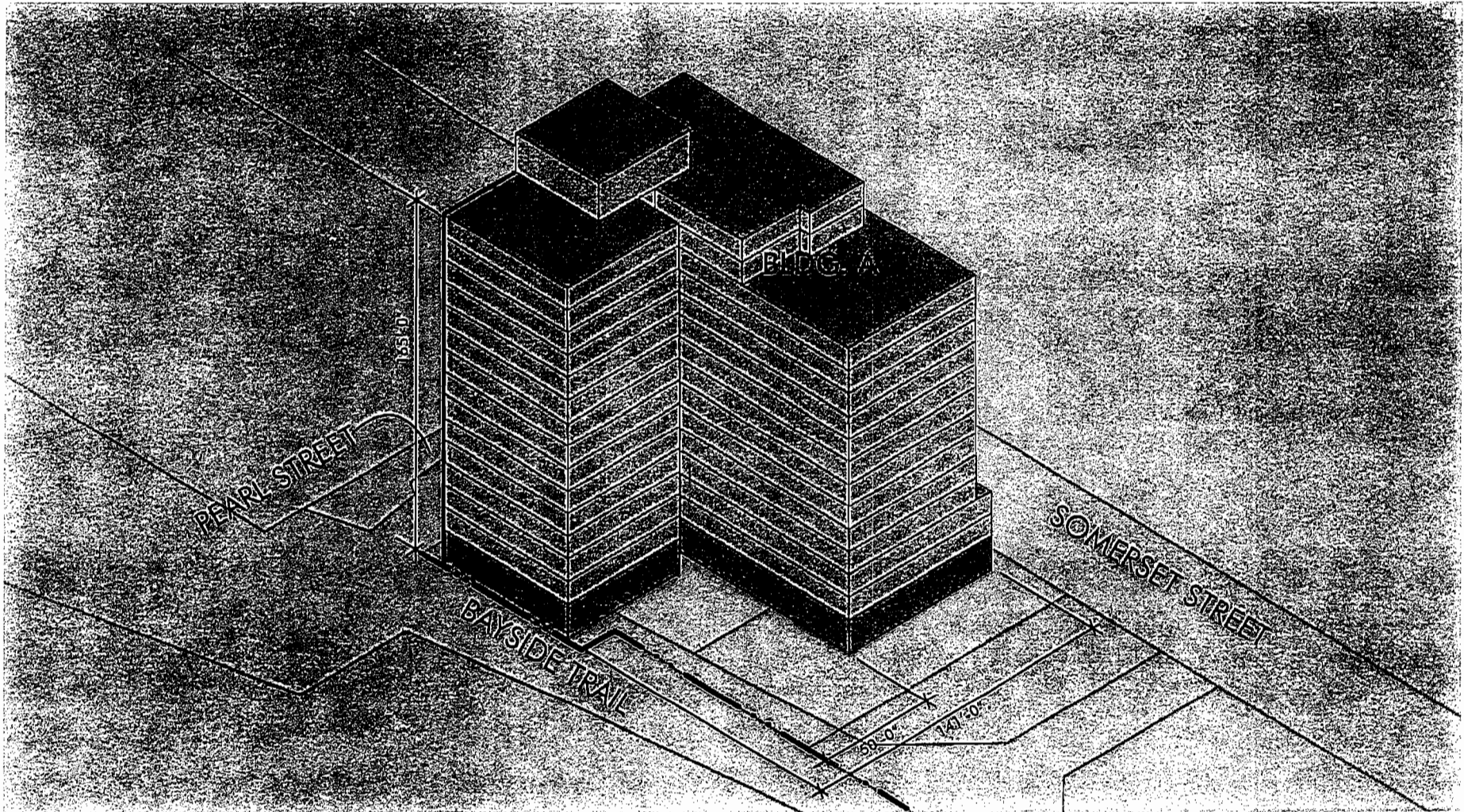
Trail View



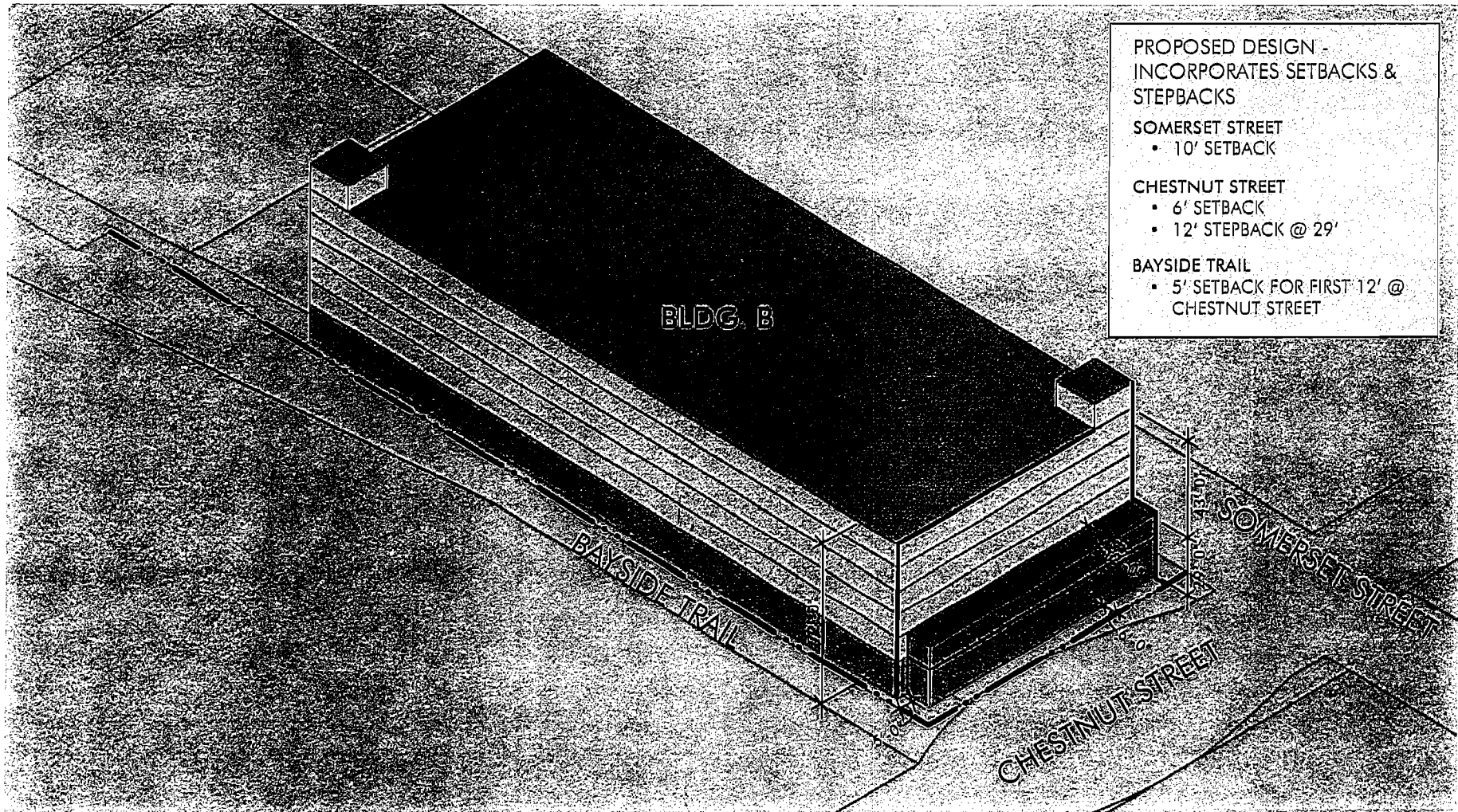
midtown: Phase One - Proposed Setbacks and Stepbacks



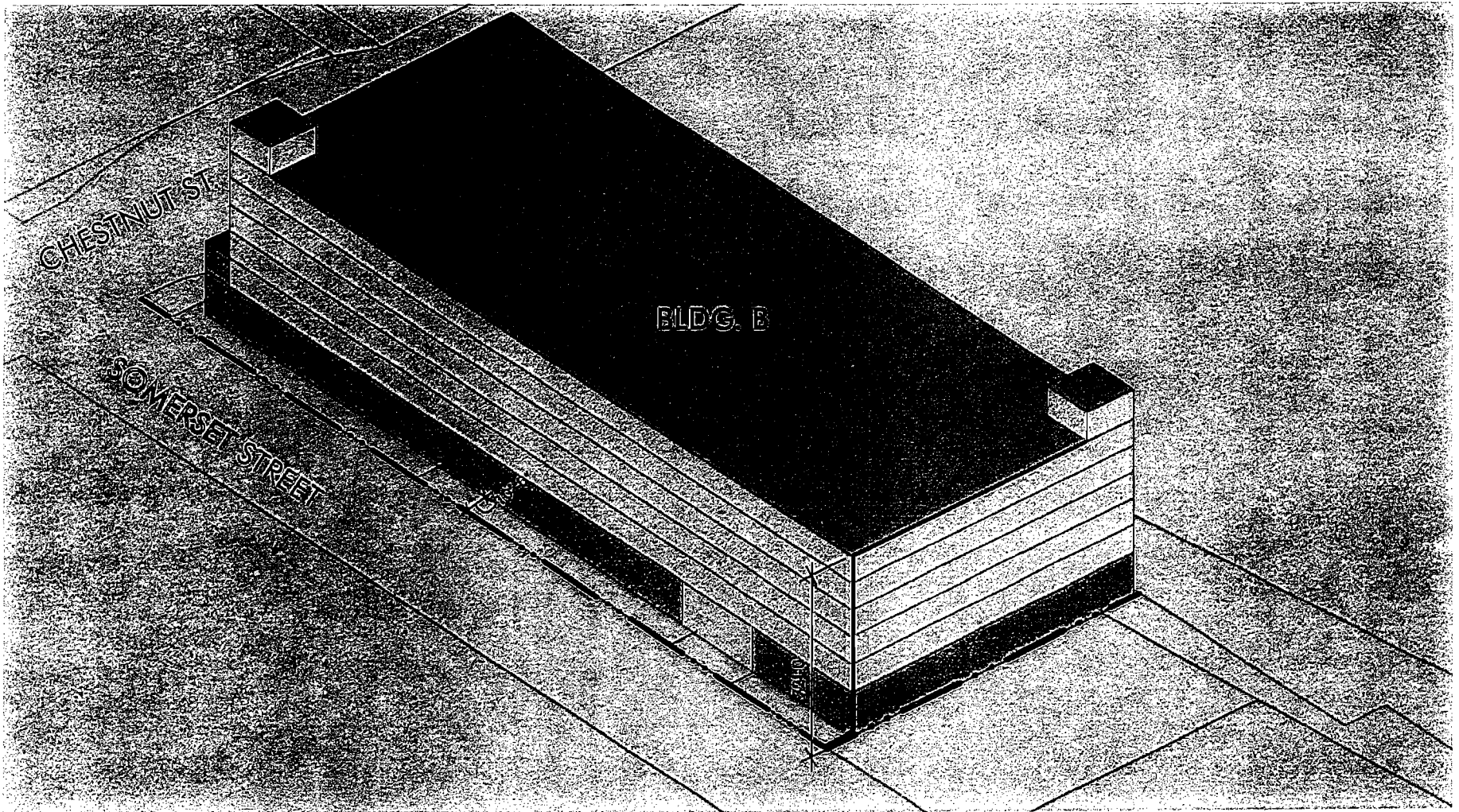
midtown: Phase One - Proposed Setbacks and Stepbacks



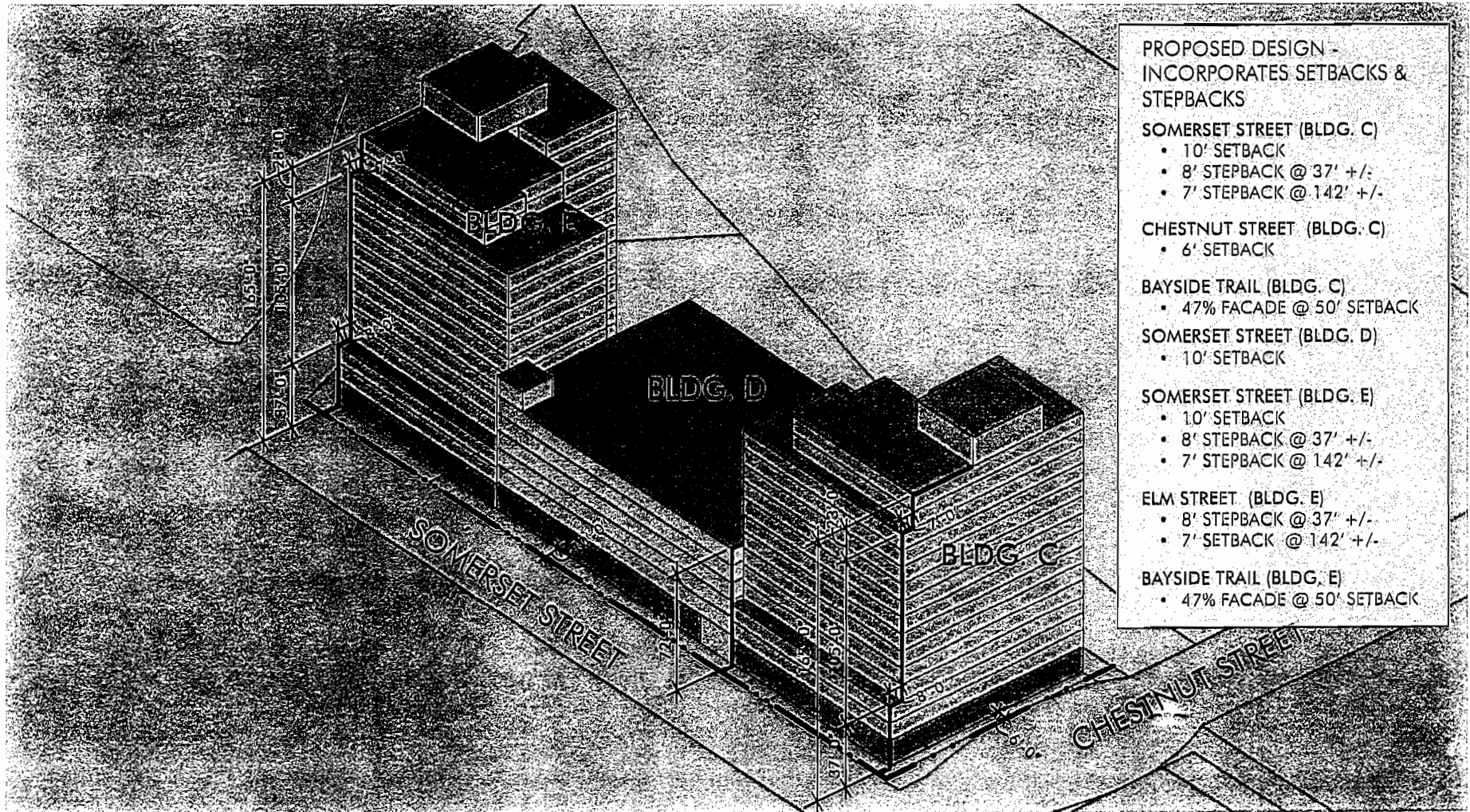
midtown: Phase One - Proposed Setbacks and Stepbacks



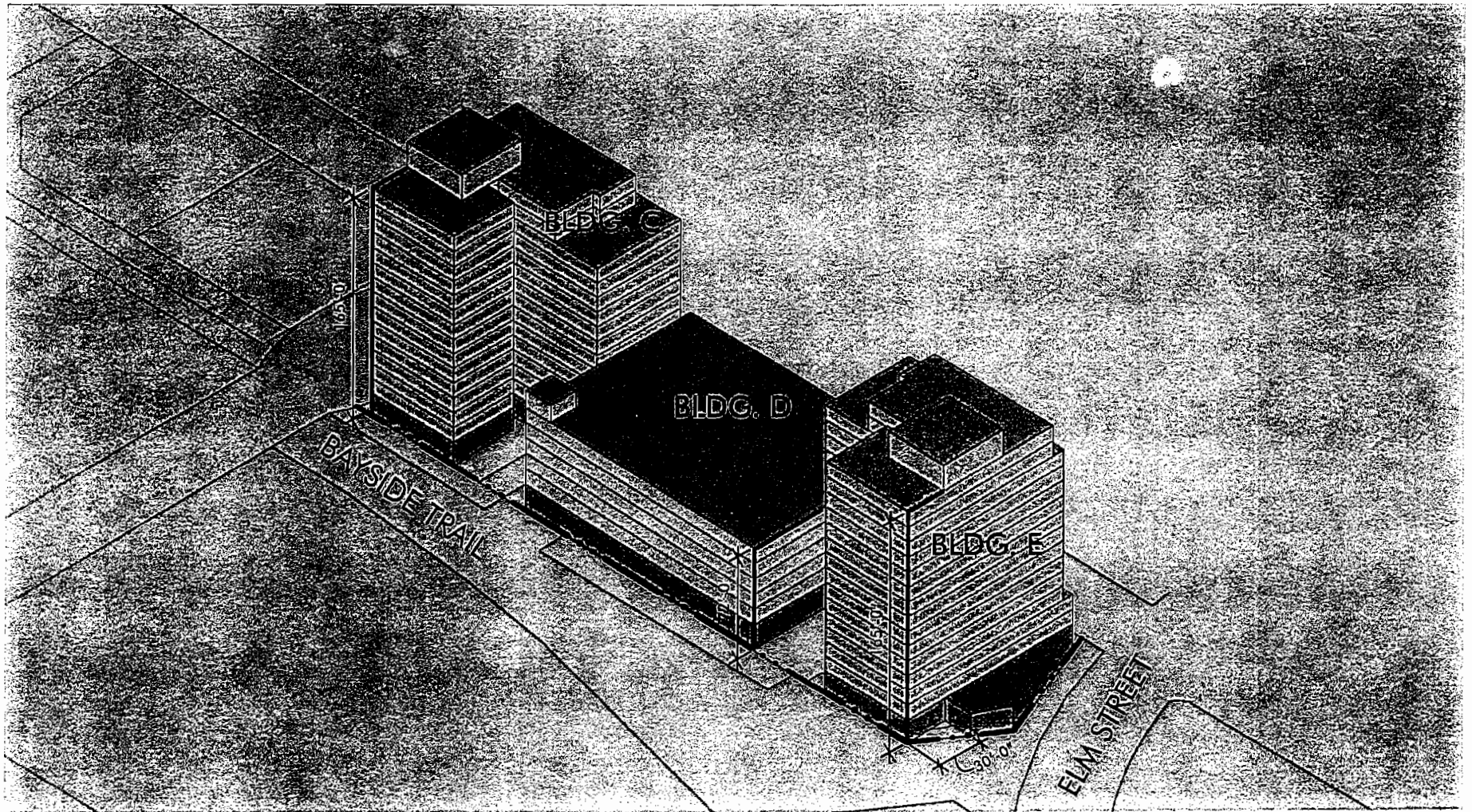
midtown: Phase One - Proposed Setbacks and Stepbacks



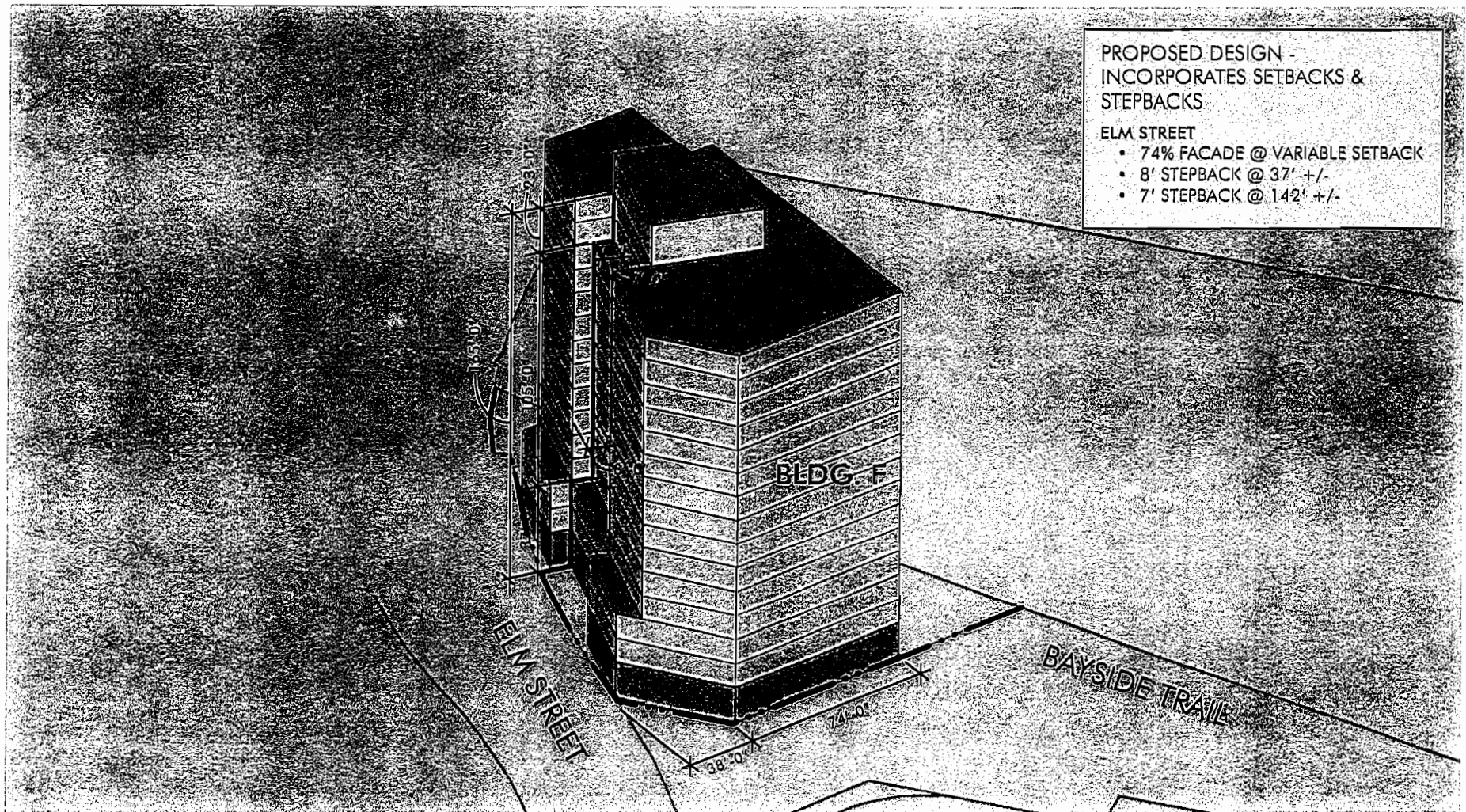
midtown: Phase Two - Proposed Setbacks and Stepbacks



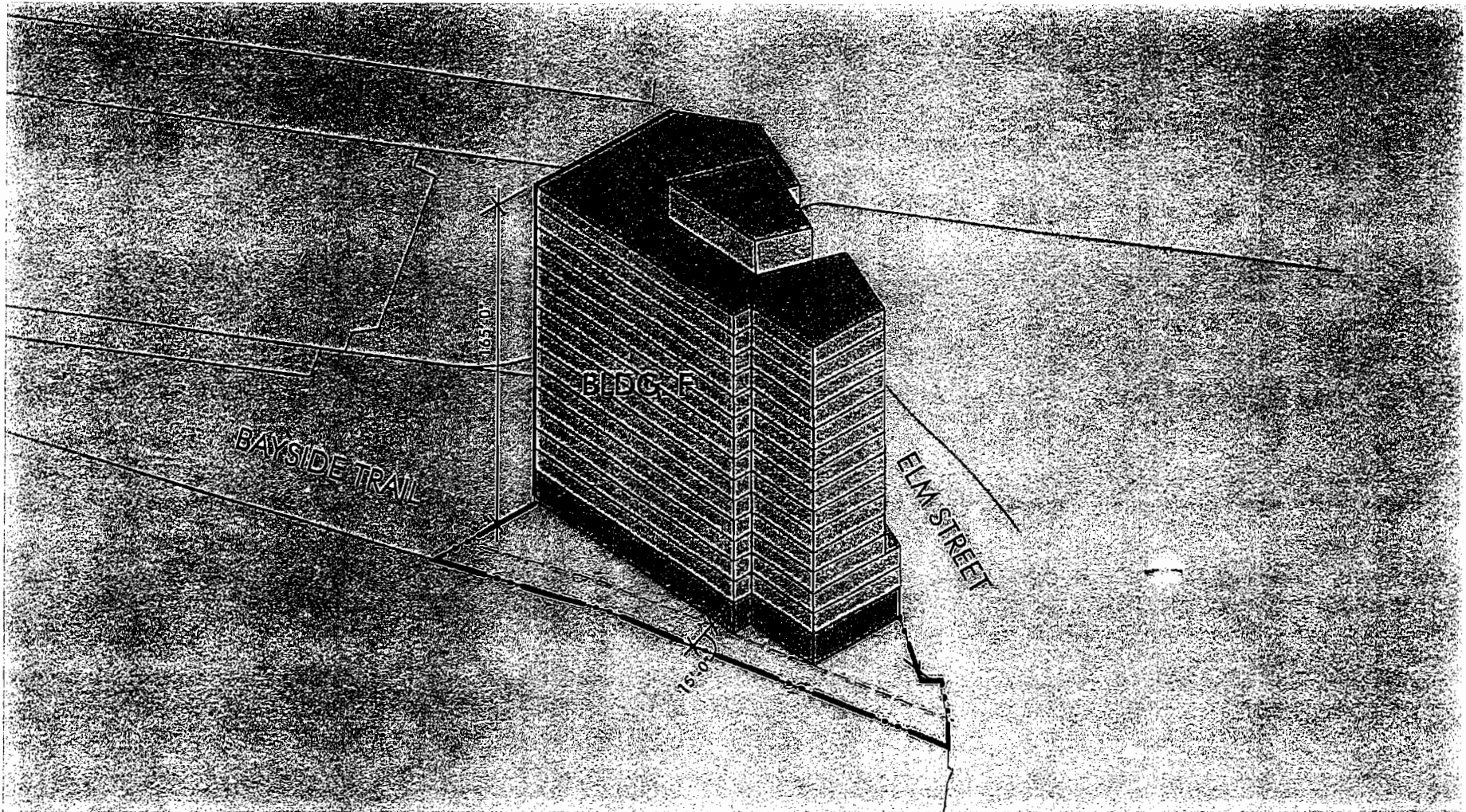
midtown: Phase Two - Proposed Setbacks and Stepbacks



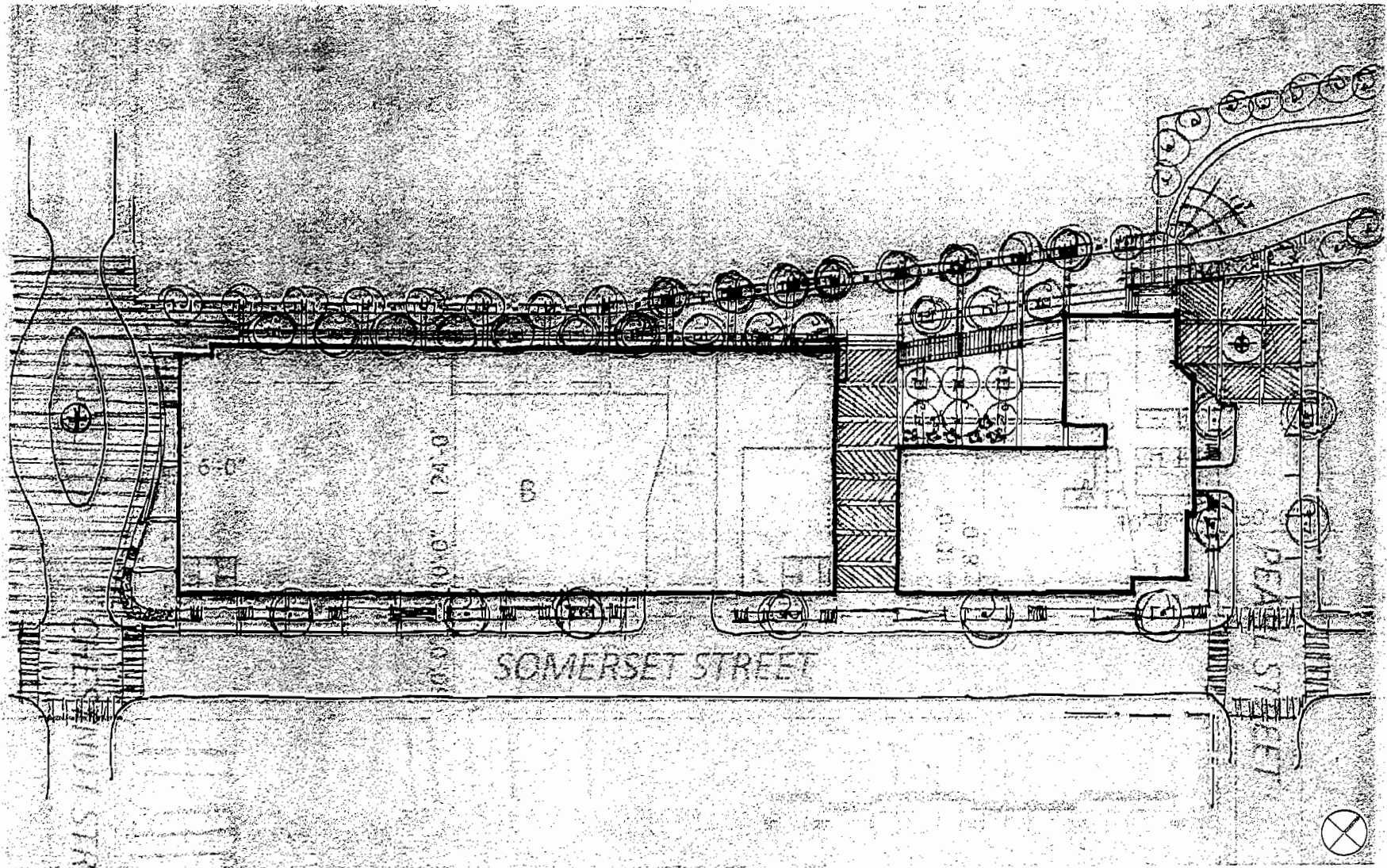
midtown: Phase Three - Proposed Setbacks and Stepbacks



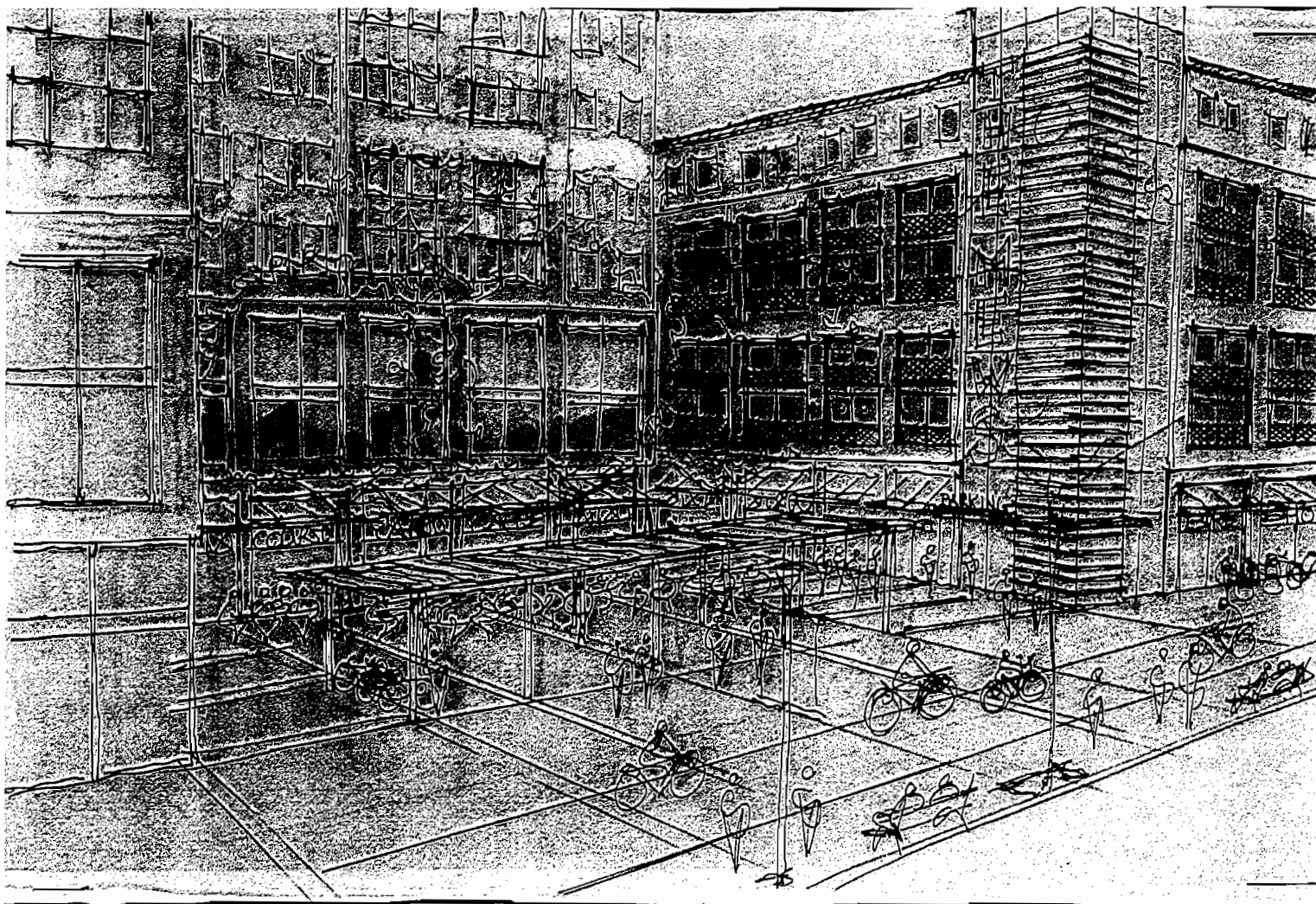
midtown: Phase Three - Proposed Setbacks and Stepbacks



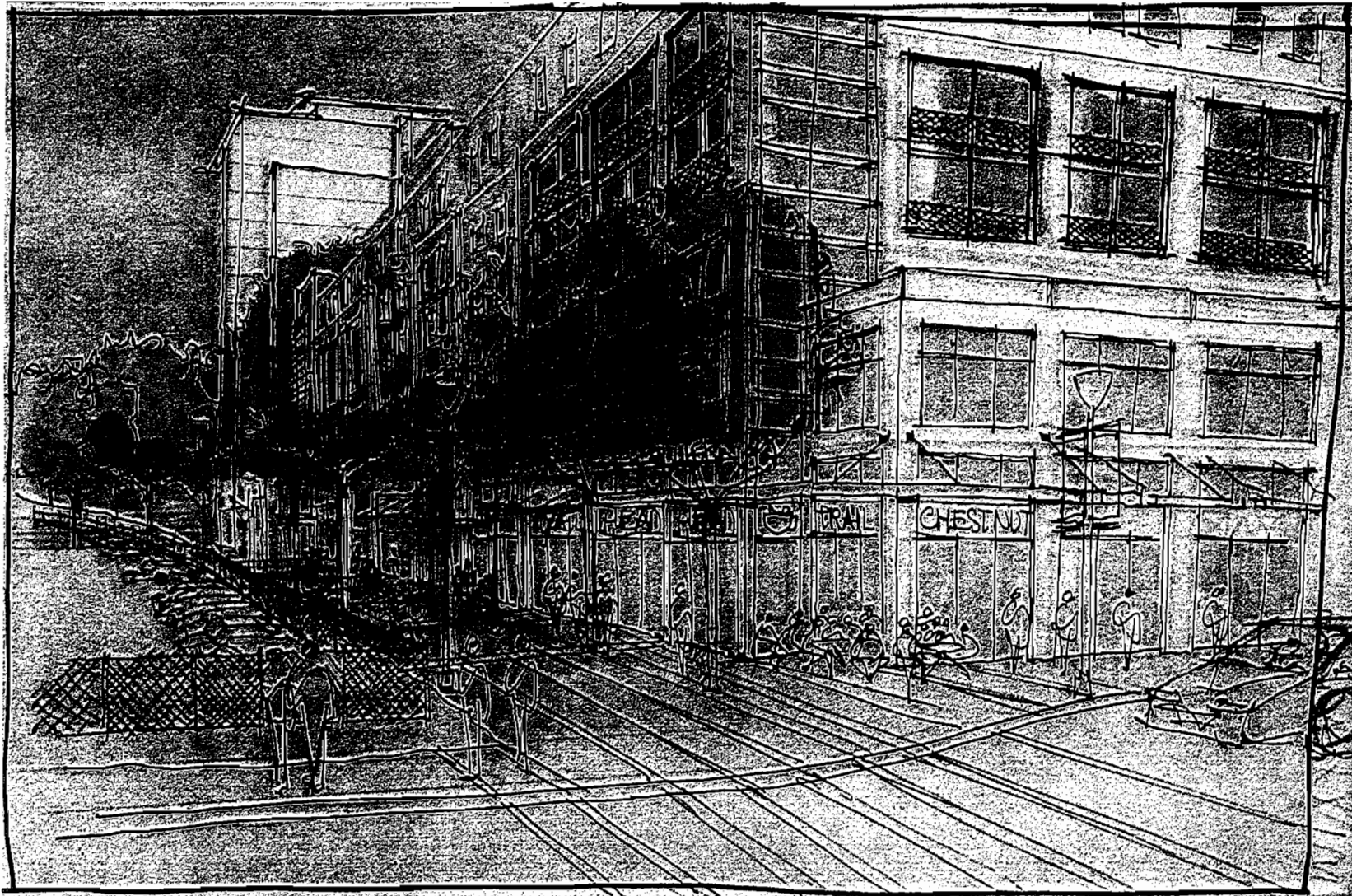
Phase 1 – Public Realm Plan



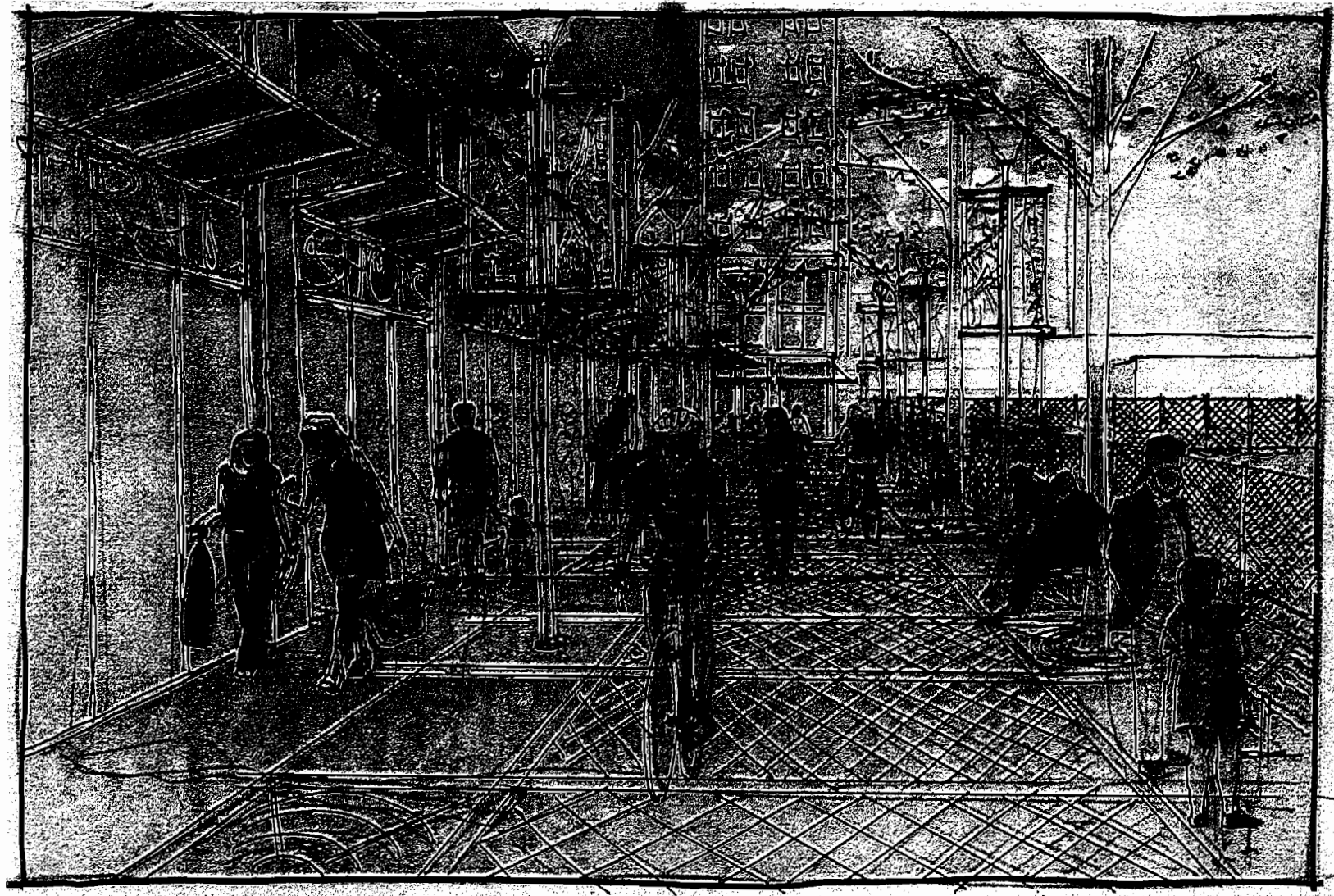
Trail View Looking Toward Mews



Trail View from Chestnut Street Looking East



Trail View to Chestnut Street Looking West



November 8, 2012

Mr. Alexander Jaegerman, Senior Planner
 Mr. Richard Knowland, Planner, City of Portland
 City of Portland Planning Board Members
 389 Congress Street
 Portland, Maine 04101

**Bayside Redevelopment of Somerset Street between Pearl Street
 Extension and Elm Street**

On behalf of The Federated Companies, we are pleased to submit this application for a Text Amendment to construct the development to be known as Maritime Landing. This revitalization of Bayside will include seven new apartment buildings, two parking structures and ground floor retail space. The site is located between Elm Street and Pearl Street Extension on both sides of Chestnut Street along Somerset Street. Attached is a survey that shows the land parcels.

Today, this parcel is owned by the City of Portland and is comprised of the open lot that has been used for snow storage on the south side of Chestnut Street; a gravel parking lot on the north side of Chestnut Street where recycling containers are located; and the former metal scrap yard on the adjacent property.

The goal of Maritime Landing is to transform this land into a new center of residential and commercial activity. This project will follow the goals and guidelines established in the document, *A New Vision For Bayside*, commissioned by the City of Portland in January 2000. As noted in that report, "maintaining a sustainable and competitive local economy" is the key to the success of Bayside. This project will create quality, permanent jobs as well as many construction-related jobs over the next several years.

In the past, Bayside was known as the back entrance to the City where heavy industrial use was the predominant activity. Classified by the United States Environmental Protection Agency as a Brownfield Site, this area was for many years the home of railroad yards and warehouses such as the old A&P

Warehouse at the corner of Somerset and Elm. The City of Portland, working with the Guilford Railroad Company and local business and community leaders, created an opportunity to redevelop the site into much needed housing with new stores and parking. This development will enhance and compliment the new trail that runs parallel to the site to the northwest, connecting to the established Portland Trails network.

During the last ten years, Bayside has witnessed the addition of several new office buildings including the Intermed Building, Gorham Savings Bank and 63 Marginal Way. Whole Foods, Trader Joe's, Verizon, AT&T, Planet Dog and other local and national retailers have established new stores in this emerging part of the City. Bayside Bowl, which is locally owned and operated, has energized the area by bringing in new customers and night life.

We have assembled a professional team of local and national experts to design and oversee the construction of Maritime Landing.

This team includes:

- Perkins Eastman, Washington, D.C. and Boston, Land Planners and Lead Architect
- CWS Architects
- Mitchell & Associates, Landscape Architects and Planners
- Deluca Hoffman, Civil Engineers
- Haley & Aldrich, Geotechnical Engineers
- Louis Berger Group, Traffic Engineers
- Owen & Haskell, Land Surveyors

The seven new apartment buildings at Maritime Landing will provide approximately 675 market rate apartments, standing approximately 14 stories high. There will be an estimated total of 91,000 square feet of ground floor retail space. The two parking garages will accommodate at least 1,100 cars.

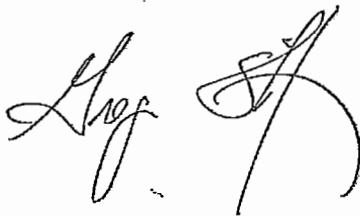
Given the long and narrow shape of the property that is located next to the trail, it is necessary to create a Text Amendment to the B-7 zone in order to build the density needed and not be required to step the top of the buildings back. The buildings will be constructed in compliance with the current B-7 architectural design standards.

We welcome the opportunity to work with City Staff and to listen to the community as we start the design process for this great new project in a key part of Portland. Included in the attachments is the most recent rendering of Maritime Landing, depicting all three phases of construction. This image was provided to the public and the Portland City Council at a recent series of meetings. Before we continue with the development of the master plan including Phases I-III, we welcome ideas and suggestions from the community.

Construction of Phase I includes 2 apartment buildings with up to 175 apartments, retail space and a 700 car parking structure. Maritime Landing is scheduled to commence in the summer of 2013 and be completed by the winter of 2016. Phases II and III should be completed over the next several years and will be dependent upon the local market conditions.

Please do not hesitate to contact me if you desire any additional information or have questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Greg Shinberg', written in a cursive style.

Greg Shinberg
Owner's Representative
The Federated Companies

PROJECT ADDRESS: SOMERSET ST. FROM DEARL ST EXTENSION
TO ELM ST
 CHART/BLOCK/LOT: 34D3, 34DB, 34D10, 34B3, 34B4, 34B5, 34B2

DESCRIPTION OF PROPOSED ZONE CHANGE AND PROJECT:

A TEXT AMENDMENT TO THE B-7 ZONE TO CHANGE THE
SETBACK REQUIREMENTS. THE PROJECT TO BE KNOWN AS
MARITIME LANDING TO BE CONSTRUCTED IN 3 PHASES

CONTACT INFORMATION:

Applicant's Contact for electronic plans Name: <u>GREG SHINBERG</u> e-mail Address: <u>glseshinbergconsulting.com</u> work # <u>201 772 7070</u>	
Applicant - must be owner, Lessee or Buyer Name: <u>THE FEDERATED COMPANIES</u> Business Name, if applicable: <u>SUITE PH</u> Address: <u>404 WASHINGTON AVE</u> City/State: <u>MAINE FL</u> Zip Code: <u>33139</u>	Applicant Contact Information Work # <u>786 353 0534</u> Home# Cell # Fax# e-mail: <u>m-jeffries@federatedcompanies.com</u>
Owner - (if different from Applicant) Name: Address: City/State: Zip Code:	Owner Contact Information Work # Home# Cell # Fax# e-mail:
Agent/ Representative Name: <u>SHINBERG CONSULTING LLC</u> Address: <u>477 CONGRESS ST SUITE 1012</u> City/State: <u>PORTLAND ME</u> Zip Code: <u>04101</u>	Agent/Representative Contact information Work # <u>201 772 7070</u> Cell # <u>207 653 7510</u> e-mail: <u>gls@shinbergconsulting.com</u>
Billing Information Name: <u>MATTHEW JEFFRIES</u> Address: <u>do THE FEDERATED COMPANIES</u> City/State: Zip Code:	Billing Information Work # <u>786 353 0534</u> Cell # Fax# e-mail: <u>m-jeffries@federatedcompanies.com</u>
Engineer Name: <u>BILL HOFFMAN</u> Address: <u>DELUCA HOFFMAN</u> City/State: <u>778 MAIN ST #8</u> Zip Code: <u>04106</u>	Engineer Contact Information Work # <u>201 775 1121</u> Cell # Fax# e-mail: <u>W.HOFFMAN@DELUCAHOFFMAN.COM</u>

practical-3d architectural associates, llc
 building & construction

B-4

Surveyor Name: OWEN HASKELL INC Address: US RT 1 City/State: FALMOUTH ME Zip Code: 04105	Surveyor Contact Information Work # 207 774 0424 Cell # Fax# 774 0511 e-mail: JSWAN@OWENHASKELL.COM
Architect Name: PERKINS EASTMAN Address: THE DUKE ELLINGTON BUILDING 2121 WARD COURT NW City/State: WASH. D.C. Zip Code: 20037	Architect Contact Information Work # 202 212 6062 Cell # Fax# 202 212 1326 e-mail: M.BELLE@PERKINSEASTMAN.COM
Attorney TBD Name: Address: City/State: Zip Code:	Attorney Contact Information Work # Cell # Fax# e-mail:

Right, Title, or Interest: Please identify the status of the applicant's right, title, or interest in the subject property:

PURCHASE & SALE AGREEMENT - SEE ATTACHED

Provide documentary evidence, attached to this application, of applicant's right, title, or interest in the subject property. (For example, a deed, option or contract to purchase or lease the subject property.)

Vicinity Map: Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use. (Applicant may utilize the City Zoning Map or Parcel Map as a source.)

Existing Use: Describe the existing use of the subject property:

LOTS 1, 2, 3, 5, 6, 7 & 8 ARE VACANT LAND PLUS THE OLD SCRAP YARD

Current Zoning Designation(s):

B-7

Proposed Use of Property: Please describe the proposed use of the subject property. If construction or development is proposed, please describe any changes to the physical condition of the property.

WE PLAN TO CONSTRUCT 7 APARTMENT BUILDINGS
WITH APPROXIMATELY 675 MARKET RATE APARTMENTS,
2 PARKING STRUCTURES WITH 1100+ PARKING SPACES
& 91,000+ SQUARE FEET OF RETAIL SPACE.

Site Plan: 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. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1" = 10' to 1" = 50'.) Contract and conditional rezoning applications may require additional site plans and written material that address physical development and operation of the property to ensure that the rezoning and subsequent development are consistent with the comprehensive plan, meet applicable land use regulations, and compatible with the surrounding neighborhood.



EXHIBIT 2

midtown

Neighborhood Meeting Minutes December 20, 2012

In attendance:

- Greg Shinberg
- Erin K. McNamara
- Bob Metcalf
- Ben Walter
- Guy LaBreque
- Tom Blackburn
- Steve Hershon
- Zachary Barowitz
- Christian Milneil
- Ron Spinella
- Christine Spinella
- Aurelia Scott
- Joanne Ogden
- Rich Kantz
- Ben Chipman
- Sharon Vale
- Anna Trevorrow
- Alex Landry
- Rick Knowland
- Dennis Hoey
- Robert Haines
- Collette Bouchard
- Laura Cannon
- Sean Kerwin
- Nick Rosenblum

Meeting Commenced at 5:41pm and finished at 7:10 pm

GS – Introduction

Making sure everyone has signed in on the sign-in sheet

General overview of the subject of this meeting

Explained that the meeting is about what the project is becoming, as well as clarifying that the current incarnation is not what will be built ultimately.

Also what we're looking at is not what will be built

Next workshop will hopefully be Jan 8

Water main break – there's been a great deal of flooding.

Development team is aware that they must raise the building about 12 feet above tide. This creates some challenges – must be ADA accessible, working with Haley & Aldridge. Team must really look at issues "on the street," i.e. does the street need to be raised, etc.

Planning process – this is a BIG project. Looking to build a 700-car parking garage. 2 towers will be about 160-180 apartments, plus retail. That's phase 1. Phase 2 is apartments, second garage, and retail, phase 3 is apartments. This is primarily a housing project. Hope for about 675-700 apartments ultimately, plus about 1100 cars.

Bayside – There has been a great deal of effort going into bayside trail connection

No requirement and no plan for any subsidized housing in this development

Will be a market-rate apt project

GS opened the floor to general overview questions

ZB – Asked to explain where the site is

GS – Described locations

BC – Rent for apartments? There's a need for truly affordable housing in Portland, is there a way for a certain number or percentage of the units that can be lower but still at the bottom end of market rate?

GS – yes, they want to, but we can't commit to rents just yet. Given number of units, they will likely be very aggressive to keep the apartments affordable

RH - Will this be built on pilings?

GS – Yes, also explained what pilings are. The site has a VRAP, there are contaminants, getting bids to remove the contaminants and contain them properly

SV – Are the buildings on the slides to scale/proper shape?

GS – The buildings will NOT be this shape, just trying to give a sense of scale to the project, want to take into account community feedback

BW – Giving a bit more detail on the process

The team is taking what the community has been telling them, looking at solutions to the issues that have been raised thus far, there will be solutions involved in the next presentation of the plans

Looking in this particular meeting at the massing diagram done by developer and city when the sale happened

Now it's the architects' jobs to identify the challenges and issues with these plans, and make it work

First thing we'll have to deal with is the poor nature of the site (organic layer under layer of fill, layers that will crush/settle if built on)

Looking to create a useable and attractive environments

Important issues

Varied skyline – this is unique and special about Portland

This project will indeed change it, but the City skyline has been changing and it will continue to change

Want to be careful with new buildings that they will be an asset to the skyline and the city aesthetic

View from cove to downtown and view corridors from the peninsula are very important in planning this project – currently identifying what we have now for view corridors and trying to preserve them as best they can

Critical mass – need to consider the size of the development and put it into a form that is very attractive

Previous Plan

Focus was on trying to align with pre-existing view corridors
Images of the ways in which the development may affect existing city structure

City has extended the trail – it's sort of a suburban trail now
As the city continues to develop, there may be some plaza-type or more urbanized trail areas

Aerial image of view corridors

Property doesn't affect Pearl Street corridor

Myrtle – already broken by Chestnut Street parking garage at grade level

Chestnut – goes all the way through. This was recently reconnected, very preservable, also one of the few that goes up to Congress

Cedar – intent is to preserve it. Can't see from Congress because of Portland High but you CAN see it from Cumberland

Elm Street – it does curve but there is a view corridor that goes through

Previous plan shows Elm being slightly clipped by a building but primarily preserved

This is a starting point. Now we're at the point where we need to make it nice and make it good and make it work for the city and the residents

GS – Purpose of tonight's meeting: text amendment review

When B7 zone was created, you had height restrictions on the buildings

At the next workshop scheduled for January 8th, the team will present the text for a text amendment, which has been drafted by the City Planning Staff and this will then go to the next Planning Board Meeting, which is a vote to City Council by planning board members. The planning board vote is non-binding, the City Council makes the final decision to approve the Text Amendment
Text amendment mostly has to do with building height

Important to note that this is not a substitute for the Site Plan Application

Taking 2 tandem/parallel processes for the Text Amendment plus the Level III Site Plan and Amendment to the Subdivision.

RS – Can we have an idea of the text amendment's content?

RK – The text is complicated. On our website will find initial staff memo on this project, from the last meeting in November. Kind of explains existing zoning provisions, which allows heights up to 165 if at a certain angle, the upper tiers have a certain setback

Proposed text will still have a setback, but not quite as far as the existing requirement

AL - What is the formula for the setbacks?

RK – The building will reach a certain point and it goes to a plane like a Christmas tree or pyramid. Approach now would be a step-back – 10-15ft step-back at a certain floor allowing for more height at a certain level

GS – there will be a visual for the planning meeting and for the next workshop, there needs to be a drawing to understand

ZB – Angle of the buildings and property? Is this because of the trail?

GS – The angle is because of the property.

ZB – Are there plans for an anchor store?

GS – There is not currently an anchor tenant. The tenants will likely be a conglomeration of smaller uses rather than a big box.

SK – What's the green between the buildings?

GS – we're looking at creating some kind of green roof on the buildings

Related note – we're looking at the wind-tunnel effect, also next is shading

GS requested community input on the aesthetics and appearance of the project

BC – Brick is preferable. Bayside Housing is ugly, sheet metal looking is homely. Brick looks better with the city's aesthetic.

SH – wood veneer such as the new building in Boston.

RH – Is the parking garage going to be attached to the buildings beside it?

GS – Not sure, but probably not. May be connecting the apartment buildings but likely won't because of the trail connection

RH – What will be the availability of bicycle parking?

GS – The team would like to add more than the required minimum amount of bicycle parking.

BW – The team is further anticipating that transportation alternatives to cars will continue to increase here in Portland, which would necessitate more bicycle parking.

AT – Expressed her support for the project. Regarding transportation options – suggests incorporating a u-car into this project. It would be nice to have a u-car that's actually housed in a garage.

GS – The team is considering this and has thought of these concerns.

ZB – The building materials are less important than the overall aesthetic but if you want it to "blend in" then brick is always good

Then asked about view corridors

GS – Just noting that we are really looking to change the plans

BW – [Used an existing photo of the current cityscape to demonstrate where the buildings would be located and the potential effect on and changes to the existing view corridors.]

SK – Don't just attempt to recreate the Old Port. Thinks Intermed is a good model because it reflects the OP but is also different and interesting. Also a fan of the use of vertical space for public space. It would be very interesting to have public green space available on top of the parking garage/etc that isn't just private, give them access to the elevated views, perhaps retail/restaurant, and a green roof space could become a public space

GS – These suggestions regarding public and green space will be considered, but must also be respectful of residents of apartments regarding noise, etc. The team must also look at codes/ordinances, etc, but the owner does want to be creative with the use of the space.

SH – Following up, using some of the other spaces creatively publicly is great. This question, however, is for BW and RK. Regarding Pearl St, what's the timetable for breaking thru to Pearl and will that be more of a signature building than the massing suggests?

BW – Yes. Will be treating this as another primary façade.

RK – Pearl is interesting because when the original subdivision was done, a space was reserved for Pearl St. Would like for Pearl to extend along frontage of building. Pearl is currently narrowed by an existing building; will hopefully be able to get the full width from the owner in the event of a likely future remodel of their property. Pearl is going to be important for traffic circulation.

SH – One more, slightly off topic. There is land at Pearl and Somerset that is part of Whole Foods development. Is there any possibility that this will be an office building?

RK – Hoping that it can be turned into an office building, they want it to be parking, but it's not allowed currently.

AS – Question regarding zoning. Bayside Zone A and B. The team here in the text amendment will be asking to have much of the property adopted to the A height, which exceeds the B height. Concerned that this might block corridors, etc. But also that any future development would be permitted to go up to the A height.

GS – Text Amend will have certain qualifications that won't allow some things to go to 165 ft.

AT – Input on design. Likes the new and contemporary designs that have been going up recently, thinks that something based on 645 would be good.

LC – Will this project involve opening up access to the area next to the building and into Trader Joe's from the Bayside trail? Right now it's fenced off and you can't get to the stores from Bayside trail.

GS – The team favors that idea, but the fence owners have resisted because they're concerned about the transient population coming from the trail. But, "More use means less misuse"

RS – Hopefully the new construction and development of the trail will convince owners that they want to open it up

BW – As there is an increase in residential density and there are more residents in the area there will be fewer issues such as those concerning the owners of the fence.

RS – Tenants of the new projects will likely put more pressure on the landlords to open it up

GS – This project will create some really good construction jobs, as well as permanent jobs created by the retail spaces down there. Part of the HUD funds will be for the creation of new, good, permanent jobs

JO – Is this looking like a destination, with the retail, rather than the retail just serving the people who are there? Thinking this could be very charming

GS – Making this a destination is actually the hope and intent of the project.

BW – There's currently a lot of residential density, but once you get more people there it becomes more of a destination

AL – Bayside vision is to make it a destination. It's our neighborhood, but everyone comes here. There are a few features that can help make it a destination (mentioned Kennebec St. still being cobblestone, etc).

Also really glad to hear about there not being a bridge

Unbundling – you don't HAVE to have an apartment in order to rent a parking space. Suggested this as an important development consideration

AS – suggested covered parking for bicycles

AL – back to unbundling. If there are fewer spaces taken by residents, then there are more spaces to be rented for other elements of the development. Unbundling and a u-car option will be a way to increase revenue.

GS – there was a city councilor who expressed concern that the City is providing a \$9M grant for an \$11M garage. This is not an \$11M project. We'll be lucky to get the garage done for \$15M. Because of the site environment and the salt air (just eats it away) we will need more expensive materials, etc.

ZB – Paving on the trail?

BW – Trail currently exists and we will have to tie in and transition into the trail. Talking about mures – carriage house style accents to help tie in the trail and pedestrian areas. Not yet into the details but we know that it IS possible.

NR – Will this info be online?

GS – Yes

BW – We will be publishing the planning board notes

RK – Planning Board workshop on the eighth, there will be a staff memo the Friday before posted online that you can look at

AL – Intermed building: good mix.

ZB – How high will these buildings be? Will it be canyon-like?

BW – These will 14-story buildings, it will be more like Congress St with its 13-story buildings

Maritime Landing
Neighborhood Meeting

5:30 PM December 20, 2012

Avesta Housing
Cumberland Avenue

SIGN IN SHEET

Ayrelin G. Scott, 21 Chestnut St
 Jeanne Olsen " " "
 Rick Carr Brownell richard.cantz@goodwillinc.org
 Erin McNamara Shuberg Consulting
 Robert C. Hains
 Collette Bouchard, 18 Hanover St
 STEVE WINGMAN
 TEBACKBURN 14 Hanover
 ALEX LANDRY 30 Drexel St
 ECH LARNECOUPE CWS
 BEN KALTERIZ CWS
 Anna TseLorow 51 Murtle St PHD 04101
 Rep. Ben Chipman 5 Mayo St #3, PHD 04101
 CHRISTIAN MILNEIL 45 SMITH ST. #2
 RICK KNOWLSON 389 CONGROU ST.
 Laura Cannon 18 Parris St
 Sean Kevin 18 Parris St 04101
 NICHOLAS ROSENBLUM 26 MECHANIC ST
 Ron & Chris Spradley 377 Cumberland Ave
 Zachary Barowitz 28 Gilman St. #1 04102
 BOB METCAL MITCHELL & ASSOCIATES

AH.D

APPLICANT

The Federated Companies
3301 NE 1st Avenue, Suite M 302
Miami, FL 33137

February 12, 2013

Mr. Alexander Jaegerman, Planning Division Director, City of Portland
Mr. Richard Knowland, Planner, City of Portland
Ms. Barbara Barhydt, Senior Planner & Interim Planning Division Director,
City of Portland
Chair Carol Morissette and The City of Portland Planning Board Members
389 Congress Street
Portland, Maine 04101

On behalf of the Federated Companies, please see the attached materials for the Planning Board Workshop scheduled for Tuesday, February 26, 2013.

At the second Planning Board Workshop held on January 29, 2013, several questions and issues were raised by the Public, City Staff and Planning Board Members.

To follow is a summary of these questions with our response:

- Explain the rationale for shifting the Phase 1 parking garage westerly to Chestnut Street
 - Placing the parking garage in its new location has many positive effects. It secures a better view corridor from both Back Cove and I-295 to City Hall and other prominent downtown buildings. This plan also maintains better view corridors as established in the Bayside Height Study. In addition, placing the garage closer to

Chestnut Street is a more central location for the existing stores located nearby such as Trader Joes and will be a better location for the proposed new retail spaces to be built at midtown.

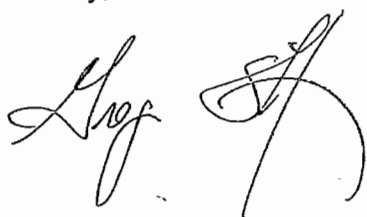
- What measures will be taken to enliven the building façade at Chestnut Street?
 - As shown in the drawing labeled “Trail View from Chestnut Street Looking East” in the Perkins Eastman package the parking garage is stepped back from the corner which allows for a bold retail statement and design.
- Is building a parking garage with 700 cars necessary?
 - Yes. We need to build at least 700 parking spaces to support the new residential apartments and the first stores and future retail users. The first phase of midtown includes approximately 180 new residential apartments and 40,000 square feet of retail space. 200 parking spaces will be maintained for public use and will help to accommodate the nearby retail stores that include Trader Joe’s, Whole Foods and other national retailers that have moved to Bayside. A second parking garage will be constructed in Phase II, and we anticipate the need for an additional 400 parking spaces, for a total of 1,100 parking spaces. With a Master Plan that includes a total of 675 apartments in all three phases and 97,000 square feet of retail, these parking spaces will be necessary to support the future development of midtown and spur the growth of the other underutilized parcels nearby.
- Does the parking garage drive the height of the residential buildings?
 - No. The height of the building is driven by the need to attract tenants to an attractive location with great curb appeal. The residential buildings combined with the retail spaces will require parking to be economically viable. As noted in the study commissioned by the City of Portland in 2000 entitled, “A New Vision For Bayside” *Build More Housing* was identified as a *Critical Action* in the redevelopment of Bayside. A key element that is essential to a new neighborhood is that housing is built to generate use at both during the day and evening hours.

- The parking garage is located near the intersection of Chestnut Street and the Portland Trail. It is close to the existing trail at the southwest corner of the garage. What measures will be taken to reduce the parking garage footprint, and how will the façade of the parking garage be treated given the close presence of the trail?
 - By creating some compact parking spaces in the new garage, we plan to reduce the depth of the garage by 2 feet. As shown in the sketches provided we have integrated the trail into the façade of the garage creating a pedestrian-friendly experience that will draw people into the retail spaces and mews.
- A concern has been raised in regards to both the setback and step-back for the planned massing of the buildings. How will midtown address these concerns?
 - When the B7 zone was created and implemented in August of 2006, the gateway urban height district allowed for a maximum height of 125', except as noted in Conditional Use Sec. 14-296(a)(5), which allows for construction of the building to a maximum height of 165'. Given the required step-backs to the trail, it has become apparent that the original intent of the City Planning Board and Council to create tall buildings in the A zone would be severely limited under the current Conditional Use terms. As shown in the materials attached on the sheets labeled "Phase One, Two, and Three – Maritime Proposal with Zoning Stepbacks," the massing allowed by the original ordinance would prevent the creation of the type of massing intended for the B7 zone. With the proposed text amendment, we can create better massing and scale which allows for better urban design. Attached in the materials labeled "midtown, Phase One, Two and Three – Proposed Setbacks and Step-backs" are examples of how the new text amendment can work.
- At the completion of Phase 1, what will be the status of the property reserved for Phase 2 and 3?
 - During the construction of Phase 1, it will be necessary to install most of the infrastructure for Phases II and III. Once these utilities are installed, the property will have loam and seed applied to create a grassy area. It is our intent to construct the next

Phases as soon as market conditions will allow. In the interim, the property will be made attractive with the expectation that the intended use is for the future development of much-needed residential apartments in the Bayside area.

Please do not hesitate to contact me if you desire any additional information or have questions.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Greg Shinberg'.

Greg Shinberg
Owner's Representative
The Federated Companies

EXHIBITS

EXHIBIT 1

Perkins Eastman materials dated February 12, 2013

PHASE I GARAGE

	<u>City Requested</u>	<u>Phase I Residential</u> # of Units	<u>Retail</u> Est. Total GSF	<u>Bayside Community</u> Estimated	<u>Total Spaces</u>	<u>Spaces Designed</u>
		196	97,000	135,000		
Spaces Required	200	221	194	68	682	720

NOTES: Retail spaces are estimated at 2/1000sf ratio

Residential is calculated at a 1/1 ratio including 12.5% for handicap and visitor spaces

Bayside Community consists of overparking for existing retail space in place (Whole Foods/Trader Joe's, etc.)

D-5

Rick Knowland - RE: midtown submission

From: "Greg Shinberg" <gls@shinbergconsulting.com>
To: "Jeff Levine" <jlevine@portlandmaine.gov>, "Barbara Barhydt" <BAB@po...>
Date: 2/21/2013 4:45 PM
Subject: RE: midtown submission
CC: <d.smith@perkinseastman.com>, "Matthew Jeffries" <m_jeffries@federated...

Hi Jeff – Please see my responses in italics below.

1. Staff is looking for more information on the height change and why it is necessary in order to make the project viable.
 - a. *It is necessary to revise the text and allow for better setbacks at the top of the building in order to allow for better urban design, better floor plate design, and higher density. In order to construct Phase I, a substantial amount of infrastructure must be completed for all three phases, making it necessary to build more apartments in Phase I, thus creating the need for more density and height. It is important to change the B Zone on Somerset Street to an A Zone in order to create a better design. Pushing the apartment towers closer to Franklin Street creates a more attractive skyline where the parking garage separates the Phase I towers from the next towers to be build in Phase II and Phase III. When the new B-7 Zone was adopted by the city council in 2006, careful consideration was given by the planning board and council in the creation of the A and B Zones. As shown in early documents reviewed by both the council and planning board, this area on Somerset Street was originally an A Zone. Since the zone was adopted, many projects have been completed, such as the Intermed Building, Student Housing, and Portland Trail. Creating this density and height at this location responds to the development that has already occurred and will be a great addition to the Portland skyline.*
2. The Planning Board sought additional 3-D modeling of the entire building form in order to assess massing related to the surrounding context and view corridors. Not sure how feasible that is in the next day or so, but anything would help.
 - a. *Our team is working to provide additional information that we will bring to the Planning Board meeting on Tuesday. It is our intent to provide much more detail for the Level III Site Plan Application and Master Plan, to be forthcoming soon.*
3. In order to evaluate the proposed changes to setbacks and setbacks the Planning Board was interested in seeing building models that avoided "blocky" looks.
 - a. *The materials presented represent the height, form and massing that are at the heart of the text amendment discussion. Once those issues are resolved we will begin design of the Phase I buildings that effort will be part of the Level III Site Plan review process. This will look at articulation of the façade within the framework of the approved massing and height. Our intent is to build on the collaborative process with the Planning Board and other major stakeholders as we develop the design in the Level III Site Plan process.*

Greg

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 Cell 207 653 7510
gls@shinbergconsulting.com
www.shinbergconsulting.com

Order 176-12/13
Tab 22 4-1-13

MICHAEL F. BRENNAN (MAYOR)
KEVIN J. DONOGHUE (1)
DAVID A. MARSHALL (2)
EDWARD J. SUSLOVIC (3)
CHERYL A. LEEMAN (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

JOHN R. COYNE (5)
JOHN M. ANTON (A/L)
JILL C. DUSON (A/L)
NICHOLAS M. MAVODONES (A/L)

AMENDMENT TO PORTLAND CITY CODE
CHAPTER 14. LAND USE
ARTICLE V. SITE PLAN

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND,
MAINE IN CITY COUNCIL ASSEMBLED AS FOLLOWS:

1. *That Chapter 14, Article V of the Portland City Code is hereby amended to read as follows:*

Sec. 14-522. Definitions.

For the purposes of this article all terms and words shall have their ordinary meanings, except as defined herein.

...

Master development plan: A Master Development Plan is a regulatory option for sites with one acre or more in cumulative lot area that designed as a cohesive and integral development program consisting of multiple buildings and associated site improvements built in phases over an extended timeframe. This option shall not apply in residential zones except for institutional uses.

...

Sec. 14-523. Required Approvals and Applicability.

(a) *Required Approval.* An application for site plan approval shall be reviewed by the Planning Board or Planning Authority as specified below. The Planning Board or Planning Authority shall approve, approve with conditions or deny an application pursuant to the standards, procedures, technical criteria and design criteria contained in this article, as demonstrated by the applicant.

...

5. Master Development Plan Review shall require the Master Development Plan approval of the Planning Board

as provided in Section 14-524(d)(9).

...

(g) Master Development Plan: A Master Development Plan meeting the criteria listed below will undergo a Master Development Plan Review as follows:

1. A Master Development Plan for a site with one acre or larger in cumulative lot area that is designed as a cohesive and integral development program consisting of multiple buildings and associated site improvements proposed to be built in phases.
2. The Master Development Plan option shall not apply in residential zones, except for institutional uses.

Sec. 14-524. Site plan review processes.

(a) The site plan review process for reach applicable development review type is listed below.

...

3. *Level II and level III site plan review:*

a. *Pre-application conference.*

- (i) Applicants for site plan review for a Level II, ~~or Level III, or Master Development Plan applications site plan review~~ are encouraged to schedule a pre-application conference with the Planning Authority or designated staff to introduce the development concept. The purpose of this meeting is to familiarize the applicant with the review procedures, application submission requirements and applicable review standards. A pre-application conference shall not cause the plan to be a pending application or proceeding under Title 1 MRSA 302. No decisions relative to the plan shall be made. Nor shall any advice or information provided by the city be construed as a decision.

...

c. Master Development Plan Review

(i) Application Process: Applicants for Level III site plan reviews may submit a Master Development Plan for a large, multi-phase development program consisting of multiple buildings and associated site improvements on a site of one (1) acre or more of total land area, which is designed as a cohesive and integral development program. The purpose of a Master Development Plan is to provide for a mix of land uses at designated locations to achieve a land development responsive to the assets of a site. A Master Development Plan is a well-integrated development in terms of land uses, functional activities, and major design elements such as buildings, roads, utilities, drainage systems and open space. The Master Development Plan is deemed appropriate to large scale mixed use projects that are intended to be developed in phases. The Master Development Plan shall be reviewed by the Planning Board and may be reviewed independently or concurrently with review as a site plan for a phased development. A Master Development Plan must address the submission requirements of Section 14-527.

(ii) The site plan review process for a Master Development Plan shall proceed in the same manner as a Preliminary Site Plan, as detailed in Sec. 14-524 (3)(b)(ii)-(vi).

(iii) Standards of Review. A Master Development Plan shall adhere to the following general requirements and features, and shall meet the Master Development Plan Site Plan Standards of 14-526 (d)(9):

a. A designated tract of land consisting of a parcel or parcels of contiguous land or land on both sides of a public street, totaling one (1) acre or more;

- b. Developed in a comprehensive, design-integrated manner, according to an overall master development plan;
- c. Consistent with the objectives of this ordinance;
- d. Consistent with the City's Comprehensive Plan and consistent with City Council approved master plans and facility plans for off-premise infrastructure, including but not limited to, trails, pedestrian and bicycle network, view corridors, environmental management, sewer and stormwater, streets, or other facilities (see Section 15 of the Technical Manual);
- e. Developed so as to locate buildings and improvements in a manner that provides usable open space, preserves significant natural features, as defined by the site plan ordinance standards, and preserves existing trees to the maximum extent possible;
- f. Developed so as to be in conformance with Portland's Historic Preservation Ordinance standards for designated landmarks or for properties within designated historic districts or designated historic landscapes, if applicable. When proposed adjacent to or within one hundred (100) feet of designated landmarks, historic districts or historic landscapes, the Master Plan shall be developed so as to be generally compatible with the major character-defining elements of the landmark or portion of the district in the immediate vicinity of the proposed development;
- g. An efficient use of land which properly considers topography and protects

significant natural features including, but not limited to, waterways, wetlands, floodplains and wildlife;

- h. An efficient use of land demonstrating full coordination of its own site development and surrounding context including, but not limited to, the land uses and functions contemplated, architecture, open space and pedestrian networks, vehicular access and circulation, and all other infrastructure;
- i. Linked and coordinated with surrounding land uses, infrastructure and off-site public facilities, including but not limited to the public school system, where appropriate, in a manner that is safe, efficient, non-injurious to the public, and an improvement or benefit to the public where possible;
- j. Designed with sizing of street and other infrastructure systems to accommodate the overall service demand of the Master Plan;
- k. Designed to create a street grid pattern that reflects average city block sizes of the neighborhood for street connectivity;
- l. Designed as to create a cohesive identity through building scale, massing, and articulation; use of quality exterior materials, architectural detailing at pedestrian scale; consistency of design and materials for streetscape and pedestrian amenities; framing of outdoor open space and linkages; a clear conveyance of the function and significance of various buildings, entrances, and features; and to generally comply with design and development standards of the zone in

which it is located;

m. Inclusive of provisions for the ownership and maintenance of usable open space as appropriate; and

n. For areas proposed as future development phase(s), the proposed interim conditions shall be managed and maintained to ensure stable, safe and attractive site conditions.

(iv) Phasing. One or more phases of the Master Development Plan may be reviewed as a final level III site plan concurrently with the review and approval of the Master Development Plan.

ed. Neighborhood Meetings for Level III Site Plans and Master Development Plan Applications.

(i) Neighborhood Meeting for Level III Site Plans:

~~(a)~~ Timing and location of meeting. An applicant for a subdivision of five or more units or lots and all other Level III site plan review categories shall conduct at least one neighborhood meeting within thirty (30) calendar days of filing a preliminary site plan, if applicable, or within twenty-one calendar days of filing a final site plan and the neighborhood meeting will be held on a date no less than seven (7) calendar days before a public hearing, if no preliminary plan is submitted. The meeting shall be held at a convenient location within the City of Portland neighborhood surrounding the proposed site. All costs associated with the neighborhood meeting shall be borne by the applicant.

(ii) Neighborhood Meeting Required for Master Development Plan: An applicant for a Master Development Plan shall conduct at least one (1) neighborhood meeting within thirty (30) calendar days of filing a Master Development

Plan application. The meeting(s) will be held on a date no less than seven (7) calendar days from a public workshop or public hearing. The neighborhood meeting for a Master Development Plan shall not be combined with any required neighborhood meeting for the Level III applications associated with the overall phased development. The meeting shall be held at a convenient location within the City of Portland neighborhood surrounding the proposed site. All costs associated with the neighborhood meeting shall be borne by the applicant. The workshop shall meet all other provisions of section 14-524 (d)(i).

(iii) *Procedures for the meeting.* The following procedures shall be followed in noticing and conducting the neighborhood meeting. At least ten (10) calendar days prior to the neighborhood meeting, the applicant shall do the following:

a.1. *Mail notice.* Mailed notice of said meeting to all property owners within five hundred (500) feet of the subject property lines, except that the notice range for subdivisions within industrial zones shall be one thousand (1000) feet, and to all others, including neighborhood organizations, as may be required by the Planning Authority.

b2. *Digital Copy.* Provide the Planning Authority with a digital copy of the neighborhood notice, which the City shall forward by e-mail to the City's list of interested citizens.

c3. *Notice Description.* Such notice shall contain a brief description of the application and the date, time and place of the neighborhood meeting.

d4. *Attendance Sheet.* At the neighborhood meeting the applicant shall circulate a

sign-in sheet for those in attendance who choose to sign. Such sheet shall be submitted to the Planning Authority and shall become part of the Planning Authority report submitted to the Planning Board.

e5. *Minutes.* The applicant shall keep minutes of the meeting to be submitted to the Planning Authority and shall become part of the Planning Authority report submitted to the Planning Board. Any other individual or entity also may submit comments on the neighborhood meeting to the Planning Authority and said comments shall become part of the Planning Authority report submitted to the Planning Board.

6f. *Presentation.* At the neighborhood meeting the applicant shall explain the pending proposal and provide an opportunity for public questions and comment.

de. *Planning Board Workshops.*

(i) *Request a Workshop:* The applicant may request a workshop(s) with the Planning Board for a Level III site plan. The workshop will be scheduled on a date that follows the scheduled date of the neighborhood meeting, if applicable. The proposal will be scheduled for the next available Planning Board meeting that meets all public noticing requirements contained in Section 14-525.

(ii) *Required Workshop for Master Development Plan:* A workshop with the Planning Board is required for a Master Development Plan application. The workshop will be scheduled on a date that follows the scheduled date of the required neighborhood meeting. The proposal will be scheduled for the next available Planning Board meeting that meets all public noticing requirements contained in section 14-524.

- (iii) Workshop Procedures: The Planning Board workshop shall be informational and shall not result in any formal approval or disapproval of the project. The Board shall review the submission to determine if the information provides a clear understanding of the site and identifies opportunities and constraints of the site and proposed development, air public comments questions and issues, and provide direction to the applicant regarding issues to be addressed during the final review process.

f. Planning Board Master Development Plan Decisions.

- (i) Review and approval: An applicant proposing a Master Development Plan is seeking approval for an overall concept of development that may be brought for Final Plan approval in two or more phases and in a phase sequence that extends beyond the timeframes allowed above for Final Plan expiration of approvals. Master Development Plan approval may be sought separately or currently with the Phase I Final Level III site plan approval, and shall have an initial approval period of six (6) years, with potential extension periods as provided for in section 14-532(d).
- (ii) Review process. The site plan review process for a Master Development Plan shall proceed in the same manner as a Preliminary Site Plan as detailed above, Sec. 14-524 (3)(b)(i)-(vi) and as a Master Development Plan as detailed above, Sec. 14-524 (3)(C)(i)-(iii).
- (iii) Public Hearing. The Planning Board shall consider a Master Development Plan at a public hearing that meets all public noticing requirements contained in Section 14-32 and the site plan ordinance.
- (iv) Decisions. The Planning Board shall approve, approve with conditions or deny a Master Development Plan application based

upon the applicable review standards. The Planning Board may waive site plan or technical standards related to the Master Development Plan application based upon the applicable review standards. AN approval, including an approval of waivers, establishes the general parameters to be adhered to for the development, including the supporting documentation for floor area ratio and/or residential density, general types of uses, building coverage, generalized open space plans and infrastructure systems.

A Master Development Plan approval shall not be construed as final authorization of the development. Approval shall confer pending proceeding status upon the development with the effect of maintaining the applicability of regulations in effect at the time of approval for as long as the Master Development Plan approval remains valid, including permissible extensions if granted.

All Level III site plans for each phase shall be in general conformance with the Master Development Plan.

ge. Final Plan.

...

Sec. 14-525. Public notices.

(a) *Administrative authorization.* Administrative authorization applications are exempt from noticing requirements fo section 14-525.

(b) *Level I site plan: minor residential development:*

1. *Receipt of Application.* When an application for Level I: Minor Residential Site Plan is submitted for review, the Planning Authority shall notify by mail the owners of all property abutting the proposed site and any property owners directly across the street from the site.

2. Site Plans: Level I Site Plan: Site Alteration, Level II, and Level III, and Master Development Plan Site Plans.

a. *Receipt of Application.* When an application for Level I Site Alteration, Level II or Level III development is submitted for site plan review, the Planning Authority shall notify, by mail the following, where applicable:

(i) *Notice for Level I: Site Alteration and Level II Site Plans* shall be sent to all property owners within five hundred (500) feet of the subject property lines and to all others, including neighborhood organizations, as may be required by the Planning Authority.

(ii) *Notice for Level III Site Plans and Master Development Plan applications* shall be sent to all property owners within five hundred (500) feet of the subject property lines or within one thousand (1,000) feet if it is a subdivision within an industrial zone, unless the Planning Authority, in its discretion, chooses to notice a larger area and incur the additional expense for the expanded notification and notices shall be sent to all others, including neighborhood organizations, as may be required by the Planning Authority.

...

Sec. 14-526. Site plan standards.

Requirements for approval. The Planning Board or Planning Authority shall not approve a site plan application unless the development proposal meets the following criteria:

...

9. *Zoning Related Design Standards:*

- a. Development of certain types and/or proposed in certain zones, as specified below, are subject to design standards in addition to the provisions of Section 14-526 (a) in order to ensure designs that contribute to and enhance the goals and policies for specific districts of the City. The City of Portland Design Standards is listed in the City of Portland Design Manual, which is included by reference. If the development is located in a historic district or associated with a historic landmark, City of Portland Historic Preservation standards shall supersede:
- b. Master Development Plan Design Standards: A Master Plan shall comply with the design and development standards of the zone in which it is located, and shall achieve a cohesive land development consistent with the assets of the site, land uses, functional activities, and major design elements, such as buildings, roads, utilities, drainage systems and open space as well as with the Master Development Plan Standards of Review contained in Section 14-524.

10. *Reserved.*

...

(f) General Waiver

1. Except for the requirements set forth in Section 14-526 (a)-(d) for which individual waiver criteria are provided, the Reviewing Authority if it finds that extraordinary conditions exist or that undue hardship may result from strict compliance with these regulations may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of the land development plan and the regulations of this article.

Sec. 14-527. Content of site plan applications.

...

(c) Level II, ~~and~~ Level III, and Master Development Plan General Submissions. The applicant shall submit for review a packet of materials and submissions in a form and content as specified by the department of planning and urban development. Such submissions shall contain, at a minimum, the following elements.

....

10. Boundary survey stamped by a professional survey or licensed to practice in the State of Maine, drawn to scale and tied into the State Plane Coordinates, NAD 1983, Maine West Zone, as specified in section 13 of the Technical Manual. A boundary survey of the site, may be waived by the Planning Authority for a review of Master Development Plan, where an existing conditions plan is available. The Boundary Survey requirement shall be met for each phase of development.

(d) Level II, and Level III Preliminary Site Plan Submissions. A preliminary site plan is an optional submittal as part of the Level II and III site plan application review process. If the applicant elects to submit a preliminary site plan for review, it shall include the following information:

....

10. Exterior Building Elevations.

(e) Master Development Plan. A Master Development Plan is an optional submittal as part of the Level III site plan application review process. IF the applicant elects to submit a Master Development Plan for review, it shall include the following information in addition to the general submission requirements of Sec. 14-527 (c) (d):

1. A neighborhood context map, at a scale not less than one (1) inch equals one hundred (100) feet, providing a graphic description of the neighborhood in which the tract lies, including roads, utilities and other

public facilities, major existing buildings and structures. There shall also be a statement and/or plan as to the general impact of the proposed Master Development Plan upon the area, indicating how the Master Development Plan relates to surrounding properties and what measures will be taken to create appropriate transitions and access from the subject property to abutting public properties (i.e. parks, waterfront, etc.) or other neighboring tracts (if applicable).

2. A conceptual site plan drawn to a scale of not less than one (1) inch equaling fifty (50) feet, or series of drawings at the same scale, and any necessary supporting information, showing:

(i) The approximate boundary lines of existing and proposed lots within and immediately adjacent to the Master Development Plan, with approximate areas and dimensions. With respect to residential areas, the proposed density, lot configuration, circulation and a typical plot plan shall be included in the application.

(ii) An analysis of the natural features of the site, including existing and/or adjacent natural waterways, wetlands, floodplains, topography, soil conditions and other natural features requested or required by the Planning Authority.

(iii) An analysis of the designated view corridors, historic resources, and archeological resource associated with the site;

(iv) Existing/proposed buildings and other significant structures, building groupings, exterior building elevations and entrances, parking areas, and other significant physical features of the site.

(v) Context drawings, perspective renderings, photographic montages, or computer generated graphics depicting the proposed development within the surrounding building and environmental context. Building elevation drawings shall include the following:

a. Illustrations of all sides of the

structures;

- b. Views of major entries or prominent building features;
- c. Illustration of building articulation and elements;
- d. Building finish composition; and
- e. Pedestrian and streetscape elements of the Master Development Plan.

The submission shall include a digital three-dimensional model tied to a specific location that is submitted as a KML, KMZ, DXF, or DWG file on a CD or DVD or such format as approved by the Planning Authority. IT is the applicant's responsibility that the model is complete and represents the proposed development accurately using best practice modeling techniques and layering standards.

- (vi) Major circulation patterns surrounding and serving the site, the existing and proposed lines of streets (including the street width), ways, easements and any public areas within or next to the site.
- (vii) Major landscaping elements, features, open space, and plans for preservation of natural features.
- (viii) An analysis of the public safety services needed to support the master plan.
- (ix) An analysis of the anticipated impacts on the public school system to support the master development plan.
- (x) A generalized drainage plan for the site, indicating drainage ways, flows, points of outfall, and indicating impacts of development on affected drainage basins. The plan shall include contour information at not less than two-foot (2') contour intervals and document anticipated quantities of run-off characteristics. General statements concerning storm water management

techniques shall also be submitted with the application.

(xi) The plan shall clearly show Master Development Plan boundaries, north arrow, date, scale, legend, the title "Master Development Plan Concept Site Plan" followed by the formal project name, and the name(s) of applicant(s), engineer(s), designer(s) and/or agent(s);

(xii) A traffic analysis and recommendations prepared by a registered professional engineer qualified to conduct such studies, including current traffic counts for streets surrounding the project, analysis of the existing capacity of those streets, projections of the amount of traffic that will be generated by the proposed development, and the ability of the street system to absorb the increased traffic without decreasing the level of service below an acceptable level - said level to be determined by the Planning Authority in concert with the Department of Public Services. In cases where the Master Development Plan is subject to a Traffic Movement Permit (TMP) for all phases, the TMP submissions and review shall supersede these requirements.

(xiii) A utilities analysis and recommendations prepared by a registered professional engineer qualified to conduct such studies. Said analysis shall contain an inventory of existing utilities including, but not limited to, storm sewers and drains, sanitary sewers, electrical lines, fire alarm boxes and lines, gas lines/mains, water mains, lighting, curb and gutter, etc. Said inventory shall illustrate utility locations, sizes, diameters, carrying capacity and present load on the system. The engineer's report shall state if the current system is capable of adequately serving the proposed development. If the current utility system is found to be inadequate for the proposed development, the report shall confirm the deficiencies and make recommendation(s) as to the infrastructure improvements necessary to properly service the proposed development and maintain the existing service. The report shall also present a formal

plan for infrastructure improvements, documenting timing, funding mechanisms and coordination with the City; and

(xiv) Any other supportive information the applicant feels may be beneficial in the evaluation of the request.

(xv) The Planning Authority or Planning Board may reduce the level of information required at the Master Development Plan review stage, provided more detailed supportive documentation is provided at final Level III Site Plan Review of the Master Development Plan or phases thereof.

(ef) *Level II and III Final Site Plans.* A final site plan for a Level II or III site plan application shall be based upon a standard stamped boundary survey meeting City of Portland standards, be stamped by a professional engineer licensed to practice in the State of Maine, shall be submitted with all required written submittals and shall include the following information:

. . . .

Sec. 14-528. Reserved.

Sec. 14-529. Appeals.

(a) When the planning authority has approved, approved with conditions, or denied a site plan, or has approved a request to extend the expiration date of a Master Development Plan, any person aggrieved may appeal the decision to the planning board within thirty (30) calendar days of the date of the written decision of the planning authority. Upon the taking of such an appeal, the application or request for an extension shall be reviewed as a new application or request.

. . . .

Sec. 14-530. Development review fees and post approval requirements.

. . . .

4. *Site Plan Review Expenses.*

a.	Level I: Minor Residential	\$300(flat fee)
b.	Level I: Site Alteration	\$200
c.	Level II: Site Plan	\$400
d.	Level III: Site Plan	
	(i) Under 50,000 sf	\$500
	(ii) 50,000-100,000 sf	\$1,000
	(iii) 100,000-200,00 sf	\$2,000
	(iv) 200,000-300,000 sf	\$3,000
	(v) Over 300,000 sf	\$5,000
	(vi) Parking lots over 100 spaces	\$1,000
e.	Master Development Plan	\$1,000
fe.	After the Fact Review	\$1,000 plus application fee
gf.	Amendment to Site Plans	
	(i) Planning Board Review	\$500
	(ii) Administrative Review	\$250
hg.	Other Site Plan Reviews	
	(i) Administrative Authorization	\$50
	(ii) Special Exception Sign Review	\$75
	(iii) Section 14-403 Street Extensions	\$400 plus \$25 per lot
ih.	Fee for Development Review Services	
	(i) Planning fee per hour	\$40

(ii) Legal fee per hour

\$75

(iii) Third-party Review

Fees assessed by
the Third Party
Professional

j±. State Delegated Review Fees

(i) Site Location of Development \$3,000, except
for residential
projects which
will be \$200
per lot.

(ii) Traffic Movement Permit \$1,000

(iii) Stormwater Quality Permit \$250

k±. Performance Guarantee

(i) As required in Section 14-530 (b) (4).

l±. Inspection Fees, as required in Section 14-530
(b) (5)

(i) Level I: Site Alteration, Level II and Level
III: 2% of the performance guarantee or as
assessed by Planning or Public Works
Engineer at \$45 an hours with minimum
inspection fee of \$300 Level I: Minor
Residential Inspection Fee \$100 (flat
fee).

m±. Street vacation

\$2,000

. . . .

Sec. 14-531. Reserved.

Sec. 14-532. General requirements and enforcement.

. . . .

(b) *Revisions and amendments to Master Plans and approved
site plans.*

1. Amendments to a Master Development Plan.

a. Minor amendments. A minor amendment to a Master Development Plan shall be defined as a change which is generally consistent with the approved Master Development Plan layout of buildings, circulation infrastructure, and open spaces, and:

(i) Does not propose any new general type of use beyond those approved initially;

(ii) Does not increase the building ground coverage, floor area ratio or residential density of the Master Development Plan;

(iii) Does not decrease any specified area regulations or enumerated parking ratios; and

(iv) Does not substantially change access, circulation, or infrastructure on or adjacent to the site.

The Planning Authority shall be authorized to approve such minor amendments to a Master Development Plan upon written application and explanation of the change(s) by the owner (or its agent) of the property. No further public hearings shall be required.

12. Approved Site Plan: If at any time before or during development the applicant requests minor amendments to an approved plan for Level III development, the Planning Authority may approve such minor amendments under the procedures for minor development, provided that they do not amount to a waiver or substantial alteration of the site plan, and do not affect any condition or requirement of the Planning Board. The applicant shall supply an application and written statement of the proposed amendment(s) and proposed amended plans to the Planning Authority, whose decision as to whether the amendment is minor shall be final. The Planning Authority shall determine if a notice of amendment shall be required and the extent of such notice based on the extent and nature of the proposed amendment to plan and the demonstrated public interest related thereto.

23. Limited ~~±In-Field~~ ~~e~~Changes: approved by the Public Services Authority must be in writing and submitted to the Planning Authority and are specifically limited to minor variation necessary to deal with unforeseen difficulties that arise during the course of construction involving such technical detail as utility location and substitution of equivalent plantings and shall not include any substantial alteration of the approved plan or change any condition imposed by the Planning Board or Planning Authority.

(c) *Expiration of site plan approval.*

1. A site plan approved under this article shall expire twelve (12) months from the date of approval unless:
 - a. Development has been undertaken in accordance with the approved plan and site work or building construction is ongoing. Any lapse in construction for a period in excess of twelve (12) months shall result in an expiration of the site plan; or
 - b. Prior to the expiration of the site plan, such other time period is agreed upon, in writing, by the Planning Authority and the applicant, not to exceed three (3) years from the date of approval;

Provided that such extensions may not be granted if changes to the City's zoning ordinance would render the development nonconforming in any respect or if changes in the subdivision or site plan ordinance or in the Public Services Technical Standards Manual or Planning and Development Design Standards would otherwise significantly impact the approved site plan as determined by the Director of Planning and Urban Development.

2. Where the approval or any related land use approval granted to the same applicant by any agency of the City with respect to the same development is appealed to any court by an opponent of the development, the applicant shall be granted further extensions, beyond the expiration of said period, where the applicant has exercised due diligence with respect to defending such

appeal, which extensions shall not last beyond one (1) year from entry of final judgment.

(d) Expiration of Master Development Plan:

1. A Master Development Plan approved under this article shall expire six (6) years from the date of approval unless:

- a. Prior to the expiration of the Master Development Plan, an applicant may submit a written request to the Planning Authority for an extension of a Master Development Plan approval and associated waivers. Only two (2) such extensions may be granted by the Planning Authority, and each such extension shall be limited to two (2) years from the date of expiration of the Master Development Plan. Provided there have not been substantial changes to the underlying zoning or site plan standards since the date of the Master Development Plan approval that would have a substantial impact on the Master Development approval, the Planning Authority may grant an extension. The Planning Authority may condition the extension on an amendment of the Master Development Plan to comply with such applicable ordinance or site plan standard changes provided that the Planning Authority may not require changes in the uses approved on the Master Development Plan or changes that would reduce the gross floor area of the buildings described or shown on the approved Master Development Plan. For the purposes of this provision, gross floor area includes the sum of the gross horizontal areas of each floor of each building or structure from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but excluding any space where the floor to ceiling height is less than six (6) feet. Any decision by the Planning Authority regarding the granting of an extension may be appealed to the Planning Board as provided for in Section 14-529;
- b. Approved major or minor amendments to a Master Development Plan do not alter the expiration date for the Master Plan that is based upon the original date of approval.

| (e) *Enforcement.*

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**City of Portland, Maine
City Council Agenda Request Form**

TO: Sonia Bean, Senior Administrative Assistant

FROM: Jeff Levine, Director of Planning and Urban Development

DATE: March 26, 2013

Re: **Article V, Site Plan Amendments for Master Development Plan**

1) Council meeting at which action is requested:

1st reading: April 1, 2013
Final action: April 22, 2013

2) Can action be taken at a later date: x YES NO
If not, why not:

3) This item is sponsored by: Mark Rees, City Manager

cc: Mark Rees, City Manager
Mayor Brennan
Danielle West-Chuhta, Corporation Counsel
Jeff Levine, Director of Planning and Urban Development
Terry Tucker, Administrative Assistant

I. SUMMARY OF ISSUE

Several large scaled projects submitted for review to the Planning Board have required additional time to obtain financing or would have benefitted from an option to phase a project over an extended time frame. While the site plan ordinance allows for phased development, site plan approvals expire in one year with the option of extending the time frame to three years from the date of approval. Projects have returned to the Board with amended plans or re-approvals in order to secure financing and proceed to construction. The current site plan ordinance does not offer a mechanism to review a master development plan in order to achieve a unified development scheme.

II. REASON FOR SUBMISSION (What issue/problem will this address?)

The Planning Board unanimously recommends (7-0) adoption of a Master Development Plan review process proposed for Article V, Site Plan Ordinance. The proposed text amendments recognize the need for projects on large sites to undergo an optional Master Development planning process in order to promote a cohesive and integrated development approach. The Master Development Plan process addresses the expectation that these developments (given the size and complexity) will be built in phases over an extended time frame. The proposed amendments address the need of the current financial market

for a level of certainty in the review process, which accommodates the extended time needed to undertake complex projects. The Master Development Plan review process is, in part, designed to reduce the requests for contract or conditional zoning that often accompany large and complex projects

The proposed Master Development Plan process applies to development with over 1 acre of land in all non-residential zones. It is not applicable in residential zones, except for institutional uses such as schools, hospitals and universities. An approval of a master development plan, including any approval of waivers, establishes the general parameters to be adhered to for the development. A Master Development Plan approval is not the final authorization of the development, but it will confer pending proceeding status upon the development with the effect of maintaining the applicability of regulations in effect at the time of approval for as long as the Master Development Plan approval remains valid. As proposed, an approved Master Development Plan would be valid for six (6) years with the Planning Authority able to grant two (2) two-year extensions under certain circumstances or to seek amended plans to address revised regulations. Each phase of development requires a Level III site plan review by the Planning Board for final approval.

III. INTENDED RESULT (How does it resolve the issue/problem?)

The proposed amendments are intended to establish a Master Development Plan review process within the Site Plan Ordinance, in order to promote a cohesive and integrated development approach for larger scaled projects in non-residential zones or for institutional uses in residential zones. The review process for Master Development Plans includes noticing provisions, a separate required neighborhood meeting, a required Planning Board workshop, a required public hearing, and standards of review. The Master Development Plan amendments contemplate a development occurring in phases over an extended time period and establish a pending status for the overall development.

IV. FINANCIAL IMPACT

There are no known negative financial impacts associated with the proposed amendments.

V. STAFF ANALYSIS & RECOMMENDATION

At the March 12, 2013 public hearing, the Planning Board voted unanimously (7-0) to recommend the proposed text amendments for the Master Development Plan with three revisions. The recommended revisions to the text amendments included the following:

1. Require a separate neighborhood meeting for the Master Development Plan from any required Level III site plan requirements for a neighborhood meeting.
2. Make it a requirement that there is Planning Board workshop for a Master Development Plan; and
3. Add a standard of review that addresses maintaining future phases in a stable, safe and attractive site conditions.

The Council Order incorporates the amendments recommended by the Planning Board.

Attachments:

1. Planning Board Report #17-13



PLANNING BOARD REPORT TO CITY COUNCIL PORTLAND, MAINE

Article V, Site Plan Amendments for Master Development Plan City of Portland, Applicant

Submitted to: Portland City Council: Public Hearing Date: April 22, 2013 Planning Board Report Number: 17-13	Sponsored by: Portland Planning Board Prepared by: Barbara Barhydt, Development Review Services Manager Date: March 26, 2013
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I. INTRODUCTION

At the March 12, 2013 public hearing, the Planning Board voted unanimously (7-0) to recommend to the City Council the adoption of text amendments that create a Master Development Plan review process within the Site Plan Ordinance. The proposed amendments are intended to promote a cohesive and integrated development approach for larger scaled projects in non-residential zones or for institutional uses in residential zones. The review process for Master Development Plans includes noticing provisions, a separate required neighborhood meeting, a required Planning Board workshop, a required public hearing, and standards of review. The Master Development Plan amendments contemplate a development occurring in phases over an extended time period and establish a pending status for the overall development. The Master Development Plan review process is, in part, designed to reduce the requests for contract or conditional zoning that often accompany large and complex projects.

Public notice consists of 88 notices mailed to property owners as well as the item appearing on the Legal Ad which ran in the Press Herald will appear on April 15 and 22nd.

II. Article V. Site Plan, Master Development Plan Amendments for the Site Plan Ordinance

The proposed text amendments for the Site Plan Ordinance are presented in Attachment 1. Portions of the site plan ordinance are excerpted from the attachment where no amendments are proposed. Following is an outline and summary of the proposed text amendments. Revisions to the text since the February 12th workshop are identified below.

1. Sec. 14-522 Definitions

- a. Section 14-522: Add definition of Master Development Plan (Attachment 1, page 1):

A master development plan is a regulatory option for sites with one acre or more in cumulative lot area that designed as a cohesive and integral development program consisting of multiple buildings and associated site improvements built in phases over an extended time frame. This option shall not apply in residential zones except for institutional uses.

Staff Comment: The Master Development Plan concept applies to larger sites with multiple buildings that may have more complex development issues and a longer build-out time frame than smaller scale projects. This provision does not apply within residential zones, except for institutional uses. The inclusion of institutional uses is particularly useful since hospitals, colleges and schools often have long-term horizons for their plans that exceed the time frame of up to three years for site plan approvals. It also encourages large developments and institutions to engage in a long-term planning process, which is beneficial to the City, neighborhoods, institutions, and developers.

2. Sec. 14-523 Required Approvals and Applicability

- a. **Sec. 14-523 (a) Required Review f.** Add Master Development Plan to list for required review (Attachment 1, page 2):

“Master Development Plan Review shall require the Master Development Plan approval of the Planning Board as provided in Section 14-524 (d) (9).

- b. **Section 14-523 (b) Applicability.** Add Master Development Plan (g) to applicability (Attachment 1, page 2):

(g) *Master Development Plan:* A Master Development Plan meeting the criteria listed below will undergo a Master Development Plan Review as follows:

1. A Master Development Plan for a site with one acre or larger in cumulative lot area that is designed as a cohesive and integral development program consisting of multiple buildings and associated site improvements proposed to be built in phases.
2. The Master Development Plan option shall not apply in residential zones, except for institutional uses.

Staff Comment: Master Development Plan Review is listed under required reviews and stipulates that Planning Board approval is required. A separate decision making process is presented for Master Development Plans under Section 14-524 of the Site Plan ordinance (see below). The applicability section of 14-523 restates the definition of the Master Development Plan.

3. Sec. 14-524 Site Plan Review Processes

- a. **Section 14-524 (a) 3. Level II and Level III site plan review.** Add Master Development Plan to the site plan review process for Level II and Level III site plans (Attachment 1, page 3).
- b. **Section 14-524 (a) 3.a. Pre-application Conference.** Add Master Development Plan to the list of applications that are encouraged to have a pre-application meeting with City staff before submitting an application (Attachment 1, page 3).
- c. **Section 14-524 (a) 3. c. Master Development Plan Review.** Add a new review process for a Master Development Plan (Attachment 1, pages 5 -8). The proposed amendment restates the definition of a master plan and identifies the key elements for consideration of a master plan, standards for review and phasing. The proposed text amendments are as follows:

c. Master Development Plan Review

- (i) Application Process: Applicants for Level III site plan reviews may submit a Master Development Plan for a large, multi-phase development program consisting of multiple buildings and associated site improvements on a site of one (1) acre or more of total land area, which is designed as a cohesive and integral development program. The purpose of a Master Development Plan is to provide for a mix of land uses at designated locations to achieve a land development responsive to the assets of a site. A Master Development Plan is a well-integrated development in terms of land uses, functional activities, and major design elements such as buildings, roads, utilities, drainage systems and open space. The Master Development Plan is deemed appropriate to large scale mixed use projects that are intended to be developed in phases. The Master Development Plan shall be reviewed by the Planning Board and may be reviewed independently or concurrently with review as a site plan for a phased development. A Master Development Plan must address the submission requirements of Section 14-527.
- (ii) The site plan review process for a Master Development Plan shall proceed in the same manner as a Preliminary Site Plan, as detailed in Sec. 14-524 (3) (b) (ii) through (vi).
- (iii) Standards of Review. A Master Development Plan shall adhere to the following general requirements and features, and shall meet the Master Development Plan Site Plan Standards of 14-526(d)(9):
 - a. a designated tract of land consisting of a parcel of parcels of contiguous land or land on both sides of a public street, totaling one (1) acre or more;
 - b. developed in a comprehensive, design-integrated manner, according to an overall master development plan;
 - c. consistent with the objectives of this Ordinance;
 - d. consistent with the City's Comprehensive Plan and consistent with City Council approved master plans and facility plans for off-premise infrastructure, including but not limited to, trails, pedestrian and bicycle network, view corridors, environmental management, sewer and stormwater, streets, or other facilities (see Section 15 of the Technical Manual);
 - e. developed so as to locate buildings and improvements in a manner that provides usable open space, preserves significant natural features, as defined by the site plan ordinance standards, and preserves existing trees to the maximum extent possible;
 - f. developed so as to be in conformance with Portland's Historic Preservation Ordinance standards for designated landmarks or for

properties within designated historic districts or designated historic landscapes, if applicable. When proposed adjacent to or within 100 feet of designated landmarks, historic districts or historic landscapes, the Master Plan shall be developed so as to be generally compatible with the major character-defining elements of the landmark or portion of the district in the immediate vicinity of the proposed development;

g. an efficient use of land which properly considers topography and protects significant natural features including, but not limited to, waterways, wetlands, floodplains and wildlife;

h. an efficient use of land demonstrating full coordination of its own site development and surrounding context including, but not limited to, the land uses and functions contemplated, architecture, open space and pedestrian networks, vehicular access and circulation, and all other infrastructure;

i. linked and coordinated with surrounding land uses, infrastructure and off-site public facilities, including but not limited to the public school system, where appropriate, in a manner that is safe, efficient, non-injurious to the public, and an improvement or benefit to the public where possible;

j. designed with sizing of street and other infrastructure systems to accommodate the overall service demand of the Master Plan;

k. designed to create a street grid pattern that reflects average city block sizes of the neighborhood for street connectivity;

l. designed as to create a cohesive identity through building scale, massing, and articulation; use of quality exterior materials; architectural detailing at the pedestrian scale; consistency of design and materials for streetscape and pedestrian amenities; framing of outdoor open space and linkages; a clear conveyance of the function and significance of various buildings, entrances, and features; and to generally comply with design and development standards of the zone in which it is located;

m. inclusive of provisions for the ownership and maintenance of usable open space as appropriate; and

n. For areas proposed as future development phase(s), the proposed interim conditions shall be managed and maintained to ensure stable, safe and attractive site conditions.

- (iv) *Phasing.* One or more phases of the Master Development Plan may be reviewed as a final level III site plan concurrently with the review and approval of the Master Development Plan.

Staff Comment: The Master Development Plan concept as proposed is applicable for larger scaled developments in Portland's non-residential zones. This mechanism would not be

available in residential zones, except for institutions. It provides a framework for entities to consider a more comprehensive view of the site, its assets, community connections, infrastructure, and a phased approach to the build out of the site. The standards of review support the broader perspective or more conceptual planning and development of the site for an extended time frame. It anticipates consideration of key elements of a plan in a more preliminary context and does not require the full level of technical and engineered detail, as required for site plan review. The Master Plan may be reviewed separately or concurrently with the first phase of development.

Standard I is a general design standard that calls for a cohesive identity of the Master Development Plan. It lists building scale, massing and articulation, exterior materials, architectural detailing at the pedestrian scale, opens space, streetscape amenities, and conveyance of function and significance of various features of the buildings. The standard also calls for a Master Development Plan to be in general compliance with design and development standards of the zone in which it is located. There is a cross-reference to design standards applicable to the underlying zone. The non-residential zones that currently have design standards include B-1, B-2, B-3, B-5, B-7, University of Maine Overlay Zone, Eastern Waterfront Port Zone and B-6.

- d. **Section 14-524 (a) 3. d. Neighborhood Meetings for Level III Site Plans.** Add a required neighborhood meeting for Master Plan Application, which shall not be combined with a required neighborhood meeting for a Level III site plan (Attachment 1, pages 8 and 9).

(ii) *Neighborhood Meeting Required for Master Development Plan:* An applicant for a Master Development Plan shall conduct at least one (1) neighborhood meeting within thirty (30) calendar days of filing a Master Development Plan application. The meeting(s) will be held on a date no less than seven (7) calendar days from a public workshop or public hearing. The neighborhood meeting for a Master Development plan shall not be combined with any required neighborhood meeting for the Level III applications associated with the overall phased development. The meeting shall be held at a convenient location within the City of Portland neighborhood surrounding the proposed site. All costs associated with the neighborhood meeting shall be borne by the applicant. The workshop shall meet all other provisions of Section 14-524 (d)(i).

Staff Comment: Neighborhood meeting would be required for a Master Plan application under the same procedures as are required for a Level III site plan application; however, a separate neighborhood meeting is required for a Master Development Plan. The Planning Board concluded that the large scale of development for a Master Development Plan warranted a neighborhood meeting, which is not to be combined with a Level III site plan application for a phase of development.

- e. **Section 14-524 (e) Planning Board Workshops.** Add a new section that requires the applicant to participate in a workshop with the Planning Board for a Master Development Plan application (Attachment 1, page 11).

(i) *Required Workshop for Master Development Plan:* A workshop with the Planning Board is required for a Master Development Plan application. The workshop will be scheduled on a date that follows the scheduled date of the

required neighborhood meeting. The proposal will be scheduled for the next available Planning Board meeting that meets all public noticing requirements contained in Section 14-524.

Staff Comment: Under the current Site Plan Ordinance, applicants may request a workshop with the Planning Board. Workshops are not mandatory for site plan reviews. The Planning Board determined at the public hearing that a Planning Board workshop for a Master Development Plan application should be required, due to the scale and extended approval period for such developments. All other workshop procedures would apply for a Master Development Plan.

- f. **Section 14-524 (f) i-iv. Planning Board Master Development Plan Decisions.** Add a new section for Planning Board Master Plan Decisions (Attachment 1, pages 11-13). Under Portland's Site Plan Ordinance, the Board decides on final site plans, but does not act upon preliminary plans. Thus, a new section is proposed which articulates the Planning Board's decision making process for a Master Development Plan, including the granting of waivers. This section cross-references the review process for a Master Development Plan and the applicable preliminary plan review steps. The initial approval period is proposed at six (6) years. The amendments are as follows:

f. *Planning Board Master Development Plan Decisions.*

- (i) *Review and approval:* An applicant proposing a Master Development Plan is seeking approval for an overall concept of development that may be brought for Final Plan approval in two or more phases and in a phase sequence that extends beyond the time frames allowed above for Final Plan expiration of approvals. Master Development Plan approval may be sought separately or currently with the Phase 1 Final Level III site plan approval, and shall have an initial approval period of six (6) years, with potential extension periods as provided for in Section 14-532(d).
- (ii) *Review Process.* The site plan review process for a Master Development Plan shall proceed in the same manner as a Preliminary Site Plan as detailed above, Sec. 14-524(3)(b), (i) through(vi) and as a Master Development Plan as detailed above, Sec. 14-524 (3)c(i-iii).
- (iii) *Public Hearing:* The Planning Board shall consider a Master Development Plan at a public hearing that meets all public noticing requirements contained in Section 14-32 and the site plan ordinance.
- (iv) *Decisions.* The Planning Board shall approve, approve with conditions or deny a Master Development Plan application based upon the applicable review standards. The Planning Board may waive site plan or technical standards related to the Master Development Plan application based upon the applicable review standards. An approval, including an approval of waivers, establishes the general parameters to be adhered to for the development, including the supporting documentation for floor area ratio and/or

residential density, general types of uses, building coverage, generalized open space plans, and infrastructure systems.

A Master Development Plan approval shall not be construed as final authorization of the development. Approval shall confer pending proceeding status upon the development with the effect of maintaining the applicability of regulations in effect at the time of approval for as long as the Master Development Plan approval remains valid, including permissible extensions if granted.

All Level III site plans for each phase shall be in general conformance with the Master Development Plan.

Staff Comment: As noted above, the Planning Board does not act upon preliminary site plans, so a process is proposed for the Planning Board to consider and vote on a Master Development Plan at a public hearing. The amendments provide for an approval of an overall concept of development with each phase of development requiring a separate Level III site plan review. The Master Development Plan can be considered by itself or it can be reviewed concurrently with the Level III site plan for Phase I. The option to consider waivers at the Master Development Plan stage was added into this section per the Planning Board's direction. The Master Development Plan approval and any waivers granted, establish the general parameters to be adhered to for the overall development and confer a pending proceeding status upon the development.

4. Sec. 14-525 Public Notices.

- a. Section 14-525. 2 Add Master Development Plans in the public notice section (Attachment 1, pages 13-14), so that the same noticing requirements apply for a Master Development Plan as are required for Level II and Level III site plans.

5. Sec. 14-526 Site Plan Standards

- a. Section 14-526 (d) 9. Add a Master Development Plan Design Standard under the Site Design standards of the site plan ordinance (Attachment 1, page 15- 16) as follows:

9. Zoning Related Design Standards

- b. Master Development Plan Design Standards:

A Master Plan shall comply with the design and development standards of the zone in which it is located, and shall achieve a cohesive land development consistent with the assets of the site, land uses, functional activities, and major design elements, such as buildings, roads, utilities, drainage systems and open space as well as with the Master Development Plan Standards of Review contained in the Section 14-524.

Staff Comments: A new standard is proposed to be added under the Site Design Standards of the Site Plan Ordinance. It states that the Master Development Plan shall comply with the requirements of the underlying zone and will generally comply with the design and development standards of the zone in which it is located. As noted above, there are design standards for the following non-residential zones: B-1, B-2, B-3, B-5, B-7, University of

Maine Overlay Zone, Eastern Waterfront Port Zone and B-6. Shadow and wind studies are required in some of the design standards, such as in B-3 and B-7.

- b. Section 14-526 (f) General Waiver: Add a new section for a general waiver of site plan standards (Attachment 1, page 16- 17):

(f) *General Waiver:*

- 1. Except for the requirements set forth in Section 14-526 (a) through (d) for which individual waiver criteria are provided, the Reviewing Authority if it finds that extraordinary conditions exist or that undue hardship may result from strict compliance with these regulations may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of the land development plan and the regulations of this article.

Staff Comments: The Subdivision Ordinance authorizes public services and planning to promulgate technical and design standards for subdivisions and site plans. Within the subdivision ordinance the above general waiver provision is found under modifications for technical and design standards. There are also specific waiver criteria for curbs and sidewalks in the subdivision ordinance and waiver criteria for some of the standards within the Site Plan Ordinance. The proposed general waiver criteria mirrors the language contained in the subdivision ordinance and is proposed to clarify applicability of this provision within the site plan ordinance.

6. Sec. 14-527 Content of Site Plan Applications.

- a. Section 14-527 (c) Level II and Level III General Submissions. Add Master Development Plan to the general submission requirements for Level II and Level III site plan reviews (Attachment 1, pages 17-18). The general submission requirements address application form, fees, project description, right title and interest, applicable state and federal reviews, written assessment of zoning, summary of easements or other encumbrances, a summary of waivers if applicable, and evidence of financial and technical capacity. The boundary survey required for site plans may be waived for Master Development Plans. Please note that the list of requested waivers is listed within the general requirements for all applications, so a separate request for this information under the Master Development Plan submission is not proposed.
- b. Section 14-527 (d) Level II and Level III Preliminary Site Plan Submissions. Adds Exterior Building Elevations to the preliminary site plan submissions for Level II and Level III site plans (Attachment 1, page 18), which is an omission from the 2010 site plan update.
- c. Section 14-527 (e) Master Development Plan: Add a separate Master Plan submission section that lists the required information (Attachment 1, pages 19-23). The list does include an option for the Planning Authority or Planning Board to accept a reduced level of information for the Master Development Plan stage, provided that more detailed information is provided at the final Level III review. The submission requirements do include the design manual requirements for submissions and adds the requirement to submit a digital model that accurately represents the proposed development. Based upon public comment,

the standards also seek an assessment of the development on the public school system. The submission requirements are as follows:

(e) *Master Development Plan.* A Master Development Plan is an optional submittal as part of the Level III site plan application review process. If the applicant elects to submit a Master Development Plan for review, it shall include the following information in addition to the general submission requirements of Sec 14-527 (c):

1. A neighborhood context map, at a scale not less than one (1) inch equals one hundred (100) feet, providing a graphic description of the neighborhood in which the tract lies, including roads, utilities and other public facilities, major existing buildings and structures. There shall also be a statement and/or plan as to the general impact of the proposed Master Development Plan upon the area, indicating how the Master Development Plan relates to surrounding properties and what measures will be taken to create appropriate transitions and access from the subject property to abutting public properties (i.e. parks, waterfront, etc.) or other neighboring tracts (if applicable);
2. A conceptual site plan drawn to a scale of not less than one (1) inch equaling fifty (50) feet, or series of drawings at the same scale, and any necessary supporting information, showing:
 - i. The approximate boundary lines of existing and proposed lots within and immediately adjacent to the Master Development Plan, with approximate areas and dimensions. With respect to residential areas, the proposed density, lot configuration, circulation and a typical plot plan shall be included in the application;
 - ii. An analysis of the natural features of the site, including existing and/or adjacent natural waterways, wetlands, floodplains, topography, soil conditions and other natural features requested or required by the Planning Authority;
 - iii. An analysis of the designated view corridors, historic resources, and archeological resources associated with the site;
 - iv. Existing/proposed buildings and other significant structures, building groupings, exterior building elevations and entrances, parking areas, and other significant physical features of the site;
 - v. Context drawings, perspective renderings, photographic montages, or computer generated graphics depicting the proposed development within the surrounding building and environmental context. Building elevation drawings shall include the following: a) illustrations of all sides of the structures; b) views of major entries or prominent building features, c) illustration of building articulation and elements; d) building finish composition and e) pedestrian and streetscape elements of the Master Development Plan. The submission shall include a digital three-dimensional model tied to a

specific location that is submitted as a KML, KMZ, DXF, or DWG file on a CD or DVD or such format as approved by the Planning Authority. It is the applicant's responsibility that the model is complete and represents the proposed development accurately using best practice modeling techniques and layering standards;

- vi. Major circulation patterns surrounding and serving the site, the existing and proposed lines of streets (including the street width), ways, easements and any public areas within or next to the site;
- vii. Major landscaping elements, features, open space, and plans for preservation of natural features;
- viii. An analysis of the public safety services needed to support the master plan;
- ix. An analysis of the anticipated impacts on the public school system to support the master plan;
- x. A generalized drainage plan for the site, indicating drainage ways, flows, points of outfall, and indicating impacts of development on affected drainage basins. The plan shall include contour information at not less than two-foot (2') contour intervals and document anticipated quantities of run off in relation to existing run off characteristics. General statements concerning storm water management techniques shall also be submitted with the application;
- xi. The plan shall clearly show Master Development Plan boundaries, north arrow, date, scale, legend, the title "Master Development Plan Concept Site Plan" followed by the formal project name, and the name(s) of applicant(s), engineer(s), designer(s) and/or agent(s);
- xii. A traffic analysis and recommendations prepared by a registered professional engineer qualified to conduct such studies, including current traffic counts for streets surrounding the project, analysis of the existing capacity of those streets, projections of the amount of traffic that will be generated by the proposed development, and the ability of the street system to absorb the increased traffic without decreasing the level of service below an acceptable level — said level to be determined by the Planning Authority in concert with the Department of Public Services. In cases where the Master Development Plan is subject to a Traffic Movement Permit (TMP) for all phases, the TMP submissions and review shall supersede these requirements;
- xiii. A utilities analysis and recommendations prepared by a registered professional engineer qualified to conduct such studies. Said analysis shall contain an inventory of existing utilities including, but not limited to, storm sewers and drains, sanitary sewers, electrical lines, fire alarm boxes and lines, gas lines/mains, water mains, lighting, curb and gutter, etc. Said inventory shall illustrate utility locations,

sizes, diameters, carrying capacity and present load on the system. The engineer's report shall state if the current system is capable of adequately serving the proposed development. If the current utility system is found to be inadequate for the proposed development, the report shall confirm the deficiencies and make recommendation(s) as to the infrastructure improvements necessary to properly service the proposed development and maintain the existing service. The report shall also present a formal plan for infrastructure improvements, documenting timing, funding mechanisms and coordination with the City; and

- xiv. Any other supportive information the applicant feels may be beneficial in the evaluation of the request.
- xv. The Planning Authority or Planning Board may reduce the level of information required at the Master Development Plan review stage, provided more detailed supportive documentation is provided at final level III site plan review of the Master Development Plan or phases thereof.

7. Sec. 14-529 Appeals

- a. Section 14-529 (a) Add an appeal process for Planning Authority decisions to extend a Master Plan approval (Attachment 1, page 23) as follows:
 - (a) When the planning authority has approved, approved with conditions, or denied a site plan, or a has approved a request to extend the expiration date of a Master Plan, any person aggrieved may appeal the decision to the planning board within thirty (30) calendar days of the date of the written decision of the planning authority. Upon the taking of such an appeal, the application or request for an extension shall be reviewed as a new application or request.

8. Sec. 14-530 Development Review Fees and Post Approval Requirements

- a. Section 14-530 (a) 4. (e) Add Master Plan under the section for site plan review expenses and add a fee of \$1,000 (Attachment 1, page 24).

9. Sec. 14-532 General Requirements and Enforcement

- a. Section 13-532 (b) 1 Revisions and amendments to approved site plans. Add Master Development Plans under the revisions and amendments of approved site plans (Attachment 1, pages 26-27), which defines minor amendments and major amendments. Minor amendments may be approved by the Planning Authority under the following conditions and major amendments return to the Planning Board for review:

1. Amendments to a Master Plan.

- (a) Minor Amendments. A minor amendment to a Master Development Plan shall be defined as a change which is generally consistent with the approved Master Development Plan layout of buildings, circulation infrastructure, and open spaces, and:

- a. does not propose any new general type of use beyond those approved initially;
- b. does not increase the building ground coverage, floor area ratio or residential density of the Master Plan;
- c. does not decrease any specified area regulations or enumerated parking ratios; and
- d. does not substantially change access, circulation, or infrastructure on or adjacent to the site.

The Planning Authority shall be authorized to approve such minor amendments to a Master Plan upon written application and explanation of the change(s) by the owner (or its agent) of the property. No further public hearings shall be required.

- (b) Major Amendments. Any other change to a Master Plan shall be considered a major amendment and be processed through the normal Master Plan site plan review procedure before the Planning Board and full review of compliance with the requirements of this Ordinance.

Staff Comments: The Board requested that the proposal clarify that amendments to the Master Development Plan do not extend the time frame for the Master Development Plan beyond the original expiration date. Language addressing this matter is proposed within Section 14-532 (d) Expiration of Master Plan.

- b. Section 14-532 (d) Expiration of Master Development Plan. Add the expiration time frame for master plans and the provisions for an extension (Attachment 1, pages 29 and 30). The proposal as drafted is as follows:

(d) *Expiration of Master Development Plan:*

- 1. A Master Development Plan approved under this article shall expire six (6) years from the date of approval unless:
 - a. Prior to the expiration of the Master Development Plan, an applicant may submit a written request to the Planning Authority for an extension of a Master Development Plan approval and associated waivers. Only two (2) such extensions may be granted by the Planning Authority, and each such extension shall be limited to two (2) years from the date of expiration of the Master Development Plan. Provided there have not been substantial changes to the underlying zoning or site plan standards since the date of the Master Development Plan approval that would have a substantial impact on the Master Development approval, the Planning Authority may grant an extension. The Planning Authority may condition the extension on an amendment of the Master Development Plan to comply with such applicable ordinance or site plan standard changes provided that the Planning Authority may not require changes in the uses approved on the Master Development Plan or changes that would reduce the gross floor area of the buildings described or shown on the approved Master Development Plan. For the

purposes of this provision, gross floor area includes the sum of the gross horizontal areas of each floor of each building or structure from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but excluding any space where the floor to ceiling height is less than six (6) feet. Any decision by the Planning Authority regarding the granting of an extension may be appealed to the Planning Board as provided for in Section 14-529;

- b. Approved major or minor amendments to a Master Development Plan do not alter the expiration date for the Master Development Plan that is based upon the original date of approval.

Staff Comment: The intent of a Master Development Plan is to plan for the rational build-out of larger sites over an extended time frame. The text amendments set a 6 year approval period with the option for two 2-year extensions under certain conditions. Thus an approval of a Master Development Plan would establish a pending status for the development and any associated waivers for a six year period with the effect of maintaining the applicability of regulations in effect at the time of approval. An extension may be granted by the Planning Authority when substantial changes to the underlying zoning or site plan standards have not been made since the approval, which would have substantial impact on the development. If there have been ordinance changes, the Planning Authority may grant an extension with the condition that the applicant amend the Master Development Plan to comply with the current regulations; however the Planning Authority may not require changes in the uses approved or reduce the gross floor area of the buildings. Gross floor area is defined as the sum of the gross floor area as measured from the exterior face of exterior walls, but does not include floor space where the ceiling height is less than 6 feet. As in the initial draft, the Planning Authority decision can be appealed to the Planning Board.

A section is added that approved amendments to the Master Development Plan do not alter the original expiration date, thus amended Master Development Plans expire based upon the initial date of approval.

III. Consistency With Comprehensive Plan

In 2002, the City Council adopted a Community Vision, which guides the proposed amendments to the site plan ordinance for a Master Development Plan process, including standards and procedures. The applicable excerpts from the “Shaping Community Vision for Portland” are as follows:

- I. Build a Vibrant Small City
 - Build upon the distinctive fabric of Portland’s built environment by rehabilitating historic resources and by developing new buildings that respect the scale and character of traditional development patterns. New development shall be pedestrian oriented and accessible.
- II. Provide High Quality Leadership
 - Create a sustainable community with vital neighborhoods, high quality infrastructure, a strong economy and a healthy environment, while keeping municipal taxes affordable.
 - Encourage excellence in City government and comprehensive planning

through increased civic involvement, responsive local government, accountable decision-making, and creative and adaptive local and regional planning. Innovative thinking and leadership will preserve those attributes of Portland that we value.

- Incorporate environmental, economic and neighborhood considerations in municipal decision-making.
- Take the lead in developing clear standards and rules and ensure adherence thereto.

III. Protect Our Community Attributes

- Protect the natural environment and historic resources.
- Strengthen alternative transportation options to create an accessible city that promotes ease of movement for all citizens, serving neighborhood needs, pedestrians, handicapped persons, bicyclists and vehicles.

IV. The Planning Board Recommendation to City Council

On March 12, 2013, the Planning Board voted unanimously (7-0) to find the proposed the amendments to establish the Master Development Plan provisions in the Site Plan Ordinance are consistent with the comprehensive plan of the City of Portland, and therefore recommends the proposed amendments to the City Council with the following revisions:

1. Require a separate neighborhood meeting for the Master Development Plan from any required Level III site plan requirements for a neighborhood meeting.
2. Make it a requirement that there is a Planning Board workshop for a Master Development Plan; and
3. Add a standard of review that addresses maintaining future phases in a stable, safe and attractive site conditions.

The Council Order and Attachment 1 to this report incorporate the amendments recommended by the Planning Board.

Attachments:

1. Proposed Site Plan Amendments – draft dated March 26, 2013

ARTICLE V. SITE PLAN*

Sec. 14-521. Purposes.

(Omitted: Purposes omitted - no changes)

Sec. 14-522. Definitions.

For the purposes of this article all terms and words shall have their ordinary meanings, except as defined herein.

(Omitted: List of definitions omitted, except for proposed definition.)

Master Development Plan; A Master Development Plan is a regulatory option for sites with one acre or more in cumulative lot area that is designed as a cohesive and integral development program consisting of multiple buildings and associated site improvements built in phases over an extended time frame. This option shall not apply in residential zones except for institutional uses.

Sec. 14-523. Required Approvals and Applicability.

(a) *Required Approval.* An application for site plan approval shall be reviewed by the Planning Board or Planning Authority as specified below. The Planning Board or Planning Authority shall approve, approve with conditions or deny an application pursuant to the standards, procedures, technical criteria and design criteria contained in this article, as demonstrated by the applicant.

1. The Planning Authority shall administratively authorize developments that meet all of the requirements of Section 14 - 523 (c).
2. Level I Site Plan Review shall require the approval of the Planning Authority.
3. Level II Site Plan Review shall require the approval of

the Planning Authority only, except as otherwise expressly provided by this article.

4. Level III Site Plan Review shall require the approval of the Planning Board, except as otherwise expressly provided by this article.
5. Master Development Plan Review shall require the master development plan approval of the Planning Board as provided in Section 14-524 (d) (9).

(b) *Applicability.* No person shall undertake development identified in Section 14-523 without obtaining a site plan improvement permit under this article.

(Omitted: Sections (c) Administrative Authorization, (d) Level I (e) Level II and (f) Level III site plans omitted from this draft- no changes proposed.)

(g) Master Development Plan: A Master Development Plan meeting the criteria listed below will undergo a Master Development Plan Review as follows:

1. A Master Development Plan for a site with one acre or larger in cumulative lot area that is designed as a cohesive and integral development program consisting of multiple buildings and associated site improvements proposed to be built in phases.
2. The Master Development Plan option shall not apply in residential zones, except for institutional uses.

____ (Ord. No. 277-09/10, 7-19-10; Ord. No. 25-11/12, 8-15-11)

Sec. 14-524. Site plan review processes.

(a) The site plan review process for reach applicable development review type is listed below.

(Omitted: Sections (1) Administrative Authorization, and (2) Level I site plans omitted from this draft- no changes proposed)

——3. Level II, and Level III site plan review and Master Development Plan review:

a. *Pre-application Conference.*

- (i) Applicants for site plan review for a Level II, ~~or Level III, or Master Development Plan applications site plan review~~ are encouraged to schedule a pre-application conference with the Planning Authority or designated staff to introduce the development concept. The purpose of this meeting is to familiarize the applicant with the review procedures, application submission requirements and applicable review standards. A pre-application conference shall not cause the plan to be a pending application or proceeding under Title 1 MRSA 302. No decisions relative to the plan shall be made. Nor shall any advice or information provided by the city be construed as a decision.

b. *Preliminary Plan.*

- (i) *Application Process:* Applicants for Level II or Level III site plan reviews may submit an application for preliminary plan review prior to the submission of a final site plan. A preliminary plan must contain a preliminary site assessment for potential

development.

- (ii) *Filing the Application:* Every application submitted to the Planning Authority for preliminary site plan review shall include a digital set of the plans and documents that shall be uploaded to the City's designated web site for an electronic review of the material. Any proposed revisions to that site plan and any amended statement(s) shall be filed in the same way as the original submission.
- (iii) *Public Notices:* All public notices will be sent according to the Section 14-525 of the Site Plan Ordinance.
- (iv) *Complete Application:* The Planning Authority shall determine whether the application contains all of the items required in (Sec 14-527) and the Zoning Administrator will conduct a preliminary zoning review for compliance with article III of this chapter. If the application is deemed incomplete or not in compliance with Chapter III, the applicant will be contacted in writing of the finding and the additional material required to complete the submission. A review of the application will not be conducted until the application is complete. These steps shall be repeated until the application is found to be complete.
- (v) *Staff Review:* When the application meets the submittal requirements, the preliminary plan will be distributed to the City departments for review and comments.
- (vi) *Written review:* Written comments from the reviewers shall be provided to the applicant, which will include a planning staff recommendation to submit a revised

preliminary plan or to submit an application
for a final site plan.

c. Master Development Plan Review

(i) Application Process: Applicants for Level III site plan reviews may submit a Master Development Plan for a large, multi-phase development program consisting of multiple buildings and associated site improvements on a site of one (1) acre or more of total land area, which is designed as a cohesive and integral development program. The purpose of a Master Development Plan is to provide for a mix of land uses at designated locations to achieve a land development responsive to the assets of a site. A Master Development Plan is a well-integrated development in terms of land uses, functional activities, and major design elements such as buildings, roads, utilities, drainage systems and open space. The Master Development Plan is deemed appropriate to large scale mixed use projects that are intended to be developed in phases. The Master Development Plan shall be reviewed by the Planning Board and may be reviewed independently or concurrently with review as a site plan for a phased development. A Master Development Plan must address the submission requirements of Section 14-527.

(ii) The site plan review process for a Master Development Plan shall proceed in the same manner as a Preliminary Site Plan, as detailed in Sec. 14-524 (3) (b) (ii) through (vi).

(iii) Standards of Review. A Master Development Plan shall adhere to the following general requirements and features, and shall meet the Master Development Plan Site Plan Standards of 14-526(d) (9):

a. a designated tract of land consisting of a parcel of parcels of contiguous land or land on both sides of a public street, totaling one (1) acre or more;

b. developed in a comprehensive, design-integrated manner, according to an overall master development plan;

c. consistent with the objectives of this Ordinance;

d. consistent with the City's Comprehensive Plan and consistent with City Council approved master plans and facility plans for off-premise infrastructure, including but not limited to, trails, pedestrian and bicycle network, view corridors, environmental management, sewer and stormwater, streets, or other facilities (see Section 15 of the Technical Manual);

e. developed so as to locate buildings and improvements in a manner that provides usable open space, preserves significant natural features, as defined by the site plan ordinance standards, and preserves existing trees to the maximum extent possible;

f. developed so as to be in conformance with Portland's Historic Preservation Ordinance standards for designated landmarks or for properties within designated historic districts or designated historic landscapes, if applicable. When proposed adjacent to or

within 100 feet of designated landmarks,
historic districts or historic landscapes,
the Master Plan shall be developed so as to
be generally compatible with the major
character-defining elements of the landmark
or portion of the district in the immediate
vicinity of the proposed development;

g. an efficient use of land which properly
considers topography and protects
significant natural features including, but
not limited to, waterways, wetlands,
floodplains and wildlife;

h. an efficient use of land demonstrating
full coordination of its own site
development and surrounding context
including, but not limited to, the land uses
and functions contemplated, architecture,
open space and pedestrian networks,
vehicular access and circulation, and all
other infrastructure;

i. linked and coordinated with surrounding
land uses, infrastructure and off-site
public facilities, including but not limited
to the public school system, where
appropriate, in a manner that is safe,
efficient, non-injurious to the public, and
an improvement or benefit to the public
where possible;

j. designed with sizing of street and
other infrastructure systems to accommodate
the overall service demand of the Master
Plan;

k. designed to create a street grid pattern that reflects average city block sizes of the neighborhood for street connectivity;

l. designed as to create a cohesive identity through building scale, massing, and articulation; use of quality exterior materials; architectural detailing at the pedestrian scale; consistency of design and materials for streetscape and pedestrian amenities; framing of outdoor open space and linkages; a clear conveyance of the function and significance of various buildings, entrances, and features; and to generally comply with design and development standards of the zone in which it is located;

m. inclusive of provisions for the ownership and maintenance of usable open space as appropriate; and

n. For areas proposed as future development phase(s), the proposed interim conditions shall be managed and maintained to ensure stable, safe and attractive site conditions.

(iv) Phasing. One or more phases of the Master Development Plan may be reviewed as a final level III site plan concurrently with the review and approval of the Master Development Plan.

~~(1)~~ ~~(e)~~ (d) Neighborhood Meetings for Level III Site Plans and Master Development Plan Applications.

(i) Neighborhood Meeting for Level III Site Plans:

~~(a)~~ Timing and location of meeting. An applicant for

e. d. — Planning Board Workshops.

(i) Request a Workshop: The applicant may request a workshop(s) with the Planning Board for a Level III site plan. The workshop will be scheduled on a date that follows the scheduled date of the neighborhood meeting, if applicable. The proposal will be scheduled for the next available Planning Board meeting that meets all public noticing requirements contained in Section 14-525.

(ii) Required Workshop for Master Development Plan: A workshop with the Planning Board is required for a Master Development Plan application. The workshop will be scheduled on a date that follows the scheduled date of the required neighborhood meeting. The proposal will be scheduled for the next available Planning Board meeting that meets all public noticing requirements contained in Section 14-524.

(iii) Workshop Procedures: The Planning Board workshop shall be informational and shall not result in any formal approval or disapproval of the project. The Board shall review the submission to determine if the information provides a clear understanding of the site and identifies opportunities and constraints of the site and proposed development, air public comments questions and issues, and provide direction to the applicant regarding issues to be addressed during the final review process.

f. Planning Board Master Development Plan Decisions.

(i) Review and approval: An applicant

proposing a Master Development Plan is seeking approval for an overall concept of development that may be brought for Final Plan approval in two or more phases and in a phase sequence that extends beyond the time frames allowed above for Final Plan expiration of approvals. Master Development Plan approval may be sought separately or currently with the Phase 1 Final Level III site plan approval, and shall have an initial approval period of six (6) years, with potential extension periods as provided for in Section 14-532(d).

(ii) Review Process. The site plan review process for a Master Development Plan shall proceed in the same manner as a Preliminary Site Plan as detailed above, Sec. 14-524(3)(b), (i) through(vi) and as a Master Development Plan as detailed above, Sec. 14-524 (3)c(i-iii).

(iii) Public Hearing: The Planning Board shall consider a Master Development Plan at a public hearing that meets all public noticing requirements contained in Section 14-32 and the site plan ordinance.

(iv) Decisions. The Planning Board shall approve, approve with conditions or deny a Master Development Plan application based upon the applicable review standards. The Planning Board may waive site plan or technical standards related to the Master Development Plan application based upon the applicable review standards. An approval, including an approval of waivers, establishes the general parameters to be adhered to for the development, including the supporting documentation for floor area ratio and/or residential density, general types of

uses, building coverage, generalized open space plans, and infrastructure systems.

A Master Development Plan approval shall not be construed as final authorization of the development. Approval shall confer pending proceeding status upon the development with the effect of maintaining the applicability of regulations in effect at the time of approval for as long as the Master Development Plan approval remains valid, including permissible extensions if granted.

All Level III site plans for each phase shall be in general conformance with the Master Development Plan.

g. e. *Final Plan.*

(Omitted: g. Final Plan and 4. Expiration of Site Plan- no changes proposed)

Sec. 14-525. Public notices.

(a) *Administrative authorization.* Administrative authorization applications are exempt from noticing requirements fo section 14-525.

(b) *Level I site plan: minor residential development:*

1. *Receipt of Application.* When an application for Level I: Minor Residential Site Plan is submitted for review, the Planning Authority shall notify by mail the owners of all property abutting the proposed site and any property owners directly across the street from the site.
2. Site Plans: Level I-Site Plan: Site Alteration, Level II, and Level III, and Master Development Plan-Site Plans.

a. *Receipt of Application.* When an application for Level I Site Alteration, Level II or Level III development is submitted for site plan review, the Planning Authority shall notify, by mail the following, where applicable:

(i) *Notice for Level I: Site Alteration and Level II Site Plans* shall be sent to all property owners within five hundred (500) feet of the subject property lines and to all others, including neighborhood organizations, as may be required by the Planning Authority.

(ii) *Notice for Level III Site Plans and Master Development Plan applications* shall be sent to all property owners within five hundred (500) feet of the subject property lines or within one thousand (1,000) feet if it is a subdivision within an industrial zone, unless the Planning Authority, in its discretion, chooses to notice a larger area and incur the additional expense for the expanded notification and notices shall be sent to all others, including neighborhood organizations, as may be required by the Planning Authority.

b. *Planning Board Workshop or Public Hearing.*

(i) In the case of workshops and public hearings, notice as described above shall be given to the general public by publication in a newspaper of general circulation in the City of Portland at least two (2) times, the date of the first publication to be at least seven (7) days prior to the hearing. The legal notice shall appear on the City's web site.

(ii) In the case of workshops and public hearings, notice shall be sent by regular

United States mail to the applicant, to the owner(s) of the subject property and to all owners of property located within five hundred (500) feet of the subject property lines or within one thousand (1,000) feet if it is a subdivision within an industrial zone unless the Planning Authority, in its discretion, chooses to notice a larger area and incur the additional expense for the expanded notification and notices shall be sent to all others, including neighborhood organizations, as may be required by the Planning Authority.

c. *Content of the Public Notice*

- (i) The public notice shall contain a brief description of the proposed development the address or location of the property involved, and contact information for the City where additional information may be obtained. The cost of said notice shall be charged to the applicant.

(Ord. No. 277-09/10, 7-19-10; Ord. No. 25, 11-12, 8-15-11)

Sec. 14-526. Site plan standards.

Requirements for approval. The Planning Board or Planning Authority shall not approve a site plan application unless the development proposal meets the following criteria:

(Sections (a) Transportation Standards, (b) Environmental Quality Standards and (c) Public Infrastructure and Community Safety standards are omitted from this draft - no changes proposed. A portion of (d) Site design standards is omitted.)

9. Zoning Related Design Standards

a.

b. Master Development Plan Design Standards:

A Master Plan shall comply with the design and development standards of the zone in which it is

located, and shall achieve a cohesive land development consistent with the assets of the site, land uses, functional activities, and major design elements, such as buildings, roads, utilities, drainage systems and open space as well as with the Master Development Plan Standards of Review contained in the Section 14-524.

(e) *Conditions*

1.1. ~~Notwithstanding the provisions of subsections (a) through (d) of this section, the Planning Authority or Planning Board may impose any condition upon its approval of any site plan: (1) to minimize or abate any adverse impact of the proposed development on the value or utility of other private property, or on public property or facilities, to the extent feasible; or (2) to bring the development into compliance with the requirements of subsections (a) through (d); or (3) to minimize any other adverse environmental effects of the proposed development. Such conditions may include, but are not limited to, enclosing of equipment or operations, imposing limitations upon the hours of operation, or requiring the employment of specific design technologies, modes of operation, or traffic patterns, and may also include the construction of, or financial contribution to the construction of, on- or off-premises public facilities including, without limitation, streets and sewers impacted by the development. All such conditions shall be consistent with the purposes set forth in section 14-521.~~

1. General Waiver:

Except for the requirements set forth in Section 14-526 (a) through (d) for which individual waiver criteria are provided, the Reviewing Authority if it finds that extraordinary conditions exist or that undue hardship may result from strict compliance

with these regulations may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of the land development plan and the regulations of this article.

(Ord. No. 277-09/10, 7-19-10)

Sec. 14-527. Content of site plan applications.

(Section (1) Level I General and Site Submissions are omitted from this draft)

(c) Level II, and Level III, and Master Development Plan General Submissions. The applicant shall submit for review a packet of materials and submissions in a form and content as specified by the department of planning and urban development. Such submissions shall contain, at a minimum, the following elements.

1. Application form;
2. Applicable fees;
3. Project description;
4. Evidence of right, title and interest;
5. Evidence of state and/or federal approvals, if applicable;
6. Written assessment of project compliance with applicable zoning requirements;
7. Summary of existing and/or proposed easements, covenants, public or private rights-of-way, or other burdens on the site;
8. Written requests for waivers from the city's site plan or technical standards, if applicable;

9. Evidence of financial and technical capacity;
10. Boundary survey stamped by a professional survey or licensed to practice in the State of Maine, drawn to scale and tied into the State Plane Coordinates, NAD 1983, Maine West Zone, as specified in section 13 of the Technical Manual. A boundary survey of the site, may be waived by the Planning Authority for a review of Master Development Plan, where an existing conditions plan is available. The Boundary Survey requirement shall be met for each phase of development.

(d) Level II, and ~~and~~ Level III Preliminary Site Plan Submissions. A preliminary site plan is an optional submittal as part of the Level II and III site plan application review process. If the applicant elects to submit a preliminary site plan for review, it shall include the following information:

1. Proposed grading and contours;
2. Existing structures with distances from property lines;
3. Proposed site layout and dimensions for all proposed structures, paved areas, and pedestrian and vehicle access ways;
4. Preliminary design of proposed stormwater management system in accordance with Section 5 of the Technical Manual;
5. Preliminary infrastructure improvements;
6. Preliminary Landscape Plan in accordance with Section 4 of the Technical Manual;
7. Location of significant natural features located on the site as defined in Section 14-526 (b)(1);
8. Proposed buffers and preservation measures for significant natural features, as defined in Section 14-526(b)(1);

99.—Location, dimensions and ownership of easements, public or private rights of way, both existing and proposed.

10. Exterior Building Elevations

—(e) Master Development Plan. A Master Development Plan is an optional submittal as part of the Level III site plan application review process. If the applicant elects to submit a Master Development Plan for review, it shall include the following information in addition to the general submission requirements of Sec 14-527.(c)d:

1. A neighborhood context map, at a scale not less than one (1) inch equals one hundred (100) feet, providing a graphic description of the neighborhood in which the tract lies, including roads, utilities and other public facilities, major existing buildings and structures. There shall also be a statement and/or plan as to the general impact of the proposed Master Development Plan upon the area, indicating how the Master Development Plan relates to surrounding properties and what measures will be taken to create appropriate transitions and access from the subject property to abutting public properties (i.e. parks, waterfront, etc.) or other neighboring tracts (if applicable);
2. A conceptual site plan drawn to a scale of not less than one (1) inch equaling fifty (50) feet, or series of drawings at the same scale, and any necessary supporting information, showing:
 - i. The approximate boundary lines of existing and proposed lots within and immediately adjacent to the Master Development Plan, with approximate areas and dimensions. With respect to residential areas, the proposed density, lot configuration, circulation and a typical plot plan shall be included in the application;

- ii. An analysis of the natural features of the site, including existing and/or adjacent natural waterways, wetlands, floodplains, topography, soil conditions and other natural features requested or required by the Planning Authority;
- iii. An analysis of the designated view corridors, historic resources, and archeological resources associated with the site;
- iv. Existing/proposed buildings and other significant structures, building groupings, exterior building elevations and entrances, parking areas, and other significant physical features of the site;
- v. Context drawings, perspective renderings, photographic montages, or computer generated graphics depicting the proposed development within the surrounding building and environmental context. Building elevation drawings shall include the following: a) illustrations of all sides of the structures; b) views of major entries or prominent building features, c) illustration of building articulation and elements; d) building finish composition and e) pedestrian and streetscape elements of the Master Development Plan. The submission shall include a digital three-dimensional model tied to a specific location that is submitted as a KML, KMZ, DXF, or DWG file on a CD or DVD or such format as approved by the Planning Authority. It is the applicant's responsibility that the model is complete and represents the proposed

development accurately using best practice modeling techniques and layering standards;

- vi. Major circulation patterns surrounding and serving the site, the existing and proposed lines of streets (including the street width), ways, easements and any public areas within or next to the site;
- vii. Major landscaping elements, features, open space, and plans for preservation of natural features;
- viii. An analysis of the public safety services needed to support the master plan;
- ix. An analysis of the anticipated impacts on the public school system to support the master development plan;
- x. A generalized drainage plan for the site, indicating drainage ways, flows, points of outfall, and indicating impacts of development on affected drainage basins. The plan shall include contour information at not less than two-foot (2') contour intervals and document anticipated quantities of run off in relation to existing run off characteristics. General statements concerning storm water management techniques shall also be submitted with the application;
- xi. The plan shall clearly show Master Development Plan boundaries, north arrow, date, scale, legend, the title "Master Development Plan Concept Site Plan" followed by the formal

project name, and the name(s) of applicant(s),
engineer(s), designer(s) and/or agent(s);

xii. A traffic analysis and recommendations prepared
by a registered professional engineer qualified
to conduct such studies, including current
traffic counts for streets surrounding the
project, analysis of the existing capacity of
those streets, projections of the amount of
traffic that will be generated by the proposed
development, and the ability of the street
system to absorb the increased traffic without
decreasing the level of service below an
acceptable level - said level to be determined
by the Planning Authority in concert with the
Department of Public Services. In cases where
the Master Development Plan is subject to a
Traffic Movement Permit (TMP) for all phases,
the TMP submissions and review shall supersede
these requirements;

xiii. A utilities analysis and recommendations
prepared by a registered professional engineer
qualified to conduct such studies. Said
analysis shall contain an inventory of existing
utilities including, but not limited to, storm
sewers and drains, sanitary sewers, electrical
lines, fire alarm boxes and lines, gas
lines/mains, water mains, lighting, curb and
gutter, etc. Said inventory shall illustrate
utility locations, sizes, diameters, carrying
capacity and present load on the system. The
engineer's report shall state if the current
system is capable of adequately serving the
proposed development. If the current utility
system is found to be inadequate for the
proposed development, the report shall confirm

the deficiencies and make recommendation(s) as to the infrastructure improvements necessary to properly service the proposed development and maintain the existing service. The report shall also present a formal plan for infrastructure improvements, documenting timing, funding mechanisms and coordination with the City; and

xiv. Any other supportive information the applicant feels may be beneficial in the evaluation of the request.

xv. The Planning Authority or Planning Board may reduce the level of information required at the Master Development Plan review stage, provided more detailed supportive documentation is provided at final level III site plan review of the Master Development Plan or phases thereof.

(f) Level II and III Final Site Plans. A final site plan for a Level II or III site plan application shall be based upon a standard stamped boundary survey meeting City of Portland standards, be stamped by a professional engineer licensed to practice in the State of Maine, shall be submitted with all required written submittals and shall include the following information:

(Omitted: Sections (1- 31 of submission requirments and g. Level II and III written materials required -no changes proposed)

Sec. 14-528. Reserved.

Sec. 14-529. Appeals.

(a) When the planning authority has approved, approved with conditions, or denied a site plan, or has approved a request to extend the expiration date of a Master Development Plan, any person aggrieved may appeal the decision to the planning board within thirty (30) calendar days of the date of

the written decision of the planning authority. Upon the taking of such an appeal, the application or request for an extension shall be reviewed as a new application or request.

(b) When the planning board has finally approved, approved with conditions, or disapproved a site plan, any person aggrieved or the City may appeal the decision to the superior court, pursuant to Rule 80B of the Maine Rules of Civil Procedure within thirty (30) days of the vote on the original decision by the planning board.

(Ord. No. 277-09/10, 7-19-10; Ord. No. 25-11/12, 8-15-11)

Sec. 14-530. Development review fees and post approval requirements.

(a) *Development Review Fees.*

***(Omitted: Sections 1- 3 Payment of Fees,
Development Review and Administrative Fees, and
Establish Fee- no changes proposed)***

4. Site Plan Review Expenses.

- | | | |
|----|----------------------------|-----------------|
| a. | Level I: Minor Residential | \$300(flat fee) |
| b. | Level I: Site Alteration | \$200 |
| c. | Level II: Site Plan | \$400 |
| d. | Level III: Site Plan | |
| | i. Under 50,000 sf | \$500 |
| | ii. 50,000-100,000 sf | \$1,000 |
| | iii. 100,000-200,00 sf | \$2,000 |

Excerpts from Article V - 3/26/2013
Attachment 1

iv. 200,000-300,000 sf
\$3,000

v. Over 300,000 sf
\$5,000

vi. Parking lots over 100 spaces s
\$1,000

e. Master Development Plan \$1,000

f. After the Fact Review \$1,000 plus application fee

g. Amendment to Site Plans

i. Planning Board Review \$500

ii. Administrative Review \$250

h. Other Site Plan Reviews

i. Administrative Authorization \$50

ii. Special Exception Sign Review \$75

iii. Section 14-403 Street Extensions \$400 plus
\$25 per lot

i. Fee for Development Review Services

i. Planning fee per hour \$40

ii. Legal fee per hour \$75

iii. Third-party Review Fees assessed by the
Third Party Professional

j. State Delegated Review Fees

i. Site Location of Development \$3,000, except
for residential projects which will be \$200
per lot.

Excerpts from Article V - 3/26/2013
Attachment 1

- ii. Traffic Movement Permit \$1,000
- iii. Stormwater Quality Permit \$250
- jk. Performance Guarantee
 - 1. As required in Section 14-530 (b) (4).
- kl. Inspection Fees, as required in Section 14-530 (b) (5)
 - i. Level I: Site Alteration, Level II and Level III: 2% of the performance guarantee or as assessed by Planning or Public Works Engineer at \$45 an hours with minimum inspection fee of \$300 Level I: Minor Residential Inspection Fee \$100 (flat fee).
- lm. Street vacation \$2,000

(Sections (b) Post-Approval submissions is omitted from this draft - no proposed changes)

Sec. 14-531. Reserved.

Sec. 14-532. General requirements and enforcement.

(a) *Approved site plans and required permits.*

(Omitted: Sections 1-4 - no changes proposed)

(b) *Revisions and amendments to Master Plans and approved site plans.*

1. Amendments to a Master Development Plan.

- (a) Minor Amendments. A minor amendment to a Master Development Plan shall be defined as a change which is generally consistent with the approved

Master Development Plan layout of buildings, circulation infrastructure, and open spaces, and:

- a. does not propose any new general type of use beyond those approved initially;
- b. does not increase the building ground coverage, floor area ratio or residential density of the Master Development Plan;
- c. does not decrease any specified area regulations or enumerated parking ratios; and
- d. does not substantially change access, circulation, or infrastructure on or adjacent to the site.

The Planning Authority shall be authorized to approve such minor amendments to a Master Development Plan upon written application and explanation of the change(s) by the owner (or its agent) of the property. No further public hearings shall be required.

- (b) Major Amendments. Any other change to a Master Development Plan shall be considered a major amendment and be processed through the normal Master Development Plan site plan review procedure before the Planning Board and full review of compliance with the requirements of this Ordinance.

- a. Approved Site Plan: If at any time before or during development the applicant requests minor amendments to an approved plan for Level III development, the Planning Authority may approve such minor amendments under the procedures for minor development, provided that they do not amount to a waiver or substantial alteration of the site plan, and do not affect any

condition or requirement of the Planning Board. The applicant shall supply an application and written statement of the proposed amendment(s) and proposed amended plans to the Planning Authority, whose decision as to whether the amendment is minor shall be final. The Planning Authority shall determine if a notice of amendment shall be required and the extent of such notice based on the extent and nature of the proposed amendment to plan and the demonstrated public interest related thereto.

2. Limited in-filed Changes: Limited in-field changes approved by the Public Services Authority must be in writing and submitted to the Planning Authority and are specifically limited to minor variation necessary to deal with unforeseen difficulties that arise during the course of construction involving such technical detail as utility location and substitution of equivalent plantings and shall not include any substantial alteration of the approved plan or change any condition imposed by the Planning Board or Planning Authority.

(c) *Expiration of site plan approval.*

1. A site plan approved under this article shall expire twelve (12) months from the date of approval unless:
 - a. Development has been undertaken in accordance with the approved plan and site work or building construction is ongoing. Any lapse in construction for a period in excess of twelve (12) months shall result in an expiration of the site plan; or
 - b. Prior to the expiration of the site plan, such other time period is agreed upon, in writing, by the Planning Authority and the applicant, not to exceed three (3) years from the date of approval;

Provided that such extensions may not be granted if changes to the City's zoning ordinance would render the development nonconforming in any respect or if changes in the subdivision or site plan ordinance or in the

Public Services Technical Standards Manual or Planning and Development Design Standards would otherwise significantly impact the approved site plan as determined by the Director of Planning and Urban Development.

2. Where the approval or any related land use approval granted to the same applicant by any agency of the City with respect to the same development is appealed to any court by an opponent of the development, the applicant shall be granted further extensions, beyond the expiration of said period, where the applicant has exercised due diligence with respect to defending such appeal, which extensions shall not last beyond one (1) year from entry of final judgment.

(d) Expiration of Master Development Plan:

1. A Master Development Plan approved under this article shall expire **six (6)** years from the date of approval unless:

- a. Prior to the expiration of the Master Development Plan, an applicant may submit a written request to the Planning Authority for an extension of a Master Development Plan approval and associated waivers. Only two (2) such extensions may be granted by the Planning Authority, and each such extension shall be limited to two (2) years from the date of expiration of the Master Development Plan. Provided there have not been substantial changes to the underlying zoning or site plan standards since the date of the Master Development Plan approval that would have a substantial impact on the Master Development approval, the Planning Authority may grant an extension. The Planning Authority may condition the extension on an amendment of the Master Development Plan to comply with such applicable ordinance or site plan standard changes provided that the Planning Authority may not require changes in the uses approved on the Master Development Plan or changes that would reduce the

gross floor area of the buildings described or shown on the approved Master Development Plan. For the purposes of this provision, gross floor area includes the sum of the gross horizontal areas of each floors of each building or structure from the exterior face of exterior walls, or from the centerline of a wall separating two buildings, but excluding any space where the floor to ceiling height is less than six (6) feet. Any decision by the Planning Authority regarding the granting of an extension may be appealed to the Planning Board as provided for in Section 14-529;

- b. Approved major or minor amendments to a Master Development Plan do not alter the expiration date for the Master Plan that is based upon the original date of approval.

(e) Enforcement.

(Sections (E) Enforcement and Section 14-540 Evaluation are omitted from this draft - no proposed changes)